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**IN THE SUPREME COURT  
IN AND FOR THE STATE OF ARIZONA**

In the matter of:

PETITION TO ADOPT RULE 135, RULES OF  
THE SUPREME COURT

Arizona Supreme Court  
No. R-26-0020

**Comment in Support of Proposed  
Ariz. R. Sup. Ct. 135**

I support Proposed Rule 135 of the Rules of the Supreme Court, both as a member of the bar and as a member of the public. Members of the bar and the general public both expect human beings to be judges. The proposal ensures that confidence in the judiciary—already at historically low levels—is not undermined by unchecked, unregulated, and untested reliance on undisclosed use of generative artificial intelligence. Rather than conflict with current work of the Arizona Steering Committee on Artificial Intelligence and the Courts (“AISC”), Proposed Rule 135 aligns with it. This Court should adopt the proposal and instruct AISC to issue rules and frameworks requiring disclosure when generative artificial intelligence is used in core judicial work so that it may be studied and used safely.

**A. Proposed Rule 135 does not strip useful tools from judges. Effective study requires more than the guardrails currently in place.**

[Proposed Rule 135](#) does not require Arizona’s judges to become Luddites. It does not require courts to step back from advances in technology. It does not require that the law live in fear rather than reason. Although [Proposed Rule 135](#) does impose a “moratorium” on core judicial work, the prohibition merely stops the unregulated and untested reliance on the undisclosed use of generative artificial intelligence systems. [Proposed Ariz. R. Sup. Ct. 135\(c\)](#). Under the proposal, “the Arizona Steering Committee on Artificial Intelligence and the Courts, or such other bodies acting at the direction of the Arizona Supreme Court, may study the wisdom and utility of potential uses of generative AI in core judicial work.” [Proposed Ariz. R. Sup. Ct. 135\(c\)](#).

Presumably, such “study” could include the use of generative artificial intelligence by judges in a manner that promotes confidence in the judiciary while also creating data for best practices moving forward. [Proposed Ariz. R. Sup. Ct. 135\(c\)](#).

AISC is already directed to “develop and recommend guidelines and best practices to ensure the responsible use of AI in the judiciary.” [Ariz. Sup. Ct. Admin. Order No. 2024-33\(1\)\(d\)](#). AISC is also already directed to “develop and recommend any necessary rules and procedures for use of AI technologies by judicial officers.” [Ariz. Sup. Ct. Admin. Order No. 2024-33\(1\)\(e\)](#).

Yet, it appears AISC is poised to oppose the Petition on the grounds that “effective study requires active evaluation, including real-world testing and experimentation.” See [Draft AISC Comment in Opposition to R-26-0020 at 2](#). AISC posits that because the Administrative Office of the Courts has a “list of all AI tools that have been approved for statewide and local use,” and set guidelines requiring review of AI output for accuracy, that any moratorium would “cause Arizona’s courts to fall behind.” [Draft AISC Comment in Opposition to R-26-0020 at 2-6](#).

To the extent that AISC’s read of [Proposed Rule 135](#) is correct in that it strips from AISC any authority to continue to authorize courts to use generative AI to be studied, [Proposed Rule 135](#) should be amended to make clear that AISC retains authority to authorize and study the use of generative artificial intelligence as it relates to core judicial work.

As of now, the Court and AISC have only imposed guardrails on the use of generative artificial intelligence. [Ariz. Code of Jud. Admin. § 1-509](#); [Generative AI: Ethical Best Practices for Lawyers and Judges](#), AISC (Nov. 14, 2024). Guardrails are helpful to keep traffic on the road, but guardrails alone are insufficient to ensure safe and reliable travel. Effective travel regulations are the product of effective study. The use of artificial intelligence should be governed by effective study.

Effective study requires reliable data, consistent protocols, and controls where outcomes are evaluated against a comparative norm. Arizona residents should not

accept a “study” of generative artificial intelligence by courts that requires less of judges than the law requires of expert witnesses to testify. Reliable methods and reliable data should be required. *See, e.g., Ariz. R. Evid. 702(c)* (requiring expert testimony to be based on reliable methods).

AISC should support the proposal and implement studies comparing core judicial work produced with various AI tools versus work produced without AI.

How will this Court ensure that judicial officers use generative artificial intelligence in a manner that promotes confidence in the judiciary if it does not have procedures in place for it, the parties, and the public to know if it was used in a particular case?

How often is generative artificial intelligence being used by judges? How does their work compare to judges who don’t use it? What percentage of the erroneous judicial orders were produced with generative artificial intelligence?

None of this seems to be known. How can it be studied if it is unknown?

The guardrails currently in place only emphasize the protection of non-public information and require court personnel to confirm the accuracy of generative artificial intelligence outputs. [Ariz. Code of Jud. Admin. § 1-509](#).

