

RECEIVED, 12/16/2016 04:28:26 PM, Clerk, Supreme Court

**RULE 2.505. ATTORNEYS**

**(a) Scope and Purpose.** All persons in good standing as members of The Florida Bar shall be permitted to practice in Florida. Attorneys of other states who are not members of The Florida Bar in good standing shall not engage in the practice of law in Florida except to the extent permitted by rule 2.510.

**(b) Persons Employed by the Court.** Except as provided in this subdivision, no full-time employee of the court shall practice as an attorney in any court or before any agency of government while continuing in that position. Any attorney designated by the chief justice or chief judge may represent the court, any court employee in the employee's official capacity, or any judge in the judge's official capacity, in any proceeding in which the court, employee, or judge is an interested party. An attorney formerly employed by a court shall not represent anyone in connection with a matter in which the attorney participated personally and substantially while employed by the court, unless all parties to the proceeding consent after disclosure.

**(c) Attorney Not to Be Surety.** No attorneys or other officers of court shall enter themselves or be taken as bail or surety in any proceeding in court.

**(d) Stipulations.** No private agreement or consent between parties or their attorneys concerning the practice or procedure in an action shall be of any force unless the evidence of it is in writing, subscribed by the party or the party's attorney against whom it is alleged. Parol agreements may be made before the court if promptly made a part of the record or incorporated in the stenographic notes of the proceedings, and agreements made at depositions that are incorporated in the transcript need not be signed when signing of the deposition is waived. This rule shall not apply to settlements or other substantive agreements.

**(e) Appearance of Attorney.** ~~An attorney may appear in a proceeding in any of the following ways:~~

~~(1) By serving and filing, on behalf of a party, the party's first pleading or paper in the proceeding.~~

~~(2) — By substitution of counsel, but only by order of court and with written consent of the client, filed with the court. The court may condition substitution upon payment of, or security for, the substituted attorney’s fees and expenses, or upon such other terms as may be just.~~

~~(3) — By filing with the court and serving upon all parties a notice of appearance as counsel for a party that has already appeared in a proceeding pro se or as co-counsel for a party that has already appeared in a proceeding by non-withdrawing counsel.~~

**Lead Counsel.** Lead counsel is the attorney principally responsible for the representation of a party in a court case and will continue to be lead counsel until changed by order of court or termination of the court case. Except for appearing at a first appearance in a criminal case, a detention hearing in a delinquency case, or a shelter hearing in a dependency case, the attorney who first appears for a party will be deemed lead counsel. Attorneys holding constitutional or statutory offices will be deemed lead counsel unless another attorney is designated. This subdivision does not apply in capital cases as defined in Florida Rule of Criminal Procedure 3.112(b). Counsel in a capital case may appear as provided by rules 3.112(e), (i), and (l). Counsel’s representation in a capital case may be terminated or modified by a court order.

**(1) Appearance.** Lead counsel may appear in a court case in any of the following ways:

**(A) First appearance.** By filing and serving on behalf of a party, the party’s first pleading or document in the court case. If more than one attorney is listed on the pleading or document, then the first attorney named shall be lead counsel unless a different attorney is so designated on the same pleading or document.

**(B) Stipulation for Substitution.** By substitution, but only by order of court and with written consent of the client, filed with the court. The court may condition substitution upon payment of, or security for, the substituted attorney’s fees and expenses, or upon such other terms as may be just.

**(C) Notice of Appearance.** By filing and serving a notice of appearance as counsel for a party who is unrepresented at that time.

(2) Termination or Modification. Lead counsel's appearance in a court case may be terminated or modified in any of the following ways:

(A) Order of Withdrawal. By order of court, where the court case is continuing and there is no substitution of lead counsel, upon motion and hearing, on notice to all parties and the client, with such motion setting forth the reasons for withdrawal and the client's address, telephone number, including area code, and e-mail address.

(B) Order of Substitution of Lead Counsel. By substitution as lead counsel, but only by order of court and with written consent of the client, filed with the court. The order of substitution should indicate whether the attorney who seeks to be substituted as the lead counsel will remain as an additional counsel.

