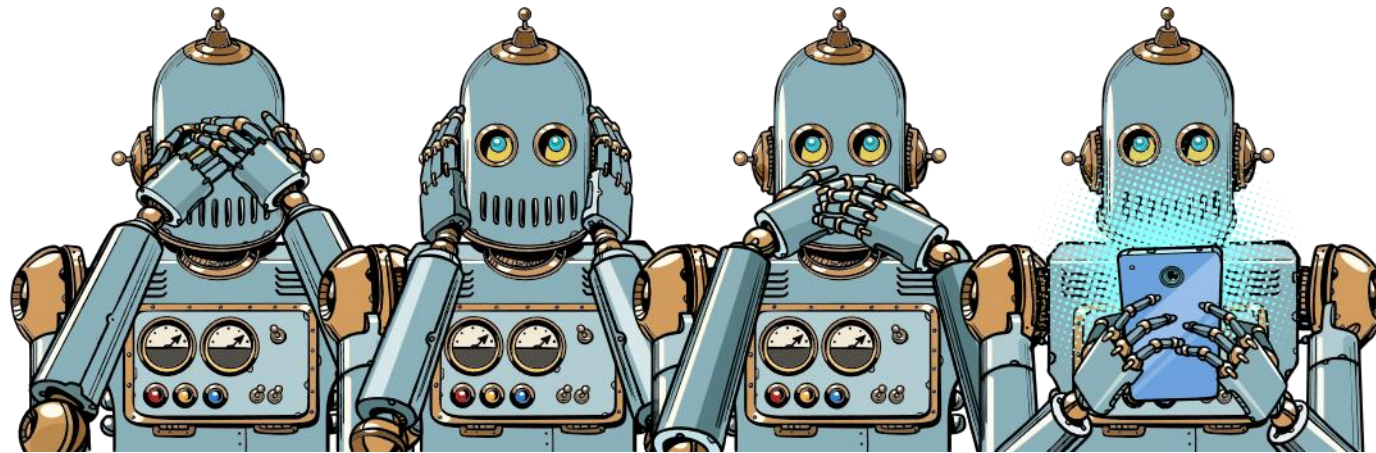# FAIR USE OF AI IN LITIGATION:
What to ask your judge and opponent and what they might ask you

