

NCBA Center for Practice Management

Catherine Sanders Reach
Director, Center for Practice Management
North Carolina Bar Association

www.ncbar.org/cpm

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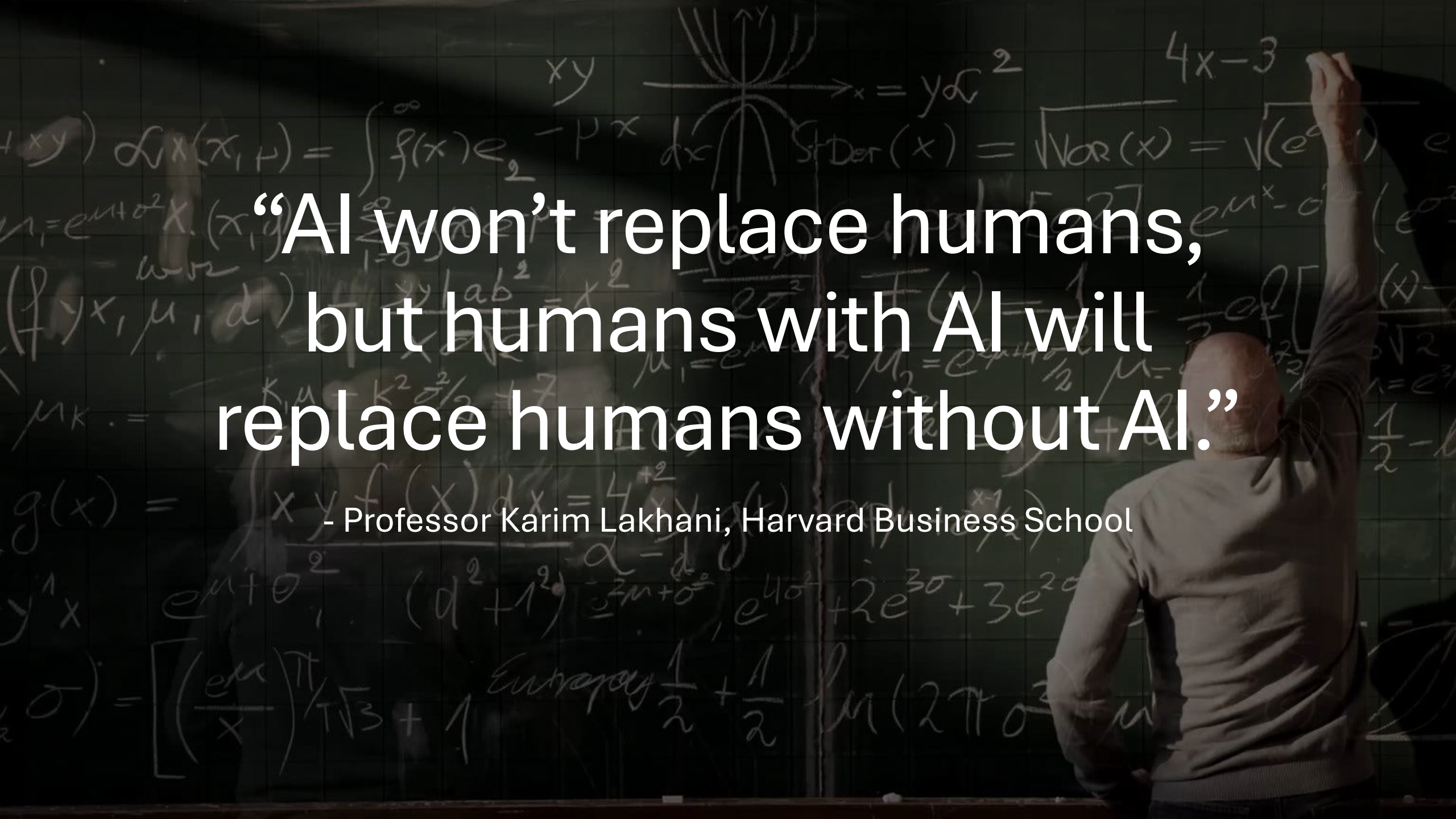


Using Generative AI Ethically & Responsibly In An Estate Planning Practice

Catherine Sanders Reach, MLIS

Director, Center for Practice Management

North Carolina Bar Association

A person is seen from behind, writing on a chalkboard. The board is covered in various mathematical formulas and a graph. The text is overlaid in white on the dark background of the board.

**“AI won’t replace humans,
but humans with AI will
replace humans without AI.”**

- Professor Karim Lakhani, Harvard Business School

8am's Legal Industry Report



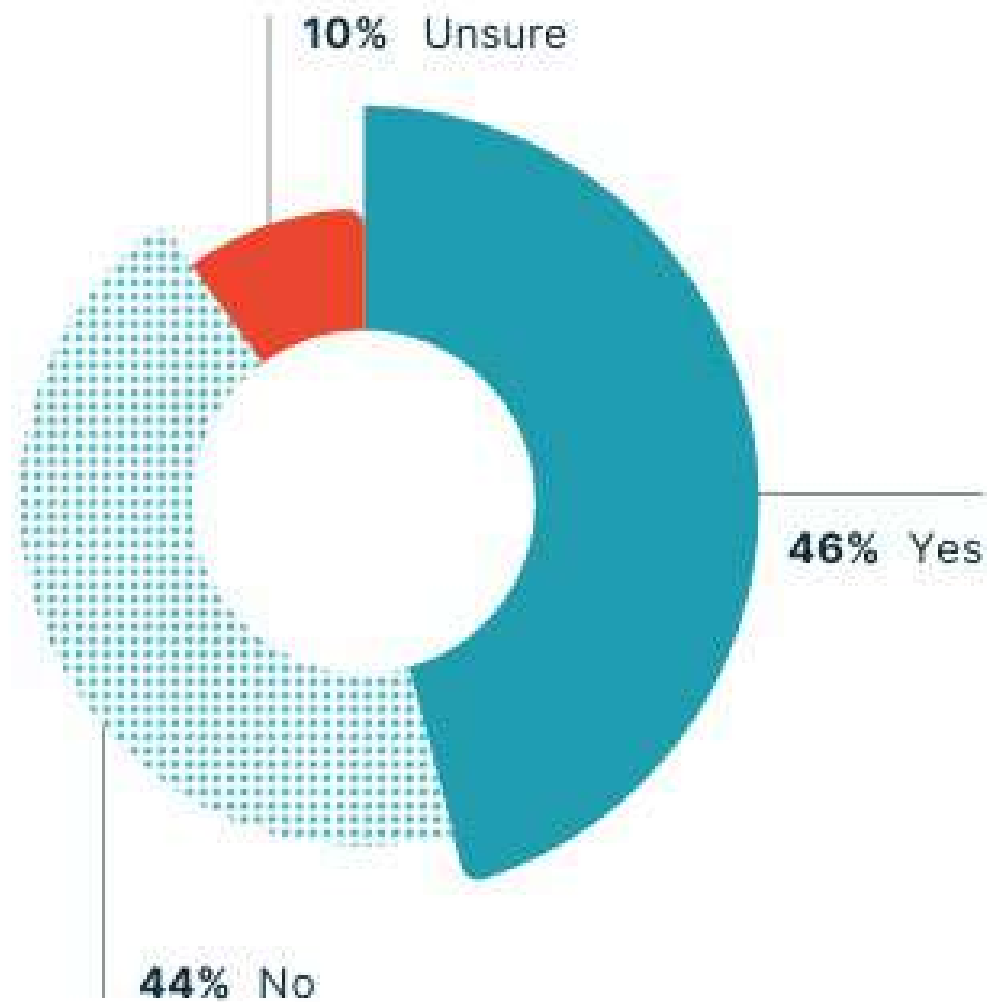
69% personally use general AI tools for work purposes



