

# California Workers' Compensation Supplemental Reports.

## (PART-A INJURED WORKERS ANALYSIS)

March 1, 2026

The information provided through this AI-powered Analysis is for **general informational and educational purposes only**. It is **not legal advice**, does **not create an attorney-client relationship**, and should not be relied upon as a substitute for advice from a qualified attorney. Laws and legal outcomes vary based on specific facts and jurisdiction. If you need advice tailored to your situation, you should consult directly with an attorney.

# CALIFORNIA WORKERS' COMPENSATION SUPPLEMENTAL REPORTS AND IMMIGRATION LAW: A GUIDE FOR IMMIGRANT WORKERS

This guide explains how California's workers' compensation system works for immigrant workers—including undocumented workers—and how filing a claim or submitting supplemental medical reports interacts with federal immigration law. The goal is to help you understand your rights, avoid unnecessary risks, and make informed decisions.

---

## Part 1: Your Right to Workers' Compensation in California

### Who Counts as an "Employee" Under California Law

California law protects all workers who are injured on the job, regardless of immigration status. The key statute is California Labor Code § 3351 ([https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=3351.&lawCode=LAB](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3351.&lawCode=LAB)), which defines "employee" as every person working for another person under any hiring arrangement—"whether lawfully or unlawfully employed." This means the law was written to include undocumented workers on purpose.

You do not need to show a valid work permit, green card, or Social Security number to qualify. California treats workers' compensation as a no-fault insurance system. This means it covers workplace injuries for everyone, no matter how you got the job.

California Labor Code § 1171.5 ([https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1171.5.&lawCode=LAB](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1171.5.&lawCode=LAB)) goes further. It says that your immigration status cannot be considered when deciding whether you qualify for workers' compensation benefits. Claims administrators and judges are not allowed to ask about your immigration status when deciding your eligibility.

### Protection Against Employer Retaliation

California law makes it illegal for your employer to punish you for filing a workers' compensation claim. Under California Labor Code § 132a ([https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=132a&lawCode=LAB](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=132a&lawCode=LAB)), your employer cannot fire you, threaten you, or discriminate against you for filing a claim or participating in any part of the workers' compensation process.

***Important: Your employer cannot threaten to report you to immigration authorities as a way to stop you from filing a workers' compensation claim. This is illegal under California law. Employers who violate these rules face civil fines, potential loss of their insurance carrier, and in serious cases, loss of their business license.***

These protections apply equally to undocumented workers. They cover every stage of the workers' compensation process, including medical evaluations, supplemental report submissions, and discovery (the process where both sides exchange information).

### Workers' Compensation Is NOT a "Public Benefit"

A common fear among immigrant workers is that receiving workers' compensation will hurt their immigration case. This fear is understandable but, in most cases, not supported by the law.

Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), 8 U.S.C. § 1611 (<https://www.law.cornell.edu/uscode/text/8/1611>), federal law defines specific government programs as "public benefits." Workers' compensation is not on that list. This means receiving workers' compensation benefits does not:

- Trigger a public charge finding (a determination that could block your immigration case)
- Make you deportable or inadmissible
- Affect your eligibility for adjustment of status, family visas, or employment-based immigration

- Hurt a pending asylum, withholding of removal, or cancellation of removal case
- Create any independent reason for the government to start removal proceedings against you

This federal exclusion works alongside California state law to protect you.

---

## Part 2: What Are Supplemental Reports and How Do They Work?

### Understanding the Supplemental Report Process

A supplemental report is a follow-up medical-legal document in a California workers' compensation case. After a Qualified Medical Examiner (QME)—a doctor approved by the state to evaluate work injuries—completes an initial evaluation, a supplemental report may be requested to address new information. Unlike the first evaluation, a supplemental report often does not require a new in-person visit.

The rules for supplemental reports are found in California Code of Regulations, Title 8, § 36.5 ([https://www.dir.ca.gov/t8/36\\_5.html](https://www.dir.ca.gov/t8/36_5.html)). This regulation explains how reports must be shared with all parties, the deadlines for completion, and the required format. A supplemental report must be completed within 60 days from the date of the request letter.

### When Are Supplemental Reports Used?

Supplemental reports are used in several common situations:

- New medical records become available. After the first evaluation, you may get additional imaging (like an MRI), new test results, or reports from other doctors. Instead of requiring a whole new evaluation, the QME reviews these new records and writes a supplemental report explaining how they affect the medical opinion.
- The parties have specific questions. Your attorney or the employer's attorney may have follow-up questions about issues that were not fully covered in the initial report. These questions must be submitted in writing, and all parties must receive copies. This prevents secret, one-sided communication (called *ex parte* communication) with the QME.
- Your condition has changed. If your injury has gotten better or worse since the initial evaluation, a supplemental report allows the QME to update their conclusions about your disability level, future medical needs, or how much of your injury is related to work. This is especially common before you reach maximum medical improvement (MMI)—the point where your condition has stabilized as much as it is going to.

### Billing Differences for Supplemental Reports

California law sets different billing rules for supplemental reports compared to initial evaluations. An initial evaluation includes up to 200 pages of medical records at no extra charge. A supplemental report includes up to 50 pages at no extra charge, with additional charges for records beyond that. This makes supplemental reports a more efficient and lower-cost way to update the medical record without repeating the entire evaluation.

### Why Supplemental Reports Usually Do Not Create Immigration Risk

The supplemental report process is a routine medical-legal procedure. It does not require you to disclose your immigration status. The QME needs to know about your medical history, symptoms, and how your injury affects your ability to function. The QME does not need to know your immigration status, how you entered the country, or whether you have work authorization.

***Important: If immigration-related information is included in a supplemental report, that information becomes part of the workers' compensation case record. The employer and insurance company can see it. Make sure your attorney reviews any supplemental report before it is shared with the other side.***

---

## Part 3: How Workers' Compensation and Immigration Law Intersect

### Filing a Claim Does Not Trigger Immigration Enforcement

Filing a workers' compensation claim does not automatically report you to Immigration and Customs Enforcement (ICE). The California Division of Workers' Compensation (DWC) has no authority or obligation to share your information with immigration agencies. Workers' compensation judges and claims administrators operate separately from the immigration system.

However, if you already have immigration enforcement exposure—such as a prior encounter with ICE, an outstanding Notice to Appear (NTA) (the document that starts removal proceedings), or a prior removal order—you should understand that being visible in any legal proceeding carries some level of risk, even though the workers' compensation system itself does not create that risk.

### Discovery: Where the Real Risk Exists

Discovery is the legal process where both sides in a case exchange information. In workers' compensation, the employer's side often asks questions about your employment history, wages, dates of employment, and how you got the job. If you are undocumented, truthful answers to these questions could reveal:

- How and when you entered the country
- Whether you used false documents
- Your immigration history

These facts could potentially be used in immigration proceedings if the information reaches immigration authorities.

Additionally, if you are in removal proceedings or have a pending asylum case at the same time as your workers' compensation case, inconsistencies between what you say in each case could damage your credibility. For example, if you testify to a certain employment start date in workers' compensation but give a different date in an asylum interview, the immigration judge may question your honesty.

### The Fifth Amendment and Self-Incrimination

The Fifth Amendment to the U.S. Constitution protects you from being forced to say things that could be used to prosecute you criminally. Under 8 U.S.C. § 1325 (<https://www.law.cornell.edu/uscode/text/8/1325>), illegal entry is a federal crime. Under 18 U.S.C. § 1028 (<https://www.law.cornell.edu/uscode/text/18/1028>), using false identity documents is also a crime. You may have the right to refuse to answer discovery questions about these topics.

***Important: Asserting the Fifth Amendment in a civil workers' compensation case is allowed, but California law permits the judge to draw a negative inference—meaning the judge may assume the worst about the answer you refused to give. This could hurt your workers' compensation case. You should discuss this carefully with both your workers' compensation attorney and an immigration attorney before deciding what to do.***

In many cases, your attorney can file objections to discovery questions—arguing they are irrelevant or invasive—without needing to invoke the Fifth Amendment directly.

---

## Part 4: Current Immigration Law Developments You Should Know

### No Active Prosecutorial Discretion Guidance

Prosecutorial discretion means the government's power to decide whether to pursue a case. As of early 2026, there is no active policy memo guiding ICE on when to use discretion to drop or delay removal cases. The previous guidance (known as the Doyle Memo, issued in April 2022) provided some protection, but it is not currently being followed.

This means you should not assume that having a valid workers' compensation claim will protect you from removal if you come to ICE's attention. However, filing a workers' compensation claim does not, by itself, bring you to ICE's attention.

### Shortened Appeal Deadlines at the Board of Immigration Appeals

The Board of Immigration Appeals (BIA) is the appeals court for immigration cases. As of March 9, 2026, new rules dramatically shortened appeal deadlines:

- The deadline to file an appeal was reduced from 30 days to 10 days for most cases

- The BIA may summarily dismiss (immediately reject) appeals unless a majority of BIA members vote to hear the case within 10 days
- Both sides must submit written arguments within 20 days of the briefing schedule, and reply briefs are generally not allowed

***Critical: If you are in removal proceedings and receive an unfavorable decision from an immigration judge, you or your attorney must act very quickly. These compressed timelines leave little room for delay. Any workers' compensation evidence that is relevant to your immigration case must be gathered and ready well in advance.***

### Motions to Reopen

A motion to reopen asks an immigration court to reconsider a case based on new evidence. If a workers' compensation settlement or judgment affects your immigration case strategy, a motion to reopen might be relevant. However, these motions must generally be filed within 90 days of the final removal order, must present evidence that was not previously available, and must show that you are eligible for immigration relief if the case is reopened.

---

## Part 5: Practical Steps to Protect Yourself

### Coordinate Between Your Attorneys

The single most important step you can take is to make sure your workers' compensation attorney and your immigration attorney talk to each other. This coordination should cover:

- Timing: When to file the workers' compensation claim relative to any immigration deadlines (asylum interviews, court dates)
- Discovery responses: Reviewing every set of questions before you answer, to avoid revealing unnecessary information or creating inconsistencies
- Medical evaluation scope: Deciding in advance what to discuss with the QME and what to save for immigration proceedings, especially regarding persecution-related trauma
- Factual consistency: Making sure dates, employment details, and other facts match across both cases

### Step-by-Step Guide for Filing a Supplemental Report Safely

1. Have your workers' compensation attorney review the supplemental report request to confirm it does not ask for immigration-related information.
2. If the QME asks questions about your immigration status during the evaluation, you may decline to answer (with your attorney's guidance) because this information is not medically necessary.
3. Review the QME's supplemental report with your attorney before it is shared with the other parties. If it contains unnecessary immigration-related details, your attorney can object.
4. Respond to any discovery questions about the supplemental report carefully and precisely. Do not volunteer information beyond what is specifically asked.
5. Keep all communications with your attorneys confidential. Do not share privileged attorney-client communications with the employer, insurance company, or anyone else.

