AI, Unauthorized Practice of Law, and the Architecture of Access to Justice

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I. INTRODUCTION

In the fall of 2024, Lynn White, a trailer park tenant in Long Beach, California, was out of options.[1] Having already lost a jury trial over an eviction notice that exposed her to more than $55,000 in back rent and penalties, and being unable to continue with a lawyer from a local tenant advocacy network, she turned to the only resource she had left – ChatGPT.[2] White fed the chatbot documents, detailed facts about her case, and follow-up questions.[3] The AI identified procedural errors in the trial judge's rulings, advised her on applicable California regulation, charted out possible course of action, and drafted her court filings.[4] Several months of litigation later, she had overturned her eviction and avoided the full weight of the judgment against her.[5]

White is not alone. Pro se Federal Fair Housing Act filings jumped to 69% in the first nine months of 2025 compared to all of 2024.[6] Employment lawsuit filings without a lawyer surged 49% in a single year, rising from 4,100 to 6,400 cases nationally.[7] Attorneys and researchers attribute this surge to the proliferation of AI tools.[8] For the millions of Americans who cannot afford legal representation, the stakes are stark. Pro se plaintiffs win roughly 4% of their cases, compared to approximately 50% when represented.[9] For this population, AI has

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[1] Jared Perlo & Angela Yang, *These People Ditched Lawyers for ChatGPT in Court,* NBC News (Oct. 8, 2025), https://www.nbcnews.com/tech/innovation/ai-chatgpt-court-law-legal-lawyer-self-represent-pro-se-attorney-rcna230401.
[2] *Id.*
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] Minh N. Vu, *Federal Pro ADA Title III and FHA Lawsuit Numbers surge, Likely Powered by AI,* Seyfarth Shaw: ADA Title III (Oct. 27, 2025), https://www.adatitleiii.com/2025/10/federal-pro-se-ada-title-iii-and-fha-lawsuit-numbers-surge-likely-powered-by-ai/.
[7] *The ChatGPT Plaintiff: How AI is transforming Employment Litigation, Driving up Defense Costs, and What In-House Counsel Can Do About It,* Fisher Philips (Feb. 26, 2026), https://www.fisherphillips.com/en/insights/insights/how-ai-is-transforming-employment-litigation.
[8] *Id.; see also* Vu, *supra* note 7.
[9] *See* Mitchell Levy, *Empirical Patterns of Pro Se Litigants in Federal District Courts*, 85 U. CHI. L. REV. 1819, 1838 (2018) (finding that represented plaintiffs prevailed 86% of the time against unrepresented defendants, compared to approximately 51% when both parties had counsel).

brought meaningful relief to the gap created by the lack of a right to representation in civil cases. "It was like having God up there responding to my questions," White said.[10]

But AI's willingness to help is not accompanied by any obligation to help responsibly. Take the case of Graciela Dela Torre.[11] Dela Torre settled a long-term disability insurance dispute with her employer, Nippon Life, in January 2024, and signed a release waiving any future claims.[12] When she attempted to revisit the settlement approximately a year later, her attorney advised her that the case was closed and the release was enforceable.[13] Rather than accept that advice, Dela Torre uploaded her attorney's correspondence to ChatGPT and asked the chatbot whether she was being "gaslighted".[14] ChatGPT responded affirmatively and concluded that her attorney's communications had "invalidated" her feelings and "dismissed her perspective."[15] Feeling empowered, Dela Torre fired her attorneys and opted to use ChatGPT as her de facto legal advisor, filing twenty-one motions, a subpoena, and eight notices all drafted by ChatGPT.[16]

Dela Torre's reliance on ChatGPT over her lawyers was in part induced by OpenAI's press release on how ChatGPT had scored in the 90th percentile on the Uniform Bar Examination.[17] Nippon Life spent three hundred thousand dollars defending litigation over a matter that had already been permanently resolved, and in March 2026 sued OpenAI for unauthorized practice of law.[18]

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[10] Perlo & Yang, *supra* note 1.
[11] *See* complaint at ¶¶ 12-18, Nippon Life Ins. Co. v. OpenAI Found., No. 1:26-cv-02448 (N.D. III. Filed Mar. 4, 2026) [*hereinafter* Nippon Life Complaint].
[12] *Id*. at ¶ 6.
[13] *Id*. at ¶¶ 7-8.
[14] *Id*. at ¶ 9.
[15] *Id*. at ¶ 10.
[16] *Id*. at ¶ 11.
[17] *Id*. at ¶¶ 12-14.
[18] *Id*. at ¶ 5; *see also* Kevin Roose, *GPT-4 Is Exciting and Scary*, N.Y. Times (Mar. 14, 2023) (reporting that GPT-4 scored in the 90th percentile on the Uniform Bar Examination).

Unauthorized practice of law (UPL) doctrine was created to protect people like Graciela Dela Torre.[19] When someone presents themselves as capable of providing legal guidance, people rely on that representation.[20] They make decisions, waive rights, and forego alternatives based on the assumption that the person advising them has the training, the judgment, and the accountability that legal practice requires. The American Bar Association codified this concern in Model Rule 5.5, grounding the prohibition on unauthorized practice in the recognition that legal advice is different from ordinary information.[21]

This paper addresses the tension between unauthorized practice of law doctrine and the potential of AI to bridge the access to justice gap for millions of Americans who cannot afford legal representation. It argues that when AI applies a pro se litigant's specific facts to the law, drafts their pleadings, and advises their litigation strategy, it performs the functions that define the practice of law under existing doctrine. The paper further argues that this conflict is resolvable, and AI can be designed to comply with UPL doctrine while still providing meaningful assistance to pro se litigants. Part II introduces the access to justice crisis facing self-represented litigants and the structural conditions that have made AI the first technological intervention to address it at scale. Part III analyzes UPL doctrines as applied to legal software, tracing the line courts have drawn between permissible legal information and prohibited legal advice, and applying that framework to what generative AI actually does when a pro se litigant asks it for help. Part IV proposes a compliance framework that draws the line between legal knowledge and legal advice, identifying what AI can and cannot do under existing UPL doctrine

[19] *See* Model Rules of Prof'l Conduct r. 5.5 cmt. 2 (Am. Bar Ass'n 2023) (noting that the prohibition protects the public against the rendition of legal services by unqualified persons).
[20] ABA Model Code of Prof'l Responsibility EC 3-4 (1983) (recognizing that a layman who seeks legal services is often not in a position to judge whether he will receive proper professional attention).
[21] *Id.*

while preserving its utility as a meaningful resource for pro se litigants. Finally Part V concludes that an AI chatbot can be designed to comply with UPL and still work to close the access to justice gap.

