

## Index

A2J Lab (University of Tennessee), 29, 37 and commercial sensitivity, 61 creates new tasks for humans, 50 AACER, 338 Above the Law, 33 and empathy, 54 ABS (alternative business structures), 24 human capital challenges, 52 access to justice, See also legal aid, See also legal impacts of, 50-52 for litigants, 349 help on the Internet, See also Michigan machine learning, 72-74 courts, See also unrepresented persons in virtual hearings reasoning by analogy, 166 barriers to, 308 training, 49 COVID-19 as needed disruption for, 307-8 value lock-in, 169 legal tech and, 24 Ashley, Kevin, 159 online dispute resolution, 286 Atticus Project, 89 online dispute resolution and, 37, 255-56 attorney's screening and selection decisions, and outcome prediction tools, 158, 172 outcome prediction, 165 traditional, 293 attorneys. See lawyers accessibility. See fairness/satisfaction, See plaintiffauto accident claims adjustment. See Colossus defendant balance, See remote testimonial Avvo, 41 fact-finding Bag-of-Words (BoW) model, 77-84 advice clinics, 375 affirmative defenses, online dispute resolution and, balance in cases. See plaintiff-defendant balance benchmark data, 88-89, 131-32 aggregation. See multidistrict litigation (MDL), BERT, 78 See websites for multidistrict litigation bias Ahrefs, 215 fairness of court system and, 372-73 Airbnb, 280-81 online dispute resolution and, 262, 266 alternate dispute resolution. See online dispute technology-assisted review and, 88 resolution (ODR) truth-detection and, 101 analog stage of legal profession, 352 BigLaw and in-house counsel. See also analogical reasoning algorithms, 171 convergence between BigLaw and antitrust issues, LegalZoom and, 39 PeopleLaw cost-cutting by, 34 appearances, what constitutes for court, 242-43 Article III judges, 347 defined, 25 legal tech in, 33-35 caseloads, 356 artificial intelligence (AI). See also natural language overview, 46-48 regulation of legal services and, 26-28 processing (NLP), See also specific technologies cementing of previous patterns, 168 Black Americans, 372, See also bias



390

Index

black-box lawyers, 299 Bloomberg Law, 162 Blue J. Tax, 162 bodily injury claims. See Colossus body language, 241, 245-46 brief advice services, 375 Building a 21st Century Digital Government directive, 311 bulk electronic case records, 382-83 Burch, Elizabeth, 175, 178 business model integration tensions, 52 business of law technology, 50 Cabell, James Branch, 349 Canadian real estate tax disputes, 159 Case Management/Electronic Case Files (CM/ ECF), 330, See also PACER cell phone issues, 243, See also remote testimonial fact-finding, See also unrepresented persons in virtual hearings chatbots, 55-56 Chicago Lawyers: The Social Structure of the Bar, 46 civil disobedience, 283 Civil Justice Data Commons (CJDC), 371-72, 383-88 civil justice gap, 155 Civil Resolution Tribunal (CRT), 271-74, 276 client security, and legal tech, 358-59 cloud computing, privacy, 354 CM/ECF (Case Management/Electronic Case Files), 330, See also PACER cognitive depletion, 245 Colossus, 138-42, 147-49, 152 commercial sensitivity and artificial intelligence (AI), 61 common law system, harm caused by outcome prediction, 169 compensation, technology-resistant fields, 351 computational stage of legal profession, 353 computationally driven litigation outcome prediction. See outcome prediction Computer Science Corporation. See Colossus Conference of Chief Justices, 308 confidentiality, 341-42 Conrad, Felicity, 36 Constitutional right to face accuser, 97 content moderation, preventative justice and, 281 continuous active learning (CAL), 115 contract analytics tools, 67 convergence between BigLaw and PeopleLaw. See also BigLaw and in-house counsel, See also PeopleLaw meeting client needs and, 58-62 overview, 68-69

