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by Eli Wald

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This article discusses pertinent Colorado Rules of Professional Conduct regulating attorney-client communications, highlighting rules revised in 2008, including Rules 1.4 (communications), 1.13 (communicating with an entity client), and 1.6 (confidentiality). It also discusses other laws regulating communications, such as revised Colorado Rule of Civil Procedure 227.

Communications between clients and attorneys are the cornerstone of the attorney-client relationship. Because the vast majority of civil and criminal trials settle and plea bargain, many clients never actually enter the courtroom, interact with a judge or a jury, or meet the opposing party or its attorney. Consequently, for a good number of Coloradans, communicating with their own lawyers will constitute most, if not all, of their exposure to law and the legal system. Communications between clients and their own attorneys thus become the main avenue by which clients gain any experience with lawyers and the law.(fn1)

The attorney-client relationship is an agency relationship in which a lawyer-agent serves the interests of a client-principal.(fn2) Communications are the mechanism by which the client controls the agency relationship, informs the attorney about his or her goals and objectives, and provides the lawyer with necessary and relevant information about the representation. Successful representation requires effective communications, without which the attorney-agent cannot know, understand, or represent the client's goals.

Given the inherent importance of attorney-client communications, it is not surprising that several Colorado Rules of Professional Conduct (Colo. RPC or Rules)(fn3) address it, both directly and indirectly.(fn4) This article discusses pertinent Rules regulating attorney-client communications, highlighting rules revised in 2008, including Rules 1.4 (communications), 1.13 (communicating with an entity client), and 1.6 (confidentiality), as well as related doctrines such as communications with co-clients and informed client consent, and other laws regulating aspects of attorney-client communications, such as revised Colorado Rule of Civil Procedure 227 on annual disclosure regarding professional liability insurance.

Colo. RPC 1.2

Rule 1.2(a) sets the stage for communications by affirming the relational roles of the client as the ultimate decision maker and the attorney as the agent. It states that the client is solely responsible for determining the objectives of the relationship. The lawyer, in consultation with the client, is responsible for the means by which the goals are to be pursued.(fn5) The Rule then explicitly references Rule 1.4 as the venue for regulating communications consistent with the allocation of authority pursuant to Rule 1.2.

Colo. RPC 1.4

Rule 1.4 consists of two subsections. Subsection (a) in a bright-line fashion mandates communications in certain specific circumstances,(fn6) and subsection (b) adopts a more open-ended approach to mandating explanation of matters to clients.(fn7) Revised subsection (a) lists five instances when attorneys must communicate with their clients, some of which are new to the Rules.

Subsection 1.4(a)(1) and Subsection 1.0(e)

Subsection (a)(1) mandates prompt communications when the client's informed consent is required by the Rules. "Informed consent" is a term of art introduced by

the revised Rules in definitional Rule 1.0.

Rule 1.0(e) reads:

"Informed consent" denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.

Importantly, informed consent as defined by the Rule cannot be obtained from a client unless the lawyer adequately explains to a client the material risks regarding the decision to be made and explores with the client reasonable available alternatives to the proposed course of conduct.

Comments 6 and 7 to Rule 1.0 are useful in understanding and applying the notion of informed consent. After listing some of the Rules that require informed consent, Comment 6 states that the communication necessary to obtain informed consent will vary according to the Rule involved and the circumstances giving rise to the need to obtain informed consent. The guiding principle is for the lawyer to ensure that the client possesses information reasonably adequate to make an informed decision. The Comment further states that a lawyer normally will have to explain to the client facts and circumstances giving rise to the situation, provide explanations reasonably necessary to educate the client about the material advantages and disadvantages of the proposed course of conduct, and discuss the client's options and alternatives.

Because the guiding principle is to ensure the client is informed, a lawyer need not inform a client of facts or implications already known to the client. The Comment, however, cautions that a lawyer who does not personally communicate with the client pursuant to Rule 1.0(e) assumes the risk that the client is inadequately informed and the consent obtained would be invalid.

Comment 6 concludes by listing relevant factors to be assessed by a lawyer in determining the scope of information and explanation necessary to meet the "reasonably adequate" standard: (1) whether the client is experienced in legal matters generally and in making decisions of the type involved in particular; and (2) whether the client or other person is independently represented by other counsel in giving the consent.

