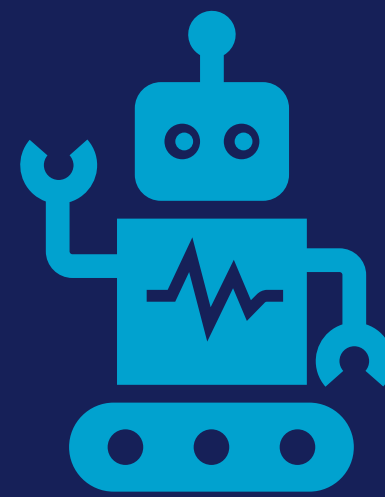


It's not Skynet, yet!

Cat Burgett

September 2, 2026



What is Artificial Intelligence?

AI Is Already in Your Workplace

Employees may be using...

ChatGPT, Claude, Gemini, Copilot

Personal accounts, no IT ticket, no record

Otter.ai, Granola, and other notetakers

On a personal phone, not an employer device

Employers may have implemented...

Scoring inside your ATS and HRIS

Notetakers in Teams and Zoom

Auto-summaries in Microsoft 365 and Google Workspace

What you cannot see...

Free tiers with no data protections

Usage no administrator can audit

Roughly 1 in 4 workers used it last month

Benefits of AI

- **Efficiency:** Automates repetitive tasks.
- **Accuracy:** Reduces human error.
- **Innovation:** Drives new solutions and technologies.
- **Forecasting:** Predict outcomes, demand, and growth.
- **Enhanced Experiences:** Instant replies, appointment reminders, and feedback.



Challenges and Dangers

- **Bias:** AI can inherit biases from training data.
- **Ethical Concerns:** Privacy, job displacement, and accountability.
- **Artificial General Intelligence (AGI):** The quest for true human-like intelligence.
- **Privacy Violations:** Confidential information (personal and business) and trade secrets at risk.
- **Deepfakes:** Spreading misinformation.



The Latest on AI

AI Statistics of Note

AI market size is currently **\$244 billion** and is expected to reach **\$1 trillion** by 2031.

47% of consumers are likely to use AI to research purchases.

One in 10 cars will be self-driving by 2030.

92% of students use generative AI.

64% of businesses expect AI to increase productivity.

AI Impact on the Workforce

- **67%** of U.S. employees actively experiment with AI at work.
- **51%** of employers use AI to enhance recruiting efforts.
- Anthropic CEO predicts: AI could replace **50%** of white-collar jobs.
- Research estimates AI will create **97 million** jobs.
- Software engineers and data engineers are being recruited for AI support.
- The manufacturing industry is expected to see the largest financial impact due to AI.

Are Businesses All-In on AI?

91% of employees report that their employers use at least one AI technology.

97% of business owners believe ChatGPT will help their business.

Over **60%** of business owners believe AI will improve customer relationships.

Over **60%** of business owners say AI will increase productivity.

43% of businesses are concerned about technology dependence.



Using AI in Employment

Why Employers Are Embracing AI

The productivity case is real, and your leaders have already heard it.

81% of workers using generative AI say it saves them time

Citigroup reports roughly 100,000 developer hours saved every week

65% of employers are considering AI for disability and FMLA administration;
19% already use it

The goal is not to eliminate AI. It is to decide where it belongs.

Recruitment and Hiring

Automated Resume Screening: AI algorithms analyze resumes, identify relevant skills, and rank candidates based on qualifications.

Chatbots and Virtual Assistants: AI-powered chatbots conduct initial interviews, answer candidate queries, and schedule interviews.

Predictive Analytics: AI predicts candidate success based on historical data and behavioral patterns.

Targeted Job Advertisements: AI analyzes data to determine most effective platforms for reaching potential candidates.

Video Interview Analysis: AI tools assess candidate responses and non-verbal cues during video interviews.

Employee Onboarding and Training

- Automated Onboarding Tasks:** AI streamlines onboarding by automating document collection, policy distribution, and training scheduling.
- Personalized Learning Paths:** AI tailors training programs for new hires based on their roles, skills, and learning preferences.
- Chatbot Assistants:** AI-driven chatbots assist new hires and existing employees with onboarding information and policies.



Performance Management

- **Performance Monitoring:** AI aggregates and analyzes employee work product, digital interactions, and outcomes, providing data-driven performance evaluations.
 - **Career Pathing & Growth Recommendations:** AI suggests personalized career growth opportunities based on employee skills and employer needs.
- Generative AI Summaries:** Summarizing information, drafting performance evaluations based on performance data.

