

Artificial Intelligence in the Legal Profession – What You Might Want to Know



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It is probably not practical for an attorney to become proficient in every new technology, just as it has become increasingly difficult for an attorney to be proficient in all disciplines of law as a general practitioner. One can, however, identify an area of artificial intelligence that one wants to become familiar with, and work on gaining proficiency therein.

During a recent webinar sponsored by LexisNexis, entitled “Artificial Intelligence & the Legal Profession,” Dennis Garcia, Assistant General Counsel for Microsoft Corporation, suggested that legal professionals should not fear artificial intelligence.¹ According to Garcia, artificial intelligence is not a foe to attorneys, but a tool for all lawyers. He cites several sources to support his argument, including a recent *New York Times* article by Steve Lohr (somewhat cryptically) entitled “A.I. is Doing Legal Work. But it Won’t Replace Lawyers, Yet.”² Garcia’s assertions that artificial intelligence is an asset to lawyers and will not supplant or replace attorneys seems both convincing and sound – if you are legal counsel at Microsoft Corporation. But if you are not, then perhaps we as members of the legal profession need to really assess how this new technology will impact and change the practice of law, and what the role of the attorney will be.

Artificial Intelligence, or “A.I.” as it is often referred to, has been in the news as of late. Indeed, it is hard to avoid it. A search of the term using the Google search engine will produce an initial return of approximately 62,700,000 results (that’s taking all of 0.76 seconds to respond – give or take a hundredth of a second). But what is it, and more importantly to the *Bar Journal’s* readers, how is it going to impact the legal profession?

First, just what IS artificial intelligence? One can find multiple definitions. John McCarthy, often cited as the father of A.I. (or at least the person who first recognized it)³ wrote in a 2007 unpublished paper that artificial intelligence “is the science and engineering of making intelligent machines, especially intelligent computer programs. It is related to the similar task of using computers to understand human intelligence, but A.I. does not have to confine itself to methods that are biologically observable.”⁴ More recently, one scholarly article written

by several researchers wrote:

AI is a sub-field of computer science. It can be broadly characterized as intelligence by machines and software. Intelligence refers to many types of abilities, yet is often constrained to the definition of human intelligence. It involves mechanisms, some that are fully discovered and understood by scientists and engineers, *and some that are not* (emphasis added).⁵

We can extrapolate an understanding of what artificial intelligence is from those quotes. In short, it is computers that think. Okay, maybe the computer is not “thinking” in the same vein as a living organism does, but the computer can sift through data and make computations on a much quicker basis than the human mind. It can produce results that mimic thinking. In other words, we can spend hours debating the philosophical issue of whether intelligence is something limited to living creatures, or something that can be embedded or produced in a man-made device. But regardless of how we come out on that discussion, here is the bottom line: artificial intelligence can do many of the tasks lawyers do, and in some cases, do them more quickly, more efficiently, and even – YIKES – more effectively.

So let’s get to the issue of how A.I. is affecting the legal profession. First is the impact on document review. According to Lohr, researchers at the *Massachusetts Institute of Technology* and the *University Of North Carolina School Of Law* estimated that at large law firms only four percent (4%) of the lawyers’ time is used for document review. The rest is outsourced or done by artificial intelligence.⁶ Even smaller law firms and solo operations can use basic word searches, or so-called “search and find” type tasks, to review documents and find items that might have taken hours and days of research in the past. This can be applicable to electronic discovery and contract review, among other things. A.I. is also used to complete research and complete forms. This certainly frees up time of lawyers to do so-called “higher rung” functions. Yet how many attorneys today in mid-career or later got their start in the legal profession by

It's Okay to Play!



Christine M. Curley, Esq.

These days we hear so much about wellness and balance, and I am sure many of us attorneys either scoff at the very idea, or lament when our efforts continually fall short. I was part of both cohorts for a good part of my legal career. The stresses of deadlines, workload, and client demands, as well as balancing family life are ever-present.

