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## Practice Pointer: Fixing Erroneous Addresses

*What to do when your organization's address is erroneously used on immigration documents, or when you suspect this happened to your client.*

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Contact: Tania Guerrero at [tguerrero@cliniclegal.org](mailto:tguerrero@cliniclegal.org) or Amy Grenier at [agrenier@aila.org](mailto:agrenier@aila.org)<sup>1</sup>

Since early 2022, nonprofits across the United States have reported receiving immigration documents such as Notice to Appear, Notice to Report, and immigration court notices for non-citizens that they have no relationship with and no way to contact. This issue occurs when a non-citizen passes through federal custody at the southern border without a planned address after release. Numerous noncitizens state the address on their documents was provided by Customs and Border Protection (CBP). The erroneous addresses used are generally legal service providers, refugee resettlement agencies, and other offices of nongovernmental organizations. In many cases, the non-citizen may believe the address provided is a shelter, sometimes going as far as to travel to that address to request shelter.

This practice of using organization addresses raises several issues, including:

- Confusion for non-citizens.
- Failure to serve critical documents such as hearing notices, since the organizations have no relationship with the non-citizen and cannot locate them to forward the notice.
- Without notice, these non-citizens do not appear for their hearing date and may be issued an *in absentia* removal order.
- Improper burden-shifting to non-governmental service providers to protect the due process rights of non-citizens who may receive *in absentia* orders for missing hearings.

Advocates [continue to work](#) on a headquarters level to address this issue. In the meantime, many service providers across the country developed protocols to safeguard affected non-citizens' rights.

### **Initial Response When Your Organization Receives Erroneous Address Documents**

Your organization's response will vary depending on which of the two ways you become aware of the erroneous use of your organization's address on immigration documents: through mail or through the migrant arriving at your organization.

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<sup>1</sup> Special thanks to Catholic Charities of the Archdiocese of Washington (CC DC) and Catholic Charities of Dallas (CCD) for sharing their best practices and observations for the purpose of this guide.

A key action in both situations is attempting to avoid an *in absentia* removal order in these cases, by creating an archival system (e.g., notes in your case management system, excel charts, electronic scans, and folders) to document that you received these notices and what actions were taken.

A helpful step you can take when you encounter erroneous addresses is [to submit your organization's information to AILA and CLINIC](#) to create a list of impacted organizations and make it publicly available. This should help increase awareness within the immigration bar to screen for your organization's address when reviewing removal documents.

### **1. Mail received by your organization.**

- Verify that the non-citizen is not a beneficiary of your organization. Once confirmed there is no way to contact the individual, create a system where a copy of the document is archived for future reference.
- Contact your [local OPLA](#) office (DHS chief counsel) and EOIR immigration court administrator<sup>2</sup> and inform them the organization's address is erroneously being used. Your local immigration court should have an "E33 docket" for erroneous addresses. Tell the court administrator that this case should be on the E33 docket. Document that you have done so in your archival system.
- Some OPLA offices and immigration court administrators keep lists of nonprofit organization addresses being used erroneously. Ask to put your organization on this list.
- Send a list of documents received to your local OPLA office and local immigration court indicating that your organization is not representing this individual. This can be done via email. Document that you have done so.
- Send the original document(s) back to the sender.

### **2. Non-citizens arriving at your organization requesting assistance.**

- Confirm the erroneous use of your organization's address by checking the non-citizen's immigration documents, which may be a Notice to Appear, Notice to Report, ICE check-in log, etc.
- Explain the issue to the non-citizen and ask for consent to make copies of documents to keep a copy in your archival system.
- Inform the local ICE field office of the erroneous use of the organization's address.
- Provide general instructions to the non-citizen on how to change their address with ICE and the immigration court.

Confusion, frustration, and unsafety are things that many families and individuals experience due to the use of erroneous addresses. They travel for days with the hope of a safe place, only to be told that the organization they arrived at does not provide that kind of assistance.

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<sup>2</sup> To find your local immigration court, [you can click here](#) and then click on the linked name of the immigration court. This should bring you to your local immigration court page with contact information.

In these circumstances, it is recommended to have resources available to share information regarding local shelters, food pantries, and local ICE field offices for check-ins. Other local organizations and coalitions may have already created such “welcoming packets” containing this information.

### **Receiving an *In Absentia* Removal Order Due to an Erroneous Address**

Organizations have received *in absentia* removal orders after previously informing EOIR of the use of an erroneous address. If this happens, contact the court administrator and submit documentation of prior efforts to inform the court of the erroneous address. Nonprofits report that this has been successful.

If your organization received an *in absentia* removal order without previously receiving a hearing notice or other immigration document, please follow the steps above, including documenting your efforts within your archival system.

### **Motion to Reopen Based on *In Absentia* Removal Order Due to Erroneous Address**

If you have a prospective or current client that you think had an erroneous address used on their initial paperwork resulting in an *in absentia* order, you can take the following steps:

- File a FOIA for the client’s records with CBP, ICE, and EOIR.
- Confirm the address is an organizational one or at least one that is not residential. This can usually be done with a quick internet search.
- If the address is an organization, reach out to the organization and request a copy of what they received along with any documentation they have of efforts to correct the matter, if available. You may want to include a signed release, G28, or E33 to demonstrate you represent this non-citizen.

#### **Before filing a motion to reopen:**

- At this time, we have not seen or heard of filing a motion to reopen based on the use of an erroneous address being required. So far, cooperation with the local ICE, OPLA, and EOIR offices has been sufficient. Because of this, we would recommend you reach out to your local immigration court before filing a formal motion to reopen. Explain the issue and provide documentation if available. This may be more efficient than a formal motion to reopen.

#### **Suggested evidence for a motion to reopen:**

- Copies of prior immigration documents, including the hearing notice and *in absentia* order, with the address highlighted. Include a printout of the organization’s website demonstrating its physical address.
- Ask the organization that received the immigration documents erroneously if they would be willing to sign an affidavit confirming that they received your client’s paperwork erroneously, that the organization has no prior or current relationship with your client and any steps the organization took to remedy the issue.

- If there is an email record that the organization has of these efforts, ask if the organization would be willing to share so this could be included as well.
- A signed affidavit from your client attesting that they never received the documents and never lived at the address listed.
- If your client lived elsewhere and this is available, proof of this alternative address. Some possibilities include medical or school records with the address listed, bill statements, a lease, an affidavit from a housemate, or evidence from organizations that may have been providing support in some capacity.
- Public documents confirming that this erroneous address issue occurred, such as the following:
  - Relevant parts of this September 2022 GAO Report, [Southwest Border: Challenges and Efforts Implementing New Processes for Noncitizen Families](#).
    - Washington Post, [GAO examines U.S. border practices in facing record numbers of migrants](#), Oct. 17, 2022.
  - [Copy of the recommendation letter](#) sent by a number of nonprofits on ways the administration can fix this issue.
  - BuzzFeed News, [Border Agents Keep Sending Immigrants To Wrong Addresses With Little Regard For How It Could Affect Their Court Cases, Advocates Say](#), Sept. 21, 2022.
  - Curbed, [Hundreds of Migrants Were Sent to ‘Live’ in a Brooklyn Heights Office Building](#), Sept. 15, 2022.

### **Additional Resources and Background Information**

- [Cascading Errors of a Wrong Address](#), Think Immigration
- [Featured Issue: Interstate Transport of Migrants and Erroneous Addresses](#)
- [Practice Alert: EOIR to Create Dedicated “EOIR 33” Docket](#) (AILA Members Only)