

The Courtesy of Withdrawals

A May 2010 discussion on SoloSez, the email listserv for general practice, solo and small firm lawyers

Hey people...

Maybe this is an old-fashioned notion, but I was 'brought up' that when you are going to withdraw from a case, especially a case that is active (ie, midst of discovery), that you extend to OC the courtesy of a call, telling them that you're withdrawing. No, you don't explain why; no you don't say anything that could be construed as even potentially detrimental to your soon-to-be-former-client, but you call. This week, I have received two Motions to Withdraw, in the mail. Both are from experienced attorneys. Both are from attorneys I have talked to on the phone, and we've been in court at least once, on both matters. One motion was hand-delivered on Wednesday -- our final trial date is 4 weeks away. The other motion was received in today's mail, along with a motion to continue the final pre-trial due to OP's unavailability.

I'm not suggesting I could/would, or would even try to change their minds...I'm just suggesting that I would have appreciated the courtesy of a phone call saying - hey, just wanted to let you know that I'm going to be filing a motion to withdraw. My response would be something like - gee,

sorry to hear that, it's been a pleasure working with you, thanks for the heads up. Instead, my mental response is something like - what am I, bugspit?

Sorry, Rant off.

I hadn't thought to do that when I withdrew from an immigration case - of course, the government lawyer had been at the hearing where I asked to withdraw, so they had some idea this was a possibility, but the judge denied my request at the hearing. The client was very hard to work with - he eventually sent a rant to the judge complaining about me doing such heinous things as possibly seeing other clients, and then the judge reconsidered and granted my motion(.The letter made it sound like he was stalking me, which he really wasn't doing - maybe a language problem.) When it was granted, I was so relieved, I didn't even think to notify anyone else. Thanks for your contribution. If I ever withdraw again, I'll certainly keep that in mind!

Jean Binkovitz, Minnesota

I was also brought up the same way. It is a common courtesy that can also help the other attorney know how to manage their case in the short term.

Such as, do not bother to send any motions to me. Thank you for the reminder!

Rhonda Rosenthal, Illinois

Everyone operates differently, I guess. It is always my intent for example, even on highly contested matters, to try to reach any agreement that might be good for my client, even when OC has been less than forthcoming or perhaps not acted as I might have anticipated. (Like has been borderline rude or even off-the-wall, but I digress, as usual...)

I'm in the process of withdrawing from a case and when I called OC, I received just the type of response you indicated you would have provided had you been afforded the the courtesy and opportunity.

Thanks for the reminder and sorry your OC's didn't extend to you the same courtesy you obviously would have to them.

Good luck and take care.

Sue-Ellen Kresh, Massachusetts