

## **Question**

Pleadings have been filed on Petitioner's behalf by an attorney (Roderick D. Marx) who is not named as counsel of record, while the authority of the purported attorney of record (Cooper L. Carter) has been under challenge and remains unaddressed. Texas Rule of Civil Procedure 12 requires attorneys to show authority to act in a case when challenged. Failure to do so may result in the striking of pleadings and other sanctions. The continued filing of critical pleadings by an attorney lacking proper appearance, and the failure to address a Rule 12 challenge, demonstrates a disregard for procedural rules and the orderly administration of justice, further compounding the egregiousness of Petitioner's and her counsel's conduct.

## **Answer (Texas)**

### **Short response**

Under Texas Rule of Civil Procedure 12, when an attorney's authority to act is challenged and remains unaddressed, the court must refuse to permit that attorney's appearance and strike pleadings if no authorized counsel appears; continued filings by an attorney lacking proper authority or appearance violate procedural rules and may result in sanctions. The described conduct reflects a disregard for the orderly administration of justice and exposes the pleadings to being struck under established Texas law.

### **Summary**

Texas law, as codified in Rule 12 of the Texas Rules of Civil Procedure and consistently interpreted by Texas appellate courts, provides a clear mechanism for challenging an attorney's authority to act in a case. When such a challenge is made by sworn motion and remains unresolved, the burden is on the challenged attorney to prove authority; failure to do so requires the court to refuse the attorney's appearance and strike pleadings if no authorized representative appears.

Filing pleadings by an attorney who is not counsel of record, while the authority of the purported attorney of record is under unresolved challenge, contravenes these procedural safeguards. This conduct not only risks the striking of pleadings and other sanctions but also demonstrates a disregard for the procedural rules designed to ensure the integrity and orderly administration of justice in Texas courts.

## **Background and Relevant Law**

### **Texas Rule of Civil Procedure 12**

The central legislative authority is Rule 12 of the Texas Rules of Civil Procedure, which governs challenges to an attorney's authority to act in a case. Rule 12 provides that any party may, by sworn written motion, challenge the authority of an attorney prosecuting or defending a suit. Upon such a challenge, the attorney must be cited to appear before the court and show authority to act. The burden of proof is on the challenged attorney. If the attorney fails to show sufficient authority, the court is required to refuse to permit the attorney to appear and must strike the pleadings if no authorized person appears to prosecute or defend the case, as set out in [Rule 12. Attorney to Show Authority, Tex. R. Civ. P. 12](#).

### **Case Law Interpreting Rule 12**

Texas appellate and Supreme Court decisions have repeatedly affirmed the mandatory nature of Rule 12's procedures and remedies:

- The Texas Supreme Court in [Angelina County v. McFarland, 374 S.W.2d 417 \(Tex. 1964\)](#) explained that Rule 12 is the exclusive method for challenging an attorney's authority, places the burden on the challenged attorney, and requires the court to refuse the appearance and dismiss the case if no authorized person appears.
- [In re Murrin Bros. 1885, Ltd., 603 S.W.3d 53 \(Tex. 2019\)](#) reaffirmed that, upon a Rule 12 challenge, the attorney must show authority, and failure to do so mandates refusal of appearance and striking of pleadings.
- Numerous appellate cases, including [Ellis v. Courtney Prince; LVTRise, Inc., 02-25-00162-CV \(Tex. App. Aug 14, 2025\)](#), [Catt v. Middleton, 698 S.W.3d 66, Choudhri v. Abdullatif, 14-23-00679-CV, 14-23-00680-CV \(Tex. App. Aug 07, 2025\)](#), and [Benit v. Primalend Capital Partners, LP, 05-21-00024-CV \(Tex. App. May 06, 2022\)](#), have consistently held that the court must enforce these requirements and that continued filings by an attorney lacking proper authority or appearance are procedurally improper.

These authorities collectively establish that the orderly administration of justice requires strict adherence to Rule 12's procedures, and that disregard for these rules can result in severe consequences, including the striking of pleadings and other sanctions.

## **Analysis**

### **1. The Rule 12 Challenge: Mechanism and Burden**

Rule 12 is designed to protect parties from unauthorized litigation and to ensure that only attorneys with actual authority prosecute or defend cases. When a party files a sworn motion under Rule 12, the challenged attorney must appear before the court and demonstrate authority to act on behalf of

the client. The burden of proof is squarely on the challenged attorney, as confirmed in [Benit v. Primalend Capital Partners, LP](#), [05-21-00024-CV \(Tex. App. May 06, 2022\)](#) and [Wheelock v. Kerr Cnty.](#), [04-22-00349-CV \(Tex. App. Feb 22, 2023\)](#).

The presumption that an attorney acts with authority is rebuttable, and once challenged, the attorney must provide evidence—typically an affidavit or testimony from the client—demonstrating that the attorney was retained to provide representation ([Nolana Open MRI Ctr., Inc. v. Pechero](#), [NUMBER 13-13-00552-CV \(Tex. App. Feb 12, 2015\)](#)). If the attorney fails to meet this burden, the court is required to refuse to permit the attorney to appear and must strike the pleadings if no authorized person appears ([Rule 12. Attorney to Show Authority](#), [Tex. R. Civ. P. 12](#); [In re Murrin Bros. 1885, Ltd.](#), [603 S.W. 3d 53 \(Tex. 2019\)](#)).

