

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs February 4, 2026

FILED

08/03/2026

Clerk of the
Appellate Courts

KENNETH MERRITT v. AMERICAN HOME SHIELD

Appeal from the Circuit Court for Shelby County
No. CT-2018-23 Yolanda Kight Brown, Judge

No. W2025-01142-COA-R3-CV

The pro se plaintiff sued his home warranty company alleging various causes of action after the cancellation of his home warranty contract. The trial court granted the defendant partial summary judgment, finding that numerous claims asserted by the plaintiff were barred by the statute of limitations. The only remaining claim, for breach of contract, proceeded to a jury trial. At the close of the plaintiff's proof, the trial court granted the defendant's motion for a directed verdict due to the absence of any proof regarding damages. The plaintiff appeals. We affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed and Remanded

CARMA DENNIS MCGEE, J., delivered the opinion of the court, in which FRANK G. CLEMENT, JR., C.J., and KRISTI M. DAVIS, J., joined.

Kenneth Merritt, Memphis, Tennessee, pro se.

Dawn Davis Carson, Memphis, Tennessee, for the appellee, American Home Shield.

OPINION

I. FACTS & PROCEDURAL HISTORY

Kenneth Merritt had a contract with American Home Shield for many years. American Home Shield eventually canceled the contract, claiming that Mr. Merritt was delinquent in paying his monthly premiums. Mr. Merritt filed this lawsuit against American Home Shield in 2023, asserting that American Home Shield breached the "cancellation section" of the contract by canceling outside the specified circumstances. He

also asserted claims for a violation of his right to free speech and negligent misrepresentation/misinformation to credit bureaus. Mr. Merritt claimed that his contract was canceled in “retaliation” for him filing another lawsuit against American Home Shield involving unresolved repairs. He sought specific performance; compensatory damages of \$250,000 for harm to his credit; and punitive damages of \$300,000. Mr. Merritt later moved to amend his complaint to allege defamation and fraud. He contended that American Home Shield devised a scheme to cancel his contract under the pretext of nonpayment when that was untrue, as American Home Shield’s true motive was to retaliate against him for filing the lawsuit and libel him with false credit reporting. He claimed that American Home Shield eventually issued an apology letter to a credit bureau. Mr. Merritt sought compensatory damages of \$750,000, “not merely [as] a reflection of the financial losses suffered but a testament to the emotional and psychological distress inflicted by AHS’s actions.” However, he also claimed that the false credit reports led to various financial penalties, higher interest rates, and an inability to secure loans. Mr. Merritt sought \$1.5 million in punitive damages, alleging “malicious intent.”

The trial court ultimately granted partial summary judgment to American Home Shield. It dismissed the free speech claim because the defendant was not a governmental entity. It found that the claims for fraud, negligent misrepresentation, defamation, and retaliation were required to be filed within one year and therefore were barred by the statute of limitations. The only remaining cause of action was the claim for breach of contract, which the trial court set for a jury trial.

Prior to trial, American Home Shield filed several motions in limine to exclude evidence at trial regarding claims previously stricken by the trial court, information regarding credit bureau reports, and other matters, given the limited remaining issue for trial regarding an alleged breach of the cancellation section of the contract. The trial court entered an order granting these pretrial motions.

The jury trial was held on July 22, 2025. Mr. Merritt indicated that he had participated in a bench trial before but not a jury trial. At the outset, the trial judge explained to Mr. Merritt its various rulings regarding damages. She first explained that the complaint did not allege punitive damages for the breach of contract claim, so she would only be instructing the jury with regard to compensatory damages and not punitive damages. She then asked Mr. Merritt to clarify exactly what he was requesting as far as specific performance or compensatory damages. Mr. Merritt said he would “have to think about it,” but he said that when the contract was canceled inappropriately, he had not only “paid for repairs” but also had “[t]he two years that I’ve had to endure in preparing for this case dealing with the breach, the studying, the research, the writing of motions, coming to court, arguing in front of The Court, and there’s one more, the sleep deprivation and the emotional stress.” Reading from the jury instructions she intended to use, the judge explained to Mr. Merritt that “[w]hen a contract is breached the plaintiff is entitled to be placed in as good a position as they would have been had the contract been fulfilled in

accordance with the terms.” So, the trial judge explained, “when you say to The Court that you may have had to have paid for things that -- and you will have to prove that -- that you may have paid for things that you otherwise would not have had to pay for had the warranty been in place That seems appropriate.” However, the judge explained that emotional injuries or personal injuries to oneself were not appropriate damages for a breach of contract. Thus, the trial judge explained, “So going into anything that you may have had to pay because the contract was not honored, as you say, that’s fine. But I don’t think it’s appropriate to go outside of that.” In other words, the judge continued, going into the subject of mental anguish “strays beyond the damages that you’re entitled to for breach of contract.”

