

# THE SILVER LINING: THE USE OF GENERATIVE AI IN CLINICAL LEGAL WRITING FOR THE EMERGENT LEGAL PROFESSIONAL WRITER

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*Although Generative Artificial Intelligence (GAI), in the form of ChatGPT-5,<sup>1</sup> is currently being hailed as breakthrough technology akin to the calculator<sup>2</sup> of the 1960's, the Apple II<sup>3</sup> or Atari's Pong<sup>4</sup> of the 1970's, VisiCalc<sup>5</sup> of the late 1970's and 1980's, GAI will not replace the tried-and-true method of editing written work that caters to specific clients in legal*

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<sup>1</sup> OpenAI Brand Guidelines Page, <https://openai.com/brand/> (last visited January 26, 2025). According to OpenAI, use of its brand name should cite its models, such as, GPT-3.5, GPT-4o, or GPT-5. OpenAI is not the only creator of large language models. Anthropic, Alphabet Inc., Microsoft, Meta, DeepSeek, LexisNexis, Westlaw, and xAI are some of the companies that create large language models for public use or consumers. All generative artificial intelligence uses large language models for consumer use. Generative Artificial Intelligence will hereinafter be referred as "GAI." This article will focus on GAI in general and at times refer to specific models of GAI.

<sup>2</sup> *Review of Anita MK-8*, ANITA CALCULATORS (December 1961), [http://www.anita-calculators.info/html/review\\_of\\_anita\\_mk\\_8.html](http://www.anita-calculators.info/html/review_of_anita_mk_8.html) [<https://perma.cc/2EW3-CC7L>] (last visited August 29, 2025) [hereinafter *Anita*], which references, *Simple and Silent*, Office Magazine at 1244-1245.

<sup>3</sup> Timothy B. Lee, *How Apple Became the World's Most Valuable Company*, VOX (updated September 9, 2015 at 22:17 EDT), <https://www.vox.com/2014/11/17/18076360/apple> [<https://perma.cc/CZW8-AGTB>].

<sup>4</sup> *Atari introduces Pong*, CENTRE FOR COMPUTING HISTORY, <https://www.computinghistory.org.uk/det/6124/Atari%20Introduces%20Pong> [<https://perma.cc/69WX-Q69T>].

<sup>5</sup> James Wilson, *What Was Before Excel? Uncovering The Origins of Spreadsheet Software*, TOOLING ANT, <https://toolingant.com/what-was-before-excel/> [<https://perma.cc/TY22-LW23>]. Wilson describes the world of data before it could be organized and presented in digital form. Released in 1979, VisiCalc was the first spreadsheet software to be used in electronic form. Lotus 1-2-3 was released in 1983. Both software programs stored, analyzed, and manipulated data on a mainframe computer. It was not portable. The program had limited rows and columns and calculation functions. Its limitation led to the acceptance of Microsoft's Excel, which was released in 1985. Excel allowed spreadsheet software to be used on personal computers, unlimited rows and columns, and more calculation functions.

representation or written work assignment in legal education because in its current state GAI cannot discern persuasive qualitative analyses based on specific clients' needs or in law school andragogy.<sup>6</sup> GAI, however, can supplement in a substantive way the choices legal practitioners and law students can make regarding almost any area of the law. It can give choices of legal strategy or options, write templates from pleadings to briefs to memos, summarize documents, and correct grammar in written work. Its abilities lead this author to conclude that GAI, despite its flaws<sup>7</sup>, can assist law professors with students whose experience with writing has not been paramount or not part of their educational tradition, the emergent writer. This article will focus on how GAI can assist clinical law professors, as knowledge mentors, to aid emergent writers to write better. Knowledge mentors can help emergent writers review GAI outputs with a critical eye, connecting output to client representation, through methods such as scaffolding. Knowledge mentors can guide emergent writers through the prompting process to access information, apply that information to the client, and develop written documents more effectively and efficiently through metacognition techniques. Knowledge mentors can support emergent writers to harness the language and tone flexibility needed for different documents to different audiences under the professor's careful attention and observation of the emergent writers' written progress. Through the lens of the latest legal writing pedagogy, knowledge mentors will learn how to utilize metacognition, scaffolding,

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<sup>6</sup> Michael D. Murray, Prompt Engineering and Priming in Law (paper at 1, July 29, 2024), <https://papers.ssrn.com/abstract=4909532> [<http://dx.doi.org/10.2139/ssrn.4909532>]; Michael D. Murray, Artificial Intelligence and the Practice of Law Part 1: Lawyers Must be Professional and Responsible Supervisors of AI (June 14, 2023), <https://papers.ssrn.com/abstract=4478588> [<http://dx.doi.org/10.2139/ssrn.4478588>]. Both articles discuss the lawyer's responsibilities to the client when using AI, in general, and GAI in legal documents. They also showcase GAI's limits in its use in the legal profession. The articles, however, show the possibility of using GAI and the purported efficiencies if used responsibly and ethically. Using GAI for legal research is still a work in progress. *See infra* note 31. Legal research using GAI, however, is gaining more attention and the subject of several recent legal research products by companies such as Westlaw and LexisNexis. Throughout this paper, this author will refer to legal andragogy instead of legal pedagogy. It makes more sense to treat law students as emerging adults who can think for themselves and make decisions about what they learn instead of rendering to them the mystical legal knowledge advance by a professor who directs their learning. *See* Charletta A. Fortson, *Now is Not the Time for Another Law School Lecture: An Andragogical Approach to Virtual Learning for Legal Education*, 65 ST. LOUIS U. L.J. 505, 507-08 (2021) (advocating that an andragogical approach to teaching law students is focused on the learner or student-centered learning as opposed to the pedagogical approach where the focus is on distribution of content to students by the teacher or a teacher-centered learning).

<sup>7</sup> Jake Karr & Jason Schultz, *The Legal Imitation Game: Generative AI's Incompatibility with Clinical Legal Education*, 92 FORDHAM L. REV. 1867, 1870-72 (2024) (discussing that GAI in the legal setting simply mimics human legal knowledge while delivering outputs that read authoritatively. The flaw of mimicry leads the uneducated user to make inaccurate or unethical decisions.)

*and editing to improve the writing of emergent writers. This approach in clinical legal education must involve an embrace of GAI to benefit future attorneys. Finally, the article will argue that, despite its ethical and pragmatic flaws, GAI's use in the clinical legal space will serve students who are emergent writers better than the current model for legal writing related to clinical legal education.*

## INTRODUCTION

In 1961, the ANITA MK 8 calculator became the first commercially successful calculator for use at the consumer level.<sup>8</sup> The availability and power of the ANITA MK 8 raised concerns that people would no longer need to remember simple arithmetical operations because a desk device machine could do it for them.<sup>9</sup> As calculators became cheaper, faster, and smaller, those concerns spilled into the primary and secondary education levels and the commercial testing environments.<sup>10</sup> How will math teachers teach math to students?<sup>11</sup> Will students be robbed of learning how to estimate values?<sup>12</sup> Should the national math testing environment allow calculators to be used?<sup>13</sup> In the post-secondary and graduate educational level, professors chagrined that new engineering students would no longer use the slide rule and, as a result, would lose some of the critical thinking skills and their elegant analytical short cuts that came along with using the slide rule, estimation, and working out long and complex arithmetical calculations.<sup>14</sup> Yet, the calculator has proven to be an essential tool in all areas of life, including law students doing simple arithmetical calculations for their clients or assignments.<sup>15</sup> These students, for the most part, left long and complex calculations to other more advanced apps, such as Excel, which is based on the principles

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<sup>8</sup> *Anita*, *supra* note 2.

<sup>9</sup> *Id.*

<sup>10</sup> Audrey Watters, *A Brief History of Calculators in the Classroom*, HACK EDUCATION (Mar. 12, 2015), <https://hackededucation.com/2015/03/12/calculators> [<https://perma.cc/2NV3-QYSL>] (under the section, *Calculators (Not) Allowed*).

<sup>11</sup> *Id.*

<sup>12</sup> *See id.* at Section, *What Do Calculators Do (To Math Class)?* See Sarah Banks, *A Historical Analysis of Attitudes Toward the Use of Calculators in Junior High and High School Math Classrooms in the United States Since 1975* (2011) (Master of Education Research Thesis), at 3-4, 14-15, 18, 20, [https://digitalcommons.cedarville.edu/cgi/viewcontent.cgi?article=1030&context=education\\_theses](https://digitalcommons.cedarville.edu/cgi/viewcontent.cgi?article=1030&context=education_theses) [<https://perma.cc/FN5Q-D4AB>].

<sup>13</sup> Banks, *supra* note 12.

<sup>14</sup> David Wees, *Calculator vs Slide Rule vs Hand calculations*, THE REFLECTIVE EDUCATOR (Dec. 29, 2011), <https://davidwees.com/content/calculator-vs-slide-rule-vs-hand-calculations/> [<https://perma.cc/2FSH-4NA6>].

<sup>15</sup> Janice Ruiz, *How Do Lawyers Use Math? Math In Law*, AMERICAN JUDICIAL SYSTEM (Aug. 15, 2024), <https://www.ajs.org/how-do-lawyers-use-math/> [<https://perma.cc/V88N-ZW3U>].

embodied in the simple calculator.<sup>16</sup> While some scholars distinguish GAI<sup>17</sup> and its potential harm from the simple tool of calculation software, others believe that GAI will provide more beneficial use than that of the simple calculator.<sup>18</sup> Unlike the calculator, law students, who have not learned how to use GAI in an ethical way, will learn to use it unethically and improperly. Especially, given the fact that law firms, federal and state agencies, and courts are using GAI in their professional work with clients and in litigation. The law school clinic will need to assert the same knowledge to law students. A case can be made that writers who show a history of writing well in academic settings do not need GAI to further reinforce their writing. This article claims that the emergent writer, a writer whose history shows an unbalanced approach to writing, a lack of foundational writing skills, or a deficit in their ability to express thoughts in clear and unambiguous ways, may be buoyed by the use of GAI. To illustrate a helpful analogy, ChatGPT to an emergent writer<sup>19</sup> perhaps has profound beneficial use as Sesame Street had on children from marginalized communities based on race, sex, gender, and economic status.<sup>20</sup>

In 2015, Professors Kearney and Levine reported on their investigation of the impact of children viewing Sesame Street in 1969 on their academic and labor market performance based on the availability of viewing that program.<sup>21</sup> Their inventive investigation resulted in something astounding that “Sesame Street improved school performance, particularly for boys. The point estimates for long-term educational and labor market outcomes are generally imprecise.”<sup>22</sup>

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<sup>16</sup> Wilson, *supra* note 5.

<sup>17</sup> For purposes of this article, generative artificial intelligence or GAI is a specific form of artificial intelligence that uses large language models to mimic language, text, images, video, or audio in a new way based on a user prompting the program to create language, text, images, video, or audio. See John Bliss, *Teaching Law in the Age of Generative AI*, 64 JURIMETRICS J. 111 (2024), at 115 (available at <https://ssrn.com/abstract=4682456>).

<sup>18</sup> See *id.* at 111.

<sup>19</sup> As defined in this article, an emergent writer is a student whose life experience has neither encouraged writing as a skill nor enhanced their ability to think through writing. The emergent writer is someone who does want to write and think more clearly, concisely, and persuasively, but their experience in academia or professionally have not been focused on those writing skills. This term is novel to this article.

<sup>20</sup> Melissa S. Kearney & Phillip B. Levine, *Early Childhood Education by Television: Lessons from Sesame Street*, 11 AM. ECON. J.: APPLIED ECON. 318 (2019), <https://www.aeaweb.org/articles?id=10.1257/app.20170300> [<https://perma.cc/7GDP-VUVH>].

<sup>21</sup> *Id.* at 319.

<sup>22</sup> *Id.* at 320. Kearney and Levine “investigated whether preschool-age children exposed to Sesame Street ... improved educational and labor market outcomes.” They investigated children six and under in 1969 and who lived in locations where broadcast reception allowed for Sesame Street to be viewed relative to those same cohorts whose broadcast reception was limited. The results “generated a positive impact on educational outcomes through the early school years.” While investigating census data between the 1980s to 2000s and various high school surveys, the investigators found that those children who were exposed

Watching Sesame Street had an impact on pre-school age children and their performance in school, but the biggest beneficiaries were boys.<sup>23</sup> Of course, the technology that revolutionized Sesame Street's ability to help pre-school age children was not the television alone, but the way its program was delivered: UHF vs. VHF.<sup>24</sup> In 1969, where UHF transmission was available (e.g., in largely populated cities of the United States), Sesame Street was available to be viewed for households with a TV that could receive UHF signals.<sup>25</sup> Yet, where UHF was only available, Sesame Street was not available for all to view.<sup>26</sup> Using that information to cull economic, census data, high school data, and trial studies at the time, they found that the information pointed to improvement in the academic performance of those pre-school age children, but the long-term impact of the children's viewing could not be ascertained.<sup>27</sup> The substance of what Sesame Street was offering to children translated to an outcome that benefited some children, but not all children.<sup>28</sup> They would enter pre-kindergarten having known letters, numbers, words, patterns, etc. In a sense, they had knowledge that helped them recognize abstract concepts in those first formative years from other children who may or may not have received similar knowledge without Sesame Street. It gave some boys an advantage that a teacher might not have known came from a television program.

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to "better reception capabilities were 14 percent more likely to be attending the grade that is appropriate for their age in middle and high school years." The investigators also found that the "data indicate positive effects for both boys and girls, with larger estimates for boys." Lastly, they found that the "data also indicate[d] positive effects for all three race/ethnic groups considered [non-white Hispanics, Blacks, and Hispanics], with larger point estimates for [B]lacks and Hispanics than for white non-Hispanics."

<sup>23</sup> *Id.* at 336.

<sup>24</sup> *Id.* at 321-322. UHF is ultra-high frequency, and VHF is very high frequency. Sesame Street broadcasted on UHF signal, which was not available on all TV sets in 1969. VHF was a superior signal and could be seen by farther distance and not affected by high obstacles, such as, buildings and mountains. If someone bought a TV in 1969, they could receive VHF signals but may not be able to receive UHF signals. More expensive TVs in 1969 could receive both signals.

<sup>25</sup> *Id.* at 322 (detailing that 54 percent of households with TV sets received UHF signals in 1969); *see id.* at 325 (proposing that an estimated 65 percent of TV sets could receive UHF signals in 1969).

<sup>26</sup> *Id.* The authors of the study showed that given UHF's inferior transmission signal, there were counties that could not receive Sesame Street. Through simulated tests, the authors demonstrated that the children in those counties where UHF signals were received, tests scores for grade-for-age children (preschool to early elementary) revealed a positive impact on those children's educational performance. The simulated tests presented further evidence of "[w]ell-conducted randomized control trials at the time *Sesame Street* was initially introduced ... that watching the show generated an immediate and sizeable increase in test scores" at 343. Access to the technology influenced children.

<sup>27</sup> *Id.* at 341-2.

<sup>28</sup> *Id.* at 335-6. According to the authors, the biggest beneficiary of receiving Sesame Street through the UHF signals were boys and Black early elementary students. Other students benefitted as well, but not as profound.

This author believes that GAI offers the emergent writer in law school a similar advantage that was not available to them prior to December 2022. The impact on adult education and legal writing in the clinical legal education space could be transformative if understood and applied with a professor's particular observation, care, and analysis. Clinical legal education is closer to that of the legal practitioner community than that of the traditional law school community. In order to support law students in the clinics, clinical professors need to learn the technology and facilitate the integration of the technology into clinical education andragogy. Law schools around the country are assessing the strengths and weaknesses of the use of GAI in the classroom as well as in the legal practice. Law firms are incorporating GAI and AI practice into document review, evidence analysis, pattern recognition of similar cases and judges' opinions, and contract and pleading creation. Based on the changing legal landscape, several legal scholars have begun to propose new approaches to legal writing andragogy.<sup>29</sup> Few legal scholars have addressed this change in clinical legal education. Teaching law students how to use GAI as a tool to improve their writing and as an agent in their thinking, clinical law professors will prepare law students for the ethical practice of law. This article will discuss where clinical legal writing was before the introduction of ChatGPT 3.0 and where it could go with GAI.<sup>30</sup> How GAI could be used to teach law students how to write better, discern facts from hallucinations<sup>31</sup> derived from

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<sup>29</sup> See *infra* note 140.

<sup>30</sup> John D. Feerick, *Writing Like a Lawyer*, 21 FORDHAM URB L.J. 381, 381 (1994) (claiming that the causes of bad legal writing "include insufficient education in good writing, carelessness, faulty thinking and reasoning, a failure to appreciate the potential impact of legal language, an unwillingness to risk new language, and an inability or failure to make the time commitment required for good legal writing."); Terrill Pollman, *Building a Tower of Babel or Building a Disciple? Talking about Legal Writing*, 85 MARQ. L. REV. 887, 893-914 (2002) (giving a great history of teaching legal writing in law schools, including apprenticeship, formalism, and legal or new rhetoric); Tonya Kowalski, *Toward a Pedagogy For Teaching Legal Writing in Law School Clinics*, 17 CLIN. L. REV. 285, 291-3 (2010) (positing that clinicians and legal writing professors collaborate to help law students write better through dealing with transfer theory-connecting prior learning in new context- and schema theory-an inability to cue previous knowledge for use in a new situation. Professor Kowalski emphasizes that clinic legal professor should help their student shift the context of their knowledge foundation to application based on prior knowledge learned in legal writing and analysis courses); and Cheri Wyron Levin, *The Doctor is In: Prescription for Teaching Writing in a Live-Client In-House Clinic*, 15 CLIN. L. REV. 157, 165-6 (2008) (promoting incorporating advance legal writing programs into existing clinical law curriculum).

<sup>31</sup> There will be a number of terms or jargon throughout this article that is common language for creators and users of AI in general. Generative AI is unique as a subset of AI that users have employed in the millions. The first, and probably most important, is hallucinations; see ETHAN MOLICK, CO-INTELLIGENCE/LIVING AND WORKING WITH AI 53 (2024); Negar Maleki, Balaji Padmanabhan & Kaushik Dutta, AI Hallucinations: a Misnomer Worth Clarifying, (January 9, 2024) (unpublished manuscript), arXiv:2401.06796v1 [https://perma.cc/SF3Z-KQL9]. According to Maleki, Padmanabhan, and Dutta, the term "hallucination" is



Large Language Models<sup>32</sup> being used by GAI chatbots, edit pleadings, briefs, communications, and memos using GAI, and practice counseling and interview skills with textual and auditory simulations.<sup>33</sup> This article will explore how professors in clinical legal education, in GAI's current state, can use GAI to further the aim of assisting students with their representation of clients in an ethical and pragmatic way and enhance the writing skills of the emergent professional writer.

