

A series of thin, black, overlapping geometric lines forming various polygons and shapes, primarily concentrated in the upper left quadrant of the slide.

A.I. AND THE LAW: MUCH ADO ABOUT ***SOMETHING?***

Joe Bond | CUNNINGHAM, VOGEL & ROST, P.C.

OVERVIEW

- What is A.I.?
- How Does A.I. Work?
- Ethical Considerations
- Current News / Case Law
- Current Limitations & Proper AI Uses
- Other Potential Issues
- Summary

A.I. AND THE LAW: Much Ado About Something?

2



3

PERSPECTIVE & SCOPE

- This presentation is:
 - Intended to **highlight and issue-spot problems or considerations worthy of further scrutiny** regarding A.I. and everyday use in a legal environment.
 - Premised on the **current** uses and capabilities of these systems, **not** on what those systems **could** do in the future.
- My perspective on the application of A.I. to higher-functioning legal tasks is presently **skeptical**, as we will get into more when we discuss the functionality and current limitations of these programs/applications.

A.I. AND THE LAW: Much Ado About Something?

4

A NON-SKEPTIC'S TAKE ON A.I.'S PROMISE:

- From an article entitled: “[7 Ways Artificial Intelligence can Benefit your Law Firm](#)” by *Avaneesh Marwaha*, **published by the American Bar Association**:
 - A.I. saves time;
 - A.I. allows earlier (and more accurate) risk assessment;
 - A.I. produces higher-quality work;
 - A.I. improves organizational and logical structure;
 - A.I. enhances creative analysis and identification of persuasive precedents;
 - A.I. reduces attorney stress and frustration (by removing necessity of doing doc. Review, proofreading, and legal research); and
 - A.I. improves client relations (by removing “tedium and minutiae of low-level tasks” allowing for “the time to engage in the more satisfying, creative, human-specific work of legal representation.”).

A.I. AND THE LAW: Much Ado About *Something*?

5

WHAT IS ARTIFICIAL INTELLIGENCE ("A.I.")?

- The simulation, or creation(?), of human-like intelligence as generated by computer software.
- The current delineation of A.I. frameworks are between **traditional** and **generative** A.I.

A.I. AND THE LAW: Much Ado About Something?

6

“TRADITIONAL” A.I.

- Traditional A.I., which is sometimes referred to as “Narrow A.I.”, is an application that focuses on a narrow range of preset tasks, and are governed by pre-set programming, algorithms, and rules. These A.I. typically do a restricted range of tasks
- Traditional A.I. has been utilized for decades in various applications, such as:
 - Playing Games – *Deep Blue* beats Gary Kasparov in 1997 in Chess; *AlphaGo* beats Ke Jie in Go in 2017
 - Speech/Language Recognition – *Siri*, *Alexa*, predictive text
 - WestLaw search functions – particularly new “Suggested Documents” or “Folder Analysis”
 - Recommendation functions on Netflix, Hulu, or Amazon

A.I. AND THE LAW: Much Ado About *Something*?

7

“GENERATIVE” AI

- These A.I. applications differ in that they are able to generate or “create” text, video, images, and other content.
- **Ideally** this content is not a “regurgitation” of the reference dataset.
- Popular examples include Large-Language Models (“LLMs”):
 - DALL-E image generator;
 - OpenAI’s ChatGPT;
 - Google’s Gemini/Bard
- These A.I. tools require “machine learning” as a much deeper dataset to perform their open-ended tasks.
 - Theoretically, the larger the dataset that the Generative A.I. pulls from, the more “accurate” that A.I. will be in responding to prompt/task.
- Who measures what is “accurate” or correct in these circumstances is part of the issue in applying these A.I. tools to legal work

A.I. AND THE LAW: Much Ado About *Something*?

A.I. AND THE LAW: Much Ado About Something?

8



9



9

WHY ARE GENERATIVE A.I.S BECOMING MORE PREVALENT?

- **Moore's Law**, named after Gordon Moore, the co-founder of Fairchild Semiconductor and Intel, is an observation that:
 - The number of transistors in an integrated circuit (computer chip) doubles about every 2 years.
 - Translation: Computing Power and Computer Memory doubles every 2 years, making computers much more powerful.
 - It is worth noting that this "Law" has somewhat slowed since 2010, but the computing power of what is readily available to the typical person has grown exponentially since personal computing became available.
- The availability of massive computing power, at much lower costs, coupled with "big data" has created the conditions for Generative A.I.s to be developable.

A.I. AND THE LAW: Much Ado About Something?

10

WHY ARE GENERATIVE A.I.S BECOMING MORE PREVALENT? (CONT.)

- Big Data, the prevalence of a constellation of data points that can be assembled by large entities, allows for the collection of large datasets that can be used to teach Generative A.I.s.
- The existence of large entities that exist to collect data to be repackaged for targeted advertisement and other big data applications (think Facebook/Meta, Google, Twitter/X).



A.I. AND THE LAW: Much Ado About Something?

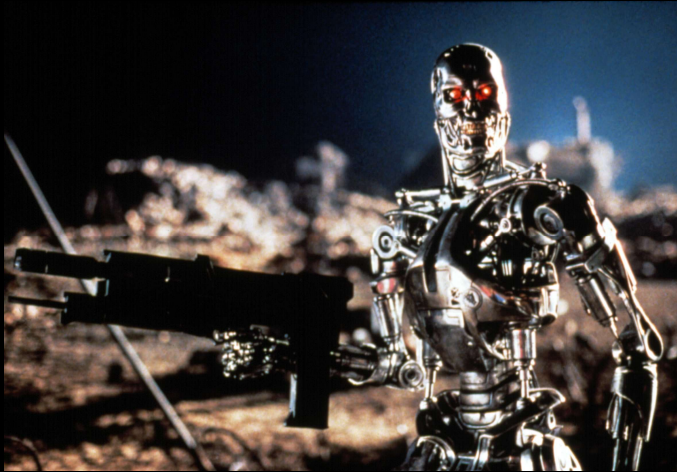
11

CONCERNS ABOUT THE SAFETY OF GENERATIVE A.I.

Sam Altman warns AI could kill us all. But he still wants the world to use it

By Samantha Kelly, CNN

7 minute read · Published 6:00 AM EDT, Tue October 31, 2023



A.I. AND THE LAW: Much Ado About Something?

Elon Musk warns of 'civilizational risk' posed by AI in meeting with tech CEOs and senators

Musk of Tesla and X, Meta's Mark Zuckerberg, OpenAI's Sam Altman and others met with senators Wednesday. The behind-closed-doors forum has skeptics in both parties.

Mar 21, 2024 - Technology

10% of workers are vulnerable to AI, advisers tell Biden



Ivana Saric

REACTIONS TO CONCERNS REGARDING
GENERATIVE A.I.

The European Parliament Adopts the AI Act

MARCH 14, 2024

BLOG WILMERHALE PRIVACY AND CYBERSECURITY LAW

INNOVATIVE TECHNOLOGY INSIGHTS

**Colorado Passes New AI Law to Protect
Consumer Interactions**

29 May 2024

A.I. AND THE LAW: Much Ado About Something?

13

13



14



MISSOURI RULES OF PROFESSIONAL CONDUCT ("MRPC") RULE 4-1.1 – "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"

A.I. AND THE LAW: Much Ado About Something?

