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AI With Integrity: Ethical Guidance for Legal and Compliance Teams

February 27, 2026

Agenda

- Overview
- Duty of Confidentiality
- Duty of Loyalty
- Duties of Competence and Diligence
- Duty of Candor; and Meritorious Claims and Contentions
- Duty to Comply with the Law
- Duty to Supervise
- Duty to Communicate
- Charging for AI Work Product
- Prohibited Discrimination, Harassment, and Retaliation
- Best Practices

What Is AI?

“Artificial intelligence” means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments (Civil Code § 3110)

“Generative artificial intelligence” means artificial intelligence that can generate derived synthetic content, such as text, images, video, and audio, that emulates the structure and characteristics of the artificial intelligence’s training data (Civil Code § 3110)

AI Applications for Legal and Compliance Teams

- Reviewing and Summarizing Documents and Meetings
- Drafting Communication Plans, Marketing Materials and Press Releases
- Predictive Analysis
- Drafting Policies, Procedures and Correspondence
- Email, Time and Schedule Management
- Creating Videos and Images for Training
- *Legal Research and Analysis?*
- *Legal Briefing?*
- *Mediating Disputes?*

Overview of Rules and Guidelines for Lawyers

- State Bar Act (Bus. & Prof. Code § 6000 *et seq.*)
- State Bar's Practical Guidance for the Use of Generative Artificial Intelligence in the Practice of Law
- California Rules of Professional Conduct
- California Regulations
- Local Rules
- Standing Orders

Noland v. Land of the Free, 114 Cal.App.5th 426 (2025)

- Plaintiff's counsel appealed summary judgment in wage and hour lawsuit
- Nearly all the legal quotations in plaintiff's opening brief were fabricated (21 of the 23 case quotations)
 - Quotes plaintiff attributes to published cases don't appear in those cases or anywhere else
 - Cases plaintiff cites don't discuss the topics for which they are cited
 - Some cases did not exist at all

\$10,000 Sanction

Noland v. Land of the Free, 114 Cal.App.5th 426 (2025)

“there is nothing inherently wrong with an attorney appropriately using AI in a law practice”

- Attorneys must check every citation to make sure the case exists and the citations are correct
- Attorneys should not cite cases for legal propositions different from those contained in the cases cited
- Attorneys cannot delegate this responsibility to any form of technology

Duty of Confidentiality

Bus. & Prof. Code § 6068(e) and Rule 1.6 (Client Confidentiality)

Duty to maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client.

- Applies to information a lawyer acquires by virtue of the representation, whatever its source, and encompasses matters communicated in confidence by the client, matters protected by the work product doctrine, and matters protected under ethical standards of confidentiality
- Exceptions:
 - To prevent criminal act that may result in death or substantial bodily harm
 - Client gives informed consent

Duty of Loyalty

Rule 1.8.2 Use of Current Client's Information

A lawyer shall not use a client's information protected by Business and Professions Code section 6068, subdivision (e)(1) to the disadvantage of the client unless the client gives informed consent.

Duties of Competence and Diligence

Rule 1.1 Competence

- **A lawyer shall not intentionally, recklessly, with gross negligence, or repeatedly fail to perform legal services with competence.**
- **“Competence” means to apply the (i) learning and skill, and (ii) mental, emotional, and physical ability reasonably necessary for the performance of such service**
- **Competence by association:**
 - (i) associating with or professionally consulting a competent lawyer, or
 - (ii) acquiring sufficient learning and skill before performance is required, or
 - (iii) referring the matter to another competent lawyer

Duties of Competence and Diligence

Rule 1.3 Diligence

- **A lawyer shall not intentionally, repeatedly, recklessly or with gross negligence fail to act with reasonable diligence in representing a client.**
- **“Reasonable diligence” means that a lawyer acts with commitment and dedication to the interests of the client and does not neglect or disregard, or unduly delay a legal matter entrusted to the lawyer.**

Shayan v. Shakib, 116 Cal.App.5th 619 (2025)

