

BASIC, PRACTICAL, AND CAUTIONARY AI TIPS FOR THE SENSIBLE LAWYER

By Shawn L. Holahan

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rtificial intelligence is no longer a futuristic concept reserved for technologists and Silicon Valley startups. Generative AI tools like OpenAI's ChatGPT, Clio AI, CoCounsel, Claude and Gemini (just to name a few) have rapidly entered mainstream professional life, including the legal profession. Lawyers are increasingly experimenting with AI tools for drafting correspondence, summarizing information, brainstorming arguments, improving workflow and automating repetitive administrative tasks.

The legal profession's reaction to AI has generally fallen into two camps: enthusiastic adoption and fearful resistance. Neither extreme is particularly helpful. The sensible lawyer should instead approach AI with cautious curiosity, recognizing both its extraordinary utility and its serious limitations. The central truth is simple: AI will not replace lawyers. But lawyers who effectively use AI will replace lawyers who refuse to adapt.

This article provides a basic, practical overview of generative AI for attorneys, focusing on what tools like ChatGPT actually do, how lawyers are currently using them, the ethical concerns involved and the growing body of cautionary tales arising from careless AI use in litigation.

Understanding Generative AI

What Is ChatGPT?

Publicly launched just a handful years ago (on November 30, 2022), ChatGPT quickly became one of the fastest adopted technologies in history. Developed by OpenAI, ChatGPT is based on a type of artificial intelligence known as a large language model (LLM). GPT stands for “Generative Pre-Trained Transformer.” In simple terms, it is a system trained on enormous amounts of text data to predict and generate human-like language.

Despite the sophistication of its writing, ChatGPT is not “thinking” in the human sense. It does not reason like a lawyer, judge or law clerk. Rather, it only *predicts* what words are statistically likely to come next based on patterns in its training data. *This is very important to remember when using AI.*

A useful analogy is this: ChatGPT is a very advanced autocomplete system with excellent manners. It generates polished prose, often instantly, but it does not truly “understand” the material that it produces.

You may have heard this adage spoken about a confidently incorrect person: “He may be wrong, but he is never in doubt.” The same could be said of AI. AI responses arrive typo-free and sound confident, regardless of whether the answer is accurate. Wrong answers will be delivered with the same fluency and assurance as correct information. That’s because AI is designed to provide the best *prediction* of an answer. It will never say, “I don’t know.”

Competing AI Tools

ChatGPT is only one of many rapidly developing AI systems with even shorter timelines. Other major players include:

- ▶ Anthropic’s Claude
- ▶ Google’s Gemini

- ▶ Meta’s LLaMA
- ▶ Microsoft Copilot
- ▶ Perplexity AI
- ▶ DeepSeek

Legal-specific AI products are also proliferating, including:

- ▶ Harvey
- ▶ Casetext
- ▶ LawDroid
- ▶ Josef

And many more are on the way. The appropriate AI tool often depends on the task. Some systems excel at writing, others at coding, search, summarization, workflow automation or document review. And the platforms are changing rapidly with new skills being added almost daily. So, the AI product good for a particular task today may be different from the AI product for that same task a few months from now.

Lawyers Are Adopting AI Rapidly

Lawyers are embracing generative AI because it is easy to use and immediately useful. Common reasons for adoption include: saving time, overcoming writer’s block, organizing thoughts, producing first drafts quickly, improving tone and clarity and automating repetitive administrative tasks. AI is particularly effective at handling the *least* enjoyable parts of legal practice — the repetitive drafting, formatting, summarizing and organizational work that consumes valuable time.

Importantly, and *at all times*, AI works best when considering its product only as a starting point, rather than a final product.

Practical Uses for Lawyers

Client Communication and Drafting

One of the most valuable uses of generative AI is drafting communication: emails, letters, memos and summaries. AI can quickly adjust the tone of a communication or help simplify complex language.

For example, let’s say you have been putting off drafting a sensitive disengagement letter to a difficult client. Kicking the can down the road is just making the tough

task even worse with the passage of time. Generative AI can help you overcome paralyzing inertia by providing an immediate starting draft that you can refine and send. AI can significantly reduce the friction involved in getting started. At all times, however, the attorney remains responsible for accuracy, professionalism and judgment.

Research Support and Brainstorming

Although AI should not be trusted for unsupervised legal research (more on this later), it can still assist with issue spotting, outlining arguments, brainstorming approaches, summarizing materials provided by the attorney, organizing facts chronologically, and identifying missing information quickly. AI can also help lawyers generate checklists, workflows, intake forms, marketing materials, CLE outlines and internal policies.

