ChatGPT: The Law Clerk’s Law Clerk

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In this article, a federal judge and two of his law clerks offer a firsthand account of how chambers tested large-language models, colloquially known as “artificial intelligence” or “AI.” The piece addresses potential concerns while advocating for the responsible use of this burgeoning technology.

Imagine a tool that can analyze vast amounts of legal data in seconds, providing insights that would take hours or even days for a human to review. In our federal chambers, we embarked on a journey to test such a tool—ChatGPT, a large-language model branded as artificial intelligence (AI). Our experience was transformative, revealing both the immense potential and the necessary caution required when integrating AI into legal practice.

Traditional Tools and New Technologies

Traditional tools for legal research and writing could soon be replaced by large-language models. Our foray into this realm began with an experiment driven by curiosity, tempered by skepticism, and guided by our ethical duty to understand this advancing technology.\(^1\) Testing ChatGPT was nothing short of transformative.

ChatGPT’s capacity to process information at superhuman speeds showed us that this technology is much more than a novelty. As a powerful weapon in our legal armory, it made chambers more efficient and, unexpectedly, more pleasant. Yet, through our trials, we realized that this technology is a mere tool—and one that requires careful use. Meanwhile, large-language models have crept into the legal world, helping pro se litigants present more cogent arguments and saving millions of dollars in discovery.

The judiciary cannot sidestep AI. Thus, we deemed it prudent to share our insights with our peers, particularly concerning the benefits and potential pitfalls. More importantly, we offer practical tips on how to use ChatGPT, sparing you the frustration of trial and error.

Writing and Editing

Our engagement with ChatGPT has spanned from identifying errors in legal writing, to clarifying ambiguities and summarizing overly complex legal arguments. Its
versatility has been remarkable, often providing new perspectives and insights that we had not considered.

- **Identifying Errors and Clarifying Ambiguities**: ChatGPT excels in reviewing legal documents for errors and ambiguities. We have saved hours of work by generating comprehensive lists of edits with prompts such as “Search the following draft judicial opinion for all errors and possible ambiguities” or “Offer suggestions for improvement.” Using courtesies like “please” also yielded better results.

- **Drafting and Outlining**: ChatGPT can produce full drafts or outlines in seconds. After determining an opinion’s holding and main points, we pasted the relevant arguments or briefs into ChatGPT and prompted it to “Draft a judicial opinion denying the plaintiff’s motion for summary judgment due to a factual dispute regarding the causation element of the negligence claim.” Supplementing this with “Draft additional legal analysis explaining why each of the plaintiff’s arguments lack merit” improved results, especially with specific prompts for different parts of the analysis. If the response was unsatisfactory, we could regenerate a different version or ask it to “Expand on the analysis” as needed.

- **Enhancing Reasoning and Tone**: ChatGPT’s utility extends beyond basic drafting. We prompted it to strengthen reasoning and to identify counterarguments. For instance, asking it to “Provide ten clever metaphors, similes, or famous quotes to argue that dismissing a lawsuit after the statute of limitations has expired would prejudice unnamed class members” or to rewrite work in various tones, styles, and voices—including those of favored writers or judges—was immensely helpful. So, too, the prompt “Tighten this up” would help, though it often skimmed too much context.

- **Drafting Introductions**: One of our favorite uses was drafting introductions. Sometimes, ChatGPT’s draft introduction would redundantly echo the body of the text. Preferring introductions with distinct wording, however, we had ChatGPT provide several versions, from which we crafted original rewrites. Similarly, we asked ChatGPT to draft introductions in the “voice, style, and word choice” of various legal writers. We found requesting a “more succinct” or “one-paragraph” rewrite often yielded better results.

Although we do not endorse using ChatGPT’s outputs as final work, its drafts and outlines significantly expedite assembling the skeletons of legal writing.
Teaching and Researching
ChatGPT also excels in teaching complex or obscure legal doctrines. Asking it to
“Give me a crash course on the state-created-danger doctrine, including potential
differences among jurisdictions” saved hours of preliminary research in a Fourteenth
Amendment case under 42 U.S.C. § 1983. Similar inquiries worked for doctrines
like collective knowledge and the clearly established element of qualified immunity.

• Initial Legal Research: ChatGPT can perform some initial research. Prompts
such as “What are the elements of malicious prosecution under Michigan
law?” can save hours, especially if the elements span multiple cases. However,
ethical duties mandate verifying ChatGPT’s information with precedent or
law before using it in opinions or orders—just as with any other research tool.

