

MODEL HEARING PROGRAM

TRAINING MANUAL



U.S. Department of Justice
Executive Office for Immigration Review
Office of the Director
Office of Legal Access Programs

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PREFACE

The Executive Office for Immigration Review (EOIR), an office within the Department of Justice, is responsible for the administration of the immigration court system. Under delegated authority from the Attorney General, EOIR's Immigration Judges and the Board of Immigration Appeals interpret and adjudicate immigration cases pursuant to United States immigration laws. Immigration Judges conduct administrative court proceedings in immigration courts throughout the nation. The Board of Immigration Appeals, located in Falls Church, Virginia, has nationwide jurisdiction and hears appeals of the decisions of Immigration Judges. EOIR's Office of the Chief Administrative Hearing Officer adjudicates immigration-related employment cases. EOIR is headed by a Director who reports directly to the Deputy Attorney General.

The Office of Legal Access Programs (OLAP) falls within the purview of EOIR's Director. It is responsible for administering the Legal Orientation Program (LOP), the Legal Orientation Program for Custodians of Unaccompanied Alien Children (LOPC), and the BIA Pro Bono Project. OLAP also coordinates EOIR's Committee on Pro Bono, the Model Hearing Program, and other initiatives aimed to improve access to legal services for individuals appearing before EOIR's tribunals. Pro bono representation and other legal services for individuals in immigration court and before the Board promote the effective and efficient administration of justice, and EOIR is committed to expanding and improving these efforts.

THE MODEL HEARING PROGRAM

The Model Hearing Program (MHP) is an educational program coordinated by OLAP, to improve the quality of advocacy before the immigration courts, as well as to increase levels of pro bono representation. The program, implemented in 2001, provides hands-on immigration court training and is designed for attorneys, accredited representatives, law students or law school graduates with little or no experience in immigration removal proceedings, who are interested in representing indigent immigrants on a pro bono basis in the immigration court.

While MHPs vary depending on the sponsoring organization and local court practices and personnel, they all share a basic MHP structure. First, substantive training in a specific area of immigration law is provided by the non-profit organization sponsoring the MHP. This is followed by a model hearing presided over by an Immigration Judge from the local immigration court.* The in-court model hearing is conducted by Immigration Judges who focus on practice, procedure and advocacy skills. Participants commit to a minimal level of pro bono representation throughout the year, and may receive training materials and CLE credit.

OLAP facilitates coordination of the MHP by communicating between the sponsoring organization and the court and by providing technical assistance where needed. This manual is designed to assist those interested in sponsoring an MHP. If you would like to sponsor a Model Hearing Program or have any questions regarding the program, please contact EOIR's Office of Legal Access Programs at EOIR-Office.of.Legal.Access.Programs@usdoj.gov.

*Normally, any Immigration Judge participation in a public training requires an opinion from the EOIR Office of General Counsel Ethics Officer. This is not required for EOIR staff participation in an official OLAP MHP, because the OLAP MHP model has already received the necessary ethics approval.

I. MODEL HEARING BASICS

A. SPONSORING ORGANIZATION

MHPs are generally sponsored by pro bono agencies; however, law schools or clinics and various immigration-related legal organizations have also hosted these training programs. No fee should be charged for the training. Nevertheless, CLE credit may be offered.

The sponsoring organization is responsible for:

1. Advertising the MHP
2. Recruiting participants
3. Providing substantive law training outside the courtroom setting prior to the in-court Model Hearing session
4. Providing training materials, including fact pattern hypotheticals for use during the Model Hearing (sample hypotheticals are available from OLAP)
5. Organizing the training schedule
6. Once contact with the local immigration court has been established through OLAP, keeping the court informed of training information and schedule (this is oftentimes accomplished through contact with the Court Administrator or the court's judicial law clerk)
7. Contacting the Department of Homeland Security (DHS) Chief Counsel's Office to invite them to participate.

B. PARTICIPANTS

The sponsoring pro bono agency should recruit participants who are: (1) attorneys, (2) accredited representatives, (3) law students, or (4) law school graduates with little or no experience in immigration removal proceedings, and who are interested in representing immigrants on a pro bono basis in the Immigration Court. When recruiting, the pro bono agency should consider the size of the training location (for both the substantive law training and court session) and generally limit the number of participants to no more than 30.

All participants are expected to accept a pro bono case within the following year that ultimately proceeds to a hearing on the merits. Referral of these cases to participants should be made through the sponsoring pro bono agency.

C. LOCAL IMMIGRATION COURT

The local immigration court provides access to the courtroom that will be used for the Model Hearing training. The Immigration Judge, who has volunteered to participate in the MHP, will preside over the mock hearing by selecting training participants to play different courtroom roles (alien/alien's representative/DHS counsel). As long as the general MHP structure is followed, Immigration Judges who participate are not required to obtain separate ethics approval from the EOIR Ethics Officer. It is important to note that Immigration Judges are not allowed to provide substantive legal training or render hypothetical decisions. Information provided by the Immigration Judge should be limited to practice and procedure before the Court, as well as any recommended "do's and don'ts" for effective courtroom advocacy.

If the Court Administrator is present, he/she can explain court procedures (filing instructions, window hours, where to find local rules/EOIR Practice Manual, etc.)

II. PLANNING A MODEL HEARING PROGRAM

A. Checklist for organizing a Model Hearing Program

- ✓ **Inform OLAP of an interest in organizing a model hearing:** Pro bono legal service providers interested in arranging a MHP should reach out to OLAP. OLAP will go over the logistical and ethical considerations related to organizing a MHP.
- ✓ **Invite the local Immigration Court to participate:** Pro bono legal service providers should coordinate the initial MHP invitation and most related communication with the local Immigration Court through OLAP.
- ✓ **Set a time and date:** Pro bono legal service providers should select a variety of dates for the MHP and in conjunction with OLAP coordinate a final date with the local Immigration Court. This should be done no less than six weeks prior to the MHP.
- ✓ **Invite DHS/ICE to participate:** Pro bono legal service provider should invite the local DHS/ICE Office of the Chief Counsel to participate in the MHP. Please keep OLAP apprised of DHS/ICE's involvement.
- ✓ **Confirm an off-site location for the substantive legal training:** Although the actual MHP does not involve substantive legal training, the pro bono legal service providers should provide complementary substantive legal training to participants. The substantive legal training cannot be held at the Immigration Court and the MHP must be held at the Immigration Court. Therefore, the pro bono legal service provider should confirm an off-site location for the substantive legal training.
- ✓ **Recruit attendees:** Pro bono legal service providers should recruit participants who are attorneys, accredited representatives, law students or law student graduates with little or no experience in immigration removal proceedings, and who are committed to representing indigent immigrants on a pro-bono basis in Immigration Court. No more than thirty attendees should participate.
- ✓ **Organize CLE credits for the attendees:** If appropriate, pro bono legal service provider should arrange for State Bar CLE credit for all participating licensed attorneys.
- ✓ **Select a case scenario:** Pro bono legal service provider should select the type of case the MHP will focus on. OLAP has sample MHP materials available for use. In addition, the Immigration Judge who will be presiding over the case may wish to be involved in the development of the case scenario.

- ✓ **Prepare materials:** Materials distributed should be kept to a minimum and can be emailed to participants in advance or provided at the substantive legal training. OLAP will review the materials for ethical considerations prior to their distribution. OLAP will not review the materials for legal accuracy.
- ✓ **Confirm with attendees:** Pro bono legal service provider should send out at least one reminder prior to the MHP.
- ✓ **Evaluate the MHP:** Pro bono legal service provider should obtain evaluation forms from OLAP which attendees will complete after participating in the MHP.
- ✓ **Send a thank you letter:** OLAP will send participants a thank you letter. The pro-bono legal service provider can also send a complementary thank you letter. OLAP should be provided the names and addresses of the participants as soon as possible following the MHP to facilitate this process.

The following steps describe some aspects of the checklist in more detail. The steps are designed to assist in organizing an effective Model Hearing training. After reviewing this information, feel free to contact the Office of Legal Access Programs with any questions or concerns at EOIR-Office.of.Legal.Access.Programs@usdoj.gov.

B. Setting the Date

Anyone interested in arranging a Model Hearing training session in their area should contact OLAP. The sponsoring agency should provide OLAP with a variety of dates for the training. OLAP will then coordinate a time and place for the training with the Assistant Chief Immigration Judge (ACIJ) for the specific court, the court's Immigration Judges (IJs), and the Court Administrator (CA). The training session date, time, and volunteer IJ should be determined no less than six weeks before the training date in order to provide sufficient time for participant recruitment and preparation for the Model Hearing. Once initial communication with the court is established through OLAP, the sponsoring agency generally communicates with the court directly through the Court Administrator, the judicial law clerk, or other court facilitator.

