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**District of Columbia
Court of Appeals**

No. 24-CV-1099

BARRY DOUGLAS,

Appellant,

v.

2023-CAB-005422

DEUTSCHE BANK NATIONAL
TRUST COMPANY, AS TRUSTEE
FOR SOUNDVIEW HOME LOAN
TRUST 2006-OPT3, ASSET
BACKED CERTIFICATES,
SERIES 2006-OPT3,

Appellee.

BEFORE: Easterly and Shanker, Associate Judges, and Glickman, Senior Judge.

PUBLISHED ORDER
(FILED—September 3, 2026)

On consideration of the responses to this court’s Order to Show Cause, it is

ORDERED that appellee’s brief is stricken.

PER CURIAM

PER CURIAM: What began as a routine appeal has become a cautionary tale about the misuse of artificial intelligence (AI) and its consequences for attorneys, their clients, and the courts.

This is an appeal from a Superior Court order granting appellee Deutsche Bank National Trust Company's motion for judgment on the pleadings in a judicial foreclosure action under D.C. Code § 42-816 against appellant Barry Douglas. Deutsche Bank is represented by the law firm McCabe, Weisberg, & Conway, LLC ("the firm"); Mr. Douglas is self-represented.

Both parties filed briefs and this appeal was submitted to the court for decision without argument on March 11, 2026. While reviewing appellee's brief, the court discovered that it contained multiple citations to cases that the court was unable to locate or confirm as legitimate. On June 22, we issued an order requiring appellee to show cause "why the court should not strike its brief for citing nonexistent cases that are possibly the product of artificial intelligence (AI) hallucinations." The next day, one of appellee's attorneys at the firm, Loishirl W. Hall, filed a response in her own capacity.¹ Ms. Hall confirmed that four of the brief's cited authorities did not exist.² She acknowledged that these citations were "not legitimate legal authority" and "should not have appeared in a brief filed with this Court."

Ms. Hall explained that she had "used Google's generative artificial intelligence search tool to assist in locating case authority" and did not verify the existence or accuracy of those citations before filing the brief. She recognized that she had a duty to verify the accuracy of every authority submitted to this court and apologized for her failure to do so. As part of this *mea culpa*, Ms. Hall assured the court that she had taken the remedial measure of verifying that the remaining citations in the brief were legitimate authority and pledged that, going forward (presumably in her representation of other clients), she would not rely on any AI tool "for legal research without confirming each authority" or file anything that includes

¹ Ms. Hall has informed the court that she no longer works at the firm and thus no longer represents appellee, although appellee has not moved for her withdrawal from the case.

² The fake case names were *Abadie v. District of Columbia*, *Cason v. Nat'l Consumer Co-op Bank*, *Osborne v. District of Columbia*, and *Woods v. United States*. To avoid memorializing the erroneous citations, we have chosen not to set forth the full (fake) citations here.

citations she has not independently verified. Ms. Hall represented that she “deeply regrets this error and the burden it has placed on the [c]ourt and all parties.”

The firm subsequently filed a response for appellee. The firm stated that it was “unaware” of Ms. Hall’s actions when the brief was filed. Although two other attorneys—Jianna Jaques Santos and Michael T. Cantrell—were listed on the brief with Ms. Hall, no information was provided about their review of appellee’s brief before filing.³ Instead, the firm represented that it “only became *fully* aware of the situation” (emphasis added) once the court issued its show-cause order and Ms. Hall responded. The implication—that the firm did nothing after the court issued its order to become “*fully* aware” on its own that it had included fake case citations in its brief—is surprising, to say the least. The firm then shifted much of the blame to Ms. Hall, who had stated in her filing that she had never filed an appellate brief before this one. The firm represented that it prohibits employees from using AI in the “drafting of any legal correspondence or documents” and that failing to verify citations “obtained in any manner, which includes the use of artificial intelligence, is a violation of firm policy” of which all employees are made aware during initial and annual employment trainings. The firm did not attach the policy for this court’s review. Highlighting that “these actions were taken by a former employee” of the firm, and without detailing what actions the firm had taken to supervise or review Ms. Hall’s work, the firm acknowledged only that “further review should have been undertaken.” The firm then assured the court that it was “genuinely remorseful for this failure” and that it intends to take appropriate measures to ensure that this “type of situation” never occurs again.

In replying to Ms. Hall’s response, Mr. Douglas asked the court to, among other things, deny Deutsche Bank an opportunity to file a corrected brief. He registered incredulity at the fact that “a competent law firm representing one of the largest financial institution[s] in the world could make” such a mistake. Mr. Douglas did not file a separate reply to appellee’s response to the show-cause order.

As we discuss below, we echo Mr. Douglas’s incredulity.

³ Another firm attorney signed the firm’s response to the order to show cause, although Ms. Santos was listed in the signature block. In the meantime, the firm filed a motion to withdraw Mr. Cantrell, representing that he had retired from the practice of law.

