WHEN A COVER-UP IS WORSE THAN A CRIME: PROFESSIONAL RESPONSIBILITY AND AI DISCLOSURE[1]

Generative AI (artificial intelligence) is a type of AI that appears to endow tech tools with human-like cognitive abilities. Its rapid integration into legal practice has introduced both unprecedented opportunities and pressing challenges. In addition to the most well-known AI tools such as ChatGPT, Westlaw AI, and Lexis+, law firms also use tools such as Clio Duo, Harvey, Diligen, and Logikcull, to name just a few.[2] While AI does provide efficiency in research, reduced costs,[3] and enhanced productivity, it also creates the risk of misuse. As of the time these materials were prepared, in mid-August 2025, there had been more than a hundred cases where attorneys, self-represented litigants, and even judges misused generative AIs, resulting in the use of AI-fabricated citations or false quotations, known as "AI hallucinations."[4] This trend is increasing rapidly, and approximately 45% of these incidents involved licensed attorneys submitting fabricated citations generated by AI tools.[5]

Courts have expressed serious concern about this trend, questioning the reliability and ethical use of AI in legal practice. To deter such conduct, they have responded in a variety of

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[1] Materials prepared by Jasmin Yang, University of Illinois Law School 2027 (Judicial Intern to Judge Deborah L. Thorne, Bankruptcy Court Northern District of Illinois). These materials have not been published and were prepared solely for this CLE.

[2] *AI Tools for Lawyers: Improving Efficiency and Productivity in Law Firms*, CLIO, https://www.clio.com/resources/ai-for-lawyers/ai-tools-for-lawyers/.

[3] Its costs to the environment near its data centers, including its impact on consumers' water and electricity bills, are only just beginning to be quantified. *See, e.g.,* Lulu Ramadan and Sydney Brownstone, *Washington Governor Orders Team to Study Data Centers' Impact on Energy Use, Job Creation and Tax Revenue*, ProPublica, Feb. 5, 2025, https://www.propublica.org/article/washington-data-centers-study-bob-ferguson.

[4] Damien Charlotin, *AI Hallucinated Cases*, Aug. 3, 2025, https://www.damiencharlotin.com/hallucinations/.

[5] *Id.*

ways, most commonly sanctions under Rule 11 of the Federal Rules of Civil Procedure. And there's another emerging issue in the use of AI, which so far has received little attention but should concern bankruptcy lawyers: the reasonableness of attorney's fees where counsel relies on AI in providing legal services.

While law-specific AI tools such as Westlaw AI (responsible for 33% of AI incidents) and Lexis+ AI (17%) performed better than general-purpose chatbots (43%), they still can lead to errors.[6] Common sources of such errors include: 1) sycophancy, a tendency to agree with the user even when there is a mistake; 2) naive retrieval, failing to find the most relevant results; 3) inapplicable authority, citing an authority that is not legally applicable; and 4) reasoning error, offering results that seem relevant but are reached through flawed or unsupported logic.[7] The possibility of error, with the widespread use of AI, indicates that it has now become imperative for attorneys, self-represented litigants, and even courts to review and verify the filings. In a particularly recent and concerning incident, a federal district court in New Jersey retracted a judgment after it was revealed that the opinion contained numerous inaccuracies, including three instances where the outcomes of the cited cases were misstated, and several instances where non-existent quotes were used.[8]

Part I of this memo evaluates the legal justifications for court-imposed sanctions for AI-related errors. Part II reviews a number of cases regarding AI hallucinations and the sanctions

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[6] Magesh et al., *Hallucination- Free? Assessing the Reliability of Leading AI Legal Research Tools*, JOURNAL OF EMPIRICAL LEGAL STUDIES, (2025).
[7] *Id.* at 15-16.
[8] Justin Henry, *Judge Scraps Opinion After Lawyer Flags Made-Up Quotes (Correct)*, Jul. 24, 2025, 5:25 pm, https://news.bloomberglaw.com/business-and-practice/judge-withdraws-pharma-opinion-after-lawyer-flags-made-up-quotes. *See also* Taylor Vance and Devna Bose, *AI ruling? Attorneys baffled by federal judge's order that lists incorrect parties, wrong quotes,* Jul. 28, 2025, https://mississippitoday.org/2025/07/28/attorneys-baffled-by-federal-court-order-with-factual-errors/.

ordered by courts, including both monetary and creative remedies, with a particular focus on why courts ruled the way they did. Lastly, Part III analyzes the legal and ethical obligations implicated in these decisions and considers potential solutions and follow-up issues that the legal profession should consider.