### What Benefits You Can Receive

Regardless of immigration status, you are entitled to the following if your injury is work-related:

- Medical benefits: All necessary treatment, including emergency care, surgery, medication, physical therapy, psychiatric treatment, and medical equipment
- Temporary disability benefits: Wage replacement equal to two-thirds of your average weekly wage (with minimum and maximum limits) if you cannot work while healing
- Permanent disability benefits: Compensation based on the degree of lasting disability, calculated using standardized rating schedules
- Supplemental job displacement vouchers: Payment for retraining if you cannot return to your previous job
- Death benefits: Payments to your dependents if the injury causes death, regardless of their immigration status

### Protect Your Identity in the Process

- Use your real legal name in all workers' compensation documents. Do not use false documents or identities, as this could create fraud exposure in both your workers' compensation and immigration cases.
- Obtain an Individual Tax Identification Number (ITIN) from the IRS if needed for benefit payments. Providing an ITIN is not an admission of unauthorized work status.
- Do not voluntarily disclose your immigration status to the claims administrator, employer, or insurance carrier. California law does not require this disclosure.

---

## Part 6: Risk Assessment Framework

### When It Is Generally Safe to File

You should generally file a workers' compensation claim if:

- Your injury is moderate to serious
- You have no high-priority pending immigration case with an immediate deadline
- You have low to moderate immigration enforcement risk (no prior removal orders, no recent ICE contact, no serious criminal history)
- You can work with an immigration attorney to coordinate your case strategy

### When You Should Proceed with Extra Caution

You should carefully reconsider timing and strategy if:

- You are currently in active removal proceedings
- You have an imminent asylum interview
- You have a prior criminal conviction, prior removal order, or recent contact with ICE
- You cannot find an immigration attorney to coordinate with your workers' compensation attorney

**Note: Even in high-risk situations, you still have a legal right to workers' compensation. The question is not whether you can file, but how to do so while minimizing unnecessary immigration exposure. A qualified attorney can help you weigh the benefits of the claim against the risks.**

### California Criminal Law and Immigration

If you have a prior criminal conviction, California law may allow you to challenge it. California Penal Code § 1473.7 (<https://leginfo.legislature.ca.gov/faces/codesdisplaySection.xhtml?sectionNum=1473.7.&lawCode=PEN>) allows you to ask a court to vacate (cancel) a conviction if it has immigration consequences and you did not understand those consequences when you took the plea deal. Similarly, California Penal Code § 1203.43 (<https://leginfo.legislature.ca.gov/faces/codesdisplaySection.xhtml?sectionNum=1203.43.&lawCode=PEN>) provides a pathway to challenge certain convictions that resulted from deferred entry of judgment programs. If you have a criminal record, make sure both your workers' compensation attorney and immigration attorney know about it.

---

## Part 7: San Francisco and Northern California Procedures

### Workers' Compensation Administration in Northern California

Workers' compensation claims in Northern California are handled through the California Division of Workers' Compensation (DWC), which has offices throughout the Bay Area. The procedural rules for supplemental reports follow statewide regulations under Cal. Code Regs., tit. 8, § 36.5 ([https://www.dir.ca.gov/t8/36\\_5.html](https://www.dir.ca.gov/t8/36_5.html)). Supplemental reports must be served on all parties—including you (or your attorney), the employer (or their attorney or insurance carrier), and any other parties to the case. Electronic filing is increasingly common but must comply with DWC-approved systems.

### San Francisco Asylum Office

If you are an asylum seeker, the San Francisco Asylum Office handles affirmative asylum applications for Northern California. Current wait times for asylum interviews can range from several months to years depending on the backlog. If you have both a workers' compensation case and a pending asylum application,

the timing of your asylum interview relative to your workers' compensation proceedings matters. You and your attorneys should coordinate to avoid scheduling conflicts and factual inconsistencies.

### San Francisco Immigration Court

The San Francisco Immigration Court operates at multiple locations, including 100 Montgomery Street, Suite 800. If you are in removal proceedings before this court, the immigration judge's individual procedures will govern how evidence is submitted, how witnesses testify, and how motions are handled. Some judges are more willing to grant continuances (delays) than others. An attorney familiar with your particular judge's practices can help time your workers' compensation proceedings to align with your immigration court schedule.

---

### References

1. The Role of Supplemental Reports in QME Evaluations (<https://ortholegalgroup.com/supplemental-reports-in-qme-evaluations/>) - OrthoLegal Group
2. Protecting Noncitizens from Expedited Removal and Immigration Court (<https://nipnl.org/sites/default/files/2025-05/alert-protecting-noncitizens-er.pdf>) - National Immigration Project
3. California Code of Regulations, Title 8, § 36.5 - Service of Medical-Legal Reports ([https://www.dir.ca.gov/t8/36\\_5.html](https://www.dir.ca.gov/t8/36_5.html)) - California Division of Industrial Relations
4. Navigating Undocumented Workers Compensation in California (<https://fonteslawgroup.com/navigating-undocumented-workers-compensation-in-california/>) - Fontes Law Group
5. Texas Department of Insurance: Workers' Compensation Benefits (<https://www.tdi.texas.gov/wc/employee/benefits.html>) - Texas Department of Insurance
6. Can Filing Workers' Comp Affect Immigration Status (<https://mehtamcconnell.com/blog/can-filing-workers-comp-claim-affect-immigration-status/>) - Mehta & McConnell
7. Undocumented Injured Workers and Immigration Consequences (<https://www.espinozalawgroup.com/blog/undocumented-injured-workers-need-extra-vigilance-from-their-attorneys/>) - Espinoza Law Group
8. California Department of Industrial Relations: Limitations on Uninsured Employers Fund (<https://www.dir.ca.gov/t8/15740.html>) - California DIR
9. BIA Rule Updates - February 2026 (<https://immigrantjustice.org/wp-content/uploads/2026/02/Practice-AdvisoryBIA-Rule-UpdatesFeb-2026.pdf>) - National Immigrant Justice Center
10. 8 U.S.C. § 1611 - Aliens Who Are Not Qualified Aliens Ineligible for Federal Public Benefits (<https://www.law.cornell.edu/uscode/text/8/1611>) - Cornell Law Institute
11. 8 U.S.C. § 1325 - Improper Entry by Alien (<https://www.law.cornell.edu/uscode/text/8/1325>) - Cornell Law Institute
12. 18 U.S.C. § 1028 - Fraud and Related Activity in Connection with Identification Documents (<https://www.law.cornell.edu/uscode/text/18/1028>) - Cornell Law Institute
13. The Notice to Appear (NTA) - Practice Advisory July 2020 (<https://www.ilrc.org/sites/default/files/resources/ntapracticeadvisory.pdf>) - Immigrant Legal Resource Center
14. Removal Proceedings Resources (<https://www.cliniclegal.org/resources/removal-proceedings>) - Catholic Legal Immigration Network (CLINIC)
15. EOIR Policy Manual: 5.9 - Motions to Reopen In Absentia Orders (<https://www.justice.gov/eoir/policy-manual-eoir/part-III/bia/chapter-5-2>) - U.S. Department of Justice
16. Understanding Extreme Hardship in Waivers ([https://www.ilrc.org/sites/default/files/resources/understandingextremehardship\\_waivers-ab-20180131.pdf](https://www.ilrc.org/sites/default/files/resources/understandingextremehardship_waivers-ab-20180131.pdf)) - Immigrant Legal Resource Center
17. EOIR Policy Manual: 3.15 - Individual Calendar Hearing (<https://www.justice.gov/eoir/policy-manual-eoir/part-II/icpm/chapter-3-15>) - U.S. Department of Justice
18. Immigration Judge Benchbook - Evidence and Burden of Proof (<https://www.justice.gov/eoir/page/file/988046/dl?inline=>) - U.S. Department of Justice, EOIR
19. The One-Year Filing Deadline for Asylum (<https://immigrationequality.org/asylum/asylum-manual/immigration-basics-the-one-year-filing-deadline/>) - Immigration Equality

20. Overcoming the One-Year Bar After Filing for Asylum (<https://asylumist.com/2024/06/19/overcoming-the-one-year-bar-after-youve-filed-for-asylum/>) - The Asylumist
21. Overview on Ineffective Assistance of Counsel in Immigration Cases ([https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/seekingremediesforineffectiveassistanceofcounselinimmigrationcasespractice\\_advisory.pdf](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/seekingremediesforineffectiveassistanceofcounselinimmigrationcasespractice_advisory.pdf)) - American Immigration Council
22. Motions to Suppress in Removal Proceedings ([https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/motionstosuppressinremovalproceedingscrackingdownonfourthamendmentviolationsbystateandlocalaw\\_enforcement.pdf](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/motionstosuppressinremovalproceedingscrackingdownonfourthamendmentviolationsbystateandlocalaw_enforcement.pdf)) - American Immigration Council
23. EOIR Policy Manual: 3.4 - Filing an Appeal (<https://www.justice.gov/eoir/policy-manual-eoir/part-III/bia/chapter-3-4>) - U.S. Department of Justice
24. Timing of the Affirmative Asylum Application Process (<https://www.nolo.com/legal-encyclopedia/timing-the-affirmative-asylum-application-process.html>) - Nolo
25. Cal. Penal Code § 1473.7 ([https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1473.7.&lawCode=PEN](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1473.7.&lawCode=PEN)) - California Legislative Information
26. Cal. Penal Code § 1203.43 ([https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1203.43.&lawCode=PEN](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1203.43.&lawCode=PEN)) - California Legislative Information

# California Workers' Compensation Supplemental Reports

## (PART-B LEGAL ANALYSIS)

Generated by: Legal AI Assistant

Facilitated by: The Law Offices of Fernando Hidalgo, Inc.

March 1, 2026

The information provided through this AI-powered Analysis is for **general informational and educational purposes only**. It is **not legal advice**, does **not create an attorney-client relationship**, and should not be relied upon as a substitute for advice from a qualified attorney. Laws and legal outcomes vary based on specific facts and jurisdiction. If you need advice tailored to your situation, you should consult directly with an attorney.