Part I of this article will describe GAI in general and various chatbots in particular: how a program like ChatGPT-5<sup>34</sup> or Protégé™ operates, what it can do well, and what it cannot do. Part II will briefly describe and analyze the scholarship in legal writing and its development at law schools. This part examines the purpose of legal education with a specific focus on legal writing in the clinical legal space. This part explores further who the emergent writer is and the impact legal writing has on emergent writers, while recommending that clinical legal

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neither precise nor universally accepted and depends on which field of AI is being studied. While they argue that the term should be replaced with a term that is universally accepted and precise, others have begun to use the term as a euphemism for generated information that is inaccurate, fabricated, incorrect or all three, but is passed along as true or factual. See MOLLICK, *supra*, at 91. The first mention of hallucinations, as a euphemism for generative AI problems with facts, in print was in the New York Times. See also, Karen Weise & Cade Metz, *When A.I. Chatbots Hallucinate*, N.Y. TIMES (first published May 1, 2023, updated May 9, 2023), <https://www.nytimes.com/2023/05/01/business/ai-chatbots-hallucination.html> [https://perma.cc/KXZ3-MRZ4]. The term was popularized to include all non-factual or non-attributable information. The term hallucination in this article will be used to emphasize generated information that is inaccurate, incorrect, fabricated, unsupported, irrelevant, uncited, false, or all of the above. See also Varun Magesh, Faiz Surani, Matthew Dahl, Mirac Suzgun, Christopher D. Manning & Daniel E. Ho, *Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools*, 22 J. OF EMPIRICAL LEGAL STUDIES 216, 216 (2025) (stating that "...[the LLMs'] adoption remains hindered by a critical flaw: their tendency to generate incorrect or misleading information, a phenomenon generally known as 'hallucination [cite omitted].'" )

<sup>32</sup> Adam Pasick, *Artificial Intelligence Glossary: Neural Networks and Other Terms Explained*, N.Y. TIMES (March 27, 2023), <https://www.nytimes.com/article/ai-artificial-intelligence-glossary.html> [https://perma.cc/2BER-7DQ7]; see *What is a large language model (LLM)?*, CLOUDFLARE, <https://www.cloudflare.com/learning/ai/what-is-large-language-model/>, (last visited June 3, 2025). Large Language Models, or LLMs, are software programs that digest huge amounts of data to recognize and generate data. Data could be text, images, audio, graphic or summary tables, etc. The program is a set of algorithms that recognizes patterns in the data and gives back a different set of data predicting in a probabilistic manner the output the user seeks. Unlike extractive AI or simple computer programs that generate a predicative single answer or task, LLMs continue to learn (digest more data) through a process of tuning (receiving new data or prompted to seek new data). Sometimes called deep learning, LLMs continue to receive new data by the user of an LLM. ChatGPT, and its competitors, is a specific type of LLM.

<sup>33</sup> See *infra* note 140.

<sup>34</sup> As of the date of this article's publication, the consumer market for GAI is broken into three model types: the chatbot; the simulated companion; and the agent. This paper will focus primarily on the chatbot. There will be brief discussions on the other models, but the legal practice has been using the chatbot model for most of its work. The legal practice is beginning to use GAI in an industrialized way as the agent model.

education can boost writing and analysis in the law for the emergent writer. Part III will analyze some of the ethical problems wrought by GAI and propose solutions to those problems. This part will make the case that GAI should be used in the clinical legal space to facilitate legal writing andragogy for the emergent writer. Part IV will explore new ideas generated for the proper use of GAI and propose ways that assist clinical law professors with their andragogical approach to the law and law students while improving their critical thinking and writing skills. This part will list helpful suggestions for professors to employ in their clinical courses with a specific emphasis on the emergent writer. This part concludes that legal writing must adapt to the latest technology to transform legal writing with current students and for the future of the legal profession. This part also considers the benefits of GAI use to writing in the clinical legal space, as well as andragogical benefits to students learning to master the craft of legal writing.

## I. THE GAI LANDSCAPE

GAI, and all its iterations, has burst into the public imagination and utility. Every day, people around the world have found uses for programs, such as ChatGPT, that have improved their lives for the better.<sup>35</sup> Some people claim that its predicative capacity to write language and code, among other things, has streamlined routine writing and coding tasks that took a significant amount of time to complete.<sup>36</sup> Others have cautioned that its predicative and generative qualities bring with them apocalyptic scenarios that could hurt (and in some cases have hurt) creative outputs and systematic renderings of false information and

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<sup>35</sup> Mollick, *supra* note 31, at 111; see Kevin Roose, *Don't Ban ChatGPT in Schools. Teach With It*, N.Y. TIMES (January 12, 2023), <https://www.nytimes.com/2023/01/12/technology/chatgpt-schools-teachers.html> [<https://perma.cc/L5H7-877Y>] (outlining the ways ChatGPT can be an effective teaching tool in high schools); Elizabeth A. Harris, *Peering Into The Future of Novels, With Trained Machines Ready*, N.Y. TIMES (April 20, 2023), <https://www.nytimes.com/2023/04/20/books/ai-novels-stephen-marche.html> [<https://perma.cc/VF87-9GDH>] (discussing the advantages of having a chatbot help write novellas); JEREMY KORST, STEFANO PUNONI & MARY PURK, *GROWING UP: NAVIGATING GEN AI'S EARLY YEAR*, AI AT WHARTON AND GBK COLLECTIVE, THE WHARTON SCHOOL OF THE UNIVERSITY OF PENNSYLVANIA (October 2024) at 54 - 56, [https://ai.wharton.upenn.edu/wp-content/uploads/2024/11/AI-Report\\_Full-Report.pdf](https://ai.wharton.upenn.edu/wp-content/uploads/2024/11/AI-Report_Full-Report.pdf) [<https://perma.cc/S95L-3U66>] (detailing the various uses of GAI by businesses including document writing/editing, analysis, data analysis, coding, and summarization in fields such as marketing, customer interaction, human resources, and corporate decision-making); and Marc Zao-Sanders, *How People are Really Using Generative AI in 2025*, HARV. BUS. REV. (April 9, 2025), <https://hbr.org/2025/04/how-people-are-really-using-gen-ai-in-2025> [<https://perma.cc/MK3M-VBPJ>] (highlighting that its survey found people are using GAI for therapy/companionship, organizing tasks, goal-setting, scheduling, and other brainstorming ideas to “make best use of their time[,]” and enhanced learning).

<sup>36</sup> Zao-Sanders, *supra* note 35.



derivative unauthorized original work.<sup>37</sup> This dichotomy in the use of GAI brings confusion and could promote indolence among users.<sup>38</sup>

In New York, for example, an attorney substituted his due diligence, competency, and other ethical requirements for using a GAI shortcut to generate a legal memo that was filed with the New York Supreme Court on behalf of his client.<sup>39</sup> The attorney, Steven A. Schwartz, prompted ChatGPT 3 to generate a legal memo to file with the court and never checked the citation, cases, or legal analysis and argument created by GAI. Unknown to the attorney, the GAI program hallucinated, or made up, the analysis, cases, and citations.<sup>40</sup> Once submitted to the court and served upon opposing counsel, both found discrepancies in the analysis and then discovered that the cases and citations were fabricated.<sup>41</sup> In the sanctions hearing, the court found that Schwartz's claim of ignorance of using the GAI did not absolve the attorneys from violations of Rule 11(b)(2), among other rule violations, and further that the attorneys warranted sanctions under Rule 11.<sup>42</sup> This case is a classic example of plagiarism, cheating, incompetence, ignorance, misuse, fraudulent behavior, and indolence.

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<sup>37</sup> *Pause Giant AI Experiments: An Open Letter*, FUTURE OF LIFE INST. (March 22, 2023), <https://futureoflife.org/open-letter/pause-giant-ai-experiments/> [<https://perma.cc/3JT9-M7Q6>] where the authors recommend that "Society has hit pause on other technologies with potentially catastrophic effects on society."

<sup>38</sup> Jay B. Knight, OpenAI ChatGPT 3.5 (free-version), "How can you help me make this sentence better and more professional sounding: This dichotomy of GAI's use brings with it confusion to and may promote indolence on the user." (June 10, 2024) (on file with the author of this article). This author wanted to see whether the free version of ChatGPT 3.5 could produce a better sentence than the author's own. The output produced the sentence as used in this article. The use of ChatGPT 4.0 and other LLMs in this article have been limited to examples and research ideas. Other than the example in this sentence, the author did not enhance his writing for this article. Given the amount of improvements in LLMs in 2024 and 2025, this author cannot say that the restriction will be used in the future. Other ideas regarding the problem of GAI use with attorneys will be the focus of future articles.

<sup>39</sup> *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443 (D.N.Y. 2023). The use of GAI in litigation is increasing. According to Professor Damien Charlotin, expert in the legal implications of AI use in the law and legal profession, among other expertise, attorneys and pro se litigants have been using GAI in their pleadings in court and agency settings and hallucinated citations have been submitted to judges, chairs, and other decision-makers. Professor Charlotin has set up a database to track the inappropriate use of GAI in the legal setting. Damien Charlotin, AI HALLUCINATION CASES, <https://www.damiencharlotin.com/hallucinations/> [<https://perma.cc/M55K-WJKL>] (last visited August 30, 2025).

<sup>40</sup> See *Mata*, 678 F.Supp. at 452. Schwartz testified at a "sanctions hearing that when he reviewed the reply memo, he was 'operating under the false perception that [ChatGPT 3] could not possibly be fabricating cases on its own.'" The case highlights that Schwartz and counsel of record, Peter LoDuca, did not perform minimum due diligence of checking citations, or reading cases cited, or shepardizing any cases mentioned in their table of authorities. They also misrepresented their affidavits and were candid with the court upon questions. These are significant ethical lapses and ones this author will explore in a future article.

<sup>41</sup> *Id.* at 450.

<sup>42</sup> *Id.* at 466.

The outcry from the legal community was quick, but it calmed down when some members of the legal community focused only on GAI's generative written powers.<sup>43</sup> Meanwhile, Judge Brantley Starr in the U.S. District Court for the Northern District of Texas issued an order requiring attorneys and pro se litigants to certify that “no portion of any filing will be drafted by [GAI] ... or that any language drafted by [GAI] will be checked for accuracy, using print reporters or traditional legal databases, by a human being.”<sup>44</sup> By the end of 2023, other federal courts in different states followed suit.<sup>45</sup> In that year, GAI, through the

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<sup>43</sup> Ralph Artigliere & Ralph C. Losey, *The Future Is Now: Why Trial Lawyers and Judges Should Embrace Generative AI Now and How to Do it Safely and Productively*, 48 AM. J. TRIAL ADVOC. 323 (Spring 2025) where the authors argue that practitioners (as well as judges) should use GAI as an agent to collaborate with on a variety of tasks and intellectual work products. In 2023, both Westlaw and LexisNexis announced that they would be using GAI in their respective legal databases. Giving attorneys the ability to draft legal documents based on a prompt, the legal databases would combine the power of their legal libraries with the power of GAI to pull those resources into its generative features. They claimed that hallucinations would be minimized. See Joe Patrice, *New LexisNexis Generative AI Writes Mean Cease & Desist Letters, Becoming The AI We Never Knew We Needed*, ABOVE THE LAW (May 4, 2023), <https://abovethelaw.com/2023/05/new-lexisnexis-generative-ai-writes-mean-cess-desist-letters-becoming-the-ai-we-never-knew-we-needed/> [<https://perma.cc/8KL2-VH7B>]; Press Release, Thomson Reuters, *Thomson Reuters Launches Generative AI-Powered Solutions to Transform How Legal Professionals Work* (November 15, 2023), <https://www.thomsonreuters.com/en/press-releases/2023/november/thomson-reuters-launches-generative-ai-powered-solutions-to-transform-how-legal-professionals-work> [<https://perma.cc/S55B-98MF>]; see also Magesh et al, *supra* note 31.

<sup>44</sup> Jacqueline Thomsen, *US judge orders lawyers to sign AI pledge, warning chatbots “make stuff up”*, REUTERS (June 2, 2023), <https://www.reuters.com/legal/transactional/us-judge-orders-lawyers-sign-ai-pledge-warning-they-make-stuff-up-2023-05-31/> [<https://perma.cc/M6DL-ZZXL>]; see also STATE BAR OF TEXAS, ENVIRONMENTAL & NATURAL RESOURCES LAW, A SAMPLING OF AI COURT ORDERS, <https://www.texasbar.org/wp-content/uploads/2024/07/A-sampling-of-AI-Court-Orders.pdf> [<https://perma.cc/H2VP-CG2K>] (last visited on June 11, 2025) along the Section’s website on the specific wording of Judge Brantley’s order are other similar judicial orders from two other judges (Judge Michael Baylson, U.S. District Court for the Eastern District of Pennsylvania and Magistrate Judge Peter Kang, U.S. District Court for the Northern District of California).

<sup>45</sup> Jamie Eggertsen, *What You Need to Know: AI Disclosure Rules in Legal Filings*, EVE LEGAL BLOG (March 19, 2025), <https://www.eve.legal/blogs/what-you-need-to-know-ai-disclosure-rules-in-legal-filings> [<https://perma.cc/G3H4-MMDJ>] where the blog lists jurisdictions that have enacted state specific requirement for disclosures of AI use in federal and state courts, such as Texas, Pennsylvania, New Jersey, North Carolina, Illinois, and California. Michigan is being proposed as of the writing of this article; see also Order on Artificial Intelligence, Judge Stephen Alexander Vaden, Ct. Int’l Trade (June 8, 2023), [www.cit.uscourts.gov/sites/cit/files/Order%20on%20Artificial%20Intelligence.pdf](https://www.cit.uscourts.gov/sites/cit/files/Order%20on%20Artificial%20Intelligence.pdf) [<https://perma.cc/6JRN-LQQW>] is a standing order for disclosure on the use of GAI (last visited on June 11, 2025); see also *David Belenzon v. Paws Up Ranch*, CV 23-69-M-DWM (D. Mont. June 22, 2023) (order granting attorney *pro hac vice* with specific instructions prohibiting the use of AI), <https://storage.courtlistener.com/recap/gov.uscourts.mtd.73612/gov.uscourts.mtd.73612.8.0.pdf> [<https://perma.cc/H4WM-XXHU>]; see also Tracking Federal Judge Orders on Artificial Intelligence, LAW360, <https://www.law360.com/pulse/ai-tracker> [<https://perma.cc/BNB6-NGMK>] for a list of other federal district courts for orders involving attorneys and pro se litigants using GAI in those district courts.

use of Application Programming Interface, or API,<sup>46</sup> LexisNexis and Westlaw, two of the leading legal research tools in the U.S., finished implementing GAI into their search engines for customers to use.<sup>47</sup> While some judges are concerned with the use of GAI in official legal memos and pleadings, other judges have embraced it for their use in official duties.<sup>48</sup> Other than legal research companies, legal assistants, or legal intelligence companies, such as vLex, have jumped in on the use of AI and GAI for their customers, such as law firms, state bar associations, and in-house corporate counsel.<sup>49</sup> Given the frenzy to go to AI and GAI for use in the legal community, how does GAI work?

### A. GAI's Basic Building Blocks

But how does GAI manufacture, fabricate, and compose lengthy written pieces? It has to do with the connection of neural networks<sup>50</sup> built

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<sup>46</sup> Another jargon is API, a mechanism that enables different software components to communicate with each other using a definite set of protocols. iPhones use APIs to display weather, stocks, news, etc. In the case of Protégé™ and CoCounsel, the API uses the LLM to work with the vast data libraries stored in LexisNexis and Westlaw storage databases. See AWS, *What is an API?*, <https://aws.amazon.com/what-is/api/#:~:text=API%20stands%20for%20Application%20Programming,other%20using%20requests%20and%20responses> [https://perma.cc/MFZ8-55XW].

<sup>47</sup> Artigliere et al., *supra* note 43; see also Bob Ambrogi, *It's the Battle of the AI Legal Assistants, As LexisNexis Unveils Its New Protégé and Thomson Reuters Rolls Out CoCounsel 2.0*, LAW.SITES (August 11, 2024), <https://www.lawnext.com/2024/08/its-the-battle-of-the-ai-legal-assistants-as-lexisnexis-unveils-its-new-protége-and-thomson-reuters-rolls-out-cocounsel-2-0.html> [https://perma.cc/X5B6-NLQD].

<sup>48</sup> Cedra Mayfield, *Judges Have Concerns About Artificial Intelligence: Here's What They Said*, LAW.COM (March 11, 2024), <https://www.law.com/dailyreportonline/2024/03/11/judges-have-concerns-about-artificial-intelligence-heres-what-they-said/?slreturn=20241009141516> [https://perma.cc/T4WG-M6GG] (giving a range of concerns by federal and state judges about the use of GAI in filings opting to certify or prohibits its use. *Cf supra* note 43 (where lawyers are moving ahead with the use of GAI despite the bench's concerns).

<sup>49</sup> Ambrogi *supra* note 47. vLex combined with another database company, Fastcase, in 2023. vLex claims to have a billion legal documents from more than 100 countries to build its subscriber-based GAI business for law firms, jurisdictional bar associations, and other third-party platforms that will conduct legal research, litigation analytics, and bankruptcy workflow tools for its two million users. See Press Release, Oakley Capital, Vlex Combines With Fastcase to Form the World's Largest Law Firm Subscriber Base (April 4, 2023), <https://www.oakleycapital.com/news-and-insights/vlex-combines-with-fastcase-to-form-the-world-s-largest-law-firm-subscriber-base> [https://perma.cc/56Z6-S36Z].

<sup>50</sup> *What is a Neural Network?*, GEEK FOR GEEKS <https://www.geeksforgeeks.org/machine-learning/neural-networks-a-beginners-guide/> [https://perma.cc/L38C-M4SC], a neural network is another term of art. It means a method that teaches computers to process data in a way that is inspired by the human brain. Where the LLMs are the algorithms or programs, the neural network is the method by which the algorithms communicate with each other to solve mathematical problems. The analogy is to the human brain where neurons in the brain communicate with each other to send messages to the rest of the body to do something. Neural networks operate with (neuron equivalents) of data that comes together through the LLM. Neural networks make it possible for LLM to learn and are used for deep learning. See *supra* note 32.

into an algorithmic program designed to detect patterns and copy things with similar inputs.<sup>51</sup> In other words, in a very simplified way, the GAI program copies an image, translates the image to zeros and ones, and then it is coded into meta concepts for storing purposes called tokens.<sup>52</sup> When a person prompts the program to retrieve something similar, the words in the prompt trigger the tokens to come together and reassemble themselves in a different way as requested by the prompt.<sup>53</sup> While this description looks like a one-to-one relationship about how the program accesses images and concepts, the description lacks the explanation of the speed and network capacity that the program accesses, to the tune of hundreds of billions of images in seconds.<sup>54</sup> This makes the GAI program powerful in its ability to give the user images, texts, audio, or video representations in a matter of minutes, if not seconds.