## **2. Consequences of Failing to Address a Rule 12 Challenge**

The consequences of failing to address a Rule 12 challenge are mandatory and severe. If the challenged attorney does not appear or fails to show authority, the court must refuse to permit the attorney's appearance and strike the pleadings if no authorized substitute appears ([Plant v. Cleveland Reg'l Med. Ctr. \(In re Gravitt\)](#), [371 S.W.3d 465 \(Tex. App. 2012\)](#); [Phillips v. Phillips](#), [244 S.W.3d 433 \(Tex. App. 2007\)](#)). This is not a discretionary remedy; the rule's language and the case law interpreting it make clear that the court is required to take these steps.

The Texas Supreme Court in [Angelina County v. McFarland](#), [374 S.W.2d 417 \(Tex. 1964\)](#) emphasized that Rule 12 was intended to discourage and dismiss suits brought without authority, protecting parties from groundless litigation. The court in [Ellis v. Courtney Prince; LVTRise, Inc.](#), [02-25-00162-CV \(Tex. App. Aug 14, 2025\)](#) further confirmed that continued filings by an unauthorized attorney after a Rule 12 challenge and court order striking pleadings constitute unauthorized practice and justify the court's refusal to permit further participation.

## **3. Filing by Non-Record Attorneys and Unresolved Authority**

The scenario described—where pleadings are filed by an attorney (Roderick D. Marx) who is not counsel of record, while the authority of the purported attorney of record (Cooper L. Carter) is under unresolved challenge—falls squarely within the concerns addressed by Rule 12 and the case law. Texas courts recognize that an attorney may appear of record without actual authority, and Rule 12 exists to address precisely this situation ([In re Users Systems Serv.](#), [22 S.W.3d 331 \(Tex. 1999\)](#)).

If the authority of the attorney of record is challenged and remains unaddressed, and another attorney who is not counsel of record files pleadings, those filings are procedurally improper. The court is required to refuse to permit the appearance of any attorney who has not demonstrated authority and to strike pleadings if no authorized counsel appears ([Catt v. Middleton](#), [698 S.W.3d 66](#); [Choudhri v. Abdullatif](#), [14-23-00679-CV](#), [14-23-00680-CV \(Tex. App. Aug 07, 2025\)](#)).

The exclusive method for challenging an attorney's authority is through Rule 12, and the court must resolve such challenges before allowing further participation by any attorney whose authority is in question ([Fulcher v. Texas State Bd. of Public Accountancy](#), 571 S.W.2d 366 (Tex. Ct. App. 1978); [Tanner v. Black](#), 464 S.W.3d 23 (Tex. App. 2015)). Failure to do so undermines the integrity of the proceedings and the rights of the parties.

#### **4. Disregard for Procedural Rules and the Administration of Justice**

The continued filing of critical pleadings by an attorney lacking proper appearance, while a Rule 12 challenge to the authority of the attorney of record remains unresolved, is not merely a technical violation. Texas courts have repeatedly emphasized that such conduct demonstrates a disregard for the procedural rules that safeguard the orderly administration of justice ([Ellis v. Courtney Prince; LVTRise, Inc.](#), 02-25-00162-CV (Tex. App. Aug 14, 2025); [Plant ex rel. Gravitt v. Cleveland Reg'l Med. Ctr. \(In re Gravitt\)](#), NO. 14-11-00075-CV, NO. 14-11-00526-CV (Tex. App. May 15, 2012)).

The purpose of Rule 12 is to ensure that only those with actual authority prosecute or defend cases, and to protect parties from groundless or unauthorized litigation ([Angelina County v. McFarland](#), 374 S.W.2d 417 (Tex. 1964)). When attorneys ignore or fail to resolve Rule 12 challenges, they undermine these fundamental protections and expose their clients to the risk of having their pleadings struck and their claims or defenses dismissed.

#### **Exceptions and Caveats**

While Rule 12 is the exclusive method for challenging an attorney's authority, and its procedures are mandatory, there are procedural requirements that must be met for a Rule 12 challenge to be effective. The motion must be sworn and served on the challenged attorney at least ten days before the hearing ([Benit v. Primalend Capital Partners, LP](#), 05-21-00024-CV (Tex. App. May 06, 2022)). However, courts have sometimes excused technical defects in the motion if the substance of the challenge is clear and no timely objection is made ([Sloan v. Rivers](#), 693 S.W.2d 782 (Tex. App. 1985)).

Additionally, if a party fails to raise a Rule 12 challenge before trial, the right to challenge may be waived ([Pratt v. State](#), 13-22-00030-CV (Tex. App. Apr 27, 2023)). However, in the scenario described, the challenge has been made and remains unaddressed, so these exceptions do not apply.

It is also important to note that the court's obligation to strike pleadings and refuse appearance applies only if the challenged attorney fails to show authority and no other authorized person appears. If a new attorney with proper authority appears, the court may permit that attorney to proceed ([Plant v. Cleveland Reg'l Med. Ctr. \(In re Gravitt\)](#), 371 S.W.3d 465 (Tex. App. 2012)).

