

# A Simple Way Courts Can Help Attys Avoid AI Hallucinations

By **John Siffert, Terrence Connors and Jeannie Rubin** (August 11, 2025)

In recent years, several federal courts of appeals have implemented automated quality control programs that review briefs for compliance with the Federal Rules of Appellate Procedure and applicable local rules.

These programs identify potential deviations from the rules and provide litigants an opportunity to correct errors prior to formal filing. The U.S. Court of Appeals for the Eighth Circuit, in August 2022,[1] and the U.S. Court of Appeals for the Sixth Circuit, in May of this year,[2] each announced brief quality control programs based on a program originally developed by the U.S. Court of Appeals for the Fifth Circuit.

Courts have implemented these brief QC online programs with the worthy goal of reducing the number of deficiency notices issued by the courts and the substantial attendant burdens on the clerk's offices and counsel.

Now, there is an opportunity for courts to expand the coverage of these brief QC programs in ways that will benefit both the bench and the bar.

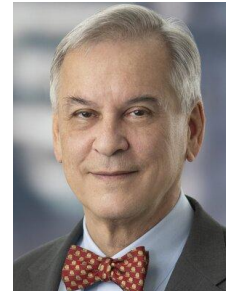
The exploding use of generative artificial intelligence in the legal profession has resulted in a wave of attorney filings that erroneously include citations to nonexistent cases that were hallucinated by the AI programs. In most, if not all, of these cases, the lawyers' citation of hallucinated cases resulted from their improvident reliance on AI and failure to confirm that the fictitious cases existed. However reckless, the offending lawyers did not knowingly attempt to palm off hallucinated cases.[3]

Clearly, counsel are responsible for making sure that the legal authority cited in court submissions is real and for accurately representing the propositions for which they are cited. However, it is equally clear that some lawyers have not exercised the care required, and that their failures require judges to expend time and effort grappling with whether and how to sanction lawyers who do not discharge their responsibility.

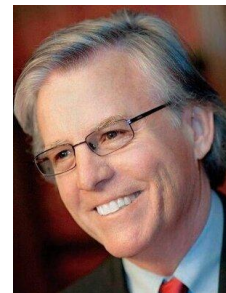
These trends suggest that it may be beneficial for brief QC programs to be expanded to identify hallucinated cases, permitting counsel to correct their mistakes and sparing courts the burden of imposing sanctions.

## AI Use by Lawyers

AI use among lawyers for legal research, document review and drafting, among other tasks, has increased dramatically in recent years and is rapidly becoming pervasive. Legal-specific AI products are marketed as having the potential to perform tasks in just seconds that would have consumed hours — or even days or weeks — of lawyer or paralegal time. Lawyers and clients cannot ignore such potential gains in efficiency and productivity.



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However, several high-profile cases in the last few years illustrate the pitfalls of lawyers' use of generative AI technology without fully understanding its limits and risks.[4] As noted, in several cases, lawyers have unwittingly submitted briefs including citations and quotations from cases that did not exist and were hallucinated by AI programs.[5]

Such failures can be potentially devastating to the lawyers involved, who may face sanctions and disciplinary action,[6] in addition to embarrassment and potential loss of business.[7] Citations to nonexistent cases also can derail litigation and negatively affect the parties.[8]

Because the judiciary views lawyers as officers of the court, it is appropriate for courts to help lawyers avoid the pitfalls that accompany the use of AI.[9] This is particularly so because — while large and well-resourced law firms have been among those sanctioned for citing fictitious cases — practitioners with limited resources may be at greater risk of such errors.

Many solo or small firm practitioners lack the resources to pay for — or help needed to effectively use — Westlaw, LexisNexis or other online subscription legal services, and instead may rely on free search engines such as Google and, increasingly, ChatGPT, for research.

These circumstances only increase the risk of a citation to a nonexistent case, especially if the lawyer lacks access to online research programs to confirm that the case exists.

This is not to suggest that courts are responsible for lawyers' mistakes. Under judicial rules, the lawyer has a duty and responsibility to cite existing authority and accurately argue the authority's meaning.[10]

In fact, some courts have issued rules or orders specifically warning litigants against reliance on AI without verification,[11] as have numerous bar associations.[12] And some courts have even promulgated policies and procedures requiring disclosure of what generative AI tools they have used.[13]

Nonetheless, it is in the judiciary's interest — as much as lawyers' — for the court to facilitate lawyers' compliance with applicable rules, especially when help can be provided without expending significant judicial resources.

