
AN ANALYSIS OF THE CURRENT PROBLEMS FACING ADVOCATES AND CLIENTS IN COURT PROCEEDINGS

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ABSTRACT

Legal practice is being reshaped by artificial intelligence at a pace few in the profession anticipated. Advocates now turn to AI for research, drafting, and case analysis, while courts and regulators are still working out what competence and fairness mean in this new setting. This paper sets out working definitions of the key terms in the debate, states the aims and method of the study, and then works through the problems that generative and predictive AI tools currently create for advocates on one hand and for the clients they serve on the other. On the advocate's side, the discussion covers the growing number of court sanctions tied to fabricated AI citations, the strain AI places on confidentiality and privilege once client data passes through third-party systems, open questions about supervision and competence, and the cost pressure that falls disproportionately on smaller firms. On the client's side, the paper looks at algorithmic bias in AI-assisted decisions, the difficulty of challenging an opaque automated output, uneven access to AI-enhanced services, and gaps in what clients are actually told about how AI is being used in their matter. A review of the regulatory response, bar opinions, court rule amendments, and pending legislation, leads into a set of practical safeguards for integrating AI into practice responsibly.

Keywords: artificial intelligence, legal ethics, access to justice, AI hallucination, legal profession, algorithmic bias, professional responsibility

1. Introduction

Law firms have generally been slow and careful about adopting new technology. That pattern broke over the past three years, as generative AI moved quickly into law firms, in-house legal teams, and even the courts themselves.¹ Lawyers now use large language models to draft pleadings, summarise discovery, research case law, and even forecast likely outcomes. Some self-represented litigants who cannot afford a lawyer have started leaning on the same tools. Vendors, for their part, have pitched AI as a way to cut cost, save time, and chip away at the justice gap.

The trouble is that adoption has run ahead of the profession's ability to manage what comes with it. A public tracker now lists roughly 1,490 court decisions worldwide, over 1,000 of them in the United States, where a party relied on AI-hallucinated material and the court had to respond.² Clients face a related but different set of risks: bias baked into automated decisions, decisions they cannot fully see the reasoning behind, and unequal access to whatever benefits AI is supposed to bring. What follows is an attempt at a clear-eyed look at these problems, neither dismissing the technology nor waving it through unexamined.

The paper is organised as follows. Section 2 sets out working definitions. Section 3 states the objectives and method. Section 4 sketches how AI is currently used in practice. Section 5 works through the problems facing advocates, and Section 6 turns to clients. Section 7 reviews the regulatory response so far, Section 8 offers recommendations, and Section 9 closes with some concluding thoughts.

2. Definitions

For the purposes of this paper, the following terms bear the meanings set out below unless the context otherwise requires:

“Artificial Intelligence (AI)” means a computer system capable of performing tasks that typically require human intelligence, including pattern recognition, natural-language processing, prediction, and the generation of text, on the basis of statistical models trained on

¹See The Legal Prompts, AI Hallucinations in Legal Work: How to Avoid Getting Sanctioned (Mar. 14, 2026), <https://thelegalprompts.com/blog/ai-hallucinations-legal-work-avoid-sanctions-2026> (reporting that 79% of lawyers use AI tools in some capacity, per the 2025 ABA TechReport).

²GC AI, AI Hallucination Legal Cases: A Sanctions Tracker (2026), <https://gc.ai/blog/ai-hallucination-legal-cases> (data as of May 2026).

large datasets.³

“Generative AI” means a subset of artificial intelligence that produces novel text, images, or other content in response to a user prompt, including large language models such as those underlying general-purpose AI assistants and purpose-built legal AI platforms.

“Hallucination” means the generation by an AI system of content that is factually incorrect or entirely fabricated, including invented case citations, non-existent statutory provisions, or fictitious quotations, presented in a manner that appears plausible and stylistically authentic.

“Advocate” means any lawyer, barrister, solicitor, or other person authorised to represent a party before a court, tribunal, or other adjudicative body, and, unless the context requires otherwise, includes the law firm or chambers through which that person practises.

“Client” means the person or entity on whose behalf an advocate provides legal advice or representation, including both represented parties and, where relevant, self-represented litigants who interact directly with AI tools in place of counsel.

“Algorithmic Bias” means a systematic and repeatable error in an AI system's output that produces unfair outcomes for particular individuals or groups, typically arising from unrepresentative, incomplete, or historically discriminatory training data.

