AI Trial Advocacy: Your Guide to Handling the Evidentiary Implications of Artificial Intelligence
Ontario Bar Association

In Person   **Webcast**

CPD

This program (2 days) contains:
Professionalism Hours: This program is eligible for up to **1 Professionalism Hour**
Substantive Hours: This program is eligible for up to **11 Substantive Hours**
The OBA has been approved as an Accredited Provider of Professionalism Content by The Law Society of Ontario.

Date: Day 1: Friday November 1, 2024| 9:00 am – 4:00 pm
Day 2: Friday November 29, 2024 | 9:00 am – 4:00 pm

Location: OBA Conference Centre
20 Toronto Street, 2nd Floor, Toronto

With the expanding capabilities and use of artificial intelligence (AI) both in legal practice and beyond, it is critical that litigators are well equipped to navigate the evidentiary issues that arise when AI is involved. From AI-generated evidence to experts' reliance on AI in formulating their opinions to unpacking and challenging underlying AI technologies, the implications of the use of AI and the strategies you need to respond are varied. Ensure you have the insights and expertise you need with this highly practical program.

Through a series of demonstrations and debriefs, our top-notch faculty of AI leaders, members of the judiciary and experienced litigators will share valuable advice on the questions you need to ask and the approaches you should be considering. Walk away ready to tackle the litigation files of the future, and armed with the knowledge and tools you need to stay ahead of the curve in this new era of litigation.

DAY 1: In Advance of Trial – November 1, 2024

9:00am   Welcome and Opening Remarks
The Honourable Peter Lauwers, Court of Appeal for Ontario

9:10am   **Introduction of the Fact Scenario**
Professor Maura R. Grossman, University of Waterloo and Osgoode Hall Law School

9:20am   **How AI Implicates Key Evidence Principles**
The Honourable Jill Presser, Superior Court of Justice
Professor Suzanne Chiodo, Osgoode Hall Law School
Unpack how relevance, credibility, probative value versus prejudicial effect and other principles of evidence law are engaged when artificial intelligence enters the courtroom.

10:35am Networking Break

10:50am **Demonstration and Debrief: Examination for Discovery of the Defendant**
Counsel for the Plaintiff: **Sam Rogers**, McCarthy Tétrault LLP
Defendant: **Matthew Maslow**, Director – eDiscovery Innovation Leader, Deloitte
- Strategies for approaching AI issues
- Key questions to ask
- What worked and what didn't?

11:15am **Demonstration and Debrief: Motion Seeking Examination for Discovery of a Non-Party (AI Product Representative)**
Presiding Judge: **The Honourable Fred Myers**, Superior Court of Justice
Counsel for the Plaintiff: **Brent Arnold**, Gowling WLG
Counsel for the Defendant: **Zohar Levy**, Lundy Levy Eski Baum
- When do you need to seek discovery of a non-party?
- Addressing issues of proportionality
- How to handle proprietary information

12:00pm **Demonstration and Debrief: Examination for Discovery of a Non-Party (AI Product Representative)**
Counsel for the Plaintiff: **Paul-Erik Veel**, Lenczner Slaght
Non-Party (AI Product Representative): **Aaron Wenner**, Jurisage Group
- Unraveling the unique elements of AI and how those translate into your discovery questions
- What you need to know about training AI models
- AI and bias

12:45pm Lunch Break

1:45pm   **Demonstration and Debrief: Pre-Trial Conference**
Presiding Judge: **The Honourable Ria Tzimas**, Superior Court of Justice
Counsel for the Plaintiff: **Kathryn Manning**, DMG Advocates LLP
Counsel for the Defendant: **Darcy Romaine**, Boland Romaine LLP
- Strategies for addressing AI evidentiary issues at the pre-trial conference

2:30pm   Networking Break

2:45pm   **Unique Challenges in Dealing with Self-Represented Parties and AI**
The Honourable Laura Ntoukas, Small Claims Court Administrative Judge
Jennifer Leitch, Executive Director, National Self-Represented Litigants Project
Katherine Di Tomaso, Stieber Berlach LLP
- Can AI assist self-represented parties and enhance access to justice?
- What does the anticipated increasing use of AI by self-represented parties mean for counsel and the Courts?