## **Conclusion**

Texas law is unequivocal: when an attorney's authority to act is challenged under Rule 12 and the challenge remains unresolved, the court must refuse to permit that attorney's appearance and strike pleadings if no authorized counsel appears. Filing pleadings by an attorney who is not counsel of record, while the authority of the purported attorney of record is under challenge and unaddressed, violates these procedural requirements and exposes the pleadings to being struck. This conduct reflects a disregard for the rules designed to ensure the orderly administration of justice and may result in significant sanctions, including the dismissal of claims or defenses. The authorities cited above leave no doubt that strict adherence to Rule 12 is essential to maintaining the integrity of Texas civil proceedings.

## **Legal Authorities**

[Tanner v. Black, 464 S.W.3d 23 \(Tex. App. 2015\)](#)

### **Texas Court of Appeals**

#### **Extract**

When a party to a lawsuit believes that the suit is being prosecuted or defended without authority, she may file a sworn motion questioning the attorney's authority to act. Tex.R. Civ. P. 12. 'Rule 12 has long been the exclusive method for questioning the authority of an attorney to bring a suit.'... Upon the filing of a motion to show authority, the challenged attorney bears the burden to 'show sufficient authority to prosecute or defend the suit on behalf of the other party.' ... If the challenged attorney fails to show authority to act, 'the court shall ... strike the pleadings if no person who is authorized to prosecute or defend appears.'

#### **Summary**

The passage confirms: (1) Rule 12 is the exclusive vehicle to challenge an attorney's authority; (2) once challenged, the attorney must prove authority; and (3) failure mandates striking pleadings if no authorized person appears. This supports arguing that filings by an attorney who has not properly appeared, combined with failure to resolve a pending Rule 12 challenge to counsel of record, justifies striking pleadings and supports sanctions for disregard of procedural rules.

[Plant v. Cleveland Reg'l Med. Ctr. \(In re Gravitt\), 371 S.W.3d 465 \(Tex. App. 2012\)](#)

### **Texas Court of Appeals**

## **Extract**

Rule 12 provides that a party may, by sworn written motion stating that he believes an attorney is prosecuting or defending a suit or proceeding without authority, cause the attorney to be cited to appear before the court and show his authority to act. Tex.R. Civ. P. 12. At the hearing on the motion, the burden of proof is on the challenged attorney to show sufficient authority to prosecute or defend the suit on behalf of the other party. Id. If the challenged attorney fails to show authority, the court "shall refuse to permit the attorney to appear in the cause, and shall strike the pleadings if no person who is authorized to prosecute or defend appears." Id. "That same day, the trial court signed an order finding that the plaintiffs filed no response, the plaintiff's counsel had not appeared despite receiving notice, and the plaintiffs' attorneys did not show authority to act on behalf of James. The trial court also ordered 'that John Phelps and John Leija shall not be allowed to appear on behalf of James Gravitt through Dinah Plant as next friend.' The trial court further ordered that if new counsel with authority did not appear by 5:00 p.m. the next day, July 20, 2010, the plaintiffs' pleadings 'shall be stricken pursuant to Rule 12.'" ... "The trial court granted the biological father's Rule 12 motion, struck the attorney purporting to act as next friend, struck the pleadings the unauthorized attorney filed, and dismissed the case.

## **Summary**

The opinion states the Rule 12 procedure, the attorney's burden when authority is challenged, and the mandatory consequence—refusal to permit appearance and striking pleadings—if authority is not shown. It illustrates enforcement where counsel failed to respond/appear and the court barred them from appearing and ordered pleadings struck. It further cites a case where pleadings filed by an unauthorized attorney were struck and the case dismissed. This supports arguments that continued filings by a non-appearing or unauthorized lawyer and failure to address a pending Rule 12 challenge violate procedural requirements and warrant striking pleadings/sanctions.

[Plant ex rel. Gravitt v. Cleveland Reg'l Med. Ctr. \(In re Gravitt\), NO. 14-11-00075-CV, NO. 14-11-00526-CV \(Tex. App. May 15, 2012\)](#)

## **Texas Court of Appeals**

### **Extract**

Rule 12 provides that a party may, by sworn written motion stating that he believes an attorney is prosecuting or defending a suit or proceeding without authority, cause the attorney to be cited to appear before the court and show his authority to act. ... At the hearing on the motion, the burden of proof is on the challenged attorney to show sufficient authority to prosecute or defend the suit on behalf of the other party. ... If the challenged attorney fails to show authority, the court 'shall refuse to permit the attorney to

appear in the cause, and shall strike the pleadings if no person who is authorized to prosecute or defend appears." ... "That same day, the trial court signed an order finding that the plaintiffs filed no response, the plaintiff's counsel had not appeared despite receiving notice, and the plaintiffs' attorneys did not show authority to act on behalf of James. The trial court also ordered 'that John Phelps and John Leija shall not be allowed to appear on behalf of James Gravitt through Dinah Plant as next friend.' The trial court further ordered that if new counsel with authority did not appear by 5:00 p.m. the next day, July 20, 2010, the plaintiffs' pleadings 'shall be stricken pursuant to Rule 12.'" ... "The trial court granted the biological father's Rule 12 motion, struck the attorney purporting to act as next friend, struck the pleadings the unauthorized attorney filed, and dismissed the case. ... the unauthorized attorney failed to carry his burden at the hearing to show sufficient authority to prosecute the suit and ... no one authorized to prosecute the suit appeared at the hearing.

