

ETHICAL ISSUES IN STOWERS DEMANDS



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OVERVIEW

- ▣ FOUR PERSPECTIVES
 - DEFENSE COUNSEL
 - INSURER
 - INSURED
 - PLAINTIFF'S COUNSEL

I. DEFENSE COUNSEL

- 1) WHO IS THE CLIENT?
- 2) WHAT DUTY IS OWED?

Texas Disciplinary Rules of Professional Conduct-Preamble

“In all professional functions, a lawyer should zealously pursue client’s interests within the bounds of the law:

I. DEFENSE COUNSEL

3) CONFLICT OF INTEREST

Texas Disciplinary Rules of Professional Conduct-1.06

(b) In other situations and except to the extent permitted by paragraph (c), a lawyer shall not represent a person if the representation of that person:

I. DEFENSE COUNSEL

(2) reasonably appears to be or become adversely limited by the lawyers or law firm's responsibilities to another client or to a third person or by the lawyers or law firm's own interests.

I. DEFENSE COUNSEL

- ▣ SETTLEMENT DEMANDS
 - RESPONSE WHEN DEMAND SENT TO DEFENSE COUNSEL
 - OFFER TO SETTLE ONE INSURED BUT NOT THE OTHER

II. INSURER

- ▣ Risk of excess judgment-Guiding Principles
- ▣ Notice of settlement demand-542.153
- ▣ 542.153. NOTICE REQUIRED. (a) Not later than the 10th day after the date an initial offer to settle a claim against a named insured under a casualty insurance policy issued to the insured is made, the insurer shall notify the insured in writing of the offer.

II. INSURER

- ▣ Not ask defense counsel to take action that is against the interest of insured

III. INSUREDS

- ▣ Insured not want Stowers demand accepted
- ▣ Information which would indicate non-coverage-
Guiding Principles

IV. PLAINTIFF'S COUNSEL

- ▣ Eroding policies
- ▣ Multiple clients

CONCLUSION

- These are only some of the issues
- Issues continue to multiply
- As with most things in life, it only gets more complicated
- Important to keep in mind who you are, what is your role, and what are your duties