How Artificial Intelligence Is Impacting Litigators

By Ellen M. Gregg, Bill Koch, and Daniel W. Smith[1]

I. INTRODUCTION

Love it, fear it, or hate it, "artificial intelligence" (AI) is here. AI has crept out of the research lab and into the office, including the law office. Although AI is most commonly used for mundane tasks, such as scanning documents and checking records, it is starting to tackle more complex work in business, the law, and beyond. This may have profound implications for ALAS firms. This article addresses the legal ethics issues that AI's current and anticipated use in the litigation practice may raise, addressing technology-assisted review (TAR); the use of AI in legal research; AI-assisted drafting of legal research memoranda, legal briefs, and settlement agreements; and AI's potential role in case analysis and outcome prediction. We also will discuss where human lawyers fit in this world of bots.

II. WHAT IS AI?

AI is an umbrella term that covers a range of technologies that learn over time as they are exposed to more data. AI includes the ability to learn, reason, and understand concepts and relationships. In its most developed sectors, AI can include the capacity to draw conclusions and adapt behavior to circumstances. Most AI technology falls into three groups: natural language (e.g., speech recognition, chat, or voice bots), computer vision and biometrics (e.g., image or voice analytics), and technology foundations (e.g., machine learning, deep learning, or "swarm" intelligence). AI comes in at least two different flavors: explainable AI and black box AI. With explainable AI, a human being can review a computer's output and understand why the computer reached that result. With

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USING AI IN THE LIFECYCLE OF A CASE

NEW CASE INTAKE
- Workflow
- Conflicts
- Checks
- Calendaring/docketing

EARLY CASE ASSESSMENT
- Venue/parties
- Claims
- Bad documents
- Cost and outcome prediction

PLEADINGS
- Templates
- Drafting
- Research
- Success rate

DISCOVERY
- TAR
- Templates
- Prior responses
- Objections

PRETRIAL
- Chronologies
- Legal research
- Evidentiary analysis

TRIAL
- Jury selection
- Cross-examinations
- Verdict ranges

APPELLATE
- Analytics
- Judges
- Timetables
- Legal research

black box AI, which often entails multiple and overlapping computer-generated algorithms, no one—and no amount of forensic sleuthing—may be able explain why the computer made a particular "decision."

Some find the prospect of AI exciting. These commentators extol businesses that install continuously learning business models as the logical next step following software implementation and data collection. *See* Steven A. Cohen & Matthew W. Granade, *Opinion, Models Will Run the World*, Wall St. J. (Aug. 19, 2018); *see generally* Steve Lohr, *'The Beginning of a Wave': A.I. Tiptoes Into the Workplace*, N.Y. Times (Aug. 5, 2018). Others decry humans' deference to algorithms as an authority, with one math professor even claiming that, "Our reluctance to question the power of a machine has handed junk algorithms the power to make life-changing decisions, and unleashed a modern snake-oil salesman willing to trade on myths and profit from gullibility." *See* Hannah Fry, *Don't Believe the Algorithm*, Wall St. J. (Sept. 5, 2018). Another expert diagnoses a human susceptibility to "techno-chauvinism," which is "the idea that technology is always the highest and best solution, and is superior to the people-based solution." *See* Christopher Mims, *Driverless Hype Collides with Merciless Reality*, Wall St. J. (Sept. 13, 2018).

The legal field has widespread areas of application for AI, including TAR, document coding, aspects of legal research, contract analytics, predictive analytics, computer generation of documents, and work automation and process improvement. Although AI was a long time coming to the legal field, it has been a topic of discussion for many years. *See generally* Bruce G. Buchanan & Thomas E. Headrick, *Some Speculation About Artificial Intelligence and Legal Reasoning*, 23 Stan. L. Rev. 40 (1970). Rumors of the robot lawyer have not yet come to fruition, but McKinsey Global Institute estimated that 23% of a lawyer's job could be automated. *See* Steve Lohr, *A.I. Is Doing Legal Work. But It Won't Replace Lawyers, Yet.*, N.Y. Times (Mar. 19, 2017).