C. Recruitment of Participants

The sponsoring agency is responsible for advertising the date, time, place and content of the training in order to recruit participants who are either attorneys, accredited representatives, law students, or law school graduates with little or no experience in immigration removal proceedings. Training sessions, particularly the in-court model hearing session, should be limited to no more than 30 participants in order to maintain strong personal interaction and encourage participation by those present.

D. Substantive Law Training

The sponsoring agency should provide all participants with basic substantive training and/or written materials in immigration law in advance of the in-court Model Hearing session.

E. Pro Bono Commitment

All participants are expected to accept a pro bono case within the following year that ultimately proceeds to a hearing on the merits. Referral of these cases to participants should be made through the sponsoring pro bono agency, or through another agency with whom the sponsoring agency collaborates.

F. CLE Credit

If CLE credit is being offered, the pro bono agency should arrange in advance for State Bar CLE credit for all participating licensed attorneys.

G. Case Hypotheticals

The sponsoring pro bono agency or the volunteer Immigration Judge can either draft their own case scenarios or select fact patterns from previous Model Hearing Programs available from OLAP. Any case scenarios that are to be used during the Model Hearing must be approved by OLAP and should be distributed to MHP participants in advance of the Model Hearing session. The case scenarios are not scripts, rather they consist of a general fact pattern and sample affidavits and other evidence when appropriate.

III. THE MODEL HEARING SESSION

A. Introduction – 1–1½ hours

At the beginning of the session, the Immigration Judge will introduce the session together with the representative from the pro bono agency. The IJ will generally provide tips on immigration practice and procedure (agency jurisdiction over removal cases, role of the Immigration Judge, court decorum, purpose of the Master Calendar Hearing, etc). The Court Administrator or assigned court facilitator will provide information on court filing instructions, docketing procedures, scheduling of hearing calendars, accessing the EOIR Practice Manual, window hours, and other court processes.

In order to optimally familiarize participants for the preparation of the “mock” trial, the court facilitator may also provide participants guidance in the preparation of the different types of immigration applications related to a merits hearing, such as, Asylum (I-589) or Adjustment of Status (I-485). Additionally, the court facilitator may present information concerning the respondent’s statements or affidavits, documentary evidence, pre-trial briefs, the Department of Homeland Security (DHS) file review information, pre-trial conferences and stipulations, and the use and preparation of witnesses. The topics covered can be modified by the Immigration Judge and/or court staff depending on their relevance to that particular court.

DHS Chief Counsel's Office may provide information on its role and function in immigration proceedings.

MHP participants should be encouraged to ask any questions they may have about the topics covered during the introductory session.

B. The Model Hearing – 1–1½ hours

After a short break, the Model Hearing begins with participants volunteering/being recruited to play the roles of the alien respondent, respondent's counsel, DHS counsel, and respondent witness using the sample case scenarios distributed to the participants. Additional participants may 'second chair' at counsel table. The Immigration Judge may rotate the participants in order to keep the hearing session lively and challenging. Also, if DHS Counsel is present, she/he could initially play the role of DHS ICE Counsel.

The Immigration Judge/court facilitator can instruct participants in presenting opening statements, and in making direct and cross examinations according to their assigned roles. The presentation will assist participants in garnering the necessary experience to improve their level and quality of representation before the court. This portion of the Model Hearing session should provide assistance and guidance with the different levels associated in a hearing, as well as address technique, problem-solving issues related to language barriers and transcripts, and other pertinent matters that may arise in the courtroom.

C. Conclusion

After the closing statements and information concerning the general preparation of case decisions (a hypothetical decision should not be rendered), the Immigration Judge may provide comments and pointers, as well as cover ethical or disciplinary concerns which may arise in a hearing. Participants are encouraged to ask questions as much as possible throughout the session in order to obtain clarity about the immigration court hearing process.

The Model Hearing Program is intended to provide a comfortable and informative setting in which attorneys, accredited representatives and others new to immigration practice are given the tools to competently represent respondents pro bono before the Immigration Court. Its structure is flexible, and with approval from OLAP, can be modified to suit the needs of the participants, as well as the individual styles of the presenting immigration judges. If you have any questions regarding the program, please contact the EOIR Office of Legal Access Programs.

APPENDIX

The following materials are samples collected from previous Model Hearing Programs. They may be modified, depending on your needs and those of the local court.

A – SAMPLE TRAINING ANNOUNCEMENTS & AGENDAS

- #1 Denver, Colorado – Rocky Mountain Immigrant Advocacy Network (RMIAN)**

- #2 Baltimore, Maryland – Maryland Immigrant Rights Coalition**

#1 Aurora, Colorado Announcement

Free Immigration Practice Training in Aurora, Colorado
Model Hearing Program: March 12, 2010, 11am to 3:30pm

This free seminar will provide hands-on immigration court training to a small group of pro bono representatives (no more than 20) emphasizing practice, procedure, and advocacy skills, in order to improve the level and quality of representation before the Aurora Immigration Court. This training is designed for attorneys with little or no immigration law experience. All participants must accept a RMIAN pro bono case in the coming year.

Through simulated hearings, participants have an opportunity to serve in the role of respondent's counsel, ICE Trial Attorney and respondent witness. Sample case scenarios will be provided in advance of the training.

Presenters:

Honorable James P. Vandello, EOIR, Aurora Immigration Court
Honorable John Davis, EOIR, Aurora Immigration Court
Michelle Smith, Esq., Office of Chief Counsel, Immigration and Customs Enforcement (ICE)
Brad Hendrick, Esq., Caplan and Earnest, LLC
Emily White, Esq., Joseph Law Firm, PC
Mekela Goehring, Esq., Executive Director, Rocky Mountain Immigrant Advocacy Network
Andrea Gomez Oxman, Esq., Detention Attorney, Rocky Mountain Immigrant Advocacy Network

Program:

11:00am to 12:30pm: Substantive Overview of Removal Proceedings & Cancellation of Removal
Presenters: Brad Hendrick, Emily White, Andrea Gomez, Mekela Goehring
Location: Joseph Law Firm
12203 E. Second Ave. Aurora, CO. 80011

1:00pm to 2:30pm: Introduction to the EOIR, Preparation for Merits Hearings, Presentation of Cases, Additional Comments and Practice Pointers
Presenters: Honorable Immigration Judges James P. Vandello and John Davis, and Michelle Smith, Office of Chief Counsel, ICE
Location: Aurora Immigration Court, GEO/ICE Detention Center
11901 East 30th Avenue, Aurora, CO 80030

2:30pm to 3:30pm: Model Hearing
Presenters: Participants will be randomly recruited to play the roles of Respondent's counsel, ICE Trial Counsel, and Respondent Witness.

RSVP your attendance to Mekela Goehring at mgoehring@rmian.org or (303) 433-2812, ext. 103

#2 BALTIMORE FLYER & AGENDA

AGENDA FOR MARCH 7, 2008, BALTIMORE MODEL HEARING PROGRAM

Maryland Immigrant Rights Coalition

SPEAKERS:

Immigration Judge Elizabeth Kessler, Baltimore Immigration Court, EOIR

Brenda Cook, Court Administrator, Baltimore Immigration Court, EOIR

George Maugans & Christopher Coxe, Immigration and Customs Enforcement Trial Attorneys,
Department of Homeland Security

Ilissa Gould, Attorney Advisor, Baltimore Immigration Court, EOIR

Steven Lang, Coordinator, Legal Orientation and Pro Bono Program, Office of General Counsel, EOIR

Mark Shmueli, AILA, DC-area chapter Pro Bono Coordinator

TOPIC: Immigration Practice and Procedure

TIME: 1:30pm-4:00pm

LOCATION: Baltimore Immigration Court
31 Hopkins Plaza, Room 440
Baltimore, MD. 21201

CONTENT:

This seminar will provide hands-on immigration court training to small groups of prospective pro bono representatives emphasizing practice, procedure and advocacy skills, in order to improve the level and quality of representation before the court. Through simulated Master Calendar and Individual Hearings, participants have an opportunity to serve in the role of respondent's counsel, ICE Trial Attorney and respondent witness. Sample case scenarios are prepared and distributed to all participants in advance of the training.