I. The Known Risks of Using AI in the Practice of Law

The use of AI is now so pervasive in legal practice that attorneys can no longer credibly claim ignorance of its pitfalls, including its propensity to hallucinate legal authority. See *Fletcher v. Experian Info. Sols., Inc.*, 168 F.4th 231, 235 (5th Cir. 2026) (“If it were ever an excuse to plead ignorance of the risks of using generative AI to draft a brief without verifying its output, it is certainly no longer so.”). The first high-profile incident of AI-fabricated case citations in the federal system occurred in the Southern District of New York over three years ago. Larry Neumeister, *Lawyers blame ChatGPT for tricking them into citing bogus case law*, AP News (June 8, 2023), <https://apnews.com/article/artificial-intelligence-chatgpt-courts-e15023d7e6fdf4f099aa122437dbb59b>; <https://perma.cc/ZN2N-TSM9>. In the years since, the risks of blindly relying on AI in the practice of law have been well documented. See generally A.B.A. Comm. on Ethics & Prof. Resp., Formal Opinion 512: Generative Artificial Intelligence Tools (July 29, 2024) https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-512.pdf; <https://perma.cc/3KHL-CRM8> (gathering authorities).

AI is not going anywhere. While its use may once have been the exception in the practice of law, it is quickly becoming the norm as even traditional legal research services like Westlaw and LexisNexis have adopted the technology, offering generative AI features as part of their software. *In re Nwaubani*, No. 25-9517, 2026 WL 687194, at *3 (4th Cir. Mar. 11, 2026). This shift in the practice of law, in and of itself, is not inherently problematic. After all, “AI is a powerful tool that, when used prudently, provides immense benefits.” *Ferris v. Amazon.com Servs.*, 778 F. Supp. 3d 879, 881 (N.D. Miss. 2025). But considering “today’s rapidly evolving [AI] landscape,” it is critical that attorneys be “clear eyed about [the] technology’s potential pitfalls.” *United States v. Farris*, 171 F.4th 920, 922-23 (6th Cir. 2026) (citing Model Rules of Prof. Conduct R. 1.1 cmt. 8 (ABA 2012) (attorneys’ duty of competence requires keeping up with “changes in the law and its practice” including “relevant technology”)).

Attorneys cannot reasonably claim to have been left in the dark when it comes to their ethical obligations regarding the use of generative AI. Both the ABA and local jurisdictions, including the District of Columbia, have issued detailed guidance concerning the appropriate use of AI, emphasizing attorneys’ responsibility to continue to abide by their ethical duties. See A.B.A. Comm. on Ethics & Prof. Resp., Formal Op. 512; A.B.A. Task Force on L. & A.I., *Addressing the Legal Challenges of AI: Year 2 Report on the Impact of AI on the Practice of Law*, 47-48 (2025),

<https://www.americanbar.org/content/dam/aba/administrative/center-for-innovation/ai-task-force/2025-ai-task-force-year2-report.pdf>;
<https://perma.cc/HA44-LRM6> (compiling state bar ethics rules and guidance on generative artificial intelligence). Relevant steps attorneys should take in accordance with their ethical obligations include “reviewing and validating content produced by [AI]; considering whether to disclose the use of [AI] to clients or obtain informed consent; safeguarding confidential client information and preserving attorney-client privilege; implementing firm-wide policies governing the use of [AI]; adhering to ethical billing practices when using [AI] tools; and keeping current with jurisdiction-specific guidelines.” *Farris*, 171 F.4th at 923; *see also* A.B.A. Comm. on Ethics & Pro. Resp., Formal Op. 512 (2024).

II. Attorneys’ Ethical Obligations to Use AI Responsibly

Our intent is not to discourage attorneys from using AI—indeed, we have reached a point where attorneys eschew at least an understanding, if not use, of AI at their own peril—but to emphasize the importance of doing so discerningly and responsibly. To put a finer point on it, “the use of artificial intelligence must be accompanied by the application of actual intelligence in its execution.” *Amarsingh v. Frontier Airlines, Inc.*, No. 24-1391, 2026 WL 352016, at *6 (11th Cir. Feb. 9, 2026) (citation modified).