But judicial work, like all work within the legal profession, requires more than cite-checking. Recently, the Oregon Court of Appeals explained that, “A person who uses generative artificial intelligence in lieu of reading, writing, and talking

about the law—the very processes by which a lawyer acquires and retains the specialized knowledge and skills required of the profession—risks losing claim to the title of lawyer.” *Williams v. Honl*, 348 Or. App. 505, 513–14 (2026). “Although cite checking is, of course, an important part of producing reliable, competent briefs, it is not the type of work that requires a law degree.” *Id.* Thus “using generative artificial intelligence to generate legal briefs and then simply cite-checking them bears no resemblance to the practice of law.” *Id.*

The public deserves more from its judiciary than guardrails that only protect data and require that judges cite-check generative artificial intelligence. The public should be entitled to a judiciary that remains composed of judges—no large language learning models—who do core judicial work. And when judges delegate generative artificial intelligence to assist in this work, it should be done in a manner that is transparent, disclosed to the parties, and the public. Only with disclosure can the reliability and utility of generative artificial intelligence be meaningfully tested, both scientifically and through adversarial litigation.

**B. A three-year moratorium on unregulated generative artificial intelligence use is not too long. It aligns with this Court’s current efforts.**

Opponents to the Petition complain that the three-year moratorium on unregulated generative artificial intelligence use is too long.

But nearly two and a half years have already passed since this Court first formed AISC. *See Ariz. Sup. Ct. Admin. Order No. 2024-33* (Jan. 24, 2024). It took

almost 9 months for AISC to publish a general ethical primer on the use of generative artificial intelligence for lawyers and judges. See [Generative AI: Ethical Best Practices for Lawyers and Judges](#), AISC (Nov. 14, 2024). And it took between 9-12 months for the amended version of Section 1-509 of the Arizona Code of Judicial Administration to be implemented governing “Use of Generative Artificial Technology and Large Language Models.” See [Ariz. Code of Jud. Admin. § 1-509](#) (Jan. 29, 2025); [Ariz. Sup. Ct. Admin. Order No. 2025-24](#) (Jan. 29, 2025).

AISC appears to be meeting four times per year. Each meeting appears to be productive and comprehensive. Arizona’s progress in developing and implementing best practices with generative artificial intelligence is in line with the work of other jurisdictions. See [AISC Meeting Schedule and Materials](#) (outlining quarterly meetings and providing materials covered at each meeting). The Proposed Rule’s timeline aligns with the real-world timeline of the Court and AISC. Concerns that the three-year moratorium to allow for study is excessive are thus overblown.

The available data concerning the proliferation of abuse of generative artificial intelligence by lawyers also proves the point of the Petition.

**C. Generative artificial intelligence is already being abused by lawyers despite existing ethical guardrails. Disclosure is necessary.**

Over the past few years, a lot has been written about whether new rules and guidelines are needed to govern the use of generative artificial intelligence in the legal profession. Invariably, the discussion boils down to whether existing ethical

rules are sufficient to govern the use of generative artificial intelligence by lawyers or whether new rules, standing orders, and limitations, including disclosure requirements of lawyers are necessary. *See, e.g., [Tracking Federal Judge Orders on Artificial Intelligence](#)*, Law360 Pulse (chronicling orders and news articles concerning abuses).

But appeals to ethical requirements alone have been insufficient to deter abuse. *See* Martin Kaste, *[Penalties Stack Up as AI Spreads through the Legal System](#)*, NPR MORNING EDITION (April 3, 2026). And even the ethical use of generative artificial intelligence requires lawyers to disclose to their clients how the technology will be used to achieve the objectives of representation and forbids lawyers from charging clients fees that are inflated in light of reduced work because of efficiencies achieved by the use of artificial intelligence. *See, e.g., [ABA Formal Opinion 512](#)* at 8, 12 (discussing intersection of Model Rules 1.4 and 1.5 with generative artificial intelligence).

Yet, currently, the Arizona public knows less about how its judges are using generative artificial intelligence to do the work of judges than clients presumably know about the work of their lawyers. [Proposed Rule 135](#), if combined with a disclosure requirement so that AISC could study the efficacy of generative artificial intelligence use, would ensure that the public has sufficient knowledge to evaluate its judges, as envisioned by the Arizona Constitution. [Ariz. Const. Art. 6. § 42](#).

Transparency should not be a burden on judges. Arguments against disclosure are not arguments in support of responsible artificial intelligence use. Disclosure allows meaningful study. Arguments against disclosure are really just arguments for unreviewable artificial intelligence use. Meaningful and intentional disclosure of AI use can also mitigate stigma generally associated with its use. And the stigma associated with the discovery of clandestine AI use is higher than that occasioned by its intentional disclosure. Oliver Schilke and Martin Reimann. *The Transparency Dilemma; How AI Disclosure Erodes Trust*, ORGANIZATIONAL BEHAVIOR AND HUMAN DECISION PROCESS 188 (2025).

Arizona voters, members of the public, parties, and their counsel should be informed of the extent to which an algorithm decides a case. [Proposed Rule 135](#) allows for meaningful study. This Court should adopt [Proposed Rule 135](#) and direct AISC to implement disclosure requirements so that the use of generative artificial intelligence by the courts can be effectively studied.

**Respectfully submitted this 28<sup>th</sup> day of April, 2026.**

By: /s/ Kevin D. Heade  
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