Chapter 26

Generative Artificial Intelligence: Opportunities, Challenges, and Considerations for Attorneys

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V. ETHICAL, PROFESSIONAL, AND LEGAL LIMITATIONS ON GENERATIVE AI

VI. IDEAS FOR INCORPORATING GENERATIVE AI INTO LEGAL WORK FLOWS

VII. CONCLUSION

§ 26:25 Excitement and caution

I. SCOPE OF CHAPTER

§ 26:1 Opportunities and challenges

The rise of generative artificial intelligence ("AI") may present some of the most significant and immediate implications, for the legal industry, of any technological advancement since mobile computing. On one hand, many of these implications are positive—the power, versatility, and creative potential of generative AI tools stand to improve legal services and work product across a wide range of areas including research, drafting, data analysis, and others. On the other hand, the functional limitations inherent to generative AI, and the rules that apply when it is used, present risks that need to be managed in order to deploy these tools effectively and responsibly. This chapter describes several of the most important opportunities and challenges currently associated with the use of generative AI tools in the legal industry, and suggests a few possible approaches that law firms and legal departments might take in their ongoing efforts to strike an acceptable balance between the benefits and risks. Although this chapter does not attempt to provide an exhaustive account of all the considerations that may be relevant to attorneys and legal professionals who work with generative AI tools, the goal is to provide a high-level "primer" to those who may not yet be familiar with this technology or some of the emerging rules, principles, and practices concerning its use.

II. UNDERSTANDING GENERATIVE AI TECHNOLOGY

§ 26:2 What is "generative AI"?

Recent events make it evident that generative AI technology represents a significant development in the field of artificial intelligence. But the precise definitions of "AI" and "generative AI" are subject to some debate, and their meanings can modulate depending on the context in which they are discussed. To understand the significance of generative AI and extrapolate the opportunities, limitations, and considerations it presents for attorneys and legal professionals, we first need to establish working definitions of "AI" and "generative AI" for purposes of this chapter.

"Intelligence" is generally characterized by the appearance of cognitive functions such as learning, reasoning, problem-solving, and decision-making. "Artificial intelligence," or "AI," refers to the simulation of human-like intelligence characteristics by