



LEE CUSENBARY ETHICAL LIFE AWARD

Association of Corporate Counsel

South/Central Texas Chapter

2019 NOMINATION APPLICATION

PLEASE CHECK NOMINEE CATEGORY:

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In-House Legal Department

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Law Firm

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In-House Lawyer

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Private Lawyer

Nominee's Name:

Nominee's Telephone Number:

Your Relationship to Nominee:

Please include a bio of the nominee and a statement explaining how the nominee satisfies the attached Lee Cusenbary Ethical Life Award Criteria. Please provide specific examples which demonstrate the nominee's exceptional ethical conduct and professional integrity:

All nominees will be notified that they have been nominated. Please indicate below if we have your permission to reveal your name to the nominee.

Your Name:

Your Company or Law Firm Name:

Your Telephone Number:

Permission to reveal your name to nominee:

☐

YES

☐

NO

Please return this form by Monday, July 15, 2019 to Monica Lerma by mail at 20880 Stone Oak Pkwy, Third Floor, San Antonio, TX 78258 or by email at monicalerma@iheartmedia.com.

OVERVIEW

The South/Central Chapter of the Association of Corporate Counsel (ACC) is pleased to present the Twelfth Lee Cusenbary Annual Ethical Life Awards on Thursday, October 24, 2019 during ACC's 22nd Annual Ethics Conference. The Lee Cusenbary Ethical Life Award will be presented to one (1) in-house lawyer or legal department **and** one (1) private lawyer or law firm that exemplify ideal or exceptional ethical behavior in the practice of law. All in-house lawyers or legal departments and private lawyers or law firms in Central and South Texas are eligible. *Past nominees are eligible.* Nominations can be made by anyone with personal knowledge of the nominee's commitment to ethical conduct in the practice of law.



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All nominees and the winners will be announced in an advance public announcement, prior to the Ethics Follies performances. The winners will be presented with awards at the evening performance on Thursday, October 24, 2019. Nomination applications can be submitted to Monica Lerma by mail at 20880 Stone Oak Pkwy, Third Floor, San Antonio, TX 78258 or by email at monicalerma@iheartmedia.com. The deadline for submitting nominations is **Monday, July 15, 2019**.

CRITERIA

The following criteria will be used to evaluate the nominations by an independent panel of judges. Background letters from clients, other attorneys and judges have provided a full picture for the reviewing judges in the past. Your nomination should, as inclusively as possible, specify how the nominee has demonstrated the following attributes:

- A strong and clear commitment to ethics as part of the nominee's core values. Examples may include how the nominee fulfills the spirit as well as the requirements of the Rules of Professional Conduct. Attached for guidance is the preamble and scope of the Texas Disciplinary Rules of Professional Conduct.
- Effective implementation and communication of ethical standards throughout the nominee's practice and interactions with clients and peers.
- Examples of the nominee's exceptional ethical behavior, professional commitment to integrity, soundness of character, honesty and fairness.
- If the nominee is an entity:
 - The nominee's formal ethics policy or program, mission statement or values regarding ethical behavior. For example, how does the nominee entity address conflicts of interest, confidentiality obligations, and encouragement of reporting any unethical or illegal behavior?
 - Examples of how the nominee's ethics program is communicated to others both within and outside the nominee's organization.
 - Examples of the nominee's internal compliance measures that ensure its ethical objectives are being met.
- If the nominee is an individual:
 - The nominee's successful management of conflicts of interest or other demonstrations of their professional commitment to integrity and ethics.
 - The nominee's established reputation for professional integrity and ethical behavior.

Please contact Monica Lerma at monicalerma@iHeartMedia.com or 210.464.7408 with any questions.



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APPENDIX

TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

Preamble: A Lawyer's Responsibilities 1. A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice. Lawyers, as guardians of the law, play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship with and function in our legal system. A consequent obligation of lawyers is to maintain the highest standards of ethical conduct.

2. As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealing with others. As intermediary between clients, a lawyer seeks to reconcile their divergent interests as an advisor and, to a limited extent, as a spokesperson for each client. A lawyer acts as evaluator by examining a client's affairs and reporting about them to the client or to others.

3. In all professional functions, a lawyer should zealously pursue clients' interests within the bounds of the law. In doing so, a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Texas Disciplinary Rules of Professional Conduct or other law.

