

Rules of Prof.Cond., Rule 1.4

Rule 1.4. Communication

Currentness

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in [Rule 1.0\(e\)](#), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Credits

Repealed and readopted April 12, 2007, effective January 1, 2008. Comment amended effective April 6, 2016.

Editors' Notes

COMMENT

[1] Reasonable communication between the lawyer and the client is necessary for the client effectively to participate in the representation.

Communicating with Client

[2] If these Rules require that a particular decision about the representation be made by the client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the client's consent prior to taking action unless prior discussions with the client have resolved what action the client wants the lawyer to take. For example, a lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer. See [Rule 1.2\(a\)](#).

[3] Paragraph (a)(2) requires the lawyer to reasonably consult with the client about the means to be used to accomplish the client's objectives. In some situations--depending on both the importance of the action under consideration and the feasibility of consulting with the client--this duty will require consultation prior to taking action. In other circumstances, such as during a trial when an immediate decision must be made, the exigency of the situation may require the lawyer to act without prior consultation. In such cases the lawyer must nonetheless act reasonably to inform the client of actions the lawyer has taken on the client's behalf. Additionally, paragraph (a)(3) requires that the lawyer keep the client reasonably informed about the status of the matter, such as significant developments affecting the timing or the substance of the representation.

[4] A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. When a client makes a reasonable request for information, however, paragraph (a)(4) requires prompt compliance with the request, or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected. A lawyer should promptly respond to or acknowledge client communications.

Explaining Matters

[5] The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so. Adequacy of communication depends in part on the kind of advice or assistance that is involved. For example, when there is time to explain a proposal made in a negotiation, the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that are likely to result in significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail. The guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests, and the client's overall requirements as to the character of representation. In certain circumstances, such as when a lawyer asks a client to consent to a representation affected by a conflict of interest, the client must give informed consent, as defined in [Rule 1.0\(e\)](#).

[6] Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from diminished capacity. See [Rule 1.14](#). When the client is an organization or group, it is often impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily, the lawyer should address communications to the appropriate officials of the organization. See [Rule 1.13](#). Where many routine matters are involved, a system of limited or occasional reporting may be arranged with the client.

[6A] Regarding communications with clients when a lawyer retains or contracts with other lawyers outside the lawyer's own firm to provide or assist in the providing of legal services to the client, see Comment [6] to [Rule 1.1](#).

[6B] Regarding communications with clients and with lawyers outside of the lawyer's firm when lawyers from more than one firm are providing legal services to the client on a particular matter, see Comment [7] to [Rule 1.1](#).

Withholding Information

[7] In some circumstances, a lawyer may be justified in delaying transmission of information when the client would be likely to react imprudently to an immediate communication. Thus, a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client. A lawyer may not withhold information to serve the lawyer's own interest or convenience or the interests or convenience of another person. Rules or court orders governing litigation may provide that information supplied to a lawyer may not be disclosed to the client. [Rule 3.4\(c\)](#) directs compliance with such rules or orders.

Explanation of Fees and Expenses

[7A] Information provided to the client under Rule 1.4(a) should include information concerning fees charged, costs, expenses, and disbursements with regard to the client's matter. Additionally, the lawyer should promptly respond to the client's reasonable requests concerning such matters. It is strongly recommended that all these communications be in writing. As to the basis or rate of the fee, see [Rule 1.5\(b\)](#).

Notes of Decisions (285)

Rules of Prof. Cond., Rule 1.4, CO ST RPC Rule 1.4
Current with amendments received through December 1, 2020.

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[Colorado Rules of Professional Conduct \(Appendix to Chapters 18 to 20\) \(Refs & Annos\)](#)
[Client-Lawyer Relationship](#)

Rules of Prof.Cond., Rule 1.5

Rule 1.5. Fees

Effective: January 1, 2021

[Currentness](#)

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment

by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

(b) When the lawyer has not regularly represented the client, the basis or rate of the fee and expenses shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation. Any changes in the basis or rate of the fee or expenses shall also be promptly communicated to the client, in writing.

(c) A “contingent fee” is a fee for legal services under which compensation is to be contingent in whole or in part upon the successful accomplishment or disposition of the subject matter of the representation.

