



Advice from Alan

Misuse of AI in court

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Artificial Intelligence is evolving rapidly. Well utilised it has many truly useful purposes, but

poorly used there are serious traps.

The highest court in New Zealand recently issued a judgment addressing the serious implications that the misuse of AI can have for the administration of justice and public confidence in the justice system.

The Supreme Court said that reliance on false citations, including the unverified outputs of AI applications, may in serious cases amount to obstruction of justice or contempt of court. Our law provides for penalties of up to seven years imprisonment or up to a \$25,000 fine for obstruction of justice or contempt of court, so getting this wrong can have very serious consequences.

People who represent themselves in court can be less equipped than lawyers to spot inaccuracies in material prepared with the help of AI that they submit to the court. The Supreme Court judgment involved a Family Court case in which one of the parties was representing himself and filed submissions prepared with the help of AI which had referred to cases that were of no direct

relevance to his application, and included some genuine cases supposedly supporting principles of law, but this was not the case.

The Supreme Court cited the guidelines currently applicable to the use of AI by non-lawyers in New Zealand court cases: "You are responsible for ensuring that all information you provide to the court/tribunal is accurate. You must check the accuracy of any information you get from a [generative AI] chatbot before using that information in court/tribunal proceedings."

With the Supreme Court flagging the potential for misuse of AI being a serious crime under the provisions of the Crimes Act covering conspiring to "obstruct, prevent, pervert, or defeat the course of justice in New Zealand or the course of justice in an overseas jurisdiction", it's important the potential problem is widely known by all.

In another case a self-represented litigant cited a case which did not exist. Their failure to check showed they were not competent to run the litigation.

If using AI when representing yourself in court, check each case reference in a legal database.