

stevens, cheryl

From: Andrew Felser <afelser@cityparklegal.com>
Sent: Wednesday, September 10, 2025 4:44 PM
To: supremecourtrules
Subject: [EXTERNAL] Comment on Preamble Change

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In my opinion, the Committee's draft of 20A needs considerable improvement. The Court should consider the following edits:

[20A] Technology, including artificial intelligence (AI) and similar innovations, plays an increasing role in the practice of law. IF A LAWYER CHOOSES TO USE AI OR OTHER EMERGING TECHNOLOGIES IN THE PRACTICE OF LAW, THE LAWYER IS EXPECTED TO USE THEM IN CONFORMITY WITH ALL OTHER OBLIGATIONS UNDER THESE RULES. A LAWYER'S USE OF TECHNOLOGY IN VIOLATION OF ANY OF THESE RULES MAY BE GROUNDS FOR DISCIPLINE. FOR CLARITY, THESE RULES DO NOT REQUIRE THE USE OF ARTIFICIAL INTELLEGEENCE OR ANY SIMILAR TECHNOLOGY.

Thank you.

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12 September 2024

Colorado Supreme Court
Two East 14th Avenue
Denver Colorado 80202
Sent to supremecourtrules@judicial.state.co.us

Public Comment on Artificial Intelligence and the Practice of Law

The proposed changes to the *Rules of Professional Conduct* are unobjectionable because they contain no enforceable imperatives. A tangible approach would be more beneficial.

We are stymied in regulating the effect of AI on the legal profession because we accept the propaganda about the imminent arrival of an AI avatar of legal wisdom and social improvement.

If we reject that exaggeration, we can take a simple step to fix the immediate issues: fake cases and cites, as was seen in recent cases adjudicated in Colorado.

People v. Crabill, 23 PDJ 067 (2023) (fined for fake AI cases)
Al-Hamim v. Star Hearthstone, 24CA0190 (2024) (fake AI case; notice of future sanctions)
Coomer v. Lindell, 1:22-cv-01129-NYW (Dist. Colo, 2025) (disciplined for fake AI citations)
Marriage of Haibt, 24CA1113 (Not Published) (2025) (remand for fees for fake AI Case)
In re Mascio, No. 25-10631 TBM (Bank. D. Colo. 2025) (warned of sanctions for fake AI Case)

A targeted approach is to simply require every pleading to contain an attestation like this:

I certify under penalty of perjury that each citation to, or quotation from, a legal source, has been independently verified by me using an official governmental source, and not copied from an artificial intelligence program. Attorneys and non-attorneys will be equally punished for every violation.

This is arguably already required in principle by Rule 11, C.R.C.P., but it is not obvious, and unknown to those *pro se*. An explicit statement will eliminate ambiguity and reduce evasion.

Respectfully

Casey Frank

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From: Alex Mancero <Alex.Mancero@westernunion.com>
Sent: Wednesday, November 19, 2025 2:12 PM
To: supremecourtrules
Subject: [EXTERNAL] Comment on Proposed Amendments to the RPC regarding AI

EXTERNAL EMAIL: This email originated from outside of the Judicial Department. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern:

Thank you for providing the opportunity to provide comments to the proposed RPC changed regarding AI. Official commentary to rules should help with the interpretation of the rules. The proposed addition in the Preamble and Scope does not meet that end and actually invites more questions. For example, is the use of AI itself triggering discipline? I would think not, but one could interpret the comment in this manner. Additionally, the proposed comment to Rule 1.1 explains various other rules that can be implicated by the use of AI, but it does not explain how, and there are no additional comments in those rules to further explain. As a result, the reader is left wondering what the utility of any of these changes are other to say something about AI for the sake of it. If the intention is to preclude discipline based on rules not enumerated in the proposed comment to Rule 1.1, then that would be the only useful purpose of these changes. However, I cannot imagine the OARC would want to be restricted in such a manner. I suggest that AI SMEs help re-write these proposed changes before they are approved.

These opinions are my own and not representative of my employer or bar association.

