

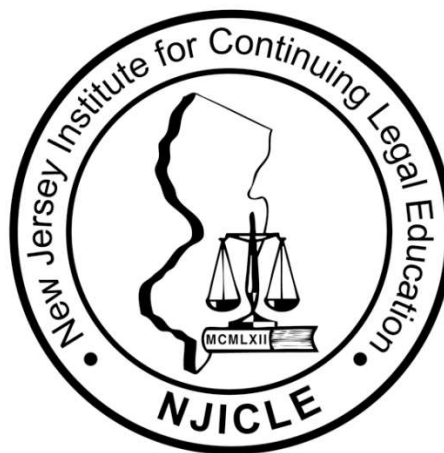
THE INAUGURAL NJSBA AI INSTITUTE – DAY 3

2024 Seminar Material

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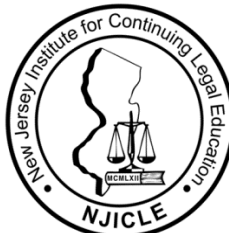
THE INAUGURAL NJSBA AI INSTITUTE – DAY 3

Speakers

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HOW AI/GAI MIGHT ASSIST ATTORNEYS IN LITIGATION

THE INAUGURAL NJSBA AI INSTITUTE
SESSION #3

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- Advisory Board Member ACEDS & EDRM
- Co-author, “Handbook of Legal Technology”, 2023
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PRESENTER
RONALD J. HEDGES

- Principal, Ronald J. Hedges LLC
- United States Magistrate Judge, District of New Jersey, 1986-2007
- Co-Senior Editor, *Sedona Conference Cooperation Proclamation: Resources for the Judiciary Third Edition* (June 2020) and *Supplement* (April 2022)
- Lead Author, *Managing Discovery of Electronic Information, Third Edition* (Federal Judicial Center: 2017)
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DISCLAIMER

- The information in these slides and presentations is not legal advice and should not be considered legal advice.
- This presentation represents the personal views of the presenters.
- This presentation is offered for informational and educational uses only.

AGENDA

- Overview of artificial intelligence (“AI) and generative artificial intelligence (“GAI”)
- How GenAI might “transform” these and other tasks for attorneys:
 - Legal Research?
 - Data Review?
 - Production?
 - Trial Strategy?
 - What Else?

OVERVIEW

Four principles for the adoption of AI:

1. Effectiveness
2. Competence
3. Accountability
4. Transparency

(“Ethically Aligned Design (EAD1e), A Vision for Prioritizing Human Well-being with Autonomous and Intelligent Systems” (Institute of Electrical and Electronics Engineers), <https://ethicsinaction.ieee.org/#read>)

OVERVIEW

What do we mean by AI?

- If a computer simply matches patterns to pre-determined categories, is that AI?
- If a computer uses algorithms that continuously learn such that outcomes are refined as data volumes increase and do so without human intervention, is that AI?

OVERVIEW

- “Artificial Intelligence (AI) refers to the computational techniques that simulate human cognitive capabilities. AI will transform most, if not every aspect of humanity, which presents a range of challenges and opportunities.”

(<https://coe.gsa.gov/coe/ai-guide-for-government/introduction/>)

- "*Generative* Artificial Intelligence (GAI) creates content, such as text, images, or music, autonomously, using machine learning models to produce original and creative output."

(ChatGPT's response to a prompt)

OVERVIEW



Generative AI is a type of artificial intelligence (AI) that uses machine learning algorithms to create new and original content like images, videos, text, and audio.

1 Forming a Database

A neural network, consisting of various information or media files like images, text, data, sounds, etc., forms the basis of artificial intelligence.

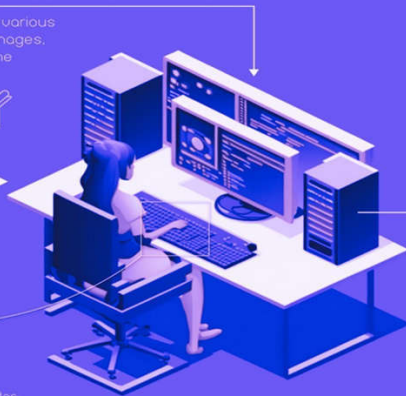


2 Inputting a Prompt

The user provides the AI with a description or sample of the desired content.



Prompts can be any user-submitted material, like words, numbers, or photos.



3 Generating Content

...and the AI uses its neural network to generate new examples that are similar to the ones it has trained from.



OVERVIEW

1. Figure out how to prompt it in a way that gives the best result.
2. Use it for appropriate projects.
3. Do not feed it confidential information – the user cannot control what it does with that information.
4. Always verify what it gives you is accurate – “trust but verify.”
5. Do diligence to ensure that the response it gives you is not plagiarized.
6. Include appropriate notices and disclaimers about the item being produced with ChatGPT.
7. Develop a policy concerning scope of use and implement training on the policy

(<https://www.foley.com/insights/publications/2023/03/ip-lawyer-vs-chatgpt-top-10-legal-issues-ai-work/>)

TASKS “TRANSFORMED?”