“Legal Practice” means the provision of legal advice, representation, drafting, research, or advocacy services, whether by a licensed advocate, an in-house legal department, or a legal-aid or pro bono provider.

“Access to Justice” means the ability of individuals and entities to obtain a fair hearing and effective legal remedy, including the practical ability to afford, understand, and navigate legal processes.

“Confidentiality” means the ethical and legal obligation of an advocate not to disclose information relating to the representation of a client without the client's informed consent, subject to limited recognised exceptions.

³Cf. Nat'l Inst. of Standards & Tech., AI Risk Management Framework 1.0, at 1 (2023) (defining an AI system broadly as an engineered system that generates outputs, such as predictions or content, for a given set of human-defined objectives).

“Privilege” means the legal protection that shields certain confidential communications between an advocate and a client, or work prepared in anticipation of litigation, from compelled disclosure.

“Human-in-the-Loop Supervision” means a workflow in which a qualified human reviewer independently verifies AI-generated output against primary sources before that output is relied upon, filed, or communicated to a client or a court.

3. Objectives and Methodology

This paper has three objectives: first, to identify and classify the principal problems that AI adoption currently creates for advocates in the discharge of their professional duties; second, to identify the corresponding problems faced by clients, including self-represented litigants, whose interests are affected by AI use in legal practice; and third, to evaluate the adequacy of the regulatory and ethical response to date and to propose practical safeguards.

The paper adopts a doctrinal and analytical methodology. It draws on reported judicial decisions, bar association ethics opinions, procedural rule amendments, pending legislation, and secondary legal-technology commentary published through mid-2026, synthesising these sources to identify recurring patterns rather than conducting original empirical data collection. The analysis is confined to civil and criminal legal practice in common-law jurisdictions, with particular reference to the United States, and does not purport to offer a comprehensive comparative survey of every national AI-regulation regime.

4. The Expanding Role of AI in Legal Practice

AI tools are now embedded across the litigation and transactional lifecycle. In legal research, AI-assisted platforms built on large language models are used alongside, and increasingly integrated into, traditional databases to summarise case law and generate first-draft arguments. In document review and e-discovery, machine learning has been used for over a decade to classify and prioritise documents, and generative AI now drafts summaries of voluminous material. In transactional practice, AI tools review and generate contract language, flag non-standard clauses, and assist due diligence. In court administration, AI-enabled transcription, translation, and case-management tools are being piloted to reduce backlogs.

Independent evaluation has found that error rates on legal queries vary sharply by tool type:

general-purpose large language models have been found to err on 69 to 88 percent of legal queries, compared with materially lower error rates for AI research tools built specifically for legal use.⁴ This gap between general-purpose and purpose-built tools recurs throughout the problems considered in Sections 5 and 6 below.

5. Current Problems Facing Advocates

5.1 Fabricated Citations and the Sanctions Crisis

The most visible problem confronting advocates is the tendency of general-purpose generative AI systems to produce fabricated case citations, invented quotations, and non-existent statutory provisions that nonetheless appear stylistically authentic.⁵ Sanctions have escalated markedly since the earliest reported case in 2023, moving from an initial US\$5,000 fine to individual sanctions exceeding US\$55,000 in more recent matters.⁶ Courts have also shown that transparency alone does not guarantee leniency: the Sixth Circuit removed counsel from a case, denied all compensation, and triggered multiple disciplinary referrals notwithstanding the attorney's candour and clean record, while attorneys who were evasive or combative when questioned about AI use received the harshest combined penalties, including punitive monetary sanctions of US\$15,000 each.⁷

Table 1 below illustrates the range of judicial responses to AI-related failures reported between 2023 and mid-2026, spanning both hallucination sanctions and the unsettled question of privilege over AI-assisted work.

⁴HAQQ Legal AI, AI Hallucinations in Law: 1,313 Court Cases and Counting (May 19, 2026), <https://haqq.ai/blog/when-ai-lies-to-the-court> (summarising Stanford RegLab error-rate findings).

⁵Spellbook, AI Hallucinations in Legal Work: Why Lawyers Must Watch for Them (June 20, 2026), <https://spellbook.com/learn/ai-hallucination-in-law>.

⁶HAQQ Legal AI, *supra* note 4 (reporting an eleven-fold escalation in sanctions between 2023 and 2025).

