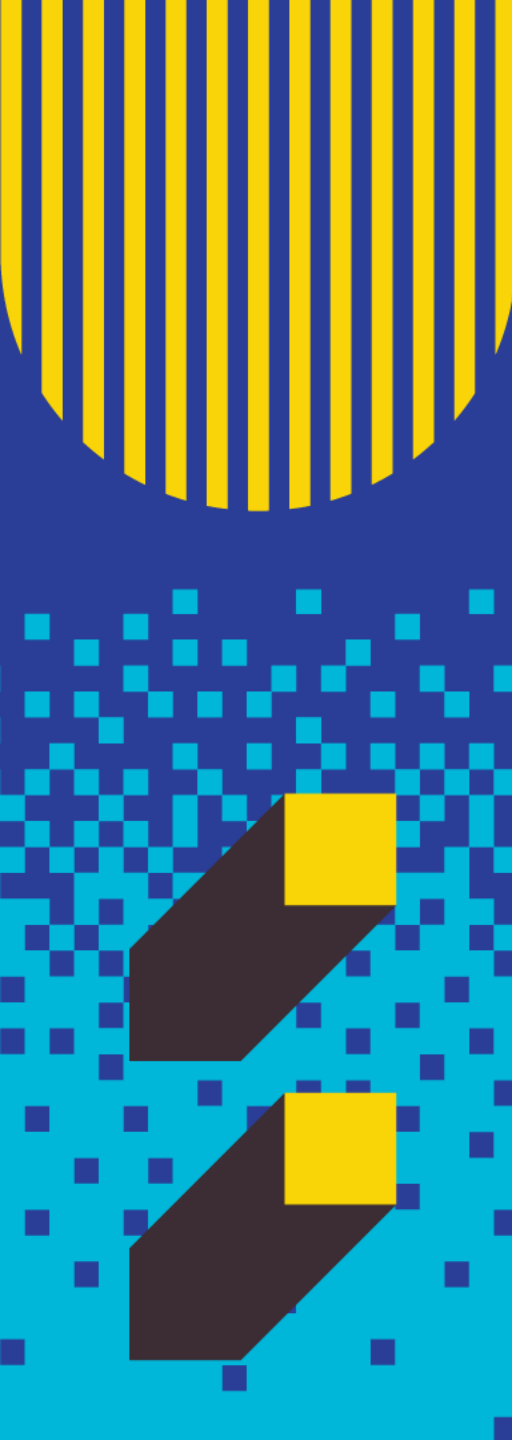




IAPP PRIVACY. SECURITY. RISK. + AI GOVERNANCE GLOBAL 2026

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Legal Engineering: Integrating AI into Legal Practice



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WELCOME AND INTRODUCTIONS



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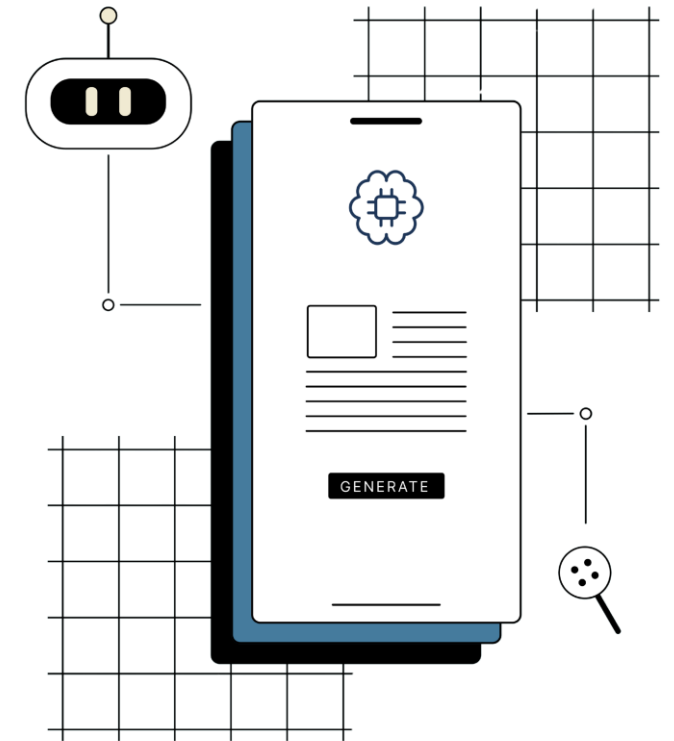
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Agenda Outline

- I. Overview of AI use cases in legal services
- II. Governance considerations in the legal context
- III. Applying existing Rules of Professional Conduct to AI use
- IV. Identifying issues around AI use with legal privilege or work-product doctrine
- V. Litigation-specific issues and application



Legal Services - Use Cases	
Legal research & document review	More targeted and relevant searches, included docket searches; detection of key themes and fact patterns
Contracting lifecycle	Draft generation, templating, red-lining; identification of risky clauses, financial or legal inconsistencies; negotiations
E-discovery	Early document triage and categorization; identification of hidden patterns in large data sets; develop standardized privilege logs
Litigation	Templating and formatting aligned to court and jurisdictional requirements; case, statute and precedent analysis to support drafting of pleadings, arguments and counter claims; witness preparation
Predictive analysis	Forecasts of success or settlement based on past case law and jurisdictional data

