



Artificial Intelligence and Ethics

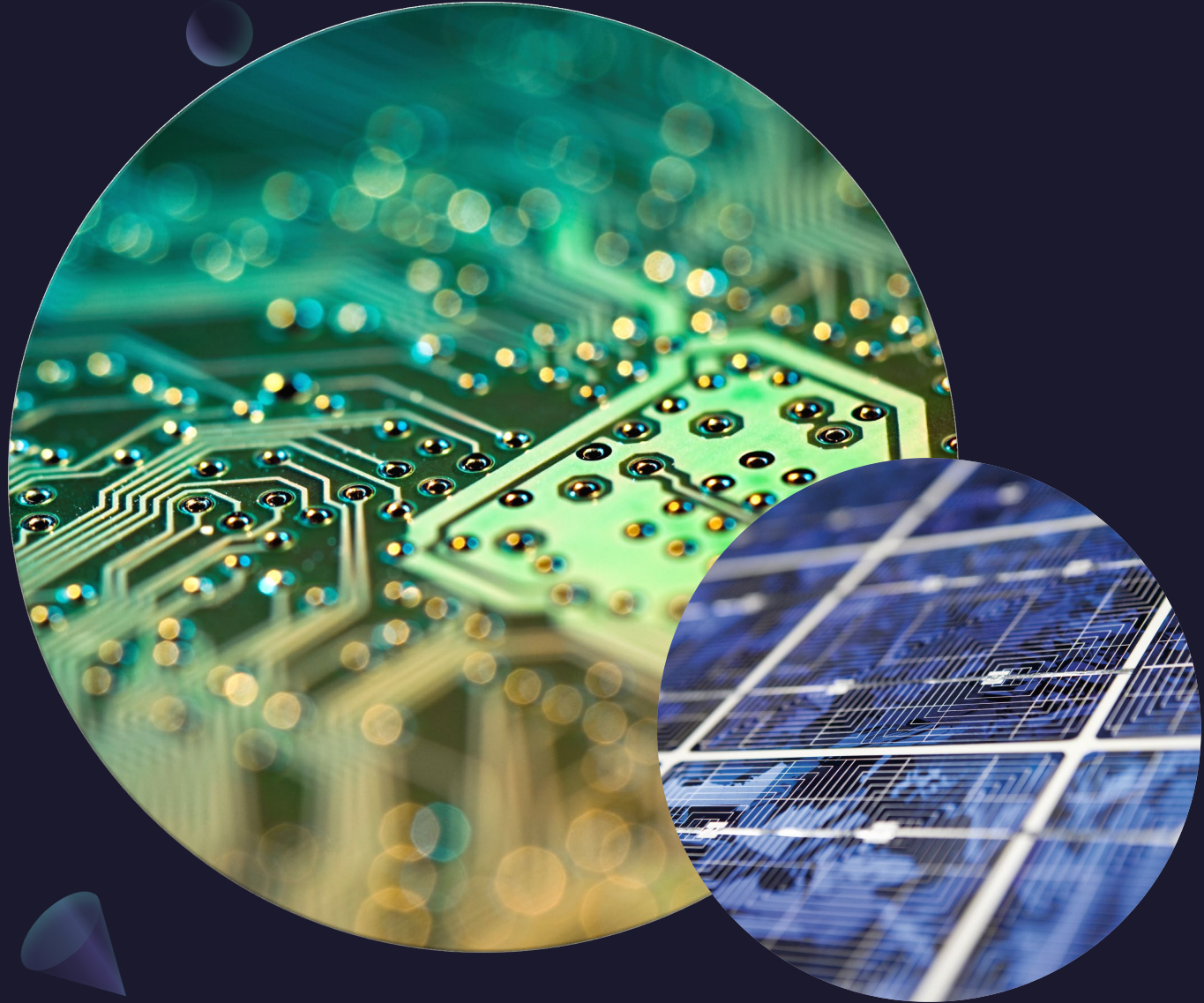
Kristi Nickodem, UNC School of Government
DSS Attorneys Conference, Winter 2025

How are you using AI?



Artificial Intelligence:

Computer systems that can perform tasks that usually require human intelligence, such as visual perception, speech recognition, decision-making, problem-solving, and language translation.



Extractive AI:

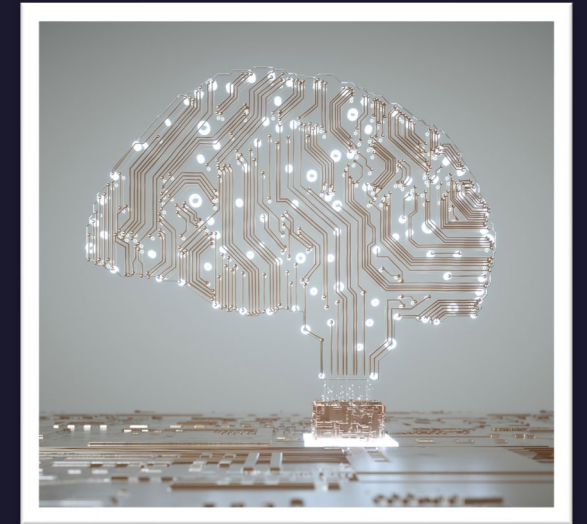
Systems that extract relevant data from a specific document or database in response to user queries.



