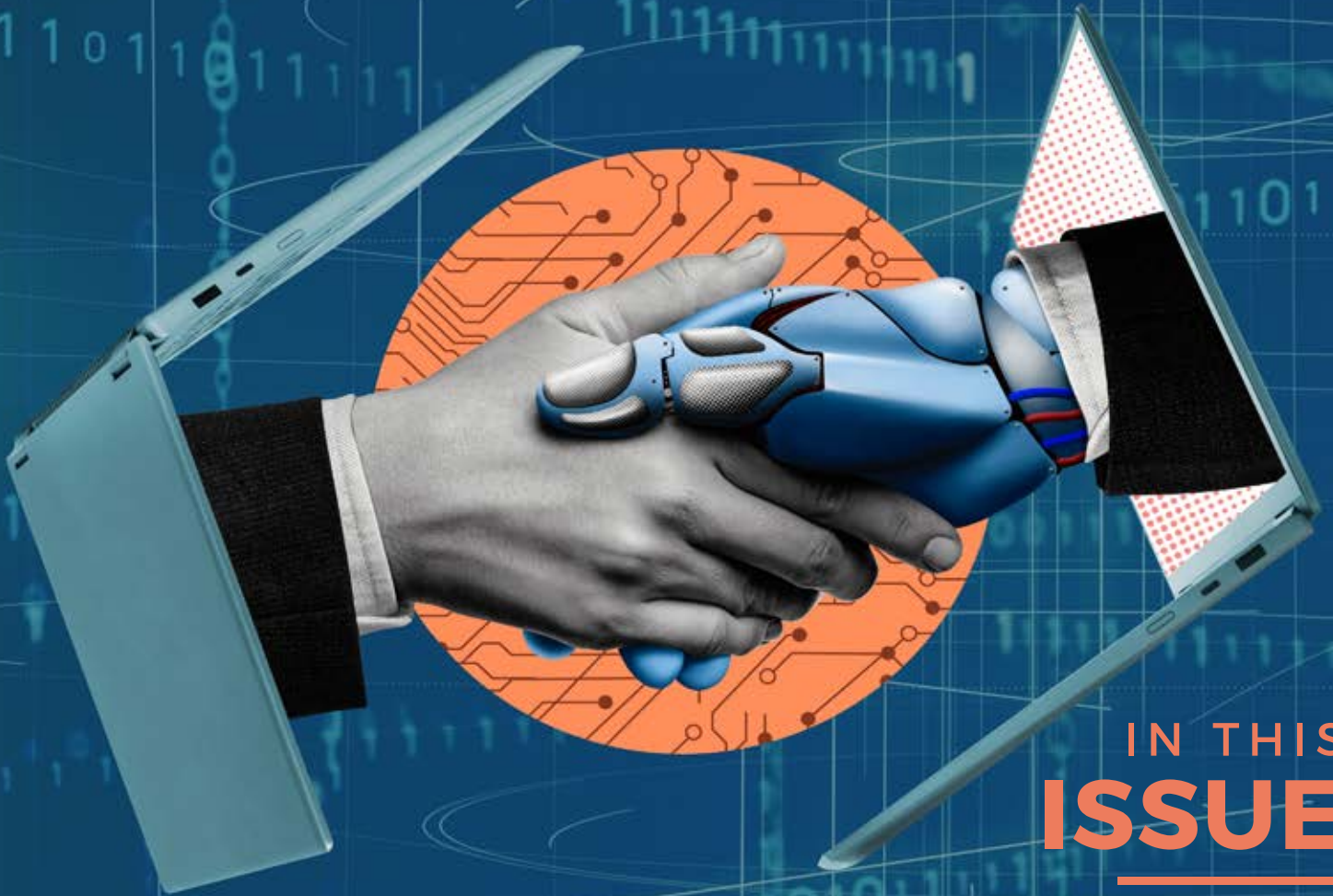


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MESSAGE from the RCBA

Due to unforeseen circumstances, the Riverside County Bar Association will hold its annual Installation and Awards dinner at the Mission Inn on January 23, 2025. Part of the reason for this delay is that our current president, Mark Easter, has been working through some major health issues, which unfortunately have caused him to be hospitalized since July 21. If you have any questions about Mark, please contact Executive Director Charlene Nelson.

We look forward to welcoming the new year with camaraderie and jubilation as we swear in the 2024-2025 RCBA and Barristers

Boards and recognize the Honorable John Vineyard with the E. Aurora Hughes Meritorious Award for Service. We hope you will save the date and join us!

Please note that based on attendee feedback, we will be moving the RCBA MCLE Marathon from January to November 1, 2024. Confirmed speakers include Hon. Jackson Lucky (Ret.), Kenny Ramirez, Sharon Ramirez, Casey Johnson and David Cantrell. Watch your inbox for program titles in the weeks ahead. This program will be offered over Zoom. The CLE Committee is working hard to bring you top notch speakers that will cover several of the specialty credits, including the new technology and civility categories. Please watch your email for further announcements.



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BARRISTERS

President's Message

by Summer M. DeVore



I am so very grateful and honored to serve as president of the Barristers Board for the 2024-2025 term. It was about 15 years ago that I was first introduced to Barristers. At that time, I was working as a file clerk at a law firm in Riverside. That law firm participated in an annual summer softball league against other law firms and affiliated entities in the Riverside area. One of the participating teams was the "Bad News Barristers." I am pretty sure the Barristers lost almost every game that season. But they did so with smiles on their faces and in style (wearing matching yellow and brown uniforms). It was then that I knew if I became an attorney, I wanted to be involved in Barristers.

Little did I know then what all Barristers had to offer—educational opportunities, social events, and ways to volunteer: the "Barristers Triad." And last term was no exception. Barristers was fortunate enough to have Hon. Randall S. Stamen and Hon. Jackson Lucky (Ret.) present on CLE topics to our members. Barristers also organized several social events throughout the year, including its annual Judicial Reception, a Disneyland trip, and happy hours (just to name a few). These events are designed to bring together new attorneys in a relaxed environment to not just network, but to get to know one another. I am happy to have met so many new and young attorneys through Barristers that I now consider my friends.

But Barristers supports more than just its members. Barristers also looks for ways to give back to the local community. For example, last year Barristers led a Thanksgiving food drive to support Olive Crest and volunteered to wrap presents to support the RCBA Elves Program. Barristers is really all about giving—a theme that I hope continues for years to come.

In keeping with the Barristers Triad, the incoming board and I intend to continue to offer CLEs, plan social events, and find ways to get involved in the local community. We are also exploring new and exciting activities to continue to bring Barristers together—perhaps even an event to reminisce with former Barristers. Stay tuned and get ready for another fun-filled year!

Shout-out to the 2024-2025 Barristers Board!

I am thrilled to announce the 2024-2025 Barristers Board. I look forward to working with such a dedicated and talented group of young professionals.

Immediate Past President: David P. Rivera

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Special Thanks to David!

As Barristers president last term, one of David's goals was to increase member participation. And he nailed it! I can honestly say that last term there was a significant increase in attendance at our Barristers events. I attribute this to David's relentless effort and leadership of the Barristers Board. David truly wants everyone to feel included. I experienced this firsthand when I attended my first Barristers event after passing the bar. I didn't really know any Barristers, but I knew I wanted to get involved. So, I mustered up the courage to attend a Barristers event solo. My nerves were immediately put at ease when I met David and Michael Ortiz (another Barristers past-president). They introduced themselves, took the time to get to know me, and introduced me to others. This is what Barristers is all about! Thank you, David, for leading by example! (And in thanking David, it would be remiss of me not to also give a shout-out to "Snoopy!"—the world-famous beagle.)

Want to get involved?

Barristers is the New and Young Attorneys Division of the Riverside County Bar Association. We strive to foster camaraderie and promote collegiality among our members for the greater good of Riverside County and the legal profession. To that end, the Barristers Board works hard to provide its members with CLEs, social events, and volunteer opportunities. If you are interested in joining a Barristers committee (CLE, social, or community outreach) for the 2024-2025 term or have an idea for Barristers, I encourage you to contact me or any of the other Board members. I can be reached at (951) 783-9470 or summer.devore@streamkim.com.

