

## MOTION TO WITHDRAW

A Motion to Withdraw cannot be granted unless there is compliance with Uniform District Court Rule 9.13 AND Rule 1.16 of the Rules of Professional Conduct.

1. Before filing your Motion to Withdraw you are required to deliver or mail to the client notice of your intent to withdraw.
2. Your Motion to Withdraw **SHALL** include the following information:
  - Certification that **before** the withdrawing attorney filed the Motion to Withdraw the withdrawing attorney has delivered or mailed notice of the attorney's intent to withdraw. (Rule 9.13(a))
  - The Motion **shall** *attach* a copy of the notice delivered or mailed to the client. (Rule 9.13(c)(4))
  - The Motion **shall** state the current or last-known street address and mailing address of the client. (Rule 9.13(c)(1))
  - If a scheduling order is in effect, it **shall** be *attached* to the motion. (Rule 9.13(c)(2))
  - The Motion **shall** state whether any conference, hearing or trial is scheduled and, if so, the date(s). (Rule 9.13(c)(3))
  - The Motion **shall** include a certificate stating the withdrawing attorney has complied Louisiana District Court Rule 9.13(a). (Rule 9.13(c)(4))
  - The Motion **shall** include a certificate stating the withdrawing attorney has complied with Rule 1.16 of the Rules of Professional Conduct. (Rule 9.13(c)(4))
3. The Court may allow an attorney to withdraw without a hearing, but only if:
  - a. The attorney has been terminated by the client. (Rule 9.13(d)(1))
  - b. The client has given written consent for the withdrawal AND all parties or their respective attorneys have also consented. (Rule 9.13(d)(2))
  - c. No hearing or trial is scheduled. (Rule 9.13(d)(3))
  - d. The case is concluded. (Rule 9.13(d)(4))
4. If there is no consent, no termination of representation, or a hearing/trial is scheduled, then:
  - a. Court is **required** to hold a contradictory hearing. (Rule 9.13(e))
  - b. ALL parties and the withdrawing attorney's client **shall** be served with a copy of the Motion and rule to show cause. (Rule 9.13(e))
  - c. The withdrawing attorney must show good cause for withdrawal at the contradictory hearing. (Rule 9.13(e))

- d. Rule 1.16(b) of the Rules of Professional Conduct give examples of possible good cause for withdrawal:
  - i. Withdrawal can be accomplished without material adverse effect on the interests of the client;
  - ii. The client persist in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;
  - iii. The client has used the lawyer's services to perpetrate a crime of fraud;
  - iv. The client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;
  - v. The client fails to substantially fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;
  - vi. The representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; OR
  - vii. Other good cause for withdrawal exists.
5. If the attorney's withdrawal would delay a scheduled hearing or trial, the Court **cannot** allow withdrawal unless exceptional circumstances exist. (Rule 9.13(f))
6. Upon termination of representation, a lawyer shall take steps, to the extent reasonably practicable, to protect a client's interests, such as:
  - a. Giving reasonable notice to the client;
  - b. Allowing time for employment of other counsel;
  - c. Surrendering papers and property to which the client is entitled;
  - d. Refunding any advance payment of fee or expense that has not been earned or incurred. (All per Rule 1.16(d) of the Rules of Professional Conduct.)
7. Rule 1.16(d) of the Rules of Professional Conduct governs the release of the client's file.