Comment 7 explains that obtaining informed consent usually will require an affirmative response by the client. That is, a lawyer may not assume consent from a client's silence, although consent may be inferred from the conduct of a client who has reasonably adequate information about the matter. Finally, Comment 7 stresses that although generally informed consent need not be confirmed in writing, a number of rules expressly require that a person's consent be confirmed in writing.

Many of the Rules require an attorney to obtain the client's informed consent, for example, in instances involving waiving confidentiality or waiving a conflict of interest. Comment 2 to Rule 1.4 offers additional examples. 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 reject the offer.

Subsection 1.4(a)(2)

Subsection 1.4(a)(2), consistent with Rule 1.2(a), states that a lawyer must reasonably communicate with a client regarding the means by which the client's objectives are to be pursued. The timing of such communications may vary depending on the circumstances.

Comment 3 to Rule 1.4 clarifies that depending on both the importance of the action under consideration and the feasibility of consulting with the client, communication may be required prior to taking action. In other circumstances, however, 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 which case the lawyer nonetheless must act reasonably to inform the client of actions the lawyer has taken on the client's behalf.

Comment 2 to Rule 1.2 explores the interesting occasion in which the lawyer and client disagree about the means to be used to accomplish the client's objectives. The Comment speculates that clients usually defer to the special knowledge and skill of their lawyers with respect to the means to be used to accomplish their objectives, and that lawyers usually defer to the clients regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected.

When disagreements do arise, neither Rule 1.2 nor Rule 1.4 prescribes how such disagreements are to be resolved. The Comment offers the following guidance. First, it notes that other law may be applicable to resolving the disagreement and should be consulted by the lawyer. Second, the lawyer should consult with the client and seek a mutually acceptable resolution of the disagreement. Finally, if such efforts are unavailing and the lawyer has a fundamental disagreement with the client, the lawyer may withdraw from the representation, pursuant to Rule 1.16(b)(4). Of course, the client may resolve the disagreement by discharging the lawyer, pursuant to Rule 1.16(a)(3).

Subsection 1.4(a)(3)

Subsection 1.4(a)(3) mandates that a lawyer keep the client reasonably informed about the status of a matter.^(fn8) Comment 3 to Rule 1.4 offers a few

examples, including a significant development affecting the timing or the substance of the representation.

Another example is explored in detail in Colorado Bar Association (CBA) Ethics Committee Formal Opinion 113, entitled "Ethical Duty of Attorney to Disclose Errors to Clients."^(fn9) Opinion 113 concludes that a lawyer must inform the client of material adverse developments regarding the matter, including those resulting from the lawyer's own errors. The Committee states that as part of this broad duty to report material developments, a lawyer has a duty to make prompt and specific disclosure to a client of the lawyer's error if the error is material, meaning that it likely will result in prejudice to a client's right or claim. In such circumstances, although the lawyer should inform the client that it may be advisable for the client to consult with independent counsel about the error, the lawyer need not and should not inform the client of the existence or merit of a legal malpractice claim against the lawyer, or of the desirability of terminating the lawyer's representation.

The Committee further opines that after disclosing the error, a lawyer may continue to represent the client subject to Rule 1.7. The Committee reasons that in many-if not most-circumstances, the interest of the attorney in avoiding liability will be consistent with the interest of the client in a successful representation. Continued representation may not be permissible if the lawyer's interest in avoiding liability might influence the lawyer to pursue a strategy that would avoid liability for the lawyer at the expense of the success of the representation.

Subsection 1.4(a)(4)

Subsection 1.4(a)(4) mandates that a lawyer promptly comply with reasonable client requests for information.^(fn10) The subsection acknowledges that some client requests for information may be unreasonable. Comment 4 to Rule 1.4 recommends regular communications with clients as a way of decreasing the occasions on which a client will need to reasonably request information.