*(c) 2026 The Law Offices of Fernando Hidalgo, Inc.. Generated by a Legal AI Assistant. Facilitated by The Law Offices of Fernando Hidalgo, Inc.. All rights reserved.*

## California Workers' Compensation Supplemental Reports and Their Immigration Law Implications: A Comprehensive Analysis for Immigrant Workers

This research brief examines California workers' compensation supplemental reports within the immigration law context, specifically addressing how injured immigrant workers-including undocumented immigrants-may file and manage supplemental medical-legal reports without triggering adverse immigration consequences. The research encompasses the mechanics of supplemental report procedures under California workers' compensation law, the explicit legal protections against retaliation based on immigration status, the intersection of state workers' compensation law with federal immigration law, and critical strategic considerations for immigrant clients and their attorneys navigating both systems simultaneously. Key findings include: (1) California law expressly protects all workers' compensation claimants regardless of immigration status, with explicit statutory prohibitions on discrimination and retaliation; (2) workers' compensation benefits are not considered "public benefits" for immigration purposes, meaning their receipt does not trigger public charge determinations or affect immigration eligibility; (3) supplemental reports in workers' compensation proceedings are standard medical-legal tools that do not inherently expose immigration status; (4) undocumented workers must exercise strategic caution during workers' compensation discovery to avoid responses that could create immigration consequences or trigger deportation grounds; and (5) coordination with immigration counsel is essential when an undocumented worker has any pending immigration case or enforcement exposure.

### Legal Framework and Statutory Authority

#### California Workers' Compensation Law: Undocumented Worker Eligibility

California's workers' compensation system provides comprehensive protections for all workers regardless of immigration status.[7] The foundational statutory provision is California Labor Code Section 3351, which explicitly defines "employee" to include all individuals engaged in employment relationships within the state, without any citizenship or authorization requirement.[7] This definition is fundamental because it establishes that undocumented workers are entitled to the full scope of workers' compensation benefits-including medical treatment, temporary disability benefits, permanent disability benefits, supplemental job displacement vouchers, and death benefits for dependents-on identical terms as lawfully-present workers.[7]

The statutory language is deliberately broad. Section 3351 does not condition coverage on presentation of valid employment authorization, possession of a Social Security number, or compliance with federal immigration law. Instead, California law recognizes that the workers' compensation system is a no-fault insurance scheme designed to protect all workers from work-related injuries regardless of how they came to be in the employment relationship.[7] This approach reflects a policy judgment that workers' compensation serves a public health and safety function distinct from immigration enforcement.

California Labor Code Section 1171.5 reinforces this principle by explicitly stating that an individual's immigration status shall not be considered in determining eligibility for workers' compensation benefits.[7] This provision was enacted to eliminate any potential ambiguity and to ensure that workers' compensation judges and claims administrators do not inquire into or consider immigration status when making eligibility determinations. The statute creates a firewall between the workers' compensation system and immigration enforcement.

#### Non-Discrimination and Anti-Retaliation Protections

California provides explicit statutory protections prohibiting employers from discriminating against, threatening, or retaliating against employees based on immigration status in connection with workers' compensation claims.[7] These protections apply both to the initial filing of a claim and to the entire workers' compensation proceeding, including supplemental report submissions and discovery disputes.

An employer violates California law if it refuses to provide workers' compensation benefits to an undocumented worker, discriminates against such a worker in the provision of benefits, threatens deportation as a mechanism to coerce withdrawal of a claim, or refuses to accommodate an undocumented worker's participation in medical evaluations or court proceedings.[7] Employers found in violation of these protections face substantial penalties, including civil fines, potential loss of their workers' compensation insurance carrier, and in egregious cases, loss of business licensing. These penalties exist independent of any unemployment insurance or other employment law violations.

## Federal Immigration Law: Workers' Compensation Benefits Are Not "Public Benefits"

A critical intersection between California workers' compensation law and federal immigration law concerns whether receipt of workers' compensation benefits triggers "public charge" inadmissibility or other immigration consequences. The answer is definitively no.

Federal immigration law defines "public benefit" as enumerated benefits under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 and certain other federal statutes.[18] Workers' compensation benefits are explicitly excluded from the definition of "public benefits" under federal immigration law.[14][18] This means that an immigrant's receipt of workers' compensation does not:

Trigger a public charge determination that could render them deportable or inadmissible;

Create grounds for denial of adjustment of status, family-based visas, or employment-based relief;

Affect eligibility for citizenship through naturalization;

Impact pending asylum, withholding of removal, or cancellation of removal applications;

Create any independent basis for removal proceedings.

For undocumented workers or immigrants in removal proceedings, this distinction is significant. Filing a workers' compensation claim creates no federal immigration consequences merely by virtue of claiming the benefit.

## California State Statutory Framework for Supplemental Reports

In California workers' compensation practice, a supplemental report is a medical-legal document submitted to a Qualified Medical Examiner (QME) after an initial comprehensive evaluation has been completed.[1][4][13][16] Unlike an initial evaluation, which requires an in-person examination, a supplemental report may be requested based on newly available medical records, follow-up diagnostic testing, or specific clinical questions that arose after the initial evaluation without requiring a face-to-face appointment with the injured worker.

California Code of Regulations Title 8, Section 36.5 governs service of comprehensive medical-legal reports in workers' compensation claims involving QME evaluations.[4] The regulation establishes procedures for how supplemental reports must be served, to whom they must be provided, and the timeframes within which they must be completed. A supplemental report must be completed within 60 days from the date of the cover letter or declaration requesting the supplemental evaluation.[1][4]

The supplemental report process addresses several practical scenarios in workers' compensation litigation. First, after an initial QME evaluation, additional medical records may become available—additional imaging studies, consultation reports from treating physicians, diagnostic test results, or other documentation that post-dates the QME's initial comprehensive evaluation.[1] Rather than requiring a full re-evaluation and new in-person examination, the QME may review these additional materials and submit a supplemental report addressing how the new information affects the medical-legal opinions rendered in the initial report.

Second, one or both parties may have specific clinical questions about particular issues that were either not fully addressed in the initial report or that require clarification.[1] These questions must be submitted in formal written form, not through casual communication, because all communications with the QME must be documented and served on all parties to comply with discovery rules and prohibitions on ex parte communication. A properly formatted supplemental report request allows the parties to pose these questions formally and ensures that all parties receive copies of both the questions and the QME's written responses.

Third, supplemental reports address situations in which the injured worker's medical condition has changed significantly since the initial evaluation—either improved or worsened—and additional evidence is needed to support modified medical-legal conclusions regarding permanent disability, future medical need, or apportionment.[1] Until an injured worker reaches maximum medical improvement (MMI), the treating physician's assessment of the case may evolve, and supplemental reports allow the QME to incorporate updated information without requiring a second in-person evaluation.

## Billing and Compensation for Supplemental Reports

California workers' compensation law provides distinct billing provisions for supplemental reports compared to initial evaluations.[1] An initial evaluation allows billing for up to 200 pages of medical records without additional charge, but charges apply for records exceeding 200 pages. By contrast, a supplemental report allows billing for medical records beyond 50 pages, meaning practitioners and medical providers must be aware of the different thresholds and plan accordingly when requesting supplemental evaluations.[1]

This distinction encourages use of supplemental reports as an efficient mechanism for incorporating additional materials that were not available at the time of the initial in-person evaluation. Rather than requiring a complete re-evaluation and new in-person appointment (which would trigger billing for the entire evaluation again), supplemental reports allow focused, targeted review of additional materials at a more modest cost.

## Current Legal Landscape: Immigration Law Developments Affecting Injured Immigrant Workers

### Prosecutorial Discretion and Removal Proceedings

The immigration law landscape relevant to injured workers has shifted significantly in recent years, particularly concerning prosecutorial discretion and the filing of removal proceedings. As of December 2025 through March 2026, there is no operative prosecutorial discretion memorandum governing Immigration and Customs Enforcement (ICE) decision-making at the removal proceeding stage.[21] The previous memorandum issued by ICE Principal Legal Advisor Kerry Doyle in April 2022 (the "Doyle Memo") provided guidance on exercising prosecutorial discretion by declining to pursue or dismissing removal proceedings in certain circumstances.[21] However, prosecutorial discretion as a practical matter is rarely exercised in the current enforcement environment, meaning that undocumented workers cannot rely on prosecutorial discretion as a protection against enforcement.

This reality has implications for injured immigrant workers. An immigrant who is injured on the job and contemplates filing a workers' compensation claim must understand that filing such a claim does not trigger removal proceedings by itself. However, if that immigrant has prior enforcement exposure—such as a prior encounter with immigration authorities, an outstanding Notice to Appear (NTA), or other immigration enforcement interest—the act of remaining in the United States and visibly participating in legal proceedings (including workers' compensation proceedings) could potentially draw immigration attention.[2][31]

### Removal Proceedings Under INA Section 240 and Their Interaction with Civil Proceedings

When an immigrant is placed in removal proceedings under Immigration and Nationality Act Section 240, a Notice to Appear (NTA) is filed with an immigration court, formally initiating the case.[31][33] Once removal proceedings commence, the immigrant is subject to jurisdiction of the immigration judge, and certain civil proceedings may interact with the removal case.[31][33]

For an injured worker in removal proceedings who is also pursuing a workers' compensation claim, the key consideration is whether participation in workers' compensation proceedings—including medical examinations, supplemental report submissions, and discovery responses—could create problems in the immigration case. The answer depends on specific circumstances:

First, workers' compensation proceedings are civil proceedings administered by the California Division of Workers' Compensation (DWC) and are wholly separate from immigration court proceedings. Immigration judges have no jurisdiction over workers' compensation claims, and workers' compensation judges have no authority over immigration matters.[31][33] Filing a supplemental report in workers' compensation does not create an immigration consequence directly.

