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Northeast Bankruptcy Conference and Consumer Forum

AI and the Law: Transformation, Tensions and Tools

Hon. Peter G. Cary

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U.S. Bankruptcy Court | Boston

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AI AND THE LAW: TRANSFORMATION, TENSIONS, AND TOOLS

Panelists:

Claire Jacobson, JD
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Judge Christopher J. Panos
United States Bankruptcy Court, District of Massachusetts

Professor Stacey Lantagne
Suffolk University Law School

Vivek J. Rao, Esq.
Pierce Atwood, LLP

Moderator:

Chief Judge Peter G. Cary
United States Bankruptcy Court, District of Maine



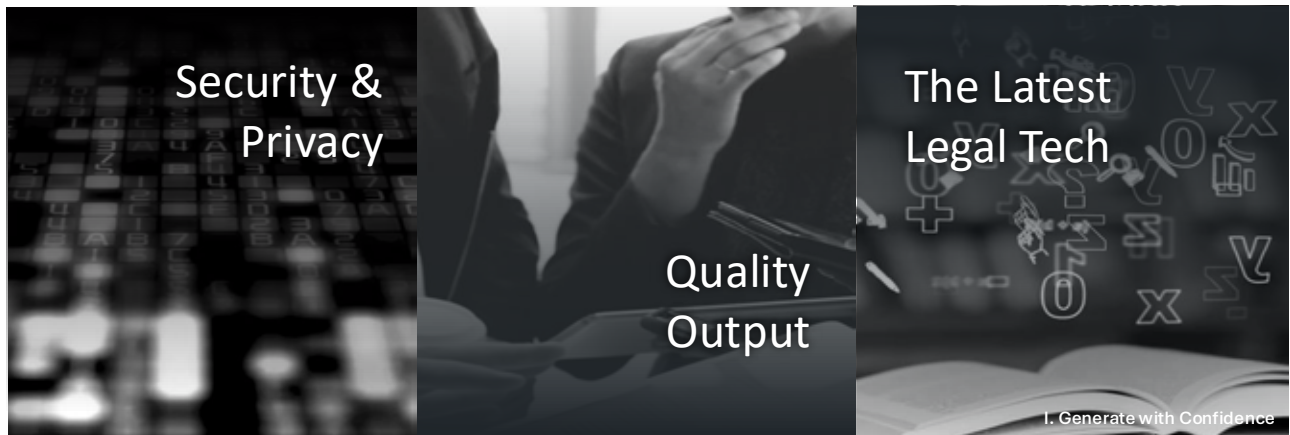
I. GENERATE WITH CONFIDENCE IN LEGAL PRACTICE

Claire Jacobson, JD

Director, US Legal Markets



QUALITY CONSIDERATIONS





SECURITY & PRIVACY



Independently-trained models with secure, siloed user sessions



SOC2-Type I & II Compliant with AES 256-bit and TLS 1.2 encryption



Commercial-grade, private cloud infrastructure with no vendor monitoring



Built in accordance with Privacy by Design standards



Bound by the RELX Responsible AI Principles



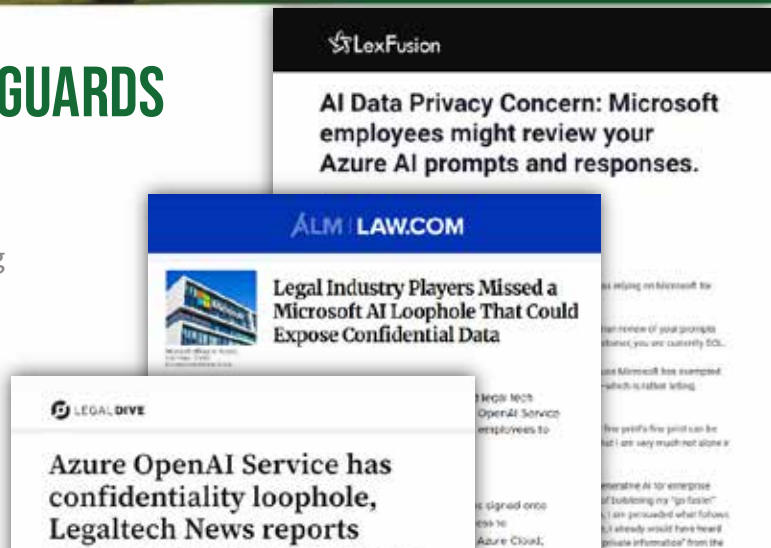
EU AI Processing Center for Global Entities

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PROACTIVE SAFEGUARDS

LexisNexis negotiated to opt out of Microsoft Azure's abuse monitoring clause before partnering with Microsoft.





QUALITY OUTPUT

- ✓ Verifiable, linked authoritative content
- ✓ Hallucination mitigation processes



I. Generate with Confidence



ChatGPT 4o

What factors do courts consider when assessing whether a breakup fee is enforceable in bankruptcy cases?

