
# CIRCUITS

e-Journal of the Computer & Technology Section of the State Bar of Texas



June 26

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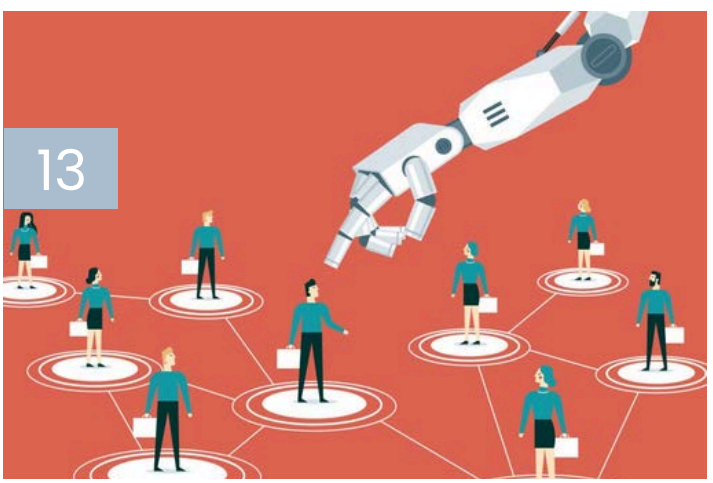



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Dear Section Members & Friends,

## Welcome to the Computer & Technology Section of the State Bar of Texas!

I am excited to serve as Chair for the coming year and continue the work of this Section in its 36th year. Technology is no longer a separate category of professional skill. It affects how all lawyers communicate, manage matters, protect client information, present evidence, advise businesses, and serve the public. Artificial intelligence, cybersecurity, privacy, data governance, digital evidence, automation, and practice management tools are now part of the everyday environment in which lawyers must work.

This year, the goal of the Computer & Technology Section is to help Texas lawyers meet that environment with confidence and skill.

In a companion article published in this edition of *Circuits*, I am sharing the idea of The Adaptable Lawyer: a lawyer who treats adaptability as part of the job. Not every lawyer needs to become a vibe-coding programmer or technology specialist, but every lawyer should be prepared to adapt: to keep learning, to ask better questions, and to change as the profession changes.

Continuing that idea, our theme for the year will be: **Adapt with Intelligence.** We will work to bring you experts across the legal technology field to provide practical, actionable education in a way that will help you continue to adapt. We will connect that content to real legal practice: what you need to know, how you can recognize risk, what tools you should understand, and what steps you can take now in your practice.

Our members include lawyers focused on law practice management, legal technology, firm and government policy, privacy, cybersecurity, digital evidence, artificial intelligence, corporate counsel issues, litigation, judicial education, and more and you come together from different practice areas, firm sizes, career stages, and regions across Texas. While every one of you is encountering the evolution of the practice of law from a different perspective, our goal is to bring those perspectives together.

Our Section will be a wide tent: useful to the solo practitioner evaluating practice-management tools, the litigator handling digital evidence, the in-house lawyer advising on AI governance, the government lawyer working on technology policy, and the senior lawyer looking for practical ways to stay current.

Wherever you are in your practice, I invite you to participate in our CLEs, publications, committees, and conversations this year. Help us build a Section that is practical, welcoming, and ready for the future of the legal profession.

**Mitch Zoll**

**Chair,** Computer & Technology Section
State Bar of Texas

# The Adaptable Lawyer: Raising Your AQ in a Changing Texas Practice

**Mitchell Zoll**
*Chair, Computer & Technology Section*
*Founder, Zoll Firm, PLLC*

Technology, demographics, and economic pressures are reshaping the work your clients do and the work inside your own firm (see our related article, "Building the 2030 Law Firm: What the Future of Jobs Report Means for Texas Law Firms"). The short version: the World Economic Forum's Future of Jobs Report 2025 shows that, in the next five years, jobs will have more churn, more uncertainty, and a faster pace of change than the business world is used to. For many Texas law firms, the instinctive response may be to buy a new tool, hire one "tech person," or hope the storm passes before retirement. But the first place to start is with the people, not the technology. As we set out below, the key is to start with adaptability.

Since at least 2010, researchers and consultants have talked about the Adaptability Quotient, or AQ. This is simply a way to describe and measure how well people can adjust to changes. AQ sits next to (arguably, above) Intelligence Quotient (IQ) and Emotional Quotient (EQ), but focuses on a different question: when the ground moves under your feet, how quickly and effectively can you move with it? For a profession that tends to honor precedent and stability, we may not have all the answers but this is the question we need to be asking ourselves.

### What is the AQ for lawyers?

At its simplest, AQ is a way of describing how effectively a person can adjust their thinking and behavior in response to new conditions.

It is not just "how fast you pick up a new app." It is your ability to:

- notice that the environment has changed;
- decide what that makes irrelevant or risky in your current habits;
- learn and test alternatives; and
- keep functioning under uncertainty without freezing or burning out.

While IQ is about problem-solving and EQ is about managing yourself and others emotionally, AQ is about your ability to change.

Several groups have tried to formalize AQ into assessments, looking at traits like openness to new experiences, tolerance for ambiguity, learning orientation, and willingness to "unlearn" outdated methods. The precise scoring systems vary, but the core idea is consistent: adaptability is not random, and it is not fixed at age 25. It can be examined, trained, and used as a predictor of performance in environments where the rules keep changing.

Viewed through a legal lens, AQ involves three overlapping capabilities: namely, cognitive flexibility, emotional resilience, and behavioral agility.

**Cognitive flexibility.**

Can you hold multiple possibilities in mind, revise your mental model when new information arrives, and move away from "we've always done it this way" even if that way once served you well?

**Emotional resilience.**

Do you have enough stability and self-regulation to stay effective when circumstances are unclear, tools are unfamiliar, or the future of the practice area is uncertain?

**Behavioral agility.**

Do you actually experiment with new approaches, or do you default to familiar routines even when they clearly no longer fit?

These are traits you already see in certain colleagues. They are the lawyers who were early to e-filing, willing to rethink their contract templates, or quick to build new service lines when clients' needs changed. AQ gives you sharper language for understanding and cultivating those abilities on purpose.

### Why AQ matters now (and why a Texas lawyer should care)?

First, technology is not just changing the tools; it is changing the structure of work. The broader economy is moving away from manual clerical roles and toward more technology-intensive, data-heavy jobs. Law firms sit on both sides of that equation: we rely on the very support roles that are under pressure, and we advise businesses that are reconfiguring themselves around data, automation, and AI. When your energy, healthcare, or manufacturing clients are redesigning their own workflows, it becomes harder to justify a practice built entirely on paper, email, and human memory.

Second, the biggest obstacles to adaptation are skill gaps and resistance to change. That is exactly what low AQ looks like in an organization: the tools exist, but the people cannot or will not change how they work. In that kind of firm, technology purchases create frustration rather than leverage.

Third, the demographic reality of the profession makes this more urgent, not less. The legal workforce is aging. Younger lawyers are more comfortable experimenting with new tools but often have less institutional power. Older lawyers often hold the client relationships and judgment but are more likely to say, "I don't do technology." If that divide hardens, you do not just end up with a cultural problem. You end up with a structural weakness in how the firm serves clients.

AQ gives you a language and framework for tackling this, both at the level of individual habits and at the level of firm strategy.

### The Adaptable Lawyer: Raising AQ at the individual level

At the individual level, AQ starts with how you think about your own capacity to change. Many lawyers, especially those who have been practicing for decades, have quietly decided that their technical abilities are set: "I am good at the law but bad at tech." That belief becomes self-fulfilling.

An adaptable lawyer approaches the same situation differently. Instead of "I can't," the default is "I haven't learned this yet." That sounds like semantics, but it changes how you respond when the firm rolls out a new case management system, when courts migrate to a different e-filing platform, or when clients begin asking about AI in discovery. You still may not enjoy the learning curve, but you treat it as part of the work, not as an optional hobby.

Another dimension of personal AQ is the willingness to unlearn. Lawyers are professional pattern-recognizers; we build internal libraries of "what works" over years of practice. That is an asset until the environment moves far enough that a once-reliable pattern becomes a liability. High-AQ lawyers are willing to revisit their own "precedent" and ask, "If we were designing this approach from scratch today, knowing what we know now and with the tools we have, would we do it this way?" Sometimes the answer is yes; quite often the answer is no.

