

SEP 28 2026

STATE OF WISCONSIN
IN SUPREME COURT

CLERK OF SUPREME COURT
OF WISCONSIN

**In re: PROPOSED CREATION OF SUPREME COURT RULES 76.20, 76.21, 76.22, 76.23,
AND 76.24 RELATING TO EQUAL ACCESS TO ARTIFICIAL INTELLIGENCE IN
LEGAL PROCEEDINGS**

PETITION

The petitioner, Patrick Fagan, respectfully petitions the Supreme Court of Wisconsin to create Supreme Court Rules (SCR) 76.20, 76.21, 76.22, 76.23, and 76.24, relating to the use of artificial intelligence in legal proceedings, as follows:

This petition is directed to the Supreme Court's rule-making authority under WIS. CONST., art. VII, sec. 3(1) and WIS. STAT. § 751.12. The petitioner submits this petition with a Supporting Memorandum and Cover Sheet in support of this request.

The petitioner respectfully requests that the Supreme Court adopt the following new rules:

SECTION 1: SCR 76.20 is created to read:

76.20 Equal access to artificial intelligence tools for all litigants.

(1) Right to use AI tools. All litigants, including self-represented litigants, shall have the right to use artificial intelligence tools in the research, drafting, analysis, and preparation of any pleading, motion, brief, memorandum, or other document filed in any court in the State of Wisconsin. No court, judge, or administrative authority shall prohibit, restrict, or penalize the use of AI tools by any litigant who complies with the disclosure and verification requirements of SCR 76.22.

(2) Prohibition on inconsistent standards. No court or judge shall adopt any standing order, local rule, or policy that prohibits or restricts the use of AI tools by litigants while permitting the use of AI tools by attorneys, judges, or court personnel. Any existing standing order, local rule, or policy that creates such an inconsistency is void and unenforceable upon the effective date of these rules.

(3) Elimination of two-tiered access. No court shall maintain or enforce a policy that results in a two-tiered system of justice in which legal professionals and judges are permitted to use AI tools for research, analysis, and drafting, while self-represented litigants are prohibited from using the same or equivalent AI tools for the same purposes.

(4) Court obligation to inform self-represented litigants. Every court shall provide written notice to all self-represented litigants at the time of filing of their first document, informing them of: (a) their right to use AI tools in preparing their filings under this rule; (b) the disclosure and

verification requirements of SCR 76.22; (c) the availability of publicly accessible AI tools; and (d) the penalties for submitting false or fabricated information regardless of whether AI was used.

(5) No filing fee for AI usage. No court shall charge any additional filing fee, surcharge, or cost associated with the use of AI tools in the preparation of a filing.

(6) Scope of right. The right to use AI tools under this section includes, but is not limited to: (a) legal research using AI-powered platforms; (b) drafting and organizing pleadings, motions, and briefs; (c) analyzing case law, statutes, and regulations; (d) summarizing evidence and legal documents; (e) identifying relevant legal authorities and precedents; (f) generating citations, subject to the verification requirements of SCR 76.22; (g) reviewing and editing legal arguments; (h) preparing exhibit lists, witness outlines, and other litigation materials.

(7) Limitation. This section does not authorize the use of AI tools to: (a) fabricate evidence, testimony, or legal authority; (b) generate false or misleading content; (c) violate any existing rule of professional conduct applicable to attorneys; (d) circumvent any applicable statute of limitations, filing deadline, or procedural rule; (e) file documents without the review and authorization of the submitting party.

(8) Definitions. For purposes of this rule and SCR 76.21 through 76.24:

- (a) “Artificial intelligence” or “AI” means a machine-based system that makes predictions, recommendations, or decisions, including generative AI systems, machine learning models, natural language processing systems, and predictive analytics systems used for legal research, analysis, or document preparation.
- (b) “AI tool” means any software, platform, application, or service that incorporates artificial intelligence technology, including but not limited to Westlaw AI features, LexisNexis AI features, ChatGPT, Claude, Google Gemini, Microsoft Copilot, CoCounsel, Casetext, or any successor or equivalent technology.
- (c) “AI-assisted filing” means any pleading, motion, brief, memorandum, exhibit, or other document submitted to a court in which artificial intelligence was used in any capacity during the drafting, research, analysis, or preparation of such document.
- (d) “Self-represented litigant” means a litigant who represents themselves without legal counsel.