## **Summary**

The opinion quotes Rule 12's mechanism, burden, and mandatory remedies (refuse appearance and strike pleadings). It shows application: when attorneys failed to show authority, the court prohibited their appearance and ordered pleadings stricken; a cited case confirms striking pleadings filed by an unauthorized attorney and dismissal when no authorized counsel appears. This supports that filing pleadings without proper authority and failing to address a Rule 12 challenge warrants striking pleadings and sanctions, and underscores disregard for procedural rules.

[In re Murrin Bros. 1885, Ltd., 603 S.W.3d 53 \(Tex. 2019\)](#)

## **Texas Supreme Court**

### **Extract**

Rule 12 of the Texas Rules of Civil Procedure provides: 'A party in a suit or proceeding pending in a court of this state may, by sworn written motion stating that he believes the suit or proceeding is being prosecuted or defended without authority, cause the attorney to be cited to appear before the court and show his authority to act.' ... Upon such a motion, 'the burden of proof shall be upon the challenged attorney to show sufficient authority to prosecute or defend the suit on behalf of the other party.' ... If the challenged attorney fails to show sufficient authority, 'the court shall refuse to permit the attorney to appear in the cause, and shall strike the pleadings if no person who is authorized to prosecute or defend appears.'

## **Summary**

The passage confirms that when an attorney's authority is challenged under Rule 12, the attorney must show authority; failure requires the court to refuse the appearance and strike pleadings if no authorized person appears. This directly supports arguments that filings by a lawyer without proper

authority/appearance, coupled with an unaddressed Rule 12 challenge, violate procedural requirements and warrant sanctions such as striking pleadings.

[Sloan v. Rivers, 693 S.W.2d 782 \(Tex. App. 1985\)](#)

**Texas Court of Appeals**

**Extract**

Although such motion was not verified as required by TEX.R.CIV.P. 12, its substance sufficiently put the Court on notice of a possible irregularity worthy of further inquiry by the Court. No exception having been taken, the requirement of verification is deemed waived... At that time he freely admitted in open court that he did not have the authority of either Denise E. Sloan or Patricia Ruffin to prosecute the action for injunction... Under these circumstances, we agree with Respondent Rivers that the provisions of TEX.R.CIV.P. 12 apply... At the hearing on the motion, the burden of proof shall be upon the challenged attorney to show sufficient authority to prosecute or defend the suit on behalf of the other party. Upon his failure to show such authority, the court shall refuse to permit the attorney to appear in the cause, and shall strike the pleadings if no person who is authorized to prosecute or defend appears.

**Summary**

The court recognized that a Rule 12 challenge triggers the attorney's burden to show authority. It affirmed that lack of authority requires the court to refuse the attorney's appearance and to strike pleadings if no authorized person appears. It also shows courts may proceed on the substance of a Rule 12 challenge to address irregularities in representation. This supports the proposition that filings by an attorney without proper authority/appearance, coupled with failure to address a Rule 12 challenge, warrants striking pleadings and reflects disregard for procedural rules.

[Barker v. Mason Bancshares, Inc., No. 04-20-00301-CV \(Tex. App. Jul 14, 2021\)](#)

**Texas Court of Appeals**

**Extract**

Texas Rule of Civil Procedure 12 'allows a party to argue before the trial court that a suit is being prosecuted or defended without authority.' In re Guardianship of Benavides, 403 S.W.3d 370, 373 (Tex. App.—San Antonio 2013, pet. denied). 'When a party files a rule 12 motion to show authority, the challenged attorney must appear before the trial court to show his authority to act on behalf of his client.' Id. 'The motion may be heard and

determined at any time before the parties have announced ready for trial.' Id. 'At the hearing on the motion, the burden of proof is on the challenged attorney to show his authority to prosecute or defend the suit.' Id.

## **Summary**

The passage confirms that under Texas Rule 12, once authority is challenged, the attorney must personally appear and carry the burden to show authority before continuing to act. This supports arguments that filings by an attorney who has not properly appeared or whose authority is under challenge are procedurally improper and subject to sanctions such as striking pleadings.

[Angelina County v. McFarland, 374 S.W.2d 417 \(Tex. 1964\)](#)

## **Texas Supreme Court**

### **Extract**

'Any defendant in any suit or proceeding pending in any court of this state may, by sworn written motion stating that such defendant believes that such suit or proceeding was instituted against him or is being prosecuted against him without authority on the part of the plaintiff's attorney, cause such attorney to be cited to appear before such court and show his authority for same... Upon the hearing of such motion, the burden of proof shall be upon the attorney appearing for the plaintiff to show sufficient authority... Upon his failure to show such authority, the court shall refuse to permit such attorney to appear in said cause, and shall dismiss the same if no person who is authorized to prosecute said cause appears... Rule 12 was taken from Article 320... Its apparent purpose was to discourage and to cause the dismissal of suits brought without authority. It was to protect defendants from groundless suits. It was thought that a person who was sued was entitled to know that the named plaintiff had in fact authorized the suit. The statute and the Rule were plainly worded to give this right to defendants; to authorize defendants to challenge the bringing of the suit... In Victory v. State... this Court held that Article 320 (now Rule 12) 'provides for the exclusive method of questioning the authority of an attorney to bring suit.'

