



Safe Passage Project Pro Bono Toolkit

Table of Contents

Pro Bono/Safe Passage Project Memorandum of Understanding	1
<i>Please sign, scan and send back to Safe Passage Project</i>	
Statement of Client’s Rights and Responsibilities	4
Important Acronyms.....	6
Important Contact Information.....	7
Checklist for New <i>Pro Bono</i> Attorneys.....	8
Registering with EOIR.....	10
How to Prepare and File Documents with ICE and EOIR	11
Form EOIR-28, for appearances and filings with immigration court	13
<i>Click here for fillable version</i>	
Sample EOIR-28.....	16
Form EOIR-33 Change of Address Form.....	19
<i>Click here for fillable version</i>	
Cover Sheets for Filings with ICE: Motions, Witness/Evidence, Other Correspondence	21
Cover Page for EOIR Motion Filing	25
Certificate of Service for Filing with EOIR	26
Sample Written Pleadings and Respondent’s Pleadings Declaration.....	27
Making Motions to Dismiss in Immigration Court based on <i>Pereira v.</i> <i>Sessions, 585 US ____ (2018)</i>	29
Safe Passage Social Work Team: Capacity and Expectations	33
Links to Manuals.....	35
<i>-Safe Passage Project: Special Immigrant Juvenile Status, Asylum, and Representing a Client in Immigration Court</i>	
<i>-Department of Justice: EOIR Practice Manual</i>	
<i>-New York State Unified Court System: Style Manual</i>	

Memorandum of Understanding between Safe Passage Project and *Pro Bono* Attorney

Thank you for volunteering to represent a child with the Safe Passage Project (hereinafter “Safe Passage Project” or “the organization”). We are grateful that you have accepted a *pro bono* assignment on behalf of an immigrant child in need, and we look forward to supporting you throughout the case. In order to accept a case, we require that you review and sign this Memorandum of Understanding, which outlines your responsibilities and reflects our shared commitments.

PRO BONO ATTORNEY COMMITMENT

As a Safe Passage *pro bono* attorney, you commit to:

- Treat your client with professionalism and respect.
- Abide by the New York Rules of Professional Conduct (Joint Rules of the Appellate Division (22 NYCRR Part 1200)) and all relevant court-specific professional standards.
- Regularly communicate with your client and keep him/her informed of all important developments in his/her case.
- Sign a retainer agreement or engagement letter with your client that memorializes the scope of your representation and lays out the parameters of your work for the client. The agreement should include a provision explicitly permitting the *pro bono* attorney to share information about the case with Safe Passage Project, but noting that Safe Passage Project will keep the information confidential at all times.
- Share the retainer agreement or engagement letter with Safe Passage Project for our files.
- Send all draft documents to Safe Passage Project for review and comment before filing them in court or with a government agency. **You must give your mentor attorney at least 48 hours to review and remit edits.**
- Regularly communicate with Safe Passage Project to ensure that the organization is aware of the current case status and any/all important developments. This includes but is not limited to:
 - Sending Safe Passage Project as-filed copies of applications, petitions, and/or motions;
 - Alerting Safe Passage Project of scheduled hearings before immigration and family court, and interviews before the asylum office and USCIS;



- Sharing final court orders, administrative decisions, and other substantive correspondence.
- Represent your client from commencement to completion of the client's case, as defined in the retainer agreement or engagement letter.
 - Please note that withdrawal from representation is only permitted in certain exceptional circumstances, such as the emergence of a conflict of interest or client misconduct. **If you are unable to continue to represent your client for any reason, you must alert Safe Passage Project immediately.**
 - Withdrawal from representation before the Immigration Court can only be accomplished with the Immigration Court's consent. Moreover, withdrawal from representation is governed by New York Lawyer's Code of Professional Responsibility and by the New York Rules of Professional Conduct.
 - **In the event that you leave your firm during the course of representing a minor placed by Safe Passage project, you must advise Safe Passage Project as soon as possible to discuss the transfer of representation to another attorney in your firm or the possibility of continuing with the representation at your new place of employment.**
- Attend all court dates or interviews.
 - **Failure to attend a court date can result in a client being ordered removed from the United States. It is your responsibility to secure alternate coverage if you learn you cannot attend a hearing or interview. Safe Passage Project can only cover hearings in the event of a true emergency.** If a scheduling conflict or emergency arises, contact Safe Passage Project as soon as possible.
- Provide appropriate, confidential space to meet with your client. If you need assistance, contact Safe Passage Project.
- Arrange for interpretation/translation services if necessary. Safe Passage Project has a limited number of volunteer interpreters available if your firm cannot provide a translator.
- Contact Safe Passage Project immediately if your client is arrested, detained, or if he or she is planning to travel abroad or has left the United States.
- Contact Safe Passage Project if your client seeks assistance regarding other legal matters. Safe Passage Project's involvement in the case is limited to mentoring and support with regard to the matter(s) specified in your retainer agreement. Safe Passage Project is unable to provide technical assistance on legal matters beyond the scope of the retainer. If, however, your client becomes concurrently eligible for another form of relief, Safe Passage Project may recommend the execution of a supplementary retainer to assist in seeking that benefit, or we may refer the client to another legal services provider for assistance in seeking that benefit.



- Contact Safe Passage Project before speaking with the media, members of government, or public officials about your client's case.

SAFE PASSAGE PROJECT'S COMMITMENT TO PRO BONO ATTORNEYS

Attorneys who accept a case for *pro bono* representation through Safe Passage Project can expect that the organization will provide the support and assistance necessary to competently represent their clients. In addition, Safe Passage Project agrees to:

- Provide *pro bono* attorneys with relevant trainings, and resources and technical assistance in the fields of family and immigration law.
- Mentor *pro bono* attorneys regarding immigration and family law, practice and procedure; provide sample applications, motions and pleadings, documentation, and other case resources; review draft documents; and provide consultations with experienced legal practitioners regarding case-related questions, theories, and strategies.

Safe Passage Project Attorney Signature

Date

Pro bono Attorney Signature

Date

Law Firm

Date of Admission to Bar

State of Admission

Have you had any legal malpractice or legal disciplinary complaints filed against you? If yes, please explain the circumstances regarding the complaint and the outcome of any disciplinary action taken:

Please complete this Memorandum of Understanding and return it to Alexandra Rizio at arizio@safepassagproject.org.



22 NYCRR 1400.2 STATEMENT OF CLIENT'S RIGHTS AND RESPONSIBILITIES

An attorney is providing you with this document to inform you of what you, as a client, are entitled to by law or by custom. To help prevent any misunderstanding between you and the attorney, please read this document carefully.

If you ever have any questions about these rights, or about the way your case is being handled once you retain the attorney, you are responsible to ask your attorney.

