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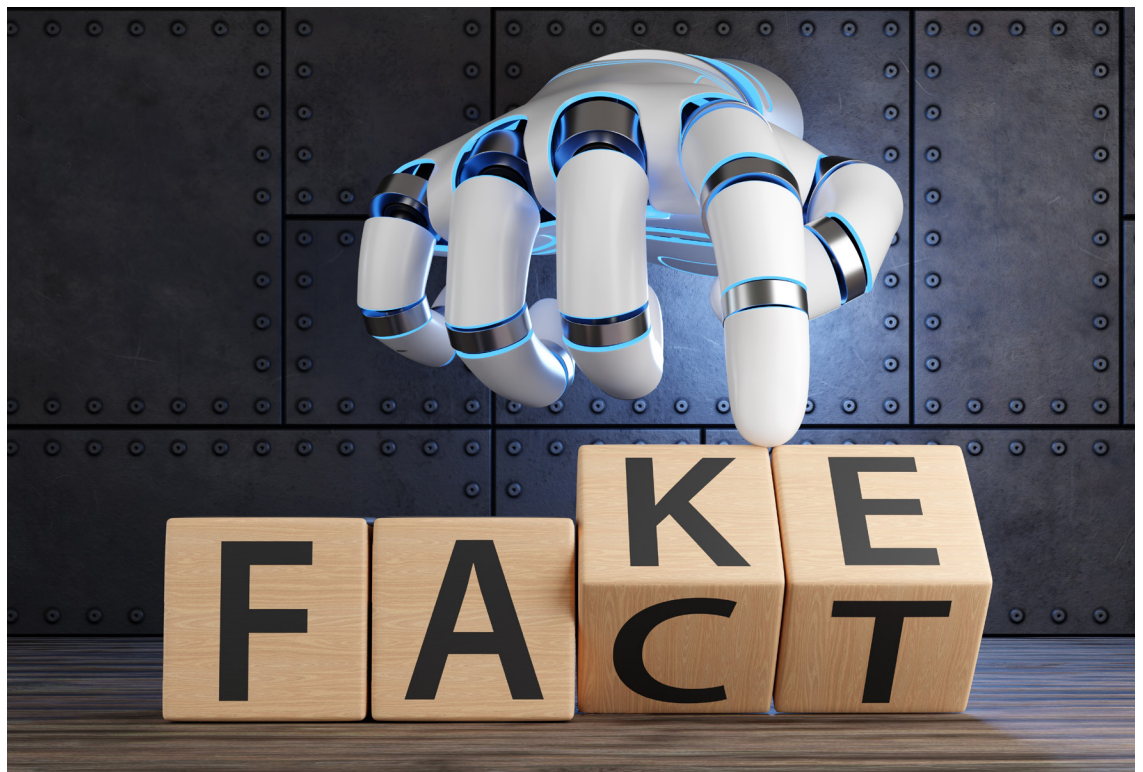
Practicing law in the age of AI: Caution required

Artificial intelligence is being used more frequently in legal practice, making it important for attorneys to verify accuracy, adhere to ethical standards, and follow new guidelines from the State Bar and Judicial Council to meet professional and legal requirements.

By Erin M. Joyce
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Artificial Intelligence (AI) is becoming a more prominent tool used in the practice of law. While this emerging technology has promising uses, it is important to ensure that all attorneys proceed with caution when implementing AI as it poses serious concerns for ethical practice. The current state of AI is not yet at the point where it can be relied on to produce competent content. Therefore, it is important to keep in mind the standards to which all legal professionals are held and to take extra care to ensure all work produced using AI meets the requirements of professionalism.

To meaningfully engage with the complexities of ethical AI use, one must substantially understand what it actually is. AI simulates human intelligence using machines. What makes Generative AI stand out is that it not only analyzes data but also can create it in the form of text, images, videos, audio and synthetic data. This technological advancement, however, is precisely the reason why AI needs to be used with caution as inaccurate information can be produced. With the rise of AI use in the legal field, the State Bar has developed guidelines, promulgated through the Committee on Professional Responsibility and Conduct (COPRAC). These guidelines clarify certain ethical obliga-



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tions lawyers have and specify pitfalls to avoid when relying on AI. As addressed in the guidelines, the use of AI puts attorneys at risk of violating several rules outlined in the State Bar Act and Rules of Professional Conduct.

