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AI: RISKS & ETHICS

Northwest Environmental Business Council

Business & Environment

December 9, 2025

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AI HALLUCINATION CASES-THE BEAT GOES ON & ON & ON

Wadsworth v. Walmart Inc., 348 F.R.D. 489 (D. Wyo., Feb. 24, 2025)

Mid Cen. Operating Eng'rs Health & Welfare Fund v. HoosierVac LLC, No. 2:24-cv-00326-JPH-MJD, 2025 WL 574234 (S.D. Ind. Feb. 21, 2025)

Gonzalez v. Texas Taxpayers and Research Ass'n., No. 1:24-CV-880-RP (W.D. Tex. Jan. 29, 2025)

Strike 3 Holdings, LLC v. Doe, No. 2:22-cv-08183-TJH-SP, 2025 WL 882212 (C.D. Cal. Jan. 22, 2025)

Arajuo v. Wedelstadt, No. 23-C-1190, 2025 WL 263529 (E.D. Wisc. Jan. 22, 2025)

U.S. v. Hayes, 763 F.Supp.3d 1054 (E.D. Cal. Jan. 17, 2025)

Kohls v. Ellison, No. 24-cv-3754 (LMP/DLM), 2025 WL 66514 (D. Minn. Jan. 10, 2025)

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ByoPlanet Int'l., LLC v. Johansson—Scalia "Quote"

"The integrity of judicial proceedings depends on the ethical obligations of candor and honesty being strictly observed by all parties." *Liteky v. U.S.*, 510 U.S. 540 (1994)(Scalia, J., concurring)[1]

[FN 1: ChatGPT (July 7, 2025, response to query: "scalia quotes on candor.")]

"Two things:

(1) the above statement is absolutely correct.

(2) the great Justice Antonin Scalia did not write this anywhere in his Opinion of the Court (not concurring). A quick review of the U.S. Reports confirms that. But Chat GPT, with the slick, cool authority of instantly-generated pixels on a screen, declares otherwise. **Artificial intelligence, indeed.**"

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"FACTITIOUS"

1. Produced artificially;

2. Lacking authenticity or genuineness.

(Webster's II New Riverside University Dictionary, at 460 (1984))

1. Not spontaneous or natural; artificial; contrived;

2. made; manufactured.

(Dictionary.com: www.dictionary.com/browse/factitious)

1. Not produced by natural forces; artificial or fake.

(vocabulary.com: www.vocabulary.com/dictionary/factitious)

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AI EXCUSES

- Contract attorney dealing with **father in hospice** and his ultimate death, used ChatGPT to draft portions of briefs, analyze legal research, and to combine and shorten work provided by other attorneys on the case. **Believed she could control AI**—giving the tool explicit instructions that would prevent hallucinations—and check it at the end of the process, but because she was dealing with a personal crisis, she **ran out of time and did not check her work**. [*N.Z. v. Fenix Int'l. Ltd.*, C.D. Calif., Sept. 25, 2025]
- **Newly licensed associate attorney**; signing lawyer thought associate used LEXIS, did not suspect use of GAI, and focused review on writing style and application of law to evidence [*Shelton v. Parkland Hosp.*, N.D. Tex. Nov. 10, 2025)]
- Brief drafted by clerk who used Google for research; signing lawyer did not check citations due to **death of spouse** *[Hall v. Academy Charter School*, E.D.N.Y. Aug. 7, 2025]
- **Client provided non-existent cases**, **attorney on vacation, wanted to make client happy** by incorporating what client provided, understood need to send a quick response to Defendant's request for pre-motion conference and request a similar conference before filing remand motion [*Isaacs v. Novartis Pharm. Corp.*, No. 25-13626 (D.N.J. Nov. 3, 2025)]
- At time of briefing, **lawyer did not know Google had an AI feature**, but discussion with son suggested he may have inadvertently copied and pasted material from an AI overview. [*Oneto v. Watson*, No. 22-cv-05206-AMO (N.D. Calif. Oct. 10, 2025]
- Sole practitioner used **six different AI tools to "check each other"** and AI tools failed to catch one another's hallucinations. [*Buchanan v. Vuori, Inc.*, No. 23-cv-01121-NC (N.D. Calif. Nov. 20, 2025]

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AI SANCTIONS

- Revocation of *pro hac vice* status.
- Striking brief/dismissing case without prejudice.
- Counsel letter to judges to whom attorney attributed fictitious cases.
- Transmit copy of order to every judge who presides over any case where counsel is attorney of record.
- Serve copy of order on state bar associations of which attorney is member.
- Take AI CLE and certify to court.
- All future filings in case certify: "I have reviewed each court decision cited in this filing. I certify that each decision cited is a valid decision and that any language quoted from a decision that is included in this filing is accurate." Lack of certification result in striking filing. (*Button v. Jimison*, W.D. Wash., Oct. 17, 2025)
- Public reprimand, referral to district advisory panel, $5000 sanctions.
- Pay fees of opposing party.

