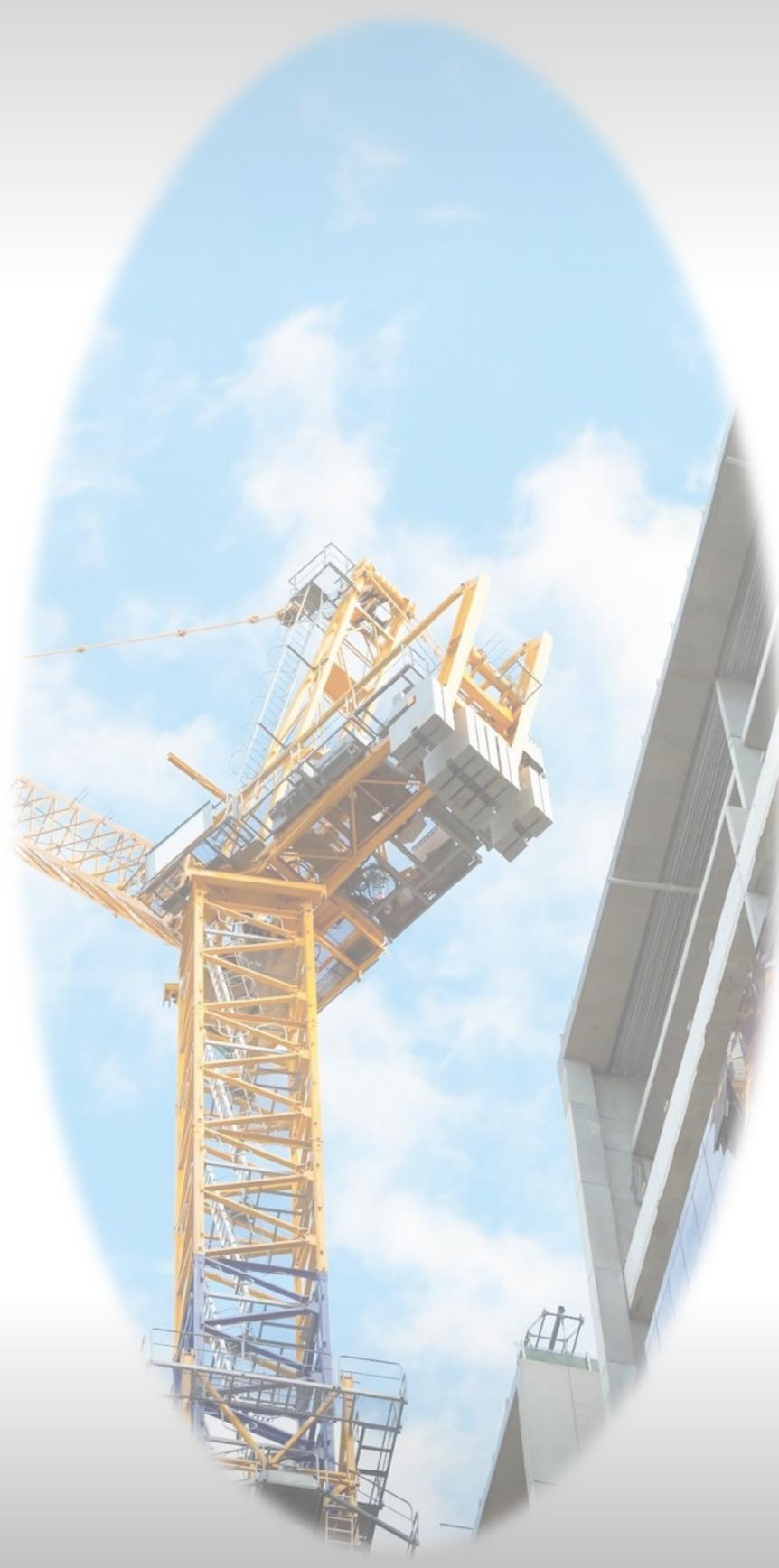


A construction site at sunset, featuring several cranes and workers on a building's steel framework. The sky is a mix of orange, yellow, and blue. Large, semi-transparent numbers '2025' are overlaid on the background. A white curved line underlines the word 'SUPER' in the main title.

