

Checklist for BLR 9010-5 - Withdrawal of Counsel Without Client Consent

To withdraw as counsel, you must do EACH of the following, in order. FAILURE TO COMPLY WITH ALL ELEMENTS OF THIS PROCEDURE WILL RESULT IN A DENIAL OF THE REQUEST TO WITHDRAW.

1) Serve on the client (personally or by United States first class mail to last known address) a letter that does all of the following:

a. States that the attorney intends to request the permission of the Court to withdraw as counsel, and includes the attorney's reasons for doing so;

b. Lists the style of the cases(s), adversary proceedings and contested matters from which counsel seeks to withdraw, and as to each such matter, lists the name and (to the extent known to counsel), the telephone number, mailing address and e-mail address of opposing counsel (or the opposing party if not represented)[**if withdrawing as debtor's counsel and there are no pending adversaries or contested matters, a statement to that effect should be included to explain the absence of opposing party information**];

c. States the address and telephone number of the Clerk's office;

d. States that the Bankruptcy Court retains jurisdiction of the pending matters;

e. States that, if withdrawal is permitted by the Court:

(i) The client will have the obligation to promptly file with the Bankruptcy Court, and mail to all adverse parties or their counsel, a written statement showing (A) the names of the parties and the number of each case, adversary proceeding, or contested matter in which the client is a party and (B) the client's current name, telephone number, mailing address, and e-mail address, and that the statement must be amended promptly if the client's name, telephone number, mailing address, or e-mail address changes;

(ii) The client will have the obligation to respond to any discovery or motions, to take other actions as are appropriate or required, and to prepare for any trial or hearing that may be scheduled in any matter, or to hire other counsel to do so;

(iii) The failure or refusal of the client to meet these obligations may result in adverse consequences;

(iv) Service of notices, pleadings, and other papers may be made upon the client at the client's last known address; and

(v) [**only required if the client is a corporation or other artificial entity**] As an entity, the client may only be represented in the Bankruptcy Court by an attorney, an attorney must sign all pleadings submitted to the Bankruptcy Court, an officer may not represent the entity in the Bankruptcy Court unless that officer is also an attorney, and failure to comply with this rule could result in adverse consequences to the client;

f. Sets forth the dates of any hearings or trials that have been scheduled and any applicable deadlines (such as deadlines for responding to discovery or motions or for filing pleadings, motions, or other papers), and states that the holding of such hearings or trials and any deadlines will not be affected by the withdrawal of counsel, alternatively, if there are no such hearings or trials, a statement to that effect should be included; and

g. Informs the client that the client has fourteen (14) days from the date of service of the letter/notice to contact the attorney and state any objections to the attorney's withdrawal.

AFTER THE 14 DAYS DESCRIBED IN THE LETTER HAVE RUN, THE ATTORNEY MUST THEN:

2) File a motion with the Court that:

- a. Requests permission to withdraw;
- b. Attaches a copy of the letter sent to the client;
- c. States that the attached letter was sent to the client, the date it was sent, and the response received from the client (if any);
- d. States the last known address, telephone number, and e-mail address for the client; and
- e. Includes a certificate of service that shows when the motion was served on the client and at what address(es).

3) Either in the motion or by a separate notice, inform the client that the client has fourteen (14) days from the date the motion is served to object to the motion by filing an objection with the Court, and include the address of the Clerk's office where the objection may be filed. The motion should also advise the client of their responsibilities to file and serve a statement under BLR 9010-5(d). **THERE ARE TWO (2) RELEVANT 14 DAY PERIODS INVOLVED IN WITHDRAWAL.**

Once all requirements have been satisfied, please upload a proposed order.

Withdrawal of Counsel with Client Consent

There are alternatives to the foregoing process IF THE CLIENT CONSENTS TO THE WITHDRAWAL. They are:

- 1) Where there is a substituting attorney, file a Certificate of Consent to Withdraw that (i) provides for the withdrawal of prior counsel and the substitution of new counsel, and (ii) is signed by the client, the substituting attorney, and the withdrawing attorney; or
- 2) Where there is no substituting attorney, file a Certificate of Consent to Withdraw that (i) provides for the withdrawal of existing counsel, (ii) notifies the client of each of the matters set forth in 1(e) above, (iii) notifies the client of their responsibilities to file and serve a statement under BLR 9010-5(d), and (iv) is signed by the withdrawing attorney and the client.