

Waiting for the magic: AI slow to take hold in estate planning

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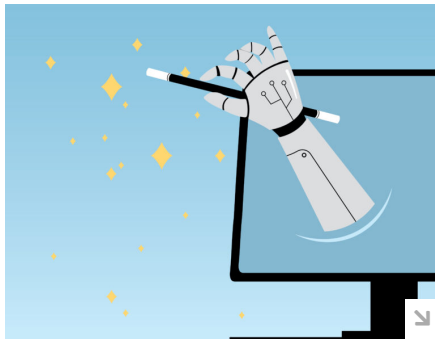
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(IL illustration/Adobe Stock/Sarah Ellis)

There's no question that the overall use of artificial intelligence in law has rapidly accelerated in recent years, a trend that shows no signs of slowing down as firms look for ways to cut costs and provide more efficient service to clients.

Clio's 2024 Legal Trends Report showed AI usage had jumped to 79% of legal professionals, up from 19% in 2023.

But some Indiana estate planning attorneys say AI, while it might be used on a limited basis, has not yet made the inroads into their specialized practices that it has in other areas of law.

Micah Nichols, a Krieg DeVault partner and trust and estate attorney, said his office uses AI, at most, about 20% of the time.

Nichols said one area the firm is using the technology is through legal document drafting software.

"We don't use it as often as other firms do," Nichols said.

A lot of estate planning comes down to personal interactions with clients, whether in person or on Zoom calls, Nichols said.

The Krieg DeVault attorney said AI use in estate planning may be more practical for firms that are doing basic core planning for a family that has a net worth of less than \$1 million.

Nichols said the technology can only go so far in getting answers from clients and how they want to manage their estates.

He gave the example of a basic AI-generated question to a client that might ask if any of their children have financial issues.



Micah Nichols

It would take more precise follow up questions from an attorney as to what those financial issues were and how it would relate to the client's estate planning process, Nichols said.

"From an attorney's perspective, we're not there yet where we can get a document that's presentable just with AI," Nichols said.

Rebecca Geyer, a Carmel-based estate planning attorney and founder of Rebecca W. Geyer & Associates, PC, said she uses AI in her practice but "not a ton."

"I view AI as just an additional tool in the tool box," Geyer said.

Geyer said she has attended some continuing legal education events where AI's use in estate planning has been discussed.



Rebecca Geyer

Some newer attorneys like using AI for basic client letters and legal forms, Geyer noted.

She said AI can be useful, although Geyer stressed that the technology is only as good as the person inputting the information.

National organizations discuss AI's role

As AI has become more commonly used, national legal associations have weighed in on the technology and how it can be employed at law firms.

In July 2024, the American Bar Association released its first formal opinion of the use of generative AI in the practice of law.

The opinion states lawyers and law firms must "fully consider their applicable ethical obligations," which includes duties to provide competent legal representation, to protect client information, to communicate with clients and to charge reasonable fees consistent with time spent using generative AI.

"This opinion identifies some ethical issues involving the use of GAI tools and offers general guidance for lawyers attempting to navigate this emerging landscape," the formal opinion said.

On its website, the American College of Trust and Estate Counsel features several podcasts that explore the intersection of AI use with estate planning.

In one January 2024 podcast, ACTEC Fellow Professor Gerry Beyer explored ways AI can be used in an estate planning practice.

Beyer said some uses could include:

- Increasing the speed and efficiency of document drafting, document review, and summarization.
- Helping to draft wills, trusts, and all the other estate planning documents, pleadings, briefs, and client communications.

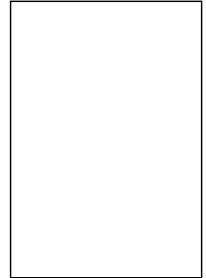
- Checking to see if attorneys had met certain requirements like tax provisions or other requirements of state law.
- Helping in making fiduciary investment decisions and administration proceedings.

Beyer also stressed the importance of maintaining client confidentiality and data security, disclosure of AI use to clients and supervision of staff on the technology's proper use.

Future AI usage

Estate planning attorneys like Lisa Adler want to see more reliability from AI products, as well as additional ethical guidance and professional rules regarding the technology's use, before they feel comfortable using it day-to-day at their firms.

Adler, founder of Adler Estate Law and chair of the Indianapolis Bar Association's estate planning and administration section, acknowledged that she relies on a lot of technology and automation in her practice.



Lisa Adler

She has not used AI with any client-related product, including the drafting of legal documents.

Adler said she just doesn't have the necessary confidence in the technology and has concerns about AI hallucinations generating inaccurate information.

"If I saw products that were more tailored to estate planning, I'd be more open to it," Adler said.

If she were to use AI, Adler said she would definitely want to disclose how it was used to clients.

No clients have asked her about AI and whether she was using it in any part of her practice, Adler said.

Geyer also said she doesn't typically get clients that ask if she's using AI.

She noted that a lot of her clients are older and may not be as technologically-savvy as younger generations.

Even though AI is an option, it's still not widely used by estate planning attorneys, Geyer said.

But she acknowledged that could change in the future.

"It will catch on eventually, but I'm not sure we're 100 % there yet," Geyer said.

Nichols thinks AI is a great tool for catching formatting errors and correcting grammar in legal documents.

But he cautioned that for actual legal substance, there needs to be an attorney involved to "make sure it makes sense."

Krieg DeVault developed an AI committee at its Carmel office within the last two to three years, Nichols said.

That committee looks at issues surrounding the ethics of using the technology, why the firm uses it and disclosure to clients.

While AI will likely be used more in estate planning, Nichols said he doesn't think the technology will ever replace the personal connection he and other attorneys have with their clients.

"At this point, for the type of planning I do, I don't see it replacing me any time soon," Nichols said. •