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Ethics Of Artificial Intelligence For Lawyers: You Will Be Assimilated: Best Practices For Lawyers Using Artificial Intelligence

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ETHICS OF ARTIFICIAL INTELLIGENCE FOR LAWYERS: YOU WILL BE ASSIMILATED: BEST PRACTICES FOR LAWYERS USING ARTIFICIAL INTELLIGENCE

Cliff McKinney*

I. INTRODUCTION

In *Star Trek: The Next Generation*, the Borg, a species augmented with artificial intelligence, give a chilling ultimatum to every civilization they encounter: *"You will be assimilated."*[1] The warning is terrifying because it suggests not destruction, but absorption with the loss of independence to a relentless collective.

For lawyers, the rise of artificial intelligence carries a similar threat of assimilation. Artificial intelligence is already entering law practice, whether lawyers welcome it or not. The real question is not if lawyers will be assimilated into a future integrated with artificial intelligence, but how they will use these tools without sacrificing judgment, ethics, or client trust.

This installment explores the best practices for responsible adoption: protecting client confidentiality, addressing AI openly in engagement letters, learning the skill of prompt engineering, and preparing for the workforce changes AI will accelerate. Assimilation may be inevitable, but the terms of assimilation, ethical, careful, client-centered, are still within the control of the profession.

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1. *Star Trek: The Next Generation: The Best of Both Worlds* (June 18, 1990).

II. BEST PRACTICES FOR LAWYERS USING ARTIFICIAL INTELLIGENCE

A. Overview and Guiding Principles

One commentator observed that using artificial intelligence while practicing law may require a three-part approach: (i) properly vet the tool with an IT professional; (ii) learn how to use artificial intelligence through training and product education; and (iii) double-check the output of the tool.[2] The technology is so new and rapidly evolving that ethical pitfalls and blind spots are inevitable. Lawyers have faced similar challenges before. Over the past thirty-five years, technologies like computers, the internet, email, social media, and cellphones have introduced both advantages and challenges that demand proper training. Email, cellphones, and social media all brought concerns about security and confidentiality, but lawyers and professional standards have adapted to these changes.

This section will consider some of the best practices that lawyers can adopt now to begin dealing with the risks associated with artificial intelligence. This section will also consider ways that attorneys can learn to embrace artificial intelligence and integrate it into their practices.

B. Confidentiality Risks

One of the foremost concerns addressed in the American Bar Association Formal Opinion 512 (**"ABA Opinion"**) is the confidentiality risks associated with using artificial intelligence.[3] None of the case law reviewed in this article deals with a breach of confidentiality. Nevertheless, a breach of confidentiality remains a serious risk of using artificial intelligence. Despite the inherent confidentiality risks, it has been noted that "Scepticism [sic] over the use of AI in legal practice has faded."[4]

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2. Sean Tu et al., *Limits of Using Artificial Intelligence and Gpt-3 in Patent Prosecution*, 54 TEX. TECH L. REV. 255, 275 (2022).

3. ABA Comm. on Ethics & Pro. Resp., Formal Op. 512 (2024), at 6-7.

4. Davinia Cutajar, *Balancing Efficiency and Privacy: AI's Impact on Legal Confidentiality and Privilege*, INT'L BAR ASS'N (Nov. 29, 2024), [https://perma.cc/JU7W-JQ6K].

Large language models are trained on information and inherently seek to absorb more.[5] Some models, such as ChatGPT, allow users to opt out of their data being used to train the model.[6] The problem, though, is that there is no reliable way of knowing whether a large language model has assimilated data that a user has provided.[7] Large language models are based on trillions of data points, making it practically impossible to trace or verify them. So far, there are no regulatory bodies actively monitoring compliance with data security features or promises made by artificial intelligence companies.[8] Additionally, once a large language model processes data, the disclosure cannot be reversed or deleted.[9] The following subsections discuss strategies to minimize the confidentiality risks.

1. Closed Systems and Encrypted Platforms

One option is to develop "private" or "closed" artificial intelligence systems trained only on a company's in-house data.[10] For example, Bloomberg developed a closed system called BloombergGPT trained only on Bloomberg's approved content.[11] Of course, building a proprietary large language model is cost-prohibitive for most companies, especially most law firms.[12] There are, however, existing systems that can be further trained by companies as closed systems.[13] However, these systems still

5. Adam Zewe, *Teaching large language models how to absorb new knowledge*, MIT NEWS (Nov. 12, 2025), [https://perma.cc/KE5A-9BVN].

