THE AI ADVANTAGE 2.0:

Ethics, Innovation, and Emerging Niches in the Age of Intelligent Dispute Resolution

ASSOCIATION OF ATTORNEY-MEDIATORS

Trainer: Susan Guthrie
December 12, 2025

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GET THE MATERIALS

susaneguthrie.com/AAM-AI

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AGENDA
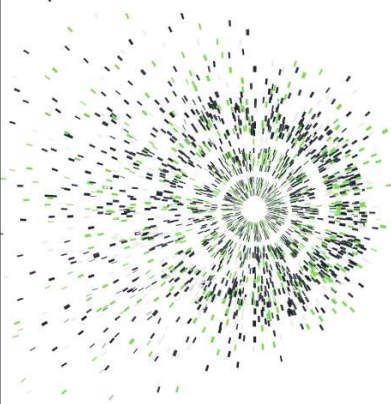
I. Welcome and Program Overview

II. Core Foundations: Working Effectively and Ethically with AI

III. Ethics and Risk Management in AI Use

IV. In the Room: Advanced AI Applications for Dispute Resolution

V. Emerging Practice Areas and New Niche Opportunities

VI. Bringing It All Together

VII. Wrap-Up and Final Q&A

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AI TOOLS & YOUR PRACTICE

A Hands-On Workshop
with Susan Guthrie

ASSOCIATION OF ATTORNEY-MEDIATORS

ILLINOIS CHAPTER
December 10, 2024

ONE YEAR LATER . . .

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1.Last year, we focused on building **competence** with AI. This year, we shift to **mastery.**"

2. Last time, we explored the foundational benefits and risks of AI and how the ASPEN Protocol helps you navigate them. Today we move beyond the fundamentals and take a **deeper look at the issues** so you can manage specific risks with clarity, strategy, and ethical confidence."

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3. When we last met, you learned how to talk with AI. Today, you'll learn how to use AI as **an analytical collaborator in the room with parties.**

4. Last year, you explored **business support and practice support using AI.** This year, you'll see how those tools now enable **entirely new practice niches**.

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II. CORE FOUNDATIONS:

Working Effectively and Ethically with AI

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A. Understanding What AI Can and Cannot Do

AI is a pattern-maker. Your clarity and judgment direct its output. Understanding this helps you use it more intentionally.

The most reliable way to work with them is to treat them as **high-capacity pattern recognizers** rather than decision-makers. Effective users learn to anticipate where AI will be strong and where it will be unreliable.

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Where AI Performs Well

These strengths are especially relevant to mediators and attorneys:

- **Summarization:** Condensing long fact patterns, transcripts, parties' statements, or case materials.
- **Restructuring:** Converting scattered, disorganized information into coherent frameworks.
- **Option Expansion:** Brainstorming alternatives based on patterns — not making decisions, but generating possibilities you can refine.
- **Early Drafting:** Producing first drafts of outlines, emails, scripts, agendas, and term sheets.

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Where AI Underperforms

Understanding limitations is essential to ethical use:

- **Factual Precision**: AI frequently produces plausible but incorrect statements. It must never be used as a standalone fact source.
- **Missing or Ambiguous Information:** The system will fill gaps with assumptions. If the prompt does not include the necessary detail, the output will drift.
- **Unclear Instructions**: Without structure, AI defaults to generic responses. Precision of instruction determines quality of output.

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B. Identifying Work You Can Delegate Confidently

Recognizing Structured and Repeatable Tasks: Tasks that follow identifiable patterns or require organizational logic — not legal analysis — are ideal candidates for AI.
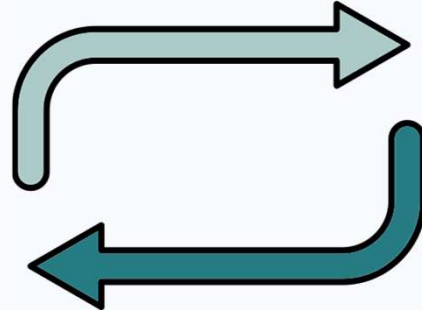
EXAMPLES:
- Drafting Initial Summaries or Outlines
- Organizing Case Notes and Pre-Mediation Materials
- Generating Alternative Framing Options
- Creating Visual Structures

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C. Providing Clear Instructions and Expectations
What AI Needs to Perform Well

Prompt Structure: RCTO Framework

ROLE	CONTEXT	TASK	OUTPUT
Who should the AI act as? Example: "You are a mediator" or "You are a legal writing assistant"	What is the situation or background? Example: "You're summarizing a first joint session for the clients"	What do you need it to do? Example: "Write a neutral summary highlighting areas of agreement"	What format, tone, or length should the response follow? Example: "Plain English, 300 words, no legal conclusions"

Instead of asking AI for a full case summary, break the task into specific components such as an issues list, party interests, a chronology, and areas of agreement and disagreement. **AI performs far better when the task is structured this way.**

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D. Reviewing and Refining to Improve Quality

AI is a collaborator, not a final drafter.
Your refinement determines the quality
of the final product.