I.   LAW, PROBLEM, AND LAW AS SOLUTION

Courts have imposed sanctions under Rule 11 of the Federal Rules of Civil Procedure in recent cases involving AI hallucinations. Rule 11(b) establishes the cornerstone of the court's authority to sanction improper filings, including AI-hallucinated citations and quotes. It states, in relevant part:

> By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:
>
>   (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
>
>   (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law . . . .

FED. R. CIV. P. 11(b). Mere incorrect legal statements are not sanctionable; however, frivolous claims that clearly lack foundation are sanctionable. *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 460 (S.D.N.Y. 2023). Regarding misuse of AI, AI-fabricated citations or quotations, typically drawn from non-existent or non-relevant cases, clearly lack a legal foundation.

Additionally, attorneys' obligations under Rule 11(b) extend to their subsequent actions, including reaffirming to the court and advocating positions contended in their filings. *Id.* at 461. "The filing of papers "without taking the necessary care in their preparation" is an "abuse of the judicial system" that is subject to Rule 11 sanction." *Id.* at 460 (quoting *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 398 (1990)).

Rule 11(c) complements 11(b), providing that if "the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee." FED. R. CIV. P. 11(c).

In response to the increase in AI-hallucination cases, courts have used these rules flexibly, and the actual sanctions vary case-by-case. Rule 11(b) describes the prohibited conduct; Rule 11(c) requires sanctions to be proportional, only allowing courts to impose sanctions that "suffice[] to deter repetition of the conduct or comparable conduct by others similarly situated." FED. R. CIV. P. 11(c). Some assert that Rule 11 is not an effective tool to sanction attorneys who mistakenly rely on AI.[9] However, when Rule 11 does not seem like a good fit, courts may also rely on their inherent authority to manage proceedings and address attorneys' bad faith conduct, even where such conduct arises from confusion. *Mata*, 678 F. Supp. 3d at 462-63. Courts may also invoke local rules and 28 U.S.C. § 1927, which allows sanctions for attorneys who "unreasonably and vexatiously" multiply judicial proceedings. *Byoplanet Int'l, LLC v. Johansson*, No. 0:25-cv-60630-LEIBOWITZ, 2025 U.S. Dist. LEXIS 144449, at *20-28 (S.D.

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[9] Jessica R. Gunder, *Rule 11 Is No Match for Generative AI*, 27 STAN. TECH. L. REV. 308, 349 (2024).

Fla. July 15, 2025).

Though AI is novel, attorneys' behavior triggering the sanctions is not new (submitting false information, failing to review, or misleading the court). Courts' remedies are developing throughout each case, and the next Part reviews some exemplary cases to explore how different courts respond to AI use and abuse. The cases demonstrate courts' focus on the successive behavior of self-represented litigants, attorneys, and law firms rather than on the use of AI itself.

II. CASES: SANCTIONS FOR MISUSE OF AI IN COURT

In response to the increasing misuse of AI in legal filings, courts have imposed a range of sanctions, from formal warnings to monetary penalties, depending on the severity of the misconduct and the attorney's conduct after discovery. These sanctions reflect a broader effort to preserve the integrity of the judicial process and ensure compliance with ethical and procedural standards of the court. Fundamentally, sanctions are grounded in Rule 11(b) and a court's inherent authority to manage proceedings and deter similar actions by future attorneys, but the cases show how much variety there is in how and why courts conclude sanctions are appropriate in individual cases.

