Legal Reading and Success in Law School: Law Students with Attention Deficit Disorder (ADD)

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LEGAL READING AND SUCCESS IN LAW SCHOOL: THE READING STRATEGIES OF LAW STUDENTS WITH ATTENTION DEFICIT DISORDER (ADD)

By Leah M. Christensen*

Abstract: The new reality in legal education is that a certain percentage of our students will come to us with ADD or with another learning disability, either disclosed or undisclosed. Yet there has been little empirical research on how law students with learning disabilities read and understand the law. This study examined how three law students with ADD read a judicial opinion. The results suggested a relationship between successful law school performance and the use of problematizing and rhetorical reading strategies; and less successful law school performance and the use of default reading strategies. Further, the results suggest that law students with ADD can be successful and productive members of any law school community. Simply because a law student learns differently does not mean that the student cannot learn effectively. Finally, becoming an effective legal reader may be one of the most important ways law students with ADD can enhance their law school success.

INTRODUCTION

The demographics of the students attending law schools have changed dramatically in the past several decades. More law students than ever before begin law school having been diagnosed with a learning disability. In 1996, over nine percent of all college freshmen documented a disability. Thirty-five percent of college freshmen reporting a disability had a learning disability. With advances in knowledge about different learning styles and providing appropriate accommodations, more students with

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1 See James R. P. Ogloff, et al., More Than “Learning to Think Like a Lawyer:” The Empirical Research on Legal Education, 34 Creighton L. Rev. 73, 86 (2000)(reporting statistics about gender and minority status in law schools, i.e., the number of women applying to law schools increased 44% and the number of minority applications increased 400%); Susan Johanne Adams, Because They’re Otherwise Qualified: Accommodating Learning Disabled Law Student Writers, 46 J. L. Educ. 189, 196-97 (1996)(stating that the pool of diagnosed LD students becoming eligible for postsecondary education is increasing); Lisa Eichhorn, Reasonable Accommodations and Awkward Compromises: Issues Concerning Learning Disabled Students and Professional Schools in the Law School Context, 26 J. L. & Educ. 31 (1997)(noting that learning disabled people make up one of the fastest growing segments of the law student population.”).

2 See M. Kay Runyan & Joseph F. Smith, Jr., Identifying and Accommodating Learning Disabled Law Students, 41 J. Legal Educ. 317, 320 (1990) (pointing out that increasing numbers of learning disabled students are identified and receive the assistance they need to complete academic programs)(citations omitted). As the number of learning disabled students completing primary and secondary school increases, more learning disabled students seek admission to colleges and then graduate schools. Id.

3 Id. at 122 (citing Stephen B. Thomas, College Students and Disability Law, 33 J. of Special Educ. 248, 248 (2000).)

4 Id.
learning disabilities are matriculating through undergraduate programs with success. Many of those successful students with learning disabilities will attend law school and become lawyers.

Further, a recent American Bar Association law school enrollment survey revealed that as of 2002, law schools provided accommodations for both physical and learning disabilities for 2,655 law students out of a total of 132,885 students, or 1.9%. Law students with learning disabilities are now the largest group of students with disabilities. Although these students may learn differently than traditional law students, they are a reality (and an important part of) legal education.

The diagnosis of Attention Deficit Disorder (ADD) has also increased over the years. In a survey conducted in the United States, of the 16.5 million undergraduate students in the United States, 6.4% of the students reported having ADD. This suggests that there are over one million students who know they have ADD and report it to the institution. Just as many students may have ADD and choose not report it, or are unaware that they are affected by the disability. However, we can safely assume that most law school classes will include students with ADD, and that it is essential for legal educators to be equipped to teach ADD students.

But how do law students with learning differences learn most effectively? Up to this point, there has been little empirical research on how law students with ADD or other learning disabilities approach law school. This article describes an empirical study that

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6 Id. at 122 (citing ABA Commission on Mental and Physical Disability Law, Goal IX: A Report on the Status of the Participation of Persons with Disabilities in ABA Section, Division and Forum Leadership Positions (2005)). Jolly-Ryan asserts that the exact number of Americans with disabilities is difficult to obtain for a number of reasons, including the fact that the definition of disability varies, depending upon the context, and people either do not self-identify or over-identify. Id., fn. 31.
9 Id.
10 Id.
11 Id.
12 In 2008, I published a companion study that examined the experiences of three law students with ADD. See Leah M. Christensen, Law Students Who Learn Differently: A Narrative Case Study of Three Law Students With Attention Deficit Disorder (ADD), 21 J.L. & Health 45 (2008)(hereinafter Christensen, Law Students Who Learn Differently). Other than this 2008 study, the empirical research is scarce with regard to law students and learning disabilities. For more general literature on law students with learn disabilities, see, e.g., Robin A. Boyle, Law Students With Attention Deficit Disorder: How to Reach Them, How to Teach Them, 39 J. Marshall L. Rev. 349, 349 (2006) (describing that most law school classes will include students with ADD and explaining the traits of ADD law students); Laura F. Rothstein, Higher Education and Disabilities: Trends and Developments, 27 Stetson L. Rev. 119 (1997) (explaining how an entity determines whether an individual has a learning disability); Kevin H. Smith, Disabilities, Law School, and Law Students: A Proactive and Holistic Approach, 32 Akron L. Rev. 1 (1999); Donald Stone, What Law
examined the way in which law students with Attention Deficit Disorder (ADD) read a judicial opinion. The study focused on the reading strategies of three law students with ADD and compared their use of reading strategies to those of traditionally-learning first year law students.  

In the study, the successful law students with ADD read the case very similarly to the higher performing, traditionally-learning students. Likewise, the struggling law student with ADD read the opinion similarly to lower performing, traditionally-learning law students. Therefore, the way in which these law students read (and their choice of reading strategies) seemed to impact their overall academic success to a greater degree than the fact that the students had ADD.

These study results suggest several interesting conclusions. First, these results reaffirm the prior research on legal reading: the way in which law students read legal text—whether students learn differently or traditionally—impacts their law school success. Second, the results suggest that law students with ADD can be successful and productive members of any law school community. Simply because a law student learns differently does not mean that the student cannot learn effectively. Further, becoming an effective legal reader may be one of the most important ways law students with ADD can enhance their success in law school.

Part I of this Article describes my first legal reading study which examined the way in which traditionally-learning law students read a judicial opinion. This first study provides the framework and basis for comparison for the present study. Part II describes the current study on law students with ADD, including the study participants, the tasks they were asked to perform, and the methods that were used to collect and analyze the data. Part III explores the present study results and sets out examples from the students’

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13 By “traditionally-learning,” I mean law students who have no been diagnosed with a learning disability.

