

Land Use Conference (Round Rock, Texas - March 26-27, 2015)

**Protecting, Overcoming and
Distinguishing the Work
Product Privilege in Texas**

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TOPICS ADDRESSED

1. Nature of privileges
2. How to assert the attorney-client and work product privileges under state and federal procedure
3. A few distinctions between state and federal law regarding privileges in Texas civil cases
4. Post-Incident investigations
5. Special considerations in depositions
6. Expert witnesses

Nature of Privileges

1. NATURE OF PRIVILEGES

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- Privileges are anomalous in that they are not designed to maximize the search for truth.



1. NATURE OF PRIVILEGES

- **Many Privileges**

- *Attorney-Client* [Tex. R. Evid. 503; Fed. R. Evid. 501]
- *Work Product* [Tex. R. Civ. P. 19.25; Fed. R. Civ. P. 26(b)]
- Privilege Against Self-Incrimination (5th Amendment)
- Husband- Wife [Tex. R. Evid. 504]
- Clergyman – Penitent [Tex. R. Evid. 505]
- Trade Secrets [Tex. R. Evid. 507]
- Physician Patient [Tex. Occ. Code § 159.003; Tex. R. Evid. 509(b)]
- Veterinarian Client [Tex. Occ. Code § 801.353]
- Political Vote [Tex. R. Evid. 506]
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1. NATURE OF PRIVILEGES

Attorney-Client Privilege → Held by
Client

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