



## Resolution: Beat Writer's Block!

We've all been there: facing the blank screen, our frozen fingers poised over the keyboard, dropping to type a line of text only to delete it immediately in frustration. Suddenly, cleaning the office appears attractive, and checking email every five minutes seems imperative. Or perhaps we prolong our initial legal research beyond what we need. We have all the best intentions. We plan to finish that brief early with plenty of time to review and revise it, but somehow the words don't flow until the mad rush of the last minute, and our nerves and our work product suffer as a result.

Eschew that delete button until you've written a full draft. Let yourself write something ugly.

Even the best legal writers suffer writer's block. In fact, it might hit the high-achieving perfectionists among us the hardest. Some have long relied on those bursts of last-minute genius, and, most of the time, we get away with it. In fact, we've probably been getting away with it for years—and taking all the wrong lessons from our successes. And if that rushed work product doesn't deliver the brilliance we've always secretly hoped we possess, that's OK: Those motions would have been better if we hadn't been so

rushed, we tell ourselves, so those inartful turns of phrase or grammar blunders don't really reflect who we are as writers or attorneys.

Stanford University professor Carol Dweck would probably conclude that our paralysis at the prospect of writing something less than brilliant stems from what she calls a *fixed mindset*. Dweck's research has received significant coverage in the mainstream media lately, and lawyers, in particular, have reason to heed her insights.

Back in the 1970s, Dweck was researching reactions to failure by schoolchildren. She noticed something surprising: Although some students let repeated failures crush them, others saw those failures as opportunities to learn. The children who recovered most poorly from failure were not necessarily those who had failed repeatedly in the past; instead, they were the students who saw intelligence or ability as fixed at birth. Dweck calls this view the fixed mindset. In contrast, the belief that intelligence is malleable—that one can improve intelligence or ability through effort over time—she calls the *growth mindset*.<sup>1</sup>

Praise from well-meaning teachers, parents, and others can instill a fixed mindset. Children lauded for being smart—rather than for working hard—are more likely to develop the belief that ability is innate and immutable.

Lawyers are particularly susceptible to the fixed mindset. Many of us excelled early, consistently, and without trying too hard. We continually earned praise for our “natural” talent or ability. We internalized the lesson that being smart or successful meant maximum achievement with minimal effort.

Law school just reinforces this. Law schools screen applicants based on a test that purports to measure aptitude. LSAT lore holds that you cannot meaningfully improve your score from administration to administration. Once in law school,

students often are evaluated and ranked based on performance on a single timed exam at the end of the semester. Many students earn jobs based primarily on first-year grades. And many legal employers assess law graduates, in part, based on law-school rankings that rely heavily on the LSAT scores of incoming students.

Add writing to the mix, and fixed mindset becomes even more pervasive. Many people cling to the big-R Romantic notion that the best writing springs forth spontaneously in bursts of creative genius, and that the quality of the first draft best reflects the quality of the writer.

We know this is not always true, however, from the words of great writers themselves. Hemingway famously said that the real work of writing comes in rewriting. Capote, Joyce, Nabokov, Woolf, Oates, and others notoriously rewrote, revised, and recast their work multiple times.

By indulging writer's block, we not only give ourselves the perfect excuse for less-than-ideal performance, we also miss integral stages of the writing process. Better to indulge in a messy first draft—one that permits us to think through our arguments, identify holes in research or logic, and commit all of our ideas to paper—than to postpone writing until the urgency of a deadline outweighs the impulse to avoid the feeling of failure.

I challenge you to eschew that delete button until you've written a full draft. Let yourself write something ugly. If it's a mess, print it and start fresh in a new document, borrowing from that first draft to construct something better. You may find, however, that your first draft is better than you expect, and then you can do the real work of writing—reorganizing, fine-tuning word choice and sentence structure, filling gaps in reasoning or explanation, and ultimately creating a final product that effectively communicates your message to your intended audience.

### endnotes

1. To learn more about Dweck's theories, see CAROL DWECK, *MINDSET: THE NEW PSYCHOLOGY OF SUCCESS* (2006).



*Susie Salmon*

Susie Salmon is Assistant Director of Legal Writing and Associate Clinical Professor of Law at The University of Arizona, James E. Rogers College of Law. Before joining Arizona Law, she spent nine years as a commercial litigator at large firms in Tucson and Los Angeles.