Your attorney should be readily available to represent your best interests and to keep you informed about your case.

An attorney may not refuse to represent you on the basis of race, creed, color, sex, sexual orientation, age, national origin or disability.

You are entitled to an attorney who will be capable of handling your case; show you courtesy and consideration at all times; represent you zealously; and preserve your confidences and secrets that you reveal in the course of the relationship, to the extent permitted by law. You are responsible to communicate honestly, civilly and respectfully with your attorney.

If you are hiring an attorney you and your attorney are required to sign a written retainer agreement which must set forth, in plain language, the nature of the relationship and the details of the fee arrangement (if any).

Before you sign the retainer agreement, you are responsible to read it and ask the attorney any questions you have before you sign it. At your request, and before you sign the agreement, you are entitled to have your attorney clarify in writing any of its terms, or include additional provisions.

If you engage in conduct which is found to be frivolous or meant to intentionally delay the case you could be fined or sanctioned and/or responsible for additional fees.

You are responsible to be honest and truthful in all discussions with your attorney, and to provide all relevant information and documentation to enable her or him to competently prepare your case. Attorneys and clients must make reasonable efforts to maintain open communication during business hours throughout the representation.

An attorney may seek to be relieved as your attorney if you are not honest and truthful with her or him.

You are entitled to be kept informed of the status of your case, and to be provided with copies of correspondence and documents prepared on your behalf or received from the court or your adversary.

Your attorney is required to discuss the following with you: a) the automatic orders that are in effect once either party files a summons with notice: b) the law that provides for the financial support of the children, the Child Support Standards Act if you and the other party



have children under the age of twenty-one; and c) the law that provides for the financial support of the parties, the Maintenance Guidelines Statute.

You are responsible to be present and on time in court at the time that conferences, oral arguments, hearings and trials are conducted unless excused by the Judge or the part rules of the assigned Judge.

You are entitled to make the ultimate decision on the objectives to be pursued in your case, and to make the final decision regarding the settlement of your case. Your attorney has the right to send you written communications if your attorney disagrees with how you want your case handled.

You are entitled to have your attorney's best efforts exerted on your behalf, but no particular results can be guaranteed.

Once your Judgment of Divorce is signed, if you are re- retaining an attorney you must sign a new retainer agreement. If you are expecting your attorney to prepare and file documents related to the transfer of a house, co-op or lease, that must be specified in the retainer agreement. The signing of an agreement or Court order that transfers title does not transfer a co-op apartment or a house. A separate document must be prepared and filed.

Receipt Acknowledged:

Attorney's signature

Client's signature

Date



Acronyms

AG: Attorney General

AOS: Adjustment of Status

CBP: Customs and Border Protection

DACA: Deferred Action for Childhood Arrivals

DHS: Department of Homeland Security

EAD: Employment Authorization Document (a “work permit”)

EOIR: Executive Office of Immigration Review (the Immigration Court)

ERO: Enforcement and Removal Operations (a division of ICE)

HHS: Department of Health and Human Services

ICE: Immigration and Customs Enforcement

IJ: Immigration Judge

OCC: Office of Chief Counsel, the legal arm of ICE

ORR: Office of Refugee Resettlement (a division of HHS)

SIJS: Special Immigrant Juvenile Status

TA: Trial Attorney (the ICE attorney assigned to any given case; your opposition when defending a child from deportation)

TPS: Temporary Protected Status

UAC: Unaccompanied Alien Child

USCIS: United States Citizenship and Immigration Services (the “benefits” arm of immigration; adjudicates visa petitions, conducts affirmative asylum interviews)

VAWA: Violence Against Women Act



Important Contact Information

Safe Passage Project:

Phone: (212) 324-6558

Address: 185 West Broadway, NY NY 10013

EOIR

Phone: (917) 454-1040

Address: 26 Federal Plaza, Room 1237, NY NY 10278

EOIR Hotline (to check court and decision date): 1-800-898-7180

ICE Office of Chief Counsel

Phone: (212) 264-5916

Address: 26 Federal Plaza, Room 1130, NY NY 10278

USCIS Customer Service Line: 800-375-5283 or check your receipt notice



Checklist for New *Pro Bono* Partner Attorneys Representing Unaccompanied Minors In Removal Proceedings

First steps after you have accepted a case:

1. Review your client's case file prepared by the Safe Passage Project ("SPP").
2. Call your client to introduce yourself and schedule an initial meeting. Please speak with your Safe Passage Project mentor attorney if you want to meet with your client at our office, or if you need us to arrange an interpreter for your meeting.
3. Confirm the date of the client's next immigration hearing by calling the Immigration Court's hotline at 1-800-898-7180. You will need the client's alien registration number, or "A-number," which is the nine-digit number located on the case placement memo and all of your client's immigration paperwork.
4. Familiarize yourself with the potential forms of relief identified by SPP.
 - For resources on Special Immigrant Juvenile Status, see: <http://www.safepassageproject.org/what-is-sij-status/>
 - For resources on Asylum, see: <http://www.safepassageproject.org/asylum/>
 - If you are new to this area of law, we also recommend that you complete the following online training on representing children in removal proceedings: <http://elearn.cliniclegal.org/demos/representing-children/story.html>
5. Familiarize yourself with conditions in your client's home country.
 - A good resource for searching for information on specific countries is Refworld, run by the U.N. High Commissioner for Refugees: <http://www.refworld.org/>
 - Another good resource is the U.S. State Department's annual human rights reports: <http://www.state.gov/j/drl/rls/hrrpt/>
6. Prepare a *pro bono* retainer agreement for you and your client to sign at your initial meeting (if your client is under 14 years of age, the client and his/her caretaker should sign the retainer). The retainer agreement should be written or read aloud in the language in which your client is fluent. If you would like a sample *pro bono* retainer agreement, please contact your SPP mentor attorney.
7. Conduct an initial meeting with your client within the first month of taking the case. Please contact your SPP mentor attorney if you would like the attorney to participate in the meeting, or if you have any questions in advance of the meeting.
8. Make a plan for next steps to be taken in the case, including the type(s) of relief to be sought. Please consult with your SPP mentor attorney at any stage in this process!



