Document: Colo. RPC 1.2

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CO - Colorado Court Rules PAW ETTOC **Colorado Rules of Civil Procedure** **Appendix to Chapters 18 to 20** **The Colorado Rules of Professional Conduct** **Client-Lawyer Relationship**

Rule 1.2. Scope of Representation and Allocation of Authority Between Client and Lawyer.

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the scope or objectives, or both, of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

History

(a), (c), and comment amended and adopted June 17, 1999, effective July 1, 1999; entire Appendix repealed and readopted April 12, 2007, effective January 1, 2008; comment [14] added and effective March 24, 2014; comment [5A] and [5B] added and effective April 6, 2016; comment [14] amended and effective January 11, 2024 (Rule Change 2024(2)).; (c) and comment [6], [7] and [8] amended and comment [6A] added and effective October 16, 2025 (Rule Change 2025(19)).

Annotations

Commentary

COMMENT

Allocation of Authority between Client and Lawyer

[1] Paragraph (a) confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations. The decisions specified in paragraph (a), such as whether to settle a civil matter, must also be made by the client. See Rule 1.4(a)(1) for the lawyer's duty to communicate with the client about such decisions. With respect to the means by which the client's objectives are to be pursued, the lawyer shall consult with the client as required by Rule 1.4(a)(2) and may take such action as is impliedly authorized to carry out the representation.

[2] On occasion, however, a lawyer and a client may disagree about the means to be used to accomplish the client's objectives. Clients normally defer to the special knowledge and skill of their lawyer with respect to the means to be used to accomplish their objectives, particularly with respect to technical, legal and tactical matters. Conversely, lawyers usually defer to the client regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected. Because of the varied nature of the matters about which a lawyer and client might disagree and because the actions in question may implicate the interests of a tribunal or other persons, this Rule does not prescribe how such disagreements are to be resolved. Other law, however, may be applicable and should be consulted by the lawyer. The lawyer should also consult with the client and seek a mutually acceptable resolution of the disagreement. If such efforts are unavailing and the lawyer has a fundamental disagreement with the client, the lawyer may withdraw from the representation. See Rule 1.16(b)(4). Conversely, the client may resolve the disagreement by discharging the lawyer. See Rule 1.16(a)(3).

[3] At the outset of a representation, the client may authorize the lawyer to take specific action on the client's behalf without further consultation. Absent a material change in circumstances and subject to Rule 1.4, a lawyer may rely on such an advance authorization. The client may, however, revoke such authority at any time.

[4] In a case in which the client appears to be suffering diminished capacity, the lawyer's duty to abide by the client's decisions is to be guided by reference to Rule 1.14.

Independence from Client's Views or Activities

[5] Legal representation should not be denied to people who are unable to afford legal services, or whose cause is controversial or the subject of popular disapproval. By the same token, representing a client does not constitute approval of the client's views or activities.

[5A] 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.

[5B] 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.

Agreements Limiting Scope of Representation

[6] The scope or objectives of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. Limited representation may be appropriate because the client has limited objectives for seeking representation. The limited representation provided may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[6A] Procedural rules addressing a lawyer's limited representation of a client include, but are not limited to, C.R.C.P. 11(b); C.R.C.P. 121, § 1-1(5); C.R.C.P. 311(b); and C.A.R. 5(e).

[7] Although this Rule affords the lawyer and client substantial latitude to limit the scope and objectives of the representation provided to the client, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to providing advice through a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. See Rule 1.1.

[8] Agreements concerning a lawyer's limited representation of a client, like all agreements concerning a lawyer's representation of a client, must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.5, 1.8, and 5.6.

Criminal, Fraudulent and Prohibited Transactions

[9] Paragraph (d) prohibits a lawyer from knowingly counseling or assisting a client to commit a crime or fraud. This prohibition, however, does not preclude the lawyer from giving an honest opinion about the actual consequences that appear likely to result from a client's conduct. Nor does the fact that a client uses advice in a course of action that is criminal or fraudulent of itself make a lawyer a party to the course of action. There is a critical distinction between presenting an analysis of legal aspects of questionable conduct and recommending the means by which a crime or fraud might be committed with impunity.

[10] When the client's course of action has already begun and is continuing, the lawyer's responsibility is especially delicate. 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. A lawyer may not continue assisting a client in conduct that the lawyer originally supposed was legally proper but then discovers is criminal or fraudulent. The lawyer must, therefore, withdraw from the representation of the client in the matter. See Rule 1.16(a). In some cases, withdrawal alone might be insufficient. It may be necessary for the lawyer to give notice of the fact of withdrawal and to disaffirm any opinion, document, affirmation or the like. See Rule 4.1.

[11] Where the client is a fiduciary, the lawyer may be charged with special obligations in dealings with a beneficiary.

[12] Paragraph (d) applies whether or not the defrauded party is a party to the transaction. Hence, a lawyer must not participate in a transaction to effectuate criminal or fraudulent avoidance of tax liability. Paragraph (d) does not preclude undertaking a criminal defense incident to a general retainer for legal services to a lawful enterprise. The last clause of paragraph (d) recognizes that determining the validity or interpretation of a statute or regulation may require a course of action involving disobedience of the statute or regulation or of the interpretation placed upon it by governmental authorities.

[13] If a lawyer comes to know or reasonably should know that a client expects assistance not permitted by the Rules of Professional Conduct or other law or if the lawyer intends to act contrary to the client's instructions, the lawyer must consult with the client regarding the limitations on the lawyer's conduct. See Rule 1.4(a)(5).

[14] A lawyer may counsel a client regarding the validity, scope, and meaning of Colorado constitution article XVIII, secs. 14 & 16, and the Colorado Natural Medicine Act of 2022, and may assist a client in conduct that the lawyer reasonably believes is permitted by these constitutional provisions and statutes, and the statutes, regulations, orders, and other state or local provisions implementing them, as they may be amended from time to time. In these circumstances, the lawyer shall also advise the client regarding related federal law and policy.