SECTION 2: SCR 76.21 is created to read:

76.21 Prohibition on discrimination against AI-assisted filings.

(1) General prohibition. No court, judge, court commissioner, clerk, or other judicial officer shall:

- (a) dismiss, strike, or refuse to file any pleading, motion, brief, or other document solely or primarily because artificial intelligence was used in its preparation, provided that the filing party has complied with the disclosure and verification requirements of SCR 76.22;
- (b) impose any sanction, penalty, adverse inference, or negative ruling against any litigant solely or primarily because artificial intelligence was used in the preparation of a filing, provided that the filing party has complied with the disclosure and verification requirements of SCR 76.22;
- (c) apply a heightened standard of review, additional scrutiny, or more burdensome procedural requirements to any filing because it was identified as AI-assisted;
- (d) deny any motion, request, or application based in whole or in part on the fact that the submitting party used AI tools in its preparation, where the filing is otherwise compliant with all applicable rules and standards;
- (e) refer to a litigant's use of AI tools in any written or oral ruling, order, or opinion in a manner that disparages, prejudices, or otherwise negatively characterizes such use, unless the filing contains false, fabricated, or misleading content that was not corrected prior to submission.

(2) Standard for evaluation. All AI-assisted filings shall be evaluated under the same substantive and procedural standards as non-AI-assisted filings. The merits of any filing shall be assessed based on the legal sufficiency of the arguments presented, the accuracy of the authorities cited, and compliance with applicable procedural rules — not on the method or tool used in its preparation.

(3) Remedies for violations. Any litigant who has been subjected to discrimination in violation of this rule may: (a) file a motion for reconsideration of any adverse ruling based on such discrimination; (b) appeal any adverse ruling that was based in whole or in part on discriminatory treatment of an AI-assisted filing; (c) seek any other remedy available under applicable law, including but not limited to mandamus, writ of prohibition, or petition for supervisory writ.

(4) Presumption of good faith. Where a litigant has complied with the disclosure and verification requirements of SCR 76.22, there shall be a rebuttable presumption that the use of AI in the preparation of the filing was made in good faith. The burden of overcoming this presumption shall be on the party asserting that the AI usage was improper.

(5) Relation to sanctions for false content. Nothing in this rule shall be construed to prohibit a court from imposing sanctions for the submission of false, fabricated, or misleading content in any filing, regardless of whether AI was used. However, sanctions shall be imposed based on the content of the filing, not on the use of AI per se. A court may not impose sanctions on a litigant for the use of AI where the content of the filing is accurate, truthful, and compliant with all applicable rules.

SECTION 3: SCR 76.22 is created to read:

76.22 Transparency and disclosure requirements for AI-assisted filings.

(1) Litigant disclosure requirement. Any litigant who uses artificial intelligence in the preparation of a filing shall include a written disclosure with such filing that identifies: (a) the AI tool(s) used; (b) the general nature of the AI assistance (e.g., legal research, drafting, editing, citation verification, document summarization); (c) a statement that the litigant has reviewed the filing and takes full responsibility for its content, including the accuracy of all factual statements, legal arguments, and citations.

(2) Form of disclosure. The disclosure shall be included at the end of the filing, below the signature line, in substantially the following form:

AI Use Disclosure: The undersigned certifies that artificial intelligence was used in the preparation of this filing. The AI tool(s) used: [identify tool(s)]. The nature of AI assistance: [describe]. The undersigned has reviewed this filing in its entirety and takes full responsibility for its content, including the accuracy of all factual statements, legal arguments, and citations.

(3) Verification of citations. Any litigant who uses AI to generate or identify legal citations shall verify the existence and accuracy of all cited authorities before submitting the filing. The failure to verify citations that are later found to be fabricated or inaccurate may result in sanctions under applicable court rules, regardless of whether AI was used. The mere fact that AI was used to identify or generate citations shall not, by itself, be a basis for sanctions or adverse treatment.

