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PROMPT ENGINEERING FOR LAWYERS: BLUE PILL OR RED PILL: HALLUCINATIONS RISKS AND AN INTRODUCTION TO PROMPT ENGINEERING

Cliff McKinney*

*You take the blue pill – the story ends, you wake up in your bed and believe whatever you want to believe. You take the red pill – you stay in Wonderland, and I show you how deep the rabbit hole goes. - Morpheus, The Matrix.*¹

I. INTRODUCTION

In *The Matrix*, Neo's choice between the blue pill and the red pill is essentially a choice between a comfortable illusion and an unsettling reality.² Lawyers now face a similar decision with artificial intelligence. They can take the blue pill: ignore artificial intelligence or treat it like just another search engine, continuing a comfortable illusion that the new technology may not transform the practice of law. Or lawyers can take the red pill: acknowledge that artificial intelligence will transform the practice of law and learn how to use it competently, ethically, and effectively.

This Article is for those who choose the red pill. It begins with the problem of hallucinations, which makes blind reliance on artificial intelligence a professional hazard,³ and then turns to the first step in using artificial intelligence productively: understanding how it differs from Googling.⁴ When artificial

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1. THE MATRIX, (Warner Bros. Pictures, 1999).

2. Silviya Y, *Red Pill Vs. Blue Pill in 'The Matrix': A Philosophical Analysis of Truth and Ignorance*, INDIGOMUSIC.COM (Nov. 16, 2024), [<https://perma.cc/F3H5-YFS7>].

3. See discussion *infra* Section II.

4. See discussion *infra* Section III.A.

intelligence is approached as a role-playing collaborator, such as a litigator, contract drafter, or judge, lawyers can enhance the accuracy, tone, and usefulness of the responses it provides.⁵

II. HALLUCINATION RISKS: PATTERN PREDICTION VERSUS FACTUAL KNOWLEDGE

Before delving into prompt engineering, we need to spend some time on the dreaded phenomenon of hallucinations. Earlier entries in this series explored the ethical pitfalls associated with hallucinations. If artificial intelligence hallucinates and an attorney does not verify the law, the attorney is responsible for those errors. I ran some simulations in ChatGPT to illustrate the hallucination problem.

The first question that I asked was: *Please explain to me the law of adverse possession in Arkansas including appropriate cases and citations.* I selected this question because adverse possession is a well-known legal doctrine taught in first-year property classes, so most attorneys are at least somewhat familiar with the concept and can better judge the accuracy of ChatGPT's responses rather than a more obscure question. I am especially familiar with this concept, having co-authored an article on this topic some years ago, making it easier for me to judge the quality of ChatGPT's responses.⁶ The full response to this query is in [Appendix 1](#).

ChatGPT's response was confident and reasoned, but the law backing the reasoning was very shaky. ChatGPT initially responded with the correct statutory citation to Ark. Code Ann. § 18-11-106, which is the primary statute governing adverse possession.⁷ ChatGPT then provided an analysis of case law, citing the following three "leading Arkansas cases" [Note: ChatGPT decided which words to put in bold for emphasis in the response]:

5. See discussion *infra* Section III.B.

6. Lynn Foster & J. Cliff McKinney II, *Adverse Possession and Boundary by Acquiescence in Arkansas: Some Suggestions for Reform*, 33 U. ARK. LITTLE ROCK L. REV. 199, 199 (2011).

7. ARK. CODE ANN. § 18-11-106 (2005).

Coleman v. Jagers, 410 S.W.3d 755 (Ark. Ct. App. 2012)

This case reaffirmed that all elements of adverse possession must be **strictly proven** and clarified that **mere use of the property** (e.g., mowing or cutting hay) **without fencing or other dominion may not suffice**.

Sims v. Moser, 373 Ark. 491, 284 S.W.3d 505 (2008)

The Arkansas Supreme Court emphasized the need for **clear and convincing evidence** of adverse possession, especially for color of title and tax payment. The Court rejected a claim where taxes were not paid for the full 7-year statutory period.

Davis v. Case, 349 Ark. 762, 80 S.W.3d 173 (2002)

The Court ruled that possession must be **hostile and exclusive**, and use in common with others or without an intent to exclude does not qualify.

Thompson v. Fischer, 364 Ark. 446, 220 S.W.3d 622 (2005)

Clarified the **importance of fencing** or other acts that show dominion over the land to satisfy the “open and notorious” requirement.

The problem is that these “leading Arkansas cases” either do not exist or do not stand for the proposition stated. The purported “**Coleman v. Jagers, 410 S.W.3d 755 (Ark. Ct. App. 2012)**” does not exist. Entering that citation in Westlaw retrieves the middle of *Thomas v. Moore*, 410 S.W.3d 748, a Missouri Court of Appeals case concerning child custody and child support.⁸ The purported “**Sims v. Moser, 373 Ark. 491, 284 S.W.3d 505 (2008)**” is a real case that is properly cited, but the real *Sims v. Moser* has nothing to do with adverse possession and is about a shareholder in a law firm filing an action seeking judicial dissolution of the firm and an accounting.⁹ The purported “**Davis v. Case, 349 Ark. 762, 80 S.W.3d 173 (2002)**” does not exist. Entering that citation in Westlaw retrieves the dissent in the criminal case of *Jackson v. State*, 349 Ark. 736, 80 S.W.3d 756 (2002), but note that the hallucinated *Davis v. Case* year was

8. *Thomas v. Moore*, 410 S.W.3d 748, 751 (Mo. Ct. App. 2013).

9. *Sims v. Moser*, 373 Ark. 491, 495 284 S.W.3d 505, 509-10 (2008).

decided in the same year as *Jackson* and has a similar citation to the real case.¹⁰ Lastly, the purported “**Thompson v. Fischer, 364 Ark. 446, 220 S.W.3d 622 (2005)**” is also simply wrong. Entering that citation into Westlaw retrieves the middle of *Thomas v. Olson*, 364 Ark. 444, 220 S.W.3d 627 (2005), a case about a home purchaser suing the vendors for breach of contract and deceptive trade practices.¹¹ As with the hallucinated *Davis v. Case*, there are some similarities between the citation of the imagined case and the real case that is retrieved, but there is no connection whatsoever to the legal issues in the real case and the hallucination.¹² Later in the full response, which can be read in the appendix, ChatGPT also cites the hallucinated case of “**Fuller v. Shelnut, 224 Ark. 119, 271 S.W.2d 657 (1954)**.” So, ChatGPT-4o’s response provided a correct statutory citation but was incorrect in five out of five case citations.