6. Katharine Miller, *Privacy in an AI Era: How Do We Protect Our Personal Information?*, STANFORD UNIVERSITY HUMAN-CENTERED ARTIFICIAL INTELLIGENCE (Mar. 18, 2024), [https://perma.cc/ND43-A4C9].

7. *Id.*

8. Majeed Javdani, *Beyond Nondisclosure: Safeguarding Confidentiality With AI Agents*, FORBES (Nov. 27, 2024), [https://perma.cc/EMJ9-K6ND].

9. Caroline B. Giordano & Richard W. Warren, *Artificial Intelligence in the Workplace: Spotlight on Confidentiality Concerns*, NAT'L L. REV. (Feb. 22, 2024), [https://perma.cc/W7XR-3BTL].

10. *Id.*

11. BLUE SKY ROBOTICS, *Building a Closed AI System: Why More Companies Are Going Private with AI*, [https://perma.cc/VB9C-NJKD] (last visited Dec. 14, 2025).

12. *Id.*

13. *Id.*

require pre-training on some resource, and it is impossible to fully understand their functioning or vulnerabilities.[14]

2. Intermediary Platforms and Contractual Data Controls

Other options include using intermediary artificial intelligence platforms.[15] It is important to realize, though, that many of these platforms still use large language models like ChatGPT and Claude to power their systems, which means that client data is still exposed to these models.[16] These intermediary platforms rely on contractual agreements with the large language models that prohibit the training of those models on customer data.[17] For instance, Spellbook, an artificial intelligence program for contract review, advertises that it has a zero data retention agreement with OpenAI and Anthropic for the programs it utilizes, along with encryption protocols for data both in transit

14. Dick Weisinger, *Open AI vs Closed AI: What's the Difference and Why Does It Matter?*, FORMTEK BLOG (Nov. 7, 2023), [https://perma.cc/QR2T-XMVG]; *see also* PERPLEXITY, *Open vs. Closed Source AI Debate* (Nov. 18, 2024), [https://perma.cc/J5EH-GXQ3].

15. Patrick Spencer, *Protecting Sensitive Data in the Age of Generative AI: Risks, Challenges, and Solutions*, KITEWORKS (Feb. 12, 2025), [https://perma.cc/A853-56BC].

16. *See, e.g.,* Thomson Reuters CoCounsel: "Thomson Reuters AI third-party partners, such as OpenAI and Google, are contractually prohibited from using any customer data to train their models." [https://perma.cc/6BKA-PS36] (last visited Dec. 14, 2025); Spellbook: "OpenAI's brand new o1 model is now bringing agentic approaches to ChatGPT, and will power new experiences in Spellbook." [https://perma.cc/W4P7-XQ99] (last visited Dec. 14, 2025); Harvey: "Harvey's legal and ML research teams work closely, both in-house and with partners at OpenAI to identify ways to align models for these domain-specific reasoning problems." [https://perma.cc/AN67-BKUR] (last visited Dec. 14, 2025); LexisNexis: "As part of the company's multi-model approach that selects the best AI model for each legal task, including custom LLMs, LexisNexis has leveraged OpenAI models in its products since 2022." [perma.cc/4EKU-M79M] (last visited Dec. 14, 2025).

17. *See, e.g.,* Thomson Reuters CoCounsel: "Thomson Reuters AI third-party partners, such as OpenAI and Google, are contractually prohibited from using any customer data to train their models." [https://perma.cc/9JVZ-GBCC] (last visited Dec. 14, 2025); Spellbook: "OpenAI's brand new o1 model is now bringing agentic approaches to ChatGPT, and will power new experiences in Spellbook." [https://perma.cc/UBJ9-2DYU] (last visited Dec. 14, 2025); Harvey: "Harvey's legal and ML research teams work closely, both in-house and with partners at OpenAI to identify ways to align models for these domain-specific reasoning problems." [https://perma.cc/UBJ9-2DYU] (last visited Dec. 14, 2025); LexisNexis: "As part of the company's multi-model approach that selects the best AI model for each legal task, including custom LLMs, LexisNexis has leveraged OpenAI models in its products since 2022." [https://perma.cc/UA7V-YC8U] (last visited Dec. 14, 2025).