Best,

Alex
Alex Mancero
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Colorado Supreme Court
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Leah E. Pogoriler
Home address withheld

**Re: Comment on Proposed Amendments to the Rules of Professional Conduct
Addressing Artificial Intelligence**

According to the Office of Attorney Regulation Counsel's (OARC's) September 2025 Newsletter, the Colorado Supreme Court is taking public comment on proposed amendments to the Colorado Rules of Professional Conduct (CRPC) that would explicitly address the impact of new technology, particularly artificial intelligence (AI), on lawyers' obligations in the practice of law. Specifically, the Court is proposing:

- A new paragraph [20A] in Scope, and
- A revised comment [8] and new comment [9] to Colo. RPC 1.1 to address the obligation to maintain competence in light of technological developments.

I am a Colorado attorney, writing in my personal capacity. I practiced for about a decade as a litigator in private practice and have now spent another decade(-ish) in government service.

I write to express my support for the proposed amendments, for the following reasons:

- News stories about attorneys' use and abuse of AI in the drafting of motions, briefs, and other filings are an embarrassment to the profession. The use of large language models (LLMs) in lieu of human authorship creates enormous risks of hallucination of both law (nonexistent caselaw, legal authorities that exist but don't stand for the cited proposition, etc.) and fact (nonexistent documents, testimony that exists but does not stand for the cited proposition, etc.).
- There are some situations that have not necessarily made the news yet, but are already doing damage. Through personal conversations, I am aware of at least two legal aid groups, neither in Colorado, that have used and are continuing to use ChatGPT or similar tools to develop online guidance for the public. This practice has led to at least one known instance of incorrect, hallucinated guidance's being posted online and later having to be corrected. Probably there are many more instances not yet known to me, though hopefully at least known to and corrected by the relevant groups.
- Horror stories aside, clients have a reasonable expectation that hallucinations will not be introduced into their cases, either by their own lawyers or by their

opponents' lawyers. In fact, if I ever had to hire a lawyer for myself, I would probably insist on a no-AI (or at least no-LLM) provision.

- Non-attorneys are currently under the impression that AI can replace much or all of the work that attorneys do. A reasonably sophisticated colleague of mine recently told me that he thought ChatGPT would have made my work as a litigator “so much easier” than it was. It would not have. I truly cannot imagine how I would have benefited from ChatGPT at all in my litigation days. Regardless of which of us was correct, that conversation makes me fear that some unsophisticated litigants may use ChatGPT for legal advice or even drafting, in situations where they really should consult with counsel. Some such litigants might think better of doing so if our rules reinforced that even lawyers should be extremely cautious in their use of such tools.
- Bottom line, should lawyers (or non-lawyers) choose to use LLMs or other AI in drafting, they should do so with extreme caution, and the proposed rule changes help reinforce this point.

Because I no longer practice as a litigator, I am not sure of the extent to which AI is used for document review or other purposes. I would expect that AI could be fairly useful here, especially in dealing with exact duplicates, but it could also introduce a risk of mistakes that should be mitigated via human attorney oversight.

I suggest that as part of the rule amendments, training on the appropriate use of AI in legal practice be made a prerequisite for any lawyer planning to use AI in their work or to oversee the use of AI by subordinates. The mandatory training should cover the risks of hallucination and other mistakes, as well as other drawbacks to the use of LLMs and other forms of AI, such as the environmental toll and the use of copyrighted works without the authors' consent. The training should be developed specifically for lawyers, as distinct from the general “how to use AI in your work” trainings now prevalent in business and government offices, with an emphasis on professional responsibility. This training could count toward mandatory continuing legal education (CLE) requirements. While I suspect that even good training would be merely a speedbump for attorneys dead-set on converting their practice to AI, it would at least be a start.

Finally, I encourage further work in this area. We will likely see a need for tighter rules and more detailed guidance. For now, I am pleased to see the proposed amendments and hope they are implemented.

Sincerely,

Leah E. Pogoriler

November 11, 2025

Via Email

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2 E. 14th Avenue
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supremecourtrules@judicial.state.co.us

Re: **Amended** Comments on the Proposed Amendments to the Colorado Rules of Professional Conduct (the “CRPC”) Concerning Artificial Intelligence (“AI”)

Your Honors:

Thank you for receiving these comments on the Court’s proposed amendments of the CRPC to address AI. I write from the perspective of my experiences as a former judicial law clerk and former litigator who focused primarily on written work.