My path to better wellness has been one of fits and starts. In truth, I could list many changes I have made over the last several years to support my health and well-being – better nutrition, less caffeine, less alcohol, practicing mindfulness, yoga, meditation and maintaining an attitude of gratitude, to name a few. But you likely already know these.

However, I can offer two distinct pieces of advice for younger attorneys – and perhaps more seasoned ones as well – that I have practiced throughout my entire career.

First: Take vacations! From your work – not just moving your office to a hotel room. You are not as indispensable as you may think you are. Really.

I remember back in the day that announcing that “I haven’t taken a vacation in ___ years” was seen as some kind of badge of honor. I flaunted that philosophy on a regular basis. Clients and staff in the offices with whom I worked would remark to me, “where are you off to now?” and I would smile and laugh knowing that I would be getting recharged by getting away for a day or two or more and experiencing life’s adventures to boot.

Enjoy the thrill of planning and the anticipation of the getaway, as it enhances the value of the getaway itself. Being able to recall the memories of your getaway fortify you to take on the inevitable rough days.

Second: Find an activity you love to do that you cannot back out of or reschedule. For me, it has been tennis. My husband bought me a tennis racquet for my 28th birthday and I have been an avid player ever since. The key was that I couldn’t back out of commitments to court time or lessons or other players who agreed to play. Very different from stating how much you “need” to get to the gym and then being too exhausted or busy to go. As most of you already know, moving and exercise reduces stress and improves wellness; finding an activity that you love makes this critical part of wellness easier.

Playing is good for the body and soul. After all, we want our children to go out and play more; we should take our own advice.

The bottom line: It’s okay to play – even for attorneys!

(If you are interested, I can provide research studies correlating vacations and play time with better health outcomes, as I am presently pursuing a Master’s Degree in Health Psychology.)

doing many of the functions being replicated by A.I.? Much of the work performed by a new associate in many firms, large or small, was composed of these types of activity now being performed by artificial intelligence. Lohr also reported one study by the *McKinsey Global Institute* estimating that twenty-three percent (23%) of legal work currently being performed by lawyers can be automated with present technology or technology that is being developed?

Are clients happy? What do you think? The costs of A.I. can be much cheaper than hiring and training an associate. Perhaps not in the initial investment, but over time. Computers do not seek higher wages, take paid time off, or require health insurance (though they do get viruses). At some point, A.I. will be able to perform services at a cheaper cost than associates. These cost savings can be passed on to clients. How many of you reading this article (thanks for doing so by the way) have been involved in or at least heard of a situation where a client complained about the number of hours an attorney spent on a billed for task, and argued that the item was not true LEGAL work? Or that line for four hours of legal research shouldn’t have taken more than one hour. The idea that clients, be they in the private or public sector, do not want to pay high rates for lawyers to perform “routine” legal work seems logical. But this begs the question, what exactly is a routine service? Search and find type tasks? That seems a reasonable interpretation with today’s technology. But not brief writing, right? Hold on. Programs such as *ROSS Intelligence* tout the program’s ability to search through many legal databases and come up with an answer to any legal question, or as their website says. “Supercharge lawyers with artificial intelligence.”⁸ Can *ROSS* do a better job than a human attorney? That’s clearly a subjective question. Yet one is reminded of HAL, the all-knowing computer from Stanley Kubrick’s sci-fi classic *2001, A Space Odyssey*.⁹ During an interview with a BBC interviewer HAL¹⁰ who is a super computer operating the spaceship “Discovery” on a trip to Jupiter, says “I am putting myself to the fullest possible use, which is all I think that any conscious entity can ever hope to do.”¹¹ Though highly desirable, that’s a pretty high standard for most of us mortal lawyers to meet. Ouch!

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Suppose artificial intelligence technology can exceed what an attorney can do. Rohr reports of one attorney who tested Ross by spending ten (10) hours searching online databases for facts similar to a case he was working on. Rohr writes that “Ross found the case almost instantly.”¹² Ouch again.

