

Articles

**Ghosts at the Gate: A Call for Vigilance
Against AI-Generated Case Hallucinations**

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I. INTRODUCTION

As generative artificial intelligence programs become ubiquitous in modern life, case hallucinations are appearing in the legal profession. Courts have sanctioned attorneys for citing judicial opinions that do not exist, with penalties reaching thousands of dollars under Federal Rule of Civil Procedure 11. This Article proposes that the need for vigilance

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against AI-generated case hallucinations is even more urgent than it appears.

Apparitions in the law are nothing new, dating back to the glory days of paper maps. Cartographers drew phantom settlements as copyright traps to protect their maps and ensnare lazy competitors. No one expected a plot twist: reflecting the gravitas of its appearance in a respected map, the phantom, copyright-trap town of Agloe, New York, arose in real life. A similar fate may await phantom opinions. Without ascribing to AI any nefarious or mischievous intent to lay traps for lazy lawyers, this Article argues that hallucinated case citations may take on a life of their own, gaining traction and respect through repetition and reliance.

Attorneys have a duty of competence, always. They must check that cases are valid—and in existence—before citing them. Attorneys also have a more profound duty: to protect the body of law. Members of the bar should treat the corpus juris as a shared, common good that we are all obligated to keep pristine and healthy. Hallucinated cases lurk as ghosts at the gate, and attorneys must serve as gatekeepers.

II. PHANTOM SETTLEMENTS

Apparitions have played an enduring role in the law, appearing nearly a century ago on the copyright stage. Copyright law is older, of course. Modern copyright protection traces its lineage to the invention of the printing press and censorship laws in England, followed by early eighteenth-century legislation from Parliament.¹ As new technologies emerged, so arose the need for new legal frameworks to protect creative material.²

The Constitution enshrined that protection in the early days of the United States. Article I, section 8 empowers Congress “[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”³ As the charter’s text makes clear, copyright grants a limited private monopoly to authors and inventors in order to promote a societal interest in the free flow of ideas and information.⁴ Beginning in 1790, Congress enacted legislation to strike that balance: inspiring the creativity

1. See *Sony Corp. of Am. v. Universal City Studios, Inc.*, 464 U.S. 417, 430 & n.12 (1984) (quoting BENJAMIN KAPLAN, *AN UNHURRIED VIEW OF COPYRIGHT* vii–viii (1967)); *Fred Fisher Music Co. v. M. Witmark & Sons*, 318 U.S. 643, 647 (1943) (stating that “Anglo-American copyright legislation begins in 1709 with the Statute of Anne”).

2. See *Sony Corp. of Am.*, 464 U.S. at 430–31.

3. U.S. CONST. art I, § 8, cl. 8; see *Thompson v. Hubbard*, 131 U.S. 123, 151 (1889) (recognizing that the “right of action, as well as the copyright itself, is wholly statutory” and remedies “are only those prescribed by [C]ongress”).

4. See *Sony Corp. of Am.*, 464 U.S. at 429.

of individuals while allowing public access in the future.⁵ As amended since 1976, the Copyright Act grants those imaginative individuals decades of exclusive rights, generally 70 years beyond the author's death for contemporary works.⁶ This monopoly attaches to "original works of authorship."⁷

Originality is key: "the *sine qua non* of copyright," in the words of the Supreme Court.⁸ Given the need for originality, copyright protection does not extend to facts.⁹ Every fact, "scientific, historical, biographical, and news of the day," lies in the public domain.¹⁰ Copyright protection may, however, extend to compilations of facts.¹¹ The "original selection or arrangement of facts" in a compilation is copyrightable.¹² Accordingly, an infringement action may rest on the "creation of imaginative facts,"

5. *See id.*; *Eldred v. Ashcroft*, 537 U.S. 186, 230 (2003) (Stevens, J., dissenting).

6. *See* 17 U.S.C. §§ 102(a), 106 (outlining exclusive rights); 17 U.S.C. § 302 (stating that copyright protection endures "for a term consisting of the life of the author and 70 years after the author's death" for works created on or after January 1, 1978); *see also* *Georgia v. Public.Resource.Org, Inc.*, 590 U.S. 255, 259 (2020) (holding that copyright protection does not extend to Georgia's statutory annotations because "officials empowered to speak with the force of law cannot be the authors of—and therefore cannot copyright—the works they create in the course of their official duties").

7. 17 U.S.C. § 102(a).

8. *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 345, 348 (1991); *see id.* at 345 (defining "original" as meaning "only that the work was independently created by the author" and "possesses at least some minimal degree of creativity"); *id.* at 364 (ruling that copyright protection does not extend to telephone directory white pages that "lack the requisite originality"); *In re Trade-Mark Cases (The Trade-Mark Cases)*, 100 U.S. 82, 94 (1879) (extending protection to works "only such as are *original*, and are founded in the creative powers of the mind"); *Burrow-Giles Lithographic Co. v. Sarony*, 111 U.S. 53, 58 (1884) (recognizing that the Constitution protects "original intellectual conceptions of the author").

9. *See* 17 U.S.C. §§ 102(b), 103(a)–(b) (providing that "the subject matter of copyright as specified by section 102 includes compilations," but such copyright "extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work"); *Feist Publ'ns, Inc.*, 499 U.S. at 344, 351; *Worth v. Selchow & Righter Co.*, 827 F.2d 569, 572 (9th Cir. 1987) (stating that "[f]actual works receive distinct treatment from fictional works under copyright law," as "facts, like ideas, are never protected").

10. *Feist Publ'ns, Inc.*, 499 U.S. at 348; *see* *Miller v. Universal City Studios, Inc.*, 650 F.2d 1365, 1369 (5th Cir. 1981) ("Thus, since facts do not owe their origin to any individual, they may not be copyrighted and are part of the public domain available to every person.").

11. *See* *Feist Publ'ns, Inc.*, 499 U.S. at 344, 350–51 (describing "idea/expression or fact/expression dichotomy" in copyright law); *see also* Copyright Act of 1909, Pub. L. No. 60–349, § 5, 35 Stat. 1075, 1076 (including "compilations" under a claim of copyright).

12. *Feist Publ'ns, Inc.*, 499 U.S. at 350–51; *see* 17 U.S.C. § 101 ("A 'compilation' is a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship."); *Rockford Map Publishers, Inc. v. Directory Serv. Co. of Colo.*, 768 F.2d 145, 149 (7th Cir. 1985) ("The contribution of a collection of facts lies in their presentation, not in the facts themselves.").

such as a novel, or on the “representations of true facts,” such as a map.¹³ The Copyright Act recognizes maps as “pictorial, graphic, and sculptural works.”¹⁴ Originality emerges in the mapmaker’s selection, coordination, and arrangement of “the expressive elements in its map, including color, to depict the map’s factual content.”¹⁵

Maps are eligible for copyright protection, then, so long as they express sufficient originality.¹⁶ But originality does not guarantee novelty.¹⁷ Similarity is consistent with both copying and independent creation.¹⁸ Two solitary writers might end up composing the same novel. A remote possibility, to be sure. But both novels would satisfy the

13. *Hayden v. Chalfant Press, Inc.*, 281 F.2d 543, 548 (9th Cir. 1960); see *Rockford Map Publishers, Inc.*, 768 F.2d at 149 (finding originality in a map where the mapmaker “teas[es] pictures from the debris left by conveyancers”); *Woodman v. Lydiard-Peterson Co.*, 192 F. 67, 69 (C.C.D. Minn. 1912) (recognizing copyright in a map that “constitutes a new arrangement of old material”).

14. 17 U.S.C. § 101; see *United States v. Hamilton*, 583 F.2d 448, 451 (9th Cir. 1978) (stating that “[e]xpression in cartography is not so different from other artistic forms seeking to touch upon external realities”); David B. Wolf, *Is There Any Copyright Protection for Maps After Feist?*, 39 J. COPYRIGHT SOC’Y U.S.A. 224, 240 (1992) (arguing for copyright protection of maps as presenting a “pictorial or graphic form” of facts because “[a] map does not present objective reality; just as a photograph’s pictorial form is central to its nature, so a map transforms reality into a unique pictorial form central to its nature”).

15. *Streetwise Maps, Inc. v. VanDam, Inc.*, 159 F.3d 739, 747–48 (2d Cir. 1998); see *Mason v. Montgomery Data, Inc.*, 967 F.2d 135, 142 (5th Cir. 1992) (finding originality in a map as both a compilation—creativity in “the selection, coordination, and arrangement of the facts”—and a pictorial work—creativity “in the pictorial, graphic nature of the way that they do so”); *Sparaco v. Lawler, Matusky, Skelly, Eng’rs LLP*, 303 F.3d 460, 467 (2d Cir. 2002) (recognizing creative features of a map):

[C]onsiderable skill and originality can be exercised by a mapmaker in the setting forth of unprotected information—in the selection or elimination of detail, the size, shape, and density of informative legends, the establishment of conventions relating to color or design to represent topographical or other features, and many other details of presentation.

Id.; see *Hughey v. Palographics Co.*, No. 75-F-481, 1976 WL 21079, at *4 (D. Colo. Jan. 20, 1976) (finding copyright attached to the plaintiff’s poster-map based on her “own unique, original and artistic arrangement of the events chosen, the illustrations created, and the descriptions expressing existing facts and characters”); see also 2 WILLIAM F. PATRY, PATRY ON COPYRIGHT § 3:117 (2025), <https://perma.cc/5DR9-CTSM> (stating that “authorship in a map may consist of compilation or pictorial authorship, or a combination of the two”).

16. See *Feist Publ’ns, Inc.*, 499 U.S. at 350–51; *Rockford Map Publishers, Inc.*, 768 F.2d at 149; see also *Darden v. Peters*, 488 F.3d 277, 287 (4th Cir. 2007) (explaining how some, but not all, maps are copyrightable); *Amsterdam v. Triangle Publ’ns*, 189 F.2d 104, 106 (3d Cir. 1951) (rejecting copyright for plaintiff’s map that contained “an infinitesimal amount of original information”).

17. See *Feist Publ’ns, Inc.*, 499 U.S. at 345 (stating that “a work may be original even though it closely resembles other works so long as the similarity is fortuitous, not the result of copying”).

