

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

ANDREW S. MAVROVICH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 05-4151-JAR
	)	
MERLE VANDERPOOL, et al.,	)	
	)	
Defendants.	)	

**ORDER**

This case comes before the court for consideration of a notice of withdrawal of counsel filed by attorney Tim J. Riemann on March 20, 2006 (Doc. 13). Attorney Riemann seeks to withdraw from representation of defendants Dunnaway and Byers in this matter.

D. Kan. Rule 83.5.5 governing withdrawal of counsel provides in relevant part:

An attorney seeking to withdraw must file and serve a motion to withdraw on all counsel of record, and provide a proposed order for the court. In addition, **the motion must be served either personally or by certified mail, restricted delivery, with return receipt requested on the withdrawing attorney's client.** Proof of personal service or the certified mail receipt, signed by the client, or a showing satisfactory to the court that the signature of the client could not be obtained, shall be filed with the clerk. (Emphasis added.)

Mr. Riemann's notice makes no showing with regard to service upon his clients. Moreover, while D. Kan. Rule 83.5.5 provides for substitution of counsel through the mechanism of filing a document entitled "Withdrawal of Counsel and Entry of Appearance of Substituted Counsel" and signed by both withdrawing and entering counsel, this procedure is only applicable if new counsel enters the case at the same time that previous counsel

withdraws. Under the rule all other withdrawal situations, including where other, existing, counsel continues to represent the affected client, must be accomplished by a motion. Therefore, the court finds that Mr. Riemann has not substantially complied with D. Kan. Rule 83.5.5, and his request to withdraw is hereby denied without prejudice.

**IT IS SO ORDERED.**

Dated this 22nd day of March, 2006, at Topeka, Kansas.

s/K. Gary Sebelius  
K. Gary Sebelius  
U.S. Magistrate Judge