

Sample Estate Planning Joint Representation Waiver

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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.

He has presented over 700 continuing legal education (CLE) seminars across the United States and written extensively on the topics of risk management, legal ethics, and cyber security.

A trusted voice in the legal community, Mark is a member of the State Bar of Montana and the American Bar Association and holds a J.D. from Drake University Law School. His mission is to help attorneys build safer, more resilient practices in a rapidly evolving legal environment.



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SAMPLE ESTATE PLANNING JOINT REPRESENTATION WAIVER

{Date}

[Client Name 1]

[Client Name 2]

[Address]

Re: Joint Representation – Estate Planning

Dear [Client Name 1] and [Client Name 2]:

Thank you for asking me to assist you with your estate planning. As we discussed, married couples and partners are often represented jointly in the estate planning process. Before proceeding, I want to confirm your understanding of the implications of joint representation and obtain your informed consent.

1. Nature of Joint Representation

In a joint representation, I represent both of you equally in connection with your estate planning. While your interests are currently aligned, differences may arise, particularly in situations involving:

- **Blended family considerations** - potential differences in how assets are allocated between a surviving spouse and children from prior relationships,
- **Unequal or separate property** - differences in contributions to the marital estate or ownership of premarital or inherited assets,
- **Dispositive intent differences** - variations in how each of you wishes to distribute assets upon death,
- **Control and access to assets** - limitations imposed by trusts or other planning tools on a surviving spouse's ability to use or dispose of property,
- **Fiduciary appointments** - disagreements regarding who will serve as personal representative, trustee, or agent.

Some estate planning strategies that benefit you collectively may, in certain circumstances, limit flexibility or create differing impacts for one of you individually.



2. Material Risks of Joint Representation

By agreeing to joint representation, you acknowledge and accept the following risks:

- **Limited ability to receive individualized advice** - I am unable to advise one of you to take a position that is adverse to the other,
- **Inability to advocate in a dispute** - if a disagreement arises, I cannot represent one of you against the other,
- **Potential withdrawal** - I may be required to withdraw from representing both of you if a conflict becomes unmanageable,
- **Delay and additional cost** - if I must withdraw, each of you may need to separately retain new counsel and duplicate some work, and
- **Future limitations** - my prior joint representation will likely prevent me from being able to represent either of you in future disputes between you or involving your estates.

3. Confidentiality and “No Secrets” Understanding

Effective joint representation requires transparency between clients.

Accordingly:

- Information provided by either of you that is material to your estate planning will be shared with the other,
- I will not withhold from one of you information that is relevant to the representation of both, and
- Your communications with me are privileged as to third parties, but not as between the two of you.

If either of you asks me to keep material information from the other, I may be required to:

- Disclose the information to the other client, or
- Withdraw from the representation.



If either or both of you desire complete confidentiality in your communications with counsel, you should retain separate attorneys.

4. Effect of Future Disagreements

If you ultimately disagree about how your estate plans should be structured, I may not be able to continue representing both of you. In that event:

- I may withdraw from representing one or both of you,
- You each may need to retain separate counsel, and
- My prior joint representation will likely limit my ability to represent either of you in a dispute against the other.

5. Alternatives and Independent Counsel

You are not required to proceed with joint representation. Each of you has the option to retain separate legal counsel at any time.

I encourage you to consider whether independent advice would be beneficial before consenting to joint representation. Please take whatever time you reasonably need to consider this decision.

6. Consent to Joint Representation

If you choose to proceed, please confirm your consent by signing below. By doing so, each of you acknowledge that:

- You understand the nature of joint representation,
- You understand the potential risks and conflicts described above,
- You understand the available alternative of separate representation,
- You have had the opportunity to ask questions, and
- You voluntarily consent to my representing both of you jointly.

You may revoke this consent at any time, subject to applicable ethical obligations and the potential consequences described above..



If you have any questions or would like to discuss any aspect of this letter further, please do not hesitate to contact me.

Sincerely,
[Attorney Name]

CONSENT TO JOINT REPRESENTATION

We have read and understand the foregoing. We have had the opportunity to ask questions and to seek independent legal advice. We voluntarily consent to joint representation as described above.

[Client Name 1]

Date: _____

[Client Name 2]

Date: _____