SO ORDERED.

SIGNED this 15th day of January, 2026.

Mitchell L. Herren
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS

IN RE: **Benjamin Kyle Kirby,** **Debtor.**	**Case No. 23-10923** **Chapter 7**
Benjamin K. Kirby, **Plaintiff,** **vs.** **Nelnet, Inc., U.S. Department of Education,** **Defendants.**	**Adv. No. 25-5027**

Order Striking Portions of Plaintiff's Motion and Imposing Future Disclosure Requirements

Plaintiff seeks discharge of his student loan debt under 11 U.S.C. § 523(a)(8) in this adversary proceeding. On January 8, 2026, the Court held a hearing for

Plaintiff to show why he did not violate Fed. R. Bankr. P. 9011 when he filed a "Motion for Reconsideration Of The Court's November 19, 2025 Order" (the Motion for Reconsideration) that contained non-existent case citations and quotations.[1] The Court's findings and conclusions are below.

I. Findings of Fact

On December 30, 2025, the Court issued an Order For Plaintiff To Appear And Show Cause Why Plaintiff Has Not Violated Rule 9011[2] over concerns of false or inaccurate citations and quotations in portions of his Motion for Reconsideration. The Court set a hearing for January 8, 2026.

The Court's Order directed Plaintiff to provide accurate copies of certain cases cited in his motion: *In Re Diaz*, 647 F.3d 1073 (11th Cir. 2011); *In re Behr*, 80 B.R. 124 (Bankr. E.D. Pa. 1987); *In re Behr*, 42 B.R. 479 (Bankr. E.D. Pa. 1984); *In re Sheaffer*, 653 B.R. 555 (Bankr. D. Kan. 2023); and *In re Sheaffer*, 2020 WL 3642324 (Bankr. D. Kan. July 6, 2020).[3] The Order also directed Plaintiff to be prepared to show the Court the location of several quotes[4] attributed to those cases at the January 8th hearing. If he was unable to do so, the Order required Plaintiff to explain why he included these quotes and case citations in the Motion for

[1] Doc. 78.
[2] Doc. 85.
[3] Doc. 78 at p. 10–12, 19–20.
[4] *See id*. at p. 10–11. The motion contained the following *false* quotes: "*In Re Diaz*, 647 F.3d 1073 (11th Cir. 2011): 'A creditor may not pursue collection while dischargeability is being litigated, even without a stay.'"; "*In re Behr*, 80 B.R. 124 (Bankr. E.D. Pa. 1987): 'Collection efforts during a pending nondischargeability action interfere with the Court's authority.'"; and "*In re Sheaffer*, 653 B.R. 555 (Bankr. D. Kan. 2023): 'DOE must suspend collection and default-related communications once a borrower initiates litigation affecting dischargeability.'"

Reconsideration and why he should not be sanctioned for violating Rule 9011(b)(2) by having his Motion for Reconsideration struck in whole or in part.[5]

At the January 8th hearing, Plaintiff brought a copy of the *Diaz* case as well as two *Behr* cases—though not with the same citations as in his motion.[6] Plaintiff could not locate any of the quotes he attributed to the *Diaz* or *Behr* cases in Section II.7 of his Motion for Reconsideration, nor could he provide a copy of the *Scheaffer* bankruptcy case from the District of Kansas, which does not appear to exist. The non-existent quotations from the cases were "hallucinations" resulting from Plaintiff's use of generative artificial intelligence ("GenAI"). After Plaintiff acknowledged these mistakes, which do not appear to have been made with intent to deceive the Court or Defendant, the Court allowed Plaintiff to argue whatever legal support he did believe existed for his Motion for Reconsideration from the actual *Behr* and *Diaz* cases. Those arguments will be considered by the Court in its ruling on Plaintiff's Motion For Reconsideration Of The Court's November 19, 2025 Order.[7]

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[5] Fed. R. Bankr. P. 9011(b)(2) ("Representations to the Court. By presenting to the court a . . . written motion . . . whether by signing, filing, submitting, or later advocating it--an . . . 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 to extend, modify, or reverse existing law, or to establish new law . . . .) (emphasis added).

[6] The real *Behr* cases are: *Nw. Univ. Student Loan Off. v. Behr (In re Behr)*, 80 B.R. 124 (Bankr. N.D. Iowa 1987); *Wilmington Tr. Co. v. Behr (In re Behr)*, 42 B.R. 922 (Bankr. E.D. Pa. 1984).

[7] Doc. 78.

II. Standard

Both 28 U.S.C. §§ 157 and 1334 grant this Court jurisdiction over this matter and venue is proper per 28 U.S.C. § 1408. Section 105(a) of the Bankruptcy Code empowers this Court to issue sanctions to prevent abuse of the bankruptcy process.[8]

Rule 9011 seeks to deter baseless filings as well as avoid abuse of the judicial process and unnecessary expenditure of party resources by allowing courts to issue sanctions for violations.[9] Rule 9011(b)(2) requires litigants to have read every signed document and only file a document if—based on the best of the litigant's knowledge, information, and belief formed after an inquiry reasonable under the circumstances—it is well-grounded in fact and warranted by either existing law or a good-faith argument contrary to existing law.[10] When evaluating whether a violation has been committed using the procedure laid out in Rule 9011(c),[11] a court need not make a finding of subjective bad faith to impose an appropriate sanction.[12]

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[8] 11 U.S.C. § 105(a) ("The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process."); *see also Jones v. Bank of Santa Fe (In re Courtesy Inns, Ltd., Inc.)*, 40 F.3d 1084, 1089 (10th Cir. 1994).

