Chapter 3 — *IN ABSENTIA* MOTION TO REOPEN (LACK OF NOTICE)

3.1 PURPOSE OF THE MOTION

A motion to reopen and rescind an *in absentia* removal order based on lack of notice is a statutory mechanism under INA § 240(b)(5)(C)(ii) for vacating removal orders entered where the respondent did not receive notice of the hearing as required by law.[197] The statute authorizes rescission "at any time" — there is no filing deadline — upon a demonstration that the respondent did not receive the notice that resulted in the *in absentia* order. Unlike standard motions to reopen, rescission under this provision does not involve discretionary balancing — the adjudicator does not weigh equities or require a showing of eligibility for underlying relief. But the respondent still bears the evidentiary burden of demonstrating non-receipt — adjudicators evaluate credibility, corroboration, and diligence under the *M-R-A-* framework (*see* § 3.2.iv) before finding the statutory showing has been made.

Subject to the permissible-mailing and address-forfeiture rules in § 3.2 and the circumstances in which the respondent can be charged with receipt under § 3.3, the dispositive question is whether the respondent or counsel of record received the notice that resulted in the *in absentia* order. Courts distinguish that receipt inquiry from compliance with mailing formalities.[198] The motion corrects entry of a removal order without the notice required by law. It does not exist to remedy technical defects in charging documents or to reopen proceedings for the pursuit of new relief.

Recent Supreme Court precedent has sharpened this inquiry. In *Campos-Chaves v. Garland*, the Court held that a defective Notice to Appear does not, standing alone, require rescission where the respondent received a valid Notice of Hearing under INA § 239(a)(2), 8 U.S.C. § 1229(a)(2), specifying the time and place of the missed hearing.[199] The BIA applied *Campos-Chaves* in *Matter of Laparra-Deleon*, 29 I&N Dec. 389 (BIA 2026), holding

[197] INA § 240(b)(5)(C)(ii), 8 U.S.C. § 1229a(b)(5)(C)(ii); 8 C.F.R. § 1003.23(b)(4)(ii).
[198] INA § 240(b)(5)(A), 8 U.S.C. § 1229a(b)(5)(A) (notice to the respondent or counsel of record); *Alrefae v. Chertoff*, 471 F.3d 353, 359 (2d Cir. 2006) (inquiry focuses on actual receipt of hearing notice, not compliance with mailing procedures); *Kozak v. Gonzales*, 502 F.3d 34, 37–38 (1st Cir. 2007) (same); *Derezinski v. Mukasey*, 516 F.3d 619, 621 (7th Cir. 2008) (same).
[199] *Campos-Chaves v. Garland*, 602 U.S. 447, 462 (2024).

that NTA defects provide no basis for rescission under INA § 240(b)(5)(C)(ii) when the respondent received a compliant hearing notice.[200] Where the record contains a compliant hearing notice under INA § 239(a)(2), a lack-of-notice argument must target non-receipt of that hearing notice — not antecedent NTA defects.

> **PRACTICE NOTE:**
> After *Campos-Chaves*, and the BIA's application in *Laparra-Deleon*, NTA-only challenges to *in absentia* orders are foreclosed where the respondent received a valid hearing notice under INA § 239(a)(2). Direct the lack-of-notice argument to non-receipt of the hearing notice that resulted in removal — not to defects in the initial NTA.

