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IN THE 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 **Reply in Support of Petition to Adopt Rule 135, Rules of the Supreme Court**

Comments on the Petition confirm the urgent need for the Supreme Court to enact Rule 135, to protect Arizonans and to preserve the judiciary's credibility with them. First, everyone agrees that the public expects humans to resolve their disputes and distrusts generative AI ("GenAI"), so letting it write orders or decisions, even in draft, violates the public trust and threatens Arizonans' respect for the courts. (*See* § I., *infra*, 3-4) Second, many comments on the Petition properly call for disclosure of AI use on the face of decisions that employed it – as Connecticut's policy already requires – so this Reply amends the draft Rule 135 to require such disclosure. The silence of opponents of the Petition on the important issue of disclosure should persuade the Court to adopt the Petition. (*See* § II., *infra*, at 4-7) Third, AI inevitably de-skills judges who rely on it, as studies illustrate. Opposing comments in no way speak to that bleak

reality, while the Petition's call for studies of GenAI in judging takes a reasonable middle course and would require this Court's Artificial Intelligence Steering Committee ("AISC") to meet this troubling prospect head-on. (*See* § III., *infra*, at 8-11) Fourth, the Chair of the Arizona Commission on Judicial Conduct supports the Petition because of his well-founded belief that GenAI's use in core judicial work poses an unacceptable risk of ethical violations. (*See* § IV, *infra*, at 11-13) Fifth, one court's comment's claim of "rapidly growing caseload(s)" to justify the need for GenAI is counterfactual, and its praise for ChatGPT's "steadily shrinking hallucination and error rates," cited to no evidence, should give this Court serious doubts about allowing other courts to self-regulate in these matters. (*See* § V., *infra*, at 14-16) Sixth, opponents' professed inability to understand what "core judicial work" is fails as an objection to the Petition – the distinction is consistent with Sedona Conference materials this Court should rely on for guidance. (*See* § VI., *infra*, at 16-18) To the contrary, it is hard to understand why opponents of the Petition won't simply say the quiet part out loud: they want to use GenAI in fashioning decisions and orders, but don't want to engage in a public debate on that controversial proposition. Hence, the need for this Petition (and the need for additional governance in this area). Seventh, as comments show, the present state of guidance in this area is unclear, confusing, and would benefit from additional guideposts. (*See* § VII., *infra*, at 19-20). For all of these reasons, this Court should adopt the Petition, direct AISC to resolve these important unclarities, and impose more specific governance in these admittedly thorny and difficult areas.

I. The Petition's Major Premises Stand Unrebutted: the Public Expects Humans To Decide Cases and Distrusts GenAI, so Allowing Its Use in Writing Decisions or Orders Threatens Arizonans' Respect for the Courts. (Responds to Becke, Como Comments, Opposing Comments Generally)

The comments on the Petition confirm key premises that animate it: the public expects humans to decide their cases, which is a matter of respecting the dignity of Arizonans. And that same public distrusts GenAI, so the judiciary risks public respect for the courts and the law if it allows the practice of using GenAI to create decisions. No commenter claimed Arizonans don't distrust GenAI: they know better. (*See generally* All Comments)

There is no dispute that the public expects humans to decide their cases. Eight appellate judges commented that humans have always decided cases and that "litigants who appear before us expect that their case—whether they like the result or not—will be decided by a human being." (Becke, at 4) Four superior court judges and one commissioner commented that "the public expects humans to decide cases." (Como, at 2). Judge Como wrote that "[r]ecently, 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." (*Id.*)

But don't take it from Petitioner and supportive comments. Stakeholders all know the public doesn't want and won't accept AI decisions. Consider that when David Byers, our longtime leader of the Administrative Office of the Courts, was asked on KJZZ (while speaking for the judiciary) what things the courts might not be willing or

ready to use AI for, he answered: "***Yeah, we're never gonna use AI to actually resolve a dispute***." Mark Brodie, *How AI Is Helping and Hurting Arizona Courts* (Oct. 1, 2025) https://www.kjzz.org/the-show/2025-10-01/how-ai-is-helping-and-hurting-arizona-courts (emphasis added). Because that's what the public expects. When I argued for the Petition in the State Bar's Civil Practice and Procedure Committee in a well-attended public meeting, I asked an opponent of the Petition from the superior court if, when they use GenAI in an order, they disclose that to the public. No, they replied, it would be "highly stigmatic." So whether you're for or against the Petition, there is a shared understanding that the general public doesn't want AI to create judicial decisions, and that the public is distrustful of GenAI, as the Petition well established. (Petition, at 7-9) Mr. Byers' statement for all of us that this judiciary will "never … use AI to actually resolve a dispute" is an important reaffirmation of what the public expects of us. This Court should adopt the Petition and do what Arizona expects of us.

