THE DREADED C – CONFLICT OF INTEREST:
START YOUR OWN CONFLICT SYSTEM

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Conflict of interest problems rarely discriminate, they affect all law firms, regardless of the firm's size. In the December 2007 issue of Jurisk!, we addressed management of conflicts and provided you with a checklist aimed at reducing conflict of interest risks. In this second instalment of *'The Dreaded C – Conflict of Interest'*, focus will be on how to start your own conflict system.

AUTOMATING YOUR CONFLICT SYSTEM

1. Specially Designed Software. Most firms may already have case management or accounting software in place. Utilise what you already own, which is a significant database of your clients. It probably needs some re-working. Talk to an IT person. Find out how your present software can be modified or upgraded to include a conflict check function.

2. Do It Yourself! Create an easily searchable and highly dependable conflict system with Microsoft Office! A simple table will accomplish most goals of your firm in creating your own conflict system.[1]

6 Easy Steps
to a Conflict System with **Microsoft Word**

1 Open a new file on Microsoft Word.

2 Go to '**Table Menu**' and select '**Insert/Table**' from the menu. Indicate the number of rows and columns you want and click '**OK**'.

3 Insert Headings per column as desired.

4 Key headings should, *inter alia*, include the date the record is created, your client's name, file name/reference, lawyer on record, names of opposing parties, co-plaintiffs or co-defendants,[2] relationship between parties, etc.

5 To add more rows, go to '**Table Menu**' and select '**Insert Rows**'. To insert more columns, do the same by selecting '**Insert Columns**'.

6 * Entries must be made each time you are consulted regardless of whether or not you are retained.

4 Easy Steps
to a Conflict System with **Microsoft Excel**

1 Open a new file on Microsoft Excel.

2 As with the Word file, type in Headings as desired.

3 Key headings should, *inter alia*, include the date the record is created, your client's name, file name/reference, lawyer on record, names of opposing parties, co-plaintiffs or co-defendants,[3] relationship between parties, etc.

4 * Make an entry each time an individual or entity consults your firm whether or not you are retained.

*NB: Information must be updated everytime you are consulted.

Which one do I pick: Excel or Word?

	Microsoft Excel	Microsoft Word
What Is It?	Spreadsheet software that stores units of information in rows and columns of cells known as worksheets.	Word processing software that provides tools to construct documents quickly.
Search Function	• Click on the '**Edit**' menu and select '**Find**', enter your search name or client's name/company. • Alternatively, use the shortcut key "**Ctrl + F**" for the search box. This would enable you to search your client's details in no time at all.	• Click on the '**Edit**' menu and select '**Find**', or press "**Ctrl + F**" and enter your search name or client's name/company. • Alternatively, you can press "**Ctrl + G**", the '**Go To**' function will direct you to any page, section, line, etc. as desired.
Autosort	Entries need NOT be entered in alphabetical order as Excel has an '**Autosort**' function.	The '**Table Menu**' has an '**Autosort**' feature, so entries need NOT be entered in alphabetical order.
Pros	• Excel will automatically shrink the table to fit an A4. • Excel can create multi headers for reference purposes.	• Adjustments must be done to fit the content on an A4.
Cons	Excel automatically resizes pages to fit in data. Text may become very small.	Word can only create limited headers due to its page size.
Data Storage	Excel can store up to 65,000 records.	A maximum of 32,767 pages of plain text can be stored.

MANAGING YOUR AUTOMATED CONFLICT SYSTEM

As your practice grows, your conflict database will quickly become (1) very large and (2) a strain on system resources. Ensure that a new document is created annually or between two to five years depending on the number of files opened each year and the number of conflict entries made.[4]

Creating a new "conflict table" every year and storing them as separate documents is not a problem. Today, there are many tools available that will index and quickly search your many documents at once for you! Most of these tools are freely available on the internet, a good example is the *Google Desktop Search*.[5]

The *Google Desktop Search* indexes all the files in your computer and can quickly search through hundreds of documents including your email! **Quickly searching a few dozen conflict tables contained in different folders would be a cinch.** Find out more at http://desktop.google.com/features.html

As an alternative, for those of you who are just starting up, or for firms who for various reasons, are going to limit their client base to no more than 300 clients, you can start a manual conflict system.

