§ 401. Appearance of parties

1. Who may appear. A party other than an infant, incompetent or conservatee may appear and prosecute or defend a special proceeding in person or by attorney, except that a corporation or voluntary association shall appear by attorney. An infant by the guardian of his property, an incompetent by the committee of his property and a conservatee by his conservator may appear and prosecute or defend a special proceeding in person or by attorney as provided in 402.

2. How made. An appearance is made by pleading, by waiver, by serving upon the attorney for the petitioner and filing with the clerk a signed notice of appearance or by appearance in person noted upon the record in open court. The notice may be signed by any person authorized under subdivision 1 to appear for the party.

3. Evidence of attorney's authority. Where a party is a non-domiciliary or has not been served personally with process within the state the court may require

(a) that any person appearing for the party furnish acknowledged evidence of authority so to appear and

(b) the authorization to set forth whether there has been executed previously by the party

(i) any power of attorney or similar instrument relating to the party's interest in the estate and

(ii) any assignment of the interest.

4. Appearance by waiver of process. Any adult competent party may also appear by an acknowledged waiver of issuance and service of process which upon filing with the clerk is equivalent to the filing of an acknowledged notice of appearance under subdivision 2. In a probate proceeding the waiver shall state the date of the will to which it relates and that a copy has been furnished or examined.

5. Termination of appearance of consul. When a consular official shall have appeared in behalf of a noncitizen, a subsequent appearance by the attorney in fact of the noncitizen pursuant to recorded power of

attorney or appearance by an authorized attorney shall terminate the appearance of the consul.