IN RE: SANCTIONS ORDER OF KENNEY, KERRY

NO. 25-C-389

FIFTH CIRCUIT

COURT OF APPEAL

STATE OF LOUISIANA

ON APPLICATION FOR SUPERVISORY REVIEW FROM THE
TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 860-037, DIVISION "I"
HONORABLE NANCY A. MILLER, JUDGE PRESIDING

October 23, 2025

TIMOTHY S. MARCEL
JUDGE

Panel composed of Judges Marc E. Johnson,
John J. Molaison, Jr., and Timothy S. Marcel

WRIT GRANTED, RELIEF DENIED,
JUDGMENT AFFIRMED

TSM
MEJ
JJM

COUNSEL FOR PLAINTIFF/RELATOR,
KERRY KENNEY

Connie P. Trieu

COUNSEL FOR DEFENDANT/RESPONDENT,
WEST JEFFERSON HOLDINGS, LLC, ET AL

Ann M. LeBlanc
Mary Margaret H. Moore
Kathryn M. Caraway

MARCEL, J.

This writ presents a *res nova* issue for this Court: the imposition of sanctions on counsel for filing pleadings containing erroneous, false case citations created by generative artificial intelligence ("AI") software. Connie P. Trieu, counsel for plaintiff, Kerry M. Kenney, seeks supervisory review of the trial court's August 11, 2025 judgment rendered against her on a Motion for Sanctions Pursuant to Louisiana Code of Civil Procedure Article 863 filed by defendants, West Jefferson Holdings, LLC, d/b/a West Jefferson Medical Center and Louisiana Children's Medical Center d/b/a LCMC Health. For the following reasons, we affirm the judgment of the trial court, tax relator with costs of these proceedings, order relator to attend 3 hours of CLE training, and refer relator to the Office of Disciplinary Counsel for the Louisiana Attorney Disciplinary Board.

BACKGROUND

This case arises from a *Petition for Damages* for invasion of privacy and negligent supervision of employees brought on December 2, 2024 by plaintiff, Mr. Kenney, against defendants West Jefferson Medical Center, LCMC Health, and its employee, Amanda Dufrene. In the petition, Mr. Kenney alleges that he was harmed when Ms. Dufrene accessed his electronic medical records without authorization and published his personal medical information on the social media platform Facebook.

In response to plaintiff's petition, on May 23, 2025, defendants West Jefferson Medical Center and LCMC Health[1] filed a *Peremptory Exception of No Cause of Action*. In their exception, defendants argued that plaintiff's petition failed to set forth facts necessary to state causes of action for invasion of privacy or negligent supervision of an employee under Louisiana law and therefore the

[1] Hereinafter, "defendants" shall indicate West Jefferson Medical Center and LCMC Health but not Ms. Dufrene who did not join in the peremptory exception or motions discussed herein.

petition should be dismissed. Plaintiff replied on June 3, 2025 by filing an *Opposition to Peremptory Exception of No Cause of Action* as well as a *Memorandum in Support of Plaintiff's Opposition to Defendants' Peremptory Exception of No Cause of Action.* Plaintiff argued, with multiple citations to legal authority, that the petition did include facts sufficient to state valid causes of action for invasion of privacy and negligent supervision under Louisiana law. These pleadings were signed and filed by plaintiff's counsel, Ms. Trieu.

On June 19, defense counsel[2] sent an email to plaintiff's counsel requesting clarification for two citations to purported Louisiana appellate decisions contained in plaintiff's opposition: "*Burns v. State*, 813 So.2d 574 (La. App. 1 Cir. 2001)" and "*Smith v. Christus St. Patrick Hosp.*, 20-306 (La. App. 3 Cir. 11/3/20), 308 So.3d 1216." In her email to plaintiff's counsel, defense counsel requested courtesy copies of the cited cases because she was unable to find either case on Westlaw or on the appeals courts' websites. In response to this email, a paralegal for plaintiff's counsel replied with summaries of the *Burns* and *Smith* cases. Defense counsel then made phone calls to the First and Third Circuit Courts of Appeals: those courts indicated they had no records of the *Burns* or *Smith* cases cited.[3]

The next day, on June 20, defense counsel requested further clarification and explanation from plaintiff's counsel concerning the erroneous citations and reiterated her request for courtesy copies of the cases in PDF format. Plaintiff's counsel personally replied that she would have her paralegal amend and strike those cases and stated "we checked w [sic] two different sources and don't understand how it gave us these incorrect case [sic] so I'll ask her to amend and

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[2] Ms. Mary Margaret H. Moore with the firm Caraway LeBlanc, L.L.C.

[3] Records custodians at the First Circuit Court of Appeals also indicated that the Burns case number, "00-908", was not a case number that would exist under their numbering system: a fact also relayed by defense counsel to plaintiff's counsel.

strike these cases immediately". The paralegal then followed up with an email stating that the original citations were "compiled in good faith based on internal notes and references provided to our office." The paralegal further acknowledged their responsibility to ensure the accuracy of the authorities cited, and stated they had reviewed and amended the memorandum accordingly to reflect proper controlling and persuasive jurisprudence.

On the afternoon of June 20, Ms. Trieu signed and filed a *Supplemental Memorandum in Opposition to Defendants' Peremptory Exception of No Cause of Action and Errata to Plaintiff's Memorandum*. Purportedly, this filing clarified and corrected the incorrect case citations stated in her previous filings and provided additional legal authority in support of the legal arguments made in opposition to defendants' exception. However, no mention is made of the *Burns* or *Smith* cases, nor are the erroneous citations identified. Printed copies of two Louisiana reported cases, *Jaubert v. Crowley Post-Signal, Inc.*, 375 So.2d 1386 (La. 1979) and *Thomas v. Reg'l Health Sys. of Acadiana, LLC*, 19-507 (La. 1/29/20), 347 So.3d 595 were attached as exhibits to this filing.[4] The *Jaubert* case had been previously cited in plaintiff's pleadings and the *Thomas* case was provided as new supplemental legal authority.

On July 14, defendants filed a *Memorandum in Reply to Plaintiff's Opposition to Peremptory Exception, Memorandum in Support, and Supplemental Memorandum and Errata*. Defendants also filed a *Motion for Sanctions Pursuant to La. C.C.P. art. 863* with an accompanying memorandum in support. In these filings, numerous problems were raised with plaintiff's filings. Defendants pointed to the *Burns* and *Smith* cases as entirely fabricated and identified a third fabricated case, "*Doe v. Southwest Louisiana Hosp. Ass'n*, 02-180 (La. App. 3 Cir. 7/10/02), 833 So.2d 1136," cited as authority in plaintiff's *Memorandum in Support of*

[4] These copies of the cases appear to have been sourced from the vLex Fastcase legal database.

Plaintiff's Opposition to Defendants' Peremptory Exception of No Cause of Action. In addition to the three fabricated authorities, defendants also argued that plaintiff's counsel misrepresented the holdings of *Jaubert* and another cited case, *Acara v. Banks*, 470 F.3d 569 (5th Cir. 2006). Defendants noted that, in addition to misrepresenting the Court's holding in *Thomas*, plaintiff's counsel provided an incorrect citation and false quotation from that case. Defendants prayed that the court sanction plaintiff pursuant to La. C.C.P. art. 863 in the form of attorney's fees and costs. In support of the motion for sanctions, defendants included a copy of the June 19-20 email exchange where the concerns about the case citations were first raised and also an itemized bill detailing the time spent researching and drafting responses to the fabricated citations.

