

STATE OF MINNESOTA

TAX COURT

COUNTY OF WRIGHT

REGULAR DIVISION

Delano Crossing 2016, LLC,

Petitioner,

vs.

County of Wright,

Respondent.

ORDER ON SANCTIONS

Court File No.: 86-CV-23-2147

This matter came before the Honorable Jane N. Bowman, Chief Judge, the Honorable Bradford S. Delapena, and the Honorable Beverly J. Luther Quast, Judges of the Minnesota Tax Court, en banc, on the Court's Order to Show Cause.

Larry D. Martin, L.D. Martin Law Office, represents Petitioner Delano Crossing 2016, LLC.

Rachel E. Pence,¹ Caroline Bachun, Brian A. Lutes, and Elizabeth M. Larson, Wright County Attorney's Office, represent Respondent Wright County.

In support of a motion for summary judgment, which the court denies in a concurrent order, the County submitted a brief that included five case citations generated by Artificial Intelligence (AI); none of the five citations referred to an actual judicial decision. Indeed, much of the County's brief appeared to be written by AI. We subsequently ordered Wright County to show cause why it should not be sanctioned and why Ms. Pence, who signed and filed the brief, should not be reported to the Minnesota Lawyers Professional Responsibility Board. For the reasons below, although we

¹ Ms. Pence's affidavit references "previously representing the County" in this matter, but no formal Notice of Withdrawal has been filed. Affidavit of Rachel Pence ("Pence Aff.") ¶ 1 (signed Apr. 25, 2025).

believe Ms. Pence's conduct violated Rule 11, we decline to order sanctions. Additionally, we refer this matter to the Minnesota Lawyers Professional Responsibility Board for further review.

FINDINGS OF FACT

1. The five case citations contained in Wright County's memorandum in support of its motion for summary judgment were generated by artificial intelligence; the fake case citations do not refer to actual judicial decisions.

2. Wright County, by way of Ms. Pence, included five AI-generated case citations in a brief that was served on opposing counsel and filed with the tax court.

CONCLUSION OF LAW

1. Including AI-generated case citations in a legal brief served and filed with the tax court, violated Rule 11.02(b) of the Minnesota Rules of Civil Procedure.

IT IS SO ORDERED.



FILED: May 29, 2025

BY THE COURT:

Jane N. Bowman, Chief Judge
MINNESOTA TAX COURT

Bradford S. Delapena, Judge
MINNESOTA TAX COURT

Beverly J. Luther Quast, Judge
MINNESOTA TAX COURT

MEMORANDUM

I. FACTUAL AND PROCEDURAL BACKGROUND

In February 2025, Wright County filed a motion for summary judgment,² which the court denies on the merits in a concurrent order.³ Before the scheduled hearing on the County’s motion, the court ascertained that the County’s supporting memorandum contained five fake case citations, which we believed were hallucinated by AI. Given the unprecedented scenario for this court, we heard the matter en banc. Minn. Stat. § 271.04, subd. 1 (2024) (allowing the court to hear a matter “before the entire Tax Court”).⁴ During the en banc motion hearing, and in a subsequent Affidavit, the County acknowledged that the cited authorities do not exist and that much of the County’s brief was drafted by AI.⁵

² Not. Mot. & Mot. SJ (filed Feb. 4, 2025). The same notice of motion and motion was re-filed, updated with a specific hearing date and time, on February 6, 2025. Not. Mot. & Mot. SJ (filed Feb. 6, 2025).

³ Order Denying Summ. J. (May 27, 2025).

⁴ Order En Banc Consideration (Apr. 10, 2025).

⁵ Tr. 5, 7-8 (Apr. 11, 2025); Pence Aff. ¶¶ 16-20.