(4) No disclosure required for non-AI filings. A litigant who does not use AI in the preparation of a filing is not required to make any disclosure under this rule.

(5) Good faith compliance. A litigant who makes a good-faith disclosure under this rule and who verifies the content of their filing shall not be subject to any penalty, sanction, or adverse inference solely on the basis of the disclosure. Substantial compliance with the disclosure format described in subsection (2) shall be sufficient.

(6) No waiver of privilege. The disclosure required under this rule shall not constitute a waiver of any applicable privilege, including attorney-client privilege or work product protection. The disclosure shall not require the litigant to reveal confidential legal strategy, attorney work product, or any information protected by privilege.

(7) Attorneys subject to same requirements. All requirements of this rule shall apply equally to attorneys licensed to practice law in the State of Wisconsin. No attorney shall be exempt from the disclosure requirements of this rule.

SECTION 4: SCR 76.23 is created to read:

76.23 Judicial disclosure of artificial intelligence usage.

(1) Disclosure of judicial AI use. Any judge who uses artificial intelligence tools in the research, analysis, or preparation of any ruling, order, or opinion shall disclose such use to the parties in the written ruling, order, or opinion, or on the record if the ruling is made orally. The disclosure shall identify: (a) the AI tool(s) used; (b) the nature of the AI assistance (e.g., legal research, case summarization, precedent identification, draft preparation); (c) the extent to which the AI analysis was considered in reaching the decision.

(2) Rationale. Transparency in judicial AI usage is essential to maintaining public confidence in the judicial system. If judges are permitted to use AI tools in their decision-making process, litigants have a right to know when and how such tools were used, so that they may assess whether the AI usage may have influenced the outcome.

(3) No secret AI usage. No judge shall use any AI tool in the research, analysis, or preparation of any ruling, order, or opinion without disclosing such use as required by this rule. The use of AI tools by judges without disclosure shall constitute a violation of this rule and may be grounds for a motion to reconsider any ruling so affected.

(4) Recusal. If a judge uses an AI system that was developed, maintained, or influenced by a party to the case, or by an entity with a financial or other interest in the outcome of the case, the judge shall recuse themselves from the case or shall not use such AI system in connection with the case.

SECTION 5: SCR 76.24 is created to read:

76.24 Relationship to existing duties of candor and accuracy.

(1) Preservation of existing obligations. Nothing in SCR 76.20 through 76.23 shall be construed to modify any existing rule regarding the accuracy of filings, the duty of candor to the court, or the obligation to verify all citations and legal authorities. All litigants remain responsible for the content of their filings, regardless of whether AI was used in their preparation.

(2) No exemption from sanctions. Nothing in SCR 76.20 through 76.23 shall be construed to exempt any litigant or attorney from sanctions for submitting false, fabricated, or misleading content, regardless of whether AI was used to produce such content.

(3) No effect on professional responsibility. Nothing in SCR 76.20 through 76.23 shall be construed to modify any rule of professional conduct governing attorneys licensed to practice law in the State of Wisconsin.

(4) No effect on constitutional rights. Nothing in SCR 76.20 through 76.23 shall be construed to eliminate or reduce any constitutional right of any litigant, including the right to due process, equal protection, access to the courts, or the right to a human decision-maker.

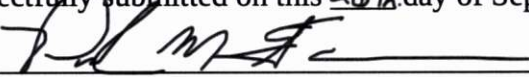
COMMENT TO SCR 76.20–76.24

These rules address the growing disparity between the use of artificial intelligence tools by attorneys and judges on one hand, and the prohibition or penalization of the same tools when used by self-represented litigants on the other. The rules establish a framework that guarantees equal access, prohibits discrimination, requires transparency from all parties, and preserves existing obligations of accuracy and candor.

The rules are not intended to encourage or discourage the use of AI tools, but rather to ensure that when AI is used, it is used on equal terms by all participants in the legal system, with appropriate disclosure and accountability.

These rules do not establish a pilot program, oversight committee, or other administrative infrastructure. Such mechanisms, if deemed necessary, may be addressed through separate legislation or subsequent rule petitions.

Respectfully submitted on this ~~26th~~ day of September, 2026.



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