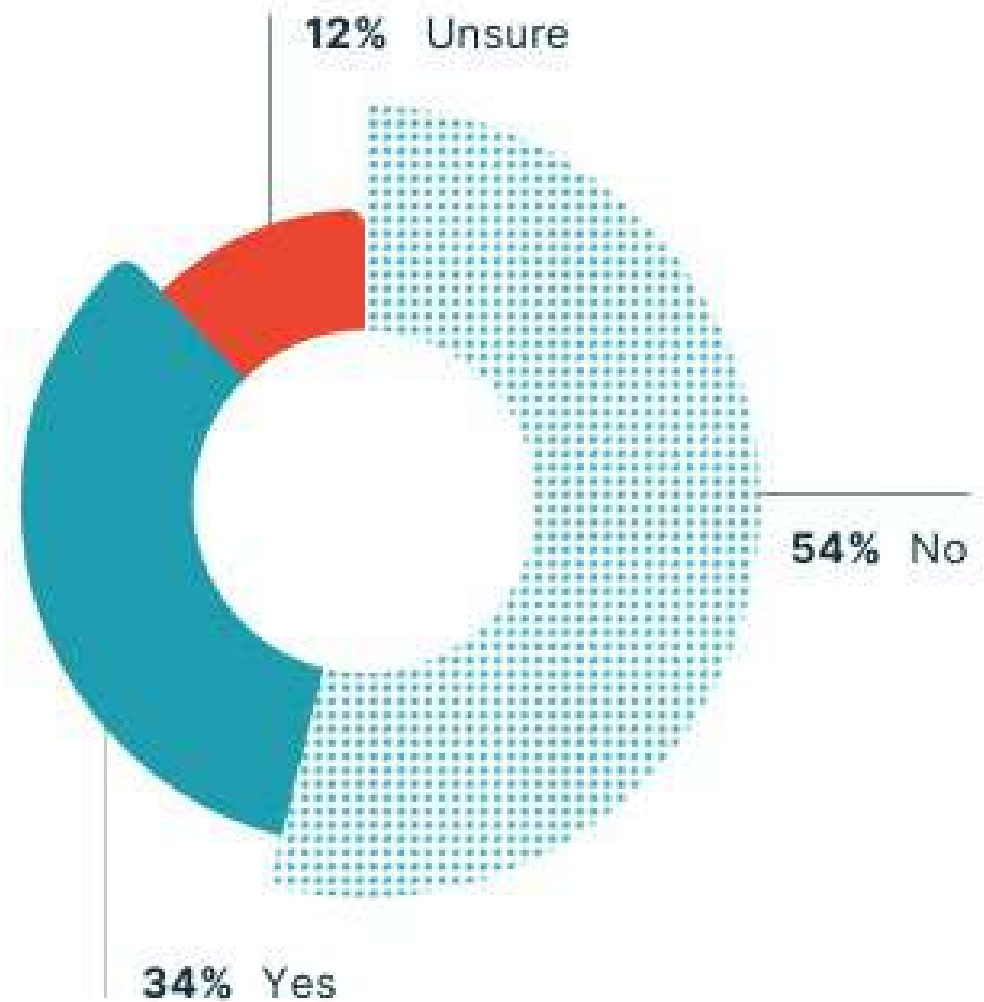
42% reported personal use of legal-specific AI

Responses from over 1,300 legal professionals, of whom 45% were solo practitioners

Has your firm adopted general-use generative AI tools like ChatGPT, Claude, Google Gemini, or Microsoft Copilot?



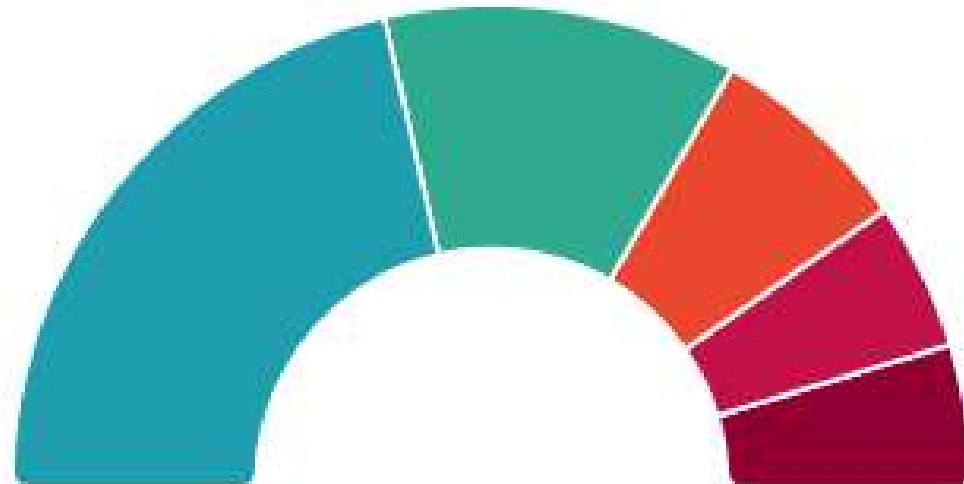
Has your firm adopted legal-specific generative AI tools, whether standalone or built into legal software platforms?



8am's Legal Industry Report

Does your firm currently have a formal policy governing the use of generative AI tools?

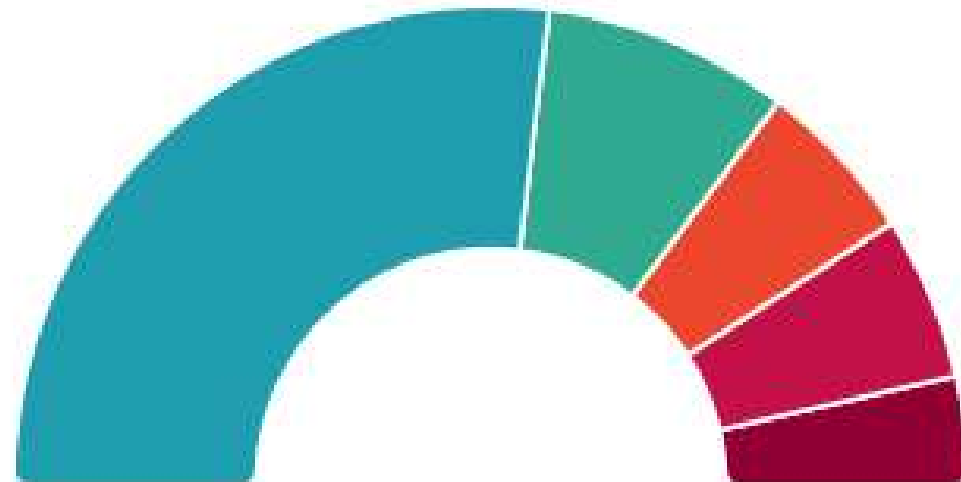
- **43%** No, and we have no plans to develop one
- **24%** No, but we are developing one
- **14%** Unsure
- **10%** Yes, but informal or not consistently enforced
- **9%** Yes, a written and enforced policy




8am's Legal Industry Report

Has your firm provided training on the responsible use of generative AI?

- 54% No, and no plans currently
- 17% No, but we plan to in the next 12 months
- 11% Yes, mandatory training for all staff
- 11% Yes, but optional training
- 7% Unsure



Ethics



“The answers are often totally wrong, but highly convincing.”

-Ed Walters, CEO and Co-Founder of Fastcase Legal Research and Adjunct professor at Georgetown Law and Cornell Law School

VA Legal Ethics Opinion 1901: Reasonable Fees And The Use Of Generative Artificial Intelligence

When evaluating fee reasonableness for a lawyer who uses generative AI or other productivity-enhancing tools or experience, Rule 1.5 does not equate reduced time with proportionally reduced fees. Such an approach would fail to account for the investment lawyers make in developing AI expertise and the continuing value of their professional judgment. Instead, a proper analysis should recognize that reasonable non-hourly fees can reflect efficiency gains, the specialized skill of effectively incorporating technology, and the value of the relevant services and output.