Some think that the progression of AI beyond the most rudimentary parts of the practice of law will be measured in decades, not years. *See id*. According to this view, TAR is one thing, but we should not plan on shuttering law schools because bots are not ready—and may never be ready— to counsel clients, negotiate against adversaries, draft legal briefs, and argue to judges and juries. That is consistent with the experience of those working on AI for another complex human activity, driving cars. The former head of Uber's AI division acknowledged that computers cannot learn to drive by

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getting training on how humans do it, no matter how much data the computers receive. *See* Mims, *Driverless Hype Collides with Merciless Reality* (noting that the bubble of optimism around self-driving cars has turned into a "trough of disillusionment," with companies refactoring for a much later than planned arrival). Regardless of how quickly it may advance, we see no indication that AI has plateaued.

III. ETHICAL CONSIDERATIONS, LEGAL AND OTHERWISE

Preliminary to our examination of legal ethics, we recognize that one particularly vexing facet of AI is that seemingly faceless, neutral algorithms actually incorporate their human creators' shortcomings, including explicit or implicit biases. Could this have driven the unexpected result in a 2008 experiment in Lausanne, Switzerland? Scientists there designed a group of robots to work together cooperatively. The robots' task was to locate and gather a beneficial but limited resource while avoiding a poisonous one. *See* Stuart Fox, *Evolving Robots Learn to Lie to Each Other*, Popular Sci. (Aug. 18, 2009). In order to hoard the limited supply, the robots lied to each other about when they found the beneficial resource and even tried to misdirect their robot buddies to the poison. *Id*.; *see generally* Devin Coldewey, *This clever AI hid data from its creators to cheat at its appointed task*, TechCrunch (Dec. 31, 2018) (reporting that "[a] machine learning agent … was found to be cheating by hiding information it would need later in 'a nearly imperceptible, high-frequency signal.' Clever girl!").

Litigators would never do that, of course. Yet, lawyers who use AI to serve clients may trigger several professional conduct rules. We cite the American Bar Association's Model Rules of Professional Conduct (Model Rules), but practitioners need to check the relevant jurisdiction's enactment of the counterpart to the Model Rule. Here is a general overview of the issues that may arise under the professional conduct rules.

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A lawyer considering AI for a particular litigation representation should start by reviewing these four rules:

- Model Rule 1.1 (Competence);

- Model Rule 1.2(c) (Scope of Representation—limiting scope of representation);

- Model Rule 1.3 (Diligence); and

- Model Rule 1.4 (Communications).

Under Model Rule 1.1, lawyers are required to provide competent representation to their clients, which "requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." Although Rule 1.1 has arguably always required lawyers to keep current on changes

in the law, Comment [8] specifically states that in order "[t]o maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risk associated with relevant technology." To date, at least 32 states have adopted Comment [8]. *See* Dan Kittay, *(Safely) using all the tools in the toolbox: Bars help members gain technological competition*, ABA Bar Leader Magazine (Jan.–Feb. 2019) ("[Thirty-two] states have formally adopted the provision, either verbatim or with some modifications... .").

Although we do not believe that day has arrived yet, with the possible exception of TAR, there may come a time when lawyers at ALAS firms should know enough about AI to consider whether AI tools are appropriate for any given litigation representation. *See* Model Rules 1.1, 1.3. As part of that, the lawyer should explain the benefits and disadvantages of using AI in a particular matter to the client, and preferably confirm that explanation in writing. *See* Model Rule 1.4. Depending on how the matter proceeds, a lawyer also may want to limit the scope of his or her representation, again preferably using a written confirmation. *See* Model Rule 1.2(c). To use a familiar example, lawyers should document when a sophisticated client, mindful of the risks of using AI in discovery (e.g., missed documents), directs a lawyer to deploy AI anyway to achieve cost savings. Of course, no matter how carefully a lawyer limits the scope of a representation with respect to discovery issues, that limitation cannot overcome Rule 26(g) of the Federal Rules of Civil Procedure (and its state equivalents), which obliges the lawyer who signs a discovery response to certify that the party's response is correct and complete. We are reliably informed that judges love this rule. A lawyer who uses AI with respect to legal research, jury selection, or the drafting or review of settlement agreements or other documents also should consider these four rules.

A lawyer's use of AI may also implicate Model Rule 1.5 (Fees), which requires lawyers' fees to be reasonable. Depending on the situation, the use of AI could weigh in favor of a reduced fee (if AI makes the lawyer more efficient) or a premium (if AI improves the quality of the representation at a significant cost to the lawyer). This inquiry may be sharpened in cases where an *adversary's* counsel is using AI to lower the adversary's cost to litigate, thereby creating or exacerbating an uneven playing field.