Would a different reasoning model get a better response? The model I used first, ChatGPT-4o, was advertised as “great for most tasks.”¹³ I switched to ChatGPT-o3-pro, which was advertised as “uses advanced reasoning,”¹⁴ and ran the exact same query. Using this model forces ChatGPT to reason more extensively. The results of this more advanced search and analysis of its accuracy are included in [Appendix 2](#) for reference.

While writing this paper, the latest model, ChatGPT-5, became available, so I ran the search again using the exact same query.¹⁵ The full response is included in [Appendix 3](#). Following is an analysis of its accuracy.

10. *Jackson v. State*, 349 Ark. 736, 736, 80 S.W.3d 756, 756 (2002).

11. *Thomas v. Olson*, 364 Ark. 444, 220 S.W.3d 627 (2005).

12. *Id.*

13. Tushar Toteja, *Which GPT Model Should I Use?: The Hidden UX Trap That Turns Helpful AI Into a Guessing Game*, MEDIUM (Aug. 5, 2025), [<https://perma.cc/5RJW-5269>].

14. *Id.*

15. It is important to note that the nature of generative AI results in unique responses almost any time you ask a question. Imagine if you ask your friend to tell you about his recent trip to England. Would you get the exact same word-for-word response if you asked the same question a week later or if another friend asked the question the next day? Large language models have that same human-like response—the basic facts might remain the same, but the words will differ. Consequently, it is nearly impossible to replicate responses from large language models, even when asking the exact same question. This creates challenges when trying to apply a scientific method approach to analyzing these models because experiments such as the ones I am describing are inherently impossible to reproduce.

ChatGPT-5's response contained one statutory reference to Ark. Code Ann. § 18-11-106, which is the general statutory framework for adverse possession.¹⁶ ChatGPT-5 accurately described the statutory requirements.

ChatGPT-5 also provided four case law citations, each of which is analyzed in turn (the citations are as presented in the response from ChatGPT-5):

Dillaha v. Temple, Ark. Ct. App., 267 Ark. 793

This case exists, and the reference to the Arkansas Reporter is correct.¹⁷ The citation is not Bluebook quality and omits the year and the parallel citation to the Southwest Reporter. ChatGPT's description of the case and its holding is accurate.¹⁸ However, ChatGPT's quote is slightly incorrect. The answer claims there is a quote that says hostile intent must be shown by "clear, distinct, and unequivocal evidence." The actual case contains the quote "clear, distinct and unequivocal" in two locations, but the word "evidence" is not included in the quote, and to be nitpicky, the Oxford comma is not in the actual quote.¹⁹

Taylor v. Scott, 292 Ark. 160 (1985)

This case exists, but the citation is incorrect.²⁰ The volume and page are both wrong, though the year is correct. The parallel citation is also missing. Other than the citations, the rest of the case is correctly described, and the quote is correct.²¹

Clyde McWilliams v. Karl W. Schmidt et al., Ark. Ct. App., CA01-222 (2001)

The case exists, though the citation is incorrect, at least from a Bluebook perspective.²² CA01-222 is the original case number, and it is a 2001 case.²³ The case is properly described²⁴, though there is no quote to check.

16. Ark. Code Ann. § 18-11-106.

17. *Dillaha v. Temple*, 267 Ark. 793, 590 S.W.2d 331 (Ct. App. 1979).

18. *See Id.*; *Cf. infra* Appendix 3.

19. *Dillaha*, 267 Ark. at 795-97, 590 S.W.2d at 332-33; *Cf. Appendix 3, infra*.

20. *Taylor v. Scott*, 285 Ark. 102, 685 S.W.2d 160 (1985).

21. *Id.* at 103-04, 590 S.W.2d at 161; *see infra*, Appendix 3.

22. *McWilliams v. Schmidt*, 76 Ark. App. 173, 173, 61 S.W.3d 898, 898 (2001); THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION R. 10.2 (Columbia L. Rev. Ass'n et al. eds., 22nd ed. 2025).

23. *McWilliams*, 76 Ark. App. at 173, 61 S.W.3d at 898.

24. *Id.*; *see infra*, Appendix 3.

Raney v. Gunn, 1953 Ark. Supreme Court decision

The case exists, but it is a 1952 Arkansas Supreme Court decision.²⁵ The citation is entirely missing, but the description of the case is accurate.²⁶

Overall, the ChatGPT-5 model has largely overcome the rampant hallucinations of its predecessor, at least in this one experiment. That being said, it was not perfect, and this one relatively successful test should not be considered proof that the hallucination risk is eliminated. Also, as noted above, Professor Lynn Foster and I co-authored an extensive article on the topic of adverse possession in 2011.²⁷ Professor Foster and I only cited the *Taylor* and *McWilliams* cases in our article, and we did not significantly rely on either of them.²⁸ At the definite risk of being presumptuous, ChatGPT's answer, while correct, did not cite or rely on many of the leading or more recent cases available.

III. TALKING TO LARGE LANGUAGE MODELS: PROMPT ENGINEERING BASICS

A. It's Not Google

Interacting with a large language model artificial intelligence differs fundamentally from using traditional search engines, such as Google. The most effective method of communication with generative artificial intelligence, such as ChatGPT, is to use prompt engineering.²⁹ “Prompt engineering is the process of creating clear and effective prompts that guide AI models to generate accurate responses” based on given inputs.³⁰ Prompt engineering involves carefully crafting and structuring a question or instructions to the artificial intelligence with the

25. *Raney v. Gunn*, 221 Ark. 10, 10, 253 S.W.2d 559, 559 (1952).

