Webinar

Improve Your Legal Judgment

by Leveraging Technology for Legal Research and Writing

By WordRake

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Today's Webinar Goals

- learn to build the elusive, but necessary, skill of "judgment" by using technology
- learn how technology can reveal insights and reinforce learnings for professional success and client satisfaction
- how to assess, understand, and plan the writing assignment
- demystify the document creation process and get the big picture
- how to use technology to work effectively and efficiently
- discover and evaluate the right tools for your legal research and writing
- resources and examples to use right away

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Your Presenter for Today's Webinar

Ivy B. Grey, JD, LLM
ivyg@wordrake.com

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Your Presenter for Today's Webinar

- Vice President of Strategy for WordRake
- Creator of American Legal Style for PerfectIt
- Practiced bankruptcy law for 10 years
- Legal tech entrepreneur and blogger
- Fastcase 50 Honoree, 2018
- Women of Legal Tech, ABA LTRC, 2018
- Influential Women in Legal Tech, ILTA, 2020

Ivy B. Grey, JD, LLM

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Long-Term Success Comes from

Professional Judgment

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What Is Judgment?

Judgment is "the ability to combine personal qualities with relevant knowledge and experience to form opinions and make decisions."

Good judgment "requires you to ***turn knowledge into understanding***."

The Elements of Good Judgment by Sir Andrew Likierman (2020)

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What Is Judgment?

Judgment is "the ability to combine personal qualities with relevant knowledge and experience to form opinions and make decisions."

6 Elements of Judgment:

- learning
- trust
- experience
- detachment
- options
- delivery

The Elements of Good Judgment by Sir Andrew Likierman (2020)

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What Is Judgment?

- The ability to understand the client's needs and create a plan to meet them
- A sense for how much work is appropriate for the value and impact of the client matter
- The ability to continuously evaluate and align client goals and firm goals
- A dedication to balancing effectiveness and efficiency in client work
- The ability to learn from past work and apply the lessons to future work for the benefit of the firm and other clients
- A deep and continuously growing knowledge base that can be leveraged individually, as a team, and across matters
- An awareness of when to seek help from colleagues and technology

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How Does Judgment Relate to Trust?

3 Actions that Lose Trust:
- inconsistent work quality
- resistance to feedback
- failure to apply lessons to future work

How Those Actions Translate:
- lack of personal accountability
- unwillingness to learn

Assessment for Future:
- poor judgment
- untrustworthy or unreliable
- not worth investing in coaching

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How Does Judgment Relate to Trust?

In *The Speed of Trust*, CEO Stephen M.R. Covey, argues that there's a "low-trust tax" and a "high-trust dividend" based on trust.

High-trust companies outperform by 25% and lead in revenue growth.

- Trust affects two measurable outcomes: *speed and cost*
- High trust means low cost and high speed
- Low trust means low speed and high cost

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Importance of Trust in Law Firms

Trust is key to success—and it's built through writing and research assignments

- Trust is hard to earn, but easy to lose.
- Trust earns the opportunity to try again.
- Mistake response defines whether you're *trustworthy* and *teachable*.

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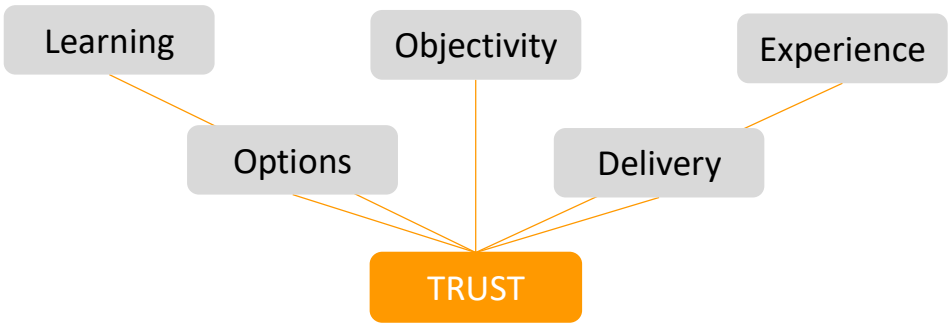
How Can Technology Build Your Judgment?

If you're willing to improve, then technology can help improve 5 of 6 elements of judgment, which will lead to trust:



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How Can Technology Build Your Judgment?

- One of law's biggest problems is failure to gather (and inability to use) data effectively
- Technology can enhance (or make up for) lack of proprietary data or knowledge within your firm
  - technology connects data-derived knowledge with users
  - technology allows individuals to use expert advice in their own practice
  - technology can provide quick, consistent feedback to help users learn, despite irregular and unpredictable situations
- Even a small amount of data can improve your judgment and outcomes
  - Expert writing advice within Microsoft Word
  - Insight-driven legal research and analysis within Microsoft Word
  - Practical guidance for legal research, writing, and document creation

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Small Data Can Lead to Big Improvements

"Mini lessons about small data—that you don't need a lot of data to be more successful… [and] that you don't necessarily have to do the analysis yourself."

Even Small Data Can Improve Your Organization's Judgment by Thomas H. Davenport (2012)

Large Firm Doc Banks

- 58% start with sample forms
- 50% have proprietary precedent documents created internally by people they trust

Small Firm Doc Banks

- 86% start with sample forms
- 56% are <u>not</u> proprietary or internally created documents

Source: 2013 ALL-SIS Task Force Report

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How Tech Ensures Time Invested Matches Value Received

- Technology helps you to focus on the right facts and precedent faster
- Technology helps you to focus deeply on strategy, storytelling, and selling your solution/story
- Technology helps you to create better documents that meet your client's needs by shrinking the well-known, repeatable aspects of proofreading and editing and freeing you to do more valuable writing and critical thinking that only a smart lawyer could do
- Technology helps you build that intangible skill of "judgment," which determines whether you are successful, profitable, and promotable

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What Indicates Poor Judgment and Low Trust?

- Low utilization and realization rates
- Few invitations to work with same partners
- Not meeting hourly targets or extraordinarily high hours compared to peers
- Limited work opportunities
- Little follow-on work for same or similar matters
- Described as "slow" or "sloppy" or "resistant"

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Why We Fail to
Recognize Poor Judgment

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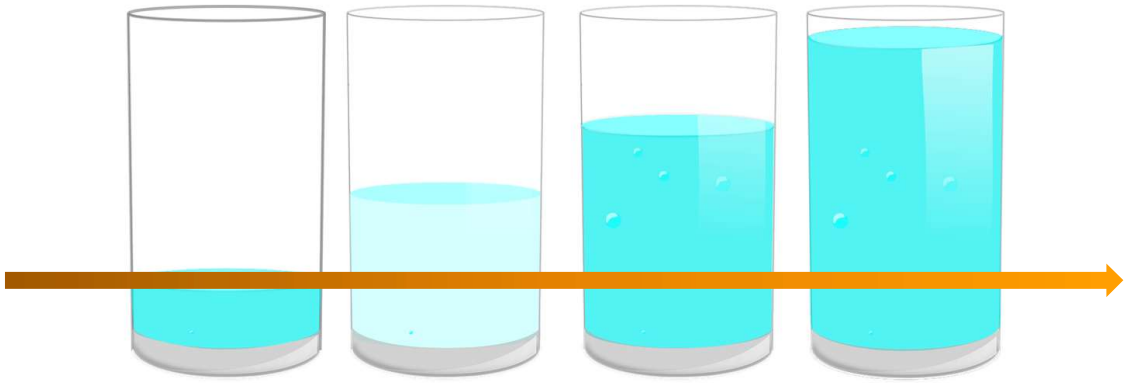

Expectation of Linear Results:

More effort ➡ more value ➡ better outcomes ➡ more profit

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1
2
Assumption:
When you insert legal knowledge,
the outcome will be profitable work.
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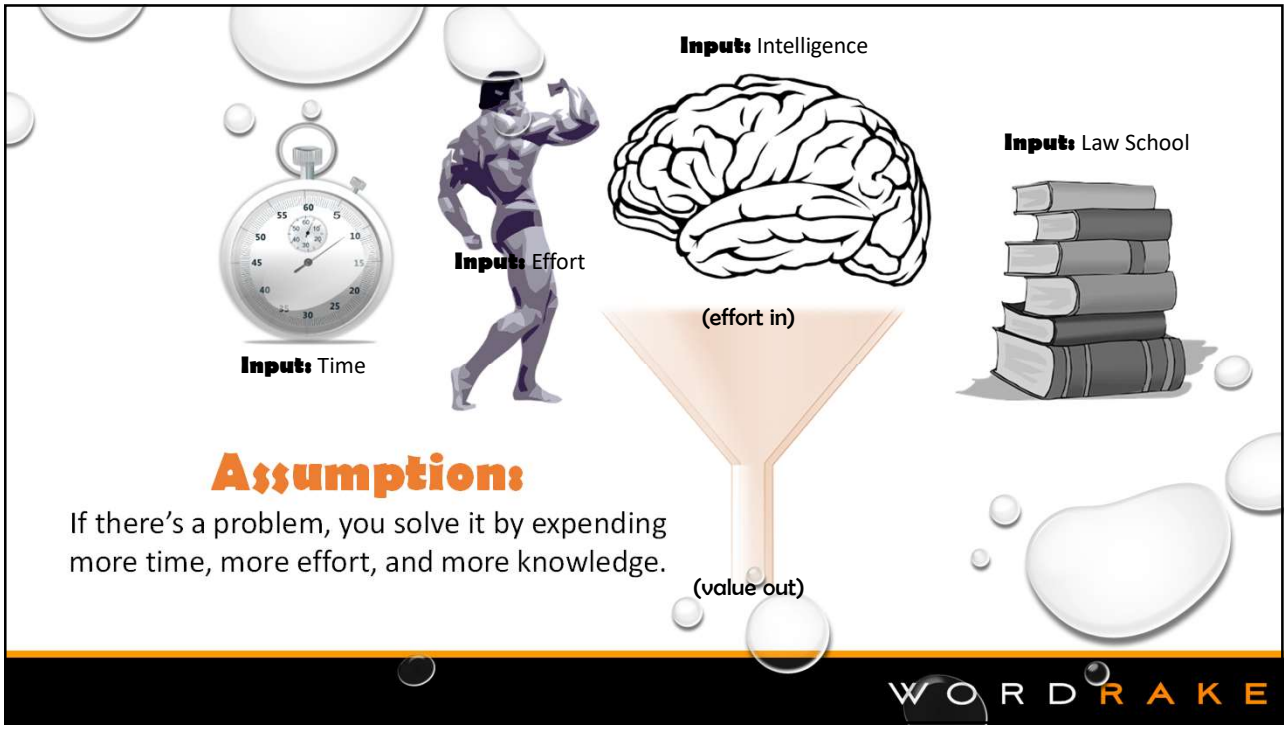
Input: Time
Input: Effort
Input: Intelligence
Input: Law School
(effort in)
(value out)
Assumption:
If there's a problem, you solve it by expending
more time, more effort, and more knowledge.
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Ask: Why is it wet?

Internal Factors

External Factors

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Ask: Where are we losing water?

