Artificial Intelligence:
A Powerful Litigation Tool

By Robert Jarchi

Some attorneys fear artificial intelligence. It is new. It is unknown. Will it replace us? Fear of the unknown is a common defense mechanism. However, if we stick our heads in the sand, our more intrepid opponents will use this technology, putting us at a competitive disadvantage.

On the other hand, some attorneys see artificial intelligence as a panacea. They envision merely pressing a button and our briefs will be written for us with a beautiful bow on top.

Both views are overly simplistic.

Artificial intelligence is a tool. Like any other tool or technological advancement, it has strengths and weaknesses. To use artificial intelligence properly, we must understand and take advantage of its benefits, while understanding and respecting its current limitations.

The speed and efficiency advantages of artificial intelligence ("AI") are nothing short of revolutionary. For example, artificial intelligence can review and summarize a massive document production in seconds or minutes, work that may take an attorney or paralegal weeks to complete. This is not only a substantial labor cost savings, but it also provides help that is available 24/7 – after hours and on weekends when other help is not available.

However, understanding the current limitations of artificial intelligence is key to its effective use. These limitations will likely diminish over time as this technology is perfected. However, as of right now, AI may simply miss information, AI may "hallucinate" or make-up erroneous information, or AI may oversimplify or miss complex concepts. This is why it is important to use AI software that gives you citations to the underlying records for cited information, allowing you to verify its accuracy.

Given these advantages and limitations of AI, what are the current effective uses of AI? Some examples are as follows:

Deposition Summaries

AI software such as Casetext Co-Counsel can summarize a several hundred-page deposition transcript in minutes or less. You can choose a brief one-page summary, a more detailed summary that is several pages, or a comprehensive summary that summarizes most of the deposition. It is important to choose software that has page citations so that you can check any summarized information you want to rely upon.

Medical Summaries

The same AI software that can summarize depositions can also summarize voluminous medical records. Furthermore, AI software such as ClearBrief can generate a chronological timeline from the medical records in chart format, with hyperlinked citations to the PDF records so that you can verify the accuracy of the information. AI can also generate custom summaries and timelines that focus on a particular injured body part, or a particular issue in your case. For example, you could ask the AI to create a timeline of all brain injury treatment, or a timeline of all references to how the incident occurred in the medical records, or a list of all medications your client has taken. The possibilities are only limited by your creativity and the issues in your case.

Finding The Needle in the Haystack

Perhaps one of the most effective uses of artificial intelligence is its search capabilities. While most attorneys are familiar with scanning documents and using OCR (Optical Character Recognition) to make the text searchable, this tool is very limited. For instance, if you wanted to search a defendant's internal email for a smoking gun admission, you may want to search for all references to an employee stating, "I feel uneasy about this." With an OCR system, you may look for the word "uneasy" and a get a few hits, some of

Robert Jarchi has pursued justice for his clients over his 24-year career as an attorney and partner at Greene, Broillet & Wheeler. Rob's practice includes exposure to toxic chemicals such as Round-up, wildfire litigation, brain injuries, and wrongful death matters. www.gbw.law

which may be irrelevant references where the word "uneasy" is used in a different context (think "lunch made my stomach uneasy."). However, AI does not merely search for word matches, it searches for *concepts* that match your search criteria, including where the same words are not used. AI will look beyond the word "uneasy," and may find results where the employee mentioned "being uncomfortable" with doing something, or where the employee is "nervous" about some conduct, or where the employee states they feel "weird" about some internal conduct. These results would never come up in a simple OCR word search. Make sure you choose AI software that cites the underlying documents so that you can verify the accuracy of the results.

Creating a Statement of Facts or Evidence Supporting an Issue or Viewpoint

AI software such as ClearBrief can review source material to generate a chronological statement of facts. Each fact cites to the underlying document and can be simultaneously reviewed in an adjacent secondary window to verify its accuracy. Similarly, AI software can generate a statement of facts relating to a particular issue in the case, for example, a comparative negligence defense. Some artificial intelligence software can also give a statement of facts from a different perspective, for example, from the defense perspective, helping you identify and rebut any defenses in the case.

Impeaching a Witness

AI software can search within a single document or a series of documents to find inconsistencies in testimony. For example, you can search within a defense expert's deposition to find contradictory statements. Alternatively, you can compare the defense expert's prior depositions with the deposition in your case to find inconsistencies. You could also compare the defense expert's deposition with medical or other records to find contradictions. The possibilities are limitless, and the AI software can accomplish what may take you weeks in minutes or hours while running in the background.

Creating an Overview for Document Review

Have you ever reviewed boxes of defense documents, wishing you knew what you learned after reviewing the entire production when you first started your review so that you could put each document in context? AI software can give you such context. AI can summarize an entire document production before you review the first page so that you can put each document in context and better understand its full meaning during your first review.

Creating Visuals

Powerful AI tools exist that allow you to type text and easily generate images, and new software is emerging that allows you to type text to create video. The illustration for this article was generated using AI.

Concluding Thoughts

We are on the precipice of a new technology that has the potential to radically alter the way we practice law. The uses of AI software above are by no means exhaustive, and this field is rapidly changing. However, as long as you understand and respect the limits of AI software, it can be an extremely effective tool to help you and your clients get justice. ∎