ROSS *Intelligence* is not alone. ROSS’s “parent,” IBM’s *Watson*, now has a feature to create arguments. When asked a question, *Watson* will scan its databases and propose not only research, but arguments to be advanced in a debate.¹³ IBM touts on its website that “IBM Debating Technologies are ushering in a new era of Cognitive Computing.”¹⁴ *Lex Machina*, from LexisNexis, uses technology to help lawyers prosecute and win patent and other intellectual property cases.¹⁵ *Modria* from Tyler Technologies purports to provide online dispute resolution to many common cases.¹⁶ *BEAGLE* purports to review legal documents and reduce manual reviewing error rates, reducing the average time for legal review to less than 20 minutes, and increasing legal review accuracy by twenty percent (20%) (*BEAGLE*’s website caption says “We sniff out the fine print so you don’t have to.”)¹⁷ But wait, there’s more. Many of these services purport not just to review documents and do word searches, but to give advice or something that is tantamount to advice. *Legal Robot* purports to help people “understand complex legal language and spot problems before you sign, without the time and cost of hiring an attorney.”¹⁸ *Legal Robot* also states on its website that it uses legal algorithms to provide fairness and risk analysis.^{19,20} *Ravel Law* purports on its website to provide information on how judges have ruled on motions in the past and provides analytics on law firms, as well as providing “Exclusive intel to compare forums, predict outcomes, and craft winning arguments.”²¹ This list is far from exhaustive.

Maybe it is just this author’s opinion, but some of these features are starting to sound like more than lower rung legal services. Does this mean we all hang up our law licenses? That seems a bit rash (although the authors of a recent paper published in the *Richmond Journal of Law and Technology* wrote “Lawyers may also become a dying breed...”²²). But we would be foolish to not consider what A.I. may bring to the profession. First, and some may not like to hear this,

Don’t Be a Zoo Human!

Although our genes haven’t changed in thousands of years, our lifestyles and environment certainly have. Not to say that modern conveniences aren’t great, or that modern medicine isn’t vital, but we are essentially living in a human zoo and our primal bodies are not happy about it. Or, as Robert M. Sapolsky of “Why Zebras Don’t Get Ulcers” puts it: we’re living long enough to slowly fall apart.

Luckily our bodies are resilient, and with a few healthy tweaks we can bounce back from years of unnatural habits. So, don’t give up! Meet these (minimum) weekly goals and you’ll thrive like a caveman/woman at the top of a food chain beyond their wildest dreams!

(Note: please consult your doctor before participating in any kind of physical activity and don’t blame me if you get hurt.)

Here Are My Top 10 Weekly Primal Goals:

- 1. Walk 2-3 hours.** No power-walking necessary. Swing those arms, rotate those hips, keep your head on a swivel, and breathe.
- 2. Lift something heavy.** This doesn’t necessarily mean deadlift 400lbs (though that would count). Generally something is considered heavy if you can only lift/push/pull it 5 times or less consecutively. Aim for compound movements that demand lots of muscle activity (eg. deadlifts, squats, pushups, pullups, etc.).
- 3. Get that heart pumping hard.** If your doctor says that you can sprint, then sprint. All we’re looking for is 3-5 “all out” efforts for a maximum of 10 seconds. Efforts should be very brief and very intense. Take as much time to rest between sprints (or crushing it on the spin bike/elliptical/rower/etc.) as you need to match the intensity and power output. Side note: unless you’re an Olympian, you probably can’t spirit 1/2 mile or do 20 sprints without significant drop-off, so don’t get too ambitious.
- 4. Eat food that grows naturally for 80% of your caloric intake.** If a team of scientists was required to create a food product, then seek an alternative.
- 5. Sleep 49-56 hours.** I recommend looking at the weekly total since it can be very challenging to do 8 every night. Recharging on the weekends is healthy in my opinion, and naps are totally primal!
- 6. Get an hour of direct sunlight.** Be responsible, but your body will produce the most vitamin D by exposing untanned skin without sunscreen.
- 7. Play!** Do this as much as possible! Kids and pets are great resources for this.
- 8. Go outside barefoot,** preferably on grass or sand. Google “earthing” for more information.
- 9. Indulge sensibly.** We must live right? Therefore, enjoy that glass (notice singular form) of wine/beer/whisky, that serving of dark chocolate, or that piece of artisan cheese. You can enjoy that 12-pack, that sleeve of cookies, or that pint of ice cream too, but it won’t provide the health benefits of the former.
- 10. Trust your intuition.** Although we’re not tuned in like our primal ancestors were, our brains are still sending us messages to optimize our health/chance of survival. If your body is telling you to rest, then honor that. On the flip side, if it really feels like moving, then go with it! Side note: this doesn’t apply to the mouth-watering effect of sugary foods, that is a trick and an article for another time.

