

Rule 1:5 Revision Proposal Published for Comment

The Advisory Committee on Rules of Practice and Procedure of the Judicial Council of Virginia seeks comment on the proposed Rule 1:5 revision set forth below. The proposed changes seek to address three commonly occurring issues when a party is proceeding pro se or becomes pro se in the course of a case. First, difficulties arise in determining who is "counsel of record" in instances where an unrepresented party endorses a draft order but files no other formal appearance. Second, a lack of an address of record or a current address for parties proceeding or becoming pro se can prevent proper case administration and notice. Finally, similar administrative and notice problems arise when an attorney is representing a party and then seeks permission to withdraw, but no substitute contact information is provided for either new counsel or the party previously represented.

Comments on this proposed amendment to **Rule 1:5 Counsel** should be sent by July 30, 2015 to:

Advisory Committee on Rules of Court
c/o Steven DalleMura
Office of the Executive Secretary
Supreme Court of Virginia
100 North Ninth St.
Richmond, VA 23219

OR via email with the subject line: "comment on proposed revision of Rule 1:5" to:

proposedrules@courts.state.va.us

Rule 1:5. Counsel

When used in these Rules, the word "counsel" includes a partnership, a professional corporation or an association of members of the Virginia State Bar practicing under a firm name.

When such firm name is signed to a pleading, notice or brief, the name of at least one individual member or associate of such firm must be signed to it. Papers filed electronically may be signed electronically or by inclusion of a digital image of the signature, as provided in Rule 1:17. Signatures to briefs and petitions for rehearing may be printed or typed and need not be in handwriting.

Service on one member or associate of such firm shall constitute service on the firm. Service is not required to be made on foreign attorneys.

"Counsel of record" includes a counsel or party who has signed a pleading in the case or who has notified the other parties and the clerk in writing that he or she appears in the case, or has endorsed a draft order of the court as provided in Rule 1:13. As required by Code § 8.01-271.1, a party who is not represented by an attorney, including a person confined in a state or local correctional facility proceeding pro se, shall sign every pleading, motion, or other paper being served or filed, and shall include a full address.

Counsel of record shall not withdraw from a case except by leave of court after notice to the client of the time and place of a motion for leave to withdraw. Any order permitting withdrawal shall also:

- state the name, Virginia State Bar number, office address and telephone number of the attorney or law firm being substituted as counsel of record for the party, along with any electronic mail (e-mail) address and facsimile number regularly used for business purposes by such counsel; or
- if replacement counsel is not being designated at the time of withdrawal by the attorney or law firm, state the full address and telephone number of the formerly represented party for use in subsequent mailings or service of papers and notices.

Subject to the provisions of Code § 16.1-88.03, parties not represented by counsel who have made an appearance in the case, shall promptly give notice in writing to the clerk of court and all parties in the lawsuit of any change of address necessary for accurate mailing or service of pleadings or notices. In the absence of such notification, a mailing to or service upon a party at the most recent address contained in the court file of the case shall be deemed effective service or notice.