ETHICS IN ESTATE PLANNING, ADMINISTRATION, AND LITIGATION

BY:

MICHAEL W. MILONE

KOUKOL & JOHNSON, LLC
ATTORNEYS AT LAW
12020 SHAMROCK PLAZA, SUITE 333
OMAHA, NE 68154
(402) 934-9499

PRESENTED ON
NOVEMBER 15, 2018

V. Ethics in Estate Planning, Administration, and Litigation, prepared and presented by Michael W. Milone

1. Introduction – Rules, Opinions, and Cases, Oh My!

Because Nebraska has adopted a version of the Model Rules of Professional Conduct ("the Rules"), most ethical issues in estate planning, administration, and litigation cases can be resolved directly by reviewing the Rules and applicable comments to the Rules ("the Comments"), without resorting to other sources. In some instances, ethical questions can be resolved by reviewing specific cases decided by Nebraska's Counsel for Discipline or by published opinions from Nebraska's Lawyers' Ethics Advisory Committee ("the Committee"). The sections below will therefore focus on the Rules as the first and best place to answer ethical questions about estate planning and estate litigation cases in Nebraska. Where the Rules do not obviously resolve an ethical question, or where a question is especially complex, the sections below will examine specific disciplinary cases or advisory opinions that provide relevant guidance to practitioners. A few of the Committee's advisory opinions cited in the sections below are also included at the end of this material for your convenience.

2. Diminished Mental Capacity - Dealing Legally and Ethically with Aged, Disabled, Incapacitated, and Vulnerable Clients

Estate practitioners of all stripes recognize the inevitable reality and fundamental need to serve clients with diminished mental capacity. The Rules are the touchstone for determining the propriety of attorney conduct in the context of the lawyer-client relationship under Nebraska law, including in the context of estate planning, administration, and litigation.

The lawyer-client relationship is largely defined by the scope of an attorney's representation of his or her client. Generally, "a lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation."[1] This language is

[1] Neb. Ct. R. of Prof. Cond. § 3-501.2(a) (rev. 2008).

essential in determining the extent to which a lawyer's actions on a client's behalf are appropriate within the context of the *purpose* of the representation sought by the client.

An appropriate lawyer-client relationship requires effective communication between an attorney and a represented party. "The guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests, and the client's overall requirements as to the character of representation."[2] "Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from diminished capacity. See Rule 1.14."[3] Thus, Nebraska law provides special rules that govern the lawyer-client relationship in the case of clients with diminished capacity.

Nebraska law generally attempts to preserve the ordinary lawyer-client relationship for clients with diminished capacity whenever possible: "When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client."[4] Where clients cannot take protective legal measures themselves, Nebraska law instructs lawyers to take such measures on behalf of their clients: "When the lawyer reasonably believes that the client has diminished capacity . . . the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian."[5] In cases of severe incapacity, unique problems may arise: "maintaining the

[2] Neb. Ct. R. of Prof. Cond. § 3-501.4 cmt. 5 (rev. 2008).
[3] Neb. Ct. R. of Prof. Cond. § 3-501.4 cmt. 6 (rev. 2008).
[4] Neb. Ct. R. of Prof. Cond. § 3-501.14(a) (rev. 2008).
[5] Neb. Ct. R. of Prof. Cond. § 3-501.14(b) (rev. 2008).

ordinary client-lawyer relationship may not be possible in all respects. In particular, a severely incapacitated person may have no power to make legally binding decisions."[6]

It may be difficult to determine, in some instances, which protective actions are warranted when representing a client who is unable to communicate his or her express wishes. This problem may arise in cases involving clients with significant neuro-cognitive impairments like Alzheimer's disease, traumatic brain injury, aphasia, paranoia, or schizophrenia. The Nebraska Rules of Professional Conduct provide some guidance here:

> [P]aragraph (b) permits the lawyer to take protective measures deemed necessary. Such measures could include: consulting with family members, using a reconsideration period to permit clarification or improvement of circumstances, using voluntary surrogate decision making tools such as durable powers of attorney or consulting with support groups, professional services, adult-protective agencies or other individuals or entities that have the ability to protect the client. In taking any protective action, the lawyer should be guided by such factors as the wishes and values of the client to the extent known, the client's best interests and the goals of intruding into the client's decision-making autonomy to the least extent feasible, maximizing client capacities and respecting the client's family and social connections.[7]

In this way, Nebraska law permits lawyers to consider a client's best interests in representation through the lens of capacity, autonomy, and sociability even though a client may be unable to communicate his or her expressed wishes.

