

The background is a dark blue gradient with a subtle pattern of white dots. On the left side, there are several overlapping circular elements. One prominent feature is a large circular scale with tick marks and numbers ranging from 140 to 260. Other elements include dashed circles, solid circles, and curved arrows, suggesting a technical or scientific theme.

UNBUNDLING UPDATES:

WHAT YOU NEED TO KNOW ABOUT LIMITED SCOPE REPRESENTATION

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LIMITING THE SCOPE

Colo. RPC 1.2(c) grants us the ability to limit the scope and objectives of representation

- Limited appearance representation pursuant to C.R.C.P. 121 § 1-1(5).
- Discrete task representation pursuant to C.R.C.P. 11 (consultation and legal advice, document review, potential drafting, and can include appearance in court under C.R.C.P. 121 § 1-1(5) or at mediation)

WHO IS AN IDEAL UNBUNDLED CLIENT?

- **ALMOST ANYONE**

- ***ETHICS ALERT***

- Remember that the Colorado Rules of Professional Conduct require attorneys to provide competent representation. While you may be "competent," the limited nature of the representation may severely limit your ability to adequately represent certain clients and matters.
- Attorneys may not provide limited scope representation if it is clear the client does not possess the ability to understand the legal advice being offered and apply it appropriately in their case (unreasonable limitation).



- The Best Reason to Unbundle?

DETERMINE AND DOCUMENT SCOPE

- Gather material facts
- Consider whether limitation would be reasonable (Colo. RPC 1.2(c))
- Explain the differences between traditional and limited representation
- Determine whether client can and has provided informed consent (Colo. RPC 1.0)
- Determine exactly which services you will provide
- Require your client to sign a specific engagement agreement
 - Effective Jan 2022, **scope** must also be in writing, in addition to basis for fees. Colo. RPC 1.5(b). Best practice, will now be required.
- It's okay to expand the scope; be sure to document with an addendum!

REMEMBER THE TECHNICAL STUFF

When making a limited appearance in court
per C.R.C.P. 11(b), file and properly serve:

JDF 630 Civil Notice of Limited Appearance;

JDF631 Consent to Represent; and

JDF632 Civil Notice of Completion by Attorney.

DRAFTING PLEADINGS

- Must include attorney name, address, telephone number and registration number.
- In helping to draft, attorney certifies the paper is:
 - (1) well-grounded in fact based upon a reasonable inquiry of the pro se party by the attorney,
 - (2) is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and
 - (3) is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.
- Attorneys may rely on the pro se party's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts.
- Attorneys are not required to disclose their name, contact information, or certification when assisting unbundled clients with filling out preprinted forms and electronic published forms issued through the judicial branch

COMMUNICATE APPROPRIATELY

Colo. RPC 4.2

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

Common Communication Questions

- Am I allowed to talk to an attorney who hasn't entered an appearance but asserts they represent opposing party "unbundled?"
- Can an opposing unbundled attorney participate in mediation if my (represented) client objects?
- Who do I contact about ongoing case issues if Notice of Completion of Limited Appearance has been filed but not yet accepted by the Court clerk?
- Is it ethical for an attorney to withdraw from the case and then assert to me that I must continue to communicate directly with her pursuant to RPC 4.2?
- Is it ethical for an attorney to withdraw, continue to work in the background, and refuse to communicate with me?
- How do you handle a situation where it remains unclear what you can and cannot communicate to the party represented by an unbundled lawyer?

PRO TIPS

Make clear who will have contact with the opposing party/counsel

REMEMBER: Attorney/client relationship is subjective, from the client's perspective

Effective Communication helps!

Request Status Conference if needed

Limited scope of representation does not negate a conflict of interest that would exist under traditional representation. Remember that an attorney may only represent one of the parties involved in litigation. *See Colo. RPC 1.7(a)(1).*

RESOURCES

- Ethics Opinion 101 – So good, it put the “Unbundling Roadshow” out of business!
- ABA Formal Opinion 472
- Metro Volunteer Lawyers Family Law Unbundled Clinic
- CBA’s Modern Law Practice Initiative
- CBA Publication *Practical and Ethical Considerations to Integrating Unbundled Legal Services*