AGENDA: Introduction of Program, Speakers (Ilissa Gould, 2 minutes)
Informational Session (Approx. 1 hour, 20 minutes)

- I. Welcome, Introduction to Executive Office for Immigration Review (15 minutes)
 - A. Agency jurisdiction over removal cases and relationship with ICE (Judge Kessler, 2 minutes)
 - B. Role of the Immigration Judge, Court Decorum (Judge Kessler, 2 minutes)
 - C. What help is available? Legal Assistants, window hours, etc. (Brenda Cook, 3 minutes)
 - D. Immigration Court docketing procedure and progression of cases that come before the court (Brenda Cook, 2 minutes)
 - E. Where to find local rules, highlight of important local rules, practice manual (Brenda Cook, 3 minutes)
 - F. Attorney physical appearance and filing the EOIR-28 Notice of Appearance (Brenda Cook, 1 minute)
 - G. Purpose of Master Calendar Hearing, pleading to the Notice to Appear (Brenda Cook, 2 minutes)
- II. Preparing for the Merits Hearing (20 minutes)
 - A. Preparation of Application (I-589, EOIR-40B, I-485) (Ilissa Gould, 2 minutes)

- B. Respondent's Statement/Affidavit – Content and Use (Ilissa Gould, 2 minutes)
 - C. Documentary Evidence – Use and Importance – Biographical and General Background (Ilissa Gould, 2 minutes)
 - D. Witnesses- Use and Preparation - Lay and Expert (Ilissa Gould, 2 minutes)
 - E. Role of DHS, working with DHS generally (DHS Trial Attorney, 4 minutes)
 - F. Pre-trial Conferences and Stipulations? (DHS Trial Attorney, 4 minutes)
 - G. Information in USCIS file – Need for Review? (in person or via FOIA) (DHS Trial Attorney, 4 minutes)
- #2 BALTIMORE AGENDA (cont'd)

III. Presentation at Merits Hearing (Judge Kessler, 15 minutes)

- A. Opening and Closing Statements
- B. Direct, Cross, and Redirect
- C. Do the Rules of Evidence Apply
- D. Oral vs. Written Decisions
- E. Miscellaneous

IV. Additional Comments / Pointers by Immigration Judge (Judge Kessler, 10 minutes)

*Brief coverage of ethical concerns / disciplinary concerns

V. Q & A (all) (15 minutes)

VI. Break (5 minutes)

VII. Model Hearing (approximately 1 hour, 15 minutes)

B. SAMPLE FACT SCENARIOS AND MHP MATERIALS

1. ASYLUM

MODEL HEARING PROGRAM

The Model Hearing Program of the Executive Office for Immigration Review (EOIR) is an educational program developed by EOIR's Office of Legal Access Programs to improve the quality of advocacy before the Court, as well as increase levels of pro bono representation. Model hearings consist of small-scale 'mock' trial training sessions held in the Immigration Court and presented by volunteer Immigration Judges. The training sessions, carried out in cooperation with sponsoring bar associations and/or pro bono agencies, provide practical and relevant 'hands-on' immigration court training to small groups of attorneys/law students with an emphasis on practice, procedure and advocacy skills. Participants receive training materials and CLE credit, and commit to a minimal level of pro bono representation.

Our Model Hearing Program will consist of an overview of the procedures in front of the Immigration Court and a mock trial conducted at the Immigration Court. Your packet contains the following items:

1. Overview of the Case Preparation Before the Mock Trial
2. Affidavit of the mock client, Joseph Taha
3. Preparation Questions
4. Procedural Questions
5. Sample Role Play Script for Direct Examination
6. Sample Role Play Script for Cross Examination
7. Sample Role Play Script for Redirect Examination
8. Sample Oral Pleading

Please review the items before the date of the training so that you are familiar with the case scenario.

Overview of the Case Preparation Before the Mock Trial

You have agreed to accept a case of a Cameroonian man. Joseph Taha is a 37-year-old man who entered the United States on August 20, 2006 at Orlando International Airport in order to attend the University of Florida in Gainesville. However, only one month later, Joseph stopped going to classes. He immediately moved to Winter Springs (a suburb of Orlando) to live with Ann-Marie, a good friend from Cameroon. Fearing U.S. Immigration, Joseph decided not to apply for asylum. His visa expired on September 20, 2006. After the University notified the Department of Homeland Security (DHS), a Notice to Appear (NTA) was served on Joseph on January 1, 2007. The NTA alleged: (1) that he is not a citizen or national of the United States; (2) that he is a native and citizen of Cameroon; (3) that he entered the United States on August 20, 2006 to attend the University of Florida; and (4) that Respondent did not attend the University of Florida from August 20, 2006 to present. The NTA charged Joseph Taha as subject to removal pursuant to INA § 237 (a)(1)(C)(i), as an alien who failed to maintain or comply with the conditions of the nonimmigrant status under which he was admitted.

On May 15, 2007, Joseph spoke to some people at his church who helped to convince him that he should apply for asylum. Anne-Marie, who also attends Joseph's church, contacted the AILA pro bono committee. The AILA committee then referred the case to you.

In your initial consultation, you learn that Joseph was arrested a few times in Cameroon because of his political activities. You also learn that he was horribly beaten while he was detained by the police. He shows you several scars on his arms and legs. When you ask Joseph why he did not file for asylum earlier, Joseph tells you that he was afraid he would have problems with U.S. Immigration. He tells you that his wife, Madeline, disappeared several years ago and that his children now live with his parents. He tells you that he is very worried about his children and misses them very much.

After considerable discussion, you conclude that Joseph is not very comfortable speaking about what happened to him in Cameroon and that he is having a very difficult time dealing with your questions. It is clear to you that his treatment rises to the level of persecution, and he will need to file an application for asylum, given that he has been in the U.S. for less than one year and that he has no serious criminal convictions.

At the first Master Calendar hearing, on September 1, 2007, you indicate that Joseph plans to apply for asylum. You then ask the Immigration Judge for the opportunity for Joseph to file his I-589 Application for Asylum. The Immigration Judge agrees and schedules another Master Calendar hearing in two weeks to come to the Court and file the application.

Afterwards, you and Joseph start talking about how you all will work to assemble the supporting documents for the I-589 in preparation for the individual (Merits) hearing, which you expect the Court to schedule for some time in November 2008. Joseph already has some documents evidencing his political activities and identity. However, he does not possess evidence of the arrests or medical records from Cameroon. He assures you that he will try and get in contact with some of his friends in Cameroon. He tells you that he will contact his parents and ask his mother to write an affidavit corroborating what happened to him in Cameroon. He will also ask his mother to try and locate any evidence of the arrests or his medical history in Cameroon. However, he expresses some doubt that it will be safe for his mother to get this sort of documentation. Joseph mentions that he had some friends in Cameroon who have since moved to the United States. In particular, he tells you that the woman with whom he lives, Anne-Marie, was in Cameroon during one of his arrests.

After your meeting with Joseph, you contact a pro bono organization of medical professionals who specialize in treating refugees. You arrange for Joseph to be evaluated by a medical doctor to assess his scars and you also arrange for a psychiatric evaluation.

A few days later, Joseph contacts you to tell you that Anne-Marie was able to contact some people in Cameroon for him. Joseph tells you that his mother agreed to write a letter to the Immigration Judge telling him what happened to Joseph in Cameroon. His mother was too afraid to ask around for additional documentation. In addition, Anne-Marie agreed to testify on Joseph's behalf. You inform Joseph that his mother's letter must get here as soon as possible so that you can submit it to the court. The letter arrives via express mail service a week and a half later. Joseph also tells you that he has another friend named Jean who lives in Chicago and was once detained with him. An Immigration Judge in Chicago granted Jean asylum a few months ago. Anne-Marie contacted Jean, who is willing to testify but cannot afford the trip to Orlando. He writes a letter to the Judge explaining what happened and includes his phone number on the letter. You ask Joseph if Jean would be willing to testify telephonically, and he assures you that he would. The next day, Joseph contacts Jean who agrees to be telephonically available for the hearing.

You and Joseph return to the Court and you provide the EOIR and ICE counsel with the I-589 application. The Immigration Judge then announces the individual hearing will be set for November 14, 2008. You tell him about Joseph's friend out of state who was granted asylum. You ask the Judge if Jean can testify telephonically. The Judge asks you to file a Motion for Telephonic Hearing for any telephonic witnesses immediately so that he can take it into consideration.

You leave the Court and return to your office with Joseph to try to figure out how you will proceed with obtaining the documentation and information for the Motion. Joseph tells you that there is no way that Jean can leave work to fly to Orlando, and even if he could, he could not afford the trip. Joseph also tells you that he has no money and owes his friends money for helping him when he first arrived here; otherwise he would pay for Jean's trip. You decide to motion the Judge to allow telephonic testimony from Jean, and you will also get an affidavit from him. You believe that between Jean's testimony, Anne-Marie's testimony, and the affidavit from Joseph's mother, you will be in good shape for the hearing. You also have Joseph's testimony and the medical evaluations. You make notes to add all of the witnesses to a witness list and to ask the medical evaluators to be available telephonically as well. You make a mental note to add the medical personnel to the motion for telephonic testimony.

