complete background and security investigations. See 8 C.F.R. § 1003.47. Questions regarding background checks and security investigations should be addressed to DHS.

***(i) Non-detained cases*. —** If a non-detained respondent seeks relief requiring background and security investigations, the DHS attorney provides the respondent with the DHS biometrics instructions. The respondent is expected to promptly comply with the DHS biometrics instructions by the deadlines set by the Immigration Judge. Failure to timely comply with these instructions will result in the application for relief not being considered unless the applicant demonstrates that such failure was the result of good cause. 8 C.F.R. § 1003.47(d).

In all cases in which the respondent is represented, the representative should ensure that the respondent understands the DHS biometrics instructions and the consequences of failing to timely comply with the instructions.

***(ii) Detained cases*. —** If background and security investigations are required for detained respondents, DHS is responsible for timely fingerprinting the respondent and obtaining all necessary information. See 8 C.F.R. § 1003.47(d).

***(l) Asylum Clock*. —** The Immigration Court operates an asylum adjudications clock which measures the length of time an asylum application has been pending for each asylum applicant in removal proceedings. The asylum clock is an administrative function that tracks the number of days elapsed since the application was filed, not including any delays requested or caused by the applicant and ending with the final administrative adjudication of the application. This period also does not include administrative appeal or remand.

Where a respondent has applied for asylum, the Immigration Judge determines during the master calendar hearing whether the case is an expedited asylum case. If so, the Immigration Judge asks on the record whether the applicant wants an "expedited asylum hearing date," meaning an asylum hearing scheduled for completion within 180 days of the filing. If the case is being adjourned for an alien-related reason, the asylum clock will stop until the next hearing.

Certain asylum applicants are eligible to receive employment authorization from the Department of Homeland Security (DHS) 180 days after the application is filed, not including delays in the proceedings caused by the applicant. To facilitate DHS's adjudication of employment authorization applications, the Executive Office for Immigration Review (EOIR) provides DHS with access to its asylum adjudications clock for cases pending before EOIR. See INA §§ 208(d)(2), 208(d)(5)(A)(iii); 8 C.F.R. § 1208.7.

(i) Lodged Asylum Applications. — For the purpose of employment authorization, DHS considers a defensive asylum application "filed" as of the date the application is filed with the Immigration Court, unless the application is first lodged with the court. If the application is first lodged with the court, DHS considers the date on which the application is lodged for the purpose of determining eligibility for employment authorization. An alien may lodge an asylum application at the Immigration Court's public window during that court's filing hours, or by sending it to the Immigration Court by mail or courier.

The lodged date is not the filing date and a lodged asylum application is not considered filed. A respondent who lodges a defensive asylum application must still file the application before an Immigration Judge at a master calendar hearing. See Chapter 3.1(b)(III)(A) (Defensive applications).

The Immigration Court places a date stamp and a "lodged not filed" stamp on the application, and returns the application to the alien. The court does not retain a copy of the lodged application, and it is not placed in the record of proceedings; however, the date that the application was lodged with the court is electronically transmitted to DHS.

(A) Requirements for lodging. — Only a respondent who plans to file a defensive asylum application, but has not yet done so, may lodge an asylum application. An asylum applicant may only lodge an asylum application once. If an asylum application is lodged, it must be lodged before that application is filed before an Immigration Judge at a master calendar hearing. An applicant who already has an asylum application pending with the court may not lodge an asylum application. Accordingly, if a respondent files an application with DHS and DHS refers that application to the court, the respondent may not lodge an asylum application.

If an alien lodges an asylum application by mail or courier, the application must be accompanied by a self-addressed stamped envelope or comparable return delivery packaging. It must also be accompanied by a cover page or include a prominent annotation on the top of the front page of the form stating that it is being submitted for the purpose of lodging .

Note that a Proof of Service is not required to lodge an application.

