

Question

Does a defendant's prior answer in state court before removal waive the plaintiff's obligation to file a certified copy of the remand order under Rule 237a of the Texas Rules of Civil Procedure?

Answer (Texas)

Short response

A defendant's prior answer in state court before removal does not waive the plaintiff's obligation to file a certified copy of the remand order under Rule 237a of the Texas Rules of Civil Procedure. The rule places the burden squarely on the plaintiff to file the remand order and provide written notice, regardless of any prior actions by the defendant.

Summary

Texas Rule of Civil Procedure 237a requires the plaintiff, after a case is remanded from federal to state court, to file a certified copy of the remand order with the state court clerk and to give written notice of this filing to all adverse parties. This obligation is not excused or waived by the fact that the defendant previously filed an answer in state court before the case was removed to federal court; the procedural requirements of Rule 237a must still be satisfied by the plaintiff to trigger the post-remand answer deadline and to properly recommence proceedings in state court.

The Texas Supreme Court and multiple courts of appeals have consistently interpreted Rule 237a as imposing a mandatory duty on the plaintiff, and have rejected arguments that actual notice or prior participation by the defendant in state court can substitute for the plaintiff's compliance with the rule. While some supplementary authorities discuss the possibility of waiving jurisdictional defects through participation, these do not override the clear procedural requirements of Rule 237a as established by the controlling case law.

Background and Relevant Law

Texas Rule of Civil Procedure 237a

Rule 237a governs the procedure when a case is removed from Texas state court to federal court and then remanded back to state court. The rule provides that, upon remand, the plaintiff must file a certified copy of the remand order with the state court clerk and must promptly give written notice of this filing to the attorneys of record for all adverse parties. Only after this notice is given does the fifteen-day period for the defendant to file an answer in state court begin.

Case Law

The Texas Supreme Court and courts of appeals have repeatedly addressed the operation of Rule 237a and the consequences of failing to comply with its requirements.

In [Gonzalez v. Guilbot, 315 S.W.3d 533 \(Tex. 2010\)](#), the Texas Supreme Court confirmed that Rule 237a expressly requires the plaintiff to file a certified copy of the remand order with the state court clerk. The Court emphasized that this requirement is designed to facilitate the prompt recommencement of proceedings in state court after remand and to avoid unnecessary delay.

Similarly, in [HBA East, Ltd. v. JEA Boxing Co., Inc., 796 S.W.2d 534 \(Tex. App.—Houston \[1st Dist.\] 1990, writ denied\)](#), the court of appeals held that the plain language of Rule 237a places the burden on the plaintiff to file the remand order and provide written notice to the defendant. The court specifically rejected the argument that actual notice or prior actions by the defendant could substitute for the plaintiff's compliance with the rule.

In [Kashan v. McLane Co., NO. 03-11-00125-CV \(Tex. App. Jun 07, 2012\)](#), the court reiterated that Rule 237a's requirements are not waived by the defendant's prior answer in state court before removal. The court cited both HBA East and [Bagel v. Mason Rd. Bank, No. B14-91-00548-CV, 1992 WL 43953 \(Tex. App.—Houston \[14th Dist.\] 1992, no writ\) \(not designated for publication\)](#), confirming that the plaintiff's obligation to file and give notice is mandatory and not excused by the defendant's prior participation.

In [Toliver v. Dallas Fort Worth Hosp. Council, 198 S.W.3d 444 \(Tex. App. 2006\)](#), the court explained that the plaintiff's filing and notice under Rule 237a are necessary to trigger the fifteen-day deadline for the defendant to file an answer. The court did not suggest that a defendant's prior answer in state court before removal could waive this requirement.

The Texas Supreme Court in [Quaestor Investments, Inc. v. State of Chiapas, 997 S.W.2d 226 \(Tex. 1999\)](#) also addressed Rule 237a, noting that the rule requires the plaintiff to file the remand order and notify adverse parties' attorneys, and that the answer deadline is triggered by this notice. However, it is important to note that Quaestor was abrogated by [Ex parte E.H., 602 S.W.3d 486 \(Tex. 2020\)](#) on issues unrelated to Rule 237a, so its discussion of Rule 237a remains persuasive but should be cited with caution.

Supplementary Authorities

Some supplementary cases, such as [Hsin-Chi-Su v. Vantage Drilling Co., 474 S.W.3d 284 \(Tex. App. 2015\)](#) and its related opinions, discuss the possibility of parties waiving jurisdictional defects by participating in state court proceedings without objection. However, these cases focus on the effect of procedural defects on subject-matter jurisdiction and do not directly address the specific procedural requirements of Rule 237a or the effect of a defendant's prior answer on the plaintiff's obligations under that rule.

