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Objection to a Noncompliant NTA

The Board has held in *Matter of Fernandes*, 28 I&N Dec. 605, 610-11 (BIA 2022), that an objection to a noncompliant notice to appear will generally be considered timely if raised *prior to the close of pleadings*. That decision was not a change in law, and thus *Matter of Fernandes* applies retroactively.

Our guidance in *Matter of Fernandes* as to the timeliness of the claim-processing rule objection to a noncompliant notice to appear applies retroactively. The respondents did not object to the missing information in their notices to appear before the close of pleadings and have not otherwise demonstrated that their objection should be considered timely. Thus,

they have forfeited their objection. We will sustain DHS' appeal, vacate the Immigration Judge's decision, and remand for further proceedings

Claim-Processing Rule

Remedy for Putative NTA

The Board of Immigration Appeals has determined that Homeland Security can “cure” a defective Notice to Appear (NTA) by moving the Immigration Judge to make written amendments to the NTA by adding the date and time of a future hearing.

The full text of *Matter of R-T-P-* can be found here:

<https://www.justice.gov/d9/2024-09/4079.pdf>