
San Francisco
LEGAL EDUCATION CONFERENCE | OCTOBER 1, 2026
GRSM50
GORDON REES SCULLY MANSUKHANI
YOUR 50 STATE LAW FIRM™

AI at 3:
Are the Terrible 2s Behind Us?
An Exploration of How AI Continues to Evolve in the Workplace



2026 GRSM LEGAL EDUCATION CONFERENCE

SPEAKERS



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Technological Lifecycle

1. Fear/Overestimation

2. Early Adoption/Experimentation



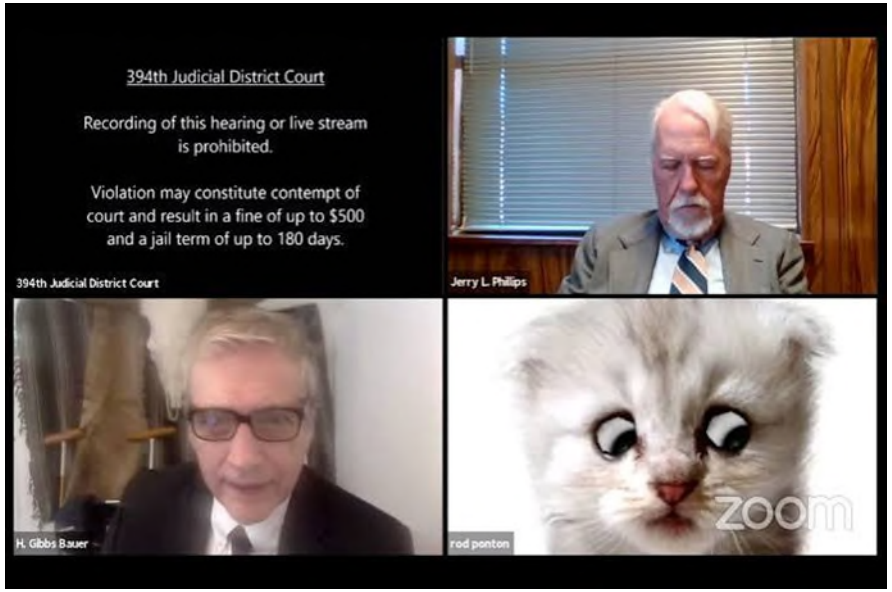


3. General Acceptance



4. Absence Unimaginable

2026: Era of General Acceptance

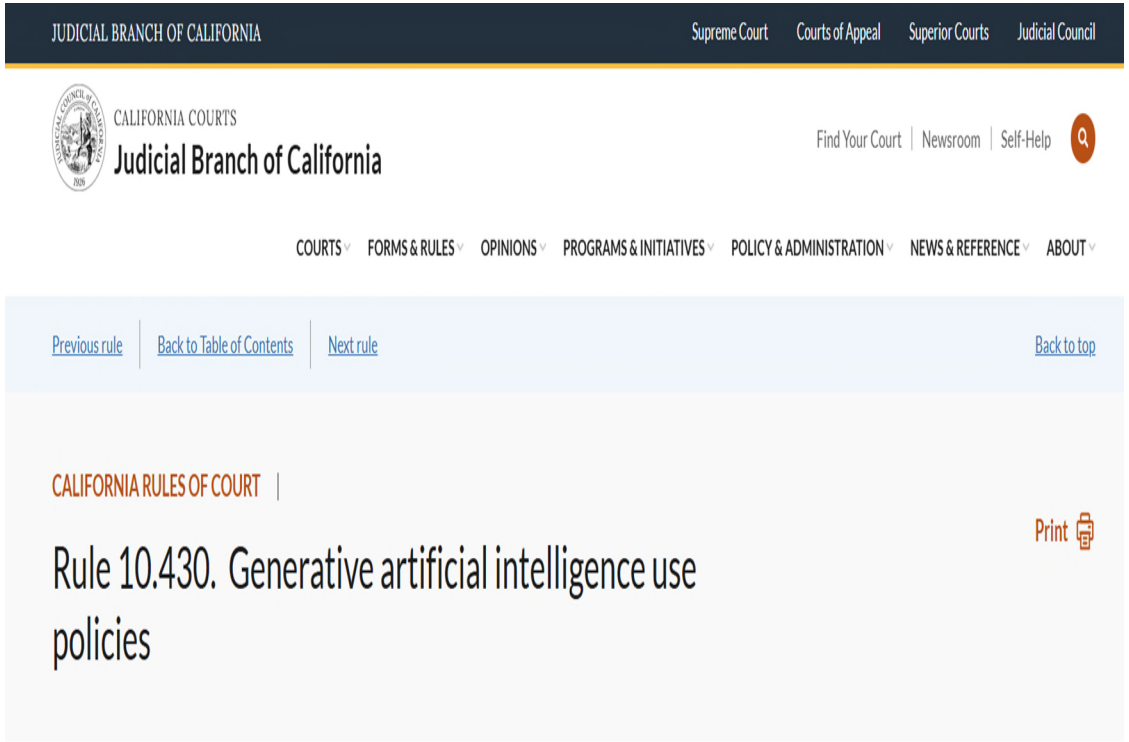




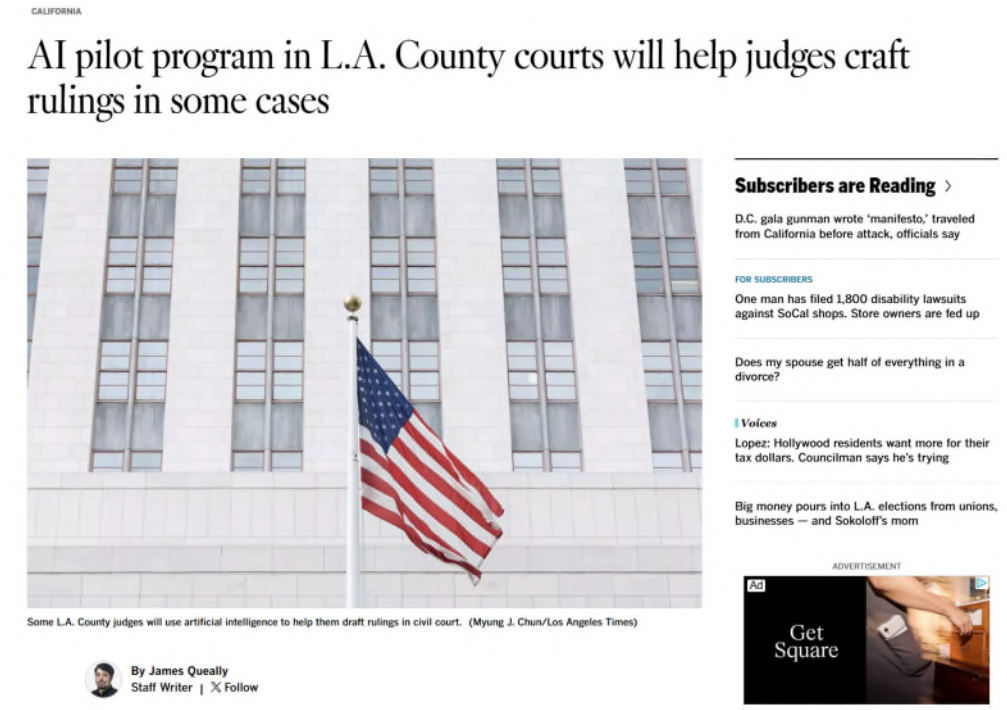


How Times Have Changed

2025



2026



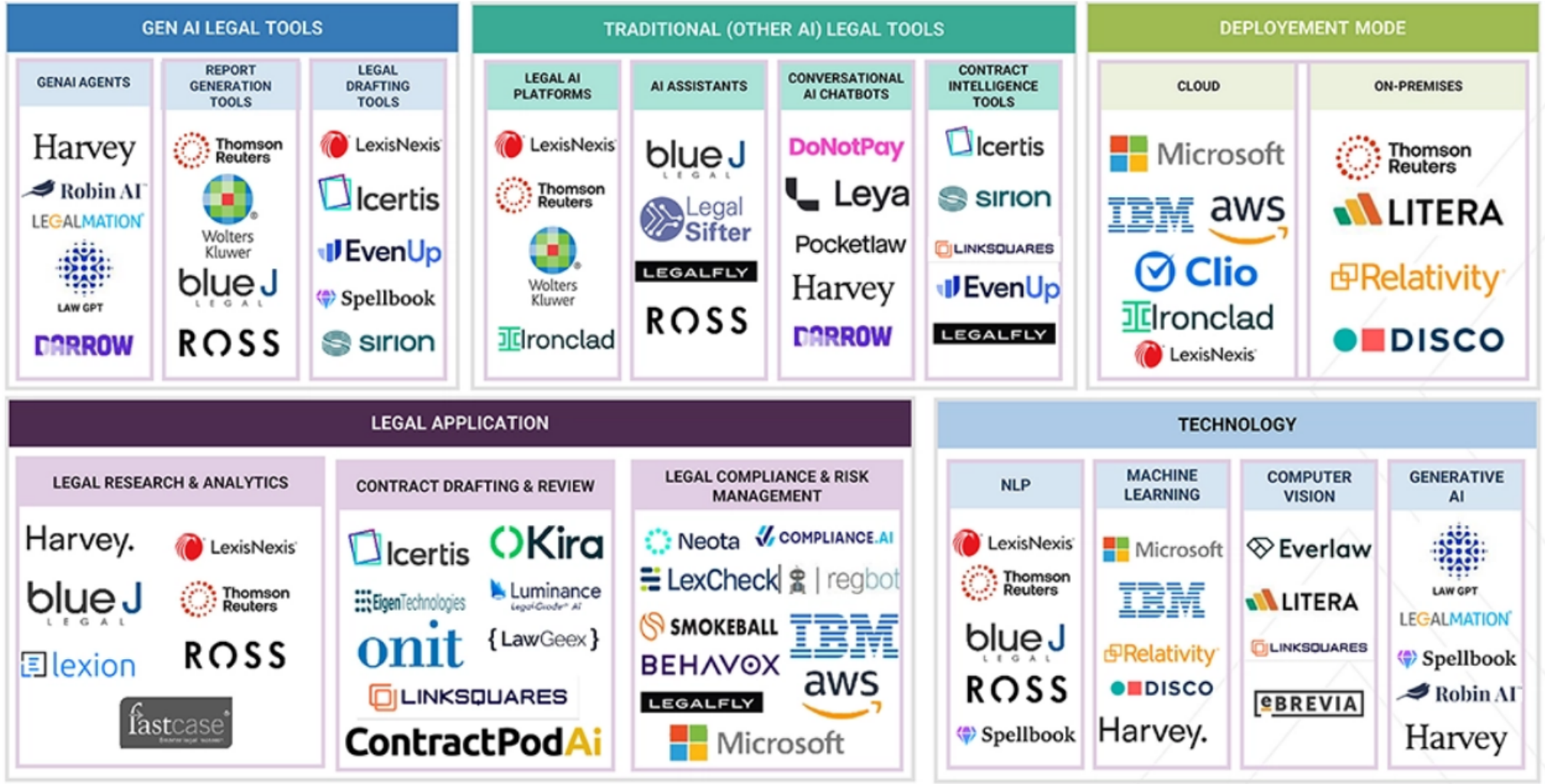
