

First Steps For Companies Facing AI-Assisted Pro Se Suits

By **Andrew Hamelsky and Maxx Johnson** (September 28, 2026)

Generative artificial intelligence is changing the starting point for many self-represented federal litigants. A person who could once describe a dispute only in narrative terms can now produce a complaint, demand, motion or discovery request that uses the vocabulary and structure of litigation.

That development does not eliminate the substantive and procedural limits that govern federal cases. It can, however, change the volume, form and persistence of filings that corporate defendants must assess.[1]

On Aug. 27, for instance, an order of the U.S. District Court for the Southern District of New York addressed a discovery dispute between Amazon.com Services LLC and a self-represented employment plaintiff whose submission cited two authorities that did not exist.

In *Ashmeade v. Amazon*, the court concluded that the hallucinated cases were the result of the plaintiff's acknowledged use of generative AI, and warned that future documents containing inaccurate citations or hallucinated authorities could result in sanctions.[2]



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Two months prior, in a New York state court decision, *Assini v. Hayward*, the Nassau County Supreme Court on June 4 quashed subpoenas directed to OpenAI seeking a self-represented defendant's prompts, uploads and outputs associated with litigation materials.[3] The court concluded that the requested materials could qualify as litigation-preparation work product and that the subpoena was improper on the record before it.

Although *Assini* applies New York state discovery law, the dispute illustrates an emerging operational issue for corporate defendants.

For in-house and outside counsel, the important question is not whether every pro se filing assisted by generative AI tools will be more viable. It is whether a filing that appears polished at first read has been grounded in a cognizable claim, relevant facts and the procedural prerequisites for relief.

The answer will frequently be no. But responding efficiently requires a disciplined intake process and early attention to the court's rules and the assigned judge's practices.

Reported Growth in Self-Representation

Ashmeade and *Assini* surface among a wider ocean of reported growth in pro se litigation assisted by generative AI tools.

Research published in May by Anand Shah of the Massachusetts Institute of Technology and Joshua Levy of the University of Southern California found increased pro se federal filings after the public release of ChatGPT.[4] And a June paper by Or Cohen-Sasson, director of the Miami Law & AI Lab at the University of Miami School of Law, reports a

broadly comparable trend.[5]

Levy and Shah reported an annual average of approximately 23,000 pro se federal lawsuits between fiscal years 2005 and 2022, followed by 27,370 filings in fiscal year 2023, 31,478 in fiscal year 2024, and 41,490 in fiscal year 2025. They further report that nonprisoner self-represented litigants accounted for about 11% of federal civil filings from fiscal years 2005 through 2022, compared with 14.5% in fiscal year 2024 and 16.8% in fiscal year 2025.

Cohen-Sasson found a similar shift: Nonprisoner pro se litigation represented 11.3% of federal civil filings before 2022 and rose to 22.3% by the final quarter of fiscal year 2025. That is a rise of roughly 11 percentage points — and nearly double the earlier share.

The studies also report signs of increased generative AI use in the text of filings. Levy and Shah found that in one random sample of 1,600 federal civil complaints — 200 per year from 2019 through early 2026 — the estimated share containing AI-generated text rose from 0.1% between 2019 and 2022 to 3.5% in 2024, 10.5% in 2025 and 18% in early 2026.

These figures should be treated as reported research estimates, and they do not establish that the use of generative AI alone caused the filing increase. Economic conditions, consumer debt, defaults and claim-specific developments can also affect litigation rates.

The operational point for defendants is narrower: An increase of even several percentage points in self-represented cases can produce a meaningful rise in matters requiring triage, preservation review, responsive-pleading analysis and docket management. The effect is unlikely to be uniform across districts, industries or claim types.

Better Drafts, Not Necessarily Better Claims

The available research also does not show that generative AI assistance has materially improved the overall success rate of self-represented litigants.

Levy and Shah reported that the disposition profile of pro se federal cases remained broadly stable: Dismissals increased from approximately 60% before widespread generative AI use to 63% afterward, settlements moved from roughly 20% to 23%, and self-represented plaintiffs continued to prevail in fewer than 1% of cases.

Further, Cohen-Sasson found less favorable outcomes for complaints flagged as likely to contain AI-generated text. It showed that 61.1% of these flagged matters were dismissed, compared with 53.6% of unflagged matters. It also reported that 47.8% of cases flagged for generative AI ended before the defendant answered, versus 39% for unflagged complaints, and that plaintiffs prevailed in 6.4% of flagged cases compared with 8.4% of unflagged cases.

Those comparisons are descriptive — not proof that generative AI causes a worse result. Cases that use generative AI may differ in ways the analyses cannot fully capture, including claim type, litigant resources and severity of threshold defects.

Still, the findings support a useful corporate defense distinction: The principal exposure may be volume and process cost, rather than a corresponding rise in the merits strength of individual claims. Counsel should not equate a longer or more formal complaint with a well-pled one.

A Focused First-Response Framework

1. Conduct a threshold review at intake.

Before engaging broadly on the merits, counsel should assess jurisdiction, venue, service, standing, timeliness, exhaustion, the identity of the proper parties, and any preclusion, arbitration or contractual forum issues. Counsel should also compare the causes of action named in the pleading with the facts alleged.

The review should go beyond a checklist. A complaint may cite a federal statute but allege no conduct covered by it, seek relief from an entity unconnected to the alleged events, omit a required administrative charge or fail to allege facts establishing a necessary element.

Identifying those issues at intake can focus a motion to dismiss, avoid unnecessary merits discovery, and provide a clearer view of the business's preservation and response obligations.

2. Verify the authorities and quotations.

Every cited authority, statutory provision and quotation should be checked against an authoritative source. Verification is particularly important when a filing advances an unfamiliar rule, cites an unusual reporter or attributes a sweeping proposition to a case.