The idea that a client unable to communicate with his lawyer can still be represented effectively by counsel in legal proceedings is reinforced by the Restatement of the Law Governing Lawyers:

> A lawyer representing a client with diminished capacity . . . and for whom no guardian or other representative is available to act, must, with respect to a matter within the scope of the representation, pursue the lawyer's reasonable view of the

[6] Neb. Ct. R. of Prof. Cond. § 3-501.14 cmt. 1 (rev. 2008).
[7] Neb. Ct. R. of Prof. Cond. § 3-501.14 cmt. 5 (rev. 2008).

> client's objectives or interests as the client would define them if able to make adequately considered decisions on the matter, even if the client expresses no wishes or gives contrary instructions.[8]

The Restatement further provides that it is generally appropriate to seek appointment of a guardian or take other protective actions on behalf of a client with diminished capacity, in line with Nebraska law: "A lawyer representing a client with diminished capacity . . . may seek the appointment of a guardian or take other protective action within the scope of the representation when doing so is practical and will advance the client's objectives or interests."[9] The Nebraska Supreme Court recently weighed in on these issues, finding that a court-appointed attorney for a disabled adult acted properly by seeking appointment of a guardian for the client, even though the lawyer was unable to communicate with him.[10]

Practical Pointer: To navigate problems involving a client's diminished capacity, estate practitioners should first do as much as possible to understand the client's wishes, desires, care goals, and existing estate plan. This will usually include a diligent search for the client's estate planning documents, consulting with the client's friends and family to understand the client on a personal level, reviewing relevant medical records, and speaking to the client's closest and most frequent care providers. After gathering information to understand a client's life, personality, and wishes, practitioners should adopt and carry out the least restrictive means necessary for protecting the client's interests. In simple cases, this may be accomplished by helping the client draft documents that preserve their estate plan and give decision making authority to the people they trust, including a power of attorney[11] or temporary delegation of parental delegation of parental powers.[12] In complex cases, this may require seeking a temporary or permanent guardianship or conservatorship,[13] requesting reports from a court-appointed *guardian ad*

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[8] Restatement (Third) of Law Governing Lawyers § 24(2) (2000).
[9] Restatement (Third) of Law Governing Lawyers § 24(4) (2000).
[10] *In re Guardianship of Benjamin E.*, 289 Neb. 693, 856 N.W.2d 447 (2014).
[11] *See* Neb. Rev. Stat. §§ 30-3401 to 3432 and 30-4001 to 4045 (Reissue 2016).
[12] *See* Nebraska Form DC 6:10(1): Temporary Delegation of Parental Powers (rev. May 2016) (available at https://supremecourt.nebraska.gov/self-help/families-children/temporary-delegation-parental-powers).
[13] *See* Neb. Rev. Stat. §§ 30-2617 to 2661 (Reissue 2016).

litem or visitor,[14] or seeking appointment of a Public Guardian.[15] But as Nebraska law and the Restatement make clear, practitioners should at all times tailor their efforts to maximizing the client's participation in the lawyer-client relationship to maintain autonomy.

3. Lawyers Acting as Fiduciaries – Don't Lie, Don't Cheat, and Don't Steal

The Rules make all Nebraska lawyers fiduciaries with the duty to safeguard a client's money and property.[16] This duty is multifaceted and requires lawyers to do at least the following: (1) keep a client's property separate from the lawyer's own property, including maintaining separate accounts for client and lawyer funds;[17] (2) deposit into a client trust account legal fees and expenses that have been paid in advance;[18] (3) notify a client upon receiving funds or other property in which a client or third person has an interest, then account for and deliver such property to the client or third person entitled to receive it;[19] and (4) protect and preserve property in the lawyer's possession in which two or more persons claim an interest.[20] The Comments clarify that the lawyer's duty to safeguard and account for a client's property is the same as that required of "a professional fiduciary."[21] On the other hand, the Comments forbid lawyers from withholding a client's property to coerce a client in the context of an attorney fee or third party dispute.[22]

