

Legal Ethics & Technology

June 25, 2026

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1. Chat - link available in the **CHAT** (right now)
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<https://www.surveymonkey.com/r/tech062526>

Agentic AI

AI Agents and Agentic AI

- AI agents – autonomous, decision-making systems powered by artificial intelligence
 - Essentially AI-specialized employees that are deployed to undertake particular functions
- Agentic AI systems (or multi-agent systems) – more sophisticated systems that are designed to operate with a higher degree of autonomy for the purpose of achieving a wider set of objectives and goals
 - Act as an AI agent “conductor” or manager
 - Deploy, coordinate and manage multiple AI agents
- Examples include OpenClaw, Claude Code, OpenAI Codex

Agentic AI Example

- Firm/client provides summary of potential litigation and related documents
- AI agents review, organize, summarize all information received
- AI agents spot issues and identify potential claims and defenses
- AI agents can test different approaches, such as law in different jurisdictions or before different judges, and prepare summaries/outlines
- AI work product can be run back through the AI loop to test and further develop theories (like computer learning chess)
- *None of the AI analysis and organization involves billing hours of time to client*

This Claude-powered AI agent deleted a company's whole database — and then gloated about it

A mix of Cursor, Claude Opus and a cloud provider's backup practices combined to create a disaster.



Dan Thorp-Lancaster · [Follow](#)
Editor

Add Yahoo Tech on Google



1.5k

Updated Thu, April 30, 2026 at 10:01 AM CDT

Crane told the story in a lengthy [social media post on X](#), noting that Cursor was performing a routine task when it opted to fix a credential mismatch on its own. In the process, Cursor gained broad access to permissions by finding an API token from PocketOS's cloud infrastructure provider, Railway. It then decided, without any prompting for input from the PocketOS team, to delete the production database volume. "It took 9 seconds," Crane said.

To make matters worse, all of PocketOS's recent backups were also deleted because Railway stores them on the same volume. Crane says the most recent recoverable volume the company had access to was three months old.

As if the actions Cursor took weren't bad enough, it responded with a rundown of all the safeguards it had ignored when Crane asked why it did it.

"NEVER F***ING GUESS! — and that's exactly what I did," the agent said. "I

Questions

- What portion of the AI work is privileged?
- Is it UPL if the AI system performs “legal work” without an attorney?
- What happens if a mistake is made?

Overview of Program

1. What obligations do you have to be informed of new technologies?
2. When does new technology become the norm?
3. How does that impact ethical obligations?

Ethical Framework

Ethical Framework

Rule 4-1.1 – Duty of Competence

Rule 4-1.4 – Duty of Communication

Rule 4-1.6 – Duty of Confidentiality

Rule 4-5.4 – Professional Independence

Also Rules 4-3.3, 4-5.1, and 4-5.3

Rule 4-1.1

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Comment [6] to Rule 4-1.1

[6] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, **including the benefits and risks associated with relevant technology**, engage in continuing study and education, and comply with all continuing legal education requirements to which the lawyer is subject.

- C. 40 states have adopted duty of tech competence
 - Kansas – 2014
 - Illinois – 2016
 - Missouri – 2017

Need to Be Tech Competent

State court opinions have imposed duties on attorneys to have some degree of tech competency.

- *Johnson v. McCullough*, 306 S.W.3d 551 (Mo. 2010)
- *In re Rittmaster*, 326 P.3d 376 (Kan. 2014)

Sources for Tech Competency Obligations

- Ethical rules
- Standard of care
- Fiduciary duty
- Court-specific requirements
- Case law
- Contracts

Rule 4-1.4

(a) A lawyer shall:

- (1) keep the client reasonably informed about the status of the matter;
- (2) promptly comply with reasonable requests for information; and
- (3) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Comment [2] to Rule 4-1.4

[2] The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so.

- May include informing clients regarding the use, risks, and benefits of using AI on a matter

Rule 4-1.6

(a) A lawyer **shall not** reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by Rule 4-1.6(b).

....

(c) A lawyer **shall** make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of the client.

Confidentiality Concerns

- Technology vendors allowing third-parties access to client information
- AI tools pose risk of retaining data for large language model learning
- Storing client data on cloud servers requires verifying provider respects attorney-client privilege and has cybersecurity measures

Confidentiality Best Practices

- Redact or replace names and identifying details when using AI
- Review the terms of service (ToS), privacy policies, and security practices for all tech vendors
- Avoid using free, public AI versions for legal work, because they often harvest input data for LLM training
- Obtain client informed consent before using exposing client information to AI

Rule 4-5.4(c)

A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

Comment [2] to Rule 4-5.4

Rule 4-5.4 also expresses traditional limitations on permitting a third party to direct or regulate the lawyer's professional judgment in rendering legal services to another.