Truism 1:

AI Is Unlikely To Unemploy Litigation Attorneys or HR Professionals Any Time Soon

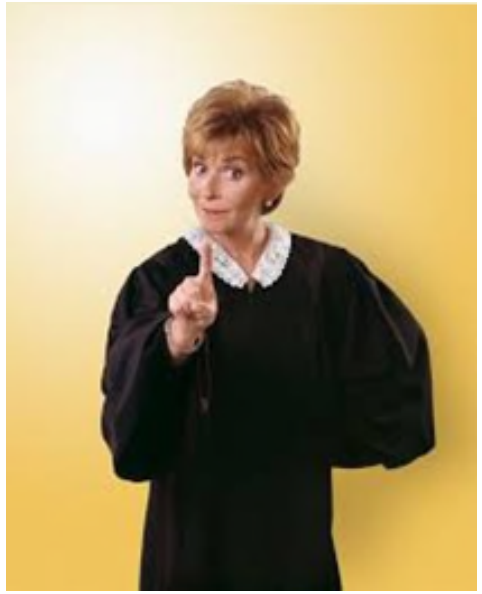
AI Litigation Drivers

1. ***↑ Substantive AI-Based Claims***
2. ***Increased Speed, Quality and Quantity***
3. ***PE Capital / Technological Infusions***
4. ***Democratization of Information***