14 See discussion infra Part III.

II. LEGAL READING AND LAW SCHOOL SUCCESS: TRADITIONALLY-LEARNING LAW STUDENTS

The reading of judicial opinions is central to both law school and the practice of law—yet we are only beginning to explore how law students read legal text. Legal reading is a challenging task for a new law student.\(^{16}\) In order to comprehend legal text, a reader needs knowledge of legal terminology and an understanding of case structure and legal theory.\(^{17}\) Although there are many students who adapt quickly to legal reading, there are others who continue to struggle with legal reading throughout law school. What causes this struggle? Does the way in which students read impact their law school success? Can we teach our students the types of reading strategies used by the most successful law students?

In order to explore these questions, I conducted an empirical study on legal reading (published in 2007) that examined how first year law students read a judicial opinion and whether their use of reading strategies impacted their law school success (hereinafter “the 2007 reading study”).\(^{18}\) The study explored whether there was a correlation between the way in which first year law students in the top 50% and bottom 50% of their class read a judicial opinion and their law school GPA.\(^{19}\) I found that even when students had gone through the same first-semester classes, the more successful law students read the judicial opinion differently than those students who were less successful after the first semester of law school.\(^{20}\) Further, the results of the study suggested that there was a correlation between the reading strategies used by the top law students and their first-semester grades.\(^{21}\) This section will explore the background and results of the 2007 reading study in more detail.

The prior study involved 24 first-year law students.\(^{22}\) I divided the students into two separate groups: 12 Higher Performing students who were in the top 50% of their law school class; and 12 Lower Performing Students who were in the bottom 50% of their law school class.\(^{23}\)

I asked the students to read a judicial opinion authored by the Indiana Supreme Court, *In Re Thonert*, 733 N.E.2d 932 (Ind. 2000).\(^{24}\) The students were instructed to read the

\(^{16}\) Lundeberg, *supra* note 14, at 409.


\(^{18}\) Christensen, *Legal Reading and Success in Law School*, *supra* note 14 at 603.

\(^{19}\) *Id.* at 604.

\(^{20}\) *Id.*

\(^{21}\) *Id.*

\(^{22}\) *Id.* at 615.

\(^{23}\) *Id.*

\(^{24}\) *Id.* at 616. The opinion, *In Re Thonert* was a *per curiam* decision by the Indiana Supreme Court reviewing a disciplinary proceeding against an attorney. *In Re Thonert*, 733 N.E. 2d. 932, 932 (Ind. 2000).
text of the case aloud, stop every sentence or two and tell me what they were thinking. I recorded the students as they performed the ‘think aloud.’  

25 I also instructed the students to read the case with a particular purpose in mind:

Read the following legal text assuming that you are a practicing attorney and that you are reading the opinion to prepare for a meeting with a client who has a case that is similar to the facts of case you are reading.  

26 I gave the students this specific purpose because I wanted to find out whether reading with the purpose of preparing for a client meeting changed the way in which students read the case.  

27 The think aloud protocols were transcribed and each statement coded. For each statement a reader made during the think aloud protocol, I used a code to describe the particular “move” made by the reader at that point in the text, i.e., underlining, paraphrasing, evaluating, hypothesizing, questioning, etc. I placed each of the reader’s moves into one of three larger categories: (1) problematizing reading strategies; (2) rhetorical reading strategies; and (3) default reading strategies. 

28 The first category of reading strategies was problematizing reading strategies. Moves that fell into this category were purposeful or “strategic.” The participants actively engaged in the text and responded to the text by “drawing a tentative conclusion,” “hypothesizing,” “planning,” “synthesizing” or “predicting.” I categorized these types of actions as problematizing. 

29 The second category was rhetorical reading strategies. Moves were rhetorical when readers examined the text in an evaluative way or when readers moved outside the text “into the realm of […] personal knowledge.” In the 2007 reading study, I categorized the following moves as rhetorical: “evaluating,” “connecting with prior experience,” “contextualizing” and “connecting with purpose.” 

30 See id. at 624. There was also added a fourth category which I called “other.” Id. 

31 Id. at 621-22. 

32 Id. 

33 Id. 

34 Id. at 623-24. 

35 Id. I categorized “connecting with purpose” as a rhetorical strategy because when readers connected to the given purpose of the reading, they took a step “beyond the text itself.” See Deegan, supra note 14, at 161.

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25 Id. at 617. The 2007 reading study utilized a think aloud procedure as the primary method of data collection. The think aloud or verbal report is an important research tool for obtaining accurate information about cognitive processes that cannot be investigated directly. Suzanne E. Wade, et. al., An Analysis of Spontaneous Study Strategies, 25 Reading Res. Q. 147, 150 (1990).  

26 Christensen, Legal Reading and Law School Success, supra note 14 at 619. 

27 Id. 

28 Id. at 619-620. For a detailed explanation of how the statements were coded, see id. at 620-25. 

29 See id at 648, Appendix A. 

30 Id. at 624. 

31 Id. at 621-22. 

32 Id. 

33 Id. 

34 Id. at 623-24. 

35 Id. I categorized “connecting with purpose” as a rhetorical strategy because when readers connected to the given purpose of the reading, they took a step “beyond the text itself.” See Deegan, supra note 14, at 161.
The third category was called default reading strategies. Readers used default reading strategies when they moved through the text in a linear progression which included “paraphrasing” or “underlining” text. Default strategies also included “margin notes,” “noting aspects of structure” and “highlighting” text. Default strategies were different from problematizing strategies because of the unproblematic nature of the process. In other words, verbal responses in the default category were not “tied to explicit questions or hypotheses.” Instead, the reader usually noted something about the structure of the case and/or paraphrased or recited the text.

A database was created to help analyze the frequency and type of reading strategy used by each participant. These individual strategies or moves were placed into one of the three main categories described above, i.e., problematizing, rhetorical or default reading strategies. The percentage of time each group spent using each reading strategy was then compared.

The results were as follows. I found that there were significant differences in how the Higher Performing students (HP) and the Lower Performing Students (LP) read the judicial opinion. The HP students spent more time engaged in problematizing and rhetorical strategies, and significantly less time engaged in default reading strategies. In contrast, the LP students spent the majority of their reading time using default strategies, and only a small percentage of their time using problematizing and rhetorical reading strategies.

The HP students spent a mean time of 21.43% engaged in default strategies; 45.70% in problematizing strategies, and 32.87% in rhetorical strategies. In contrast, the LP students spent a mean time of 77.48% engaged in default strategies; 12.54% in problematizing strategies, and 9.55% in rhetorical strategies.

The results of the 2007 reading study are summarized in Table 1.