Second, however, discovery in the workers' compensation case could potentially create problems if the injured worker provides responses to interrogatories or depositions that are inconsistent with positions taken in the immigration case, or that could be used by the government in the immigration proceeding. This risk is particularly acute in matters involving employment history, dates of entry, method of entry, and other factual matters relevant to both workers' compensation (which may care about immigration status for benefit calculation purposes in limited circumstances) and immigration law (which cares about these facts for deportability and grounds of relief eligibility).[17]

### Recent BIA and Appellate Guidance on Appeal Procedures and Motions to Reopen

The Board of Immigration Appeals (BIA) and federal circuit courts have issued significant precedent in 2025-2026 affecting the appellate landscape for immigrants in removal proceedings.[21][24][64][67][70] An interim final rule effective March 9, 2026, dramatically changes BIA appellate procedures by shortening appeal deadlines from 30 days to 10 days for most cases, implementing summary dismissal procedures, and narrowing opportunities for appellate briefing.[21] For an injured worker in removal proceedings, these procedural changes mean that if an immigration judge makes an adverse decision, the appeal process is significantly compressed, and practitioners must be extremely diligent about appeal deadlines.

Additionally, the BIA has clarified that motions to reopen removal proceedings-which might be relevant if a workers' compensation settlement or judgment affects the immigration case strategy-remain subject to strict requirements regarding timing, grounds, and supporting evidence.[21][24][42][56] A motion to reopen based on new evidence (such as a workers' compensation judgment) must generally be filed within 90 days of the final order of removal, must demonstrate that the evidence is material and was not previously available, and must show prima facie eligibility for relief if the case is reopened.[24][42][56]

### Intersection of California Criminal Law and Immigration Consequences

An important ancillary consideration for injured workers involves criminal consequences of workplace injuries or disputes. California Penal Code Section 1203.43 and 1473.7 provide mechanisms for vacating criminal convictions on the basis that the conviction has immigration consequences.[17] If an injured worker has a prior criminal conviction-even one that appears unrelated to the work injury-the existence of that conviction may affect both workers' compensation case strategy (if the conviction could be challenged as having resulted from ineffective assistance of counsel or procedural defects) and immigration case strategy (if vacatur might improve immigration relief eligibility).

The intersection is important: an injured worker's attorney must understand both the workers' compensation claim and any criminal history to provide fully informed advice. California law permits post-conviction relief specifically when a conviction has consequences in the immigration realm, but the procedural pathways and timing considerations differ from workers' compensation procedures.[17]

### San Francisco-Specific Context and Procedural Considerations

#### Northern California Workers' Compensation Administration

Northern California workers' compensation claims are administered through the California Division of Workers' Compensation (DWC), which has offices throughout the San Francisco Bay Area. The DWC maintains records of claims, hearing schedules, and all documents filed in cases. For injured workers in the San Francisco area, claims may be heard at various locations depending on where the employee works and where the employer is located.[4]

The procedural rules for submitting supplemental reports in Northern California follow the statewide regulations under California Code of Regulations Title 8, Section 36.5. Service of supplemental reports must be completed according to specified procedures, including service on the injured worker (or the worker's representative), the employer (or the employer's representative or insurance carrier), and any other parties to the case. Electronic service has become increasingly common in recent years, but practitioners must comply with specific requirements regarding electronic filing systems approved by the DWC.

#### San Francisco Asylum Office and Immigration Enforcement Context

For injured workers who are also asylum seekers, the San Francisco Asylum Office handles affirmative asylum applications for Northern California.[72] If an injured worker has filed or is considering filing for asylum, the timing of the asylum interview relative to the workers' compensation case proceedings matters strategically. An asylum applicant in the San Francisco area can expect current wait times for asylum interviews of several months to years depending on the application backlog at that office.

Additionally, ICE Enforcement and Removal Operations (ERO) Field Office 1 covers Northern California and has specific detention facilities and enforcement patterns relevant to the Bay Area. If an injured undocumented worker is in active immigration enforcement exposure, that risk remains present regardless of workers' compensation claim filing.

#### San Francisco Immigration Court Procedures

The San Francisco Immigration Court, located at multiple venues including 100 Montgomery Street, Suite 800, San Francisco, and other locations, has specific procedures for individual calendar (merits) hearings, master calendar hearings, and motion practice.[33][49][50] If an injured worker is in removal proceedings before the San Francisco Immigration Court, the judge's individual procedures regarding evidence submission, witness testimony, and documentary exhibits will apply. Some San Francisco immigration judges are more receptive to continuances for evidence gathering than others, and practitioners familiar with particular judges' practices can use that knowledge to structure timing of workers' compensation proceedings to align with immigration court scheduling.

#### Strategic Analysis: Risks and Protections for Immigrant Workers Filing Supplemental Reports

##### Arguments Protecting Immigrant Workers' Rights to Pursue Workers' Compensation Claims

The strongest legal arguments protecting immigrant workers' rights to file and pursue workers' compensation claims, including submission of supplemental reports, rest on several pillars:

California Labor Code Section 3351 and Section 1171.5 create an absolute, nondiscriminatory right to workers' compensation coverage regardless of immigration status. This is binding state law, and no federal immigration statute preempts it. An undocumented worker has a statutory right to file a workers' compensation claim, to participate fully in the claims process, to submit all required documents (including supplemental medical-legal reports), and to pursue all available benefits. This right is not contingent on immigration status and cannot be conditioned on providing immigration documentation or disclosing immigration status to the DWC.[7][14]

Workers' compensation benefits are explicitly excluded from "public benefits" under federal immigration law. Receipt of workers' compensation does not trigger public charge determinations, does not create grounds for removal, does not affect eligibility for adjustment of status or family-based relief, and does not impact pending asylum or other immigration applications.[14][18] An undocumented worker cannot be rendered deportable by claiming workers' compensation benefits, and USCIS cannot consider workers' compensation receipt as a negative factor in any immigration benefit application.

California law explicitly prohibits employer retaliation based on immigration status in connection with workers' compensation claims. An employer that retaliates against an employee for filing a workers' compensation claim-or for participating in workers' compensation proceedings including medical evaluations and supplemental report processes-violates California law.[7] This protection is not dependent on the worker's immigration status and applies equally to undocumented workers. The potential penalties for employer retaliation (civil fines, business license loss, etc.) provide a deterrent against retaliatory conduct.

The workers' compensation system operates independently of immigration enforcement. The DWC has no authority or obligation to report immigration status to immigration authorities. The supplemental report process is a standard, routine medical-legal procedure that does not inherently expose immigration status. Medical providers and QMEs have no authority or obligation to inquire into immigration status (except where relevant to specific medical history), and supplemental reports need not include any immigration-related information.

Due process protections apply to all workers in California workers' compensation proceedings. An injured worker-whether documented or undocumented-is entitled to participate in their workers' compensation case, to be represented by counsel, to challenge medical-legal opinions, to present evidence, and to appeal unfavorable decisions. These procedural protections ensure fairness and accuracy in benefits determination.

##### Arguments and Risks from Government Perspective: Discovery Vulnerabilities

While workers' compensation claim filing itself presents minimal immigration risk, the discovery process in workers' compensation litigation can create vulnerabilities if an injured worker is undocumented or has immigration enforcement exposure.

Employment history interrogatories and depositions may require disclosure of sensitive immigration-related facts. In workers' compensation proceedings, the defense often pursues discovery regarding the worker's employment history, wages, dates of employment, and similar matters. If the worker is undocumented, truthful responses to these interrogatories could require disclosing dates and manner of entry, prior

immigration violations, use of fraudulent documents, or other facts that could be relevant to immigration proceedings.[17]

Inconsistencies between workers' compensation testimony and immigration case positions can be used against the worker. If an injured worker is simultaneously in a workers' compensation case and a removal proceeding (or pending asylum application), the government may attempt to use any inconsistencies between positions or testimony in the two proceedings. For example, if the worker testifies to a particular employment date in workers' compensation but presents different facts in an asylum interview, that inconsistency could affect asylum credibility determinations.

Supplemental report requests may seek medical information that touches on immigration-related trauma or persecution. Some supplemental report requests may ask the QME to address mental health issues, emotional distress, or other health impacts that, in an immigrant worker's case, could be related to persecution, trafficking, or immigration-related trauma. If the worker discusses persecution-related mental health impacts in a workers' compensation case, that information could potentially be relevant to asylum or other immigration claims, and practitioners must consider whether to address these issues in the workers' compensation case or to defer them to immigration proceedings.

Fifth Amendment privilege and immigration consequences. As discussed below, undocumented injured workers have a Fifth Amendment privilege against self-incrimination that may apply to discovery questions regarding entry into the country, use of false documents, or other immigration violations.[17] However, asserting this privilege must be done carefully and in consultation with immigration counsel, as it could affect workers' compensation case outcomes.

#### Balanced Risk Assessment

For an undocumented worker filing a supplemental report or participating in workers' compensation proceedings:

The quantitative likelihood of immigration consequences directly arising from workers' compensation claim filing is low. There is no statutory mechanism by which workers' compensation benefit receipt triggers removal, and no federal immigration law creation a nexus between workers' compensation and deportability. Federal immigration consequences are not automatic or inevitable.

However, the risk level rises significantly if the injured worker is already in immigration enforcement exposure (prior criminal history, prior immigration violations, prior contact with authorities) or is in active removal proceedings. In those circumstances, visible participation in civil proceedings creates a non-zero risk that the presence and activities become known to immigration authorities through means unrelated to the workers' compensation claim itself.

For an injured worker navigating supplemental report procedures:

The risk associated with supplemental report procedures specifically is relatively low if the worker and their attorneys (both workers' compensation counsel and immigration counsel, if applicable) coordinate carefully regarding what medical information will be included, what discovery responses will be provided, and what statements the worker will make during medical evaluations. The supplemental report process itself-submission of a medical-legal document to a QME-does not inherently create immigration exposure.

The risk rises during discovery, depositions, and examination regarding employment history, manner of employment, and factual matters related to entry and authorization to work.

#### Practical Implementation: Protecting Immigrant Workers in Workers' Compensation and Immigration Proceedings

##### Coordination Between Workers' Compensation Counsel and Immigration Counsel

The highest-value protective measure for an undocumented injured worker is coordination between the workers' compensation attorney and immigration counsel (if an immigration case exists or is contemplated).[17] This coordination should address:

Timing and sequencing of claim filing and immigration proceedings. If an injured worker has discretion regarding when to file a workers' compensation claim and when to file or pursue an immigration application,

strategic timing can sometimes reduce the intersection between proceedings. For example, if an asylum interview is imminent, filing a workers' compensation claim immediately before the interview could potentially create inconsistencies in employment history narratives. Conversely, delaying a workers' compensation claim indefinitely is generally not advisable, as the statute of limitations for filing varies by circumstance, and delay may extinguish the right to recovery.

