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The legal profession, the Internet and Harry Potter

Last week, as we were driving back to my hometown for a holiday party, my children were in the backseat watching “Harry Potter and the Order of the Phoenix” on our car’s DVD system.

At first, I didn’t pay much attention to the movie, although I occasionally listened in as I drove.

At one point during the film, however, a speech given to the students at Hogwarts by one of the main antagonists in the film — the cruel, curmudgeonly Dolores Umbridge — stopped me in my tracks.

Now, before I address her speech, a little background information is necessary for those of you who are not fans of Harry Potter: Dolores Umbridge was an arm of the Ministry of Magic, the governmental entity that ruled over the magical community in Britain. The Ministry was very slow to react to the dangers posed by the reemergence of the main antagonist, the dark wizard Lord Voldemort, who represented all that was evil. In fact, up until the very end of the series of books, the Ministry spent more time attempting to quiet those who insisted that Lord Voldemort indeed had returned than actually dealing with the very real threats he presented.

Dolores Umbridge spent much of her time carrying out the Ministry’s orders and squelching dissent. Her speech to the students at Hogwarts laid out the rationale for such a ridiculous and counterintuitive policy. What struck me as I listened to her speech was that it easily could have come from the mouths of some of the leaders of the legal profession regarding to the adoption of technological advancements into the practice of law: “The treasure trove of ... knowledge amassed by our ancestors must be guarded, replenished and polished by those who have been called to [this] noble profession. ... [P]rogress for the sake of progress must be discouraged, for our tried and tested traditions often require no tinkering. Let us ... preserv[e] what ought to be preserved [and] prun[e] wherever we find practices that ought to be prohibited.”

In other words, the Ministry insisted on clinging to the past because it was terrified of change. The Ministry’s ineffective and downright pointless efforts to avoid facing reality — that Lord



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Voldemort had returned — was a disservice to the interests of the very people it was obligated to protect.

Over the past year, the leaders of our profession have engaged in much of the same rhetoric, decrying technological innovation rather than embracing the reality of change.

In Florida, for example, an ethics panel concluded in a November opinion (2009-20) that judges may not “friend” on Facebook attorneys who appear before them. That’s despite the fact that judges lunch and golf with lawyers on a regular basis, a practice no different than connecting with someone on a social network.

In another recent case, a South Carolina ethics panel rendered a decision (Ethics Advisory Opinion 09-10) that effectively discourages lawyers from claiming attorney profiles listed in online lawyer directories. Many lawyers prefer to claim their profiles so that they can control the content of the profile, which will appear online regardless of whether the profile is claimed.

The panel concluded that, once an attorney claims a profile, he or she must ensure all of the information appearing there comply with the rules of professional conduct, regardless whether the attorney has any control over the information or notice of subsequent amendments.

Such decisions are part of a pattern in our profession, whereby lawyers are discouraged from using Internet technologies despite the fact it is evident the Internet only increasingly affects every business, including the business of law.

To me, it is clear: The day of reckoning has come for our profession. The technologies and changes wrought by the Internet are not going away. Our profession’s leaders would be wise to stop resisting reality, and focus their efforts instead toward helping lawyers incorporate emerging technologies into their practices. The future of our profession depends on this attitude shift.

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