Ms. Trieu filed a *Memorandum in Opposition to Defendants' Motion for Sanctions* in which she stated that the erroneous citations were compiled in good faith based on internal notes and that she had filed the supplemental memorandum and errata to correct the record and remove the disputed citations. The erroneous citations are not identified in this filing, nor is any reference made to the additional *Doe* and *Thomas* citation errors raised by defendants. Defendants filed a reply to this memorandum, pointing out that the statements of law made by Ms. Trieu therein, (e.g., "[t]he Louisiana Supreme Court has emphasized that sanctions should not be imposed for honest mistakes or inadvertent errors,") are not supported by citation to any legal authority.

On July 30, 2025, one day before the hearing on the motion for sanctions, Ms. Trieu filed an untimely sur-reply to defendants' memorandum. In the sur-reply, Ms. Trieu disputed defendants' arguments and again made statements of law unsupported by any legal authority. She attached two exhibits as "demonstrative records of the research conducted and the source materials consulted to support the legal citations in question, including printouts of research verifying the good faith

basis of the authorities cited." These exhibits appear to be printed copies of summaries for the *Burns* and *Smith* cases produced by generative AI programs.[5] These exhibits are also the first direct indication in the record that Ms. Trieu had utilized generative AI programs to conduct legal research.[6]

A contradictory hearing on the motion for sanctions was held on July 31, 2025.[7] At that time, all parties acknowledged that the erroneous case citations were "AI hallucinations."[8] Ms. Trieu stated that her paralegals and law clerks cross-checked the citations with three different sources, Google, ChatGPT, and Microsoft Copilot, and printed out cases from these sources that she read. She argued that the inclusion of the erroneous citations was an "honest mistake" and that she took active steps to correct the inadvertent errors, including the filing of the supplemental memorandum and errata. Ms. Trieu stated that she read every single pleading she submitted to the court. She argued as well that the time defendants claimed to have spent researching and responding to the erroneous citations, 7.6 hours total, was excessive. She stated that it only takes 7.6 seconds, not hours, to type citations into LexisNexis or Westlaw.

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5 "Generative AI programs" such as OpenAI ChatGPT, Google Gemini, and Microsoft Copilot, are computer programs (a.k.a. "chatbots") that utilize human feedback and algorithms trained on large language models to produce statistically probable, fluent, and grammatical responses to the program user's input prompt or query. Such programs often produce texts that include false statements of fact. In the case of generative AI programs producing texts in relation to prompts on legal subjects, those false statements of fact typically consist of inaccurate statements of law, incorrect summaries of judicial opinions, or fabricated citations. *See* Megan E. Boyd & Brian L. Frye, *The Duty of Efficiency & Generative Ai Pedagogy*, 77 Wash. U.J.L. & Pol'y 96, 117 (2025).

6 The formatting of plaintiff's pleadings, including the multiple and repeated use of bullet points, lists, and bold text, suggests that generative AI software was used not only for legal research, but also in the drafting of the pleading documents. This has not been acknowledged by plaintiff's counsel.

7 The defendants' peremptory exception was also heard at that time. The trial court granted the exception, but allowed plaintiff the opportunity to amend the petition pursuant to La. C.C.P. art. 934. No review has been sought of the judgment granting the exception.

8 While "hallucinations" is becoming a common term to refer to these computer-generated errors, legal scholars have noted that "[c]alling false statements of fact produced by a [generative AI program] 'hallucinations' wrongly encourages people to conceptualize what a text generator is doing as thinking, rather than merely producing statistically probable words in a sequence." Boyd & Frye, *supra*. We decline to adopt that terminology here.

Defense counsel argued that the "errata" filed by Ms. Trieu did not in fact identify the erroneous citations as being fabricated by generative AI. She also argued that Ms. Trieu's investigation into the erroneous citations was not objectively reasonable based on the sources cited or the evidence presented, and the investigation, including phone calls to the First and Third Circuits, was not conducted by Ms. Trieu, but by defense counsel.

Evidence introduced by defendants at the hearing included the email exchange between counsel, an itemized billing statement from defense counsel, and the exhibits attached to plaintiff's untimely filed sur-reply brief consisting of printed copies of summaries of the AI-generated *Burns* and *Smith* cases. Ms. Trieu offered no evidence.

At the conclusion of the hearing, the trial court granted the motion for sanctions and ordered plaintiff's counsel to pay attorney's fees in the amount of $1,368 to defendants as well as court costs incurred by them as a result of their filing the motion for sanctions within thirty days of the date of the signing of the written judgment. The court also filed written reasons for judgment wherein the judge articulated the basis for the sanction imposed as required under La. C.C.P. art. 863(G):

> Plaintiff's counsel submitted legal authority and citations generated by "A.I." software without verifying their authenticity. Specifically, in support of her Opposition to Peremptory Exception of No Cause of Action, plaintiff's counsel: (1) cited to three cases which were entirely fabricated, including one which was central to the plaintiff's argument; (2) provided a quote from one authentic case which contained addition [sic] language changing the quote's substance; and (3) misrepresented the holdings of two other authentic cases.
>
> In response to defense counsel's inquiries, plaintiff's counsel submitted a supplemental "errata" memorandum. That memorandum cited only two cases: one previously cited in the defendants' memorandum, and one which repeated the misrepresented holding from her initial opposition.

> For the foregoing reasons, plaintiff's counsel was found to have violated La. C.C.P. art. 863(B)(2). Pursuant to La. C.C.P. art. 863(D), the Court imposed sanctions in the amount of the defendants' reasonable attorney's fees for researching the erroneous citations and preparing the motion for sanctions.

Ms. Trieu filed a writ application seeking supervisory review of the trial court's judgment. In her writ application, she argues: (1) that the trial court abused its discretion in issuing sanctions without a finding that counsel acted in bad faith, with intent to deceive, or without reasonable inquiry as required under La. C.C.P. art. 863(D); (2) that the trial court failed to articulate factual findings supporting the sanctions imposed; and (3) that the sanctions imposed were excessive, punitive, and unsupported by the record. Counsel reiterates her arguments made before the trial court that the citations originated from internal research notes and secondary online AI sources, including Microsoft Copilot, ChatGPT, and Google AI references, which were mistakenly relied upon during drafting. We consider the merits of her arguments in our discussion below.

DISCUSSION

We begin by observing that the August 11, 2025 judgment is a partial final judgment subject to immediate appeal. La. C.C.P. art. 1915 (A)(6) states that a final judgment may be rendered, even though it may not adjudicate all of the issues in the case, when the court imposes sanctions or disciplinary action pursuant to La. C.C.P. art. 863. We further observe that, as of August 1, 2025, the newly enacted legislative amendments to La. C.C.P. art. 1915 no longer require the trial court to designate certain partial judgments as final prior to taking an appeal from the judgment rendered.[9] Nevertheless, because relator has filed a timely writ application, and because the supplemented writ application[10] and the defendants'

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[9] *See* Act. No. 250, H.B. 178, 2025 Leg., Reg. Sess. (La. 2025).

[10] The writ application was supplemented pursuant to this Court's September 16, 2025 order with items required under Rule 4-5(C) of the Uniform Rules – Courts of Appeal but missing from the original writ application.

opposition provide an otherwise complete record, we consider this case under our supervisory jurisdiction. Our discussion proceeds with a statement of the applicable standard of review and an examination of the applicable law, Article 863, followed by a review of the trial court's findings of fact and the sanctions imposed. We conclude with the imposition of additional sanctions.

