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INTRODUCTION

AI IN 2024: A YEAR OF CROSSROADS AND DECISIONS

Patrick Parsons*

Will we allow generative artificial intelligence (AI) to define us, or will we use generative AI to define the next generation of legal practice?

For better or for worse, many considered 2023 the year of AI. Launching in late 2022, ChatGPT set records for the fastest-growing user base, achieving one hundred million monthly users by late January 2023, beating TikTok by roughly four months.¹ The U.S. and the EU began establishing baseline regulations for its use, with the EU passing the world's first major comprehensive AI law on March 13,

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1. Krystal Hu, *ChatGPT Sets Record for Fastest-Growing User Base – Analyst Note*, REUTERS <https://www.reuters.com/technology/chatgpt-sets-record-fastest-growing-user-base-analyst-note-2023-02-01/> [https://perma.cc/DRD9-A2S7] (Feb. 2, 2023, 10:33 AM).

2024.² Almost every major tech player is placing a heavy focus on the area.³

The AI hype-train has not missed the legal industry. The forthcoming AI revolution has left lawyers, judges, and law students with a spectrum of emotions. In early 2023, an airline case, *Mata v. Avianca*, provided the legal industry with the cautionary tale it sought.⁴ In this case, the attorney for Mr. Mata used ChatGPT to write his opposition filings. However, ChatGPT, which is not designed as a legal research tool but instead works to provide answers based on statistical probabilities, provided answers that followed the cadence and citation format of case law but were, in fact, not real citations. In short, it made things up. While most would see this as an old-fashioned case of malpractice and bad lawyering, many legal professionals who lacked context and knowledge about generative AI systems would use this and similar unchecked errors to point to the unreliability of generative AI systems.

In turn, judges and law schools attempted to respond to something they too did not quite understand. Many judges attempted to craft generative AI policies to prohibit mistakes like those from the *Mata* case in their courtrooms. On May 30, 2023, Judge Brantley Starr of the Northern District of Texas issued the first federal standing order requiring attorneys to file a certification about the use of generative

2. Press Release, The White House, FACT SHEET: President Biden Issues Executive Order on Safe, Secure, and Trustworthy Artificial Intelligence (Oct. 30, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/30/fact-sheet-president-biden-issues-executive-order-on-safe-secure-and-trustworthy-artificial-intelligence/> [https://perma.cc/QP2V-WEKU]; Press Release, European Parliament, Artificial Intelligence Act: MEPs Adopt Landmark Law (Mar. 13, 2024), <https://www.europarl.europa.eu/news/en/press-room/20240308IPR19015/artificial-intelligence-act-meps-adopt-landmark-law> [https://perma.cc/S7W6-Q7B5]; Karen Gilchrist & Ruxandra Iordache, *World's First Major Act to Regulate AI Passed by European Lawmakers*, CNBC, <https://www.cnbc.com/2024/03/13/european-lawmakers-endorse-worlds-first-major-act-to-regulate-ai.html> [https://perma.cc/SH2K-TVCH] (Mar. 13, 2024, 12:14 PM).

3. Martin Armstrong, *How Much Are Companies Investing in AI?*, STATISTA (Nov. 22, 2023), <https://www.statista.com/chart/31314/global-corporate-investment-in-artificial-intelligence/> [https://perma.cc/36AD-CRF5]; Felix Richter, *Tech Giants Were All About AI This Earning Season*, STATISTA (May 11, 2023), <https://www.statista.com/chart/29979/ai-mentions-during-big-tech-earnings-calls/> [https://perma.cc/7CZ7-JRJP].

4. Benjamin Weiser, *Here's What Happens When Your Lawyer Uses ChatGPT*, N.Y. TIMES (May 27, 2023), <https://www.nytimes.com/2023/05/27/nyregion/avianca-airline-lawsuit-chatgpt.html> [https://perma.cc/74EF-ZREF].

AI.⁵ More judges followed, many of whom would require disclosure if attorneys utilized generative technology.⁶ Others would go as far as banning generative AI for things like preparing “any filing to the court,” but still exclude tasks like legal research.⁷ Law schools took a similar route, fearing that students could use these new systems to create answers to formulaic law school exams.

