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Lexis-Nexis
Navigating the New Town Square:
Cultivating Competency in
Basic Online Legal Research

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Presented by:
 Court Barnett, Esq.
 1.0 MCLE Prof. Practice
 1.0 CJE

This program has been approved for credit in New York State for all attorneys including those who are Newly Admitted (less than 24 months) and administered by the Onondaga County Bar Association.

Course Description

Bill Gates once said, "The Internet is becoming the town square for the global village of tomorrow." For attorneys and for all individuals, our lives, professionally and privately have expanded through the global power of the internet. The vast amount of information available and the many different platforms to obtain that information grow daily and have grown exponentially over the last 25 years. This information and technology impacts the way attorneys practice law. It also brings forth more issues and new laws that your clients may face. The many ways technology can aid attorneys in locating the best and most on point statutes, caselaw, secondary materials and all relevant materials can be overwhelming. The comments to the model rules of professional conduct governing attorneys state that to maintain competency a lawyer should keep abreast…[of] the benefits and risks associated with relevant technology. The goal of this course is to assist attorneys in navigating online legal research so they feel more confident and competent when researching subjects important to their work.

Learning Objectives

After completing this course, you will be able to:

- Find out methods for conducting research with different full citations, and names of statutes.
- Gain an understanding of how online platforms have been enhanced to predict what you're looking for.
- Ascertain the multiple ways to filter your searches before and after searching for specific terms.
- Discover different search term approaches: natural language and terms and connectors.
- Realize the many different ways you can analyze your search results list.
- Understand citator services in which cases and statutes can be validated
- Organize and save items found conducting online legal research.

Agenda

I.   Introduction (5 minutes)
   a.   Model Rules mention of competency
   b.   Presenter background
   c.   Learning Objectives

II.   Scenario 1: Beginning research with names and citations (10 minutes)
   a.   Imagine a case is assigned to you where the defendant allegedly possessed and sold illegal narcotics. The allegations also state the defendant possessed and sold drugs that were seized from a house she did not own located in your jurisdiction of Tennessee. Based on a review of the file you recognize that an issue/argument regarding the search and seizure of the narcotic evidence. You also remember that you had a case citation that relates to this topic that you want to look up. What do you do?
   b.   Citations
      i.   Federal
         1.   Let's first address the search and seizure issue of this new case and you want to look at the 4th Amendment of the U.S. Constitution to get back to the basics that you covered when you first learned criminal procedure. One way to locate the language of the 4th Am is by typing the citation as a search term.
         2.   Citation: USCS Const. Amend. 4
      ii.   State
         1.   Now let's tackle the state statute at issue. Let's say you have this state statute citation. What is the best method to get to this statute using an online legal research platform? Simply use the citation as a search term.
         2.   Citation: T.C.A. § 39-17-417
         3.   On many different online research platforms, the systems will recognize what you are looking for and suggest them for you. You can sometimes click on links that populate and get to the citation.

      iii.   Unpublished case citation
         1.   After we have looked at the statute for this state statute, let's tackle looking up the case you have that is a case citation for an unpublished or unreported case. What is the best method to find a full copy of the case? Again, simply use the citation you have as a search term.
         2.   Example: 2014 WL 1329278
      iv.   Pincites

1. Pincites or pinpoint citations will direct you to a specific area of a case or source document. This is placed between the first page that is identified in the citation and the year.
2. Example: State v. Daniel, 552 S.W.3d 832, 833 (Tenn. 2018)

c. Popular Names : What if you know the common name of federal statute that is relevant to your case, but you're not sure what the proper title or citation is?

   i. A common example of a federal statute people know the abbreviation for, but often don't know its full name is HIPAA. Locating a popular names resource for statutes is a great way to find the citation you are looking for. These sources often display the names of popular federal legislation that has been enacted as well as the public law name and number.