(B) Defective lodging. — Under certain circumstances, an asylum application which is submitted for the purpose of lodging the application is rejected. Examples of defective submissions include:

- the Form I-589 does not have the applicant's name
- the Form I-589 does not have the A-number
- the Form I-589 is not signed by the applicant
- the Form I-589 has already been lodged with the court
- the Form I-589 has already been filed with the court
- the Form I-589 was referred to the court from USCIS
- the Form I-589 is being submitted for lodging at the incorrect court location
- the case is pending before the Board of Immigration Appeals
- the case is not pending before EOIR

An application that is submitted by mail or courier for the purpose of lodging is subject to rejection for the following additional defects:

- the application is not accompanied by a self-addressed stamped envelope or comparable return delivery packaging; or
- The application is not accompanied by a cover page or does not include a prominent annotation on the top of the front page of the form stating that it is being submitted for the purpose of lodging.

***(m) Waivers of appearances*. —** Respondents and representatives must appear at all master calendar hearings unless the Immigration Judge has granted a waiver of appearance for that hearing. Waivers of appearances for master calendar hearings are described in subsections (i) and (ii), below. Respondents and representatives requesting waivers of appearances should note the limitations on waivers of appearances described in subsection (iii), below.

Representatives should note that a motion for a waiver of a representative's appearance is distinct from a representative's motion for a *telephonic appearance*. Motions for telephonic appearances are described in subsection (n), below.

(i) Waiver of representative's appearance. **—** A representative's appearance at a master calendar hearing may be waived only by written motion filed in conjunction with written pleadings. See subsection (j), above. The written motion should be filed with a cover page labeled "MOTION TO WAIVE REPRESENTATIVE'S APPEARANCE" and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page). The motion should state the date and time of the master calendar hearing and explain the reason(s) for requesting a waiver of the representative's appearance.

(ii) Waiver of respondent's appearance. **—** A respondent's appearance at a master calendar hearing may be waived by oral or written motion. See 8 C.F.R. § 1003.25(a). If in writing, the motion should be filed with a cover page labeled "MOTION TO WAIVE RESPONDENT'S APPEARANCE" and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page). The motion should state the date and time of the master calendar hearing and explain the reason(s) for requesting a waiver of the respondent's appearance.

(iii) Limitations on waivers of appearances. **—**

(A) Waivers granted separately. **—** A waiver of a representative's appearance at a master calendar hearing does not constitute a waiver of the respondent's appearance. A waiver of a respondent's appearance at a master calendar hearing does not constitute a waiver of the representative's appearance.

(B) Pending motion. **—** The mere filing of a motion to waive the appearance of a representative or respondent at a master calendar hearing does not excuse the appearance of the representative or respondent at that hearing. Therefore, the representative or respondent must appear in person unless the motion has been granted.

(C) Future hearings. **—** A waiver of the appearance of a representative or respondent at a master calendar hearing does not constitute a waiver of the appearance of the representative or respondent at any future hearing.

(n) Telephonic appearances. **—** In certain instances, respondents and representatives may appear by telephone at some master calendar hearingsat the Immigration Judge's discretion. For more information, parties should contact the Immigration Court.

An appearance by telephone may be requested by written or oral motion. , If in writing, the motion should be filed with a cover page labeled "MOTION TO PERMIT TELEPHONIC APPEARANCE" and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page). The motion should state the date and time of the master calendar hearing and explain the reason(s) for requesting a telephonic appearance. In addition, the motion should state the telephone number of the representative or respondent.

Parties requesting an appearance by telephone should note the guidelines in subsections (i) through (v), below.

(i) Representative's telephonic appearance is not a waiver of respondent's appearance. — Permission for a *representative* to appear by telephone at a master calendar hearing does not constitute a waiver of the *respondent's* appearance at that hearing. A request for a waiver of a respondent's appearance at a master calendar hearing must comply with the guidelines in subsection (m), above.

(ii) Availability. — A representative or respondent appearing by telephone must be available during the entire master calendar hearing.