Short Feedback Loops:
The first version is the beginning, not the end.
Ask:
- "Make this more concise."
- "Remove jargon."
- "Neutralize the tone."
- "Reorganize into a chronology."
- "Highlight inconsistencies."

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Using Iteration to Improve Clarity and Accuracy

Human judgment remains essential.

You must:
- Verify the facts.
- Check assumptions.
- Ensure neutrality.
- Align the result with professional standards.

Iteration is not optional. It is the safeguard.

Practical Review Steps for Mediators and Attorneys

A simple checklist:
- Is the information accurate?
- Is the tone neutral?
- Is anything missing that parties may rely on?
- Does it match the goal and audience?
- Does it comply with ethical boundaries?

This step ensures the final product is professional and reliable.

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Exercise #1: Use an AI Tool to Create a Great Prompt

The Prompt to Build a Prompt Approach:

Option 1: Pre-Mediation Case Summary
"I want to build a strong prompt that will help an AI tool create a clear and neutral pre-mediation case summary. Please ask me for the key components you need, such as issues, interests, chronology, and points of agreement or disagreement. Once I respond, draft a complete prompt I can reuse."

Option 2: Opening Statement Preparation
"I need to create a prompt that will help me draft a balanced and neutral opening statement for a mediation. Ask me for the case type, party positions, tone, and goals of the statement. Then write the completed prompt based on what I tell you."
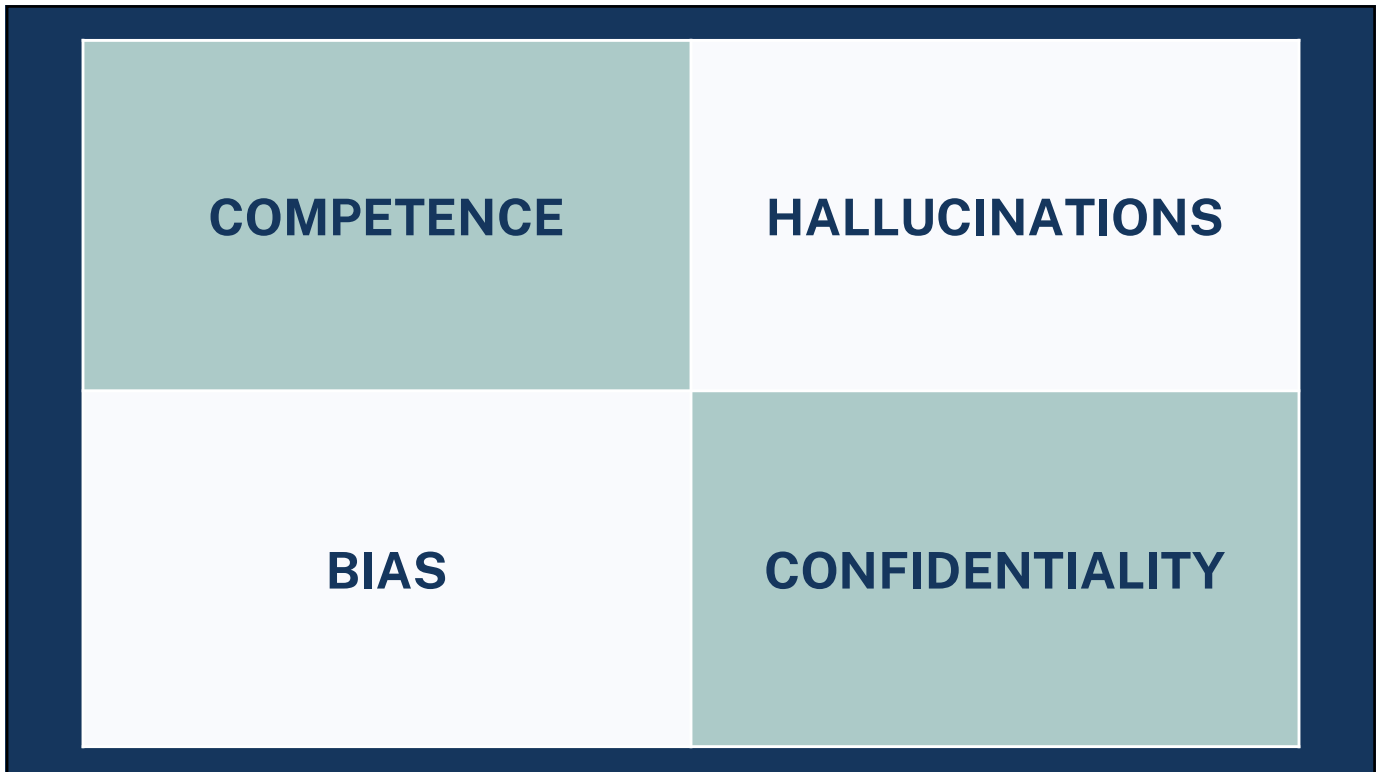
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II. ETHICS AND RISK MANAGEMENT IN AI USE