In addition, the trial judge explained:

Mr. Merritt, because you’re representing yourself ordinarily counsel would be questioning you. If you had counsel he would question you from the bench. I’m going to allow you to take the stand under oath and testify as to what you need to testify to regarding your proof and then she will cross examine you and you may come back and clarify anything based on what her questions were to you at that time. But that’s not an opportunity for you to go off the rails, Mr. Merritt. I need you to stay in the confines of what we’ve already discussed from yesterday and this morning, the elements for breach of contract and your damages, but not going into anything related to attorney fees, expenses, because that wasn’t part of the contract unless you found something.

The trial judge also read aloud the following jury instructions regarding Mr. Merritt’s burden of proof and the elements for a breach of contract:

You have been summoned as prospective jurors in a civil case involving a breach of contract involving Mr. Merritt and American Home Shield. In this action Mr. Merritt as plaintiff has a burden of establishing by a preponderance of the evidence all of the facts necessary to prove the following issues. One, that there was an existence of an enforceable contract, which the parties stipulated that there is a contract, although there’s a dispute as to which contract governs. Two, non-performance amounting to a breach of contract. And, three, damages caused by the breach of contract. Stated another way, Mr. Merritt has the burden of proving that he had an enforceable contract with the defendant, American Home Shield; Defendant American Home Shield failed to perform as required under the terms of the contract; and Mr. Merritt suffered damages caused by the breach of the contract by Defendant American Home Shield.

During his opening statement, Mr. Merritt said to the jury, regarding damages:

[Y]ou will hear testimony about the financial strain and the repairs I was forced to pay for myself when they cancelled my contract.

Again, this isn't just about a contract, it's about how they broke that contract promise. By the end of this case you will understand why I'm seeking damages. Compensation for the money, the protection denied, and the emotional hardship I incurred.

After the opening statement from counsel for American Home Shield, the trial judge further explained several matters:

You've now heard the opening statements from Mr. Merritt and Attorney Carson. We'll now begin with the presentation of the evidence in this case. The evidence generally consists of numbered exhibits and testimony of witnesses. The plaintiff, Mr. Merritt, will present his evidence first. The defendant then will be given an opportunity to present their evidence. Normally the plaintiff will present all of the plaintiff's evidence before the other parties present any evidence. Exceptions are sometimes made when we need to accommodate witnesses. The witness will testify in response to questions from the pro se litigant, Mr. Merritt, and Attorney Carson. Witnesses are first asked questions by the party who called the witness to testify and then others are permitted to cross examine the witnesses.

In this case since Mr. Merritt is representing himself, Mr. Merritt will take the stand and he will basically testify to the elements that he needs to prove that he has the burden to prove by a preponderance of the evidence. Then Ms. Carson will be able to cross examine him and Mr. Merritt will be able to come back and clarify any of the questions that were asked of him by Ms. Carson.

....

Again, in this action Mr. Merritt has the burden of establishing by a preponderance of the evidence all of the facts necessary to prove the following issues; that there is an enforceable contract or which contract governs because they have agreed that there is a contract, that they have an agreement between Mr. Merritt and American Home Shield. There's a dispute as to which contract actually governs. So you will hear Mr. Merritt present proof or both parties present proof on that issue. Mr. Merritt is also required to prove that the defendant, American Home Shield, failed to perform as required under the terms of the contract and that he, Mr. Merritt, suffered damages caused by the breach of contract by Defendant American Home Shield.

The trial judge then asked Mr. Merritt if he was ready to proceed, and Mr. Merritt responded affirmatively.

Before Mr. Merritt began his testimony, the trial judge requested that he “come around just one second,” along with counsel for American Home Shield, for a brief bench conference outside the hearing of the jury. The trial judge simply stated, “You brought up emotional distress in your opening statement. I know you wrote it before we discussed it here this morning, so make sure you don’t go into that. Understand?” Mr. Merritt responded, “Yes.”

Mr. Merritt then began with his direct testimony. He explained that he was a long-time customer of American Home Shield until his account was canceled for nonpayment. He testified that he had “what they call a noncancelable contract.” Specifically, Mr. Merritt testified that his contract was noncancelable by American Home Shield except for nonpayment of contract fees or fraud. Mr. Merritt testified that American Home Shield canceled his contract, “claiming that I didn’t make a payment.” However, Mr. Merritt testified that the real reason that it was canceled was because he filed a lawsuit against American Home Shield. He claimed that “[w]hile claiming I was delinquent they continued withdrawing payments for four months” via automatic bank draft. Mr. Merritt said he had been on automatic bank draft for thirteen years and that American Home Shield had always taken the money out of his account, until he found out in 2020 that they claimed an “outstanding debt.” He said “after they explained about the outstanding debt I went ahead and I basically filed the lawsuit against them.” Mr. Merritt testified that American Home Shield eventually sent him a letter stating that the billing issue had been resolved, his account was marked as satisfied, and it was no longer attempting to collect the sum. He testified, “This is really the foundation of my damages claim and everything I’m asking for is directly tied to it, the conduct proven by the documents, my statements and the undeniable math, and the bank records.” He concluded his brief testimony by stating, “So that’s my statement and I’m ready for Ms. Carson.”

