



Estate Planning Council of North Texas

# Using Artificial Intelligence for Trusts and Estate Planning

Shawn E. Tuma  
Co-Chair, Cyber|Data|Privacy|AI & Emerging Tech  
Spencer Fane LLP

September 18, 2024

d 972.324.0317  
m 214.726.2808  
@shawnetuma

stuma@spencerfane.com  
spencerfane.com  
shawnetuma.com

Using Artificial Intelligence for  
**Truss and Estate Planning**

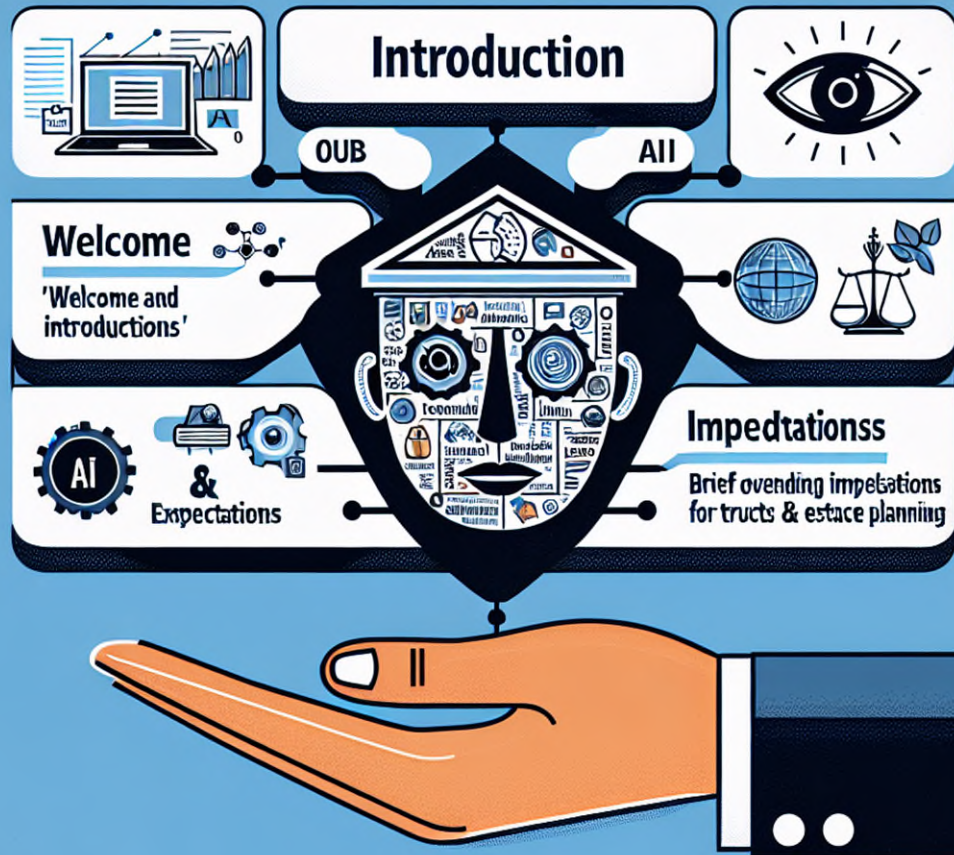


AI – what is it and why all the fuss?

AI risk management and compliance - the big picture

Using AI - law and ethics

Using AI – practical examples



# AI – what is it and why all the fuss?



# What is AI and Why All the Fuss?



---

AI is reshaping every sector of the worldwide economy – but what is AI and it is really that new?

1. AI (machine learning) has been around for decades.
  2. Generative AI is new and advancing at an exponential pace.
- 

As AI's capabilities advance, so do its risks.

---

Developing AI risk management and compliance programs requires two main challenges:

1. Understanding the technology, its uses, and its risks,
2. Understanding the changing legal and regulatory environment around this technology.