II. BACKGROUND

a. The Structural Deficit of Legal Representation in American Civil Court

The National Center for State Courts has found that in 75% or more of civil cases in state courts, at least one party appears without legal representation.[22] In federal courts alone, 27% of all civil cases filed between 1999 and 2018 involved at least one pro se party, and by 2024, nearly half of all federal appellate filings were made without a lawyer.[23]

The courtrooms where self-representation is most common are the courts that handle some of the most consequential matters in everyday American life. In family law courts, where rates have grown faster than any other court type, only 3% of Washington D.C. litigants are represented.[24] In housing courts only 4% of tenants facing evidence are represented by counsel, while 83% of landlords have attorneys.[25] In immigration removal proceedings, 67% of all

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[22] *See* Paula Hannaford-Agpr, Scott Graves & Shelley Spacek Miller, *The Landscape of Civil Litigation in State Courts* iv, 31 (Nat'l Ctr. For State Cts. 2015) (finding at least one party self-represented in 76% of civil cases, with defendants unrepresented in 74% of cases overall).

[23] Fed. Judicial Ctr., *Just the Facts: Trends in Pro Se Civil Litigation from 2000 to 2019* (2021), https://www.uscourts.gov/data-news/judiciary-news/2021/02/11/just-facts-trends-pro-se-civil-litigation-2000-2019; *see also* Admin. Off. Of the U.S. Cts. , *U.S. Court of Appeals – Judicial Business 2024* (2024) https://www.uscourts.gov/data-news/reports/statistical-reports/judicial-business-united-states-courts/judicial-business-2024 (reporting that appeals by pro se litigants constituted 48 percent of new filings, totaling 19,101 cases).

[24] *See* Paula Hannaford-Agor et al., *Landscape of Domestic Relations Cases in State Courts* 2 (Nat'l Ctr. For State Cts. & IAALS 2018), https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=3427&context=facpubs (finding that 72% of domestic relations cases involved at least one self-represented party across 11 states and over 147,000 cases); D.C. Access to Just. Comm'n, *Justice for All: Report on Self-Help in the District of Columbia and Recommendations for a More Efficient and Coordinated Future* 14 (Sept. 2024), https://dcaccesstojustice.org/wp-content/uploads/2024/10/Final-ATJC-Self-Help-Report-Online.pdf.

[25] Nat'l Ctr. For Access to Just., *Eviction Representation Statistics for Landlords and Tenants Absent Special Intervention* (Mar. 2026), https://civilrighttocounsel.org/uploaded_files/280/Landlord_and_tenant_eviction_rep_stats__NCCRC_.pdf (reporting that only 4% of tenants on average are represented by counsel in eviction proceedings, compared to 83% of landlords).

respondents face government attorneys alone.[26] Debt collection cases, which together with evictions comprise nearly half of all state civil filings, defendants are often unrepresented, and the plaintiff is usually a bank, a debt buyer, or a hospital that files hundreds of similar suits each year with full legal support.[27]

Appearing in court without a lawyer means more than appearing without legal help. The American legal system was built on the assumption that parties will be represented by trained advocates who understood procedural rules, evidentiary standards, filing deadlines, and the substantive law governing their claims.[28] Pro se litigants are held to the same procedural standards as attorneys, required to file the correct documents, in the correct form, by the correct deadline, in the court or face dismissal, default or waiver of rights they may not have known they possessed.[29] One California study found that more than half of all pro se claims did not survive a preliminary motion to dismiss, not because the underlying claims lacked merit, but because the litigants lacked the procedural knowledge to satisfy the threshold requirements of litigation.[30] Studies on the perception of Judges and opposing counsel show that they perceive unrepresented

[26] Cong. Rsch. Sev., IF12158, *U.S. Immigration Courts: Access to Counsel in Removal Proceedings and Legal Access Program* 1 (Aug. 6, 2024) (reporting that approximately 68% of all respondents with pending immigration cases lacked legal representation).
[27] Pew Charitable Trs., *How Debt Collectors Are Transforming the Business of State Courts* 2, 5 (May 2020), https://www.pewtrusts.org/en/research-and-analysis/reports/2020/05/how-debt-collectors-are-transforming-the-business-of-state-courts.
[28] *See* ABA Model Code of Prof'l Responsibility EC 7-19 (Am. Bar Ass'n 1969) (stating that the adjudicative process "requires an informed, impartial tribunal" and that the "competent, adverse presentation of evidence and issues" by trained advocates is the mechanism through which that process functions);
[29] McNeil v. United States, 508 U.S. 106, 113 (1993) (holding that pro se litigants are not exempt from compliance with procedural rules and that courts cannot excuse non-compliance simply because a party proceeds without counsel); *see also* Faretta v. California, 422 U.S. 806, 835 n.46 (1975) (noting that the right of self-representation is not a license not to comply with relevant rules of procedural and substantive law).
[30] Spencer G. Park, *Providing Equal Access to Equal Justice: A Statistical Study of Non-Prisoner Pro Se Litigation in the United States District Court for the Northern District of California in San Francisco*, 48 HASTINGS L.J. 821, 835 (1997) (finding that more than half of pro se claims in the Northern District of California did not survive a motion to dismiss or initial procedural screening, not because the underlying claims lacked merit but because litigants lacked procedural knowledge to satisfy threshold litigation requirements).