3.2 THRESHOLD SCREENING: WHEN THIS MOTION APPLIES

In removal proceedings, 8 C.F.R. § 1003.23(b)(4)(ii) permits only one motion to rescind, even though a lack-of-notice motion has no filing deadline. Review prior motions and § 2.4.2 before filing. Legacy deportation and exclusion orders follow different provisions; identify the proceeding type before applying the removal rules in this chapter. To succeed, the respondent must satisfy the following notice-related gates:

i. Non-Receipt of Operative Hearing Notice

DHS bears the initial burden of establishing notice sufficient to support an *in absentia* order.[201] The respondent, in turn, must demonstrate non-receipt of the operative hearing notice, addressing notice to counsel of record as well as to the respondent and any applicable address-forfeiture rule. Proper issuance or mailing does not by itself establish actual receipt. Evaluate credible evidence of non-receipt together with notice to counsel and any applicable address-forfeiture rule.[202]

ii. Addresses Provided and Address Forfeiture

The Board held in *Matter of Diji* that DHS may serve an NTA by regular mail at the most recent address the respondent provided, including one provided before the NTA was issued, and that written notice mailed to that address is sufficient for an *in absentia* order under INA § 240(b)(5)(A), 8 U.S.C. § 1229a(b)(5)(A). Prior receipt of the NTA and its

[200] *Laparra-Deleon*, 29 I&N Dec. at 390–91.
[201] INA § 240(b)(5)(A), 8 U.S.C. § 1229a(b)(5)(A).
[202] *Matter of M-R-A-*, 24 I&N Dec. 665, 673–75 & n.3 (BIA 2008) (distinguishing mailing from receipt and preserving counsel-notice and address-duty qualifications).

address advisals is not a prerequisite to using that address. Moving does not, by itself, make the last address provided legally defective.[203] *Diji* overruled *Matter of G-Y-R-*, the Board's rule on this question for nearly twenty-five years; § 3.7.5 below discusses that history and how to preserve a challenge. Separately, INA § 240(b)(5)(B), 8 U.S.C. § 1229a(b)(5)(B), dispenses with written notice when the respondent fails to provide the address required by INA § 239(a)(1)(F), 8 U.S.C. § 1229(a)(1)(F). Determine whether that no-notice provision applies under controlling circuit law. Mailing to a qualifying address does not establish every prerequisite for an *in absentia* order, does not by itself establish statutory forfeiture, and does not conclusively prove receipt.[204]

For each notice, identify the most recent address actually supplied before mailing and compare it with the address used. Record the date, method, receiving government component, and proof of each submission to DHS, including USCIS or ICE, and to EOIR. Residence history alone does not establish those submissions. A newer address actually supplied, or an address misrecorded by the government, requires a different analysis from a move never reported. Do not assume that notice to one component updates every agency or court record; apply the filing-stage and circuit rules discussed below.

DHS registration and address-reporting duties exist apart from the NTA advisals. They help explain why DHS may already have an address before removal proceedings begin. Compliance with those duties does not replace a required EOIR address filing, and a failure to update DHS does not automatically authorize an *in absentia* order without the remaining statutory prerequisites.[205]

iii. Presumption of Delivery After Mailing to the Proper Address

If notice was mailed to the proper address under the rules above, assess the presumption of delivery and the evidence of non-receipt. Prior receipt of the NTA advisals is not a separate prerequisite to that mailing inquiry under *Diji*. Keep this question distinct from statutory forfeiture, which can eliminate the obligation to send written notice. Where the receipt

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[203] *Matter of Diji*, 30 I&N Dec. 1, 9–12 (BIA 2026) (en banc), overruling *Matter of G-Y-R-*, 23 I&N Dec. 181 (BIA 2001). *Diji* also overrules citation to *Matter of Anyelo*, 25 I&N Dec. 337 (BIA 2010), which applied *G-Y-R-* in the Eleventh Circuit. *Diji*, 30 I&N Dec. at 12 n.7.

[204] INA § 240(b)(5)(B), 8 U.S.C. § 1229a(b)(5)(B); *see Diji*, 30 I&N Dec. at 10, 13–14 & 12 n.7. Applications of the address-forfeiture rule, each involving an NTA served in person, include *Spagnol-Bastos v. Garland*, 19 F.4th 802, 806 (5th Cir. 2021); *Gudiel-Villatoro v. Garland*, 40 F.4th 247, 249–50 (5th Cir. 2022); *Platero-Rosales v. Garland*, 55 F.4th 974, 977 (5th Cir. 2022); *Dacostagomez-Aguilar v. U.S. Att'y Gen.*, 40 F.4th 1312, 1319 (11th Cir. 2022). The circuit-specific limits are addressed in the Practice Note below.

