

Digital Tools to Assist Appellate Lawyers

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To View my Slides During This Presentation

- Visit my website: erichviethattorney.com
- At the top of the home page, click “Blog”
- You’ll find the PDF in the most recent post

Update from Last Year . . .

TYPOGRAPHY FOR LAWYERS
ESSENTIAL TOOLS FOR POLISHED & PERSUASIVE DOCUMENTS

BY MATTHEW BUTTERICK
FOREWORD BY BRYAN A. GARNER
2ND EDITION



(Free) Book by Matthew Butterick

<https://typographyforlawyers.com/>

<https://matthewbutterick.com/pdf/jones-line-spacing-motion.pdf>

Typography for Lawyers

- Defendant Motion: Plaintiffs cheated on double-spacing!
- Is “double spacing” 24 points or 27 points?
- *Jones v Varsity Brands* (W.D. Tenn. Oct 2023)
- 2:20-cv-02892-SHL-tmp

Court Ruling

- Plaintiffs' use of twenty-four-point spacing does not violate Local Rule 7.1. ...
- [T]he Parties are encouraged to spend their valuable time focusing on the merits of this case, and certainly not figuring out how many sometimes-useless words will fit on a page.

Intro

- These are digital tools that I use
- I bet many of you use some of these
- Not comprehensive
- They offer lots of control, 24/7
- These can even the playing field for small firms
- Dispositive motions too

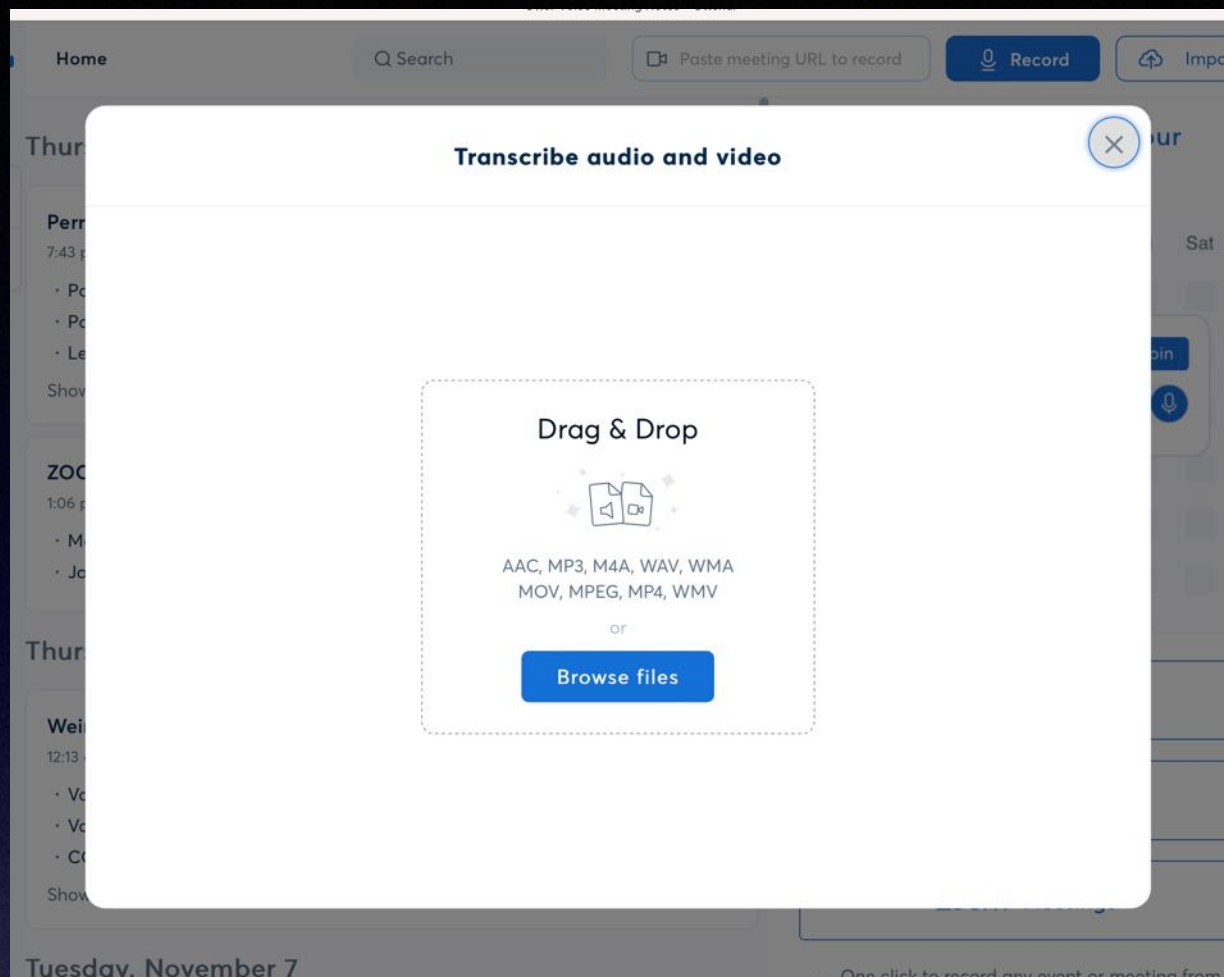
- **Go Paperless**
- **Filter out unimportant information**
- **Quickly navigate long documents.**
- **Digitally search of your own data**
- **Avoid dropdown menus (e.g. macros)**

Now I will introduce some digital tools:
These are a few of my Favorite Things . . .

Voice Transcription

- Handoff from trial attorneys
- Like drinking out of a fire hydrant
- I use Otter.ai. There are many others
- Audio transcript review if transcription snag
- Use “Find” to Search your Transcripts!
- Use with interviews with clients and witnesses

Fast, Cheap
And Good!



Berkson

Search Share

Done

Sun, Oct 29, 2023 . 2:17 PM 3:22 Owner: Erich Vieth

SUMMARY KEYWORDS

views, religion, opponent, fire, principles, defends, wrote, rabbi jonathan sacks, seek, juxtapose, curbing, 16th century, disturbing, yuck, summarily, heretical, considered, lowe, articulated, non partisan

SPEAKERS

Speaker 1 (78%)

0:02 Realigning text with audio

[Mark Berkson at FIRE]. I really appreciate the non partisan nature of FIRE's work, their commitments to the principles that are there to protect everyone across the political spectrum are central. And there are times that I read a fire statement, and I go to learn more about the person they're defending. And I must admit, I sometimes say like . . . "Yuck!, I don't know, I don't know about that one, you know!" there are some really disturbing views [audience laughing]. And then, of course

Use Phone
Voice Memo
Or a digital Recorder



Cloud Storage

- I use Dropbox Professional 3TB Active Storage
- Additional layer of backup of your Dropbox data
- Collaboration through Shared Folders
- Rewind (on Dropbox)
- Sync to Multiple Devices (Remember to refresh)
- Health Benefits

Photoshop

Create Your
own Graphics
for your briefs

Compositing

BENZO/ETOH/OPIATES OBSERVATION WITHDRAWAL CHECKLIST

NOTE: Nurse MUST call inmate out to assess. NO CALL, NO SHOW not accepted. Officer MUST get inmate.

DATE	DAY 1		DAY 2		DAY 3		DAY 4		DAY 5		DAY 6		DAY 7	
	0900	1300	0900	1300	0900	1300	0900	1300	0900	1300	0900	1300	0900	1300
BP	120/80	120/80												
SKIN: WARM, C-COLOR, D-DRY, S-SWAPRODIC, S-SWELL, S-SALURD	C/D	W/D												
SAY: S-STEADY, U-UNSTEADY	U	S												
EYES: S-STEADY, N-NYSTAGMUS	S	S												
HANDS: S-STEADY, T-TREMOR	S	S												
TONGUE: S-STEADY, T-TREMOR	S	S												
MOUTH: W-WET, M-MOIST, D-DRY	D	K												
INITIALS	SM													

NOTE: IF SYMPTOMATIC, CONTACT MEDIC

NURSE SIGN & DATE: _____ SIGN & DATE: _____

NURSE SIGN & DATE: _____ NURSE SIGN & DATE: _____

Aug 5, 9 pm - No meds. No Assessments.