- **Ask:** Is the water on?
  Problem Diagnosis: Not enough new business coming in
- **Ask:** Is the pipe leaking?
  Problem Diagnosis: Not enough effort invested
- **Ask:** Is the faucet leaking?
  Problem Diagnosis: Not delivering results of effort
- **Ask:** Is the glass cracked?
  Problem Diagnosis: Not delivering value to clients

Technology Solution May Be Appropriate

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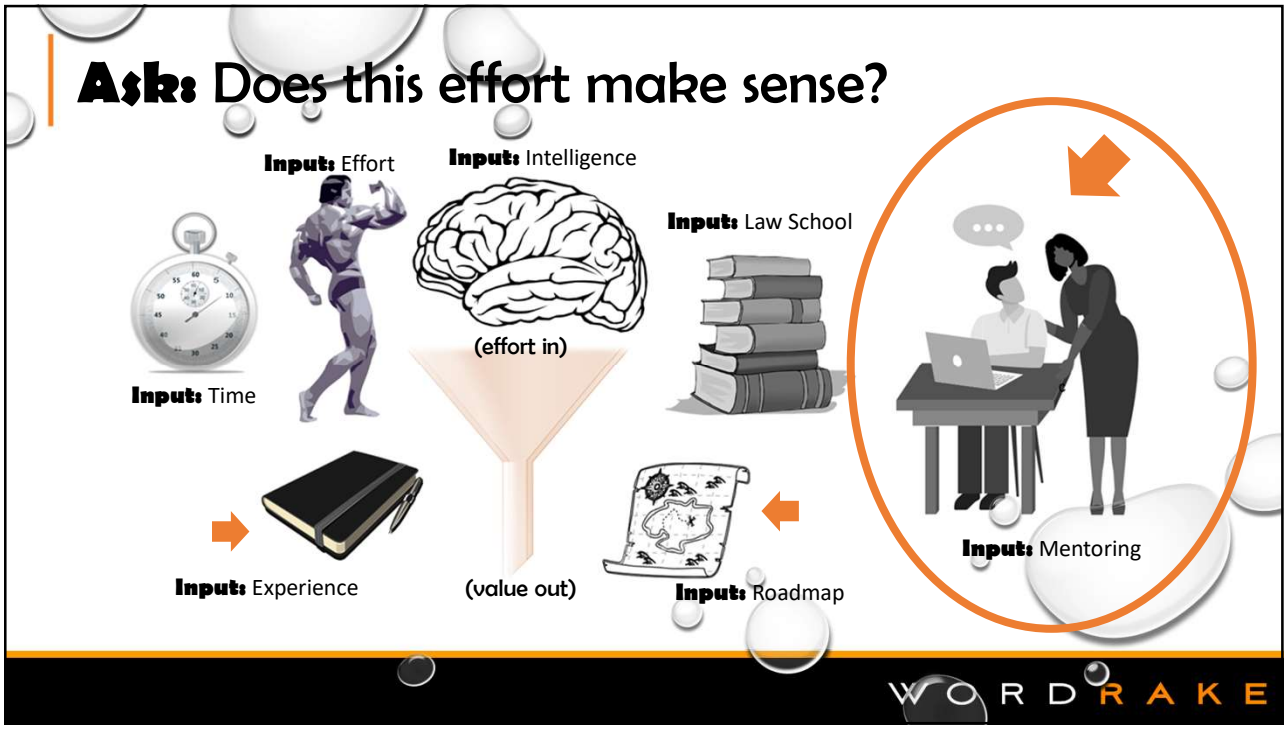
Ask: Does this effort make sense?
Input: Effort
Input: Intelligence
Input: Law School
Input: Time
(effort in)
Input: Mentoring
Input: Experience
(value out)
Input: Roadmap
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How Technology Helps
Develop Good Judgment
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How Technology Helps Develop Good Judgement

- Imagine your goals and how to achieve them
- Create universal advice from feedback
- Create a reusable framework from experience
- Apply learnings from past experience to future work
- Avoid overworking the wrong things and realign effort

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Profitable Lawyers Recognize
Time Spent ≠ Value Created

Lawyers spend most of their time writing, but not all time spent with fingers to keyboard is equally valuable—the difference between successful, profitable lawyers is how they use that time and how they use technology to make the most of it

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How do we recognize when we're wasting time?

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Problem: Long Hours and Poor Results

50-60 hours
Average Large & Mid-Size Law Work Week
(Simply Law Jobs)

40-45 hours
Small Firm Work Week
(LexisNexis Insights Paper)

49.6 hours
Average Full-Time Lawyer Work Week
(Clio Legal Trends Report 2018)

Lawyers work long hours—more than a standard 40 hour work week—but only a fraction of that time is profitable. At these rates of hourly input, burnout is high. The first step is to waste less time. By learning from experience and layering the learnings, you develop judgment. Keen professional judgment increases the value of all time invested.

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Problem: Work Done ≠ Value Created

31%

Of an 8-hour work day, only 2.5 hours (31%) of that time is billable
(Clio Legal Trends 2021)

1.8 hours

Of the 2.1 hours invoiced, only 1.8 hours (89%) are paid
(Clio Legal Trends 2021)

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How do we get off the treadmill and stop defining "due" as "done"?

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Problem: Long Hours and Poor Results

37.5
billable hours
of a 10-hour workday,
75% should be billable,
which should yield 37.5 billable hours per week
(Yale Career Advice)

weekly wasted value:
$11,000 (Yale) - **$19,225** (Clio)
assuming $500/hour billing rate

Applying Yale's Calculations:
- 50 Hours of Work (10/day)
- 37.5 Hours Billable (7.5/day)
- 31.5 Hours Invoiced to Client (6.3/day)
- 28 Hours of Value (5.6/day)

Applying Clio's Calculations:
- 40 Hours of Work (8/day)
- 12.5 Hours Billable (2.5/day)
- 10.5 Hours Invoiced to Client (2.1/day)
- 9 Hours of Value (1.8/day)

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When will technology be most helpful?

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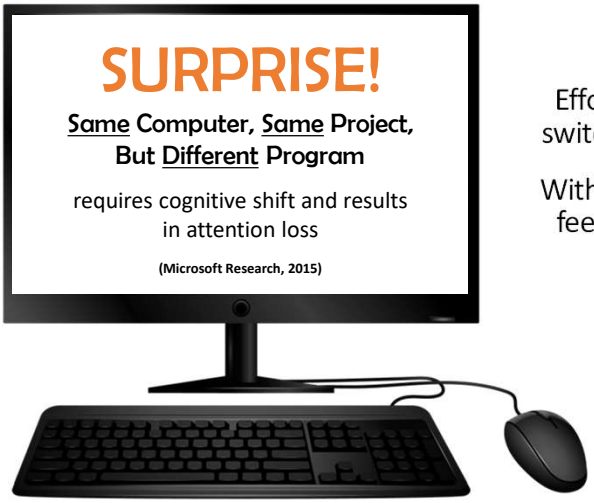
Tech Works Best When It Works With You



Problem:

Effort gets lost due to the high cost of task-switching—even switching programs counts!

With task-switching and context-shifting, you feel busy but get less done and the work is lower quality.

Solution:

Stay in Word while you work.

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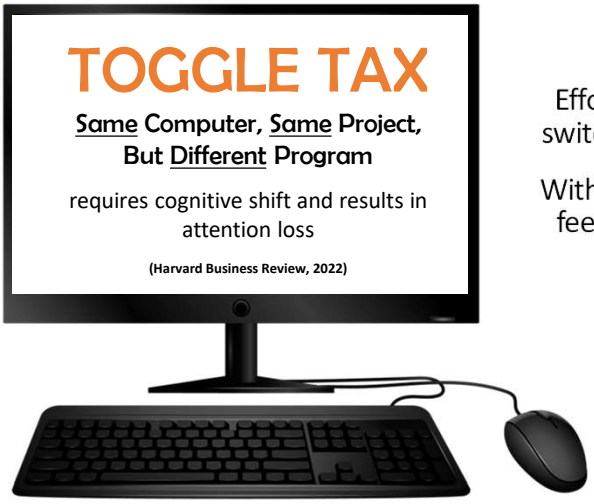
Tech Works Best When It Works With You



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Ask: Where does the effort go?

25 minutes
time required to re-focus on original task after interruption
(UCI Irvine, 2005)

40%
of productive time is lost due to interruptions
(American Psychology Association)

15 IQ Points
depth of thinking lost when shifting contexts
(University of London, 2015)

3 task max
tasks to juggle before losing speed and accuracy
(Clinical Review: Checklists, 2009)

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Software Skills: Business Opportunity

Every Legal Professional Writes, Regardless of Role, Firm Size, or Practice Area

Wasted Time Is Wasted Money

$80
wasted each time a document is editing without using "smart" features in MS Word
(Roberta Gelb)

Better Bottom Line and Happy Clients

16%
of on average a client will save 15% on its bill, while, at the same time, the firm will profit 16% more on the same work
(Casey Flaherty)

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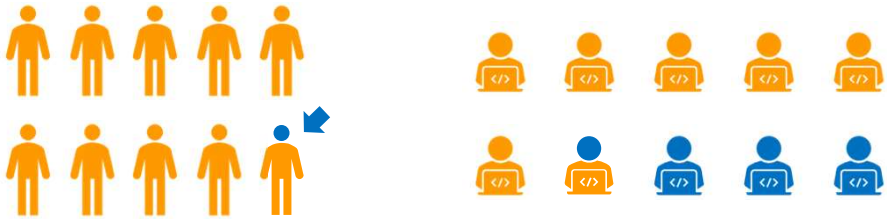

MS Word Is Critical Tool

99%

of fee earners say MS Word is a critical tool
(Brochet)

MS Word Not Optimized

1/3

of fee earners say they don't get the most out of MS Word
(Brochet)

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Frameworks to Help You Develop Professional Judgment

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Frameworks & Opportunities for Developing Judgment

- Learning from feedback
- Understanding the assignment
- Understanding the value and context of your work
- Executing the assignment
  - Effective and efficient research
  - Effective writing and revising process
  - Effective and efficient document creation
- Optimizing your outcomes

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Successful Lawyers Know

Research & Writing Skills Determine Success

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Research & Writing: Recipe for Growth

Every Legal Professional Writes, Regardless of Role, Firm Size, or Practice Area

1 **Better Research**

Ineffective researchers get lost in the sea of options and don't find the right details soon enough to incorporate them with their facts. Jumping between email, browser, and document makes it worse.

2 **Better Editing**

Most legal authors get this step wrong, especially under time pressure. Complete your first draft, then edit. The evolution begins with editing, not drafting. Editing before you're ready leads to wasted time and makes you resistant to cutting irrelevant parts. Then they run out of time. Never skip editing!

3 **Better Software**

Software that interrupts your thinking with suggestions or notifications, causes you to juggle tasks, and requires you to switch contexts will waste your time and energy and lead to poor results. Software should support, not distract.