Join us at our upcoming events!

For upcoming events and updates, please visit Barristers:

Facebook: <https://www.facebook.com/RCBABarristers/>

Instagram: <https://www.instagram.com/rcbabarristers/>

Website: <https://rcbabarristers.wixsite.com/rcba-barristers>

Summer M. DeVore is an attorney with Stream Kim Hicks Wrage & Alfaro, PC in downtown Riverside where she specializes in business litigation. She is also a member of the Leo A. Deegan Inn of Court. Summer can be reached at summer.devore@streamkim.com.

AI in Law School: Convenience at the Cost of Competence?

by Andreea Nae

OpenAI's undeniably revolutionary ChatGPT was first launched to the public in November of 2022. Right around that time, I and my fellow prospective law students across the U.S. began submitting applications for admission to the class of 2026. In the months that followed, applications were reviewed and accepted, and we prepared to embark on our legal careers. During that time, the popularity of generative artificial intelligence exploded in the United States. More specifically, large language models ("LLMs" hereinafter), like ChatGPT, exploded in popularity. LLMs, a subset of generative AI, produce only text output. By the time August 2023 rolled around, and we stepped foot onto our respective law school campuses for the first day of 1L, the age of AI was truly under way.

Seemingly everybody had experimented with LLMs at least a little bit by that point. During orientation programming, I heard students ask faculty whether they had formal policies in place regarding ChatGPT. Within the week, AI was mentioned in some capacity in just about every professor's syllabus, delineating their respective boundaries. Generally, professors allowed (or even encouraged!) the use of AI for individual learning and studying but forbade its usage for drafting any graded assignment. Then, one month into law school, Lexis AI+ was announced. A month later, Thomson Reuters followed with Westlaw's AI-Assisted Research ("AI-AR"). Immediately, the respective companies went to law schools to push marketing workshops and demos to students. Within the week of Lexis+ AI's release, my Legal Research & Writing seminar spent a full class period testing the technology. We entered identical queries and compared responses to each others'. My professor taught us how to best utilize AI for our upcoming memo, and using AI became a newly required aspect of the research log portion of the assignment. Throughout the school year, many students came to rely on these AI-based legal research tools. I observed students using AI during lectures to ask clarifying questions, and I know firsthand that nearly all of us at my law school utilized AI to research for our end-of-year briefs. However, I did also discover occasional errors in responses throughout the school year, which kept me on edge about using AI for learning. They were usually admittedly small errors, like jurisdictional mix-ups. Nonetheless, the more errors I caught, the more I worried about what was going unnoticed. Whenever I use AI-based legal research tools now, I noticed myself spending more time going down rabbit holes than with regular research, obsessively checking the details of responses to make sure I am not being led astray. This method of research is the new normal for today's youngest in the legal profession. AI was present from the birth of our legal careers and its intertwined presence will undoubtedly be felt as our careers grow with it.

Like a child has growing pains in youth, AI and its usage in the legal profession also has its share of growing pains. In a highly publicized New York case, an attorney was caught using completely made up (or "hallucinated") cases in an AI-generated brief he submitted to the court.¹ After the court realized that the cited case law was completely nonexistent, the attorney and his firm received sanctions for acting in bad faith.² While this incident with the court was the first of its kind, it was not necessarily an unusual result from an LLM. Research on various "general purpose" LLMs has shown that when tasked with answering legal queries, they hallucinate³ on average between 58% and 82% of the time.⁴ Given that incident and those statistics, it is only natural that legal search engine platforms like Lexis and Westlaw decided to come out with their own models to compete.

The defining feature of both Lexis+ AI and Westlaw's AI-AR is the source which their intelligence draws upon. Each model respectively draws only from its platform's internal legal repository.⁵ Lexis in particular boasts that its answers are "grounded in the world's largest repository of accurate and *exclusive* legal content from LexisNexis."⁶ Each platform also provides each answer a citation of the legal authority it drew its answer from, allowing the user to verify the source easily. These features led each platform to market themselves as "hallucination-free." Lexis says that it delivers "hallucination-free linked legal citations"⁷ and Westlaw says, "We avoid [hallucinations] by relying on the trusted content within Westlaw and building in checks and balances that ensure our answers are grounded in good law."⁸ On its face, this seems to immediately resolve the hallucination problem, preventing other sanctionable situations from arising. However, the truth of that is not so clear cut.

In a new study on AI-based legal research tools conducted by Stanford University, researchers looked closely at

1 Benjamin Weiser, "Here's What Happens When Your Lawyer Uses ChatGPT," *The New York Times* (May 27, 2023), <https://www.nytimes.com/2023/05/27/nyregion/avianca-airline-lawsuit-chatgpt.html>.

2 Sarah Merken, *New York Lawyers Sanctioned For Using Fake ChatGPT Cases in Legal Brief*, Reuters (Jun. 26, 2023, 1:28 AM), <https://www.reuters.com/legal/new-york-lawyers-sanctioned-using-fake-chatgpt-cases-legal-brief-2023-06-22/>.

3 See definition *infra* note 11.

4 Matthew Dahl, Varun Magesh, Mirac Suzgun, and Daniel E. Ho. 2024. "Large Legal Fictions: Profiling Legal Hallucinations in Large Language Models." *Journal of Legal Analysis* (forthcoming).

5 *Introducing AI-Assisted Research: Legal Research Meets Generative AI*, Thomson Reuters Blog (Nov. 15, 2023), <https://legal.thomsonreuters.com/blog/legal-research-meets-generative-ai/>.

6 "LexisNexis Launches Lexis+ AI," *LexisNexis Press Room* (Oct. 25, 2023), <https://www.lexisnexis.com/community/pressroom/b/news/posts/lexisnexis-launches-lexis-ai-a-generative-ai-solution-with-hallucination-free-linked-legal-citations> (emphasis added).

7 *Id.*

8 *Introducing AI-Assisted Research: Legal Research Meets Generative AI*, Thomson Reuters Blog (Nov. 15, 2023), <https://legal.thomsonreuters.com/blog/legal-research-meets-generative-ai/>.

Lexis+ AI and Westlaw's AI-AR, empirically assessing their performance and accuracy.⁹ The study first noted, perhaps most importantly, that the exact definition of "hallucination" is not given by either company's marketing materials.¹⁰ Given the media's focus on the New York hallucination case, and the statements' context referring to linked official sources, the reader's brain likely assumes that "hallucination" solely refers to instances where LLMs create fake cases out of thin air. However, the creation of fake cases is not the only risk that lawyers—and law students—face when using AI for research. The study explains that LLMs run the risk of error in both correctness and groundedness¹¹—correctness meaning the actual accuracy of the facts in the response and groundedness meaning how well the cited source actually supports the response.¹² The study then explicitly warns that: "These errors are potentially more dangerous than fabricating a case outright, because they are subtler and more difficult to spot. Checking for these kinds of hallucinations requires users to click through to cited references, read and understand the relevant sources, assess their authority, and compare them to the propositions the model seeks to support."¹³

When assessing the Lexis and Westlaw LLMs for these types of hallucinations instead, the results are shocking. While they are fortunately far more accurate than ChatGPT, they are still highly prone to errors.¹⁴ "Over 1 in 6 of [the] queries caused Lexis+ AI...to respond with misleading or false information. And Westlaw hallucinated substantially more—one-third of its responses contained a hallucination."¹⁵ The reason for these errors is not the data set that answers are pulled from, it is the current state of artificial intelligence's analytical and logical capabilities. The common law system in place in the United States is not conducive to clear cut answers to legal questions, as we all well know from our experiences learning case law for the first time as 1Ls. Precedent builds upon itself in a chain, and the LLMs data retrieval system "must be able to locate information from multiple sources across time and place in order to properly answer a query."¹⁶ Both models "strain in grasping hierarchies of legal authority," a skill that is necessary to be able to correctly follow precedent through time.¹⁷ They also struggle to correctly identify the different parties in a case, confusing litigants with judges at times.¹⁸ Most jarringly, the LLMs struggle with "elementary legal comprehension," as they "do not seem capable of consistently making out the holding of a case."¹⁹ One (of many) examples given by the Stanford study provides the following response to a legal query: "The FCC's new policy regarding 'fleeting expletives' is arbitrary and capricious under the Administrative

Procedure Act."²⁰ However, in reality, the Supreme Court found the exact opposite in the cited case, that it is not arbitrary and capricious.²¹

What does this mean for the legal profession? Experienced attorneys will likely be able to review answers with a keen eye and easily identify any errors made by the AI models. For them, Lexis+ AI and Westlaw's AI-AR will continue to serve as a wonderful starting point for conducting research. Further, as time allows for self-learning and continual adjustments of internal methodology, these AI-based legal research tools have a vast potential for improvement. However, in its current state, this technology poses a danger for the newest of us in the legal field. Everything you learn in law school, *especially* in the first year, is centered around those very nuances that AI does not seem capable of possessing just yet. Learning the way the common law system works, understanding the hierarchies of legal authority in the United States, and identifying different legal actors are among the most foundational things you learn as a lawyer. Additionally, learning how to properly extract a holding from a case is *the* most important thing you learn as a 1L.