(iii) Cellular telephones. — Unless expressly permitted by the Immigration Judge, cellular telephones should not be used for telephonic appearances.

(iv) Pending motion. — The mere filing of a motion to permit a representative or respondent to appear by telephone at a master calendar hearing does not excuse the appearance in person at that hearing by the representative or respondent. Therefore, the representative or respondent must appear in person unless the motion has been granted.

(v) Future hearings. — Permission for a representative or respondent to appear by telephone at a master calendar hearing does not constitute permission for the representative or respondent to appear by telephone at any future hearing.

(o) Other requests. — In preparation for an upcoming individual calendar hearing, the following requests may be made at the master calendar hearing or afterwards, as described below.

(i) Interpreters. — If a party anticipates that an interpreter will be needed at the individual calendar hearing, the party should request an interpreter, either by oral motion at a master calendar hearing, by written motion, or in a written pleading.

Parties are strongly encouraged to submit requests for interpreters at the master calendar hearing rather than following the hearing. A written motion to request an interpreter should be filed with a cover page labeled "MOTION TO REQUEST AN INTERPRETER," and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page).

A request for an interpreter, whether made by oral motion, by written motion, or in a written pleading, should contain the following information:

- the name of the language requested, including any variations in spelling
- the specific dialect of the language, if applicable
- the geographical locations where such dialect is spoken, if applicable
- the identification of any other languages in which the respondent or witness is fluent
- any other appropriate information necessary for the selection of an interpreter

(ii) Video testimony.— In certain instances, witnesses may testify by video at the individual calendar hearing, at the Immigration Judge's discretion. Video testimony may be requested only by written motion. For more information, parties should contact the Immigration Court.

A written motion to request video testimony should be filed with a cover page labeled "MOTION TO PRESENT VIDEO TESTIMONY," and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page). A motion to present video testimony must include an explanation of why the witness cannot appear in person. In addition, parties wishing to present video testimony must comply with the requirements for witness lists. See Chapter 3.3(g) (Witness lists).

If video testimony is permitted, the Immigration Judge specifies the time and manner under which the testimony is taken.

(iii) Telephonic testimony.— In certain instances, witnesses may testify by telephone, at the Immigration Judge's discretion. If a party wishes to have witnesses testify by telephone at the individual calendar hearing, this may be

requested by oral motion at the master calendar hearing or by written motion. If telephonic testimony is permitted, the court specifies the time and manner under which the testimony is taken. For more information, parties should contact the Immigration Court.

A written motion to request telephonic testimony should be filed with a cover page labeled "MOTION TO PRESENT TELEPHONIC TESTIMONY," and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page). In addition, parties wishing to present telephonic testimony must comply with the requirements for witness lists. See Chapter 3.3(g) (Witness lists).

***(A) Contents*. —** An oral or written motion to permit telephonic testimony must include:

- an explanation of why the witness cannot appear in person
- the witness's telephone number and the location from which the witness will testify

***(B) Availability*. —** A witness appearing by telephone must be available to testify at any time during the course of the individual calendar hearing.

***(C) Cellular telephones*. —** Unless permitted by the Immigration Judge, cellular telephones should not be used by witnesses testifying telephonically.

***(D) International calls*. —** If international telephonic testimony is permitted, the requesting party should bring a pre-paid telephone card to the Immigration Court to pay for the call.

4.16 Individual Calendar Hearing

***(a) Generally*. —** Evidentiary hearings on contested matters are referred to as individual calendar hearings or merits hearings. Contested matters include challenges to removability and applications for relief.

***(b) Filings*. —** The following documents should be filed in preparation for the individual calendar hearing, as necessary. Parties should note that, since Records of

Proceedings in removal proceedings are kept separate from Records of Proceeding in bond redetermination proceedings, documents already filed in bond redetermination proceedings must be re-filed for removal proceedings. See Chapter 9.3 (Bond Proceedings).