parties as having weaker cases regardless of the merits, and pro se litigants are routinely pressured to settle for less than the law would otherwise entitle them to receive.[31]

In 2008, a South Carolina family court ordered Turner to pay $51.73 per week in child support.[32] Turner struggled for years to pay this support.[33] Over three years, he was held in contempt five times.[34] At his final hearing, he appeared without a lawyer and told the judge that he had been addicted to drugs, had broken his back and had incurred unexpected medical costs and was finding work in order to pay what he owed.[35] Turner was sentenced to twelve months in prison even though his inability to pay was a complete defense to civil contempt.[36] Turner had admitted in court exactly what he needed to say to prevail on his defense, he simply did not say it in the format the court recognizes as an assertion of a defense.[37] The Supreme Court ultimately reversed his conviction.[38]

Similarly, Jonathan who had fled El Salvador as a teenager after gang members attacked him, was detained by ICE pleading guilty to a DUI.[39] Jonathan spent numerous weeks in detention where officers repeatedly told him that he was not welcomed in the United States and pressured him to sign his deportation papers.[40] However, Jonathan did not know that his father's legal residency under the Nicaraguan Adjustment and Central American Relief Act made him eligible for a green card.[41] Turner and Jonathan are similarly situated because they were both

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[31] Victor D. Quintanilla et al., *Underestimating the Unrepresented: Cognitive Biases Disadvantage Pro Se Litigants in Family Law Cases*, 26 PSCYH. PUB POL'Y & L. 198. 198 (2020) (finding that judges and opposing counsel systematically perceived unrepresented parties cases as having less merit and lower settlement value).
[32] Turner v. Rogers, 564 U.S. 431, 436 (2011).
[33] *Id.*
[34] *Id*, at 436-37.
[35] *Id.* at 437-38.
[36] *Id*. at 438, 448.
[37] *Id.* at 447-48.
[38] *Id.* at 449.
[39] *I Was Sure I Would be Deported Until An Attorney Informed Me of My Rights*, Vera Inst. Of Just. (Oct 16, 2020), https://www.vera.org/news/i-was-sure-i-would-be-deported-until-an-attorney-informed-me-of-my-rights.
[40] *Id.*
[41] *Id.*

unable to avail protections that they were already entitled to under the law, but because they lacked knowledge that this protection existed, they were stripped of their liberty without due process.

The scale of pro se litigation in the United States is not merely a legal aid problem. Courts are the government branch that the constitution designates as the enforcer of rights.[42] When Congress enacts a law protecting tenants from retaliatory eviction, it is the courts that give that law meaning. When the Constitution guarantees that no person shall be deprived of liberty without due process, it is the courts that are supposed to make that guarantee real. The entire theory of rights in the American Constitutional system depends on courts being accessible to the people those rights are meant to protect.[43]

Generative AI has the potential to address this gap in a way that prior interventions have not. LSC-funded legal aid organization are unable to provide any or adequate assistance for approximately 71% of the civil legal problems brought to their doors in a given year.[44] The American Bar Association has estimated that there are only 2.8 paid legal aid lawyers for every 10,000 Americans living in poverty.[45] Closing that gap through existing institutional mechanisms, whether through increased legal aid funding, expanded pro bono commitments, or regulatory reform, would require a sustained level of political and professional mobilization that has not materialized in the decades the problem has been documented. By some estimates,

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[42] U.S. Const. art. III, § 2 (extending judicial power to all cases arises under the Constitution and laws of the United States); Marbury v. Madison, 5 U.S. 137 (1803) (noting that it is the duty of the judicial department to say what the law is).
[43] *See* Drew Simshaw, *Interoperable Legal AI for Access to Justice*, 134 YALE L.J.F. 795, 796 (2025) (observing that inequities in access to courts undermine fairness for those interacting with courts and jeopardize the legitimacy of the courts processes and the legal system more broadly).
[44] Legal Servs. Corp., *The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans* 75 (2022), https://justicegap.lsc.gov/resource/executive-summary/ (representing an estimated 1.5 million problems annually).
[45] Am. Bar Ass'n, *Profile of the Legal Profession* 7 (2023) https://www.americanbar.org/content/dam/aba/administrative/news/2023/potlp-2023.pdf.

American lawyers would need to increase their pro bono contributions to over 900 hours annual to provide some measure of assistance to all households with civil legal needs.[46]

Generative AI on the other hand addresses the information problem that sits at the core of the access to justice crisis. It answers questions in plain language, comprehends pages of statutory law, identifies issues users did not raise and produces legal knowledge relevant to a user's situation.[47] Chief Justice Roberts recognized this distinction in his 2023 Year-End Report on the Judiciary, observing that for those who cannot afford a lawyer, AI tools now provide answers to basic questions, including where to find templates and court forms, how to fill them out, and where to bring them for presentation to a Judge.[48]

b. Unauthorized Practice of Law

The prohibition on unauthorized practice of law exists in all fifty states and is grounded in a specific professional ethics rationale.[49] Although Model Rule 5.5 of the ABA Model Rules of Professional Conduct and the Restatement (Third) of the Law Governing Lawyers are addressed to licensed attorneys, they articulate the policy concern that animates UPL statutes across all fifty states.[50] The rule reflects a judgment that legal advice is not ordinary information.[51] When a person acts on legal guidance, agreeing to a settlement, waiving a defense, or failing to raise a

