

Proposal 20-01
Amends Supreme Court Rule 13
Offered by Illinois State Bar Association

Rule 13. Appearances—Time to Plead—Withdrawal

(c) Appearance and Withdrawal of Attorneys.

(1) *Addressing the Court.* An attorney shall file a written appearance or other pleading before addressing the court unless the attorney is presenting a motion for leave to appear by intervention or otherwise.

(2) *Notice of Withdrawal.* An attorney may not withdraw his or her appearance for a party without leave of court and notice to all parties of record. Unless another attorney is substituted, the attorney must give reasonable notice of the time and place of the presentation of the motion for leave to withdraw, by personal service, certified mail, or a third-party carrier, directed to the party represented at the party's last known business or residence address. Alternatively, the attorney may give such notice electronically, if receipt is acknowledged by the party. Such notice shall advise said party that to insure notice of any action in said cause, the party should retain other counsel therein or file with the clerk of the court, within 21 days after entry of the order of withdrawal, a supplementary appearance stating therein an address to which service of notices or other documents may be made.

(3) *Motion to Withdraw.* The motion for leave to withdraw shall be in writing and, unless another attorney is substituted, shall state the last known address(es) of the party represented. The motion may be denied by the court if granting the motion would delay the trial of the case, or would otherwise be inequitable.

(4) *Copy to be Served on Party.* If the party does not appear at the time the motion for withdrawal is granted, either in person or by substitute counsel, then, within three days of the entry of the order of withdrawal, the withdrawing attorney shall serve the order upon the party- in the manner provided in paragraph (c)(2) of this rule; and file proof of service of the order.

(5) *Supplemental Appearance.* Unless another attorney is, at the time of such withdrawal, substituted for the one withdrawing, the party shall file in the case within 21 days after entry of the order of withdrawal a supplementary appearance, stating therein an address at which the service of notices or other documents may be had upon him or her. A self-represented litigant may supply an e-mail address for service, pursuant to Rule 11(b). In the case of the party's failure to file such supplementary appearance, subsequent notices and filings shall be directed to the party at the last known business or residence address.

(6) *Limited Scope Appearance.* An attorney may make a limited scope appearance on behalf of a party in a civil proceeding pursuant to Rule of Professional Conduct 1.2(c) when the attorney has entered into a written agreement with that party to provide limited scope representation. The attorney shall file a Notice of Limited Scope Appearance, prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the [Article I Forms Appendix](#), identifying each aspect of the proceeding to which the limited scope appearance pertains.

An attorney may file a Notice of Limited Scope Appearance more than once in a case. An attorney must file a new Notice of Limited Scope Appearance before any additional aspect of the proceeding in which the attorney intends to appear. A party shall not be required to pay more than one appearance fee in a case.

(7) *Withdrawal Following Completion of Limited Scope Representation.* Upon completing the representation specified in the Notice of Limited Scope Appearance filed pursuant to paragraph (6), the attorney shall withdraw ~~that appearance by filing a oral motion or written n~~ Notice of Withdrawal and Completion of Limited Scope Appearance utilizing or substantially adopting the appearance and content of the form provided in the Article I Forms Appendix as provided in parts (i)-(ii) of this paragraph. Upon filing the Notice of Withdrawal and Completion of Limited Scope Representation the attorney's appearance terminates without the necessity of leave of court. The attorney must serve a copy of the Notice on the party the attorney represents, other counsel of record, and other parties not represented by counsel. The attorney must also serve the Notice of Withdrawal and Completion of Limited Scope Appearance on the judge then presiding over the case. The attorney must file proof of service as required by these Rules. The Notice of Withdrawal and Completion of Limited Scope Appearance may be presented to the court and served upon the parties entitled to notice in open court. A Notice of Withdrawal and Completion of Limited Scope Appearance presented in open court becomes effective upon presentment provided it is filed immediately. A withdrawal for any reason other than completion of the representation shall be requested by motion under paragraphs (c)(2) and (c)(3).

(i) ~~If the attorney completes the representation at or before a court hearing attended by the party the attorney represents, the attorney may make an oral motion for withdrawal without prior notice to the party the attorney represents or to other parties. The court must grant the motion unless the party objects on the ground that the attorney has not completed the representation. The order granting the withdrawal may require the attorney to give written notice of the order to parties who were neither present nor represented at the hearing. If the party objects that the attorney has not completed the representation, the court must hold an evidentiary hearing on the objection, either immediately or on a specified later date. After hearing the evidence, the court must grant the motion to withdraw unless the court expressly finds that the attorney has not completed the representation specified in the Notice of Limited Scope Appearance.~~