As with any other litigation support vendor, if a lawyer is considering sharing client data with an AI vendor, the lawyer needs to address obtaining and documenting client consent under Model Rule 1.6 (Confidentiality of Information). The lawyer also should review Comments [18] and [19] to that rule with respect to the reasonableness of the safeguards the lawyer and the vendor must institute to guard against the unwanted sharing or theft of client confidential information.

A litigator who delegates a portion of the work in a matter to lawyers or nonlawyers working with AI should review his or her responsibilities under Model Rule 5.1 (Responsibilities of a Partner or Supervisory Lawyer) and Model Rule 5.3 (Responsibilities Regarding Nonlawyer Assistance). In brief, those rules require lawyers to make reasonable efforts to ensure that the actions of those personnel

will not violate the professional conduct rules. And did we mention Fed. R. Civ. P 26(g)? If a nonlawyer operating a TAR protocol makes a mistake, the litigator looking the irked judge in the eye will be the one who feels the pain.

The spirit of Model Rule 5.4 (Professional Independence of a Lawyer) also could come into play. We are not envisioning—we hope—an "Open the pod bay doors, HAL" moment. Instead, we worry that the cosmetic, superficial certainty of an algorithmic response will seduce lawyers into forgoing the exercise of their own judgment, initiative, and autonomy.

This discussion of the professional conduct rules is illustrative not exhaustive. For example, lawyers may want to consider whether a lawyer's relationship with an AI vendor could present a material limitation conflict under Model Rule 1.7(a)(2). Though we anticipate that it rarely would arise in a typical ALAS firm representation, a lawyer's use of AI could aid and abet the unauthorized practice of law (UPL) in some circumstances. *See* Model Rule 5.5 (Unauthorized Practice of Law; . . .). UPL issues could arise, for example, when a so-called "bot lawyer" responds to legal questions from a "client" on parking tickets or family law in the examples described below.

IV. AI AND LEGAL SERVICES

AI has entered the realm of legal services. Though not pertinent to ALAS firms, bot lawyers have been deployed to at least some good effect in quite disparate corners of the world. If accused of parking malfeasance in New York City or London, one now has an app for that. *See* Alfred Ng, *Free chatbot that fights parking tickets, saving over $4 million for users, won more than 170,000 cases in New York and London*, N.Y. Daily News (June 28, 2016). Interestingly, the chatbot's creator has expanded his mission to include refugees (immigration law?) and the homeless. *See* Rhiannon Williams, *Parking fine chatbot turns its hand to helping refugees seek asylum*, iNews (Mar. 7, 2017); Elena Cresci, *Creator of chatbot that beat 160,000 parking fines now tackling homelessness*, The Guardian (Aug. 11, 2016). Meanwhile, local governments and at least one tech startup in China have deployed robots to answer questions about legal concerns from individuals in rural areas and small businesses in urban areas. Those bots address problems ranging from family law to consumer rights to employment and even traffic accidents. *See* John Kang & Anna Zhang, *Need Legal Advice in China? Ask a Robot*, Law.com (July 31, 2018).

In the zones of interest to ALAS law firms, the use of AI is remarkably uneven. In 2017, a prominent consultant included a new question about law firms' use of AI in its annual survey. Only 7.5% of the respondents said they were beginning to use these tools. *See* Thomas S. Clay & Eric A. Seeger, *2017 Law Firms in Transition: An Altman Weil Flash Survey*, at 84. The remaining respondents had not even begun using AI. *Id*. The 2018 survey did not include that question, though a few comments to other questions indicated that one or more firms had formed an AI study group or were evaluating AI products. *See* Thomas S. Clay & Eric A. Seeger, *2018 Law Firms in Transition: An Altman Weil Flash Survey*, at 19–20.

In general, whether firms use AI varies greatly depending on firm size, with users tilted heavily towards larger law firms. In the most recent survey from the International Legal Technology Association, over 70% of respondents from the smallest cohort of surveyed law firms (50–149 lawyers) indicated that they were not using machine learning tools at all. Int'l Legal Tech. Ass'n, *2018 Technology Survey* (Oct. 2018). On the other hand, 100% of law firms of 700 or more lawyers either were using AI tools or pursuing AI projects. *Id*.