Representing an unaccompanied minor before the Immigration Court:

Before you make your first appearance or file your first written submission before the Immigration Court, you should:

1. Review the Safe Passage Project Manual, [Representing Immigrant Youth in Removal Proceedings](#).
2. Obtain an EOIR attorney registration number. See the “Registering to Practice Before EOIR” document in this packet, at [page 10](#).
3. Review the EOIR Immigration Court Practice Manual, which contains rules governing removal proceedings:
http://www.justice.gov/eoir/vll/OCIJPracManual/ocij_page1.htm

During your first appearance before the Immigration Court, or with your first written submission to the Immigration Court, you should:

1. Submit a Form EOIR-28, Notice of Entry of Appearance. This should be printed on green paper, and does not require the client’s signature. Be sure to include your EOIR attorney registration number where indicated. Double-hole punch each EOIR-28 at the top. Copies of the EOIR-28 can be found in each courtroom, or downloaded here: <http://www.justice.gov/eoir/eoirforms/eoir28.pdf>
2. Be prepared to enter pleadings to the NTA, the charging document in your client’s removal proceeding, or contest the validity of the NTA per *Pereira v. Sessions* (see [page 29](#) of this toolkit). Please consult your SPP mentor attorney with any questions. You might not enter pleadings at your first appearance, but you will be required to do so at a subsequent appearance.
3. Present proof of your client’s enrollment in school, if applicable. The Immigration Judge will likely waive your client’s presence at future hearings if you provide proof that he or she is currently attending school. Some Immigration Judges will not waive your client’s presence until pleadings have been entered.
4. If you are filing documents with ICE and the immigration court, be sure to review the [EOIR Practice Manual](#), as well as our document “How to Prepare and File Documents with Immigration and Customs Enforcement and EOIR”, at [page 11](#).

Resources available from SPP:

Please consult with your SPP mentor attorney about the resources available to you from SPP, including:

1. Volunteer interpreters and translators for the initial client meeting;
2. Beginner and advanced trainings on relevant areas of law;
3. Sample motions to continue immigration court proceedings;
4. Sample SIJS documents for family court;
5. Sample letter briefs for asylum cases;
6. Information on country conditions.



Registering with EOIR

In order to practice before the Executive Office of Immigration Review (“EOIR”), you must first register. This consists of two steps:

- 1.) Online registration.
 - a. Go to this website <https://www.justice.gov/eoir/ECAS>. Scroll down to eRegistry and click on relevant link: **“To register for the first time or access eRegistry to make updates, please click [here](#).”**
 - b. Follow the prompts to register.
- 2.) In-person verification of identity.
 - a. Once you have registered online, you will receive an email instructing you to go to 26 Federal Plaza, 12th Floor, Room 1237, to verify your identity. Bring a photo ID and present it to the clerk. The clerk will note in the system that your identity has been verified.
 - b. You should receive an email confirmation with your EOIR number within 48 hours. You must list this number on Form EOIR-28, Attorney’s Entry of Appearance, which you submit before any immigration hearing and with most filings.

Please note that because it can take up to 48 hours after your in-person verification of identity for you to receive your EOIR number. Because you must include the EOIR number on Form EOIR-28 (submitted at hearings and filings), **you must complete the registration process well before any scheduled hearing, and before you plan to file documents in immigration court.**



How to Prepare and File Documents with ICE and EOIR

As with any litigation, keep in mind that you must serve your opponents (ICE) as well as the court (EOIR). For that reason, you should always prepare three versions of the documents you will file: one for ICE, one for EOIR, and one for your files.

Refer to the [Immigration Court Practice Manual](#), chapter 3, for more detailed information on the content and timing of filings.

Document Preparation

- All filings must have a cover sheet (see “Cover Page for EOIR Motion Filing,” [page 25](#) of this toolkit).
 - The ICE copy of the documents must have an additional special cover sheet on top. What type of cover sheet will depend on your filing; check with your mentor attorney and view the various cover sheets included in this toolkit at [pages 21–24](#).
- If you have exhibits, you must use alphabetic (not numeric) exhibit tabs attached to the side (not the bottom) of the document. These can be sticky notes or tabs where you write the letters yourself.
- Keep in mind that the person actually filing the documents should be the one to sign the “proof of service” document and the service section on the back of the E-28.
- Order of documents:
 1. [For ICE copy: special ICE cover sheet]
 2. Cover Page for EOIR Motion Filing
 3. E-28
 4. Table of Contents, if applicable
 5. Body of Motion or filing
 6. Exhibits, if applicable, including Proposed Order for judge’s signature
 7. Proof of Service
- Double-hole punch all documents, but do *not* bind the documents together with prongs through the holes.
 - Though this is not required per the EOIR Practice Manual, ICE prefers that documents be stapled together. If it is a large filing, bind the documents together with a clip or rubber band.
 - If it is a very small filing, EOIR will permit stapling. Otherwise, simply bind with a binder clip or rubber band.
- Label each set of documents accordingly (ICE, EOIR, File Copy).
- Your file copy can be bound however you like, since it will remain in your files.



Service

Once the three sets of documents are prepared, you must serve ICE first. **The ICE filing window is only open until noon each day.** We recommend that you arrive well before noon in case there is a line.

- Serving ICE
 - Go to 26 Federal Plaza to the 11th floor, Room 1130
 - Approach the filing window and hand over all three sets of documents, either through the window slot or (if necessary) through the pulley window that accommodates larger filings.
 - The clerk will examine the documents and stamp all three with the date and time of receipt. S/he will keep the document set labelled “ICE.” S/he will hand back to you the documents labelled “EOIR” and “File Copy.”
- Serving EOIR
 - Take the remaining two sets of documents (labelled “EOIR” and “File Copy”) and go to the 12th floor of 26 Federal Plaza, Room 1237 (this is where you confirmed your identity and registered to practice before EOIR).
 - Hand the remaining two sets of documents to the EOIR clerk. S/he will stamp them with the date and time of receipt and will keep the document labelled “EOIR.” S/he will hand back to you the document labelled “File Copy.” You now have a double-stamped document proving that you served both ICE and EOIR.
- Saving the As-Filed Version: scan and save the full filing labelled “File Copy,” including the page that bears the receipt stamps from ICE and EOIR. Send the scan to your SPP Mentor.



Form EOIR-28, for appearances and filings
with immigration court

Indicate Type of Appearance:

Primary Attorney/Representative

Non-Primary Attorney/Representative

On behalf of _____ (Attorney’s Name) for the following hearing: _____ (Date)

I am providing pro bono representation. Check one: yes no

Proof of Service

I (Name) _____ mailed or delivered a copy of this Form EOIR-28 on (Date) _____
to the DHS (U.S. Immigration and Customs Enforcement – ICE) at _____

