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AI Hallucinations:
Could It Happen Here?

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Artificial intelligence "hallucination" is the shorthand that has come to describe when an AI tool simply makes up information. In the legal context, it speaks to a genre of cases in which lawyers used AI tools that generated citations to non-existent decisions that the lawyers then included in briefs filed with courts. The first case in this line that drew significant national media attention was *Mata v. Avianca*, 678 F. Supp.3d 443 (S.D.N.Y. 2023). In what became a prototypical example, the lawyer in *Mata* used a consumer AI tool to research and write a brief on a subject with which the lawyer was unfamiliar and submitted the brief to the court without checking the citations. The lawyer and his firm were both sanctioned when it turned out the AI tool had included fake citations.

Mata made a great teaching tool on the duty to competently understand the technology we use in law practice and the equally central duty to be truthful in court filings. The Oregon State Bar, for example, cited *Mata* last year in its advisory opinion on using AI tools in law practice—OSB Formal Opinion 2025-205 (2025). At the same time, because *Mata* seemed so extreme (which made it a great teaching tool), there was often a sense among Oregon CLE audiences along the lines of: "That couldn't happen here." Until it did. Twice.

In the space of a little over a month last Fall, both the U.S. District Court in Portland and the Oregon Court of Appeals had to grapple with *Mata*-like cases involving Oregon lawyers. In this column, we'll first survey the two Oregon decisions for context and then underscore some of the excellent risk management advice offered by the Oregon State Bar opinion.

The Cases

Green Building Initiative, Inc. v. Peacock, 350 F.R.D. 289 (D. Or. 2025) (order to show cause), 2025 WL 3198411 (D. Or. Nov. 12, 2025) (unpublished) (resolving order to show cause), involved briefing over attorney fees in a commercial case. Although the Court's decisions are comparatively spare, the underlying facts are described more fully in the associated public filings in the PACER system. A senior associate at a large firm took the lead on drafting a reply brief. Without telling others on the team handling the litigation, the associate ran portions of the brief through an AI tool to refine the draft. The AI tool added two fake citations. The associate then pasted the sections involved back into the brief without confirming the citations. The brief was filed and the associate did not realize it include the errant citations until the Court issued an order to show cause addressing its discovery of the fake citations. The firm took immediate and substantial corrective actions, which the Court determined were a

satisfactory resolution. The associate was described in the firm's response to the show cause order as "beyond remorseful."

Ringo v. Colquhoun Design Studios, LLC, 345 Or. App. 301, __ P.3d __ (2025), involved a solo representing the defendants/respondents who filed brief with the Oregon Court of Appeals that included fake citations that were apparently the product of the lawyer using an AI tool for legal research rather than a more conventional legal research service. The Court of Appeals described the brief (345 Or. at 303) as "littered with fabricated cases, a fabricated quotation, and fabricated substantive law." The lawyer acknowledged that he had not confirmed the citations. The Court of Appeals struck the brief—although it later allowed the lawyer to file a new brief that included a certification that he had not used an AI tool to prepare it. Unlike the federal district court in the preceding example, the Court of Appeals concluded that the lawyer was not immediately forthright on the cause of the problem, and, as a result, imposed a $2,000 sanction. The lawyer expressed regret and told the Court that he had since subscribed to a commercial legal research service.

The OSB Opinion

Both decisions just recounted cited the recent Oregon State Bar opinion on AI tools in law practice—OSB Formal Opinion 2025-205, which is available on

the OSB website. The opinion closely parallels guidance nationally in ABA

Formal Opinion 512 (2024), which is available on the ABA website. Put broadly,

the Oregon opinion makes two points—one technical and one human—on using

AI tools for court filings.

On the technical side, the lawyers in our two local examples both stated

that they did not understand how the technology involved worked. OSB Formal

Opinion 2025-205, however, leads with this observation on competence (at 1):

> Oregon RPC 1.1 requires lawyers to be competent in both the law
> and in the tools that they use to provide legal services to clients. Lawyers
> may utilize AI in their legal practice only if they have taken reasonable
> steps to become competent in the use of such technology. Here,
> competence requires understanding the benefits and risks associated with
> the specific use and type of AI being used.

On the human side, neither lawyer checked the citations generated by the

AI tool involved. Formal Opinion 2025-205 notes the basic standard to ensure

candor to the tribunal involved under RPC 3.3 (at 7):

> Lawyers must verify any work done by or with the assistance of any
> third-party technology, including AI.

ABOUT THE AUTHOR

Mark J. Fucile of Fucile & Reising LLP advises lawyers, law firms, and corporate and governmental legal departments throughout the Northwest on professional ethics and risk management. Mark has chaired both the WSBA Committee on Professional Ethics and its predecessor, the WSBA Rules of Professional Conduct Committee. Mark has served on the Oregon State Bar Legal Ethics Committee and is a member of the Idaho State Bar Section on Professionalism & Ethics. Mark writes the Ethics Focus column for the Multnomah (Portland) Bar's *Multnomah Lawyer*, the Ethics & the Law column for the WSBA *Bar News* and is a regular contributor on legal ethics to the WSBA *NWSidebar* blog. Mark is the editor-in-chief and a contributing author for the WSBA *Legal Ethics Deskbook* and a principal editor and contributing author for the OSB *Ethical Oregon Lawyer* and the WSBA *Law of Lawyering in Washington*. Before co-founding Fucile & Reising LLP in 2005, Mark was a partner and in-house ethics counsel for a large Northwest regional firm. He also taught legal ethics for over a decade as an adjunct at the University of Oregon School of Law. Mark is admitted in Oregon, Washington, Idaho, Alaska and the District of Columbia. He is a graduate of the UCLA School of Law. Mark's telephone and email are 503.860.2163 and Mark@frllp.com.