

UT LAW CLE

THE UNIVERSITY OF TEXAS SCHOOL OF LAW

27TH ANNUAL CONFERENCE ON
STATE AND FEDERAL APPEALS

THE Ethics APPRENTICE

Hon. Daryl L. Moore | 333rd District Court | Houston

R. Russell Hollenbeck | Wright & Close LLP | Houston

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presented by...



Hon. Daryl L. Moore | 333rd District Court | Houston

R. Russell Hollenbeck | Wright & Close LLP | Houston

1. Under the Texas Disciplinary Rules of Professional Conduct, may the remaining lawyers in a law firm continue to use – in the name of their firm – the name of a lawyer who left the firm?

Opinion 605 (March 2011); Rule 7.01

a. Yes, if the lawyer who left did so to practice independently so long as she consented to the law firm's continued use of her name in the firm's name.

b. Yes, if the lawyer who left retired from the practice of law.



c. No.

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2. Under the Texas Disciplinary Rules of Professional Conduct, is a lawyer permitted to acquire a security interest in the subject matter of the litigation to secure payment of the lawyer's fee with respect to the litigation?

Opinion 610 (Aug. 2011); Rule 1.08(h)

a. Yes, so long as the agreement is in writing and the client consents to the acquisition of the security interest.

b. No.



c. No, unless the security interest is to secure a permissible contingent fee under Rule 1.04.

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3. May a lawyer electronically record a telephone conversation between the lawyer and a client or a third party?

Opinion 575 (November 2006)

a. No.

b. Yes, so long as the lawyer informs the other party to the call that the conversation is being recorded.

c. Yes, irrespective of whether the lawyer informs the other party to the call that the conversation is being recorded. ✓

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4. Under the Texas Disciplinary Rules of Professional Conduct, may a law firm represent a client in an appeal from a judgment following a trial if a lawyer in the law firm testified as a fact witness at the trial?

Opinion 471 (June 1971); Rule 3.08

a. No.

b. Yes, so long as the lawyer who is arguing the case on appeal is not the lawyer who testified as a fact witness at the trial. ✓

c. Yes, even if the lawyer arguing the case on appeal also testified as a fact witness at the trial.

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