(i) Applications, exhibits, motions. **—** Parties should file all applications for relief, proposed exhibits, and motions, as appropriate. All submissions must comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court).

(ii) Witness list. **—** If presenting witnesses other than the respondent, parties must file a witness list that complies with the requirements of Chapter 3.3(g) (Witness lists). In addition, the witness list must comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court).

(iii) Criminal history chart. **—** When submitting documents relating to a respondent's criminal arrests, prosecutions, or convictions, parties are encouraged to use a criminal history chart and attach all pertinent documentation, such as arrest and conviction records. For guidance on submitting a criminal history chart, see Chapter 3.3(f) (Criminal conviction documents). For a sample, see Appendix O (Sample Criminal History Chart). Parties submitting a criminal history chart should comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court).

(c) Opening the individual calendar hearing. **—** The Immigration Judge turns on the recording equipment at the beginning of the individual calendar hearing. The hearing is recorded, except for off-the-record discussions. See Chapter 4.10 (Record).

On the record, the Immigration Judge identifies the type of proceeding being conducted (e.g., a removal proceeding); the respondent's name and alien registration number ("A number"); the date, time and place of the proceeding; and the presence of the parties. The Immigration Judge also verifies the respondent's name, address, and telephone number. If the respondent's address or telephone number have changed, the respondent must submit an Alien's Change of Address Form (Form EOIR-33/IC).

(d) Conduct of hearing. **—** While the Immigration Judge decides how each hearing is conducted, parties should be prepared to:

- make an opening statement
- raise any objections to the other party's evidence

- present witnesses and evidence on all issues
- cross-examine opposing witnesses and object to testimony
- make a closing statement

(e) Witnesses. — All witnesses, including the respondent if he or she testifies, are placed under oath by the Immigration Judge before testifying. If necessary, an interpreter is provided. See Chapters 4.11 (Interpreters), 4.15(o) (Other requests). The Immigration Judge may ask questions of the respondent and all witnesses at any time during the hearing. See INA § 240(b)(1).

(f) Pro se respondents. — Unrepresented ("pro se") respondents have the same hearing rights and obligations as represented respondents. For example, pro se respondents may testify, present witnesses, cross-examine any witnesses presented by the Department of Homeland Security (DHS), and object to evidence presented by DHS. When a respondent appears pro se, the Immigration Judge generally participates in questioning the respondent and the respondent's witnesses. As in all removal proceedings, DHS may object to evidence presented by a pro se respondent and may cross-examine the respondent and the respondent's witnesses.

(g) Decision. — After the parties have presented their cases, the Immigration Judge renders a decision. The Immigration Judge may render an oral decision at the hearing's conclusion, or he or she may render an oral or written decision on a later date. See Chapter 1.5(c) (Immigration Judge decisions). If the decision is rendered orally, the parties are given a signed summary order from the court.

(h) Appeal. — The respondent and the Department of Homeland Security have the right to appeal the Immigration Judge's decision to the Board of Immigration Appeals. See Chapter 6 (Appeals of Immigration Judge Decisions). A party may waive the right to appeal. At the conclusion of Immigration Court proceedings, the Immigration Judge informs the parties of the deadline for filing an appeal with the Board, unless the right to appeal is waived. See Chapter 6.4 (Waiver of Appeal).

Parties should note that the Immigration Judge may ask the Board to review his or her decision. This is known as "certifying" a case to the Board. The certification of a case is separate from any appeal in the case. Therefore, a party wishing to appeal must file an appeal *even if* the Immigration Judge has certified the case to the Board. See Chapter 6.5 (Certification).

If an appeal is not filed, the Immigration Judge's decision becomes the final administrative decision in the matter, unless the case has been certified to the Board.

***(i) Relief granted*. —** If a respondent's application for relief from removal is granted, the respondent is provided the Department of Homeland Security (DHS) post-order instructions. These instructions describe the steps the respondent should follow to obtain documentation of his or her immigration status from U.S. Citizenship and Immigration Services, a component of DHS.

