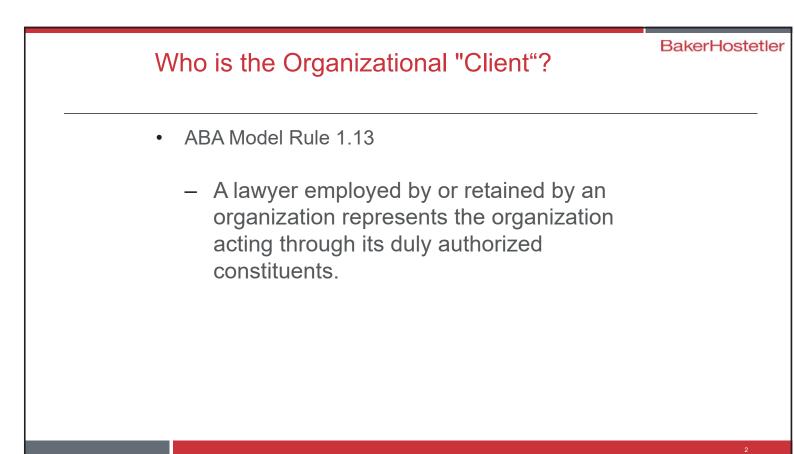
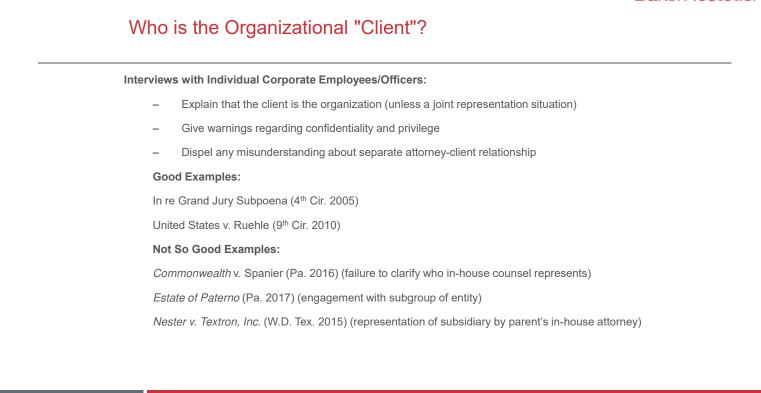
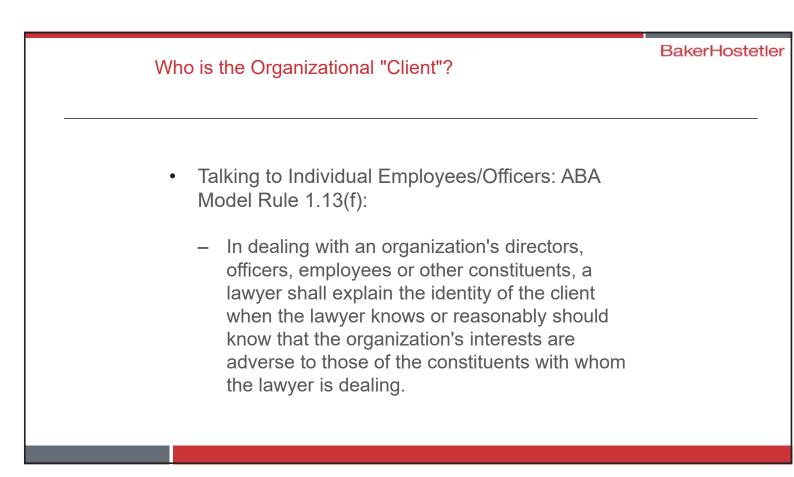
## **PRIVILEGE AND ETHICS ISSUES**

## UT LABOR AND EMPLOYMENT LAW CONFERENCE 2018



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Conflicts Involving "Virtual" Clients	BakerHostetler
<ul> <li>Former HR Managers/Employer Representatives as Plaintiffs</li> </ul>	
<ul> <li>Unless law firm individually represented corporate constituent, there is no express attorney-client relationship/disqualification (<i>See Cole v. Ruidoso Municipal Schools</i>, 43 F.3d 1373 (10th Cir. 1994)</li> <li>However, attorney-client relationship can be implied by conduct, especially where lawyer is not sufficiently clear with constituent as to whom firm represents (<i>See Home Care Industries v. Murray</i>, 154 F. Supp. 2d 869 (D. N.J. 2001)</li> <li>Note: Former corporate constituents may carry with them "property" of the employer (attorney-client privilege information trade secrets, etc.)</li> </ul>	

# Conflicts Involving Insurance

• Texas Ethics Op. No. 670 (March 2018)

If an insured fails to communicate with a lawyer who is retained to defend insured, lawyer may withdraw from representation. However, without insured consent, lawyer may not disclose to insurer or to the court the reason for the withdrawal.

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## Title search: Privilege and Ethics Issues

Also available as part of the eCourse <u>Ethics for Employment Attorneys</u>

First appeared as part of the conference materials for the  $25^{th}$  Annual Labor and Employment Law Conference session "Ethics for Employment Attorneys"