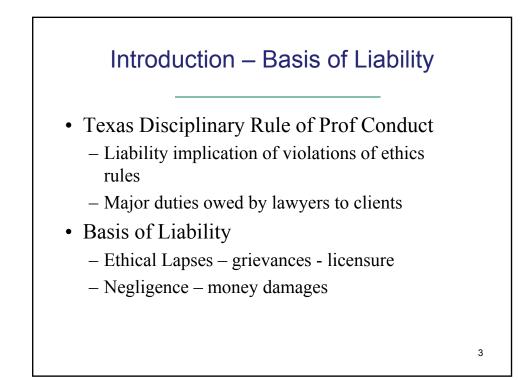
## Nuts and Bolts Ethics for the Business and Transactional Lawyer

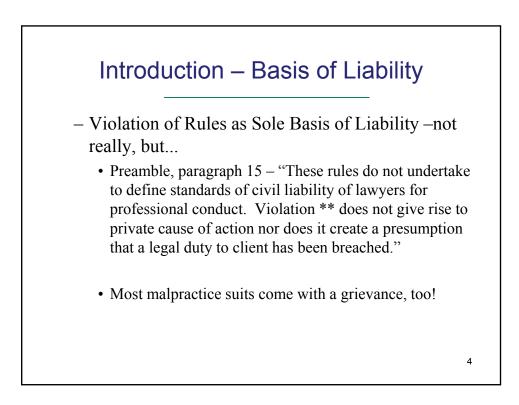
George W. Coleman Claude E. Ducloux

University of Texas School of Law LLCs, LPs and Partnerships July 13-14, 2017

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## Negligent Misrepresentation –Watch out!

- Negligent Misrepresentation
  - Claims are now made based on negligent representation
  - TX SCt recognized a negligent representation cause of action in favor of 3<sup>rd</sup> party/non-client against attorney is special circumstances based on Restatement (Second) of Torts Sec. 552 (1977)
    - Negligent misrepresentation is separate and distinct from professional malpractice and is <u>not dependent</u> upon the attorney–client relationship.

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#### Scenario 1: Who is the Client?

- Lawyer A meets with 3 individuals in a hurry. No engagement letter. Lawyer A drafts company agreement for LLC; violent dispute develops between 3 individuals over C/A. Lawyer A does not file a Certificate of Formation because no one has agreed to reimburse Lawyer A the filing fee. Each individual gives different instructions to Lawyer A.
- Who is in charge? What courses of action are open to Lawyer A?

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## Title search: Nuts and Bolts Ethics for the Business and Transactional Lawyer

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First appeared as part of the conference materials for the 26<sup>th</sup> Annual LLCs, LPs and Partnerships session "Nuts and Bolts Ethics for the Business and Transactional Lawyer"