

## **Sample Letters**

### **Disclaimer**

The following sample letters are to be used as a guide or example, and must be adjusted to suit your client's needs. Lawyers Mutual Insurance Company of Kentucky hereby disclaims any and all responsibility or liability that may be asserted or claimed arising from, or claimed to have arisen from, reliance upon the use of any of these samples by any person.

### **Sample Letters And Optional Paragraphs**

The basis for the following sample letters and optional paragraphs are taken from a variety of sources to include the state bars of California and Wisconsin, and several Internet risk management websites. They have been edited as necessary to better accommodate Kentucky practice.

## **Conflict of Interest Waiver Sample Letters**

Conflicts issues are fact specific. For that reason a sample letter can only be a guide to begin crafting an appropriate waiver letter for a given matter. To consent to a conflict of interest, clients must discuss with the attorney the specific issues causing the conflict and potential adverse consequences of a waiver to the client. The same is true for a client's consent to disclosure of confidential and attorney-client privileged information. A universal form simply cannot provide the kind of detailed information that is required for a client to be adequately informed in making a waiver of a conflict of interest or confidentiality. A client's signature on a blanket form letter should never be construed to constitute an adequate, informed waiver. If you have questions about conflicts waivers, you should contact the KBA Ethics Hotline.

*Milwaukee Bar Association  
Professionalism Committee*

**1. Sample Husband And Wife Waiver Of Conflict Letter (*Preparation of Estate Planning*)**

Date

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Re: Estate Planning

Dear Mr. and Mrs. [Client]:

You have retained us to perform estate planning services for you. Those services will include a review of your assets and liabilities, meeting with you to determine your financial and estate planning objectives, and the preparation of various documents, which may include Wills, Trusts, and possibly a Marital Agreement governing your relative rights in each other's property during lifetime and/or at death.

Although you share a common interest in developing an estate plan, you should also understand that our estate planning recommendations may affect your relative interests differently. Any agreement materially affecting the classification of your property under the Wisconsin Marital Property Act may have disproportionate consequences to each of you. Although we will attempt not to act as advocate for one of you in connection with your estate planning to the detriment of the other, that objective may not be possible to attain in an absolute sense. In other words, one or the other of you may receive relatively greater benefits under the recommended marital agreement than you would in the absence of an agreement. Furthermore, it obviously will not be possible for us to maintain the confidentiality of information relating to your estate planning as between the two of you. Accordingly, our representation of both of you creates a conflict of interest of which you should be aware.

On the other hand, dual representation in circumstances such as these may be far more economical than for you each to retain separate counsel to develop an estate plan. In addition, your overall estate planning may be better coordinated by dual representation.

It is our present belief that, under existing circumstances, we can represent both of you without adversely affecting our attorney-client relationship with either of you. Nevertheless, you each should feel free to seek independent counsel if you prefer so that your respective interests are independently represented and any confidences are preserved.

If you wish for us to represent both of you, please execute the enclosed Consent to Dual Representation and return it to me for my records.

Very truly yours,

Consent to Representation Despite Conflicts

I have reviewed the above, and I realize that there are many areas of differing interests, as well as potential or real conflicts of interest between my husband and me in connection with our estate planning and related matters. I understand that, at any time, either my husband or I may have separate, independent counsel in connection with these matters. After considering all of the above, I request that you and your firm represent me in my estate planning and related matters. I also understand that, as between each of us and you and your firm, confidential communications you receive from either of us may be shared with the other; however, as to third parties, you will maintain our confidences.

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[Wife]

I have reviewed the above, and I realize that there are many areas of differing interests, as well as potential or real conflicts of interest between my wife and me in connection with our estate planning and related matters. I understand that, at any time, either my wife or I may have separate, independent counsel in connection with these matters. After considering all of the above, I request that you and your firm represent me in my estate planning and related matters. I also understand that, as between each of us and you and your firm, confidential communications you receive from either of us may be shared with the other; however, as to third parties, you will maintain our confidences.

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[Husband]

*Michigan Bar*

## **2. Conflict Waiver -- Joint Representation Of Multiple Clients**

You have asked us to represent you [Client A] and [Client B] jointly in connection with [full description of matter]. We would be pleased to do so, subject to the following understandings.

Although the interests of [Client A] and [Client B] in this matter are generally consistent, it is recognized and understood that differences may exist or become evident during the course of our representation. Notwithstanding these possibilities, [Client A] and [Client B], have determined that it is in their individual and mutual interests to have a single law firm represent them jointly in connection with [full description of matter]. Potential conflicts of interest, including but not limited to: \_\_\_\_\_, \_\_\_\_\_, etc...

Accordingly, this confirms agreement of [Client A] and [Client B] that we may represent them jointly in connection with the above-described matter. This will also confirm that [Client A] and [Client B] have each agreed to waive any conflict of interest arising out of, and that you will not object to, our representation of each other in the matter described herein.

It is further understood and agreed that we may freely convey necessary information provided to us by one client to the other, and that there will be no secrets as between [Client A] and [Client B] unless both of you expressly agree to the contrary.

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