

# ETHICAL HAZARDS THAT CONFRONT CORPORATE COUNSEL

UT Law 41<sup>st</sup> Annual  
Corporate Counsel Institute



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# Who is the Client?

## A. Corporate counsel are the primary counsel for the organization

- **Texas Rule of Professional Conduct 1.12(a):**

A lawyer employed or retained by an organization represents the entity. While the lawyer in the ordinary course of working relationships may report to, and accept direction from, an entity's duly authorized constituents, in the situations described in paragraph (b) the lawyer shall proceed as reasonably necessary in the best interest of the organization without involving unreasonable risks of disrupting the organization and of revealing information relating to the representation to persons outside the organization.

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# Who is the Client?

## B. Constituent misconduct and the duty to “report up”

- **Texas Rule of Professional Conduct 1.12(b)**

- A lawyer representing an organization must take reasonable remedial actions whenever the lawyer learns or knows that: (1) a person associated with the organization has committed or intends to commit a violation of a legal obligation to—or that may be imputed to—the organization; (2) substantial injury to the organization is likely; and (3) the violation relates to a matter within the scope of the lawyer’s representation to the organization.

- **Texas Rule of Professional Conduct 1.12(c)**

- A lawyer must first attempt to resolve a violation by taking measures within the organization. The lawyer should consider the seriousness of the violation and its consequences, the scope and nature of the lawyer's representation, the responsibility in the organization and the apparent motivation of the person involved, and the policies of the organization concerning such matters.

- **Texas Rule of Professional Conduct 1.12(d)**

- Upon a lawyer’s resignation or termination, a lawyer is excused from further proceeding as required by TRPC 1.12(a)-(d).

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