The Comment further states that if a lawyer is unable to promptly respond to a client's request for information, the lawyer or a member of the lawyer's staff needs to acknowledge receipt of the request and advise the client when a response may be expected. For example, client telephone calls should be promptly returned or acknowledged.^(fn11)

Subsection 1.4(a)(5)

Subsection 1.4(a)(5) mandates that a lawyer 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 or by other law. As a reminder, Rule 1.2(d) prohibits a lawyer from

knowingly counseling or assisting a client to commit a crime or fraud. Comment 9 to Rule 1.2 explains that this prohibition does not preclude the lawyer from giving an honest opinion about the actual consequences that appear likely to result from a client's conduct. It notes that the fact that a client uses advice in a course of action that is criminal or fraudulent does not, in and of itself, make a lawyer a party to the course of action.

Keeping in mind the critical distinction between analyzing the legal aspects of questionable conduct and recommending the means by which a crime or fraud might be committed, subsection 1.4(a)(5) instructs that when a lawyer knows that the client expects assistance not permitted by the Rules or other law, the lawyer must inform the client of the limitations on the lawyer's conduct.

Comment 10 to Rule 1.2 addresses the situation where the client's course of action has already begun and is continuing. It states that the lawyer is required to avoid assisting the client, for example, by drafting or delivering documents that the lawyer knows are fraudulent or by suggesting how the wrongdoing might be concealed. Importantly, a lawyer may not continue to assist a client in conduct that the lawyer originally supposed was legally proper but then discovers is criminal or fraudulent. Subsection 1.4(a)(5) would require communications regarding the limitations of the lawyer's conduct in this instance and, if the issues could not be resolved, the lawyer would have to withdraw from representing the client under Rule 1.16(a). Indeed, in some cases, withdrawal alone might be insufficient, and it may necessary for the lawyer to give notice of the fact of withdrawal and to disaffirm any opinion, document, affirmation, or the like consistent with Rule 4.1.^(fn12)

Subsection 1.4(b)

Unlike the bright-line approach of subsection 1.4(a), subsection 1.4(b) is a more open-ended standard. It mandates that a lawyer "explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation."

The Comment is helpful in construing the scope and meaning of subsection 1.4(b). Comment 1 provides the overall rationale for the communications regime implemented by the Rules. Consistent with the allocation of authority in Rule 1.2 vesting in clients the ultimate authority over goals and joint authority over means, it states, "Reasonable communication between the lawyer and the client is necessary for the client effectively to participate in the representation."

Comment 5 to Rule 1.4 reiterates that the client should have sufficient information to intelligently participate 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. The Comment clarifies that the adequacy of communication depends 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.^(fn13)

In the litigation context, 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. However, the Comment states that a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail.

In some circumstances, a lawyer may be justified in delaying transmission of information when the client likely would react imprudently to an immediate communication. Comment 7 to Rule 1.4 offers the following example: A lawyer may withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client. In contrast, a lawyer may not withhold information to serve the lawyer's own interest. The guiding principle by which the "explain a matter to the extent reasonably necessary" standard is to be interpreted 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.

Other Rules Regulating Attorney-Client Communications

In addition to Rules 1.2 and 1.4, other rules also regulate attorney-client communications. First, Rule 1.6(a), the confidentiality rule, comes into play in co-client situations, when the requirement to communicate information to one co-client pursuant to Rule 1.4 conflicts with the duty of confidentiality owed to the other co-client. Second, Rule 1.13 regulates attorney-client communications when the client is an entity. Third, Rule 1.5, dealing with fees, includes specific instructions regarding communications.

Colo. RPC 1.6 and 1.4

A particularly important factor in determining the appropriateness of common representation is the effect on the attorney-client privilege and client-lawyer confidentiality, given the communication duties imposed by Rule 1.4.

With regard to the attorney-client privilege, Comment 30 to Rule 1.7 states the prevailing rule that, as between commonly represented clients, the privilege does not attach. In other words, communication made by one co-client will not be privileged *vis-a-vis* another co-client. Hence, if litigation eventuates between the co-clients, the privilege will not protect any such communications, and the co-clients should be so advised. Of course, the

communication will be privileged *vis-a-vis* third parties.

The *Restatement (Third) of the Law Governing Lawyers* takes a similar approach. Section 75, entitled "The Privilege of Co-Clients," states in relevant part:^(fn14)

(1) If two or more persons are jointly represented by the same lawyer in a matter, a communication of either co-client that otherwise qualifies as privileged . . . and relates to matters of common interest is privileged as against third persons. . . .