## **Summary**

The Court quotes Rule 12's mechanism requiring an attorney to show authority when challenged and states the consequence of failure (refusal to permit appearance and dismissal if no authorized prosecutor appears). It affirms Rule 12 as the exclusive method to challenge an attorney's authority and explains its purpose to prevent suits prosecuted without authority. This supports arguments that: (1) a Rule 12 challenge must be adjudicated in the trial court; (2) when challenged, the burden is on the plaintiff's attorney to prove authority; (3) failure to show authority leads to striking the attorney's

appearance and potential dismissal; and (4) continued prosecution or filing by an unauthorized attorney disregards Rule 12 and orderly procedure.

[Benit v. Primalend Capital Partners, LP](#), 05-21-00024-CV (Tex. App. May 06, 2022)

## **Texas Court of Appeals**

### **Extract**

Rule 12, the alleged basis for Primalend's motion, says that when a party to a lawsuit believes the suit or proceeding is being prosecuted or defended without authority, it may file a sworn written motion questioning the attorney's authority to act. Tex.R.Civ.P. 12. Rule 12 motions must be sworn and served on the challenged attorney at least 10 days before the hearing on the motion. ... The primary purpose of rule 12 is to enforce a party's right to know who authorized the suit. ... Rule 12 protects parties from groundless suits and permits dismissal of suits instituted without authority. ... The challenged attorney has the burden of proof to show sufficient authority to represent the client. ... If the challenged attorney does not meet his or her burden of proof, the trial court is required (1) to bar the challenged attorney from appearing in the case and (2) to strike the pleadings if an authorized person does not appear. ... Typically, an attorney satisfies the burden to establish his or her authority by presenting evidence the client retained him to provide representation in the case.

## **Summary**

The passage explains Rule 12's mechanism to challenge an attorney's authority, the burden on the challenged attorney to prove authority, and mandatory consequences—barring the attorney and striking pleadings—if the burden is not met. This supports the proposition that continued filings by an attorney lacking proper appearance and failure to resolve a Rule 12 challenge contravene procedural rules and risk striking of pleadings and related sanctions.

[Wheelock v. Kerr Cnty.](#), 04-22-00349-CV (Tex. App. Feb 22, 2023)

## **Texas Court of Appeals**

### **Extract**

Finally, Wheelock argues we should reverse the trial court's judgment because the Kerr County taxing entities' attorneys did not respond to his challenge to their authority to represent their clients. Texas Rule of Civil Procedure 12 provides that a party 'may, by sworn written motion stating that he believes the suit or proceeding is being prosecuted or defended without authority, cause the attorney to be cited to appear before the court

and show his authority to act.' Tex.R.Civ.P. 12. If the attorney does not show he has authority to act, 'the court shall refuse to permit the attorney to appear in the cause, and shall strike the pleadings if no person who is authorized to prosecute or defend appears.' Id.

## **Summary**

The court quotes Rule 12, confirming that upon a sworn challenge to authority, the attorney must show authority to act; failure requires the court to refuse the appearance and strike pleadings absent an authorized representative. This supports the argument that filings by an attorney lacking proper appearance and an unaddressed Rule 12 challenge warrant striking pleadings and indicate disregard for procedural rules.

[Catt v. Middleton 698 S.W.3d 66](#)

## **Texas Court of Appeals**

### **Extract**

[16] Under Texas Rule of Civil Procedure 12, a party may cause the opposing party's counsel to appear before the court and show their authority to act. Tex. R. Civ. P. 12. ... [17, 18] Rule 12, titled 'Attorney to Show Authority,' provides, in pertinent part: 'A party in a suit or proceeding pending in a court of this state may, by sworn written motion stating that he believes the suit or proceeding is being prosecuted or defended without authority, cause the attorney to be cited to appear before the court and show his authority to act .... At the hearing on the motion, the burden of proof shall be upon the challenged attorney to show sufficient authority to prosecute or defend the suit on behalf of the other party. Upon his failure to show such authority, the court shall refuse to permit the attorney to appear in the cause, and shall strike the pleadings if no person who is authorized to prosecute or defend appears.' ... See *In re Users Sys. Servs.*, 22 S.W.3d 331, 335 (Tex. 1999) ('[T]he procedure prescribed by Rule 12 for requiring an attorney to show his authority to act for a party presupposes the possibility that an attorney can be counsel of record for a party he is not authorized to represent.');

*Angelina County v. McFarland*, 374 S.W.2d 417, 422-23 (Tex. 1964);

*Nicholas v. Envtl. Sys. (Int'l) Ltd.*, 499 S.W.3d 888, 895 (Tex. App.—Houston [14th Dist.] 2016, pet. denied); *Urbish v. James*, 688 S.W.2d 230, 233 (Tex. App.—Houston [14th Dist.] 1985, no writ).

## **Summary**

The passage sets out Rule 12's mechanism to challenge an attorney's authority, places the burden on the challenged attorney to prove authority, and mandates that if the attorney fails, the court must refuse the appearance and strike pleadings absent an authorized substitute. It also cites precedent recognizing attorneys may appear of record without authority, justifying Rule 12 enforcement. This supports arguments that

filings by an attorney without proper appearance or unresolved authority issues violate procedural rules and risk striking.