The prompts are the directional guider that the program needs to assemble the outputs that the user seeks.<sup>55</sup> Prompts are tokens that assist any program to cull, reassemble, or organize the images or data that the program has learned from being trained on large datasets. Prompts are a convenient way to communicate with an LLM. The difference in the use of LLMs with GAI is that LLMs have been trained primarily on texts.<sup>56</sup> Learning will be discussed shortly, but learning is what allows the prompts to be utilized in an effective way by using parameters.<sup>57</sup> Parameters channel the learning of LLMs and give tokens certain weight based on the amount of data and prompt inputs.<sup>58</sup> As the prompts on the chatbot interface turn into tokens, those tokens find similar-looking tokens and begin to structure the output in a way

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<sup>51</sup> Harry Surden, *ChatGPT, AI Large Language Models, and Law*, 92 *FORDHAM L. REV.* 1939, 1961 (2024)(summarizing how neural networks operate in the GPT model with deep learning saying, “In essence, neural networks are just extremely flexible pattern detectors: they can approximate just about any underlying pattern, if given enough data to examine.”)

<sup>52</sup> *Id.* at 1951 n. 66. (“Tokens are small units of texts that a model uses internally to process longer words more easily.”) According to Professor Surden, the LLM uses the neural network process to predict tokens. In his article, he focused on text, but tokens can be broken into any unit of data or information, such as an image, audio, or text; *see also* Michael D. Murray, *Generative Artificial Intelligence — Where did it come from? How does it work?*, (July 29, 2024)(unpublished manuscript paper), at 10 <https://ssrn.com/abstract=4909859> [<http://dx.doi.org/10.2139/ssrn.4909859>].

<sup>53</sup> Surden, *supra* note 51, at 1951-2. Another jargon word is prompt, “which is the term for a user-provided text input, such as an instruction ....”

<sup>54</sup> Tianyu Ding, Tianyi Chen, Haidong Zhu, Jiachen Jiang, Yiqi Zhong, Jinxin Zhou, Guangzhi Wang, Zhihui Zhu, Ilya Zharkov & Luming Liang, *The Efficiency Spectrum of Large Language Models: An Algorithmic Survey 4* (April 18, 2024) (unpublished manuscript), <https://arxiv.org/abs/2312.00678> [<https://perma.cc/R5FC-A6PB>].

<sup>55</sup> Xavier Amatriain, *Prompt Design and Engineering: Introduction and Advanced Methods 1* (February 12, 2024) (unpublished manuscript), <https://arxiv.org/html/2401.14423v3> [<https://perma.cc/LRK2-DPYR>]; *see* Surden, *supra* note 51 at 1952-3.

<sup>56</sup> Murray, *supra* note 52, at 9-10; *see also* Surden, *supra* note 51, at 1955.

<sup>57</sup> Surden, *supra* note 51, at 1957.

<sup>58</sup> *Id.*

that the algorithm has learned to structure those tokens or create new patterned tokens.<sup>59</sup> The parameters of the tokens keep pushing the tokens into a pattern that makes sense from a syntax viewpoint, but could be qualitatively inaccurate.<sup>60</sup> The problem is exacerbated if the prompt is vague, imprecise, or narrowly defined.<sup>61</sup> Those prompts can push the parameters to outputs that are vague, imprecise, or narrowly defined. Prompts also use natural language processing or NLP's.<sup>62</sup> The NLP's is an algorithm that converts texts and audio into tokens which can be converted back to language in the form of text or audio.<sup>63</sup> A classic interface used for NLP is a chatbot.

The chatbot is a form of interface that allows the user of the chatbot to have a conversation with the LLM.<sup>64</sup> Many students in law school will have used programs, such as Word or Excel, and interfaced with them to produce papers and charts. Those programs allow users to input information and structure their input in any way they wish.<sup>65</sup> In the case of Excel, the user can organize information in such a way that allows the program to use formulae to get a specific output.<sup>66</sup> The communication between the user and the program is one-directional, or like hitting a nail with a hammer. If the input cannot fit the formula, then the output will look weird or be wrong. On the other hand, a chatbot will accept any input given and retrieve information that seems similar to the input or assemble an output resembling the input given.<sup>67</sup> It is not one-directional; it is multi-directional. There are many possible outputs for the input given. Because it is a chatbot, the program is designed to have

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<sup>59</sup> *Id.* at 1958.

<sup>60</sup> *Id.*

<sup>61</sup> Magesh, *supra* note 31, at tbl. V n. 88.

<sup>62</sup> *Natural Language Processing (NLP) – Overview*, GEEKSFORGEEKS (August 06, 2025), <https://www.geeksforgeeks.org/natural-language-processing-overview/> [<https://perma.cc/BEP9-SEE9>], NLP is defined as a field that combines computer science, AI, and language studies. It is a mathematical construction of language in such a way that it deconstructs words into tokens only to reconstruct them. NLP helps computers understand human language without the need of computer language, such as Fortran, Cobalt, or Python. Surden, *supra* note 51, at 1945.

<sup>63</sup> *See Natural Language Processing NLP – Overview* under Applications of Natural Language Processing (NLP), GEEKSFORGEEKS.

<sup>64</sup> *What is a Chatbot? Definition, Types, and Examples*, COURSERA (July 01, 2025), <https://www.coursera.org/articles/what-is-a-chatbot> [<https://perma.cc/K6P6-UEK7>].

<sup>65</sup> *What Happens Inside Your Computer When a Key is Pressed?*, FUTURE LEARN <https://www.futurelearn.com/info/courses/computer-systems/0/steps/53503> (last visited August 30, 2025).

<sup>66</sup> Microsoft Support, *The Order in Which Excel Performs Operations in Formulas*, <https://support.microsoft.com/en-us/office/the-order-in-which-excel-performs-operations-in-formulas-28eaf0d7-7058-4eff-a8ea-0a835fafadb8> (last visited August 30, 2025).

<sup>67</sup> Surden, *supra* note 51, at 1952.

a conversation with the user to narrow the output to the given input or tune the output.<sup>68</sup>

Fine-tuning the output is part of the learning process for LLMs.<sup>69</sup> Given the large datasets from which LLMs must learn, most programmers will fine-tune outputs based on industry needs and expectations.<sup>70</sup> Like most of machine learning, this too is an iterative process, where programmers are constantly weighing the quality of the output.<sup>71</sup> The problem here, as in all of the LLM training and learning, is who the programmers are and what they are weighing based on what criteria. What custom knowledge base are the programmers and users evaluating? Fine-tuning is what subject matter legal experts with LexisNexis+ AI, or Protégé™, are doing when they train the LLMs being used in its products.<sup>72</sup> The programmers are fine-tuning Protégé™ with its library of legal publications as the custom knowledge base. They prompt the chatbot, read an output, either affirm or negate the output, and run the prompt again for a different, and, they hope, more accurate output.<sup>73</sup> This fine-tuning takes time, energy, money, and expertise.

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<sup>68</sup> Chatbots use NLPs to understand the user's input. Some chatbots do not need sentences written out grammatically correct in order to understand. While there are different types of chatbot for purposes of this article, and those closer to GAI, the predictive chatbot is used most often. They are a learning chatbot in order to predict better the output the user wants. Users can write to chatbots and speak to it. Users can download documents to a chatbot and chatbots are used to create specific or task-focus chatbots, sometimes known as declarative chatbots. ChatGPT 4o, for example, uses a predictive chatbot as a way to allow users to input information; *See* COURSERA, *supra* note 64, under the section heading, Chatbots vs. AI chatbots vs. virtual agents vs. virtual assistants, when a chatbot is used as an agent, the chatbot directs the other parts of a program to execute specific tasks on the internet or another program. This article will not go into the agentic uses of AI, but that process is here and will be part of a bigger conversation about GAI and Artificial General Intelligence (AGI) in legal practice in the near future.

<sup>69</sup> Huzefa Chawre, *Fine-Tuning LLMs: Overview, Methods, and Best Practices*, Turing website (unpublished manuscript) (November 21, 2023), <https://www.turing.com/resources/finetuning-large-language-models> [<https://perma.cc/5J52-Q483>].

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> Press Release, LexisNexis, LexisNexis Launches Lexis+ AI to the UK Legal Market (June 12, 2024), <https://www.lexisnexis.com/community/pressroom/b/news/posts/lexisnexis-launches-lexis-ai-to-the-uk-legal-market> [<https://perma.cc/9ZWM-6RPZ>].

<sup>73</sup> *Id.* One of the problems with LLMs, in general, is the difference between probabilistic and deterministic approaches in software development; *see* Surden, *supra* note 51, at 1949 (discussing the probabilistic nature of LLMs. Society has come to know that a software programs like Word or Excel are deterministic, even if it does not know what that means. For example, when a “T” is typed using Word or other word processing program, it will always come out a “T.” A user does not expect “Q” or some other letter to pop up when typing a “T.” Probabilistic, however, is different. A user can prompt a chatbot with a specific task output, such as “What is the capital of France?” As Surden explains the chatbot can come with several answers before hitting on Paris. The chatbots needs prompting and fine-tuning to reveal an answer that is accurate. The other feature of the LLM model and prompting is that the same prompt may yield different answers. That is the probabilistic nature of GAI in general. Surden, *supra* note 51, at 1953.



### B. The Debate Over GAI Use in the Legal Context

GAI is a constant iterative algorithm that needs interaction to improve, unlike extractive AI. This type of AI simply retrieves or extracts data that exists in any dataset. Google search perfected the extractive AI.<sup>74</sup> Its early AI algorithm allowed users to search the internet for any words that the users put in its search box.<sup>75</sup> This simple program became a process informally known as “Googling.”<sup>76</sup> In some cases, the search program undertook a different appeal than perhaps the creators intended. The program permitted users to search for everything and anything on the internet. A saving grace of the program is that it provides a link to a source of the data for the user to evaluate and differentiate from either the original source or some other source. It did not make up data.<sup>77</sup> This is highly consequential. Knowledge retrieval, as opposed to knowledge simulation and duplication, is static and can be verified or discriminated against by the user. Synthetic data, data created by using GAI, cannot be verified by, assessed for discrimination against, or confirmed by most users. Extractive AI simply retrieves what has already been there and fashions it to appear as different, as in Alphabet’s Gemini,<sup>78</sup> or retrieves what may be a standard set of knowledge. GAI, however, gives what has been put in by reliable and unreliable sources. It may extract, like Gemini, but it may create new data based on the old data.

This generative programming brings with it some useful tools but requires knowledge to handle it correctly. GAI is beneficial as in brainstorming with a chatbot, creating outlines or notes, reviewing grammar, lexicon, and syntax, drafting preliminary documents (i.e., pleadings), creating points or counterpoints, revising points and counterpoints, simulating textual and audio interviews and depositions, summarizing long documents or articles, or imagining possibilities. Given

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<sup>74</sup> Rachel Hespell, *Our 10 Biggest AI moments so Far*, GOOGLE BLOG (September 26, 2023), <https://blog.google/technology/ai/google-ai-ml-timeline/> [<https://perma.cc/EWT2-ZJV8>] (summing up extractive AI in the words of Larry Page, a Google co-founder, as “The perfect search engine should understand exactly what you mean and give you back exactly what you need.”)

<sup>75</sup> *Id.*

<sup>76</sup> 2002 *Words of the Year*, AMERICAN DIALECT SOCIETY (January 13, 2003), [https://americandialect.org/2002\\_words\\_of\\_the\\_year/](https://americandialect.org/2002_words_of_the_year/) [<https://perma.cc/946K-GSML>].

<sup>77</sup> Ruibo Liu, Jerry Wei, Fangyu Liu, Chenglei Si, Yanzhe Zhang, Jinmeng Rao, Steven Zheng, Daiyi Peng, Diyi Yang, Denny Zhou & Andrew M. Dai, *Best Practices and Lessons Learned on Synthetic Data 1* (August 10, 2024) (conference paper at COLM 2024), <https://arxiv.org/pdf/2404.07503> [<https://perma.cc/WFB8-PFW9>] (defining synthetic as “artificially generated data that mimics the characteristics and patterns as real-world data, but is created through algorithms, generative models, or even simulations, rather than being directly created by humans.” Citations omitted.) Making up data is otherwise known as synthetic data.

<sup>78</sup> Joan Santoso, *Gemini Reshaping the NLP Task for Extracting Knowledge in Text*, MEDIUM (February 18, 2024), <https://medium.com/@joansantoso/gemini-reshaping-the-nlp-task-for-extracting-knowledge-in-text-c0d5fdd4edd8> [<https://perma.cc/QE4M-XJ8D>].

GAI's probabilistic nature, it is well-hemmed to create something from a few text, image, or audio prompts. It is not, however, useful to make definitive predications, accurate calculations, or sequential analysis, such as analyzing the law based on a simple prompt.<sup>79</sup> The latter requires an analysis that is itself iterative and sometimes sequential. GAI is getting closer to doing that with math and physics problems.<sup>80</sup> It may take a few more years for the GAI chatbot interface to give legal information in a way that is akin to an attorney's analysis. That is a grave concern for the profession and the practice. Yet, GAI is not a shortcut, and better minds will have to tackle this problem once it becomes commonly used.

### C. *GAI is Not currently an Epistemological Box*

Imagine asking ChatGPT: if a pedestrian slips on some water that fell from an air conditioning duct in the store and falls while entering a minimart store, what laws could you use to sue the minimart store owner?<sup>81</sup> ChatGPT could respond in the following manner: It may give

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<sup>79</sup> Murray, *supra* note 6, at 9 (discussing the many different ways prompting can be used to allow the GAI to "reason" by using several prompts in a Chain-of-Thought or Tree-of-Thought prompting).

<sup>80</sup> *Id.* at 11.

<sup>81</sup> Jay B. Knight, OpenAI ChatGPT-4o, "if a pedestrian slips on some water that fell from an air conditioning duct in the store and falls while entering a minimart store, what laws could you use to sue the minimart store owner?" (October 23, 2024) (on file with the author of this article). Output: "If a pedestrian slips on water that fell from an air conditioning duct and falls while entering a minimart, several legal concepts could be used to sue the store owner. The primary legal theories are:

"1. Premises Liability:

- This is the key area of law governing such accidents. It holds property owners and operators responsible for maintaining a reasonably safe environment for customers or visitors. To successfully sue the minimart store owner under premises liability, the injured person (plaintiff) must prove:
- The store owner had a duty of care to maintain the property safely (as a business owner, they generally owe a duty to anyone entering the store).
- The owner breached that duty by failing to address the water from the AC duct (e.g., knowing about the leak and failing to fix it or warn customers).
- The breach caused the accident, leading to injury.

"2. Negligence:

- Negligence claims require showing that the store owner was careless in maintaining the premises. A plaintiff would need to prove:
- Duty of care: The store owner had a responsibility to keep the premises safe.
- Breach of duty: The owner breached this by not maintaining the AC system or cleaning the water spill.
- Causation: The water from the AC directly caused the pedestrian's fall.

an iteration of basic legal concepts, such as premises liability, negligence, constructive notice, and negligence *per se*.<sup>82</sup> These are all concepts that may be involved in a law school exam on the classic slip and fall scenario. What if I changed the prompt to: if a pedestrian slips on some water that fell from an air conditioning duct in the store and falls while entering a minimart store in Baltimore, Maryland, draft a complaint that the pedestrian could use to sue the minimart store owner in a Baltimore court?<sup>83</sup> ChatGPT gives you a basic pleading form with a relatively coherent caption and cites statutes that are on point for personal and subject matter jurisdiction.<sup>84</sup> A year ago, it could not have done that. While the basic pleading template is impressive, the pleading itself is not very good, but allows the user to input information specifically about the plaintiff, defendant, and the scene of the alleged injury. For an expert, there is a lot of work to be done if the client is dependent on their attorney to represent them competently and diligently. For a novice, at best, the output looks somewhat complete. Without a guiding hand, the novice attorney may fill in the blanks, file the template, and call it a day.<sup>85</sup> This is the danger of using GAI as an epistemological

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- Damages: The pedestrian suffered injuries or financial loss due to the fall.

“3. Constructive Notice:

- The plaintiff could argue that the minimart should have known about the water issue and had enough time to correct it. Even if the store owner claims ignorance, proving that the dangerous condition existed long enough for the owner or employees to have reasonably discovered and fixed it can help establish liability.

“4. Violation of Health or Safety Codes:

- If the water leak from the AC system violated local health or building codes, it could be used as evidence of negligence *per se*. This means that the violation itself serves as proof of negligence.

“Would you like help with drafting an outline or legal argument based on this situation?”

<sup>82</sup> ChatGPT on another day may give you something different. The probability of giving the user the same answer consistently is not a feature of the algorithm. It's part of the probabilistic nature of GAI. Giving accurate and correct answers, GAI may give the user that outcome but more likely it will give an answer that is probably related to the prompts the user gives. The user should suspect that GAI will give neither an accurate nor correct answer. The flaw is on the user's belief that GAI can be used only to give accurate or correct answers. MOLICK, *supra* note 31, at 128 (explaining that based on an experiment with BCG when the human only relied on ChatGPT-4's responses the human got the right answer 60 to 70 % of the time, instead of the 84 % of the time without the help of ChatGPT).

<sup>83</sup> Jay B. Knight, OpenAI ChatGPT-4o, “if a pedestrian slips on some water that fell from an air conditioning duct in the store and falls while entering a minimart store in Baltimore, Maryland, draft a complaint that the pedestrian could use to sue the minimart store owner in a Baltimore court?” (October 23, 2024) (on file with the author of this article).

<sup>84</sup> *Id.*

<sup>85</sup> *cf.* Jay B. Knight, Anthropic Claude 3.5 Sonnet, “if a pedestrian slips on some water that fell from an air conditioning duct in the store and falls while entering a minimart store in Baltimore, Maryland, draft a complaint that the pedestrian could use to sue the minimart

box.<sup>86</sup> The output starts the attorney's work, such as an assistant helps start the drafting process by getting the attorney what she needs to draft the pleadings.

This leads to questions about how law schools and legal clinics in law schools should handle this technology.<sup>87</sup> It seems to be technology built to handle the mundane problem of starting a document, audio, visual, or idea. It allows for creativity from past documents, ideas, or concepts. It does not allow for definitive answers on a specific point.<sup>88</sup> Entering a general prompt gives a general output, if the user is lucky

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store owner in a Baltimore court?" (October 23, 2024) (on file with the author of this article) (similar output as compared with ChatGPT-4o, but the caption was more complete and included a certificate of service. The ChatGPT-4o version had more counts and substance to the prayer for relief, but Claude 3.5 had an actual monetary value to its prayer for relief).