and at rest.[18] Harvey, another program marketed to law firms, also advertises that it uses information security and data protection to safeguard information transmitted to it by attorneys.[19]

Some of the large language models also offer these same contractual promises to direct users. For example, ChatGPT Pro and Claude Pro both offer built-in settings for data privacy and retention control at least equal to those offered by intermediary platforms.[20] So, users may still be able to achieve the same comfort level without using an intermediary service.

But, if a lawyer wants to use an intermediary, it can be helpful to consider third-party privacy certifications. Two of the better-known certification systems are System Organization Controls (SOC) and the International Organization for Standardization (IOS).[21] SOC and IOS offer standards for gauging the confidentiality of artificial intelligence services. A SOC report can provide information and assurance about the controls that a service organization has implemented "relevant to security, availability, and processing integrity of the systems the service organization uses to process users' data and the confidentiality and privacy of the information processed by these systems."[22] Similarly, ISO 27001 certifications contain detailed standards for information security.[23] At least in theory, artificial intelligence intermediaries with SOC and ISO 27001 certifications are better able to protect client data and confidential information.

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18. SPELLBOOK, *Industry-leading security, compliance, and privacy standards*, [https://perma.cc/FMA3-9NRM] (last visited Dec. 14, 2025).

19. HARVEY, *Trust Center*, [https://perma.cc/4LY9-LAFL] (last visited Dec. 14, 2025).

20. OPENAI, *Business data privacy, security, and compliance*, [https://perma.cc/5AWJ-SQZX] (last visited Dec. 14, 2025); ANTHROPIC, *Welcome to the Anthropic Trust Center*, [https://perma.cc/T53F-A7PH] (last visited Dec. 14, 2025).

21. Ben Haklai, *Cybersecurity Private-Public Partnerships: A Bridge to Advance Global Cybersecurity*, 56 TEX. TECH. L. REV. 627, 653 (2024).

22. Peter S. Vogel, *IV. Third Party Audits*, 2022 TXCLE ADVANCED BUS. L. 11-IV, 2022 WL 19406755.

23. Alice M. Porch, *Spoiling for A Fight: Hacking Back with the Active Cyber Defense Certainty Act*, 65 S.D. L. REV. 467, 470 (2020).

3. De-Identification Techniques

Another way to protect confidential information is to remove confidential details before uploading data to an artificial intelligence system.[24] This method is called "de-identification."[25] There are three recognized techniques for de-identifying confidential information: 1. Masking, 2. Generalization, and 3. Pseudonymization.[26] Masking involves replacing original data with fictional information, such as changing a purchase price to $1 before exposing a contract to artificial intelligence.[27] Generalization involves reducing data specificity to make it less identifiable, such as saying "a commercial property in Arkansas" instead of "a hotel at 1234 Maple Street, Little Rock, Arkansas."[28] Pseudonymization involves substituting sensitive data with pseudonyms, such as replacing the names of parties with Mr. X and Mr. Y when using artificial intelligence.[29] Of course, lawyers must train their staff to use these methods of protecting confidential information.[30]

4. Client Communication and Engagement Letters

One of the easiest best practices to implement is to address artificial intelligence in engagement letters. The ABA Opinion recommends addressing artificial intelligence in engagement letters, even if an attorney is not using it.[31] Disclosing artificial intelligence use (or the decision not to use it) can help manage client expectations. Engagement letter language serves as both a communication tool and a risk management measure by ensuring

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24. Marcus Wolter et al., *AI Data Clauses: Protecting Your Confidential Information*, CALDWELL (Apr. 14, 2025), [https://perma.cc/FM8F-9X9P].

25. Paris Roditis, *How to Use AI Without Breaching Confidentiality*, LEGALVISION (Jan. 13, 2025), [https://perma.cc/CT5M-5MED].

26. Richard Fox, *Essential Tips for Protecting Sensitive Data in AI and Machine Learning Models*, DATA SECURITY INTEGRATIONS (September, 2025), [https://perma.cc/9HV3-6XN2].