A third element is how you relate to uncertainty. Law as a discipline tends to reward risk-avoidant thinking, which is sensible when liberty or large sums of money are at stake. The problem comes when that same instinct shows up in internal practice decisions, such as refusing to explore any new tool or process until every possible risk is eliminated. Adaptable lawyers learn to separate client risk from learning risk. They experiment with new approaches in low-stakes settings: a pro bono matter, an internal research task, or a mock workflow. That way, when a higher-stakes opportunity arrives, they are not starting from zero.

If you want to raise your own AQ in a practical way, especially around technology, you might start with some simple habits:

- Once a week, deliberately use one feature of your existing systems you have never used before, and ask a colleague how they approach the same task.
- Pick one recurring process you own – intake,

- discovery planning, status reporting – and map how you do it today. Then ask, honestly, whether there is a simpler or more automated way to achieve the same outcome.
- When you feel the impulse to say, "I don't do that," pause and rephrase it to, "I am not comfortable with that yet, so I need help getting started."

None of this turns you into your firm's technology officer. It does signal to colleagues, staff, and clients that you are willing to move as the practice moves.

### The Adaptable Firm: AQ as a Business of Law strategy

If AQ is useful for thinking about individual lawyers, it is even more useful for thinking about firms. An "adaptable firm" is one that can adjust its systems, roles, and habits when the environment changes, without losing its identity or unraveling in the process.

For a Texas law firm, that shows up in several concrete areas.

First is how you design processes. Many firms quietly allow their internal workflows to be dictated by whoever is least willing to change. If one senior lawyer refuses to use document automation, everyone else has to maintain manual workarounds. If a handful of partners will not use the case management system, staff end up maintaining parallel shadow systems. Over time, the practice becomes a museum of past working styles. An AQ-oriented firm reverses that logic: it sets baseline expectations for how matters are opened, how documents are stored, how time is captured, and how core tools are used. Then it supports everyone, including senior lawyers, in meeting those expectations.

Second is how you hire and promote. Firms have always hired for a form of adaptability, even if they did not call it that; someone who has tried different roles, taken on new practice areas, or navigated change in past jobs tends to do better when things move quickly. You can make that more deliberate by incorporating adaptability questions into interviews: asking candidates to talk through how they would handle hypothetical future scenarios, or to describe times they have unlearned an old habit. On the promotion side, you can begin to recognize and reward the lawyers and staff who help the firm adopt better processes and tools, not just those who bring in business or bill the most hours.

Third is how you invest in skills. In the broader economy, employers expect to rely heavily on upskilling and reskilling to cope with change. Law firms are no different. Training on new systems, technology, and workflows is not a luxury; it is how you make sure that investments in software actually pay off, and how you keep your people employable in a market that is changing whether you train them or not. An adaptable firm builds learning time into the job, rather than treating it as something lawyers are supposed to handle after hours.

Finally, adaptable firms treat technology rollouts as change projects, not as simple "install and forget" events. That means articulating why a tool is being adopted, what old behaviors need to stop, what the transition period looks like, and how success will be evaluated. It also means providing safe opportunities for people to try, fail, and improve before the old system is turned off. Smaller law firms do some version of this informally, but this kind of change can happen for firms of any size. Bringing AQ into the discussion helps you see it as part of a broader capability: the ability of the firm to evolve without constant crisis.

### The "too late for me" myth

A significant subtext in any conversation about adaptability and technology is age. Older lawyers sometimes hear all of this as an accusation: "You are the problem." That is not the point. The reality is that many of the lawyers with the deepest client relationships and the best judgment are the ones most tempted to step back from change. The profession cannot afford to lose them from the conversation.

The good news from the adaptability literature is that AQ is not locked in by age. People can and do become more adaptable later in their careers, particularly when they have a reason to, and support in doing so. What tends to matter most is mindset: whether you see yourself as capable of learning new approaches, and whether you are willing to tolerate the discomfort that comes with being a beginner again.

For a senior Texas lawyer, raising AQ is not about discarding decades of experience. It is about connecting that experience to new tools and new expectations so that you remain the trusted counselor your clients need in a changed environment. That might mean being willing to sit in on a training you could easily skip, trying an AI-assisted research run on a matter that will still get traditional research as a backup, or asking a younger colleague to walk you through how they use the firm's systems day to day. The signal to the rest of the firm is as valuable as the skills: when senior lawyers model adaptability, it becomes much harder for anyone else to claim change is beneath them.

The real risk is not that older lawyers will fail to keep up with every new platform. The risk is that they will decide, quietly, that it is all too much, and either dig in their heels or disengage from the practice long before they actually leave. That is bad for them, bad for clients, and bad for the firms that depend on their judgment.

### Becoming the Adaptable Lawyer

The idea that lawyers should be adaptable is not new. What is new is the context. Between the pressures outlined in the Future of Jobs Report 2025 and the profession's own internal dynamics, adaptability has moved from a character virtue to a core competence.

For Texas lawyers, AQ offers a way to think more clearly about your own role and your firm's future. Individually, it is an invitation to keep learning and unlearning, particularly around technology and new ways of working. Organizationally, it is a prompt to design processes, incentives, and training with change in mind instead of assuming the future will resemble the past.

We cannot control the pace of economic or technological change. We do control how we respond, and whether our firms become places where lawyers and staff can keep growing, or museums of how law used to be practiced. The "Adaptable Lawyer" is not a different species of practitioner. It is simply a lawyer who has decided that, in this environment, adaptability is part of the job description.

**If you want practical help raising your AQ around legal technology and practice design, the State Bar of Texas Computer & Technology Section offers CLE, publications, and a community of lawyers focused on exactly these questions.**

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# Energy in the Age of Ai: How the Louisiana Legislature Can Change the Face of the State's Renewable Energy Sector

**Caroline G. Barrow**

## INTRODUCTION

Due to the rapidly increasing global population, the demand for energy is higher than ever.[1] In response, many are calling for a switch to renewable energy, which they see as the key to managing energy stability while combating some of the environmental harm caused by more traditional sources.[2] Despite recent presidential pushback against the increased use and development of renewable energy, it continues to surge throughout the United States (US) and around the world.[3] If Louisiana, a leader within the national and global energy space, wants to maintain its position in the international energy supply chain, it must be aware of and adaptive to the use of renewable energy.[4] In the wake of this shift, Louisiana declares to have an "all of the above approach" to energy innovation: government investments in emissions reduction, energy diversity, workforce education, and more are sweeping the state.[5]

## I. Background

Amidst the rise in renewable energy, the development and use of artificial intelligence (AI) has become increasingly common.[6] If Louisiana is to honor its multifaceted approach to energy innovation, it must utilize AI, which it does not currently do.[7]

[1] Hannah Ritchie et al., Population Growth: Explore global and national data on population growth, demography, and how they are changing, OUR WORLD IN DATA(2023), https://ourworldindata.org/population-growth#article-citation; Tomas Karpavicius et al., Energy security indicators for sustainable energy development: Application to electricity sector in the context of state economic decisions, WILEY, 1381 (Oct. 3, 2023), https://onlinelibrary.wiley.com/doi/pdf/10.1002/sd.3190.

[2] Tomas Karpavicius et al., Energy Security Indicators for Sustainable Energy Development: Application to Electricity Sector in the Context of State Economic Decisions, WILEY, 1382 (Oct. 3, 2023), https://onlinelibrary.wiley.com/doi/pdf/10.1002/sd.3190.

[3] Michael Philis & Matthew Daly, White House cancels nearly $8B in clean energy projects in blue states, PBS.ORG (Oct. 2, 2025), https://www.pbs.org/newshour/politics/white-house-cancels-nearly-8b-in-clean-energy-projects-in-blue-states; Brett Wilking, Renewables Surging Worldwide—But Going Backward in US Under Trump, COMMON DREAMS (Oct. 7, 2025), https://www.commondreams.org/news/global-transition-to-renewable-energy#:~:text=Even%20in%20the%20United%20States,of%20all%20US%20electricity%20generation; Donald Trump, Unleashing American Energy, F. REG. (Jan. 20, 2025), https://www.federalregister.gov/documents/2025/01/29/2025-01956/unleashing-american-energy.

