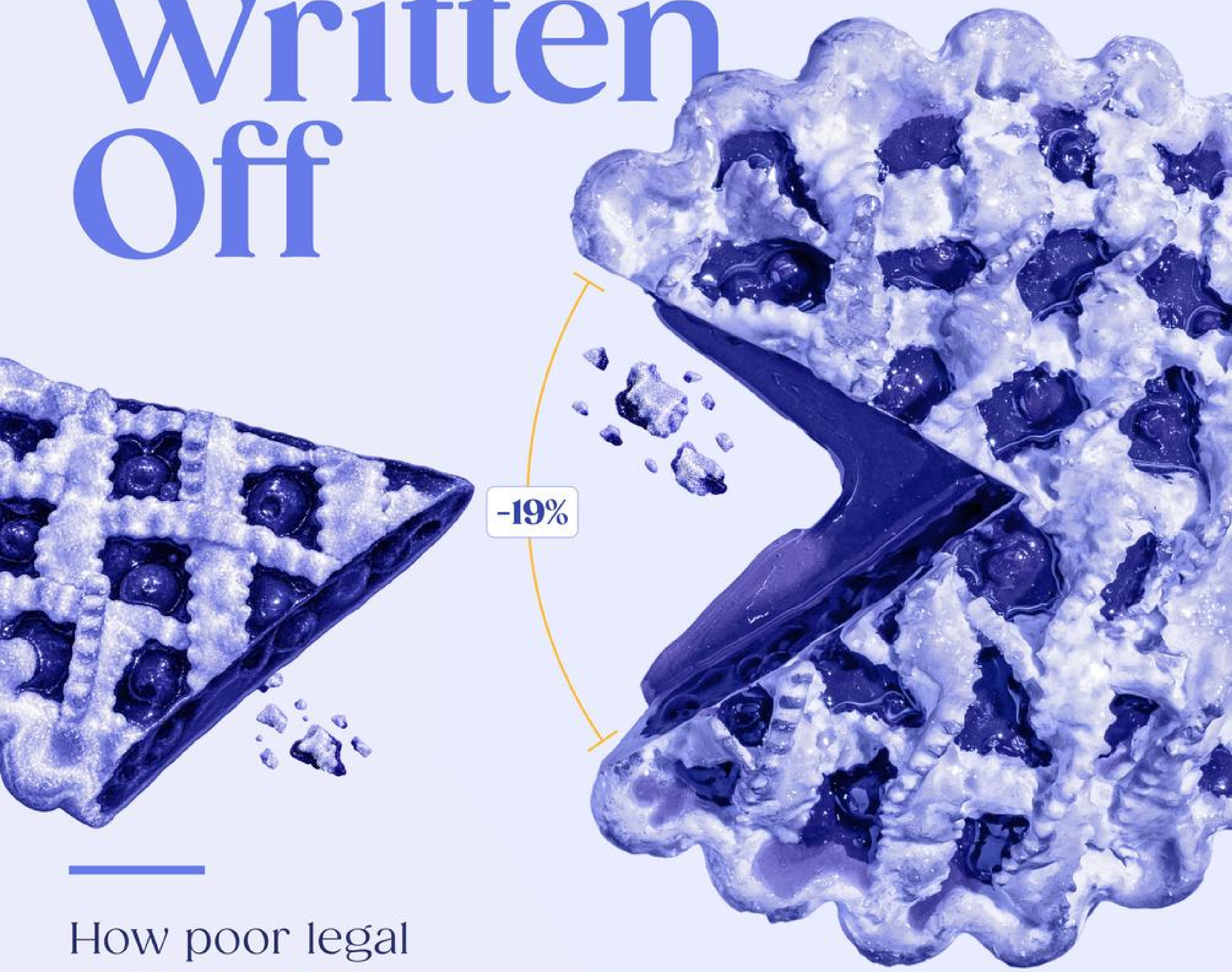
eBook

BriefCatch

Written Off



How poor legal writing quietly eats into your realization rate

Table of Contents

Introduction 03

01 Poor writing costs more than your billing report shows 05

02 Good enough is a default setting 10

03 Fix the first draft, not the fifth 14

04 What elite advocates do differently 17

05 AI can coach every lawyer on every draft 19

06 The Monday morning checklist 21

Conclusion 25

Introduction

The Drain On Your Firm's Margins

For a managing partner, legal writing is an operational input with a direct impact on margins. Poor legal writing creates costs that accumulate across billing cycles and in partner hours absorbed rather than recorded. **These line items don't carry a label that reads as a writing problem, but together, they erode margins.**

Survey data reported by The American Lawyer found that Am Law 100 firms recorded their lowest realization rates in at least five years in 2023. The average realization was 80.93%, with a median of 79.65% among the firms cited in the survey. Those percentages translate into measurable losses. For example, if a firm bills $200 million at 81% realization, it collects $162 million and writes off or writes down $38 million.

Client-driven discounts and industry pricing pressure account for part of this gap. Firms can directly manage another source: time lost to rewriting and unnecessary review. Reworked first drafts, extra review cycles, and avoidable client follow-ups drain time and money. Clearer writing prevents them.

Draft quality contributes to the realization gap, yet firms still treat writing as a soft skill. **But writing is measurable, coachable, and correctable,** and it has been for longer than most management reports acknowledge.