[205] *Diji*, 30 I&N Dec. at 10–11; INA §§ 262, 265, 8 U.S.C. §§ 1302, 1305; 8 C.F.R. §§ 265.1, 1003.15(d)(2).

inquiry remains available, apply the *M-R-A-* framework below. Where the respondent moved without reporting the new address, assess the actual submission history, any government recording or mailing error, available receipt evidence, and any applicable circuit-law or constitutional theory before choosing the grounds to plead.[206]

iv. Rebuttable Presumption of Delivery Can Be Overcome.

When the government properly addresses a hearing notice and mails it according to normal office procedures, a presumption of delivery attaches. The strength of that presumption depends on the method of service, and the BIA requires adjudicators to consider all relevant evidence in evaluating whether the respondent has rebutted it.[207] The BIA's companion case, *Matter of C-R-C-*, applies the same framework and reinforces its analytical structure.[208] Circuit courts have followed suit.[209]

The following five evidence categories organize that inquiry; they are not an exhaustive or mandatory test:

i. **Method of service.** Certified mail with a signed return receipt creates a strong presumption of delivery. Regular mail — the government's default method — produces a weaker one that is more readily overcome by credible evidence of non-receipt.

ii. **Credible sworn statement of non-receipt.** Provide a sworn affidavit clearly explaining non-receipt of the hearing notice and the facts supporting that account (*see* § 3.5 for drafting guidance).

iii. **Corroborating circumstantial evidence.** Documentary and testimonial evidence supporting the non-receipt claim — proof of residence, mail monitoring records, household member affidavits, delivery failure evidence, and related documentation (*see* § 3.4 for the full evidence checklist).

[206] *See Diji*, 30 I&N Dec. at 10–11, 13.
[207] *M-R-A-*, 24 I&N Dec. at 673–75; *Diji*, 30 I&N Dec. at 13–14 (applying the weaker regular-mail presumption and evaluating the respondent's evidentiary record).
[208] *Matter of C-R-C-*, 24 I&N Dec. 677, 679–80 (BIA 2008).
[209] *E.g., Perez-Portillo v. Garland*, 56 F.4th 788, 795–97 (9th Cir. 2022) (granting the petition and remanding where the agency invoked constructive notice without evaluating the credibility of the non-receipt claim under the *M-R-A-* framework).

iv. **Evidence of incentive to appear.** Facts tending to show movant would not have knowingly missed the hearing — prior attendance, pending relief applications, family ties, stable employment (*see* § 3.4).

v. **Prompt action upon discovery of the *in absentia* order.** Steps taken after learning of the order — FOIA requests, retaining counsel, ICE check-ins, or filing the motion itself. Significant unexplained delays may weigh against the respondent (*see* § 3.7.2).

Bare assertions of non-receipt may be insufficient when the complete record does not rebut the applicable presumption.[210] Build the record with available corroboration and explain material gaps; regular-mail cases do not impose an inflexible corroboration requirement.

PRACTICE NOTE:

Apply the law of the circuit where the case arises. *Diji*'s rejection of *G-Y-R-* and *Anyelo* does not displace controlling circuit holdings. In the Eleventh Circuit, *Dragomirescu* interpreted the statutory no-notice exception to require receipt of the NTA's address advisals before an unreported move excuses notice, adopting that reading on its own analysis as well as by deference to *G-Y-R-*. The respondent there had received the NTA. Preserve the argument that this circuit interpretation controls, and address any contention that the receipt condition was unnecessary to its result. *Diji*'s discussion of *Dominguez* concerns its status when the Board decided *Anyelo*; *Dragomirescu* later treated *Dominguez*'s statutory statements as dicta. The Fifth Circuit in *Fuentes-Pena* held that an address update given to ICE before the NTA was filed with the immigration court satisfied the address duty; it reserved the respondent's obligations after filing. The Ninth Circuit in *Velasquez-Escovar* held that a respondent who provided a correct address and never moved was entitled to notice, and that the Board could neither reject her unrebutted account nor defend its decision on a regulatory ground it had not invoked; an alternative strand of its reasoning relied on *G-Y-R-*. In the Ninth Circuit, government knowledge that its notice effort failed triggers a due-process duty to take additional reasonable steps if practicable; compliance with statutory mailing requirements or failure to update an address does not alone resolve that inquiry. Apply each holding to its facts

[210] *See M-R-A-*, 24 I&N Dec. at 674 (rejecting a rigid evidentiary formula and requiring a case-specific assessment).

and procedural stage rather than treating these decisions as interchangeable exceptions.[211]

3.3 STRATEGIC RISK ASSESSMENT: WHEN *NOT* TO FILE

Even where threshold gates are satisfied, do not file if any of the following apply:

RED FLAG 1 — WEAK OR CONFLICTING EVIDENCE OF NON-RECEIPT. Your client's evidence of non-receipt is internally contradicted by the record — for example, a prior statement or filing acknowledges receipt, contemporaneous evidence shows receipt of the written hearing notice, or documentation conflicts with your client's stated address history.[212] Resolve material contradictions and explain any remaining discrepancies before filing.[213] Prior receipt of other government mail at the same address does not itself establish receipt of the disputed notice. Address that evidence as part of the complete delivery record (*see* § 3.2.iv).[214]

RED FLAG 2 — DELAYED FILING WITHOUT EXPLANATION AFTER DISCOVERY. The respondent learned of the order years ago, but the record does not explain the delay in filing the motion.[215] Prolonged, unexplained inaction after discovery invites adverse inferences that undermine the non-receipt claim[216] — delay is one evidentiary factor, not a separate filing deadline.[217] (*See* § 3.7.2 for diligence analysis and mitigation strategies.)

RED FLAG 3 — RELIANCE ON NTA-ONLY ARGUMENTS POST-*CAMPOS-CHAVES*. The motion rests entirely on *Pereira* or *Niz-Chavez* NTA defects without addressing non-receipt of the

[211] *Diji*, 30 I&N Dec. at 12 n.7; *Dragomirescu v. U.S. Att'y Gen.*, 44 F.4th 1351, 1355–58 & 1356 n.4 (11th Cir. 2022); *Dominguez v. U.S. Att'y Gen.*, 284 F.3d 1258, 1260 (11th Cir. 2002) (per curiam); *Fuentes-Pena v. Barr*, 917 F.3d 827, 830–31 & 831 n.3 (5th Cir. 2019); *Velasquez-Escovar v. Holder*, 768 F.3d 1000, 1003–06 (9th Cir. 2014); *United States v. Rivera-Valdes*, 157 F.4th 978, 988–93 (9th Cir. 2025) (en banc) (applying the constitutional notice standard in a collateral attack on a 1994 deportation order and remanding for consideration of practicable additional steps). A constitutional claim remains subject to the procedural and prejudice requirements of the vehicle used.
[212] *See Matter of M-R-A-*, 24 I&N Dec. 665, 674 (BIA 2008).
[213] *See id.*
[214] *See* § 3.2.iv (*M-R-A-* factors for rebutting presumption of delivery).
[215] *See M-R-A-*, 24 I&N Dec. at 674 (identifying actions after discovery and diligence as relevant evidence).
[216] *Valadez-Lara v. Barr*, 963 F.3d 560, 569 (6th Cir. 2020) (upholding the agency's consideration of more than a decade of inaction after discovery as part of the full record).
[217] *M-R-A-*, 24 I&N Dec. at 674; INA § 240(b)(5)(C)(ii), 8 U.S.C. § 1229a(b)(5)(C)(ii).

