

Tip of the Month

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Conflicts Check Tip

As lawyers, we often look forward to the next client and the next case. However, in our rush to entertain a new business opportunity, a proper conflicts check may be neglected.

Rule 1.7 of the ABA Model Rules of Professional Conduct states that "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 the personal interest of the lawyer."

The key to properly avoiding conflicts is to have a robust conflicts check policy and consistently apply it. Today's sophisticated billing software allows you to run party names to reveal any conflict or prior representation of the parties. Now that nearly all case filings are done electronically, you can confirm your conflicts check by checking case filings in your local jurisdiction. (This may even help you avoid an unsavory client!) Finally, circulate a conflicts check around your firm with a twenty-four hour response deadline. You may not know who your partners have represented in the past. Or, perhaps they have already spoken to the opposing party in your potential case.

Make sure your staff is able to implement the policy to properly screen potential clients before you speak to them. This saves you time, and more importantly, may protect an existing client relationship. By not taking a call or meeting with a potential client in which you learn confidential information about the case, you could still represent your current client without being conflicted out.

Though it may seem tedious, the obligation to perform a proper conflicts will save you time, money, and client relationships.

Looking for more conflicts of interest guidance?
Visit <https://attorneyprotective.com/cle-webinars> to register for a free webinar on conflicts of interest on June 14, 2023.