II. Because the Public Distrusts GenAI, It's Ethically Important to Follow Connecticut's Example, and Require Judges Who Use GenAI to Create Decisions or Orders to Disclose Its Use on Their Finished Product. (Responds to Becke, Heade, Gates, Blanchard, AISC Comments)

Disclosure is a key issue in the Petition, and should drive this Court's handling of GenAI issues going forward. (Heade, at 8: "Transparency should not be a burden on judges.") The Petition argues that this Court should ban GenAI in generating decisions, pending further study, in part because it can be used now without acknowledgment. (Pet. at 5) That lack of acknowledgment is wrong on several levels.

The Becke Comment provides strong support for the importance of disclosure. As eight appellate judges wrote, "We should be transparent and honest with the parties that appear in front of us. The parties should know if generative AI was used in drafting the decision that impacts their lives. If we are to reject this proposed Rule and allow the use of generative AI in core judicial work, we ought to be comfortable telling the public what we are doing. Orders, rulings, decisions, or opinions that were drafted with AI should say so. A simple disclosure at the bottom of the document: 'Your decision was drafted with the assistance of generative AI.'" (Becke, at 4-5)

The Heade Comment is right that we owe the public disclosure to allow the study of GenAI decisionmaking, but also so "the public has sufficient knowledge to evaluate its judges, as envisioned by the Arizona Constitution. Ariz. Const. Art. 6, § 42." (Heade, at 7) That would be a great way to validate whether the use of GenAI is really helping us earn the public trust, as the Blanchard Comment proposes might be true. (Blanchard, at 9 (asking whether AI tools might "*improve* public trust in the justice system." (emphasis in original)). The meaning of disclosure is that the *public* gets a chance to decide whether GenAI improves public confidence in the courts – not judges in a cloister. The Heade Comment puts it perfectly: "Arguments against disclosure are really just arguments for unreviewable artificial intelligence use." (Heade, at 8)

And that's why it's remarkable and telling that the comments against the Petition don't even acknowledge the importance of disclosure, or that there's even an argument about it. The Gates and Blanchard comments don't address it at all. (*See generally* Gates,

Blanchard Comment) Neither does the AISC Comment. (*See generally* AISC Comment) Even the draft Minutes of the April 20, 2026 AISC meeting Petitioner attended do not refer to "disclosure" even though one of the committee members who advocated for AISC's comment said in the meeting that it was important to have more study of disclosure. Instead, the draft Minutes say AISC discussed "whether a tool that has appropriate governance and transparency and that helps judges should be something that is rejected." (AISC Draft Minutes, at 7) But of course, judicial uses of GenAI in drafting have no public-facing transparency, so the premise is incorrect.

The opposition comments have literally nothing to say as to why the public should not receive disclosure on the face of GenAI-derived decisions. In a judicial context, one would call that a waiver. It is powerful proof that there is no effective response as to why Arizonans don't deserve to know that their divorce decree's findings, their sentencing memorandum, the decision separating them from their children, and the like, were drafted with the use of GenAI.

For that reason, Petitioner amends the Petition to add verbiage requiring that every judicial decision generated in part through the use of GenAI say so – just as Connecticut does, and just as the Becke Comment wisely suggests. (Becke, at 4) Connecticut's form of certification is salutary:

> "This content was [drafted, edited, translated] with the assistance of a generative artificial intelligence [Bard, ChatGPT]. The content has been reviewed and verified to be accurate and complete, and represents the intent of [office, department, division, the Judicial Branch, or a person's name]."