[9] Fed. R. Bankr. P. 9011(c); *see also In re Rosales*, No. 12-24965 MER, 2013 WL 1397449, at *6 (Bankr. D. Colo. Apr. 5, 2013) (citing *McCabe v. Harmes (In re Harmes)*, 423 B.R. 678, 681 (Bankr. D.N.M. 2010)).

[10] Fed. R. Bankr. P. 9011(b)(2) and (3).

[11] Fed. R. Bankr. P. 9011(c)(1) and (3) ("Sanctions. (1) In General. If, after notice and a reasonable opportunity to respond, the court determines that (b) has been violated, the court may, subject to the conditions in this subdivision (c), impose an appropriate sanction on any attorney, law firm, or party that committed the violation or is responsible for it. . . . (3) By the Court. On its own, the court may enter an order describing the specific conduct that appears to violate (b) and directing an attorney, law firm, or party to show cause why it has not violated (b).").

[12] *Wadsworth v. Walmart Inc.*, 348 F.R.D. 489, 496 (D. Wyo. 2025) (*quoting Burkhart ex rel. Meeks v. Kinsley Bank*, 804 F.2d 588, 589–90 (10th Cir. 1986)).

Still, Rule 9011(c)(4)(A) limits a court's power to only issue sanctions that will adequately deter repeated offenses and remedy the instant harm.[13]

III. Analysis

Use of GenAI in connection with court filings does not violate Rule 9011 per se, but it can result in violations if GenAI's mistakes are not caught and filtered out before they make their way into court filings. Careless use "can waste both judicial resources and the opposing party's time and money, and it can damage the credibility of the legal system."[14] Many courts have already addressed this mounting problem at length.[15]

Here, the results of Plaintiff's failure to make a reasonable inquiry about the cases he cited in his brief and the quotations attributed to them caused both the Court and Defendant to spend unnecessary time looking for nonexistent case law as Plaintiff's arguments were being evaluated. This is precisely what Rule 9011(b)(2) seeks to avoid.[16]

The Court finds Plaintiff violated Rule 9011(b)(2) when he failed to make a reasonably inquiry under the circumstances, and issues only that sanction the

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[13] Fed. R. Bankr. P. 9011(c)(4)(A); *see also Rosales*, 2013 WL 1397449, at *6 (citing *White v. Gen. Motors Corp.*, 908 F.2d 675, 684 (10th Cir. 1990) (applying same standard to the analogous and very similar Fed. R. Civ. P. 11) (citations omitted)).
[14] *Moore v. City of Del City*, No. 25-6002, 2025 WL 3471341, at *2 (10th Cir. Dec. 3, 2025) (citing *Mata v. Avianca*, 678 F. Supp. 3d 443, 448–49 (S.D.N.Y. 2023)).
[15] *Id.* (citing *Wadsworth*, 348 F.R.D. at 497) ("It is . . . well-known in the legal community that AI resources generate fake cases.")).
[16] *See In re Kouterick*, 167 B.R. 353, 361–63 (Bankr. D.N.J. 1994) (discussing identical purposes of Fed. R. Civ. P. 11 and Fed. R. Bankr. R. 9011).

Court deems necessary to correct the error and deter future violations.[17] Accordingly, the Court strikes the portion of Plaintiff's Motion for Reconsideration that first contained the mis-cited/fictitious cases and quotes, Section II.7 (titled: "The Court's Discussion and Findings on Plaintiff's Complaint Regarding Automatic Stay Violation Omitted Controlling Legal Issues and Corroborating Evidence").[18] Section II.8 (titled: "The Court Did Not Address DOE's Use of Default-Related Status Implications During an Active § 523(a)(8) Proceeding and Corroborating Evidence") also relied on fictitious cases and quotes, but it is not stricken.[19] Again, Plaintiff was also permitted to provide oral argument in lieu of his fictitious case citations in support of his Motion for Reconsideration.

Additionally, to help prevent this from happening again, in any future filings with this Court the Plaintiff must, under penalty of perjury: (1) state whether he used a GenAI tool or output, (2) if used, state which GenAI tool and output he used, and (3) verify that all case citations accurately refer to actual, existing cases and the quotes attributed to them can be found in those cases.[20]

IV. Conclusion

GenAI serves as a powerful and often useful tool, but it must be used with caution. The limited sanction imposed herein does not reflect any finding of ill intent from Plaintiff but draws a clear line for his use of GenAI going forward. If

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[17] 11 U.S.C. § 105(a); Fed. R. Bankr. P. 9011(c)(3); *see also Mann v. Boatright*, 477 F.3d 1140, 1150 (10th Cir. 2007) ("This court has the inherent power to impose sanctions that are necessary to regulate its docket, promote judicial efficiency, and deter frivolous filings.").
[18] Doc. 78 at p. 10–11.
[19] *Id.* at p. 11–12.
[20] *See Moore*, 2025 WL 3471341, at *3.

Plaintiff violates Rule 9011 again or fails to follow this Order, additional sanctions will be imposed, such as striking the document in total, without a hearing or notice, and/or monetary sanctions.

It is so ordered.

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