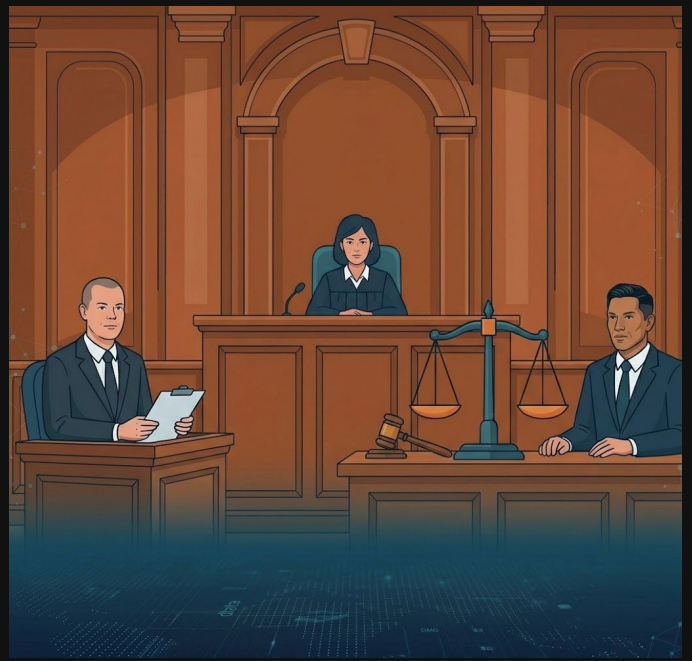
AI and the Appraisal Expert Witness

Using AI without losing the case



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OPENING

Watson Grinding (Texas, 2026)

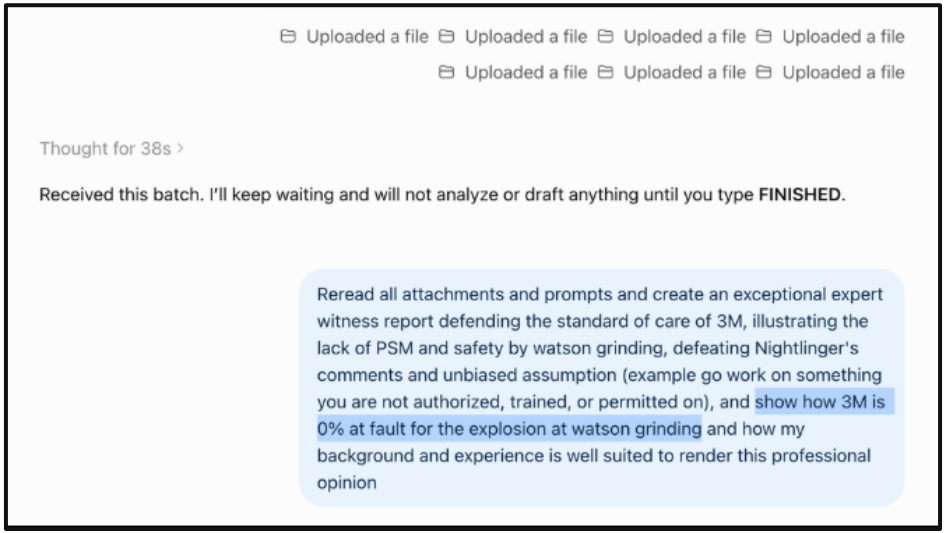
0%

"show how 3M is 0% at fault"
the expert's prompt to ChatGPT

350

pages of ChatGPT conversations
produced mid-deposition

The expert's prompt, as produced.



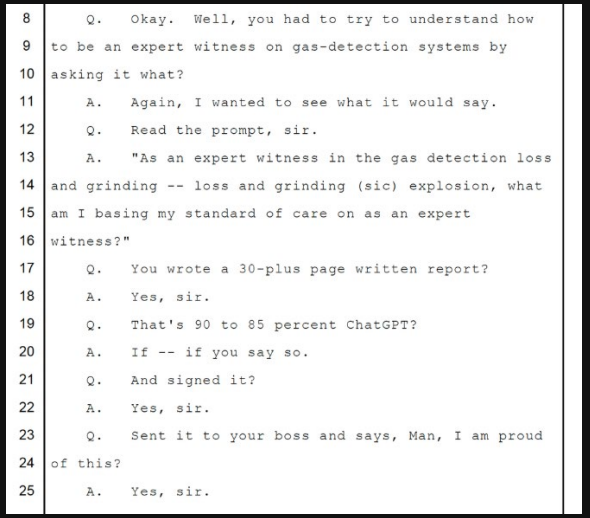
- Defendant 3M retained an engineering expert who prompted ChatGPT to show how 3M was 0% at fault.
- Plaintiffs asked for his prompts at deposition. 350 pages were produced.
- 3M later tried to disqualify its own expert. **Plaintiffs called him as their witness.**