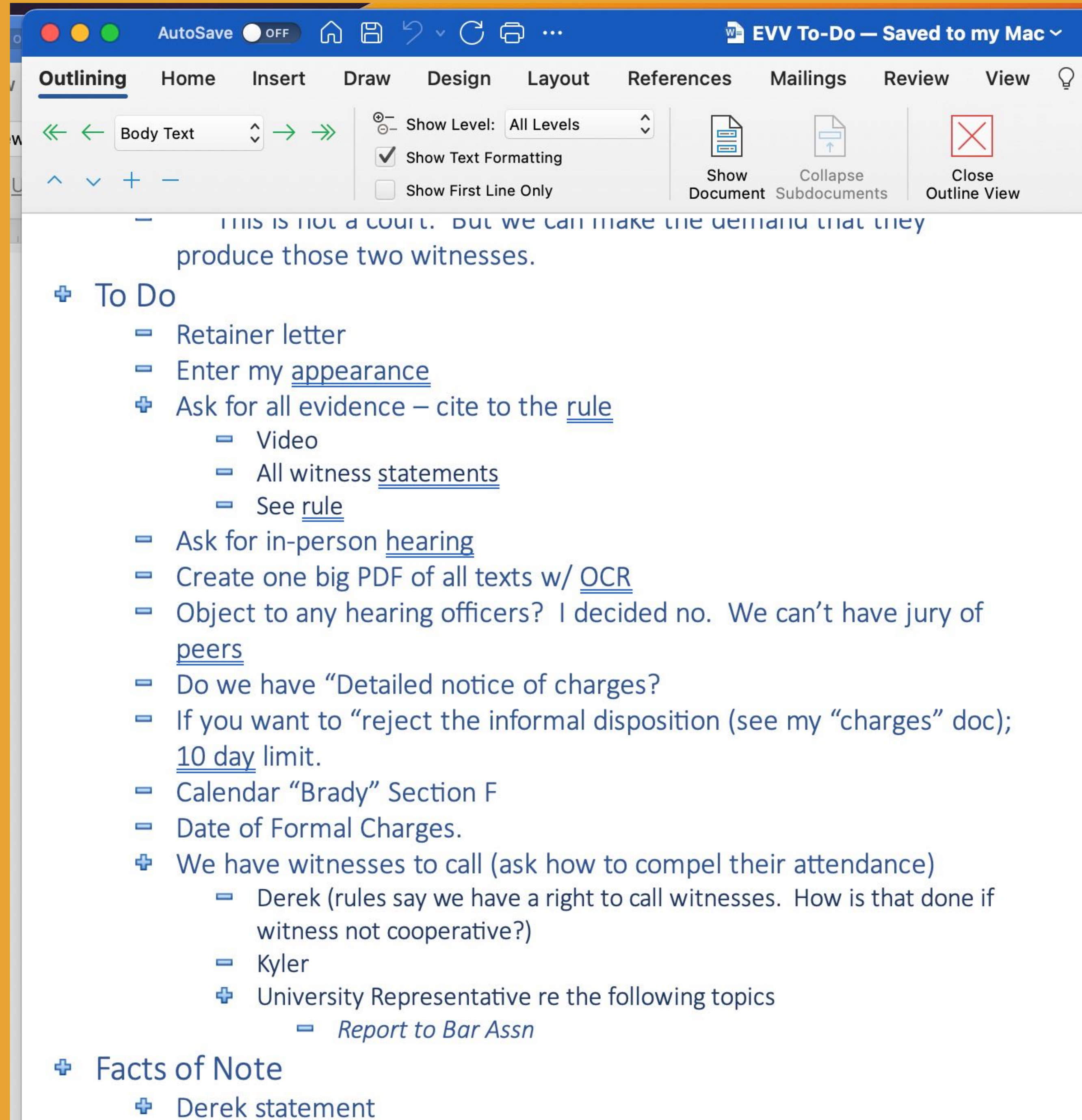
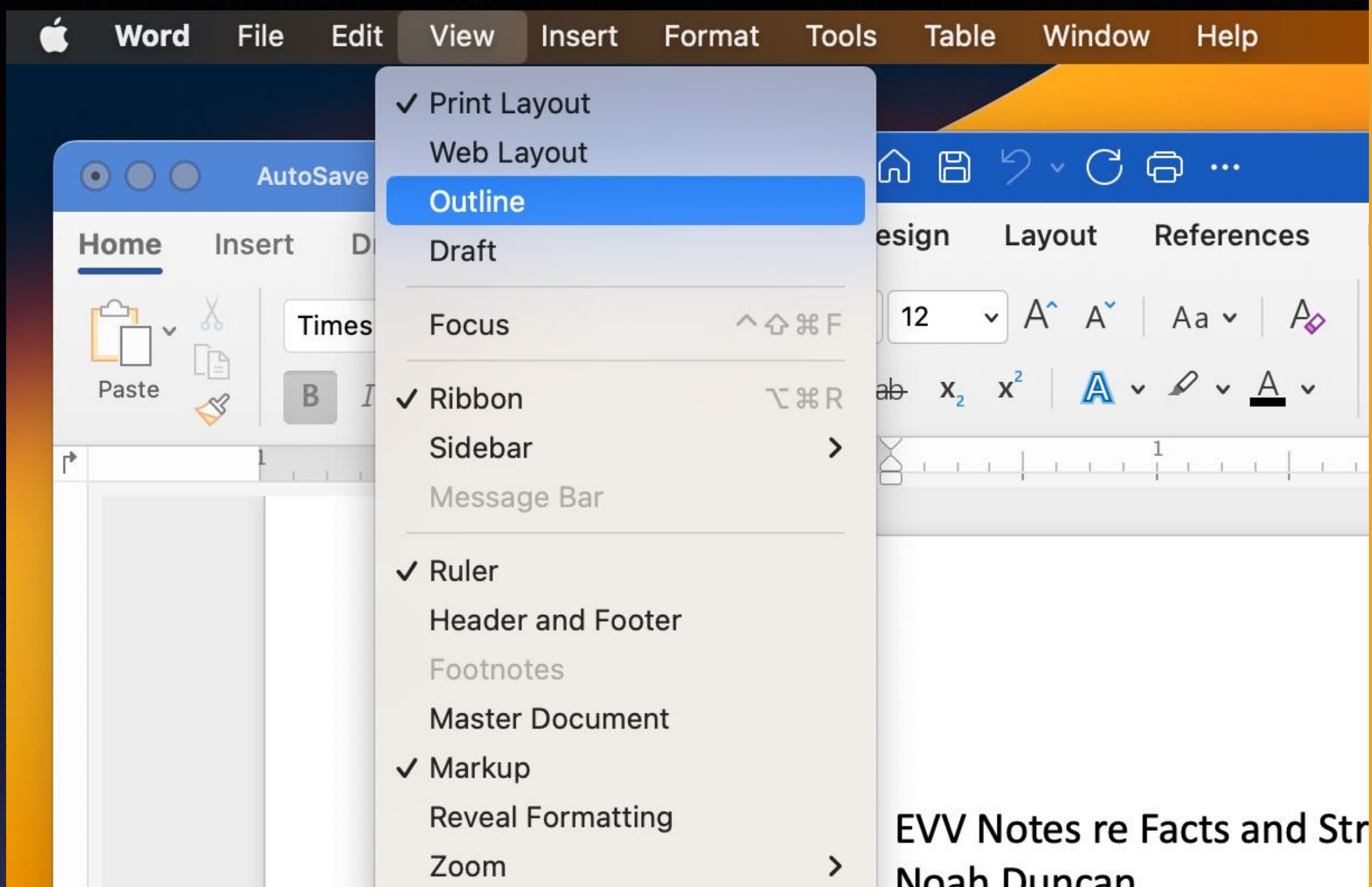
Aug 6, 9 am - No meds. No Assessments.

