



PROGRAM MATERIALS

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Artificial Intelligence in the Legal Profession: Will Robots Replace the Professionals or Open Pandora's Box? - Part 2

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Part 2: Artificial Intelligence in the Legal Profession:

*Will Robots Replace the Professionals
or Open Pandora's Box?*

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Roadmap

- I. Background (Setting the AI Scene)**
- II. Popular AI Tools**
- III. The Rising Use of AI in Courts**
- IV. Ethical Considerations**
 - 1. Competence
 - 2. Communications
 - 3. Confidentiality
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Setting the AI Scene

- Artificial intelligence (AI) refers to the simulation of human intelligence in machines. One of the goals of AI is to mimic human cognitive activity. AI systems leverage intelligent algorithms that classify, analyze, and make predictions from large amounts of data. These algorithms are trained using large datasets so that they can identify patterns in data, make predictions, and recommend actions.
- 55% of lawyers now say AI is “essential” to their practice, and 92% report using at least one AI tool.
- In legal practice, AI is no longer in its early stages. It has become central to how disputes are resolved, resources are allocated, and justice is delivered.
- With such a rise in AI, ethical considerations are at an all time high. Dispute resolution professionals and litigators must take extra caution when utilizing these tools, to ensure compliance with ethical rules.

Popular AI Tools*

- 1. Legal Research Platforms**
- 2. Document Review & Management**
- 3. Case Management & Clause Drafting**

*This list is non-exhaustive.

Legal Research Platforms

Thomson Reuters CoCounsel / Westlaw Precision

- Dominant research platform, following Thomson Reuters' \$650 million acquisition of Casetext in 2023.
- Generative AI based research, allowing researchers to “talk” to the platform when researching.
- It also can do:
 - Document search and review,
 - Document and deposition summaries,
 - Case timelines,
 - Deposition question drafting,
 - Brief drafting, etc.
- Used by 1M+ professionals in more than 107 countries.

Lexis+ AI (LexisNexis)

- Other major player in the AI legal research space.
- Similar to CoCounsel, it allows for generative AI based research.

Legal Research Platforms

Harvey AI

- Generative AI platform designed to support legal tasks.
- Launched in 2022 and gained attention due to its partnership with OpenAI and early adoption by major law firms.
- Case study: lawyers using HarveyAI reported saving 2-3 hours / week on routine tasks and reducing document review time by 30%.
- It can:
 - Ask questions,
 - Analyze / draft documents,
 - Research complex issues, etc.

Document Review & Management

Relativity aiR for Review / Everlaw AI Assistant

- Both provide AI assisted document review, allowing lawyers to save time on high-volume document review, federal docket research, and complex e-discovery.

Spellbook (Contract Drafting)

- Assists transactional lawyers in drafting, reviewing, and analyzing contracts efficiently.
- Works inside Microsoft Word.
- Generates clauses and automates redlines.

Case Management

AI-Driven Case Management

- Case management tools can help maintain organization for complex case loads. These tools can:
 - Automatically track tasks,
 - Help with scheduling and team collaboration,
 - Centralize correspondence.
- Reduces risk of missed deadlines and miscommunications.

AAA Clause Builder AI

- ChatGPT-style tool that drafts arbitration and mediation clauses based on user's preferences for number of arbitrators, law governing the arbitration, discovery procedures, confidentiality requirements, etc.

Clause Drafting

AAA Chatbook

- Launched in January 2025 by AAA-ICDR (International Centre for Dispute Resolution).
- AI handbook to “enhance workflow for advocates, students and self-represented parties”
- Allows users to ask questions and receive quick, personalized answers on topics ranging from clause drafting to post-arbitration award steps.

The Rising Use of AI in Courts

- Some Judges have added to their part rules guidance on the use of generative AI in their proceedings.
- Pro se litigants have been increasingly relying on generative AI platforms.
- Courts have recently sanctioned law firms and lawyers for the use of generative AI platforms where hallucinated cases were found in court filings.
- The Chief Administrative Judge of the State of New York ordered that a new Part 161 (22 NYCRR 161.1 to 161.4 and Appendix A, USE OF ARTIFICIAL INTELLIGENCE TECHNOLOGY) be added to the Rules of the Chief Administrator, effective June 1, 2026.

22 NYCRR § 161.1 to 161.4

- PART 161. USE OF ARTIFICIAL INTELLIGENCE TECHNOLOGY, effective June 1, 2026.

§ 161.2 Definitions

For purposes of this Part:

(a) The term “artificial intelligence” or “AI” shall mean a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments, and that uses machine- and human-based inputs to perceive real and virtual environments, abstract such perceptions into models through analysis in an automated manner, and use model inference to formulate options for information or action.

(b) The term “paper” shall mean a brief, memorandum, affidavit, affirmation, pleading, or other document prepared by an attorney or party for submission to a court. This definition does not include materials constituting or proffered as evidence in the case, as such materials, and the use of AI technology in relation thereto, are subject to separate considerations and requirements.

22 NYCRR § 161.1 to 161.4

- PART 161. USE OF ARTIFICIAL INTELLIGENCE TECHNOLOGY, effective June 1, 2026.

