

RECEIVED, 06/30/2016 01:03:43 PM, Clerk, Supreme Court

Proposed Rules	Reason for Change
RULE 2.120. DEFINITIONS The following terms have the meanings shown as used in these rules: (a)–(c) [No change] (d) <u>Attorney of Record.</u> <u>An attorney who is appearing in a court case as lead counsel, additional counsel, or limited representation counsel in accordance with rule 2.505.</u>	Creates proposed subdivision (d) to define attorney of record as it is not defined in any rule.

RULE 2.505. ATTORNEYS

(a)–(d) [No change]

(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. 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 Rule of Criminal Procedure 3.112(b). Counsel in a capital case may appear as provided by rule 3.112(e), (i), (l). Counsel’s representation in a

Proposed deletion of the current subdivision (e) text.

Proposed subdivision (e) defines lead counsel and establishes the default of constitutional or statutory officers as lead counsel.

Specifically excludes capital cases from this definition.

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

Proposed subdivision (e)(1) details the manners in which a lead counsel may appear in a case; specifically, by (A) initial filing and serving of pleading or document, (B) by filing a stipulation for substitution that is approved by the court and client, or (C) by filing a notice of appearance.

Proposed subdivision (e)(2) establishes procedure for terminating or modifying the lead counsel relationship; specifically, it provides for (A) an order of withdrawal by the court, (B) an order of substitution of lead counsel by the court, or (C) the completion of the case.

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

Proposed deletion of the current subdivision (f) text.

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 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 rule 3.112(e), (i), (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

Proposed subdivision (f) defines additional counsel and also clarifies the role of attorneys under the authority of constitutional or statutory officers.

Capital case counsel is specifically exempt from this rule.

Proposed subdivision (f)(1) establishes the methods for additional counsel to appear in a case; specifically, through (A) being listed within the initiating filing, (B) being listed within a subsequently filed pleading, (C) filing and serving a notice of appearance, or (D) physically appearing in a court proceeding.

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.

Proposed subdivision (f)(2) details the methods an additional counsel's appearance may be terminated; specifically, by (A) the filing of an order of withdrawal, (B) by filing a notice of withdrawal, (C) by a court case being concluded, or (D) by verbal leave of court, particularly in hearing specific court presence appearances described in subdivision (f)(1)(D).

<u>(D) Verbal Leave of Court.</u> 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). <u>(g) Limited Representation Counsel.</u> 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). <u>(1) Appearance.</u> 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. <u>(2) Termination.</u> Limited representation counsel’s appearance shall be terminated in a court case as follows: <u>(A) Notice of Termination of</u>	Proposed subdivision (g) inserts a new role of limited representation counsel who represent clients for certain times or events. Provides the exclusion of capital case representation from this rule. Proposed subdivision (g)(1) requires a limited representation counsel to define that limited representation to the court by filing a Notice of Limited Representation that specifies the case aspect or time period of representation. Proposed subdivision (g)(2) defines the methods available to
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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:

terminate a limited representation relationship; specifically, by (A) filing a Notice of Termination of Limited Representation at the conclusion of the specific retained aspect of work or at the expiration of the time period defined, and (B) receiving an order of withdrawal after motion and hearing.

This added paragraph specifies the required information to be included in the termination of representation request.

(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

Proposed subdivision (g)(2)(B) provides procedures for drafting a motion for withdrawal as limited appearance attorney, scheduling a hearing unless the limited appearance is for appellate purposes, and the ability to obtain an order granting the withdrawal unless the work is not complete.

Proposed subdivision (g)(3) details how the limited representation is recognized as the attorney of record for the specific event or time.

Proposed subdivision (g)(3)(A) provides the specific wording and defines the necessary information to be included in pleadings.

<u>non-party.</u> <u>(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.</u> <u>(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.</u> (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	Proposed subdivision (g)(3)(B) details the necessary information a pro se party must include if assisted by an attorney. Proposed subdivision (g)(3)(C) requires all filed documents be served on the party and the attorney of record during the attorney’s limited representation. Current subdivision (g) is renumbered as subdivision (h). Current subdivision (h) is renumbered as subdivision (i). Proposed subdivision (i) fine-tunes the awareness that an
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attorney shall be bound by any 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

attorney acts as an agent for the party and is bound by the Rules Regulating The Florida Bar.