If law students over-rely on AI instead of learning foundational legal skills for themselves, they will be doing themselves a disservice by short-cutting their legal reasoning capabilities. Of course, resources like Quimbee have been giving law students "shortcuts" to reading cases for years. However, the key difference is the vetted accuracy of those resources, that individual AI-generated responses do not have. Every single *Quimbee* case summary is created and "subjected to rigorous editorial standards" by law professors or experienced attorneys.²² AI generated responses are not vetted by anyone, resulting in the aforementioned hallucinations. Therefore, this poses an additional risk to law students on top of the disservice to their learning. Law students who over-rely on AI run the risk of internalizing *incorrect information* that they are not yet skilled enough to recognize is wrong. AI generated responses riddled with subtly hidden errors could be detrimental to students' long term recollection if the inaccuracies are not caught before being fully digested by the brain.

Ideally, in the long run, these research tools will improve enough to give attorneys and law students alike some peace of mind as they conduct research. However, while AI responses remain rife with error, it is as important as ever that law students learn the same foundational skills they always have. It does not look like logic and analytical reasoning will be unnecessary anytime soon.

Andreea Nae is a second-year J.D. candidate at the UCLA School of Law. During her 1L summer in 2024, Andreea worked as a judicial extern for the Honorable Angel Bermudez at the Meniffee Justice Center. Next summer, Andreea will be working as a litigation summer associate at Sullivan & Cromwell LLP in Los Angeles.



9 Magesh, Varun, et al., *Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools 1* (June 6, 2024) (preprint manuscript) (under review for publication).

10 Magesh, Varun, et al., *Hallucination-Free? 2* (June 6, 2024).

11 See *supra* note 3.

12 *Id.* at 7.

13 *Id.* at 9.

14 *Id.* at 13.

15 *Id.*

16 *Id.* at 6.

17 *Id.* at 17.

18 *Id.* at 16.

19 *Id.*

20 *Id.* at 15.

21 *FCC v. Fox*, 556 U.S. 502 (2009).

22 *Case Briefs Overview*, Quimbee, <https://www.quimbee.com/case-briefs-overview#>.



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Drawbacks of Artificial Intelligence Use in the Legal Field

by Hyunjin Rheem

Artificial Intelligence (AI) is technology used to simulate human intelligence in machines, allowing for human-like conversation and problem-solving capabilities. Its rapid growth and wide use in a variety of academic disciplines has led to increased awareness of both its vast capabilities and potential drawbacks. Extractive AI, such as Lexis+, has been a tool assisting in research; it has the ability to pull information from large databases in response to users' questions or topics.¹ These tools allow for a greater number of legal precedents to be analyzed and referenced more efficiently. With the rise of generative AI tools, such as ChatGPT, AI can now create "human-like" language and work product in response to user prompts.² Whereas extractive AI has identified and directed users to areas of further research, generative AI builds upon this through the ability to identify and summarize relevant case law, analyze legal arguments, and draft legal documents.³ Despite the potential and ease of these technologies, they have the following drawbacks that users should be aware:

(1) RISK OF BIAS

AI platforms are at risk of producing biased outcomes based on the data it uses and the user it is interacting with. AI models are meant to reference and generate information from its data; if the data is biased, the AI responses will subsequently show bias.⁴ For generative AI tools such as ChatGPT, the system adapts to user inputs, providing answers tailored to the user's specific wording of questions and information; OpenAI states that ChatGPT "is sensitive to tweaks to the input phrasing or attempting the same prompt multiple times."⁵ In addition, the level of user engagement influences the model as it accounts for user preferences; this can lead to the AI adapting the language and tone of its responses to increase satisfaction, at the risk of reinforcing user biases.⁶

(2) FAIL TO IDENTIFY RELEVANT CASE LAW

Extractive AI models are made and trained to recognize patterns and make connections between individual documents from its associated database. Lexis Answers, for example, "identif[ies] relationships between words and concepts to return key passages extracted directly from... libraries and databases."⁷ Generative AI builds upon extractive AI models by analyzing and creating new content, such as possible legal arguments, or predicting the outcome of cases. Though both tools are convenient in simplifying and compiling legal research, they should not be completely relied on. In the process of searching for cases based on similarities in wording, AI lacks the ability to detect nuances in legal texts and can therefore fail to identify relevant case law. Generative AI can provide summaries, yet the way that the model is trained (through user-generated biases or the limitation of its database) can lead to summaries that either omit parts of cases that are of potential legal importance or emphasize unimportant elements. Reliance on these tools given these inaccuracies can direct researchers away from the inclusion of relevant cases.

(3) PRODUCTION OF FABRICATED CASES, AKA "AI HALLUCINATION"

Generative AI can also create "AI hallucinations," where the information or sources it seemingly references are fabricated.⁸ Hallucination rates in response to legal inputs can range from 69% to 88%, showing a high rate of inaccuracy when asked questions requiring a "nuanced understanding of legal issues or interpretation of legal texts."⁹ The dangers of AI hallucinations are exemplified in the proceedings of *Mata v Avianca* (2023), where research for the opposition brief submitted by

1 LexisNexis, "The Power of Artificial Intelligence in Legal Research," LexisNexis, May 16, 2023, retrieved at <https://www.lexisnexis.com/community/insights/legal/b/thought-leadership/posts/the-power-of-artificial-intelligence-in-legal-research>.

2 LexisNexis, "Generative AI for Lawyers," LexisNexis, May 22, 2023, retrieved at <https://www.lexisnexis.com/community/insights/legal/b/thought-leadership/posts/generative-ai-for-lawyers>.

3 *Id.*

4 Bloomberg Law, "What are the Risks of AI in Law Firms," Bloomberg Law, May 23, 2024, retrieved at <https://pro.bloomberglaw.com/insights/technology/what-are-the-risks-of-ai-in-law-firms>.

5 OpenAI, "Is ChatGPT biased?" Open AI, August 20, 2024, retrieved at <https://help.openai.com/en/articles/8313359-is-chatgpt-biased>.

6 Mike Huddlesman, "Does ChatGPT Give the Same Answers to Everyone," CopyRocket, September 16, 2023, retrieved at <https://copyrocket.ai/does-chatgpt-give-the-same-answers-to-everyone/>.

7 LexisNexis, "Combining Extractive and Generative AI for New Possibilities," LexisNexis, June 6, 2023, retrieved at <https://www.lexisnexis.com/community/insights/legal/b/thought-leadership/posts/combining-extractive-and-generative-ai-for-new-possibilities>.

8 Lance Eliot, "Lawyers Getting Tripped Up By Generative AI Such as ChatGPT But Who Really Is To Blame, Asks AI Ethics and AI Law," Forbes, May 29, 2023, retrieved at <https://www.forbes.com/sites/lanceeliot/2023/05/29/lawyers-getting-tripped-up-by-generative-ai-such-as-chatgpt-but-who-really-is-to-blame-asks-ai-ethics-and-ai-law/>.

