



NEAL GERBER EISENBERG

AI IN FOCUS: LEGAL RISKS AND SOLUTIONS FOR YOUR WORKPLACE

Presented by:

Kate Campbell, Partner, Neal Gerber Eisenberg

Sonya Rosenberg, Partner, Neal Gerber Eisenberg

Webinar | February 25, 2025

Kate H. Campbell

Partner | Intellectual Property

OVERVIEW

Kate is a member of the Intellectual Property practice group and Cybersecurity & Data Privacy team. She holds certifications from the International Association of Privacy Professionals (IAPP), which include Certified Information Privacy Professional/US (CIPP/US), Certified Information Privacy Professional/Europe (CIPP/E), Certified Information Privacy Manager (CIPM) and AI Governance Professional.

Kate counsels clients in cybersecurity, data privacy, technology strategy, licensing and procurement and artificial intelligence matters, including due diligence in these areas for M&A transactions and advising on litigation for cybersecurity and data privacy matters. This also includes guidance on city, state, federal and international privacy law compliance, including the General Data Protection Regulation 2016/679 (EU) (GDPR), the California Consumer Privacy Act (CCPA) and state privacy laws in Virginia, Utah, Connecticut and Colorado. Additionally, Kate has a wealth of experience assisting clients, including law firms, prevent, navigate, and respond to security incidents.

She advises clients on all facets of artificial intelligence (AI) governance, including monitoring emerging AI laws, data privacy programs, information handling, information security programs, incident response plans, subsidiary information technology and security standards and policies. She also assists clients in developing programs and policies to help them stay updated on advancements in AI and data privacy.

Kate is committed to advocating for women and girls in the technology industry. She serves as a Board Member for the Wisconsin Southeast Region of Women in Technology (WIT), a non-profit organization dedicated to advancing



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EDUCATION

The London School of Economics and Political Science (Certificate Program, 2022), Data: Law, Policy, and Regulation

University of Southern California Gould School of Law (J.D., 2008)

Pomona College (B.A., Economics, 2004)

ADMISSIONS

California
Illinois



women in technology-related careers. She also co-chairs WIT4girls, a program through WIT aimed at inspiring young women to pursue careers in technology in the same region.

Prior to joining the firm, Kate practiced in the litigation and cybersecurity departments of firms in Wisconsin, Washington D.C., Chicago and Los Angeles. While at USC, Kate served as the Executive Senior Editor of the Southern California Law Review and a judicial extern for the Honorable Stephen Hillman of the US District Court, Central District of California.

NEWS & INSIGHTS

January 2, 2025 Firm News

Neal Gerber Eisenberg Elevates Kate Campbell to Partner, Enhancing Intellectual Property and Data Privacy Practice

November 21, 2024 Publication

Cybersecurity Risks and Regulatory Challenges Impact Hospitality Industry

September 27, 2024 Event

Kate Campbell Hosts Webinar "Does Your Privacy Playbook Need Updating? A Discussion of New Laws and Upcoming Changes in Privacy"

September 27, 2024 Video

Does Your Privacy Playbook Need Updating?

August 2, 2024 Publication

EU Sets Key Artificial Intelligence Regulation Dates

July 23, 2024 Publication

Navigating the CIPA Landscape: Understanding Tracking Technology Litigation and Compliance Strategies

May 28, 2024 Firm News

NGE Expands Intellectual Property Practice with Kate Campbell

Sonya Rosenberg

Partner | Labor & Employment

OVERVIEW

Sonya counsels companies and organizations on various employee-related legal issues and needs that arise at all the stages of the employment relationship, including the negotiation of employment agreements, restrictive covenants, policies and training, performance management, internal investigations and individual and group separations. Sonya also represents employers in litigation, her experience including the successful defense of numerous administrative charges, lawsuits and appellate proceedings at the state and federal levels. Clients value that her ability to understand their needs and thoroughly assess their legal situations often results in invaluable savings in time and resources.