In closing, I feel that there is a general lack of faith in our bodies. People often tell me that they can’t run/lift/move/etc. because they’re too old, they don’t have time, or their body doesn’t “work” that way. Although you may not be able to eat or move like you did when you were a teenager, our bodies are built to last and will adapt to the demands we impose on them. So, instead of demanding that we get good at sitting/being static, let’s order our bodies to perform as it has for a long, long time. You will definitely be rewarded!



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the legal profession will experience what many other professions have, and that is technology taking over the “lower rung” functions attorneys often undertook to get their start. This could lead to fewer positions in the legal field being made available in traditional firms and in general. Complaining about the progress of technology eliminating legal jobs today seems akin to griping about horseless carriages a century ago, so we won't do that. We should recognize, however, that those who do not adapt will not flourish. The reality is that A.I. is here, it will be here, and it will become an increasing part of the practice of law. Second, does one need to master all these technologies to survive? Probably not. Let's look through the other side of the looking glass – how do we as a profession survive and further, turn this to our advantage? If one focuses on one of these technologies, there are both pitfalls and possibilities. Let's look at a few.

Law Schools. If there is one thing that seems very clear, it is that law schools will need to incorporate the use of artificial intelligence into their curriculum. Many schools are already doing this, but it will need to be ratcheted up. Law schools in general are institutions, rich in history and steeped in tradition. These can be good things, but they also contribute to maintaining teaching models that are rigid and slow to change. Want a concrete example? How many of you reading this were taught using the so-called Socratic Method, that bedrock of legal teaching, a technique invented by someone who lived over 2400 years ago? This isn't a backhanded swipe at law school education, but it is a warning that legal education must be careful not to become held back. Also, there is a real issue in that many of the introductory entry-level functions (and in some cases mid-level functions) once performed by attorneys are now being performed, at the rudimentary level or higher, by artificial intelligence. On the positive side, law schools can educate students in how to be proficient with the current technologies in a way that will make them attractive to law offices. On the negative side, there may be a decrease in the number of entry level jobs available into an increasingly competitive profession. What seems clear is that the traditional legal education model needs to change to stay relevant.

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Technologies. While some forms of artificial intelligence have general application – think about your common word search program that can be used to find terms in statutes, cases, contracts, or other documents – many of the others noted above are more specialized, such as those that provide online mediation, or conduct intellectual property searches. These actually present several opportunities for attorneys. It is probably not practical for an attorney to become proficient in every new technology, just as it has become increasingly difficult for an attorney to be proficient in all disciplines of law as a general practitioner. One can, however, identify an area of artificial intelligence that one wants to become familiar with, and work on gaining proficiency therein. One does not need to be an expert, but just be good at working with it. Many corporate websites offer online tutorials on how to utilize their software. Watch them. Watch them again. Watch videos and podcasts on the internet. Go to your local library, the brick and mortar kind (yes, these venerable institutions do still exist) and get help from a reference librarian. Not every librarian will be aware of these, but you can probably find one who will be willing and very enthusiastic about learning a program and showing you some techniques. The key is not to be an expert with one particular brand, as much as knowing how to use and manipulate the software. Remember, technology is always evolving

New opportunities. Artificial Intelligence also offers potential areas for new growth in law. These new programs can potentially level the playing field in many practice areas that have traditionally been hard to break into. A.I. may contribute to the formation of new boutique firms, with a combination of experienced seasoned lawyers knowledgeable in an area of practice and less seasoned but recent law school graduates who have formal training in the technology. This could truly change the look of the legal landscape. Even those attorneys who do not want to start a new firm may increase their value to their employer, firm, or agency, or to their clients, by mastering some of the new technologies.