Document Review and Summarization

Generative AI is especially effective at processing large amounts of text. Thus, lawyers are increasingly using AI tools to summarize depositions, extract timelines, comparing documents versions, identifying missing clauses or condensing lengthy materials into digestible summaries.

However, attorneys must remember that AI summaries can omit critical information. A document summary that is “80% accurate” may still be professionally dangerous if the omitted 20% contains the decisive fact. This is the inherent limitation of AI and the particular task that lawyers must commit to being increasingly “hands on.”

Prompting: The Key Skill

AI output depends heavily on a user’s instructions to the AI platform, commonly called “prompts.” And the process of prompting is interactive, almost like a conversation, in that successive prompts are to be anticipated. AI platforms are built for additional instructions.

A good prompt generally includes:

- ▶ WHO the communication involves
- ▶ WHAT should be said
- ▶ TONE desired
- ▶ PURPOSE of the communication

Here's an example of a first prompt to an AI platform: "Provide a draft email to an angry client who is behind on legal fees. She wants her stepson removed from her late husband's will, but no legal grounds exist. She is threatening to file a complaint. Add that the attorney-client relationship is terminated." Let's assume you have used that prompt but the AI result that you received is not quite hitting the mark. Maybe you need it to be more aggressive or softer in tone, or maybe shorter, or you might need to add more facts. Successive prompting can be quite useful to remodeling the result to the point where your touches are easy to do.

Or, perhaps you've already written a draft, but you need to refine it. You can cut and paste your first draft into the AI tool and ask it to improve it. Then you can add your finishing touches to the new draft provided by the AI tool. So, in practice, one prompt may not be enough. More times than not, successive prompting will be necessary to assist you in creating your final draft.

Better prompting will lead to better lawyering with AI. Consider taking a prompting online course specifically for lawyers to help you avoid common AI missteps and sharpen your results. An increasing number of law schools are offering prompt-specific curriculum, and there are private companies that teach this essential legal task (Clio and MasterClass being two popular platforms).

Safeguarding Client Information

Confidentiality Risks

A very important concern surrounding AI use is confidentiality. Free AI systems often retain user data and use a user's prompts to improve all of its future training models. Attorneys therefore must exercise extreme caution when entering client information into public or free AI systems.

Best practices include avoiding identifiable client information in your prompts, using hypothetical descriptions in your prompts, deleting stored conversations in the AI platform and adjusting privacy settings of the AI platform so it doesn't store

your prompts. Finally, the best advice that legal staff should remember is to use subscription-based or business AI accounts with contractual data protections.

At all times, lawyers remain bound by duties of confidentiality regardless of the technology used. AI does not abrogate your duties as a lawyer.

Hallucinations, Sycophancy and the Loss of Critical Thinking: The Greatest Dangers

AI hallucinations occur when an AI system generates false information while presenting it confidently as true. This is perhaps the single most dangerous characteristic of generative AI. In simple terms, that means AI can:

- ▶ Invent cases
- ▶ Fabricate quotations
- ▶ Misstate holdings
- ▶ Create false factual claims
- ▶ Generate nonexistent citations

And they do so with flawless grammar and remarkable confidence.

As legal technology expert and a founder of the legal database company, Fastcase (now owned by Clio), Ed Walters, famously observed: "The answers are often totally wrong, but highly convincing."

Hallucinations happen because AI is in the business of *predicting* plausible language, rather than *verifying* truth. If the AI model lacks reliable information, it may simply create or generate content that sounds correct. This creates an especially dangerous situation for lawyers because its polished writing can falsely signal reliability.

Remember: Perfect syntax is not proof of accuracy whether coming from AI or even a first-year associate, law clerk or paralegal.

Sycophancy is another AI use problem. AI platforms are often relentlessly complimentary to the user (you) and never critical. The AI platform's algorithm is doing exactly as it is designed to do — to keep you engaged while continuing to use the product. Further, AI results are written flawlessly. No typos, no grammar errors.

Its flawlessness, coupled with its generous praise (whether earned or entirely unwarranted), both serve the same purpose which is simply to support the user's continued use and confidence in the particular AI product. The polished AI drafts can lull the unwary user into lowering their critical guard and assuming the output is stronger, more accurate or more complete than it actually is.

Resist the temptation and engage that lawyer brain! Perfect grammar is not the same as good judgment. A clean draft is not necessarily persuasive, accurate, strategic or well-tailored for the purpose intended. When reading the AI product, ask yourself: *Is this fully accurate? Does this reflect my voice and objectives? Are there missing nuances and strategies?* If so, modify it to fit your particular legal purpose.