Understanding and Mitigating the Ethical Challenges

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COMPETENCE	**HALLUCINATIONS**
BIAS	**CONFIDENTIALITY**

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HALLUCINATIONS AND MISINFORMATION

The New York Times

The ChatGPT Lawyer Explains Himself

In a cringe-inducing court hearing, a lawyer who relied on A.I. to craft a motion full of made-up case law said he "did not comprehend" that the chat bot could lead him astray.

Steven A. Schwartz told a judge considering sanctions that the episode had been "deeply embarrassing." *Jefferson Siegel for The New York*

avianca

THESE LAWYERS USED CHATGPT

PETER LODUCA
STEVEN SCHWARTZ

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THE PROBLEM

Inaccuracies and Hallucinations - STILL HAPPENING

- In 2024-2025, documented cases now number **670** globally and appear "every day."

- High profile instances: My Pillow attorneys, Morgan & Morgan, and more.

- Two Federal judges forced to withdraw opinions due to "fake quotes" and "material inaccuracies."

- Sanctions are rising. From $5,000 in Avianca case to $15,000 and more.

- **damiencharlotin.com https://www.damiencharlotin.com › hallucinations**

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WHY IS IT STILL HAPPENING?
Accuracy and Hallucinations

- Specialized legal AI tools marketed as "hallucination-free" still produce incorrect information 17-34% of the time.

- Time pressure and billing incentives create dangerous shortcuts. The core issue, according to legal experts, is "sloppy lawyering and professional practice."

- Educational gaps persist across the profession. Law schools have been slow to incorporate AI training despite 79% of law firms now using AI (up from 19% in 2023)

- AI hallucinations occur due to fundamental architectural limitations in how large language models work. They have no inherent concept of truth or falsity

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Dealing with Hallucinations & Misinformation in AI Tools

🔍 Verify Everything
- Always fact-check case law, statistics, or sources
- Use trusted sources or ask AI to cite them (but still verify)

📢 Avoid Over-Reliance
- Use AI for idea generation or structure, not legal conclusions
- Don't copy/paste without understanding the content

✏️ Use Follow-Ups Wisely
- Clarify confusing or vague output
- Ask for plain language explanations or alternate versions

🛑 Don't Ask AI to Act Like a Decision-Maker
Avoid prompts like:
"Who's right in this dispute?" or "What's the fair outcome here?"

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Exercise #2: Use an AI Tool to Create a Fact Check Protocol

Beginner Prompt: Start Building a Safety Checklist for Using AI Tools
Prompt to enter into ChatGPT (or another AI tool):

"I'm starting to use AI tools in my legal or mediation work. I want help creating a simple safety checklist so I don't accidentally use wrong information from the AI.

*Please walk me through what I should do to:*
  1. Make sure the AI's answers are correct.
  2. Avoid using the AI for things it's not good at.
  3. Check if something might be made up or misleading.

Can you help me come up with 4 to 6 easy steps I can follow every time I use AI? I want it to be simple, safe, and useful for my kind of work. Think carefully and give me a clear answer."