Nebraska law provides general principles governing an attorney's behavior when acting in a fiduciary capacity, including the baseline expectation that an attorney must take reasonable steps to protect property under fiduciary control.[23] In most instances, an attorney will be required to comply with the "prudent investor rule"; but even when not

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[14] *See* Neb. Rev. Stat. § 30-4201 to 4210 (Reissue 2016).
[15] *See* Neb. Rev. Stat. §§ 30-4101-4118 (Reissue 2016).
[16] Neb. Ct. R. of Prof. Cond. § 3-501.15 (rev. 2008).
[17] Neb. Ct. R. of Prof. Cond. § 3-501.15(a) (rev. 2008).
[18] Neb. Ct. R. of Prof. Cond. § 3-501.15(c) (rev. 2008).
[19] Neb. Ct. R. of Prof. Cond. § 3-501.15(d) (rev. 2008).
[20] Neb. Ct. R. of Prof. Cond. § 3-501.15(e) (rev. 2008).
[21] Neb. Ct. R. of Prof. Cond. § 3-501.15 cmt. 1 (rev. 2008).
[22] Neb. Ct. R. of Prof. Cond. § 3-501.15 cmt. 3-4 (rev. 2008).
[23] Neb. Rev. Stat. §§ 30-3871 and 3874 (Reissue 2016).

required, this is a sound rule by which a lawyer can objectively judge their actions.[24] The rule requires a lawyer to "invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution."[25] The prudent investor rule embraces a "big picture" approach to evaluating and protecting a beneficiary's assets, rather than focusing on assets in isolation,[26] by providing a list of factors fiduciaries should consider when making financial decisions.[27] A lawyer acting in a fiduciary capacity and under the prudent investor rule must make a prompt analysis of these factors within a "reasonable time" after accepting a fiduciary role.[28] Fiduciaries are typically responsible for things like properly insuring the property within their fiduciary control in a reasonable time.[29] And attorneys acting as fiduciaries are generally *required to make full disclosure* of the facts within their knowledge that are material for beneficiaries to know to protect their interests.[30]

So, you ask: what happens if I break these rules? I still get to be a lawyer, right? The answer is brief and unsurprising: bad things happen, and in many cases you will not be a lawyer for long. The Nebraska Supreme Court does not like lawyers who lie, cheat, and steal, especially when it comes to lying to, cheating, and stealing from clients.

In one recent case, the Nebraska Supreme Court reminded practitioners of its distaste for a lawyer's dishonesty in his fiduciary capacity as caretaker of a client's trust funds.[31] In *Nimmer*, Nebraska's Counsel for Discipline alleged that a lawyer ("Nimmer") violated Nebraska's Rules and his oath of office as an attorney by commingling client trust funds with his personal funds for more than a decade. During an independent SEC

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[24] Neb. Rev. Stat. § 30-3201 (Reissue 2016); *see also* Neb. Rev. Stat. § 30-2209(16) (Reissue 2016).
[25] Neb. Rev. Stat. § 30-3884(a) (Reissue 2016).
[26] Neb. Rev. Stat. § 30-3884(b) (Reissue 2016).
[27] Neb. Rev. Stat. § 30-3884(c) (Reissue 2016).
[28] Neb. Rev. Stat, § 30-3886 (Reissue 2016).
[29] Amy M. Hess, *Bogert's Trusts and Trustees* §§ 582 and 599 (June 2017 Update); Restatement (Second) of Trusts § 176 (1959).
[30] *Rettinger v. Pierpont*, 145 Neb. 161, 15 N.W.2d 393 (1944); *Johnson v. Richards*, 155 Neb. 552, 52 N.W.2d 737 (1952); Neb. Ethics Advisory Op. for Lawyers No. 14-02 at 5 (1974).
[31] *State ex. Rel. Counsel for Dis. v. Nimmer*, 300 Neb. 906, ___ N.W.2d ___ (Aug. 31, 2018).

investigation into Nimmer's trust account records, the agency discovered Nimmer wrote numerous checks for "personal expenses, ranging from rent and child support to dog boarding and landscaping fees."[32] The SEC forwarded these records to Nebraska's Counsel for Discipline, who later subpoenaed Nimmer's trust records and filed formal charges against Nimmer focusing on his violation of Neb. Ct. R. of Prof. Cond. § 3-501.15.[33]

