

Page Printed From:

<https://www.law.com/dailyreportonline/2023/08/02/southeast-e-discovery-leaders-say-generative-ai-needs-more-development-for-their-use/>

NEWS

---

## Southeast E-Discovery Leaders Say Generative AI Needs More Development for Their Use

Both Kilpatrick Townsend and Maynard Nexsen e-discovery team leaders said they do not incorporate generative AI into their operations.

August 02, 2023 at 05:56 PM  
Thomas Spigolon

### What You Need to Know

- Leaders of some firms' evidence discovery teams say the newest generative AI tools must become more reliable.
- A challenge for the legal industry will be making sure the rules of professional conduct for lawyers are being followed when using the tools.

Big Law e-discovery experts in the Southeast see the newest generative artificial intelligence tools eventually aiding their searches—but they are cautious of the ethical pitfalls and current limitations that come with it.

E-discovery leaders at Kilpatrick Townsend & Stockton and Maynard Nexsen both praised the ability of AI to increase the efficiency of the discovery process. But the firm experts each gave warnings that they couldn't rely on generative AI completely and it carries ethical risks if used inappropriately.

While some of their discovery technology tools and software leverage AI technology, both Kilpatrick and Maynard team leaders said they do not incorporate generative AI into their e-discovery operations.

Atlanta-founded Kilpatrick oversees an entire e-discovery center, called the Lit-Smart E-Discovery Center, with about 30 staff members in Winston-Salem, North Carolina.

Kilpatrick partner and Lit-Smart founder Craig Cannon said as AI technology develops, generative AI platforms like ChatGPT may eventually be used to increase the efficiency of discovery tools the Kilpatrick team already has developed. But he added that AI “only works to a certain extent.”

“No one has figured out how to make it work in a setting like ours where every variable changes every single time,” Cannon said.

“You want to use AI to go and write a novel for you, you can do it. But to ask the AI to actually accurately figure out what's relevant to a legal matter, it requires a lot more [information]. There's not an ‘easy’ button for that,” he added. He said he foresees other firms combining GPT AI models with the legal document review software Relativity that Kilpatrick has been using in recent years. Relativity is already piloting GPT-4, the AI model that powers a version of ChatGPT, though it has no plans to integrate with ChatGPT itself.

“They're using both in conjunction with each other to try to create even better, more refined results than what we've had up to this point,” he said. “That's something we're exploring.”

Katie King, a leader of Kilpatrick's center, said AI possibly can be used to help organize and locate specific information needed within the millions of documents and data typically used in cases.

She has worked with Kilpatrick's discovery operation since 2014 and said it is now dealing with review of much more data than in recent years. The technology of data collection has improved to the point that courts are allowing use of much more evidence culled from chat services like Slack, she said.

"The sheer amount of data that we're seeing in cases is far greater than it was seven, eight years ago," she said.

## **'Walk That Line'**

Alabama-founded Maynard Nexsen operates an e-discovery and information management subsidiary called NEXTRA Solutions in Columbia, South Carolina.

David Black, managing shareholder for Maynard's operation, said the challenge of using AI for evidence discovery operations will be "how to ethically walk that line" of replacing some "human component."

He said some recent cases have shown that if a lawyer does not double-check an AI tool's work product for accuracy "it can be 'garbage in and garbage out.'"

The challenge for the legal industry will be having humans involved in the discovery process and making sure the rules of professional conduct for lawyers are being followed, he said. Some law firms could face legal malpractice suits or sanctions for using bogus information collected by generative AI—such the New York lawyers who admitted to [using fake case citations](#) generated by ChatGPT in a court filing.

"You can't just turn to it [in court] and say, 'Hey, I found this on the internet,'" Black said.

NEXTRA Solutions director Angela O'Neal of Maynard Nexsen said her team includes experts in the use and potential pitfalls of all kinds of AI. A challenge for her team is convincing clients not to rely on AI for data collection and document creation "before we get the data" and potentially make "a costly mistake," O'Neal said.

"Let e-discovery professionals who are experts in this assist you in this process. Inevitably, as soon as a client starts using AI on their end and there's a lawsuit, you don't know what the other side is doing," O'Neal said.

"ChatGPT sounds fun, until it isn't," she said.