State Notes

ANNOTATION

Law reviews. For formal opinion of the Colorado Bar Association on Ethical Duties of Attorney Selected by Insurer to Represent Its Insured, see 22 Colo. Law. 497 (1993). For article, "Discrete Task Representation a/k/a Unbundled Legal Services", see 29 Colo. Law. 5 (Jan. 2000). For article, "Limited Representation in Criminal Defense Cases", see 29 Colo. Law. 77 (Oct. 2000). For article, "Ethical Considerations and Client Identity", see 30 Colo. Law. 51 (Apr. 2001). For article, "Settlement Ethics", see 30 Colo. Law. 53 (Dec. 2001). For comment, "Increasing Access to Justice: Expanding the Role of Nonlawyers in the Delivery of Legal Services to Low-Income Coloradans", see 72 U. Colo. L. Rev. 459 (2001). For article, "Ethical Guidelines for Settlement Negotiations", see 34 Colo. Law. 11 (Feb. 2005). For article, "Ethical Concerns When Dealing With the Elder Client", see 34 Colo. Law. 27 (Oct. 2005). For article, "The Duty of Loyalty and Preparations to Compete", see 34 Colo. Law. 67 (Nov. 2005). For article, "Litigating Disputes Involving the Medical Marijuana Industry", see 41 Colo. Law. 103 (Aug. 2012). For article, "Repugnant Objectives", see 41 Colo. Law. 51 (Dec. 2012). For article, "Advising Clients Who Want to Grow Hemp", see 43 Colo. Law. 71 (July 2014). For casenote, "A Colorado Child's Best Interests: Examining the Gabriesheski Decision and Future Policy Implications", see 85 U. Colo. L. Rev. 537 (2014). For article, "Representing Clients in the Marijuana Industry: Navigating State and Federal Rules", see 44 Colo. Law. 61 (Aug. 2015). For article, "Handling Electronic Documents Purloined by a Client", see 48 Colo. Law. 22 (Jan. 2019). For article, "How Judges Can Encourage Unbundling", see 48 Colo. Law. 10 (Apr. 2019). For article, "Online Dispute Resolution -- A Digital Door to Justice or Pandora's Box? Part 3", 49 Colo. Law. 26 (Apr. 2020). For article, "Risking a Contact High: The Tenth Circuit's Failure to Defer to Colorado's Marijuana Laws", see 98 Denv. L. Rev. 265 (2021).

Annotator's note. Rule 1.2 is similar to Rule 1.2 as it existed prior to the 2007 repeal and readoption of the Colorado rules of professional conduct. Relevant cases construing that provision have been included in the annotations to this rule.

Even though section (c) of this rule allows unbundling of legal services, an attorney remains obligated to comply with C.R.C.P. 11(b). In re Merriam, 250 B.R. 724 (B.R. D. Colo. 2000).

Having a litigant appear to be pro se when in truth an attorney is authoring pleadings and necessarily guiding the course of the litigation with an unseen hand is disingenuous and far below the level of candor that must be met by members of the bar. Such conduct is contrary to section (d) of this rule. Johnson v. Bd. of County Comm'rs of Fremont, 868 F. Supp. 1226 (D. Colo. 1994).

Any provision in an agreement to provide legal services that would deprive a client of the right to control settlement is unenforceable as against public policy, including a provision that purports to prohibit the client from unreasonably refusing to settle. A client's right to reject settlement is absolute and unqualified; parties to litigation have the right to control their own cases. Jones v. Feiger, Collison & Killmer, 903 P.2d 27 (Colo. App. 1994), rev'd on other grounds, 926 P.2d 1244 (Colo. 1996).

Representing to client that a case had been settled, on terms that the client had not agreed to, violated section (a). People v. Muhr, 370 P.3d 667 (Colo. O.P.D.J. 2015).

The decision to enter a guilty plea or withdraw a guilty plea is one of the few fundamental choices that must be decided by the defendant alone. People v. Davis, 2012 COA 1, 412 P.3d 376, rev'd on other grounds, 2015 CO 36M, 352 P.3d 950.

Aiding client to violate custody order sufficient to justify disbarment. People v. Chappell, 927 P.2d 829 (Colo. 1996).

Suspension for three years, the longest period available, was appropriate in case where violation of this rule and others would otherwise have justified disbarment but mitigating factors included personal and emotional problems, interim rehabilitation, and remorse. People v. McCaffrey, 925 P.2d 269 (Colo. 1996).

Suspension for three years appropriate when attorney circumvented proper channels for the adoption of a child by falsely listing her own husband as the birth father on the baby's birth certificate, counseled her husband to engage in fraudulent conduct, and provided false information on a petition for stepparent adoption. People v. Ritland, 327 P.3d 914 (Colo. O.P.D.J. 2014).

Suspension for one year and one day appropriate when attorney neglected to file response to motion for summary judgment and to return client files upon request. People

v. Honaker, 847 P.2d 640 (Colo. 1993).

Public censure appropriate where harm suffered by attorney's client was speculative, attorney retracted his misrepresentations and admitted to his client before the institution of disciplinary proceedings that he had done nothing on the client's appeal, attorney had no prior discipline, he made full and free disclosure of his misconduct to the grievance committee, and he expressed remorse for his misconduct. People v. Nelson, 848 P.2d 351 (Colo. 1993).

If prosecution witness advises the prosecutor that he or she knows or recognizes one of the jurors, the prosecutor has an affirmative duty immediately to notify the court and opposing counsel of the witness's statement. People v. Drake, 841 P.2d 364 (Colo. App. 1992).

When a lawyer accepts fees from clients and then abandons those clients while keeping their money and causing serious harm, disbarment is appropriate. People v. Steinman, 930 P.2d 596 (Colo. 1997).

Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify suspension, stayed upon completion of one-year period of probation with conditions. People v. Bendinelli, 329 P.3d 300 (Colo. O.P.D.J. 2014).

Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify disbarment. People v. Steinman, 930 P.2d 596 (Colo. 1997); In re Bilderback, 971 P.2d 1061 (Colo. 1999).

Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify disbarment. People v. Sousa, 943 P.2d 448 (Colo. 1997); People v. Buckley, 538 P.3d 763 (Colo. O.P.D.J. 2023).

Cases Decided Under Former DR 2-110.

Law reviews. For article, "Coping with the Paper Avalanche: A Survey on the Disposition of Client Files", see 16 Colo. Law. 1787 (1987).

Suspension for one year and one day warranted for attorney who "represented" client for a period of 19 months without that person's knowledge or consent, even asserting a counterclaim on his behalf without talking to him; who did not communicate with him in any manner for an extended period of time and then did not withdraw within a reasonable time after being unable to contact him; and who failed to answer discovery requests, resulting in the entries of

default and then a default judgment against him. People v. Silvola, 915 P.2d 1281 (Colo. 1996).

Attorney who undertakes to conduct action impliedly agrees that he will pursue it to some conclusion; and he is not free to abandon it without reasonable cause. Sobol v. District Court, 619 P.2d 765 (Colo. 1980); Anderson, Calder & Lembke v. District Court, 629 P.2d 603 (Colo. 1981).

Even where cause may exist, attorney's withdrawal must be undertaken in proper manner, duly protective of his client's rights and liabilities. Sobol v. District Court, 619 P.2d 765 (Colo. 1980).

Attorney's withdrawal from employment was improper where attorney gave clients insufficient notice of her intention to withdraw, failed to return the file of one client, and took no steps to avoid foreseeable injury to the clients' interests. People v. Felker, 770 P.2d 402 (Colo. 1989).

Trial dates accepted shall be honored before withdrawal from employment. When public defender or a busy defense lawyer finds that his representation of one client is inimical to his representation of another client and he must make an election as to the client he will represent, he has a heavy duty to the court to see that he honors dates that he has agreed to for the trial of a case. Watson v. District Court, 199 Colo. 76, 604 P.2d 1165 (1980).

Attorney's withdrawal is within trial court's discretion. The question of whether an attorney should be permitted to withdraw his general appearance on behalf of a litigant in a civil case is, under ordinary circumstances, within the discretion of the trial court; and its decision will not be reversed unless this discretion has been demonstrably abused. Sobol v. District Court, 619 P.2d 765 (Colo. 1980).

Motions for withdrawal of counsel are addressed to the discretion of the court and will not be reversed unless clear error or abuse is shown. Anderson, Calder & Lembke v. District Court, 629 P.2d 603 (Colo. 1981).

A decision as to whether counsel should be permitted to withdraw must lie within the sound discretion of the trial judge. As long as the trial court has a reasonable basis for believing that the lawyer-client relation has not deteriorated to the point where counsel is unable to give effective aid in the fair presentation of a defense, the court is justified in refusing to appoint new counsel. People v. Schultheis, 638 P.2d 8 (Colo. 1981).

The question of whether a lawyer may withdraw during course of trial due to the client's conduct is within the trial court's discretion and court must balance need for orderly administration of justice with facts underlying request for withdrawal. People v. Rubanowitz, 688 P.2d 231 (Colo. 1984).

The trial court's decision will not be disturbed on review absent abuse. The decision of the

trial court to deny a motion to withdraw will not be disturbed on review absent a clear abuse of discretion. People v. Schultheis, 638 P.2d 8 (Colo. 1981).

Disagreement concerning counsel's refusal to call witnesses is insufficient grounds. A disagreement between defense counsel and the accused concerning counsel's refusal to call certain witnesses is not sufficient to require the trial judge to grant the motion to withdraw and replace defense counsel. People v. Schultheis, 638 P.2d 8 (Colo. 1981).

Filing of a grievance because of disagreement as to trial tactics is insufficient grounds. Mere filing of grievance concerning counsel's refusal to file certain motions and refusal to file a civil action is not sufficient to require trial judge to grant the motion to withdraw and replace defense counsel. People v. Martinez, 722 P.2d 445 (Colo. App. 1986).

Counsel should request permission to withdraw where client insists on presenting perjured testimony. When a serious disagreement arises between the defense counsel and the accused, and counsel is unable to dissuade his client from insisting that fabricated testimony be presented by a witness, counsel should request permission to withdraw from the case in accordance with the procedures set forth in this opinion. If the motion to withdraw is denied, however, he must continue to serve as defense counsel. People v. Schultheis, 638 P.2d 8 (Colo. 1981).

When confronted with a client who insists upon presenting perjured testimony as to an alibi, counsel may only state, in the motion to withdraw, that he has an irreconcilable conflict with his client. People v. Schultheis, 638 P.2d 8 (Colo. 1981).

Failure and refusal to refund unearned portions of fees collected from two clients constituted violations of C.R.C.P. 241(B), DR 9-102, and this rule. People v. Gellenthien, 621 P.2d 328 (Colo. 1981).

Failure to withdraw for over a year after being discharged by client, accompanied by protracted failure to return client's file, justifies suspension. People v. Hodge, 752 P.2d 533 (Colo. 1988).

Conduct violating this rule in conjunction with other disciplinary rules sufficient to justify public censure. People v. Vsetecka, 893 P.2d 1309 (Colo. 1995).

Failing to return the file of a client while at the same time neglecting to make further filings in such client's case during a period of suspension for similar acts of misconduct warrants further suspension from the practice of law. People v. Hodge, 782 P.2d 25 (Colo. 1989).

Suspended attorney must demonstrate rehabilitation. The actions of a suspended attorney who took part in a complex real estate transaction and engaged in the practice of law by representing, counseling, advising, and assisting a former client warrant suspension until he demonstrates by clear and convincing evidence that (1) he has been rehabilitated; (2) he has complied with and will continue to comply with all applicable disciplinary orders and rules; and (3) he is competent and fit to practice law. People v. Belfor, 200 Colo. 44, 611 P.2d 979 (1980).

Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify suspension. People v. Moya, 793 P.2d 1154 (Colo. 1990); People v. Creasey, 793 P.2d 1159 (Colo. 1990); People v. Wilson, 814 P.2d 791 (Colo. 1991); People v. Whitaker, 814 P.2d 812 (Colo. 1991); People v. Heilbrunn, 814 P.2d 819 (Colo. 1991); People v. Anderson, 817 P.2d 1035 (Colo. 1991); People v. Hyland, 830 P.2d 1000 (Colo. 1992); People v. Raubolt, 831 P.2d 462 (Colo. 1992); People v. Southern, 832 P.2d 946 (Colo. 1992); People v. Regan, 871 P.2d 1184 (Colo. 1994); People v. Cole, 880 P.2d 158 (Colo. 1994).

Conduct violating this rule sufficient to justify suspension. People v. Geller, 753 P.2d 235 (Colo. 1988).

Facts sufficient to justify disbarment of attorney for failure to comply with registration requirements of C.R.C.P. 227, misappropriation of funds, and improper withdrawal from employment. People v. Scudder, 197 Colo. 99, 590 P.2d 493 (1979).

Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify disbarment. People v. Southern, 832 P.2d 946 (Colo. 1992); People v. McGrath, 833 P.2d 731 (Colo. 1992); People v. Fritsche, 897 P.2d 805 (Colo. 1995).

Conduct violating this rule sufficient to justify disbarment. People v. Dwyer, 652 P.2d 1074 (Colo. 1982); People v. Kengle, 772 P.2d 605 (Colo. 1989); People v. Franks, 791 P.2d 1 (Colo. 1990); People v. Vermillion, 814 P.2d 795 (Colo. 1991); People v. Mullison, 829 P.2d 382 (Colo. 1992); People v. McGrath, 833 P.2d 731 (Colo. 1992).

Applied in People ex rel. MacFarlane v. Harthun, 195 Colo. 38, 581 P.2d 716 (1978); People v. Pacheco, 198 Colo. 455, 608 P.2d 333 (1979); People v. Pacheco, 199 Colo. 108, 608 P.2d 334 (1979); People v. Johnson, 199 Colo. 248, 612 P.2d 1097 (1980); People v. Lanza, 200 Colo. 241, 613 P.2d 337 (1980); People v. Meldahl, 200 Colo. 332, 615 P.2d 29 (1980); People v. Archuleta, 638 P.2d 255 (Colo. 1981).

Cases Decided Under Former DR 7-101.

Law reviews. For article, "The Ethical Aspects of Compromise, Settlement and Arbitration", see 25 Rocky Mt. L. Rev. 454 (1953). For article, "Incriminating Evidence: What to Do With a Hot Potato", see 11 Colo. Law. 880 (1982). For article, "Third-Party Malpractice Claims against Real Estate Lawyers", see 13 Colo. Law. 996 (1984). For article, "The Role of Parents' Counsel in Dependency and Neglect Proceedings -- Part I", see 14 Colo. Law. 568 (1985). For article, "The Ethical Duty to Consider Alternatives to Litigation", see 19 Colo. Law. 249 (1990).

Lawyers are required by the obligations of their office to act with diligence in the affairs of their clients and in judicial proceedings. People v. Heyer, 176 Colo. 188, 489 P.2d 1042 (1971).

Failure to take any action on behalf of his client after he was retained and entrusted with work and after making representations to his client which were false, an attorney violates the code of professional responsibility and C.R.C.P. 241.6. People v. Southern, 638 P.2d 787 (Colo. 1982).

Trial court may explore adequacy of trial counsel's representations regarding grounds for withdrawal, but in the course of this inquiry, the court may not compel the attorney to disclose any confidential communications. People v. Schultheis, 44 Colo. App. 452, 618 P.2d 710 (1980), rev'd on other grounds, 638 P.2d 8 (Colo. 1981).

Attorney may not breach his duty of maintaining his client's confidences even when he knows his client has previously perjured himself. People v. Schultheis, 44 Colo. App. 452, 618 P.2d 710 (1980), rev'd on other grounds, 638 P.2d 8 (Colo. 1981).

Attorney shall not use testimony that he knows is perjured. People v. Schultheis, 44 Colo. App. 452, 618 P.2d 710 (1980), rev'd on other grounds, 638 P.2d 8 (Colo. 1981).

Defense counsel may waive right to confront witnesses. The right to confront witnesses is a fundamental right and waiver of such a right is not to be lightly found, but this decision is properly the responsibility of defense counsel, and therefore, the decision of defense counsel to allow the prosecution to use depositions of witnesses in court is an effective waiver. Morse v. People, 180 Colo. 49, 501 P.2d 1328 (1972).

Matters of trial conduct and strategy are the responsibility of defense counsel. Morse v. People, 180 Colo. 49, 501 P.2d 1328 (1972).

Defendant cannot complain when it falls short of accomplishing an acquittal. It is not error to deny a motion for a new trial based on incompetence of trial counsel where the incompetence

claimed arises out of defense counsel's failure to call certain witnesses that the defendant suggested, because defense counsel is responsible for trial strategy, and the defendant will not be heard to complain when trial strategy falls short of accomplishing an acquittal. People v. Moreno, 181 Colo. 106, 507 P.2d 857 (1973).

If every decision in a contested trial had to be made by the accused, he would be denied effective assistance and the judgment of his trial counsel; the defendant's attorney is the expert at trial, not the defendant. Morse v. People, 180 Colo. 49, 501 P.2d 1328 (1972).

Continued and chronic neglect over a period of two years must be considered willful and supports finding of intentional prejudice or damage to clients. People v. Barber, 799 P.2d 936 (Colo. 1990).

