

## **RULE 16 – CHANGE OR WITHDRAWAL OF LAWYER**

### **Change of lawyer**

- (1) A party to a proceeding:
  - (a) may change lawyers or add or remove co-counsel;
  - (b) having been acting on their own behalf, may engage a lawyer to act; or
  - (c) having been represented by a lawyer, may discharge the lawyer and act on their own behalf,

but until copies of the applicable Notice of Appointment or Change of Lawyer in Form 13, or the Notice of Self-Representation in Form 14 have been filed and delivered to the other parties of record, the other parties are entitled to proceed on the basis that there has been no change of representation or address for delivery.

### **Order that lawyer has ceased to act**

- (2) Where:
  - (a) a lawyer for a party has died, cannot be found or for any reason is unable to practice; and
  - (b) the party has not given Notice of Appointment or Change of Lawyer in Form 13 or Notice of Self-Representation in Form 14 in accordance with subrule (1),

the court on the application of any other party, may order that the lawyer has ceased to act for the first mentioned party.

### **Order on application of lawyer**

- (3) Where a lawyer who has acted for a party in a proceeding has ceased to act and the party has not given a notice of change in accordance with subrule (1), the court, on the application of the lawyer, may order that the lawyer has ceased to act for the party and, where applicable, that the address for delivery provided by the lawyer is no longer the address for delivery of the party and give directions, including directions for service or delivery on the former client.

### **Notice of withdrawal**

- (4) As an alternative to proceeding under subrule (3), a lawyer who has ceased to act for a party who has not given a notice of change under subrule (1) may serve on that party a Notice of Intention to Withdraw in Form 15 and deliver a copy of it to all other parties of record.
  - (4.1) After service and delivery of the Notice of Intention to Withdraw in Form 15, the withdrawing lawyer shall file Affidavits of Service in Form 7 and Delivery in Form 8.

### **Filing of objection**

- (5) A party receiving a notice of intention to withdraw may, within 7 days of receipt, file in the registry a Notice of Objection in Form 16 and shall deliver it to the lawyer.

### **Procedure where no objection filed**

- (6) If, within 7 days after the last date of delivery or service of the notice of intention to withdraw on a party, no objection has been filed and no notice of appointment or change of lawyer or notice of self-representation has been filed, the lawyer may file a Notice of Withdrawal in Form 18.

### **Delivery of notice of withdrawal**

- (7) If a lawyer files a notice of withdrawal the lawyer ceases to be the lawyer of record for that party when the notice has been delivered to all other parties of record.

### **Delivery of documents after withdrawal**

- (8) Delivery of documents after withdrawal may be made in the manner provided by Rule 11(12) to the address set out in the notice of withdrawal until a new address for delivery is given.

### **Procedure where objection filed**

- (9) If, within the time referred to in subrule (6), an objection has been filed in the registry, the lawyer may apply, on notice to each party who has filed an objection, for an order under subrule (3).

### **Substituted service**

- (10) Where personal service of a notice of intention to withdraw cannot be made on a party for whom the lawyer acts, the lawyer may apply for directions for substituted service.

### **Delivery of copy of order**

- (11) An applicant who obtains an order under subrule (2) or (3) shall deliver a copy of the order to all parties of record and, until it is delivered, a party is entitled to proceed on the basis that there has been no change of lawyer or address for delivery.