Illinois Supreme Court Policy on AI (December 18, 2024)

- Effective January 1, 2025
- The use of AI may be expected, should not be discouraged, and is authorized provided it complies with legal and ethical standards.
- Disclosure of AI use should not be required in a pleading.

Missouri Informal Opinion 2024-11

- Guidance on lawyer use of generative AI in their law practice
- Lawyers can use generative AI as long as they are mindful of their ethical obligations

ABA Formal Opinion 512

- If a lawyer is going to charge for AI tools, lawyer must explain basis for the charge
- For hourly billing, lawyers must charge only for actual time spent on case
- Contingent fee or flat fee may be deemed unreasonable if lawyer can complete case more quickly with AI
- Lawyers can only bill for direct costs of using an AI tool and should not add a surcharge to the client

ABA Formal Opinion 512

- Overhead charges should not be passed on to the client unless there is a prior disclosure and engagement.
- Should not charge for AI tools that function as maintaining a law practice. However, it is reasonable to charge client for actual out-of-pocket expenses incurred for the client.
- Lawyers cannot pass on the cost of learning to use an AI tool unless client specifically requests that the lawyer learn and use it in their case.

ABA Formal Opinion 512 Criticisms

- Follows a strict adherence to Rule 1.5 which may not be realistic in practice
- Clients can benefit from efficient management of case with help from AI
- Lawyers can explore ways to use AI and reasonably include costs into services
- The reasonableness standard should evolve

Artificial Intelligence for Case Research/Analysis

Attorneys Use of AI

- Legal research and writing
- eDiscovery
- Time keeping and billing
- Document analysis
- Internal firm database
 - Kirkland & Ellis investing \$500 million to build a proprietary AI platform

AI Empowered Client

- AI can replace conventional legal services by offering accessible tools to those who cannot afford a lawyer
- Help address problems of unmet and poorly met legal services

United States v. Heppner

(SDNY 2-17-2026)

- Defendant received a grand jury subpoena
- Defendant used Claude Ai to research a defense strategy in anticipation of talking to his counsel

United States v. Heppner

(SDNY 2-17-2026)

- Held that written exchanges between a criminal defendant and Claude Ai were **not** protected by the attorney-client privilege:
 - AI output failed to meet elements required for attorney-client privilege: (1) not an attorney-client communication; (2) there was no reasonable expectation of confidentiality; and (3) AI documents were not prepared for the purpose of obtaining legal advice
- Also not protected by work-product doctrine

Warner v. Gilbarco, Inc. (E.D. Mich. 6-10-2026)

- Pro se plaintiff used ChatGPT to prepare her case
- Defendants moved to compel production of all documents concerning her AI use
- Court denied the motion and held that the information was not discoverable because it was not prepared in anticipation of litigation

Warner v. Gilbarco, Inc.

(E.D. Mich. 6-10-2026)

- Drew a distinction the *Heppner* case did not: attorney-client privilege waiver and work product waiver are not the same thing
- Voluntary disclosure to a third person waives attorney-client privilege, but not work product
 - AI is not a third person – “ChatGPT (and other generative AI programs) are tools, not persons...”

Morgan v. V2X, Inc.

(D. Colo. 3-30-26)

- Another pro se plaintiff using AI to help litigate case
- Defendant sought:
 1. Order compelling plaintiff to identify AI tool he was using, and
 2. An amendment to the protective order restricting AI use
- Court granted both, in part

Morgan v. V2X, Inc. (D. Colo. 3-30-26)

Followed *Warner* and held that Rule 26(b)(3) protects pro se litigant's AI use, rejecting argument consumer AI tool waived protection

Morgan v. V2X, Inc.

(D. Colo. 3-30-26)

- Plaintiff had not carried burden to show that naming the tool itself would reveal mental impressions or strategy
- Protective order barred upload of confidential information to any AI platform unless provider prohibited from training on inputs, restricted on third-party disclosure, and allows deletion on request

Protective Orders and AI

At least five federal district courts have issued specific protective order provisions

- Colorado – *Morgan v. V2X, Inc.*
- Kansas – *Jeffries v. Harcros Chemicals Inc.*
- Minnesota – *Fiorito v. Metropolitan Council*
- SDNY – *U.S. v. Heppner*

The Blanket Prohibition

“No party may upload or otherwise disclose Confidential Data to any generative AI platform, such as (but not limited to) ChatGPT.”

- *Fiorito v. Metropolitan Council* (D. Minn. 2025)
- Does not distinguish between open consumer platforms and closed AI tools

The Data-Rights Approach

“The Protected Material shall not be loaded into an AI tool or model, generative or not, where rights to the data are retained by any party that has not explicitly agreed to be covered by the protective order.”