When assessing whether a breakup fee (also called a termination fee) is enforceable in bankruptcy cases, particularly in the context of Section 363 sales under the U.S. Bankruptcy Code, courts primarily evaluate whether the fee serves the best interests of the bankruptcy estate and its creditors. The leading considerations come from a blend of case law, especially *In re Reliant Energy Channelview LP*, *In re O'Brien Environmental Energy, Inc.* (Third Circuit), and local bankruptcy rules.

Key Factors Courts Consider:

- Benefit to the Estate**
 - Primary test: Courts ask whether the breakup fee is necessary to preserve or enhance the value of the estate.
 - A breakup fee may be approved if it encourages bidding, leads to a competitive auction, or sets a floor price.
- Sound Business Judgment**
 - Under § 363(b), the debtor must show that entering into the breakup fee agreement was a valid exercise of its business judgment.
 - Courts will defer to the debtor's business judgment unless the decision is shown to be irrational, conflicted, or self-dealing.

Lexis

What factors do courts consider when assessing whether a breakup fee is enforceable in bankruptcy cases?

Response completed

Courts consider several factors when assessing whether a breakup fee is enforceable in bankruptcy cases. The primary standard applied by many courts, including the Third Circuit, is whether the breakup fee is "actually necessary to preserve the value of the estate," as required for administrative expense priority under Section 503(b) of the Bankruptcy Code. This standard evaluates whether the breakup fee was essential to induce the stalking horse bidder's bid and whether it preserved the bid. If the bidder would have participated without the breakup fee, the fee is generally not approved. *AgriProcessors, Inc. v. Iowa Quality Beef Supply Network, L.L.C.* (In re Tama Beef Packing, Inc.), 290 B.R. 90, In re Reliant Energy Channelview LP, 594 F.3d 200, Breakup Fees.

In addition to the administrative expense test, courts often analyze specific factors to determine the appropriateness of a breakup fee. These factors include: (1) whether the relationship of the parties negotiating the fee was free from self-dealing or manipulation; (2) whether the fee encouraged or hampered competitive bidding; (3) whether the fee amount was reasonable relative to the proposed purchase price; (4) whether the unsuccessful bidder helped configure the estate property to attract other bidders; (5) whether the fee served to attract or retain a successful bid or establish a bid standard; (6) whether the fee maximized the value of the debtor's estate; (7) whether the principal secured creditors and the official unsecured creditors' committee supported the fee; (8) whether safeguards beneficial to the debtor's estate were in place; and (9) whether the fee would have a substantial adverse impact on unsecured creditors. *AgriProcessors, Inc. v. Iowa Quality Beef Supply Network, L.L.C.* (In re Tama Beef Packing, Inc.), 290 B.R. 90.

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3. Reasonableness of the Fee

- Courts assess whether the fee is proportionate to the value of the proposed transaction.
- Typical fees range from 2–4% of the purchase price. Higher percentages raise scrutiny.
- Excessive fees may be disallowed as they can chill bidding or unfairly benefit the initial bidder.

4. Whether the Fee Encourages or Discourages Bidding

- Courts evaluate the net effect on the auction process.
- If a fee deters other bidders or acts as a poison pill, it will likely be deemed unenforceable.

Some courts, such as those in the Southern District of New York, apply the business judgment rule, presuming breakup fees valid if they are part of a reasonable business decision. However, other courts scrutinize breakup fees more rigorously in the bankruptcy context, focusing on whether they enhance the bidding process and balance the interests of the debtor, creditors, and equity holders. In re Tiara Motorcoach Corp., 212 B.R. 133; In re America West Airlines, 166 B.R. 908, ¶ 7.05 Acquiring Assets of a Troubled Company.

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5. Fiduciary Duties

- If the fee undermines the debtor's ability to fulfill its fiduciary duties to maximize value for all creditors, it will likely be denied.
- For example, "no-shop" clauses or overly burdensome termination triggers may be seen as violating these duties.

Summary

A breakup fee in bankruptcy is enforceable if it:

- Promotes rather than suppresses competitive bidding.
- Is the product of sound business judgment.
- Confers a demonstrable benefit on the estate.
- Is reasonable in amount and structure, and
- Was negotiated in good faith and not intended to frustrate the bankruptcy process.

Would you like a case law reference sheet or example rulings applying these factors?



Ultimately, the enforceability of a breakup fee depends on the specific circumstances of the case, including the fee's necessity, its impact on the estate, and whether it aligns with the goals of maximizing value and promoting competitive bidding. *AgriProcessors, Inc. v. Iowa Quality Beef Supply Network, LLC*, (In re: Tiara Beef Packing, Inc.), 290 B.R. 90; *In re: [REDACTED] Energy Channelview LP*, 594 F.3d 200; *Breakup Fees*.