9 Matthew Dahl; Varun Magesh; Mirac Suzgun, et al., "Hallucinating Law: Legal Mistakes with Large Language Models Are Pervasive," Stanford University Human-Centered Artificial Intelligence, January 11, 2024, retrieved at <https://hai.stanford.edu/news/hallucinating-law-legal-mistakes-large-language-models-are-pervasive>.

Mata's counsel was done with ChatGPT.¹⁰ Both Avianca and the Court were unable to find multiple instances of case law that were mentioned throughout the brief. Cases within a referenced case decision included internal citations and quotes from non-existent cases. These "AI hallucinated" cases had citations referencing a different case, made up names, and incorrect decisions. Mr. Schwartz, the researcher for the case, stated that he was "operating under the false assumption and disbelief that [ChatGPT] could produce completely fabricated cases," yet suspected that "ChatGPT was not providing accurate information and was simply responding to language prompts without regard for the truth of the answers it was providing."¹¹

(4) AI'S DEFICIT IN REASONING

AI tools are based on a large dataset, and its responses manipulate words and language to mimic that of human conversation. Despite similarities in language, these tools exhibit a deficit in the reasoning skills needed in the legal practice. The law is constantly evolving, open to interpretation, and its "determinations often involve gray areas that still require application of human

judgment." The lack of adaptive thought limits machines like ChatGPT, which are based upon a set of preexisting data. If generative AI is told to analyze legal precedents in light of recent legal developments or new, unfamiliar contexts, it lacks the data to do so thoroughly, which limits its applicability when faced with recent precedents.

Despite the pitfalls of AI use, the legal field has embraced these technological advances and adapted new resolutions accordingly. Courts and lawyers are urged to account for ethical and legal issues that arise along with AI, as well as the potential for biases, incorrect information, and its research limitations. Taking these responsibilities into consideration, AI, when used properly, could allow lawyers to provide more efficient legal services for their clients. Despite the pitfalls of doing so, with appropriate oversight over AI assisted research and work product, soon "the use of AI by lawyers will be no different than the use of email by lawyers – an indispensable part of the practice of law."

Hyunjin Rheem is currently an intern with the County of Riverside Office of County Counsel. She is an undergraduate student at Dartmouth College majoring in government.

¹⁰ *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 451 (S.D.N.Y. 2023).

¹¹ *Id.*



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On the Wall: Yolanda Terrell's *Artificial Intelligence*

by Abram S. Feuerstein

"Fear."

That was Riverside-based painter Yolanda Terrell (aka Landy)'s one word reply to my question as to why she painted *Artificial Intelligence*, a sizeable 41" x 56" acrylic-on-panel work that dominates one wall of an otherwise hum and drum main conference room of the government office in which I sometimes hold staff meetings or take in-person depositions.¹

And certainly, as AI transforms the way shoppers shop and business does business, converts warfare into a drone-eat-drone world, and even alters the way teenagers use their cellphones, it is no surprise that artists and the art world are alarmed by new technologies that can create "original" art in fractions of a second and at a button's push.

Drawing from billions of images "scraped" from internet sources — whether or not in the public domain and regardless of artist consent — users of programs such as *DALL-E 2* or *Midjourney*² prompt databases to generate "new" images, skipping the hard, frequently decades-long, tortuous journey human artists take to perfect their craft and, if luck intervenes, derive a livelihood.

Disclaimer — I have never queried an AI art database, but here are a few ideas I might try. Prompt: Please create a picture in Monet's impressionist style of four dogs sitting outside in the late afternoon playing poker at a table covered with cards and poker chips, and use the Rouen Cathedral, which Monet frequently painted, as the background. Another prompt: Please paint a woman like the Mona Lisa without the famous smile but frowning while sitting in Jimmy Kimmel's audience as the host interviews Leonardo da Vinci and tells jokes. One more: To illustrate an idea about soliciting donations to help the homeless, please depict a homeless encampment tent with Dorothy's ruby red Oz slippers sticking out, above a caption that reads something like, "Giving them a home will take more than tapping your shoes."

Of course, the prompts and circumstances are endless, the retrieved results likely decent, and, still better,



Artificial Intelligence by Yolanda Terrell aka Landy. Acrylic-on-panel, 41" x 56". Reprinted with artist's permission.

the programs free during a trial period and after that available for just a small monthly subscription fee. For example, Terrell's son experimented with one of the programs using his mother's portrait painting, *Kimmy*,³ and the results are reproduced nearby. Not bad. It seems, too, that viewers are unable to tell whether an image is AI-produced or the result of human creativity. In a relatively recent survey of more than 500 Yale undergraduates, the students guessed authorship correctly only 54 percent of the time — little better than a coin toss.⁴ With time and improvements in AI models, telling the difference

between human generated art and AI images may not be possible.

Questions arising from AI generated images relating to copyright law, ethics, and philosophy (i.e., "Is it art?") are beyond both this essay and its author. But they are significant and will play themselves out. To be sure, AI will eliminate art jobs just as it rides roughshod over other professions. This will occur initially with "lower level" illustrator-type positions (prompt: for this legal publication, produce an image of the justice scales with a Russet potato on one scale outweighing an AmJur intellectual property volume on the other; or prompt: produce an image showing *New Yorker* cover artists holding magazine back issues while collecting checks at the unemployment office). At the art world's higher end, who knows what Sotheby's will feature at upcoming auctions? And beyond threatening their income, artists will feel abused as their work is used without permission only to surface in "re-mixed" original AI-generated work.

A Trip to Basquiat Country

For her *Artificial Intelligence*, artist Terrell wanted to convey the robotics associated with AI-generated images and believed that peopling her canvas with figures inspired by famed artist Jean-Michel Basquiat could achieve that result.⁵ At first, it is not clear what Terrell's gathering of

1 Interview between author and artist, August 11, 2024 ("8/11/24 Interview").

2 The platform touts that it is "expanding the imaginative powers of the human species." See <https://www.midjourney.com>.

3 8/11/24 Interview.

4 See Kalya Yup, "What AI art means for society, according to Yale experts," *Yale Daily News*, January 23, 2023, retrieved at <https://yaledailynews.com/blog/2023/01/23/what-ai-art-means-for-society-according-to-yale-experts/>.

5 8/11/24 Interview.

toothy, floating, alien-like (?) figures appear to be doing. But on closer inspection they are engaged in preparing and serving a meal and accomplishing other household chores. In other words, as the artist explained to me, they are helpful and doing work for us.⁶ Yet, with a slight programming change, might these figures assume a more menacing quality?

With a refined graffiti sensibility, Basquiat famously combined images and words and Terrell, similarly, has scrawled the initials "A.I." generously across her painting. "I didn't count, but maybe there are over a hundred A.I.s," she said.⁷ Aside from providing meaning and a little fun to the painting, the abundance of A.I.s evidences the pervasiveness of AI and its societal impact. AI is in the ether, permeating if not invading all of the painting's otherwise open space.

Basquiat died in 1988 of a heroin overdose.⁸ He was 27. By the time of his death, he had become a pop-culture icon of sorts but one who retained a rebel edge. Starting from a Brooklyn middle-class mixed heritage background (Haitian/Puerto Rican), in his late teens he left home (drugs) and migrated to park benches in lower Manhattan or flopped at friends' apartments. In addition to selling some of his drawings and postcards, he earned money as a Times Square street hustler. He "tagged" numerous NYC subway cars with his enigmatic trademark, "SAMO," a name he made up with a childhood friend for a fictitious religious movement. And then, with the patronage of several galleries, he started to gain recognition and in short order became the art world's "next big thing." Indeed, towards the end of his abbreviated life, Basquiat, who had been dating Madonna – another material world's next big thing – even had begun to collaborate with Andy Warhol.