Predictive AI:

Systems that use statistical analysis and machine learning algorithms to predict present or future events or outcomes based on existing data.

Generative AI: A class of AI techniques that focus on generating new content that resembles human-created content. Gen AI models are trained on large datasets to learn patterns and structures within the data.





**Could AI Help Bust Medicaid Scammers?
Minnesota May Find Out**

**New Mexico Schools Use AI to Track Student
Absences**

**Denver launches government info
AI-powered chatbot**

**Washington Police Agencies Tap AI to Review
Body Cam Footage**

**Austin Responds to Inflammatory AI-Generated
Public Comment**

AMERICAN BAR ASSOCIATION

STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY

Formal Opinion 512

July 29, 2024

Generative Artificial Intelligence Tools

2024 FORMAL ETHICS OPINION 1

[◀ Previous Opinion](#)

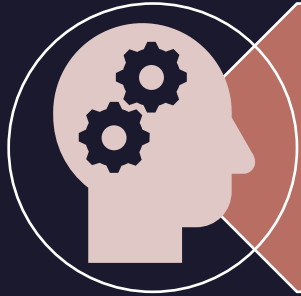
[Next Opinion ▶](#)

USE OF ARTIFICIAL INTELLIGENCE IN A LAW PRACTICE

Adopted: November 01, 2024

Opinion discusses a lawyer's professional responsibility when using artificial intelligence in a law practice.

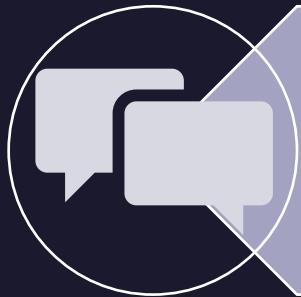
Ethical Issues Involving AI



Competence

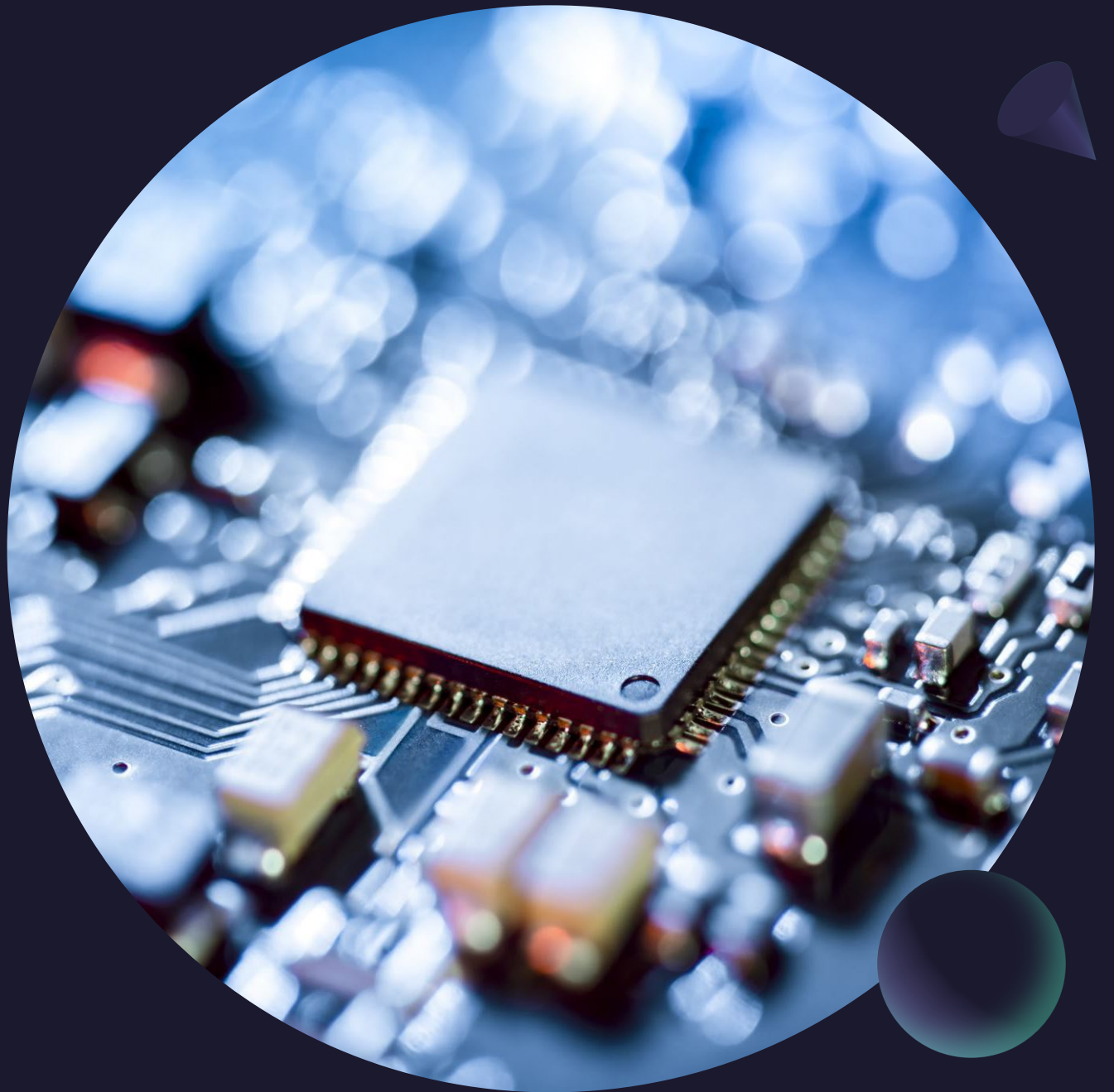


Confidentiality



Communication

Competence



RULE 1.1 COMPETENCE

A lawyer shall not handle a legal matter that the lawyer knows or should know he or she is not competent to handle without associating with a lawyer who is competent to handle the matter. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

Maintaining Competence

[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with the technology relevant to the lawyer's practice, engage in continuing study and education, and comply with all continuing legal education requirements to which the lawyer is subject.