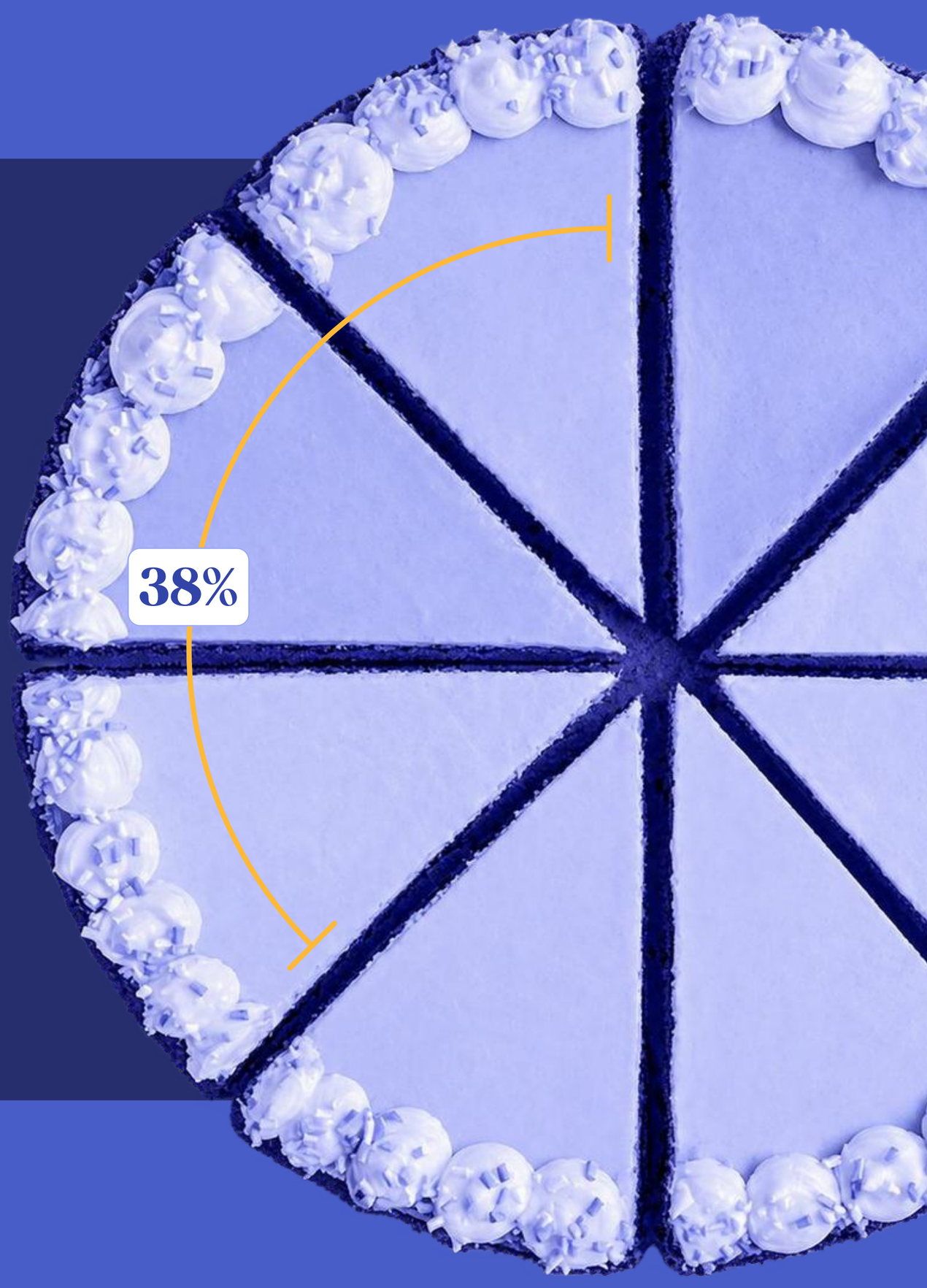
There are patterns that distinguish elite legal writing from competent legal writing. In his book, Point Made: How to Write Like the Nation's Top Advocates, BriefCatch CEO and founder Ross Guberman argues that choices like how to open a brief, draft headings, or tell a persuasive story are more "science than art." He spent more than two decades analyzing the work done by some of the most influential lawyers, including Barack Obama, John Roberts, Elena Kagan, Ted Olson, and David Boies. The decisions elite legal writing makes around structure, precision, sequence, and persuasion are identifiable and teachable, and they can be reproduced across a firm's entire drafting output.

This eBook shows where the cost of an average brief hides: in unrecorded senior hours when a partner absorbs a rewrite rather than logging the time; in client emails that a clearer draft would have made unnecessary; in matters that consume four review cycles where two would have sufficed; and in fixed-fee engagements where each additional cycle slices more off the firm's margin.

It closes with a checklist for the managing partner. The first step is the simplest: for 30 days, tag rework time in your billing system and record the reason. That data will put a number on the hidden cost of poor writing.

The good news

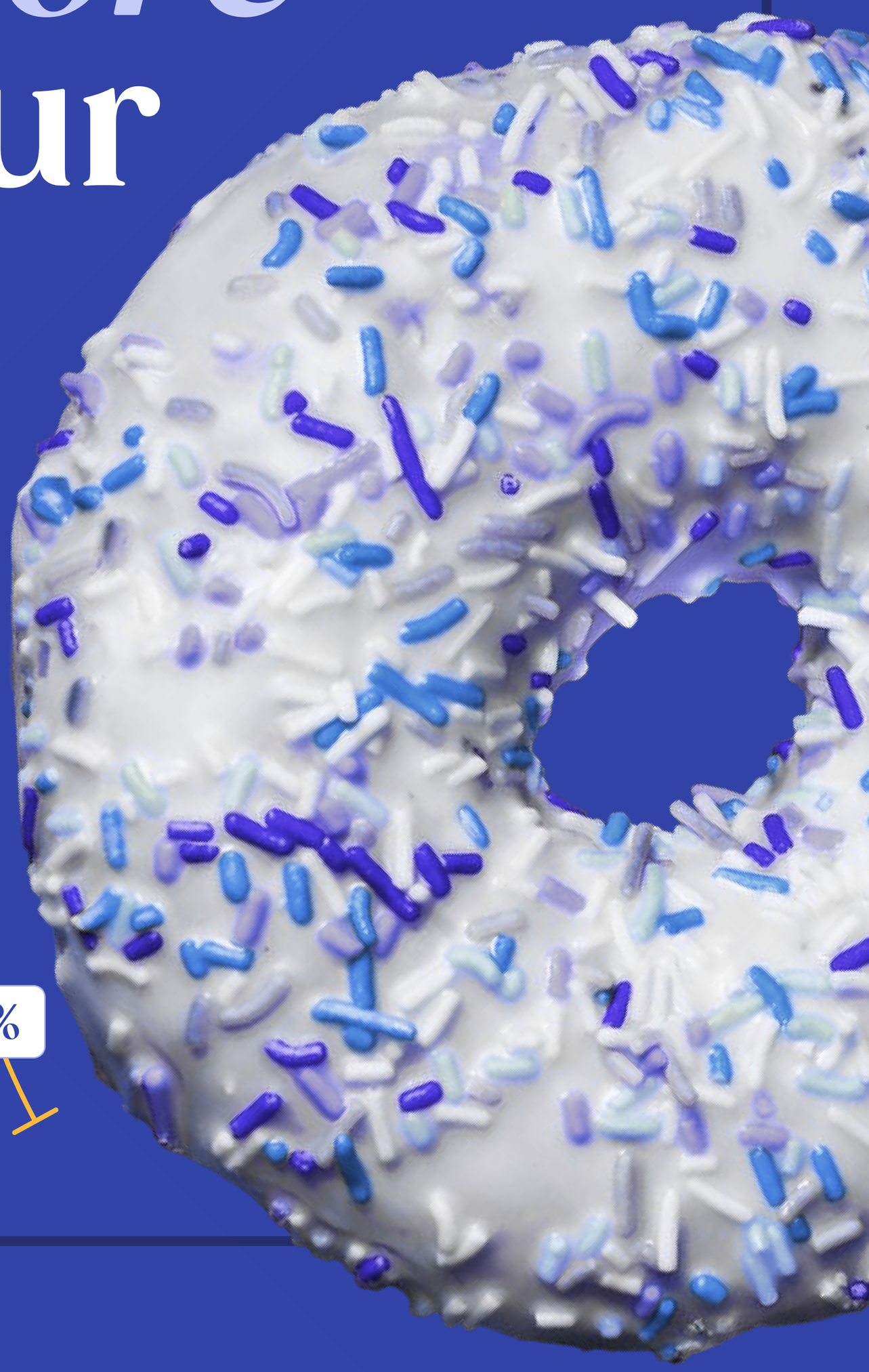
Writing is measurable, coachable, and correctable



1 https://www.law.com/americanlawyer/am-law-100/
2 https://www.youtube.com/watch?v=xqmNI0trEnA

01.