18. See *Bucklew v. Hawkins, Ash, Baptie & Co.*, 329 F.3d 923, 926 (7th Cir. 2003) (stating that “[s]ome similarities between a copyrighted work and a work alleged to infringe it are consistent with an inference of independent creation”).

originality requirement for copyright protection.¹⁹ (If monkeys ever randomly type out William Shakespeare’s plays, the simian *Romeo and Juliet* would not infringe any centuries-old copyright.)²⁰

The risk of similarity is even more acute in the realm of cartography than in genres of fiction. By definition, a map is rooted in nonfiction, a symbolic representation of features that exist in the world.²¹ Indeed, the more a map diverges from reality, the more its informative function fades away.²² All mapmakers share the same geographic facts as raw, underlying materials. So it is not a stretch to imagine two cartographers creating nearly identical maps as mirrors of the world, making kindred color and style choices to depict the same terrain. Coincidences happen.

Copies also happen. Suppose that Cartographer *A* suspects that Cartographer *B* copied his map, and he contemplates suing for copyright infringement. An infringement action requires proof of “(1) ownership of a valid copyright, and (2) copying of constituent elements of the work that are original.”²³ The second element comprises two showings: “(1) the defendant actually copied the plaintiff’s work; and (2) the copying is illegal because a ‘substantial similarity’ exists between the defendant’s work and the protectible elements of the plaintiff’s work.”²⁴ With two interchangeable maps and sufficient original expression, “substantial

19. See *Feist Publ’ns, Inc.*, 499 U.S. at 346; *Sheldon v. Metro-Goldwyn Pictures Corp.*, 81 F.2d 49, 54 (2d Cir. 1936) (opining that “if by some magic a man who had never known it were to compose anew Keats’s Ode on a Grecian Urn, he would be an ‘author,’ and, if he copyrighted it, others might not copy that poem, though they might of course copy Keats’s”); *Hughey*, 1976 WL 21079, at *5; *Boyd’s Collection, Ltd. v. Bearington Collection, Inc.*, 360 F. Supp. 2d 655, 663 (M.D. Pa. 2005).

20. See Mark A. Lemley, *How Generative AI Turns Copyright Upside Down*, 25 COLUM. SCI. & TECH. L. REV. 190, 212 (2024) (“In theory, in the copyright case of *Shakespeare v. Infinite Monkeys*, Shakespeare should lose, because the monkeys didn’t copy from him.”); Stephen Woodcock & Jay Falletta, *A Numerical Evaluation of the Finite Monkeys Theorem*, FRANKLIN OPEN (2024), <https://perma.cc/QL8Y-D33A>.

21. See *Map*, NAT’L GEOGRAPHIC, <https://perma.cc/Q5DX-Y5T4> (last visited June 29, 2025).

22. See J.B. Harley, *The Map and the Development of the History of Cartography*, in 1 THE HISTORY OF CARTOGRAPHY 1, 2 (J. B. Harley & David Woodward eds., 1987), <https://perma.cc/Y9VQ-S5R2> (“The significance of maps—and much of their meaning in the past—derives from the fact that people make them to tell other people about the places or space they have experienced.”).

23. *Feist Publ’ns, Inc.*, 499 U.S. at 361; see *Fourth Est. Pub. Benefit Corp. v. Wall-Street.com, LLC*, 586 U.S. 296, 301 (2019) (“Before pursuing an infringement claim in court, however, a copyright claimant generally must comply with [the Copyright Act’s] requirement that ‘registration of the copyright claim has been made.’” (quoting 17 U.S.C. § 411(a))).

24. *Streetwise Maps, Inc. v. VanDam, Inc.*, 159 F.3d 739, 747 (2d Cir. 1998); see *Boyd’s Collection, Ltd.*, 360 F. Supp. 2d at 663 (stating that “[o]nly those who had access to the protected work, and can be reasonably found to have copied from that work, are potentially exposed to an infringement claim”); *Dam Things from Denmark v. Russ Berrie & Co., Inc.*, 290 F.3d 548, 562 (3d Cir. 2002); *Boisson v. Banian, Ltd.*, 273 F.3d 262, 267–68 (2d Cir. 2001).

similarity” leaps off the page.²⁵ But how to prove that Cartographer *B* “actually copied” rather than scoped out the terrain for himself?

Back in the day, before the digital age spawned Google Maps and other smartphone apps at one’s fingertips, people relied on paper maps to navigate new neighborhoods. Anyone of the author’s generation will recall a trifold map shoved into the glove compartment of every car. Millennia earlier than paper, in fact, historians have traced cartographic symbolism to the rock art of prehistory.²⁶ The cartography trade was vital, smoothing the way for activities as grand as global exploration and as mundane as pizza deliveries. The trade was also labor intensive. Without modern satellites rendering detailed, real-time images of Earth, mapmaking was an arduous task. Tedious, as well, as “[s]omebody actually has to travel every inch of the roads and get facts.”²⁷

In 1930, the U.S. Court of Appeals for the Second Circuit decided *General Drafting Co. v. Andrews* and described the typical method of preparing an automobile map, which involved “a great deal of skill, labor, and expense” and reflected as much art as science.²⁸ The cartographer secured sets of topographic maps from the Geological Survey of the Department of the Interior; conducted personal interviews with county engineers to obtain detailed road conditions; traveled the roads to verify their physical condition; transferred the collected data onto a base map; traced the assembled section maps with “a double, heavy single, or thin single line” to signify road conditions; photographed the master tracing to reduce its size; audited and corrected the information on a smaller tracing; hand-drew the final map from the proofed tracing; and, finally, stamped information along the “road meanderings, shore lines, position of town and population symbols, and general scale” of the final map.²⁹ Following that

25. See *Landsberg v. Scrabble Crossword Game Players, Inc.*, 736 F.2d 485, 488 (9th Cir. 1984) (noting that, because factual works admit “only a narrow range of expression,” “similarity of expression may have to amount to verbatim reproduction or very close paraphrasing before a factual work will be deemed infringed” (citing 1 M. NIMMER, NIMMER ON COPYRIGHT, § 2.11[A]–[B] (1968))); see also *Streetwise Maps, Inc.*, 159 F.3d at 748 (finding no copyright violation because “the total concept and overall feel created by the two [maps] may not be said to be substantially similar”); *Stone v. Perpetual Motion, LLC*, 87 F. App’x 51, 52 (9th Cir. 2004) (finding no substantial similarity “[a]fter the nonprotectable elements of the maps are filtered out”).

26. See Catherine Delano Smith, *Cartography in the Prehistoric Period in the Old World: Europe, the Middle East, and North Africa*, in 1 THE HISTORY OF CARTOGRAPHY, *supra* note 22, at 59, <https://perma.cc/BE7T-LPAP>.

27. Millicent Pierce et. al., *The Talk of the Town: Many Maps*, NEW YORKER, May 4, 1935, at 13; see DAVID HUTCHINGS & JAMES C. UNGUREANU, OF POPES AND UNICORNS 199 (2021) (describing “real, first-time mapping on the ground” as “a rather slow and expensive business”).

28. *Gen. Drafting Co. v. Andrews*, 37 F.2d 54, 55 (2d Cir. 1930).

29. *Id.*; see also *Rockford Map Publishers, Inc. v. Directory Serv. Co. of Colo.*, 768 F.2d 145, 147 (7th Cir. 1985) (stating that the mapmaker “starts with aerial photographs distributed by the Department of Agriculture” and “traces the topographical features from

Herculean list, the court concluded on a note of understatement that “the maps of each map-maker possess a final individual appearance and style.”³⁰

On the facts of *General Drafting Co.*, the automobile map published by the defendant Andrews, doing business as American Map Company, contained dozens of “common errors and similarities” with the automobile map published by the plaintiff General Drafting Company.³¹ The defendant’s lone witness nonetheless testified that he had not copied the plaintiff’s map, offering a story of independent creation that the Second Circuit found “uncorroborated” and “completely discredited.”³² The court could find “no possible explanation of the mistakes common to both maps . . . except direct copying.”³³

In the end, American Map’s inaccuracies gave away the game. To quote Judge Learned Hand a few years after *General Drafting*’s courtroom victory, infringement may rest on “details in the same sequence.”³⁴ Success breeding hubris, perhaps, *General Drafting* landed back in court in 1943 as a defendant in an infringement lawsuit filed by yet another cartographer.³⁵ The “peculiarities” shared by both parties’ maps in that later lawsuit, including abrupt road cutoffs, were “so striking and so complete that they point unmistakably to copying.”³⁶ One win, one loss.

the photographs and draws lines showing townships and sections,” and then “an employee goes to places where land titles are recorded and reads the books,” “uses the legal descriptions of the deeds to draw boundary lines indicating the location and size of each parcel,” and “pencils in the name of the owner”).

30. *Gen. Drafting Co.*, 37 F.2d at 55 (noting that “[t]he final maps are manifestly different from those used in making them”); see *Rockford Map Publishers, Inc.*, 768 F.2d at 149 (stating that mapmakers “dug through the records and turned the metes and bounds of the legal descriptions into a pictorial presentation”); *Woodman v. Lydiard-Peterson Co.*, 192 F. 67, 69 (C.C.D. Minn. 1912) (noting that the fact that plaintiff “did secure all this material from other publications which were not copyrighted does not, to my mind, prevent him from getting a copyright upon this map”); see also *Feist Publ’ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 353–54 (1991) (emphasizing originality and rejecting prior “sweat of the brow” doctrine as “flout[ing] basic copyright principles”).

31. *Gen. Drafting Co.*, 37 F.2d at 56–57 (describing “a table showing some twenty alleged misspellings common to both maps”); see *Woodman*, 192 F. at 70 (finding copyright violation where the defendant’s map contained “quite a number of original features” that did not appear on any map other than the plaintiff’s).

32. *Gen. Drafting Co.*, 37 F.2d at 57.

33. *Id.*

34. *Sheldon v. Metro-Goldwyn Pictures Corp.*, 81 F.2d 49, 55 (2d Cir. 1936); see *ABKCO Music, Inc. v. Harrisongs Music, Ltd.*, 722 F.2d 988, 998 (2d Cir. 1983) (noting that district court found “a highly unique pattern” shared by two songs); *Selle v. Gibb*, 741 F.2d 896, 904 (7th Cir. 1984) (stating that works are likely connected “if the complaining work includes what appears to be an error and the accused work repeats the unexpected element or the error”).

35. See *Crocker v. Gen. Drafting Co.*, 50 F. Supp. 634, 638 (S.D.N.Y. 1943).

36. *Id.* at 637.

