

Colo. Lic. Paraprofe. R. Profe. Cond. 1.5

Rule 1.5 - Fees

(a) An LLP 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 LLP;
- (3) the fee customarily charged in the locality for similar legal services provided by an LLP;
- (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 LLP or LLPs performing the services; and
- (8) whether the fee is flat or hourly

(b) Before or within a reasonable time after commencing the representation, the LLP shall communicate to the client, in writing,

- (1) the basis or rate of the fee and expenses for which the client will be responsible except when the LLP will continue to charge a regularly-represented client on the same basis or rate; and
- (2) the scope of the representation.

The LLP shall communicate promptly to the client in writing any changes in the basis or rate of the fee or expenses.

(c) An LLP shall not enter into an arrangement for, charge, or collect any fee, the payment or amount of which is contingent upon the outcome of the case.

(d) Other than in connection with the sale of an LLP or law practice pursuant to Rule 1.17, an LLP may enter into an arrangement for the division of a fee with another LLP or lawyer who is not in the same firm as the LLP only if:

- (1) the division is in proportion to the services performed by each lawyer or LLP;
- (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 LLP 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 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 LLP shall hold such property separate from the LLP'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 LLP agrees to perform;
 - (ii) The amount to be paid to the LLP 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 LLP 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 LLP 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 LLP has earned all or part of the flat fee, the LLP 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.

FORM FLAT FEE AGREEMENT

The client _____ ("Client") retains _____ ("LLP" [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, LLP will perform the following legal services ("Services"): *[Insert specific description of the scope and/or objective of the representation.]*

II. Flat Fee. This is a flat fee agreement. Client will pay LLP [or Firm] \$ _____ for LLP'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 LLP [or Firm] will devote such time to the representation as is necessary, but the LLP'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: _____

Description of increment: _____ Amount earned: _____

Description of increment: _____ Amount earned: _____

Description of increment: _____ Amount earned: _____

Description of increment: _____ Amount earned: _____

[*Alternatively:* The flat fee will be earned when LLP [or Firm] provides Client with [*specified description of work*].

IV. When Fee Is Payable. Client shall pay LLP [or Firm] [*Select one:* in advance, as billed, or as the services are completed]. Fees paid in advance shall be placed in LLP'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 LLP [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 LLP [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 LLP [or Firm] that would cause LLP [or Firm] to forfeit any fee, or LLP [or Firm] justifiably withdraws in accordance with Rule 1.16 from representing Client, Client shall pay, and LLP [or Firm] shall be entitled to, the fee or part of the fee earned by LLP [or Firm] as described in Section I, above, up to the time of termination. In a litigation matter, Client shall pay, and LLP [or Firm] shall be entitled to, the fee or part of the fee earned up to the time when the court grants LLP'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 LLP [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 LLP [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 LLP for such expenditures [*Select one:* upon receipt of a billing, in specified installments, or upon completion of the Services].

Dated: _____

CLIENT:

LLP [FIRM]:

Signature

Signature

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Amended and Adopted by the Court, En Banc, April 13, 2023, effective 7/1/2023.
