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FIRST-YEAR ASSOCIATES

Stop, Look, and Listen Up!

If we knew what we were doing it wouldn't be research.—*Albert Einstein*

It's a dark and stormy night. Winds howl, thunder booms, partners bellow, and associates toil. Midnight comes, midnight goes. An attorney, tired and tense, works into the a.m. hours. As dawn breaks, the weary lawyer daydreams about becoming a short-order cook, which seems preferable to this torture.

In a more lucid moment, and after drinking a few Red Bulls® (a drink packed with sugar and caffeine, for you teetotalers), words from the librarian hauntingly echo in her ear: "Attending training is not a luxury or a time to catch up with e-mails via your BlackBerry® devices. Those who go to training classes are on their way to becoming self-sufficient, confident, and to the extent possible, stress-free" attorneys.

It should be noted here that training involves books as well as bytes. But, the real question isn't books *or* bytes but rather what's right. More on that later.

The plot sickens: This fictional attorney has a primordial fear of libraries. "Library phobia is the syndrome whereby person (sic) entering a library becomes utterly disoriented..." Kathy Clarke, "Library Phobia" ([http://www.lib.jmu.edu/edge/archives/Spring2001\(2\)/Editor.asp](http://www.lib.jmu.edu/edge/archives/Spring2001(2)/Editor.asp)).

How to keep your librarian user-friendly.

BY RISSA PECKAR AND JOSEPH L. BIAGIOTTI

Well, now it's a dark and stormy morning and a tired and frazzled attorney has run out of time...so...the last, but sticky part, of the research assignment is given to the first reference librarian to walk in the door.

Unfortunately, the assignment our fictional, frazzled and tired attorney has handed over to our bright-eyed reference librarian involves legal analysis and the drawing of legal conclusions based on a complex legal and factual pattern. This activates the Librarian Gatekeeper Function—NO CAN DO. The gatekeepers sometimes need to protect the naïve newbies from themselves.

For the most part, librarians are individuals who detest saying "No." They have an inner need to be helpful; hence, they often get caught in a self-woven web. But a librarian who will take on such a request is doing a disservice to the attorney and the client.

"Those who are mentally and emotionally healthy are those who have learned when to say yes, when to say no and when to say whoopee!" W.S. Krabill (as quoted in David Spohn, "Touchstones," Hazelden Foundation 2d ed. 1991, at 201). Professional librarians will say yes almost all the time, say "no" almost never, and say "whoopee" when they have made their clients happy.

Inappropriate use of a librarian's talents occurs at times even where there isn't the crush of deadlines. However, librarians are not hired to

provide legal conclusions to clients...even if the librarians have law degrees. And the reluctance on the part of some attorneys to perform research is not, in most instances, due to laziness. It stems from a lack of confidence in research skills borne of the law school experience which, in many cases, offers insufficient practical research training.

But wait one minute here: You are now confused. You have always been told that librarians are your friends and their sole reason for existence is to help you, and now all you are hearing is what shouldn't be asked of them.

Legal analysis aside, always ask your librarian for guidance. Do not be afraid to ask any questions. (Although there are stupid questions, a librarian will never let on.)

Even if one feels thoroughly grounded in a subject, new databases and treatises sprout daily. It is the librarian's responsibility to communicate this information to you.

The Perfect Attorney

As we get to what the perfect librarian should be doing for you, let's first depict a librarian's idea of the perfect attorney.

The perfect attorney has: familiarized herself with the physical library during the first weeks of employment, and, after listening intently during the guided tour, has taken the librarian's wise advice and started to click wildly on the library's Web site to absorb the breadth and scope of its offerings; read the weekly blog or bulletins to keep up-to-date on new resources; signed up for electronic resources and cost-effective training; and has offered feedback to the library regarding the dissemination of information.

But librarians, as optimistic as they are, do not live in the Land of Oz, and are perfectly willing to spend much of their time desperately trying to steer, redirect, and push information out in such a way that it is not considered an annoyance to the overworked attorney, but rather a pleasant but necessary experience. The librarian's creativity is constantly taxed to the limit, and many add inches to their waistlines eating the high-calorie goodies that stand untouched after ill-attended cost-effective training classes. Yes, real librarians do eat quiche.