You also prepare a witness list you will submit with the supporting documentation package. In addition, you have contacted an expert on Cameroon who has agreed to submit an affidavit for you. The expert's affidavit arrives five days later, and you include it in the supporting documentation, along with Joseph's affidavit and Joseph's friends' affidavits. You then set up times to meet with Joseph to prepare him for his hearing. You start going through your mail and messages and notice that a package has been dropped off for you. You see a medical assessment, psychiatric assessment, and photographs of Joseph's scars from the medical personnel with whom you have been working. You will include these in your supporting documentation package, which you will need to send to the Court and ICE counsel no later than ten days in advance of the individual hearing to comply with the Judge's order.

You are able to get the supporting documentation package sent out without any problems, Joseph is all prepared, and you feel that you are all set. Then the day of the trial finally arrives.

AFFIDAVIT OF JOSEPH TAHA

State of Florida

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Seminole County

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Before me, the undersigned authority, appeared Joseph Taha, who being personally known to me, testified as follows:

1. My name is Joseph Taha. I am over the age of 18, am of sound mind, and am fully competent to testify herein. The facts recited herein are true and correct and within my personal knowledge.
2. I reside at 31 Red Bug Lake Road, Apt. 440, Winter Springs, Florida 32708. I have lived in Florida since shortly after I fled Cameroon and arrived in the United States on August 20, 2006. I entered the United States on an F-1 student visa and have not left the country since my entry.
3. I make this application for political asylum because I have been severely persecuted in Cameroon on account of my political opinions and activities. The persecution has taken the form of multiple arrests and severe beatings. I genuinely fear that if I return the Cameroonian government will imprison, torture, and perhaps kill me. I did not apply for asylum before because I was afraid that I would have trouble with U.S. Immigration. Also, I was ashamed of what happened to me in Cameroon.
4. I was born on June 2, 1971 and have lived most of my life in the northwest part of Cameroon, which along with the southwest region, is primarily English-speaking. I was married to my wife, Madeline, in a traditional marriage ceremony in 1990 and obtained our marriage certificate in 1993. We had three children. Doris is 12, Victor is 9, and our eldest, Matthew, died of pneumonia at age 7 in 1999. We lived in Bamenda, the largest city in the North West province. In 1998, we built our own three-bedroom home, which we own free and clear. From 1989 until 2002, I owned and operated a small but successful auto parts store called Taha Automobile. My wife worked as a part-time seamstress and looked after the children. Together we earned a good income and, in a material way, lived very comfortably. I had no economic reason to flee Cameroon.
5. For many years and especially since President Paul Biya took power in 1982, political tension has existed between the English- and French-speaking peoples in Cameroon. Anglophones have struggled to obtain economic and political rights. In 1990, the Social Democratic Front (SDF) was formed as an opposition party to the Biya regime and to fight for these rights and for democratic principles. My wife and I have been members of the SDF since 1991 and have been locally active in the party. My wife was the local treasurer from 1995 to 2002. I am also a member of the Human Rights Defense Group and the Southern Cameroon National Council (SCNC). The SCNC is a movement that seeks autonomy and independence for the Anglophone regions through non-violence. The Biya government does not recognize the legitimacy of the SCNC.
6. My serious problems with the authorities began in October 1999. My wife and I were participating in a protest march at the home of the national SDF chairman, Ni John Fru Ndi, in Bamenda, when gendarmes (government police officers) surrounded the house and put the marchers under house arrest for nearly six weeks. We were detained among approximately 190-200 men and women. We were forced to live in extremely crowded, unsanitary conditions, with only a few beds, and inadequate supplies of food. We were not told why or how long we were being held and we had no means of communicating with our families or the outside world.
7. Three years later, in October 2002, Madeline and I attended a large SDF rally in Bamenda. Gendarmes descended on the rally and beat the participants with hard rubber batons. In the chaos, I lost sight of Madeline and later found out that she was taken into custody. I do not know where she was taken and I

never saw her again. I asked gendarmes where they took my wife and they did not answer me. They told me that my wife had talked too much and that she should have kept quiet.

8. I was very distressed after Madeline was taken. I hoped that I would see her again. I am now sure that the gendarmes killed her. After Madeline disappeared, I was afraid. I asked my parents to move into the home that Madeline and I owned. I took a job in a friend's lawn care business, while Madeline's brother, John, took over the auto parts store. John was also active in the SCNC.
9. I kept a low political profile for the next couple of years and stayed out of harm's way. However, I got to the point when I could no longer remain silent in the face of the mounting discrimination and brutality of the Biya government against Anglophones and the disappearance of my wife. The May 20th Manifesto marked the political joinder in 1961 of the English and French speaking provinces. May 20th is now observed as a national day. In early May 2006, the SCNC planned a widespread series of peaceful marches against this national day. One of the marches was scheduled to take place near my family's store and I planned to participate. Because of my store's location, about 20 of the marchers convened at my store prior to the march. Apparently, an informant had notified the authorities of this plan because approximately eight gendarmes descended upon us at the store as we were preparing to leave for the march site. We were arrested and taken to the Brigade Ter jail in Bamenda. I would remain in custody for several weeks.
10. I stayed in a crowded cell in Brigade Ter for about ten days. After that, I was transferred to the Legion jail. For the first two weeks I was there, the police would come into the cell and take me to a smaller cell. In the small cell they beat me with batons. They interrogated me about the SCNC, its plans, and its members. They also told me that they knew who my wife had been and they knew that Madeline's brother, John, was also involved in the SCNC. I told them I knew nothing. On two occasions, they poured water onto the floor of the interrogation room with me alone in there barefoot. They then placed a live electrical wire into the water. I can hardly describe the extraordinary pain of the beatings or the electrocutions. I was finally transferred to the notorious prison in Bamenda known as "Senaire." Very few prisoners are released alive from that prison.
11. Unlike at the other jails, where the conditions are extremely overcrowded and unsanitary, I had my own cell at Senaire. Once I got there, I was left alone for many days. I was not beaten or shocked or even spoken to. One day, without any warning, two policemen entered my cell and asked me questions about the SCNC. I professed ignorance. One was smoking a cigarette. When I told him I didn't know the answer to his questions, the other policeman restrained me while he burned me with a cigarette on my hand. He did this repeatedly. About a week later, another guard came into my cell. He interrogated me and beat me with a wire.
12. During my imprisonment, the police burned one of our cars. My parents then took the children to their old home in Douala. While they were there, the police allowed my house to be looted.
13. My parents enlisted the assistance of two people to try to arrange my release. One was my distant cousin, Justice Eki of the Bamenda Court of Appeals. The other was Clarence Nya, president of the Bamenda Traders Union, who previously did a lot of business with me. Through their intervention, I was finally and unexpectedly released on June 4, 2006. I went to my parent's house in Douala. I was taken to the local hospital and my wounds were treated. I have scars on my body from the cigarette burns and the beating with the wire.
14. After my release, I received a visit from Justice Eki. He told me that I should leave the country as soon as possible because if I was arrested again, there was nothing he could do to help me. I decided that I had no choice but to flee Cameroon. I drove to the U.S. Embassy in Yaounde on or about July 25, 2006 to obtain my visa. About a few weeks later, I was able to raise the money to purchase a plane ticket to the U.S. I bribed an immigration officer at the airport in Douala to allow me to board a plane in Cameroon.

15. After my release from Senaire, my parents and I decided that it would be best if the children stayed behind with my parents. I have not seen my family for a very long time. Of all my trouble and heartache, this may be the worst. At least I know that they are with my parents.
16. Since I have arrived in the United States, John told me that the police came to the store looking for me. He also told me that several of our friends in the SCNC have disappeared.
17. I am lucky to be alive. If I return to Cameroon with the Biya government in power, I will certainly be imprisoned and tortured and almost as certainly be killed.

"The foregoing statement is submitted under penalty of perjury and I hereby swear that the foregoing is true and correct to the best of my knowledge."

JOSEPH TAHA

Subscribed and sworn under my hand and seal of office this 8th day of September 2007.

