

IN THE CIRCUIT COURT OF \_\_\_\_\_ COUNTY MISSISSIPPI

STATE OF MISSISSIPPI

VS.

CRIMINAL CAUSE NO. \_\_\_\_\_

DEFENDANT \_\_\_\_\_

**WAIVER OF CONFLICT OF INTEREST CRIMINAL CASES**

The United States Constitution and the Mississippi Constitution give every Defendant the right to effective assistance of counsel. When one lawyer represents two or more Defendants in a case, the lawyer may have trouble representing all of the Defendants with the same fairness. This is a conflict of interest that denies the Defendant the right to effective assistance of counsel. Such conflicts are always a potential problem because different Defendants may have different degrees of involvement. Each Defendant has the right to a lawyer who represents him/her and only him/her.

This kind of conflict of interest can be dangerous to a Defendant in a number of ways. A few examples are:

The government may offer to recommend a lesser sentence to one Defendant if he cooperates with the government. His lawyer ought to advise him on whether or not to accept this offer. But if the lawyer advises him to accept the offer, it may harm the cases of the other defendants, who are also his clients.

The government may let a defendant who is not as involved as other defendants plead guilty to lesser charges than the other defendants. After the guilty plea, however, the government may require the defendant to testify. The lawyer who represents more than one defendant might recommend that the first defendant not plead guilty to protect the other defendants that he represents; or the lawyer might recommend that the first defendant plead guilty, which might harm the cases of the other defendants.

Sometimes one of the defendants represented by a lawyer will take the stand to testify in his own behalf. In order to represent the other defendants fairly, the lawyer should question the defendant on the stand as completely as possible. However, he may not be able to do that because he cannot ask the defendant as a witness about anything that defendant has told him in confidence.

The best defense for a single defendant often is the argument that while the other defendants may be guilty, he is not. A lawyer representing two or more defendants cannot effectively make such an argument.

Evidence that helps one defendant might harm another defendant's case. When one lawyer represents two or more defendants, he might offer or object to evidence that could help one defendant if it harms the other defendant's case.

The court advises defendants against representation by a lawyer who also represents other defendants in the same case. The court urges each defendant to obtain a lawyer who will represent him and only him. Each defendant has the right to a lawyer of his own. Each defendant can also give up that right, if he chooses.

I have read the above statement and I understand it fully. I know I have a right to an attorney of my own, but I want to waive or give up this right.

I want \_\_\_\_\_ as my lawyer, even though he represents one or more other defendants in this case and he might have a conflict which would not be in my best interest.

WITNESS MY SIGNATURE this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

DEFENDANT

Executed before me and in my presence this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

CIRCUIT JUDGE