A. Monetary Sanctions

Monetary sanctions for the misuse of AI started with the case *Mata v. Avianca*. In *Mata*, the Southern District of New York ordered the attorneys and their law firm to pay $5,000 to the Registry of the Court, finding this sanction sufficient to deter similar actions. *Mata*, 678 F. Supp. 3d at 466. Readers of these materials will not be surprised to learn that the $5,000 sanction was not, in fact, sufficient to deter similar conduct in other attorneys. The misuse of AI continues today, and courts have differed in monetary sanctions based on who committed the AI misuse

and their subsequent behavior after being notified of AI-hallucinated cases.

a. <u>Mata v. Avianca (June 22, 2023)</u>

Mata v. Avainca is a landmark case, frequently cited in courts to explain how AI can create fake citations and non-existent case laws. Individual attorneys were sanctioned under Fed. R. Civ. P. 11(b)(2) for submitting non-existent judicial opinions with fake quotations and citations created by an artificial intelligence tool, ChatGPT, and continuing to stand by the fake opinions after judicial orders called their existence into question. *Id.* at 448. The court found that one attorney had not reviewed the cases he cited, while another attorney consciously avoided confirming that he cited opinions that do not exist. *Id.* The court found bad faith based on their conduct of conscious avoidance and the making of false and misleading statements to the court. *Id.*

The court ordered a penalty of $5,000 paid into the Registry of the Court and required the attorneys and their law firm to send letters to the client and judges, including the fake opinion. *Id.* at 466. "Under Rule 11, a court may sanction an attorney for, among other things, misrepresenting facts or making frivolous legal arguments." *Id.* The court acknowledged that mere incorrect statements are not sanctionable under Rule 11(b)(2); however, filing papers without taking the necessary care in their preparation is an abuse of the judicial system. *Id.* at 460.

b. <u>Lacey v. State Farm General Insurance (May 6, 2025)</u>

The *Lacey* case introduces the highest amount of monetary sanction that an AI-hallucinated case has resulted in. The plaintiff's attorney filed a brief containing approximately nine incorrect or fabricated citations, with at least two citing cases that do not exist at all. Additionally, several quotations attributed to the cited opinions were phony and did not

accurately represent those materials. *Lacey v. State Farm Gen. Ins. Co.*, 2025 U.S. Dist. LEXIS 90370 at *2.

The court considered the initial undisclosed use of AI and the failure to cite-check the original and revised briefs without adequate disclosure of the AI's use, it and deemed the non-monetary sanction insufficient. *Id.* at *9-10. The court emphasized that the initial undisclosed use of AI was wrong and that no reasonable attorney should use AI-generated research and writing without any attempt to verify the accuracy. *Id.* at *8.

The court directed the plaintiff's two law firms to jointly and severally pay defense counsel $31,100, along with a non-monetary sanction of striking the brief and denying initial discovery relief. *Id.* at *10. The sanctions stemmed from Rule 11(b), in that an attorney "certifies that to the best of that person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, legal contentions are warranted by existing law." *Id.* at *6. The court also stated that under Rule 11(c)(3-4) and Rule 37(a)(5)(B), a court may impose a sanction "to deter repetition of the conduct" and prohibit a party from "supporting or opposing designated claims or defenses" or "striking pleadings in whole or in part." *Id.* at *6-7. Finally, the court emphasized that a court has inherent authority to sanction a party or attorney acting in "bad faith" or willfully abusing judicial processes. *Id.* at *7.

   c.   Leonardo Crespo v. Tesla, Inc. et al. (June 30, 2025)

Leonardo shows that not only lawyers but also a self-represented litigant could be monetarily sanctioned. It also shows that the court has inherent power to sanction the misuse of AI even when Rule 11 is inapplicable. The plaintiff submitted discovery motions containing fabricated case citations and a false quote. *Crespo v. Tesla, Inc.*, No. 25-cv-80129, 2025 U.S. Dist. LEXIS 126543, at *2 (S.D. Fla. June 30, 2025). The court considered two main facts: first,

while the plaintiff apologized to the court for wasting its time, they did not do so to the defendant's counsel; and second, the plaintiff filed numerous discovery motions in this case, many of which lacked any merit. *Id.* at * 3.