(C) Termination of Court Case. Automatically, without order of court, upon the termination of a court case, whether by final order of dismissal, by final adjudication, or otherwise, and following the expiration of any applicable time for appeal when no appeal is taken.

~~(f) Termination of Appearance of Attorney. The appearance of an attorney for a party in a proceeding shall terminate only in one of the following ways:~~

~~(1) Withdrawal of Attorney. By order of court, where the proceeding is continuing, upon motion and hearing, on notice to all parties and the client, such motion setting forth the reasons for withdrawal and the client's last known address, telephone number, including area code, and email address.~~

~~(2) Substitution of Attorney. By order of court, under the procedure set forth in subdivision (e)(2) of this rule.~~

~~(3) Termination of Proceeding. Automatically, without order of court, upon the termination of a proceeding, whether by final order of dismissal, by final adjudication, or otherwise, and following the expiration of any applicable time for appeal, where no appeal is taken.~~

~~(4) Filing of Notice of Completion. For limited representation proceedings under Florida Family Law Rule of Procedure~~

~~12.040, automatically, by the filing of a notice of completion titled “Termination of Limited Appearance” pursuant to rule 12.040(e).~~

**Additional Counsel.** Additional counsel is an attorney other than lead counsel or limited representation counsel. Attorneys who are acting under the authority of a constitutional or statutory officer, or a governmental agency or department, will be deemed additional counsel unless designated otherwise as permitted by subdivision (e). This subdivision does not apply in capital cases as defined in Rule of Criminal Procedure 3.112(b). Counsel in a capital case may appear as provided by rules 3.112(e), (i), and (l). Counsel’s representation in a capital case may be terminated or modified by a court order.

**(1) Appearance.** Additional counsel may appear in a court case in any of the following ways:

**(A) Initial Pleading or Document.** By being listed on the first pleading or document without being designated lead counsel.

**(B) Subsequent Pleading or Document.** By filing, serving, and signing a subsequent pleading or document. To ensure service by the court or clerk, a notice of appearance must be filed.

**(C) Notice of Appearance.** By filing and serving a notice of appearance.

**(D) Appearance Before the Court.** By entering such appearance in the court record or notifying the court of such appearance during a court proceeding and filing and serving a notice of appearance thereafter. The court may waive the requirement of filing a written notice of appearance but only for an attorney who appears at a court proceeding solely to provide representation during that court proceeding and who does not want to thereafter receive service by the court or clerk.

**(2) Termination.** Additional counsel’s appearance may be terminated in a court case in any of the following ways:

**(A) Order of Withdrawal.** By order of court after serving and filing on all parties a motion to withdraw as attorney for a party. The motion shall clearly identify the attorney who continues as the lead

counsel. The order can condition the withdrawal upon such terms as may be just.

**(B) Notice of Withdrawal.** By serving and filing on all parties a notice of withdrawal as attorney for a party. The notice shall clearly identify the attorney who continues as the lead counsel.

**(C) Termination of a Court Case.** Automatically, without order of court, upon the termination of a court case, whether by final order of dismissal, by final adjudication, or otherwise, and following the expiration of any applicable time for appeal when no appeal is taken.

**(D) Verbal Leave of Court.** By verbal leave of court at the conclusion of the court proceeding when appearing solely to provide coverage for a single court proceeding and the court waived the requirement of filing a notice of appearance, as described in subdivision (f)(1)(D).

**(g) Limited Representation Counsel.** Except for attorneys acting under the authority of a constitutional or statutory office, or a governmental agency or department, limited representation counsel is an attorney for a party or non-party who provides limited representation. An appearance by limited representation counsel may be limited or prohibited by an appropriate rule of court. No limited representation will be permitted in capital cases as defined by Rule of Criminal Procedure 3.112(b).

**(1) Appearance.** Limited representation counsel may appear in a court case after receiving informed consent in writing by the party or non-party and by filing and serving a notice titled “Notice of Limited Representation,” either prior to or immediately after making an appearance in a court case. The notice of limited representation will identify each aspect of the court case or the time period to which the notice pertains. An attorney must file a new notice of limited representation before undertaking representation for any additional aspect of the court case or for an additional time period. A form notice of limited representation accompanies this rule and will be utilized unless otherwise modified by an appropriate rule of court.

