

Rule 244. Protective Appointment of Counsel

Rule 244.1. Relevant Entities

- (a) Supreme Court. The supreme court has plenary authority under this rule. The supreme court has the authority to review any determination made in protective appointment of counsel proceedings and to enter any order in such proceedings.
- (b) Advisory Committee. The Supreme Court Advisory Committee on the Practice of Law (Advisory Committee) is authorized to act with respect to C.R.C.P. 244 in accordance with the powers and duties set forth in C.R.C.P. 242.3(c).
- (c) Regulation Counsel. The Attorney Regulation Counsel (Regulation Counsel) is authorized to act in accordance with the powers and duties set forth in C.R.C.P. 242.5(c) as to protective appointment of counsel proceedings.
- (d) Judicial District Chief Judge. The chief judge of any judicial district in which the lawyer in question maintained an office or in which client files or property are located is authorized to enter orders under this rule, including orders necessary for appointed counsel to carry out appointed counsel's duties.
- (e) Appointed Counsel. Appointed counsel is authorized to act in accordance with this rule and the chief judge's orders. Appointed counsel must be an actively practicing lawyer licensed in Colorado and in good standing.

Rule 244.2. Immunity

- (a) Prohibition Against Lawsuit Based on Communication Under this Rule. A lawyer may not institute a civil lawsuit against any person based on written or oral communications made to relevant entities described in this rule, those entities' members or employees, or persons acting on their behalf.
- (b) Immunity for Entities. All relevant entities described in this rule and all individuals working or volunteering on behalf of those entities are immune from civil suit for conduct in the course of fulfilling their official duties under this rule.

Rule 244.3. Applicability

- (a) This rule applies to lawyers who practice law in Colorado, whether or not admitted to practice law in Colorado, as well as the client property, including files and funds, and related law office management documents and other property, in the possession, custody, or control of those lawyers.
- (b) The Regulation Counsel may seek protective appointment of counsel under this rule when:

- (1) A lawyer:
 - (A) Has died;
 - (B) Has been transferred to disability inactive status;
 - (C) Cannot be located by the Regulation Counsel through the exercise of reasonable diligence; or
 - (D) Is subject to an order of suspension, disbarment, or interim or temporary suspension and the lawyer has not complied with the lawyer's duties under C.R.C.P. 242.32; or
- (2) Other reasons requiring immediate protection of the lawyer's clients are shown.

Rule 244.4. Procedure

- (a) Appointment. The Regulation Counsel may request that the chief judge of any judicial district in which the lawyer maintained an office or in which client property is located appoint counsel under this rule. On receiving such a request, the chief judge may appoint counsel under this rule.
- (b) Scope of Duties. Appointed counsel may obtain and inventory client property, including files and funds; related law office management documents; and other property containing client information. Under the chief judge's supervision, appointed counsel will, as appropriate, provide client property to the appropriate person to the extent practicable; return law firm documents, property, and funds to the appropriate party; take additional steps necessary to discharge the lawyer's obligations under Colo. RPC 1.16(d); destroy remaining inactive or unclaimed client files; and destroy documents that contain confidential client information but are not part of the client's file. If ownership of client funds cannot be determined, appointed counsel will remit the funds to the Colorado Lawyer Trust Account Foundation, consistent with Colo. RPC 1.15B(k).
- (c) Filing Fees. Appointed counsel is entitled to take the actions authorized under this section 244.4 without paying filing fees in district court.
- (d) Client File Retention. Colo. RPC 1.16A (client file retention) does not apply to counsel appointed under this rule.
- (e) Protection of Records. Appointed counsel must not disclose information contained in client files without the consent of the client to whom the files relate, except as necessary or permitted to carry out the court's order appointing counsel or to comply with other law or a court order. Appointed counsel may apply to the chief judge for leave to make limited disclosure of information when necessary for other legitimate purposes.
- (f) Reimbursement. Consistent with applicable authorities, appointed counsel may seek reimbursement of attorney's fees and costs incurred in connection with this rule.