⁷Norton Rose Fulbright, AI in Litigation: Update on Gen AI Sanctions in 2026 (June 2026), <https://www.nortonrosefulbright.com/en-us/knowledge/publications/792d8bf3/ai-in-litigation-update-on-gen-ai-sanctions-in-2026> (discussing *United States v. Farris* and *Whiting v. City of Athens, Tennessee*).

Table 1: Illustrative Judicial Responses to AI Use in Litigation

Case	Jurisdiction / Year	Nature of AI Failure	Outcome
Mata v. Avianca, Inc.	S.D.N.Y., 2023	Six fabricated case citations generated by ChatGPT submitted in a brief	US\$5,000 sanction; public reprimand
Whiting v. City of Athens, Tennessee	2026	Counsel refused to answer the court's questions about AI-generated errors	US\$15,000 punitive sanction per attorney; fees awarded
United States v. Farris	6th Cir., 2026	Hallucinated authority; candid disclosure by counsel	Counsel removed from case; compensation denied; disciplinary referral
Fletcher v. Experian Info. Solutions, Inc.	5th Cir., 2026	Sixteen fabricated quotations in a reply brief; misleading response to the court	Sanctions and referral proceedings
Heppner v. [redacted]	S.D.N.Y., Feb. 2026	Privilege dispute over consumer AI exchanges	Privilege denied for consumer AI exchanges
Warner v. Gilbarco	E.D. Mich., Feb. 2026	Privilege dispute over AI-assisted work product	Privilege upheld; AI treated as a "tool, not a person"

This places advocates in a genuinely difficult position: the profession's traditional emphasis on efficiency and cost pressure encourages the use of AI drafting tools, yet the standard of verification now expected by courts requires the same rigour, or greater, than traditional research.

5.2 Duty of Competence and Supervision

Professional responsibility regimes were not drafted with generative AI in mind, and bar associations have had to extend existing duties of competence, supervision, and candour to cover it. Guidance issued by the American Bar Association treats the duty of technological competence under Model Rule 1.1 as encompassing an obligation to understand the limitations of AI tools and to verify AI-generated work product before relying on it.⁸ Several state courts

⁸ Am. Bar Ass'n, Formal Op. 512 (2024); see also GC AI, AI Legal Ethics in 2026: Six Cases, Four Rules, One

have gone further: an amendment to Florida's Rules of General Practice and Judicial Administration, effective June 15, 2026, provides that any attorney signing a filing is understood to certify that the legal authorities cited exist and are accurately described, regardless of whether AI was used to prepare the document.⁹ Federal Rule of Civil Procedure 11 has been applied on the same terms, requiring that every filing be supported by existing law or a nonfrivolous argument for its extension, regardless of the drafting method used.

5.3 Confidentiality, Privilege, and Data Security

A second structural problem concerns client confidentiality. Inputting client information into a consumer-grade or unvetted AI tool risks breaching the duty of confidentiality under Model Rule 1.6, since many general-purpose AI platforms retain, and in some cases use, submitted data to further train their models unless enterprise-level protections are contractually secured.¹⁰ Courts have not yet settled how privilege doctrine applies to AI-assisted work: two federal courts issuing rulings within days of each other in February 2026 reached opposite conclusions, one declining to extend privilege to consumer AI exchanges and the other protecting AI-assisted work product on the reasoning that AI tools are instruments rather than persons whose involvement would waive privilege.¹¹ Until this split is resolved, advocates face genuine uncertainty about which categories of AI-assisted material remain protected from disclosure.

5.4 Cost, Access, and the Two-Tier Profession

AI adoption is not cost-neutral. Enterprise-grade legal AI platforms with jurisdiction-aware sourcing, audit trails, and contractual confidentiality protections carry licensing costs that large firms can absorb more easily than solo practitioners and small firms, many of whom serve precisely the lower-income clients for whom cost efficiency matters most. This creates a risk of a two-tier profession in which well-resourced firms use verified, supervised AI systems while smaller practices either forgo the technology's efficiency benefits or rely on cheaper, unvetted consumer tools that carry a materially higher risk of hallucination and confidentiality

Policy Template (June 5, 2026), <https://gc.ai/blog/ai-legal-ethics>.

⁹Clio, AI Ethics in Law (2026): ABA Guidance & State Requirements (June 12, 2026), <https://www.clio.com/resources/ai-for-lawyers/ethics-ai-law/> (discussing Fla. R. Gen. Prac. & Jud. Admin. § 2.515(d)(2)).

