In my last column, I laid out a plan for determining the types of software that would be the most cost-efficient and useful tools for your particular law firm. Moving Past the Roadblocks to Automation: Best Practices for Automating Your Estate Planning Practice, 33 Prob. & Prop. 60 (Jan./Feb. 2019). I discussed polling your staff members and getting their input on the procedures they currently use and how those procedures could be translated into automation. You are now ready to step into the sometimes-overwhelming world of automation.

Your firm creates a lot of documents, thousands of pages of documents each year. Like most law firms, documents are your moneymakers—the physical manifestation of your distilled legal advice. Documents can also become your biggest money pits—hours and hours of research and re-writing, which have to be written off to create a reasonable bill for the client to pay.

The automation committee decides it’s time to find the perfect document creation solution. The most obvious cost-efficient software is a bit of magic called “Document Assembly.” The magic of document assembly is that it encapsulates your firm’s best ideas and research and uses it to conjure up documents in minutes that once took hours to produce. And the job of locating the perfect document assembly system for your firm falls on a young associate whom we will call Harry P.

Harry, being a member of the magical millennial generation, begins his

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Harry Meets Professor Dumbledore

Harry is impressed but decides to check out some of the other shops in Diagon Alley. Leaving Hotdocs, Harry turns left into a shop called XpressDox (http://xpressdox.com). A cheerful South African wizard greets him. “Oh yes,” the wizard assures him, “while XpressDox might be new, the magic is established. These wizards originally learned their magic at a school called Ghostfill and now they are bringing their magic to the desktop and the cloud.” The wizards are producing wills, leases, and loans—everything imaginable. They are very accommodating; you can even meet the master wizard, Peter Tuffin, who looks a little bit like Professor Dumbledore.

Like HotDocs, XpressDox supports a complex markup language. However, the magic is in a “relevance engine” that figures out automatically which questions need to be asked to complete the documents. This magic requires no additional scripting. Just put the variable tokens (called fillpoints) into a Word document, and surround them, if necessary, with logic rules, and the system creates the interview, including ordering “tabs” and variables. The software also has connectors to both online and offline databases, including Salesforce.com and SQL Server. The software can even create documents from an XML-formatted data source, without requiring any mapping of fields.

XpressDox offers desktop licenses for a single fee or a monthly subscription that includes updates. The server licenses are priced as a monthly subscription, based on the number of authorized users. There is no limit on the number of documents the user may assemble.

Harry Visits Madame Malkin’s Documents for all Occasions

Harry leaves the cheerful South African wizards and strolls over to an elegant shop called Thomson Reuters Contract Express (http://www.contractexpress.com/). A stately British wizard appears. Harry asks: “Can you tell me about Contract Express and how its magic might work for our firm?” The answer is simple. Contract Express uses natural language and simple markup that is designed to let lawyers easily create their own automated documents without hiring a wizard.

What could be more natural that putting curly braces “{}” around text that needs to be filled in a document? Most lawyers already put square brackets “[ ]” around optional text. All an author needs to do is put in the superscript text “CorpFormState is NY” and —voilà—you now have added business logic to your templates. There are no fancy merge fields or special codes that need to be added. The system will then validate your coding and give you a list of errors (if you make any) and suggestions on how to fix them. It will even provide useful colors to help you distinguish text from logic and variables. All editing occurs inside Microsoft Word. The software runs in a browser on a hosted (or local host) server. To produce your documents, all one needs is a browser.

Under the hood, there is a lot more power to the product. You can create custom functions, calculated variables, dynamic prompts, and dynamic variables. The system has multiple levels of help text, which itself can include document assembly codes. There are links to Sharepoint and an optional workflow engine. Attorneys on the staff of Contract Express will help with implementations should you wish. All this luxury treatment comes at a price—it will cost over $2,000 per user per year. Harry is impressed, but the price is a bit of a galleon shock.

Harry Dips into a Quiet Shop on a Side Street

After a quick lunch at The Leaky Cauldron, Harry continues onto a small, scrappy little shop called Pathagoras (https://www.pathagoras.com). A cheerful wizard with a gray mustache makes an appearance. He seems to be the only wizard on staff, but he is very enthusiastic—happy to speak about his own magic. Harry asks his question: “Can you tell me about Pathagoras and how its magic might work for our firm?” The wizard strokes his mustache and replies that he has had happy customers for decades. “Nothing could be simpler than our coding wizardry. Just put the names of parties and dates in brackets with a + before them and run a wizard, which will replace the names and date with Pathagoras variables.” There is support for both simple and cascading logic, but most users will get by with the basics.