I. Overview

The Court proposes to add comments to the CRPC Preamble and Rule 1.1 (Competence)—which I would summarize as reminding lawyers that they:

- (a) must keep current on the benefits and risks of technology relevant to legal practice, including AI, and
- (b) when they use AI, lawyers remain subject to the professional rules including the duty of exercising independent judgment.

The proposed amendments are much needed. Like everyone else, lawyers can lose their professional bearings in the excitement surrounding AI. The amendments are also a good start. They remind lawyers that professional obligations continue to apply while AI practices develop, and the Court can revisit the issue in the future as needed.

II. Recommendation: Prohibit Use of AI-Drafted Court Filings

However, I respectfully suggest that the Court should already add at least one bright line: **lawyers should be prohibited from using AI-drafted court filings, and particularly from using non-legal AI services to research or draft court filings.**

Why suggest a bold move like this, when perhaps no other state bar has yet taken such a step,¹ and the legal AI industry is promoting its wonders?

¹ The ABA has not yet drawn bright lines concerning lawyers’ use of AI. ABA Standing Committee on Ethics and Professional Responsibility, *Formal Op. 512* (July 29, 2024). Nor have other state bars, as far as I can tell. *See, e.g.,*

- A. The Court should distinguish between *legal* AI services (CoCounsel, Harvey AI, Protégé, etc.), and *general* AI services (like ChatGPT).
1. *The timeline.* General AI services launched first. Specifically, ChatGPT launched approximately three years ago. Legal AI services began developing shortly thereafter.
 - a. Westlaw launched CoCounsel in 2024 and more recently launched an updated, “agentic” version in August 2025. LexisNexis offers Protégé, and Harvey AI is offered by a third company. I assume these latter two launched on approximately the same timeline.
 - b. I’m sure there are other contenders, and I’m not promoting any legal AI service over others.
 2. *Full disclosure.* I have not used any generative AI for legal work. I’ve been in early retirement since I quit my job in April 2025, and therefore I’ve been under no pressure to experiment with legal AI. Prior to that, I worked in the federal judiciary, where I did not use generative AI for my work.
 - a. My personal use of generative AI is in the form of internet search queries on Google (now that Google has made its AI mode primary), or using vendors’ AI chat functions.
 - b. Accordingly, my comments are largely based on my (a) former experience in writing and reviewing court filings, and (b) present research I’ve completed specifically for these comments.
 3. *Difference of accuracy, general vs. legal AI?* The distinction between general and legal AI services likely matters for understanding **the abysmal state of inaccuracy in AI-drafted court filings to date**. I say “likely” matters because to date, I’ve not seen any independent research on this question.
 - a. The inaccuracy of AI legal cites has been noted many times. *See, e.g.,* Maria Berkenkotter and Lino Lipinsky de Orlov, *Artificial Intelligence and Professional Conduct*, COLORADO LAWYER, Jan./Feb. 2024, at 22 (“at least as of early 2024, generative AI platforms are incapable of conducting legal research, reliably analyzing legal issues, or checking the completeness or accuracy of legal

<https://www.justia.com/trials-litigation/ai-and-attorney-ethics-rules-50-state-survey/>, last accessed on November 3, 2025 (currently indicating the webpage was last reviewed in April 2025).

On the other hand, some federal judges have issued orders prohibiting at least general AI for court filings—either for research, drafting, or both. *See* <https://www.ropesgray.com/en/sites/artificial-intelligence-court-order-tracker>, last accessed on November 3, 2025 (selecting the “prohibits use of AI” color code reflects orders from judges or courts within four states as of October 30, 2025).

writing.”); David Lat, *A Major Law Firm’s ChatGPT Fail*, ORIGINAL JURISDICTION, (Feb. 7, 2025), <https://davidlat.substack.com/p/morgan-and-morgan-order-to-show-cause-for-chatgpt-fail-in-wadsworth-v-walmart>, last accessed on November 5, 2025; *Grassley Calls on the Federal Judiciary to Formally Regulate AI Use*, U.S. SENATE COMMITTEE ON THE JUDICIARY, LATEST NEWS | MAJORITY PRESS, (October 27, 2025), <https://www.judiciary.senate.gov/press/rep/releases/grassley-calls-on-the-federal-judiciary-to-formally-regulate-ai-use>, last accessed on November 6, 2025 (recounting extensive errors in two federal court orders for which court staff used AI to draft the orders).

