

The Ongoing Importance of Legal Expertise and Specialisation in the Face of AI and a Changing Legal Landscape

Introduction

1. Generative artificial intelligence is now a practical reality in legal work. It can draft correspondence, summarise documents, assist with preliminary research and support administrative tasks. Properly supervised, those uses may improve efficiency, reduce cost and assist access to justice.
2. The point of this paper is not to resist that development. It is to identify why AI increases, rather than reduces, the importance of legal expertise, specialisation, ethical judgment and professional accountability.
3. Legal practice is not merely an exercise in retrieving and arranging information. It requires judgment about facts, evidence, procedure, ethics, context and consequence. Those functions remain human responsibilities.

Part I — What AI Is Changing

4. AI tools can produce fluent and useful text. In legal practice, they may assist with first drafts of correspondence, pleadings and submissions; summarisation of evidence; document classification; workflow support; and preliminary legal research.

5. Those benefits are recognised in contemporary professional and court guidance. The Thomson Reuters *Future of Professionals Report 2025* records material time savings among legal professionals using AI. The Federal Court of Australia's Generative Artificial Intelligence Practice Note (GPN-AI), issued on 16 April 2026, recognises possible benefits for efficiency and access to justice. On 29 May 2026, the Chief Justice of the Federal Circuit and Family Court of Australia issued Practice Direction PD-AI, applying to all proceedings in both Division 1 and Division 2 and to litigants, self-represented litigants, lawyers and experts. Its central purpose is to permit responsible use of AI while protecting the integrity of the Courts, the administration of justice, confidentiality, safety and public confidence.

Part II — Why Expertise Remains Indispensable

7. The FCFCOA Practice Direction emphasises that professional expertise and responsibility remain indispensable. An AI tool is not a professional. AI systems generate text by predicting sequences of words from patterns in data. They do not understand legal concepts, assess evidence, account for procedural context or assume professional responsibility. Their outputs may look authoritative without being the product of legal reasoning.

8. The joint Statement on the Use of Artificial Intelligence in Australian Legal Practice, issued by the Law Society of New South Wales, the Legal Practice Board of Western Australia,

and the Victorian Legal Services Board and Commissioner, states that AI tools cannot reason, understand or advise, and cannot substitute for a lawyer's own forensic judgment or analysis of a client's circumstances. The American Bar Association's Formal Opinion 512, issued on 29 July 2024, similarly treats AI as a tool to be used consistently with duties of competence, confidentiality, communication, candour to the tribunal, supervision and reasonable charging.

9. Empirical work reinforces the concern. A 2024 Stanford University study of AI legal research tools found that even specialised tools produced incorrect legal information in more than 17 per cent of queries for some products and more than 34 per cent for others. General-purpose large language models performed worse.

10. The problem is not merely technical. "Hallucination" is a structural risk of current large language models. A lawyer who files AI-generated research without independent verification risks misleading the court with inaccurate or fabricated material.

11. There are serious consequences for lack of professionalism. In *Ayinde v London Borough of Haringey*; *Al-Haroun v Qatar National Bank* [2025] EWHC 1383, the Divisional Court addressed actual or suspected use of generative AI to produce written arguments containing false citations and emphasised the duty to verify any AI-assisted research against authoritative sources.

12. In *Dayal* [2024] FedCFamC2F 1166, a solicitor provided the court with authorities that could not be found. He admitted that the list had been prepared using AI-assisted legal software and that he had not checked it. He was referred to the Victorian Legal Services Board and Commissioner and later subjected to restrictions on his practising certificate. In *Murray obh of Wamba Wamba Native Title Claim Group v Victoria* [2025] FCA 731, Justice Murphy ordered indemnity costs against solicitors personally where footnotes referred to anthropological and

historical reports that mostly did not exist or were incorrectly cited. His Honour published reasons because of the growing problem of false citations in documents prepared using AI and stressed the need for proper safeguards.

13. In *Helmold & Mariya (No 2)* [2025] FedCFamC1A 163, the Full Court of the Federal Circuit and Family Court of Australia (Division 1) considered AI-generated fictitious cases filed by a self-represented appellant in parenting proceedings. The Full Court observed that unverified AI research may confuse, create unnecessary complexity, waste time and mislead the Court and parties. Their Honours also warned that uploading court documents to open AI programs may breach Part XIVB of the *Family Law Act 1975* (Cth) which restricts publication of family law proceedings.

14. The pattern continued in *Mertz & Mertz (No 3)* [2025] FedCFamC1A 222, where a solicitor and two barristers, including a King's Counsel, were referred to regulators after a Summary of Argument and List of Authorities contained fictitious AI-generated citations. In *Re Walker* [2025] VSC 714, Justice Moore reprimanded a solicitor who filed AI-assisted submissions containing non-existent authorities, contrary to published guidelines. In *Jenson & Lockridge (No 2)* [2026] FedCFamC1A 44, Justice Campton identified AI-generated appeal material that attributed reasoning to the primary judge which did not appear in the reasons, amalgamated legal principles and advanced contentions contrary to the appellant's own case. The appeal was dismissed.