A digression is needed here to implore the law school community to address a growing problem regarding the process of legal research.

It is incumbent upon law schools to

recognize that the necessary function of teaching their students to think like the lawyers they will become is partially wasted if there is little attempt to venture into the area of practical research and its means and methods. Attitude is (almost) everything.

Legal research is often looked upon as a superficial task that should be avoided if at all possible. Has the passion and excitement there once was for the law, and the quest to quench the thirst for knowledge, today been overshadowed by the billable hour?

Let this be a **warning:** If instant gratification becomes the accepted standard for legal research, and the tree in the forest is the only thing that is seen, then the future of the high quality work product is bleak.

The TASK TIPS Rule

TIME: What is the deadline for the project?

ACRONYMS: Clarify any that are unclear. SEC sounds very much like FTC to the untrained ear.

SCOPE OF RESEARCH: Relevant jurisdictions; how broad or narrow should research be.

KEY LIMITATIONS ON RESEARCH: Cost constraints; hours to be billed.

TERMS OF ART: Are there any? Are any mentioned unclear?

IN-HOUSE EXPERTS: Are there any who might provide helpful insight?

PROHIBITIONS: Who outside the firm may not be contacted?

STRATEGY: Tips on where to start and suggested sources.

Ask Not What Your Librarian Can Do...

Ask not what your librarian can do for you, but what you can do for yourself.

There is wisdom in this quote often attributed to Lao Tzu: "The journey of a thousand miles must begin with a single step." And that first step should be the right step, and not a misstep. (Although a misstep can be as much a learning experience as the right step.)

It's a librarian's job to teach the dance. That means: Don't ask the librarian to choose the best book on securities to send to your office. Rather, ask where you can find the best books on securities.

What have you accomplished by asking this question and its subsequent answer?

1. You now know where the library is!
2. The librarian has now used the catalog in front of you and you see how easy it is to locate the books you need.
3. You now know where the securities section is.
4. You now know that there are many books on securities but your Securities Reform Act question was answered by one particular set of books.
5. You found books on securities legislative history and even a Sarbanes-Oxley section, that will, one day (perhaps tomorrow) answer that next sticky question.

The trip to the library was filled with both immediate gratification as well as subliminally positive experiences. The tree *and* forest were seen, and the brush was cleared.

The Best of Times, The Worst of Times

Back to that perfect attorney. When your assigning attorney gives you a project, taking a crucial first step occurs before you even approach your librarian.

This is the best and worst of times to ask questions—the best because you can limit and define the parameters of your research; the worst because you may not know enough to ask the right questions. That said, here is our guide to asking the right questions during the assignment interview (with apologies to the Lexis/Nexis JUST ASK Rule):

So now you have all the facts you need to begin your research and The Solver of Mysteries, your reference librarian, eagerly awaits your questions.

How can your librarian help you? Let us count the ways that we cull information from myriad business, financial, legal and technical sources:

- research via numerous specialty databases with which attorneys may have no expertise;
- research on databases that attorneys regularly use but where they may have not gone beyond the basics;
- obtain competitive intelligence on companies and law firms;
- obtain background information on companies and individuals;
- perform document pulls (e.g., cases, SEC filings);
- obtain background information on

potential expert witnesses;

- prepare legislative histories;
- monitor client news;
- track legislation;
- prepare bibliographies;
- set up current awareness alerts;
- arrange interlibrary loans for materials not in the firm's collection;
- communicate new purchases and subscriptions;
- teach cost-effective approaches to research and provide database training;
- provide a library Web site that reflects the firm's practice;
- publish pathfinders and guides.

And it could simply involve your reference librarian saying "Hey, wait a minute...I think we did this for someone else last week." (You should be so lucky, but it has happened and it could happen to you.)