X _____

Signature of Person Serving

APPEARANCES - An attorney or Accredited Representative (with full accreditation) must register with the EOIR eRegistry in order to practice before the Immigration Court (see 8 C.F.R. § 1292.1(f)). Registration must be completed online on the EOIR website at www.justice.gov/eoir. An appearance shall be filed on a Form EOIR-28 by the attorney or representative appearing in each case before an Immigration Judge (see 8 C.F.R. § 1003.17). A Form EOIR-28 shall be filed either as an electronic form, or as a paper form, as appropriate (for further information, please see the Immigration Court Practice Manual, which is available on the EOIR website at www.justice.gov/eoir). The attorney or representative must check the box indicating whether the entry of appearance is for custody and bond proceedings only, for all proceedings other than custody and bond, or for all proceedings including custody and bond. When an appearance is made by a person acting in a representative capacity, his/her personal appearance or signature constitutes a representation that, under the provisions of 8 C.F.R. part 1003, he/she is authorized and qualified to represent individuals and will comply with the EOIR Rules of Professional Conduct in 8 C.F.R. § 1003.102. Thereafter, substitution or withdrawal may be permitted upon the approval of the Immigration Judge of a request by the attorney or representative of record in accordance with 8 C.F.R. § 1003.17(b). Please note that although separate appearances in custody and non-custody proceedings are permitted, appearances for limited purposes within those proceedings are not permitted. *See Matter of Velasquez*, 19 I&N Dec. 377, 384 (BIA 1986). A separate appearance form (Form EOIR-27) must be filed with an appeal to the Board of Immigration Appeals (see 8 C.F.R. § 1003.38(g)). Attorneys and Accredited Representatives (with full accreditation) must first update their address in eRegistry before filing a Form EOIR-28 that reflects a new address.

FREEDOM OF INFORMATION ACT - This form may not be used to request records under the Freedom of Information Act or the Privacy Act. The manner of requesting such records is in 28 C.F.R. §§ 16.1-16.11 and appendices. For further information about requesting records from EOIR under the Freedom of Information Act, see *How to File a Freedom of Information Act (FOIA) Request With the Executive Office for Immigration Review*, available on EOIR's website at <http://www.justice.gov/eoir>.

PRIVACY ACT NOTICE - The information requested on this form is authorized by 8 U.S.C. §§ 1229(a), 1362 and 8 C.F.R. § 1003.17 in order to enter an appearance to represent a party before the Immigration Court. The information you provide is mandatory and required to enter an appearance. Failure to provide the requested information will result in an inability to represent a party or receive notice of actions in a proceeding. EOIR may share this information with others in accordance with approved routine uses described in EOIR's system of records notice, EOIR-001, Records and Management Information System, 69 Fed. Reg. 26,179 (May 11, 2004), or its successors and EOIR-003, Practitioner Complaint-Disciplinary Files, 64 Fed. Reg. 49237 (September 1999). Furthermore, the submission of this form acknowledges that an attorney or representative will be subject to the disciplinary rules and procedures at 8 C.F.R. 1003.101 *et seq.*, including, pursuant to 8 C.F.R. §§ 292.3(h)(3), 1003.108(c), publication of the name of the attorney or representative and findings of misconduct should the attorney or representative be subject to any public discipline by EOIR.

CASES BEFORE EOIR - Automated information about cases before EOIR is available by calling (800) 898-7180 or (240) 314-1500.

FURTHER INFORMATION - For further information, please see the *Immigration Court Practice Manual*, which is available on the EOIR website at www.justice.gov/eoir.

ADDITIONAL INFORMATION:

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is six (6) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.



Sample EOIR-28

(Type or Print) NAME AND ADDRESS OF REPRESENTED PARTY Mario R McClient-Ramirez <hr/> (First) (Middle Initial) (Last) 123 Sesame Street 1A <hr/> (Number and Street) (Apt. No.) Brooklyn NY 10001 <hr/> (City) (State) (Zip Code)	ALIEN ("A") NUMBER (Provide A-number of the party represented in this case.) A123-456-789 Entry of appearance for (please check <u>one</u> of the following): <input checked="" type="checkbox"/> All proceedings <input type="checkbox"/> Custody and bond proceedings only <input type="checkbox"/> All proceedings other than custody and bond proceedings
--	--

Attorney or Representative (please check one of the following):

I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest court(s) of the following states(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia (use additional space on reverse side if necessary) and I am not subject to any order disbaring, suspending, enjoining, restraining or otherwise restricting me in the practice of law in any jurisdiction (if subject to such an order, do not check this box and explain on reverse).

Full Name of Court NY Ct of Appeals, 1st Dept. Bar Number (if applicable) 1234567

I am a representative accredited to appear before the Executive Office for Immigration Review as defined in 8 C.F.R. § 1292.1(a)(4) with the following recognized organization:

I am a law student or law graduate of an accredited U.S. law school as defined in 8 C.F.R. § 1292.1(a)(2).

I am a reputable individual as defined in 8 C.F.R. § 1292.1(a)(3).

I am an accredited foreign government official, as defined in 8 C.F.R. § 1291.1(a)(5), from _____ (country).

I am a person who was authorized to practice on December 23, 1952, under 8 C.F.R. § 1292.1(b).

Attorney or Representative (please check one of the following):

I hereby enter my appearance as attorney or representative for, and at the request of, the party named above.

EOIR has ordered the provision of a Qualified Representative for the party named above and I appear in that capacity.

I have read and understand the statements provided on the reverse side of this form that set forth the regulations and conditions governing appearances and representations before the Immigration Court. By signing this form, I consent to publication of my name and any findings of misconduct by EOIR, should I become subject to any public discipline by EOIR pursuant to the rules and procedures at 8 C.F.R. 1003.101 *et seq.* I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

SIGNATURE OF ATTORNEY OR REPRESENTATIVE	EOIR ID NUMBER	DATE
X	XY12345	1/1/2019

NAME OF ATTORNEY OR REPRESENTATIVE, ADDRESS, FAX & PHONE NUMBERS, & EMAIL ADDRESS

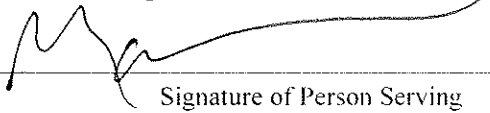
Name: Maria A Great Attorney
 (First) (Middle Initial) (Last)

Address: 185 West Broadway Basement
 (Number and Street)

New York NY 10013
 (City) (State) (Zip Code)

Telephone: 212-987-6543 Facsimile: _____ Email: maria@greatattorney.net

Check here if new address

Indicate Type of Appearance: Primary Attorney/Representative Non-Primary Attorney/Representative On behalf of _____ (Attorney's Name) for the following hearing: _____ (Date)I am providing pro bono representation. Check one: yes no**Proof of Service**I (Name) Maria Great Attorney mailed or delivered a copy of this Form EOIR-28 on (Date) 1/2/2019
to the DHS (U.S. Immigration and Customs Enforcement – ICE) at 26 Federal Plaza, Rm. 1130, NY NY 10278**X**