Legal Services - Governance Considerations

Governance architecture	Decision-making structure & roles – legal ops team, AI innovation partner, legal engineer, AI board; Client contracts outlining AI uses and restrictions; AI workflows with human supervision; AI competencies & education needed; data quality, structure & accessibility aligned with AI needs; acceptable use policies; access rules
Data sovereignty	Anonymization or de-identification requirements for confidential information; classification of data risk if controls fail by type, client or matter; output use decisions – legal advice, court filings, client communications or internal analysis; in-house or third-party tool
Vendor assessment	Pros/cons commercial product or in-house solution; security, cost & workflow constraints; model integrity, data & prompt leakage, minimization of bias, hallucination & misinformation; verifiability of sources; audit trails and explainable outputs; agentic capabilities; monitor drift, updates and data recency
Guardrails and monitoring	Persistent instructions; token-based pricing & prompt length implications; prompt library/best practices; human verification & paired citations; random sampling & quality assurance; human checkpoints for AI agents; documented use where risk, confidentiality or court disclosure obligations

Rules of Professional Responsibility

- **Rule 1.1 (Competence) and Comment 8 (tech competence)** – Know the benefits/risks of relevant technology; maintain competence as tools evolve.
- **Rule 1.5 (Fees)** – Bill for actual time and agreed costs, not the “time you saved.” (DC Bar 388; FL 24-1; CA Practical Guidance).
- **Rule 1.6 (Confidentiality)** – Reasonable safeguards; assess sensitivity, likelihood of disclosure, costs, and impact of safeguards; avoid disclosing client info in risky tools.
- **Rule 1.4 (Communication)** – When to tell clients you’re using AI; scope, risks, billing. (ABA 512 and several state opinions).

Rules, Continued

- **Rules 3.1/3.3 (Meritorious claims; Candor to the Tribunal)** – No unverified AI citations or fabricated facts; your signature makes it your responsibility before the court.
- **Rules 5.1/5.3 (Supervision of lawyers/nonlawyers)** – Policies, training, and oversight for employees and vendors using AI.
- **Rule 5.4 (Professional Independence)** - Core principle remains: lawyers can't share fees with non-lawyers or partner for profit; AI is a tool, so fees must reflect actual work, not just time saved.
- **Rule 7.1/7.3 (Advertising and Solicitation)** – AI use cannot lead to deceptive or misleading marketing promises.

Recent Bar and Court Guidance

- ABA Formal Opinion 512 – Baseline.
- California State Bar Practical Guidance (2023/2026)
- Florida Bar Ethics Opinion 24-1 (2024)
- DC Bar Opinion 388 (2024)
- North Carolina 2024 FEO 1
- NYC Bar Association Formal Opinion 2024-5: NY State Bar Association; Report & Recommendation of the NYS Bar Association Taskforce on AI
- 5th Circuit (2024): “No new rules needed”
- Texas Ethics Opinion 705 (2025)
- Oregon Formal Opinion 2025-205 (2025)
- Washington State Bar Advisory Opinion 2025-05 (2025)



Note shifting emphasis from “can use AI” to “how to use responsibly” and including court sanctions for hallucinations and fake citations.

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Ethics Framing for GenAI

- Takeaways
 - AI is permissible
 - Lawyer duties still govern
 - Policies must operationalize those duties
 - Courts will hold the lawyer accountable



Attorney-Client Privilege: The Four Elements

1

A communication

2

**Made in
confidence**

3

**Between lawyer
and client**

4

**For the purpose
of legal advice**

All four elements must be present for privilege to attach.

AI implicates these elements in different ways depending on whether the question is creation or waiver.

United States v. Heppner (S.D.N.Y. 2025)

The first federal ruling on AI and privilege

The Holding — All Three Elements Failed

- X Not between attorney and client.**
Claude is not an attorney. Dispositive on its own.
- X Not confidential.**
Anthropic's consumer terms permit data collection, training, and third-party disclosure.
- X Not for the purpose of legal advice.**
Can't seek legal advice from Claude since not a lawyer. Didn't matter that Heppner sought to discuss outputs with counsel later.

What This Case Is Not About

- Did not address whether inputting already-privileged material into AI waives privilege.
- Did not address an attorney's use of AI. Heppner was a client acting alone.
- Confidentiality analysis tied to Anthropic's specific consumer terms. Different terms → potentially different result.

Heppner is just one court's take, and fairly narrow.

Key takeaways: (1) provider terms of service determine confidentiality, and (2) non-attorney employees should not use consumer AI tools to generate documents intended to be privileged.

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Litigation Uses and Pitfalls

- **Mata v. Avianca (S.D.N.Y. 2023)** – Sanctions for fictitious ChatGPT citations; Rule 11 duties apply regardless of tool used.
 - Multiple other examples: UK recent ruling
- **Ninth Circuit (2026)** –
 - **Sethi v Garland** – Two attorneys suspended from practice for 6 months (hallucinations, false citations)
 - Court emphasis on failure to verify and lack of candor when errors were discovered; warned about overreliance/professional responsibility
- **Fivehouse v. Department of Defense (E.D.N.C. April 28, 2026)** – AUSA resigned/fired, publicly reprimanded in scathing opinion.
 - Many examples across the country
- **Fletcher v. Experian (5th Cir. Feb. 18, 2026)** – appellate attorney sanctioned, publicly reprimanded for conduct unbecoming a member of the bar.
- **Judicial orders on AI** – Numerous courts now require a certificate or human verification. Moving from education to enforcement.

Emerging Issues of AI in Law

- Rising expectations for responsible use by lawyers
- AI standards by sector – IP, Consumer Protection, Advertising, Employment, Finance, and Healthcare
- Global compliance (EU, S. Korea, Vietnam, China, India)
- Law-firm client expectations (changing/targeted compliance – risk assessments)
- Agentic AI



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