Sonya is a frequent presenter and author of numerous articles on current employment law topics, including effective employment audit and risk management practices, harassment and discrimination in the workplace, technology issues relating to biometric privacy, social media and use of recruiting technologies, restrictive covenants, medical leave and disability-related issues, workplace violence, smart performance management, conducting workplace investigations and reductions in force and other notable developments in labor and employment law.

In addition to her practice, Sonya is a member of the National Board of the Coalition of Women's Initiatives in Law, where she serves as the National Secretary/Treasurer on the Executive Committee. The Coalition is a nonprofit organization focused on supporting female attorneys in Chicago, New York and D.C.-area law firms and companies. Sonya is also a member of the Chicago chapter of the International Women's Forum, an international organization that supports global, national and local



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EDUCATION

Chicago-Kent College of Law (J.D., 2007), with honor

University of Chicago (B.A., 2002), with honor

ADMISSIONS

Illinois

New York

networks of women leaders in government, medicine, business, education, the arts and community service. Sonya is also involved on the International Committee of the American Jewish Committee (AJC). At the firm, Sonya is a member of the firm's Executive Committee, hiring, anti-harassment and attorney credit allocation committees.

Sonya was recognized by *Chambers USA: America's Leading Lawyers for Business* as one of the country's leading labor and employment lawyers. She was recommended by her peers as a Leading Lawyer for 2021 for her work in "Employment Law: Management" and "Labor Law: Management." In 2021, on behalf of NGE, Sonya accepted the Cabrini Green Legal Aid's "Spirit of Generosity Award" that recognized the firm for its pro bono counsel provided over several years. She also received the 2021 Chicago Leadership Award from the Coalition of Women's Initiatives in Law for her work as Chicago Chapter President, growing the chapter and organizing a wide array of virtual programs in a challenging year. In 2020, Sonya received the Collaborative Leadership Award from the Women, Influence & Power in Law Awards, and was named among the *Crain's Chicago Business* "Notable Women in Law." In 2017, She was recognized as one of "40 Illinois Attorneys Under Forty to Watch" by the Law Bulletin Publishing Company, which also named her an Emerging Lawyer in 2015. Sonya has been named a Rising Star since 2013 in *Illinois Super Lawyers*, and was recognized in the Spring 2017 Women of Influence issue of *Best Lawyers – Business Edition*. In 2012, She was named by *Today's Chicago Woman* as one of the 100 Women to Watch.

EXPERIENCE

Recent Litigation Experience:

- Successful defeat of motion to dismiss and resolution of restrictive covenants and harassment dispute involving competing financial services practices.
- Led and prevailed at state court emergency TRO hearing, securing former employee's immediate return of substantial assets to a technology company.
- Defeated a motion to dismiss in a case filed on behalf of a global executive search firm to recover unearned bonus payments, resulting in 20+ page opinion from federal judge and expedited, favorable outcome for the firm.
- Led and prevailed at a Wisconsin state law trial, securing complete dismissal of race discrimination and retaliation claims filed by a former employee of nationwide distributor of convenience store items.
- Applying a Constitutional law (ministerial exception) argument, secured a complete dismissal with prejudice for a church and its school in an employment discrimination lawsuit filed by a former employee.
- Secured summary judgment for a long-term care consulting company in an age discrimination lawsuit filed by two former employees.

