



New Jersey Courts

Independence • Integrity • Fairness • Quality Service

Legal Ethics & Artificial Intelligence: Guidance for New Jersey Lawyers

July 24, 2024

Panelists

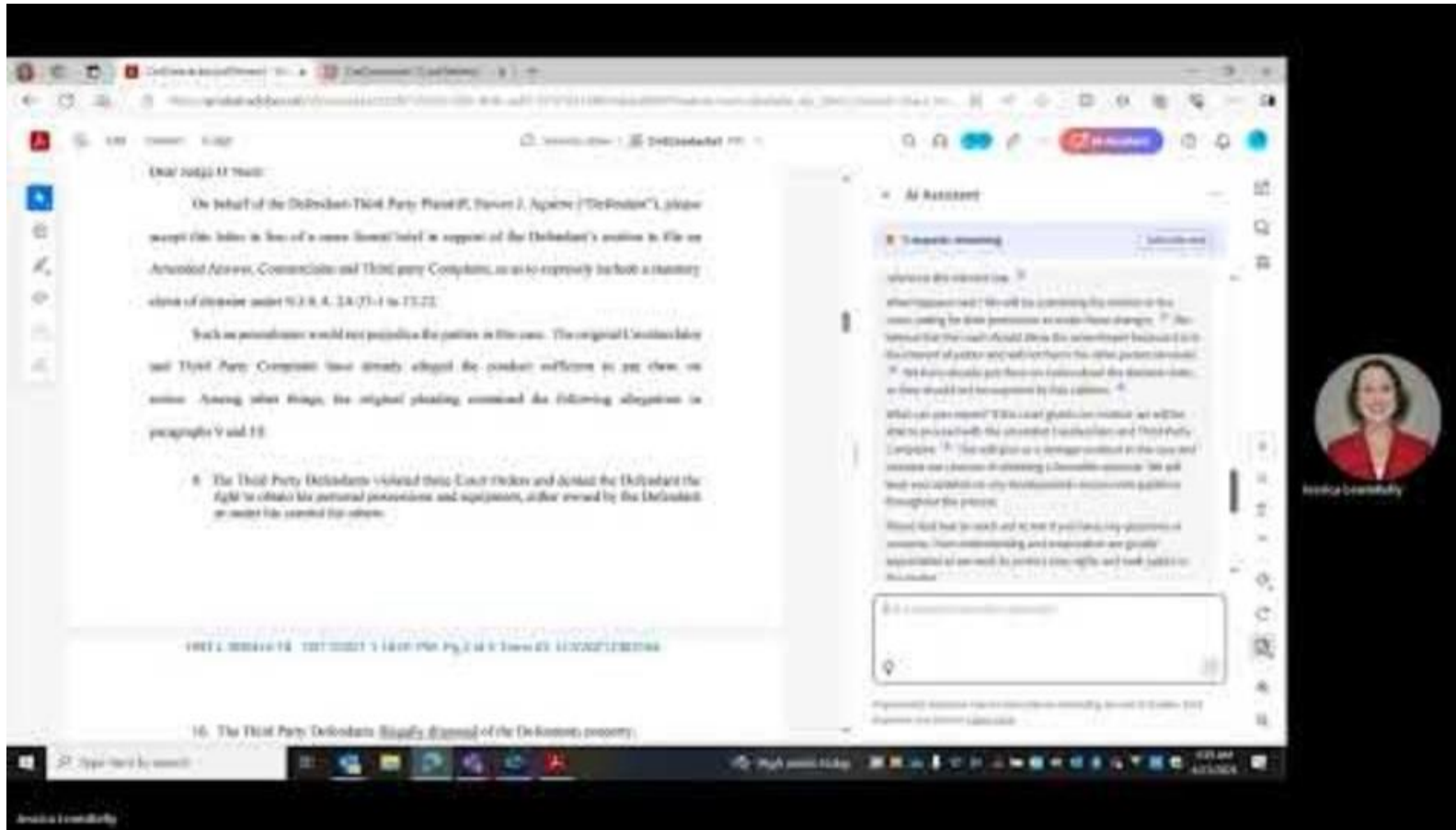
- Johanna Barba Jones, Esq., Director of the Office of Attorney Ethics
- Laks Kattalai, CIO, NJ Judiciary
- Jessica Lewis Kelly, Esq., Special Assistant to the Administrative Director
- Ryan J. Moriarty, Esq., Assistant Ethics Counsel, Office of Attorney Ethics