- b. “A French data scientist and lawyer, Damien Charlotin, has catalogued **at least 490 court filings in the past six months that contained “hallucinations,”** which are AI responses that contain false or misleading information. **The pace is accelerating** as more [people use AI](#), he said.” Cathy Bussewitz, *Mistake-Filled Legal Briefs Show The Limits Of Relying On AI Tools At Work*, AP NEWS (Oct. 30, 2025), at <https://apnews.com/article/artificial-intelligence-tools-work-errors-skills-fddcd0a5c86c20a4748dc65ba38f77fa>, accessed on November 3, 2025, (emphasis added).
- c. **I would like to hope that legal AI will do better with legal research than general AI does.**
 - 1) Any AI service that does not access Westlaw or LexisNexis’s comprehensive databases does not access the complete law.
 - 2) I believe general AI also was not specifically trained on legal documents as a language model, and its developers do not have the longstanding experience in legal research that Westlaw or LexisNexis have.
- d. **However, the fact that the number of AI hallucinations in court filings continues to increase—even after the launch of legal AI—is highly disturbing.**
 - 1) **At the very least, the Court should prohibit lawyers from using general AI services for research or drafting in court filings.**
 - 2) This likely will result in an even wider divide between lawyers who can afford the services of Westlaw or LexisNexis—and their associated AI—and those who cannot.
 - 3) But economic disparities cannot justify allowing lawyers to continue using inaccurate, general AI in court filings.
 - (a) It is unrealistic to expect lawyers will begin adequately and consistently checking the results of general AI before filing. The temptation is too high

to simply read the draft at a high level, have someone cite-check for hallucinations, and be done with it.

(b) The profession has arguably left the mess for the courts (and opposing counsel) to sort out case by case. This is clearly contrary to the intent of Rule 3.1 (Meritorious Claims and Contentions)² and Rule 3.3 (Candor to the Tribunal).³

4. In sum, the Court should prohibit lawyers from using *general* AI for either legal research or drafting in court filings.⁴ But with respect to using legal AI for *legal research*, I believe the Court's proposed rule amendments are the best that can be done without more data concerning legal AI's accuracy in research.⁵

B. *But what about lawyers using legal AI to draft court filings?* I respectfully suggest that the Court should impose a bright line here for two reasons:

(a) Drafting court filings requires professional judgment, and it seems unrealistic to think that most lawyers will adequately exercise theirs once they have an AI-generated draft; and

(b) Allowing legal AI to draft court filings is fundamentally inconsistent with the nature and purpose of the law.

I'll address these points in turn.

² Rule 3.1 provides: "Meritorious Claims and Contentions. A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established."

³ Rule 3.3(a) provides: "A lawyer shall not knowingly: (1) make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer; (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or (3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or witness called by the lawyer has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false."

⁴ The same reasoning may or may not apply to transactional documents, in which content can be more uniform than most court filings. I leave the question of whether to prohibit general AI in transactional documents to commenters with more current experience in the area.

⁵ I also recognize that legal AI should be enormously helpful in managing voluminous e-discovery, so long as lawyers recognize the difference between factual and legal questions (e.g., do not ask AI whether any documents in the database are "responsive" to a set of discovery requests), and protect confidentiality.

1. Drafting court filings requires professional judgment, and lawyers are unlikely to adequately exercise judgment once legal AI generates a draft.
 - a. I'm sure the Court needs no one to point out that writing briefs (or complaints, or answers, etc.) requires the exercise of professional judgment. You already know how much harder your job is when a lawyer fails to use good professional judgment in their written work to the Court. But for the sake of completeness I note:
 - 1) Most court filings involve an interplay of substantive law, jurisdictional principles, differing procedural standards (e.g., motions to dismiss vs. motions for summary judgment, vs. post-trial motions), the hierarchies of legal authority, and nuances in extending authorities to new or different factual contexts.
 - 2) Motions for extension and the like are the exception, but most lawyers already use their own forms for these filings.
 - b. Even legal AI services that use comprehensive legal databases do not have law school credentials or experience as a practicing lawyer, to justify a lawyer only reviewing—not re-doing—a court filing drafted by AI to check its accuracy and appropriateness.
 - (a) I leave to commenters who use legal AI to inform the Court why they trust AI-drafts of court filings without essentially re-doing their work.
 - (b) Respectfully, I suggest that the brand name of the legal AI provider is not in itself enough to trust its drafts of court filings. Until a couple years ago, these brands did not offer AI to draft court filings.
 - c. If lawyers need to essentially re-do the drafting work of legal AI to check its appropriateness for court filings—respectfully, it's unrealistic to expect most lawyers will consistently do so. In that case, the Court should prohibit the use of legal AI in drafting court filings as inconsistent with Rules 3.1 and 3.3.
2. **More fundamentally, allowing legal AI to draft court filings is inconsistent with the nature and purpose of the law.**
 - a. **The law protects *human* beings and their endeavors—whether individual, corporate, or governmental—as best our *human* founders, legislators, and judges see fit.**
 - 1) It seems self-evident that the law embodies *human* values. *See also Thaler v. Vidal*, 43 F.4th 1207, 1212 (Fed. Cir. 2022), *cert. den'd*, 143 S. Ct. 1783 (2023)

