

From Review to Intelligence: How Gen AI Is Transforming Discovery Strategy

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At the start of 2025, the conversations surrounding generative AI (gen AI) in legal practice centered on whether it could reliably perform document review. By the end of the year, substantial evidence had accumulated demonstrating gen AI's transformative potential. According to a recent study, relevance reviews conducted using gen AI workflows achieved recall rates of 85-95% significantly outperforming traditional TAR's typical 80-85% range. In other documented real-world cases, gen AI workflows showed precision scores ranging from 0.63 to 0.96, with validation studies demonstrating gen AI outperforming first-level human reviewers by as much as 36% on recall. Furthermore, field studies and academic research have reported these results across diverse litigation contexts.

These applications have moved from experimental to production use across matters. In one documented federal regulatory matter, gen AI review of over 2 million documents achieved 88% recall and 96% precision, completing first-level review in just five days with appropriate validation and quality control.

Another Am Law 100 firm reported reducing review time by 50-67% while achieving 90%+ accuracy rates across 126,000 documents in a government investigation. Detailed case studies have demonstrated that careful tuning of gen AI systems through iterative prompt refinement

can substantially enhance performance, with documented improvements in both precision and consistency across complex document populations. When implemented with appropriate human oversight and validation protocols, gen AI-assisted review is being deployed in production environments with defensible results.

While courts have not yet articulated specific standards governing gen AI use in discovery, such guidance may be unnecessary because the jurisdictional framework already exists. Federal courts require reasonable methods and proportionality:



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Fed. R. Civ. P. 26(b)(1) (scope of discovery limited to information that is 'relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.'

The courts have consistently recognized that advanced technology can satisfy those obligations. Principle 6 in *The Sedona Principles: Best Practices, Recommendations & Principles for Addressing Electronic Document Production* makes clear that responding parties are best positioned to choose their own procedures and technologies for ESI, as long as the results are reasonable and proportionate.

Courts endorsed TAR and predictive coding as reasonable, often preferable, methods for large-scale discovery. Gen AI fits the same framework. Cases like *Da Silva Moore v. Publicis Groupe*, 287 F.R.D. 182 (S.D.N.Y. 2012), *Rio Tinto plc v. Vale S.A.*, 306 F.R.D. 125 (S.D.N.Y. 2015) and *Hyles v. New York City*, 2016 WL 4077114 (S.D.N.Y. Aug. 1, 2016) establish that courts evaluate discovery under reasonableness and proportionality standards, not perfection. Advanced analytics do not get held to higher standards than manual review or keyword searches. When a technology demonstrably improves accuracy, efficiency, and consistency while maintaining defensibility through documented validation, it is doing exactly what courts have been asking parties to do all along.

So let's move past that question and think bigger. Gen AI can transform discovery in ways that go far beyond document review. We must stop forcing gen AI into legacy workflows and instead examine how it can fundamentally improve the practice of law.

Currently, enormous volumes of data sit in platforms and archives. Discovery teams rely on search terms, custodians, and date ranges to identify potentially relevant material. Those search terms get negotiated by attorneys who often have not looked at the underlying data and have not tested whether their terms actually retrieve relevant documents. They optimize for hit counts that seem reasonable to review, numbers driven by budget constraints and negotiation posturing, not evidentiary value.

This approach is fundamentally backwards. Critical discovery decisions get made based on assumptions rather than evidence, then those assumptions get defended through advocacy rather than validation.

Gen AI changes the equation. Large datasets can be analyzed and classified before finalizing collection decisions. Patterns, themes, and outliers can be surfaced. What is actually in the data can be understood, rather than what might be there based on keyword guesses.

The technology is still evolving, but the direction is clear. Discovery workflows need to move toward in-place analysis, examining data where it sits rather than collecting and hosting everything in separate review platforms. Gen AI-enabled, in-place analytics can make discovery more accurate and defensible by aligning collection scope with what is actually in the data, not what attorneys hypothesize might be there.

Gen AI in Production: From Proof of Concept to Defensible Workflow

The transition is underway. Gen AI tools can already be applied to datasets collected for litigation in ways that materially improve how teams understand their evidence, particularly during early case assessment.

Understanding data before negotiating search terms changes everything. Parties can walk into a meet-and-confer knowing what is actually in their dataset. Gen AI can inform case strategy, sharpen issue prioritization, and ground early case assessment in what the documents actually show rather than assumptions about custodians, sources, or date ranges. There is no need to wait for full production review to understand the core facts.

This represents a shift from hypothesis-driven to data-informed discovery. Not “these custodians and terms will likely find relevant documents” but “the data has been analyzed and here is what it contains.”

Deeper understanding of a dataset can also streamline downstream document review. By surfacing key documents, themes, and anomalies early, gen AI can help focus human review on what truly matters, saving time and money while improving consistency in coding and decision making.

The Collection Paradox: Making Decisions Without Data

Early data intelligence changes meet-and-confer dynamics completely. One party walks in with actual knowledge while opposing counsel operates on assumptions. Collection scope

can be explained in terms of what it captures and why opposing requests are overbroad, not through uninformed arguments, but through evidence about the actual data.

For case assessment, weaknesses and strategic opportunities can be identified before positions become locked in. Better decisions about settlement, motions, and trial strategy become possible.

For defensibility, collection and review decisions can be demonstrated based on systematic analysis of actual data. That does not just meet the reasonableness standard, it can exceed it.

Discovery Transformed: Leading with Data Intelligence

The question is no longer whether gen AI works in discovery. The evidence is in. The question is whether it will be used just to speed up old workflows or actually improve how evidence is understood and managed.

The technology exists today to improve the accuracy and transparency of discovery decisions. What is needed now is the vision to use it.

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