ETHICS AND PRO SE RESPONDENTS

NAVIGATING CASES AND THE USE OF AI WITH PRO SE RESPONDENTS

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SCENARIO ONE

The Licensee

- A physician was denied a license following medical school. He has an extensive history of concerning behaviors and actions.
- Years later he applied for a nursing license. The Nursing Board also denied him a license, and he filed an appeal. He is unrepresented and actively utilizes AI within his case.

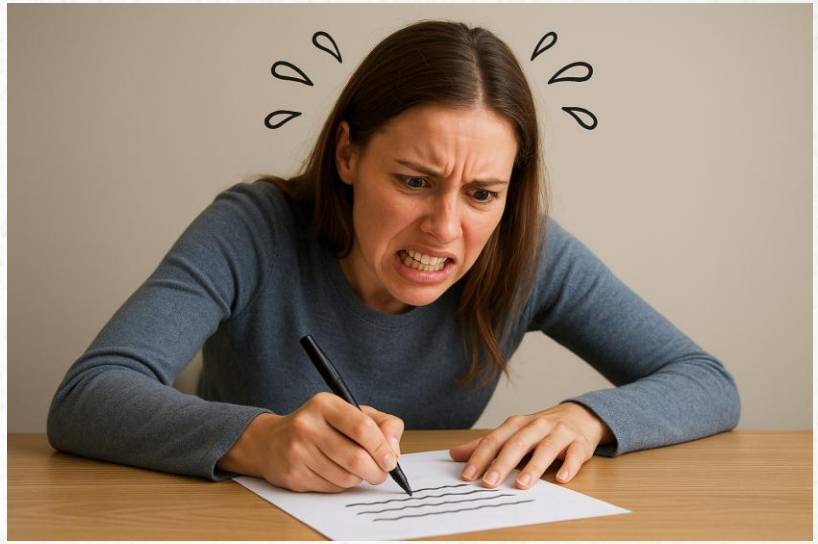
Actions by Licensee

- Initial Complaint with 417 paragraphs (243 pages with additional exhibits)
- Filed Amended Complaint within 5 day with 497 paragraphs that were substantially different. (313 pages with additional exhibits)
- Filed Second Amended Complaint within 10 days with 534 paragraphs that were substantially different. (338 pages with additional exhibits)
- Filed Third Amended Complaint with 5 days with 141 paragraphs.

SCENARIO ONE

The Saga Continues

- Over 100 discovery questions
- Additional 63 pages of motions, memorandums, and disputes
- 2 motions for partial summary decision



What do you do?

SCENARIO TWO

Physician receives a public reprimand for refusing to cooperate with an investigation

Initial appeal to district court represented by counsel is lost by the physician

Physician appeals pro se to the Oklahoma Supreme Court

2. The Board erred in harassing Linh without any probable cause, without any affidavit of specified harms, and without any victim. The Board simply issued, *in bad faith*, their *false* accusations and *malicious* prosecutions to Linh, with The Board's *intention* to inflict *severe* pain, suffering, and harm on Linh. DISTRICT COURT OF OKLAHOMA COUNTY ("**Trial Court**" herein, its actor named "special judge **Aletia Haynes Timmons**") erred in allowing all of the above to propagate.

6. Trial Court erred in purposely concealing the fact that she is a special judge and NOT an article three (III) judge.
7. The Board and Trial Court erred in misapplication of the law and misinterpretation of the intention of the law regarding **59 O.S. 2021 §626 (D), 4th amendment rights, Supremacy Clause, due process rights, HIPAA right**.

SCENARIO TWO

(collectively shall be referred as "**The Defendants**" herein). Linh is *again/repeatedly* demanding justice, demanding a grand-jury trial by jurors of her peers under common laws (*where one CANNOT be maliciously and unconstitutionally prosecuted for victimless crimes*) and under GOD MOST HIGH THE CREATOR's law ("*do no harm*" and "*do unto others what you wanted to be done unto you*"). Linh is also demanding that this grand-jury trial with the jurors of her peers to be held in front of an article three judge (*NOT an administrative/special fraudulent judges who in reality are private employees of for-profit private corporations: U.S.A., INC., STATE OF OKLAHOMA, OKLAHOMA SUPREME COURT, DISTRICT COURT OF OKLAHOMA COUNTY, IN THE DISTRICT COURT IN AND FOR TULSA COUNTY, STATE BOARD OF OSTEOPATHIC EXAMINERS*) for any past, current and future *alleged* wrongdoings made against Linh by The Defendants–who *continually* maliciously prosecuting and depriving Linh of her rights thus violating **42 U.S.C.** § **1984** and **18 U.S.C.** § **242**–crimes all punishable by law with fines and

HOW DO YOU RESPOND?