Another issue that lawyers may question in using AI is whether AI is detectable. The short answer is that it can be. AI writing is often very formulaic and/or flat, albeit with no typos or grammar errors. You can protect against this with a critical eye and your human additions.

How can you tell if something was written by AI? AI writing might be overly polished and monotonous in tone or it may have a heavy reliance on clichés with over-the-top positivity. Other dead giveaways might include strange paragraphing or an irrational bolding of words, or an insane reliance on frequent em dashes and bullets. Most notably, however, AI writing will lack personal anecdotes, deep analysis where needed and well, just the human touch.

Review your AI product with this in mind and add your human-attorney spin to the final draft to distinguish it from just an automated AI product. Maybe not all communications will require this, but many times, the human touch will prove essential, especially for sensitive communications.

Red Flags and Risk Reduction

Warning Signs and Minimizing Risk

If you've asked the AI product to do a legal related task, be circumspect if its

“authoritative” prose contains no citations or has citations that cannot be independently verified. Lawyers should treat AI-generated legal authorities with *MUCH* skepticism unless they are independently confirmed through trusted research databases. *Do not skip the important step in verifying legal cites provided by an AI tool.*

Reduce your risk with better prompting and cross-checking cites. Request in your prompt that the AI product provide full citations and source documents *with links*. You can also flat out ask it to identify any uncertainties in the AI draft or simply ask it what it made up. Even with these precautions, *be advised that you should verify every authority independently by cross-checking cases using trusted legal databases.*

The attorney, not the software, remains professionally responsible for all work-product.

Ethical Duties, Emerging Regulation, and Court Responses

Numerous jurisdictions are issuing ethics guidance regarding AI use. States such as Florida, California, New York, Pennsylvania and West Virginia have adopted varying guidance concerning technological competence, confidentiality, fee reasonableness and supervision obligations. Some jurisdictions now require AI-related CLE education or disclosure of AI assistance in court filings. Although Louisiana currently lacks a specific technological competence rule, existing professional obligations still apply. The Louisiana State Bar Association Ethics Opinion 19-RPCC-021 emphasizes that lawyers must use technology competently and safeguard client information.¹

In all jurisdictions, AI usage does not relieve the lawyer from his or her professional duties. Increasingly, state and federal courts throughout the U.S. are responding strictly, with stark warnings that reliance on AI does not excuse professional negligence and reminding lawyers that they are officers of the court and of their duty of candor toward the court.²

Emerging Issues

AI technology is improving rapidly and will almost certainly remain a permanent feature of legal practice. Even though AI is quickly embedding into legal practices, serious emerging issues are revealing themselves: deepfake evidence and authentication issues, client disclosure obligations and increasing judicial scrutiny, to name a few.

Law firm leaders would be wise to get ahead of these issues by adopting internal AI policies addressing:

- ▶ Confidentiality
- ▶ Verification
- ▶ Training
- ▶ Supervision
- ▶ Acceptable use standards

Ongoing education will no doubt be essential as AI technology evolves.

Conclusion

The sensible response to AI is neither panic nor blind enthusiasm. AI is extremely useful, incredibly efficient and capable of improving legal workflows dramatically. That said, it is prudent to remember that AI is also confidently wrong at times, incapable of exercising legal judgment and unable to replace an attorney’s responsibility. Thus, embrace AI while always maintaining professional skepticism and oversight.

Generative AI represents one of the most significant technological shifts in modern legal practice. Used properly, it can save time, improve efficiency, reduce drafting burdens and help lawyers focus more attention on strategic and human-centered aspects of representation. Used carelessly, however, it can expose lawyers to sanctions, malpractice exposure, ethical violations, reputational damage and lead to loss of client trust.

The guiding principle here is the same as it has always been: review everything you sign, send or file.

AI may be a powerful tool, but it remains just that — a tool. The responsibility for the final work product still rests with the lawyer. That includes the accuracy of the content, protecting client confidences, exercising independent professional judg-

ment and upholding the integrity of the legal system. No matter how polished the AI-generated draft may appear, the lawyer, not the algorithm, is ultimately accountable.

Footnotes

1. For recent treatments by state and federal courts in Louisiana, see *In Re: Sanctions Order of Kenny, Kerry*, No. 25-C-389 (La. App. 5th Cir., Oct. 23, 2025) and *Woodward Harbor LLC v. City of Mandeville*, 23-cv-05824 (E.D. La., Order & Reasons, Feb. 5, 2026).

2. Rule 3.3. Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer’s client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.

(d) In an *ex parte* proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

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