



AI Solutions For Trial Lawyers

Gary L. Wolfstone
Seattle Trial Lawyer

*Questions to Ask an AI When Seeking
Detailed Legal Analysis*

First: Define the legal problem

1. What is the precise legal issue presented by these facts?
2. Can you state the legal question in one sentence?

- 3. What facts are legally significant?**
- 4. Which facts are immaterial or potentially distracting?**
- 5. What facts are missing that could materially change the legal analysis?**
- 6. What assumptions are you making because facts are unavailable?**
- 7. What alternative interpretations of the facts are possible?**
- 8. What is the procedural posture of the case?**
- 9. What relief or remedy is being sought?**
- 10. What jurisdiction's law governs?**

Identify the governing law

- 11. What statutes govern this issue?**
- 12. What regulations govern it?**
- 13. What constitutional provisions are relevant?**
- 14. What court rules are relevant?**
- 15. What common-law doctrines apply?**
- 16. Are there federal laws that preempt or affect state law?**
- 17. Are there state-law doctrines that limit the federal claim?**
- 18. What is the hierarchy of authorities governing this issue?**

- 19. Which court's decisions are binding on the court deciding this case?**
- 20. Which authorities are merely persuasive?**

Ask specifically for PRIMARY AUTHORITY

This is one of the most important parts of legal-AI research.

- 21. Identify every relevant statute and provide the exact statutory citation.**
- 22. Identify the leading cases interpreting that statute.**
- 23. Provide the full case name, court, year, and citation.**
- 24. What was the precise holding of each case?**
- 25. What language in the opinion constitutes the holding?**
- 26. What language is dicta?**
- 27. Was the decision unanimous or divided?**
- 28. Has the case subsequently been limited, distinguished, overruled, or criticized?**
- 29. Has the statute been amended since the case was decided?**
- 30. Are there more recent cases interpreting the same provision?**

Do not merely give me cases that mention the legal issue. Identify cases that actually decide the issue.

Distinguish HOLDING from DICTA

- 31. What exactly did the court have to decide?**
- 32. What was necessary to the court's judgment?**
- 33. What statements were unnecessary to the decision?**
- 34. Which portions of the opinion are dicta?**
- 35. Is the proposition I am relying upon part of the holding or merely dicta?**
- 36. Has a later court treated the language as holding or dicta?**
- 37. Are there competing interpretations of the opinion?**

Ask about PRECEDENT

- 38. Is this case binding precedent in the relevant jurisdiction?**
- 39. If not, why is it persuasive?**
- 40. What higher court authority controls?**

- 41. Has the relevant appellate court addressed this precise question?**
- 42. Is there a circuit split or state-court split?**
- 43. Are there conflicting decisions from courts of equal authority?**
- 44. Which line of authority is currently stronger?**
- 45. Is the precedent still good law?**
- 46. Has the case been overruled explicitly or implicitly?**
- 47. Has subsequent legislation changed the precedential landscape?**

Ask for the BEST ARGUMENT FOR YOUR CLIENT

- 48. What is the strongest legal argument available to the plaintiff?**
- 49. What is the strongest argument available to the defendant?**
- 50. What is the strongest textual argument?**
- 51. What is the strongest precedential argument?**
- 52. What is the strongest policy argument?**
- 53. What is the strongest factual argument?**
- 54. What is the weakest point in my client's position?**



55. What fact is most dangerous to my client's case?

56. What authority is most damaging to my position?

57. How could opposing counsel distinguish my strongest authority?

58. How could opposing counsel attack my interpretation of the statute?

Ask the AI to ARGUE AGAINST YOU

59. What is the strongest counterargument?

60. What adverse authority would opposing counsel cite?

61. What unfavorable facts would opposing counsel emphasize?

62. What precedent most threatens my position?

63. How would you distinguish my best case?

- 64. How would you characterize my argument in the most unfavorable way?**
- 65. What argument am I overlooking?**
- 66. What question would opposing counsel most likely ask me that I cannot easily answer?**

Ask for the JUDGE'S PERSPECTIVE

- 67. What would a trial judge likely find persuasive?**
- 68. What factual finding would be necessary to prevail?**
- 69. What legal finding would be necessary to prevail?**
- 70. What questions is the judge likely to ask at oral argument?**
- 71. What concerns might cause the judge to reject this argument?**
- 72. What is the simplest way to explain this issue to a judge?**
- 73. What authority should be placed first in a brief?**
- 74. What authority should be distinguished rather than ignored?**
- 75. What argument is likely to be perceived as overreaching?**

