Cost Effective Legal Research

Advanced Legal Research
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University of Oklahoma Law Library

Cost Effectiveness in Legal Research is Balancing

Your Time
How efficiently you can find the relevant information.

Research Costs
Commercial online services cost more because they provide important functionality (digest, Keycite, headnotes, natural language searching, ResultsPlus) AND unique content which explains the law to you (treatises, ALR, AmJur, practice aids).

Law Firm Economics

- Law firms are businesses
  - Maximize earnings
  - Minimize expenses
    - Direct expenses
    - Overhead

- Research costs are “overhead” unless they can be billed back to the client.
Law Firm Economics

- Largest expenses contributing to overhead in law firms are:
  - Rent/Occupancy 35%
  - Technology 10%
  - Promotion/Ads 6%
  - Research Costs 4%

Cost Recovery

- 90% percent of firms attempt to recover Lexis and Westlaw costs from clients
- Average rate of recovery of online research costs is only 68%
- Cost efficiency is important because
  - It makes the firm’s service more valuable to the client, and
  - It minimizes overhead because not all costs are recovered

The Culture of Billing

- New Associate: “Um, the law firm is a business. The idea is to bill our clients, right? So, I should bill as much research costs as I can, right?”
- Firm Librarian: “No. Clients, big and small, are very aware of what law firm services cost them. If we charge too much, they go elsewhere.”
Westlaw and Lexis

Billing Methods
Sample Costs

What Billing Methods Exist?

- Transactional Billing
- Hourly Billing
- Flat-Fee Contracts
- Credit Card
  - For specific features:
    - Find and Print
    - Shepard's / Keycite
    - Retrieving documents without an account

Billing Methods
General Considerations

- Most law offices have flat fee contracts. Understand the scope of your firm's flat fee contract. What's included, what's not.
- For databases outside the flat-fee contract, understand whether your firm uses a transactional billing method or an hourly billing method or whether you can choose.
- If you control the Westlaw account, you can decide whether you want to use transactional, hourly, or flat-fee billing.
Billing Methods: Transactional

- **Transactional Billing Method**
  - Each search results in a charge.
  - Modifying and re-running a search = 2 charges
  - The amount of time you spend online reading materials is not important here.
  - Allows you to multitask and switch between word processing and online research.
  - Large searches can be narrowed at no charge using Locate and Focus.
Billing Methods - Transactional

- Use transactional billing when:
  - You need to be online for a long period of time reviewing search results.
  - When you don’t have easy access to the needed primary law sources at the office.
  - Run each search in the smallest relevant database but perform a broad search.
  - Use Locate to narrow down results at no charge.
  - When you have citations, Find and Keycite features are relatively inexpensive.

Billing Methods - Hourly

- Hourly Billing Method
  - You are charged for the amount of time you spend online.
  - If you are efficient, you can accomplish many searches in many databases in a short time.
  - Law Firm Librarians: This billing method is being used less. Can’t read materials online under this method. Most lawyers want to multitask between Word/Westlaw.

Billing Methods - Hourly

- Use hourly billing method when:
  - You know, with some certainty, the search you want to conduct, AND
  - You know you will need to run searches in several databases, AND
  - You are able to print out a cite list or KWIC list of search results and review them offline.
  - Hourly billing costs can add up quickly!
**Billing Methods - Flat Fee**

- **Flat Fee Contracts** - Annual fee permitting unlimited access to specific databases.
- Know the scope of your firm’s flat fee contract.
  - Just Oklahoma cases, all cases, treatises included?
- You should be prompted if you try to access a document outside the plan.
- Creates more flexibility in conducting searches and reading documents online.
- Some flat-fee contracts have upper limits which will trigger additional cost if exceeded.

**Billing Methods - Flat Fee**

- Know that renewal rates for flat-fee contracts are based on the previous year’s usage statistics.
  - This may not directly affect you, as a summer associate, but it can affect the firm’s (your firm’s) costs in the long run.
  - The usage statistics for your login will still be recorded and available to partners, librarians, office managers in routine reports.

**Sample Costs of Online Services**
Finding Cost Information

- **SUBSCRIBER database on Westlaw** contains the billing rates for each database.
  - No charge to search this database
  - Not available to academic logins
- Scope Notes - be sure to check the scope notes for each database to make sure you are searching the content that you think you are searching.
Finding Costs for Research Guide Project

- The Svengalis book on Reserve includes pricing information for titles it reviews.
- You can find pricing information for the print versions of materials using the Thomson-West and LexisNexis online bookstores. Google the title of the work plus add either “Thomson West” or “LexisNexis”
- Our local sales rep can be found using the form: http://west.thomson.com/replocator语文.