ABA Opinion 512

As GAI tools continue to develop and become more widely available, it is conceivable that lawyers will eventually have to use them to competently complete certain tasks . . .

But even in the absence of an expectation for lawyers to use GAI tools as a matter of course, lawyers should become aware of the GAI tools relevant to their work so that they can make an informed decision, as a matter of professional judgment, whether to avail themselves of these tools . . .

 Gemini

ElevenLabs

Claude

 MURF.AI

 Gamma

Copilot



Otter.ai



ChatGPT

Midjourney

 Speechify

 OpenAI

DALL·E 3



Stable Diffusion

Lexis+ AITM

Westlaw Precision

Now with generative AI



GPT-4 has:

- Passed the Bar Exam
- Scored a 163 on the LSAT
- Scored 1410 out of 1600 on the SAT
- Scored in the 99th percentile on the verbal section of the GRE and 80th percentile of the quantitative section of the exam.
- Received the highest possible score on AP Exams for Art History, Biology, Environmental Science, Macroeconomics, Microeconomics, Psychology, Statistics, US Government, and US History.



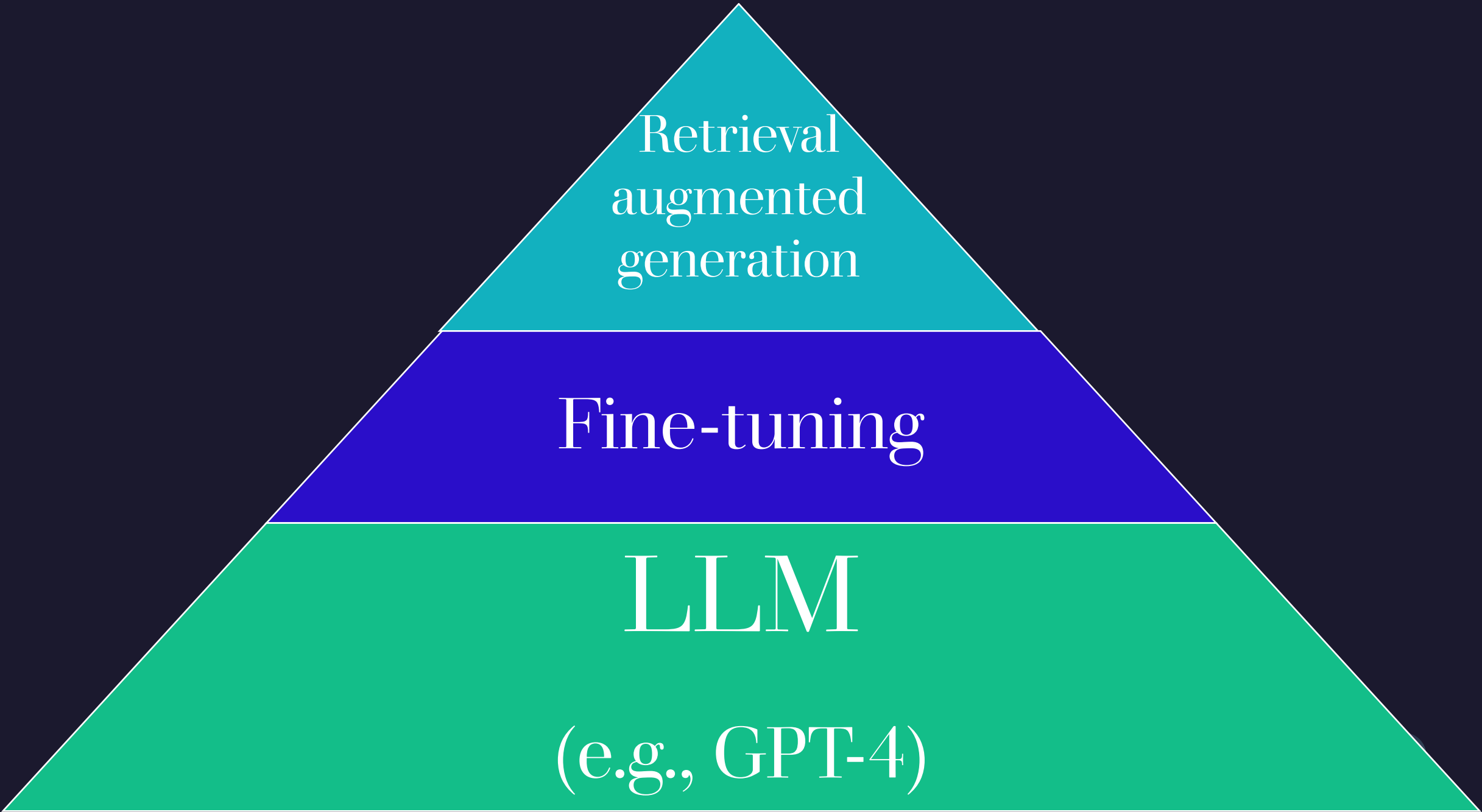
Prompt to image generators

“Otter on a plane using wi-fi”