convergence in business models, 45 Cornell's Legal Information Institute (LII), 217 The Cost Disease (Baumol and Bowen), 351 counseling quality, 299 court appearances, 41 court rules, reform of, 322 court-connected online dispute resolution. See online dispute resolution (ODR) CourtQuant, 162 courtroom access through technology, 289 courts. See also data, See also Michigan courts, See also online dispute resolution (ODR), See also PACER, See also remote testimonial fact-finding caseload growth, 355 common taxonomy between, 380-81 as debt collection forums, 267-68 decentralization of, 309 disruptive innovation and, 254-55 legal financial obligations, 263-64, 310-11 legal tech in, 37 poverty and entanglement with, 377-78 pre-trial procedures, impact of, 134, 334 technological competence, 362 unification, benefits of, 311-12 COVID-19 online hearings, 364 CRT (Civil Resolution Tribunal), 271-74, 276 culture of compliance, preventative justice as, 279-80, 283 data. See also training data barriers to access, 379-83, 386 benchmark data, 88–89, 131–32 bulk electronic case records, 382-83 Civil Justice Data Commons, 371-72, 383-88 demographic data, 381-82, 387 input data, 79 lack of data about courts, 368-86 linkages for fuller data, 376-78, 381 machine-readable pleadings, 379–80 plaintiff-defendant balance and, 151-52 poisoning of, 122-23 practical obscurity of, 341

bulk electronic case records, 382–83
Civil Justice Data Commons, 371–72, 383–88
demographic data, 381–82, 387
input data, 79
lack of data about courts, 368–86
linkages for fuller data, 376–78, 381
machine-readable pleadings, 379–80
plaintiff-defendant balance and, 151–52
poisoning of, 122–23
practical obscurity of, 341
research and, 328
under-representation of datasets, 121
data analytics, access to legal documents, 350
data commons, 371–72, 383–88
data poisoning, 122–23
dataset under-representation, 121
debt collection forums, courts as, 267–68, 368
default, 234–35
defendants, level playing field for. See plaintiffdefendant balance



Index 391

fairness/satisfaction. See also bias

defenses, online dispute resolution and, 267 dehumanization and depersonalization concerns non-verbal cues, 246 remote testimonial fact-finding and, 103-4 unrepresented persons in virtual hearings, 230, Dentons, 163 Denvir, Catrina, 205 design options, cost/benefit analysis of, 251-52 digital divide, 229-32 digital epidemiology, 206 digital literacy, 232 digital stage of legal profession, 352 digital technology double-edged sword, 59 dignity harms, 168, 260-61 discovery. See also document review, See also technology-assisted review (TAR) abuse of, 145-47 antitrust issues, 114 process overview, 113-14 proportionality requirement, 144–45, 153–54 dispute resolution. See online dispute resolution (ODR), See settlement disruptive innovation, 252-53 Docket Alarm, 162 document review, 35, 80, See also technologyassisted review (TAR) document segmentation issues, 85-86 document structure analysis, 86-87 DocuSign, 67 due diligence document review, 35 Duquesne University School of Law Family Law Clinic, 163 eBay, 290 e-filing, 317, 380

e-filing, 317, 380
election information seeking, 222
Elevate, 52
Elisa B. v. Superior Court, 167
empathy, virtual hearings and, 241, 244
endogenous law, 170
Engstrom, David Freeman, 163, 170
eviction, 374, 378
Eviction Lab, 372
exhibits, remote hearings and, 243
expert witnesses, technology-assisted review and, 129
Expungement Generator, 163
eye contact. See gaze awareness

face-to-face meetings prior to virtual interaction, 247 fact-finding. See remote testimonial fact-finding

lack of data about, 369 online dispute resolution and, 260-61 perception of, 327 poverty and, 375-78 representation and, 373-75 unrepresented persons in virtual hearings, 248 Family Law Clinic, Duquesne University School of Law, 163 Federal Judicial Center, website design guidance, 193 Federal Rules of Civil Procedure (FRCP), 114, 127 Federal Rules of Evidence (FRE), 128 fee-splitting, 40-41 Ferguson Police Department, 263 few-shot learning, 132 field studies, lab studies compared, 106 First Amendment, PACER access and, 342 Five Safes framework for data commons, 384 Fort Collins ODR system, 264-66 France, 360

gaze awareness, 241, 245–46
Gelbach, Jonah, 163, 170
gender bias, 101, 372
General Data Protection Regulation (GDPR), 171
right to an explanation, 165
Georgia
resident attorneys, 156
German civil procedure, 129
global metrics obfuscation in TAR, 124
Google, 208, 222
Google Analytics, 215–18
government funding, 263–64
GPT-3, 78, 82–84
gut instincts, trusting of, 105

