

Algorithms and Advocacy:
The Defense Lawyer's Ethical Dilemma
presented by Tony Gallagher

Sources, Resources and Suggested Reading

Cases

United States v. DeFonte, 441 F.3d 92 (2d Cir. 2006)

United States v. Finazzo, 682 F. App'x 6 (2d Cir. 2017)

United States v. Kovel, 262 F.2d 918 (2d Cir. 1961)

United States v. Mejia, 655 F.3d 126 (2d Cir. 2011)

Valassis Commc'ns, Inc. v. News Corp., No. 17 Civ. 7378 (PKC), 2018 WL 4489285 (S.D.N.Y. Sept. 19, 2018)

Calvin Klein Trademark Tr. v. Wachner, 198 F.R.D. 53 (S.D.N.Y. 2000)

Gould Inc. v. Mistui Min. & Smelting Co., Ltd., 825 F.2d 676 (2d Cir. 1987)

In re Aenergy, S.A. 451 F. Supp. 3d 319 (S.D.N.Y. 2020)

In re OpenAI, Inc., Copyright Infringement Litig., 802 F. Supp. 3d 688 (S.D.N.Y. 2025)

In re OpenAI, Inc., Copyright Infringement Litig., No. 25-md-3143 (SHS) (S.D.N.Y. Jan. 5, 2026) (Dkt. 1021)

United States v. Buyer, No. 22 Cr. 397 (RMB), 2023 WL 1381970 (S.D.N.Y. Jan. 31, 2023)

United States v. Correia, 468 F. Supp. 3d 618 (S.D.N.Y. 2020)

Articles, Podcasts and Presentations

2023 Year-End Report on the Federal Judiciary, <https://www.supremecourt.gov/publicinfo/year-end/2023year-end-report.pdf>

Ira P. Robbins, Against an AI Privilege, Harv. J. L. & Tech. Dig. (Nov. 7, 2025), <https://jolt.law.harvard.edu/digest/against-an-ai-privilege>

Katherine Medianik, Note, Artificially Intelligent Lawyers: Updating the Model Rules of Professional Conduct in Accordance with the New Technological Era, 39 Cardozo L. Rev. 1497, 1512 (2018).

The Right to (Human) Counsel: Real Responsibility for Artificial Intelligence,” Keith Swisher, 74 S.C. L. Rev. 823 (2023)

“Some Law Schools Already Are Using ChatGPT to Teach Legal Research and Writing,” Stephanie Francis Ward, ABA Journal, 109-JUL A.B.A. J. 38

“Legal Practice and Risk Management Will Never Be the Same: Chatgpt Marks the Turning Point for Ai Adoption,” David A. Steiger, Esq., and Stratton Horres, Esq., 41 No. 04 Westlaw Journal Computer & Internet

“How Can Lawyers Use Chatgpt? I Asked It.” Frank Ramos, 18 No. 4 In-House Def. Q. 18, <https://www.linkedin.com/posts/miamimmentor-how-can-lawyers-use-chatgpt-i-asked-it-activity-7096570785972031488-QDrB>

"Chat GPT and Works Scholarly: Best Practices and Legal Pitfalls in Writing with AI," Bill Tomlinson, Andrew W. Torrance, and Rebecca W. Black, 76 SMU L. Rev. Forum 108, September, 2023

“ChatGPT and the Future of Legal Education and Practice,” Marjan Ajevski, Kim Barker, Andrew Gilbert, Liz Hardie & Francine Ryan (2023) ChatGPT and the future of legal education and practice, The Law Teacher, 57:3, 352-364, DOI: 10.1080/03069400.2023.2207426.