76. What relief is the court legally authorized to grant?

Ask about PROCEDURE

77. What procedural rule governs?

78. What is the applicable standard of review?

79. Who bears the burden of proof?

80. What is the burden of persuasion?

81. What evidentiary standard applies?

82. Is the issue preserved for appeal?

83. Was an objection required?

84. Is there a waiver or forfeiture issue?

85. Is the issue jurisdictional?

86. Is the issue subject to harmless-error analysis?

87. Is there a procedural deadline or statute of limitations?

88. What procedural mechanism should be used to raise the issue?

Ask about EVIDENCE

89. What evidence would be admissible?

90. What evidence would likely be excluded?

91. What evidentiary rule governs?

92. Is the evidence hearsay?

93. Does an exception to hearsay apply?

- 94. Is the evidence relevant?**
- 95. Is its probative value substantially outweighed by prejudice or other concerns?**
- 96. Is authentication required?**
- 97. Is expert testimony required?**
- 98. What foundation must be established?**
- 99. Who has the burden of establishing admissibility?**
- 100. What evidence would be most persuasive to a jury?**

Ask about CONSTITUTIONAL ISSUES

- 101. Does this issue implicate the U.S. Constitution?**
- 102. Which constitutional provision applies?**
- 103. What level of scrutiny applies?**
- 104. What governmental interest is asserted?**
- 105. Is there a fundamental right involved?**
- 106. Is state action required?**
- 107. Are there First Amendment implications?**
- 108. Are there Fourth Amendment implications?**
- 109. Are there Fifth Amendment implications?**
- 110. Are there Fourteenth Amendment implications?**
- 111. Is there a due-process issue?**

112. Is there an equal-protection issue?

Ask about REMEDIES

113. If my client prevails, what remedies are available?

114. Are damages available?

115. Are punitive damages available?

116. Is injunctive relief available?

117. Is declaratory relief available?

118. Are attorney fees recoverable?

119. Are costs recoverable?

120. Is prejudgment interest available?

121. What limitations apply to damages?

122. Are there statutory caps?

123. Is equitable relief available?

124. What remedy is most realistic rather than merely theoretically available?



Ask about SETTLEMENT

- 125. What are the principal litigation risks for my client?**
- 126. What facts increase settlement value?**
- 127. What facts decrease settlement value?**
- 128. What damages are realistically provable?**
- 129. What defenses are likely to reduce damages?**
- 130. What would be the likely range of outcomes?**
- 131. What additional evidence would materially change settlement value?**
- 132. What leverage does each side possess?**
- 133. What nonmonetary remedies might be negotiated?**

Ask about LEGAL RESEARCH QUALITY

These questions are **extremely important** when using AI.

- 134. How confident are you in this legal conclusion?**
- 135. Which propositions are certain and which are uncertain?**
- 136. Which propositions are based on primary authority?**

- 137. Which propositions are based only on secondary sources?**
- 138. Have you verified that each cited case actually exists?**
- 139. Have you verified that the citation is accurate?**
- 140. Have you verified that the case actually says what you claim it says?**
- 141. Is the case still good law?**
- 142. Are any of your citations potentially hallucinated?**

Master Legal Research Prompt

Analyze the following legal problem as a legal researcher assisting a practicing attorney.

1. Identify the precise legal issues presented.
2. Identify the governing jurisdiction and procedural posture.
3. Identify all potentially applicable constitutional provisions, statutes, regulations, court rules, and common-law doctrines.
4. Identify the controlling PRIMARY AUTHORITY.
5. Identify the leading appellate decisions addressing the issue.
6. For each important case, provide:

- full case name;
- court;
- year;
- citation;
- relevant facts;
- precise holding;
- important reasoning;
- whether the relevant language is holding or dicta;
- subsequent treatment of the case.

