

Local law firms embrace AI tools while navigating ethics, training challenges

■ BENNETT LOUDON

The latest technological advances in artificial intelligence (AI) are expected to impact almost every aspect of our lives, and the legal industry is no exception.



MARK
WHITFORD

Mark T. Whitford Jr., partner and managing director of Barclay Damon LLP, said that AI “dominated our conversation” at the firm’s biannual strategic meeting of the firm’s management team in July.

“Most of our attorneys are using AI regularly, and with increasing frequency as well,” Whitford said. “Litigators are using AI for research, for initial drafting of discovery demands, putting together letters, for reviewing testimony ... or in preparing for deposing a witness.”

They’re also using AI to analyze legal briefs and suggest arguments, he said.

The real estate department is using a recently purchased AI tool to help in the process of purchasing

properties, in the drafting of lease documents and sale documents, and to create closing checklists.

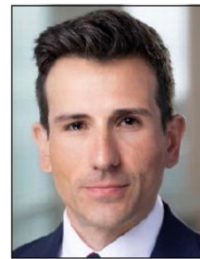
“Really every attorney is starting to utilize AI on almost a daily basis. I think it’s going to be something that we’re going to continue to talk about for the next few years,” Whitford said. “Those that are using it are starting to realize that this is something that’s going to be practice changing, and career changing for all of us. We’re all going to be using this moving forward.”

Like many other firms, Barclay Damon has an AI policy. The policy covers a number of issues, but the most important is maintaining client confidentiality.

“We have to be very careful about how we’re using AI so we’re not disclosing any confidential information that’s a foremost issue in our AI policy,” Whitford said.

The policy also recognizes that AI may not be entirely accurate.

“You’ve got to be very careful to check everything. You have to go back and actually verify that it’s accurate,” Whitford noted.



RICK
MARINACCIO

Regardless of how advanced an AI tool becomes, attorneys are still professionally responsible for all the work product, said Rick Marinaccio, leader of the artificial intelligence practice team at Phillips Lytle LLP.

“Our firm has been using AI for contract review for specific client cases for ... at least six years,” said Marinaccio, the chairman of his firm’s technology and innovation committee.

In terms of generative AI and new technologies, Marinaccio said it’s something that the firm evaluates on a weekly basis.

“In a way it’s a bit like the wild west out there right now from an AI standpoint,” he said. “It’s great technology, but a lot of people right now are preying on people’s fear of missing out. You’re not necessarily missing out right now if you haven’t handed the keys over to AI. There’s definitely opportunity there, but we’re not to the point where it’s just running the show all by itself.”



BRIAN BUTLER

Brian Butler, managing member at Bond, Schoeneck & King PLLC, said his firm created an internal focus group in early 2023 to explore the potential use of AI.

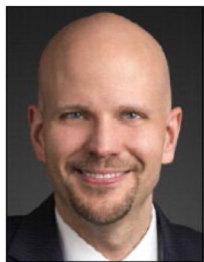


JESSICA
COPELAND

“The most critical piece of what we’ve worked towards within the focus group ... is the governance piece and the risk management of AI tools,” said Jessica Copeland, member and chair of the artificial intelligence committee at the firm.

Bond has a legal research tool that attorneys can use after training.

“That training includes the requirement of confirming that the cases that are identified by that tool are legitimate cases. Those cases are then checked through traditional legal research,” Copeland said.



F. PAUL GREENE

F. Paul Greene, partner at Harter Secrest & Emery LLP, said AI and automation in the practice of law is really nothing new.

“When I start-

ed about 20 years ago there was a big hubbub in the industry about something called technology assisted review (TAR),” Greene said. “TAR was designed to make the drudgery of document review more bearable and to help with document review.”

TAR used machine learning and other techniques to identify patterns and help identify relevant documents.

“We’ve all been using AI for a while. Even before the generative AI boom in 2023-24 law firms were using AI to analyze judicial decisions and which judges would decide certain kind of cases,” Greene said.

“The main difference the past couple of years has been the boom of generative AI and the possibility that, not only could machines assist you with what you are writing, they could take the pen and write it in the first instance and communicate ... with the attorneys using natural language and potentially with clients,” Greene said.

The big challenge for law firms now is finding a way to balance ethical duties with pressure in the marketplace to adopt AI solutions, he said.

“There will be a growing pressure to use AI to create a product. Pressure is going to come from the youngest in the profession,” he said.

While still in law school, students are provided with the most advanced AI tools because the vendors of those tools want them using those tools when they go to work.

“Now law students are ahead of many law firms in relation to daily reliance on AI,” Greene said.

And that could throw a wrench in the traditional system for training young lawyers.

New lawyers generally learn by doing tasks that grow in complexity as they advance. But if those tasks traditionally assigned to junior associates are done by AI tools, how will the younger lawyers gain experience?

“For example, document review can be mind-numbing and certainly AI and TAR have done a lot to reduce that, but there is a beauty in document review, in learning kind of the language used by the parties and developing inferences and asking questions,” Greene said.

In practicing law, the questions that seasoned lawyers get from the younger associates are often the best questions because they’re asking questions while they’re learning and they see things with new eyes, Greene pointed out.

“If computers are doing that for us in the first instance, we as a society, and certainly law firms, need to figure out how you maintain that value because it really is the core value of what we give,” Greene said.