See AI Responsible Use Framework, State of Connecticut Judicial Branch (Feb. 1, 2024) https://info.jud.ct.gov/faq/ CTJBResponsibleAIPolicyFramework2.1.24.pdf

This Court should let Arizonans know what their courts do, because: (1) Arizonans vote on us and our state's founders gave them a constitutional stake in providing feedback to us about what we do, Ariz. Const. Art. 6, § 42; (2) it's morally right to do so, and not doing so fails to give the human person whose problem is judged the real consideration as a human we owe them;[1] and (3) there is seemingly no countervailing position, judging from the comments against the Petition. If, as the Becke Comment argues, being honest about GenAI would be poorly received (perhaps because it really is "highly stigmatic," as one judge candidly conceded), then doing the constitutional, moral, and right thing here – requiring disclosure – is also good government. For such a requirement may deter such uses from occurring in the first place. For these reasons, this Court should adopt the Petition.

[1] Kant's Categorical Imperative, which urges against treating other humans as a means to an end (and not as an end themselves, which one properly must) does not abide deception in the use of others. This occurs when a judge enters a judgment concerning a person but omits to inform the judged that they were judged, in part, not by the person but by an undisclosed, offstage algorithm that aided the judgment they received: "A second Kantian theme that is relevant to our moral deliberations about AI is that our intentions in how we interact with AI matter morally. We should not design or use AI systems for immoral purposes, such as ***to deceive consumers***, manipulate voters, exploit vulnerable populations, or kill innocent people. From a Kantian perspective, such actions involve immorally adopting maxims that cannot be willed as universal laws, treating others merely as means, or otherwise violating moral duties we have." Stanford Encyclopedia of Philosophy, Kant's Moral Philosophy, at Part 16: Future Directions, AI Ethics, at https://plato.stanford.edu/entries/kant-moral/ - FutDirAIEth.

III. Opposing Comments Fail to Acknowledge AI's Inevitable Deskilling of the Judges Who Embrace its Use in Drafting, A Problem Well-Explained in One Comment and in Emerging Literature on the Subject.

(Responds to Gates, Blanchard, AISC, Sakall, Thorson Comments)

Deskilling our judiciary is obviously a bad thing. We don't want judges' analytic and decisional skills to erode, and the public will be very poorly served if we let that happen. But if this Court follows the comments opposing the Petition, it will happen. Those comments argue against the Petition's call to pause GenAI's use in core decisional work without further study. They posit that because any judge is ultimately accountable for their work that rests on GenAI, there is no "abdication" of the human role in judging when humans edit GenAI inputs, so the Arizona Supreme Court should allow the consciences of individual judges to decide how to use GenAI. (Gates, at 3-4; *see also* Blanchard, at 7 (goal is "maintaining full decision-making authority" while adopting these new tools)).

This is a path to deskilling our trial judges, and shows why this Court should enact Rule 135, to study the benefits ***and detriments*** of GenAI in how the superior court uses it, to avoid or mitigate the risks of deskilling. The British medical journal *Lancet* studied gastroenterologists' ability to detect cancer in colonoscopies. (Thorson Comment, at 2) After three months of using an AI tool to help them, the doctors' ability to detect cancer fell almost 20% — from catching 27% of cancers to 22%.[2] (*Id.*)

[2] That was not, as Google's GenAI helper suggested when I Googled this to check the source in the Thorson comment, a 6% decline. Thanks, AI!

This effect, of course, is not confined to medicine. A Microsoft study of 319 knowledge workers who used AI in professional tasks found that increased use of AI corresponded with reduced independent critical thinking.[3] The study suggested that workers shift from generating analysis themselves, and move toward verification and stewardship of a task. No less a moral philosopher than Pope Leo XIV recently noted the threat of deskilling and the erosion of human creativity in his pathbreaking encyclical, Magnifica

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[3] Dimitar Mihov, *AI Is Making You Dumber, Microsoft Researchers Say*, Forbes (Feb. 11, 2025), https://www.forbes.com/sites/dimitarmixmihov/2025/02/11/ai-is-making-you-dumber-microsoft-researchers-say/

Beyond the *Lancet* and Microsoft studies, a growing body of literature addresses deskilling and loss of expertise:

Samuel Greengard, *The AI Deskilling Paradox*, Communications of the ACM (November 7, 2025), https://cacm.acm.org/news/the-ai-deskilling-paradox/; Shereen El Tarhouny, Amira Farghaly, *Deskilling dilemma: brain over automation*, Frontiers in Medicine (February, 2026), https://pmc.ncbi.nlm.nih.gov/articles/PMC12909220/

Pierre E. Heudel, H. Crocher, Q. Filori, T. Bachelot, J.Y. Blay, *Artificial intelligence in medicine: a scoping review of the risk of deskilling and loss of expertise among physicians*, ScienceDirect (March 19, 2026), https://www.sciencedirect.com/science/article/pii/S2949820126000123