• Finding Legal Authority: ChatGPT is adept at finding legal authority for
court actions. For instance, parties often submit stipulations and notices to
dismiss part of the claims or parties, mistakenly citing Civil Rule 41, which
may not be used to dismiss anything but an entire “action” in the Sixth
Circuit. Asking ChatGPT “Which rule of civil procedure permits dismissing
one of two defendants in a lawsuit in the Sixth Circuit” correctly led us to
Civil Rule 21. We used similar prompts to find authority for adjourning
scheduling orders, striking filings, and granting extensions—and other times
to learn that no source of law permitted the court to grant the request.

• Deciphering Difficult Filings: Nonlawyers sometimes file complaints that
are difficult to understand or lack explicit legal bases. By copy-pasting the
complaint into ChatGPT and prompting it to “Help me understand the legal
claims stated in this complaint and the underlying laws,” one can quickly
unravel such enigmas. You could seek such an explanation “in plain
language,” or “as if I am in high school,” or “without losing the legal
technicalities that a court would need to know to resolve the issues presented.”

These applications significantly reduced our workload and improved the accuracy
of our work. In the postpandemic surge of cases and motions, proceedings came to
a near halt in our district. When the restrictions were lifted, there was much work to
do—it was a lot like drinking water from a firehose. But ChatGPT enabled us to
keep pace with the rising number of cases and motions, ensuring timely and thorough
review.
Critical Thinking
Another intriguing aspect of ChatGPT is its capacity for critical thinking. Beyond generating counterarguments, we explored whether we had missed supporting reasons or facts in our analyses. Prompting ChatGPT to “Provide five normative reasons that support this argument” or to “Identify additional reasons supporting the following analysis not yet addressed” often yielded new insights. As would more pointed prompts for rationales that are economic, moral, or policy oriented. Initially, responses might reiterate known points, but with further regeneration, ChatGPT would almost always present novel rationales. Features like this were invaluable.

Personal Benefits
ChatGPT enhanced our lives in and out the courtroom. Reducing repetitive tasks allowed more time for in-depth legal analysis and personal pursuits, improving job satisfaction and work-life balance. We used ChatGPT for travel itineraries, award nominations, medical diagnoses, recipes, cultural exploration, current events, introductory investment advice, and rewriting emails into more polite or persuasive tones. Accelerating our personal lives made us better at our work. Our shared chambers ideals of reducing personal chaos to focus more on resolving cases and enjoying life led to deeper thoughts, more cogent reasoning, and more affirmances of appeal. The positive ripple effect of ChatGPT extended from the law clerks’ keyboards to the judge’s family life.

But we do not recommend this technology without reservation.

Ethical Considerations
Ethical considerations are paramount with any tool. We ensured our use of ChatGPT aligned with the Model Code of Judicial Conduct, verifying the accuracy of information while maintaining impartiality. ChatGPT is merely an aid; it is not a crutch for critical thinking or decisionmaking. It should be regarded as a time-saving tool, like Westlaw.

Yet, as with any research tool, users must verify ChatGPT’s outputs before implementation. When using Westlaw, for instance, neither lawyers nor judges should be relying on precedent without verifying that it supports the proposition for which they intend to use it. Indeed, all attorneys and pro se litigants have a duty to verify the truthfulness of their work, and judges are no exception. Integrity is a staple of this profession. And when it comes to credibility, ChatGPT will check it itself. Sometimes, responses include links to supporting sources. If not, prompting it to “Provide a real source that supports each statement” can expedite verification.
Privacy Concerns
Privacy was another significant concern. We tested ChatGPT with only fictional and public information, avoiding confidential or sensitive data. ChatGPT’s features for users to delete data and to exclude it from future training aligned with our commitment to confidentiality.\textsuperscript{vi}

Many courts might unwittingly share inputs as training data with other large-language models. For instance, we learned that the Eastern District of Michigan shares its information with Microsoft via the Office365 Suite. Whether future technology contracts address the issue differently is a matter for the Administrative Office as we understand it.

Preparing for the Future: A Call to Action for the Judiciary
The judiciary must evolve with this technology. Our positive experience with ChatGPT underscores its potential in enhancing the legal process. We encourage our peers—law clerks, judges, and justices—to explore this technology with an open mind, understanding its value and limitations. Even if not used directly, understanding how others use it can better equip you to review AI-produced work.

