

Supreme Court of Florida

No. SC2023-0361

IN RE: AMENDMENTS TO FLORIDA RULE OF CIVIL PROCEDURE 1.041 AND FORM 1.933.

December 7, 2023

PER CURIAM.

The Florida Bar’s Civil Procedure Rules Committee filed a report proposing new Florida Rule of Civil Procedure 1.041 (Limited Appearance Attorneys) as well as amendments to Form 1.933 (Account Stated).¹ The proposed amendments were unanimously approved by the Committee, and The Florida Bar’s Board of Governors recommends adoption of the proposed changes. The Committee published its proposal and received one comment. The Court also published the proposed amendments and received one comment, which led to the Committee revising its proposal.

1. We have jurisdiction. See art. V, § 2(a), Fla. Const; see also Fla. R. Gen. Prac. & Jud. Admin. 2.140(b).

The Court hereby adopts new rule 1.041, as revised by the Committee, to create a procedure for an attorney to appear in a limited manner in civil proceedings. The new rule authorizes an attorney to file a notice limiting the attorney's appearance to particular proceedings or specified matters prior to any appearance before the court. It also explains that during the attorney's limited appearance, all pleadings must be served on all parties, including the limited appearance attorney. A limited appearance attorney who receives notice of a hearing that is outside the scope of representation must file a notice stating the matter is outside the scope of representation and that the attorney will not attend the court proceeding or hearing. Finally, the rule provides that termination of a limited appearance must be in accordance with Florida Rule of General Practice and Judicial Administration 2.505.

Furthermore, the Court amends form 1.933 to ensure consistency with the standard jury instructions in contract and business cases. Form 1.933 now requires the plaintiff to indicate whether the plaintiff and defendant agreed to the balance on a specific date, or whether the plaintiff sent a statement to the defendant on a specific date and the defendant failed to object

within a reasonable time after receiving the statement.

Additionally, the plaintiff must indicate whether the defendant expressly promised to pay the plaintiff the balance due, or the defendant implicitly promised to pay the amount set forth in the statement. The note to form 1.933 is also amended to provide a general instruction that the plaintiff attach supporting documents as required under Florida Rule of Civil Procedure 1.130.

Accordingly, the Florida Rules of Civil Procedure are amended as set forth in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. The amendments shall become effective April 1, 2024, at 12:01 a.m.

It is so ordered.

MUÑIZ, C.J., and CANADY, LABARGA, COURIEL, GROSSHANS, FRANCIS, and SASSO, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceeding – Florida Rules of Civil Procedure

Judson Lee Cohen, Chair, Civil Procedure Rules Committee, Miami Lakes, Florida, Landis V. Curry III, Past Chair, Civil Procedure Rules Committee, Tampa, Florida, Joshua E. Doyle, Executive Director, The Florida Bar, Tallahassee, Florida, and Heather Savage Telfer, Bar Liaison, The Florida Bar, Tallahassee, Florida,

for Petitioner

Appendix

RULE 1.041. LIMITED APPEARANCE ATTORNEYS

(a) Scope of Representation. An attorney may file a notice of limited appearance specifically limiting the attorney's appearance to particular proceedings or specified matters.

(b) Notice of Limited Appearance.

(1) A notice of limited appearance must be filed before any attorney's appearance before the court at any proceeding or hearing.

(2) A notice of limited appearance must specifically identify the particular proceedings and specified matters in which the attorney will represent the party.

(c) Filings by a Limited Appearance Attorney. Any pleading or other document filed by a limited appearance attorney must state in bold type on the signature page of that pleading or other document: "Attorney for [Plaintiff(s)] [Defendant(s)] for the limited purpose of [matter(s) or proceeding(s)]".

(d) Service. During the attorney's limited appearance:

(1) All pleadings or other documents, including all notices of hearing, must be served on all parties in the action, including the limited appearance attorney.

(2) If the limited appearance attorney receives notice of a hearing that is outside the scope of representation, the attorney must file a notice stating the attorney will not attend the court proceeding or hearing because it is outside the scope of the representation.

(e) Termination. A termination of limited appearance must be in accordance with Florida Rule of General Practice and Judicial Administration 2.505.

FORM 1.933. ACCOUNT STATED

COMPLAINT

Plaintiff, A. B., sues defendant, C. D., and alleges:

1. This is an action for damages that (insert jurisdictional amount).

2. Before the institution of this action plaintiff and defendant had business transactions between them ~~and on~~ ~~.....(date).....~~, they agreed to the resulting balance.

3. ~~Plaintiff rendered a statement of it to defendant, a copy being attached, and defendant did not object to the statement~~ (Use A or B.)

A. Plaintiff and defendant agreed on the balance due on(date).....

[OR]

B. Plaintiff sent a statement to defendant on(date)..... and defendant failed to object within a reasonable time after receiving the statement.

4. (Use A or B.)

A. Defendant expressly promised to pay plaintiff the balance due.

[OR]

B. Defendant implicitly promised to pay plaintiff the amount set forth in the statement.

5. Defendant owes has not paid plaintiff the amount owed on the account. \$....., plus that is due with interest since ~~.....(date)....., on the account.~~

WHEREFORE plaintiff demands judgment for damages against defendant.

NOTE: ~~A copy of the account showing items, time of accrual of each, and amount of each must be attached~~Attach a copy of any accounts, statements, or other documents required to be attached or incorporated by rule 1.130.