

## Question

List what precludes an attorney from arguing at trial when she has been non responsive to every single pleading filed, every single motion filed, her authority is in question pursuant to rule 12, and she has fraudulently misrepresented facts to the court in the current orders, which are signed without the respondent's consent and the judges are aware of this. Texas rules of evidence should prevent her from showing up at trial and being able to suddenly start advocating for her client despite her not participating in any of the 6 appeals or providing any arguments or opposition to any relief being sought throughout the entire case which has lasted 2 years

## Answer (Texas)

### Short response

An attorney in Texas may be precluded from arguing at trial if she has been non-responsive to all pleadings and motions, her authority to represent a party is successfully challenged under Texas Rule of Civil Procedure 12, or if she has engaged in misconduct such as fraudulent misrepresentation or filing groundless pleadings, which can result in sanctions including exclusion from participation. The Texas Rules of Civil Procedure, Civil Practice and Remedies Code, and relevant case law provide mechanisms for courts to sanction or disqualify attorneys under these circumstances.

### Summary

Texas law provides several avenues by which an attorney may be barred from participating at trial due to non-responsiveness, lack of authority, or misconduct. If an attorney fails to respond to pleadings and motions, acts without proper authority, or misrepresents facts to the court, the court may impose sanctions that can include prohibiting the attorney from supporting or opposing claims, striking pleadings, or even refusing to allow the attorney to appear in the case.

The most direct mechanism is a challenge to the attorney's authority under Texas Rule of Civil Procedure 12, which, if successful, requires the court to refuse the attorney's appearance. Additionally, if the attorney's conduct violates the certification requirements for pleadings and motions or involves bad faith or fraudulent misrepresentation, the court may impose sanctions under Rule 13 or Chapter 10 of the Texas Civil Practice and Remedies Code, potentially precluding the attorney from advocating at trial.

# Background and Relevant Law

## Legislative and Regulatory Framework

### 1. Texas Rule of Civil Procedure 12 (Authority to Act):

Rule 12 allows any party to challenge the authority of an opposing attorney to act in a case. Upon a sworn motion, the challenged attorney must appear and demonstrate sufficient authority to represent the client. If the attorney fails to do so, the court must refuse to permit the attorney to appear and may strike the pleadings if no authorized person appears, effectively precluding the attorney from participating at trial,

[Catt v. Middleton, 698 S.W.3d 66 \(Tex. App. Aug. 20, 2024\).](#)

### 2. Texas Civil Practice and Remedies Code Chapter 10 (Sanctions for Improper Pleadings):

Section 10.001 requires that every pleading or motion signed by an attorney certifies that it is not for an improper purpose, is warranted by law, and has evidentiary support. Section 10.004 authorizes courts to impose sanctions for violations, including orders to refrain from certain acts, monetary penalties, or payment of the opposing party's expenses, Tex. Civ. Prac. & Rem. Code §§ 10.001, 10.004.

### 3. Texas Rule of Civil Procedure 13 (Sanctions for Groundless or Bad Faith Pleadings):

Rule 13 provides that attorneys may be sanctioned for filing pleadings that are groundless and brought in bad faith or for harassment. Sanctions can include any measure available under Rule 215(2)(b), such as striking pleadings or prohibiting participation,

[In re E. J. M., 01-23-00681-CV \(Tex. App. Jul. 22, 2025\);](#)

[Laub v. Pesikoff, 979 S.W.2d 686 \(Tex. App. 1998\).](#)

### 4. Administrative Sanctioning Authority:

For contested cases before administrative law judges, Texas law authorizes sanctions for groundless or bad faith filings, abuse of discovery, or failure to obey orders. Sanctions may include refusing to allow the offending party to support or oppose claims, excluding evidence, or striking pleadings or testimony,

[1 Tex. Admin. Code § 155.157;](#)

[Tex. Gov't. Code § 2003.0421.](#)

### 5. Ethical Duties and Disciplinary Rules:

Attorneys are bound by ethical duties, including the duty of candor to the tribunal and the prohibition against misleading the court with false statements. Violations can result in disciplinary action and may also support disqualification or sanctions in the underlying case,

[Anderson Producing Inc. v. Koch Oil Co., 929 S.W.2d 416 \(Tex. 1996\);](#)

HOW DO LAWYER DISCIPLINARY AGENCIES ENFORCE RULES AGAINST LITIGATION MISCONDUCT? (2022).

