

# Court of Criminal Appeals of Texas

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Misc. Docket No. 23-002

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## Preliminary Approval of Amendments to Texas Rule of Appellate Procedure 6

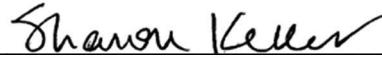
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**ORDERED** that:

1. The Court invites public comments on proposed amendments to Texas Rule of Appellate Procedure 6.
2. Comments regarding the proposed amendments should be submitted in writing to the Court of Criminal Appeals by August 1, 2023 at [txccarulescomments@txcourt.gov](mailto:txccarulescomments@txcourt.gov) or by mail to the Clerk of the Court of Criminal Appeals at P.O. Box 12308, Austin, Texas 78711.
3. The Court will issue an order finalizing the rules after the close of the comment period. The Court may change the amendments in response to public comments. The Court expects the amendments to take effect on September 1, 2023.
4. The Clerk is directed to:
  - a. file a copy of this Order with the Secretary of State;
  - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this Order to each elected member of the Legislature; and
  - d. submit a copy of this Order for publication in the *Texas Register*.

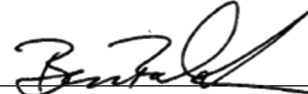
Dated: May 2, 2023.



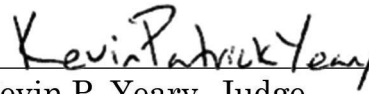
Sharon Keller, Presiding Judge



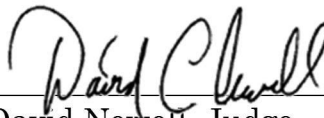
Barbara P. Hervey, Judge



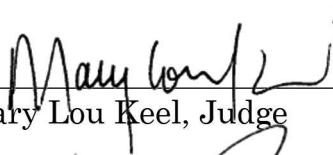
Bert Richardson, Judge



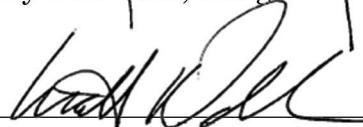
Kevin P. Yeary, Judge



David Newell, Judge



Mary Lou Keel, Judge



Scott Walker, Judge



Michelle Slaughter, Judge



Jesse F. McClure, Judge

# TEXAS RULES OF APPELLATE PROCEDURE

## Rule 6. Representation by Counsel

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### 6.4. Nonrepresentation Notice

- (a) *In General.* If, in accordance with paragraph 6.3(b), the lead counsel in the trial court is being sent notices, copies of documents, or other communications, that attorney may file a nonrepresentation notice in the appellate court. The notice must:
- (1) state that the attorney is not representing the party on appeal;
  - (2) state that the court and other counsel should communicate directly with the party in the future;
  - (3) give the party's name and last known address and telephone number; and
  - (4) be signed by the party.
- (b) *Appointed Counsel.* In a criminal case, an attorney appointed by the trial court to represent an indigent party cannot file a nonrepresentation notice.
- (c) *Withdrawal of Non-Lead Counsel.* If an attorney other than lead counsel will no longer represent a party, but lead counsel will continue to represent the party, the non-lead counsel should file a nonrepresentation notice. The notice should state that non-lead counsel will no longer represent the client and identify counsel who will continue to represent the party.

### 6.5. Withdrawal of Lead Counsel

An appellate court may, on appropriate terms and conditions, permit ~~an attorney~~ lead counsel to withdraw from representing a party in the appellate 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 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 attorneylead counsel must immediately notify the party, in writing, of any deadlines or settings that the attorney knows about at the time of withdrawal but that were not previously disclosed to the party. The withdrawing attorneylead counsel must file a copy of that notice with the court clerk.
- (d) *Exception for Substitution of Lead Counsel.* If an attorney substitutes for a withdrawing attorneylead counsel, the motion to withdraw need not comply with (a) 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 attorneylead counsel must comply with (b) but not (c).

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