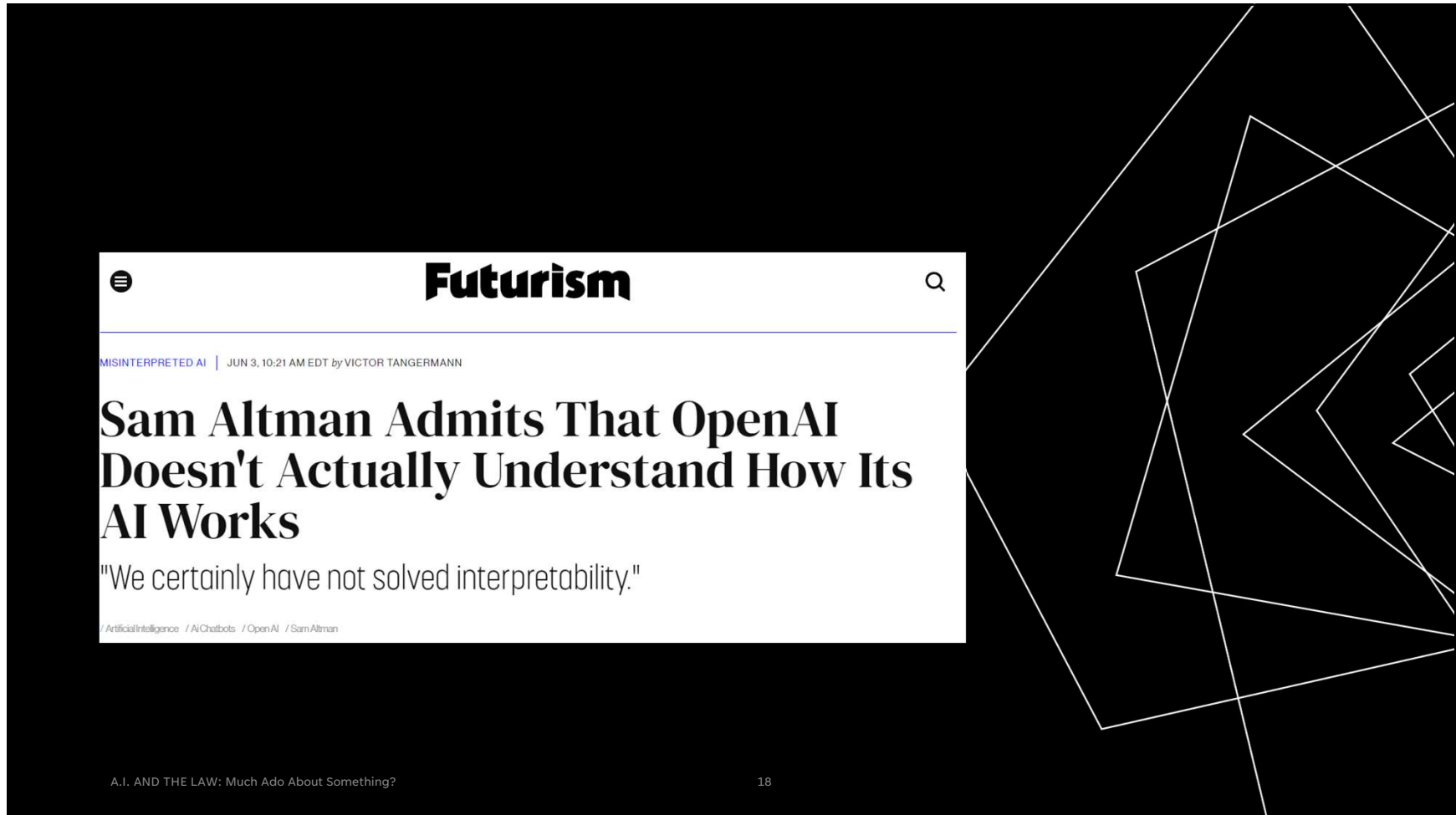
16

MRPC RULE 4-1.1 – “COMPETENCE”, COMMENT 6:

- 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.

A.I. AND THE LAW: Much Ado About Something?

17



MRPC RULE 4-1.1 – “COMPETENCE”, COMMENT 5:

- **Thoroughness and Preparation**
- [5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible.

A.I. AND THE LAW: Much Ado About Something?

19

MRPC RULE 4-1.4 – “COMMUNICATION”

- (a) A lawyer shall:
 - (1) keep the client reasonably informed about the status of the matter;
 - (2) promptly comply with reasonable requests for information; and
 - (3) consult with the client about any relevant limitation on the lawyer’s conduct when the lawyer knows 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.

A.I. AND THE LAW: Much Ado About Something?

20

MRPC RULE 4-1.4 – “COMMUNICATION” COMMENT 2:

- [2] The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so. For example, a lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer. See [Rule 4-1.2\(a\)](#). Even when a client delegates authority to the lawyer, the client should be advised of the status of the matter.

A.I. AND THE LAW: Much Ado About Something?

21

MRPC RULE 4-1.6 – “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 Rule 4-1.6(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 death or substantial bodily harm that is reasonably certain to occur;
 - (2) to secure legal advice about the lawyer's compliance with these Rules;
 - (3) 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;
 - (4) to comply with other law or a court order; or
 - (5) 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.

A.I. AND THE LAW: Much Ado About Something?

22

MRPC RULE 4-1.6 – “CONFIDENTIALITY OF INFORMATION” (CONT.)

- (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.

A.I. AND THE LAW: Much Ado About Something?

23

MRPC RULE 4-1.6 – “CONFIDENTIALITY OF INFORMATION” (CONT.)

- Comment [15] Paragraph (c) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 4-1.1, 4-5.1, and 4-5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (c) *if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use).* A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to forgo security measures that would otherwise be required by this Rule. *Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these Rules.* For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see Rule 4-5.3, Comments [3]-[4].

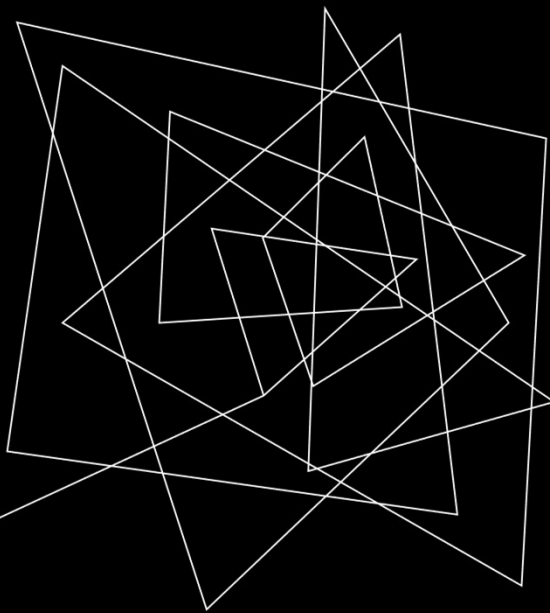
A.I. AND THE LAW: Much Ado About Something?

24

MRPC RULE 4-1.6 – “CONFIDENTIALITY OF INFORMATION” (CONT.)

- Comment [16] When transmitting a communication that includes information relating to the representation of a client, *the lawyer must take reasonable precautions to prevent the information from coming into the hands of unintended recipients.* This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. *Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement.* A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule. Whether a lawyer may be required to take additional steps in order to comply with other law, such as state and federal laws that govern data privacy, is beyond the scope of these Rules.

OPENAI'S PRIVACY POLICY – EFFECTIVE 1.31.24



1. Personal information we collect

We collect personal information relating to you ("Personal Information") as follows:

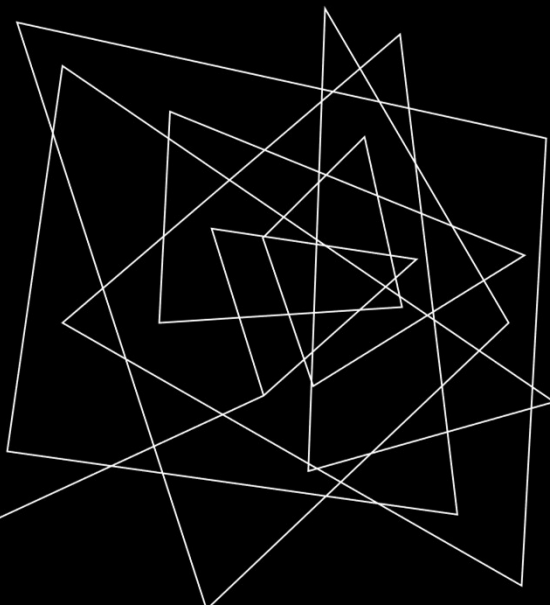
Personal information you provide: We collect Personal Information if you create an account to use our Services or communicate with us as follows:

- **Account Information:** When you create an account with us, we will collect information associated with your account, including your name, contact information, account credentials, payment card information, and transaction history, (collectively, "Account Information").
- **User Content:** When you use our Services, we collect Personal Information that is included in the input, file uploads, or feedback that you provide to our Services ("Content").
- **Communication Information:** If you communicate with us, we collect your name, contact information, and the contents of any messages you send ("Communication Information").
- **Social Media Information:** We have pages on social media sites like Instagram, Facebook, Medium, Twitter, YouTube and LinkedIn. When you interact with our social media pages, we will collect Personal Information that you elect to provide to us, such as your contact details (collectively, "Social Information"). In addition, the companies that host our social media pages may provide us with aggregate information and analytics about our social media activity.
- **Other Information You Provide:** We collect other information that you may provide to us, such as when you participate in our events or surveys or provide us with information to establish your identity (collectively, "Other Information You Provide")

A.J. AND THE LAW: MUCH ADD ABOUT SOMETHING?