Find by Citation, Keycite

- If you know the citation, you can use Find box:
  - Find = $8.00 per case or statute
  - Find = $16.00 per treatise
  - Find = $65.00 per brief

- Running case through citator:
  - Keycite = $4.25 per document

Westlaw - Sample Pricing

Transactional Billing Costs

- Costs vary by database scope and type.
  - Oklahoma case law database (OK-CS) runs $58 per search
  - Oklahoma State and Federal case law database (OK-CS-ALL) runs $113 per search
  - All State and Federal case law database (ALLCASES) runs $183 per search
  - Oklahoma Practice Series (OKPRAC) runs $85 per search. $62 each part of series.
Westlaw - Sample Pricing

**Hourly Billing Costs**

- Rates vary by database but generally range from $10 to $75 per minute.
  - Example: One hour of searching in OK-CS costs $6.75 per minute. ALLCASES costs $16.83 per minute. This translates to about $1000 per hour.
- Which is more efficient? Do you need to run 10 searches or spend 1 hour on one search?

**Flat-Fee Costs - Oklahoma Databases**

<table>
<thead>
<tr>
<th>Package</th>
<th>1 attorney</th>
<th>16-20 attorneys</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State PRO Plan</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(OKla cases, statutes, Keycite, OKla practice materials)</td>
<td>$2,364 / year</td>
<td>$9,516 / year</td>
</tr>
<tr>
<td><strong>Westlaw Pro Plus</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(OKla + 10th Cir + Sup Ct cases, OKla + fed statutes, Keycite)</td>
<td>$3,180 / year</td>
<td>$15,024 / year</td>
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</table>


Lexis

**Flat-Fee Costs - Oklahoma Databases**

<table>
<thead>
<tr>
<th>Package</th>
<th>1 attorney</th>
<th>10 attorneys</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State MVP Plan</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(OKla cases, statutes, Shepard's, practice materials)</td>
<td>$1,728 / year</td>
<td>$4,392 / year</td>
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<tr>
<td><strong>State Enhanced MVP</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(OKla + 10th Cir + Sup Ct cases, OKla + fed stats, Keycite)</td>
<td>$2,520 / year</td>
<td>$6,432 / year</td>
</tr>
</tbody>
</table>

Should I Buy a Flat-Fee Contract with L/W?

- Consider the transactional charges for the Oklahoma case law database.
- At $58 per search, you would only have to conduct 44 searches in a year to begin saving money on a Westlaw State PRO Plan. ($2,300 flat fee price / $58 per search = 39 searches)
- You begin saving even sooner the more attorneys you have in the firm because discounts are given to multiple atty contracts.

Treatises - Print vs Online Costs

- Consider Wright & Miller, Federal Practice and Procedure – key treatise on fed procedure.
- The transactional rate is $98 per search.
- The cost of the print version is $1,524 / year.
- If your practice calls for moderate use of this source (i.e. more than 15 searches per year) buying the print or negotiating a flat fee would be cheaper. With print, share 1 copy.
- Westlaw may not offer you a flat-fee contract for this content. Westlaw doesn’t offer flat-fee for all content, especially some treatises.

Top Tips for Saving Money on Lexis and Westlaw
Cost Saving Tips for L/ W

Finding a Database - You can find relevant databases before you even logon to Westlaw. Use the "Database Directory" from the login page.

- This is important if your firm uses hourly billing. There is no cost to search the Directory in transactional or flat-fee modes.

Search for copyright law
Cost Saving Tips for L/W

Which Database Should I Use?

- Advice from Westlaw: Use the Smallest Relevant Database but Perform a Broad Search
- If you only need to search Oklahoma and 10th Circuit cases, don’t search ALLCASES. Search OK-CS-ALL.
- Smaller databases are cheaper to search.
  - OK-CS-ALL = $113 / search
  - ALLCASES = $183 / search

- Law Firm Librarians – Similar approach, but use the Largest Relevant Database
  - Why do this?
    - Related issues commonly arise after you have begun your research. Larger search may catch these. Use locate to narrow the search.
    - Oklahoma is a small state and may not have authority on every issue. May have to look to persuasive authority.
**Locate / Focus**

- **Use Locate and Focus** - These features allow you to narrow down a broad search by adding more search terms to an existing search.
  - There is no charge to use Locate or Focus under a transactional billing method.
  - Westlaw reports that attorneys often call them to figure out how to run a large search which they can then analyze further with Locate all day. Use Terms and Connectors for this!

**What About Natural Language - Can I Use It?**

- Remember, natural language will limit your search results to 100 documents.
- WESTLAW: Use natural language with flat-fee contracts since you aren’t charged by the search.
- Often attorneys will run 2 searches: one natural language to get started and then a terms and connectors search to be through.
Top Cost Saving Technices for L/ W

Secondary Source

- Use a good secondary source such as a treatise, ALR, or 50 state survey.

- Can save you an immense amount of time reading through a large case law search.
Find and Print

- **Find and Print** - If you know the citation to a document, use the “Find by Citation” feature. It is cheaper than conducting a search in a database. Cost for Find is $8 per case, statute, article depending on the database. Better yet, use OSCN.