Galanter, Marc, 149, 350

Hadfield, Gillian, 157
have-nots
and online dispute resolution, 291
haves versus have-nots. See plaintiff-defendant
balance
haves, and privilege, 291
health assistance-seeking behavior, 202–3, 206, 222
hearings. See remote testimonial fact-finding
Heinz, John, 30
hidden stratification, 121–22
hyper-personalization, 241

infodemiology, 206 infoveillance, 206 innovation, transformative nature of, 251–84 input data, 79



392 Index

functions of, 288-89, 295-96, 299 insurance companies. See Colossus Integrated Database (IDB), 335-37 incomes of, 30-32 interactive forms, regulation of, 37-40 models of prior cases, 297 monopoly by, 21-24, 39 Internet access disparities, 230-31 numbers of, 25 JDW (Judicial Data Warehouse), 312 perception of unrepresented persons in virtual judges hearings, 247-48 replication/obfuscation/translation versus Article III judges, 347 attitude of openness, 345-48 representation, 301 aversion to public scrutiny by, 346-47, 359-61 as simple algorithms, 299 social production in virtual hearings, 240-42 caseloads, 356 societal cost/benefit of using, 373-75 data access and, 383 deception detection and, 100 translation function, 303 guidance for website design, 182 willing and able to offer representation at prices, and identity in filings, 359-61 156 lawyers, categories of MDL communication with litigants, 182 perception of unrepresented persons in virtual BigLaw and in-house counsel, 26-28 generally, 25 hearings, 244-47 procedural management and plaintiff-defendant legal aid, 28-30 balance, 153–54 PeopleLaw, 30-32 plaintiff's side firms and settlement mills, pro-defendant actions by, 134 resistance to change by, 322-23, 357-58 risk to life, 361 lay-to-legal-framing translation, 67 role in regulation of legal services, 22 legal advice, regulation of legal services and, 40-41 legal advisory business model, 51 salaries, 356-57 legal aid. See also access to justice, See also legal and technology, 362-66 help on the internet technology-assisted review and, 117-18, 128-29, advice clinics, 375 153-54 judicial activism concerns, 322 allocation of representation, 374 Judicial Data Warehouse (JDW), 312 legal tech in, 35-37 in Michigan, 313 jury trials. See remote testimonial fact-finding Justia, 359 regulation of legal services and, 28-30, 42 Justice for All Taskforce, 317-18, 320-22 legal endogeneity, 155-72 justice gap. See unmet legal needs legal financial obligations, 263-64, 310-11 justice problems, number of, 213-14, 286-304, legal help on the Internet. See also specific sites See also unmet legal needs analytics about, 214-18 justice tech, 36 appropriateness of, 205 commercial sites, 203, 210-19, 221-22 keyword searches, 115, 138 demand for, 286-304 intermediary sites, 208-10 k-nearest neighbor, 159 knowledge management systems, 49 jurisdiction and, 205-6 local public interest sites, traffic to, 218 lab studies, field studies compared, 106 Michigan Legal Help, 313-14 label manipulation in TAR, 124 national public interest sites, traffic to, 217-19 Landscape of Civil Litigation study, 267 need for research on, 201-3, 206-8, 223-24 Laumann, Edward, 30 overview, 217-18, 223-24 law firm revenues, by practice areas, 47 provider sites, 208, 210-11 lawtech. See legal tech public interest sites, 203, 210-11, 286 lawyer-client communication, MDL cases. reform strategies for, 224 See also websites for multidistrict litigation research on, 202, 204-6 lawyers. See also unauthorized practice of law (UPL), SEO tools, 214–18, 222