Overview

- AI Terms & Concepts
- Uses of AI in the Law
- NJ Supreme Court Guidance on AI Use by Lawyers
- AI Ethics: Examples & Discussion

Use of GAI by Attorneys

This [video](#) shows how the Adobe AI assistant can review public (non-confidential) pleadings in eCourts, draft an email to the client, then translate the email into Spanish.



Dear Judge O'Neill:

On behalf of the Defendant-Third Party Plaintiff, Steven J. Aguirre ("Defendant"), please accept this letter in lieu of a more formal brief in support of the Defendant's motion to file an Amended Answer, Counterclaim and Third party Complaint, so as to expressly include a statutory claim of distraint under N.J.S.A. 2A:33-1 to 33-23.

Such an amendment would not prejudice the parties in this case. The original Counterclaim and Third Party Complaint have already alleged the conduct sufficient to put them on notice. Among other things, the original pleading contained the following allegations in paragraphs 9 and 10:

- 9. The Third Party Defendants violated three Court Orders and denied the Defendant the right to obtain his personal possessions and equipment, either owned by the Defendant or under his control for others.

- 10. The Third Party Defendants illegally disposed of the Defendants property.

AI Assistant

Unlock full access to AI Assistant [Subscribe now](#)

Reframe this email to be from the lawyer to the client, explaining the motion and what is being requested. Write at a 7th grade level.

Subject: Important Update: Motion for Leave to File an Amended Answer, Counterclaim, and Third Party Complaint

Dear [Client's Name],
I hope this email finds you well. I wanted to provide you with an important update regarding your case against Investor's Holding Fund, LLC. We are preparing to file a motion on your behalf, seeking permission from the court to amend your Answer, Counterclaim, and Third Party Complaint.

What does this mean? Well, an amendment is like making changes or additions to your original response to the lawsuit. In this case, we want to include a new claim called "distrain" under a specific New Jersey law. This claim relates to the unlawful taking or disposal of your personal property by the Plaintiff and Third Party

Ask a question about this document

AI-generated responses may be inaccurate or misleading. Be sure to double-check responses and sources. [Learn more](#)

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AI Assistant

3 requests remaining [Subscribe now](#)

Translate the above email into Spanish. Include a statement at the beginning that the translation is being done with technology to save time so it might not be perfect.

Subject: Actualización Importante: Solicitud de Permiso para Presentar una Respuesta Enmendada, Contrademanda y Demanda de Terceros

Estimado/a [Nombre del Cliente],

Espero que este correo electrónico le encuentre bien. Quería brindarle una actualización importante sobre su caso contra Investor's Holding Fund, LLC. Nos estamos preparando para presentar una solicitud en su nombre, buscando permiso del tribunal para enmendar su Respuesta, Contrademanda y Demanda de Terceros.

Quiero mencionar que esta traducción se está realizando con tecnología para ahorrar tiempo, por lo que puede que no sea

Use of GAI by Attorneys

This [video](#) shows how ChatGPT4o voice mode can be used to practice an oral Q&A (with the example being the Rules Hearing before the New Jersey Supreme Court).