Diversity and Inclusion

- **Bias Detection:** AI algorithms identify potential biases in job descriptions, interview questions, and performance evaluations.
- **Diverse Candidate Sourcing:** AI tools search for candidates from diverse backgrounds.
- **Inclusive Hiring Practices:** AI can help create inclusive job postings by suggesting gender-neutral language and avoiding biased terms.
- **DEI Chatbots:** Providing training on DEI topics.



Workforce Analytics

- **Predictive Workforce Planning:** AI forecasts staffing needs, skill gaps, and workforce trends.
- **Employee Sentiment Analysis:** AI analyzes employee surveys and sentiment to gauge workplace satisfaction.
- **Skill Matching for Career Pathways:** AI analyzes skills and experience to match employees with opportunities.

Health and Safety

- Monitoring Workplace Safety:** AI monitors safety compliance, identifies hazards, and alerts management.
- Mental Health Support:** AI chatbots provide mental health resources and support.
- Virtual Reality Training:** AI creates virtual reality training to allow employees realistic training scenarios



Employee Engagement

- **Pulse Surveys:** AI analyzes real-time feedback to measure employee engagement.
- **Personalized Recommendations:** AI suggests activities or benefits based on individual preferences.
- **Automated Processes:** AI automates day-to-day processes, with sharing feedback, scheduling events, fostering collaboration with teams.
- **Shift Scheduling:** AI creates shift schedules and communicates it to manager and team.

Drafting Documents and Communications

AI can be used to draft a variety of HR documents and communication:

- Policies
- Job descriptions
- Employee Communications

Remember: Garbage in = garbage out.

Caveat: Think, review, and edit before implementation.

AI is not infallible.



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Other Ways You Are Seeing AI

The AI-Empowered Employee

Showing up in your inbox

Accommodation requests, professionally framed

Internal complaints that cite the right statutes

Point-by-point rebuttals to a write-up

Performance appeals with a built-in paper trail

Pre-litigation demand letters, no lawyer required

Polished drafting is not stronger facts.

Do not take an AI-built argument at face value, and do not be intimidated by it.

Investigate the substance, always.

Do Not Let AI Answer for HR

Neither HR nor managers should outsource employee relations to AI.

Rules for HR and for managers

HR – do not let AI answer an employee inquiry for you

Managers – escalate to HR, do not prompt a chatbot

Keep names, medical facts, and complaints out of the prompt

What you type is discoverable – assume it is read back to you

AI can inform the call. It cannot make it, or answer for you.

Using AI to Draft HR Documents

A good first draft

Job postings and job descriptions
Handbook and policy language
Training materials and employee FAQs
Tightening something you already wrote

Never the final word

Investigation findings and reports
Discipline, PIP, and termination language
Accommodation and leave responses
Anything that lands in a personnel file

