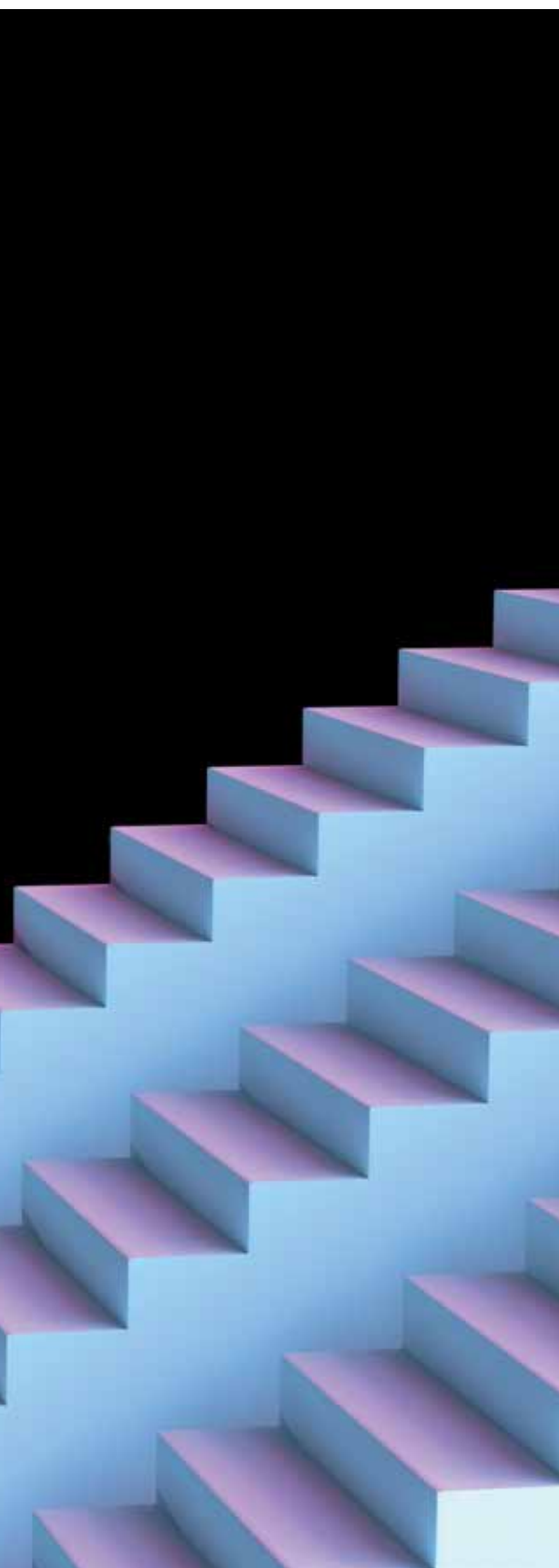


# The 2024 Amendments to CRCP 11(b) and CRCCP 311(b)

Expanding the Scope of Limited  
Legal Services in Civil Proceedings

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*This article discusses how the recent amendments to CRCP 11(b) and CRCCP 311(b) can help narrow the access to justice gap by expanding the scope of limited legal services in civil proceedings.*

On December 19, 2024, the Colorado Supreme Court amended Rule 11(b) of the Colorado Rules of Civil Procedure (CRCP) and Rule 311(b) of the Colorado Rules of County Court Civil Procedure (CRCCP) to conform those rules to the current version of Rule 5(e) of the Colorado Rules of Appellate Procedure (C.A.R.). All of those amendments expand the scope of limited legal services that attorneys are permitted to provide to clients in civil cases in state courts and represent a significant step forward in closing the access to justice gap in Colorado.

Our article on the 2024 amendments to C.A.R. 5(e) in the December issue of *Colorado Lawyer*<sup>1</sup> explored the history of those amendments and discussed their impact on the provision of legal representation to Coloradans who otherwise could not afford to hire an attorney to represent them in their civil appeals. This article summarizes the history of the three sets of amendments, discusses the amendments to CRCP 11(b) and CRCCP 311(b) in detail, and explains how they can help low-income individuals obtain legal representation in their civil cases.<sup>2</sup> Attorneys—and particularly attorneys who lack the time to handle a pro bono case from start to finish—have new opportunities to assist individuals who otherwise could not obtain legal representation.