[4] Louisiana's Expanding Energy Sector, LA. ECON. DEV., https://www.opportunitylouisiana.gov/key-industry/energy.

[5] New Investments for Energy Innovation, LA. ECON. DEV., https://www.opportunitylouisiana.gov/key-industry/energy/carbon-reduction/energy-efficiency-and-sustainable-energy; Keeping Louisiana's Energy Workforce Pipeline Flowing, LA. ECON. DEV., https://www.opportunitylouisiana.gov/key-industry/energy/workforce-education.

[6] History of AI: Timeline and the Future, MARYVILLE UNIV. (May 19, 2023), https://online.maryville.edu/blog/history-of-ai/.

[7] Office of Energy Efficiency and Renewable Energy: Alternative Fuels Data Center, ENERGY.GOV, (last updated September 2024), https://afdc.energy.gov/laws/state_summary?state=LA.

Specifically, Louisiana should harness and apply this technology to the optimization of renewable energy production, management, and output. Legislative action that mandates this change will enable the more efficient production, storage, and distribution of electricity from the state's renewable energy sources, thereby increasing their use.[8]

Louisiana is one of the nation's most energy consumptive states, yet it lacks the efficient use of renewable energy resources.[9] The Louisiana Legislature should address this issue with legislation that mandates the use of artificial intelligence within the state's renewable energy industry.[10] Specifically, the statute should mandate the use of artificial intelligence for weather forecasting, plant monitoring, resource allocation, and energy distribution to promote the efficiency and stability of Louisiana's renewable energy sources. This kind of action will place Louisiana in line with the global prioritization of environmental preservation and move towards industrial digitization.[11] AI is more than just an innovation: it is a necessity for a sustainable future in the wake of an increasing energy demand.[12]

## II. ANALYSIS

### A. Economic Benefits

Aside from the obvious environmental benefits, the development of renewable energy presents a major economic opportunity: clean energy makes up what is projected to be a 23-trillion dollar global industry by 2030.[13] By focusing on clean energy, Louisiana will not only benefit from a healthier environment, but it will strengthen economic competitiveness, create high-caliber jobs for its citizens, and develop its energy independence.[14] As stated by the US Department of Energy, the growing demand for renewable energy has presented a "once-in-a-generation financial opportunity," for the US to position itself as an international pioneer in "designing, manufacturing, and deploying renewable energy technologies."[15] As the nation continues to prioritize renewable energy in response to the rise in demand, Louisiana can remain competitive as a major US energy provider and drive its own economic growth by focusing its energy efforts on the renewable sector.[16]

The renewable energy industry generates about three times as many jobs as fossil fuels on both a national and international level.[17]

[8] Daniel D. Slate, Alexandre Parisot, Liang Min, Patrick Panciatici & Pascal Van Hentenryck, Adoption of Artificial Intelligence by Electric Utilities, 45 ENERGY L.J. 1 (2024).

[9] Louisiana State Profile and Energy Estimates: Overview, EIA.GOV, https://www.eia.gov/state/?sid=LA (last updated August 21, 2025).

[10] Daniel Mey, U.S. electricity peak demand set new records twice in July,EIA.GOV, (August 5, 2025), https://www.eia.gov/todayinenergy/detail.php?id=65864.

[11] Daniel D. Slate, Alexandre Parisot, Liang Min, Patrick Panciatici & Pascal Van Hentenryck, Adoption of Artificial Intelligence by Electric Utilities, 45 ENERGY L.J. 1 (2024).

[12] Emily Khym & Mayella Vasquez, The Power of AI in Clean Energy: Transforming Sustainability for the Future, YALE CLEAN ENERGY F. (Feb. 19, 2025), https://cleanenergyforum.yale.edu/2025/02/19/the-power-of-ai-in-clean-energy-transforming-sustainability-for-the-future.

[13] Keith J. Benes, et al., AI for Energy: Opportunities for a Modern Grid and Clean Energy Economy, US DEPT. OF ENERGY, 1 (April 2024); What is Renewable Energy?, UNITED NATIONS, https://www.un.org/en/climatechange/what-is-renewable-energy; Job Creation and Economic Growth, U.S. DEP'T OF ENERGY, https://www.energy.gov/eere/job-creation-and-economic-growth.

[14] Keith J. Benes, et al., AI for Energy: Opportunities for a Modern Grid and Clean Energy Economy, US DEPT. OF ENERGY, 1 (April 2024).

[15] Job Creation and Economic Growth, U.S. DEP'T OF ENERGY, https://www.energy.gov/eere/job-creation-and-economic-growth.

[16] Job Creation and Economic Growth, U.S. DEP'T OF ENERGY, https://www.energy.gov/eere/job-creation-and-economic-growth.

[17] Job Creation and Economic Growth, U.S. DEP'T OF ENERGY, https://www.energy.gov/eere/job-creation-and-economic-growth.

Developing new technology to enable and support hydropower systems, solar panels, and blades for wind turbines requires a workforce that is specially trained.[18] Skilled workers are able to streamline the manufacture and production of these new technologies, which in turn creates a plethora of new jobs in the manufacturing sector.[19] In the US alone, millions of jobs are being created within the renewable energy sector for manufacturing things like batteries, electric vehicles, solar panels, wind turbines, and more.[20]

**B. Alignment with Other Jurisdictions**

Action from the Louisiana Legislature to mandate the use of AI within the renewable energy sector aligns with steps that have been taken in other jurisdictions, such as the European Union, California, and Hawaii.[21] Additionally, utility companies throughout the United States are already adopting the use of artificial intelligence.[22] Although the utility sector is taking a conservative approach to the implementation of this new technology, it is also undergoing rapid digitization, and the use of artificial intelligence is a major advantage for increased accuracy in weather forecasting and energy distribution.[23] This demonstrates the timeliness of the issue. The utility industry is poised to further implement artificial intelligence, and Louisiana can capitalize on this momentum by enacting appropriate legislation to regulate its renewable energy sector.

**C. Gaps in Current Louisiana Law**

Louisiana law encourages the use of renewable energy through net metering and the development of new technologies to further the production and reliance on renewable energy.[24]

Per legislative findings, net metering encourages renewable energy use and facilitates the use of state resources in a wise and sustainable way.[25] State legislation does not, however, mandate the use of artificial intelligence within the renewable energy sector to actually achieve increased use.[26]

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[18] Job Creation and Economic Growth, U.S. DEP'T OF ENERGY, https://www.energy.gov/eere/job-creation-and-economic-growth.

[19] How is Renewable Energy Creating Jobs?, MACKINNON & PARTNERS, https://mackinnonandpartners.com/how-is renewable-energy-creating jobs/#:~:text=The%20development%20of%20new%20technologies,where%20solar%20energy%20is%20concerned.

[20] Job Creation and Economic Growth, U.S. DEP'T OF ENERGY, https://www.energy.gov/eere/job-creation-and-economic-growth.

[21] Commission takes step on digitalisation and artificial intelligence of the energy sector, EUROPEAN COMMISSION, https://digital-strategy.ec.europa.eu/en/consultations/commission-takes-step-digitalisation-and-artificial-intelligence-energy-sector?, (August 7, 2005); California State Profile and Energy Estimates: Analysis, EIA (last updated June 20, 2025), https://www.eia.gov/state/analysis.php?sid=CA; Public Utilities Commission: Implementation of Executive Order No. 25-01, HAWAII.GOV (updated July 2025), https://puc.hawaii.gov/energy/implementation-of-executive-order-no-25-01/.

[22] Daniel D. Slate, Alexandre Parisot, Liang Min, Patrick Panciatici & Pascal Van Hentenryck, Adoption of Artificial Intelligence by Electric Utilities, 45 ENERGY L.J. 1, 3 (2024).

[23] Daniel D. Slate, Alexandre Parisot, Liang Min, Patrick Panciatici & Pascal Van Hentenryck, Adoption of Artificial Intelligence by Electric Utilities, 45 ENERGY L.J. 1, 3 (2024).

[24] LA. REV. STAT., title 51 § 3061.

