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Deals and Dispute Resolution: Teaching Research Skills in a Short-Term Simulation Class

Abstract

My colleague, Reference Librarian Jean Boos, and I were invited to participate in planning a Deals and Dispute Resolution class at William Mitchell College of Law in St. Paul, Minnesota, and we were told that the instructors wanted to require the students to research their issues. Our challenge was to come up with a meaningful research experience that wouldn't devolve into a treasure hunt for the students.

In a situation where the timeframe and setup of a course don't lend themselves to in-depth research skills instruction, librarians can still fully participate and add value for students. In our experience, this course was fairly intense and required a significant time commitment. But the rewards were many, and we plan to be involved in Deals and Dispute Resolutions and other simulation classes again next year.

Keywords

legal research, skills, dispute resolution

Disciplines

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Deals and Dispute Resolution

Teaching research skills in a short-term simulation class

By Karen Westwood

My colleague, Reference Librarian Jean Boos, and I were invited to participate in planning a Deals and Dispute Resolution class at William Mitchell College of Law in St. Paul, Minnesota, and we were told that the instructors wanted to require the students to research their issues. Our challenge was to come up with a meaningful research experience that wouldn't devolve into a treasure hunt for the students.

Deals and Dispute Resolution was a five-day class offered during J-Term. This class was different from a typical J-Term class in two key aspects. First, it attempted to be almost entirely a simulation for the full five-day period; second, registration for the course was not capped.

In advance of the course, registered students received a packet of documents with a list of legal issues that both parties believed necessary to address before a comprehensive deal could be reached. The issues ran the gamut from employment to environmental, from municipal to international. The packets included fictional emails, faux newspaper articles, employment contracts, etc. Students were required to read through their packets before the class began in order to spot the legal issues at play. Students would role-play attorneys on both sides of the deal.

However, the students also had to write memos, meet with other "attorneys" representing their company in the deal, and negotiate with "attorneys" representing the other company in the deal. The instructors wanted the students to engage in research, but not to spend "too much time" on it.

The Research Assignments

Boos and I had been attending a variety of teaching methodology classes throughout the past year, mostly keyed to the concept of "backward design." Using this concept, developed by Grant Wiggins and Jay McTighe in *Understanding by Design*, an instructor begins with desired outcomes and works backward in developing the teaching toward those outcomes. Both Boos and I had some experience in practice as well as having team-taught in the past. We knew that five days would not allow us time to train the students on particular research tools and then assess their work product. But we also knew that a perennial research problem for students was the feeling of being overwhelmed at the outset. We quickly settled on a couple of desired outcomes. First, we

wanted students to think strategically about their research and follow a plan in their research. Second, we wanted them to create a research trail so they would be able to better articulate their research results and process.

Additionally, we had to consider the mechanics of the class. It has been our experience in teaching that students make the most progress if they perform a task, get some feedback, and then have the opportunity to perform another task that takes advantage of the feedback. The short time span of the class was a challenge, but we benefitted from the opportunity to have the first assignment due on the first day of class.

We assigned a short reading (chapters 1 and 12 from *The University of Maryland Francis King Carey School of Law's Thurgood Marshall Law Library Guide to Legal Research*) and asked the students to create a sample research plan for one of the legal issues they were required to address. Each student was assigned two issues, so Boos and I created sample research plans for one of the issues, and they were to create a plan for the other issue. These "plans" were technically more than plans, as we included results of initial searches along with comments on the plans for how to proceed further (the research trail aspect of our learning outcomes). We required students to hand in their first research plan on the first day of class. We then provided feedback on the plans and returned them within two days. On day three the students received additional facts that created a dispute that they would have to negotiate with the other side. We required them to create a second research plan regarding the new dispute and turn it in to us within 24 hours.

Additional Course Opportunities

Both Boos and I sat on a panel discussion on day one about the importance of research in a legal setting. Boos also joined a drafting panel on day four and addressed finding and using forms in transactional practice. Students received large session instruction on

billing time, negotiating, etc., but the majority of their time was spent researching and writing, meeting with “co-counsel,” and negotiating with “counsel” for one of the other parties.