¹⁰Clio, AI Ethics in Law (2026): ABA Guidance & State Requirements (June 12, 2026), <https://www.clio.com/resources/ai-for-lawyers/ethics-ai-law/>.

¹¹GC AI, AI Legal Ethics in 2026: Six Cases, Four Rules, One Policy Template (June 5, 2026), <https://gc.ai/blog/ai-legal-ethics> (discussing Heppner (S.D.N.Y. Feb. 2026) and Warner v. Gilbarco (E.D. Mich. Feb. 2026)).

breach, as reflected in the error-rate disparity noted in Section 4 above.

5.5 Overreliance and the Erosion of Core Skills

A further, less quantifiable problem is the risk that habitual reliance on AI-generated first drafts erodes the research, analytical, and writing skills that verification of AI output actually requires. Junior lawyers who learn to practise in an AI-saturated environment may have fewer opportunities to develop the independent research competence needed to catch a hallucinated citation or a subtly mischaracterised holding, creating a generational skills gap at precisely the moment when supervisory verification is most needed.

6. Current Problems Facing Clients

6.1 Algorithmic Bias and Fairness

Clients face risks that mirror, but are distinct from, those facing advocates. Where AI systems are used to inform decisions in sensitive areas such as sentencing, bail, custody, or benefits determinations, there is a well-documented risk that training data encoding historical patterns of discrimination will reproduce or amplify those patterns in automated outputs.¹² Commentators note that bias in legal AI can distort professional judgment, mislead decision-makers, and erode public trust in the fairness of the justice system, particularly where the affected clients belong to groups already underrepresented in the data used to train the underlying models.

6.2 Transparency and Due Process

Closely related is the problem of opacity. Many AI systems do not readily expose the reasoning behind a given output. Where such tools inform decisions that affect a litigant's liberty, custody, or property, this opacity raises genuine due-process concerns, since a client or their counsel may be unable to meaningfully challenge the basis for an adverse automated assessment if the underlying logic cannot be examined.¹³ Scholarship on this question has cautioned that overemphasis on efficiency and data-driven decision-making in sensitive areas such as family law or criminal sentencing risks displacing the empathy and contextual moral judgment that

¹²Nexter AI Group, Bias and Ethical Concerns in Legal AI: Building Trust in the Age of Algorithms (Apr. 7, 2026), <https://nexteraigroup.com/bias-ethical-concerns-legal-ai/>.

¹³J. Am. Acad. Matrimonial Law., The Promise and Perils of AI in Access to Justice, 38 J. Am. Acad. Matrim. Law. 507, 511 (2026).

has traditionally justified the legitimacy of legal outcomes.¹⁴

6.3 Informed Consent and the Client Relationship

Clients also have an interest in knowing when and how AI is being used in their matter. The duty under Model Rule 1.4 to keep clients reasonably informed has been read to extend to AI use where it materially affects the services provided, the fees charged, the confidentiality of client information, or an important decision in the matter.¹⁵ In practice, however, disclosure of AI use is inconsistent, and clients frequently have no visibility into whether a draft document, a risk assessment, or a settlement recommendation was substantially AI-generated, nor into what verification, if any, was performed before it was relied upon.

6.4 Unequal Access to AI-Enhanced Legal Services

AI is frequently promoted as a partial solution to the access-to-justice gap, on the theory that AI-assisted drafting and research can lower the cost of legal services and extend meaningful assistance to self-represented litigants who cannot afford counsel.¹⁶ The evidence to date is mixed. Self-represented litigants make up the majority of parties sanctioned or otherwise penalised for submitting AI-hallucinated material to courts, often because they lack the training to recognise or verify a fabricated citation, unlike a supervised associate at a firm.¹⁷ Without accompanying investment in digital literacy and court-level guidance for self-represented litigants, AI risks widening rather than narrowing the justice gap.

6.5 Data Privacy

Finally, clients bear the downstream risk of any confidentiality lapse discussed in Section 5.3 above. Sensitive personal, medical, financial, or family information disclosed to counsel may be exposed to third-party AI vendors without the client's knowledge or meaningful consent, particularly where engagement letters do not yet address AI use explicitly. Clients typically have no direct relationship with, or recourse against, the AI vendor itself, leaving the supervising lawyer as the sole point of accountability for a data-handling chain the client cannot

¹⁴Id. at 527.

