



# Meet the Press:

Working Effectively with the Media

CONFERENCE ON STATE AND FEDERAL APPEALS



**Connie H. Pfeiffer**  
Yetter Coleman LLP  
Houston, TX



**Natalie Posgate**  
The Texas Lawbook  
Dallas, TX



Live Webcast June 10-11, 2021

## Overview

- ***Ethics***  
Texas Rules of Disciplinary Procedure and rules for reporters
- ***Lawyer Liability***  
*Landry's Inc. v. Animal Legal Defense Fund* (Tex. 2021)
- ***Tips, Tricks, Do's and Don'ts—***  
The Practical Side

**General Rule:**

- (a) In the course of representing a client, a lawyer shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicatory proceeding. A lawyer shall not counsel or assist another person to make such a statement.

(b) A lawyer **ordinarily will violate paragraph (a), and the likelihood of a violation increases if the adjudication is ongoing or imminent**, by making an extrajudicial statement of the type referred to in that paragraph when the statement refers to:

- (1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness; **or the expected testimony of a party or witness;**
- (2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense; the existence or contents of any confession, admission, or statement given by a defendant or suspect; or that person's refusal or failure to make a statement;
- (3) the performance, refusal to perform, or results of any examination or test; the refusal or failure of a person to allow or submit to an examination or test; **or the identity or nature of physical evidence expected to be presented;**
- (4) **any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration; or**
- (5) **information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial.**

(c) A lawyer **ordinarily will not violate paragraph (a)** by making an extrajudicial statement of the type referred to in that paragraph when the lawyer merely states:

- (1) the general nature of the claim or defense;
- (2) the information contained in a public record;
- (3) that an investigation of the matter is in progress, including the general scope of the investigation, the offense, claim or defense involved;
- (4) except when prohibited by law, the identity of the persons involved in the matter;
- (5) the scheduling or result of any step in litigation;
- (6) a request for assistance in obtaining evidence, and information necessary thereto;
- (7) a warning of danger concerning the behavior of a person involved, when there is a reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and

(8) if a criminal case:

- (i) the identity, residence, occupation and family status of the accused;
- (ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;
- (iii) the fact, time and place of arrest; and
- (iv) the identity of investigating and arresting officers or agencies and the length of the investigation.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Meet the Press: Working Effectively with the Media

Also available as part of the eCourse

[Hooked on CLE: October 2021](#)

First appeared as part of the conference materials for the  
31<sup>st</sup> Annual Conference on State and Federal Appeals session  
"Meet the Press: Working Effectively with the Media"