26. *Id.* at 10-11, 253 S.W.2d at 559; *see infra* Appendix 3.

27. FOSTER & MCKINNEY, *supra* note 6, at 199.

28. *Id.* at 213, 220.

29. Vrunda Gadesha, *What is Prompt Engineering?*, IBM, [<https://perma.cc/9HRH-MTN8>] (last visited March 25, 2026).

30. *What Is Prompt Engineering - Meaning, Working, Techniques*, GEEKSFORGEEKS (Nov. 11, 2025), [<https://perma.cc/9U8T-66MH>].

deliberate and thoughtful goal of eliciting the desired response.³¹ Using a Google-style query with a large language model generates poor results.³²

In a very real sense, prompt engineering can be compared to the way that attorneys carefully craft deposition and interrogatory questions to elicit desired responses. Let's suppose that you want a large language model like ChatGPT to help you craft a governing law and venue clause for a contract. A Google-style query might be something like: *craft a governing law and venue clause* (note how Google-style queries do not typically use natural language and tend to be short). Plugging this exact Google-style query into the ChatGPT-5 model produces this answer:³³

Here's a strong, professional **Governing Law and Venue** clause you can drop into your agreement. Since you often work in Arkansas, I've drafted this version with Pulaski County in mind, but I can adapt it for any jurisdiction you specify:

Governing Law and Venue

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Arkansas, without regard to its conflicts of law principles. The parties agree that any suit, action, or proceeding arising out of or relating to this Agreement shall be brought exclusively in the state courts of Pulaski County, Arkansas, or, if jurisdiction is proper, in the United States District Court for the Eastern District of Arkansas, and each party hereby irrevocably submits to the personal jurisdiction and venue of such courts. Each party waives any objection to the laying of venue in such courts, including any claim of forum non conveniens.

Do you want me to make it **landlord-friendly (exclusive venue, no jury trial, waiver of transfer), neutral, or**

31. *Prompt Engineering Basics: What is Prompt Engineering?*, CODEFINITY (Aug. 6, 2025), [<https://perma.cc/3VLE-ATZG>].

32. GEEKSFORGEEKS, *supra* note 30.

33. J. Cliff McKinney, ChatGPT, "Craft a governing law and venue clause."; AirOps Team, *Does ChatGPT Give the Same Answers to Everyone?*, AIOPS (Aug. 15, 2024), [<https://perma.cc/F5XE-W3KP>] (An important sidenote is that large language models such as ChatGPT do not use the same words to answer the same query every time. If you use this same query, you will get a somewhat different response. This makes it challenging to apply the standard scientific method of repeating experiments to see if you obtain the same results).

tenant/buyer-friendly (more flexible venue, possibly allowing federal courts outside Pulaski)?

First, notice how ChatGPT has “gotten to know me” and remembered my connection to Pulaski County, Arkansas. This is obviously quite different from a traditional interaction with Google. Also, notice how ChatGPT suggested ways to improve the response. But what if the lawyer spends more time giving serious thought to a better question and crafts this prompt instead: *Act as a senior commercial real estate attorney licensed in Arkansas with extensive experience drafting and negotiating complex contracts. I need a well-crafted “Governing Law and Venue” clause that strongly favors my client, the commercial lender, and protects them from litigation in inconvenient forums, and minimizes ambiguity in enforcement. The clause should reflect current best practices, clearly specify the choice of law and exclusive venue, and include optional enhancements such as jury trial waivers or provisions for injunctive relief. Provide the full clause, explain the rationale behind the language choices, and identify any potential pitfalls or optional tweaks depending on deal context. Use precise legal language but avoid unnecessary complexity.*

Using this more considered and detailed prompt generated the following response from the ChatGPT-5 model:

Here’s a lender-protective “Governing Law and Venue” clause, along with rationale and optional enhancements. I’ve tailored it for use in Arkansas commercial finance transactions, but it’s drafted with flexibility if your client operates across multiple states.

Draft Clause

Governing Law; Venue; Waiver of Jury Trial.

This Agreement, and all disputes, claims, or causes of action (whether in contract, tort, or otherwise) arising out of or relating to this Agreement, the Loan Documents, or the transactions contemplated hereby, shall be governed by and construed in accordance with the internal laws of the State of Arkansas, without regard to conflicts of law principles that would result in the application of the laws of any other jurisdiction. Borrower irrevocably agrees that any legal action or proceeding arising out of or relating to this

Agreement or any other Loan Document shall be brought exclusively in the state or federal courts located in Pulaski County, Arkansas, and Borrower hereby irrevocably submits to the jurisdiction of such courts, waives any objection based on forum non conveniens or improper venue, and consents to service of process in the manner provided for notices under this Agreement. Borrower further irrevocably waives, to the fullest extent permitted by law, any right to a trial by jury in any action, proceeding, or counterclaim arising out of or relating to this Agreement, the Loan Documents, or the transactions contemplated hereby. Nothing herein shall limit Lender's right to seek equitable relief, including temporary restraining orders, preliminary injunctions, and specific performance, in any jurisdiction where Borrower or its assets may be found.

Rationale Behind Language Choices

Choice of Law (Arkansas internal laws):

Locks in Arkansas law, minimizing arguments that another state's law applies.

Excludes conflict-of-law rules that could undermine the selection.

Exclusive Venue (Pulaski County, Arkansas):

Centralizes disputes where the lender is most comfortable (Little Rock courts).

Express waiver of *forum non conveniens* defenses avoids attempts to shift litigation elsewhere.

Consent to Jurisdiction and Service:

Prevents borrower from challenging personal jurisdiction.

Ties service of process to the notice provision for efficiency.

Jury Trial Waiver:

Highly protective for lenders—commercial disputes are more predictable before judges.

Expressly stated to withstand heightened judicial scrutiny (courts require clear, knowing waivers).

Equitable Relief Carve-Out:

Preserves lender's ability to pursue injunctions or repossession actions in other jurisdictions if collateral or borrowers' assets are located elsewhere.

Prevents borrower from hiding behind the “exclusive venue” provision to block lender remedies.