We turn now to the issue at hand: AI hallucinations. The citation of nonexistent cases has become the “frequent posterchild” for AI mishaps. *In re Nwaubani*, 2026 WL 687194, at *3 (collecting cases). While the way these mishaps come about is relatively new (although, as we have noted, not new enough at this point to serve as an excuse), the ethical duties they implicate are not: attorneys have *always* been responsible for “ensur[ing] that the legal propositions and authority” they rely on are “trustworthy.” *ByoPlanet Int’l, LLC v. Johansson*, 792 F. Supp. 3d 1341, 1347 (S.D. Fla. 2025); *see Malkeet Lnu v. Blanche*, 177 F.4th 1014, 1025 (9th Cir. 2026) (“Attorneys do not need cutting-edge technology to fabricate citations and make demonstrably false and unsupported statements. And the ethical and procedural rules we apply today do not turn on the source of such error.”). This obligation reflects the “duties of competence and candor that apply no matter the tools attorneys use.” *Farris*, 171 F.4th at 923 (citing *McCoy v. Ct. of Appeals of Wis., Dist. 1*, 486 U.S. 429, 440-41 (1988), and *Fletcher*, 168 F.4th at 239-40); *see Akerlund v. Atlas Air, Inc.*, 181 F.4th 1200, 1208 (11th Cir. 2026) (“It goes without saying that completely outsourcing one’s legal work to [AI] software is not competent. Doing so is a dramatic violation of the client’s interests.” (internal citation omitted)). Blind reliance on AI-generated citations and arguments runs

directly counter to this court’s expectation that counsel confirm the accuracy of their submissions, *see Tenants of 710 Jefferson St., N.W. v. D.C. Rental Housing Comm’n*, 123 A.3d 170, 191 (D.C. 2015), and, while we do not purport to decide the matter here as we do not have a bar discipline matter before us, potentially implicates long-standing rules of professional conduct. *See Malkeet Lnu*, 177 F.4th at 1025 (“Filing briefs with hallucinated fabrications and inaccuracies violates procedural and ethical rules. Lawyers using generative AI must thus be aware of the tendency of generative AI to make these mistakes and guard against them.” (citation modified)).

The harm inflicted by the submission of hallucinated authority cannot be overstated. We expect attorneys, as officers of the court, to submit briefing that “give[s] us the best view of what the law is, and how that law supports their clients”; indeed, we rely on that briefing to help us reach the correct conclusion. *Akerlund*, 181 F.4th at 1208. A brief containing fake citations masquerades as useful advocacy, but it misdirects the court, burns time and resources, and sows confusion while the court gets to the bottom of the matter. By then the damage is done: the court is left without real guidance from one side of the adversarial equation and the client is left without a credible advocate. *See generally Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 448-49 (S.D.N.Y. 2023).

At bottom, our system of justice depends on advocates’ candor to the court. Failures like those here undermine the administration of justice. Had *any* of the firm’s attorneys reviewed the brief prior to filing, they would have discovered the errors. Their failure to do so is highly concerning. *See Malkeet Lnu*, 177 F.4th at 1028 (“It is no excuse that Sethi entrusted substantive cite checking to subordinates, and it is no excuse that Sethi purportedly did not know his subordinates had used generative AI.”); *In re Hopkins*, 677 A.2d 55, 61 (D.C. 1996) (holding that conduct is improper where an attorney “either take[s] improper action or fail[s] to take action when, under the circumstances, he or she should act”); *Kideckel v. Foreign Nation of Can.*, No. 1:24-cv-02907, 2026 WL 125208, at *3 (D.D.C. Jan. 16, 2026) (“Obviously, it ‘is not acceptable for parties to submit filings to the Court containing citations to legal authority that does not exist, whether drafted with the assistance of artificial intelligence or not.’” (quoting *Williams v. Cap. One Bank, N.A.*, No. 24-cv-2032, 2025 WL 843285, at *7 (D.D.C. Mar. 18, 2025))). In that regard, while we acknowledge Ms. Hall’s attempt to take ownership of her error as the “submitting attorney,” every firm attorney who signed the brief bears some responsibility. *See Malkeet Lnu*, 177 F.4th at 1029 (“A competent and diligent attorney cannot decline to ‘vet’ citations, in a brief he signs, for substantive validity—in other words, to read the cited authorities and ensure that they are on point.”). *Cf. Super. Ct. Civ. R. 11(c)(1)* (“Absent exceptional circumstances, a law firm must be held jointly

responsible for a violation committed by its partner, associate, or employee.”). The result of their lapses is that the court has had to devote substantial time to this aspect of the appeal rather than to the merits.

III. Sanctions

That brings us to the question of sanctions.⁴ Under D.C. App. R. 28, all briefs “must contain” a party’s “contentions and reasons for them, with citations to the authorities and parts of the record on which [they] rely.” See *Wendemu v. Tesema*, 304 A.3d 953, 959 n.3 (D.C. 2023) (concluding that an argument was waived because appellant failed to “articulat[e] a clear legal basis” for it and “fail[ed] to include any citations to the record or law beyond the standard of review”); *In re Johnson*, 275 A.3d 268, 281 (D.C. 2022) (treating an argument as waived because it consisted of only “vague one-line conclusory assertions” and “failed to cite authority in this jurisdiction or any other [for] support”). *Accord Grant v. City of Long Beach*, 96 F.4th 1255, 1256-57 (9th Cir. 2024) (striking brief and dismissing appeal for noncompliance with the “mandatory components of a brief on appeal” set forth in Fed. R. App. P. 28 because the brief was “replete with misrepresentations and fabricated case law”); *United States v. Jones*, 744 F.3d 1362, 1370 n.2 (D.C. Cir. 2014) (declining to consider a “bare-bones argument[] unsupported by any citations to legal authority” under Fed. R. App. P. 28(a)(8)(A)). A hallucinated citation is, at best, no citation at all; indeed, it is worse.