Poor writing *costs more* than your billing report shows



The cost of poor writing is rarely catastrophic. It is daily, structural, and spread across four vectors. Only one, realization erosion, shows up on a standard billing report, and even then, it carries the wrong label.

No single report captures the cost of poor writing. Each vector erodes margin in a different way and at a different point in the billing cycle.

THE REALIZATION GAP

$200M
billed

$162M
collected at 81% realization

$38M
written off or written down



Four cost vectors

01
Partners rewrite drafts and don’t bill for it

02
Extra review cycles become write-downs

03
On a fixed fee, every extra cycle comes out of margin

04
Clients notice, even when they don’t say so

COST VECTOR

01 Partners rewrite drafts and don't bill for it

One of the most expensive writing costs may also be one of the least consistently recorded: partner rewrite time. When a partner redoes an associate's draft rather than reviewing it, the hours are routinely absorbed rather than logged. The work happens at your firm's highest billing rate, but it produces no matching entries in your billing system.

According to the Thomson Reuters Institute, this "silent write-down" amounts to **about 76 hours and almost $47,000 in lost fees per partner every year[3].**

This happens weekly at most firms, especially those with no clear definition of a reviewable first draft. Every draft that arrives ready to review protects revenue. Every draft that doesn't is a cost absorbed at your highest billing rate.

76 hrs per partner, per year ≈ **$47,000** in lost fees, the "silent write-down"

COST VECTOR

02 Extra review cycles become write-downs

Draft-related realization erosion differs from partner rewrite time, but the two costs compound. When a matter requires additional review cycles because early drafts were not structurally usable, the time spent reworking the drafts becomes progressively harder to bill.

If a client has received three versions of a brief and is still asking clarifying questions, they're not going to accept a bill that reflects all three versions at the full rate. The write-down that follows is then coded as either client sensitivity or pricing pressure, but the problem started with a first draft that had to be rebuilt.

COST VECTOR

03 On a fixed fee, every extra cycle comes out of margin

On a fixed fee, draft quality and margin move together. Each extra review cycle consumes hours the firm has already been paid for. There is no way to recover that cost from the client, and no line in the billing report shows where the margin went.

A fixed-fee matter that requires four review cycles instead of two, for example, has repriced itself at the halfway point, and your firm has no record of why. When actual hours exceed the fee estimate, extra review cycles are often the reason.

COST VECTOR

04 Clients notice, even when they don’t say so

If a client’s in-house team regularly receives drafts that need a follow-up call to explain, or that bury the strongest argument under qualifications, the relationship steadily erodes. The friction felt in calls and reviews becomes their impression of your firm’s service quality. Clients rarely cite writing as the reason they leave a firm, but it is often part of the cause.



Key takeaways

- Partner rewrite time is absorbed at your highest billing rate and never logged.
- Extra review cycles turn into write-downs that get coded as pricing pressure.
- On fixed fees, every extra cycle comes straight out of margin.

3 https://www.thomsonreuters.com/en-us/posts/wp-content/uploads/sites/20/2024/04/Law-Firm-Billing-Write-Downs-2023-1.pdf

FACT BOX

The *“So What”* test

A brief can satisfy the partner who reviews it and still fail the judge who must decide the motion. The “So What” test measures that gap.

The test is simple. After reading the first page of any brief, a judge or clerk should be able to answer three questions:

01 **What is the party asking the court to do?**

02 **Why should the court do it?**

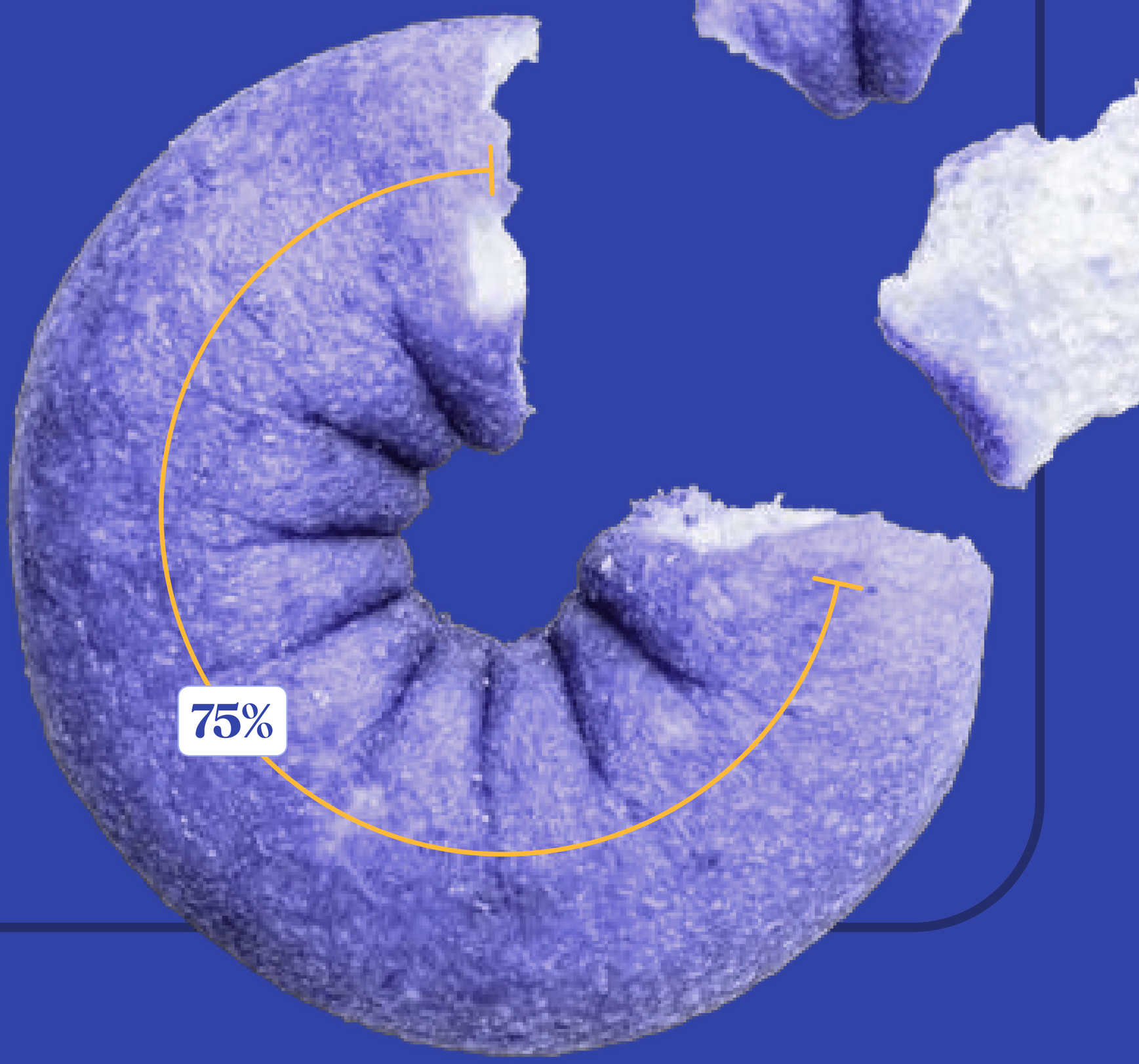
03 **What does the court need to decide to get there?**



