

APPEARANCE & WITHDRAWAL

[Revised]



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§ 1. IN GENERAL

Prior law established two classes of appearances: general appearances submitted a party to the court's jurisdiction for all purposes, while special appearances were entered solely for the purpose of contesting jurisdiction. The Supreme Court was critical of the consequences of waiver attending a general appearance.

In 1966, Rule 1012 was amended to eliminate the distinction between the types of appearances and to declare that the entry of an appearance does not constitute a waiver of the right to raise any defense, including questions of jurisdiction and venue.

Sources

Pa.RCP 1012

RCPMDJ 207.1

Civil Practice Handbook, 2007 Ed. (Bisel)

Legal Considerations

- Party may waive objection to personal jurisdiction by taking some action, beyond merely entering a written appearance, going to the merits of the case. *Cathcart v. Keene Indus. Insulation*, 471 A.2d 493 (Pa. Super. 1984).
- Neither incorporating a demand for jury trial in appearance form nor filing separate demand and appearance simultaneously constituted additional action such that personal jurisdiction was waived. *Hoeke v. Mercy Hosp. of Pittsburgh*, 386 A.2d 71 (Pa. Super. 1978).

§ 2. NOTICE OF APPEARANCE

A notice of appearance should specify the parties on whose behalf counsel is appearing. It must include an address at which pleadings and other legal papers may be served, and a telephone number. The inclusion of a telephone number for facsimile transmission constitutes an agreement to accept service of pleadings or other legal papers by that means. For form of praecipe, see RCP 1012(f)(1).

Legal Consideration

- Attorney who enters appearance without restriction opposite the names of two defendants appears for both even though one may not have been served with process. *Vandergrift v. Knights Rd. Indus. Park*, 416 A.2d 1011 (Pa. 1980); *McCullough v. Clark*, 784 A.2d 156 (Pa. Super. 2001).

§ 3. ENTRY OF APPEARANCE

A notice of appearance is entered upon written notice to all parties.

§ 4. WITHDRAWAL OF APPEARANCE

An appearance may not be withdrawn without leave of court unless:

- (1) another attorney has previously entered, or is simultaneously entering, an appearance on behalf of the party; and
- (2) the change of attorneys does not delay any stage of the litigation.

If leave is required, a petition should be filed with the court. *See* RCP 1012(b) & (c).

For forms of praecipes for withdrawal, *see* RCP 1012(f)(2) & (3).

§ 5. MAGISTERIAL DISTRICT COURT

In magisterial district court, an attorney of record may withdraw, without leave of court or the entrance of appearance by another attorney, by giving written notice to the court and to the party. Withdrawal also occurs when another attorney becomes the attorney of record by filing with the court a written statement to that effect. *See* RCPMDJ 207.1, eff. Oct. 1, 2006.

