

IN THE TRIAL COURTS FOR THE STATE OF ALASKA
SECOND JUDICIAL DISTRICT

In the Matter of:)	
)	Presiding Judge
WITHDRAWAL AND SUBSTITUTION)	Administrative Order No. 23-01
OF COURT-APPOINTED COUNSEL)	(Effective November 14, 2023)
IN CRIMINAL MATTERS)	
_____)	

**ORDER SETTING DISTRICT-WIDE PROCEDURE FOR WITHDRAWAL AND
SUBSTITUTION OF APPOINTED COUNSEL IN CRIMINAL CASES**

This Presiding Judge Administrative Order creates a uniform simplified procedure for withdrawal and substitution of counsel across the Second Judicial District. The procedures outlined in this order are intended to supplement Criminal Rule 50 and Civil Rule 81(e), neither of which specifically reference the procedure for withdrawal and substitution of appointed counsel for indigent defendants.¹ Nothing in this order is intended to restrict or expand the right to court-appointed counsel.

IT IS THEREFORE ORDERED THAT the procedure for withdrawal and substitution of court-appointed counsel in the Second District shall be as follows:

1. In all cases there shall be a single pleading captioned “**STIPULATION FOR SUBSTITUTION OF COUNSEL**” (referred to in this order as “stipulation”) which shall be the only pleading necessary to permit court-appointed counsel to withdraw and to substitute newly appointed counsel based on a conflict of interest.²
2. The stipulation shall contain:
 - a. The case caption;
 - b. A stipulation that the current attorney is required to withdraw from representation in the matter(s) due to a conflict of interest;

¹ Civil Rule 81 mostly regulates the conduct of retained private counsel seeking to withdraw either with or without the consent of their clients. Agency lawyers engaged in court-appointed representation are almost always seeking to withdraw because they have a conflict and cannot represent the client absent a conflict waiver. Civil Rule 81(e)(1)(A) is the most appropriate provision for this purpose because the defendant “has other counsel ready to be substituted for the attorney who wishes to withdraw” in the form of OPA or OPA contract counsel.

² By virtue of this order, the stipulation itself will be permitted to act as a de facto order extending the original appointment order in each case to the newly substituted lawyer.

- c. A stipulation that the Office of Public Advocacy is substituted as appointed counsel;
 - d. The date and time of the next hearing; and
 - e. Signatures for each lawyer stipulating.
3. Filing this stipulation shall constitute a “formal written appearance” as required by Criminal Rule 50(a) on behalf of the agency and/or lawyer substituting as court-appointed counsel.
4. The lawyer signing the stipulation on behalf of the newly appointed agency will be considered the lawyer of record per Criminal Rule 50(a) and is expected to appear on behalf of the client until a different lawyer enters their appearance.
5. A stipulation filed in compliance with this order satisfies all requirements for withdrawal of court-appointed counsel under Criminal Rule 50 and Civil Rule 81 and there shall be no other motions, stipulations, notices, or pleadings required to allow current court-appointed counsel to withdraw or to substitute court-appointed counsel based on a conflict of interest.³
6. Indigent criminal defendants shall be provided uninterrupted representation by court-appointed counsel.⁴
7. Any motion to withdraw filed after the date of this order, regardless of opposition, shall be treated as a motion under Criminal Rule 42 and shall be processed accordingly.

IT IS SO ORDERED.

Dated this 14th Day of November, 2023 at Kotzebue, Alaska.



PAUL A. ROETMAN
Presiding Judge
Second Judicial District

³ Administrative Rule 12(b) does reference the filing of a “motion to withdraw” as well as a “stipulation.” Read in context it is clear that the administrative rule is intended to ensure notice of a conflict and efficient substitution of counsel, which this Order is intended to implement.

⁴ Conflicted counsel will be required to appear at any hearing occurring before the filing of a stipulation to withdraw and substitute court-appointed counsel. The individual attorney signing the stipulation for the newly appointed agency will be counsel of record until a different lawyer enters their appearance. This is consistent with Rules of Professional Conduct 1.16(c) and (d).

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