Trial court did not abuse its discretion by imposing sanctions on attorney who, at direction of clients, failed to advise opposing party of clients' bankruptcy and automatic stay in advance of trial. Under such circumstances the attorney was faced with an irreconcilable conflict between his duty to his clients and his professional obligations to opposing counsel and would have been justified in requesting permission to withdraw. Parker v. Davis, 888 P.2d 324 (Colo. App. 1994).

Inappropriate personal relationship with a client may prejudice or damage client under this rule. People v. Gibbons, 685 P.2d 168 (Colo. 1984).

Where an attorney requests, on the day of trial, dismissal of federal court proceedings because of lack of jurisdictional amount while representing plaintiff, fails to appear in court when scheduled, shows gross indifference and disregard toward the court, the jurors, and opposing counsel, and fails to keep appointments with the grievance committee assigned to investigate charges against him, a public reprimand for dereliction of duty is called for. People v. Heyer, 176 Colo. 188, 489 P.2d 1042 (1971).

Public censure was appropriate where attorney's failure to appear at three hearings and to timely return a stipulation violated DR 1-102(A)(5) and, in aggravation, there was a pattern of misconduct. People v. Cabral, 888 P.2d 245 (Colo. 1995).

Conduct of attorney warranted public censure under paragraph (A)(1). People v. Stayton, 798 P.2d 903 (Colo. 1990); People v. Smith, 819 P.2d 497 (Colo. 1991).

Conduct of attorney warranted public reprimand under paragraph (A)(2). People v. Atencio, 177 Colo. 439, 494 P.2d 837 (1972).

Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify public censure. People v. Ashley, 796 P.2d 962 (Colo. 1990); People v. Fitzgibbons, 909 P.2d 1098 (Colo. 1996).

Conduct violating this rule sufficient to justify public censure. People v. Mayer, 716 P.2d 1094 (Colo. 1986); People v. Wilson, 745 P.2d 248 (Colo. 1987); People v. Wyman, 769 P.2d 1076 (Colo. 1989); People v. Baird, 772 P.2d 110 (Colo. 1989); People v. Fieman, 788 P.2d 830 (Colo. 1990); People v. Good, 790 P.2d 331 (Colo. 1990).

Where an attorney misrepresents to a client that he has filed a case, fails for two years to take action on behalf of another client, and, knowing that a hearing had been set on charges against him, deliberately leaves the jurisdiction of the court without making any arrangements with the grievance committee and without arranging for representation, his conduct warrants suspension from the bar. People v. Kane, 177 Colo. 378, 494 P.2d 96 (1972).

Suspension is fitting sanction when lawyer knowingly fails to perform services for a client and thereby causes injury to such client. People v. Masson, 782 P.2d 335 (Colo. 1989).

Failing to resolve an inability to proceed on behalf of a client, neglecting to respond to communications from the grievance committee, failing to fulfill commitments made to the investigator for the disciplinary counsel, and misrepresenting to such investigator the status of the case under investigation is conduct warranting suspension. People v. Chappell, 783 P.2d 838 (Colo. 1989).

Suspension of lawyer for three years which is the longest possible period for suspension, is appropriate where there was extensive pattern of client neglect and intentional deception in client matters over a period of years. Anything less would be too lenient. People v. Hellewell, 811 P.2d 386 (Colo. 1991).

Failure to communicate with clients, court, and opposing counsel, misrepresentation of the status of the proceedings to the client, and failure to investigate clients' case justifies three-year suspension. People v. Wilson, 814 P.2d 791 (Colo. 1991).

Knowing failure to prosecute client's claim or to obtain client's informed consent to abandon the claim and neglecting to pursue settlement negotiations damaged client and constitutes intentional failure to carry out contract of employment sufficient to justify suspension. People v. Honaker, 814 P.2d 785 (Colo. 1991).

Conduct violating this rule in conjunction with other disciplinary rules is sufficient to

warrant suspension. People v. Creasey, 793 P.2d 1159 (Colo. 1990); People v. Schmad, 793 P.2d 1162 (Colo. 1990); People v. Wilbur, 796 P.2d 976 (Colo. 1990); People v. Baptie, 796 P.2d 978 (Colo. 1990); People v. Taylor, 799 P.2d 930 (Colo. 1990); People v. Garrett, 802 P.2d 1082 (Colo. 1990); People v. Rhodes, 803 P.2d 514 (Colo. 1991); People v. Flores, 804 P.2d 192 (Colo. 1991); People v. Dunsmoor, 807 P.2d 561 (Colo. 1991); People v. Hall, 810 P.2d 1069 (Colo. 1991); People v. Koeberle, 810 P.2d 1072 (Colo. 1991); People v. Dash, 811 P.2d 36 (Colo. 1991); People v. Creasey, 811 P.2d 40 (Colo. 1991); People v. Whitaker, 814 P.2d 812 (Colo. 1991); People v. Hansen, 814 P.2d 816 (Colo. 1991); People v. Hyland, 830 P.2d 1000 (Colo. 1992); People v. Raubolt, 831 P.2d 462 (Colo. 1992); People v. Regan, 831 P.2d 893 (Colo. 1992); People v. Denton, 839 P.2d 6 (Colo. 1992); People v. Hindorff, 860 P.2d 526 (Colo. 1993); People v. Cole, 880 P.2d 158 (Colo. 1994); People v. Smith, 880 P.2d 763 (Colo. 1994); People v. Schaefer, 938 P.2d 147 (Colo. 1997).