Robin Allen KC (and Dee Masters) – February 2025
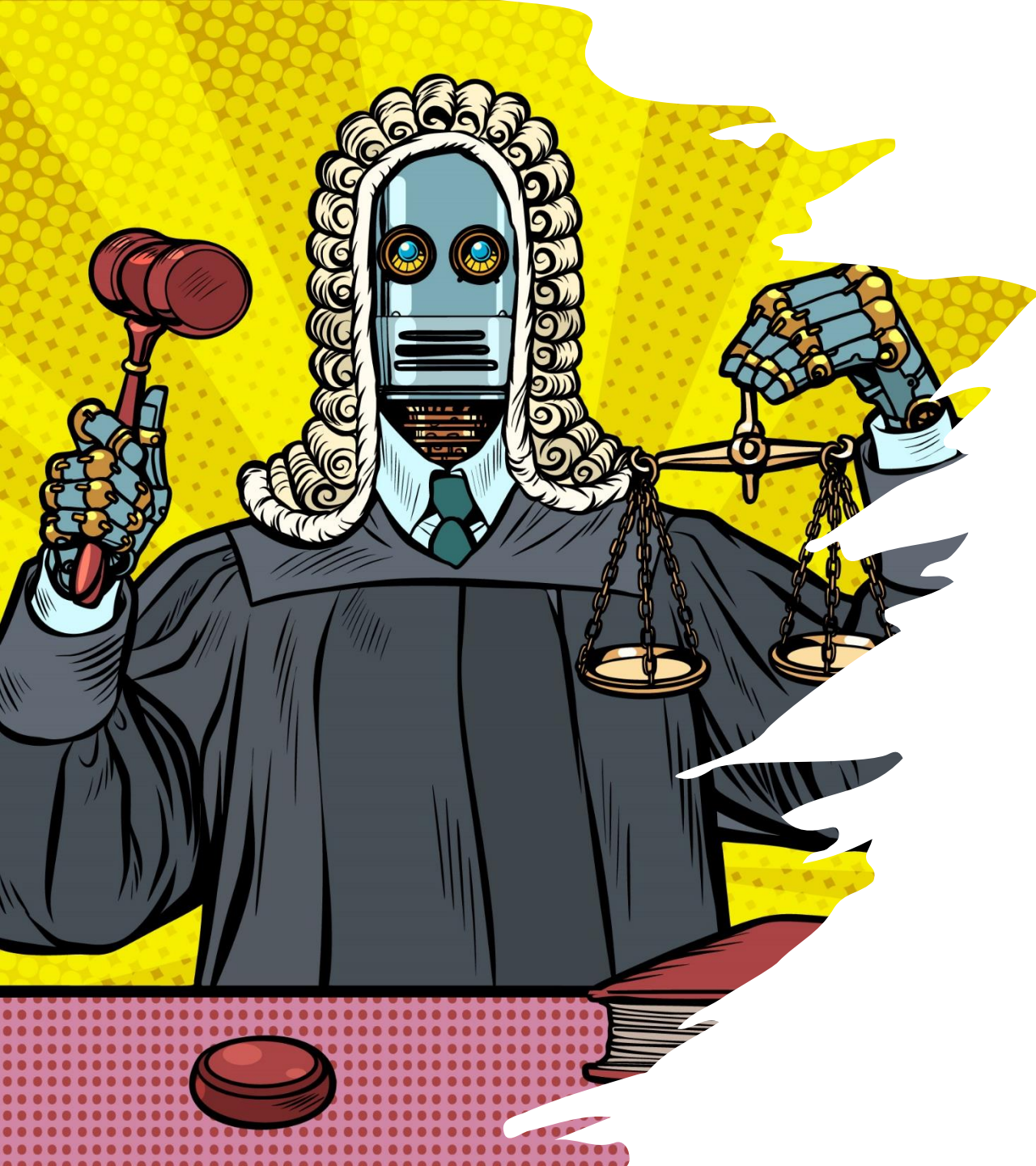