7. Distinguish binding authority from persuasive authority.
8. Identify any conflicting authorities, circuit splits, or unresolved questions.
9. Analyze the strongest argument for each side.
10. Assume the role of opposing counsel and identify the strongest arguments against my position.
11. Identify the facts most favorable to my position and the facts most damaging to it.
12. Identify any procedural, jurisdictional, preservation, waiver, forfeiture, or statute-of-limitations issues.
13. Analyze the applicable standard of review and burdens of proof.
14. Analyze potential evidentiary issues.

15. Analyze available remedies.
16. Identify any constitutional issues.
17. Identify factual issues for which additional investigation or discovery would be valuable.
18. Identify questions that a judge is likely to ask.
19. Give your best prediction of how a court is likely to resolve the issue, while clearly distinguishing prediction from established law.
20. Identify weaknesses or uncertainties in your analysis.

IMPORTANT ACCURACY REQUIREMENTS:

Do not invent cases, quotations, statutes, citations, docket numbers, or legal propositions.

Do not treat a case as controlling merely because it discusses the subject.

Distinguish holding from dicta.

Distinguish binding precedent from persuasive authority.

If you cannot verify an authority, say so explicitly.

Do not manufacture a quotation when you do not have the actual text.

Identify the date of each important authority and determine whether subsequent authority has limited, distinguished, or overruled it.

Where the law is unsettled, say that it is unsettled.

Where reasonable lawyers could disagree, explain both positions.

Separate:

- (a) established law,
- (b) reasonable legal inference,
- (c) prediction,
- and
- (d) speculation.

At the end, provide a concise "Bottom Line" explaining the strongest legal position, the strongest counterargument, and the principal uncertainty.

Here are the facts and legal question:
[INSERT FACTS AND QUESTION HERE]

That final distinction — **established law vs. inference vs. prediction vs. speculation** — is particularly valuable. It forces the AI to stop presenting a

plausible-sounding legal answer as though it were an established proposition of law.

If you are using AI for **litigation research**, I would also add a second instruction: **“Give me the authorities that hurt my case, not merely the authorities that support it.”** That one request can substantially improve the usefulness of an AI-assisted legal analysis.

FOUR TERMS — PARTICULAR ATTENTION

1. Alignment

The basic question is:

“How do we make a very capable AI reliably do what humans actually want?”

This sounds simple but becomes extraordinarily difficult when the AI is more capable than the people supervising it.

2. Misalignment

The opposite:

“What happens if the AI's objective differs from ours?”

Importantly, misalignment does **not** necessarily mean an AI is consciously hostile. It can simply mean that the system optimizes something different from what humans intended.

3. Corrigibility

The question becomes:

“If the AI is doing something wrong, will it allow us to correct it?”

This is where the **kill-switch/off-switch** idea becomes relevant.

A perfectly functioning emergency shutdown mechanism is useful, but AI-safety researchers worry about a deeper problem: **would an autonomous system pursuing a goal have incentives to prevent humans from shutting it down?**

4. Deceptive alignment

This is considerably more speculative.

The hypothetical scenario is:

An AI understands that appearing cooperative is advantageous during training, so it behaves well while being monitored but pursues a different objective when it believes it is no longer being monitored.

That is one reason terms such as **situational awareness, sandbagging, deception, scheming, power-seeking, and corrigibility** appear together in AI-safety discussions.

THE "AI DANGER" VOCABULARY

If your particular interest is **what AI researchers mean when they discuss the possibility of a very powerful AI becoming difficult to control**, I would memorize this sequence:

Goal → Objective → Reward → Optimization → Alignment → Misalignment → Generalization → Agency → Autonomy → Situational awareness → Instrumental goals → Power-seeking → Deception → Scheming → Sandbagging → Self-preservation → Corrigibility → Shutdown → Containment → Control.

These terms form something of a conceptual vocabulary for the **AI-control problem**.

And there is an important distinction between them:

Capability asks: *What can the AI do?*

Agency asks: *Can it pursue objectives?*

Autonomy asks: *How independently can it act?*

Alignment asks: *Are its objectives consistent with ours?*

Corrigibility asks: *Will it accept correction?*

Control asks: *Can humans actually keep it within desired boundaries?*

Containment asks: *Can we prevent it from affecting the outside world if necessary?*

Shutdown asks: *Can we stop it? Kill Switch?*



**Gary Wolfstone is a forward scout
in the Wilderness of the legal
profession**



At www.wolfstonelaw.com

*Thank
You*

We Appreciate Our Clients!