At the same time, large parts of private industry saw the promise of generative AI. In a survey conducted in late 2023, ninety percent of managing partners and C-suite leaders at Am Law 200 and other large law firms expected their generative AI budgets to grow over the next five years.⁸ Even before AI became generative, it had completely revolutionized the e-discovery industry through technology-aided review (TAR).⁹ Firms saw AI as a way to leverage vast amounts of unstructured data they previously lacked the resources or expertise to harness. Clients’ expectations are bullish on generative AI as well, as

5. Judge Brantley Starr – *Judge Specific Requirements: Mandatory Certification Regarding Generative Artificial Intelligence*, U.S. DIST. CT. N. DIST. OF TEX., <https://www.txnd.uscourts.gov/judge/judge-brantley-starr> [https://perma.cc/3GZW-USDY].

6. David Lat, *New Court Rules for AI: Stop the Insanity*, ORIGINAL JURISDICTION (Feb. 29, 2024), <https://davidlat.substack.com/p/new-court-rules-for-ai-stop-the-insanity> [https://perma.cc/Z9VB-DUVP]. See generally Madhavi Nambiar, *Analysis of AI Use in Courts*, RESPONSIBLE AI IN LEGAL SERVS. (Mar. 14, 2024), <https://rails.legal/resource-ai-orders/> [https://perma.cc/SQ46-JLRF].

7. Hon. Michael J. Newman, United States District Court for the Southern District of Ohio, *Standing Order Governing Civil Cases*, at 11 (Dec. 18, 2023), <https://www.ohsd.uscourts.gov/sites/ohsd/files/MJN%20Standing%20Civil%20Order%20eff.%2012.18.23.pdf> [https://perma.cc/B884-NZNU].

8. Isha Marathe, *Law Firms, Legal Departments Are Investing in Gen AI, but for Different Purposes*, LAW.COM (Feb. 21, 2024, 3:08 PM), <https://www.law.com/legaltechnews/2024/02/21/law-firms-legal-departments-are-investing-in-gen-ai-but-for-different-purposes/#:~:text=Additionally%2C%20while%2043%25%20of%20Am,legal%20departments%20said%20the%20same> [https://perma.cc/PP3U-JCF8]; see also LEXISNEXIS, *2024 INVESTING IN LEGAL INNOVATION SURVEY* (2024), <https://www.lexisnexis.com/pdf/genai-report.pdf> [https://perma.cc/7V5G-VZVZ].

9. Sarah Moran, *What Is the Future of TAR in eDiscovery? (Spoiler Alert – It Involves Advanced AI and Expert Services)*, JDSUPRA (Sept. 24, 2021), <https://www.jdsupra.com/legalnews/what-is-the-future-of-tar-in-ediscovery-4638024/#:~:text=TAR%20proved%20invaluable%20because%20machine,reviewing%20large%20portions%20of%20documents> [https://perma.cc/RC2A-WUJA].

they increasingly expect their attorneys to have not just expertise, but also a plan for how to use AI in their representation.¹⁰

Regardless of how AI has progressed through 2023 and early 2024, it is here. Law practice now exists in a reality where computers can generate text responsively, more like a conscious being than ever before. Moreover, we can train these computers to generate text for specific tasks and specialties like law. This is not to say that lawyers are unnecessary, but that some of their tasks can be replaced, altered, and made more efficient. Although making predictions on what the future of legal practice will look like feels like writing a movie review after only seeing the title, the events of the past year raise some interesting questions about where we take the practice of law in the era of AI.¹¹ The existence of these questions poses another question: is refusing to answer them staying in the same place or moving backward?

I. HOW WILL LEGAL PRACTICE HANDLE EFFICIENCY GAINS?

In early 2013, Casey Flaherty, then-Corporate Counsel at Kia Motors of America, Inc., began making news about a new legal technology competency audit he developed.¹² The audit required associates at outside firms to complete a series of technology tasks that, if done correctly with the integrated functions provided in Microsoft Suite and Adobe Acrobat, could be completed in under an hour. Examples included auto-creating table of contents, numbering pages, bates stamping, redacting, and other run-of-the-mill administrative tasks. The audit took him thirty minutes, so he set a

10. Geoffrey D. Ivnik, *The Disconnect Between Law Firms and Clients on Use of Gen AI*, LEXISNEXIS: LEGAL INSIGHTS (Feb. 9, 2024), <https://www.lexisnexis.com/community/insights/legal/b/thought-leadership/posts/the-disconnect-between-law-firms-and-legal-departments-on-impact-of-gen-ai> [https://perma.cc/5RL2-SKKR].

