

***Franco-Gonzalez v. Holder***  
***Case Processing and Logistics – Quick Reference***

**CASE Competency Tab**

Create a new “mental competency process” in the CASE competency tab for the respondent upon receipt of (1) a DHS Notice of *Franco* Class Membership –or– (2) whenever an IJ makes a bona fide doubt finding, whichever occurs first. CASE must continue to be updated in real time as the mental competency determination process continues. See “CASE Competency Tab Flowchart” handout for further instructions. The CASE Competency tab is intended only for *Franco* cases, and cases identified under the Nationwide Policy for Unrepresented Detainees with Serious Mental Disorders or Conditions. It is not intended to track *M-A-M*- processes.

**CASE & ROP Identifiers**

- “**Franco Litigation**” (FL) CASE identifier has been created and should be marked in CASE whenever a DHS Notice of Class Membership is received. The CASE identifier should remain in place even if the IJ ultimately finds the alien competent. It is also recommended that the CASE comments field be updated to show when a DHS Notice of class membership is received by the court.
- Affix a *Franco* sticker to the front of the ROP.

**Adjournment Codes**

There are three adjournment codes that should be used for the following *Franco*-related hearing types (these are the only adjournment codes that should be used until competency is determined, as proceedings cannot go forward until after competency is decided):

- **62 – Judicial Competency Inquiry (JCI)** - schedule in the removal proceeding (not bond) upon receipt of a DHS Notice of Class Membership, must occur within 21 days of receipt of the Notice (exception: in Post-Order bond proceedings a JCI should be scheduled in bond proceedings within 21 days of a BFD finding).
- **60 – Forensic Competency Evaluation Ordered & Competency Review Hearing (CR)** - schedule within 30 days of receipt of the Forensic Competency Report. The Report should be received by the court within 45 days of ordering the Evaluation.
- **61 – Request for a Qualified Representative** - should be used when an IJ finds a respondent incompetent. The IJ order for a Qualified Representative should be scanned and emailed to the NQRP (cc’ing OGC) immediately after the conclusion of the hearing where the IJ found the respondent incompetent.
- **Finding of “Competent”** – if an IJ finds respondent competent at the conclusion of a JCI or CR hearing, any appropriate adjournment code may be used as the case can now go forward. Respondent however remains a *Franco* class member even if s/he is found competent, as certain protections may still apply regardless of the outcome of the competency assessment.

**Records & Other**

- **Forensic Competency Evaluations** – a copy of the FCE must be sent to the parties in advance of the competency review hearing, unless the report states that it should be served in-person to protect the safety of the class member.
  - When emailing the FCE documents to EOIR Headquarters upon issuance of an IJ order for an FCE, please save PDF documents with the following naming conventions: “Order\_A000-000-000,” “Referral\_A000-000-000,” and “Report\_A000-000-000.” Mental health records from the ROP should be sent in a separate PDF document.
- **Copies of the ROP for the QR** – once a QR is ordered, a complete copy of the ROP should be prepared at the Immigration Court for the QR to pick up.
- **Scheduling Bond Hearings** – A *Franco* class member is entitled to a bond hearing after 180 days in detention, and with their QR present after being found incompetent, even if they were previously provided with a bond hearing. Please schedule a bond hearing to take place within the timeframes provided below upon receipt of a Notice of Class Membership or BFD finding.

<b>Franco Class Member Status</b>	<b>Timing for Bond Hearing</b>
Detained for <i>less than</i> 180 days when first identified as a <i>Franco</i> class member	Schedule bond hearing to take place between 180 – 195 days in detention
Detained for <i>more than</i> 180 days when first identified as a <i>Franco</i> class member	Schedule bond hearing to take place within 15 days of identification as a class member
Detained for <i>more than</i> 180 days when found incompetent and a QR is ordered	Schedule a bond hearing to take place within 15 days of a finding of incompetent

- **Third Party Information** – The Court must accept and consider any mental health information or documentation relevant to a detainee’s mental competency provided by a third party. The court should provide a copy to DHS if the third party has not. Third party submissions should not be rejected for failing to follow filing requirements, including service on DHS.