# AI risk management and compliance - the big picture



## Key Areas of AI Misuse

Over Reliance

Data Protection

Transparency & Accountability

Ethics & Bias

What You Don't Know

## Your Risk Management and Compliance Efforts Must Be Ongoing

The law has and will always struggle to keep up with the rapid advancement of technology.

To stay abreast of legal and regulatory compliance requirements, you must look to known and binding guidance and principles, then to persuasive ones, and then use logic and reason to predict the outcome based on the best available information.





# NIST's Artificial Intelligence Risk Management Framework (AI RMF)

The AI RMF provides guidance for all organizations and individuals involved in the design, development, deployment, and use of AI.

The AI RMF is not a law or regulation for most organizations (it is for federal agencies and their contractors), but it addresses many developing legal issues and is used as an example of the appropriate standard of care.

# Overview of the NIST AI RMF



The AI RMF helps manage the many risks of AI and promotes trustworthy and responsible development and use of AI systems.



The AI RMF groups the risks into three categories:

Harm to  
People

Harm to an  
Organization

Harm to an  
Ecosystem.

# AI RMF's High-Level Functions to Manage AI Risks



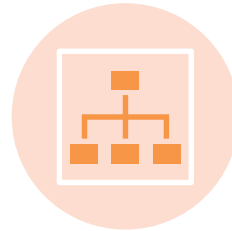
**Govern:** Cultivating and presenting a culture of risk management.



**Map:** Identifying, assessing, tracking, and analyzing risks.



**Measure:** Prioritizing and acting upon a projected risk impact.



**Manage:** Recognizing the context of related risks.

# Key Guidance from the NIST AI RMF



## Understand Organization

Understand the client, their business, their environment, activities, information, and relationships to other parties.



## Understand Objectives

Understand the client's objectives for using AI and its intended uses.



## Analyze Requirements

Analyze any existing legal and regulatory requirements involving AI that pertain to the client.

# Policies, Processes, Procedures, and Practices

Policies, procedures, and practices are critical.

- Develop, understand, manage, document, and effectively implement policies, processes, procedures, and practices for work related to AI

Examples of policies, procedures, and practices that are needed:

- Mapping, measuring, and managing AI risks
- Connecting AI governance to existing organizational governance
- Preparing and testing incident response plans
- Addressing the decommissioning and phasing out of AI systems
- Addressing third-party and vendor management protocols
- Providing appropriate education and training to all stakeholders
- Establishing whistleblower policies

---

Shawn E. Tuma, J.D., CIPP/US

---

# THE GC+CISO CONNECTION

---

Uniting the Cyber Risk Defenders

Including Legal Departments and Security Teams



Contact me

[stuma@spencerfane.com](mailto:stuma@spencerfane.com)

or purchase it here



# Using AI - law and ethics



# 2023 White House AI Executive Order

- Issued October 30, 2023
- Sets AI standards
- Applies to federal agencies
- Requires development of AI guidelines related to cybersecurity, workplace harm and discrimination, government AI use, and AI testing

AI Safety and  
Security  
Standards

Protect  
Americans'  
Privacy

Advance Equity  
and Civil Rights

Consumer  
Protection

Worker  
Protections

Innovation and  
Competition

Advance Global  
American  
Leadership

Responsible  
Governmental  
AI Use



# Artificial Intelligence Legislation & Guidance

## Colorado AI Act

- Enacted first state-wide comprehensive AI legislation
- Regulates automated decision-making systems
- Provides consumer protections
- Reporting, disclosure, and compliance obligations for developers of “high-risk” AI systems
- Effective February 1, 2026

## Utah AI Policy Act

- Regulates Generative AI
- Effective May 1, 2024

- States with current active AI governance bills: CA; IL; LA; MA; NY; OH; OK



### Working Groups

- Inventories of AI systems
- Perform Assessments
- Govern agency-use
- Study AI systems
- Recommend administrative agency actions