See also websites for multidistrict litigation

ability to predict, 297

configure courts, 304

statewide legal help portals, traffic to, 218-23,

286-304

supply of, 204, 208-11, 223



Index 393

| trends in, 286–304                                  | litigants   |
|---|---|
| user preferences about, 205–6                       | and analytic tools, 365                           |
| Legal Information Institute (LII), 217              | asymmetry of legal sophistication, 362            |
| legal market, segmentation of, 21–22                | autonomy in multi-district litigation, 173-95     |
| legal navigators, 321, 325                          | explanation of options to, 299                    |
| legal ontology, 72, 81–84                           | selection of a lawyer, 295                        |
| legal operations business model, 51                 | trait obfuscation, 302                            |
| legal practice, evolution, 350–55                   | litigation as an arms race, 361                   |
| legal profession, barriers to entry, 351            | litigation of losers concept, 136, 149–50         |
| legal reasoning, 72, 81–84, 90, 166                 | litigation outcome prediction. See outcome        |
| legal representation, benefits of, 296              | prediction  |
| legal services market, 21–25, 44, See also lawyers, | defined, 157                                      |
| categories of                                       | inputs, 157                                       |
| legal tech, 49, See also specific technologies and  | scholarship, 159                                  |
| issues  | uncertainty of outputs, 157                       |
| access to judicial materials, 365                   | LoPucki, Lynn, 338, 342                           |
| access to legal documents, 350                      | Lynn , Judge Barbara, 164                         |
| 9 22  | Lynn, Judge Barbara, 104                          |
| barriers to adoption of, 326                        | machine learning                                  |
| BigLaw and in-house counsel and, 33–35              | machine learning                                  |
| business model, 51                                  | inability to reason by analogy, 166               |
| challenges, 362–66                                  | machine learning (ML), 72–74, 353, See also       |
| constitutional considerations, 366                  | specific technologies                             |
| constraints, 56–57                                  | MacKinnon, Catharine, 170                         |
| data needed for, 323, 325                           | Martin, Peter W., 335                             |
| defined, 73   | Matterhorn ODR, 258, 271, 274–75, 290–92, 304     |
| deployment, 55                                      | McKinsey & Co., 148                               |
| discretion and judgment, 365                        | MDL. See multidistrict litigation (MDL), See      |
| ethics and, 354                                     | websites for multidistrict litigation             |
| finance, 62–64                                      | mediated communication theories, 239              |
| fixed costs, 44–54                                  | Michigan courts                                   |
| future of, 41–42                                    | access to justice efforts before COVID-19, 312-18 |
| human capital, 64–65                                | COVID-19 as needed disruption for, 307–8, 318–20  |
| legal aid and, 35–37                                | Justice for All Taskforce, 317–18, 320–22         |
| limits of, 35                                       | next steps for, 324–27                            |
| opportunities, 362–66                               | overview of, 309–12                               |
| practical value, 173                                | survey done by, 326–27                            |
| reasons for growth of, 23–25                        | Michigan Legal Help, 313–14                       |
| security, 358–59                                    | Michigan State Bar Foundation (MSBF), 313         |
| solo practitioners, 53-54                           | MiCourt, 316–17                                   |
| startups, 34-35                                     | MI-Resolve, 315, 319                              |
| and translation of client needs, 54-55              | miscommunication, unrepresented persons in        |
| legal tech provider                                 | virtual hearings, 248–49                          |
| definition, 67                                      | mistake detection, 102–3                          |
| LegalMation. See Walmart Suites                     | Mitchell, Melanie, 166                            |
| LegalZoom, 37–40                                    | ML. See machine learning (ML)                     |
| leveling of business models, 44                     | mobile arraignment program, 324                   |
| leveling the playing field. See also plaintiff-     | monopoly by lawyers, 21–24, 39, See also          |
| defendant balance                                   | unauthorized practice of law (UPL)                |
| online dispute resolution, 286–304                  | Morgan & Morgan, 162                              |
| LexisNexis, 67, 162                                 | internal case evaluation system, 164              |
| LexMachina, 162                                     | multidistrict litigation (MDL). See also websites |
| lies, human ability to detect, 96–103               | for multidistrict litigation                      |
| limited scope representation, 375                   | advantages, 175                                   |
| Lind, Alan, 260–61                                  | attorney-client communication, 181                |
|   | accountry chem communication, 101                 |



394

Cambridge University Press & Assessment 978-1-009-25535-6 — Legal Tech and the Future of Civil Justice Edited by David Freeman Engstrom Index **More Information** 

multidistrict litigation (MDL). (cont.)