2 pm Discovered in distress

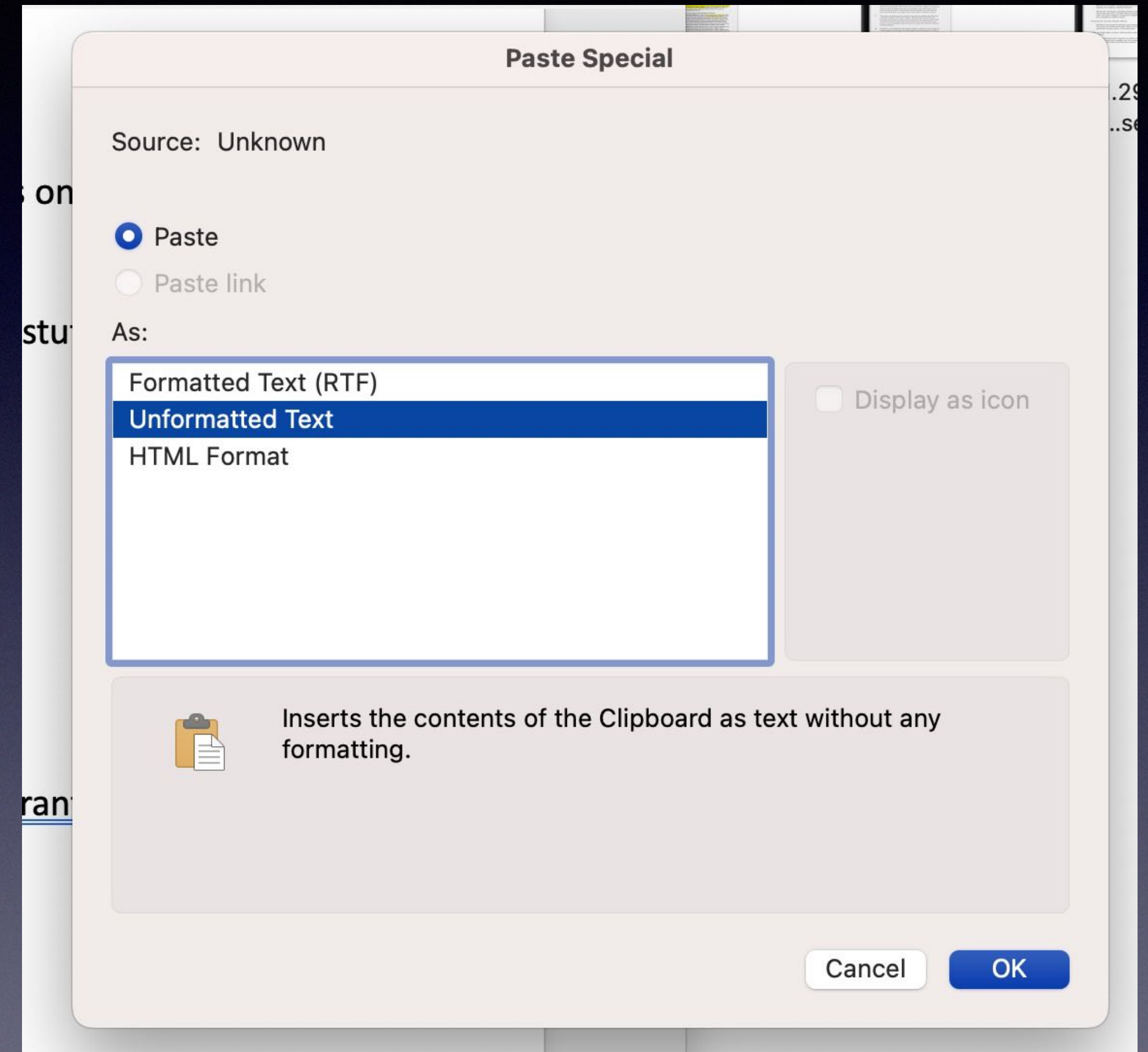
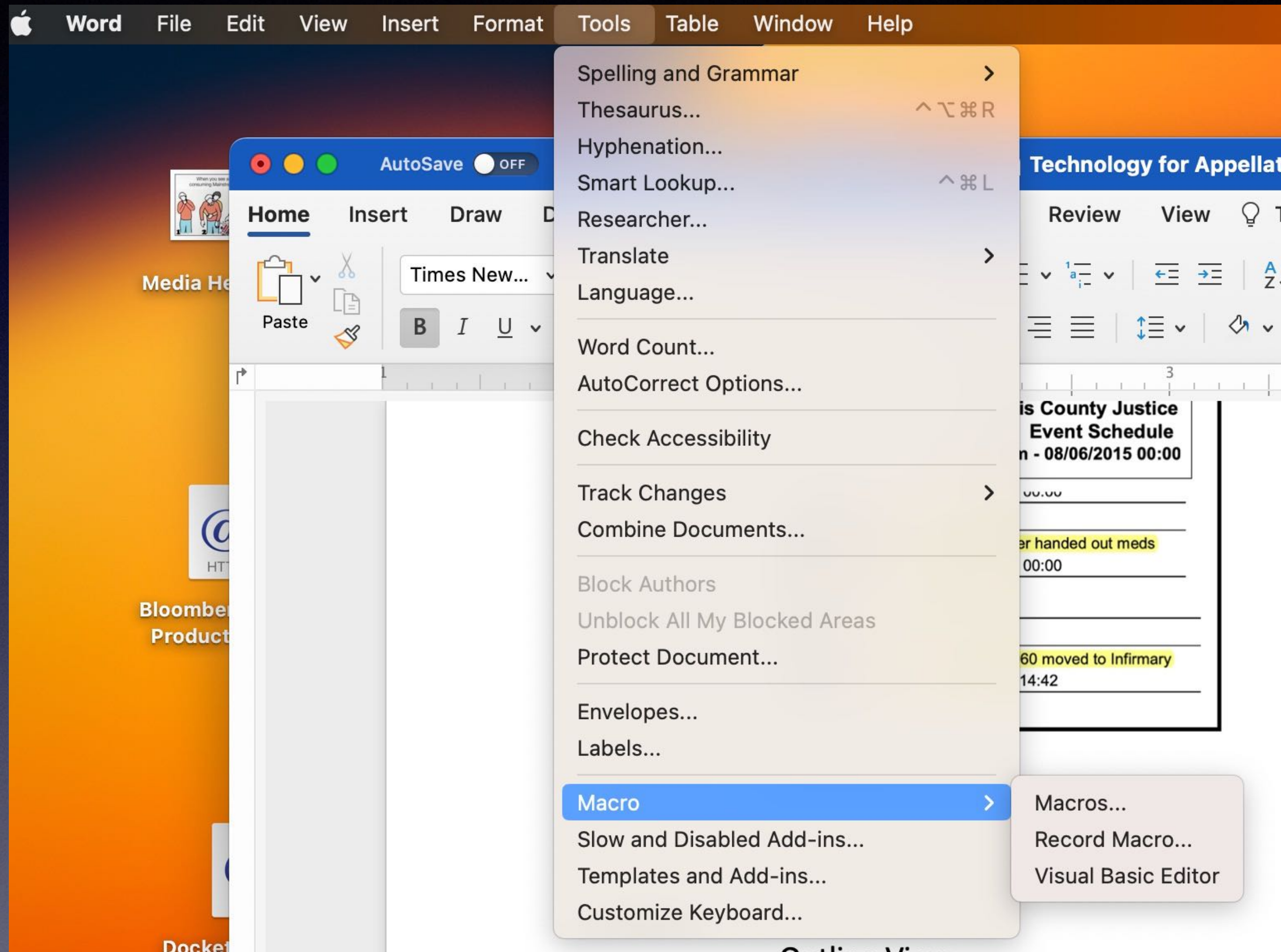
3:51 pm. Pronounced Dead

MSWord Tricks

Outline View



Macros: E.g., Paste Without Formatting



I use many other macros too. E.g., To quickly add a footnote.

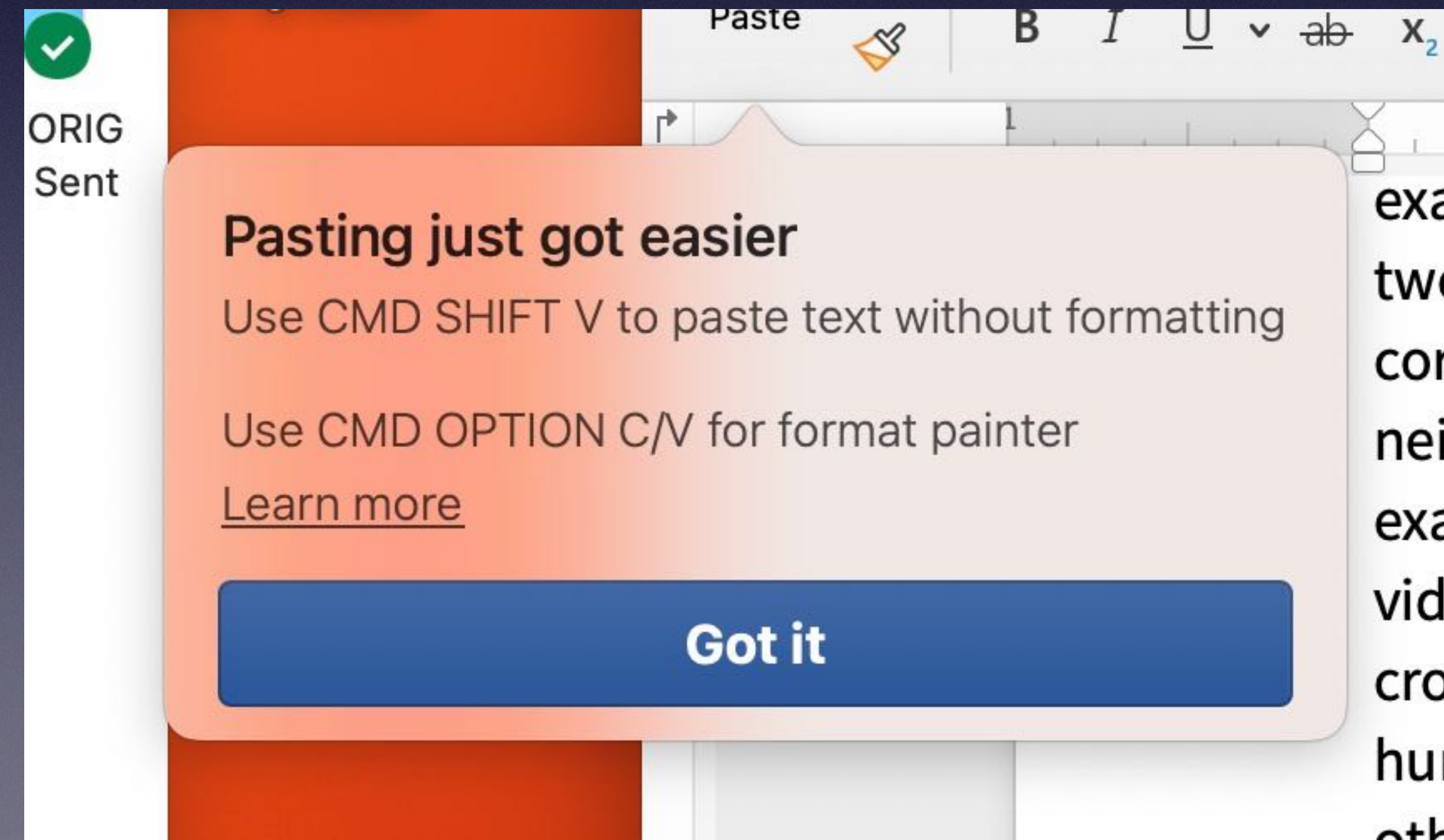
New Way to Paste in Word With no Format Tags