- Court ordered **\$7,500 in sanctions** based on:
 - 1) The significant amount of time this court spent verifying the fabricated citations
 - 2) That attorney refused to accept responsibility for his conduct, instead characterizing the fabricated quotations and cites as mere “clerical citation errors”
 - 3) Continuing to misrepresent legal authority in his opposition to the sanctions motion

“We acknowledge and have considered that . . . the majority of the fabricated quotes in the opening brief do not appear to be misrepresentations that work to appellant’s advantage; that is, the brief does not represent the law to be more favorable to appellant’s arguments than it actually is. **Nonetheless, we must consider broader concerns about the integrity of the courts and the legal profession.**”

Duty of Candor; and Meritorious Claims and Contentions

Rule 3.1 Candor Toward the Tribunal

A lawyer shall not:

- **Knowingly make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;**
- **Fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel, or knowingly misquote to a tribunal the language of a book, statute, decision or other authority; or**
- **Offer evidence that the lawyer knows to be false.**

Duty of Candor; and Meritorious Claims and Contentions

Bus. & Prof. Code § 6068(d) and Rule 3.1 Meritorious Claims and Contentions

Duty to employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.

- A lawyer shall not:
 - Bring or continue an action, conduct a defense, assert a position in litigation, or take an appeal, without probable cause and for the purpose of harassing or maliciously injuring any person
 - Present a claim or defense in litigation that is not warranted under existing law, unless it can be supported by a good faith argument for an extension, modification, or reversal of the existing law (see also, CCP § 128.7(b)(2))

United States v. Hayes, 763 F.Supp.3d 1054 (2025)

- Defense counsel's misrepresentations were made knowingly with intent to mislead district court, and demonstrated bad faith
- Counsel's response to government's opposition that directly raised fictitious case and quotation in his written motion was not accurate and was misleading
- Counsel's notice of errata almost one week later, which acknowledged that case was non-existent and offered corrections, was inadequate
- Counsel's statement that he had not realized quotation was also non-existent was not credible
- At the hearing, counsel repeatedly refused to admit that cited case was non-existent despite knowing that it was

\$1,500 in Personal Sanctions

Duty to Comply with the Law

Bus. & Prof. Code § 6068(a) and Rule 8.4 Misconduct

Duty to support the Constitution and laws of the U.S. and of this state.

It is professional misconduct for a lawyer to:

- Violate these rules or the State Bar Act, knowingly assist, solicit, or induce another to do so, or do so through the acts of another;
- Engage in conduct involving dishonesty, fraud, deceit, or reckless or intentional misrepresentation
- Engage in conduct that is prejudicial to the administration of justice

Duty to Comply with the Law – Examples

Transparency, e.g. California AI Transparency Act (Bus. & Prof. Code § 22757 *et seq.*)

Hiring, e.g. limits on automated decision systems (2 C.C.R § 11008 *et seq.*)

Professional Services, e.g. Health Advice from AI (Bus. & Prof. Code § 4999.9 *et seq.*)

Disclosures, e.g. AI developers must disclose datasets when publicly available (Civ. Code § 3111)

Rights to privacy and publicity

Fraud and false impersonation

Copyright and trade secret laws

Confidentiality laws

Duty to Comply with the Law – Certification & Disclosure

FRCP Rule 11 Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions

Standing Orders:

- c. **Artificial Intelligence.** Any party who uses generative artificial intelligence (such as ChatGPT, Harvey, CoCounsel, or Google Bard) to generate any portion of a brief, pleading, or other filing must attach to the filing a separate declaration disclosing the use of artificial intelligence and certifying that the filer has reviewed the source material and verified that the artificially generated content is accurate and complies with the filer's Rule 11 obligations.

Oneto v. Watson, --- F.Supp.3d ---- (N.D. Cal. 2025)

Appropriate sanction for attorney's violation of Rule 11 by citing nonexistent and erroneous case citations in brief:

- **\$1,000 monetary sanction**
- **Requirement that attorney serve copy of order on his client**
- **Requirement that attorney participate in continuing legal education course of at least one hour regarding ethical use of AI in practice of law**
- **Directive for clerk of court to serve copy of order on State Bar of California**

No subjective bad faith required...