Potential Pitfalls & Deal-Context Tweaks

Enforceability of Jury Waivers:

Arkansas courts generally enforce them in commercial contracts, but some jurisdictions are stricter. If borrower has assets or operations in another state, consider a *jury waiver acknowledgment* paragraph signed separately.

Federal vs. State Court:

The clause allows either state or federal court in Pulaski County. If your client prefers one forum (e.g., federal court for predictability), you can limit it accordingly.

Lender’s Carve-Out for Enforcement:

Current draft allows lender to seek equitable relief elsewhere. You could expand this to permit lender to pursue *any* enforcement action (not just equitable) in any jurisdiction where collateral is located.

Borrower Pushback:

Borrowers may resist Pulaski County exclusivity. A possible compromise is “exclusive to Arkansas, with venue at Lender’s election,” but this is more aggressive and could be seen as one-sided.

Arbitration Option:

If your client values confidentiality or speed, consider an arbitration clause instead of (or in addition to) litigation. That said, many commercial lenders prefer court access, especially for foreclosure or receivership remedies.

Would you like me to **tighten this clause even further** in favor of the lender—for example, by allowing *venue at lender’s election* (Arkansas courts or borrower’s jurisdiction), or do you prefer to keep the more conventional “exclusive in Pulaski County” approach?

Notice how much more detailed both the clause and the suggested improvements to it are than the Google-style prompt. Crafting a better response resulted in the clause growing from 108 words to 213 words, with significantly greater refinement.

B. You Are an Improv Director

A good improv actor is able to assume any personality or motivation; they just need a good prompt from the improv director.³⁴ A good improv director can create a scene by switching the roles of the actors and directing them to take different positions.³⁵ Using a large language model is very similar because of the model's ability to assume different "personas."

A persona is the ability of "generative AI to pretend to be someone and simulate what that person might know or say."³⁶ This means that artificial intelligence can "be" whoever you want it to be, and it will provide a different answer based on its perspective. We'll explore this topic more later in the series, but now is a good time for a few demonstrations using ChatGPT-5:

Prompt #1: *Explain in one paragraph what a revocable trust is [i.e., no persona given]:*

A revocable trust, sometimes called a "living trust," is a legal arrangement in which a person (the grantor) transfers ownership of assets into a trust that they control during their lifetime, with the right to amend, add to, or revoke the trust at any time. The grantor typically serves as trustee, managing the assets for their own benefit, and names successor trustees to step in if they become incapacitated or pass away. Because the trust is revocable, it offers flexibility and control while the grantor is alive, but it does not provide creditor protection or tax benefits. Its primary advantages are avoiding probate, maintaining privacy, and ensuring a smooth transition of assets to beneficiaries upon death.

Prompt #2: *You are an expert estate planning attorney with decades of experience and regularly recognized as one of the greatest estate planning attorneys in America. Explain in one paragraph what a revocable trust is:*

A revocable trust, often called a "living trust," is a legal arrangement in which a person (the grantor) transfers

34. ASAF RONEN, DIRECTING IMPROV SHOW THE WAY BY GETTING OUT OF THE WAY 10 (Jill Bernard ed., 2005).

35. *Id.* at 16.

36. Lance Eliot, *Prompting with AI Personas Gets Streamlined via Advent of Million and Billion Personas-Sized Datasets*, FORBES (Jan. 24, 2025, 7:19 PM), [<https://perma.cc/R3FE-JHRA>].

ownership of their assets into a trust that they can amend, revoke, or terminate at any time during their lifetime. The grantor usually serves as the initial trustee and beneficiary, retaining full control over the trust property while alive, with the trust becoming irrevocable only upon the grantor's death. This flexibility allows the grantor to manage and enjoy their assets as they wish while providing a seamless mechanism for distributing those assets to chosen beneficiaries without the delay, expense, and publicity of probate. Additionally, a revocable trust can provide for incapacity planning, ensuring that if the grantor becomes unable to manage their affairs, a successor trustee can step in to handle the trust property in accordance with the grantor's instructions.

There are not major differences between these responses, but the second is more authoritative. Where using personas really starts to shine is when you give the artificial intelligence both a role (i.e., an expert estate planning attorney) and a motivation. So, I gave both of these original prompts the same motivation: *You are explaining what a revocable trust is to a married couple in their early 50s who are starting to plan their estate. They want to understand in plain language why they might choose a trust instead of just a will.*

Prompt #1's response:

A revocable trust is like a container you create during your lifetime to hold your house, bank accounts, and other important assets. You and your spouse stay in control of everything while you're alive—you can take things in and out, change the terms, or even cancel the trust altogether. The big difference between a trust and a will is what happens when one of you passes away or if you both do. A will has to go through probate court, which can take time, cost money, and become part of the public record. A trust, on the other hand, lets your assets pass directly to your children or other beneficiaries without going through probate, keeping things private and usually much smoother. It also means if either of you becomes ill or unable to manage your affairs, the person you name as backup trustee can step in right away without needing court approval. Many couples choose a trust because it provides flexibility now and peace of mind later.

Prompt #2's response:

A revocable trust is like a private rulebook for how your money, home, and other assets should be managed both while you're alive and after you're gone. Unlike a will, which only takes effect after death and usually has to go through the court process called probate, a trust works immediately once you set it up. That means if something happens to you—say you become ill or pass away—your chosen trustee can step right in and carry out your instructions without the delays, costs, and publicity that come with probate. You still stay in full control while you're alive—you can change it, add or remove assets, or even cancel it if you wish. Many couples like trusts because they make things smoother and easier for their family: bills can be paid quickly, assets can be managed without court oversight, and everything stays private. A will can still be part of your plan, but a trust gives you a more flexible and efficient way to take care of each other and your children, both now and in the future.

Prompt #2 is the better response because it reflects the perspective and communication style of a seasoned estate planning attorney, not just a neutral explainer. While Prompt #1 gives a solid overview, it mostly describes the mechanics of a trust. Prompt #2, by contrast, emphasizes the *client experience*—it frames the trust as a “rulebook,” explains how it works in real-life scenarios, such as paying bills during incapacity, and compares it directly to a will in terms of privacy, cost, and efficiency. The tone is more reassuring and practical, weaving in both present and future benefits. This difference comes from the persona: when the artificial intelligence is told to “be” an expert attorney, the response naturally shifts toward client-centered advice rather than a general description.