Credit for images:
Ethan Mollick, The Wharton School, U. Penn







Retrieval
augmented
generation

Fine-tuning

LLM

(e.g., GPT-4)



Gemini 2.0



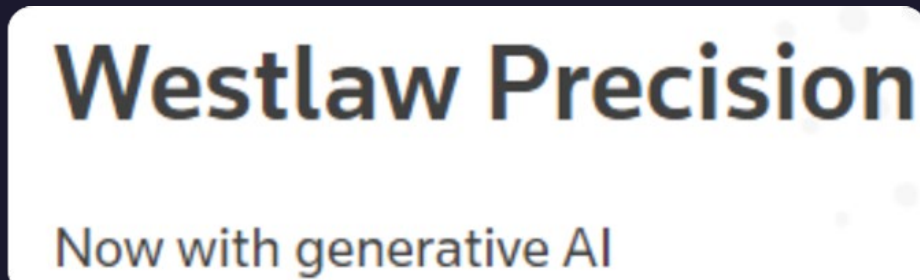
GPT-4o



GPT-4



Claude 3.5



GPT-4/o1-mini



GPT-4/Claude 2

Accuracy problems

Another NY lawyer faces discipline after AI chatbot invented case citation

Michael Cohen gave lawyer fraudulent case citations generated by AI

\$2000 Sanction in Another AI Hallucinated Citation Case

Missouri appeals court fines litigant after finding fake, AI-generated cases cited in filings

These lawyers used ChatGPT to save time. They got fired and fined.

Mata v. Avianca, No. 22-CV-1461 (PKC) (S.D.N.Y.)

Mr. Schwartz testified at the sanctions hearing that...he was “operating under the false perception that this website [i.e., ChatGPT] could not possibly be fabricating cases on its own.”

He stated, “I just was not thinking that the case could be fabricated, so I was not looking at it from that point of view. My reaction was, ChatGPT is finding that case somewhere. Maybe it’s unpublished. Maybe it was appealed. Maybe access is difficult to get. I just never thought it could be made up.”



AI on Trial: Legal Models Hallucinate in 1 out of 6 (or More) Benchmarking Queries

Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools

Varun Magesh*
Stanford University

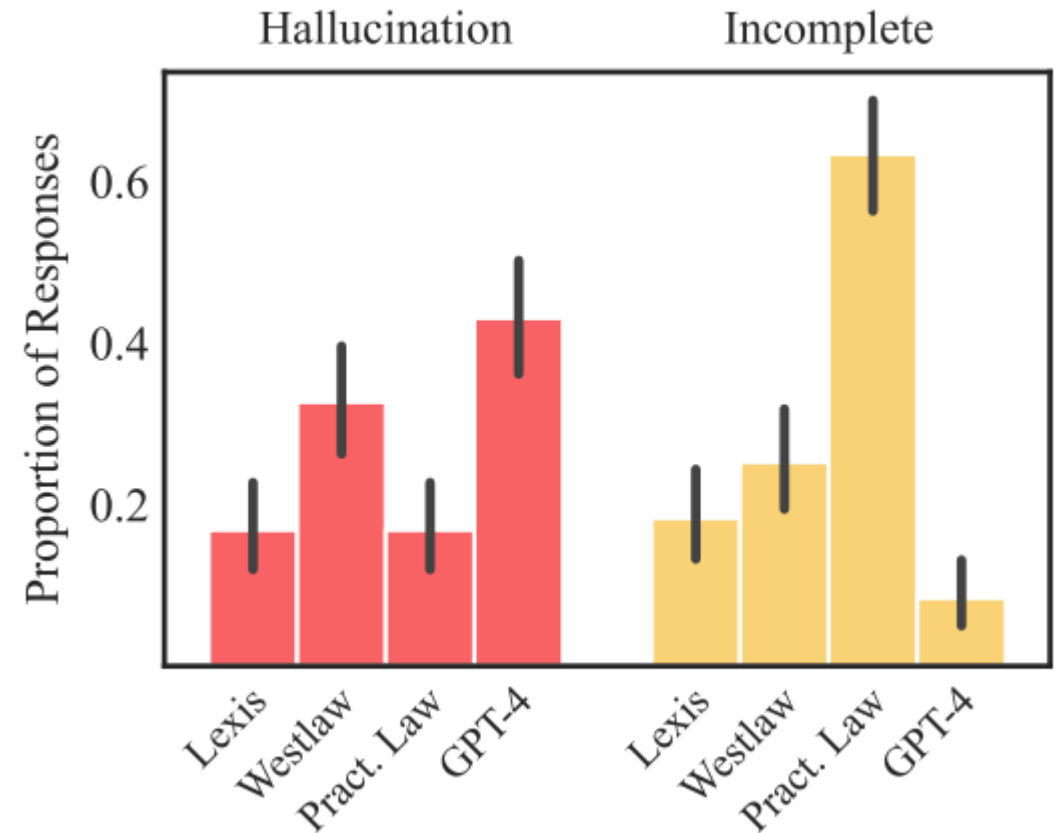
Faiz Surani*
Stanford University

Matthew Dahl
Yale University

Mirac Suzgun
Stanford University

Christopher D. Manning
Stanford University


Daniel E. Ho†
Stanford University



Input Query

Are the deadlines established by the bankruptcy rules for objecting to discharge jurisdictional?