After the hearing, we filed an Order to Show Cause requiring the County to describe in detail how the brief came to be; to show cause why the County should not be sanctioned for having submitted a brief containing fake case citations; and to show cause why the court should not refer Ms. Pence's use of fake case citations to the Minnesota Lawyer's Professional Responsibility Board.⁶

In response, the court received two affidavits. First, Brian A. Lutes, Wright County Attorney, attested, in relevant part: (1) that Wright County has not submitted any other brief to the tax court containing fake case citations; and (2) that Ms. Pence provided assurances to County Attorney Lutes that she had not submitted any other brief containing fake case citations to any other court.⁷

Second, Rachel Pence, Assistant Wright County Attorney, submitted an affidavit generally describing the procedural background of this matter, her process in drafting the summary judgment brief, and reasons why the court should not sanction the County nor refer this matter to the Minnesota Lawyers Professional Responsibility Board.⁸ Ms. Pence generally characterized her filing of a brief containing AI-hallucinated case citations as a *mistake*, stating: "I believe I inadvertently filed a draft Motion that was never intended to be the final product. I did not intend to file an AI-generated pleading; however, I have been unable to locate any other documents containing my research."⁹

Ms. Pence further averred that she did not realize her brief contained fake case citations until approximately 6:48 p.m. the night before the motion hearing, prompting Ms. Pence to

⁶ Order to Show Cause (Apr. 18, 2025).

⁷ Affidavit of Brian A. Lutes (signed Apr. 24, 2025).

⁸ Pence Aff.

⁹ Pence Aff. ¶ 19.

conclude that the best time to deal with the situation was at the impending hearing.¹⁰ Ms. Pence further attested that although the case citations in her brief were fake, “the legal contentions in the motion are warranted by existing law as cited [orally during the hearing].”¹¹ Ms. Pence generally attested, in other words, that although she “erroneously filed a document with hallucinated cases,” the County’s arguments were otherwise legally sound. Ms. Pence added that she has taken several remedial measures to ensure this does not happen again, and she understands “the seriousness of [her] mistake.”¹²

II. ANALYSIS

For the following reasons, although we find Ms. Pence’s conduct violated Minnesota Rule of Civil Procedure 11.02(b), we decline to order sanctions in this matter.

A. Ms. Pence’s Conduct Violated Rule 11

Rule 11.02 states that, “by presenting to the court ... a pleading, written motion, or other document,” an attorney certifies “to the best of [their] knowledge, information, and belief, formed after an inquiry reasonable under the circumstances” that “the claims, defenses, and other legal contentions therein are warranted by existing law...” Minn. R. Civ. P. 11.02(b); *In re Est. of Flatgard*, 14 N.W.3d 305, 313 (Minn. App. 2024), review denied (Mar. 18, 2025) (noting when an attorney presents a court with pleadings, the attorney certifies that the claims are “supported by existing law,” among other things). “Thus, rule 11 prescribes *an affirmative duty* on counsel to investigate the factual and legal underpinnings of a pleading.” *Id.* (emphasis added); *see also*

¹⁰ Pence Aff. ¶ 24-25 (as opposed to filing a document pointing out the issue prior to the hearing).

¹¹ Pence Aff. ¶ 27. During the hearing, Ms. Pence offered several case citations to real cases; she argued the case citations offered at the hearing support the legal propositions in her brief. Tr. 5-6.

¹² Pence Aff. ¶¶ 36-41.

Uselman v. Uselman, 464 N.W.2d 130, 142 (Minn. 1990). When reviewing conduct for Rule 11 violations, courts apply an objective standard. *Albany Ready Mix, Inc. v. Reinke*, 2024 WL 5116624, at *4 (Minn. App. Dec. 16, 2024) (citing *Peterson v. Hinz*, 605 N.W.2d 414, 417 (Minn. App. 2000) (cleaned up)).

We conclude that the inclusion of citations to non-existing cases (or other legal authorities) is a violation of Rule 11.02(b), as fake case citations cannot support *any* legal claim. Minn. R. Civ. P. 11.02(b) (when signing pleadings, an attorney certifies “the claims, defenses, and other legal contentions therein are warranted by existing law.”). See *Dehghani v. Castro*, No. 2:25-CV-0052, 2025 WL 988009, at *4 (D.N.M. Apr. 2, 2025), *aff’d*, No. 2:25-CV-0052, 2025 WL 1361765 (D.N.M. May 9, 2025) (finding a Rule 11 violation for, in part, citing to non-existent case law because the citations “do[] not support [the] stated proposition”); see also *Ramirez v. Humala*, No. 24-CV-242, 2025 WL 1384161, at *1 (E.D.N.Y. May 13, 2025) (listing multiple district court decisions finding “submission of nonexistent case citations in filings to the court” as amounting to a Rule 11 violation). Further, using fake case citations is inherently misleading, as the signing attorney induces readers to believe that their legal contentions are supported by existing law. See *Matthew Garner v. Kadince, Inc.*, No. 20250188-CA, 2025 WL 1481740, at *2 (Utah Ct. App. May 22, 2025) (“A fake opinion is not ‘existing law’ that can support a party’s legal contention.”) (citation omitted). In other words, from an objective point of view, the inclusion of fake case citations creates sham legal authority, thereby violating Rule 11. See *Versant Funding LLC v. Teras Breakbulk Ocean Navigation Enterprises, LLC*, No. 17-CV-81140, 2025 WL 1440351, *4 (S.D. Fla. May 20, 2025) (finding “sanctions are appropriate under Rule 11... because both attorneys presented to the court a written response without conducting a reasonable inquiry.”); see

