

## **Withdrawals and Continuances**

*"The best way out is always through."* -- Robert Frost

*"Eighty percent of success is showing up."* -- Woody Allen

*"Git-R-Done!"* -- Larry the Cable Guy

Withdrawals and continuances cause a delay in resolution not only of the individual case, but of all cases on the court's docket. Hearing time and trial days set aside for the matter being continued are unusable by other litigants. Thus the court's docket becomes backed up.

The court requests attorneys to avoid motions for continuance and motions to withdraw which lead to continuances. An attorney can do this by planning ahead. This starts with the first client contact. Consider the likely time and services required, fees and costs of the litigation, and discuss frankly with your client her/his expectations and ability to pay. Consider limited appearances per Rule 12.040. Do not request a trial until the matter is ready to be heard. The court is aiming to schedule trials reasonably soon after the Notice is filed. Some trials will be set at case management conferences.

For the court's part, hearings and trials will be scheduled and conducted to make efficient use of attorneys' and litigants' time and money. The court sua sponte will set case management conferences on some cases pending more than 90 days. The court will correct, and sanction when necessary, practices which cause unnecessary delay or harassment. Motions to withdraw and motions to continue will be carefully reviewed. Stipulations of counsel will be considered.

### **Cancellation and Resetting of Hearings**

If a hearing on a motion is specially set for more than 15 minutes and is canceled without resolving the motion, no subsequent hearing shall be scheduled on the same motion except upon court order. To reset a hearing, the movant shall confer with opposing counsel and the court to obtain a mutually convenient date. The movant shall submit a proposed order which states the hearing date, time, and length of time reserved, and provides that no party may cancel the hearing without court approval, and that the court may rule on the motion at the scheduled time without the appearance of counsel, or order sanctions for failure to appear.

Please re-read the Rules below.

#### RULE OF CIVIL PROCEDURE 1.460. CONTINUANCES

A motion for continuance shall be in writing unless made at a trial and, except for good cause shown, **shall be signed by the party requesting the continuance**. The motion shall **state all of the facts** that the movant contends entitle the movant to a continuance. If a continuance is sought on the ground of nonavailability of a witness, the motion must show when it is believed the witness will be available.

#### RULE OF FAMILY LAW 12.040. ATTORNEYS

(a) Limited Appearance. An attorney of record for a party, in a family law matter governed by these rules, shall be the attorney of record throughout the same family law matter, unless **at the time of appearance the attorney files a notice, signed by the party**, specifically limiting the attorney's appearance only to the particular proceeding or matter in which the attorney appears.

(b) Withdrawal or Limiting Appearance.

(1) Prior to the completion of a family law matter or prior to the completion of a limited appearance, an attorney of record, with approval of the court, may withdraw or partially withdraw, thereby limiting the scope of the attorney's original appearance to a particular proceeding or matter. **A motion setting forth the reasons must be filed with the court and served upon the client and interested persons.**

(2) The attorney shall remain attorney of record until such time as the court enters an order, except as set forth in subdivision (c) below.

(c) Scope of Representation.

(1) If an attorney appears of record for a particular limited proceeding or matter, as provided by this rule, that attorney shall be deemed "of record" for only that particular proceeding or matter. Any notice of limited appearance filed shall include the name, address, and telephone number of the attorney **and the name, address, and telephone number of the party**. At the conclusion of such proceeding or matter, the attorney's role terminates without the necessity of leave of court, upon the attorney filing a notice of completion of limited appearance. The notice, which shall be titled "Termination of Limited Appearance," shall include the names and last known addresses of the person(s) represented by the withdrawing attorney.

(2) *(intentionally omitted here)*

(d) Preparation of Pleadings or Other Documents. A party who files a pleading or other document of record pro se with the assistance of an attorney shall certify that the party has received assistance from an attorney in the preparation of the pleading or other document. The **name, address, and telephone number of the party shall appear** on all pleadings or other documents filed with the court.

(e) Notice of Limited Appearance. Any pleading or other document filed by a limited appearance attorney shall state in bold type on the signature page of that pleading or other document: “Attorney for [Petitioner] [Respondent] [attorney’s address and telephone number] for the limited purpose of [matter or proceeding]” to be followed by the name of the petitioner or respondent represented and **the current address and telephone number of that party**.

(f) Service. During the attorney’s limited appearance, all pleadings or other documents and all notices of hearing **shall be served upon both the attorney and the party**. If the attorney receives notice of a hearing that is not within the scope of the limited representation, the attorney shall notify the court and the opposing party that the attorney will not attend the court proceeding or hearing because it is outside the scope of the representation.

#### RULE OF JUDICIAL ADMINISTRATION 2.505

(e) Appearance of Attorney. An attorney may appear in a proceeding in any of the following ways:

(1) By serving and filing, on behalf of a party, the party’s first pleading or paper in the proceeding.

(2) By substitution of counsel, but only by order of court and with written consent of the client, filed with the court. The court may condition substitution upon payment of, or security for, the substituted attorney’s fees and expenses, or upon such other terms as may be just.

(3) By filing with the court and serving upon all parties a notice of appearance as counsel for a party that has already appeared in a proceeding pro se or as co-counsel for a party that has already appeared in a proceeding by non-withdrawing counsel.

(f) Termination of Appearance of Attorney. The appearance of an attorney for a party in a proceeding shall terminate only in one of the following ways:

**(1) Withdrawal of Attorney. By order of court, where the proceeding is continuing, upon motion and hearing, on notice to all parties and the client, such motion setting forth the reasons for withdrawal and the client’s last known address.**

(2) Substitution of Attorney. By order of court, under the procedure set forth in subdivision (e)(2) of this rule.

(3) Termination of Proceeding. Automatically, without order of court, upon the termination of a proceeding, whether by final order of dismissal, by final adjudication, or otherwise, and following the expiration of any applicable time for appeal, where no appeal is taken.

**(4) Filing of Notice of Completion. For limited representation proceedings under Florida Family Law Rule of Procedure 12.040, automatically, by the filing of a notice of completion titled "Termination of Limited Appearance" pursuant to rule 12.040(c).**