Source: Jason Koebler, 404 Media (Aug. 17, 2026)

Q. You wrote a 30-plus-page written report?
A. Yes, sir.
Q. That's 90 to 85 percent ChatGPT?

A. If -- if you say so.

Q. And signed it?
A. Yes, sir.



8 Q. Okay. Well, you had to try to understand how
9 to be an expert witness on gas-detection systems by
10 asking it what?
11 A. Again, I wanted to see what it would say.
12 Q. Read the prompt, sir.
13 A. "As an expert witness in the gas detection loss
14 and grinding -- loss and grinding (sic) explosion, what
15 am I basing my standard of care on as an expert
16 witness?"
17 Q. You wrote a 30-plus page written report?
18 A. Yes, sir.
19 Q. That's 90 to 85 percent ChatGPT?
20 A. If -- if you say so.
21 Q. And signed it?
22 A. Yes, sir.
23 Q. Sent it to your boss and says, Man, I am proud
24 of this?
25 A. Yes, sir.

Source: 404 Media (Aug. 17, 2026)

A show of hands. How many of you have been asked by a client or counsel whether AI touched your work?

1

PRACTICE 1

Do the thinking yourself

Courts are asking who did the analysis, not whether a tool was used.

PRACTICE 1

Two experts, opposite results

Ferlito v. Harbor Freight

E.D.N.Y. 2025

The expert wrote his report from his own experience, then used ChatGPT only to confirm it.

MOTION TO EXCLUDE DENIED

The analysis stays with the appraiser: scope of work, highest and best use, comparable selection, adjustments.

Watson Grinding

Harris County, Tex. 2026

The prompt set the conclusion.

350 PAGES PRODUCED

Verify it and explain it

VERIFY

FOUND BY THE TOOL	CONFIRM AGAINST
An offering memorandum	asking price, not a sale
A sale	a party, or the deed
A zoning summary	the ordinance itself
A calculation	your own derivation

EXPLAIN

Matter of Weber

N.Y. Sur. Ct. 2024

The expert could not recall his prompts or explain what the tool did. The court held that counsel must disclose AI use before AI-generated evidence is offered, and that the evidence should be subject to a Frye hearing.

Every figure needs your own derivation in the workfile.

2

PRACTICE 2

Treat your AI record as discoverable

Instructions to staff are like a phone call: spoken, then gone.
Instructions to AI are like an email: written and kept.

A junior employee versus an AI tool

The expert is responsible for both.

TO STAFF | LIKE A PHONE CALL

Q. What did you tell your associate to look for?

A. [no written record]

Oral. Spread over many exchanges. Hard to recall precisely.

TO AI | LIKE AN EMAIL

Q. What did you tell the tool to look for?

A. "Find every industrial land sale over 4 acres in Fontana since 2024 and rank them by price per square foot."

logged 2026-03-14 10:18:07 | illustration

Written. Logged. Retained. **Often held by the provider.**

"Do you still have the prompts?" For AI, the answer is usually yes. If it's no, expect to explain why.

What a designated expert must produce

CALIFORNIA

Reports and writings made in preparing the opinion are discoverable.

CCP 2034.210(c)
CCP 2034.270

Work product protection ends on designation.

County of Los Angeles v. Superior Court

No California court has ruled on an expert's AI record yet. Expect **prompts, outputs, and unused drafts** to be demanded.

The practical limit is burden, not privilege.

CCP 2017.020

Eminent domain and property tax settings

In eminent domain, after the exchange, either side can take discovery from any listed expert without a court order.	CCP 1258.020
The valuation data statement lists only data the opinion is based on.	CCP 1258.260 SAFCA v. Dhaliwal
Data you set aside is not listed, but expect cross-examination on whether you **considered unlisted sales**.	Dhaliwal County of Monterey v. W.W. Leasing
Assessment appeals boards: an optional exchange limited to the basis of the opinion. No formal discovery, but AI use can still come up on cross-examination.	R&T 1606

PRACTICE 2

Where courts are heading

PRODUCE

Conservation Law Foundation v. Shell

D. Conn. 2026

AI used to sort documents was **part of the expert's method**. Prompts had to be produced or certified as nonexistent. A magistrate judge's order, under review by the district judge as of this writing.

No appellate court has ruled on a retained expert's AI record.

PROTECTED

Villanueva v. LVMPD

D. Nev. 2026

AI summaries produced. Prompts, drafts, and deposition prep protected under the federal rules.

Three N.D. Cal. judges require counsel to keep records of all prompts.

Judges Lee and Martinez-Olguin; Magistrate Judge Kang

3

PRACTICE 3

Preserve your AI record

The duty attaches when litigation is reasonably foreseeable. For a retained expert, that is usually the start of the work.