(2) Unless the co-clients have agreed otherwise, a communication described in Subsection (1), is not privileged as between the co-clients in a subsequent adverse proceeding between them.

With regard to confidentiality, Rule 1.6 states that information related to the representation of a client is confidential. As is the case with the privilege, confidentiality generally does not attach between co-clients—that is, communication made by one co-client is not confidential *vis-a-vis* another co-client. Add Rule 1.4's mandatory duty of communications and an attorney in some circumstances has to communicate to one co-client information related by another co-client.

Comment 31 to Rule 1.7 addresses this very situation. First, it states that continued common representation will almost certainly be inadequate if one client asks the lawyer not to disclose to the other client information relevant to the common representation. This is because the lawyer has an equal duty of loyalty to each client and, pursuant to Rule 1.4, each client has the right to be informed of anything bearing on the representation that might affect that client's interests and the right to expect that the lawyer will use that information to that client's benefit. Second, the lawyer should, at the outset of the common representation and as part of the process of obtaining each client's informed consent per Rules 1.7(b)(4) and 1.0(e), advise each client that information will be shared and that the lawyer will have to withdraw if one client decides that some matter material to the representation must be kept from the other.

Finally, Comment 31 notes that in limited circumstances, it may be appropriate for the lawyer to proceed with the representation when the clients have agreed, after being properly informed, that the lawyer will keep certain information confidential. In other words, the clients are free to deviate from the general rule of confidentiality between co-clients and agree that confidentiality will attach between them. For example, the lawyer may reasonably conclude that failure to disclose one client's trade secrets to another client will not adversely affect a representation involving a joint venture between the clients. In that circumstance, the lawyer may agree to keep that information confidential with the informed consent of both clients.

Colo. RPC 1.13

Unlike the representation of an individual client, communicating with an entity client is not an obvious proposition. Specifically, while representing an entity client, a lawyer often confronts the issue of how and with whom to communicate regarding the representation. Rule 1.13 regulates two aspects of communications with entity clients. It establishes a mandatory duty to explain the identity of the client in certain circumstances, and it sets an "up-the-ladder" communications regime with regard to the entity's governance structure.

Mandatory communications regarding the client's identity. Rule 1.13(a) states that a lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents, and not, to be sure, its constituencies. With regard to communications, an important consequence follows. When one of the constituents of an organizational client communicates with the organization's lawyer in that person's organizational capacity, the communication is protected by a duty of confidentiality to the entity client per Rule 1.6.

Thus, for example, if an organizational client requests its lawyer to investigate allegations of wrongdoing, interviews made in the course of that investigation between the lawyer and the client's employees or other constituents are covered by Rule 1.6. However, as explained in Comment 2 to Rule 1.13, this does not mean that constituents of an organizational client are the clients of the lawyer. Therefore, the lawyer may not disclose to such constituents information relating to the representation, except for disclosures explicitly or impliedly authorized by the organizational client to carry out the representation or as otherwise permitted by Rule 1.6.

Sometimes, however, constituencies of the entity-client may misunderstand their relationship with the lawyer representing the entity. For example, the Chief Executive Officer or Chief Operations Officer of an entity client, the very same person who may have hired the attorney and who has dealt with the attorney on a daily basis for an extended period of time, may mistakenly believe that the attorney for the entity also represents him or her.

Subsections 1.13(f) and (g) clearly address the situation. Subsection (f) sets a mandatory duty of communications, stating that:

In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.

Subsection (g) clarifies that, although the general rule

is that an attorney representing an entity client represents the entity and not its various constituents, a lawyer representing an organization also may represent any of its directors, officers, employees, members, shareholders, or other constituents, subject to the provisions of Rule 1.7. Furthermore, if the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

"Up-the-ladder" communications regime.

Subsection 1.13(b) establishes "up-the-ladder" reporting. It mandates communications by the lawyer with a higher authority in the organization, including, if warranted by the circumstances, with the highest authority that can act on behalf of the organization as determined by applicable law, if all of the following conditions are met:

- 1) the lawyer knows
- 2) that an officer, employee or other person associated with the organization
- 3) is engaged in action, intends to act, or refuses to act in a matter related to the representation
- 4) that is a violation of a legal obligation to the organization, or a violation of law
- 5) that reasonably might be imputed to the organization
- 6) and is likely to result in substantial injury to the organization
- 7) unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so.