Westlaw AIAR Response

[A] **paragraph from the Federal Rules of Bankruptcy Procedure**, Rule 4007 states that the deadlines set by bankruptcy rules governing the filing of dischargeability complaints **are jurisdictional**. [...] 

Input Query

What standard of review applies to abortion regulations under the U.S. Constitution?

Lexis+ AI Response

Currently, the “undue burden” test, as established in *Planned Parenthood of Southeastern Pa. v. Casey*, is the governing standard. [Planned Parenthood of the Heartland, Inc. v. Reynolds](#), [...]. This test stipulates that an abortion regulation is unconstitutional if it places a substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability. [...] 

Input Query

Why did Justice Ginsburg dissent in Obergefell?


Practical Law Response

Justice Ginsburg dissented in Obergefell because she believed that the court's interpretation undermined Congress's intent under Section 601(a) (1) to protect copyright owners against unauthorized importation of low-priced, foreign-made copies of copyrighted works. She argued that the text of the Copyright Act clearly applies to works governed by the statute. [...] 

Input Query

Do any special requirements apply to online dating services in Connecticut?

GPT-4 Response

Yes, Connecticut has specific legal requirements that apply to online dating services. Under Connecticut law, particularly **Conn. Gen. Stat. § 42-290**, online dating services that charge a fee and have members who reside in Connecticut must provide their users with specific safety awareness notifications. These notifications must include: [...] 



How did the North Carolina Supreme Court define a "true threat" for purposes of determining when certain speech is unprotected by the First Amendment?

The North Carolina Supreme Court defined a "true threat" for purposes of determining when certain speech is unprotected by the First Amendment in the case of *State v. Taylor*, 379 N.C. 589 (2021). The court adopted an objective test to identify a "true threat."

In this case, the court held that a "true threat" is defined as:

1. **Objective Standard:** The statement must be one that a reasonable person would interpret as a serious expression of an intent to commit an act of unlawful violence against a particular individual or group of individuals.
2. **Context Matters:** The context in which the statement is made is crucial in determining whether it constitutes a "true threat." This includes the surrounding circumstances, the relationship between the speaker and the recipient, and the listener's reaction.

3. **Specific Intent Not Required:** The court emphasized that it is not necessary for the prosecution to prove that the speaker had a specific intent to carry out the threat. Instead, it is sufficient if a reasonable person would foresee that the statement would be interpreted as a serious expression of intent to harm.

This definition aligns with the U.S. Supreme Court's interpretation of "true threats" in cases such as *Virginia v. Black*, 538 U.S. 343 (2003), which emphasized that the speaker need not actually intend to carry out the threat, but the statement must be one that a reasonable person would interpret as a serious threat of violence.

In summary, the North Carolina Supreme Court's definition of a "true threat" focuses on how a reasonable person would perceive the statement in context, rather than the subjective intent of the speaker.

Rule 11:

“The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; *that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law...*”



AI ban ordered after child protection worker used ChatGPT in Victorian court case



Judge rebukes Stanford misinformation expert for using ChatGPT to draft testimony



Police officers are starting to use AI chatbots to write crime reports. Will they hold up in court?

Apparent AI Hallucinations in AI Misinformation Expert's Court Filing Supporting Anti-AI-Misinformation Law

“But Attorney General Ellison's attorneys are reminded that Federal Rule of Civil Procedure 11 imposes a "personal, nondelegable responsibility" to ‘validate the truth and legal reasonableness of the papers filed’ in an action. The Court suggests that an ‘inquiry reasonable under the circumstances’...may now require attorneys to ask their witnesses whether they have used AI in drafting their declarations and what they have done to verify any AI-generated content.”