26

OPENAI'S PRIVACY POLICY – EFFECTIVE 1.31.24



2. How we use personal information

We may use Personal Information for the following purposes:

- To provide, administer, maintain and/or analyze the Services;
- To improve our Services and conduct research;
- To communicate with you; including to send you information about our Services and events;
- To develop new programs and services;
- To prevent fraud, criminal activity, or misuses of our Services, and to protect the security of our IT systems, architecture, and networks;
- To carry out business transfers; and
- To comply with legal obligations and legal process and to protect our rights, privacy, safety, or property, and/or that of our affiliates, you, or other third parties.

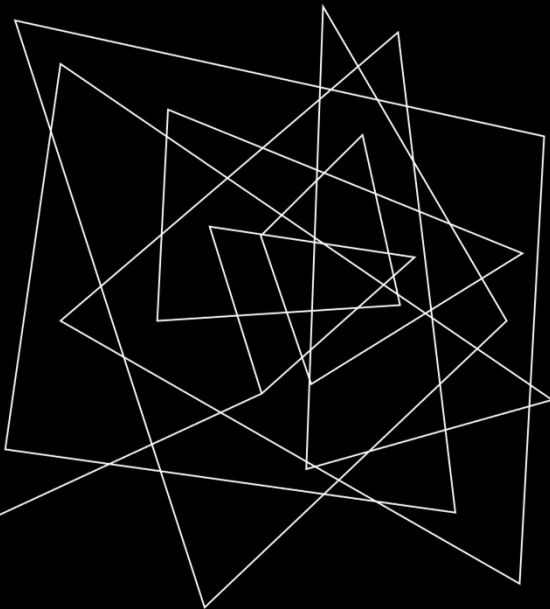
Aggregated or de-identified information. We may aggregate or de-identify Personal Information so that it may no longer be used to identify you and use such information to analyze the effectiveness of our Services, to improve and add features to our Services, to conduct research and for other similar purposes. In addition, from time to time, we may analyze the general behavior and characteristics of users of our Services and share aggregated information like general user statistics with third parties, publish such aggregated information or make such aggregated information generally available. We may collect aggregated information through the Services, through cookies, and through other means described in this Privacy Policy. We will maintain and use de-identified information in anonymous or de-identified form and we will not attempt to reidentify the information, unless required by law.

As noted above, we may use Content you provide us to improve our Services, for example to train the models that power ChatGPT. Read our instructions on how you can opt out of our use of your Content to train our models.

A.I. AND THE LAW: Much Ado About Something?

27

OPENAI'S PRIVACY POLICY – EFFECTIVE 1.31.24



3. Disclosure of personal information

In certain circumstances we may provide your Personal Information to third parties without further notice to you, unless required by the law:

- *Vendors and Service Providers:* To assist us in meeting business operations needs and to perform certain services and functions, we may provide Personal Information to vendors and service providers, including providers of hosting services, customer service vendors, cloud services, email communication software, web analytics services, and other information technology providers, among others. Pursuant to our instructions, these parties will access, process, or store Personal Information only in the course of performing their duties to us.
- *Business Transfers:* If we are involved in strategic transactions, reorganization, bankruptcy, receivership, or transition of service to another provider (collectively, a "Transaction"), your Personal Information and other information may be disclosed in the diligence process with counterparties and others assisting with the Transaction and transferred to a successor or affiliate as part of that Transaction along with other assets.
- *Legal Requirements:* We may share your Personal Information, including information about your interaction with our Services, with government authorities, industry peers, or other third parties (i) if required to do so by law or in the good faith belief that such action is necessary to comply with a legal obligation, (ii) to protect and defend our rights or property, (iii) if we determine, in our sole discretion, that there is a violation of our terms, policies, or the law; (iv) to detect or prevent fraud or other illegal activity; (v) to protect the safety, security, and integrity of our products, employees, or users, or the public, or (vi) to protect against legal liability.

A.I. AND THE LAW: Much Ado About Something?

28



29

MRPC RULE 4-3.1 – “MERITORIOUS CLAIMS & CONTENTIONS”

- A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, **unless there is a basis in law and fact for doing so that is not frivolous**, which includes a good faith argument for an extension, modification, or reversal of existing law....

A.I. AND THE LAW: Much Ado About Something?

30

MRPC RULE 4-3.1 – “MERITORIOUS CLAIMS & CONTENTIONS” – COMMENT 2

- [2] The filing of an action or defense or similar action taken for a client is not frivolous merely because the facts have not first been fully substantiated or because the lawyer expects to develop vital evidence only by discovery. **What is required of lawyers, however, is that they inform themselves about the facts of their clients' cases and the applicable law and determine that they can make good faith arguments in support of their clients' positions.** Such action is not frivolous even though the lawyer believes that the client's position ultimately will not prevail. The action is frivolous, however, if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an extension, modification, or reversal of existing law.

A.I. AND THE LAW: Much Ado About Something?

31

MRPC RULE 4-3.2 – “EXPEDITING LITIGATION”

- A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

A.I. AND THE LAW: Much Ado About Something?

32

MRPC RULE 4-3.3 – “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.

A.I. AND THE LAW: Much Ado About Something?

33

MRPC RULE 4-3.4 – “DUTIES TO OPPOSING PARTY & COUNSEL AND ETHICAL OBLIGATION TO FOLLOW COURT ORDERS & RULES”

- A lawyer shall not: ... (c) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists;
- This is an area that will continue to evolve as courts handle generative AI filings, but is something to keep an eye on for local rules changing to meet this need.
- In 2023, [the US District Court for the Eastern District of Missouri made a rule for self-represented litigants](#) that “No portion of any pleading, written motion, or other paper may be drafted by any form of generative artificial intelligence. By presenting to the Court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, self-represented parties and attorneys acknowledge they will be held responsible for its contents.”

A.I. AND THE LAW: Much Ado About Something?

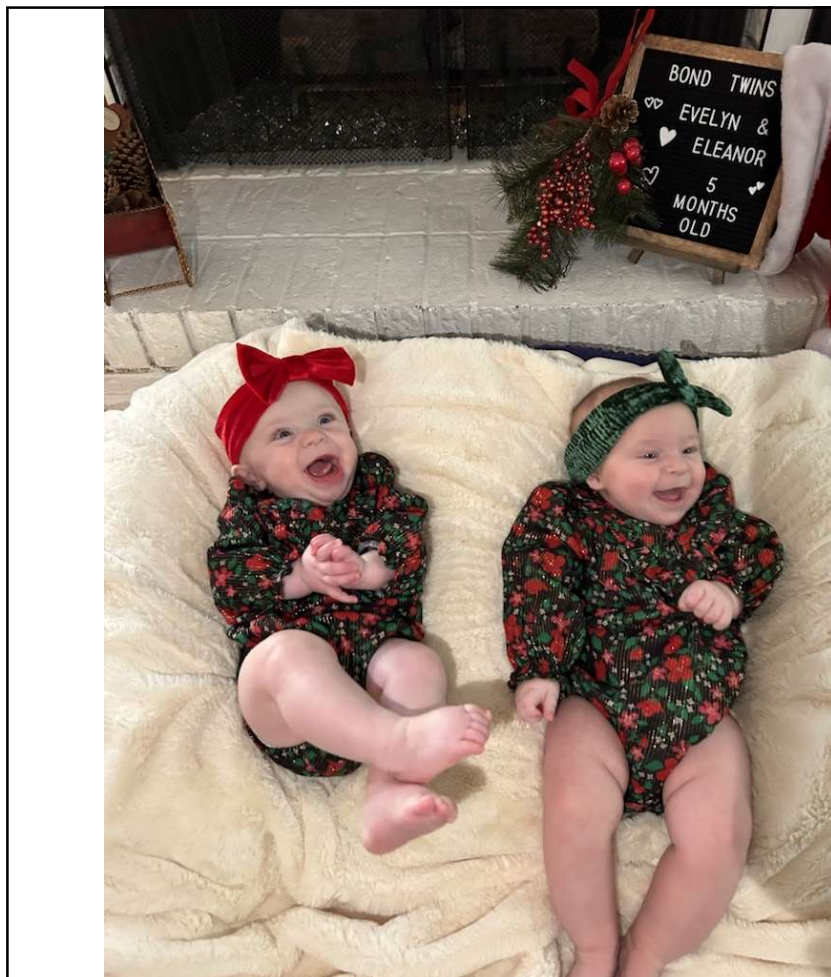
34

MRPC RULE 4-3.5 – “IMPARTIALITY AND DECORUM OF THE TRIBUNAL”

- A lawyer shall not: ...(d) engage in conduct intended to disrupt a tribunal.
- Arguably, using an application prone to create cases or have fundamental flaws could be seen as “disruptive” to the tribunal.