Nimmer then made a grave mistake – he challenged the Counsel for Discipline by moving to dismiss the formal charges against him on the grounds of constitutional due process and separation of powers violations.[34] Nimmer later testified as the only witness in his formal disciplinary proceedings, admitting that he commingled personal funds with client trust funds, but claiming that he commingled funds "in good faith" and that commingling is not actually prohibited by the Rules.[35] The referee appointed to decide Nimmer's formal charges found he violated the Rules and his oath and recommended a 2-year suspension from the practice of law.[36] Not sensing the clear and present danger to his license, Nimmer appealed from the referee's decision directly to the Nebraska Supreme Court.[37] The Nebraska Supreme Court rejected the referee's proposed sanction, reminded everyone that "ignorance of the law is no excuse," and disbarred Nimmer.[38] In its review of the factors supporting disbarment the Nebraska Supreme Court stated:

> Nimmer has challenged this court's authority to discipline him and repeatedly tried to prevent consideration and review of his client trust account records. While lawyers facing disciplinary charges should not be discouraged in any way from mounting a vigorous defense, some of the legal positions advanced by Nimmer in this proceeding border on the frivolous and reflect an attitude which bears

[32] *Id*. at 910.
[33] *Id*. at 910-11.
[34] *Id*. at 912-13.
[35] *Id*. at 914-15.
[36] *Id*. at 915-918.
[37] *Id*. at 919.
[38] *Id*. at 927-28, 936.

> negatively on his willingness to conform his conduct to the Nebraska Rules of Professional Conduct.[39]

Thus, though the Nebraska Supreme Court recognized the potential chilling effect of its decision, it nonetheless encouraged practitioners to know and live out the Rules while being transparent about possible Rule violations.

Practical Pointer: The Nebraska Supreme Court has repeatedly emphasized in its case law that one of the easiest ways for an attorney to be disbarred is for that attorney to misuse client funds. *Nimmer* is just one more reminder of this universal truth. The wisdom from *Nimmer* applies just as strongly to attorneys acting in other fiduciary roles, including as guardians, conservators, and personal representatives. Regardless of temptation or need, attorneys acting as fiduciaries must remember that *a client's money is not their money*. A fiduciary has the constant duty to account for what comes into and what goes out of that fiduciary's control. If a lawyer acting as a fiduciary fails to properly account, or if that accounting shows any inappropriate commingling, the lawyer acts at his peril.

4. Handling Potential Conflicts of Interest in Estate Planning, Administration, and Litigation

Estate planning, administration, and litigation practitioners should all be generally familiar with Nebraska's Rules prohibiting conflicts of interest among current clients.[40] In all cases, practitioners shall not represent a client if the representation is directly adverse to another client[41] or will be materially limited by responsibilities to another client or the lawyer's personal interests.[42] Practitioners may obtain a client's consent to a conflicted representations in limited cases where the lawyer establishes 4 elements: (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client; (2) the representation is not prohibited by law; (3) the representation does not involve the assertion of a claim by one client against

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[39] *Id*. at 931-32.
[40] Neb. Ct. R. of Prof. Cond. § 3-501.7 (rev. 2008).
[41] Neb. Ct. R. of Prof. Cond. § 3-501.7(a)(1) (rev. 2008).
[42] *Id*. at (a)(2).

another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and (4) each affected client gives informed consent, confirmed in writing.[43]

The Comments specifically address some situations in which conflicts may arise in estate planning and administration:

> A lawyer may be called upon to prepare wills for several family members, such as husband and wife, and, depending upon the circumstances, a conflict of interest may be present. In estate administration the identity of the client may be unclear under the law of a particular jurisdiction. Under one view, the client is the fiduciary; under another view the client is the estate or trust, including its beneficiaries. In order to comply with conflict of interest rules, the lawyer should make clear the lawyer's relationship to the parties involved.[44]

Practitioners should carefully consider whether the conflict at issue in each case is one that can reasonably be waived by a client or clients.[45] This may be one avenue for avoiding conflict and disqualification problems where the lawyers or parties involved are interacting well together; but conflict waivers are not always possible or reasonable.[46] See the materials at the end of this section for a sample waiver of client conflicts in situations where clients may reasonably waive a conflict that exists in a representation.