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Artificial Intelligence

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The concept of work. The concept of what it means to be a lawyer could be radically changed. A.I. will put pressure on lawyer billing as clients will expect less time to be spent on research and contract review. That is not to say that these items will not be a part of a lawyer's billable practice, but clients will be seeking out attorneys who use A.I. in a cost-effective manner. The costs of these programs may be expensive, so this may result in even more pressure being placed upon smaller firms or the solo practitioner who may not have the resources to purchase these programs. Lawyers who do not have access to these services will be competing with those who do. In the short run, it may be possible for attorneys who do not have access to as much A.I. as larger firms to be able to compete by charging less. Steve Lohr in his *New York Time* article gives an example of a California lawyer, James Yoon, who purportedly uses *Lex Machina* and *Ravel Law* in intellectual property cases. According to Lohr, Yoon's billing rate was reported to be \$400 an hour in 1999 (not all that bad), while in 2017 his billing rate is \$1,100 per hour (that's about 175% better). The article does not report on how much time Yoon saves using A.I. technologies. Arguably someone using more old-school legal research tactics could charge less per hour, but would there be a significant increase in the amount of hours using those tactics? It seems quite probable. On the plus side, the general rule with technology seems to be that costs decline as technology is perfected, but the latest A.I. programs with all the bells and whistles will be priced at a premium level. The bottom line is that all A.I. will continue to become more and more integrated into the practice of law. Will lawyers become more akin to managers, letting the technology do much of the traditional work, while using skill and experience to put the final touches on the case?

Time. One of the most highly touted advantages by proponents of A.I. are that the new technologies save time and are comprehensive. If so, this can reduce the number of billable hours a lawyer may spend on a case. Will that create even greater competition among firms since,



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with work being done quicker, there will be a greater demand to obtain more clients to generate more billable hours? On the flip side, maybe the concept of billable hours will change to more project-based fee structures.

Traditional work week. The whole idea of the traditional work week may change. Artificial Intelligence may change the efficiency of attorneys in terms of research and case preparation that the traditional ideas of a certain number of hours in a week is “full-time work” and a total of hours underneath that certain number of “part-time” may be changing. The idea of the availability of benefits and other rewards of a job being based upon the number of hours a person is in a building is becoming archaic. Telecommuting among government employees at U.S. Federal departments and agencies is encouraged and promoted. The concept that a person’s eligibility for health insurance should be dependent upon how many hours the person sits at a desk in an office, a long-entrenched idea in our culture (at least post World War II era) could be an anachronism. This is another concept that is not limited to the legal profession, but it does seem that the change will be felt very soon in the legal profession.

The concept of the practice of law. As A.I. becomes more integrated into the legal profession, we must reconsider what is the practice of law. If computer programs are writing briefs, or at least creating preliminary drafts, is that the practice of law? Will programs that incorporate artificial intelligence need to be licensed by the Bar Association and the Supreme Court? Are we overthinking it? The state of technology is probably not yet at the level where we need to talk about licensing. But with technologies that purport to provide online mediation and write memoranda, how far away are we from that level where we need to consider licensing of A.I.? Attorney Garcia in his online seminar opined that laws and regulations have not been able to keep up with the technology because of its rapid change. We, as members of the Rhode Island Bar Association, will need to address this issue.