11. A special thanks to my colleague Michelle Dewey for this analogy.

12. D. Casey Flaherty, *Could You Pass This In-House Counsel's Tech Test? If the Answer Is No, You May Be Losing Business*, AM. BAR ASS'N: LEGAL REBELS (July 17, 2013, 1:30 PM) https://www.abajournal.com/legalrebels/article/could_you_pass_this_in-house_counsels_tech_test [https://perma.cc/476S-Y6G8]; Simon Fodden, *Kia's Outside Counsel Tech Audit*, SLAW (Mar. 5, 2013), <https://www.slaw.ca/2013/03/05/kias-outside-counsel-tech-audit/> [https://perma.cc/4V77-CLJW].

passing time as one hour. After administering the audit ten times, associate median and mean pace rounded to five hours.¹³ Mr. Flaherty showed, through one short assessment, or maybe not short depending on the taker, that associates were not leveraging basic office technology effectively and that if billed, such inefficiency could be costly.

The most fascinating part about the Kia Tech Audit, and the reason it is included in this Introduction, is that Flaherty's work and findings seemed to be creating, pushing, and arguing for many of the same things as generative AI. First, he saw that law firms could see tremendous efficiency gains through simple training and effective use of software. At best, these firms were paying someone for inefficient work hours. At worst, at least from an efficiency standpoint, these hours were being billed to clients by attorneys and paralegals. Simply put, law firms can achieve rather significant savings through simple administrative enhancements made possible through technological competence. The same things can be said of generative AI. For example, Eve, an AI-powered legal assistant, can automate a long line of tasks. One attorney using the product can upload an AI-generated call transcript and then have the assistant write a case summary, identify potential claims, produce a draft witness list, and give a case timeline.¹⁴ This kind of work would historically take an assistant several hours. It is easy to see how quickly these types of tools could also do simple things like open new matters, send out intake forms, and write billing descriptions.

But, for the legal tech audit and generative AI, talking about efficiency gains is putting the proverbial cart before the horse. Before asking how, we must ask, "Is there an incentive for firms to become more efficient?" For all the sense that the Kia Tech Audit made, nothing changed. A few startups, including Flaherty's own Procertas, began offering training platforms and accrediting standards for legal

13. Flaherty, *supra* note 12.

14. Manny Starr, EVE, <https://www.eve.legal/customer-stories/frontier-law-center> [https://perma.cc/VKY8-BZMT].

technology competency.¹⁵ Still, the administrative processes of the legal industry utilize armies of legal assistants and paralegals to manually perform tasks that can easily be performed with small tweaks in attorney workflow. At the end of the day, lawyers bill by the hour, and unless there is a mass shift in the industry spurred on by client dissatisfaction, efficiency in the wrong places leads to fewer billable hours and seemingly decreased profitability.¹⁶ So, just because lawyers *could* work faster, why should they?

The question then becomes, what will make generative AI any different? Hopefully, the answer is scale. Unlike the Kia Tech Audit, generative AI is everywhere, and clients are beginning to expect lawyers to use these tools to enhance their representation in effectiveness and efficiency.¹⁷ Eighty percent of corporate legal executives expect an outside counsel bills reduction because of generative AI technology, yet only nine percent of law firm leadership said their corporate clients have expressed that they expect such a reduction.¹⁸

But how does a firm make money if, for instance, a contract review process that used to occupy a billing first-year associate for 200 hours a year suddenly can be performed by the sixth-year associate and a contract review platform? McKinsey Global Institute estimates that existing legal technology could automate twenty-three percent of a current attorney's workload.¹⁹ The firm can resist the technology and stick to the manual review model. When pitching to prospective

15. PROCERTAS, *procertas.com* [<https://perma.cc/CTA7-SU4G>]; NAT'L SOC. FOR LEGAL TECH., <https://legaltechsociety.wildapricot.org/Professional-Home/> [<https://perma.cc/HX7D-ZPPT>]; LEGAL TECH. CORE COMPETENCIES CERTIFICATION COAL., <https://ltc4.org/> [<https://perma.cc/ZR6P-7FK9>].