Content supporting AI-generated response:

◆ *AgriProcessors, Inc. v. Iowa Quality Beef Supply Network, LLC*, (In re: Tiara Beef Packing, Inc.), 290 B.R. 90 | United States Bankruptcy Appellate Panel for the Eighth Circuit | Mar 21, 2003 | Cases

▲ *In re: Rollant Energy Channelview LP*, 594 F.3d 200 | United States Court of Appeals for the Third Circuit | Jan 15, 2010 | Cases

Breakup Fees | Practical Guidance | Practice Note | Non-judicial

● *In re: Tiara Motorcoach Corp.*, 212 B.R. 133 | United States Bankruptcy Court for the Northern District of Indiana, South Bend Division | Jul 25, 1997 | Cases

▲ *In re: America West Airlines*, 166 B.R. 908 | United States Bankruptcy Court for the District of Arizona | Apr 15, 1994 | Cases

¶ 7.05 *Acquiring Assets of a Troubled Company* | 1 Collier Business Workout Guide P 7.05 | Practical Guidance | Treatises | U.S. Federal

View related material →

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THE LATEST LEGAL TECH

Agentic AI: completes complex tasks and workflows with key user interaction

Planning Agents: execute a complex task plan, i.e., drafting a full transactional document

Reflection Agents: review output and make improvements where appropriate

Interactive Agents: prompt user involvement to modify and guide the workflow with key feedback

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Agentic Workflow:
Draft a Full Document

- User inputs prompt
- LLM makes a task plan
- Agents execute the plan
- LLM generates first response
- Self Reflection
- Agents continue iterating
- Final output**



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II. AI AND THE JUDICIARY

Judge Christopher J. Panos

United States Bankruptcy Court
District of Massachusetts

*Any opinions or summaries presented in the program materials regarding the judiciary are those of the Hon. Christopher J. Panos, personally, and not the U.S. Bankruptcy Court for the District of Massachusetts or the United States Courts. These materials and his comments at any conference are not to be quoted or cited and are intended to facilitate the educational purpose of the ABI conferences.



THE FUTURE IS NOW?

- Use of AI Technology in Support of the Judiciary
- Futurist View of the Travel of a Motion
- But ... *Texas Chief Justice Open to Banning AI Across State Courts*, Bloomberg Law, June 19, 2025 (<https://www.bloomberglaw.com/bloomberglawnews/us-law-week/BNAN%20000019788cbd6baa7d7fcd07f50001>) last accessed June 20, 2025)

*Erik Andrews, Systems Manager 3rd Cir. Library, and Shannon Lashbrook, Digital Services Librarian 9th Cir. Library, provided information regarding AI employed by courts in their Circuits and by other federal courts and collaborated with Judge Panos in considering probable future common use of AI by courts.

II. AI and the Judiciary



INITIAL PRIORITIES OF THE JUDICIARY REGARDING USE OF AI

- Ethical Rules for Attorneys (To Be Discussed in Another Program)
- Use By Attorneys in Pleadings Filed with the Court
- Evidentiary Issues
- Case Administration and Public Interaction
- Use in Chambers As Part of the Deliberative Process
- Access to Justice For Pro Se or Less-Funded Litigants

II. AI and the Judiciary



EVALUATING THE BENEFITS AND RISKS OF AI

- Most Bar Associations, State Courts, and Federal Court Circuits (and some Districts) have established “task forces” or working groups to consider the use of AI in legal proceedings
- National Conference of State Courts Resource Page (<https://www.ncsc.org/resources-courts/artificial-intelligence>)
- The Sedona Conference: Navigating AI in the Judiciary: New Guidelines for Judges and Their Chambers (https://thesedonaconference.org/Navigating_AI_in_the_Judiciary)

II. AI and the Judiciary



FEDERAL COURTS

- ☐ Administrative Office of the U.S. Courts Artificial Intelligence Task Force
- ☐ Serves as the coordination hub for the federal judiciary for AI-related issues and to identify areas where we may need to amend or establish judiciary policies
- ☐ Members include judges serving on a range of committees for the Judicial Conference of the United States (the policy making body of the federal judiciary) in addition to court unit executives, IT professionals, law clerks, and subject matter specialists.
- ☐ First Circuit Artificial Intelligence Working Group

II. AI and the Judiciary



FEDERAL JUDICIARY INITIAL GUIDANCE AND PILOT PROGRAMS

- AI Task Force is working on a recommendation for initial guidance for the judiciary
- Tools available to the federal judiciary that rely on “closed” large language model systems - Westlaw, Lexis, Bloomberg, MS Office Copilot.
- Testing and Security
- Current Limitations on Use and Pilot Programs
- Use of “Open” LLM Systems

