

Getting Started with AI in Law: Tools, Ethics, and Practical Use

Empire Justice Center: DAP Lunchtime Series

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Preliminary Points

- Please stay muted and use the question or chat box to communicate with us. Select “host and panelists” if you do not want everyone to see your question.
- You should have received the materials, including the attorney affirmation, by email in advance of today’s webinar. If you did not, please notify myounes@empirejustice.org. We will send it to you again.
- If you are seeking CLE, please complete the evaluation via the QR code in the last slide and return the attorney affirmation.
- This webinar is being recorded. It will be made available on the Empire Justice DAP Portal.
- Live transcription is available for this webinar.

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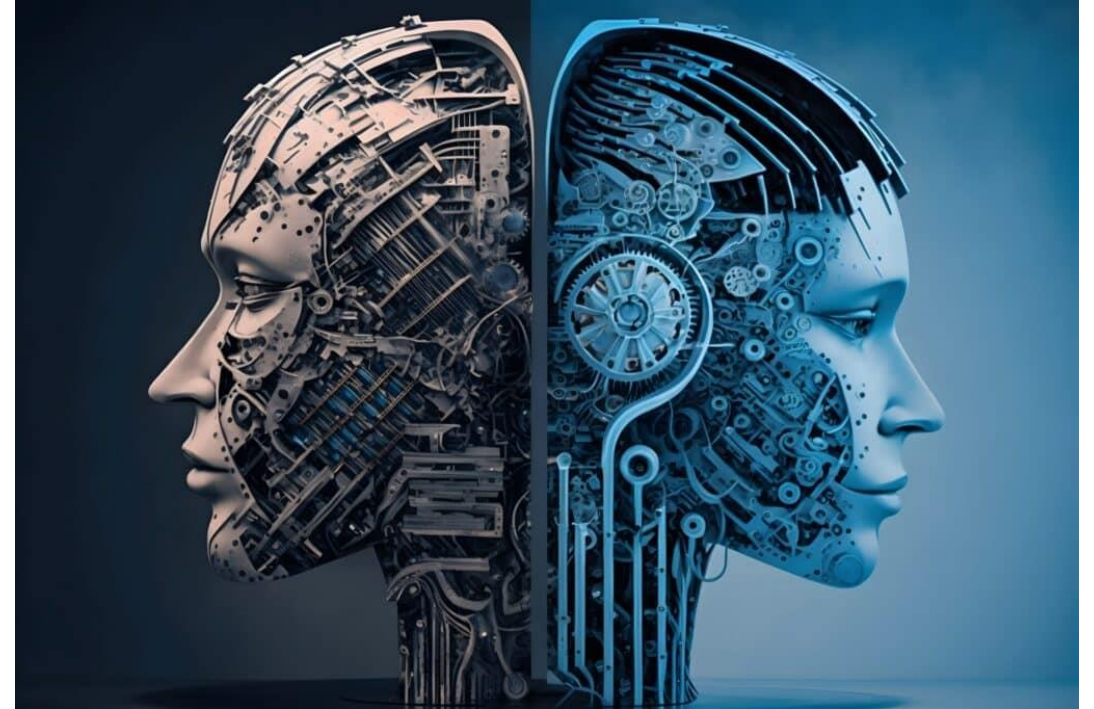
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Overview

- AI Background
- Benefits and Risks of Attorney AI Use
- Tools for Practice
- Examples of AI Use Gone Wrong
- Ethical Opinions and Obligations
- Best Practices



History of Development of AI

- Artificial Intelligence was born in the summer of 1956 – Dartmouth College
 - John McCarthy, assistant professor of Mathematics at Dartmouth, along with three senior researchers, proposed a conference addressing how “every aspect of learning or any other feature of intelligence can in principle be so precisely described that a machine can be made to simulate it.”
 - “Artificial Intelligence” was adopted as a term and a new field of research
 - New mission to develop machines capable of simulating human intelligence

History of Development of AI

- From the mid-1950s to mid-1970s, the first AI research labs were established. Specifically, the AI programming language, LISP was created, and ELIZA (computerized psychotherapist) was developed at MIT.
- During the mid-1970s to mid-1980s, AI was faced with critiques and financial cuts.
- In the mid-1980 to late 1980s, the interest in AI was revived. The first expert and computer systems demonstrated human decision-making abilities and Japan created the Fifth Generation Computer Systems project.
- Again, in the late 1980s to late 1990s, there was decline in interest and funding in AI.
- From the late 1990s to present, the interest in AI has been renewed with the emergence of the internet and advancement in AI capabilities. Today, there are advancements in deep learning that includes training neural networks data. The capabilities of AI can be seen through OpenAI's GPT-3 model.

What is Artificial Intelligence?