Duty to Supervise

Rule 5.1 Responsibilities of Managerial and Supervisory Lawyers

Lawyer having direct supervisory authority over another lawyer, whether or not a member/employee of the same law firm, shall make reasonable efforts to ensure the other lawyer complies with these rules and the State Bar Act

- A lawyer shall be responsible for another lawyer's violation if:
 - the lawyer orders or, with knowledge of the relevant facts and of the specific conduct, ratifies the conduct involved; or
 - the lawyer, individually or together with other lawyers, has direct supervisory authority over the other lawyer, whether or not a member or employee of the same law firm, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Duty to Supervise

Rule 5.3 Responsibilities Regarding Nonlawyer Assistants

A lawyer having direct supervisory authority over the nonlawyer, whether or not an employee of the same law firm, shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer

Lawyer can be responsible for conduct of such a person that would be a violation of these rules or the State Bar Act

Duty to Supervise

Rule 5.2 Responsibilities of a Subordinate Lawyer

A lawyer shall comply with these rules and the State Bar Act notwithstanding that the lawyer acts at the direction of another lawyer or other person

A subordinate lawyer does not violate these rules or the State Bar Act if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty.

Duty to Communicate

Rule 1.2 Scope of Representation and Allocation of Authority and Rule 1.4 Communication with Clients

- **Lawyer shall reasonably consult with the client as to the means by which the client's objectives are to be pursued**
- **Lawyer shall keep the client reasonably informed about significant developments relating to the representation**

Charging for AI Work Product

Bus. & Prof. Code § 6148 (Non-Contingency Fee Agreements)

- **Written contract must contain any basis of compensation including, but not limited to, hourly rates, statutory fees or flat fees, and other standard rates, fees, and charges applicable to the case.**
- **All bills rendered by an attorney to a client shall clearly state the basis thereof. Bills for the fee portion of the bill shall include the amount, rate, basis for calculation, or other method of determination of the attorney's fees and costs.**
- **Bills for the cost and expense portion of the bill shall clearly identify the costs and expenses incurred and the amount of the costs and expenses.**

Charging for AI Work Product

Rule 1.5 Fees for Legal Services

- **A lawyer shall not make an agreement for, charge, or collect an unconscionable or illegal fee.**
- **Unconscionability of a fee shall be determined on the basis of all the facts and circumstances existing at the time the agreement is entered into except where the parties contemplate that the fee will be affected by later events, including:**
 - whether the lawyer has failed to disclose material facts
 - the amount of the fee in proportion to the value of the services performed
 - novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly
 - the time and labor required