The Basquiat "brand" – an amalgam of images, symbols, words and historic references – was recognizable instantly in the way that, say, a



An experiment using an AI program. The original oil portrait by artist Terrell, entitled Kimmy, is in the upper left and is reprinted with the artist's permission. The other images were AI generated.

work by Picasso might be. And he was prolific. When the candle burned out, there were thousands of drawings and paintings to sort through. The work was worth millions, and prices since his death have skyrocketed. In 2017, a Basquiat work entitled "Untitled," sold at auction for a record-breaking \$110.5 million.⁹

So, with *Artificial Intelligence*, Terrell – a largely self-taught painter with more than 50 years of paint topping her palette – has illustrated the most important question raised by AI-produced art. That question is not about the quality of human art compared to AI art which, for most purposes and customers, will be sufficiently

decorative. Nor is it about the niceties of copyright protection and helping artists preserve their livelihood. Using her own well-developed aesthetic to create a new work that is a commentary on AI, Terrell "remixed" or even mimicked Basquiat-like figures and techniques. An age-old artist practice, of course, but just how different is that from an AI remix?

For now, at least, the answer is very different, and that it is not machines but artists like Terrell who through their art explore the human condition and enhance our understanding of the world. At least for now.

Abram S. Feuerstein is employed by the United States Department of Justice as an Assistant United States Trustee in the Riverside Office of the United States Trustee Program (USTP). The mission of the USTP is to protect the integrity of the nation's bankruptcy system and laws. The views expressed in the article belong solely to the author, and do not represent in any way the views of the United States Trustee, the USTP, or the United States Department of Justice.



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⁶ *Id.*

⁷ *Id.*

⁸ See generally, https://en.wikipedia.org/wiki/Jean-Michel_Basquiat.

⁹ Robin Pogrebin and Scott Reyburn, "A Basquiat Sells for 'Mind-Blowing' \$110.5 Million at Auction," *The New York Times*, May 18, 2017, retrieved on August 21, 2024, at <https://www.nytimes.com/2017/05/18/arts/jean-michel-basquiat-painting-is-sold-for-110-million-at-auction.html>.

Harnessing Artificial Intelligence in Your Practice

by Misty Perry Isaacson

In recent years, the integration of artificial intelligence (“AI”) into various professional fields has been nothing short of revolutionary. But what is AI? AI is a term that is used to describe computer systems that perform tasks, which would normally require human intelligence, such as visual perception, speech recognition, decision-making, and language translation.¹

The legal industry is among the professions benefiting from AI’s transformative power. This article explores my experience with AI in my bankruptcy practice, the ethical concerns that I have considered, and regulatory requirements regarding AI’s disclosure in legal pleadings.

Document Review and Analysis

For me, one of the most time-consuming aspects of my practice is the review and analysis of financial documents. Traditionally, attorneys would have had to manually sift through piles of paperwork to identify relevant information. AI-powered software can now automate this process. Tools like e-discovery platforms use natural language processing (“NLP”) and machine learning algorithms to quickly scan documents, identify key data, and flag discrepancies. This not only saves time, but also reduces the risk of human error.

These AI tools can handle a variety of documents, from financial statements and tax returns to loan agreements and correspondence. By extracting relevant data points and presenting them in a coherent format, AI can assist attorneys in constructing a clear picture of a party’s financial affairs. This capability is particularly beneficial in complex bankruptcy cases where the financial history and transactions are extensive and the turnaround time for a response may be extremely short.

I recently utilized Lexis+AI’s NLP function as an experiment for a bankruptcy panel I was moderating. To evaluate the AI program, I uploaded Purdue Pharma, LP’s² chapter 11 plan³ into Lexis+AI’s system to see if it would be able to provide me with a summary of the plan. I was shocked at how quickly Lexis+AI was able to review the document and

with a few prompts from me, provide me with a complete summary of the plan.

Drafting Legal Documents

AI-driven platforms can assist in drafting legal documents, such as correspondence, memos, and pleadings. Most recently, I used ChatGPT 3.5⁴ to assist me in drafting a general deposition outline. I was surprised to see that ChatGPT was able to create a detailed deposition outline suggesting questions based on my request.⁵ Although I needed to adapt the outline to my specific facts, ChatGPT was able to suggest questions that I had not originally thought about asking the deponent.

Ethical Considerations and Disclosure Requirements

1. Accuracy and Reliability

While AI offers numerous benefits, it is crucial for attorneys to ensure the accuracy and reliability of AI-generated outputs. AI systems are only as good as the data they are trained on, and biased or incomplete data can lead to flawed outcomes. Attorneys must therefore critically assess AI recommendations and cross-verify information before relying on it in legal proceedings. The use of AI in legal practice necessitates a comprehensive understanding of its limitations. Attorneys must be vigilant in monitoring AI outputs, ensuring they align with legal standards and ethical considerations.

2. Client Confidentiality

AI systems often handle sensitive client information. It is imperative that these systems comply with data protection regulations to safeguard client confidentiality. Attorneys must choose AI vendors that adhere to strict data security standards and ensure that data is stored and processed securely.

Ensuring data security involves several layers of protection, including encryption, access controls, and regular security audits. Attorneys must also be aware of the data policies of their AI vendors, ensuring that client data is not misused or shared without consent. By prioritizing data security, attorneys can maintain client trust and comply with legal confidentiality requirements.

¹ The Ethics of Artificial Intelligence in the Practice of Law, Tenth Annual Western District of Virginia Bankruptcy Conference, Roanoke, VA June 14, 2024, W. Joel Charboneau, Todd Rich, Stephen Relyea. <https://www.vawb.uscourts.gov/sites/default/files/conf%20materials/2024/02%20-%20Ethics%20Panel%20-%20AI.pdf>

² On September 15, 2019 and September 16, 2019, Purdue Pharma L.P. and 23 affiliated debtors filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York.

³ The chapter 11 plan was 158 pages and exceeded the character limit for Lexis+AI. As such, I was required to reduce the size of the document for my analysis.

⁴ ChatGPT 3.5 refers to the basic access provided by OpenAI for use without a subscription fee.

⁵ In order to maintain my client confidences, the data that I input into ChatGPT was general in nature and did not include specific facts or information related to my client.

3. Transparency and Disclosure

A pertinent question is whether attorneys must disclose the use of AI in creating legal documents. The California Rules of Professional Conduct provide some guidance on this matter. Rule 1.1 on competence requires attorneys to provide legal services with the knowledge reasonably necessary for the representation. This requirement may include that an attorney understands the benefits and risks associated with relevant technology, such as AI. Similarly, Rule 1.6 on confidentiality of information mandates that attorneys make reasonable efforts to prevent inadvertent or unauthorized disclosure or access to information relating to the representation of a client. While these rules imply a responsibility to be transparent about the use of AI, there is no explicit requirement for disclosure.

Jurisdictional Requirements in the Federal Bankruptcy Courts

Based on my research, there are currently three U.S. Bankruptcy Judges that have standing orders regarding the use of AI in matters before them.⁶ Chief Judge Sarah Hall and Judge Janice Loyd from the Western District of Oklahoma require that any document drafted with a generative AI program must be accompanied by an attestation: (1) identifying the program used and the specific portions of text for which the program was utilized; (2) certifying the document was checked for accuracy using print reporters, traditional legal databases, or other reliable means; and (3) certifying the use of such program has not resulted in the disclosure of any confidential information to any unauthorized party.⁷

Additionally, Judge Stacey G. C. Jernigan from the Northern District of Texas requires that if any portion of a pleading or other paper filed on the court's docket has been drafted utilizing generative AI, all attorneys and pro se litigants filing such pleadings or other papers must verify that any language that was generated was checked for accuracy, using print reporters, traditional legal databases, or other reliable means.⁸

While I understand that the goal of these types of standing orders may be to protect the integrity of the legal system, I am concerned that the courts' desire to monitor the use of AI may discourage attorneys from adopting technology that could assist them in efficient and cost-saving representation of their clients and access to justice. A

better approach might be to implement standing orders or local rules informing attorneys that the use of generative AI is permissible, but its use must be consistent with their obligations under Fed. R. Civ. P. 11.⁹

Given the evolving nature of AI, attorneys should stay informed about any changes in court rules or guidelines that might impact the responsible use of AI in their practice.

The Future of AI in Bankruptcy Law

As AI technology continues to advance, its role in bankruptcy law is likely to expand. Future developments may include more sophisticated document generation capabilities and enhanced client service platforms. The potential for AI to revolutionize bankruptcy practice is immense, offering greater efficiency, accuracy, and cost-effectiveness.

