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Superior Court Decision Serves as Reminder of Pitfalls of Using Generative AI

In *Dastou v. Holmes*, the Massachusetts Superior Court (Goldenberg, J.) recently sanctioned an attorney for misuse of generative artificial intelligence (“AI”) in court filings. Upon review of motions in limine and proposed jury instructions filed by defendant’s counsel, the court identified issues including: citations to cases that do not exist; a quotation attributed to a real case that did not exist in the opinion; misstatements about the holding of real cases; and introduction of a fictitious legal concept in jury instructions. The attorney admitted to using generative AI in preparing her filings and admitted being

confused by the technology. As a sanction, the court ordered the attorney to complete an MCLE online program regarding drafting jury instructions. The court also enjoined the attorney from billing her client for time spent preparing the materials that had errors.

The court explained that attorneys have a duty to submit filings that accurately state the law and that they violate their professional obligations when they submit briefs that contain hallucinations and other AI-induced errors. The court stated that any document filed with the court must be thoroughly reviewed to ensure accuracy, and attorneys may not blame errors in their work on AI technology. The court stated, “[o]verreliance on AI risks deskilling legal practitioners, especially attorneys who need to develop critical thinking and legal writing skills. Given these dangers, any use of generative AI in legal work must be approached with caution and careful supervision.”

This case is an important reminder regarding the necessity of carefully reviewing any legal work product generated or edited using AI tools.

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