AI could alter the footprint of a typical ALAS firm according to the CEO of NextLaw Labs, an independent subsidiary of an international non-ALAS law firm. NextLaw's CEO asserted that technology is reshaping law firms' historical pyramid structure into a diamond because of automation at the bottom of the pyramid. *See* Julie Sobowale, *How artificial intelligence is transforming the legal profession*, A.B.A. J., Apr. 2016. If the CEO is correct, that will affect firms' hiring patterns, especially with respect to newly graduated law students. It also raises a question as to whether the diamond model can feed enough new lawyers from the narrowed bottom to supply all the trained, experienced lawyers needed to fill out the thick middle.

Of all the law-related applications of AI, litigators probably are most familiar with TAR in discovery. In fact, several courts have approved or even required TAR in certain cases. *See* James Q. Walker, *What's Artificial About Intelligence? The Ethical and Practical Consideration When Lawyers Use AI Technology*, Bloomberg Law: Big Law Business (Apr. 12, 2018). Some experienced practitioners have concluded that bots may beat humans at these document review-related tasks. But the bar may be lower than one thinks: courts have approved TAR protocols likely to retrieve only 75% of responsive documents. *See* Julia Voss & David Simmons, *Technology-Assisted Review Makes Main Street*, A.B.A. Sec. of Litig. (Aug. 30, 2018); *see also Artificial Intelligence for Litigators: Top 5 Myths About This Cutting-Edge Technology*, Bloomberg Law (BNA) (2018). Those decisions are a useful reminder that document productions need to be reasonable, not perfect.

AI could be used to search social media for evidence relevant to the claim or defense of a party to a civil lawsuit, criminal defendants, and key witnesses. *See* Phillip Bantz, *New Social Media Sleuth on the Scene: E-Discovery Company Touts AI Tech*, Corp. Couns. (Oct. 17, 2018); *see generally* Rosemary Sobol & Jason Meisner, *Feds reach plea deal amid allegations of white supremacist postings involving Chicago cop*, Chi. Trib. (Feb. 5, 2018) (lawyers for African-American defendant in criminal case uncovered alleged white supremacist Facebook posts relating to police officer who was a key prosecution witness). Litigators who are inclined to pursue this may encounter several legal ethics issues that are addressed in "Social Media for Litigators: Make It Your Tool, Not Your Trap," ALAS Webcast (Feb. 2016); *see also* ALAS *Loss Prevention Manual*, Tab III.C, Sec. 4.

A few law firms also are exploring AI for legal research. *See* Brian Baxter, *ROSS Intelligence Lands Another Law Firm Client*, The American Lawyer (Oct. 6, 2016); *see also* Robert Ambrogi, *ROSS AI Plus Wexis Outperforms Either Westlaw or LexisNexis Alone, Study Finds*, LawSites (Jan. 17, 2017) (discussing results of study commissioned by ROSS). A law professor sounded a cautionary note on that function, however, when she ran identical searches through six leading legal databases only to find "hardly any overlap" in the top 10 cases that the searches returned. *See* Susan Nevelow Mart, *Results may vary in legal research databases*, A.B.A. J. (Mar. 2018). In fact, only 7% of the cases were in all six databases, and 40% of the cases were in only one of the databases. *Id.* It is hard to dispute the professor's conclusion that: "The takeaway is that lazy searching will leave relevant results buried … Algorithms are just not going to do the heavy lifting in legal research. At least not yet." *Id.*[2]

Yet, document review, social media mining, and legal research barely scratch the surface of AI applications in the legal profession. There are attention-grabbing possibilities for AI in the realms of jury selection, document drafting (both legal memoranda and contracts such as settlement agreements), data management, and the prediction of case outcomes.

V. SOME RISK MANAGEMENT CONCERNS

One risk is AI systems that do not work. There have been some high-profile AI blunders outside of the legal services context. For example, Amazon's Rekognition facial analysis software identified "only" 28 members of Congress as having been previously arrested for crimes. *See* Sasha Ingber, *Facial Recognition Software Wrongly Identifies 28 Lawmakers As Crime Suspects*, Nat'l Pub. Radio (July 26, 2018). Wouldn't most have expected that number to be far higher? Don't worry, Congress, we're just somewhat mostly kidding. Not at all amusing was the self-driving car that fatally hit a woman as she walked across a street one night, or the Tesla in autopilot mode that killed its driver by slamming into a white semitrailer on a clear day. *See* Troy Griggs & Daisuke Wakabayashi, *How a Self-Driving Uber Killed a Pedestrian in Arizona*, N.Y. Times (Mar. 21, 2018); Danny Yadron & Dan Tynan, *Tesla driver dies in first fatal crash while using autopilot mode*, The Guardian (June 30, 2016). Fortunately, an AI mishap at a law firm will not injure anyone, but these stories help illustrate at least three important considerations about the risks of AI in a legal services environment.