The obligation to make a reasonable inquiry is not limited to represented parties. Under Rule 11 of the Federal Rules of Civil Procedure, a self-represented person who signs, files, submits or later advocates a court paper certifies that the legal and factual contentions satisfy the rule's standards.

The rule also supplies procedures that matter to a prospective movant: A party-initiated sanctions motion must be separate, must identify the challenged conduct, and ordinarily may not be filed if the paper is withdrawn or corrected within 21 days after service.

In *Maxwell v. Michael*, the U.S. District Court for the Southern District of Indiana on May 26 imposed a tailored Rule 11 sanction on a self-represented plaintiff after finding that his submissions included nonexistent authorities and quotations.^[6] The decision underscores that courts may address serious misrepresentations while also considering the individual circumstances and the deterrent — not compensatory — purpose of Rule 11.

Sanctions should therefore be considered carefully, not reflexively. Where the problem is a pleading defect, an ordinary motion to dismiss may be the more direct and proportionate vehicle. Where a filing contains repeated or materially false citations, counsel should preserve a precise record, consult applicable local practices, and evaluate the available remedies in light of Rule 11's notice and safe-harbor requirements.

3. Seek proportionate case management when needed.

If a case proceeds, defendants should use the court's ordinary case-management mechanisms to keep the matter focused. Depending on the record and the court's procedures, that may include a premotion conference, a targeted scheduling proposal, a protective order, sequencing of discovery or a request to address repetitive submissions through a defined process.

Discovery should remain tied to the issues that survived the pleadings. Rule 26 of the Federal Rules of Civil Procedure limits discovery to "nonprivileged matter that is relevant to [a] claim or defense and proportional to the needs of the case." Targeted requests can help distinguish firsthand evidence from allegations that merely repeat legal conclusions or unverified assertions.

The AI-related discovery issue is not limited to whether a party used an AI tool to draft a pleading, but also whether an opponent may obtain the party's prompts, uploaded documents, outputs, account data or other platform records through ordinary discovery or a third-party subpoena.

Federal courts have reached fact-sensitive results rather than adopting a categorical rule. On Feb. 10, in *Warner v. Gilbarco Inc.*, the U.S. District Court for the Eastern District of Michigan declined to compel a pro se plaintiff's AI-related materials, reasoning that the request sought protected litigation thinking and that use of an AI tool did not itself establish a work-product waiver.[7]

In *Morgan v. V2X, Inc.*, the U.S. District Court for the District of Colorado held on March 30 that Rule 26(b)(3) could protect a pro se litigant's AI-assisted preparation while requiring disclosure of the AI platform's identity where confidential information had been processed.[8]

The court also imposed an AI-specific protective order provision: Confidential information could not be placed into an AI tool unless the provider was contractually barred from using inputs for training or improvement, barred from disclosing the inputs except as necessary to provide the service, and required to provide deletion capability.

For federal subpoenas, Rule 45 of the Federal Rules of Civil Procedure supplies the procedural framework. The rule requires a court to quash or modify a subpoena that: (1) seeks privileged or otherwise protected matter when no waiver or exception applies, or (2) imposes an undue burden. A subpoena recipient generally has 14 days after service — or until the compliance date, if earlier — to serve written objections.

Those protections make a sweeping request for an entire AI account vulnerable where it lacks a tailored connection to nonprivileged evidence, reaches protected litigation preparation, or would impose a substantial burden on the AI platform or the affected user.

4. Align the legal response with the business response.

Legal departments should have an intake path that identifies the litigation team, business owners, records custodians, and any regulatory or employment functions implicated by the allegations. Early coordination reduces the risk that a seemingly weak complaint produces avoidable delay, inconsistent communications or an incomplete preservation assessment.

For companies with high consumer, employee or public interaction, recurring claims should be tracked by subject matter, venue, disposition and resource burden. The relevant metric is not only adverse outcomes. It is also the cost of responding to claims that demand attention even when they are dismissed at an early stage.

Takeaway

Pro se litigation assisted by generative AI tools should be treated as an evolving case management issue, not as a reason to abandon ordinary litigation discipline. The most

effective response remains familiar: Identify threshold defects promptly, verify what is cited, preserve a clear record, use proportionate motion and discovery practice, and tailor any request for judicial intervention to the conduct at issue.

Companies that maintain a consistent early assessment process will be better positioned to control costs while responding fairly and effectively to self-represented litigants' claims.

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[1] Gen AI tools can be especially useful to people trying to translate a real-world dispute into the language of a statutory claim. Corporate defendants may therefore see this dynamic most clearly in matters involving employment, consumer finance, credit reporting, housing, privacy, benefits, and other heavily regulated interactions. That does not mean an increase in pro se filings is inevitable in every court or every industry. Experience is likely to vary by location, claim type, availability of administrative processes, and the litigant's access to legal assistance. Companies should avoid treating broad predictions as a substitute for monitoring their own dockets and risk indicators.

[2] *Ashmeade v. Amazon.com Servs. LLC*, No. 23-cv-04331-KMK-VR (S.D.N.Y. Aug. 27, 2026).

[3] *Assini v. Hayward*, 2026 N.Y. slip op. 26086 (Sup. Ct. Nassau Cnty. June 4, 2026).

[4] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6766859.

[5] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6864398.

[6] *Maxwell v. Michael*, No. 1:24-cv-01365-JRS-TAB (S.D. Ind. May 26, 2026).

[7] *Warner v. Gilbarco, Inc.*, 820 F. Supp. 3d 629, 636–37 (E.D. Mich. 2026).

[8] *Morgan v. V2X, Inc.*, No. 25-cv-01991-SKC-MDB (D. Colo. Mar. 30, 2026).