A brief that can’t answer all three has failed its main purpose. It usually comes back for another round of revisions, and that cycle generates no revenue.

02.

Good enough is a default setting



Three pressures created the good-enough default. AI has added a fourth.

Ask firms why they accept substandard writing, and the answers follow a familiar pattern:

01

They are under significant time pressure.

02

Rate compression and cost pressures are ongoing.

03

They assume poor writing rarely causes visible harm.

04

Generative AI makes weak drafts look strong.

Each pressure is real, but poor writing feeds the first two and undercuts the third. Its everyday costs are less dramatic than a sanction but far more common: extra review cycles, write-downs, client friction, and associate stagnation.

AI makes weak drafts look strong

The fourth pressure is generative AI. The AI tools associates now use produce work with all the surface signs of care: a confident tone, complete structure, and the right vocabulary. Senior reviewers have long used those signals to judge a draft. They are no longer reliable.

A second risk gets less attention: junior lawyers who rely too much on generative AI can short-circuit their own development. The long-term cost is a generation of lawyers who can produce competent writing on the surface but cannot construct an argument under pressure. For firms that deploy AI without investing in writing skills, that cost will be significant, and it will arrive late.



A well-formatted and professionally written brief was once a signal that it was carefully reasoned. With AI, that's no longer true.

AI produces clean output that can mask gaps, citation errors, and arguments that don't advance the case's legal theory.

FACT BOX

The false-polish problem

AI has changed what a weak draft looks like:

01

Polish is easy to fake.

AI writing looks careful, but the structural and analytical failures sit beneath the surface.

02

The old signals no longer work.

Clean formatting and a confident tone used to mark a careful draft. Now they are the easiest things to generate.

03

Reviewers miss what matters.

A reviewer trained to spot weak drafts by their surface will miss the failures AI produces most often.

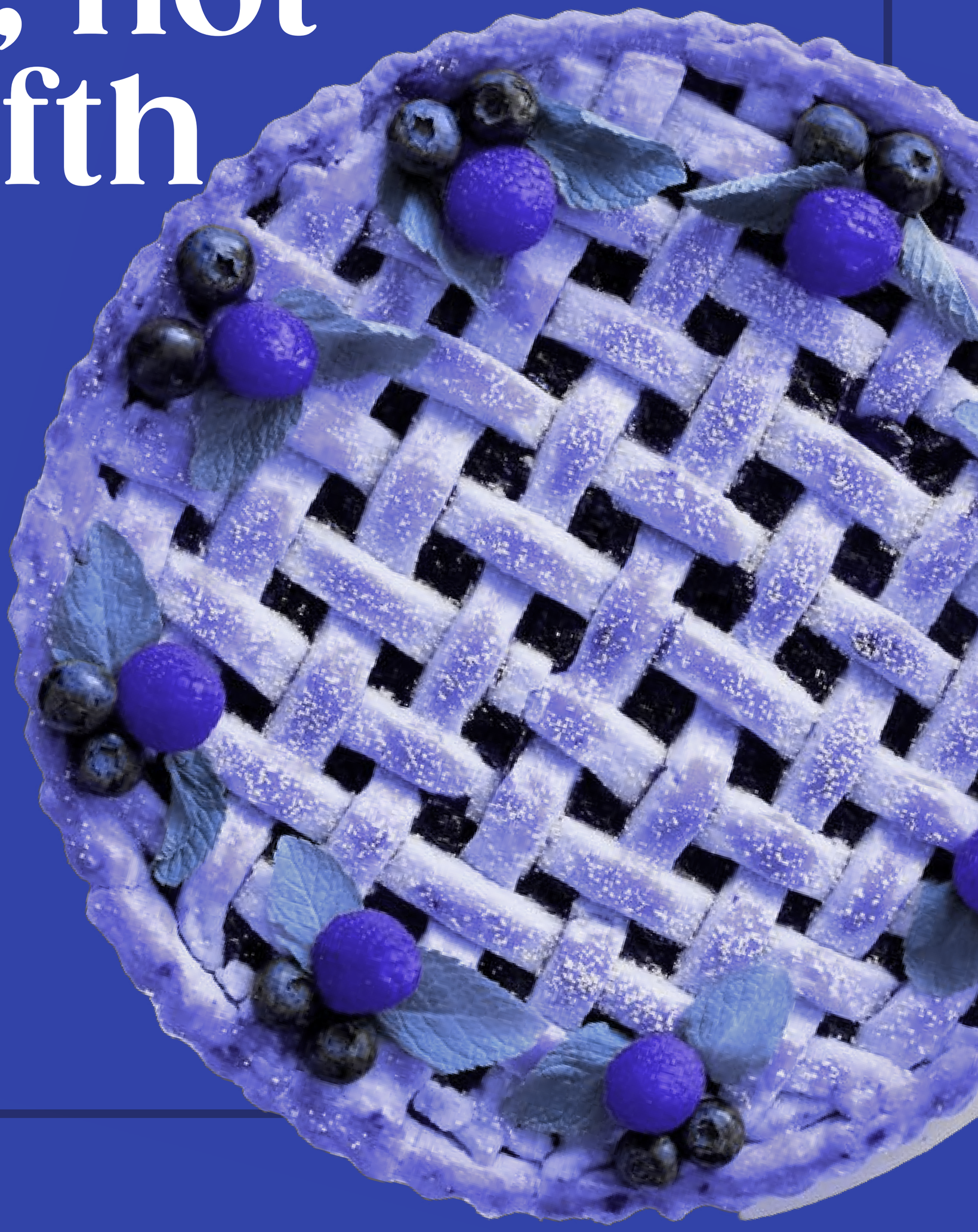
04

The cost lands on the firm.