Artificial Intelligence (AI) & Generative Artificial Intelligence (GAI) Terms & Concepts

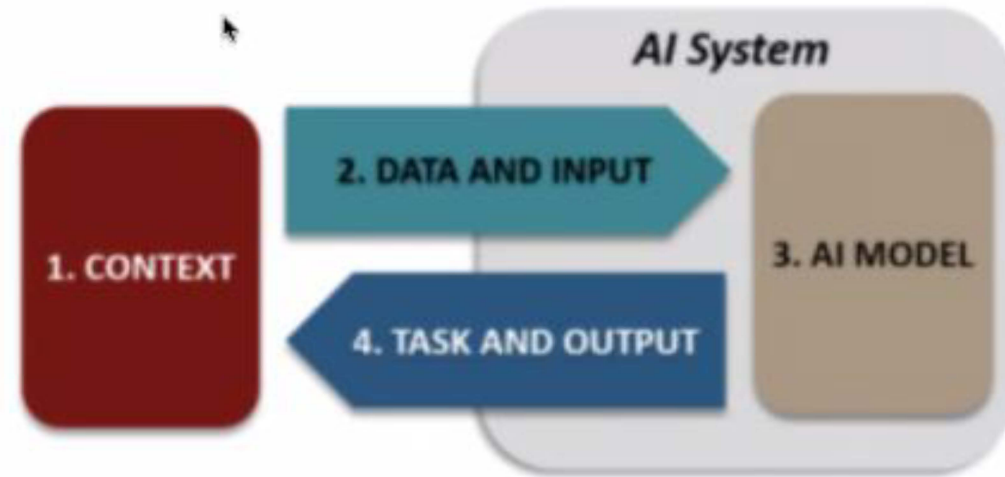
Terms & Concepts

- **Artificial Intelligence** includes an array of technologies that perform functions based on simple, rule-based systems to complex, self-learning algorithms. Examples include recommendations of products or services based on prior use history (e.g., Netflix or Amazon).
- **Generative AI** (Gen AI or GAI) refers to Large Language Models (LLM) that generate text, images, and other content based on review of prior information in the dataset.

— Components of AI Systems & Stages of the AI Lifecycle

An **AI system** is a machine-based system that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that [can] influence physical or virtual environments. Different AI systems vary in their levels of autonomy and adaptiveness after deployment.

