

PROFESSIONALISM CLE RESOURCES

**“Law Firm Ethics in the Shadow of Corporate Social Responsibility”
Christopher Whelan and Neta Ziv
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CLE DISCUSSION PROMPTS

I. Introduction.

For some years now corporations have been requiring that their business partners – i.e., suppliers, subcontractors, to name two categories – adhere to standards that at one time were the subject of government regulations. Environmental standards and labor rules are two examples.

Corporations also have been using this mechanism of control in hiring outside legal counsel. In addition to negotiating the scope of representation and billing terms, corporations now include provisions that address the law firm’s conflict of interests, confidentiality, and professional conduct during litigation, especially discovery. Many corporations also include provisions regarding the firm’s internal operations such as workplace diversity, how relationship partners are determined and work/life balance.

This program explores the effect these provision have upon lawyers’ professional obligation to be bound by a “set of norms, rules, ideals and standards under which they maintain the capacity to act independently of their clients and that allow them to deviate from their clients’ demands.” Traditional notions of lawyer independence also “enables them to render opinions and employ their discretions autonomously, and abide by norms that embody the unique values of the profession as a carrier of public ideals.” P. 178.

II. Questions for Discussion.

1. Are there some provisions that are appropriate for outside counsel to be held accountable for?
2. Is it appropriate for the corporation to, in essence, define what constitutes zealous representation?
3. To what extent should outside counsel be held to the provisions of social or environmental standards, which many corporations describe as “doing well by doing good”?