Benefits and Risks of Using Artificial Intelligence in Your Legal Practice

Kansas Department of Administration
Presented by Mark Williams, Sandberg Phoenix

Artificial Intelligence is rapidly evolving from a futuristic concept into a practical tool that is reshaping the legal profession. For government attorneys in Kansas, AI offers significant opportunities to increase efficiency, manage high volumes of information, and enhance the quality of public service. Processes that once required hours of manual effort, such as analyzing public comments on proposed regulations, conducting multi-jurisdictional statutory research, or preparing initial drafts of administrative rules, can now be accomplished with greater speed and precision. This shift allows public sector attorneys to focus on the higher-value strategic and advisory aspects of their work. However, the integration of these powerful tools also introduces a new layer of professional responsibility and risks that must be carefully navigated.

Overview of Artificial Intelligence ("AI")

Artificial Intelligence began garnering significant attention in the 1950s with the development of early neural networks and the famous Turing Test. However, it wasn't until the 1980s and 1990s that AI truly started to gain traction, with the advent of expert systems, machine learning algorithms, and IBM's Deep Blue computer defeating world chess champion Garry Kasparov in 1997.

In the last few years, AI has become increasingly ubiquitous, powered by the exponential growth in computing power, the massive amounts of digital data being generated, and breakthroughs in deep learning and neural networks. Today, AI is being leveraged across industries, from finance and healthcare to marketing and transportation.

In the legal field, AI is being employed for tasks such as legal research, document review, contract analysis, and even predicting case outcomes. AI's ability to process vast amounts of information quickly and accurately is its key strength, allowing lawyers to work more efficiently. However, AI also has limitations – it lacks the human judgment, empathy, and creative problem-solving skills that are crucial in many legal contexts.

As AI continues to evolve, it is poised to reshape the legal profession in profound ways. It may automate many routine tasks, allowing attorneys to focus on higher-value work. At the same time, the growing use of AI raises important ethical considerations around issues such as bias, transparency, accountability, and the role of human oversight. Attorneys will need to navigate these challenges thoughtfully.

Looking ahead, the impact of AI on the legal industry is certain to only grow. From chatbots providing basic legal advice to AI assistants drafting contracts and conducting due diligence, the potential applications are vast. Rather than replacing attorneys, AI is (hopefully) more likely to

augment and enhance their work – a powerful tool, but one that must be wielded with care and ethical reflection.

What is AI?

Artificial Intelligence refers to the capability of a computer system or machine to perform tasks that typically require human intelligence. These tasks include learning from experience, understanding natural language, recognizing patterns, solving problems, and making decisions. AI systems are designed to simulate human cognitive processes such as reasoning, perception, and decision-making.[1]

AI encompasses a wide range of technologies and approaches, including:

- **Machine Learning ("ML")**: A subset of AI focused on developing algorithms that allow computers to learn from and make predictions based on data.
- **Deep Learning**: A further specialization within machine learning that uses artificial neural networks with multiple layers to process complex data inputs, mimicking the structure of the human brain.
- **Natural Language Processing ("NLP")**: Enables machines to understand and generate human language, facilitating applications like chatbots and language translation.
- **Computer Vision**: Allows machines to interpret and understand visual information from the world, used in applications like image recognition and autonomous vehicles.[2]

AI can be categorized into different types based on its capabilities:

- **Narrow AI ("Weak AI")**: Systems designed to perform a specific task or a set of tasks. Examples include virtual assistants like Siri or Alexa and recommendation systems.
- **General AI ("Strong AI")**: A theoretical form of AI that possesses the ability to understand, learn, and apply knowledge across a wide range of tasks at a level comparable to human intelligence. This level of AI does not currently exist.[3]

AI technologies are increasingly integrated into various aspects of daily life and industry, driving innovations in fields such as healthcare, finance, transportation, and entertainment. AI remains a tool that relies heavily on data and algorithms to function effectively.

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[1] *See, e.g.*, *What Is Artificial Intelligence (AI)?*, Google Cloud, *available at* https://cloud.google.com/learn/what-is-artificial-intelligence; *What is (AI) Artificial Intelligence?*, University of Illinois Chicago (May 7, 2024), *available at* https://meng.uic.edu/news-stories/ai-artificial-intelligence-what-is-the-definition-of-ai-and-how-does-ai-work/.