As lawyers in a profession, we should not fear the progress represented by “A.I.” Artificial Intelligence is not beating

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humans when it comes to many legal skills and tasks. Lohr cites “strategy, creativity, judgment and empathy” as four things that A.I. does not do – yet.²³ Microsoft Assistant General Counsel Dennis Garcia argues artificial intelligence does not equate with emotional intelligence. A.I. is a tool, and as lawyers we need to embrace the digital transformation of law and change the way we are working.²⁴ Perhaps A.I. is a tool that is augmenting, not replacing lawyers. But maybe we should give artificial intelligence a good look over, with just a bit of wariness. After all, some A.I. will actually debate with you! We can't ignore A.I., but we need to know how to utilize it. We don't want to be reliant on A.I. to the point where we are actually losing arguments with our technology. This recalls another line from the aforementioned supercomputer HAL in *2001*. HAL is having a discussion with astronaut Dave Bowman, after HAL has just locked Bowman in a small space pod outside of the spaceship Discovery. Bowman is in a small space vehicle, running out of air, and desperately trying to get HAL to open the Pod Bay Doors to the larger spaceship. After having a brief discussion, HAL abruptly ends his dialogue by saying “This conversation can serve no purpose anymore. Goodbye.”²⁵ Let's hope as lawyers we are not having that conversation with our computers in the near future – or at least, not on the losing end of that argument!

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ENDNOTES

- 1 (*Lexisnexis.com*, 2017)
- 2 (*Lohr*, 2017)
- 3 (*Daniel Ben-Ari*, 2017)
- 4 (*McCarthy*, 2007)
- 5 (*Daniel Ben-Ari*, 2017)
- 6 (*Lohr*, 2017)
- 7 (*Lohr*, 2017)
- 8 (*Ross Intelligence*, 2017)
- 9 (*Kubrick*, 1968)
- 10 *Technically he is the H.A.L. 9000 computer, but he is HAL to most fans of science fiction cinema.*
- 11 (*Kubrick*, 1968)
- 12 (*Lohr*, 2017)
- 13 *For a video demonstration of Watson constructing a debate by accessing data from Wikipedia no less, watch this video found at: <https://www.youtube.com/watch?v=7g59PjxbGbY>, accessed on January 2, 2018. After watching this, we can certainly question the judgment of taking the top ten articles from Wikipedia to construct your legal arguments, but the ability of the technology to access so much data in so short a time is impressive.*
- 14 (*IBM Research*, 2018)
- 15 (*Lex Machina, a LexisNexis Company*, 2018)
- 16 (*Tyler Technologies*, 2017)
- 17 (*BEAGLE*, 2017)
- 18 (*Legal Robot*, 2017)

19 (Legal Robot, 2017)

20 While each website cited herein was accessed separately, the items cited above were grouped together and referenced by (Daniel Ben-Ari, 2017).

21 (Ravel Law, 2017)

22 (Daniel Ben-Ari, 2017)

23 (Lohr, 2017)

24 (Lexisnexis.com, 2017)

25 (Kubrick, 1968) In the film, astronaut Bowman is able to resourcefully find a way to eject himself from his space pod into the Discovery, after which he proceeds to dismantle HAL's memory. Rather than seeming to be a triumph of man over machine, however, these scenes leave the viewer with a sense of loss.

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Rhode Island Probate Court Listing and Judicial Communications Survey on Bar's Website

The Rhode Island Bar Association regularly updates the Rhode Island Probate Court Listing to ensure posted information is correct. The Probate Court Listing is available on the Bar's website at ribar.com by clicking on **FOR ATTORNEYS** on the home page menu and then clicking on **PROBATE COURT INFORMATION** on the dropdown menu. The Listing is provided in a downloadable PDF format. Bar members may also increase the type size of the words on the Listing by using the percentage feature at the top of the page. The Bar Association also posts a chart summarizing the preferences of Superior Court justices relating to direct communications from attorneys, and between attorneys and the justices' clerks which is updated yearly. The chart is available by clicking **MEMBERS ONLY** on the home page menu and then clicking **JUDICIAL COMMUNICATIONS**.

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