“Conscious Choice”

Teaching Students to Make *Conscious Choices* in Legal Research Sources in a One Credit Elective Course

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Recent Attorney Research Surveys

- *ABA 2006 Legal Technology Survey*
- *2006 Chicago Attorney Research Survey*

Attorney Research Highlights

- 79% conduct research online
- 87% use free online sources
- 83% use fee-based sources
- Paper research dropped to 58%
  - *ABA 2006 Legal Technology Survey Report*

Mandate from Surveys for Legal Educators

- Introduce students to *entire range* of electronic research products
  - Including both free and lower cost systems
  - Not just Lexis and Westlaw
- Teach students more about cost effective research –including when it is cost-effective to use a premium system such as LEXIS or WESTLAW

Agenda for Today's Presentation

- My research class and its context
- New "conscious choice" goals for class
- Strategies to meet goals

My Legal Research Class

- One credit, upperclass elective
- Meets 4 classes, 3½ hours @, cap 10
- Lecture/demo, lab
- 4 homework assignments, 2 quizzes
- Lexis webcourse / Discussion Board

Class Goals as Described in Catalog

- Reviews research skills
- Teaches shortcuts and strategies
- Focuses on primary sources of law and secondary sources
- Introduces students to legislative history
- Key: *Integration of Electronic and Print*

New "Conscious Choice" Goals

- Introduce students to "the choices"
  - Highlight reasons why cost matters
- Teach students to select "appropriate" source for research task
- Teach students to identify **Value Added Features** they *already use* in Lexis & WL
- Develop method to evaluate cost-effectiveness and utility of ANY research system –*current or future*

Why "Conscious Choice?"

- Students should be making *rational choices* when they select a research source… but
- They can't make *rational choices* if they don't even make a *conscious choice*
- They can't make a *conscious choice* until they know what the choices are, therefore
- Students should learn *what the choices are*

What are the Choices?

- Premiums—Lexis & Westlaw
- Low Cost—i.e. Loislaw, Versuslaw …
- Free—Lexisone
- Other free sites—
  - Gpoaccess
  - Thomas

What are the Costs?

- Premiums—Lexis & Westlaw *[Handout 2-3]*
- Low Cost
  - Loislaw
  - Versuslaw *[Handout 4]*
    - http://www.versuslaw.com/products/all.asp
  - Free—Lexisone with links to pay features
    - http://www.lexisone.com/lx1/specialoffer/getOffer?mode=home&action=signup&packageid=10

Why is Cost Important?

- Client will pay or Law firm will absorb
  [Handout 1]
- Most firms try to recover costs
- Some clients won't pay for online research
- Some clients require prior authorization
- See Cindy Carlson's Cost Effective Research
  - www.llrx.com/columns/notes68.htm

Law Firm Billing for Online Research

- 78% surveyed bill to recover costs
- 74% have negotiated flat rates
- Only 22% don't bill for online research
  - *ABA 2006 Legal Technology Survey Report*

What Can you Teach about Cost?

- Find out about *YOUR* firm's plan
- Ask what is *NOT* included in flat rate
- Flat rate costs are usually prorated and charged to clients
- Some clients *REFUSE* to pay charges
- You may need *AUTHORIZATION* to use

Understanding Types of Charges

- Connect time and transactions
- Discuss the concept of transaction
  - Check current prices for sample files
    - All Federal and State Cases
    - New York Cases
- Discuss the connect time Option

Strategies to Teach”Conscious Choice”

- Assignments
- In-class labs
- Quizzes

Using Free Sources

- Match source to research task
  - The best source may be the free source
- Text of document
- Don't need sophisticated search engine
- Reliable sites used for legal research
  - http://www.law.siu.edu/lawlib/guides/internetsites.htm

Best Source May be the Free Source

- Text of document
- Thomas-bill status
- Today's Federal Register
- E-CFR (beta)
- Century of Lawmaking

Strategies to Introduce Choices

- Students registered and used
  - Lexisone
  - Loislaw
  - Versuslaw
- Students used variety of sources in
  - Gpoaccess
  - Thomas
  - Other free sites

Identifying “Value Added Features”

- What is bare-bones?
- What is “value added feature?”
- Assignment comparing search results in
  - Lexis
  - Westlaw
  - Lexisone
  - Court website

Assignment to Compare Case Features

The next four slides include a series of 4 questions in an assignment designed to compare case display and options for checking subsequent citation of a case in both free sites and Lexis and Westlaw

After completing these four questions students should have a good idea of what a free and "barebones" case display includes, as well as what "value added features" are available in a case display in Lexis and Westlaw.