§ 161.3 Policy

It is the policy of the Unified Court System that the use by attorneys and parties of artificial intelligence tools in preparing papers submitted to a court should not be prohibited, as long as such use is in accordance with the duties and responsibilities that apply to individuals who submit papers to a court. Since those duties and responsibilities already apply to all submissions, regardless of whether AI tools were used, attorneys and parties should not be required, upon submitting papers, to disclose to the court that they have used AI in the preparation of such papers.

22 NYCRR § 161.1 to 161.4

- PART 161. USE OF ARTIFICIAL INTELLIGENCE TECHNOLOGY, effective June 1, 2026.

§ 161.4 Model Rule

A court may, in its discretion, implement a part rule governing the use by attorneys and parties of artificial intelligence tools in preparing papers submitted to the court. If a court determines that such a rule is appropriate, the court is encouraged to adopt the model rule set forth in Appendix A of this Part.

22 NYCRR § 161.1 to 161.4

- PART 161. USE OF ARTIFICIAL INTELLIGENCE TECHNOLOGY, effective June 1, 2026.

APPENDIX A. MODEL RULE REGARDING USE OF ARTIFICIAL INTELLIGENCE TECHNOLOGY IN PREPARING COURT PAPERS

Every attorney or party who uses an artificial intelligence (AI) tool in preparing any paper submitted to this court is expected to understand that tool's capabilities and limitations. Attorneys and parties need to be aware that AI tools, among other risks and limitations, can generate fabricated information or fictitious citations to authority (commonly known as hallucinations). Under existing authority, by signing a paper and submitting it to this court, an attorney or party certifies that the paper does not contain any false material factual statement or any frivolous legal argument (see, e.g., 22 NYCRR 130-1.1, 130-1.1a), and an attorney who submits any paper to this court is additionally bound by the Rules of Professional Conduct. Accordingly, any attorney or party who uses an artificial intelligence tool, as defined in 22 NYCRR 161.2(a), in preparing any paper, as defined in 22 NYCRR 161.2(b), filed in or submitted to this court or served on another party in a case before this court is required to carefully review the paper and independently ensure that it contains no fabricated or fictitious cases, statutes, or other material. By signing such paper, an attorney or party certifies that such a review has been conducted and that the paper contains no such fabricated or fictitious content. If this court determines that this requirement has not been satisfied, such attorney or party may be subject to sanction or other remedial action.

Ethical Considerations

1. MODEL RULE 1.1: Competence

- *MODEL RULE 5.1: Responsibilities of Partners, Managers, and Supervisory Lawyers*
- *MODEL RULE 5.3: Responsibilities Regarding Nonlawyer Assistance*

2. MODEL RULE 1.4: Communications

3. MODEL RULE 1.6: Confidentiality of Information

MODEL RULE 1.1: Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

MODEL RULE 1.1: Competence

MODEL RULES R. 1.1 (Competence) cmt. 8 (Maintaining Competence)

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 relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

MODEL RULE 1.1: Competence

Understanding the Technology:

- Lawyers need to understand and be able to advise clients on the benefits and risks of using these AI tools.
 - Risks: hallucinations, bias, factual inaccuracies, confidentiality concerns.
- A lawyer may rely on technological advisors but must remember that the duty of competence is *nondelegable*.

Trust but Verify!:

- Lawyers must verify AI-generated content before relying on it!

MODEL RULE 1.1: Competence

Maintaining Involvement:

- If a client wants to their lawyer to use an AI tool, the lawyer must understand the platform, and how it can *assist* the case.
- However, the lawyer may not simply throw his/her hands up and rely **exclusively** on the platform.

Supervision:

- Lawyers must supervise the use of AI tools by junior attorneys and non-lawyer staff. (See Model Rules 5.1 and 5.3).
 - 5.1: Responsibilities of Partners, Managers, and Supervisory Lawyers
 - 5.3: Responsibilities Regarding Nonlawyer Assistance

MODEL RULE 1.4: Communications

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;*
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;*
- (3) keep the client reasonably informed about the status of the matter;*
- (4) promptly comply with reasonable requests for information; and*
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.*

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

MODEL RULE 1.4: Communications

Informed Consent:

- The lawyer **must** obtain their client's **informed consent** before proceeding to use an AI tool.
- But what is “informed consent”?

MODEL RULE 1.4: Communications

MODEL RULES R. 1.0 (Terminology) cmt. 6 (Informed Consent):

*The lawyer must make **reasonable efforts** to ensure that the **client or other person** possesses information reasonably adequate to make an informed decision.*

Reasonable efforts will require communication that includes:

- 1) a **disclosure of the facts and circumstances** giving rise to the situation,*
- 2) any **explanation** reasonably necessary to inform the client or other person of the material **advantages** and **disadvantages** of the proposed course of conduct, and*
- 3) a **discussion** of the client's or other person's **options** and **alternatives**.*

MODEL RULE 1.4: Communications

Reasonable explanation:

- Thus, to ensure proper client communication, the lawyer must reasonably explain the AI tool, its purpose, and how it can assist in the case.