Browse the Digest

- **Use the Digest** - You can view the Custom Digest table of contents at no charge under transactional billing.
  
  - Access this from “Key Numbers”, then Custom Digest under Search Westlaw.
  
  - Searching the Digest will incur a cost.

Statutes - TOC

- Browse the table of contents for statutes at no charge under transactional billing.
  
  - Cost only incurred when you full the full-text of a document.
Statutes - Book Browse

- Use “Book Browse” and Documents in Sequence in Statutes, Regulations, Treatises can be used at no charge under transactional billing to move from section to section, which often needs to be done in these materials.

Statutes - Index

- Search the index to the statutes at no charge under transactional billing.
- Charge only in incurred when you actually view a document.
- Use book browse from that point.

Cost Saving Tips for L/ W

- Research Trail - under transactional billing, there is no cost to access the Research Trail (Westlaw) or History (Lexis), which is a log of past searches you’ve conducted.
- No cost to pull up prior search until 2 AM.
- Can continue to run Locate/Focus within those search results.
Printing

- Use the browser’s print function NOT the Westlaw print function.
- Westlaw charges $.04/line.
- If >5 pages, print document at $10.
- Right-Click in document then print!

Get Help

- Get Help - Use the 1-800 numbers (or the librarian) before beginning a search to find the best database or get help formulating a search.
- Write down your search on paper or in Word before conducting it.
- Use a thesaurus for Terms and Connectors.

General Consideration for Cost Effectiveness
Overall Guidelines for Research

- If your research is going nowhere within 30 minutes, stop and:
  - Ask a librarian
  - Call the Westlaw/Lexis 1-800 numbers
  - Ask your supervising attorney
  - Check a basic secondary source, such as Am Jur, CJS.
  - Check a treatise or looseleaf recommended by someone who has some experience (You should be doing this first regardless!)

Overall Guidelines for Research

- My boss says there is an answer to this question. So, I will search until I find it.
  - Trying to Prove a Negative: If you are seeing the same references to cases, statutes, etc. in three different sources (say a treatises, an ALR, law review article, a keyword search), then:
    - you are likely missing facts, OR
    - searching a different issue from what your boss had in mind, OR
    - trying to prove a negative - finding an authority that doesn’t exist.

Free vs Fee
Using Free Sources

Free Online Sources

- **OSCN / Fastcase** - use OSCN to retrieve Oklahoma primary law (cases, statutes, regulations) when you know the citation.
- **GPO Access** - use GPO to retrieve primary federal law when you know the citation.
- **Google** - Can be very useful when starting a project, but be very skeptical of anything you find with Google.
  - Cases you find on the Internet may be edited down.
  - Statutes may be out of date.

Using Free Sources

- **Internal Case Management Systems, Brief Banks, or Intranet**
  - Why reinvent the wheel if your firm has already done research in a given area?
  - See if your firm has a document management system that can provide research leads.
  - Larger firms may have an intranet maintained by a librarian which directs you to the most relevant sources in the firm’s practice area.

Using Free Sources

- **Print Sources**
  - Use Treatises, Looseleafs and other practice aids that the firm subscribes to in print.
  - No cost other than your time.
- **Local Law Libraries**
  - Use free resources available at OU Law Library or Oklahoma County Law Library
    - Free Public Access Westlaw
    - Free LexisNexis Academic, Shepard’s
    - Free HeinOnline
    - Lots of free print treatises, looseleafs
Balancing Free vs Fee

- When performing research, there are two ways that you incur costs for the firm: (1) online usage fees, (2) your time.
- Look for what is most efficient and learn to balance these two costs.
- If you have citations to documents, use OSCN, GPO where possible.
- If a case has distinctive facts which are easy to search and if the jurisdiction is clearly Oklahoma or federal, try OSCN or GPO.

Balancing Free vs Fee

- If an issue is complex,
  - If you are not familiar with an issue, start with a print treatise owned by the firm, then move your research online to Westlaw or Lexis if needed.
  - If you do understand the issue and are more efficient online, consider going online to search a treatise, then statutes and case law.
  - If you are spinning your wheels, go to a librarian or back to your boss to make sure you understand the issue.

In-Class Exercise
Find the Answer

- In Oklahoma, in a divorce proceeding, can the parties create a separation agreement and is the Court bound to follow the agreement?

- Perform your search...when you have the answer, EMAIL me your Research Trail

Cheapest Method?

- Go to Oklahoma Practice Series (OKPRAC)
- Browse Table of Contents
- Find and Read sections on Separation Agreements ($16 for section 23:4)
  - Use Book Browse to move between nearby section
- Link to relevant statute (43 O.S. 205)
  - ($8/document)
- Read Annotations
- Keycite relevant cases
  - ($4.25/document)

More Expensive Method?

- Keyword search in Oklahoma cases and statutes
  - ($58/search x 2 searches)
- Keycite relevant cases / statutes
  - ($4.25/search)