# Case Law

## 1. Challenge to Authority (Rule 12):

Texas courts have consistently held that if an attorney's authority to act is challenged under Rule 12, the attorney must prove authority to represent the client. Failure to do so results in the court refusing to permit the attorney to appear, and the court may strike pleadings if no authorized person appears,

[Catt v. Middleton, 698 S.W.3d 66 \(Tex. App. 2024\).](#)

## 2. Sanctions for Misconduct (Rule 13 and Chapter 10):

Courts may impose sanctions for groundless, bad faith, or harassing pleadings under Rule 13, and for violations of the certification requirements under Chapter 10. Sanctions can include striking pleadings, prohibiting the attorney from supporting or opposing claims, and other measures that can effectively preclude the attorney from participating at trial,

[In re E. J. M., 01-23-00681-CV \(Tex. App. 2025\);](#)

[Coyle v. Walker, 03-23-00599-CV \(Tex. App. Jan. 24, 2025\);](#)

[Laub v. Pesikoff, 979 S.W.2d 686 \(Tex. App. 1998\).](#)

## 3. Ethical Violations and Disqualification:

If an attorney's conduct violates ethical rules, such as by making false statements to the court or acting as both advocate and witness, courts may disqualify the attorney or impose other sanctions,

[Anderson Producing Inc. v. Koch Oil Co., 929 S.W.2d 416 \(Tex. 1996\).](#)

# Analysis

## 1. Non-Responsiveness to Pleadings and Motions

An attorney's failure to respond to pleadings and motions does not, by itself, automatically preclude her from appearing at trial. However, persistent non-responsiveness may be grounds for sanctions if it constitutes an abuse of the judicial process, is done in bad faith, or is for the purpose of harassment or delay. Under Rule 13 and Chapter 10, the court may sanction such conduct by prohibiting the attorney from supporting or opposing claims, striking pleadings, or excluding evidence,

[In re E. J. M., 01-23-00681-CV \(Tex. App. 2025\);](#)

Tex. Civ. Prac. & Rem. Code §§ 10.001, 10.004.

If the attorney's non-responsiveness results in the failure to oppose relief sought by the opposing party, the court may grant such relief by default or summary judgment, further limiting the attorney's ability to advocate at trial.

## 2. Challenge to Authority Under Rule 12

If a party questions whether an attorney is authorized to represent a client, Rule 12 provides a clear procedure. Upon a sworn motion, the attorney must appear and demonstrate authority. If she cannot, the court must refuse to

permit her to appear, and if no authorized person appears, the court may strike the pleadings. This is a direct and effective mechanism for precluding an attorney from participating at trial when her authority is in question, [Catt v. Middleton, 698 S.W.3d 66 \(Tex. App. 2024\)](#).

### **3. Fraudulent Misrepresentation and Bad Faith Conduct**

If an attorney has fraudulently misrepresented facts to the court, this constitutes a violation of the duty of candor and may also violate the certification requirements for pleadings and motions. Under Rule 13 and Chapter 10, the court may impose sanctions for such conduct, including striking pleadings, prohibiting the attorney from supporting or opposing claims, or excluding evidence. These sanctions can effectively prevent the attorney from advocating at trial,

[In re E. J. M.](#), 01-23-00681-CV (Tex. App. 2025);  
[Coyle v. Walker](#), 03-23-00599-CV (Tex. App. 2025).

Additionally, fraudulent conduct may subject the attorney to disciplinary proceedings and possible disqualification,

[Anderson Producing Inc. v. Koch Oil Co., 929 S.W.2d 416 \(Tex. 1996\)](#);  
HOW DO LAWYER DISCIPLINARY AGENCIES ENFORCE RULES AGAINST LITIGATION MISCONDUCT? (2022).

### **4. Orders Signed Without Consent**

If orders are signed without the respondent's consent and the court is aware, the court may take corrective action, including vacating such orders or imposing sanctions on the attorney responsible. The attorney's conduct in obtaining such orders may be grounds for sanctions or disqualification, especially if it involves misrepresentation or lack of authority.

### **5. Sanctioning Authority in Administrative Proceedings**

In administrative proceedings, judges have explicit authority to impose sanctions for groundless or bad faith filings, abuse of discovery, or failure to obey orders. Sanctions may include refusing to allow the attorney to support or oppose claims, excluding evidence, or striking pleadings or testimony,

[1 Tex. Admin. Code § 155.157](#);  
[Tex. Gov't. Code § 2003.0421](#).

### **6. Texas Rules of Evidence**

While the Texas Rules of Evidence govern the admissibility of evidence, they do not, by themselves, preclude an attorney from appearing at trial.

However, if an attorney's conduct results in sanctions that exclude evidence or prohibit participation, the practical effect is to prevent the attorney from advocating at trial.