denial of due process, 177 limited use of, 94 merits of case and, 273-75 disadvantages, 175 as formally conceived, 176 in Michigan, 314-16 litigant autonomy, 175 models of prior cases, 297 MDL statute-28 U.S.C. §1407, 173 next generation, 294-95 next-gen version of, 284 protection of clients, 176 research, 178-81 ODR 1.0, 288 parties, unequal status of, 277-78 Nadler, Jerrold, 335 phases of, 269-77 National Center for State Courts, 325, 380 preventative justice and, 257, 278-84 representation gap, 293-94 National Open Data System (NODS), 371-87 natural language processing (NLP), 55-56 rights lost by use of, 277 Bag-of-Words model, 77-84 structure, 298 benchmark data for, 88-89 online hearings, 364 Open Courts Act of 2021, 343 defined, 75 document segmentation issues, 85-86 OpenAI and harmful biases, 171 document structure analysis, 86-87 outcome prediction. See also Walmart Suites legal ontology and, 72, 81-84 commercial applications, 161 legal reasoning and, 72, 81-84, 90 and discovery of new claim types, 158 limits of, 42 existential problem, 165 machine learning improvements and, 72-74 as force multiplier, 158 online dispute resolution and, 261 and lawyer identity as a predictor, 163 outcome prediction and, 75, 80-84 low- and middle-income litigants, 163 machine learning and, 74 overview, 70-72, 89-90, 354 steps in, 77 top-down versus bottom-up, 75

Index

as interest-based, 273-75

Obama, Barack, 311 ODR. See online dispute resolution (ODR) ODR 1.0, 288 Office of Justice Programs report, 309 online dispute resolution (ODR), 286-304, See also simplicity hypothesis for ODR access to justice, 37, 255-56, 287 architecture of, 269-83 criticism of, 273-75, 277, 292-93 data collection, 301 design, 300, 304 design requirements, 284-85 as disruptive innovator, 253-54 eBay, 290 education of litigants, 303 fairness issues, 260-61 fees for, 276-77 first generation, 290-94 flexibility, 302 harmony at the cost of rights, 274

training data for, 71, 78-79, 87-88

non-verbal cues, 99–100, 241, 245–46

NLP. See natural language processing (NLP)

NODS (National Open Data System), 371-87

next word prediction tasks, 78

Nolo, 221

natural language processing and, 72, 75, 80-84 online dispute resolution, 292, 296-99 option identification, 299-301 organizational fixes, 171 performance, 163 rapid advance areas, 163 research design flaws, 161 risk management, 158 scaling up, 166 tax-oriented products, 164 unintended consequences, 166-70 users, 171 Walmart Suites as, 136, 142-43, 149-50 outlier claims and outcome prediction, 168 outsourcing, 138

access to court data as principle, 334-42 alternative data sources to, 335-38 call to action, 347-48 democracy requiring open access, 334-35, 348 fee waivers for, 339-40 fees for, 331-32, 343-44 funding for, 329 future of, 342–48 infrastructure improvements needed, 344-45 openness and, 345-48 overview of, 328-48