II. AI and the Judiciary



USE OF AI BY ATTORNEYS IN PREPARING PLEADINGS

- ✓ Rule 11 – is it enough?
- ✓ Courts across the country have issued rules and standing orders
- ✓ Disclosure?
- ✓ Standard of Care / Fee Applications and Efficiency of Services

II. AI and the Judiciary



EVIDENTIARY ISSUES

- AO Advisory Committee on Evidence has recommended that a new draft rule be released for public comment intended to address the reliability of evidence produced by machine learning (Committee on Rules of Practice and Procedure, Agenda Book, at page 58 of 486 (June 10, 2025) (<https://www.uscourts.gov/forms-rules/records-rules-committees/agenda-books/committee-rules-practice-and-procedure-june-2025>.)
- Proposed Rule 707 would essentially apply the Rule 702 standard for expert opinion to evidence that is the product of machine learning. (*Id.* at 75-76 of 486.)
- Public comment is intended to develop information and not as a “presumption that the rule should be enacted.” (*Id.* at 59 of 486.)

II. AI and the Judiciary



EVIDENTIARY ISSUES

Proposed Rule 707. Machine-Generated Evidence

“When machine-generated evidence is offered without an expert witness and would be subject to Rule 702 if testified to by a witness, the court may admit the evidence only if it satisfies the requirements of Rule 702 (a)-(d). This rule does not apply to the output of basic scientific instruments.”

II. AI and the Judiciary



EVIDENTIARY ISSUES

Courts have struggled with reliability of evidence. One anecdote:

"Specifically, the testimony revealed that Mr. Ranson relied on Microsoft Copilot, a large language model generative artificial intelligence chatbot, in cross-checking his calculations. Despite his reliance on artificial intelligence, Mr. Ranson could not recall what input or prompt he used to assist him with the Supplemental Damages Report. He also could not state what sources Copilot relied upon and could not explain any details about how Copilot works or how it arrives at a given output. There was no testimony on whether these Copilot calculations considered any fund fees or tax implications."

Matter of Weber, 2024 NY Slip Op 24258 Surrogate's Court, Saratoga County (Schopf, J.)(Oct. 10, 2024)

II. AI and the Judiciary



EVIDENTIARY ISSUES

"The Court has no objective understanding as to how Copilot works, and none was elicited as part of the testimony. To illustrate the concern with this, the Court entered the following prompt into Microsoft Copilot on its Unified Court System (UCS) issued computer: "Can you calculate the value of \$250,000 invested in the Vanguard Balanced Index Fund from December 31, 2004 through January 31, 2021?" and it returned a value of \$949,070.97 — a number different than Mr. Ranson's."

When Copilot was asked by the judge "are your calculations reliable enough for use in court," Copilot responded with "[w]hen it comes to legal matters, any calculations or data need to meet strict standards. I can provide accurate info, but it should always be verified by experts and accompanied by professional evaluations before being used in court . . ."

Matter of Weber, 2024 NY Slip Op 24258 Surrogate's Court, Saratoga County (Schopf, J.)(Oct. 10, 2024)

II. AI and the Judiciary



EVIDENTIARY ISSUES

“Deepfakes” – AI manipulated documents or media

- JCUS Advisory Committee on Evidence declined to recommend amendments to Fed. R. Evid. 901 that would govern authenticity of evidence where a “deepfake” has been alleged until further experience has been observed regarding the attempted use of such evidence.
- Some commentators have pressed for new authentication standards. See, e.g., Rebecca A. Delfino, *Deepfakes on Trial: A Call To Expand the Trial Judge’s Gatekeeping Role To Protect Legal Proceedings from Technological Fakery*, 74 *Hastings L.J.* 293 (2023); Note, *AI is Coming, But the Rules Aren’t Ready* (<https://georgetownlawtechreview.org/ai-is-coming-but-the-rules-arent-ready/GLTR-01-2025/>)
- NCSC White Paper Discussing Deepfake Issues (<https://nationalcenterforstatecourts.app.box.com/s/baasokn1ji739c8q99gtpbvosbbbu8vh>)

II. AI and the Judiciary



EVIDENTIARY ISSUES

Other Resources:

- Bijan Ghom, *Identifying Deepfakes During Evidence Collection*, *Discovery Law360*, January 2, 2025
- Sensity AI is technology used to scan videos and images for signs of manipulation

II. AI and the Judiciary



CASE ADMINISTRATION AND PUBLIC INTERACTION

- ✓ AI could be used for a number of tasks associated with court and case administration, including automated docketing, automated court reporting, automated court interpreting, drafting administrative memos and presentations, developing trends analyses for budget, procurement, finance, and caseloads, and interacting with the public via website chatbots.
- ✓ For many years, federal courts have experimented with automating docket-related activities. While not AI, court use of automated docketing interface (ADI) previews some AI functionality. Some bankruptcy courts and some district courts use an ADI using automated scripts incorporated into CM/ECF that reviews case files, identifies cases that are ready for disposition, and then automatically enters procedural orders in those cases.

