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NORTH CAROLINA
CABARRUS COUNTY

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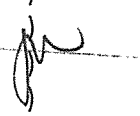
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2024 JUL 23 P 3:26

IN RE:

CABARRUS CO., C.S.C.

GENERATIVE ARTIFICIAL INTELLIGENCE AND
ITS USE IN THE SUPERIOR COURT OF
CABARRUS COUNTY (DISTRICT 25).



ADMINISTRATIVE ORDER¹

The undersigned Senior Resident Superior Court Judge for Judicial District 25 (Cabarrus County) enters this administrative order to guide the use of generative artificial Intelligence (AI) in the Superior Court in District 25:

1. Technological Competence. "A lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with the technology relevant to the lawyer's practice." Comment 8, Rule 1.1 of the Revised Rules of Professional Responsibility. The landscape of generative AI is changing rapidly. Whether a lawyer uses AI tools or not, generative AI is increasingly used by lawyers and others in society. Understanding its uses, benefits, and challenges will soon be essential to the practice of law if it is not already so.
2. Permissible use of Generative AI. Attorneys and *pro se* parties are permitted to use generative AI tools for legal research, drafting documents, and assisting in the discovery process provided that they do so consistent with the Rules of Civil Procedure and their professional responsibilities. Those using generative AI should be mindful of:
 - a. Duty under Rule 11 of the Rules of Civil Procedure. Attorneys and *pro se* parties using generative AI tools must confirm the accuracy and reliability of the work produced by these tools. They are ultimately responsible for everything submitted in a case whether assisted by generative AI or not. Attorneys and *pro se* parties must understand that these tools hallucinate and can produce inaccurate information. The Opinion and Order on Sanctions in *Mata v. Avianca, Inc.* should be a cautionary tale for lawyers using AI tools. [chatGPT-sanctions-ruling.pdf \(courthousenews.com\)](#)
 - b. Duty under Rule 26 of the Rules of Civil Procedure. Attorneys and *pro se* parties may employ generative AI to assist in the discovery process provided that they do so consistent with Rule 26(g) of the Rules of Civil Procedure. For a lawyer or a *pro se* party to make a "reasonable inquiry" into the information that they submit, he or she must be familiar with the AI tools that they use in crafting or responding to a discovery request. They must also understand that they are ultimately responsible for their submission. In deciding whether to use an AI tool, counsel should be mindful of their obligation to protect confidential information consistent with Rule 1.6 of the Revised Rules of Professional Responsibility. Information submitted to an

¹ The Court invites recommendations for how to improve this order. Those recommendations can be sent to martin.b.mcgee@nccourts.org. The Court used AI tools to prepare this order.

AI tool may not be held confidentially and may be used as training data for the AI tool.

3. Use of Generative AI as Evidence. Evidence developed using generative AI may or may not be admissible as evidence in a particular case depending upon the circumstances. If a party uses generative AI or suspects it is used by others in the creation of evidence, then this must be disclosed promptly before trial. Absent extraordinary circumstances, how issues of generative AI evidence may or may not be used in a particular case should be addressed in a pretrial order if applicable. This requirement is to avoid surprise at trial or delay.
4. Duty Regarding Authenticity of Evidence. Attorneys and *pro se* parties must use their best efforts to verify the authenticity of images, videos, or audio evidence obtained by them if there is a reasonable basis to question the evidence's authenticity.
5. Challenges to Evidence as Deepfakes. Absent extraordinary circumstances, reasonable concerns that evidence may be a deepfake must be raised pretrial as provided in Paragraph 3 above. Attorneys and *pro se* parties shall refrain from making challenges to evidence as deepfakes unless there is a good faith basis for doing so after reasonable inquiry. Likewise, attorneys and *pro se* parties shall not make arguments to the jury regarding whether evidence is a deepfake unless the same is supported by the evidence.
6. Definitions.
 - a. Generative AI. Generative AI is a type of artificial intelligence that can create new content such as text, images, or audio, based on training data. Examples of generative AI tools include ChatGPT, Harvey.AI, Gemini, Mid-Journey, and DALL-E.
 - b. Deepfake. A Deepfake is a type of synthetic media where AI creates fake images, videos, and audio recordings that can be highly realistic. It can be extremely difficult to detect a deepfake and it is simple to produce them.
7. Resources.
 - a. Maura R. Grossman et al., *The GPTJudge: Justice in a Generative AI World*, 23 Duke L. & Tech. Rev. 1 (2023).
 - b. Taurus Myhand, *Once the Jury Sees It, the Jury Can't Unsee It: The Challenge Trial Judges Face When Authenticating Video Evidence in the Age of Deepfakes*, 29 Widener L. Rev. 171 (2023).
 - c. Paul W. Grimm et al., *Artificial Intelligence as Evidence*, 19 Nw. J. Tech. & Intell. Prop. 9 (2021).

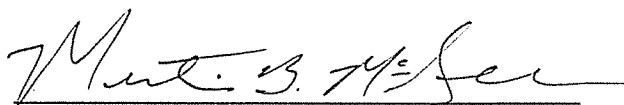
8. Purpose. This order seeks to ensure the responsible and transparent use of generative AI in legal proceedings in the Superior Court of Judicial District 25, safeguard the integrity of the judicial process, and maintain high standards of professional conduct.

The Court encourages recommendations for improvement of this order as it is presently drafted and to address future developments as they arise.

9. Sanctions. Sanctions for violation of this order include those permitted pursuant to Rule 11 and Rule 28 of the North Carolina Rules of Civil Procedure, the Revised Rules of Professional Conduct, and the Court's inherent authority. Additionally, failure to timely provide notice and address generative AI evidence as provided herein may result in objections to evidence being summarily granted or denied.

IT IS SO ORDERED.

This is the 23rd day of July 2024.



Martin B. McGee
Senior Resident Superior Court Judge