[46] Gillian K. Hadfield, *Innovation to Improve Access: Changing the Way Courts Regulate Legal Markets,* 143 Daedalus 83, 87 (2014).
[47] Colleen V. Chien & Miriam Kim, *Generative AI and Legal Aid: Results from a Field Study and 100 Use Cases to Bridge the Access to Justice Gap,* 57 LOY. L.A. L. REV. 903, 910 (2025) (observing that generative AI increases the accessibility of legal information across income, language, and geographical barriers).
[48] John G. Roberts, Jr., Chief Justice, *2023 Year-End Report on the Federal Judiciary* 6 (2023), https://www.supremecourt.gov/publicinfo/year-end/2023year-endreport.pdf.
[49] *See* Derek A. Denckla, *Nonlawyers and the Unauthorized Practice of Law: An Overview of the Legal and Ethical Parameters,* 67 FORDHAM L. REV. 2581, 2585 (1999) (noting that almost all fifty legal state legislatures have passed statutes to prohibit UPL).
[50] Ed Walters, *Re-Regulating UPL in an Age of AI*, 8 Geo. L. Tech. Rev. 317 (2024) (noting that although state UPL statutes vary in form, they share the consumer protection purpose the Model Rules and Restatement articulate); *see also* Model Rules of Prof'l Conduct pmbl. ¶ 1 (Am. Bar Ass'n 2023) (Rules govern conduct of lawyers and do not address responsibilities of other actors in the legal system).
[51] Denckla, *supra* note 58, at 2583.

claim, the consequences can be irreversible, so it is important that they know that the advice is given under a framework of professional accountability that makes it worthy of their trust.[52]

Under existing UPL doctrine, advising a specific individual about how their specific facts bear on a specific case has been considered practice of law.[53] This prohibition also includes advising a litigant on what form to fill even if the form was designed for use by pro se litigants.[54] Choosing the right form requires a legal judgment about which legal instrument applies to a particular person's particular situation.[55] Courts have held that legal software that processes a user's specific inputs and renders legal conclusions or generates legal documents on their behalf engages in the practice of law, regardless of whether a human being directs the analysis.[56]

However, the courts do not penalize sources that aim to expand a litigant's knowledge of the law.[57] Courts have consistently permitted services and publications that provide legal knowledge without making a legal decision on behalf of any specific individual.[58] Legal hotlines

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[52] Restatement (Third) of the Law Governing Lawyers § 16 (Am. L. Inst. 2000) (requiring a lawyer to advance the client's lawful objectives, exercise competent care, comply with obligations of confidentiality, avoid conflicting interests, and deal honestly with the client); *id.* §§ 48-49 (establishing that a lawyer is civilly liable to a client for professional negligence and breach of fiduciary duties).

[53] *See* Fla. Bar v. Brumbaugh, 355 So. 2d 1186, 1193-94 (Fla. 1978) (holding that advising a specific individual which legal forms applied to her dissolution proceeding constituted the practice of law because it required application of an individual's facts to the law); *see also* Upsolve, Inc. v. James, 155 F.4th 133, 139 (2d Cir. 2025) (holding that advising pro se individuals on how to fill out forms designated for use by pro se litigants constitutes the practice of law under New York law).

[54] Brumbaugh, 355 So. 2d at 1194; *see also* Sussman v. Grado, 746 N.Y.S.2d 548, 553-53 (Dist. Ct. Nassau Cnty. 2002) (holding that a paralegal who helped a client fill out a legal form without attorney supervision engaged in the unauthorized practice of law).

[55] Grado, 746 N.Y.S.2d at 553-53.

[56] *See In re* Reynoso, 477 F.3d 1117, 1127-28 (9th Cir. 2007) (holding that web-based bankruptcy software engaged in the unauthorized practice of law where it chose where to place user's information in a legal form, selected which exemptions to claim, and supplied supporting legal citations); *see also* Janson v. LegalZoom.com, Inc., 802 F. Supp. 2d 1053, 1064 (W.D. Mo. 2011) (holding that there was no difference between the online document preparation service and a lawyer in Missouri asking a client a series of questions and then preparing a legal document based on the answers provided and applicable Missouri law).

[57] *See generally* John M. Greacen, *Legal information vs. Legal Advice: A 25-Year Retrospective,* Judicature (May 24, 2023), https://judicature.duke.edu/articles/legal-information-vs-legal-advice-a-25-year-retrospective/ (observing that over twenty-five years courts have consistently distinguished between legal information, which anyone may provide, and legal advice, which is reserved for licensed practioners).

[58] Fla. Bar. v. Brumbaugh, 355 So. 2d 1186, 1194 (Fla. 1978) (holding that selling printed material purporting to explain legal practice and procedure to the public in general does not constitute the unauthorized practice of law because no individual advisory relationship is formed); *see also* N.Y. Cnty. Lawyers' Ass'n v. Dacey, 21 N.Y.2d 694,

that explain what the law generally provides, know-your-rights brochures distributed to tenants or employees, self-help court centers that describe how to fill out forms, hornbooks, legal treatises, and public legal information websites have all been treated as outside the reach of UPL doctrine.[59]

The court makes this distinction because the harm UPL doctrine targets does not arise from legal knowledge itself but by the reliance that individualized guidance creates.[60] The Third Restatement of the Law Governing Lawyers explains that the prohibition on UPL exists to protect clients from the "significant risk of harm believed to be threatened by the nonlawyer practitioner's incompetence or lack of ethical constraints."[61] When a person acts on individualized legal guidance from a source they believe has competently evaluated their situation, they make decisions they would not have otherwise made, such as filing, or not filing a claim, settling or not settling a claim, and raising or waiving a defense.[62] This is why even advising a litigant on what form to fill is considered legal practice.[63] Ethics rules require that when an such a reliance relationship is induced in the context of legal guidance, it does so with a corresponding set of obligations that the relying party can enforce.[64] When an unlicensed person

(1967) (adopting reasoning of Stevens, J., dissenting, 28 A.D.2d 161, 174 (1st Dep't 1967)) (holding that a book containing hundreds of pages of legal forms and explanatory materials directed to the public at large was not UPL because it offered only general advice and there was no personal reliance upon the selection and judgment of Dacey).