III. Scenario 2: Search Bar Suggestions and Pre-Search Filters (20 minutes)

a. Let's imagine you're conducting research within the jurisdiction of Tennessee regarding murder and criminal procedure for an upcoming case. You want to see the table of contents of some sources, find language on the elements of murder, and you want to narrow your searches to Tennessee. Here are some efficient methods for getting to a TOC view of statutes, using questions to get quick answers on an online legal research platform, and for narrowing your search before you hit the search button.

   i. The search bar's suggested sources.

      1. Many legal research platforms search bars recognize what you are looking for before you finish typing your full search terms. Modern legal research platforms will often suggest sources and documents important to you.

         a. Example: Tennessee Statutes

   ii. Machine Learning and suggested content

      1. Machine learning gives computers the ability to learn without being explicitly programmed. Machine learning constructs algorithms that can learn from and make predictions about data. Such algorithms operate by building a model from example inputs in order to make data-driven predictions, or decisions, rather than following strictly static program instructions

      2. Online legal research platforms are beginning to integrate machine learning into their search features so research queries can be predicted and more on point.

   iii. Narrowing your search prior to running the search

      1. Narrowing your search results when doing online legal research can be specific to the platform you are searching for.

         a. Can narrow by Jurisdiction, Content Type, Practice Area or Industry and choose from favorite or recent filters.

  b. Example 1: Jurisdiction – Tennessee and Include related federal content

  c. Example 2: Content – News and Legal News

 2. Jurisdiction and Practice Area specific filtering

  a. Filtering can also be achieved on online legal research with the use of content pages that are dedicated to a particular jurisdiction and practice area.

IV. Scenario 3: Search Methodology: Natural Language and Terms and Connectors and Post Search Filters (25-30 minutes)

 a. Let's go back to our narcotics possession case from scenario 1. Imagine we now want to run some searches using online legal research. What are the options, restrictions and rules for running searches using online legal research platforms?

  i. Do you have to designate a choice?

   1. On most platforms natural language or Boolean terms and connectors are recognized. You may have to designate this specific choice, so be on the look out for choosing how you will run your search.

 b. Natural Language

  i. A natural language search is a search using regular spoken language, such as English. Using this type of search you can ask the database a question or you can type in a sentence that describes the information you are looking for.

   1. Use a Natural Language search when you are unsure what you will find and you need to broadly examine what is out there. No source selection is necessary

  ii. If you type descriptive words in the search box, most research services will run a Natural Language search.

   1. Typing a question or a description works best with a Natural Language search.

   2. With Natural Language, CALR services use an algorithm to determine which words are mandatory and which words are optional, depending on the search terms used and how common they are.

  iii. Example from the scenario 1 case: constructive possession crack cocaine co-defendant's home

 c. Terms and Connectors Search

  i. Terms and connectors searching is a method you can use when you want to target a specific case.

   1. To develop a Terms and Connectors search, think about the most important terms in your legal issue.

   2. Write out your legal issue and underscore key terms.

   3. Examples:

     a. Cases that describe <u>factual considerations</u> for <u>constructive possession</u> of <u>crack cocaine</u> that was obtained at a <u>co-defendant's home</u>.

ii. When designing and constructing terms and connectors searches, consider synonyms or related terms.
   1. Examples:
      a. Elements or facts or factual considerations and constructive possession and crack or cocaine or crack cocaine or narcotics and co-defendant's or alleged and home or dwelling.

iii. Be able to analyze which of your search terms are the most important or if all are of equal importance.
   1. When constructing your search, decide if you need terms and connectors to guarantee each term shows up in your results set.
      a. Example:
         i. Constructive and possession and crack and cocaine and co-defendant and home

iv. Evaluate if there are certain terms you do not want to be included in your results when using terms and connectors.
   1. Example:
      a. I want to exclude any cases where a defendant received a not guilty verdict.
      b. Proper terms and connector search: And not not guilty

v. Decide if you want to ensure certain terms appear within so many words of each other so you can get to your particular case.
   1. Example:
      a. Constructive w/2 possession w/20 crack cocaine and co-defendant's house

vi. Are there specific legal phrases or terms that you want to search for?
   1. Put these kinds of phrases and terms within quotation marks, but be cautious on how exact quotations can narrow your results.
      a. Example:
         i. "constructive possession" and "crack cocaine"

vii. Evaluate if you want to see results where your search terms have alternative endings by using the exclamation points.
   1. Example:
      a. Construct!
         i. This will show results with many variations of the word construct like constructive, constructively, constructs, etc.

viii. Many services have help screens which list connectors and their functions.