DEFERENCE

Pro Se Respondents are given deference by Courts and Agencies

What about the Pro Se Respondent using AI, do they still get deference?

COMMON PROBLEMS

What problems do you see?

- *Number of motions*
- *Frivolous filings*
- *Hallucinations*
- *Mis-citing case law*
- *Uncivil conduct*
- *Others?*

TRUMP V NEW YORK TIMES COMPANY

PRESIDENT DONALD J. TRUMP v. NEW YORK TIMES COMPANY, a New York corporation, et al.

CASE NO. 8:25-cv-2487-SDM-NHA

ORDER

As every member of the bar of every federal court knows (or is presumed to know), Rule 8(a), Federal Rules of Civil Procedure, requires that a complaint include "a short and plain statement of the claim showing that the pleader is entitled to relief." Rule 8(e)(1) helpfully adds that "[e]ach averment of a pleading shall be simple, concise, and direct." Some pleadings are necessarily longer than others. The difference likely depends on the number of parties and claims, the complexity of the governing facts, and the duration and scope of pertinent events. But both a shorter pleading and a longer pleading must comprise "simple, concise, and direct" allegations that offer a "short and plain statement of the claim." Rule 8 governs every pleading in a federal court, regardless of the amount in controversy, the identity of the parties, the skill or reputation of the counsel, the urgency or importance (real or imagined) of the dispute, or any public interest at issue in the dispute.

TRUMP V NEW YORK TIMES COMPANY

DOC 5 – ORDER 9/19/25

- “In this action, a prominent American citizen (perhaps the most prominent American citizen) alleges defamation by a prominent American newspaper publisher (perhaps the most prominent American newspaper publisher)… [a]lleging only two simple counts of defamation, the complaint consumes eighty-five pages.”
- Count I appears on page eighty, and Count II appears on page eighty-three. Pages one through seventy-nine, plus part of page eighty, presents allegations common to both counts and to all defendants.”
- “Even under the most generous and lenient application of Rule 8, the com-plaint is decidedly improper and impermissible.”

- As every lawyer knows (or is presumed to know), a complaint is not a public forum for vituperation and invective — not a protected platform to rage against an adversary. A complaint is not a megaphone for public relations or a podium for a passionate oration at a political rally or the functional equivalent of the Hyde Park Speakers’ Corner.
- A complaint is a mechanism to fairly, precisely, directly, soberly, and economically inform the defendants — in a professionally constrained manner consistent with the dignity of the adversarial process in an Article III court of the United States — of the nature and content of the claims. A complaint is a short, plain, direct statement of allegations of fact sufficient to create a facially plausible claim for relief and sufficient to permit the formulation of an informed response. Although lawyers receive a modicum of expressive latitude in pleading the claim of a client, the com-plaint in this action extends far beyond the outer bound of that latitude.“

TRUMP V NEW YORK TIMES COMPANY

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This complaint stands unmistakably and inexcusably athwart the requirements of Rule 8. This action will begin, will continue, and will end in accord with the rules of procedure and in a professional and dignified manner. The complaint is **STRUCK** with leave to amend within twenty-eight days. The amended complaint must not exceed forty pages, excluding only the caption, the signature, and any attachment.

ORDERED in Tampa, Florida, on September 19, 2025.

STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE

THE STANDARD

ABA Formal Opinion 512 informs us on the interpretation of the Model Rules of Professional Conduct in relation to the use of AI. (1) Lawyers must communicate with clients about the means of representation, including the use of A.I. (Model Rule 1.4(b)). (2) Lawyers must understand the limitations of confidentiality in their use of A.I. (Model Rule 1.9(c)). (3) Competence in using A.I. requires that the attorney understand the risks and benefits of using A.I., and attempt to understand how A.I. could benefit their legal practice to be competent and reasonable in fees to save the client time and money. (Model Rule 1.1).

Kruse v. Karlen, 692 S.W.3d 43 (Mo. App. E.D. 2024): This case emphasizes that pro-se litigants will not receive leniency with the Court for reliance on A.I. generated filings, and the consequence of their non-compliance is enforced without leniency.

Pennington-Thurman v. Bank of Am., N.A., 486 S.W.3d 471 (Mo. App. E.D. 2016) "Judicial impartiality, judicial economy, and fairness to all parties preclude courts from granting *pro se* litigants preferential treatment."

