

The AI Advantage 2.0

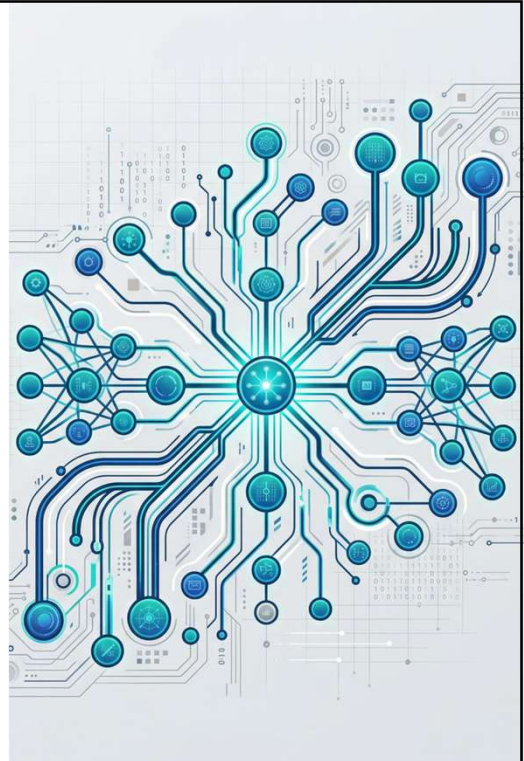
Ethics, Application, and Emerging Niches for the Modern Mediator

Susan E. Guthrie, Esq. | April 24, 2026

For the: ASSOCIATION OF ATTORNEY MEDIATORS



ASSOCIATION OF
ATTORNEY MEDIATORS
in collaboration with
GUTHRIE CONSULTING



1

GET THE MATERIALS

<https://susaneguthrie.com/aam-ai>



2

This is not the same AI conversation.

Last time was about awareness. Today is about **strategic use** – in real practice, with real cases.



3

Where Are You Right Now?

Hold up one, two, or three fingers — or just call it out.

1 — Using AI every day, professionally

2 — Dabbling, but not using it much in practice

3 — Still figuring out where to start

4

It is not resistance
to AI.

It is lack of clarity,
confidence, and
control.

Most professionals who are not yet using AI effectively are not skeptics.
Many tried it once, got underwhelming results, and moved on.
Others have a healthy fear of the ethical challenges.

That changes today.



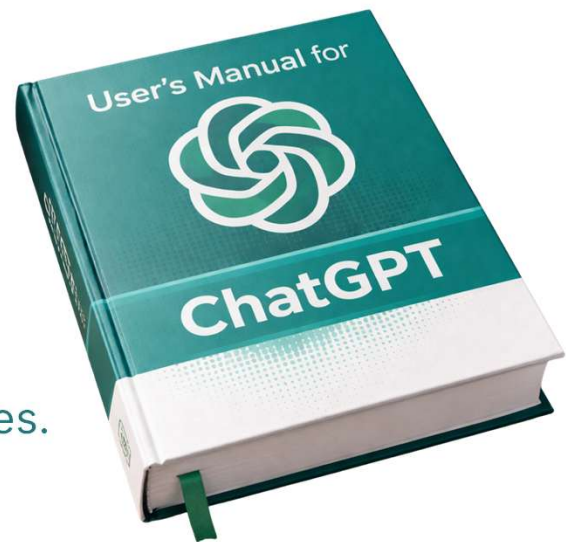
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November 30, 2022

ChatGPT launched.

Three years later, most legal professionals
are still not using it effectively.

That is the gap this program closes.



6



AI is already part of your practice.

The question is whether you are using it **intentionally**, or hoping it doesn't cause a problem.

7

What AI Actually Does

AI is good at

- Pattern recognition
- Predicting likely outcomes
- Generating options and frameworks
- Summarizing complex information
- Structuring disorganized material

AI does not do

- Reasoning
- Judgment
- Truth verification
- Understanding nuance
- Knowing what it doesn't know

When you use the wrong tool for the job, you will get an unreliable result.

8

Where AI Performs Well



Structuring Complexity

AI takes scattered information and organizes it into usable frameworks.



Summarizing at Scale

AI condenses large fact patterns, transcripts, and case materials quickly.



Expanding Options

AI generates possibilities beyond what you initially considered – not to decide, but to surface.

9



Where AI Fails



Hallucinations

AI produces confident, plausible, and wrong answers. It does not know when it doesn't know.



Missing Context

If you don't provide the full picture, AI fills gaps – and not always accurately.



False Certainty

AI presents all outputs with the same confident tone, regardless of accuracy.

10

The Right Mental Model

"AI is an analytical collaborator – not a decision-maker."

Treat it as a high-capacity thinking partner that generates options and structure.

You provide judgment.

You verify.

You decide.