To be sure, some of the cases cited in Deutsche Bank’s response brief are genuine and some of the propositions of law are sound. But we “reject any notion that because some authority exists to support a legal proposition it should negate the harm caused by hallucinated cases. Put bluntly—absolutely not; period; end of story; all stop.” *Whiting v. City of Athens*, 170 F.4th 455, 461 (6th Cir. 2026) (citation modified) (citing *United States v. McGee*, 806 F. Supp. 3d 1264, 1273 (S.D. Ala. 2025)). We caution that citing to even a *single* fake case can be sanctionable because “no brief, pleading, motion, or any other paper filed in any court should contain *any* citations—whether provided by generative AI or any other source—that” an attorney has not personally “read and verified.” *Id.* (quoting *Noland v. Land of the Free, L.P.*, 114 Cal. App. 5th 426 (2025) (emphasis in original)). Competent legal representation requires the investment of significant time and effort; if an attorney deems their client’s claims as “not worth the effort, [they] should either tell [their]

⁴ We are referring this issue to the court’s Rules Committee for analysis and potential clarification of the full scope of our sanctions authority in these circumstances, which, as the concurring opinion notes, is unclear.

clients that they fall short or advise them to hire another lawyer—not file obviously insufficient pleadings and briefs generated by AI tools.” *Akerlund*, 181 F.4th at 1208.

It is axiomatic that our rules exist to ensure the orderly, prompt, and just disposition of appeals. These rules exist not for the convenience of the court but for the benefit of litigants and counsel who have a right to rely on them and must comply with them. *See Phucas v. Washington-Virginia-Maryland Coach Co.*, 76 A.2d 59, 59-60 (D.C. 1950). We cannot condone disregard of court rules, whether willful or negligent. *Id.* As such, we deem it appropriate to strike appellee’s brief.⁵ We also refer this matter to the Office of Disciplinary Counsel for any investigation it deems appropriate.

⁵ The firm suggested that the court could accept the appellee’s brief as filed but with the erroneous citations redacted. We reject this suggestion, as it would constitute effectively no sanction at all.

GLICKMAN, *Senior Judge*, concurring: I join the panel opinion and order. I add this concurrence to flag and address certain relevant matters that the panel opinion does not reach or only touches upon—namely (1) the scope and limits of this court’s authority to sanction attorneys; (2) the varying responsibility of attorneys whose names appear on a brief (as “signatories,” whether or not they have personally signed the brief) for another signatory’s inclusion in the brief of AI-hallucinated citations; and (3) the concern beyond the risk of fake citations when attorneys rely on generative artificial intelligence to draft briefs.¹

I. This Court’s Sanctioning Authority

This is the first reported case in which this court has received a brief containing fabricated citations. We have not hitherto addressed the scope of our authority to sanction attorneys for such submissions. The only sanction the court imposes in the present case is to strike the brief for its violation of D.C. Appellate Rule 28, an appropriate but comparatively weak response that unfortunately penalizes the innocent client for its counsel’s offense. Federal courts have imposed a number of other, more nuanced, targeted, and severe, sanctions on attorneys for similar conduct—including, for example, financial penalties, disqualification, requiring payment of the opposing parties’ attorneys’ fees, referring the attorneys for bar discipline and requiring them to notify other courts of their reprimands, and even suspension.² I certainly think those sorts of sanctions should be available to punish and deter fabricated citations in briefs and other filings. It turns out, however, that our authority to sanction counsel directly is more limited than one might have supposed. The full court may wish to address this situation.

Federal courts have discussed their authority to sanction attorneys for briefs with AI hallucinations. The United States Court of Appeals for the Seventh Circuit recently surveyed the case law and found the following:

Federal courts confronted with AI hallucinations in briefs and motions have identified several sources of authority for sanctions. Most district courts rely on Federal Rule of Civil Procedure 11, 28 U.S.C. § 1927, and the court’s inherent authority to sanction for bad faith conduct.

¹ Of course, much of what I say in this concurrence applies to other filings in addition to briefs.

² See, e.g., *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 466 (S.D.N.Y. 2023).

[Citing federal district court cases from California, Mississippi, and Illinois.] The courts of appeals, by contrast, have invoked a few different sources for sanctioning attorneys. No unified approach prevails.