Hon. Ralph Artigliere, William Hamilton, *From Competence to Judgment: How AI Compresses Litigation Work and Why That Makes Judgment More Important*, JDSupra (April 14, 2026), https://www.jdsupra.com/legalnews/from-competence-to-judgment-how-ai-4386570/

Jason M. Loring, Andrew R. Lee, *From Enhancement to Dependency: What the Epidemic of AI Failures in Law Means for Professionals*, Jones Walker (August 19, 2025), https://www.joneswalker.com/en/insights/blogs/ai-law-blog/from-enhancement-to-dependency-what-the-epidemic-of-ai-failures-in-law-means-for.html?id=102l04x

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Humanitas. The Pope wrote, "contrary to the advertised benefits of AI, ***current approaches to technology can paradoxically de-skill workers***, subject them to automated surveillance and relegate them to rigid and repetitive tasks. The need to keep up with the pace of technology can erode workers' sense of *agency* and ***stifle the innovative abilities they are expected to bring to their work***." Pope Leo XIV, *Magnifica Humanitas*, at ¶ 150 (May 15, 2026) https://www.vatican.va/content/leo-xiv/en/encyclicals/documents/20260515-magnifica-humanitas.html-paradigm and digital power (bold italic emphasis added). Just so.

The Heade Comment wisely calls our attention to the Oregon Court of Appeals' related observation in *Williams v. Honl* 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." 348 Or. App. 505, 513-14 (2026). (Heade, at 2) As that court continued, "using generative artificial intelligence to generate legal briefs and then simply cite-checking them bears no resemblance to the practice of law." *Id.* Likewise, having ChatGPT generate a draft decision memorandum to guide a judge and simply checking over it isn't judging in any meaningful sense, simply because the judge claims final authorship.

Unfortunately, the Gates and Blanchard Comments propose the very structure the Microsoft study concludes erodes independent thinking, and which *Williams v. Honl* critiques. Judges will use GenAI to prepare outlines or analyses, but they will "evaluate

and approve the accuracy of every written or spoken word." (Gates, at 2) Judges will be able to use GenAI like a law clerk, but will "review, verify, and adopt – or reject – any proposed language." (Blanchard, at 11) It should go without saying that Arizona's founders didn't empower Governors to appoint judges so they could be the "human in the loop" of what GenAI proposes, or so they can "evaluate," "verify, and adopt – or reject – any proposed language" from ChatGPT or Microsoft CoPilot.

That aside, science suggests that letting judges do that will cause their ability to judge to atrophy, as they become passive, text-approving editors. (Thorson, at 2; *see* fn. 2, *supra*, Mihov, *AI Is Making You Dumber, Microsoft Researchers Say*) Petitioner implores the Arizona Supreme Court to impose, through AISC, rigorous study of the benefits ***and detriments*** of GenAI use by all judges, to establish pathways through training to mitigate the coming wave of judge-deskilling. Lofty language about obeying one's oath and honoring judge-driven preferences will do nothing to safeguard Arizona's public from the skill regression unrestrained GenAI use would inevitably inflict upon it.

IV. This Court Should Adopt the Petition to Avoid the Judicial Ethical Issues GenAI Poses, As the Chair of the Arizona Commission on Judicial Conduct Suggested.

(Responds to Staring, Becke Comments)

Judicial use of GenAI poses serious risks of ethical problems, which should lead this Court to adopt the Petition's proposed Rule 135. The Chair of the Arizona Commission on Judicial Conduct, Chief Judge Staring of Division Two of the Court of

Appeals, wrote in support of the Petition because he is "deeply concerned about the potential impact of generative AI in the performance of core judicial work." (Staring)

The Staring Comment identified two areas of concern, which Petitioner agrees support adoption of the Petition. It points to Rule 1.2 of the Code of Judicial Conduct, which requires that "[a] judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary…" Ariz. S. Ct. R. 81, at Canon 1.2. The Staring Comment is plainly correct that the possibility of hallucinated content poses one risk of violating Rule 1.2. Beyond that, given that the only argument or evidence in this Petition's discussion-string is that the public doesn't want GenAI judging its cases, and would object to GenAI composing decisions a judge signs off on, then using GenAI to draft a decision without telling the parties ***already violates Rule 1.2***. How could it not? It does the precise opposite of "promot[ing] public confidence in the . . . integrity . . . of the judiciary." *Id.*