### Existing Privacy Laws

- Profiling and Automated Decisions
- Opt-out rights
- Conducting data protection assessments



### Targeted Laws

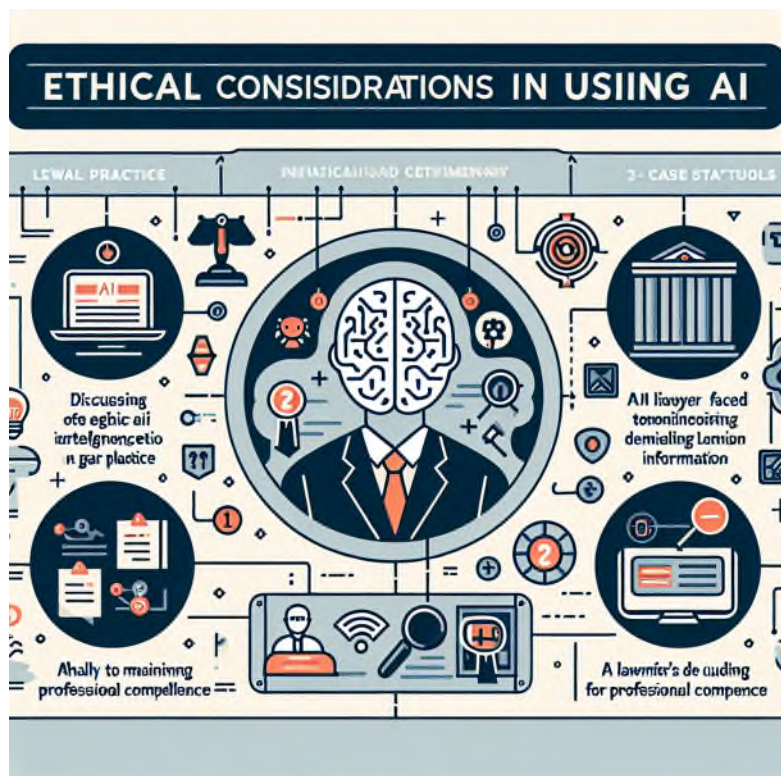
- Laws governing deep fakes and protection of a person’s likeness
- Interviews utilizing AI video tools
- Facial recognition services
- Employment decision tools
- AI the music industry (TN ELVIS Act)



### Comprehensive AI Laws

- Protect consumers
- Requires certain disclosures
- Enforcement powers
- E.g., CO & UT

# Ethics of Using AI in Law Practice



## The Texas Disciplinary Rules of Professional Conduct

- Rule 1.01 – Competent and Diligent Representation
  - “[E]ach lawyer should remain proficient and competent in the practice of law, including the benefits and risks associated with relevant technology.”
- Rule 1.03 – Client Communication / Keep Informed
- Rule 1.05 – Confidentiality of Information

## Opinions of The Texas State Bar Committee on Ethics

- Opinion 648 – Use of email and cloud computing services
- Opinion 680 – Use of cloud-based computing resources

## Court Rules, Local Rules, Judge Rules

- Use and Disclosure of Use of *Generative AI* (NDTX LR 7.2; EDTX LR AT-3(m); Collin County Standing Order No. 3)

# AI in Legal Briefs: The *Mata v. Avianca Airlines* Case

- Lawyer Steven A. Schwartz used ChatGPT for legal research
- 6+ fictitious cases cited in 10-page brief
- AI-generated cases included *Martinez v. Delta Air Lines* and *Varghese v. China Southern Airlines*
- Deception uncovered by opposing counsel and Judge Kevin Castel
- Schwartz claimed no intent to deceive, citing inexperience with AI
- Highlights risks of unchecked AI use in legal practice
- Emphasizes need for AI literacy among legal professionals
- Raises questions about ethical use of AI in law