Proliferation Of AI Tools In The Claims/Legal World



AI-Driven Litigation







1 Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

UNITED STATES DISTRICT COURT

for the

District of

Division

Case No. _____
(to be filled in by the Clerk's Office)

_____
Plaintiff(s)
(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)
-v-

Jury Trial: *(check one)* ☐ Yes ☐ No

_____
Defendant(s)
(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address _____

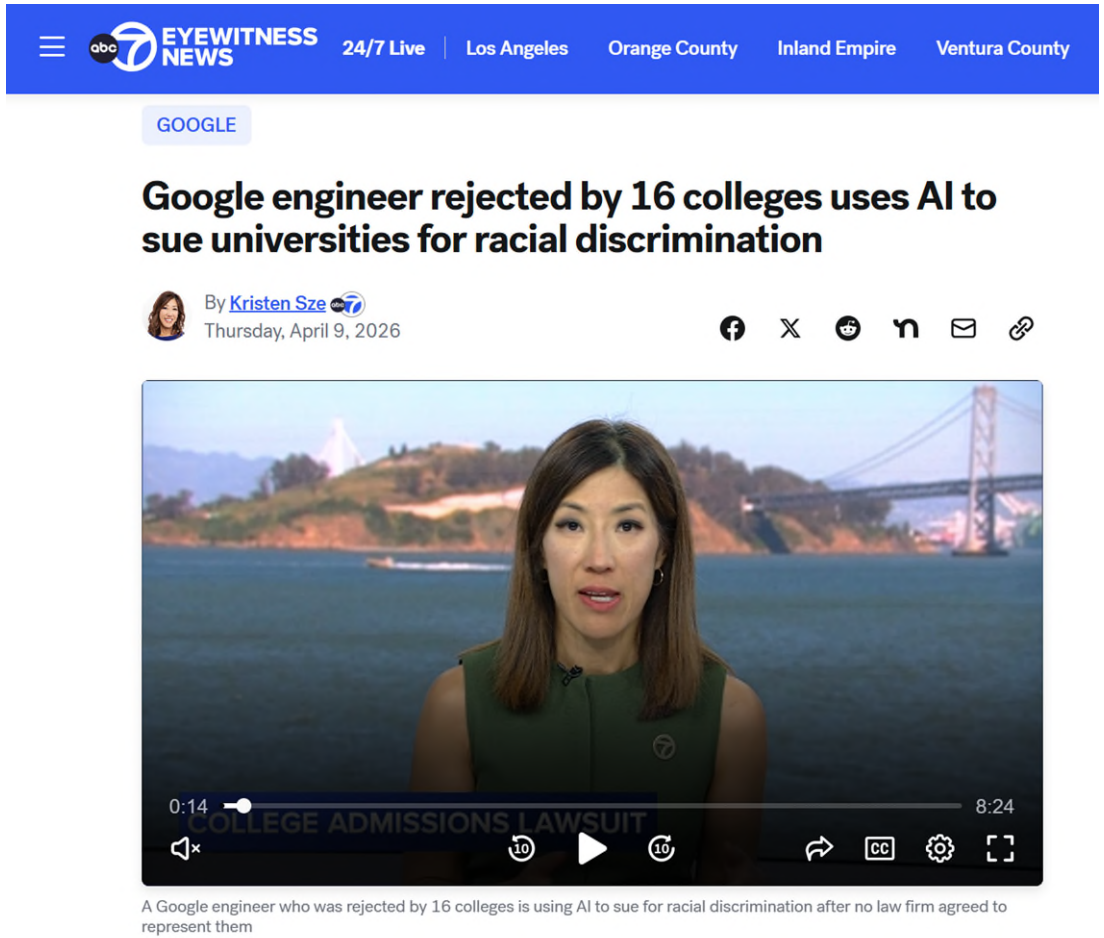
B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title *(if known)*. Attach additional pages if needed.