Firms that haven’t updated their review protocols approve drafts they once would have sent back. Then they file them and bill for a review that missed the problem.

03.

Fix the *first* draft, not the fifth



The number of review passes a brief goes through tells you nothing useful about its quality.

A well-structured first draft can be refined and filed in two passes, while a poorly structured one can go through six and still require reconstruction at the partner level on the morning of filing. The count isn't the problem; it's the nature of the work being done at each pass, and most firms don't have a way of distinguishing between the two.

A productive loop

01 An associate produces a draft that is structurally sound and ready to refine.

02 The senior associate improves the substance.

03 The partner sharpens the argument and the strategy.

04 The document improves with each pass because each reviewer is doing different work from the one before.

A pathological loop

01 The associate produces a draft that is legally accurate but structurally unstable.

02 The senior associate rewrites it.

03 The partner rewrites the rewrite.

04 A pre-filing scramble ensues, and nobody can identify which pass was productive.

The difference between these two loops is whether the first draft was reviewable when it left the associate's desk.

The first draft sets the cost

The biggest leverage point in the process is the structure of the first draft. When it has a clear issue statement, point headings that track the argument, and topic sentences that state the point, a reviewer can refine it quickly. Without those elements, a draft can only be reconstructed.

THREE SIGNALS A DRAFT WILL NEED RECONSTRUCTION

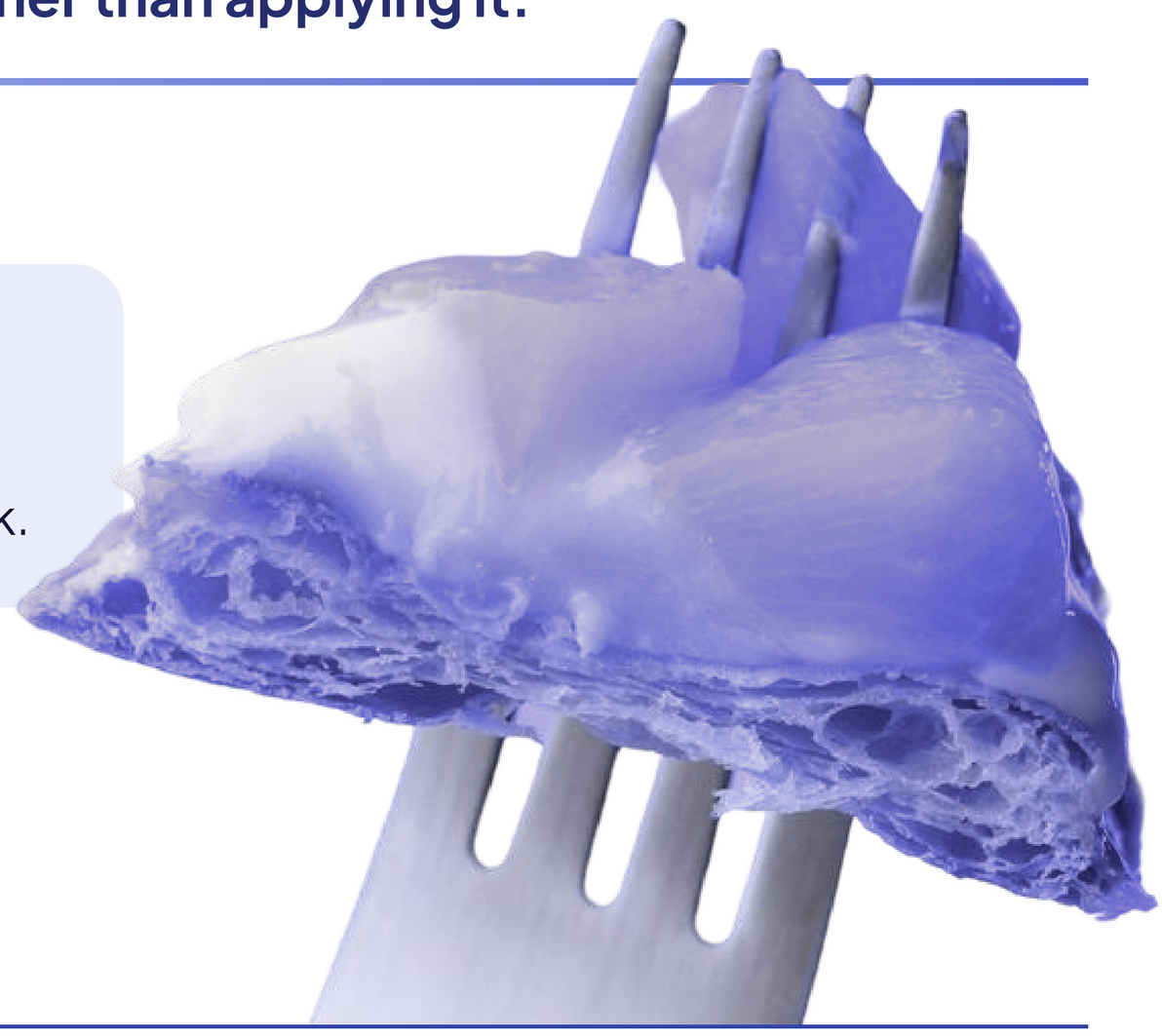
01 The structure is obscuring the analysis rather than advancing it.

02 Citations are stacked without explaining what they establish.

03 A pattern of AI tells, such as fluent but generic prose and analysis that restates authority rather than applying it.

NOTE

Hallucinated cases and misattributed quotations are a separate and more serious risk.



04.

What *elite advocates* do differently



CHAPTER 04

You can see the gap between a competent and an outstanding legal writer in the briefs they write.

EXAMPLE 01

The Terri Schiavo emergency litigation

The Schindlers opened their Supreme Court application by largely restating the caption and procedural posture. Michael Schiavo's opposition went straight to the fight. Same case. Same stakes. But one opening told the Court immediately which side was in command.

"no valid justification" "extraordinary and invasive relief" "thin federal claims" "repeatedly rejected"

EXAMPLE 02

The Martha Stewart prosecution

Another example, highlighted by Ross Guberman, is the Martha Stewart prosecution, where the government drafted its fact-section headings as conclusions. Each heading told the reader what the facts established before presenting them, so the facts did the arguing. It was writing as a precision instrument, and it sets the standard for every brief a firm files.