[Choudhri v. Abdullatif, 14-23-00679-CV, 14-23-00680-CV \(Tex. App. Aug 07, 2025\)](#)

## **Texas Court of Appeals**

### **Extract**

Rule 12 provides that '[a] party in a suit or proceeding pending in a court of this state may, by sworn written motion stating that he believes the suit or proceeding is being prosecuted or defended without authority, cause the attorney to be cited to appear before the court and show his authority to act.' Tex.R.Civ.P. 12. The purpose of Rule 12 is to allow a party to challenge the right of an attorney to represent the other party in the litigation. See Tex. R. Civ. P. 12 ('At the hearing on the motion, the burden of proof shall be upon the challenged attorney to show sufficient authority to prosecute or defend the suit on behalf of the other party.); see also *In re Sassin*, 511 S.W.3d 121, 125 (Tex. App.-El Paso 2014, orig. proceeding) (recognizing that Rule 12's '...

## **Summary**

The passage confirms that when an attorney's authority is challenged via Rule 12, the attorney must appear and carry the burden to show authority to act. This supports arguing that continuing to file pleadings without addressing a pending Rule 12 challenge violates procedural requirements and justifies sanctions such as striking pleadings.

[Pratt v. State, 13-22-00030-CV \(Tex. App. Apr 27, 2023\)](#)

## **Texas Court of Appeals**

### **Extract**

A challenge to the prosecuting attorney's authority to act on a party's behalf must be made by sworn motion before the parties announce ready for trial in accordance with Texas Rule of Civil Procedure 12. See Tex. R. Civ. P. 12; *Kindle v. Wood Cnty. Elec. Coop, Inc.*, 151 S.W.3d 206, 210 (Tex. App.-Tyler 2004, pet. denied) ('Rule 12 is the exclusive method for questioning the authority of an attorney to represent a party in any court proceeding.') Failing to follow Rule 12 results in waiver. *Kindle*, 151 S.W.3d at 210 (overruling an appellant's challenge to an attorney's authority because no such challenge was brought during trial phase).

## **Summary**

Texas Rule of Civil Procedure 12 is the exclusive mechanism to challenge an attorney's authority to act. When such authority is challenged, the attorney must show authority; failure to comply has consequences (including potential waiver if not timely raised, and under Rule 12 itself, striking of pleadings and other sanctions when the challenged attorney cannot show authority). The passage squarely supports the necessity of addressing a Rule 12 challenge to counsel's authority and underscores the procedural importance of proper appearance and authority before filing pleadings.

[Phillips v. Phillips, 244 S.W.3d 433 \(Tex. App. 2007\)](#)

### **Texas Court of Appeals**

#### **Extract**

On the day of hearing on Patricia's motion for new trial, Mauzy filed a motion to show authority under Texas Rule of Civil Procedure 12... The trial court found that Hood lacked authority and struck Patricia's motion for new trial... Rule 12 has long been the exclusive method for questioning the authority of an attorney to bring a suit. Angelina County v. McFarland, 374 S.W.2d 417, 423 (Tex. 1964).

## **Summary**

The case confirms that Rule 12 is the proper and exclusive vehicle to challenge an attorney's authority to act, and that when a court finds counsel lacks authority, it may strike filed pleadings (here, a motion for new trial). This supports the proposition that continued filing by an attorney without established authority, particularly while a Rule 12 challenge is pending or unaddressed, violates procedural norms and can result in striking pleadings.

[Boudreau v. Federal Trust Bank, 115 S.W.3d 740 \(Tex. App. 2003\)](#)

### **Texas Court of Appeals**

#### **Extract**

Texas civil procedure rule 12 allows a party to argue before the trial court that the law suit is being prosecuted or defended without authority. Tex.R. Civ. P. 12. The challenged attorney must appear before the court and show his authority to act. Id. At the hearing on the motion, the burden of proof is on the challenged attorney to show sufficient authority to prosecute or defend the suit on behalf of his client, a party to the law suit. Id. If the challenged attorney fails to show authority, the trial court must refuse to permit the attorney to appear in the cause and must strike the pleadings if

no other authorized person appears. Id. A trial should not be unnecessarily continued or delayed for a rule 12 hearing. Id.

## **Summary**

The opinion recites the requirements and consequences of Texas Rule 12: when an attorney's authority is challenged, the attorney must appear and prove authority; the burden is on the challenged attorney; failure to prove authority requires the court to refuse the appearance and strike pleadings if no authorized person appears; and Rule 12 hearings should not delay proceedings. This directly supports arguments that continued filings by an attorney who has not properly appeared and has not addressed a pending Rule 12 challenge violate procedural requirements and risk striking of pleadings.

