MEALEY'S® LITIGATION REPORT:

Artificial Intelligence

Artificial Intelligence Experts Discuss Potential Changes In 2025

By
John Pavolotsky
Stoel Rives
San Francisco, CA

Richard Robbins
Reed Smith
Chicago, IL

Steven M. Puiszis
Hinshaw & Culbertson LLP
Chicago, IL

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Commentary

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Mealey's Litigation Report: Artificial Intelligence recently asked industry experts and leaders for their thoughts on potential changes in the coming year as a result artificial intelligence. We would like to thank the following individuals for sharing their thoughts on this important issue.

- John Pavolotsky, Partner and co-chair of the firm's AI, Privacy & Cybersecurity team, Stoel Rives, San Francisco

- Richard Robbins, Director of Applied Artificial Intelligence, Reed Smith, Chicago

- Steven M. Puiszis, Partner and the firm's General Counsel, Hinshaw & Culbertson LLP, Chicago

Mealey's: What will change in the next 12 months for lawyers, courts and the legal system as a result of artificial intelligence?

Pavolotsky: There will be just as many, if not more, questions 12 months from now for practitioners. The new Executive Order *Removing Barriers to American Leadership in Artificial Intelligence*, signed on January 23, 2025, calls for a review of "all policies, directives, regulations, orders, and other actions taken pursuant to the revoked Executive Order 14110 of October 30, 2023 (Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence) . . ." to identify potential misalignment to current objectives. Presumably, the federal regulation footprint will be lighter, but the exact, even the rough, metes and bounds of it are still being ascertained. States will continue to propose (and in some instances pass) AI bills, some generally tracking the Colorado AI Act (SB 24-

205), which goes into effect on February 1, 2026, and addresses certain obligations of AI developers and deployers and, concomitantly, the rights of AI consumers, while in other cases addressing, or trying to address, a wide range of AI concerns. The result, likely, will be a patchwork, as we have in the privacy space, where preemption remains the long pole in the tent. Some, likely few, of the new state AI laws will have implementing regulations, or detailed guidance, further complicating compliance activities.

Practitioners will realize, if they have not already, that AI is not Y2K. That depending on whether their clients are AI developers, deployers, consumers, AI data centers, power suppliers, or other players in the growing, global AI ecosystem, the needs and issues raised by and for clients will vary greatly. That will likely require an interdisciplinary approach, leveraging both domestic and international global resources. To that end, the ability to see the big picture and leverage appropriate resources, across disciplines including data privacy, cybersecurity, intellectual property protection, and general consumer protection, will be vital.

Robbins: AI-enabled technology will be increasingly integrated into the tools used in legal work. These tools will become more natural, shifting from requiring users to be prompt engineers to systems that present themselves based on the problems being addressed. In other words, systems will be designed to better align with user needs rather than requiring users to adapt to them. This shift will likely lead to increased use of AI tools among legal professionals, making the benefits more readily accessible to a broader audience instead of just the more technically proficient.

However, the best results will still come from those who excel at the underlying tasks and use the technology

regularly. AI will enhance the skills of its users but will not transform a novice into an expert. While these systems will evolve rapidly, they will not possess true reasoning capabilities, though they will offer significant improvements in handling the text that constitutes much of legal work.

The growing integration of AI-enabled technology into the legal system will have profound implications for courts and the legal profession. As AI systems become more intuitive and user-friendly, they will streamline legal processes. This shift will likely lead to increased engagement with AI tools among legal professionals, enhancing their ability to manage and analyze large volumes of legal text and data. However, it is important to note that while AI will augment the skills of legal practitioners, it will not replace the need for human expertise and judgment.

Puiszis: In 2025 we will see an expansion in the use of GenAI, which will vary between firms depending on each firm's risk tolerance. Some firms will explore low risk uses whereas other firms will be more aggres-

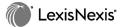sive and those with niche areas of practice will explore training a platform on its own data.

Expect that new ethical and professional potholes will continue to be recognized, such as the recent suggestion by a district court that lawyers may have an obligation under Rule 11 to inquire if an expert or a witness used Generative AI to prepare a report, an affidavit or a declaration by the witness. Firms will need to consider reviewing their protective orders to prevent a client's data from being reviewed by an LLM that will use it for training purposes. Lawyers and firms will need to consider what to include in engagement letters to obtain a client's informed consent in light of an ABA ethics opinion noting that boilerplate provisions will not suffice.

One issue that will not go away is hallucinations. While retrieval-augmented generation, or RAG, will reduce hallucination rates, the latest study of LLMs from Stanford explains that RAG does not eliminate them. And many of the mistakes we will likely see will be nuanced and will require careful review and attention by lawyers. ∎