www.ai-lawhub.com & www. cloisters.com
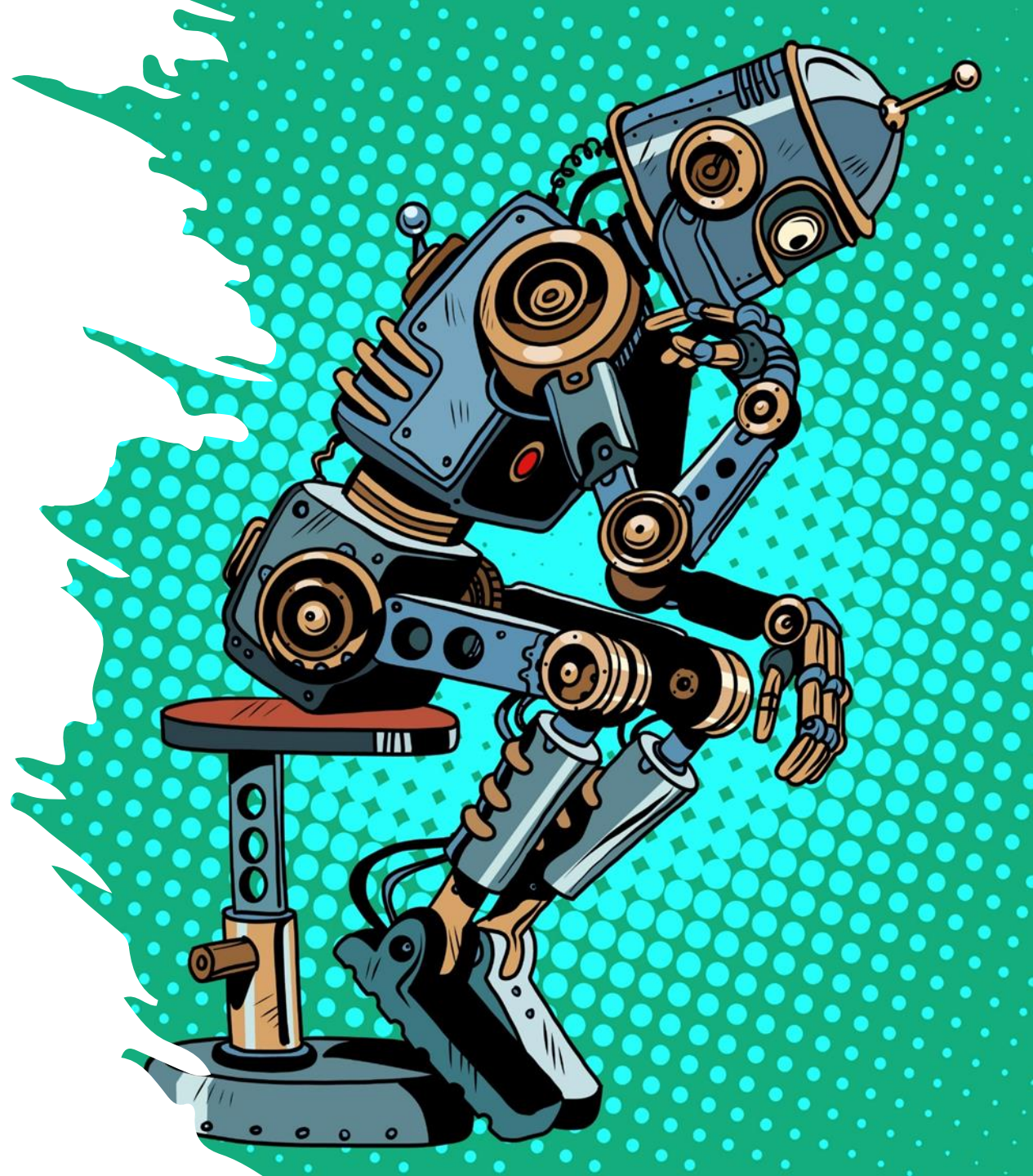