HOW TO SHOW & TELL A LEGAL RESEARCH STORY: Searching Nolo and Fastcase

Presented by
Lewis Zimmerman, State of Oregon Law Library
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With special guest Cathryn Bowie, Oregon State Law Librarian
Introduction

• Presenters:
  ▪ Lewis Zimmeraman, Reference Librarian, SOLL
  ▪ Megan Austin, Law Instruction Librarian, UO Law Library
  ▪ Sue Ludington, Assistant Law Librarian, Washington County Law Library

• Guest:
  ▪ Cathryn Bowie, State Law Librarian, SOLL

• Research assistance provided by:
  ▪ Carin Yavorcik, Discovery Services Librarian, SOLL
  ▪ Joanna Milner, Library Assistant, Multnomah County Library
  ▪ Kelly Reynolds, Assistant Law Reference Librarian, UO Law Library
Agenda

• **Reasonable legal reference service** in the public library
• **Unauthorized practice of law**: legal information vs. legal advice
• **Sources of law** and legal citations
• Legal database: **Fastcase**
• Legal database: **Nolo**
• **Practice questions** and discussion
How to Show & Tell a Legal Research Story

LEGAL REFERENCE & UNAUTHORIZED PRACTICE OF LAW (UPL)
Legal Reference & UPL

• **License required** to practice law (ORS 9.160)
  - Protects the public from exploitation and incompetence

• Oregon courts broadly define the practice of law to include “any exercise of an intelligent choice, or any informed discretion in advising another of his legal rights and duties.”
  
Legal Reference & UPL

- Legal **information** vs. legal **advice**:

<table>
<thead>
<tr>
<th>INFORMATION</th>
<th>ADVICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Find statute, rule, or ordinance (by index or citation) without interpretation</td>
<td>Interpret statutes or court cases, or address questions about statutes of limitations</td>
</tr>
<tr>
<td>Find court cases on a particular topic but not apply to individual circumstances</td>
<td>Advise on legal rights or legal option(s) patron should pursue</td>
</tr>
<tr>
<td>Locate court rules for particular court without explanation</td>
<td>Identify proper jurisdiction for an patron’s legal claim</td>
</tr>
<tr>
<td>Find various court forms without telling patron which one to use</td>
<td>Provide a specific legal form for patron’s legal matter</td>
</tr>
</tbody>
</table>
Legal Reference & UPL

• Clearly communicate you are not an attorney

• Reframe questions:
  - “What should I do?” ➔ “How can I research?”
  - “What does this law mean?” ➔ “What can I read that will help me understand?”
  - “Is this legal?” ➔ “Where can I get advice?”
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SOURCES OF LAW & LEGAL CITATIONS
Sources of Law & Legal Citations

**LEGISLATIVE BRANCH**

**BILLS**

**Oregon Legislature**
- Bill: HB 2300

**SESSION LAWS**

**Oregon Laws**
- Or Laws 1989, ch 790, § 3

**STATUTES**

**Oregon Revised Statutes**
- ORS 191.155(1)(a)(A)

**Federal Legislature**

**STATUTES**

**United States Code**

**Statutes at Large**
- Pub. L. No. 87-195
- 75 Stat. 424 (1961)
Sources of Law & Legal Citations

EXECUTIVE BRANCH

- **Federal Government**
  - Code of Federal Regulations
    - 20 C.F.R § 404.260 (2015)
  - Administrative Rulings
    - varies
  - Executive Orders

- **Oregon State Government**
  - Oregon Administrative Rules
    - OAR 123.123.1234 (2015)
  - Executive Orders
    - Executive Order No. 16-05
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FASTCASE
When to Use Fastcase

- To look up **specific laws, cases, or other legal citations**
  - **Material from across the Federal 9th Circuit:**
    - Federal and state appellate court opinions
    - Statutes & session laws
    - Court rules (only Oregon and Federal)
    - Regulations
    - State Attorney General opinions
- Search **sources of law**
Login and Access

• Create **free individual accounts**
  - [https://apps.fastcase.com/Research/Public/Oregon/login.aspx](https://apps.fastcase.com/Research/Public/Oregon/login.aspx)
Login and Access

- IP location limitations
  - Mobile devices
  - Contact Tech Support if blocked
    - 1-866-773-2782
    - support@fastcase.com
Search Functions

- Default: **Quick caselaw search**
  - Text search of caselaw databases
Search Functions

• **Advanced search**
  - Fastcase collections – HTML formatted and browsable
  - HeinOnline – PDF archived editions
  - **Remember to select EXACT database**
    - Session law vs. statute
    - Court jurisdiction

• **Search syntax**
  - AND, &
  - OR
  - NOT
  - ( )
Search Functions

- Advanced caselaw search
Search Functions

• Advanced caselaw search results
  - Authority Check – lists caselaw that cites the searched case
  - Note RED “bad law” flag
Search Functions

- Document display
  - Search term navigation
  - Case header
  - Public link
Search Functions

- Other advanced search
Search Functions

- *Not available* through Fastcase
  - Newspapers
  - Federal filings
  - Legal forms *(only to paid service USLegal)*
Browse Functions

• Look for the **browse tab at the top** of non-casewlaw collection page

• Only **Fastcase HTML collections** available to browse (NOT archived HeinOnline PDF collections)
Bad Law

• What is bad law?
  ▪ When a law or rule has been overturned by:
    • Subsequent statutes
    • Subsequent caselaw
    • Subsequent administrative action

• Bad Law Bot
  ▪ Automated system
  ▪ Marks cases only when system recognizes negative citation in 3rd case
  ▪ Not consistently reliable
Bad Law

• Legal **citators**
  ▪ **Reliable human editors**
  ▪ **ALWAYS check law with citator before relying on it**
    • Westlaw
    • Lexis-Nexis

*(one or both usually available at law libraries)*
What Types of Patron Assistance?