Students should also understand the value of the KeyCite and Shepards citators.

Questions from Assignment

4. **Lexisone is a free site; it also includes links leading to pay Lexis services. Register for the site and then respond to the following.**

   A. **What is the coverage for New York state cases (courts and years)?**
   B. **Find this "mold" case: Martin v. 159 West 80 Street. What is the citation?**
   C. **Can you Shepardize this case at NO Cost?**

5. Go to your law school LEXIS service and find the same “mold” case.
   A. What is the difference between the “free” Martin case on lexisone.com and the case on your law school Lexis service?
   B. What kind of “value added” enhancements are provided for the additional costs?

6. Go to the website of the New York Unified Court System at http://www.courts.state.ny.us/

   A. Can you find the “mold” case at that site?
   B. If yes, are there any features in addition to the text of the case itself?
   C. Which New York courts have the text of their opinions at this site?

7. Now find the same “mold” case using your law school WESTLAW account.

   A. What does Westlaw provide in addition to the text of the case?

   B. Are there any “value added” enhancements?

   C. Why would you pay to use Lexis or Westlaw to retrieve this case when you can get it free on Lexisone or the New York Courts site?

Tracking “Value Added Features”

- Have students identify VAFs of Lexis & Westlaw
- Post each feature to VAF *discussion board*
- Don’t just tell students what the VAFs are, let them discover them
- Compile summary list
- [HANDOUT 7]

Strategy—In Class Exercise

- Register for Loislaw
- Register for Versuslaw
  - [HANDOUTS 5-6]
- Find case by cite
- Update (Shepardize)
- Find cases through word search

Review Results of Lower Cost Systems

- Ask students about results
- What features were missing ?
- Make a list of missing features
- Were there any VAFs?
- What was their “summary reaction?”

Downside Low Cost Research--Responses

- No premium citator (Shepards Keycite)
- Headnotes
- Annotations
- Deluxe delivery options
- History/Research Trails
- Locate/Focus
- Integrated access to secondary sources
- Coverage of early years
- Restricted sources

Summary Reaction to Lois & Versus

- Serviceable
- Citator unworkable if cases heavily cited
- Not really saving money if use more time
- Compare at http://lib.law.washington.edu/ref/lowcostcalr.html#casemaker

Develop Guidelines for Evaluating New Electronic Research Products

Walk students through process of deciding what content, features and services they need in any new research product based on

- Basic content
- Missing features and content discovered in lower-cost systems
- VAFs they used in Lexis & WL

[HANDOUT 8]

Using Exam as Strategy-Sample Question

What *special features* on Lexis and Westlaw help you determine whether any regulations have been promulgated by the authority of 29 U.S.C. Sec. 2654?

Using Exam as Strategy-Sample Question

Your supervising partner asked why you used LEXIS for research on a federal regulatory issue last month instead of free government websites.

List the reasons you thought it was cost effective to use LEXIS rather than the free CFR at www.gpoaccess.gov .

List the circumstances in which you think it would be better to use the free FR and CFR at www.gpoaccess.gov .

Using Exam as Strategy-Sample Question

Your Managing Partner asked you to evaluate the new legal research system CHEAPLAW.COM. The advertisements promise a 60% savings over the system you are using now.

What are the issues you should consider in your evaluation of Cheaplaw.com?

Impact of Conscious Choice Approach

- *Not* --Don't Use Lexis or Westlaw
- *But* --Do Think about Your Research Need
- What is the *Best* Tool?
  - Research Purpose or Need
  - Cost
  - Time
- Sometimes the *Best* tool is free, at others it will be Westlaw or Lexis or something in between
- Method to Evaluate Future Research Options [HANDOUT 8]

Anticipated Course Results

- Students will be able to make “conscious choices” about legal research sources
- Students will be able to make “rational choices” based on purpose, cost and time
  - They will understand what a basic “bare bones” system offers
  - They will understand what a premium system offers
- Students will able to analyze any *future* system by content, features, and service

[*HANDOUT 8*]