CONSTRUCTION **SUPER**CONFERENCE

2025

CONSTRUCTIONSUPERCONFERENCE.COM



Panel S32

Ethics in 2025 from A to Z: Best Practices for Lawyers and Industry Professionals

Anna Avendaño - Counsel | Perkins Coie LLP

Cagatay Oz - Managing Director | FTI Consulting

Jack Westphal - Managing Director | FTI Consulting

Jonathan Goddard - Partner | Perkins Coie LLP

ROADMAP

Rules Governing AI Usage

Pitfalls for the Unprepared

AI – Breaking Down Barriers

Potential Future Uses and Considerations

Take-Aways

1. AI is already an important component of tools available, but there are guardrails for use.
2. AI can be great, but there are cautionary tales if it is misused.
3. AI is here, and there are many entry points to gain familiarity. There is no “one way” or one tool.
4. AI tools and our usage will evolve.

Rules Governing AI Usage: Attorneys

ABA FORMAL OPINION 512

- Issued July 29, 2024 by the ABA Standing Committee on Ethics & Professional Responsibility
- Discusses the Applicable Model Rules for Use of Generative AI Tools
- Model Rules Implicated:
1.1, 1.4, 1.5, 1.6, 1.9(c), 1.18(b), 3.1, 3.3, 5.1, 5.3, and 8.4(c)

Rules Governing AI Usage: Attorneys

- **Model Rule 1.1:** Attorneys' duty to provide competent representation.
- **Model Rule 1.4:** Attorneys' duty to communicate with clients.
- **Model Rule 1.5:** Attorneys' duty to communicate the basis of fees charged.
- **Model Rules 1.6, 1.9(c), and 1.18(b):** Attorneys' duty to keep confidential all client representation information .
- **Model Rules 3.1, 3.3, and 8.4(c):** Attorneys' duty to not: (3.1) bring a frivolous claim, (3.3) knowingly make a false statement of law/fact to a tribunal (or failure to correct), and (8.4) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.
- **Model Rules 5.1 and 5.3:** Attorneys' managerial responsibilities.

Rules Governing AI Usage: Attorneys

STATES WITH AI-FOCUSED ETHICS RULES

- States with Official Guidance: California, Florida, Arizona, Illinois, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Texas, Utah, Vermont, Virginia, Washington D.C., West Virginia. Below are a few examples:
- **California:** Standing Committee on Professional Responsibility and Conduct of the State Bar of California Adopted Practical Guidance for the use of Generative Artificial Intelligence in the Practice of Law – Adopt Cal. Rules of Court, Rule 10.430 requires any California State court permitting use of generative AI to adopt a use policy by December 15, 2025.
- **Florida:** Florida Bar Ethics Opinion 24-1.
- **Arizona:** Steering Committee on Artificial Intelligence (est. by the AZ Supreme Court) released a set of [ethical best practices](#) on using generative AI.
- Many other states have informal guidance, are considering issuing guidance, and/or have committees dedicated to the effort.

Rules Governing AI Usage: Experts

AICPA STATEMENT ON STANDARDS FOR CONSULTING SERVICES No. 1

AICPA Code of Professional Conduct, Rule 201, applies to all services – including expert advisory services

- **Professional Competence:** CPAs should only accept engagements they can reasonably expect to complete with the necessary competence.
- **Due Professional Care:** CPAs must exercise due care in performing services, including proper planning and supervision.
- **Planning and Supervision:** Engagements should be adequately planned and supervised.
- **Sufficient Relevant Data:** CPAs should obtain sufficient relevant data to support their conclusions and recommendations.

