

# Contents

<b>Part I Introduction to Technology Competence</b>	
<b>1</b>	<b>Introduction to Ethics and Technology</b> . . . . . 3
<b>2</b>	<b>Technological Competence</b> . . . . . 5
<b>3</b>	<b>Outsourcing</b> . . . . . 9
<b>4</b>	<b>Receipt of Privileged Information</b> . . . . . 15
<b>Part II The History of Technology Competence</b>	
<b>5</b>	<b>What Is Technology?</b> . . . . . 21
5.1	What IS Technology? . . . . . 22
5.2	Identifying Technology Risks . . . . . 22
5.3	Identifying Technology Benefits . . . . . 24
5.4	Conclusion . . . . . 25
<b>6</b>	<b>How Did We Get Here?</b> . . . . . 27
<b>7</b>	<b>Technology: Then and Now</b> . . . . . 29
7.1	The Network . . . . . 30
7.2	Backdoor Access . . . . . 31
7.3	Historical Context . . . . . 31
7.4	Moore’s Law . . . . . 34
7.5	Where Are We Now . . . . . 34
<b>8</b>	<b>Benchmarking Technology Competence</b> . . . . . 37
8.1	Looking Beyond Legal . . . . . 37
8.1.1	ISO Certifications . . . . . 37
8.1.2	PMP . . . . . 38
8.1.3	Six Sigma . . . . . 38

### Part III Technology in Litigation

<b>9</b>	<b>Introduction to eDiscovery</b> .....	43
<b>10</b>	<b>Authenticity</b> .....	47
10.1	The Problems and Their Solutions .....	48
10.1.1	Tender of Electronic Information to Establish That the Information was on a Website. ....	48
10.1.2	The Internet Archive—“The Way Back Machine” ....	49
10.1.3	Communications Using the Internet. ....	50
10.1.4	Text Messages and Instantaneous Communications. ....	52
10.1.5	Social Media Postings and Tweets .....	53
10.1.6	Computer Generated Data .....	55
10.1.7	Business Records. ....	57
10.1.8	Self-authentication .....	59
<b>11</b>	<b>The “Ethics” or Lack of Them During Negotiations</b> .....	61
<b>12</b>	<b>Technology Assisted Review</b> .....	65

### Part IV Strategies for Achieving Competence

<b>13</b>	<b>Transparency</b> .....	71
13.1	Defining Transparency .....	71
13.2	The Growing Need for Transparency in eDiscovery. ....	72
13.3	Beyond eDiscovery: Transparency in Transactional Matters. ....	74
<b>14</b>	<b>Effective Communication</b> .....	75
14.1	Establishing Roles and Responsibilities .....	75
14.2	Sharing Knowledge Among Team Members and Stakeholders. ....	76
14.3	Efficiently Responding to Emergent Circumstances .....	77
<b>15</b>	<b>Achieving Consistency</b> .....	79
15.1	DMAIC .....	80
<b>16</b>	<b>Managing Variable Needs</b> .....	87
16.1	What Is Scalability? .....	87
16.2	Capability .....	88
16.3	Availability .....	89
16.4	Repeatability .....	89
16.5	The Challenges .....	90
16.6	Solutions .....	91
<b>17</b>	<b>Effective Supervision</b> .....	93
17.1	Six Criteria for Effective Supervision .....	98

<b>18 Using Technology for Improved Billing and Business</b> .....	103
18.1 A Brief History of the Billable Hour .....	103
18.2 Using Technology to Develop Alternative Fee Arrangements .....	104
18.3 Buying and Selling Legal Technology .....	105
18.4 Understanding Business Impact of Competence Failures in Technology .....	105
<b>Appendix A: Case Study: Network Security</b> .....	107
<b>Appendix B: Case Study: Backdoor Access</b> .....	109
<b>Appendix C: Scalability Tools</b> .....	111
<b>Appendix D: Case Study—Contract Management Meets M&amp;A (Role Play)</b> .....	113
<b>Appendix E: Sample RFP Questions</b> .....	123
<b>Appendix F: Legal Technology Product Index</b> .....	125
<b>Glossary</b> .....	135
<b>Index</b> .....	139
<b>Legal Citations</b> .....	141