

Generative AI Goes to Law School

Kurt X. Metzmeier

While law professors had been studying the impact of generative AI on legal education and the practice of law (like Susan Tanner, my colleague at the University of Louisville who just got a grant to develop a toolkit to help legal writing professors incorporate AI into their instruction), for now they've only been able to test open AI platforms like OpenAI's ChatGPT and Google's Bard. As I wrote in the May 2023 issue of *Bar Briefs*, the real capabilities of AI would be best assessed when we saw generative AI that had been trained on the case law and statute databases of Westlaw and Lexis, not the confused mix of solid data, commercial puffery and the idiot ramblings of opinionated randos that is the 21st century internet.

That prediction was quickly realized. On November 15th, Thomson Reuters announced an array of AI-fueled products on its Westlaw platform would be available to law firm purchasers. This was apparently the fruit of its August acquisition of Casetext and its CoCounsel product.

One interesting feature touted by Westlaw was that it was going to actively use its long-existing AI search algorithms based on

Westlaw's years of editorial work (notably the West topic-key number system) to check the results of the generative AI results algorithm. It used this "retrieval augmenting" AI to make sure that the "the right cases, the right statutes, the right regulations" were used to train the generative AI language model. Westlaw says it was less concerned with ChatGPT-like hallucinations than with overall accuracy. "It can be hallucination-free and still be wrong ... hallucination-free is a low bar," Mike Dahn, the head of product management at Thomson Reuters, said.

To the consternation of law library directors, the academic platform was not included in the initial rollout. Lexis, on the other hand, took an opposite tack, announcing in a November 14 e-mail to full-time law professors that its generative AI product, Lexis+ AI, would be available to law faculty users within the week. This was followed up with personal e-mails by school Lexis reps who set up live and remote trainings, one of which I attended. On November 18, Lexis+ AI went live.

On December 18, Lexis announced that it was extending access to upper division law students by the start of 2024. Law schools

could decide if they wanted to opt in 1Ls for the spring semester, but all law students will have access by May 2024 when they start their law firm clerkships and associate programs.

