

1 Hon. Andrew J. Becke
2 Hon. Veronika Fabian
3 Hon. Kent E. Cattani
4 Hon. Paul J. McMurdie (ret.)
5 Hon. Peter B. Swann (ret.)
6 Arizona Court of Appeals, Division One
7 1501 W. Washington
8 Phoenix, AZ 85007
9 abecke@appeals.az.gov
10 vfabian@appeals.az.gov

11 Hon. Garye L. Vasquez
12 Hon. Peter J. Eckerstrom
13 Hon. Michael F. Kelly
14 Arizona Court of Appeals, Division Two
15 400 W. Congress
16 Tucson, AZ 85701
17 gvasquez@appeals2.az.gov

18 IN THE SUPREME COURT
19 STATE OF ARIZONA

20 In the Matter of:) R-26-0006
21)
22)
23) **RESPONSE TO PETITION TO**
24) **ADOPT RULE 135, RULES OF THE**
25) **SUPREME COURT**
26)
27)
28)

29 Pursuant to Rule 28(d), Rules of the Supreme Court of Arizona, the
30 undersigned respectfully submit this comment in support of the Petition to adopt
31 Rule 135, Rules of the Supreme Court of Arizona.

1 Introduction

2 The Petition seeks to add Rule 135 to the Rules of the Supreme Court, which
3 would have the effect of forbidding the use of generative AI in “core judicial
4 work”—defined as “drafting any document that adjudicates”—while permitting the
5 use of generative AI for “adjudication-adjacent work”—including analyzing data
6 and conducting legal research—until December 31, 2029. The Petition strikes the
7 right balance for our justice system while we take the time to more fully consider
8 the ramifications of generative AI in our courts.
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11 Adjudication is more than deciding the result

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13 Advocates for the use of generative AI in the drafting of judicial decisions
14 insist that humans will continue to make the decisions; AI will simply assist with
15 the messy and inefficient business of generating the written product implementing
16 those human-made decisions. The machine is merely generating a first draft; the
17 human judge will still review and edit that draft. It’s still a human being deciding.
18

19 But the process of drafting the order, ruling, decision, or opinion *is* deciding
20 (or at least part of deciding). “[W]ritten findings also serve other important
21 purposes, including prompt[ing] judges to consider issues more carefully because
22 they are required to state not only the end result of their inquiry, but the process by
23 which they reached it.” *Logan B. v. Dep’t of Child Safety*, 244 Ariz. 532, 538, ¶ 18
24 (App. 2018), *citing Miller v. Bd. of Supervisors of Pinal County*, 175 Ariz. 296, 299
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1 (1993) (internal quotations omitted). Allowing the use of generative AI to draft
2 orders, rulings, decisions, and opinions runs the risk of truncating or skipping this
3 important part of the adjudicative process.
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5 “But you use law clerks to assist with drafting”

6 The undersigned—appellate judges all—are keenly aware that they are
7 blessed with human resources not routinely provided to justice, municipal, and
8 superior court judges: judicial law clerks. Critics might point out that those who are
9 provided with such resources should not seek to prevent those without them from
10 utilizing an electronic tool that might provide a reasonable substitute for law clerks.
11 That anticipated criticism is perfectly valid. But judicial law clerks are
12 fundamentally different from generative AI.
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15 Law clerks are human. Law clerks have a sense of right and wrong. Law
16 clerks have morality. Law clerks adhere to a code of ethics. Law clerks are
17 answerable for their mistakes. Law clerks understand that judicial rulings impact
18 human lives. Law clerks have a soul. Generative AI has none of these things.¹ And
19 because the drafting process is necessarily part of the adjudicative process, drafting
20 should be done by humans. Both because it is right, and because the citizens of
21 Arizona expect it.
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26 ¹ See, e.g., [AI's a suck up. Research shows how it flatters and suggests we're not](#)
27 [to blame / NCPR News](#)
28

1 To maintain the public’s trust, adjudication must be performed by humans

2 As our country celebrates its 250th anniversary, we must remember that, for
3 the entirety of its existence, adjudication has been performed by humans. The
4 litigants that appear before us expect that their case—whether they like the result or
5 not—will be decided by a human being.
6

7 At a time when many of our institutions are under attack and approval ratings
8 for other parts of our government are shockingly low, Arizona citizens continue to
9 trust judges. The proof of that is presented every two years at the ballot box. Despite
10 the fact that the average voter probably couldn’t name a single member of Arizona’s
11 judiciary, judges are (with very few exceptions) retained in office, frequently by
12 large margins. The public may not know who we are, but most of them continue to
13 trust us to make the decisions that impact their lives.
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16 To the litigants involved, every case is the most important case. Each decision
17 we make, from the tiniest small claims case to the literal life-and-death matters in a
18 capital case, impacts lives. Imperfect though we may be, the public continues to put
19 their most important matters in our hands.
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22 We should be transparent and honest with the parties that appear in front of
23 us. The parties should know if generative AI was used in drafting the decision that
24 impacts their lives. If we are to reject this proposed Rule and allow the use of
25 generative AI in core judicial work, we ought to be comfortable telling the public
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1 what we are doing. Orders, rulings, decisions, or opinions that were drafted with AI
2 should say so. A simple disclosure at the bottom of the document: “*Your decision*
3 *was drafted with the assistance of generative AI.*”
4

5 Such disclosures would be highly corrosive to the public’s trust in us, but at
6 least we would be transparent and honest. If our collective minds recoil at plainly
7 telling litigants that AI was used in their decisions, perhaps we ought not use it.
8

9 Conclusion

10 We support the adoption of proposed Rule 135, Rules of the Supreme Court.

11 RESPECTFULLY SUBMITTED this 29th day of April, 2026.
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14

15 /s/ Andrew J. Becke
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24 ORIGINAL of the foregoing
25 electronically filed this 29th day of
26 April, 2026:
27

28 /s/ Andrew J. Becke