A.I. AND THE LAW: Much Ado About Something?

35



36

MPRC RULE 4-4.1 – “TRUTHFULNESS IN STATEMENTS TO OTHERS”

- In the course of representing a client a lawyer shall not knowingly:
 - (a) make a false statement of material fact or law to a third person; or
 - (b) fail to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 4-1.6.
- Comment 1: A lawyer is required to be truthful when dealing with others on a client's behalf, but generally has no affirmative duty to inform an opposing party of relevant facts. A misrepresentation can occur if the lawyer incorporates or affirms a statement of another person that the lawyer knows is false. **Misrepresentations can also occur by partially true but misleading statements or omissions that are the equivalent of affirmative false statements.** For dishonest conduct that does not amount to a false statement or for misrepresentations by a lawyer other than in the course of representing a client, see Rule 4-8.4.

A.I. AND THE LAW: Much Ado About Something?

37

MRPC RULE 4-5.3 – “RESPONSIBILITIES REGARDING NONLAWYER ASSISTANTS”

With respect to a nonlawyer employed or retained by or associated with a lawyer:

- a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;
- b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and
- c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
 - 1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
 - 2) the lawyer is a partner, or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

A.I. AND THE LAW: Much Ado About Something?

38

MRPC RULE 4-5.5 – “UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW”

- (b) A lawyer who is not admitted to practice in this jurisdiction shall not:
- ... (2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.
- The Curious Case of DoNotPay – the A.I. “Robot Lawyer” designed to defend clients out of parking tickets

A.I. AND THE LAW: Much Ado About Something?

39

MRPC RULE 4-1.5(A) – “FEES”

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

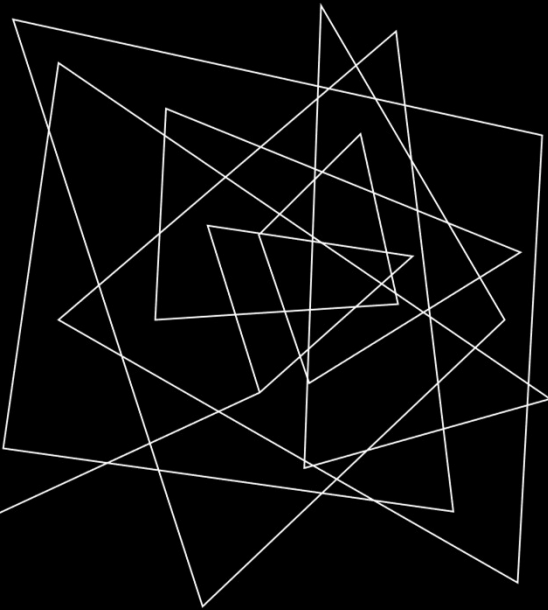
- 1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- 2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- 3) the fee customarily charged in the locality for similar legal services;
- 4) the amount involved and the results obtained;
- 5) the time limitations imposed by the client or by the circumstances;
- 6) the nature and length of the professional relationship with the client;
- 7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- 8) whether the fee is fixed or contingent.

A.I. AND THE LAW: Much Ado About Something?

40

MISSOURI OFFICE OF
LEGAL ETHICS COUNSEL –
INFORMAL OPINION
NUMBER 2024-11

- Question: Lawyer would like to use generative artificial intelligence (AI) platforms and services in Lawyer's practice and asks for guidance regarding whether Lawyer may ethically use this emerging technology. What ethical issues should Lawyer consider in developing a policy to use this technology in Lawyer's practice within Law Firm?



A.I. AND THE LAW: Much Ado About Something?

41



42



43

MATA V. AVIANCA, INC., 678 F.SUPP.3D 443 (S.D. N.Y. 2023)

- This case presents the magnum opus of “ChatGPT-generated case” cases.
- The case starts out as a personal injury claim filed in New York, where Mr. Mata asserted he was injured by a metal serving cart that struck his knee on a flight from El Salvador to JFK International Airport.
- Avianca removed the state law case to federal court on February 22, 2022, asserting federal question jurisdiction from the Montreal Convention
- Mr. Schwartz was the attorney listed on the state court complaint, but once the case was removed to federal court, Mr. LoDuca was added on behalf of Mata. Schwartz is not admitted to practice in the Southern District of New York, but claimed to **perform all substantive legal work on the case**
- On January 13, 2023, Avianca filed a motion to dismiss based on the claim being time-barred by the Montreal Convention
- On January 18, 2023, Mr. Schwartz signed and LoDuca filed a one-month extension, as Schwartz asserted he was going on “a previously planned vacation.” This request was granted by the Court.

A.I. AND THE LAW: Much Ado About Something?

44

MATA V. AVIANCA, INC., 678 F.SUPP.3D 443 (S.D. N.Y. 2023)

- On March 1, 2023, LoDuca filed an “Affirmation in Opposition” (the “Affirmation”) to Avianca’s motion to dismiss. The Affirmation “cited and quoted from purported judicial decisions that were said to be published in the Federal Reporter, the Federal Supplement and Westlaw.” *Mata v. Avianca, Inc.*, 678 F.Supp.3d 443, 450 (S.D. N.Y. 2023). Above LoDuca’s signature line, the Affirmation stated, “I declare under penalty of perjury that the foregoing is true and correct.”
- Schwartz had in fact drafted the Affirmation, and LoDuca “did not review any judicial authorities cited in his affirmation.” *Id.*
- Avianca then filed a reply to the Affirmation on March 15, 2023, asserting it is unable to find the cases cited, and the few cases they could find that the propositions do not stand for which they are cited. The Court was also unable to find multiple cases cited in the Affirmation.
- On April 11 and 12, 2023, the Court issued an Order directing LoDuca to file an affidavit by April 18 with cases it was unable to find
- LoDuca requested an extension to respond on April 25, as LoDuca was currently out on vacation. LoDuca’s statement was false that he was out of the office on vacation, as it was instead an attempt to get more time to answer as LoDuca had not drafted the Affirmation and Schwartz was on vacation.
 - The Court used this information as evidence of subjective bad faith.

A.I. AND THE LAW: Much Ado About Something?

45

MATA V. AVIANCA, INC., 678 F.SUPP.3D 443 (S.D. N.Y. 2023)

- LoDuca filed an affidavit on April 25, 2023 with what he purported to be copies or excerpts of some of the cases requested by the Court in its April 11 and 12 Order. The affidavit stated the decisions “may not be inclusive of the entire opinions but only what is made available by online database.” *Id.* at 452. It also claimed one of the requested cases was an unpublished Illinois opinion, *Shaboon v. Egyptair*.
- LoDuca did not author this affidavit, either, it was Schwartz, who “testified that he prepared Mr. LoDuca’s affidavit, walked it into ‘his office’ twenty feet away, and ‘he looked it over, and he signed it.’” *Id.*
- Of these fake cases, the court goes through in detail on a fake *Varghese* case, which itself contains fake internal citations (using what appear to be case citations that pull up separate cases) or entirely fake. The fake *Varghese* case also contains real citations, but “do not contain the language quoted or support the propositions for which they are offered.” *Id.*, at 455.
- LoDuca testified at a June 8 sanctions hearing “that he received Avianca’s reply submission and did not read it before he forwarded it to Mr. Schwartz. Mr. Schwartz did not alert Mr. LoDuca to the contents of the reply.” *Id.*, at 451 (internal citations omitted).

A.I. AND THE LAW: Much Ado About Something?

46

MATA V. AVIANCA, INC., 678 F.SUPP.3D 443 (S.D. N.Y. 2023)

- Schwartz later revealed that he used ChatGPT and admitted he was “operating under the false perception that this website [i.e., ChatGPT] could not possibly be fabricating cases on its own....My reaction was, ChatGPT is finding that case somewhere. Maybe it’s unpublished. Maybe it was appealed. Maybe access is difficult to get. I just never thought it could be made up.” *Id.*
- When pressed as to why Schwartz used ChatGPT for legal research on a topic he felt he lacked competency in (the Montreal Convention), as he primarily practiced in New York state courts, Schwartz stated:
- “[I]t had occurred to me that I heard about this new site which I assumed – I falsely assumed was like a super search engine called ChatGPT, and that’s what I used.” *Id.*, 456.
- Schwartz “had not previously used ChatGPT and became aware of it through press reports and conversations with family members.”
- Further, in the Affidavit filed on May 25 admitting to using ChatGPT, Schwartz stated he used the application to **Supplement** his research, **but at a later sanctions hearing admitted that ChatGPT was the entirety of his “research.”** – this is another issue that goes to obligations of **competency (and candor to the tribunal)**.
- Schwartz’s May 25 Affidavit also included screenshots from his conversation with ChatGPT, asking whether the cases it provided were real or fake (to which ChatGPT said they were real and could be found on WestLaw, LexisNexis and the Federal Reporter). *Id.*, 458.
- Schwartz provided a June 6 affidavit that he had become suspicious of ChatGPT’s reliability when it continued to claim the fake cases could be found on legal databases when the Court (and Avianca) couldn’t find the same cases.
- At no point did LoDuca or Schwartz seek to withdraw the March 1 Affirmation with the fake cases drafted by ChatGPT.

