

2010

# LLCs AND PARTNERSHIPS



July 22–23, 2010  
Four Seasons Hotel ▪ Austin, Texas

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▶ Video Replay  
October 14–15, 2010  
Belo Mansion ▪ Dallas, Texas

Earn up to 11.50 Hours of Credit including 2.00 Hours of Ethics Credit  
Specialization Credit Approved for Estate Planning and Probate Law,  
Real Estate Law, and Tax Law

2010  
**LLCs AND PARTNERSHIPS**  
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**THURSDAY MORNING**

**Presiding Officer:**

Professor Elizabeth S. Miller,  
Baylor Law School, Waco, TX

**8:00 a.m. Registration Opens**

Includes continental breakfast.

**8:50 a.m. Welcoming Remarks**

**9:00 a.m. .75 hr**

**LLC and Partnership Case Law Update:  
Key Recent Case Law Developments for  
Texas Practitioners**

A survey of key recent Texas and federal cases involving LLCs and partnerships (including LLPs and limited partnerships). The presentation includes current developments with respect to piercing the veil of limited liability entities.

Professor Elizabeth S. Miller, Baylor Law School,  
Waco, TX

**9:45 a.m. .75 hr**

**LLC vs. Limited Partnership: Where Are We  
Today with Choice of Entity?**

Practical considerations of current thinking, best practices and potential pitfalls in choice of entity discussions including operational, transactional and tax perspectives.

J. Cary Barton, Barton, East & Caldwell, L.L.P.,  
San Antonio, TX

**Commentators:**

John C. Ale, Skadden Arps Slate Meagher &  
Flom LLP, Houston, TX  
Ira A. Lipstet, DuBois, Bryant & Campbell, L.L.P.,  
Austin, TX

**10:30 a.m. Break**

**10:45 a.m. .75 hr**

**Franchise Tax: 2009–2010 Overview  
and Update**

A discussion and transaction-based analysis of the key franchise tax—a.k.a. margin tax—issues currently facing LLCs and partnerships. Such key issues include analysis of the structures and issues raised in LLC or partnership acquisitions, the complications posed by combined reporting rules, and the due diligence necessary to avoid joint and several liability for taxes of affiliated entities and successor liability for acquired entities.

Steven D. Moore, Jackson Walker L.L.P., Austin, TX

**11:30 a.m. .75 hr including .50 hr ethics**

**Undoing Deals and Do-Overs: How Far Can  
You Go with Backdating, Adding Partners,  
Rescission and More?**

Backdating and rescinding transactions may be either perfectly permissible or may constitute fraud or even criminal conduct, depending on the circumstances. An attempted retroactive action may be effective or ineffective or may be effective in ways that the parties have not anticipated. A panel discussion of the legal, ethical and tax consequences of taking actions, modifying agreements or rescinding transactions retrospectively.

Robert R. Keatinge, Holland & Hart LLP,  
Greenwood Village, CO  
Allen Sparkman, Sparkman Shaffer Perlick LLP,  
Houston, TX

**THURSDAY AFTERNOON**

**Presiding Officer:**

George W. Coleman, Bell Nunnally &  
Martin LLP, Dallas, TX

**LUNCHEON PRESENTATION**

**12:15 p.m. Pick up Box Lunch**

Included in conference registration fee.

**12:30 p.m. 1.00 hr ethics**

**Navigating the Dangerous Waters of  
Multiple Party Representation in LLC and  
Partnership Deals**

Representation of multiple parties presents to the lawyer what the Texas Lawyers Insurance Exchange calls the “silent killer.” For the business lawyer forming, representing or terminating a business, the singularly common experience is representing multiple parties. This presentation reviews the key fact patterns and issues arising most often and provides helpful guidance for the lawyer walking through this minefield of ethical issues.