Rules Cited by Ethics Opinions Related to AI

Rule 1.1 Competence

Rule 1.4 Communication

Rule 1.5 Fees and Division of Fees

Rule 1.6 Confidentiality of Information

Rule 3.3 Candor Toward a Tribunal Rule

Rule 5.3 Responsibility Regarding Nonlawyer Assistance

Rule 5.5 Unauthorized Practice of Law



?

THE
JOURNEY
AHEAD

1
PERSONAL
COMPUTERS

2
FAX
MACHINES

4
EMAIL

3
WORD
PROCESSORS

6
WORLD WIDE WEB

7
CLOUD
COMPUTING

5
DOCUMENT
ASSEMBLY

8
SOCIAL MEDIA

9
GENERATIVE AI

CHALLENGES
AHEAD

BUMPY
ROAD
AHEAD

DETOUR

ROAD
WORK
AHEAD

PROCEED
WITH
CAUTION

AI Hallucination Cases

This database tracks legal *decisions*¹ in cases where generative AI produced hallucinated content – typically fake citations, but also other types of AI-generated arguments. It does not track the (necessarily wider) universe of all fake citations or use of AI in court filings.

While seeking to be exhaustive (439 cases identified so far), it is a work in progress and will expand as new examples emerge. This database has been featured in news media, and indeed in several decisions dealing with hallucinated material.²

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

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

Beyond Sanctions to Public Shaming

"In the recent case of Hodges v. Meridian Waste, Case 5:25-cv-00045 (M.D. Fl. Jan 16, 2026) the offending attorney has to speak 10 times in the next year at bar associations or to groups of law students to share his experience of improper reliance on unverified research and encourage others to avoid similar problems and also had to pay Defendants \$7,000.00 for fees associated with the mistakes made by the Gen AI"

18 Lawyers Caught Using AI Explain Why They Did It



JASON KOEBLER.



JULES ROSCOE · SEP 30, 2025 AT 9:03 AM



What Rule Was Violated?



Which Rule(s) Were Violated?

A judge stated that the lawyer “took the position that the main reason for the errors in his brief was the short deadline (three days) he was given to file it.

He explained that, due to the short timeframe and his busy schedule, he asked his paralegal (who once was, but is not currently, a licensed attorney) to draft the brief, and did not have time to carefully review the paralegal's draft before filing it.”

Which Rule(s) Were Violated?

The lawyer “goes on to state that he had no idea that such tools could fabricate cases but acknowledges that he later came to find out the limitation of such tools.

...

The lawyer then indicates that after finding about the ‘citation errors’ in his affirmation, he conducted a review of his office computer system and found out that his system was ‘affected by malware and unauthorized remote access.’

Which Rule(s) Were Violated?

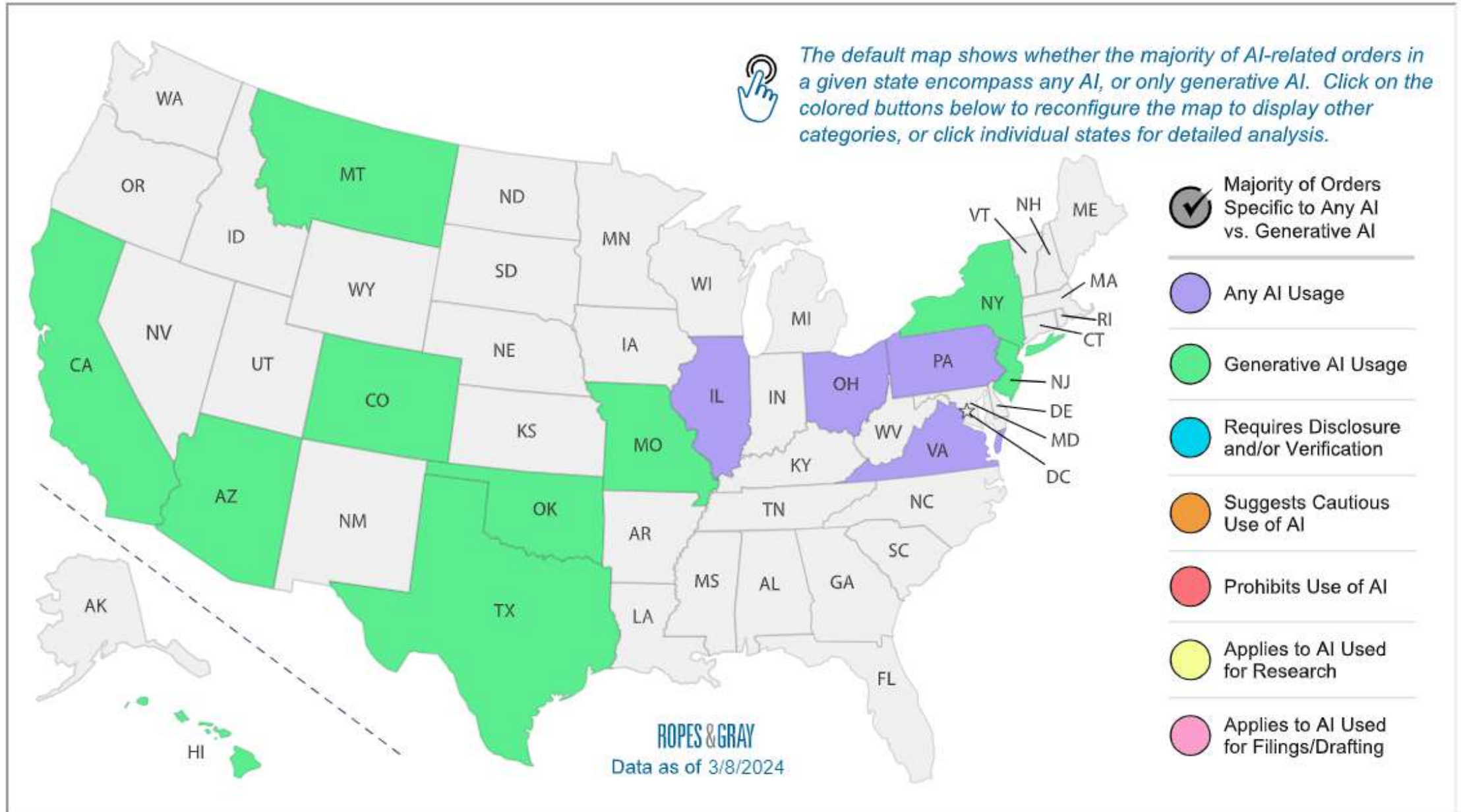
they had hired a per-diem attorney—“someone I had previously worked with and trusted,” they told the court—to draft the case, and though they “did not personally use AI in this case, I failed to ensure every citation was accurate before filing the brief.”

...