More information about these post-order instructions is available on the Executive Office for Immigration Review website at www.justice.gov/eoir.

For respondents who are granted asylum, information on asylees' benefits and responsibilities is available at the Immigration Court.

4.17 In Absentia Hearing

***(a) In general*. —** Any delay in the respondent's appearance at a master calendar or individual calendar hearing may result in the respondent being ordered removed "in absentia" (in the respondent's absence). See 8 C.F.R. § 1003.26(c). See also Chapter 4.8 (Attendance). There is no appeal from a removal order issued in absentia. However, parties may file a motion to reopen to rescind an in absentia removal order. See Chapter 5.9 (Motions to Reopen In Absentia Orders).

***(b) Deportation and exclusion proceedings*. —** Parties should note that in absentia orders in deportation and exclusion proceedings are governed by different standards than in absentia orders in removal proceedings. For the provisions governing in absentia orders in deportation and exclusion proceedings, see 8 C.F.R. § 1003.26. See also Chapter 7 (Other Hearings before Immigration Judges).

4.18 Pre-Hearing Conferences and Statements

***(a) Pre-hearing conferences*. —** Pre-hearing conferences are held between the parties and the Immigration Judge to narrow issues, obtain stipulations between the parties, exchange information voluntarily, and otherwise simplify and organize the proceeding. See 8 C.F.R. § 1003.21(a).

Pre-hearing conferences may be requested by a party or initiated by the Immigration Judge. A party's request for a pre-hearing conference may be made orally or by written motion. If in writing, the motion should be filed with a cover page labeled "MOTION FOR A PRE-HEARING CONFERENCE," and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page).

Even if a pre-hearing conference is not held, the parties are strongly encouraged to confer prior to a hearing in order to narrow issues for litigation. Parties are further encouraged to file pre-hearing statements following such discussions. See subsection (b), below.

(b) Pre-hearing statements. **—** An Immigration Judge may order the parties to file a pre-hearing statement See 8 C.F.R. § 1003.21(b). Parties are encouraged to file a pre-hearing statement even if not ordered to do so by the Immigration Judge. Parties also are encouraged to file pre-hearing briefs addressing questions of law. See Chapter 4.19 (Pre-Hearing Briefs).

(i) Filing. **—** A pre-hearing statement should be filed with a cover page with an appropriate label (e.g., "PARTIES' PRE-HEARING STATEMENT"), and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page).

(ii) Contents of a pre-hearing statement. **—** In general, the purpose of a pre-hearing statement is to narrow and reduce the factual and legal issues in advance of an individual calendar hearing. For example, a pre-hearing statement may include the following items:

- a statement of facts to which both parties have stipulated, together with a statement that the parties have communicated in good faith to stipulate to the fullest extent possible
- a list of proposed witnesses and what they will establish
- a list of exhibits, copies of exhibits to be introduced, and a statement of the reason for their introduction
- the estimated time required to present the case
- a statement of unresolved issues in the proceeding

See 8 C.F.R. § 1003.21(b).

4.19 Pre-Hearing Briefs

(a) Generally. **—** An Immigration Judge may order the parties to file pre-hearing briefs. Parties are encouraged to file pre-hearing briefs even if not ordered to do so by the

Immigration Judge. Parties are also encouraged to file pre-hearing statements to narrow and reduce the legal and factual issues in dispute. See Chapter 4.18(b) (Pre-hearing statements).

***(b) Guidelines*. —** Pre-hearing briefs advise the Immigration Judge of a party's positions and arguments on questions of law. A well-written pre-hearing brief is in the party's best interest and is of great importance to the Immigration Judge. Pre-hearing briefs should be clear, concise, and well-organized. They should cite the record, as appropriate. Pre-hearing briefs should cite legal authorities fully, fairly, and accurately.