Standard of Review

The standard of review of sanctions imposed under La. C.C.P. art. 863 is twofold: the trial court's determination that conduct is sanctionable is reviewed under the manifest error standard to determine whether such a finding is supported by the facts of the case, while review of the nature or amount of such sanctions is reviewed to determine whether the trial judge abused her discretion when setting the sanctions. *Marks v. Marks*, 21-741, p. 5 (La. App. 5 Cir. 9/28/22), 349 So.3d 1071, 1075; *Richardson v. Whitney Nat. Bank*, 06-803, p. 7 (La. App. 5 Cir. 2/27/07), 953 So.2d 836, 839; *Alombro v. Alfortish*, 02-1081, p. 8 (La. App. 5 Cir. 4/29/03), 845 So.2d 1162, 1168; *Durkin v. Quest, Inc.*, 98-939, p. 7 (La. App. 5 Cir. 12/29/98), 724 So.2d 868, 872; *Sternberg v. Sternberg*, 97-101, p. 6 (La. App. 5 Cir. 5/28/97), 695 So.2d 1068, 1071.

Louisiana Code of Civil Procedure Article 863

The matter presented, the imposition of sanctions under La. C.C.P. art. 863 for the inclusion of AI-generated fake citations in pleadings, is *res nova* for this Court and, to our knowledge, has not been considered by any other Louisiana appellate court. While novel to us, the widespread adoption of generative AI software by legal practitioners in recent years has resulted in many courts considering the same problem. *See, e.g.*, *Mata v. Avianca, Inc.*, 678 F.Supp.3d 443 (S.D.N.Y. 2023); *Park v. Kim*, 91 F.4th 610 (2d Cir. 2024); *Iovino v. Michael Stapleton Associates, Ltd.*, 5:21-CV-00064, 2024 WL 3520170 (W.D. Va. July 24, 2024); *Gauthier v. Goodyear Tire & Rubber Co.*, 1:23-CV-281, 2024 WL 4882651

(E.D. Tex. Nov. 25, 2024); *Wadsworth v. Walmart Inc.*, 348 F.R.D. 489 (D. Wyo. 2025); *Benjamin v. Costco Wholesale Corp.*, 779 F.Supp.3d 341 (E.D.N.Y. 2025); *Versant Funding LLC v. Teras Breakbulk Ocean Navigation Enterprises, LLC*, 17-CV-81140, 2025 WL 1440351 (S.D. Fla. May 20, 2025); *Johnson v. Dunn*, 2:21-CV-1701-AMM, 2025 WL 2086116, --- F.Supp.3d --- (N.D. Ala. July 23, 2025); *Nora v. M & A Transp., Inc.*, CV 25-1015, 2025 WL 2337132 (E.D. La. Aug. 13, 2025); *Lee v. R&R Home Care, Inc.*, CV 24-836, 2025 WL 2481375 (E.D. La. Aug. 28, 2025); *Noland v. Land of the Free, L.P.*, 114 Cal. App. 5th 426 (2025).[11] Many of these cases involve the imposition of sanctions on attorneys pursuant to Rule 11 of the Federal Rules of Civil Procedure governing the signing of pleadings and representations made to the court. *See* Fed. R. Civ. P. 11.

Louisiana appellate courts have previously observed that our Article 863 was amended in 1988 and modelled after Rule 11, and that both require the attorney or litigant who signs a pleading to make an objectively reasonable inquiry into the facts and law. *Butler v. Reeder*, 98-484, p. 13 (La. App. 5 Cir. 12/29/98), 728 So.2d 888, 894; *Diesel Driving Acad., Inc. v. Ferrier*, 563 So.2d 898, 902 (La. App. 2 Cir. 4/4/90); *Fairchild v. Fairchild*, 580 So.2d 513, 516 (La. App. 4 Cir. 5/16/91). While the language of Article 863 does not exactly mirror the current text of Rule 11[12], the requirements of the statutes are substantially similar such that

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[11] *See also* Damien Charlotin, *AI Hallucination Cases*, (Sept. 9, 2025) https://www.damiencharlotin.com/hallucinations/ (database tracking legal decisions "in cases where generative AI produced hallucinated content," evidencing 406 cases to date in jurisdictions around the world); AI Law Librarians, *Interactive GenAI Legal Hallucination Tracker*, (Oct. 10, 2025) https://www.ailawlibrarians.com/full-screen-interactive-table/ (searchable database of over 500 reported cases involving generative AI hallucinations).

[12] Fed. R. Civ. P. 11 states in pertinent part:

> (b) Representations to the Court. By presenting to the court a pleading, written motion, or other paper – whether by signing, filing, submitting, or later advocating it – an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:
> …
> (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law…

the decisions of the federal courts considering sanctions under Rule 11 on attorneys for erroneous or fake citations fabricated by generative AI programs are instructive and may provide guidance to Louisiana courts applying Article 863 under similar circumstances.

In Louisiana, as in other civil law jurisdictions, legislation is superior to any other source of law. La. C.C. art. 1; *Doerr v. Mobil Oil Corp.*, 00-0947, p. 13 (La. 12/19/00), 774 So.2d 119, 128. Therefore, our analysis begins with the text of the statute itself. Louisiana Code of Civil Procedure Article 863 states in pertinent parts:

> …
>
> B. … [T]he signature of an attorney or party shall constitute a certification by him that he has read the pleading, and that to the best of his knowledge, information, and belief formed after reasonable inquiry, he certifies all of the following:
>
> … (2) Each claim, defense, or other legal assertion in the pleading is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law.
>
> …
>
> D. If, upon the motion of any party or upon its own motion, the court determines that a certification has been made in violation of the provisions of this Article, the court shall impose upon the person who made the certification or represented the party, or both, an appropriate sanction which may include an order to pay the other party the amount of the reasonable expenses incurred because of the filing of the pleading, including reasonable attorney fees.
>
> …
>
> G. If the court imposes a sanction, it shall describe the conduct determined to constitute a violation of the provisions of this Article and explain the basis for the sanction imposed.

Pursuant to Section B of this text, we examine the trial court's findings of fact to determine whether plaintiff's counsel made a reasonable inquiry that her legal claims and assertions in the pleadings were warranted by existing law or by nonfrivolous argument for the extension, modification, or reversal of existing law.

The Trial Court's Findings of Fact

To impose sanctions under La. C.C.P. art. 863, the trial court must factually find that the signed pleadings did not comply with the article's requirements. *Teal*

v. Zeagler, 21-586, p. 14 (La. App. 5 Cir. 7/6/22), 345 So.3d 1092, 1102. This statute imposes an obligation on litigants and their counsel who sign a pleading to make an objectively reasonable inquiry into the facts and the law; subjective good faith will not satisfy the duty of reasonable inquiry.[13] *Voitier v. Guidry*, 14-276, p. 8 (La. App. 5 Cir. 12/16/14), 166 So.3d 262, 268, *writ denied*, 2015-0118 (La. 4/10/15), 176 So.3d 1032; *Banks v. Progressive Paloverde Ins. Co.*, 22-151, p. 7 (La. App. 4 Cir. 9/30/22), 350 So.3d 952, 958; *Plaquemines Par. Gov't v. Williams*, 19-803, p. 6 (La. App. 4 Cir. 6/24/20), 302 So.3d 123, 128, *writ denied*, 20-943 (La. 10/20/20), 303 So.3d 315. This obligation is an affirmative duty. *Div. of Admin., Office of Cmty. Dev. - Disaster Recovery Unit v. Joseph*, 22-65, p. 6 (La. App. 5 Cir. 12/21/22), 355 So.3d 144, 149. The affirmative duty is personal and non-delegable. *Borne v. New Orleans Health Care, Inc.*, 616 So.2d 236, 238 (La. App. 4 Cir. 3/30/93). Article 863 is intended for exceptional circumstances; it is not violated simply because a party's argument or ground for relief is subsequently found unjustified. *Id.*

Fabricated Cases

First, we examine the pleadings filed by Ms. Trieu, including the *Opposition to Peremptory Exception of No Cause of Action* and the *Memorandum in Support of Plaintiff's Opposition to Defendants' Peremptory Exception of No Cause of Action* to identify the false citations mentioned by the trial court in the written reasons for judgment.[14] In these pleadings, we can identify at least three types of erroneous or false citations: (1) fabricated case citations where the case name or the case/reporter/volume/page number are entirely fabricated; (2) true case

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[13] Emphasis supplied.