### **The History of the Amendments to CRCP 11(b) and CRCCP 311(b)**

An informal group of appellate practitioners, access to justice leaders, and court of appeals judges recognized that the narrow scope of the then-current version of C.A.R. 5(e) unnecessarily restricted the limited legal services that attorneys could provide to otherwise self-represented parties in civil appellate proceedings. The group members explored options for expanding the permissible scope of those legal services, knowing that the high cost of legal representation remains a significant barrier to access to

justice. According to a 2022 Colorado Access to Justice Commission report, approximately 98% of defendants in civil county court cases, 40% of litigants in civil district court cases not involving domestic relations, and 75% of parties in domestic relations cases proceeded without counsel.<sup>3</sup>

After investigating the history of C.A.R. 5(e) and researching other states' statutes and rules governing limited legal services, the group drafted proposed amendments to C.A.R. 5(e). Those amendments specified the circumstances under which attorneys providing limited legal services in appeals must enter a limited appearance, when a self-represented party must disclose the assistance of an attorney who did not enter an appearance, and when an attorney may assist a self-represented party without entering an appearance or disclosing the attorney assistance.

The Colorado Supreme Court adopted the amendments to C.A.R. 5(e) on May 16, 2024, effective immediately.

The group then asked the Civil Rules Committee to consider analogous amendments to CRCP 11(b) and CRCCP 311(b) to permit trial attorneys to provide the same type of limited legal services that appellate attorneys are now permitted to provide under the 2024 amendments to C.A.R. 5(e). The committee recommended that the supreme court approve the amendments to CRCP 11(b) and CRCCP 311(b). The court adopted the amendments on December 19, 2024, effective immediately.

### **The 2024 Amendments to CRCP 11(b) and CRCCP 311(b)**

The 2024 amendments to CRCP 11(b) and CRCCP 311(b) closely mirror one another. Similar to the 2024 amendments to C.A.R. 5(e), on which they are based, the amendments to CRCP 11(b) and CRCCP 311(b) establish three categories of limited legal services: those requiring an entry of appearance and withdrawal

at the conclusion of the representation; those requiring disclosure to the court and all other parties of attorney assistance, without the need for an entry of appearance; and those not requiring either a disclosure or an entry of appearance. Those categories are set forth in three new subsections of both CRCP 11(b) and CRCCP 311(b).<sup>4</sup>

#### **Limited Legal Services Requiring an Entry of Appearance and Withdrawal**

The first new subsection of CRCP 11(b) and CRCCP 311(b) says:

An attorney may make a limited appearance for a self-represented party in a civil proceeding if the attorney files and serves with the court and the other parties and attorneys (if any) a notice of the limited appearance prior to or simultaneous with the part(s) of the proceeding for which the attorney appears.

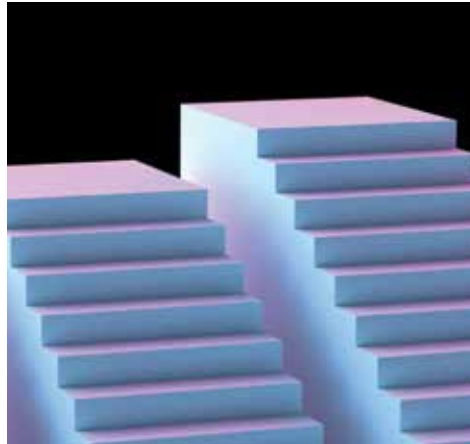
Attorneys can use Judicial Department Forms 630 (Civil Notice of Limited Appearance) and 1334 (Domestic Notice of Limited Appearance) for this purpose in district court cases.

Unlike traditional *unlimited* representation of clients in civil proceedings, which requires that the attorney obtain leave of court if the attorney wishes to withdraw before the conclusion of the case, under CRCP 11(b)(1) and CRCCP 311(b)(1), “[a]t the conclusion of [the] part(s) of the proceeding” for which the attorney agreed to make a limited appearance on behalf of the client, “the attorney’s appearance terminates without the necessity of leave of court, upon the attorney filing a notice of completion of limited appearance.”

