

Mo. Sup. Ct. R. 4-1.4

RULES CURRENT THROUGH October 20, 2020.

MO - Missouri State & Federal Court Rules > SUPREME COURT RULES > RULES GOVERNING THE MISSOURI BAR AND THE JUDICIARY > RULE 4. RULES OF PROFESSIONAL CONDUCT > CLIENT-LAWYER RELATIONSHIP

4-1.4. Communication

(a)A lawyer shall:

- (1)**keep the client reasonably informed about the status of the matter;
- (2)**promptly comply with reasonable requests for information; and
- (3)**consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b)A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

COMMENT

[1]Reasonable communication between the client and the lawyer is necessary for the client effectively to participate in the representation. Rule 4-1.4 (a)(1) requires that the lawyer keep the client reasonably informed about the status of the matter, such as significant developments affecting the timing or the substance of the representation.

Communicating with a Client

[2]The client should have sufficient information to participate intelligently 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. For example, 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 to reject the offer. See Rule 4-1.2 (a). Even when a client delegates authority to the lawyer, the client should be advised of the status of the matter.

[3]Adequacy of communication depends in part 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. In litigation, 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. On the other hand, a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail. The guiding principle 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.

[4]A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. When a client makes a reasonable request for information, however, Rule 4-1.4 (a)(2) requires prompt compliance with the request or, if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected. A lawyer shall promptly respond to or acknowledge client communications to the lawyer.

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[5] Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from diminished capacity. See Rule 4-1.14. When the client is an organization or group, it is often impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily, the lawyer should address communications to the appropriate officials of the organization. See Rule 4-1.13. Where many routine matters are involved, a system of limited or occasional reporting may be arranged with the client.

Withholding Information

[6] In some circumstances, a lawyer may be justified in delaying transmission of information when the client would be likely to react imprudently to an immediate communication. Thus, a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client. A lawyer may not withhold information to serve the lawyer's own interest or convenience or the interests or convenience of another person. Rules or court orders governing litigation may provide that information supplied to a lawyer may not be disclosed to the client. Rule 4-3.4 (c) directs compliance with such rules or orders.

History

Adopted Aug. 7, 1985, eff. Jan. 1, 1986; Amended March 1, 2007, eff. July 1, 2007; Amended Sept. 26, 2017.

Annotations

Case Notes

Criminal Law & Procedure : Counsel : Assignment
 Criminal Law & Procedure : Counsel : Effective Assistance : Pleas
 Legal Ethics : Client Relations : General Overview
 Legal Ethics : Client Relations : Conflicts of Interest
 Legal Ethics : Client Relations : Effective Representation

LexisNexis (R) Notes

Criminal Law & Procedure : Counsel : Assignment

State ex rel. Mo. Pub. Defender Comm'n v. Waters, 370 S.W.3d 592, 2012 Mo. LEXIS 160 (Mo. 2012).

Overview: *A trial court exceeded its authority by appointing a public defender to represent a defendant contrary to caseload limits in Mo. Code Regs. Ann. tit. 18, § 10-4.010 because (1) the Rule was enacted pursuant to an agency's statutory authority, and (2) nothing showed the Rule was invalid or applied improperly, so the public defender had to obey it.*

- The Missouri Supreme Court's rules of professional conduct impose on all counsel an ethical duty to provide effective assistance of counsel to their clients. Mo. Sup. Ct. R. 4-1.1, 4-1.3, 4-1.4. Counsel violates these rules if he or she accepts a case that results in a caseload so high that it impairs his or her ability to provide competent representation, to act with reasonable diligence, and to keep the client reasonably informed. Mo. Sup. Ct. R. 4-1.1, 4-1.3 and 4-1.4. These duties apply not just in relation to new clients, but also to existing clients, so that an attorney's acceptance of a new case violates Mo. Sup. Ct. R. 4-1.7 if it compromises his or her ability to continue to provide effective assistance to his or her other clients. In part,

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Mo. Sup. Ct. R. 4-1.7 provides that a lawyer shall not represent a client if the representation involves a concurrent conflict of interest, which exists if there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client. Mo. Sup. Ct. R. 4-1.7(a)(2). A conflict of interest is inevitably created when a public defender is compelled by his or her excessive caseload to choose between the rights of the various indigent defendants he or she is representing. [Go To Headnote](#)

Criminal Law & Procedure : Counsel : Effective Assistance : Pleas

Frye v. State, 311 S.W.3d 350, 2010 Mo. App. LEXIS 353 (Mo. Ct. App. 2010), transfer denied by 2010 Mo. LEXIS 415 (Mo. June 29, 2010), vacated by, remanded by 132 S. Ct. 1399, 182 L. Ed. 2d 379, 2012 U.S. LEXIS 2321, 80 U.S.L.W. 4253, 23 Fla. L. Weekly Fed. S 198 (U.S. 2012), writ of certiorari denied by 132 S. Ct. 1789, 182 L. Ed. 2d 615, 2012 U.S. LEXIS 2472, 80 U.S.L.W. 3545 (U.S. 2012).