The Results

Ninety-four assignments came in on the first day of class. We split them into two piles, assigned points according to the rubric we had developed, and wrote our comments on the papers. Then, because this was the first time we were doing this, we swapped piles and added additional comments. We sent an email to each student that included general observations that were consistent across many of the plans (see “Assignment One: Research Plans—General Observation and Tips” on opposite page) along with a short note that was particular to the individual plan, either complimenting a thorough search or offering specific suggestions for improvement. The emails we received from students handing in their second research plans confirmed our belief that students appreciate and will make use of feedback. From a student whose initial plan left much to be desired: “[t]hanks for your feedback on the first research plan, as well. It was a disappointing but hopefully helpful result.” (Note: he received full points on his much-improved second plan). From a student who received full points on her first plan: “I really appreciated the feedback on the last assignment, and I’m finding this exercise to be very helpful.”

We were also heartened to hear that students appreciated more than just the feedback on their exercises. One student emailed us: “Thank you for taking the time this week to discuss your role with the library—many of us have been discussing how useful the panel discussions were for our learning.” And one of the course faculty emailed us this remark: “I had a student in my office just now telling me how he and many of his fellow students ‘discovered’ the reference librarians during the research panel in J-Term, and now they can’t live without you.”

One student offered an opinion about the value of research plans. “I saw that preparing a research plan in advance and then sticking to it was a major time saver. I was up all night working on my first memorandum partly because I constantly switched between research and writing. After writing a sentence or two, I’d stop writing to research further. I was never sure of when I’d researched enough, and, accordingly, I researched a lot. I worked much more efficiently on my second memorandum because I created a research plan and followed it. After executing my research plan, I had an adequate basis to write the majority of my memorandum. I did not need to stop nearly as often to research a little more. Due to following a plan, I was more confident about the area of law I researched. Ultimately, my second memorandum was of much higher quality than my first one. And as an added bonus, I got a lot more sleep that night.”

Plentiful Rewards

In a situation where the timeframe and setup of a course don’t lend themselves to in-depth research skills instruction, librarians can still fully participate and add value for students. In our experience, this course was fairly intense and required a significant time commitment. But the rewards were many, and we plan to be involved in Deals and Dispute Resolutions and other simulation classes again next year. ■

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Assignment One: Research Plans— General Observations and Tips

Professionalism:

Nearly every assignment was submitted with the requested subject line and either no message or a brief New Year's greeting or a statement about looking forward to the class. These were all very appropriate (but note, a couple of assignments were either emailed to or addressed to someone other than us—this is another detail you should pay attention to).

Some assignments contained misspellings and nonsensical sentences. Even though these were essentially working notes, they should be understandable to a reader. Examples include acronyms with inverted letters (FCPA and FCRA in same document), references to people or documents who were not identified, and words that spellcheck will miss (“is” instead of “if”). Always keep your reader in mind when writing.

Be sure you spell names correctly and consistently—Anshou Wang was often misspelled—and pay attention to gender (some people referred to Ms. Wang as “he”). People feel strongly about their names, so be careful in this regard!

Research Sources:

Don't forget about annotated statutes (online OR in print)! Many of you found a good statute and then jumped into a case law search in a database. A more efficient and rewarding search is to look up your statute in an annotated source and get a listing of cases directly interpreting your statute.

Many of you used Google and Wikipedia as an initial search to find a relevant statute (this is a good research approach). But not all of you then pursued an authoritative version of the statute. Be sure to do this as a best practice—you do not want to be the associate who relied on an outdated version of a statute that you found on Wikipedia!

For those of you who searched for the Minneapolis ordinance—this is one instance where the open web is as good as, or better than, Westlaw and Lexis. Kudos to those of you who stuck with the research and tracked down the appropriate ordinance.

For those of you searching for Minnesota secondary materials: *Minnesota Practice Series* is on Westlaw but not Lexis, and *Dunnell Minnesota Digest* is on Lexis but not Westlaw. These are both excellent titles for getting background material on Minnesota law—kudos to those of you who found one or both of these.

Don't forget to go back and review your issues to make sure you have covered all of them. For example, some people lost track of the distinction between an employee and an independent contractor for purposes of enforcing a non-compete while others researched the domain name issue but not the design of the online game issue.

Presentation:

Remember, we can't assess what we don't see—so tell us what you did (for instance, even if you always KeyCite or Shepardize as a matter of course, tell us that in order to get full points).

You don't have to complete all your research, but to get full points you need to indicate that you've done something. So give a citation to a statute and/or case, and give some sort of identifying information about an article or book. Bald statements such as “Then I'll look to see if there is any secondary information” do not give us enough to evaluate.

Summary:

Overall, we were very pleased with the quality of the research plans we received. Remember that we are both in the library this week and stand ready to assist you on the next research plan assignment. Be sure to take advantage of our expertise!