On cross-examination, Mr. Merritt was shown a document reflecting monthly payments with the words “Credit Card Rejected” next to various dates. The document also showed a “write-off” by American Home Shield. When asked if he had looked at his monthly credit card statements during that time period, Mr. Merritt responded, “I’m a little embarrassed. I don’t even keep up with stuff. I just keep enough money in the bank and then whenever I need to look if something is not right I’ll go look, other than that I’m good.” Counsel asked, “From your checking account during the time period of July, August, September, you didn’t notice in your bank account that there was no withdrawal from American Home Shield?” Mr. Merritt responded, “I had no idea.” He said, “I didn’t even know my account was delinquent.” Mr. Merritt then acknowledged that the contract could be canceled for nonpayment.

At the conclusion of cross-examination, Mr. Merritt was asked if he wished to clarify any of his testimony. He said that he did. Mr. Merritt testified that he had “more than enough money in that account” to cover the amount of the monthly charges. He also

testified to clarify some issues relating to dates. He concluded by stating, “So that’s my clarification for that.” The following exchange then occurred between Mr. Merritt and the trial judge:

THE COURT: Thank you. Do you rest, Mr. Merritt?
MR. MERRITT: Yes. For now, yes, ma ‘ am.
THE COURT: This is your opportunity to put on your proof. So are you done with putting on your proof?
MR. MERRITT: Yes, ma’am. I’m done for now. I keep saying now, but you know what I mean.
THE COURT: Okay. Thank you. Ms. Carson?

Counsel for American Home Shield advised the trial judge that she had some motions that she wanted to present to the court, so the trial judge excused the jury.

Counsel for American Home Shield then moved for a directed verdict. She argued that Mr. Merritt presented “no testimony whatsoever about any damages that he sustained as a result” of the alleged breach of contract. She noted there was no proof regarding anything that he “had to pay for” as a result of the cancelation. Mr. Merritt then responded, “Well, I believe that I’ve showed that they cancelled the contract, so the issue right now is The Court had politely asked me not to mention anything about damages.” The trial judge replied, “I didn’t ask you not to mention anything about damages. In fact, I specifically said to her when you all were arguing earlier, and if I need to have her pull it back up, I specifically said we can leave compensatory damages in there and you can talk about things such as what you may have had to pay for, just as she stated, because the warranty was cancelled.” Mr. Merritt said, “I misunderstood. I need to go back. I misunderstood what you were saying. I thought you were telling me I couldn’t ask for the damages.” The judge reiterated that she was “very specific” in her instructions. Mr. Merritt referenced “when you pulled me up there you said you can’t say anything[.]” However, the judge emphasized that she only “said you could not discuss emotional distress -- or, in fact, it was emotional hardship,” given their prior discussion about that type of damages not being appropriate for a breach of contract claim. She added, “I don’t want you playing with my words.” Mr. Merritt repeatedly stated that he “misunderstood.” He explained, “I thought what you were saying was not to say anything about the damages. I can talk about the damages.” The judge pointed out, “I’ve also said to you repeatedly the elements that you have to prove. I said it three times in the instructions to the jury. Each time it included all three elements that you have the burden of proof of proving.” She asked Mr. Merritt, “Did you hear me say it three times?” He responded, “You could have said it six times. If I didn’t understand it --” Mr. Merritt referenced discussions that had taken place over the past couple of days “where we were talking about what you were allowing me to say.” The judge said, “Absolutely, and we clarified it today.” Mr. Merritt said, “Until you clarified that I haven’t brought the damages in, I’m clueless.” The judge stated, “Mr. Merritt, I don’t think that you’re clueless. I think that you just failed to put the proof on.” He said, “I can put the

proof on. I didn't understand what you were asking. That's all. I just didn't understand. I can tell my damages, but this right here – you know I didn't understand.” The judge responded, “No, I don't know that you don't understand, Mr. Merritt. Don't put words in my mouth. Mr. Merritt, you've sat here and you've filed this complaint and others The Court can take notice of and you have been citing the rules and filing motions in this court. You filed this complaint on your own. . . . You said to this court you've been doing this for ten years, that you've been working with Ms. Carson for five, so don't play with The Court on what you don't understand.” She added, “You can certainly ask The Court if it will allow you to reopen proof.” Mr. Merritt then asked if the court would allow that.

