

Proposed Amendments to Texas Rules of Civil Procedure 8 and 10

(Subcommittee Draft ~~7/139/26/18~~)

Rule 8. Attorney in Charge

Rule 8.1. General Appearance ~~{Current text of Rule 8}~~

~~(a) On the occasion of a party's first appearance through counsel, the attorney~~
An attorney whose signature first appears on the initial pleadings for ~~any~~
~~party shall be a party is the attorney responsible for the suit for that party,~~
unless:

~~(1) the initial pleadings designate another attorney as the attorney in~~
~~charge, unless another attorney is specifically designated therein.~~
~~Thereafter, until such; or~~

~~(2) the attorney files a notice of limited appearance under this rule.~~

~~(a)(b) Any change in the designation is changed of the attorney in charge must~~
be made by written notice to the court and all ~~other~~ parties ~~in accordance~~
~~with Rule 21a, said attorney in charge shall be responsible for the suit as~~
~~to such party. the suit.~~

~~(b)(c) All communications from the court or other counsel with respect to a~~
~~suit shall be sent to the attorney in charge.~~ _____

Rule 8.2. Limited Appearance

(a) *Notice Required.* An attorney making a limited appearance in a case
on behalf of a party not otherwise represented by counsel must file

with the court a notice of limited appearance ~~with the court.~~, signed by the attorney and the party. The notice must be served on all parties to the suit. The notice must identify:

(1) the attorney making the limited appearance;

(2) the ~~issues~~party the attorney represents;

~~(3) the tasks~~ for which the attorney will represent the ~~client;~~party;
and

~~(3) the party the attorney represents; and~~

(4) the service information for the attorney and the party.

(b) Notice Not Required. A notice of limited appearance is not required if the tasks to be performed by the attorney do not require the attorney to appear before the court or communicate with the court or opposing parties.

(b)(c) Limited Scope. An attorney who files a notice of limited appearance is the attorney for that party for the ~~issue~~tasks designated in the notice of limited appearance but is not the attorney for ~~matter~~the party for tasks outside the scope of the notice.

(e)(d) Duration. A limited appearance continues until the court orders that the attorney may withdraw under Rule 10.2 ~~or the case is finally concluded in the trial court. If the appearance is for a preliminary or temporary issue and the court defers its ruling, then the attorney's obligation to the court ends with the attorney's appearance at the preliminary hearing and the attorney may move to withdraw under Rule 10.2. An interim order subject to further consideration by the trial court at a later date does not extend the~~

~~attorney's obligation to the court.~~ or the case is concluded in the trial court.

~~(d)~~(e) Service. Service must be made on the attorney and the party in accordance with Rule 21a ~~for issues designated in~~until the ~~notice of limited appearance.~~ For matters outside attorney withdraws from the ~~scope of case or~~ the ~~notice of limited appearance,~~ service case is ~~concluded.~~ Service must be made on the party at the address listed for the party ~~on the notice of limited appearance.~~ Service directed to an attorney and not the party for ~~matter tasks~~ outside the scope of the notice of limited appearance is not effective.

~~(e)~~(f) Court notices. Where ~~these~~ rules require the trial court to provide written notice to the parties, the trial court must provide ~~that~~ notice to the attorney and ~~separately provide notice to~~ the party ~~in~~at the ~~manner directed by these rules~~address listed for the party.

~~(g)~~Multiple Attorneys. ~~When multiple attorneys appear in the suit on behalf of a party, one attorney must make a general appearance and be designated as the attorney in charge.~~

Comment—2018

Consistent with Texas Disciplinary Rule of Professional Conduct 1.02(b), an attorney may limit the scope, objectives, and general methods of representation if the client consents after consultation. This rule addresses the attorney's responsibilities to the court and opposing counsel when an attorney represents a client in court for a limited purpose: and no other attorney appears on behalf of the client. The rule does not otherwise define the scope or method of representation by ~~a lawyer~~an attorney, including preparation of court documents for a party by an attorney who is not making a court appearance, and instead leaves this to the ~~lawyer~~attorney and client to address within their engagement agreement. The rule does not require an attorney to file a limited appearance unless the attorney appears in court and no other attorney appears as the attorney in charge of the suit for that party. When a party is represented by multiple attorneys in court, the party must designate one attorney to be the attorney in charge of the suit for all purposes.