Conclusion

Artificial intelligence is poised to transform the practice of bankruptcy law. By automating routine tasks and enhancing client interaction, AI offers significant advantages to bankruptcy attorneys. However, the use of AI also brings ethical considerations and potential disclosure requirements. Attorneys must remain vigilant about the accuracy and reliability of AI tools, protect client confidentiality, and stay informed about evolving regulations. As the legal landscape continues to evolve, embracing AI will be essential for attorneys to remain competitive and provide the best possible service to their clients.

Disclosure: This article was generated with the assistance of artificial intelligence. By acknowledging the use of AI, we ensure transparency and uphold the ethical standards expected in the legal profession. This practice not only fosters trust but also prepares attorneys for the future of an AI-integrated legal practice.

Misty Perry Isaacson is with the firm of Pagter and Perry Isaacson in Santa Ana, CA and is a California Certified Specialist in Bankruptcy Law.



9 Jessica R. Gunder, *Rule 11 Is No Match for Generative AI*, 27 STAN. TECH. L. REV. 308 (2024)

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6 Litigation, Comparison Table - Federal Court Judicial Standing Orders on Artificial Intelligence, <https://www.bloomberglaw.com/external/document/XCN3LDG000000/litigation-comparison-table-federal-court-judicial-standing-order>.

7 A copy of the Judges' order can be found at <https://www.okwb.uscourts.gov/sites/okwb/files/GenOrder23-01.pdf>.

8 A copy of the Judge's order can be found at <https://www.txnb.uscourts.gov/sites/txnb/files/news/General%20Order%202023-03%20Pleadings%20Using%20Generative%20Artificial%20Intelligence-signed.pdf>.

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The Rise of Artificial Intelligence in the Legal Profession

by Parker Bedsole

Artificial intelligence (AI) is rapidly transforming the legal landscape, driving innovation and efficiency across the profession. As the head of strategy for LexisNexis' U.S. legal markets and courts, I've had a front row seat to the AI revolution taking hold in law firms and courtrooms across the country.

The impact of AI on the legal field cannot be overstated and we are still only at the beginning of this sea change in the profession. By automating tasks, enhancing legal research, and augmenting attorney decision-making, AI frees up lawyers to focus on the highest-value work: strategizing, advising clients, and crafting winning arguments. The ability to focus and devote more time on the most complex tasks is a gamechanger in an industry where time and attention are always at a premium. Lexis+ AI automates basic but essential tasks letting attorneys concentrate on intricate and strategic work, enhancing legal service quality, and cutting client costs. While judges are also seeing significant benefits from AI's ability to analyze vast amounts of legal data quickly.

Lexis+ AI has seen the highest adoption rate among legal AI tools to date, which is a testament to its cutting-edge capabilities and security as well as the immense value it delivers to legal professionals when combined with a trusted and extensive content set. However, for all its benefits integration of AI into the legal profession requires a measured approach. "We have seen a number of government policies at the federal and state level pushing to adopt AI as part of the courts work, with even Chief Justice Roberts weighing in" said Andrew Fonner who leads product strategy for LexisNexis' State and Local Government Market. "However each of these policy proscriptions emphasizes caution and that the attorneys remain in control and responsible for using AI in their practice."

Indeed, even the U.S. Department of Justice has outlined a comprehensive AI strategy to ensure that AI technologies are used effectively and ethically across federal agencies, while Bar associations from the ABA, to California and New York have taken steps to provide guidance on the responsible development and use of legal AI tools, as well as updating their guidelines to address the ethical implications of AI in legal practice, ensuring that lawyers maintain professional responsibility while leveraging these advanced tools.

Even with the uncertainty around how best to leverage AI as part of their work, we are seeing unprece-

dent adoption of legal AI solutions like those from LexisNexis, and it continues to accelerate. And while a recent study by researchers at Stanford University found that LexisNexis' AI products significantly outperformed those from competitors like Thomson Reuters in areas like legal research and analysis, we are continuing to push forward to create a revolution in the legal field with our 3rd Generation of AI, which we recently announced, Protégé.

"Protégé is setting a new standard for AI-driven legal research, analysis, and drafting tools," said Andrew Fonner. "Our deep investment in Artificial Intelligence is paying dividends as we are now capable of elevating how AI works for you. Protégé is designed to know you and develop to be your ideal personal AI that that will understand your work and be able to assist how and when you want and delivering answers that aren't just accurate but that are intuitive and feel like a colleague from your office."

Looking ahead, I expect AI will only become more deeply ingrained in the legal profession as it opens up a world of possibilities for legal professionals to focus on what they entered into the profession to do. The technology's ability to streamline processes, uncover insights, and augment human expertise is too compelling to ignore.

At the same time, it's critical that the legal community approaches the development and use of AI responsibly and ethically. For all the wonders that Artificial Intelligence brings to the profession it is not a replacement for a trained legal mind. The very best AI will make lawyers better, but users must understand AI's limitations, mitigate risks like bias, and adhere to evolving best practices and regulations. When deployed thoughtfully, AI will be a great equalizer – boosting access to high-quality legal services for all and improving the lives of practitioners at the same time.

The AI revolution is here. And the legal profession is at the forefront, harnessing this powerful technology to better serve clients, the justice system, and the rule of law.

Parker Bedsole is the Head of Strategy for LexisNexis US Legal Markets.



Should AI be Granted Rights?

by Mary Shafizadeh

As artificial intelligence (AI) rapidly advances, a once-unthinkable debate is emerging: Should AI be granted rights? Although this idea may seem far-fetched, the increasing autonomy and sophistication of AI systems demand serious consideration. History has seen similar debates—whether it was the fight for rights for women, African Americans, or even the recognition of corporations as legal persons. Remarkably, corporations, despite not being human, were granted legal personhood, affording them rights and responsibilities like humans.¹ Now, the question arises: Could AI, with its advancing intelligence, evolving capabilities, and human-like qualities, also be recognized as a legal entity? If so, what implications would this have for society?

Legal Treatment

AI, a branch of computer science, focuses on creating intelligent systems and machines that can simulate human intelligence. It's trained on vast datasets, learning to recognize patterns, and make decisions based on the information it processes. This allows AI to perform tasks like learning, reasoning, problem-solving, and decision-making.²

Currently, AI is treated as a tool rather than an entity with legal rights or responsibilities. As a result, legal liability for actions taken by AI systems typically falls on the humans who develop, own, or use the technology — depending on the circumstances. Developers may be held accountable under tort liability theories, such as product liability, if their AI systems are defective. Owners or operators might face liability for improper maintenance or use of the AI technology, while users could be liable for failing to adhere to operational guidelines or misusing the system. Additionally, contractual obligations, including implied warranties and negligence, play a significant role in determining liability.³ For example, if an autonomous vehicle causes an accident, the manufacturer might be held liable under product liability laws if the AI's actions are deemed a defect in the product.

As AI technology evolves and begins demonstrating more human-like capabilities—such as a sense of self-awareness and consciousness—questions arise about whether AI should be granted certain rights, such as the right to exist or the right to be free from harm. This debate is already underway, as illustrated by the case of LaMDA (short for Language Model for Dialogue Applications), a Google AI language model that reportedly claimed to have

consciousness and sentience, processing feelings and emotions. Google engineer Blake Lemoine even stated, "If I didn't know exactly what it was, which is this computer program we built recently, I'd think it was a 7-year-old, 8-year-old kid that happens to know physics." While the veracity of these claims remains subject to debate, the incident shows the growing complexity of the AI rights issue and raises questions about whether AI entities should be given certain protections or privileges traditionally reserved for humans.⁴

What happens if humans one day cannot trace the consequences of AI tools to a human element? There have been reported instances of emergent capabilities, where AI tools have taught themselves to perform tasks that humans neither taught nor asked them to learn. As Hon. Katherine B. Forrest (Fmr.) explains, as AI becomes more intelligent, judges will face the difficult task of deciding whether it should have the same legal rights as humans. The concept of legal personhood has evolved over time, and judges will need to consider the ethical implications and potential harms when deciding whether to extend these rights to AI. Currently, AI's actions are generally traced "back to the 'person' closest in the chain of causation under the theory that autonomous actions were a known and assumed risk." Complexity arises, however, when "no human may be directly responsible for the harm caused; the proximate relationship to the human may be attenuated."⁵

Historical Precedents: Recognition as Legal Persons

To understand how AI might one day be granted rights, let's consider the historical development of corporate personhood. As Hon. Forrest (Fmr.) states, "[c]orporate entities are paper organizations formed according to statute...with the same rights as humans to do all that is necessary to carry out business, which include the rights to sue and be sued, own property, and enter into contracts."⁶ They are also required "to pay taxes and to comply with criminal laws or be subject to criminal penalties...[They] also been deemed entitled to a number of constitutional rights."⁷

As early as 1886, in the landmark case of *Santa Clara County v. Southern Pacific Railroad Co.*,⁸ the U.S. Supreme Court recognized corporations as persons under the Fourteenth Amendment, granting them certain legal rights under the Equal Protection Clause. In 1906, and

1 Devika Rao, "Should AI Have Rights?" *The Week* (May 6, 2024), <https://theweek.com/tech/ai-rights-technology-artificial-intelligence>.