Or...it could involve (where the project is too complex to offer more than general guidance) your reference librarian pointing you to a person at the firm who is a known expert on the subject. Or...it could involve guiding you to books and databases that you will have to utilize.

Your reference librarian is best equipped to point you toward the right mode of research...but ...

Do not be afraid of the unknown, whether it's the unfamiliar tome or a database you've never heard of. Remember, whether it works for you or not, everything is a learning experience.

Things Your Mother Never Told You (But Your Librarian Will)

Mom liked books, especially on dark and stormy nights, and kids like bytes, no matter what the weather.

But...*plan your course of action*, on paper, *before doing anything*. This keeps you on track and focused.

And now, let's go back to where we began. It's not a battle of books vs. bytes. It's about what's appropriate for a given situation.

In other words, when you don't know the first thing about what you are doing, start by blowing the dust off that tome before you have to byte the bullet and blow the budget. (Yeah, it's tempting when you've got a horrific deadline and you're hoping lightning will strike with a quick Lexis or Westlaw search,

but stop and take a breath.) Make believe it is your money at stake here. Online products are expensive, and hysterical nonsensical online searching is a waste of money.

Start with a West "Nutshell"® or other primer, or perhaps a legal encyclopedia to jumpstart your research. After a glimmer of light starts to shine at the end of the tunnel, it may be time to roam online, unless, of course, the question has been answered by that main tome.

Your Library's Mission

To provide relevant, timely, and accurate information to our legal and non-legal staffs for the purposes of helping clients succeed.

To create an atmosphere that is both professional and inviting.

To challenge the phrase "It can't be done."

To help promote the best and most creative qualities within us.

To apply the Golden Rule at all times.

Let's assume you've gone to training. Make use of the online services that your firm offers that don't bill back to clients. If your firm doesn't bill back services such as CCH Business and Tax (part of CCH® Internet Research NetWork™), RIA Checkpoint®, or Securities MosaicSM, they can be guilt-free resources for you. But these "guilt-free" databases also have their individual quirks: Be mindful of them.

When unsure of proper database functionality or content, check with your reference librarians and/or call the customer service hotlines.

Of course Lexis and Westlaw remain the crown jewels for legal research, but always have a general idea of the pricing structure (and use the customer hotlines). You don't want to be called on the carpet a few months down the road and asked how you managed to spend \$%&*?*& online.

Free Web sites can be great resources, but remember that when offering something for free, vendors owe you nuttin' honey (if we may paraphrase from a cereal box).

- Is it a ".gov" Web site? These are generally reliable, but will not always date their material.

- Statutes, regulations, or other official pronouncements must be dated with a "Current as of ___" notation. If a date is missing, no matter how official or well-designed the site is, it is totally worthless.
- If it is not an official government site, is it the site of a reputable organization? Is it AICPA.org or AICPAaccountingguy.com?
- If you've never heard of the group running the site, click the "About Us" link. Is it likely the site is agenda-driven and the information on it not objective?
- Can't find a telephone number on a site? Try using BetterWhoIs at: <http://www.beterwhois.com/> or WhoIs at: <http://whois.domaintools.com/>. These sites offer a back-end view of who is responsible for the site.

We think it is critical to use the "contact us" button (assuming you can find it) to help make change-for-the-better happen. Tell the webmasters that their site is wonderful, but useless if material is not dated, or, if applicable, tell them their site is not intuitive and leads to errors. Tell them that you cannot recommend the site to colleagues if changes are not made.

You would be amazed at the positive responses we have seen by contacting webmasters. As Andy Warhol said in "The Philosophy of Andy Warhol," "They always say time changes things, but you actually have to change them yourself." (First Harvest ed. 1977, at 111).

Many libraries have adopted codes of ethics and mission statements that, besides providing standards to be followed, also provide information to attorneys on what librarians can and cannot do—here are ours as samples.

While it can't be guaranteed that becoming the perfect attorney will eliminate all legal research phobias, one cannot argue with this thought that Henry Ford is reported to have articulated: "If you think you can do it, or you think you can't do it, you are right." •

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