
Chapter 1: Introduction

A. WHAT IS ACTIVE LEARNING AND WHY DOES IT WORK?

Think back to the last time you learned how to do something – not intellectually *about* how to do it, but actually how to do it yourself. More times than not, we learn practical skills by rolling up our sleeves and trying them. Take a minute to visualize some skills that require hands-on experience. For us, some examples are swimming, knitting, carpentry, playing tennis, and writing. The skills people develop over the years vary widely, but almost always bring pride in accomplishment once we have acquired them. A common factor among all hands-on skills is that we learn how to do them through trial and error - - actual experience and practice – not just by reading about them or hearing someone else talk about them. Depending on your learning style preferences, reading about something or hearing about it is often useful, but practical skills are rarely mastered without actually trying them.

Doing legal research is the kind of skill that you can learn best when you roll up your sleeves and try it. While it is useful to read about it and to hear experts talk about it, there's no substitute for trying it yourself. Most of us know through experience that “learning by doing” is the way to go when developing a skill. Interestingly, educational experts agree. Statistics show that we retain only 10% of what we read, 26% of what we hear, 30% of what we see, but a full 90% of what we do and say.¹ Your future employers and your future clients will depend on you to develop the critical lawyering skills of assessing a legal problem and conducting thorough, accurate research to find information with which to respond effectively to the problem. Acquiring those skills now – while you are a student – puts you at a distinct advantage in the early stages of your career and positions you to continue to develop those skills throughout your professional life.

This workbook is designed to facilitate your mastery of the knowledge and skills necessary to become an expert at legal research by applying active learning principles to the study of legal research through a simulated law firm setting. In this self-instructional workbook, you will be associated with our fictitious law firm, “Marshall, Story & Associates.”² Our law firm is named after two of the most highly esteemed jurists in this nation's early history: Chief Justice John Marshall and his colleague, Justice Joseph Story, who served together on the United States Supreme Court in the first half of the nineteenth century. We chose Justice Marshall and Justice Story as our mentors because the seeds they planted in the early years of our country's history have grown into a powerful legal system that touches all our lives – and it is that wide-ranging influence that makes the ability to do accurate and efficient legal research such a valuable skill for you to develop today.

¹ James Stice, *Using Kolb's Learning Cycle to Improve Student Learning*, 77 *Engineering Educ.* 291 (1987). See generally Michael Hunter Schwartz, *Expert Learning for Law Students* (setting forth in readily understandable terms the learning behaviors that will lead to success in the study of law).

² The authors thank Dr. Buckner F. Melton, Jr., who combined his knowledge of history and of law to name our law firm.

We ask you to take on the role of a new associate at this firm. You will be working with a fictitious “assigning partner” who will introduce you (through a series of five assigning memos) to your client and to the legal questions you will need to research on that client’s behalf. You will find these “assigning memos” at the beginning of each of five research lessons in the book. If you are using this book as part of a class exercise, you might want to visualize your professor as your “assigning partner.”

As the authors of this self-instructional package, we see our roles as being your guides as you work your way through these five lessons. Years ago in many states, law was taught through individual apprenticeships. After enough years of study under a licensed attorney, the apprentice could sit for the bar exam. If the apprentice passed the exam, then he or she, too, could enter the practice of law. While these kinds of apprenticeships no longer exist in most states, we hope the design of this workbook will give you the same sense of direction and support you would get if we were actually working together.

Experts in educational theory have discovered that active learning takes place when three things are present in the classroom: *trust*, *motivation*, and *preparation*.³ This book is expressly designed to be your classroom. We have tried to put *trust* in this classroom by drafting assignments that you can count on to be both coherent and accurate – assignments that will help you reach your personal goals for learning legal research skills. While you will provide the bulk of the *motivation* in our classroom based on your personal reasons for learning how to do legal research, this workbook is designed to add to your motivation by providing interesting lessons based on realistic client problems. Finally, concerning *preparation*, we have concentrated on creating lessons that will get the job done. If you do your part to follow each step and to keep thinking while you’re doing so, you will have developed a new set of skills by the time you reach the end of the workbook.

B. HOW TO USE THIS WORKBOOK EFFICIENTLY

(1) **The best way to proceed:** After reading this introduction, read Chapter Two, “Fundamentals of Legal Reasoning,” beginning on p. 11, and then read Chapter Three, “The Legal Research Process,” beginning on p. 17. If you don’t have much experience in law, you may want to read that chapter more than once and/or come back to it again as you gain more experience with legal research. Next, choose a client (or go to the first assigning memo for the client assigned to you) and move through each lesson in order (it’s best not to jump around). Since you will be “learning by doing,” it’s important to actually write down your answers to each question along the way, rather than to just think about them. Don’t skip steps unless you are already familiar with that resource or prefer to learn completely on your own.

³ Edward M. Neal, Director of Faculty Development at the UNC Center for Teaching and Learning, first introduced us to the importance of making sure trust, motivation, and preparation are all present in every class. He also stressed the importance of separating what he called “nice” information from “critical” information when teaching a new skill. Dr. Neal, together with Professor Howard Aldrich of the UNC Department of Sociology, has also done extensive work with the writing faculty at UNC Law concerning other active learning techniques, and many of his ideas have been integrated into this workbook.