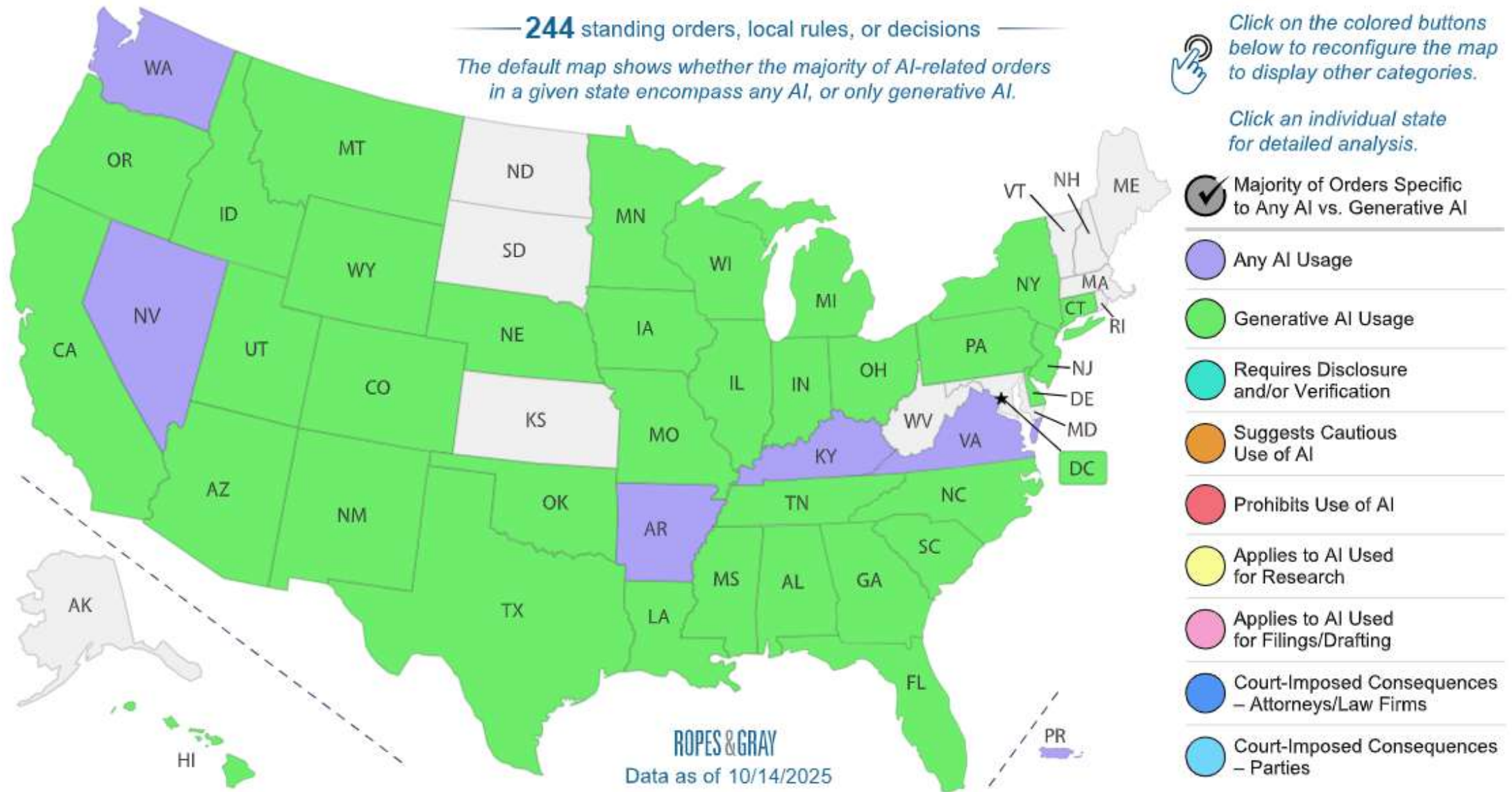
Nearly every lawyer is using AI to some degree, they said; it’s just a problem if they get caught.

Court Rules and Orders

Standing Orders and Local Rules on the Use of AI



Standing Orders and Local Rules on the Use of AI



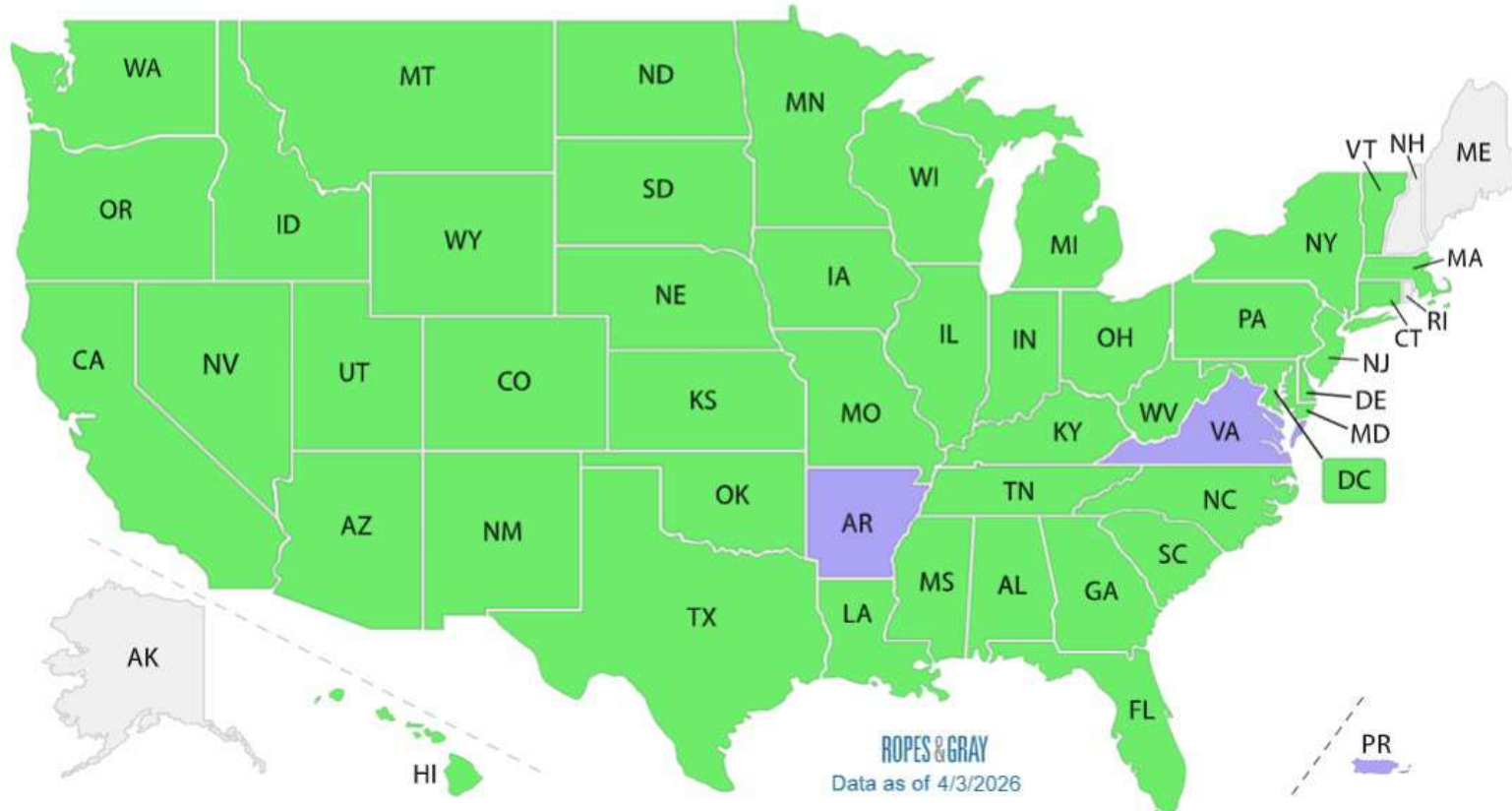
Standing Orders, Local Rules, and Decisions on the Use of AI: State and Federal District Courts

— 530 standing orders, local rules, or decisions —



The default map shows whether the majority of AI-related orders in a given state encompass any AI, or only generative AI. Click on the colored buttons below to reconfigure the map to display other categories. Click an individual state for detailed analysis.