Defendant No. 1

Page of 5

Rise Of The *Pro Se* Litigant



PRO SE FEDERAL COURT FILINGS

- ❑ 2024: 24,132
- ❑ 2025: 34,311
- ❑ 2026: >46,000 (>35% increase)

The Improvement of 3rd Rate Counsel

SPEED

VOLUME



EFFICIENCY

COMPETENCE

AI-influenced Legal Trends

CALIFORNIA STATE COURT UNLIMITED CIVIL FILINGS

- 2024: 768,724
- 2025: 809,183
- 2026: 906,285 (>12%)

Early AI Adoption



Truism 2:

AI Is Unlikely To Be Regulated Consistently At The State Or Federal Levels

AI: Efforts at Regulation

Federal: No comprehensive law

- Take it Down Act (2025)
- AI Training Act (2022)
- National AI Act (2020)
- Unlike FAA/FDA/EPA

States: Piecemeal Approach

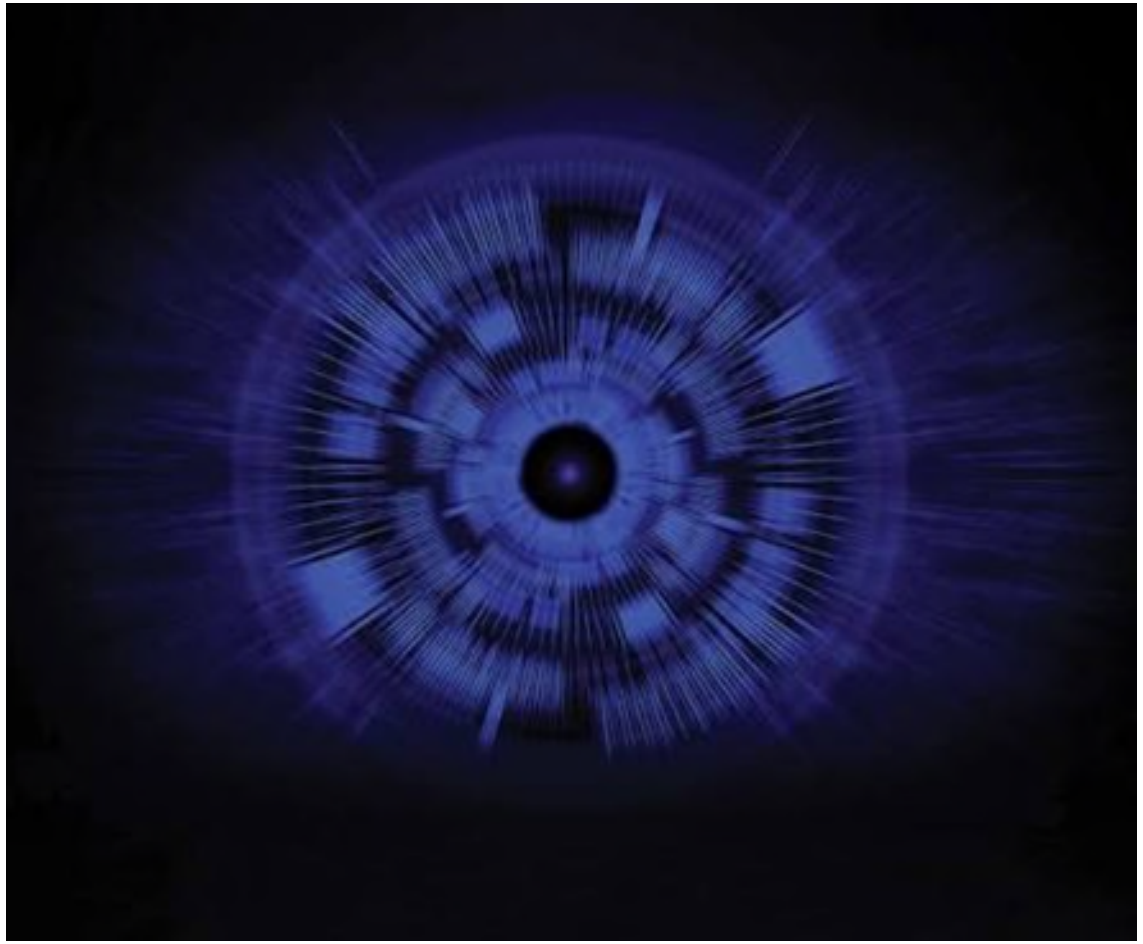
- Transparency in Frontier AI Act (CA)
- Local Law 144 (NY hiring law)
- House Bill 3773 (IL Human Rights Act)
- Deepfake Election Laws (AZ and AL)



