

RULE 15
REPRESENTATION BY SOLICITOR

WHERE SOLICITOR IS REQUIRED

- 15.01** (a) Subject to the provisions of the *Legal Profession Act* and sub-rule 4 of Rule 74.11 governing proceedings in the small claims section, a party to a proceeding who is under disability or acts in a representative capacity shall be represented by a solicitor.
- (b) A party to a proceeding that is a corporation shall be represented by a solicitor, except with leave of the court.
- (c) Any other party to a proceeding may act in person or be represented by a solicitor.

NOTICE OF AUTHORITY TO COMMENCE PROCEEDING

Request for Notice by Solicitor

- 15.02** (1) A person who is served with an originating process may deliver a request that the solicitor who is named in the originating process as the solicitor for the plaintiff or applicant deliver a notice declaring whether he or she commenced or authorized the commencement of the proceeding or whether his or her client authorized the commencement of the proceeding.

Power of Court

- (2) If the solicitor fails to deliver a notice in accordance with the request, the court may,
- (a) order the solicitor to do so;
- (b) stay the proceeding; and
- (c) order the solicitor to pay the costs of the proceeding.

Proceeding Commenced without Solicitor's Authority

- (3) If the solicitor declares that he or she did not commence or authorize the commencement of the proceeding, the court may, on motion without notice, stay or dismiss the proceeding.

Proceeding Commenced without Client's Authority

- (4) If a solicitor has commenced a proceeding without the authority of his or her client, the court may, on motion, stay or dismiss the proceeding and order the solicitor to pay the costs of the proceeding.

Effect of Stay

- (5) If a proceeding is stayed under this rule, no further step may be taken without leave of the court.

CHANGE IN REPRESENTATION BY PARTY

Notice of Change of Solicitor

- 15.03** (1) A party who has a solicitor of record may change the solicitor of record by serving on the solicitor and every other party and filing, with proof of service, a notice of change of solicitor (Form 15A) giving the name, address and telephone number of the new solicitor.

Notice of Appointment of Solicitor

- (2) A party acting in person may appoint a solicitor of record by serving on every other party and filing, with proof of service, a notice of appointment of solicitor (Form 15B) giving the name, address and telephone number of the solicitor of record.

Notice of Intention to Act in Person

- (3) Subject to subrule 15.01(1) or (2), a party who has a solicitor of record may elect to act in person by serving on the solicitor and every other party and filing, with proof of service, a notice of intention to act in person (Form 15C) that sets out the party's address for service and telephone number.

Claim for a Solicitor's Lien

- (4) A party may move, on notice to the party's former solicitor of record, for an order determining whether and to what extent the solicitor has a right to a solicitor's lien.
- (5) In the order, the court may impose such terms as are just in connection with the lien and its discharge.

MOTION BY SOLICITOR FOR REMOVAL AS SOLICITOR OF RECORD

Client to be Served

- 15.04** (1) A solicitor may move, on notice to his client, for an order removing him as solicitor of record.
- (2) Service of a notice of motion for the removal of a solicitor from the record and service of the order shall be made on the client,
 - (a) personally or by an alternative to personal service under rule 16.03; or
 - (b) by mailing a copy to the client at,
 - (i) the client's last known address, and
 - (ii) another address, if any, where the solicitor believes the copy is likely to come to the client's attention.

Party under Disability

- (3) Where the party for whom the solicitor is acting is under disability, the notice of motion and the order shall also be served on the litigation guardian or committee and upon the Public Trustee or the Official Guardian.

Contents of Order

- (4) The order removing a solicitor from the record shall include,
 - (a) the client's last known address, or the address for service if different;
 - (b) another address, if any, where the solicitor believes the copy is likely to come to the client's attention;
 - (c) the client's telephone number and fax number, if any, unless the court orders otherwise;
 - (d) if the client is a corporation, the text of subrules (5) and (6); and
 - (e) if the client is not a corporation, the text of subrules (8) and (9).

Corporations

- (5) A client that is a corporation shall, within 30 days after being served with the order removing the solicitor from the record,
 - (a) appoint a new solicitor of record by serving a notice under subrule 15.03(2); or
 - (b) obtain and serve an order under subrule 15.01(b) granting it leave to be represented by a person other than a solicitor.
- (6) If the corporation fails to comply with subrule (5),
 - (a) the Court may dismiss its proceeding or strike out its defence; and
 - (b) in an appeal
 - (i) a Judge of the Court of Appeal may, on motion, dismiss the corporation's appeal, or
 - (ii) the Court hearing the appeal may deny it the right to be heard.

Proof of Service of Order to be Filed

- (7) Proof of service of the order shall be filed forthwith after it is served.

Clients Other Than Corporations

- (8) A client who is not a corporation shall, within 30 days after being served with the order removing the solicitor from the record,
 - (a) appoint a new solicitor of record by serving a notice under subrule 15.03(2); or
 - (b) serve a notice of intention to act in person under subrule 15.03(2).
- (9) If the client fails to comply with subrule (8),
 - (a) the court may dismiss the client's proceeding or strike out his or her defence; and
 - (b) in an appeal,
 - (i) a judge of the appellate court may, on motion, dismiss the client's appeal, or
 - (ii) the court hearing the appeal may deny the client the right to be heard.

DUTY OF SOLICITOR OF RECORD

15.05 A solicitor of record shall act as and remain the solicitor of record for his client until,

- (a) the client delivers a notice under Rule 15.03; or
- (b) an order removing the solicitor from the record has been filed, served on the client and every other party and, where required by subrule 15.04(3), in accordance with that subrule, and filed with proof of service.

WHERE A SOLICITOR OF RECORD HAS CEASED TO PRACTISE

15.06 Where the solicitor of record for a party has ceased to practise law, and the party for whom the solicitor acted has not served a notice under Rule 15.03, any other party may serve a document on the party by mailing a copy to the party at his last known address, or may move for directions.