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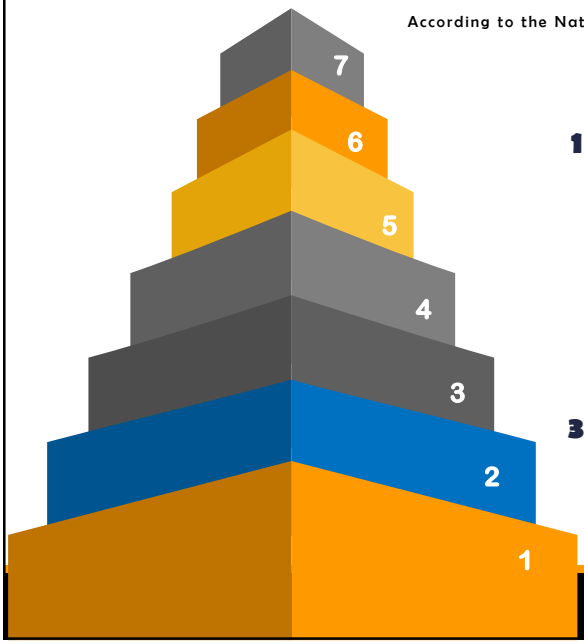
7 Required Lawyer Competencies

According to the National Conference of Bar Examiners



1 Legal Research

2 Legal Writing and Drafting

3 Client Counseling and Advising

4 Issue Spotting and Evaluation

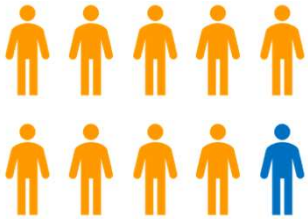
5 Investigation and Analysis

6 Negotiation and Dispute Resolution

7 Client Relationship and Management

Writing: The Foundation of Your Practice

Every Legal Professional Writes, Regardless of Role, Firm Size, or Practice Area



Writing Is a Daily Task

90%

of lawyers spend time every day creating and reviewing documents
(LexisNexis)

Writing Is Bulk of Legal Work

60%

of lawyer time is dedicated to drafting documents
(ThomsonReuters)

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High-Trust Lawyers Accept & Apply Feedback

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Why Learn to Apply Feedback?

Accepting & Applying Feedback Shows:

- You are a trainable team player
- You take ownership over your work
- You are resilient and committed
- You are aligned with firm and client values

Not this!

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Recognizing Critique and Criticism

What Is Critique?

- detailed and specific analysis
- evaluative feedback designed to improve the work
- considers both the positive and negative aspects

What Is Criticism?

- general commentary or personal attack
- list of faults with no advice for improvement
- focused on negative aspects

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Opening Yourself to Feedback

- **It's okay to be disappointed, but not defensive**
  - Give yourself a moment to accept that there is a gap between the perception of your document as being complete and the reality that it is not complete *yet*. Disappointment is a part of learning and improving, but reacting defensively will hinder that progress.
- **It's about your written document, not your value**
  - Critique is about the written document, not your value as a lawyer. This document may need improvement, but it's only one data point for your work. You and the reviewing lawyer are on the same team working to meet client needs.
- **Schedule a time for critique**
  - Control when you receive feedback, so you can do so at a time where you feel secure, calm, and ready to listen with a growth mindset.

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Learning from Feedback and Applying It

- **Look for the broadly applicable rule**
  - Though feedback may specific to a word, sentence, or document, consider whether it is a broadly applicable rule. Look for opportunities to apply it and incorporate the direction or question into your checklist for completed work.
- **Ask questions and seek clarity**
  - Without questions, you may misinterpret the direction and continue to make the same mistakes—or make new ones. With answers, you'll confident in your next steps.
- **Minimize the impact of inevitable errors**
  - When you give your work product to the assigning lawyer before the time crunch, they are less stressed, more willing to explain, and more willing to give you another opportunity to improve your work.
  - The best way to minimize the impact of a mistake is to leave enough time to fix it. By leaving time to incorporate feedback, you have a chance to produce a stellar document by the deadline.

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High-Value Lawyers

Research Efficiently & Organize for Recall

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Risks of Output Overload & Under-Analysis

Overly Narrow Research Risks

- Literal searches with overly narrow terms and connectors or fact-based natural language search miss contextual or semantic similarities

Overly Broad Research Risks

- Overly broad searches yield so many search results that the researcher could not possibly evaluate them deeply within the time given

Too Broad – Too Many Irrelevant Results
(Output Overload)

Too Narrow – Not Enough Conceptually Irrelevant Results
(Missed Cases)

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How to Avoid Output Overload & Under-Analysis

- Use conceptual framing to plan research
- Use context to define research
- Use practice guides and document banks to map concepts onto current projects
- Use work folders to become the reliable expert for your research

Too Broad – Too Many Irrelevant Results
(Output Overload)

Too Narrow – Not Enough Conceptually Irrelevant Results
(Missed Cases)

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Become the Expert on Your Research

- Digest and interpret your research for your supervisor
- Organize your research for easy recall and retrieval
- Have a 100-word summary ready for each case
- Create a 30-second commercial for why your client wins

Too Broad – Too Many Irrelevant Results
(Output Overload)

Too Narrow – Not Enough Conceptually Irrelevant Results
(Missed Cases)

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Example: Work Folders

Stay on the same page

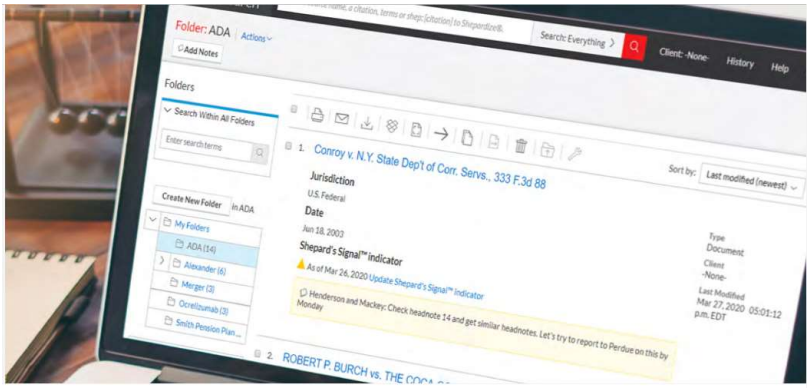
- Compile and share research from across your team—up to 2,000 documents per folder.
- Annotate documents and add important notes and insights to streamline workflows.

Work more efficiently

- Stay organized by assigning client names or numbers to research added to folders.
- Avoid duplications—saved documents in search results are labeled with special icons.

Collaborate with clients

- Invite colleagues, clients or stakeholder teams to view your folder and work product.
- Provide visibility while maintaining control of editing and viewing options.



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High-Trust Lawyers
Understand the Writing Assignment

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How do we identify the simplest goals of our document?

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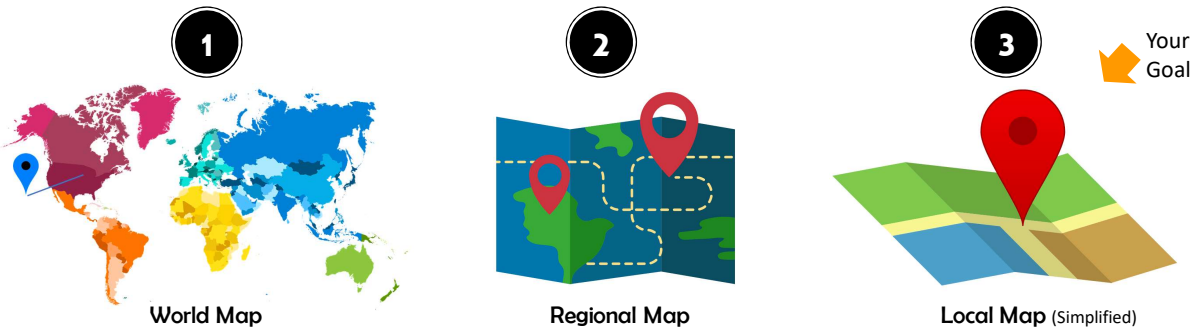
Goal: Rethink Complexity and Make Goals Tangible



Before creating a map, define your universe and set your boundary lines so you can reduce complexity. Unnecessary complexity invites the insecure and unaware to get lost in unimportant details.

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Understanding the Writing Assignment

- What is asked of you? What is the product? What are you trying to accomplish?
- What is the correct approach for your goals? As a legal writer, are you an artist or a carpenter?
- How will time limits influence your approach or limit your choices?
- Will your work be forwarded to the client without comment or cover letter?
- Are you acting as a ghostwriter? Will your work get incorporated a larger document that others are working on concurrently?
- If you find a more convincing, but less conventional approach, are you free to follow it?

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How do we identify the appropriate approach for creating this document?

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Two Types of Legal Documents

Custom Tailoring v. Peripheral Tweaking

1 **Bespoke Drafting – High Value Cases**

- New frameworks for new needs.
- Lawyers create entirely new content to address never-before-seen client needs.
- Not repurposing existing product; not starting with a template or a practice guide; it's new or novel.
- Quality controls.

Writer as Artist

GOAL: Improve the client's message.

2 **Building Block Assembly – High Volume Cases**

- Known structures for known issues.
- Lawyers use existing building blocks of content to address familiar client needs.
- Re-use existing work and automate if possible.
- Efficiency controls.

Writer as Carpenter

GOAL: Improve the building materials.

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How do I identify the consequential issues—and address them?

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Judging the Work that Matters

"Experience gives context and helps us identify potential solutions and anticipate challenges. If they have previously encountered something like a current challenge, leaders can scope out areas in which to focus their energy and resources."

The Elements of Good Judgment by Sir Andrew Likierman (2020)

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High-Value Lawyers Understand the Document Creation Process

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How do we know that the work we're doing matches client goals—and that we're not reinventing the wheel?

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Understanding the Document Process

- Though your strategy and word choice may be highly personal, writing is a systematic, iterative process
- An optimal process allocates time to planning, writing, and revising, with most effort focused on revising
- Your actual process may not match the optimal one, but you can use technology to get the benefits and bridge the gap—without overhauling your workflow
- The Effectiveness Project outlines this process and gives you the tools to move forward.
- The best practices guide is free and available now through an international collaboration with LTC4 and other legal professionals.

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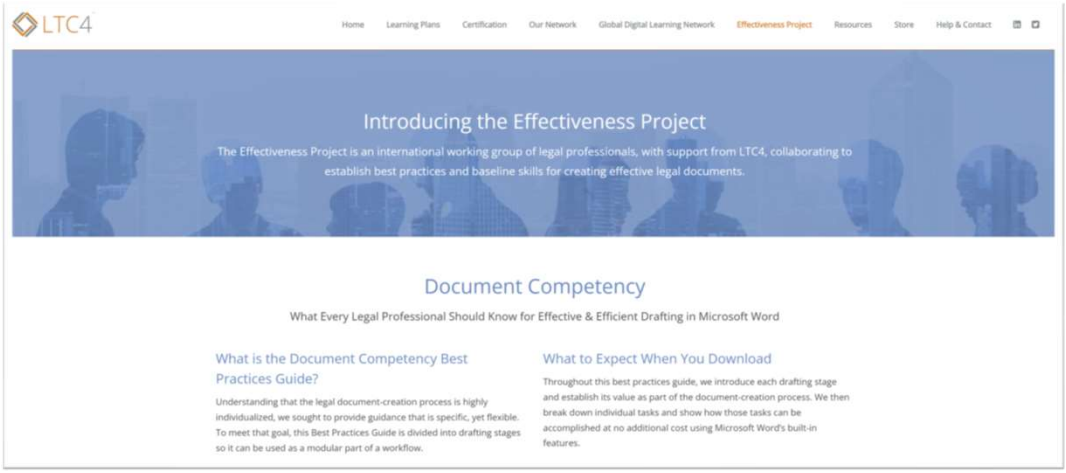
Document Knowledge & Understanding

Creating the Effectiveness Project's **Best Practices Guide**

https://ltc4.org/effectiveness-project/



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The Legal Document Creation Process

Based on the Effectiveness Project's **Best Practices Guide**

The guide is based on modular structure for document drafting divided into eight stages:

- Getting Started: What to Consider when Re-using Documents
- **STAGE 1:** Planning, Structure, and Organization
- **STAGE 2:** Research, Support, Analysis, and Argument
- **STAGE 3:** Creating Content and Delivering Information
- **STAGE 4:** Collaborating with Reviewers and Authors
- **STAGE 5:** Reviewing the Document: Proofreading and Editing
- **STAGE 6:** Finalizing the Document: Last Steps Before Completion
- **STAGE 7:** Verifying the Document On-Screen Before Submission: Navigating and Reviewing Electronic Documents

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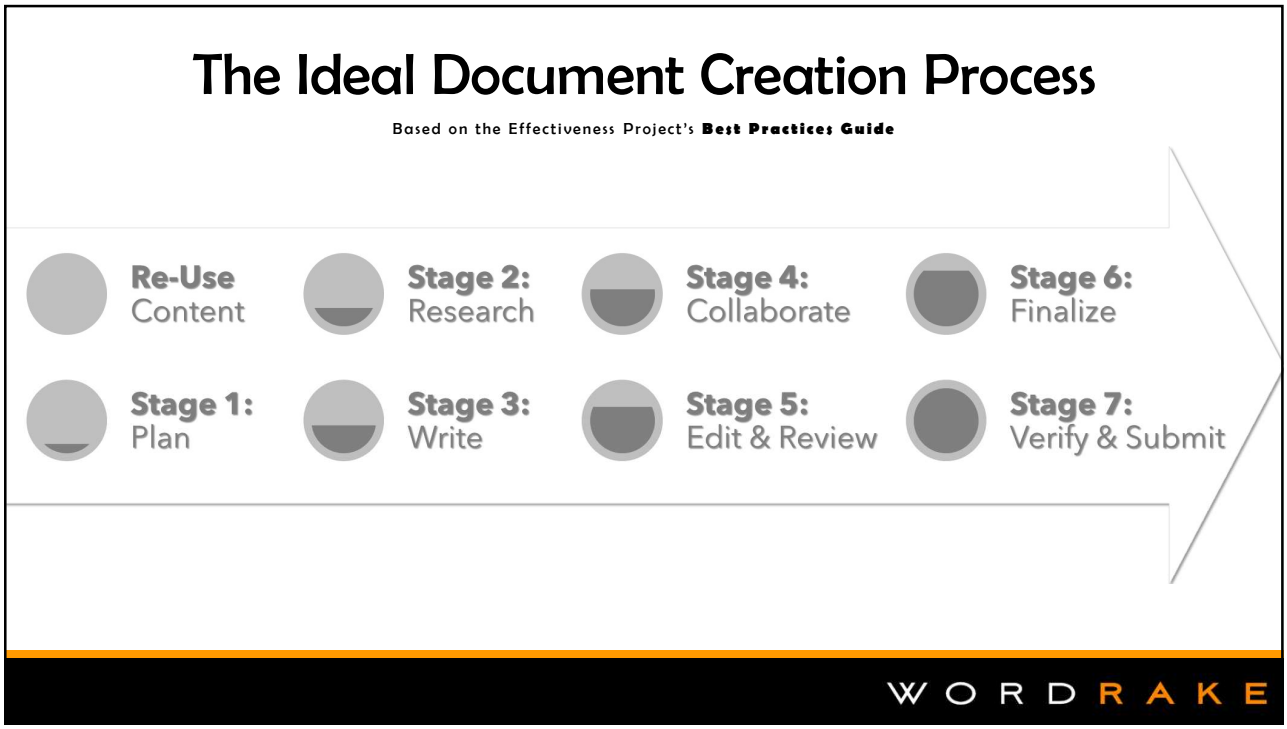
The Ideal Document Creation Process
Based on the Effectiveness Project's Best Practices Guide
Re-Use Content
Stage 1: Plan
Stage 2: Research
Stage 3: Write
Stage 4: Collaborate
Stage 5: Edit & Review
Stage 6: Finalize
Stage 7: Verify & Submit
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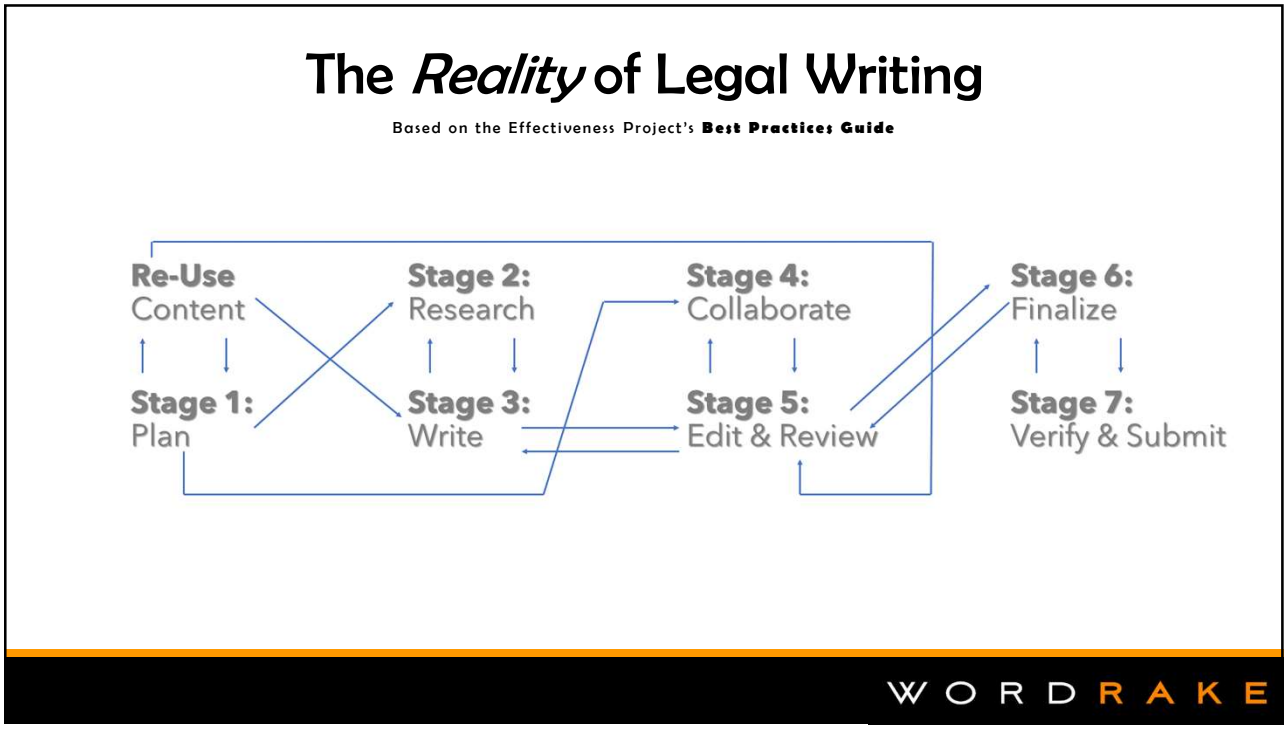
The *Reality* of Legal Writing
Based on the Effectiveness Project's Best Practices Guide
Re-Use Content
Stage 1: Plan
Stage 2: Research
Stage 3: Write
Stage 4: Collaborate
Stage 5: Edit & Review
Stage 6: Finalize
Stage 7: Verify & Submit
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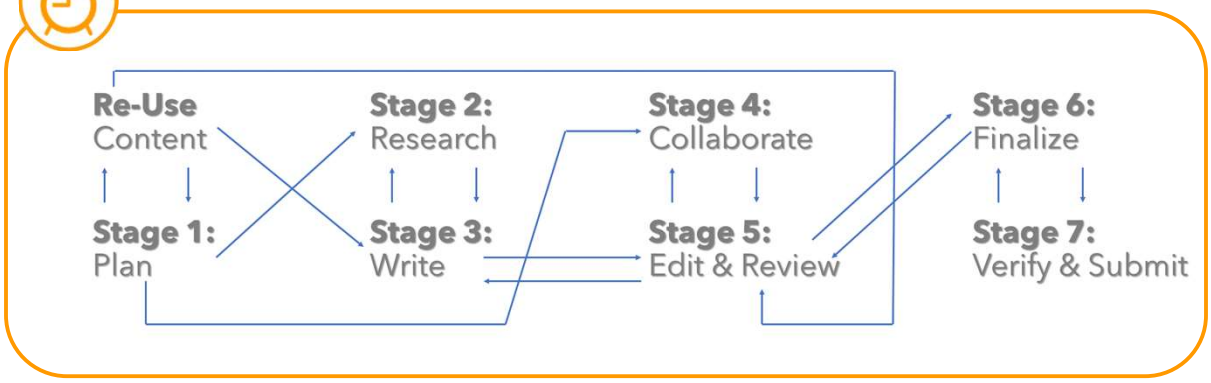
Time-Bound Process of Legal Writing

Based on the Effectiveness Project's **Best Practices Guide**



Your process will be limited by the time you have. You may be more comfortable as a painter, but sometimes you don't have time to be a painter, you have to be an assembly line carpenter. Think Ikea, not van Goh.

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Highly Effective Lawyers
Allocate More Time to the Highest Impact Work

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Research & Writing: Recipe for Growth

Every Legal Professional Writes, Regardless of Role, Firm Size, or Practice Area

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3 Better Software

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Reading, Writing & Research Are Intertwined

- Reading informs your research goals
- Research informs your arguments
- Your arguments form your rhetorical goals
- Your arguments, rhetoric, and authority form your text
- You read to evaluate your text and determine whether it meets your goals
- When you evaluate your text, you may determine you need more research
- Your research informs argument and helps you redefine it and refocus for effect

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What's the difference between expert writers and novice writers?

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Expert Writers v. Novice Writers

•Rewriting and Revision

- Experts far exceed the quantity, quality, frequency, and depth of changes that novice writers make during revising
- Experts make global, organizational, and rhetorical changes to their work
- Experts rewrite and revise throughout the drafting process and are unafraid to start new
- Novices view revising as the final stage in an assembly line for writing—they make minor word and sentence-level changes to preserve meaning
- Novice writers often get bogged down looking for the perfect word or trying to apply grammar rules that they don't really understand and believe this is the point of revision

•Goal-setting and Refinement

- Experts set abstract and concrete goals, moving fluidly between them; interplay between these levels of goals creates coherence and resonance
- Experts constantly regenerate and elaborate goals, leading to new, complex, rhetorically sophisticated goals related to topic, persona, and audience
- Experts simulate and predict audience goals, needs, and responses to their writing
- Novices are at the opposite ends of the spectrum, which makes the goals virtually useless for directing the discovery and progress
- Experts revisit their goals and decisions; novices do not

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The Effective Writing Process

The Most Important Part of Writing is ***Rewriting***

1 **Planning and Outlining – 40%**

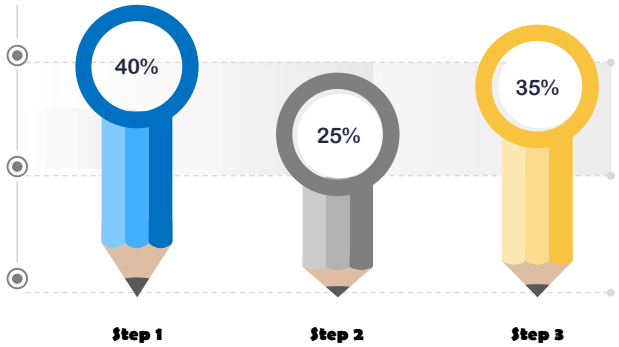
Most legal authors get this step wrong, especially under time pressure, but you don't have time to do it twice. More planning means more focus and less waste.