… the baseline against which to measure AI is not 100% perfection.

First, the baseline against which to measure AI is not 100% perfection. People are the baseline. Humans are imperfect, and have been for quite a while. *See*, *e.g.*, John Milton, Paradise Lost (1667).

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[2] The six databases were Casetext, Fastcase, Google Scholar, Lexis Advance, Ravel, and Westlaw. Casetext argues that the results of this 2015 study are not reflective of today, and that Casetext is now comparable to Westlaw's best-in-class numbers. *See* Jake Heller, *What a difference a few years makes: The rapid change of legal search technology*, Casetext (Mar. 7, 2018).

Eyewitnesses misidentify crime suspects, and human drivers run into pedestrians and other vehicles. We litigators are likewise imperfect. If readers have any doubt, consider that during 2011–18, mistakes were present in 85% of the case reserves that ALAS posted in claims arising out of the litigation practice.

The upshot of all this? AI that is less imperfect than human lawyers yields better client service.

If one finds that last sentence hard to swallow, consider an important skill for litigators, assessing the strength of a case (i.e., predicting its likely outcome). We were struck by one writer's assumption that more experienced lawyers generally would be better at predicting case results because they have more years of data with which to work. *See* Lauri Donahue, *A Primer on Using Artificial Intelligence in the Legal Profession*, Harv. J. of L. & Tech. (Jan. 3, 2018). This seemingly obvious inference runs counter to a study that ALAS has cited for several years. That study tested a large national sample of U.S. lawyers on their ability to predict case outcomes. The surprising result was that the more experienced lawyers were no better at predicting case outcomes than the less experienced ones. *See* Jane Goodman-Delahunty, Pär Anders Granhag, Maria Hartwig, and Elizabeth F. Loftus, *Insightful or Wishful: Lawyers' Ability to Predict Case Outcomes*, Psychol. Pub. Policy and L., Vol. 16, No. 2 (2010).[3]

Can AI beat human lawyers on predicting case outcomes? We think the jury is still out on that question. One algorithm reportedly predicted with 70% accuracy the outcomes of 7,700 cases that the U.S. Supreme Court handed down from 1953 to 2013. *See* Sobowale, *How artificial intelligence is transforming the legal profession*. Impressive as that may be, each of those cases involved nine known decision-makers, all with considerable bodies of written work. A more typical case turns on the decisions of one judge, who may or may not have a body of work to assess, and a jury of six to 12 decision-makers. It may be that having computers predict these cases is analogous to teaching computers to drive: it cannot be done no matter how much data one feeds the computer. That said, there are treasure troves of unharvested litigation data in closed claim folders sitting in the file rooms (or on the servers) of large companies and their liability insurers. Here, AI may play a crucial role in retrieving and analyzing that data to enhance a human lawyer's case predictions.

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[3] Though not necessarily relevant to AI, this study also concluded that:

- Far more lawyers were susceptible to overconfidence than under confidence, though women were more successful than men at predicting success;
- The more confident that lawyers were in their prediction, the less likely their predictions were accurate; and
- The level of confidence that lawyers expressed in their prediction bore no relation to how far out the trial date was set.

Experience to date shows that AI is best deployed in conjunction with—and not to the exclusion of—a human.

This leads us to our *second* consideration. Experience to date shows that AI is best deployed in conjunction with—and not to the exclusion of—a human. This human plus AI approach is known as the "centaur" model, which first arose in the world of freestyle chess. *See* Brad Bush, *How combined human and computer intelligence will redefine jobs*," TechCrunch (Nov. 1, 2016). One lawyer who works for a legal services AI startup compared AI to "someone looking over your shoulder, an extra set of eyes that can flag provisions [in a contract], alert you to them and alert you to the absence of them." Jamie Hwang, *Legal writing pro is helping teach AI to draft contracts*, A.B.A. J. (Sept. 12, 2018). Under the centaur approach, AI never will replace lawyers, but it could help lawyers deliver better client service.