hearing notice.[218] After *Campos-Chaves*, this argument fails where a valid hearing notice was received (*see* § 3.1).[219]

RED FLAG 4 — NOTICE CHARGED THROUGH AVOIDANCE OR HOUSEHOLD HANDLING. Evidence that the respondent deliberately refused or evaded delivery can defeat a non-receipt claim.[220] An unclaimed certified letter does not by itself establish deliberate avoidance; examine the delivery attempts and the respondent's explanation.[221] Separately, when notice reaches the correct address but fails to reach the respondent because of internal household mail handling, the respondent can be charged with receipt. Address who collected the mail and what happened after delivery.[222] Assess address failures separately under § 3.2.ii.

RED FLAG 5 — WEAK AFFIDAVIT WITHOUT AVAILABLE CORROBORATION. The motion rests solely on your client's statement of non-receipt despite available supporting documentation (*see* § 3.4).[223] Obtain available corroboration and explain any material gaps before filing.[224]

RED FLAG 6 — EQUITY-BASED RATHER THAN STATUTORY ARGUMENTS. The motion emphasizes hardship, family ties, or sympathetic circumstances rather than demonstrated non-receipt under INA § 240(b)(5)(C)(ii).[225] The statute conditions rescission on proof of non-receipt — not on equities or compelling personal circumstances. Reframe or do not file.

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[218] *Pereira v. Sessions*, 585 U.S. 198 (2018); *Niz-Chavez v. Garland*, 593 U.S. 155 (2021).
[219] *Campos-Chaves v. Garland*, 602 U.S. 447, 462 (2024); *Luna v. Garland*, 123 F.4th 775, 779 (5th Cir. 2024).
[220] *Derezinski v. Mukasey*, 516 F.3d 619, 621–22 (7th Cir. 2008).
[221] *Id.*
[222] *Matter of Diji*, 30 I&N Dec. 1, 14 (BIA 2026) (en banc); *Ojeda-Calderon v. Holder*, 726 F.3d 669, 673 (5th Cir. 2013).
[223] *See* § 3.2.iv (*M-R-A-* corroboration factors).
[224] *See M-R-A-*, 24 I&N Dec. at 674.
[225] INA § 240(b)(5)(C)(ii), 8 U.S.C. § 1229a(b)(5)(C)(ii) (rescission predicated on non-receipt of notice, not equitable considerations).

From the October 2026 Supplement, which accompanies every copy. This section updates § 3.2 and § 3.4 following two decisions issued after the Manual’s cutoff.

2 RETURNED HEARING NOTICES AND PRACTICABLE FOLLOW-UP

Manual: Chapter 3, § 3.2, pp. 60–61, and § 3.4, pp. 63–64.

Decisions: *Meza Medina v. Blanche*, Nos. 20-70017 and 24-5144 (9th Cir. Sept. 18, 2026); *Matter of Chamorro Castillo*, 30 I&N Dec. 170 (BIA 2026) — October 22, 2026.

Practical effect. Identify what the government knew when delivery failed and what additional step was available. In the Ninth Circuit, prepare to confront the Board's restrictive treatment of follow-up while preserving the court's constitutional notice rule.

A returned hearing notice requires more than identifying the address on the envelope. The Manual already explains that, in the Ninth Circuit, government knowledge that notice failed triggers a duty to take additional reasonable steps when practicable. *Meza Medina v. Blanche* applies that rule in civil removal proceedings. *Matter of Chamorro Castillo* accepts its applicability but announces a significant agency limitation where EOIR mailed notice to the only, undisputedly correct address in the record. Read the two decisions together when developing the address history and identifying what further notice effort was available.[4]

