

**ATTORNEY-CLIENT PRIVILEGE AND WORK PRODUCT;  
LIMITATIONS ON WAIVER**

The following provisions apply, in the circumstances set out, to disclosure of a communication or information covered by the attorney-client privilege or work-product protection.

**(a) Disclosure Made in a Washington Proceeding or to a Washington Office or Agency; Scope of a Waiver.** When the disclosure is made in a Washington proceeding or to a Washington office or agency and waives the attorney-client privilege or work-product protection, the waiver extends to an undisclosed communication or information in any proceeding only if:

(1) the waiver is intentional;

(2) the disclosed and undisclosed communications or information concern the same subject matter; and

(3) they ought in fairness be considered together.

**(b) Inadvertent Disclosure.** When made in a Washington proceeding or to a Washington office or agency, the disclosure does not operate as a waiver in any proceeding if:

(1) the disclosure is inadvertent;

(2) the holder of the privilege or protection took reasonable steps to prevent disclosure; and

(3) the holder promptly took reasonable steps to rectify the error, including (if applicable) following CR 26(b)(6).

**(c) Disclosure Made in a Non-Washington Proceeding.** When the disclosure is made in a non-Washington proceeding and is not the subject of a court order concerning waiver, the disclosure does not operate as a waiver in a Washington proceeding if the disclosure:

(1) would not be a waiver under this rule if it had been made in a Washington proceeding; or

(2) is not a waiver under the law of the jurisdiction where the disclosure occurred.

**(d) Controlling Effect of a Court Order.** A Washington court may order that the privilege or protection is not waived by disclosure connected with the litigation pending before the court--in which event the disclosure is also not a waiver in any other proceeding.

**(e) Controlling Effect of a Party Agreement.** An agreement on the effect of disclosure in a Washington proceeding is binding only on the parties to the agreement, unless it is incorporated into a court order.

**(f) Definitions.** In this rule:

(1) “attorney-client privilege” means the protection that applicable law provides for confidential attorney-client communications; and

(2) “work-product protection” means the protection that applicable law provides for tangible material (or its intangible equivalent) prepared in anticipation of litigation or for trial.