


**Big Firms, Big Risks: Conflict of Interest in the Era of Multi-national Law Firms**

4th Annual Continuing Professional Development Event  
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Presented by:  
Gavin Tighe  
Guest appearance by:  
Stephen Thiele



GARDINER ROBERTS

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**Agenda**

1. Conflict of interest under the Rules of Professional Conduct
2. Relevant cases – *Strother, Trillium World* and *Re Certain Laser Abraded Denim Garments*
3. The impact of conflict of interest on the profession

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**Conflict of Interest**

- Rules of Professional Conduct prohibit a lawyer from acting in a conflict of interest
- Rule 3-4

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### Conflict of Interest

- Usual result for a lawyer acting in conflict of interest is removal from the file
- Potential for liability for breach of fiduciary duty

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### Relevant Cases

- Two types of conflict of interest identified by the courts
- “Bright-line” conflict rule
- Residual conflicts – substantial risk

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### Relevant Cases ...cont'd

- 3464920 *Canada Inc. v. Strother*, 2007 CarswellBC 1202 (S.C.C.)
- Lawyer breached fiduciary duty by failing to give client A advice related to favourable tax scheme while assisting client B

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### Relevant Cases ...cont'd

- *Trillium Motor World Ltd. v. General Motors of Canada Ltd.*, 2015 CarswellOnt 10246
- Lawyers in breach of fiduciary for representing multiple clients with different interests and goals in the same matter

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### Relevant Cases ...cont'd

- *In the Matter of Certain Laser Abraded Denim Garments*
- United States International Trade Commission
- Different offices representing opposing parties

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### Impact on the Profession

- Multi-national law firms may not be able to retain the same law firm in every circumstance.
- What does this mean for in-house counsel?

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