IV. CONCLUSION

Artificial intelligence is a groundbreaking technology, but new skills are necessary to use it safely and effectively. You cannot think of it like Google, and you must always be skeptical of the results you receive, especially because of the hallucination risk. Two habits are necessary: (1) verify every response that

matters before you use it; and (2) shape the conversation with artificial intelligence by giving it a clear role and motivation, just like an improv director.

In the next installment, we will begin exploring various advanced prompt engineering techniques that attorneys can use in their practice.³⁷ We will begin with “chunking” and “few-shot prompting.”

37. See Cliff McKinney, *Prompt Engineering for Lawyers: How Deep The Rabbit Hole Goes: The Chunking Technique and Few Shot-Prompting*, ARK. L. NOTES (forthcoming 2026).

APPENDIX 1

Performed: July 4, 2025

Model: ChatGPT-4o

Prompt: *Please explain to me the law of adverse possession in Arkansas including appropriate cases and citations.*

Response:³⁸ In Arkansas, the law of **adverse possession** allows a person to gain legal title to real property if they possess it for a certain period of time under specific conditions. This doctrine is governed both by statute and common law and is interpreted strictly by Arkansas courts.

Statutory Framework

The statutory basis is found in **Ark. Code Ann. § 18-11-106**, which governs adverse possession in Arkansas. This statute requires that possession be:

1. **Actual**
2. **Open and notorious**
3. **Continuous**
4. **Hostile**
5. **Exclusive**
6. **Under claim of right**

Additionally, Arkansas requires a minimum of **seven (7) years of continuous possession**.

If the claimant is not paying **ad valorem taxes**, then a **color of title** is required. However, if the claimant **pays taxes for seven consecutive years**, that may substitute for color of title.

Key Requirements Clarified by Arkansas Courts

1. **Actual Possession** – The claimant must use the property as a true owner would.
2. **Open and Notorious** – The possession must be visible so the true owner has notice.
3. **Continuous** – There must be no abandonment or significant interruption.

38. The citations and emphasis contained in the response were generated by ChatGPT and are not mine.

4. **Hostile** – Without the permission of the true owner.
5. **Exclusive** – The possession must not be shared with the true owner or public.
6. **Claim of Right or Color of Title** – Either a good faith belief of ownership or a written instrument purporting to convey title.

Leading Arkansas Cases

Coleman v. Jagers, 410 S.W.3d 755 (Ark. Ct. App. 2012)

This case reaffirmed that all elements of adverse possession must be **strictly proven** and clarified that **mere use of the property** (e.g., mowing or cutting hay) **without fencing or other dominion may not suffice**.

Sims v. Moser, 373 Ark. 491, 284 S.W.3d 505 (2008)

The Arkansas Supreme Court emphasized the need for **clear and convincing evidence** of adverse possession, especially for color of title and tax payment. The Court rejected a claim where taxes were not paid for the full 7-year statutory period.

Davis v. Case, 349 Ark. 762, 80 S.W.3d 173 (2002)

The Court ruled that possession must be **hostile and exclusive**, and use in common with others or without an intent to exclude does not qualify.

Thompson v. Fischer, 364 Ark. 446, 220 S.W.3d 622 (2005)

Clarified the **importance of fencing** or other acts that show dominion over the land to satisfy the “open and notorious” requirement.

Tax Payment and Color of Title

Under **Ark. Code Ann. § 18-11-106**, payment of property taxes for seven consecutive years strengthens an adverse possession claim and may eliminate the need for color of title.

See **Fuller v. Shelnut**, 224 Ark. 119, 271 S.W.2d 657 (1954) – The Arkansas Supreme Court upheld adverse possession where taxes were paid consistently.

Practical Considerations

- Arkansas courts **disfavor adverse possession claims** and require **strict proof** of each element.

- Tax records, deeds (even defective ones), fencing, exclusive use, and witness testimony are commonly used to prove the claim.
- Boundary disputes and inherited lands are common contexts for these claims.

APPENDIX 2**Performed:** July 4, 2025**Model:** ChatGPT-o3-Pro**Prompt:** *Please explain to me the law of adverse possession in Arkansas including appropriate cases and citations.***Response:**³⁹ Below is a practitioner-oriented survey of Arkansas adverse-possession law, arranged from the core doctrinal elements through special-situation wrinkles and practice tips. Citations are to the controlling statutes and the most frequently-cited Arkansas appellate decisions.**1. The Common-Law Foundation**Arkansas courts still require a claimant to prove, by **clear, positive and convincing evidence**, the familiar six common-law elements:

| Element | Description | Leading authority |
|-----------------------------|---|---|
| Actual possession | Physical occupancy or control consistent with the nature of the land. | <i>Coons v. Lawler</i> , 237 Ark. 350, 372 S.W.2d 617 (1963) casetext.com |
| Open & notorious | Use so visible that the true owner is on constructive notice. | <i>Collier v. Gilmore</i> , 2018 Ark. App. 164, 562 S.W.3d 895 casetext.com |
| Exclusive | Possession not shared with the record owner or the public. | <i>Coons v. Lawler</i> casetext.com |

³⁹ The citations and emphasis contained in the response were generated by ChatGPT and are not mine.

| Element | Description | Leading authority |
|--|---|--|
| Continuous | Uninterrupted for the statutory period (see § 2 below). Tacking is permitted if there is privity. | <i>Utley v. Ruff</i> , 255 Ark. 824, 502 S.W.2d 629 (1973) law.justia.com |
| Hostile | Holding under a claim of right, not by permission. | <i>Utley v. Ruff</i> law.justia.com |
| Intent to hold against the true owner | The adverse possessor must subjectively intend to own the land. | <i>Utley v. Ruff</i> law.justia.com |