Conduct violating this rule sufficient to justify suspension. People v. Yaklich, 646 P.2d 938 (Colo. 1982); People v. Brackett, 667 P.2d 1357 (Colo. 1983); People v. Pilgrim, 698 P.2d 1322 (Colo. 1985); People v. Convery, 704 P.2d 296 (Colo. 1985); People v. Foster, 716 P.2d 1069 (Colo. 1986); People v. Coca, 716 P.2d 1073 (Colo. 1986); People v. Barnett, 716 P.2d 1076 (Colo. 1986); People v. Fleming, 716 P.2d 1090 (Colo. 1986); People v. Larson, 716 P.2d 1093 (Colo. 1986); People v. Richards, 748 P.2d 341 (Colo. 1987); People v. Convery, 758 P.2d 1338 (Colo. 1988); People v. Griffin, 764 P.2d 1166 (Colo. 1988); People v. Goens, 770 P.2d 1218 (Colo. 1989); People v. Flores, 772 P.2d 610 (Colo. 1989); People v. Pooley, 774 P.2d 239 (Colo. 1989); People v. Fahrney, 782 P.2d 743 (Colo. 1989); People v. Gregory, 788 P.2d 823 (Colo. 1990); People v. Bergmann, 790 P.2d 840 (Colo. 1990).

Failure to file bankruptcy petition for eight months justifies disbarment. When a lawyer, after being paid for his services, neglects to file a bankruptcy petition for his client for a period of approximately eight months, during which time the client is sued and his wages attached on several occasions, the lawyer's gross neglect and failure to carry out a contract of employment justify disbarment. People v. McMichael, 199 Colo. 433, 609 P.2d 633 (1980).

Converting estate or trust funds for one's personal use, overcharging for services rendered, neglecting to return inquiries relating to client matters, failing to make candid disclosures to grievance committee, and attempting to conceal wrongdoing during disciplinary proceedings warrants the severe sanction of disbarment. People v. Gerdes, 782 P.2d 2 (Colo. 1989).

Disbarment was the proper remedy where attorney's conduct demonstrated (a) neglect of legal matters entrusted to him; (b) misrepresentation to the client and the grievance committee; and (c) a pattern of neglect followed by the respondent that had the potential of causing serious injury to his clients, and the attorney was afforded multiple opportunities including two suspensions and

court ordered rehabilitation. People v. Susman, 787 P.2d 1119 (Colo. 1990).

Converting trust funds to one's own use in the amount of $13,100 and refusing to make payments on a promissory note taken as restitution was conduct intentionally prejudicial to the client sufficient to justify disbarment. People v. Whitcomb, 819 P.2d 493 (Colo. 1991).

Converting trust funds, along with other misconduct, sufficient to justify disbarment. Where attorney withdraws $62,550 from trust without beneficiaries' knowledge or permission, fails to repay a $5,000 loan from the trustee, prepares fictional quarterly trust reports, disburses principal to beneficiaries in lieu of interest and lies regarding the amount of principal remaining in the trust, there is conduct sufficiently prejudicial to the client to justify disbarment. People v. Tanquary, 831 P.2d 889 (Colo. 1992).

When attorney converted client's funds, named himself trustee, misrepresented to banks that the funds were his own, engaged in self-dealing, and maintained custody of the client's investment accounts, disbarment was warranted. There were no mitigating factors. People v. Warner, 873 P.2d 724 (Colo. 1994).

Misrepresenting the status of a dissolution of marriage action with knowledge of impending remarriage and then forging the purported decree of dissolution is conduct involving moral turpitude deserving of disbarment. People v. Belina, 782 P.2d 26 (Colo. 1989).

Conduct which causes a client serious or potentially serious injury and demonstrates a complete lack of concern for a client's interests and welfare warrants disbarment. People v. Lyons, 762 P.2d 143 (Colo. 1988).

Where an attorney demonstrates an extreme indifference to the welfare of his clients and the status of their cases and an extreme insensitivity to his professional duties in the face of adverse judgments due to neglect, client complaints, and repeated disciplinary proceedings, disbarment is the appropriate sanction. People v. Wyman, 782 P.2d 339 (Colo. 1989).

Facts sufficient to justify disbarment of attorney for failure to comply with registration requirements of C.R.C.P. 227, misappropriation of funds, and improper withdrawal from employment. People v. Scudder, 197 Colo. 99, 590 P.2d 493 (1979).

Failure to respond to discovery and motions, failure to attend case management hearing, and failure to inform client of progress of a civil case is grounds for disbarment. People v. Hebenstreit, 823 P.2d 125 (Colo. 1992).

Disbarment is appropriate sanction where attorney knowingly converts client property and causes injury or potential injury to a client. People v. Bowman, 887 P.2d 18 (Colo. 1994).

Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify disbarment. People v. Nichols, 796 P.2d 966 (Colo. 1990); People v. Ashley, 817 P.2d 965 (Colo. 1991); People v. Rouse, 817 P.2d 967 (Colo. 1991); People v. Crimaldi, 804 P.2d 863 (Colo. 1991); People v. Bergmann, 807 P.2d 568 (Colo. 1991); People v. Rhodes, 814 P.2d 787 (Colo. 1991); People v. Heilbrunn, 814 P.2d 819 (Colo. 1991); People v. Whitcomb, 819 P.2d 493 (Colo. 1991); People v. Koransky, 824 P.2d 819 (Colo. 1992); People v. Bradley, 825 P.2d 475 (Colo. 1992); People v. Southern, 832 P.2d 946 (Colo. 1992); People v. Schindelar, 845 P.2d 1146 (Colo. 1993); People v. Schaefer, 944 P.2d 78 (Colo. 1997); People v. Skaalerud, 963 P.2d 341 (Colo. 1998).

Conduct violating this rule sufficient to justify disbarment. People v. Kendrick, 646 P.2d 337 (Colo. 1982); People v. Dwyer, 652 P.2d 1074 (Colo. 1982); People v. Golden, 654 P.2d 853 (Colo. 1982); People v. Bealmear, 655 P.2d 402 (Colo. 1982); People v. Buckles, 673 P.2d 1008 (Colo. 1984); People v. Gibbons, 685 P.2d 168 (Colo. 1984); People v. Quick, 716 P.2d 1082 (Colo. 1986); People v. James, 731 P.2d 698 (Colo. 1987); People v. Carpenter, 731 P.2d 726 (Colo. 1987); People v. Coca, 732 P.2d 640 (Colo. 1987); People v. Stewart, 752 P.2d 528 (Colo. 1987); People v. Quintana, 752 P.2d 1059 (Colo. 1988); People v. Lovett, 753 P.2d 205 (Colo. 1988); People v. Brooks, 753 P.2d 208 (Colo. 1988); People v. Turner, 758 P.2d 1335 (Colo. 1988); People v. Danker, 759 P.2d 14 (Colo. 1988); People v. Costello, 781 P.2d 85 (Colo. 1989); People v. Frank, 782 P.2d 769 (Colo. 1989); People v. Johnston, 782 P.2d 1195 (Colo. 1989).

