

**§ 12.21 Motion to Withdraw as Appointed Counsel**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiff-Appellee,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellant.

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**MOTION TO WITHDRAW AS APPOINTED COUNSEL**

**Appointed appellate counsel asks to withdraw because of a conflict of interest.**

1. *Background.* This is an appeal from the district court's denial of relief sought in a K.S.A. 60-1507 motion. Notice of Appeal was filed on [Insert Date]; the case was docketed on [Insert Date].
2. *Authority.* Kansas Rule of Professional Conduct 1.7(a) and Supreme Court Rule 1.09.
3. *Reasons.* Counsel has just learned that [Insert Name] is a co-defendant in this case. Counsel has in the past and does currently represent [Insert Name]. If counsel continues to represent the appellant, she will be required to argue a position, stemming from the same set of facts and circumstances that is in conflict with the interests of [Insert Name.] Thus, a conflict of interest has arisen, and counsel cannot ethically represent both.
4. Counsel also requests this court to remand to the district court for appointment of new appellate counsel. [In the alternative, if substitute counsel has already entered an appearance, give the name of substitute counsel.]

For these reasons, counsel asks the court to allow her to withdraw.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion to Withdraw was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** A motion to withdraw should be accompanied by an entry of appearance filed by new counsel if possible.

The motion to withdraw must be served on the client, even when the client has requested the attorney to withdraw from the case. The motion must also be served on opposing counsel.

Rule 1.09 sets out separate procedures for withdrawal, depending on the client's circumstances:

- Withdrawal of Attorney When Client Will Be Left Without Counsel
- Withdrawal of Attorney When Client Continues to Be Represented by Other Counsel of Record
- Withdrawal of Attorney When Client Will Be Represented by Substituted Counsel
- Withdrawal of Attorney When Client is Represented by Appointed Counsel

The motion should be drafted to address the specific requirements for the type of withdrawal.