• Acceptable:
  ▪ Historical or academic legal research questions (e.g., racial exclusionary laws)
  ▪ Any answers for a lawyer conducting legal research
  ▪ Finding specific case or other legal citation
  ▪ Instruction on using research tools

• NOT acceptable: Explain meaning of law or how law applies to patron legal matter
Support & Training

- Fastcase provides **video tutorials, documentation and FAQ**
  - [www.fastcase.com/faq](http://www.fastcase.com/faq)
  - [www.fastcase.com/support](http://www.fastcase.com/support)
How to Show & Tell a Legal Research Story

NOLO PUBLICATIONS

(aka EBSCO Legal Information Reference Center)
When to Use Nolo

• **Good starting point**

• **General information on a legal topic**

• **Secondary sources:**
  - Over 200 treatises interpreting common legal topics
  - Aimed at non-lawyers
Login and Access

• Users do not create individual accounts
  ▪ Patron ID = county of residence
  ▪ Password = state of residence

• [Direct Link](http://search.ebscohost.com/login.aspx?authtype=custuid&custid=ns134741&profile=lirc)
Nolo Navigation

- **Browse by subject (“Category”)**
Nolo Navigation

- **Browse** by publication ("Popular Sources")
Nolo Navigation

- **Search function**
  - Basic search
Nolo Navigation

- Search results
  - Basic search
Nolo Navigation

- **Search results**
  - Book navigation – chapter PDFs
  - Permalinks can be emailed
Nolo Navigation

- **Search function**
  - Advanced search
    - Boolean terms/connectors
    - Search filters
Nolo Navigation

- Search results

Search Results: 1 - 1 of 1

1. APPENDIX A: 50-State Charts.
   PDF Full Text (1.1MB)
Nolo Navigation

• Search results

50-State Charts

- Residency Requirements .................................................. 326
- Grounds for Divorce .......................................................... 329
- State Child Support Calculators ........................................ 332
- Court and Court-Related Websites .................................... 335
- State Custody Best Interest Statutes ................................. 341
- State Custody Modification Statutes ................................. 344
- State Relocation Statutes .................................................. 346
- State Child Support Modification Statutes ...................... 351
- State Child Support Enforcement Agencies .................... 353
Support & Training

• Specifically for Legal Information Resource Center:
  ▪ [Link](http://support.ebsco.com/help/?int=lirc&lang=en&feature_id=&TOC_ID=Always&SI=1&BU=0&GU=0&PS=0&version=&dbs=lir)
Support & Training

- For EBSCO in general:
  - [http://support.epnet.com](http://support.epnet.com)
Local Library Access

- Know how to get to Fastcase and Nolo from your library’s website:

**TILLAMOOK COUNTY LIBRARY**
Local Library Access

WASHINGTON COUNTY COOPERATIVE LIBRARY SERVICES (WCCLS)
MARC Records

• All Nolo electronic titles have bibliographic records in the SOLL catalog. Complete list of records:
  ▪ http://tinyurl.com/SOLL-LIRC

• Contact Carin Yavorcik, SOLL Librarian, for information on setting up links or other cataloging assistance: carin.m.yavorcik@ojd.state.or.us
A Note on Forms

• Nolo’s “Legal Forms by U.S. State” not recommended. Instead use:
  ▪ County-by-county forms
  ▪ OJD official forms
    • http://courts.oregon.gov/OJD/forms/pages/index.aspx
  ▪ OJD iForms – guided OJD filing (currently limited to 4 case types)
    • http://courts.oregon.gov/OJD/OnlineServices/iForms/Pages/index.aspx
  ▪ Stevens-Ness Law Publishing
    • http://www.stevensness.com/
A Note on Forms

• Use Nolo’s advanced search “document type” or limit “source types” in results list for more general resource and starting-place only

• Selecting or filling out forms for a patron is always practicing law
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PRACTICE REFERENCE QUESTIONS
Practice Questions

• “I recently had an old felony conviction expunged. Is it legal for me to possess a firearm in Oregon?”
• “What is the difference between a will and a living trust? Which is better?”
• “What do I need to do to get a license as a masseuse?”
• “I want to quote Things Fall Apart in a speech to my Rotary chapter. Do I need to get copyright permission?”
• “How long does a landlord have to return my security deposit?”
• “Do you have a sample lease agreement?”
Call a Law Librarian!

• State of Oregon Law Library Reference Desk
  - 8:00 am to 5:00 pm Monday – Friday
  - (503) 986 – 5640
  - State.Law.Library@ojd.state.or.us

• County Law Libraries
  - www.oregoncountylawlibraries.org/directory-of-county-law-libraries/