

Conflict of Interest Name Search Toolkit

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Meet Mark:

Mark Bassingthwaighte, Esq., serves as Risk Manager at [ALPS](#), a leading provider of insurance and risk management solutions for law firms. Since joining ALPS in 1998, Mark has worked with more than 1200 law firms nationwide, helping attorneys identify vulnerabilities, strengthen firm operations, and reduce professional liability risks.

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I. The Overview

This toolkit provides a **two-tiered conflict search system**:

- **Quick Check (Intake Stage)**: Fast screening to avoid obvious conflicts before any substantive discussion occurs
- **Enhanced Screening (Pre-Engagement Stage)**: A deeper, structured review before accepting representation

The goal is to reduce risk without creating unnecessary friction.

Core Principles:

1. **Search early and search often** - at first contact (before giving any substantive advice), before confirming the engagement, and whenever new parties appear.
2. **Garbage in = garbage out** - because a conflict system is only as good as the information captured.
3. **Think relationships, not just names** - because conflicts often arise from affiliations, not direct parties.
4. **When in doubt, escalate, don't ignore** - because ambiguity is where malpractice claims based on a conflict of interest live.

II. The Two-Tier Conflict Search System

1. The Quick Check (At Intake)

Purpose: To avoid obvious conflicts before receiving confidential information.

Minimum Steps:

- Obtain the full name of the prospective client
- Ask: "Who is the matter against?"
- Then run a basic database search for:
 - Client name
 - Adverse party name(s)

If a Match Appears, do not proceed with substantive intake, escalate for attorney review.



2. The Enhanced Screening (Pre-Engagement)

Purpose: To identify less obvious or indirect conflicts.

Steps:

- Capture all relevant names (see Section III)
- Run expanded search across:
 - Current clients
 - Former clients
 - Open and closed matters

Evaluate:

- Direct adversity
- Substantial relationship
- Positional conflicts (if applicable)
- Personal interests of the lawyer/s

Document decision:

- Cleared / Waivable / Non-waivable

III. A Core Resource - The "Names to Capture" Master List

This is the **most important part of the system.**

A. Individuals

- Full legal name (include middle names)
- Common misspellings
- Former names (maiden, prior legal names)
- Nicknames / aliases

And Family Relationships Where Called For

- Spouses / Partners / Former spouses / Former partners
- Immediate family members relevant to the representation – e.g. Any (biological, adopted, foster, or step) Parents, Children, or Siblings
- Grandparents or other involved relatives



B. Business Entities

- Full legal entity name (e.g., "ABC Holdings, LLC")
- Trade names / DBAs
- Parent companies
- Subsidiaries / Key affiliates / Parent companies
- Successor or predecessor entities (mergers, dissolutions, name changes)

And Key People

- Directors / Officers / Managers
- Owners / Partners / Members
- Key employees involved in the matter

C. Related / Interested Parties

- Opposing parties (all known)
- Co-parties / Co-defendants
- Potential third-party defendants
- Witnesses (lay and expert, if known)
- Experts (if known)
- Victim(s)

D. Insurance & Financial Interests

- Insurance carriers
- Adjusters
- Lenders / Secured parties

E. Your Firm

- All lawyers
- Spouses, parents, siblings, in laws of firm lawyers
- All employees, including contract attorneys, temps, and interns
- Any business in which a firm member has an ownership interest or serves as an officer or director
- Prior employers of firm lawyers
- Key vendors and service providers (IT, accounting, investigators, marketing)

F. Estate / Probate (if applicable)

- Testator
- Decedent
- Trustee / Guardian / Conservator
- Personal representative
- Spouse / Children / Heirs / Beneficiaries
- Disinherited individuals (critical risk area)



G. Real Estate (if applicable)

- Buyer(s) / Seller(s)
- Brokers / Lenders / Title insurer
- Property address / Parcel number

H. Bankruptcy (if applicable)

- Debtor
- Spouse
- Creditors / Secured lenders and lienholders
- Business partners
- Family members with financial ties
- Business entities (owned, managed, or controlled by the debtor)

IV. Practicalities on How to Search

A. Where to Search

- Practice management system (Clio, MyCase, Filevine, Practice Panther, etc.)
- Firm matter list (open + closed)
- Contact database
- Email system (recommended but optional)

B. What to Search

- Search every known name: legal names, nicknames, aliases, former names, maiden names, trade names, DBAs.
- Search broadly: individuals, entities, relationships, and anyone with a meaningful role in the matter.
- Search your firm: lawyers, staff, contract attorneys, and anyone with access to confidential information.

C. Smart Search Techniques

- Search "John A. Smith" → "John Smith" → "Smith"
- Search "ABC Holdings, LLC" → "ABC Holdings" → "ABC"
- Watch for **common names** + **overlapping facts**

D. Always Document Your Process

- Maintain a record of what you searched, where you searched, and what the results were.



V. Basic Decision Framework for Conflict Evaluation

After identifying a potential match ask:

1. Is there direct adversity?

- Yes → likely conflict
- No → continue

2. If the name hit is a former client, is this new client's matter the same as or substantially related to the former client's matter?

- Yes → likely conflict
- No → continue

3. Is confidential information at risk?

- Yes → high concern
- No → continue

4. Can the conflict be waived?

- If yes, obtain informed consent in writing as long as you reasonably believe you can provide competent and diligent representation under the circumstances.
- If not, decline the representation and document accordingly.

VI. Information to Track in a Conflict Database

Required Fields:

- Client name
- Matter name/description (critical information for context in future searches)
- Matter number
- Status (current/former)
- Adverse parties
- Related parties
- Responsible attorney
- Open/close date

Strongly Recommended:

- Alternate names / aliases
- Entity relationships (parent/subsidiary)
- Notes on conflict waivers
- Notes on relationships between parties



VII. The Process in Real Time

Step 1: Staff Intake

- Capture minimum names
- Run Quick Check

Step 2: Attorney Review

- If clear → proceed to full intake
- If unclear → pause and investigate

Step 3: Pre-Engagement

- Run Enhanced Screening
- Document decision

Step 4: Engagement Letter Issued

- Only after conflict clearance

VIII. Ongoing Monitoring

Conflicts are not static.

Re-check when:

- New parties are added
- Matter scope changes
- Lateral hires join firm
- Firm takes on new major client

IX. Practice Tips

- Remember to track information about individuals who never get past the intake stage (prospective clients) if any confidential information was shared.
- Never only rely on someone's memory. In other words, this process should never be viewed as optional.
- Treat the conflict checking process as a risk management tool, not admin work.
- When something "feels off," it usually is - **slow down and think it through.**