There are also limited special conflicts that may affect estate planning and litigation practitioners.[47] For example, Nebraska's Rules generally prohibit lawyers from soliciting or receiving testamentary gifts from unrelated clients:

> A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift unless the lawyer or other recipient of the gift is related to the client. For purposes of this paragraph, related persons include a spouse, child, grandchild, parent, grandparent or other relative

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[43] Neb. Ct. R. of Prof. Cond. § 3-501.7(b) (rev. 2008).
[44] Neb. Ct. R. of Prof. Cond. § 3-501.7 cmt. 27 (rev. 2008).
[45] *See* Neb. Ct. R. of Prof. Cond. § 3-501.7 cmts. 14-17 (rev. 2008).
[46] *See* Neb. Ct. R. of Prof. Cond. § 3-501.7 cmts. 28-30 (rev. 2008).
[47] Neb. Ct. R. of Prof. Cond. § 3-501.8 (rev. 2008).

or individual with whom the lawyer or the client maintains a close, familial relationship.[48]

This rule does not absolutely prohibit a lawyer from receiving a gift from a client. But lawyers must understand that such a gift may be voidable, and that the lawyer should recommend the client obtain independent advice from alternate counsel before accepting the gift.[49]

The Committee has previously addressed situations in which one lawyer attempts to represent multiple parties with conflicting interests in estate administration proceedings.[50] In Advisory Opinion No. 74-10, the Committee confronted a case where a mother, son, and daughter-in-law were jointly involved as debtors in a mortgage transaction. The mother placed the deed to the mortgaged premises in escrow with instructions to transfer title to the son at her death. Then everything fell apart – the son disappeared, the lender attempted foreclosure, and the daughter-in-law and the son's second wife both divorced the son. The mother then fought the foreclosure by challenging the deed in escrow as an invalid testamentary disposition. At the same time, the son's ex-wives sought to satisfy their property settlement judgments against the son through the son's ostensible interest in the property. Eventually, the mother died and her executor hired a lawyer to help the executor administer the estate, including the mortgaged premises in litigation. By agreement, the son's two ex-wives hired *the same lawyer* to represent them in their attempts to satisfy their property settlement judgments.

The lawyer asked the Committee if this situation presented a conflict of interest preventing the attorney from simultaneously representing these parties. The Committee determined that the interests of the son's ex-wives and the estate's heirs were fundamentally opposed. Specifically, the ex-wives were interested in satisfying their judgments, meaning they could be paid only if the lawyer argued the escrow deed was valid and should convey the mortgaged property to the son. On the other hand, the estate's heirs were interested in receiving equal shares of the property through their

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[48] Neb. Ct. R. of Prof. Cond. § 3-501.8(c) (rev. 2008).
[49] Neb. Ct. R. of Prof. Cond. § 3-501.8 cmts. 6-8 (rev. 2008).
[50] Neb. Ethics Advisory Op. for Lawyers No. 74-10 (1974).

deceased mother's estate, meaning they could only inherit if the lawyer argued the escrow deed was invalid. Ultimately, though the Committee reaffirmed the idea that clients giving informed consent can waive many conflicts of interest, the Committee determined this situation did not allow the parties to waive the conflict. Because the parties' interests were irreconcilably opposed, the Committee found: "it is quite apparent that the attorney for the Executor could not represent both the Executor and the wives and give each the 'independent professional judgment' required."[51] The outcome in this situation should be the same under the current Rules because the lawyer could not "reasonably" believe he could provide competent and diligent representation to each conflicted client.[52]

But in determining whether a conflict of interest exists, the Committee has also emphasized that estate practitioners should identify up front the clients for which they have worked and are working. In Advisory Opinion No. 12-08, the Committee addressed a case where a husband and wife hired a lawyer to draft trust documents naming their children as beneficiaries. Before his death, the husband hired a second lawyer to amend the trust by reducing the beneficial share of two of his children and naming the remaining two children as successor trustees upon the husband's death. The children whose shares remained unaffected then hired the second lawyer to represent them as they carried out their duties as trustees. The two children whose shares were reduced then disputed the validity of the trust amendment and asserted that the second lawyer had a conflict of interest because he represented trustees who were also named beneficiaries of the trust.

