

CHECKLIST FOR PERSONAL INJURY DISCLOSURE AND CONSENT LETTERS

YES	NO	ITEM
		1. Is the proposed representation consistent with the lawyer's mandatory ethical obligations?
		2. Are the clients (and any non-clients ¹) clearly and expressly identified by name?
		3. Are the matters on which the lawyer proposes to represent one or more clients clearly described?
		4. Are any known or anticipated adverse parties clearly identified?
		5. If consent is being sought because of work that the lawyer has previously done for others who will not be clients in the matter at hand (e.g., a lawyer who proposes to represent a plaintiff in personal injury litigation against a former client):
		a. Is that other work and the lawyer's relationship to that client fairly and clearly described?
		b. Is the presence or absence of any interrelationship or connection between the proposed work and the previous work fairly and clearly described?
		c. Is the presence or absence of any risk of adverse disclosure of any confidential client information fairly and clearly described?
		d. Does the letter fairly and clearly discuss any potential limitations on the lawyer's eagerness or zealousness because of the fact that a given lawyer or law firm will be acting for a current client and against a former client, albeit on unrelated matters?
		6. If consent is being sought because the lawyer proposes to represent multiple plaintiffs or multiple defendants in a particular matter:
		a. Is this fact clearly stated?
		b. Are the potential effects of joint representation on attorney-client privilege fairly and clearly explained?
		c. If the lawyer's willingness to proceed is based on assurances from the clients to the effect that there is no present or anticipated conflict between them, does the letter document all such assurances and call upon the client to inform the lawyer at once if the lawyer is mistaken in any respect?
		d. Does the letter fairly and clearly describe any risks that the interests of the multiple plaintiffs or defendants may diverge in the future?

¹ Non-clients to whom the lawyer may have spoken about possible representation and any others who may have cause to think that the lawyer is looking after their interests should be sent nonrepresentation letters.

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		e. Does the letter fairly and clearly discuss any potential effects on the lawyer's eagerness or zealousness because of the multiple representation?
		f. Does the letter fairly and clearly describe what the lawyer will or may do if the conflict escalates or turns into an actual (nonwaivable) current client conflict?
		7. Does the letter explain any potential for extra costs or fees if the lawyer is forced to withdraw in mid-matter?
		8. Does the letter explain any potential extra costs or fees once the claim has been filed, a trial or ADR is in progress, and/or the claim is appealed?
		9. Does the letter fairly and clearly discuss any other reasons known to the lawyer why the client might not wish to consent?
		10. Does the letter state that the client should consider these matters for himself/herself because of the potential for conflict on the lawyer's part?
		11. Is the letter written in simple language rather than in legalese?
		12. Does the letter state that the lawyer recommends that the client consult independent counsel prior to consenting?
		13. Does the letter ask the clients to express their consent by signing an enclosed extra copy of the letter and returning it to the lawyer for the lawyer's files?
		14. When all is said and done, does the lawyer subjectively and reasonably believe that any clients whose consent is sought will understand both what is being requested and the nature of any potential pros and cons?
		15. When all is said and done, does the lawyer subjectively and reasonably believe that what is being requested in the letter is both fair and consistent with each client's interests?
		16. Are letters being sent to all affected current clients?
		17. Are there any former clients to whom disclosure and consent letters must be sent?
		18. If any concerns remain, have you contacted the OSB General Counsel's office for ethics advice?

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IMPORTANT NOTICES

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