(1) The terms of a contingent fee agreement shall be communicated in writing before or within a reasonable time after commencing the representation and shall include the following information:

(i) The names of the lawyer and the client;

(ii) A statement of the nature of the claim, controversy or other matters with reference to which the services are to be performed, including each event triggering the lawyer’s right to compensation;

(iii) The method by which the fee is to be determined, including the percentage or amounts that will accrue to the lawyer in the event of settlement, trial or appeal, or other final disposition, and whether the contingent fee will be determined before or after the deduction of (A) costs and expenses advanced by the lawyer or otherwise incurred by the client, and (B) other amounts owed by the client and payable from amounts recovered;

(iv) A statement of the circumstances under which the lawyer may be entitled to compensation if the lawyer’s representation concludes, by discharge, withdrawal or otherwise, before the occurrence of an event that triggers the

lawyer's right to a contingent fee;

(v) A statement regarding expenses, including (A) an estimate of the expenses to be incurred, (B) whether the lawyer is authorized to advance funds for litigation-related expenses to be reimbursed to the lawyer from the recovery, and, if so, the amount of expenses the lawyer may advance without further approval, and (C) the client's obligation, if any, to pay expenses if there is no recovery;

(vi) A statement regarding the possibility that a court will award costs or attorney fees against the client;

(vii) A statement regarding the possibility that a court will award costs or attorney fees in favor of the client, and, if so, how any such costs or attorney fees will be accounted for and handled;

(viii) A statement informing the client that if the lawyer wishes to hire a lawyer in another firm to assist in the handling of a matter ("associated counsel"), the lawyer will promptly inform the client in writing of the identity of the associated counsel, and that (A) the hiring of associated counsel will not increase the contingent fee, unless the client otherwise agrees in writing, and (B) the client has the right to disapprove the hiring of associated counsel and, if hired, to terminate the employment of associated counsel; and

(ix) A statement that other persons or entities may have a right to be paid from amounts recovered on the client's behalf, for example when an insurer or a federal or state agency has paid money or benefits on behalf of a client in connection with the subject of the representation.

(2) A contingent fee agreement must be signed by the client and the lawyer.

(3) The lawyer shall retain a copy of the contingent fee agreement for seven years after the final resolution of the case, or the termination of the lawyer's services, whichever first occurs.

(4) No contingent fee agreement may be made

(i) for representing a defendant in a criminal case,

(ii) in a domestic relations matter, where payment is contingent on the securing of a divorce or upon the amount of maintenance or child support, or property settlement in lieu of such amounts, or

(iii) in connection with any case or proceeding where a contingency method of a determination of attorney fees is otherwise prohibited by law.

(5) Upon conclusion of a contingent fee matter, the lawyer shall provide the client a written disbursement statement showing the amount or amounts received, an itemization of costs and expenses incurred in handling of the matter, sums to be disbursed to third parties, including lawyers in other law firms, and computation of the contingent fee.

(6) No contingent fee agreement shall be enforceable unless the lawyer has substantially complied with all of the provisions of this Rule.

(7) The form Contingent Fee Agreement following the comment to this Rule may be used for contingent fee agreements and shall be sufficient to comply with paragraph (c)(1) of this Rule. The authorization of this form shall not prevent the use of other forms consistent with this Rule. Nothing in this Rule prevents a lawyer from entering into an agreement that provides for a contingent fee combined with one or more other types of fees, such as hourly or flat fees, provided that the agreement complies with this Rule insofar as the contingent fee is concerned.

(d) Other than in connection with the sale of a law practice pursuant to [Rule 1.17](#), a division of a fee between lawyers who are not in the same firm may be made only if:

(1) the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;

(2) the client agrees to the arrangement, including the basis upon which the division of fees shall be made, and the client's agreement is confirmed in writing; and

(3) the total fee is reasonable.

(e) Referral fees are prohibited.

(f) Fees are not earned until the lawyer confers a benefit on the client or performs a legal service for the client. Advances of unearned fees are the property of the client and shall be deposited in the lawyer's trust account pursuant to [Rule 1.15B\(a\)\(1\)](#) until earned. If advances of unearned fees are in the form of property other than funds, then the lawyer shall hold such property separate from the lawyer's own property pursuant to [Rule 1.15A\(a\)](#).