Counsel for American Home Shield objected, stating its position that such a procedure would be “wrong at this point” given that the trial judge “told him what to say.” She emphasized that Mr. Merritt had rested his case and that American Home Shield had properly moved for a directed verdict because he failed to prove damages. Counsel agreed that the court had been “very clear” with Mr. Merritt and only mentioned the emotional distress damages because he referenced them in his opening statement. She suggested it would be improper for the court to now “educate[] him on what he does wrong and then he goes back there and fixes that issue.” The judge then explained that American Home Shield had brought its motion because Mr. Merritt failed to do something that the court had “repeatedly” said must be done. She noted her explanation to Mr. Merritt “before the trial began and I said three times, three times, for the benefit of you and the jurors, if The Court is being candid, I said three times the burden of proof that you had and one of those was damages and you failed to do that, so the defense is entitled to their verdict.” Mr. Merritt asked the judge to consider the fact that he is a pro se litigant, but the trial judge stated that she had already “given a lot of leniency in this case.” She said she had asked Mr. Merritt if he was “done” with his proof after explaining three times what his burden was and discussing it prior to trial, even going so far as to say that she would consider proof of damages “to the extent that it goes to show you had to pay for something that your warranty would have covered.” Mr. Merritt insisted that he “just didn't understand,” but the judge noted that Mr. Merritt never indicated to the court that there was something he did not understand or wanted to clarify.

The trial court subsequently dismissed the jury and entered a written order granting American Home Shield's motion for directed verdict on the basis that Mr. Merritt failed to provide any proof of damages. Mr. Merritt timely filed a notice of appeal.

II. ISSUES PRESENTED

Mr. Merritt presents the following issues for review on appeal, which we have slightly restated:

1. Whether the trial court erred in granting a directed verdict for insufficient proof of damages when Tennessee law mandates at least nominal damages upon proving a

- breach of contract;
2. Whether the trial court violated due process by creating a procedural “Catch-22” by denying a motion for summary judgment because factual disputes existed; subsequently excluding the evidence establishing those facts at trial; and then granting a directed verdict based on the lack of evidence, thereby creating an impossible procedural trap in violation of due process;
 3. Whether the trial court erred in granting summary judgment on the fraud and defamation claims despite Defendant’s written admission in a letter regarding billing issues acknowledging the debt was valid, thereby creating a genuine issue of material fact;
 4. Whether the trial court abused its discretion by granting motions in limine excluding evidence of credit reporting and collection activity when such evidence was relevant to prove breach, damages, and knowledge of wrongdoing;
 5. Whether the trial court abused its discretion in adopting Defendant’s proposed order on the motions in limine verbatim without independent analysis.

For the following reasons, the decision of the circuit court is affirmed and remanded.

III. DISCUSSION

A. Nominal Damages for Breach of Contract

The first issue Mr. Merritt raises on appeal is whether the trial court erred by granting a directed verdict on the breach of contract claim due to the absence of proof of damages “when Tennessee law mandates nominal damages.” He argues that the trial court’s “ruling constitutes a fundamental error of Tennessee contract law.” Mr. Merritt claims that “[u]nder Tennessee law, a plaintiff is not required to prove a specific dollar amount of actual damages to survive a directed verdict in a breach of contract action.” He claims that the trial court “misapplied the law regarding nominal damages” because:

The Tennessee Supreme Court has explicitly held: “Where a breach of contract is established but no actual damages are proven, the plaintiff is entitled to recover nominal damages.” *Myint v. Allstate Ins. Co.*, 970 S.W.2d 920, 927 (Tenn. 1998). See also *Walker v. Sunrise Pontiac-GMC Truck, Inc.*, 249 S.W.3d 301, 315 (Tenn. 2008) (“Nominal damages may be awarded for breach of contract even in the absence of proof of actual damages”).

This is the only legal authority Mr. Merritt cites in support of his argument.

Although Mr. Merritt appears to include direct quotes from Tennessee Supreme Court decisions, neither of those quotes can be found within the *Myint* or *Walker* cases. In fact, those direct quotes do not appear to be from any Tennessee case, from our research. Neither the *Myint* case nor the *Walker* case mentions “nominal damages.” The page of the

Myint case cited by Mr. Merritt discusses prejudgment interest. The specific page number of the *Walker* case Mr. Merritt cites does not exist. American Home Shield argues on appeal that Mr. Merritt “materially misrepresents what these cases hold” as “[n]either case discusses nominal damages for breach of contract,” and “the cited language Appellant attributes to these cases cannot be located.” We agree.