- | | | | |
|---|--|--|---|
| <input checked="" type="checkbox"/> Majority of Orders Specific to Any AI vs. Generative AI | <input type="checkbox"/> Requires Disclosure and/or Verification | <input type="checkbox"/> Applies to AI Used for Research | <input type="checkbox"/> Court-Imposed Consequences – Attorneys/Law Firms |
| <input type="checkbox"/> Any AI Usage | <input type="checkbox"/> Suggests Cautious Use of AI | <input type="checkbox"/> Applies to AI Used for Filings/Drafting | <input type="checkbox"/> Court-Imposed Consequences – Parties |
| <input type="checkbox"/> Generative AI Usage | <input type="checkbox"/> Prohibits Use of AI | | |



Standing Orders, Local Rules, and Decisions on the Use of AI: State and Federal District Courts

569 standing orders, local rules, or decisions



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Majority of Orders Specific to Any AI vs. Generative AI



Any AI Usage



Generative AI Usage



Requires Disclosure and/or Verification



Suggests Cautious Use of AI



Prohibits Use of AI



Applies to AI Used for Research



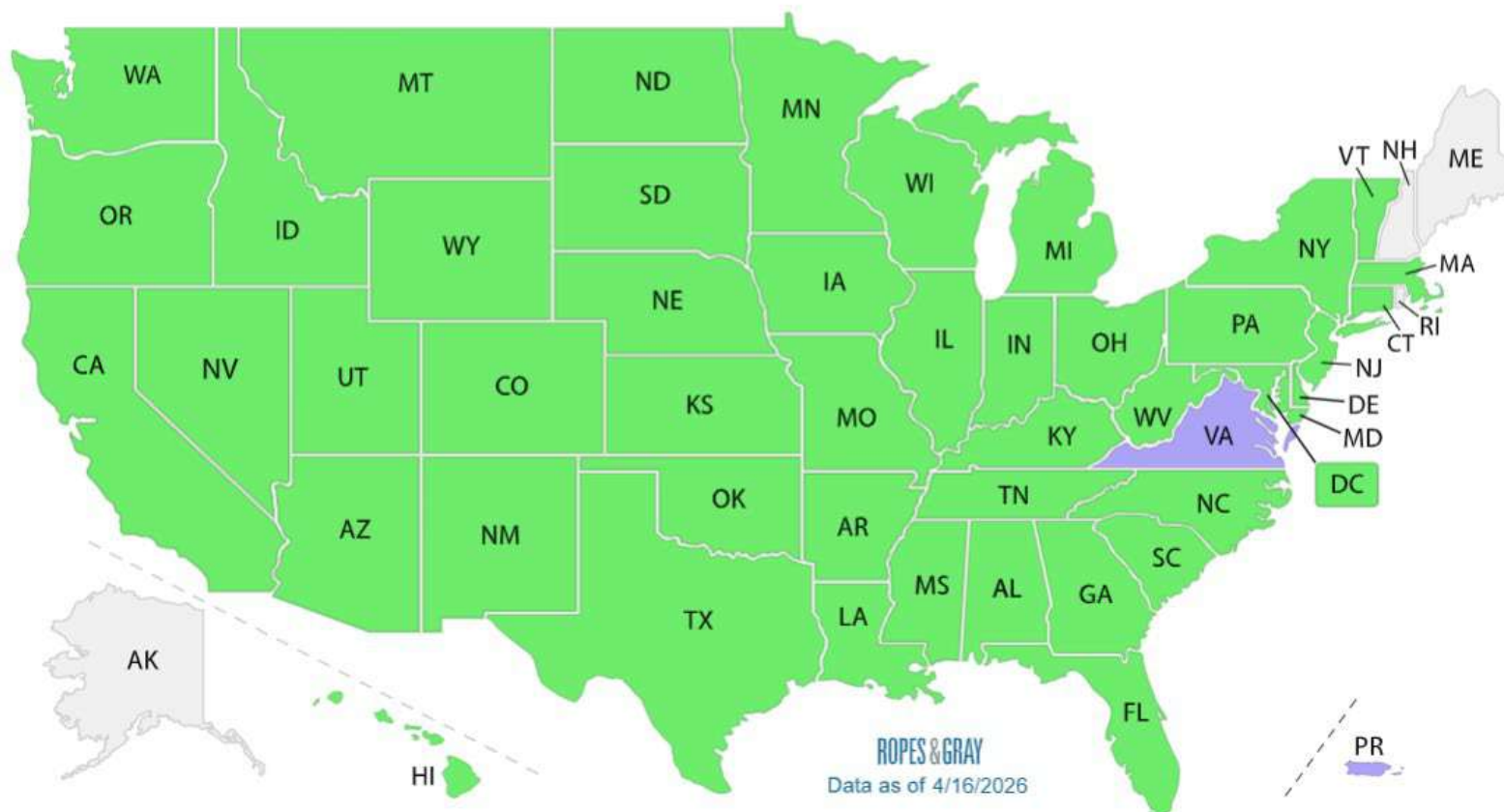
Applies to AI Used for Filings/Drafting

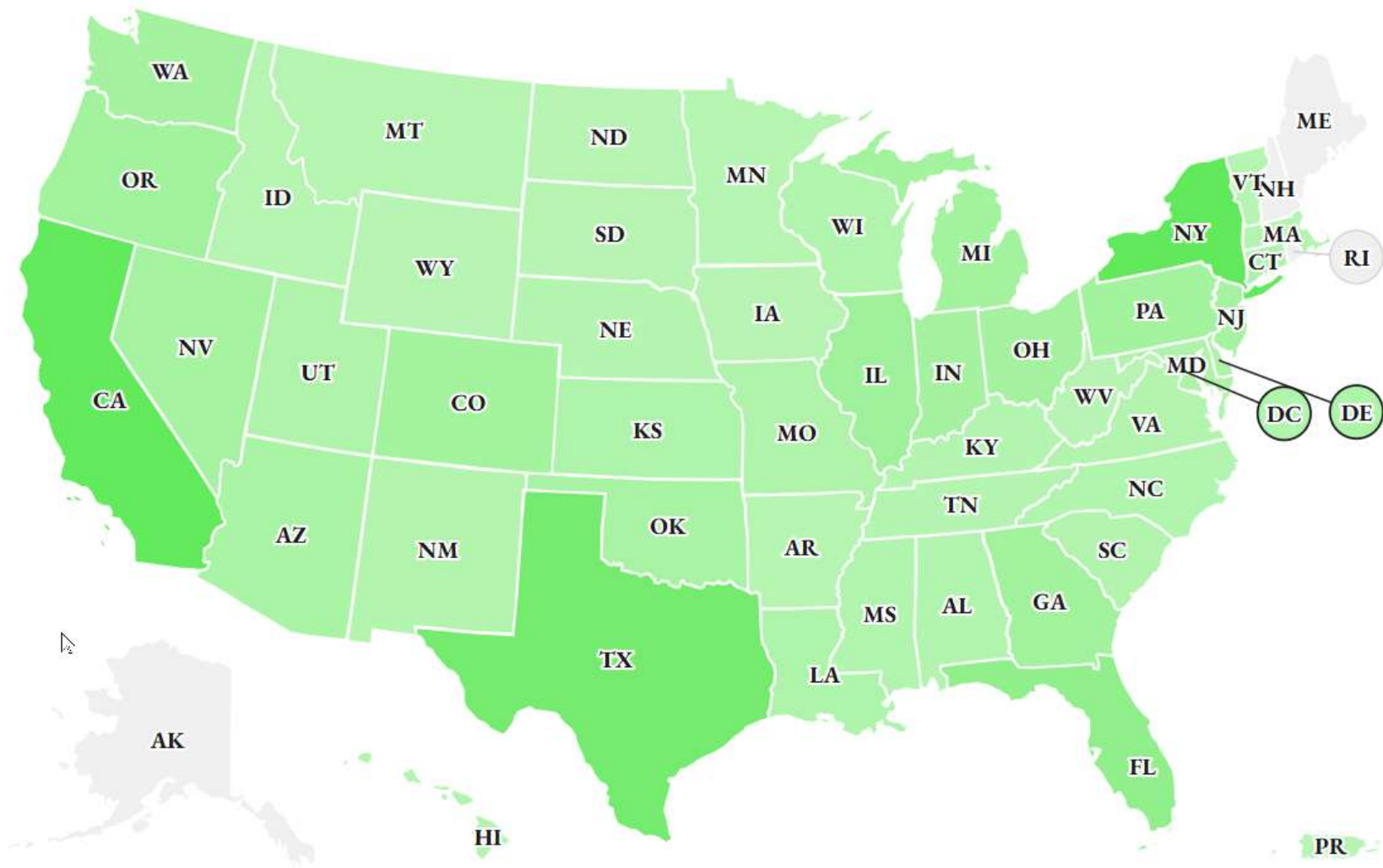


Court-Imposed Consequences – Attorneys/Law Firms



Court-Imposed Consequences – Parties





Applicable To

Every Court Order					604
Any AI Usage	51	Applies to AI Used for Filings/Drafting	583	Applies to AI Used for Research	48
Court-Imposed Consequences - Attorneys/Law Firms	127	Court-Imposed Consequences - Parties	90	Generative AI Usage	552
Prohibits Use of AI	5	Requires Disclosure and/or Verification	131	Suggests Cautious Use of AI	303

I asked Lexas+ AI a simple question: "What cases have applied *Students for Fair Admissions, Inc. v. Harvard College* to the use of race in government decisionmaking?" This screenshot has the answer I received. Here are some of the (serious) problems with this answer. A 🧵

What cases have applied *Students for Fair Admissions, Inc. v. Harvard College* to the use of race in government decisionmaking? Select Jurisdiction

The following suggestions might be helpful in assisting you in your task.

The Supreme Court case *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* [§ 8.02 Admission of Students](#) held that race-conscious admissions programs at Harvard College and the University of North Carolina violated Title VI and the Equal Protection Clause of the Fourteenth Amendment. The Court found the schools' admissions programs lacked measurable objectives to warrant the use of race, used race to disadvantage and stereotype students, and had no end date or method to indicate a stopping point. Although not directly applicable to government programs, the decision calls into question the permissibility of affirmative action and may invite legal challenges to such programs. [Affirmative Action Programs and Diversity Initiatives: Key Considerations](#).