3:50pm   Questions and Concluding Remarks

4:00pm   Day 1 Concludes

PROGRAM REGISTRATION IS ONLINE   www.oba.org/pd
Questions? pd@oba.org

DAY 2: The Trial* – November 29, 2024

Attendees who register only for Day 2 will receive a recording of **How AI Implicates Key Evidence Principles to watch in advance.*

9:00am   Welcome and Opening Remarks

9:10am   **Introduction of the Fact Scenario and Day 1 Refresh**

9:20am   **Demonstration and Debrief: Direct and Cross Examination of the Defendant**
Presiding Judge: **The Honourable Kiran Sah**, Superior Court of Justice
Counsel for the Plaintiff: **Heather Hansen,** McCarthy Hansen & Company LLP
Counsel for the Defendant: **Brandon Anand Chung,** Henein Hutchison Robitaille LLP
Defendant: **Matthew Maslow**, Director – eDiscovery Innovation Leader, Deloitte
- Introducing AI-related evidence

10:05am **Demonstration and Debrief: Direct and Cross Examination of a Non-Party (AI Product Representative)**
Presiding Judge: **The Honourable Kiran Sah**, Superior Court of Justice
Counsel for the Plaintiff: **Brent Arnold**, Gowling WLG
Counsel for the Defendant: **Zohar Levy**, Lundy Levy Eski Baum
Non-Party (AI Product Representative): **Tali Green,** Goodfact
- Unpacking how AI tools are used and trained
- Establishing bias
- How to effectively use evidence from the examination for discovery in your cross-examination

10:55am Networking Break

11:10am **Demonstration and Debrief: Direct and Cross Examination of Plaintiff's Expert**
Presiding Judge: **The Honourable Justice Jamie K. Trimble,** Superior Court of Justice
Counsel for the Plaintiff: **Andrea Gonsalves**, Stockwoods LLP
Counsel for the Defendant: **Nathaniel Read-Ellis**, Adair Goldblatt Bieber LLP
Plaintiff's Expert: **Professor Maura R. Grossman**, University of Waterloo and Osgoode Hall Law School
- Challenging the reliability of AI technology
- Determining whether a file is a deepfake

12:00pm Lunch Break

12:45pm **Demonstration and Debrief: Direct and Cross Examination of Defendant's Expert**
Presiding Judge: **The Honourable Justice Jamie K. Trimble,** Superior Court of Justice
Counsel for the Plaintiff: **Ian Hull**, Hull & Hull LLP
Counsel for the Defendant: **Hilary Book**, Book Erskine LLP
Defendant's Expert: **Colin Lachance**, OBA Innovator in Residence
- Supporting the reliability of AI technology and how to address its shortcomings

1:35pm   **Perspectives from the Bench**
The Honourable Peter Lauwers, Court of Appeal for Ontario
The Honourable Jill Presser, Superior Court of Justice
The Honourable Joseph F. Kenkel, Ontario Court of Justice
Join our panel of judges as they offer insights from the Bench on how litigators can effectively tackle AI evidentiary challenges.

2:40pm   Networking Break

2:55pm   **Challenges, Gaps and Where We Go from Here**
Moderator: **Paul Lomic**, Lomic Law and Chair, OBA AI Task Force
Professor Maura R. Grossman, University of Waterloo and Osgoode Hall Law School
Professor Amy Salyzyn, University of Ottawa, Faculty of Law
James Tumbridge, Keystone Law (UK)
- Where do the key challenges continue to lie?
- What lessons can be learned from what we are seeing in other jurisdictions?
- What can we expect going forward?

3:55pm   Questions and Concluding Remarks

4:00pm   Day 2 Concludes

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