NOTARY PUBLIC
State of Florida

[Stamped Notary Seal]

Preparation Questions

1. After agreeing to take this asylum case on a pro bono basis, you realize you are not sure what asylum is. You can get a quick understanding by consulting the following sources:
 - 1) The I-589 Application for Asylum and its instructions, which will explain three forms of relief: asylum, withholding of removal, and protection under the Convention Against Torture;
 - 2) Kurzban's Immigration Law Sourcebook. (10th Ed. 2006) American Immigration Law Foundation;
 - 3) The definition of refugee as defined in section 101(a)(42) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42));
 - 4) The federal statute governing asylum as set out in section 208 of the Immigration and Nationality Act (8 U.S.C. 1158);
 - 5) The regulations governing asylum, withholding of removal and protection under the Convention Against Torture as set out at 8 C.F.R. 1208.1 through 1208.31;
 - 6) Immigration case law as set out in decisions of the Board of Immigration Appeals published as Administrative Decisions under Immigration and Nationality Laws of the United States.

2. What is your major goal in preparing for the asylum hearing:
 - 1) To bring out all of the problems that Joseph had with the government?
 - 2) To establish not only the objective facts in Joseph's case, but also the subjective psychological and emotional trauma he has suffered?
 - 3) To persuade the Court that Joseph's story is true?

3. An asylum applicant can prevail on "humanitarian" grounds without regard to the prospect of future persecution if he demonstrates severe and atrocious past persecution (See Matter of Chen, 20 I. & N. Dec. 16 (B.I.A. 1989). The applicant is presumed to have a well founded fear of future persecution if he demonstrates past persecution and the ICE Trial Attorney is unable to demonstrate any substantial change in country conditions since that persecution occurred. [Or an applicant who has suffered no persecution in the past can prevail if he can establish an objectively reasonable fear of future persecution].

4. Numerous tests of "future persecution" have been advanced. Which one of the following four would be best to use from your perspective as an advocate?
 - 1) Has the applicant established an objectively reasonable belief that he will suffer persecution in his home country on account of one of the five statutory grounds? (Common shorthand test for asylum.)
 - 2) Has the respondent demonstrated that there is an objective prospect of 10% or more that he will be persecuted? See the famous hypothetical cited by the Supreme Court in I.N.S. v Cardoza-Fonseca, 480 U.S. 421, 431 (1987).
 - 3) Has it been established that a) the alien possesses a belief or characteristic a persecutor seeks to overcome in others by means of punishment of some sort; 2) the persecutor is already aware, or could become aware, that the alien possesses this belief or characteristic; 3) the persecutor has the capability of punishing the alien; and 4) the persecutor has the inclination to punish the alien? (Acosta test as amended in Matter of Mogharrabi, 19 I. & N. Dec. 439 (B.I.A. 1987); or
 - 4) "[A]n applicant for asylum has established a well founded fear if he shows that a

reasonable person in his circumstances would fear persecution." See Mogharrabi, 19 I. & N. Dec. at 445.

5. You think you know what asylum is now, but you are still unsure about the other two types of relief that the Judge might grant Joseph. Withholding of removal is similar to asylum, except Joseph must show that there is a “clear probability” that he will be persecuted in Cameroon. See I.N.S. v. Stevic, 467 U.S. 407 (1984). To be granted protection under the Convention Against Torture, he must show that it is more likely than not that he will be subjected to abuse rising to the level of torture. 8 C.F.R. 1208.16(c)(2).
6. How important is it to obtain identification documents for Joseph in Cameroon? To obtain verification of his political membership and activities? Are there any special requirements for admitting foreign documents? See 8 C.F.R. 1287.6. If an INS objection to admission of your documents is sustained, should you ask that they be included in the record of proceedings as exhibits marked for identification only, so you can raise the issue of their admission on appeal? Can Joseph sustain his burden of proof with no corroborating documents or witnesses? See 8 C.F.R. 1208.13.
7. How much effort should be devoted to having Joseph examined by a medical doctor and/or a psychologist/psychiatrist for purposes of corroborating his claims?
8. Had Joseph not entered the United States using his own passport, should any significant time be devoted to showing precisely what day Joseph entered the United States so long as you are confident that it was about a year ago? If yes, why?
9. Should you prepare and file an asylum application now if you know that it will have to be amended and supplemented later? Isn’t rapid preparation and filing of an application simply asking for inconsistencies that could cause credibility problems later?
10. As it may be difficult to obtain corroborating testimonial and documentary evidence, should you seek to produce a highly detailed narrative statement for Joseph to file with his asylum application, or should you file a skeletal application to minimize the chances that he will trip up and save the detail for his testimony at the hearing?
11. Your significant other wants to help you and has pulled 794 pages of general country condition information regarding Cameroon off of the Internet. Since you do not want to hurt her/his feelings and also since you cannot find any documentary evidence directly related to Joseph, should you copy and hole-punch the 794 pages and file them with the Court?
12. In framing the written narrative statement for Joseph, would it be worthwhile to elicit from him the purposes of the political parties, why and when he joined, and his specific activities in the parties?
13. As Joseph is not in the best psychological condition, would it be best to avoid asking him to disclose any and all arrests and criminal convictions here and in Cameroon? Any instances where he and his fellow party members in Cameroon may have killed or persecuted members of rival political parties? The precise details of his treatment during his detention?
14. Is it possible that the Department of Homeland Security (DHS) may attempt to portray Joseph as an economic migrant rather than a political refugee? Does it matter if Joseph’s family is wealthy or poor?
15. Should you anticipate questions from DHS as to why Joseph did not apply for asylum when transiting through France? During the long time he was in the United States prior to being encountered and placed in removal proceedings by DHS?
16. Joseph has friends who have been granted asylum living in Texas and Maryland. They can corroborate that he was a SCNC activist, that he was missing during the periods that he was imprisoned, and that he was in horrible physical and mental condition when he finally returned home. As recent asylees, they

cannot afford to travel to Orlando for the hearing. Should you assume it is hopeless to try to get their testimony? Would detailed affidavits from them be of any assistance? Might the Immigration Judge accept this testimony by telephone? If so, is there anything that can be done to reassure the Judge that the voices on the telephone are coming from the person claimed and that these persons have some form of photo identification documenting their identity? What are the procedures you will have to go through to request a telephonic witness?

17. Your significant other says he/she knows a professor at a local university who travels to South Africa with a group of students every year. Although Cameroon is in western Africa and quite a distance from South Africa, it is on the same continent. The professor loves to speak about world politics and says he would be honored to speak on Joseph's behalf. Should you call the professor as an expert witness?
18. In your discussions with Joseph, you learn that 5 gendarmes were killed and 27 seriously injured at a SCNC rally that occurred before one of his arrests. Should you anticipate that DHS may attempt to characterize Joseph's difficulties in Cameroon as being more in the nature of overzealous "prosecution" for violent activities than "persecution" based on political views? A friend advises you that the Supreme Court has held that an applicant for asylum need not provide direct proof of his persecutors' motives, but "he must provide *some* evidence of it, direct or circumstantial." I.N.S. v. Elias-Zacarias, 502 U.S. 478, 483 (1992). The Board of Immigration Appeals has stated that persecutors can operate out of mixed motivations and found, in the case of a man being interrogated to obtain military intelligence that he, "has produced evidence from which it is reasonable to believe that those who harmed him were in part motivated by an assumption that his political views were antithetical to those of the Government." In re S-P-, 21 I. & N. Dec. 486, 496 (B.I.A. 1996).
19. Joseph says he remembers that when he was ten he saw his uncle seized by a group of policemen who beat him and called him an "Anglophone fool" and then shot him dead. Could this constitute persecution of Joseph? If not, is it just ancient history or might it have some bearing on his asylum case?

Procedural Questions

1. You are told that the Immigration Judge in your case is highly impatient and spares no feelings in advising attorneys that they are taking too long to try their cases. Should you ask Joseph's name and date of birth and jump immediately to his first arrest? Or should you begin by asking him the types of questions you would ask a blind date: What does your father do for a living? Does your mom work outside the home? How many brothers and sisters do you have? Where are your family members today? Where did you go to school? For how long? What did you study? Etc.
2. On cross examination, the ICE Trial Attorney asks your client to comment on what is clearly hearsay, is so harsh in his questioning as to be harassing, makes comments which you consider prejudicial, and spends twice as long on cross-examination of the respondent as you did on direct. Should you make frequent objections? If your objections are overruled, should you ask the judge to note your exception to his ruling for purposes of the record? Should you make one objection telling the Judge calmly and respectfully that you think the ICE Trial Attorney is being inappropriate?
3. Joseph's scars may be his best evidence of abuse. How do you present this evidence? Ask Joseph to show some of the scars while he is on the witness stand? Provide the Court and ICE with close-up color photographs of the scars? Refer to the letter you have previously filed with the court from the medical doctor who examined Joseph describing the scars in detail and giving her/his professional opinion as to whether the scars are consistent with Joseph's description of his mistreatment?
4. You are given an opportunity for closing argument. Should you take about fifteen minutes to remind the Judge that this is a nation of immigrants, that the Statute of Liberty is the most important symbolic monument in the nation, and that there is no room in America for xenophobes? Should you discuss at length what a splendid person Joseph is, how much his friends here think of him, and how bereft they will be if he is deported? Should you briefly summarize the key facts that you believe establish the legal requirements for a grant of asylum?