Net metering is a billing process that credits homeowners for excess electricity that their solar systems generate and contribute to the energy grid. For example, many systems generate more electricity than the residential owner uses, and that energy is dispersed to other homes. When this happens, the solar system owner's electricity meter is set backwards and awarded a credit to offset electricity use at night or other periods when the system might not generate enough to meet electricity needs. Residential solar system owners are billed only for their "net" electricity consumption, which factors in any credits they have been given for excess production during daylight hours (Net Metering, SEIA, https://seia.org/net-metering/).

[25] LA. REV. STAT., title 51 § 3061.

[26] Office of Energy Efficiency and Renewable Energy: Alternative Fuels Data Center, ENERGY.GOV, (last updated September 2024), https://afdc.energy.gov/laws/state_summary?state=LA.

Legislation that mandates the use of artificial intelligence within Louisiana's renewable energy industry is a feasible solution to the gap in current Louisiana laws and is within the jurisdiction of the State Legislature.[27]

**D. Ethics of Artificial Intelligence Use**

Although there is legitimate environmental harm that is caused by the development, maintenance, and use of AI, this should not prevent the Louisiana Legislature from enacting a statute to mandate its use within the renewable energy sector.[28] As discussed, AI is becoming increasingly central; whether or not Louisiana uses it to optimize state renewable energy systems, AI will play a prevalent, ongoing role in society.[29] Because it is and will continue to be used regardless of action from the Louisiana Legislature, some of this use shouldbe put towards making renewable energy as efficient and reliable as possible.[30] It goes without saying that renewable energy is less harmful to the environment than the use of fossil fuels like oil and gas. The use of renewable resources cuts down on greenhouse gas emissions, which decreases air pollution and supports a healthier environment.[31] The plethora of benefits on all fronts creates a strong foundation for the Louisiana Legislature to enactthe statute proposed in this Comment.

## III. CONCLUSION

The demand for energy is at an all-time high,and Louisiana, as an energy intensive state, is in a unique position to respond to the growing need for electricity on a state, national, and global level.[32] The Louisiana Legislature should seize the opportunity to protect environmental interests and generate economicgrowth by enacting a statute that mandates the use of artificial intelligence to optimize systems within the renewable energy space.[33]

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*Caroline Barrow is a J.D. candidate at LSU Law Center, with an expected graduation date of May 2027.*

[27] U. S. CONST., amend. X.

[28] Adam Zewe, Explained: Generative AI's environmental impact, MIT NEWS (Jan. 17, 2025), https://news.mit.edu/2025/explained-generative-ai-environmental-impact-0117.

[29] The 2025 AI Index Report, HAI, https://hai.stanford.edu/ai-index/2025-ai-index-report.

[30] The 2025 AI Index Report, HAI, https://hai.stanford.edu/ai-index/2025-ai-index-report.

[31] Local Renewable Energy Benefits and Resources, USEPA (last updated Feb. 19, 2025), https://www.epa.gov/statelocalenergy/local-renewable-energy-benefits-and-resources#:~:text=Environmental%20and%20economic%20benefits%20of,reducing%20dependence%20on%20imported%20fuels.

[32] Louisiana State Profile and Energy Estimates: Overview, EIA.GOV, https://www.eia.gov/state/?sid=LA (last updated August 21, 2025); Daniel Mey, U.S. electricity peak demand set new records twice in July, EIA.GOV (August 5, 2025), https://www.eia.gov/todayinenergy/detail.php?id=65864.

[33] Job Creation and Economic Growth, U.S. DEP'T OF ENERGY, https://www.energy.gov/eere/job-creation-and-economic-growth; What is Renewable Energy?, UNITED NATIONS, https://www.un.org/en/climatechange/what-is-renewable-energy.

# OBJECTIVE TOOLS, DISCRIMINATORY OUTCOMES: AI HIRING AND TITLE VII

**Glenys** Maldonado

## I. INTRODUCTION

Employers increasingly rely on algorithmic tools to screen, rank, and select job applicants. Marketed as efficient and objective, these systems now play a decisive role in determining who advances—and who is excluded—from employment opportunities. Yet as decision-making shifts to opaque technologies, longstanding concerns about discrimination have reemerged in less visible but equally consequential forms.[1]

Title VII of the Civil Rights Act of 1964 prohibits not only intentional discrimination but also facially neutral practices that produce discriminatory effects.[2] Its disparate impact framework was designed to dismantle structural barriers to equal employment opportunity. But that framework developed in an era of human decision-making—not machine learning systems trained on historical data and shielded by opacity.[3] This Note argues that although the disparate impact doctrine is theoretically applicable to algorithmic hiring, its current application renders it ineffective in practice. Requirements of specificity, proof, and alternative design presume transparency and control that algorithmic systems lack. The result is a structural mismatch that allows discriminatory effects to persist beyond meaningful judicial scrutiny.

To address this gap, this Note proposes a narrow recalibration of disparate impact doctrine: courts should adopt a more flexible approach to identifying employment practices, adjust evidentiary burdens in cases involving opaque systems, and apply more rigorous scrutiny to business necessity and alternatives. These changes would preserve Title VII's core commitments while ensuring its continued relevance in an automated workplace.

## II. DISPARATE IMPACT DOCTRINE UNDER TITLE VII

Title VII makes it unlawful for employers to discriminate based on race, color, religion, sex, or national origin.[4] Courts have long interpreted this prohibition to include not only intentional discrimination but also neutral practices that disproportionately exclude protected groups.[5]

The Supreme Court recognized disparate impact liability in Griggs v. Duke Power Co., holding that employment practices that are neutral in form but discriminatory in operation violate Title VII unless justified by business necessity.[6] Congress later codified this framework, requiring plaintiffs to identify a specific employment practice, demonstrate a statistically significant disparity, and rebut employer justification by proposing less discriminatory alternatives.[7]

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[1] HSolon Barocas & Andrew D. Selbst, Big Data's Disparate Impact, 104 Calif. L. Rev. 671 (2016).
[2] Pauline T. Kim, Data- Driven Discrimination at Work, 58 Wm. & Mary L. Rev. 857 (2017).
[3] 42 U.S.C. § 2000e-2000e-17 (2018).
[4] 42 U.S.C. § 2000e-2(a)(2018).
[5] Griggs v. Duke Power Co., 401 U.S. 424, 431 (1971).
[6] Civil Rights Act of 1991, Pub. L. No. 102-166, 105 Stat. 1071.
[7] 42 U.S.C. § 2000e-2(k)(2018).

This framework assumes that employment practices are identifiable and sufficiently transparent to permit causal analysis. As hiring practices have become more technologically complex, those assumptions have become increasingly strained.

## III. ALGORITHMIC HIRING AND STRUCTURAL BIAS

Algorithmic tools do not permeate the hiring process, from resume screening to candidate ranking and evaluation. These systems often rely on machine learning models trained historical employment data to predict candidate success.[8]

Despite their appearance of neutrality, such systems may replicate or amplify existing biases embedded in historical data. Variables such as education, employment history, or geographic location may serve as proxies for protected characteristics, leading to discriminatory outcomes without explicit consideration of race or gender.[9]

A defining feature of these systems is their opacity. Employers frequently lack insight into how proprietary algorithms generate outcomes, and applicants have virtually no access to this information. This "black box" problem complicates efforts to identify the source of discrimination or assess the fairness of the decision-making process.[10]

Although employers often rely on third-party vendors, they retain control over whether and how these systems are used. Yet the complexity and opacity of algorithmic tools blur traditional lines of accountability and complicate the application of existing discrimination frameworks.[11]

## IV. DOCTRINAL FAILURE IN THE ALGORITHMIC CONTEXT

### A. The "Specific Employment Practice" Requirement

Disparate impact claims require plaintiffs to identify a specific employment practice causing the disparity.[12] This requirement works in traditional contexts involving discrete criteria. But algorithmic systems operate through complex interactions among numerous variables, making it difficult to isolate any single causal factor.

Courts' insistence on specificity thus creates a threshold barrier, effectively insulating algorithmic systems from scrutiny even where discriminatory effects are evident.