WHAT SEPARATES COMPETENT WRITING FROM ELITE ADVOCACY

01

Openings that frame the dispute

02

Headings that state conclusions

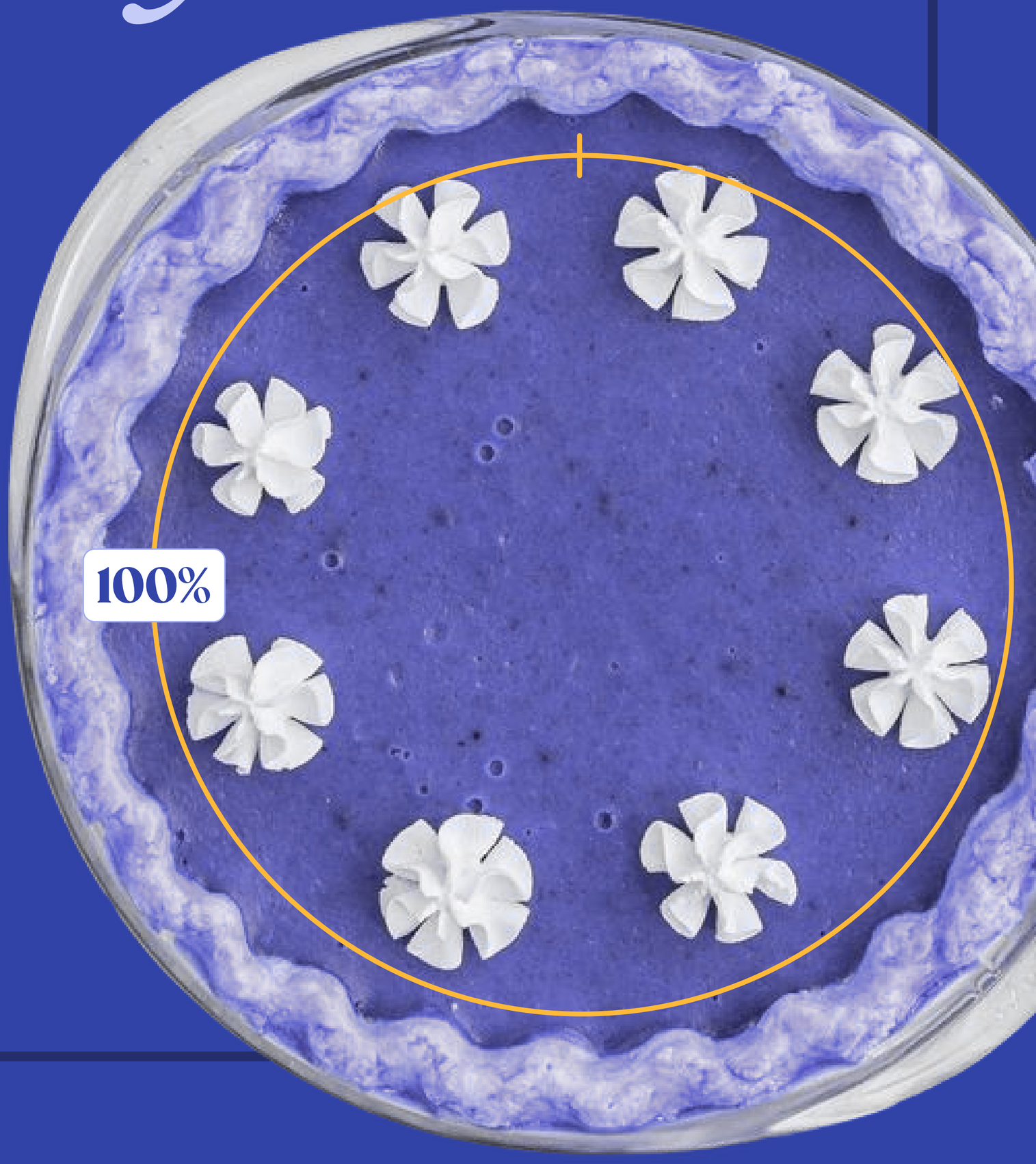
03

Language that tells the reader why the facts matter

Clients can see the difference, too. General counsel now have AI tools that can analyze the briefs they pay for and flag the weakest points in an argument.

05.

AI can coach *every lawyer on every draft*



CHAPTER 05

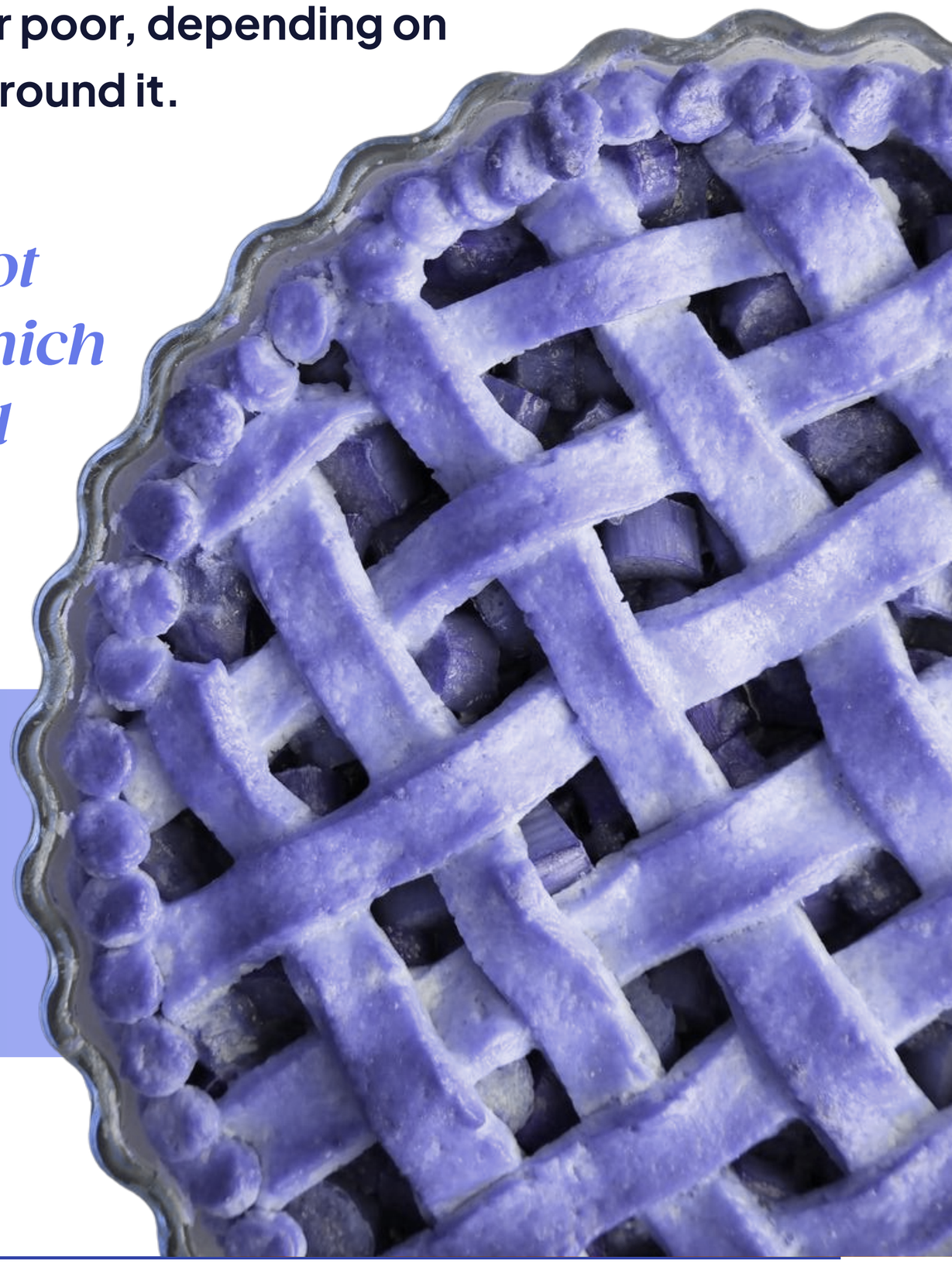
Built on the right foundations, AI gives every lawyer the feedback of a great editor.