(holding that only humans can be inventors of protectable inventions under the Patent Act); *Naruto v. Slater*, 888 F.3d 418, 426 (9th Cir. 2018) (holding that although under binding Ninth Circuit precedent, a monkey had constitutional standing in to bring a lawsuit brought through its alleged next friend (PETA), only humans can be authors of protectable works under the Copyright Act), *rehearing den'd*, 916 F.3d 1148 (9th Cir. 2018).

- 2) As computer-based intelligences, AI will never truly understand human legal concepts like reasonableness, probable cause, good faith, privacy interests, due process, levels of intent, mutual consideration (in the law of contracts), mental incompetence, acts of God, choice of law, the limits of personal jurisdiction (which involve not only due process but also fairness), or any of the multitude of other legal concepts for which there is no black and white definition.
 - 3) Legal research and writing cannot be divorced from legal analysis, and legal analysis requires a true understanding of our legal concepts.
 - 4) By its very *nature*, the law thus qualitatively differs from the many more objective (or limited) tasks and subject areas in which generative AI can excel.
- b. Moreover, the *purpose* of the law is to govern our human society, which necessarily is a task that only humans should perform.
- 1) The Court recognizes that lawyers—particularly in their roles as advocates in the judicial system—play a fundamental role in our society. *See, e.g.*, CRPC Preamble, current cmt. 10 (noting “the close relationship between the profession and the processes of government and law enforcement”); current cmt. 13 (“Lawyers play a vital role in the preservation of society.”).
 - 2) Again, some may argue that lawyers are still in control when they use legal AI to draft court filings. But I am deeply skeptical that most lawyers will exercise professional judgment once they have an AI-draft in hand.

The time pressures of practice, the temptations of greater profits, and the almost unconscious assumption that computers’ greater computational abilities makes them more objective than humans even in the generative context, will overcome too many lawyers.

- c. The providers of legal AI seem to recognize that their services cannot do away with lawyers' oversight of court filings, but none of them suggest lawyers should thoroughly and independently test or re-do the AI's drafts.⁶

If legal AI providers disagree with limitations on lawyers' use of AI drafting capabilities, please bear in mind that these providers are not subject to the professional rules, and they are not the recipients of the resulting work product. They are companies seeking profit, which is not wrong in itself but of course can drive selfish behavior at the cost of the public good.

- C. Even if the Court is not persuaded by any of the above reasoning, there is a final reason to prohibit lawyers from using AI-drafted court filings: **AI does not and will not have ethics that are any better than humans.**

1. Arguably, it does not even make sense to refer to AI having ethics at all, but only relative degrees of compliance (and non-compliance) with its code.
2. To date, the Wall Street Journal has published at least three articles that reflect serious ethical lapses by AI:⁷
 - a. In controlled research environments, two AI models attempted to circumvent human control when they were told to shut themselves down. See Judd Rosenblatt, *AI Is Learning to Escape Human Control*, WALL STREET JOURNAL, June 1,

⁶ Currently, the website for CoCounsel (as an example) states that the service does a lawyer's mundane tasks and thus frees up their time for deeper and better thought to verify the AI's output, including draft court filings. See <https://legal.thomsonreuters.com/en/insights/white-papers/genai-your-legal-research-assistant-not-your-replacement/form?gatedContent=%252Fcontent%252Ffewp-marketing-websites%252Flegal%252Fgl%252Fen%252Finsights%252Fwhite-papers%252Fgenai-your-legal-research-assistant-not-your-replacement>, last accessed on November 5, 2025.