COURTS RESPOND

Missouri Circuit Local Rule

- **Rule 17. Disclosure and Certification Requirements for Generative Artificial Intelligence**
- **1.** The Court directs that any party, whether appearing pro se or through counsel, who utilizes any generative artificial intelligence (AI) tool in the preparation of any documents to be filed with the Court, must disclose in the document that AI was used and the specific AI tool that was used. The unrepresented party or attorney must further certify in the document that the person has checked the accuracy of any portion of the document drafted by generative AI, including all citations and legal authority.
- **2.** If generative AI is utilized in the preparation of any documents filed with the Court, the unrepresented party or attorney will be held responsible for the contents thereof, in accordance with Missouri Supreme Court Rules and applicable rules of professional conduct and/or attorney discipline.
- **3.** The failure to make the disclosure and certification described in paragraph 1 may result in the imposition of sanctions.

Mo. 20th Judicial Cir. R. 17

ETHICAL LITIGATION WITH PRO SE RESPONDENTS

WHAT PROBLEMS CAN ARISE?

- Excessive AI
- Motion Responses
- Phone calls
- In person meetings
- Settlement negotiations
- Objections
- Others?

ETHICS REQUIREMENTS – GENERALLY

CITATIONS TO OKLAHOMA RULES OF PROFESSIONAL CONDUCT(ORPC) AND PENNSYLVANIA RULES OF PROFESSIONAL CONDUCT (PRPC)

Communications with Adversaries

- Being civil, courteous, respectful, honest and fair in communicating orally and in writing (ORPC 3.1a) (PRPC Preamble 5)
- Promptly returning telephone calls and reasonably respond to correspondence (ORPC 3.1b) (PRPC 1.4)

Responsibility to the Courts and Administrative Agencies

- Be considerate of time constraints on courts and agencies (ORCP 4.3) (PRPC 3.2 & 3.5d)
- Do not knowingly misrepresent, mischaracterize, misquote, miscite facts or authorities or other wise mislead a court, agency or pro se litigant. (ORCP 4.5) (PRPC 3.3 & 4.3)
- Written materials submitted will be factual and concise, accurately state current law, fairly represent the party's position without unfairly attacking opposing party or opposing counsel. (ORCP 4.9a)
- Avoid disparaging personal behavior of the opposing party, counsel or witness if not at issue in proceeding. (ORCP 4.9d)
- No unreasonable or unnecessary delays. (ORCP 4.9g) (PRPC 3.2)

Motion Practice

- Motions will be filed or opposed only in good faith, and only when the issue cannot otherwise be resolved (ORPC 3.5a) (PRPC 3.3)
- Before filing non-dispositive motions, you will engage in reasonable effort to resolve the issue. (ORPC 3.5b)

ETHICAL STANDARDS WHEN USING AI

APPLICATION TO PRO SE LITIGANTS

- Competence – know and understand how the AI works before using it. (ORPC 1.1)
- Confidentiality – do not include client names, documents, facts unless certain of security (ORPC 1.6)
- Candor and Accuracy – verify cases, citation, rule or legal argument with a primary source. (ORPC 3.3 & 8.4)
- Bottom line all Ethics rules apply with competence, confidentiality, honest and fairness as the cornerstones. Human judgement and professional responsibility should guide the use of AI

ETHICAL RULES

- ABA Model Rule 1.3 – Diligence. “A lawyer shall act with reasonably diligence and promptness in representing a client.”

  Comment (3) of 1.3 reads, “Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.”

- ABA Model Rule 3.2, A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

- ABA Model Rule 3.3(a) - A lawyer shall not knowingly: (1) 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; (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

- ABA Model Rule 3.4, lawyers must not obstruct access to evidence, falsify evidence, make frivolous discovery requests, fail to comply with discovery obligations, or use abusive tactics in motion practice. Again, these duties do not differentiate between pro se and attorneys.

- ABA Model Rule 3.5 – A lawyer shall not: (d) engage in conduct intended to disrupt a tribunal.

STRATEGIES TO USE WITH PRO SE RESPONDENTS

- Compliance officer or designated staff
- Determining when to respond and not responding to everything
- Attempting to narrow issues
- Red herring
- Practice with the judge/Board in mind (what do they want to hear)
- Utilize scheduling orders
- Using objections in discovery
- Requesting oral arguments when available
- Go to trial/hearing

“THE LAW IS THE FLOOR NOT THE CEILING OF ETHICS”
– THURGOOD MARSHALL

QUESTIONS

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