What is conflicts checking?
Conflicts checking is the process of looking through your records to see if there is a potential conflict as defined under ERs 1.7 – 1.11. Depending on your method and process, it may be accomplished by conducting a keyword search for specific terms or names and if there is a match, analyzing whether that match indicates a conflict.

What may cause a conflict?
It is possible that either a person involved in a current, prior or prospective legal matter or the subject of a current, prior or prospective legal matter may cause a conflict.

Issues to address in your conflicts checking procedure
- How will the conflicts check will be conducted?
- When will the initial conflicts check be done?
- Who will do the checking?
- What will happen if the person who does the conflicts check is out of the office otherwise unable to promptly conduct the search?
  - Who ultimately determines whether there is an actual or potential conflict?
  - How you will document that a conflicts check has been performed?
  - During what points in the representation will a conflicts check be performed?
- What information will you be collecting from your potential new client in order to conduct your initial conflicts check?
  - First and last name?
  - Aliases and maiden name?
  - Spouse’s name?
  - Determine what is relevant for your practice area.
• Consider what mechanism you will use to check for conflicts with former and prospective clients. Consider who should be included in your conflicts checking system so that a thorough check can be done:
  o Your former and prospective clients
  o Staff and associates on prior cases
  o Witnesses in your case
  o Opposing parties, witnesses, lawyers

• Where will you check?
  o Contacts list?
  o Documents?
  o Emails?

• How will you keep track of potential clients who did not become clients for conflicts checking?

• What search chain will you use? What if it is a name that could be easily misspelled or that has many variations?

• Is your conflicts checking policy written down somewhere? Do you regularly review this policy with your staff?

• What is the process from start to finish?

Conflicts Checking and Practice Management Software

Practice management software is a great tool for organizing your contacts (and if you have not checked it out, be sure to take a look at our Practice Management Software comparison chart along with our Practice Management Software checklist). A comprehensive conflicts checking system would search both contacts and documents for matches.