

28<sup>th</sup> Annual LLCs, LP and Partnership  
July 18-19, 2019

## Ethics of Multiple Party Representation-2019

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**Primary Rules:**

- Rule 1.06: Conflict of Interest: General Rule
- Rule 1.09: Conflict of Interest: Former Clients
- Rule 1.12: Organization as Client

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**Rule 1.06(a): Opposing Parties in Litigation**

**Texas Rule 1.06: Conflict of Interest**

“(a) A lawyer shall not represent opposing parties to the same litigation.”

**Comment 2 to Rule 1.06:**

“The term ‘opposing parties’ means a judgment favorable to one of the parties will directly impact unfavorably upon the other party.”

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### Rule 1.06(b): Non-litigation situations

Texas Rule 1.06(b)(1) permits multiple party representation unless

- representation of one client reasonably appears to be or become
- adversely limited by responsibility to another client or the lawyer's own interest.

“Conflicts of interest in contexts other than litigation sometimes may be difficult to assess. . . . The question is often one of proximity and degree.”

☐ Tex. Disciplinary Rules Prof. Conduct 1.06, comment 3.

### Rule 1.06(b): Non-litigation situations

2 parts to Rule 1.06(b):

- The substantially related matter prohibition of Rule 1.06(b)(1).
- Prohibition of representation of a client if the representation “reasonably appears to be” adversely limited by the lawyer's responsibilities “to another client” or lawyer's interests. Rule 1.06(b)(2).

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First appeared as part of the conference materials for the  
28<sup>th</sup> Annual LLCs, LPs and Partnerships session

"Ethics of Multi-Party Representation: 2019"