We recognize that Mr. Merritt is pro se. “‘*Pro se* litigants who invoke the complex and sometimes technical procedures of the courts assume a very heavy burden.’” *Whalum v. Marshall*, 224 S.W.3d 169, 179 (Tenn. Ct. App. 2006) (quoting *Irvin v. City of Clarksville*, 767 S.W.2d 649, 652 (Tenn. Ct. App. 1988)). As this Court has repeatedly noted,

Parties who decide to represent themselves are entitled to equal treatment by the court. *Murray v. Miracle*, 457 S.W.3d 399, 402 (Tenn. Ct. App. 2014). The court should take into account that many pro se litigants have no legal training and little familiarity with the judicial system. *Id.* However, the court must also be mindful of the boundary between fairness to the pro se litigant and unfairness to the pro se litigant’s adversary. *Id.* While the court should give pro se litigants who are untrained in the law a certain amount of leeway in drafting their pleadings and briefs, it must not excuse pro se litigants from complying with the same substantive and procedural rules that represented parties are expected to observe. *Hessmer v. Hessmer*, 138 S.W.3d 901, 903 (Tenn. Ct. App. 2003).

Augustin v. Bradley Cty. Sheriff’s Office, 598 S.W.3d 220, 225 (Tenn. Ct. App. 2019) (quoting *Lacy v. Mitchell*, 541 S.W.3d 55, 59 (Tenn. Ct. App. 2016)).

This Court recently encountered similar errors in a pro se brief in *Harding Place Multifamily Partners, LLC v. Robinson*, No. M2025-01361-COA-R3-CV, 2026 WL 2185622, at *2-3 (Tenn. Ct. App. July 29, 2026). We explained:

[U]nrepresented parties must comply with the procedural rules concerning the content of appellate briefs. *See* TENN. R. APP. P. 27. The Rules of Appellate Procedure require parties to file briefs that include an argument section containing “the contentions of the appellant with respect to the issues presented . . . with citations to the authorities . . . relied on.” TENN. R. APP. P. 27(a)(7)(A). Tennessee Court of Appeals Rule 17.01 further provides that:

By presenting to the court (whether by signing, filing, submitting, or later advocating) a . . . brief, . . . an attorney or unrepresented party is certifying that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, —

...

(2) the issues, claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law[.]

Unfortunately, Mr. Robinson's brief fails to comply with this rule as it contains numerous false quotations from case law and statutes and, in some instances, outright fake citations. In this way, Mr. Robinson's brief bears all the hallmarks of an artificial intelligence-generated brief, filled with what has been referred to as "hallucinations." See *Simmons v. Islam*, No. M2025-01261-COA-R3-CV, 2026 WL 1431143, at *7 n.3 (Tenn. Ct. App. May 21, 2026). A federal district court has defined hallucinations in AI-assisted research to be one of the following three types of errors:

(1) fabricated cases (whether a nonexistent case name and citation, an existing case name with an invented citation, or a real citation that leads to a wholly unrelated decision); (2) fabricated quotations from actual cases; and (3) misstatements of law (representations of legal rules, standards, or holdings that are inaccurate, incomplete, or unsupported by any real authority, including AI-generated summaries that distort or materially alter what a case actually decided).

Andre v. Warden, FCI Danbury, 827 F. Supp. 3d 294, 305 (D. Conn. 2025). Mr. Robinson's brief contains all of these forms of hallucinations. For instance, Mr. Robinson cites to "*First Tenn. Bank Nat'l Ass'n v. McClure*, 199 S.W.3d 429, 432 (Tenn. Ct. App. 2005)." While there is a real case under that name, it is not reported in the South Western Reporter. The citation given actually leads to the dissent of a case from the Court of Appeals of Texas, *City of Seabrook v. Port of Houston Auth.*, 199 S.W.3d 403 (Tex. App. 2006). Further, the real *McClure* case is not from 2005 but from 1990. See *First Tenn. Bank Nat'l Ass'n v. McClure*, No. 169, 1990 WL 6378 (Tenn. Ct. App. Jan 31, 1990).

This issue of AI hallucinations is prevalent in Mr. Robinson's statutory citations as well. His brief quotes Tenn. Code Ann. § 66-28-304(a) as "A landlord shall: . . . (4) Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating air-conditioning and other facilities and appliances supplied or required to be supplied by the landlord." If this quotation were accurate, it would certainly be a boon to Mr. Robinson's case, as part of his argument is centered around negligent maintenance of his apartment's air conditioning system, plumbing

system, and various appliances by Emerson. However, that section of the code, Tenn. Code Ann. § 66-28-304(a)(4), actually states: “In multi-unit complexes of four (4) or more units, provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish and other waste from common points of collection subject to § 66-28-401(3),” language which is certainly less helpful to Mr. Robinson’s position.

Further still, some cases appear to be fabricated entirely as Mr. Robinson cites to “*Puckett v. Estate of Puckett*, 174 S.W.3d 252, 257 (Tenn. 2005).” The given location in the reporter is actually for the Court of Appeals case *Emmit v. Emmit*, 174 S.W.3d 248 (Tenn. Ct. App. 2005), and we are unable to find any Tennessee Supreme Court case under the cited case name.

