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# **ETHICS OF MULTIPLE PARTY REPRESENTATION 2019**

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# ETHICS OF MULTIPLE PARTY REPRESENTATION 2019

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## **ETHICS OF MULTIPLE PARTY REPRESENTATION 2019**

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### **1. INTRODUCTION TO TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT**

Ethical rules dictate standard of conduct to which attorneys should conform. They are quasi-statutory and enforced by disciplinary proceedings and represent standards of conduct.<sup>1</sup>

Violation of State Bar rules does not create private cause of action.<sup>2</sup>

### **2. OVERVIEW OF BASIC CONFLICT OF INTEREST RULES**

Conflict of interest rules derive from the need to protect client confidences and assure clients of the lawyer's loyalty. Conflict of interest rules reflect competing concerns:

- Undivided loyalty of lawyer to client.<sup>3</sup>
- Zealous representation.
- Avoiding representation when attorney's judgment may be distorted by other concerns.
- Enhance effectiveness of legal representation.
- Safeguarding of client information.<sup>4</sup>

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<sup>1</sup> See Tex. Disciplinary Rules Prof. Conduct preamble ¶ 10, reprinted in Tex. Gov't Code Ann., tit. 2, subtit. G, app. A (West 2013) (Tex. State Bar R., art. X § 9) ("The Texas Rules of Professional Conduct define proper conduct for purposes of professional discipline."). *Sealed Party v. Sealed Party*, No. CIV.A.H-04-2229, 2006 WL 1207732, at \*8 (S.D. Tex. May 4, 2006) ("The [Texas Disciplinary Rules of Professional Conduct] are quasi-statutory and are enforced in disciplinary proceedings by the State Bar."). See D. Beck & A. Roberts, *Legal Malpractice in Texas* Third Edition, 70 Baylor L. Rev. 213, 411-412 (2018).

<sup>2</sup> Tex. Disciplinary Rules Prof. Conduct preamble ¶ 15; *Dyer v. Shafer, Gilliland, Davis, McCollum & Ashley, Inc.*, 779 S.W.2d 474, 479 (Tex. App.--El Paso 1989, writ denied) ("[A] violation of state bar rules does not create a private cause of action."); *Wright v. Sydow*, 173 S.W.3d 534, 549 (Tex. App.--Houston [14th Dist.] 2004, pet. denied) ("A violation of the Disciplinary Rules does not necessarily establish a cause of action, nor does it void an otherwise valid contract executed outside of the attorney-client relationship.").

<sup>3</sup> See Tex. Disciplinary Rules Prof. Conduct Preamble ¶¶ 2-3.

<sup>4</sup> See Tex. Disciplinary Rules Prof. Conduct R. 1.05(b)(1)(i); *Paxton v. City of Dallas*, 509 S.W.3d 247, 253 n.33 (Tex. 2017) ("Texas Disciplinary Rule of Professional Conduct 1.05(b) imposes a duty of confidentiality and prohibits a lawyer from knowingly revealing confidential information."); *P & M Elec. Co. v. Godard*, 478 S.W.2d 79, 80 (Tex. 1972) ("An attorney may not represent conflicting interests; and may not divulge a client's secrets or

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