[2] *See, e.g.*, *What is (AI) Artificial Intelligence?*, University of Illinois Chicago (May 7, 2024), *available at* https://meng.uic.edu/news-stories/ai-artificial-intelligence-what-is-the-definition-of-ai-and-how-does-ai-work/; B.J. Copeland, *Artificial intelligence*, Encyclopedia Brittanica (Oct. 23, 2024), *available at* https://www.britannica.com/technology/artificial-intelligence.

[3] *See, e.g.*, *What is artificial intelligence (AI)?*, IBM (Aug. 16, 2024), *available at* https://www.ibm.com/topics/artificial-intelligence; Artificial Intelligence Definitions, Standford University Human-Centered Artificial Intelligence (Sept. 2020), *available at* https://hai.stanford.edu/sites/default/files/2020-09/AI-Definitions-HAI.pdf.

A brief history of AI and the Legal Industry

Artificial Intelligence has a storied history, marked by significant milestones that have shaped its current applications, including in the legal industry. The conceptual foundations of AI were laid in the mid-20th century by pioneers like Alan Turing, who proposed the Turing Test in 1950. This test was designed to evaluate a machine's ability to exhibit intelligent behavior indistinguishable from that of a human.[4]

The formal inception of AI as a field occurred at the Dartmouth Summer Research Project on Artificial Intelligence in 1956, where the term "artificial intelligence" was coined. Early AI programs, such as the Logic Theorist and General Problem Solver, demonstrated the potential for machines to solve complex problems.[5]

A landmark achievement came in 1997 when IBM's Deep Blue defeated world chess champion Garry Kasparov, showcasing AI's capability in strategic thinking. This victory underscored the potential of AI to tackle complex tasks, a principle that would later be applied to various industries, including law.[6]

In the legal sector, computers began transforming traditional practices with tools like LexisNexis in the 1970s, which revolutionized legal research by providing digital access to case law. The late 20th and early 21st centuries saw further advancements with AI-powered predictive analytics and document review systems, significantly enhancing efficiency and accuracy in legal processes. Today, AI technologies such as natural language processing and machine learning can be integral to legal practice. AI tools enable sophisticated tasks like contract analysis and predictive case outcome modeling, allowing legal professionals to focus on strategic decision-making rather than routine tasks. However, these tools are not without error and other shortcomings.

Leveraging AI as a Government Attorney

There are a variety of ways government attorneys can leverage AI to save time and improve their work product, addressing the unique challenges of public sector practice:

- **Regulatory Analysis and Public Comment Summarization.** State agencies often receive hundreds or thousands of public comments on proposed regulations. AI can rapidly process these voluminous submissions to identify key themes, categorize feedback (e.g., support, opposition, specific legal challenges), and flag novel arguments, allowing legal staff to focus on substantive analysis rather than manual sorting.

- **Legislative and Policy Drafting.** AI can serve as a drafting assistant, checking proposed rules for internal consistency, comparing draft language against existing statutes to

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[4] *See, e.g.*, B.J. Copeland, *History of artificial intelligence*, Encyclopedia Brittanica (Sept. 13, 2024), *available at* https://www.britannica.com/science/history-of-artificial-intelligence. For a more thorough background on the Turing Test, *see* https://plato.stanford.edu/entries/turing-test/.
[5] *Artificial Intelligence (AI)*, Ohio University Libraries (Oct. 23, 2024), *available at* https://libguides.library.ohio.edu/AI/history.
[6] *Id.*

identify potential conflicts, or generating initial drafts of routine administrative orders and policies based on established precedents.

- **Internal Knowledge Management.** Agencies possess decades of institutional knowledge in the form of past rulings, internal guidance documents, and policy memos. A secure, enterprise-level AI tool can be trained on this internal data to create a powerful Q&A system, allowing attorneys to get instant, context-aware answers to complex questions based on the agency's own historical practices and interpretations.

Confidentiality Considerations When Using AI

The integration of artificial intelligence into legal practice introduces a significant tension between the technology's data-driven nature and an attorney's foundational duty of confidentiality. Rule 1.6 of the Kansas Rules of Professional Conduct ("KRPC") strictly prohibits an attorney from revealing "information relating to the representation of a client" without informed consent and requires attorneys to "make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to," such information. Inputting any client-related data into a third-party AI tool can be considered a disclosure. The primary risk is that this confidential information may be stored, reviewed, or used by the AI provider to train its models, potentially leading to its unauthorized use or future disclosure.