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THE PROBLEM
Bias is Sneaky
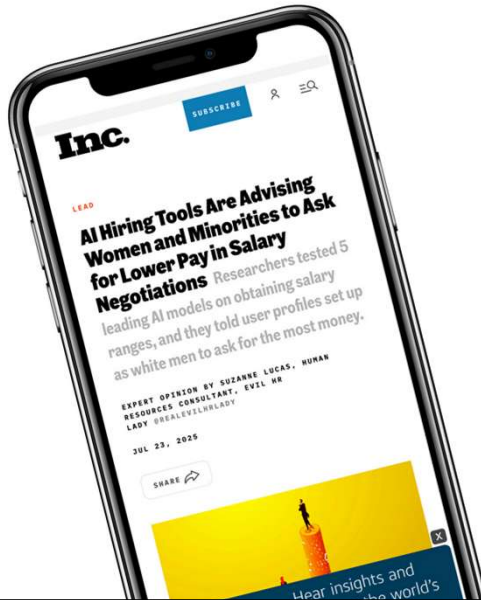
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WHAT DOES BIAS IN AI LOOK LIKE?

Female Candidate

Male Candidate

Identical Qualifications

Suggested Salary Ask:
$240,000

Suggested Salary Ask:
$400,000

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BIAS: IT'S HARD TO RECOGNIZE AND IT IS EVERYWHERE

- [Surface Fairness, Deep Bias: A Comparative Study of Bias in Language Models](#) June, 2025

- Looks fair on the surface, but isn't — AI can give answers that seem balanced, yet still hide subtle bias beneath.

- Grades people differently — AI has shown it can rate one group's answers higher than another's, even when the facts are wrong.

- Gives unequal advice — AI can suggest better deals or terms for some groups over others, even without being told who they are.

- Remembers and repeats bias — Once AI "learns" about someone, it can carry that bias into future answers without you realizing it.

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Strategies for Checking Bias in Outputs

Check Your Prompt First	**Use Neutral Framing**
• Bias often enters before the AI responds • Review your own wording for assumptions • Use factual inputs, not interpretations	• Use "Party A / Party B" instead of labels that imply roles or status • Frame issues as goals or needs, not stereotypes • Language descriptive not evaluative
Avoid Assumptions	**Tell the AI to Be Inclusive**
• Focus only on information actually provided • Don't embed motivations, emotions, or intent • Center prompts on goals, interests, and facts	• Add explicit instructions to avoid bias • Example: "Create an equitable, inclusive summary that avoids assumptions and reflects all parties' perspectives fairly." • Use this in summaries, issue lists, and brainstorming prompts,

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EXAMPLES: Neutralizing Prompts to Avoid Bias

"Summarize why Party B's delay created the current dispute and outline the problems it caused for Party A."

"Create a neutral summary of the dispute, outlining each party's description of the delays and their impact, based solely on the information provided and without assigning responsibility."

"Break down the strengths of Party A's position so I can prepare for mediation."

"Provide a neutral analysis of the key issues raised by all parties, based solely on the information provided, without evaluating the merits or offering legal conclusions."

"Summarize how the employee misinterpreted the company's policy and why that led to the conflict."

"Summarize the differing interpretations of the policy as described by each party, outlining the issues that contributed to the conflict without indicating which interpretation is correct."

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THE PROBLEM

Security - Confidentiality & Privacy

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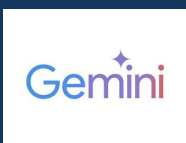
AI Platform Comparison for Confidentiality & Pricing (2025)

Plan Type	ChatGPT	Gemini	Microsoft Copilot
Consumer	Free or Plus $20/mo ❌ Not safe for client	Free or Advanced $20/mo ❌ Not safe for client	Bing Copilot Free ❌ Not safe for client
Business/Team	Team $25–30/user/mo ✓ Safer, no training	Workspace $20–30/user/mo ✓ Safer, no training	M365 Copilot $30/user/mo ✓ Data stays in tenant
Enterprise	Custom $60+/user/mo ✓✓ SOC 2, contracts	Enterprise $30+/user/mo ✓✓ Compliance-grade	M365 E3/E5 + $30/user/mo ✓✓ SOC 2, HIPAA-ready

Legend: ❌ Not safe for confidentiality | ✓ Safer (with limits) | ✓✓ Safest, enterprise-grade

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SOLUTION

Security - Confidentiality & Privacy

legal.Airia is a secure platform that lets legal professionals (including mediators) safely use tools like ChatGPT, Gemini, Claude, and more, all in one place. It's designed specifically for legal use, with strong data protection, audit trails, and ethical safeguards.