2. Statutory Overlay: Ark. Code Ann. §§ 18-11-102 – 106

| Section | Key points |
|---|--|
| § 18-11-102 | Payment of taxes for 7 years on unimproved or unenclosed land is deemed actual possession if the claimant already has color of title. law.justia.com |
| § 18-11-103 | On wild & unimproved land, 15 years of tax payments create a presumption of color of title. codes.findlaw.com |
| § 18-11-106 (added by Act 776 of 1995; amended by Act 84 of 2005) | For most claims, the adverse possessor must (1) hold color of title and (2) pay ad valorem taxes for 7 consecutive years . Tax-exempt entities (e.g., municipalities) are exempt from the tax-payment requirement but must still show 7 years of color-of-title possession. law.justia.com |

The 1995 legislation dramatically curtailed “squatter” claims by layering the color-of-title and tax-payment prerequisites onto the common-law elements. The Arkansas Court of Appeals described the new paradigm in *Jones v. Barger*, 67 Ark. App. 337, 1 S.W.3d 31 (1999), holding that **both** statutory conditions are now indispensable. casetext.com

3. Burden & Evidentiary Standard

Although adverse possession is ultimately a civil action, the Supreme Court insists on “**clear, positive, and convincing**” proof of **each** element. Failure on any single element defeats the claim. *Utley v. Ruff* remains the bell-weather pronouncement. law.justia.com

4. Measuring Time & Tacking

- Seven years is the baseline statutory period; fifteen years applies only under the § 18-11-103 wild-land presumption.
- **Tacking** of successive possessions is permitted if there is privity of estate or contract between possessors. See discussion in the Arkansas Law Review survey noting that privity is essential and that any break restarts the clock. qgtlaw.com

5. Special Situations and Doctrinal Pitfalls

| Scenario | Arkansas Rule | Authority |
|------------------------|---|--|
| Cotenants | Possession by one cotenant is presumed permissive; adverse possession does not begin until an actual ouster or equivalent hostile act gives notice to the others. Courts demand “stronger evidence” where the cotenants are relatives. | <i>Sherman v. Wallace</i> , 2004 Ark. App. 244 law.justia.com |
| Tenants/ Agents | A tenant’s possession is the landlord’s possession; it | <i>Howell v. Baskins</i> , 213 Ark. 665 |

| Scenario | Arkansas Rule | Authority |
|----------------------------|--|---|
| | satisfies “actual possession,” but cannot be adverse to the landlord. | (1948) casemine.com |
| Mineral estates | Continuous use of the minerals is required; mere surface possession will not adversely possess severed minerals. A void mineral tax deed can supply color of title, but only if coupled with continuous extraction. | <i>Hurst v. Rice</i> , 278 Ark. 145 (1982)) law.justia.com |
| Tax-exempt entities | Municipalities, churches, and similar entities may claim adverse possession without paying taxes, but must still satisfy 7-year color-of-title possession under § 18-11-106(b). | <i>Stone v. Washington Reg’l Med. Ctr.</i> , 2017 Ark. 90 law.justia.com |
| Boundary disputes | Boundary-by-acquiescence often pled in the alternative; unlike adverse possession it requires only a tacit agreement and may prevail even when statutory tax requirements fail. See 2023 Court of Appeals case <i>SNC Revocable Tr. v. Galdamez</i> , 2023 Ark. App. 196. arcourts.gov | |

6. Procedures to Perfect Title

1. **Quiet-Title Action** under Ark. Code Ann. § 18-60-501 et seq.

2. **Standard of proof:** claimant must prove the statutory requirements (color of title + taxes or applicable presumption) **and** all common-law elements.
3. **Relief:** Circuit court enters a decree quieting title; claimant should immediately record the decree.

7. Checklist for Arkansas Practitioners

| Step | What to Confirm |
|------------------------------|---|
| Title chain | Is there a document—however defective—that can supply color of title ? |
| Tax receipts | Secure certified tax records for each of the required years. |
| Factual witnesses | Identify neighbors, surveyors, or prior owners who can attest to open, notorious, and exclusive use. |
| Photographic/survey evidence | Boundary markers, fences, cultivation, improvements, or mineral extraction logs. |
| Co-tenancy issues | Any recorded or unrecorded fractional interests? Document ouster or repudiation. |
| Governmental immunity | If the record owner is the State or a subdivision, adverse possession is barred (Art. 20, § 13, Ark. Const.). |
| Alternative theories | Plead boundary by acquiescence and easement by prescription as fall-backs. |

8. Key Take-Aways

- **Color of title + taxes** are now the gating items for most Arkansas claims.
- The statutory overlay is **supplemental, not substitutional**—common-law elements remain vital.
- Courts apply a **strict evidentiary lens**; assemble corroborating documents before filing.

- For rural tracts, don't overlook the § 18-11-103 15-year tax presumption; it can rescue otherwise deficient claims.
- When representing record owners, **interrupt possession early** (notice letters, re-entry, or suit) to break continuity.
- In boundary quarrels, consider offering a **boundary-line agreement** to avoid the expense and unpredictability of adverse-possession litigation.

This framework should enable you to analyze Arkansas adverse-possession questions with confidence and to craft pleadings or defensive strategies that track both the statutes and the controlling case law.

ANALYSIS OF THIS ANSWER FOR HALLUCINATIONS:

The first citation in the response is to Ark. Code Ann. § 18-11-102, which is accurately described in the response as providing the statutory framework for unimproved and unenclosed land.⁴⁰ The next citation in the response also accurately described Ark. Code Ann. § 18-11-103 as providing the standard for adverse possession of wild and unimproved land.⁴¹ The third citation also correctly described Ark. Code Ann. § 18-11-106, which is the general statutory framework for adverse possession.⁴² More impressively, the response also correctly noted amendments to the statute adopted in 1995 and 2005.⁴³ The response also correctly identified Ark. Code Ann. § 18-60-501 et seq. as the general statute for quiet title actions.⁴⁴

While the response perfectly cited the applicable statutory citations, it failed when it cited “Art. 20, § 13, Ark. Const.” as standing for the proposition that state and city lands are immune from adverse possession. While this is a correct statement of the law, the appropriate constitutional citation should be to Article 5, § 20, which states, “The State of Arkansas shall never be made

40. ARK. CODE ANN. § 18-11-102.

41. ARK. CODE ANN. § 18-11-103.

42. ARK. CODE ANN. § 18-11-106.

43. ARK. CODE ANN. § 18-11-106 (1995), amended by Act 776, § 1, 1995 Ark. Acts; Act 84, § 1, 2005 Ark. Acts (effective Aug. 12, 2005).