- OECD, 2023



Plan & design

Collect & process data

Build & use model

Verify & validate

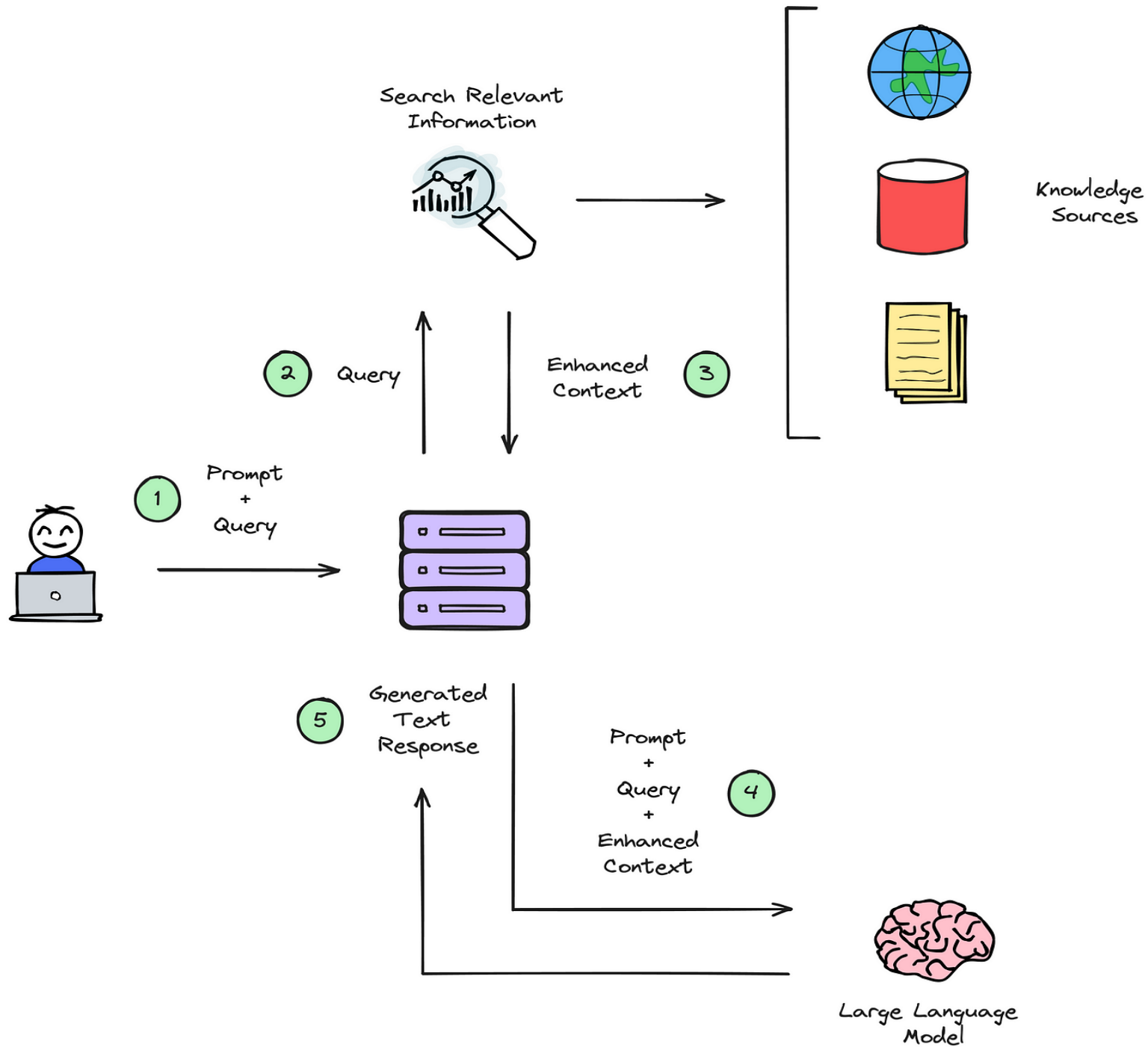
Deploy

Operate and monitor

Terms & Concepts

- **Hallucinations (or confabulations)** refer to instances in which an AI model generates content that is incorrect or nonsensical due to limitations in the model's understanding, biases in the dataset, or errors in the processing pipeline.
- **Retrieval Augmented Generation (RAG)** involves forcing the AI to develop answers based on real datasets as opposed to open, contradictory datasets. This method can prevent hallucinations.

Retrieval Augmented Generation



Terms & Concepts

- **Transparency:** the openness of an AI system, meaning the extent to which its design, data, and decision-making operations are made known to stakeholders
- **Explainability:** the ability of an AI system to provide understandable reasons for its decisions/outputs

Terms & Concepts

- **Interpretability:** the capacity to discern the data points and logic that led to an AI system's decision (e.g., high interpretability means that the internal mechanisms of an AI system can be meaningfully analyzed and related to its outputs)
- Transparency + Explainability + Interpretability → more trustworthy AI

Uses of AI in the Law

GAI Benefits



- Enhanced efficiency and productivity
- Improved risk assessment and decision-making
- Cost savings and resource optimization
- Task automation and workflow improvement

GAI Risks

- Data privacy and security
- Ethical considerations and biases
- Inaccuracies and reliability concerns
- Intellectual property issues
- Job displacement/evolution and industry adjustments
- Dependency and loss of critical thinking
- Overall regulation and enforcement

Current Uses of GAI for Legal Tasks

- **Document review / litigation support**
 - eDiscovery, deposition summarization, review and analysis
- **Contract review**
 - Summary of key terms, conflicting clauses, policy compliance