(g) Nonrefundable fees and nonrefundable retainers are prohibited. Any agreement that purports to restrict a client's right to terminate the representation, or that unreasonably restricts a client's right to obtain a refund of unearned or unreasonable fees, is prohibited.

(h) A "flat fee" is a fee for specified legal services for which the client agrees to pay a fixed amount, regardless of the time or effort involved.

(1) The terms of a flat fee shall be communicated in writing before or within a reasonable time after commencing the

representation and shall include the following information:

- (i) A description of the services the lawyer agrees to perform;
 - (ii) The amount to be paid to the lawyer and the timing of payment for the services to be performed;
 - (iii) If any portion of the flat fee is to be earned by the lawyer before conclusion of the representation, the amount to be earned upon the completion of specified tasks or the occurrence of specified events; and
 - (iv) The amount or the method of calculating the fees the lawyer earns, if any, should the representation terminate before completion of the specified tasks or the occurrence of specified events.
- (2) If all or any portion of a flat fee is paid in advance of being earned and a dispute arises about whether the lawyer has earned all or part of the flat fee, the lawyer shall comply with [Rule 1.15A\(c\)](#) with respect to any portion of the flat fee that is in dispute.
- (3) The form Flat Fee Agreement following the comment to this Rule may be used for flat fee agreements and shall be sufficient. The authorization of this form shall not prevent the use of other forms consistent with this Rule.

Credits

Repealed and readopted April 12, 2007, effective January 1, 2008. Amended March 10, 2011, effective July 1, 2011. Amended effective April 6, 2016; January 31, 2019. Amended October 1, 2020, effective January 1, 2021.

Editors' Notes

COMMENT

Reasonableness of Fee and Expenses

[1] Paragraph (a) requires that lawyers charge fees that are reasonable under the circumstances. The factors specified in (1) through (8) are not exclusive. Nor will each factor be relevant in each instance. Paragraph (a) also requires that expenses for which the client will be charged must be reasonable. A lawyer may seek reimbursement for the cost of services performed in-house, such as copying, or for other expenses incurred in-house, such as telephone charges, either by charging a reasonable amount to which the client has agreed in advance or by charging an amount that reasonably reflects the cost incurred by the lawyer.

Basis or Rate of Fee

[2] When the lawyer has regularly represented a client, they ordinarily will have evolved an understanding concerning the basis or rate of the fee and the expenses for which the client will be responsible, but when there has been a change from their previous understanding the basis or rate of the fee should be promptly communicated in writing. In a new client-lawyer

relationship, the basis or rate of the fee must be promptly communicated in writing to the client, but the communication need not take the form of a formal engagement letter or agreement, and it need not be signed by the client. Moreover, it is not necessary to recite all the factors that underlie the basis of the fee, but only those that are directly involved in its computation. It is sufficient, for example, to state that the basic rate is an hourly charge or a fixed amount or an estimated amount, to identify the factors that may be taken into account in finally fixing the fee, or to furnish the client with a simple memorandum or the lawyer's customary fee schedule. When developments occur during the representation that render an earlier communication substantially inaccurate, a revised written communication should be provided to the client. All flat fee arrangements must be in writing and must comply with paragraph (h) of this Rule. All contingent fee arrangements must be in writing, regardless of whether the client-lawyer relationship is new or established. See C.R.C.P., Ch. 23.3, Rule 1.

[3] Repealed.

Terms of Payment

[4] A lawyer may require advance payment of a fee, but is obliged to return any unearned portion. See [Rule 1.16\(d\)](#). A lawyer may accept property in payment for services, such as an ownership interest in an enterprise, providing this does not involve acquisition of a proprietary interest in the cause of action or subject matter of the litigation contrary to [Rule 1.8\(i\)](#). However, a fee paid in property instead of money may be subject to the requirements of [Rule 1.8\(a\)](#) because such fees often have the essential qualities of a business transaction with the client.

[5] A fee agreement may not be made whose terms might induce the lawyer improperly to curtail services for the client or perform them in a way contrary to the client's interest. For example, a lawyer should not enter into an agreement whereby services are to be provided only up to a stated amount when it is foreseeable that more extensive services probably will be required, unless the situation is adequately explained to the client. Otherwise, the client might have to bargain for further assistance in the midst of a proceeding or transaction. However, it is proper to define the extent of services in light of the client's ability to pay. A lawyer should not exploit a fee arrangement based primarily on hourly charges by using wasteful procedures.

