

PRESIDENT'S PERSPECTIVE

TIMOTHY F. MCGOUGHAN

For Attorneys, AI is the Next Big Turning Point in the Law



In my 37 years as a practicing attorney, only a handful of times have I witnessed an event that reshaped the practice of law.

Of course, the computer and internet boom of the '80s and '90s transformed what was a paper-based

profession into the digital world we practice in today. Contracts, settlement agreements and demand letters that used to travel back and forth over weeks through the postal service could now be circulated within minutes by email. Rather than pouring through books of case law to craft an argument, legal research is now done by punching in words into a search engine.

Three years ago, the legal world underwent a seismic shift that saw much of our work move from the courtroom to the computer screen. With trials and hearings of all sorts put on hold due to the pandemic, the advent of virtual proceedings has allowed some flexibility in our schedules and better work-life balance.

I believe we are on the precipice of another breakthrough. The rapid rise, ease of accessibility and widespread use of artificial intelligence will have a significant and lasting effect on the practice of law. ChatGPT, a popular AI program that launched less than a year ago, has already passed the bar exam. Attorneys can have it mimic an adversary ahead of trial. Companies like LexisNexis have embraced the technology and offer programs for attorneys to have interactive conversations with a database.

The technology is swiftly evolving and the NJSBA believes it is critical to study the impact it may have on our profession. The NJSBA's Board of Trustees took action in September to create the Task Force on Artificial Intelligence in the Law. The primary focus of this task force, comprised of attorneys, non-attorneys and representatives from the courts, is to review the complex legal and ethical questions raised by this technology

and make recommendations for best practices when used by New Jersey attorneys.

The task force will also examine the technology's potential downsides, including situations where it is unsafe or inappropriate to use AI—such as the inadvertent waiver of attorney-client and attorney work product privileges, and the use of AI in lieu of humans in the legal industry.

If deemed valuable by the task force, the Association will consider establishing a permanent group within the NJSBA that monitors the emerging technology and supports its evolution in ways that are beneficial to the legal sector. The NJSBA may also explore the development of an AI information hub on the Association's website—where NJSBA members could access important information as needed—along with an educational curriculum for New Jersey attorneys.

The state Supreme Court has also taken notice of this rising development and formed a committee to review the legal and ethical issues AI presents in the court context. The committee, on which I am excited to serve as a representative from the NJSBA, plans to develop recommendations for judges, attorneys, court staff and policymakers on the appropriate use and limitations of AI. This may include mandatory disclosures on the use of AI in court submissions and testimony, along with updates to court forms, model orders and jury instructions.

For attorneys who want a crash course in AI or more advanced strategies to improve their practice, the NJSBA will offer a slate of programming this fall and through the winter. A free webinar on Oct. 3 will provide an introduction on what lawyers should know about AI and ChatGPT's potential to transform legal practice by offering general legal advice, as well as legal research, contract drafting and document review. On Oct. 23, attorneys can earn CLE credits through a program on the idea of employers using AI to make important employment decisions.

I encourage those keen on this exciting new space to register and keep up with the NJSBA and NJICLE's updates on the issue. ■