

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Associated Builders and Contractors,	:	
Inc., Eastern Pennsylvania Chapter,	:	
Appellant	:	
	:	
v.	:	No. 1172 C.D. 2025
	:	
Bucks County Community College	:	

BEFORE: HONORABLE RENÉE COHN JUBELIRER, President Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
PRESIDENT JUDGE COHN JUBELIRER

FILED: November 24, 2025

In this case, an attorney has filed a legal document that was created using generative artificial intelligence (AI). While that, in and of itself, is not problematic, what is problematic are the numerous factual and legal errors contained therein.

By way of brief background, on September 10, 2025, Associated Builders and Contractors, Inc., Eastern Pennsylvania Chapter (Appellant) filed a notice of appeal, seeking review of an order of the Court of Common Pleas of Bucks County. The next day, Appellant filed an Emergency Application for Stay in the Nature of a Preliminary Injunction Pending Appeal, to which Bucks County Community College (Appellee) filed a response in opposition. Following a proceeding before the Court on September 15, 2025, the Court issued an order on September 22, 2025, granting the application for a stay and enjoining Appellee from proceeding in any manner with the procurement, solicitation, and awarding of construction bids

pending resolution of the appeal. The Court also directed expedited consideration of the appeal with oral argument scheduled for November 2025.

On October 3, 2025, pursuant to a condensed briefing schedule, Appellant filed its principal brief and reproduced record. On October 20, 2025, an attorney for Appellee filed Appellee's brief (Initial Brief), along with a supplemental reproduced record. On October 27, 2025, Appellant filed a reply brief, in which it contended that AI may have been used to prepare the Initial Brief. Appellant stated:

Appellee's brief is shocking: it is replete with what appears to be hallucinations generated by [AI], including fake cases, quotes to cases and the record that do not exist, and material misrepresentations of the record. These hallucinations are so extensive that this Court should completely disregard Appellee's brief.

(Appellant's Reply Brief at 1; *see also id.* at 4-10 (describing some nonexistent cases, misstatements of law, and factual errors in the Initial Brief).)

One week later and just **two days** before the appeal was scheduled to be argued before the Court sitting *en banc*, another attorney for Appellee filed a Motion for Leave to File Amended Brief (Application) seeking to amend the Initial Brief. The Application avers that on October 30, 2025, the attorney who filed the Initial Brief notified another attorney for Appellee that the Initial Brief contained case cites and factual representations that were AI-generated. Upon learning that AI had been used, a new brief (Proposed Amended Brief) was prepared and the instant Application seeking leave of Court to file the Proposed Amended Brief was filed. The Proposed Amended Brief is **significantly different** from the Initial Brief in both form and substance.

Appellant promptly filed a response in opposition to the Application. Appellant argues that the Pennsylvania Rules of Civil Procedure and case law cited

in the Application are inapposite as they relate to the amendment of pleadings, not briefs. Appellant argues granting leave under these circumstances would create “a dangerous precedent” in that “litigants and lawyers who rely on [AI] in the preparation of legal filings will be permitted to seek a ‘do-over’ if their first attempt at preparing a legal filing utilizing [AI] is flagged by their opposition or the Court.” (Appellant’s Response in Opposition to Appellee’s Motion for Leave to Amend Brief (Response) at 2-3.) Appellant further argues this would “dilute the practice of law, ratify the abdication of litigants and lawyers[’] duties to the tribunal and clients, and unnecessarily increase the time and expense of litigation.” (*Id.* at 3.) Appellant asserts it would be “fundamentally unfair to allow a party to file a materially different brief” so close to argument. (*Id.* at 5.)

There is no dispute that the Initial Brief is replete with errors, both factual and legal. Granting leave of court for the Proposed Amended Brief to be filed is not an option. It would be prejudicial to Appellant to allow what is essentially an entirely new appellate brief to be filed two days before the scheduled *en banc* appellate argument. The Court agrees with Appellant that granting leave under these circumstances would set a poor precedent. Appellant asks that we deny the Application and strike the AI-ridden Initial Brief and we will so order. The Court cannot condone the filing of any legal document that admittedly contains numerous factual and legal errors, such as the Initial Brief filed here.