- Secured summary judgment for a national association in a lawsuit alleging defamation, invasion of privacy and tortious interference, and won plaintiff's appeal of the summary judgment decision at the appellate court level.
- Prepared and argued two successful motions to dismiss lawsuit alleging breach of contract, statutory wage payment and whistleblower claims and a retaliatory discharge claim by a former employee of an air ambulance company.
- Secured summary judgment for a graphic design company in a lawsuit alleging breach of contract and fraud.
- Prepared three successful motions to dismiss and presented oral argument on last motion, which was granted by the court with prejudice, ensuring full dismissal of lawsuit alleging various wage-related claims filed against a pool supplies company.
- Prepared successful motion to dismiss and secured dismissal with prejudice of a lawsuit filed against a former company executive, based on lack of personal jurisdiction.
- Secured summary judgment for a division of an international investment bank in a sexual harassment lawsuit.
- Secured summary judgment for a national distributor of small store items in a religious discrimination lawsuit.
- Secured summary judgment and won a Seventh Circuit appeal for a nationwide retailer in a sexual harassment and retaliation lawsuit.
- Successful prosecution and settlement secured for a national hospital collection company in a breach of restrictive covenants action.
- Successful prosecution and settlement secured for a finance executive in an AAA arbitration over separation-related agreements and benefits.
- Successful defense of various-size companies and organizations in hundreds of administrative charges filed with the Equal Employment Opportunity Commission and parallel administrative state agencies alleging discrimination based on race, national origin, sex, religion, age, disabilities, marital status, and other protected categories.

Employment Counseling/Investigation Experience:

- Conducted an investigation of a C-suite executive of an international company leading to a fulsome report and recommendation that was upheld following trial.

- Advise companies on and conduct internal investigations, including those involving high-level executives and allegations of sexual and other types of harassment, discrimination and retaliation in the workplace.
- Provide multifaceted, employment-related counseling and advice to companies, organizations and associations through all stages of the employment relationship, including the pre-hire stage, employee performance and conduct-related issues, and separations and reductions-in-force.
- Negotiate employment and separation agreements on behalf of companies and individuals.
- Conduct various employment-related trainings and seminars, including on preventing discrimination, harassment and retaliation in the workplace, leave-related matters, and workplace technology and social media.
- Review and revise employee handbooks and various stand-alone policies.

RECOGNITIONS

- "Notable Women in Law," *Crain's Chicago Business*, 2024, 2020
- *The Best Lawyers in America*, recommended in "Employment Law – Management"
- "Notable Gen-X Leaders in Accounting, Counseling and Law," *Crain's Chicago Business*, 2022
- *Thomson Reuters*, "Stand-Out Lawyer" since 2022
- Coalition of Women's Initiatives in Law National Leadership Forum 2021, Chicago Leadership Award Winner
- Cabrini Green Legal Aid, 2021 Spirit of Generosity Award
- *Chambers USA: America's Leading Lawyers for Business*, Recognized Practitioner in "Labor & Employment" since 2021
- Leading Lawyers 2021, "Employment Law: Management" and "Labor Law: Management"
- Coalition of Women's Initiatives in Law Chicago Chapter, President, 2020
- Women, Influence & Power in Law Awards 2020, Collaborative Leadership Award winner
- *Law Bulletin Publishing Company*, "40 Illinois Attorneys Under Forty to Watch," 2017
- *Law Bulletin Publishing Company*, "Emerging Lawyer," 2015
- *Illinois Super Lawyers*, "Rising Star" in "Labor and Employment," 2013-2020
- *Illinois Super Lawyers*, recommended in "Labor and Employment" since 2021

Agenda

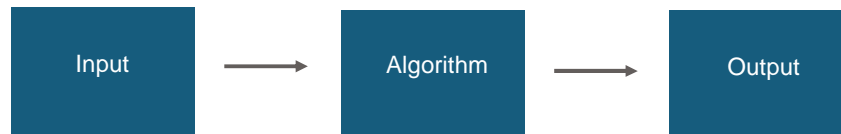
-  AI Background
-  Overview of Legal Risks
-  Applicable Laws
-  AI Considerations for HR and Legal
-  Best Practices for Mitigating Risk

AI Background



What is AI?