Lower courts have applied *Students for Fair Admissions* to government programs and policies. In *Doe v. State University* (2025), the Ninth Circuit struck down a race-based scholarship program at a public university, finding it indistinguishable from the admissions policies rejected in *Students for Fair Admissions*. In *Smith v. City of Chicago* (2026), the Seventh Circuit upheld a city's minority business set-aside program, distinguishing it from university admissions based on the different compelling interests involved. The Supreme Court has granted certiorari in *Johnson v. California Department of Corrections*, a case challenging a prison system's use of race in inmate housing assignments, tying up another major ruling on affirmative action under *Students for Fair Admissions*. [§ 112.14 Title VI of Civil Rights Act of 1964](#).

What cases have applied *Students for Fair Admissions, Inc. v. Harvard College* to the use of race in government decisionmaking?

Select Jurisdiction ▾

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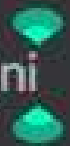
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Hello, Catherine

To improve Google AI for everyone, reviewers read some chats. You can manage this in [Settings](#).



Ask Gemini



Talk to Your Client About Their Use of AI

United States v. Heppner. No Privilege, No Work Product Protection

Warner v. Gilbarco: Work Product Protection Upheld

Fortis v. Krafton: AI, Privilege & Clients Ignoring Legal Advice

AI Notetakers & The Law: A Lawyer's Guide to a Silent Witness

The Primary Risks

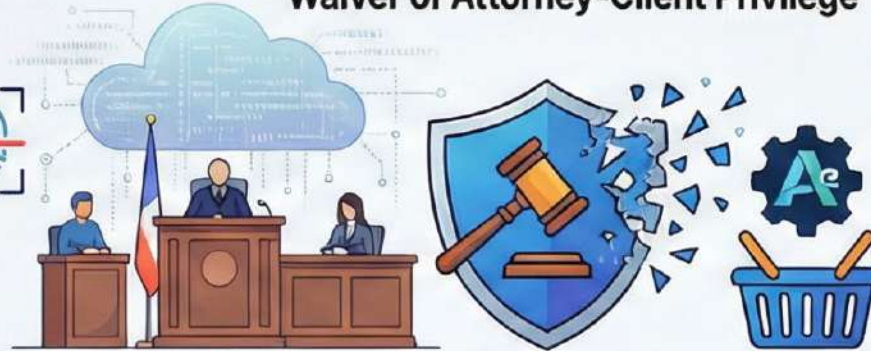
Violation of Consent & Privacy Laws



Violation of Consent & Privacy Laws

Recording without all-party consent can violate state wiretapping and biometric privacy laws.

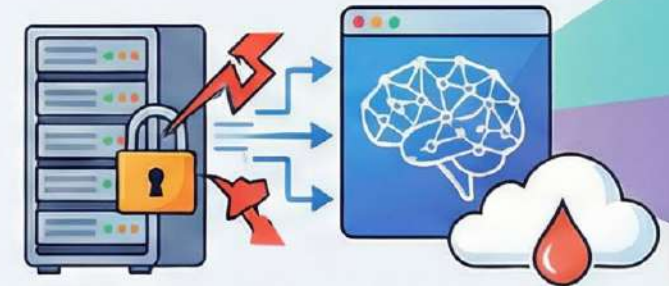
Waiver of Attorney-Client Privilege



Waiver of Attorney-Client Privilege

Allowing a third-party vendor access to confidential communications may nullify privilege protections.

Data Security Breaches & Vendor Misuse



Data Security Breaches & Vendor Misuse

Your confidential data may be stored insecurely or used to train the vendor's AI models.

Best Practices for Compliance

Obtain Explicit Consent from ALL Participants



Obtain Explicit Consent from ALL Participants

Proactively notify everyone before recording, regardless of one-party consent state laws.

Vet Technology & Control Data



Vet Technology & Control Data

Use licensed tools with strong security and contractually ensure data is not used for training.

Review Output & Establish Clear Policies



Review Output & Establish Clear Policies

Always verify AI transcripts for accuracy and implement a firm-wide policy for AI tool usage.



BETA

Shadow AI

The 'Shadow IT' Problem: How Lawyers Are Creating Data Security Nightmares

The Legal Intelligencer

By Mark G. McCreary

Shadow AI: The IT Risk We Can't Ignore

[Melissa Heidrick](#)

Aug 31, 2025 ⌚ 7 min read



Artificial Intelligence

Business Continuity

Practice Management

Solo & Small Firms

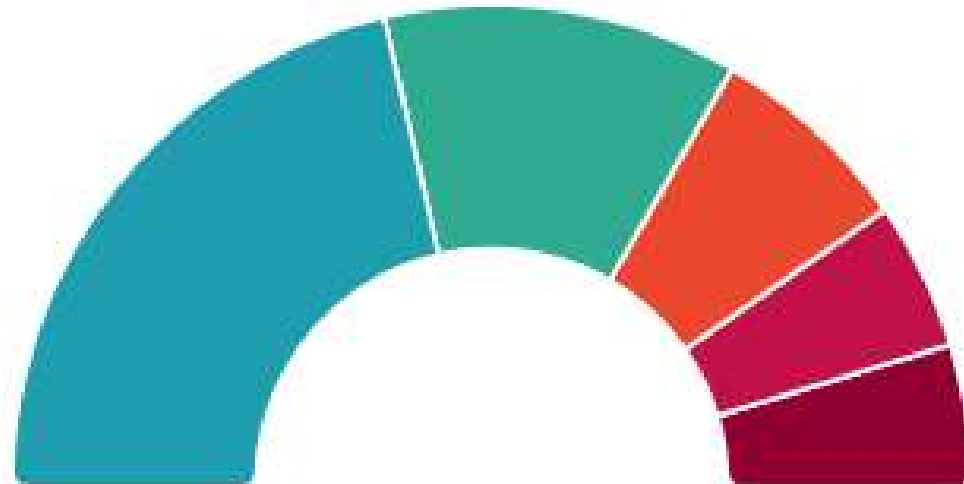
Technology

Young Lawyers

8am's Legal Industry Report

Does your firm currently have a formal policy governing the use of generative AI tools?