The address record determines the comparison

In *Meza Medina*, relatives supplied the respondent's correct residential address on a bond form that asked where he would reside, not where he received mail. He received mail at a P.O. box. The hearing notice was sent to the residential address and returned with a marking indicating there was no mail receptacle; the government made no further attempt. The majority found that the respondent had supplied a mailing address, relying on his sworn statement that he had told the court where to send notices. It identified mailing to that address and calling the telephone number on the bond form as practicable alternatives. The court held that the removal order was improper and the first reopening motion should have been granted.[5]

The majority's address finding is important to the holding. The dissent read the declaration differently and concluded that the government had only the residential address. It nevertheless agreed that known failure of delivery required further reasonable steps if practicable, but would have remanded for that factual inquiry. Counsel should therefore identify the actual submission and evidence establishing the alternative address in the

[4] *Meza Medina v. Blanche*, Nos. 20-70017, 24-5144, slip op. at 12–17 (9th Cir. Sept. 18, 2026); *Matter of Chamorro Castillo*, 30 I&N Dec. 170, 172–76 (BIA 2026). See Manual pp. 60–61 & n.211.
[5] *Meza Medina*, slip op. at 7–10, 13–17. The majority relied on the respondent's declaration; it did not identify a separately documented P.O.-box submission.

client's case. The majority's reading of this record is not a substitute for proving what the client supplied, to whom, and when.[6]

Chamorro Castillo involved a different record. The respondent's own reopening evidence confirmed that the hearing notice had been mailed to his correct address, the only available mailing address. A postal employee explained that the mailbox had filled, the mail had been held, and it was returned unclaimed. Applying the Ninth Circuit's constitutional standard, the Board found no additional reasonably available or practicable step for the Immigration Court to take.[7]

EOIR's announced limitation and the circuit argument

The Board's reasoning extends beyond the absence of another mailing address. It rejected generally imposing telephone follow-up on Immigration Courts, citing their quasi-judicial role, workload, confidentiality concerns, and the risks of ex parte contact. It also distinguished EOIR's record from the A-file maintained by DHS: the Board and Immigration Judges do not have access to that file, and DHS may hold information not shared with them. The Board stated that it is appropriate for DHS to inform EOIR when it learns of a different address.[8]

Why the Board's limitation deserves challenge

Chamorro Castillo gives too much weight to administrative burden and too little to the consequence of proceeding after the government knows its notice failed. A full mailbox does not eliminate the respondent's responsibilities. It also does not, by itself, explain why further notice efforts would be impracticable. The record included a telephone number. The Board's concerns about workload, confidentiality, and neutrality deserve consideration, but invoking those concerns generally is not the same as demonstrating that a limited follow-up effort was unavailable in this case.[9]

The troubling move is from a particular failed mailing to a broad institutional conclusion. The Board's stated rule treats the absence of another mailing address as resolving the availability of additional steps, even though telephone contact is a different means of reaching the respondent. Its discussion acknowledges that possibility and rejects imposing it generally. That reasoning risks narrowing an inquiry about the practical circumstances of

[6] *Id.* at 17–23 (Desai, J., dissenting).
[7] *Chamorro Castillo*, 30 I&N Dec. at 170–72, 174–76 & n.3.
[8] *Id.* at 173–76 & n.4.
[9] *Chamorro Castillo*, 30 I&N Dec. at 170–71, 173–76 (Form I-830 included a telephone number; discussing workload, neutrality, ex parte contact, and confidentiality).

an individual case into a categorical exemption from further effort. Counsel can challenge that move without claiming that every returned envelope requires a telephone call or that actual receipt is constitutionally guaranteed.[10]

The Board's neutrality rationale also deserves scrutiny. It expresses concern that locating a respondent could assist immigration enforcement. Yet the proceeding at issue may itself end in an in absentia removal order. A limited effort to make a hearing notice effective can protect the opportunity to participate. Treating that effort chiefly as an investigative threat leaves the participation interest inadequately addressed. The argument should remain tied to the steps available in the particular record.[11]

