

## Preliminary Investigation Checklist

Most legal projects first appear to be a jumble of unconnected facts, opinions, and events that either occurred or might occur. One of the first tasks of any legal project team is to take all of these project ingredients, try to make sense of them, prioritize them, and determine what effect they may have on the outcome. There are many ways to approach this problem, but we use what we call the [PRELIMINARY INVESTIGATION GRID](#) to take the first steps to give structure to the project once an Anticipated Range of Outcomes has been agreed upon with the client.

### Checklist:

- After initial investigation, separate the project ingredients into three categories: facts, events, and matters of opinion.
- Assign each project ingredient a significance (i.e., critical, high, moderate, marginal) and remove the ingredients that are immaterial to the investigation.
- Categorize facts as ascertainable or unascertainable to guide further investigation.
- Analyze key future events and categorize them as “predictable/ controllable” or “unpredictable/ variable.” This will guide risk assessment and contingency planning.
- Evaluate the potential effect of expert opinions, judicial findings and external party decisions. These future determinations cannot be predicted but they can be estimated and plan can be made for each scenario.
- Gather members of the team to do contingency planning and gain understanding of strategic impact of every project ingredient.
- Plot each ingredient onto a dissection table to chart its effect, significance and manageability. Determine strategic responses for each scenario.
- Assign human resources appropriate to skill level to conduct investigation or carry out additional research triggered by dissection exercise.
- Share relevant risk assessments and strategic objectives with the client in developing a [SHARP ANTICIPATED RANGE OF OUTCOMES](#).

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### Lean Routine:

1. Have you identified the elements within the project that will matter to the outcome? If you are working with other attorneys, consider bringing together a group to identify the key ingredients.
2. Are you using a chart or structured document that can be used to capture the project ingredients and communicate assessments with your team? (See [PRELIMINARY INVESTIGATION GRID](#).)
3. Have you assigned a significance to each ingredient that will help you prioritize and manage further action?

4. Have you categorized each ingredient as fact, event or opinion?
  - a. Facts are what happened in the past. These are fixed and must be lived with.
  - b. Events are what will happen in the future. These must be managed or controlled.
  - c. Opinions are a subjective belief that can be estimated and possibly influenced.
5. Based on how you have labelled the project ingredients, are you able to now do some contingency planning as well as assess the strategic impact?
6. Have you considered whether significant factual ingredients are ascertainable? If not readily ascertainable, what investigation is required to establish that fact? Do you have a strategic plan if the outcome is favorable? What is the contingency plan if the outcome is unfavorable?
7. Have you evaluated future events that will impact your legal project and conducted a risk assessment based on potential outcomes? Is there anything you can do to affect the outcome? Have you plotted a response for likely scenarios?
8. If the project ingredient is an opinion, for instance a judge's evidentiary ruling, can it be anticipated or influenced? If not, it is variable. Do you have a contingency plan for the range of potential outcomes?
9. Have you documented your assessments and conclusions and shared in summary with the client?
10. Have you made note of any variables, contingencies or required action that should be accounted for in your Anticipated Range of Outcomes?