The court required the self-represented litigant to apologize in writing to the defendant's counsel for the submission of fake, hallucinated cases, and to pay reasonable attorney's fees of $921, incurred in researching the fake citations and filing the Motion to Strike. *Id.* at *12. "[T]he Court has inherent authority to sanction the misuse of AI when it affects the Court's docket, case disposition, and ruling." *Id.* at *3 (quoting *Versant Funding LLC v. Teras Breakbulk Ocean Navigation Enterprises, LLC*, No. 17-CV-81140, 2025 WL 1440351, at *3 (S.D. Fla. May 20, 2025) (Matthewman, J.)).

B. Creative Sanctions

Sometimes it isn't about the money. In addition to monetary sanctions, courts have imposed non-monetary sanctions to deter repetition. Courts required offending attorneys to attend educational courses on legal and ethical obligations of using AI, sending letters to clients and relevant counsel with copies of the sanctions order, or reporting their conduct to judges and the bar association. The addition of these creative sanctions indicates that courts are focusing on educating attorneys and deterring systemic problems, not just penalizing a single incident.

   a. <u>In re Marla C. Martin (July 18, 2025)</u>

The debtor's attorney cited four non-existent cases for a proposition of law; none of the quotations relied upon were actual statements written by any court, and they failed to review them before filing. *In re Martin*, No. 24 B 13368, 2025 Bankr. LEXIS 1719, at *10-11 (Bankr. N.D. Ill. July 18, 2025). The attorney and his firm asked not to be sanctioned, given that they: 1) admitted their misconduct and promised that it would never happen again, 2) withdrew

application for compensation for this case, and 3) watched an online CLE video regarding "ethical and appropriate use of AI in legal practice." *Id.* at *14. Despite the volunteer penalties the firm suggested and carried out, the court found them insufficient. *Id.* at *18.

The court did not accept the attorney's claim that he was unaware AI could create fake citations, given that AI has been a hot topic since 2023. *Id.* at *18. Federal Rule of Bankruptcy Procedure 9011, essentially identical to Rule 11, requires attorneys to read and thereby confirm the existence and validity of the legal authorities on which they rely. *Id.* at *13. The court emphasized that practicing lawyers should be aware of this risk, including the potential for hallucinated citations. *Id.* at *19. The court ordered the attorneys and their firm to pay a joint-and-several sanction of $5,500, paid to the Clerk of the Bankruptcy Court. *Id.* at *2. The court also required the attorney and a senior attorney from the firm to attend a conference session on AI. *Id.*

b. Jackson v. Auto-Owners Insurance Company (July 11, 2025)

In *Jackson*, the court mitigated its sanction considering the attorney's subsequent behavior regarding the use of AI. Defendant's counsel pointed out that nine of the cases that the plaintiff cited simply do not exist. *Jackson v. Auto-Owners Ins. Co.*, No. 7:24-cv-136-WLS, 2025 U.S. Dist. LEXIS 133070, at *2 (M.D. Ga. July 11, 2025). However, the attorney did not attempt to correct or address the incorrect citations for a month. *Id.* at *3. The attorney later admitted that the pleading was generated using AI, but argued that the document was inadvertently filed and was only intended to be used as a framework for the plaintiff's response. *Id.* at *4.

In making a decision whether sanctions should be imposed, the court considered the attorney's eventual explanation and apology, implementation of new procedures to prevent similar errors, and the absence of bad faith. *Id.* at *11. The court, under Rule 11(b)(2), directed

the attorney to pay $1,000 into the Registry of the Clerk of the Court, complete a CLE course on AI, pay defendant's counsel a reasonable attorney's fees and costs related to researching and replying to the improper filing, and provide a copy of the order to his client. *Id.* at *13.

c. Dastou v. Holmes (June 25, 2025)

Dastou helpfully reviews some of the factors a state court considers when it determines the severity of its sanction. Defendant's counsel cited non-existent cases, quoted words not contained in the opinion, and misstated holdings of real cases. *Dastou v. Holmes*, No. 2381CV02212, 2025 Mass. Super. LEXIS 211, at *1 (June 25, 2025). Under Mass. R. Prof. Conduct 1.1 & 3.3, lawyers have a duty to provide competent representation of their clients and demonstrate candor towards the tribunal, and filing documents without thoroughly reviewing violates these professional obligations. *Id.* at *2.