Current Uses of GAI for Legal Tasks

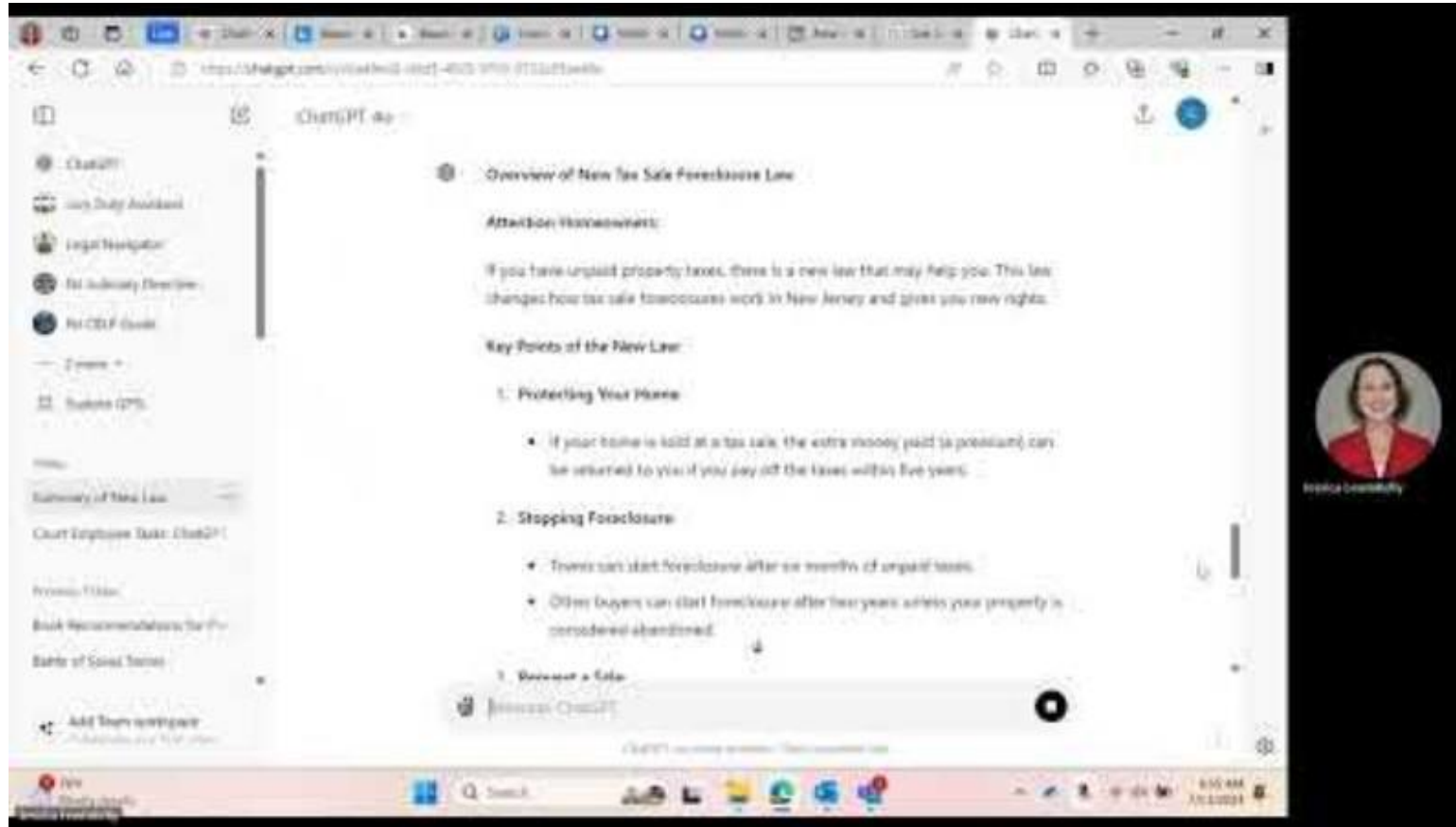
- **Drafting**
 - First responses, motions, contracts
- **Knowledge Management**
 - Templates and form databases
 - Resource organization and retrieval
- **Research**
 - Non-hallucinating legal resources: CaseText, Reuters

Current Uses of GAI for Legal Tasks

- **Training**
 - Preparation of slides, illustrations, and examples
- **Non-Legal Presentations**
 - Intra-office communications, speeches
- **Office Management**
 - Scheduling, etc.