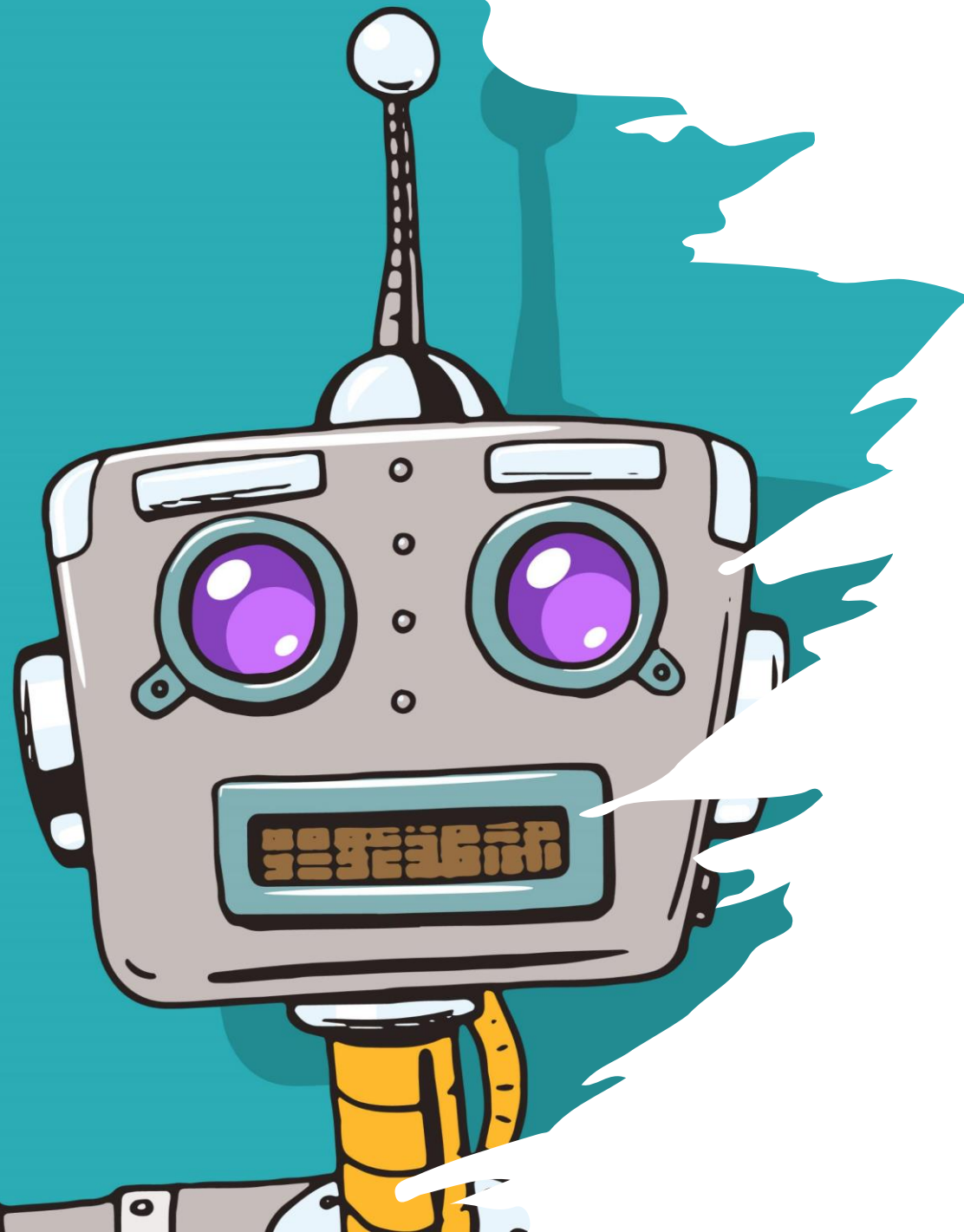
020 7827 4000 clerks@cloisters.com @AILawHub

