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Tricks of the Trade for New Researchers: Make Your Legal Research Easy!

By Ryan Metheny

AS A NEW LAWYER, YOU will spend a large amount of your time doing legal research. This is true regardless of whether your first position is at a large firm, a small firm, or if you start as a sole practitioner.

When teaching legal research, law schools tend to focus on newer modes of research like Boolean or “terms and connectors” searches of databases like Westlaw, Lexis and Bloomberg Law. As a result, many new law grads do not realize that a “shot in the dark” database search is rarely the best way to start a legal research project.

The missing component in most new lawyers’ research skillset is simply this: use of secondary sources. Remember, other people have almost certainly done much, if not all, of the

research for you already. Thus, it is usually more efficient, and much less frustrating, to begin your research by locating these “prefab” research resources, i.e., secondary sources, like treatises and practice guides. The right secondary source will not only provide you with an accessible summary of the law, it will also serve as a springboard into much of the controlling primary law you need, since it will cite the cases, statutes, regulations, and court rules relevant to your question.

You may be surprised by how much time consulting the right source can save you. Let me give you a recent example from my own work at the LA Law Library to illustrate how going to the secondary sources first can save you tremendous amounts of time and stress. The question presented was

whether an intoxicated passenger in a car could be charged under California’s drunk driving laws if his/her conduct endangered others on the road. I have no prior knowledge of drunk driving law. So, to help the library patron answer this, I knew a good place to start would be a general legal encyclopedia, like Witkin’s *Summaries of California Law*.

I went to the general index for Witkin’s, found the heading for “Driving Under the Influence,” and saw that there was an entry for “‘driving’ defined,” in §275 of volume 2 of Witkin’s *Criminal Law* treatise. I took this volume off the shelf, cracked it open, found §275 on “What Constitutes Driving” and from there saw there was a subsection entitled “Passenger May Be Driver,” which cites two cases interpreting two Vehicle



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Code statutes for this proposition. I then handed this volume over to a very pleased patron. This entire process took only a few minutes. (Note that I also could have done this research electronically through the library's e-resource subscriptions.)

Of course, not every question will be answered by a general legal encyclopedia. Secondary sources go into different levels of detail and serve different purposes, so finding the right one(s) for your research task is important. Briefly, most sources fall into these categories, from least to most in-depth:

- **Nutshells.** These familiar pocket-sized summaries of an area of law provide accessible, easily understood starting points when you have very little background in a new area. Some well-known nutshells include Edward Kionka's *Torts in a Nutshell* and Claude Rowher's and Anthony Skorcki's *Contracts in a Nutshell*.
- **Legal Encyclopedias.** These collect short- to medium-length articles introducing a given legal subject. They also provide a good starting point for an area in which you are not overly familiar, but articles will often be somewhat specialized, as well. They include volumes like *American Law Reports (ALR)* and *Witkin's Summaries of California Law*.
- **Formbooks.** These collect legal forms, both litigation-oriented and transactional, by topic. They also include summaries of the law in the guise of instructions for use of the form. Major formbooks include Matthew Bender's *Forms of Pleading and Practice* and West's *California Code Forms*.
- **Practice Guides.** These provide a manual for practitioners in a certain area of practice. They include procedural checklists, practice pointers, and forms, but they also give brief summaries of the law. California guides include Rutter Group's *Civil Procedure Before Trial* and Continuing Education of the Bar's *UCC Sales & Leases*.

▪ **Treatises.** These are comprehensive summaries of a specific area of law. The major treatises are the Bible for practitioners in an area, but are hard to navigate and comprehend without a background in the subject. They include volumes like *Nimmer on Copyright* and *Collier on Bankruptcy*.

When choosing a secondary source, you need to ask two different questions. First, what is my level of prior knowledge? You should not dive straight into *Nimmer on Copyright*, for example, if you have not dealt with copyright issues before; a nutshell or encyclopedia article would provide a better starting point and give you the vocabulary and concepts you need to understand *Nimmer*.

Second, for what purpose am I using the source? If you need to know how to put together a motion for summary judgment in a personal injury case, you should consult a civil procedure practice guide or formbook for checklists and forms, not *Prosser and Keeton on the Law of Torts*.

Once you know the type of secondary source you need, the next question becomes, how do you find a specific, reputable source? And how do you get access to this source? It is hard to find and assess resources in an unfamiliar area of law, and subscribing to them in print or through Westlaw or Lexis, once you find them, is shockingly expensive.

You can consult colleagues, of course, and online tools like Georgetown Law Center's Treatise Finder can help if you need a treatise as opposed to practice materials.¹ But remember, this is why California has public county law libraries. Accessing secondary sources on-site, and consulting a reference librarian either on-site or remotely by chat or phone for help finding the right source, is free. And many county law libraries, including the LA Law Library, offer document e-delivery, allowing you to get the source you need quickly and affordably.

Good luck to all you new attorneys out there and happy researching! 📖

¹ See www.law.georgetown.edu/library/research/treatise-finders.

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