

Meeting Ethical Obligations in a Covid-19 World

By:

Nate St. Clair, II, Esq., Partner, Jackson Walker
Skyla R. Banks, Esq., Commercial Counsel, Amdocs, Inc.
Erreka T. Campbell, Esq., Senior Counsel, Apple, Inc.

1

Agenda

- **Global Outbreak Shifts Tech Focus**
- **Ethical Obligations Impacted by Technology**
- **Current Challenges for Operating in the Cloud**
- **Current Challenges for Adversary Proceedings**
- **Key Takeaways**

2

Global Outbreak Shifts Tech Focus

Trend → Necessity



3

Global Outbreak Shifts Tech Focus

- ❖ Cloud Storage
- ❖ Data Privacy/Data Security
- ❖ e-Filing
- ❖ e-Service
- ❖ e-Signature
- ❖ Electronic Communications
- ❖ High-Speed Broadband
- ❖ Home Office Setups
- ❖ Virtual Meetings
- ❖ Word Processing

4

Ethical Obligations Impacted by Technology

- **Duty to Communicate** - TDRPC 1.03
- **Duty of Confidentiality** - TDRPC 1.05
- **Duty to Keep Reasonably Informed** - TDRPC 1.01 (including Tech Competence)
- **Duty to Notify Client of Data Breach** - ABA Opinion 483
- **Duty of Oversight** - TDRPC 5.01; 5.03
- **Duty to Safekeep Client Property** - TDRPC 1.14

5

Scenario #1

Your client, ABC Corporation, is planning to take legal action against a disgruntled former employee, John Doe. The client has advised you that John began posting online various false, defamatory comments about ABC Corporation and its employees on several social media sites. ABC also advised you that John Doe has contacted and is harassing several current employees of the company, including making libelous accusations against his former director. ABC has proof of the false, defamatory social media posts and harassing comments that were posted in January and February 2021, and the client wants this former employee stopped.

After sending several cease and desist letters to John Doe in March and May 2021 and providing evidence of the falsity of his statements, John hasn't retracted his comments. The letters were sent to John via Federal Express at his last known address and signed for by an adult at his address each time. No response to any of the letters has been received by ABC. ABC Corporation has now decided to take legal action and has asked you to prepare a formal complaint to protect its rights. Your service processor has attempted to serve John Doe several times, including attempts to i) serve him in person with a copy of the citation and petition and ii) mailing him via CMRRR with a copy of the citation and petition.

The service processor has gone to all last known addresses and attempted to leave the citation and petition with any adult or potential recipient over 16 years old, but no one will answer the door. The service processor suggests serving the defendant electronically. Of course, you have concerns with serving him electronically and whether this is in compliance with TRCP 106.

Which Ethical Obligations Are In Play?

- (a) **Duty to Keep Reasonably Informed**
- (b) **Duty to Communicate**
- (c) **Duty to Safekeep Client Property**
- (d) **Duty of Oversight**
- (e) **Duty to Notify Client of Data Breach**
- (f) **Duty of Confidentiality**

6

6

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: Meeting Ethical Obligations in a Covid-19 World

Also available as part of the eCourse

[2021 LLCs, LPs, and Partnerships eConference](#)

First appeared as part of the conference materials for the

30th Annual LLCs, LPs and Partnerships session

"Technology Use and the Ethics that Come with It"