

The 6Rs:  
Six Legal Document  
Risks That Drafting  
Technology Mitigates

# Introduction

To err is human—but that doesn't mean mistakes in legal documents are acceptable.

Law firms and corporate legal departments have long understood that people are fallible. Errors can easily happen in every step of legal work, particularly when lawyers are under pressure and working with tight deadlines. But this understanding does not relieve legal professionals of the responsibility for detecting and correcting mistakes—or the pain of suffering their consequences should they fail.

For a harrowing example, let's go back to 2014.

Wellesley Partners LLP, an executive recruiting company, was looking to create a [new partnership](#) with a Middle Eastern Bank, Addax Bank BSC. The bank was to provide Wellesley with around £2.5 million in funding, which Wellesley would use to further its geographical expansion.

Naturally, Wellesley needed lawyers to draft the contract, formalizing the terms and conditions of the partnership and the funding. It hired a well-known UK firm, Withers LLP, with the expectation that it would be represented by an excellent team of lawyers. One of the conditions Wellesley requested was that the bank could withdraw its investment only after 42 months of funding. The firm drafted the contract and both parties signed, making it final.

Fast forward to 12 months later, when the bank elected to withdraw a portion of its investment. Wellesley's representatives were dismayed; this withdrawal would substantially limit the company's expansion efforts. They were sure that the contractual agreement had specified that the bank could only withdraw its money after 42 months.

They were wrong.

The law firm had inadvertently changed the wording of the clause to state that the bank could withdraw its money not after 42 months but during that period. A long legal battle between the company and the law firm ensued.

Ultimately, the court decided that the law firm had been negligent, costing the company a chance at expansion and a large portion of its profits. The court ordered the firm to pay nearly £1.5 million to the company for lost profits and an additional £125,000 for wasted staff time.

This is only one example of the many risks that law firms and legal departments face when drafting documents. Countless other instances demonstrate that one missing or incorrect word, one typo, or one wrong date, name, or dollar amount can snowball, resulting in significant consequences for legal professionals, law firms, and their clients. This case, which caused substantial financial and reputational damage, represents only one of the six major risks inherent in legal document drafting.

In this whitepaper, we'll highlight the various risks associated with document drafting and show how modern technology and automation can mitigate those risks for legal professionals in any setting.

## Managing Human Risk in a Hybrid World

Turning to more recent history, we all remember what happened in March 2020. We left our offices at the end of what seemed like a normal day at work—and some of us still haven't returned. The COVID-19 pandemic made waves on a global scale, redefining what work looks like in every industry. Lawyers, naturally, weren't exempt from those changes.

Today, **87% of lawyers** who responded to an American Bar Association (ABA) survey said that their employers allow them to work remotely, whether through permanent remote work or a hybrid model. And lawyers aren't going back to the old work model; 44% reported that they would leave their jobs if offered more remote work.

That leaves law firms and legal departments grappling with a conundrum: they can either force lawyers to return to the office, thereby losing talent, or adapt their entire operational infrastructure to implement long-term hybrid policies. Most organizations have opted to support hybrid work, but to do so, they've had to rethink the processes and technology they rely on.

What do legal professionals need to work remotely? According to another ABA survey, [more than three-quarters of lawyers](#) state that they need “excellent access to office online files” (87%), “office quality internet access” (86%), and “strong IT support” (77%) to be productive when working remotely. Nearly as many requested “excellent access to help from support staff” (73%), while half or more wanted to receive guidance about technology.

All of this puts immense pressure on IT and operations teams to create processes and deploy technologies that empower lawyers to safely and effectively work wherever they are.

But working safely and effectively demands comprehensive risk mitigation. When lawyers went into the office and used their organizationally approved hardware, software, and processes—including onsite resources from paralegals and IT staff to research librarians and senior partners—they had built-in safeguards to catch errors and reduce risks.

Today’s work environment presents different challenges, as lawyers work independently from anywhere on their laptops, tablets, and mobile phones. That means the processes and technology that a law firm or corporate legal department uses today must be available to lawyers wherever they are—while still comprehensively mitigating risks that arise from causes as diverse as inadvertent errors and intentional cybersecurity breaches.

There are few tasks that lawyers engage in more frequently or consistently than drafting documents. Documents, after all, are a legal practice’s main deliverables. Whatever advice or strategy lawyers offer or arguments they make are typically presented at some point in a document. It’s no surprise, then, that documents present enormous risks for law firms and corporate legal departments.