That is what the Sixth and Eighth Circuits did by implementing their brief QC programs to help lawyers comply with the Federal Rules of Appellate Procedure and local rules. Extending that program to flag potentially fictitious cases should not be difficult, because the federal judiciary has access to and already uses technology that can flag potential hallucinations.[14]

### **The Burden of AI Errors on Courts**

Until now, the citation of a nonexistent case has been a distraction for judges. Instead of focusing on the merits of the matter in front of them, judges have been required to decide whether and how to impose sanctions.

Among other things, courts must review submissions, take testimony, and hear arguments to assess the lawyer's conduct and knowledge in connection with the citation of fictitious authority and any mitigating circumstances.

Courts consider factors including, among other things, the lawyer's lack of financial resources to purchase an online research subscription, acceptance of responsibility, reliance on other counsel to do the research, and attempts to cover up their own negligence.

In addition, courts need to determine the nature of the sanction: whether a fine is appropriate, whether to strike a submission, or whether to require the lawyer to notify other judges and clients of their mistake.[15] In some cases, grievance committees or disciplinary authorities may also be tasked with finding facts and recommending appropriate discipline.[16]

### **The Potential of Brief QC for Hallucinated Cases**

The Sixth and Eighth Circuits have recognized the propriety of helping guide lawyers who try to comply with the logistics of filing briefs on appeal. Their brief QC programs are intended to identify and enable lawyers to correct formatting and other common errors.

The logic is simple: With automated quality control processes, the court can catch effortlessly mistakes that lawyers can correct if such mistakes are pointed out. And the benefits of the programs accrue both to counsel and to the courts.[17]

The problem of mistakenly citing hallucinated cases poses much more serious risks than formatting errors do — to the lawyers, the parties, the courts and, arguably, the justice system as a whole.[18] It is also easily corrected once the lawyer is made aware.

Courts have access to legal research programs, such as Westlaw, that can quickly review a brief, check legal citations and identify potentially hallucinated cases. Incorporating this technology into a brief QC program would allow lawyers to identify potentially hallucinated cases cited in a brief and remove them prior to formal submission of the brief.

Including this function in a brief QC program will not remove the burden from counsel to comply with their legal and ethical duties, including the duties of competence and candor, in connection with their use of AI programs. However, in an evolving technological world, such a brief QC program could be beneficial to the courts as well as the lawyers who appear as officers of the court — not to mention their clients — in assuring the efficient and fair administration of justice.

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[1] U.S. Court of Appeals for the Eight Circuit, Announcement of New BriefQC Functionality

in CM/ECF (Aug. 8, 2022) ("Eighth Circuit Announcement"), <https://www.ca8.uscourts.gov/news/announcement-new-briefqc-functionality-cmecf>.

[2] U.S. Court of Appeals for the Sixth Circuit, Announcement of New Brief QC Functionality in CM/ECF (May 21, 2025) ("SixthCircuitAnnouncement"), [https://www.ca6.uscourts.gov/sites/ca6/files/6CA%20Announcement%20of%20Brief%20QC%20Functionality%20%28002%29\\_0.pdf](https://www.ca6.uscourts.gov/sites/ca6/files/6CA%20Announcement%20of%20Brief%20QC%20Functionality%20%28002%29_0.pdf).

[3] It should be noted, however, that in some cases, courts have found that the lawyers made subsequent misrepresentations to the court and/or otherwise acted in bad faith.

[4] See Tracking Federal Judge Orders on Artificial Intelligence, Law360, <https://www.law360.com/pulse/ai-tracker>.

[5] Even judges themselves may not be immune to the perils of AI. A district court recently withdrew an opinion after counsel in the case raised concerns about several material errors in the opinion, including fictitious quotations. Although the court has not commented on or explained the errors, many reporters have noted the similarities of the errors to those made by lawyers using AI. See, e.g., Justin Henry, Judge Scraps Opinion After Lawyer Flags Made-Up Quotes(Correct), Bloomberg Law (Updated Jul. 24, 2025), <https://news.bloomberglaw.com/business-and-practice/judge-withdraws-pharma-opinion-after-lawyer-flags-made-up-quotes>.

[6] See, e.g., *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 464-66 (S.D.N.Y. 2023) (finding bad faith and imposing \$5,000 penalty on counsel who cited fictitious cases); *Wadsworth v. Walmart Inc.*, 348 F.R.D. 489, 499 (D. Wyo. 2025) (imposing penalty of \$3,000 on lawyer who drafted motion papers including fictitious cases, \$1,000 penalty on lawyer who signed papers, and \$1,000 penalty on local counsel who signed); *United States v. Hayes*, 763 F. Supp. 3d 1054, 10772 (E.D. Cal. 2025), reconsideration denied, No. 2:24-CR-0280-DJC, 2025 WL 1067323 (E.D. Cal. Apr. 9, 2025) (collecting cases issuing sanctions against attorneys and pro se parties for submitting fictitious case citations, fictitious quotations, and related misrepresentations).

