



## **I.R.C.P. 11.3. Substitution and Withdrawal of Attorneys**

### **Idaho Rules of Civil Procedure Rule 11.3. Substitution and Withdrawal of Attorneys.**

#### **(a) Substitution of Attorney.**

(1) *In General.* An attorney may be substituted by filing written notice with the court. The notice must be signed by both the new attorney and the withdrawing attorney.

(2) *Effect of Substitution.* The substitution of attorneys or appearance of a new attorney must not delay the proceedings except for good cause.

#### **(b) Withdrawal of Attorney.**

(1) *Leave of Court Required.* To withdraw from an action, except by substitution, an attorney must first obtain leave of the court. The attorney seeking to withdraw must file a motion with the court and set the matter for hearing, and must provide notice to all parties, including the party the withdrawing attorney represents in the proceeding. The attorney must provide the last known address of the client in any notice of or motion for withdrawal.

(2) *When Granted.* By written order the court may grant leave to withdraw for good cause and upon such conditions or sanctions as will prevent delay or prejudice to the parties.

(3) *Withdrawal After Final Judgment.* After or with the entry of final judgment, an attorney may file notice of withdrawal, for which leave of court is not required. However, the withdrawal will not be effective until the time for appeal has expired and no proceedings are pending.

#### **(c) Service; Content of Order; Stay of Action; Dismissal or Default; Application for default judgment.**

(1) *Service: Content of Order.* The clerk of the court will serve on all parties, including the party represented by the withdrawing attorney, an order permitting an attorney to withdraw. Service must be



in the same manner as provided in Rule 2.3(b). The order allowing withdrawal must notify the party whose attorney is withdrawing that the party's claims will be subject to dismissal with prejudice or that the default and default judgment may be entered against the party without further notice if the party does not, within 21 days after service of the order, either appoint another attorney to appear or file notice with the court that the party will be self-represented in the action.

(2) *Stay of Action.* An action is stayed for 21 days after service by the court of an order allowing withdrawal of attorney.

(3) *Dismissal or Default; Application for default judgment.* If a notice of appearance of a new attorney or a notice of self-representation is not filed within 21 days after service of the order allowing withdrawal, the court, either sua sponte or upon application by the opposing party, may dismiss with prejudice any claims of the party or may enter default against the party. Application for entry of default judgment must proceed in accordance with the provisions of I.R.C.P. 55(b), provided that a party who applies for entry of default judgment pursuant to this rule is not required to serve the opposing party with written notice of the application for default judgment at least 3 days before the hearing.

**(d) Withdrawal Upon Death, Disbarment or Other Conditions.** In the event of the death, extended illness, absence, suspension or disbarment from the practice of law of an attorney of record in an action, the court must stay the action from further proceedings, unless the attorney is associated with a firm, partnership, corporation or other attorney in the action. The court must then enter an order permitting withdrawal that is subject to the provisions of subsection (c) of this rule.

([Adopted March 1, 2016, effective July 1, 2016](#) [1]; [amended September 9, 2016, effective September 9, 2016](#); [2] [amended July 12, 2024, effective July 12, 2024](#). [3].)

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