Courts:

- Combatting “Prompt Injection” Techniques

AI: Efforts at Regulation



<u>California Senate Bill 574</u>:

Attorneys must:

strictly maintain client confidences when using generative AI by ensuring that confidential nonpublic information is not entered into a public system;

correct any erroneous or hallucinated output in material used by the attorney; and

disclose the use of generative AI to the court for all documents submitted to the court.

Attorneys must not delegate the practice of law to generative AI.

AI FILING RULES

• 2026–2027 •



NEW YORK

EFFECTIVE JUNE 1, 2026

AI-ASSISTED FILINGS PERMITTED

No blanket disclosure required.

The signing attorney must independently verify the paper contains no fabricated cases, statutes, or other material.



FLORIDA

EFFECTIVE JUNE 15, 2026

CITATION-VERIFICATION REQUIREMENT

Every signer certifies that the legal authorities cited exist and are accurately cited.

No disclosure requirement.

A citation-verification requirement.



COLORADO

EFFECTIVE JANUARY 1, 2027

AI LAW (NOT COURT FILINGS)

Governs automated decision-making, not court filings.

Different lane.
Different rules.



OKLAHOMA

CURRENTLY IN EFFECT

HUMAN VERIFICATION REQUIRED

Rule 1.17 of the Court of Criminal Appeals requires that any filing content produced or modified by generative AI be verified as accurate by a person responsible for the document.

Sanctions available.

Proposed Federal Rules of Evidence



AI Evidence Authentication – Rule 901 (Proposed)

Shifts burden to challengers to prove AI evidence may be altered or fake, then proponents must prove authenticity.

Reliability Standards for AI Evidence – Rule 707 (Proposed)

Applies expert testimony reliability standards to AI evidence, requiring sufficient data and reliable methods.

Practical Issues

Hearsay and competency.

Criticism and Challenges

Proposed rules may increase costs and exclude evidence due to technical complexities and cautious judges.

Practical Reality: Technology Outstrips Human Agency



Human Regulation:

- **Legislation**
- **Legal Precedent**



Technological Speed:

- **Moore’s Law**
- **Quantum Computing**

Truism 3:

AI Is Creating Its Own New World Of Legal Issues, Theories, Risks and Claims

AI-Related Litigation and Emerging Cases

- **Employment and Housing Discrimination**
- Privacy Invasions
- Intellectual Property Infringements
- False Arrest (facial recognition errors)
- Cyber-Related Lawsuits
- Product Liability Claims
- Antitrust (algorithmic pricing violations)
- Securities Claims (stock manipulation)
- Defamation/Infliction of Emotional Distress



AI Products Used In Today’s Workplace

- **Recruitment and Hiring**:
  - Paradox (candidate screening and scheduling); Workable (AI sourcing, screening, and candidate matching)
- **General Productivity and Research**:
  - Enterprise Chatbots/Chat GPT; Google Gemini
- **Workplace Communications**:
  - Tools like Grammarly;
- **Performance Management & HR**
  - Workday AI
- **Training &Video**:
  - Platforms like Synthesia for training videos; LinkedIn Learning AI-powered tools
- **Meetings & Collaborations**
  - Microsoft Teams; Zoom AI Companion



What is “AI” in the Employment Context

Most employers already use AI tools, often without realizing it

Common tools employers are already using:

- Resume screening
- Candidate ranking
- Automated interviews (video, voice, facial
- analysis)
- Predictive analytics (performance, retention,
- promotion)
- Algorithmic scheduling
- Productivity and monitoring software
- HR chatbots and automated decision tools
- Automated meeting transcription, summaries, and action items
- AI-assisted training and performance-management tools



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Risks and Mitigation Strategies for AI Use in 2026

Algorithmic Discrimination and Bias



Core Liability Framework: Where Employers Get Hit

Discrimination & Bias

- Disparate impact without intent
- Biased or incomplete training data
- Proxy discrimination
    - Ex. AI flags “communication style” in performance reviews, penalizes non-native English speakers



Disability Discrimination

- AI often assumes a “standard worker”
- Automated testing can disadvantage neurodivergent candidates
- Inflexible tools that lack override mechanisms create liability
- Ex. Timed online assessments screen out candidates with anxiety disorders

Where Hiring Algorithms Fail

- Resume screening
- Automated interviews
- Candidate ranking
- Examples:
  - Video interview tool scores facial expressions— disadvantages candidates with disabilities
  - Resume screener penalizes employment gaps tied to caregiving or military service



Risks and Mitigation Strategies for AI Use in 2026

Human Oversight Mandate

e.g., AB 1883: passed by CA legislature as of August 30, 2026, and is pending before Governor Gavin Newsom; if signed into law, would amend CA Labor Code to ban employers from using any AI workplace surveillance tools that assess emotional state or collect neural data.



Performance Management, Discipline & Termination

- Algorithmic performance scoring
  - Ex. Employee terminated after productivity score drops during pregnancy-related leave.
- Automated discipline triggers
- Reduction-in-force analytics
- Litigation reality – discovery requests increasingly seek:
  - Algorithms and logic
  - Training data
  - Vendor communications



- **TAKEAWAY: Human Oversight is Critical**

Risks and Mitigation Strategies for AI Use in 2026

Data Privacy and Confidentiality



Privacy & Surveillance



- **Employee data is now protected as consumer data in some states**
- **Employers must disclose what/why/how data is collected/used**
- **Biometric data is especially sensitive**
- **Disclosure failures are becoming class actions**

Risks and Mitigation Strategies for AI Use in 2026

Loss of Privilege and Discoverable Conversations



Risks and Mitigation Strategies for AI Use in 2026

Employee Whistleblower Protections



AI in Employee Claims: Patterns We Are Seeing

- **Increased use of AI tools by disgruntled employees**
- **Pro se litigants using AI — chaos, uncertainty, increased cost**
- **Opposing counsel using AI — nonresponsive, circular, delayed**
- **Rising volume of cases targeting AI-based employment and hiring systems**



Mobley v. Workday – AI and Employer Liability

- First major federal case squarely challenging AI-driven hiring tools
- Plaintiff alleged race, age, and disability discrimination
- Claims based on automated resume screening and rejection decisions
- Court allowed Title VII, ADEA, and ADA claims to proceed
- Employers cannot outsource discrimination to algorithms or vendors
- Signals heightened scrutiny of AI in employment decisions
- Vendors do not shield employers from liability



workday.