II. AI and the Judiciary



CASE ADMINISTRATION AND PUBLIC INTERACTION

CHATBOTS

- The District Court for the Northern District of New York employs a customer service chatbot on its website that is AI powered by Anthropic to answer questions about a range of topics
- Some bankruptcy courts, including for the District of Maryland and the District of Colorado, have incorporated chatbots into their public websites

II. AI and the Judiciary



USE IN CHAMBERS AS PART OF THE DELIBERATIVE PROCESS

- Judges have identified and are testing the AI functionality of legal research tools to develop initial drafts of timelines, opinions, and other documents produced by Chambers. Some have used AI to convert handwritten documents to text for review and create questions for hearings. Use by Chambers is limited and in early stages.
- Chambers staff in some courts regularly uses basic AI features in Westlaw and Lexis to review draft opinions, citecheck briefs submitted by parties, assemble hyperlinks to authorities cited in briefs, and prepare summaries.
- High sensitivity to security, confidentiality, and reliability.
- Training
- “Human in the loop”

II. AI and the Judiciary



ACCESS TO JUSTICE FOR PRO SE OR LESS-FUNDED LITIGANTS

- ☐ Judges are seeing pleadings clearly generated by AI
- ☐ Parties are able to research using widely available free open AI
- ☐ Use for translation
- ☐ For more sophisticated pro se parties and counsel seeking to minimize costs, use in discovery or to produce summaries of evidence, analysis, deposition outlines, and demonstrative exhibits.

II. AI and the Judiciary



III. LAW FIRM ADOPTION OF GAI TOOLS

Vivek J. Rao, Esq.

Pierce Atwood, LLP

*Any opinions or summaries presented in the program materials regarding law firms are those of Vivek J. Rao, Esq., personally, and not of Pierce Atwood LLP. These materials and his comments at any conference are not to be quoted or cited and are intended to facilitate the educational purpose of the ABI conferences.



WHERE ARE WE NOW?

- ❖ After the arrival of GAI tools was met with some initial skepticism and particularly acute concerns around confidentiality, data re-use, and security, the focus is shifting, at least in part, to accuracy, reliability, and practice integration, with an eye on business model and client relationship impacts.

III. Law Firm Adoption of GAI Tools



WHERE ARE WE NOW?

- “As the legal industry grapples with artificial intelligence's potential, I hope and expect 2025 to see a crucial shift toward more rigorous and systematic evaluation frameworks for legal AI tools, moving beyond the current state of limited understanding and ad-hoc assessments. Combined with the emergence of more “hybrid experts” - professionals equally versed in both legal practice and AI technology - this could drive incremental yet meaningful improvements in legal AI applications. Rather than dramatic advancements, I expect 2025 to be characterized by steady, measured progress as the industry focuses on refining existing technologies and establishing better standards for their use.”*

- Professor Julian Nyarko, Stanford Law School

Source: “What to Expect in 2025, AI Legal Tech and Regulation (65 Expert Predictions),” *National Law Review* (December 15, 2024)

III. Law Firm Adoption of GAI Tools



WHERE ARE WE NOW?

- From a GAI developer’s survey of legal professionals at a range of firm sizes (the survey acknowledges it may skew toward early tech adopters):

How often do firms use GAI in legal work?

Daily – 38%
Weekly – 24%
Monthly – 21%
Never – 17%

Key AI use cases?

Legal Research – 55%
Drafting Support – 48%
E-Discovery – 41%
Document & Evidence Review – 38%
Contract Analysis – 29%
Deposition Summarization – 25%
Trial Preparation Assistance – 19%

Biggest barriers to adoption?

Accuracy – 91%
Security – 57%
Cost – 53%
Compliance – 52%
Technical – 47%
Internal – 41%
Development – 31%
Clients – 26%
Revenue – 19%
Practicality – 17%

Source: “The State of AI in Law,” from Alexi Technologies Inc. (June 19, 2025)

III. Law Firm Adoption of GAI Tools



OVERARCHING FORCES

- **Potential for dramatic expansion of AI capabilities in the near-term**
 - “We predict that the impact of superhuman AI over the next decade will be enormous, exceeding that of the Industrial Revolution.”
 - “AI 2027,” prediction scenario published April 2025 (ai-2027.com)
- **Real-world constraints on AI transformation**
 - “Diffusion is limited by the speed of human, organizational, and institutional change. . . . [W]e think that transformative economic and societal impacts will be slow (on the timescale of decades, making a critical distinction between AI methods, AI applications, and AI adoption, arguing that the three happen at different timescales.”
 - “AI as Normal Technology,” essay published April 2025 (Knight First Amendment Institute at Columbia University)
- **The “innovator’s dilemma”**
 - “The dilemma emerges because established companies rationally focus on sustaining innovations that satisfy their best customers and generate higher profits. They dismiss disruptive technologies as inferior and unprofitable. Meanwhile, these disruptive technologies improve over time and eventually meet mainstream market needs at lower costs, ultimately displacing the incumbents.”
 - Taken from summary of Clayton Christensen’s *The Innovator’s Dilemma* generated using Claude Sonnet 4