2 **Writing a First Draft – 25%**

The goal of the first draft is to get completed thoughts written out so you have something to edit. Stick to your plan and exercise restraint. The evolution begins with editing, not drafting.

3 **Revising, Editing, Proofreading – 35%**

Revising is about focus. Editing is about improvement: content, clarity, structure, and substance. Proofreading is about details; look for inconsistencies and errors.



(McLuhan and Davies, 2017)

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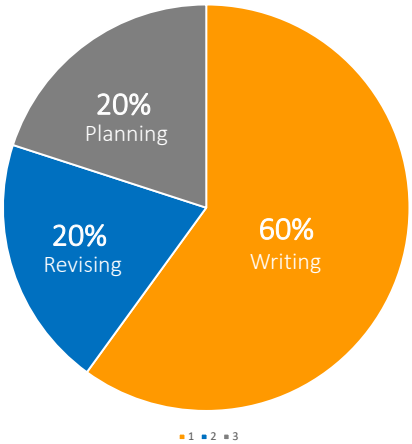
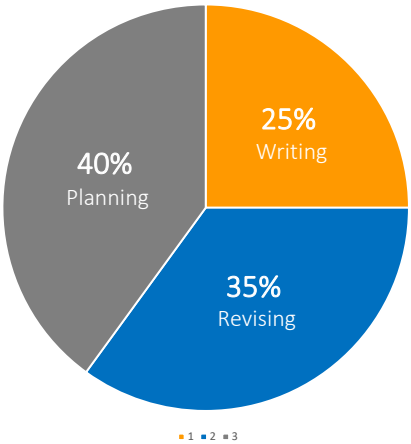
The Effective Writing Process

The Most Important Part of Writing is ***Rewriting***



Less Effective Writers



Effective Writers

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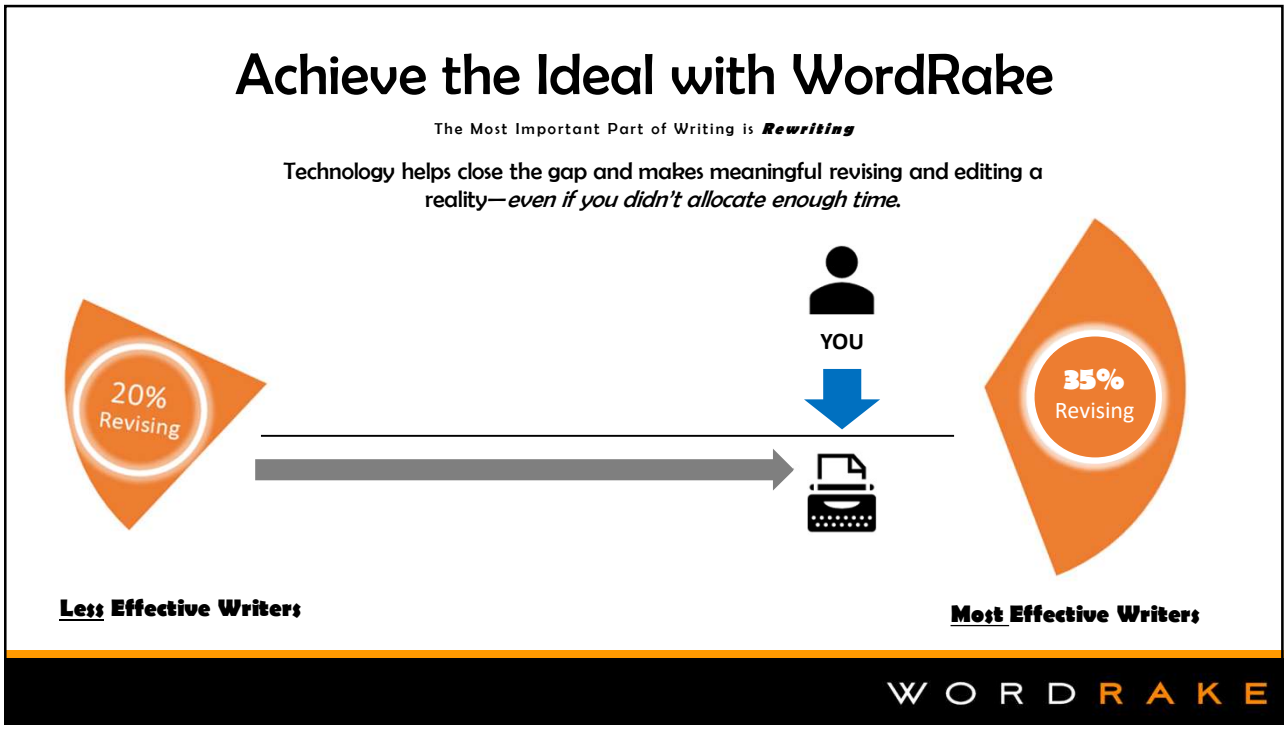
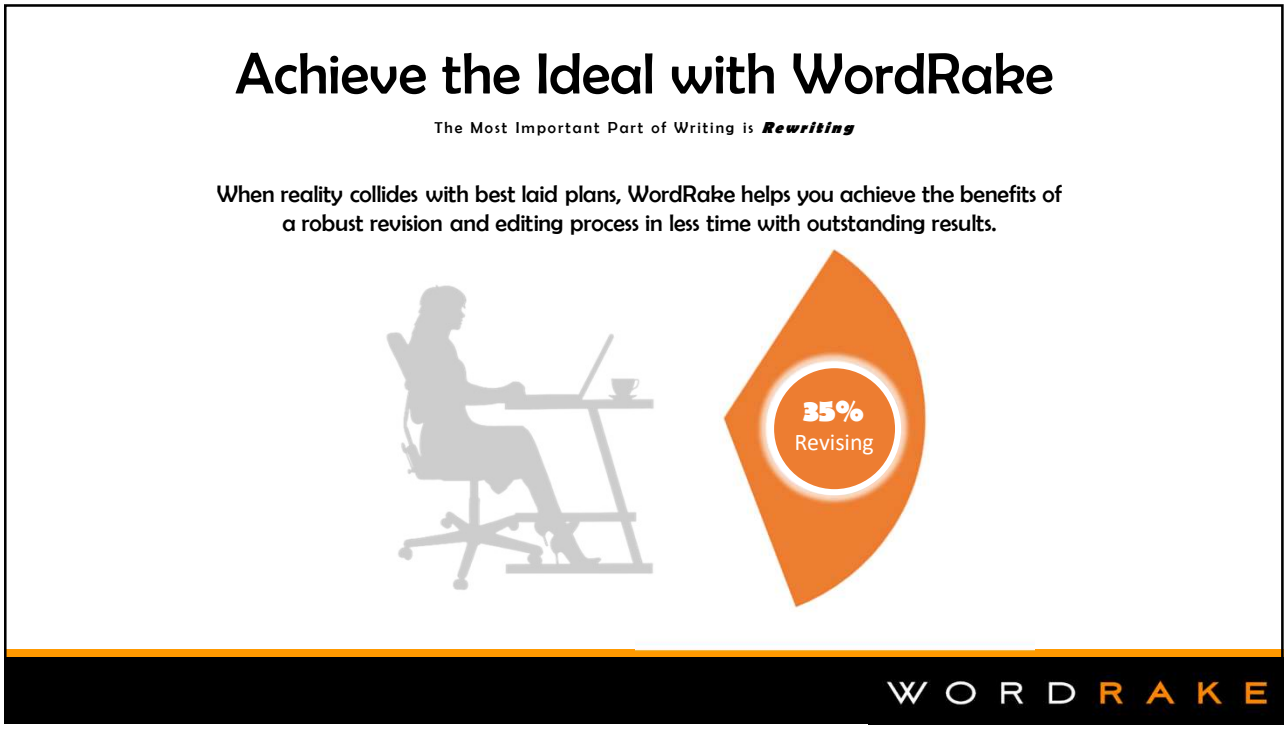

Achieve the Ideal with WordRake
The Most Important Part of Writing is Rewriting
Technology helps close the gap and makes meaningful revising and editing a reality—even if you didn't allocate enough time.
20% Revising
YOU
35% Revising
Less Effective Writers
Most Effective Writers
WORDRAKE


Achieve the Ideal with WordRake
The Most Important Part of Writing is Rewriting
When reality collides with best laid plans, WordRake helps you achieve the benefits of a robust revision and editing process in less time with outstanding results.
35% Revising
WORDRAKE

Goals of Expert Revision

•Resolving Dissonance
- Is there a conflict between what you meant to write and what the reader will understand?
- How can I make it easy for the reader to understand my logic and accept my argument?

•Rethinking Goals and Options
- Is there a better argument, solution, or approach?
- Experts rethink possibilities.

•Revisiting Original Decisions
- Is this the best organization?
- Is this really the problem to be solved?
- Is this tone too aggressive for my position?
- Am I discussing ideas outside the scope the argument I must make to win?

NOTE: Experts will also tackle grammar, spelling, word-choice, citations, and small-scale organization, but those changes are in service of clarity, coherence, and persuasion

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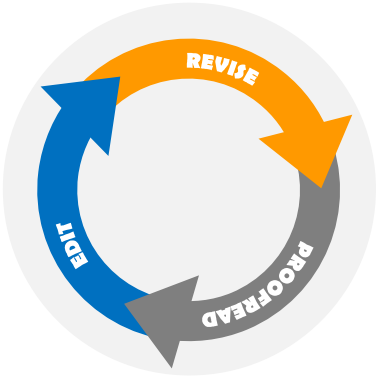
The Cycle of Rewriting, Revising, and Improving

Improving Written Work is a Cycle with Many Areas Revisited

1 **Revising – Completing Content**
Focus your argument. Reorganize your writing to show clear structure and logical presentation and layering of information.

2 **Editing – Improving Content**
Streamline and clarify your message. Remove any words that don't enhance meaning. Match tone to audience.

3 **Proofreading – Checking Content**
Once complete, review for inconsistencies, spelling, grammar, and punctuation errors, formatting mistakes, and typos.



Allocate 35% of Available Time

WORDRAKE

The Cycle of Rewriting, Revising, and Improving

Improving Written Work is a Cycle with Many Areas Revisited

EDITING

Editing is the process of improving content, clarity, structure, and substance. It involves checking the content of the text to ensure that the ideas are expressed clearly and logically, and form a coherent and meaningful whole. It should be the first task you undertake after you have a fairly complete document. The purpose of editing is to make your document better.

PROOFREADING

Proofreading involves checking over your text in fine detail. It is the process of reviewing a completed written document for inconsistencies; spelling, grammar, and punctuation errors; formatting mistakes; and typos. This is where you'll check for citation formatting. Proofreading is the last task you should perform.

REVISE
Focus your argument. Reorganize your writing to show clear structure and logical presentation and layering of information.

EDIT
Streamline and clarify your message. Remove any words that don't enhance meaning. Match tone to audience.

PROOFREAD
Once complete, review for inconsistencies, spelling, grammar, and punctuation errors, formatting mistakes, and typos.

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How can novice writers show they're on the path to expertise?