¹⁵Clio, *supra* note 9.

¹⁶J. Am. Acad. Matrimonial Law., *supra* note 13, at 507.

¹⁷GC AI, *supra* note 2.

see.

7. The Emerging Regulatory and Ethical Response

Professional and legislative bodies have begun to respond, though the response remains fragmented across jurisdictions. The American Bar Association's Formal Opinion 512 extends the duties of competence, confidentiality, and supervision to generative AI use.¹⁸ Bills such as the Research and Oversight of AI in Courts Act of 2026, introduced in both houses of Congress in March 2026, propose a task force to study the legal and ethical implications of AI speech-recognition tools used in the federal courts, while current ABA policy urges courts and lawyers to address bias, transparency, and vendor oversight without yet calling for comprehensive federal legislation.¹⁹ Internationally, the European Union's Artificial Intelligence Act and guidance from the Solicitors Regulation Authority in England and Wales impose comparable obligations of human oversight, bias verification, and client transparency.²⁰

Taken together, this patchwork of opinions, rule amendments, and proposed legislation demonstrates that regulators recognise the problems described above, but the underlying obligations are still being worked out case by case, jurisdiction by jurisdiction, and the pace of formal rulemaking continues to lag behind the pace of adoption in practice.

8. Recommendations

Addressing the problems identified in this paper requires coordinated action at the level of individual practice, firm policy, and regulation.²¹

- **Mandatory independent verification:** Firms should require that any AI-generated citation or factual assertion be checked against a primary source in a separate review session before filing, rather than relying on the drafting session in which the content was generated.

¹⁸Am. Bar Ass'n, Formal Op. 512 (2024).

¹⁹Am. Bar Ass'n, AI & the Courts: Recent Developments, Washington Letter (Apr. 23, 2026), https://www.americanbar.org/advocacy/governmental_legislative_work/publications/washingtonletter/april-26-wl/ai-in-the-courts-update-0426wl/ (discussing H.R. 7997 and S. 4154).

²⁰Nexter AI Group, *supra* note 12 (citing the EU Artificial Intelligence Act (2024) and the SRA Code of Conduct).

²¹Cf. Am. Bar Ass'n, Formal Op. 512 (2024) (recommending firm-level policies on AI verification, client disclosure, and data handling).

- **Tool selection and procurement standards:** Firms and legal aid organisations should prefer AI systems built specifically for legal use with jurisdiction-aware sourcing, contractual confidentiality guarantees, and zero data retention, rather than consumer-grade general-purpose tools.
- **Engagement-letter disclosure:** Standard engagement letters should include an AI-use clause explaining which tools may be used on a matter, how client data will be protected, and what verification steps will be applied.
- **Court-level guidance for self-represented litigants:** Courts and legal aid bodies should publish accessible, non-technical guidance warning self-represented litigants of the hallucination risk and directing them toward verified tools or citation-checking resources.
- **Bias auditing for AI used in sensitive determinations:** Where AI informs decisions in sentencing, custody, or benefits contexts, an independent bias audit and a meaningful right to challenge the automated output should be required before the tool is deployed.
- **Updated legal education:** Law schools and continuing legal education programmes should treat AI verification and supervision as a core competence, not an elective, to prevent the erosion of independent research skills in the next generation of advocates.

9. Conclusion

AI is no longer a novelty in legal practice; it is a fixture, and one with real potential to cut cost and stretch the reach of legal services into places the traditional billable-hour model has never served well. But that potential currently sits alongside a fairly long list of problems. Advocates are being sanctioned with increasing severity for fabricated citations, confidentiality and privilege doctrine have not caught up with how AI tools actually handle client data, smaller firms are at risk of being priced out of the safer, better-supervised tools, and there is a real question about whether constant reliance on AI drafts is quietly eroding the skills lawyers need to catch its mistakes.

Clients, for their part, are exposed to bias they cannot see, decisions they cannot fully question, and disclosure practices that vary from firm to firm, and self-represented litigants, the group AI was supposed to help most, currently bear a disproportionate share of the sanctions risk

when things go wrong. Bar opinions, court rule changes, and proposed legislation show that the profession has noticed these problems, but the rulemaking is still catching up to the pace of adoption. Closing that gap will take mandatory verification habits, clearer disclosure to clients, bias auditing wherever AI touches a sensitive decision, and a continued insistence on the underlying competence that no verification checklist can fully substitute for.

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