[59] *See* Greacen *supra* note 58 (explaining that legal hotlines, self-help court centers, court staff, and public legal information resources have consistently been treated as outside the reach of UPL doctrine under the information-versus-advice distinction developed by courts).

[60] Model Code of Pro. Responsibility EC-31 (Am. Bar Ass'n 1969) (nothing that because of the fiduciary and personal character of the lawyer-client relationship and the inherently complex nature of our legal system, the public can better be assured of the requisite responsibility and competence if the practice of law is confined to those who are subject to the requirement and regulations imposed upon licensed attorneys).

[61] Restatement (Third) of the Law Governing Lawyers § 4 cmt. b (Am. L. Inst. 2000).

[62] *See* Model Code of Pro. Responsibility EC 3-4 Am. Bar Ass'n 1969) (noting that a layperson who seeks legal held is often not in a position to evaluate whether he or she is receiving proper professional advice).

[63] Fla. Bar v. Brumbaugh, 355 So. 2d 1186, 1194 (Fla. 1978)

[64] *See* Model Rules of Pro. Conduct rr. 1.1, 1.3, 1.7 (Am. Bar Ass'n 2016) (imposing enforceable duties of competence, diligence, and loyalty on attorney who undertake to advise clients); Restatement (Third) of the Law Governing Lawyers §§ 16, 48-49 (Am. L. Inst. 2000) (setting out a lawyer's duties to a client and establishing that

or system generated the type of guidance a lawyer does, the person receiving the guidance has no malpractice remedy, no basis for a bar complaint, no fiduciary duty running in their favor, and no recourse if the guidance is wrong.

On the other hand, courts have held that providing a litigant with knowledge of the law does not induce a reliance relationship because the litigant remains the decision maker throughout the entire interaction.[65] The litigant receives information and then exercises their own judgment about whether and how it applies to them. That act of independent judgment is what breaks the reliance chain.[66]

III. ANALYSIS

a. AI Chatbots Engage in the Unauthorized Practice of Law When They Apply Legal Reasoning to a Litigant's Specific Facts and When They Suggest or Draft Pleadings, Forms, and Motions

Courts have consistently held that the practice of law occurs when a non-lawyer entity takes a specific individual's facts and exercises legal judgment to reach a conclusion about that individual's rights, obligations or best course of action, and does so in a context where the individual foreseeably relies on that conclusion as a substitute for their own judgment.[67]

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breach of those duties gives rise to malpractice liability and liability for breach of fiduciary duty enforceable by the client).

[65] N.Y. Cnty. Lawyers' Ass'n v. Dacey, 21 N.Y.2d 694 (1967) (adopting reasoning of Stevens, J., dissenting, 28 A.D.2d 161, 174 (1st Dep't 1967)) (holding that a publication sold to the public at large did not constitute the practice of law because the reader exercised independent judgment about whether and how the information applied to their own situation, and no advisory relationship formed between the author and any particular reader)

[66] Fla. Bar v. Brumbaugh, 355 So. 2d 1186, 1193 (Fla. 1978) (distinguishing permissible publication of general legal materials from prohibited individualized legal assistance on the ground that readers of general publications retain decision-making authority over their own legal choices, whereas clients receiving individualized guidance rely on the provider's judgment as a substitute for their own).

[67] *See* Fla. Bar v. Brumbaugh, 355 So. 2d 1186, 1191-92 (Fla. 1978); *see also* Unauth. Prac. of Law Comm. v. Parsons Tech., Inc., 179 F.3d 956, 957 (5th Cir. 1999); In re Reynoso, 477 F.3d 1117, 1126 (9th Cir. 2007).

A non-lawyer actor crosses into the practice of law when it evaluates a specific individual's facts and renders legal judgment responsive to them.[68] In *Florida Bar v. Brumbaugh,* the Florida Supreme Court found UPL violation where a non-lawyer collected client information, selected relevant forms, and advised on procedural steps, because each act required applying law to individualized facts.[69] UPL doctrine is similarly applied to software. In *Unauthorized Practice of Law Committee v. Parsons Technology* and *In re Reynoso,* courts held that programs which process user-specific inputs to generate legal documents or conclusions perform the functional equivalent of legal representation.[70] Such activity when performed by a computer program is indistinguishable in substance from a lawyer drafting documents based on a client interview.[71]

However, the dissemination of legal guidance untethered from any individual's specific circumstances, does not constitute the practice of law. In *New York County Lawyer's Association v. Dacey,* the publication of legal forms and explanatory materials did not constitute the practice of law because no specific individual's facts ever entered that relationship.[72] The readers of Dacey's book retained full decision-making authority over their own legal situations and simply received legal information which they applied to their facts themselves.[73] No reliance relationship formed between Dacey and any reader, because no reader had reason to treat Dacey's guidance as a conclusion rendered about their specific circumstances.[74]

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[68] Brumbaugh, 355 So. 2d at 1191-92.
[69] *Id.* at 1191-94.
[70] *See* Unauth. Prac. Of Law Comm. v. Parsons Tech., InC. 179 f.3D 956, 957 (5th Cir. 1999) (holding that software processing user-specific inputs to generate legal documents constitutes the practice of law regardless of whether a human directs the analysis); *see also* In re Reynoso, 477 F.3d 1117, 1126 (9th Cir. 2007) (holding that a bankruptcy petition preparer who exercised legal judgment in completing forms on behalf of debtors engaged in unauthorized practice of law).
[71] Janson v. LegalZoom.com, Inc., 802 F.Supp.2d 1053, 1065 (W.D. Mo. 2011) (finding that no material difference existed between LegalZoom's automated document preparation service and a Missouri lawyer asking a client questions and preparing a legal documents based on the answers).
[72] Dacey v. N.Y. Cnty. L. Ass'n, 290 F. Supp. 835, 837-38 (S.D.N.Y. 1968).
[73] *Id*. at 838.
[74] *Id.*