16. Alicia Mitchell-Mercer, *The Battle Between Profitability and Efficiency in Legal Services Delivery*, LINKEDIN PULSE (June 20, 2018), <https://www.linkedin.com/pulse/does-billable-hour-encourage-inefficiencies-alicia-m-acp-rp-sccp/> [<https://perma.cc/S9QW-R9HT>].

17. Ivnik, *supra* note 10.

18. *Id.*

19. *Legal Technology: The Impact on Law Practice Management*, EMBROKER (May 15, 2023) [hereinafter *Legal Technology*], <https://www.embroker.com/blog/legal-technology-impact-law-practice-management/> [<https://perma.cc/3MNA-78HF>]; McKinsey Global Institute, *Automation Potential and Wages for US Jobs*, TABLEAU PUB., <https://public.tableau.com/app/profile/mckinsey.analytics/viz/AutomationandUSjobs/Technicalpotentialforautomation> [<https://perma.cc/JZS3-GUZC>].

clients, however, they will have an increasingly difficult time justifying hourly costs as AI-based review gains in industry use and reliability. This could be the result technologists thought they would see from the Kia Tech Audit just ten years later. In an ever more competitive market, where clients expect to see value for their money, savvy general counsel will balk at proposals and bills allocating costs to tasks they know other firms are automating. The reduction in cost most general counsel expect to see will have to come from somewhere. This is an important potential flash point to monitor as generative AI adoption rises in the years ahead.²⁰

These other questions build to the ultimate query: is generative AI finally the thing that begins to push back on the billable hour? If so, how will large law firms remain profitable without tasks like contract review, which acted as a de-facto profit center? The easiest answer is the one that has always been in front of us—start charging for what tasks are worth and not for how long they take. In short, eliminate the billable hour. The American Bar Association (ABA) has been talking about escaping the billable hour since at least 1989.²¹ Generative AI could be the technology that finally automates law firms into billing for individual services because some of the pieces of those services will take significantly less time and return significantly less profit. On top of profitability, if law firms lose some of the assignments traditionally used to train young associates, such as contract review and due diligence, firms will need new mechanisms to bring in and develop new talent.

If external pressures are significant enough, we could be on the eve of an efficiency revolution in the practice of law that could alter the billing, staffing, and work models law firms have relied on for years. If this comes to pass, those who were at the forefront of modernization are likely to fare the best, with those most resistant and least nimble unable to make shifts necessary to keep up with a changing workplace.

20. *Legal Technology*, *supra* note 19.

21. *See generally* RICHARD C. REED, BEYOND THE BILLABLE HOUR: AN ANTHOLOGY OF ALTERNATIVE BILLING METHODS (1989).

II. WHO GETS AI? IS IT TIME TO FIX THE JUSTICE GAP?

In late January 2024, Bob Ambrogi, a popular legal tech writer and founder of *LawSites*, attended two legal technology conferences in one week—ALM’s New York Legal Week and Legal Services Corporation’s Innovations in Technology Conference.²² While it is not uncommon for Mr. Ambrogi to attend a number of these types of conferences, the juxtaposition of these two, happening in the same week, both focusing on technology but with wholly different audiences and feel, gets to the core of the question about fairness and AI. In his article, Mr. Ambrogi wrote:

At Legalweek, the focus of the conference is almost exclusively on tech for large law firms and corporate legal departments. The sponsors and exhibitors are focused on products for e-discovery, contract lifecycle management, large firm financial and business management, and the like. The programs, similarly, focus on data privacy, e-discovery, information governance, contract technology, and large-scale litigation.

The exhibit hall spans three floors, the booths are big and bright, and the vendors seemingly all throw parties that are over the top, or quite literally near the top, at venues such as the Rainbow Room at the top of Rockefeller Center, with freely flowing alcohol and plenty of food.

By contrast, at the ITC conference, the attendees come mostly from the ranks of legal aid offices, pro-bono programs, court self-help staff, and the like. The programs focus on how understaffed legal aid offices and understaffed courts and understaffed community programs can use technology to help meet the influx of low-income people seeking legal help.