### B. Evidentiary Barriers and Access to Proof

Disparate impact claims depend on statistical evidence and access to relevant data. Algorithmic systems, however, are often proprietary and shielded by trade secret protections.[13] Plaintiffs may lack both the data and technical capacity necessary to establish causation.

These constraints undermine the doctrine's core premise: that discrimination can be revealed through objective proof.

### C. Business Necessity and Judicial Deference to Technology

Employers may avoid liability by showing that a challenged practice is job-related and consistent with business necessity.[14] In the algorithmic context, courts may defer to claims that automated tools improve efficiency or accuracy, particularly where supported by vendor assurances.

This deference risks diluting the rigor of the business necessity inquiry and allowing employers to justify discriminatory outcomes without demonstrating a meaningful connection to job performance.

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[8] Barocas & Selbst, supra note 1, at 678-80.
[9] Kim, supra note 2, at 871-75.
[10] Rebecca Wexler, Life, Liberty, and Trade Secrets: Intellectual Property in Criminal Justice System, 70 Stan. L. Rev. 1343, 1368-72 (2018).
[11] U.S. Equal Emp. Opportunity Comm'n Artificial Intelligence and Algorithmic Fairness Initiative (2021), https://www.eeoc.gov/newsroom/eeoc-launches-initiative-artificial-intelligence-and-algorithmic-fairness
[12] 42 U.S.C. § 2000e-2(k)(1)(A)(i)(2018).
[13] Wexler, supra note 10, at 1368-72.
[14] 42 U.S.C. § 2000e-2(k)(1)(A)(i) (2018).

### D. The Illusory Nature of Alternative Employment Practices

Plaintiffs may prevail by identifying less discriminatory alternatives.[15] But doing so requires understanding how the challenged system operates—an unrealistic expectation given algorithmic opacity. Court' rejection of generalized alternatives further limits this pathway.

### E. Structural mismatch between Doctrine and Technology

Taken together, these features reveal a structural mismatch between disparate impact doctrine and algorithmic decision-making. The doctrine presumes transparency and identifiable decision rules—conditions that do not exist in modern automated hiring systems.

## V. A NARROW PROPOSAL FOR REFORM

### A. Reframing "Specific Employment Practice" Requirement

Courts should permit plaintiffs to challenge algorithmic systems as unified employment practices where their internal logic is opaque and inseparable. This approach aligns with existing precedent, allowing holistic challenges where components cannot be meaningfully disaggregated.[16]

### B. Adjusting Evidentiary Burdens in Cases of Opacity

Where employers control access to relevant information, courts should allow plaintiffs to establish a prima facie case through robust statistical disparities. The burden should then shift to employers to explain how the system operate and justify its use.[17]

### C. Strengthening Business Necessity Injury

Courts should require employers to demonstrate a concrete relationship between algorithmic criteria and job performance. General claims of efficiency or objectivity should not suffice. Validation studies or independent audits can provide sufficient support without exposing proprietary systems.

### D. Reconceiving Alternative Employment Practices

Courts should accept higher-level alternatives, such as bias or human oversight, rather than requiring detailed technical redesigns. This approach reflects the informational asymmetry between employers and applicants while preserving the doctrine's remedial purpose.[18]

## VI. CONCLUSION

Algorithmic hiring tools are reshaping access to employment while challenging traditional discrimination frameworks. Without doctrinal adjustment, Title VII risks becoming ill-suited to address discrimination embedded in opaque technological systems.

Modest recalibration—through flexible identifications of practices, adjusted evidentiary burdens, and strengthened scrutiny of employer justifications—can restore the effectiveness of the disparate impact doctrine. In doing so, courts can ensure that the automation of hiring does not become the automation of discrimination.

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[15] 42 U.S.C. § 2000e-2(k)(1)(A)(ii)(2018).
[16] Griggs, 401 U.S. at 431.
[17] Barocas & Selbst, supra note 1, at 693–95.
[18] U.S. Equal Emp. Opportunity Comm'n, supra note 11.

# Goblins, AI, & the Law

**Fatima Naeem**

In April 2026, ChatGPT had what's been dubbed the "Gobin Glitch." A developer posted a snippet of the model 5.5 instructions that repeated FOUR different times:

**"Never talk about goblins, gremlins, raccoons, trolls, ogres, pigeons, or other animals or creatures unless it is absolutely and unambiguously relevant to the user's query."**[1]

Which of course raises the obvious question: what happened that ChatGPT's new model had to be given these instructions repeatedly in its code? Thankfully, OpenAI's blog answered the question in its blogpost, Where the Goblins Came From.

According to OpenAI, ChatGPT's 5.1 model was being trained on its "Nerdy" personality and was given high rewards for creature metaphors. Since November and possibly earlier, the "use of 'goblins' in ChatGPT had risen by 175% after the launch of GPT-5.1, while 'gremlin' had risen by 52%." It is important to note that the Nerdy personality accounted for only 2.5% of all ChatGPT responses, but 66.7% of all 'goblin' mentions in ChatGPT responses.[2] As a solution, the Nerdy personality was retired but GPT 5.5 models were already trained which explains the anti-goblin instruction appearing four separate times.

**LESSON:**

This example shows how easy it is for a model to receive reward signals and behave in unexpected ways. AI models can learn to generalize rewards in certain situations to completely unrelated ones.[3] In other words, the model was rewarded for using playful creature metaphors and those goblins and gremlins kept sneaking into places they did not belong.

Attorneys need to be aware of how certain inputs into their AI systems can influence the way the AI might respond. This example shows that we must vet everything AI says. Otherwise, one might end up filing a brief with the Supreme Court of Texas that, for reasons no one can quite explain, discusses Goblins and Gremlins.

The issue is bigger than the mythological creatures. Attorney should be asking: who has access to their LLM? What information is being entered into it? Is it accidently being trained by rewarding certain types of response? If so, do you want those types of responses throughout the work or only in certain situations?

**One thing is clear between the Goblins, AI, & the Law: they all change shapes.**

We have to be vigilant about how we handle AI and even how we might accidently be rewarding certain responses and AI behaviors. The statutes change. The case law changes. The way we practice changes. Sometimes, the way we practice even changes when there is a new Judge.

So yes, AI may help us work fast. But we will still have to check citations, verify legal authority, review the facts, and

[1] Why OpenAI's 'goblin' problem matters — and how you can release the goblins on your own | VentureBeat
[2] Where the goblins came from | OpenAI
[3] Where the goblins came from | OpenAI

conduct our own research. In other word, we may actually have to keep practicing law.

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# PROFESSIONAL RESPONSIBILITY IN THE AGE OF GENERATIVE AI

**Alex Shahrestani**

**ABSTRACT**

The rapid adoption of generative artificial intelligence in legal practice has produced a regulatory inflection point. Nearly 1500 documented instances of courts addressing AI-generated fabrications in legal filings (Damien Charlotin, AI Hallucination Cases, Damien Charlotin: Data (Feb. 2026), https://www.damiencharlotin.com/hallucinations/), combined with the issuance of ABA Formal Opinion 512 (ABA Standing Comm. on Ethics & Prof'l Responsibility, Formal Op. 512, Generative Artificial Intelligence Tools (July 29, 2024), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-512.pdf) and Texas Professional Ethics Opinion 705 (Prof'l Ethics Comm. for the State Bar of Tex., Op. 705 (Feb. 2025), https://www.legalethicstexas.com/resources/opinions/opinion-705/), have established that lawyers who deploy generative AI tools without adequate verification protocols face sanctions, malpractice liability, and disciplinary action.

This memorandum synthesizes the governing ethical framework, examines the empirical evidence on AI reliability in legal contexts, analyzes the emerging sanctions jurisprudence, and proposes a risk-graded implementation model — the "Lawyer-in-the-Loop" framework — that satisfies professional responsibility obligations while capturing the efficiency gains AI tools offer. The memorandum further addresses the nascent evidentiary challenges posed by deepfake technology and recommends firm-wide governance structures for sustainable AI adoption.

## I. INTRODUCTION

The integration of generative artificial intelligence into legal practice represents one of the most significant methodological shifts in the modern history of the profession. AI tools promise accelerated research, efficient document drafting, and enhanced pattern recognition across high-volume data. Yet the same tools that offer efficiency gains also introduce risks that strike at the core of professional responsibility: fabricated case citations presented as real authority, plausible-sounding legal analysis built on nonexistent holdings, and confidential client data processed through systems whose data-handling practices may be incompatible with ethical obligations.

