

MILWAUKEE BAR ASSOCIATION

PROFESSIONALISM COMMITTEE

STANDARD FORM LETTER # 4

**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,

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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.

[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.

[Husband]

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