**(2) Termination.** Limited representation counsel’s appearance shall be terminated in a court case as follows:

**(A) Notice of Termination of Limited**

**Representation.** Without leave of court by filing a notice titled “Notice of Termination of Limited Representation” under the following circumstances:

(i) at the conclusion of each aspect of the court case for which an attorney has appeared pursuant to a notice of limited representation, or

(ii) at the expiration of the time period set forth in the notice of limited representation.

The notice of termination of limited representation shall include the names, addresses, telephone numbers, including area codes, and e-mail addresses of the person(s) represented by the withdrawing attorney, which shall be served on each party including the party or non-party represented. In the notice of termination of limited representation, the attorney shall certify either that the attorney has conferred in good faith with the client and that the client has no objection to the termination of limited representation or that the attorney has made reasonable efforts to confer with the client but has been unable to do so. If the attorney is not able to certify either that the client has no objection to the termination of limited scope representation or that the attorney has made reasonable efforts to confer with the client but has been unable to do so, the attorney must seek leave of court permitting the attorney’s withdrawal. A form notice of termination of limited representation accompanies this rule and shall be utilized unless otherwise modified by an appropriate rule of court.

**(B) Order of Withdrawal.** By order of court:

(i) upon motion and hearing, on notice to all parties and the client, with such motion setting forth the reasons for withdrawal and the names, addresses, telephone numbers, including area codes, and e-mail addresses of the person(s) represented by the withdrawing attorney. A hearing will be held on this motion unless the limited representation was provided in the appellate court.

(ii) when limited representation counsel is not able to certify either that the client has no objection to the termination of limited representation or that the limited representation counsel has made reasonable efforts to confer with the client but has been unable to do so. The court must allow the limited representation counsel to withdraw unless the

court expressly finds that the limited representation counsel has not completed the representation specified in the notice of limited representation. A hearing will be held on this motion unless the limited representation was provided in the appellate court.

**(3) Conduct During Limited Representation.** Limited representation counsel shall be deemed an attorney of record for each aspect of the court case or the time period to which the notice pertains.

(A) Any pleading or other document filed by limited representation counsel shall state in bold type on the signature page of that pleading or other document: “Attorney for [insert party or non party] for the limited purpose of [insert subject matter or proceeding]” to be followed by the name of party or non-party represented and the address, telephone number, including area code, and e-mail address of that party or non-party.

(B) A pro se party who files a pleading or other document in a court case with the assistance of an attorney shall certify that the party has received assistance from an attorney in the preparation of the pleading or other document. The name, address, telephone number, including area code, and e-mail address of the party shall appear on all pleadings or other documents filed with the court.

(C) During an attorney’s limited representation, all documents filed in the court case shall be served upon the limited representation counsel and the party or non-party. Unless the notice of limited representation filed in the case identifies the specific proceedings at which the limited representation counsel will appear, if limited representation counsel receives notice of a hearing that is not within the scope of the limited representation, limited representation counsel shall notify the court and the opposing party that the attorney will not attend the court proceeding because it is outside the limited representation.

**(h) Law Student Participation.** Eligible law students shall be permitted to participate as provided under the conditions of chapter 11 of the Rules Regulating The Florida Bar as amended from time to time.

**(hi) Attorney as Agent of Client.** In all matters concerning the prosecution or defense of ~~any proceeding in the court, the~~ a court case, any attorney of record ~~while appearing for a party~~ shall be the agent of the client ~~party, and any notice by or to the attorney or act by the~~ that attorney in

the proceeding shall be accepted as the act of or notice to the client that party, and the attorney shall be bound by any and subject to all applicable Rules Regulating The Florida Bar.

### Committee Notes

**20 Amendments.** The prior version of rule 2.505 permitted the appearance of an attorney only upon the filing of the first pleading or document, a filing of a notice of appearance, or by the entry of an order of substitution of counsel. The rule did not anticipate or permit the appearance of attorneys for limited purposes, such as to handle a single court proceeding in an on-going case being handled by another lawyer.

The amendments to rule 2.505 now identify three types of attorneys who may appear in a case: lead counsel, additional counsel, and limited representation counsel. Each type of attorney has different responsibilities to the court, to the clerk, and to the client.