Overview: *Where petitioner was charged with a felony, the State offered to allow him to plead guilty to a misdemeanor, defense counsel failed to communicate the offer to petitioner, and petitioner pled guilty to the felony charge, petitioner was entitled to post-conviction relief under Mo. Sup. Ct. R. 24.035 because counsel provided ineffective assistance.*

- Pursuant to Mo. Sup. Ct. R. 4-1.4 comments one and two, counsel is required to keep a client informed of significant developments in the case, and a lawyer who receives from opposing counsel a proffered plea bargain in a criminal case must promptly inform the client of its substance. [Go To Headnote](#)

Legal Ethics : Client Relations : General Overview

In re Ehler, 319 S.W.3d 442, 2010 Mo. LEXIS 203 (Mo. 2010).

Overview: *Attorney who had previously been disciplined for mishandling of client funds was disbarred after misappropriating client funds for her personal use, that the attorney was going through an acrimonious divorce and experiencing parenting issues did not excuse her misappropriation of client funds.*

- The most important ethical duties are those obligations that a lawyer owes to clients. ABA Standards for Imposing Lawyer Sanctions 423 (1992). Those duties include safekeeping of client property, Mo. Sup. Ct. R. 4-1.15; the duty of diligence, Mo. Sup. Ct. R. 4-1.3 and 4-1.4; the duty of competence, Mo. Sup. Ct. R. 4-1.1; and the duty of candor, Mo. Sup. Ct. R. 4-8.4(c). [Go To Headnote](#)

Legal Ethics : Client Relations : Conflicts of Interest

Gargula v. Bisges (In re Clink), 2013 Bankr. LEXIS 1663 (Bankr. W.D. Mo. Apr. 23 2013), affirmed by 497 B.R. 44, 2013 U.S. Dist. LEXIS 113887 (W.D. Mo. 2013).

Overview: *Bankruptcy court ordered an attorney who represented a Chapter 7 debtor to disgorge \$1,411 in fees he received from the debtor and to pay the debtor's bankruptcy estate three times that amount because he failed to verify information that appeared in debtor's petition and schedules and submitted documents to the court with the intent to mislead it.*

- Mo. Sup. Ct. R. 4-1.3 provides that a lawyer shall act with reasonable diligence and promptness in representing a client, and Mo. Sup. Ct. R. 4-1.4 provides that a lawyer shall keep clients reasonably informed about the status of a matter, promptly comply with reasonable requests for information, and consult with clients about any relevant limitation on the lawyer's conduct when the lawyer knows the client expects assistance not permitted by the Missouri Rules of Professional Conduct or other law. [Go To Headnote](#)

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- The Missouri Supreme Court's rules of professional conduct impose on all counsel an ethical duty to provide effective assistance of counsel to their clients. Mo. Sup. Ct. R. 4-1.1, 4-1.3, 4-1.4. Counsel violates these rules if he or she accepts a case that results in a caseload so high that it impairs his or her ability to provide competent representation, to act with reasonable diligence, and to keep the client reasonably informed. Mo. Sup. Ct. R. 4-1.1, 4-1.3 and 4-1.4. These duties apply not just in relation to new clients, but also to existing clients, so that an attorney's acceptance of a new case violates Mo. Sup. Ct. R. 4-1.7 if it compromises his or her ability to continue to provide effective assistance to his or her other clients. In part, Mo. Sup. Ct. R. 4-1.7 provides that a lawyer shall not represent a client if the representation involves a concurrent conflict of interest, which exists if there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client. Mo. Sup. Ct. R. 4-1.7(a)(2). A conflict of interest is inevitably created when a public defender is compelled by his or her excessive caseload to choose between the rights of the various indigent defendants he or she is representing. Go To Headnote

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Overview: *Attorney who had previously been disciplined for mishandling of client funds was disbarred after misappropriating client funds for her personal use; that the attorney was going through an acrimonious divorce and experiencing parenting issues did not excuse her misappropriation of client funds.*

- Communication with a client is essential to maintain a productive attorney-client relationship. Mo. Sup. Ct. R. 4-1.4 requires a lawyer to keep a client reasonably informed about the status of a matter and to promptly comply with reasonable requests for information. [Go To Headnote](#)
- When a client makes a reasonable request for information, Mo. Sup. Ct. R. 4-1.4 requires prompt compliance with the request. When a prompt response is not feasible, the attorney or the attorney's support staff must acknowledge the information request and inform the client when he or she can expect a thoughtful response. [Go To Headnote](#)

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Benford v. State, 54 S.W.3d 728, 2001 Mo. App. LEXIS 1645 (Mo. Ct. App. 2001).

Overview: *Denial of post-conviction relief was reversed. Defendant had been sentenced to higher term than plea-bargain after committing new offense, yet had not been allowed to withdraw original guilty plea. Suspended counsel was not per se ineffective.*

- Mo. Sup. Ct. R. 4-1.4 requires a lawyer to keep a client reasonably informed about the status of a matter, to promptly comply with reasonable requests for information, and to explain matters to the extent necessary to allow the client to make informed decisions regarding the representation. [Go To Headnote](#)