To manage these risks, attorneys should understand the differences between consumer-grade and enterprise-level AI services. While consumer versions of AI tools can be useful, they require caution. When using these services, all client information should be anonymized before being entered as a prompt. This means removing all names, locations, specific figures, and any other details that could potentially identify a client or matter. Attorneys should be aware that the default terms for these services often permit the provider to use inputs for model training. Some platforms, like OpenAI's ChatGPT and Anthropic's Claude, offer settings to opt out of training while still preserving chat history. Others, like Google's Gemini, tie data usage for training to the user's "Gemini Apps Activity" settings.[7]

The most prudent choice for handling sensitive legal work is a business or enterprise-level account. These paid tiers are specifically designed for professional use and offer crucial contractual guarantees. Foremost among these is the explicit promise that a firm's data, both prompts and outputs, will not be used to train the provider's models. This guarantee is formalized in a Data Processing Addendum ("DPA"). For example, OpenAI's DPA contractually obligates it to uphold specific security standards, clarifies that the customer retains ownership of all inputs, and prohibits the use of that content for model training.[8] Furthermore, enterprise accounts

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[7] Google, Gemini Apps Help: Gemini Apps Privacy Hub (Sept. 25, 2025), *available at* https://support.google.com/gemini/answer/13594961 ("To stop your future chats from being reviewed to improve Google services, turn off your Keep Activity setting. If that setting is on, don't enter data that's confidential or that you wouldn't want a reviewer to see or Google to use to improve its services.").

[8] OpenAI, Data Processing Addendum (Feb. 15, 2025), *available at* https://openai.com/policies/data-processing-addendum/.

typically offer robust security features such as SOC 2 compliance, data encryption, and administrative controls.[9]

Regardless of platform or service tier, attorneys should conduct thorough due diligence on any AI vendor. This includes a careful review of their terms of service, privacy policy, DPA, and any public security documentation. Organizations should also establish and enforce clear policies and training programs governing the use of AI, ensuring all personnel understand the confidentiality risks and protocols.

For government attorneys, the duty of confidentiality is layered with additional public sector obligations. Beyond the KRPC, practitioners must consider how their use of AI intersects with the Kansas Open Records Act ("KORA"). Prompts entered into an AI tool and the resulting outputs could potentially be considered public records, creating a risk of disclosing deliberative processes or legal strategy. Furthermore, state and federal laws impose stringent requirements on government agencies to protect citizen data, particularly Personally Identifiable Information (PII). A data breach involving a third-party AI vendor could have significant legal and regulatory consequences. Finally, government employees must adhere to all internal IT and data security policies established by their specific department or agency, which may place further restrictions on the use of external software and cloud-based services.

Overview of an Attorney's Ethical Obligations as to AI

The emergence of AI in legal practice presents both opportunities and ethical challenges for attorneys. While AI tools can enhance efficiency and potentially improve client service, they also raise significant concerns regarding professional responsibility. Attorneys must carefully balance the benefits of AI adoption against their fundamental ethical obligations under the KRPC. These obligations include providing competent representation, maintaining client confidentiality, supervising subordinates and technology, charging reasonable fees, and communicating effectively with clients about the use of AI tools. As the legal profession grapples with rapid technological advancement, understanding and adhering to these ethical obligations becomes increasingly important. Several recent developments, including guidance from the American Bar Association ("ABA") have begun to provide a framework for attorneys to navigate these challenges while maintaining their professional responsibilities.