Perez-Castillo v. Blanche, 177 F.4th 837, 846 (7th Cir. 2026). The Seventh Circuit cited other appellate court opinions that relied on Federal Rules of Appellate Procedure 38³ and 46,⁴ instead of, or in addition to, their inherent authority, to sanction attorneys and law firms. In *Perez-Castillo*, the Seventh Circuit itself “elect[ed]” to impose sanctions under Appellate Rule 46, which, it said, “affords federal courts of appeals broad power to suspend, disbar, or discipline a member of our bar for conduct unbecoming a member of the bar.”⁵ The court saw “Rule 46 as the natural fit for a case involving attorney misconduct that permitted unchecked AI hallucinations to be included in a brief.”⁶

The Seventh Circuit’s reference to “the court’s inherent authority to sanction for bad faith conduct” harks back to the Supreme Court’s decision in *Chambers v. NASCO, Inc.*⁷ In *Chambers*, the Supreme Court held that a federal court must find

³ *Whiting v. City of Athens*, 170 F.4th 455, 459-63 (6th Cir. 2026) (“Whiting’s appeal is frivolous [under Rule 38] as argued because [his attorneys] submitted fake cases, and inventing case law is a misrepresentation of law,” and “misrepresent[ed] the record”; also citing the court’s inherent authority); *Amarsingh v. Frontier Airlines, Inc.*, No. 24-1391, 2026 WL 352016, at *5-8 (10th Cir. 2026) (relying on Rule 38).

⁴ *Fletcher v. Experian Info. Sols., Inc.*, 168 F.4th 231, 239-40 (5th Cir. 2026) (“Modern generative AI may be a new technology, but the same sanctions rules apply, and the rules we have are well equipped to handle these types of cases. . . . Rule 46(c) allows us to discipline an attorney who practices before us for ‘conduct unbecoming a member of the bar or for failure to comply with any court rule.’ Discipline under Rule 46(c) may include monetary sanctions.” (internal citations omitted) (quoting Fed. R. App. Proc. 46) (relying on Rule 46 and the court’s inherent authority to sanction an attorney for using generative AI in her briefing and misleading the court about these errors)).

⁵ *Perez-Castillo*, 177 F.4th at 847 (internal quotation marks and citation omitted).

⁶ *Id.*

⁷ 501 U.S. 32 (1991).

that a litigant acted “in bad faith, vexatiously, wantonly, or for oppressive reasons” to support the imposition of sanctions under its inherent authority.⁸

Our court does not have the same power to sanction attorneys as the federal courts have, however. Although our appellate Rules are derived from the Federal Rules of Appellate Procedure, *see* D.C. Code § 11-743, none of our Rules appears to provide the requisite authority.⁹

First, while it can be said that appellee’s brief did not comply with Superior Court Civil Rule 11, which does authorize the Superior Court to sanction attorneys for making unwarranted factual or legal claims and contentions in pleadings, motions, and other papers, that is not a Rule of this court.¹⁰ (Perhaps this court should consider adopting a comparable Rule governing appellate pleadings, motions, and briefs.)

Second, D.C. App. Rule 38 authorizes sanctions only for the filing of “frivolous” appeals, petitions, or motions—but not briefs.¹¹ None of this court’s

⁸ *Id.* at 45-46, 50 (quotation marks and citations omitted); *see also, e.g., Whiting*, 170 F.4th at 463 (“Inherent authority sanctions are appropriate only when the litigant has acted in bad faith or willfully abused judicial processes.” (citation modified)).

⁹ No relevant statutory basis for imposing sanctions on counsel has come to our attention.

¹⁰ The Superior Court’s Civil Rules of Procedure “govern the procedure in all civil actions and proceedings in the Civil Division of the Superior Court of the District of Columbia” (with certain exceptions; *see also* Super. Ct. Civ. R. 81) and do not apply to proceedings on appeal. *See* Super. Ct. Civ. R. 1; *cf. Chew v. United States*, 314 A.3d 80, 93 n.1 (D.C. 2024) (Easterly, J., concurring) (explaining why “it is not clear that Super. Ct. Crim. R. 52(b) applies to this court,” as “the Superior Court Criminal Rules govern only ‘the procedure in all criminal proceedings in the Superior Court of the District of Columbia.’” (quoting Super. Ct. Crim. R. 1(a))). *But see Tupling v. Britton*, 411 A.2d 349, 351 n.2 (D.C. 1980) (asserting, in dicta, that “this court would undoubtedly order stricken scandalous or indecent material in motions or briefs,” and citing Super. Ct. Civ. R. 11).