Signature of Person Serving

APPEARANCES - An attorney or Accredited Representative (with full accreditation) must register with the EOIR eRegistry in order to practice before the Immigration Court (see 8 C.F.R. § 1292.1(f)). Registration must be completed online on the EOIR website at www.justice.gov/eoir. An appearance shall be filed on a Form EOIR-28 by the attorney or representative appearing in each case before an Immigration Judge (see 8 C.F.R. § 1003.17). A Form EOIR-28 shall be filed either as an electronic form, or as a paper form, as appropriate (for further information, please see the Immigration Court Practice Manual, which is available on the EOIR website at www.justice.gov/eoir). The attorney or representative must check the box indicating whether the entry of appearance is for custody and bond proceedings only, for all proceedings other than custody and bond, or for all proceedings including custody and bond. When an appearance is made by a person acting in a representative capacity, his/her personal appearance or signature constitutes a representation that, under the provisions of 8 C.F.R. part 1003, he/she is authorized and qualified to represent individuals and will comply with the EOIR Rules of Professional Conduct in 8 C.F.R. § 1003.102. Thereafter, substitution or withdrawal may be permitted upon the approval of the Immigration Judge of a request by the attorney or representative of record in accordance with 8 C.F.R. § 1003.17(b). Please note that although separate appearances in custody and non-custody proceedings are permitted, appearances for limited purposes within those proceedings are not permitted. *See Matter of Velasquez*, 19 I&N Dec. 377, 384 (BIA 1986). A separate appearance form (Form EOIR-27) must be filed with an appeal to the Board of Immigration Appeals (see 8 C.F.R. § 1003.38(g)). Attorneys and Accredited Representatives (with full accreditation) must first update their address in eRegistry before filing a Form EOIR-28 that reflects a new address.

FREEDOM OF INFORMATION ACT - This form may not be used to request records under the Freedom of Information Act or the Privacy Act. The manner of requesting such records is in 28 C.F.R. §§ 16.1-16.11 and appendices. For further information about requesting records from EOIR under the Freedom of Information Act, see *How to File a Freedom of Information Act (FOIA) Request With the Executive Office for Immigration Review*, available on EOIR's website at <http://www.justice.gov/eoir>.

PRIVACY ACT NOTICE - The information requested on this form is authorized by 8 U.S.C. §§ 1229(a), 1362 and 8 C.F.R. § 1003.17 in order to enter an appearance to represent a party before the Immigration Court. The information you provide is mandatory and required to enter an appearance. Failure to provide the requested information will result in an inability to represent a party or receive notice of actions in a proceeding. EOIR may share this information with others in accordance with approved routine uses described in EOIR's system of records notice, EOIR-001, Records and Management Information System, 69 Fed. Reg. 26,179 (May 11, 2004), or its successors and EOIR-003, Practitioner Complaint-Disciplinary Files, 64 Fed. Reg. 49237 (September 1999). Furthermore, the submission of this form acknowledges that an attorney or representative will be subject to the disciplinary rules and procedures at 8 C.F.R. 1003.101 *et seq.*, including, pursuant to 8 C.F.R. §§ 292.3(h)(3), 1003.108(c), publication of the name of the attorney or representative and findings of misconduct should the attorney or representative be subject to any public discipline by EOIR.

CASES BEFORE EOIR - Automated information about cases before EOIR is available by calling (800) 898-7180 or (240) 314-1500.

FURTHER INFORMATION - For further information, please see the *Immigration Court Practice Manual*, which is available on the EOIR website at www.justice.gov/eoir.

ADDITIONAL INFORMATION:

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is six (6) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.



Form EOIR-33 Change of Address Form

Alien's Change of Address Form/ Immigration Court

If you move or change your phone number, the law requires you to file this Change of Address Form with the Immigration Court. You must file this form within five (5) working days of a change in your address or phone number. You will only receive notification as to the time, date, and place of hearing or other official correspondence at the address which you provide. Changes in address or telephone numbers communicated through any means except this form, e.g., pleadings, motion papers, correspondence, telephone calls, applications for relief, etc. will not be recognized and the address information and record will remain unchanged.

Failure to appear at any hearing before an Immigration Judge, when notice of that hearing or other official correspondence was served on you or sent to the address you provided, may result in one or more of the following actions:

- If you are not already detained, you may be taken into custody by the Department of Homeland Security (DHS) and held for further action; and

If you are in *removal* proceedings:

Your hearing may be held in your absence under Section 240 of the Immigration and Nationality Act (INA), and an order of removal may be entered against you. Furthermore, you may become ineligible for the following forms of relief from removal for a period of 10 years after the date of the entry of the final order:

1. Voluntary Departure as provided for in Section 240B of the INA;
2. Cancellation of Removal as provided for in Section 240A of the INA;
3. Adjustment of Status or Change of Status as provided for in Section(s) 245, 248, or 249 of the INA.

If you are in *deportation* proceedings:

Your hearing may be held in your absence under Section 242B of the Immigration and Nationality Act (INA) (1995), and an order of deportation may be entered against you. Furthermore, you may become ineligible for the following forms of relief from deportation for a period of 5 years after the date of the entry of the final order:

1. Voluntary Departure as provided for in Section 242(b) of the INA (1995);
2. Suspension of Deportation or Voluntary Departure as provided for in Section 244 of the INA (1995);
3. Adjustment of Status or Change of Status as provided for in Section(s) 245, 248, or 249 of the INA (1995).

If you are in *exclusion* proceedings:

Your application for admission to the United States may be considered withdrawn, and your hearing may be held in your absence and an order of exclusion and deportation entered against you.

Name: _____ Alien Number: A _____

My OLD address was:

("In care of" other person, if any)

(Number, Street, Apartment)

(City, State and ZIP Code)

(Country, if other than U.S.)

My NEW address is:

("In care of" other person, if any)

(Number, Street, Apartment)

(City, State and ZIP Code)

(Country, if other than U.S.)

(New Telephone Number)

 **SIGN HERE** →

X _____
Signature Date

PROOF OF SERVICE (You Must Complete This)

I _____ mailed or delivered a copy of this Change of Address Form on
(Name)

_____ to the Office of the Chief Counsel for the DHS (U.S. Immigration and Customs Enforcement-ICE) at
(Date)

(Number and Street, City, State, Zip Code)

 **SIGN HERE** →

X _____
Signature

MAILING INSTRUCTIONS

- 1) Copy the completed form and mail or deliver it to the Office of the Chief Counsel DHS-ICE at the address you inserted in the *PROOF OF SERVICE*. The *PROOF OF SERVICE* certifies that you provided a copy of the form to DHS.
- 2) Fold the page at the dotted lines marked "Fold Here" so that the address is visible.
(IMPORTANT: Make sure the address section is visible after folds are made.)
- 3) Secure the folded form by stapling along the open end marked "Fasten Here."
- 4) Place appropriate postage stamp in the area marked "Place Stamp Here."
- 5) Write in your return address in the area marked "PUT YOUR ADDRESS HERE."
- 6) Mail the original form to the Immigration Court whose address is printed below.

