



THE NATION'S LARGEST DIRECT WRITER OF
LAWYERS' MALPRACTICE INSURANCE

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JOINT REPRESENTATION OF MULTIPLE CLIENTS

Conflicts waivers of all types can be challenging to write because they must be fact specific. This is why generic sample forms are difficult to come by; and yes, this does mean that a client's signature on a standardized generic form should never be viewed as sufficient documentation that you have obtained your client's informed consent. In order to document that you have obtained consent to any conflict of interest, you must thoroughly discuss with your clients, and set forth in writing in the conflict waiver, every specific issue that is causing the conflict. You must also delineate any potential adverse consequences that might arise as a result of the client agreeing to move forward with the conflict in play. You should also include a statement that encourages your clients to seek outside advice as to the advisability of agreeing to waive any conflicts. Finally, if there is a real possibility that conflicts might actually arise down the road, or are actually present at the outset, be sure you give your clients adequate time to decide if they wish to seek outside advice, before you have them sign a conflict waiver.

SAMPLE JOINT REPRESENTATION CONFLICT WAIVER

[Client A] and [Client B] have asked us to jointly represent them in connection with [full description of the scope of representation]. Given that neither they nor we have as of yet detected a basis for a conflict, we would be pleased to agree to do so subject to the following understandings.

Although the interests of both of you in this matter are generally consistent, you both acknowledge that you recognize and understand that differences may exist, or become evident, during the course of our representation. Notwithstanding these possibilities, the two of you have determined that it is in your individual and mutual interests to have a single law firm represent you jointly in connection with this matter.

Potential conflicts of interest that might arise include but are not limited to: [Use "Murphy's Law" to discern and describe all reasonably foreseeable ramifications to each client by their agreeing to joint representation]. In addition, it is possible that a circumstance could arise whereby our continuing with your representation could not occur without it adversely affecting one of you. Should this happen, we will be forced to terminate our representation of you both, and it will be necessary for each of you to hire your own independent lawyers. In light of this possibility, we would recommend that you both seek independent legal advice to determine whether consent to joint representation should be given. Whether or not you do so, however, is up to you.

Accordingly, this confirms your mutual agreement to have us represent you jointly, in connection with the above-described matter. This will also confirm that you both have agreed to waive any conflict of interest arising out of, and that you will not object to, our representation of each of you in the matter described herein. Therefore, you hereby state that you prefer that [Lawyer/Law Firm] jointly represent you in this matter and that you refuse to exercise your right to hire independent lawyers.

Finally, neither of you should assume that anything you say to us will be held in confidence from the other, as we will have a legal and ethical duty to tell the other anything that one of you tells us in confidence; but only if it has any relevancy at all to the legal issues at hand. In fact, failure to reveal such information to the other would be a violation of the joint attorney-client relationship. In other words, your conversations with us are not privileged as between the two of you. If you want independent advice or wish to be able to discuss matters in complete privacy, you both will need separate counsel.

If you need to discuss the terms of this agreement or any related issues, please contact us at your earliest convenience. However, if you agree that the foregoing accurately reflects your understanding, please sign and return the enclosed copy of this agreement.

[Signatures]:

[Name]

[Date]

[Name]

[Date]