From Shepard's to ChatGPT: Same Lesson, New Tool—Verify Everything

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"When will they ever learn?" When Peter, Paul, and Mary sang "Where Have All the Flowers Gone," they had no idea that the lyrics would be so timeless. When lecturing to lawyers, I find those words, or variations on them, coming up again and again and again.

The song is timeless. So are the lessons. Lawyers are careless; they cut corners; they ignore warnings; and they pinch pennies on the wrong things. It is one thing to make mistakes when running a practice. We all do. The difference is not learning the lesson that you cannot cut corners when it comes to submissions to a court.

In yesteryear, it was not checking Shepard's Citations. It was a pain to do. First, you had the hard-bound volume, with its seemingly infinite variations of where to look for case citations. Then, you went to the relatively thick pocket part. After that, the pocket parts seemed to go on forever, getting thinner and thinner. You never thought you found every case, but you hoped.

Of course, some attorneys cut corners and did not make a deep dive. They hoped that they had all the cases. Because finding them all was always a challenge, judges and opposing counsel rarely caught them.

Then came online research. Very quickly, we adapted to no longer having to consult the print volumes of Shepard's and to the convenience of knowing our cites were good. Online research has constantly improved, but significant changes did not occur until the advent of ChatGPT in 2022. It was revolutionary. You could ask questions and your computer would write your brief, or your memo, or do your research, you name it, it could do it.

It was magic!

Or so some attorneys thought.

Magic was an understatement. It not only produced some attorneys' outputs but also did so instantly.

Lawyers also did not heed Daniel Wallace's warning when he wrote, "Magic is dangerous: it's neither good nor bad, right nor wrong; it can be both a blessing and a curse. It takes strength, the strength of a man, to make the magic his own, to make it serve him, and not the other way around." Or was that Terry Brooks' quote in Shannara? I am not sure, since the quote, if it is one, has been attributed to Wallace and Brooks, and possibly others.

That is the problem, however. If I write a column and say I am unsure who authored a quote, no one will care. As long as I don't attribute it to myself, which would be plagiarism, I am good.

On the other hand, if I am a lawyer preparing a legal filing, such as a brief, and include a false quote or attribute it to a nonexistent case, I would be in hot water.

But that is what continues to happen. And it seems that lawyers either haven't read the headlines or assumed that they are different.

The first case to make headlines occurred in New York in 2023, just a few months after ChatGPT was born. The lawyer submitted a brief written by ChatGPT that cited nonexistent cases. He then asked ChatGPT whether the cases were real, and the chatbot said they were. He doubled down and affirmed to the Judge that the cases were real, until he—finally—came to understand they were not.

There continue to be cases, and more, all affirming the same theme. Generative AI makes mistakes. That does not mean you do not use it, but, like any tool, especially one whose results go to a court, you have to check your citations.

Of course, as lawyers, we are expected to trust what we are told. We take every client at their word. We assume opposing counsel would never misstate a fact, shade the truth, or misrepresent a position. We do not question; we accept. After all, that is exactly how law school trained us—or so the joke goes.

With that background, of course, lawyers have learned their lesson and no longer rely on generative AI to draft briefs without carefully checking the citations and what the cases actually say. The incidents of submitting filings replete with generative AI hallucinations have dwindled to zero, and the discussions about restrictions on its use have ended.

Not!

The errors, at least according to one opinion, happen even when lawyers use reputable legal databases. Consider *United States v. Farris*, an April 3, 2026, decision from the U.S. Court of Appeals for the Sixth Circuit, in which the court, among other things, referred the matters for disciplinary proceedings. What did the lawyer do? According to the opinion:

“By way of attempted explanation, Howe claims that this appeal was his first time utilizing Westlaw CoCounsel ‘in this way for a court of appeals brief.’ And he says that he was otherwise unfamiliar with the program. Howe’s response states that his law office first acquired Westlaw CoCounsel in August 2025—after the district court proceedings concluded—and that no artificial intelligence software was used to prepare documents before that court. Howe notes that he has never been disciplined over his 40-year career, whether for improper use of artificial-intelligence software or otherwise.

“Howe agrees that the briefs he filed before this court contain legally erroneous content that was generated by artificial intelligence. He concedes that the three inaccurate quotations identified above were the product of artificial intelligence, that they do not appear in any legal authorities, and that his briefs misrepresented the holdings of both Washington and Anthony. Howe admits that those errors occurred because he failed to adequately review and verify the draft brief produced by artificial intelligence, and he accepts full responsibility for that error.”

In other words, “When will they ever learn?”

In short, the technology is not the villain. Generative AI can be a powerful assistant, just as online research once was, and still is. But only if it is treated like every other tool in a lawyer’s toolkit: it must be used with skill, skepticism, and supervision. The duty of competence does not disappear when a draft is produced in seconds. The duty of candor to the tribunal does not bend because the error came from a machine rather than a human.

Courts have been clear—whether the misstep is a missed pocket part, an unchecked citator, or a hallucinated quotation—there is no “generative AI exception” to basic lawyering. If a filing cites a case, the case must exist; if it quotes an authority, the words must be there; if it represents a holding, the holding must match the record. The fix is not complicated, but it is nonnegotiable: verify every citation, read the authorities, and build office practices that make cutting corners harder than doing it right.

The temptation remains: save time, trust the output, and hope no one notices. But the cost of that hope is paid in credibility—with judges, with clients, and with disciplinary authorities.

“When will they ever learn?” The answer should be now, before the next brief turns “magic” into malpractice.

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