Index 395

| privacy concerns, 341–42                             | queen, analogical example, 166                        |
|--|---|
| scholarship hindered by, 333, 338–41                 |   |
| search function, 332, 344                            | racism, 101, 372, See also bias                       |
| unrealized potential of, 338–41                      | randomized control trials (RCT), 104–11               |
| who uses, 332–33                                     | recall and precision, 116, 123–25, See also fairness/ |
| patent litigation analytics, 162                     | satisfaction  |
| paywalls, 152, See also PACER                        | RECAP, 337  |
| pelvic mesh litigation, 179                          | Rechtwijzer, 269, 271–72, 274                         |
| PeopleLaw. See also convergence between              |   |
| BigLaw and PeopleLaw                                 | regulation of legal services. See also unauthorized   |
| accessibility, 53                                    | practice of law (UPL)                                 |
| augmented lawyering, 56                              | BigLaw and in-house counsel, 26–28                    |
| decline of, 46                                       | fee-splitting and, 40–41                              |
| defined, 25  | generally, 21   |
| legal tech constraints, 56–57                        | interactive forms, 37–40                              |
| legal tech in, 52                                    | judicial role in, 22                                  |
| overview, 46–48                                      | legal advice, 40–41                                   |
| regulation of legal services and, 30–32              | legal aid, 28–30, 42                                  |
| UK deregulation, 65–66                               | PeopleLaw, 30–32                                      |
| Philadelphia, 163                                    | plaintiff's side firms and settlement mills,          |
| plaintiff-defendant balance. See also online         | 32-33   |
| dispute resolution (ODR)                             | reforms in, 23, 42                                    |
| Colossus and, 136, 139–42, 147–49, 152               | remote testimonial fact-finding. See also             |
| democratizing data and, 151–52                       | unrepresented persons in virtual hearings             |
| digital technology and, 227, 232, 234–40, 243–44,    | audio only versus audiovisual feeds, 96, 100–1        |
| 247  | background to, 93–97                                  |
| judicial procedural management and, 153–54           | dehumanization concerns, 103-4                        |
| legal tech impact on, generally, 135–36              | evaluation research on needed, 109–11                 |
| litigation of losers concept, 136, 149–50            | as here to stay, 324–25                               |
| overview, 133–36                                     | truth-detection and, 97–103                           |
| precedent, impact on, 149                            | repeat players. See plaintiff-defendant balance       |
| public option legal tech for, 153                    | research. See also PACER                              |
| substantive or procedural law changes and, 150–51    | with court data, 370                                  |
| technology-assisted review and, 123, 136–39,         | on judicial data, 365–66                              |
| 144-47, 153-54                                       | on legal help on the Internet, 202, 204–6             |
| Walmart Suites and, 136, 142–43, 149–50              | on multidistrict legislation, 178–81                  |
| plaintiffs and multidistrict litigation (MDL), 180   | need for, 109–11                                      |
| plaintiff's side firms and settlement mills, 32-33   | data needs for, 328                                   |
| poor clients, and investment in R & D, 164           | randomized control trials, 104–11                     |
| poverty, 375–78                                      | field studies, lab studies compared, 106              |
| practical obscurity of data, 341                     | on video-conference hearings, 232–39, 248             |
| precision and recall, 116, 123–25                    | Rhode, Deborah, 24, 32, 43                            |
| prediction exercises, machine learning and, 74       | risk management, outcome prediction tools, 158        |
| predictive models, training, 158                     | Rocket Lawyer, 37–38, 40                              |
| preventative justice, online dispute resolution and, | Rostain, Tanina, 172                                  |
| 257, 278–84  | Rules of Professional Conduct, 114, 128               |
| privacy concerns, 341-42                             | Salesforce, 67  |
| procedural skepticism, 262                           | sample manipulation in TAR, 125                       |
| process, importance of. See also fairness/           | Sandefur, Rebecca L., 204                             |
| satisfaction   | Schultze, Stephen, 341                                |
| proportionality requirement, 144-45, 153-54          | search engines, 208, 222, See also legal help on the  |
| public health research, 206                          | internet  |
| public option legal tech, 153                        | search terms, 115, 138                                |
| public policy choices, impacts of, 228               | security, and legal tech, 358-59                      |