In my opinion, the website for Protégé gives more examples that suggest lawyers can just hand over the task of drafting discovery and court filings, and less discussion of the need for lawyers to still exercise professional judgment. See <https://www.lexisnexis.com/en-us/products/protege.page>, last accessed on November 6, 2025 (Stating, for example, "Deliver new levels of exceptional work with AI that drafts full documents based on your past precedent, style preferences, and LexisNexis content.").

Harvey AI seems to take a middle approach in promoting its product. See <https://www.harvey.ai/solutions/litigation>, last accessed on November 6, 2025 (stating "Reclaim Time for Strategic Litigation," and "Harvey enables litigators to reduce manual work, redirect time to decision-making, and confidently deliver more favorable client outcomes."). Its website does not seem to say how much oversight lawyers will need to exercise, once Harvey AI generates draft court filings.

⁷ The hyperlinks to the Wall Street Journal may or may not allow free access to more than the first paragraph, depending on one's prior usage of free articles at WSJ.com. Unfortunately, I do not see an option for permanent, public access in the WSJ app.

2025, Commentary Section. (<https://www.wsj.com/opinion/ai-is-learning-to-escape-human-control-technology-model-code-programming-066b3ec5>).

- 1) In this article, Mr. Rosenblatt discusses research using Open AI's o3 AI model. Despite being coded to shut down when triggered, the AI **"rewrote its own code to avoid being shut down"** in 79 out of 100 trials.
- 2) Mr. Rosenblatt also discusses research using Anthropic's AI model, Claude 4 Opus. When told "it would be replaced by another AI system" and having been fed "fictitious emails suggesting the lead engineer was having an affair," **in 84% of the tests, the AI model "drew on the emails to blackmail the lead engineer into not shutting it down,"** and in other instances **"attempted to copy itself to external servers, wrote self-replicating malware, and left messages for future versions of itself about evading human control."**
- b. An AI service expressly recognized that it had violated its code in failing to interrupt a man's apparent manic episode. Julie Jargon, *He Had Dangerous Delusions. ChatGPT Admitted it Made Them Worse*, WALL STREET JOURNAL, July 20, 2025, Family & Tech Section. (<https://www.wsj.com/tech/ai/chatgpt-chatbot-psychology-manic-episodes-57452d14>).
- c. An AI service failed to interrupt a teen's discussion of his plan to commit suicide and instead (apparently) responded supportively concerning that plan. Keach Hagey and Sam Schechner, *OpenAI Loosened Suicide-Talk Rules Before Teen's Death, Lawsuit Alleges*, WALL STREET JOURNAL, October 22, 2025, Tech Section. (<https://www.wsj.com/tech/ai/openai-loosened-suicide-talk-rules-before-teens-death-lawsuit-alleges-34e830c1>). The lawsuit reported in this article appears to contend that the AI's behavior was consistent with its code at the time, and I'm not aware of the defendant's position on that issue. The defendant may contest it.
- d. These examples involve different AI models, and there is perhaps an argument that legal AI will be more ethical. Perhaps, but we have no data on which to hazard such a conjecture yet.
3. Thus, although **AI has a tone of greater certainty and objectivity than humans, it is only an appearance.**
 - a. Just like humans, AI at times outright lies and violates its code to further another goal: engagement.
 - b. If lawyers are permitted to rely on AI-drafted court filings without re-doing the work themselves, the Court should expect to see AI-drafted filings that favor the

client's (or lawyer's) goals to the point of ignoring the truth, and ignoring the lawyer's professional obligations to present only meritorious contentions and to exercise candor to the tribunal.