III. Law Firm Adoption of GAI Tools



STAGES OF ADOPTION (AND VISION AND GOVERNANCE)

1. **Novelty/Skepticism** – Predominant concerns are about confidentiality, security, accuracy, reliability, ethical standards.
 2. **Use-Specific Experimentation** – Limited “bottom up” exploration where very specific AI use cases are overwhelmingly compelling.
 3. **Trial and Adoption at Scale** – Sorting out which general applicability tool(s) will be the firm’s standard(s), predominant concerns start to be more about cost, business model, workflow, efficient use, training.
 4. **Ongoing Strategic Implementation** – AI tools become embedded, but learning curve as far as how to use efficiently and effectively while managing risks.
 5. **Transformational Use** – AI has transformed how the firm operates, how its lawyers work, and perhaps even the firm’s business model and client dynamics.
- What is the firm’s overarching vision for its adoption of GAI?
 - What is the firm’s governance structure and change management process for onboarding and implementing GAI?

III. Law Firm Adoption of GAI Tools



EVALUATING GAI TOOLS AND USE CASES

- How are/should GAI tools be evaluated? Marrying “blue sky thinking” with “critical/deliberative thinking”.
- Individual attorneys experimenting with AI tools tend to be focused on their primary use cases and used to their ways of working, billing models, etc., which can lead to heightened skepticism of AI tools’ capabilities. May also tend to over-estimate human baseline performance benchmark
- Evaluating one’s own workflow and practice management model is as critical as evaluating the GAI tool, as ultimately the two must sync up.
- Optimizing vs. opportunity costs, i.e., the temptation to find the perfect tool ready to make an immediate positive impact on revenue should be balanced with the need for attorneys and staff (and the firm as an organization) to develop AI fluency, even if that requires an upfront investment. But identifying the total return on investment is challenging and requires flexible thinking.

III. Law Firm Adoption of GAI Tools



TABLE STAKES REQUIREMENTS FOR GAI USE

- **Firm governance structure and change management process for onboarding and implementing GAI.**
- **Vendor due diligence, contract review, and oversight, including on confidentiality and security.**
 - What data does the vendor have access to?
 - How will the vendor use the data?
 - How will the vendor store the data?
 - How will the vendor safeguard the data?
 - What third-party systems are incorporated/integrated, and how do those impact the above?
- **Meaningful human review – which legal professionals are capable of using GAI effectively, efficiently, and ethically for which use cases.**
- **No delegation of professional judgment.**
- **Intersection with ethical duty to communicate and consult with client.**
- **Training considerations.**
 - How to train all legal professionals to maintain AI fluency and good hygiene?
 - How to train junior attorneys in the practice of law in an increasingly AI-reliant world?
- **Don’t forget GAI tools that may be imposed on you by others – such as call recording/summarization turned on by clients, opposing parties, etc.**

III. Law Firm Adoption of GAI Tools



CLIENT EXPECTATIONS

- ❑ Clients tend to want and expect innovation.
- ❑ Not all clients are the same.
- ❑ Intersection with ethical duty to communicate and consult with client. Transparency between firm and client, alignment on AI capabilities and limitations, alignment on cost expectations. Factors to consider include –
 - Client's needs and expectations
 - Sensitivity of information involved
 - GAI's importance to a particular task, and the particular task's importance to the client/matter
 - Engagement letter / outside counsel guidelines

III. Law Firm Adoption of GAI Tools



BROADER BUSINESS MODEL IMPACTS

- ✓ Increased ability for large firms to take on small matters and/or small firms to take on large matters
- ✓ Economies of scale give largest firms leg up in developing or customizing their own GAI tools
- ✓ Staffing considerations
- ✓ Technology investment as recruiting/retention driver

III. Law Firm Adoption of GAI Tools



IV. ARTIFICIAL INTELLIGENCE AND LEGAL EDUCATION

Professor Stacey Lantagne

Suffolk University Law School



- Use as a tool
vs.
- Substitute for critical thinking

“For simpler . . . problems, standard LLMs demonstrate greater efficiency and accuracy. . . . [W]hen problems reach high complexity . . . , [LLMs] experience complete performance collapse.”