Contingent Fees

[6] Contingent fees, whether based on the recovery or savings of money, or on a nonmonetary outcome, are subject to the reasonableness standard of paragraph (a) of this Rule. In determining whether a particular contingent fee is reasonable, or whether it is reasonable to charge any form of contingent fee, a lawyer must consider the factors that are relevant under the circumstances. Applicable law may impose limitations on contingent fees, such as a ceiling on the percentage allowable, or may require a lawyer to offer clients an alternative basis for the fee. *E.g.*, [28 U.S.C. § 2678](#) (limiting percentage of fees in Federal Tort Claims Act cases); [C.R.S. § 8-43-403](#) (limiting percentage of contingent fee in certain worker's compensation cases). The prohibition on contingent fees in certain domestic relations matters does not preclude a contract for a contingent fee for legal representation in connection with the recovery of post-judgment balances due under support, maintenance or other financial orders because such contracts do not implicate the same policy concerns.

[6A] The scope of representation in a contingent fee agreement should reflect whether the representation includes the handling of counterclaims, third-party claims to amounts recovered, and appeals.

[6B] A lawyer may include a provision in a contingent fee agreement setting forth the lawyer's agreement to reimburse the client for any attorney fees and costs awarded against the client. A provision in a contingent fee agreement in which the client must reimburse the lawyer for any attorney fees or costs awarded against the lawyer may be improper.

[6C] Nothing in this Rule prohibits a lawyer from arranging, in the contingent fee agreement or otherwise, for a third party to guarantee some or all of the financial obligations of the client in the contingent fee agreement.

[6D] Third parties often hold claims to amounts recovered by the lawyer on behalf of the client. The lawyer may be required, as a matter of professional ethics, to pay these amounts from the proceeds of a recovery and not to disburse them to the client.

[6E] A tribunal may award attorney fees to the client under a fee-shifting provision of a contract or statute or as a sanction for discovery violations or other litigation misconduct. The fee agreement may provide for a different allocation of such an award of fees as between the client and the lawyer depending on the circumstances giving rise to the award, such as whether the fees are awarded as a sanction for improper conduct that necessitated additional effort by the lawyer, or whether the fees are awarded under a contractual or statutory fee-shifting provision. This rule does not limit the ways in which clients and lawyers may contract to allocate awards of attorney fees; however, the lawyer must comply with the reasonableness standard of paragraph (a) of this Rule.

[6F] A conversion clause is a provision in a contingent fee agreement that notifies clients they may be liable for attorney fees in quantum meruit or on another alternate basis if the contingent fee agreement is terminated before the occurrence of the contingency. See, form Contingent Fee Agreement, ¶ (4). A conversion clause that requires payment of the alternate fee immediately upon termination, and regardless of the occurrence of the contingency, would discourage most clients from discharging their lawyer. Few clients have the financial means to pay a contingent fee from their own resources, with no guarantee of replenishment by a recovery from a third party. Therefore, a conversion clause that requires payment of the alternate fee immediately upon termination may be appropriate only if (a) the client is sophisticated in legal matters, has the means to pay the fee regardless of the occurrence of the contingency, and has specifically negotiated the conversion clause; and (b) the contingent fee agreement expressly requires payment of the alternate fee immediately upon termination.

Division of Fee

[7] A division of fee is a single billing to a client covering the fee of two or more lawyers who are not in the same firm. A division of fee facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well, and most often is used when the fee is contingent and the division is between a referring lawyer and a trial specialist. Paragraph (d) permits the lawyers to divide a fee either on the basis of the proportion of services they render or if each lawyer assumes responsibility for the representation as a whole. In addition, the client must agree to the arrangement, including the share that each lawyer is to receive, and the agreement must be confirmed in writing. Contingent fee agreements must be in a writing signed by the client and must otherwise comply with paragraph (c) of this Rule. Joint responsibility for the representation entails financial and ethical responsibility for the representation as if the lawyers were associated in a partnership. A lawyer should refer a matter only to a lawyer who the referring lawyer reasonably believes is competent to handle the matter. See [Rule 1.1](#).

