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Session: #38084

Using Artificial Intelligence to Navigate a Bankruptcy Case

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TODAY'S AGENDA

- ▶ Where AI Fits in Bankruptcy Practice
- ▶ Preparing and filing proofs of claim;
- ▶ Reviewing and summarizing lengthy motions regarding critical vendors and other important matters;
- ▶ Analyzing the progress of the case; and
- ▶ Creating an effective strategy for your participation in the case.

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DISCLAIMER

TODAY'S PRESENTATION IS FOR EDUCATIONAL PURPOSES ONLY. THERE WILL BE REFERENCES TO VARIOUS COMPANIES THAT PROVIDE AI SERVICES IN A BANKRUPTCY SCENARIO AND TO VARIOUS PROGRAMS WHICH CAN BE USED BY CREDITORS.

IN NO WAY IS ANY REFERENCE TO ANY COMPANY OR PROGRAM INTENDED TO BE A RECOMMENDATION NOR AN ENDORSEMENT. THE NAMES AND WEBSITES ARE PROVIDED MERELY FOR RESOURCE PURPOSES

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WHERE AI FITS INTO A BANKRUPTCY CASE

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AI IN LEGAL WORKFLOWS

CAPABILITIES: WHAT AI CAN DO

- ▶ Draft and organize proofs of claim, motions, and correspondence
- ▶ Summarize lengthy filings, docket entries, and disclosure statements
- ▶ Analyze case timelines, deadlines, and procedural milestone

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AI IN LEGAL WORKFLOWS

CAPABILITIES: WHAT AI CAN DO

- ▶ Identify relevant precedents and statutory provisions for research
- ▶ Flag inconsistencies in financial disclosures and schedules
- ▶ Accelerate document review and due diligence

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AI IN LEGAL WORKFLOWS

LIMITATIONS/RISKS

Hallucination Risk

- ▶ May fabricate case citations, statutes, or procedural rules that do not exist
- ▶ All AI-generated legal research must be independently verified

Confidentiality Concerns

- ▶ Sensitive client data entered into AI tools may be stored or used for training
- ▶ Risk of inadvertent disclosure of trade secrets or proprietary information

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AI IN LEGAL WORKFLOWS

LIMITATIONS/RISKS

Attorney-Client Privilege

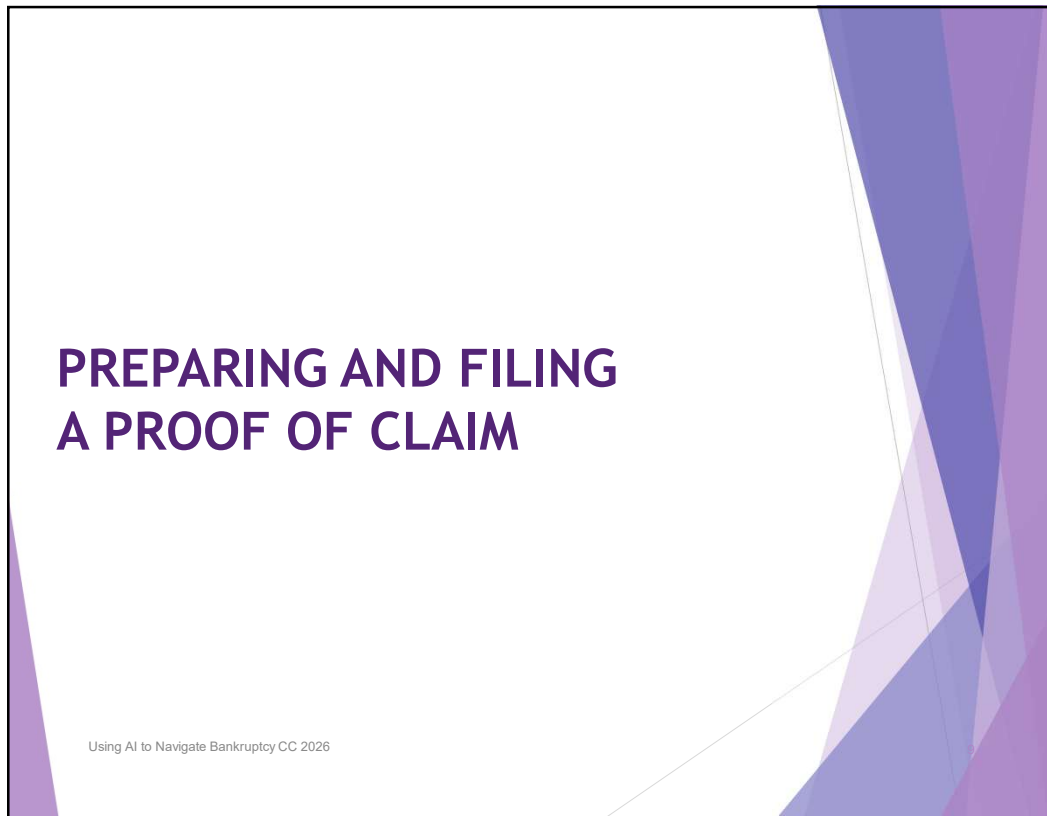
- ▶ Sharing privileged communications with AI may waive privilege protections
- ▶ Third-party AI platforms may not qualify as protected agents under privilege doctrine