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36 Christensen, Legal Reading and Law School Success, supra note 14, at 622-23.
37 Id.
38 Id.
39 Id.
40 Id. at 624.
41 Id.
42 Id.
43 Id. at 625.
44 Id.
45 Id.
46 Id.
These results illustrated that although the most successful law students used all three types of reading strategies, they spent much more of their reading time engaged in higher-level, analytical reading, i.e., the use of problematizing and rhetorical reading strategies.47 In contrast, LP students spent most of their reading time using default reading strategies and failed to engage with the text in the same way as the HP readers.48

The other significant finding in the 2007 reading study was a statistical correlation between the way in which the law students read, i.e., their use of reading strategies, and their law school GPA.49 Notably, there was no correlation between undergraduate GPA (UGPA) and LSAT scores with the use of any particular reading strategy.50 In other words, the more time students spent using problematizing and rhetorical reading strategies, the higher their law school, first-semester GPA.51

II. THE PRESENT STUDY: LAW STUDENTS WITH ATTENTION DEFICIT DISORDER (ADD)

Because law students with learning disabilities are a new reality in legal education, I wanted to explore whether law students with learning differences approached legal reading differently than traditionally-learning law students. Since I had already

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47 Id.
48 Id.
49 Id. at 626-27.
50 Id.
51 Id.
completed the 2007 reading study, it made sense to replicate that study using a new student population for comparison: law students with ADD.

As I began the second study, I hypothesized that law students with ADD might read a judicial opinion differently than traditionally-learning law students. The basis for my belief was that ADD is a neurologically-based condition and in some people, the condition can impair the executive functions of the brain. The executive functions pertain to how people learn as well as how they function in everyday life. Impairments in executive functions may affect learning because “attention, organization, and application of effective learning strategies” are involved. Because attentiveness and active engagement with material are affected, ADD students may have difficulty with “making connections between new information and prior knowledge and organizing this information in a useful way.” Since all of these skills are central to legal reading, I hypothesized that having ADD might affect the way in which these law students approached legal text.

However, my hypothesis turned out to be incorrect—at least partially. The results of the present study (law students with ADD) were very similar to the results of the 2007 reading study (law students without ADD). In other words, law students with ADD seemed to approach legal reading similarly to law students without ADD. The higher-performing law students with ADD read the judicial opinion similarly to the HP students in the 2007 reading study. Likewise, the lower-performing law student with ADD read the opinion using similar reading strategies as the LP students in the 2007 reading study. Accordingly, reading differences existed between higher-performing and lower-performing law students generally—and not simply between those students with ADD and those without ADD.

This section will explore the methodology of the present study, including a description of the participants, the think-aloud protocol, and the coding scheme used to analyze the data.

A. The Participants

The participants in this study were three law students who had been diagnosed with a learning disability prior to law school, specifically Attention Deficit Disorder

Jolly-Ryan supra note 5, at 137 (citing Runyan & Smith, supra note 14, at 317-321).
Boyle, supra note 14, at 354-55.
Id.
Id.
Id.
Id.
Leah M. Christensen, Christensen Data Spreadsheet (July 25, 2009)(on file with the author)[hereinafter, Christensen, Data Summary]; see also, Christensen, Legal Reading and Success in Law School, supra note 14 at 625.
Id.
At the time of the study, the students were enrolled in a private, regional law school in the United States. Two of the students were second year students; one student had just completed her first year of law school. Only one of the students had requested accommodations in law school for her learning disability.

The three students had incoming LSAT scores between 148 and 155, and undergraduate GPA’s between 2.89 to 3.64. Once in law school, the students took the same classes during their first year curriculum. The three students were selected from a group of 6 volunteers for the study after information about the study was released by the Office of Academic Achievement. None of the students who participated were paid.

Two out of the three students in this study were very successful law students, i.e., their law school GPA’s were in the top 5% and 30% of their respective law school classes. Alexa, a second-year law student with ADD was in the top 5% of her law school class at the end of her second year. Kelsey, a first-year law student with ADD, was in the

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60 The research suggests that students admitted to law school with a learning disability are usually very bright, yet their learning disability results in a “discrepancy between aptitude and achievement,” despite their high level of intelligence. See Jolly-Ryan, supra note 15, at 138 (quoting Suzanne Wilhelm, Accommodating Mental Disabilities in Higher Education: A Practical guide to ADA Requirements, 32 J. Legal Educ. 217, 229 (2003)). The Individuals with Disabilities Education Act and regulations define a “specific learning disability” as: [A] disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read a, write, spell or to do mathematical calculations . . . . [The] term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.” 20 U.S.C. s 1401 (2000); 34 C.F.R. s 300.7(b)(10)

61 To protect the identity of the students, the students’ real names have not been used, and the year that the study was conducted has not been indicated.

62 The methodology used for the present study was based upon the 2007 reading study. See discussion infra Part I.

63 The LSAT scores, undergraduate GPA’s and law school GPA’s were obtained from the law school’s registrar with the written consent from the students.

64 The students took the same first year curriculum, although they may have had different professors teaching the same courses. The two second year students had different classes beginning their second year of law school.

65 The sample size was small (n=3) but not atypical for a qualitative research study. For example, see Oates, supra note 14, at 139 (describing that her study examined the reading strategies of four law students). In the present study, the task of “contacting” law students with learning disabilities was very difficult because there was a need to retain anonymity. In going through the complex university Internal Review Board (IRB) process to obtain permission from the university to conduct the study, the Board was concerned that the study sought to explore or obtain information from a “vulnerable” population, i.e., students with learning and/or other disabilities. Ultimately, the students signed several consent forms giving their informed consent to participate in the study. In addition, the students granted their permission to release their test scores to me for the purposes of the study. However, the IRB board required that I go through the Academic Affairs Office to send an email solicitation from the office to the students informing them of the study. I did not contact any of the students directly; they contacted me to express their interest in learning more about/participating in the study. There were only six students out of the total law school population at that time that had requested accommodations for a learning or other disability at the time of this study. All six of these students volunteered for the study. I chose the three students in this study because of (1) their incoming/law school grade info, i.e., there was a substantial spread between LSAT and law school GPAs; and (2) the fact that each student had been diagnosed with ADD and no other learning disability. I decided for data reliability to focus solely on law students with ADD.
top 30% of her law school class at the end of her first year of law school. In contrast, the third student, Baker, had just completed his second year of law school and was in the bottom 15% of his law school class.

Table 2 illustrates the incoming data of the study participants.

<table>
<thead>
<tr>
<th>Participant</th>
<th>Disability</th>
<th>UGAP</th>
<th>LSAT</th>
<th>LGPA</th>
<th>Law School Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alexa</td>
<td>ADD</td>
<td>3.64</td>
<td>155</td>
<td>3.69 (top 5%)</td>
<td>2L</td>
</tr>
<tr>
<td>Kelsey</td>
<td>ADD</td>
<td>2.89</td>
<td>155</td>
<td>2.94 (top 30%)</td>
<td>1L</td>
</tr>
<tr>
<td>Baker</td>
<td>ADD</td>
<td>3.44</td>
<td>148</td>
<td>2.51 (bottom 15%)</td>
<td>2L</td>
</tr>
</tbody>
</table>

2. **The Task**

As in the 2007 reading study, I had the students read the same decision by the Indiana Supreme Court, *In Re Thonert*.

I asked the students to read aloud using the strategies they typically used when reading a case. I gave the students the same purpose for reading as in the 2007 reading study:

**Read the following legal text assuming that you are a practicing attorney and that you are reading the opinion to prepare for a meeting with a client who has a case that is similar to the facts of the case you are reading.**

I left the room to allow each student to perform the think aloud protocol. After a participant finished the think aloud, I came back into the room and completed a short interview.