The second lawyer, who had never provided legal services to the trustees in their personal capacities or to the contesting beneficiaries, then asked the Committee to opine about whether there was a conflict under these circumstances. The Committee correctly determined no direct or indirect conflict existed because the second lawyer had never represented or attempted to represent the contesting beneficiaries. The Committee clarified that Nebraska's conflict rules applied "to relations between the lawyer and his

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[51] *Id*. at 3.
[52] *See* Neb. Ct. R. of Prof. Cond. § 3-501.7(b) (rev. 2008).

own clients, not the clients of another lawyer."[53] And the mere appearance of impropriety is insufficient grounds to disqualify an attorney under Nebraska's Rules.[54] Thus, the Committee emphasized the importance of identifying the lawyer's own clients, prospective clients, and former clients when considering whether a conflict exists.[55]

Practical Pointer: Many practitioners are intimidated by the prospect of determining whether a conflict of interest exists between a prospective client and an existing or former client. Small and solo practitioners may not have formal conflict checking protocols or programs in place to automatically determine if a conflict exists. But I suggest that formal procedures may not be necessary if practitioners engage in a simple analysis for every case: (1) determine who the prospective client is; (2) recall who your current clients are; (3) determine what the prospective client's goals are; (4) recall your current clients' goals; and finally (5) decide whether obtaining the prospective client's goals prevents you, logically or practically, from obtaining an existing client's goals. If a prospective client's goals preclude you from seeking or obtaining an existing client's goals, you have a conflict.

One example of this situation occurs frequently in family farm succession cases. Imagine you represent a family farm LLC as corporate counsel. The LLC's goal is operating and profiting from a family farming operation for the family's benefit. The LLC is typically set up to provide equal or similar ownership among a handful of children who continue the farming operation after their parents' death. Now imagine the LLC's operating agreement provides for a mandatory valuation and buy out process at the death of one of the family's children. The surviving spouse of the deceased child then approaches you and asks you to represent them in the valuation and buyout process. Do you have a conflict preventing you from representing the surviving spouse? If the surviving spouse's goal is maximizing her ownership value and the LLC's interest is minimizing her ownership value, it appears you have a conflict.

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[53] *Id*. at 4.
[54] *Id*. (citing *Jacob North Printing v. Mosley*, 279 Neb. 585, 779 N.W.2d 596 (2010)).
[55] *See also* Neb. R. of Prof. Cond. § 3-501.9 (rev. 2008).

WAIVER OF CLIENT CONFLICT AND WRITTEN CONSENT TO REPRESENTATION

_____ I acknowledge that I a named party in a pending case in the [COUNTY/DISTRICT] court of [COUNTY NAME] County, Nebraska, identified as [CASE NUMBER] ("the Case"), and that I am represented by [LAWYER NAME], my legal counsel, in that case.

_____ I acknowledge that [LAWYER NAME] has identified a potential, concurrent conflict of interest in the Case because of one or more claims raised in the Case.

_____ I acknowledge that I have had a full discussion with [LAWYER NAME] about the claims, allegations, defenses, legal strategies, my legal rights, potential conflicts, and all other relevant aspects of the Case.

_____ I acknowledge that [LAWYER NAME] has answered to my satisfaction all my questions about the claims, allegations, defenses, legal strategies, my legal rights, potential conflicts, and all other relevant aspects of the Case. I have no further questions at this time.

_____ After having an opportunity to consult with [LAWYER NAME] about the best ways to proceed in the Case, I hereby authorize [LAWYER NAME] to represent me in the Case notwithstanding the existence of a potential, concurrent conflict of interest.

_____ [LAWYER NAME] and I reasonably believe that he will be able to competently and diligently represent me despite the existence of a potential, concurrent conflict of interest. I believe [LAWYER NAME] will be able to exercise independent judgment in the Case.

_____ To the best of my knowledge, [LAYWER NAME]'s representation of me in the Case is not prohibited by law, and I hereby consent to the representation.

_____ I acknowledge that I have read this document voluntarily, understood its contents, and that I have initialed each section that I wish to approve. If I wish to change my mind and amend any of the answers I gave above, I acknowledge that I will contact [LAWYER NAME] immediately and inform him of any changes I wish to make so he can take appropriate action on my behalf.

_____
[CLIENT SIGNATURE]

Subscribed in my presence and sworn to before me this _____ day of _____, 20___ by _____.

_____ _____

Stamp/Seal Notary Public