Before the pandemic, drafting and perfecting documents involved a systematic approach, supported by technology, processes, and people that were available within the office. Now, law firms and legal departments must adapt their approach and empower lawyers to draft consistently outstanding documents in the office, at home, or anywhere else, all while mitigating the risks those processes pose.

Let's break down the six broad types of risk that legal professionals encounter throughout the document lifecycle.

## Six Risks Legal Professionals Face When Drafting Documents

While various risks—such as the risk of a cybersecurity breach—could arise at any time, we'll discuss the following six risks in the order in which they might typically appear as lawyers draft, perfect, and distribute documents.

Any of the following risks could lead to dire consequences, from reputational harm and loss of business to financial penalties.

1 The Risk of Revealing a Client's Personal Data

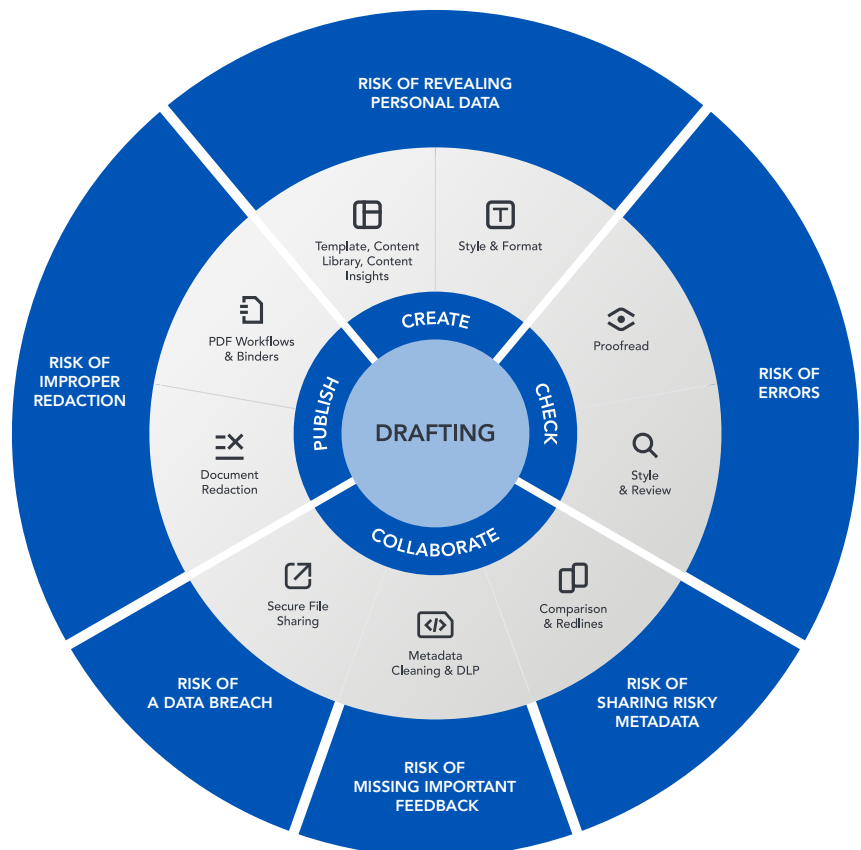
2 The Risk of Small—but Significant—Errors

3 The Risk of Missing Important Feedback in Collaborative Review

4 The Risk of Improperly Sharing Metadata

5 The Risk of a Data Breach

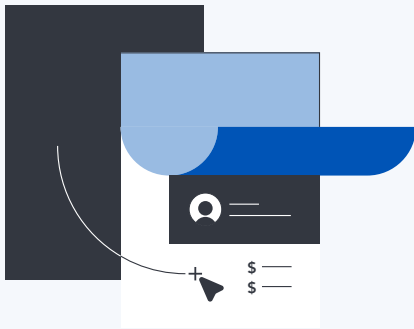
6 The Risk of Improper or Incomplete Redaction of Sensitive Information



# 1 Risk 1

## The Risk of Revealing a Client's Personal Data

Let's start at the beginning with how legal professionals create a first draft.



The legal document drafting workflow rarely begins with a blank page. Rather, when an experienced lawyer needs to create something new, they first turn to their existing library of documents. A newer associate might receive a folder of templates from their mentor or supervisor. From there, a lawyer might simply copy an old document in its entirety or copy and paste various sections from similar exemplars into a new document.