Sample Role Play Script for Direct Examination

[Biographic Information- including name, family background- Excluded]

Tell me about your life in Cameroon?

What did you do for a living?

Where did you live?

Were you or any of your family members involved in politics?

What led you to become politically active?

Did you join a particular party?

When did you join the SDF?

What are the major principles of the SDF?

When did you join the SCNC?

What are the major principles of the SCNC?

What activities did you perform in support of the SCNC?

What activities did you perform in support this movement?

Did there come a time when your political activities caused you any difficulties?

When did you first have a problem related to your political activities?

[October 1999]

What happened the first time your political activities caused you problems?

[October 1999 protest and detention]

What happened that day?

[follow-up questions on how many detained, the length of detention]

Did you have any other troubles because of your political activity?

[October 2002 rally]

Were you alone?

[with wife]

What happened on that day?

[Wife taken- ask follow up questions on wife's whereabouts]

Did you have any other problems?

When? [May 2006]

What happened?

Follow up questions-

Did the gendarmes say anything to you, as you were being arrested and taken to jail?

Where were you taken?

Can you describe the jail where you were taken first?
[follow up on where else he was taken]

Did the jailers ask any questions?
What type of information did they ask from you?

How frequent were the questioning sessions? How were you treated during these sessions?

How long were you detained?

Do you know why you were released?

Did you require medical treatment following your release?

Can you explain to me how you got your U.S. visa?

How did you get out of Cameroon?

Where are your children living?

Did you ask for asylum immediately upon arriving in the United States? Why not?

What do you think would happen to you if you were sent back to Cameroon tomorrow?

Have you had any contact with friends or family in Cameroon since you arrived here?

Do you think it would be safe for you to return to Cameroon?
What about if you went to another part of the country?

I'll pass the witness, Your Honor.

Sample Role Play Script for Cross Examination

Isn't it true that you told the officer at the U.S. embassy that you were only coming to the United States to visit and that you intended to return to Cameroon?

In other words, you fraudulently obtained your U.S. visa?

Is Cameroon as prosperous a country as the United States- You could build a pretty good life here for yourself, couldn't you?

The information we have shows that you traveled though France to get to the United States. When you arrived in France, you were safe. If you were so afraid for your life, why didn't you apply for asylum there?

You say you were afraid to return to Cameroon, but you were afraid for a long time before you applied for asylum. If your fear was always so great, why didn't you file for asylum originally?

Were you afraid for your life or just seeking to come to the U.S. for economic opportunity?

How can this Court presume that the scars you are showing us today are not from an automobile accident or another type of accident?

Have you traveled outside of Cameroon before?

Is this your first trip to the United States?

What political activities have you undertaken here in the United States?

Are you a member of any of the expatriate political groups here in the United States?

Did you try to relocate to another area of Cameroon?

Aren't there a lot of places you could have relocated to without having to leave your country?

Isn't it true that SCNC is an illegal political party whose main goal is Anglophone Cameroon's succession?

You state that your cousin, a Judge on the Court of Appeals in Cameroon, assisted in your final release from prison in June of 2006. If you had members of the government on your side, why was it necessary for you to leave the country?

Do you have any proof that you were arrested in Cameroon?

Do you have any medical records that prove these injuries you allegedly received?

Are you expecting this Court to accept only your verbal testimony as proof of your persecution? I'll pass the witness.

Sample Role Play Script for Redirect Examination

Why did you tell the U.S. embassy that you were only intending to visit the United States?

Is your family well-to-do by Cameroonian standards?

How are your parents and children doing?

Can you tell me about the attempts you made to obtain additional documentation to present to the Court?

If you could have safely remained in Cameroon, would you have come here?

Are you willing to return to Cameroon?

Why not?

Immigration Court
Practice Manual Appendix M

APPENDIX M
Sample Oral Pleading

Prior to entering a pleading, attorneys and representatives are expected to have thoroughly reviewed all pertinent laws, regulations, and cases, as well as the Immigration Court Practice Manual.

* * *

I, [state your name], on behalf of [state the name of your client], do concede proper service of the Notice to Appear dated [state date of the NTA], and waive a formal reading thereof.

I represent to the court that I have discussed with my client the nature and purpose of these proceedings, discussed specifically the allegations of facts and the charge(s) of removability, and further advised my client of his or her legal rights in removal proceedings.

I further represent to the court that I have fully explained to my client the consequences of failing to appear for a removal hearing or a scheduled date of departure as well as the consequences under section 208(d)(6) of the Act of knowingly filing or making a frivolous asylum application. My client knowingly and voluntarily waives the oral notice required by section 240(b)(7) of the Act.

As to each of these points, I am satisfied my client understands fully. On behalf of my client, I enter the following plea before this court:

One, [he or she] admits allegation(s) # _____ to _____.

– **And/Or** –

[he or she] denies allegation(s) # _____ to _____.

Two, [he or she] concedes the charge(s) of removability.

– **Or** –

[he or she] denies the charge(s) of removability.

Three, [he or she] seeks the following applications for relief from removal: [state all applications, including termination of proceedings, if applicable].

My client acknowledges that, if any applications are not timely filed, the applications will be deemed waived and abandoned under 8 C.F.R. § 1003.31(c). [He or she] acknowledges receipt of the DHS biometrics instructions, and understands that, under 8 C.F.R. § 1003.47(d), failure to timely comply with the biometrics instructions will constitute abandonment of the applications.

I request until [state date to be filed] to submit such applications to the court with proper service on the Department of Homeland Security.

I represent to the court that my client is prima facie eligible for the relief stated herein.

I request [time/hours] to present my client's case in chief.

I request an interpreter proficient in the [state name of language] language, [state name of any applicable dialect] dialect.

– Or –

I represent that my client is proficient in English and will not require the services of an interpreter. If any witnesses require an interpreter, I will notify the court no later than fifteen days prior to the Individual Calendar hearing.

My client designates [state name of country] as his/her country of choice for removal if removal becomes necessary.

– Or –

My client declines to designate a country of removal.

* * *

B. SAMPLE FACT SCENARIOS AND MHP MATERIALS : NON-LPR CANCELLATION

DECLARATION OF ANNA MARIA ROSALES

I, Anna Maria Rosales, under penalty of perjury, hereby declare and say as follows:

1. I was born in Chihuahua, Mexico on January 28, 1974 and am currently 37 years old. I came to the United States after my father passed away and my mom needed me to help support her and my younger siblings. I had just graduated from secondary school but couldn't find a job that paid well so I came to the U.S. to work as a maid. I was 18 years old at the time and my two older brothers were already working in the U.S. so they were going to help me find work. I entered the United States through San Diego on June 15, 1992 with a visitor visa and at the border told the officer I was going to visit my family in Denver for a few weeks but I never left. I have been in the U.S. ever since.
2. There are 5 children in my family. Two older brothers, me in the middle and a boy and a girl younger than me. All the boys live in the U.S. and work in landscaping or construction and my youngest sister takes care of my mom in Mexico. My mom is old and cannot work anymore so my brothers and I send money to them so they can buy food and she can take her medicines. My oldest brother is named Roberto Rosales. He has been in the U.S. since the 80's and got his residency through the amnesty program. He is married and has three daughters, all U.S. citizens. He owns his own landscaping business and lives here in Denver. My second oldest brother is named Jonathan Rosales. He is married to a US citizen who petitioned for him and he got his residency through her. They have two boys and a girl, almost the same age as my children. They also live in Denver and our families are very close. We spend a lot of time together and since I have been detained my children have been living with them. My younger brother is named Uriel Rosales. He has been in the U.S. just a few years and recently married a U.S. citizen who is in the process of petitioning him. They have no children and they also live here in Denver.
3. I have lived in Denver for over 19 years. I came to Denver because this is where my brothers were living and I really like the mountains. I started out cleaning houses for some of my brother's landscaping clients and little by little have built a business where I clean houses, offices, hotels, and a few restaurants. Many of the families whose houses I clean I have been working for since I arrived in the U.S. I have seen their children grow up with mine and at times also provided childcare for them. While working as a maid in restaurants and hotels is very tiring and doesn't pay much better than houses, it allows me the flexibility I need to be able to be home when my children get home from school, to make them dinner and then to go to work again.
4. I have three children, all American by birth. Ricardo ("Ricki") Espinoza is my oldest son. He is 17 years old and was born on November 8, 1993. Alicia ("Ali") Espinoza is 16 years old, she was born on August 28, 1995. Natalia ("Nati") Espinoza is 11 years old; she was born on June 17, 2000. My children have the same father, but I was never married to him. We lived together for a number of years but he left after things became more difficult with Natalia. Since then I have been the sole provider for my children and have been raising them pretty much on my own. It has not been easy, but seeing them succeed in school and seeing all the opportunities they have here makes my hard work worthwhile. Each of them makes me a very proud mother.