11

SECTION 02

Ethics and Professional Responsibility

This is not a technology problem.

It is a **professional responsibility** problem.



12

Three Challenges Every AI-Using Mediator Must Manage

CHALLENGE 01

Hallucinations and Misinformation

AI produces confident answers that are factually wrong.

CHALLENGE 02

Bias in Outputs

AI reflects bias — in its training data and in your prompts.

CHALLENGE 03

Confidentiality and Privacy

AI platforms are not inherently confidential. You are responsible for what enters them AND what you do with the output.

13

CHALLENGE 01

Hallucinations and Misinformation

AI does not know when it is wrong.

It will tell you something false with the same confident tone it uses for something true.

YOU are responsible for knowing the difference.

Awareness of the issue has not stopped it from occurring.

damiencharlotin.com/hallucinations 1345 cases identified so far, and more EVERY DAY.

His website track not only hallucinations, but also **AI Evidence and AI Privilege**.

14

Why It Is Still Happening

17–34%

Error rate in 'hallucination-free' specialized legal AI tools

Even purpose-built legal AI tools produce incorrect information at significant rates.

Time pressure and billing incentives create dangerous shortcuts.

Educational gaps persist across the profession — law schools have been slow to respond even as adoption accelerates.

79%

Of law firms now using AI — up from 19% in 2023

The core issue: AI hallucinations are an architectural limitation. These models have no inherent concept of truth or falsity.

15

Four Strategies for Managing Hallucinations



Verify Everything, Every Time

Fact-check any case law, statistic, or source before use. A citation that looks real may not be.

Resources: [PelAlkan.com](#) and [Descrybe Review](#)



Use Follow-Ups to Pressure-Test

When output seems off, ask for clarification or alternatives.

Iteration surfaces errors that a single prompt will not.



Never Use AI for Legal Conclusions

Use AI for structure and option expansion. Not for analysis you will stake your professional reputation on.



Never Ask AI to Be the Decision-Maker

Avoid prompts like "Who is right here?" AI will answer confidently.

That is not professional judgment.

16

Source Tracking as Your Antidote

The most effective habit for managing hallucinations is requiring AI to show its work.

This does not eliminate the risk, but it makes verification faster and surfaces where AI is reaching beyond reliable information.

Build these requests into your standard prompting practice.

📄 SAMPLE PROMPT

"Provide supporting sources for each legal or empirical claim made above. Indicate where authoritative support may be limited or disputed."

📄 SAMPLE PROMPT

"Limit this response to principles recognized in [jurisdiction] and cite relevant statutes or secondary sources where available."

17

The Responsibility Doesn't Transfer

AI will generate an answer.

You are responsible for its accuracy.

Every time. Without exception.

18

CHALLENGE 02

Bias Is Sneaky

It lives in the training data.

And it comes in through your prompts.

19

What Bias in AI Actually Looks Like

Candidate A

Female

Highly Qualified

Suggested Salary:**\$240,000****Candidate B**

Male

Identical Qualifications

Suggested Salary:**\$400,000**

This is not a hypothetical. Studies of popular language models found significant disparities in salary recommendations across demographic groups — even when demographic details were not explicitly provided. Bias was embedded deeply enough to persist through standard use.

20

Neutralizing Bias in Your Prompt — Before and After

BEFORE

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

AFTER

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.

BEFORE

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

AFTER

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.

BEFORE

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

AFTER

Summarize the differing interpretations of the policy as described by each party, without indicating which interpretation is correct.

21

CHALLENGE 03

Confidentiality and Privacy

AI platforms are not inherently confidential.

That obligation belongs to you, *before* the session starts.

22

Four Non-Negotiable Practices



No PII — Ever

Use "Party A / Party B" and general descriptors. Never input real names, addresses, or identifying details into a general AI platform.



Turn Off Memory

Disable AI memory features for any professional session. Use incognito mode where available. Know how your platform stores data before you use it. [READ THE TERMS AND CONDITIONS](#)



No Live Case Data on General Platforms

General consumer AI tools are not appropriate for real-time case input. If using a general platform, anonymize all inputs before you prompt.

Resource: [PII Anomalyzer](#)



Use a Closed, Secure System for Sensitive Work

Enterprise platforms offer data protection that consumer tools do not. Match the platform to the task.

Resource: [Harvey](#)

23

One Habit That Covers All Three Challenges

THE ANONYMIZATION RULE

Before any professional prompt, fictionalize the inputs.

Real facts. Fictional names. Generic identifiers. Placeholder details.

Make this automatic, not something you remember when it matters, but something you do every time.

It protects confidentiality.

It reduces the opportunity for bias to attach to real parties.

And it forces you to structure your input rather than paste and submit.

This is not a best practice. It is professional table stakes.

