

PRACTICE DIRECTION 42

CHANGE OF SOLICITOR

This Practice Direction supplements Part 42 of the Civil Procedure Rules

SOLICITOR ACTING FOR A PARTY

- 1.1** Rule 42.1 states that where the address for service of a party is the business address¹ of that party's solicitor, the solicitor will be considered to be acting for that party until the provisions of Part 42 have been complied with.
- 1.2** Subject to rule 42.2(6) (where the certificate of a LSC funded client or assisted person is revoked or discharged), where a party has changed his solicitor or intends to act in person, the former solicitor will be considered to be the party's solicitor unless or until;
- (1) a notice of the change is
 - (a) filed with the court², and
 - (b) served on every other party³, or
 - (2) the court makes an order under rule 42.3 and the order is served on every other party⁴.
- The notice should not be filed until every other party has been served.
- 1.3** A solicitor appointed to represent a party only as an advocate at a hearing will not be considered to be acting for that party within the meaning of Part 42.

NOTICE OF CHANGE OF SOLICITOR

- 2.1** Rule 42.2(1) sets out the circumstances following which a notice of the change must be filed and served.
- 2.2** A notice of the change giving the last known address of the former assisted person must also be filed and served on every party where, under rule 42.2(6):
- (1) the certificate of a LSC funded client or assisted person is revoked or discharged,
 - (2) the solicitor who acted for that person ceased to act on determination of his retainer under regulation 83 of those Regulations, and
 - (3) the LSC funded client or the assisted person wishes either to act in person or appoint another solicitor to act on his behalf.
- 2.3** In addition, where a party or solicitor changes his address for service, a notice of that change should be filed and served on every party.
- 2.4** A party who, having conducted a claim by a solicitor, intends to act in person must give in the notice an address for service that is within the United Kingdom⁵.
- 2.5** Practice form N434 should be used to give notice of any change. The notice should be filed in the court office in which the claim is proceeding.

¹ Rules 6.7 and 6.23 contain provisions about service on the business address of a solicitor.

² Rule 42.2(2)(a).

³ Rule 42.2(2)(b).

⁴ Rule 42.2(5).

⁵ See rule 6.23.

2.6 Where the claim is proceeding in the High Court the notice should be filed either in the appropriate District Registry or if the claim is proceeding in the Royal Courts of Justice, as follows;

- (1)** a claim proceeding in the Queen's Bench Division – in the Action Department of the Central Office,
- (2)** a claim proceeding in the Chancery Division – in Chancery Chambers,
- (3)** a claim proceeding in the Administrative Court – in the Administrative Court office;
- (4)** a claim proceeding in the Admiralty and Commercial Registry – in the Admiralty and Commercial Registry, and
- (5)** a claim proceeding in the Technology and Construction Court – in the Registry of the Technology and Construction Court.

2.7 Where the claim is the subject of an appeal to the Court of Appeal, the notice should also be filed in the Civil Appeals Office.

(The Costs Practice Direction supplementing Parts 43 to 48 contains details of the information required to be included when the funding arrangements for the claim change)

APPLICATION FOR AN ORDER THAT A SOLICITOR HAS CEASED TO ACT

- 3.1** A solicitor may apply under rule 42.3 for an order declaring that he has ceased to be the solicitor acting for a party.
- 3.2** The application should be made in accordance with Part 23¹ and must be supported by evidence². Unless the court directs otherwise the application notice must be served on the party³.
- 3.3** An order made under rule 42.3 must be served on every party and takes effect when it is served. Where the order is not served by the court, the person serving must file a certificate of service in practice form N215.

APPLICATION BY ANOTHER PARTY TO REMOVE A SOLICITOR

- 4.1** Rule 42.4 sets out circumstances in which any other party may apply for an order declaring that a solicitor has ceased to be the solicitor acting for another party in the proceedings.
- 4.2** The application should be made in accordance with Part 23 and must be supported by evidence. Unless the court directs otherwise the application notice must be served on the party to whose solicitor the application relates.
- 4.3** An order made under rule 42.4 must be served on every other party to the proceedings. Where the order is not served by the court, the person serving must file a certificate of service in practice form N215.

¹ See Part 23 and Practice Direction 23A

² See Part 32 and Practice Direction 32 for information about evidence.

³ Rule 42.3(2).

NEW ADDRESS FOR SERVICE WHERE ORDER MADE UNDER RULES 42.3 OR 42.4

- 5.1** Where the court has made an order under rule 42.3 that a solicitor has ceased to act or under rule 42.4 declaring that a solicitor has ceased to be the solicitor for a party, the party for whom the solicitor was acting must give a new address for service to comply with rules 6.23(1) and 6.24.

(Rule 6.23(2)(a) provides that a party must give an address for service within the United Kingdom or where a solicitor is acting for a party, an address for service either in the United Kingdom or any other EEA state.)

(Until such time as a new address for service is given rule 6.9 will apply.)