“AI Chatbots Are Here to Stay. Learn How They Can Work for You,” Connie Guglielmo, CNET, <https://www.cnet.com/tech/computing/features/ai-chatbots-are-here-to-stay-learn-how-they-can-work-for-you>

“Artificial Intelligence: Examples of Ethical Dilemmas,” UNESCO, <https://www.unesco.org/en/artificial-intelligence/recommendation-ethics/cases>

“Evaluating The Legal Ethics Of A ChatGPT-Authored Motion,” Aimee Furness and Sam Mallick, Law360 (January 23, 2023)

“ChatGPT: Hybrid Intelligence in Law Practice and Legal Ethics,” Jon Neiditz, <https://www.linkedin.com/pulse/hybrid-intelligence-law-practice-legal-ethics-jon-neiditz>

“Doubling Down on Dumb: Lessons from Mata v. Avianca Inc. (S.D.N.Y., 22-cv-1461 (PKC)),” Hon. Cynthia Norton, Prof. Nancy B. Rapoport, 42-AUG Am.Bankr.Inst.J. 24

“World’s First Robot Lawyer’: Donotpay Wants to Build an AI to Help People Fight Traffic Tickets,” Daily Dot (Dec. 13, 2022), <https://www.dailydot.com/debug/donotpay-buidling-ai-traffic-tickets-robot-lawyer/>

“Bogus’ Cases and Confidential Data: How Artificial Intelligence Tests Legal Ethics.” Jonathan Bick, ALM, <https://www.law.com/njlawjournal/2023/07/31/bogus-cases-and-confidential-data-how-artificial-intelligence-tests-legal-ethics/>

“Clients More Optimistic about AI than Legal Professionals, Says Clio’s 2023 Legal Trends Report,” by Matt Reynolds, <https://www.abajournal.com/authors/64794>.

“ChatGPT Has Fabricated Legal Cases; Can Lawyers Use AI Ethically?” by Erin McGroarty, https://captimes.com/news/chatgpt-has-fabricated-legal-cases-can-lawyers-use-ai-ethically/article_8afd8705-831b-5f51-835d-2e8be4b234a3.html

“Ethical Implications of Text Generation in the Age of Artificial Intelligence,” Business Ethics, Env & Resp. 2023;32:201–210, <https://onlinelibrary.wiley.com/doi/full/10.1111/beer.12479>

“Emerging Trends in Artificial Intelligence for 2024,” Brenda Kanana, Cryptopolitan, <https://www.cryptopolitan.com/trends-in-artificialintelligence-for-2024/>

“Chat GPT & Large Language Models: Your Questions Answered Ethics),” Melissa Hedrick and Anne Collier, <https://www.americanbar.org/events-cle/ecd/ondemand/435707060/>

“Chat Gpt Has Fabricated Legal Cases; Can Lawyers Use AI Ethically?” by Erin McGroarty, https://captimes.com/news/chatgpt-has-fabricated-legal-cases-can-lawyers-use-ai-ethically/article_8afd8705-831b-5f51-835d-2e8be4b234a3.html

“Generative AI and the Small Law Firm: Leveling the Playing Field,” Mark Haddad, Thomson Reuters Institute, https://www.americanbar.org/groups/gpsolo/publications/gpsolo_ereport/2023/november-2023/generative-ai-small-law-firm-leveling-playing-field/

“Ethical Implications of Using Generative AI,” Daniel J. Siegal, Law Practice Magazine, January 1, 2024, https://www.americanbar.org/groups/law_practice/resources/law-practice-magazine/2024/2024-january-february/ethical-implications-of-using-generative-ai/

“Unethical Use of Artificial Intelligence,” Lasse Rouhiainen, <https://lasserouhiainen.com/unethical-use-of-artificial-intelligence/>

“Inside the claims against DoNotPay’s Joshua Browder and the ‘World’s First Robot Lawyer’,” by Matt Reynolds, <https://www.abajournal.com/authors/64794/>, December 1, 2023

“Lawyers Learn Too Late That Chatbots Aren't Built to Be Accurate; How Are Judges and Bars Responding?,” Debra Cassens Weiss, [https:// www.abajournal.com/authors/4/](https://www.abajournal.com/authors/4/) November 17, 2023

“Legal Ethics in the Use of Artificial Intelligence,” Janine Cerny, Steve Delchin, Huu Nguyen, https://www.squirepattonboggs.com/-/media/files/insights/publications/2019/02/legal-ethics-in-the-use-of-artificial-intelligence/legaethics_feb2019.pdf