Details and peculiarities are all the more telling as errors.³⁷ As the Second Circuit recognized in *General Drafting Co.*, the more trivial the error in the plaintiff's map, the less likely that a duplicate error in the defendant's map is mere coincidence.³⁸ For copyright purposes, "false" facts may be no more precious than any other facts: shielded by the Copyright Act only in their expressive compilation.³⁹ But such false facts can serve a strategic purpose. For cartographers aiming to protect their original maps and earn a healthy return on their investment in labor and production,⁴⁰ adding tiny, distinctive, arbitrary flaws on a map became a method to catch corner-cutting competitors and to prove actual copying.⁴¹

37. See *Hayden v. Chalfant Press, Inc.*, 281 F.2d 543, 548 (9th Cir. 1960) (noting that, in cases involving factual representations, "the existence of common errors is one of the most persuasive proofs of copying, second only to direct evidence of copying"); *Hughey v. Palographics Co.*, No. 75-F-481, 1976 WL 21079, at *6 (D. Colo. Jan. 20, 1976) (finding copyright infringement in map-poster where defendants "copied at least nine errors from plaintiff's work; the most prominent of which was the location of Yosemite Falls in Wyoming instead of California").

38. See *Gen. Drafting Co.*, 37 F.2d at 57 (stating that "their very triviality confirms this conclusion"); see *Bucklew v. Hawkins, Ash, Baptie & Co.*, 329 F.3d 923, 926 (7th Cir. 2003) ("[W]hen the similarities concern details of such an arbitrary character that the probability that the infringer had duplicated them independently is remote, an inference of copying may be drawn without any additional evidence.").

39. See *Corbello v. Valli*, 974 F.3d 965, 979 (9th Cir. 2020):

It would hinder, not "promote the progress of science and useful arts" to allow a copyright owner to spring an infringement suit on subsequent authors who "buil[t] freely" on a work held out as factual, contending after the completion of the copyrighted work, and against the work's own averments, that the purported truths were actually fictions.

Id. (alteration in original) (quoting *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 350 (1991) and citing U.S. CONST. art I, § 8, cl. 8); see *Nester's Map & Guide Corp. v. Hagstrom Map Co.*, 796 F. Supp. 729, 733 (E.D.N.Y. 1992) ("To treat 'false' facts interspersed among actual facts and represented as actual facts as fiction would mean that no one could ever reproduce or copy actual facts without risk of reproducing a false fact and thereby violating a copyright."); *Worth v. Selchow & Righter Co.*, 827 F.2d 569, 572 (9th Cir. 1987); see also Cathay Y.N. Smith, *Truth, Lies, and Copyright*, 20 NEV. L.J. 201, 234–35 (2019) (arguing for "the factual estoppel doctrine to treat fake facts as unprotectable facts" in infringement actions and proposing a new framework for courts to apply the doctrine).

40. See *Woodman v. Lydiard-Peterson Co.*, 192 F. 67, 70 (C.C.D. Minn. 1912) (noting that the defendant "made an exact copy of the complainant's map, and thereby saved itself the expenditure of time and labor which the complainant was compelled to expend himself in order to make his map"); *HUTCHINGS & UNGUREANU*, *supra* note 27, at 199.

41. See *Mowry v. Viacom Intern., Inc.*, No. 03 CIV.3090, 2005 WL 1793773, at *9–10 & n.14 (S.D.N.Y. July 29, 2005) (finding that *The Truman Show* movie was not "strikingly similar" to plaintiff's screenplay); *Bucklew*, 329 F.3d at 928 ("[T]he presence of a fictitious geographical feature in the alleged infringer's map might be conclusive proof of copying even though the copier had changed the colors or other features of the map, so that at a glance the two maps appeared quite different.").

Copyright traps lie in wait.⁴² These intentional errors in a map take the form of fictitious landmarks.⁴³ In *Harris Publishing, Inc. v. Metro Marketing, Inc.*, for example, the plaintiff's former president seeded a copyright trap in a map of Idaho Falls, Idaho.⁴⁴ A nonexistent street called "Mel," after the president's first name, appeared on the plaintiff's Idaho Falls map.⁴⁵ The fact that "Mel Street" also appeared on the defendant's map gave the U.S. District Court for the District of Idaho cause to deny summary judgment for the defendant in a copyright infringement action.⁴⁶ In *Rockford Map Publishers, Inc. v. Directory Service Co. of Colorado*, the plaintiff publishing house sprinkled a dash of humor on its traps, adding bogus middle initials to the property owners' names in plat maps.⁴⁷ Read from top to bottom, the initials spelled out "Rockford Map Inc" in four townships.⁴⁸ As the competitor's maps included 54 of the 56 total initials, the U.S. Court of Appeals for the Seventh Circuit affirmed a finding of copyright infringement.⁴⁹

42. See *Mowry*, 2005 WL 1793773, at *10 n.14; *Feist Publ'ns, Inc.*, 499 U.S. at 344 (identifying four fictitious listings in telephone directory white pages); *Alexandria Drafting Co. v. Amsterdam*, No. 95-1987, 1997 WL 325769, at *1 n.2 (E.D. Pa. June 4, 1997), *withdrawn and vacated* (June 25, 1998) (recognizing copyright traps as a "means for detecting and demonstrating copying by showing that the fictitious entries also appear in the alleged infringer's work"); Smith, *supra* note 39, at 209; Jacqueline Kett, Comment, *As A Matter of Fact: Copyrighting Fictitious Entries Within Reference Works*, 72 CASE W. RES. L. REV. 507, 510 (2021); Joshua Humphrey, *The Plague of Fake News and the Intersection with Trademark Law*, 8 CYBARIS 126, 143 n.117 (2017); Tom Vitacco, *Ask a Cartographer: Has Rand McNally Ever Added Fake Towns to Maps?*, RAND MCNALLY PUBL'G (May 28, 2024), <https://perma.cc/AE3E-G67W> (stating that Rand McNally stopped its practice of adding copyright traps to maps in the 1980s).

43. Dictionaries, encyclopedias, and other reference works may contain fictitious entries as copyright traps, as well. See *Feist Publ'ns, Inc.*, 499 U.S. at 344; Kett, *supra* note 42, at 509–10. N.F.L. interviews employ errors for different traps. See Ryan Novozinsky, *How Giants 'Pissed' Off Shedeur Sanders in Pre-draft Process*, NJ.COM (May 2, 2025), <https://perma.cc/94JE-Q8CF> (reporting that the New York Giants give prospective "players an install, and there are mistakes intentionally put in the install").

44. See *Harris Publ'g, Inc. v. Metro Mktg., Inc.*, No. CV09-426, 2011 WL 4626021, at *7 (D. Idaho Sept. 30, 2011).

45. See *id.*

46. See *id.* at *8; see also *Alexandria Drafting Co.*, 1997 WL 325769, at *3, *5 (finding strong evidence of direct copying where a map publisher in Philadelphia discovered a competitor's map contained more than 80 of its copyright traps as "fictitious streets, little dead-end additions to the roadways of the region that had no basis in the reality of what was actually on the ground").

47. See *Rockford Map Publishers, Inc. v. Directory Serv. Co. of Colo.*, 768 F.2d 145, 147–48 (7th Cir. 1985) (explaining that plat maps show "location, size, and ownership of parcels of land").

48. See *id.*

49. See *id.* at 147, 149–50.

When copyright traps appear as towns, they are also called paper towns or phantom settlements.⁵⁰ Ghost dots on an actual landscape, shining a black light on infringement. Apparitions in the law.

III. PHANTOM OPINIONS

The phantoms that emerged long ago in copyright cases now have futuristic companions. Generative artificial intelligence has ushered a new and expanding cast of apparitions onto the legal stage.

Coined in 1955 by computer scientist John McCarthy, the phrase “artificial intelligence” or “AI” means “the capability of computer systems or algorithms to imitate intelligent human behavior.”⁵¹ Describing his famous Imitation Game in 1950, mathematician Alan Turing predicted that by the end of the twentieth century, “one will be able to speak of machines thinking without expecting to be contradicted.”⁵² Turing was overly optimistic, as the nature of the “intelligence” in artificial intelligence remains open to debate.⁵³ Stunning nonetheless. Generative AI, as the adjective suggests, can generate content such as words, images, sounds, videos, and code in response to prompts and queries.⁵⁴ Generative AI programs include Open AI’s ChatGPT, Google’s Gemini, and other large language models that analyze information across the internet in order to produce responses.⁵⁵ These programs are growing in sophistication and

50. See JOHN GREEN, PAPER TOWNS 235–36 (2008) (“Copyright traps are also sometimes known as key traps, paper streets, and paper towns.”); PENG SHEPHERD, THE CARTOGRAPHERS 150–52 (2022) (“Hide a lie inside the truth A phantom settlement.”).

51. John McCarthy, BRITANICA, <https://perma.cc/7BPQ-GLSW> (last visited July 11, 2025); *Artificial Intelligence*, MERRIAM-WEBSTER DICTIONARY, <https://perma.cc/F6ZN-P7C9> (last visited July 11, 2025); Stephanie Dick, *Artificial Intelligence*, HARV. DATA SCI. REV., Summer 2019, at 2, <https://perma.cc/K968-CV6R> (describing “core conjecture” of initial AI proposal: “that intelligent human behavior consisted in processes that could be formalized and reproduced in a machine”); see *Smith v. Farwell*, No. 2282CV01197, 2024 WL 4002576, at *4 (Mass. Super. Feb. 15, 2024).

52. A.M. Turing, *Computing Machinery & Intelligence*, 59 MIND 433, 442 (1950), <https://perma.cc/RZ24-PZ6T>; see also BRIAN CHRISTIAN, THE MOST HUMAN HUMAN: WHAT TALKING WITH COMPUTERS TEACHES US ABOUT WHAT IT MEANS TO BE ALIVE 4–5, 13 (2011) (“Alan Turing proposed his test as a way to measure the progress of technology, but it just as easily presents us a way to measure our own.”).

53. See Cate Metz & Dylan Freedman, *How Artificial Intelligence Reasons*, N.Y. TIMES (Mar. 26, 2025), <https://perma.cc/U9U2-CC4L>; NPR Radio, *Greetings, People of Earth*, THIS AM. LIFE (June 23, 2023), <https://perma.cc/VZ8T-U49F>.