The defendant's counsel was enjoined from billing the defendant for time spent preparing motions and was required to complete MCLE's online program, "How to Draft Civil Jury Instructions When a Model One Does Not Exist . . . ." *Id.* at *6. The court considered mitigating factors, including that this was the attorney's first time using generative AI, and she was not aware of the fact that generative AI could alter her motions beyond spelling, grammar, and formatting. *Id.* at *3. The court also considered the attorney's sincere apology to the court and the fact that the motions did not have an impact on her client's outcome at the trial. *Id.* at *5.

d. Johnson v. Dunn (July 23, 2025)

Johnson is another case that shows that even when Rule 11 sanctions are inapplicable, a court has inherent authority to sanction the misuse of AI. Defendant's attorney cited five problematic citations across two discovery motions, generated by ChatGPT, which violated his own firm's policy on AI use. *Johnson v. Dunn*, No. 2:21-cv-1701-AMM, 2025 U.S. Dist. LEXIS

141805, at *6, 16 (N.D. Ala. July 23, 2025). Two other attorneys from the firm signed the motions without reviewing the citations. *Id.* at *13, 22.

Rule 11 sanctions were inapplicable in this case, as the motions at issue were discovery motions, explicitly excluded from Rule 11 under Rule 11(d). *Id.* at *35. However, the court emphasized that it may rely on its inherent power to sanction attorneys for misconduct tantamount to bad faith. *Id.* at *38. The court considered the fact that this kind of AI misuse could impose escalating, undue costs on litigants unless it is promptly discovered, and that effective preventive measures are needed. *Id.* at *57. Additionally, considering similar cases across the country, the court found that a fine and public reprimand were insufficient. *Id.* at *59.

The court publicly reprimanded attorneys for making false statements to the court, ordered publication of its order, disqualified the attorneys from the case, and referred the matter to the Alabama State Bar and other applicable licensing authorities. *Id.* at *3-4.

e. ByoPlanet International v. Johansson and Gilstrap (July 15, 2025)

ByoPlanet International reiterates that attorneys' actions after becoming aware of AI misuse could be considered bad faith, leading to court sanctions. An attorney repeatedly used AI-generated cases and quotations without verifying their accuracy in his filings related to eight cases. *Byoplanet Int'l, LLC*, 2025 U.S. Dist. LEXIS 144449, at *6. The attorney continued to use AI in at least seven more filings, despite being aware that the AI was creating hallucinated cases and quotations, and he relied on a paralegal to draft filings. *Id.* at *21.

The court dismissed the cases without prejudice and without leave to amend, and it ordered the attorney to pay attorney's fees for Defendant's counsel for all its time spent responding to filings that include AI-fabricated cases and quotations. *Id.* at *29. Additionally, the attorney was required to attach a copy of the Court's order to any cases he files in the Southern

District of Florida within the next two years and was referred to the Florida Bar. *Id.* at *29-30. The sanction was based on Rule 11 and the Court's inherent authority (finding that the attorney engaged in bad faith conduct), the Local Rules of the Southern District of Florida (finding that the attorney did not act with reasonable diligence and engaged in misrepresentation to the Court), and 28 U.S.C. § 1927 (indicating that the attorney engaged in unreasonable and vexatious conduct that multiplied the proceedings). *Id.* at *20-28.