(ii) ~~An attorney also may withdraw by filing a Notice of Withdrawal of Limited Scope Appearance, prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the [Article I Forms Appendix](#). The attorney must serve the Notice on the party the attorney represents and must also serve it on other counsel of record and other parties not represented by counsel, unless the court by order excuses service on other counsel and other parties. The attorney must also serve the Notice on the judge then presiding over the case. The attorney must file proof of service in compliance with this paragraph. Within 21 days after the service of the Notice, the party may file an Objection to Withdrawal of Limited Scope Appearance, prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the [Article I Forms Appendix](#). The party must serve the Objection on the attorney and must also serve it on other counsel of record and other parties not represented by counsel unless the court by order excuses service on other counsel and other parties. If no timely Objection is filed, the attorney's limited scope appearance automatically terminates, without entry of a court order when the~~

~~21-day period expires. If a timely Objection is filed, however, the attorney must notice a hearing on the Objection. If the ground for the Objection is that the attorney has not completed the representation specified in the Notice of Limited Scope Appearance, the court must hold an evidentiary hearing. After the requisite hearing, the court must enter an order allowing the attorney to withdraw unless the court expressly finds that the attorney has not completed the representation specified in the Notice of Limited Scope Appearance.~~

Committee Comments

(June 14, 2013)

Paragraph (c)(6) addresses the provision of limited scope representation to clients under Rule of Professional Conduct 1.2(c). The paragraph is not intended to regulate or impede appearances made pursuant to other types of limited engagements by attorneys, who may appear and withdraw as otherwise provided by Rule 13.

An attorney making a limited scope appearance in a civil proceeding must first enter into a written agreement with the party disclosing the limited nature of the representation. The limited appearance is then effected by using the form Notice of Limited Scope Appearance appended to this Rule. Utilizing this standardized form promotes consistency in the filing of limited scope appearances, makes the notices easily recognizable to judges and court personnel, and helps ensure that the scope of the representation is identified with specificity.

A party on whose behalf an attorney has filed a Notice of Limited Scope Appearance remains responsible, either personally or through an attorney who represents the party, for all matters not specifically identified in the Notice of Limited Scope Appearance.

Paragraph (c)(6) does not restrict (1) the number of limited scope appearances an attorney may make in a case, (2) the aspects of the case for which an attorney may file a limited scope appearance such as, for example, specified court proceedings, depositions, or settlement negotiations, or (3) the purposes for which an attorney may file a limited scope appearance. Notwithstanding the absence of numeric or subject matter restrictions on filing limited scope appearances, nothing in the Rule restricts the ability of a court to manage the cases before it, including taking appropriate action in response to client or lawyer abuse of the limited scope representation procedures.

Paragraph (c)(7) provides that the attorney's withdrawal is automatic upon conclusion of the limited scope representation and the filing of the Notice of Withdrawal and Completion of Limited Scope Appearance. ~~two alternative ways for an attorney to withdraw when the representation specified in the Notice of Limited Scope Appearance has been completed. The first method—an oral motion—can be used whenever the representation is completed at or before a hearing attended by the party the attorney represents. Prior notice of such a hearing is not required. The attorney should use this method whenever possible, because its use ensures that withdrawal occurs as soon as possible and that the court knows of the withdrawal.~~

~~The second method—filing a Notice of Withdrawal of Limited Scope Appearance—enables the attorney to withdraw easily in other situations, without having to make a court appearance, except when there is a genuine dispute about the attorney's completion of the representation. The Notice of Withdrawal and Completion of Limited Scope Appearance must be served on the party~~

represented and on other counsel of record and other parties not represented by counsel ~~unless the court excuses service on other counsel of record and other parties not represented by counsel.~~ The Notice must also be served on the judge then presiding over the case to ensure that the judge is made aware that the limited scope representation has been completed, ~~subject to the client's right to object. The attorney's withdrawal is automatic, without entry of a court order, unless the client files a timely Objection to Withdrawal of Limited Scope Appearance.~~

~~— If the attorney makes an oral motion to withdraw pursuant to paragraph (c)(7)(i), with or without client objection, or if the client files a timely Objection to Withdrawal of Limited Scope Appearance pursuant to paragraph (c)(7)(ii), the court must allow the attorney to withdraw unless the court expressly finds that the attorney has not completed the representation specified in the Notice of Limited Scope Appearance. An evidentiary hearing is required if the client objects to the attorney's withdrawal based on the attorney's failure to complete the representation. A nonevidentiary hearing is required if the client objects on a ground other than the attorney's failure to complete the representation, although the primary function of such a hearing is to explain to the client that such an objection is not well founded. A court's refusal to permit withdrawal of a completed limited scope representation, or even its encouragement of the attorney to extend the representation, would disserve the interests of justice by discouraging attorneys from undertaking limited scope representations out of concern that agreements with clients for such representations would not be enforced.~~

A limited scope appearance under the rule is unrelated to “special and limited” appearances formerly used to object to the lack of personal jurisdiction. The use of such appearances ended with the adoption of Public Act 91-145, which amended section 2-301 of the Code of Civil Procedure (735 ILCS 5/2-301) effective January 1, 2000.