

Follow-Up Submission to the Arizona Supreme Court AI Steering Committee

Members of the Arizona Supreme Court AI Steering Committee,

Thank you for the opportunity to address the Committee on January 26 regarding the risks posed by AI-associated hallucinations in judicial decision-making. I appreciate the Committee's engagement and its stated commitment to ensuring that the integration of artificial intelligence into the judiciary strengthens, rather than undermines, public confidence and the rule of law.

I am writing as a follow-up to that testimony to respectfully request further clarification from the Committee on an issue that emerged directly from the discussion: namely, what criteria the Arizona judiciary will use to identify when a judicial order has relied upon AI assistance and, more importantly, when an order exhibits hallucinatory characteristics that threaten procedural integrity or the creation of unsound precedent.

As discussed during the January 26 meeting, the concern is not whether AI was used in any particular instance, nor the attribution of intent to any judge. The concern is structural. AI-associated hallucinations—particularly those involving misapplied rules, fabricated authority, or post-hoc rationalization of missing record authority—pose a unique risk when they appear in rulings governing judicial assignment, recusal, jurisdiction, or other threshold questions of authority.

I have prepared and am submitting a brief statistical appendix that applies conservative assumptions to compare two competing explanations for such error patterns: (1) an isolated, innocent miscitation, and (2) a directional anomaly consistent with known AI hallucination failure modes. Under those conservative assumptions, the observed pattern is hundreds to thousands of times more consistent with the latter explanation. This analysis is offered solely to demonstrate why governance standards are now necessary—not to assert improper conduct or tool usage.

The larger issue, as I emphasized in my testimony, is precedent. Once a judicial order containing hallucination-affected reasoning is left unexamined, it risks becoming self-reinforcing precedent, silently displacing governing rules with rationales that never existed in law. Structural rulings are especially vulnerable to this effect because they determine who may exercise judicial power, not merely how a case is resolved.

In light of these concerns, I respectfully ask the Committee to consider articulating clear, prospective guidance addressing:

- Objective indicators of AI-associated hallucination risk in judicial orders;
- How the judiciary will distinguish harmless citation errors from non-neutral, outcome-preserving errors;
- What safeguards or review mechanisms are appropriate when hallucination risk affects structural rulings; and
- Whether there will be a safe, defined mechanism for litigants to raise hallucination-risk concerns without sanctions exposure.

Clarifying these standards would place Arizona at the forefront of responsible judicial AI governance and would directly advance the Committee's chartered mission to preserve trust, transparency, and institutional legitimacy as AI tools become unavoidable in legal workflows.

Thank you again for your time, your leadership, and your willingness to engage seriously with these emerging challenges. I would welcome any opportunity to provide additional information or to assist the Committee in developing these criteria.

Respectfully submitted,

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