Ethical and Compliance Risks

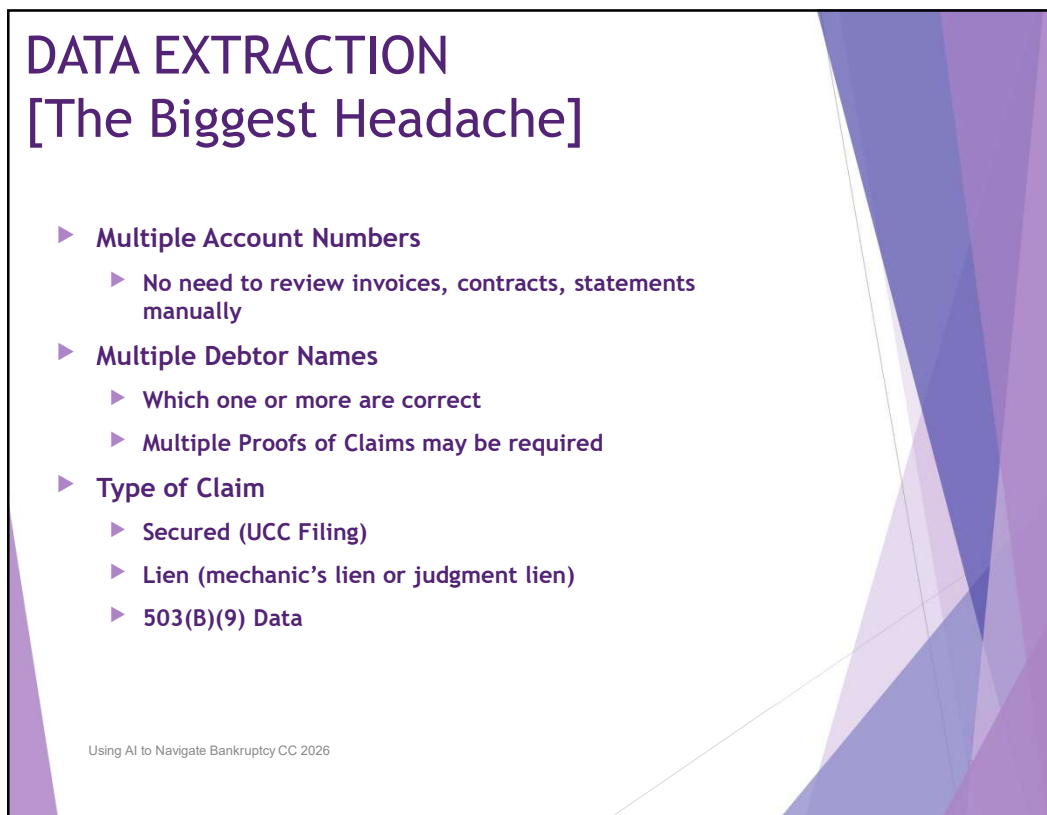
- ▶ Cannot replace professional judgment or exercise legal discretion
- ▶ Courts are imposing disclosure obligations for AI-assisted work product

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CORRECT DATA

- ▶ Match Debtor name with correct Bankruptcy Filing
 - ▶ Filing under wrong case number can be fatal
- ▶ Correct Creditor name (So, you think you know who you are!)
 - ▶ Does your true name match your documentation?
- ▶ Supporting Documentation

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MISTAKES CAN BE COSTLY

- ▶ AI can perform mathematical functions
 - ▶ Allowing for payments and/or credits
 - ▶ Allowing for deductions due or claimed
 - ▶ Calculating interest if applicable
- ▶ **EXAMPLE:**
 - ▶ Mukeunji II - small business chapter 11
 - ▶ Actual Debt - \$1,010,286.42
 - ▶ **ERRONEOUS** Proof of Claim Amount - \$109,551.28
 - ▶ Confirmed Plan paid 100% of erroneous amount
 - ▶ State Court litigation against guarantor - 2 years before winning summary judgment

