



**COMMUNITY  
LEGAL SERVICES  
IN EAST PALO ALTO**

**TIMELINE FOR DEFENSIVE ASYLUM CASES**

**Initial Meeting with Client**

- Should happen very soon after taking the case as clients are often nervous until they meet with their attorney for the first time
- Introduce yourself
- Empower the client – Explain asylum law and procedures
- Give Form I-589 questionnaire to client
- Have a client sign a Form G-28 (you never know when you will need this form, and as it requires the client’s signature, it is better to have one on file.)
- Talk to the client about the need for experts – Country conditions and mental health
- Discuss potential corroboration – Police reports? Family/friends who can write letters about what happened?
- Discuss the declaration – what it is and why it is needed. Prepare the client for having to talk about the “hard stuff” at the next appointment
- Set the next appointment

**Timing for Following Appointments**

- When is the client’s One Year Filing Deadline (“OYFD”)?
  - An applicant for asylum needs to file an asylum application (Form I-589) within one year of entering the U.S. The applicant can only file the application in court.
  - Look at the Notice to Appear (“NTA”) to see when the client entered the U.S.
  - If the OYFD is before the client’s next hearing, “lodge” the asylum application and consider filing a motion to advance.
- When is the client’s next Master Calendar hearing?
  - If the next Master Calendar hearing is soon and there are several months before the OYFD, you can file a motion to continue requesting additional time for attorney preparation.
  - If the Master Calendar hearing is soon and right before the OYFD, you will need to prepare a skeletal Form I-589 for that hearing and you should “lodge”. At the hearing, you can bring copies of the “lodged” Form I-589 and the skeletal Form I-589. You can submit an amended Form I-589 at another hearing or at the window on the 8<sup>th</sup> floor of 100 Montgomery Street along with a declaration.
- Prepare for having several appointments with your client.
  - Writing a declaration can take several appointments.
    - If possible, we recommend that appointments do not last more than an hour and a half to limit the re-traumatization of the client and to ensure productivity.
  - Devote one appointment for filing out the Form I-589.

### Preparing for the Master Calendar Hearing (“MCH”)

- File an EOIR-28 prior to the MCH (ideally as soon as you are retained by the client)
  - You will need to register with EOIR to obtain your EOIR ID number. This process can take a couple days.
  - You can file your EOIR-28 electronically, in person, or by mail.
  - You must “serve” a copy on the Department of Homeland Security (“DHS”) – 100 Montgomery Street, Ste. 200, San Francisco, CA 94104.
- There is a 15 day filing deadline for MCH to file any motions, including motions to continue
- When you get to court the day of your MCH, you can look at the docket on the wall of the waiting room to see you where you are in the order of cases.
  - When the Judge calls your name, you should approach and say the last three digits of your client’s A#.
- At the MCH, you will file:
  - Form I-589 – original to Judge; a copy to the DHS attorney; a copy for your file; a copy for the client
    - Include a copy of the applicant’s Form I-589 for each derivative in proceedings with the principal applicant.
  - Exhibit List with Initial Supporting Documents -- original to Judge; a copy to the DHS attorney; a copy for your file; a copy for the client
    - Declaration
    - Identity Documents for applicant and any family members included on the application
    - Any personal supporting documents (can be submitted at this time or at the 15 day filing deadline for the Individual Calendar hearing)
- Review the NTA with the client and prepare to plead to the NTA
  - Does the name need to be corrected?
  - Concede or Deny Proper Service (did the client sign on the second page?)
  - Admit or Deny factual allegations
  - Concede or Deny charge of removability
  - Decline to designate country of Removability
- Does the client want an expedited or non-expedited Individual Calendar hearing?
  - Before the MCH, reach out to CLSEPA to see if there is information about when the Judge is setting individual calendar hearings
  - Discuss with the client the difference in timing between expedited and non-expedited hearings
  - Discuss with the client who qualifies for work authorization

### Preparing for an Individual Calendar Hearing (“ICH”)

- Meet with client after MCH to explain next steps and timeline.

- Set appointment with client at least three months prior to the ICH to check in on status of efforts to obtain any corroborating evidence from lay witnesses or documents in the client's home country
- Have client schedule an appointment with a Mental Health expert (more information below)
- "Fee in" the I-589 to USCIS and Biometrics
  - At the MCH, you received a document regarding certain applications filed in immigration court. This document has instructions on how to "fee in" the I-589 to USCIS so that a biometrics appointment will be set for your client.
  - Send the first 3 pages of the I-589 filed in court, a copy of your E-28, and the instructions to the USCIS Nebraska Service Center.
  - About 2-4 weeks later, you will receive a biometrics appointment notice for your client to have his/her fingerprints taken. Your client must take the appointment notice to the biometrics appointment.
  - Your client must have biometrics taken at least one month prior to the ICH. Failure to have biometrics done will prevent the Immigration Judge from being able to grant asylum.
  - The biometrics are only valid for 15 months. If your ICH is 15 months or more after the biometrics are taken, your client will need to go the same immigration office with a copy of his/her hearing notice to have fingerprints taken again.
- Find experts!
  - Reach out to potential country conditions experts as soon as you know when you have your ICH scheduled.
    - You will want a report and testimony
    - Set a deadline to receive the report. We recommend receiving the report no later than 30 days prior to your ICH.
    - Set a date to prep for testimony. We recommend prepping the expert's testimony within a week of the ICH.
  - Have client schedule appointment with a Mental Health Expert
    - You will want an evaluation and testimony.
    - Set a deadline to receive the evaluation. We recommend receiving the evaluation no later than 30 days prior to your ICH
    - Set a date to prep for testimony. We recommend prepping the expert's testimony within a week of the ICH
- 3 or 4 months prior to the ICH, meet with the client:
  - Discuss with client whether the client or the client's family has suffered any new threats or harm. If so, write a supplemental declaration.
  - If any new details come out in the mental health evaluation, discuss the with the client and write a supplemental declaration.
  - Check in on efforts to obtain any corroborating evidence from lay witnesses or documents in the client's home country
- 15 day filing deadline – 15 days prior to the ICH, you will need to file:

- Brief
  - Witness List and Request for Interpreter
  - Motion(s) for Telephonic Testimony and Proposed Orders
  - Supplemental Exhibit List and Exhibits
- Prep for testimony
    - Schedule appointments to prep all witness including your experts and client in the week prior to the ICH
    - Draft direct and sample cross examination questions for all witnesses.
      - We recommend starting this at least 2-4 weeks prior to the ICH as experts will often want to see the questions prior to your prep session.
  - One week prior to ICH, reach out to DHS attorney scheduled to your case
    - Email the Duty Attorney to inquire who is the Assistant Chief Counsel (“ACC”) assigned to your case.
    - Contact the ACC to discuss the case. Ask for the ACC’s thoughts on the case and see if there are any issues of particular concern to the ACC. Discuss witness order.

After the ICH

- If granted and DHS did not reserve appeal, schedule appointment with client to set INFOPASS appointment, file Form I-765, and explain benefits eligibility.
- If denied, you need to file notice of appeal to the Board of Immigration Appeals within 30 days of the decision of the Immigration Judge.