“Lead counsel” is the attorney principally responsible to the court and to the client. The manner in which lead counsel enters and leaves a court case is the same as the prior version of the rule. As with the prior version of the rule, lead counsel cannot withdraw from a case without court approval and notice to the client. Lead counsel will be classified as an attorney of record for the clerk’s case maintenance systems and for remote access to case files. In the private sector, lead counsel would be the attorney who has the ultimate responsibility for the case. In the public sector it is the appointed or elected statutory or constitutional officer although such officers have the ability to delegate this “lead counsel” status to another attorney working under his or her supervision. This option was provided because some elected or appointed constitutional or statutory officers may not want the responsibilities that are connected to lead counsel in a particular case.

“Additional counsel” is an attorney who is involved in a case, but has responsibilities to the court that are different from those of “lead counsel.” The requirements for additional counsel to enter and leave a court case are less stringent. Additional counsel does not need permission of the court to withdraw from a case so long as the designated lead counsel remains in the case. Additional counsel will be classified as an attorney of record for the clerk’s case maintenance systems and for remote access to case files as long as the additional counsel has signed the first pleading or document or has

filed a separate notice of appearance. In the private sector, an additional attorney is a secondary attorney on the case, whether in the same firm as lead counsel or in a different firm. The additional counsel is required to file a notice of appearance, unless leave of court is obtained excusing the filing and the attorney does not want to receive service of court documents. In the public sector, an “additional counsel” could be an assistant state attorney, assistant public defender, assistant attorney general, assistant attorney with the office of regional counsel, or an assistant city or county attorney. These attorneys would not need leave of court to withdraw from a case as long as another attorney remains as “lead counsel.”

“Limited representation counsel” is an attorney who ~~is hired to represent~~ participates on behalf of a client on a limited basis in a court proceeding and, generally, the client would otherwise be self-represented. Limited representation can also be for a specific limited purpose even though the client already has counsel. The concept of “limited representation counsel” has been used previously in both the family and probate rules of procedure. Limited representation counsel may represent a litigant in specific parts of the client’s case, unless otherwise limited or prohibited by another rule of court. A form Notice of Limited Representation and a form Notice of Termination of Limited Representation are made a part of this rule. During the limited representation, limited representation counsel is classified as an attorney of record for the clerk’s case maintenance systems and for remote access to case files.

Subdivision (i) of the rule clarifies that attorneys who cover hearings as additional counsel represent the client and not lead counsel.

### **Court Commentary**

**1997 Amendment.** Originally, the rule provided that the follow-up filing had to occur within ten days. In the 1997 amendment to the rule, that requirement was modified to provide that the follow-up filing must occur “immediately” after a document is electronically filed. The “immediately thereafter” language is consistent with language used in the rules of procedure where, in a somewhat analogous situation, the filing of a document may occur after service. *See, e.g.,* Florida Rule of Civil Procedure 1.080(d) (“All original papers shall be filed with the court either before service or *immediately thereafter.*”) (emphasis added). “Immediately

thereafter” has been interpreted to mean “filed with reasonable promptness.” *Miami Transit Co. v. Ford*, 155 So. 2d 360 (Fla. 1963).

The use of the words “other person” in this rule is not meant to allow a nonlawyer to sign and file pleadings or other papers on behalf of another. Such conduct would constitute the unauthorized practice of law.

**2003 Amendment.** Rule Regulating the Florida Bar 4-1.12(c), which addresses the imputed disqualification of a law firm, should be looked to in conjunction with the rule 2.060(b) [renumbered as 2.505(b) in 2006] restriction on representation by a former judicial staff attorney or law clerk.

**Appendix**

**IN THE**  
**CIRCUIT/COUNTY**  
**COURT OF THE**

[Plaintiff/Petitioner]

v.

[Defendant/Respondent]

**NOTICE OF LIMITED REPRESENTATION**

1. A attorney, .....(attorney’s name)....., and the client, .....(client’s name)....., have entered into a written agreement dated .....(date).... providing that the attorney will provide limited representation to the client in the above-captioned case in accordance with paragraphs 3 and 4 below.

2. The Client is (check one):

- Plaintiff/Petitioner in this case.
- Defendant/Respondent in this case.
- Non-Party in this case.