Paste Text Only shortcut in Word

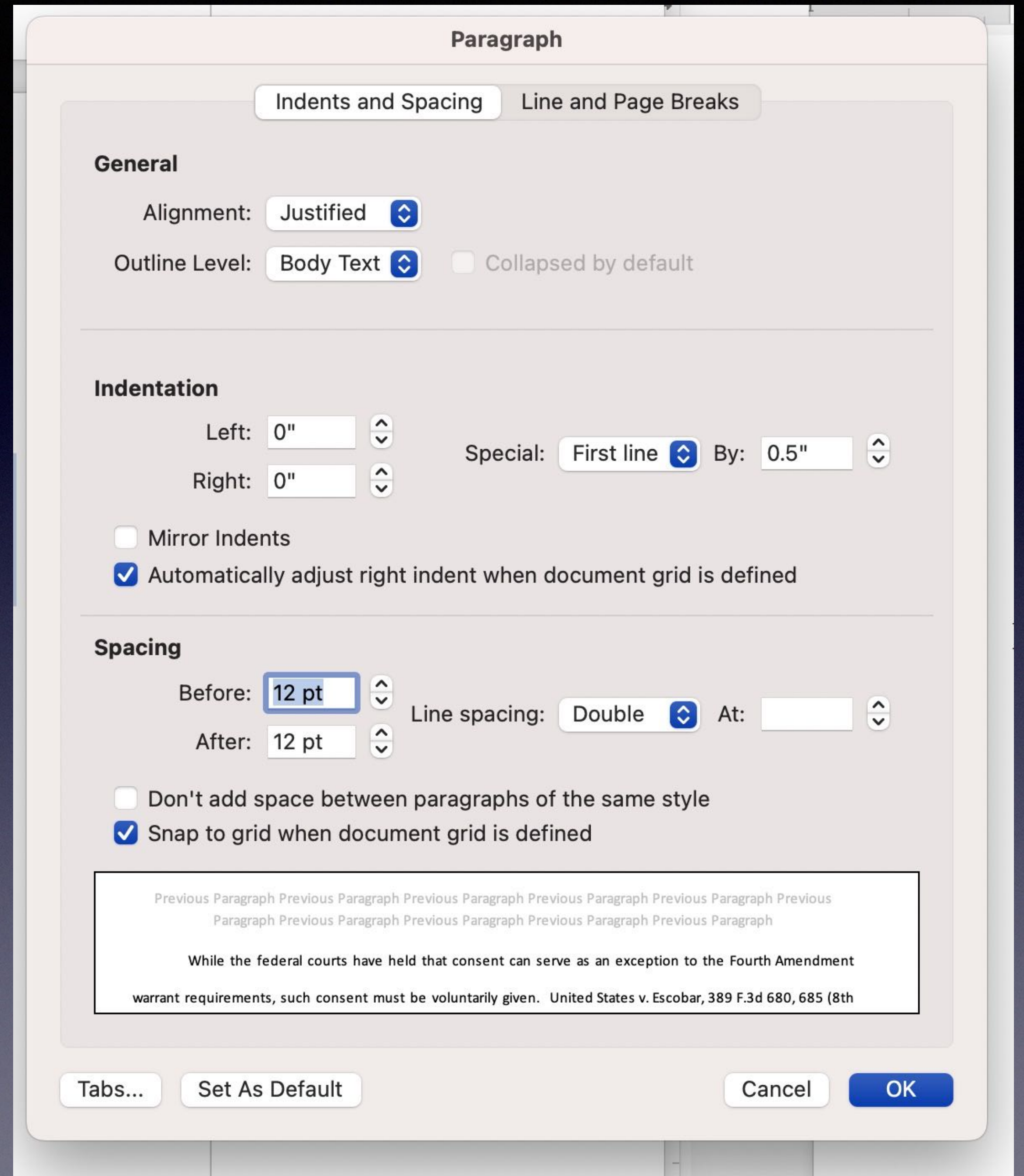
Wouldn't it be great if you could just copy and paste text from a website into your document and have it look good? Imagine not having to manually remove the source formatting like font size, type, or background color.

You might be familiar with this shortcut **Ctrl + Shift + V** (**Cmd + Shift + V** on Mac)—it's also called "keep text only" or "paste plain text"—because of its popularity in other applications like Microsoft Teams, Word for the web, Google, and Gmail. No matter what you call it, the Paste Text Only shortcut is now available in Word for Windows and Word Mac.

Mac



Get rid of space
before and after
paragraphs -
Set up a “Macro”
Change Spacing
before and after paragraph
to “0”



MS Word Navigation Panel - Start by Using Headings - No More excessive scrolling! View: "Navigation Pane"