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. The estimated average time to complete this form is five (5) minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Executive Office for Immigration Review, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

Fold Here

PUT YOUR ADDRESS HERE

Place
Stamp
Here

U.S. Department of Justice
Immigration Court
26 Federal Plaza, Room 1237
New York, NY 10278

Fold Here

Privacy Act Notice

The information on this form is required by 8 U.S.C. § 1229(a)(1)(F)(ii) and 8 C.F.R. § 1003.15(d)(2) in order to notify the Immigration Court of any change of address and any change of telephone number. The information you provide is mandatory. Failure to provide the requested information limits the notification you will receive and may result in the adverse consequences noted above. EOIR may share this information with others in accordance with approved routine uses described in EOIR's system of records notice EOIR-001, Records and Management Information System and EOIR-003.

Fasten Here



Cover Sheets for Filings with ICE: Motions, Witness/Evidence, Other Correspondence

OCC-NYC MOTIONS

Step 1: Check One ➔ Detained Non-Detained

Step 2: Check One ➔ Immigration Judge BIA

Step 3: Check One Motion Type and All Applicable Reasons for the Motion ➔

<input type="checkbox"/> General Motions	<input type="checkbox"/> Motion to Reopen/Reconsider	<input type="checkbox"/> Joint Motion to Reopen Request*	<input type="checkbox"/> Request for Prosecutorial Discretion
<input type="checkbox"/> Change of Venue <input type="checkbox"/> Adjournment <input type="checkbox"/> Dismissal for USCIS adjudication <input type="checkbox"/> Withdrawal <input type="checkbox"/> Other: _____	<input type="checkbox"/> Adjustment of Status <input type="checkbox"/> Asylum/WH/CAT <input type="checkbox"/> In Absentia Order <input type="checkbox"/> Other: _____	<input type="checkbox"/> Adjustment of Status <input type="checkbox"/> Asylum/WH/CAT <input type="checkbox"/> In Absentia Order <input type="checkbox"/> Other: _____	

Step 4: Case Information (Print Legibly) ➔

Alien's Name: _____	
Alien Registration Number: _____	
Immigration Judge: _____	Date of Hearing: ____/____/____
Assistant Chief Counsel: _____	Table of Contents Attached? <input type="checkbox"/> Yes <input type="checkbox"/> No
G-28 or EOIR-28 Attached? <input type="checkbox"/> Yes <input type="checkbox"/> No	

Step 5: Motion Submitted By (Print Legibly) ➔

Name: _____	
Law firm: _____	Phone Number: _____
Street Address: _____	
City: _____	State: _____ Zip Code: _____

Service by mail must be made to our street address at the appropriate location - 26 Federal Plaza, Varick Street or ICE Hudson Valley. **The OCC-NYC does not have a PO Box address.**

We encourage the use of E-service. Please see the OCC-NYC Electronic Service Fact Sheet for more information.

E-Service Mailboxes:	
<p>Prosecutorial Discretion: OPLA-PD-NYC-OCC@ice.dhs.gov</p> <p>Joint Motions to Reopen: NONDETAINED.NYC_JMTR@ice.dhs.gov DETAINED.NYC_JMTR@ice.dhs.gov</p>	<p>Other Filings: 26 Federal Plaza: OPLA-NYC-eService@ice.dhs.gov Varick Street: OPLA-NYC-VRK-eService@ice.dhs.gov Ulster/Downstate: OPLA-NYC-IHP-eService@ice.dhs.gov</p>

EVIDENCE
and/or
WITNESS LIST

Please print legibly the following information

Alien Number: _____

Alien Name: _____

Judge's Name and Hearing Date:

(This information can be obtained by calling **1-800-898-7180**)

***To ACC:** _____

***Please provide name only if the ACC is specifically requesting or awaiting this evidence.**

Please list the attachments you are submitting and indicate whether it is an original (O) or a copy (C).

- | | (O) | (C) |
|----------|-----|-----|
| 1. _____ | { } | { } |
| 2. _____ | { } | { } |
| 3. _____ | { } | { } |
| 4. _____ | { } | { } |
| 5. _____ | { } | { } |

Is a witness list attached Yes { } No { }



Law Firm: _____

Address: _____

Telephone: _____

Print your name and sign below: _____

OTHER CORRESPONDENCE COVER SHEET

Printing legibly, please provide the following information

ALIEN NUMBER (Mandatory) _____ / _____ / _____

NAME OF ALIEN (Mandatory) _____

HEARING DATE (If Any) _____ / _____ / _____

Immigration Judge Name (If Applicable): _____

This information can be obtained by calling 1-800-898-7180

Name of OCC-NYC Attorney: _____

Type of Correspondence: _____



Law Firm: _____

Address: _____

Telephone Number: _____

Your Name: _____

Your Signature: _____



[FILL IN NAME OF ATTORNEY]

Attorney for Respondent

[FILL IN FULL ADDRESS OF ATTORNEY]

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
26 FEDERAL PLAZA
NEW YORK, NY 10278**

_____)
IN THE MATTER OF:)
)
[FILL IN FULL CLIENT NAME])
)
IN REMOVAL PROCEEDINGS)
)
_____)

FILE NO. A[FILL IN A#]

Judge [FILL IN NAME OF JUDGE]

Next Hearing: [FILL IN DATE and TIME].

RESPONDENT'S MOTION TO [FILL IN NAME OF MOTION]



[FILL IN NAME OF RESPONDENT]

A#[FILL IN###-###-###]

PROOF OF SERVICE

On [FILL IN DATE] , I, [FILL IN NAME OF PERSON FILING], served a copy of the foregoing Motion [to Continue/ Administratively Close Proceedings] and all attached pages to [If Known: Name, Assistant Chief Counsel], U.S. Department of Homeland Security, Immigration and Customs Enforcement, Office of the Chief Counsel, 26 Federal Plaza, Room 1130, New York, NY 10278 by [mail/personal service].

Signature _____ Date _____



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
26 FEDERAL PLAZA
NEW YORK, NY 10278

_____)
IN THE MATTER OF:)
)
[FILL IN CLIENT'S NAME]) FILE NO. [A###-###-###]
)
IN REMOVAL PROCEEDINGS)
_____)

WRITTEN PLEADINGS

On behalf of [Respondent's name], the respondent, I make the following pleadings:

1. The respondent concedes proper service of the Notice to Appear, dated [];
2. I have explained to the respondent:
 - a. The rights set forth in 8 C.F.R. § 1240.10(a);
 - b. The consequences of failing to appear in court as set forth in INA § 240(b)(5);
 - c. The limitation on discretionary relief for failure to appear as set forth in INA § 240(b)(7);
 - d. The consequences of knowingly filing or making a frivolous application as set forth in INA § 208(d)(6);
 - e. The requirement to notify the court within five days of any change of address or telephone number, using Form EOIR-33, pursuant to 8 C.F.R. § 1003.15(d).
3. The respondent admits the following allegation(s): [all, or specify the allegations]. The respondent denies the following allegation(s): [none, or specify the allegations].
4. The respondent concedes the following charge(s) of removability: [specify charges]. The respondent denies the following charge(s) of removability: [specify charges].
5. In the event of removal, the respondent declines to designate a country of removal.
6. The respondent plans to apply for the following forms of relief from removal: [specify all forms of relief being sought, including Voluntary Departure, if applicable].
7. The respondent's best language is [], and requests the court to order an interpreter in that language for the individual hearing.