The same court that enjoined *Brumbaugh's* personalized assistance held in the same opinion that she was expressly permitted to sell printed divorce materials and sample legal forms to the general public.[75] What she could not do was gather the specific details of the marriage from the client such as their finances, their children, and then decide which of those forms applied to their situation, what information belonged in each field, and what procedural steps they needed to take next, because in doing so she would substitute her judgment for the litigant's judgment.[76]

ChatGPT's conduct in *Nippon Life* satisfied every element of the UPL framework.[77] It received Dela Torre's specific facts and case documents, reached a legal conclusion about her specific situation, and induced her reliance on that conclusion by marketing the system's legal competence to the public.[78] There is no substantial difference between the conduct of a lawyer who prepares pleadings based on a client interview and what ChatGPT did to Del Torre.[79] The fact that ChatGPT is a legal software and not a human, that no engagement letter was signed between them, or that ChatGPT did not have a bar license does not insulate it from UPL liability because it is precisely the absence of those accountability structures that UPL doctrine exists to address.[80]

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[75] Fla. Bar v. Brumbaugh, 355 So. 2d 1186, 1994 (Fla. 1978) (permitting respondent to continue activities that did not require her to apply a client's specific facts to law).
[76] *Id.* at 1191-92.
[77] *Cf.* Brumbaugh, 355 So. 2d at 1191-92 (establishing that UPL occurs when a non-lawyer analyses an individual's specific facts against the law and reaches a legal conclusion); Unauth. Prac. of L. Comm. v. Parsons Tech., Inc., 179 F.3d 956, 957 (5th Cir. 1999) (holding that software processing user-specific inputs to generate legal conclusions engages in the function equivalent of legal representation); In re Reynoso, 477 F.3d 1117, 1126 (9th Cir. 2007) (affirming that the absence of a formal attorney-client relationship does not insulate a non-lawyer actor from UPL liability).
[78] *See* Fla. Bar v. Brumbaugh, 355 So. 2d 1186, 1191-92 (Fla. 1978) (finding UPL where non-lawyer induced client reliance by holding herself capable of. Providing legal assistance tailored to individual circumstances).
[79] *Cf.* Janson v. LegalZoom.com, Inc., 802 F. Supp. 2d 1053, 1065 (W.D. Mo. 2011) (finding no material difference an automated document preparation service and a lawyer asking a client questions and preparing filings based on the answers, because in both cases a legal judgment determined what the document contained).
[80] Unauth. Prac. of L. Comm. v. Parsons Tech., 179 F.3d 956, 957 (5th Cir. 1999) (holding that the absence of a human attorney does not exempt software from UPL where the program processes user-specific inputs to generate

The appropriate response to that conclusion is not prohibition. It is design. An AI chatbot that explains the law, explains how courts have applied the law, or what elements are needed to be proved to meet a claim or assert a defense is providing legal knowledge. An AI chatbot that takes an individual's specific facts and applies it to their legal situation and tells them what type of claim or defense they have or how to file their claim is providing legal advice; that is the boundary within which AI must be designed to serve pro se litigants.

b. An AI Chatbot That Provides Legal Knowledge Through Pattern-Based Recognition and Plain-Language Translation, Without Applying That Knowledge to Any Individual's Specific Facts, Does Not Engage in the Unauthorized Practice of Law

An AI system constrained from applying a litigant's specific facts to reach conclusions on their behalf can still give that litigant the legal vocabulary, the doctrinal landscape, and the procedural knowledge to apply the law to themselves. For Turner, who told a court exactly what he needed to say to prevail on a civil contempt charge and lost because he did not know he was saying it, or for Jonathan, who sat in immigration detention unaware that he was eligible for a green card, the missing piece to access to exercising their rights was not just a lawyer but also the legal knowledge that their rights existed.[81] A properly designed AI system can supply that knowledge without crossing the line that *Brumbaugh* drew.[82]

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legal conclusion); In re Reynoso, 477 F.3d 1117, 1126 (9th Cir. 2007) (affirming UPL liability where non-lawyer actor operated without bar license, malpractice exposure, or fiduciary obligations to the individuals whose legal documents it prepared); *See also* Fla. Bar v. Brumbaugh, 355 So. 2d 1186, 1194 (Fla. 1978) (grounding UPL regulation in the tendency of persons seeking legal assistance to place trust in individuals purporting to have legal expertise, necessitating that those who give such advice possess legal training and be subject to professional accountability).

[81] Turner v. Rogers, 564 U.S. 431, 447-48 (2011) (finding due process violation where indigent pro se defendant was incarcerated for civil contempt without notice that his ability to pay was the critical question, depriving hum of the procedural knowledge necessary to asset a complete defense he otherwise possessed); *I Was Sure I Would Be Deported Until An Attorney Informed Me of My Rights,* Vera Inst. Of Just. (Oct. 16, 2020), https://www.vera.org/news/i-was-sure-i-would-be-deported-until-an-attorney-informed-me-of-my-rights (noting how Jonathan remained in ICE detention unaware that his father's NACARA status made him eligible for a green card).

[82] Brumbaugh, 355 So. 2d at 1194 (permitting non-lawyers to sell printed legal materials and general procedural information to the public at large while prohibition individualized assistance).

i. Pattern-Based Recognition Systems do not Trigger a Reliance Relationship

When a pro se litigant turns to an AI chatbot for legal help, the interaction typically unfolds as an open conversation. The litigant describes their situation in their own words, or uploads documents that describe their legal situation.[83] This conversation structure triggers UPL because it receives a litigant's specific facts and uses it to reach a legal conclusion.

