

# Don't Let Client Conflicts of Interest Get You DISBARRED!!

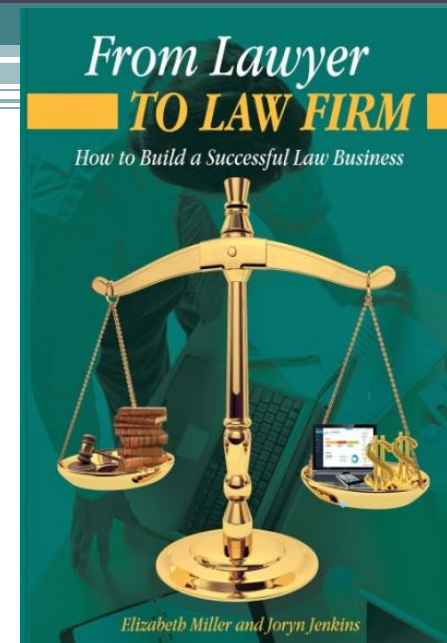
## ***Protect Yourself from Client Conflict of Interest!!***

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# What is a Conflict of Interest?

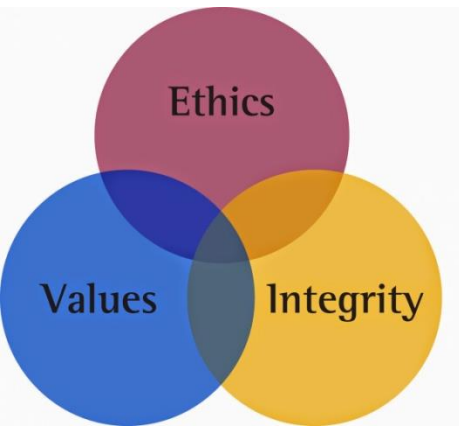
A conflict of interest occurs when a lawyer or firm represents multiple clients whose goals or requests conflict with one another. For example, a conflict of interest would occur if a law firm represented both a company and an individual suing that company. A conflict of interest can occur in a few with several attorneys where one attorney represents a client, and another attorney takes on a client which conflicts with the interests of an existing client.



The ABA Model Rules of Professional Conduct, Rule 1.7 state:

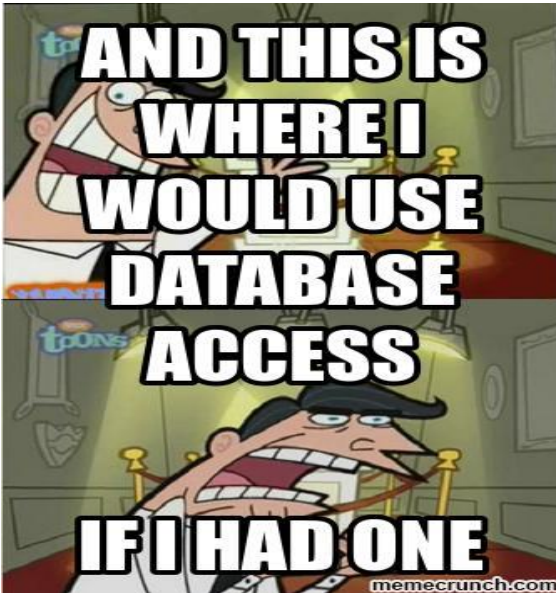
Except as provided in paragraph (b) a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- (1) the representation of one client will be directly adverse to another client; or
- (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.



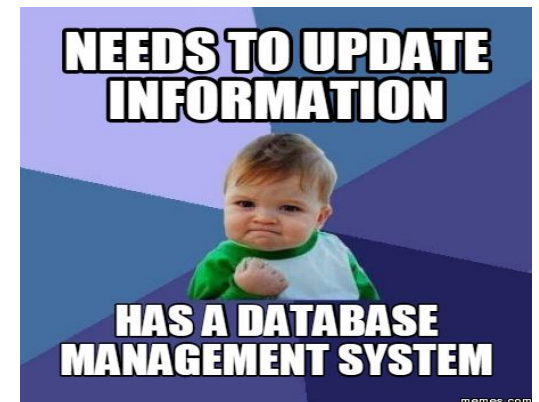
(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent, confirmed in writing.



# How to Avoid a Conflict of Interest

Have an easily searchable electronic database for each case, which will include parties, opposing counsel, Judges and experts as part of the database when doing a conflict check



Be sure to include all contacts in the database whether they are related to a case or not.



Conduct a conflict of interest check at these 3 intervals:

Before the initial consultation;

Before a new file is opened; and

Any time a new party or attorney becomes part of the case

**Interviewing the Client**



Make sure conflict of interest searches are documented in the electronic file. In the event that there is a question at some point during a case concerning a conflict of interest that exists, proof that appropriate conflict checks were performed will be crucial.





# If a Conflict of Interest Exists

If a potential conflict exists, but the parties still want the firm to represent their legal interests, have all parties sign a Notice and Waiver of Conflict of Interest, acknowledging the existence of the conflict and waiving any potential claims of conflict of interest.

# If a Conflict Arises During Representation

If a conflict arises during the representation, advise the client that you need to withdraw because a conflict has arisen. Send the client a Disengagement Due to Conflict of Interest Letter.

# Conclusion

**Conflicts of interest are difficult to navigate. There are guidelines created by the ABA to help attorneys identify and avoid potential conflicts of interest. The consequences that could result against an attorney for violating conflict of interest rules can be as severe as disbarment.**

**Protect yourself with a conflict of interest check for every potential new client or make the client aware of the conflict and get a waiver signed.**

**When in doubt, contact your local bar association ethics hotline for advice.**

# *From Lawyer*

# *TO LAW FIRM*

*How to Start a Law Business*



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Managing the business of practicing law should be as important to the lawyer as the practice of law itself. It is pivotal to the success or failure of a law practice. The lawyer who considers hanging his own shingle cannot appreciate all of the moving parts involved in managing a profitable law practice until he has actually done it. When you do venture out, on your own or in a partnership with others, you soon realize that there is much more to the business of practicing law than you ever expected. Everything about your law firm affects the most important asset that your law firm owns: the attorney/client relationship.

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