<sup>86</sup> David S. Kemp, *Artificial Intelligence for Lawyers and Law Students: Crutch, Craft, or Catalyst?*, 49 SETON HALL LEGIS. J. 633 (2025); see MOLICK, *supra* note 31, at 52-54 and 128 (citing a few studies on performance with GAI. While performance improved, one problem kept coming up in these experiments, "... most participants didn't even bother editing the AI's output once it was created for them. It is a problem I see repeatedly when people first use AI ... also a danger that we trust AIs for work too much." Mollick advocates for "being a human in the loop" of GAI).

<sup>87</sup> Jonathan H. Choi & Daniel Schwarcz, *AI Assistance in Legal Analysis: An Empirical Study*, 73 J. OF LEGAL EDUC. 384, 397 (Spring 2025) (finding "that access to AI substantially improved average student performance on multiple-choice questions but did not substantially improve average performance on essay questions."); Caitlain Devereaux Lewis, *All In: Strategic Approaches to Incorporating AI into Legal Higher Education*, KUWAIT INT'L LAW SCHOOL J. Part V. b. (April 21, 2024) <https://ssrn.com/abstract=4818383> (on file with author) (advocating for the use of GAI in legal education, particularly for legal research, advocacy and legal writing, negotiations, and organization and management of legal work.); Michael D. Murray, *Artificial Intelligence for Learning the Law: Generative AI for Academic Support in Law Schools and Universities — Report of Experiments* (September 04, 2024) (unpublished manuscript), <https://ssrn.com/abstract=4946680> [<http://dx.doi.org/10.2139/ssrn.4946680>] (advancing the idea through his own study of law students using different LLMs that using GAI as a tutor with novice law students enhanced their knowledge of the subject matter (copyright and trademark) as shown in pre-test and post-test exam scores.); Jonathan H. Choi, Amy Monahan & Daniel Schwarcz, *Lawyering in the Age of Artificial Intelligence*, 109 MINN. L. REV. 147, 170 (November 2024) (finding that "access to [GAI] caused little average improvement on the quality of output in lawyering task [from law students] but a substantial increase in speed completion. ... [law students] who had the worst performance without assistance from [ChatGPT-4] received the largest quality benefits, with little quality benefit to participants who are capable of producing high-quality work on their own. In contrast, the improvement in speed was largely consistent among [law students]."

<sup>88</sup> Andrew Blair-Stanek, Nils Holzenberger & Benjamin Van Durme, *Can GPT-3 Perform Statutory Reasoning?*, Proceedings of the 19th International Conference on Artificial Intelligence and Law (May 10, 2023), <https://arxiv.org/abs/2302.06100> [<https://perma.cc/X6BV-FP3D>] (assessing based on an older LLM that ChatGPT 3 is mediocre at best when it comes to interpreting statutes and using legal logic to analyze those statutes). Compare, however, the use of LexisNexis' Protégé™ in the same way. The program can give you descriptions of the law based on treatises, cases, statutes, and secondary legal sources. It has the capacity to give an opinion on the likelihood of an argument or give you possible arguments that would likely prevail in a jurisdiction. The program, however, cannot verify its claims. The verification part is the duty of the attorney. While it can persuade the user to believe one argument is better than another one, the user must verify the claim.

and the GAI does not hallucinate. Entering a specific prompt may help with accelerating more creative and precise language, but that risks other problems the legal practitioner needs to avoid.<sup>89</sup> So should clinic programs in law schools. As articulated earlier and noted in this article, there has been much scholarship on the effectiveness of GAI and much musing about its influence in the legal community.<sup>90</sup> The practice of clinical programs, however, is closer to that of the legal practitioner community than that of the traditional law school community. It is not out of the question for clinical programs to begin to utilize GAI in their teaching rubric.<sup>91</sup> Clinical professors should learn to use this technology as a tool and as an assistant or agent. As will be discussed later, this is critical if clinical students are to learn about the use of GAI in their later practice and not fall into the crutch of indolence, incompetence, plagiarism, and misuse.

GAI should be used as a building block, much like a block of clay is used for sculpting. As described above, GAI can give a legal user a starting point that, with careful crafting, will generate a quality product. To generate a quality product, the user must do their research diligently and competently. In the case of research, GAI is a bit off.<sup>92</sup> Microsoft's Copilot or perplexity.ai services general research because they offer links to sources on the web/internet so that the user can verify whether the output is reliable or hallucinating. Research, however, is a part of

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<sup>89</sup> Joseph Regalia, *From Briefs to Bytes: How Generative AI is Transforming Legal Writing and Practice*, 59 TULSA L. REV. 193, 219 (2024) (cautioning lawyers and those who teach soon-to-be lawyers that client confidentiality and data privacy are ethical obligations in the legal profession. Use of GAI without informing the client and preserving confidentiality and privacy would violate standard ethical obligations). Regalia's point is that LLMs are constantly learning through the process of fine-tuning. As a result, an LLM without guardrails could share sensitive, private client confidential information unbeknownst to the user.

<sup>90</sup> Bliss, *supra* note 17, at 152; see Choi, et al., *supra* note 87, *Lawyering in the Age of Artificial Intelligence* at 3 n. 2.

<sup>91</sup> Marie Summerlin Hamm, Benjamin V. Madison, III & Ryan P. Murnane, *The Rubric Meets the Road in Law Schools: Program Assessment of Student Learning Outcomes as a Fundamental Way for Law Schools to Improve and Fulfill Their Respective Missions*, 95 U. DET. MERCY L. REV. 343, 357 (2018) (stating that "Rubrics are the most commonly used direct assessment tool. A rubric essentially articulates a framework for successful student learning by merging the criteria for the goal with a rating scale. The two basic types of rubric are holistic and analytic.") GAI can help professors modify or improve current rubrics in their courses and clinical work. The legal writing scholars have pointed a way towards the use of GAI in professors' work; Lewis, *supra* note 87, at 14 tbl. 4; See *infra* note 140.

<sup>92</sup> Magesh et al., *supra* note 31, at 232 (Although the authors point out the limitations in their results, it is clear that "the differences [in the GAIs' responsiveness to user input and accuracy of their outputs] may even change over time within the same tool. The closed nature of these tools, however, make it difficult for lawyers to assess when it is safe to trust them." The authors cite that LexisNexis' Lexis+ AI, Westlaw's AI-Assisted Research and Ask Practical Law AI, and ChatGPT-4 all hallucinated and provide inaccurate responses to user input, with the legal LLMs hallucinating 17% to 33% of the time. More research is needed for legal research products that have come out since 2024).

a lawyer's duty. The other, and probably most importantly, is the legal analysis that a decision maker can rely on, and the client can depend on. The legal practitioner must also be diligent and competent in assessing and advising the client on any particular facts regarding the current laws or rules. This requires critical and concentrated analysis of the law to the facts for which a client must understand are for or against them. The client can then make a reasoned and informed decision whether to pursue a claim or not, or, if pursued, a judge can rule reliably on those advocated facts and law. LexisNexis AI+ is helping to craft this new world where an attorney can get reliable cases on or near the point to the facts that a user inputs to its chatbot.<sup>93</sup> A study has shown, however, that the search, narrative, and knowledge functions are not perfect or foolproof.<sup>94</sup> It requires a user who has knowledge of the law and cases to verify and confirm that the data that is being given to the user is reliable. Again, the user, the attorney, must commit to the duty of competence and diligence. What is in the scholarly literature that can aid clinical law professors in legal writing and clinical legal education to advance attorney knowledge of this technology to assist the formation of the proto-professional and emergent writer?

## II. THE LEGAL WRITING LANDSCAPE

### A. *Legal Writing Scholarship*

A brief history of the theory and pedagogy regarding legal writing reveals that those scholars have had to connect three problems: defining legal writing; utilizing and enhancing the andragogy of legal writing to law students' performance; and linking that performance to the legal profession.<sup>95</sup> This has created a field of legal education that has been wrought with hits and misses since the inception of formal legal education in law schools.<sup>96</sup> This section will briefly outline the key theories about the most effective way to teach legal writing and its

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<sup>93</sup> Magesh et al., *supra* note 31, at 222; *see also LexisNexis Launches Protégé AI Assistant for General Use*, LEGAL.IO (January 27, 2025), <https://www.legal.io/articles/5570030/LexisNexis-Launches-Protege-AI-Assistant-for-General-Use> [<https://perma.cc/C4S5-TTB6>] (touting the capabilities of the program quoting Min Chen, Chief AI Officer, LexisNexis Legal & Professional, "LexisNexis evolution from extractive to generative to agentic AI makes our legal AI solutions easier than ever to use, helping customers accomplish a remarkable amount of work without needing to be an expert in prompting").

<sup>94</sup> Magesh et al., *supra* note 31, at 232.

<sup>95</sup> *See supra* note 30.

<sup>96</sup> Pollman, *supra* note 30, at 894 (summarizing that law schools and practitioners viewed legal writing courses as a step beyond what law schools should do and unnecessary, what employers could do through apprenticeships, or what may be unachievable); *see also* Levin, *supra* note 30, at 158-9 (quoting Pollman's work on the view of law schools prior to 1980 that "writing ability as inherent and unteachable").



correlation to law school and professional performance. Along the way, this section will begin to explore how GAI may mix Formalism and the new Rhetoric in an interesting way, which will be discussed more in-depth in the next part.

As legal writing developed from a purely apprentice approach, where a mentoring attorney would teach a newly minted lawyer a hands-on basis to practicing law, to an approach designed with a pedagogical bias, law students have struggled to understand if the emphasis of their legal writing is on the product of the writing piece, the analysis or thought behind issue spotting, the resolution of a legal problem, or a combination. For those studying legal writing, law students should be able to produce all three and more. Several legal writing approaches were developed towards the latter half of the last century to teach law students the importance of thinking, communicating, and analyzing, and to challenge those students to demonstrate that importance in their writing. The following explores those approaches briefly.

### 1. Formalism

Some scholars have pointed out that in legal writing, the deliverable end-product with its formal features that lawyers produce is key to a competent attorney.<sup>97</sup> This approach is known as formalism.<sup>98</sup> Writing is considered the product of completed thoughts that have been well developed by analysis of the problem, research of the cases, and acknowledgment of the opposing parties' arguments. Formalism ascribes to an approach that others in the field will understand.<sup>99</sup> A common language with specific cultural norms assumes that in a moment of conflict, the purveyors of that language will engage ethically, reasonably, and fairly. This approach predicts description, argument, analysis, and a pleading with a prayer for relief.<sup>100</sup> Professors of law schools have taught this approach as either IRAC (Issue(s), Rule(s), Analysis, and Conclusion) or CREAC (Conclusion, the prayer for relief, Rule(s), Explanation, Analysis, and Conclusion,<sup>101</sup> a repeat of a prayer for relief).

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<sup>97</sup> Pollman, *supra* note 30, at 896.

<sup>98</sup> *Id.*

<sup>99</sup> *Id.* at 897; see Patrice, *supra* note 43 (discussing how GAI wrote a cease and desist letter).

<sup>100</sup> Pollman, *supra* note 30, at 898 (suggesting that the formalist approach to writing to the form facilitates learning to write as a lawyer within "the conventions of organizing a formal legal analysis." Pollman points out that this approach might enable student learning "to produce formulaic responses and ultimately uninspired writing.")

<sup>101</sup> See generally Tracy Turner, *Finding Consensus in Legal Writing Discourse Regarding Organizational Structure: A Review and Analysis of the Use of IRAC and its Progenies*, 9 LEGAL COMM. & RHETORIC: JALWD 351 (Fall 2012) (arguing for a consensus of different structures of legal writing to minimize confusion); Gerald Lebovits, *Cracking the Code to Writing Legal Arguments: From IRAC to CRARC to Combinations in Between*, 82 N.Y. ST.

Both methods are similar in their common language. The thinking is that the writer in this culture can take any template or boilerplate document and insert these methods for a result that will advance their client's needs. Any side to a conflict will understand the methodology of the IRAC/CREAC, context, analysis, and prescription and argue for or against them. Most importantly, a decision-maker who is also from this culture will understand them and decide the merits of a case based on the formulaic method.

Most law schools have built their teaching pedagogy on this formalist assumption by teaching IRAC/CREAC, grading based on those methods, and helping students learn and do the methods. Formalists emphasize the use of templates with a reliance on the familiarity of conventional legal forms.<sup>102</sup> The Formalists' approach is not wrong, but incomplete. The approach may allow writers to believe that using IRAC/CREAC is a good approximation of knowledge. If students mimic the formalistic approach by producing a coherent document using the forms and methods, the assumption is that they understand the law and their client's facts. The student thinks like a lawyer.<sup>103</sup> Formalism's approach emphasizes competent creation of the product through the use of IRAC/CREAC and a prescribed process of building on templates. The emergent writer could expand their legal thinking through this approach. Whether the emergent writer will consider a client's specific facts in their analysis of the client's problem, while not appealing only to the content end-product, such as pleadings, remains to be seen. What is less assured is whether the emergent writer will be ethically competent and holistically knowledgeable about their client.

## 2. *New Rhetoric*

After the introduction of clinical legal education and more experiential approaches to teaching the law, it was not enough to show the end-product of a legal document or to expect students to mimic a formulaic approach to understanding the law or clients. A new approach

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B. J. 64 (July/August 2010), [https://www.researchgate.net/publication/45402536\\_Cracking\\_the\\_Code\\_to\\_Writing\\_Legal\\_Arguments\\_From\\_IRAC\\_to\\_CRARC\\_to\\_Combinations\\_in\\_Between](https://www.researchgate.net/publication/45402536_Cracking_the_Code_to_Writing_Legal_Arguments_From_IRAC_to_CRARC_to_Combinations_in_Between) [https://perma.cc/K5AP-7HP3].

<sup>102</sup> Pollman, *supra* note 30, at 898.

<sup>103</sup> Feerick, *supra* note 30, at 381 (advancing that law schools must teach legal writing to law students because in 1994 there was so much bad legal writing. He advocates for writing tutors to first years, legal writing professors to attend writing workshops and seminars, and, substantively, first year courses and clinical programs integrate with writing courses. *See id.* at 385-386. Since his article, those suggestions have been incorporated in many law school curricula and graduation requirements. *See generally* Pollman *supra* note 30, at 904 (comparing the New Rhetoric legal writing movement to Formalism).

to writing was needed to address the problem of how to think about a problem.<sup>104</sup> This approach naturally constitutes a new norm: thinking is about meaning or making sense of what is “meaning.”<sup>105</sup> Legal writing scholars devised a new way to approach law and how students can interpret law with meaning that takes into consideration context, history, identity, equity, etc., all those things that make us human.<sup>106</sup> The law is a compendium of words designed to control behavior, define rights and obligations, and shape actions and expectations going forward. In this new approach, words or language shape and form experience.<sup>107</sup> This approach was called the New Rhetoric.<sup>108</sup>

The New Rhetoric launched a diverse field of thoughts on questions of what the law is, how the law should be used or applied, how lawyers establish meaning, and are thinking and writing the same thing. This approach uses context that is certainly outside of the form-generating approach to the law. Legal studies fields, such as Critical Legal Studies, Critical Feminist Theories, Critical Race Theories, Economic Legal Theories, and Originalist Textual Theories, broaden the knowledge and language of law.<sup>109</sup> This meant that instead of describing the issue, citing the appropriate law, explaining the analysis and the relevant fact’s application to the law, and concluding with a demand, a legal writer could expand on the relevant facts according to evidence and give a

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<sup>104</sup> Pollman, *supra* note 30, at 899 (explaining that the New Rhetoric consists entirely of a writer as creator of content and context. The movement persuaded law schools to help law students think about a problem through knowledge, discovery, construction of meaning and knowledge. *See id.* at 902-3. The New Rhetoric compels students to understand a client’s problem, not just through legal knowledge, but to think of ways that helps the client’s needs through that problem.

<sup>105</sup> *Id.* at 903.

<sup>106</sup> *Id.* at 903 – 4.

<sup>107</sup> *Id.* at 900.

<sup>108</sup> *Id.* at 899-900; *see generally* Michael R. Smith, *Rhetoric Theory and Legal Writing: An Annotated Bibliography*, 3 J. ASS’N LEGAL WRITING DIRECTORS 129 (Fall 2006) (A good resource to explore all types of rhetorical communication devices in the law).

<sup>109</sup> Pollman, *supra* note 30, at 901; Linda L. Berger, *Studying and Teaching “Law as Rhetoric”: A Place to Stand*, 16 LEGAL WRITING: J. LEGAL WRITING INST. 3, 10-1 (2010) (arguing that law school writing courses should emphasize rhetoric as an essential for legal composition); *see also* Larry Alexander and Saikrishna Prakash, “Is That English You’re Speaking?” *Why Intention Free Interpretation Is An Impossibility*, 41 SAN DIEGO L. REV. 967, 983-8 (August-September 2004) (countering against originalist textual theories, which seeks to nullify intent in the analysis of legal text, the authors posit that any objectified intent in understanding legal text cannot be read as an intention free text that is text with no writer’s intention, just the text itself. The authors claim that interpretation of a text requires understanding the intention of the writer of the text as well as understanding and accepting norms and context for meaning); *see also* Michael D. Murray, *After the Great Recession: Law and Economics’ Topics of Invention and Arrangement & Tropes of Style*, 58 LOY. L. REV. 897, 902 (Winter 2012) (describing the different rhetorical canons of law and economics); *see also* Debra Moss Curtis & Judith R. Karp, “In a Case, In a Book, They Will Not take a Second Look!” *Critical Reading in the Legal Writing Classroom*, 41 WILLAMETTE L. REV. 293, 311 (Spring 2005).

complete or thorough picture of the issues involved in the claim or alleged violation of the law. The New Rhetoric, in some ways, promotes a balance of understanding a set of circumstances with a focus on the law's application to those circumstances. For example, using the scenario of the classic slip and fall, a Formalist writer could use the boilerplate produced by ChatGPT,<sup>110</sup> fill in the required information for the plaintiff and defendant, add the IRAC method of analysis, check the legal citations, demand the relief, check with the client, and file the complaint. Assuming the minimum legal and ethical duties have been met, the legal writer is done and onto the next pleading. The New Rhetoric requires the legal writer to ask a few more questions to the client, such as, are there results the clients wants other than money, is it important for the client's voice to be heard in an ADR setting or with the judge, or does the client want something that the law cannot give? Instead of writing a pleading that outlines the basic contours of the law's relief, this approach allows for creativity and a norm that looks to the law as more than a problem-solver. The legal writer can incorporate the voice of the client more meaningfully. This approach also requires law schools to teach the law in a different way than just the IRAC/CREAC method.