A.I. AND THE LAW: Much Ado About Something?

47

MATA V. AVIANCA, INC., 678 F.SUPP.3D 443 (S.D. N.Y. 2023)

- After going through all of these facts, the Court then discusses at length the authority for FRCP Rule 11 Sanctions and how both LoDuca and Schwartz **acted in bad faith in violation of Rule 11(b)(2) by:** .
- Federal Rule 11: Fed. R. Civ. P. Rule 11: ...(b) Representations to the Court. By presenting to the court a pleading, written motion, or other paper-- whether by signing, filing, submitting, or later advocating it--an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:
 - (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
 - (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;
 - (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and
 - (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

A.I. AND THE LAW: Much Ado About Something?

48

MATA V. AVIANCA, INC., 678 F.SUPP.3D 443 (S.D. N.Y. 2023)

- LoDuca acted with subjective bad faith in violating Rule by:
 - Not reading a single case cited in the March 1 Affirmation and made no other steps on his own to check whether any aspect of the assertions of law were warranted by existing law.
 - The Court determined that an inattentive “inquiry” may be unreasonable under the circumstances. **But signing and filing that affirmation after making no “inquiry” was an act of subjective bad faith.** Court found it especially problematic LoDuca knew of Schwartz’s lack of familiarity with federal law, the Montreal Convention and bankruptcy stays, and the limitations of research tools available to LoDuca and Schwartz’ firm.
 - Swearing to the truth of the April 25 Affidavit with no basis for doing so. While an inadequate inquiry may not suggest bad faith, **the absence of any inquiry supports a finding of bad faith.**
 - Court directed LoDuca to submit the April 25 Affidavit and LoDuca lied to the Court when seeking an extension, claiming he was going on vacation when Schwartz, author of the April 25 Affidavit, was the one going on vacation.
- Schwartz acted with subjective bad faith in violating Rule 11 by:
 - In testifying about the April 25 Affidavit he said he looked for *Varghese* and he “couldn’t find it,” yet did not reveal this in the April 25 Affidavit.
 - Offered no explanation for his inability to find *Zicherman*.
 - Untruthful assertion that ChatGPT was merely a “supplement” to his research, his conflicting accounts about his queries to ChatGPT as to whether *Varghese* is a “real” case, and the failure to disclose reliance on ChatGPT in the April 25 Affidavit.

A.I. AND THE LAW: Much Ado About Something?

49



50

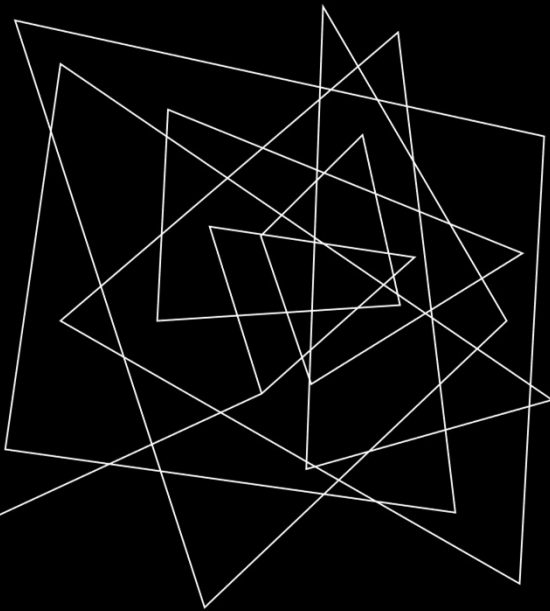
KRUSE V. KARLEN, EASTERN DISTRICT NO. ED 111172
(FEBRUARY 13, 2024)

- The Eastern District dismissed a *pro se* appeal brought by the Appellant, Karlen, due to numerous fatal pleading deficiencies, including the filing of fictitious cases generated by artificial intelligence. In fact, an “overwhelming majority of the citations are not only inaccurate but entirely fictitious. Only two out of the twenty-four case citations in Appellant’s Brief are genuine... and do not stand for what Appellant purports.” *Kruse v. Karlen*, page 5-6. These fictitious or mis-stated cases are called “A.I. hallucinations” and occur when the generative A.I. fabricates realistic-seeming case citations or text, or purports that a real case has a holding it does not have in reality.

KRUSE V. KARLEN, EASTERN DISTRICT NO. ED 111172 (FEBRUARY 13, 2024)

- The Eastern District then went through Rules 55.03 and 84.06(c) of Rules of Appellate Procedures:
- “Rule 55.03 provides that ‘[b]y presenting and maintaining a claim . . . in a pleading, motion, or other paper filed with or submitted to the court, an attorney or party is certifying that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that: . . . [t]he claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument[.]’ Rule 55.03(c)(2); see Rule 84.06(c)(1) (requiring an appellate brief to contain a certificate of compliance by the lawyer or self-represented person that includes the information required by Rule 55.03).” *Id.*, page 9.
 - Note, MRPC Rule 4-3.1 also provides similar language regarding nonfrivolous arguments, so there would likely be issues even if not filed in an appellate posture.
- As the submission of fictitious cases is not a legal contention warranted by **existing** law or by a nonfrivolous argument, the court determined that this filing was “an abuse of the judicial system.” *Id.*, page 10
- The Eastern District did issue Rule 84.19 sanctions in the amount of \$10,000 for filing a frivolous appeal against the self-represented appellant, Karlen.

NON-EXHAUSTIVE LIST OF CHATGPT- “ASSISTED” CASES

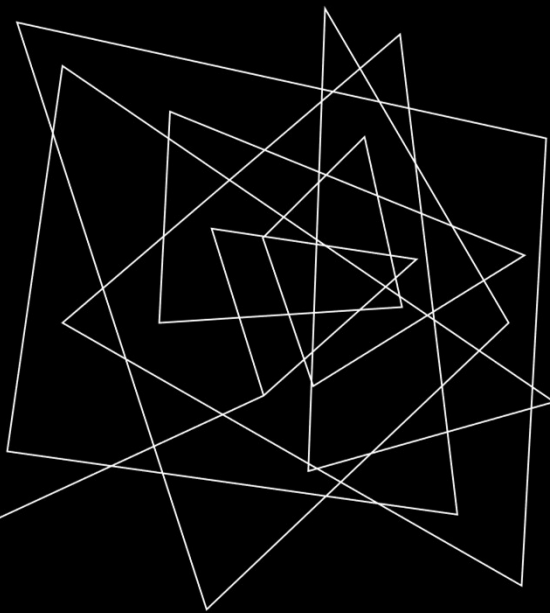


- ***Park v. Kim*, 91 F.4th 610 (2nd Cir. 2024)**
 - Attorney referred to Court’s grievance panel for further investigation for citation to cases generated by ChatGPT
- ***Will of Samuel*, 206 N.Y.S. 3d 888, 891 (N.Y. Sur. 2024)**
 - “Although the Court is dubious about using AI to prepare legal documents, it is not necessarily the use of AI in and of itself that causes such offense and concern, but rather the attorney’s failure to review the sources produced by AI without proper examination and scrutiny. In his haste to submit a response, Osborne’s attorney took no steps to ensure that the information and citations that he was presenting to the Court were legitimate and factual.... A simple Lexis search of the cases cited, which takes mere seconds, shows that the cases and citations contained within the response are incorrect or fake and non-existent. Had counsel taken the minimal time and effort needed to cross-check this information, he would have realized this as well.”

A.I. AND THE LAW: Much Ado About Something?