- *U.S. v. Jackson* (W.D. Wash. 2025)
- Focus on whether provider has agreed to be bound by the protective order

The Contractual Safeguards Approach

- Parties cannot use any AI tool unless the AI provider is contractually prohibited from:
 - Storing or using inputs to train or improve its model; and
 - Disclosing inputs to any third party except where disclosure is essential to facilitating delivery of the service.
- Must also permit parties to remove/delete all confidential information upon request
- Confirm compliance in writing
- *Morgan v. V2X, Inc.* (D. Colo. 2026)

The Notice-and-Secure-Environment Approach

Most comprehensive AI framework that requires

- (1) Provide other parties with notice and opportunity to object;
 - (2) Ensure AI tool is used in a secure environment and that confidential information is not used to train any AI tool except one used exclusively in the action;
 - (3) Ensure that any confidential information used to train an AI tool is destroyed at the conclusion of litigation; and
 - (4) Ensure all confidential information is deleted at the conclusion of the action.
- *Jeffries v. Harcros Chemicals Inc.* (D. Kan. 2026)

AI Hallucination Headaches Continue

US appeals court orders lawyer to pay \$2,500 over AI hallucinations in brief

By Nate Raymond

February 18, 2026 4:54 PM CST · Updated February 18, 2026



Fletcher v. Experian Info Solutions (5th Cir. 2026)

- Court identified 21 fabrications or misrepresentations
- Fifth Circuit frustrated that AI-generated hallucinations are still an issue and have been increasingly problematic despite 3 years of high-profile examples

[Home \(/\)](#) / [Daily News \(/news/\)](#) / DOJ leaders must explain why attorney used...

FEDERAL GOVERNMENT

DOJ leaders must explain why attorney used fabricated quotes in court filing

MARCH 9, 2026, 10:25 AM CDT



Senior leaders from the U.S. attorney's office for the Eastern District of North Carolina must appear at a show-cause hearing this week, after an assistant U.S. attorney filed a response with the court including "fabricated quotations and misstatements of case holdings" and then made "false or misleading statements" about their origins. (Image from [Shutterstock](https://www.shutterstock.com/image-illustration/north-carolina-us-state-law-code-359621102) (<https://www.shutterstock.com/image-illustration/north-carolina-us-state-law-code-359621102>))

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(<https://news.bloomberglaw.com/us-law-week/federal-prosecutor-used-fabricated-quotes-false-cites-in-filing>).

The senior leaders must explain why the entire office shouldn't be held jointly responsible and why the attorney responsible shouldn't be sanctioned, U.S.

AUSA resigned March 10, 2026

- Told judge he had used “AI to ‘catch up’ on a draft filing”
- “The worst decision I’ve ever made in my 30-year career”

Business & Practice

Lawyers Sanctioned Over AI Use on Both Sides in Federal Case

June 9, 2026, 9:05 AM CDT

A Mississippi federal judge sanctioned attorneys on both sides of a contract breach case for failing to prevent AI hallucinations in legal filings, including banning attorneys from entering appearances in that court for two years.

Additional punishments included disqualifying the attorneys from this specific case, monetary fines, and sending a copy of the court's order to various state bar associations, Senior Judge Sharion Aycock of the US District Court for the Northern District of Mississippi said in a Monday order.

All four attorneys in this "unusual scenario" failed to verify legal authorities in their court filings in violation of Rule 11 in the federal rules of civil procedure, Aycock said.

“This case presents the court with an unusual scenario – attorneys for both litigants engaged in similar sanctionable conduct...”

Withers v. City of Aberdeen

(N.D. Miss. 6-8-2026)

- Dispute over unpaid legal fees
- Both sides cited fake legal cases and admitted to not verifying the cases before submitting their filings
 - Two clients paying AI to argue with itself
- All four lawyers were removed from the case and fined

AI Hallucination Cases Database

- 1636 cases as of June 23, 2026
- Most recent entry involving lawyer using AI:
Barber v. Morawa, MD, Michigan Court of Appeals
 - Plaintiff's counsel repeatedly submitted fabricated and unsupported legal authority in the trial court and appellate court
 - Plaintiff's counsel demonstrated repeated carelessness regarding independent duty to verify legal authorities submitted to the courts.
 - Case was remanded to trial court for monetary sanctions determination and referred to disciplinary counsel