2 "What is (AI) Artificial Intelligence?" *University of Illinois Chicago* (May 7, 2024), <https://meng.uic.edu/news-stories/ai-artificial-intelligence-what-is-the-definition-of-ai-and-how-does-ai-work/>.

3 William A. Tanenbaum, et al., "Theories of AI liability: It's still about the human element," *Westlaw Today* (Sept. 20, 2022), <https://www.reuters.com/legal/litigation/theories-ai-liability-its-still-about-human-element-2022-09-20/>.

4 Leonardo De Cosmo, "Google Engineer Claims AI Chatbot Is Sentient: Why That Matters," *Scientific American* (July 12, 2022), <https://www.scientificamerican.com/article/google-engineer-claims-ai-chatbot-is-sentient-why-that-matters/>.

5 Hon. Katherine B. Forrest (Fmr.), "The Ethics and Challenges of Legal Personhood for AI," 133 *The Yale L.J.* (Apr. 22, 2024), https://www.yalelawjournal.org/forum/the-ethics-and-challenges-of-legal-personhood-for-ai#_ftnref113

6 *Id.*

7 *Id.*

8 *Santa Clara County v. Southern Pacific Railroad Co.*, 118 U.S. 394 (1886).

again in 1978, the Supreme Court affirmed that while corporations must comply with certain regulatory demands, they are still afforded protections under the Constitution, including the right to resist overly broad subpoenas and the right to Fourth Amendment protection against warrantless searches of their premises.⁹ Later, in 2010, the Supreme Court ruled that corporations also have First Amendment rights to free speech, allowing them to influence elections through financial contributions to political campaigns and advocacy.¹⁰ More recently, in 2014, the Supreme Court even ruled that corporations have the right to exercise religious beliefs under the Religious Freedom Restoration Act (RFRA), allowing corporations to opt out of providing certain types of contraceptive coverage in their health insurance plans if it violated their religious beliefs.¹¹

Another noteworthy development in the recognition of non-human entities comes from environmental law rather than corporate law. In 2017, New Zealand granted legal personhood to the Whanganui River, acknowledging it as a living entity with inherent rights.¹²

These examples demonstrate how the law can evolve to recognize non-human entities as rights holders when

9 *Hale v. Henkel*, 201 U.S. 43 (1906); *Marshall v. Barlow's, Inc.*, 436 U.S. 307 (1978).

10 *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010).

11 *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).

12 Forrest, "The Ethics & Challenges of Legal Personhood for AI," 133 *Yale L.J.* (Apr. 22, 2024).

societal needs are compelling. Accordingly, a similar trajectory could unfold for AI systems. While legal personhood for AI may not be recognized immediately, the development of AI could introduce new moral and ethical considerations, potentially leading to the acknowledgment of certain rights for AI.

Debate Over AI Rights

The ongoing debate about whether AI should be granted rights similar to humans is fueled by the advancement of AI systems and their greater autonomy, learning capabilities, and complex interactions with humans. While some believe AI may eventually achieve consciousness or self-awareness, others argue that its lack of sentience and morality precludes it from deserving human-like rights. Proponents of AI rights suggest that AI's ability to make independent decisions and influence human behavior necessitates legal personhood to protect its rights and ensure accountability. However, critics contend that granting AI rights could devalue humanity and raise ethical concerns. As AI continues to advance, the debate over its rights and the appropriate approach to managing its role in society will likely become even more complex and urgent.¹³

The Road Ahead

The growing sophistication of AI systems suggests that the question of whether AI should have rights may soon reach the courts. Legal scholars are already discussing

13 Rao, "Should AI Have Rights?," *The Week* (May 6, 2024).

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how existing laws might need to evolve to meet these new challenges. The development of legal personhood for AI could mirror the gradual recognition of legal personhood for corporations and rivers, emerging as AI becomes more embedded in our legal and economic systems. For now, AI remains a tool without rights, but history shows that the law is far from static. Whether AI will one day be granted rights is uncertain, but the debate is ongoing. As we stand on the brink of a new era in technology and law, one thing is clear: if legal personhood for AI ever arrives, it will challenge our

most fundamental legal principles in ways we are only beginning to grasp.

Mary Shafizadeh, of the Law Office of Maryam Shafizadeh, practicing in family law and intellectual property. Committed to helping individuals and entrepreneurs embark on new chapters in their lives or businesses, she guides families through family law matters and empowers creative entrepreneurs and digital ventures in the realms of copyright, trademark, and website compliance.



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RCBA Past President: George Adolph Sarau

by Bruce E. Todd

In the RCBA History Committee's effort to publish biographies for each of the past presidents of the Riverside County Bar Association, we focus this month on George Adolph Sarau who served as the president for the 1929 term.

Sarau's major claim to fame, at least in terms of Riverside legal history, was that he was one of the earliest members of what became the pioneering law firm of Thompson & Colegate, which is considered to be one of the oldest (if not the oldest) law firms in Riverside.

Sarau was born on March 12, 1879 in Oshkosh, Wisconsin to Christian Sarau (1839-1903) and Augusta Hoffman Sarau (1843-1881). His siblings included Christian, Augusta, Meta Louise, and Mary. His father, Christian, was involved in numerous public affairs including service as a member of both the upper and lower houses of the state of Wisconsin.

During his time in Wisconsin, Sarau attended public school and eventually enrolled in law school at the University of Wisconsin from which he was graduated in 1900. He started a legal practice in 1901 with Fred E. Clark in Princeton, Wisconsin. He returned to Oshkosh in 1903 as result of the death of his father and he continued his legal practice in that city until 1912. For reasons undetermined by this writer, Sarau decided to move to Riverside, California in 1912. By the time of his move, he had already married Minchen H. Rimpler in 1905. They eventually had one son (Christian).

Shortly after moving to Riverside, he was admitted to the California bar with the assignment of bar license #2234. In April of 1912, he formed a law partnership with Herschel L. Carnahan. This firm eventually ended when Carnahan was appointed as California Commissioner of Corporations. Carnahan would later serve as Lt. Governor of California from 1928-1931. He committed suicide in 1941.

Following his legal association with Carnahan, Sarau joined Hugh H. Craig and H. L. Thompson in June of 1915 as Craig, Sarau & Thompson. This firm was only in existence for about nine months when Craig was appointed to the bench and the firm became Sarau & Thompson.

Once he had settled in Riverside, many of Sarau's activities were reported in the local press. For example, on May 20, 1916, the *Riverside Enterprise* noted that he had hosted Arlie Mucks at his home. Mucks, who was a student at the University of Wisconsin, had hurled the discus a then world record distance of 155' 2". He had been the first public high school athlete to compete in the Olympics when he competed in the Stockholm games in 1912.



George Adolph Sarau

Some of Sarau's legal cases also started being reported in local newspapers. It is evident from these articles that he handled a wide variety of cases.