27. *Id.*

28. *Id.*

29. *Id.*

30. Paris Roditis, *How to Use AI Without Breaching Confidentiality*, LEGALVISION (Jan. 13, 2025), [https://perma.cc/CT5M-5MED].

31. ABA Comm. on Ethics & Pro. Resp., Formal Op. 512 (2024), at 9.

that clients understand how artificial intelligence may be used in their matters.

The Client acknowledges and consents to the Firm's use of generative artificial intelligence ("GAI") tools, solely to assist attorneys in performing legal research, drafting, analysis, and other tasks, with all outputs reviewed and approved by the Firm. The Firm will evaluate each GAI tool's terms of service, privacy policy, and security features to ensure reasonable safeguards against unauthorized disclosure. The Firm will not enter sensitive client information into any GAI system that retains or trains on user data unless the Firm has configured available settings, such as disabling data retention or model training, that the Firm reasonably determines are sufficient to protect the Client's information. The Firm will limit disclosures to what is reasonably necessary for the intended task and will ensure that use of GAI is consistent with the Client's interests and applicable professional obligations. The Client may instruct the Firm in writing to restrict or prohibit the use of GAI in this representation; however, the Client understands that such restrictions may reduce efficiency and require additional attorney or staff time, which may increase the total fees charged.

III. PROMPT ENGINEERING FOR LAWYERS

Model Rule 1.1 requires lawyers to be competent, and developing skills in artificial intelligence use can help satisfy this requirement.[32] One of the best ways to do this is to study "prompt engineering." Prompt engineering is the process of communicating with artificial intelligence in a manner designed to elicit the best answers.[33] Communicating effectively with a large language model is fundamentally different from entering a search into Google. A search engine like Google retrieves existing information, but a generative artificial intelligence system creates new content.[34] Practically, this means that users must

32. MODEL RULES OF PRO. CONDUCT r. 1.1 (AM. BAR ASS'N 2025).

33. Vrunda Gadesha, *Prompt Engineering Techniques*, IBM (May 7, 2025), [https://perma.cc/7BS4-Y24B].

34. Jon Reed, *AI Is Taking Over Your Search Engine. Here's What It's Doing and Why It Matters*, CNET (July 31, 2025), [https://perma.cc/6WM8-KQQK].

communicate with generative artificial intelligence in a new way to generate the desired content.[35]

Prompt engineering is analogous to the way that lawyers craft detailed deposition or interrogatory questions. The goal is to structure the prompt in a way that is most likely to elicit the best results, which can mean developing highly detailed and complicated queries or instructions for the artificial intelligence.

This usually starts by giving the artificial intelligence a "persona."[36] Artificial intelligence systems can take on roles, much like an improv actor. An improv actor needs to know the role it is playing, the audience they are trying to reach, and the motivation of their character. Artificial intelligence works better when it knows these same things. A lawyer using artificial intelligence is like an improv actor giving the system a persona to immolate along with an audience to respond to, and a motivation for its work. For instance, a lawyer might begin a chat session by telling the system, "During this session, respond to me like you are an expert commercial litigator with decades of experience. You want to protect the defendant, a doctor, from claims that the doctor committed malpractice. Help me develop a plan to defend the doctor against the allegations made by the plaintiff."

Once a persona is set, lawyers must plan how to structure and deliver prompts to the system. Several prompt engineering techniques exist, and six are particularly useful for legal matters:

Chunking: This involves breaking a large, complex task into smaller, independent segments. For example, a lawyer might ask the system to analyze the first section of a contract, then the second section, and so forth, instead of asking for an analysis of the entire contract at the beginning.[37]

Few-shot prompting: This method provides the system with a small number of examples to train the system on the desired

35. Vrunda Gadesha, *Prompt Engineering Techniques*, IBM (May 7, 2025), [https://perma.cc/56ZH-BGUS].

36. Maximilian Vogel, *The Perfect Prompt: A Prompt Engineering Cheat Sheet*, MEDIUM, (Aug. 12, 2024), [https://perma.cc/ARZ6-H84K].