“Artificial intelligence may ultimately prove a helpful tool to assist *pro se* litigants in bringing meritorious cases to the courts.” *Moales v. Land Rover Cherry Hill*, No. 3:25-CV-544 (VDO), 2025 WL 1249616, at *3 (D. Conn. Apr. 30, 2025). However, “repeated misuse of artificial intelligence undermines the genuine role it may ultimately have in contributing to the cause of justice.” *Braica v. Frankowski*, 826 F. Supp. 3d 286, 293 (D. Conn. 2025) (citing *Moales*, 2025 WL 1249616, at *3). Much of Mr. Robinson’s argument cites real cases but uses false or misleading quotations from those cases. “Without question, it is improper and unacceptable for litigants – including *pro se* litigants – to submit ‘non-existent judicial opinions with fake quotes and citations.’” *Anonymous v. N. Y. C. Dep’t of Educ.*, No. 1:24-CV-04232, 2024 WL 3460049, at *7 (S.D.N.Y. July 18, 2024) (quoting *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 448 (S.D.N.Y. 2023)). While Mr. Robinson has a right to self-representation, “the right to self-representation ‘does not exempt a party from compliance with relevant rules of procedural and substantive law.’” *Id.* (quoting *Tragath v. Zuck*, 710 F.2d 90, 95 (2d Cir. 1983)); *see also Hessmer*, 138 S.W.3d at 903. As one federal circuit recently put it, “[w]hatever the merits of artificial intelligence, it is no substitute for actual intelligence.” *Akerlund v. Atlas Air, Inc.*, --- F.4th ---, No. 24-11033, 2026 WL 1993146, at *5 (11th Cir. July 10, 2026). Put simply, artificial intelligence, in part due to its lack of “actual intelligence,” is not yet, or may never be, a reliable substitute for thorough legal research.

Because of the inaccurate citations to law, Mr. Robinson’s arguments are not “warranted by existing law,” as required by Tenn. Ct. App. R. 17.01. Surprisingly, Emerson does not raise the improprieties in Mr. Robinson’s brief or request that we find the arguments advanced to be waived. Therefore, we believe the best course is to disregard the citations in Mr. Robinson’s brief that do not accurately reflect what the authority states and address the arguments without consideration of fictitious or meritless arguments.

Id. (footnote omitted).

Similar deficiencies exist in Mr. Merritt’s brief.¹ Because the only two legal authorities Mr. Merritt cites in support of this issue are “fabricated quotations from actual cases,” which we will not consider, we conclude that this issue is waived on appeal. *See id.* “It is not the role of the courts, trial or appellate, to research or construct a litigant’s case or arguments for him or her, and where a party fails to develop an argument in support of his or her contention or merely constructs a skeletal argument, the issue is waived.”

¹ We also note that Mr. Merritt’s complaint and motion to amend his complaint contained several sections that appear to be AI-generated. For example:

Presenting the contract as evidence in court or during legal proceedings can significantly strengthen your case. The written provision will help demonstrate that the company had a contractual obligation to follow the specified cancellation conditions, and by disregarding those conditions, they breached the contract.

However, it is important to note that legal matters can be complex, and the specific circumstances of your case may require further analysis by a qualified attorney. They can provide you with guidance based on their expertise, review the contract thoroughly, and assess the strongest approach to assert your rights and seek appropriate legal remedies.

....

Compensatory damages are intended to compensate the Plaintiff for actual losses suffered due to the Defendant’s actions. In your case, you can argue for \$750,000 in compensatory damages by highlighting the following points:

Financial Harm:

Explain how the Defendant’s fraudulent actions, libel, and bad faith reporting to credit bureaus resulted in quantifiable financial harm to the Plaintiff. Provide evidence, such as credit reports, bank statements, or financial records, to support the actual losses incurred.

....

By condensing the information while still conveying the emotional impact, you can maintain the relevance of your claims while avoiding excessive detail. This will help keep your legal document focused on the key arguments and claims related to your case.

...

Punitive Damages - are intended to punish the Defendant for particularly egregious conduct and to deter similar behavior in the future. To argue for \$1.5 million in punitive damages, consider the following

Highlight how the Defendant’s conduct went beyond ordinary negligence and instead involved calculated deceit, libel, and bad faith.

Retaliation: Discuss the Defendant’s retaliation against the Plaintiff for exercising their legal rights by filing a lawsuit. Emphasize the premeditated scheme to harm the Plaintiffs credit and reputation as a form of punishment for pursuing legal action.

Deterrence: Explain that a substantial punitive damages award is necessary to deter the Defendant and others from engaging in similar conduct in the future. Stress the importance of sending a clear message that such actions will not be tolerated.