As the comment of eight current and former judges of the Court of Appeals explains, "Such disclosures [of the use of GenAI to draft a decision] would be highly corrosive to the public's trust in us . . . If our collective minds recoil at plainly telling litigants that AI was used in their decisions, perhaps we ought not use it." (Becke, at 5) In sum, hiding a practice to which the public objects is already a violation of Rule 1.2, without awaiting the inevitable hallucinations in judicial work that have afflicted many other courts. (Pet. at 11-12) And if anyone has any doubt that the public objects to using GenAI to author decisions or orders, then Petitioner implores this Court to direct

AISC to cause the study of public reactions to proposed judicial uses of GenAI, so the most important stakeholders – our customers, for whom we all work – have a proper say in the matter. (Como Comment, at 3: "If there is uncertainty about how the public views judges using AI in decision-making, why not conduct an opinion poll to find out?") This Reply also revises draft Rule 135 to require AISC to conduct such study. (App'x 1)

The Staring Comment also correctly notes that GenAI poses unacceptable risks of violating Canon 2.5 of the Code of Judicial Conduct, which requires judges to perform their duties "competently" and "diligently." (Staring Cmt.; Ariz. S. Ct. R. 81, at Canon 2.5) Approving GenAI as a drafting aid for every judge in the state would mean that every superior court judge approaching the 60-day mark within which a complex motion, or one with voluminous materials, must be ruled upon, would know they have a tool that could quickly and powerfully create a simulacrum of a ruling. Some may think that's a good idea (I don't), but whatever your view, such a regime would place ***some judges*** on ***some occasions*** under great temptation to outsource their analytic work to ChatGPT or Microsoft CoPilot to avoid failure to comply with what, for some, are very demanding time standards. All of this shows why this Court needs to instruct AISC to study if, and how best to integrate these powerful tools into judicial work. The risks of non-diligence with a powerful tool that can ***appear*** to do so much so quickly are great. The judiciary needs to meet this challenge with more than enthusiasm for new tools and a generalized faith in everyone's good intentions.

V. An Opposing Comment's Unsupported References to a "Rapidly Growing Caseload" and "Steadily Shrinking Hallucination and Error Rates" in ChatGPT Underscore the Lack of Rigor and Empiricism in Arguments for Immediately Embracing GenAI to Write Orders and Decisions. (Responds to Blanchard Comment)

The Petition dares to suggest that before embracing GenAI uncritically and allowing judges to use it to draft decisions – without telling the public they are even doing so – this Court should pause, and direct calm, reasoned study through AISC to determine whether it should approve GenAI for drafting rulings. In response, one comment makes unsupported claims of rapidly growing caseloads and plummeting hallucination rates in GenAI that should give this Court pause about letting any unit of our judiciary self-manage the adoption of GenAI. (Blanchard, at 8)

One comment of a group of officers of the Maricopa County Superior Court makes an uncited claim of "the existing and rapidly growing caseload" as an explanation for embracing new technologies and rejecting the Petition. (*Id.*) While respecting the great work that court and its talented professionals do every day, the data from the Annual Reports of the Judicial Branch of Arizona in Maricopa County don't support the comment's claim about caseload. Our largest county's superior court averaged 197,318 filings from 2009 through 2019, and averaged 166,286 – 15.8% less – from 2022-2025. (App'x 2) The court's overall filings only returned to 2008 levels in 2025 and every post-pandemic year saw filings below the total in every single year from 2009 through 2019. (*Id.*) Family court filings in 2023-2025 were around 42,600 each year; they exceeded 63,000 each year from 2015-2017, so they're down 32% from eight years

earlier. (*Id.*) Juvenile court filings averaged 20,615 from 2009-2019, but have never hit 10,000 since the pandemic, and average 9,606 from 2022-2025, which represents a decline of 53%. (*Id.*) Even in civil, the four years since the pandemic show an average of 44,387, a 1% decline from the four years before the pandemic, which averaged 44,736 civil filings. (*Id.*) (The average of civil filings from 2009-2019 was a whopping 60,887, against which the last four years represent a 26% decline in filings.) (*Id.*) There can be no moral panic to embrace GenAI as a drafting aid that is grounded in workload data. The data suggest the contrary – the superior court was able to do excellent work historically without GenAI, which should allow this Court to order thoughtful study concerning GenAI without unduly burdening that court. Rushed adoption of GenAI without studies and standards better than "check the outputs," is a solution for which there is no problem.