[8] Paragraph (d) does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm.

Disputes over Fees

[9] If a procedure has been established for resolution of fee disputes, such as an arbitration or mediation procedure established by the bar, the lawyer must comply with the procedure when it is mandatory, and, even when it is voluntary, the lawyer should conscientiously consider submitting to it. Law may prescribe a procedure for determining a lawyer's fee, for example, in representation of an executor or administrator, a class or a person entitled to a reasonable fee as part of the measure of damages. The lawyer entitled to such a fee and a lawyer representing another party concerned with the fee should comply with the prescribed procedure.

Advances of Unearned Fees and Engagement Retainer Fees

[10] The analysis of when a lawyer may treat advances of unearned fees as property of the lawyer must begin with the

principle that the lawyer must hold in trust all fees paid by the client until there is a basis on which to conclude that the lawyer has earned the fee; otherwise the funds must remain in the lawyer's trust account because they are not the lawyer's property.

[11] To make a determination of when an advance fee is earned, the written statement of the basis or rate of the fee, when required by Rule 1.5(b) or (h), should include a description of the benefit or service that justifies the lawyer's earning the fee, the amount of the advance unearned fee, as well as a statement describing when the fee is earned. Whether a lawyer has conferred a sufficient benefit to earn a portion of the advance fee will depend on the circumstances of the particular case. The circumstances under which a fee is earned should be evaluated under an objective standard of reasonableness. Rule 1.5(a).

[12] Advances of unearned fees, including advances of all or a portion of a flat fee, are those funds the client pays for specified legal services that the lawyer has agreed to perform in the future. Pursuant to Rule 1.5(f), the lawyer must deposit an advance of unearned fees in the lawyer's trust account. The funds may be earned only as the lawyer performs specified legal services or confers benefits on the client as provided for in the written statement of the basis of the fee, if a written statement is required by Rule 1.5(b). See also [Restatement \(Third\) of the Law Governing Lawyers §§ 34, 38 \(1998\)](#). Rule 1.5(f) does not prevent a lawyer from entering into these types of arrangements.

[13] For example, the lawyer and client may agree that portions of the advance of unearned fees are deemed earned at the lawyer's hourly rate and become the lawyer's property as and when the lawyer provides legal services.

[14] A lawyer and client may agree that a flat fee or a portion of a flat fee is earned in various ways. For example, the lawyer and client may agree to an advance flat fee that will be earned in whole or in part based upon the lawyer's completion of specific tasks or the occurrence of specific events, regardless of the precise amount of the lawyer's time involved. For instance, in a criminal defense matter, a lawyer and client may agree that the lawyer earns portions of the flat fee upon the lawyer's entry of appearance, initial advisement, review of discovery, preliminary hearing, pretrial conference, disposition hearing, motions hearing, trial, and sentencing. Similarly, in a trusts and estates matter, a lawyer and client may agree that the lawyer earns portions of the flat fee upon client consultation, legal research, completing the initial draft of testamentary documents, further client consultation, and completing the final documents.

[15] The portions of the advance flat fee earned as each such event occurs need not be in equal amounts. However, the fees attributed to each event should reflect a reasonable estimate of the proportionate value of the legal services the lawyer provides in completing each designated event to the anticipated legal services to be provided on the entire matter. See Rule 1.5(a); [Feiger, Collison & Killmer v. Jones, 926 P.2d 1244, 1252-53 \(Colo. 1996\)](#) (client's sophistication is relevant factor).

[16] “[A]n ‘engagement retainer fee’ is a fee paid, apart from any other compensation, to ensure that a lawyer will be available for the client if required. An engagement retainer must be distinguished from a lump-sum fee [*i.e.*, a flat fee] constituting the entire payment for a lawyer's service in a matter and from an advance payment from which fees will be subtracted (see § 38, Comment g). A fee is an engagement retainer only if the lawyer is to be additionally compensated for actual work, if any, performed.” [Restatement \(Third\) of the Law Governing Lawyers § 34](#) Comment e. An engagement retainer fee agreement must comply with Rule 1.5(a), (b), and (g), and should expressly include the amount of the engagement retainer fee, describe the service or benefit that justifies the lawyer's earning the engagement retainer fee, and state that the engagement retainer fee is earned upon receipt. As defined above, an engagement retainer fee will be earned upon receipt because the lawyer provides an immediate benefit to the client, such as forgoing other business opportunities by making the lawyer's services available for a given period of time to the exclusion of other clients or potential clients, or by giving priority to the client's work over other matters.