A great senior partner's redline does more than fix a draft. It identifies the problem, shows a better approach, and explains why the change matters. The constraint has always been scale: a partner can do this for one associate on one draft at a time. AI can bring that kind of feedback to far more lawyers, far more often.

The real risk is using general-purpose AI as a substitute for legal judgment. Tools not designed around legal writing standards produce work that looks careful but lacks the judgment underneath. In legal writing, that output risks fabricated citations, incorrect information, and reputational damage.

AI is not inherently a risk. It can be brilliant or poor, depending on the tool, the context, and the governance around it.

The question for leadership is not simply whether to use AI. It is which tools to use, for which tasks, and under what standards.



01

Which tools

02

For which tasks

03

Under what standards

06.

The Monday morning *checklist*



Three management moves, carried out through seven practical steps.

Everything in this eBook points to one moment: when a managing partner stops treating writing quality as a development issue and starts managing it as a cost. The seven actions below make that shift practical and the savings measurable.

STEPS 01–02
Measure the cost

STEPS 03–05
Set a standard

STEPS 06–07
Build it into governance

MOVE 1

Measure the cost

01

Code your write-downs for 30 days

Make one change to how your billing system codes write-downs. Record the reason: client sensitivity, budget constraints, rework, scope changes, or an unusable first draft.

After 30 days, you'll have a directional measure of rework at your firm. After a quarter, you'll see patterns. Over time, you'll have data your management committee can act on.

02

Run the comparison

Compare two similar matters: one where the first draft required refinement, and one where it required reconstruction. For each, record total hours, realization rate, and write-downs.

Put the results side by side. The difference gives you a practical measure of what poor first drafts cost your firm.

MOVE 2

Set a standard

03

Reframe associate evaluations

Five-point writing scores rarely tell associates how to improve. Three questions are more useful:

- ☐ **Does the first draft require refinement or reconstruction?**
- ☐ **Has the associate's writing improved over the year?**
- ☐ **Does the associate apply feedback to subsequent drafts?**

These questions measure observable behavior, connect writing quality to cost, and give reviewers a common vocabulary.

04

Read the lateral writing sample differently

A polished writing sample tells you less than it once did. Look past fluency and formatting to the structure underneath. Does it open with a clear issue statement? Do the point headings argue rather than label? Do the topic sentences carry the analysis?

Those are better signals of how the candidate thinks and writes.

05

Audit the review protocol

Ask whether your firm has defined what a reviewable first draft looks like for the documents it produces most often. If the standard lives only in individual partners' heads, associates are left to infer it.

Write the standard down. Start with one document type and give partners and associates a common definition of a reviewable first draft.

MOVE 3

Build it into governance

06

Have the AI conversation

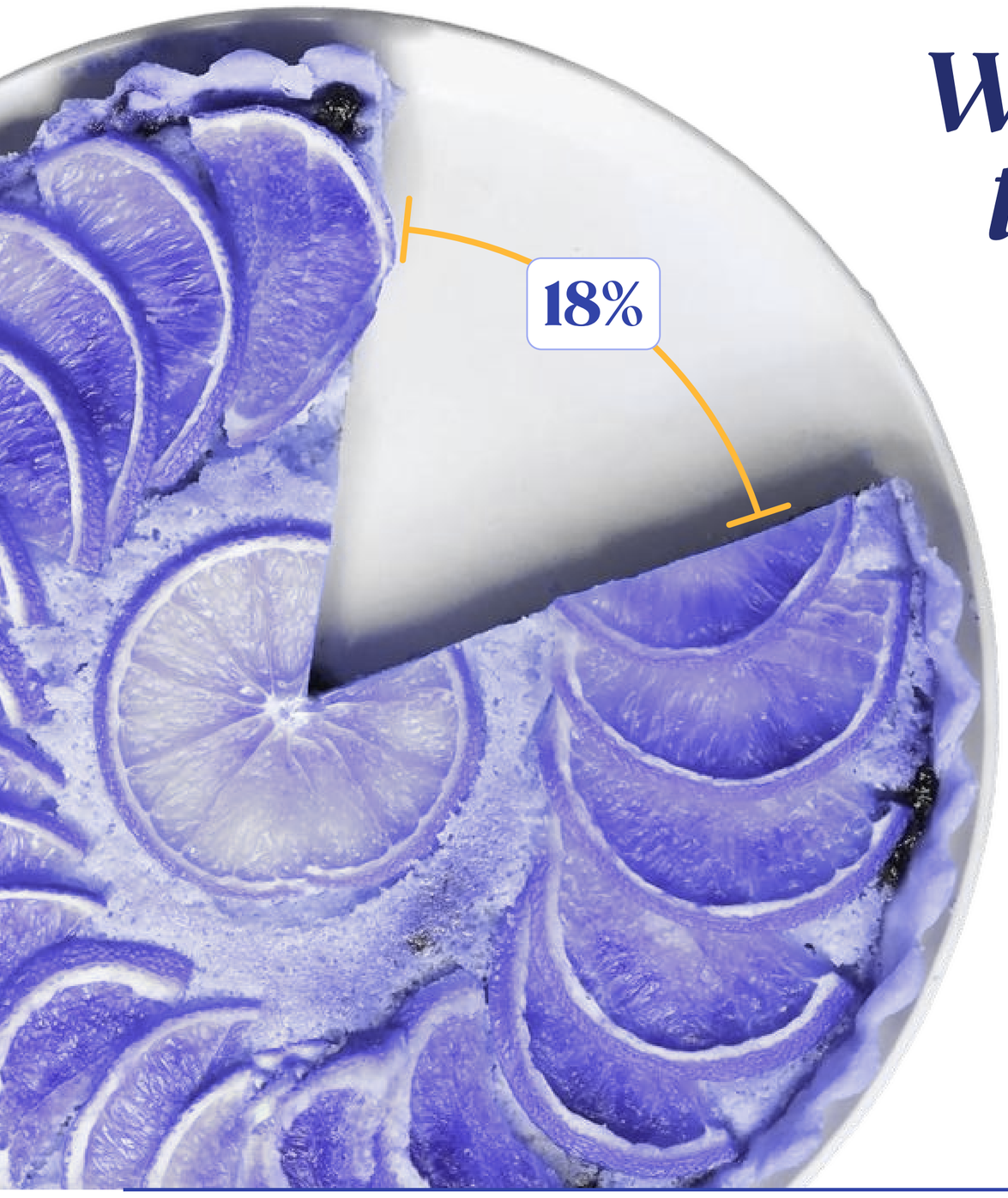
Find out which AI tools your associates use, set a standard for citation verification, and make sure your review process accounts for false polish.