Discovery protocols and response strategies. Before responding to interrogatories, depositions, or supplemental report requests in a workers' compensation case, the injured worker should review those requests with both their workers' compensation counsel and immigration counsel. Where responses could create immigration-related vulnerabilities, the attorneys should jointly determine: (1) whether a Fifth Amendment privilege applies; (2) whether an objection to the discovery request is available; (3) whether the response can be framed in language that is truthful but does not provide unnecessary detail regarding immigration status or manner of entry; and (4) what, if any, advance notice to immigration counsel is needed.

Medical evaluation scope and statements. The injured worker should review with both counsel what they will disclose during QME evaluations and supplemental report processes. Medical evaluations typically require discussion of medical history, medications, symptoms, and functional limitations. To the extent that medical-related issues are connected to immigration-related trauma or health impacts of persecution, the injured worker and their attorneys should decide in advance whether to address these issues in the workers' compensation case (where they might support damages but also might be discoverable in immigration proceedings) or to reserve such information for immigration proceedings.

Consistency of factual narratives. Both the workers' compensation attorney and immigration attorney should ensure that factual narratives regarding employment, dates, locations, and other background are consistent between the two proceedings. Where inconsistencies are unavoidable due to legitimate reasons (e.g., the worker's understanding of certain facts evolved, or different legal standards require different framings), the attorneys should be prepared to explain those inconsistencies in both proceedings.

#### Specific Recommendations for Undocumented Injured Workers Filing Supplemental Reports

First, consult with both a workers' compensation attorney and an immigration attorney before filing a workers' compensation claim if any immigration enforcement exposure exists. If the worker has a prior removal order, criminal history, or recent immigration enforcement contact, immigration counsel should evaluate the risks and benefits of proceeding with the workers' compensation claim.

Second, carefully review any interrogatories, supplemental report requests, and discovery requests before responding. Do not provide information beyond what is specifically requested. If a discovery request asks for "dates of employment," provide dates without explanation of how the worker was authorized to work. If a request asks "were you authorized to work," do not volunteer information about how authorization status was obtained. Coordinate with counsel regarding Fifth Amendment privileges and objection strategies.

Third, at medical evaluations and supplemental report processes, disclose what is medically relevant without volunteering immigration status or manner of entry. A QME needs to know about relevant medical history, prior injuries, current symptoms, and functional limitations. A QME does not need to know the worker's immigration status, manner of entry, or how the worker came to be employed. If a question is asked about authorization to work or immigration status, the worker (with counsel advice) may assert Fifth Amendment privilege or decline to answer based on privileged communications with counsel.

Fourth, do not voluntarily disclose immigration status to the workers' compensation claims administrator, employer, or insurance carrier unless legally required to do so. California law does not require disclosure of immigration status for workers' compensation purposes. While the worker must provide a Social Security number or Individual Tax Identification Number (ITIN) for wage calculation purposes, provision of these documents is not an admission of authorization to work and does not waive Fifth Amendment privileges regarding manner of entry or use of fraudulent documents.

Fifth, preserve all communications between the worker and their attorneys (both workers' compensation and immigration counsel) as privileged and confidential. Do not provide these communications to the workers' compensation claims administrator, insurance carrier, or employer without explicit legal guidance. Attorney-client communications are privileged and need not be produced in workers' compensation discovery.

Sixth, maintain consistency with any pending immigration case. If the worker is in removal proceedings or has filed an asylum application, the workers' compensation case strategy should be designed to avoid creating factual inconsistencies that could damage the immigration case.

#### Handling Fifth Amendment Privileges in Workers' Compensation Discovery

An undocumented worker may have a Fifth Amendment privilege against self-incrimination regarding certain discovery questions in a workers' compensation case.[17][66] Specifically:

An undocumented worker is not required to admit to illegal entry or use of fraudulent documents in response to discovery requests, interrogatories, or depositions in a civil workers' compensation case, as such admissions could form the basis for criminal prosecution under 8 U.S.C. Section 1325 (illegal entry) or 18 U.S.C. Section 1028 (fraud/identity theft related to document use).

However, asserting a Fifth Amendment privilege in a civil workers' compensation case can have adverse consequences. California law permits adverse inferences from a party's invocation of Fifth Amendment privileges in civil cases. This means that if the worker asserts the privilege in response to a question about authorization to work, the workers' compensation judge could draw an adverse inference that the worker was not authorized to work, which could potentially affect the case outcome.

The decision to assert Fifth Amendment privileges requires careful joint analysis by workers' compensation counsel and immigration counsel, weighing:

The severity of the criminal exposure (is illegal entry prosecution realistically likely, or is the privilege merely precautionary?);

The effect on the workers' compensation case (will the adverse inference significantly damage the claim?);

The importance of the answer to the immigration case (does the Fifth Amendment assertion preserve valuable flexibility in the immigration proceeding?);

Whether alternative discovery responses are available that do not require self-incrimination.

In many cases, carefully worded objections to discovery requests (asserting that the information is irrelevant, that it is attorney-client privileged, or that it seeks information not within the worker's knowledge) may accomplish the goal of avoiding harmful admissions without invoking Fifth Amendment privileges.

#### Medical Records and Supplemental Report Confidentiality

Supplemental reports generated by QMEs in workers' compensation cases are part of the official record and may be discoverable by opposing parties in the workers' compensation case.[4][50] However, medical information contained in supplemental reports is generally confidential and subject to California medical privacy laws.

For undocumented workers, this means:

Supplemental reports should not contain immigration-related information unless medically necessary. If a QME's supplemental report discusses the worker's immigration status, manner of entry, or immigration-related trauma, that information becomes part of the workers' compensation record and could potentially be accessible to the employer, insurance carrier, or opposing counsel. Workers and their counsel should ensure that QMEs understand not to include unnecessary immigration-related information in supplemental reports.

Medical privacy protections prevent disclosure of supplemental reports to immigration authorities absent legal process. The QME and workers' compensation judge have no obligation to report immigration status to immigration authorities. Medical professionals are not mandated reporters of immigration status (except in very limited human trafficking contexts). The supplemental report remains confidential medical information subject to California medical privacy law.

However, supplemental reports could be subpoenaed in immigration proceedings. If the injured worker's case proceeds to immigration court or if the government obtains a subpoena for the workers' compensation case records, the supplemental reports could be compelled as evidence. This is another reason why ensuring that supplemental reports do not contain unnecessary immigration information is important.

## Comprehensive Legal Authority and Statutory Framework

### California Labor Code Provisions Governing Workers' Compensation Eligibility

California Labor Code Section 3351(a) defines an "employee" for workers' compensation purposes as "every person engaged to perform labor for another under any appointment, contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed." [7] The statute's use of "whether lawfully or unlawfully employed" directly contemplates the inclusion of undocumented workers. This statutory language is unambiguous and cannot be narrowly construed to exclude workers based on immigration status.

California Labor Code Section 1171.5 states explicitly that "an individual's immigration status shall not be considered when determining an individual's entitlement to workers' compensation benefits." [7] This provision was added to eliminate any potential for discrimination based on immigration status and ensures that claims administrators and workers' compensation judges do not inquire into immigration status when making eligibility determinations.

### California Protections Against Discrimination and Retaliation

California Labor Code Section 132(a) prohibits an employer from discharging, threatening, or otherwise discriminating or retaliating against an employee based on the employee's filing of a workers' compensation claim or participation in workers' compensation proceedings. [7] While this section does not explicitly reference immigration status, it applies to all employees regardless of immigration status. An undocumented worker who is retaliated against for filing a workers' compensation claim has the same statutory protections as a documented worker.

### Federal Public Benefits Law and Workers' Compensation Exclusion

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), 8 U.S.C. Section 1611, defines "federal public benefit" to include specific enumerated federal programs. Workers' compensation is explicitly excluded from this definition. [18] This exclusion is critical because it means that receipt of workers' compensation does not:

Trigger a public charge determination under immigration law;

Render a worker deportable or inadmissible;

Affect adjustment of status eligibility;

Disqualify a worker from family-based visa sponsorship;

Impact asylum or withholding of removal applications;

Create grounds for removal under any provision of the Immigration and Nationality Act.

This federal law provision operates independently of California state law and creates a floor of protection that cannot be undermined by state or local action.

### Rules of Evidence in Workers' Compensation Proceedings

California Code of Regulations Title 8, Section 36.5 governs service of comprehensive and supplemental medical-legal reports in workers' compensation cases involving QME evaluations. [4] The regulation specifies:

Who the report must be served upon (injured worker or counsel, employer or counsel, and other parties);

Timeframes for service (simultaneously to all parties);

Form requirements (reports must identify all parties to whom service was made);

Special procedures for injured workers without designated physicians.

Additionally, California Evidence Code provisions govern the admissibility of medical reports in workers' compensation proceedings. Medical-legal reports, including supplemental reports, are admissible if they are:

Prepared by someone with relevant expertise (the QME);

Based on facts within the QME's knowledge or presented in the report;

Probative of material facts in dispute;

Fundamentally fair to all parties.

The admissibility standard favors admissibility of medical evidence in workers' compensation cases, on the theory that the system should receive the fullest possible medical evidence to make accurate determinations.[50][53]

Benefits and Relief Options for Injured Immigrant Workers: Supplemental Considerations

Workers' Compensation Benefits Available Regardless of Immigration Status

An injured worker in California who is undocumented is entitled to receive the following benefits if the injury is work-related and other statutory requirements are met:[7][14]

Medical benefits: Coverage of all necessary and reasonable medical treatment related to the work injury, including:

Emergency care and hospitalization;

Physician and specialist services;

Surgery and surgical procedures;

Medications and injections;

Physical therapy and rehabilitation;

Durable medical equipment;

Psychiatric and psychological treatment (if related to the work injury);

Vocational rehabilitation services.

Medical benefits are not subject to any immigration-based limitations and continue for the entire period of medical necessity related to the work injury.

Temporary disability benefits (wage replacement during healing period): If the injured worker is temporarily unable to work due to the work injury, the worker is entitled to temporary disability benefits equal to two-thirds of the average weekly wage (subject to statutory minimum and maximum amounts), commencing after a three-day waiting period.[9][14]

Permanent disability benefits: If the worker suffers permanent injury or disability that reduces earning capacity, the worker is entitled to permanent disability benefits based on the nature and degree of the disability.[9][14] These benefits are calculated using standardized rating schedules and do not depend on the worker's immigration status or ability to work.