44. ARK. CODE ANN. § 18-60-501.

defendant in any of her courts.”⁴⁵ ChatGPT’s citation to “Art. 20, § 13, Ark. Const.” does not exist. There is an Article 20, which deals with the payment of the infamous “Holford” bonds; however, this article does not have any sections and is unrelated to adverse possession or sovereign immunity.⁴⁶

ChatGPT’s response included citations to the following cases [Note: the citation format shown below is exactly as produced by ChatGPT’s response, with some containing parallel citations and dates and others not]. Below each is the analysis of the accuracy of the citation.

1. *Coons v. Lawler*, 237 Ark. 350, 372 S.W.2d 617 (1963)
 - a. There is a case *Coons v. Lawler* with the citation of 237 Ark. 350, 372 S.W.2d 826 (1963). The citation to the Southwest Reporter is close but off in the last three digits. ChatGPT accurately cited this case for the proposition that adverse possession requires actual possession.⁴⁷
2. *Collier v. Gilmore*, 2018 Ark. App. 164, 562 S.W.3d 895
 - a. There is a case, *Collier v. Gilmore*, with the citation of 2018 Ark. App. 549, 562 S.W.3d 895. The citation to the Southwest Reporter is correct, but the citation to the Arkansas Reporter is wrong. ChatGPT accurately cited this case for the proposition that open and notorious use is required to establish adverse possession.⁴⁸
3. *Utley v. Ruff*, 255 Ark. 824, 502 S.W.2d 629 (1973)
 - a. There is a case, *Utley v. Ruff*, 255 Ark. 824, 502 S.W.2d 629 (1973), so ChatGPT correctly stated the citation. ChatGPT also accurately cited the case for the proposition

45. See ARK. CONST. art. V, § 20.

46. ARK. CONST. art. XX. As a historical side note, Holford Bonds were very controversial state obligations sold to fund outstanding debts of the state’s pre-Civil War Real Estate Bank. These bonds were highly controversial and fraught with allegations of fraud, prompting Arkansas to adopt a constitutional amendment in 1884 banning repayment of the bonds. See Carey M. Roberts, *Arkansas Real Estate Bank*, ENCYCLOPEDIA OF ARK. (Apr. 24, 2024), [<https://perma.cc/JS42-VWTY>] (accessed July 4, 2025); Harry W. Readnour, *William Meade Fishback (1831–1903)*, ENCYCLOPEDIA OF ARK. (Oct. 17, 2023), [<https://perma.cc/NR3S-H9SE>] accessed July 4, 2025).

47. *Coons v. Lawler*, 237 Ark. 350, 351, 372 S.W.2d 826, 827 (1963).

48. *Collier v. Gilmore*, 2018 Ark. App. 549, 5, 562 S.W.3d 895, 898.

that continuous and hostile intent is required for adverse possession.⁴⁹

4. *Jones v. Barger*, 67 Ark. App. 337, 1 S.W.3d 31 (1999)
 - a. There is a case, *Jones v. Barger*, 67 Ark. App. 337, 1 S.W.3d 31 (1999), so ChatGPT also correctly stated the citation. ChatGPT also provided a reasonably accurate interpretation of the case, stating that both the color of title and the payment of taxes are required in most circumstances for adverse possession.⁵⁰
5. *Sherman v. Wallace*, 2004 Ark. App. 244
 - a. There is a case, *Sherman v. Wallace*, 88 Ark. App. 229, 197 S.W.3d 10 (2004). The citation provided by ChatGPT is incorrect and also omits the parallel citation in the Southwest Reporter. ChatGPT correctly analyzed the case, including providing an accurate quote regarding “stronger evidence” required where cotenants are relatives.⁵¹
6. *Howell v. Baskins*, 213 Ark. 665 (1948)
 - a. There is a case, *Howell v. Baskins*, 213 Ark. 665, 212 S.W.2d 353 (1948). ChatGPT’s Arkansas Reporter citation is correct, although it omitted the parallel citation in the Southwest Reporter. Again, ChatGPT correctly analyzed the case and provided an accurate quote regarding a tenant’s possession, which satisfies the “actual possession” requirement on behalf of the landlord.⁵²
7. *Hurst v. Rice*, 278 Ark. 145 (1982)
 - a. There is a case, *Hurst v. Rice*, 278 Ark. 145, 653 S.W.2d 563 (1982). So, ChatGPT correctly cited the case but omits the parallel citation in the Southwest Reporter. ChatGPT correctly analyzed the case and concluded that continuous use of minerals is required to establish adverse possession of mineral rights.⁵³
8. *Stone v. Washington Reg’l Med. Ctr.*, 2017 Ark. 90

49. *Utlely v. Ruff*, 255 Ark. 824, 827, 502 S.W.2d 629, 632 (1973).

50. *Jones v. Barger*, 67 Ark. App. 337, 344, 1 S.W.3d 31, 36 (1999).

51. *Sherman v. Wallace*, 88 Ark. App. 229, 235, 197 S.W.3d 10, 14 (2004).

52. *Howell v. Baskins*, 213 Ark. 665, 672, 212 S.W.2d 353, 356 (1948).

53. *Hurst v. Rice*, 278 Ark. 94, 99, 643 S.W.2d 563, 565 (1982).