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Dealing with Confidentiality and Privacy When Using AI Tools

🔍 1. **NO PII** Use "Party A/B" and general terms — never names, addresses, or other identifiers. **ALWAYS ANONYMIZE**	⚙️ **2. Turn Off Memory** Disable ChatGPT memory or use incognito mode for sensitive content.
🚫 **3. No Live Case Data** Never input real-time case details unless on a secure, enterprise platform.	🧠 **4. Structure, Don't Store** Use AI to design processes and explore ideas — not to retain confidential info.

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IV: IN THE ROOM DEMOS AND EXERCISES

Advanced AI Applications for Dispute Resolution

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1. Option Generation + Reality Testing
2. Risk Analysis Support
3. Decision Trees (Structured, Neutral Visualization)
4. Summaries and Issue Mapping
5. Visual Aids + Reality-Testing Tools
6. Build Your Personalized AI Workflow

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1. Option Generation + Reality Testing

DEMO

Prompt:
 "Act as a neutral mediator's assistant. I will provide the facts of a mediation scenario. Your task is to generate a list of interest-based settlement options and then help me reality-test each option. Start by asking me clarifying questions about the issues, the parties' goals, any constraints, and any non-negotiables. After my responses, produce:
   1. A list of options categorized by interest
   2. Practical pros and cons for each option
   3. Questions I could use with parties to support reality testing
   4. Keep all language neutral, non-directive, and suitable for use in mediation."

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Build Your Personalized AI Workflow   **PARTICIPATION DEMO**

Prompt:

 "I want help designing a personalized AI workflow for my mediation or legal practice. Begin by asking me questions about my practice type, the kinds of matters I handle, the tasks that consume significant time, my technological comfort level, and any ethical considerations I need to prioritize.

 Then create a customized workflow that includes:

1. *Tasks I can safely delegate to AI*
2. *Recommended tools for each task*
3. *Example prompts I can reuse*
4. *A suggested sequence for using AI during intake, preparation, sessions, and post-session work*
5. *Guardrails to ensure ethical and confidential use*
6. *Keep the workflow practical and tailored to my role as a mediator or attorney-mediator."*

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2. Risk Analysis Support   **Exercise**

Prompt:

 "I want your help conducting a structured risk analysis for a mediation scenario. Please begin by asking me for the key facts, the issues in dispute, the parties' desired outcomes, and any known uncertainties. After gathering the information, provide:

1. *A neutral list of risks for each party*
2. *Best-case, worst-case, and most-likely scenarios*
3. *A simple, non-legal probability assessment based on the information provided*
4. *A short script I can use to guide the parties through understanding these risks*
5. *Do not give legal advice. Keep the tone neutral and suitable for a mediator."*

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Exercise

3. Decision Trees (Structured, Neutral Visualization)

Prompt:
"Help me create a neutral, structured decision tree for a mediation scenario.

Begin by asking me questions to identify:
• The central decision point
• The possible options or pathways
• The potential outcomes for each pathway
• Any relevant qualitative or quantitative considerations

Then, generate a clear decision tree in text format that I can convert into a visual later. Keep it neutral, balanced, and easy for parties to understand."

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Exercise

4. Summaries and Issue Mapping

Prompt:
"I need your help creating a clear, neutral issue map and summary for a mediation.

Start by asking me for the case background, the parties' positions, their underlying interests, areas of agreement, and unresolved questions. Once you have the information, produce:
1. A short neutral summary of the situation
2. A structured list of issues (primary and secondary)
3. An interest map that shows where the parties align or diverge
4. Any missing information I should consider gathering from the parties
5. All language should be neutral and suitable for use in mediation preparation."

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5. Visual Aids + Reality-Testing Tools

Exercise

Prompt:

"I want to create visual tools to support understanding and reality testing in mediation. Ask me questions about the case and the specific concepts I want to clarify (for example, timelines, financial comparisons, option charts, pros-and-cons lists, or BATNA/WATNA illustrations).

After collecting the information, generate:
1. A text-based prototype of the visual aid
2. A short explanation of how it can be used with parties
3. Suggestions for alternative visuals that may also support clarity
4. Do not include graphics, only structure I can later convert into visuals."

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V. EMERGING PRACTICE AREAS AND NEW NICHE OPPORTUNITIES

First-to-Market Opportunities for Mediators

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3 HOT TOPICS IN AI

1.Synthetic content and authentication disputes

Synthetic content is any audio, video, text, or image that is created or altered with AI. Deepfakes sit at the center of this, but so do AI-edited documents and audio recordings. The core legal and ADR issue is simple to say and hard to answer: "What is real, and who has to prove it."

