

[Existing Rules 7 and 8 of the Texas Rules of Civil Procedure state:

Rule 7. May Appear by Attorney

Any party to a suit may appear and prosecute or defend his rights therein, either in person or by an attorney of the court.

Rule 8. Attorney in Charge

On the occasion of a party's first appearance through counsel, the attorney whose signature first appears on the initial pleadings for any party shall be the attorney in charge, unless another attorney is specifically designated therein. Thereafter, until such designation is changed 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.

They would be replaced by the following rule.]

RULE 7. APPEARANCE BY ATTORNEY

- 7.1 Right; Necessity.** Except as provided by statute, an individual may, and any other person or entity must, be represented in court by an attorney.
- 7.2 Designating or Identifying Counsel.** Every designation or identification of an attorney as counsel must state the attorney's name, mailing address, telephone number, any fax number, and either the State Bar of Texas identification number if the attorney is licensed to practice in Texas, or the jurisdiction in which the attorney is licensed.
- 7.3 Appearance of Attorney as Counsel.** An attorney may appear for a party by filing a notice identifying the attorney as counsel for the party. Any attorney whose name is shown as counsel for a party on a paper filed for the party is deemed to have appeared for the party. The clerk must note on the case docket the names of all attorneys who have appeared for the party.

7.4 Lead Counsel.

- (a) *Responsibility.* Lead counsel is responsible for the suit with respect to the party represented.
- (b) *Communications.* The court and all parties must direct all communications with respect to the suit to lead counsel.
- (c) *How Designated.* A party may file a notice designating the attorney who will be the party's lead counsel. A notice which designates new lead counsel must be signed by that attorney and by either the party or the former lead counsel. If no lead counsel is designated by notice, the attorney whose signature first appears on the first paper filed for the party is deemed to have been designated lead counsel.

7.5 Litigation Payments.

- (a) *Defined.* A litigation payment includes a payment:
 - (1) to any person with respect to:
 - (A) the referral of an attorney, a client, or a case;
 - (B) the solicitation of a client or a case by any means that does not include the name of lead counsel or lead counsel's law firm; or
 - (C) the forwarding or transferring of a case to an attorney; or
 - (2) to an attorney who:
 - (A) is not lead counsel or associated with lead counsel in the same law firm, and
 - (B) has not appeared in the case or provided substantial professional services with respect to the case.
- (b) *Disclosure.* Lead counsel must file with the court a notice disclosing every litigation payment made or agreed to be made with respect to the case. The notice must:

- (1) state the amount and date of each payment made or to be made;
 - (2) state the name, address, and telephone number of the person, or identify the attorney, to whom each payment has been made or is to be made;
 - (3) include a copy of each agreement for a litigation payment;
 - (4) include a copy of the client's approval of each such payment or agreement; and
 - (5) contain a copy of all print advertisements and a transcript of all other advertisements – not containing the name of lead counsel or lead counsel's law firm – to which the client responded.
- (c) *Time for Disclosure.* At the first appearance of an attorney as lead counsel, the attorney must disclose all litigation payments made or agreed to be made. Thereafter, lead counsel must disclose any litigation payment within 15 days after is made or agreed to be made.
- (d) *Disqualification.* The court must disqualify an attorney from acting as lead counsel for a party in a case if the court finds that:
- (1) the attorney intentionally failed to make the disclosure required by this rule;
 - (2) the attorney divided or agreed to divide a fee in violation of Rule 1.04 of the Texas Disciplinary Rules of Professional Conduct;
 - (3) a litigation payment in excess of \$50,000 or 15% of the attorney fees for the party in the case, whichever is less, has been made or agreed to be made; or
 - (4) the attorney's representation of the party in the case occurred as a result of an advertisement or solicitation of any kind that did not state the name of the attorney or the attorney's law firm.

- (e) *Hearing.* The court must, on a party's motion, and may, on its own initiative, conduct a hearing to determine whether there has been a violation of this rule.
- (f) *Sanctions.* An attorney or law firm found to be in violation of this rule shall be subject to such sanctions as are just, including an order declaring the underlying fee agreement or contract for retention of legal services to be voidable at the insistence of the client.