[17] Because an engagement retainer fee is earned at the time it is received, it must not be commingled with client property. However, it may be subject to refund to the client in the event of changed circumstances.

[18] It is unethical for a lawyer to fail to return unearned fees, to charge an excessive fee, or to characterize any lawyer's fee

as nonrefundable. Lawyer's fees are always subject to refund if either excessive or unearned. If all or some portion of a lawyer's fee becomes subject to refund, then the amount to be refunded should be paid directly to the client if there is no further legal work to be performed or if the lawyer's employment is terminated. In the alternative, if there is an ongoing client-lawyer relationship and there is further work to be done, it may be deposited in the lawyer's trust account, to be withdrawn from the trust account as it is earned.

[Notes of Decisions \(185\)](#)

Rules of Prof. Cond., Rule 1.5, CO ST RPC Rule 1.5
Current with amendments received through December 1, 2020.

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Rules of Prof.Cond., Form Flat Fee Agreement

Form -- Flag Fee Agreement

Effective: January 31, 2019

[Currentness](#)

The client _____ ("Client") retains _____ ("Lawyer" [or "Firm"]) to perform the legal services specified in Section I, below, for a flat fee as described below.

I. Legal Services to Be Performed. In exchange for the fee described in this Agreement, Lawyer will perform the following legal services ("Services"): *[Insert specific description of the scope and/or objective of the representation. Examples: Represent Client in DUI criminal case in Jefferson County; Prepare a Will [or Power of Attorney or contract]]*

II. Flat Fee. This is a flat fee agreement. Client will pay Lawyer [or Firm] \$ _____ for Lawyer's [or Firm's] performance of the Services described in Section I, above, plus costs as described in Section VI, below. Client understands that Client is NOT entering into an hourly fee arrangement. This means that Lawyer [or Firm] will devote such time to the representation as is necessary, but the Lawyer's [or Firm's] fee will not be increased or decreased based upon the number of hours spent.

III. When Fee Is Earned. The flat fee will be earned in increments, as follows:

Description of increment: _____ Amount earned: _____

[Alternatively: The flat fee will be earned when Lawyer [or Firm] provides Client with [Select one: the Will, the Power of Attorney, the contract, other specified description of work].

IV. When Fee Is Payable. Client shall pay Lawyer [or Firm] [Select one: in advance, as billed, or as the services are completed]. Fees paid in advance shall be placed in Lawyer’s [or Firm’s] trust account and shall remain the property of Client until they are earned. When the fee or part of the fee is earned pursuant to this Agreement, it becomes the property of Lawyer [or Firm].

V. Right to Terminate Representation and Fees on Termination. Client has the right to terminate the representation at any time and for any reason, and Lawyer [or firm] may terminate the representation in accordance with [Rule 1.16 of the Colorado Rules of Professional Conduct](#). In the event that Client terminates the representation without wrongful conduct by Lawyer [or Firm] that would cause Lawyer [or Firm] to forfeit any fee, or Lawyer [or Firm] justifiably withdraws in accordance with [Rule 1.16](#) from representing Client, Client shall pay, and Lawyer [or Firm] shall be entitled to, the fee or part of the fee earned by Lawyer [or Firm] as described in Section I, above, up to the time of termination. In a litigation matter, Client shall pay, and Lawyer [or Firm] shall be entitled to, the fee or part of the fee earned up to the time when the court grants Lawyer’s motion for withdrawal. If the representation is terminated between the completion of increments described in Section III above, Client shall pay a fee based on [an hourly rate of \$ _____] [the percentage of the task completed] [other specified method]. However, such fees shall not exceed the amount that would have been earned had the representation continued until the completion of the increment, and in any event all fees shall be reasonable.