Rules Governing AI Usage: Experts

AACE CANONS OF ETHICS

- **Policy:** In keeping with the high standards of ethical conduct, members shall be honest and impartial.
- **Relations with the Public:**
Members shall express an opinion ... only when it is founded on adequate knowledge and honest conviction. [I.5]
Members shall be objective and truthful in professional reports, statements, and testimony. They shall include all relevant and pertinent information in such reports, statements, and testimony. [I.11]
- **Relations with the Employees and Clients:**
Members shall undertake only those Cost Engineering and Cost Management assignments for which they are qualified. [II.5]

Rules Governing AI Usage: Experts

DAUBERT V. MERRELL DOW PHARMS., INC., 509 U.S. 579 (1993)

- **Testability:** Whether the technique or theory in question can be and has been tested.
- **Peer Review and Publication:** Whether it has been subjected to publication and peer review.
- **Error Rate:** Its known or potential error rate.
- **General Acceptance:** The existence and maintenance of standards controlling its operation.
- **Relevant & Fit:** Whether it has attracted widespread acceptance within a relevant scientific community.

Pitfalls for the Unprepared: Experts

MATTER OF WEBER, 220 N.Y.S.3D 620 (N.Y. SUR. 2024)

Specifically, the testimony revealed that Mr. Ranson relied on Microsoft Copilot, a large language model generative artificial intelligence chatbot, in cross-checking his calculations. Despite his reliance on artificial intelligence, Mr. Ranson could not recall what input or prompt he used to assist him with the Supplemental Damages Report. He also could not state what sources Copilot relied upon and could not explain any details about how Copilot works or how it arrives at a given output. There was no testimony on whether these Copilot calculations considered any fund fees or tax implications.

...

The Court has no objective understanding as to how Copilot works, and none was elicited as part of the testimony. To illustrate the concern with this, the Court entered the following prompt into Microsoft Copilot on its Unified Court System (UCS) issued computer: "Can you calculate the value of \$250,000 invested in the Vanguard Balanced Index Fund from December 31, 2004 through January 31, 2021?" and it returned a value of \$949,070.97 — a number different than Mr. Ranson's. Upon running this same query on two (2) additional UCS computers, it returned values of \$948,209.63 and a little more than \$951,000.00, respectively. While these resulting variations are not large, the fact there are variations at all calls into question the reliability and accuracy of Copilot to generate evidence to be relied upon in a court proceeding.

Pitfalls for the Unprepared: Experts

KOHL'S V. ELLISON, No. 24-cv-3754 (LMP/DLM) (D. MINN. JAN. 10, 2025)

Plaintiffs moved to exclude these declarations, arguing that they are conclusory and contradicted by the experts' prior writings. See ECF No. 30 at 9–34. Plaintiffs also alleged that Professor Hancock included fabricated material in his declaration. *Id.* at 4–9. After reviewing Plaintiffs' motion to exclude, Attorney General Ellison's office contacted ***Professor Hancock, who subsequently admitted that his declaration inadvertently included citations to two non-existent academic articles, and incorrectly cited the authors of a third article.*** ECF No. 37 at 3–4. ***These errors apparently originated from Professor Hancock's use of GPT-4o—a generative AI tool—in drafting his declaration.*** ECF No. 39 ¶¶ 11, 21. GPT-4o provided ***Professor Hancock with fake citations to academic articles, which Professor Hancock failed to verify before including them in his declaration.*** *Id.* ¶¶ 12–14. In response, Attorney General Ellison candidly acknowledged the fake citations in the Hancock Declaration while asserting that his office had no idea that the Hancock Declaration contained fake, AI-generated citations.

Pitfalls for the Unprepared: Attorneys

BYOPLANET INT'L V. JOHANSSON & GILSTRAP, No. 0:25-cv-60647-DSL
(S.D. FLA. JULY 17, 2025)

ORDER

“The integrity of judicial proceedings depends upon the ethical obligations of candor and honesty being strictly observed by all parties.” *Liteky v. United States*, 510 U.S. 540 (1994) (Scalia, J., concurring).¹

Two things: (1) The above statement is absolutely correct. (2) the great Justice Antonin Scalia did not write this anywhere in his Opinion of the Court (not concurring) in *Liteky*. A quick review of the U.S. Reports confirms that. But ChatGPT, with the slick, cool authority of instantly-generated pixels on a screen, declares otherwise. Artificial intelligence, indeed.