[14] Errors contained in the *Supplemental Memorandum in Opposition to Defendants' Peremptory Exception of No Cause of Action and Errata to Plaintiff's Memorandum* are addressed *infra*.

citations following statements that misrepresent the holding of the case; and (3) false or altered quotations that are not found in the text of the cited case.

The *Opposition to Peremptory Exception of No Cause of Action* contains the following two false citations:[15]

> These allegations are **sufficient to plead the tort of invasion of privacy**, particularly under the theory of **intrusion upon seclusion**. See *Burns v. State*, 813 So.2d 574 (La. App. 1 Cir. 2001) (affirming invasion of privacy claim where improper access to driver's license information occurred.)
>
> Defendants' assertion that HIPAA provides no private cause of action does not preclude Plaintiff's claims under **state tort law**, where the violation of HIPAA standards may be **evidence of breach of duty**. See *Acara v. Banks*, 470 F.3d 569 (5th Cir. 2006); *Smith v. Christus St. Patrick Hosp.*, 20-306 (La. App. 3 Cir. 11/4/20), 308 So.3d 1216.

The *Memorandum in Support of Plaintiff's Opposition to Defendants' Peremptory Exception of No Cause of Action* repeats these two false citations with different language and adds another:[16]

> This case involves the second form - **intrusion upon seclusion** - which occurs when "the defendant intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, and the intrusion would be highly offensive to a reasonable person." See *Burns v. State*, 00-908 (La. App. 1 Cir. 12/28/01), 813 So.2d 574, 578.[17]
>
> While the Health Insurance Portability and Accountability Act (HIPAA) does not itself provide a private cause of action, courts have held that **violations of HIPPA may serve as evidence of the standard of care in tort claims**. See *Acara v. Banks*, 470 F.3d 569 (5th Cir. 2006); *Smith v. Christus St. Patrick Hosp.*, 20-306 (La. App. 3 Cir. 11/4/20), 308 So.3d 1216.
>
> Louisiana recognizes a cause of action for **negligent supervision, hiring, or retention** where an employer knew or should have known of an employee's unfitness. See *Roberts v. Benoit*, 605 So.2d 1032

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15 All emphasis in the following block quotation is original.

16 All emphasis in the following block quotation is original.

17 In addition to this case being entirely fabricated, we observe that the use of the introductory signal "see" in this citation is incorrect. "'See' is used instead of '[no signal]' when the proposition is not directly stated by the cited authority but obviously follows from it; there is an inferential step between the authority cited and the proposition it supports." The Bluebook: A Uniform System of Citation Rule 1.2 (22nd ed. 2025).

(La. 1991); *Doe v. Southwest Louisiana Hosp. Ass'n*, 02-180 (La. App. 3 Cir. 7/10/02), 833 So.2d 1136, 1146.[18]

The *Burns*, *Smith*, and *Doe* case citations are all false or fabricated.

For *Burns*, the reporter and volume number, 813 Southern Second (So.2d), are genuine, but the page number provided, 574, leads to another reported case, *Bowie v. Young*, 2001-0715 (La. App. 3 Cir. 3/20/02), 813 So.2d 562, concerning an appeal from a judgment notwithstanding the verdict and the award of damages following an automobile accident. The *Bowie* case does not involve a claim for invasion of privacy and does not contain the language quoted in plaintiff's pleadings. The page number for the quoted language, (813 So.2d at) 578, refers to a different case, *Interest of C.C. v. E.C.C.*, 2001-1364 (La. App. 3 Cir. 3/20/02), 813 So.2d 576, concerning a child custody dispute that also makes no mention of invasion of privacy. The quoted text appears to come from the AI-generated case summary rather than an actual reported Louisiana appellate decision.

For *Smith*, again, the reporter and volume number, 308 Southern Third (So.3d), are genuine, but the page number provided, 1216, leads to another reported case, *AOK Prop. Investments, LLC v. Boudreaux*, 20-237 (La. App. 5 Cir. 12/9/20), 308 So.3d 1214, 1216, *writ denied*, 2021-00002 (La. 3/2/21), 311 So.3d 1051. This case involves the transfer of a limited liability company's membership interest and has nothing to do with HIPAA or a cause of action for invasion of privacy.

The error is repeated again for the *Doe* citation. The reporter and volume number, 833 So.2d, are genuine, but the page numbers provided, 1136 and 1146, refer to entirely different cases: *Robert v. Nelson*, 36,541 (La. App. 2 Cir. 12/11/02), 833 So.2d 1136 (concerning a disputed finding of fault in an automobile accident) and *Evans v. State Farm Gen. Ins. Co.*, 36,539 (La. App. 2 Cir.

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18 *Roberts* is a genuine case in which the Louisiana Supreme Court recognized the tort of negligent hiring in a matter involving the accidental discharge of a gun owned by a deputy sheriff.

12/11/02), 833 So.2d 1143 (concerning disputed fire insurance proceeds from arson). Neither of these cases have anything to do with a cause of action for negligent supervision, hiring, or retention under Louisiana law as stated by Ms. Trieu in the pleading.

In addition to these false citations, plaintiff also cites in both pleadings a genuine case, *Acara v. Banks* from the U.S. Fifth Circuit Court of Appeals. While this case is genuine, it does not support the legal proposition stated by Ms. Trieu. She states that in *Acara* the U.S. Fifth Circuit held that "violations of HIPAA may serve as evidence of the standard of care in tort claims." This statement misrepresents the holding of *Acara*. In that case, the Fifth Circuit held that HIPAA does not give rise to a private cause of action under federal law. However, this case makes no mention of state law tort claims or evidence of breach of duty. Simply stated, the legal authority cited here does not support counsel's argument that plaintiff's claims as stated in the petition are sufficient to state a cause of action under Louisiana law.

This review of the pleadings shows that the trial court's factual findings that Ms. Trieu cited fabricated cases and misrepresented the holdings of authentic cases are supported by the record and are not manifestly erroneous. Counsel's citation to fake or non-existent cases in her sworn, filed pleadings is *prima facie* evidence that counsel failed in her affirmative duty to make an objectively reasonable inquiry into the law. As the court in *Mata* observed, "[a] fake opinion is not 'existing law' and citation to a fake opinion does not provide a non-frivolous ground for extending, modifying, or reversing existing law, or for establishing new law." 678 F.Supp.3d at 461.[19]

[19] *See also Park*, 91 F.4th at 615 ("At the very least, the duties imposed by [the rule on signing pleadings] requires that the attorneys read, and thereby confirm the existence and validity of, the legal authorities on which they rely. Indeed, we can think of no other way to ensure that the arguments made based on those authorities are 'warranted by existing law…'").

Other Evidence of Counsel's Objectively Reasonable Inquiry

We next review additional evidence in the record specifically to determine whether it supports the finding that plaintiff's counsel failed to make an objectively reasonable inquiry into the law cited in her pleading filed with the court as required under La. C.C.P. art. 863(B)(2).

Before the trial court and before this Court, Ms. Trieu has consistently argued that the inclusion of erroneous citations in her pleadings was an inadvertent "honest mistake". As stated above, the inclusion of fake or false citations alone is *prima facie* evidence sufficient to support a finding that counsel did not meet her affirmative duty of objective, reasonable inquiry into the law as required by Article 863. The evidence provided at the hearing, the AI-generated case summaries, the June 19-20 email exchange, and the supplemental memorandum and errata, all of which plaintiff's counsel claims show that she acted in good faith, instead also show that she did not conduct an objectively reasonable inquiry.