However the lawyer obtains their initial template, they must then revise it, editing the information to tailor it to the current matter or client. This might necessitate changing individual clauses, editing the client's personal information, inserting new matter data, and so on.

This approach would work well if humans were perfect. Alas, we aren't.

Given our imperfections, this "dupe-and-revise" method of document drafting presents several problems, the most pressing of which is the risk of inadvertently sharing a client's personal data or breaching the duty of confidentiality.

Here's how it can happen.

As a lawyer edits a new document, they must analyze each line, spotting each instance of personal or matter-specific data and updating it to suit the client and case at hand. That line-by-line analysis requires unfailing focus and attention to detail. Perhaps a lawyer can sustain that level of concentration for eight hours per day—but with [the majority \(59%\) of lawyers](#) working over 40 hours per week and 22% working more than 50 hours per week, mistakes become unavoidable. The exhaustion and mounting pressure of deadlines are bound to catch up with anyone.

When they do, mistakes will find their way into legal documents.

For example, suppose a lawyer fails to update one paragraph of a sales contract before sharing it with their new client. Due to that error, the new document includes remnants of the previous document. Depending on the paragraph, it might include a previous client's name or contact information, the dollar amount of a sale, a transaction date, the names of other parties to the deal, and so on. All of this potentially represents the previous client's personal or confidential data—and it's now completely visible to the new client.

Sharing a client's personal data can lead to consequences that range from mild to severe, including:

- loss of either or both clients' trust, causing damage to the lawyer's reputation;
- loss of either or both clients' business, reducing the practice's revenue;
- breach of confidentiality agreements, resulting in an ethics complaint or professional discipline;
- non-compliance with applicable data privacy regulations, leading to fines or sanctions; and
- malpractice claims, causing further financial and reputational costs.

These effects can have a substantial impact on a firm's or organization's bottom line. Fortunately, the right technology can easily mitigate those risks.

To avoid the risk of revealing personal or matter data from a previous document draft, legal professionals need technology that streamlines document creation with enterprise-approved templates and an organization-wide content library. These templates should include the ability to create data field placeholders that mark client- or matter-specific data and anonymize those fields. Anonymized templates remove the risk of carrying forward traces of previous documents. At the same time, using language from an approved content library ensures that each clause is relevant to the document and represents the practice's best work.

This document creation technology not only mitigates the risk of mistakes but also simplifies and expedites the drafting process. And it boosts productivity, as lawyers no longer need to devote hours to painstakingly reviewing a new document line-by-line in search of previous data fields. Lawyers can instead focus on the substance of the document and its applicability to the current client or matter.

But personal data from previous drafts or templates is only one type of mistake that can crop up in legal documents. Let's turn to the next stage of document creation, where those errors are supposed to be caught.

## 2 Risk 2 The Risk of Small—but Significant—Errors

Once a lawyer has assembled a complete first draft, it's time for the proofreading stage. Most experienced lawyers will delegate this task to their associates, who are just as busy and are most likely juggling multiple assignments, each with its own pressing deadlines.

But proofreading legal documents is a complex feat that can't simply be shoehorned into the gaps between other assignments. Legal proofreading involves checking every detail on every page, including broad categories such as:

- the document's legal correctness and completeness;
- its overall spelling and grammar;
- the accuracy of client- or matter-specific details such as names, dates, amounts, and the like;
- the correct numbering of lists, clauses, paragraphs, and so on;





- the accuracy of internal cross-references to other clauses, paragraphs, or other section divisions;
- the consistency of usage for common terms;
- the inclusion of correct definitions for specific defined terms;
- the document's overall style and format; and
- the correctness and completeness of any references, citations, and so on.

Each of these must be accurate, consistently structured, and styled in accordance with the guidelines of the firm, organization, or client.

Asking associates to ensure absolute perfection in all of these categories—while juggling multiple matters and deadlines—is a fool's errand. But errors in proofreading can have dire consequences. A single incorrect word can cost millions of dollars in fines, lost business, and reputational damage. This isn't hyperbole; just ask the legal professionals at Withers LLP.

Even when small errors don't have immediate consequences, they diminish trust. After all, lawyers in any practice have a duty to represent their client or clients well and serve their interests. When legal documents have small mistakes—even as simple as typos or grammatical errors—clients recognize that they're not receiving the firm's careful attention. These mistakes erode trust in the lawyer and the broader legal team, causing the practice's reputation to decline.

