

Use of fake cases by a lawyer qualifies quite clearly as professional misconduct (*R. (Ayinde) v. The London Borough of Haringey*)

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We have written several blogs about the use of fake cases by lawyers to support arguments made in court. Among those blogs is the one published this week by my colleague, James Cook, on *Ko v. Li*, 2025 ONSC 2766 (CanLII) where the court has ordered an Ontario lawyer to show cause why she should not be cited in contempt of court for relying on non-existent authorities in her submissions on a motion.

Mr. Cook has further drawn to my attention to the United Kingdom case of *R. (Ayinde) v. The London Borough of Haringey*, [2025] EWHC 1040 (Admin.), released on 4 April 2025, where a lawyer and a law centre, which had engaged the lawyer, were ordered to pay wasted costs for the use of five fake cases on a judicial review application.

This case arose out of a homelessness application made by a claimant to the defendant municipality. Notwithstanding that the claimant suffered from chronic and serious medical issues, the defendant found that the claimant did not have priority-needed housing.

The claimant applied for judicial review of that decision. However, on 23 November 2023, the defendant upheld its original decision on the grounds that the claimant did not have a priority need and was not a vulnerable applicant.

On appeal, a County Court judge quashed the defendant's November decision, and the claimant again requested interim accommodation. The claimant contended that he was entitled to accommodation under section 188(3) of the *Housing Act, 1996* pending a judicial review of the defendant's original decision.

The defendant failed to respond to the request for an interim accommodation and a Claim Form was issued for the judicial review. In support of the judicial review, the claimant's lawyer made a written submission of fact and grounds which referenced several cases.

Some of the cases referenced in the submission did not exist.

A few weeks after issuing the Claim Form, an urgent application was made because the claimant was suffering quite severely from his medical conditions.

A Deputy Judge granted the claimant an interim housing order and directed the defendant to, within 35 days of the order, file and serve a statement of facts and grounds of defence. The defendant was also required to file an acknowledgement of service.

The defendant breached the directions, which was ultimately fatal to its participation in the judicial review application. A request to be relieved from sanctions so that the defendant could participate in a trial of the claimant's application was denied.

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However along with the defendant's application for relief from sanctions, the defendant sought recovery of wasted costs as a result of the claimant's use of non-existent cases to support the judicial review application.

The record established that prior to the trial, a lawyer for the defendant had asked the claimant's lawyer for the citations for cases that had been set out in the claimant's supporting written submission.

The defendant's lawyer asserted that the citations were all wrong and that the argument about the effect of section 188(3) of the *Housing Act, 1996* was misleading. The fake cases included a citation to a fake Court of Appeal case.

In response, the claimant's lawyer failed to explain how the erroneous citations may have been made and stated that no further explanation was required in the circumstances.

Moreover, the claimant's lawyer stated that errors in the citations were merely "cosmetic errors". None of the cases requested by the defendant's lawyer to verify their authenticity were provided.

On the application for wasted costs, the claimant's lawyer attempted to explain how the alleged non-existent cases were referenced in the written submission. She stated that she kept a box of copies of cases and kept a paper and digital list of cases with their ratios in it. She then dragged and dropped cases into the written submission.

Furthermore, the claimant's lawyer orally submitted that the errors were "minor citation errors" before conceding, when challenged by the judge, that they were "serious".

The court rejected the lawyer's explanation for how the fake cases arose and found the use of fake cases extremely troubling.

The judge did not accept that the claimant's lawyer had photocopied a fake case, put it in a box, tabulated it and then put it into her submissions.

The court found that, among other things, the claimant's lawyer had breached her duty to act fairly. The lawyer had breached her duty to not mislead the court, and had acted improperly, unreasonably and negligently in using fake cases in a pleading or saying that the use of the fake cases represented simply "minor citation errors" or "cosmetic errors".

The court stated that providing a description of five fake cases qualified as professional misconduct.

Although the court was not in a position to determine if the claimant's lawyer had used Artificial Intelligence ("AI") that resulted in the generation of the fake cases, the court held that the claimant's lawyer had intentionally relied upon the fake cases, not caring whether the cases existed or not. The court noted that it clearly would have been negligent if the lawyer used AI and did not check it or put fake text into the written submission.

The court also held that the defendant's lawyer had properly raised the issue about the fake cases used by the claimant's lawyer.

Based on the record and all of the circumstances of the case, the defendant had met the test for wasted costs under section 51(6) of the *Senior Courts Act, 1991*, rule 46.8 of the United Kingdom's civil procedure rules and the rule's supporting Practice Direction.

Accordingly, justice required the court to make a wasted costs order against the lawyer and the law centre.

The total wasted costs awarded was £4,000, divided equally between the claimant's lawyer and the law centre.

In addition, the court significantly reduced the costs awarded to the successful claimant on the judicial review application because of the use of the fake cases. The court stated:

As for the solicitors' conduct and involvement in the fake citations, I think that should be marked by a disallowing of their fees in the sum of £5,000.

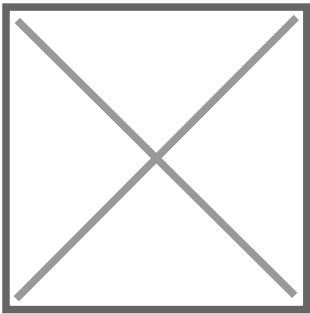
The key takeaway from this case, and others like it, is that lawyers must avoid submitting fake case law to support their arguments and that the use of any case in a submission must be checked and verified using legitimate legal research tools. A lawyer who is placed on notice by an opposing party or a court that they may have cited a non-existent decision or a fake case must immediately verify the authenticity of the case and not be dismissive of the assertion that the case might be fake.

As this area of law continues to develop, it can be expected that lawyers who rely on fake cases and who use them in argument before the court will face potentially severe cost and disciplinary sanctions. For AI platforms that generate fake and non-existent cases, they could foreseeably face liability for putting a product on the market that arguably contains inherent defects when it comes to citing legal propositions and referencing case law. A PDF version is available to download [here](#).

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(This blog is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP).

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