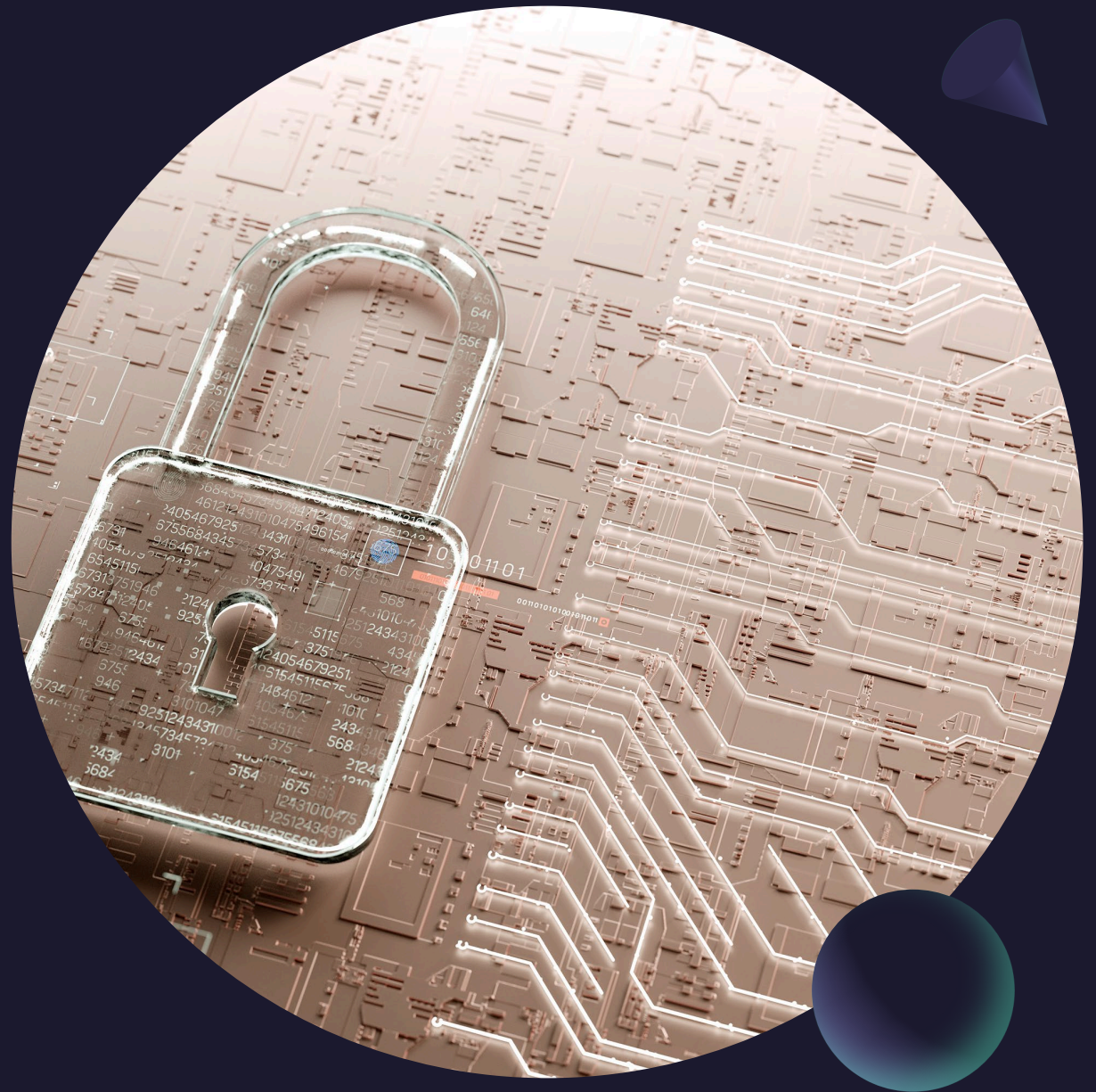
Air Canada found liable for chatbot's bad advice on plane tickets

An AI chatbot pushed a teen to kill himself, a lawsuit against its creator alleges

The A.I. Defamation Cases Are Here: ChatGPT Sued for Spreading Misinformation

A cautionary tale for cities embracing AI: NYC's chatbot is advising businesses to break the law

Confidentiality



RULE 1.6 Confidentiality of Information

A lawyer shall not reveal information acquired during the professional relationship with a client unless the client gives informed consent [or] the disclosure is impliedly authorized in order to carry out the representation...

A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

RULE 5.3 Responsibilities Regarding Nonlawyer Assistants

Comment 3: When retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.



Scoop: Congress bans staff use of Microsoft's AI Copilot

Samsung Bans Staff's AI Use After Spotting ChatGPT Data Leak

Amazon stops employees from using generative AI tools like ChatGPT

Michigan Senate Limits Lawmaker Access to ChatGPT, AI Tools

New policy from the Michigan Senate Information Services blocks senators, employees and interns from using Senate-issued devices to access some artificial intelligence tools. This includes ChatGPT.

USE OF ARTIFICIAL INTELLIGENCE IN A LAW PRACTICE

Adopted: November 01, 2024

“Importantly, some current AI programs are publicly available to all consumers/users, **and the nature of the AI program is to retain and train itself based on the information provided by any user of its program.** Lawyers should educate themselves on the nature of any publicly available AI program intended to be used in the provision of legal services, with particular focus on whether the AI program will retain and subsequently use the information provided by the user. **Generally, and as of the date of this opinion, lawyers should avoid inputting client-specific information into publicly available AI resources.”**

USE OF ARTIFICIAL INTELLIGENCE IN A LAW PRACTICE

Adopted: November 01, 2024

Inquiry #2:

May a lawyer provide or input a client's documents, data, or other information to a third-party company's AI program for assistance in the provision of legal services?

Opinion #2:

Yes, provided the lawyer has satisfied herself that the third-party company's AI program is sufficiently secure and complies with the lawyer's obligations to ensure any client information will not be inadvertently disclosed or accessed by unauthorized individuals pursuant to Rule 1.6(c).