Comparative Analysis: Consider providing examples of punitive damages awarded in similar cases to support the requested amount. Show how your case’s circumstances warrant a punitive damages award of \$1.5 million based on the Defendant’s egregious behavior.

Sneed v. Bd. of Pro. Resp. of Supreme Ct., 301 S.W.3d 603, 615 (Tenn. 2010); *see also Lacy v. Big Lots Stores, Inc.*, No. M2019-00419-COA-R3-CV, 2023 WL 163974, at *3 (Tenn. Ct. App. Jan. 12, 2023) (“Generally, when a party fails to cite to relevant authority, we consider that issue waived.”).²

B. “Catch-22”

The next issue raised by Mr. Merritt on appeal is whether the trial court violated his due process rights by “creating a procedural ‘Catch-22’ and granting a directed verdict for failure to prove damages after excluding the evidence of damages.” He claims that the trial court entered a series of orders that “made it legally impossible for the Appellant to prevail.” The only legal authority Mr. Merritt cites in support of this issue is the following:

Tennessee courts have condemned judicial actions that place a litigant in a “Catch-22” where compliance is impossible. *See State v. Cannon*, 254 S.W.3d 287 (Tenn. 2008). By acknowledging facts existed but then excluding the evidence of those facts, the Court violated Appellant’s due process rights.

. . . Under *Myint*, reopening proof is encouraged to prevent a failure of justice.

American Home Shield states in its brief that it was “unable to locate such contention in the cited case law.” So are we. The Tennessee Supreme Court’s decision in *State v. Cannon* spans nearly fifty pages, and it is not clear what portion of it Mr. Myint deems relevant. The opinion does not contain the term “Catch-22,” nor does it use the term “condemn.” Similarly, the *Myint* opinion does not use the terms “reopen” or “justice.” Thus, it appears that these citations may constitute the third type of AI-assisted research

² In his reply brief, Mr. Merritt included one citation to a case that does actually involve nominal damages, although the citation he provided is incorrect in its reference to the wrong court and the wrong year of decision. We conclude that this minimal citation in a reply brief does not save Mr. Merritt’s argument. *See Shaw v. Shaw*, No. W2018-00677-COA-R3-CV, 2022 WL 3221256, at *5 (Tenn. Ct. App. Aug. 10, 2022) (“while Mother does cite additional legal authority in her reply brief, a reply brief is not a vehicle for correcting the deficiencies in an initial brief or raising new arguments”); *Carter v. Butler*, No. W2020-00169-COA-R3-CV, 2021 WL 457680, at *7 n.4 (Tenn. Ct. App. Feb. 9, 2021) (noting that the appellant “cited no authority to support his argument,” and even though he “attempt[ed] to flesh this argument out in his reply brief,” “[r]epley briefs are not meant for that purpose”); *Wortham v. Kroger Ltd. P’ship I*, No. W2019-00496-COA-R3-CV, 2020 WL 4037649, at *15 (Tenn. Ct. App. July 16, 2020) (“deficient briefing may not be corrected by reply brief”); *Augustin*, 598 S.W.3d at 227 (noting that even though appellant made “a better effort” to address an argument in his reply brief, “[r]epley briefs ... are generally not a vehicle to correct deficiencies in initial briefs”); *Hatfield v. Allenbrooke Nursing and Rehabilitation Center, LLC*, No. W2017-00957-COA-R3-CV, 2018 WL 3740565, at *8 (Tenn. Ct. App. Aug. 6, 2018) (“It is well-settled, however, that appellants may not raise new issues in their reply briefs or use reply briefs to correct deficiencies in initial briefs.”). To the extent that Mr. Merritt attempts to raise additional issues in his reply brief, those are also waived. *See id.*

error described above, containing “misstatements of law (representations of legal rules, standards, or holdings that are inaccurate, incomplete, or unsupported by any real authority, including AI-generated summaries that distort or materially alter what a case actually decided).” *Harding Place*, 2026 WL 2185622, at *2. Thus, we disregard these citations as well and deem this issue waived on appeal.

C. Summary Judgment on Fraud and Defamation Claims

Next, Mr. Merritt argues that the trial court erred in granting summary judgment on the fraud and defamation claims because genuine issues of material fact existed in light of the admission by American Home Shield that billing issues had existed and that his account would be marked as satisfied. Mr. Merritt argues that this evidence constituted a “Smoking Gun” admission that the debt was valid, meaning that the defendant made a representation it knew to be false, which was sufficient to withstand the motion for summary judgment. He claims that the trial court ignored this letter and failed to view the evidence in the light most favorable to him.

