

## Withdrawal Checklist

- 1) Date of withdrawal specified? Yes  No  (CR 71(c)(1))
- 2) Date of withdrawal at least 10-days after service of notice, including three days for mailing the notice? Yes  No  (CR 71(c)(1), CR 6 (e))
- 3) Is there a statement that the withdrawal will be effective without order of the Board unless there is an objection? Yes  No  (CR 71(c)(1))
- 4) If a trial date is set, and withdrawal predates the trial, does the notice include the date set for trial? Yes  No  N/A  (CR 71(c)(1))
- 5) Does the notice contain the name and last known address of the client represented by the withdrawing attorney? Yes  No  (CR 71(c)(1))
- 6) If disclosure of the last known address of the client would violate the Rules of Professional Conduct and the last known address is omitted, is there a statement that so long as the name and last known address of the withdrawing attorney's client is undisclosed and no new attorney has substituted, service may be made by leaving papers with the Board pursuant to CR 5 (b)(1)? Yes  No  N/A  (CR 71(c)(1))
- 7) Is there a proof of service with the withdrawal notice showing either certified mail to  or personal service on  the client? Yes  No  (CR 71(c)(2))
- 8) Was the notice served on, or sent by certified mail to, the withdrawing attorney's client prior to being sent to the other parties? Yes  No  (CR 71(c)(2))
- 9) Is there a timely written objection to the withdrawal? Yes  No  (CR 71(c)(4))

**If a withdrawal request complies with all elements of CR 71 then the withdrawal should usually be granted. Note however, "Nothing in this rule defines the circumstances under which a withdrawal might be denied by the court." CR 71(a). Withdrawal may also be granted if there is substantial compliance with the rule ensuring adequate notice to the party and there is no prejudice to the parties sufficient to deny withdrawal. If you grant permission for an attorney to withdraw, you should either send a pro se letter to that party or hold a status conference to explain the Board's procedures.**

## Withdrawal and Substitution Checklist

- 1) Does the notice state an effective date of the substitution? Yes  No  (CR 71(d))
- 2) Does the notice include the following information for both attorneys:
  - Name? Yes  No  (CR 71(d))
  - Address? Yes  No  (CR 71(d))
  - WSBA membership number? Yes  No  (CR 71(d))
  - Signature? Yes  No  (CR 71(d))

(4) **Withdrawal or substitution of representatives.** An attorney or other representative withdrawing from a case shall immediately notify the board and all parties of record in writing. The notice of withdrawal shall comply with the rules applicable to notices of withdrawal filed with the superior court in civil cases. Withdrawal shall be subject to approval by the industrial appeals judge or the executive secretary. Any substitution of an attorney or representative shall be accomplished by written notification to the board and to all parties of record together with the written consent of the prior attorney or representative. If such consent cannot be obtained, a written statement of the reason therefor shall be supplied.

## CR 71

(a) **Withdrawal by Attorney.** Service on an attorney who has appeared for a party in a civil proceeding shall be valid to the extent permitted by statute and rule 5(b) only until the attorney has withdrawn in the manner provided in sections (b), (c), and (d). Nothing in this rule defines the circumstances under which a withdrawal might be denied by the court.

(b) **Withdrawal by Order.** A court appointed attorney may not withdraw without an order of the court. The client of the withdrawing attorney must be given notice of the motion to withdraw and the date and place the motion will be heard.

(c) **Withdrawal by Notice.** Except as provided in sections (b) and (d), an attorney may withdraw by notice in the manner provided in this section.

(1) **Notice of Intent To Withdraw.** The attorney shall file and serve a Notice of Intent To Withdraw on all other parties in the proceeding. <sup>1</sup>The notice shall specify a date when the attorney intends to withdraw, which date shall be <sup>2</sup>at least 10 days after the service of the Notice of Intent To Withdraw. <sup>3</sup>The notice shall include a statement that the withdrawal shall be effective without order of court unless an objection to the withdrawal is served upon the withdrawing attorney prior to the date set forth in the notice. <sup>4</sup>If notice is given before trial, the notice shall include the date set for trial. <sup>5</sup>The notice shall include the names and last known addresses of the persons represented by the withdrawing attorney, unless disclosure of the address would violate the Rules of Professional Conduct, in which case the address may be omitted. <sup>6</sup>If the address is omitted, the notice must contain a statement that after the attorney withdraws, and so long as the address of the withdrawing attorney's client remains undisclosed and no new attorney is substituted, the client may be served by leaving papers with the clerk of the court pursuant to rule 5(b)(1).

(2) **Service on Client.** <sup>8</sup>Prior to service on other parties, the Notice of Intent To Withdraw <sup>7</sup>shall be served on the persons represented by the withdrawing attorney or sent to them by certified mail, postage prepaid, to their last known mailing addresses. Proof of service or mailing shall be filed, except that the address of the withdrawing attorney's client may be omitted under circumstances defined by subsection (c)(1) of this rule.

(3) **Withdrawal Without Objection.** The withdrawal shall be effective, without order of court and without the service and filing of any additional papers, on the date designated in the Notice of Intent To Withdraw, unless a written objection to the withdrawal is served by a party on the withdrawing attorney prior to the date specified as the day of withdrawal in the Notice of Intent To Withdraw.

(4) **Effect of Objection.** <sup>9</sup>If a timely written objection is served, withdrawal may be obtained only by order of the court.

(d) **Withdrawal and Substitution.** Except as provided in section (b), an attorney may withdraw if a new attorney is substituted by filing and serving a Notice of Withdrawal and Substitution. <sup>1</sup>The notice shall include a statement of the date on which the withdrawal and substitution are effective and shall include the <sup>2</sup>name, address, Washington State Bar Association membership number, and signature of the withdrawing attorney and the substituted attorney. If an attorney changes firms or offices, but another attorney in the previous firm or office will become counsel of record, a Notice of Withdrawal and Substitution shall nevertheless be filed.

## CR 6

(e) **Additional Time After Service by Mail.** Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, <sup>2</sup>3 days shall be added to the prescribed period.