

General Court Guidance and Forms for Substitution and Termination of Counsel

Change of Counsel

Attorney substitutions may be accomplished by stipulation and motion to approve the stipulation when the client, former attorney, and substituting attorney agree to the substitution.

Alternatively, when the client retains the new attorney, the new attorney can file a motion to substitute, with notice to former counsel. Sample stipulations, motions, and corresponding orders are appended to these procedural guidelines.

Change of Counsel within a Firm

It is important to keep records of who represents the debtor up to date. For example, an attorney who is listed as counsel of record may leave the firm, which continues to represent the debtor, and that attorney should be terminated as attorney of record. Or if the attorney of record representing the debtor moves to another firm but continues to represent the debtor, other attorneys in the firm who appeared should be terminated as attorney of record. In either case, the movant must certify that the client has been given notice and not objected, has consented to stay with the attorney of record in his or her new firm, or the engagement letter must give prior consent to representation by any firm member. Sample forms for these circumstances are also appended.

Multiple Case Substitutions

Multiple cases may be combined in the same motion and order, but only if the cases are assigned to the same judge. If cases assigned to more than one judge are applicable, a separate set of documents is required for each judge. Certification with respect to the notice or consent of each client applies to every client named.

Effect of Order

Any substitution or termination will take effect when the order is signed. The court will not approve a different date for substitution or termination and will not “release” an attorney of responsibility for the case at any date.

CM/ECF Account Information

CM/ECF records will be automatically updated so it is not necessary for the order to contain instructions to do so. An attorney can update his or her records with the court, such as a firm name and other contact information, according to usual procedures.

Withdrawal Without Substitution

Motions to withdraw without substitution, which leaves the client unrepresented, should be drafted as circumstances dictate with fourteen days notice to the debtor.

Miscellaneous

Sample forms may be modified as facts require, but the information contained in the forms must be provided. The court will not approve a substitution or termination of counsel unless it is satisfied the client has been notified of any change of counsel and has an opportunity to be represented by counsel of his or her choice.

The forms can be modified and used when a creditor’s attorney is being substituted.