Rule 10. Withdrawal and Substitution of Attorney

Rule 10.1. Withdrawal from General Appearance ~~{Current text~~

Withdrawal without substitution of ~~Rule 10~~

(a) counsel. An attorney may withdraw from representing a party ~~only~~ upon written motion for good cause shown. ~~If another~~ The motion must state:

(1) the party's last known address and email address for purposes of service;

(2) that the attorney is to be substituted as attorney for has provided the party, with a copy of the motion shall and notified the party in writing that the party has the right to object;

(3) whether the party has consented to the motion; and

(4) all pending settings or deadlines known to counsel at the time of withdrawal, including any hearing on the motion to withdraw.

(b) Withdrawal with substitution of counsel. A party may substitute counsel upon written motion. The motion must state:

(1) the name, address, telephone number, ~~telecopier number, if any~~ email address, and State Bar of Texas identification number of the substitute attorney;

(2) that the party approves the substitution; and

(3) that the withdrawal is not sought for delay only. ~~If another attorney is not to be substituted as attorney for the party, the motion shall state: that a copy of the motion has been delivered to the party; that the party~~

~~has been notified in writing of his right to object to the motion; whether the party consents to the motion; the party's last known address and all pending settings and deadlines.~~

~~(c) *Motion granted.* If the motion to withdraw is granted, the withdrawing attorney shall immediately notify the party or substitute counsel in writing of any ~~additional~~ settings or deadlines of which the attorney has knowledge at the time of the withdrawal and has not already notified the party. ~~The Court may impose further conditions upon granting leave to withdraw. Notice or delivery to a party shall be either made to the party in person or mailed to the party's last known address by both certified and regular first class mail.~~ or substitute counsel.~~

~~(a)(d) *Multiple attorneys; withdrawal of attorney in charge.* If the attorney in charge withdraws and ~~another attorney remains or becomes substituted, another attorney in charge must be designated of record with additional attorneys have appeared on behalf of the party, the party must give notice to the court and all other parties in accordance with Rule 21a of the designated attorney in charge.~~~~

Rule 10.2. Withdrawal from Limited Appearance

(a) *Motion required.* An attorney seeking to withdraw from a limited appearance filed under Rule 8.2 before the case is concluded must move to withdraw from the representation. The trial court must permit the withdrawal if the motion includes:

- (1) the client's party's consent in writing to the withdrawal;
- (2) a statement that the other parties do not oppose the motion;
- (3) the last known mailing address of the client party;
- (4) a statement of any pending trial settings settings or deadlines of which the attorney is aware at the time of withdrawal; and
- (5) the attorney's certification that all the tasks required by the notice of limited appearance have been completed, including the filing of proposed orders addressing the relief sought for any task included in the notice of limited representation.

(b) Opposition to withdrawal. If the motion to withdraw is opposed by any party, then the trial court must determine whether the attorney has completed the tasks included in the notice of limited representation, and if so, permit the attorney to withdraw.

(c) Tasks not complete. For good cause shown, the trial court may grant leave to withdraw without the attorney's certification that all tasks have been completed.

~~(b)~~(d) Substitution. If a motion to withdraw includes an appearance by another attorney to substitute for the withdrawing attorney, then the motion need only state that the substituting attorney has assumed responsibility for all uncompleted matter tasks within the scope of the

notice of limited appearance and the clientparty has consented to the substitution. The motion must be signed by the withdrawing and the substituting attorney.

~~(e)~~(e) Order. ~~If the motion to withdraw is opposed by the client or another party, then the court must determine whether the attorney has fulfilled the attorney's responsibilities to the court for matters included in the notice of limited representation, and if so, permit the attorney to withdraw.~~ The court must not impose further conditions upon granting leave to withdraw.

~~(d)~~(f) Service. The withdrawing attorney must serve a copy of the court's order permitting withdrawal on all parties.