Why do we need to talk about AI, judges and lawyers now?

https://ai-lawhub.com/wp-content/uploads/2024/11/ELBA-Judges-Lawyers-and-Litigation-AI-final.pdf
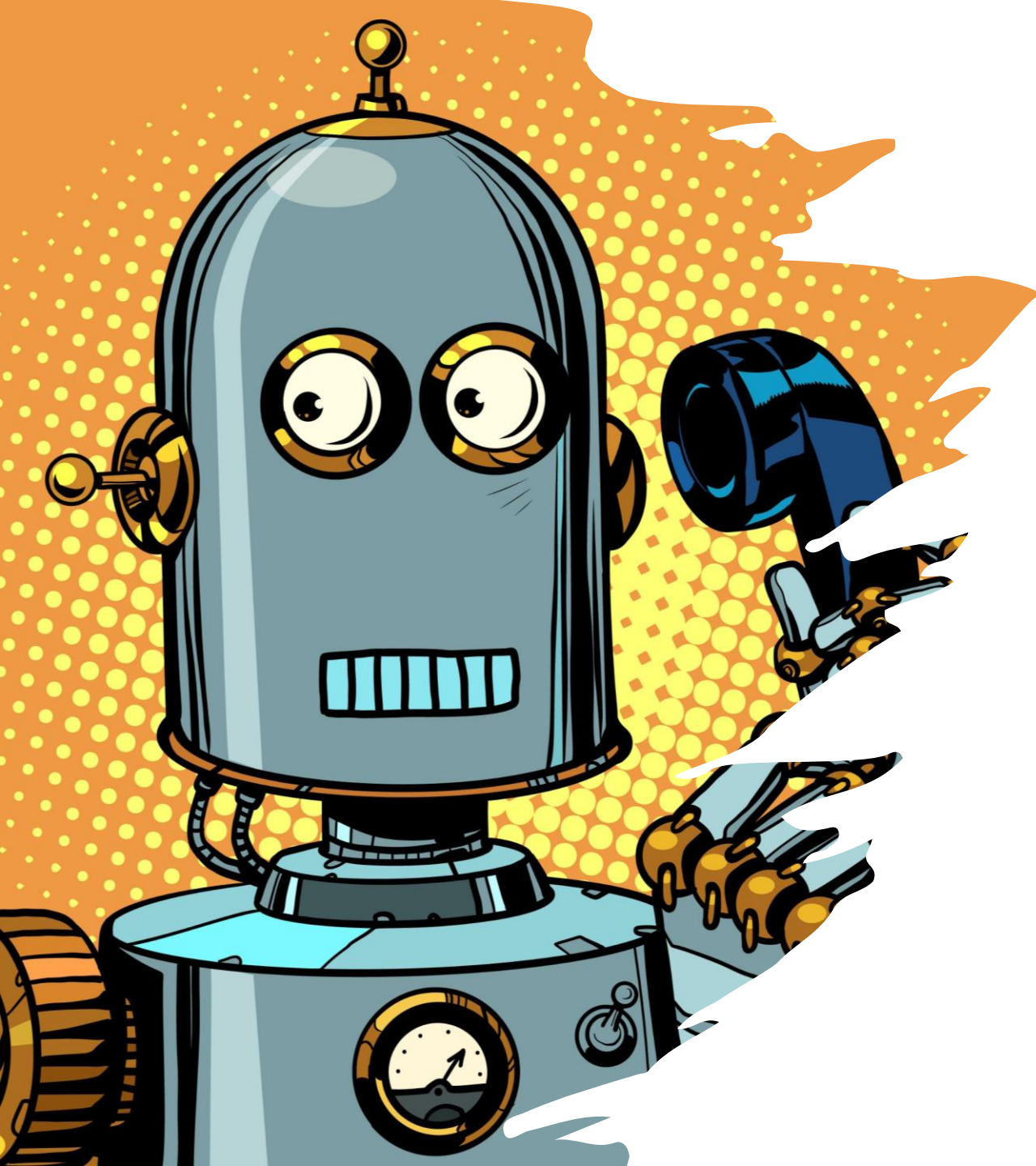
(we have also added this to the chat function)

- What is AI?

- How is AI being used by lawyers (now & future)?

- How could AI be used in the Employment Tribunal service?

- What are the risks of using AI in the litigation process?

- How can these risks be controlled?

What is AI?

