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AI Is Disrupting Mass Torts With the Promise of Lower Costs

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The mass tort industry, with its reliance on millions of pieces of documents and thousands of plaintiffs per case, is better positioned for an AI transformation than most of the legal world.

It couldn't come at a more opportune moment, given how much artificial intelligence can save money by streamlining litigation strategy while weeding out non-meritorious cases. Mass tort attorneys have been struggling to stand out and survive in a saturated market where big-money payoffs can take years.

"How we strategize and how we look at cases, and how we understand cases better—those things are definitely changing," said Asim Badaruzzaman, co-chair of the Sbaiti & Co.'s mass tort practice group. "If you can find ways to do things more efficiently, it's a better results for your clients."

Simpler and Easier

One area of mass torts that lends itself to AI is discovery because of a large volume of documents, said Elizabeth Koenig, senior vice president, litigation consulting at ILS, a company that provides plaintiff-only eDiscovery services and litigation support. The company offers AI products for making eDiscovery smoother.

"It's often asymmetrical, so you'll have a large amount of discovery coming from the corporate defendants and a much smaller amount typically from the plaintiffs," Koenig said. "It is giving a real ability to look at mass amounts of documents in a new way, cut through the kind of junk that's out there, help make connections between documents, help interrogate the data in a really, really different way."

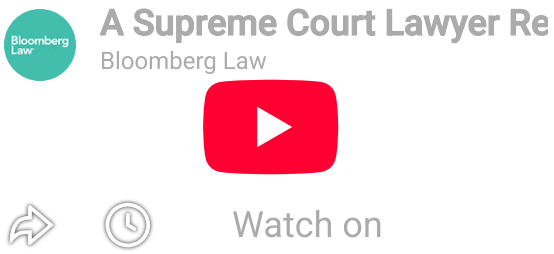
The technology could be used to help the plaintiffs' bar level the playing field against big companies, she said.

Badaruzzaman, of Sbaiti, said, "Back in the day, if you needed to do a medical chronology, you had to send it out to an outside consultant" who would get people to review thousands of pages of records and put them in chronological order. "You can do that in minutes now."

Using voice chatbots to handle the most common queries is another common usage.

"In some of the testing we have done, they're pretty good in terms of providing people with information or gather certain pieces of information," Badaruzzaman said. "It gives you the capacity to ensure consistency. It gives you the capacity to lift a little bit more with a lot more accuracy."

Still, these chatbots can only be used for very specific tasks as opposed to wider usage. "I don't think the technology is just there yet," he said.



Can AI Argue a Supreme Court Case Better Than a Human Lawyer?

Prediction Tool

A startup called Theo AI is offering a tool that can show patterns that lawyers can use to decide how many resources—money, outside counsel or time—to invest in a case.

The company's tool is based on Google's Gemini and other large language models to detect patterns in plaintiff files and determine if they're complete. It can help root out fraud, such as by detecting if there are identical signatures across multiple plaintiff files. The analysis it produces is useful for pre-screening mass torts, said Patrick Ip, co-founder and CEO at Theo AI.

The idea is to create some certainty for defendants on litigation spend. The company sells its tool to in-house counsel at Fortune 500 companies and it is 95.6% accurate, Ip said.

"The problem with legal expertise is any one experienced lawyer can do a legal prediction for a single case," Ip said. "It's much more difficult to do that for thousands of cases."

Ip said litigation funders use its tool to assess their chances of success with mass tort claims. He wouldn't disclose Theo's clients or pricing but last year the company announced a partnership with Mustang Litigation Funding. Mustang, which specializes in pre-settlement, mass tort and commercial funding, uses Theo AI to for case review and selection.

Using these tools helps real victims and claimants, said Samir Parikh, a law professor at Wake Forest University who researches business law and mass torts.

"It's great for meritorious victims and claimants, because now every dollar that goes to a non-meritorious claimant is one that's taken away from a meritorious claimant," Parikh said. "Over time, less of these non-meritorious claims will plague the system."

Lowering Costs

AI also is lowering the cost of case prep, which ultimately gets passed down to the consumer, said Ed Scanlan, the founder and CEO of AI-driven legal tech platform Bridge Legal.

The company has around 100 law firm clients involved in mass torts and assists with back office work as well as organizing and assessing data.

“It helps us validate claims more quickly so we can get sort of pattern recognition, ensuring the right plaintiffs are moving forward and getting people that are not qualified or brought out of the system early,” Scanlan said. “So law firms aren’t spending money and consumers don’t have false hope.”

He said his AI benefits both plaintiffs and defendants since it weeds out cases that are unqualified. It also benefits litigation funders, who often are the backers of mass tort law firms.

“Capital providers don’t want to be funding this either, they have no desire to put money into things that aren’t going to work,” he said.

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