# Using AI – practical examples



# Understanding AI's Role in Trusts and Estate Planning



AI assistance in client intake

AI assistance in drafting estate planning documents

Concerns regarding validity and enforceability

Importance of legal expertise in reviewing AI-generated documents

Case Study: AI-generated will challenged in court

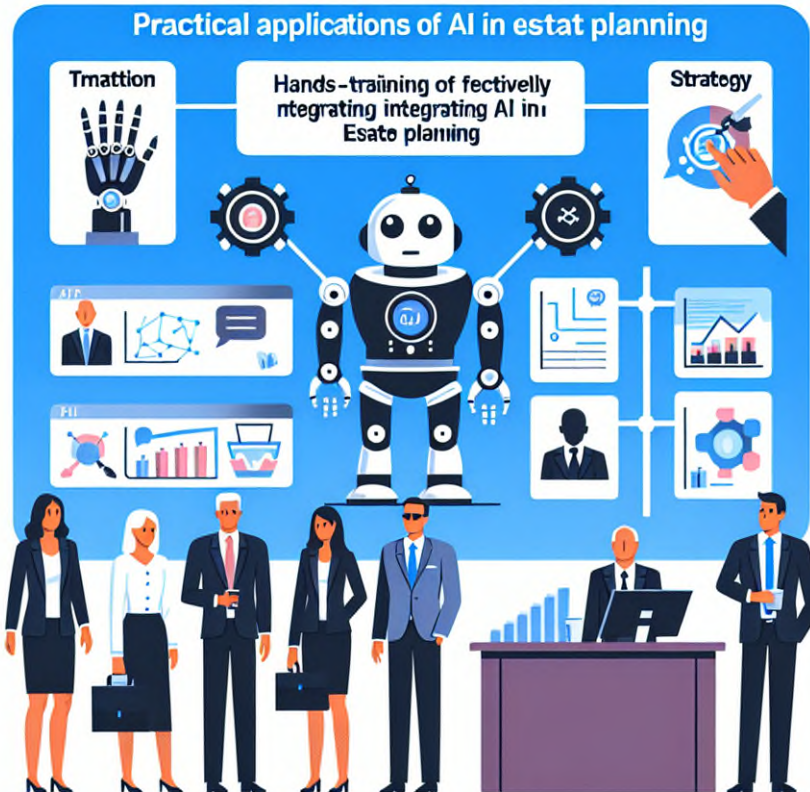




## Case Study: AI Generated Will Challenged in Court

- Prompt: “add case studies and practical examples”
- Response: “A case in point is a situation where an AI-generated will was challenged in court due to lack of compliance with state laws. This underscores the importance of legal expertise in reviewing AI-generated documents.”
- Yes!!!
- Prompt: “can you give me more information about the case where an AI generated will was challenged in court due to lack of compliance with state laws?”
- Well ...





## Let's Explore Practical Applications of AI in Estate Planning

- Are there any continuing legal education classes on using artificial intelligence for trusts and estate planning?
- What topics are covered in these courses?
- Use this information to create an outline for a class on this
- Add case studies and practical examples.
- Draft a 1,500 word article about this in a document that looks like and is in the style and verbiage of a Last Will and Testament.
- Combine all this information together to create the slides for a PowerPoint presentation.
- Create the VBA code to create the PowerPoint slides.

# Best Practices for AI Use in Legal Practice

## Due Diligence

- Thoroughly vet AI vendors and services
- Use only appropriate, reputable AI tools

## Education & Training

- Ensure comprehensive training for all AI users
- Foster AI literacy among legal professionals

## Clear Protocols

- Establish guidelines for AI use
- Implement oversight mechanisms

## Data Protection

- Safeguard client confidentiality
- Ensure compliance with data protection regulations

## Client Communication

- Keep clients informed about AI use
- Maintain transparency in AI-assisted work

## Regular Audits

- Routinely check AI tools for performance
- Verify accuracy of AI-generated information

## Stay Informed

- Keep updated on ethical considerations
- Follow legal developments in AI use

## Remember

- AI is a tool to enhance, not replace, legal expertise



## Key Takeaway – Used Properly, AI is a Powerful Tool

- If you know the subject matter and you know how to use the tool effectively, it is a super-power.
- If you do not know both, it can be risky.