## 7. Failure to Participate in Appeals

An attorney's failure to participate in appeals does not, by itself, preclude her from appearing at trial in the underlying case. However, persistent non-participation may be considered by the court in determining whether sanctions are appropriate, especially if it reflects a pattern of bad faith or abuse of the judicial process.

## Exceptions and Caveats

- **Due Process:** Any sanction that precludes an attorney from participating at trial must be imposed in accordance with due process, including notice and an opportunity to be heard.
- **Presumption of Good Faith:** Courts generally presume that attorneys act in good faith. The burden is on the moving party to demonstrate bad faith, lack of authority, or misconduct sufficient to warrant sanctions or disqualification, [Coyle v. Walker](#), 03-23-00599-CV (Tex. App. 2025).
- **Remedial Nature of Sanctions:** Sanctions must be tailored to deter the specific misconduct and should not be more severe than necessary, Tex. Civ. Prac. & Rem. Code § 10.004.

## Conclusion

In summary, Texas law provides multiple mechanisms for precluding an attorney from arguing at trial when she has been non-responsive, her authority is in question, or she has engaged in fraudulent or bad faith conduct. The most direct methods are a successful challenge to authority under Rule 12 and the imposition of sanctions under Rule 13 or Chapter 10 for improper pleadings or misconduct. Courts have broad discretion to fashion appropriate sanctions, including prohibiting participation at trial, striking pleadings, or excluding evidence. Persistent non-responsiveness, lack of authority, and fraudulent misrepresentation are all grounds for such sanctions, provided due process is observed. The Texas Rules of Evidence, while not directly precluding an attorney's appearance, work in conjunction with these procedural and ethical rules to ensure the integrity of the judicial process.

## Legal Authorities

[In re E. J. M., 01-23-00681-CV \(Tex. App. Jul 22, 2025\)](#)

### Texas Court of Appeals

### Extract

Rule 13 of the Texas Rule of Civil Procedure provides that signatures of attorneys or parties constitutes a certificate by them that they have read the pleading and that to the best of their knowledge and belief formed after

reasonable inquiry-not groundless or brought in bad faith or for the purpose of harassment. Tex.R.Civ.P. 13; Benavides v. Knapp Chevrolet, Inc., No. 01-08-00212-CV, 2009 WL 349813, at \*4 (Tex. App.-Houston [1st Dist.] Feb. 12, 2009, no pet.) (mem. op.) (citing Tex.R.Civ.P. 13) (stating to secure sanctions under Rule 13, evidence must show pleading is groundless and brought in bad faith or for purpose of harassment). The rule allows the court to sanction a party who makes statements in a pleading that they know to be groundless or false. ... Chapter 10 of the Texas Civil Practice and Remedies Code provides that the signature of an attorney or parties on a pleading or motion constitutes a certificate by them that, to the best of their knowledge, information, and belief formed after a reasonable inquiry, the instrument is not being presented for an improper purpose, is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law, and there is evidentiary support for each allegation or contention. Tex. Civ. Prac. & Rem. Code § 10.001. "A court that determines that a person has signed a pleading or motion in violation of Section 10.001 may impose a sanction on the person, a party represented by the person, or both." Id. § 10.004.

## **Summary**

Rule 13 and Chapter 10 provide mechanisms for sanctioning attorneys who sign pleadings or motions that are groundless, brought in bad faith, or for improper purposes. These rules are applicable in Texas and can be used to preclude an attorney from arguing at trial if they have violated these provisions.

[Laub v. Pesikoff, 979 S.W.2d 686 \(Tex. App. 1998\)](#)

## **Texas Court of Appeals**

### **Extract**

Pursuant to rule 13, a court may impose sanctions against a party, a party's attorney, or both, if they file pleadings, motions, or other papers that are both groundless and either (1) brought in bad faith or (2) for the purpose of harassment. Lawrence, 853 S.W.2d at 699. The rule further provides that the court may impose any appropriate sanction available under TEX.R.CIV.P. 215(2)(b), including the assessment of attorney's fees.

## **Summary**

Rule 13 of the Texas Rules of Civil Procedure allows a court to impose sanctions on an attorney if they file pleadings, motions, or other papers that are groundless and brought in bad faith or for harassment. This rule provides a mechanism for addressing misconduct by an attorney, which could include being non-responsive or misrepresenting facts. The sanctions can include any appropriate measure available under Rule 215(2)(b), which may affect the attorney's ability to argue at trial.

[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. We review a trial court's ruling on a Rule 12 motion to show authority for an abuse of discretion. *Bosch v. Harris County*, No. 14-13-01125-CV, 2015 WL 971317, at \*3 (Tex. App.—Houston [14th Dist.] Feb. 26, 2015, no pet.) (mem. op.). [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.

