

RIAC2



CRIMINAL LAW

FAMILY LAW



IMMIGRATION LAW

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In This Issue: IMMIGRATION COURT: WHAT HAPPENS IN A REMOVAL PROCEEDING?

UPCOMING EVENTS

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The Regional Immigration Assistance Center provides legal support for attorneys who represent indigent noncitizen clients in criminal and family court. Founded in the wake of Padilla v. Kentucky, there are six centers located in New York State. Region 2 covers sixteen counties in the central part of the state.

**RIAC2 is administered by the Criminal Division of the Oneida County Public Defender.*

IMMIGRATION COURT: WHAT HAPPENS IN A REMOVAL PROCEEDING?

It is sometimes impossible to protect your noncitizen client from being placed in removal proceedings, such as when, regardless of the fantastic disposition you obtained in your criminal case, the client has, for example, previously been convicted of a deportable offense. This newsletter will provide a very brief overview of the nature of a removal proceeding so that if you are contacted by an immigration attorney, who is representing your client in Immigration Court, you will have a better idea of what that immigration defense counsel is seeking and the context in which the request is made.

A removal proceeding is the formal process whereby the U.S. government seeks to “remove” your client (i.e. deport) from the United States. A removal proceeding is commenced by service of a Notice to Appear (NTA) upon your client (the Respondent) **AND** by the filing of the NTA by ICE Office of the Chief Counsel with the clerk of the immigration court. Your client is not officially in proceedings until both have occurred. (This is important but space does not allow for more explanation as to the reasons why.)

Once your client is in removal proceedings, he or she will be scheduled to appear at a Master Calendar Hearing. This is similar to an arraignment, where a pleading is taken (admission/denial) and the case is continued for further action. Any appearance in Immigration Court for any reason, other than a hearing on the merits of the NTA, is called a Master Calendar Hearing. The “trial” is where ICE Chief Counsel must proceed on the merits or where your client presents any applications for relief; this “trial” is called the Individual Hearing.

If your client is not detained, he or she must appear at every scheduled appearance unless a motion for a continuance has been granted. **IF YOUR CLIENT FAILS TO APPEAR FOR A SCHEDULED HEARING**