Date

[Fill in Attorney's Name]
Attorney for respondent



I, [Respondent's name], have been advised of my rights in these proceedings by my attorney, [Attorney's name]. I understand those rights. I waive a further explanation of those rights by the court.

I have been advised by my attorney of the consequences of failing to appear for a hearing or a scheduled date of departure or deportation, and I understand those consequences.

I have been advised by my attorney of the consequences of knowingly filing a frivolous asylum application, and I understand those consequences.

I have been advised by my attorney that I must notify the court within five days of changing my address or phone number by completing Form EOIR-33, and I understand that requirement.

My attorney [through an interpreter, if applicable] has explained to me what these Written Pleadings say in the [] language. I understand them, agree with them, and ask the court to accept them as my pleadings.

Date

[Respondent's name]

If the respondent is under fourteen years old:

I am the [parent/guardian/ORR sponsor] for [Respondent's name]. [His/her] attorney has explained to me what these Written Pleadings say in the [] language. I understand them, agree with them, and ask the court to accept them as [Respondent's name]'s pleadings.

Date

[Parent/Guardian/ORR Sponsor's name]



Motions to Dismiss Removal Proceedings in Light of *Pereira v. Sessions*, 585 US _ (2018)

In June 2018, the Supreme Court of the United States issued an 8–1 decision in favor of petitioner Wesley Fonseca Pereira. The procedural history of the case is complex, but the upshot of the Court’s ruling is that Mr. Pereira’s removal proceedings were improperly commenced.

Immigration and Customs Enforcement (“ICE”) filed a defective charging document called a Notice to Appear (“NTA”) in an attempt to initiate removal proceedings against Mr. Pereira. The clear language of the Immigration and Nationality Act (“INA”) 239(a)(1)(G)(i) and 8 CFR 1229(a) states that a Notice to Appear must contain, *inter alia*, the date, time and place that removal proceedings will commence. Over the last decade, many, if not most, NTAs issued by ICE and filed with the court do not contain this information; Mr. Pereira’s NTA stated that his removal proceedings would take place at a date, time and place “to be set.” ICE later attempted to mail him a separate hearing notice with this information. The Court analyzed whether this dual NTA–and–hearing–notice system conformed to statute and regulation, and held that it did not. The Court found that removal proceedings had not properly commenced on the date of ICE’s filing of the putative NTA. Mr. Pereira was therefore eligible for a form of relief called non–LPR Cancellation of Removal.

Immigration advocates immediately noticed the similarities between Mr. Pereira’s situation and the situation of most of their clients in removal proceedings: very few NTAs contain the date, time and place of removal proceedings. Respondents, as Mr. Pereira, generally receive an NTA and later receive a hearing notice ordering them to appear in court. Per the Supreme Court’s holding in *Pereira* and the plain language of INA 239(a)(1)(G)(i) and 8 CFR 1229(a), then, immigration courts do not have subject matter jurisdiction over hundreds of thousands of cases because the cases were improperly filed with the court.

Since *Pereira* came down in June, the Board of Immigration Appeals (“BIA”) has issued a poorly–reasoned decision called *Matter of Bermudez–Cota*, which cabins the *Pereira* decision to cases involving the form of relief Mr. Pereira wanted to apply for, Cancellation of Removal. However, advocates and some district and Circuit courts disagree with the BIA, and have subsequently held that the Supreme Court’s language is not limiting, that the statute and regulations are clear, and that any NTA that does not contain the elements outlined in INA 239(a)(1)(G)(i) and 8 CFR 1229(a) is not an NTA at all; it is essentially a blank piece of paper, incapable of properly initiating removal proceedings against a respondent.

Because of the ongoing circuit split and the likelihood that the Supreme Court will eventually clarify its decision, Safe Passage recommends preserving *Pereira*–inspired arguments for the record. Because your client most likely did not receive an NTA that conforms with in INA 239(a)(1)(G)(i) and 8 CFR 1229(a), removal proceedings were improvidently begun against him or her. You should make a 30–second oral motion before the immigration judge to dismiss the case for lack of subject matter jurisdiction. Please see the attached “cheat sheets”: one is a sample script of an oral motion to dismiss, and one is a summary of statute, regulation and case law.



Sample Script

Judge: Counsel, are you ready to take pleadings?

Attorney: Judge, if I may, I'd like to make a 30 second *Pereira* argument for the record.

Judge: Counsel, you know the BIA precedent controls here...

Attorney: Yes judge, but I think the BIA case was wrongly decided, at least one circuit court agrees that the Supreme Court precedent, INA and regulations are in my favor, and it's important that my motion be on the record.

Judge: Go ahead.

Attorney: I move to dismiss these proceedings because this court does not have jurisdiction over the instant matter. EOIR only has jurisdiction over removal proceedings if a charging document like an NTA is properly filed with the court. Per 8 CFR 1229(a), a charging document must include, inter alia, "the time and place at which the proceedings will be held." The respondent's putative NTA does not contain the time or place of the proceedings. Therefore it is not an NTA at all--it's the equivalent of a blank piece of paper. Because no NTA was filed with this court, this court does not have subject matter jurisdiction over these proceedings. They should be dismissed.

Judge: BIA case law states that the holding in *Pereira* is limited to non-LPR Cancellation of Removal Cases.

Attorney: The 11th circuit terminated proceedings in accordance with *Pereira* outside the context of non-LPR Cancellation of Removal. The concurring opinion said that *Bermudez-Cota* was likely wrongly decided.

Judge: I make note of your motion but I must deny it because my controlling precedent is *Matter of Bermudez-Cota*, not the 11th circuit.

Attorney: I understand, judge. I can continue with pleadings.



“Cheat sheet” of Statute, Regulations and Case law

The putative NTA here is not an NTA at all, per *Pereira v. Sessions*, 585 US ___ (2018) and the relevant regulations, because it does not list the date and time of the hearing.

Per 8 CFR 1003.14, **jurisdiction** with the immigration court only vests once a charging document is filed with the court.