¹¹ D.C. App. Rule 38 provides as follows:

When a party to a proceeding before this court or an attorney practicing before the court takes an appeal or files

previous twenty-one cases citing Rule 38 has applied that Rule to impose a sanction for a frivolous brief. Moreover, we have defined “frivolous” to mean “wholly lacking in substance” such “that a reasonable attorney would conclude that it is not based upon even a faint hope of success on the legal merits[.]”¹² Consequently, assuming *arguendo* that Rule 38 applies to briefs, the mere fact that a brief contains some hallucinated citations would not suffice to support sanctions for violating the Rule. Rather, the legal argument advanced in the brief would have to be so lacking in merit—so dependent on the fake citations—that it would meet our stringent test for frivolousness. In other words, Rule 38 would not support a sanction for filing a brief that contains fake citations but is not totally baseless. For these reasons, I think

a petition or motion that is frivolous or interposed for an improper purpose, such as to harass or to cause unnecessary delay, or fails to comply with an order of this court, the court may, on its own motion or on motion of a party, impose appropriate sanctions on the offending party, the attorney, or both. Before doing so on its own motion, the court will give the party notice and an opportunity to respond. Sanctions that may be imposed include dismissal of the appeal; imposition of single or double costs, expenses, and attorneys' fees; and disciplinary proceedings.

In contrast, Fed. R. App. Proc. 38 provides only that “[i]f a court of appeals determines that an appeal is frivolous, it may, after a separately filed motion or notice from the court and reasonable opportunity to respond, award just damages and single or double costs to the appellee.” Unlike our local Rule 38, this federal Rule 38 does not support sanctions against an appellee at all, but only against an appellant (and only for a frivolous appeal); *see Reynolds v. Roberts*, 207 F.3d 1288, 1301 (11th Cir. 2000).

¹² *In re Yelverton*, 105 A.3d 413, 425 (D.C. 2014) (citation modified); *see also Pennington v. First Hand Land, LLC*, 349 A.3d 364, 367 (D.C. 2026) (“Rule 38 authorizes this court to impose ‘appropriate’ sanctions, including ‘dismissal of the appeal,’ on a party who ‘files a petition or motion that is frivolous or interposed for an improper purpose.’”). In addition, under Rule 38, “one circumstance (but not the only one) in which dismissal may be warranted as a sanction is when a party before this court has ‘willfully deceived the court and engaged in conduct utterly inconsistent with the orderly administration of justice.’” *Id.* (quoting *Breezevale Ltd. v. Dickinson*, 879 A.2d 957, 967 (D.C. 2005)).

Rule 38 cannot be the main, or even the usual, basis on which this court imposes sanctions on parties who submit briefs containing AI-hallucinations. And for the same reasons, I think Rule 38 to be inapplicable in the present case.

As for D.C. App. R. 46, it is totally inapplicable to such fabricated citations. In pertinent part, the federal Rule 46(c) provides:

A court of appeals may discipline an attorney who practices before it for conduct unbecoming a member of the bar or for failure to comply with any court rule. First, however, the court must afford the attorney reasonable notice, an opportunity to show cause to the contrary, and, if requested, a hearing.

Our Rule 46 addresses only admission to the bar. Neither it nor any other D.C. Appellate Rule provides that this court may discipline an attorney for conduct unbecoming a member of the bar or for failure to comply with any court rule.

That brings us to this court's inherent authority. This court has consistently adhered to the *Chambers* bad faith condition on the judicial exercise of inherent authority to impose sanctions. For example, in *In re Jumper*, this court relied on *Chambers* when stating that “[a] court must, of course, exercise caution in invoking its inherent power, and it must comply with the mandates of due process, both in determining that the requisite bad faith exists and in assessing fees.”¹³ There, this court reversed the trial court's award of fee sanctions and remanded for the trial court to determine whether the party had acted with bad faith because the court did not “expressly find[] that the appellants acted either in bad faith, vexatiously, wantonly, or for oppressive reasons,” and therefore did not find that appellants acted “pursuant to the improper motive necessary for an award of sanctions pursuant to the court's inherent authority.”¹⁴ Our opinion emphasized that “[b]ad faith must be

¹³ 909 A.2d 173, 176 (D.C. 2006) (quoting *Chambers*, 501 U.S. at 50).

¹⁴ *Id.* at 177 (citation modified).

distinguished from, for example, negligence or professional incompetence.”¹⁵
 “[T]he standards of bad faith are necessarily stringent.”¹⁶

In the present case, it does not now appear that either Ms. Hall or appellee’s law firm acted in bad faith, vexatiously, wantonly, or for oppressive reasons. Rather, so far as appears on the existing record, their conduct in filing a brief with AI-hallucinated citations was not intentional, knowing, or even reckless (i.e., done with conscious disregard of the risks they were incurring), but rather was only negligent or grossly negligent (or, it could also be said, professionally incompetent). In Ms. Hall’s case, the question of recklessness may be a close one, given that there has been considerable publicity about the dangers of relying on AI in legal work, and her law firm claims to have instructed her on its policy against reliance on AI. (But the law firm has not shared its policy with us, nor has it explained how that policy was communicated to its lawyers.) Even so, the factual record necessary to support a finding of recklessness has not been made.¹⁷