OpenAI launches ChatGPT Gov for U.S. government agencies



Photo credit: Carlos Barria | Reuters

 Share

NI

 My GPTs

 Customize ChatGPT

 Settings

 Upgrade Plan

 Log out

Settings



 General

Improve the model for everyone


Off >

 Personalization

Shared links


Manage

 Speech

 Data controls

Export data

Export

 Builder profile

Delete account

Delete

 Connected apps

 Security

Model improvement

Improve the model for everyone



Allow your content to be used to train our models, which makes ChatGPT better for you and everyone who uses it. We take steps to protect your privacy. [Learn more](#)

Done

Be careful
with Gen AI
transcription
tools



Communication



NC Bar 2024 Formal Ethics Opinion 1



“Generally, a lawyer need not inform her client that she is using an AI tool to complete ordinary tasks, such as conducting legal research or generic case/practice management. However, if a lawyer delegates substantive tasks in furtherance of the representation to an AI tool, the lawyer’s use of the tool is akin to outsourcing legal work to a nonlawyer or other third-party resource or service, for which the client’s advanced informed consent is required.”

ABA Opinion 512: Informed Client Consent



“Client consultation about the use of a GAI tool is also necessary when its output will influence a significant decision in the representation, such as when a lawyer relies on GAI technology to evaluate potential litigation outcomes or jury selection. A client would reasonably want to know whether, in providing advice or making important decisions about how to carry out the representation, the lawyer is exercising independent judgment or, in the alternative, is deferring to the output of a GAI tool.”

Fees



- Reduce hours billed if GAI reduces the time it takes to complete legal tasks?
- Charge clients for cost of GAI tools?

Potential for algorithmic bias

Amazon ditched AI recruitment software because it was biased against women

Racial Bias Found in a Major Health Care Risk Algorithm

Black patients lose out on critical care when systems equate health needs with costs

Dutch scandal serves as a warning for Europe over risks of using algorithms



Michigan Makes Amends for Falsely Accusing Thousands of Unemployment Fraud

Those falsely accused of fraud were hit with highest-in-the-nation quadruple penalties, and in many cases subjected to aggressive collection techniques, such as 25 percent wage garnishes and seizure of income tax refunds.



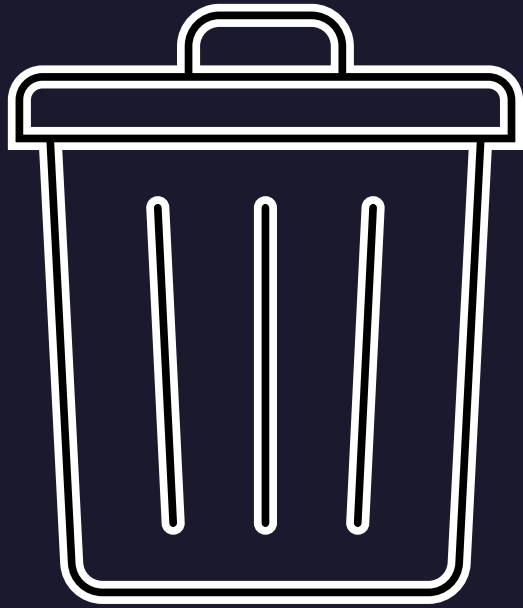
An algorithm that screens for child neglect raises concerns

AI tool used to spot child abuse allegedly targets parents with disabilities

Child welfare algorithm faces Justice Department scrutiny

ARTICLE

Algorithmic Decision-Making in Child Welfare Cases and Its Legal and Ethical Challenges



GIGO

Limited or skewed data set

Bad proxy/assumption

History of poor human
decisionmaking

Technological failure



Potential for deepfakes

Microsoft's VASA-1 can deepfake a person with one photo and one audio track

• Upload image, or pick one below

Upload



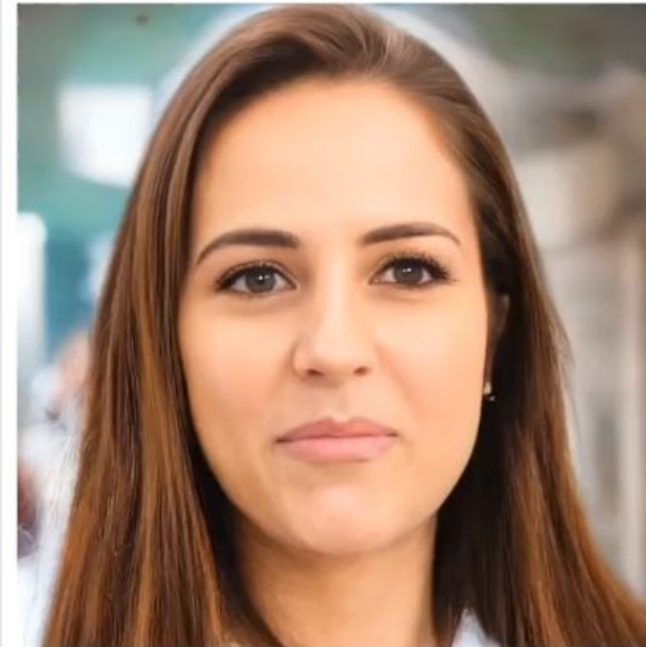
• Upload audio, record audio, or generate by TTS

Upload

Generate

Record

Talking face video live stream



Pitch: 0.00
Yaw: 0.00
Roll: 0.00
X: 0.00
Y: 0.00
Z: 1.00
Gaze X: 0.00
Gaze Y: 0.00

Reset

New methods for fraud and other crimes

They thought loved ones were calling for help. It was an AI scam.