54. See Dylan Freedman & Cade Metz, *Are You Smarter than A.I.?*, N.Y. TIMES (Mar. 26, 2025), <https://perma.cc/3EY4-G6JD>; *Smith*, 2024 WL 4002576, at *4.

55. See *Intercept Media, Inc. v. OpenAI, Inc.*, 767 F. Supp. 3d 18, 23 (S.D.N.Y. Feb. 20, 2025) (describing a large language model as “a deep-learning algorithm that can generate human-language text”); Helen Toner, *What Are Generative AI, Large Language Models, and Foundation Models?*, CSET (May 12, 2023), <https://perma.cc/83TK-KB2K> (defining generative AI as “any AI system whose primary function is to generate content” and large language models as “a type of AI system that works with language”); Freedman & Metz, *supra* note 54.

capability, outperforming humans on increasingly tricky logic puzzles and weighing alternatives before solving.⁵⁶ Yet, despite their intellectual advances, the programs are declining in their ability to handle facts.⁵⁷

Factual deficiencies in generative AI programs manifest as hallucinations. “Hallucination” refers to “the tendency of AI tools to produce outputs that are demonstrably false.”⁵⁸ In other words, AI makes things up. Apparitions arise as figments of the artificial imagination. This tendency fits awkwardly in the law. The legal system depends on outputs that are authentic: propositions and authorities that are not made up, but grounded in and supported by legal history and hierarchy.⁵⁹ Chief Justice John G. Roberts, Jr., warned in his 2023 Year-End Report on the Federal Judiciary that “any use of AI requires caution and humility” by both the bench and the bar.⁶⁰ Judging is “quintessentially human,” and citing to nonexistent cases is “[a]lways a bad idea.”⁶¹ Federal courtrooms may soon erect guardrails. The Judicial Conference Committee on Rules of Practice

56. See Metz & Freedman, *supra* note 53 (reporting that an updated version of ChatGPT “could spend time ‘thinking’ through complex problems before settling on an answer”); see Freedman & Metz, *supra* note 54.

57. See Cade Metz & Karen Weise, *A.I. Is Getting More Powerful, but Its Hallucinations Are Getting Worse*, N.Y. TIMES (May 5, 2025), <https://perma.cc/MS6E-XPEK> (reporting that “[t]he newest and most powerful technologies . . . are generating more errors, not fewer” and that, “[a]s their math skills have notably improved, their handle on facts has gotten shakier”).

58. Varun Magesh et al., *Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools*, 2025 J. EMPIRICAL LEGAL STUD. 1, 3, <https://perma.cc/6WX8-L57X>; see *id.* at 6 (“[I]f a model makes a false statement or falsely asserts that a source supports a statement, that constitutes a hallucination.”); see *Hallucinating Law: Legal Mistakes with Large Language Models are Pervasive*, STANFORD HAI (Jan. 11, 2024), <https://perma.cc/FKN7-G5EJ> (reporting the “tendency of [large language models] to produce content that deviates from actual legal facts or well-established legal principles and precedents”).

59. See Magesh et al., *supra* note 58, at 5, 10–11 (describing legal hallucinations as having “two primary dimensions: correctness and groundedness,” where “[c]orrectness refers to the factual accuracy of the tool’s response” and “[g]roundedness refers to the relationship between the model’s response and its cited sources”); *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 448 (S.D.N.Y. 2023) (noting the importance of authenticity in the law).

60. CHIEF JUSTICE JOHN G. ROBERTS, JR., 2023 YEAR-END REPORT ON THE FEDERAL JUDICIARY 5–6, <https://perma.cc/TRY7-BX9Y>. Judges are nonetheless thinking the “unthinkable” and experimenting with AI in their opinions, perhaps most boldly Judge Kevin Newsom on the U.S. Court of Appeals for the Eleventh Circuit. *Snell v. United Specialty Ins. Co.*, 102 F.4th 1208, 1221 (11th Cir. 2024) (Newsom, J., concurring) (“Those, like me, who believe that ‘ordinary meaning’ is *the* foundational rule for the evaluation of legal texts should consider—*consider*—whether and how AI-powered large language models like OpenAI’s ChatGPT, Google’s Gemini, and Anthropic’s Claude might—*might*—inform the interpretive analysis.”); see *United States v. Deleon*, 116 F.4th 1260, 1270 (11th Cir. 2024) (Newsom, J., concurring) (“With the benefit of a little perspective, and incorporating by reference here all the caveats that I expressed there, I stand by what I said.”).

61. ROBERTS, *supra* note 60, at 6.

and Procedure has proposed a rule for regulating “machine-generated evidence.”⁶² Appealing to a higher authority, the newly elected Pope Leo XIV expressed concern about the challenges AI poses for the defense of justice.⁶³

The Pontiff’s unease is well founded, as such challenges are already materializing in U.S. courtrooms. One recent search revealed that, in the space of a single month, eleven court opinions mentioned that a party had likely relied on AI-hallucinated material, either fictitious opinions or fictitious quotes from actual opinions.⁶⁴ That sample was “the tip of the iceberg,” limited to resources available on Westlaw and excluding a multitude of opinions issued by state trial courts.⁶⁵ Even within narrow parameters, courts found one hallucination every few days. Particularly for pro se litigants and others struggling to afford representation, hallucinations that parrot “erroneous user assertions” hinder access to justice.⁶⁶

Never a good idea, as the Chief Justice cautioned, hallucinated cases are ensnaring attorneys in Rule 11 violations.⁶⁷ Federal Rule of Civil Procedure 11(b)(2) requires all attorneys to certify that “the claims, defenses, and other legal contentions” in their filings “are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.”⁶⁸ Emphasis on

62. See Comm. on R. of Prac. & Proc., Proposed Amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure, and the Federal Rules of Evidence, at 109 (Aug. 15, 2025), <https://perma.cc/L6LY-VAJL> (proposing new Evidence Rule 707).

63. See Nicole Winfield, *Pope Leo XIV Lays Out Vision for his Papacy and Identifies AI as a Main Challenge for Humanity*, AP NEWS (May 10, 2025), <https://perma.cc/7N4T-ATDH>.

64. See Eugene Volokh, *11 Court Opinions in the Last 30 Days Mention AI-Hallucinated Material, and . . . That’s Likely Just the Tip of the Iceberg*, VOLOKH CONSPIRACY (Mar. 25, 2025, 2:52 PM), <https://perma.cc/Z5KR-FNUX>.

65. *Id.*

66. *AI on Trial: Legal Models Hallucinate in 1 out of 6 (or More) Benchmarking Queries*, STANFORD HAI (May 30, 2024), <https://perma.cc/AM2A-33JK>; see *Hallucinating Law*, *supra* note 58 (noting that “state-of-the-art language models . . . often lack self-awareness about their errors and tend to reinforce incorrect legal assumptions and beliefs”); *cf.* *United States v. Eleven Vehicles*, 966 F. Supp. 361, 367 (E.D. Pa. 1997) (criticizing “ghost writing arrangements,” “where the lawyer drafts the pleadings and the party signs them,” as hindering “the administration of justice”).

67. While this Article focuses on Rule 11 in federal courts, many state courts have imposed AI-related sanctions, as well. See, e.g., *Smith v. Farwell*, No. 2282CV01197, 2024 WL 4002576, at *4 (Mass. Super. Feb. 15, 2024) (concluding that an attorney’s “submission of a brief relying on non-existent authority reveals that she failed to determine that the argument she made was ‘legally tenable’” and imposing a \$2,000 penalty); *Kruse v. Karlen*, 692 S.W.3d 43, 48 (Mo. Ct. App. 2024) (ordering payment of \$10,000 in damages where appellant’s brief contained 22 hallucinated case citations out of 24 total).

68. FED. R. CIV. P. 11(b)(2).

“existing.” Nonexistent case law is neither old nor new,⁶⁹ and citation to nonexistent case opinions represents a failure of “professional judgment and responsibility.”⁷⁰

In 2023, for example, the U.S. District Court for the Southern District of New York in *Mata v. Avianca, Inc.* considered the “unprecedented circumstance” of two attorneys’ submission of “fake cases.”⁷¹ There, the plaintiff’s attorneys had relied on ChatGPT to perform the legal research for an opposition to the defendant’s motion to dismiss.⁷² ChatGPT provided multiple fictitious case citations, which the attorneys did not confirm other than with follow-up queries to the AI program itself.⁷³ The court imposed sanctions under Rule 11, stating that all attorneys have “a gatekeeping role . . . to ensure the accuracy of their filings.”⁷⁴ As the Supreme Court explained, Rule 11 provides an “incentive to stop, think and investigate more carefully before serving and filing papers.”⁷⁵ Not so much in *Mata*, where the plaintiff’s attorneys “doubled down and did not begin to dribble out the truth” about their ChatGPT reliance until the court’s Order to Show Cause.⁷⁶

The district court in *Mata* recognized “many harms flow[ing] from the submission of fake opinions,” including wasted resources, deprivation to the client of “authentic judicial precedents,” reputational damage to judges, courts, and parties, and promotion of “cynicism about the legal profession and the American judicial system.”⁷⁷ Moreover, with fake opinions loose and unchecked, “a future litigant may be tempted to defy a

69. See *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 461 (S.D.N.Y. 2023) (stating that “[a] fake opinion is not ‘existing law’ and citation to a fake opinion does not provide a non-frivolous ground for extending, modifying, or reversing existing law, or for establishing new law”).

70. *Park v. Kim*, 91 F.4th 610, 614 (2d Cir. 2024); see *Wadsworth v. Walmart Inc.*, 348 F.R.D. 489, 493 (D. Wyo. 2025) (stating that “[a]s attorneys transition to the world of AI, the duty to check their sources and make a reasonable inquiry into existing law remains unchanged”). But see Jessica R. Gunder, *Rule 11 Is No Match for Generative AI*, 27 STAN. TECH. L. REV. 308, 341 (2024) (arguing that “Rule 11 will not generally be effective at sanctioning a litigant who mistakenly relies on generative AI technology and files a document with a court that contains fictitious cases and false statements of law”).

71. *Mata*, 678 F. Supp. 3d at 461; see *id.* at 449 (noting that one attorney filed a notice of appearance and another attorney, who was not admitted in the Southern District of New York, “continued to perform all substantive legal work”).

72. See *id.* at 457 (discussing an attorney’s admission that ChatGPT did not supplement his research but rather constituted his research).