Pitfalls for the Unprepared: Attorneys

COOMER V. LINDELL ET AL., No. 1:22-cv-01129-NYW-SBP (D. COLO. JULY 7, 2025)

Defendants' Opposition contained the 'nearly thirty defective citations' . . . [that] included but were not limited to:

[M]isquotes of cited cases; misrepresentations of principles of law associated with cited cases, including discussions of legal principles that simply do not appear within such decisions; misstatements regarding whether case law originated from a binding authority such as the United States Court of Appeals for the Tenth Circuit; misattributions of case law to this District; and most egregiously, citation of cases that do not exist.

. . . As for the errors the Court did discuss at the Final Pretrial/Trial Preparation Conference, Mr. Kachouff was unable to respond in a manner that was satisfactory to the Court. [Doc. 315 at 90:15-112:22]. Specifically, Mr. Kachouff indicated that he had delegated citation checking for the Opposition to his co-counsel. . . .”

Pitfalls for the Unprepared: Attorneys

COOMER V. LINDELL ET AL., No. 1:22-cv-01129-NYW-SBP (D. COLO. JULY 7, 2025)

THE COURT: Was this motion generated by generative artificial intelligence?

MR. KACHOUROFF: Not initially. Initially, I did an outline for myself, and I drafted a motion, and then we ran it through AI. And I --

THE COURT: And did you double-check any of these citations once it was run through artificial intelligence?

MR. KACHOUROFF: Your Honor, I personally did not check it. I am responsible for it not being checked.

THE COURT: And you understood, as an officer of the court, pursuant to Rule 11 --

MR. KACHOUROFF: I did, Your Honor.

THE COURT: -- if you're going to use generative artificial intelligence that that did not excuse you from the obligations of Rule 11?

MR. KACHOUROFF: Absolutely not. Absolutely not.

THE COURT: You understood that, correct?

MR. KACHOUROFF: Yes, I did, Your Honor.

THE COURT: And that doesn't seem to have happened here, does it?

MR. KACHOUROFF: No, Your Honor.

Pitfalls for the Unprepared: Attorneys

MENDONES V. CUSHMAN & WAKEFIELD, INC., No. 23CV028772 (CAL. SUPER. CT. ALAMEDA CNTY. SEPT. 9, 2025)

On March 11, 2025, Plaintiffs moved for summary judgment in this action. In support, Plaintiffs provided several documents as exhibits. Upon review, the Court suspected Plaintiffs' exhibits 3, 6A, 6B, 6C, 7, 21, 27, 35, and 40 of having been altered or created by generative artificial intelligence (GenAI). For instance, exhibits 6A, 6C, and 36 purport to capture the speech and image of Geri Haas. But while exhibit 36 appears to capture a real-life interaction, certain characteristics of exhibits 6A and 6C, such as the lack of facial expressions, the looping video feed, among other things, suggested that these exhibits were products of GenAI—i.e., “deepfakes.”

...

The Court finds that a terminating sanction is appropriate. This sanction is proportional to the harm that Plaintiffs' misuse of the Court's process has caused. A terminating sanction serves the appropriate remedial effect of denying Plaintiffs—and other litigants seeking to make use of GenAI to submit video testimonials—of the ability to further prosecute this action after violating the Court's and the Defendants' trust so egregiously.

Pitfalls for the Unprepared: Attorneys

BOSTON V. WILLIAMS, No. 1:23-cv-00752-WMR (N.D. GA. Oct. 28, 2025)

SANCTION

As a sanction for the above-referenced conduct, it is hereby **ORDERED** as follows:

- Loletha Hale shall be required to notify all her existing clients in federal cases filed in the Northern District of Georgia of the findings of this Court related to the above-referenced conduct; and
- Loletha Hale shall be required to file a notice to the district court regarding this Court's findings, **along with a copy of this Order**, in all pending and future cases filed in the Northern District of Georgia in which she appears as counsel for a period of five (5) years from the date of this Order.

No monetary sanction shall be imposed at this time. However, Ms. Hale is hereby advised that her failure to abide by the terms of this Order shall be punishable by contempt.