Analysis

The central question is whether a defendant's prior answer in state court before removal relieves the plaintiff of the obligation to file a certified copy of the remand order and provide written notice under Rule 237a. The answer, based on the authorities provided, is clearly no.

The text of Rule 237a is explicit: the plaintiff must file a certified copy of the remand order with the state court clerk and must give written notice to all adverse parties' attorneys. The rule does not provide for any exceptions based on the defendant's prior actions, including the filing of an answer before removal. The courts have consistently interpreted this language as imposing a mandatory duty on the plaintiff, and have rejected arguments that actual notice or prior participation by the defendant can substitute for compliance with the rule.

In [HBA East, Ltd. v. JEA Boxing Co., Inc., 796 S.W.2d 534 \(Tex. App. 1990\)](#), the court made clear that the defendant's right to answer is triggered by the plaintiff's notice of the remand order, not by any prior answer or by the defendant's knowledge of the remand. The court emphasized that the rule's plain wording gives the defendant fifteen days from receipt of the plaintiff's notice to file an answer, regardless of whether the defendant had previously answered before removal.

[Kashan v. McLane Co.](#), NO. 03-11-00125-CV (Tex. App. 2012) reaffirmed this interpretation, holding that the plaintiff's obligation to file and give notice is not waived by the defendant's prior answer in state court. The court cited HBA East and *Bagel v. Mason Rd. Bank* for the proposition that the plaintiff's duty is mandatory and not excused by the defendant's prior actions.

The Texas Supreme Court in [Gonzalez v. Guibot, 315 S.W.3d 533 \(Tex. 2010\)](#) also confirmed that Rule 237a requires the plaintiff to file the remand order and that this requirement is essential to avoid delay and to ensure the orderly recommencement of proceedings in state court. The Court did not suggest that the defendant's prior answer could waive this requirement.

In [Toliver v. Dallas Fort Worth Hosp. Council, 198 S.W.3d 444 \(Tex. App. 2006\)](#), the court explained that the plaintiff's filing and notice are necessary to trigger the defendant's answer deadline. The court did not indicate that a prior answer by the defendant could substitute for the plaintiff's compliance with Rule 237a.

[Quaestor Investments, Inc. v. State of Chiapas, 997 S.W.2d 226 \(Tex. 1999\)](#) also supports this interpretation, although it has been abrogated on unrelated grounds by Ex parte E.H., 602 S.W.3d 486 (Tex. 2020). The discussion in Quaestor regarding Rule 237a remains persuasive, as it is consistent with the other authorities and has not been specifically overruled on this point.

The supplementary authorities, such as [Hsin-Chi-Su v. Vantage Drilling Co., 474 S.W.3d 284 \(Tex. App. 2015\)](#), discuss the possibility of waiving jurisdictional defects by participating in state court proceedings without objection. However, these cases do not address the specific procedural requirements of Rule 237a or the effect of a defendant's prior answer on the plaintiff's obligations under that rule. The focus of these cases is on subject-matter jurisdiction and the effect of procedural defects, not on the mandatory procedural steps required by Rule 237a.

Exceptions and Caveats

There is no authority in the provided materials suggesting that a defendant's prior answer in state court before removal can waive the plaintiff's obligation under Rule 237a. The courts have consistently held that the plaintiff's duty to file the remand order and give notice is mandatory and not subject to waiver by the defendant's prior actions.

While the supplementary authorities discuss the possibility of waiving jurisdictional defects through participation in state court proceedings, these cases do not override the clear procedural requirements of Rule 237a as established by the controlling case law. The possibility of waiver discussed in these cases relates to subject-matter jurisdiction and does not apply to the procedural obligations imposed by Rule 237a.

It is also important to note that [Quaestor Investments, Inc. v. State of Chiapas, 997 S.W.2d 226 \(Tex. 1999\)](#) has been abrogated by Ex parte E.H., 602 S.W.3d 486 (Tex. 2020) on issues unrelated to Rule 237a. The discussion of Rule 237a in Quaestor remains consistent with the other authorities and has not been specifically overruled.

Conclusion

In summary, a defendant's prior answer in state court before removal does not waive the plaintiff's obligation to file a certified copy of the remand order and provide written notice under Rule 237a of the Texas Rules of Civil Procedure. The rule imposes a mandatory duty on the plaintiff, and the courts have consistently held that this duty is not excused by the defendant's prior actions. The answer deadline for the defendant is triggered by the plaintiff's compliance with Rule 237a, not by any prior answer or participation by the defendant. The supplementary authorities discussing waiver of jurisdictional defects do not override the clear procedural requirements of Rule 237a as established by the controlling case law.