“The Times Sues OpenAI and Microsoft Over A.I. Use of Copyrighted Work,” Michael M. Grynbaum and Ryan Mach, <https://www.nytimes.com/2023/12/27/business/media/new-york-times-open-ai-microsoft-lawsuit.html>

“Great Promise but Potential for Peril,” Christina Pazzanese, The Harvard Gazette, <https://news.harvard.edu/gazette/story/2020/10/ethical-concerns-mount-as-ai-takes-bigger-decision-making-role/>

“Best of TECHSHOW - Empower with AI: How AI Could (And Perhaps Already Is) Changing Your Practice,” January 24, 2024, American Bar Association and the ABA Law Practice Division

“The Implications of ChatGPT for Legal Services and Society,” Andrew M. Perlman, Suffolk University Law School, <http://ssrn.com/abstract=4294197>

“The 15 Biggest Risks of Artificial Intelligence.” Bernard Marr, [https:// www.forbes.com/sites/bernardmarr/2023/06/02/the-15-biggest-risks-of-artificial-intelligence/?sh=4e48b4342706](https://www.forbes.com/sites/bernardmarr/2023/06/02/the-15-biggest-risks-of-artificial-intelligence/?sh=4e48b4342706)

“Security and Best Practices for Lawyers Using Generative Artificial Intelligence and Large Language Models,” https://www.americanbar.org/groups/gpsolo/publications/gpsolo_report/2024/february-2024/security-best-practices-lawyers-using-generative-artificial-intelligence-large-language-models/, February 26, 2024

“AI for Law Firms: A Comprehensive Guide: AI for Lawyers: Tools for Law Firms,” CLIO, September 2024

Ask Techie: How Can AI-driven Predictive Analytics Improve Case Outcomes? Ashley Hallene and Wells Howard Anderson, ABA GPSolo eReport, Aug 27, 2024

“Biden Administration Outlines Government ‘Guardrails’ for A.I. Tools,” <https://www.nytimes.com/2024/10/24/us/politics/biden-government-guidelines-ai.html>

“ABA Task Force on Law and Artificial Intelligence Addressing the Legal Challenges of AI; Year 1 Report on the Impact of AI on the Practice of Law,” August 2024, <https://www.americanbar.org/content/dam/aba/administrative/center-for-innovation/ai-task-force/2024ai-task-force-report.pdf>

“AI and You: The Critical Role of Retrieval Augmented Generation (RAG) in Legal Practice,” Mathew Kerbis, July 26, 2024

“AI-generated court filing had name, bar number of lawyer who had nothing to do with case, complaint says,” by Debra C. Weiss, Aug 5, 2024, <https://www.ABAJournal.com>

“How Do I Notify Clients about My Use of AI?” by Ashley Hallene and Wells Howard Anderson, May 23, 2024, <https://www.americanbar.org>

“Take heed before using Artificial Intelligence, new ABA ethics opinion says,” Danielle Braff, <https://ABAJournal.com/authors/64813/>, 7/29/24

Fair use acknowledgements: Sound bites and Film Clips

Gene Wilder, Young Frankenstein. A 1974 American comedy horror film directed by Mel Brooks.

Strother Martin from Cool Hand Luke, a 1967 American prison drama directed by Stuart Rosenberg.

Kenneth Branagh, Henry V, a 1989 British historical drama film written and directed by Kenneth Branagh, based on William Shakespeare's history play of the same name.

CNN broadcast March 8, 2023, correspondent Donie O'Sullivan on Anderson Cooper's 360, “CNN reporter calls his parents using AI voice. Watch what happens next.” <https://www.cnn.com/videos/business/2023/03/08/donie-osullivan-calls-mom-using-deepfake-audio-pkg-ac360-vpx-zw-orig.cnn-business>

Matthew Broderick and Ally Sheedy film clip from WarGames, a 1983 American techno-thriller directed by John Badham, written by Lawrence Lasker and Walter F. Parkes.

NPR Morning Edition, Steve Inskeep, Recent cases raise questions about the ethics of using AI in the legal system, original broadcast December 15, 2023.