The Supplemental Memorandum and Errata

Ms. Trieu states that the *Supplemental Memorandum in Opposition to Defendants' Peremptory Exception of No Cause of Action and Errata to Plaintiff's Memorandum* she filed on June 20, 2025 corrected the record, removed the disputed citations, and reaffirmed the legal basis for plaintiff's claims using proper and verifiable jurisprudence. We disagree. Instead of correcting the record, with this filing Ms. Trieu instead appears to have doubled down on and compounded her previous errors.

Our review of this filing begins with two observations as to the caption of the pleading. First, we observe the distinction between 'amending' pleadings for the purposes of correcting mistakes or restating claims and 'supplementing'

pleadings to provide new or previously omitted information.[20] While such a distinction is not directly material to this case because plaintiff did not require leave of court to file an amended or supplemental peremptory exception (because such exceptions may be filed at any time under La. C.C.P. art. 928), it is nevertheless an important distinction unobserved by plaintiff's counsel.

Next, we observe that an "errata" is a list of errors in a printed work discovered after printing and shown with corrections.[21] The filing captioned "errata" by plaintiff's counsel does not in fact include a list of the erroneous citations from plaintiff's prior pleadings.[22] A party not privy to the June 19-20 email exchange would have no knowledge of what errors were being corrected. The caption of "supplemental" memorandum and "errata" is inaccurate and arguably misleading.[23]

We now turn to the substantive text of the filing which states in pertinent part: [24]

> **I. PURPOSE OF SUPPLEMENTAL MEMORANDUM AND ERRATA**
>
> Defendant's counsel raised concerns regarding the accuracy of legal citations contained in Plaintiff's original Opposition. In the interest of professional candor and judicial efficiency, the following corrected authorities are submitted to cure any inadvertent citation errors and to reaffirm the validity of Plaintiff's substantive arguments in opposition to the Exception of No Cause of Action.
>
> **II. CORRECTED CASE CITATIONS**

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[20] *See* Louisiana Civil Law Treatise, Civil Procedure §6:10 (2d ed.) ("Courts and counsel frequently treat the terms supplemental pleading and amended pleading as synonymous. However, they are separate concepts.")

[21] "Errata." Merriam-Webster.com Dictionary, Merriam-Webster, https://www.merriam-webster.com/dictionary/errata. Accessed 18 Sep. 2025.

[22] A proper method of addressing the errors like the ones identified here would be to file an 'amended and supplemental' pleading and an 'errata' that clearly identifies previously published mistakes; or, alternatively, withdrawing the offending pleadings.

[23] *See United States v. Hayes*, 763 F.Supp.3d 1054, 1068 (E.D. Cal. 2025) (where the court found an "errata" filed by counsel purporting to address generative AI fabrication errors to be inadequate and misleading.)

[24] All emphasis in the following block quotation is original.

1. ***Jaubert v. Crowley Post-Signal, Inc.***, 375 So.2d 1186 (La. 1979) (See Exhibit A)

    - This seminal Louisiana Supreme Court case sets forth the **four actionable forms** of invasion of privacy under Louisiana law, including **intrusion upon seclusion** and **unreasonable disclosure of private facts**, both which are relevant to Plaintiff's claims.

2. ***Thomas v. Regional Health System of Acadiana, LLC***, 2019-00507 (La. 1/29/20), 289 So.3d 99 (See Exhibit B)

    - The Louisiana Supreme Court recognized a **valid cause of action for invasion of privacy based on unauthorized access** to a patient's medical records by a hospital employee.

    "…plaintiff stated a cause of action for invasion of privacy under Louisiana law, independent of HIPAA, based on unauthorized access to medical records by hospital personnel." Id. at 103.

This citation to *Thomas v. Reg'l Health Sys. of Acadiana, LLC*, contains another apparently AI-generated fabrication: the reporter and volume number stated, "289 So.3d 99", does not match the reporter and volume number for the genuine case, 347 So.3d 595. The citation here also misrepresents the holding of the *Thomas* case as recognizing a valid cause of action for invasion of privacy based on unauthorized access to a patient's medical records by a hospital employee, while in fact the *Thomas* case addresses a hospital's negligent re-credentialing. The words "invasion" and "privacy" do not appear at all in the *Thomas* case. Finally, this filing also includes a false quotation not found in the text of the actual case: "'…plaintiff states a cause of action for invasion of privacy under Louisiana law, independent of HIPAA, based on unauthorized access to medical records by hospital personnel.' Id. at 103."

Instead of correcting the citation errors from the previous filing, with this supplemental pleading plaintiff's counsel doubled down and provided additional false citations. This is objectively unreasonable. Furthermore, these errors should have been immediately apparent to Ms. Trieu because she provided a printed hard

copy of the *Thomas* case with the correct citation number and complete text of the case as an exhibit attached to the supplemental memorandum. Instead of evidencing a "good faith" effort to correct the record, this filing shows that Ms. Trieu, contrary to her assertions to the trial court at the hearing on the motion, did not read the pleading or its attached exhibits prior to signing and filing. This pleading, on its face, shows that Ms. Trieu violated her affirmative duty to investigate the law as required under Article 863.

The June 19-20 Email Exchange

In the *Memorandum in Opposition to Defendant's Motion for Sanctions*, Ms. Trieu states that the email exchange between the parties demonstrates her transparency, professionalism, and commitment to accuracy. We acknowledge that plaintiff's counsel promptly replied to defense counsel's emails. However, we also observe: (1) that the investigation into the erroneous citations was initiated only after defense counsel raised questions concerning citations in the filed pleadings; (2) in response to defense counsel's request for courtesy copies of the cases, Ms. Trieu's paralegal provided AI-generated case summaries instead of the texts of actual cases; and (3) Ms. Trieu did not clearly acknowledge generative AI programs as the source of the erroneous citations until the hearing on the motion for sanctions. These actions are not indicative of a commitment to transparency, professionalism, or accuracy.[25]

Defense counsel's email inquiries do not appear to have prompted plaintiff's counsel to comprehensively investigate all of the case citations contained in her pleadings; such an internal investigation would have revealed the third false

[25] *See, generally*, Code of Professional Conduct (Louisiana State Bar Association, 2018)("My word is my bond…I will not knowingly make statements of fact or law that are untrue or misleading … I will use technology…responsibly… I will stay informed about changes in the law, communication, and technology which affect the practice of law.") We observe that, unlike the Rules of Professional Conduct, the standards stated in the Code of Professional Conduct are not a basis for sanctions or penalties.

citation contained in the *Memorandum in Support of Plaintiff's Opposition to Defendants' Peremptory Exception of No Cause of Action*, the fabricated *Doe* case.[26] To date, this erroneous citation and those in the supplemental memorandum and errata have still not been addressed, explained, or corrected by Ms. Trieu.

The affirmative duty of objective, reasonable inquiry into the law is not met by investigating only those errors pointed out by opposing counsel. Notice that one citation is fabricated or erroneous should necessitate a review of all of the citations in a document for accuracy and validity. The affirmative duty to make an objectively reasonable inquiry into the facts and law under La. C.C.P. art. 863 is ongoing and must be met with every pleading filed. This requires not only addressing errors raised by opposing counsel, but also those identified in the course of one's own investigation. These should be promptly acknowledged, addressed, and corrected.

