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ARIZONA SUPREME COURT
STATE OF ARIZONA

In the Matter of:

PETITION TO ADOPT RULE 135
RULES OF THE SUPREME COURT

Supreme Court No. R-26-0020

**Comment Supporting
Petition to Adopt Rule 135,
Arizona Rules of the Supreme
Court**

Pursuant to Rule 28(d), Rules of the Supreme Court of Arizona, the undersigned judicial officers of the Arizona Superior Court (Maricopa County) respectfully submit this Comment in support of the Petition to Adopt Rule 135, Arizona Rules of the Supreme Court.

Introduction

Proposed Rule 135 strikes the right balance for the use of AI by judicial officers. AI is useful for assisting with legal research and organizing facts, the Adjudication-Adjacent Work permitted by the Rule. But significant potential

problems arise if judicial officers use AI for drafting orders, rulings and decisions – Core Judicial Work.

Humans, not Computers, Should Decide Cases

Every ruling issued by a court involves judgment. Judgment is not simply a rational or mathematical process. Although reasoning is involved, it is only part of the equation.

A person with good judgment discerns subtle differences between similar cases. Such a person considers, when appropriate, emotions such as surprise, joy, sadness and outrage in making decisions. She has life experience, empathy and wisdom.

Humans have exercised judgment since Adam and Eve ate the apple from the Tree of Knowledge. How long has AI exercised judgment? Is it doing so now? Does AI have human emotions, empathy or wisdom? If we can't answer these questions affirmatively, the right thing to do is to prohibit judges from using AI to write orders and decide cases – to make judgments.

The Public Expects Humans to Decide Cases

Recently, I have begun asking people: “How should judges use AI?”. I have yet to hear a single person respond that judges should use AI to write orders or decide cases. The public expects judges to make the calls.

Virtually every judicial decision has a winner and a loser. How will the losing parties feel when they realize the decision was made or written by a computer? How would you feel if you lost a case and found out the judge used AI in reaching the decision?

For 250 years, Americans have trusted juries to resolve our most difficult decisions. Is it because they are rational and efficient? Hardly. It's because they, like judges, bring experience and common sense to the courtroom. I doubt the public would support abandoning the jury system in favor of AI bots. If there is uncertainty about how the public views judges using AI in decision-making, why not conduct an opinion poll to find out?

What the people think matters. Their trust in us gives our decisions legitimacy. We should not ignore their views lightly.

The Slippery Slope

Proponents of using AI to make judicial decisions are likely to say, "I will only use it for simple orders" and "I will always check it for accuracy and bias." Such predictions seem unlikely to be fulfilled.

If a judge has "success" in using AI to write simple orders, wouldn't he want to use it for more complex decisions? In fact, it seems that a judge would be *more* interested in having AI make the difficult decisions. Paradoxically, these are the

decisions that are the worst for AI to make because they generally involve nuance or matters of first impression.

Initially, judges would likely carefully review AI generated orders. No judge wants to issue an order citing an imaginary case. But, over time, judges' review of AI generated orders is likely to relax. This is both human nature and a result of heavy caseloads. Then the mistakes will become more frequent, and the public's view of the judiciary will suffer even more.

There is also the problem of sycophancy. AI tends to tell people what they want to hear. This is not the role of a neutral arbiter, and it will not make our decisions better.

Conclusion

Proposed Rule 135 allows the Court to act like a prudent driver on an icy road. Essentially, the Court is tapping the brakes to avoid an accident. If the road turns out to be safe, perhaps the speed of AI adoption may be increased. In the meantime, judges can benefit by using AI for legal research and organizing information. We submit that this strikes the right balance at this moment in time.

Submitted: April 13, 2026

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Arizona Superior Court
Maricopa County

/s/ Hon. Erik Thorson
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/s/ Hon. Jennifer Ryan-Touhill
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/s/ Hon. Michelle Lawson
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/s/ Hon. Christian Bell
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