This is not to say that the court is precluded from admonishing appellee’s attorneys in a published decision, as we do now, for their submission of a brief with AI-fabricated case citations. Beyond that admonishment and the striking of the brief, our Rules and case law appear to preclude us from sanctioning the attorneys. This court may wish to consider rectifying the omission of an available sanction in our

¹⁵ *Id.* (citation modified); *see also Bredehoft v. Alexander*, 686 A.2d 586, 589 (D.C. 1996) (reversing, inter alia, the trial court’s “bad faith sanction” as an exercise of its inherent authority because the record did not support a finding of bad faith); *McFarland v. D.C. Dep’t of Hum. Res.*, 334 A.3d 131, 138 (D.C. 2025) (affirming the trial court’s refusal to apply either Rule 11 or inherent authority sanctions because the movant made no showing that the other party acted with bad faith, even assuming that party made certain allegedly false representations).

¹⁶ *In re Jumper*, 909 A.2d at 176-77 (quoting *Valentine v. Elliott (In re Estate of Delaney)*, 819 A.2d 968, 998 (D.C. 2003)).

¹⁷ This does not mean that the attorneys are immune from bar discipline, should it be determined that they violated the Rules of Professional Conduct by submitting a brief with AI-hallucinated citations. At present, however, it would be premature and inappropriate for this court to weigh in on whether the attorneys have violated any Rules of Professional Conduct, and—like my colleagues—I refrain from doing so.

Rules, notwithstanding our longstanding reliance on the disciplinary system established in Rule XI of the District of Columbia Bar Rules.

I turn now to a brief consideration of two other questions raised by the present matter.

II. The Responsibility of Signatories on the Brief

The panel opinion, which I join, states that “every attorney who signed the brief bears some responsibility” for inclusion of fake citations. *Ante* at 5. I agree with that general principle, subject to a clarification as to what I think it must entail. The opinion also quotes, with evident approval, the Ninth Circuit’s declaration that “[a] competent and diligent attorney cannot decline to ‘vet’ citations, in a brief he signs, for substantive validity—in other words, to read the cited authorities and ensure that they are on point.”¹⁸ In the appeal that the Ninth Circuit had before it, there was only one signatory on the brief in question.¹⁹ If the quoted statement is understood to mean that every signatory on any brief with multiple signatories must personally check every citation in the brief for accuracy, I demur.

Preliminarily, the term “signatory” may be misleading. Appellate briefs commonly list the names of multiple attorneys for the party on whose behalf the briefs are submitted. Ordinarily, only one of those attorneys actually signs the brief. For present purposes, though, all the named attorneys are deemed to be “signatories” who stand behind and who (usually, but not always) contributed to the brief. (It is not unreasonable for a brief to list the attorneys who represent the party in the appeal even if they did not personally contribute to the brief or were not its principal drafter(s).) This does not mean, however, that all these “signatories” necessarily have exactly the same responsibilities for ensuring that the brief comports with ethical and other requirements.

¹⁸ *Malkeet Lnu v. Blanche*, 177 F.4th 1014, 1029 (9th Cir. 2026).

¹⁹ *See id.* at 1028-29 (“It was Sethi’s signature, and his alone, on the briefs. So, it was Sethi who presented the unwarranted contentions. And Sethi’s signature was an attestation that he personally reviewed the contents of the brief, including the cited authorities, and that they were accurate. Sethi did no such review, and his attestation was not conditional on the tools that his subordinates might have used to prepare the first draft, nor could it be.” (internal citations and some punctuation omitted)).

Fulfilling the duty to guard against AI-hallucinated (or otherwise invalid) citations can be a group effort that does not require every signatory to personally cite check every brief. Such a requirement would be impractical, unduly burdensome, and unnecessarily duplicative given the availability of reasonable alternative procedures to guard against erroneous citations.²⁰

Suppose, for example, that a law firm assigns different sections of a complex brief to different associates for initial drafting. Each associate is certainly responsible for the accuracy of the citations in his own assigned section; in general, this cite checking is a task that the principal drafter (or drafters) of a brief must perform. But that hardly means each associate must also be charged with double-checking a section assigned to and drafted by another associate.

Or consider the typical brief this court receives from the United States Attorney's Office in criminal appeals. Every one of those many briefs lists not only the author (who is also the designated counsel for oral argument) but also the Assistant United States Attorneys who represented the government at trial (who may have been consulted by appellate counsel but who have nothing to do with the drafting of the legal arguments in the brief); the Chief of the Criminal Appellate Section (who oversees the production of a multitude of briefs and can hardly be expected to spend all her time checking all the citations in that multitude); and the United States Attorney herself (ditto). It surely would be unrealistic, as well as unnecessary overkill, to require each of those attorneys to cite check any given brief.

