



COMMERCIAL DIVISION

Applications to file a notice of ceasing to act

Solicitors seeking leave to file a notice of ceasing to act pursuant to Rule 20.03(3) or Rule 34A.25(2) of the County Court Civil Procedure Rules 2018 should comply with the following guidelines.

An application to file a notice of ceasing to act should be emailed to the Commercial Registry (commercial.registry@countycourt.vic.gov.au). The covering email should state that the solicitor is seeking leave to file a notice of ceasing to act and confirm that an affidavit in support is attached. The application is not usually required to be copied to the other parties to the proceeding.

If the application is urgent (eg: because of an impending Court date within 3 weeks), the word “URGENT” should be included in the subject of the email and the body of the email should explain the reason for the urgency.

The application must include an affidavit in support which addresses:

Reasons for application:

- explain the reasons for the application to cease to act;
- exhibit a copy of the signed proposed Notice of Ceasing to Act;

Communications with client:

- provide evidence of the client’s knowledge of the trial date;
- detail the solicitor’s knowledge of the client’s intentions regarding the trial and whether they will be engaging legal representation;
- exhibit a copy of the correspondence from the solicitor to the client advising the client of the solicitor’s intention to file a Notice of Ceasing to Act (“the Cease to Act letter”);
- provide details of the mode of service of the Cease to Act letter on the client
- detail any factors which may affect the reliability of the last known address for service of the client stated in the proposed notice of ceasing to act
- provide the client’s phone number and email address (if known) or other means by which the solicitor has contacted the client or by which the Court may contact the client;

Communications with other parties:

- provide evidence that the other parties to the proceeding know of the intention to file a notice of ceasing to act; and
- detail the solicitor’s knowledge of the other parties’ position as to maintaining the trial date.

The judge or judicial registrar who deals with the application may determine it ‘on the papers’ or may require all parties to appear in open court. This will generally depend upon the proximity of the trial date.

All enquiries about this process should be directed to the Commercial Registry.

Registrar