The impact of the New Rhetoric on legal writing and education has been profound. The focus is on process rather than product. Client-centered lawyering (CCL), a process, is a natural outgrowth of the thinking behind the New Rhetoric.<sup>111</sup> CCL's focus on an attorney's ability to listen to their client, actively ask questions about what they heard and what the client believes the law can do, and weigh all options based on the answers is a process that requires thought. CCL allows the attorney to ask about the client's living conditions, their hopes, the impact of conflict or harm suffered at the hands of another, and other non-law-related circumstances. Law schools, which use experiential education through externships and clinics, have developed an andragogy that slows down the representation process to consider more than just doing the law, but considering the law in a holistic way that meets the client's interests and needs. The hope with the New Rhetoric approach is beyond making a competent attorney, but an attorney who approaches the law through a holistic view of the law's control over people. Writing becomes a tool by which to execute the desires, dreams, needs, and interests of the client by using the law. Writing can include describing the client or the client's community in a way that evokes a larger picture

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<sup>110</sup> Knight, *supra* note 83.

<sup>111</sup> Amelia J. Uelmen, "Millennial Momentum" For Revising the Rhetoric of Lawyers' Relationship and Roles, 9 U. ST. THOMAS L.J. 446, 458-60 (Fall 2011); see John B. Mitchell, *Narrative and Client-Centered Representation: What a True Believer To Do When His Two Favorite Theories Collide?*, 6 CLIN. L. REV. 85 (Fall 1999).

than a legal dispute. Writing in this approach can encapsulate a broader description and advocacy for solutions not found in the law. This kind of creativity emphasizes thinking over performance results.<sup>112</sup> Writing is simply a tool by which to exhibit thinking. But what happens to knowledge as it was emphasized through the Formalists?

### 3. *Transformative Writing for the Emergent Writer*

Perhaps, law schools have gone the route of transforming the legal profession by creating a hybrid: writing formulaically as a basis to expand on the notion of CCL. While, rightly or wrongly, bar passing rates for law schools are a measure of the law schools' abilities to demonstrate that their students have mastered basic legal concepts to go into the world and give legal advice, it is a very small measure of serving a client.<sup>113</sup> All the thinking behind the New Rhetoric is seldom exhibited in the bar test. Depending on the student population with respect to GPAs and LSATs, law schools are left scrambling to design programs that can meet or surpass the jurisdiction's passing rate. Professional identity and legal ethics are deemphasized in pursuit of matching the meter. The hybrid approach, however, can be a solution to the bar passing problem. This is the approach used at the University of Baltimore School of Law.

This law school combines the notions that writing is fundamental to thinking and that acquiring legal knowledge is an ongoing mission.<sup>114</sup> Its clinic, for example, emphasizes metacognition as a teaching tool to capture the best part of the Formalists and the New Rhetoric.<sup>115</sup> Metacognitive thinking empowers the person thinking by increasing their mental capabilities to discover and connect flaws in their thinking

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<sup>112</sup> Pollman, *supra* note 30, at 904.

<sup>113</sup> Michael James Bommarito & Daniel Martin Katz, GPT Takes the Bar Exam (December 29, 2022) (unpublished manuscript), <https://ssrn.com/abstract=4314839> [<http://dx.doi.org/10.2139/ssrn.4314839>]; cf Matthew Stubenberg, Chloe Berridge, Thomas Smith & Joshua Casey, How AI Stacks Up Against the Multistate Bar Exam (May 12, 2025) (unpublished manuscript), <https://ssrn.com/abstract=5291811> [<http://dx.doi.org/10.2139/ssrn.5291811>]; Eric Martínez, *Re-Evaluating GPT-4's Bar Exam Performance* (Artificial Intelligence and Law, LawAI Working Paper No. 1-2023, May 8, 2023), <https://ssrn.com/abstract=4441311> [<http://dx.doi.org/10.2139/ssrn.4441311>]; see also Daniel Martin Katz, Michael James Bommarito, Shang Gao & Pablo Arredondo, *GPT-4 Passes the Bar Exam* (March 15, 2023), 382 PHILOSOPHICAL TRANSACTIONS OF THE ROYAL SOCIETY A (2024), <https://ssrn.com/abstract=4389233> [<http://dx.doi.org/10.2139/ssrn.4389233>]. There is an irony here that an algorithmic program with a scintilla of legal knowledge trained on what is available on the internet can "master" legal concepts in a complex test.

<sup>114</sup> Levin, *supra* note 30, at 164.

<sup>115</sup> Jaime Alison Lee, *From Socrates to Selfies: Legal Education and the Metacognition Revolution*, 12 DREXEL L. REV. 227, 229-30 (2020) (defining metacognition as "human performance improves when people strategically plan and reflect on past experiences in order to improve future performance.")

process.<sup>116</sup> Using a reflective and scaffolding approach to teaching, the professor can help the student think about what they were thinking when they worked on an assignment, where in the process they diverted from the purpose of the assignment, where they made strides in the process, and did their thinking achieve or not the purpose of the assignment.<sup>117</sup> Writing assignments, pleadings, briefs, and other legal documents used for persuasion involve this type of thinking strategy. A boilerplate gives the student the contours of what the results look like. An ability to listen and ask questions gives the student the ability to understand the whole as well as the parts of the representation. The metacognitive thinking process helps the students put it all together. Writing in a journal or reflection piece helps the students think through a problem where the answers are not neatly found in a legal case or cannot simply be worked out through a logical process of understanding the law. Writing with the help of a professor can alleviate the student's anxiety about making mistakes and enhance their ability to seek solutions that include the law.

Clinical legal education begins with metacognitive thinking in mind. The purpose of clinical legal education is primarily to teach students to develop legal practice skills in a real-world environment where the students represent people, communities, projects, or craft policy initiatives or legal authority.<sup>118</sup> While the beneficial byproduct of providing access to justice to individuals or communities is lauded and should be a goal, it is not the only goal of clinical legal education.<sup>119</sup> A paramount goal is to assist the student to think as an attorney in the hopes that they will write as an attorney.<sup>120</sup> This particular goal is practiced through a combination of processes: the Formalist's approach of emphasizing end-product; the New Rhetoric's approach to thinking of a legal problem as more than a legal dispute to be resolved by law; and the metacognitive thinking approach of reflection, meaningful feedback, and scaffolding.<sup>121</sup> Clinical legal education slows the process of thinking through a non-directive approach of questions to the students that goes beyond getting an answer in the narrow scope of the law. Students are allowed to explore legal questions, the implications of only following the law, the consequences of not addressing fundamental conditions or problems, and other areas that their doctrinal courses would not be able

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<sup>116</sup> *Id.* at 237.

<sup>117</sup> ROY STUCKEY AND OTHERS, BEST PRACTICES FOR LEGAL EDUCATION, Clinical Legal Education Association, 127 (1<sup>st</sup> ed. 2007).

<sup>118</sup> *Id.* at 166; see TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY 6 (Susan Bryant, Elliott Milstein & Ann C. Shalleck eds., 2014) [hereinafter CLINICAL PEDAGOGY].

<sup>119</sup> CLINICAL PEDAGOGY, *supra* note 118, at 14.

<sup>120</sup> *Id.*

<sup>121</sup> Kowlski, *supra* note 30, at 341.



to address.<sup>122</sup> Clinical legal education harmonizes different andragogical approaches to stimulate a student's thinking about what approach to use in their representation of a client. Writing is a natural derivative of that thinking and the clearest avenue to assist the student with their thinking. Professors in the clinical legal space have many tools at their disposal to enhance the students' education. Perhaps GAI can be one of those tools. GAI has the potential to involve differing approaches to teaching in different ways.

### *B. Legal Education and the Emergent Writer*

#### *1. The Problem: Students Who Have Not Learned or Been Taught To Write Well*

This section assesses the concerns of the emergent writer. The emergent writer is one who has not become a complete writer. A complete writer seldom exhibits grammatical problems in writing or delivers syntax and lexicon confidently without qualifying the language or premises in their writing. Students who have made it through four years of undergraduate education or more and arrive at law school prepared to handle the writing tasks are usually complete writers. The emergent writer may mix tenses in their writing, use run-on sentences, combine different ideas into a singular sentence without describing the ideas, seldom edit or revise current work, or transpose the organization of a formulaic style without understanding the consequences for doing so. There are no studies on how many emergent writers exist in law schools or whether emergent writers exist. For purposes of this article, the emergent writer struggles with writing tasks. If an andragogical approach could be divined to help the emergent writer, the hope is that GAI can be sourced with that approach in mind. GAI could help solve the problems itemized above and help further the approaches discussed above to the benefit of the emergent writer.

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<sup>122</sup> This article will not cover the differences between the andragogical theories of doctrinal and clinical teaching. Each has a space in the law school community to co-exist. Doctrinal courses, however, only emphasize the recognition of law and the case method analysis of an area of law through the sometime use of the Socratic method. *See* STUCKEY, *supra* note 117, at 82. Some critics argue that the problem with doctrinal courses is their confinement to the coverage of a particular area of law and limited space to explore the context underpinning the area of law being covered. *Id.* at 34. It can introduce several lenses or theories of analysis to that particular area, but not its impact or influence on a pluralistic society. Doctrinal misses the forest for the trees. On the other hand, andragogical clinical approaches use the trees to see the forest and ask the emergent writer to put it all together. It is to this latter part that the article focuses the reader to understand GAI as a useful tool in the endeavor of helping the emergent writer emerge as a professional writer.

Some first-generation college or law students may be emergent writers.<sup>123</sup> Some first-generation college or law students are complete writers. Their success in prevailing over obvious obstacles, both educational and experiential, has enhanced their ability to write better than the emergent writer.<sup>124</sup> They are often lauded for excelling in this area and are often sought after to teach emergent writers or explain how the emergent writer can overcome obstacles.<sup>125</sup> The emergent writer has not had life experience before law school that emphasized writing. The emergent writer may have had different obstacles to overcome: translation of an exacting form of writing that are hailed by professionals, but not emphasized in the emergent writers' experiences; imposter syndrome; the lack of ready mentors to assist writing; humility and the lack of expression over achievement; execution of a technical form of writing that is different from college writing; the lack of camaraderie with fellow students and faculty for fear of being pigeon-holed as a weak writer and thinker; and the lack of reinforcement or redirection of improved writing from a knowledge mentor who could reinforce or redirect the emergent writer.<sup>126</sup> If the emergent writer is also a first-generation law student, then the obstacles deepen and the support becomes harder and more necessary.

The first-generation emergent writer in law school may not have had the advantage of a family's history in post-high school education.<sup>127</sup> Perhaps this writer has never met an attorney until college or law school. Those connections may not have been established, and there is no lawyer model to emulate or follow. Legal professional identity then takes place at the law school through clinics or externships.<sup>128</sup> In

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<sup>123</sup> Jacqueline M. O'Bryant & Katherine Traylor Schaffzin, *First-Generation Students in Law School: A Proven Success Model*, 70 ARK. L. REV. 913, 916 (2018) (using the internal and anecdotal data of the University of Memphis School of law to develop a program that helps first-generation college students become better prepared for law school).

<sup>124</sup> Carolyn Young Larmore, *First-Gen in the Field*, 31 CLIN. L. REV. 239, 245 (Fall 2024).

<sup>125</sup> *Id.* at 246; *see also* O'Bryant et al., *supra* note 123, at 926. From several undergraduate studies and programs, an emergent writer could be helped in the following ways: connect secondary or undergraduate programs to a professional program (e.g., prelaw courses in undergraduate colleges that focus on writing to help prepare college students to law school); allow for an intermediate program focused on writing in law school before going to law school; provide financial and emotional support to the emergent writer; identify who is an emergent writer so that resources can be applied; set up network opportunities for emergent writers to meet others like them or meet those that were emergent writers; and involve faculty to provide academic, network or emotional support that recognizes the assistance that emergent writers will need; *id.* at 925-9. All these innovations by law schools and universities stresses the importance of a way that the emergent writer can connect with someone who knows, such as a mentor.

<sup>126</sup> Larmore, *supra* note 124, at 243-6. The concept of a knowledge mentor will be further explored *infra* Part IV.B.).

<sup>127</sup> *Id.* at 245.

<sup>128</sup> *Id.* at 247.

Larmore's groundbreaking article about first-generation law students, she interviewed 10 law students going through the process of bridging the gap in their legal knowledge with externships.<sup>129</sup> Larmore notes that with the proper intra-law school support as well as externship support, the single biggest factor that leads to success among first-generation law students is having a supervisor who can offer mentoring, feedback, and networking opportunities.<sup>130</sup> In another groundbreaking article by O'Bryant et al., the authors offer another idea to help first-generation college students going to law school.<sup>131</sup> The law school and undergraduate colleges can offer first-generation college students a summer pre-law program that emphasizes providing guidance, financial support, preparation, mentorship, and nurturing interdependent relationships.<sup>132</sup> It seems that having someone assisting the student navigate a new world is what helps a student make a transition from a world of no legal experience to one filled with legal jargon, expectations, and writing.<sup>133</sup>

Legal writing may be confusing to an emergent writer. On the one hand, boilerplates and templates guide the writer through an array of factors that the writer must understand and for which a response is necessary. On the other hand, filling out the form is not enough. Without the proper guidance from someone who knows about the art of pleadings or briefs, for example, how does the emergent writer navigate the nuances in the legal argument or law? How can the emergent writer introduce facts relevant to the law and other facts conveying a client's problem holistically to a court, legislative body, or on a legal assignment? How can the emergent writer understand basic contract drafting language of "shall" and "will" to distinguish a covenant from a declaration?

To capture the ideas noted so far, review the slip and fall scenario from an emergent writer's point of view. Law school has taught the emergent writer that when someone slips and falls on a store's floor, there is a tort action. The doctrinal course has taught the emergent writer to spot the problem, identify it, and propose legal theories that

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<sup>129</sup> *Id.* at 251-2.

<sup>130</sup> *Id.* at 258-60 and 265-6 (highlighting that supervisors in externships "should offer more in-depth mentoring." According to Larmore, in-depth mentoring can include coaching, advice, counseling, friendship, and role modeling. While quoting Ida O. Abbott in *The Lawyers Guide to Mentoring*, Larmore explains that a "good mentor can also help a first-gen student extern 'build self-confidence, a sense of self-worth, professional judgment, and intuition. Mentors offer acceptance and validation, confirm mentees' competence as professionals, and help mentees see that they have the ability to turn their aspirations into achievements.'" *Id.* As the reader will note a supervisor or mentor is akin to a knowledge mentor).

<sup>131</sup> O'Bryant et al., *supra* note 123, at 946.

<sup>132</sup> *Id.*; again, mentors being involved in the lives of first-gen students makes a significant difference. Three out of the five students explore relationships and people.

<sup>133</sup> An analogous conclusion leads to the same solution that mentoring of a different sort can be applied to the emergent writer.

would support an action for the person injured. Also, these courses ask the emergent writer to identify the same problem from the store's point of view, to defend itself from an action by the injured person, and base that defense on tort theories. When the emergent writer is asked to take those theories and turn them into a pleading, the emergent writer must then deal with the form of the pleading as well as the tort theories. Most law schools have responded to that problem of translation and form by incorporating courses exclusively dealing with legal writing, research, and analysis.<sup>134</sup> These courses were exclusively set up to help the law student navigate this gap-in-knowledge problem by connecting theory to form.<sup>135</sup>

In these courses, the emergent writer is expected to emerge. By working through several assignments mimicking law practice, the emergent writer begins to connect the theories of the law with the various legal forms used by most first-year barred attorneys: the legal research or predictive memo; the initial pleading, either complaint or answer; the brief; and several types of correspondences. Even under the steady hand of a law professor specialized in legal writing, the emergent writer will encounter problems with any assignment, but the hope is that through personal feedback,<sup>136</sup> teaching editing and revising skills, and kindness, the emergent writer will begin to understand and perform the task.<sup>137</sup> This is an iterative process: where the professor gives an assignment; the emergent writer performs the assignment; the professor collects, reviews and critiques the assignment; the professor gives feedback to the emergent writer; the emergent writer either revises the assignment based on the professor's feedback or will take the feedback and apply them on the next assignment.<sup>138</sup> Using a triage method pioneered by Barnett, the professor can focus on substance or analysis first, then on style, such as grammar and syntax.<sup>139</sup> This process, done over and again, will help the emergent writer understand the connection between the theory of law and its application in documents that are relied on by decision-makers. These courses help the emergent writer apply IRAC or CREAC in ways that slow down the process of writing for the better. The courses model for the emergent writer a way of understanding legal analytical thought with contextual explanation. The emergent writer

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<sup>134</sup> STUCKEY, *supra* note 117, at 57.

<sup>135</sup> *Id.* at 206.

<sup>136</sup> Daniel L. Barnett, *Triage in the Trenches of the Legal Writing Course: The Theory and Methodology of Analytical Critique*, 38 U. OF TOL. L. REV. 651, 653 (Winter 2007) (noting that the Legal Writing Institute offers a half-day seminar for legal writing scholars and professors on giving critical feedback to students).

<sup>137</sup> *Id.* at 669.

<sup>138</sup> *Id.* at 656 and 673-8.

<sup>139</sup> *Id.* at 678.

will have to identify the problem through facts, demonstrate the law, apply those laws to the specific facts, and conclude that the law does or does not apply to these particular facts. The goal in these courses is to help students move from emergent writers to competent and complete writers of law. Could GAI enhance that learning in these courses?<sup>140</sup> The answer, of course, is yes. The challenge is how.<sup>141</sup>

## 2. *Clinical Legal Education: The Hands-On Approach to Help the Emergent Writer Overcome Obstacles*

While doctrinal courses introduce the emergent writer to novel theories and ideas concerning the law, and legal writing courses propel the emergent writer to write continuously to perfect the basic forms of lawyer documents, clinical legal education's hands-on approach puts all the skills and knowledge that the emergent writer has obtained to help clients in real-world situations.<sup>142</sup> As stated above, clinical legal education is a teaching method that incorporates theory, writing, and practice.<sup>143</sup> Emergent writers are expected to synthesize, identify, analyze, summarize, and write legal concepts into a legal proto-practice. Using the metacognitive thinking strategy, the emergent writer must develop new skills: discernment; counseling; listening; and judgment, among other skills. These skills require the emergent writer to plan out from where they start to how they will end.<sup>144</sup> While an apprenticeship-type approach might help the emergent writer perform all the legal work entailed in advocating for a client, it might not help the emergent writer understand or synthesize new knowledge or look for the big picture in their advocacy. As explained above, the metacognitive thinking approach is equally an iterative process. The emergent writer writes out a plan that

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<sup>140</sup> Regalia, *supra* note 89, at 25; Kirsten K. Davis, *A New Parlor is Open: Legal Writing Faculty Must Develop Scholarship on Generative AI and Legal Writing*, 7(1) STETSON L. REV. FORUM 1 (2024); Nicholas Mignanelli, *The Legal Tech Bro Blues: Generative AI, Legal Indeterminacy, and the Future of Legal Research and Writing*, 8 GEO. L. TECH. REV. 298 (May 2024); Jonathan H. Choi, Kristin E. Hickman, Amy Monahan & Daniel Schwarcz, *ChatGPT Goes to Law School*, 71 J. LEGAL EDUC. 387 (2022); Hadar Y. Jabotinsky & Roe Sarel, *Co-Authoring with an AI? Ethical Dilemmas and Artificial Intelligence*, 56 ARIZ. ST. L. J. 187 (Spring 2024); and Carolyn V. Williams, *Bracing for Impact: Revising Legal Writing Assessments Ahead of the Collision of Generative AI and the Nextgen Bar Exam*, 28 LEGAL WRITING 1 (2024).