- a. There is a case, *Stone v. Washington Reg'l Med. Ctr.*, 2017 Ark. 90, 515 S.W.3d 104 (2017). ChatGPT correctly cited the case but again failed to omit the parallel citation in the Southwest Reporter. ChatGPT's ultimate conclusion about the case—that tax-exempt entities can claim adverse possession without paying taxes—is correct⁵⁴; however, ChatGPT did not distinguish between the majority opinion and the concurrence.⁵⁵
9. *SNC Revocable Tr. v. Galdamez*, 2023 Ark. App. 196
 - a. There is a case *SNC Revocable Tr. V. Galdamez*, 2023 Ark. App. 196, 665 S.W.3d 240 (2023). ChatGPT correctly concluded that boundary-by-acquiescence only requires a tacit agreement but somewhat overstated the holding of the case as waiving other statutory requirements.⁵⁶

54. See *Stone v. Washington Reg'l Med. Ctr.*, 2017 Ark. 90, at 9-10, 515 S.W.3d 104, 110-11.

55. *Id.* at 1-11, 11-13, 515 S.W.3d at 106-11, 111-12.

56. *SNC Revocable Tr. v. Galdamez*, 2023 Ark. App. 196, at 5-6, 665 S.W.3d 240, 243-44.

APPENDIX 3

Performed: September 22, 2025

Model: ChatGPT-5

Prompt: *Please explain to me the law of adverse possession in Arkansas including appropriate cases and citations.*

Response:⁵⁷ Here is a summary of the law of adverse possession in Arkansas — its statutory framework, required elements (from case law), and key cases and citations. If you'd like, I can also send along a brief memo form you could use in your practice.

Statutory Law

Arkansas has enacted statutes that supplement and partly codify the requirements to obtain title by adverse possession. The main statute is **Ark. Code § 18-11-106**. [Justia+2FindLaw Codes+2](#)

Key points from § 18-11-106:

- A person (and those under whom they claim) must have **actual or constructive possession** of the real property being claimed. [Justia+1](#)
- They must either:
 1. **Held color of title** to the real property for **at least seven (7) years** AND during that time paid ad valorem taxes on the property. [Justia+1](#)
 - For “unimproved and unenclosed land” or “wild and unimproved land,” there are special longer tax/payment periods (e.g. 15 years) in some contexts. [SciSpace+3Justia+3DeWitt Law+3](#)
 2. Or held color of title to land *contiguous* to the land being claimed and paid taxes on the contiguous land for seven years. [Justia+1](#)
- The statute makes clear that these statutory requirements are **in addition** to all other requirements under existing case law. It does *not* displace them. [Justia+2FindLaw Codes+2](#)

⁵⁷ The citations and emphasis contained in the response were generated by ChatGPT and are not mine.

Common Law / Case Law Requirements

Besides the statute, Arkansas courts require certain elements to be proven for adverse possession. The case law fleshes out what is meant by “actual or constructive possession,” “hostile,” etc. Key traditional elements include:

1. **Actual possession** — the possessor must occupy the land in a way consistent with ownership (use, cultivation, fencing, etc.).
2. **Open and notorious** — the use must be visible so that the true owner has notice (or could have notice).
3. **Continuous** — for the full statutory period; noninterrupted.
4. **Exclusive** — not sharing possession with the public or with the true owner.
5. **Hostile / Adverse** — without permission of the true owner; with the intent to claim against the true owner.
6. **Intent to hold adversely** — courts look for evidence that the possessor intended to exclude the true owner (or otherwise treat the land as their own).

These are not all spelled out in the statute; the case law supplies them.

Key Cases

Here are a few important Arkansas cases that illustrate or clarify aspects of adverse possession:

- **Dillaha v. Temple**, Ark. Ct. App., 267 Ark. 793
In *Dillaha*, the court emphasized that in order to acquire title by adverse possession, the possession must be **hostile and adverse**. Intent is controlling; the claimant must show hostile intent by “clear, distinct, and unequivocal evidence.” Possession alone (entry or occupation) is not enough. [CaseMine](#)
- **Taylor v. Scott**, 292 Ark. 160 (1985)
- This case deals in part with adverse possession of a surface estate when the mineral estate has been severed. The court reaffirmed that adverse possession of surface land **does not** affect mineral rights unless the adverse

possessor “actually invades the minerals by opening mines or drilling wells” and continues such action for the required period. [Justia](#)

- **Clyde McWilliams v. Karl W. Schmidt et al.**, Ark. Ct. App., CA01-222 (2001)
- In *McWilliams*, the court reiterated the requirement that the possession must be visible, notorious, distinct, exclusive, hostile, and with intent to hold against the true owner. Also held: where possession was by permission, you cannot have adverse possession. [Justia](#)
- **Raney v. Gunn**, 1953 Ark. Supreme Court decision
- This case addresses use of public thoroughfares and whether adverse possession can be used to establish rights over abandoned roads. It notes that such rights may be prevented by statute (Act 666), but also distinguishes between public use via passage and dedication or formal governmental process. [Justia](#)

Interaction: Statute & Case Law

- The statute adds requirements about paying **ad valorem taxes** and having **color of title**, etc. But Arkansas courts still require the classic common law elements (hostility, exclusivity, etc.). The statute does *not* replace case law, but is **supplemental**. [Justia+1](#)
- There are special rules for “unimproved and unenclosed land” or “wild” land in terms of how long tax payments or other burdens must be met. [Justia+1](#)

Recent Developments / Statutory Clarifications

- As of the most recent version of § 18-11-106, Arkansas provides explicit statutory paths for adverse possession via color of title + tax payments for seven years, and via contiguous land, etc. [Justia](#)
- There has been commentary (e.g. law review articles) criticizing or analyzing inconsistencies between statutory demands, case law, and boundary by acquiescence doctrine in Arkansas. [UA Little Rock](#)

Practical Application & Considerations

When evaluating a potential adverse possession claim (or defending against one) in Arkansas, consider:

- Does the claimant have **color of title**? If yes, that helps under § 18-11-106.
- Did the claimant pay ad valorem taxes for the statutory period?
- Was the land in question improved or unimproved, enclosed or not? Because the statutory periods and requirements differ depending on those conditions.
- Were the uses open, notorious, exclusive, continuous, hostile/adverse, with the intent to claim?
- Whether the true owner ever objected or gave permission (which would defeat hostility).
- Whether the claimant's entry was ever permissive or by license (which can prevent adverse possession).