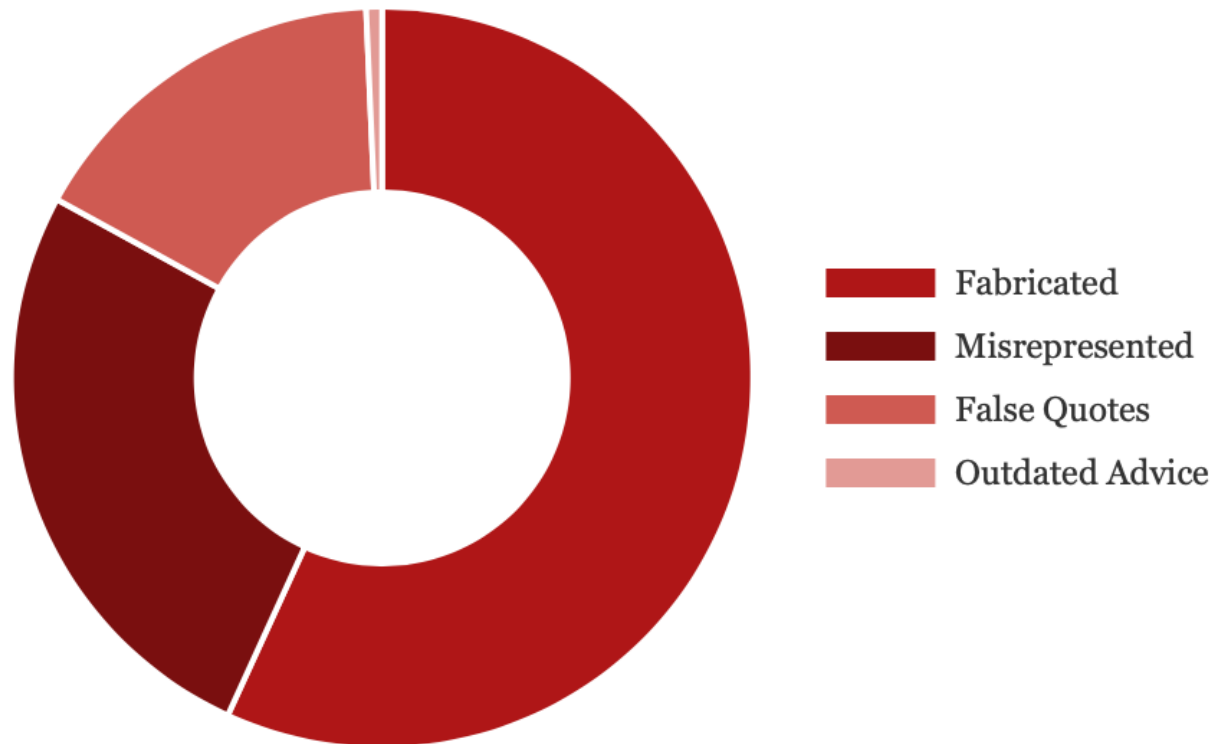
<https://www.damiencharlotin.com/hallucinations/>

AI Hallucination Cases Database

As of June 23, 2026:

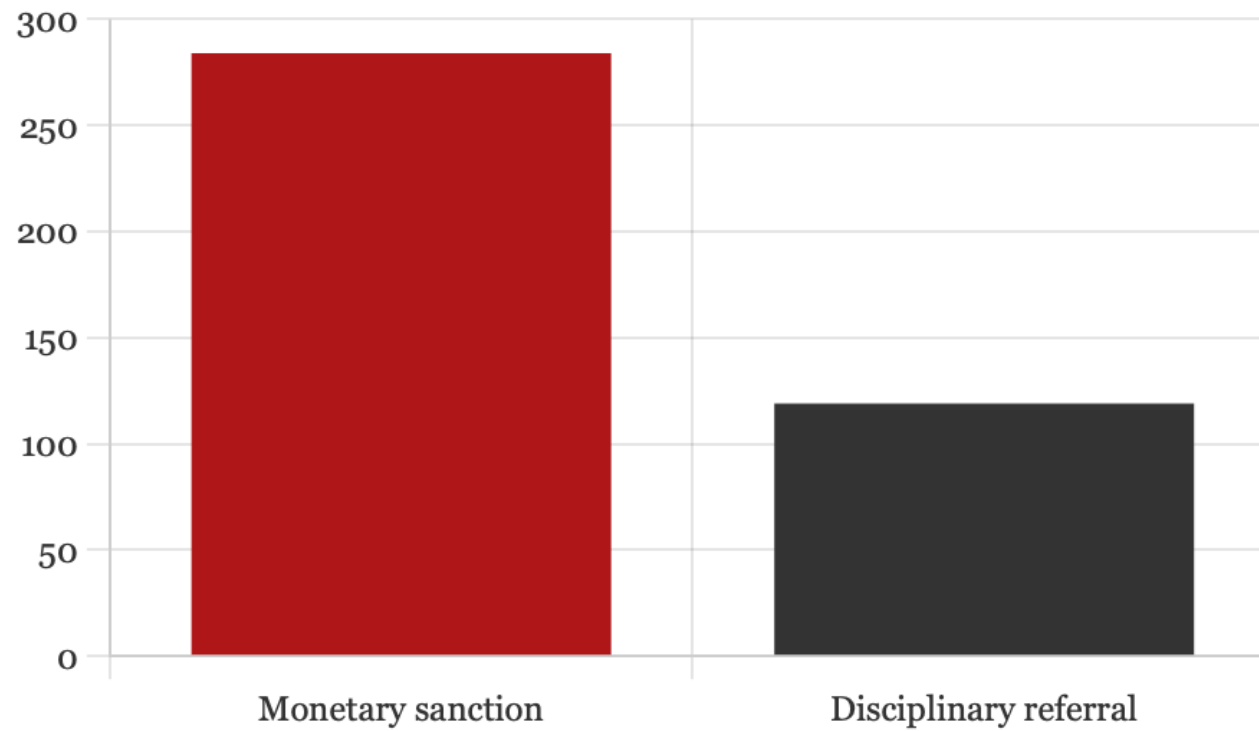
- United States: 1,146 cases
 - Missouri: 12
 - Kansas: 15
 - Illinois: 47
- Lawyer: 639 cases
- Pro se litigant: 957 cases

