



Local Rule 2091-2 Attorneys - Substitution or Withdrawal of Attorney (2014)

(a) Substitution. Whenever an attorney of record in a pending case will be replaced by another attorney who is an active member of this court, a notice of substitution of counsel must be filed. The notice must (i) be signed by both attorneys; (ii) include the attorneys' bar numbers; (iii) identify the parties represented; (iv) be served on all parties; and (v) verify that the attorney entering the case is aware of and will comply with all pending deadlines in the matter. Upon the filing of the notice, the withdrawing attorney will be terminated from the case, and the new attorney will be added as counsel of record.

(b) Withdrawal Leaving a Party Without Representation.

(1) No attorney will be permitted to withdraw as attorney of record in any pending bankruptcy case or adversary proceeding, thereby leaving a party without representation, except upon submission of:

(A) a motion to withdraw as counsel in the form prescribed by Local Form 2091-2 that includes (i) the last known contact information of the moving attorney's client(s), (ii) the reasons for withdrawal, (iii) notice that if the motion is granted and no notice of substitution of counsel is filed, the client must file a notice of appearance within 21 days after entry of the order, unless otherwise ordered by the court, (iv) notice that pursuant to [Local Rule 9011-2\(a\)](#) [1], no corporation, association, partnership, limited liability company or other artificial entity may appear pro se, but must be represented by an attorney who is admitted to practice in this court, and (v) certification by the moving attorney that the motion was sent to the moving attorney's client and all parties; and

(B) a proposed order granting motion to withdraw as counsel in the form prescribed by [Local Form 2091-2-A](#) [2] stating that (i) unless a notice of substitution of counsel is filed, within 21 days after entry of the order, or within the time otherwise required by the court, the unrepresented party shall file a notice of appearance, (ii) that no corporation, association, partnership, limited liability company or other artificial entity may appear pro se, but must be represented by an attorney who is admitted to practice in this court, and (iii) that a party who fails to file such a notice of substitution of counsel or notice of appearance may be subject to sanction pursuant to Federal Rule of Civil Procedure 16(f)(1), including but not limited to dismissal or default judgment.

(2) No attorney of record will be permitted to withdraw after an action has been set for hearing or trial unless (i) the motion to withdraw as counsel includes a certification signed by a substituting attorney indicating that such attorney has been advised of the hearing or trial date and will be prepared to proceed with the hearing or trial; (ii) the motion to withdraw as counsel includes a certification signed by the moving attorney's client indicating that the party is prepared for hearing or trial as scheduled and is eligible pursuant to [Local Rule 9011-2\(b\)](#) [1] to appear pro se at the hearing or trial; or (iii) good cause for withdrawal is shown, including without limitation, with respect to any scheduling order then in effect.

(3) Withdrawal may not be used to unduly prejudice the non-moving party by improperly delaying the litigation.

(c) Withdrawal With and Without the Client's Consent.

(1) With Client's Consent. Where the withdrawing attorney has obtained the written consent of the client, such consent must be submitted with the motion.



(2) Without Client's Consent. Where the moving attorney has not obtained the written consent of the client, the motion must contain (i) a certification that the client has been served with a copy of the motion to withdraw as counsel; (ii) a description of the status of the case including the dates and times of any scheduled court proceedings, requirements under any existing court orders, and any possibility of sanctions; and, if appropriate; (iii) certification by the moving attorney that the client cannot be located or, for any other reason, cannot be notified regarding the motion to withdraw as counsel.

(d) Procedure After Withdrawal.

(1) Upon entry of an order granting a motion to withdraw, the action shall be stayed until 21 days after entry of the order, unless otherwise ordered by the court. The court may in its discretion shorten the 21-day stay period.

(2) The court will enter the order and serve it on all parties and the withdrawing attorney's client at the address provided in the motion to withdraw as counsel, which order will specifically advise the parties of the terms of this rule.

(3) Within 21 days after entry of the order, or within the time otherwise required by the court,

(A) any individual whose attorney has withdrawn shall file a notice of pro se appearance or new counsel shall file an appearance on that party's behalf.

(B) new counsel shall file an appearance on behalf of any corporation, association, partnership or other artificial entity whose attorney has withdrawn. Pursuant to [Local Rule 9011-2\(a\)](#) [1], no such entity may appear pro se, but must be represented by an attorney who is admitted to practice in this court.

(4) After expiration of the stay period, either party may request a scheduling conference or submit a proposed amended scheduling order.

(5) An unrepresented party who fails to appear within 21 days after entry of the order, or within the time otherwise required by the court, may be subject to sanction pursuant to [Federal Rule of Civil Procedure 16\(f\)\(1\)](#) [3], including but not limited to dismissal or default judgment.

COMMENT (2014)

This rule was adopted in conjunction with amendments to [Local Rule 2091-1](#) [4]. The rule sets forth the procedures for attorneys who are seeking to withdraw as counsel of record as opposed to debtor's counsel seeking to be relieved of their obligation to represent the debtor in adversary proceedings under [Local Rule 2091-1](#) [4]. The rule is intended to ensure that the attorney's client is informed of the status of the case, the need to obtain new counsel or proceed pro se, and that they may be subject to sanction under [Federal Rule of Civil Procedure 16\(f\)\(1\)](#) [3].

Source URL: <https://www.utb.uscourts.gov/local-rules/2014/2091/2>

Links

[1] <https://www.utb.uscourts.gov/local-rules/2014/9011/2>

[2] <https://www.utb.uscourts.gov/sites/default/files/forms/lrf2091-2-a.pdf>

[3] https://www.law.cornell.edu/rules/frcp/rule_16

[4] <https://www.utb.uscourts.gov/local-rules/2014/2091/1>