



## Lawyers and Advertising by Jodi L. Wyman

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Lawyers are often asked if they can represent people on both sides of a matter, for example, to act for both the purchaser and the vendor in a house sale, or for both the husband and the wife in a separation.

The answer to the question, generally, is no.

The Law Society's Code of Professional Conduct states that a lawyer should not represent both sides of a matter. If they do, they are in a conflict of interest.

A lawyer is supposed to look out for their client's best interest, and work toward the best possible outcome for their client. It is not often that both sides to a dispute have the same best possible outcome. They usually have competing, or at least different, goals in mind.

This rule applies even to different lawyers within the same firm. Normally, lawyers who work together are seen as sharing the same information, so they cannot act for both sides to a dispute.

Like every rule, there

are exceptions. The Code allows a lawyer to act for both sides in some situations. In small towns there is sometimes only one lawyer, and it makes sense to bend the rule. This is also true in cases where there is not a lot of legal advice to be given; rather it is assisting with a legal transaction. For example, lawyers sometimes act for both the vendor and the purchaser of a house, or for two people needing a straightforward business contract. It can be less costly and faster when both sides use the same firm.

In family law, sometimes couples reach an agreement on their own, and continue to have a civil relationship. They often request to use just one lawyer to draw up their agreement and look after such loose ends as a transfer of the marital home and the divorce. There is a perception that if they each get a lawyer, the matter will get ugly.

Before a lawyer acts for both sides of a matter, the Code requires that each client given informed consent. They have to

sign a waiver that they understand the implications of the conflict. In particular, there can be no duty of confidentiality. If the person selling a house confesses to the lawyer that the roof leaks, the lawyer is not bound by lawyer-client confidentiality. The second implication is that if a disagreement does arise, and the clients are now at odds, they both have to get a new lawyer.

It is for this reason that lawyers generally advise people against hiring the same lawyer. Often matters appear easy at the start but change soon after. By trying to save a few dollars and use the same lawyer, clients lose out on the opportunity to ask candid questions of their lawyer, to get proper legal advice aimed only at them, and to have their lawyer's help in resolving any problems that may arise. If the client does end up having to retain a new lawyer, they may have to incur fees to have that person review the file and get an understanding of what has happened to date. The choice to save a little bit of money could prove far more costly in the long run.