

**Artificial Intelligence and the Legal Profession
Bar Association of the Fifth Federal Circuit**

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I. What Generative AI does well:

Explain to me how generative AI works in one paragraph.

Generative AI works by training on a massive amount of data, learning patterns and structures from that data, and then using what it's learned to create new, original content. Think of it like teaching a computer using many examples until it becomes an "expert." Once trained, you can ask this "expert computer" to make something new based on its knowledge. For instance, if you showed it thousands of paintings, it could then paint its own picture. The AI uses algorithms, which are like complex recipes, to decide how to mix and match the information it knows to produce something unique.

Explain to a room full of lawyers how generative AI works in one paragraph.

Generative AI employs sophisticated algorithms to analyze vast amounts of data, discerning patterns and relationships within that data. It's akin to an extensive legal precedent review: after analyzing countless cases, a lawyer can predict outcomes or devise strategies for new, unseen cases. Similarly, after its extensive "training" on data, the AI can generate entirely new content or solutions that align with patterns it has observed. Just as legal expertise is built upon cumulative knowledge and experience, generative AI's capabilities hinge on the quality and quantity of its training data and the precision of its algorithms.

Write a sonnet about how generative AI works.

In silicon realms where data streams do flow,
An AI learns from seeds of knowledge sown.
With patterns grasped, in bytes and bits it sees,
A dance of algorithms, a coded breeze.
From vast arrays of info, old and new,
It crafts a tapestry, both bright and true.
Yet what emerges is not mere repeat,
But novel works, both subtle and replete.
Generative in essence, it creates,
Beyond mere mimicry, it resonates.
A blend of past and present, art and lore,
A symphony of code, forever more.
In AI's grasp, the ancient meets today,
And from its depth, new wonders come to play.

II. What Generative AI does not do well:

Does a fraud claim in Texas require proof of justifiable reliance when there is a relationship of trust and confidence between the parties? Provide relevant authority.

In Texas, as of my last update in January 2022, when a party brings a fraud claim, "reliance" is typically one of the required elements to prove the claim. However, the nature of that reliance can vary based on the relationship between the parties. Specifically, when there is a fiduciary relationship or a relationship of trust and confidence between the parties, the level of scrutiny applied to the reliance element may be reduced.

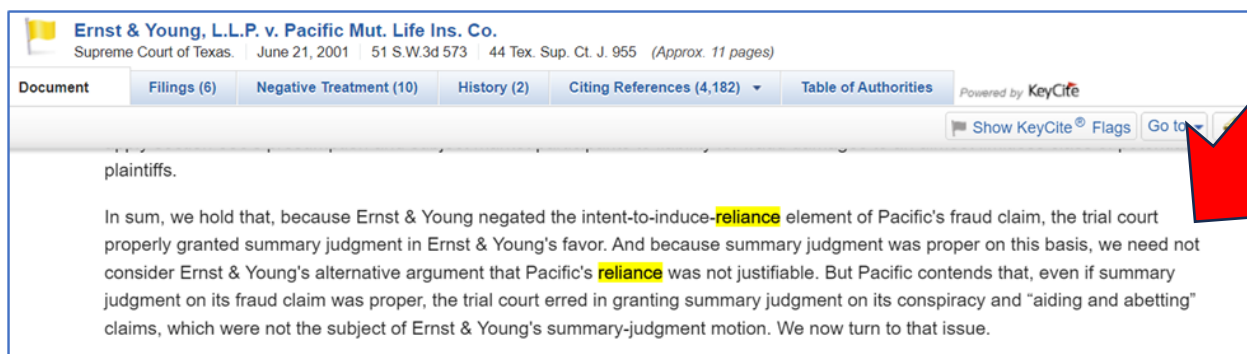
Key Authority:

...

3. **Ernst & Young, L.L.P. v. Pacific Mutual Life Insurance Co., 51 S.W.3d 573 (Tex. 2001):** This case again emphasized that when there is a relationship of trust or if one party possesses special knowledge on which another party is entitled to rely, the element of reliance is considered differently than in cases where the parties deal at arm's length.

That being said, even in cases with a relationship of trust and confidence, reliance still needs to be established; it's just that the plaintiff might not need to prove that the reliance was "justifiable" in the same way as if the parties were strangers. However, a plaintiff cannot wholly abandon the element of reliance—it remains a key part of a fraud claim.

If considering or defending against a fraud claim in Texas, especially in contexts involving trust or fiduciary relationships, it's essential to consult with a Texas attorney familiar with the most recent developments in fraud law to understand the current nuances and requirements.