73. See *id.* at 458–59.

74. *Id.* at 448.

75. *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 398 (1990) (citation omitted).

76. *Mata*, 678 F. Supp. 3d at 449.

77. *Id.* at 448; see *Morgan v. Comm. Against Violence*, No. 23-CV-353, 2023 WL 6976510, at *8 (D.N.M. Oct. 23, 2023) (listing harms from fake case citations).

judicial ruling by disingenuously claiming doubt about its authenticity.”⁷⁸ Accordingly, the court ordered the plaintiff’s attorneys to fully apprise their client and all judges named in the fictitious cases “via first-class mail” and to pay a penalty of \$5,000.⁷⁹

One year after the Southern District of New York decided *Mata*, the U.S. Court of Appeals for the Second Circuit decided *Park v. Kim* and echoed its underlying court’s Rule 11 theme.⁸⁰ In *Park*, the plaintiff’s attorney had submitted a reply brief on appeal that contained exactly two cases, one of which did not exist.⁸¹ The attorney later admitted that, failing to find sufficient support on her own, she “utilized the ChatGPT service . . . for assistance in case identification.”⁸² The Second Circuit interpreted Rule 11, “[a]t the very least, [to] require that attorneys read, and thereby confirm the existence and validity of, the legal authorities on which they rely.”⁸³ Because the attorney misrepresented the law and “made *no* inquiry, much less the reasonable inquiry required by Rule 11 and long-standing precedent, into the validity of the arguments she presented,” the court referred her for possible disciplinary action and ordered that she “provide a copy of this ruling” to her client.⁸⁴

One year after *Park*, the U.S. District Court for the Southern District of Indiana in *Mid Central Operating Engineers Health & Welfare Fund v.*

78. *Mata*, 678 F. Supp. 3d at 448–49; see Benjamin Weiser, *Here’s What Happens When Your Lawyer Uses ChatGPT*, N.Y. TIMES (May 27, 2023), <https://perma.cc/YQH3-VXA2>.

79. *Mata*, 678 F. Supp. 3d at 466; see *Versant Funding LLC v. Teras Breakbulk Ocean Navigation Enters., LLC*, No. 17-CV-81140, 2025 WL 1440351, at *4 (S.D. Fla. May 20, 2025) (imposing \$1,000 and \$500 fines):

Just as a competent attorney would very carefully check the veracity and accuracy of all case citations in any pleading, motion, response, reply, or other paper prepared by a law clerk, intern, or other attorney before it is filed, the same holds true when attorneys utilize AI or any other form of technology.

Id.; see *Bunce v. Visual Tech. Innovations, Inc.*, No. CV 23-1740, 2025 WL 662398, at *4 (E.D. Pa. Feb. 27, 2025) (imposing a \$2,500 penalty and requiring attorney to “complete a one-hour CLE-credited seminar or educational program related to both AI and legal ethics”); *Gauthier v. Goodyear Tire & Rubber Co.*, No. 23-CV-281, 2024 WL 4882651, at *1–3 (E.D. Tex. Nov. 25, 2024) (imposing a \$2,000 penalty and requiring CLE course attendance, after attorney used Claude generative AI program and failed to confirm the existence of cited cases); *Mortazavi v. Booz Allen Hamilton, Inc.*, No. 24-CV-07189, 2024 WL 4308032, at *1 (C.D. Cal. Sept. 26, 2024) (finding “unacceptable” an attorney’s “citation to a nonexistent case”); *United States v. Hayes*, No. 24-CR-0280, 2025 WL 235531, at *15 (E.D. Cal. Jan. 17, 2025) (imposing a \$1,500 penalty for attorney’s citation to a nonexistent case in a criminal matter); David Minsky, *Atty Told To Fix AI ‘Train Wreck’ in Multiple Florida Courts*, LAW360 (June 18, 2025), <https://perma.cc/NH46-YY76>.

80. See *Park v. Kim*, 91 F.4th 610, 614–15 (2d Cir. 2024).

81. See *id.* at 614.

82. *Id.*

83. *Id.* at 615.

84. *Id.* at 616.

HoosierVac LLC joined the Rule 11 chorus.⁸⁵ There, the defendant’s attorney had filed a brief containing a nonexistent case citation generated by an AI program.⁸⁶ The attorney explained that he failed to verify the existence of the cited case because he “did not know that AI was capable of generating fictitious cases and citations.”⁸⁷ The court was unmoved. While AI may “assist with initial research [and] provide a helpful 30,000-foot view,” an attorney may not “rely on the output of a generative AI program without verifying the current treatment or validity—or, indeed, the very existence—of the case presented.”⁸⁸ Checking the law is Lawyering 101, “a basic, routine matter and something to be expected from a practicing attorney.”⁸⁹ AI is all well and good, but human intelligence must accompany its mechanical counterpart.⁹⁰ Following *Mata*’s monetary lead, the court imposed a penalty of \$15,000, representing \$5,000 for each of the attorney’s three defective briefs.⁹¹

Déjà vu may be setting in. Certainly, many judges and bar associations have noticed the Rule 11 loop of AI hallucinations and sanctions, issuing standing orders and guidance to handle generative AI tools with care.⁹² Outside the four corners of court filings, artificial

85. See *Mid Cent. Operating Eng’rs Health & Welfare Fund v. HoosierVac LLC*, No. 24-CV-00326, 2025 WL 574234, at *1 (S.D. Ind. Feb. 21, 2025).

86. See *id.*

87. *Id.*

88. *Id.* at *2.

89. *Id.*; see also *id.* at *3 (“Whether a case cite is obtained from a law review article, a hornbook, or through independent legal research, the duty to ensure that any case cited to a court is ‘good law’ is nearly as old as the practice of law.”).

90. See *id.* at *4.

91. See *id.* at *3–4 (recommending discipline under the Indiana Rules of Professional Conduct); *Lacey v. State Farm Gen. Ins. Co.*, No. 24-5205, 2025 WL 1363069, at *5 (C.D. Cal. May 6, 2025) (imposing a \$5,000 penalty under Rule 11 for hallucinated case citations).

92. See, e.g., Christopher A. Boyko, J., Court’s Standing Order on the Use of Generative AI (N.D. Ohio), <https://perma.cc/GFL8-23GZ> (prohibiting the use of AI “in the preparation of any filing submitted to the Court”); Leslie E. Kobayashi, J., Disclosure & Certification Requirements—Generative Artificial Intelligence (D. Haw.), <https://perma.cc/MEE8-UNDN> (ordering parties to disclose their use of “any generative artificial intelligence (AI) tool in the preparation of any documents to be filed with the Court”); A.B.A. Standing Comm. on Ethics & Pro. Resp., Formal Op. 512 (2024), <https://perma.cc/G34H-U49C> (cautioning that “lawyers’ uncritical reliance on content created by a [generative AI] tool can result in inaccurate legal advice to clients or misleading representations to courts and third parties”); Fla. Bar, Ethics Op. 24-1 (2024), <https://perma.cc/7XHQ-QLBE> (stating “a lawyer must verify the accuracy and sufficiency of all research performed by generative AI”); D.C. Bar, Ethics Op. 388 (2024), <https://perma.cc/XY3Q-9WML> (warning that “[u]ntil the hallucination issue is resolved, systems prone to this problem are therefore self-corrupting, which is yet another reason their outputs need to be checked carefully”); see also Maura R. Grossman et al., *Is Disclosure and Certification of the Use of Generative AI Really Necessary?*, 107 JUDICATURE 68, 69 (2023) (arguing for “public notice and/or consistent, court-wide rules that are enacted following publication and public comment” rather than standing orders).

intelligence has infiltrated the legal system in innovative ways. Appearing before an appellate panel in New York state court, for example, a pro se litigant in an employment dispute played a video of “a fake person” to argue his case.⁹³ The litigant had used AI to create an avatar-counsel in hopes of presenting his “arguments in the most efficient manner possible.”⁹⁴ The judges stopped the video after a few seconds.⁹⁵ Across the country in an Arizona courthouse, AI’s participation took a haunting turn.⁹⁶ An avatar of a murder victim appeared on screen during the defendant’s sentencing hearing.⁹⁷ As the court heard impact statements, the victim’s likeness offered forgiveness to his killer.⁹⁸ The judge imposed the maximum prison sentence of 10.5 years for manslaughter, but expressed that he “loved” the video.⁹⁹ To each his own.

Avatars in court proceedings—especially of the deceased—may prove too unsettling for general use. Fictitious case citations are the current claim to fame, as generative AI programs mark the legal stage with professionalism traps.¹⁰⁰ Such traps are here to stay. After performing “a systematic assessment of leading AI tools for real-world legal research tasks,” researchers at Stanford University reported that “the hallucination problem persists at significant levels.”¹⁰¹ Even tailored queries to law-specific programs on Westlaw and Lexis+ yielded errors more than 17% of the time.¹⁰² Such persistence bolsters the view that the rate of

93. Shayla Colon, *Man Employs A.I. Avatar in Legal Appeal, and Judge Isn't Amused*, N.Y. TIMES (Apr. 4, 2025), <https://perma.cc/W9GN-H74Q>; Larry Neumeister, *An AI Avatar Tried to Argue a Case Before a New York Court. The Judges Weren't Having It*, AP NEWS (Apr. 4, 2025), <https://perma.cc/2YF6-UKW8>.

94. Colon, *supra* note 93.

95. *See id.*

96. See Neil Vigdor, *A.I.-Generated Likeness of Murder Victim Forgives His Killer in Court*, N.Y. TIMES (May 8, 2025), <https://perma.cc/68Z2-7BPH>.

97. *See id.*

98. *See id.*

99. *Id.*

100. *See* Lacey v. State Farm Gen. Ins. Co., No. CV 24-5205, 2025 WL 1363069, at *5 (C.D. Cal. May 6, 2025) (recognizing that “[s]trong deterrence is needed to make sure that attorneys don’t succumb to this easy shortcut” from AI).

101. Magesh et al., *supra* note 58, at 2; *see Hallucinating Law*, *supra* note 58; Metz & Weise, *supra* note 57 (quoting chief executive of AI startup that “[d]espite our best efforts, they will always hallucinate”).