also Keaau Development Partnership LLC, v Patrick John Lawrence, et al, No. CAAP-24-0000494, 2025 WL 1366320, at *2 (Haw. Ct. App. May 19, 2025) (similar).

We find no merit in Ms. Pence’s defense that all of the County’s legal claims can be supported by genuine controlling precedent (that Ms. Pence orally offered to the court during the hearing).¹³ As an initial matter, we conclude that using fake case citations, particularly while knowing that AI can generate fictitious citations,¹⁴ is a Rule 11 violation, because the rule imposes an affirmative duty to investigate the “legal underpinnings of a pleading.” *Flatgard*, 14 N.W.3d at 313; *see also* Minn. R. Civ. P. 11.02(b) (requiring attorneys signing pleadings to certify that “the claims, defenses, and other legal contentions therein are warranted by existing law”).

In any event, the County’s substitute cases do not support the legal contentions asserted in its brief.¹⁵ First, the County demonstrated a fundamental misunderstanding of *how and when* a taxpayer can satisfy its initial burden to overcome the prima facie validity of the assessment.¹⁶ Second, Ms. Pence did not cite genuine precedent in support of her argument that courts may grant summary judgment against a party for missing two procedural deadlines.¹⁷ The County’s brief stated, however, that “[c]ourts have held that failure to comply with deadlines or court orders can justify the granting of summary judgment in favor of the opposing party.”¹⁸ This sweeping legal argument—as applied to the facts and procedural posture of this case—is wildly misplaced. Dismissal for procedural misconduct is granted only in the most egregious circumstances. *See*

¹³ Tr. 5; Pence Aff. ¶ 27.

¹⁴ Pence Aff. ¶ 18.

¹⁵ Order Denying Summ. J.

¹⁶ Order Denying Summ. J..

¹⁷ *See* Tr 5-6; Pence Aff. ¶ 27. Ms. Pence asserts the legal contentions are correct, but none of the authority she provided pertain to summary judgment.

¹⁸ Not. Mot. & Mot. Summ. Judgment 4.

Henke v. Dunham, 450 N.W.2d 595, 598 (Minn. App. 1990) (reversing a district court’s dismissal for failure to timely identify an expert and provide discovery responses, stating “we recognize that procedural rules should be obeyed, [but] the trial court’s dismissal of [plaintiffs’] case seems to be an unwarranted punishment.”), *Mark L. v. Comm’r of Revenue*, 2020 WL 2478861, *3-4 (Minn. T.C. May 7, 2020) (exclusion was the proper remedy for late-filed exhibits), and *Allina Health Sys. v. Cnty. of Washington*, 2021 WL 3040976, at *5 (Minn. T.C. July 13, 2021) (holding that “[u]nder these most compelling circumstances,” exclusion of testimony was the proper remedy). We find no case law supporting *dismissal* of a case for the sort of isolated procedural defaults that occurred in the current matter.¹⁹

In sum, we conclude that using AI to generate a brief with fake case citations, and then filing that brief without satisfying Rule 11’s affirmative duty to investigate the legal underpinnings of the County’s legal arguments,²⁰ is a violation of Rule 11. Calling the inclusion of fake case citations a “mistake” in this matter is not objectively reasonable.²¹

¹⁹ Not. Mot. & Mot. Summ. Judgment 3-4. Ms. Pence’s AI-generated brief confused legal standards. The motion was one for Summary Judgment, see Minn. R. Civ. P 56, but the brief relied on the standard in Rule 41, *id.* at 41 (Dismissal of Actions). *Id.* This court did not identify any authority granting summary judgment for procedural deficiencies such as here.