3. The attorney appears pursuant to Florida Rule of Judicial Administration 2.505(g). This appearance is limited in scope to the following matter(s) or proceedings in which the attorney will represent the client (check and complete all that apply):

- In the court proceeding (identify) on the following date: .....(date).....
- And in any continuance of that proceeding
- At the trial on the following date: .....(date).....
- And in any continuance of that trial
- And until judgment
- At the following deposition(s):
- Other (specify the scope and limits of representation):

4. If this appearance does not extend to all matters to be considered at the proceeding(s) above, identify the discrete issues within each proceeding covered by this appearance:

\_\_\_\_\_  
\_\_\_\_\_

5. The limited representation attorney may withdraw following completion of the limited representation specified in this appearance by filing a notice titled “Notice of Termination of Limited Representation.” The notice shall include the names, addresses, telephone numbers, including area codes, and e-mail addresses of the

person(s) represented by the withdrawing attorney and must be served on each of the parties, including the attorney's client. In the notice of termination of limited representation, the attorney shall certify either: (A) that the attorney has conferred in good faith with the client and that the client has no objection to the notice of termination of limited representation; or (B) that the attorney has made reasonable efforts to confer with the client but has been unable to do so. If the attorney is not able to certify to either 5(A) or 5(B), the attorney must notice a hearing on the notice termination of limited representation unless the limited representation was provided in the appellate court.

6. Service of pleadings on the attorney and party named above shall be made in accordance with Florida Rule of Judicial Administration 2.516(c).

7. The client being represented under this limited representation:

a. agrees to the delivery of all court papers to the addresses specified below; and

b. agrees to inform the court, all counsel of record, and all parties not represented by counsel of any changes to the party's address information listed below during the limited scope representation.

\_\_\_\_\_  
.....(name of attorney).....  
Limited Representation Counsel  
.....(address).....  
.....(city, state, zip code).....  
.....(phone number).....  
.....(e-mail address).....  
Florida Bar No. \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I certify that a copy of this Notice of Limited Representation was (check all used):  
( ) e-mailed; ( ) mailed; ( ) faxed; ( ) hand delivered on  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Other party or his/her attorney:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address(es): \_\_\_\_\_

Client party:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
E-mail Address(es): \_\_\_\_\_

\_\_\_\_\_  
.....(name of attorney).....  
Limited Representation Counsel  
.....(address).....  
.....(city, state, zip code).....  
.....(phone number).....  
.....(e-mail address).....  
Florida Bar No. \_\_\_\_\_

IN THE  
CIRCUIT/COUNTY  
COURT OF THE

[Plaintiff/Petitioner]

v.

[Defendant/Respondent]

**NOTICE OF TERMINATION OF LIMITED REPRESENTATION**

.....(Attorney's name)..... files this notice of termination of limited representation on behalf of the (check one only):

.....(Plaintiff/Petitioner).....

.....(Defendant/Respondent).....

Non-Party: .....(name).....

and certifies that the representation for which the limited representation counsel was to provide is concluded. Copies of all future court documents should be served on (check one only)

.....(Plaintiff/Petitioner).....

.....(Defendant/Respondent).....

Non-Party: .....(name).....

At: .....(address).....

I certify that (check one):

I have conferred in good faith with the client and that the client has no objection to the Notice of Termination of Limited Representation.

I have made reasonable efforts to confer with the client but have been unable to do so.

I have not been able to confer in good faith nor have I been able to make reasonable efforts to confer with the client. I am seeking leave of court for termination of the limited representation. Unless limited representation was provided in the appellate court, a hearing will be noticed on this motion.

**CERTIFICATE OF SERVICE**

I certify that a copy of this Notice of Termination of Limited Representation was (check all used): ( ) e-mailed; ( ) mailed; ( ) faxed; ( ) hand delivered on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Other party or his/her attorney:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address(es): \_\_\_\_\_

Client party:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address(es): \_\_\_\_\_

\_\_\_\_\_  
.....(name of attorney).....

Limited Representation Counsel

.....(address).....

.....(city, state, zip code).....

.....(phone number).....

.....(e-mail address).....

Florida Bar No. \_\_\_\_\_