5. My son Ricki is a senior in high school and in the International Baccalaureate program at George Washington High school. I am very proud of him because he has won a competitive scholarship for college and is planning on attending the University of Colorado in the fall. He wants to study political science and some day be the governor of Colorado. He is on the debate team and also plays soccer on his high school team.
6. My daughter Ali is also in high school. Ali is a sophomore and unlike Ricki, she struggles a lot in school. She was slow to start talking and needed a speech therapist to help teach her how to communicate. She also had trouble learning to read and to this day she has trouble retaining information so she has been in special education classes since elementary school. She has worked so hard to be able to continue at the same level as her classmates. Though her grades are not as good as Ricki's, they reflect even more effort. She tries to improve her memory skills daily at home. I try to take extra time with her. When she was younger I often helped her with her homework and her school counselor and I have found that she feels very validated when does community service work. It keeps her from getting depressed which she has a tendency of falling into because she is very sensitive. She volunteers regularly in a senior center near our house and also helps me clean houses on the weekends.
7. My youngest daughter Nati is 11 years old and is in fifth grade. About 6 months after Nati was born, she was diagnosed with cerebral palsy, a condition that disrupts nervous system functions such as movement, hearing, and learning. There is no cure for cerebral palsy but thanks to her doctors and caseworkers that have been working with her since her birth she is as independent as she is. We have monthly checkups with them to keep her medication up to date and to ensure she is progressing physically and mentally. In addition, Nati has to perform daily exercises with a therapist to keep her muscles from stiffening so she doesn't end up paralyzed and I have to assist her bathe, get dressed, and perform other daily functions. Nati also attends a special school for disabled children. Her teachers are wonderful and they really know how to help her. Ricki tries really hard to help me care for Nati, but his school responsibilities are very demanding and I worry about what will happen when he goes off to college.
8. All of the children receive Medicaid, as I do not have health insurance. Without Medicaid it would be impossible for me to pay for all of Nati's medical expenses. About every 6 months she needs new braces for her legs and those are very expensive. Although I am embarrassed about it, from 2002-2006 my children also received food stamps because I was trying to stay home more as I learned how to take care of Nati.
9. Around this same time, the children's father who I had dated since I arrived in the U.S. left us because he could not handle the stress of our situation- both financially and emotionally. The children were incredibly sad and felt responsible for our situation. Alicia especially needed counseling.
10. I too fell into a deep depression in caring for my children and trying to provide for them. I did not know how to handle all our problems alone. The stress became so much and I started drinking. Alcohol became my escape. One night in the month of July 2004, I had a few drinks after work before picking up Ricky and Alicia from their after school activities. While the three of us were driving home, I was pulled over. I was arrested and charged with driving under the influence of alcohol. Because it was my first offense the district attorney offered me a deal and I pled to driving while ability impaired. I was sentenced to complete a parenting class, 24 alcohol education and therapy classes, 48 hours of community service, and a victim impact panel during one year of supervised probation.

11. This offense was a wakeup call and I finally realized that I needed to change for my children. I regret that I did this and put them at risk since all I ever wanted was to care for them and give them a good life. My actions were very wrong and I cannot blame anyone but myself for what I did. I put the people I love the most in danger and that is the last thing I would ever want to do. I am very very sorry for what I did. I accept responsibility for the poor decisions I made at the time and know this will not ever happen again. I completed probation successfully and still attend AA meetings. There is no place for alcohol in my life anymore.
12. Although I try to take the bus or have Ricki and Ali drive me as much as possible and understand it is illegal for me to be driving without a valid drivers license, unfortunately driving is unavoidable for me sometimes. It is very difficult for me to take Nati to her doctor appointments on the bus as it takes us twice as long to get there and when I work at night it is not safe for me to take the bus home. Last year on my way to take Nati to physical therapy, I accidentally ran a red light because we were running late. I did not notice a police officer was right behind me. He pulled me over and when he asked for my license I told him I did not have one, but really needed to get my daughter to her appointment. He felt sorry for me so he gave me a ticket for driving without a license and told me I would just need to go to court and pay a fine. However, my friends all told me I would be arrested and I got scared so I did not go to the court date. Then last month I was pulled over again at 3am on my way home from work. The officer said this time he had no choice but to arrest me since there was an open warrant for failing to appear at the last court date. I was taken to jail and had to call my children to let them know I would not be home in the morning.
13. The next morning I saw a judge and in hopes of going home as soon as possible I pled guilty to driving without a valid drivers license. I was sentenced to 5 days in jail, but once my jail sentence was completed I was transferred into the custody of immigrations and customs enforcement. I was given a document that said I was in immigration removal proceedings because I did not have a valid tourist visa anymore. I was given a \$10,000 bond, which my family has of course not been able to pay. In the meantime, my kids have been living with my brother and his wife.
14. This has all been incredibly stressful and difficult for my whole family. I do not want to leave my kids by themselves in this country. They only have me to care for them, but I would not know what to do if I had to take them with me to Mexico. Ricki has wonderful opportunities ahead of him. Nati and Ali both need services here in the United States that are not available for them in Mexico. I would not be able to care for them the way they need to be, not to mention they do not read or write Spanish – how would they go to school? I would arrive in Mexico with nothing. I could try to get a job but I know I would not make enough to be able to support them.
15. Since I have been detained Ricki has quit the soccer team and gotten a second job so he could start saving money in case he is left to care for his sisters. I hate that he would have to give up everything he has worked so hard for but my brother and his wife have three children of their own and they have said they could not take care of Nati and Ali too. The responsibility would fall on Ricki. Ali has also fallen into depression because she cannot bear the thought of not having me here with her. They could always come visit me but it would not be the same. My kids already lost a father and I think it would be too much for them to also lose their mother.

16. The U.S. is my home. It is also my kid's home. It is here that they can be successful, that they can achieve the American dream. It has not been easy for us but we have been a team. Judge I beg you not to break us up, to allow me to stay here with them, to care for them and provide for them and continue to be the caring loving mother that I am and want to be. Please give me the chance to stay here and become a lawful permanent resident.

Dated: October 20, 2011

_____/s/_____
Anne Maria Rosales

DECLARATION OF DR. DAVID CHANG

I, Dr. David Chang, under penalty of perjury, hereby declare and say as follows:

1. Natalia Espinoza has been cared for by Children's Hospital since her birth June 17th 2000. Due to birth defects and developmental delays Natalia Espinoza was diagnosed with cerebral palsy when she was six months old. Cerebral Palsy is a chronic illness Natalia will have to live with the rest of her life.
2. Cerebral Palsy affects the nervous system functions such as movement, learning, hearing, thinking, and seeing. There are various types of cerebral palsy. Natalia has been diagnosed with mixed cerebral palsy. Cerebral Palsy can also be diagnosed as mild or severe. In Natalia's case it is severe and affects the right side of her body.
3. Signs of Natalia's Cerebral Palsy began as early as her 3 months of life. Many of her motor functions were drastically delayed.
4. This disorder causes an individual to have difficulties in normal functions. Natalia Espinoza has had the following effects of cerebral palsy: a decrease in intelligence, speech problems, abnormal movements, muscles become very tight, problems swallowing, slower than normal growth, and a few seizures.
5. Because of her constant symptoms Natalia requires extra attention and care. Natalia needs regular testing, including CAT scans and Blood tests.
6. Her mother is very good at bringing Natalia to her appointments on time. Over the years due to Natalia's physical therapy and many at home exercises her seizures have decreased drastically. This could have only been accomplished through routine, daily exercises. Other factors that diminish the affects of cerebral palsy are ensuring proper nutrition, protecting the joints from injury and practicing proper bowel care.
7. Natalia Espinoza's progress is being tracked at the Children's Center where she and her mother have become very well liked. Natalia has made much advancement since first diagnosed with the disease. It is clear that her mother has been instrumental in her advancements.
8. In response to the question of how it would affect Natalia if her mother was no longer her caregiver, I would anticipate that it would have a significant impact. Her mother currently transports Natalia to all appointments, monitors her progress, ensures that she performs exercises, obtains correct nutrition and takes an active role in caring for her child. Her continued progress depends on consistency in all areas.