Index 396 seed sets in technology-assisted review, 115, 120-23, benchmark data for, 131-32 data poisoning, 122–23 137, 146, 152 self-representation, frequency of, 312, See also dataset under-representation, 121 access to justice, See also legal aid, See also future of, 126–32 global metrics obfuscation, 124 unrepresented persons in virtual hearings self-represented litigants, 158 hidden stratification, 121–22 settlement history of, 115-18 Colossus and, 138-42, 147-49 judicial role in, 117-18, 128-29, 153-54 data availability about, 151-52 label manipulation, 124 overview, 113-19, 137-39 online dispute resolution and, 272-73 technology-assisted review and, 145 possible benefits of, 136 settlement mills. See plaintiff's side firms and proportionality and, 144-45 settlement mills recall and precision, 116 sexual harassment doctrine, 170 rule changes for, 127–30 Shavitz, Gregg, 159 safeguarding of, 125-26 sample manipulation, 125 signal-to-noise ratio, 170 Similarweb, 215-18 seed sets for, 115, 120-23, 137, 146, 152 Simmons & Simmons, 51 technical systems to regulate, 130-32 simple active learning (SAL), 115, 119 validation stage, 123-26 simplicity hypothesis for ODR techno-optimism, 172 telephonic hearings. See remote testimonial factfalseness of, 252 overview, 257–63 finding private enforcement and, 266-68 Ten Steps to Better Case Management: A Guide for public enforcement and, 263-66, 281 Multidistrict Litigation Transferee Court Clerks (JPML, FJC), 192 transparency issues, 269 small firms. See PeopleLaw testimonial fact-finding. See remote testimonial smartphone-dependent Internet users, 230, fact-finding See also remote testimonial fact-finding, Thomson Reuters, 67 See also unrepresented persons in virtual top-ranked sampling, 119 training data. See also technology-assisted review hearings Smartsettle, 272 (TAR) social media platforms, 200 availability of, 87-88 solidification of existing power by computers, 169 human manipulation of, 138, 141 solo this supposed to be practitioners. See natural language processing and, 71, 78–79, PeopleLaw 87-88 special masters, 128 seed sets in technology-assisted review, 116, stare decisis, and outcome prediction tools, 170 120-23, 137, 146, 152 state courts, data management, 164 transparency issues Civil Justice Data Commons and, 384, 386 stereotypes, truth-detection and, 101 Stone, Harlan Fiske, 347 online dispute resolution and, 269, 273, 278, 284 stopping point for TAR, 119 technology-assisted review, 117-18 storefront legal clinics, 200 legal aid groups, 300 structural racism. See bias online dispute resolution (ODR), 301 Susskind, Richard, 93 trials, decreasing number of, 134 TAR Wars, 118, See also technology-assisted review truth-detection, 96-103 (TAR) TurboTax, 253, 283 technological capital, 249 Tyler, Tom R., 260-61 technology maintenance, 231

US Sentencing Commission, 337

Uber, 252

UK deregulation

PeopleLaw, 65-66

technology providers, unauthorized practice of

technology-assisted review (TAR)

abuse of, generally, 119-26, 145-47

law, 47



Index 397

unauthorized practice of law (UPL) validation stage of TAR, 123-26 artificial intelligence and, 355 value lock-in, machine and deep learning BigLaw and in-house counsel, 27-28 methods, 169 verbal cues to deception, 100 drafting documents and court appearances, 41 video hearings. See remote testimonial factenforcement issues, 23-24 interactive forms and, 38-40 finding, See unrepresented persons in virtual lawyers protected by, 22-23 hearings legal aid, 28-30 Virtual Courtroom Directory, 318-19 PeopleLaw, 32 virtual helpdesk, 325 plaintiff's side firms and settlement mills, 33 voice assistants, 209 reforms for, 321, 325 voting information seeking, 222 strength of prohibition against, 21 uncertainty sampling, 119 wage and hour lawsuits, 158, 168 Walmart Suites, 136, 142–43, 149–50 underrepresentation of datasets, 121 websites. See legal help on the internet, See UnitedLex, 52 unmet legal needs. See also legal aid, See also specific sites legal help on the internet websites for multidistrict litigation, 176, 181-91 amount of, 199, 307 curation, 182 civil, 155 guidance for site content, 192 increasing legal awareness to help with, 200-1 information to facilitate remote attendance, poor Americans, 24 reasons for, 199-200 intended audience, 101 unrepresented persons in virtual hearings. See also jargon and legalese, 187 online dispute resolution (ODR), See also litigant-focused content, 186 remote testimonial fact-finding recommendations for, 182 "doing" unrepresented status, 227-29 searchability and identifiability, 185 audio only versus audiovisual feeds, 227, 230, Timeliness, 189 232, 242-43, 248-50 Weizenbaum, Joseph, 169 digital divide and, 229-32 Wellborn, Olin Guy, II, 102 Westlaw, 162 overview, 225-50 white Americans, 372 perception and social construction of, 243-50 representational asymmetries for, 232, 234, Why the Haves Come Out Ahead (Galanter), 149 Williams, Margaret, 175, 178 236-39 research on, 232-39, 248 Wilson Sonsini, 51 social construction of, 228 Winner, Langdon, 225, 239 social production of unrepresented persons, 228, workflow automation platforms, 49 technological asymmetries for, 234-39 Yeazell, Stephen, 151-52 unstructured text, 75, See also natural language processing (NLP) Zantac MDL, 181-91 zero-shot learning, 132 UPL. See unauthorized practice of law (UPL) upper-body nonverbal cues, 241, 245-46 Zoom fatigue, 245