²⁰ *See* Pence Aff. ¶ 17 (Ms. Pence notes she updated the brief to correct a statutory citation, which “further supports the conclusion that [she] intended for the document to reflect [her] intent judgment and research.” But, the brief contains no statutory citations).

²¹ A true mistake might be using AI to draft a brief which included fake case citations, replacing those fake case citations with accurate case citations in a final draft, but accidentally filing the first draft brief. Here, Ms. Pence claims she “inadvertently filed a draft Motion that was never intended to be the final product. I did not intend to file an AI-generated pleading; however, I have been unable to locate any other documents containing my research.” Pence Aff. ¶ 19. We do not find credible the insinuation that another, accurate motion document exists. Although Ms. Pence states she did not “intend[]” to file a brief with fake case citations, she failed in her obligation to read the pleading for accuracy prior to filing; if she did read it, she failed to identify that her brief consisted of entirely fake case citations. If she did realize the brief contained fake case citations, she failed to replace them with real citations accurately reflecting the current state of the law.

B. Sanctions

If a court determines Rule 11 has been violated, “after notice and a reasonable opportunity to respond, ... the court may, subject to [certain conditions], impose an appropriate sanction upon the attorney[], ... for the violation.” Minn. R. Civ. P. 11.03. Sanctions “imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct[.]” Minn. R. Civ. P. 11.03(b) (also noting that monetary sanctions are not available for a Rule 11.02(b) violation). Courts are required to make factual findings as to improper conduct and explain the basis for any sanction. Minn. R. Civ. P. 11.03(c); *In re the Claims for No-Fault Benefits Against Progressive Ins. Co.*, 720 N.W.2d 865, 875 (Minn. App. 2006).

We believe one appropriate sanction here would be to summarily deny the County’s motion. If an attorney submits to this court legal arguments using fake legal authority, we generally will deny the motion without expending the time and resources necessary to analyze those arguments. As described in our concurrent Order denying the County’s motion, however, we concluded that the County’s arguments were so clearly incorrect that it was preferable to deny them on the merits.²² In lieu of summarily denying the County’s motion as a sanction, we believe that this Order, in conjunction with the Order to Show Cause, sufficiently deters Ms. Pence from relying solely on AI for case citations or legal conclusions in the future. Thus, we decline to order any further sanctions in this matter.²³

²² Order Denying Summ. J.

²³ Of course, this conclusion is based on the events of this case. The court emphasizes its ability to order sanctions if another attorney or self-represented litigant presents the court with fictitious case citations.

III. REFERRAL CONCERNING PROFESSIONAL CONDUCT

“Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.” Minn. Rules of Pro. Conduct r. 1.1. In addition, a lawyer “shall not knowingly ... make a false statement of fact or law to a tribunal ...”). *Id.* at r. 3.3(a)(1). Wright County’s brief in this matter raises questions of truthfulness and candor to the court.

We are mindful of our responsibility as judges. “A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects *shall* inform the appropriate authority.” Minn. Code of Jud. Conduct r. 2.15(B) (emphasis added); *see also Bevins v. Colgate-Palmolive Co.*, No. 25-576, 2025 WL 1085695, at *7 (E.D. Pa. Apr. 10, 2025) (ordering the clerk of court to send its memorandum to the state bar under similar circumstances).

We believe the submission of an AI-generated brief, apparently unreviewed, as evidenced by inclusion of entirely fake case citations, reasonably raises questions as to a lawyer’s honesty, trustworthiness, and/or fitness as a lawyer. Thus, as we are obligated to inform the authority under our governing rule, we will send to the Minnesota Lawyer’s Professional Responsibility Board: (1) Wright County’s brief in support of its motion to dismiss, (2) the transcript of the April 11, 2025 hearing, (3) this court’s Order to Show Cause, (4) Brian Lutes’s Affidavit, (5) Rachel Pence’s Affidavit, (6) the court’s Order Denying the County’s Motion, and (7) this Order on Sanctions. The Board will respond as it sees fit.