IS A MANUAL CONFLICT SYSTEM OK?

An index card system is suited for firms that are just starting up (where expense and simplicity is a concern) and the list of clients is manageable.

How Do I Start?

1 Prepare an index card.

2 Record the name of your client on top and all conflict names below. *(Conflict names would include aliases/alternative spelled names/known former names, names of opposing parties, co-plaintiffs or co-defendants.[6])*

3 Prepare a separate conflict card for each conflict name. *(This card should contain the name at the top, the relationship of that individual or entity to the client and the client name below.)*

4 Prepare an index card and a conflict card each time an individual or entity consults with your firm, whether or not you are retained.

5 Place both the index and conflict cards in a card box and file alphabetically.

6 Appoint one staff who will check any prospective clients against those names contained in the card system. There should also be a backup staff.

7 If a name is found in the card system, then a partner must determine whether there is a conflict of interest.

8 A ledger is normally kept adjacent to the index cards and all completed conflict checks are documented there in handwritten form.[7]

! Recommended only if you plan to have no more than 300 clients!

This manual system **must eventually** be automated if your firm expands, it is simply NOT a viable option in the long run. Refer to our 'Automated vs Manual Conflict System Comparison' on page 9.

WHAT IF I ALREADY HAVE A MANUAL CONFLICT SYSTEM?

Adopt a look forward strategy. Pick a date and start entering data of new clients from that date onwards. Work backwards once your system is up and running but it is not an absolute necessity and may in some circumstances prove counter productive.

IN SUMMARY, an automated system
1. Holds more information.
2. Allows expansion of clientele.
3. Has an easy, convenient and quick search feature – staff are less likely to employ short cuts!
4. Allows a thorough check every time, ensuring more accurate results.
5. Is easily backed up and less prone to data loss.

DESIGNING YOUR AUTOMATED CONFLICT SYSTEM
to display entries automatically in alphabetical order by last name will allow even the most technophobic lawyer to make use of the system.[8]

WHEN TO CONDUCT A CONFLICT CHECK
Conduct conflict checks at the following trigger points:
1 The initial request for service.
2 After the first meeting when you have obtained more information about the parties involved.
3 Just before engagement, IF there is a change in any of the parties involved or even if you just want to double check.

CONCLUSION

Chances are, you already have a conflict system in place, most firms do, and it simply requires fine-tuning for optimum performance – and to protect you against a possible claim.

The ideas and tips in this article hopefully assists you to either fine-tune your existing system or start a system, if you do not have one.

Remember that key to a successful conflict system is to develop one that suits your firm and style of practice.

In our September 2008 issue of Jurisk! we will address the *essentials* of a conflict system: common myths, what data to input and the criteria for a successful conflict system.

1 Jim Calloway, 'Conflict Checking Systems from A – Z', Oklahoma Bar Journal Articles, Published 77 OBJ 3107 (Nov. 4, 2006), pg. 6 (http://www.okbar.org/obj/articles_06/110406calloway.htm) (hereinafter 'Jim Calloway')
2 *See 'Conflict of Interest – The Dreaded C' in Jurisk! Dec 2007, Vol 3, Issue 4, pg.7*
3 *ibid.*
4 Jim Calloway, pg. 6
5 *ibid.*
6 *See 'Conflict of Interest – The Dreaded C' in Jurisk! Dec 2007, Vol 3, Issue 4, pg.7*
7 'Selecting a Conflict Checking System', Law Society of Upper Canada. (http://rc.lsuc.on.ca/pdf/pmg/conflictchecking.pdf)
8 Jim Calloway, pg. 6
9 Jim Calloway, pg. 4