3. **Analysis and Coding of the Data**

The think aloud protocols were transcribed and each statement coded in the same manner as in the 2007 reading study. For each statement a reader made during the think aloud protocol, I used a code to describe the particular “move” made by the reader. Like

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66 733 N.E.2d 932 (Ind. 2000). My specific reasons for choosing this case were that: (1) The opinion was relatively short so that testing could be completed within 1 hour but the case was longer than one page so that readers could either look-ahead or look-back as needed; (2) the case involved both a subject matter and a procedural posture that was unfamiliar to most first-year law students (the case was a *per curiam* decision by the Indiana Supreme Court reviewing a disciplinary proceeding against an attorney); (3) the case represented a typical judicial opinion that an attorney might read in the practice of law; and (4) the case was unedited and contained structural components typically found in a published opinion, e.g., headnotes, keynotes, footnotes, a synopsis, etc.

67 For a detailed explanation of how the statements were coded, see Christensen, *Legal Reading and Success in Law School*, supra note 14 at 620-25 (describing the coding method in detail).
2007 reading study, I placed each of the reader’s moves into one of three larger categories: (1) default reading strategies; (2) problematizing reading strategies; or (3) rhetorical reading strategies.68

Readers used default reading strategies when they were “paraphrasing,” “making margin notes,” “underlining” or “highlighting” the text. Moves that fell within the problematizing category were when the study participants were “drawing a tentative conclusion,” “hypothesizing,” “planning,” “synthesizing” or “predicting.”69 Moves were rhetorical when the students were “evaluating,” “connecting with prior experience,” “contextualizing” or “connecting with purpose.”70

Once again, I created a database to analyze the frequency and type of reading strategy used by each participant.71 I then placed the reading moves into one of the three categories described above and compared the percentage of time each student spent using the different reading strategies.72

III. RESULTS OF PRESENT STUDY

The data from the present study illustrated a relationship between the way in which the three law students with ADD read the judicial opinion and their law school success. Alexa and Kelsey, both higher-performing students, read the case very differently than Baker, a lower-performing student. Although the sample size of the present study was small (n=3), these results mirrored the results of the 2007 reading study. In both studies, the more successful law students read the case using a higher percentage of problematizing and rhetorical reading strategies, and the less successful students tended to rely primarily on default reading strategies. This section will describe the present study results in more detail.

Alexa, a second year law student in the top 5% of her class, spent 20.05% of her reading time using default reading strategies; 26.32% of her time using problematizing reading strategies; and 54.23% of her time engaged in rhetorical reading strategies.73

Kelsey’s reading protocol was similar. Kelsey was a first year student in the top 30% of her law school class. Kelsey spent 32.43% of her time using default reading

68 Deegan, supra note 14, at 160-161. I also added a fourth category which I called “other.”
69 Id.
70 Id. I categorized “connecting with purpose” as a rhetorical strategy because when readers connected to the given purpose of the reading, they took a step “beyond the text itself.” See Deegan, supra note 14, at 161.
71 Christensen, Data Summary, at 1 (on file with the author).
72 In order to establish reliability estimates for the strategic moves selected for further investigation, I asked an independent coder to validate my coding strategy by analyzing several random transcripts to differentiate between the problematizing, default, and rhetorical responses.
73 Christensen, Data Summary, at 1.
strategies; 41.89% of her time using problematizing strategies; and 25.68% of her reading time using rhetorical reading strategies.\footnote{Id.}

In contrast, Baker, a second year student in the bottom 15\% of his class, spent most of his reading time, 67.19\%, using default reading strategies; Baker spent 14.06\% of his time using problematizing reading strategies, and 17.19\% of his reading time using rhetorical reading strategies.\footnote{Id.}

Table 3 provides a graphical comparison the percentage of time Alexa, Kelsey and Baker spent using the various reading strategies.

Table 3: Law Students with ADD: \% of Reading Time Using Reading Strategies

Alexa and Kelsey spent the majority of their reading time using problematizing and rhetorical reading strategies, and far less time using default reading strategies. Alexa spent 80.55\% of her reading time using a combination of problematizing and rhetorical reading strategies. Kelsey spent 67.57\% of her reading time using a combination of problematizing and rhetorical reading strategies. In contrast, Baker spent 31.25\% of his total reading time using problematizing and rhetorical reading strategies.\footnote{Id.}
Further, a significant difference existed between the amount of time Alexa and Kelsey spent using default reading strategies as compared to Baker. Alexa (dark green line) spent only 20.05% of her reading time using default reading strategies; Kelsey (orange line) spent 32.43% of her reading time using default reading strategies. In contrast, Baker (yellow line) spent 67.19% of his total reading time engaged in default reading strategies.  

A. The Present Study Compared to the 2007 Reading Study

The results of the present study are very similar to the results of the 2007 reading study—at least in terms of the percentage of time higher-performing and lower-performing students spent using the different reading strategies. Alexa and Kelsey read the judicial opinion similarly to the Higher-Performing (HP) law students in the 2007 study. Likewise, Baker read the case in almost the same way as the Lower Performing (LP) law students from the 2007 study.

Like the HP group, Alexa and Kelsey spent minimal time using default reading strategies and spent the majority of their reading time using problematizing and rhetorical reading strategies. And similar to the LP group from the 2007 reading study, Baker spent most of his reading time using default reading strategies and spent far less time using problematizing and rhetorical strategies.

Consider the following table which compares Alexa, Kelsey and Baker with the HP and LP students from the 2007 study.

Table 6 Comparison of the % of Reading Time Using Different Reading Strategies Between Students with ADD and Traditionally-Learning Law Students

<table>
<thead>
<tr>
<th>Participant</th>
<th>Class Rank</th>
<th>Default</th>
<th>Problematizing</th>
<th>Rhetorical</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alexa (ADD)</td>
<td>Top 5%</td>
<td>20.05%</td>
<td>26.32%</td>
<td>54.23%</td>
</tr>
<tr>
<td>Kelsey (ADD)</td>
<td>Top 30%</td>
<td>32.43%</td>
<td>41.89%</td>
<td>25.68%</td>
</tr>
<tr>
<td>HP (Non-ADD)</td>
<td>Top 50%</td>
<td>21.43%</td>
<td>45.70</td>
<td>32.87%</td>
</tr>
<tr>
<td>LP (Non-ADD)</td>
<td>Bottom 50%</td>
<td>77.48%</td>
<td>12.54%</td>
<td>9.55%</td>
</tr>
<tr>
<td>Baker (ADD)</td>
<td>Bottom 15%</td>
<td>67.19%</td>
<td>14.06%</td>
<td>17.19%</td>
</tr>
</tbody>
</table>

Comparing Alexa and Kelsey with the HP group, Alexa spent 20.05% of her reading time using default strategies; Kelsey spent 32.43% of her time using default strategies; and the HP group spent 21.43% of its reading time using default reading strategies.