–Shojaee, et al., “The Illusion of Thinking: Understanding the Strengths and Limitations of Reasoning Models via the Lens of Problem Complexity” (June 2025), at <https://machinelearning.apple.com/research/illusion-of-thinking>



SAMPLE AI POLICIES

- AI tools, such as Grammarly, are permitted for editing and refining your work. Additionally, we will be using various AI tools to draft documents and conduct research during in-class assignments. AI tools may be used to create a first draft of graded written assignments, but a copy of that draft must be included with the final version of the assignment. Violations of these rules can have severe consequences including failing the assignment, failing the course, and referring the matter to the Honor Code Committee. (legal research class)
- You are allowed to use ChatGPT - the version that is available for free and will acknowledge its use to assist in drafting or reviewing different contracts that you will work on during the term of this course. I want you to know that you remain fully responsible for the accuracy and appropriateness of this course's graded and ungraded assignments, regardless of any AI assistance in their preparation. Furthermore, you agree that (a) you have reviewed the AI-generated contract, redlines, or explanatory notes and approved by you, (b) human judgment remains the basis of course grading in this course, (c) appropriate measures have been taken to protect confidential information and ethical considerations when using AI tools. (contract drafting class)

IV. AI and Legal Education



SAMPLE AI POLICIES

- This paper must be your own work. Plagiarism will not be tolerated. All quotations must be properly attributed; all sources must be properly cited. Plagiarism includes misrepresenting someone else's work as your own. As such, this paper cannot be prepared by anyone else on your behalf. However, generative AI can be utilized in drafting your paper, if you so desire. Be wary of relying on generative AI without checking its research and making adjustments to its drafts! Be prepared to discuss how you are using generative AI as we workshop paper drafts over the course of the semester. (paper writing class)
- You are not permitted to work together with anyone else. This includes any use of generative artificial intelligence. Use of AI programs like Chat GPT are prohibited. A violation of this prohibition is an honor code violation. (entertainment law open-book exam)

IV. AI and Legal Education

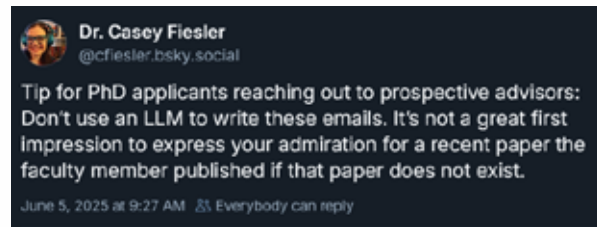


AI HALLUCINATION CASES

This database tracks legal *decisions* in cases where generative AI produced hallucinated content—typically fake citations, but also other types of arguments. It does not track the (necessarily wider) universe of all fake citations or use of AI in court filings.

While seeking to be exhaustive (155 cases identified so far), it is a work in progress and will expand as new examples emerge. This database has been featured in news media and online posts.

<https://www.damiencharlotin.com/hallucinations/>



IV. AI and Legal Education



“We found that access to GPT-4 only slightly improved the quality of participants’ legal analysis, with improvements that were small in magnitude and inconsistent across tasks (+0.17, +0.24, +0.07, and -0.07 on a 4.0 grading scale). However, we found that AI assistance consistently induced large declines in the amount of time taken to complete tasks (-24.1%, -32.1%, -21.1%, and -11.8%). The benefits of AI assistance were not evenly distributed; for the tasks on which AI was the most useful, it was significantly more useful to lower-skilled participants (judged by their scores on tasks for which they did not have AI assistance). In sum, where assistance from GPT-4 is beneficial at all, it seems to benefit the worst performers the most, providing little or no benefit to top performers.”

--Choi, et al., *Lawyering in an Age of Artificial Intelligence*, U. Minn. L. Rev. (2024), at <https://minnesotalawreview.org/wp-content/uploads/2024/11/3-ChoiMonahanSchwarcz.pdf>

IV. AI and Legal Education

Faculty

Hon. Peter G. Cary is Chief Bankruptcy Judge for the U.S. Bankruptcy Court for the District of Maine in Portland, initially appointed in January 2014. He is also a panel member of the U.S. Bankruptcy Appellate Panel for the First Circuit, a member of the First Circuit Workplace Conduct Committee, and member of the First Circuit Access to Justice Committee - Bankruptcy Court Subcommittee, a member of the First Circuit Artificial Intelligence Working Group, the chair of the Academic Recognition Committee of the National Conference of Bankruptcy Judges, the treasurer of the Maine State-Federal Judicial Council, a member of the Bankruptcy Judges Advisory Group to the Administrative Office of the U.S. Courts, and an advisory director of the Nathan & Henry B. Cleaves Law Library. Judge Cary is Board Certified in both Consumer Bankruptcy Law and Business Bankruptcy Law by the American Board of Certification. He received his undergraduate degree *cum laude* and Phi Beta Kappa from the University of Massachusetts at Amherst in 1982 and his J.D. *cum laude* from Boston College Law School in 1987.

