

RULE 83.5.5 WITHDRAWAL OF APPEARANCE

An attorney who has appeared in a case may withdraw in accordance with the Kansas Rules of Professional Conduct as described in D. Kan. Rule 83.6.1. This rule does not apply to those attorneys who have entered a limited appearance pursuant to D. Kan. Rule 83.5.8.

(a) Withdrawal of Attorney Whose Client Will be Left Without Counsel.

Withdrawal of an appearance for an attorney whose client will be left without counsel is authorized only upon court order. An attorney seeking to withdraw whose client will be left without counsel must:

(1) file a motion to withdraw that:

(A) sets forth the reasons for the withdrawal, unless doing so would violate any applicable standards of professional conduct;

(B) provides evidence that the withdrawing attorney provided the client with notice of:

(i) the admonition that the client is personally responsible for complying with all orders of the court and time limitations established by the rules of procedure or by court order; and

(ii) the dates of any pending trial, hearings, conferences, and deadlines; and

(C) provides the court with a current mailing address and telephone number for the client;

(2) serve the motion to withdraw on the withdrawing attorney's client either by personal service or by certified mail, with return receipt requested;

(3) serve the motion to withdraw on all attorneys of record and pro se parties in the case pursuant to Fed. R. Civ. P. 5(b); and

(4) file either:

(A) proof of personal service of the motion to withdraw or the certified mail receipt, signed by the client; or

(B) an affidavit indicating that the client received a copy of the motion to withdraw.

Withdrawal is not effective until the court enters an order authorizing withdrawal.

(b) Withdrawal of Attorney Whose Client Continues to Be Represented by Other Counsel of Record.

Withdrawal of an appearance by an attorney whose client continues to be represented by other counsel of record is authorized without an order of the court, unless the only remaining counsel of record is admitted pro hac vice under D. Kan. Rule 83.5.4. In instances where the remaining counsel of record is admitted pro hac vice, the withdrawing attorney must comply with either subsection (a) or (c) of this Rule.

An attorney seeking to withdraw whose client will continue to be represented by other counsel of record may withdraw provided the withdrawing attorney files a pleading entitled "Notice of Withdrawal of Appearance" signed by the withdrawing attorney. Such notice must identify the other attorneys of record who will continue to represent the withdrawing attorney's client. Such notice of withdrawal must be served pursuant to Fed. R. Civ. P. 5(b) on the client, all attorneys of record, and any pro se parties in the case.

(c) Withdrawal of Attorney Whose Client Will be Represented by Substituted Counsel.

Substitution of counsel admitted to practice in this court is authorized without an order of the court. Substitution of counsel and simultaneous withdrawal of counsel may be accomplished as follows:

The attorney to be substituted as counsel of record files a pleading entitled "Withdrawal of Counsel and Entry of Appearance of Substituted Counsel" signed by (1) the attorney withdrawing and (2) the attorney to be substituted as counsel. Such notice of withdrawal must be served pursuant to Fed. R. Civ. P. 5(b) on the client, all attorneys of record, and any pro se parties in the case.

(d) Withdrawal of Attorney for Criminal Appeal.

Withdrawal of counsel for a defendant in a criminal case who wishes to appeal from a judgment of conviction after trial or a guilty plea or from a sentence imposed under the Sentencing Guidelines is governed by 10th Circuit Rules 46.3 and 46.4.

* * *