VI. Costs. Client is liable to Lawyer [or Firm] for reasonable expenses and disbursements. Examples of such expenses and disbursements are fees payable to the Court and expenses involved in preparing exhibits. Such expenses and disbursements are estimated to be \$ _____. Client authorizes Lawyer [or Firm] to incur expenses and disbursements up to a maximum of \$ _____, which limitation will not be exceeded without Client’s further written authorization. Client shall reimburse Lawyer for such expenditures [Select one: upon receipt of a billing, in specified installments, or upon completion of the Services].

D a t e :

CLIENT:	ATTORNEY [FIRM]:
Signature	Signature

Credits

Adopted effective January 31, 2019.

Rules of Prof. Cond., Form Flat Fee Agreement, CO ST RPC Form Flat Fee Agreement
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[Client-Lawyer Relationship](#)

Rules of Prof.Cond., Contingent Fee
 Form -- Contingent Fee Agreement

Effective: January 1, 2021

Currentness

D a t e d _____, 2 0

_____ (Client), retains _____ (Lawyer) to perform the legal services described in paragraph (1) below. The Lawyer agrees to perform them faithfully and with due diligence.

(1) The claim, controversy, and other matters with reference to which the services are to be performed are: _____. The representation (will) (will not) [indicate which] include the handling of counterclaims, third-party claims to amounts recovered, and appeals.

(2) The contingency upon which compensation is to be paid is the Client's recovery of funds by settlement or judgment.

(3) The Client will pay the Lawyer ___ percent of the (gross amount collected) (net amount collected) [indicate which]. ("Gross amount collected" means the amount collected before any subtraction of expenses and disbursements) ("Net amount collected" means the amount of the collection remaining after subtraction of expenses and disbursements [including] [not including] costs or attorney fees awarded to an opposing party and against the Client.) [indicate which]. "The amount collected" (includes) (does not include) [indicate which] specially awarded attorney fees and costs awarded to the Client and against an opposing party.

(4) The Client is not to be liable to pay compensation otherwise than from amounts collected for the Client by the Lawyer, except as follows: In the event the Client terminates this contingent fee agreement without wrongful conduct by the Lawyer which would cause the Lawyer to forfeit any fee, or if the Lawyer justifiably withdraws from the representation of the Client, the Lawyer may ask the court or other tribunal to order that the Lawyer be paid a fee based upon the reasonable value of the services provided by the Lawyer. If the Lawyer and the Client cannot agree how the Lawyer is to be compensated in this

circumstance, the Lawyer will request the court or other tribunal to determine: (1) whether the Client has been unfairly or unjustly enriched if the Client does not pay a fee to the Lawyer; and, if so (2) the amount of the fee owed, taking into account the nature and complexity of the Client's case, the time and skill devoted to the Client's case by the Lawyer, and the benefit obtained by the Client as a result of the Lawyer's efforts. Any such fee shall be payable only out of the gross recovery obtained by or on behalf of the Client and the amount of such fee shall not be greater than the fee that would have been earned by the Lawyer if the contingency described in this contingent fee agreement had occurred.

(5) A court or other tribunal may award costs or attorney fees to an opposing party and against the Client.

(6) The Client will be liable to the lawyer for reasonable expenses and disbursements. Such expenses and disbursements are estimated to be \$ _____. The Client authorizes the Lawyer to incur expenses and make disbursements up to a maximum of \$ _____. The Lawyer will not exceed this limitation without the Client's further written authority. The Client will reimburse the Lawyer for such expenditures (upon receipt of a billing), (in specified installments), (upon final resolution), (etc.) [indicate which].

(7) If the Lawyer wishes to hire a lawyer in another firm to assist in the handling of a matter (called an "associated counsel"), the Lawyer will promptly inform the Client in writing of the identity of the associated counsel and that the hiring of associated counsel will not increase the contingent fee, unless the Client otherwise agrees in writing. The Client has a right to disapprove the hiring of associated counsel and to terminate the employment of associated counsel for any reason.

(8) Other persons or entities may have a right to be paid from amounts recovered on the Client's behalf. The Client (authorizes) (does not authorize) [indicate which] the Lawyer to pay from the amount collected the following: (e.g., all physicians, hospitals, subrogation claims and liens, etc.). The Lawyer may be legally required to pay the claims of third parties out of any monies collected for the Client, and not to disburse them to the Client. However, if the Client disputes the amount or validity of the third-party claim, the Lawyer may deposit the funds into the registry of an appropriate court for determination. Any amounts paid to third parties (will) (will not) [indicate which] be subtracted from the amount collected before computing the amount of the contingent fee under this agreement.