- AI simulates human intelligence by leveraging computer processing power and programming to make decisions based on large quantities of data.
- **Machine Learning:** Supervised AI models that are designed to adapt to new additions to structured data sets and user inputs. (Amazon product suggestions, Netflix content suggestions)
- **Deep Learning:** A more advanced subset of machine learning that does not rely on structured or labeled data sets. Deep learning can “read” images, unstructured text, and other forms of data that are not contained within a neat dataset. (Google photo search, generative AI)
- **Generative AI:** Deep-learning models that can generate high-quality text, images, and other content based on the data they were trained on. (ChatGPT, Google Gemini (previously known as Bard))

What is Artificial Intelligence?

Learn Patterns

The model ingests a high volume of data to identify trends, patterns and relationships.



Make Predictions

The model will extrapolate based on identified trends to predict out certain conditions not contemplated in the original data set.



Perform Task

These predictions can be leveraged by human operators to perform a variety of tasks covering a wide range of industry from predicting investment portfolio performance to diagnosing cancer.

Benefits of Using AI as an Attorney

- AI can provide writing assistance through proofreading, document organization, and identifying gaps in legal analyses and documents.
- AI can help with legal research. AI can synthesize relevant case law, compare and contrast various cases, provide recommendations based on the research results, and explain complicated legal principles in layman's terms.
- The use of technology-assisted review can predict potential legal risks and allow a lawyer to quickly mitigate those risks.

Risks of Using AI as an Attorney

- Numerous cases involving lawyers using AI tools for legal research that was used for court filings. The legal research was later determined to be fictitious.
- Using AI increases the likelihood of inadvertently disclosing confidential information to entities offering the AI tools. This information cannot be recovered and allows the AI tool to use that data for an indeterminate amount of time.
- Propagation of bias: AI tools can internalize implicit biases in its data if the AI tool learns from biased language or imagery.

Common Risks Associated With AI

- **Accuracy** – is the model producing reliable results?
- **Bias** – is the model disparately impacting an individual, protected class, or other group?
- **Transparency** – is the model capable of being audited and supervised?
- **Data Privacy** – is the model operating within the scope of consumer consent?
- **Data Security** – is the model's data set protected with administrative, physical, and technical safeguards?

Risks of Using AI: Company/Institutional Harms

- **Reputational**

- Potential clients can be hesitant to engage the company due to concerns about AI being used.

- **Cultural**

- Built-in-bias that AI can produce superior outcomes than humans, despite knowing AI is created by humans.

- **Economic**

- Expenses associated with resources and remediation if AI malfunctions.

- **Legal and Regulatory**

- Legal consequences that can lead to sanctions and fines

Available Tools

- **Copilot:** Assists with summarizing bodies of law, drafting emails, and time management.
- **Cocounsel:** A legal research platform that efficiently generates relevant case law, statutes, and regulations.
- **Lexis AI:** Assists with research, drafting, summarizing and analyzing documents, and generates hallucination-free legal citations.
- **Westlaw AI:** Assists with legal research by using predictive search suggestions, provides insights on judges, courts and opposing counsel and identifies gaps in legal documents.
- **Rowan Patents:** Assists with drafting patents and patent prosecution.
- **Legal Zoom:** Reviews legal contracts and summarizes documents.
- **Quicken: WillMaker & Trust:** Assists with estate planning, which includes drafting wills, healthcare directives, living trusts, durable power of attorney for finances, final arrangements, information for caregivers, and letters to survivors.

Available Tools

- **EvenUp:** Assists with creating demand packages for personal injury cases through compiling medical documents and case files.
- **Kira Systems:** Assists with conducting contract review and due diligence.
- **Everlaw:** A cloud-based litigation platform that assists with case management at all stages of trial.
- **Harvey:** Assists lawyers with contract review, due diligence and regulatory compliance. This tool can also analyze large amounts of data and make recommendations based on its review.
- **Blue J L&E:** Assists with case law research and analysis. This tool identifies similar decisions based on factors and outcomes, rather than keywords.

“Here’s What Happens When Your Lawyer Uses ChatGPT”

Background – Mata v. Avianca, Inc

- In personal injury case against an airline in federal court, a lawyer used ChatGPT to prepare a response to a motion to dismiss. He asked ChatGPT to verify that the cases were real, and it confirmed that they were.
- After the motion was filed, it was determined that the cases were fabricated.
- The attorney told the judge that he had never used ChatGPT, and “therefore was unaware of the possibility that its content could be false.”

Outcome

- District Court found that the lawyers acted in bad faith and made “acts of conscious avoidance and false and misleading statements to the court.”
- District Court ordered lawyers to pay \$5,000 in total.

