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IRFLP 111 Withdrawal of Attorney

Idaho Rules of Family Law Procedure Rule 111. Withdrawal of Attorney.

(a) 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 pursuant to Rule 205(c) 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 on a showing of 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 a final judgment, an attorney may file notice of withdrawal, for which leave of the court is not required. However, the withdrawal will not be effective until after the time for appeal has expired and no proceedings are pending. Provided, that at the conclusion of any family law action to which these rules apply, attorneys for both parties will be deemed to have automatically withdrawn as the attorneys of record effective when the time for appeal from the final judgment has expired and there are no proceedings pending. A written order the court may grant leave to withdraw on a showing of good cause and upon such conditions or sanctions as will prevent delay or prejudice to the parties.

(b) Service; Content of Order; Stay of Action; Dismissal or 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 809. 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 default judgment may be entered against the party 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 the attorney.

(3) **Dismissal or Default Judgment.** If a notice of appearance of a new attorney or notice of self-representation is not filed within 21 days after service of the order allowing withdrawal, the court may dismiss with prejudice any claims of the party or may enter default judgment against the party.

(c) **Withdrawal upon Death, Disbarment or Other Conditions.**

(1) 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 (b).

(Adopted March 29, 2021, effective July 1, 2021.)

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