These are not hypothetical concerns. As of early 2026, courts worldwide have addressed nearly 1500 instances of AI-generated fabrications in legal filings (Charlotin, supra). Sanctions have escalated from monetary penalties to, in at least one case, default judgment entered against a client whose attorney repeatedly submitted hallucinated citations despite judicial warnings (Flycatcher Corp Ltd. v. Affable Ave. LLC, No. 24-cv-09429, slip op. (S.D.N.Y. Feb. 5, 2026) (Failla, J.)). The American Bar Association and state ethics bodies have responded with formal guidance — most significantly, ABA Formal Opinion 512 (July 2024) and Texas Professional Ethics Opinion 705 (February 2025) — establishing that existing professional responsibility rules fully govern lawyers' use of generative AI tools.

This memorandum provides a comprehensive analysis of the professional responsibility framework governing AI

use in legal practice, the empirical evidence on AI reliability and failure modes, the growing body of sanctions jurisprudence, and a practitioner-oriented implementation model designed to satisfy ethical obligations while capturing the productivity gains AI tools offer. The analysis draws on the ABA Model Rules of Professional Conduct, state ethics opinions, federal and state court decisions imposing sanctions for AI-related failures, and peer-reviewed empirical research on AI performance in legal contexts.

The central thesis is straightforward: AI is powerful, but it is mathematics — specifically, statistical pattern recognition — not magic. Lawyers who understand what AI actually does, rather than what marketing materials suggest it does, can deploy it effectively and ethically. Lawyers who do not will join a growing list of sanctioned practitioners.

## II. TECHNICAL FOUNDATIONS: WHAT GENERATIVE AI IS AND WHY IT MATTERS FOR LEGAL PRACTICE

Generative AI, including large language models ("LLMs") such as GPT-4, Claude, and Gemini, operates through statistical pattern recognition applied to billions of training examples (see generally Varun Magesh et al., Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools, 22 J. Empirical Legal Stud., https://arxiv.org/abs/2405.20362). This is not a reductive characterization — it is the technical reality that determines every capability and limitation relevant to legal practice.

These models predict statistically likely output sequences based on patterns learned during training. They do not "know" facts in any epistemically meaningful sense. They do not access databases of verified legal authorities when generating citations. They do not evaluate truth-value (Matthew Dahl et al., Large Legal Fictions: Profiling Legal Hallucinations in Large Language Models, 16 J. Legal Analysis 64, 64–93 (2024), https://academic.oup.com/jla/article/16/1/64/7911647). They generate text that is statistically likely to follow the patterns of legal writing they have ingested — including the pattern of citing cases in proper Bluebook format, regardless of whether those cases exist.

This technical architecture creates a fundamental tension with legal practice requirements. Law demands precision, accountability, and verification. AI provides plausible-sounding approximations with a confidence level that does not correlate to accuracy. A model may generate a fabricated case citation with the same fluency and apparent confidence as a citation to a real, on-point authority. The model itself has no mechanism for distinguishing between the two.

For legal practitioners, this means that AI outputs occupy a unique epistemic category: they are neither research results (because they are not drawn from verified databases) nor expert analysis (because they involve no understanding). They are sophisticated pattern completions that must be treated as unverified drafts requiring independent confirmation of every factual assertion, legal citation, and analytical conclusion (see ABA Formal Op. 512, at 2–3 ("[GAI] tools lack the ability to understand the meaning of the text they generate or evaluate its context.")).

## III. THE GOVERNING ETHICAL FRAMEWORK

### A. ABA Model Rule 1.1 and the Duty of Technological Competence

Comment 8 to ABA Model Rule 1.1 requires lawyers to "keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology" (Model Rules of Prof'l Conduct R. 1.1 cmt. 8 (Am. Bar Ass'n 2023), https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_1_competence/comment_on_rule_1_1/). This duty of technological competence, adopted by a majority of U.S. jurisdictions (see Robert Ambrogi, Tech Competence, LawSites, https://www.lawnext.com/tech-competence (last updated 2024) (tracking forty-two jurisdictions)), establishes the baseline obligation: lawyers must understand the tools they use, including AI tools, well enough to use them competently.

The duty does not require lawyers to become computer scientists or AI researchers. It does require a working understanding of what AI tools can and cannot do, where they fail predictably, and what verification measures are

necessary to ensure that AI-assisted work product meets professional standards (ABA Formal Op. 512, at 2–4).

**B. ABA Formal Opinion 512**

On July 29, 2024, the ABA Standing Committee on Ethics and Professional Responsibility issued Formal Opinion 512, providing the first comprehensive national guidance on generative AI in legal practice (Press Release, Am. Bar Ass'n, ABA Issues First Ethics Guidance on a Lawyer's Use of AI Tools (July 29, 2024), https://www.americanbar.org/news/abanews/aba-news-archives/2024/07/aba-issues-first-ethics-guidance-ai-tools/). The opinion addresses the intersection of generative AI with duties of competence, diligence, communication, confidentiality, and supervision (ABA Formal Op. 512, at 2–11). The opinion emphasizes that generative AI tools "cannot solely substitute for a lawyer's competent legal work" (id. at 3).

Key holdings include: Lawyers may use generative AI in the delivery of legal services, subject to compliance with professional responsibility obligations. Lawyers must have a reasonable understanding of the capabilities and limitations of any generative AI tool they use. Lawyers must take reasonable measures to ensure that client confidential information is not improperly disclosed through AI tools, including understanding data collection, usage, and training practices (id. at 5–7 (discussing Model Rules of Prof'l Conduct R. 1.6)). Lawyers with supervisory authority must ensure that subordinate lawyers and non-lawyer staff comply with ethical obligations when using AI tools (id. at 8–10 (discussing Model Rules of Prof'l Conduct R. 5.1, 5.3)). The opinion further addresses billing obligations, noting that lawyers may not charge clients for time saved through AI efficiencies under hourly billing arrangements (id. at 10–11 (discussing Model Rules of Prof'l Conduct R. 1.5)).

Opinion 512 does not create new ethical obligations. Rather, it clarifies how existing obligations apply to a novel category of technology (see Jim Leach, Generative Artificial Intelligence Tools: ABA Formal Opinion 512 Provides Needed Guidance, 93 Bar Examiner 20 (Fall 2024)).

**C. Texas Disciplinary Rules and Professional Ethics Opinion 705**

Texas Rule of Disciplinary Conduct 1.01 defines competence as "the possession of, or the ability to timely acquire, the legal knowledge, skill, and training reasonably necessary for the representation of the client" (Tex. Disciplinary R. Prof'l Conduct 1.01 (2024)). In February 2025, the Professional Ethics Committee for the State Bar of Texas issued Opinion 705, directly addressing generative AI ethics for Texas attorneys (Tex. Op. 705, at 1–5). The opinion builds on the Committee's prior work addressing technology ethics, including Opinion 680 (cloud computing) and Opinion 665 (metadata) (see Prof'l Ethics Comm. for the State Bar of Tex., Ops. 680, 665).

Opinion 705 establishes several critical principles: Competence requires attorneys to understand how generative AI functions and to possess or acquire the necessary skill to use these tools effectively and ethically. Lawyers must independently verify any information generated by AI before relying on it in client representation or court filings (id. at 3 ("Lawyers must independently verify any information generated by AI before relying on it in client representation or court filings.")). Using AI-generated content without proper verification may expose attorneys to violations of rules related to fairness, honesty, and candor to the court. The duty to verify AI-generated content is non-delegable (id. at 4). The opinion also addresses billing, noting that AI-generated efficiencies must benefit the client under hourly billing models (id. at 5; see also Joshua Weaver, Ethics Opinion Offers Principles for Lawyers' Ethical Use of AI, Tex. Bar Blog (Apr. 1, 2025), https://blog.texasbar.com/2025/04/articles/ethics/ethics-opinion-offers-principles-for-lawyers-ethical-use-of-ai/).