These objections should be developed under governing circuit law. The Board's institutional reasons do not establish that it overruled the Ninth Circuit. *Meza Medina* identified a telephone call as an available alternative on its record; *Chamorro Castillo* rejected a generally imposed EOIR telephone obligation. A motion should address that tension under governing circuit law and identify the concrete additional step asserted to have been practicable. Distinguish an alternative already in the relevant agency's records from an open-ended search for the respondent. A listed telephone number is relevant to that inquiry, not an automatic entitlement to reopening.[12]

Keep the grounds and supporting evidence separate

Statutory notice, actual receipt, compliance with address obligations, and constitutional sufficiency remain separate questions. Returned mail may support nonreceipt and establish when the government learned that its attempt failed; it does not alone resolve every statutory or constitutional requirement. Conversely, mailing that satisfies the statute or regulations does not necessarily answer the due-process claim. *Chamorro Castillo* expressly rejects DHS's argument that constructive statutory notice ends that inquiry. The Manual's existing statutory and address analysis, including its treatment of *Diji*, must still be applied to the particular record.[13]

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[10] *Id.* at 175–76. Compare *Meza Medina*, slip op. at 14–17 (discussing known failure of notice and practicable alternatives).
[11] *Chamorro Castillo*, 30 I&N Dec. at 174–76. The criticism concerns the opinion's institutional rationale, not a finding that an identified call would necessarily have reached the respondent.
[12] *Meza Medina*, slip op. at 16–17; *Chamorro Castillo*, 30 I&N Dec. at 175–76 & nn.3–4. See also *United States v. Rivera-Valdes*, 157 F.4th 978, 991–93 (9th Cir. 2025) (en banc).
[13] *Meza Medina*, slip op. at 14–15; *Chamorro Castillo*, 30 I&N Dec. at 171–72. For the separate statutory/address framework, see Manual § 3.2, including pp. 59–61, and § 3.4, pp. 63–64.

For the constitutional argument, use Manual § 3.4, pp. 63–64, and its evidence instructions to assemble a dated account of each address, its source and purpose, the receiving government component, and the submissions made before the disputed mailing. Obtain the returned envelope or delivery record, identify when the failure became known, and explain the proposed next step and why it was practicable. Distinguish the client's residence from the address actually supplied for mail, and distinguish information held by DHS from information in EOIR's record. These are record-building recommendations; they do not create a mandatory evidentiary formula.

Rivera-Valdes, already discussed in the Manual, arose in a criminal collateral attack. *Meza Medina* supplies the civil-removal application. Do not import the criminal requirements of 8 U.S.C. § 1326(d) into a civil rescission motion; analyze the procedural and prejudice requirements of the vehicle actually used. Part C of the separate *Template Change Schedule* recommends two precise refinements to T03's existing parentheticals. For the treatment of declarations, see Supplement § 3, p. S-7.[14]

[14] *Rivera-Valdes*, 157 F.4th at 982–83, 988–93; *Meza Medina*, slip op. at 12–17; *Chamorro Castillo*, 30 I&N Dec. at 172. See Manual p. 61 n.211.

Chapter 3 excerpt | Sections 3.1-3.3

Three questions as you read

1. Does the contents list cover the work you actually do?

2. Does the excerpt make the structure and its limits clear?

3. What would this add to the references you already trust?

Selected from The EOIR Motion to Reopen Practice Manual by Julio Costa, LL.M.

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This excerpt contains sections 3.1-3.3, printed pages 56-62. Section 3.4, which begins on the final source page, is omitted; the footnotes to section 3.3 are retained.

It also includes Section 2 of the October 2026 Supplement, pages S-3 to S-6, on returned hearing notices and practicable follow-up. The remainder of the supplement accompanies purchase.

General legal cutoff: September 15, 2026; this selected supplement section addresses later decisions. Counsel must verify current law before relying on the manual.

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