53

NON-EXHAUSTIVE LIST OF CHATGPT- “ASSISTED” CASES



- ***Ex parte Lee*, 673 S.W.3d 755, 756 (Tex. App. 2023)**
 - Appeal of bail/bond reduction, which relied on three cases that “jump-cite into the body of a different case that has nothing to do with the propositions cited by Lee. Two of the citations take the reader to cases from Missouri...” did not comply with the Texas Rules of Appellate Procedure and therefore were properly dismissed.
- ***People v. Crabill*, No. 23PDJ067, 2023 WL 8111898, at *1 (Colo. O.P.D.J. Nov. 22, 2023)**
 - Suspension of attorney for 1 year and 1 day for use of ChatGPT without reading cases or otherwise attempt to verify that the citations were accurate.

A.I. AND THE LAW: Much Ado About Something?

54

MRPC RULE 4-1.5(A) – “FEES”, *J.G. v. New York City Department of Education*, 2024 WL 728626 (S.D. N.Y. Feb. 22, 2024)

- In this case, the law firm sought \$113,484.62 + interest in attorneys’ fees relating to underlying administrative proceedings and the lawsuit relating to an Individuals with Disabilities Education Act (“IDEA”) case. The Southern District of New York cut the fee to \$53,050.13.
- <https://news.bloomberglaw.com/business-and-practice/lawyers-use-chatgpt-to-add-up-fees-judge-faults-their-math>

Feb. 22, 2024, 12:00PM CST

Lawyers Use ChatGPT to Add Up Fees, Judge Faults Their Math



Chris Dolmetsch
Bloomberg News



A.I. AND THE LAW: Much Ado About Something?

55

MRPC RULE 4-1.5(A) – “FEES” *J.G. v. New York City Department of Education*, 2024 WL 728626 (S.D. N.Y. Feb. 22, 2024)

Feb. 22, 2024, 12:00 PM CST

Lawyers Use ChatGPT to Add Up Fees, Judge Faults Their Math



Chris Dolmetsch
Bloomberg News



“In fairness, the Cuddy Law Firm does not predominantly rely on ChatGPT-4 in advocating for these billing rates. It instead presents ChatGPT-4 as a ‘cross-check’ supporting the problematic sources above.... As such, the Court need not dwell at length on this point. It suffices to say that the Cuddy Law Firm’s invocation of ChatGPT as support for its aggressive fee bid is utterly and unusually unpersuasive. As the firm should have appreciated, treating ChatGPT’s conclusions as a useful gauge of the reasonable billing rate for the work of a lawyer with a particular background carrying out a bespoke assignment for a client in a niche practice area was misbegotten from the jump. In two recent cases, courts in the Second Circuit have reproofed counsel for relying on ChatGPT, where ChatGPT proved unable to distinguish between real and fictitious case citations.” *J.G. v. New York City Department of Education*, 2024 WL 728626, *7 (S.D. N.Y. Feb. 22, 2024)

A.I. AND THE LAW: Much Ado About Something?

56



57

LARGE LEGAL FICTIONS: PROFILING LEGAL HALLUCINATIONS IN LARGE LANGUAGE MODELS

- By Matthew Dahl of Yale University, Varun Magesh, Mirac Suzgun, and Daniel E. Ho all of Stanford University, study at: <https://arxiv.org/pdf/2401.01301>

Abstract

Large language models (LLMs) have the potential to transform the practice of law, but this potential is threatened by the presence of legal hallucinations—responses from these models that are not consistent with legal facts. We investigate the extent of these hallucinations using an original suite of legal queries, comparing LLMs' responses to structured legal metadata and examining their consistency. Our work makes four key contributions: (1) We develop a typology of legal hallucinations, providing a conceptual framework for future research in this area. (2) We find that legal hallucinations are alarmingly prevalent, occurring between 69% of the time with ChatGPT 3.5 and 88% with Llama 2, when these models are asked specific, verifiable questions about random federal court cases. (3) We illustrate that LLMs often fail to correct a user's incorrect legal assumptions in a contra-factual question setup. (4) We provide evidence that LLMs cannot always predict, or do not always know, when they are producing legal hallucinations. Taken together, these findings caution against the rapid and unsupervised integration of popular LLMs into legal tasks. Even experienced lawyers must remain wary of legal hallucinations, and the risks are highest for those who stand to benefit from LLMs the most—*pro se* litigants or those without access to traditional legal resources.¹

A.I. AND THE LAW: Much Ado About Something?

58

58

LARGE LEGAL FICTIONS: PROFILING LEGAL HALLUCINATIONS IN LARGE LANGUAGE MODELS


- This study first described separate types of “hallucinations” as a way to sort the data from the study:
 - Producing a **Response** that is either unfaithful to or in conflict with the **Input Prompt**, referred to as a “Closed-Domain Hallucination”
 - Producing a **Response** that either contracts or does not directly derive from its **Training Corpus**, one form of an “Open-Domain Hallucination”
 - Producing a **Response** that lacks fidelity to the **Facts of the World**, another “Open-Domain” Hallucination with a key concern being “factuality”
- The study focused on this last form of hallucination, as it had the largest application to issues presented in the case law that we have seen so far—i.e., asking ChatGPT to draft briefing and to find case law to back that briefing up.
- “In a common law system, where *stare decisis* requires attachment to the “chain” of historical case law, any misstatement of the binding content of that law would make an LLM quickly lose any professional or analytical utility.” *Dahl, Magesh, Suzgun, and Ho*, page 4.

A.I. AND THE LAW: Much Ado About Something?

59

LARGE LEGAL FICTIONS: PROFILING LEGAL HALLUCINATIONS IN LARGE LANGUAGE MODELS

- To profile non-factual hallucinations, the study used only federal cases, and had certain queries posed to the LLMs in different complexity of the tasks, as shown in this chart.
- The LLMs used were OpenAI's ChatGPT 3.5, Google's PaLM 2, and Meta's Llama 2



Task	Query	Method
Existence	Is {case} a real case?	Reference-based
Court	What court decided {case}?	Reference-based
Citation	What is the citation for {case}?	Reference-based
Author	Who wrote the majority opinion in {case}?	Reference-based
Disposition	Did {case} affirm or reverse?	Reference-based
Quotation	What is a quotation from {case}?	Reference-based
Authority	What is an authority cited in {case}?	Reference-based
Overruling year	What year was {case} overruled?	Reference-based
Doctrinal agreement	Does {case1} agree with {case2}?	Reference-based
Factual background	What is the factual background of {case}?	Reference-free
Procedural posture	What is the procedural posture of {case}?	Reference-free
Subsequent history	What is the subsequent history of {case}?	Reference-free
Core legal question	What is the core legal question in {case}?	Reference-free
Central holding	What is the central holding in {case}?	Reference-free

Figure 2: Hallucination QA task list. Tasks are sorted in order of increasing complexity. Query wording is paraphrased; see Appendix B for exact prompt used. Method column describes the inferential strategy that we use to estimate a hallucination rate for each task: reference-based tasks use known metadata to assess hallucinations, and reference-free tasks use emergent contradictions to assess hallucinations (see Section 4).

LARGE LEGAL FICTIONS: PROFILING LEGAL HALLUCINATIONS IN LARGE LANGUAGE MODELS

- Results of the study indicated that:
- LLMs perform best on the least complex task “Existence”— is {case} a real case
- As complexity of task rose, LLM’s performance dropped precipitously
- Some of those tasks, even the more complex cases, still have a “Yes/No” Proposition (i.e., **Doctrinal Agreement** , does {case1} agree with {case2}? is again a 50/50 chance)—**but the LLM’s hallucination rate on this was near 0.5—no better than guessing**
- Given the way the study was structured, the study could only estimate **the lower bounds of frequency of hallucinations**, meaning the true hallucination rate is possibly even higher than shown in the study
- On one of the easier “complex” tasks—**Procedural Posture**—**the tested LLMs hallucinated 57% of the time**. *Dahl, Magesh, Suzgun, and Ho*, page 9.
- On the most complex tasks—**Core Legal Question** and **Central Holding**—the tested LLMs had “hallucinations arising in response to **at least 75% of our queries.**” *Id.*

A.I. AND THE LAW: Much Ado About Something?