Pathagoras is offered on a perpetual license per installed machine, or on a subscription basis, for those who prefer a lower startup price. Pathagoras eschews complex codes for a simple markup and clause libraries that are really just folders in the Windows file explorer.

Harry Enters the Cloud Emporium

Harry looks up and notices there are stairs leading up into the clouds above Diagon Alley. At the top, he enters an open-air emporium that seems to go on forever. There are stalls with big neon signs and carnival barkers promising “connectivity,” “unlimited users,” “free trials,” “open source,” and even free automation delivered within 24 hours. The stalls have funny sounding names, like LawYaw, WebMerge, ZumeDocs, DocSera, Templafy, Docmosis, and DocAssemble.org.

A wizard from Webmerge (www.webmerge.me) tugs at Harry’s robe and pulls him over to his stall. He says with Typeform and Zapier, combined with Webmerge, you can rule the world. With a WYSIWYG editor you can produce Word documents, Powerpoints, Excel documents, and PDFs. It can link to Clio and allow documents to be routed for signature through DocuSign and automatically filed in NetDocuments. The introductory prices are too good to be believed. “Try it for free!”

With a closer look behind the curtain Harry discovers the price escalates as you use the service, with a pricing model based on the number of templates and the number of merges. In addition, there are charges for the connectors and the other related services. Harry wanders on and is tempted by a crowd of colorfully dressed wizards, all waving wands madly and mumbling.
in strange foreign languages. He discovers they are speaking "Python" and "YAML" and "Markdown". These are the elements of an open source expert drafting system that is “free” and available at DocAssemble.org (https://docassemble.org). If you are willing to learn to program in "Python" you can build an interactive expert system on your own. There are APIs and a wealth of lesson material and a GitHub repository to store your work in. Harry, with golden galleons in his pocket, decides he has more money than time, and moves on.

Confused, Harry emerges from DocAssemble.org and notices TheForm-Tool FREE (www.theformtool.com) stall. “Free is good,” Harry thinks. There are no foreign languages to learn. TheForm Tool office combines the questionnaire and the form document in a single template. When you are ready to “assemble” the document in final form, you click “File” and then “Petrify.” It all looks so easy. There is support for some logic rules, even access to Word styles. There are, of course, paid add-ons. Most of the cool stuff requires the professional edition; the free version can handle only simple fill-ins. For an annual fee, you can combine multiple forms with business logic into assembly packages with the Doxsera upgrade. If you need database connectivity, it is a further upgrade to Doxsera database. And if you want online web access and web-based gathering of data, you will need the Aurora Webdata upgrade.

An attractive Australian witch from ZumeForms (http://zumeforms.com) beckons Harry P. over, saying “we got the forms” and it’s all “drag and drop”. The Form Builder is beautiful; it lets you lay out the questions exactly as you want and even supports conditionality on the fields. All of this happens directly on the web and can be blended into your website. When it comes to the actual Word templates, it leverages Microsoft Word’s merge field technology. This approach has benefits and limitations. There is a free trial. Like Webmerge.me, the pricing increases as one uses the tool, based on number of submissions. This means it is easy to get started but expensive once hooked.

As Harry’s visit to Diagon Alley draws to a close, he notes that there are still other vendors with stalls in the emporium. LawYaw (https://lawyaw.com) promises to automate his documents for free. Its website promises to send you a notification within 24 hours when your templates are ready to use. There is little description on how the automation works, and it is unclear who owns the automated forms in their Online Template Bank and who can use them after they has been automated.

Returning to the Land of the Muggles

The day is getting late. Harry P. has learned there is great diversity in the tools offered by the wizards. The common element in all the tools is the need for the template author to define what information one must gather to complete the document creation tasks and then how to handle alternate scenarios with business logic. It seems that some tools are easy to use if your needs are simple. The question really is how much power he wants to wield.

