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# ADVOCATE

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## LEGAL TECHNOLOGY TIP

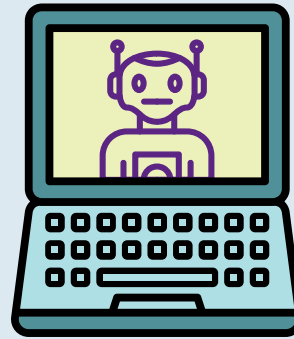
### Generative AI

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Generative artificial intelligence (AI) has been all the rage since the debut of ChatGPT in November 2022. Generative AI has been around for some time, but recent iterations like ChatGPT are easier to use and produce results that are more “human” than ever before. ChatGPT is built on a specialized form of machine learning called a large language model that analyzes huge quantities of data to build a model of relationships or parameters within that data. More data means a bet-

ter model and ChatGPT was trained on 45 terabytes of data. Generative AI applications can create everything from video game worlds to computer code to research data.

What makes ChatGPT superior to previous chatbots is its use of a transformer (the “T” in “ChatGPT”). Earlier chatbots relied on a long short-term memory (LSTM) model to generate text by predicting the next most statistically probable word in a sequence of words based on the surrounding words. LSTM models can consider only a few surrounding words for context because they operate sequentially, limiting their ability to “understand” complex text. In contrast, transformer models, a type of neural network developed a few years ago by the research



team at Google Brain, are not limited to sequential analysis. Transformers can process input data simultaneously and weigh the value of individual words differently depending on the context, giving them a greater ability to decode complex relationships. ChatGPT’s technology is so good it can accurately summarize Supreme Court opinions and scholarly articles.

Generative AI is most successful when developers and

domain experts fine-tune it to focus on a narrow subject. Early efforts to incorporate generative AI technology into legal research platforms are creating both astonishingly useful results and disappointing failures. A major pitfall, especially for less-experienced practitioners, is that AI-produced research can appear convincingly correct even when it is inaccurate. As generative AI improves its accuracy and “shows its work” by providing citations to valid statutes and opinions, the technology will become a trusted tool for attorneys. Generative AI shows promise in its ability to speed up fundamental legal research tasks, but even with accurate AI, attorneys must maintain their ability to think creatively outside the AI box.

## PRACTITIONER TIP

### Improve Your Legal Writing

By John A. Taylor Jr., Partner,  
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“You never get a second chance to make a first impression,” the saying goes. As a new litigation associate, I once dictated a stream-of-consciousness legal analysis in a case that settled before I had refined or edited the draft. I sent the unfinished and unedited draft memo to my supervising partner to decide whether he should bill my time

for preparing it. He assumed the memo represented my best work—why else would I let him see it? It took much time and effort to correct the

misimpression created by that one poorly written memo.

Based on three subsequent decades of my experience as a civil appellate specialist, here are my top tips to improve your legal writing:

**1. Make a good first impression with an effective introduction.** Your brief’s introduction is the one place you’ll have the court’s undivided attention. It conveys a tacit message about your professional competence and the brief’s reliability. Provide an overarching theme and succinctly preview each of your major legal arguments, giving

only enough factual detail to provide context for the issues. Imagine what a busy judge picking up the brief for the first time would want to know in order to understand the arguments that will follow.

**2. Don’t count on oral argument to compensate for a poorly written brief.** By the time you deliver oral argument, the court has already formed an opinion about your lawyering skills based on your briefing. The court will likely also have already prepared a tentative opinion, bench memorandum, or staff analysis. Brilliant oral advocacy can

rarely turn around a court that is unconvinced by your briefs and is already skeptical of your position.

**3. Pay careful attention to tone.** Don’t spend valuable space attacking opposing counsel or their motives. Avoid trite intensifiers like “very” and “obviously,” which signal a lack of confidence in the force of your arguments. Use a show-not-tell approach, convincing through logic rather than expression of outrage.

**4. Protect your credibility and long-term reputation.** Be scrupulously fair in citing the record and pertinent legal authorities. It takes only one inaccuracy to undermine the credibility of an entire brief. Remember that both the court and opposing counsel have long memories, and preserving your reputation is more important than achieving any single victory.