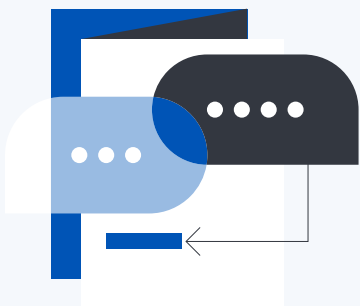
The built-in software within Microsoft Word—where the overwhelming majority of lawyers draft documents—offers an easy way for lawyers to catch some of these mistakes.

But proofreading technology that's specifically designed for the complexities of legal documents can go further in automatically detecting common issues and enabling their quick resolution. This technology may also include a dashboard that quickly categorizes issues in a clear visual format, alerting the lawyer to various types of mistakes, such as missing definitions, incomplete citations, spelling errors, and numbering inconsistencies, so they can quickly see which issues are urgent.

With legal documents, though, proofreading is just the beginning of the review process.

# 3 Risk 3

## The Risk of Missing Important Feedback in Collaborative Review



Legal work is inherently collaborative. Sharing content and collaborating with internal and external stakeholders to troubleshoot and finalize documents is an everyday occurrence. Lawyers and legal professionals frequently review each other's work to ensure that they see their positions from all angles. But in doing so, they introduce a range of new risks.

The legal collaborative review process might include as few as two parties, but there are usually multiple collaborators with different roles, from junior associates whose input might be valuable to senior partners whose feedback is crucial.

Before legal technology was widely accepted or used in the legal industry, lawyers had to integrate this feedback by manually comparing original documents with their revised versions, going line by line to ensure that they didn't miss any changes. This was a time-consuming, mind-numbing task—with the monotony broken only by the stress of reconciling different changes to the same section and figuring out which comments should carry the most weight.

Given how complex legal documents are and how many changes may be applied throughout the collaborative editing process, it's all too easy for a lawyer to inadvertently accept or reject a change they shouldn't have. As a result, the edited document may fail to capture everyone's input—even if that input was absolutely vital.

If that incorrectly revised document is then shared with a client or submitted to a court, the lawyer may have to deal with a frustrated client whose comments to a senior partner weren't incorporated into the final draft or an aggravated court that demands the document's revision and resubmission.

How can legal professionals avoid these situations?

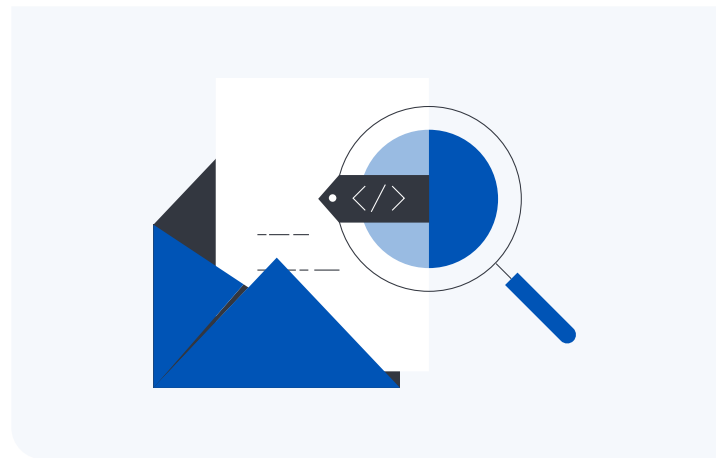
Many lawyers turn to the native “track changes” feature in Microsoft Word. While this is undoubtedly better than comparing documents manually, this built-in feature isn’t equipped to manage the complexity of legal documents.

Again, document comparison technology that’s built specifically for legal professionals fills these gaps. This software makes it easy to compare documents in seconds, view all changes to a section at once, and accept or reject changes individually or in batches.

But sharing documents to obtain this collaborative feedback poses its own risks.

## 4 Risk 4 The Risk of Improperly Sharing Metadata

Throughout the document drafting process, lawyers share documents quite freely with both internal and external parties. They may send a draft to the client or a business associate for feedback, share it amongst their practice group for feedback and comments, or send it to a paralegal or junior associate for proofreading and citation checking. This flow of legal documents between the involved stakeholders generally occurs through Microsoft Outlook.



But as documents are shared—and especially when they are shared with external stakeholders—one aspect of their data can present significant risk: their metadata, or the data about the document.