Harry makes his report to the automation committee. There is definitely something out there for our document assembly needs, Harry assures the committee. “We just need to take a critical look at our documents and compare these needs with the capabilities of the document assembly systems I have reviewed to determine which system best fits our firm.” It seems some tools can be mastered quickly. Others may require an apprenticeship to a master wizard, the engagement of a document assembly scholar, or attendance at university level wizarding classes. The meeting breaks up as the committee wanders off in different directions, clutching Harry’s review in their hands.

Which is more important? Price? Mathematical computations? The ability to build templates in house? Maybe, looking to the future and the ability to interact with cloud applications?

Which would you choose?

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Readers in many fields can skip right over grammatical errors or bad usages without noticing them. We can’t. We’re lawyers, and many of us are judgmental SNOOTs (SNOOT: Syntax Nudniks Of Our Time, which was David Foster Wallace’s nickname for extreme usage fanatics). David Foster Wallace, Consider the Lobster and Other Essays 66, 69 (2005). Let’s look at some of the poor usages that always cause lip-curling by the SNOOTs among us.

**Affect and Effect**
These words have different and distinct meanings:

- **Affect** is a verb that means to cause something to be changed: Speed zones affect how we operate our cars.

- **Effect** is generally a noun meaning a result or consequence: Speed zones have the effect of producing traffic fine revenues for the City.

**Effect** can also be a verb meaning to cause something to happen: The speed zone in my neighborhood effects slower speeds and more fines.

See Bryan A. Garner, A Dictionary of Modern Legal Usage 34 (2d ed. 1995). Laws affect actions, but they often do not have the desired effects. They may effect some change in peoples’ behavior but only if enforced in an annoying way.

To avoid this mistake, remember that if it’s a noun, the word is effect, and if it’s a verb, the word is probably affect. The use of effect as a verb to mean “cause something to happen” is generally so deliberate that it’s easy to remember the spelling.

**Therefor and Therefore**
**Therefore** does not mean the same thing as therefor, and the sentence, “Seller will deliver the fuzzy dice to Buyer, and Buyer will pay Seller therefore,” is just wrong, Id. at 878. Therefore is a valuable adverb meaning “consequently” or “as a result.” It typically connects a clause describing a state of facts to the description of the consequence: “Fuzzy dice hang from a car’s rearview window; therefore, they impede the driver’s view.”

Therefor is lawyer-speak meaning “for it”: “When I received the dashboard hula dancer from him, I paid him therefor.” No one but lawyers and people who want to sound pompous use therefor—everyone else says, “I paid him for it.”

The simple answer is don’t use therefor—delete it or substitute “for it.” Id. If you use therefor, SNOOTs (and others) will think you are pompous, and if you use therefore in its place, SNOOTs will think you are illiterate.

**And/Or**
The use of and/or, common in documents, horrifies SNOOTs—particularly those to whom logic and clarity are important. Which is meant, and or or? Logically, it can’t be both. In a contract (where this phrase often is used), the parties must be bound with precision, but and/or is the antithesis of precision. Does the phrase, “Contractor will obey all state statutes and/or local ordinances,” permit the contractor to violate statutes if the contractor complies with ordinances? What about violating ordinances but complying with statutes? If the drafter means that the contractor must comply with both statutes and ordinances, then the drafter should use and. In the unlikely event that the drafter means that the contractor may comply with either statutes or ordinances, then or is the correct word.


In *In re Estate of Massey*, 721 A.2d 1033 (N.J. Ch. Div. 1998), a court was presented with a will in which a portion of the estate was to pass to the testator’s niece and/or grandniece. In deciding that the niece and grandniece should each share equally in the designated portion, the court observed, “Considering the universal scorn for ‘and/or’, and the harrowing prospect of deciphering sense out of any English sentence in which it is contained, it is startling to find ‘and/or’ in a will drafted by an attorney at law.” Id. at 1036.

The least harmful uses of and/or appear sentences in which the drafter wants to prohibit a party from doing several things; however, there’s a clearly understood and accepted alternative for that: “Contractor will not violate statutes and ordinances, or any of them.”

**Conclusion**
It isn’t hard to avoid these usages that cause SNOOTs to doubt the writer’s literacy. The drafter just needs to think—both about the meanings of the words used and about whether those words, read literally, actually effect the parties’ intent. When in doubt, consult a SNOOT through a usage guide, dictionary, or grammar blog.