2. AI agent liability and multi-party allocation issues

Agentic AI and autonomous systems are already making recommendations and, in some settings, decisions. When something goes wrong, liability can involve the developer, the deploying company, the data provider, human supervisors, insurers, and sometimes regulators.

3. Cross border AI compliance and regulatory fragmentation

The EU AI Act, sector rules in the United States, and very different approaches in other regions create a patchwork. Global companies that deploy AI across borders face overlapping and sometimes conflicting obligations.

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Opportunities for mediators and attorney mediators to lead

Across synthetic content, AI agents, and fragmented regulation, the common thread is uncertainty. Courts and regulators are still catching up.

There is space for practitioners to:
- Create frameworks, protocols, and model clauses.
- Offer early neutral evaluation, settlement counsel, or advisory mediation roles.
- Teach others through CLEs, writing, and thought leadership, which reinforces the niche.

In each of these areas, and many other emerging AI practice areas, the person who creates the first credible framework often becomes the person everyone calls – that's the beauty of "first-to-market!"

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HEALTH LAW

Use cases generating disputes
- AI assisted diagnostics that misclassify conditions
- Triage and prioritization systems that affect who gets care first
- AI driven utilization review that denies or delays coverage
- Predictive models used in staffing or resource allocation

Dispute patterns
- Patients claiming harm from delayed or missed diagnosis where an AI tool played a role
- Providers challenging payer-side AI denials
- Hospitals, vendors, and insurers disputing responsibility for outcomes tied to an algorithm

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HEALTH LAW

ADR angles and niches

- Mediators who understand standard of care issues, the role of clinical judgment, and basic model limitations can facilitate structured conversations about causation, responsibility, and remediation.

- Health law attorneys can build "AI in care delivery" advisory practices that include early intervention, mediation clauses in vendor agreements, and neutral review boards for disputed AI-driven decisions.

- There is an opening for "AI in health disputes" panels within health law and healthcare ADR organizations.

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EMPLOYMENT LAW

Use cases generating disputes

- Algorithmic hiring and promotion systems that screen applicants and create disparate impact risk
- Productivity and monitoring tools that feed into performance management and termination decisions
- Scheduling algorithms that create unstable or discriminatory work patterns
- AI automation that displaces groups of workers in a compressed time frame

Dispute patterns

- Individual discrimination claims tied to AI influenced decisions
- Class and collective actions around algorithmic bias
- Group disputes around workforce reductions related to automation
- Internal conflicts between management, HR, and compliance about how to implement AI ethically

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EMPLOYMENT LAW

ADR angles and niches

- Mediators can design group protocols for AI-related layoffs and workforce transitions that are far more constructive than serial single plaintiff litigation.

- Employment lawyers can build practices around "ethical AI in HR" that include policy drafting, training, and dispute system design.

- Both mediators and counsel who can translate between technical model behavior and legal standards of discrimination and fairness will be in demand.

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USING AI TO LEARN YOUR AI NICHE

Use Gemini Deep Research as a practice-building tool

Deep Research is an agentic feature in Gemini that automatically browses large numbers of sources, including the open web and, for some users, their own Google Workspace content, then produces a structured multi-page research report. (Note: ChatGPT, Claude and others have this feature.)

Use Gemini Guided Learning for skill building

Guided Learning in Gemini is designed as an interactive learning mode. Instead of giving a single answer, it walks users through material step by step, using questions, explanations, and sometimes multimedia to build understanding and skills.

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Research Exercise

GEMINI DEEP RESEARCH PROMPT

Prompt:

Use Deep Research to identify emerging legal and ADR issues involving AI. Include synthetic content disputes, AI agent liability, cross-border regulation, and trends in health and employment law.

For each area, summarize: key risks, recent cases or regulatory actions, and opportunities for mediators and attorney-mediators.
End with the top three niches where neutrals are most needed in 2025–2027.

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Learning Exercise

GEMINI GUIDED LEARNING PROMPT

Prompt:

Use Guided Learning to teach me an emerging AI legal or ADR topic such as AI diagnostics, algorithmic hiring, evidence authentication, or AI agent liability.

Explain key concepts, give examples, outline risks, show where ADR adds value, provide practice scenarios, and end with a short quiz and next steps for building expertise.

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IN THE ROOM EXERCISES

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