George W. Coleman, Bell Nunnally & Martin LLP,  
Dallas, TX  
William D. Elliott, Attorney at Law, Dallas, TX

**1:30 p.m. Break**

**1:45 p.m. 1.00 hr**

**Bankruptcy Issues involving LLCs and  
Partnerships**

A practical guide for the non-bankruptcy expert on how to recognize and deal with bankruptcy issues in an LLC and partnership context. Questions addressed in this session include: Who may initiate a filing? What are typical preference issues in both entity and member/partner bankruptcies? What are the powers of the bankruptcy trustee in an LLC/partnership context, and to what extent can the rights of other members or partners be affected by a member or partnership bankruptcy? To what extent do the bankruptcy courts honor the separateness of owners and entities? The session closes with a discussion of fiduciary duties and ethics issues involving LLCs and partnerships on the verge of insolvency.

James J. Wheaton, Troutman Sanders LLP,  
Virginia Beach, VA

**2:45 p.m. .75 hr including .25 hr ethics**

**Recognizing and Avoiding State and Federal  
Securities Law Violations involving LLCs and  
Partnerships**

You shouldn’t go through a cow pasture at night without a flashlight. Similarly, you shouldn’t issue partnership and LLC interests without shining light on some important securities issues in order to avoid “messy” situations and focus instead on the correct, clean path to securities compliance. Important issues include: When is a partnership or LLC interest a security? What are the appropriate exemptions from registration and how do the Texas and federal exemptions fit together? Are there marketing issues to avoid? The session is designed to shine light on these and other important issues. Materials include a practice checklist and sample language.

Denise Voigt Crawford, Texas State Securities Board,  
Austin, TX  
Rex S. Whitaker, Baird, Crews, Schiller & Whitaker,  
P.C., Temple, TX

**3:30 p.m. Break**

**3:45 p.m. .50 hr**

**Recapitalization Issues: Specific Strategic  
and Drafting Issues for Practitioners**

Issues to be considered in connection with a recapitalization of a partnership or LLC, including but not limited to dilution events, change in voting rights or management, priorities of distribution, tax allocation and other related matters.

Frank Z. Ruttenberg, Winstead PC, San Antonio, TX

4:15 p.m. .50 hr

### The View from the Secretary of State's Office

Filing documents with the Secretary of State under the BOC.

Lorna S. Wassdorf, Office of the Secretary of State,  
Austin, TX

4:45 p.m. .58 hr

### Hot Topics and Emerging Issues Involving LLCs and Partnerships

A discussion of various emerging practice issues and trends, focusing on current or pending developments not covered in other presentations, such as L3C's (low-profit LLCs), proposed federal legislation regarding beneficial ownership reporting, and various federal tax developments and proposals (including the economic substance doctrine, passive losses of LLC members, single-member LLC interests for gift and estate tax purposes, and the effect of health care reform on self-employment income).

#### Moderator:

Professor Elizabeth S. Miller, Baylor Law School,  
Waco, TX

#### Panelists:

Steve G. Frost, Chapman & Cutler LLP, Chicago, IL  
Robert R. Keatinge, Holland & Hart LLP,  
Greenwood Village, CO  
James J. Wheaton, Troutman Sanders LLP,  
Virginia Beach, VA

5:20 p.m. Adjourn

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## FRIDAY MORNING

### Presiding Officer:

George W. Coleman, Bell Nunnally &  
Martin LLP, Dallas, TX

8:00 a.m. Conference Room Opens

Includes continental breakfast.

8:30 a.m. .67 hr

### The Growing Importance of Series LLCs in Texas

Texas now has series provisions that can be used to shield assets of one series from liabilities arising from the activities of another series. The panel explains what is and is not known about the operation of series and discusses the tax and business implications of the use of series in Texas.

Steve G. Frost, Chapman & Cutler LLP, Chicago, IL  
Robert R. Keatinge, Holland & Hart LLP,  
Greenwood Village, CO

9:10 a.m. .75 hr

### Carry on as Usual? Addressing Carried Interest Issues While the Controversy Continues

Congress has threatened for some time to require that carried interests generate ordinary income rather than capital gain. This session explores the changes that have been proposed—or provisions of new legislation if enacted—and discusses the industries affected and how we might plan for (or plan around) the potential changes in structuring our deals and their economics.