AI – Breaking Down Barriers

Copilot Search

Basic AI 1 2

Artificial Intelligence (AI) is the simulation of human intelligence processes by machines, especially computer systems. These processes include learning (the acquisition of information and rules for using the information), reasoning (using rules to reach approximate or definite conclusions), and self-correction. AI is used in various industries such as healthcare, finance, and transportation, and its applications are growing rapidly.

Key Concepts in AI

Machine Learning

Machine Learning (ML) is a subset of AI that involves the use of algorithms and statistical models to enable computers to perform tasks without explicit instructions. Instead, they rely on patterns and inference. ML is essential for tasks such as image recognition, speech recognition, and predictive analytics.

Deep Learning

[See more](#)

AI Mode All Videos Short videos Images More ▾

how to use ai

To use AI, start by exploring **user-friendly AI tools** for specific tasks such as writing, summarizing, or image generation, and experiment with clear text inputs called prompts. ⓘ

Getting Started with AI Tools

- **Explore beginner-friendly platforms:** Websites like ChatGPT, Google Search's AI features, or Microsoft Copilot are great places to start. They have simple interfaces where you can type questions or requests.
- **Define a specific goal:** Instead of a vague request, ask AI to do a specific task, such as "Summarize this article for me" or "Write a short email draft for a client inquiry".
- **Experiment with prompts:** The text you use to interact with an AI is a prompt. Try different ways of asking for the same thing to see how the results change. For instance, ask for an email in a formal tone, and then ask for one in a casual tone.
- **Review and refine:** AI can make mistakes or misinterpret context. Always check the AI-generated content for accuracy and edit it to ensure it matches your voice and needs before using it.
- **Be mindful of sensitive information:** Avoid entering confidential or highly sensitive personal data into public AI tools. ⓘ

AI – Breaking Down Barriers (examples among hundreds)



centari

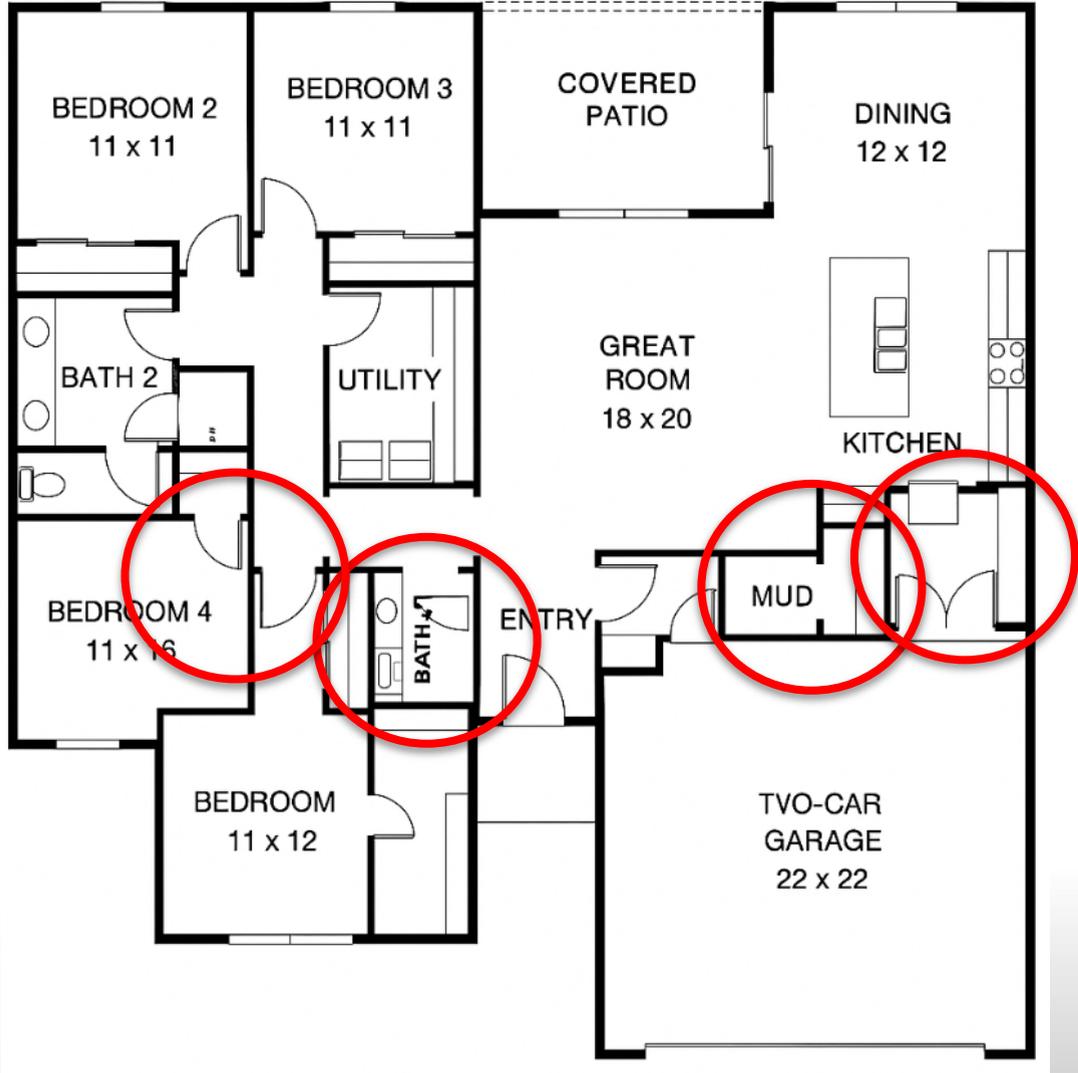
Harvey.