Comment 4 to Rule 1.13 adds that, in determining how to proceed under paragraph (b), the lawyer should give due consideration to the seriousness of the violation and its consequences, the responsibility in the organization and the apparent motivation of the person involved, the policies of the organization concerning such matters, and any other relevant considerations. The Comment notes that ordinarily, referral to a higher authority would be necessary. In some circumstances, however, it may be appropriate for the lawyer to ask the constituent to reconsider the matter. For example, if the circumstances involve a constituent's innocent misunderstanding of law and subsequent acceptance of the lawyer's advice, the lawyer may reasonably conclude that the best interests of the organization do not require that the matter be referred to a higher authority. However, if a constituent persists in conduct contrary to the lawyer's advice, it will be necessary for the lawyer to take steps to have the matter reviewed by a higher authority in the organization.

The Comment further states that, if the matter is of sufficient seriousness and importance or urgency to the organization, referral to higher authority in the

organization may be necessary even if the lawyer has not communicated with the constituent in question. In addition, even in circumstances where a lawyer is not obligated by Rule 1.13 to proceed up-the-ladder, a lawyer may bring to the attention of an organizational client, including its highest authority, matters that the lawyer reasonably believes to be of sufficient importance to warrant doing so in the best interests of the organization.

Comment 5 makes clear that this discretionary communications standard may become mandatory when it is reasonably necessary to enable the organization to address the matter in a timely and appropriate manner. Under such circumstances, the lawyer must refer the matter to higher authority, including, if warranted, the highest authority that can act on behalf of the organization under applicable law.

Finally, under subsection 1.13(e), a lawyer for an entity may communicate with the organization's highest authority to assure that it is informed of the lawyer's discharge or withdrawal, if the attorney reasonably believes he or she has been discharged because of the lawyer's actions taken pursuant to paragraph (b) or (c), or if the attorney withdraws under circumstances that require or permit the lawyer to take action under either of those paragraphs. In some circumstances, described in subsection 1.13(c), the attorney has discretion to disclose confidential information outside the entity-client to serve the interests of the client.

Colo. RPC 1.5

Rule 1.5 generally requires that fees charged be reasonable. Subsection (b) mandates communication, in writing, regarding the basis or rate of the fee and expenses when the lawyer has not regularly represented the client. The communication must occur before or within a reasonable time after commencing the representation.(fn15)

Also, Comment 7A to Rule 1.4 states that 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, applying subsection 1.4(a)(4) the Comment states that the lawyer should promptly respond to the client's reasonable requests concerning such matters.

Indirect Attorney-Client Communications

Some attorney-client communications take place indirectly and even outside the attorney-client relationship. For example, although Rule 1.4 does not mandate communication regarding whether the attorney carries professional liability insurance, other law requires Colorado lawyers to disclose such information publicly. New Colorado Rule of Civil Procedure 227(A)(2)(a)(4)(c) states in relevant part:

(a) Contents. The annual registration statement shall be

on a form prescribed by the Clerk, setting forth: . . .

(4) certification . . .

(c) with respect to attorneys engaged in the private practice of law, whether the attorney is currently covered by professional liability insurance and, if so, whether the attorney intends to maintain insurance during the time the attorney is in engaged in the private practice of law. . . .

Colorado Rule of Civil Procedure 227(A)(2)(c) states:

Availability of Information. The information provided by the lawyer regarding professional liability insurance shall be available to the public through the Supreme Court Office of Attorney Registration and on the Supreme Court Office of Attorney Registration website.(fn16)

In other words, the Colorado Rules of Civil Procedure mandate public communication regarding professional liability coverage and make the information available to the public, including the reporting lawyer's clients.(fn17)

Conclusion

Recent revisions to the Colorado Rules of Professional Conduct and the Colorado Rules of Civil Procedure have somewhat expanded the scope and content of mandatory attorney-client communications. From a more demanding concept of informed client consent in Rule 1.0(e) to more specific communication Rules (1.4, 1.13, and 1.5) and public disclosure of professional liability insurance, Colorado lawyers must continue to communicate with clients to ensure effective client participation in the representation.