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77 Id.
78 Christensen Data Summary, at 1; Christensen, Legal Reading and Law School Success, supra note 14, at 625.
79 Id.
80 Id.
With regard to problematizing strategies, Alexa spent 26.32% of her time; Kelsey spent 41.89% of her time; and the HP group spent 45.70% of its time using problematizing reading strategies.\textsuperscript{81}

Finally, Alexa spent 54.23% of her reading time using rhetorical reading strategies; Kelsey spent 25.68% of her time using rhetorical reading strategies; and the HP group spent 32.87% of its reading time using rhetorical reading strategies.\textsuperscript{82}

Comparing Baker’s reading with the LP group yields similar results. Baker spent 67.19% of his reading time using default reading strategies; the LP group spent 77.48% of its reading time using default reading strategies.\textsuperscript{83} Baker spent 14.06% of his reading time using problematizing reading strategies; the LP group spent 12.54% of their time using problematizing strategies.\textsuperscript{84} Finally, Baker spent 17.19% of his reading time using rhetorical reading strategies, and the LP group spent 9.55% of its time on rhetorical reading strategies.\textsuperscript{85}

\textsuperscript{81} Id.
\textsuperscript{82} Id.
\textsuperscript{83} Id.
\textsuperscript{84} Id.
\textsuperscript{85} Id.
Table 6 presents this comparison graphically.

Table 6: Alexa, Kelsey and Baker as Compared to Higher and Lower-Performing Traditional Learners

![Graph showing reading style distribution]

Note in particular that both Baker (yellow line) and the LP students (red line) spent the majority of their reading time using default reading strategies. In contrast, Alexa (green line) and Kelsey (orange line) spent the majority of their reading time using both problematizing and rhetorical reading strategies, just like the HP group (blue line) from the 2007 study. 86

The results from the present study support the results of the 2007 reading study. Those students who were more successful in law school read using more problematizing and rhetorical strategies than those who did not do as well. Further, those students who struggled in law school spent the majority of their reading time using default reading strategies.

The next portion of this section will explore in more detail how Alexa, Kelsey and Baker read the judicial opinion.

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86 Christensen, *Legal Reading and Success in Law School*, supra note 14, at 625.
B. Alexa’s Case Reading

At the time Alexa participated in this study, she had just completed her second year of law school. Alexa was ranked as one of the top 10 students in her class. Alexa entered law school with an LSAT score of 155. Alexa was diagnosed with ADD in her junior year of high school. Although Alexa had problems with reading during elementary school, she found ways to compensate for her disability throughout her primary and secondary education. Alexa was diagnosed with ADD following a visit to a counselor for Post-Traumatic Stress Disorder related to a car accident. While taking various multiple-choice personality inventories, the counselor noted that it took Alexa a significant amount of time to complete the questions. The counselor suggested that Alexa be tested for a learning disability. Alexa subsequently was tested and diagnosed with ADD. Alexa requested (and received) disability accommodations for the LSAT exam. She also requested testing accommodations for her learning disability in law school although she was conflicted about this decision.

. . . . I didn’t tell anyone my first year [about my disability] because I was embarrassed. And then, getting good grades makes me more embarrassed because I don’t feel like [the accommodations are] warranted.

Alexa worked extremely hard in law school and acknowledged that it took her longer to complete study tasks than other students.

. . . I definitely think it took me longer [than other students to complete assignments] the first year. I definitely think first year I put more effort into it. This year I’m – I haven’t been putting as much effort. But then I pull all-nighters. So, it’s kind of like I’ve kind of reverted back to college.

In analyzing Alexa’s reading, she used many of the reading strategies adopted by the most successful law students. Alexa spent 20.05% of her reading time using default reading strategies; 26.32% of her time using problematizing reading strategies; and 54.23% of her time engaged in rhetorical reading strategies.

Table 7 represents the percentage of time Alexa spent using the various reading strategies.

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87 This narrative description was based upon Alexa’s statements from our in-depth interview. All interview transcripts are on file with the author.
88 Alexa received 50% additional time on her exams and took exams in a separate location than her peers. She also received note-taking accommodations during her first year.
89 Transcript of Interview with Student 100 at 6 (on file with the author).
90 Transcript of Interview with Student 100 at 8 (on file with the author).
91 Christensen Data Summary, at 1.
For example, when Alexa first approached the opinion, she placed the case in context by noting the name of the court. Alexa re-read the text frequently as she moved through the opinion to make sure she understood each paragraph before moving on. In addition, Alexa read in a very non-linear fashion. Alexa was flexible about the order and way in which she read. Initially, Alexa would make hypotheses about the court’s reasoning and she would read to confirm or deny her original hypothesis. If she hypothesized correctly, she would move on to the next section. If her original hypothesis was incorrect, she would page back and reread that section of the text.

The following is an excerpt from Alexa’s think aloud. Note how Alexa questions and hypothesizes shortly after she begins reading the decision. Alexa is actively engaged in her reading of the case.

*In the matter of Richard T. Thonert, Supreme Court of Indiana, April 22, 2000.*

I don’t like reading the head notes. I find them confusing. What is this case about? [questioning] Attorney discipline? [hypothesizing]//

**Disciplinary proceeding was brought against attorney in which disciplinary commission and attorney entered statement of circumstances and conditional agreement per discipline. The Supreme Court held the attorney’s failure to disclose to appellate tribunal controlling authority, which was known to him and had not been disclosed by opposing counsel. It was directly adverse to his client’s position and to advise client of the adverse authority warranted public reprimand and admonishment.**

Ok. So this must actually be a PR case. [confirming hypothesis]//

Table 7: Alexa’s Use of Reading Strategies

<table>
<thead>
<tr>
<th>Type</th>
<th>Alexa</th>
</tr>
</thead>
<tbody>
<tr>
<td>Default</td>
<td>20.00%</td>
</tr>
<tr>
<td>Problematizing</td>
<td>30.00%</td>
</tr>
<tr>
<td>Rhetorical</td>
<td>50.00%</td>
</tr>
</tbody>
</table>

Ok. So this must actually be a PR case. [confirming hypothesis]//
The respondent in this attorney disciplinary matter is charged with failing to disclose to an appellate tribunal controlling authority known to him not disclosed by opposing counsel that was directly adverse to his client’s position. He also failed to advise his client of the adverse authority when his client was contemplating his legal options. This matter is presented to this court upon the disciplinary commission’s and the respondent’s statement of circumstances and conditional agreement per discipline.

So, this is a disciplinary matter, so it goes straight to the Supreme Court of Indiana. [contextualizing]// I am assuming that’s what happened. [hypothesizing]// I would think so. [making assumption]//

This matter is presented to this court upon the disciplinary commissions and...

– I just need to reread that. [rereading]// Ok.