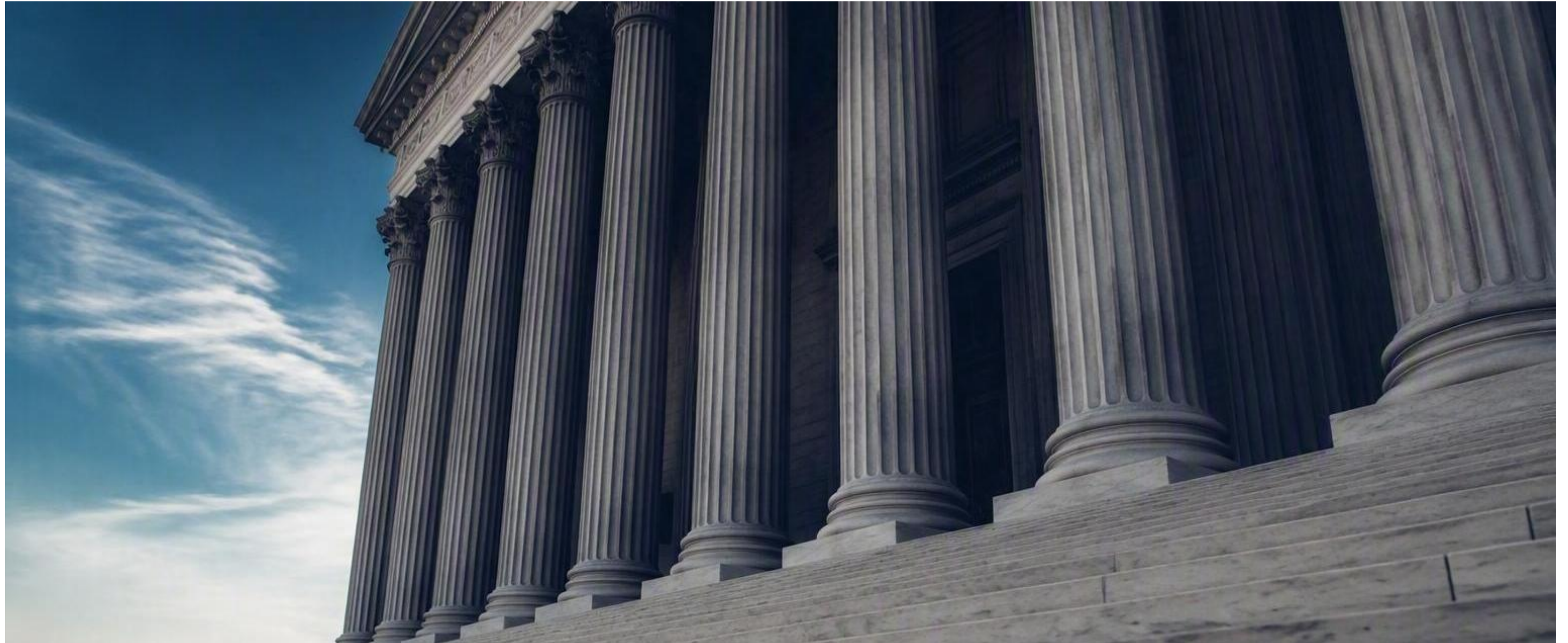
Trust, then verify

Check every name, date, figure, and citation
Confirm it matches your actual policy
Route anything legal to counsel before it goes out
Read it once as a human - does this sound right?

**A good first draft is not a finished document.
AI does not replace legal review, and it does not replace common sense.**

What the Law Actually Requires

No new federal AI statute. Plenty of old law, and a fast-moving map of state rules.



Old Laws, New Technology

The statutes still control

Title VII, ADA, ADEA
FLSA for time and
productivity data
No AI carve-out in any
of them

Selection rules already exist

Uniform Guidelines, in
force since 1978
Written for exactly this
problem
Job-relatedness and
validation still apply

The wrinkle worth knowing

FCRA may reach AI
screening output
Kistler v. Eightfold AI tests
the theory
Would trigger notice and
adverse action steps

Three Lessons from Recent AI Litigation



A vendor does not absorb your liability.

Mobley v. Workday reached the vendor as an agent — and still left the employer as the primary defendant.



Productivity scoring is where claims begin.

In *Does v. Meta*, the ranking behind an 8,000-person reduction is the heart of the case.



Every prompt is a potential exhibit.

Chatbot prompts became evidence of pretext in *Fortis Advisors v. Krafton*.

The State Law Patchwork

Already enforceable

NYC Local Law 144 - annual bias audit, public posting, 10 business days notice

California FEHA ADS rules - four-year record retention

Live in 2026

Illinois HB 3773 - notice required, ZIP code as proxy barred

Texas TRAIGA - intent-based, enforced only by the Attorney General

Connecticut SB 5 - AI-related WARN disclosure from October

On the calendar, and in dispute

Delaware HB 380 – January 2027

Colorado SB 24-205, as revised - January 2027

Federal preemption fight - a December 2025 executive order created a DOJ task force to challenge state AI laws

The Recording Problem

Every meeting is now potentially a transcript. Most employers have no rule about it.



The Recording Revolution

What is listening

AI notetakers, invited or not

Automatic transcription by default

Summaries nobody asked for

Personal phones and personal accounts

Wearables that never stop listening

Takeaway

Assume any workplace conversation may already be a transcript.



Wearable AI Is Here

Already on the market

Smart glasses that look like ordinary eyewear

Lapel pins and pendants

Live transcription of whoever is nearby

Ambient capture with no visible cue

People recorded who never joined the meeting



Not Every Conversation Should Be Recorded

Off the table, or tightly controlled conversations

Conversations with counsel

legal advice, in any form

Anything about liability or legal exposure

including how much risk we are willing to take

Strategy sessions where risk is weighed

deliberation is not meant to be a transcript

Investigation interviews

recording chills candor

Discipline and termination meetings

the meetings most likely to be litigated

Medical, accommodation, and personal matters

confidentiality attaches on its own

Consent Is Bigger Than Your

The call can be multistate

- One call routinely spans several states, and the strictest rule can govern
- California, Illinois, Pennsylvania, Washington, and Florida require all-party consent
- Applying the all-party standard everywhere is the only rule you can administer in real time