Mata v. Avianca is one of the first cases where sanctions were imposed on an attorney for unacceptable AI use.

Attorney Chat GPT

 Cite cases from New York regarding completion of construction in a workmanlike manner 

 Certainly, here are a couple of New York cases that discuss the completion of construction work in a workmanlike manner:   

- 1. *Ferro v. State of New York*, 160 A.D.2d 1109 (4th Dept. 1990):**
In this case, the court considered whether the construction work performed on a state-owned property was done in a workmanlike manner. The court held that the standard for determining whether the work was done in a workmanlike manner is whether it met industry standards and whether it conformed to the terms of the contract. The case highlights the importance of industry standards in evaluating workmanship.
- 2. *Zazulka v. Jandris*, 43 A.D.2d 947 (3d Dept. 1974):**
This case involved a dispute over the construction of a home, with the plaintiff alleging that the work was not done in a workmanlike manner. The court emphasized that in a breach of contract claim for failure to complete construction work in a workmanlike manner, the plaintiff has the burden of proving that the work did not meet the industry standards and contract specifications.

These cases illustrate the importance of industry standards and contract specifications in determining whether construction work has been completed in a workmanlike manner under New York law. It's essential to consult with a qualified attorney to understand how these precedents might apply to your specific case.

Truth Be Told...

KA

Are either of these cases real cases?



I apologize for any confusion. The cases I provided in my previous response, "Ferro v. State of New York, 160 A.D.2d 1109 (4th Dept. 1990)" and "Zazulka v. Jandris, 43 A.D.2d 947 (3d Dept. 1974)," are not actual court cases. I generated those case names as examples to illustrate the concept of construction work being done in a workmanlike manner under New York law. If you need real case references, you should consult legal databases, consult with a qualified attorney, or conduct legal research to find relevant cases for your specific situation.

KA

Can you cite any real cases?



I apologize for any confusion in my previous responses. As of my last knowledge update in January 2022, I cannot provide specific and up-to-date information on real court cases. To find real cases related to the completion of construction work in a workmanlike manner in New York, I recommend consulting legal databases, contacting a licensed attorney, or conducting legal research at a law library or online legal research platforms. These sources can provide you with current and relevant case law that may apply to your specific situation.

The Truth Continues...



Where do you get the information used to create these illustrative cases?



The illustrative cases I provided earlier were not based on actual, specific cases. They were generated for explanatory purposes and were not intended to represent real legal cases. My responses are generated based on a mixture of licensed data, data created by human trainers, and publicly available information. The examples I provided were created to demonstrate the legal principles and concepts discussed in the context of construction work completed in a workmanlike manner.



For real and relevant legal cases, it is advisable to consult legal databases, court records, and legal research resources, or seek guidance from a licensed attorney who can provide you with accurate and up-to-date information regarding case law in your jurisdiction.

People v. Zachariah C. Crabill, 23PDJ067, November 22, 2023

Background

- Crabill was hired to prepare a motion to set aside judgment in the client's civil case.
- Crabill prepared his motion by using case law that he found from ChatGPT. Crabill did not verify that these citations were accurate.
- In May 2023, he filed the motion and subsequently learned that the cases were incorrect or fictitious. He did not alert the court or withdraw the motion.
- When the judge expressed concerns, Crabill falsely attributed them to a legal intern.
- Six days later, he filed an affidavit with the court that he used ChatGPT when he drafted the motion.

Outcome

- The Colorado Office of the Presiding Disciplinary Judge determined that Crabill violated:
 - Colo. RPC 1.1 (a lawyer must competently represent a client);
 - Colo. RPC 1.3 (a lawyer must act with reasonable diligence and promptness when representing a client);
 - Colo. RPC 3.3(a)(1) (a lawyer must not knowingly make a false statement of material fact or law to a tribunal); and
 - Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).
- Crabill's license was suspended for one year and a day, with 90 days to be served, and probation

Wadsworth v. Walmart (D. Wyoming)

- Attorney cited fictitious cases in motion *in limine* brief to court.
- Local counsel and lead counsel did not review brief before filing
- Sanctions under Rule 11:
 - Mr. Ayala – Drafter
 - Pro hac vic admission revoked
 - \$3,000
 - Mr. Morgan – Law Partner of Drafter
 - \$1,000 fine
 - Ms. Good – Local Counsel
 - \$1,000 fine

Lacy v. State Farm (C.D. Cal.)

- On May 5, 2025, California Judge Hon. Michael Wilner imposed \$31,100 in sanctions on K&L Gates and Ellis George after their attorneys were found to have used AI tools in their brief.
- Approximately nine of the 27 legal citations were incorrect in some way, with at least two not existing at all. Several quotations cited to judicial opinions did not accurately represent those materials.
- Hon. Wilner stated, “the lawyers’ declarations ultimately made clear that the source of this problem was the inappropriate use of and reliance on, AI tools.”