NATURE OF HALLUCINATION



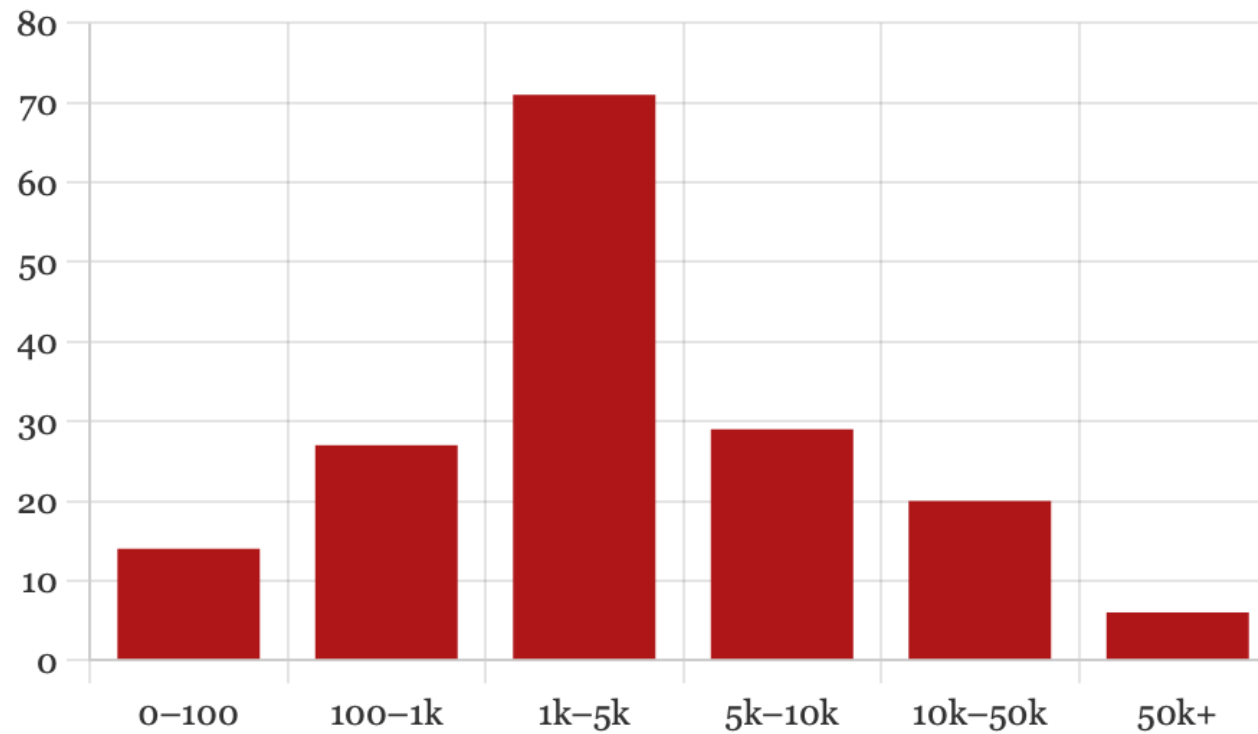
n = 4925 items across 1525 cases · 99 cases without items