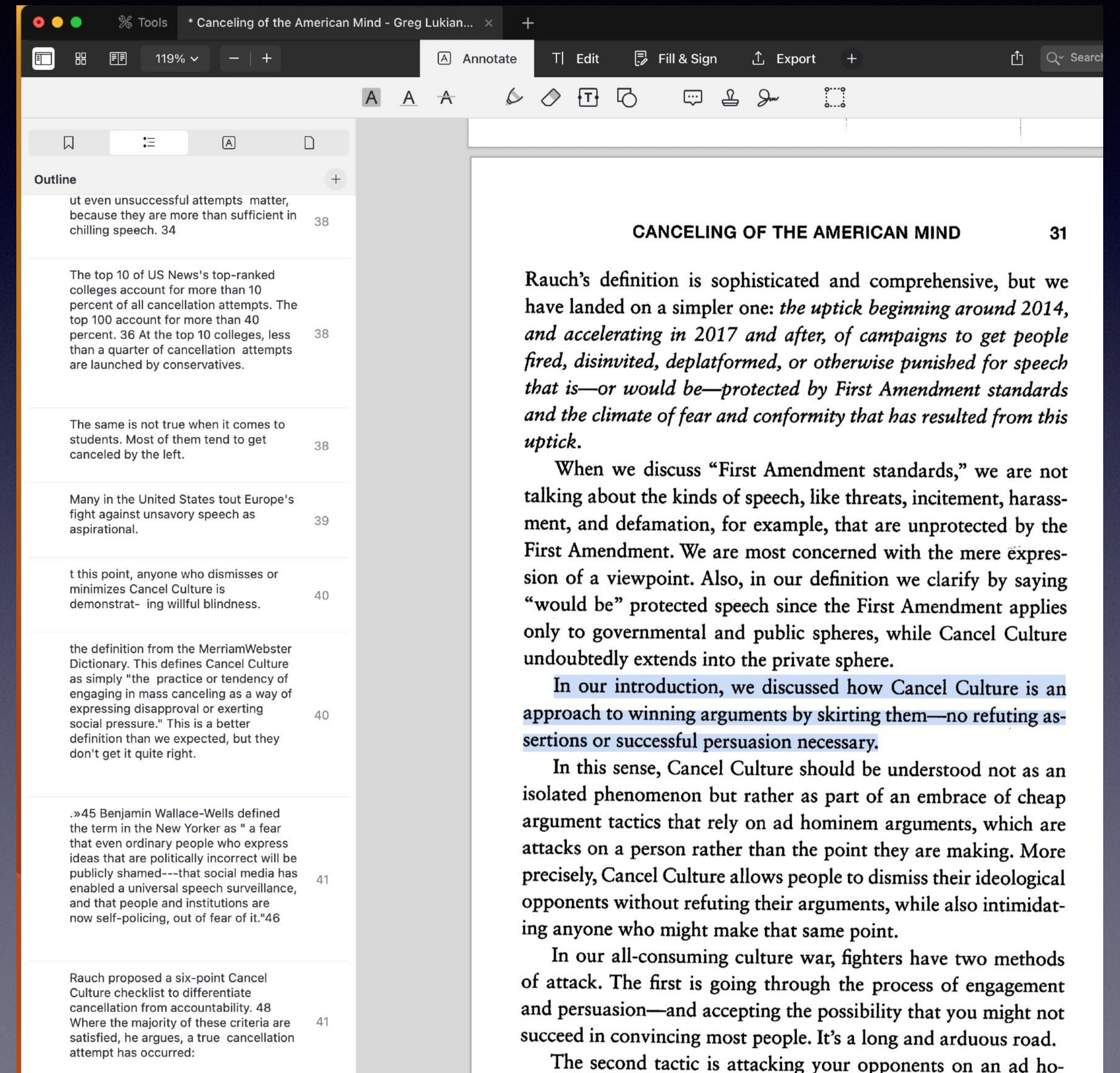
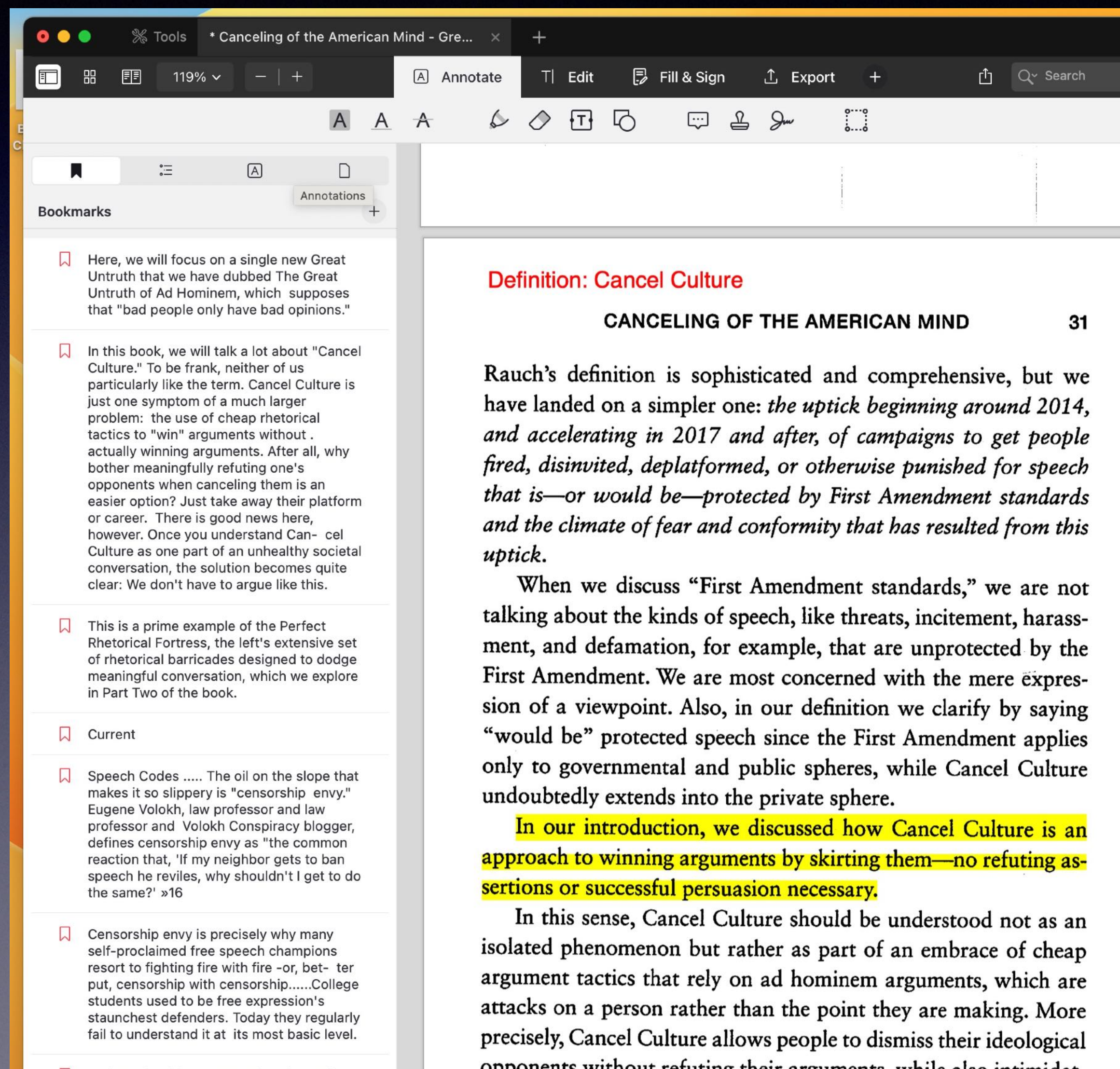
The screenshot displays the Microsoft Word interface. The title bar shows the file name "EVV Memo in Opp Dec 4 2023". The ribbon includes tabs for Home, Insert, Draw, Design, Layout, References, Mailings, Review, View, and Tell me. The Home tab is active, showing font settings (Times New Roman, size 14) and paragraph alignment options. The Navigation Pane is open on the left, showing a table of contents with the following items:

- SUMMARY
- The Facts Regarding the Incident
- The Facts, According to Officer Rinck's Own Co-
- The Facts Establishing Municipal Customs and
- Monell Liability – The Law
- Legal Standard

The main document area shows the heading "Monell Liability – The Law" in bold. Below it, the text reads: "To determine whether a plaintiff the existence of a relevant municipal custom, he or she must satisfy three requirements:" followed by a numbered list item: "(1) The existence of a continuing, widespread, persistent pattern of unconstitutional misconduct by the governmental entity's employees;"

PDF Annotations and Bookmarks

Adobe (subscription), Free Adobe very has limited tools. Mac (I like PDF Expert)



PDF OCR + Dropbox



Scanner

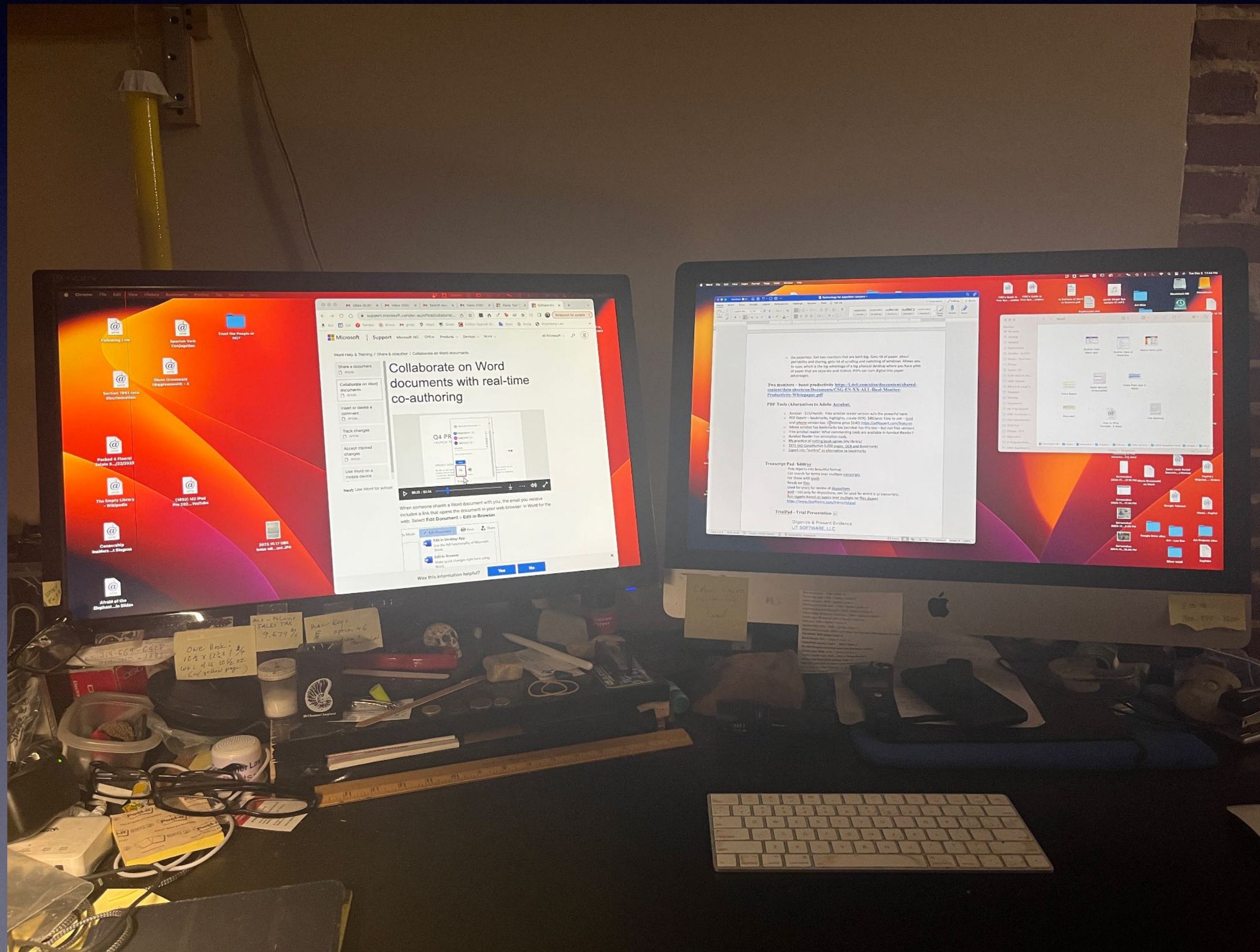
Fujitsu Scansnap Ix500.