37. Oleg Zaremba, *What is Chunking in Prompt Engineering?*, AISDR (Sept. 24, 2024), [https://perma.cc/8MHD-A728].

tone, format, or content for responses. This can be used to establish a format for briefs or a structure for contractual terms.[38]

Iterative prompt refinement: This includes starting with an initial response and then requesting targeted improvements in successive drafts. This might begin with a simple instruction, such as drafting a governing law clause. The next prompt might then be to add a venue provision, and then to add a consent to personal jurisdiction.[39]

Prompt chaining: This method uses a string of multi-step tasks so that each prompt builds on the output of the previous step. The goal is to guide the system's reasoning toward a complex end product.[40]

Flipped interaction prompting: This involves asking the system to ask the lawyer for clarifying questions. The approach is similar to the Socratic Method of teaching, where the system responds to the user with additional questions designed to bring issues to the surface and provide different perspectives.[41]

Perspective switching: This method directs the system to analyze a clause or scenario from multiple viewpoints (e.g., client, opposing counsel, judge). The system switches personas to identify strengths, weaknesses, and negotiation points.[42]

Prompt engineering methods are often combined to produce the best results. For example, a lawyer might first provide the system with a few examples (few-shot prompting) to show the desired format for answers. Then the lawyer might present the issue and use flipped interaction prompting to develop new ideas. Next, the lawyer might use iterative prompt refinement and prompt chaining techniques to develop a compelling brief. Then, the lawyer might use perspective switching to identify the brief's weaknesses.

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38. Ana Rojo-Echeburúa, *Few-Shot Prompting: Examples, Theory, Use Cases*, DataCamp (July 21, 2024), [https://perma.cc/AZN7-RYZ8].

39. *Id.*

40. Alex L., *What Is Prompt Chaining and When Does It Make Sense to Do It?*, AI FLOW CHAT (May 30, 2025), [https://perma.cc/SA5T-JW5S].

41. Polly Thompson, *I Sat in on an AI Training Session at KPMG. It was almost like being back at journalism school.*, Business Insider (July 26, 2025), [https://perma.cc/H7AG-5B8G].

42. Jonathan Ogaziechi, *I Mirrored Human Internal Conflict in AI. The Results Were Shockingly Smart*, MEDIUM (Nov. 24, 2025), [https://perma.cc/9HAQ-M3BN].

Mastering prompt engineering helps lawyers better understand and utilize artificial intelligence. It is one of the most practical skills that a lawyer can develop to competently use the new tools.

IV. STAFFING AND WORKFORCE IMPACTS

Law firms also need to consider the implications of artificial intelligence on hiring and personnel. Previous technologies reduced the need for certain positions. For instance, the technological developments of the last thirty-five years have reduced the need for secretaries. These developments also reduced the need for couriers to deliver documents, as they are now often emailed or electronically filed. Word processing software eliminated the need for pools of typists. Fewer file clerks are needed to manage paper file rooms. Law firm librarians have been replaced with Westlaw and Lexis subscriptions. One receptionist can now handle the workload previously shared among groups of receptionists and switchboard operators. Fewer mailroom staff are necessary to manage the flow of letters that now come by email. Citation checkers, Bluebook specialists, travel coordinators, and copy center staff, once common in law firms, are now gone, with those duties shifted to others.

A recent article entitled, *AI Will Take Your Job in the Next 18 Months. Here's Your Survival Guide*, by Charlie Garcia, predicts: "Jobs flatlining by 2027: junior lawyers, junior financial analysts, customer service and marketing assistants, to name a few."[43] But the article went on to give lawyers this valuable advice: "Become AI-adjacent, not AI-replaceable: The lawyers who survive won't write contracts – they'll train AI to write them, then fix what it gets wrong. Pick your side: doing the work, or directing the machines doing the work."[44] This is a sobering prediction, but it also offers sound counsel on how to adapt to artificial intelligence and remain viable.

Artificial intelligence will reduce the need for staff, at least in the short term. Many secretarial, paralegal, and junior associate

43. Charlie Garcia, *Opinion: AI Will Take Your Job in the Next 18 Months. Here's Your Survival Guide*, MARKETWATCH (July 19, 2025), [https://perma.cc/4VYD-FVML].