In addition, CRCP 11(b)(1) and CRCCP 311(b)(1) specify that “[s]ervice on an attorney who makes a limited appearance for a party will be valid only in connection with the specific part(s) of the proceeding for which the attorney appears.”

#### **Limited Legal Services Requiring Disclosure of Attorney Assistance Without an Entry of Appearance**

The second new subsection of CRCP 11(b) and CRCCP 311(b) allows attorneys to provide drafting assistance to a self-represented party



involved in a civil proceeding without filing an entry of appearance. But the scope of the attorney’s involvement must nonetheless be disclosed to the court and opposing counsel (or the opposing parties if they are unrepresented).

CRCP 11(b)(2) and CRCCP 311(b)(2) provide that “[d]ocuments filed by the self-represented party that were prepared with the drafting assistance of the attorney must include the attorney’s name, address, telephone number, e-mail address, and registration number.” The attorney must provide the self-represented party with “a signed attorney disclosure certification” that the self-represented party must, in turn, file with the court as “an attachment to the document(s).” CRCP 11(b)(2) and CRCCP 311(b)(2) specify that “[t]he certification must indicate whether the attorney provided drafting assistance for the entire document or for specific sections only, and if for specific sections, indicate which sections.”

In addition, CRCP 11(b)(2) and CRCCP 311(b)(2) require that such certifications include the following language:

In helping to draft the document filed by the self-represented party, the attorney certifies that, to the best of the attorney’s knowledge, information, and belief, this document, or specified section(s), is (A) well-grounded in fact based upon a reasonable inquiry of the self-represented party by the attorney, (B) warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and (C) not interposed for any improper purpose, such as to harass or to cause unnecessary delay

or needless increase in the cost of litigation.

Further, CRCP 11(b)(2) and CRCCP 311(b)(2) say that, in providing drafting assistance, the attorney “may rely on the self-represented party’s representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient.” If there is such a reason, “the attorney must make an independent reasonable inquiry into the facts.” An attorney’s violation of CRCP 11(b)(2) and CRCCP 311(b)(2) may, like other violations of CRCP 11(a), “subject the attorney to sanctions provided by C.R.C.P. 11(a).”<sup>5</sup>

Finally, CRCP 11(b)(2) and CRCCP 311(b)(2) make clear that “[p]roviding limited legal services to a self-represented party” under those subsections “does not constitute an entry of appearance by the attorney for purposes of [CRCP 11] and does not authorize or require the service of papers upon the attorney.”

#### **Limited Legal Services Not Requiring an Entry of Appearance or a Certification**

The third new subsection of CRCP 11(b) and CRCCP 311(b) allows attorneys to provide limited legal services to self-represented parties in civil proceedings without the need to file an entry of appearance or a certification.

CRCP 11(b)(3) and CRCCP 311(b)(3) specify three types of assistance that an attorney can provide in a civil proceeding “without satisfying the requirements of subsections (b)(1) and (2) of this rule”:

- assistance in filling out preprinted or electronically published forms that are issued by the judicial branch;
- oral assistance or advice regarding the individual’s case; and
- short-term, pro bono legal assistance that does not create an expectation by either the client or the lawyer that the legal assistance will continue (including assistance offered through a nonprofit or court-sponsored program).

Like CRCP 11(b)(2) and CRCCP 311(b)(2), CRCP 11(b)(3) and CRCCP 311(b)(3) specify that “[p]roviding limited legal services to a self-represented party under this subsection . . . does not authorize or require the service of papers upon the attorney.”

These amendments allow attorneys to support clients more effectively and expressly authorize them to provide the type of limited legal services that volunteer attorneys have historically provided at pro bono clinics.