15. The UNSW Centre for the Future of the Legal Profession report, *GenAI, Fake Law and Fallout*, published in November 2025, identified 520 documented instances of generative AI misuse in legal proceedings across ten jurisdictions between January 2023 and September 2025.

Australia recorded 87 cases, second only to the United States. Self-represented litigants accounted for more than 78 per cent of identified Australian cases.

16. These examples make the central point. The more persuasive AI output appears, the more important it is that the reviewer has the specialist knowledge to recognise error. Verification is not mechanical. It requires expertise.

Part III — Why Specialisation Matters More

17. Law is not a single undifferentiated body of text. Family law, criminal law, public law, insolvency, taxation, competition, equity, regulatory practice and evidence each involve different doctrine, procedure and forms of judgment. Good legal work depends on identifying the material issue, fitting facts to doctrine, understanding procedural consequences and anticipating how principle interacts with evidence and discretion.

18. AI performs best where there are patterns, repetition and abundant prior text. It performs less well where quality depends upon contextual, specialised and evaluative judgment. Those are precisely the areas in which legal expertise is most important.

19. The OECD's work on AI in justice administration and access to justice identifies potential uses in case triage, summarisation, anonymisation and public-facing legal information services, while warning of risks from opacity, data quality, bias and over-reliance. The Council of Europe's 2025 report on AI in the judiciary similarly concluded that current systems have significant limitations and continue to require human oversight.

20. In that context, legal specialisation is not an inefficiency to be automated away. It is a form of quality assurance and risk control. In contested, fact-sensitive and normatively difficult

matters, it is the specialist — not the machine – who is equipped to identify what matters, what is missing and what is wrong.

Part IV — Ethics, Evidence and Accountability

21. Professional obligations are not exhausted by getting the answer approximately right.

Lawyers owe duties of confidentiality, privilege, candour, supervision, accuracy and fair charging. AI engages each of these obligations. The Australian joint professional statement warns against placing confidential, sensitive or privileged information into public AI tools and stresses that billing must remain fair and proportionate. The American Bar Association’s Formal Opinion 512 addresses similar issues in the American context.

22. Courts are reinforcing, not lowering, standards. The Federal Court’s GPN-AI states that AI use must be responsible, must not adversely affect the administration of justice, and may require users to explain what tool was used, how and for what purpose. The Supreme Court of New South Wales has issued similar guidance. The Supreme Court of Victoria published guidelines in May 2024, the breach of which was considered in *Re Walker* [2025] VSC 714. The Law Society of New South Wales maintains a consolidated list of court protocols on AI across Australian jurisdictions. The direction of travel is clear: Accountability remains human.

23. The FCFCOA Practice Direction to which I have referred identifies general principles for responsible use: integrity, accountability, accuracy, confidentiality and data security, safety, and education. It emphasises that lawyers remain bound by their professional obligations, including their paramount duty to the court, duties of competence and honesty, confidentiality, and the obligation not to advance unsupported factual allegations.

The guide emphasises verification and accountability. Court users must not assume that AI-generated material is accurate, current or reliable. They must fact-check, proofread and adapt any AI output, verify legal authorities and legislation, and ensure that any material filed or relied upon is accurate, authentic, concise, relevant and compliant with procedural obligations.

The Practice Direction notes that improper use of GenAI may result in the Court disregarding material, making costs or other orders, imposing penalties, or referring matters to regulatory bodies.

25. The Practice Direction also reflects the particular sensitivity of family law proceedings. It notes the restrictions in Part XIVB of the *Family Law Act 1975* (Cth) on communicating identifying accounts of proceedings. Information obtained through production, disclosure or discovery, or subject to suppression orders or statutory prohibitions, must not be entered into generative AI unless confidentiality and data-use safeguards are satisfied. The Practice Direction also cautions that affidavit material must remain based on the witness's own knowledge, experience or opinion, expressed in the witness's own words.

26. A related issue is fabricated evidence. AI-generated or AI-altered material, including deepfakes, synthetic documents, fabricated screenshots and manipulated audio or video, creates serious questions of authenticity and reliability. The National Center for State Courts in the United States has warned that AI-generated or AI-enhanced evidence requires scrutiny and potentially expert evidence, as judges may need to determine proof of reliability.

27. In a world where fabricated content can be generated cheaply and convincingly, the legal system needs greater expertise in determining where fake material has been produced.

Conclusion

28. AI will continue to develop. Some legal tasks will become faster, cheaper and more standardised. That is not a reason for professional defensiveness. It is a reason for discipline.

29. The comparative advantage of lawyers and judges will increasingly lie in judgment, specialisation, advocacy, client counselling, fact analysis, negotiation, institutional understanding and ethical responsibility. Those functions cannot be delegated to a predictive text system.

30. AI changes the distribution of legal work, but not the need for legal expertise. The court protocols, professional guidance, empirical studies, decided cases and evidentiary challenges all point in the same direction. In a legal system committed to the rule of law, accountability cannot be delegated to a machine. The future is not lawyers versus AI. It is lawyers and judges using AI carefully, sceptically and with specialist legal expertise.