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DOCUMENTATION ACCURACY

- ▶ A valid Proof of Claim requires:
 - ▶ Contracts
 - ▶ Invoices or statements
 - ▶ Itemization of the claim
- ▶ Missing documents can lead to disallowance or reduction
- ▶ AI helps by:
 - ▶ Identifying missing documents
 - ▶ Matching documents to claim
 - ▶ Organizing exhibits logically

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COMPLIANCE, CONFIDENTIALITY, REDACTION

Every document you attach to a Proof of Claim becomes part of the public bankruptcy record. Bankruptcy Rule 9037 requires you to redact sensitive personal information before filing. Specifically, you need to limit the following:

- ▶ Social Security and tax ID numbers: show only the last four digits
- ▶ Birth dates: show only the year
- ▶ Minor's names: use initials only
- ▶ Financial account numbers: show only the last four digits

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AI POWERED DRAFTING FOR BANKRUPTCY

- ▶ Upload your documents
 - ▶ Organizes supporting evidence
- ▶ AI analyzes and extracts key information
 - ▶ Creditor and debtor information from your documents
 - ▶ Calculates claim amounts
- ▶ Review and customize the generated content
 - ▶ Ensures all required fields are completed properly
- ▶ Export in your preferred format (DOCX, PDF)
 - ▶ Generates court-ready Form B410 compliant documents
- ▶ <https://casemark.com/workflows/proof-of-claim>

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REVIEWING AND SUMMARIZING LENGTHY MOTIONS SUCH AS THOSE FOR DIP FINANCING, CRITICAL VENDORS OR OTHER IMPORTANT MATTERS;

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BANKRUPTCY DOCUMENTS

Do I really need an Attorney?

- ▶ **Even Small Business Chapter 11's can produce hundreds of documents**
- ▶ **Reading Bankruptcy Documents is Time-consuming**
 - ▶ **Should I read them?**
 - ▶ **Should I hire an attorney to read them?**
- ▶ **Do these Documents Impact me as a Creditor?**

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FIRST DAY MOTIONS

- ▶ **Among the most important Documents in any Chapter 11 proceeding**
- ▶ **Declaration in Support of First Day Motions**
 - ▶ **Tells the story of what has happened to the Debtor**
 - ▶ **What has caused it to file chapter 11**
 - ▶ **What it has done to start to turn itself around**
 - ▶ **What it intends to do in the chapter 11**
 - ▶ **Reorganize**
 - ▶ **Sell all or part of the business**
 - ▶ **What it anticipates a Plan to look like**
 - ▶ **What does it want from creditors**
 - ▶ **May Include Dates and Deadlines**
- ▶ **AZZUR SAMPLE**
 - ▶ **Azzur Summary provided by CoPilot**

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AI SUMMARY OF AZZUR DECLARATION

- ▶ **Executive Summary - produced in about 30 seconds**
- ▶ **This declaration—submitted by the Debtors’ Chief Restructuring Officer—explains:**
 - ▶ Who the Debtors are
 - ▶ Why they filed Chapter 11
 - ▶ What transactions and financing they are pursuing
 - ▶ Why the requested “first day” relief is necessary
- ▶ **The overall message:**
The Debtors entered Chapter 11 after a lengthy but unsuccessful restructuring and sale process; and now intend to sell remaining assets through a court-supervised process funded by DIP financing, followed by an orderly liquidation.

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AZZUR CAPITAL STRUCTURE

- ▶ **Key Numbers**
 - ▶ **Secured debt: ~\$62.2 million (asset-based + term loans)**
 - ▶ **Unsecured debt: ~\$23.2 million**
 - ▶ **Promissory notes (contractor disputes): ~\$5.2 million**
 - ▶ **Cash on hand: ~\$3.2 million (all lender collateral)**
- ▶ **AI Analysis: Highly leveraged with limited liquidity.**

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WHY THE COMPANY FILED

- ▶ **Main problem:**
 - ▶ The company expanded too aggressively—especially its cleanroom business.
 - ▶ **Key factors:**
 - ▶ Overexpansion during COVID (expected long-term demand)
 - ▶ Entered long-term leases with high fixed costs
 - ▶ Demand dropped post-COVID
 - ▶ Facilities underutilized → low profitability
- ▶ **Ran out of liquidity**
 - ▶ 🙌 **Result:**
 - ▶ Covenant defaults under loan agreements
 - ▶ Required lender forbearance agreements
- ▶ **Ultimately could not stabilize finances**

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CHAPTER 11 STRATEGY

- ▶ **The Debtors enter Chapter 11 with a clear plan:**
 - ▶ **Continue selling assets**
 - ▶ Consulting business → Stalking Horse Bid
 - ▶ Cleanroom business → further marketing
 - ▶ **Maximize value through auction**
 - ▶ Court-approved bidding procedures
 - ▶ Open competitive process
 - ▶ **Liquidate estates**
 - ▶ After asset sales
 - ▶ **Through a plan of liquidation**