We note that our decision to deny the Application and strike the AI-generated brief is consistent with how other courts have dealt with AI-generated briefs that contain misrepresentations of the law and misstatements of the facts. For instance, in *Jakes v. Youngblood* (W.D. Pa., No. 2:24-cv-1608, filed June 26, 2025), 2025 WL 2371007, a federal district court discovered that an attorney who was admitted *pro*

hac vice filed briefs containing fabricated and/or nonexistent quotations and misrepresented case law. The attorney did so not only in his principal brief but also in his reply brief even after opposing counsel pointed out the errors in the principal brief. The attorney did not own up to doing so, but the federal district court presumed the briefs were AI generated rather than that the attorney “personally construct[ed] false and misleading briefs.” *Id.* at *4. This made no difference in the federal district court’s opinion. The court stated:

[a]ttorneys have ethical obligations under Rule 11 [of the Federal Rules of Civil Procedure, Fed.R.Civ.P. 11,] and their state’s respective professional canons to review every document submitted to a court under their name and signature to ensure accuracy, candor, and overall compliance with ethical obligations. This duty is non-delegable. An attorney who signs and files a brief authored by a non-lawyer, such as a paralegal, secretary or intern, is personally responsible for all that it contains. The same applies to [AI].

Id. The federal district court ultimately struck the motion and supporting briefs. *Id.* at *5.¹

The Court would be remiss if it did not caution that as AI’s prevalence in society continues to grow, and the use of generative AI in the legal realm likewise evolves, numerous ethical questions for litigants, attorneys, and the courts must be

¹ Our sister court, the Pennsylvania Superior Court, very recently encountered an appellate brief that cited nonexistent cases, which suggested to the court that generative AI had been utilized. *See Saber v. Navy Fed. Credit Union* (Pa. Super., No. 2449 EDA 2024, filed Oct. 28, 2025). There, the Superior Court found the appellant had waived his claims by not properly raising and developing the issues in his brief. *Id.*, slip op. at 8. The Superior Court observed that a case the appellant cited did not exist at either of the two citations the appellant provided, and although the court was able to locate a case with the same name, it did not stand for the proposition cited. *Id.* at 6. In a footnote, the Superior Court stated that it **suspected** the appellant had used generative AI to prepare the brief. *Id.* at 7 n.4.

considered.² I note that, to help guide the legal profession, the Pennsylvania Bar Association Committee on Legal Ethics and Professional Responsibility and the Philadelphia Bar Association Professional Guidance Committee (collectively, Committees) issued Joint Formal Opinion 2024-200 (Joint Formal Opinion or Joint Formal Op.).³ Therein, the Committees warned about what are known as “hallucinations.” AI hallucinations have been described as

a phenomenon wherein a large language model (LLM) – often a generative AI chatbot or computer vision tool – perceives patterns or objects that are nonexistent or imperceptible to human observers, creating outputs that are nonsensical or altogether inaccurate.

Generally, if a user makes a request of a generative AI tool, they desire an output that appropriately addresses the prompt (*i.e.*, a correct answer to a question). However, sometimes AI algorithms produce outputs that are not based on training data, are incorrectly decoded by the transformer or do not follow any identifiable pattern. In other words, it “hallucinates” the response.

Joint Formal Op. at 4. The Joint Formal Opinion further explained that generative AI is not free of prejudices or preconceptions; rather, because of the data input into AI platforms, there are biases that, among other things, can lead to favoring certain perspectives over others. *Id.*⁴

The Joint Formal Opinion explained that “lawyers must not only comply with the Pennsylvania Rules of Professional Conduct but [must] also **ensure that AI**

² On September 9, 2025, the Pennsylvania Supreme Court issued an order approving the Interim Policy on the Use of Generative Artificial Intelligence by Judicial Officers and Court Personnel, which takes effect December 8, 2025. *In Re: Interim Pol’y on the Use of Generative A.I. by Jud. Officers & Ct. Pers.* (Pa., Jud. Admin. Dkt. No. 643, filed Sept. 9, 2025).

³ A copy of the Joint Formal Opinion is available at <https://www.pabar.org/Members/catalogs/Ethics%20Opinions/Formal/Joint%20Formal%20Opinion%202024-200.pdf> (last visited Nov. 24, 2025).

⁴ Sadly, filing legal documents with hallucinations is not new. The Joint Formal Opinion provided other examples of attorneys who filed briefs that were prepared using generative AI, which included various errors, including citing a nonexistent case. Joint Formal Op. at 5.

adheres to the same requirements.” *Id.* at 9 (emphasis added). Based on the Rules of Professional Conduct (Rules), the Committees advised, in pertinent part:

- **Being Truthful & Accurate:** Lawyers must ensure that AI-generated content, such as legal documents or advice, is truthful, accurate, and based on sound legal reasoning, upholding principles of honesty and integrity in their professional conduct.

- **Verifying All Citations & The Accuracy of Cited Materials:** Lawyers must ensure the accuracy and relevance of the citations they use in legal documents or arguments. When citing legal authorities such as case law, statutes, regulations, or scholarly articles, lawyers should verify that the citations accurately reflect the content they are referencing.