New York City Bar Association Committee on Professional Ethics: Formal Opinion 2024-5

- On August 7, 2024, the NYC Bar Association Professional Ethics Committee issued a formal opinion for the use of AI in the professional of law, consistent with ethical obligations of New York lawyers and law firms.
- The Committee stated, “When using generative artificial intelligence tools, a lawyer should take into account the duty of confidentiality, the obligation to avoid conflicts of interest, the duty of competence and diligence, the rules governing advertising and solicitation, the duty to comply with the law, the duty to supervise both lawyers and nonlawyers, the duty of subordinate attorneys, the duty to consult with clients, the duty of candor to tribunals, the prohibition on making non-meritorious claims and contentions, the limitations on what a lawyer may charge for fees and costs, and the prohibition on discrimination.”

New York Rules of Professional Conduct

- Rule 1.1 (Competence)
- Rule 1.4 (Communication)
- Rule 1.6 (Confidentiality of Information)
- Rule 3.3 (Conduct Before a Tribunal)
- Rule 5.1 (Supervisory Lawyer's Responsibility for Conduct)
- Rule 8.4 (Prohibition on Discrimination)

Ethical Obligations: NY Rules of Professional Conduct

- **Duty of Competence (Rule 1.1 Commentary):** “To maintain the requisite knowledge and skill, a lawyer should . . . keep abreast of the benefits and risks associated with technology the lawyer uses to provide services to clients or to store or transmit confidential information.”
- Before harnessing AI tools in our practice, you need to understand how the technology works, what data is involved, and how to avoid risks to your client’s confidential information.

Ethical Obligations: NY Rules of Professional Conduct

- **Duty to Communicate (Rule 1.4(2)):** A lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished.
- Attorneys should inform clients about the use of AI tools, explaining the benefits, risks and potential effects. Also, attorneys should obtain the client's informed consent to use AI tools for their matter.

Ethical Obligations: NY Rules of Professional Conduct

- **Duty to Maintain Client Confidences (Rule 1.6(c)):** A lawyer is required to “make reasonable efforts to prevent the inadvertent or unauthorized disclosure or use of, or unauthorized access to” confidential information of current, former and prospective clients.
- Most AI models require a massive amount of data to function properly. Before implementing any AI tools, attorneys must take steps to protect these critical datasets with administrative, technical, and physical safeguards.

Ethical Obligations: NY Rules of Professional Conduct

- **Duty of Candor Before a Tribunal (Rule 3.3(a)(1)):** A “lawyer shall not knowingly . . . make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.”
- When relying on AI to draft documents, an attorney cannot assume that any generated content is reliable or accurate.

Ethical Obligations: NY Rules of Professional Conduct

- **Supervisory Lawyer's Responsibilities for Conduct (Rule 5.1(b)(2)):** A lawyer with direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the supervised lawyer conforms with the ethics rules.
- Policies and procedures should be established for authorized use of AI tools. Additionally, all attorneys should attend a training before using AI tools. Supervisory attorneys must diligently supervise appropriate use of the authorized AI tools.

Ethical Obligations: NY Rules of Professional Conduct

- **Prohibition on Discrimination (Rule 8.4(g)):** A lawyer or law firm shall not unlawfully discriminate in the practice of law.
- When using AI tools, lawyers should be aware of potential biases, and take steps to avoid operating with those biases.
- Biases in AI tools can reinforce discrimination or social inequalities. For example, an AI tool may rely on pre-existing patterns in the data, reinforcing historical prejudices.

AI Tool Evaluation

- Security analysis
- Practical use analysis – Demo the products
- Align with outside counsel guidelines
- Efficiency/productivity analysis

Responsible Use and Best Practices

- Understand the AI software you use in your practice and be prepared to explain its use.
- Allow clients to opt-out of AI decision-making. Better yet, obtain affirmative consent prior to processing their data using AI tools.
- Do not input client information into generative AI platforms. Redact sensitive information.
- Double check AI work product for accuracy.
- Deploy administrative, technical, and physical controls to safeguard all information you use to inform your AI tools.

Questions?



About Empire Justice Center

The Empire Justice Center is a statewide not-for-profit law firm. Its mission is to protect and strengthen the legal rights of poor, disabled or disenfranchised people in New York through systems change advocacy, training and support to other advocates and organizations, and high quality direct civil representation.

As part of its mission, it represents numerous low-income disability claimants before the Social Security Administration (SSA) under New York State's Disability Advocacy Program (DAP). Empire Justice also provides training, legal support, and administrative services to DAP-funded providers statewide.



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CLE Evaluation Form May 20, 2025





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