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A Legal Writer's Stages of Intellectual Growth

•Can you think rigorously?
- Logical
- Thorough
- Precise

•Can you write clearly?
- Coherent
- Focused
- Forceful

•Can you win your readers' attention and trust?
- Practically valuable
- Efficient
- Professionally Engaging

Source: *Thinking Like a Writer: A Lawyer's Guide to Effective Writing and Editing*, Stephen V. Armstrong & Timothy P. Terrell (2009)

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Novice Writers Show Growth by Applying Feedback

•Show Improvement With a Personal Checklist
- When you get feedback, turn it into a broadly applicable rule and add it to your personal checklist
- Always proofread, spellcheck, cite-check, and check for inconsistencies before submitting work

•Ask Questions and Seek Clarity
- When you get feedback, restate what you will be doing and why—seek clarification if you don't understand
- Schedule conferences to discuss how certain concepts or documents work so you're prepared for future assignments

•Minimize the Impact of Inevitable Errors
- Check-in with the assigning lawyer to ask questions and update them on your progress
- Turn in your work early and ask for feedback and a chance to improve it before the deadline

•Build / Use Your Resources
- Buy your own software to help you learn to be detail-oriented
- Buy your own style and citations guides for reference
- Re-read the books you were assigned in legal writing class
- Attend firm training sessions to improve your research and technology use

•Don't get defensive

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How "Stuck" Writers View Feedback

When stuck lawyers receive feedback they...

- cannot apply the feedback in a different context.
  - To improve, look for a common rule about audience, tone, method, or analysis.
- think it applies specifically to that word or sentence, not generally.
  - To show development, don't treat feedback as mere changes to be input; consider it advice for all future work.
- do not engage in the metacognitive reflection expected of this level of education and in this profession.
  - To show reflection, evaluate your planning and thinking process, and use it to improve future performance.
- rely heavily on in-person conferences and expect others to explicitly direct their work.
  - To improve, review work before scheduling a conference; use software for line-editing before submitting; use conferences to discuss strategy or roadblocks.
- do not use self-study resources to understand feedback and improve work.
  - To improve, take an online writing course and refer to usage guides when you don't understand feedback or get the same feedback repeatedly—keep reviewing resources until you understand the feedback and you have a plan to fix it.

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Why Repeated Mistakes Lose Trust

- **Broken Windows Theory:** Small errors "evidence a lack of discipline and a lack of attention to detail necessary to research, write, and analyze complex legal problems."
  - Abundant errors cause the reader to suspect that, where there are small errors that an outsider could easily see, there must be bigger errors hiding deeper. So typos, formatting mistakes, citation errors, and sloppy word choice, raise reader questions about the writer's creditability, intelligence, and judgment.
- **If Upward Trends Suggest Promise...** When students show more attention to detail over time, their other writing and analysis skills also improve—they rarely backslide. But students who lack attention to detail and strong command of English writing rarely improve their composition skills after high school without extraordinary effort.
  - Since writing skill seems set without extraordinary effort, partners don't want to invest in lawyers who aren't trying to improve. Because small errors signal bigger ones, partners who receive error-filled work won't bother coaching the submitting lawyer toward better analysis because it seems futile.
- **Lack of Reflection Stalls Growth:** Studies of student legal writers show that students who want to improve but don't reflect on feedback exhibit minimal and inconsistent improvement.
  - Without reflection, young lawyers continue to make the same mistakes, but require more and more in-person coaching from supervisors and rely on supervisors to correct the mistakes.

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High-Efficiency Lawyers
Leverage Technology for Process Improvement

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How can technology improve my outcomes?

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Ask: Where are we losing water?

- **Ask:** Is the water on?
  Problem Diagnosis: Not enough new business coming in
- **Ask:** Is the pipe leaking?
  Problem Diagnosis: Not enough effort invested
- **Ask:** Is the faucet leaking?
  Problem Diagnosis: Not delivering results of effort
- **Ask:** Is the glass cracked?
  Problem Diagnosis: Not delivering value to clients

Technology Solution May Be Appropriate

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Finding the Right Technology for Your Process

- **Phase 1: Survive**
  - **Goal:** meet deadlines
  - **Tech Use:** patch holes in the document process
- **Phase 2: Improve**
  - **Goal:** work faster, become efficient
  - **Tech Use:** improve the document process
- **Phase 3: Thrive**
  - **Goal:** increase effectiveness and persuasiveness
  - **Tech Use:** improve client outcomes

Flexible technology will meet you wherever you are and help you achieve your goals

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Finding the Right Technology for Your Process

- **Technology should work however, wherever, and whenever you need it to**
  - Doesn't dictate step-by-step use, but provides some structure
  - Can be modular and flexible to use where you need it
- **Technology should honor your time and your focus**
  - It should give you the right information at the right moment
  - It should give you the right feedback at the right moment without interrupting your flow
  - It shouldn't interrupt you to offer advice or suggestions when you're not ready
- **Technology should trust your judgment—not attempt to replace it**

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Become Highly Valued and Highly Trusted by

Optimizing Your Legal Research and Writing

WORDRAKE

What technology can improve outcomes for this matter and build judgment for future matters?

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Integrate Your Tech and Optimize Your Workflow

- Integrated technology that works where you do will help you reap its benefits—add-ins for Microsoft Word are key
- Bring your research to you and make it useful and reusable with Lexis® *for* Microsoft® Office
- Get one-click editing with WordRake so you can write clear, concise, convincing documents without having to find a 25th hour in the day

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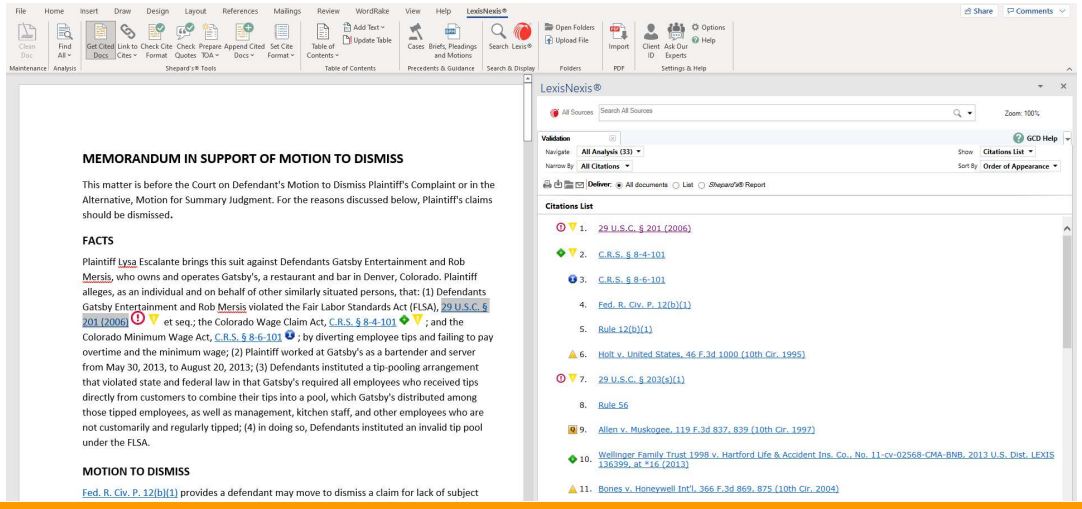
Get to Know Your New Research Assistant

High Value Improvement with Lexis for Microsoft Office



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Get to Know Your New Editor

High Value Improvement with WordRake

WORDRAKE®

Beyond Grammar
Streamlines sentences and clarifies meaning.

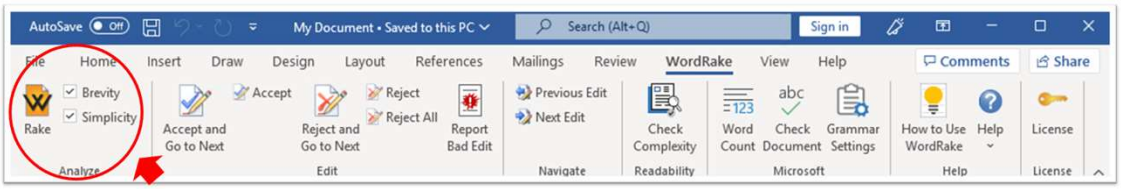
Instant Results
As quick and easy as standard spellcheck.

Save Time and Money
Reduces editing rounds and improves outcomes.

WORDRAKE

Get to Know Your New Editor

High Value Improvement with WordRake



- Edit for plain language and reduce jargon and legalese
- Cut throat-clearing introductory phrases
- Remove unnecessary descriptive words and modifiers
- Correct nominalizations and wordy adjective phrases
- Remove redundancies and correct usage errors
- Catch high-level grammar and punctuation mistakes
- Edit conversational language to be more professional
- Reduce wordiness and meet word counts

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Get to Know Your New Editor

High Value Improvement with WordRake

How WordRake Improves Your Writing	Example WordRake Editing Suggestion
☑ Trims extra words and clumsy lead-ins	~~It is important to~~ Consider every step… …was ~~very~~ unique.
☑ Uncovers active verbs buried in wordy phrases	…~~has the requirement that we~~ requires that we… …~~is reflective of~~ reflects…
☑ Converts jargon to plain language and simplifies wording	~~Pursuant to~~ Under legislation… …~~states as follows~~ states…
☒ Checks spelling and grammar like Microsoft Word	…the porpoise of this docment…

WORDRAKE

How WordRake Compares to Editor

~~The purpose of this document is to explain~~ This document explains the difference between an IRA and a Roth IRA.

We are ~~in the process of~~ reviewing all of our vendor agreements.

1 He ran ~~in order~~ to catch the bus.

The internet ~~model is one that offers~~ model offers search, email, calendar, contacts and even word processing as services accessible remotely.

2 Christian Dior acted quickly ~~in an effort~~ to limit any damage to the brand.

The sole dispute ~~in this matter~~ is whether the plaintiff is entitled ~~to a rescission of the~~ to rescind the loan under the Truth in Lending Act.

They want to subscribe, but they don't like ~~the idea of~~ paying $4.99 a month.

3 An American will consume 21,000 entire animals ~~in the course of a lifetime~~ in a lifetime.

We even toyed with ~~the notion of~~ setting up our own bottling plant.

~~It should be noted that the~~ The protagonists do not acknowledge the inevitability of failure until that failure stares them in the face.

We ~~stand in agreement that~~ agree that this section ~~has pertinence to~~ pertains to any contract.

~~There are three~~ Three principles ~~that~~ help to resolve this issue.

~~A lot of the time~~ Often ~~what happens is that~~ the little impulse that gets me started on a story leads to something that's more interesting.

~~What he~~ He decides to ~~do is~~ have his wife kidnapped.

It is the protagonist's pursuit of his objective ~~that~~ we follow as the story unfolds, and ~~it is~~ this pursuit ~~that~~ draws us into the story.

He and his ship were~~, in fact,~~ destined to employ what one senior officer called Plage's "peculiar magic" and play an outsized role in an impending drama ~~that was~~ to change the nature of seafaring navies forever.

The famous example that Alfred Hitchcock gave concerns a bomb ~~that is~~ placed under a table.

~~In fact, under~~ Under this scenario, the only way the list could effectually convey property would be to comply with ~~the provisions of~~ NRS 133.045.

RCW 19.40.031(a) ~~states in relevant part~~states:

~~All of this~~ This is just as he had pictured ~~it in his mind~~it.

Of 20 sample sentences, WordRake provided 29 edits—only 3 of which Word was also able to provide.