Legal Authorities

[Quaestor Investments, Inc. v. State of Chiapas, 997 S.W.2d 226 \(Tex. 1999\)](#)

Texas Supreme Court

Extract

The court of appeals determined that the state court reacquired jurisdiction on the date the federal court clerk mailed a certified copy of the remand order to the state court clerk. The court further concluded that when the appellate timetable recommenced was determined not by the revesting of jurisdiction, but rather depended upon the procedural implications of that revesting under Texas law. The court looked to Texas procedural rules for its answer: (1) Rule of Civil Procedure 237a, which provides that a defendant need not answer in a remanded case until fifteen days after the plaintiff files the remand order with the state court and gives written notice of the filing to the adverse parties' attorneys; ... The court of appeals erred when it inferred from civil procedure rule 237a and appellate rule 8 that any further affirmative action was needed.

Summary

Rule 237a of the Texas Rules of Civil Procedure requires the plaintiff to file the remand order with the state court and notify the adverse parties' attorneys. The court of appeals initially inferred that further action was needed, but the Texas Supreme Court clarified that no additional affirmative action is required beyond the state court reacquiring jurisdiction. This suggests that a defendant's prior answer in state court does not waive the plaintiff's obligation to file a certified copy of the remand order, as the rule explicitly outlines the plaintiff's responsibilities post-remand.

[Hsin-Chi-Su v. Vantage Drilling Co., NO. 14-14-00461-CV \(Tex. App. Nov 03, 2015\)](#)

Texas Court of Appeals

Extract

This appeal raises important issues regarding the jurisdiction of state courts after removal of a case to federal court. In deciding the appeal, a panel of this court has concluded that (1) a case may be remanded from a federal district court to a state trial court without a remand order; (2) the absence of a remand order is a procedural defect that does not affect the state court's jurisdiction to proceed in a case removed to federal district court; and (3) parties may waive the lack of the state court's subject-matter jurisdiction resulting from the failure to satisfy a prerequisite to the revesting of jurisdiction in the state court if the parties participate in the state court proceedings without objecting to the court's lack of jurisdiction.

Summary

The Texas Court of Appeals has addressed issues related to the jurisdiction of state courts after a case is removed to federal court. Specifically, the court concluded that a case could be remanded without a formal remand order, and the absence of such an order is a procedural defect that does not affect the state court's jurisdiction. Furthermore, parties can waive the lack of subject-matter jurisdiction if they participate in state court proceedings without objecting. This suggests that procedural requirements, such as filing a certified copy of the remand order, may be waived if the parties do not object and proceed with the case.

[Kashan v. McLane Co., NO. 03-11-00125-CV \(Tex. App. Jun 07, 2012\)](#)

Texas Court of Appeals

Extract

*The plain language of Rule 237a places the burden on the plaintiff to file the remand order with the state trial court and to provide written notice to the attorneys of record for all adverse parties. HBA East, Ltd. v. JEA Boxing Co., 796 S.W.2d 534, 536, 538 (Tex. App.—Houston [1st Dist.] 1990, writ denied) (applying Rule 237a's plain language to place burden of meeting filing and notice requirements on plaintiff despite actual notice provided by federal district court); see also Bagel v. Mason Rd. Bank, No. B14-91-00548-CV, 1992 WL 43953, at *2-3 (Tex. App.—Houston [14th Dist.] 1992, no writ) (not designated for publication) (same).*

Summary

Rule 237a explicitly places the obligation on the plaintiff to file a certified copy of the remand order and provide written notice to the defendant. This requirement is not waived by the defendant's prior answer in state court before removal. The rule's language and the cited cases emphasize the plaintiff's responsibility regardless of any prior actions by the defendant.

[Gonzalez v. Guilbot, 315 S.W.3d 533 \(Tex. 2010\)](#)

Texas Supreme Court

Extract

Texas Rule of Civil Procedure 237a expressly provides for the plaintiff to file a certified copy of the remand order with the state court clerk. Efforts to quickly recommence proceedings in the state court following an unsuccessful and apparently frivolous removal actually further the policy of avoiding excessive delay in resolving disputes.

Summary

The passage from the Texas Supreme Court case "Gonzalez v. Guilbot" clarifies that Texas Rule of Civil Procedure 237a requires the plaintiff to file a certified copy of the remand order with the state court clerk. This requirement is part of the procedure to ensure the smooth transition of jurisdiction back to the state court after a case is remanded from federal court. The passage does not indicate that a defendant's prior answer in state court before removal waives this obligation. Instead, it emphasizes the importance of the plaintiff's role in filing the remand order to avoid delays in proceedings.