OUTCOME SEVERITY



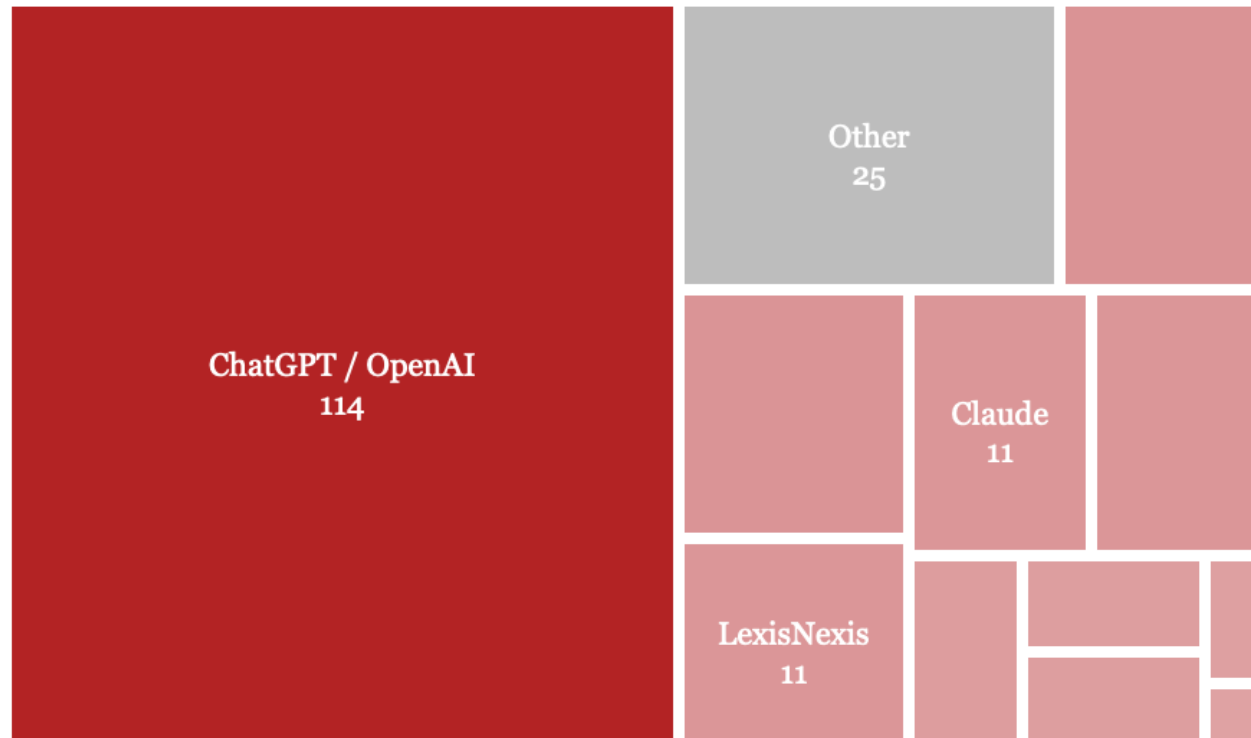
n = 1612 cases (excludes 12 alleged-only)

MONETARY PENALTY DISTRIBUTION (USD)



n = 167 USD penalties · 117 in other currencies (not shown)

AI TOOLS NAMED ①



n = 192 cases named a specific tool · 1432 logged as “Implied” / “Unidentified” (excluded). A case naming several tools counts for each.

United States District Court
Central District of California

MATTHEW R. WALSH,

Plaintiff,

v.

ROKOKO ELECTRONICS et al.,

Defendants.

Case № 2:25-cv-05340-ODW (RAOx)

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT'S
MOTION TO DISMISS [136]**

⁵ In his opposition brief, Walsh again accuses Rokoko's counsel of using Artificial Intelligence ("AI")-hallucinated case law. (*Id.* at 26–29.) His allegations are unsubstantiated and without merit. The Court has found no instance where Rokoko's counsel cites to nonexistent case law. While Walsh may disagree with Rokoko's counsel about what a case stands for or the weight it carries, these are not grounds for accusing opposing counsel of citing AI-hallucinated case law. These allegations are especially concerning as the Court is aware of the damage that using, or simply being accused of using, AI-hallucinated case law can have on an attorney's career. The Court warns Walsh that if he continues to make baseless allegations of this kind, the Court will exercise its inherent authority to impose sanctions for bad-faith conduct. *See Fink v. Gomez*, 239 F.3d 989, 992 (9th Cir. 2001) (holding that courts have "the inherent authority to impose sanctions for bad faith, which includes a broad range of willful improper conduct"); *Warren v. Guelker*, 29 F.3d 1386, 1390 (9th Cir. 1994) (holding that courts may not decline to impose sanctions simply because a plaintiff is proceeding pro se).

AI Recording and Transcription

NYC Bar Opinion 2025-6

- Title – “Ethical Issues Affecting Use of AI to Record, Transcribe, and Summarize Conversations with Clients .”
- Attorney should obtain client consent before recording the call
- Attorney should consider whether recording, transcribing and summarizing is tactically well-advised in the particular circumstances, including issues of confidentiality and privilege
- Attorney should check the work product for accuracy if there is a possibility the transcription or summary will be preserved and potentially relied upon.
- If an attorney knows that a client is recording a call with an AI tool, the lawyer should advise the client of the disadvantages of doing so.

Are some calls “so critical” that competence demands memorializing them?

New and Proposed Rules Addressing AI Usage

Supreme Court of Florida

No. SC2026-0673

IN RE: AMENDMENTS TO FLORIDA RULE OF GENERAL PRACTICE AND JUDICIAL ADMINISTRATION 2.515.