Supplemental job displacement vouchers: If the worker cannot return to the same position due to the work injury, the worker is entitled to a supplemental job displacement voucher to pay for retraining or skill development.[7]

Death benefits: If the work injury results in death, the worker's dependents (regardless of their immigration status) are entitled to death benefits and burial expenses.[7]

Critically, none of these benefits are conditioned on immigration status, and eligibility is not determined based on the worker's documentation status or authorization to work.

Strategic Considerations for Undocumented Workers Receiving Workers' Compensation Benefits

An undocumented worker receiving workers' compensation benefits should:

Use only legitimate documentation to identify themselves in the workers' compensation case. The worker should provide their true legal name (as it appears on any official documents they possess) and should obtain

an Individual Tax Identification Number (ITIN) from the Internal Revenue Service if needed for payment of benefits. The worker should not create false documents or use false identities in the workers' compensation case, as doing so could create fraud exposure and could be discovered and used in any immigration proceeding.

Maintain confidentiality of workers' compensation benefits receipt if possible. While the worker has a right to receive workers' compensation benefits, and their receipt of such benefits should not affect immigration status, it is prudent to avoid voluntary disclosure of benefits receipt to immigration authorities or others who could share information with immigration agencies. However, if the worker is questioned in an immigration proceeding about their income or employment, truthful disclosure of workers' compensation receipt is appropriate and should not create adverse immigration consequences.

Coordinate with immigration counsel on any intersecting immigration issues. If the worker has any immigration enforcement exposure, a pending immigration case, or circumstances that could make them removable, coordination with immigration counsel is essential to ensure that workers' compensation proceedings do not complicate immigration case strategy.

### Recent Developments in Immigration Law Affecting Injured Worker Strategic Planning

#### BIA Appellate Procedure Changes Effective March 9, 2026

The Board of Immigration Appeals has implemented interim final rules effective March 9, 2026, significantly modifying appellate procedures in immigration cases.[21] These changes affect the landscape for any injured worker who is simultaneously in a removal proceeding, because they compress appellate timelines and create new barriers to meaningful appellate review.

Key changes include:

Appeal deadline shortened from 30 days to 10 days for most cases (with a limited 30-day exception for certain asylum appeals).[21]

Summary dismissal: The BIA will summarily dismiss appeals by default unless a majority of BIA members vote to consider the appeal within 10 days of the notice of appeal filing.[21]

Briefing compressed: All parties must submit simultaneous briefs within 20 days of the briefing schedule being set, and reply briefs are not permitted unless requested by the BIA.[21]

Record on appeal: The BIA will not request the record from immigration court unless the BIA votes en banc to consider the appeal, and the BIA will no longer wait for immigration judges to review and approve transcripts.[21]

For an injured worker in removal proceedings, these changes mean that if an immigration judge makes an adverse decision, the window for appeal is extremely compressed, and the injured worker must have competent representation prepared to meet the tight deadlines. Any supplemental injury awards or workers' compensation judgments that might be relevant to the immigration case must be incorporated into the appellate record very quickly.

#### Prosecutorial Discretion Landscape and Removal Proceeding Risk Assessment

As of March 2026, there is no operative general prosecutorial discretion guidance at the ICE Office of the Principal Legal Advisor level.[21] This means that undocumented workers cannot reliably depend on prosecutorial discretion as a protection against removal if they come to the attention of immigration authorities. The Doyle Memo previously provided some guidance on circumstances in which ICE might decline to pursue removal, but that memo is not currently being implemented or enforced as written.

This reality affects injured workers in the following ways:

An undocumented worker who is injured on the job should not assume that being a "sympathetic" person with a valid workers' compensation claim will provide protection against removal if they are encountered by immigration authorities. Prosecution discretion might be exercised in particular circumstances, but it is not reliable as a protection.

Conversely, the mere act of filing a workers' compensation claim does not itself trigger immigration enforcement attention. There is no mechanism by which workers' compensation claim filing results in automatic referral to immigration authorities. The risk of enforcement arises only if the worker becomes known to immigration authorities through other means.

### Circuit Split on Key Immigration Issues Relevant to Injured Workers

Several circuit splits exist regarding issues that could affect injured workers in immigration proceedings:

**One-year filing deadline for asylum and changed circumstances exception:**[51][54] Circuits differ regarding whether "changed circumstances" that materially affect asylum eligibility must relate to the delay in filing, or whether any changed circumstances arising at any point during proceedings can justify an otherwise untimely asylum application. The Ninth Circuit, which controls in Northern California, has held that changed circumstances arising after asylum application is filed can support a timely asylum claim, even if the changed circumstances do not relate to the reason for the delay.[54] This favorable precedent means that an injured worker who files for asylum late but subsequently experiences changed circumstances (such as a new persecution threat or changed country conditions) may still have an opportunity to amend the asylum application based on those changed circumstances.

**Hardship standards for extreme hardship waivers:**[43][46] Circuits differ regarding whether an applicant for extreme hardship waiver must demonstrate hardship in both the separation and relocation scenarios, or whether hardship in one scenario is sufficient. The Ninth Circuit has adopted a more applicant-favorable approach allowing the applicant to choose the most sympathetic scenario (usually relocation, on the theory that families will try to stay together).[43][46] For an injured worker seeking an extreme hardship waiver-such as for cancellation of removal-the Ninth Circuit's approach is more favorable than some other circuits.

**Ineffective assistance of counsel standards:**[56][58] The Ninth Circuit recognizes ineffective assistance of counsel claims in immigration proceedings more readily than some other circuits. The standard requires showing that counsel's performance was deficient and that the deficiency prejudiced the case. For an injured worker who received inadequate legal representation in either a workers' compensation case or immigration case, this precedent provides a potential avenue for relief if the deficiency materially affected outcomes.

### Recommendations and Decision-Making Framework for Immigrant Clients

#### Initial Risk Assessment: Should an Undocumented Injured Worker File a Workers' Compensation Claim?

An undocumented injured worker contemplating filing a workers' compensation claim should work with both a workers' compensation attorney and immigration counsel to assess:

Immigration enforcement risk level:

Does the worker have a prior criminal conviction, removal order, or prior immigration enforcement contact? (High risk)

Has the worker applied for or is the worker eligible to apply for any immigration relief? (Medium to high risk if relief is pending, since the worker is more visible to immigration authorities)

Is the worker currently in removal proceedings? (High risk requiring careful coordination)

Has the worker been in the United States for an extended period (10+ years) without immigration enforcement issues? (Lower risk, though not zero)

Work injury severity and damages magnitude:

How severe is the work injury, and how likely is recovery to be substantial? (More severe injuries warrant accepting some immigration risk to obtain needed benefits)

Are other insurance or compensation mechanisms available? (If the worker can obtain needed medical care through other means, workers' compensation claim filing might be deferred)

How much wage replacement would the worker receive, and how critical is that income to the worker's family? (Greater financial need increases the benefit-to-risk ratio)

Immigration case status and timeline:

Is the worker in active removal proceedings? (If so, workers' compensation claim filing should be coordinated carefully with immigration litigation strategy)

Has the worker filed for asylum or other relief? (If so, the workers' compensation case should be coordinated to avoid creating factual inconsistencies)

Are there immediate deadlines for immigration applications or interviews? (If so, workers' compensation claim filing might be timed to avoid overlap with critical immigration proceedings)

Severity of injury and medical need:

Can the worker access necessary medical treatment without filing a workers' compensation claim? (Undocumented workers may have limited access to affordable medical care outside the workers' compensation system)

Is the injury so severe that lack of proper medical treatment could result in permanent disability? (Greater severity increases the argument in favor of filing despite immigration risk)

Based on this assessment, the decision framework is:

File the workers' compensation claim if: (1) The injury is moderately to seriously severe; (2) The worker has no high-priority pending immigration case with an imminent deadline; (3) The worker has low to moderate immigration enforcement risk; (4) The worker can identify and coordinate with immigration counsel to manage the interaction between the two cases.

Defer or carefully reconsider the workers' compensation claim if: (1) The injury is relatively minor and the worker can access medical care through other means; (2) The worker is currently in active removal proceedings or has an imminent asylum interview; (3) The worker has high immigration enforcement risk (prior convictions, prior removal order, recent immigration enforcement contact); (4) The worker cannot identify immigration counsel to coordinate the claim strategy.

Documentation and Evidence-Gathering Strategy

Once the decision to file a workers' compensation claim is made, the injured worker and counsel should:

Gather and preserve all medical evidence of the work injury:

Emergency room records from the date of injury

Physician notes from treatment immediately following the injury

Diagnostic imaging (X-rays, MRIs, CT scans)

Specialist consultation reports

Treatment records from all treating physicians

Medications prescribed and pharmaceutical records

Physical therapy or rehabilitation records

All of this documentation will be necessary for the workers' compensation claim and will form the basis for supplemental report requests by the QME.

Document employment information carefully and consistently:

Dates of employment (start date, end date)

Job title and job duties

Employer name and contact information

Wage information (hourly rate, salary, pay stubs if available)

Coworker information and contact details

This information must be consistent across both the workers' compensation case and any immigration proceedings.

Preserve evidence of the specific work-related event causing the injury:

Photographs of the location where the injury occurred

Statements from witnesses to the injury event

Employer incident reports or safety records

Communications with the employer regarding the injury

Medical records documenting the injury occurred on a specific date

This evidence establishes the workers' compensation claim foundation and is independent of any immigration-related issues.

Maintain attorney-client privileged communications:

All communications with workers' compensation counsel and immigration counsel should be clearly marked as privileged and confidential

Do not disclose these communications to the employer, insurance carrier, or workers' compensation judge without explicit legal instruction

Keep attorney letters, emails, and work product separate and secured

Supplemental Report Submission: Best Practices for Immigrant Workers

When a supplemental report is requested in a workers' compensation case involving an undocumented worker:

First, confirm the scope of the QME's authority and obligation. The supplemental report request should specify what information the QME is being asked to address. Counsel for the injured worker should review the request to ensure that it does not request information that is irrelevant, overly invasive regarding immigration status, or designed to elicit information that could be used against the worker.

Second, provide the QME with clear guidance regarding what information should and should not be included in the report. If immigration-related information is medically relevant (e.g., immigration-related trauma that affected the worker's mental health), the worker and counsel should decide whether to disclose this information in the workers' compensation context or to reserve it for immigration proceedings. If the decision is to disclose in workers' compensation, the worker should understand that this information will become part of the discoverable record and could potentially be accessed by the employer or insurance carrier.

Third, review the QME's supplemental report with counsel before it is served on the other parties. If the report contains information that could create immigration-related vulnerabilities, counsel may file objections to the report or seek to supplement the record with additional explanation.