AI-generated Case Summaries

Introduced at the hearing on the motion are printouts of AI-generated summaries of the *Burns* and *Smith* cases. We reiterate here: the *Burns* and *Smith* cases do not exist. They were entirely fabricated by generative AI programs in response to plaintiff's counsel's search query or prompt. These summaries contain fabricated case titles, fabricated case and reporter numbers, fabricated statements of fact, fabricated procedural history, fabricated statements of law, fabricated rulings and holdings, and fabricated legal analysis that purports to contextualize these cases in the broader body of Louisiana law. Plaintiff's counsel offered these as "demonstrative records of the research conducted and the source materials consulted to support the legal citations in question, including printouts of research

[26] *See Mata*, 678 F.Supp.3d at 464 ("Poor and sloppy research would merely have been objectively unreasonable. But [counsel] was aware of facts that alerted him to the high probability that the [AI-generated cases] did not exist and consciously avoided confirming that fact.")

verifying the good faith basis of the authorities cited." At the hearing on the motion, plaintiff's counsel stated that she read these summaries as cases.[27] It is unclear why plaintiff's counsel, or her paralegals or associates, attempted to validate the erroneous citations fabricated by generative AI software using that same software rather than a recognized, legitimate source. We know Ms. Trieu had access to such a source, vLex Fastcase, because she printed out hard copies of the *Jaubert* and *Thomas* cases and included them in her supplemental memorandum filing.

It is immediately apparent that the AI-generated case summaries are not genuine, full and complete texts of reported cases like one might find on Westlaw, LexisNexis, vLex Fastcase, or our courts' own websites.[28] The summaries, besides containing lists and bullet points which rarely appear in the formatting of reported cases, omit the names of the writer judge and the other judges on the panel, and refer to "the court" in the third-person. Additionally, the summaries contain the following disclaimer at the bottom of the page: "AI responses may include mistakes. For legal advice, consult a professional." For our analysis, the most important aspect of such a disclaimer is not its veracity,[29] but rather that such a disclaimer is an additional obvious sign that the text being read is not an actual, real legal case. For a reasonable reader, such a disclaimer would indicate that additional inquiry is necessary in order to verify the accuracy or sources of the generated text summary.

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[27] Ms. Trieu stated, "I had my paralegal print out from Google, from Copilot, from ChatGPT these cases … and I looked at these cases and said, Okay, looks good."

[28] While Westlaw and LexisNexis are legal research databases that require a subscription, members of the Louisiana State Bar Association, including Ms. Trieu, have free access to vLex FastCase.

[29] Some legal scholars have pointed out the contradiction of such disclaimers from companies that market AI generative programs as trustworthy. *See* Eugene Volokh, *Large Libel Models? Liability for Ai Output*, 3 J. Free Speech L. 489, 499 (2023); Hadar Y. Jabotinsky & Michal Lavi, *AI in the Courtroom: The Boundaries of Robolawyers and Robojudges*, 35 Fordham Intell. Prop. Media & Ent. L.J. 286, 320 (2025); Sandra Wachter, Brent Mittelstadt, and Chris Russell, *Do Large Language Models Have a Legal Duty to Tell the Truth?*, Royal Society Open Science, Vol. 11, Iss. 8 (Aug. 2024) (https://doi.org/10.1098/rsos.240197)

It was objectively unreasonable for plaintiff's counsel to rely solely on AI-generated case summaries when conducting legal research or verifying AI-generated legal citations, especially in light of the evidence showing that she had access to a traditional legal research database that contains the full texts of genuine reported cases. Reviewing AI-generated case summaries is not the same as reading legal cases.

The manifest error standard of review precludes the setting aside of a trial court's finding of fact unless that finding is clearly wrong in light of the record reviewed in its entirety. *Mann v. Louisiana-1 Gaming*, 21-83, p. 3 (La. App. 5 Cir. 12/15/21), 334 So.3d 894, 898. Upon review of the record and evidence before us, we find no error in the trial court's findings of fact. The evidence shows that plaintiff's counsel, even after being placed on notice of erroneous citations, failed to clearly identify and correct those fake citations, conducted an incomplete and haphazard inquiry into the law fabricated by the generative AI programs, and doubled down on her previous mistakes by filing pleadings with additional, avoidable errors. We agree with the trial court that Ms. Trieu signed the pleadings without first making an objectively reasonable inquiry into the law as required under La. C.C.P. art. 863(B)(2).

Reasonableness of the Sanctions Imposed

In the August 11, 2025 judgment, the trial court ordered Ms. Trieu to pay attorney's fees in the amount of $1,368 to West Jefferson Medical Center and LCMC Health in addition to court costs incurred by those defendants as a result of their filing of their Motion for Sanctions Pursuant to La. C.C.P. art. 863 and associated memoranda. In her writ application, Ms. Trieu argues that "[**t**]**he sanctions were excessive, punitive, and unsupported by the record.**"[30] Relator provides no other argument or briefing concerning this purported error of the trial

[30] Emphasis original.

court. Under Uniform Rules-Courts of Appeal Rule 2-12.4(B)(4), "[a]ll assignments of error and issues for review shall be briefed. The court may deem as abandoned any assignment of error or issue for review which has not been briefed." Rule 4-5(C)(5) also requires that the original application for writs contain "the assignments or specifications of errors and a brief in support of the application…". Nevertheless, in the interests of justice and because the issue was argued before the trial court, we consider relator's arguments here.[31]

In our consideration of whether the sanction imposed here is appropriate, we look to the Louisiana law by which we are bound as well as the aforementioned instructive examples from other courts who have encountered similar instances of AI-fabricated cases and citations.

We restate here that section of Article 863 authorizing the award of sanctions:

> D. If, upon the motion of any party or upon its own motion, the court determines that a certification has been made in violation of the provisions of this Article, the court *shall* impose upon the person who made the certification or represented the party, or both, an *appropriate sanction* which *may* include an order to pay the other party the amount of the reasonable expenses incurred because of the filing of the pleading, including reasonable attorney fees.[32]

Under this section, Article 863 requires the trial court to sanction attorneys who violate their obligations to make reasonable inquiry into the law and facts prior to signing the pleadings. The statute does not expressly identify what is an "appropriate sanction", but uses the permissive language "may" to indicate that a monetary penalty of reasonable expenses incurred can be appropriate. *See Carrollton Presbyterian Church v. Presbytery of S. Louisiana of Presbyterian*

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[31] Ms. Trieu's claim that the sanctions imposed are "punitive" is a tautology. We make no further observations about this self-evident claim except to note that the trial court properly provided Ms. Trieu with notice and held a contradictory hearing prior to imposing the sanction. *See* La. C.C.P. art. 863(E) ("A sanction authorized in Paragraph D shall be imposed only after a hearing at which any party or his counsel may present any evidence or argument relevant to the issue of the imposition of the sanction."), and *Joseph*, 355 So.3d at 150.

[32] Emphasis supplied.

Church (U.S.A.), 14-1214, p. 18 (La. App. 1 Cir. 3/9/15), 172 So.3d 1, *writ denied*, 15-682 (La. 5/22/15), 171 So.3d 257. Other sanctions, including non-monetary sanctions in addition or as an alternative to an award of reasonable attorney's fees, may also be appropriate depending on the facts and circumstances of the case and within the bounds of the rule that statutes authorizing the imposition of a penalty are to be strictly construed. *See Agenor v. Suarez*, 23-488, p. 4 (La. App. 5 Cir. 4/24/24), 386 So.3d 1216, 1219. The trial court has considerable discretion as to the type and severity of the sanctions imposed once it determines that sanctions are appropriate. *Alombro*, 845 So.2d at 1170. Four factors to be considered when arriving at an appropriate sanction include: (1) the conduct being punished or sought to be deterred by the sanction; (2) the expenses or costs caused by the violation of the rule; (3) whether costs or expenses are reasonable, as opposed to self-imposed, mitigable, or the result of delay in seeking court intervention; and (4) whether the sanction is the least severe sanction adequate to achieve the purpose of the rule under which it was imposed. *Id.*; *Butler*, 728 So.2d at 895. We consider these factors here.

