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[Rules](#)
[Courts](#)
[Programs & Organizations](#)
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CR 71 - Withdrawal By Attorney

Comments for CR 71 must be received no later than April 30, 2021.

- [Proposed Changes to CR 71 - Withdrawal By Attorney](#) (in Word Format)
- No comments are available at this time.

GR 9 COVER SHEET **Suggested Amendment to the** **SUPERIOR COURT CIVIL RULES (CR)**

CR 71: Withdrawal by Attorney

Submitted by the Superior Court Judges' Association

- A. Name of Proponent:** Superior Court Judges' Association
- B. Spokesperson:** Judge Kitty-Ann van Doorninck, President
Superior Court Judges' Association
- C. Purpose:**

A withdrawal by an attorney close to trial can leave former clients unrepresented during the most critical time in a case. Those suddenly unrepresented litigants are often unfamiliar with applicable rules and deadlines in trial. As a result, in addition to potentially prejudicing the rights of the former client, those last-minute withdrawals can have a significant impact on trial schedules and case management.

In many cases, the court is unaware that the attorney representing the litigant has withdrawn from the case. The suggested amendments require that if a notice of intent to withdraw is filed 90 days or more before trial, a courtesy copy must be delivered to the assigned judge or, if no assigned judge, the presiding judge. The notice would allow the court an opportunity to determine how to deal with the situation, which may include a case conference with the parties, making arrangements to ensure the party is prepared to proceed with the case despite the withdrawal in certain situations.

This proposed amendment also requires the withdrawing attorney provide additional information. The withdrawing attorney must confirm in the notice that the client has been (i) provided a copy of the current case files, (ii) provided a written plan of how to obtain his/her client files by the withdrawal's effective date, and (iii) if a far distance case, provided a written plan of how the client can locate local family law rules.

In addition to the suggested amendments to CR 71, please see enclosed a draft pattern withdrawal form and proposed Rule amendments, it was suggested that a pattern form for CR 71, which does not now exist, implementing an amended CR 71. This draft is offered as an example of a pattern form that could be submitted to the Pattern Form Committee if proposed Rule changes are adopted. It is not proposed as an amendment.

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CR 71
WITHDRAWAL BY ATTORNEY

(a)(b) [Unchanged.]

(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 Filed More Than 90 Days Before Trial Date.* The attorney shall file and serve a Notice of Intent ~~to~~ Withdraw on all other parties in the proceeding. The notice shall specify a date when the attorney intends to withdraw, which date shall be at least 10 days after the service of the Notice of Intent ~~to~~ Withdraw on all other parties (including an additional three (3) days if notice is served by mail). 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 before ~~prior to~~ the effective date set forth in the notice. ~~If notice is given before trial, the~~ notice shall include the date set for trial and, if available, attach a current case schedule. 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. 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) *Notice of Intent to Withdraw Filed 90 Days or Less Before Trial Date.* If an attorney's notice of withdrawal is filed 90 days or less before the trial date, a copy of the notice shall be provided to the assigned judge, if there is one or, if not, the department Chief Judge or Presiding Judge as applicable, at the time of filing. If the notice does not contain a substitution of counsel as provided in subsection (d), the withdrawing attorney shall confirm in the notice that the client has been:

- (i) provided a copy of the current case schedule,
- (ii) informed in writing about how to obtain his/her client files by the withdrawal's effective date, and
- (iii) if a family law case, notified in writing of how the client can locate local family law rules. In other respects, the notice shall comply with subsection (1) above.

(23) *Service on Client.* ~~Before~~ ~~Prior to~~ service on other parties, the Notice of Intent ~~to~~ Withdraw 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.

(34) *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 ~~t~~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 ~~t~~To Withdraw, or the court notifies the parties of further proceedings to address withdrawal.

(45) *Effect of Objection.* If a timely written objection is served, withdrawal may be obtained only by order of the court.

(d) [Unchanged.]