102. *See* Magesh et al., *supra* note 58, at 1, 10; *AI on Trial*, *supra* note 66 (reporting that “bespoke legal AI tools still hallucinate an alarming amount of the time: the Lexis+ AI and Ask Practical Law AI systems produced incorrect information more than 17% of the time, while Westlaw’s AI-Assisted Research hallucinated more than 34% of the time”).

hallucinations in generative AI programs will never reach zero.¹⁰³ Perhaps hallucinations occur by design.¹⁰⁴

Of course, whether that design dips deep enough for self-awareness, emotion, conscience, curiosity, ingenuity, and all the rest of our distinctly human traits is a question for another day.¹⁰⁵ While writing this Article, the author asked ChatGPT, “What is generative AI?” It replied in part, “In essence, generative AI is about teaching machines to be creative—or at least, mimic creativity.”¹⁰⁶ For present purposes, it is sufficient that hallucinated opinions lie as creative *or* creatively mimicked traps. The phantoms are out there.

IV. FROM APPARITION TO AGLOE

Apparitions are in the law to stay, on a timeline from old-school paper maps to brave-new-world artificial intelligence. As perilous as phantom settlements and phantom opinions may be on a map or screen, the plot thickens. Occasionally, those phantoms wander into real life. Welcome to Agloe, New York.

Finnish immigrant Otto Gustave Lindberg founded General Drafting Company in New York City in 1909.¹⁰⁷ Producing inexpensive and popular automobile maps, the company became a favorite cartographer among oil companies, including Esso Standard Oil Company and Standard Oil of New York.¹⁰⁸ General Drafting quickly grew into one of the Big

103. See Nicholas Mignanelli, *The Legal Tech Bro Blues: Generative AI, Legal Indeterminacy, and the Future of Legal Research and Writing*, 8 GEORGETOWN L. TECH. REV. 298, 312 (2024), <https://perma.cc/L43G-GGWF>; Metz & Weise, *supra* note 57 (reporting that AI programs “do not—and cannot—decide what is true and what is false”); Matt O’Brien, *Tech Experts Are Starting to Doubt that ChatGPT and A.I. ‘Hallucinations’ Will Ever Go Away: ‘This Isn’t Fixable,’* FORTUNE (Aug. 1, 2023), <https://perma.cc/3JYJ-4WMH> (quoting linguistics professor Emily Bender that AI inaccuracies are “inherent in the mismatch between the technology and the proposed use cases”).

104. See Mignanelli, *supra* note 103, at 312 (stating that “[s]o-called ‘hallucinations,’ a term that is problematic because of its anthropomorphic connotation, are a feature, not a bug,” of generative AI).

105. See, e.g., Michael Ventura, *The Dark Side of Empathy*, N.Y. TIMES (May 4, 2025), <https://perma.cc/9VE6-95QS> (“We see this now with artificial intelligence, where systems are increasingly trained to simulate empathic responses. . . . But none of these systems feel anything.”); PHILIP K. DICK, *DO ANDROIDS DREAM OF ELECTRIC SHEEP?* 28–29, 169 (1968), <https://perma.cc/E56E-ZM3T> (portraying a bounty hunter describing empathy test for androids and wondering, “Do androids dream? Rick asked himself. Evidently. . . . A better life, without servitude.”).

106. Christina M. Frohock, CHATGPT, “What is generative AI?” (May 12, 2025) (reply archived at <https://perma.cc/H8TZ-VSCF>).

107. See *General Drafting Company Collection, 1909–2024*, NEWBERRY LIBR. at 4, <https://perma.cc/W936-6H38> (last visited May 18, 2025); Otto G. Lindberg, *Started Road Maps*, N.Y. TIMES, Mar. 14, 1968, at 43, <https://perma.cc/GHL3-J4D2>; see *Alpers v. Comm’r*, B.T.A.M. (P-H) P 40293 (B.T.A. 1940) (noting that the company was incorporated in New York in 1914).

108. See *General Drafting Company Collection, supra* note 107, at 4.

Three publishers of road maps, alongside Rand McNally and H.M. Gousha.¹⁰⁹ A 1935 issue of *The New Yorker* described General Drafting as “the biggest map-maker in the East, . . . turn[ing] out twenty million maps a year.”¹¹⁰

If not already obvious, the company’s early victory in *General Drafting Co. v. Andrews* revealed the tactical advantage of seeding map errors to expose thieves.¹¹¹ As president, Lindberg took note. In the 1930s, Lindberg and Ernest Alpers, an officer and director, rearranged their initials à la *The New York Times* Spelling Bee to name a town Agloe.¹¹² They added a dot for Agloe on General Drafting’s road map of upstate New York, just off Route 17 near the Catskill Mountains town of Roscoe.¹¹³ Lunch at the famous Roscoe Diner would have been an easy outing for residents of Agloe.¹¹⁴ The only hiccup is that there were no residents of Agloe. Because there was no Agloe, Lindberg and Alpers invented the town as a copyright trap.¹¹⁵ And it worked.

Sort of.

Esso Standard Oil had purchased General Drafting’s map and distributed the map in its many gas stations. When Rand McNally published its own map of upstate New York years later, that rival map included the town of Agloe right near Roscoe.¹¹⁶ General Drafting claimed copyright infringement, having caught Rand McNally in the trap.¹¹⁷ Following the precedent of its successful infringement action against American Map Company, General Drafting pointed to the Agloe inaccuracy on Rand McNally’s map as proof of copying.¹¹⁸ *Q.E.D.*

Copyright law is clear that facts are not copyrightable.¹¹⁹ All cartographers are welcome to view and represent the world. If two maps depict the same geographic facts in the same manner, well, what did you

109. *See id.*

110. Pierce et. al., *supra* note 27, at 13.

111. *See Gen. Drafting Co. v. Andrews*, 37 F.2d 54, 56–57 (2d Cir. 1930).

112. *See Ask a Cartographer*, *supra* note 42. Alpers was also a General Drafting shareholder for several years, second only to Lindberg. *See Alpers v. Comm’r*, 126 F.2d 58, 59 (2d Cir. 1942); *Alpers*, B.T.A.M. (P-H) P 40293.

113. *See* Robert Kulrich, *An Imaginary Town Becomes Real, Then Not. True Story*, NPR (Mar. 18, 2014, 4:43 PM), <https://perma.cc/X9CC-V3CU>.

114. *See* THE ROSCOE DINER, <https://perma.cc/E85L-TNC9> (last visited May 17, 2025).

115. *See* Kulrich, *supra* note 113; Sam Roberts, *Seeking a Town on the Border Between Fiction and Reality*, N.Y. TIMES, Mar. 29, 2014, at A16, <https://perma.cc/5A7L-EUPR>; *The Strange Story of Agloe, NY*, TIMES HERALD-RECORD (Oct. 30, 2016), <https://perma.cc/WDM8-FGYD>; David Bramwell, *The Imaginary American Town that Became a Tourist Attraction*, GUARDIAN (May 3, 2020), <https://perma.cc/RW4T-SN6Z>.

116. *See* HUTCHINGS & UNGUREANU, *supra* note 27, at 199.

117. *See* Kulrich, *supra* note 113; Roberts, *supra* note 115, at A16.

118. *See* Kulrich, *supra* note 113; Roberts, *supra* note 115.

119. *See* Feist Publ’ns, Inc. v. Rural Tel. Serv. Co., 499 U.S. 340, 344, 351 (1991).

expect from diligent mapmakers? Rand McNally responded to General Drafting's lawsuit threat by pointing to . . . Agloe, New York. As it turned out, the town did exist.

To be specific, the town came into existence after Lindberg and Alpers invented it. General Drafting's map in Esso gas stations carried the imprimatur of trustworthiness and brand-name quality, published by one of the Big Three, after all. The Agloe General Store and fishing lodge soon opened, as the shopkeepers reasoned that "[i]f Esso says this place is called Agloe, . . . well, that's what we'll call ourselves."¹²⁰ The general store shuttered, but the town name had staying power. A *New York Times* travelogue from 1957 described "an unmarked country road" reaching "north through Rockland and Agloe."¹²¹ One long-time resident of the area expressed skepticism, dismissing the Agloe General Store as apocryphal.¹²² As for the Agloe Lodge, locals suspect that Rand McNally bought an existing fishing lodge on the cheap and renamed it in order to blunt any infringement claim.¹²³ Whatever the provenance of the structures in the rural location marked as Agloe, their existence was enough for Rand McNally to deny copying.¹²⁴

Since its surprising heyday, Agloe has slipped back into nonexistence. Tourists still visit the land, no doubt using satellite maps on smartphones to find their way to the rolling hills.¹²⁵ But the brief emergence of the town adds a cautionary coda to the story of copyright traps. When false facts become true facts, they cross definitively into the public domain and become fair game for all. Even outside the gamesmanship of copyright traps, invented facts may not stay fenced in for long. For example, a cartographer may christen a geographic location on its map.¹²⁶ When that new name becomes "subject to common usage by inhabitants of and visitors to the area," the "name may be used with impunity by later cartographers [and] is not a part of the protected portion" of the original map.¹²⁷ Now it's out in the world. So, too, for lexicographers. "Ghost words" may migrate into the common

120. Kulrich, *supra* note 113.

121. Marvin Schwartz, *Scenic Drives Through the Catskills*, N.Y. TIMES, June 9, 1957, at 317, <https://perma.cc/FD4H-E5RQ>.

122. See *The Strange Story of Agloe, NY*, *supra* note 115 (describing tales of the Agloe General Store as "a sweet story").

123. See *id.*

124. See HUTCHINGS & UNGUREANU, *supra* note 27, at 199; see also *id.* at 214 (noting that Google Maps removed Agloe only in 2014).

125. See *id.* at 199.

126. See *Hayden v. Chalfant Press, Inc.*, 281 F.2d 543, 547–48 (9th Cir. 1960).

127. *Id.*

vocabulary.¹²⁸ Mary Shelley taught the lesson in *Frankenstein* 200 years ago.¹²⁹ Be careful what you animate. This monster is out of control.¹³⁰

As Agloe illustrates, phantom settlements contain greater power than merely ensnaring a lazy cartographer. Apparitions may become real.

V. ATTORNEYS AS GATEKEEPERS

The plot twist of the phantom settlement of Agloe, New York, foreshadows a similar fate for phantom opinions. And that scenario poses an existential threat to the legal system.

