



It's All In the Books, Right? The Ethical Perils of Ignoring Electronic Legal Resources in the Information Age

by **Karlye Pillai**

The program successfully presented an overview of the impact of electronic resources on the practice of law—an impact strong enough to redefine the nature of research required to meet the standards of competence and diligence imposed by ABA Model Rules 1.1 and 1.3. Serving as dual moderator and presenter, **Michael Whiteman** (University of Louisville Law Library) provided an overview of increased recognition by bench and bar of the importance of CALR to add knowledge

“readily found” to that “commonly known.” Certainly, electronic research is viewed as the best way to access the most current information; however, warnings about relying on Internet sources abound. As early as 1989, the ABA developed “Guidelines for Computer Support for Judges,” and subsequent ABA surveys among members revealed that use of some form of CALR for research runs as high as 93%. In particular, the federal courts have begun to accept inclusion of electronic resources in research as standard practice. The Sixth Circuit encourages attorneys to cite to cases from its Web site. Since attorneys are rarely found incompetent unless they fail to use “standard” research techniques, the courts and bar need to clarify the seriousness of the issue. In the meantime, the librarian has a heightened duty to teach effective computer use.

The **Honorable Robert Payne** (U.S. District Court, Eastern District, Virginia) observed that the traditional role of legal research has been to document points of law, offer clients advice, and push the evolution of law. In his *McNamara vs. US* decision, the Judge stated it to be... “beyond the wide range of acceptable professional conduct to be unaware of developments in the law.” Although the Judge stated that a case would arrive making use of CALR the standard in the near future, he lamented the tendency among younger attorneys to overlook the use of digests and reporters to learn law’s structure. Observing that a computer is only as good as what is put into it, he found that, long term, “running a rabbit down the wrong hole” has been as instructive as immediate success.

After an overview of publishing mergers, product evolution, and the abundance of

free electronic information, **Kurt Metzmeier** (University of Kentucky Law Library) proposed that a new ethical duty to use all resources efficiently has emerged. He further suggested that the provision of current, comprehensive, well managed tools of the trade included the assistance of trained personnel. Although vendor mergers resulted in fewer platforms to master, there have been serious repercussions to be weighed by professional staff. Among post merger problems has been the lack of continuity in editorial staff; difficult product choice decisions resulting from changes in database composition; and the rapid emergence of the Internet as an alternative to commercial vendors. With the move by large vendors to the Web, staying abreast of developments increasingly requires that attorneys take CLE credit in legal information or hire the services of a librarian.

Since the well organized presentation, thought-provoking remarks, and strength of delivery made this program a pleasure to attend, I feel compelled to lament that the lack of handouts required a serious attendee to divert attention to taking notes more than should have been necessary had the Model Rules, some case cites, and even a brief outline been provided. In fairness, a handout (using “PacMan” figures) recounted in visual detail the decade of “The Gobble,” during which the number of publishers was diminished through mergers and acquisitions.

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