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FORCE MULTIPLIER?: ARTIFICIAL INTELLIGENCE, UNEVEN COMPETENCE, AND THE INTEGRITY OF THE ADVERSARIAL SYSTEM

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Abstract

Generative artificial intelligence has entered legal practice with unprecedented speed, transforming how lawyers and judges synthesize information, develop arguments, and evaluate evidence. While early attention has focused on visible failures such as hallucinated citations and fabricated authority, these incidents do not capture the deeper structural risk AI poses to the legal system. The authors argue that generative AI is a stress test for legal institutions: it offers substantial opportunities to improve legal practice and access to justice, but it also operates as a force multiplier that can deepen structural asymmetries when professional competence and oversight are uneven. Unlike prior legal technologies that primarily assisted retrieval or organization, generative systems participate directly in synthesis, framing, and analysis, altering how legal knowledge is formed and contested. Where AI competence is uneven, disparities in analytical capacity, litigation leverage, and epistemic control emerge in ways existing doctrine was not designed to absorb.

Drawing on the historical evolution of electronic discovery, Technology-Assisted Review, and digital evidence, this Article demonstrates why prior models of incremental adaptation are no longer sufficient. Ethical doctrine and sanctions regimes can identify individual failures, but they operate reactively and cannot correct structural asymmetries. Empirical evidence suggests, however, that the competence divide is not fixed: with appropriate education, supervision, and institutional design, generative AI can narrow disparities rather than entrench them. This Article concludes by proposing a calibrated institutional roadmap focused on formation, oversight, incentives, and

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coordination to ensure that AI advances the core commitments of fairness, accuracy, and legitimacy in an adversarial system increasingly shaped by probabilistic tools.

INTRODUCTION

The justice system depends on the ability of lawyers and judges to understand, evaluate, and responsibly use information, and on the assumption that this ability is distributed evenly enough to sustain adversarial testing. When that ability is uneven across the profession, fairness and accuracy suffer. Over the past quarter-century, legal practice has undergone successive technological transformations, moving from digitized research and electronic document management to algorithmic tools in discovery, and now to an era increasingly defined by generative artificial intelligence. Each wave required adaptation by the profession. What distinguishes the current moment is not simply the pace of innovation, but the consequences of uneven adaptation.

For decades, technological competence in law functioned primarily as an advantage rather than a prerequisite. Lawyers who mastered electronic research tools or Technology-Assisted Review gained efficiency and cost benefits, and courts gradually incorporated those technologies into accepted practice. Yet the profession has long experienced a widening divide between those who develop technological competence and those who do not.[1]

Generative AI has transformed that divide from a professional inconvenience into a systemic risk. For purposes of this Article, "artificial intelligence" or "AI" refers to generative artificial intelligence systems,[2] including large language models,[3] that produce text, analysis, or other substantive outputs through probabilistic generation rather than retrieval of verified information.[4] Its accessibility, opacity, and persuasive fluency

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1. This divide did not go unnoticed and prompted ethical rules and guidance addressing lagging technological competence. *See, e.g.*, *Model Rules of Pro. Conduct* r. 1.1 cmt. 8 (Am. Bar Ass'n) (adopted 2012) (requiring lawyers to keep abreast of relevant technology); *R. Regulating Fla. Bar* 4-1.1 cmt. (adopted 2016); *Cal. State Bar Formal Op. 2015-193* (lack of technological knowledge may render a lawyer incompetent to handle matters involving e-discovery); *Fla. Ethics Op. 10-2* (addressing lawyer competence and supervision in the use of cloud-based and electronic information systems).

2. *See* Nat'l Inst. of Standards & Tech., *Artificial Intelligence Risk Management Framework* (AI RMF 1.0) (2023), https://nvlpubs.nist.gov/nistpubs/ai/NIST.AI.100-1.pdf (last visited Feb. 17, 2026); Nat'l Inst. of Standards & Tech., *CSRC Glossary*, https://csrc.nist.rip/glossary/term/generative_artificial_intelligence (last visited Feb. 17, 2026) (defining "generative artificial intelligence" as "the class of AI models that emulate the structure and characteristics of input data in order to generate derived synthetic content," including "text and other digital content").

