

GLR/byk

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

MEDICAL SUPPLY CHAIN, INC.

Plaintiff,

v.

Case No. 05-cv-2299-CM-GLR

NOVATION, LLC, et al.,

Defendants.

ORDER

This matter comes before the Court on the Motion for Withdrawal of Counsel (doc. 59) filed by Bret D. Landrith, counsel for Plaintiffs. Mr. Landrith requests leave to withdraw from representing Plaintiffs in this action. Mr. Landrith states in his motion that he has been suspended from the practice of law by the State of Kansas.

Pursuant to District of Kansas Rule 83.5.5, an attorney seeking to withdraw in a case must satisfy several procedural requirements. In addition to serving the motion to withdraw on all counsel of record, the attorney seeking to withdraw must also serve a copy of the motion to withdraw on the withdrawing attorney's client.¹ Such service on the withdrawing client must be made either personally or by certified mail, restricted delivery, with return receipt requested.² The withdrawing attorney must thereafter file proof of personal service or a certified mail receipt, signed by the client, or make a satisfactory showing to the

¹D. Kan. Rule 83.5.5.

²*Id.*

Court that the signature of the client could not be obtained.³ Except when substitute counsel has entered an appearance, the withdrawing attorney must also provide evidence of notice to the client, containing an admonition that the client is personally responsible for complying with all orders of the court and time limitations established by the rules of procedure or by court order, and the dates of any pending trial, hearing or conference.⁴

Based upon the Court's review of Mr. Landrith's Motion for Withdrawal of Counsel, the Court finds that Mr. Landrith has failed to comply with several requirements of D. Kan. Rule 83.5.5. First, the instant motion fails to provide evidence that counsel has served the motion on his clients, either personally or by certified mail, restricted delivery, with return receipt requested. Second, Mr. Landrith has failed to file with the Court proof of personal service or a certified mail receipt, signed by the client, or make a satisfactory showing to the Court that the signature of the client could not be obtained. Finally, the motion fails to provide evidence that Mr. Landrith has provided his clients with a notice containing (1) the admonition that the client is personally responsible for complying with all orders of the court and time limitations established by the rules of procedure or by court order and (2) the dates of any pending trial, hearing or conference in this case.

Because Mr. Landrith has failed to comply with D. Kan. Rule 83.5.5, the Court will deny Mr. Landrith's Motion for Withdrawal of Counsel. The Court, however, will permit Mr. Landrith to file a new motion that complies with D. Kan. Rule 83.5.5. Although Mr. Landrith states that he has been suspended from the practice of law by the State of Kansas, there has been no order or directive suspending him from

³*Id.*

⁴*Id.*

practicing in this Court.

IT IS THEREFORE ORDERED that the Motion for Withdrawal of Counsel filed by Bret D. Landrith (doc. 59) is denied without prejudice.

IT IS SO ORDERED.

Dated in Kansas City, Kansas on this 16th day of November, 2005.

s/ Gerald L. Rushfelt
Gerald L. Rushfelt
United States Magistrate Judge

cc: All counsel and

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