Conduct violating this rule sufficient to justify disbarment. People v. Dulaney, 785 P.2d 1302 (Colo. 1990); People v. Franks, 791 P.2d 1 (Colo. 1990); People v. Gregory, 797 P.2d 43 (Colo. 1990); People v. Vermillion, 814 P.2d 795 (Colo. 1991).

Conduct found to violate disciplinary rules. People v. Bugg, 635 P.2d 881 (Colo. 1981); People v. Razatos, 636 P.2d 666 (Colo. 1981); People v. Ross, 810 P.2d 659 (Colo. 1991).

Applied in People ex rel. MacFarlane v. Harthun, 195 Colo. 38, 581 P.2d 716 (1978); People v. McMichael, 196 Colo. 128, 586 P.2d 1 (1978); People v. Harthun, 197 Colo. 1, 593 P.2d 324 (1979); People v. Pacheco, 199 Colo. 108, 608 P.2d 334 (1979); People v. Belfor, 200 Colo. 44, 611 P.2d 979 (1980); People ex rel. Silverman, v. Anderson, 200 Colo. 76, 612 P.2d 94 (1980); People v. Barbour, 199 Colo. 126, 612 P.2d 1082 (1980); People v. Meldahl, 200 Colo. 332, 615 P.2d 29 (1980); People v. Dixon, 200 Colo. 520, 616 P.2d 103 (1980); People v. Gottsegen, 623 P.2d 878 (Colo. 1981); People v. Dutton, 629 P.2d 103 (Colo. 1981); People v. Hebeler, 638 P.2d 254 (Colo. 1981); People v. Archuleta, 638 P.2d 255 (Colo. 1981); People v. Gellenthien, 638 P.2d 295 (Colo. 1981); People v.

Barbour, 639 P.2d 1065 (Colo. 1982); People v. Castro, 657 P.2d 932 (Colo. 1982); People v. Emmert, 676 P.2d 672 (Colo. 1983); People v. Simon, 698 P.2d 228 (Colo. 1985).

Cases Decided Under Former DR 7-102.

Law reviews. For article, "The Perjurious Defendant: A Proposed Solution to the Defense Lawyer's Conflicting Ethical Obligations to the Court and to His Client", see 59 Den. L.J. 75 (1981). For article, "Incriminating Evidence: What to do With a Hot Potato", see 11 Colo. Law. 880 (1982). For article, "Ethics, Tax Fraud and the General Practitioner", see 11 Colo. Law. 939 (1982). For article, "The Search for Truth Continued: More Disclosure, Less Privilege", see 54 U. Colo. L. Rev. 51 (1982). For article, "The Search for Truth Continued, The Privilege Retained: A Response to Judge Frankel", see 54 U. Colo. L. Rev. 67 (1982). For casenote, "Caldwell v. District Court: Colorado Looks at the Crime and Fraud Exception to the Attorney-Client Privilege", see 55 U. Colo. L. Rev. 319 (1984). For article, "Defending the Federal Drug or Racketeering Charge", see 16 Colo. Law. 605 (1987). For article, "A Proposal on Opinion Letters in Colorado Real Estate Mortgage Loan Transactions Parts I and II", see 18 Colo. Law. 2283 (1989) and 19 Colo. Law. 1 (1990). For comment, "Attorney-Client Confidences: Punishing the Innocent", see 61 U. Colo. L. Rev. 185 (1990).

Attorney-client relationship required. Rule requires the existence of an attorney-client relationship as an essential element of the proscribed professional misconduct. People v. Morley, 725 P.2d 510 (Colo. 1986).

A client is a person who employs or retains an attorney for advice or assistance on a matter relating to legal business. People v. Morley, 725 P.2d 510 (Colo. 1986).

The relationship of an attorney and client can be inferred from the conduct of the parties. People v. Morley, 725 P.2d 510 (Colo. 1986).

The relationship is sufficiently established when it is shown that the client seeks and receives the advice of the lawyer on the legal consequences of the client's past or contemplated actions. People v. Morley, 725 P.2d 510 (Colo. 1986).

Attorney shall not use testimony that he knows is perjured. People v. Schultheis, 44 Colo. App. 452, 618 P.2d 710 (1980), rev'd on other grounds, 638 P.2d 8 (Colo. 1981).

If he does so, he commits subornation of perjury. A lawyer who presents a witness knowing that the witness intends to commit perjury thereby engages in the subornation of perjury. People v. Schultheis, 638 P.2d 8 (Colo. 1981).

Trial court may explore adequacy of trial counsel's representations regarding grounds for

withdrawal, but in the course of this inquiry, the court may not compel the attorney to disclose any confidential communications. People v. Schultheis, 44 Colo. App. 452, 618 P.2d 710 (1980), rev'd on other grounds, 638 P.2d 8 (Colo. 1981).

Attorney may not breach his duty of maintaining his client's confidences even when he knows his client has previously perjured himself. People v. Schultheis, 44 Colo. App. 452, 618 P.2d 710 (1980), rev'd on other grounds, 638 P.2d 8 (Colo. 1981).

Unauthorized recordation of telephone conversation establishes unethical conduct. Telephone conversation, which attorney initiated and recorded without the permission of other party to conversation, established unethical conduct on attorney's part. People v. Wallin, 621 P.2d 330 (Colo. 1981).