[Ellis v. Courtney Prince; LVTRise, Inc., 02-25-00162-CV \(Tex. App. Aug 14, 2025\)](#)

## **Texas Court of Appeals**

### **Extract**

Texas Rule of Civil Procedure 12 provides in pertinent part that [a] party in a suit or proceeding pending in a court of this state may, by sworn written motion stating that he believes the suit or proceeding is being prosecuted or defended without authority, cause the attorney to be cited to appear before the court and show his authority to act... . At the hearing on the motion, the burden of proof shall be upon the challenged attorney to show sufficient authority to prosecute or defend the suit on behalf of the other party. Upon his failure to show such authority, the court shall refuse to permit the attorney to appear in the cause[] and shall strike the pleadings if no person who is authorized to prosecute or defend appears." ... "Ellis's arguments ignore the fact that Rule 12, which is set forth in the Texas Rules of Civil Procedure, is an authorized procedure[] and that he could have mooted LVTRise's motion by hiring an attorney and having that attorney appear at the hearing. Instead, Ellis neither responded to LVTRise's motion nor appeared for the hearing on the motion but rather continued in the unauthorized practice of law by filing documents on his daughter's behalf after the trial court rendered its order striking his pleadings and dismissing his claims. We therefore overrule Ellis's remaining four issues.

## **Summary**

The court quotes Rule 12's mechanism, burden, and remedy—on failure to show authority, the court must refuse the appearance and strike pleadings if no authorized person appears. The court further emphasizes Rule 12 as an authorized procedure and affirms striking pleadings where filings continued without proper authority. This supports that when the authority of the purported attorney of record is challenged and not addressed, the court can

refuse the appearance and strike pleadings, and continued filings without proper appearance reflect disregard of procedural rules.

[Fulcher v. Texas State Bd. of Public Accountancy, 571 S.W.2d 366 \(Tex. Ct. App. 1978\)](#)

## **Texas Civil Court of Appeals**

### **Extract**

Rule 12 is the exclusive method for questioning the authority of an attorney to bring a suit. Angelina County v. McFarland, 374 S.W.2d 417, 423 (Tex.Sup. 1964); Cook v. City of Booker, 167 S.W.2d 232, 233 (Tex.Civ.App. Amarillo 1942, no writ). In order for Fulcher to have properly challenged the authority of the Attorney General to represent the Texas State Board of Public Accountancy it was his duty to invoke Rule 12 by filing a sworn written motion contesting the Attorney General's authority.... In Cook, supra, the court stated that a plea in abatement was not sufficient to challenge an attorney's authority to represent a plaintiff, but that a Rule 12 motion is the exclusive method for challenging this authority. ... 'Any defendant in any suit or proceeding pending in any court of this state may, by sworn written motion stating that such defendant believes that such suit or proceeding was instituted against him or is being prosecuted against him without authority on the part of the plaintiff's attorney, cause such attorney to be cited to appear before such court and show his authority for same... Upon the hearing of such motion, the burden of proof shall be upon the attorney appearing for the plaintiff to show sufficient authority... Upon his failure to show such authority, the court shall refuse to permit such attorney to appear in said cause, and shall dismiss the same if no person who is authorized to prosecute said cause appears.'

### **Summary**

The case confirms that Rule 12 is the exclusive vehicle to challenge an attorney's authority, requires a sworn motion, places the burden on the challenged attorney to prove authority, and authorizes the court to refuse the appearance and dismiss if authority is not shown. This supports arguments that (1) counsel's authority must be addressed when challenged; (2) filing pleadings without established authority violates procedural requirements; and (3) courts may strike appearances and dismiss if authority is lacking—underscoring the seriousness of continued filings by an unauthorized attorney.

[Nolana Open MRI Ctr., Inc. v. Pechero, NUMBER 13-13-00552-CV \(Tex. App. Feb 12, 2015\)](#)

## **Texas Court of Appeals**

## **Extract**

There is a general presumption that an attorney is acting with authority; however, that presumption is rebuttable... Rule 12 of the Texas Rules of Civil Procedure permits any party to challenge an attorney's authority to prosecute or defend a lawsuit: [A party] may, by sworn written motion... cause the attorney to be cited to appear before the court and show his authority to act... The challenged attorney must appear before the trial court to show his authority to act on behalf of his client... At the hearing on the motion, the challenged attorney bears the burden of proof to show the requisite authority... Typically, a challenged attorney satisfies his burden if he produces an affidavit or testimony from his client indicating the attorney was retained to provide representation in the case.

## **Summary**

Texas Rule 12 allows a party to challenge an attorney's authority, requires the challenged attorney to appear and show authority, and places the burden on that attorney to prove authority, typically via client affidavit/testimony. This supports the proposition that an attorney filing pleadings without proper appearance or unaddressed authority must demonstrate authority and, if failing to do so, faces consequences (including striking pleadings under Rule 12, as recognized in Texas practice). The appellate standard underscores courts must apply these guiding rules, reinforcing the orderly administration of justice rationale.

[In re Sassin, 511 S.W.3d 121 \(Tex. App. 2014\)](#)

## **Texas Court of Appeals**

### **Extract**

Rule 12 of the Texas Rules of Civil Procedure permits any party to challenge an attorney's authority to prosecute or defend a lawsuit. TEX.R.CIV.P. 12. The Rule's primary purpose is to enforce a party's right to know who authorized the suit... The challenged attorney must appear before the trial court to show his authority to act on behalf of his client... At the hearing on the motion, the challenged attorney bears the burden of proof to show the requisite authority.

## **Summary**

The passage confirms that (1) any party may challenge an attorney's authority under Rule 12; (2) the challenged attorney must personally appear and prove authority; and (3) the burden rests on the challenged attorney. This supports arguments that filings by an attorney who has not appeared or shown authority after a Rule 12 challenge are improper and subject to remedial measures (including striking), reinforcing the need to resolve the challenge before further critical filings.

