

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE: ) CHAPTER 13  
)  
GERARDO TANT ) CASE NO. 04-74820-MHM  
)  
Debtor )

**ORDER DENYING MOTION FOR RECONSIDERATION**

Debtor filed a Motion to Substitute Attorney May 3, 2005. That motion contained that statement, "Richard G. Pechin replaces Stephanie Williams-Lewis, who is removed and shall no longer represent the debtor in this case." By order entered May 6, 2005, that motion was denied because it failed to comply with BLR 9010-2.

On May 23, 2005, Debtor filed a motion for reconsideration of the order denying the motion for substitution. Debtor relies upon BLR 9010-2(d) for his argument that nothing more than the motion for substitution is necessary to effect the substitution of counsel. Debtor, however, fails to read subsection (d) within the context of BLR 9010-2 as a whole. Debtor's attorney<sup>1</sup> has an ethical obligation under Rule 1.16 of the Georgia Rules of Professional Conduct, to file a motion to withdraw after the attorney's employment is terminated by the client. Termination by the client does not, however, accomplish "removal" within the meaning of BLR 9010-2. Removal may only be accomplished by the court. As a practical matter, if the

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<sup>1</sup> Debtor's motion for substitution speaks only to the removal of Stephanie Williams-Lewis as Debtor's attorney. The docket in Debtor's case, however, shows Debtor's attorney is Matthew Thomas Berry. The petition was signed by Gina Karrh of Mr. Berry's firm. Other pleadings were signed by Stephanie Williams-Lewis, also as an attorney in Mr. Berry's firm. Therefore, at best, Debtor's description of who Debtor terminated as his attorney is incomplete; and at worst, completely inaccurate.

client seeks to terminate the attorney's services, the bankruptcy court is unlikely to deny a motion to withdraw except under exceptional circumstances. Nevertheless, once an attorney has appeared on the record representing a party, removal of that attorney may be accomplished only by order of the court after compliance with Bankruptcy Rule 9010-2. Accordingly, it is hereby

**ORDERED** that Debtor's motion for reconsideration is denied and the hearing scheduled for June 16, 2005, is cancelled.

The Clerk is directed to serve this Order upon Debtor, Debtor's attorney, the Chapter 13 Trustee, and upon Richard G. Pechin.

IT IS SO ORDERED, this the 13<sup>th</sup> day of June, 2005.

  
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MARGARET H. MURPHY  
UNITED STATES BANKRUPTCY JUDGE