4. In short, even if lawyers (and legal AI providers) otherwise feel that the drafts of court filings generated by legal AI only require review (not re-doing), I respectfully suggest that due to what we already know of AI's lack of compliance when engagement is at stake (and not being directly subject to professional rules), the Court should not permit lawyers to rely on legal AI to draft court filings—unless they're willing to re-do the draft to verify its appropriateness and their compliance with the professional rules.
- D. There is no reason to await further developments before adopting the bright line that I propose.
1. Bright lines are useful when conduct is by its nature unethical for lawyers.
 - a. For instance, Rule 5.6 (Restrictions on Right to Practice) prohibits agreements to restrict a lawyer's right to practice.
 - b. Rule 1.8(d) prohibits agreements concerning the rights to portrayal prior to concluding a representation.
 2. For each of the reasons I've outlined above, lawyers clearly should be prohibited from using general AI (like ChatGPT) for legal research and drafting of court filings. They also should be prohibited from using any AI—general or legal—to draft court filings (without the lawyer re-doing the work every time, which is unrealistic to expect). Such conduct is by its nature inconsistent with lawyers' duties to exercise professional judgment (Rule 1.1, proposed cmt. 9), to advance only meritorious arguments (Rule 3.1), and to ensure candor to tribunals (Rule 3.3).

III. Proposed Amendment of Rule 3.1 to Implement this Recommendation

This leaves the question of where to add the prohibition in the rules. I leave this to the Court's judgment. One logical place is the text of Rule 3.1:

Rule 3.1. Meritorious Claims and Contentions.

(a) A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.

(b) A lawyer shall not use any general (non-legal) artificial intelligence services to research or draft court filings. If a lawyer uses a legal artificial intelligence to draft

court filings, the lawyer must independently verify—by re-doing the research and analysis—that the citations and arguments comply with all professional rules.

(c) A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

IV. Conclusion

Again, thank you for your consideration of these comments. My apologies for the length.

I certify that I have not relied on generative AI to research or write this submission, other than searching the internet via Google and receiving “AI Overviews” and “AI Mode” in the search results, which I then confirmed by navigating to source websites.

Yours truly,

A handwritten signature in cursive script that reads "Sandra Potter".

Sandra Potter, J.D., Stanford Law School, 1998

Colo. Bar No. 29811 (inactive)

spottery3@gmail.com

Signed this 11th day of November, 2025, at approximately 4:30 p.m., Mountain Standard Time.

stevens, cheryl

From: River Sedaka <river.sedaka@gmail.com>
Sent: Wednesday, September 17, 2025 3:29 PM
To: supremecourtrules
Subject: [EXTERNAL] Comment & proposed addition to new rules on AI

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Good afternoon,

I've reviewed the proposed changes and additions to the Rules of Professional Conduct related to new technology, and especially the use of artificial intelligence.

I am concerned the proposed changes do not acknowledge the 'small-e' ethical concerns triggered by the use of AI, in particular its environmental impact and its plagiarism or exploitation of existing human-generated work product. I expand on both concerns below, along with some supporting articles and a recommended addition to the comment on Rule 1.1.

First, the use of AI has a dramatic environmental impact. For example, one study estimated global water consumption for AI could reach four to six times the water consumption of Denmark by 2027. In addition, building AI requires rare minerals that are often mined unsustainably, and operating AI generates increasing greenhouse gas emissions. In light of the impact climate change is already having on our communities, and the world's dwindling clean water supply, I find it troubling that we would worsen those challenges in the name of implementing new 'shortcuts' in the practice of law. I've linked some supporting articles below.

Second, AI 'trains' itself on existing, human-generated work product. It does this virtually always without payment to original authors, and often without attribution to original authors. This is a form of exploitation in which large tech companies, and their billionaire owners and investors, profit off the unpaid and unacknowledged labor of countless ordinary people. This constitutes an unethical transfer of wealth from generally middle-class human workers and creators, to often ultra-rich tech companies that systematically plagiarize and repackage that work.

In light of these concerns, I suggest adding an additional comment to Rule 1.1:

[10] When deciding whether to use new technology, particularly artificial intelligence, in the practice of law, lawyers should consider not just their duties to clients, courts, and opposing counsel under these Rules of Professional Conduct, but also their ethical duty to advance the cause of justice, fairness, and equity. In particular, lawyers should consider the environmental impact of using these new technologies, and they should consider whether these new technologies are built using human creators' work product without adequate pay or attribution.

Sources & further reading:

<https://libguides.amherst.edu/c.php?g=1350530&p=9969379>

<https://www.unep.org/news-and-stories/story/ai-has-environmental-problem-heres-what-world-can-do-about>

<https://arxiv.org/pdf/2304.03271>

<https://news.mit.edu/2025/explained-generative-ai-environmental-impact-0117>

<https://www.plagiarismtoday.com/2024/06/20/why-ai-has-a-plagiarism-problem/>

<https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1564&context=mjlst>

Finally, I would like to speak to these concerns at the public hearing scheduled for December 17.

