# 2018: A Legal Research Odyssey

JAMIE BAKER

#### **Function Level**

#### Low-level Functions

- Document Review
- Due Diligence
- Document Management
- Simple Document Drafting

#### High-level Functions

- Bespoke Drafting
- Advocacy
- Creative Legal Research
- Negotiation
- Sophisticated or Strategic Judgment

#### **Context: The Duty of Technology Competence**

• ABA Model Rule of Professional Conduct 1.1 provides: "A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."

In August 2012, comment 8 was amended to provide: "To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the *benefits* and *risks* associated with relevant technology ...."

#### States That Have Adopted Duty of Tech Competence



# What The Duty Requires Today



#### Guidance for Complying with the Duty of Tech



Advisory Opinion: 2215 Year Issued: 2012 RPC(s): RPC 1.1, 1.6, 1.15A Subject: Cloud Computing

### Guidance for Complying with the Duty of Tech



#### SOCIAL MEDIA ETHICS GUIDELINES

OF THE

COMMERCIAL AND FEDERAL LITIGATION SECTION

OF THE

NEW YORK STATE BAR ASSOCIATION

#### Guidance for Complying with the Duty of Tech

THE STATE BAR OF CALIFORNIA STANDING COMMITTEE ON PROFESSIONAL RESPONSIBILITY AND CONDUCT FORMAL OPINION NO. 2015-193

#### Bottom Line: Use Reasonable Care



# A Changing Standard: Computing Power



### The Future of the Duty in the Algorithmic Society





The average person is likely to generate more than one million gigabytes of health-related data in their lifetime. Equivalent to 300 million books.

IBM Watson Health

#### **KENSHO**

#### Legal Research Databases





### Legal Research Databases: ROSS



Built on top of Watson, IBM's cognitive computer,

# Natural Language Processing



# The Risks: Lack of Transparency



### The Risks: Bias



#### The Risks: Malpractice

om without have having an unpleasand malpractice unethical negligent pry professional conduct

# The Google Generation



#### **Teaching Competent Use of Algorithms**



# **Going Forward**