A March 2023 report published by Goldman Sachs projected that the legal profession has a "particularly high exposure[]" to AI, estimating that forty-four percent (44%) of legal tasks could be automated.[10]

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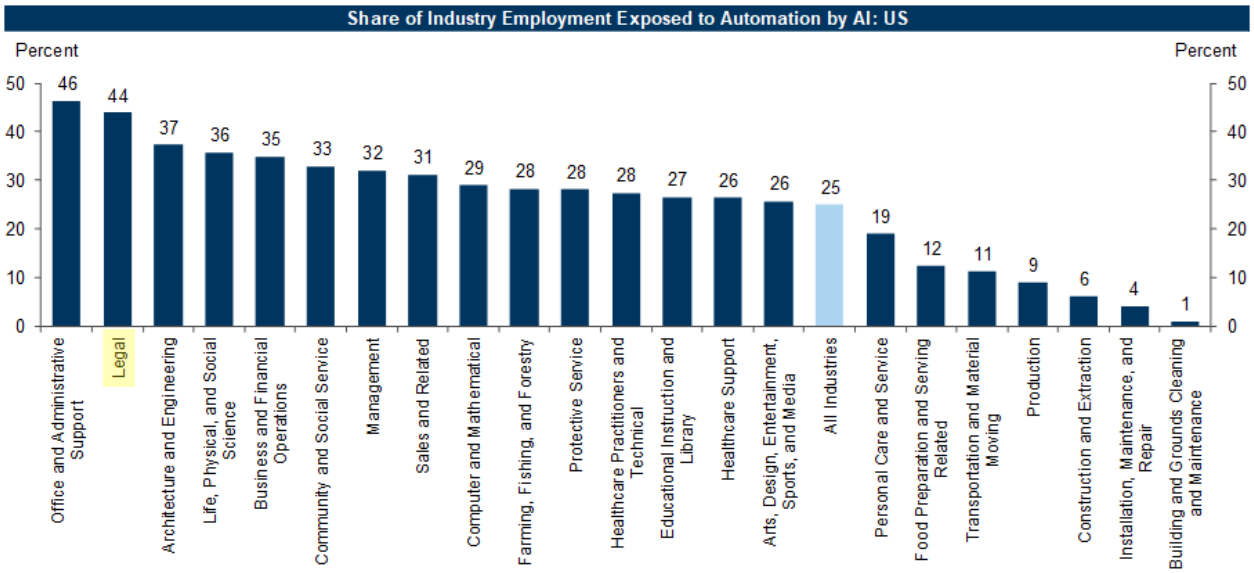
[9] See, e.g., Anthropic Trust Center, *available at* https://trust.anthropic.com/ (last accessed Sept. 26, 2025).
[10] Joseph Briggs and Devesh Kodnani, *The Potentially Large Effects of Artificial Intelligence on Economic Growth*, Goldman Sachs (Mar. 26, 2023) *available at* https://www.gspublishing.com/content/research/en/reports/2023/03/27/d64e052b-0f6e-45d7-967b-d7be35fabd16.html.



Source: Briggs/Kodnani at n. 8

On July 29, 2024, the American Bar Association Standing Committee on Ethics and Professional Responsibility issued Formal Opinion 512 ("ABA Opinion 512"), providing comprehensive guidance on attorneys' ethical obligations when using AI tools in their practice.[11] The Opinion acknowledges that while many lawyers already use AI-based technologies to improve efficiency and quality of legal services (such as e-discovery and contract analytics), the emergence of AI tools – which can create new content in response to user prompts – raises novel ethical considerations. ABA Opinion 512 addresses key questions about competency requirements, confidentiality obligations, client communication duties, supervision responsibilities, and fee considerations when using AI tools. The opinion recognizes AI technology as a "rapidly moving target" whose features and utility continue to evolve, and provides a framework for attorneys to navigate this emerging landscape while maintaining their ethical duties. Rather than prohibiting AI use, the Opinion offers practical guidance for attorneys to leverage these tools while protecting client interests and maintaining professional standards.

The remainder of this paper examines how the Kansas Rules of Professional Conduct[12] implicates the use of AI for Kansas attorneys.

Duty of Competence

Rule 1.1 of the KRPC requires that each attorney "provide competent representation to a client." Competent representation "requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." Comment 8 to Rule 1.1 states that "a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology . . . ."

[11] *Available at* https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-512.pdf.
[12] *Available at* https://www.Illinoiscourts.gov/rules/supreme-court-rules?a=viii.