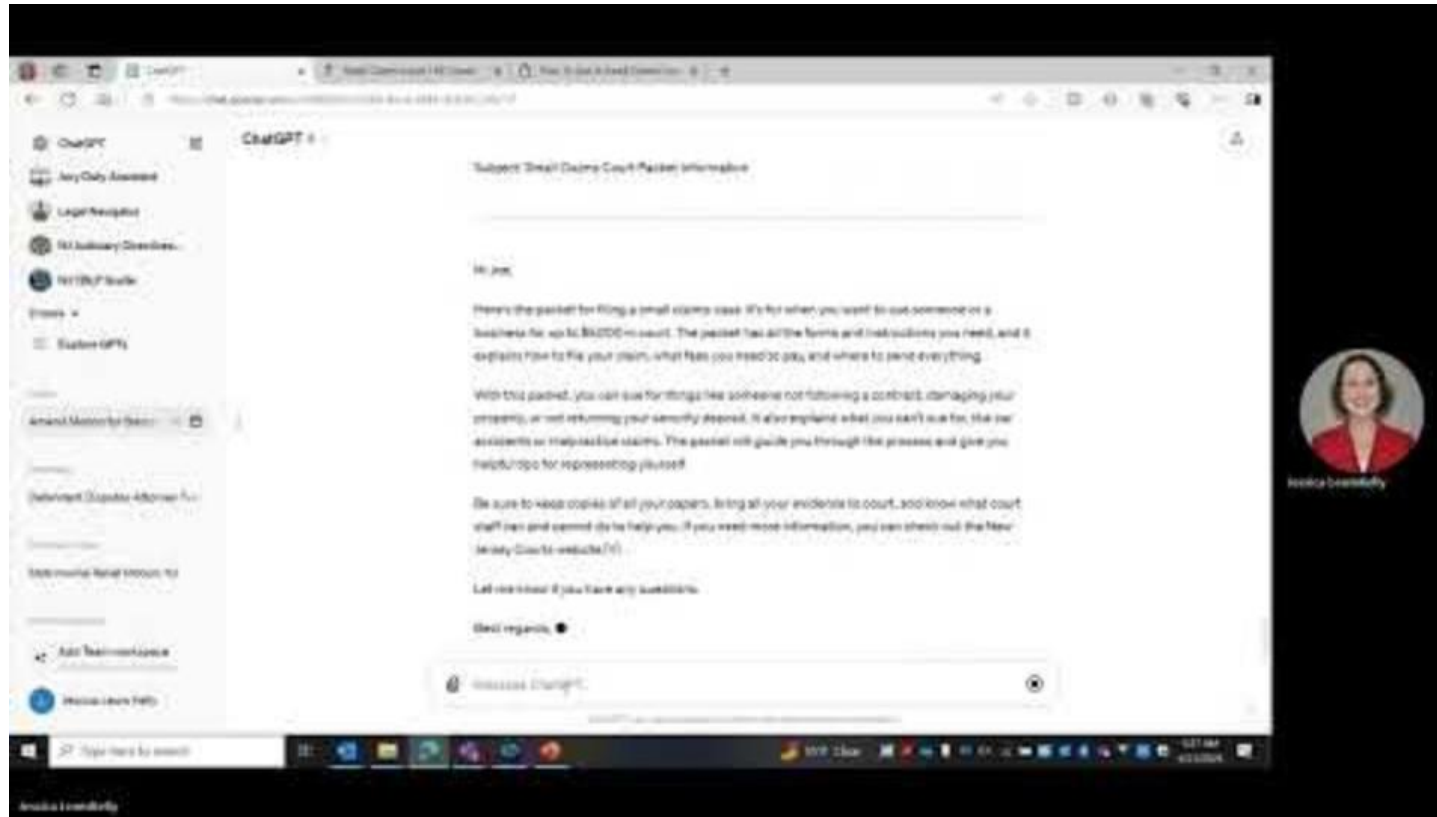
Use of GAI by Attorneys

In this [video](#), AI summarizes the provisions of the new tax sale foreclosure law, first in detail and then in simple terms for members of the public who might be affected by the law.