- Legal Research?
- Data Review?
- Production?
- Trial Strategy?
- What Else?

MORE “TRANSFORMATIVE” TASKS?

- Draft documents
- Contract review
- Predictive analytics (“risk assessment”)
- Brainstorming
- Summarize legal narratives
- Convert “legalese” Into plain language

MORE “TRANSFORMATIVE” TASKS?

- Discovery of ESI
- “Creation” of evidence
- Expert opinion:
 - On a GAI-related claim or defense
 - On a GAI-related opinion

FOLLOWING SESSIONS

- Session 4 – Discovery of AI/GAI: Possible Requests and Objections – Dec. 18
- Session 5 – AI/GAI in Criminal Investigations and Proceedings – Jan. 22
- Session 6 – Admissibility of AI/GAI Under *Accutane* and *Olenowski* – Feb. 26
- Session 7 – The Ethics of AI/GAI Use by Attorneys – Mar. 12

RESOURCES*

- J.E. Baker, *et al.*, “An Introduction to Artificial Intelligence for Federal Judges” (Federal Judicial Center: 2023), https://www.fjc.gov/sites/default/files/materials/47/An_Introduction_to_Artificial_Intelligence_for_Federal_Judges.pdf
- R.J. Hedges, “Artificial Intelligence Discovery & Admissibility Caselaw and Other Resources” (Jan. 2024) (in materials)

*Note: Materials on artificial intelligence are published on what seems to be a daily basis. The materials listed in these Resources are examples.

**QUESTIONS?
COMMENTS?
THANK YOU!**

About the Panelists...

Cat Casey is Chief Growth Officer at Reveal Brainspace based in Chicago, Illinois, where she helps lead marketing and direction for the company's legal technology solutions.

A Certified E-Discovery Specialist, Ms. Casey is also known as the "TechoCat" and is a force in the legal technology space. She is a member of the New York State Bar Association AI Task Force, the Board of Directors of the DC Chapter of the Association of Certified E-Discovery Specialists, Women in Ediscovery, the Women's Bar Association and other organizations. She has been published in the National Law Journal, Inside Counsel, the New York Law Journal and other publications, and has lectured for a number of professional organizations.

Ms. Casey received her A.L.B. from Harvard University and her law degree from Pepperdine School of Law.

Honorable Ronald J. Hedges, USMJ (Ret.) is a Principal in Ronald J. Hedges LLC in Hackensack, New Jersey. Formerly Senior Counsel for Dentons in New York City and a member of the Litigation and Dispute Resolution Practice Group, he has extensive experience in e-discovery and the management of complex civil litigation matters, and has served as a special master, arbitrator and mediator. He also consults on the management and discovery of electronically stored information (ESI).

Admitted to practice in New Jersey, New York, Texas and the District of Columbia, and before several federal courts, Judge Hedges is a former United States Magistrate Judge in the United States District Court for the District of New Jersey (1986-2007), where he was the Compliance Judge for the Court Mediation Program, a member of the Lawyers Advisory Committee, and a member of and reporter for the *Civil Justice Reform Act* Advisory Committee. Chair of the Court Technology Committee of the Judicial Division of the American Bar Association, he has been a member of the American Law Institute, the American and Federal Bar Associations, and the Historical Society and the Lawyers Advisory Committee of the United States District Court for the District of New Jersey. He is a member of task forces established by the New Jersey and New York State Bar Associations to address artificial intelligence. Judge Hedges has served on the Sedona Conference Judicial Advisory Board; the Sedona Conference Working Group on Protective Orders, Confidentiality, and Public Access; and the Sedona Conference Working Group on Best Practices for Electronic Document Retention & Protection. He has also been a member of the Advisory Board of the Advanced E-Discovery Institute of Georgetown University Law Center. He is a former Fellow at the Center for Information Technology of Princeton University and has been a member of the College of the State Bar of Texas.

Judge Hedges has been an adjunct professor at Rutgers School of Law-Newark and is a former adjunct professor at Georgetown University Law Center and Seton Hall University School of Law, where he has taught courses on electronic discovery and evidence and mediation skills. He is the author of "Rule 26(f): The Most Important E-Discovery Rule" (*New Jersey Law Journal*, 5/18/2009) and has authored, edited and co-edited a number of other publications on ESI topics including *Discovery of Electronically Stored Information: Surveying the Legal Landscape* (BNA, 2007). He is the co-senior editor of *The Sedona Conference Cooperation Proclamation, Resources for the Judiciary, Third Edition* (June 2020) and its 2022 supplement;

and the principal author of the third edition of the Federal Judicial Center's *Pocket Guide for Judges on Discovery of Electronic Information*.

Judge Hedges received his B.A. from the University of Maryland and his J.D. from Georgetown University Law Center.