




# ETHICS: CAN WE TALK?

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### **Rule 4.02(a)**

“In representing a client, a lawyer shall not communicate or cause or encourage another to communicate about the subject of the representation with a person, organization or entity of government the lawyer knows to be represented by another lawyer regarding that subject, unless the lawyer has the consent of the other lawyer. ...”

TEX. DR 4.02(a).



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### Model Rule 4.2, cmt 3

“The Rule applies even though the represented person initiates or consents to the communication. A lawyer must immediately terminate communication with a person if, after commencing communication, the lawyer learns that the person is one with whom communication is not permitted by this Rule.”

Model DR 4.2, cmt. 3

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### 5<sup>th</sup> Cir. (1992)

“The testimony establishes the facial elements of a violation of Rule 4.02(a). It does not establish, however, the identity of the person who initiated the communications, nor does it negate the applicability of Rule 4.02(d).”

*In re Medrano*, 956 F.2d 101 (5th Cir. 1992)



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