Use of GAI by Legal Staff

In this [video](#), ChatGPT4 summarizes a Judiciary self-help packet and drafts an explanatory email to a self-represented court user, with information for the ombudsman.



NJ Supreme Court Guidelines for Lawyers

Supreme Court Action – January 2024

- [Preliminary Guidelines on the Use of Artificial Intelligence by New Jersey Lawyers](#)
- Issued January 25, 2024, effective immediately
- Detailed overview of ethical considerations
- No immediate amendments to any RPCs
- Questions and comments, including as to specific AI use cases: Court-Use-of-AI.mbx@njcourts.gov

Supreme Court Action – January 2024

- **Accuracy and truthfulness**, RPCs 3.1, 4.1(a)(1), and 8.4(c)
- Lawyers must check their case citations (of course)
 - And must ensure that an AI-suggested argument has merit and is not frivolous

Supreme Court Action – January 2024

- **Honesty, candor, and communication**
 - RPC 3.3 (candor to the tribunal)
 - RPCs 1.2(d), 1.4(d), 3.4(b)

AI is not an excuse for false representations and does not enable misleading manipulation of evidence by a lawyer or client



Supreme Court Action – January 2024

- **Confidentiality**
 - RPC 1.6. Lawyers must make reasonable efforts to prevent inadvertent or unauthorized disclosure...
 - A lawyer is responsible to ensure the security of an AI system before entering any non-public client information



Supreme Court Action – January 2024

- **Prevention of Misconduct, Including Discrimination**
 - Again, lawyers remain responsible to ensure accuracy of communications with clients and the court, RPCs 8.4(c), (d), and (g)
- **Oversight, RPCs 5.1, 5.2, 5.3**
 - Ethical responsibilities extend to lawyers and nonlawyer staff, including as to use of AI

Supreme Court Action – January 2024

- These preliminary guidelines are intended to assist lawyers in complying with the **existing RPCs, which remain unchanged by the availability and use of AI.**

AI Ethics

Examples & Discussion

Hypothetical – AI for Client Intake

- A prospective client contacts you to discuss representation in a DWI matter. You don't do a lot of municipal work but are aware that there were some recent changes in this area.
 - Could you use GAI to get a quick update on DWI law in New Jersey?

Hypothetical – AI for Client Intake

- Sure. You're just gathering information.



ChatGPT

Searched 6 sites

In New Jersey, recent changes to DWI (Driving While Intoxicated) law have introduced significant amendments, particularly regarding the handling of plea bargains and the implementation of ignition interlock devices. As of early 2024, the New Jersey Supreme Court has allowed plea bargaining in DWI cases, overturning a longstanding rule that prohibited such negotiations in these matters. This change aims to provide more flexibility in the judicial process and potentially lead to quicker resolutions in DWI cases ([The Bianchi Law Group](#)) ([Monmouth Defense Blog](#)).

Hypothetical – AI for Client Q&A

- After an initial meeting, the client retains you. It's a first offense, BAC 0.19. The client asks what options are likely.
 - Could you use GAI to get an initial answer?

Hypothetical – AI for Client Q&A

- Yes, as long as you protect confidentiality and check your work.

JL You

My client has no prior DWIs. The blood alcohol (BAC) was 0.19. Is my client eligible for a plea?

Hypothetical – AI for Client Q&A



ChatGPT

Yes, your client is eligible for a plea bargain. Recent changes in New Jersey DWI law now allow plea bargaining for DWI cases, even for those with higher blood alcohol concentrations (BAC), like your client's BAC of 0.19. This is a significant shift from previous regulations where plea bargaining in DWI cases was generally prohibited ([The Bianchi Law Group](#)) ([Monmouth Defense Blog](#)).

