

# TECHNOLOGY'S DISRUPTION OF THE LEGAL PROFESSION



## HISTORIC TECHNOLOGICAL DISRUPTIONS





*Email as an example...*

3

## **Texas Rule 1.05 - CONFIDENTIALITY**

**Email use as foreshadowing ethical debates that accompany technological disruptions:** Texas Rule 1.05 – The lawyer’s ethical duty to protect client confidential information.

Rule 1.05 defines client “confidential information” as including both “PRIVILEGED INFORMATION” and “UNPRIVILEGED CLIENT INFORMATION.”

A lawyer cannot “**knowingly**” reveal client confidential information to third parties, unless an exception under Rule 1.05 applies.

**Texas Professional Ethics Committee Opinions 648 (2015)** considered email technology and concluded that it was permissible for lawyers to use; however, the Opinion cautioned that, in some instances, warning clients about potential confidentiality breaches that can occur with email use and the usefulness of encryption.

## Texas Rule 1.01 - COMPETENCE

### Texas Rule 1.01: Attorney "COMPETENCE" AND "NEGLECT"

#### COMPETENCE:

Competence clearly includes procedural knowledge, and now technological knowledge, to practice law competently.

Example: Lawyer was disciplined for repeated failures to learn how to competently use a court's electronic filing system.

**Texas Professional Ethics Opinion 665 (2016)** applied Rule 1.01 (competence) and Rule 1.05 (client confidential information protection) to a question about a lawyer's inadvertent transmission of metadata containing client confidential information in an electronic document sent to adverse and/or third parties.

## The Internet Flattens the World



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