

New Colorado Ethics Opinion Provides Guidance Regarding Missing Clients

Article By:

Kelly Dickson Cooper

Picture this: you are representing a beneficiary of a trust in heated litigation. The client is committed to the cause, but as time passes, the client stops returning your calls. Despite your best efforts, the client seems to have fallen off the radar screen completely. Late last year, the *Colorado Ethics Committee* provided guidance to attorneys who find themselves in this difficult situation.

Formal Opinion 128 states that if a client has gone missing since the representation began, the lawyer must take reasonable steps to locate the client, and, whenever possible, seek continuances of court deadlines, but still continue their efforts to contact the client. “Reasonable steps” may include hiring a professional investigator, searching public records, and/or contacting family or friends of the client.

The Opinion also states that the lawyer may continue the representation and take “such action as may be necessary in order to prevent immediate prejudice to the client’s interest.” However, if the client cannot be located despite a diligent search within a relatively short period of time, the Opinion provides that the lawyer may be required to withdraw from the representation.

The Opinion does focus heavily on this situation in the insurance defense context, but it does not appear to be limited to that context.

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