External calls are the harder case

- Customers, applicants, vendors, and opposing parties sit in states you did not choose
- A third party has not consented just because your employee did
- Sales, recruiting, and service calls are where this surfaces first

Decide the policy, in writing

- Do you record external calls at all, and who is allowed to authorize it
- Internal meetings - recorded, never recorded, or only with notice every time
- What happens when a participant objects, and who documents that it stopped

Recording Risk Cuts Both Ways

Harassment and privacy

Coworkers captured covertly, in and out of meetings

Bystanders recorded who never joined anything

Recordings that become exhibits in a hostile work environment claim

Employees recording each other to build a case

Your information walks out

Confidential material on a personal device you cannot audit

Trade secrets captured simply by being spoken or visible

No export, no deletion, no way to preserve it

Consumer terms of service you never negotiated

Expect the pushback

Section 7 protects concerted activity, union or not

Recording to support a complaint about pay or conditions may be protected

Blanket no-recording bans have been struck down

Tailor the rule, preserve those rights, enforce it evenly

Write a narrow rule tied to a real business interest — a blanket ban is the one most likely to fail.

Who Owns the Recording?

Four questions most employers are asking:

What do we do when an employee records work calls on a personal app or device?

Where does it live when it was created on a personal account?

How long must it be kept, and does your retention schedule mention it?

It is a public record?

If you are sued, can you place a hold on a recording sitting in an employee's personal account?

What Courts Said About Privilege in 2026

No protection

United States v. Heppner
(S.D.N.Y.)

- Self-directed use of a public tool
- Neither privilege nor work product survived

Protection preserved

Warner v. Gilbarco
(E.D. Mich.)

- Counsel directed the use
- The court: AI is a tool, not a person

Still discoverable

Morgan v. V2X
(D. Colo.)

- Which tool was used is itself fair game
- Expect the question in your next deposition

Privilege turns on who directed the use. Counsel-directed work can be protected. A prompt an employee wrote on their own is not.



Important Considerations

Privacy

Protect confidential information, trade secrets, and intellectual property.

What data is being inputted into the AI?

- Is it a public source?
- Are trade secrets being compromised?
- Is confidential information being disclosed?
- Are intellectual property rights being lost?

Workplace Culture

How does AI impact your culture?

- Increase productivity.
- Potential for less collaboration.
- Conflicting views on trusting of AI.
- In-person communication still important.

Will AI help or hurt employee engagement?

- Can you find the balance?



What Should an Employer Do?



Tips for Using AI in Your Workforce



Stay Informed and Plan Ahead



Assess Technology Trends



Leverage AI for HR Functions



Be Conscientious

Tips for Using AI in Your Workforce



**Ethical
Considerations**



**Human-AI
Interaction**



**Legal review of
vendor
agreements**



**Caution: Your
Queries are
Discoverable**



**Call your
favorite lawyer**

AI Acceptable Use & Governance Policies

- Educate employees on responsible AI use.
- Explicitly address AI tools in your policy.
- Be specific on permitted and prohibited uses.
- Include data collection and storage guidelines.
- Reinforce privacy policies.



AI Governance Policy

Sets guidelines, rules, and principles for the development and use of artificial intelligence within an organization.

Ensures that AI tools and systems are safe, ethical, and aligned with the organization's values and legal requirements.

Key components typically include:

- Ethical Guidelines
- Safety Standards
- Transparency
- Accountability
- Compliance



Takeaways



Sticking your head in the sand is not an option.



Trust, but verify.



Continuous learning and responsible development are crucial.



Prepare now for rapid change.



What If? Exploring Scenarios Together

Scenario #1:

An employee is wearing AI-enabled smart glasses at work. These glasses can capture photos or videos of colleagues, confidential information, and potential safety issues. What should you do?

Scenario #2:

You are interviewing a candidate virtually and notice in the reflection of their glasses that they are using an AI chatbot to assist with answering your questions. What should you do?

Scenario #3:

You learn that employees are using various note-taking apps on their phones or computers to record and take notes during meetings—many of which are not approved.

- What should you do?
 - Can you require copies of the recordings?
 - Can you demand that the recordings be deleted?

Scenario #4:

An employee sends you a photo of a severe hand injury, claiming they fell off their bike and need medical attention. Recently, you heard about a case where an employee at another employer used an AI image generator to create fake injury photos to secure paid leave. What would you do?

- How would you verify the claim?
- What policies could prevent misuse of AI in cases like this?



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Thank you!

Cat Burgett
cburgett@fbtgibbons.com
614-559-7287