That agreement is before us now for approval. Ok. So – we note that our jurisdiction of this matter derives from the respondent’s admission to the practice of law in the state of – in 1979. So, he is an older lawyer that is up for discipline – ok. [contextualizing]// 92

Like a real lawyer, Alexa re-read different sections of the case as she needed to in order to fully comprehend the case. Alexa also connected to the purpose of the case reading as follows:

Ok. So looking at it [the opinion], I’m going to have a meeting with a client [connecting to purpose]// who has similar facts, and my client is an attorney who withheld information or precedent in front of an appellant court. [connecting with purpose]// So, I would have to advise him that if the facts are similar that he would also be found to violate rules 1.4 and 3.3. [connecting to purpose]// Ok. Straightforward decision. [evaluating]//. I agree with the court. [evaluating]/. Good decision. [evaluating]// 93

Alexa also evaluated the case, like a lawyer, expressing her opinion that the court’s decision was correct. In other studies on legal reading, Alexa’s strategies of hypothesizing, connecting to purpose, reading actively and evaluating correlated to her success in law school. 94 Alexa engaged in a conversation with the text—and in so doing,

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92 Transcript of Interview with Student 100 at 1 (on file with the author).
93 Transcript of Interview with Student 100 at 3 (on file with the author).
94 See generally, Lundeberg, supra note 14, at 409 (finding that expert legal readers read non-linearly than novice readers); Deegan, supra note 14, at (finding that law students in the upper quartile of their class read using more problematizing strategies than law students in the lower quartile of their class); Oates, supra note 14, at 149-154 (finding that more successful students read actively); Stratman, supra note 14, at 57-65 (finding that law students read differently when given a role or purpose for reading); Christensen, Legal Reading and Success in Law School, supra note 14, at 625 (finding that higher-performing students read using more problematizing and rhetorical reading strategies than lower-performing students); Enquist,
she improved her overall understanding of the case. Alexa’s active reading of her cases likely contributed to her law school success overall.

**C. Kelsey’s Case Reading**

The second study participant was Kelsey. At the time of the study, Kelsey had completed her first year of law school. Like Alexa, Kelsey was a higher-performing student. Kelsey entered law school with a 155 on the LSAT; she ended her first year in the top 30% of her law school class. Kelsey was originally diagnosed with ADD in elementary school. Her teachers reported that Kelsey was “hyperactive” and distracted during school. Her mother took her to a therapist and Kelsey was placed on Ritalin. In order to channel her energy, Kelsey spent a lot of her time growing up engaged in physical activities like sports and dance. Kelsey disclosed that she faced many challenges and setbacks in her educational career. Kelsey described that in any new educational transition, like between high school and college, she would experience initial periods of failure. Kelsey would then work to improve and she would eventually achieve success. For Kelsey, law school took a similar path. Kelsey did not request disability accommodations in law school and was very determined to succeed on her own without disclosing her disability to anyone. Although Kelsey had considerable difficulty with her first set of midterms, she worked exceptionally hard to figure out what she had done wrong.

Kelsey described her initial frustrations at figuring out how to study and learn in law school.

Well, it was really hard for me at first [in law school]. And I did really horrible when I first did midterms . . . . I was trying so hard to read everything and remember everything about every case. It was just like killing me. So, I got my grades back from midterms and it was like, “Gosh, I’m [stupid]. I shouldn’t be here.”

And so, I had to go through and evaluate [what I was doing]. . . . I talked to the academic advisor, and I just kind of stepped back and let them say, “O.K., what am I doing wrong?” [I] realized I was kind of focusing on the wrong details. So, I guess it kind of comes down to reading and how I was trying to read everything and remember everything. . . . I think it became a lot easier after that. And, I did really well on my finals. But at the same time, my grades weren’t as great because I totally failed midterms.

**supra** note 14, at 668-69 (finding that the more successful legal writing students read more actively, paging back and re-reading).

95 This narrative description was based upon Kelsey’s statements from our in-depth interview. All interview transcripts are on file with the author.

96 Transcript of Interview with Student 103 at 5 (on file with the author).

97 Transcript of Interview with Student 103 at 4-5 (on file with the author).

98 Transcript of Interview with Student 103 at 5 (on file with the author).
In examining Kelsey’s reading protocol, it was clear that she was using many of the reading strategies used by successful law students, including contextualizing, questioning and re-reading. Kelsey spent 32.43% of her time using default reading strategies; 41.89% of her time using problematizing strategies; and 25.68% of her reading time using rhetorical reading strategies.\footnote{Christensen Data Summary, at 1(on file with the author).}

The following graph represents the percentage of time that Kelsey spent using the various reading strategies.

Table 8: Kelsey’s Use of Reading Strategies

![Graph of Kelsey’s Use of Reading Strategies]

Like Alexa, Kelsey was actively engaged in the text. Kelsey placed the case in context, i.e., noting the case was decided by a state court. Kelsey also worked to resolve her confusion as she read by initially creating a hypothesis and then reading further on in the text to either confirm or deny her hypothesis.\footnote{Kelsey did use a higher percentage of default reading strategies as compared to Alexa. I suspect that this is likely due to the fact that Kelsey was a first year law student and Alexa was a second year law student. Alexa had an additional year to become familiar with case reading such that she could more easily pass from default reading strategies into higher-level problematizing and rhetorical reading strategies.}

Consider the following excerpt from Kelsey’s think aloud.

\textit{In the matter of Richard J. Thonet the Supreme Court of Indiana . . .}

It’s a state jurisdiction case. [contextualizing]// I don’t really know what it’s trying to say. [voicing confusion]// I usually don’t read . . . headnotes in their entirety. [skipping]// So I’ll come back to those if I need help. [skipping]//
I’m going to start with the case. So, the attorney disciplinary matter. [contextualizing]/.

The attorney was charged with failing to disclose to a tribunal controlling authority known to him.

So this guy has something to do with a disciplinary procedure. [hypothesizing]/. I highlight what happened. [highlighting]/ This attorney and what is happening is story of this case. [hypothesizing]/ He failed to give known authority and he also failed to advise his client of the adverse authority when his client was contemplating his legal options. So that probably means he misrepresented the information to his client. [synthesizing]/ And, in his client’s favor. [synthesizing]/

Kelsey also used another effective reading strategy: she put the language of the case into her own words. This strategy helped Kelsey more clearly understand what was happening in the case. Notably, Kelsey spent a fair amount of time highlighting within the opinion. [102] As Kelsey explained during her interview, she used different colors of highlighting as a technique to help her “trigger” her memory when she looked back on the case before class. [103]

The colors give me a point of reference . . . It makes my mind think, “O.K., I know what that is.” I don’t have to read it once I color it. Once I color “facts,” I know what those facts are. Part of my process is [that when I] highlight them, [I’m] kind of saving them in my mind. [104]

“Pink” are the rules. Underlining in “pink” [marks] a commentary rule. And, then, “purple” is court’s reasoning. “Blue” is the court’s holding and . . . order. “Yellow” is a fact. I have other colors. I have a “light orange” [that] I use to represent a case that is cited in a case. And I use a “dark orange” for procedural history. And I use “red” for dicta. And . . . a weird “green” color I use for my notes within a case. [105]

In addition, Kelsey created mental pictures or “cues” as she read. She would often comment to herself about what she was reading—and she often expressed her personal opinion about what happened in the case. Each of these techniques helped Kelsey stay engaged with her case reading.