[7] In a recent case, a federal judge in Alabama concluded that the fines and reprimands imposed to date have not succeeded in deterring citation of fictitious cases. In addition to those elements (and others), the court disqualified counsel who cited fictitious cases from further participation in the case and required them to provide a copy of the sanctions order to their clients, opposing counsel, and the presiding judge in every state or federal case in which they are counsel of record and to every lawyer in their law firm. *Johnson v. Dunn*, Case No. 2:21 Civ. 1701 (N.D. Ala.) (Manasco, J.), Jul. 23, 2025 Sanctions Order, Dkt. 204, at 50.

[8] See, e.g., *Grant v. City of Long Beach*, 96 F.4th 1255, 1256 (9th Cir. 2024) (striking opening brief and dismissing appeal where brief was "replete with misrepresentations and fabricated case law" and included "only a handful of accurate citations," which "were not accompanied by coherent explanations of how they supported Appellants' claims"); *Mata*, 678 F. Supp. 3d at 448 (noting that where counsel relies upon fictitious cases, the "opposing party wastes time and money in exposing the deception," and the "client may be deprived of arguments based on authentic judicial precedents").

[9] See, e.g., *Supreme Ct. of New Hampshire v. Piper*, 470 U.S. 274, 282-83, 105 S. Ct.

1272, 1273, 84 L. Ed. 2d 205 (1985) (recognizing that "a lawyer is 'an officer of the court'").

[10] See Fed. R. Civ. P. 11(b). See also Grant, 96 F.4th at 1257 (noting that appellants' citation of only a handful of accurate citations, unaccompanied by coherent explanations, violated Federal Rule of Appellate Procedure 28(a)(8)(A)).

[11] See, e.g., S.D.N.Y. Bankruptcy Court Local Rule 9011-1(d) ("Litigants remain responsible for the accuracy and quality of legal documents produced with the assistance of technology (e.g., ChatGPT, Google Bard, Bing AI Chat, or generative artificial intelligence services). Litigants are cautioned that certain technologies may produce factually or legally inaccurate content. If a litigant chooses to employ technology, the litiga[nt] continues to be bound by the requirements of Fed. R. Bankr. P. 9011 and must review and verify any computer-generated content to ensure it complies with all such standards.").

[12] See, e.g., N.Y.C. Bar Ass'n Comm. On Prof. Ethics, Formal Opin. 2024-5 (Aug. 7, 2024); ABA Standing Comm. on Ethics and Prof. Resp., Formal Opin. 512 (July 29, 2024).

[13] See Sarah Martinson, Judges' AI Orders Keep Trickling In As Fake Citations Persist, Law360, July 21, 2025.

[14] See Thomson Reuters, Westlaw Precision with CoCounsel, Practical Law, and CoCounsel to be provided to US Federal Courts as the essential information provider for the Federal Judiciary, (Apr. 9, 2025), <https://www.thomsonreuters.com/en/press-releases/2025/april/westlaw-precision-with-cocounsel-practical-law-and-cocounsel-to-be-provided-to-us-federal-courts-as-the-essential-information-provider-for-the-federal-judiciary>.

[15] See, e.g., United States v. Hayes, 763 F. Supp. 3d 1054, 1071 (collecting cases); Johnson v. Dunn, Case No. 2:21 Civ. 1701 (N.D. Ala.) (Manasco, J.), Jul. 23, 2025 Sanctions Order, Dkt. 204 at 50 (disqualified counsel who cited fictitious cases from further participation in the case and required them to provide a copy of the sanctions order to their clients, opposing counsel, and the presiding judge in every state or federal case in which they are counsel of record and to every lawyer in their law firm).

[16] See, e.g., Park v. Kim, 91 F.4th 610, 616 (2d Cir. 2024) (referring attorney who cited fictitious cases to the Court's Grievance Panel pursuant to Local Rule 46.2 "for further investigation, and for consideration of a referral to the Committee on Admissions and Grievances").

[17] See Eighth Circuit Announcement (noting that the program permits correction of deficiencies "before counsel incur the expense of printing and transmitting the paper copies of the brief" and hopefully will reduce the number of Deficiency Notices, which create "a substantial amount of work for the clerk's office and counsel"); Sixth Circuit Announcement (noting that the program was intended to mitigate the issuance in the preceding year over 700 deficiency notices, which "created a considerable administrative burden for the Clerk's Office and practitioners").

[18] See Mata, 678 F. Supp. 3d at 448–49 (noting that citation of fictitious cases "promotes cynicism about the legal profession and the American judicial system" and that "a future litigant may be tempted to defy a judicial ruling by disingenuously claiming doubt about its authenticity").