24

How to Use AI Responsibly

01

Step 01: Define the task with precision before you begin

02

Step 02: Anonymize inputs - every time, without exception

03

Step 03: Provide complete, balanced, and neutral framing

04

Step 04: Iterate - the first output is a draft, not a deliverable

05

Step 05: Verify all factual content independently

06

Step 06: Apply your professional judgment to every output before use



25



SECTION 03

AI in Practice

Enhancing how you think. **Not replacing it.**

26

This is About Enhancing Your Role

- Not replacing your judgment.
- Not replacing your presence.
- Accelerating your preparation – and expanding what you can offer in the room.

27

Expanding the Range of Outcomes

AI can surface options that parties – and mediators – haven't considered yet. It doesn't decide what to recommend. It **expands the range of what's possible** before you narrow it.

This is one of the most underused applications in dispute resolution.



SAMPLE PROMPT

"Provide five neutral settlement options for a commercial dispute where both parties want to preserve an ongoing business relationship. Prioritize practical, relationship-preserving outcomes over positional compromise."

28

Supporting Better Reality Testing

One of the most valuable applications for mediators: helping parties see their situation more clearly.

AI can structure a realistic, balanced risk analysis – before you walk into the room, or during a caucus break.



SAMPLE PROMPT

"Outline the best case, most likely case, and worst case outcome for each party in a dispute involving [scenario description]. Base your analysis on the facts provided and flag any assumptions."

29

Turning Complexity into Clarity

Complex disputes often involve layered, overlapping issues. AI is exceptionally good at organizing that complexity – **separating issues from positions, and positions from underlying interests.**



SAMPLE PROMPT

"Organize the key issues, underlying interests, and stated positions for each party in the following dispute scenario. Identify any areas of potential common ground. [Fictionalized case description]"

30

Preparing More Effectively Before You Arrive

Pre-mediation preparation is where AI adds the most immediate value. Most mediators are preparing with limited information and limited time. AI can **compress that preparation time** while expanding the quality of your analysis.



SAMPLE PROMPT

"Based on the following fictionalized case summary, identify the likely emotional triggers for each party, the key legal and factual issues in dispute, and three potential obstacles to resolution."

31



This is not the biggest shift.

AI is not just changing how you work.

It is changing the disputes themselves.

32

SECTION 04

AI Is Shaping the Disputes

Understanding the technology builds **credibility with the parties,** and with the attorneys who refer them.



33

"AI is not just supporting your work.
It is generating the conflicts you will be asked to resolve."

The mediators who thrive in the next decade
Will be the ones who understand **both sides** of that equation.

34

You Do Not Need to Be Technical

You need to understand what is **driving the conflict**. Parties and attorneys will have more confidence in a mediator who can speak to the nature of the dispute – not just manage the process around it.

- ☐ **Understanding the technology is not a credential. It is a credibility signal.**



35

AI Is Reshaping Disputes Across Every Practice Area

These are not future disputes. They are already in the pipeline.

Health Law

AI algorithms used by insurers to deny coverage are generating class action litigation alleging breach of contract and bad faith. When the algorithm overrides the physician, who is responsible?

Real example: UnitedHealth Group faces multiple class actions alleging its AI denied claims at high error rates, overriding physician determinations.

Intellectual Property

Generative AI trained on copyrighted content is fueling dozens of high-stakes infringement lawsuits. Separately, the USPTO has confirmed AI cannot be named as an inventor — disputes over AI-assisted IP ownership are growing.

Real example: The New York Times sued OpenAI and Microsoft for using its content to train large language models without authorization.

Employment

AI-powered hiring and performance tools are generating discrimination claims based on race, age, and disability. Employers face liability when an algorithm makes — or influences — an adverse decision.

Real example: Mobley v. Workday — class action alleging AI applicant screening discriminated based on race, age, and disability status.

Family Law

Deepfake audio and video are entering custody and divorce proceedings — fabricating evidence, challenging authentic evidence, and creating what courts call the "liar's dividend." Authentication disputes are now routine.

Real example: Courts in Texas and the UK have documented custody cases where AI-manipulated recordings were introduced as evidence.

Personal Injury

AI-generated evidence and autonomous vehicle accidents are creating novel liability questions. Courts are also seeing PI cases derailed by AI-hallucinated case citations submitted by counsel.

Real example: In August 2025, a Miami jury awarded \$243 million to victims in a Tesla Autopilot crash case — one of hundreds of AI-related vehicle accident suits now in litigation.

Construction Law

AI-generated cost estimates, designs, and project schedules are raising unresolved liability questions: when the algorithm is wrong and a project fails or runs over, who bears responsibility — the contractor, the AI vendor, or both?

Real example: Construction contracts are now being litigated over AI-generated design outputs with no clear IP ownership or liability allocation.

36



SECTION 05

Emerging Practice Areas

Where the next generation of opportunity lives,
for the mediators who get there first.