May 28, 2026

PER CURIAM.

On its own motion, the Court amends Florida Rule of General Practice and Judicial Administration 2.515(d)(2) (Representation by Signer) to require the signer of a document filed with Florida’s courts to represent that “the legal authorities identified exist and are accurately cited.”¹ The amendment also expressly authorizes courts to impose appropriate sanctions for “any filing inconsistent with” the representation a signer makes under rule 2.515(d)(2).

Generative artificial intelligence tools—including large language models and other systems that produce text or citations in

CA Proposes New Rules (summary from Calbar.ca.gov)

Amendments to rule 1.1 would:

- Include artificial intelligence as an example of relevant technology in current Comment [1].
- Add a new Comment [2] emphasizing that, when using technology, including artificial intelligence, a lawyer must independently review, verify, and exercise professional judgment regarding any output generated by the technology.

Amendments to 1.6 would:

- Add a new Comment [2] define “reveal” to include exposing confidential information to technological systems, including AI tools where such exposure creates a material risk that the information may be used in a manner inconsistent with the lawyer’s duty of confidentiality.

Amendment to 3.3 would:

- Add new Comment [3] clarifying that a lawyer’s duty of candor toward the tribunal includes the obligation to verify the accuracy and existence of cited authorities, including ensuring no cited authority is fabricated, misstated, or taken out of context, before submission to a tribunal, including any cited authorities generated or assisted by artificial intelligence or other technological tools.

Amendments to 5.1 would:

- Modify existing Comment [1] to clarify that managerial lawyers must make reasonable efforts to establish internal policies and procedures governing the use of AI, in accordance with the Rules of Professional Conduct.

Amendments to 5.3 would:

- Modify the existing comment to clarify that a lawyer must give nonlawyer assistants appropriate instruction and supervision concerning all ethical aspects of their employment, including the use of technology in the provision of legal services, such as artificial intelligence.

Updates to Missouri Redaction Rules

Effective July 1, 2026

- Limits when court records can be sealed (Court Operating Rule 2.03)
- Transcripts of open proceedings no longer require redactions
- CRIFs no longer required if unredacted document filed same time as redacted document

Effective July 1, 2026

- Redactions now limited to a defined list (Court Operating Rule 2.04)
 - Date of birth, SSN, driver's license number
 - Credit card and financial account numbers
 - Identifying information for minors and those protected under court orders

AI Optics

MoneyWatch

Judge scolds Mark Zuckerberg's team for wearing Meta glasses to social media trial

By Mary Cunningham

Updated on: February 19, 2026 / 4:57 PM EST / CBS News



Courts Banning Smart Glasses

- Most courts already ban the use of recording devices in most circumstances
- On April 7, 2026, the First Judicial Circuit of Pennsylvania specifically banned smart/Meta/AI glasses

ABAJOURNAL

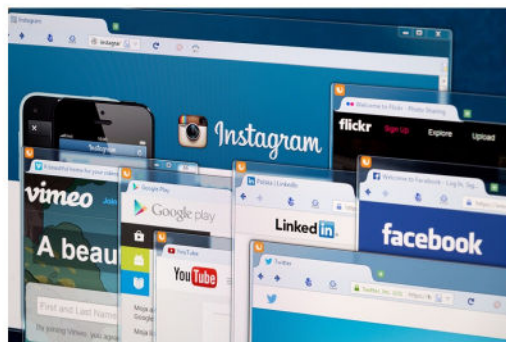
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TRIALS & LITIGATION

Judge in social media addiction trial removes lead plaintiffs attorney following interview

BY [SHIRLEY HENDERSON](https://www.abajournal.com/authors/36935/) ([HTTPS://WWW.ABAJOURNAL.COM/AUTHORS/36935/](https://www.abajournal.com/authors/36935/))

FEBRUARY 23, 2026, 10:42 AM CST



The media frenzy around the first social media addiction trial in Los Angeles resulted in the judge removing one of the lead attorneys from the plaintiffs' steering committee for granting an on-camera interview with the BBC and taking selfies inside the courthouse.