This proposed committee note will help practitioners and pro se parties understand these extensive proposed amendments and terms more clearly.

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 a client on a limited basis in a court proceeding. 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

<u>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.</u> <u>Subdivision (i) of the rule clarifies that attorneys who cover hearings as additional counsel represent the client and not lead counsel.</u> Court Commentary [No change] <u>Appendix</u> <u>IN THE</u> <u>CIRCUIT/COUNTY</u> <u>COURT OF THE</u> [Plaintiff/Petitioner] <u>v.</u> [Defendant/Respondent] <u>NOTICE OF LIMITED REPRESENTATION</u> 1. <u>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.</u>	This proposed appendix creates two sample forms for practitioners and pro se parties: the first sample form is a Notice of Limited Representation; the second sample form is a Notice of Termination of Limited Representation. Both of these forms are spoken of specifically in subdivisions (g)(1) and (g)(2)(A), respectively.
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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. _____

**RULE 2.515. SIGNATURE AND CERTIFICATES
 OF ATTORNEYS AND PARTIES**

(a) Attorney's Signature and Certificates.

~~Every~~Except for documents filed outside of the scope of limited representation counsel's representation, every document of a party represented by an attorney shall be signed by at least 1 attorney of record in that attorney's individual name whose current record Florida Bar address, telephone number, including area code, primary e-mail address and secondary e-mail addresses, if any, and Florida Bar number shall be stated, and who shall be duly licensed to practice law in Florida or who

shall have received permission to appear in the particular case as provided in rule 2.510. The attorney may be required by the court to give the address of, and to vouch for the attorney's authority to represent, the party. Except when otherwise specifically provided by an applicable rule or statute, documents need not be verified or accompanied by affidavit. The signature of an attorney shall constitute a certificate by the attorney that:

(1) the attorney has read the document;

(2) to the best of the attorney's knowledge, information, and belief there is good ground to support the document;

(3) the document is not interposed for delay;
and

(4) the document contains no confidential or sensitive information, or that any such confidential or sensitive information has been properly protected by complying with the provisions of rules 2.420 and 2.425. If a document is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken and the action may proceed as though the document had not been served.

(b)–(c) [No change]

(d) Signature on Document Drafted with Assistance of Attorney. When an attorney and client agree to limit the objective or scope of the representation pursuant to Rules Regulating The Florida Bar 4-1.2 and the attorney assists a client who is a pro se litigant in drafting a document to be submitted to a court, the pro se party shall sign the document as

Proposed amendment to subdivision (a) provides an exception to the requirement of having an attorney's signature and certificate for documents filed outside the scope of limited representation.

provided in subdivision (b). Under such circumstances, the attorney is not obligated to sign the document but the attorney must indicate “Prepared with the assistance of counsel” on the document delivered to the pro se litigant.

Proposed new subdivision (d) establishes the requirement for attorneys who do not represent a client but who help draft a document for a pro se party to be identified on the document.

RULE 2.516. SERVICE OF PLEADINGS AND DOCUMENTS

(a) [No change]

(b) Service; How Made. When service is required or permitted to be made upon a party represented by an attorney, service must be made upon the attorney unless service upon the party is ordered by the court.

(1) Service by Electronic Mail (“e-mail”).

All documents required or permitted to be served on another

party must be served by e-mail, unless the parties otherwise stipulate or this rule otherwise provides. A filer of an electronic document has complied with this subdivision if the Florida Courts e-filing Portal (“Portal”) or other authorized electronic filing system with a supreme court approved electronic service system (“e-Service system”) served the document by e-mail or provided a link by e-mail to the document on a website maintained by a clerk (“e-Service”). The filer of an electronic document must verify that the Portal or other e-Service system uses the names and e-mail addresses provided by the parties pursuant to subdivision (b)(1)(A).

(A)–(E) [No change]

(F) Service in Limited Appearance

Cases. All pleadings or other documents shall be served upon the limited representation counsel and the party during the attorney’s limited representation as defined in rule 2.505(g). Unless the Notice of Limited Appearance 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.

