SpencerFane®

Arnold D. Lee Discusses How AI Chats Can Be Discoverable in For The Defense

Spencer Fane attorney Arnold D. Lee authored the article Prompts and Production: Your Chatbot May Not Be Your Friend in Litigation, recently published by *For The Defense*.

In his article, originally a firm blog post, Arnold explains how courts are treating generative AI prompts, outputs, and usage logs as electronically stored information (ESI) – discoverable when relevant and proportional to the needs of the case, just like email or any other business record. He points to the copyright litigation against OpenAI, where courts ordered the preservation and production of millions of anonymized ChatGPT logs, as evidence that privacy concerns shape how AI records are produced, not whether. Arnold also highlights the preservation duties that attach once litigation is reasonably anticipated, the spoliation risks companies face if AI data is lost, and the need for businesses to govern AI records with sound retention practices.

"The comfortable assumption that a private chat with an AI assistant is ephemeral or off the record is turning out to be wrong. For businesses, the message is direct: Your chatbot may not be your friend when litigation arrives," Arnold wrote.

At the firm, Arnold helps individuals and entities navigate complex matters through litigation and alternative dispute resolution, providing sound representation in state and federal courts and thoughtful guidance in mediation and arbitration. He skillfully employs comprehensive, client-centered strategies backed by decades of diverse experience and a full-service approach to casework, from intake to resolution.

Read Arnold's full article here.