That same comment's claim of plummeting error rates in ChatGPT, apparently to justify existing reliance on it in drafting, is likewise cited to no data and entitled to no weight. (Blanchard, at 8) The comment notes that "ChatGPT was first released to the public in November 2022," and states that "the increases in accuracy on various benchmarks, and the steadily shrinking hallucination and error rates in the past three years have been quite impressive." (*Id.*) Aside from the fact-free nature of the claim, the claim illustrates a rush to embrace GenAI that should give this Court a lot of pause. It's true, as the Gates Comment argues, that "courts did not create artificial intelligence, and it is not going away." (Gates, at 2) But it's a major confusion of ***what is*** with what

should be, and it is no argument in favor of using GenAI to draft decisions at all, to simply note that ***it exists***.

The actual data about hallucinations in GenAI legal work are scary, even though they aren't acknowledged in the comments that embrace GenAI because it is here, and because it is supposedly getting better. The database maintained by Damien Charlotin has documented ***1,522 instances of GenAI producing hallucinated legal content***.[4] This Court must not make policy based on bromides like "we can't be left behind" and "AI isn't going away." For the good of the judiciary and public respect for the law, we all need this Court to compel studies of the judicial use of ChatGPT and other like tools, to validate unsupported claims that it is as nearly error-free as a person, or that using it actually saves any time at all when the ethically-compelled detailed checking of its work actually occurs. These are not matters that should be left to the conscience and practice of individual judges or courts. They are of vital importance to the judiciary's credibility with Arizonans and cry out for this Court's governance.

VI. The Claim That Rule 135 Fails to Identify a Core of Judicial Work that Could Be Kept Gen-AI Free Fails Badly, and Is Inconsistent with Sedona Conference Guidance This Court Should Follow.

(Responds to Blanchard, Sakall Comments)

The right approach to GenAI is out there. The Working Group on AI and the Courts, part of the ABA's Task Force on Law and AI that includes Arizona's Judge Samuel Thumma, proposed 14 guidelines for judges and their chambers in the use of

[4] *See* https://www.damiencharlotin.com/hallucinations/ (last accessed May 30, 2026).

GenAI. *See* Hon. Herbert B. Dixon, Jr., et al., *Navigating AI in the Judiciary: New Guidelines for Judges and Their Chambers*, 26 Sedona Conf. J. 1, 3 (February 2025) ("Navigating AI"). As one Comment put it, "Of the Working Group's 14 potential uses for AI or GenAI, they did not include creation of core judicial work in a filed case." (Sakall, at 6)

This Court should examine these guidelines – they address 14 potential use-cases for AI and GenAI. *See generally* Navigating AI. The uses, which the Working Group stresses must be undertaken conscious of AI's limits and biases, and without over-relying on it are to: (1) "conduct legal research;" (2) help "draft[] routine administrative orders;" (3) "search and summarize" fact materials or pleadings; (4) "create timelines;" (5) "edit[], proofread[], or check[] spelling and grammar in draft opinions;" (6) check whether "parties have misstated the law or omitted relevant legal authority;" (7) "generate standard court notices and communications;" (8) support "court scheduling and calendar management;" (9) perform "time and workload studies" (*e.g.*, administrative analytics); (10) "create unofficial/preliminary real-time transcriptions;" (11) create "unofficial/preliminary translation of foreign-language documents;" (12) "analyze court operational data [and] routine administrative workflows, and to identify efficiency improvements;" (13) organize and manage documents; and (14) "enhance court accessibility services." Petitioner believes the Working Group has these right.

The Working Group's thoughtful parsing of what GenAI can be trusted to do, at present, tracks precisely with the Petition's easy-to-follow distinction between core judicial work (drafting opinions and orders) and adjudication-adjacent work

(summarizing pleadings or fact materials, checking existing drafts). Simply put, the Working Group, like Petitioner, doesn't think GenAI can be trusted to do the core activities at the heart of litigation, but thinks they can do administrative chores, and can even do assistive tasks which are clearly separable from the very act of judging, but which support the creation of work by the judge. So the Petition, as the Sakall Comment underscores, follows a widely-cited, influential, thought-leading source in adopting the distinction between core and non-core work, found, no less, in written work generated in part by one of our state's most respected jurists.

