

WITHDRAWAL OF COUNSEL OR SUBSTITUTION OF ATTORNEY

General Rules of Practice for District Courts Rule 105 governs the **Withdrawal of Counsel** for informal cases.

Prepare 2 documents: Notice of Withdrawal **and** an Affidavit of Mailing the Notice of Withdrawal

1. Notice of Withdrawal needs to include the following information about the Personal Representative:
 - Name of Personal Representative
 - Address of Personal Representative
 - E-mail address of Personal Representative (if known)
 - Telephone number of Personal Representative

2. Affidavit of Mailing the Notice of Withdrawal of Counsel
 - Include all interested parties shown on the commencing application
 - Demandants
 - Creditors

E-file both documents

NOTE: Without the affidavit of mailing the attorney cannot be removed as the attorney of record in MNCIS.

Minnesota Statutes § 481.11 CHANGE OF ATTORNEY

Allows for the **Substitution of Attorney** in civil cases

See the attached specific form for the Substitution of Attorney. Note that **3 signatures** are required.

- Outgoing attorney
- Incoming attorney (need attorney ID number)
- Personal Representative

Failure to include all 3 signatures renders the document ineffective and no change will be made to the court record.

The substitution of the attorney is based on Minnesota Statutes 481.11 which states that an attorney in a civil action or proceeding may be changed. The statute states that, with respect to any adverse parties, notice must be given to said parties, however, until such notice is given the original attorney is the “attorney of record.”

What happens if the person being substituted isn't providing the proper notice?

A helpful suggestion would be that the “incoming attorney” prepare the substitution form, have his new client sign the consent and send it to the “outgoing attorney.” Wait a reasonable amount of time. If there is no response, then send a letter to the Court along with an original substitution with only the two (2) signatures indicating the change along with an affidavit of mailing notice of the substitution to all interested parties, including the “outgoing attorney.” The Court will then change the “attorney of record.”

(See Form Below)

STATE OF MINNESOTA

FOURTH JUDICIAL DISTRICT COURT

COUNTY OF HENNEPIN

PROBATE MENTAL HEALTH DIVISION

In Re: Estate of

Court File No. 27-PA-PR- -

Deceased

SUBSTITUTION OF ATTORNEY

TO THE ABOVE NAMED COURT:

PLEASE TAKE NOTICE that (incoming attorney) of (name of firm), has been and is hereby substituted for the undersigned as attorney for the (name of personal representative) in the above-entitled proceeding, and in all further proceedings said (incoming attorney) shall be given such notice as is provided by law, and no further notices are required to be given to the undersigned.

This notice of substitution of attorney is made and given pursuant to Minnesota Statutes Section 481.11.

Dated:

By: _____

(Outgoing attorney name)

ID number

Address

Telephone

E-mail

CONSENT OF CLIENT

I, _____ the personal representative, do hereby consent to the above substitution of attorney.

Dated:

(printed name)

CONSENT OF COUNSEL

I, _____ of _____ (name of law firm), accept substitution as attorney of record for (name of personal representative).

Dated:

By: _____
(Incoming attorney)

ID #

Address:

Telephone

E-mail