



Legal Information Line - Frequently Asked Questions **Clarifying the Consent to Act Form**

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Between the Nevada state-mandated Duties Owed By a Nevada Real Estate Licensee (Form 525) and Consent to Act (Form 524) forms, we have enough consistent questions coming into the Legal Information Line that necessitated this article to clarify the purpose and use of these forms.

As you may recall, Nevada REALTORS® covered common misconceptions surrounding the Duties Owed form in a Legal Minute video available here: [Legal Minute: Duties Owed Form - YouTube](#).

The Legal Information Line often receives the exact same questions about the Duties Owed regarding the Consent to Act form, such as:

Do both parties need to sign on the same [Consent to Act] form?

No! To directly quote from the Legal Minute Duties Owed Form video:
“Now *if you are acting for more than one party to the transaction, then you need to have both the buyer and seller sign the duties owed, in addition to the Consent to Act form, but again,*

it doesn't need to be on the same form.

The important thing is that you have it signed by the client or clients you are representing.”

Also very important is that this form is signed before signing the purchase contract!!!

But the number question the Legal Information Line receives on the Consent to Act form is:

Do I need a Consent to Act if I'm representing one side of the transaction (buyer) but another agent within my same brokerage is representing the other side (seller)?

The answer is No!

The Consent to Act would be required if the agent representing the buyer is also representing the seller; we're talking about the same exact agent/same person on both sides of the deal.

A close second when it comes to popular questions surrounding the Consent to Act form is:



Do I need to do a Consent to Act if the buyer is unrepresented but I prepare the offer on their behalf?

The answer is, the favored answer of attorneys: It Depends!

This can be a slippery slope, and “it depends” because it's very fact specific to each transaction. If this is a case of unintentional agency, it may not be recognized as an actionable claim before the Nevada Real Estate Commission. The most important thing that an agent must do when handling a transaction where the other party is unrepresented is to be:

**Very clear, &
Use all efforts,
At all stages of transaction
to communicate that there is no agency with the unrepresented person.**

This is important so the agent does not create unintentional or implied agency that could be enforced against the agent.

Time for a pop quiz! Take a look at these statements by Agent #1 and Agent #2 below. Which agent may have an actionable claim against them for acting on behalf of the unrepresented person?

Agent #1 says:

“Of course I’ll fill it out for you!” or

“Yes, put this answer in the blank on the document.” or

“My advice would be to ask for these certain inspections...”

Versus

Agent #2 says:

“Please read the offer form in which I inserted the provisions as you had expressed to me in your email of today. All provisions should be reviewed carefully by you and I strongly encourage you to seek the help of a licensed real estate agent or attorney as this is a contract with huge financial and legal impacts. I have filled out this document in good faith based on your email, but I am not representing you or your best interests in any capacity.”

See the difference?

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