# National reach, reliable relationships.



## Practices

Banking and Financial Services  
Bankruptcy, Restructuring, and Creditors' Rights  
Corporate and Business Transactions  
Data Privacy and Cybersecurity  
Employee Benefits  
Energy Law  
Environmental Law  
Family Law  
Governmental Affairs  
Health Care  
Higher Education  
Intellectual Property  
K-12 Education Law  
Labor and Employment  
Litigation and Dispute Resolution  
Mergers & Acquisitions  
Nonprofit and Tax-Exempt Organizations  
Real Estate  
Special Districts  
Tax Credit Finance and Opportunity Zones  
Tax, Trusts, & Estates  
White Collar Defense and Investigations

## Industries

Advertising  
Associations  
Construction  
Digital Health  
Education  
Energy  
Entertainment  
Financial  
Franchising and Distribution  
Health Care  
Insurance  
International  
Internet Technology / Software  
Life Sciences  
Manufacturing  
Mining  
Oil and Gas  
Private Clubs, Golf, and Resort Transactions  
Securities Regulation and Compliance  
Sports Law  
Startups and Emerging Companies  
Telecommunications  
Transportation  
Utilities  
Waste Management

# Values driving value.

We work to unlock and add value in all we do — everyday — for our clients, colleagues, and communities.

This is our passion; **it's what drives us.**

## Humble Confidence

Always learning to be better and more valuable

## Great People

All-Star talent without the attitudes

## Straight Talk

Clear, reliable counsel minus the ambiguity and inefficiencies

## Creating Value

Daily with our clients, colleagues, and communities



# Clients and talented people thrive with us.

Spencer Fane is among the highest ranked law firms in professional satisfaction and one of the fastest growing. **The two achievements are fully connected.**

**450+**

Attorneys

**23**

Offices

**22**

Practice Areas

**25**

Industries





# Always connected, near and far

Austin

Cape Girardeau

Dakota Dunes

Dallas

Denver

Greenville

Hendersonville

Houston

Jefferson City

Kansas City

Las Vegas

Minneapolis

Nashville

Oklahoma City

Omaha

Overland Park

Phoenix

Plano

San Jose (Silicon Valley)

Santa Monica (Los Angeles)

Springfield

St. Louis

Tampa





## Shawn Tuma

*Co-Chair, Cybersecurity & Data Privacy*

Spencer Fane LLP

972.324.0317

[stuma@spencerfane.com](mailto:stuma@spencerfane.com)

- 25 Years of Cyber Law Experience
- Practitioner Editor, Bloomberg BNA – Texas Cybersecurity & Data Privacy Law
- Council Member, Southern Methodist University Cybersecurity Advisory
- Board of Advisors, North Texas Cyber Forensics Lab
- Policy Council, National Technology Security Coalition
- Board of Advisors, Cyber Future Foundation
- Cybersecurity & Data Privacy Law Trailblazers, National Law Journal (2016)
- SuperLawyers Top 100 Lawyers in Dallas (2016)
- SuperLawyers 2015-2024
- Best Lawyers in Dallas 2014-24, D Magazine
- Past Chair, Computer & Technology Section, State Bar TX
- Privacy and Data Security Committee of the State Bar TX
- College of the State Bar TX
- Past Board of Directors, Collin County Bench Bar Conference
- Past Chair, Civil Litigation & Appellate Section, Collin County Bar Association
- Information Security Committee of the Section on Science & Technology Committee of the American Bar Association
- North Texas Crime Commission, Cybercrime Committee & Infragard (FBI)
- International Association of Privacy Professionals (CIPP/US)