### **The Provision of Limited Legal Services to a Client Constitutes “Representation”**

As Colorado Rule of Professional Conduct 6.5(a) indicates, providing limited legal services to a client is considered “representation” of the client and implicates the Rules of Professional Conduct governing representation of clients.<sup>6</sup>

To ensure that the client understands the limited scope of the attorney’s representation, any attorney who provides limited legal services to a client under the amendments to CRCP 11(b) or CRCCP 311(b) must comply with Colo. RPC 1.5(b):

Before or within a reasonable time after commencing the representation, the lawyer 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 lawyer will continue to charge a regularly represented client on the same basis or rate; and
- (2) the scope of the representation, except when the lawyer will perform services that are of the same general kind as previously rendered to a regularly represented client.

Similarly, comment 2 to Colo. RPC 6.5 says: “A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client’s informed consent to the limited scope of the representation.” This requirement reduces the likelihood of disputes over the scope of the representation.


### **Benefits of the Amendments to CRCP 11(b) and CRCCP 311(b)**

By expanding the scope of limited representation that attorneys can provide in civil proceedings, the amendments to CRCP 11(b) and CRCCP 311(b) allow attorneys new flexibility in choosing how to meet each client’s needs.

By requiring notices of appearance and completion in engagements covered by CRCP 11(b)(1) and CRCCP 311(b)(1) and certifications in matters addressed in CRCP 11(b)(2) and CRCCP 311(b)(2), those subsections minimize the risk that clients, attorneys, opposing counsel, and courts will be confused regarding the extent and duration of the attorney’s limited representation. The certification requirement promotes transparency and accountability by ensuring that the court and all other parties know that the party filing the certification obtained drafting assistance from an attorney and the identity of that attorney. In sum, the structured approach reflected in the amendments to CRCP 11(b) and CRCCP 311(b) allows attorneys to provide various levels of legal assistance to self-represented parties while maintaining clear boundaries for attorney involvement.

### **Final Thoughts**

Attorneys should familiarize themselves with the amendments to CRCP 11(b) and CRCCP 311(b) and consider how, in light of those amendments, they can provide limited legal

services to clients, including in pro bono cases.<sup>7</sup> We also encourage CLE providers, organizations that assist low-income individuals with their legal matters, and other legal entities throughout the state to provide training on and publicize the amendments, as well as to offer practical guidance on how attorneys can provide limited legal representation to clients in civil proceedings. 



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### **NOTES**

1. Lipinsky de Orlov and Donnelly, “The 2024 Amendments to C.A.R. 5(e): Expanding the Scope of Limited Legal Services in Civil Appellate Proceedings,” 53 *Colo. Law.* 34 (Dec. 2024), <https://cl.cobar.org/features/the-2024-amendments-to-c-a-r-5e>.
2. CRCP 11(b) and CRCCP 311(b) do not apply in criminal proceedings.
3. Colorado Access to Justice Commission, 2022 Access to Justice Commission Pro Bono Report 5, [https://www.coloradoaccesstojustice.org/\\_files/ugd/c659b2\\_ec0faebe44f04021a9137e58f9bf9151.pdf](https://www.coloradoaccesstojustice.org/_files/ugd/c659b2_ec0faebe44f04021a9137e58f9bf9151.pdf).
4. The current versions of CRCP 11(b) and CRCCP 311(b) and the changes from the previous versions of the rule can be found on the Colorado Judicial Branch website at <https://www.coloradojudicial.gov/sites/default/files/2024-12/Rule%20Change%202024%2820%29.pdf> and <https://www.coloradojudicial.gov/sites/default/files/2024-12/Rule%20Change%202024%2821%29.pdf>, respectively.
5. CRCP 11(a) says, in relevant part, “The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.”
6. Colo. RPC 6.5(a) uses the word “representation” in discussing limited legal services provided under that rule. Specifically, the rule references “[a] lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide *continuing representation* in the matter.” (Emphasis added.) There is a material distinction between merely providing individuals with legal *information* at a program such as a clinic and providing legal *advice* at such a program. Only the latter constitutes “representation” for purposes of the Rules of Professional Conduct.
7. For more information on how to volunteer at state and federal civil clinics, which offer opportunities, support, and resources for attorneys interested in providing limited legal services in civil proceedings, visit <https://www.cobar.org/probono>.