Other, far more practical procedures can be followed to ensure that AI-generated hallucinations do not result in the inclusion of fake citations in briefs and other filings. I suspect that the problem of fake citations (along with other AI-generated errors that I describe below) arises primarily when lawyers unwisely ask

²⁰ See *Lake v. Gates*, 130 F.4th 1054, 1062 (9th Cir. 2025) (Bumatay, J., concurring in the judgment only) (Disagreeing with the majority's conclusion that federal Rule 11 allowed the trial court to sanction an attorney who participated on a brief as "of counsel" and only contributed a discrete portion to the offending brief, because "[a]s a textual matter. . . , Rule 11 permits different levels of accountability for different attorneys in a case. . . . To encourage the participation of specialized attorneys and to improve the quality of advocacy in our courts, we should have adopted a rule that recognizes the circumscribed role that some attorneys with subject-matter expertise may play in litigation.").

AI to draft a brief from scratch for them, a practice that supervisors can (and, I think, should) ban outright. (I will say more about this below.)

That said, law firms and law departments may institute supplemental measures to guard against AI-hallucinated citations and other AI-generated errors in their briefs. Such measures include training (and retraining) attorneys in the proper use of AI; adopting clear policies governing such use and providing for discipline when appropriate; and requiring attorneys to confirm that they have complied with those policies. The likelihood that any fake citations will eventually come to light, and that the consequences for the offender will be drastic, should be made very clear. In addition, to the extent it is desirable to double check the citations and case descriptions in all briefs before they are filed, such “vetting” may be done cost-effectively by a trained paralegal. Triple and quadruple checking by other attorneys (whether they are signatories on the brief or not) is uncalled for and would be unduly burdensome and costly.²¹

III. The Greater Concern

Bad as AI-fabricated citations are, we should recognize that they are only the tip of a perilous iceberg. That iceberg is the use of artificial intelligence not only to research the law but also to draft a brief. This temptation is the more serious evil, and not just because of hallucinated citations. To begin with, the fallibility of AI as a tool for lawyers is by no means limited to invalid citations. Notably, as the Ninth Circuit explained in *Malkeet Lnu*, generative AI “is prone to make, at least in its current stage of advancement,” two types of mistakes—not only fabrications, but also what the court described as “inaccuracies”:

Fabrications are instances in which the generative AI tool provides cases or quotations that do not exist at all. Inaccuracies are more subtle. The generative AI tool might cite to real authorities but provide an answer that is legally or factually inaccurate or not supported by the citation.

Fabrications are the most notorious hallucinations, but inaccuracies may prove more dangerous to our profession

²¹ I should not be understood as suggesting that only a lawyer who did the actual drafting of a brief containing fake citations (or other AI-generated errors, *see infra*) may be subject to sanction. For example, if training and oversight have been neglected, I think supervisory lawyers may be accountable as well.

in the long run. Inaccuracies are more likely to go unnoticed by attorneys and judges because they are not always susceptible to facial checks. Rather, identifying these misunderstandings often requires close analysis of cited sources. With close analysis, some inaccuracies might be clear—for instance, claiming that a case expressly stands for a proposition about a certain topic when the case does not discuss that topic at all. Others may be difficult to distinguish from poor legal reasoning.

And inaccuracies are common, even in newer generation models that produce fewer fabrications. Including inaccuracies, legal-specific generative AI tools from Westlaw and Lexis hallucinated 17% and 33% of answers, respectively, to a representative set of queries run in 2024. The most common error modes of the latest generation tools include misunderstanding holdings, failing to distinguish between legal actors (e.g., presenting a rejected party argument as the holding of the court), and failing to respect the hierarchy of authorities. In other words, the sort of errors that we might expect a first-semester law student to make, but certainly not licensed attorneys appearing before this court.^[22]

Even worse, perhaps, is the fact that relying on AI to do the “thinking” necessary to draft and refine a brief—even what is intended to be only a first draft—is an abdication of the lawyer’s duty and a breach of the client’s (and the public’s) trust. Lawyers are entrusted with the responsibility to use their own unique human experience, insight, and creativity in employing their skills, learning, and judgment to write, advocate and persuade; and, in doing such writing, to choose among options and alternatives; to select and comprehend precedents and authorities; to make moral and ethical decisions; to evaluate which claims and contentions to pursue and which not; and so forth. AI cannot duplicate that multifarious exercise of human judgment and ingenuity in the “thinking” enterprise.

²² *Malkeet Lnu*, 177 F.4th at 1024-25 (citations, footnotes, and some punctuation omitted).

We do not know in this case whether Ms. Hall relied on Google not only to find case citations, but to draft her brief. I hope she did not do so, and that lawyers will refrain from such conduct.