22. Bob Ambrogi, *The Justice Gap in Legal Tech: A Tale of Two Conferences and the Implications for A2J*, LAW SITES (Feb. 5, 2024), <https://www.lawnext.com/2024/02/the-justice-gap-in-legal-tech-a-tale-of-two-conferences-and-the-implications-for-a2j.html> [<https://perma.cc/UP6L-J5RE>].

The exhibit hall was modest, with 10 simple tables, and there were no lavish parties put on by vendors – just a conference reception with a cash bar (and pretty good food, from what I saw).²³

It is estimated that ninety-two percent of low-income Americans do not get any or enough legal help for substantial legal problems.²⁴ These individuals only seek help for one out of every four civil legal problems that affect them substantially.²⁵ Approximately half of Americans cite cost as a reason they do not seek legal help if they need it.²⁶ Even among those with unmet needs, there is a gap, as those with an income above 125% of the federal poverty line receive more legal assistance when problems increase in impact, while poor people are less likely to receive any meaningful legal assistance regardless of the seriousness of the impact of the legal proceeding.²⁷

Even if everyone had enough money to hire a lawyer or mass communication made everyone believe that the legal system was there to help them, most people would still have difficulty finding local, qualified assistance.²⁸ In 2020, a report by the ABA stated that “more than 3,100 counties and county equivalents [are] in the U.S., and 54 have no lawyers.”²⁹ One hundred eighty-two have one or two.³⁰ Across the country, there are approximately four lawyers for every 1000 residents.³¹ Large population centers drastically skew these numbers.³²

23. *Id.*

24. LEGAL SERVS. CORP., THE JUSTICE GAP: EXECUTIVE SUMMARY (2022), <https://justicegap.lsc.gov/resource/executive-summary/> [<https://perma.cc/A259-Y9N9>].

25. *Id.*

26. *Id.*

27. LEGAL SERVS. CORP., THE JUSTICE GAP: SECTION 5: COMPARING INCOME GROUPS (2022), <https://justicegap.lsc.gov/resource/section-5-comparing-income-groups/> [<https://perma.cc/24ZD-KYLX>].

28. AM. BAR ASS'N, ABA PROFILE OF THE LEGAL PROFESSION 2 (2020), <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf> [<https://perma.cc/3YQF-UGF5>].

29. *Id.*

30. *Id.*

31. *Id.*

32. *Id.* For example, in New York, there are fourteen per 1000, and Leon County, Florida, home of Tallahassee, has eleven per 1000. *Id.*

In fact, around “1,300 counties in the U.S. have less than one lawyer per 1,000 residents.”³³

Until recently, the future looked bleak for the justice gap problem. Underserved populations did not have enough money to pay for a lawyer; if they did, there was a good chance there were no lawyers available. However, we now have advanced generative AI systems that can automate forms, perform basic research tasks, explain concepts, draft legal documents, and, although not currently allowed by any state bar association, answer basic legal questions. The logical leap between the solutions provided by generative AI and some of the problems presented by the justice gap is not large. It has the potential to be exponentially cheaper and more effective than traditional solutions like increased funding and personnel simply cannot provide. However, as Ambrogi wrote, the investment in private for-profit tech dwarfs that of justice tech.³⁴

This question of investment and access is the crossroads in the legal industry. While there is some debate about what generative AI will ultimately be able to do, there is no debate that it could replace or augment current legal services to provide effective, low-cost alternatives to those people for whom legal services are traditionally unavailable. Although this seems like a simple flip-switch, there are several hurdles. First, the technology must be available. Generative AI technology and large language models (LLMs) are expensive, proprietary, and investment intensive for legal tech companies. While some legal research systems might come quickly because of the availability of open-access legal materials, we still need more powerful open-source LLMs and computing power. Moreover, if we hope that a generative AI system can do anything beyond research, bar associations will once again have to grapple with their stances on the unauthorized practice of law. Until state bar associations address the justice gap as a result of a lawyer shortage and attempt to carve out exceptions for systems like generative AI to perform some supervised

33. *Id.*

34. Ambrogi, *supra* note 22.

low-risk tasks, it will be hard to dent the overall problem. Finally, legal aid will have to reorient itself to a new tech-oriented world. Lawyers who enter public service are some of the most selfless and hard-working attorneys. However, the enormity of the justice gap cannot be touched without a change in thinking. Funding has flatlined, and legal aid is unlikely to get a huge influx of new attorney headcount. The only way to serve more people is to figure out how to operate more efficiently. Generative AI can provide an opportunity to meet that goal.