A key concern with AI is the reliability and accuracy of its generated content. Courts have already begun sanctioning attorneys for the misuse of AI in legal submissions, especially where attorneys have submitted

filings containing fictitious citations generated by AI tools. *Lacey v. State Farm General Insurance Co.* and *United States v. Hayes* serve as cautionary tales for the complications which can arise from the improper use of AI. These recent cases highlight the appeal of using AI as a measure to save costs and how critical it is that all information be verified as the technology may produce information which can lead to a multitude of unexpected complica-

tions. And basic competency (Rule of Professional Conduct 1.1) requires an attorney to at minimum check citations before submitting any filing signed by the attorney.

Federal judges in Mississippi and New Jersey have recently withdrawn rulings in two unrelated lawsuits after attorneys raised concerns of factual inaccuracies and other errors. U.S. District Judge Henry Wingate replaced an order issued in a civil lawsuit in the state of Mississippi

after state lawyers said that the court filing contained inaccurate parties and allegations not found in the complaint. U.S. District Court for the Southern District of Mississippi (Wingate, J.) On the same day in New Jersey, U.S. District Judge Julien Neals withdrew a ruling issued in a securities case based on claims by defense attorneys that the court issued decision contained factual errors and hallucinated quotes not cited in any cases. U.S. District Court for the District of New Jersey (Neals, J.). While mistakes do sometimes occur in court opinions, legal experts agree that these errors are unusual and likely a result of AI generated content. Even though neither judge has confirmed using AI, their rulings highlight that courts are holding attorneys accountable for inaccuracies generated by AI. In recent California cases, courts emphasized the high level of professionalism expected of all attorneys. This standard should apply to the courts as well, and not doing so sets a dangerous precedent for the rest of the legal community. If these mistakes are not addressed, reliability and faith in our legal system will be diminished.

AI is not expected to be going anywhere; in fact, the use of AI is

expected to increase as technology improves. The rapid advancements with AI may understandably leave legal professionals with several questions as to how and when it can be appropriately utilized. Rather than avoiding its inevitable presence in the office, gaining knowledge of its functionality and using it in a proper manner is a more constructive approach. To provide some guidance, COPRAC has developed "Practical Guidance for the Use of Generative Artificial Intelligence in the Practice of Law." State Bar of California, Committee on Professional Conduct, (Nov. 16, 2023), <https://www.calbar.ca.gov/Portals/0/documents/ethics/Generative-AI-Practical-Guidance.pdf>. These guidelines are intended to serve as recommendations for navigating ethical obligations.

For navigating the use of AI in California Courts, the Judicial Council has adopted new policies to act as guidance for AI used in judicial settings resulting from their July 18, 2025, meeting. Jud. Council of CA, Jud. Branch Admin: Rule and Standard of Use of Generative Artificial Intel. in Court-Related Work, Item No. 25-109 (2025). These new policies are intended to ensure the safe and transparent use of AI. *Id.* Depend-

ing on the individual and situation, the application of the policies will be determined through either rules or standards. *Id.* Rules will be applicable to court staff and judges who use AI outside of an adjudicative role, while the standard will apply to judges using the technology in an adjudicative situation. *Id.* The core guidelines, however, will remain the same. *Id.* Providing AI with any personal information, such as driver's license information, will be prohibited. AI should not be used to impose bias or discrimination, and users will be

responsible for correcting all errors such as hallucinations or fictitious citations made by AI. *Id.* The adopted rules will go into effect starting September 2025. All courts that allow the use of AI are required to adopt the new policies by December 15, 2025. *Id.*

As AI continues to become more relevant in legal practice, attorneys are urged to ensure this new tool is utilized properly, ethically, and in a manner which upholds the high standard of professionalism and care expected of every legal professional.

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