A document’s metadata is visible in the file properties and includes information such as:

- the original document title,
- the author’s name or the company name,

- any document tags,
- the document's categories,
- any comments and revisions,
- the document's total editing time, and
- modification dates and times.

When a lawyer shares a document with an external party, the information in its metadata is also shared. This may reveal personal information about a client, confidential information about a matter, or internal information about time-tracking or document authorship. What's more, if a lawyer created this new document by copying a similar document, the metadata of the previous document will remain, potentially exposing sensitive information from previous clients, matters, and projects.

Sharing documents with intact metadata can result in the same types of damage as sharing documents that include another client's personal data in their text, from noncompliance and loss of trust to malpractice claims and reputational damage.

So, how can lawyers mitigate the risks of metadata?

By integrating metadata cleaning software into their drafting workflows. This software allows lawyers to scrub risky metadata from their documents quickly and easily. Ideally, law firms and corporate legal departments ensure that metadata cleaning software is readily available from each lawyer's desktop, browser, and Microsoft Outlook so that lawyers can access those tools from wherever they are working without interrupting their drafting process.

Metadata isn't the only risk that accompanies document sharing.

# 5 Risk 5

## The Risk of a Data Breach



In addition to the risks associated with collaboration and metadata, legal professionals may also expose themselves and their organizations to cybersecurity risks when sharing documents.

Global cyber attacks increased by 38% in 2022 and continue to rise. At this point, no business is safe. That's why every industry is now subject to an array of privacy laws and regulations, many of which carry heavy fines in the event of a breach.

Law firms and corporate legal departments are obligated to take every reasonable precaution they can to prevent hackers from gaining access to personal or confidential information that they could then use against a client by holding it for ransom or selling it to the highest bidder. Law firm clients create lengthy outside counsel guidelines to limit the ways their law firms can use and process their data in an effort to mitigate cybersecurity risks.

Clients are right to be concerned, as legal documents are chock full of personal and sensitive information ranging from names and email addresses to financial information and plans about an organization's long-term growth strategy. To protect these details, legal professionals must adopt impeccable security measures when sharing legal documents.

Lawyers usually use Microsoft Outlook to communicate with internal and external stakeholders. But sharing unencrypted legal documents through Microsoft Outlook allows the possibility for bad actors to intercept information and use it against the organization, law firm, or client.

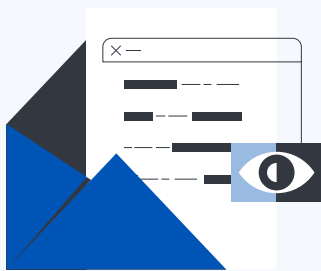
Files that are too large to be sent through Microsoft Outlook create a separate problem. In these situations, lawyers might try to use a different file-sharing system, increasing the risk that their documents could end up in the hands of hackers or other bad actors.

It's all too easy to imagine the significant consequences that could result. Suppose a hacker obtained the personal banking information of a major client from a document the client's lawyer sent via email or through an insecure file-sharing system. With their banking information now in the hacker's hands, the client could incur substantial financial harm—and could sue the law firm for its negligence, damaging the firm's reputation and its profitability.

End-to-end encryption—regardless of file size—is the answer to the cybersecurity risks caused by document sharing. Law firms and corporate legal departments should adopt file-sharing systems that offer end-to-end encryption and integration with Microsoft Outlook. These systems enable lawyers to send encrypted messages and files of any size directly from Outlook without interrupting their familiar email workflow.

But even the final versions of legal documents can pose risks.

## 6 Risk 6 The Risk of Improper or Incomplete Redaction of Sensitive Information



After creating a draft, proofreading it, obtaining feedback from other stakeholders and painstakingly comparing documents to integrate those revisions, scrubbing metadata, and sharing files securely, a legal document finally reaches its end stage: publishing. In the legal world, this typically means the document is converted to a PDF and shared through email.

Yet the sensitive nature of legal work often demands that even the recipients of a final document may not be allowed to view every detail. As such, lawyers apply individual redactions to discrete sections or pieces of information within the document. But if it's not done properly, the redaction process carries considerable risk.

