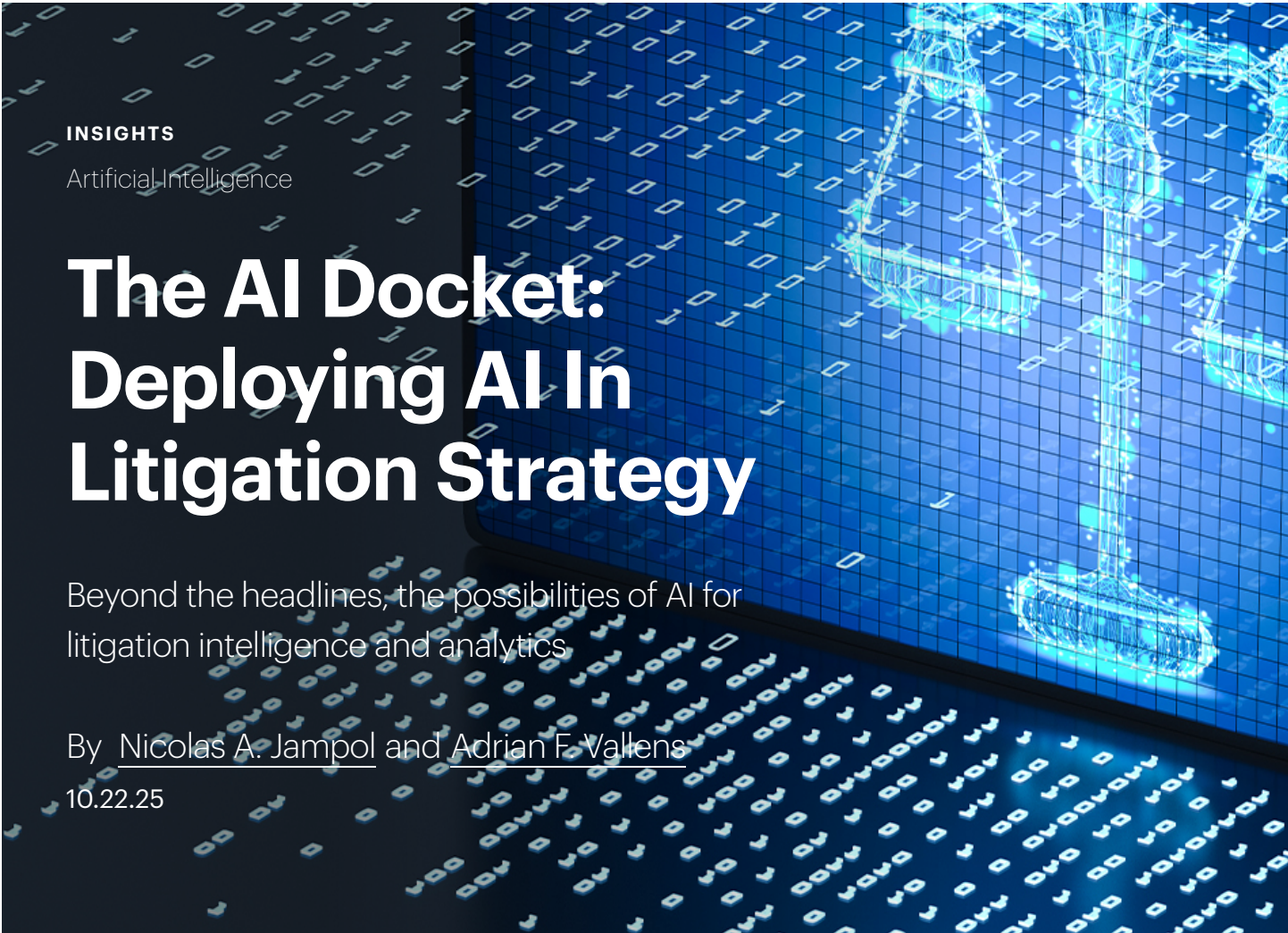




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Artificial Intelligence

The AI Docket: Deploying AI In Litigation Strategy

Beyond the headlines, the possibilities of AI for
litigation intelligence and analytics

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Like with most industries, law firms are exploring various use cases for AI in the practice and business of law. While many days feature headlines of hallucinated case citations and other misuses of AI in litigation, there is a less-told story about the use of AI in the legal industry: not about having AI conduct research, write briefs, or analyze client documents, but about using AI as a tool for litigation intelligence, analytics, and strategy.

For example, litigators can use AI to better understand the court and judge in their cases. Different judges do not interpret or apply the law in an identical manner—their experience, perspective, and preferences all matter. While attorneys have traditionally relied on anecdotal information about their judges,

AI could review and assess hundreds or even thousands of decisions and opinions to uncover patterns potentially missed by a human eye. Does a judge favor certain doctrines, or approach dispositive motions in a particular way? How do they interpret or apply certain evidentiary rules? Are there certain cases that they find particularly persuasive or unpersuasive? AI has the potential to reveal these tendencies and give litigators a sense of how to best advocate for their client in proceedings before a particular judge. That doesn't mean AI can predict how a court will rule in a particular case, but it could provide insights for litigators to consider in making their strategic decisions.

These same tools can be used to assess opposing counsel. Their experience and habits—what arguments they typically make, how they approach discovery, what strategic choices they often make at trial—can help inform litigation strategy. Litigators could also employ these tools to learn about the opposing expert witnesses or reveal insights into their own witnesses that might help them preempt a surprise attack. These insights could provide important information in preparing to examine or defend an expert (or even fact) witness.

AI could even be used to assess probabilities regarding case outcomes. While AI can't predict with any certainty how a particular court will rule in a particular case, it could provide data points regarding trends. It can assess fact patterns, procedural histories, and damages information from other cases to provide an assessment of probabilities of different outcomes and exposures. As with everything discussed above, this would be just another piece of information attorneys may use—or not use—in formulating their litigation plan.

While the headlines continue to focus on the use of AI in the substantive practice of law, there's a whole world of possibility for AI in the context of litigation support and strategy. AI won't guarantee results, but it could provide one additional resource for litigators. And as these tools continue to evolve, litigators who stay informed about them will be better positioned to evaluate how to use them responsibly when crafting their litigation strategy.

Nicolas Jampol and Adrian Vallens also write for DWT's [The Generative Slate](#) series,

which explores the use of generative AI in the production and distribution of content.

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