Workday + Other AI Litigation: The Takeaway

- **From National Law Review, February 25, 2026:**

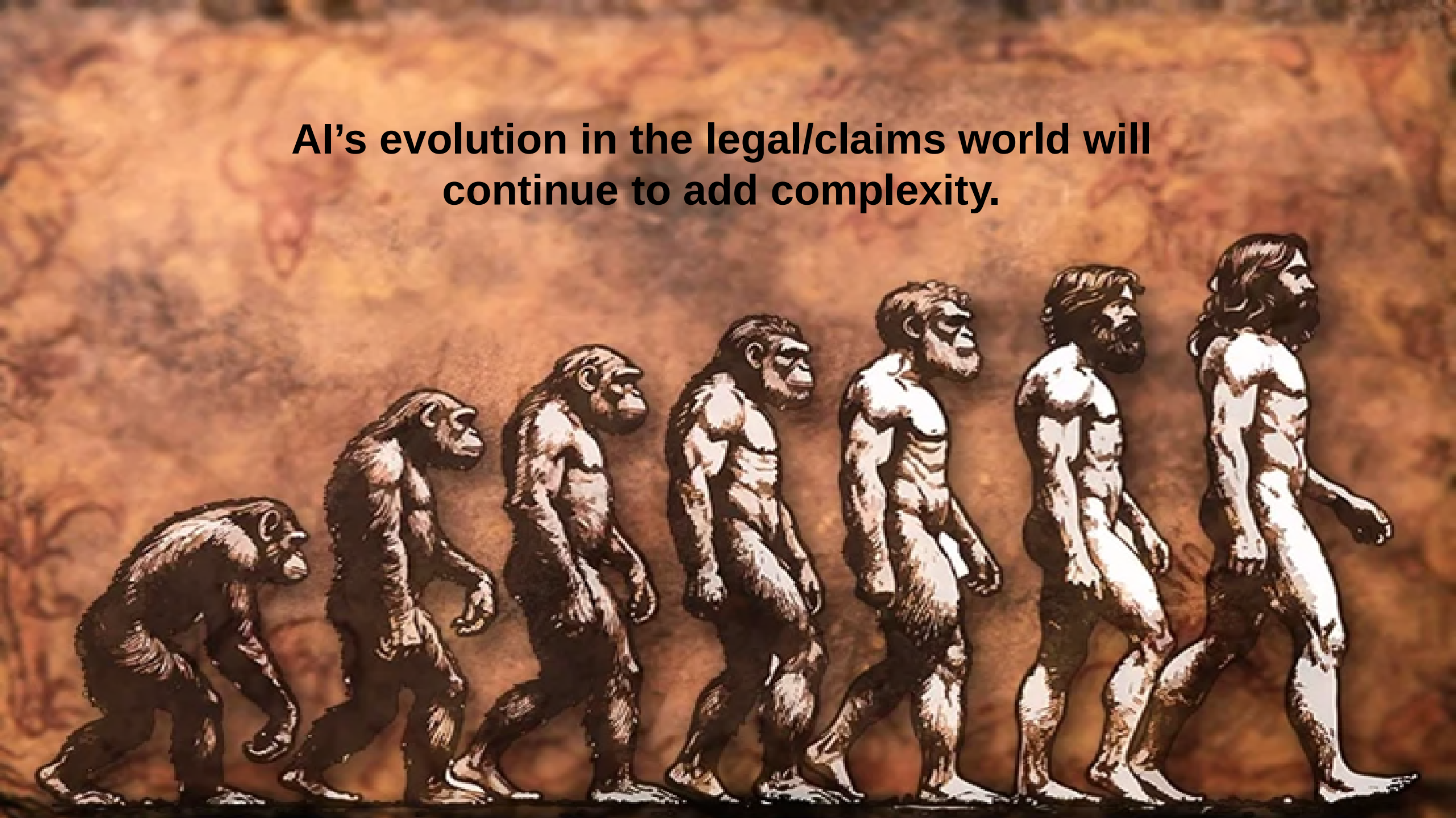
"The employer is legally responsible for outcomes it cannot control, generated by data it cannot audit, processed through logic it cannot understand."



Predictions for the Future:



AI’s evolution in the legal/claims world will continue to add complexity.




There will be no comprehensive statutory framework governing AI’s usage

The economics of AI will profoundly affect the US economy

- Financial Mismatch (OpenAI CapEx of $1.4 Trillion Against ~$40 Billion Revenue)
- Durational Mismatch (Long-Term Borrowing v. Short Term Pricing)
- Structural Constraints (Formerly Asset-Lite Hyper-Scalers Now Cashflow Negative)
  - Financing constraints
  - Energy constraints
  - Environmental constraints
  - Compute constrains
  - Regulatory constraints
  - Resource constraints
  - Obsolescence constraints
  - Overpricing constraints
- Excess/Outdated Supply Unsupported by Demand/Pricing
  - Panics of 1857, 1873, and 1893; Depressions; Labor Unrest, etc.

rAIlroads

Will The AI Terrible 2's Become the Terrific or Treacherous 3's?



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