Pre-hearing briefs should always recite those facts that are appropriate and germane to the adjudication of the issue(s) at the individual calendar hearing. They should cite proper legal authority, where such authority is available. See subsection (f), below. Pre-hearing briefs should not belabor facts or law that are not in dispute. Parties are encouraged to expressly identify in their pre-hearing briefs those facts or law that are not in dispute.

There are no limits to the length of pre-hearing briefs. Parties are encouraged, however, to limit the body of their briefs to 25 pages, provided that the issues in question can be adequately addressed. Pre-hearing briefs should always be paginated.

***(c) Format*. —**

***(i) Filing*. —** Pre-hearing briefs should be filed with a cover page with an appropriate label (e.g., "RESPONDENT'S PRE-HEARING BRIEF"), and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page). Pre-hearing briefs must be signed by the respondent, the respondent's primary attorney (notice attorney) or representative, or the representative of the Department of Homeland Security. See Chapter 3.3(b) (Signatures). See also Chapter 2 (Appearances before the Immigration Court).

***(ii) Contents*. —** Unless otherwise directed by the Immigration Judge, the following items should be included in a pre-hearing brief:

- a concise statement of facts
- a statement of issues
- a statement of the burden of proof
- a summary of the argument

- the argument
- a short conclusion stating the precise relief or remedy sought

***(iii) Statement of facts*. —** Statements of facts in pre-hearing briefs should be concise. Facts should be set out clearly. Points of contention and points of agreement should be expressly identified.

Facts, like case law, require citation. Parties should support factual assertions by citing to any supporting documentation or exhibits, whether in the record or accompanying the brief. See subsection (f), below.

Do not misstate or misrepresent the facts, or omit unfavorable facts that are relevant to the legal issue. A brief's accuracy and integrity are paramount to the persuasiveness of the argument and the decision regarding the legal issue(s) addressed in the brief.

***(iv) Footnotes*. —** Substantive arguments should be restricted to the text of pre-hearing briefs. The excessive use of footnotes is discouraged.

***(v) Headings and other markers*. —** Pre-hearing briefs should employ headings, sub-headings, and spacing to make the brief more readable. Short paragraphs with topic sentences and proper headings facilitate the coherence and cohesiveness of arguments.

***(vi) Chronologies*. —** Pre-hearing briefs should contain a chronology of the facts, especially where the facts are complicated or involve several events. Charts or similar graphic representations that chronicle events are welcome. See Appendix O (Sample Criminal History Chart).

***(d) Consolidated pre-hearing briefs*. —** Where cases have been consolidated, one pre-hearing brief may be submitted on behalf of all respondents in the consolidated proceeding, provided that each respondent's full name and alien registration number ("A number") appear on the consolidated pre-hearing brief. See Chapter 4.21 (Combining and Separating Cases).

***(e) Responses to pre-hearing briefs*. —** When a party files a pre-hearing brief, the other party may file a response brief. A response brief should be filed with a cover page with an appropriate label (e.g., "DHS RESPONSE TO PRE-HEARING BRIEF"), and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the

Immigration Court), Appendix F (Sample Cover Page). Response briefs should comply with the guidelines for pre-hearing briefs set forth above.

***(f) Citation*. —** Parties are expected to provide complete and clear citations to all factual and legal authorities. Parties should comply with the citation guidelines in Appendix J (Citation Guidelines).

4.20 Subpoenas

***(a) Applying for a subpoena*. —** A party may request that a subpoena be issued requiring that witnesses attend a hearing or that documents be produced. See 8 C.F.R. §§ 1003.35, 1287.4(a)(2)(ii). A request for a subpoena may be made by written motion or by oral motion. If made in writing, the request should be filed with a cover page labeled "MOTION FOR SUBPOENA," and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page). Whether made orally or in writing, a motion for a subpoena must:

- provide the court with a proposed subpoena
- state what the party expects to prove by such witnesses or documentary evidence
- show affirmatively that the party has made diligent effort, without success, to produce the witnesses or documentary evidence

If requesting a subpoena for telephonic testimony, the party should also comply with Chapter 4.15(o)(iii) (Telephonic testimony).