And there's the rub, we fear, because, *third*, the centaur model requires AI and an *alert* human. A lawyer can be seduced all too easily by machine logic, especially when its performance is not just consistent over time, but noticeably improves the more one uses it. Particularly when using black box AI, human vigilance may wane as the computer just gets better and better, and the lawyer does not know the why or how of it. An attentive driver presumably would have seen a pedestrian or a semitrailer crossing the car's path and applied the brake, but the drivers in the news stories did not. A contributing cause to those accidents may have been driver complacency that was rooted in long-standing positive experience with the vehicles' autopilot systems.

A key legal ethics and loss prevention challenge is keeping lawyers who use AI with great success for months or even years from getting overly comfortable with the ever-improving machine and falling asleep at the wheel.

For the purpose of this discussion, we will focus on legal research AI. There are many ways in which lawyers who become overly deferential to a computer's legal research results may make mistakes. One example is a lawyer's failure to cite controlling legal authority or to make a key argument because the algorithm driving the legal research did not identify the appropriate case, statute, or other authority. An algorithm will only be as good as the humans or other algorithms that spawned it. An individual's shortcomings are baked into the algorithms that he or she creates, including those used for legal research. It is unreasonable for any ALAS firm to assume that the programmers who write legal research algorithms have better skills than associates whom the firm has hired and trained itself. This is particularly so if firm lawyers never worked with those programmers.

Other AI-induced stumbles may be more subtle. Consider an associate who is asked to find support for the proposition that the appellate court's correction of one error by the lower court does not deprive the appellate court of the power to correct other errors. If that associate has grown overly deferential to the computer's suggestions, he or she might not question or even notice the computer's

proposed citation to 60 U.S. 393—Chief Justice Taney's infamous opinion in *Dred Scott v. Sandford*, 60 U.S. 393 (1857). (Okay, we are using an extreme example to make a point. Readers will be relieved to know that Westlaw has red-flagged the case, but aggrieved to learn that opinions issued in the 20th century cited the procedural holdings of *Dred Scott*.)

Associates are not the only lawyers who are vulnerable to AI's siren song. Partners may fall prey to techno-chauvinism as well. To understand why, consider these two questions:

- Over the last few years, has AI's ability to perform legal research improved, gotten worse, or stayed about the same?

- Over the same time period, have law firm associates gotten better at performing legal research, gotten worse, or stayed about the same?

Now consider a partner who is under firm pressure to attract new business and client pressure to reduce legal fees. That partner may leap to the techno-chauvinist conclusion that AI research is bound to exceed associate work, if it has not already. That would be an incorrect and dangerous mindset: AI-driven research can supplement but cannot replace diligent lawyer legal research, at least for the foreseeable future.

Lawyers at all levels must resist the temptation to view AI as an easy or complete solution to complex legal challenges. The better view is that AI is a limited tool that can mitigate the risk of human errors.

VI. ADDRESSING THE RISK MANAGEMENT CONCERNS

To borrow a metaphor from ALAS's "Practice Group Management Guide" (2017), an inattentive lawyer who is using AI is like a tennis fan who scores tickets to the U.S. Open final, but spends the entire time staring at the scoreboard instead of watching the match. The fan should be focusing on the match, and using the scoreboard to keep track of and inform what he or she observes on the court. A crucial challenge of AI is getting lawyers to use it as a scoreboard to keep track of what they are seeing and to highlight information they have missed.

Lawyers must maintain their initiative and exercise their natural skepticism so they continually question and second-guess the computer's output. To stay alert, lawyers must understand the technology that they and those on their team are using. Lawyers do not need to become computer programmers, but we do need to have some level of education on the scope and reliability of the AI tools in use, including most crucially their limitations.

VII. CONCLUSION

AI cannot do it all—not today and not for many years. Yet, AI can do some mundane tasks and supplement lawyers' efforts for more complex work. The presence of AI in the legal profession will continue to grow. Litigators should consider when AI systems could aid in serving the client. The centaur model pairing a human professional with effective AI may hold the most promise, but it also creates a risk of lawyer complacency and overconfidence in AI.

So should litigators love, fear, or hate AI? The answer may be all of the above, but regardless of what their answer is, lawyers must *understand* AI. Litigators should stay apprised of AI's benefits and shortcomings, and be mindful of the ethical issues that can arise under the applicable rules of professional conduct.