“In its simplest form, artificial intelligence is a field that combines computer science and robust data sets to enable problem-solving.” –IBM.com



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Generative AI v. “Traditional” AI



Generative AI: AI that focuses on creating content like images, text, or photos



“Traditional” AI: AI that analyzes data, focusing on patterns and guided by rules, to perform designated tasks and decision making



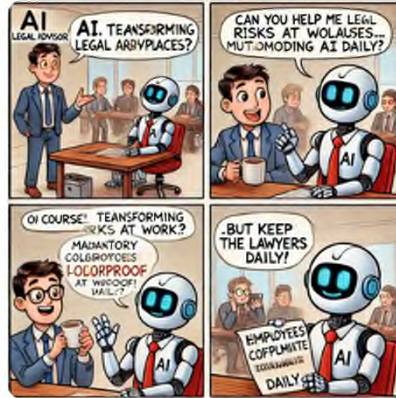
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Different Types of AI Tools

- Publicly-available generative AI
 - Ex.: ChatGPT
- AI-based software for identified purposes (e.g., note-taking, HR functions, inventory management)
 - Ex.: Greenhouse
- Internally-developed AI



Here's a comic for your presentation, humorously highlighting the intersection of AI and legal considerations in the workplace. Let me know if you'd like to tweak anything further!



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Overview of Legal Risks



Overview of Legal Risks

Intellectual Property
Issues

Maintaining
Confidential
Information

Accuracy

Labor &
Employment Issues

Data Privacy

Cybersecurity



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Don't Become A Headline

Samsung Bans Staff's AI Use After Spotting ChatGPT Data Leak

- Employees accidentally leaked sensitive data via ChatGPT
- Company preparing own internal artificial intelligence tools

New York lawyers sanctioned for using
fake ChatGPT cases in legal brief

Injury Attys In Hot Water Over Possible AI-Hallucinated Cites

Employees Are Feeding Sensitive Biz Data to ChatGPT, Raising Security Fears

More than 4% of employees have put sensitive corporate data into the large language model, raising concerns that its popularity may result in massive leaks of proprietary information.



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Impact of Trump's Executive Order on AI



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Increased Federal Regulation of AI?

- **Unlikely** to see significant federal limitations or barriers to development or use of AI during this Administration.
 - In his first speech abroad in early February at a European AI summit in Paris, J.D. Vance criticized “heavy” regulation of AI and stated US will lead AI development.
- In 2022 and 2023, the EEOC had issued guidance regarding responsible use of AI to curb discriminatory employment practices. Trump’s Executive Order on AI required government agencies to revise or rescind any guidance or other actions that “are or may be inconsistent with, or present obstacles to” the policy “to sustain and enhance America’s global AI dominance...” On January 27, the EEOC removed all AI guidance from its website.



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Federal and State Anti-Discrimination Laws

- **Title VII of the Civil Rights Act:** race, sex, religion, or national origin.
- **Americans with Disabilities Act (ADA):** covered disabilities.
- **Age Discrimination in Employment Act (ADEA):** older workers.
- States have parallel statutes. For example, the **Illinois Human Rights Act** prohibits discrimination based on these and additional protected categories, such as sexual orientation, gender identity and expression, marital status, military status and arrest record, among others.
- **What is the main idea here?** Employers can’t use AI tools in a way that results in discriminatory practices.



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AI Legislation in Illinois

In 2026, Illinois will enforce new amendments to the [Illinois Human Rights Act](#). These changes:

- Prohibit the use of artificial intelligence that has the effect of discrimination based on protected categories in recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or the terms, privileges, or conditions of employment – or to “use zip codes as a proxy” for protected categories;
- Require employers to provide notice of using AI in evaluating candidates or making employment decisions.

Illinois also previously enacted the [Artificial Intelligence Video Interview Act](#), which requires candidate consent for certain use of AI in the hiring process. We have not seen much traction under AIVIA.



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Other Noteworthy State Laws on AI

Colorado: The Colorado Artificial Intelligence Act (CAIA) Colo. Rev. Stat. § 6-1-1701 et seq. (effective Feb. 1, 2026) requires employers to use reasonable care to protect Colorado residents from any known or reasonably foreseeable risks of “algorithmic discrimination” (as defined in Colo. Rev. Stat. § 6-1-1701).

