

Conscious Choice

Examples from 1st year Legal Research Assignment at CUNY School of Law

These are a few questions from one of the major legal research assignments this year at CUNY Law. Excerpts from student answers are in italic font under each question.

The Fact Pattern involved a child sex abuse case brought in New York Family Court, which was going to require the use of corroborating testimony and the possible use of a validator (type of expert in sex abuse cases). Besides answering the more common legal research assignment questions (statutes involved, lead cases, use of both to further research, etc.) students were to find material to assist in qualifying someone as an expert “validator” including preparation of the direct examination.

Below are a few of the questions and student answers that I think highlight the concept of “conscious choice.” The usual answer was typically two to three paragraphs in length so these are very short excerpts taken from responses of varying quality.

Questions from the assignment

1. Using Westlaw, Lexis or materials in hardcopy format, find at least three different secondary sources that would help you prepare for qualifying the treating psychologist as an expert witness. It is expected that to answer the questions properly you will need to look at more than three secondary sources before deciding on three “good sources.”

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For each of the sources provided as your answer indicate why you chose the particular source as a research tool and give an example of the information the source provided that assisted or furthered your research.

I chose this source because it gave me an overview of the [abuse and neglect proceedings] in the context of out-of court-statements by the child. I realized (after reading it) that the corroboration rule may be broader than I initially thought and made me turn to [next source listed]that would give more information about the qualifications and experience needed for experts.

[Source] is a specific examination of how a validator may be used to corroborate... I appreciate practice based secondary sources because they help me to understand how this will really work [in practice].

The source helped me understand what factors make for a more effective or more persuasive expert testimony. [It] linked right into N.Y. Family Law cases that were on point on this issue and would therefore be essential reading...

This source ... explained the validation process and what expert testimony the court found in favor and not in favor of ... [it] provided guidelines for what a practitioner should look for.

2. If you had to choose only one system (Westlaw or Lexis) for finding and using secondary sources, which would you choose? [The students were asked to support their answer with three examples, again the answers below are merely excerpts from much longer responses].

Although generally a fan of Westlaw, I found Lexis much more user friendly... linking to different types of secondary sources more intuitive ... although if I have a case on point Westlaw yields more secondary sources.

Westlaw because of TP-ALL which includes LR's and sources like AMJUR POF – this has been the most effective database I have used all semester.

It's hard, because in Fact Pattern 1 [New York based] Lexis' materials such as the Bender's sets were better but for Fact Pattern 2 [student had to educate self on Consumer Protect Agency issue], Westlaw seemed to have easier accessible material especially through ResultsPlus.

Lexis gives you the ability to search for different treatises and analytical material under different areas of the law within a specific state. In Westlaw all the secondary sources in a state are lumped together requiring extra search steps. Also Lexis seems to have a broader range of secondary sources at least for New York.

3. You researched statutes using both online and hardcopy sources this semester. Which method do you think produced better research results? Provide a thoughtful explanation of your answer that does not resort to mere “convenience” or other similarly superficial explanations of why you think you had better results with one method over the other.

Online because easier to get sense of statutory scheme, easier to uses secondary sources to find statute (to quickly move from a statutes database to NY Jur) though sometimes online research can be disorienting I feel with practice I have gotten better at it.

I actually prefer hardcopy because it facilitate more productive research because the indexes force you to use words that will return material, not just typing in things.... Online can return so many hits that it becomes frustrating. Hardcopy is a better way to begin though it is hard to give up researching at home

Electronic was faster and easier but I got sidetracked a lot – lots of false hits.

Online provide links to secondary sources, which I now realize can save me lots of time. You can also check on pending legislation that may affect your statute or check and see how current it is faster and easier.

It depends, I found searching for statutes in hardcopy seemed more efficient for locating a specific statute but online searching provided secondary sources that could assist with statutory interpretation more efficiently.