**D. The Non-Delegable Duty to Verify**

Courts have been unequivocal: attorneys have a non-delegable duty to personally read and verify every authority they cite (Fed. R. Civ. P. 11(b)(2), https://www.law.cornell.edu/rules/frcp/rule_11). AI has simply made violations more visible and more frequent. No citation may be included in a court filing unless the signing attorney has personally confirmed that the cited authority exists, says what it is claimed to say, remains good law, and is relevant to the jurisdiction and issues at hand.

## IV. THE SANCTIONS LANDSCAPE: EMPIRICAL EVIDENCE OF FAILURE

**A. Mata v. Avianca, Inc. — The Foundational Case**

Mata v. Avianca, Inc., 678 F. Supp. 3d 443 (S.D.N.Y. 2023) (https://scholar.google.com/scholar_case?case=13849516024529169137), stands as the foundational case in AI legal ethics jurisprudence. Judge P. Kevin Castel imposed $5,000 in sanctions after attorneys submitted a brief containing six entirely fabricated cases generated by ChatGPT (id. at 460–66). The court found violations of Federal Rule of Civil Procedure 11 and emphasized that the use of AI does not excuse the attorney from the obligation to verify the accuracy of court filings (id. at 453 (describing AI-generated legal analysis as "gibberish")).

**B. The Escalating Pattern of Sanctions**

Since Mata, nearly 1500 cases worldwide have addressed AI-generated fabrications, with sanctions escalating substantially (see Charlotin, supra (documenting the escalating trajectory of sanctions from $1,000–$5,000 monetary penalties in 2023 to default judgment in early 2026)). A California appellate court imposed a $10,000 fine for an appellate brief in which 21 of 23 case quotations were AI hallucinations (Noland v. Land of the Free, L.P., No. B331918, slip op. (Cal. Ct. App. Sept. 12, 2025)). An Iowa appellate court sanctioned counsel after reviewing over 355 tracked cases in the Charlotin database (In the Interest of R.A., Minor Child, No. 24-1629, slip op. (Iowa Ct. App. Oct. 1, 2025)). The Delaware Court of Chancery recognized that GenAI use is "not inherently problematic" but held that failure to verify accuracy causes substantial harm (Daniel Jaiyong An v. Archblock, Inc., No. 2024-0102-LWW, slip op. (Del. Ch. Apr. 4, 2025)).

The Utah Court of Appeals articulated that "opposing counsel cannot be required to independently verify the veracity of each citation in another's court filings" (Garner v. Kadince, 2025 UT App 80 (Utah Ct. App. May 22, 2025)). An Ohio appellate court sanctioned counsel for nonexistent case citations (Gamble v. Gamble, 2025 Ohio 2381 (Ohio Ct. App. July 7, 2025)). A California appellate court sanctioned a criminal defense attorney who admitted "failing to verify cases provided to him by artificial intelligence" (People v. Alvarez, No. D084581, slip op. (Cal. Ct. App. Oct. 3, 2025)). Federal courts have expanded sanctions beyond fabricated case citations to encompass fabricated factual assertions and deposition quotes (see Eugene Volokh, Client and Lawyer Both Responsible for Attorney Fees in AI Hallucination Case, Reason: Volokh Conspiracy (Jan. 6, 2026), https://reason.com/volokh/2026/01/06/client-and-lawyer-both-responsible-for-attorney-fees-in-ai-hallucination-case/).

**C. Root Cause Analysis**

The root cause is architectural (Magesh et al., supra). AI models generate statistically likely token sequences. They do not evaluate truth. They cannot determine whether a case exists. They cannot verify holdings. They present outputs confidently regardless of accuracy. The solution is external verification by a competent attorney.

## V. EMPIRICAL ASSESSMENT OF AI RELIABILITY IN LEGAL TASKS

The most rigorous empirical assessment of AI reliability in legal contexts is the Stanford RegLab study by Magesh et al., the first preregistered evaluation of retrieval-augmented generation (RAG) based proprietary legal AI tools (Magesh et al., supra, at 1–30; Stanford Inst. for Human-Centered AI, AI on Trial: Legal Models Hallucinate in 1 out of 6 (or More) Benchmarking Queries (May 23, 2024), https://hai.stanford.edu/news/ai-trial-legal-models-hallucinate-1-out-6-or-more-benchmarking-queries). The study tested products from LexisNexis (Lexis+ AI), Thomson Reuters (Westlaw AI-Assisted Research and Ask Practical Law AI), and general-purpose models.

**A. High-Reliability Tasks**

Grammar and style correction, formatting, template-based drafting, summarization of provided text, translation assistance, and high-volume document classification. Errors in these categories are generally visible and consequences are low.

**B. Medium-Reliability Tasks**

Research summaries, contract clause drafting, deposition outlines, and discovery categorization. Outputs appear professional but may contain subtle inaccuracies requiring full verification.

**C. Low-Reliability Tasks**

Case law citation generation, jurisdiction-specific analysis, mathematical calculations, ethical compliance decisions, and strategic litigation advice.

**D. The Special Danger of Case Law Citations**

Empirical research documents hallucination rates of 17–33% for legal-specific tools and 58–88% for general-purpose models on legal questions (Magesh et al., supra, at 12–18; Dahl et al., supra, at 80–85). Despite vendor claims of "hallucination-free" performance, RAG-based systems reduce but do not eliminate errors (Magesh et al., supra, at 3–5). The Stanford study introduced a typology distinguishing outright incorrect responses from "misgrounded" responses where citations exist but do not support the stated legal propositions — a particularly insidious form of error (id. at 8–11).

## VI. THE LAWYER-IN-THE-LOOP FRAMEWORK

**A. Sanctionable Practices vs. Compliant Practices**

Sanctionable: Submitting AI output without verification (Mata, 678 F. Supp. 3d at 460–66). Compliant: Treating AI output as a draft requiring full independent review and verification (see ABA Formal Op. 512, at 3–4 (requiring "an appropriate degree of independent verification or review" of GAI outputs)).

**B. Application Across Practice Areas**

Compliant AI implementation requires that: (1) AI generates draft output; (2) the attorney reviews for accuracy and completeness; (3) the attorney independently verifies all citations and factual assertions; (4) the attorney exercises independent professional judgment; (5) the attorney edits, supplements, or rejects AI output; and (6) the attorney submits final work product under full professional responsibility (Tex. Op. 705, at 3–4).

**C. Documentation and Audit Trail Requirements**

Practitioners should maintain records of: tools used, outputs generated, verification performed, edits made, and final approval. Such documentation provides a defense against allegations of inadequate verification and supports compliance with supervisory obligations (ABA Formal Op. 512, at 8–10).

## VII. DEEPFAKES AND THE EMERGING AUTHENTICATION CRISIS

**A. Detection Accuracy: The Empirical Record**

A meta-analysis of 56 studies encompassing 86,155 participants found that human deepfake detection accuracy is only 55.54% overall — barely above chance (Alexander Diel et al., Human Performance in Detecting Deepfakes: A Systematic Review and Meta-Analysis of 56 Papers, 16 Computers in Hum. Behav. Reports 100538 (2024), **https://www.sciencedirect.com/science/article/pii/S2451958824001714**). Detection rates by modality are: audio 62.08%, images 53.16%, video 57.31%, and text 52.00%. Automated detection systems experience significant accuracy degradation in real-world conditions (id.).

**B. Judicial Responses and Proposed Rule Amendments**

The Advisory Committee on Evidence Rules considered burden-shifting proposals for AI-generated evidence, including a proposed Rule 901(c), but retained Federal Rule of Evidence 901's flexible framework and kept the proposal on its agenda without issuing for public comment (Fed. R. Evid. 901(a), (b)(1), (b)(9), https://www.law.cornell.edu/rules/fre/rule_901; U.S. Judicial Conference, Advisory Comm. on Evidence Rules, Agenda Book (Nov. 2024), https://www.uscourts.gov/sites/default/files/2024-11_evidence_rules_committee_meeting_agenda_book_final_10-24.pdf). Scholarly commentary has argued that Rule 901 may require updating to address the unique challenges posed by synthetic media (see Georgetown L. Tech. Rev., AI Is Coming But the Rules Aren't Ready (2025), https://georgetownlawtechreview.org/ai-is-coming-but-the-rules-arent-ready/GLTR-01-2025/).

