

Rule 38A Withdrawal of counsel.

(a) ~~(1)~~ Withdrawal in criminal cases and certain civil cases.

(1) An attorney may not withdraw from a criminal case or from a civil case in which that attorney's client has the right to effective assistance of counsel except upon motion and ~~order of the court~~ order. Absent good cause shown, leave to withdraw will not be granted unless the motion to withdraw is accompanied by an entry of proposed appearance by new counsel or a representation by the withdrawing attorney that the client is entitled to the appointment of new counsel.

~~(a)~~ **(2) Duration of representation by court-appointed counsel.** Absent good cause shown for withdrawal, if a party has a right to effective assistance of counsel through the first appeal as of right, an attorney appointed to represent that party on appeal ~~must~~ shall represent that party throughout the first appeal as of right, respond to a petition for writ of certiorari, file a petition for writ of certiorari if appointed counsel determines that such a petition is warranted, and brief and argue the merits if the Supreme Court grants certiorari review.

(b) Withdrawal in other civil cases.

~~(b)~~ **(1) When oral argument not scheduled.** An attorney may withdraw without leave of court in any other civil case that has not been scheduled for oral argument, unless a motion is pending in the appellate court. If a motion is pending, an attorney may not withdraw except upon motion and order of the court order. The motion to withdraw shall must describe the nature of any pending motion. The withdrawing attorney ~~shall~~ must serve notice of the withdrawal with the court and upon all parties, including the attorney's ~~this or her~~ client.

~~(b)~~ **(2) When oral argument scheduled.** An attorney may not withdraw from any other civil case that has been scheduled for oral argument except upon motion and ~~order of the court~~ order. Absent good cause shown, leave to withdraw will not be granted unless the motion to withdraw is accompanied by an entry of proposed appearance

28 of new counsel and new counsel's representation that oral argument may proceed as
29 scheduled.

30 ~~(b)~~(3) **Notice to appoint or appear in person.** If an attorney withdraws under
31 ~~subdivision~~paragraph (b)(1), dies, is suspended from the practice of law, is disbarred,
32 or is removed from the case by the court, the opposing party must~~shall~~, and the court
33 may, serve a notice on the unrepresented party, informing the party of the
34 responsibility to appoint new counsel or, if the unrepresented party is a natural
35 person, the responsibility to appear personally or appoint new counsel. A copy of the
36 notice served by the opposing party must~~shall~~ be filed with the court. No further
37 proceedings will~~shall~~ be held in the case until 20 days after such a notice is served,
38 unless the unrepresented party waives the time requirement or unless the court
39 otherwise orders.

40 Effective November 1, 2025