[HBA East, Ltd. v. JEA Boxing Co., Inc., 796 S.W.2d 534 \(Tex. App. 1990\)](#)

Texas Court of Appeals

Extract

Rule 237a of the Texas Rules of Civil Procedure provides: When any cause is removed to the Federal Court and is afterwards remanded to the state court, the plaintiff shall file a certified copy of the order of remand with the clerk of the state court and shall forthwith give written notice of such filing to the attorneys of record for all adverse parties. All such adverse parties shall have fifteen days from the receipt of such notice within which to file an answer. ... The plain wording of rule 237a gives a defendant 15 days from the receipt of the plaintiff's notice of the filing of the order of remand to file an answer in state court, without reference to whether the original removal was provident.

Summary

Rule 237a explicitly requires the plaintiff to file a certified copy of the remand order and provide written notice to the defendants. This obligation is not waived by any prior actions of the defendant, such as filing an answer in state court before removal. The rule establishes a clear procedure and timeline for defendants to file an answer after remand, which is triggered by the plaintiff's notice, not by any prior actions of the defendant.

[Toliver v. Dallas Fort Worth Hosp. Council, 198 S.W.3d 444 \(Tex. App. 2006\)](#)

Texas Court of Appeals

Extract

DFW Hospital Council also cites HBA East Ltd. v. JEA Boxing Co., Inc., 796 S.W.2d 534, 538 (Tex.App.-Houston [1st Dist.] 1990, writ denied) for the proposition that rule 237a requires the plaintiff to file a copy of the remand order with the state court clerk and notify defendants of the filing in order to trigger the fifteen-day deadline for filing an answer. It argues that its deadline is supposed to be measured from the date Toliver served it with notice of the remand, and because Toliver never notified it of the remand, the fifteen day deadline was never triggered.

Summary

Rule 237a imposes an obligation on the plaintiff to file a certified copy of the remand order with the state court and notify the defendants. This obligation is necessary to trigger the fifteen-day deadline for the defendants to file an answer. The passage does not suggest that a defendant's prior answer in state court before removal waives this obligation. Instead, it emphasizes the procedural requirement for the plaintiff to act post-remand to trigger the deadline.

[Hsin-Chi-Su v. Vantage Drilling Co., 474 S.W.3d 284 \(Tex. App. 2015\)](#)

Texas Court of Appeals

Extract

This appeal raises important issues regarding the jurisdiction of state courts after removal of a case to federal court. In deciding the appeal, a panel of this court has concluded that (1) a case may be remanded from a federal district court to a state trial court without a remand order; (2) the absence of a remand order is a procedural defect that does not affect the state court's jurisdiction to proceed in a case removed to federal district court; and (3) parties may waive the lack of the state court's subject-matter jurisdiction resulting from the failure to satisfy a prerequisite to the revesting of jurisdiction in the state court if the parties participate in the state court proceedings without objecting to the court's lack of jurisdiction.

Summary

The absence of a remand order is considered a procedural defect and does not affect the state court's jurisdiction. Furthermore, it suggests that parties can waive the lack of jurisdiction by participating in state court proceedings without objection. This implies that a defendant's prior answer in state court could potentially waive procedural requirements related to remand, such as the filing of a certified copy of the remand order, if they continue to participate without raising jurisdictional objections.

[Araguz v. Clinton, NUMBER 13-18-00526-CV \(Tex. App. Oct 12, 2018\)](#)

Texas Court of Appeals

Extract

Once removal is effected, the state court loses jurisdiction over the case. 28 U.S.C. § 1446(d); Resolution Trust Corp. v. Murray, 935 F.2d 89, 92-93 (5th Cir. 1991). Any order entered by a state court after the case is removed is void for want of jurisdiction. Resolution Trust, 935 F.2d at 92-93. Jurisdiction re-vests in the state court when the federal district court executes the remand order and mails a certified copy to the state court. Quaestor Invs., Inc. v. Chiapas, 997 S.W.2d 226, 229 (Tex. 1999).

Summary

The passage explains the process of jurisdiction transfer when a case is removed from state court to federal court and then remanded back to state court. It specifies that the state court loses jurisdiction once the case is removed and only regains it when a certified copy of the remand order is mailed to the state court.

This indicates that the procedural requirement of filing a certified copy of the remand order is crucial for jurisdiction to re-vest in the state court. The passage does not address whether a defendant's prior answer in state court affects this requirement, but it emphasizes the necessity of the certified remand order for jurisdictional purposes.

This memo was compiled by Vincent AI based on vLex materials available as of May 09, 2025. [View full answer on vLex](#)