3. A large language model (LLM) is "an artificial intelligence (AI) system that has been trained on a massive amount of text data to interpret natural language and generate human-like responses to text-based prompts or questions." Bassel Almarie et al., *The Use of Large Language Models in Science: Opportunities and Challenges*, PubMed Central, Nat'l Libr. of Med. (author manuscript July 10, 2023), https://pmc.ncbi.nlm.nih.gov/articles/PMC10485814/#R21 (Last visited Feb. 21, 2026).

4. *Id.*

compress the timeline for adaptation while magnifying the consequences of misuse. Unlike prior technologies, AI does not merely accelerate work; it produces plausible but potentially false authority, compresses verification time, and obscures provenance. Its most significant risks are not limited to fabricated citations or synthetic evidence, but extend to subtle distortions in how facts are summarized, evidence is synthesized, and expert judgment is framed. AI is neither an apocalypse nor a miracle. It functions as a multiplier that amplifies skill where skill exists and magnifies error where oversight fails or verification is absent.

This Article argues that artificial intelligence functions as a stress test for the legal profession because it magnifies an existing competence divide in technological knowledge and discipline.[5] That divide separates legal professionals who understand the capabilities and limits of AI well enough to use it responsibly from those who do not. Its effects extend beyond lawyers to judges, clients, and pro se litigants, manifesting in structural unfairness in how evidence is developed, arguments are framed, and outcomes are reached. Unless lawyers and judges develop the ability to use these tools with appropriate verification and oversight, misuse, uneven access, and institutional inertia will undermine procedural fairness and public confidence in the justice system.[6] The competence divide exposed by generative AI also carries direct implications for access to justice, affecting not only sophisticated litigants and well-resourced institutions, but also the courts that must manage them, the small firms that cannot match their resources, and the self-represented parties navigating a system increasingly shaped by tools they cannot access or employ in practice.

This Article first traces how earlier waves of digital technology exposed competence divides in discovery, legal workflow, and evidence. It then explains why AI amplifies those divides. Finally, it proposes a practical roadmap for courts, law schools, firms, and individual lawyers to close the gap. The profession can meet this moment, but only by acting with purpose and urgency. The pace of technological change is not merely relentless; it is accelerating.

Drawing on the authors' combined experience as a trial judge and judicial educator, a discovery counsel and legal technology commentator,

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5. *See* Harry Surden, *Artificial Intelligence and Law: An Overview*, 35 GA. ST. U. L. REV. 1305, 1312–14 (2019) (explaining that contemporary AI systems function by detecting and operationalizing patterns at scale, producing intelligent-seeming outputs that reshape how decision-making tasks are performed even where humans remain formally responsible).

6. *See* John M. Facciola, *Book Review: Discovery—Faster and Shorter*, 2005 FED. CTS. L. REV. 7, 9–10 (reviewing Hon. Paul W. Grimm, Charles S. Fax & Paul Mark Sandler, *Discovery Problems and Their Solutions* (ABA 2005)) (endorsing the view that discovery competence is central to effective advocacy and warning that lawyers who do not understand how to conduct or manage discovery pose systemic risks comparable to lawyers who lack core litigation skills, a risk that becomes magnified as litigation technologies increase in power and complexity).

and a litigator with an engineering background, this Article examines how the legal profession has historically adapted unevenly to technological change.[7] Across judicial service, complex litigation, systems-oriented practice, and exposure to crisis-driven institutional disruption, the authors observed a consistent pattern: technological competence in law has rarely been anticipatory. Instead, it has developed reactively, under pressure, through specialization, delegation, and institutional lag. The profession ultimately adapted to each prior technological shift, but only after friction, uneven learning, and avoidable cost. AI compresses that cycle. Tools that now participate directly in synthesis, reasoning, and judgment leave far less margin for uneven understanding or delayed adaptation. The question is no longer whether the profession will adjust to technological change, but whether it can do so deliberately—before error, asymmetry, and inequity harden into structural features of the legal system.

7. Some observations and evaluative judgments in this Article draw on the authors' professional experience in technology, electronic discovery, and litigation practice and support. That experience includes sustained involvement in eDiscovery and technology education, research, writing, and rulemaking from the early 2000s to the present, including participation in The Sedona Conference Working Groups 1 and 13, the University of Florida eDiscovery Conference, and continuing legal and judicial education programs nationwide.