

SAMPLE

**CHECKLIST 1—MULTIPLE CURRENT CLIENT
CONFLICT DISCLOSURE AND CONSENT (See MRPC 1.7)**

1. Do You Have Two or More Current Clients?

- If “yes,” proceed to question 2.
- If “no,” disclosure and consent is not required, but consider sending “nonengagement” letters. Also consider whether, if a former client is involved, the former client rules may apply. If so, proceed to the “former client conflict disclosure and consent checklist.”

2. Are the Clients’ Interests Directly Adverse? (For example, are they buyer and seller in the same transaction; multiple criminal defendants, divorcing spouses, or the like?)

- If “yes,” the conflict is not waivable; you may not undertake the representation.
- If “no,” proceed to question 3.

3. Are the Clients’ Interests Currently Aligned?

- If “yes,” proceed to question 4.
- If “no,” consider whether the areas where their interests are not aligned may be isolated outside your representation and separately agreed upon by them. If they can, proceed to question 4; if not, you may not undertake the representation.

4. Client Consent After Consultation Necessary?

- The answer to this question is always “yes;” even if no conflict is present and none is foreseeable, it is better to go through the process now, and update later if necessary. It is also highly recommended that the consent be confirmed in writing. Go to question 5.

5. Have You Discussed the Conflict Issues with All of the Clients?

- If “yes,” proceed to question 6.
- If “no,” proceed to question 6, but consider discussing the issue with your client(s) in person and if they consent, confirming the consent in a follow-up letter, or better yet, obtaining written consent from the client.

6. Have You Prepared and Sent the Letters timely?

- If “yes,” proceed to question 7.
- If “no,” your consent may be invalid.

7. Does Your Letter Plainly and Clearly Identify the Clients, the Issues Involved, and the Terms of the Consent That Is Sought?

- If “yes,” proceed to question 8.
- If “no,” your consent may not be consistent with what you think it is.

8. Does Your Letter Identify How the Clients’ Interests Are Or May Be Different And Adverse?

- If “yes,” proceed to question 9.
- If “no,” work on the letter some more and repeat this question.

9. Does Your Letter Discuss the Effects Multiple Client Representation May Have on Attorney-Client Privilege?

- If “yes,” proceed to question 10.
- If “no,” work on the letter some more and repeat this question.

10. Does Your Letter Recommend That Each Client Seek Independent Counsel to Determine If Consent Should Be Given?

- If “yes,” proceed to question 11.
- If “no,” work on the letter some more and repeat this question.

11. Are All Necessary Parties Sent a Letter, and Does it Include a Place for the Client to Sign the Consent and Return it to You? (Written consent by the client is not required at this time but it is highly advisable.)

- If “yes,” proceed to question 12.
- If “no,” work on the letter some more and repeat this question.

12. If There Are Special Issues That Are Part of the Consent (Such as Limitations on the Scope of Your Representation, Who Will Work on the Matter, and Future Waivers), Are Those Discussed in the Letter?

- If “no,” work on the letter some more and repeat this question.