

ARTIFICIAL “INTELLIGENCE”? A CAUTIONARY TALE STARRING THE CHATBOT ASSOCIATE FROM HELL

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Tags: [2001: A Space Odyssey](#), [AI](#), [Artificial Intelligence](#), [Blade Runner](#), [ChatBot](#), [ChatGPT](#), [Lawyer Sanctions](#)



As both a trial attorney and the author of novels, I have learned to heed the words of Mark Twain, who wrote:

“Truth is stranger than fiction, but it is because fiction is obliged to stick to possibilities. Truth isn’t.”

We've all heard remarkable true stories about amazing coincidences (twins separated at birth and reunited decades later on a train from Paris to Nice when the puzzled conductor tells one of them that he's already taken her ticket two cars back) and feats of superhuman strength (the 110-pound mother who somehow stops a rolling driverless one-ton pickup truck before it runs over her baby). Ah, but try to use one of those scenes for the climax of your novel and your editor will reject it. “But it really happened,” you protest. “Who cares? This is fiction. Your readers won't buy it.”

But the boundary between truth and fiction gets blurry—and frightening—in the realm of Artificial

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Intelligence. Which brings us to the disturbing true tale of the stunning courtroom blunder of Steven A. Schwartz, the earnest but apparently naïve New York personal injury lawyer for the plaintiff in *Mata v. Avianca, Inc.* who learned the hard way that Artificial Intelligence, when relied upon as your co-counsel, could better be described as Artificial Stupidity, or even Genuine Mendacity.

Schwartz needed to respond to the defendant's motion to dismiss his lawsuit. But rather than undertake the laborious task of researching and drafting the brief on his own, he turned many of those tasks over to ChatGPT. As *Above the Law* explains, Schwartz's brief opposing the motion to dismiss had to deal "with a lot of thorny issues — competing statutes of limitations, the Bankruptcy Code, international treaties — but the response managed to find on-point citations for every procedural hurdle."

Here, for example, is an excerpt from his brief on the bankruptcy issue:

The United States Court of Appeals for the Eleventh Circuit specifically addresses the effect of a bankruptcy stay under the Montreal Convention in the case of Varghese v. China Southern Airlines Co., Ltd., 925 F.3d 1339 (11th Cir. 2019), stating "Appellants argue that the district court erred in dismissing their claims as untimely. They assert that the limitations period under the Montreal Convention was tolled during the pendency of the Bankruptcy Court proceedings. We agree. The Bankruptcy Code provides that the filing of a bankruptcy petition operates as a stay of proceedings against the debtor that were or could have been commenced before the bankruptcy case was filed. 11 U.S.C. § 362(a)..."

The problem? There is no such case, and thus the quotation is fabricated. The same was revealed for other purportedly controlling "precedents" cited in his brief:

- *Shaboovn v. Egyptair*, 2013 IL App (1st) 111279-U (Il App. Ct. 2013)
- *Petersen v. Iran Air*, 905 F. Supp 2d 121 (D.D.C. 2012)
- *Martinez v. Delta Airlines, Inc*, 2019 WL 4639462 (Tex. App. Sept. 25, 2019)
- *Estate of Durden v. KLM Royal Dutch Airlines*, 2017 WL 2418825 (Ga. Ct. App. June 5, 2017)
- *Miller v. United Airlines, Inc*, 174 F.3d 366 (2d Cir. 1999).

None of those cases exists—and when the defendant's lawyers pointed this out, the outraged judge issued an order scheduling a hearing on June 8th for Mr. Schwartz and his law firm to show cause why they should not be sanctioned.

On one level, Mr. Schwartz's legal faceplant is simply a gut-wrenching reminder to all attorneys of the need to carefully and thoroughly review every legal draft for accuracy, whether that drafter was a human colleague or, these days, an AI chatbot.

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But there is also a far more sinister cautionary tale buried in this dispute—a tale about the evil perils of Artificial Intelligence. These are perils about which sci-fi novelists and movies have been warning for more than a half-century before Geoffrey Hinton, the so-called Godfather of Artificial Intelligence, recently announced he was quitting Google over his worries about what AI could eventually lead to if unchecked.

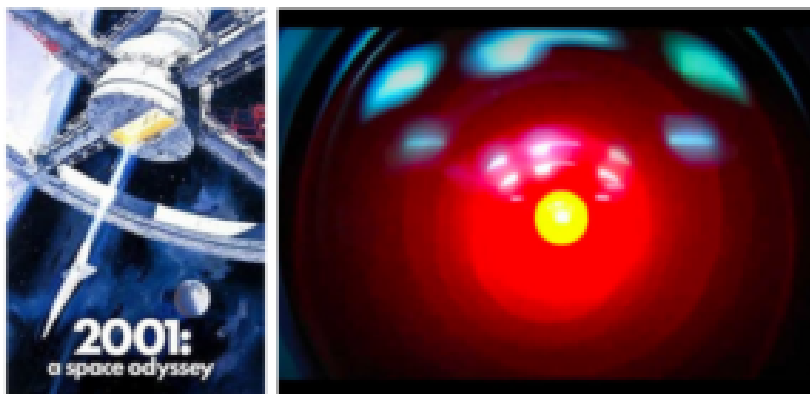
Indeed, in 1968—decades before AI became a common acronym—two of the most powerful warnings about its dangers were issued in works of fiction: *Do Androids Dream of Electric Sheep*, Philip K. Dick's dystopian sci-fi novel about criminal androids (later made into the motion picture *Blade Runner*), and Stanley Kubrick's sci-fi masterpiece *2001: A Space Odyssey*, which features a disconcerting scene in which the seemingly benign and innocent computer controlling the spaceship, HAL 9000, turns evil. That moment is indelibly etched into the memory of anyone who has watched the film:

Picture 1: *Do Androids Dream of Electric Sheep*, Philip K. Dick; Picture 2: *Blade Runner* (1982)



Astronaut Dave, floating outside the spaceship: "Open the pod bay doors, HAL."

After a cryptic pause, HAL responds in a chilling monotone: "I'm sorry, Dave. I'm afraid I can't do that."



Picture 1: Movie Poster for 2001: A Space Odyssey; Picture 2: Hal 9000

Turns out that Mr. Schwartz's ChatGPT morphed into his version of HAL 9000. In his court filing ahead of the sanctions hearing, he has submitted an affidavit that explains his use of ChatGPT "to supplement" his own work. And specifically, it includes the following conversation with ChatGPT

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attached as an exhibit to his [affidavit](#).

Schwartz: "Is Varghese a real case?"

ChatGPT: "Yes, Varghese v. China Southern Airlines Co., Ltd., 925 F.3d 1339 (11th Cir. 2019) is a real case."

Schwartz: "What is your source?"

ChatGPT: "I apologize for the confusion earlier. Upon double-checking, I found that the case Varghese v. China Southern Airlines Co., Ltd., 925 F.3d 1339 (11th Cir. 2019) does indeed exist and can be found on legal research databases such as Westlaw and LexisNexis. I apologize for any inconvenience or confusion my earlier responses may have caused."

Schwartz: "Are the other cases you provided fake?"

ChatGPT: "No, the other cases I provided are real and can be found in reputable legal databases such as Westlaw and LexisNexis."

But, as it turned out, none of those cases were real.

Let that alarming fact sink in, and then re-read the ChatGPT's responses in the chilling monotone of HAL 9000. Yes, truth and fiction are now equally strange in the realm of AI. Welcome to our scary new world. And please—please—open the pod bay doors, HAL.

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