WORDRAKE

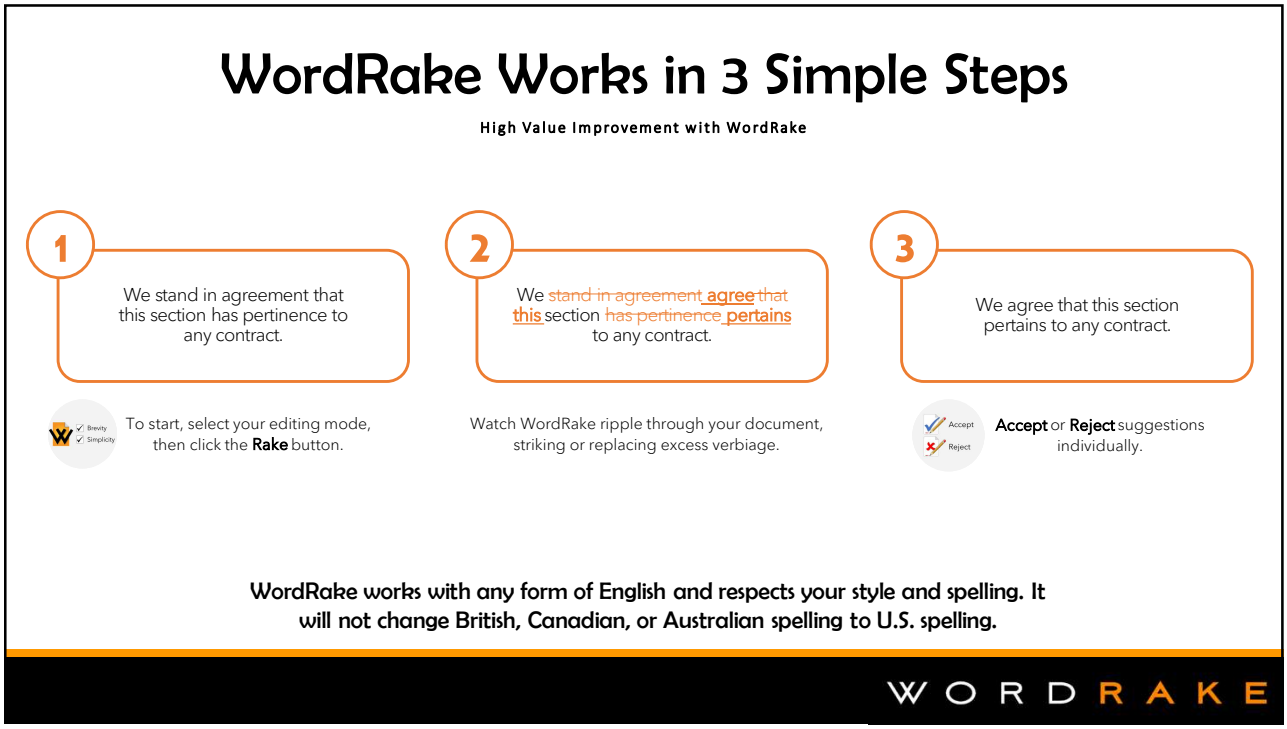
Collaborative Editing, Clear Thinking, Better Writing

High Value Improvement with WordRake

WordRake is a collaborator that helps lawyers recognize opportunities for improvement in writing. It consistently brings questions and suggestions to the forefront for lawyers to answer using their best judgment.

WORDRAKE

Collaborative Editing, Clear Thinking, Better Writing
High Value Improvement with WordRake
Plan
Write
Revise with WordRake
Spellcheck
Edit with WordRake
Proofread
Human Review
Human Review
Human Review
WORDRAKE


WordRake Works in 3 Simple Steps
High Value Improvement with WordRake
1
We stand in agreement that this section has pertinence to any contract.
2
We stand in agreement agree that this section has pertinence pertains to any contract.
3
We agree that this section pertains to any contract.
To start, select your editing mode, then click the Rake button.
Watch WordRake ripple through your document, striking or replacing excess verbiage.
Accept or Reject suggestions individually.
WordRake works with any form of English and respects your style and spelling. It will not change British, Canadian, or Australian spelling to U.S. spelling.
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With the right technology and process, you improve outcomes for clients and do more profitable, high-value work.

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Resources

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The Effectiveness Project
https://ltc4.org/effectiveness-project/

Microsoft Office Unlocked
Tech Training Video Series with Affinity Consulting
https://www.wordrake.com/tech-tips

The Lawyer's Guide to MS Word Resources
https://legal.intelligentediting.com/blog/how-to-translate-from-legal-language-to-microsoft-terminology/

Technology Competence White Paper
https://www.wordrake.com/tech_competence

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Recap

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How do we define judgment?

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What Is Judgment?

Good judgment "requires you to
turn knowledge into understanding."

Source: *The Elements of Good Judgment* by Sir Andrew Likierman (2020)

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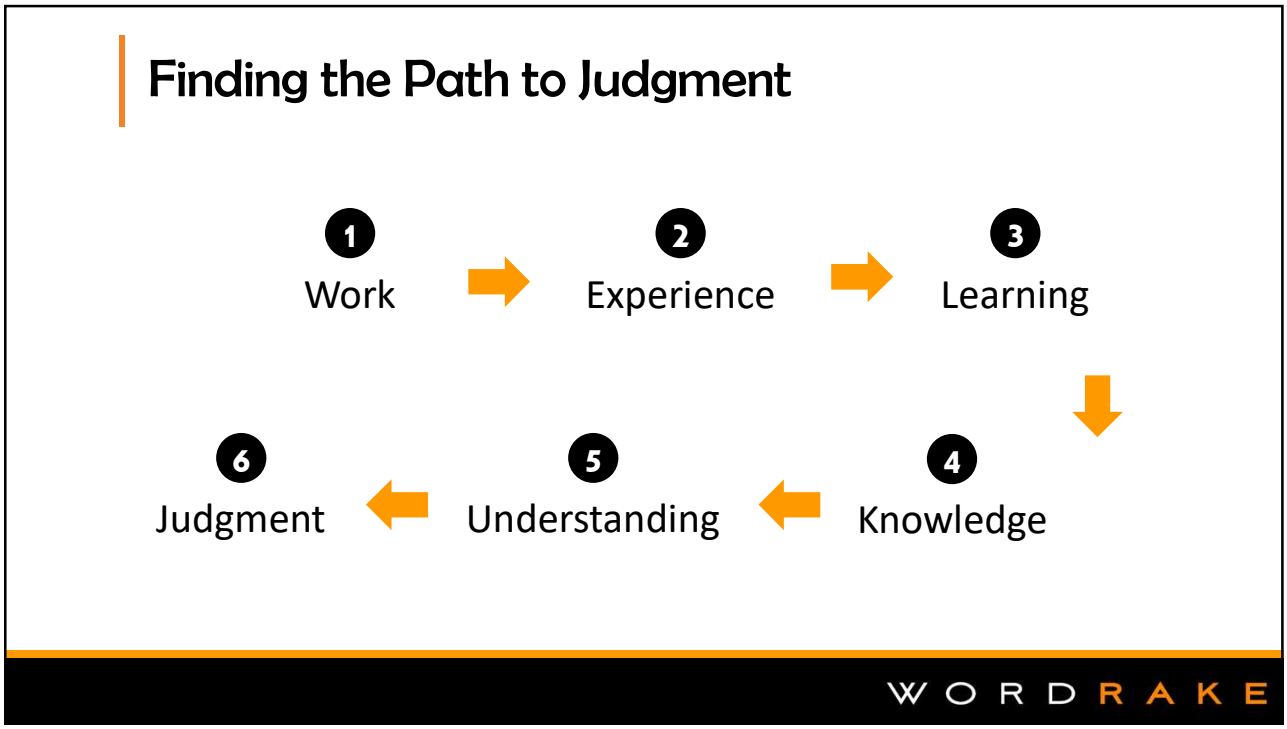
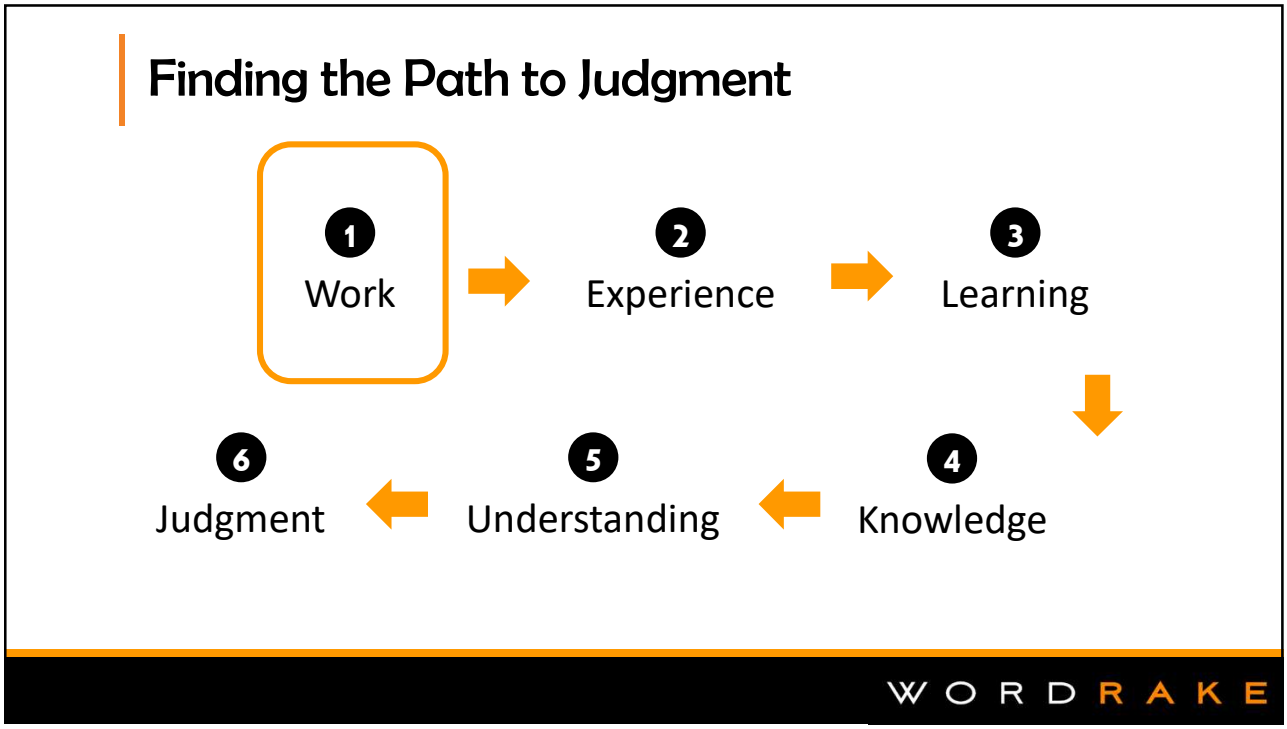

