

## **RULE 24. APPEARANCE AND REPRESENTATION <sup>1</sup>**

### **(a) Appearance:**

(1) *General:* Counsel may enter an appearance by signing and filing:

- (A) the petition or other initial pleading or document;
- (B) an entry of appearance; or
- (C) a substitution of counsel in accordance with paragraph (d).

See Rules 22, 23, and 26 relating to signing and filing papers with the Court.

(2) *Required Information:* Any paper that counsel may use to enter an appearance must include:

- (A) the case name and docket number (if any); and
- (B) counsel's name, mailing address, email address (if any), telephone number, and Tax Court bar number.

(3) *Counsel Not Admitted to Practice:* An entry of appearance filed by counsel not admitted to practice before the Court is not effective until counsel is admitted. Where it appears that counsel who is not admitted to practice can and will be promptly admitted to practice, the Court may recognize that counsel in a pending case. See Rule 200 regarding the procedure for admission to practice before the Court and Rule 201(a) regarding conduct of practice before the Court.

(4) *Limited Appearance and Special Recognition:*

(A) *Limited Appearance:* Counsel may file a limited entry of appearance to the extent permitted by the Court.

(B) *Special Recognition:* The Court may, in its discretion, temporarily recognize an individual as the party's representative, and no entry of appearance is necessary.

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<sup>1</sup>The amendments are effective as of October 6, 2020.

(5) *Law Student Assistance:* A law student may assist counsel with drafting a pleading or other document to be filed with the Court. In addition, with the permission of the presiding Judge or Special Trial Judge, and under counsel's direct supervision, a law student may present all or any part of the party's case at a hearing or trial. A law student may not, however, enter an appearance in any case, be recognized as counsel in a case, or sign a pleading or other document filed with the Court.

**(b) Representation Without Counsel:**

(1) *General:* A party that is not represented by counsel may proceed as follows:

- (A) an individual may represent himself or herself;
- (B) an authorized officer may represent a corporation;
- (C) an authorized individual may represent an unincorporated association; and
- (D) a fiduciary may represent an estate or trust.

See Rule 60 regarding proper parties and capacity.

(2) *Required Information:*

(A) The initial pleading or other paper filed by a party must include the party's name, mailing address, email address (if any), and telephone number.

(B) If the initial pleading or other paper is filed by an authorized officer, authorized individual, or fiduciary, it must also include that person's name, mailing address, email address (if any), telephone number, and capacity in which that person is appearing.

**(c) Withdrawal of Counsel:**

(1) *Notice of Withdrawal as Counsel:* Counsel desiring to withdraw as counsel for a party may file a notice of withdrawal as counsel if:

- (A) more than one counsel entered appearances for that party and at least one counsel will continue to serve as counsel for that party;

(B) the notice of withdrawal is filed no later than 30 days before the first day of the Court's session at which the case is calendared for trial; and

(C) there is no objection to the withdrawal.

(2) *Motion To Withdraw as Counsel:* Counsel desiring to withdraw as counsel for a party but who is ineligible to do so under paragraph (c)(1) must file a motion to withdraw as counsel.

(3) *Motion To Withdraw Counsel by Party:* A party desiring to withdraw the appearance of that party's counsel must file a motion to withdraw counsel by party.

(4) *General Requirements:*

(A) Any notice or motion under this paragraph must include a statement that counsel or the party provided prior notice of the notice or motion to the counsel's client or the party's counsel and to each of the other parties to the case or their counsel and whether there is any objection to the motion.

(B) Any motion to withdraw as counsel or to withdraw counsel must also include the party's then-current mailing address, email address (if any), and telephone number.

**(d) Substitution of Counsel:**

(1) No later than 30 days before the first day of the Court's session at which the case is calendared for trial, counsel who has not previously appeared for a party in that case may enter an appearance by filing a substitution of counsel substantially in the form set forth in the Appendix, Form 8.

(2) The substitution of counsel must state that:

(A) substituted counsel enters an appearance for the party;

(B) current counsel's appearance is withdrawn for the party;

(C) current counsel provided prior notice of the substitution to the counsel's client and to each other party or their counsel; and

(D) there is no objection to the substitution.

(3) The substitution of counsel must be signed by current counsel and by substituted counsel, contain the information required by paragraph (a)(2), and be filed by the substituted counsel.

(4) Counsel entering an appearance as substituted counsel within 30 days of the first day of the Court's session at which the case is calendared for trial must file an entry of appearance under paragraph (a), and any related withdrawal of counsel must be undertaken in accordance with paragraph (c).

**(e) Change in Required Information:** A party or counsel must promptly notify the Clerk in writing of any change in the information required under this Rule, or of the death of counsel, for each docket number involving that party or in which counsel has entered an appearance.

**(f) Change in Party or Authorized Representative or Fiduciary:** Where (1) a party other than an individual participates in a case through an authorized representative (such as an officer of a corporation or a member of an association) or through a fiduciary, and there is a change in the representative or fiduciary, or (2) there is a substitution of parties in a pending case, counsel signing the motion resulting in the Court's approval of the change or substitution will thereafter be deemed first counsel of record for the representative, fiduciary, or party. Counsel of record for the former representative, fiduciary, or party desiring to withdraw as counsel must file a motion in accordance with paragraph (c)(2).

**(g) Limitations on Representation:**

(1) *Conflict of Interest:* If any counsel of record (A) was involved in planning or promoting a transaction or operating an entity that is connected to any issue in a case, or (B) represents more than one person with differing interests with respect to any issue in a case, then that counsel

must either secure the client's informed written consent; withdraw from the case; or take whatever other steps are necessary to obviate a conflict of interest or other violation of the ABA Model Rules of Professional Conduct. See Rules 1.7 and 1.8, ABA Model Rules of Professional Conduct. The Court may inquire into the circumstances of counsel's employment in order to deter such violations. See Rule 201.

(2) *Counsel as Witness:*

(A) Counsel may not represent a party at trial if the counsel is likely to be a necessary witness within the meaning of the ABA Model Rules of Professional Conduct unless: (i) the testimony relates to an uncontested issue; (ii) the testimony relates to the nature and value of legal services rendered in the case; or (iii) disqualification of counsel would work substantial hardship on the client. See Rule 3.7, ABA Model Rules of Professional Conduct.

(B) Counsel may represent a party at trial in which another professional in the counsel's firm is likely to be called as a witness unless precluded from doing so under the ABA Model Rules of Professional Conduct. See Rules 1.7 and 1.9, ABA Model Rules of Professional Conduct.