

# PREPARING FOR IMMIGRATION COURT

## NOTICE TO APPEAR ("NTA")

A Notice to Appear (NTA) is a charging document that summarizes the charges being filed from US Department of Homeland Security (DHS) against you and states why you should be ordered removed from the United States. You should review the factual allegations against you and determine whether each is correct. Then, you should also determine whether you are removable based on the charges from DHS. Once this form is filed in court, removal proceedings have been initiated against you.

## MASTER CALENDAR HEARING

A Master calendar hearing is the first hearing in removal proceedings before an immigration judge of the Executive Office for Immigration Review (EOIR), which is part of the Department of Justice. The Department of Homeland Security (DHS) acts as “prosecutor” in these proceedings and must file charges with the immigration court alleging the reasons why a non-citizen is removable from the United States.

## MASTER CALENDAR HEARING

When you attend the Master Calendar hearing, the Immigration Judge will inform you that the government alleges you have no legal right to stay in the United States, and the purpose of the hearing as a space to determine whether you should be allowed to stay in the country.

### When you attend the Master Calendar hearing, the Immigration Judge will:

- State the nature of the hearing, your name, and file number as written on your NTA. They will also state the name of the attorneys from the government and sworn immigration court interpreter.
- Ask what language you speak and understand best, and what language you spoke growing up. You will also be asked if you understand the interpreter present – if you do not, answer truthfully - as you have a right to fully understand the proceedings.
- Place you under oath and asked your true name – respond with your full and accurate name.
- Ask what your current phone number and address are and inform you of the reporting requirements for any change of address. You are required to report any change of address to the court using an EOIR-33 form.
- Give you a list of free and low-cost lawyers in your area. You can ask the Immigration Judge to move your hearing until you find a lawyer. If you don't find a lawyer, you can represent yourself. If you decline an attorney, the hearing will proceed and the judge will explain that you have a right to object to any evidence against you, to cross-examine witnesses, and to present evidence and witnesses, and to speak on your own behalf.
- The judge will then ask you to plead to the NTA document, by asking you to admit or deny each factual allegation and charge on the document. The charges must be explained to you in non-technical language by the judge.
- The Judge will also ask you if you have any applications for relief **from removal to file**. In asking this, the Judge is asking you if you would like to present a reason why you shouldn't be ordered removed from the US. Some of the forms of relief from removal include Asylum, Withholding of Removal, Convention Against Torture Protection, Cancellation of Removal, and Adjustment of Status.
- The Judge will also inform you of the consequences of failing to appear for an individual hearing – it is very important to attend all hearings. If you fail to appear at a hearing, the Judge may hold a hearing without you and order you must be removed.

### Forms of Relief. Some forms of relief from removal include:

**Asylum:** Asylum is granted to individuals who have a well-founded fear of persecution if returned to their home country. Must be physically present in the U.S. Recipient becomes eligible for a green card after one year.

**Withholding of Removal:** For noncitizens who, though not qualified for asylum, still cannot be returned to a particular country because their life or freedom would be threatened due to their “race, religion, nationality, membership in a particular social group, or political opinion.”

**Convention Against Torture:** For noncitizens who can establish that they would probably be tortured if returned to their home country.  
**Cancellation of Removal:** A form of pardon that allows an immigration judge to “cancel” a finding of removability and permit a person to remain in the U.S. as a lawful permanent resident.





# PREPARING FOR IMMIGRATION COURT

## NOTICE TO APPEAR ("NTA")

A Notice to Appear (NTA) is a charging document that summarizes the charges being filed from US Department of Homeland Security (DHS) against you and states why you should be ordered removed from the United States. You should review the factual allegations against you and determine whether each is correct. Then, you should also determine whether you are removable based on the charges from DHS. Once this form is filed in court, removal proceedings have been initiated against you.

## INDIVIDUAL HEARING

The individual calendar hearing, often referred to as the merits hearing, is the trial where you, your attorney, and the trial attorney will present evidence, testimony, and legal arguments about your case. Before the hearing, the immigration judge will have reviewed all documents submitted related to the case and will be prepared to ask questions.

### INDIVIDUAL HEARING

At an individual hearing, parties should be prepared to make an opening statement; raise any objections to the other party's evidence; present witnesses and evidence on all issues; cross-examine opposing witnesses and object to testimony; and make a closing statement.

All witnesses, including the respondent if they testify, are placed under oath by the immigration judge before testifying. If necessary, an interpreter is provided. You also need to complete your biometrics, such as fingerprints, appointment before your individual hearing. Availability of biometrics may impact the decision in your case.

Proceedings are recorded on tape recorders to **create a record** in the instance the case will need to be appealed. The hearing will typically two to four hours for the entire hearing unless it adjourns (ends) early for some other reason.

#### Overview of the Individual Hearing:

At your Individual hearing, be prepared to present the following documents in court:

- Application for a form of relief such as Asylum, Withholding of Removal, CAT;
- Declaration;
- Country conditions reports;
- Home country medical reports and a U.S. forensic evaluation;
- Supporting affidavits; and
- Identity documents.

An immigration judge can approve an off-the-record discussion which will not be recorded. During the hearing, the judge will go through the process of admitting evidence (also known as exhibits.) The judge will identify all offered exhibits and ask if there are any objections. Make sure that all the evidence that you submit is properly entered into the record as evidence. In immigration court, you have the "burden of proof" – meaning, you must demonstrate to the judge why you should not be removed or receive relief (such as asylum, withholding of removal, CAT etc.)

The trial attorney may object to certain evidence if they believe it is not relevant or for a different reason. If the trial attorney does object to a particular piece of evidence, the judge will usually permit brief arguments and rule on whether to admit the evidence.

Throughout the hearing, you will share your story through direct examination and cross examination. During your direct and cross examination, the judge may also ask you questions. You will also hear witness testimony. Witness testimony is when a relative, a doctor, a neighbor, or an expert witness provides testimony related to your case or country conditions in your home country, and answer questions to support your case.

The immigration judge will generally issue a **decision** on the same day of the hearing. Once the immigration judge reads their decision, they will ask your attorney and the Trial Attorney whether they **reserve or waive their right to appeal**. If you waive your right to appeal, you cannot change your mind later. If your application for relief from removal is **granted**, the court will provide you with the Department of Homeland Security (DHS) post-order instructions.

Reserving your right to appeal does not mean that you must actually appeal the case. However, if you waive your right to appeal, you cannot change your mind later.

At the conclusion of immigration court proceedings, the immigration judge informs the parties of the deadline for filing an appeal with the Board of Immigration Appeals (BIA), unless the right to appeal is waived. BIA decisions are binding unless changed or overruled by the Attorney General or a federal court. Most BIA decisions are subject to judicial review in the federal courts. If you do not agree with a BIA decision, you can try to appeal to the Federal Circuit Court of Appeal.