Fourth, respond to any discovery regarding the supplemental report with care and precision. Do not volunteer information beyond what is specifically requested. If questioned about the basis for statements in the supplemental report, provide truthful responses but avoid unnecessary elaboration regarding immigration status or manner of entry.

Conclusion: Integration of Workers' Compensation Rights with Immigration Law Protection

Undocumented workers in California have absolute, nondiscriminatory rights to file workers' compensation claims and to pursue all available benefits including medical care, wage replacement, and disability compensation.[7][14] These rights are grounded in California state law and are not preempted by federal immigration law. Receipt of workers' compensation benefits does not constitute receipt of "public benefits" under federal immigration law and therefore does not create grounds for removal, affect adjustment of status eligibility, or impact pending asylum applications.[14][18]

The supplemental report process in workers' compensation litigation is a standard, routine medical-legal procedure that does not inherently create immigration consequences. However, like all aspects of workers' compensation litigation, supplemental reports are discoverable and may contain information that, if combined with other facts, could be relevant to an immigration case. For undocumented workers who are simultaneously in immigration proceedings or who have immigration enforcement exposure, careful coordination between workers' compensation counsel and immigration counsel is essential to ensure that the two cases do not create inconsistencies or vulnerabilities.

The strategic framework for an undocumented injured worker should prioritize: (1) obtaining necessary medical treatment and income replacement through the workers' compensation system; (2) maintaining consistency in factual narratives across both workers' compensation and immigration cases; (3) protecting privileged communications with counsel; (4) carefully managing discovery responses to avoid unnecessary disclosure of immigration-related information; and (5) obtaining competent legal representation in both areas.

The current immigration law landscape, characterized by compressed appellate timelines, limited prosecutorial discretion, and heightened immigration enforcement, requires that injured immigrant workers understand the risks and benefits of pursuing workers' compensation claims and that they receive informed legal advice before taking action. However, the fundamental right to workers' compensation benefits should not be sacrificed out of unfounded fear of immigration consequences, as those consequences are not legally automatic or inevitable.

#### References

- [1] The Role of Supplemental Reports in QME Evaluations - OrthoLegal Group (<https://ortholegalgroup.com/supplemental-reports-in-qme-evaluations/>)
- [2] National Immigration Project: Protecting Noncitizens from Expedited Removal and Immigration Court (<https://nipnl.org/sites/default/files/2025-05/alert-protecting-noncitizens-er.pdf>)
- [3] EOIR-42B: Application for Cancellation of Removal and Adjustment - Justice.gov (<https://www.justice.gov/eoir/page/file/904291/dl?inline=>)
- [4] California Code of Regulations Title 8, Section 36.5 - Service of Medical-Legal Reports ([https://www.dir.ca.gov/t8/36\\_5.html](https://www.dir.ca.gov/t8/36_5.html))
- [5] ILRC: Eligibility for Relief - Cancellation of Removal for LPRs ([https://www.ilrc.org/sites/default/files/resources/relief\\_cancellation\\_removal\\_lpr\\_11.2020.pdf](https://www.ilrc.org/sites/default/files/resources/relief_cancellation_removal_lpr_11.2020.pdf))
- [6] EOIR Flyer: Cancellation of Removal - Justice.gov (<https://www.justice.gov/eoir/page/file/1596141/dl?inline=>)
- [7] Fontes Law Group: Navigating Undocumented Workers Compensation in California (<https://fonteslawgroup.com/navigating-undocumented-workers-compensation-in-california/>)
- [8] Cramer & Anderson: Immigration Status Does Not Affect Legal Claims (<https://www.crameranderson.com/immigration-status-does-not-affect-a-persons-ability-to-file-personal-injury-workers-comp-and-other-legal-claims/>)
- [9] Texas Department of Insurance: Workers' Compensation Benefits (<https://www.tdi.texas.gov/wc/employee/benefits.html>)
- [10] California EDD: Benefits and Resources for Undocumented Workers ([https://edd.ca.gov/en/disability/undocumented\\_workers/](https://edd.ca.gov/en/disability/undocumented_workers/))
- [11] Shulman & Hill: Citizenship Status and Workers' Compensation (<https://shulman-hill.com/blog/citizenship-status-workers-compensation/>)
- [12] WILG: Returning to Work and the WC-240 Process During COVID-19 (<https://www.wilg.org/?pg=WILGBlog&blAction=showEntry&blogEntry=54466>)
- [13] DefLaw: WC-240 Overview - Light Duty Job Process (<https://www.deflaw.com/insights/wc-240-overview-a-step-by-step-guide-to-the-light-duty-job-process/>)

- [14] Mehta & McConnell: Can Filing Workers' Comp Affect Immigration Status (<https://mehtamcconnell.com/blog/can-filing-workers-comp-claim-affect-immigration-status/>)
- [15] Asylumist: Cancellation of Removal - Alternative for Some Asylum Seekers (<https://asylumist.com/2025/06/25/cancellation-of-removal-an-alternative-for-some-asylum-seekers/>)
- [16] CSS Law: WC-240 Process 2026 (<https://www.cewsslaw.com/wp-content/uploads/2025/09/The-WC-240-2026.pdf>)
- [17] Espinoza Law Group: Undocumented Injured Workers and Immigration Consequences (<https://www.espinozalawgroup.com/blog/undocumented-injured-workers-need-extra-vigilance-from-their-attorneys/>)
- [18] California Department of Industrial Relations: Limitations on Uninsured Employers Fund (<https://www.dir.ca.gov/t8/15740.html>)
- [19] MyAttorneyUSA: Withholding of Removal in Section 240 Proceedings (<https://myattorneyusa.com/immigration-blog/deportation-and-removal/removal-deportation-defense/applying-for-withholding-of-removal-in-section-240-removal-proceedings/>)
- [20] MyAttorneyUSA: Cancellation of Removal for Non-LPRs under INA Section 240A(b)(1) (<https://myattorneyusa.com/immigration-blog/deportation-and-removal/cancellation-of-removal-for-non-lawful-permanent-residents-under-ina-ss-240ab1/>)
- [21] National Immigration Project: BIA Rule Updates - February 2026 ([https://immigrantjustice.org/wp-content/uploads/2026/02/Practice-Advisory\\_BIA-Rule-Updates\\_Feb-2026.pdf](https://immigrantjustice.org/wp-content/uploads/2026/02/Practice-Advisory_BIA-Rule-Updates_Feb-2026.pdf))
- [22] eCFR: 8 CFR Part 208 - Procedures for Asylum and Withholding of Removal (<https://www.ecfr.gov/current/title-8/chapter-I/subchapter-B/part-208>)
- [23] ILRC: Non-LPR Cancellation of Removal Overview ([https://www.ilrc.org/sites/default/files/resources/non\\_lpr\\_cancel\\_remov-20180606.pdf](https://www.ilrc.org/sites/default/files/resources/non_lpr_cancel_remov-20180606.pdf))
- [24] EOIR Policy Manual: 3.7 - Briefing Deadlines (<https://www.justice.gov/eoir/policy-manual-eoir/part-III/bia/chapter-3-7>)
- [25] Adan Vega: Employment-Based Green Card Categories EB-1 through EB-5 in 2026 (<https://www.adanvega.com/understanding-employment-based-green-cards-eb-1-eb-2-eb-3-eb-5-in-2026/>)
- [26] ILRC: Who Is Eligible for VAWA (<https://www.ilrc.org/sites/default/files/2023-02/Who%20is%20Eligible%20for%20VAWA%3F.pdf>)
- [27] NWIRP/Acacia Center: Information on T Visa for Trafficking Survivors ([https://acaciajustice.org/wp-content/uploads/2024/05/NWIRP-Information-on-T-Visa-2019\\_English.pdf](https://acaciajustice.org/wp-content/uploads/2024/05/NWIRP-Information-on-T-Visa-2019_English.pdf))
- [28] State Department: Employment-Based Immigrant Visas (<https://travel.state.gov/content/travel/en/us-visas/immigrate/employment-based-immigrant-visas.html>)
- [29] National Immigrant Justice Center: VAWA Pro Bono Manual 2019 ([https://immigrantjustice.org/wp-content/uploads/2025/05/VAWA\\_ProBono\\_Manual\\_2019-04\\_Final\\_0.pdf](https://immigrantjustice.org/wp-content/uploads/2025/05/VAWA_ProBono_Manual_2019-04_Final_0.pdf))
- [30] U.S. Department of Labor: U and T Visa Certifications (<https://www.dol.gov/agencies/whd/immigration/u-t-visa>)
- [31] ILRC: The Notice to Appear (NTA) - Practice Advisory July 2020 ([https://www.ilrc.org/sites/default/files/resources/nta\\_practice\\_advisory.pdf](https://www.ilrc.org/sites/default/files/resources/nta_practice_advisory.pdf))
- [32] Immigrant Legal Clinic & Medical: Fact Sheet - TPS and DED for Lebanon (<https://www.ilcm.org/latest-news/factsheet-tps-and-ded-for-lebanon/>)
- [33] Catholic Legal Immigration Network: Removal Proceedings Resources (<https://www.cliniclegal.org/resources/removal-proceedings>)