\$400 in 2015

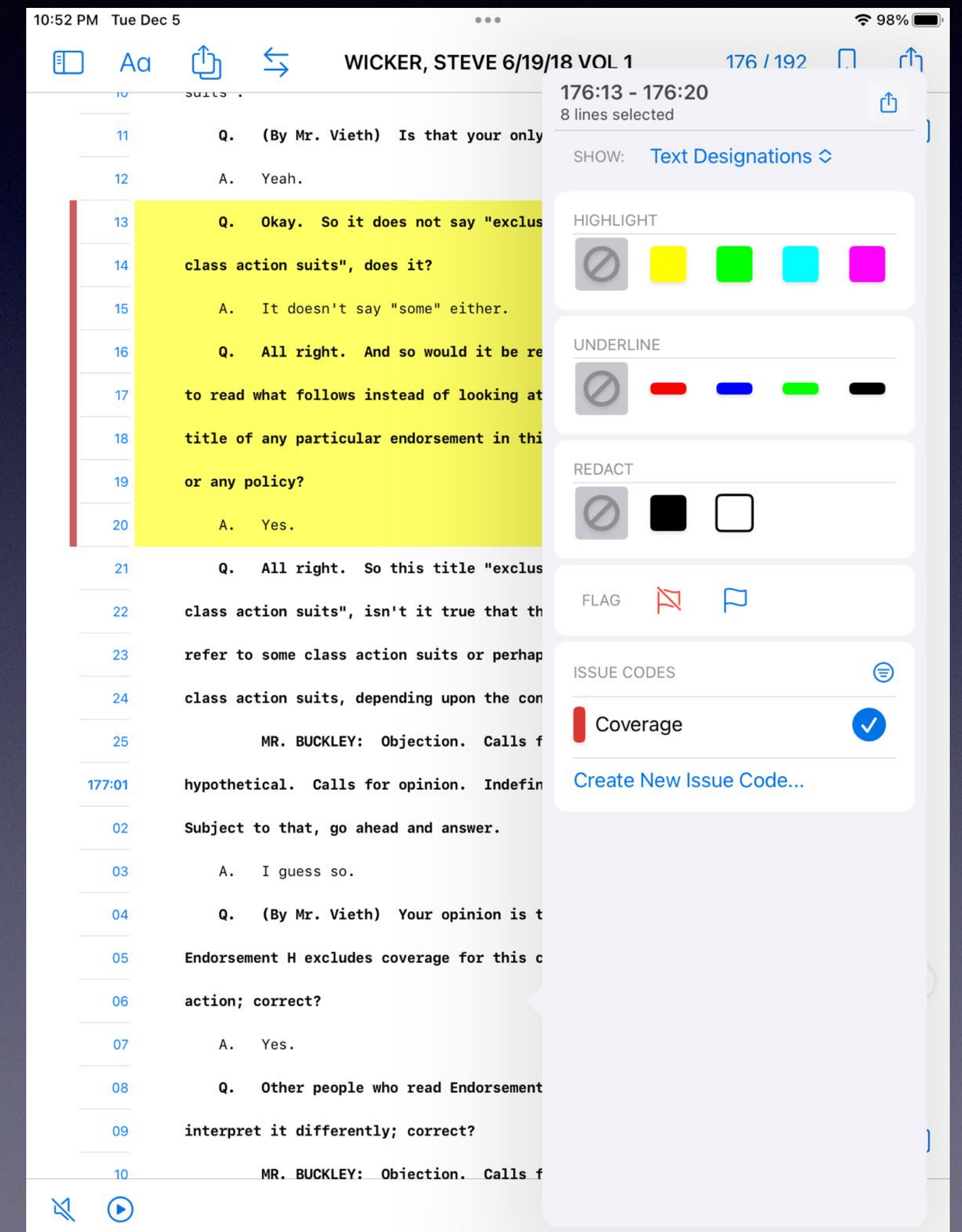
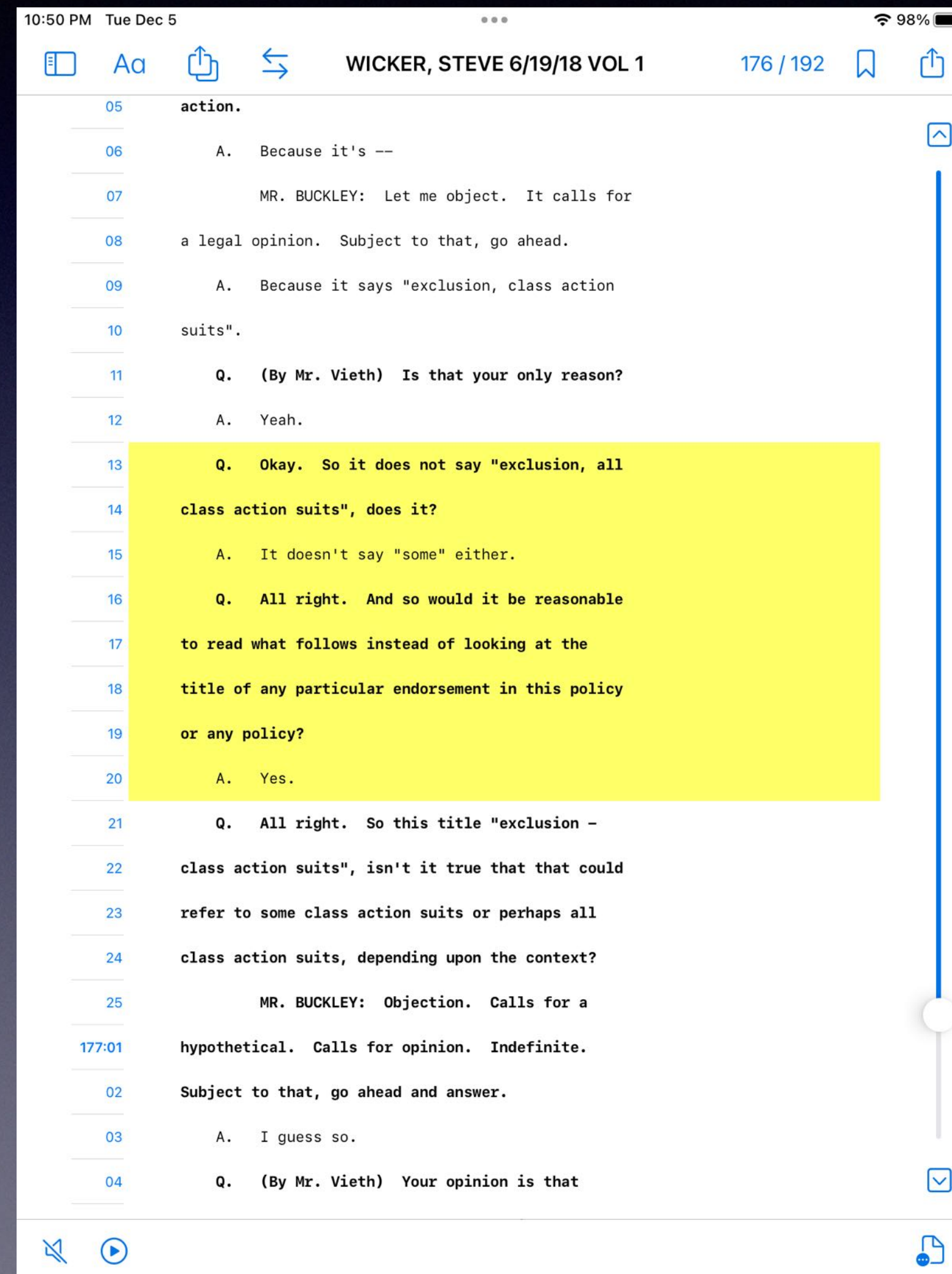
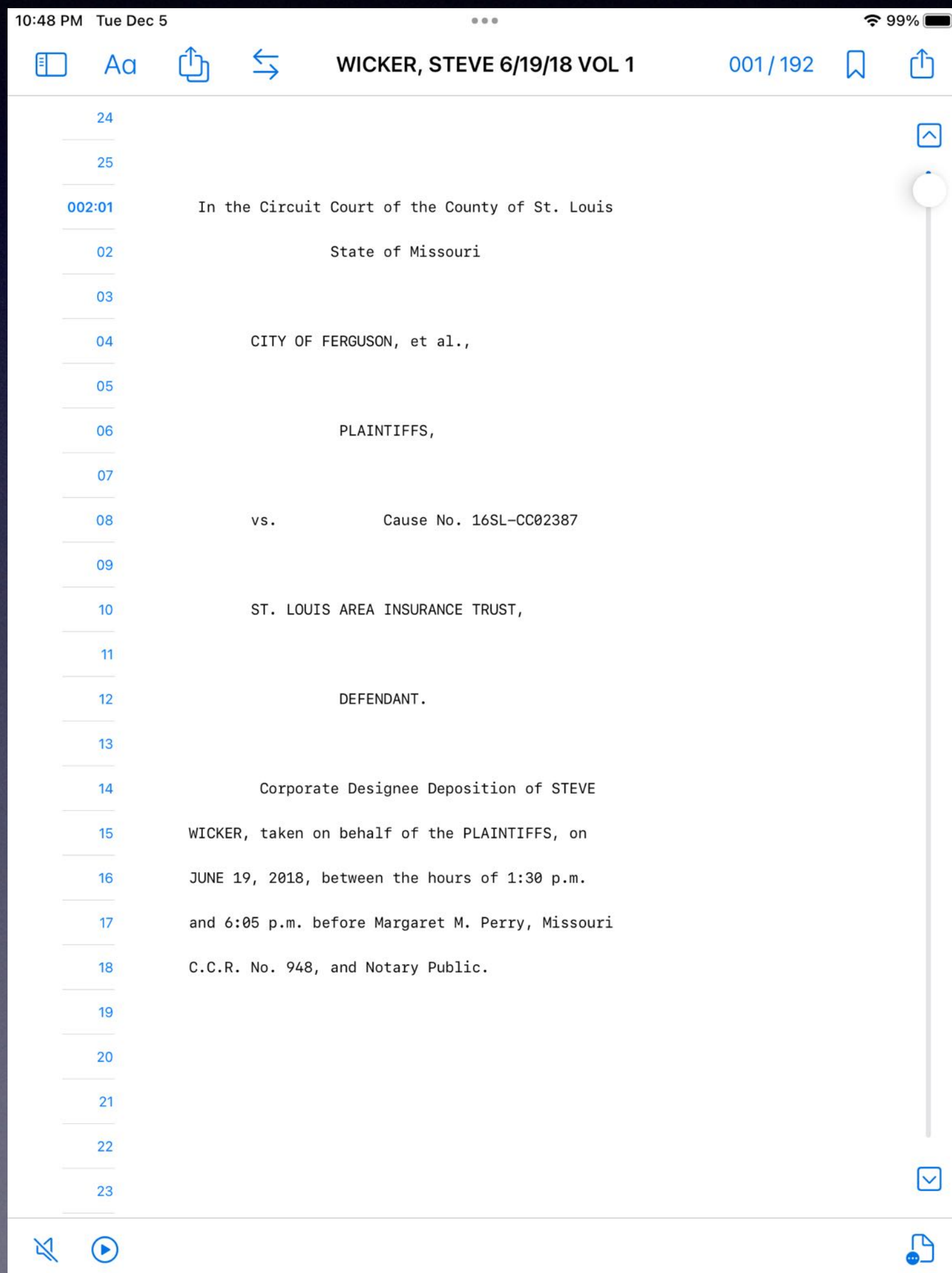
Keeps on Ticking!