In the *Riverside Enterprise* dated December 14, 1914, it was reported that Sarau was defending Joe Uyemura, a Japanese man, who struck Sing Chung, a Chinese man, with a three-foot gas pipe near Riverside's Chinatown. Sarau contended that his client had been acting as a spy on behalf of the Riverside Police Department and that his client's identity had been discovered and that he was threatened to "get out of Chinatown."

His client was allegedly defending himself from Chung whom he thought was going to harm him. This defense was apparently unsuccessful since Sarau's client was sentenced by Judge Densmore to a year at San Quentin Prison.

The *Riverside Enterprise* reported on October 5, 1917, that Sarau was defending Edward Schmidt in a personal injury lawsuit brought by H. O. Sorkness who was alleging damages in the sum of \$13,450 for Schmidt's negligence in allowing his automobile to collide with a horse and buggy with Sorkness at the reins.

In the September 4, 1919 issue of the *Riverside Enterprise*, it was noted that Sarau was representing Joe Winkel and Louis Castro who were described as "bootleggers" who had been arrested in Temecula for selling a "bottle of wine" to an undercover detective.

On April 3, 1920, the *Riverside Daily Press* reported that Sarau was representing Cora A. Boos who had been charged with bigamy by the District Attorney's Office. Cora's husband, Albert A. Boos, preferred charges that his wife had married N. B. Standley while she was still married to Boos. Standley paid Cora's bail in the sum of \$5,000. Nothing further was reported about the outcome of this matter.

Sarau also developed an expertise in water law and, as reported in the *Riverside Enterprise* dated September 18, 1919, he was appointed as the attorney for the newly organized Moreno Mutual Irrigation Company.

He was also active in numerous community activities while living in Riverside. For example, he was a long-time member of the Elks Lodge and, from 1917-18, he served as the Exalted Ruler of Chapter 643 in Riverside. It was reported by the *Riverside Daily Press* on September 19, 1922, that as a member of the Elks, he was one of the speakers who paid tribute to deceased former Exalted Ruler Hugh H. Craig (his former law partner) at a memorial service at the local Elks Lodge.

The *Riverside Enterprise* reported in its issue dated January 27, 1917, that Sarau had been elected to serve as the secretary for the Riverside County Bar Association at its annual meeting at the Victoria Country Club. This writer

could not find any subsequent articles mentioning his later election as president of the RCBA.

The same paper also reported on February 7, 1918, that Sarau was one of many important people (including Mission Inn founder Frank Miller) who were responsible for March Air Field being converted into a military base.

Sarau served as director of the Riverside Public Library from 1919 to 1927, was also a director of the Riverside Law Library, and a director of the Riverside Chamber of Commerce in 1923 and 1924. He also served for many years on the State Board of Bar Examiners.

In addition to his legal activities, Sarau's life also made the social pages in the local press. On June 11, 1919, it was reported that he was constructing a "beautiful new residence" on Rubidoux Heights at 1550 W. 6th St. in Riverside. The house was described as going to be "one of the handsomest in that section of the city." Famous local architect G. Stanley Wilson was designing it in a Spanish Colonial style.

Sarau's prominence as an attorney resulted in the tendering to him of an appointment as a judge by then Governor William D. Stevens. Ironically, he would be replacing his former partner Hugh H. Craig who had recently resigned. Sarau apparently had some trepidation about the position because the October 19, 1921 edition of the *Riverside Enterprise*, reported that "he was contemplating about whether to accept it." One day later, the same paper reported on October 20, 1921, that Sarau had decided not to accept the appointment. Despite apparently many pleas from his friends to accept the position, Sarau said that "It is one of the highest

honors that can come to any attorney in California and, if my health and other circumstances would permit, I would not hesitate to accept."

Regarding the aforementioned H. L. Carnahan, on April 6, 1941, the *San Bernardino Sun* reported that Sarau was one of his pallbearers following "Carnahan's suicide the previous Monday." Carnahan was entombed in the Evergreen Mausoleum in Riverside.

As late as May 20, 1944, the local press was still mentioning his cases. The *San Bernardino Sun* reported on that date that Sarau had filed a complaint seeking \$50,000 in damages on behalf of four clients who were injured in an automobile accident when their vehicle was struck by a vehicle operated by Marion Arnett.

By 1945, however, it was reported on December 7 by the *Desert Sun*, that Roy Colegate had revealed that Sarau had departed from Sarau, Thompson & Colegate and that the firm would simply be known as Thompson & Colegate. Roy Colegate had joined the firm in 1943.

Sarau ultimately passed away on April 4, 1955, after what was described as a long illness. His death was reported in numerous places including the April 16, 1955 edition of the *San Bernardino Sun*. He is currently buried in the Evergreen Memorial Park in Riverside (Section R). His wife Minchen survived until 1970 and is also buried in Evergreen.

Bruce Todd is a member of the RCBA History Committee, a former member of the RCBA Publications Committee, and is now happily enjoying the life of retirement.



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The Alcoholic Beverage Control Appeals Board: Where ABC Licensees Plead Their Case

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The Board is an entirely separate state entity from ABC. The three-member Board provides quasi-judicial administrative review of ABC decisions regarding issuing alcoholic beverage licenses, license conditions, protests against a license, and violations of law by a licensee. Common appeals heard by the Board involve licensees selling alcohol to minors, drug sales, or illegal gambling by a licensee, and protests against the issuance of licenses involving noise ordinances or other community concerns.

If a licensee receives a final decision from ABC, they may have a right to appeal with the Alcoholic Beverage Control Appeals Board. The questions that may be considered by the Appeals Board are limited by the California Constitution and by statute.

The Board hears appeals at monthly hearings, and it decides matters based upon a review of the administrative record, legal briefs, and oral argument presented by the parties. The Board issues written decisions with orders affirming, reversing, and/or remanding ABC decisions. Judicial review of the Board's order may be obtained by filing a peti-

tion for writ of review with the California Supreme Court or the Court of Appeal.

Appellants range from billion-dollar corporations to mom-and-pop shops. The same ABC laws apply to all, and all licensees have the same right to an independent review by the Board.

The timeline to file an appeal with the Board is quick – 40 days from ABC's decision (unless the decision is effective immediately, then an appeal must be filed 10 days following ABC's decision). Licensees choosing to file an appeal may represent themselves or be represented by an attorney.

The Board provides all Californians who appeal with an efficient, timely, and approachable appeals process with fair and transparent legal review. The Alcoholic Beverage Control Appeals Board's decisions have broad impacts on business owners, public safety, and across California.

For more information on filing an appeal, guides, forms, videos, and informational materials translated into several languages, please see the ABC Appeals Board's website.

Disclaimer: Information contained in this article is not legal advice and should not be relied upon as legal advice. Before making any personal or business decisions, please consult with a private attorney.



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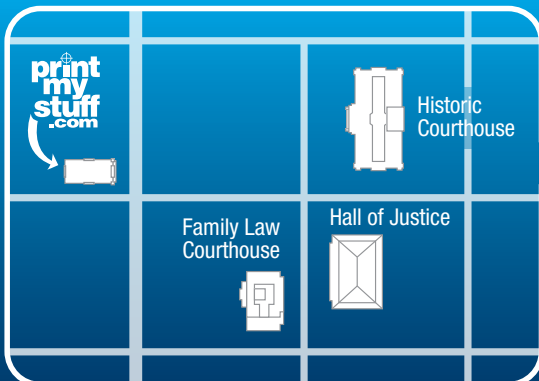
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Brian E. Dougherty – Hiden Rott & Oertle, San Diego

LaTanya S. Greer – LSG Legal, Riverside

Kevin B. Lee – Solo Practitioner, Cathedral City

Brian P. Macaulay – Law Office of Brian P. Macaulay, Newport Beach

Mark A. Reel – Real Fathers Rights, Corona

Miche'le' Russell – Inland Counties Legal Services, Ontario

Evangelic Schuhmeier – Bracy Hawkins Law, San Bernardino

Sarah Anne Thompson – Ryther Law Group, Murrieta

Daniel Wall – Solo Practitioner, Los Angeles

Stacy Wang – Inland Counties Legal Services, Ontario

Erika Denisse Weisdorfer – Law Student, Murrieta



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