[This part is sort of self-evident—a charging document = an NTA— so you might want skip it out if making an oral argument]: Per 8 CFR 1003.13, a **charging document** means “the written instrument which initiates a proceeding before an immigration judge....for proceedings initiated after April 1, 1997, these documents include a Notice to Appear, a Notice of Referral to Immigration Judge, and a Notice of Intention to Rescind and Request for Hearing by Alien.”

Per INA 239(a)(1)(G)(i) and 8 CFR 1229(a), a **Notice to Appear** is defined as a written notice specifying a variety of things, *including* “the time and place at which the proceedings will be held.”

Pereira v. Sessions clarifies that a putative Notice to Appear is not a Notice to Appear at all if the date and time is not specified. “Section 1229(a)(1) does not say a ‘notice to appear’ is ‘complete’ when it specifies the time and place of the removal proceedings. Rather, it defines a ‘notice to appear’ as a written notice’ that ‘specifies, at a minimum, the time and place of the removal proceedings.” *Pereira v. Sessions* at 14. “Failing to specify integral information like the time and place of removal proceedings unquestionably would ‘deprive [the notice to appear] of its essential character.’ *Pereira v. Sessions* at 14 with internal citations omitted.

This court should terminate removal proceedings because the BIA’s decision in *Matter of Bermudez-Cota* is, as the 11th Circuit’s concurring opinion in *Duran-Ortega* stated, *Bermudez-Cota* was likely incorrectly decided.

- **Potential ICE Argument: Pereira only applies to non-LPR cancellation**
- **Your response:** While it’s true that the context of *Pereira* is the stop-time rule for non-LPR cancellation, our question is in fact more narrow: what is an NTA? The Court answers that question by reading the language of the statute, and that’s what I’m doing with my jurisdictional argument. Non-LPR cancellation is only the context of that particular case.
 - Circuit court case law:
 - 11th circuit, good case: *Duran-Ortega*. NTA defective, jurisdiction didn’t vest.
 - 6th Circuit, bad case: *Hernandez-Perez*. Despite faulty NTA, jurisdiction vested with court.
- **Potential ICE Argument: One can waive subject matter jurisdiction in administrative cases**
- **Your response:** No; *personal* jurisdiction can be waived, and one can waive it by showing up in court. One cannot waive subject matter jurisdiction. Federal Rules of Civil Procedure 12(b)(1)
- **Potential ICE Argument: I will amend this NTA orally right now to include a date and time.**



- **Your response:** Amending the NTA can't cure a foundational jurisdictional defect. Furthermore, 8 CFR 1240.10(e) says that you can only amend allegations and charges, and only in writing. So you can't *orally* amend anything, and you definitely can't orally amend the time and place designation on the NTA. But again, that's moot because amendments don't cure the jurisdictional defect.



Safe Passage Project Social Work Department Priority Guidelines

Safe Passage Project provides limited non-legal services to clients and their families, including referral and advocacy services, to ensure that clients' holistic needs are. Because of the volume of cases Safe Passage handles, we have a priority system for assessing which social work needs will receive immediate attention from our small but dedicated social work team.

Social work at Safe Passage is:

- Linkage to services (referrals);
- Developing relationships with service providers to ensure that referrals are successful;
- Developing rapport with clients and caregivers to ensure that they develop trust with Safe Passage Project and to ensure that referrals are successful;
- Crisis intervention. For example, a client may express suicidal ideations or a client's family may become homeless;
- Psychosocial assessments. These are not psychological evaluations, but rather an in-depth way to determine the needs and existing supports of each client. The Social Work Team will work with the Legal Department to determine which clients will receive an in-depth assessment;
- Thorough interventions on a *case-by-case* basis. Some clients may be in situations where more thorough intervention by a social worker is needed in order to ensure that the client is safe and that they are able to continue working with their attorney.

Social work at Safe Passage is not:

- Long-term treatment/intervention. Client interventions last only for the duration of the case;
- Weekly counseling. Although a member of the Social Work Team may reach out weekly to a client, depending on their situation, to check in, traditional weekly counseling is not provided. A referral to mental health services would be made;
- Family intervention. The Social Work Team does not provide family counseling or therapy, although many of our clients and caregivers may benefit from this service. This would be referred to an organization who specializes in family work.

Social work cases may be designated as High, Medium, or Low Priority, depending on the client's needs and needs of the legal case. These designations will determine how soon the Social Work Team can address client issues. The Social Work Team will prioritize cases that are categorized as High or Medium.

High

- Serious mental health issues (suicide attempt, suicidal ideation, self-injury, severe depression or other diagnosis);
- ACS/CPS/PINS involvement;
- Homeless or runaway clients;
- Guardianship issues/guardian conflicts:
 - Helping the client determine who they want as their guardian;
 - Working with the attorney to decide if someone is an ideal fit for a guardian;



- Navigating family court processes with the client and their guardian;
- Unplanned pregnancy;
- Interpersonal violence (IPV)/Domestic Violence (DV);
- Trafficking survivor;
- Criminal issues, misdemeanors, or violations (case-by-case);
- Educational mistreatment;
- School safety issues, such as bullying or harassment;
- Client disappears or becomes unresponsive;
- Urgent medical care/serious health issue;
- Liaise with:
 - Therapists: referrals, obtain letter of support for case;
 - Counselors (school or mental health): for serious school or mental health concerns;
 - Detectives: criminal matters, DV, PINS;
 - ACS workers: ensure that client/family is receiving adequate support/interventions and that ACS is aware of the immigration case.

Medium

- No longer attending school (case-by-case);
- Educational service needs (language difficulty in school, IEP, school transfers, HSE referral);
- Health insurance coverage;
- IDNYC;
- Employment assistance (clients with EADs);
- Non-urgent medical care;
- Public benefits referrals (HRA, DSS);
- Accompaniment (case-by-case);
- Document collection (case-by-case: school records, medical records);
- HRA Budget Letters for case (case-by-case).

Low

- ESL classes;
- Recreational activities;
- College assistance (financial aid, scholarships, applications);
- Passport assistance;
- Tax assistance referral;
- Interpretation for meetings or interviews*;
- Translation of documents*.

*Please note: interpretation or translation of documents may be done on a case-by-case basis, including:

- Interpretations for client meetings or interviews where the client may feel most comfortable with the social worker or social work intern;
- Translation of documents in emergency situations.

Social Work Referral Process: If you have a case that requires the intervention of the Safe Passage social work team, please contact your mentor attorney, who will make the direct referral.



Links to Manuals

Safe Passage Project:

[Special Immigrant Juvenile Status](#)

[Asylum](#)

[Representing Immigrant Youth in Removal Proceedings](#)

Department of Justice:

[EOIR Practice Manual](#)

New York State Unified Court System:

[New York State Law Reports Style Manual](#)