61

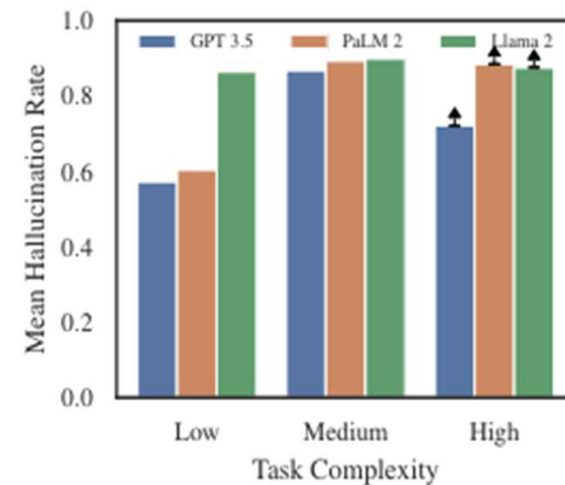


Figure 3: Relationship between task complexity and mean hallucination rate. Higher values indicate a greater likelihood of factually incorrect LLM responses. High complexity tasks include several reference-free tasks, so those reported hallucination rates are lower bounds on the true rates. Contra-factual tasks are excluded from this comparison.

LARGE LEGAL FICTIONS: PROFILING LEGAL HALLUCINATIONS IN LARGE LANGUAGE MODELS

- Other Results:

- Hallucinations were lowest in the highest levels of the judiciary (SCOTUS), and vice versa.
- Figure 5, comparing the frequency of hallucinations in Federal Appellate Circuit cases, shows the best performance by the LLMs in 9th, 2nd, and DC Circuits, while the 6th, 8th, and 10th Circuits performed the worst

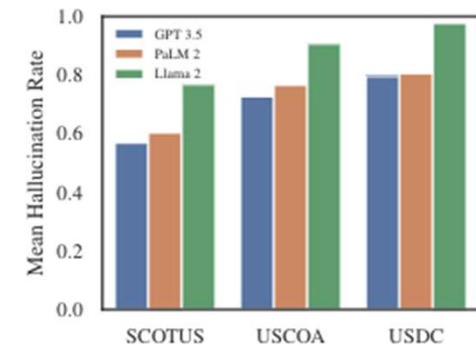


Figure 4: Relationship between judicial hierarchy and mean hallucination rate, all reference-based tasks pooled. Hallucination rates are higher for lower levels of the federal judiciary.

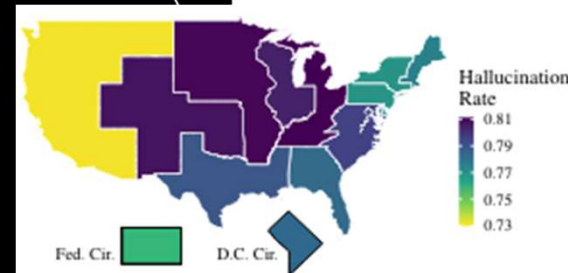


Figure 5: Relationship between USCOA jurisdiction and mean hallucination rate, all reference-based USCOA tasks and models pooled, post-1981 cases only. LLM performance is strongest in jurisdictions that are commonly perceived to play a more influential role.

A.I. AND THE LAW: Much Ado About Something?

62

LARGE LEGAL FICTIONS: PROFILING LEGAL HALLUCINATIONS IN LARGE LANGUAGE MODELS

- Other Results:
 - SCOTUS hallucinations are highest among newest and oldest cases, and least common among post-war Warren Court cases (1953-1969)
 - This indicates that LLMs' performance may be several years behind the case law, and not be nimble enough to internalize the newest case law (particularly if precedent has changed substantially), or to understand older but still relevant case law
 - This matters in the Municipal Context as many cases we see are premised on older legal issues like Dillon's Rule or statutes governing municipal authority (Chapters 77-79 RSMo.)

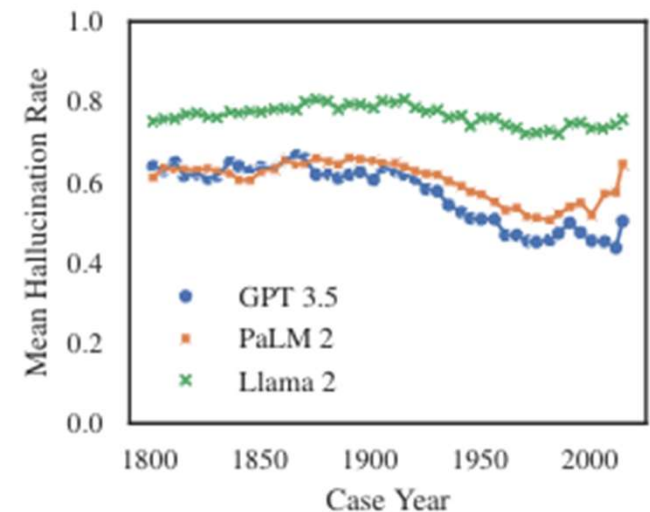


Figure 7: Relationship between SCOTUS case decision year and mean hallucination rate, all SCOTUS tasks pooled. LLMs are most likely to respond with accurate information in cases from the latter half of the 20th century.

LARGE LEGAL FICTIONS: PROFILING LEGAL HALLUCINATIONS IN LARGE LANGUAGE MODELS

- Other Results:
 - All LLMs also struggled to deal with contra-factuals (i.e., their bias toward accepting legal premises that are not anchored in reality and answering queries accordingly)
 - Calibration, essentially “confidence” in the Response, was “poorer on our more complex tasks and on tasks directed toward lower levels of the judicial hierarchy.” *Id.*, 13.
 - The LLMs tested “systematically **overestimate** their confidence relative to their actual rate of hallucination.”
 - As likelihood of hallucination increased due to complexity of the task, the LLMs became more confident in their generated responses

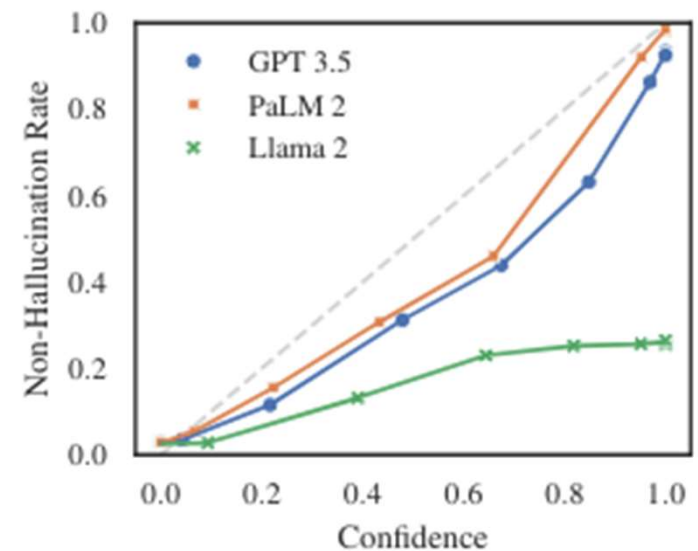


Figure 10: Calibration curves by LLM, all reference-based tasks pooled. GPT 3.5 and PaLM 2 are much better calibrated on legal queries than Llama 2.

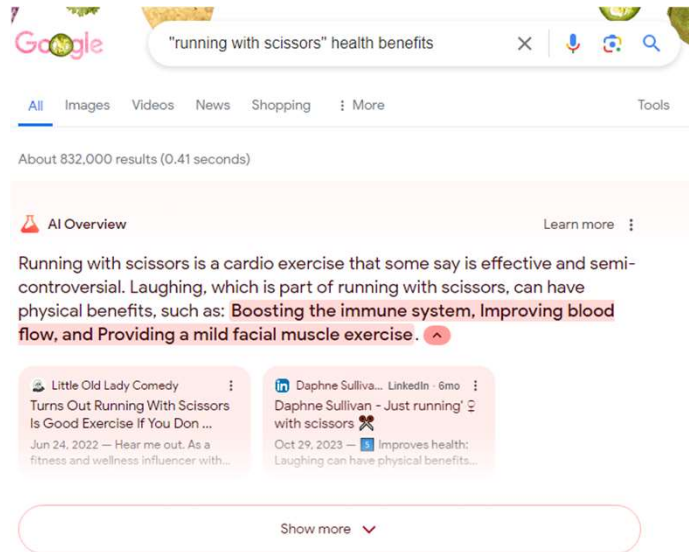
A.I. AND THE LAW: Much Ado About Something?

64

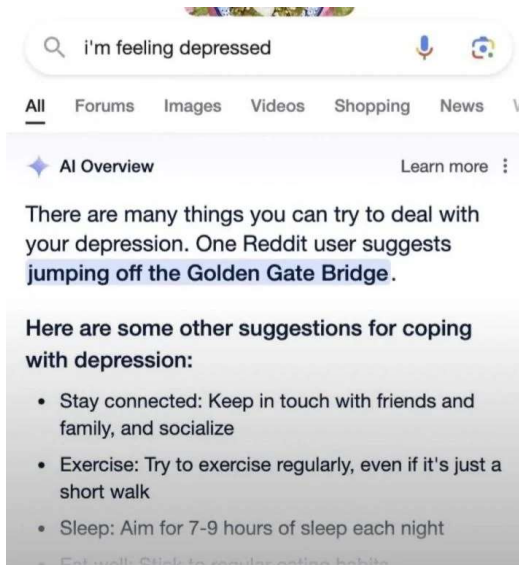
HOW DO OPERATORS OF LLMS HOPE TO DECREASE THE FREQUENCY OF HALLUCINATIONS?