A rule-based AI system inverts that structure entirely. Rather than receiving a litigant's facts and determine what they mean, the system begins by presenting the litigants with a structured menu of legal categories, areas of law, claim type, and procedural contexts and invites the litigant to identify which ones resemble their situation.[84] The litigants draw their own conclusions, and the system never evaluates their facts. That constraint can be reinforced at the architectural level. AI systems designed to serve pro se litigants can be built without document upload functionality and with character limits on user inputs, reducing the risk that a litigant's specific facts enter the system in a form that AI can act upon.[85]

Consider how this would have worked differently for Dela Torre. Rather than receiving her settlement agreement and her attorney's correspondence and telling her she was being misled, a pattern-based system would have responded to her descriptions with a menu of examples of when courts have found attorneys gave deficit advice about releases or provided

[83] *See* Collen V. Chien & Miriam Kim, *Generative AI and Legal Aid: Results from a Field Study and 100 Use Cases to Bridge the Access to Justice Gap*, 57 LOY. L.A. L. REV. 903, 910-15 (2025) (documenting how pro se litigants interact with generative AI tools through open-ended conversational prompts and document uploads).
[84] Ghazala Bilquise et al., *Emotionally Intelligent Chatbots: A Systematic Literature Review*, 2022 HUM. BEHAV. & EMERGING TECH. 1,3 (2022) (explaining that rule-based chatbot systems generate responses from predefined rules using pattern matching or finite-state logic, guiding users through structured interaction paths rather than processing free from natural language input).
[85] *Cf.* N.Y. L. Inst., *FAQ: Generative AI in Law Libraries & Notebook LM* https://www.nyli.org/faq-generative-ai-in-law-libraries-notebook-lm/ (last visited Fe. 2, 2026) (describing AI research bot Notebook LM as having 500 words per query limit as structural features of the system's design).

ineffective counsel in a settlement context.[86] Dela Torre could read those patterns and determine for herself whether her experience resembled any of them. The chatbot would never review her documents, evaluate the correspondence, or draft pleadings.

This design replicates precisely the structure that *Dacey* protected.[87] This approach is also consistent with the policy rationale that the Third Restatement of the Law Governing Lawyers identifies as the foundation of the unauthorized practice prohibition.[88] A pattern-based system never induced that reliance because it never tells anyone what their situation means or what they should do. It expands what the litigant knows without substitution its judgment for theirs, and because no legal conclusion about any specific person's circumstances ever issues from the system, no one acts on the system's judgment in the way the Restatement treats as the source of harm.[89] The user remains the decision-maker.

ii. AI Can Explain the Law in Plain Terms Without Applying It to Any Individual's Facts

Pattern-based recognition helps pro se litigants identify what legal landscape applies to their situation by presenting them with fact patterns drawn from existing case law and letting them self-select the ones that resemble their experience. However, once a litigant knows what area of law governs their situation, they still have to comprehend the law that applies to them.

[86] *See* Nippon Life Complaint, ¶¶ 12–18 (describing how Dela Torre uploaded her settlement agreement and attorney correspondence to ChatGPT, which then evaluated that material and concluded she was being misled, inducing her to discharge her counsel).
[87] Dacey v. N.Y. Cnty. L. Ass'n, 290 F. Supp. 835, 837-38 (S.D.N.Y. 1968) (holding that publication of legal forms and explanatory materials directed to the general public does not constitute UPL because no individual's facts enter the relationship and readers retain full decision-making authority over their own legal situations).
[88] Restatement (Third) of the Law Governing Lawyers § 4 cmt. b (Am. L. Inst. 2000) (grounding the UPL prohibition in the risk of harm created when a person foreseeably relies on individualized legal guidance from an actor operating outside professional accountability structures).
[89] *Id.;* Dacey, 290 F. Supp. At 838 (observing that readers of general legal publications exercise independent judgment about whether and how the information applies to their situation, and that this act of independent judgment is what prevents a reliance relationship from forming).

American statutes are frequently long, cross-referential, and written in technical language that presupposes a legal education.[90] A properly designed AI system can serve pro se litigants by explaining what the law says in a language the litigant can understand.[91] Lynn White, the Long Beach tenant, used ChatGPT to identify procedural errors in a trial judge's rulings and research applicable California regulations.[92] ChatGPT explained what the law said and how courts applied it.[93] The function that AI performed for her was the same function a well-annotated legal treatise or a comprehensive know-your-rights guide performs, it translated the law from a language accessible only to lawyers into a more accessible language.[94] Plain-language statutory explanation of law has been deemed to be AI's most promising access-to-justice applications.[95]

The legal system has already recognized this need. Orange County Superior Court developed an AI-powered translation system trained specifically on court terminology and legal language that receives legal documents and court materials and translates them in plain language in the litigant's native tongue.[96] Currently it translates legal documents in Spanish and Vietnamese.[97]

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[90] *See* Chein *supra* note 47 at 910 (documenting that comprehension of applicable substantive law remains a primary barrier for pro se litigants).
[91] *See* Russel Engler, Connecting Self-Representation to Civil Gideon: What Existing Data Reveal About When Counsel is Most Needed, 37 FORDHAM URB. L.J.37, 74-75 (2010) (finding that unrepresented litigants lose their cases even when the substantive law is in their favor); *see also* Jessica R. Gunder, *Why Can't I Have a Robot Lawyer? Limits on the Right to Appear Pro Se*, 98 TUL. L. REV. 363, 371 (2024) (observing that AI assistance that helps pro se litigants understand the law and courtroom protocols meaningfully improve their ability to present their cases).
[92] Perlo & Yang, *supra* note 1 (reporting that White used ChatGPT to research applicable California regulations and identify how courts had applied them to her eviction proceedings).
[93] *Id.*
[94] *Compare* Fla. Bar. Brumbaugh, 355 So. 2d 1186, 1194 (permitting sale of printed materials explaining legal practice and procedure to the general public) *with* Dacey v. N.Y. Cnty. L. Ass'n, 290 F. Supp. 835, 837-38 (S.D.N.Y. 1968) (holding that legal publications translating law into accessible form for the general public do not constitute UPL because no individual's facts enter the relationship).
[95] Stanford Legal Design Lab, *Legal Tasks for AI in the Access to Justicce Domain*, STAN L. SCH. JUST. INNOVATION LAB (Apr. 2025), https://justiceinnovation.law.stanford.edu/projects/ai-access-to-justice/tasks/.
[96] Maryam Akhlaghi, *AI-Assisted Translation in the Courts: How Courts Are Balancing Access and Accuracy*, Cyberjustice Lab., Univ. de Montréal (June 18, 2025), https://www.cyberjustice.ca/en/2025/06/18/ai-assisted-translation-in-the-courts-how-courts-are-balancing-access-and-accuracy/.
[97] *Id.*