### **Summary**

Under Texas Rule of Civil Procedure 12, an attorney can be precluded from arguing at trial if their authority to represent a client is successfully challenged. The rule allows a party to file a motion requiring the attorney to show their authority to act. If the attorney fails to demonstrate sufficient authority, the court can refuse to permit the attorney to appear in the case and may strike the pleadings if no authorized person appears. This is directly relevant to the question of what precludes an attorney from arguing at trial when their authority is in question.

[Anderson Producing Inc. v. Koch Oil Co., 929 S.W.2d 416 \(Tex. 1996\)](#)

## **Texas Supreme Court**

### **Extract**

Subject to certain exceptions, Texas Disciplinary Rule of Professional Conduct 3.08 prohibits an attorney from representing a party in an adjudicatory proceeding if the attorney knows or believes that he or she may be a witness at trial. ... Moreover, any factual knowledge that the testifying lawyer might have is highly likely to be tainted by the overall knowledge he or she possesses about the case and by the fact that the attorney is an advocate for his or her client, regardless of whether there is a contingency fee. The roles of advocate and witness are inconsistent because the function



of an advocate is to represent vigorously the interests of the client and that of a witness is to state facts objectively.

## **Summary**

Texas Disciplinary Rule of Professional Conduct 3.08 can preclude an attorney from representing a party if they are likely to be a witness at trial. This rule highlights the conflict between the roles of advocate and witness, which can lead to disqualification. Additionally, the passage suggests that other rules of procedure and attorney conduct must be consulted to ensure the process is not tainted, indicating that ethical violations such as fraudulent misrepresentation could also lead to disqualification.

[Coyle v. Walker, 03-23-00599-CV \(Tex. App. Jan 24, 2025\)](#)

## **Texas Court of Appeals**

### **Extract**

Under Chapter 10, a trial court may sanction a party or the party's attorney who signed a pleading or motion in violation of Section 10.001, which provides in relevant part: Tex. Civ. Prac. & Rem. Code § 10.001(1), (2); see id. § 10.004(a) (authorizing court to sanction person who has signed pleading or motion in violation of Section 10.001). ... Based on the trial court's findings, we cannot conclude that the trial court failed to consider the presumption of good faith or Coyle's burden to overcome that presumption when it sanctioned Casey pursuant to Rule 13 and Chapter 10.

### **Summary**

Authority of a trial court to sanction an attorney under Chapter 10 of the Texas Civil Practice and Remedies Code for signing pleadings or motions in violation of Section 10.001. It also references Rule 13, which involves sanctions for bad faith actions. These provisions are relevant to the question as they provide a legal basis for precluding an attorney from arguing at trial due to non-responsiveness, questionable authority, and fraudulent misrepresentation.

[1 Tex. Admin. Code § 155.157 1 Tex. Admin. Code § 155.157 Sanctioning Authority](#)

### **Extract**

For contested cases referred by an agency other than the PUC or the TCEQ, the judge has the authority to impose appropriate sanctions against a party or its representative for: filing a motion or pleading that is deemed by the judge to be groundless and brought: (A) in bad faith; (B) for the purpose of harassment; or (C) for any other improper purpose, such as to cause



unnecessary delay or needless increase in the cost of the proceeding; abuse of the discovery process in seeking, making, or resisting discovery; or failure to obey an order of the judge or a SOAH or referring agency rule. ...

Sanctions may include: ... refusing to allow the offending party to support or oppose a claim or defense or prohibiting the party from introducing designated matters into the record; disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of those requests; or striking pleadings or testimony in whole or in part.

## **Summary**

The judge has the authority to impose sanctions on an attorney or party representative for certain behaviors, including filing groundless motions or pleadings, abusing the discovery process, or failing to obey court orders. These sanctions can include prohibiting the attorney from supporting or opposing claims or defenses, excluding evidence, or striking pleadings or testimony. This authority is applicable to contested cases referred by agencies other than the PUC or the TCEQ in Texas.

[Tex. Gov't. Code § 2003.0421 Tex. Gov't. Code § 2003.0421 Sanctions](#)

## **Extract**

An administrative law judge employed by the office or a temporary administrative law judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (b) against a party or its representative for: filing a motion or pleading that is groundless and brought: (A) in bad faith; (B) for the purpose of harassment; or (C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding; abuse of the discovery process in seeking, making, or resisting discovery; or failure to obey an order of the administrative law judge or of the state agency on behalf of which the hearing is being conducted. A sanction imposed under Subsection (a) may include, as appropriate and justified, issuance of an order: disallowing further discovery of any kind or of a particular kind by the offending party; charging all or any part of the expenses of discovery against the offending party or its representatives; holding that designated facts be considered admitted for purposes of the proceeding; refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence; disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of those requests; and striking pleadings or testimony, or both, in whole or in part.