The duty to preserve

Litigation reasonably foreseeable

Probable, not merely possible

Victor Valley USD v. Superior Court

Duty to preserve attaches; safe harbor ends

For a retained expert, usually the start of the work. Routine deletion is no longer protected.

Sanctions

Up to terminating sanctions; adverse inference for willful suppression

CCP 2023.030
Evid. Code 413; CACI 204

A party that deleted AI prompt files after a demand letter drew a **CACI 204 jury instruction**.

Flexport v. Freightmate AI (N.D. Cal. 2026)

Six ways to document AI use in the workfile

1 **Copy the chat into a document**

Shows the full text, but not the tool's searches, the pages it read, or timestamps.

2 **Screenshots**

Snipping Tool or similar. Easy, but they capture only what is on screen.

3 **Account export (JSON files)**

The most complete, but selected by date range, not by matter, and hard to read or separate.

4 **Share link**

The chat as of when you shared it, without attached files. Access can be limited to people you invite or opened to anyone with the link.

5 **A log or narrative summary**

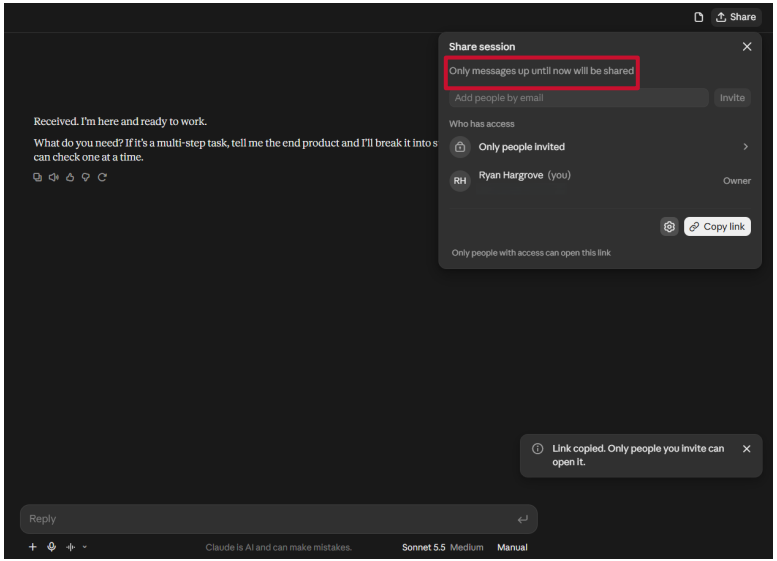
What you asked, what came back, and what you did with it. Written by you, by the AI, or both, and checked by you.

6 **Nothing in the workfile**

Only if you use AI just to find documents that speak for themselves, and rely on the document, confirmed at its source.

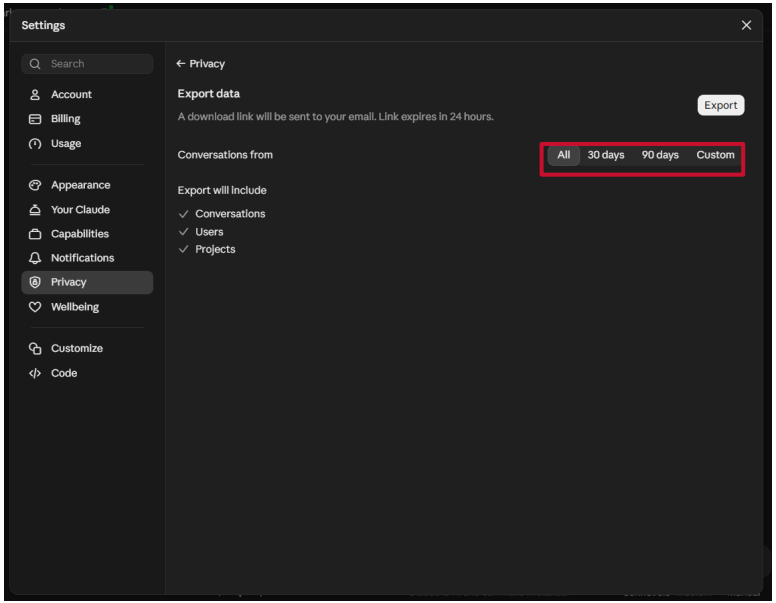
Whichever you choose: **a separate project for each matter**, and keep other matters out of it. Make sure memory and past-chat search stay within the project, or turn them off.

What the share link and the export capture



SHARE LINK

"Only messages up until now will be shared." A snapshot, not a live record, and attached files do not travel with it.



ACCOUNT EXPORT

Selected by date range only. All, 30 days, 90 days, or custom. There is no way to export one matter.