Going Paperless - PDF Editors and Multi-Monitors



Pressing Depositions and Transcripts? Consider Transcript Pad (for iPad)



Transcript Pad Reports

10:53 PM Tue Dec 5

97%



Close WICKER, STEVE 20180619 VOL 1 - Detail PDF (202312...

PAGE 1 / 2



Case	Untitled
Issue Code	Coverage

WICKER, STEVE 6/19/18 VOL 1			
1	174:07 - 174:09	174:07	Q. Is it important for an insurance company to draft its insurance policy to be easy to understand?
		08	
		09	
2	176:13 - 176:20	176:13	Q. Okay. So it does not say "exclusion, all class action suits", does it?
		14	
		15	A. It doesn't say "some" either.
		16	Q. All right. And so would it be reasonable to read what follows instead of looking at the title of any particular endorsement in this policy or any policy?
		17	
		18	
		19	
		20	A. Yes.
3	180:11 - 180:20	180:11	Q. (By Mr. Vieth) All right. So are there other ways that you have considered that Endorsement H could have been worded to make it easier to understand?
		12	
		13	
		14	
		15	

Desktop Search Apps

Built-in Apps: Mac Spotlight and Windows Search

They seem Simple and Limited, But they Aren't:

And/Or/Not & Dates, filename, but many other options too.

Explore Mac Spotlight:

<https://support.apple.com/guide/mac-help/narrow-search-results-mh15155/11.0/mac/11.0>

Explore Windows Search:

<https://www.pcworld.com/article/1341497/how-to-find-what-youre-looking-for-with-windows-search.html>

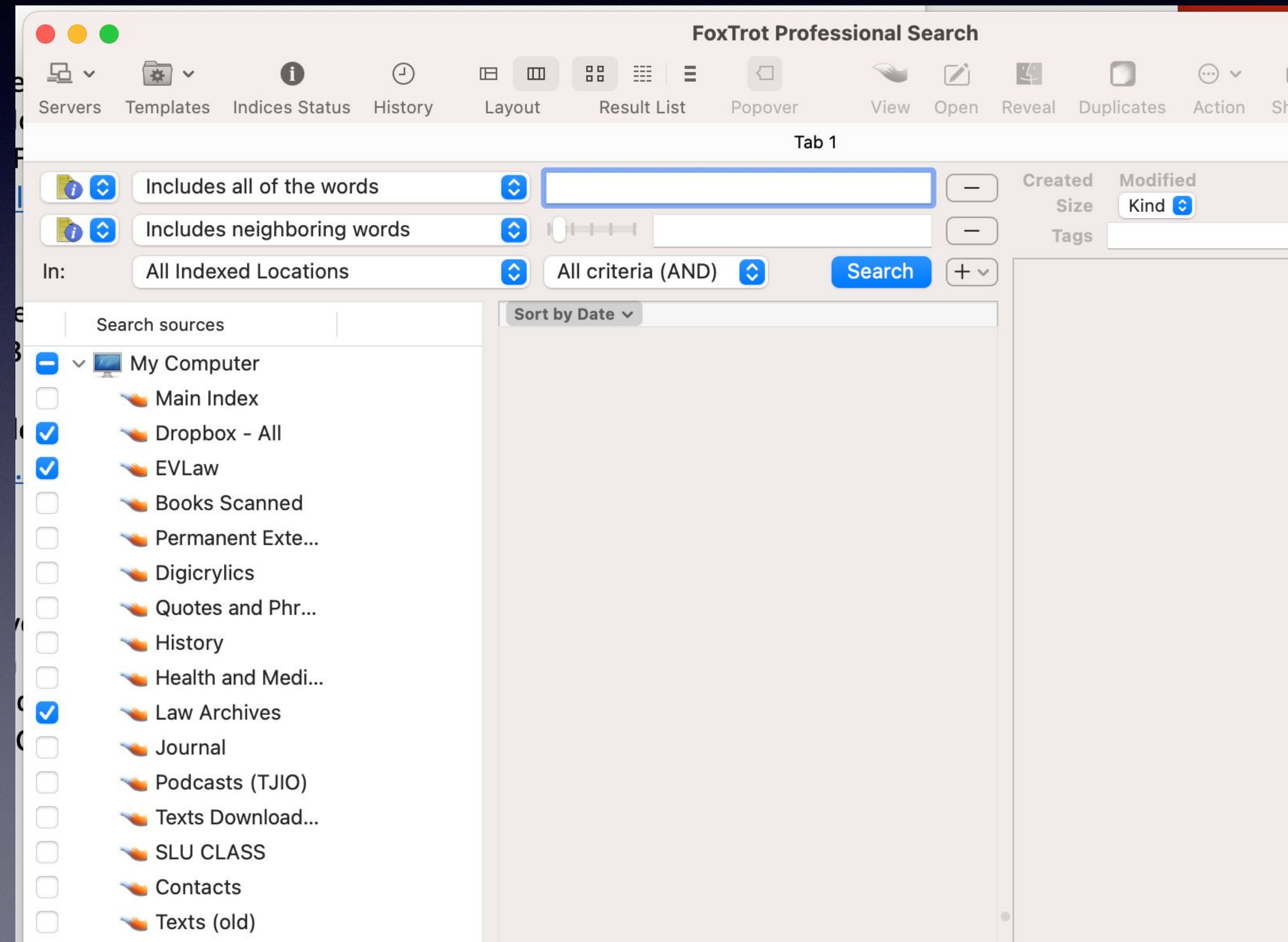
Third Party Apps for Power Searches

For Mac, I use Foxtrot Pro
Setting up indices

Offers you **OPTIONS:**

Options to search **ONLY** your
research folder or your
transcripts and exhibits
folders for only the case you
are working on.