I, Ricardo Espinoza, under penalty of perjury, hereby declare and say as follows:

1. I am the oldest son of Anna Marie Rosales. I am a senior in the IB program at George Washington High School here in Denver. I am planning on graduating this spring and have earned a scholarship to attend the University of Colorado in the fall. I want to study political science because I want to fix our country's problems and want to run for political office to do so.
2. My mother has been the sole provider for my sisters and me since the day we were born. She has worked very hard to take care of my sisters and I and to provide with us the life she never had. It has not been easy for her or for our family but she has always said that she is happy to do whatever she needs to do so we could be successful and happy. My mom has always encouraged me to focus in school and it is because of her that I am where I am today. She has been my inspiration and I can not imagine my life without her here.
3. My mom is also constantly attentive of both my sisters' needs and I help her as often as I can. Although I try my best I can not imagine having the responsibility of caring for them as I feel too young and immature, but if my mom is deported that is what will probably happen. My sister Nati has cerebral palsy and needs lots of medical attention. It seems like she is always at the doctors, the therapist or one kind of appointment or another. I do not think I would be able to do as good a job caring for her as my mom does but she would not be able to get her medical needs met if she had to go to Mexico with my mom. My sister Ali is also particularly close to my mother. Ali is very sensitive and struggles a lot emotionally and at school. Sometimes I feel like she is jealous of me and I do not know if she would ever feel as comfortable with me as she feels with my mom so it may be difficult for me to care for her.
4. If I had to take custody of my sisters this would also mean I would not be able to go to college. It would be so hard for me if I had to give up my dreams. I was really hoping to be the first in my family to graduate from college. Although I have a job now I would need to get another job and make sure I could financially support them since my mom won't be able to send much money from Mexico for us. On the contrary, I think I would have to send money to her. My uncles have said they would help but they have their own families so we have to be realistic about what we can expect from them.
5. We also can't count on my father. He left us when my sister Nati was two years old and he has not been in touch with us for a long time. I talk to him on the phone sometimes, but he does not care about us any more. He is married to another woman and has other children who I have never even met.
6. Just the thought of not having my mother here in the U.S. without us is extremely upsetting. I really wish I could express more about the hardship this would be for all of us, but I really can not even imagine it. Please judge, I beg that you allow our mother to stay here in the United States with us. I know she has made mistakes but she is a wonderful woman that I know will contribute positively to this country if she is given her residency.

Dated: October 20, 2011

Ricardo Espinoza

In removal proceedings under section 240 of the Immigration and Nationality Act

File No: A000-000-000

In the Matter of: DOB: 01/28/1974

Anna Maria Rosales

Respondent: 3031 N. Oakland St. Aurora, CO 80010 currently residing at: (303) 361-6612

- 1. You are an arriving alien.
2. You are an alien present in the United States who has not been admitted or paroled.
3. You have been admitted to the United States, but are deportable for the reasons stated below:

The Department of Homeland Security alleges that you:

- 1. You are not a citizen or national of the United States;
2. You are a native of MEXICO and a citizen of MEXICO;
3. You were admitted to the United States at San Diego, CA on or about June 15, 1992 with a visitor visa valid until January 15, 1993;
4. You remained in the United States after the expiration of the visitor visa.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

- 1. Section 237(a)(1)(C)(i) as an alien who failed to maintain or comply with the conditions of the nonimmigrant status under which she was admitted.

This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.

Section 235(b)(1) order was vacated pursuant to: 8 CFR208.30(f)(2) 8CFR235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: Denver Contract Detention Facility 3130 N. Oakland St. Aurora, CO 80010

on To be set at To be set to show why you should not be removed from the United States based on the charge(s) set forth above.

Dennis Deporter SDDO (Signature and Title of Issuing Officer)

Date: 10/15/11

Centennial, CO (City and State)

See reverse for important information

Model Hearing Program
Sample Outline of Procedural Issues

Initial Master Calendar

- EOIR-28 Notice of Appearance
- Record of Master Calendar Form
- Identification of all parties
- Language/Interpreter Issues/Waivers
- Notice to Appear - Service to Respondent
- Formal Reading of Factual Allegations
- Explanation of Charge(s)
- Advisement of Rights and Remedies
- Plea
- Finding re: Removal
- Applications for Relief
- Designation of Country for Purposes of Removal
- Evidence Issues/Pretrial Motions
- Filing Deadlines – both parties
- Reset Master Calendar/Reserve Merits hearing

Bond Hearing

Reset Master Calendar

- Record of Master Calendar Form
- Review Submission of Evidence
- Disposition of Pretrial Motions/Evidence Issues
- Filing Applications for Relief
- Readiness Issues/Rules for Final Submission of Supporting Materials, if any.
- DHS Response to Applications for Review/Potential witnesses, if any
- Verify language/interpreter requirements
- Hearing Notice for Merits

Merits Hearing

- Verify with Respondent and Interpreter Understanding of Language
- Final Review/Changes to Application for Relief
- Mark Exhibits
- Review Application with Respondent – Sworn Understanding of Content to be True and Correct
- Signature(s)
- Oath
- Explanation of Hearing Procedures/Court's authority to Question Respondent and Witnesses
- Direct Testimony
- Cross Examination
- Examination by Court, if any
- Response to Court's questions, Direct and Cross Examination
- Closing Arguments
- Oral Decision
- Right to Appellate Review

Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents

PLEASE READ ADVICE AND INSTRUCTIONS BEFORE FILLING IN FORM

PLEASE TYPE OR PRINT

Fee Stamp (Official Use Only)

PART 1 - INFORMATION ABOUT YOURSELF

1) My present true name is: (Last, First, Middle) ROSALLES, Anna Maria		2) Alien Registration (or "A") Number(s): 300-221-500		
3) My name given at birth was: (Last, First, Middle) ROSALLES, Anna Maria		4) Birth Place: (City and County) Chihuahua, Mexico		
5) Date of Birth: (Month, Day, Year) 01/28/1974	6) Gender: <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	7) Height: 5,4	8) Hair Color: brown	9) Eye Color: brown
10) Current Nationality and Citizenship: Mexico	11) Social Security Number: N/A	12) Home Phone Number: (303) 720-2220	13) Work Phone Number: (303) 433-2812	
14) I currently reside at: Apt. number and/or room no. 4194 South Irvington Way Number and Street Aurora CO 80016 City or town State Zip Code		15) I have been known by these additional name(s): n/a		

16) I have resided in the following locations in the United States: (List PRESENT ADDRESS FIRST, and work back in time for at least 10 years.)

Street and Number - Apt. or Room # - City or Town - State - Zip Code	Resided From: (Month, Day, Year)	Resided To: (Month, Day, Year)
6393 South Irvington Way, Aurora CO 80016	01/01/2004	PRESENT
4086 South Carson Street #F, Aurora, CO 80014	06/01/2002	12/30/2003
20438 East Milan Place, Aurora CO 80013	06/01/1995	05/30/2002

PART 2 - INFORMATION ABOUT THIS APPLICATION

17) I, the undersigned, hereby request that my removal be cancelled under the provisions of section 240A(b) of the Immigration and Nationality Act (INA). I believe that I am eligible for cancellation of removal because: (Check all that apply.)

- My removal would result in exceptional and extremely unusual hardship to my:
- | | UNITED STATES
CITIZEN | LEGAL PERMANENT
RESIDENT | TEMPORARY
STATUS | NO
STATUS |
|--|--------------------------|-----------------------------|---------------------|--------------|
| <input type="checkbox"/> spouse, who is a | ___ | ___ | ___ | ___ |
| <input type="checkbox"/> father, who is a | ___ | ___ | ___ | ___ |
| <input type="checkbox"/> mother, who is a | ___ | ___ | ___ | ___ |
| <input checked="" type="checkbox"/> child/children, who is/are a | ✓ | ___ | ___ | ___ |

With the exception of absences described in question #23, I have resided in the United States since:

(Month, Day, Year) 06/15/1992

- I, or my child, have been battered or subjected to extreme cruelty by a United States citizen or lawful permanent resident spouse or parent.

With the exception of absences described in question #23, I have resided in the United States since:

(Month, Day, Year)

Please continue answers on a separate sheet as needed.

(1)