Conduct to be Punished and Deterred

We are concerned not only with plaintiff's counsel's inclusion of false and erroneous case citations in her pleadings, conduct sanctionable in and of itself, but also the exacerbation and multiplication of these errors in subsequent pleadings that purport to identify and correct them. Counsel's actions are indicative of multiple violations of the duty to conduct a reasonable inquiry into the law as required under Article 863. We are also concerned that counsel has never clearly addressed the erroneous citations identified in the supplemental memorandum and errata.

As has been observed, it is not necessarily the use of generative AI in and of itself that causes offense and concern, but rather counsel's failure to review the

citations and cases produced by the generative AI programs without proper examination and scrutiny. *Will of Samuel*, 82 Misc.3d 616; 206 N.Y.S.3d 888, 891 (N.Y. Sur. 2024). A basic prerequisite to the filing of any pleading, motion, response, reply, or paper in court is for the drafting and filing attorney to carefully check every case citation, fact, and argument to make sure they are correct and proper. *Versant*, 2025 WL 1440351 at *4. Attorneys cannot delegate that role to AI, computers, robots, or any other form of technology. *Id.* Just as a competent attorney would very carefully check the veracity and accuracy of all case citations in any pleading, motion, response, reply, or other paper prepared by a law clerk, intern, or other attorney before it is filed, the same holds true when attorneys utilize AI or any other form of technology. *Id.*

While in this case we are concerned with the violation of Article 863, we also observe that the use of generative AI by any legal professional has multiple implications of ethical concern. Attorneys are bound by rules of professional conduct that include duties of competence, confidentiality[33], supervision, candor, and more.[34] For example, the Louisiana Rules of Professional Conduct Rule 3.3. Candor Toward the Tribunal states that "[a] lawyer shall not knowingly… make a false statement of 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…". Whether Ms. Trieu has violated these professional rules is a question not before us at this time. Nevertheless, the facts of this case warrant further inquiry into whether such

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[33] We specifically note the relevance of an attorney's duty of confidentiality in this case which involves the plaintiff's alleged injury from an invasion of privacy and sharing of private medical information on social media.

[34] *See generally*, Roy D. Simon, *Artificial Intelligence, Real Ethics*, 90 N.Y. St. B.J. 34 (March/April 2018); Hon. John G. Browning, *Robot Lawyers Don't Have Disciplinary Hearings-Real Lawyers Do: The Ethical Risks and Responses in Using Generative Artificial Intelligence*, 40 Ga. St. U. L. Rev. 917 (2024); and Abdi Aidid, *Toward an Ethical Human-Computer Division of Labor in Law Practice*, 92 Fordham L. Rev. 1797 (2024).

a violation has occurred, and therefore we refer this matter to the Office of Disciplinary Counsel for the Louisiana Attorney Disciplinary Board.

Expenses and Costs from Violation of Article 863

The harms caused by the inclusion of fake and erroneous citations in pleadings are many. *See Mata*, 678 F.Supp.3d at 464. The most concrete, ascertainable harm is the time wasted by readers of the documents containing the erroneous citations seeking to verify the authority on which the legal arguments are based. Such attempts are fruitless and frustrating, and those costs are born not just by opposing counsel but also other readers, including judges and law clerks.[35] Such a harm is not isolated and singular, but grows and multiplies as the number of fake citations included in the pleadings increases. More fake citations result in more time wasted by the reader trying to verify the unverifiable.

Other harms are less discrete, but no less real. The filing of pleadings that cite fake legal authority undermines the rule of law and a judicial system based on reason. Such fakery also erodes public trust in the legal profession. In response to these less discrete harms, and in their effort to deter baseless filings and curb abuses of the judicial system, courts have adopted a variety of non-monetary sanctions for attorneys who have included fake citations in their pleadings, such as requiring the attorney to attend CLE trainings regarding the use of AI,[36] requiring counsel to provide a copy of the opinion imposing the sanctions to their client[37] or

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[35] For this reason, some courts have required the monetary penalty imposed to be paid to the registry of the court. *See Mata*, 678 F.Supp.3d 443*; Gauthier*, 2024 WL 4882651*; Versant Funding LLC*, 2025 WL 1440351 (in addition to sanctions paid to opposing counsel); and *Noland,* 114 Cal.App.5th 426 (noting that the fabricated citations were first identified and raised by the Court, not opposing counsel).

[36] *See, e.g.*, *Nora*, 2025 WL 2337132; *Gauthier*, 2024 WL 4882651; and *Versant Funding LLC*, 2025 WL 1440351.

[37] *See, e.g.*, *Mata*, 678 F.Supp.3d 443; *Gauthier*, 2024 WL 4882651; *Park*, 91 F.4th 610*;* and *Noland*, 114 Cal.App.5th 426.

to the state bar,[38] referring counsel for disciplinary proceedings,[39] and disqualifying counsel from the proceedings.[40] The permissive language of Section D of Article 863 allows for a Louisiana trial court to impose similar non-monetary sanctions in cases where the facts and evidence presented warrant such measures.

Reasonableness of Costs and Expenses

The amount of the sanction awarded, $1,368, is supported by evidence in the record, particularly the itemized bill provided by defense counsel. This itemized bill documents the time spent researching the cases stated in plaintiff's pleadings, communications with the First and Third Circuit Courts to investigate the fabricated cases, the June 19-20 email communications with plaintiff's counsel, and drafting and revising the motion for sanctions and supporting memorandum. In total, the bill shows eleven time entries totaling 7.6 hours of work between June 19 and July 14 spent responding to the erroneous citations. We find the measures undertaken by defense counsel in this case—notifying counsel of the errors, verifying the cases with the appropriate courts, requesting courtesy copies, filing a motion for sanctions after plaintiff's counsel's subsequent filings compounded rather than corrected the errors—to be reasonable, professional, and commendable.

At the hearing on the motion for sanctions, Ms. Trieu, citing her own years of experience practicing law, argued that 7.6 hours of work was too much for tasks as simple as conducting legal research or making phone calls. The work of verifying the citations could be done in 7.6 seconds, she stated. Such statements display an astounding lack of awareness of counsel's obligations under Article 863. The responsibility for correcting erroneous and fake citations never shifts to

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38 *See, e.g.*, *Noland*, *supra*.

39 *See, e.g.*, *Park*, 91 F.4th 610; *Nora*, 2025 WL 2337132; *Johnson*, 2025 WL 2086116, at *20, (N.D. Ala. July 23, 2025) (stating "[i]f fines and public embarrassment were effective deterrents, there would not be so many cases to cite. … [F]ines do not account for the extreme dereliction of professional responsibility that fabricating citations reflects, nor the many harms it causes.")

40 *See, e.g.*, *Johnson*, *supra.*

opposing counsel or the court, even if they are the first to notice the errors. The duty to mitigate the harms caused by such errors remains with the signor. The sooner such errors are properly corrected, either by withdrawing or amending and supplementing the offending pleadings, the less time is wasted by everyone involved, and fewer costs are incurred.