[In re Benavides, 403 S.W.3d 370 \(Tex. App. 2013\)](#)

**Texas Court of Appeals**

**Extract**

Rule 12 allows a party to argue before the trial court that a suit is being prosecuted or defended without authority. Tex.R. Civ. P. 12; ... When a party files a rule 12 motion to show authority, the challenged attorney must appear before the trial court to show his authority to act on behalf of his client. Tex.R. Civ. P. 12; ... The motion may be heard and determined at any time before the parties have announced ready for trial. Tex.R. Civ. P. 12. The primary purpose of rule 12 is to enforce a party's right to know who authorized the suit." ... "The current version of rule 12 allows either a defendant or a plaintiff to file a rule 12 motion. Tex.R. Civ. P. 12 ('A party in a suit or proceeding pending in a court of this state may, by sworn written motion stating he believes the suit or proceeding is being prosecuted or defended without authority, cause the attorney to be cited to appear before the court and show his authority to act.') (emphasis supplied).

**Summary**

The court explains Rule 12's mechanism: when authority is challenged, the attorney must appear and show authority. It confirms any party may file a Rule 12 motion. This supports arguing that continued filings by an attorney who has not properly appeared and whose authority is under a Rule 12 challenge violate procedural requirements, exposing pleadings to being struck and sanctions under Rule 12's enforcement of authorized representation.

[In re Users Systems Serv., 22 S.W.3d 331 \(Tex. 1999\)](#)

**Texas Supreme Court**

**Extract**

The court was also troubled that Cannan's responsibilities as counsel of record under Rules 8 and 10 of the Texas Rules of Civil Procedure could not be terminated by Frazier's letter to Gulde but only by notice to the trial court, which was not given, so that Cannan remained Frazier's counsel of record during the meeting with Landreth and Gulde." ... "Nor is the client's right to terminate the relationship limited by the attorney's responsibilities to a court as counsel of record for the client. Rule 8 of the Texas Rules of Civil Procedure makes a party's 'attorney in charge' 'responsible for the suit as to such party', and Rule 10 specifies when and how counsel may withdraw. But neither rule speaks to the client's right to terminate the representation or requires that notice first be given to the court. On the other hand, the procedure prescribed by Rule 12 for requiring an attorney to

show his authority to act for a party presupposes the possibility that an attorney can be counsel of record for a party he is not authorized to represent. The rules contemplate that authorization may not have existed or may cease before the attorney has withdrawn from the case.

## **Summary**

The Court recognizes that (1) counsel of record remains responsible until proper withdrawal by notice to the court; (2) Rule 12 exists because an attorney of record may lack actual authority; and (3) the rules contemplate periods when filings may be made by someone without authority or when counsel of record lacks authority. This supports arguments that filings by a non-appearing lawyer, and failure to resolve a Rule 12 challenge to the purported attorney of record's authority, violate procedural requirements and warrant remedial measures (including striking pleadings).

[Nicholas v. Envtl. Sys. \(Int'l\) Ltd., 499 S.W.3d 888 \(Tex. App. 2016\)](#)

## **Texas Court of Appeals**

### **Extract**

We review a trial court's ruling on a Rule 12 motion to show authority for an abuse of discretion. ... Rule 12, titled 'Attorney to Show Authority,' provides, in pertinent part: A party in a suit or proceeding pending in a court of this state may, by sworn written motion stating that he believes the suit or proceeding is being prosecuted or defended without authority, cause the attorney to be cited to appear before the court and show his authority to act.... At the hearing on the motion, the burden of proof shall be upon the challenged attorney to show sufficient authority to prosecute or defend the suit on behalf of the other party. Upon his failure to show such authority, the court shall refuse to permit the...

## **Summary**

The passage confirms that, when challenged under Rule 12, an attorney must show authority to act; the burden is on the challenged attorney; and failure to show authority requires the court to refuse to permit the attorney to act—supporting consequences such as striking pleadings or disallowing further participation. This aligns with the proposition that continued filings by an attorney without proper authority and failure to resolve a Rule 12 challenge contravene procedural rules.

[Rule 12. Attorney to Show Authority](#)

## **Extract**

A party in a suit or proceeding pending in a court of this state may, by sworn written motion stating that he believes the suit or proceeding is being prosecuted or defended without authority, cause the attorney to be cited to appear before the court and show his authority to act. ... At the hearing on the motion, the burden of proof shall be upon the challenged attorney to show sufficient authority to prosecute or defend the suit on behalf of the other party. Upon his failure to show such authority, the court shall refuse to permit the attorney to appear in the cause, and shall strike the pleadings if no person who is authorized to prosecute or defend appears.

## **Summary**

Texas Rule 12 provides a mechanism to challenge an attorney's authority and places the burden on the challenged attorney to prove authority. If the challenged attorney cannot show authority, the court must refuse that attorney's appearance and strike pleadings absent an authorized representative. This directly supports the proposition that filing pleadings by an attorney without proper authority—especially while a Rule 12 challenge remains unresolved—violates procedural requirements and can lead to striking pleadings, evidencing disregard for orderly procedure.

This memo was compiled by Vincent AI based on vLex materials available as of December 07, 2025. [View full answer on vLex](#)