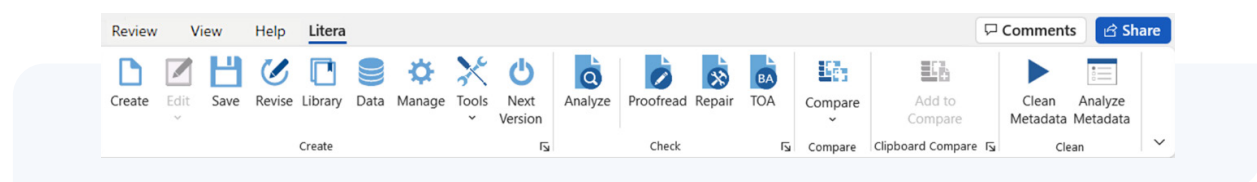
The process of redaction involves blacking out any sensitive information, which lawyers often do by inserting black boxes over specific text. Once this process is complete, the lawyer saves the PDF and shares it with the relevant parties.

But if redaction isn't done correctly, a simple edit to the PDF document is all it takes to remove those black boxes and reveal the sensitive information below. That information is then available for anyone to see, exposing the lawyer, law firm, or organization to the significant—and, by now, familiar—risks of noncompliance and loss of client trust.

Fortunately, software that's tailored to the legal industry enables true redaction that can't be reversed. This software makes it easy to edit PDFs and permanently redact information. These solutions streamline the publishing portion of the drafting workflow by allowing lawyers to apply redaction anywhere in a document and ensuring that redaction fully removes information and makes the published document version completely safe.

## How Litera Desktop Mitigates the Six Risks of Legal Document Drafting

From document creation to publishing, Litera Desktop mitigates the risks that arise at every step of the drafting workflow. Litera Desktop is a comprehensive legal document drafting suite that captures the entire drafting lifecycle in one easy-to-use Microsoft Word ribbon. The tools within Litera Desktop allow legal professionals to draft documents safely and consistently, while also working as much as 85% faster. Litera Desktop simplifies document creation, proofreading, comparison, metadata cleaning, and publishing—all without leaving the familiar environs of Microsoft Word.



With Litera Desktop, lawyers have more time to focus on the work that matters and hone their craft because they spend less time searching for errors and painstakingly comparing document versions. Litera Desktop avoids the wasted time and energy involved with constantly switching between different point solutions and enables lawyers to maintain their time-tested drafting workflows—all while providing a suite of best-in-class products that integrate seamlessly with one another.

IT teams love Litera Desktop too. With one suite of products from one vendor, IT professionals get to work with a team of experts who understand the unique pressures and needs of the legal industry. By consolidating multiple drafting point solutions into one cohesive package, organizations also increase the likelihood of adoption and eliminate underused technology and overlapping features—while avoiding the conflicts that arise with multiple add-ins.

## FOR LAWYERS



### Focus On What Matters

Spend more time delivering valuable legal work and less time on repetitive drafting tasks.



### All In One Platform

Avoid switching between solutions and draft perfect documents within an MS Word ribbon.



### Complement Your Workflow

Siloed solutions are no good! Draft documents faster with a platform that integrates with your existing technology.

## FOR I.T.



### Vendor Consolidation

Save time and effort working with one vendor that understands your business needs.



### Eliminate “Shelfware”

Eliminate unused technology and ensure adoption with one comprehensive platform.



### Simplify Software Management

Avoid conflict between add-ins with a true complement to your existing technology.



Litera Desktop empowers lawyers to draft documents safely and efficiently from start to finish. It includes the following capabilities to mitigate risks at every stage:

- **Create documents that represent the practice's best work** by leveraging enterprise-approved document templates with anonymized personal information along with a readily accessible content library of updated and relevant clauses;
- **Proofread and automatically style documents** to quickly surface common issues related to defined terms, citations, references, spelling, grammar, and more, correct errors, and apply styles with just a few clicks;
- **Compare any two versions of a document** in just seconds—regardless of their file format—and view a detailed legal-specific redline that simplifies tracking and makes it easy to accept or reject the right changes;
- **Clean and share documents safely** by removing risky metadata from documents from the desktop view, internet browser, or Microsoft Outlook and encrypting messages and files with no size limit; and
- **Publish documents with true redaction** with editable PDF capabilities and irreversible redaction.

You don't have to tolerate the risks associated with drafting legal documents. Start your journey toward more efficient, safe document drafting by [scheduling your demonstration of Litera Desktop](#) today!



Litera has been a global leader in legal technology for 25+ years, helping legal teams work more efficiently, accurately, and competitively. As a leader in document workflow, collaboration, and data management solutions, we empower legal teams with simplified technology for creating and managing all their documents, deals, cases, and data.

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