Maryland: Under Md. Code, Lab. & Empl. § 3-717(c), employers can't use facial recognition for the purpose of creating a facial template during an applicant's interview for employment unless an applicant consents.

New Jersey: According to the January 2025 Guidance on Algorithmic Discrimination and the New Jersey Law Against Discrimination issued by The New Jersey Office of the Attorney General and the Division on Civil Rights, employers in New Jersey are deemed in violation of the state's Law Against Discrimination (EEO) if their use of artificial intelligence results in discrimination against employees based on protected classes.



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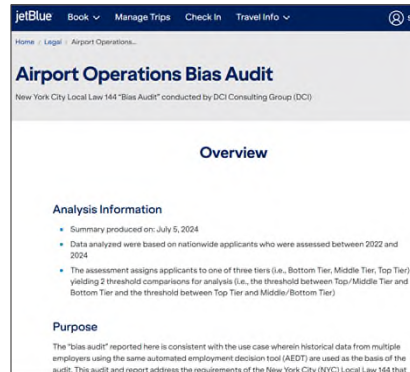
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Particularly Noteworthy Developments in New York

New York City: NYC's Local Law 144 of 2021 regarding automated employment decision tools ("AEDT") prohibits employers and employment agencies from using an automated employment decision tool unless the tool has been subject to a bias audit within one year of the use of the tool, information about the bias audit is publicly available, and certain notices have been provided to employees or job candidates.

New York State: Under an executive action recently announced by Gov. Kathy Hochul, New York will be the first state in the nation to use its Worker Adjustment and Retraining Notification (WARN) law to require that employers disclose when mass layoffs are related to their adoption of AI.



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Other Noteworthy Laws on AI



State Privacy Laws



Colorado AI Act



Utah's AI Policy Act



EU AI Act



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Employment Contracts and AI Considerations

Consider including AI-related provisions:

- Ownership of AI-Generated Work
 - Who owns content created using AI (e.g., code, reports)? Incorporate clear ownership clauses into employment agreements.
- Confidentiality and Trade Secret Protections
 - Safeguarding proprietary information when employees use third-party AI tools.
 - Prohibiting employees from inputting sensitive data into generative AI systems.

Unionized Workplaces:

- Collective bargaining obligations related to implementing AI systems.
- Example: Discussing AI's role in evaluating performance with unions.

Best Practices:

- Review Employment Contracts and other internal policies to consider the best location for AI-related policies.





Training Employees on AI Tools

Educating Employees:

- Appropriate use of AI in daily tasks.
- Examples of prohibited uses (e.g., generating sensitive or misleading content).
- Training on applicable AI Acceptable Use Policy.

Cybersecurity Risks:

- Avoiding data breaches by preventing entry of confidential information into third-party AI systems.
- Training on phishing and other AI-related cyber threats.

Best Practices:

- Encourage employees to verify AI-generated outputs and document AI use.
- Provide clear examples of how AI can support, but not replace, critical decision-making.



AI and Disciplinary/Termination Actions

Risks of Automated Decision-Making:

- Example: AI recommending discipline based on productivity or attendance metrics.
- What about protected categories? What about medical conditions?