III. WILL GENERATIVE AI MAKE LEGAL EDUCATION TAKE TECH COMPETENCY MORE SERIOUSLY?

As discussed earlier, the Kia Tech Audit slightly changed how legal education approached technology training. Around the same time, the ABA formally changed Comment 8 to Model Rule of Professional Conduct Rule 1.1.³⁵ The rule requires lawyers to be competent and adds knowledge of “the benefits and risks associated with relevant technology” to the explanatory comment. So far, forty states have adopted the comment and require a duty of technological competence.³⁶

The question of whether students and lawyers become technologically competent in a post-Comment 8 world, however, remains. The academy and legal profession have regularly taken a hands-off approach to the problem. The 2022 Technology Training ABA TechReport reported a strong reception of technology in the profession. Spending was up, and technology training was reported at 74.9 % of law firms.³⁷ Yet, lawyers’ attitudes showed a different story. Nearly eleven percent of participants did not think lawyers should be

35. MODEL RULES OF PRO. CONDUCT r. 1.1 cmt. 8 (AM. BAR ASS’N 2023).

36. Robert J. Ambrogi, *Tech Competence*, LAW SITES, <https://www.lawnext.com/tech-competence#:~:text=To%20maintain%20the%20requisite%20knowledge,which%20the%20lawyer%20is%20subject> [<https://perma.cc/3BCQ-6R5F>].

37. Mark Rosch, *2022 Technology Training TechReport*, AM. BAR ASS’N (Nov. 30, 2022), https://www.americanbar.org/groups/law_practice/resources/tech-report/2022/technology-training/ [<https://perma.cc/C72W-7CSM>].

required to stay abreast of the benefits and risks of technology.³⁸ Moreover, the report stated:

While a majority of respondents see the importance “to receive training on [their] firm’s technology” (46.9% “very important”; 39.9% “somewhat important”), almost 1/6 of respondents reported a neutral or negative opinion as to whether it was important “to receive training on [their] firm’s technology” (7.4% “neither important nor unimportant”; 4.4% “not very important”; 1.8% “not at all important”).³⁹

Adding to these attitudes, most law schools do not take a comprehensive or even systematic approach to technology competence.⁴⁰ Most course offerings are fragmented with little coordination regarding agreed-upon skills, outputs, or curriculum.⁴¹ Courses sounding the same will vary dramatically from institution to institution.⁴² In addition, the initial response to generative AI from academia stood in stark contrast to that in the private sector.

In March 2023, researchers from Chicago Kent Law School announced that ChatGPT 4 could pass the July 2022 Bar exam and earn a score that would have landed in the ninetieth percentile of scores.⁴³ This news set off immediate waves of concern across U.S. law schools. What if students can use this new technology to create, out of thin air, answers to hypothetical law school questions? Professors took turns running exam hypos through free Chat GPT and discovering that it did do a decent job, especially when it did not have

38. *Id.*

39. *Id.*

40. See Jessica De Perio Wittman & Kathleen Brown, *Taking on the Ethical Obligation of Technology Competency in the Academy: An Empirical Analysis of Practice-Based Technology Training Today*, 36 GEO. J. OF LEGAL ETHICS 1, 20 (2023).

41. *Id.*

42. *Id.* at 39.

43. Debra Cassens Weiss, *Latest Version of ChatGPT Aces Bar Exam with Score Nearing 90th Percentile*, ABAJOURNAL (Mar. 16, 2023, 1:59 PM), <https://www.abajournal.com/web/article/latest-version-of-chatgpt-aces-the-bar-exam-with-score-in-90th-percentile> [<https://perma.cc/PUZ3-RKP4>].

to create citations or recall specific facts of a case. In turn, many law schools have banned its use in various areas, mainly concerning content creation.⁴⁴

In contrast, other schools are encouraging and training students on its usage. Georgia State University College of Law has started incorporating generative AI in most required Certificate in Legal Analytics and Innovation courses. Legal tech and innovation centers, including those focused only on AI, are popping up at law schools nationwide.