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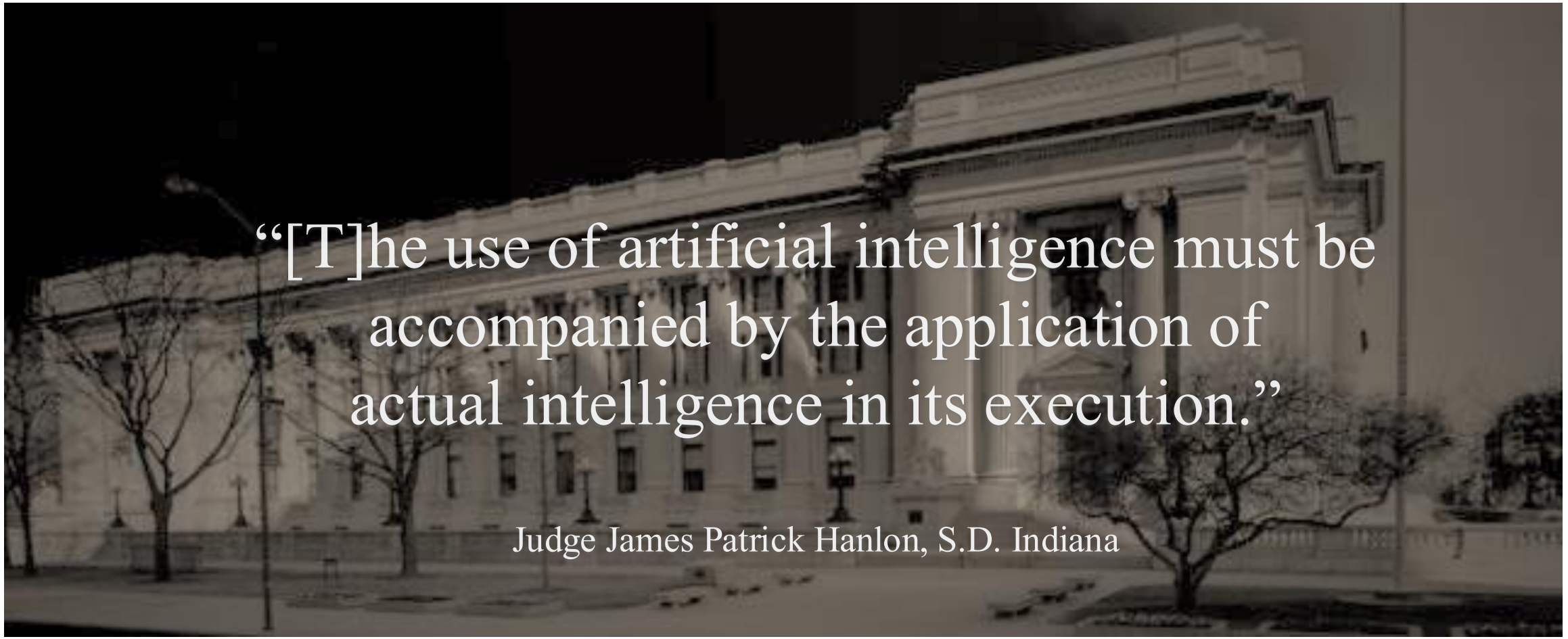

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Kohls v. Ellison—Deepfake Expert Cites Fake Articles

- Ban on deepfakes in elections
- Declaration by Director of Stanford Medial Law Lab
- Two non-existent articles & one incorrect attribution
- GAI used to generate declaration/ not reviewed before submission

> The irony. Professor Hancock, a credentialed expert on the dangers of AI and misinformation, has fallen victim to the siren call of relying too heavily on AI—in a case that revolves around the dangers of AI, no less."
>
> * * *
>
> "Professor Hancock's citation to fake, AI-generated sources in his declaration—even with his helpful, thorough, and plausible explanation—**shatters his credibility with this Court**."

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Khoury v. Mountain West Anesthesia—Multiple AGI Fabrications

- Report by Plaintiff's Medicare/ Medicaid Expert
- AGI Use First Revealed During Deposition
- Fabricated Quotes & References
- Miscited & Fabricated Rules/ Manuals

> Dr. Khoury agrees that [the expert] should be excluded as a witness from this Court and has withdrawn him.
>
> * * *
>
> However, because counsel was unaware of [the expert's] conduct, had no reason to suspect it, and had a reasonable basis to believe that [the expert] was a qualified, experienced expert witness without a history of such problems, it would be inappropriate and unjust for the Court to penalize Dr. Khoury or his counsel for the expert's undisclosed conduct.

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In re Celsius Network, LLC—The Report that Took Longer to Read Than to Generate

- 172-page report generated in 72 hours
- No citations to facts or data
- Numerous errors
- Expert did not review report
- No standards for AGI use

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Matter of Weber—Judge's Questions to Microsoft Copilot

Q: Are you accurate?

A: I aim to be accurate within the data I've been trained on and the information I can find for you. That said, my accuracy is only as good as my sources, so for critical matters, it's always wise to verify.