<sup>141</sup> *Id.*

<sup>142</sup> CLINICAL PEDAGOGY, *supra* note 118, at 37 (acknowledging that externships do a similar job as the clinic, but my focus is on the use of GAI in in-house clinics). Perhaps a future article may focus on obtaining information from the legal world as to how it uses GAI in its practice and contemplating the ethical requirements where the practitioners in that world fall short.

<sup>143</sup> *Id.*; see also Levin, *supra* note 30, at 165.

<sup>144</sup> Lee, *supra* note 115, at 237.

maps out the thinking involved in a specific task.<sup>145</sup> The plan involves choices that are identified by goals or outcomes.<sup>146</sup> The plan includes looking inward for internal intellectual resources that the emergent writer already has and outward for resources that she has and will need to accomplish the task.<sup>147</sup> After looking for resources, the emergent writer identifies strategies to achieve the task that would be most effective and efficient.<sup>148</sup> Once the emergent writer selects a strategy, she performs the task.<sup>149</sup> An assessment of whether the task was successful is done by the emergent writer, who collects and synthesizes information that helps in that assessment.<sup>150</sup> The emergent writer identifies whether resources or strategies completed the task or fell short in some way.<sup>151</sup> The emergent writer then evaluates improvements for continued success or to become successful in the next performance.<sup>152</sup> The process is repeating again and again to improve performance and, most importantly, for educational purposes.<sup>153</sup> In clinical legal education, this process is done with the aid of a supervising attorney or clinical professor.<sup>154</sup> The opportunity for giving feedback and reflection is a feature of clinical legal education.<sup>155</sup>

A few more words about the metacognitive thinking process. Devising a plan for a writing task (or almost any task requiring cognitive skills) involves writing it up. Writing it up gives the emergent writer a chance to read through her thoughts and analyze whether the path she is choosing has consequences that can be anticipated.<sup>156</sup> Next, looking inward helps the emergent writer assess the resources she has, does not have, and will need.<sup>157</sup> Putting those assessments down in writing and reviewing them supports the emergent writer to reflect on what she has put down. If the task is a writing task, a correspondence to a client or agency on behalf of a client, the iterative process would be helpful to the emergent writer as well as her professor for future evaluation of the writing task. The more complex the task, the more involved the iterative process is in breaking down the complex task into smaller assignments to complete the task.<sup>158</sup> The use of self-reflection, strategies, evaluation,

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<sup>145</sup> *Id.* at 230.

<sup>146</sup> *Id.* at 238.

<sup>147</sup> *Id.*

<sup>148</sup> *Id.* at 239.

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

<sup>154</sup> CLINICAL PEDAGOGY, *supra* note 118, at 172.

<sup>155</sup> *Id.* at 25.

<sup>156</sup> Lee, *supra* note 115, at 249.

<sup>157</sup> *Id.* at 266.

<sup>158</sup> *See infra* p. 53 and note 230.



performance, and judgment promotes a feedback loop that, in time, becomes unconscious to the emergent writer.

As mentioned above, clinical legal education assists students in thinking critically beyond achieving the task. Students' writing tasks include letters, internal memoranda, pleadings, discovery requests, memoranda of law, trial and appellate briefs, witness examinations, opening and closing statements, testimony, articles of incorporation, contract drafting, presentations, meetings, and interviews, among others, for all types of audiences.<sup>159</sup> If the client needs her attorney to write a pleading, then the emergent writer has to integrate all their previous skills, learning, and doctrinal knowledge into a new task. This involves a deep dive into an area of law only tangentially previously explored and prior writing assignments that provide glimpses of the sophistication of a real client pleading. The emergent writer will have assessed for themselves what skills they have to write a pleading, what they will need, and to whom they can go to get the resources they need. They will have to assess if their writing is up to the task for which their clients need them to perform. This is where the supervising faculty could help the emergent writer by asking questions focused on them, their resources, their previous writing experience, and their plans or strategies, which in the writing space means investigating their research, their assumptions, and their analysis of the case. The professor has the time to discover with the emergent writer their thinking involved in the case before executing the written task. The professor looks for the document's organization, format, wordiness, word choice, proofreading, tone, correct spelling, grammar, and punctuation, among others.<sup>160</sup> Professors can also do more creative sessions with students so that all share in the wisdom of the group. This helps the emergent writers share their insights in writing to peers who can provide more feedback. In her seminal essay, Levin gives an example that the professor can slow the process further by having the professor lead a discussion with students about a business letter to the IRS that the students were instructed to write and then edited by their peers for a clinic seminar.<sup>161</sup> In this scenario, peers help by reviewing, editing, and giving feedback to their peers.<sup>162</sup> The professor can also provide personal feedback after their performance. In the end, the professor and her collaborative techniques provide the emergent writer with best practices for future legal practice.

Other assignments or tasks in the clinical legal education space that expose the emergent writer to other opportunities are: investigating,

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<sup>159</sup> Levin, *supra* note 30, at 164.

<sup>160</sup> *Id.* at 168.

<sup>161</sup> *Id.* at 171-2.

<sup>162</sup> *Id.* at 172.

evaluating, and analyzing a claim; interviewing and counseling a client; and strategizing with the client on the claim. These opportunities help the emergent writer synthesize the use of words, forms, and procedures for a real client. Throughout these opportunities, the steady, patient, guiding hand of a professor, someone with expert knowledge in the law and practice, encourages and teaches the emergent writer to improve continuously with a specific focus on the strengths and weaknesses of the emergent writer.<sup>163</sup> As it has been expressed, the professional mentor increases the chances that the emergent writer can improve and overcome the writing obstacles that have alluded them in the past. But the professional mentor is also not alone. Peers can help. The professional mentor and peer support the emergent writer to understand, debate, question, and research the case, words, forms, and procedures used in the practice of law. With the techniques mentioned throughout this article, the question is: how can GAI add to the further improvement of the emergent writer?

### III. THE NEW LANDSCAPE: THE CASE FOR THE USE OF GENERATIVE AI IN CLINICAL LEGAL WRITING AND EDUCATION

#### A. *Demystifying the Notion That Good Writers are Born Good Writers*

Writing an opinion in *Inside Higher Ed* in 2017, Jill Parrott, then Professor of English at Eastern Kentucky University, wrote, “Sometimes when I hear colleagues complain about student writing, my response is ‘But isn’t that why we’re here? Is it not our job to teach them?’”<sup>164</sup> Professor Parrott expresses a frustration shared by law professors across a wide swath of law schools. In 2017, Professor Parrott did not have to conceive of a new pedagogy that would include GAI. Maybe the quote would change to “Is it not our job to teach them with every available tool and agent we have?”<sup>165</sup> The use of GAI in writing in general has

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<sup>163</sup> *Id.* at 176.

<sup>164</sup> Jill Parrott, *Some People Are Just Born Good Writers*, *INSIDE HIGHER ED* (November 16, 2017), <https://www.insidehighered.com/views/2017/11/17/good-writers-are-made-not-born-essay> [<https://perma.cc/3C7F-UWDY>].

<sup>165</sup> MOLICK, *supra* note 31, at 123 (discussing the possibility of GAI as an agent that can do an item or task based on the prompting of the user. Mollick expounds that “almost all our jobs will overlap with the capabilities of AI”); see Regalia, *supra* note 89, at 197 (explaining how GAI as a tool can be helpful to lawyers, “legal writers can use [GAI tools] to save time and do better work for clients and colleagues”); Murray, *supra* note 6, at 3, *Prompt Engineering and Priming in Law* (saying, “[GAI] is only a tool — a very impressive, sophisticated tool, but a tool nonetheless”). The distinction here is important. As a tool, GAI can aid the emergent writer to come up with ideas or draft a rough draft of a legal document, but it cannot solve the legal problem that the legal document is intended to help resolve. An agent, however, will do most of the legal tasks possible including drafting a complete legal document. An agent could be a paralegal who culls all the documents together, drafts preliminary pleadings in

been hotly debated by English teachers in high school and professors in college.<sup>166</sup> At law schools, legal writing professors have taken the lead to figure out how the technology works and how it can be utilized within the law school andragogy.<sup>167</sup> This lead may persuade law professors in other areas to reexamine the utility and advantages of this tool for themselves and their students.

This section scrutinizes the appropriate use of GAI to help teach legal writing in the legal clinical space. While not exclusively focused on legal writing, the next parts will advance three ideas: clinical law professors must carefully assess the use of GAI before applying its use in the classroom; clinical law professors must act as a GAI knowledge mentor with students, especially the emergent writer; and clinical law professors must use the recommended strategies in the classroom to assist the emergent writer with GAI. Clinical law professors who believe that they can influence the emergent writer for the better will benefit from understanding GAI's limitations and strengths. In general, GAI's hallucinations and imprecise outputs are both a benefit and a disadvantage. With a framework that any writer can improve, clinical law professors can expose those GAI features to teach editing, revising, and critical thinking. Expanding upon metacognition thinking, peer review, and hybrid legal writing approaches, clinical law professors can build learning models and environments that benefit all students.

### *B. The Lost Opportunity of Teaching Moments with GAI*

This should come as no surprise that the use of GAI in legal education is controversial, and arguments over its use are necessary.<sup>168</sup> As the legal industry employs GAI more and more, law schools will have to grapple with the fact that the legal industry has embraced GAI. While not an exhaustive list, GAI is used to summarize long documents, create first drafts of documents, sift through multiple files to find words or ideas that can be used in discovery, exercise dialogue in pre-trial or pre-argument ideas with prompted and simulated questions, brainstorm

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Word, and begins a search for cases as defined by the lawyer and her client. It is possible that GAI can take on that role in Protégé™, for instance. The use of GAI as an agent is far more problematic for the profession and the emergent writer if the agent is left to its own devices. That topic will be covered in a future article.

<sup>166</sup> Roose, *supra* note 35; Parrott, *supra* note 164.

<sup>167</sup> Regalia, *supra* note 89; *see generally* Davis, *supra* note 140; Mignanelli, *supra* note 140; Williams, *supra* note 140 (these authors began delving into the possibilities and real-world solutions of GAI as a writing tool to assist law students in their writing assignments. They have observed GAI remarkable ability to state things in a way a subject-matter expert would say things. But only the expert knows whether GAI provides an accurate and truthful assessment of what it outputs. Their insights help law school professors help law students fill-in knowledge and skills gaps that will aid law students to become competent attorneys).

<sup>168</sup> Karr et al., *supra* note 7.

legal points and counter-points, automate case management workflows and billable hours, and organize disparate notes into a cohesive and unified whole.<sup>169</sup> Legal employers will start to look for law school graduates who have used the technology and feel comfortable with its use.<sup>170</sup> Some law firms have started to train their attorneys on the use of GAI.<sup>171</sup>

When GAI is used widely, past pedagogical controversies will arise anew. Moving from the Socratic method to other methods of teaching the law, it took law schools a long time to shift. The Socratic method's purely asking questions about the holding of an appellate case to divine a legal pattern or underlying idea shifted to asking questions about the meaning of law or nuanced questions about the correctness of a holding.<sup>172</sup> Also, with every novel technology, law schools have lagged behind the legal profession in embracing the potential advantages of the new technology. Prime examples are electronic research in a fixed database, apps used in personal computers, electronic discovery and case management, and emails. In this case, scholars have seen the writing on the wall and have jumped at the chance to assess GAI's effectiveness and efficiency in legal tasks.<sup>173</sup> Some legal scholars have begun to use GAI as an assistant to help with assignment creation and performing legal tasks.<sup>174</sup> While other legal scholars have incorporated the use of GAI in legal andragogy.<sup>175</sup>

While more studies are needed to evaluate how GAI can be effective in performing legal tasks, a study showed improvements in writing and production tasks for lower-skilled users when they perform those tasks after using GAI.<sup>176</sup> Professors Choi, Monahan, and Schwarcz conducted a controlled trial to study whether legal tasks performed with and without GAI improved the quality of the participants' legal analysis through the quality of the participants' written end-product.<sup>177</sup> The professors found that using GAI "slightly and inconsistently

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<sup>169</sup> Andrew Perlman, *The Legal Ethics of Generative AI*, SUFFOLK U. L. SCHOOL Research Paper 24-17, 9 (Forthcoming February 22, 2024), <https://ssrn.com/abstract=4735389> [<http://dx.doi.org/10.2139/ssrn.4735389>].

<sup>170</sup> Patrick Smith, *Latham's New Academy Starts Associate Training on AI*, THE AMERICAN LAWYER, LAW.COM (October 31, 2024), <https://www.law.com/americanlawyer/2024/10/31/welcome-to-lathams-ai-academy-now-accepting-internal-applications/?slret urn=20241103184234> [<https://perma.cc/MC92-WHPP>].

<sup>171</sup> *Id.*

<sup>172</sup> Lee, *supra* note 115, at 232.

<sup>173</sup> Murray, *supra* note 6, *Prompt Engineering and Priming in Law*, at 4; see Choi et al., *supra* note 87, *Lawyering in the Age of Artificial Intelligence*.

<sup>174</sup> Murray, *supra* note 6, *Prompt Engineering and Priming in Law*, at 4.

<sup>175</sup> Davis, *supra* note 140, at 19.

<sup>176</sup> Choi, et al., *supra* note 87, *Lawyering in the Age of Artificial Intelligence*, at 153.

<sup>177</sup> *Id.*

improved” the end-product.<sup>178</sup> What was surprising was that the use of GAI “induced large and consistent increases in speed.”<sup>179</sup> When it came to the question of quality while using GAI, the professor found consistent improvements from the lowest-skilled participants, who were law students from the University of Minnesota Law School.<sup>180</sup> The professors go on to describe lowest lowest-skilled participants as those who scored poorly on tasks that were performed without the assistance of GAI.<sup>181</sup> The tasks were drafting a complaint, a contract, a section of an employee handbook, and a client memo.<sup>182</sup> The professors conclude that the implications are clear that using GAI improves the efficiency of doing the task without adversely affecting the quality of the work product or legal analysis.<sup>183</sup>

This study is only preliminary because the study was conducted in 2023, it used only ChatGPT 4, which is an older model than used at the time of this writing, and many more legal products have been created since the time of the study. A key note in the study was that the participants received a couple of hours of training on online modules developed by the professors.<sup>184</sup> The participants had to learn and use ChatGPT in a very limited amount of time, and yet, improvements to efficiency were noted.<sup>185</sup> In its final implication of the study, the professors in the study predict that the use of GAI in the legal profession will change the normative practice, service, scholarship, and education of legal professionals.<sup>186</sup> “While law schools might restrict student access to [GAI] tools in some [1L] classes, we believe that law schools should simultaneously develop upper-level classes that explicitly train students on how to use [GAI] tools effectively.”<sup>187</sup> They reason that 1Ls continue to benefit from legal reasoning in the more traditional doctrinal courses. Without that legal reasoning, they explain, it would be difficult to assess the quality of the GAI’s output in drafting legal documents.<sup>188</sup>

### *C. The Other View of GAI*

The running theme in previous studies and scholarship on the use of GAI is this: GAI is a transformative technology that has a place in

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<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *Id.*

<sup>181</sup> *Id.* at 153.

<sup>182</sup> *Id.* at 152.

<sup>183</sup> *Id.* at 191-192.

<sup>184</sup> *Id.* at 167.

<sup>185</sup> *Id.*

<sup>186</sup> *Id.* at 199-200.

<sup>187</sup> *Id.* at 207.

<sup>188</sup> *Id.* at 204-208.

legal education.<sup>189</sup> Harnessing its potential will assist law students for years to come. Law schools and their faculty must start to incorporate the use of GAI in courses where writing and analysis are vital. Without assessing how GAI can be used and where to use it, law students may be delayed in their knowledge and ethical use of this technology. That is not to say that the competitive disadvantage law students will face is for not being exposed to working with technology. There is no better place for continued scholarship and experimentation with the use of GAI in legal practice than in clinical legal education.

Before expanding on ideas to incorporate the use of GAI in clinical legal education, some critics have begun to sound the alarm about its use in clinical legal education as well as legal education (and in other fields of education). In their thoughtful essay, *The Legal Imitation Game: Generative AI's Incompatibility with Clinical Legal Education*, Professors Karr and Schultz argue that GAI is incompatible with clinical legal education because the tool will not make clinical students ready for practice, justice, and CCL.<sup>190</sup> With regard to readiness, they point out that the American Bar Association (ABA) has learning outcome standards that are too vague to apply to include the use of GAI in legal education.<sup>191</sup> As a result of this vagueness, according to Professors Karr and Schultz, the correlation between the use of GAI with productive legal outputs does not mark the user with competence in legal analysis and reasoning or proper interpretation of legal materials.<sup>192</sup> They believe that use of GAI in legal preparation courses “may in fact stifle a student’s intellectual and professional growth rather than foster it.”<sup>193</sup> As for CCL, the authors make it clear that the use of GAI goes against any learning opportunity, experience, or skill that is centered around listening, dialogue, empathy, and other human relational skills

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<sup>189</sup> Williams, *supra* note 140, at 35-6.

<sup>190</sup> Karr et al. *supra* note 7, at 1869. This article will focus on their arguments against the use of GAI in clinical legal education because the technology renders law students unable to be practice and client-centered lawyering (CCL) ready; *see supra* p.32. The concept of justice readiness is a topic too broad to discuss in this article. It is sufficient to say that the authors note on the corporation capture, pollution, and energy needed to maintain GAI’s functions is a concern as much as using Microsoft’s Office 365 or Google’s browser are. Those concerns may be addressed in a different paper focusing on a better, more just technological system that can be built and would alleviate those injustices.

<sup>191</sup> *Id.* at 1873. The authors also note that the Institute for the Advancement of the American Legal System has “building blocks” to measure “minimum” competency.

<sup>192</sup> *Id.* at 1876.