III.   **RECOMMENDATIONS**

In the current legal environment, avoiding the use of generative AI or other AI-based tools has become increasingly difficult as they are becoming built-in to many existing services. It is also undeniable that they provide considerable convenience and speed. But from an economic standpoint, the use of AI also raises questions about the reasonable legal fee under 11 U.S.C. § 330. Section 330 of the Bankruptcy Code permits compensation for reasonable, necessary, and skillfully rendered services. 11 U.S.C. § 330. While courts have yet to update the standards for "reasonableness" in light of technological innovation, some suggest that attorneys' hesitation in using AI for fear of a lower fee may undermine the reasonableness analysis of § 330.[10] At the same time, attorneys must also consider whether their use of AI supports a reasonable fee, as inefficiencies or misuse of AI could make billing excessive or inappropriate. *Byoplanet Int'l, LLC*, 2025 U.S. Dist. LEXIS 144449, at *29.

Despite these concerns, the time has come to adapt to and embrace the use of AI, recognizing that it must be accompanied by professional responsibility and that attorneys must

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[10] Nancy B. Rapoport & Joseph R. Tiano, Jr, *Reimagining "Reasonableness" Under Section 330(a) in a World of Technology, Data, and Artificial Intelligence*, 97 AM. BANKR. L. J. 254, 284 (2023)

not rely on the tools so much that they neglect their duties. If an attorney or law firm chooses to use AI, they should clearly disclose this use to the court and opposing counsel. *See Matter of Weber*, 220 N.Y.S.3d 620, 635 (Sur. Ct.) As the surveyed cases show, disclosure is not only a matter of professional courtesy but also a practical step to mitigate the unnecessary burdens placed on others, who may otherwise need to investigate or untangle fictitious legal authorities, wasting time and resources.

Legal trainings and regulations will also be necessary to teach current and future lawyers how to utilize AI correctly and mitigate the risks of AI hallucination. Law schools are adding more courses involving "law and technology," and the American Bar Association now requires law schools to provide experiential learning on AI.[11] Law firms should also actively create an AI policy acknowledging the acceptable use of AI within the firm. Firms' policies should generally cover topics such as AI ethics, guidance for human oversight, and data protection and confidentiality.[12] Although punishment within the firm may not be sufficient to set aside a court's sanction, it will help firms and attorneys to employ the benefits of AI while mitigating the risks.

Most importantly, attorneys must review and verify all AI-generated outputs. Attorneys must be aware by now that AI-generated case law or quotations should never be accepted at face value. *Dastou*, 2025 Mass. Super. LEXIS 211, at *1. Every citation should be manually confirmed, and every quote should be verified for accuracy and context. This due diligence is a professional obligation consistent with Rule 11(b) and Model Rule of Professional Conduct 3.3. There are separate AI tools that could assist the attorneys' verification process in citation, such as

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[11] *Id.* at 303-04.
[12] *Law Firm AI Policy Template, Tips & Examples*, CLIO, https://www.clio.com/resources/ai-for-lawyers/law-firm-ai-policy/.

CiteCheck AI from LawDroid and the Quick Check function from Westlaw. However, attorneys must ask themselves if the use of AI is truly making their practice more effective and productive. In many cases, once proper cite-checking is included in the review of AI-generated content, the time saved may disappear. As the case above shows, it may even take longer than conventional legal research if the AI-hallucinated citations or quotations are later discovered. *See Crespo*, 2025 U.S. Dist. LEXIS 126543, at *1.

Ultimately, AI should not be seen as a shortcut to replace professional judgment or legal expertise. The responsible use of AI must be based on human oversight, ethical awareness, and a dedication to quality, ensuring that legal filings uphold the integrity and trust that the judicial system relies on. Courts, bar associations, and legal institutions must continue to establish standards, demand transparency, and ensure that AI adoption in law promotes justice rather than diminishes it.

IV.   CONCLUSION

The integration of generative AI into legal practice is no longer a future possibility; it is a present reality. As a growing number of court decisions illustrate the misuse of AI and its impact on the judicial process, the legal profession must respond with clarity. Attorneys are not relieved of their professional duties because of easier drafting and faster research. Instead, the use of AI emphasizes the duty to review all content, verify legal authorities, and disclose the use of AI when appropriate. Courts have begun setting expectations, and lawyers must adapt by developing internal safeguards and embracing continuing legal education focused on emerging technologies.