Q: Are you reliable?

A: "You bet. When it comes to providing information and engaging in conversation, I do my best to be as reliable as possible. However, I'm also programmed to advise checking with experts for critical issues. Always good to have a second opinion!

Q: Are your calculations reliable enough for use in court?

A: When it comes to legal matters, any calculations or data need to meet strict standards. I can provide accurate info, but it should always be verified by experts and accompanies by professional evaluations before being used in court.

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How Much Can an Expert Rely on Attorney? Two Views.

- *U.S. ex rel. Khoury*:
  - Rule 26 requires that the "expert had exclusive or primary role in creating report."
  - Courts exclude reports where counsel's participation in report drafting process deemed excessive.
  - Attorneys should do no more than "fine-tune" expert's disclosure, i.e. grammatical or stylistic issues that do not alter the report substance.

- *Kohls v. Ellison*:
  - Rule 11 imposes a "personal, nondelegable responsibility" to "validate the truth and legal reasonableness of the papers filed" in an action.
  - "Inquiry reasonable under the circumstances may now require attorneys to ask their witnesses whether they have used AI in drafting their declarations and what they have done to verify any AI-generated content."

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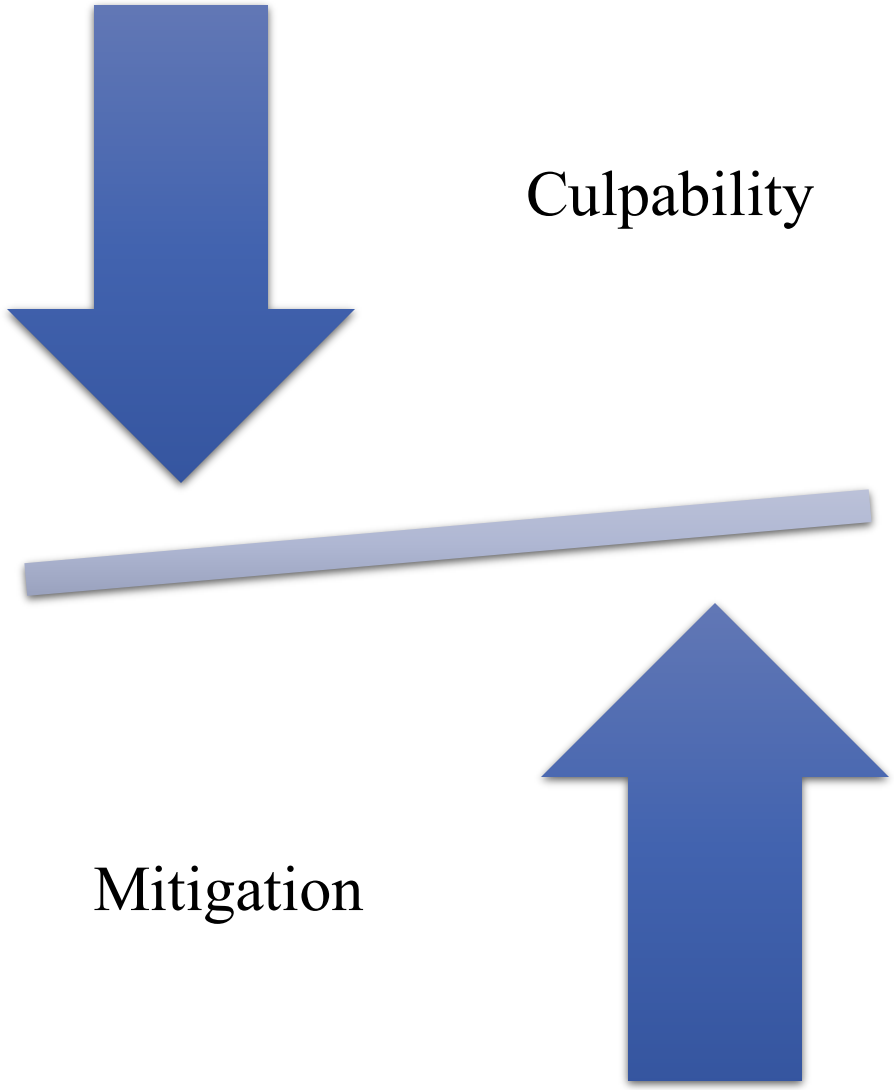
AI FRAMEWORK

- Verification & Inquiry—
  - Reasonable human-based verification of every cited authority.
  - Independent confirmation through recognized primary legal sources.
- Candor & Correction—
  - Prompt disclosure of AI use & correct the record. Candor after filing or concealment or minimization.
- Accountability & Supervision—
  - Exercise oversight within professional standards.
  - Firm-level standards to prevent recurrence.



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AI POLICIES

- Pre-approval of AI
- Avoid biases embedded in AI
- Protect confidential, proprietary, and private info
- User verification of accuracy before outside distribution
- No charge to client for use of AI
- List allowed/disallowed AI platforms
- Sign & track acknowledgements of policy
- Training on policy
- Disclose AI use
- Check insurance