Planned course of conduct which is unresponsive to civil discovery constitutes intent to deceive, and such conduct is prejudicial to the administration of justice. People v. Haase, 781 P.2d 80 (Colo. 1989).

In fulfilling the duty under Canon 7 of the Code of Professional Responsibility to zealously represent a client, a lawyer may advance a claim or defense not recognized under existing law if it can be supported by a good faith argument for an extension, modification, or reversal of existing law. Sullivan v. Lutz, 827 P.2d 626 (Colo. App. 1992).

Unsuccessful appeal is not necessarily frivolous. Because a lawyer may present a supportable argument which is extremely unlikely to prevail on appeal, it cannot be said that an unsuccessful appeal is necessarily frivolous. Mission Denver Co. v. Pierson, 674 P.2d 363 (Colo. 1984).

An attorney should not pursue frivolous appeals. An attorney's decision not to pursue a frivolous appeal complies with his ethical responsibilities to his client. Hodges v. Barry, 701 P.2d 1240 (Colo. 1985).

Failure to inform arbitrators of errors in expert witness's testimony constituted violation of DR 7-102 warranting public censure because attorney did not disclose that expert had informed attorney of mistakes in writing, and ttorney made closing arguments based on uncorrected expert conclusions. People v. Bertagnolli, 861 P.2d 717 (Colo. 1993).

Actions taken by attorney contrary to court order violate this rule and justify suspension. People v. Awenius, 653 P.2d 740 (Colo. 1982).

False testimony and counselling such conduct warrant disbarment. When a lawyer counsels

his client to testify falsely at a hearing on a bankruptcy petition and the client does so, and the lawyer gives a false answer to a question asked of him by the bankruptcy judge, his misconduct warrants disbarment. People v. McMichael, 199 Colo. 433, 609 P.2d 633 (1980).

Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify suspension. People v. Smith, 830 P.2d 1003 (Colo. 1992).

Conduct violating this rule sufficient to justify suspension. People v. Belfor, 197 Colo. 223, 591 P.2d 585 (1979); People v. Barnthouse, 775 P.2d 545 (Colo. 1989); People v. Bergmann, 790 P.2d 840 (Colo. 1990).

Conduct violating this rule in conjunction with other disciplinary rules is sufficient to justify disbarment. People v. Hansen, 814 P.2d 816 (Colo. 1991); People v. Calt, 817 P.2d 969 (Colo. 1991); People v. Whitcomb, 819 P.2d 493 (Colo. 1991); People v. Smith, 830 P.2d 1003 (Colo. 1992); People v. Southern, 832 P.2d 946 (Colo. 1992); People v. Marmon, 903 P.2d 651 (Colo. 1995).

Conduct violating this rule sufficient to justify disbarment. People v. Kendrick, 646 P.2d 337 (Colo. 1982); People v. Dwyer, 652 P.2d 1074 (Colo. 1982); People v. Morley, 725 P.2d 510 (Colo. 1986); People v. Turner, 758 P.2d 1335 (Colo. 1988); People v. Franks, 791 P.2d 1 (Colo. 1990); People v. Mullison, 829 P.2d 382 (Colo. 1992); People v. Sims, 913 P.2d 526 (Colo. 1996).

Conduct held to violate this rule. People v. Goss, 646 P.2d 334 (Colo. 1982).

Applied in People v. Good, 195 Colo. 177, 576 P.2d 1020 (1978); People v. Meldahl, 200 Colo. 332, 615 P.2d 29 (1980); People v. Rotenberg, 635 P.2d 220 (Colo. 1981); Law Offices of Bernard D. Morley, P.C. v. MacFarlane, 647 P.2d 1215 (Colo. 1982); People v. Simon, 698 P.2d 228 (Colo. 1985); People v. Hebenstreit, 764 P.2d 51 (Colo. 1988).

Cases Decided Under Former DR 9-101.

Law reviews. For article, "The Conflicted Attorney", see 11 Colo. Law. 2589 (1982). For article, "Access and Friendship with Local Decision-makers -- May a Lawyer Exploit", see 16 Colo. Law. 482 (1987). For article, "Coping with the Paper Avalanche: A Survey on the Disposition of Client Files", see 16 Colo. Law. 1787 (1987).

Since employment in a public defender's office is not the type of public employment contemplated in paragraph (B) of this rule, no conflict of interest can be perceived in the

representation of a defendant by a deputy public defender and the subsequent representation by the same attorney in a private capacity of the defendant in the same case. Coles, Manter & Watson v. Denver Dist. Court, 177 Colo. 210, 493 P.2d 374 (1972).

Disqualification of former district attorney and his firm was appropriate. Disqualification of former district attorney and his firm from representing client in case in which former district attorney had done investigation under this canon was clearly appropriate. Osburn v. District Court, 619 P.2d 41 (Colo. 1980).

Disqualification of district attorney's office required where two former district attorneys are witnesses on contested issues in case. Pease v. District Court, 708 P.2d 800 (Colo. 1985).

Where a lawyer knows or should know that he is dealing improperly with a client's property and causes potential injury to the client, a suspension from the practice of law, at the very least, is an appropriate sanction. People v. McGrath, 780 P.2d 492 (Colo. 1989).

Where there is no evidence of a specific identifiable impropriety, there is no basis for disqualification under this canon. Food Brokers, Inc. v. Great W. Sugar, 680 P.2d 857 (Colo. App. 1984).

Factors for determining "an appearance of impropriety" discussed in Cleary v. District Court, 704 P.2d 866 (Colo. 1985).

"Substantial responsibility" requirement of paragraph (B) of this rule applied in Cleary v. District Court, 704 P.2d 866 (Colo. 1985); People v. Anaya, 732 P.2d 1241 (Colo. App. 1986), rev'd on other grounds, 764 P.2d 779 (Colo. 1988).

Conduct violating this rule sufficient to justify disbarment. People v. Dulaney, 785 P.2d 1302 (Colo. 1990).

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