Barbara Spudis de Marigny, Gardere Wynne  
Sewell LLP, Houston, TX  
Kevin Thomason, Thompson & Knight LLP, Dallas, TX

9:55 a.m. .83 hr

### Drafting Indemnification Provisions for LLCs and Partnerships

An evaluation of the principles of indemnity, contribution and advancement of expenses in partnerships and LLCs as stand-alone entities. Issues regarding the multiple levels of indemnity and advancement of expenses arising from partnerships and LLCs as portfolio companies of PE firms are also considered.

Peter Flocos, K&L Gates LLP, New York, NY  
D. Hull Youngblood Jr., K&L Gates LLP, Austin, TX

10:45 a.m. Break

11:00 a.m. .50 hr

### Fiduciary Duties Involving LLCs and Partnerships

A discussion of the current status under Texas case law of the duties of partners and limited partners to other partners and the partnership, and a discussion of Texas case law in which the possible duties of managers to the LLC and to the members are discussed.

George W. Coleman, Bell Nunnally & Martin LLP,  
Dallas, TX

11:30 a.m. .75 hr

### Looking under the Hood of Charging Orders and Reverse Piercings Involving LLCs and Partnerships

The Texas LLC and limited partnership statutes clearly provide that a charging order may not be foreclosed and that the charging order is the exclusive remedy available to a member's or partner's judgment creditor. But will this law apply to another state LLC or limited partnership (and its members or partners) doing business in Texas? The Texas foreclosure preclusion will place significant pressure on asset protection plans involving a single-member LLC where, outside bankruptcy, the member's creditors will seek LLC assets to satisfy the judgment, as in the *Olmstead* case pending in Florida.

Professor Carter G. Bishop, Suffolk University Law  
School, Boston, MA

12:15 p.m. .75 hr including .25 hr ethics

### Family Limited Partnerships: Where Are We Now?

Family Limited Partnerships have been hotly contested for some time and litigation continues with new theories and soon new statutory provisions. This talk is a practical discussion of the expected trends in FLP litigation and what you can do now to prepare your estate plans to weather examination.

William R. (Trey) Cousins III, Meadows, Collier, Reed,  
Cousins, Crouch & Ungerman, L.L.P., Dallas, TX

1:00 p.m. Adjourn

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This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 11.50 hours, of which 2.00 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944).

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D. HULL YOUNGBLOOD JR.  
K&L Gates LLP  
Austin, TX

\*planning committee member

This is the best mix of speakers and topics.

The speakers were good, knowledgeable and well-prepared. The topics were timely and informative.

The program content, topics and speakers were all great.

Excellent speakers. Very practical.

One of the best you have put on.

It was a great program.

## HOW TO REGISTER

### Mail your registration to:

The University of Texas  
School of Law  
Attn. CLE—PA10  
P.O. Box 7759  
Austin, TX 78713-7759

Or fax to:  
512-475-6876

Or register online:  
[www.utcle.org](http://www.utcle.org)

Questions? Call us at 512-475-6700

## MATERIALS, AUDIO AND IN-HOUSE CLE

### Printed Materials in Course Binder

Leading practitioners and academics provide the definitive set of materials.

### eBinder on CD

Add the electronic version of the conference materials to your course registration or purchase of the Course Binder or Audio CD Set or Audio MP3 Speeches on CD or DVD Set for only \$50. eBinders are distributed 3–5 weeks after the conference and include searchable versions of printed materials in PDF format.

### Audio CD Set, Audio MP3 Speeches on CD, or DVD Set

Listen to or watch LLCs and Partnerships at your convenience. Informative, topical and entertaining presentations recorded from UT Law's other live CLE programs are also available.