....

- **Assuring Information is Unbiased & Accurate:** Lawyers must ensure that the data used to train AI models is accurate, unbiased, and ethically sourced to prevent perpetuating biases or inaccuracies in AI-generated content.

- **Ensuring That AI Is Properly Used:** Lawyers must be vigilant against the misuse of AI-generated content, ensuring it is not used to deceive or manipulate legal processes, evidence, or outcomes.

....

- **Exercising Professional Judgment:** Lawyers must exercise their professional judgment in conjunction with AI-generated content, and recognize that AI is a tool that assists but does not replace legal expertise and analysis.

....

- **Maintaining Transparency:** Lawyers should be transparent with clients, colleagues, and the courts about the use of AI tools in legal practice, including disclosing any limitations or uncertainties associated with AI-generated content.

Joint Formal Op. at 15-16.

The Joint Formal Opinion also discussed in detail the Rules and how they are implicated by the use of AI. For informational and educational purposes, the Court highlights a few here. For instance, Rule 1.1 provides that “[a] lawyer shall provide competent representation to a client,” which “requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.” Pa.R.P.C. 1.1. This requires, among other things, that an attorney “check and verify all citations and the material cited.” Joint Formal Op. at 9. Rule 3.1 of the Rules of Professional Conduct provides “[a] lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous.” Pa.R.P.C. 3.1. Counsel also owes a duty of candor to the Court. Pa.R.P.C. 3.3. In particular, “[a] lawyer shall not knowingly . . . make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.” Pa.R.P.C. 3.3(a)(1). Comment 4 to that Rule further provides that “[l]egal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal.” *Id.*, cmt. 4. Along those same lines, Rule 8.4 of the Rules of Professional Conduct provides that “[i]t is professional misconduct for a lawyer to[] . . . engage in conduct involving dishonesty, fraud, deceit or misrepresentation.” Pa.R.P.C. 8.4(c).⁵ It is imperative that attorneys must remain vigilant when utilizing generative AI in order to avoid running afoul of their ethical obligations.

⁵ Consistent with an attorney’s ethical obligations, some courts have established local rules and/or standing orders regulating the use of AI in legal filings. Some have outright banned the use of AI. *See, e.g.*, Court’s Standing Order on the Use of Generative AI, issued by Judge Christopher A. Boyko of the United States District Court for the Northern District of Ohio, *available at* <https://www.ohnd.uscourts.gov/sites/ohnd/files/Boyko.StandingOrder.GenerativeAI.pdf> (last visited Nov. 24, 2025). Some require a party to disclose when AI has been used. *See, e.g.*, Standing Order issued by Judge Michael M. Baylson of the United States District Court for the (Footnote continued on next page...)

The Court does not opine on the circumstances of what occurred here leading to the filing of the Initial Brief. Nor does the Court determine or pass judgment on whether any ethical rules were violated.⁶ Moreover, the merits of the appeal in this case will be separately addressed by the Court *en banc*. The Court here, while only addressing the Application, wishes to bring attention to the gravity of the implications of the use of generative AI by attorneys.

/s/ Renée Cohn Jubelirer

RENÉE COHN JUBELIRER, President Judge

Eastern District of Pennsylvania, *available at* <https://www.paed.uscourts.gov/sites/paed/files/documents/locrules/standord/Standing%20Order%20Re%20Artificial%20Intelligence%206.6.pdf> (last visited Nov. 24, 2025); Standing Order on Disclosure and Certification Requirements for Use of Generative Artificial Intelligence, issued by Magistrate Judge John D. Love of the United States District Court for the Eastern District of Texas, *available at* <https://www.txed.uscourts.gov/sites/default/files/judgeFiles/JDL%20Standing%20Order%20on%20AI%204.9.25.pdf> (last visited Nov. 24, 2025).

⁶ See Rule 2.15(B) of the Code of Judicial Conduct (“A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Pennsylvania Rules of Professional Conduct shall take appropriate action.”)

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Associated Builders and Contractors,	:	
Inc., Eastern Pennsylvania Chapter,	:	
Appellant	:	
	:	
v.	:	No. 1172 C.D. 2025
	:	
Bucks County Community College	:	

ORDER

NOW, November 24, 2025, upon consideration of the Motion for Leave to File Amended Brief (Application) filed by Bucks County Community College (Appellee), and the response in opposition thereto filed by Associated Builders and Contractors, Inc., Eastern Pennsylvania Chapter, the Application is **DENIED**. Moreover, the brief filed by Appellee on October 20, 2025 is hereby **STRICKEN**.

/s/ Renée Cohn Jubelirer
RENÉE COHN JUBELIRER, President Judge