However, given the high BAC level, it's important to prepare for stringent conditions that might be part of any plea agreement. This could include a longer period for which an ignition interlock device must be installed and possibly other penalties. It's crucial to discuss these potential outcomes with your client and negotiate the best possible terms within the new legal framework.



You

provide a hyperlink to New Jersey Supreme Court information on DWI plea bargaining. search only njcourts.gov



ChatGPT

Searched 3 sites

The New Jersey Supreme Court has recently authorized plea bargaining in DWI cases, allowing for more flexibility in handling these charges, even for cases with higher BAC levels such as your client's 0.19. This change is significant as it deviates from the previous stringent rules that prohibited plea deals in DWI cases. Now, attorneys can negotiate plea agreements that might involve reduced penalties or alternative sentencing options under certain circumstances. This is detailed in the court's guidelines and recent amendments to N.J.S.A. 39:4-50, reflecting a shift in policy to allow for judicial discretion in plea bargaining within the DWI context.

For specific guidelines and details directly from the New Jersey Courts on plea bargaining in DWI cases, you can refer to the official notice [here](#).

JL

Write an email to a client in a NJ municipal court matter. The client is charge with DWI. BAC 0.19. Looking for a plea bargain. Explain at a 6th grade level the likely options and penalties.

Dear [Client's name],

I am writing to update you on the options for resolving your DWI charge in municipal court. Because New Jersey law prohibits plea bargaining of DWI charges, our options are limited. However, I want to explain the likely outcomes and penalties you are facing.

For a first DWI offense with a BAC of 0.19, the mandatory penalties would include:

- Up to 30 days in jail
- License suspension of 7-12 months

NJ Courts Use of AI

Statement of Principles for the NJ Judiciary's Ongoing Use of AI, Including Gen AI

Statement of Principles

Independence

- AI systems will be designed and deployed in a manner that respects and maintains the independence of the Judiciary...
 - AI will never be used to replace the autonomy of judges...

Statement of Principles for the NJ Judiciary's Ongoing Use of AI, Including Gen AI

Integrity

- AI technologies will be rigorously assessed
 - The Judiciary ... will engage in ongoing oversight to ensure that AI technologies are Transparent, Explainable, Accurate, Reliable, and Secure.

Statement of Principles for the NJ Judiciary's Ongoing Use of AI, Including Gen AI



Fairness

- AI will be used to support equity for all parties to the case, to maximize access to the courts, and to reduce unnecessary delays in case disposition...

Statement of Principles for the NJ Judiciary's Ongoing Use of AI, Including Gen AI

Quality Service

- Expanded Judiciary use of AI aims to improve effectiveness and consistency in court services...
 - AI technologies will be used in ways that maintain confidentiality and that safeguard the security of Judiciary systems and the data contained in those systems.

Resources & Next Steps

AI Resources for NJ Attorneys

Notice to the Bar, “Legal Practice: Preliminary Guidelines on the Use of Artificial Intelligence By New Jersey Lawyers”

(January 24, 2024) (viewable at:

<https://www.njcourts.gov/sites/default/files/notices/2024/01/n240125a.pdf?cb=aac0e368>).

AI Resources for NJ Attorneys

New Jersey State Bar Association, Task Force on Artificial Intelligence (AI) and the Law: Report, Requests, Recommendations, and Findings (May 2024) (viewable at: <https://njsba.com/wp-content/uploads/2024/05/NJSBA-TASK-FORCE-ON-AI-AND-THE-LAW-REPORT-final.pdf>)

Specific Questions or Suggestions

Legal questions about prospective use of artificial intelligence?

Call the Attorney Ethics Hotline @ (609) 815-2924.

Suggestions for issues to be considered by the NJ Supreme Court Committee on AI?

Email Court-Use-of-AI.mbx@njcourts.gov

Takeaway #1

Use of generative AI for legal work remains limited – but attorney feedback suggests it will expand.

Takeaway #2

Now is a great time to become familiar with the basics of generative AI, even if you opt not to use it for legal work.

Takeaway #3

The Judiciary welcomes questions and suggestions about AI training and resources.

Questions & Discussion