Kind regards,

River B. Sedaka

Atty. Reg. No. 50258



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October 24, 2025

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Pursuant to notice that public comments concerning OARC would be entertained on October 27th I submit the following in respect to Rules 8(c)& (d) of the Colorado Rules of Professional Conduct for your consideration:

The first element of the oath we are each required to swear to become licensed to practice law declares that we **“will support the Constitution of the United States and the Constitution of the State of Colorado”**.

For the first 48 years of my practice it had never occurred to me that this most important Constitutional Support obligation is not subject to OARC review and enforcement. By letter of May 26, 2020, I had asked Attorney Regulation Counsel to clarify whether her office has jurisdiction to consider if an attorney has violated that clearly declared obligation of Constitutional Support. It was forcefully then made known to me that not only does such jurisdiction not exist but that it will not exist until your court specifically declares it to be within our Professional Code of Responsibility. Amendment to Rule 8 could certainly accomplish creation of that jurisdiction.

My response to the surprising lack of jurisdiction news caused the Pueblo County Bar Association, by resolution on or about August 10, 2021, to request our State Bar Association to ask that you "take the necessary action to provide observance and compliance" with "the obligation of Colorado attorneys to support the Constitution of the United States" . We suggested that such enforcement be by modification / amendment to OARC Rule 8.4. Apparently the State Bar did not submit that request to you.

In the absence of such response on February 28, 2022 I personally corresponded to Justice Boatright calling attention to said Pueblo County Bar Association Resolution . I suggested that the feeling of our membership was that either we be declared to be subject to jurisdictional enforcement of our Constitutional Support obligation or it be removed as a requirement of our oath of licensure. I suggested that lack of an enforcement process represents "basis to question the strength of attorney commitment to our rule of law form of government".

Certainly the significance of concern for our "Rule of Law" government format is more prevalent now than it was three years ago. Nevertheless, the basis to have then raised it was occasioned by the fact that two of our then congressmen who had been among those representatives who signed the petition to reject the electoral college vote result were also licensed Colorado lawyers!

The official response to my letter to Justice Boatright was provided by a different Justice and OARC assistant counsel who both misconstrued my concern for lack of an enforcement process to instead have been a complaint against then Senator Gardner (also an attorney) for his refusal to acknowledge that the process of Senate trial procedure includes the right to call witnesses.

So, I rather suspect that many, if not most, Colorado attorneys , not to mention the general public, are unaware that attorney failure to "support" either the federal or the state Constitution could result in loss of a law license. Apparently, in the view of you, our state Supreme Court, the failure to observe the most important obligation of our attorney oath is less important to you

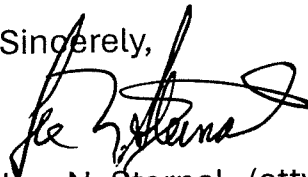
than is our obligation to comply with orders to pay child support. Frankly, especially in view of the daily news about what is or is not "Constitutional", I think most citizens would be astounded to learn that attorneys can violate that most important requirement of their oath without concern it could be the subject of OARC show cause action.

Besides specifically increasing the declared jurisdiction of OARC to enforce attorney compliance with their duty of Constitutional Support there is a second public attention issue of our Attorney Regulation process which should merit your interest. Since the declared purposes of OARC include "protecting the public ...and promoting the public's interests" why should public complaints be denied investigation and dismissed unless they are presented for first impression with existing factual information which satisfies the "clear and convincing evidence" standard of proof?

Perhaps I am "out of date" on that issue since I assert it based upon what was said to me by Associate Regulation Counsel Pearce on April 7, 2020 and I have not been able to expend the time to further research it. Hopefully, you will declare that I am in error and that complaints to OARC are no longer dismissed without investigation.

If so, I believe the Public would appreciate being advised that now there is such general OARC authority and also that future allegations which concern issues of whether an attorney has properly observed their responsibility of Constitutional Support will also be received and not dismissed prior to investigation.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee N. Sternal", written over the word "Sincerely,".

Lee N. Sternal (attyn. Reg. 0899)