

Ethical Issues When Working Remotely (or did Alexa just waive privilege?)

68th Annual Taxation Conference
The University of Texas
December 2-3, 2020
Austin, TX
Live Webcast



ThompsonKnight

1

Panelists

Michelle M. Kwon
University of Tennessee
Knoxville, TN
mkwon2@utk.edu

Abbey B. Garber
Thompson & Knight
Dallas, TX
Abbey.Garber@tklaw.com



ThompsonKnight

2

2

Panel Description

- How does working remotely impact lawyers' ethical obligations to their clients?
 - Competence and diligent representation (Rule 1.01)
 - Communication (Rule 1.03)
 - Confidentiality (Rule 1.05)
 - Remote supervision of junior lawyers and non-lawyers (Rules 5.01 and 5.03)
 - Unauthorized practice of law (Rule 5.05)

3

3

Competent and Diligent Representation

- "A lawyer shall not accept or continue employment in a legal matter which the lawyer knows or should know is beyond the lawyer's competence." Texas Disciplinary Rule of Professional Conduct 1.01
- Novel legal issues due to COVID include:
 - Employment Law
 - Health Law
 - CARES Act
- Can obtain competence through study and investigation

4

4

Competence and Technology

- Rule 1.01, comment 8: Lawyers “should strive to become and remain proficient and competent in the practice of law, *including the benefits and risks associated with relevant technology.*”
 - Video conference platforms
 - Accessing email and documents remotely
 - E-filing with courts

Communication

- Rule 1.03:
 - (a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
 - (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

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 \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Ethical Issues When Working Remotely (or did Alexa just waive privilege?)

Also available as part of the eCourse

[First Friday Ethics \(October 2021\)](#)

First appeared as part of the conference materials for the
68th Annual Taxation Conference session

"Ethical Issues When Working Remotely (or did Alexa just waive privilege?)"