Recall the premonition in *Mata v. Avianca, Inc.*¹³¹ There, the Southern District of New York warned that fake opinions have the potential to undermine the law long past the current proceeding, as disingenuous future litigants might feel emboldened to “defy a judicial ruling” by casting doubt on its authenticity.¹³² That doubt has credence only if fictitious case citations are widespread. If fake opinions are scarce, a lone counterfeit citation does not undermine the authenticity of the thousands of opinions issued year after year. A one-off is not a pattern.¹³³ However, if fake opinions become prevalent rather than exceptional, the seeds of doubt are planted for both honest and dishonest litigants.¹³⁴ Should you obey this court ruling? With so many hoaxes, why trust it?

The law is no stranger to fiction. Scholars have long championed the power of storytelling in legal writing.¹³⁵ Attorneys deploy narrative

128. See Kett, *supra* note 42, at 511, 523 (“Words like ‘gravy’ and ‘chortle’ have successfully graduated from ghost word to actual word.”); Hughey v. Palographics Co., No. 75-F-481, 1976 WL 21079, at *4 (D. Colo. Jan. 20, 1976) (noting that “historical facts per se and ordinary phraseology within the public domain are not copyrightable”); cf. BellSouth Corp. v. DataNational Corp., 60 F.3d 1565, 1569–70 (Fed. Cir. 1995) (stating that a “descriptive term . . . may become generic over time through common usage if the otherwise nondescriptive term is not policed as a trademark”).

129. See MARY SHELLEY, *FRANKENSTEIN: THE 1818 TEXT* 82–83 (Penguin Books 2018) (1818) (“Remorse extinguished every hope. I had been the author of unalterable evils; and I lived in daily fear, lest the monster whom I had created should perpetrate some new wickedness.”).

130. Cf. Cal Newport, *What Michael Crichton Reveals About Big Tech and A.I.*, NEW YORKER (Jan. 29, 2025), <https://perma.cc/BBR3-REKL> (arguing that “technologies often wriggle out of the grasp of their creators” and interpreting Shelley as “warning about the dangers of solitary scheming”).

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

132. *Id.* at 448–49.

133. Cf. Kowalski v. Tesmer, 543 U.S. 125, 142 & n.4 (2004) (Ginsburg, J., dissenting) (stating that “[t]he rare case of an unusually effective *pro se* defendant is the exception that proves the rule”).

134. See, e.g., Stuart A. Thompson, *Fake Reviews Are Rampant Online. Can a Crackdown End Them?*, N.Y. TIMES (Nov. 13, 2023), <https://perma.cc/FB9V-P39K> (reporting that fake business reviews “deceive millions of customers each year”).

135. See J. Christopher Rideout, *Applied Legal Storytelling: An Updated Bibliography*, 18 LEGAL COMM. & RHETORIC 221, 222 (2021), <https://perma.cc/S35F-65V6> (explaining that “Applied Legal Storytelling examine[s] the use of stories—and of

techniques to persuasive effect, particularly when writing the facts section of a motion or brief.¹³⁶ Judges occasionally lean into their role as storyteller when writing an opinion, stretching the case facts beyond recognition.¹³⁷ Yet, however far removed from the record, all judicial opinions rest on the same underlying body of law. Indeed, the whole point of writing facts is to reflect the present with callbacks to the past: cast the current case as analogous to or distinct from prior cases.¹³⁸ Facts are case-specific; the corpus juris is collective.

Fictionalizing the law in a case is fundamentally different from fictionalizing the facts. AI-generated hallucinations threaten the legal system precisely because they target the underlying law, polluting the critical resource shared by bench and bar alike. A weakened legal system, in turn, weakens our political and economic systems.¹³⁹ Ultimately, the risk arising from hallucinated case citations is not Rule 11 sanctions in

storytelling or narrative elements—in law practice, in law school pedagogy, and within the law generally”).

136. See Brian J. Foley & Ruth Anne Robbins, *Fiction 101: A Primer for Lawyers on How to Use Fiction Writing Techniques to Write Persuasive Facts Sections*, 32 RUTGERS L.J. 459, 465–80 (2001) (discussing critical elements of storytelling for lawyers: “character, conflict, resolution, organization and point-of-view”); Ruth Anne Robbins, *Fiction 102: Create A Portal for Story Immersion*, 18 LEGAL COMM. & RHETORIC 27, 32 (2021), <https://perma.cc/P9QN-37K4> (focusing on action and setting); Susan M. Chesler & Karen J. Sneddon, *Once Upon A Transaction: Narrative Techniques and Drafting*, 68 OKLA. L. REV. 263, 269 (2016) (recommending narrative techniques for drafting transactional documents).

137. Compare *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 512–14 (2022) (recounting that a football coach lost his job after praying “quietly”), *with id.* at 547–56 (Sotomayor, J., dissenting) (“The record before us, however, tells a different story.”). See also Rachel Tavani, *The End of the Establishment Clause?: Constitutional Chaos Created by the Court in Kennedy*, 23 RUTGERS J. L. & RELIGION 165, 187 (2025) (“The *Kennedy* majority ignores legally significant facts to disrupt and dismantle precedent when looking at the presentation of facts in the majority and dissenting opinions of the case.”); Tomer Kenneth, *A Political Approach to Legal Evidence*, 35 YALE J.L. & HUMAN. 82, 126 (2024) (noting that “[t]he majority and the dissent fiercely disagreed about the facts of [*Kennedy*], a disagreement that affected their substantive decision”).

138. See *Henderson v. Collins*, 262 F.3d 615, 623 (6th Cir. 2001) (recognizing that “[t]his court is bound by the decisions of the Supreme Court” and when “we are unable to perceive material distinctions between a decision of that Court and the case before us, we are obligated to defer to its lead regardless of our own inclinations”); *Scott v. United States*, 890 F.3d 1239, 1257 (11th Cir. 2018) (“[W]e must follow the reasoning behind a prior holding if we cannot distinguish the facts or law of the case under consideration.”); *Choi v. ABF Freight Sys., Inc.*, 665 F. App’x 182, 184 (3d Cir. 2016) (recognizing both parties’ efforts to “analogize and distinguish a variety of federal cases”); *MED-EL Elektromedizinische Geräte Ges.m.b.H. v. Advanced Bionics, LLC*, No. 18-CV-01530, 2024 WL 774905, at *1 (D. Del. Feb. 26, 2024) (stating that sealing judicial records is a “big deal” in part because such orders “deprive lawyers and parties [of] information that they can use to distinguish or analogize a case—a fundamental part of the development of the law”).

139. See CHIEF JUSTICE JOHN G. ROBERTS, JR., 2024 YEAR END REPORT ON THE FEDERAL JUDICIARY 8, <https://perma.cc/38HN-L92B>.

individual matters but apparitions that settle into the legal landscape. Fictitious opinions may take on a life of their own, gaining traction and respect through repetition and reliance.

Adapted from the English common-law tradition, the United States' constitutional system runs on hierarchical precedent.¹⁴⁰ Judicial opinions stack like nesting dolls, each citing earlier opinions for support. Those supporting opinions cite even earlier opinions, and so on. Rarely does a court hear a matter of first impression and opine on a *tabula rasa*, lacking any precedent from anywhere.¹⁴¹ As hallucinations become widespread, courts may cite fictitious opinions without realizing that they are relying on phantoms.

Stakes are high.¹⁴² Article III of the Constitution requires a case or controversy for federal court jurisdiction.¹⁴³ A hallucinated case may dictate a result in an actual dispute between actual parties, who lose the benefit of actual law. Many fictitious case citations appear genuine, or genuine enough to fool seasoned professionals.¹⁴⁴ A university professor credentialed as an expert on the dangers of AI fell prey, citing two

140. See *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 39 (2022) (looking to English common law as it existed at the time the Constitution was adopted); *Ramos v. Louisiana*, 590 U.S. 83, 125 n.6 (2020) (Kavanaugh, J., concurring) (explaining that “[i]n the American system of *stare decisis*, the result and the reasoning each independently have precedential force, and courts are therefore bound to follow both the result and the reasoning of a prior decision”); *Rodriguez de Quijas v. Shearson/Am. Exp., Inc.*, 490 U.S. 477, 484 (1989) (instructing that, “[i]f a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions”); *Hawver v. United States*, 808 F.3d 693, 694 (6th Cir. 2015) (noting that, in light of a contrary Supreme Court opinion, “as a matter of compulsion under our hierarchical system of precedent, we must overrule our contrary caselaw”).

141. See, e.g., *United States v. Beckley*, 97 F.3d 507, 508 (11th Cir. 1996) (citing, in a matter of first impression in the Eleventh Circuit, analogous cases from the Fifth and Ninth Circuits); *Lopez v. Jet Blue Airways*, 662 F.3d 593, 597 (2d Cir. 2011) (citing, in a matter of first impression in the Second Circuit, analogous cases from the Fifth, Eighth, Tenth, and Eleventh Circuits).

142. See *Kohls v. Ellison*, No. 24-CV-3754, 2025 WL 66514, at *5 (D. Minn. Jan. 10, 2025) (warning that the “consequences of citing fake, AI-generated sources for attorneys and litigants are steep”).

143. Given the constitutional requirement of “cases” or “controversies,” federal courts do not issue advisory opinions. See U.S. CONST. art. III, § 2; see also *United Pub. Workers v. Mitchell*, 330 U.S. 75, 89–90 (1947). By contrast, many state courts do issue advisory opinions. See, e.g., *In re Ops. of Justs. to S.*, 802 N.E.2d 565, 569 (Mass. 2004) (advisory opinion on constitutionality of civil unions for same-sex couples).

144. See *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 449, 453, 466 (S.D.N.Y. 2023) (finding that some hallucinated case citations show “traits that are superficially consistent with actual judicial decisions” and others show “stylistic and reasoning flaws that do not generally appear in decisions” and sanctioning two attorneys, one admitted in state court and the other in federal court); see also *Park v. Kim*, 91 F.4th 610, 614 (2d Cir. 2024) (describing an attorney’s explanation that she used ChatGPT to find support for research after “invest[ing] considerable time”).

hallucinated articles in a lawsuit concerning the dissemination of “deepfakes.”¹⁴⁵ Irony is alive and well.¹⁴⁶ Once a fake case slips into a judicial opinion as supporting authority, it dons an additional sheen of legitimacy. Now the fake case carries the imprimatur of a sitting judge. So subsequent opinions cite the case again. The fake case enjoys a greater appearance of legitimacy. More citations. And again. On and on. Replicating over and over.