4. A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

5. As a public citizen, a lawyer should seek improvement of the law, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote professional time and civic influence in their behalf. A lawyer should aid the



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legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

6. A lawyer should render public interest legal service. The basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in or otherwise support the provision of legal services to the disadvantaged. The provision of free legal services to those unable to pay reasonable fees is a moral obligation of each lawyer as well as the profession generally. A lawyer may discharge this basic responsibility by providing public interest legal services without fee, or at a substantially reduced fee, in one or more of the following areas: poverty law, civil rights law, public rights law, charitable organization representation, the administration of justice, and by financial support for organizations that provide legal services to persons of limited means.

7. In the nature of law practice, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from apparent conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interests. The Texas Disciplinary Rules of Professional Conduct prescribe terms for resolving such tensions. They do so by stating minimum standards of conduct below which no lawyer can fall without being subject to disciplinary action. Within the framework of these Rules many difficult issues of professional discretion can arise. The Rules and their Comments constitute a body of principles upon which the lawyer can rely for guidance in resolving such issues through the exercise of sensitive professional and moral judgment. In applying these rules, lawyers may find interpretive guidance in the principles developed in the Comments.

8. The legal profession has a responsibility to assure that its regulation is undertaken in the public interest rather than in furtherance of parochial or self-interested concerns of the bar, and to insist that every lawyer both comply with its minimum disciplinary standards and aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.

9. Each lawyer's own conscience is the touchstone against which to test the extent to which his actions may rise above the disciplinary standards prescribed by these rules. The desire for the respect and confidence of the members of the profession and of the society which it serves provides the lawyer the incentive to attain the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction. So long as its practitioners are guided by these principles, the law will continue to be a noble profession. This is its greatness and its strength, which permit of no compromise. Preamble: Scope



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10. The Texas Disciplinary Rules of Professional Conduct are rules of reason. The Texas Rules of Professional Conduct define proper conduct for purposes of professional discipline. They are imperatives, cast in the terms “shall” or “shall not.” The Comments are cast often in the terms of “may” or “should” and are permissive, defining areas in which the lawyer has professional discretion. When a lawyer exercises such discretion, whether by acting or not acting, no disciplinary action may be taken. The Comments also frequently illustrate or explain applications of the rules, in order to provide guidance for interpreting the rules and for practicing in compliance with the spirit of the rules. The Comments do not, however, add obligations to the rules and no disciplinary action may be taken for failure to conform to the Comments. 6

11. The rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers and substantive and procedural law in general. Compliance with the rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion and finally, when necessary, upon enforcement through disciplinary proceedings. The rules and Comments do not, however, exhaust the moral and ethical considerations that should guide a lawyer, for no worthwhile human activity can be completely defined by legal rules.

12. Most of the duties flowing from the client-lawyer relationship attach only after the client has requested the lawyer to render legal services and the lawyer has agreed to do so. For purposes of determining the lawyer's authority and responsibility, individual circumstances and principles of substantive law external to these rules determine whether a client-lawyer relationship may be found to exist. But there are some duties, such as of that of confidentiality, that may attach before a client-lawyer relationship has been established.

13. The responsibilities of government lawyers, under various legal provisions, including constitutional, statutory and common law, may include authority concerning legal matters that ordinarily reposes in the client in private client-lawyer relationships. For example, a lawyer for a government agency may have authority on behalf of the government to decide upon settlement or whether to appeal from an adverse judgment. Such authority in various respects is generally vested in the attorney general and the state's attorney in state government, and their federal counterparts, and the same may be true of other government law officers. Also, lawyers under the supervision of these officers may be authorized to represent several government agencies in intragovernmental legal controversies in circumstances where a private lawyer could not represent multiple private clients. They also may have authority to represent the “public interest” in circumstances where a private lawyer would not be authorized to do so. These rules do not abrogate any such authority.



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14. These rules make no attempt to prescribe either disciplinary procedures or penalties for violation of a rule. 15. These rules do not undertake to define standards of civil liability of lawyers for professional conduct. Violation of a rule does not give rise to a private cause of action nor does it create any presumption that a legal duty to a client has been breached. Likewise, these rules are not designed to be standards for procedural decisions. Furthermore, the purpose of these rules can be abused when they are invoked by opposing parties as procedural weapons. The fact that a rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the rule. Accordingly, nothing in the rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating such a duty.

16. Moreover, these rules are not intended to govern or affect judicial application of either the attorney client or work product privilege. The fact that in exceptional situations the lawyer under the Rules has a limited discretion to disclose a client confidence does not vitiate the proposition that, as a general matter, 7 the client has a reasonable expectation that information relating to the client will not be voluntarily disclosed and that disclosure of such information may be judicially compelled only in accordance with recognized exceptions to the attorney-client and work product privileges.