Clear|brief

DraftWise

Potential Future Uses and Considerations

ChatGPT Prompt: “Create blueprints for a four-bedroom, one-floor house. No further questions. Begin now.”

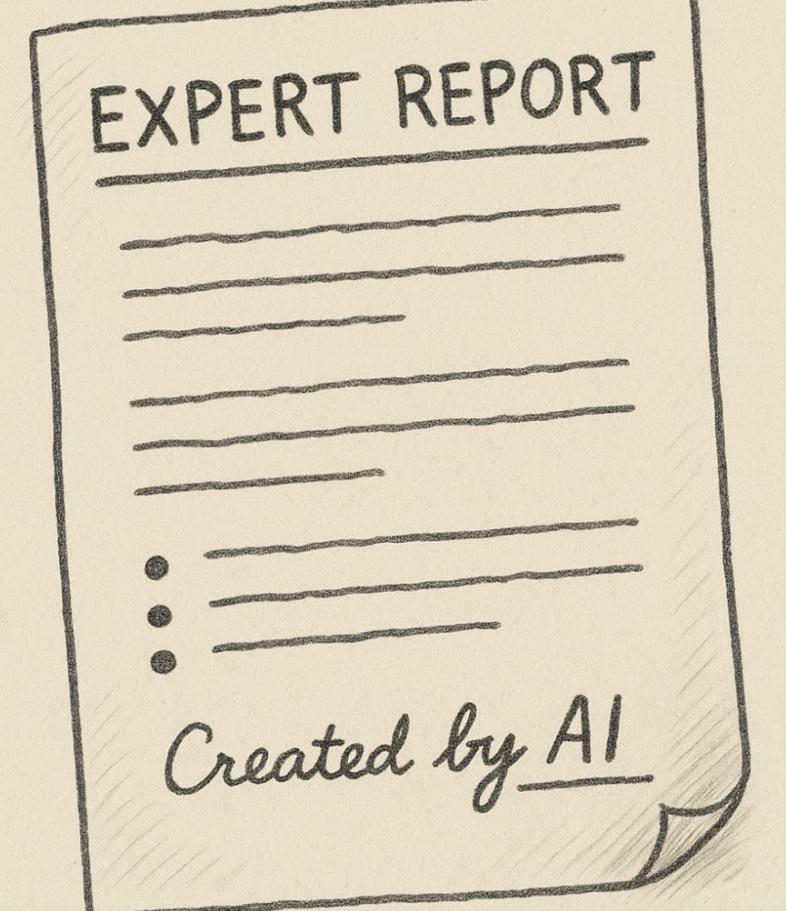
