

## FOREWORD

When I began practicing immigration law 30 years ago, deportation hearings were conducted in relatively informal settings by a handful of administrative law judges who typically learned on the job. The legacy INS trial attorney would meet with practitioners shortly before proceedings began and negotiate plea deals. The majority of the respondents, particularly the detained, were unrepresented and summarily deported in a group proceeding that followed those who had counsel. Most of the respondents I represented pled to the allegations in exchange for 90 days of voluntary departure, which they could later seek to extend. Many of these clients, in turn, simply left the country then returned illegally. Those who were eligible filed for suspension of deportation, adjustment of status, or relief under INA §212(c). Formal procedures for seeking asylum and withholding of removal came later, as did legalization and an updated registry.

In certain ways, much has changed since those days. Deportation and exclusion proceedings have now merged into removal proceedings. Whether the grounds of inadmissibility or deportability control depends on the manner of the respondent's last entry. The proceedings are held in settings that more closely resemble state or federal courtrooms. They are governed by uniform procedures and rules, and often apply evidentiary standards used in federal judicial proceedings. The immigration judges and trial attorneys now work for separate agencies. Video conferencing allows immigration judges to hold hearings and make decisions in cases where the respondent is being held in a remote detention facility. Gone are many of the defenses and forms of relief that were available up until the mid-1990s. A large percentage of proceedings are now conducted with the respondent "in absentia." Many foreign nationals are subjected to expedited removal, stipulated removal, and reinstatement of removal, and never even see the inside of these new courtrooms.

In other ways, very little has changed. Most respondents are still unrepresented, and an increasing number are detained. If you are unrepresented, the likelihood of your avoiding deportation is much smaller than it is for those who have the resources to retain counsel. And the strongest factor in measuring your chances of winning an asylum or cancellation of removal claim is the name of the judge assigned to hear your case. Former trial attorneys and political cronies still represent the majority of immigration judges now serving on the bench. Only a small percentage of respondents actually challenge their deportability; most concede it and request voluntary departure, if they qualify. While the representation of clients in removal proceedings may still be the most heartbreaking and frustrating part of an immigration law practice, it also holds the potential of being the most meaningful and rewarding.

The authors want to thank the many immigration practitioners who advised us during the creation and revision of this book. Their practical experience has proved invaluable. We also want to thank their clients and their clients' families for the lessons in fortitude, determination, and hope they have demonstrated.

Charles Wheeler  
March 2009