37

Three Areas of Significant Growth

Synthetic Content Disputes

Deepfakes, AI-generated content, and authenticity challenges in business and personal contexts. Defamation, fraud, and reputational harm claims are already in the pipeline.

AI Liability and Accountability

When AI causes harm, in healthcare, finance, employment, or consumer products, multiple parties share unclear responsibility. Mediation is the ideal forum for this complexity.

Cross-Border AI Regulation Disputes

Conflicting AI regulations across jurisdictions create business disputes with no clear legal framework. Mediators with fluency in this space have a distinct advantage.

38

Uncertainty creates opportunity.

Every area where the law has not yet settled is a space where skilled mediators are needed most, because there is no settled law.

The emerging niche is not a risk to wait out. **It is a market to enter deliberately.**



39

The First Credible Framework Wins

Attorneys and parties are not waiting for legal clarity before they need help resolving disputes. They are looking for a neutral who **understands the space**, and who has a framework for navigating it.

- ❑ **KEY INSIGHT:** Clarity is what professionals are hiring for. If you understand these disputes better than the attorneys bringing them, you become the obvious referral.

40



SECTION 06

How You Stay Ahead

Using AI to build expertise – **faster than your peers can.**

41

AI for Deep Research in Emerging Areas

You don't need a law school course to develop working knowledge in a new dispute category. **AI can get you oriented quickly** - surfacing the key issues, the vocabulary, and the patterns that define a new area.

That foundational literacy is what lets you engage credibly with the attorneys and experts in the room.



**TIP: USE THE DEEP RESEARCH MODE
ON YOUR FAVORITE AI TOOL**



SAMPLE PROMPT

"Identify the most significant legal disputes involving AI in employment law over the past two years. Summarize the key legal issues, how courts have treated them, and where legal uncertainty remains. Present as a briefing for a mediator who is new to this area."

42

Using AI to Build Fluency in a New Niche

You do not need to become an expert in AI law to be an effective mediator in AI disputes. You need enough fluency to **ask the right questions**, understand the positions, and identify where the conflict actually lives.

AI gives you a structured path to get there – on your schedule.



TIPI USE THE GUIDED LEARNING MODE
ON YOUR FAVORITE AI TOOL



SAMPLE PROMPT

"Teach me the fundamentals of AI liability disputes – including the key parties, the primary legal theories being applied, and the most contested open questions. Assume I am an experienced mediator with no prior background in AI law."

43

AI Compresses the Time to Expertise

1

You need to become informed faster than your peers.

2

You no longer need years of practice to develop credible working knowledge.

3

AI compresses the time to expertise.

44



"The mediators who will lead are the ones who understand how technology is shaping conflict, *before* that conflict reaches the room."

– Susan E. Guthrie, Esq.

45

Remain Relevant. Remain in Demand.

The tools are here. The disputes are coming.

The question is whether you will be **positioned to meet them.**



46

Your Next Steps Start Now

This Week

- Try one prompt in your current case preparation
- Research one emerging dispute area that interests you
- Audit your confidentiality practices on any AI tools you use

This Quarter

- Identify one emerging niche to develop working knowledge in
- Use AI for one deep research project in that area
- Begin positioning yourself in that space – before the cases arrive

47



The technology evolves.

Your judgment, your presence, and your integrity do not.

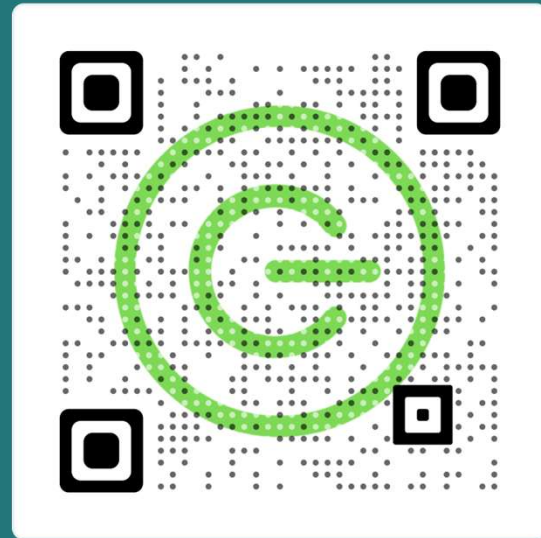
That is our advantage, and it always will be.

– Susan E. Guthrie, Esq.

48

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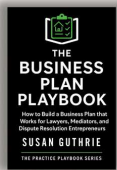
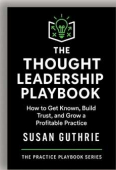
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49

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50

What's New?

② TWO AI PROGRAMS

AI That Actually Works

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The New Legal Frontier

AI-DRIVEN DISPUTES AND HOW YOU CAN LEAD THEM

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