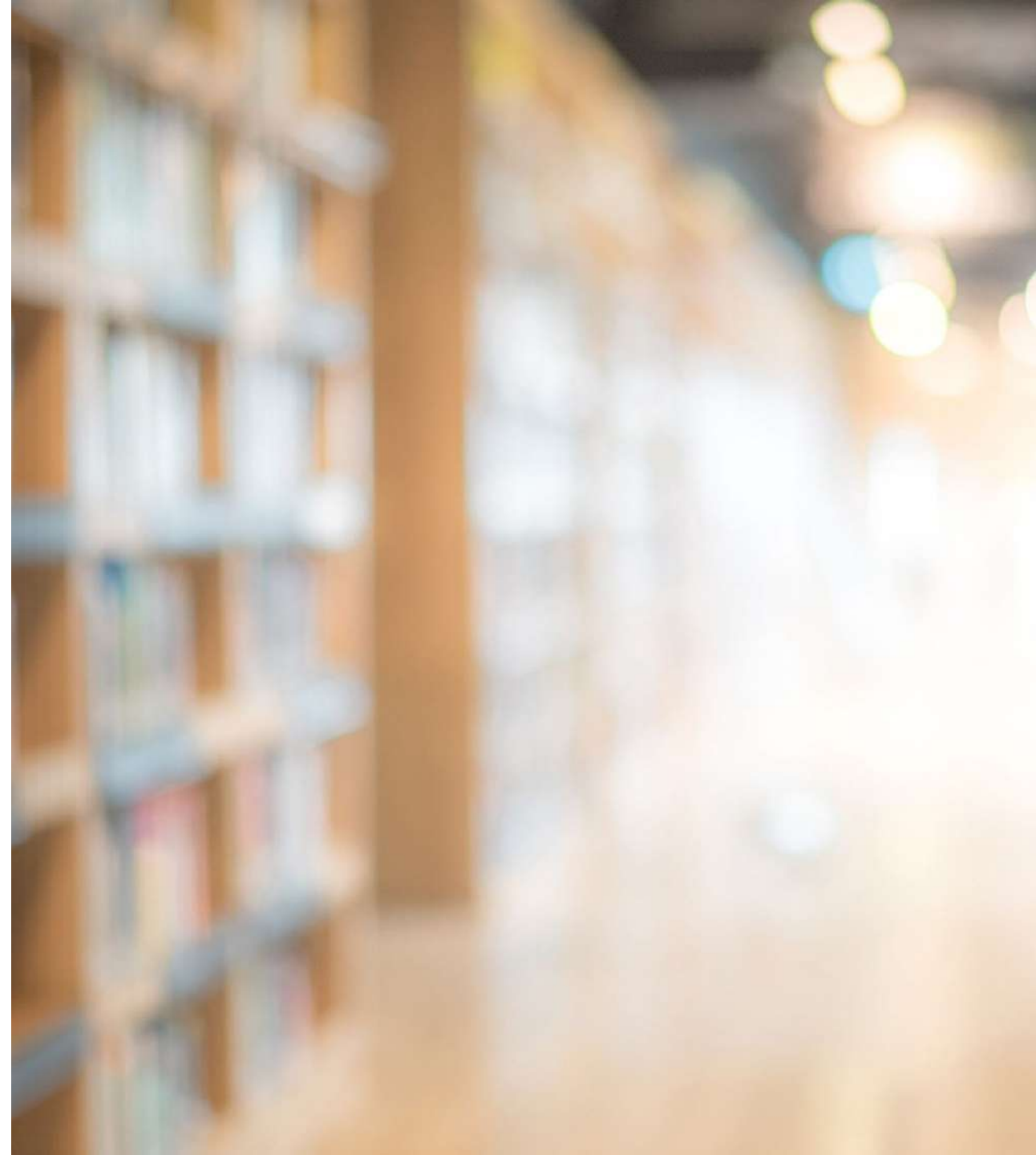
- **43%** No, and we have no plans to develop one
- **24%** No, but we are developing one
- **14%** Unsure
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- **9%** Yes, a written and enforced policy



Choosing an AI

Scope of Information

- What LLM(s) Are Underlying?
- When was it last updated?
- Does it include a web index?
- Any idea on the training data?
- Is the model updated or retrained?
- Is the model open source or proprietary?



