



# CATHOLIC LEGAL IMMIGRATION NETWORK, INC.

## **Key Takeaways from Freedom of Information Act Request on Immigration Court Adjudication of Motions for Telephonic or Video Appearance**

The Catholic Legal Immigration Network, Inc. (CLINIC) submitted a Freedom of Information Act (FOIA) request to the Executive Office for Immigration Review (EOIR) seeking statistics on immigration court adjudications of motions for telephonic and video appearances. EOIR responded with a ten-tab spreadsheet breaking down adjudication of motions for telephonic appearance by court from fiscal year (FY) 2012 through FY2018 and adjudications of motions for video appearance by court for FY2018 only. From the FOIA results, CLINIC created a separate spreadsheet, identical to the first, but incorporating percentages from the raw numbers to ease analysis.

Here are CLINIC's main takeaways from the FOIA results:

**The number of motions for telephonic appearances has grown by 107 percent since FY2012. The denial rate for these motions has increased by 2 to 3 percent in this same period.**

→ In FY2012, immigration courts received 21,401 motions for telephonic appearance, 17,100 of which are categorized in the FOIA results as "granted."

→ By FY2018, the total number of motions for telephonic appearance had grown to 44,206. EOIR categorized 35,730 of these motions as "granted."

**In FY2018, the denial rate for motions for telephonic appearances was higher than in the preceding 6 years.**

→ With 9 percent of motions for telephonic appearance categorized as "denied," FY2018 featured the highest denial rates for these motions in 7 years. The denial rate had been 6 percent in FY2015.

→ A trend emerged in FY2015 where the percent of motions categorized with an "other" outcome decreased, but this decrease corresponded with a higher rate of motions with "denied" outcomes for telephonic appearance. CLINIC hypothesizes that the "other"

category likely reflects motions that never received a ruling as well as motions that were pending at the time EOIR collected the FOIA results.

**Many fewer requests for motions for video appearance are made compared to motions for telephonic appearance, but the denial rate for these motions for video appearance is nearly 50 percent.**

→ In FY2018, immigration courts received 96 motions for video appearance, of which EOIR categorized 40 as “denied,” 40 were as “granted,” and 16 as “other.”

→ The Atlanta Immigration Court is the leading court receiving motions for video appearances and the Batavia Immigration Court, a detained court, is the second leading court for these requests. Anecdotal evidence from practitioners suggests that the Atlanta Immigration Court receives a high number of motions for video appearance because immigration judges there are reluctant to grant motions to change venue. Therefore, practitioners from out of state, especially *pro bono* attorneys, may attempt to appear in court by video conference.

→ While immigration judges at the Batavia Immigration Court “granted” 50 percent of motions for video appearance in FY2018, immigration judges at the Atlanta Immigration Court “denied” 84 percent of these motions. The remaining 16 percent of motions for video appearance filed with the Atlanta Immigration Court were categorized by EOIR as “other,” likely meaning that they were never adjudicated or were pending at the time EOIR collated this data.

**The immigration courts in Stewart, Georgia (detained) and in Memphis, Tennessee received more motions for telephonic or video appearances than any other immigration courts in the country with 3,569 total requests in Stewart and 3,052 requests in Memphis in FY2018.**

→ Other courts receiving high numbers of these motions in FY2018 were the immigration courts in Chicago (2,627 motions received) and San Francisco (2,552 motions received).

→ The San Antonio Immigration Court had the highest raw number of motions for telephonic or video appearance across the country where the adjudication of the motions fell into the “other” category, with 564 motions in this category. The FOIA results show that this court “granted” 411 such motions in FY2018. Again, CLINIC surmises that the 564 motions were likely never adjudicated. This court also features a disproportionately high number of motions categorized as “withdrawn” in the FOIA results, with 45 motions “withdrawn” out of a total 1,052 motions filed in FY2018. CLINIC believes that attorneys or pro se respondents in this court make it a practice to withdraw these motions when the motion becomes moot because the individual in question appeared in court in person because the court never ruled on the motion.

→ The San Diego and Harlingen, Texas immigration courts followed a similar trend to the San Antonio Immigration Court in FY2018. In the San Diego Immigration Court, the outcome in 47 percent of cases is listed as “other” in the FOIA results. This corresponds to the outcome in 59 motions out of a total 125 filed with the court being “other.” Meanwhile, 48 percent of the motions filed in the Harlingen Immigration Court, or 169 motions out of a total 355 motions filed, have outcomes classified as “other” in the FOIA results. Again, CLINIC hypothesizes that the court likely never ruled on these motions with “other” outcomes.

**The Imperial, California Immigration Court, a non-detained court, features the highest denial rates for motions for telephonic appearances.**

→ The FOIA results show that the non-detained immigration court in Imperial, California had a “denial” rate of 90 percent of all motions for telephonic appearances filed, but that court received only 104 total motions for telephonic appearance and 0 motions for video appearance in FY2018. The uptick in denials of motions for telephonic appearance at this court began in FY2017.

→ Other courts with high rates of outcomes categorized as “denials” for motions for telephonic and video appearances (combined, where results for motions for video appearances exist) in FY2018 are the immigration courts in:

- Atlanta (32 percent combined denial rate);
- Buffalo, New York (42 percent combined denial rate);
- El Paso (detained; 38 percent denial rate of telephonic motions only);
- Los Angeles (35 percent combined denial rate);
- Otay Mesa, California (detained; 48 percent denial rate of telephonic motions only);
- Otero, New Mexico (detained; 30 percent denial rate of telephonic motions only); and
- San Diego (38 percent denial rate of telephonic motions only).

**Many of the immigration courts with the highest grant rates for motions for telephonic or video appearances in FY2018 are courts within detention facilities or courts with jurisdiction over cases in several states.**

→ Among the immigration courts with the highest rates of outcomes categorized in the FOIA results as “grants” for motions for telephonic and video appearances (combined, where results for motions for video appearances exist) in FY2018 were the immigration courts in:

- Aurora, Colorado (detained; 95 percent grant rate for telephonic motions only);
- Chicago, Illinois (88 percent combined grant rate);
- Cleveland, Ohio (92 percent grant rate for telephonic motions only);

- Eloy, Arizona (detained; 91 percent combined grant rate);
- Florence, Arizona (detained; 97 percent grant rate for telephonic motions only);
- Hartford, Connecticut (90 percent grant rate for telephonic motions only);
- Kansas City, Missouri (98 percent grant rate for telephonic motions only);
- LaSalle, Louisiana (detained; 95 percent combined grant rate);
- Las Vegas (93 percent combined grant rate);
- New Orleans (90 percent combined grant rate);
- Oakdale, Louisiana (detained; 96 percent grant rate for telephonic motions only);
- Omaha, Nebraska (detained; 100 percent combined grant rate);
- Orlando, Florida (90 percent grant rate for telephonic motions only);
- Pearsall, Texas (detained; 88 percent combined grant rate);
- Portland, Oregon (95 percent grant rate for telephonic motions only);
- Stewart, Georgia (detained; 97 percent grant rate for telephonic motions only);
- and
- Tacoma, Washington (detained; 91 percent combined grant rate).