

1 **Rule 504. Lawyer - Client.**

2 **(a) Definitions.**

3 (1) "Client" means a person, public officer, corporation, association, or other  
4 organization or entity, either public or private, who is rendered ~~professional~~  
5 legal services by a lawyer or who consults a lawyer ~~with a view to obtaining~~  
6 ~~professional~~ or a lawyer referral service to obtain legal services.

7 (2) "Lawyer" means a person authorized, or reasonably believed by the client to  
8 be authorized, to practice law in any state or nation.

9 (3) "Lawyer referral service" means an organization, either non-profit or for-  
10 profit that is providing intake or screening services to clients or prospective  
11 clients for the purpose of referring them to legal services.

12 (4) "Legal services" means the provision by a lawyer or lawyer referral service  
13 of:

14 (A) professional counsel, advice, direction or guidance on a legal  
15 matter or question;

16 (B) professional representation on the client's behalf on a legal matter;

17 or

18 (C) referral to a lawyer.

19 (5) ~~(3)~~ "Lawyer's representative of the lawyer" means a person or entity  
20 employed to assist the lawyer in a the rendition of ~~professional~~ legal services.

21 (6) ~~(4)~~ "Client's representative of the client" means a person or entity ~~having~~  
22 authority authorized by the client to:

23 (A) to obtain professional legal services for or on behalf of the client;

24 (B) to act on advice rendered pursuant to legal services for or on behalf  
25 of the client; or

26 (C) person or entity specifically authorized to communicate with the  
27 lawyer concerning a legal matter provide assistance to the client that is  
28 reasonably necessary to facilitate the client's confidential communications;

29 or

30 (D) disclose, as an employee or agent of the client, confidential  
31 information concerning a legal matter to the lawyer.

32 (7) ~~(5)~~ "Communication" includes:

33 (A) advice, direction or guidance given by the lawyer, the lawyer's  
34 representative or a lawyer referral service in the course of ~~representing~~  
35 ~~the client~~ providing legal services; and

36 (B) disclosures of the client and the client's representatives to the lawyer  
37 ~~or~~, the lawyer's representatives or a lawyer referral service incidental to  
38 the ~~professional relationship~~ client's legal services.

39 (8) ~~(6)~~ "Confidential communication" means a communication not intended to be  
40 disclosed to third persons other than those to whom disclosure is in furtherance  
41 of rendition of ~~professional~~ legal services to the client or to those reasonably  
42 necessary for the transmission of the communication.

43 **(b) Statement of the Privilege.** A client has a privilege to refuse to disclose, and to  
44 prevent any other person from disclosing, confidential communications if:

45 (1) the communications were made for the purpose of or in the course of  
46 obtaining or facilitating the rendition of professional legal services to the client;  
47 and

48 (2) the communications were ~~between~~:

49 (A) between (i) the client and or the client's representatives and (ii) the lawyer,  
50 lawyers the lawyer's representatives, and lawyers or a lawyer  
51 representing others in matters of common interest;

52 (B) ~~among the client's~~ between clients or clients' representatives lawyers,  
53 lawyer's representatives, and lawyers representing other in as to matters  
54 of common interest but only if each clients' lawyer or lawyer's  
55 representatives was also present or included in the communications; or

56 (C) between (i) the client or the client's representatives and (ii) a lawyer  
57 referral service; or

58 (D) between (i) the client's lawyer or lawyer's representatives and (ii) the  
59 client's lawyer referral service.

60 **(c) Who May Claim the Privilege.** The privilege may be claimed by:

61 (1) the client;

62 (2) the client's guardian or conservator;

- 63 (3) the personal representative of a client who is deceased;
- 64 (4) the successor, trustee, or similar representative of a client that was a
- 65 corporation, association, or other organization, whether or not in existence; and
- 66 (5) the lawyer or the lawyer referral service on behalf of the client.

67 **(d) Exceptions to the Privilege.** Privilege does not apply in the following

68 circumstances:

- 69 (1) Furtherance of the Crime or Fraud. If the services of the lawyer were sought
- 70 or obtained to enable or aid anyone to commit or plan to commit what the client
- 71 knew or reasonably should have known to be a crime or fraud;
- 72 (2) Claimants through Same Deceased Client. As to a communication relevant
- 73 to an issue between parties who claim through the same deceased client,
- 74 regardless of whether the claims are by testate or intestate succession or by inter
- 75 vivos transaction;
- 76 (3) Breach of Duty by Lawyer or Client. As to a communication relevant to an
- 77 issue of breach of duty by the lawyer to the client;
- 78 (4) Document Attested by Lawyer. As to a communication relevant to an issue
- 79 concerning a document to which the lawyer was an attesting witness; or
- 80 (5) Joint Clients. As to the communication relevant to a matter of common
- 81 interest between two or more clients if the communication was made by any of
- 82 them to a lawyer retained or consulted in common, when offered in an action
- 83 between any of the clients.

84

85 **2018 Advisory Note.** – These amendments are limited to the scope of the attorney-

86 client privilege. Nothing in the amendments is intended to suggest that for other

87 purposes, such as application of the Utah Rules of Professional Conduct or principles of

88 attorney liability, an attorney forms an attorney-client relationship with a person merely

89 by making a referral to another lawyer, even if privileged confidential communications

90 are made in the process of that referral.

91

92 Effective November 1, 2018.