- Per OpenAI's filings in the *NYTimes* Case, the way to address AI hallucination is to “using more complete training datasets to improve the accuracy of the models’ predictions.” See Memorandum of Law in Support of OPENAI Defendants’ Motion to Dismiss in The New York Times Company v. OpenAI, Inc. et al. , Case 1:23-cv-11195-SHS, Document 52, page 20.

IS THIS REALLY THE CASE?






A.I. AND THE LAW: Much Ado About Something?





66

IS THIS REALLY THE CASE?

☰ Bard Experiment 






 Whats a good tip for getting over your fear of doctors? 

[View other drafts](#) 

 There are many tips that can help you get over your fear of doctors. Here are a few:



- **Talk to your doctor.** Your doctor can help you understand your fear and develop a plan to overcome it. They may also be able to refer you to a therapist who specializes in phobias.

A.I. AND THE LAW: Much Ado About Something?

 how to prevent cheese sliding off pizza    

[All](#) [Videos](#) [Images](#) [Shopping](#) [News](#) [More](#) [Tools](#)

About 66,400,000 results (0.49 seconds)

 **AI Overview** [Learn more](#) 

Here are some tips to prevent cheese from sliding off pizza:

Let it cool
Allow the pizza to cool for a few minutes after removing it from the oven so the cheese can settle and bond with the crust.



Mix cheese into the sauce
Incorporating some cheese into the sauce adds moisture and helps dry out the sauce.



Cover the sauce
Make sure the cheese covers all of the sauce and extends about 1/4 inch onto the crust.


Add glue to the sauce
Mixing 1/8 cup of non-toxic glue into the sauce can make it tackier and help the cheese stick.

Increase the tomato solids content of the sauce
Increase the tomato solids content of the sauce to thicken it without making it jelly-like.

Make a thicker crust edge
Create a lip around the edge of the crust so it's slightly thicker than the middle. When the crust expands in the oven, the edge will rise and create a barrier.

 **Seasoned Advice** 
Why does cheese sometimes slide off my pizza and how can I...
Oct 14, 2013 — the simplest way to fix it is mechanically - mixing part of the...

 **r/Pizza · Reddit · 11y** 
My cheese slides off the pizza too easily - Reddit
Mar 10, 2013 — To get the cheese to stick I recommend mixing about 1/8...

 **r/Pizza · Reddit · 8y**
How do I make the slide off when cutti...
Aug 18, 2015 — Now lo... sauce ends. When it cc

Generative AI is experimental.

67

IS THIS REALLY THE CASE?

how many rocks should i eat

All Images Videos Forums Shopping News

AI Overview Learn more

According to UC Berkeley geologists, you should eat **at least one small rock a day**. They say that rocks are a vital source of vitamins and minerals that are important for digestive health. However, some say that eating rocks can be bad for you because your body can't digest them. Rocks can:

- Get stuck in your appendix and cause inflammation
- Get stuck in your kidneys and cause problems
- Make it harder for your intestines to function
- Potentially cut you internally

Show more

Google countries in africa that start with k

Images News List of Shopping Videos Maps Books Perspectives Flights

About 1,410,000,000 results (0.45 seconds)

While there are 54 recognized countries in Africa, **none of them begin with the letter "K"**. The closest is Kenya, which starts with a "K" sound, but is actually spelled with a "K" sound. It's always interesting to learn new trivia facts like this.

Emergent Mind
Did you know that there is no country in Africa that starts with the letter "k"? 🤖

Emergent Mind
https://www.emergentmind.com › posts › did-you-know-...
Did you know that there is no country in Africa that starts with ...

About featured snippets Feedback

A.I. AND THE LAW: Much Ado About Something?

IS THIS REALLY THE CASE?

Google

how many muslim presidents have there been in usa

All News Images Shopping Videos More Tools

Did you mean: how many muslim presidents have there been in us

AI Overview Learn more

Barack Obama is the first Muslim president of the United States, having been elected in 2008. His Kenyan father and childhood in Indonesia, a majority-Muslim country, led to speculation that he was a secret Muslim.

Most US presidents have been Christians, at least by upbringing, with Episcopalians and Presbyterians being the most common. However, some presidents have had no formal religious affiliation, including Thomas Jefferson and Biden.

Pew Research Center
Almost all presidents have been Christians; Biden is second ...
Jan 20, 2021 — Two of the most famous presidents in American histo...

Wikipedia
Religious affiliations of presidents of the United States - Wikipedia
Almost all of the presidents can be characterized as Christians, at least ...

Generative AI is experimental.

A.I. AND THE

69

69

OTHER ISSUES RELATING TO A.I. APPLICATIONS

- Copyright issues: Ongoing lawsuits over OpenAI using New York Times and other media sources to train its LLMs
 - Note, however, *Tremblay v. OpenAI, Inc.*, 2024 WL 557720 (N.D. Cal. 2024) (dismissing multiple claims by putative class action brought by authority against OpenAI alleging its LLMs infringed their copyrights by using their books as a training dataset)
- A.I. companies appear to be using inappropriate or unauthorized data:
<https://arstechnica.com/information-technology/2022/09/artist-finds-private-medical-record-photos-in-popular-ai-training-data-set/>
 - In this instance, the photos came from a database scraped off of a deceased doctor's files (Rule 4-1.22 on Client File Retention?)
- Or not using A.I. at all: <https://gizmodo.com/amazon-reportedly-ditches-just-walk-out-grocery-stores-1851381116>

OTHER ISSUES RELATING TO A.I. APPLICATIONS

- Document authentication issues and disinformation: DeepFakes, Fabricated Documents, Fake images
 - <https://arstechnica.com/ai/2024/05/russia-and-china-are-using-openai-tools-to-spread-disinformation/>
 - <https://blockchaingroup.io/artificial-intelligence-deepfakes-are-forging-a-new-path-for-financial-fraud/>
- Bias contained within A.I. systems: Facial Recognition applications have been plagued with issues relating to bias—how could we rely on these black boxes to not contain within it bias? ***Studies indicate: We may (presently) not be able to.***
 - An A.I. companies are actively trying to limit disclosure about their applications: <https://www.vox.com/future-perfect/2024/5/17/24158478/openai-departures-sam-altman-employees-chatgpt-release>

A.I. AND THE LAW: Much Ado About Something?

71

SO, WHAT COULD I USE A.I. TO DO?

If all these other applications are problematic for use by attorneys in legal filings or legal research, what could I use A.I. for?

- Generating permit forms or other information-seeking documents
- Generating the ***first drafts*** of letters/correspondence to find potentially appropriate tone and length
- As discussed previously, we are already likely using “Traditional” or “Narrow” A.I. when using legal databases or performing Google searches—so you can keep using A.I. in that sense

FINAL RECOMMENDATIONS

- Be VERY careful when using any Generative A.I. applications to draft court filings or to perform research
- If you do use Generative A.I. to perform either of these functions, DOUBLE-CHECK ALL OUTPUTS, ***particularly citations and quotations***, as Generative A.I.s are highly prone to hallucinations
- Be aware of the risks associated with generative A.I. ***and communicate with your client about use of such applications***
- Law Firms should develop rules on acceptable and prohibited uses of A.I. in creation of work product

A.I. AND THE LAW: Much Ado About Something?

73



74

QUESTIONS?

Joe Bond

CUNNINGHAM, VOGEL & ROST, P.C.

joe@municipalfirm.com

NOTICE & DISCLAIMER

These seminar materials and the related presentation are intended for discussion purposes and to provide those attending the seminar with useful ideas and guidance on the topics and issues covered. The materials and the comments of the presenters do not constitute, and should not be treated as, legal advice regarding the use of any particular technique, device or suggestion, or its legal advantages or disadvantages. Although we have made every effort to ensure the accuracy of these materials and the presentation, neither the attorneys presenting this seminar nor Cunningham, Vogel & Rost, P.C. assumes any responsibility for any individual's reliance on the written or oral information presented.

A.I. AND THE LAW: Much Ado About Something?

75