<sup>193</sup> *Id.* at 1876 – 77; *see also* Hamsa Bastani, Osbert Bastani, Alp Sungu, Haosen Ge, Özge Kabakçı & Rei Mariman, *Generative AI Can Harm Learning*, THE WHARTON SCHOOL Research Paper (July 15, 2024) (unpublished manuscript) <https://ssrn.com/abstract=4895486> [<http://dx.doi.org/10.2139/ssrn.4895486>] (concluding that using GAI can act as a crutch to learning meaning that once GAI is removed from learning the student who used GAI do worst in math problems in high school despite the fact that the student began to excel in math problems while using GAI).



and traits.<sup>194</sup> The mere engagement with another human being is at the heart of CCL pedagogy. The use of GAI, according to the authors, teaches away from that pedagogy.<sup>195</sup> They infer that the passive activity of entering prompts into a static system with a static result is counter to the dynamic process of engaging with live people, their hopes, dreams, problems, and biases.<sup>196</sup>

While these concerns are valid, they may not comprise all the possible ways by which GAI can enhance readiness. At least, not in the way Professors Karr and Schultz envision GAI. Their legitimate concerns of a technology that hallucinates “facts” or delivers unethical advice are to be taken seriously.<sup>197</sup> For that reason, a human must remain in the loop of GAI in clinical legal education.<sup>198</sup> Clinical law professors must enter the loop and navigate students through the pitfalls identified by Professors Karr and Schultz. Clinical law professors must integrate GAI in the clinical legal space because the benefits of this technology outweigh the risks of impaired readiness. Through the supervision of clinical law professors and their use of GAI, they can enhance the writing ability for all students, especially the emergent writer. Professors Karr and Schultz’s argument simplifies the use of GAI as a replacement for building other lawyering skills. They also do not confront the notion that using GAI has brought benefits to the practice, along with some notable problems. They also do not argue that using GAI in legal writing and analysis courses is incompatible, which is worth noting. They do not offer guardrails around the limits and concerns noted above. Their concerns must be addressed.

#### IV. THE NEW CLINICAL LANDSCAPE: INTEGRATING GAI INTO CLINICS

##### A. *The Use of Fair Advance Notice for the Use of GAI as a Policy*

A note on the GAI use in the classroom or clinic. There seem to be three perspectives that most institutions have relied on when permitting faculty to allow students to use GAI: restrictive; permissive; and permissive with specific instructions.<sup>199</sup> Some institutions of higher

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<sup>194</sup> Karr et al., *supra* note 7, at 1885.

<sup>195</sup> *Id.*

<sup>196</sup> *Id.*

<sup>197</sup> MOLICK, *supra* note 31, at 53.

<sup>198</sup> *Id.* at 52.

<sup>199</sup> Nachman N. Gutowski & Jeremy W. Hurley, *Forging Ahead of Proceeding with Caution: Developing Policy for Generative Artificial Intelligence in Legal Education*, 63 U. LOUISVILLE L. REV. 581, 597-614 (2025); *see also* Tom Morgan, *How to Craft a Generative AI Use Policy in Higher Education*, EdTECH, ARTIFICIAL INTELLIGENCE (July 3, 2024), <https://edtechmagazine.com/higher/article/2024/07/how-craft-generative-ai-use-policy-higher-education-perfcon> [<https://perma.cc/NSN6-23M8>]; Gutowski et al., also mention that law schools could decide to have no policy at all.

learning have restricted the use of GAI at their universities or colleges.<sup>200</sup> These institutions have imposed a high standard of no use of GAI in the classroom. It is a high standard, because student surveys suggest that a high percentage of the student population across university institutions frequently use GAI and other AI tools.<sup>201</sup> If left with a restrictive standard of GAI use, these institutions will have a phantom policy, where enforcement will be nearly impossible, compliance will be discriminatorily imposed against students, and procedures will be applied inconsistently.<sup>202</sup>

Permissive GAI use policies are the opposite side of the spectrum. These policies often contain neither instructions on the proper use of GAI nor require professors to guide students on the appropriate use of GAI or feedback for using GAI.<sup>203</sup> While the permissive use of GAI absolves the institution of the problems described with the restrictive use, it misses the opportunity for professors to teach how the technology can help and how it is limited. It also leaves the teaching and use of technology to commercial providers or legal tech firms that may emphasize efficiency over ethics.

Finally, permissive use with specific instructions creates a happy medium between the former general policies. Under this use, students would be allowed to use GAI under the guidance of a professor with the professor's specific instructions.<sup>204</sup> This allows students to explore the outlines of GAI under the guiding hand of a subject-matter expert in the field of law.<sup>205</sup> Of course, this requires the professor to know the technology themselves and how a student can benefit from its use. The professor can also point out the limits the technology imposes, such as hallucinations, not an epistemological chatbot, confidentiality and privacy, and the garbage-in-garbage-out training problems. The professor can constrain the use to specific lessons and activities. The policy, however, still has flaws. For example, it is difficult to enforce, and procedures would have to be detailed and expressed repeatedly. The opportunity, however, to invite students to use the technology transparently and ethically cannot

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<sup>200</sup> Gutowski et al., *supra* note 199, at 597.

<sup>201</sup> Digital Education Council Global AI Student Survey 2024, *AI or Not AI: What Students Want*, <https://www.digitaleducationcouncil.com/post/digital-education-council-global-ai-student-survey-2024> (last accessed on June 28, 2025). The study found that 86% of students already use AI in their studies. The responses come from 3,839 students in bachelor, masters, and doctorate programs across 16 countries.

<sup>202</sup> Gutowski et al., *supra* note 199, at 599.

<sup>203</sup> *Id.* at 600.

<sup>204</sup> *Id.* at 602-3.

<sup>205</sup> A subject matter expert in the field of law does not have to be an expert in GAI. An intermediate user of GAI is sufficient to teach a law student to use GAI. The subject matter expert can catch hallucinations or other inaccurate or erroneous outputs to direct the student through the thinking process of tasks and end-product documents. *See infra* Part IV. B. 4.

be overstated. As industry and governments use GAI in their work and AI generally, students can benefit from the technology's exposure in the classroom to mimic situations or its equivalence in the real world.

Another note is the use of fair advance notice. If the professor is convinced that permissive with specific instruction is the way to go, then giving students fair advance notice is paramount. While this article advocates for administrators and faculty to apply the use of fair advance notice for the use of GAI in the classroom, conditions in the classroom and university setting may take a different shape. In law schools, fair advance notice is defined by the word "advance." Notice should be sent to students either before the start of the semester or very early at the beginning of the semester. A law school-wide policy notice could include promoting an expectation that professors are allowed to use GAI under certain circumstances, listing the following ways a professor may teach with GAI.<sup>206</sup> Professors can then send their notices on the use of GAI in their syllabi. The professor can outline: when GAI will be used and under what circumstances and which assignments; how it will be used, with a description of an inappropriate use of GAI as well as the consequences for the inappropriate use of GAI; and why transparency and attribution of the student's use of GAI helps the student.<sup>207</sup> Professors could include a comment on the use of substantive citation to disclose how the use of GAI is a learning tool, with a description of the type of citation, submission of both the prompt and the output for use with reflections, and a copy of the final student-produced document for comparison and revisions.<sup>208</sup> A policy, as pointed out above, would be the beginning of practice that incorporates elements of universal design for all students. This approach in policy will assist emergent writers the best because the advanced notice fairly allows them to experiment with different forms of GAI and AI in general.

### *B. The Clinical Legal Space*

As has been discussed above, clinical legal education consists of an andragogical approach that bridges courses on pure legal information, reason, and analysis to professional identity formation with the practical skills of an attorney. Using GAI alone, as noted above, does not get the student ready for legal practice as much as a professional review course or bar review preparation course gets the student to become an ethical attorney. But a law student cannot be an attorney without those course

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<sup>206</sup> Gutowski et al., *supra* note 199, at 613.

<sup>207</sup> *Id.* at 598.

<sup>208</sup> THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION R. 18.3(a) at 191 (Columbia L. Rev. Ass'n et al. eds., 22d ed. 2025) (demonstrating a form of citation that knowledge mentors can adopt along with the suggestions made in this article).

interventions. Using GAI is fraught with complications that this article addresses.<sup>209</sup> First, the clinical law professor must carefully assess the use of GAI before applying it in the seminar classroom or clinical practice. This much is certain: knowing a little bit about GAI will not reveal all the ways GAI can enhance the performance of the student while avoiding the crutch effect.<sup>210</sup> Second, clinical law professors must act as a GAI knowledge mentor with students, especially the emergent writer. While the focus in this section is on the emergent writer in the clinical legal space, the following guidance can apply to all students in the writing spectrum. The focus on the emergent writer requires knowledge mentors to pay attention to the writing outputs of the emergent writer who can be helped with GAI. Finally, this section will recommend to clinical law professors some best practices and strategies that can be employed in the classroom to assist the emergent writer with GAI. From flipping the classroom, using metacognitive thinking in practice, and applying scaffolding, the clinical law professor can use these strategies and techniques to explore further their education andragogy with the teaching skills that they have developed in the past. These three strategies or techniques will help the emergent writer emerge because by using these strategies/techniques, the emergent writer will become conscious of the need to write and think better.

Current law school pedagogy assigns clinical legal education as a space where the practice of law is harmonized with the analysis of law.<sup>211</sup> This is great for students because it creates a sandbox in which to try out innovative thinking about an issue or empathetic lawyering for a client. The introduction of GAI can be tricky if entered thoughtlessly.<sup>212</sup> In the classic clinical legal education pedagogical framework of Plan, Do, and Reflect, a professor in this space must plan the use of GAI to then execute the plan with further knowledge to reflect on what was done. So, what does that look like?

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<sup>209</sup> This article does not tackle the whole of clinical legal education andragogy, but only how faculty can use GAI with their students in a way that benefits all students, especially the emergent writer. Perhaps another article can tackle whether GAI use is compatible with clinical legal education. This article merely implies that it could with the right guidance and approach.

<sup>210</sup> Kemp, *supra* note 86, at 642.

<sup>211</sup> CLINICAL PEDAGOGY, *supra* note 118, at 170.

<sup>212</sup> Karr et al., *supra* note 7, at 1868. The authors present good questions to answer: "... whether they should teach GenAI tools to law students, how they should teach these tools, and whether to allow students to use the technology in client casework or coursework." See also Karen Sloan, *Some Law Professors Fear ChatGPT's Rise as Others See Opportunity*, REUTERS (Jan. 10, 2023, 7:19 PM), <https://www.reuters.com/legal/legalindustry/some-law-professors-fear-chatgpts-rise-others-seeopportunity-2023-01-10> [<https://perma.cc/76NV-G3SX>].

*1. The Plan – How Do Clinical Professors Begin To Think About GAI's Use In Clinics?*

In the Mediation Clinic for Families at the University of Baltimore School of Law, Professor Robert Robinson and I plan early on for a semester's worth of teaching by planning out what cases we will take on and how we want to teach mediation in the legal context. Our structure is quite familiar, orient the students with the clinic (soup to nuts), conduct training on several aspects of lawyering and mediation, assign cases, set up routine supervisory meetings and case rounds, and meet with individual students or with partners. Throughout the process, we are clear that one of our learning objectives is for law students to be lawyers who are ready to represent clients in appellate mediation and to act as mediators in custody/visitation cases. This requires the student to understand several lawyerly tasks: interview clients or participants; help clients or participants understand the scope of the student's representation in mediation or the nature of mediation; analyze the legal dispute among the client and their adversary in representation or participants in mediation; research those legal questions that emanate from their legal dispute; through interviews and follow-up correspondences understand the client or participants holistically; prepare for competent representation of clients in mediation or competent mediation with participants; represent their clients or conduct the mediation; negotiate with opposing counsel or coach participants in mediation; draft agreements and consent orders; and terminate the relationship with clients and participants. This is a semester cycle. Within each task, several sub-tasks would assist the student's learning of the overall picture of her obligations to the clients.

Along with our learning objectives, I wanted to incorporate GAI into several facets of the tasks that students were doing. I kept noticing that new students would go into our case management system and look for a copy of an old document to begin creating an interview plan, agreement to mediate, mediation plans, negotiation plans, sample consent orders, etc. Based on those documents and depending on what stage of the representation or mediation the students were in, they would submit a new plan that more or less looked like the old document without further thought as to who the clients or participants were and their circumstances. After reviewing the documents and asking probing questions during supervisory meetings, I discovered that our students felt empowered that they got the task done, but they did not think about how the document they were creating benefited their client or

the mediation process.<sup>213</sup> The dependency on boilerplates was a crutch we had to help students overcome.

When ChatGPT 3.5 came onto the scene, I wondered whether that technology could assist students with the written part of their tasks. I discovered that it could and more. Before discussing the discovery, I wanted to understand how ChatGPT could help the students. My learning objective in the clinic was to coach students to become attorneys who focus on CCL or mediators who focus on a participant-centered process, instead of resolving their disputes.<sup>214</sup> I had to think about how GAI would accelerate those objectives. For example, could a student ask ChatGPT questions about what to ask a client during their representation? Could GAI draft plans that took unique factual circumstances into account? Early in 2023, I discovered that it could, but it would make mistakes or be very vanilla. Since LLMs have improved over time, GAI's outputs have been better despite some hallucinations.

My next concern was whether GAI's flaws would slow down my learning objectives. I found that it did not. While it did not save me time during supervisory meetings or reviewing documents, it did shift my focus to what they were learning from GAI. Questions, such as where did you get that information, how did you assess the accuracy of the information you received, what will you do next time, were common and helpful. Over time, the balance of the good use of GAI began to outweigh the bad. Its flaws were an opportunity to discuss legal and client-centered knowledge, such as do you know the participants or clients, or about their circumstances, does GAI give you more or fewer ideas depending on what you feed it? My assignments had instructions, such as "without giving GAI any client or participant personal information, ask GAI to give you possible scenarios that would help participants in a mediation resolve a scheduling conflict where both parents are on a rotating work schedule like a police officer, firefighter, or nurse, but want to have as much time as possible with a two-year-old. What schedule would you come up with that could help them?" Regardless of the output, our conversations would delve deeply into the ethics of the "solutions" or how the students could determine whether the suggested solution would help based on the law or the client's/participants' parental practices.

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<sup>213</sup> Using the Formalists framework, the students should feel empowered because the final product was written and completed. The problem is that the final product is not completed. After an interview or counseling session, the students' feedback was often that the written document did not prepare them enough for what was discovered in the session. Some students complained that the clients or participants would talk about other things for which the students had not prepared. This is a lesson in the CCL approach to viewing a client, participant, or person holistically. With other feedback from Professor Robinson and me, we explore those issues with the students.

<sup>214</sup> See definition of CCL *supra* p. 24.



What questions did they need to ask? Before giving out an assignment like this, I had to develop my prompts and see how various LLMs handle the prompts. I believe that students become experts in the field of their clinical space with an active professor who understands how GAI works and does not work to best support the students' understanding of their obligation as attorneys with this technology.

Thus, in the planning stage, the professor must ask themselves the following questions before implementing GAI in their clinic:

- What are my learning objectives?
- Can GAI accelerate those objectives?
- Can GAI slow those objectives down?
- What is the good in the use of GAI?
- What is the bad?
- Does the good outweigh the bad?
- Should I write up prompts before creating an assignment?
- How should I follow through once assigned?
- What does an assignment with prompts look like with the outputs?
- Should the students be knowledge experts in the area of law before I assign the project using GAI?
- How transparent should I and my students be about their use of GAI?

This technology also works with the emergent writer in the clinical space. One of the problems I have observed, in my short time as a clinical teaching fellow and as an adjunct professor, is the emergent writer offering conclusionary statements as statements of the law. The emergent writer gives a few factual sentences, states the law, and concludes that the client deserves relief from the violations of the law. The analysis part is weak and needs more development. For example, if a professor uses the tort action where the emergent writer represents a pedestrian who slipped on some water that dropped from an air conditioning duct in a mini-mart store and fell while entering the store in Baltimore, Maryland, then what must an emergent writer do. The emergent writer must draft a complaint that the pedestrian could use to sue the minimart store owner in a Baltimore state court. The emergent writer begins with a boilerplate that he has to find either in research on Westlaw or LexisNexis, in the library, or in the case management system that keeps documents from other cases. The emergent writer finds one that he thinks is pretty close to what he thinks he needs and begins to fill out and modify the boilerplate. He adds names, dates, current law, and facts as he knows them. Then, he realizes he did not ask the client enough information, such as the time of the fall, the purpose of going into the

mini-mart, medical information before and after the fall, and the client's needs, goals, and desired outcome. He has promised his supervisor that he will have a draft before the next supervisory meeting tomorrow, although the draft was assigned a week ago. He submits the incomplete draft to his supervisor that evening.

When confronted with this problem, it is difficult for the supervising professor to assess whether the emergent writer has no clue about the analysis of facts to law, is not thinking like a lawyer, ran out of time, or does not know where to start. This is a common experience among clinical law professors. As will be discussed in the next section, clinical law professors do a great job of reflecting the writing, discovering what could be the problem (in this case, running out of time or time management), and leading the emergent writer to self-discovery or self-improvement. Imagine now that the emergent writer used GAI through the supportive guidance of a knowledgeable mentor. A quick boilerplate language would have popped up in ChatGPT 4o (free version) as discussed previously. The emergent writer would have begun the task earlier because the output would have given him a head start to see what the boilerplate would look like and what he would need to search for. In this scenario, the writing process ebbs and flows with more information and adding more meaning to his task. The emergent writer would have discovered that he needed to ask his client more questions in order to craft the pleadings to meet the objectives of the client. While the output in the end is important, the thinking and reflecting process could be more guided. As Mollick points out, the use of GAI reallocated time spent, not the time itself.<sup>215</sup>

The knowledge mentor needs to assess whether the emergent writer could benefit from GAI or help the emergent writer achieve an understanding of their weaknesses and strengths. GAI can help the knowledge mentor with those assessments. It requires the knowledge mentor to set up time and treat GAI in a sandbox environment where they can explore how the technology could be applied in their specific clinic.

## 2. *The Do — How Does A Knowledge Mentor Implement The Plan Of Using GAI In Their Clinic?*

Once the plan has been established, how should the professor, the knowledge mentor, execute it? The following questions should guide:

- Should I practice my prompts before assigning the task with GAI's use?

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<sup>215</sup> MOLICK, *supra* note 31, at 134; *see also* Choi et al., *supra* note 87 *Lawyering in the Age of Artificial Intelligence*, at 153.

- Should I monitor the use of prompts as the students use them?
- Have I built in that monitoring?
- What questions should I ask during the follow-through?
- How can I practice the art of editing, revising, editing, and revising before demonstrating it?
- Then, teach it?