More than 2,000 AI hallucination cases have been documented as of October 2026.[4] AI use may be inevitable. Informal governance shouldn't be.

07

Connect writing and finance

Writing problems often surface as financial problems: write-downs, absorbed partner time, and compressed fixed-fee margins. Put writing quality and realization data in front of the same people.



What gets measured together is easier to manage together.

4 https://www.damiencharlotin.com/hallucinations/



Conclusion

FROM INVISIBLE COST TO A MANAGED MARGIN

Legal writing remains an operational input to firm margins, and the stakes have risen. General counsel can now use AI to analyze outside counsel's work, while courts are escalating their responses to hallucinated citations. Both developments raise the standard for every brief.

The tools for meeting that standard have changed too. Writing quality can now be measured at the document level, tracked across a firm, and improved through feedback that scales beyond partner redlines and training workshops.

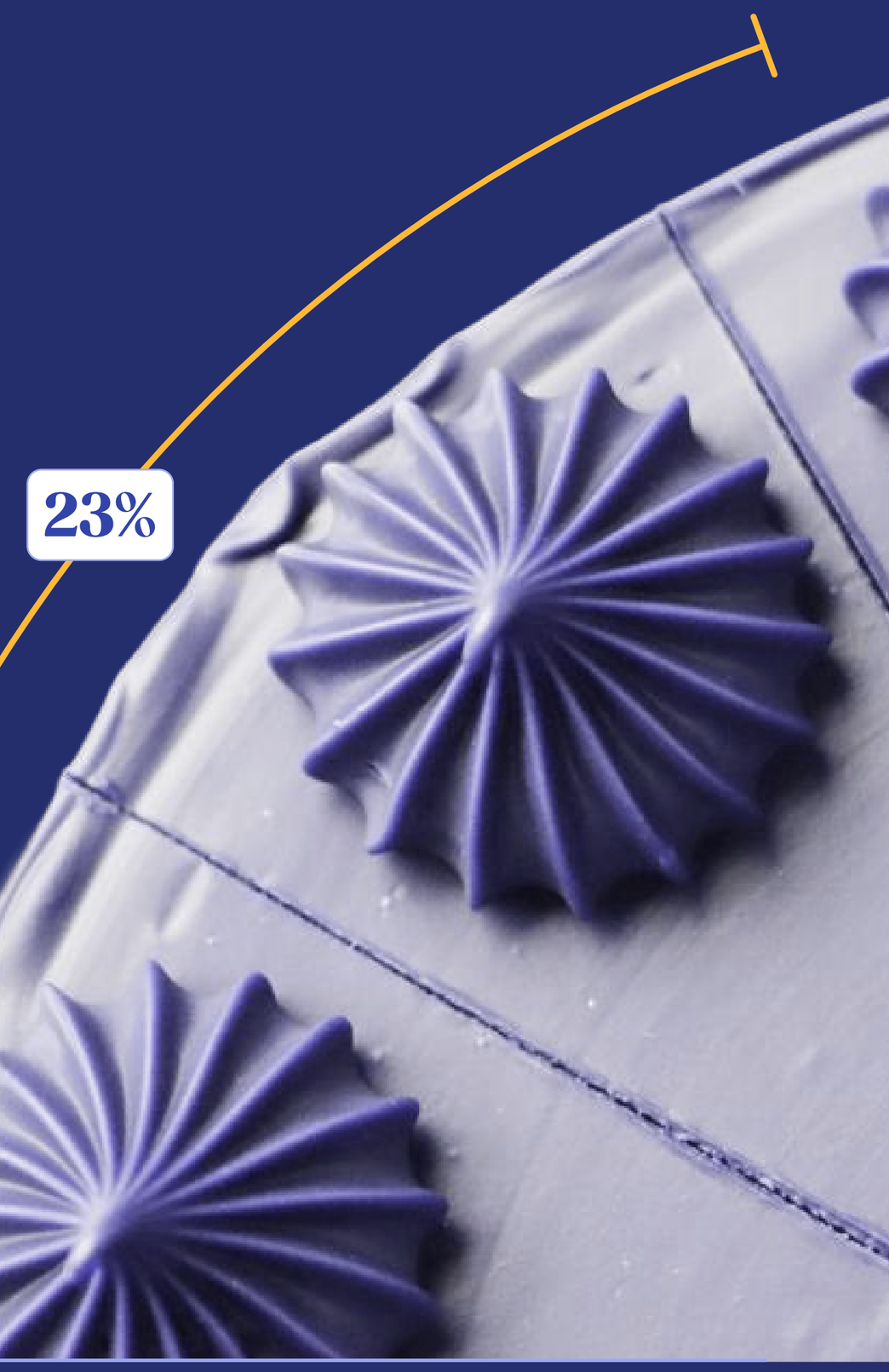
A firm that treats writing as a managed capability turns quality from an aspiration into a competitive position. Better first drafts compound into shorter review cycles, more defensible bills, and less client friction.

See how BriefCatch puts this framework to work.

Start a free 7-day trial at briefcatch.com.

START FREE TRIAL

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SOURCES

1 https://www.law.com/americanlawyer/am-law-100/
2 https://www.youtube.com/watch?v=xqmNI0trEnA
3 https://www.thomsonreuters.com/en-us/posts/wp-content/uploads/sites/20/2024/04/Law-Firm-Billing-Write-Downs-2023-1.pdf
4 https://www.damiencharlotin.com/hallucinations/

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