(2) **Integrating supplementary or advanced reading:** As you work through the assignments, you may find it helpful to supplement the steps you are following with more in-depth or detailed information from one of the several respected legal research textbooks available on the market today. Appendix A contains a detailed list of a number of such textbooks as well as cross-references to places in those texts that correspond to the hands-on lessons you will be following in this workbook. If you are using this workbook in conjunction with a class, you may already have one of those textbooks assigned or recommended by your professor. If not, and you are interested in supplementing these lessons with more in-depth information now or in the future, you may want to choose a supplementary text from those listed in Appendix A. You will find specific cross-references to *Legal Research in a Nutshell* (9th ed. 2007) by Morris L. Cohen and Kent C. Olson throughout your lessons.

(3) **Following proper citation format:** You will find references in the lessons to *The Bluebook: A Uniform System of Citation* (18th ed. 2005), published by the Harvard Law Review Association, and to *The ALWD Citation Manual: A Professional System of Citation* (3d ed. 2006). Until the first edition of the *ALWD Manual* was published in 2000, *The Bluebook* was the unquestioned giant in the field of legal citation. Today, the *ALWD Manual* is also widely recognized as a respected authority on proper citation form to follow in legal writing. If you are using this workbook in conjunction with a class, your professors will probably have assigned one of these citation manuals. If you are using this workbook on your own, you may find that the *ALWD Manual* is easier to follow. If you don't expect to read or write about law outside of your own work, you don't need to worry about either of these books and can skip those parts of the lessons.

(4) **Exploring with the right attitude:** Conducting legal research is always an adventure into the unknown. Embarking on such a trip is all the more daunting when you are just learning these new skills. As you explore the lessons in this workbook, we suggest that your ultimate goal while completing these assignments is *to learn about legal research sources and how they can help you*. You may be tempted to focus your attention instead on the substantive legal issues that your fictitious client may be facing. While it's useful to have a client question to explore to put your research efforts in a realistic context, be sure to pay close attention to the resources you are using and the process you are engaging in as you complete each assignment so that, ultimately, you can apply these skills to new assignments in the future. Also, try not to get sidetracked by the inevitable frustrations involved in all legal research. Experienced researchers have come to expect dead-ends and answers that lead to more questions. Remember that it is not possible to learn all the tricks and details of a complex skill like this by trying it just once. Rather, use this guided self-instructional method to lead you through the maze on this first adventure and then hold on to these lessons as a "map" you can return to many times in the future as you have more opportunities to do legal research. Each time you explore a legal question, you will find you learn something new.

(5) **Paying attention to necessary details:** You will save time and energy if you are careful to use the correct materials for each assignment. Using the correct materials

requires that you pay attention to at least these three things: (1) look at the EXACT title of the resource we refer to in the text and be sure you're using that EXACT document;⁴ (2) especially if you're working in a large law library that stores lots of historical material, be sure you are working in current publications. Law changes rapidly and working with outdated material will net inaccurate results; (3) allow yourself time to become familiar with the lay-out of each different kind of material you're directed to use. Remember, the purpose of working through the lessons in this book is to learn how to use these important resources for now and in the future, not just to find answers to the specific legal question put before you.

(6) **Using our “TIPS” and “BOMBS”:** There are “TIPS” and “BOMBS” marked throughout each lesson. It is helpful to read these before you answer related questions. We've put them there to help you distinguish critical information (such as the information contained in the text and the “bombs” in this workbook) from “nice” information (such as the supplemental information provided in the “tips” throughout this workbook). Educational experts emphasize that being able to separate “nice” information from “critical” information is an important part of learning a new skill where exposure to too much unsorted information can overwhelm you and interfere with your ability to absorb what you need to know.⁵



(7) **Managing your time:** Time is a valuable commodity to anyone working in, or thinking about working in, the field of law. To help you manage your time as you work through these lessons, you will find an estimated time of completion suggested at the beginning of each lesson. These time estimates are based on averages from students who have used this workbook in the past. Depending on your learning style and your personal goals, your times could be more or less than those estimated. If you find that you are taking considerably more time to complete a lesson than is suggested, you should seek help from your professor and/or a law librarian (unless you are deliberately taking more time and are enjoying doing so).

(8) **Integrating TIPS about online research:** This fifth edition includes “Online TIPS” designed to give you supplementary information about how online (computer-assisted) research materials might be used in addition to or instead of some of the hard copy materials you are being introduced to in each lesson. Competent researchers in the legal profession cannot rely exclusively on hard copy materials nor exclusively on online materials to achieve their research goals. Some information is more readily accessed in one format than another and some legal environments restrict your access exclusively to one format or another. Without question, learning to use both hard copy and online resources is critical to your success in the field of law. Many professors choose to introduce these resources in sequence. If you are using this workbook in conjunction with a class, do not become

⁴ From time to time, publishers change the titles of their materials. If you are unable to locate the exact title referred to in a lesson, check with your law librarian to see if a change has occurred. You can also check www.LegalResearchWorkbook.com for updates. If you discover a change before we do, please contact Professor McKinney directly at ramckinn@email.unc.edu so we can update the website. Also, if we direct you to a resource that is not housed in your library, please ask your law librarian or your professor to show you an alternative resource you can use to complete the lesson.

⁵ See references to Dr. Neal's work at the UNC Center for Teaching and Learning, *supra* n. 3.