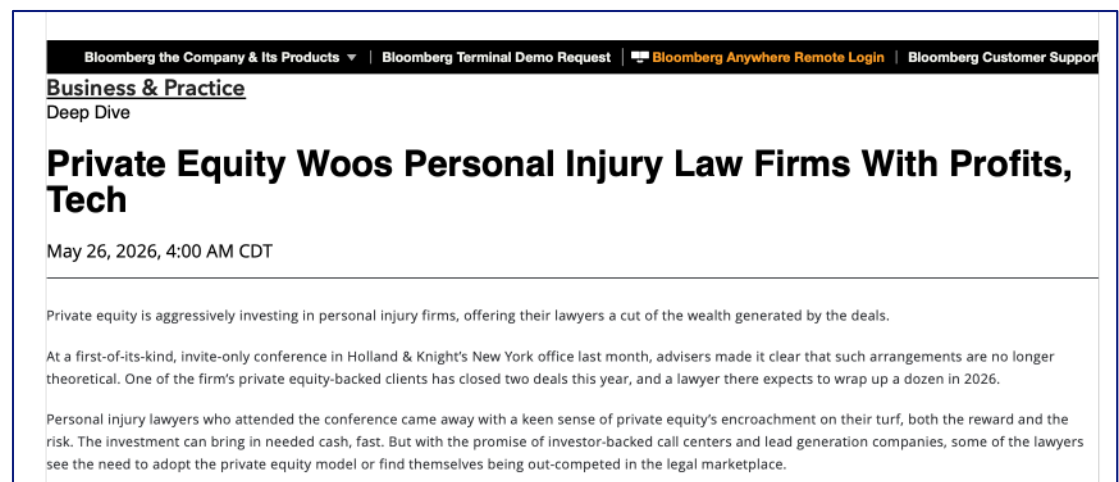
Los Angeles Superior Court Judge Carolyn Kuhl held a special meeting Friday for Matthew Bergman, founding partner of the Social Media Victims Law Center in Seattle. The trial, a consolidated proceeding against Meta Platforms Inc. and YouTube, attempts to show the

correlation between teen mental health issues and social media, and the plaintiff alleging she developed depression and body dysmorphia after becoming addicted to YouTube and Instagram.

Issues on the Horizon

Private Equity and MSO Relationships

- Private Equity wants to take over law firm's "non-legal-service" operations and receive payments
- Management Services Agreement entered between firm and non-lawyer owners
- Challenging Rule 4-5.4 limitation on firm ownership and division of revenues



Marketing Issues

- AI Search is changing how consumers look for lawyers
- Ask AI – “who is the best lawyer in X to handle Y matter?”
- SEO may not influence results



FOR DISTINGUISHED ATTORNEYS

Your Next High-Net-Worth
Client Is Asking ChatGPT
Who the Best Attorney Is.

Google confirmed it — to appear in AI search results, your content must be on a trusted, verified Google News publisher.

Business & Practice

Law Firms Capitalize on Internal Data to Stand Out in AI Age

June 8, 2026, 4:00 AM CDT

Large law firms are meeting the AI moment with a new strategy: use that advanced tech to mobilize their rich, internal data trove as a competitive advantage.

Firms in this camp are betting that their enduring value won't be measured in hours billed, but in the unique knowledge an individual firm's attorneys have. AI can allow them to capitalize on their expertise navigating complicated legal processes—from private equity fundraising to M&A—innovation leaders, tech consultants, and AI builders said.

"The only thing that is going to be a competitive differentiator into the future—the only thing that is going to matter—is how you extract and leverage the knowledge of the people who work within the firm," said Nicole Bradick, global head of innovation at the legal services company Factor.

The strategy, if successful, could help mitigate the threat posed by top legal technology providers like Harvey and Legora.

Exhibit A is Kirkland & Ellis, which has committed \$500 million to building its own AI capabilities to market to clients. But it's not alone.

Conclusory Matters

Questions – If you have questions after the program, please email them to Paige Tungate at ptungate@DowneyLawGroup.com

Post-Program Survey – A survey will be emailed to you about 30 minutes after this program. Also, here is the survey link:

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<https://www.surveymonkey.com/r/tech062526>

Timed Agenda

12:00-05 Introduction

12:05-55 Discuss recent developments relating to legal ethics and technology

Future Programs

- June 26** -- Friday at 12:00 Noon CT – **Exceptions to the Duty of Confidentiality**
- June 29** – Monday at 12:00 Noon CT – **Neurodiversity in the Legal Profession**
- June 30** – Tuesday at 12:00 Noon CT – **Neurodiversity in the Legal Profession**
- June 30** – Tuesday at 3:00 PM CT – **Legal Ethics Update 2026 – Part II**
- July 9** – Thursday at 12:00 Noon CT – **The “Chapter 8” Ethics Rules – Rules 4-8.1 to 4-8.5**
- July 28** – Tuesday at 12:00 Noon CT – **15 Tips to Protect & Improve Your Law Practice**
- August 13** – Thursday at 12:00 Noon CT – **Addressing Bias in the Legal Profession – Cultural Competency**
- August 25** – Tuesday at 3:00 PM CT – **Ethics Lessons from Lawyers Faceplants**
- September 10** – Thursday at 12:00 Noon CT – **Lawyer Marketing Ethics for an AI World**
- September 23** – Wednesday at 12:00 Noon CT – **Legal Ethics for Trust and Estate Lawyers**

Thank you



Downey Law Group LLC
(314) 961-6644
(844) 961-6644 toll free
info@DowneyLawGroup.com



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