



The Supreme Court of Texas

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Mr. Charles L. Babcock
Jackson Walker LLP
1401 McKinney Street, Ste. 1900
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Re: Proposed Amendment to Texas Rule of Civil Procedure 10

Dear Chip,

Judge Tony Lindsay of the 280th Judicial District Court in Harris County recommends amending Texas Rule of Civil Procedure 10 to require a withdrawing attorney to include in a motion to withdraw the last known phone number—in addition to the already required last known address—of a party who will be proceeding without new counsel. Judge Lindsay reports that clerks request this information in some counties as a matter of course and thinks the rules should reflect this practice. Justice Hecht asked me to refer this matter to the advisory committee for consideration.

For the committee's convenience, I attach two proposals. The first proposal simply adds two words to the current rule. The second proposal restructures the current rule and is taken from the recodification draft, which already included the telephone number in its attorney-withdrawal rule.

Kind Regards,

Lisa Hobbs

c: Justice Nathan L. Hecht
Judge Tony Lindsay

PROPOSED AMENDMENTS TO TEXAS RULES OF CIVIL PROCEDURE
RULE 10. WITHDRAWAL OF ATTORNEY

VERSION 1 (*proposed modification underlined*)

An attorney may withdraw from representing a party only upon written motion for good cause shown. If another attorney is to be substituted as attorney for the party, the motion shall state: the name, address, telephone number, telecopier number, if any, and State Bar of Texas identification number of the substitute attorney; that the party approves the substitution; and 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 telephone number and all pending settings and deadlines. If the motion is granted, the withdrawing attorney shall immediately notify the party 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. If the attorney in charge withdraws and another attorney remains or becomes substituted, another attorney in charge must be designated of record with notice to all other parties in accordance with Rule 21a.

VERSION 2 (*from recodification draft*)

A trial court may, on appropriate terms and conditions, permit an attorney to withdraw from representing a party in the trial court.

(a) *Contents of motion.* A motion for leave to withdraw must contain the following

- (1) a list of current deadlines and settings in the case;
- (2) the party's name and last known address and telephone number;
- (3) a statement that a copy of the motion was delivered to the party; and
- (4) a statement that the party was notified in writing of the right to object to the motion.

(b) *Delivery to party.* The motion must be delivered to the party in person or mailed – both by certified mail and by first-class mail – to the party at the party's last known address.

(c) *If motion granted.* If the court grants the motion, the withdrawing attorney must immediately notify the party, in writing, of any deadlines or setting that the attorney knows about at the time of the withdrawal but that were not previously disclosed to the party. The withdrawing attorney must file a copy of that notice with the court clerk.

(d) *Exception for substitution of counsel.* If an attorney substitutes for a withdrawing attorney, the motion to withdraw need not comply with (1) but must state only the substitute attorney's name, mailing address, telephone number, fax number, if any, and State Bar of Texas identification number. The withdrawing attorney must comply with (2) and (3).