"… a machine-based system that is designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments. Different artificial intelligence systems vary in their levels of autonomy and adaptiveness after deployment." (Council of Europe & OECD)
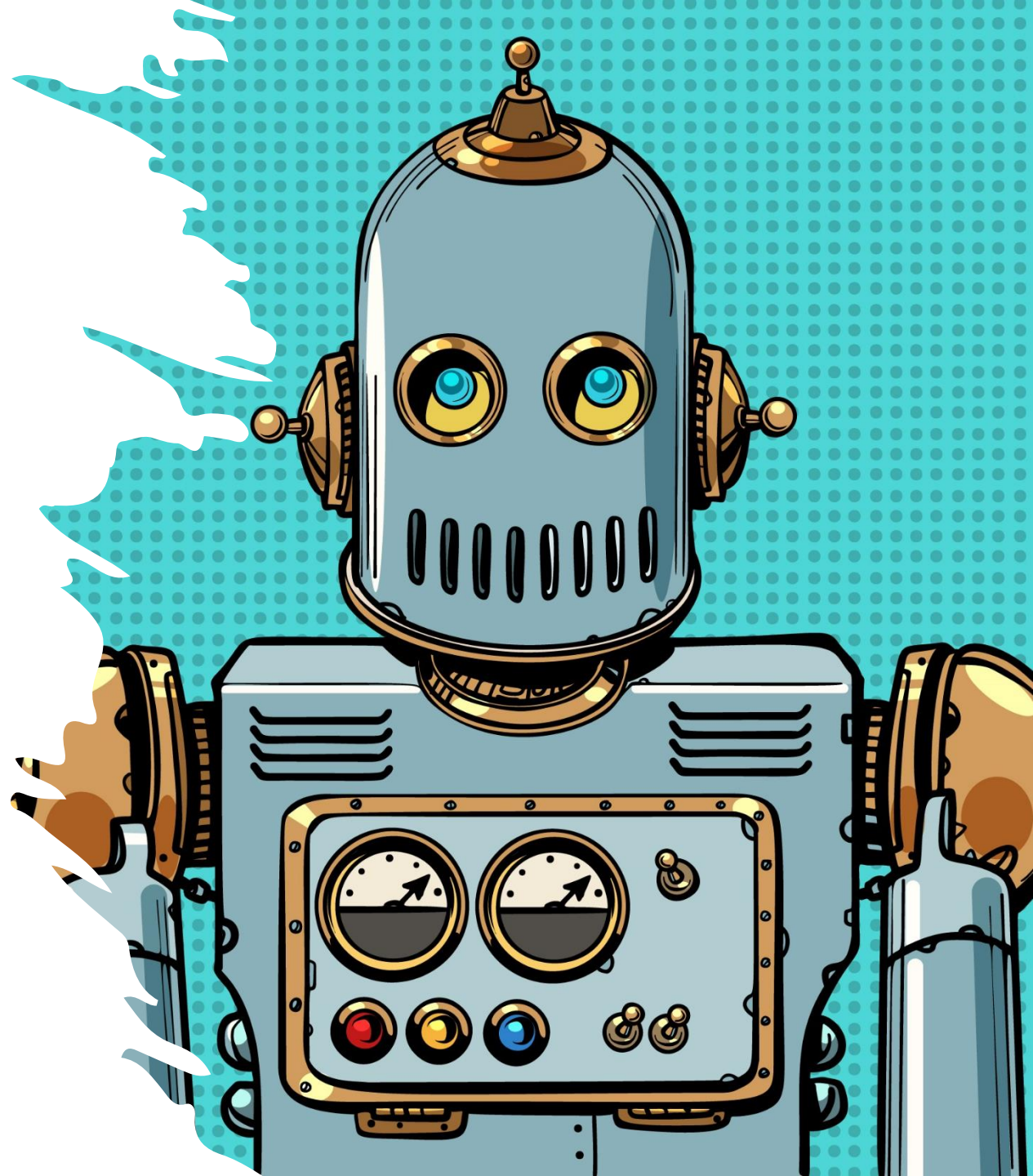
SPOT THE DIFFERENCE?

How are lawyers using AI right now & the future?

How might judges use AI in the future?

What are the risks of using AI in the litigation process?

Equality before the law

Duty to give reasons

Accuracy

Power imbalance/equality of arms

Fairness

Data protection / confidentiality

Transparency

How can risks be controlled?

- Redlines
- Transparency within the litigation process
- Data tainting and leakage
- Data protection/privacy obligations
- Human oversight
- Auditing

- Validating own work
- Validating work of opponents
- Protecting work product
- Guidance from regulators/professional bodies
- Training
- Research into judicial use
- Mandatory use of AI

Robin Allen KC
Dee Masters

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Questions?