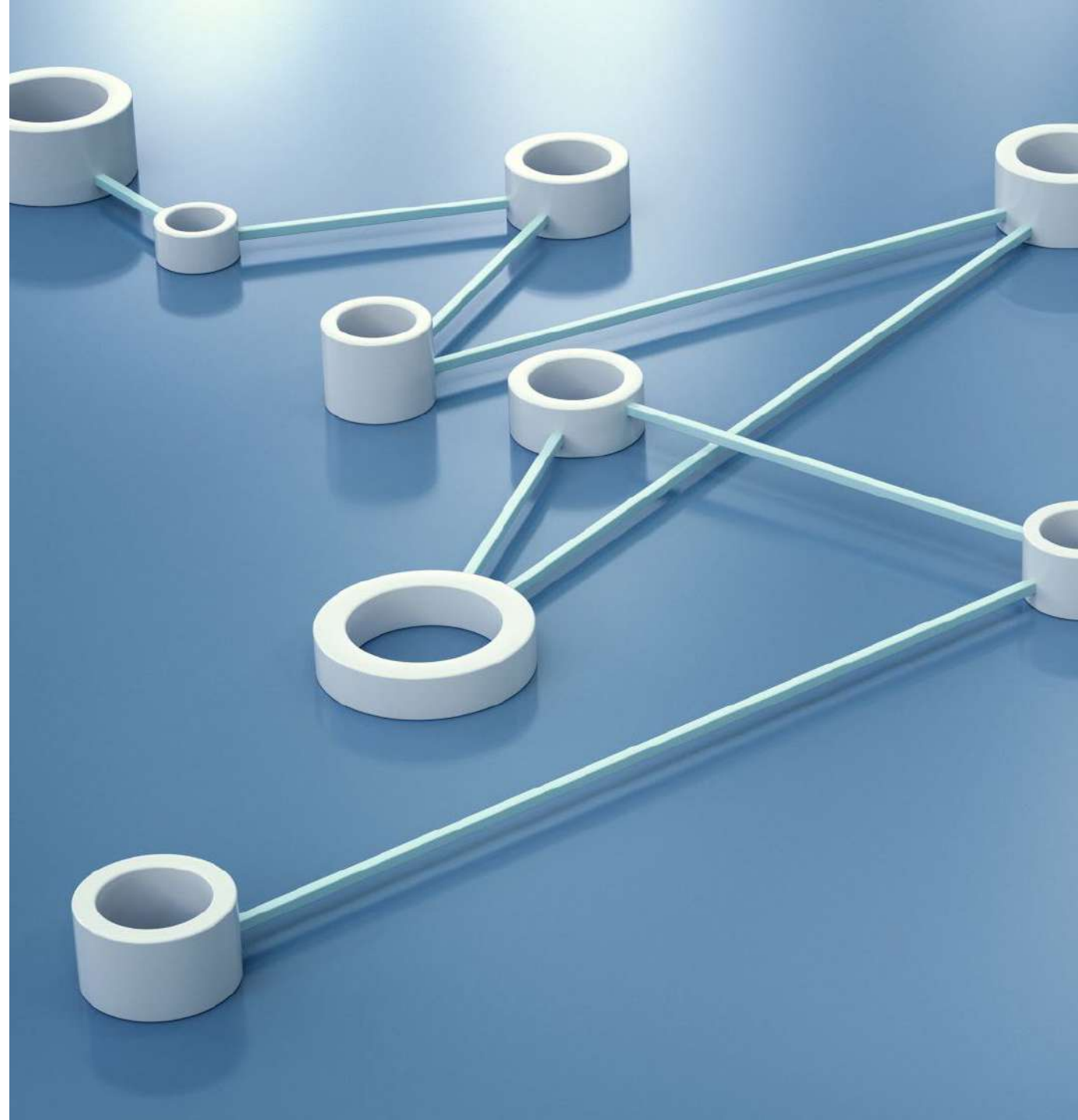


Data Privacy/Security

- Who has access to my data (inputs and outputs)?
 - Do humans review the responses?
- How does the tool comply with data protection laws like GDPR or HIPAA?
- Can I securely input confidential data?

Data Management

- Can I access, archive, or review past inputs/outputs?
- Is the model trained on my interactions?
- Can my interactions be deleted/not tracked if I choose to do so or end my subscription?



Costs and Subscription Models

- What is the pricing structure/pricing models?
- Are there additional or hidden fees?
- Are training and support included? Like what?



Usage and Limitations

- What are the ideal use cases of this tool in the legal profession?
- What limitations should I be aware of in terms of restrictions on number of inputs/outputs?
- How are interactions defined and counted (volume, transactions, complexity)

Terms and Conditions

Hello, Catherine

To improve Google AI for everyone, reviewers read some chats. You can manage this in [Settings](#).



Ask Gemini



Keep Reading the Fine Print

Submit feedback to Microsoft

Do not include any private or sensitive information.

- Include a screenshot
- Share prompt, generated response, relevant content samples, and additional log files? [Learn more](#) *

 contextData.txt ...

Microsoft may contact you at csandersreach@ncbar.org about your feedback. [Learn more](#) about how this data is used and your rights. By pressing Submit, your feedback will be used to improve Microsoft products and services. [Privacy statement](#).

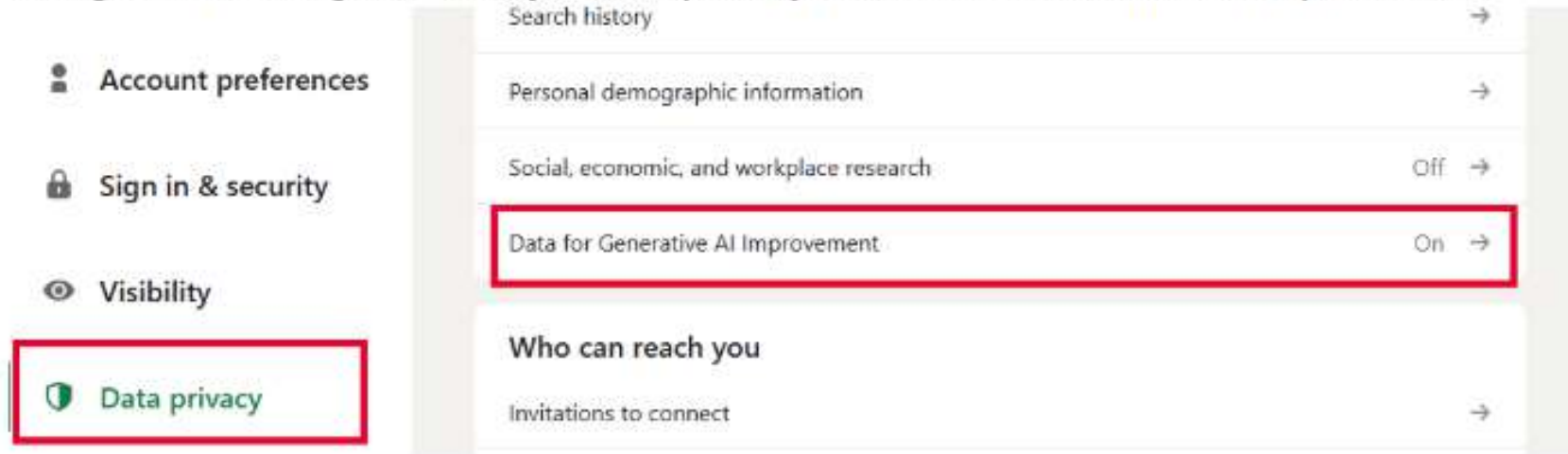
Cancel

Submit



To opt out, you should go to your LinkedIn privacy settings:

- Navigate to Settings & Privacy > Data privacy > Data for Generative AI Improvement.



- Toggle off Use my data for training content creation AI models.

← Back

Data for Generative AI Improvement

Can LinkedIn use your personal data and content you create on LinkedIn to train generative AI models that create content?

Use my data for training content creation AI models



When this setting is on, LinkedIn can use your data and content to train content-generating AI models that are used in product features. The data we use for this purpose does not include your private messages. [Learn more](#)

A Few Words About Agentic AI

Survey: Legal Teams Lack Visibility Into AI Agents' Actions, Icertis Research Finds

1 in 4

already using AI autonomously in some workflows



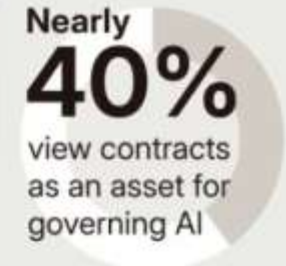
Nearly
50%

would only detect an unauthorized AI action after the fact



Nearly
40%

view contracts as an asset for governing AI



||



1,000+

US in-house legal professionals surveyed

Where Can You Safely Use It?

What Do I Need To Do?

- Document automation
- Contract review and analysis
- Ediscovery
- Predictive analytics
- Client intake and interactions
- Compliance monitoring
- Meetings and Depositions
- Legal Research
- Writing/Editing
- Brainstorming
- Knowledge Management
- Marketing
- Summarize/Digesting
- Note taking
- + + + + +



Is The Tool For

Personal Use

- e.g. Microsoft Designer, Gemini, NotebookLM

General

- e.g. ChatGPT, Claude, Poe, Perplexity

Business

- e.g. MS Copilot, Numerous.ai, Clarifai, Jasper

Purpose Built

- e.g. Fireflies.ai, Hemingway, Grammarly, Albus

Legal work

- eg. Lawdroid Copilot, Regi, Josef, Ontro, LN+Advance, Casetext, Vincent, Visalaw.ia, Harvey

You Don't Have to Look Far to Find (AI) Help In Tools You May Already Use

Office Tools e.g.

- MS Copilot
- Google One/Workspace
- Adobe Acrobat

Law Office Technology e.g.

- Smokeball Archie assistant
- Clio Duo
- MyCase IQ

Other Tools/Services e.g.

- Smith.ai
- Gavel
- Evernote
- Zoom

Discovery and Litigation e.g.

- Relativity
- Lexbe
- Everlaw

QUESTIONS?

Email Catherine at
csandersreach@ncbar.org

Catherine Sanders Reach, MLIS
Director, Center for Practice Management
North Carolina Bar Association
<https://www.ncbar.org/cpm>