A further example from Kelsey’s think aloud is as follows:

101 Transcript of Interview with Student 103 at 1 (on file with the author).
102 She spent 14.86% of her total reading time noting that she was highlighting text. Christensen Data Summary, at 1 (on file with the author).
103 Kelsey’s reliance on “highlighting” the text, typically a default reading strategy, may also explain why Kelsey spent a higher percentage of her reading time using default reading strategies as compared to Alexa, i.e., 32.43% versus 21.05%, respectively. Christensen Data Summary, at 1 (on file with the author).
104 Transcript of Interview with Student 103 at 7 (on file with the author).
105 Transcript of Interview with Student 103 at 7 (on file with the author).
The respondent appealed that ruling alleging that his client had a right to withdraw the plea because due to absence of counsel at the time he entered it and the fact that the record did not reflect that but the trial court properly examined the client.

Ok. So that’s a relief. [evaluating]// So this is a case about a “stupid” attorney . . . . [evaluating]// The Respondent represented the defendant in Fletcher v. State , so this seems like we’re actually getting more relevant about that it was actually [the same] attorney in that case. [evaluating]// The support, the address, the same court, [and the same] questions that the Respondent raised in his client’s case. [synthesizing]//

Clearly, Kelsey felt comfortable expressing her own opinions about the case, i.e., commenting about the “stupid” attorney. This was actually an effective technique that Kelsey developed over time. In her interview, she described how creating a story about the case helped her despite her struggles with ADD. 107

Kelsey’s reading techniques appear consistent with those techniques used by more successful law students. 108 Further, whereas many first year law students might simply defer to a professor’s interpretation of the case, Kelsey was willing to assume a more active role in relation to the outcome of the case. She had a strong opinion about whether the court was correct or incorrect. Again, these reading strategies, i.e., agreeing or disagreeing with the court, engaging actively with the text, are reading strategies used by successful law students and successful lawyers. 109

D. Baker’s Case Reading

The third participant in the study was Baker. 110 Baker was a second year law student at the time of this study. Baker entered law school with an LSAT score of 148 and struggled during his first two years of law school. By the end of his second year, Baker’s grades were in the bottom 15% of his class. Baker was diagnosed with ADD in

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106 Transcript of Interview of Student 103 at 2 (on file with the author).
107 Transcript of Interview of Student 103 at 4 (on file with the author).
108 See Enquist, supra note 14, at 668-69 (2008). Professor Ann Enquist found that the most successful legal writing students used reading strategies “that included a number of strategies for making the material their own.” Enquist reported that: “There was an obvious connection between their critical reading and critical thinking skills. As they read a rule, they thought through why it exists; as they read arguments in the cases, they thought through the arguments that would give them the desired result in their case.” Id. at 670. See also, Leah M. Christensen, Legal Reading and Law School Success, 30 Seattle L. Rev. 603, 604 (2007)(finding that successful law students read using more problematizing and rhetorical reading strategies);
110 This narrative description was based upon Baker’s statements from our in-depth interview. All interview transcripts are on file with the author.
elementary school. His parents took him to a learning center after he had been experiencing academic problems in school. Baker struggled throughout his educational career and compensated for his learning disability by taking high school and college courses that focused on his academic strengths as opposed to his weaknesses. Although Baker’s family was supportive of his decision to go to law school, Baker felt a great deal of pressure to succeed. Baker described feeling the stigma of his learning disability in law school. He felt different from his peers. Baker was determined to keep his disability hidden and did not request accommodations for his learning disability in law school.

To me . . . I don’t want accommodations for my “thing.” I’ll get the grades I get in the system [because of] the way it’s designed. I don’t want an accommodation. Part of that is because I fear that if I got the accommodation and I didn’t do any better, then what is the consequence of that? I don’t know, I haven’t really thought about it.\textsuperscript{111}

. . . If my skills aren’t supported in law school in terms of grades, then that’s fine. I’ll walk out of here and say, “[law school] doesn’t [acknowledge] my skills and that doesn’t bother me. I’m not gunning for the top job and six figures right out of law school. Perhaps the reason that I’m not gunning for one of those jobs is because I can’t get the grades to get one.”\textsuperscript{112}

In analyzing Baker’s reading protocol, he had a more difficult time making sense out of the opinion. Baker’s reading was more like the LP students from the 2007 reading study. Like the LP students, Baker used primarily default reading strategies, i.e., 67.19% of his reading time.\textsuperscript{113} Baker spent 14.06% of his time using problematizing reading strategies; and 17.19% of his reading time using rhetorical reading strategies.\textsuperscript{114} The following graph represents Baker’s use of the various reading strategies.

\begin{center}
\begin{tabular}{|c|c|c|}
\hline
Strategy & Time Spent & Percent of Reading Time \\
\hline
Default reading & 67.19% & \\
Problematic reading & 14.06% & \\
Rhetorical reading & 17.19% & \\
\hline
\end{tabular}
\end{center}

\textsuperscript{111} Transcript of Interview with Student 102 at 7 (on file with the author).
\textsuperscript{112} Transcript of Interview with Student 102 at 7 (on file with the author).
\textsuperscript{113} Christensen Data Summary, at 1; see also, Christensen, Legal Reading and Success in Law School, supra note 14, at 625.
\textsuperscript{114} Christensen data Summary, at 1.
Table 9: Baker’s % of Time Spent Using Reading Strategies

In analyzing more specifically the way in which Baker read, he read primarily to decode the text, i.e., he worked to understand the basic meaning of the words. As a result, Baker never seemed to get into the deeper analysis that lay within the judicial decision.

The following is an excerpt from Baker’s think aloud.

*In the Matter of Richard J. Thonert . . . The Supreme Court of Indiana, August of 2000.*

So I’d start from the beginning and I’ll read through the case notes and start. So here we go. Ok. [reading silently] That first paragraph. “It’s so ordered” at the bottom, and basically two long sentences with a lot of words [commenting on difficulty]// and I really don’t know what I read, so I’m going to have to read it again. [rereading]// I’m grabbing for something to mark it up in case; I see a word or something that I want to latch onto. Ok. It looks like the attorney did something wrong and he didn’t disclose some information he knew to opposing counsel and the appellate tribunal. [paraphrasing]//. 115

. . .

So, “per curiam.” [contextualizing]// That is - I don’t even know what that means. [voicing confusion]// “per curiam.” [rereading]// I can’t remember.

115 Transcript of Student 102 at 1 (on file with the author).
Note how Baker struggled with the legal vocabulary in the opinion. Specifically, Baker struggled to understand the significance of a “per curiam” decision. Failing to understand the meaning of the words likely inhibited Baker’s overall comprehension.

In addition, Baker took much longer to complete the overall reading task than either Alexa or Kelsey. Because many of the words were unfamiliar to Baker, he had to re-read the text frequently during his reading protocol. While re-reading can be a helpful reading strategy for many students, it was clear that Baker read too slowly to keep up with the high volume of reading in law school.

