

ATTORNEY WITHDRAWAL PROCEDURES

The IWCC, Rule that addresses an Attorney's Withdrawal from Representation of a party in an IWCC matter, is found at 9020.30 (c). However, the Rule fails to adequately address the process by which Withdrawal can be accomplished. Accordingly, we must also follow Supreme Court Rule 13.

Supreme Ct. Rule 13 (c) (2) speaks to the Withdrawal of an attorney and states:

(2) Notice of Withdrawal. Except as provided under paragraph (c)(7), **an attorney may not withdraw his or her appearance for a party without leave of court and notice to all parties of record. Unless another attorney is substituted, the attorney must give reasonable notice of the time and place of the presentation of the motion for leave to withdraw, by personal service, certified mail, or a third-party carrier, directed to the party represented at the party's last known business or residence address. Alternatively, the attorney may give such notice electronically if receipt is acknowledged by the party.** Such notice shall advise said party that to insure notice of any action in said cause, the party should retain other counsel therein or file with the clerk of the court, a supplementary appearance stating therein an address to which service of notices or other documents may be made.

(3) Motion to Withdraw. The motion for leave to withdraw shall be in writing and, unless another attorney is substituted, shall state the last known address(es) of the party represented. **The motion may be denied by the court if granting the motion would delay the trial of the case, or would otherwise be inequitable.**

The following Procedures for Motions for Leave to Withdraw are consistent with the Notice provisions contained in IWCC Rules of Procedure at 9020.70.

Motions for Leave to Withdraw at the IWCC

- An attorney must set a Motion for Leave to Withdraw (IC Form 28), on an Arbitrator's Monthly Status Call date, through CompFile.
- If no signed Substitution of Attorney Form (IC Form 29) accompanies the Motion, in CompFile, the Motion must then be set for hearing on a date certain.
- Arbitrators will set all Motions for Leave to Withdraw on their first (1st) Trial date, in that monthly trial cycle, e.g. Motions set on the May Call will receive a June Hearing date.
- The attorney must give Notice of the Hearing date to the recipient (Petitioner or Respondent) of the Motion, as well as the opposing party (parties).
- Motions of this nature may not be granted in any other manner unless they are accompanied by a signed Substitution of Attorney Form (IC Form 29).
- The recipient of the Motion may appear on the set date and either file a Pro Se Appearance, retain new counsel, or object to the Motion for Leave to Withdraw.
- The opposing party may appear and object to the granting of the Motion for Leave to Withdraw.
- A record will be made for all contested Motions for Leave to Withdraw.
- In the instance of a "Death of the Petitioner," an attorney should show evidence of an attempt to contact family, contact takers under the Act, or contact representatives of the deceased's estate. If there is no contact, a record will be made before the Motion is granted.

Please also take notice of Supreme Court Rule 13 (c) (3) where it is stated that: **"The motion may be denied by the court if granting the motion would delay the trial of the case, or would otherwise be inequitable."** The equity considered is not only toward the parties, but also the IWCC.