Finding the Path to Judgment
1 Work
2 Experience
3 Learning
4 Knowledge
5 Understanding
6 Judgment
WORDRAKE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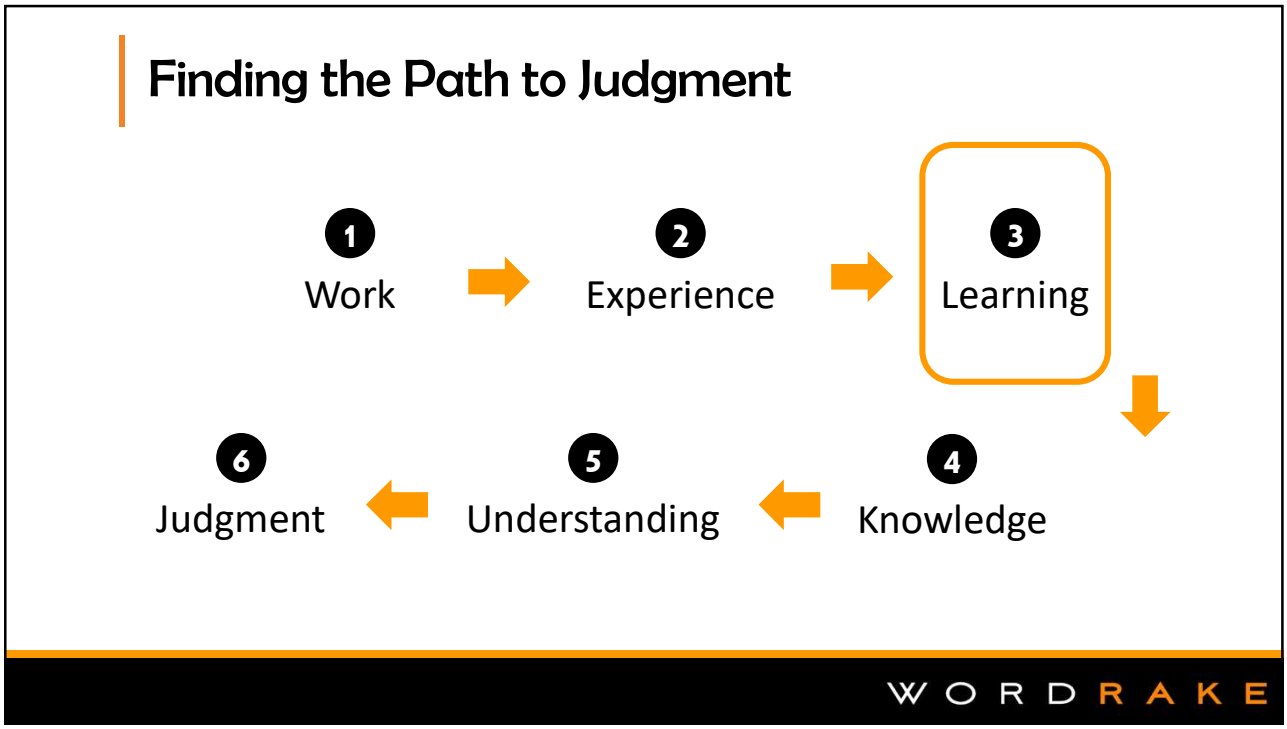
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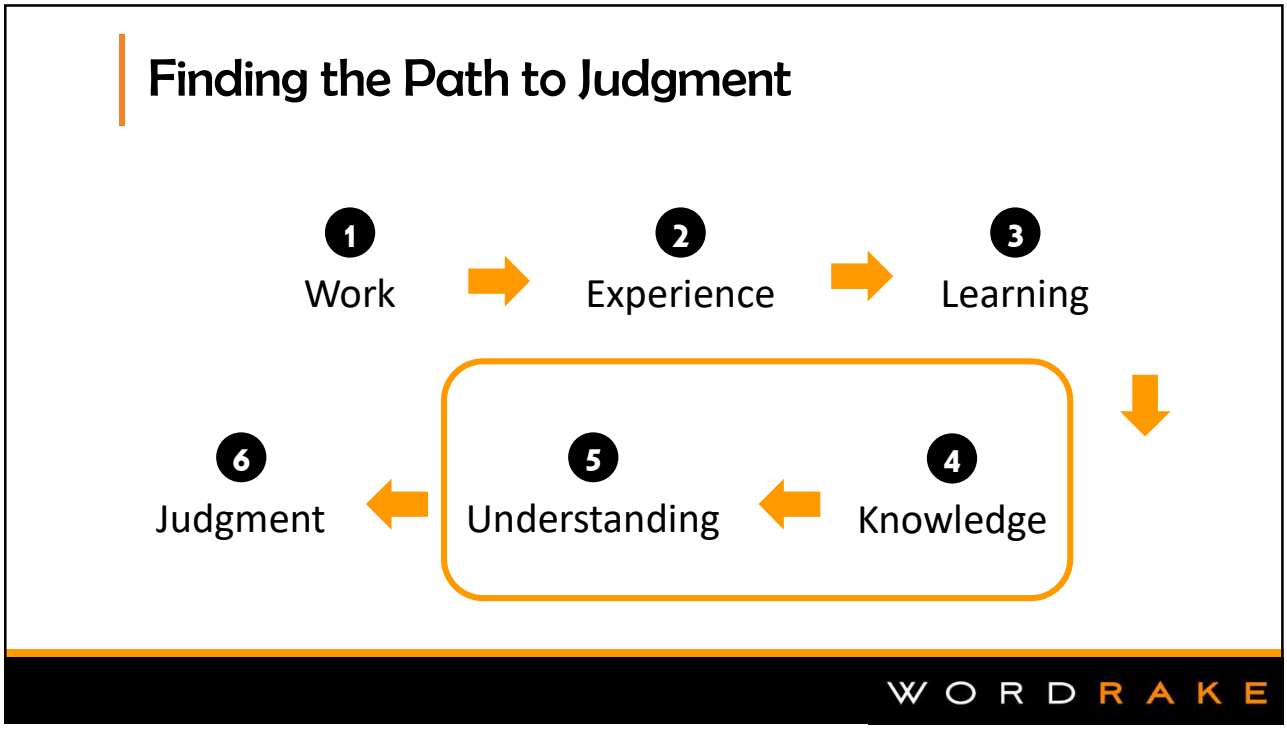
Finding the Path to Judgment
1 Work
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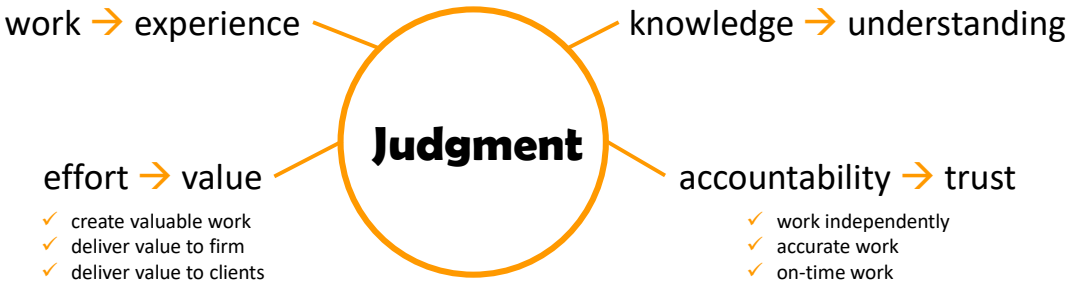
4 Knowledge
5 Understanding
6 Judgment
WORDRAKE

Developing Judgment



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How does judgment relate to trust?

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Importance of Trust

High Trust	Low Trust
High Speed	Low Speed
Low Cost	High Cost

Source: *The Speed of Trust*, CEO Stephen M.R. Covey

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Developing Trust & Judgment

Use technology to:

- focus on the right things faster
- avoid repeating the same mistakes
- submit polished work product

Make room to improve:

- create emotional space for feedback and learning
- create room for strategy and story telling
- create distance for big picture pattern recognition

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Working from Good Judgment

1 Identify → 2 Anticipate → 3 Focus

"Experience gives context and helps us identify potential solutions and anticipate challenges. If they have previously encountered something like a current challenge, leaders can scope out areas in which to focus their energy and resources."

Source: *The Elements of Good Judgment* by Sir Andrew Likierman (2020)

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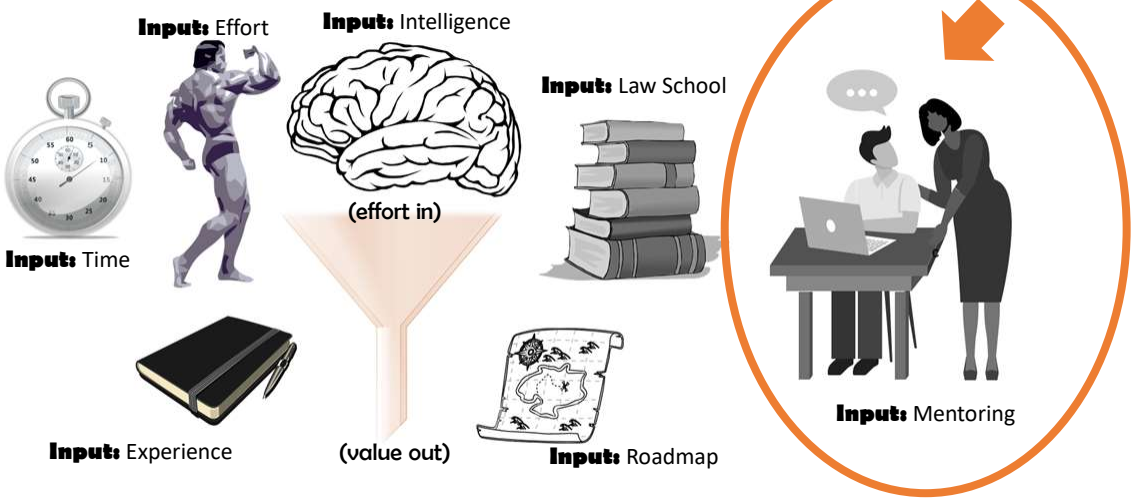
Let Technology Be Your Coach



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Small & Personalized Data

"Mini lessons about small data—that you don't need a lot of data to be more successful… [and] that you don't necessarily have to do the analysis yourself."

Source: *Even Small Data Can Improve Your Organization's Judgment* by Thomas H. Davenport (2012)

- Imagine your goals and how to achieve them
- Create universal advice from feedback
- Create a reusable framework from experience
- Apply learnings from past experience to future work
- Avoid overworking the wrong things and realign effort

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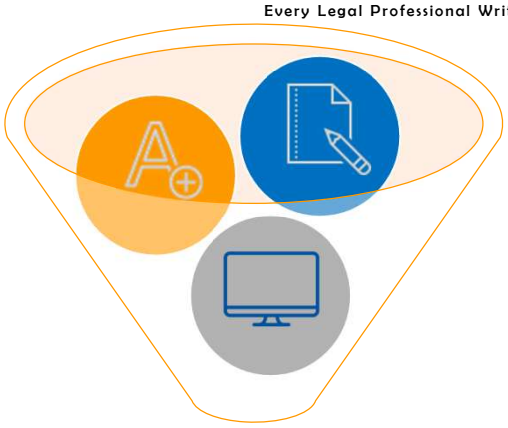
Research & Writing: Recipe for Growth

Every Legal Professional Writes, Regardless of Role, Firm Size, or Practice Area



Profit

1 **Better Research**

Ineffective researchers get lost in the sea of options and don't find the right details soon enough to incorporate them with their facts. Jumping between email, browser, and document makes it worse.

2 **Better Editing**

Most legal authors get this step wrong, especially under time pressure. Complete your first draft, then edit. The evolution begins with editing, not drafting. Editing before you're ready leads to wasted time and makes you resistant to cutting irrelevant parts. Then they run out of time. Never skip editing!

3 **Better Software**

Software that interrupts your thinking with suggestions or notifications, causes you to juggle tasks, and requires you to switch contexts will waste your time and energy and lead to poor results. Software should support, not distract.

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Thank you.

Please contact me with questions.

Ivy B. Grey, JD, LLM

ivyg@wordrake.com

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