In the context of AI, the duty of competence takes on new dimensions. As AI tools become more prevalent in legal practice, attorneys may have a duty to understand both the capabilities and limitations of these technologies. This includes being able to critically assess when and how AI can be appropriately leveraged to enhance the quality of legal services provided to clients. At the same time, attorneys must remain vigilant to the potential risks and pitfalls of AI, such as the possibility of biased outcomes, the need for human oversight, and the importance of protecting client confidentiality in the face of data-hungry AI systems. Competence in the age of AI isn't just about knowing how to use these tools, but also knowing when not to use them, or how to use them responsibly.

As ABA Opinion 512 states:

> To competently use an AI tool in a client representation, lawyers need not become AI experts. Rather, lawyers must have a reasonable understanding of the capabilities and limitations of the specific AI technology that the lawyer might use. This means that lawyers should either acquire a reasonable understanding of the benefits and risks of the AI tools that they employ in their practices or draw on the expertise of others who can provide guidance about the relevant AI tool's capabilities and limitations. This is not a static undertaking. *Given the fast-paced evolution of AI tools, technological competence presupposes that lawyers remain vigilant about the tools' benefits and risks.* Although there is no single right way to keep up with AI developments, lawyers should consider reading about AI tools targeted at the legal profession, attending relevant continuing legal education programs, and, as noted above, consulting others who are proficient in AI technology. . . .
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> Because AI tools are subject to mistakes, lawyers' uncritical reliance on content created by an AI tool can result in inaccurate legal advice to clients or misleading representations to courts and third parties. Therefore, a lawyer's reliance on, or submission of, an AI tool's output—without an appropriate degree of independent verification or review of its output—could violate the duty to provide competent representation as required by Model Rule 1.1. *While AI tools may be able to significantly assist lawyers in serving clients, they cannot replace the judgment and experience necessary for lawyers to competently advise clients about their legal matters or to craft the legal documents or arguments required to carry out representations.*[13]

Duty of Confidentiality

Rule 1.6 of the KRPC prohibits attorneys from revealing "information relating to the representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation [or as otherwise permitted by the rules]." The rule also requires attorneys to "make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client." As noted by Comment 26 to Rule 1.6, "the unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not

[13] ABA Opinion 512 at 2–4 (internal citations omitted) (emphasis added).

constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure."

When using AI tools, attorneys should carefully evaluate how client information is processed, stored, and potentially retained by these systems. Many popular AI platforms, including large language models, may store user inputs to improve their services or for other purposes. This creates potential confidentiality concerns since inputting client information into these systems could constitute disclosure to a third party. Attorneys should review the privacy policies and terms of service of any AI tool they plan to use, paying particular attention to data retention practices and whether the service provider claims any rights to user inputs. Additionally, attorneys should consider whether generic or anonymized prompts can accomplish their objectives without revealing client information. Some law firms have opted to use private instances of AI tools or those specifically designed for legal work that provide enhanced confidentiality protections. Regardless of the chosen solution, attorneys should consider documenting their due diligence in selecting and implementing AI tools to demonstrate they have made "reasonable efforts" to protect client information as required by Rule 1.6.

The ABA advised the following under ABA Opinion 512:

> Before lawyers input information relating to the representation of a client into an AI tool, they must evaluate the risks that the information will be disclosed to or accessed by others outside the firm. Lawyers must also evaluate the risk that the information will be disclosed to or accessed by others inside the firm who will not adequately protect the information from improper disclosure or use because, for example, they are unaware of the source of the information and that it originated with a client of the firm. Because AI tools now available differ in their ability to ensure that information relating to the representation is protected from impermissible disclosure and access, this risk analysis will be fact-driven and depend on the client, the matter, the task, and the AI tool used to perform it. . . .
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> Accordingly, because many of today's self-learning AI tools are designed so that their output could lead directly or indirectly to the disclosure of information relating to the representation of a client, *a client's informed consent is required prior to inputting information relating to the representation into [a self-learning AI tool]*. When consent is required, it must be informed. For the consent to be informed, the client must have the lawyer's best judgment about why the AI tool is being used, the extent of and specific information about the risk, including particulars about the kinds of client information that will be disclosed, the ways in which others might use the information against the client's interests, and a clear explanation of the AI tool's benefits to the representation. Part of informed consent requires the lawyer to explain the extent of the risk that later users or beneficiaries of the AI tool will have access to information relating to the representation. To obtain informed consent when using an AI tool, merely adding general, boiler-plate

> provisions to engagement letters purporting to authorize the lawyer to use AI is not sufficient[14]

Duty to Verify and Supervise

Rule 5.1 of the KRPC requires partners (and equivalents) to ensure the "firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the [KRPC]."