Regardless of how academics decided to approach AI, it is here to stay. Our new reality is that a chatbot can complete law school assignments at a level worthy of a B grade. It might not be able to set the curve, and it has a propensity to make some things up, but if a student wants to finish a writing assignment quickly, they can do so using AI. Legal writing courses in particular may have to rethink how they approach assignments, as writing is a core skill that students must learn to do autonomously before they can automate its components. It will be easier for students to cheat on some take-home writing assignments, as AI can easily complete them. Things should, however, remain the same for those traditional in-class law school exams where students cannot use outside resources.

Law schools have a spectrum of options for how to proceed. On one hand, they can embrace AI and see it as an inevitable consequence of technological progress. We now have a computer that can auto-generate human-like speech and text. While it might not be as good as a well-trained lawyer, it can certainly redraft clauses, compare contracts, and auto-generate text. Law firms are investing in this technology, and law schools have an obligation to prepare students for the realities they will face in practice.

44. *ChatGPT and Generative AI Legal Research Guide*, UNIV. OF ARIZ. L. LIBR., <https://law-arizona.libguides.com/c.php?g=1301273&p=9838357> [https://perma.cc/8TRT-4SNP]; Julianne Hill, *Profs Trade Notes as Law Schools Write Generative AI Policies*, ABAJOURNAL (Jan. 2, 2024, 1:12 PM), https://www.abajournal.com/web/article/law-profs-trade-notes-as-law-school-write-generative-ai-policies#google_vignette [https://perma.cc/WM99-VPRD].

Conversely, legal educators can retreat to the pre-Carnegie Report world of 2007. The Carnegie Foundation's report roundly criticized legal education for failing to practically train lawyers, effectively pushing practice-skills development onto employers in the first few years of practice.⁴⁵ Law schools, without a real focus on applying technology and generative AI, and not just to an interested subset but within the whole of their curriculum, risk doing the same thing with one of the biggest disruptors to the legal industry since the internet.⁴⁶ The temptation is certainly there to rest upon the fallibility of these recent technologies, pointing toward inevitable missteps, mistakes, and superiority of one's own expertise, but failing to recognize and train lawyers to operate in a newly technological law office could soon be akin to failing to teach them to cross-examine a witness or interview a client.

CONCLUSION

Generative AI is here. Lawyers, law students, law faculty, and pro se litigants are all using technology to augment the practice of law. The speed at which technology continues to change the practice of law is quickening and will continue to do so until generative AI tools are as fully integrated as word processing software and internet searching. The question, then, becomes what role do attorneys play? We seem to be at the forefront of a technology that can fundamentally change the practice of law. Will lawyers accept this new reality or fight against it? Will they utilize AI to achieve efficiency gains if it means they must also rethink parts of their business and training models? With efficiency gains, we could finally eliminate the presumption that part of practicing law in an unhealthy work-life balance. We need to utilize

45. WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WAGNER, LLOYD BOND & LEE S. SHULMAN, CARNEGIE FOUND. FOR THE ADVANCEMENT OF TEACHING, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW SUMMARY 6 (2007), http://archive.carnegiefoundation.org/publications/pdfs/elibrary/elibrary_pdf_632.pdf [<https://perma.cc/T5ZS-F9MD>].

46. Joseph Margulies, *Chat Got a B*, VERDICT (May 12, 2023), <https://verdict.justia.com/2023/05/12/chat-got-a-b> [<https://perma.cc/HR4N-XW3Z>].

AI to lessen the justice gap and demand equality in access to the technologies. Who will be the change agent to leverage these emerging technologies and develop technologically sophisticated approaches for legal aid organizations that allow them to expand their reach drastically? Finally, how long will it take law schools and lawyers to realize that tech competency, especially in new AI tools, is a necessary part of legal practice?

These are all issues and questions the legal profession must grapple with at the onset of the AI revolution. If we do not actively engage with AI issues, we could miss out on some of the greatest benefits the technology has to offer. Generative AI can improve access, efficiency, and the quality of life for everyone. If we make the wrong moves, however, it could also reinforce the status quo, leaving technology as a service that can be sold to us instead of something we can utilize to change the legal profession and legal training for the better. Time will tell how much generative AI changes legal practice. But, our decisions now and our insistence on generative AI's role in bettering the practice of law will be instrumental in how the technology will be used in the future.