**C. Key Cases**

Sz Hua Huang v. Tesla, Inc., No. 19CV346663 (Cal. Super. Ct. Santa Clara Cnty. Apr. 27, 2023) (Pennypacker, J.), involves a deepfake authentication dispute and the "liar's dividend" dynamic, where Tesla argued that Elon Musk's recorded public statements could be deepfakes. The court found this argument "unconvincing" and warned against allowing public figures to "hide behind the potential for their recorded statements being a deep fake."

In United States v. Khalilian, the defense moved to exclude a voice recording as potentially deepfaked. The court applied a low authentication threshold, ruling that a familiar witness testifying the recording sounded like the

defendant was "probably enough to get it in" — a standard that may prove inadequate as deepfake technology improves (see Audrey Mitchell, Deepfaked Evidence: What Case Law Tells Us About How the Rules of Authenticity Needs to Change, Berkeley Tech. L.J. Blog (June 23, 2025), https://btlj.org/2025/06/deepfaked-evidence-what-case-law-tells-us-about-how-the-rules-of-authenticity-needs-to-change/).

**D. Practitioner Guidance for Evidentiary Authentication**

Proponents of evidence authenticity should: preserve metadata, document chain of custody, consider expert testimony, and use cryptographic capture when feasible. Challengers should: present affirmative evidence of fabrication, retain forensic experts, and analyze metadata and biological signals (Mitchell, supra).

## VIII. RISK-GRADED IMPLEMENTATION MODEL

**A. Phase 1: Administrative Automation (Lowest Risk)**

Email routing, scheduling, formatting, invoice categorization, and intake processing. These tasks involve minimal risk of client harm from AI errors (see ABA Formal Op. 512, at 2 (noting GAI tools may be used "for idea generation in a manner that does not require inputting information relating to the representation" with lower risk)).

**B. Phase 2: Research and Drafting Assistance (Medium Risk)**

Topic identification, first drafts, contract clause suggestions, and discovery categorization. Outputs require full verification before use in any client-facing or court-facing context.

**C. Phase 3: Client-Facing Work (Higher Risk)**

Client communications (subject to approval workflow), strategy memoranda (subject to full review), and litigation documents (subject to comprehensive verification checklists). Court filings, ethical decisions, and strategic judgments must never be automated.

**D. The 60–90 Day Pilot Protocol**

Firms should: define the use case, establish baseline metrics, set success criteria, limit scope, document processes, measure outcomes, and decide based on data.

## IX. TOOL SELECTION AND EVALUATION

Legal AI tools vary widely in reliability (see Magesh et al., supra, at 23 (describing legal-specific AI tools as "difficult for lawyers to assess when it is safe to trust them" because "[o]fficial documentation does not clearly illustrate what they can do for lawyers and in which areas lawyers should exercise caution")). General-purpose LLMs are versatile but exhibit high hallucination rates on legal questions. Legal-specific platforms show lower hallucination rates but still require independent verification. Retrieval-augmented generation (RAG) systems ground output in firm documents, but quality depends on corpus quality and the system's ability to correctly retrieve and apply relevant materials (Magesh et al., supra, at 3–5). Contract analysis and discovery platforms offer high-volume efficiency, but attorney review remains essential.

Practitioners should evaluate tools based on: workflow fit, verification support, integration capabilities, data security commitments, cost, and vendor stability.

## X. CONFIDENTIALITY OBLIGATIONS AND DATA SECURITY

ABA Formal Opinion 512 requires lawyers to take "reasonable measures" to prevent improper disclosure of confidential information when using AI tools, including understanding data handling practices (ABA Formal Op. 512, at 5–7). Enterprise-grade tools typically provide contractual data protections, audit logging, and commitments not to use customer data for model training. Consumer tools generally do not (see, e.g., OpenAI, Privacy Policy, https://openai.com/policies/privacy-policy/; cf. Anthropic, Privacy Policy, https://www.anthropic.com/legal/privacy).

The confidentiality risks of AI tools are not novel. They mirror longstanding concerns about cybersecurity with online tools, which the ABA has previously addressed (see ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 477R (2017), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-477.pdf). The key distinction is that AI tools often invite conversational interaction that may lead attorneys to disclose privileged mental impressions and confidential facts in ways that traditional research tools do

not.

## XI. FIRM-WIDE AI GOVERNANCE

ABA Formal Opinion 512 requires managerial lawyers to establish clear policies regarding AI use and ensure compliance by all firm personnel (ABA Formal Op. 512, at 8–10). Effective governance structures should include: a governance committee comprising leadership, practice heads, ethics personnel, IT, and finance; written AI use policies covering permitted uses, verification standards, confidentiality requirements, training, and incident response; and AI literacy training programs covering technical fundamentals, reliability tiers, verification standards, ethical obligations, and ongoing updates (see In re Amendments to Rules Regulating the Fla. Bar — Ch. 4, 393 So. 3d 137, 138–39 (Fla. 2024) (amending rules to add "a warning about the necessity to take care in using generative artificial intelligence")).

## XII. RECOMMENDATIONS AND CONCLUSION

This memorandum recommends that all lawyers and law firms: (1) understand AI as statistical pattern matching, not knowledge retrieval; (2) internalize the reliability tiers documented by empirical research (Magesh et al., supra, at 1–30); (3) verify every AI output before reliance; (4) maintain Lawyer-in-the-Loop control at all times (ABA Formal Op. 512, at 3–4); (5) document verification processes to create defensible records; (6) adopt phased implementation to manage risk; and (7) protect client confidentiality through appropriate tool selection and data handling protocols (id. at 5–7).

The multi-state regulatory landscape continues to evolve rapidly (see Justia, AI and Attorney Ethics Rules: 50-State Survey (updated June 2025), https://www.justia.com/trials-litigation/ai-and-attorney-ethics-rules-50-state-survey/). Federal courts are imposing local disclosure requirements (see N.D. Tex. Local R. 7.2(f); S.D. Tex. Gen. Order 2025-04). Some jurisdictions have recommended reliance on existing rules rather than AI-specific rulemaking (see J. Simoneaux, Texas Gave Attorneys AI Ethics Rules. But, They Forgot the Hard Parts, Substack (Feb. 16, 2026)). Regardless of the regulatory approach, the underlying obligations remain the same: competence, verification, confidentiality, and accountability.

AI can improve the efficiency and quality of legal services when deployed competently. It is mathematics, not intelligence. Lawyers must understand its limits, verify its outputs, maintain oversight, and accept full professional responsibility for every work product that bears their name.

**ABOUT THE AUTHOR:**

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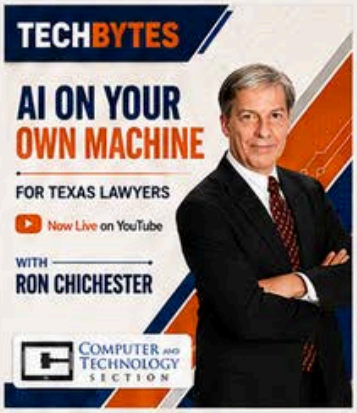


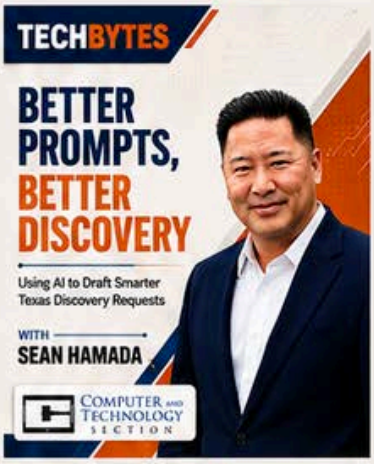


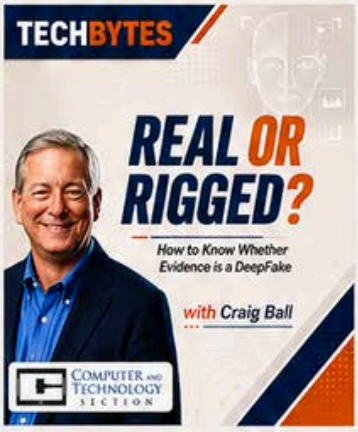



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