CLE: The Legal Ethics of AI for Judges & Attorneys or I'm Sorry Pal, You Just Shouldn't Do That

Class length: 60 minutes

Instructor: Prof. Martin Mitchell

Event: US Court of Appeals for the Armed Force, CLE and Training Program, May 2024

From the UN General Assembly's adoption of a resolution on Artificial Intelligence (AI) to new college degrees in AI, it seems like AI is a tool and concept that is pervading all aspects of our life. What are the risks and benefits for incorporating AI into legal practice? What should judges and attorneys know about AI and how to use it within ethical boundaries?

Several states have CLE requirements on the use of technology. The Maine ethics rules state that one of the purposes of the CLE is "to ensure that attorneys remain current on the law, law practice and technology in our rapidly changing society." Florida and North Carolina have similar requirements. This lecture seeks to meet those requirements through a discussion of AI and the ethics requirements.

First, what is AI? How do we define this term? What is the difference between generative AI and "traditional" AI?

We will look at recent cases where attorneys have been disciplined for the use of AI in manners that did not meet ethical standards.

We will also look at a sample of Judge and Court standing rules on AI. What are the benefits of a standing rule? How are these rules enforced?

Sources:

Code of Conduct for US Judges

Code of Judicial Conduct for Army Trial and Appellate Judges

ABA Model Rule 1.1, Competence

DC Bar Rules 3.3 Candor to Tribunal and 8.4 Misconduct

Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence

Mata v. Aviance, Inc. 22-cv-1461 (S.D.N.Y. June 22, 2023)

Standing Rule of Judge Brantley Starr, N.D of Texas

Michigan Judicial Ethics Opinion, JL-155, October 27, 2023