44. *Id.*

tasks, such as document drafting, legal research, proofreading, data entry, and even initial contract review, will be replaced by artificial intelligence. In *AI Isn't Coming for Your Job—It's Coming for Your Whole Org Chart*, the authors note that lawyers who have just passed the bar may struggle to learn the profession's fundamentals, as many of their previously manual tasks will be automated.

However, if history is any guide, this disruption is likely to be followed by long-term growth and job creation. The adoption of computers, email, and online research tools in the 1990s and early 2000s initially displaced certain clerical roles but ultimately led to increased efficiency, lower overhead, and a broader range of legal services that required new kinds of professionals, such as IT specialists. Similarly, artificial intelligence may eliminate some roles while simultaneously creating new ones, such as artificial intelligence prompt engineers, legal technologists, data governance officers, and specialists in artificial intelligence compliance and ethics. By increasing productivity and reducing routine workloads, artificial intelligence has the potential to expand access to legal services, grow legal markets, and enable lawyers to spend more time on strategy, client counseling, and advocacy, all areas where human judgment and empathy remain irreplaceable. In the long run, artificial intelligence may not reduce the total number of legal jobs but instead reshape and elevate them. However, artificial intelligence will likely replace the jobs of those who refuse to learn to use it.

V. CONCLUSION

Anyone who has watched science fiction knows that artificial intelligence is almost always depicted as turning against humans. WOPR in *WarGames* began as a simple chess-playing machine but nearly destroyed the world.[45] Even benevolent artificial intelligence machines usually have a dark mirror image: Data from *Star Trek: The Next Generation* has a human-hating twin, Lore[46]; Bishop in *Aliens* was preceded by the murderous

45. WARGAMES (Metro-Goldwyn-Mayer 1983).
46. *Star Trek: The Next Generation: Datalore* (television broadcast Jan. 18, 1988).

Ash in *Alien*[47]; the Autobots of *Transformers* are locked in endless battle with the Decepticons.[48] For every sympathetic depiction of artificial intelligence, there is a malevolent counterpart designed to remind us of the risks.

Popular culture is full of examples of evil artificial intelligence. The Thinking Machines in *Dune*, Skynet in *The Terminator*, and Ultron in *Avengers: Age of Ultron*, and many, many more, want to destroy humanity.[49] Of course, I am unqualified to speculate on the deeper psychological issues that may be behind this perception of artificial intelligence. But, unlike science fiction, we cannot simply switch off the new technology. Artificial intelligence is "inevitable" (nod to Agent Smith), and resistance is "futile" (nod to the Borg Queen). The key to surviving in an artificial intelligence world will be learning to use the tools effectively and ethically.

This means that every lawyer must learn to competently use artificial intelligence, as required by Model Rule 1.1. We must understand how artificial intelligence works, how it uses information, and how to integrate it into our practices. This also means that every attorney must learn how to use artificial intelligence ethically. Improperly using artificial intelligence or refusing to use it at all can lead to ethical concerns. Lawyers must be sure that all work is vetted correctly and supervised adequately. Lawyers must also be careful about what and how information is shared with artificial intelligence. The most common ethical considerations in using artificial intelligence come down to competency and confidentiality.

Artificial intelligence is a new and exciting, if just a little frightening, world. Lawyers will have to adapt very quickly to the new technology, learning to use it effectively and ethically. Lawyers will also be enlisted to draft the new laws and regulations that will respond to artificial intelligence. Efforts to merely ban or ignore artificial intelligence will fail. Just as lawyers once adapted to the arrival of computers, email, and online research, we must now adapt to artificial intelligence. Those who learn to

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47. ALIEN (20th Century Fox 1979).

48. TRANSFORMERS (Paramount Pictures 2007).

49. DUNE (Warner Bros. Pictures 2021); THE TERMINATOR (Orion Pictures 1984); AVENGERS: AGE OF ULTRON (Walt Disney Studios Motion Pictures 2015).

guide it responsibly will not only safeguard their clients but also help shape the future of the profession.

As a companion to this discussion of best practices, the next installment in this series will provide two concrete tools: a Model Law Firm Policy on the Responsible Use of AI and a Model Training Program for legal professionals. These resources translate principles into practice, giving firms a starting point for establishing internal rules, protecting confidentiality, and educating lawyers and staff. Together, they provide a framework for implementing the ethical duties outlined in this series.