***(b) Contents*. —** A proposed subpoena should contain:

- the respondent's name and alien registration number ("A number")
- the type of proceeding
- the name and address of the person to whom the subpoena is directed
- a command that the recipient of the subpoena:
  - testify in court at a specified time,

- testify by telephone at a specified time, or
- produce specified books, papers, or other items

○ a return on service of subpoena

See 8 C.F.R. § 1003.35(b)(3), Appendix N (Sample Subpoena).

***(c) Appearance of witness*. —** If the witness whose testimony is required is more than 100 miles from the Immigration Court where the hearing is being conducted, the subpoena must provide for the witness's appearance at the Immigration Court nearest to the witness to respond to oral or written interrogatories, unless the party calling the witness has no objection to bringing the witness to the hearing. See 8 C.F.R. § 1003.35(b)(4).

***(d) Service*. —** A subpoena issued under the above provisions may be served by any person over 18 years of age not a party to the case. See 8 C.F.R. § 1003.35(b)(5).

4.21 Combining and Separating Cases

***(a) Consolidated cases*. —** Consolidation of cases is the administrative joining of separate cases into a single adjudication for all of the parties involved. Consolidation is generally limited to cases involving immediate family members. The Immigration Court may consolidate cases at its discretion or upon motion of one or both of the parties, where appropriate. For example, the Immigration Court may grant consolidation when spouses or siblings have separate but overlapping circumstances or claims for relief. Consolidation must be sought through the filing of a written motion that states the reasons for requesting consolidation. Such motion should include a cover page labeled "MOTION FOR CONSOLIDATION" and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page). A copy of the motion should be filed for each case included in the request for consolidation. The motion should be filed as far in advance of any filing deadline as possible. See Chapter 3.1(b) (Timing of submissions).

***(b) Severance of cases*. —** Severance of cases is the division of a consolidated case into separate cases, relative to each individual. The Immigration Court may sever cases in its discretion or upon request of one or both of the parties. Severance must be sought through the filing of a written motion that states the reasons for requesting severance. Such motion should include a cover page labeled "MOTION FOR SEVERANCE" and comply with the deadlines and requirements for filing. See Chapter 3 (Filing before the Immigration Court), Appendix F (Sample Cover Page). A copy of the motion should be filed for each case included in the request for severance. Parties are

advised, however, that such motion should be filed as far in advance of any filing deadline as possible. See Chapter 3.1(b) (Timing of submissions).

4.22 Juveniles

***(a) Scheduling*. —** Immigration Courts do their best to schedule cases involving unaccompanied juveniles on a separate docket or at a fixed time in the week or month, separate and apart from adult cases.

***(b) Representation*. —** An Immigration Judge cannot appoint a legal representative or a guardian ad litem for unaccompanied juveniles. However, the Executive Office for Immigration Review encourages the use of pro bono legal resources for unaccompanied juveniles. For further information, see Chapter 2.2(b) (Legal service providers).

***(c) Courtroom orientation*. —** Juveniles are encouraged, under the supervision of court personnel, to explore an empty courtroom, sit in all locations, and practice answering simple questions before the hearing. The Department of Health and Human Services, Office of Refugee Resettlement, provides orientation for most juveniles in their native languages, explaining Immigration Court proceedings.

***(d) Courtroom modifications*. —** Immigration Judges make reasonable modifications for juveniles. These may include allowing juveniles to bring pillows, or toys, permitting juveniles to sit with an adult companion, and permitting juveniles to testify outside the witness stand next to a trusted adult or friend.

***(e) Detained juveniles*. —** For additional provisions regarding detained juveniles, see Chapter 9.2 (Detained Juveniles).