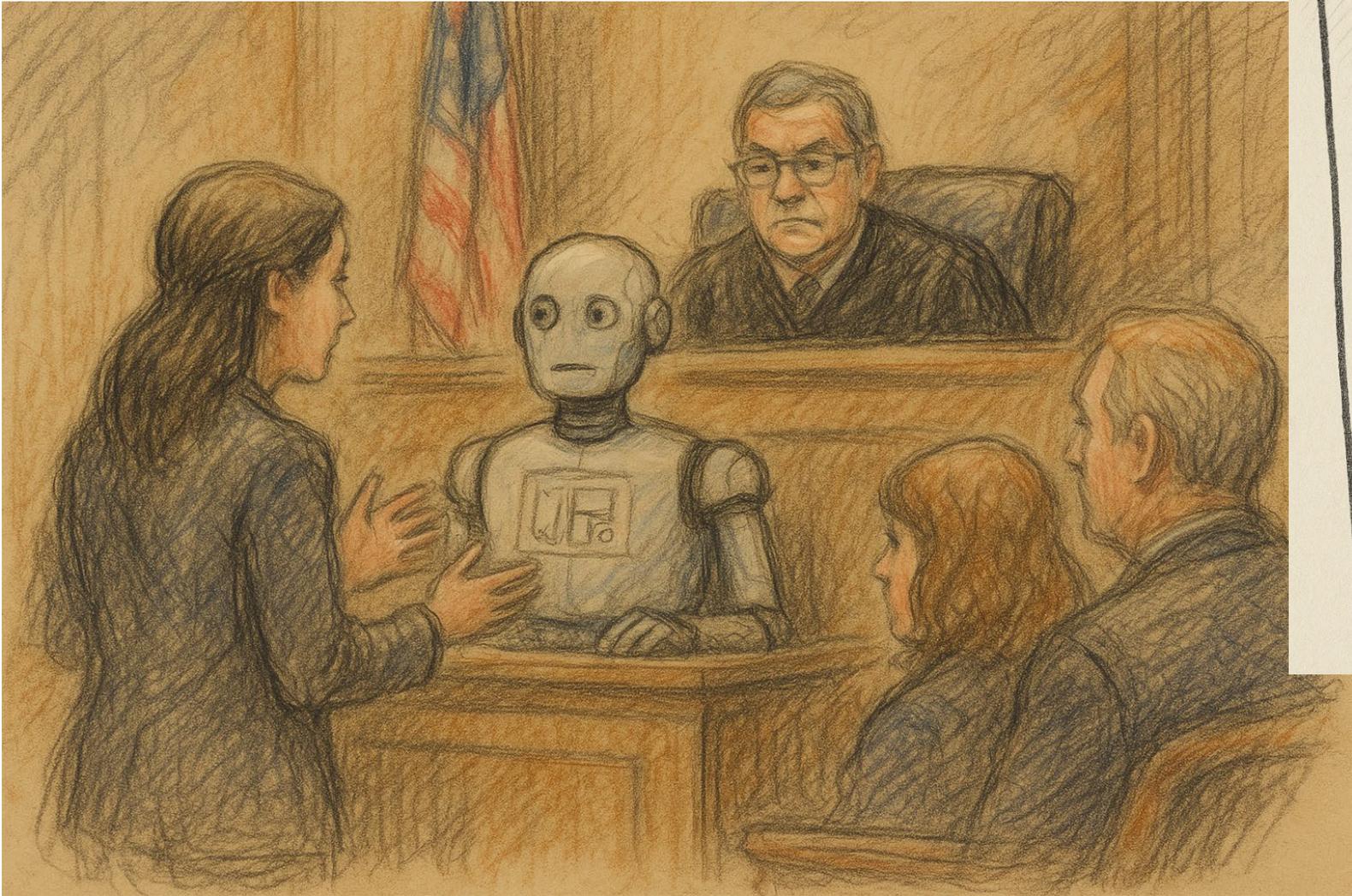


Potential Future Uses and Considerations

ChatGPT Prompt: *“Create an image of construction lawyers.”*



Potential Future Uses and Considerations



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