And Email and External Drives



Comparable Programs for PC

E.g., Lookeen (\$70)

The screenshot shows the Lookeen website header with the logo and tagline "Advanced Search Technology". Navigation links include Home, Product, Solutions, Download, Shop, Support, Contact, and Blog. A sidebar menu lists Desktop Search, File Search, Windows Search, Desktop Integration, Google Desktop Search, and Desktop Search Features (highlighted). The main content area features a section titled "Many Desktop Search Features" with a paragraph explaining the indexing process. Below this is another section titled "Optimal Results Thanks to Real Time Indexing" with a partial paragraph.

Questions about purchasing? 415-230-0565 | Switch language

Home Product Solutions Download Shop Support Contact Blog

Desktop Search

File Search

Windows Search

Desktop Integration

Google Desktop Search

Desktop Search Features

Many Desktop Search Features

Lookeen uses an index – one can imagine something like the index of a book. With the help of the index, Lookeen can locate data such as emails or documents and access this information, greatly increasing the search speed: Browsing an index is much more effective than combing through files and folders. Lookeen therefore finds your emails, documents, and files, with the help of the index, in record time.

Optimal Results Thanks to Real Time Indexing

Indexes are often updated only periodically, so that changes to documents are only applied the

<https://www.pcworld.com/article/1341497/how-to-find-what-youre-looking-for-with-windows-search.html>

Westlaw Quick Check - for Cite Checking

THOMSON REUTERS
WESTLAW PRECISION

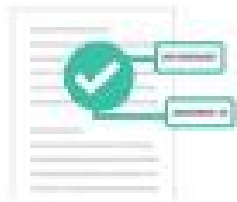
VIETH E... History Folders My links Notifications ?

Sign out

Quick Check

Cutting-edge AI combined with Westlaw's editorial excellence delivers relevant authority traditional research might miss.

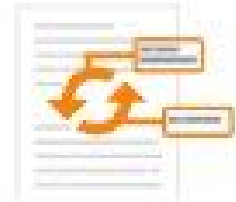
What would you like to do today?



Check your work

- Examine an early draft of a brief or opinion to finish research much faster
- Double-check your work before filing to see if you missed anything important
- Update an older brief that may cite outdated law or require newer authority

Check your work




Improved

Analyze an opponent's work

- Identify potential issues with the opponent's cited authority and quotations
- See relevant authority contrary to the positions in the opponent's filing
- Get analysis of your own work to anticipate attacks or spot weaknesses

Analyze an opponent's work

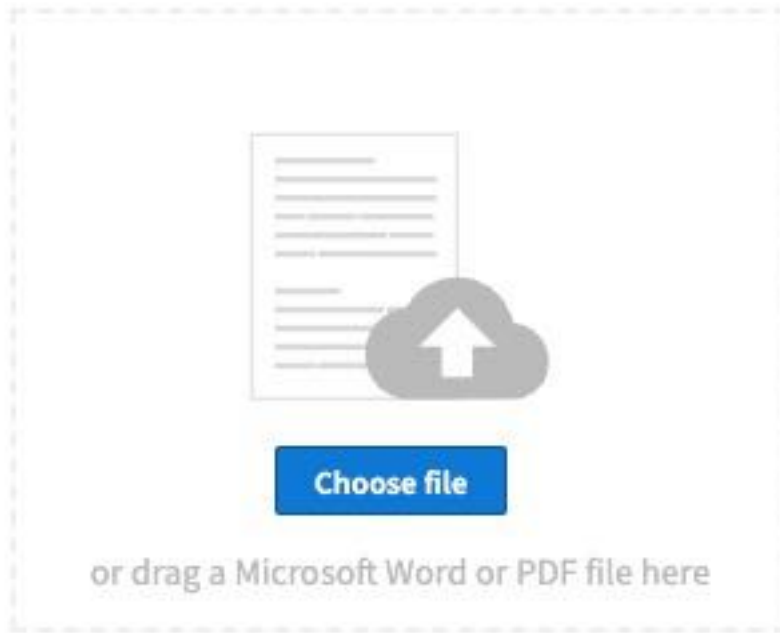


Quick Check Judicial

- See the same analysis of briefs from both parties that judges can see
- Review the most relevant authority for the legal issues that neither party cited
- Discover issues with the citations and quotations relied upon by the parties

Quick Check Judicial

Upload your brief or memo



or drag a Microsoft Word or PDF file here

The security and privacy of your data is important to us. We employ multiple layers of security to keep it safe. ⓘ

Load up
your brief
Or your
Opponent's
Brief

Warnings for cited authority Quotation analysis Table of authorities

24

0

1

0

0

0

25

4. **City of Canton, Ohio v. Harris**
Supreme Court of the United States · February 28, 1989 · 489 U.S. 378 · 109 S.Ct. 1197
Depth of discussion ████

Not Followed as Dicta **Newbern v. Clinch County, Georgia** M.D.Ga. May 19, 2016
...held liable only for those deprivations resulting from the decisions of its duly constituted legislative body or of those officials whose acts may fairly be said to be those of the municipality.'Id. at 1290 (quoting **Bd. of Cty. Com'rs v. Brown**, 520 U.S. 397, 403-04 (1997)see also **City of Canton v. Harris**, 489 U.S. 378, 385 (1989) "[A] municipality can be found liable under § 1983 only where the municipality itself causes the constitutional violation at issue.") (emphasis in original).Thus, to hold Clinch County liable, Plaintiff must show that the county itself, acting through an agent with...

Negative treatment: Most recent Distinguished (121) All (188)

5. **Farmer v. Brennan**
Supreme Court of the United States · June 06, 1994 · 511 U.S. 825 · 114 S.Ct. 1970
Depth of discussion ████

Not Followed on State Law Grounds **Wilson v. Gregory** 6th Cir.(Ohio) July 1, 2021
...insufficient evidence to find that they acted with malicious purpose, in bad faith, or in a wanton or reckless manner.'Wilson, 491 F. Supp. 3d at 319 The Supreme Court has considered deliberate indifference "to a substantial risk of serious harm" to be "the equivalent of recklessly disregarding that risk." **Farmer v. Brennan**, 511 U.S. 825, 836, 114 S.Ct. 1970, 128 L.Ed.2d 811 (1994) Under this interpretation, though, the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." **Id. at...**

Negative treatment: Most recent Distinguished (115) All (148)

Warnings for Cited Authority

Quote Analysis

Warnings for cited authority Quotation analysis Table of authorities

constructive notice." **Farmer v. Brennan**, 511 U.S. 825, 841, 114 S.Ct. 1970, 128 L.Ed.2d 811 (1994). See **S.M.**, 874 F.3d at 585; **Walton v. Dawson**, 752 F.3d 1109, 1117 (8th Cir. 2014).

“A pattern of similar constitutional violations ... is ‘ordinarily necessary’ to demonstrate deliberate indifference ...”

Connick v. Thompson, 563 U.S. 51, 62, 131 S.Ct. 1350, 179 L.Ed.2d 417 (2011). Alternatively, a plaintiff may show that, in light of the employees’ duties, the need for more supervision or training was “so obvious, and the inadequacy so likely to result in the violation of constitutional rights,...

Quotation from the analyzed document Differences

...violations ... is ‘ordinarily necessary’ to demonstrate deliberate indifference” **Connick v. Thompson**, 563 U.S. 51, 62, 131 S.Ct. 1350, 179 L.Ed.2d 417 (2011). Alternatively, a plaintiff may show that, in light of the employees’ duties, the need for more supervision or training was

“so obvious, and the inadequacy so likely to result in the violation of constitutional rights, that the policymakers of the [government entity] can reasonably be said to have been deliberately indifferent to the need.”

Tools Used Last Night . . .

- Otter.AI
- Dropbox Shared Files
- Photoshop
- MSWord - Various Features, including macros
- PDF Expert: Extrating pages, combining pdfs & marking annotations
- Foxtrot (to search for docs)

The End

Digital Tools to Assist Appellate Lawyers

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Another Artificial Intelligence Caveat