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PERFECT EXAMPLE OF AI ASSISTANCE IN BANKRUPTCY

- ▶ **Extract:**
 - ▶ Financial structure
 - ▶ Sale terms
 - ▶ DIP financing details
- ▶ **Summarize:**
 - ▶ Causes of bankruptcy
 - ▶ Strategy
- ▶ **Identify:**
 - ▶ Risks (tight timelines, lender control)

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MONITORING AND ANALYZING THE PROGRESS OF THE BANKRUPTCY CASE

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BANKRUPTCY MONITORING TOOLS

AI-POWERED CASE MONITORING TOOLS

Bankruptcy Watch <https://bankruptcywatch.com>

- ▶ Bankruptcy Monitoring: Scrub and monitor your portfolio for bankruptcy filings and case events with automated alerts
- ▶ Bankruptcy Research: Search, parse, and organize data from any file in a bankruptcy case without excess PACER fees
- ▶ Bankruptcy Response: Create, modify, and file court documents directly from your platform, without switching systems

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BANKRUPTCY MONITORING TOOLS

AI-POWERED CASE MONITORING TOOLS

Bankruptcy Observer <https://www.bankruptcyobserver.com>

- ▶ Monitors all US bankruptcy courts, checking regularly for new docket activity
- ▶ Updates database hourly
- ▶ Can track all business bankruptcies since 2010
- ▶ Can track all adversary proceedings
- ▶ Real-time email alerts for new developments
- ▶ Lets you review the docket in a clean interface

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BANKRUPTCY MONITORING TOOLS

AI-POWERED CASE MONITORING TOOLS

EPIQ by ACER <https://epiqglobal.com>

- Performs a search of all U.S. Bankruptcy Courts nightly - matching portfolios and providing notification
- Monitor bankruptcies for client portfolios - identifying changes and claim register events
- On-demand access to court documents and case data
- API integrations
- Daily summaries and reporting
- Complete, accurate and timely notification of new or updated case filings
- Automate manual processes
- Make informed decisions when considering new credit lines or credit extensions

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CREATING AN EFFECTIVE STRATEGY FOR YOUR PARTICIPATION IN THE CASE.

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AI AS A STRATEGY TOOL

- ▶ Traditionally, creditor strategy is based on:
 - ▶ Experience
 - ▶ Time-consuming review
 - ▶ Partial information
- ▶ With AI
 - ▶ AI can analyze large volumes of legal and financial data and identify patterns, risks, and opportunities that would otherwise be missed.
 - ▶ Claude
 - ▶ CoPilot
 - ▶ Legalaicentral.com (mostly for attorneys)

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AI ASSISTANCE TO TRADE CREDITORS

- ▶ UNDERSTANDING THE CASE FAST
 - ▶ 100s of filings
 - ▶ Complex motions
 - ▶ Hard to know what matters
- ▶ AI Solution:
 - ▶ Summarizes filings in minutes
 - ▶ Extracts:
 - ▶ Key motions
 - ▶ Deadlines
 - ▶ Parties involved
- ▶ Highlight key risks in minutes instead of days

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IDENTIFYING RISKS TO YOUR CLAIM

- ▶ AI can flag:
- ▶ Motions that impact payment:
 - ▶ Use of cash collateral
 - ▶ DIP financing
 - ▶ Claims procedures
- ▶ Risks such as:
 - ▶ Subordination
 - ▶ Preference exposure
 - ▶ Dilution in plan

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ANALYZING RECOVERY PROBABILITY

- ▶ AI can use legal analytics to:
 - ▶ Compare similar bankruptcy cases
 - ▶ Analyze outcomes
 - ▶ Estimate recovery ranges
- ▶ Predictive analytics tools can “forecast case outcomes and guide strategy by analyzing patterns in past cases.” [americanbar.org]

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EVALUATING THE PLAYERS

- ▶ AI can analyze:
 - ▶ The judge
 - ▶ Debtor's counsel
 - ▶ Other creditors
 - ▶ Litigation history
- ▶ AI systems can analyze “judicial tendencies, prior rulings, and opposing counsel performance” to assess risk. [[lexisnexis.com](https://www.lexisnexis.com)]

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SUMMARY

- ▶ AI does NOT replace independent thinking
- ▶ Should NOT decide strategy
- ▶ AI can make mistakes
- ▶ AI helps a trade creditor develop strategy in a bankruptcy case by analyzing filings, identifying risks and opportunities, predicting outcomes, and providing actionable insights—allowing the creditor to make faster, more informed decisions.

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