WE HAVE EACH READ THE ABOVE AGREEMENT BEFORE SIGNING IT.

(Signature of Client)

(Signature of Client)

Credits

Adopted October 1, 2020, effective January 1, 2021.

Rules of Prof. Cond., Contingent Fee, CO ST RPC Contingent Fee
Current with amendments received through December 1, 2020.

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Rules of Prof.Cond., Disbursements

Form -- Final Disbursement Statement for Contingent Fee Agreements

Effective: January 1, 2021

Currentness

GROSS RECOVERY		\$ _____		

Itemization of expenses incurred in handling of case:

		_____ \$ _____		
		_____ \$ _____		
		_____ \$ _____		
		_____ \$ _____		
		Total Expenses	\$ _____	
	Amount of Expenses			
	Advanced by Lawyer	\$ _____		
	Amount of Expenses			
	Paid by Client	\$ _____		
NET RECOVERY		\$ _____		

Computation of Contingent Fee:

_____ % of (Net) (Gross)

Recovery =	\$ _____	
	Total Fee	
	(and expenses advanced	
	by Lawyer)*	

DISBURSEMENT TO CLIENT		\$ _____

* (If fee is on “Net Recovery” and Lawyer has advanced expenses which are being reimbursed from the “gross recovery.”)

(Signature of Lawyer)

(Signature of Client)

By signature Client acknowledges receipt of a copy of this disbursement statement.

Credits

Adopted October 1, 2020, effective January 1, 2021.

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[West’s Colorado Revised Statutes Annotated](#)
[West’s Colorado Court Rules Annotated](#)
[Colorado Rules of Professional Conduct \(Appendix to Chapters 18 to 20\) \(Refs & Annos\)](#)
[Maintaining the Integrity of the Profession](#)

Rules of Prof.Cond., Rule 8.4

Rule 8.4. Misconduct

Effective: December 6, 2019

Currentness

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation, except that a lawyer may advise, direct, or supervise others, including clients, law enforcement officers, and investigators, who participate in lawful investigative activities;

(d) engage in conduct that is prejudicial to the administration of justice;

(e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law;

(g) engage in conduct, in the representation of a client, that exhibits or is intended to appeal to or engender bias against a person on account of that person's race, gender, religion, national origin, disability, age, sexual orientation, or socioeconomic status, whether that conduct is directed to other counsel, court personnel, witnesses, parties, judges, judicial officers, or any persons involved in the legal process;

(h) engage in any conduct that directly, intentionally, and wrongfully harms others and that adversely reflects on a lawyer's fitness to practice law; or

(i) engage in conduct the lawyer knows or reasonably should know constitutes sexual harassment where the conduct occurs in connection with the lawyer's professional activities.

Credits

Repealed and readopted April 12, 2007, effective January 1, 2008. Amended effective September 28, 2017; September 19, 2019; December 6, 2019.

Editors' Notes

COMMENT

[1] Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Paragraph (a), however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take.

[2] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

[3] A lawyer who, in the course of representing a client, knowingly manifests by word or conduct, bias or prejudice based upon race, gender, religion, national origin, disability, age, sexual orientation or socioeconomic status, violates paragraph (g) and also may violate paragraph (d). Legitimate advocacy respecting the foregoing factors does not violate paragraphs (d) or (g). A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this Rule.

[4] A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of [Rule 1.2\(d\)](#) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.

[5] Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers. The same is true of abuse of positions of private trust such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

[5A] Sexual harassment may include, but is not limited to, sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that a reasonable person would perceive as unwelcome. The substantive law of employment discrimination, including anti-harassment statutes, regulations, and case law, may guide, but does not limit, application of paragraph (i). "Professional activities" are not limited to those that occur in a client-lawyer relationship.

[Notes of Decisions \(1142\)](#)

Rules of Prof. Cond., Rule 8.4, CO ST RPC Rule 8.4
Current with amendments received through December 1, 2020.

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