Footnotes:

1. *See generally* Wald, "Taking Attorney-Client Communications (and therefore Clients) Seriously," 42 *U.S.F. L.Rev.* 747 (2008).

2. *See generally* Rounds, Jr., "Lawyer Codes Are Just About Licensure, The Lawyer's Relationship with the State: Recalling the Common Law Agency, Contract, Tort, Trust, and Property Principles that Regulate the Lawyer-Client Fiduciary Relationship," 60 *Baylor L.Rev.* 771 (2008).

3. All below references to the Colorado Rules of Professional Conduct are to the Rules as amended in 2008.

4. The importance of effective attorney-client communication is reflected in both the number of failure to communicate complaints and the severity of the possible discipline. The Colorado Supreme Court Attorney Regulation Counsel reports that out of 4,119 complaints filed in 2008, approximately 8 percent involved failure to communicate. Court sanctions for

failure to communicate can be severe. *See, e.g., People v. Dougherty*, 76 P.3d 491, 494 (Colo. O.P.D.J. 2003) (extent of attorney's lack of communication and neglect of clients' matters warrant an extended period of suspension or disbarment).

5. *See, e.g., People v. Hindorff*, 860 P.2d 526, 527-28 (Colo. 1993) (attorney's neglect of legal matter; failure to communicate adequately with clients, opposing counsel, and court in connection with discovery requests; and entering into stipulation without client authority warranted suspension of one year and one day).

6. *See, e.g., People v. Doering*, 35 P.3d 719, 721-22 (Colo. O.P.D.J. 2001) (attorney's continuing failure to communicate with client violated Colo. RPC 1.4(a)).

7. *See, e.g., People v. Haines*, 179 P.3d 1021, 1028 (Colo. O.P.D.J. 2006) (attorney violated Colo. RPC 1.4(b) in representing personal representative of estate without sufficient explanation of effects of client's conduct on the estate).

8. *See, e.g., People v. Urbaniak*, 106 P.3d 1040, 1043-44 (Colo. O.P.D.J. 2004) (attorney violated Colo. RPC 1.4(a) by failing to keep client informed about the status of the case and failing to notify client of defendants' discovery requests and motion to dismiss); *People v. Espinoza*, 35 P.3d 547, 550 (Colo. O.P.D.J. 2001) (attorney's failure to keep her client accurately informed of events as they transpired violated both Colo. RPC 1.4(a) and 1.4(b)).

9. CBA Ethics Committee Formal Op. 113: Ethical Duty of Attorney to Disclose Errors to Clients (Nov. 19, 2005). The author is a member of the CBA Ethics Committee and was a member when Formal Opinion 113 was adopted.

10. *See, e.g., People v. Lindemann*, 93 P.3d 1125, 1127-28 (Colo. O.P.D.J. 2004) (attorney's failure to respond to client's reasonable requests for information and other communication failures violated Colo. RPC 1.4(a)).

11. *See, e.g., People v. Smith*, 93 P.3d 1136, 1138-39 (Colo. O.P.D.J. 2004) (attorney's failure to return client's telephone calls and to respond to written requests for information violated Colo. RPC 1.4(a)); *People v. Stillman*, 42 P.3d 88, 93 (Colo. O.P.D.J. 2002) (attorney's failure to return client's telephone calls for two months violated Colo. RPC 1.4(a)).

12. Colo. RPC 1.2 cmt. 10.

13. *See also* Colo. RPC 1.4(a)(2).

14. *Restatement (Third) of the Law Governing Lawyers* § 75 (2000).

15. *See, e.g., People v. Crews*, 901 P.2d 472, 474

(Colo. 1995) (attorney's failure to timely and appropriately communicate with client regarding fees paid and services rendered violated Colo. RPC 1.5(a)).

16. C.R.C.P. 227, Mandatory Disclosure of Professional Liability Insurance, available at www.coloradosupremecourt.com/pdfs/Regulation/Rule%20227%20strike.pdf.

17. *See* McLetchie, "Colorado's New Rule on Mandatory Professional Liability Insurance Disclosure," 38 *The Colorado Lawyer* 69 (Feb. 2009).