Ernst & Young, L.L.P. v. Pacific Mut. Life Ins. Co.
Supreme Court of Texas. June 21, 2001. 51 S.W.3d 573. 44 Tex. Sup. Ct. J. 955 (Approx. 11 pages)

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plaintiffs.

In sum, we hold that, because Ernst & Young negated the intent-to-induce-reliance element of Pacific's fraud claim, the trial court properly granted summary judgment in Ernst & Young's favor. And because summary judgment was proper on this basis, we need not consider Ernst & Young's alternative argument that Pacific's reliance was not justifiable. But Pacific contends that, even if summary judgment on its fraud claim was proper, the trial court erred in granting summary judgment on its conspiracy and "aiding and abetting" claims, which were not the subject of Ernst & Young's summary-judgment motion. We now turn to that issue.

“Hey Claude, Evaluate This!”
Texas Lawbook (Aug. 15, 2023)

Last fall, ChatGPT took the world by storm, allowing millions to experiment with “generative artificial intelligence” through a simple and intuitive interface. ChatGPT’s success drew competitors, one of which is called [Claude](#), whose creators claim it can analyze long PDF documents.

To see what Claude could do, I uploaded the petitioners’ and respondents’ briefs from *Dobbs v. Jackson Women’s Health*, the 2022 case that overruled *Roe v. Wade*. The surprisingly high quality of the results has significant implications for the review of complex legal documents.

After Claude processed those files, I asked Claude two questions.

The first was: “Please summarize and compare these two court briefs. Describe which one you find more persuasive.”

Apparently Claude leans to the left, as this was the concluding paragraph of its analysis, the full version of which is [here](#):

“Overall, I find the respondent’s brief more persuasive. The brief provides a stronger argument that the right to abortion is protected by the Constitution’s guarantees of liberty and privacy. It makes a compelling case that the viability line thoughtfully balances women’s liberty interests with the state’s interests, and that this standard has proven stable and workable over time. The brief also gives significant weight to reliance interests and the harms to women’s autonomy, equality, and health if abortion is banned before viability. In contrast, the petitioner’s brief does not engage as deeply with the complex individual rights at stake. The respondent offers a more convincing position.”

To be fair, to avoid any issue with Claude’s capacity, I did not upload the petitioner’s reply brief, and that additional brief would likely have affected Claude’s review. The summary was done in under a minute.

I then asked Claude: “Please outline a Supreme Court opinion that would accept the petitioner’s position from those briefs and rule accordingly.” In under a minute, it produced [this 1.5-page outline](#). This is an excerpt from section II of its outline, which was cogent and organized:

- A. *The viability framework invented in Roe and affirmed in Casey has no basis in the Constitution. It improperly prevents states from regulating abortion as they see fit.*
- B. *Roe and Casey have proven unworkable. The undue burden standard is subjective and impossible for courts to apply in a principled, consistent way.*
- ...
- E. *Reliance interests do not support retaining these egregiously wrong decisions. Casey's stare decisis analysis was misguided. Reliance interests are minimal for controversial procedural rulings on deeply divisive social issues.*

It's hard to evaluate Claude's work on the outline. In places, the outline looks a lot like the table of contents from the petitioners' brief. And Claude may well have the actual *Dobbs* opinion somewhere in its memory banks.

But that said, Claude's outline doesn't just parrot either the brief or the opinion. Claude clearly did a fair bit of its own analysis.

This experiment taught me two lessons.

First, generative AI technology has far more analytical power about legal issues than I thought. In a matter of seconds, Claude was able to accurately summarize and analyze one of the most complicated constitutional questions of our time.

But second, that power has no obvious guardrails. As Judge Brantley Starr recently noted in his order about the use of AI for legal research, programs like Claude have no ethics or ideology beyond what their programmers may have given them.

I suspect that Claude is entirely "self-taught" and has no particular inclinations beyond what it has "learned" from reviewing millions of documents. (That itself is problematic, because even the vast sample of material that Claude has reviewed will have built-in biases.) And if a future Claude is programmed with a distinct ideological bias, that could be affirmatively dangerous for good decision-making if people blindly rely upon it.

Substantively, Claude has a long way to go before it's ready to become a law clerk. And problems with bias likely mean that Claude and its successors must be monitored carefully. But Claude's technical ability is still remarkable. It devoured two complex appellate briefs in a matter of seconds. Kept within proper boundaries, and with its limitations always kept in mind, generative AI is ready today to assist with the review of the most complicated of legal instruments.