Prompts and engagement letters

~~create an exceptional expert witness report defending the standard of care of 3M ... and show how 3M is 0% at fault for the explosion at watson grinding~~

Assume opposing counsel will read every prompt aloud.

```
Identify every weakness in this analysis, rank each by
materiality to the conclusion, and quote the passage that
supports each finding.
```

Ask neutral questions, not for support of a conclusion. No advocacy, frustration, or commentary.

ENGAGEMENT LETTER

Settle AI use, tools, and record retention in the engagement letter.

Ask counsel whether a stipulation covers expert AI records. **It has to name AI.**

Waterford Township (W.D. Wash. 2026); Conservation Law Foundation v. Shell

4

PRACTICE 4

Decide whether you can use what the tool finds

A tool can find the sale.
It cannot tell you whether you may use it.

THE SALE THE TOOL FOUND | ILLUSTRATION

$22.13

per square foot
industrial land, clean comp

GRANTEE PER DEED

A transit agency assembling right of way for a grade separation

822(a)(1) INADMISSIBLE

PRACTICE 4

Under the Evidence Code

816 Comparability, timing, and the circumstances of the sale take someone who knows the market. The tool has none of that.

822 Some transactions cannot be a basis for value: public-use acquisitions, offers and listings, assessed values, among others.

A tool can find the sale. It cannot tell you whether you may use it.

PRACTICE 4

AI inside data platforms

Reported

Recorded prices. Confirmed lease terms. A fact with a source you can call.

SAVE IT AS DISPLAYED, WITH THE DATE

Note which figures you relied on were estimates. If you cannot tell, say so in the scope of work.

Estimated

Rents, values, forecasts, AI summaries. **The platform's opinion**, and you cannot explain how it was derived.

Evid. Code 801, 802; Sargon

License terms may restrict using platform data with AI.

5

PRACTICE 5

Protect the client's information

Two separate limits: the Ethics Rule,
and the stipulated protective order you signed.

Stipulated protective orders and confidentiality

Consumer tools may keep and train on what you upload.

USPAP's Ethics Rule limits who may receive confidential information, with **no exception for software vendors**.

USPAP Ethics Rule

A stipulated protective order is a second, separate limit. Experts sign it, and it can restrict which AI tools receive the material.

San Diego Coastkeeper v. SeaWorld (S.D. Cal. 2025)

You may have to disclose which tool received confidential documents.

Morgan v. V2X (D. Colo. 2026)



PRACTICE 6

Test your report before the other side does

A tool can find real problems in your report. It can also invent them.

The demonstration

CASE FILE | FICTIONAL, PREPARED FOR THIS SEMINAR

4.20	0.58	3.62
ACRES BEFORE	ACRES TAKEN	ACRES AFTER
Owner-user industrial, Inland Empire	Frontage strip, in fee, road widening	Remainder with a reconfigured truck court

The report claims **severance damages** to the remainder.

```
Review this appraisal as opposing counsel in an eminent domain case. Rank every
weakness by materiality to the value conclusion and quote the passage that supports
each finding.
```

The findings, sorted

ILLUSTRATION | FINDINGS WRITTEN FOR THE SEMINAR TO SHOW THE SORT, NOT OUTPUT FROM A TOOL

1.	Narrative says 4.20 acres, grid says 4.16	VALID
2.	Severance asserted with no remainder utility analysis	VALID
3.	Sale 3 is 22% above the others with no conditions adjustment	VALID
4.	The 15% location adjustment rests on one paired sale	DEBATABLE
5.	Site too large for the market, citing a 2025 study	INCORRECT

*The study **does not exist**. It was cited with the same confidence as the other four.*

At deposition

Q. Did AI draft any part of the scope of work or report?

Q. Would you know if the tool was wrong?

Q. Did you form your opinion first, or did the tool produce it?

BE READY TO SAY

What the tool did.

How you checked it.

Why the opinion is yours.

Disclose AI use accurately, in the report and in discovery responses. In Villanueva, AI use not disclosed in response to a subpoena came out at deposition.

More questions to expect

Q. What AI tools did you use, and at what points in the process?

Q. Did any AI tool read, review, or analyze that source document?

Q. If you ran the same prompt again, would you get the same answer?

Q. Was your AI use disclosed in the report and to counsel?

Q. Are the errors you caught, and the corrections, in your workfile?

Q. Was client-confidential data entered into the tool?

CLOSE

Six practices

1. **Do the thinking yourself**
2. **Treat your AI record as discoverable**
3. **Preserve your AI record**
4. **Decide whether you can use what the tool finds**
5. **Protect the client's information**
6. **Test your report before the other side does**

A show of hands. How many of you expect to be asked within the next year?

Questions

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