In a recent discovery dispute in the U.S. District Court for the Central District of California, a former magistrate judge acting as Special Master realized that he had been “affirmatively misled” by two AI-hallucinated cases cited in the plaintiff’s brief.¹⁴⁷ The Special Master was “persuaded (or at least intrigued),” so he “looked up the decisions to learn more about them—only to find that they didn’t exist.”¹⁴⁸ His final note after imposing sanctions under Rule 11 laid bare the near miss: “That’s scary.”¹⁴⁹ An even “scarier outcome” would be “including those bogus materials in a judicial order.”¹⁵⁰ Welcome back to Agloe.

The town of Agloe jumped from an invented dot to a Catskills locale, emerging after the name appeared on a respected and circulated map from one of the Big Three cartographers. The town was small and short-lived, with a general store and a fishing lodge that may or may not have been purchased as litigation deflection. Yet even that wobbly facade was sufficient to stave off a copyright claim. Off a map and onto a mountain, Agloe was sturdy enough to leave a mark on a legal dispute.

Hallucinated cases may travel the same route, off AI programs and into the world. The law does not need stores or lodges or any tangible construction to prove its existence. Rather, the law exists as declared by those “empowered to speak with the force of law,” individuals who derive their normative power from the Constitution and popular sovereignty.¹⁵¹

145. *Kohls*, 2025 WL 66514, at *1, *3 (stating that “the Court would expect greater diligence from attorneys, let alone an expert in AI misinformation at one of the country’s most renowned academic institutions,” Stanford).

146. *Id.* at *3 (“The irony.”)

147. *Lacey v. State Farm Gen. Ins. Co.*, No. CV 24-5205, 2025 WL 1363069, at *5 (C.D. Cal. May 5, 2025).

148. *Id.*

149. *Id.*

150. *Id.*; *see Shahid v. Esaam*, No. A25A0196, 2025 WL 1792657, at *2 (Ga. Ct. App. June 30, 2025) (“We are troubled by the citation of bogus cases in the trial court’s order.”).

151. *Georgia v. Public.Resource.Org, Inc.*, 590 U.S. 255, 273–74 (2020) (recognizing “official[s] with authority to make and interpret the law,” including “judges acting in their judicial capacity” and “legislative bodies acting in a legislative capacity”); *see* U.S. CONST. art. I, § 1; *id.* art. II, § 1; *id.* art. III, § 1; *id.* amend. X; *see also Public.Resource.Org*, 590 U.S. at 281 (Thomas & Alito, JJ., dissenting) (noting “the Constitution’s recognition that sovereignty resides in the people”); *Printz v. United States*,

Appearance on the right page signed by the right person imbues a phantom opinion with authority. As an AI hallucination, a phantom opinion is not the law; the Constitution has not empowered ChatGPT or Gemini or any other large language model to speak with the force of law. However, as lawmakers rely on the phantom opinion, it becomes legally consequential: sturdy enough to leave a mark on a legal dispute. The hallucination cosplays as primary authority, to scary real-world effect.¹⁵²

The more often a fictitious case appears in citations, the more convincing its cosplay act—and the more significant its impact. Our federal and state judiciaries are the Big Two, bestowing citations with the gravitas of a black robe. A fake case morphs into “law” as it appears in respected and circulated judicial opinions. Like christened landmarks, ghost words, and Frankenstein monsters, the fake cases are then loose in the world. No one keeps control, by copyright monopoly or otherwise.¹⁵³ As myths, misinformation, and disinformation gain currency in disciplines from politics¹⁵⁴ to technology¹⁵⁵ to history,¹⁵⁶ distrust flourishes.¹⁵⁷ The law is not immune.

521 U.S. 898, 918–19 (1997) (quoting THE FEDERALIST NO. 39 (James Madison)) (describing states’ “residuary and inviolable sovereignty”).

152. See JILL BARTON & RACHEL H. SMITH, THE HANDBOOK FOR THE NEW LEGAL WRITER 21–31 (3d ed. 2023) (“The sources that make up the governing law are called ‘primary’ authorities. The sources that comment on the law are called ‘secondary’ sources.”).

153. See *Public.Resource.Org, Inc.*, 590 U.S. at 265, 267 (denying copyright protection to Georgia statutory annotations and recognizing the long-standing principle that “no one can own the law”); *Feist Publ’ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 344, 351 (1991).

154. See David Remnick, *Joe Biden’s Decline: The Coverup and the Story Behind It*, NEW YORKER (May 17, 2025), <https://perma.cc/6J59-N4M6> (interviewing reporters Jake Tapper and Alex Thompson); Peter Baker, *In Trump’s Alternate Reality, Lies and Distortions Drive Change*, N.Y. TIMES (Feb. 23, 2025), <https://perma.cc/YEX3-LRZ9> (describing repetition of distortions and conspiracy theories); Eric Bradner, *Conway: Trump White House Offered ‘Alternative Facts’ on Crowd Size*, CNN (Jan. 23, 2017), <https://perma.cc/63XV-ZMB2>.

155. See Dan Heath & Chip Heath, *The Myth About Creation Myths*, FAST COMPANY (Mar. 1, 2007), <https://perma.cc/7TNM-GCCA> (debunking origin stories of Apple and YouTube); see also NPR Radio, *Origin Story*, THIS AM. LIFE (Sept. 19, 2014), <https://perma.cc/PMV6-LXFY> (reporting that “one way to measure just how appealing these stories are is to count all the ones that get quoted widely, even though they aren’t remotely true”).

156. See JAMES W. LOEWEN, LIES MY TEACHER TOLD ME ABOUT CHRISTOPHER COLUMBUS: WHAT YOUR HISTORY BOOKS GOT WRONG 32–34 (2d ed. 2014) (debunking myths that Columbus’ ships were “tiny and inefficient” and that his crew grew mutinous under the belief of a flat Earth); Smith, *supra* note 39, at 229.

157. See Joel Simon, *Avoiding the Disinformation Trap*, NEW YORKER (Feb. 12, 2024), <https://perma.cc/62PQ-XPT2> (“The modern concept of disinformation, or *dezinformatsiya*, was born in the Soviet Union, to describe false or misleading information used to confuse and undermine adversaries.”).

Fortunately, the law has hundreds of thousands of licensed guardians. The Southern District of New York in *Mata* was prescient in assigning a gatekeeping role to attorneys.¹⁵⁸ That role extends beyond the court filing at hand. In researching and validating the law, attorneys are the first line of defense before their pleadings, motions, briefs, and oral arguments reach lawmakers as the last line of defense. With roughly 400,000 members, the American Bar Association declares its mission “to be the national representative of the legal profession, serving the public and the profession by promoting justice, professional excellence, and respect for the law.”¹⁵⁹ Respect for the law is a profound duty, encompassing the Constitution, statutes, common law, and all other sources of legal authority.¹⁶⁰ At minimum, respecting the law means identifying the law.

Taking a page from the ABA, state bar associations aspire to lofty heights of professionalism. Nevada’s Creed of Professionalism and Civility, for example, requires that attorneys hold themselves as “officers of the legal system” in addition to “representative[s] of clients.”¹⁶¹ The Rules of Professional Conduct of the New York Bar assign an attorney “special responsibilities for the quality of justice,” including “uphold[ing] the legal process.”¹⁶² Attorneys practicing in Oregon attest that they “will promote the integrity of the profession and the legal system.”¹⁶³ Colorado’s Principles of Professionalism describe the law as not only a job but also “a calling” that involves “preserving the integrity of the legal system.”¹⁶⁴ Florida’s creed approaches the spiritual. Attorneys must “revere the law,” recognizing that a bar license confers a commitment

158. See *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 448 (S.D.N.Y. 2023); see also *Coomer v. Lindell*, No. 22-CV-01129, 2025 WL 1865282, at *8 (D. Colo. July 7, 2025) (stating that “federal courts rely upon the assistance of attorneys as officers of the court for the efficient and fair administration of justice”).

159. *Consumer FAQs*, ABA CTR. PRO. RESP., <https://perma.cc/4B5W-MSEK> (last visited July 6, 2025); see Tatyana Monnay, *Trump Attacks on ABA Threaten Group’s Funding and Membership*, BLOOMBERG LAW (Mar. 7, 2025, 5:30 A.M. EST), <https://perma.cc/2EJ8-SH6X> (acknowledging that the ABA has about 400,000 members).

160. See *Smith v. Decker*, 270 F. Supp. 225, 226 (N.D. Tex. 1967) (stating that “[t]he oath taken by all attorneys to ‘uphold the Constitution of the United States’ is no formalistic fancy, but a dedication to the enforcement of the principles upon which our system of jurisprudence is grounded”); *Yeyille v. Sch. Bd. of Miami-Dade Cnty.*, No. 14-24624-CIV, 2015 WL 11233428, at *2 (S.D. Fla. June 15, 2015) (stating an attorney takes “an oath to uphold the standards of the profession”).

161. CREED OF PROFESSIONALISM & CIVILITY, NEV. BAR ASS’N 1, <https://perma.cc/3JX5-KJR7> (last updated June 21, 2023).

162. N.Y. COMP. CODES R. & REGS. tit. 22, § 1200.0. pml. [1] (2025), <https://perma.cc/5NRV-WVW2>.

163. STATEMENT OF PROFESSIONALISM, OR. BAR ASS’N 1 (2019), <https://perma.cc/H3ZY-ECUM>.

164. PRINCIPLES OF PROFESSIONALISM, COLO. BAR ASS’N 1, <https://perma.cc/C4FK-QBRD> (last visited July 6, 2025).

higher than zealous advocacy for any one client in any one case.¹⁶⁵ Reverence connotes something sacred, something worth protecting.

VI. CONCLUSION

Phantom opinions may become unrecognizable as imposters, blending into the body of law as they mimic actual opinions and replicate in subsequent citations. The time for vigilance is now. With case hallucinations on the rise, attorneys should treat the corpus juris as a shared, common good that we are all obligated to keep pristine and healthy. Failure to confirm that a case exists represents a failure to respect the law, a dereliction of one's duty as gatekeeper. In today's world of distortion and distrust, it is more urgent than ever to safeguard the integrity of the law. Ghosts are at the gate.

165. CREED OF PROFESSIONALISM, FLA. BAR ASS'N 1, <https://perma.cc/EQ5T-329V> (last visited July 6, 2025) ("I revere the law, the judicial system, and the legal profession and will at all times in my professional and private lives uphold the dignity and esteem of each.").