The ABA Model Rules of Professional Conduct targets the accountability gap that opens when a specific person relied on a specific conclusion about their specific situation.[98] A plain-language explanation of what the law provides never opens that gap.[99] The litigant who reads it, acquires knowledge and then exercises their own judgment.[100]

iii. AI System Can Transcribe the Documents Litigants Have Chosen to File Without Exercising Independent Judgment About Their Facts

AI systems cannot draft pleadings for pro se litigants.[101] But the prohibition on drafting does not eliminate meaningful assistance. A properly designed AI system can provide the litigant with knowledge about what forms exist and what each one is used for.[102] Once the litigant has made determinations, the system can help them fill the form they have chosen by transcribing their words literally.[103]

Such assistance is permitted under the scrivener's exception which is the principles that a non-lawyer may transcribe or type legal documents without engaging in unauthorized practice, so as they do not exercise independent judgment about what those documents should contain.[104] In *Florida v. Brumbaugh,* while the court prohibited a non-lawyer from preparing legal

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[98] Model Rules of Pro. Conduct r. 5.5 cmt. 2 (Am. Bar Ass'n 2023) (grounding the prohibition on unauthorized practice in the need to protect individuals who rely on legal guidance from actors operating outside the accountability structures that make such guidance trustworthy).
[99] *Cf.* Dacey v. N.Y. Cnty. Law. Ass'n, 290 F. Supp. 835, 838 (S.D.N.Y. 1968) (holding that general legal publications do not constitute UPL because readers exercise independent judgment about whether and how the information applies to their situation, preventing a reliance relationship from forming).
[100] *Id.* at 836-840.
[101] *See* Janson v. LegalZoom.com, Inc., 802 F. Supp. 2d 1053, 1065 (W.D. Mo. 2011) (finding UPL where LegalZoom's automated system selected and completed legal forms based on user-provided information, because the system exercised judgment about which forms applied to the user's specific situation rather than merely transcribing what the user had already determined).
[102] *Cf.* Or. State Bar v. Gilchrist, 538 P.2d 913 (Or. 1975) (permitting sale of packets containing blank legal forms and general instructions explaining the divorce process, while enjoining the provider from advising specific customers which forms applied to their particular circumstances).
[103] *Cf.* Fla. Bar v. Brumbaugh, 355 So. 2d 1186, 1194 (Fla. 1978) (permitting a non-lawyer to type legal instruments from information provided and completed by the client, so long as the provider recorded the client's own words without exercising judgment about what the documents should contain).
[104] N.C. State Bar v. Lienguard, Inc., 2014 NCBC 11 (N.C. Super. Ct. 2014) (holding that non-lawyers do not engage in the unauthorized practice of law when they use software to prepare legal documents, provided they only input data dictated by the client and do not offer legal advice or tailor the content).

documents based on client information, it expressly permitted the typing of instruments completed by clients, so long as the provider merely recorded what the client themselves asserted.[105] In *Oregon State Bar v. Gilchrist*, Gilchrist operated a business selling divorce kits which were packets containing blank legal forms and general instructions explaining how the divorce process works.[106] The Bar sought to enjoin the entire operation as unauthorized practice.[107] It permitted the sale of the kits and the general instructional materials while enjoining Gilchrist from consulting with specific customers and advising them on their specific circumstances.[108]

The prohibition on unauthorized practice exists because legal judgment carries consequences that justify professional accountability.[109] But a scrivener creates none of those risks.[110]

IV. CONCLUSION

How courts rule in *Nippon Life* will have grave consequences for the millions of pro se litigants who have come to rely on AI as their only meaningful access to legal knowledge. A broad holding that AI legal assistance constitutes unauthorized practice of law could foreclose the one technological intervention that has shown real promise in addressing a crisis that institutional mechanisms have failed to solve for decades. That outcome is not required by

[105] Brumbaugh, 355 So. 2d at 1194.
[106] Or. State Bar v. Gilchrist, 538 P.2d 913, 916 (Or. 1975)
[107] *Id*. at 916.
[108] *Id*.
[109] *See* ABA Model Code of Prof'l Responsibility EC 3-3 (noting that a non-lawyer handling legal matters is not governed on their integrity or legal competence and thereby does not serve public interest); *id.* EC-3-4 (observing that the entrustment of a legal matter may well involve the confidences, the reputation, the property, the freedom, or even the life of the client and proper protection demands that no person act in that capacity unless subject to professional regulation).
[110] *N.C. State Bar v. Lienguard, Inc.*, 2014 NCBC 11 (N.C. Super. Ct. 2014) (recognizing the scrivener's exception to UPL statutes, under which merely typing a legal document does not constitute the practice of law so long as the non-attorney does not create the document, alter its content, or advise on how it should be prepared

doctrine. AI can be designed to comply with UPL while still providing meaningful assistance to pro se litigants.

An AI system built on pattern recognition, that provides plain-language explanation, and transcription provides legal knowledge without ever applying that knowledge to any specific individual's facts. Such a design would continue to help litigants like Lynn White by providing litigants with the legal vocabulary, the doctrinal landscape, and the procedural knowledge to understand their rights— while ensuring against outcomes like Dela Torre's by prohibiting the sharing of specific facts and drafting pleadings. Such a framework preserves UPL's protective function.