

Guidance on AI & Hallucinations

United States Magistrate Judge Maritza Dominguez Braswell

Artificial Intelligence (AI)—as that term has been used for the last few years—is a powerful tool. It presents opportunities for innovation, growth, and increased access to justice, and we should learn to leverage it responsibly.

In recent months, much of the conversation about Generative AI (GenAI) has focused on hallucinations: instances when a GenAI tool invents quotes and legal authority. These incidents are serious and deserve attention. But when the narrative begins and ends with hallucinations, it limits the kind of thoughtful exploration that’s essential for responsible innovation. It also risks distracting us from other, equally important issues raised by AI’s growing role in law and society.

With this document, the Court provides guidance to the parties practicing before it. The guidance is focused on the issue of “hallucinations,” but also seeks to move the conversation beyond that. The goal is to encourage open dialogue about AI, foster grace and collaboration, and promote continued learning and growth as we navigate this evolving landscape together.

To that end, the Court shares the following:

- I. Responsible AI use could strengthen our systems. The use of certain AI tools may reduce the cost of legal work, increase work-life balance, equip attorneys to take on more pro bono cases, help courts better serve the public, and narrow the access-to-justice-gap. Thus, there is value in boldly exploring AI capabilities.
- II. Hallucinations are new, but inaccuracies are not. Hallucinations in court submissions are a serious matter. But all inaccurate statements made to a tribunal, regardless of how they were generated, are a serious matter. Cutting and pasting from a template without verifying the content, for example, could similarly result in inaccurate statements.
- III. The same rules apply. The source of error may change with technology, but the same rules apply. Cite checking is still critical. Verification is still necessary. Accuracy, candor, integrity, and competence are all still cornerstones of our professional responsibility.
- IV. We all need a little grace. This is a demanding profession. The pressures of modern practice—long hours, increasing demands, and for some, shrinking resources—stretch many to the brink of their limits. As we adapt to new technologies, we should offer each other a measure of grace. There is an important distinction between the reckless use of AI, and ordinary human error in the face of change. This is not a call to set aside accountability. It is a reminder that learning curves are real, and a culture that balances

accountability with grace will strengthen our profession and better serve the public we are all here to help.

- V. When an opponent’s filing contains a hallucination. When an attorney encounters a hallucination in an opponent’s court-filed document, they should exercise their own judgment in determining the appropriate response. However, the Court suggests the following framework when the hallucination is in a motion or other document pending before this Court:

(1) Confer

The purpose of the conferral is to (a) confirm the error is a hallucination; (b) discuss how the party responsible for the hallucination (“Drafter”) can correct or withdraw it without further harm; and (c) explore whether further remedial measures are appropriate, and if so, attempt to agree on them.

(2) Inform the Court

To avoid perpetuating inaccuracies, the parties should inform the Court of the issue. Thus, after conferral, the parties may send a joint email to: BraswellChambers@cod.uscourts.gov, advising the Court of the issue, agreed-upon resolution, and continuing disagreements, if any.

(3) Escalate, if necessary

If the Drafter is unresponsive or refuses to engage in good faith, the matter may need to be escalated by filing a formal Notice that alerts the Court to the issue.

- VI. This Court’s considerations when addressing hallucinations. When conferral does not resolve the matter, or when the Court’s involvement otherwise becomes necessary, the Court will consider the specific facts and circumstances before it to determine an appropriate course of action. This may include but is not limited to:

- ✓ Whether the Drafter promptly engaged in good faith with the attorney that alerted them to the issue.
- ✓ Whether the Drafter took responsibility.
- ✓ Whether the Drafter took immediate steps to mitigate any resulting harm.
- ✓ Whether the Drafter follows an AI Use Policy that demonstrates responsible practices.
- ✓ Whether the Drafter took reasonable steps to verify accuracy before filing the document.
- ✓ Whether the Drafter is a pro.se party, which may impact the Court’s assessment of “reasonable steps to verify accuracy.”

- ✓ The nature and extent of the hallucination(s), which may indicate whether the use of AI was reckless.
- ✓ Whether the hallucination(s) caused meaningful prejudice or harm to anyone.
- ✓ Whether the hallucination(s) resulted in a significant waste of judicial resources.

VII. Hallucinations are only one part of the conversation. Hallucinations have captured our attention, but they are far from the greatest AI-related challenge. The legal profession, and society more broadly, will have to confront deeper and more complex questions: how to safeguard privacy in an era of pervasive data collection, how to detect and prevent (or at least interrupt) bias, how to protect against misinformation/deepfakes/fabricated evidence, how to ensure humans retain meaningful control and autonomy over decisions that affect our lives, how to prepare the next generation of lawyers and judges for this new environment, and much more. Beyond those immediate concerns lie even larger questions about alignment, safety, and the long-term trajectory of increasingly powerful AI systems. Those issues warrant thoughtful engagement and remind us that hallucinations, while important, are only one part of a much larger conversation about the responsible integration of AI into law and society.

VIII. Closing Remarks. This document is not an order and does not establish new rules or requirements. Nothing should be interpreted to modify or supersede any applicable law, rule, professional obligation, or order issued by another judge. Rather, it reflects one judge's view that accountability can coexist with grace, and that we all benefit from the continued exploration of AI's risks and benefits.