

# Hinshaw Legal Team Secures First Appellate-Level Decision in NY Sanctioning Misuse of Gen-AI in Litigation

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In *Deutsche Bank National Trust Company v. LeTennier*, the Appellate Division, Third Department issued a significant published decision that not only affirms the challenged orders, leaving the foreclosure judgment in favor of the lender in place, but also constitutes the first appellate-level case in New York to address sanctions arising from the misuse of generative AI in legal submissions.

Hinshaw partners Ellis Oster and Robert Bailey represented the lender in this appeal.

## Background

The underlying foreclosure action had already been the subject of extensive motion practice, including numerous post-judgment attempts by the borrower to vacate or relitigate issues that had long been resolved.

The borrower continued to challenge the lender's standing despite the Appellate Division's prior ruling in 2020 affirming summary judgment in the lender's favor.

When the borrower later appealed several subsequent orders—including the denial of his motion to vacate the judgment—the Appellate Division held that these challenges were either meritless or abandoned.

## The Court Identifies Extensive Use of Fabricated, AI-Generated Case Law

- What distinguishes this decision is the court's detailed examination of the borrower's and his counsel's reliance on fabricated legal authorities. Across multiple appellate filings, counsel submitted more than 20

non-existent case citations generated by AI, as well as misstatements of law drawn from real cases. The court found that this conduct was frivolous under 22 NYCRR 130-1.1.

- **Although the decision acknowledges that generative AI tools can have legitimate uses in legal practice, it warns that attorneys remain responsible for verifying the accuracy of any material included in court submissions.** The court emphasized that reliance on generative AI does not relieve counsel of their professional and ethical duties, particularly the obligation to ensure that all authorities cited actually exist and accurately reflect the law.

## Sanctions Imposed

**Given the seriousness and persistence of the misconduct, the court imposed:**

- \$7,500 sanction on the borrower's counsel, and
- \$2,500 sanction on the borrower himself.

Notably, the court observed that counsel increased his use of fake, AI-generated legal authorities even after being placed on notice about the problem, which the court found particularly concerning.

## Why This Decision Matters

This opinion places New York squarely within the growing national dialogue on the responsible use of generative AI in litigation. As the first appellate-level decision in the state to address sanctions for misuse of AI-generated content, it provides important guidance to litigants and practitioners.

The ruling aligns with the emerging expectation across jurisdictions that generative AI may be used by litigants, but only with appropriate human oversight, verification, and accountability.

For lenders, servicers, and financial institutions, the decision also reaffirms the stability of prior standing determinations, prevents continued re-litigation of settled issues, and reinforces courts' willingness to sanction frivolous foreclosure-related tactics.

## Conclusion

*Deutsche Bank National Trust Company v. LeTennier* establishes a meaningful precedent in New York's appellate jurisprudence, both in the foreclosure context and in the rapidly evolving area of AI-related legal ethics. Hinshaw attorneys Ellis Oster and Robert Bailey were pleased to secure this result on behalf of their lender client.

If you have questions about the implications of this decision or the emerging standards governing AI use in litigation, our team is available to assist.

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