Chatting with Lexis+ AI

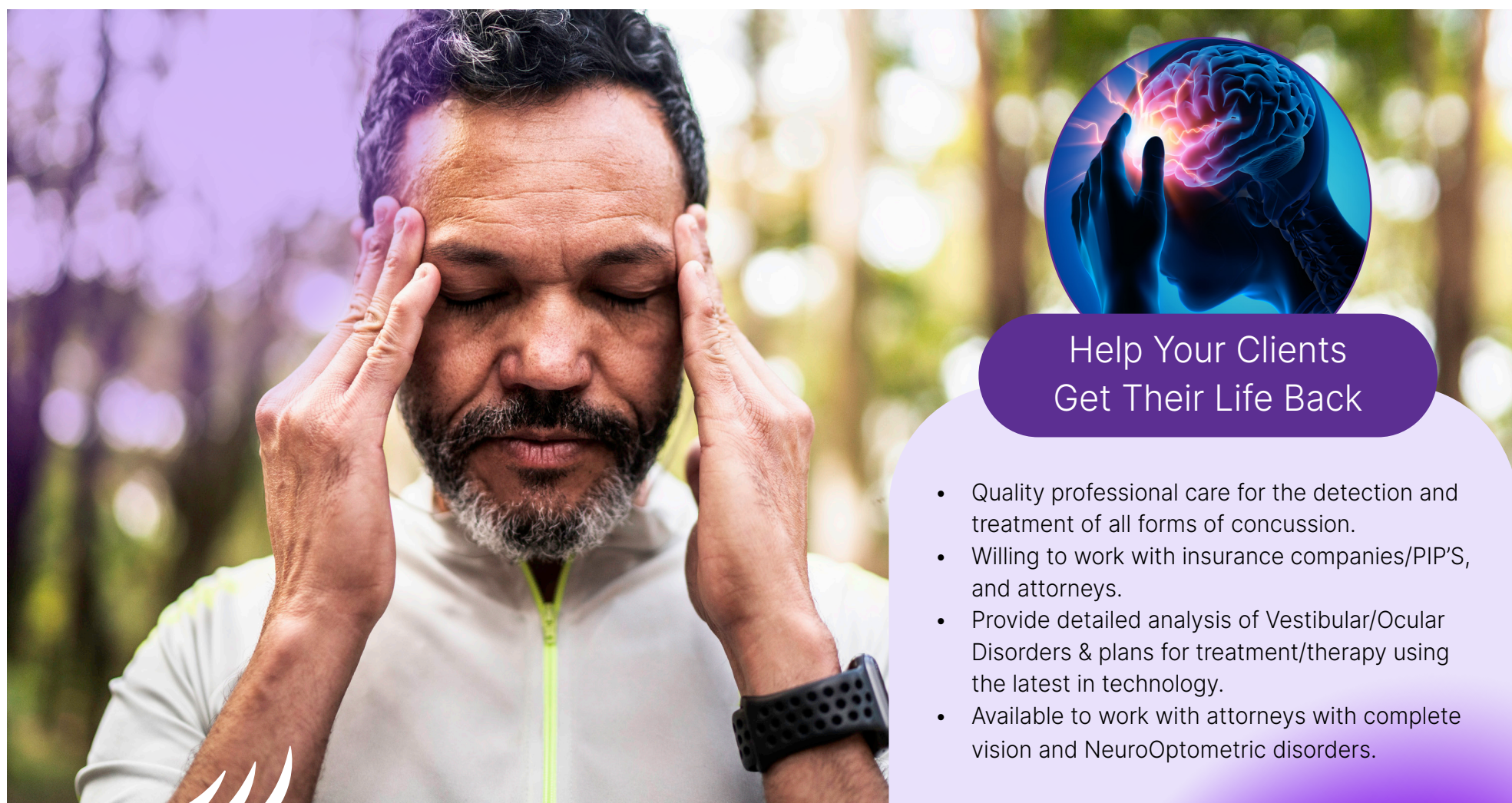
Since Westlaw has not selected me to review its generative AI offerings, I'm now going to focus on Lexis+ AI and my initial use. (I've run several test-prompts, but my methods don't rise to the level of bench-testing). Lexis offers academic users two AI tools, a general search tool, "Ask a Legal Question," and a drafting tool, "Generate a Draft." Both are trained on cases, statutes, regulations, court rules and a limited number of secondary sources. Like Westlaw's generative AI, they are used in conjunction with the prior AI-based natural language that Lexis' search products have been refining over the last two decades.

When I first tested the legal research tool, "Ask a Legal Question," I used various queries I'd researched earlier for classes. The results *seemed* like magic. Not only did they pull up relevant cases, but also summarized them in well-written English paragraphs. However, as remarkable as they were, re-running these

searches using natural language in the traditional search engine, it was apparent that Lexis+ AI leans a lot on the search algorithms it already uses because the results were the same. Like a Lance Burton illusion, the effect was impressive, but perhaps less than it seemed. Lexis+ AI might be more evolutionary than revolutionary.

Nonetheless, in a few minutes — the processing of prompts takes from 30 seconds to a couple minutes — I had created a lot of text I could incorporate into whatever I was writing.

The "Generate a Draft" tool allows you to get a draft for a "Legal Argument," a "Legal Memo," a "Letter," an "Email," or a "Clause." You first choose a jurisdiction, and then signal what type of resulting document you want by including it in the prompt. Interestingly, when I ignored that and asked the AI to "draft a motion to reduce bail on the grounds that my client is a homeowner, has a job, and lives in another county in the same state," it responded with what the AI called a legal argument, but was started like a motion: "I move to reduce ...," going on to draft a pretty good motion that only required me to revise it to add specific facts.