The problem with this argument is that the trial court granted the motion for summary judgment on these claims based on the expiration of the statute of limitations. Thus, Mr. Merritt’s arguments on appeal fail to address the basis for the trial court’s decision. “We have repeatedly held that an appellant’s failure to craft a more-than-skeletal argument that is actually responsive to the trial court’s ruling may result in waiver on appeal.” *McGuire v. Lewis*, No. M2024-01242-COA-R3-JV, 2025 WL 1392217, at *8 (Tenn. Ct. App. May 14, 2025); *see, e.g., McNeill v. Blount Mem’l Hosp. Inc.*, No. E2022-00209-COA-R3-CV, 2022 WL 16955177, at *7 (Tenn. Ct. App. Nov. 16, 2022) (holding that an issue was waived when the appellant’s “brief contain[ed] no argument that addresse[d] the actual basis for the trial court’s grant of summary judgment”); *Augustin*, 598 S.W.3d at 226-27 (“Appellant’s initial brief contains no properly supported argument responsive to the trial court’s dispositive ruling in this case. This failure would generally result in a waiver on appeal.”). Because Mr. Merritt again fails to cite any *relevant* legal authority in support of this issue, we deem it waived. *See Berry v. City of Memphis*, No. W2014-01236-COA-R3-CV, 2015 WL 1650763, at *4 (Tenn. Ct. App. Apr. 13, 2015) (“Our courts have repeatedly held that the failure to cite to relevant legal authority to support an argument may result in a waiver of the argument on appeal.”).³

D. Defense-Drafted Order

³ Mr. Merritt does address the statute of limitations in his reply brief. Again, however, a reply brief is not a vehicle for raising new arguments. *See Shaw*, 2022 WL 3221256, at *5 (“while Mother does cite additional legal authority in her reply brief, a reply brief is not a vehicle for correcting the deficiencies in an initial brief or raising new arguments”); *Hatfield*, 2018 WL 3740565, at *8 (“It is well-settled, however, that appellants may not raise new issues in their reply briefs or use reply briefs to correct deficiencies in initial briefs.”).

The fourth issue Mr. Merritt presents is whether the trial court abused its discretion by adopting a defense-drafted order verbatim without independent findings. He claims that the order granting the motions in limine was drafted by defense counsel “and submitted *ex parte*.” The only legal authority Mr. Merritt cites in support of this issue is as follows: “Tennessee courts caution against this practice to ensure findings represent the judge’s own considered conclusions. *Perrin v. Perrin*, 514 S.W.2d 426 (Tenn. Ct. App. 1974).” This also appears to be a fictitious citation. The case found at that citation is *Medley v. Cimmarron Ins. Co, Inc.*, 514 S.W.2d 426 (Tenn. 1974). We note that *Perrin v. Perrin* is reported at 299 S.W.2d 19 (Tenn. 1957). Because this is a fabricated case citation, we deem this issue waived as well. See *Harding Place*, 2026 WL 2185622, at *2 (noting that fabricated cases may consist of “a nonexistent case name and citation, an existing case name with an invented citation, or a real citation that leads to a wholly unrelated decision”).

E. Exclusion of Evidence

Mr. Merritt’s final issue is whether the trial court erred in excluding evidence of credit reporting and collection activity. This section of the brief cites no legal authority aside from “Tenn. R. App. P. 36(b),” as Mr. Merritt contends that the alleged error was “not harmless.” We deem this issue waived. See *Lunsford v. K-VA-T Food Stores, Inc.*, No. E2019-01272-COA-R3-CV, 2020 WL 1527002, at *6 (Tenn. Ct. App. Mar. 31, 2020) (quoting *El-Moussa v. Holder*, 569 F.3d 250, 257 (6th Cir. 2009)) (“Issues adverted to in a perfunctory manner, unaccompanied by some effort at developed argumentation, are deemed waived. It is not sufficient for a party to mention a possible argument in [a] skeletal way, leaving the court to put flesh on its bones.”); *Newcomb v. Kohler Co.*, 222 S.W.3d 368, 400 (Tenn. Ct. App. 2006) (“A skeletal argument that is really nothing more than an assertion will not properly preserve a claim[.]”).

IV. DECEMBER 22, 2025 MOTION

On December 22, 2025, Appellant filed a “Motion to Vacate Judgment for Structural Denial of Due Process and Inapplicability of Waiver Doctrine.” By Order entered on January 6, 2026, this Court stated:

The Motion appears, in part, to be an attempt to have the Court reconsider arguments made in Appellant’s prior Motions. . . . To that extent, the Motion is respectfully DENIED. All other issues raised in the Motion, and which were properly raised in Appellant’s brief, are hereby DEFERRED to the panel of the Court deciding this appeal.

Any issues from said motion which were deferred to the panel of this Court deciding this appeal are hereby denied.

V. CONCLUSION

For the aforementioned reasons, the decision of the circuit court is affirmed and remanded. Costs of this appeal are taxed to the appellant, Kenneth Merritt, for which execution may issue if necessary.

s/ Carma Dennis McGee
CARMA DENNIS MCGEE, JUDGE