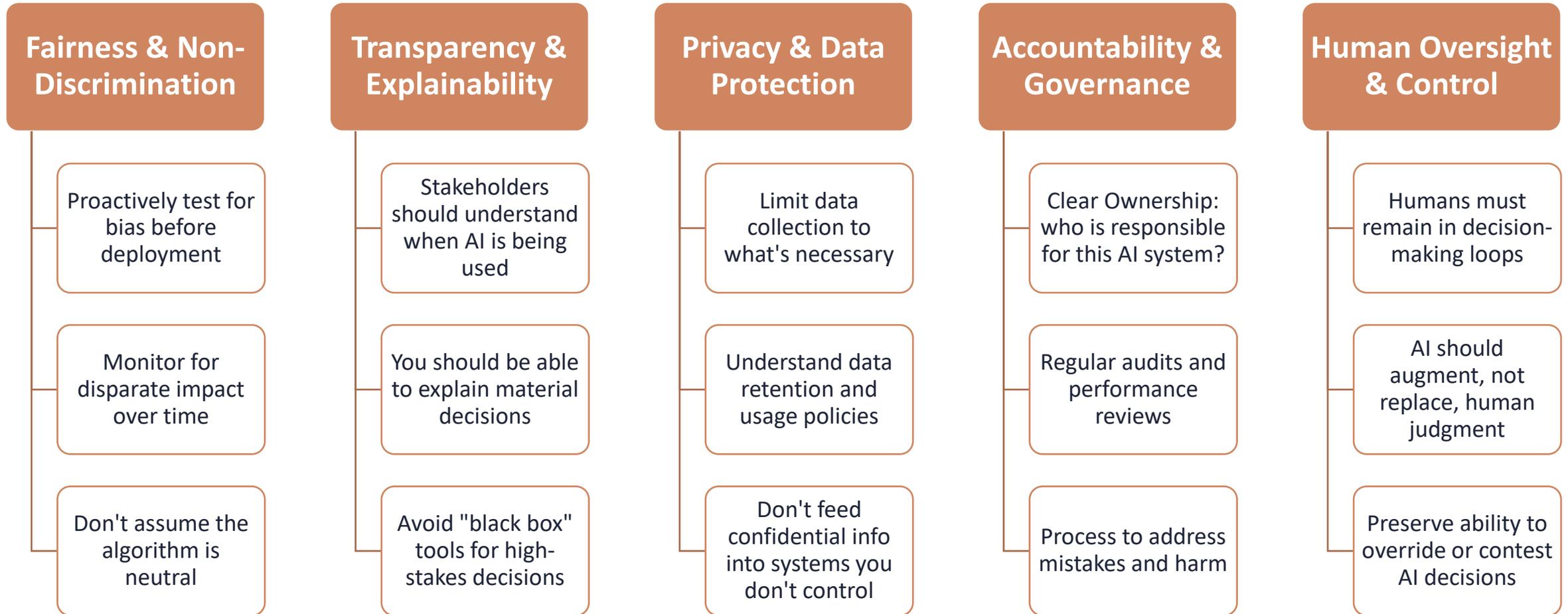
Prohibited Discrimination, Harassment, and Retaliation

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

- **violate these rules or the State Bar Act, knowingly assist, solicit, or induce another to do so, or do so through the acts of another**
- **engage in conduct involving dishonesty, fraud, deceit, or reckless or intentional misrepresentation**

Responsible AI Framework for Legal & Compliance Teams



Questions to ask when evaluating AI tools

1. Fairness

- Has it been tested for disparate impact?
- Does it perform equally well across demographic groups?
- Are there known failure modes that affect certain populations?

2. Transparency

- What data was this trained on?
- Can the vendor explain how it reaches decisions?
- Is it a "black box" or can you audit it?

3. Privacy

- Where does your data go? Is it used to train the model?
- Can you use it with confidential/proprietary information?
- Does it comply with GDPR, CCPA, or other privacy frameworks?

4. Accountability

- Who is responsible when it makes mistakes?
- Can you explain its outputs to affected stakeholders?
- Do you have a process to remediate harm?

5. Human Oversight

- Is a human always in the loop for final decisions?
- Can humans override the AI?
- Are there escalation procedures when the AI produces questionable results?

Best Practices

- Prohibit Uploading Confidential, Proprietary or Trade Secret Information
 - Possible Exception for Closed Systems
- Mandate Proofreading and Cite-Checking
 - Remove inaccurate, biased, offensive, or harmful content
- Personal Responsibility for Work Product
- Develop and Maintain a Framework for Evaluating AI Systems
 - Understand the Algorithm to Eliminate Bias
- Disclosure?
- Prohibitions
 - Only Certain Uses, or Any Use Not Expressly Authorized?
 - Any Misuse that Violates Law or Policies

Best Practices

- Adopt a Policy and Train Employees
- Block Any Prohibited Websites
- Address AI in Outside Counsel Guidelines
- Address AI in Vendor / Consultant Contracts

Thank you!

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Clint Engleson

Counsel, Snell & Wilmer | cengleson@swlaw.com



Tracie Stender

Counsel, Snell & Wilmer | tstender@swlaw.com



Amber Gardina-Quintanilla

Director, Employment Law, Articulate

Thank you!

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