### In-House CLE

Would your firm like to run an in-house version of this conference, with full participatory credit? Order In-House CLE and we'll accredit the course for you; we'll also provide a DVD Set for the group and a Course Binder for each participant.

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The University of Texas School of Law, Attn. CLE—PA10  
P.O. Box 7759, Austin, TX 78713-7759 or fax a copy to: (512) 475-6876

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Assistant's Email (optional) \_\_\_\_\_

*Invoices, confirmations and receipts are emailed to these addresses.*

### REGISTRATION (Includes Course Binder and Thursday Luncheon Presentation)

#### Austin, July 22–23, 2010

☐ Early Registration Fee due by Wednesday, July 14, 2010 .....\$495

☐ Registration Fee after Wednesday, July 14, 2010 .....\$545

#### Dallas, October 14–15, 2010 Video Replay

☐ Early Registration Fee due by Wednesday, October 6, 2010 .....\$395

☐ Registration Fee after Wednesday, October 6, 2010 .....\$445

### CURRENT AND NEW MEMBERS OF THE BUSINESS LAW SECTION

☐ Current Business Law Section member discount .....-\$30

☐ I would like to join the Business Law Section and receive the member discount (please check both boxes) .....\$30

### CONFERENCE PUBLICATIONS AND MEDIA

*Allow 3–5 weeks from the conference date for delivery.*

☐ Course Binder Without Conference Registration .....\$225  
Note: Conference registration includes Course Binder.

☐ Audio CD Set .....\$200

☐ Audio MP3 Speeches on CD .....\$130

☐ DVD Set .....\$275

☐ eBinder on CD (PDF format) .....\$225/\$50  
(\$225 purchased alone, \$50 with registration or purchase of Course Binder or Audio CD Set or Audio MP3 Speeches on CD or DVD Set)

### IN-HOUSE CLE: Bring the conference in-house and learn at your convenience.

*Allow 3–5 weeks from the conference date for delivery.*

☐ In-House CLE for 2—Includes DVD Set and Course Binders .....\$825

\_\_\_\_\_ Add participants (includes Course Binder) for \$225 each .....\$ \_\_\_\_\_

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## 2010 LLCs AND PARTNERSHIPS

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### AUSTIN

July 22–23, 2010

#### CONFERENCE LOCATION



#### Four Seasons Hotel

98 San Jacinto Blvd.  
Austin, TX 78701  
512-685-8100

#### Special Room Rate: \$219

good through June 21, 2010  
(subject to availability)

#### Parking:

\$15 per day; \$28.50 overnight  
(subject to change)

#### KEY DATES

**July 14, 2010, 5 p.m.**

*last day for early registration*

add \$50 for registrations received after this time

**July 16, 2010, 5 p.m.**

*last day for full refund*

**July 19, 2010, 5 p.m.**

*last day for partial refund*

\$50 processing fee applied

**July 22, 2010, 9 a.m.**

*conference begins*

### DALLAS

October 14–15, 2010

#### ▶ VIDEO REPLAY



#### Belo Mansion

2101 Ross Avenue  
Dallas, TX 75201  
214-220-0239

#### Parking:

\$5 per day for Dallas Bar Members;  
\$7 per day for non-Dallas Bar members  
(subject to change)

#### KEY DATES

**October 6, 2010, 5 p.m.**

*last day for early registration*

add \$50 for registrations received after this time

**October 8, 2010, 5 p.m.**

*last day for full refund*

**October 11, 2010, 5 p.m.**

*last day for partial refund*

\$50 processing fee applied

**October 14, 2010, 9 a.m.**

*video replay begins*



## ABOUT THE COVER

*Shattered* 2, 40" x 40", metal, is by Michelle Y Williams and is on display at the michelle y williams gallery in Houston. For more information about this piece, visit [www.michellywilliams.com](http://www.michellywilliams.com) or call 713-521-7701. Image acquisition by Sandra Gregor, art consultant, 512-477-2827.