Here is a further example from Baker’s think aloud.

I’m going to read this through and then read it again. That’s what I usually do. I read through it first and then go back and read it again. On 933, the first whole paragraph on the right hand side says that the “client had not made it knowingly, intelligently or voluntary.” Those terms are going to be I can’t really think – The footnote and I’m going right through it again. I’d probably read it again and then go back through it. Ok. Indiana Professional Conduct Rule. I’m highlighting probably some kind of regulation for this case. It takes place I think in Indiana. Let me see here. I can’t remember. Yeah. And so it’s probably important and I’ll read it over again.

Baker was working hard to move through the text but his case reading was inefficient and this seemed to lead to significant frustration on his part.

Further, Baker’s reading was noticeably slower than either Alexa or Kelsey’s reading. Slower reading poses two major threats to comprehension. First, when students read slowly, they must dedicate their mental efforts towards decoding (figuring out the meaning of the text), leaving fewer cognitive resources for meaning-making. This seemed particularly true for Baker as he struggled with the meaning of the phrase “per curiam” in his case reading. Second, reading slowly taxes short-term memory; it becomes difficult to retain long and complicated sentences at slower reading rates as

116 Transcript of Student 102 at 1 (on file with the author).
117 Alexa completed her reading protocol in approximately 29 minutes; Kelsey took 38 minutes to complete her reading protocol; Baker took over 65 minutes to complete his reading protocol.
118 Transcript of Student 102 at 1 (on file with the author).
120 Id.
opposed to faster speeds. Baker may have suffered from this as well. Baker’s choppy and hesitant reading may have posed significant practical challenges for him in law school.

IV. DISCUSSION

The results described above suggest three possible conclusions. First, the data suggest that Alexa and Kelsey, like the HP students from the 2007 reading study, may have been more successful in law school because they used a higher percentage of problematizing and rhetorical reading strategies. Problematizing strategies contain those reading strategies that help readers solve problems within the text. “Readers use problem formation strategies to set expectations for a text. They ask themselves questions, make predictions, and hypothesize about developing meaning.” Various studies have associated the use of problematizing strategies with higher performing student readers and expert/lawyer readers. These readers asked questions; they talked back to the text, made predictions, hypothesized about meaning, and connected with the overall purpose of their reading. In the present study, Alexa and Kelsey engaged in more of these active reading strategies than Baker, and they were more successful in law school overall.

Likewise, rhetorical reading strategies allow the reader to move through the text in an evaluative manner or in a way that synthesizes what is being read with the reader’s own experiences. Rhetorical strategies “represented points where the reader…took a step beyond the text itself. They [were] concerned with constructing a rhetorical situation for the text, trying to account for the author’s purpose, context and effect on the audience.” Once again, Alexa and Kelsey used rhetorical reading strategies to their advantage—they both connected to the purpose of the reading and actively agreed or disagreed with the decision by the court.

In contrast, Baker struggled with his reading and also struggled in law school. For Baker, legal reading was difficult, slow and often lead to further confusion. Baker’s ADD likely contributed to his reading challenges. In contrast, Alexa and Kelsey adopted reading strategies that facilitated effective legal reading despite having ADD. In other words, they learned to compensate for their ADD by developing a new way to approach reading legal text.

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121 Id.
122 Dewitz, supra note 16, at 228-229 (describing his definition of Deegan’s problematizing strategies).
123 See Deegan, supra note 14, at 163-165; Oates, supra note 14, at 159; Lundeberg, supra note 14, at 417.
124 Deegan, supra note 14, at 159-160.
125 Id. at 161.
126 Id. (citing C. HAAS & L. FLOWER, Rhetorical Reading Strategies and the Construction of Meaning, 39 COLLEGE COMPOSITION AND COMMUNICATION 167, 176 (1988)).
127 Id. Again, prior reading studies have associated the use of rhetorical reading strategies with student success. For example, Oates concluded that those students who were more successful read for a purpose—a rhetorical reading strategy. In contrast, Oates found that students who had a weaker law school performance were more likely “to read simply to decode the text.” Oates, supra note 14, at 140.
Second, the study results suggest that ADD can inhibit effective legal reading if the law student with ADD has not learned reading strategies to compensate for his or her learning disability. Whereas Alexa and Kelsey found ways to work with their ADD, Baker seemed much more inhibited by his learning disability. Perhaps Baker was overly distracted as he read—a trait commonly associated with ADD. Perhaps Baker’s ADD prevented him from reading effectively because he was unable to use “a number of interrelated skills” when he read—a necessity for effective legal reading. Baker read to decode the legal text; further, Baker was also prone to reading errors. Research has shown that struggling readers tend to make more oral reading errors that affect the meaning of the text than stronger readers. This danger is particularly acute in law school; if students misread or skip words as they read, they are at risk of miscomprehending the text. Baker, perhaps due to his ADD, seemed to struggle more with basic reading strategies.

Third, the results of this study also suggest that students with ADD can be very successful in law school if they take (and are given) the opportunity to learn effective reading strategies. Alexa and Kelsey were impressive students—both in terms of their academic success generally—and in terms of their willingness to teach themselves how to learn effectively. Alexa and Kelsey took responsibility for learning how to read effectively. Further, they each acknowledged their learning differences and worked with these differences and not against them. Perhaps this is one of the most important lessons for law students who learn differently in law school: they must figure out how they learn most effectively.

CONCLUSION

The new reality in legal education is that a certain percentage of our students will come to our classes with ADD or with another learning disability, either disclosed or undisclosed. This study sought to examine how three law students with ADD read a judicial opinion. Although the sample size was small, the results suggested a relationship between successful law school performance and the use of problematizing and rhetorical reading strategies; and less successful law school performance and the use of default reading strategies. Interestingly, the fact that Alexa and Kelsey had been diagnosed with ADD did not seem to affect the types of reading strategies they utilized most frequently. Further, Alexa and Kelsey read the opinion similarly to the Higher-Performing students in the 2007 reading study. In contrast, Baker’s ADD seemed to negatively affect his law school performance—in part because Baker read slowly and relied too heavily on default reading strategies. Also notable was the fact that Baker read the opinion similarly to the Lower-Performing students in the 2007 reading study.

128 Boyle, supra note 8 at 351-356.
130 Capotosto, supra note 118, at 1.
131 id.
Therefore, minimally, the present study confirms that legal reading is very important to a law student’s academic career—and legal reading is particularly important to a student who has ADD or another learning disability. Law students with learning disabilities can succeed in law school if legal education adequately supports their learning—in other words, if legal educators adopt teaching and learning methodologies that support all learning styles and modes of learning. Our mission should be to equip the next generation of lawyers with the tools they need to practice law competently and professionally. If we undertake this mission seriously, then we must embrace the learning of all law students—not just those who fit the traditional mold. If we can accomplish this task, we will produce better law students—and better lawyers as well.