Least Severe Sanction to Achieve Purpose of the Rule

The goal to be served by imposing sanctions is not wholesale fee shifting, but correction of litigation abuse. *Carrollton, supra*. The reading requirement embodied in Article 863 is designed to preclude the defense of personal ignorance of mistakes or defects and to eliminate the defense that the pleadings were prepared by another person.[41] While plaintiff's counsel has argued that the monetary sanction imposed is "excessive", in fact, it falls on the low end of sanctions imposed by other Louisiana courts for other violations of Article 863, which have ranged from $500 to $390,000.00. *See, e.g., Borne*, 616 So.2d 236, ($82,047.84 sanctions); *Sternberg*, 695 So.2d 1068, ($2,500.00 sanctions); *John W. Fisk Co., Div. of Fisk Corp. v. Michel*, 97-2105 (La. App. 4 Cir. 3/25/98), 709 So.2d 1061, ($5000.00 sanctions); *Butler*, 728 So.2d 888, ($8,491.39, $13,802.20, $2500.00 and $26,875.80 sanctions); *Brooks v. Maggio*, 33,734 (La. App. 2 Cir. 8/23/00), 766 So.2d 698, ($500.00 sanctions); *Graves v. Fields*, 35,411 (La. App. 2 Cir. 12/19/01), 803 So.2d 392, ($1500.00 sanctions); *Alombro*, 845 So.2d 1162, ($3,102.15 sanctions); *Carrollton Presbyterian Church*, 172 So.3d 1, ($390,000.00 sanctions); *Plaquemines Par. Gov't*, 302 So.3d 123, ($31,037.56 sanctions); *Marks*, 349 So.3d 1071, ($7,924.50 sanctions); *Pierce v. Buck Kreihs Co., Inc.*, 22-848 (La. App. 4 Cir. 7/31/23), 371 So.3d 534, ($11,174.81 sanctions).

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[41] *See, generally*, Art. 863. Signing of pleadings, effect., 2 La. Prac. Civ. Proc. Article 863 (2025 ed.)

The trial court's $1,368 award is also on the low end of sanctions awarded by federal courts for the inclusion of fake citations in violation of Rule 11. In nearly all cases reported so far, courts have imposed monetary sanctions ranging from $1,500 to $15,000. *Benjamin v. Costco Wholesale Corp.*, 779 F.Supp.3d 341, 349 (E.D.N.Y. 2025) (and cases cited therein). The sanction imposed by the trial court is the least severe that could have been imposed under the facts presented.

Upon review, we find no abuse of the trial court's broad discretion in imposing sanctions of $1,368 on plaintiff's counsel. The amount of this award is clearly authorized by the language of Article 863 and is well supported by the evidence presented at the hearing on the motion.

Additional Sanctions Pursuant to La. C.C.P. Article 2164

The Louisiana Code of Civil Procedure Article 2164 authorizes courts to impose additional penalties for the filing of frivolous appeals. It states:

> The appellate court shall render any judgment which is just, legal, and proper upon the record on appeal. The court may award damages, including attorney fees, for frivolous appeal or application for writs, and may tax the costs of the lower or appellate court, or any part thereof, against any party to the suit, as in its judgment may be considered equitable.

We have previously held that an appellate court may award damages for a frivolous appeal or writ when there is no serious legal question, when it is taken solely for the purpose of delay, or when it is evident that counsel does not seriously believe in the position she advocates. *Alombro*, 845 So.2d at 1170. A writ will not automatically be deemed frivolous simply because it lacks merit. *Id.* In this single instance, we find that this matter, which presents a *res nova* legal question, does not meet the requirements of a frivolous writ, and therefore we decline to award additional monetary penalties pursuant to our authority under Article 2164. Future appeals or writs that arise from similar cases involving AI-generated fake citations may be deemed frivolous and subject to additional penalties depending on the facts

and circumstances presented. While we decline to exercise our authority to award additional monetary penalties, we find that it is just, legal, and proper to order plaintiff's counsel to attend 3 hours of CLE training on the ethical and responsible use of generative AI programs.

Defense counsel has requested that this court award additional attorney's fees for the time spent preparing and responding to relator's writ application. Such an additional award is generally not permitted in the absence of a finding that the appeal or writ is frivolous. *Diesel Driving Acad., Inc.*, 563 So.2d at 908 (on rehearing) (citing *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 110 S.Ct. 2447, 110 L.Ed.2d 359 (1990)). Accordingly, we do not impose additional attorney's fees pursuant to respondent's request.

CONCLUSION

While the technology utilized by lawyers has changed, our obligations as officers of the court to the bench, the bar, clients, and the public remain the same. In a letter regarding the emergence of generative artificial intelligence to the Louisiana State Bar Association, the justices of the Louisiana Supreme Court have stated:

> As with any developing technology, AI appears to present both opportunities and concerns, and the use of such technology raises a host of possible issues from an ethics and professionalism standpoint. Although many applications of AI technology in the legal profession are new, the rules governing the bench and the Bar are not new and have been in place for decades. At the present time, the ethical and professional rules governing the bench and the Bar are robust and broad enough to cover the landscape of issues presented by AI in its current forms.
>
> Regardless of the use of AI, attorneys practicing in Louisiana have always been ultimately responsible for their work-product and the pleadings they file in court, maintaining competence in technology, and protecting confidential client information and have a duty to avoid making misrepresentations of fact or law. See, e.g., Rules of Professional Conduct 1.1, 1.3, 1.4, 1.6, 1.15, 3.1, 3.3, and 5.3; Louisiana Code of Civil Procedure articles 371 and 863. These

obligations remain unchanged or unaffected by the availability of AI.[42]

The lawyer's obligation under Article 863 is crystal clear: read the law you cite. Read the Code. Read the statutes. Read the cases. Citation to fake or fabricated cases in pleadings is *prima facie* evidence that the attorney who signs the pleadings has failed her duty under Article 863. This is a responsibility that cannot be outsourced. Those who utilize generative AI programs, such as ChatGPT, for legal research and drafting legal documents should be aware of the problem of fake cases.[43] There is no reason fake citations, be they generated by AI programs or by humans, should appear in any pleading filed in a Louisiana court. This is an easily preventable problem, and all attorneys practicing in Louisiana have access to resources to easily verify the law they employ to support their arguments.

ORDER AND DECREE

Upon review of the writ before us, we affirm the August 11, 2025 judgment of the trial court imposing sanctions on Ms. Trieu for violation of her obligations under La. C.C.P. art. 863. We order Ms. Trieu to attend 3 hours of CLE training on the ethical use of generative AI programs and to provide a certificate of completion of such education to the trial court on or before December 31, 2025. We also report Ms. Trieu's conduct to the Office of Disciplinary Counsel for the Louisiana Attorney Disciplinary Board to evaluate the evidence of potential

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[42] January 22, 2024 letter, "The Emergence of Artificial Intelligence," by David Becker, General Counsel for the Louisiana Supreme Court, on behalf of the justices to the President of the Louisiana State Bar Association. (https://www.lsba.org/documents/News/LSBANews/LASCLetterAI.pdf)

[43] At this point in time, such problems have been widely reported. *See*, *e.g.*, Benjamin Weiser, *Here's What Happens When Your Lawyer Uses ChatGPT*, N.Y. TIMES (May 27, 2023), https://www.nytimes.com/2023/05/27/nyregion/avianca-airline-lawsuit-chatgpt.html; Erin Mulvaney, *Judge Sanctions Lawyers Who Filed Fake ChatGPT Legal Research*, WALL. ST. J. (June 22, 2023), https://www.wsj.com/articles/judge-sanctions-lawyers-who-filed-fake-chatgpt-legal-research-9ebad8f9; Pranshu Verma and Will Oremus, *These lawyers used ChatGPT to save time. They got fired and fined.*, WASH. POST (Nov. 16, 2023), https://www.washingtonpost.com/technology/2023/11/16/chatgpt-lawyer-fired-ai/.

violations of the Rules of Professional Conduct presented in this matter. We tax plaintiff's counsel with the costs of these proceedings.

WRIT GRANTED, RELIEF DENIED,

JUDGMENT AFFIRMED

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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **OCTOBER 23, 2025** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

25-C-389

E-NOTIFIED
24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE NANCY A. MILLER (DISTRICT JUDGE)
CONNIE P. TRIEU (RELATOR)
ANN M. LEBLANC (RESPONDENT)
KATHRYN M. CARAWAY (RESPONDENT)

MAILED
MARY MARGARET H. MOORE
(RESPONDENT)
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