MODEL RULE 1.6: Confidentiality of Information

- (a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).*
- (b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:*
 - (1) to prevent reasonably certain death or substantial bodily harm;*
 - (2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;*
 - (3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;*

MODEL RULE 1.6: Confidentiality of Information

- (4) to secure legal advice about the lawyer's compliance with these Rules;*
 - (5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;*
 - (6) to comply with other law or a court order; or*
 - (7) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.*
- (c) 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.*

MODEL RULE 1.6: Confidentiality of Information

Inadvertent Disclosures:

- Ethics opinions and the Model Rules require a lawyer to make “**reasonable efforts**” to prevent the inadvertent or unauthorized disclosure of client information.
- To determine what constitutes “reasonable efforts,” lawyers should consider factors such as:
 - 1) *the **sensitivity** of the information,*
 - 2) *the **likelihood of disclosure** if additional safeguards are not employed,*
 - 3) *the **cost** of employing additional safeguards,*
 - 4) *the **difficulty** of implementing the safeguards, and*
 - 5) *the **extent to which the safeguards adversely affect the lawyer’s ability to represent clients.***

MODEL RULE 1.6: Confidentiality of Information

Dealing with Client Data

- Law firms should only use **closed** AI systems for dealing with client data.
- Closed AI systems only reside on in-house or controlled servers that do not share data with other servers.
- Lawyers should never expose client data to open AI systems without specific authorization.
- Harvey, Co-Counsel, and Lexis+ offer zero-data-retention options where documents are not used to train future models.

Ethics Guidance and Opinions

- AAA-ICDR Guidance on Arbitrators' Use of AI Tools (March 2025)
- CIArb Guideline on the Use of AI in Arbitration (2025, updated September 2025)
- SVAMC Guidelines on the Use of Artificial Intelligence in Arbitration (2024)
- ABA Formal Opinion 512 (July 2024) — first formal guidance on GenAI for lawyers
- Guidelines were also issued by the Vienna International Arbitral Centre (VIAC) to set out ethical boundaries on the use of AI in arbitration to protect the integrity of arbitration, due process, and confidence of parties in arbitral outcomes

Conclusion

- AI tools can enhance the legal profession, saving time and resources for clients.
- However, any lawyer considering the use of an AI-based DR platform, or who has a client interested in using the same, **must** understand the risks and ethical issues associated with their application.
- Lawyers should consult with their IT department, and technology representatives of the selected AI tools and ask about the various risks and ethical concerns before deciding to implement AI tools into their practice or case.
- Lawyers should be aware of the changing technological landscape, so they can better serve their clients and avoid ethical issues.
- Given the fact that humans are required to make all of these AI systems run, AI can **assist** humans in the legal profession but **cannot replace** the professionals.

Questions?

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Leslie A. Berkoff is a Partner with Moritt Hock & Hamroff LLP where she serves as the Chair of the firm's Dispute Resolution Practice Group, is the former Chair of the Bankruptcy & Creditors' Rights Practice Group, and serves on the firm's Management Committee. Ms. Berkoff splits her time between these two Practice Groups. In the restructuring space, she concentrates her practice in chapter 11 cases, bankruptcy litigation and corporate workouts where she represents a variety of corporate debtors, trustees, creditors and creditor committees both nationally and locally. Ms. Berkoff's Dispute Resolution practice has her frequently serving as an ad hoc and panel mediator. She is on the Mediation Panels for the Eastern and Southern Districts of the United States Bankruptcy Courts in New York and the United States Bankruptcy Courts in Delaware and the Eastern District of Pennsylvania, as well as the Mediation Panel for the American Arbitration Association. Ms. Berkoff is a trained arbitrator and serves on the American Arbitration Association's National Roster of Commercial Arbitrators and Mediators including the Large Complex Case Panel, the Commercial Panel and the AAA-ICDR International Panel and is a member of the AAA-ICDR Council. Ms. Berkoff also serves as a Special Master in the Supreme Court of the State of New York, Appellate Division, First and Second Judicial Departments Mediation Programs. Ms. Berkoff is also frequently appointed by Judges in both the New York County and Nassau County Courts as a Receiver, Special Master and Referee.

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Prior to joining Moritt Hock & Hamroff LLP, Ms. Berkoff served as a law clerk to the Honorable Jerome Feller, United States Bankruptcy Judge in the Eastern District of New York, from 1991 to 1993 and to the Honorable Allyne R. Ross, Federal Magistrate Judge in the Eastern District of New York, from 1990 to 1991. Ms. Berkoff writes and speaks frequently in her various fields.

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Nicole Case is a law clerk for a Magistrate Judge in the United States District Court for the Southern District of New York. Ms. Case is also a Articles Editor for *The Federal Lawyer*, the official publication of the Federal Bar Association, and previous Managing Editor of *Family Court Review*, the official publication of the Association of Family and Conciliation Courts. Ms. Case has been recognized by the New York City Trial Lawyers Alliance for excellence in trial advocacy, and has written on topics concerning how technological advances impact the legal profession. Ms. Case also coaches a 5th grade mock trial program in Levittown, New York.