Additional Features and Products
ChatGPT’s evolution is rapid. Users can develop custom GPTs on the ChatGPT website. We tested this feature by uploading 20 of the judge’s writing samples and telling the GPT that its purpose was to draft orders and opinions using the same format, outline structure, voice, style, and word choice. We recently learned, though have not yet verified, that this feature will eventually permit you to upload many more documents, which would obviously permit you to emulate your prior drafts much more quickly. This feature could save significant time teaching new law clerks to write in a specific style.

Another new feature is a GPT called “AI PDF.” The AI PDF GPT supports an external website where you can create an account that permits you to upload readable .pdf files, to generate a link to them, and to prompt ChatGPT to engage with them.\textsuperscript{vii} This feature makes ChatGPT much more efficient, increasing the limit of information that you can give to ChatGPT (though not increasing ChatGPT’s output). Sometimes, however, regenerating ChatGPT is necessary to ensure it reviews documents accurately.

We also tried other large-language models, finding ChatGPT to be superior for our purposes. The next best was Gemini (formerly Bard). But Gemini was only better for some personal activities involving the live internet (e.g., online shopping,
investment research, and learning current events). For writing, editing, and creative tasks, ChatGPT remained unrivaled.

A Final Thought
Specific tasks yielded better results with ChatGPT. While it can review drafts for errors, its more fascinating uses, which we jokingly call the more “human-like” features, are in the details. So try having ChatGPT analyze each paragraph, or sentence, or word, or even what Patrick Barry calls the “words under your words.”viii Of course, at least for our work in a busy trial court, we had to balance our time with how granular we wanted to go with ChatGPT improvements to our work. But, time permitted, the end result will have you vying to use it more and to think of more creative ways to use it.

Conclusion
ChatGPT has proven to be a valuable ally in our quest for justice. It complements our skills and amplifies our efforts, allowing us to uphold the judiciary’s high standards. Responsible use, especially regarding ethics and privacy, is crucial. With these considerations, ChatGPT stands as a beacon of innovation in the legal field, promising a future where technology and justice work hand in hand.

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i Mich. Ethics Op. JI-155 (Oct. 27, 2023), https://www.michbar.org/opinions/ethics/numbered_opinions/JI-155#text=Judicial%20officers%2C%20lawyers%20have%20to%20maintain%20competence%20with%20and%20further%20educate%20themselves%20on%20advancing%20technology%2C%20including%20but%20not%20limited%20to%20artificial%20intelligence%20(AI) (“Judicial officers, like lawyers, have an ethical obligation to maintain competence with and further educate themselves on advancing technology, including but not limited to artificial intelligence (AI).”).

ii See MODEL CODE OF JUD. CONDUCT CANON 1 (AM. BAR ASS’N 2020) (“A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”); MODEL CODE OF JUD. CONDUCT CANON 2 (AM. BAR ASS’N 2020) (“A judge shall perform the duties of judicial office impartially, competently, and diligently.”).

iii Philip Carey Mfg. v. Taylor, 286 F.2d 782, 785 (6th Cir. 1961).

a false statement of fact or law to a tribunal or fail to correct a false statement previously made to a tribunal. E.g., Mich. Prof’l Conduct R. 3.3; see also MODEL RULES OF PRO. CONDUCT r. 3.3(a)(1) (AM. BAR ASS’N 2024).

V MODEL CODE OF JUDICIAL CONDUCT r 1.2 (AM. BAR ASS’N July 16, 2020) (“A judge shall act at all times in a manner that promotes public confidence in the independence,* integrity,* and impartiality* of the judiciary, and shall avoid impropriety and the appearance of impropriety.”); MODEL CODE OF JUDICIAL CONDUCT r 2.5(A) (AM. BAR ASS’N Feb. 14, 2020) (“A judge shall perform judicial and administrative duties, competently and diligently.”).

vi OpenAI, Data Controls FAQ, available at https://help.openai.com/en/articles/7730893-data-controls-faq (“To disable chat history and model training, navigate to ChatGPT > Data Controls. While history is disabled, new conversations won’t be used to train and improve our models, and won’t appear in the history sidebar. To monitor for abuse, we will retain all conversations for 30 days before permanently deleting.”).