(2) [No change]

(c)–(h) [No change]

Proposed new subdivision (b)(1)(F), entitled Service in Limited Appearance, specifically requires service of pleadings and documents be made upon the limited representation counsel and the party during the attorney’s term of limited representation.

RULE 3.010. SCOPE

These rules shall govern the procedure in all criminal proceedings in state courts including proceedings involving direct and indirect criminal contempt, proceedings under rule 3.850, and vehicular and pedestrian traffic offenses insofar as these rules are made applicable by the Florida Rules of ~~Practice and Procedure~~ for Traffic Courts. These rules shall not apply to direct or indirect criminal contempt of a court acting in any appellate capacity. These rules shall not apply to rules 3.811 and 3.812. Florida Rule of Judicial Administration 2.505(g) will not apply to proceedings governed under these rules if defendant is represented by the office of the public defender, conflict counsel,

or appointed private counsel. A defendant not represented by court-appointed counsel may retain private counsel on a limited appearance basis for first appearances held pursuant to rule 3.130, applications to set bond, applications to modify bond, and motions for pretrial release filed pursuant to rule 3.131, or upon motion, by leave of court with notice to, and consent of, lead counsel. These rules shall be known as the Florida Rules of Criminal Procedure and may be cited as Fla. R. Crim. P.

Committee Notes

[No change]

RULE 9.440. ATTORNEYS

(a) Appearance of Attorneys. The provisions in Florida Rule of Judicial Administration 2.505(e)–(g) do not apply in proceedings governed by these rules. To appear in a proceeding governed by these rules, an attorney shall:

(1) appear in the signature block or certificate of service of the initial filing that invokes, or seeks to invoke, the original or appellate jurisdiction of the court under rule 9.030; or

(2) file a notice of appearance that includes a

Editorial correction of title of rules set.

Rule is amended to add provisions that clearly defines the limits of application, *i.e.* the specific exceptions permitting application, of Rule 2.505(g) within criminal courts.

<u>designation of e-mail address(es).</u> (ab) Foreign Attorneys. An attorney who is an active member in good standing of the bar of another state may be permitted to appear in a proceeding upon compliance with Florida Rule of Judicial Administration 2.510. (bc) Withdrawal of Attorneys. An attorney shall not be permitted to withdraw unless the withdrawal is approved by the court. The attorney shall file a motion for that purpose stating the reasons for withdrawal and the client’s address. A copy of the motion shall be served on the client and adverse parties. Committee Notes 1977 Amendment. This rule replaces former rule 2.3 with unnecessary subdivisions deleted. The deletion of former rule 2.3(c) was not intended to authorize the practice of law by research aides or secretaries to any justice or judge or otherwise approve actions inconsistent with the high standards of ethical conduct expected of such persons. Subdivision (a) permits foreign attorneys to appear on motion filed and granted at any time. See Fla. Bar Integr. Rule By-Laws, art. II, § 2. There is no requirement that the foreign attorney be from a jurisdiction giving a reciprocal right to members of The Florida Bar. This rule leaves disposition of motions to appear to the discretion of the court. Subdivision (b) is intended to protect the rights of parties and attorneys, and the needs of the judicial system. This rule does not affect the right of a party to employ	Proposed new subdivision (a) specifically excludes appellate attorneys from Rule 2.505(e)–(g) and establishes the requirement for an attorney to appear in a case under the appellate rules by either (1) being included in a signature block or the service list, or (2) by filing a notice of appearance. Current subdivision (a) is renumbered as subdivision (b). Current subdivision (b) is renumbered as subdivision (c).
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additional attorneys who, if members of The Florida Bar, may appear at any time.

2002 Amendment. The amendments to subdivision (a) are intended to make that subdivision consistent with Florida Rule of Judicial Administration 2.061, which was adopted in 2001, and the amendments to subdivision (b) are intended to make that subdivision consistent with Florida Rule of Judicial Administration 2.060(i).

20 Amendment. Subdivision (a) is new and is intended to clarify the ways in which an attorney can appear in a proceeding governed by these rules. Former subdivisions (a) and (b) were renumbered as subdivisions (b) and (c).

Committee note is added.