## **Summary**

An administrative law judge has the authority to impose sanctions on a party or its representative for certain misconduct, such as filing groundless

motions in bad faith, abusing the discovery process, or failing to obey orders. These sanctions can include prohibiting the party from supporting or opposing claims or defenses, excluding evidence, and striking pleadings or testimony. This is relevant to the question as it outlines potential consequences for an attorney who has been non-responsive and has misrepresented facts, which could preclude her from effectively arguing at trial.

[Tex. Civ. Prac. and Rem. Code § 10.001 Tex. Civ. Prac. and Rem. Code § 10.001 Signing of Pleadings and Motions](#)

## **Extract**

The signing of a pleading or motion as required by the Texas Rules of Civil Procedure constitutes a certificate by the signatory that to the signatory's best knowledge, information, and belief, formed after reasonable inquiry: the pleading or motion is not being presented for any improper purpose, including to harass or to cause unnecessary delay or needless increase in the cost of litigation; each claim, defense, or other legal contention in the pleading or motion is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; each allegation or other factual contention in the pleading or motion has evidentiary support or, for a specifically identified allegation or factual contention, is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and each denial in the pleading or motion of a factual contention is warranted on the evidence or, for a specifically identified denial, is reasonably based on a lack of information or belief.

## **Summary**

The signing of pleadings and motions in Texas courts is a certification by the attorney that the document is not for an improper purpose, is warranted by law, has evidentiary support, and that any denials are warranted by evidence or a reasonable lack of information. If an attorney has been non-responsive, misrepresented facts, or acted without authority, these actions could be seen as violations of these certifications, potentially precluding them from effectively arguing at trial.

[Tex. Civ. Prac. and Rem. Code § 10.004 Tex. Civ. Prac. and Rem. Code § 10.004 Violation; Sanction](#)

## **Extract**

A court that determines that a person has signed a pleading or motion in violation of Section CIVIL PRACTICE AND REMEDIES CODE 10.001 may impose a sanction on the person, a party represented by the person, or both. The sanction must be limited to what is sufficient to deter repetition of the

conduct or comparable conduct by others similarly situated. A sanction may include any of the following: a directive to the violator to perform, or refrain from performing, an act; an order to pay a penalty into court; and an order to pay to the other party the amount of the reasonable expenses incurred by the other party because of the filing of the pleading or motion, including reasonable attorney's fees.

## **Summary**

The court has the authority to impose sanctions on an attorney who has violated Section 10.001 by signing a pleading or motion improperly. These sanctions are designed to deter similar conduct in the future and can include directives to the violator, monetary penalties, and orders to pay reasonable expenses incurred by the other party. This suggests that if an attorney has been non-responsive and has misrepresented facts, the court may impose sanctions that could preclude her from effectively arguing at trial.

[HOW DO LAWYER DISCIPLINARY AGENCIES ENFORCE RULES AGAINST LITIGATION MISCONDUCT? OR DO THEY? RESULTS OF A CASE STUDY AND A NATIONAL SURVEY OF DISCIPLINARY COUNSEL.](#)

**Suffolk Journal of Trial & Appellate Advocacy - Suffolk University Law School - Goldschmidt, Jona - 2022-01-01**

## **Extract**

A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false. Id. Comment 2 of Rule 3.3 states: This Rule sets forth the special duties of lawyers as officers of the court to avoid conduct that undermines the integrity of the adjudicative process. A lawyer acting as an advocate in an adjudicative proceeding has an obligation to present the client's case with persuasive force. Performance of that duty while maintaining confidences of the client, however, is qualified by the advocate's duty of candor to the tribunal. Consequently, although a lawyer in an adversary proceeding is not required to present an impartial exposition of the law or to vouch for the evidence submitted in a cause, the lawyer must not allow the tribunal to be misled by false statements of law or fact or evidence that the lawyer knows to be false. Id. at cmt. 2.

## **Summary**

Lawyers have a duty to avoid conduct that undermines the integrity of the adjudicative process. This includes not misleading the tribunal with false statements of law or fact. The passage highlights the duty of candor to the tribunal, which is relevant to the question of an attorney's conduct when they have been non-responsive and have misrepresented facts. The passage suggests that such conduct could preclude an attorney from effectively arguing at trial due to the breach of ethical duties.

This memo was compiled by Vincent AI based on vLex materials available as of September 12, 2025. [View full answer on vLex](#)