In the above outline of questions, knowledge mentors must keep in mind their learning objective. In the drafting complaint example, the learning objective might not be the end-product, the complaint, but the process by which the complaint is thought through. Without GAI, most clinic professors through a non-directive approach would guide the student to self-discovery of what is missing in the complaint, how to obtain the missing information, does client feedback help or hinder the complaint process, how does the student go through the process of getting client feedback, and is it a one-time only activity. With GAI, before the clinic begins, the knowledge mentor must practice through their assignments with the use of prompts. An assignment can be given with prompts already established, and the emergent writers copy and paste to the chatbot to see the output.<sup>216</sup> The goal of this assignment is to see whether the emergent writer does anything with the output. The assignment could be built around a knowledge base of what the GAI gets right and what it gets wrong. The same can be applied to Protégé™ or other legal LLMs. But the knowledge mentor must do the work first.

Another assignment would be to give the emergent writer no prompts and allow the emergent writer to craft prompts that would approximate what the emergent writer needs to complete the assignment. For example, ChatGPT-5 can communicate with the user by voice. The knowledge mentor would ask the emergent writer to simulate an interview with a potential client who slipped and fell in a mini-mart store in Baltimore, Maryland. The knowledge mentor would give a brief description of what to do and allow the emergent writer to discover what types of questions they would ask of the potential client. In a voice simulation assignment using GAI, the emergent writer would give the chatbot a role as the injured pedestrian. The role could include an angry pedestrian, or traumatized pedestrian. The emergent writer would tell the chatbot who they are supposed to be and give it directions that it should respond after being asked a question. The chatbot would respond as the role is being played. Then, the emergent writer would begin to

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<sup>216</sup> This assignment would assume that the emergent writers would get a class or module orientation about the use of GAI or an LLM before giving the assignment. This article does not explore what a typical module would look like, but scholars in legal writing and analysis have discussed what a module could look like; Davis, *supra* note 140, at 1.

depose the chatbot witness. The GAI could record everything for future analysis in the form of a voice recorder or transcript. This will give the knowledge mentor something to work with the emergent writer.

The goal would be to ask enough questions that the emergent writer would think or feel that they are confidently representing the client. After the simulation with specific instructions from the knowledge mentor, the emergent writer would print out or email the prompt, the output of the prompt, questions, and responses from the LLM.<sup>217</sup> The knowledge mentor would go over the assignment with the emergent writer to review and coach the emergent writer through changes, challenges, and proficiencies.<sup>218</sup> Noting that the emergent writer should do it again and submit an interview plan based on their simulated experiences. The iterative process will serve the emergent writer well to understand that the CCL process is a continuous process that improves over reviews and revisions.

### 3. *The Reflect — How Does A Knowledge Mentor Promote Reflective Feedback and Thinking in Tasks Using GAI?*

After having the students do the assignment or task, the knowledge mentor should spend time reflecting on what is happening to the emergent writer by asking the following:

- What did the emergent writer like/not like about using GAI?
- What questions would help the emergent writer understand how they have used GAI?
- What do they think would help them improve their writing with the use of GAI?
- What would the emergent writer do next time?

Reflecting is one of the best parts of giving and receiving feedback, both for the knowledge mentor guiding the emergent writer and the emergent writer, because it slows the process of getting an output to thinking about the process of generating an output. The knowledge mentor and emergent writer can discuss some of the ethical issues pointed

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<sup>217</sup> For example, on ChatGPT-5, the voice simulator can keep what was said in transcript or captioned form. Either form can be copied, printed, or downloaded.

<sup>218</sup> In the past, the clinical professor would meet with the student who would conduct the interview and ask other students to “moot” with the interviewing student in a mock interview simulation. Time and resources would be spent to make sure the interview simulation aided the interviewing student through to the actual interview. ChatGPT-5 could record in writing and audio for the professor to review and focus the students in specific areas that require the professor’s attention. While the real-time feedback from the professor and other students may be lost, the time gained to focus on specific problems is immeasurable. The student has gained a tailor-made educational focus.

out by scholars, such as Professors Karr and Schultz. They can point out GAI's limitations and hone in on its strengths. They can question the utility and considerations for using this technology. When is it beneficial to the client? When is it not? If it is beneficial, should a discussion with the client about the use of GAI in her case be applicable? What would be said? For what purpose? Should the explanation be memorialized in the retainer agreement? What would be the concerns from the client's perspective?

By learning through reflection, the emergent writer can establish for herself a process that she can employ later on.<sup>219</sup> A hallmark of clinical legal education is to supervise students through reflection.<sup>220</sup> To help the student build on their learning, the supervising attorney or faculty asks questions of the student to help them reflect on what they did, what resources were used to conduct the tasks or develop the idea behind the tasks, and what helped them think through the problem faced by a client's situation. A knowledge mentor could help the emergent writer with similar questions regarding their writing task or output. These questions help the emergent writer understand what resources they still need to write better or clearly. How not to use GAI as a crutch for completing writing assignments by exposing them to thinking through the writing assignment. A knowledge mentor would patiently review the output asking the questions mentioned above. Reflection most importantly teaches the emergent writer to think through problems independently in the future.<sup>221</sup> The technique sets up a cognitive template that the emergent writer applies to prompting and evaluating future outputs by GAI. It also sets up the idea that collaboration with others is necessary and vital to working with GAI.

Next is inverting the idea that using GAI should be a solo venture.<sup>222</sup> Throughout this article, legal andragogy has been promoted with the idea that learning in law school is not a solo venture.<sup>223</sup> It requires the steady and kind hand of a professor, a GAI knowledge mentor. GAI, like any other software program, should be taught as a tool so that it can be used as an agent when the emergent writer reasonably believes they can work with the GAI as an agent. To be taught as a tool, this technology needs knowledge mentors who can be more than a guiding force to use the technology ethically and competently. The knowledge

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<sup>219</sup> CLINICAL PEDAGOGY, *supra* note 118, at 24.

<sup>220</sup> *Id.* at 169.

<sup>221</sup> *Id.* at 189.

<sup>222</sup> *Id.* at 36 (theorizing that case rounds is a specific teaching technique utilized by clinical law professors to encourage collaboration among student peers to work through complex problems and legal strategies).

<sup>223</sup> *Id.* at 24.

mentor must know the user.<sup>224</sup> She must know the user's weaknesses and strengths, the user's baseline knowledge, and the user's ability to synthesize current knowledge with the use of GAI. Paying attention to the user is as important as learning how to use GAI. If an emergent writer is struggling with editing a pleading, the knowledge mentor must intervene to ask the user questions about the audience, persuasive facts, acknowledging counter or exculpatory facts, or the sufficiency of the pleadings. The metacognitive thinking strategies explained before are crucial in this stage. The knowledge mentor is both a guide to the substance of the thing being tasked as well as to the process of using GAI to complete those tasks. Who is better equipped to be that knowledge mentor in law school?

4. *The Knowledge Mentor — What Strategies To Use In The Classroom? What Does Supervision Look Like? A Plea For Patience And Understanding*

This article does not argue that the knowledge mentors must be experts in GAI. The professor could be an intermediate user who goes with the emergent writer's journey of learning to use GAI. At a minimum, the knowledge mentor must understand how GAI is used, its capabilities, and its flaws. Knowledge mentors must advance the notion that GAI, left to determine accuracy, will fail the emergent writer. It is as if the knowledge mentor must figuratively stand behind the emergent writer to help them understand the role GAI can play in learning the law and using technology professionally and ethically. Woven into the classroom strategy is the use of feedback, supervision, and reflection. The knowledge mentor is also the emergent writer's supervisory attorney in most clinics. Supervision entails reflection and feedback.<sup>225</sup> These classroom strategies can also include supervising the emergent writer's use of GAI and demonstrating the possibilities and pitfalls of GAI.

Then, what are some techniques or strategies that professors can apply in the clinic space that would help the emergent writer? One technique used in writing courses at the high school, undergraduate, and graduate levels is flipping the classroom.<sup>226</sup> In the clinic space, the professor, in most cases, uses the non-directive approach to teach students how to think through a problem or assignment. This approach is best for flipping the classroom. Give a writing assignment, an interview plan, for example, based on a discussion of the client's intake sheet. Before

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<sup>224</sup> *Id.* at 35 (indicating that "student motivation increases when teachers build the [clinical] seminar from the student's actual legal work ....").

<sup>225</sup> *Id.*

<sup>226</sup> MOLICK, *supra* note 31, at 174.



case rounds, linked seminars, or team meetings, the clinic students will be assigned to read some literature on interviewing clients. Before the reading is due, the professor will also direct students not to submit any writing assignments due to the reading. The professor makes sure that students will write an interview plan during the time that the professor and students are together. The writing could be on a laptop with emails to the professor, or uploaded to Canvas or a similar system, or on a piece of paper. The professor will collect the interview plan after 15 or 30 minutes as in a quick write. If the setting is a case round or seminar, the professor could pass the writing to peers so that the peer can edit the interview plan in front of them. This is to encourage critical thinking, collaborative practice, and active learning in the classroom.<sup>227</sup> Then, by using the reading materials handed out earlier, the professor begins to cover the type of questions that should be included in an interview plan. The point here is that the writing assignment is not lost to the professor. She can read and grade the interview plan and assess who will need more help with their writing and perhaps thinking. The professor can then follow up. After the assignment is over, the professor can then repeat the assignment using GAI. Depending on what the prompt is or the output given, each iteration of the output can be done in the classroom, with the professor displaying the output to spark critical thinking about the output. The professor here can help the students evaluate the substance of the output together and monitor the work of the emergent writer.

As discussed above, the metacognitive thinking strategy works well in the clinical classroom using GAI.<sup>228</sup> It offers the knowledge mentor a way to discuss with the emergent writer about what they are going through and what they can do about it. It also offers the emergent writer the time and ability to figure out how to strategize their thinking. Although generating a high-quality end-product is the goal in most clinical classrooms, it has never been solely about the end-product. As discussed in a previous section under IV.B.2., implementing metacognitive thinking strategies means practicing chatbot prompts before assignments are handed out. The knowledge mentor will know the possible outputs produced by the chatbot through precise prompts and questions that can generate an approximate end-product document. The knowledge mentor will have the basis to display an end-product document that still needs work. The knowledge mentor can teach the student the value of editing, revising, and editing documents produced by GAI. The prompting alone does not produce a complete document, but the emergent writer's experience going through the steps with

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<sup>227</sup> *Id.*

<sup>228</sup> Lee, *supra* note 115, at 271.

the knowledge mentor is constructive to the emergent writer's self-confidence, thinking, and ethical development. The knowledge mentor will have to be aware that the emergent writer needs more help with writing fundamentals, grammar, word choice, tone, audience knowledge, persuasion style, etc. The knowledge mentor would lead the emergent writer to prompt the chatbot for more information or suggestions. Then, with the output in hand, the knowledge mentor would go over the output with an eye to teach the emergent writer to discern what the chatbot provided, how it compares with the emergent writer's first draft or output, and why choose the latest draft or any other version of drafts.

The clinical classroom has been about helping students form themselves into competent attorneys who are ethical and view the world holistically. The metacognitive thinking is malleable to help any kind of student with any kind of task. One task using GAI with the metacognitive thinking approach for the emergent writer is the deposition of an opposing party. To prepare for the deposition, most professors expect the students to write out the questions that will be used during the deposition. Under the metacognitive thinking approach, the professor would ask the emergent writer:

- What resources do you think you will need to accomplish the task?
- Why do those resources matter?
- What is it that the emergent writer is trying to accomplish?
- Where did the emergent writer's thinking not connect with the goal in mind?
- What can be done next time to repeat what was good and what were the challenges?

The key thing here is for the emergent writer to craft the deposition without the use of GAI first. This will help the emergent writer think through what they did, what they missed, and what will help next time. After discussions with the emergent writer about their writing, ask the emergent writer to do the same thing with GAI using prompts.<sup>229</sup> This same line of questions under the metacognitive thinking approach could be asked of the emergent writer when they are producing outputs based on their prompt. The knowledge mentor can work with the emergent writer to become an editor of the GAI's output.

Lastly, the use of scaffolding with GAI and the emergent writer is another technique that will help improve the quality of the written

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<sup>229</sup> This assumes that the professor is a knowledge mentor who has used GAI, has yielded outputs that were helpful for andragogical purpose and measure, and has worked through the editing process with the output.

product because the process builds the emergent writer up in order to let her do it alone. As discussed before, scaffolding is a teaching technique designed to give students extensive explanations at the beginning of a task or assignment to help the student learn and then progressively enable the student to become independent.<sup>230</sup> Most professors know that scaffolding takes time to implement as well as to think through the process. But scaffolding is best used when introducing new concepts or techniques, especially if they are complex and not easy to teach. Scaffolding requires breaking down an assignment into steps or phases that the emergent writer can use to begin assembling a coherent and well-written document.<sup>231</sup>

An assignment typical in most clinics requiring writing is the internal memorandum. A scaffolding plan would look like this:

- What is the student writing about?
- Would an outline help the student clarify ideas?
- What research has the student done?
- What research is the student doing?
- When will the student submit an outline?
- After the outline is submitted, will the professor give feedback? Will the student? Does the student submit a new outline based on the feedback?
- When will the student submit a rough draft based on the outline?
- After the student submits the rough draft, will the professor give feedback? Will the student submit a new draft?
- When will the student submit the final memorandum?
- After the students submit the final memorandum, will the professor give feedback? Will the student submit a new final?

Once this scaffolding is complete, the professor would need to meet with the student to reflect on the process. If the situation is about an emergent writer, then the scaffolding slows down to allow the professor to focus on the writing and what the emergent student is struggling with in the writing. Scaffolding encourages independence because it can allow the emergent writer to use a similar approach to the next assignment. It is in the next assignment where the knowledge mentor can help the emergent writer excel.

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<sup>230</sup> Matthew Callison, Carrie Hagan, Alexandria Fox & Malorie Palmer, Acting on Assessment: Increasing and Supporting Student Success Through Scaffolding, 11<sup>th</sup> International Conference on Education and New Learning Technologies 8864 (July 3, 2019) (unpublished manuscript), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3578603](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3578603) (manuscript on file with author).

<sup>231</sup> *Id.* at 8867.

As discussed before, the emergent writer will benefit from the use of GAI. In the scenario above, if the knowledge mentor has another similar assignment, such as an internal memorandum, the knowledge mentor could easily add GAI when giving feedback. The knowledge mentor can show the emergent writer what the professor would do if she needed GAI to review her document for tone, grammar, spelling, and word choice. She would do a prompt, such as, “Imagine you must submit this outline [which is attached] to your very smart law professor. Could you review the outline to look for a professional tone, proper legal syntax, grammar, spelling, punctuation, and organization? Please draft changes into a new outline, comparing my outline with the new one in a table. Thank you.” The output should look like a table with two columns comparing the attached outline with suggested changes. The knowledge mentor can then go through the output with the emergent writer to assess their decision to improve the outline. A similar thing can happen with rough drafts and the final paper. Research can also be done with the legal LLMs, and review and feedback from the knowledge mentor.

One of the LLMs that gives links to cite in an extractive AI way is Microsoft’s Copilot.<sup>232</sup> Copilot is helpful to brainstorm new ideas or to look backwards at old ideas and find website links that can inform you more about those ideas. Copilot, however, is not as creative as Claude Sonnet 4 or ChatGPT-5. Both of those chatbots will give you links if you ask for them, but the chatbots may hallucinate those links. Alphabet’s Gemini 2.5 is another that can give you links, but they must be checked for accuracy. In the prompts, however, you could ask those chatbots not to hallucinate or to give you website sources that exist on the internet. Those requests have been spotty.<sup>233</sup> While Copilot is better at providing real websites, the information is typically not complete or not enough of a legal resource. Then, there is LexisNexis Protégé™ chatbot. It is pretty good with the legal resources, but a knowledge mentor is needed to help guide the emergent student, or any student, through the prompts and products available on Lexis. It can be helpful with crafting basic legal documents, too, but a knowledgeable mentor is needed to guide the emergent writer through the choices offered.

A note on transparency, privacy, and confidentiality. The LLMs, in general, especially the free ones, may continue to learn from prompts provided by the user. It is imperative to read the terms and conditions of

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<sup>232</sup> Perplexity.ai is another LLM that gives the user cites on the website. Another is LexisNexis Protégé™. The user there can see a draft of an outline, a summary of arguments, a draft pleading with preliminary cites to cases, treatises, or other secondary sources. These LLMs are similar in operation to Copilot and should be treated cautiously because hallucinations will occur.

<sup>233</sup> Magesh, et al., *supra* note 31, at 219.

each of the LLMs to be assured that the LLM is or is not learning from the users' interactions with the chatbot. If the chatbot is still learning, then your prompts should exclude client and personal information, as well as any identifiable information that could be traced back to a specific person. Confidentiality is paramount in the use of LLMs. Some LLMs claim that prompts are private to the user. As with any technology that is based on a cloud networking and storing system, information logged into a prompt may be private until it is not. When working with an emergent writer, a knowledge mentor should be transparent with the emergent writer about how the emergent writer is using GAI and exhibit the same to the emergent writer. The emergent writer should be able to give you prompts, outputs of those prompts, and a draft of writing based on the output given by the LLM. It is recommended that the emergent writer give dates, the LLM's name, and a brief explanation of the purpose for the GAI use. This helps the knowledge mentor assess how GAI is being used.

#### CONCLUSION

GAI is a breakthrough technology that will be added to a lawyer's toolbox. GAI as a tool has shortcomings, as does any other tool, and thus, law schools should embrace it and teach with it. As law students go from students to lawyers, they will use it in their profession and must learn from law schools to use it effectively and ethically. This article argues that the biggest beneficiaries of this tool are the emergent writers who do not have the privilege or resources to become full and complete writers. To teach the emergent writer, a professor must have an intermediary knowledge of the tool to guide the emergent writer as they begin to use the technology. This type of professor is a knowledge mentor who influences the emergent writer to tackle new writing skills and reflect upon what the emergent writer has learned.

There are several reasons for the knowledge mentor to reveal to the emergent writer the flaws and benefits of GAI. GAI is not an epistemological box that gives answers. A knowledge mentor can steer emergent writers in the correct direction towards improving writing and accuracy. GAI will not replace the tried-and-true method of editing written work that caters to specific clients in legal representation or written work assignments in legal education. A knowledge mentor using a metacognitive thinking approach can employ flipping the classroom techniques or scaffolding to facilitate the emergent writer's learning. While expanding the emergent writer's ability to use different tools, the knowledge mentor must enrich the emergent writers' discernment of GAI to avoid using it as a crutch in classroom assignments and in their professional careers. The knowledge mentor can teach the emergent

writer to enhance legal strategies or options, write templates from pleadings to briefs to memos, summarize documents, draft contracts, and correct grammar in their written work. A knowledge mentor's careful attention to and observation of the emergent writer's written progress will augment their progress. Not doing so leaves the emergent writer in the same quandary with which they came to law school.