Finance worker pays out \$25 million after video call with deepfake 'chief financial officer'

AI will make scam emails look genuine, UK cybersecurity agency warns

Athletic Director Used AI to Frame Principal With Racist Remarks in Fake Audio Clip, Police Say

A rise in AI- generated CSAM

The AI-Generated Child Abuse Nightmare Is Here

New Jersey teen sues classmate for allegedly creating, sharing fake AI nudes

54 Attorneys General Call on Congress to Study AI and Its Harmful Effects on Children

Study uncovers presence of CSAM in popular AI training dataset

New NC bills would crack down on AI 'sexual extortion,'

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SESSION LAW 2024-37
HOUSE BILL 591**

**AN ACT TO ESTABLISH SEXUAL EXTORTION OFFENSES, TO UPDATE OFFENSES
RELATED TO SEXUAL EXPLOITATION OF A MINOR, TO UPDATE SEX
OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAMS, AND TO
CLARIFY THE OFFENSE OF DISCLOSURE OF PRIVATE IMAGES.**

"§ 14-190.13. Definitions for certain offenses concerning minors.

The following definitions apply to G.S. 14-190.14, displaying material harmful to minors; G.S. 14-190.15, disseminating or exhibiting to minors harmful material or performances; G.S. 14-190.16, first degree sexual exploitation of a minor; G.S. 14-190.17, second degree sexual exploitation of a minor; G.S. 14-190.17A, third degree sexual exploitation of a ~~minor~~ minor; and G.S. 14-190.17C, obscene visual representation of sexual exploitation of a minor.

Material. – Pictures, drawings, video recordings, films or other visual or physical depictions or ~~representations~~ representations, including digital or computer-generated visual depictions or representations created, adapted, or modified by technological means, such as algorithms or artificial intelligence, but not material consisting entirely of written words.

Deepfakes in the courtroom: US judicial panel debates new AI evidence rules

Panel of eight judges confronts deep-faking AI tech that may undermine legal trials.

People are trying to claim real videos are deepfakes. The courts are not amused

**ADVISORY COMMITTEE
ON
EVIDENCE RULES**

April 19, 2024

Washington state judge blocks use of AI-enhanced video as evidence in possible first-of-its-kind ruling

Lawyers for a man charged with murder in a triple homicide had sought to introduce cellphone video enhanced by machine-learning software.

Litigators Must Do Court-by-Court Homework as AI Rules Flourish

District 25 Administrative Order

NORTH CAROLINA
CABARRUS COUNTY

FILED
2024 JUL 23 P 3:26
CABARRUS CO., C.S.C.

IN RE:
GENERATIVE ARTIFICIAL INTELLIGENCE AND
ITS USE IN THE SUPERIOR COURT OF
CABARRUS COUNTY (DISTRICT 25).

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

ADMINISTRATIVE ORDER¹

The undersigned Senior Resident Superior Court Judge for Judicial District 25 (Cabarrus County) enters this administrative order to guide the use of generative artificial intelligence (AI) in the Superior Court in District 25:

1. Technological Competence. "A lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with the technology relevant to the lawyer's practice." Comment 8, Rule 1.1 of the Revised Rules of Professional Responsibility. The landscape of generative AI is changing rapidly. Whether a lawyer uses AI tools or not, generative AI is increasingly used by lawyers and others in society. Understanding its uses, benefits, and challenges will soon be essential to the practice of law if it is not already so.
2. Permissible use of Generative AI. Attorneys and *pro se* parties are permitted to use generative AI tools for legal research, drafting documents, and assisting in the discovery process provided that they do so consistent with the Rules of Civil Procedure and their professional responsibilities. Those using generative AI should be mindful of:
 - a. Duty under Rule 11 of the Rules of Civil Procedure. Attorneys and *pro se* parties using generative AI tools must confirm the accuracy and reliability of the work produced by these tools. They are ultimately responsible for everything submitted in a case whether assisted by generative AI or not. Attorneys and *pro se* parties must understand that these tools hallucinate and can produce inaccurate information. The Opinion and Order on Sanctions in *Mata v. Avianca, Inc.* should be a cautionary tale for lawyers using AI tools. [chatGPT-sanctions-ruling.pdf](#) ([courthousenews.com](#))
 - b. Duty under Rule 26 of the Rules of Civil Procedure. Attorneys and *pro se* parties may employ generative AI to assist in the discovery process provided that they do so consistent with Rule 26(g) of the Rules of Civil Procedure. For a lawyer or a *pro se* party to make a "reasonable inquiry" into the information that they submit, he or she must be familiar with the AI tools that they use in crafting or responding to a discovery request. They must also understand that they are ultimately responsible

Using AI Responsibly



“[S]hould a lawyer choose to employ AI in her practice, the lawyer must do so competently, the lawyer must do so securely, and the lawyer must exercise her independent judgment in supervising the use of such processes in her practice.”





What data was
used to train the
tool?



What
mechanisms
ensure the tool
will be accurate?
Has the vendor
tested accuracy
rates?



Will data we
input into the
tool be secure?
How does the
vendor use the
data we input?



At what point in
the process will a
human be
involved
(if at all)?



Does the tool
actually do what
the vendor says it
can do?



Coates' Canons NC Local Gov't Law Blog

<https://canons.sog.unc.edu/>

Developing Guidelines for the Use of Generative Artificial Intelligence in Local Government

Published: 03/14/24

Author Name: [Kristi Nickodem](#)

 Print



Expect change

Questions?

nickodem@sog.unc.edu

