

## Quick cautionary tales for a better practice

### Episode 70

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## Checking AI outputs

The evolving use of artificial intelligence continues to impact the legal profession. There are efficiency benefits with AI tools but they can also pose substantial risks.

In the case of *Handa & Mallick* the solicitor acted for the husband in family law proceedings, and was asked to tender a list of authorities. The solicitor tendered a single page list but, on review, the Judge was not able to locate any of the cases cited. When asked to provide copies of the authorities the solicitor was unable to do so.

When questioned, the solicitor informed the court that the list had been generated using an AI tool which was available through existing practice management software and had not been checked or verified by the solicitor. This was an example of “hallucination” - a known problem with AI tools. The court raised concerns as to the solicitor’s competency and ordered submissions to be filed as to why referral should not be made to the Victorian Legal Services Board and Commissioner.

The solicitor’s submissions were considered in the case of *Dayal*, with the Court stating that ‘...use of technology is an integral part of efficient modern legal practice and whilst ...the use of AI tools offer opportunities for legal practitioners, it also comes with significant risks’. The solicitor was referred to the Victorian Legal Services Board and Commissioner for further investigation.

If you are using AI you should:

- Ensure you understand the manner in which artificial intelligence tools work, as well as their limitations
- Ensure you have appropriate systems, checks and processes in place to verify outputs
- Be aware that the privacy, confidentiality and security of information provided to an artificial intelligence tool may not be guaranteed
- Remember that the use of artificial intelligence tools does not relieve you of the need to exercise judgment and professional skill

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[Handa & Mallick \[2024\] FedCFamC2F 957](#)

[Dayal \[2024\] FedCFamC2F 1166](#)

[NSWSC Practice Note SC23 Gen AI.pdf](#)