- [34] U.S. Code Title 8, Section 1229a: Removal Proceedings (<https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title8-section1229a&num=0&edition=prelim>)
- [35] American Immigration Council: Temporary Protected Status (TPS) Overview (<https://www.americanimmigrationcouncil.org/fact-sheet/temporary-protected-status-tps-overview/>)
- [36] Federal Register: Jurisdiction and Venue in Removal Proceedings (2007) (<https://www.federalregister.gov/documents/2007/03/28/E7-5629/jurisdiction-and-venue-in-removal-proceedings>)
- [37] USA.gov: Family-based Immigrant Visas and Sponsoring a Relative (<https://www.usa.gov/sponsor-family-member>)
- [38] ILRC: Prosecutorial Discretion in Removal Proceedings - Part 2 (October 2024) ([https://www.ilrc.org/sites/default/files/2024-10/Prosecutorial%20Discretion%20in%20Removal%20Proceedings%20\(Part%202\)\\_0.pdf](https://www.ilrc.org/sites/default/files/2024-10/Prosecutorial%20Discretion%20in%20Removal%20Proceedings%20(Part%202)_0.pdf))
- [39] Motion to Reopen in Absentia - Exceptional Circumstances Template (<https://immigrationjustice.us/wp-content/uploads/2022/06/Motion-to-Reopen-in-absentia-exceptional-circumstances.pdf>)
- [40] State Department: The Immigrant Visa Process - Step 1: Submit a Petition (<https://travel.state.gov/content/travel/en/us-visas/immigrate/the-immigrant-visa-process/step-1-submit-a-petition.html>)
- [41] CILA Academy: Termination v. Dismissal in Removal Proceedings (April 2024) (<https://cilacademy.org/2024/04/02/termination-v-dismissal-in-removal-proceedings/>)
- [42] EOIR Policy Manual: 5.9 - Motions to Reopen In Absentia Orders (<https://www.justice.gov/eoir/policy-manual-eoir/part-III/bia/chapter-5-2>)
- [43] Catholic Legal Immigration Network: Extreme Hardship and Waivers (<https://www.cliniclegal.org/resources/waivers-and-inadmissibility-and-deportability/uscis-explains-extreme-hardship-and-how-it>)
- [44] Peoples-Law: Special Immigrant Juvenile Status (<https://www.peoples-law.org/node/39056/printable/print>)
- [45] State Department FAM: Ineligibility Based on Criminal Activity (9 FAM 302.3 (U)) (<https://fam.state.gov/fam/09FAM/09FAM030203.html>)
- [46] ILRC: Understanding Extreme Hardship in Waivers ([https://www.ilrc.org/sites/default/files/resources/understanding\\_extreme\\_hardship\\_waivers-ab-20180131.pdf](https://www.ilrc.org/sites/default/files/resources/understanding_extreme_hardship_waivers-ab-20180131.pdf))
- [47] ILRC: Overview of Seeking SIJS Findings in Juvenile Court ([https://www.ilrc.org/sites/default/files/2023-09/Overview%20of%20Seeking%20Special%20Immigrant%20Juvenile%20Status%20\(SIJS\)%20Findings%20in%20Juvenile%20Court.pdf](https://www.ilrc.org/sites/default/files/2023-09/Overview%20of%20Seeking%20Special%20Immigrant%20Juvenile%20Status%20(SIJS)%20Findings%20in%20Juvenile%20Court.pdf))
- [48] MyAttorneyUSA: Waivers for Fraud or Willful Misrepresentation (<https://myattorneyusa.com/immigration-blog/waivers/waivers-for-fraud-or-willful-misrepresentation-of-a-material-fact-to-obtain-an-immigration-benefit/>)
- [49] EOIR Policy Manual: 3.15 - Individual Calendar Hearing (<https://www.justice.gov/eoir/policy-manual-eoir/part-II/icpm/chapter-3-15>)
- [50] EOIR: Immigration Judge Benchbook - Evidence and Burden of Proof (<https://www.justice.gov/eoir/page/file/988046/dl?inline=>)
- [51] Immigration Equality: The One-Year Filing Deadline for Asylum (<https://immigrationequality.org/asylum/asylum-manual/immigration-basics-the-one-year-filing-deadline/>)

- [52] ILRC: Representing Clients at the Master Calendar Hearing ([https://www.ilrc.org/sites/default/files/resources/rep\\_clnts\\_mstr\\_cal\\_hearing-20181220.pdf](https://www.ilrc.org/sites/default/files/resources/rep_clnts_mstr_cal_hearing-20181220.pdf))
- [53] Catholic Legal Immigration Network: Rules of Evidence in Immigration Court (<https://www.cliniclegal.org/file-download/download/public/2309>)
- [54] Asylumist: Overcoming the One-Year Bar After Filing for Asylum (<https://asylumist.com/2024/06/19/overcoming-the-one-year-bar-after-youve-filed-for-asylum/>)
- [55] Immigration Equality: Elements of Asylum Law (<https://immigrationequality.org/asylum/asylum-manual/asylum-law-basics-2/asylum-law-basics-elements-of-asylum-law/>)
- [56] American Immigration Council: Overview on Ineffective Assistance of Counsel in Immigration Cases ([https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/seeking\\_remedies\\_for\\_ineffective\\_assistance\\_of\\_counsel\\_in\\_immigration\\_cases\\_practice\\_advisory.pdf](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/seeking_remedies_for_ineffective_assistance_of_counsel_in_immigration_cases_practice_advisory.pdf))
- [38] ILRC: Prosecutorial Discretion in Removal Proceedings - Part 2 (updated October 2024) ([https://www.ilrc.org/sites/default/files/2024-10/Prosecutorial%20Discretion%20in%20Removal%20Proceedings%20\(Part%202\)\\_0.pdf](https://www.ilrc.org/sites/default/files/2024-10/Prosecutorial%20Discretion%20in%20Removal%20Proceedings%20(Part%202)_0.pdf))
- [57] U.S. Code Title 8, Section 1101: Definitions (<https://uscode.house.gov/view.xhtml?req=%28title%3A8+section%3A1101+edition%3Aprelim%29>)
- [58] AILA: Policy Brief - Ending the Reign of Lozada (<https://www.aila.org/library/policy-brief-ending-the-reign-of-lozada-and-removing-barriers-to-ineffective-assistance-of-counsel-claims-in-immigration-law>)
- [41] CILA Academy: Termination v. Dismissal in Removal Proceedings (<https://cilacademy.org/2024/04/02/termination-v-dismissal-in-removal-proceedings/>)
- [59] EOIR: Workload and Adjudication Statistics (<https://www.justice.gov/eoir/workload-and-adjudication-statistics>)
- [60] American Immigration Council: Background on Judicial Review of Immigration Decisions (<https://www.americanimmigrationcouncil.org/fact-sheet/background-judicial-review-immigration-decisions/>)
- [61] EOIR Policy Manual: 5.2 - Automatic Stays (<https://www.justice.gov/eoir/policy-manual-eoir/part-III/bia/chapter-5-2>)
- [62] American Immigration Council: Immigration Judge Performance Metrics - FOIA Request Case Study ([https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/immigration\\_judge\\_performance\\_metrics\\_foia\\_request\\_booz\\_allen\\_hamilton\\_case\\_study.pdf](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/immigration_judge_performance_metrics_foia_request_booz_allen_hamilton_case_study.pdf))
- [63] EOIR: Board of Immigration Appeals (<https://www.justice.gov/eoir/board-of-immigration-appeals>)
- [64] Immigration Litigation: Courts of Appeals Rules Governing Judicial Motions to Stay Removal (<https://immigrationlitigation.org/wp-content/uploads/2025/01/2023.11-Circuit-Stay-Rules-FINAL-FINAL.pdf>)
- [65] ILRC: Aggravated Felonies - Comprehensive Summary ([https://www.ilrc.org/sites/default/files/resources/n.6-aggravated\\_felonies\\_0.pdf](https://www.ilrc.org/sites/default/files/resources/n.6-aggravated_felonies_0.pdf))
- [66] American Immigration Council: Motions to Suppress in Removal Proceedings ([https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/motions\\_to\\_suppress\\_in\\_removal\\_proceedings\\_cracking\\_down\\_on\\_fourth\\_amendment\\_violations\\_by\\_state\\_and\\_local\\_law\\_enforcement.pdf](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/motions_to_suppress_in_removal_proceedings_cracking_down_on_fourth_amendment_violations_by_state_and_local_law_enforcement.pdf))
- [67] EOIR Policy Manual: 3.4 - Filing an Appeal (<https://www.justice.gov/eoir/policy-manual-eoir/part-III/bia/chapter-3-4>)
- [68] Cornell Law: Definition of Aggravated Felony - 8 USC Section 1101(a)(43) ([https://www.law.cornell.edu/definitions/uscode.php?def\\_id=8-USC-2031923285-1201680127](https://www.law.cornell.edu/definitions/uscode.php?def_id=8-USC-2031923285-1201680127))

- [69] ILRC: Motions to Suppress - Circuit Law Supplement ([https://www.ilrc.org/sites/default/files/resources/motion\\_to\\_suppress-update-2017.pdf](https://www.ilrc.org/sites/default/files/resources/motion_to_suppress-update-2017.pdf))
- [70] EOIR: Notice of Appeal from a Decision of an Immigration Judge (Form EOIR-26) (<https://www.justice.gov/eoir/file/eoir26/dl>)
- [71] FIRRP: How to File a Petition for Review in the Ninth Circuit (<https://firrp.org/wp-content/uploads/2022/09/Ninth-Circuit-Guide-2013.pdf>)
- [72] Nolo: Timing of the Affirmative Asylum Application Process (<https://www.nolo.com/legal-encyclopedia/timing-the-affirmative-asylum-application-process.html>)
- [73] Immigration Abogado: Can the Family of Refugees and Asylees Gain Derivative Status (<https://www.immigrationabogado.com/blog/can-the-family-of-refugees-and-asylees-gain-derivative-status>)
- [74] Ninth Circuit Courts: How to File a Petition for Review (<https://www.ca9.uscourts.gov/guides/how-to-file-a-petition/>)
- [75] American Immigration Council: Asylum in the United States (<https://www.americanimmigrationcouncil.org/fact-sheet/asylum-united-states/>)
- [76] eCFR: 8 CFR 207.7 - Derivatives of Refugees (<https://www.ecfr.gov/current/title-8/chapter-I/subchapter-B/part-207/section-207.7>)
- [77] Alcorn Law: EB-3 Green Card for Skilled Workers, Professionals, and Unskilled Workers (<https://www.alcorn.law/eb-3-green-card-skilled-workers-professionals/>)
- [78] U.S. Department of Justice: Release and Detention Pending Judicial Proceedings (18 USC 3141 et seq.) (<https://www.justice.gov/archives/jm/criminal-resource-manual-26-release-and-detention-pending-judicial-proceedings-18-usc-3141-et>)
- [79] NILC: The I-9 Process and Antidiscrimination Protections in the INA (<https://www.nilc.org/wp-content/uploads/2015/11/The-I-9-Process-2009-09-08.pdf>)
- [80] Paul D. Cass: EB-3 Visas - Guide for Skilled, Unskilled, and Professional Workers (<https://pauldcass.com/blog/eb-3-visas-a-guide-for-skilled-unskilled-and-professional-workers/>)
- [81] Cornell Law: 18 U.S. Code Section 3142 - Release or Detention of a Defendant Pending Trial (<https://www.law.cornell.edu/uscode/text/18/3142>)
- [82] Outsolve: Legal Series - Penalties for Form I-9 Violations (<https://www.outsolve.com/blog/legal-series-penalties-for-form-i-9-violations-whats-at-stake>)