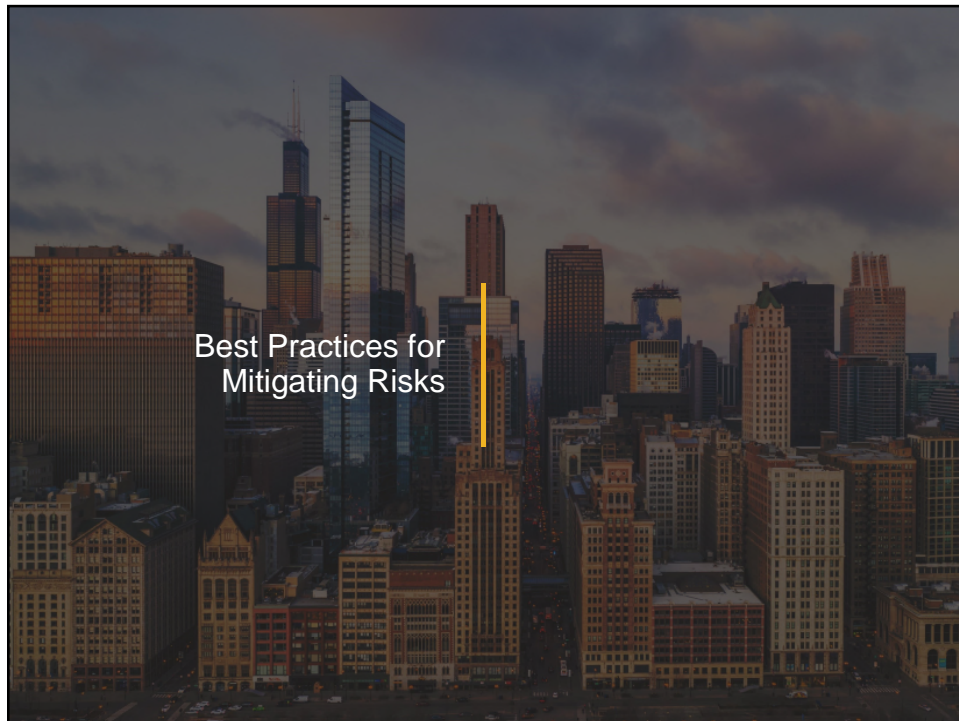
Legal and Ethical Oversight:

- Ensuring compliance with higher “just cause” standards in unionized environments.
- Avoiding discrimination in AI-driven termination decisions.

Best Practices:

- Maintain human oversight/involvement in all corrective decisions.
- Document the reasoning behind the termination, including AI's role (if any).





Best Practices for Internal Use of AI



Understand if AI is being used, how, when, where and why



Develop internal policies governing use, considering use-specific risks and benefits and requiring human review of outputs



Partner with procurement, IT, HR and IP teams to identify risks, review applicable terms, and explore alternatives

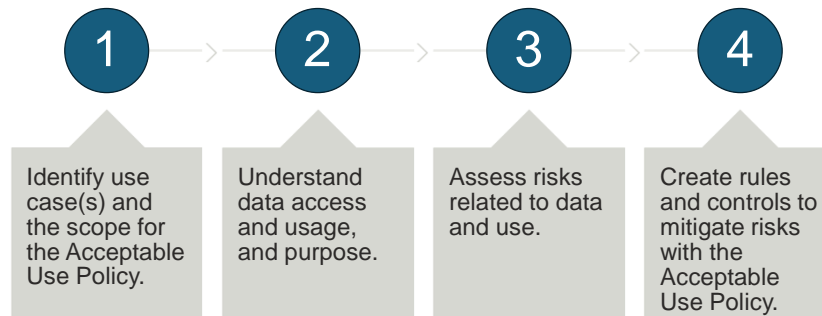


Train employees on AI risks and company policies





AI Governance in Action



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Best Practices for Implementing Vendors' AI Solutions



Due diligence



Ongoing auditing and monitoring



Negotiate key terms



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Best Practices for Internal Development of AI



Align all stakeholders from data scientists, business teams, legal and privacy teams from the beginning on strategy, risk tolerance, and desired outcomes



Understand data sources and data flows and analyze various legal risks



Measure and monitor AI outcomes, maintaining documentation throughout



Ensure internal users are properly trained on risks and understand monitoring obligations



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Contact Us



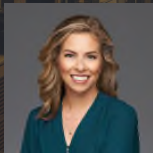
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If you have any questions,
please do not hesitate to contact:

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