Given this obligation, partners and supervisory attorneys should consider establishing protocols and guidelines for how AI tools are used within the firm to ensure compliance with ethical obligations. This includes developing training programs to educate attorneys about the capabilities and limitations of AI tools, implementing verification procedures for AI-generated work product, and creating clear policies about what types of matters or tasks are appropriate (or inappropriate) for AI assistance. Just as a partner must supervise junior attorneys and support staff, they must also maintain oversight of how AI tools are being utilized in client matters. This may include requiring attorney review of all AI-generated content, maintaining logs of AI usage, and regularly assessing whether the firm's AI-related procedures are adequate to prevent ethical violations. The duty to supervise also encompasses ensuring that attorneys understand they cannot blindly rely on AI outputs but must apply their independent professional judgment and verify the accuracy of any AI-generated work product, particularly for legal research, analysis, or drafting tasks. As with any new technology, partners should regularly review and update these protocols as AI capabilities evolve and new ethical considerations emerge.

ABA Opinion 512 states:

> Managerial lawyers must establish clear policies regarding the law firm's permissible use of AI, and supervisory lawyers must make reasonable efforts to ensure that the firm's lawyers and nonlawyers comply with their professional obligations when using AI tools. Supervisory obligations also include ensuring that subordinate lawyers and nonlawyers are trained, including in the ethical and practical use of the AI tools relevant to their work as well as on risks associated with relevant AI use. Training could include the basics of AI technology, the capabilities and limitations of the tools, ethical issues in use of AI and best practices for secure data handling, privacy, and confidentiality
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> Lawyers have additional supervisory obligations insofar as they rely on others outside the law firm to employ AI tools in connection with the legal representation. Model Rule 5.3(b) imposes a duty on lawyers with direct supervisory authority over a nonlawyer to make "reasonable efforts to ensure that" the nonlawyer's conduct conforms with the professional obligations of the lawyer. Earlier opinions recognize that when outsourcing legal and nonlegal services to third-party providers, lawyers must ensure, for example, that the third party will do the work capably and protect the confidentiality of information relating to the representation. These opinions note the importance of: reference checks and vendor credentials; understanding vendor's security policies and protocols; familiarity with vendor's hiring practices; using confidentiality agreements; understanding the vendor's conflicts check system to screen for adversity among firm

[14] ABA Opinion 512 at 6 (internal citations omitted) (emphasis in original omitted) (emphasis added).

> clients; and the availability and accessibility of a legal forum for legal relief for violations of the vendor agreement. These concepts also apply to AI providers and tools.[15]

Duty to Communicate

Rule 1.4 of the KRPC, "a lawyer shall . . . explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation."

As ABA Opinion 512 states:

> Of course, lawyers must disclose their AI practices if asked by a client how they conducted their work, or whether AI technologies were employed in doing so, or if the client expressly requires disclosure under the terms of the engagement agreement or the client's outside counsel guidelines. There are also situations where Model Rule 1.4 requires lawyers to discuss their use of AI tools unprompted by the client. For example, as discussed in the previous section, clients would need to be informed in advance, and to give informed consent, if the lawyer proposes to input information relating to the representation into the AI tool. Lawyers must also consult clients when the use of an AI tool is relevant to the basis or reasonableness of a lawyer's fee.
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> Client consultation about the use of an AI tool is also necessary when its output will influence a significant decision in the representation, such as when a lawyer relies on AI technology to evaluate potential litigation outcomes or jury selection. A client would reasonably want to know whether, in providing advice or making important decisions about how to carry out the representation, the lawyer is exercising independent judgment or, in the alternative, is deferring to the output of an AI tool. Or there may be situations where a client retains a lawyer based on the lawyer's particular skill and judgment, when the use of an AI tool, without the client's knowledge, would violate the terms of the engagement agreement or the client's reasonable expectations regarding how the lawyer intends to accomplish the objectives of the representation.[16]

[15] ABA Opinion 512 at 10–11 (internal citations omitted).
[16] ABA Opinion 512 at 8–9 (internal citations omitted) (emphasis added).