1. Your search is processed by focusing on the most narrow connector first and then moving to the broadest connector. Searches are also processed from left to right.

ix. Remember NOPA (the order of operations)

1. And Not – excludes documents containing words after the not
   a. For Example: "capital allowance" and not property
   b. Retrieves documents having the phrase "capital allowance" but excludes documents having the word property.

x. Or – the document must contain either term

1. For Example: car or truck or auto!
2. Retrieves documents having the word car or truck or any form of the word auto, automobile, automatic, automatically, etc.

xi. All Proximity Connectors (Left to Right) (For example: w/n   w/p) – the document must include the terms within a number of words or within the same paragraph of each other.

1. w/n – retrieves documents where the words are within a certain number of words of each other
2. w/s – retrieves documents where the words are within the same sentence
3. w/p – retrieves documents where the words are within the same paragraph

xii. And – the document must include the terms somewhere in the document

1. And – retrieves documents having both words somewhere in the text of the document.
2. For Example: trampoline and negligence
3. Both words must appear within the same document.

V. Scenario 4: Post Search Filters and Making Connections among Terms and Cases (15 minutes)

a. Let's imagine we ran the natural language search we have from scenario 3. Now that we have run this search we want to be able to get a smaller amount of cases in our results without having to start our search over. We also want to evaluate how relevant our cases in our results list are.

b. Use Categories or Filters to narrow your results.

i. After you run your initial search, many services enable you to focus your search by Jurisdiction.

ii. Narrow further by Court, Date or Timeline, Subscription or Price Plan, Reported or Unreported, Sources, Practice Areas and Topics, Attorney, Law Firm, Most Cited, Keyword and Judge.

1. Example: Narrow by Timeline and Keyword

    c. Relevance Algorithm and Sorting options

        i. Some services sort by a relevance algorithm.

        ii. Factors used in relevance when conducting natural language searches, and also terms and connectors searches:

            1. How often your terms show up in the case.

            2. How close together your terms show up.

            3. How Seminole the case is.

            4. The case an opinion from a high court in the jurisdiction you have filtered to.

            5. Thousands more that are proprietary.

            6. The order of your search terms.

        iii. Often find options different than a relevance algorithm.

            1. Court Highest by Date Newest

            2. Date

            3. Jurisdiction

            4. Alphabetically

        iv. Cater your sorting filters and terms based on the specifics of your case/research needs.

    d. Case previews and results views

        i. Online legal research services often provide previews of key language in cases

            1. Allows you to assess if a case is truly on point for what you need.

        ii. Cases are often given visual, text, and analytical results views

  VI. Scenario 5: Validating Citations (15 minutes)

    a. Based on previous research, the case State v. Robinson is one we would like to use for our argument on an upcoming constructive possession case. We need to make sure this is good law and does not have negative treatment for the issues important to us. How can online legal research assist us with this? Most providers have a unique set of signals that can quickly alert legal researchers on whether a case or statute is still valid law.:

        i. Case Validation

            1. Provides a in depth, comprehensive set of signals that allows legal researches to quickly assess whether a case or statute is still good law and can be cited.

            2. Example in Cases:

                a. State v. Robinson, 400 S.W.3d 529 (Tenn. 2013)

                b. Common types of case validation categories:

                    i. Positive treatment

                        1. Warning/Negative treatment

                        2. Caution treatment

                        3. Neutral

4. Cited By

3. Example in statutes:
    a. T.C.A. § 39-17-417
    b.

VII. Conclusion: 5 minutes
   a. Recap on all learning objectives
   b. Platforms we discussed today deliver information to you in a organized manner which provides efficient and effective online legal research. Using the technology that is a part of our new town square, although there are many types and content, can help you find targeted precedents and sources to enhance your work product.