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In a case where I asked specifically for a legal argument, after the result, the AI asked me if I wanted to “make this more aggressive” or “make this less aggressive.” “Dial it up to *Law & Order*’s Jack McCoy-level aggressive” is not an option, however.

Citations and Other Issues

Lexis+ AI (and purportedly the Westlaw AI product) does not have some of the fundamental problems that ChatGPT had. I saw no hallucinations or faked citations like I saw when testing ChatGPT. However, I did see some citation issues.

For example, in one case I asked Lexis+ AI to draft an e-mail on whether a prosecutor could charge murder in Kentucky if there was no body. The result stated—correctly—that “Kentucky courts have held that circumstantial evidence may be sufficient to prove the corpus delicti in a murder prosecution,” citing *Collins v. Commonwealth*, 295 S.W.2d 797 (Ky. 1956). However, that case does not stand for this proposition, and neither does either of the other two cases the AI cited.

So how did it come to the right answer? My assumption is that due to its training, the AI knew that the rule it cited was the rule in almost all states and checked the Kentucky case law dataset to disprove its hypothesis that it was also true in Kentucky. Having failed to disprove it, the AI determined its surmise was true. Then, it selected a few recent cases that deal with circumstantial proof as support. It might have even avoided the most on-point case, *Dolan v. Commonwealth*, 468 S.W.2d 277 (Ky. 1971), because the AI’s algorithm deemed it “too old.” I have noticed enough of a bias against older results in Lexis (and Westlaw) search algorithms that I warn students about it in my Kentucky Legal Research classes. Because Kentucky has been so stingy in designating decisions for publication over the last century, we have more aging leading cases than many states do — especially the large coastal states that the algorithms have been trained on.

This wasn’t the only head-scratcher in the citations. In fact, in other prompts I’ve made, I have found at least one less than relevant source, including federal citations in prompts clearly

asking for state law. They aren’t “fake” *cites per se*, but they aren’t that applicable either.

Preliminary Verdict

More research is necessary but overall, the Lexis+ AI tools are useful tools to aid lawyers in their legal research and drafting, although their results will need to be checked for accuracy and precision. The most promising use appears to be in drafting documents by using the AI tool to create a quick first draft that a lawyer can add concrete facts into during editing.

I suspect that Kentucky law firms are going to be asked to purchase this as an add-on in 2024. I have no idea what that will cost, but I’d be wary of becoming an early adopter if that price is significant. The search enhancements are real but modest. And I’m not sure that Lexis — which is always in fierce competition for the legal research buyer — won’t quietly incorporate them into Lexis natural language (if they haven’t already). The drafting tools *are* intriguing and can save a bit of time in constructing documents. But they do not replace the active thinking that goes into those documents, as well as the rewriting that will be needed to add factual data and sharper argumentation specific to the client’s case. And while the product isn’t making things up like ChatGPT, there are occasionally results that I would not take to court.

Nonetheless, Lexis+ AI is an exciting product now, and AI products will no doubt get *much* better through their interaction with early adopters. If ChatGPT is a guide, Lexis+ AI will grow by leaps month after month. A year from now we’ll know exactly how revolutionary the AI tools in platforms like Lexis and Westlaw will be in enhancing legal productivity.

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Office of the Circuit Court Clerk’s Attorney Satisfaction Survey set for February 12-29

The Office of the Circuit Court Clerk will conduct its 2024 Attorney Satisfaction Survey February 12-29. All attorneys who practice in Jefferson County are invited to participate. Getting feedback from attorneys through this annual survey is important and beneficial to the office, as we use the information to help us calibrate our operations and continually improve service.

In addition, we share the results and comments from the survey with the Administrative Office of the Courts and the local judiciary, which benefits our collaboration in the administration of justice.

Please stay tuned for additional information and links to the upcoming survey, which will go live Monday, February 12. For more information, please visit jeffersonkycourtclerk.com. ■



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