

When the Robotic Gavel Falls: AI in Our Courts and the Lawyer's Imperative

By Michael C. Maschke, Sharon D. Nelson, Esq., and John W. Simek

The law has always been a deeply human affair: attorneys arguing, judges deliberating, juries weighing credibility, precedent, and plain old common sense. But now, something new has entered the courtroom — and it doesn't bill by the hour or even need a coffee break. Artificial intelligence (AI) has arrived, and it's quietly moving closer to the bench. AI is no longer just lurking in the background. Judges, clerks, and law firms are using it to draft, summarize, and "streamline." Some courts are even testing it to predict outcomes or suggest sentencing. The question isn't whether AI will become part of the justice system — it's how far we'll let it go before someone objects on constitutional grounds.

Humans vs. Algorithms

Many in the legal field are excited about the efficiency AI offers. Others are quietly appalled. One senior judge recently said there are "some things AI can't do, and which it is desirable it doesn't do." That's judicial code for: let's not have a robot judge handing down sentences just yet.

Still, AI's scope continues to expand. Law students are now learning to use it as part of their curriculum. Clerks are using it to organize case files. And let's be honest — more than a few partners are using it to draft legal documents they'll later falsely claim they "reviewed extensively."

The line between legal aid and legal authority is blurring rapidly. When AI begins helping determine who wins and loses, we're not just talking about convenience — we're talking about the very definition of justice.

What's Really at Stake

At risk are the pillars that support the entire system: fairness, accountability, and transparency. Human judgment — flawed though it may be — at least provides reasons, ethics, and sometimes mercy. Machines don't understand nuance. They process data.

Imagine explaining to a client that an algorithm decided their fate based on pattern similarity. That may sound efficient, but it's a long way from the "independent and impartial tribunal" that due process promises.

Some courts have already banned AI use in affidavits and witness statements after experiencing too many AI hallucinations. It turns out, citing fake cases doesn't sit well with judges — human or otherwise. The bigger concern isn't that AI will turn evil; it's that it will become just another normal tool. As we start to accept machines reasoning for us, the problem quietly grows. No evil robot overlord needed — just a generation of lawyers who stop questioning, "Is this argument actually sound?"

What Lawyers Should Do

1. Audit your own workflows

If you or your associates use AI tools for drafting, research, or analysis, ensure you understand what they are doing. You can't delegate professional judgment to an algorithm and still consider yourself a professional.

2. Document and verify everything

Keep a record of what the AI generated, how you verified it, and who reviewed it. When something goes wrong (and it will), "the bot did it" is not an acceptable excuse.

3. Review your contracts and policies

If you're advising clients, update your engagement letters and vendor agreements to include AI use. Someone must be responsible for the risk if a model hallucinates a citation — ideally not your client.

4. Preserve the human parts of law

Machines can process data, but they can't replicate judgment, empathy, or persuasion. A closing argument still needs a heartbeat, not a heatmap. The day AI can move a jury to tears is the day we should all pack it in.

Leverage Without Losing Control

AI won't replace lawyers, but it's already taking over some of their tasks. The risk isn't losing our jobs — it's losing our judgment.

Treat AI like a talented but unreliable intern. Let it draft, summarize, and organize information, but never, ever let it speak for you. When the robotic gavel finally drops and someone asks, "Who made this decision — you or the algorithm?" you'd better be ready to answer "you" confidently, not with confusion.

After all, the future of law may be digital, but accountability still must be human.

Michael C. Maschke is the President and Chief Executive Officer of Sensei Enterprises, Inc. Mr. Maschke is an EnCase Certified Examiner (EnCE), a Certified Computer Examiner (CCE #744), an AccessData Certified Examiner (ACE), a Certified Ethical Hacker (CEH), and a Certified Information Systems Security Professional (CISSP). He is a frequent speaker on IT, cybersecurity, and digital forensics, and he has co-authored 14 books published by the American Bar Association. He can be reached at mmaschke@senseient.com.

Sharon D. Nelson is the co-founder of and consultant to Sensei Enterprises, Inc. She is a past president of the Virginia State Bar, the Fairfax Bar Association, and the Fairfax Law Foundation. She is a co-author of 18 books published by the ABA. snelson@senseient.com.

John W. Simek is the co-founder of and consultant to Sensei Enterprises, Inc. He holds multiple technical certifications and is a nationally known digital forensics expert. He is a co-author of 18 books published by the American Bar Association. jsimek@senseient.com.