

Artificial intelligence is taking over many industries and professions — from picking farm apples to language translation. Forbes reported United Airlines is using AI for customer service needs and predictive maintenance. When ChatGPT was released in late 2022, JPMorgan Chase immediately reportedly blocked employees from using it internally. It then stepped up its experimentation of the powerful intelligence tool so it could be used in a more disciplined manner without compromising any of the company's intellectual property. Today, congressional leaders are urging the White House to incorporate an AI Bill of Rights that lays out a roadmap for the responsible use of the technology in federal agencies and law enforcement.

Then there are the two New York lawyers who used ChatGPT to write a brief, only to later discover six of the cases cited by the program were fabricated with bogus quotes. U.S. District Judge P. Kevin Castel ordered the firm (Levidow, Levidow & Oberman) and its lawyers Steven Schwartz and Peter LoDuca to each pay a \$5,000 fine. Castel found the lawyers "abandoned their responsibilities" when they submitted the AI-written brief, acted in bad faith and "continued to stand by the fake opinions after judicial orders called their existence into question."

A week after University of Michigan Law School banned the use of AI tools on student applications, at least one school started moving in the other direction, according to a July Reuters article. The Sandra Day O'Connor College of Law at Arizona State University said prospective students, beginning with the 2023-24 school year, are explicitly allowed to use generative AI tools to help draft their applications. Applicants must certify if they used generative AI and that the information submitted is truthful. The school has long asked applicants to certify if they use a professional consultant. It reportedly is still in the process of creating rules for using AI for coursework and in the classroom.

AI apparently is revolutionizing the legal profession by providing tools that assist lawyers in research, drafting and decision-making. The sophisticated data mining already is used by consultants in the jury selection process, but does that consider life's experiences, attitudes and beliefs?

AI algorithms also reportedly are used to



REGULATING AI FOR THE LAW

Can data mining consider life experience and attitudes of jurors?

By **BOB CLIFFORD**

predict damage amounts awarded in personal injury cases, despite the fact the data may be slim or skewed given widespread confidentiality of settlements. Such a prediction also does not consider the emotional impact, pain, suffering and sorrow of the injury on the victim and the victim's family. This could result in conclusions that are perceived as unfair or insensitive.

The American Bar Association formed a task force of prominent attorneys to examine AI's impact on the profession and its ethical implications. It will investigate the risks posed by AI including the spread of disinformation, bias and data privacy issues as well as its potential benefits such as improving access to justice and uses in legal education.

ABA President Mary Smith recognized lawyers are grappling with the complex issues surrounding AI. "At a time when both private and public sector organizations are moving rapidly to develop and use artificial intelligence, we are called again to lead to address both the promise and the peril of emerging technologies," Smith said.

Lucy Thomson, a Washington, D.C.-based lawyer and cybersecurity engineer, will chair the task force. The group will examine issues including risk management, generative AI, access to justice, AI governance and AI in

legal education. It will "focus on current and emerging issues in AI and provide practical information that lawyers need to stay abreast of and navigate this complex technology," Thomson said in a statement.

Part two of my thoughts on AI will appear in the next issue of Chicago Lawyer. [CL](#)

Bob Clifford is the founder at Clifford Law Offices. He practices personal injury and regularly handles complex damage cases. rclifford@cliffordlaw.com

2024 Ethics Webinar

Artificial intelligence and its use in law will be one of many topics discussed in a free two-hour webinar titled "Ethics 2024: Questions from the Trenches" Feb. 15. I will moderate questions submitted by lawyers across five states. Participants can register at www.cliffordlawcle.com to learn the thoughts on the topic from Cook County Circuit Court Judge Mary Cay Marubio, University of Illinois Chicago Law Professor Kevin Hopkins and Illinois Attorney Registration and Disciplinary Commission Director of Education Melissa Smart.

Join us for a discussion of the latest issues including AI that come from lawyers like you — lawyers in the trenches — and what you want to learn about.