

I Have No Idea What I'm Talking About

by Keith A. Call

My mind was pretty much blown away when I learned that the Utah Supreme Court was planning to (basically) allow fee sharing even with non-lawyers, allow non-lawyer ownership of law firms, eliminate most of the ethical rules on lawyer advertising, and create a regulatory sandbox for broad experimentation on the delivery of legal services. See Keith A. Call & Kendra M. Brown, *Titanic Changes to Rules of Professional Conduct Under Consideration*, 33 UTAH B.J. 44 (July/Aug. 2020). But that was relatively mild compared to a headline I recently saw: “Major law firm buys property in the metaverse and opens virtual office.” See Debra Cassens Weiss, ABA JOURNAL (Feb. 17, 2022), <https://www.abajournal.com/news/article/major-law-firm-buys-property-in-the-metaverse-and-opens-virtual-office?>

What? Will you please repeat that?

It's true. Arent Fox, with offices in Washington, D.C., Chicago, New York, Los Angeles, Boston, San Francisco, Lake Forest, and Ann Arbor, now has an office in . . . the Metaverse.

When I saw that, I immediately called my friend at Arent Fox. “What?” I said, “Are you all planning to have lawyer avatars give legal advice to client avatars?” Without directly denying that, my friend convinced me this new office is mostly about marketing. “Hey, all you tech companies, we've got an office in the metaverse, so we get you!” I'd say it's working out pretty well so far. See, e.g., this article.

I couldn't help asking myself, “What does all this mean, especially for legal ethics?” Candidly, I have no idea! I have not yet “been” to the metaverse, let alone tried to practice law there. I don't think anyone really knows what all this means for the practice of law or legal ethics. We're entering a Brave New World.

For those of you who have not done the Google research I have, let me try to explain what the metaverse is. “A metaverse is a network of 3D virtual worlds focused on social connection. In

futurism and science fiction, it is often described as a hypothetical iteration of the Internet as a single, universal virtual world that is facilitated by the use of virtual and augmented reality headsets.” Wikipedia, *Metaverse*, <https://en.wikipedia.org/wiki/Metaverse> (last visited Apr. 1, 2022).

Okay, that was way too complicated. Think of it this way. Imagine you are playing a souped-up video game where you take on the personality of a cartoon character (an “avatar”) created after your own image and personality, and your character moves around in this “virtual world” socializing with other people/avatars, eating, shopping, working, driving Ferraris, and, I suppose, giving or receiving legal advice. This is often done using virtual reality (VR) headsets that make the experience seem even closer to reality. VR headsets can even “trick” our brains into making our virtual perception seem very real, including sensations and emotions such as speed, fear of heights, and social anxiety. Different software companies can create different metaverses in which different “players” can participate.

While this all appears on the surface to be fun and games, the legal and ethical implications will certainly become very real. *Fortune* magazine reports that your avatar will soon be able to work and make actual money. See Yvonne Lau, *You'll Soon Be Able to Put Your Metaverse Avatar to Work*, FORTUNE (Feb. 7, 2022), <https://fortune.com/2022/02/07/metaverse-avatar-work-make-money-nft/>. A woman in the U.K. reported being sexually and verbally assaulted by 3–4 male avatars who essentially gang

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raped her avatar. See Michelle Shen, *Sexual Harassment in the Metaverse? Woman Alleges Rape in the Virtual World*, USA TODAY (Jan. 31, 2022), <https://www.usatoday.com/story/tech/2022/01/31/woman-allegedly-groped-metaverse/9278578002/>. In all seriousness, that must have been extremely traumatic.

Any lawyer can see a host of unanswered questions from these scenarios. Can there be causes of action in the metaverse for wrongful termination, theft, or assault? How would damages be assessed and collected? Would Ferrari have any intellectual property or license rights in the “Ferrari” I “drove”? What about criminal penalties? How and where are these legal rights (if they are legal rights) to be enforced, and by what authority? Will they be governed by the specific metaverse creator’s terms and conditions, which most users will never read and may not understand?

For purposes of this column, the possibility to give and receive legal advice and other legal services in the metaverse is unquestionably real. What rules of ethics apply, and who will enforce them? Must one be licensed to provide legal services in

the metaverse? Where, and by what governing body? Must the Model Rules of Professional Conduct (and state rules that follow them) be completely rewritten to account for these possibilities (or should we say “eventualities”)?

This is an area full of unanswered questions. In fact, I’m quite sure we don’t even know the right questions to ask! Millennials, Zoomers, and other users of the metaverse are super smart, however, so as we come up with the right questions, I have confidence they will come up with some great answers. Meanwhile, try your best not to engage in the unauthorized practice of law anywhere in the uni-metaverse, and “keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology.” Utah R. Prof. Cond. 1.1, cmt [8].

Every case is different. This article should not be construed to state enforceable legal standards or to provide guidance for any particular case. The views expressed in this article are solely those of the authors.