Claire Jacobson is director of U.S. Legal Markets at LexisNexis in St. Paul, Minn. She partners with government entities, law firms and corporations across the country to evaluate their legal workflows and technology implementation. Ms. Jacobson works closely with the LexisNexis product and technology teams to share client feedback and stay on top of the latest developments. Previously, she clerked for the Hennepin County Attorney's Office in Minnesota early in her career. Ms. Jacobson received her B.A. from the University of Minnesota and her J.D. from the Mitchell Hamline School of Law.

Prof. Stacey M. Lantagne is a Professor of Law at Suffolk University Law School in Boston whose research focuses on the intersection of digital creativity and copyright and trademark law, with a particular focus on fanfiction and internet memes. She teaches contracts law, entertainment law, food law and advertising law. She has also taught various intellectual property courses, as well as courses on internet, social media and artificial intelligence law. She also has recently published on the copyright implications of generative artificial intelligence. Prof. Lantagne is a member of the Legal Committee of the Organization for Transformative Works, a nonprofit dedicated to the preservation of fanworks. She has been quoted in news outlets including *Law360*, *The Atlantic*, NPR (1A), *Slate*, *Vox*, *Wired* and *The Verge*. Her scholarship has appeared in such publications as the *Harvard Journal of Sports and Entertainment Law*, *Virginia Sports and Entertainment Law Journal*, *Nevada Law Journal*, *University of Richmond Law Review*, *Georgia State University Law Review*, and the *Michigan Telecommunication and Technology Law Review*. Prof. Lantagne is a frequent presenter and guest speaker, including at pop culture and fan studies conferences and fan conventions. Previously, she was an intellectual property litigator at Goodwin Procter in Boston and Drinker Biddle & Reath in Washington, D.C., after clerking for Hon. Martin Feldman of the Eastern District of Louisiana. Prior to joining Suffolk Law, Prof. Lantagne taught at Western New England University School of Law, the University of Mississippi School of Law, and Loyola University New Orleans College of Law. She received her B.A. *summa cum laude* in English from Boston College, and her J.D. *cum laude* from Harvard Law School, where she was co-executive editor of the *Harvard Journal of Law and Technology*.

Hon. Christopher J. Panos is a U.S. Bankruptcy Judge for the District of Massachusetts in Boston, initially appointed on Sept. 21, 2015. He served as Chief Judge from 2018-22 and sits on the Bankruptcy Appellate Panel for the First Circuit. In 2022, the Chief Justice of the U.S. appointed Judge Panos to serve a three-year term on the Judicial Conference Committee on the Administration of the Bankruptcy System. Prior to his appointment as a bankruptcy judge, he had practiced at Craig and Macauley in Boston for more than 25 years and served as its managing director until 2014, when attorneys at that firm joined Partridge Snow & Hahn LLP to open its Boston office. He served as partner in charge of the Boston office until his appointment to the bench. Judge Panos had a diverse practice focusing on business restructuring and insolvency, mergers and acquisitions, commercial finance, business litigation, and general business law. He represented public and privately held companies, individuals, banks, hedge funds and private-equity funds in many different business areas, including financial services, life sciences, energy, pharmaceuticals, manufacturing, retail and real estate development. He was regularly recognized in peer-review publications such as *Chambers USA* and *The Best Lawyers in America*, and which named him Boston “Lawyer of the Year” for bankruptcy and restructuring in 2012 and 2016. *Law & Politics* and *Boston* magazine named him a “Super Lawyer” each year of publication of that list and several times named him a “Top 100 Attorney” in Massachusetts and New England. Judge Panos was elected as a Fellow of the American College of Bankruptcy in 2008 and served on its First Circuit council from 2012-15. He served as chair of the Bankruptcy Law Section of the Boston Bar Association and on the Board of Trustees of the Boston Bar Foundation. Judge Panos received his undergraduate degree from Georgetown University in 1985 and his J.D. *cum laude* from Boston University School of Law in 1989, where he taught courses in legal research, writing and advocacy.

Vivek J. Rao is a Boston-based partner at Pierce Atwood LLP and chairs the firm’s Privacy & Data Security practice. He handles a range of data-protection and innovation matters, helping clients navigate risks and opportunities at the intersection of big data, emerging technology and evolving regulation. Mr. Rao’s clients range from Fortune 500 companies in highly regulated industries to family-owned New England businesses to sophisticated start-ups commercializing innovative software and data-driven services. In addition to negotiating technology development, collaboration, licensing and services agreements, he advises companies developing and deploying emerging technology in compliance with evolving data-protection and artificial intelligence laws, working with in-house teams to design, implement and evolve prudent compliance programs. Before joining Pierce Atwood, Mr. Rao clerked for federal district court and court of appeals judges and worked at a D.C. litigation boutique. He received his B.S. from the Massachusetts Institute of Technology and his J.D. from the University of California, Berkeley Law School.