One comment contends that Rule 135 "offers little guidance" about particular use-cases, making the "core/non-core" distinction somehow unsustainable. (Blanchard, at 6). Not so. First, it's a straw argument that ignores the language of Rule 135. Even if this Court adopts Rule 135, the superior court should still apply to AISC to approve any hypothetical use-case in the first place. If AISC approves the uses, they are fine. Second, the cases the Comment poses aren't hard. (*Id.*) One is a judge seeking edits on a completed draft for tone and wording. That's non-core and permitted, as the Petition made clear that "interrogating a draft already generated" is such a use. (Pet. at 13). Likewise, identifying flaws in the parties' filings or checking their citations (Blanchard, at 7) is non-core, and supported by Rule 135 and the Working Group principles – it's not drafting an order or decision. Nonetheless, for clarity, Petitioner revised Rule 135(a) to provide that "using Generative AI to proofread, critique, or suggest edits to a draft already prepared" is non-core and permissible. (App'x 1 Hereto)

VII. The Comments Underscore That the Current State of Guidance in This Area Would Be Greatly Improved and Focused By Adopting Rule 135.

A. AISC Appears to Agree It Hasn't Approved GenAI for Drafting Decisions or Orders.

As the Petition noted, AISC hasn't approved the use of GenAI to draft judicial decisions or orders that are released to the public. (Pet. at 14) AISC doesn't dispute this point. (*See generally* AISC) Also, AISC lists approved tools for approved uses on a website it maintains. https://www.azcourts.gov/forensicsciencecenter/AI. That list corroborates that GenAI isn't approved for drafting opinions or orders. (*Id.*) It does so by approving GenAI tools (like Claude and ChatGPT) for the simple, non-core uses the Working Group and the Petition find prudent.[5] Based on this guidance, Rule 135 cannot hamper superior court engagement with GenAI tools for three years. (Blanchard, at 8; Gates, at 4) No court has sought AISC approval to use ChatGPT or Copilot to draft decisions or orders, so there is no current, acknowledged use to burden.

B. Current GenAI Guidance Is Limited, Hard to Parse, and Arguably Contradictory, Underscoring the Need for This Court's Action.

The Comments underscore that guidance in this area is confusing. AISC points to ACJA § 1-509 as a "use policy" for GenAI. (AISC, at 4) Section 1-509 requires that

[5] These are: "Drafting general correspondence and communications, generating content for newsletters and educational materials; creating presentations and training materials; simplifying website or policy language; analyzing sets of data for insights; generating images and illustrations; creating mock-ups for creative professionals; summarizing key information from lengthy documents or a set of shorter documents; [and] performing analysis on complex written materials." *Id.*

the use of any AI tool must be approved. (*Id.* at 5). AISC never says it approved GenAI to write orders or decisions, and points the reader to its website Petitioner just cited, which doesn't approve GenAI for such uses. Meanwhile, the comment of certain Maricopa County Superior Court judicial officers attaches an AI policy. (Ex. 2 to Blanchard). That policy prohibits the use of AI-restricted information with GenAI unless it is expressly authorized on the AI tool list attached thereto. (Blanchard, at 3; Ex. 2 to Blanchard at IV(A)(2)). But then, the policy attaches a page not referenced in the Blanchard Comment that lists "APPROVED tools for Use with AI Restricted Information," including ChatGPT and Copilot and might (or might not) authorize their use in writing decisions and orders. (*Id.* at 8) Two points: (1) These commenters are the relevant stakeholders, but neither claims they authorized GenAI decision-drafting, or are authorized to do it; and (2) AISC, and no court other than the Arizona Supreme Court, should be deciding these things. We need Rule 135, to let the public know if we are using GenAI to draft decisions. If our courts are doing so presently, then we need Rule 135 to protect Arizona's public and to subject that practice to rigorous analysis.

Conclusion

For these reasons, I respectfully urge this Court to adopt the proposed new Rule of the Arizona Supreme Court 135, as revised, which is attached hereto as Appendix 1.

RESPECTFULLY SUBMITTED this 31st day of May, 2026.

By /s/ Andrew M. Jacobs
Hon. Andrew M. Jacobs
Arizona Court of Appeals, Division One