

In The News

# Darryl R. Graham Examines Judicial Restrictions on Public AI Tools During Discovery in *Bloomberg Law*

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Akerman Litigation Practice Group Partner [Darryl R. Graham](#) contributed “Judges’ Public AI Bans During Discovery Zero in on Privacy Risk” to *Bloomberg Law*, examining how federal courts are using protective orders to manage the risks of generative AI in litigation discovery.

Darryl analyzes two recent federal court decisions that take distinct approaches to the confidentiality and data privacy concerns posed by public AI tools. In *Jeffries v. Harcros Chemicals, Inc.*, the court barred parties from uploading any produced documents into public AI tools, finding that the restriction would encourage fuller document production rather than hinder it. In *Morgan v. V2X, Inc.*, the court required that any AI tool used with confidential materials meet baseline contractual safeguards — including prohibitions on using inputs for model training, restrictions on third-party disclosure, and the ability to delete all confidential information on request.

Darryl notes that many commonly available AI platforms, under their standard terms of use, would fall short of the protections the *Morgan* court deemed necessary, narrowing the field to enterprise-grade or custom-negotiated solutions. Core doctrinal questions also remain open, including whether AI use constitutes a waiver of privilege or work product

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Darryl R. Graham

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protections and whether an AI tool qualifies as a “third party” under privilege frameworks. Darryl counsels practitioners to raise AI-related issues early in litigation, build safeguards into protective orders, and ensure that any use of generative AI with produced materials is transparent, controlled, and well documented.

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