

## Introduction

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In a 2014–2015 national study, the Institute for the Advancement of the American Legal System surveyed 24,000 participating lawyers, from diverse practice backgrounds, regarding about a dozen foundational “short term” skills. The participating lawyers *most frequently cited legal research skills* as foundational—84% of those surveyed found it necessary in the “short term” as a foundational skill to legal thinking.<sup>1</sup> Legal research isn’t just a routine activity. As this book will demonstrate, it is part of legal thinking.

You may be a student approaching graduation or a clerkship and have an uneasy suspicion that you aren’t ready to do research. You may already be a clerk or new associate and feel your research skills are substandard. You may be planning to hang out your own shingle, but what about research? You may feel you have forgotten much of what you learned in your first year legal research and writing class. You may be an advanced attorney who has let his or her research skills slip away or who needs to acquire competency in a new field through research. In any of these cases, this book is for you.

The title of the book portends that this is not an exhaustive treatise about legal research; rather, it is designed to deliver a neat package of insights and exercises that elevate skills in a short period. Efficiency is the hallmark of the day. The book can be picked up and reviewed in a few days, such as a weekend, which is all the time you may have as a law student, clerk or new attorney.

In spite of Google and Wikipedia, the need for legal research skills instruction has escalated with the multiplication of tools, the increasing specialization required in practice, and the increasingly multi-jurisdictional nature of the practice of law. Indeed, everyone seems to know that skill-levels of students and graduates are

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<sup>1</sup> JOHN MOYE HALL, INSTITUTE FOR THE ADVANCEMENT OF AMERICAN LEGAL SYSTEM, FOUNDATIONS FOR PRACTICE: THE WHOLE LAYER AND THE CHARACTER QUOTIENT, 1, 11, fig. 5 (2016). The report does not address the need for long-term legal research skills.

insufficient. Law students, faculty and firms all see that skills are inadequate, and yet legal research never quite seems to make it to the top of the instructional agenda. Firm librarians and vendor representatives provide remedial or a patchwork of training, but the onus of mastery is on the individual attorney or student—you must make time to focus on this important skill set.

## MY APPROACH

My approach is both bibliographic and process-oriented. It is bibliographic in that it introduces readers to techniques for recognizing and categorizing research resources and tools according to their type and best application. It is process-oriented in that it is concerned with problem-solving techniques, including problem analysis, problem typing, and matching problems to resources.

Learning requires the recognition and articulation of key concepts and the adoption of constructs for thinking about kinds of problems, resources, and possible solutions. Consequently, I will regularly introduce new concepts and constructs in the chapters that lie ahead. I will demonstrate the application of various paradigms and then provide opportunities for you to try out what is being taught. In many instances, I will suggest analysis of the problem-solving process and systemic thinking about the concepts introduced. Finally, I will encourage reflection on what is learned and how it might be useful to you in your particular area of practice or study.

## WHY CONSTRUCTS?

We think in mental models, templates, paradigms, or constructs. While there may be technical differences, I will generally refer to this group as “constructs.” Learning is often the acquisition of new constructs or adding to or modifying existing constructs. For example, consider finding the star constellation *Ursa Minor* and the Pole Star.

*Constructivism* is a philosophy of learning that focuses on the *learner's* act of constructing mental structures by adapting or revising existing mental constructs. Constructivism emphasizes self-awareness of these constructs and the building and adaptation processes.

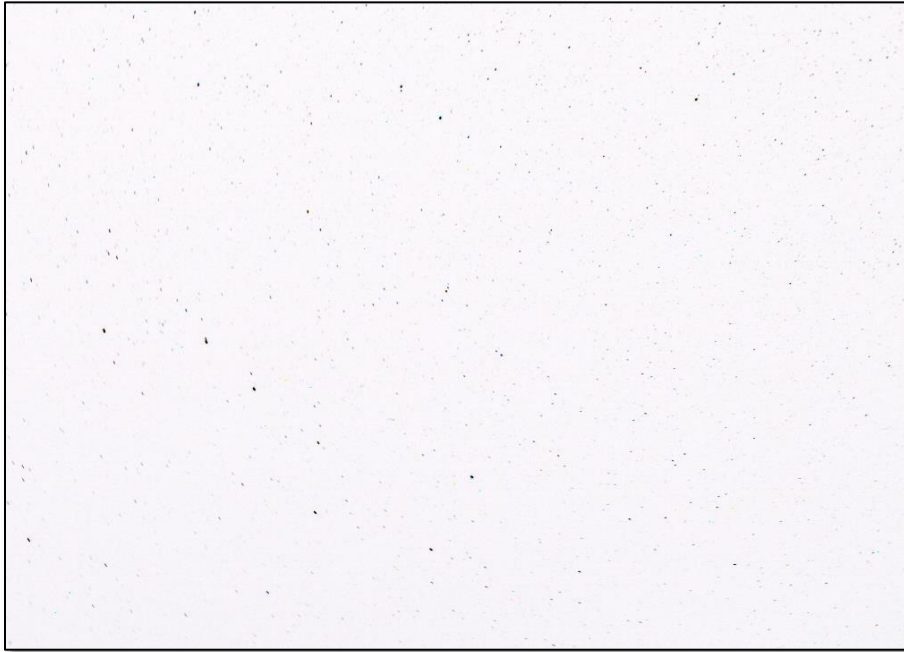


Figure 1-1—Find Ursa Minor  
Modified from source: Eric W., <http://tinyurl.com/grosp2d>.  
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To find *Ursa Minor*, also known as the “little dipper,” is easiest if you first located *Ursa Major* or the “Big Dipper.” In the construct below, the lead edge of the Big Dipper forms a line that if followed leads to the pole star, which is the tail end of the pan handle of the Little Dipper.

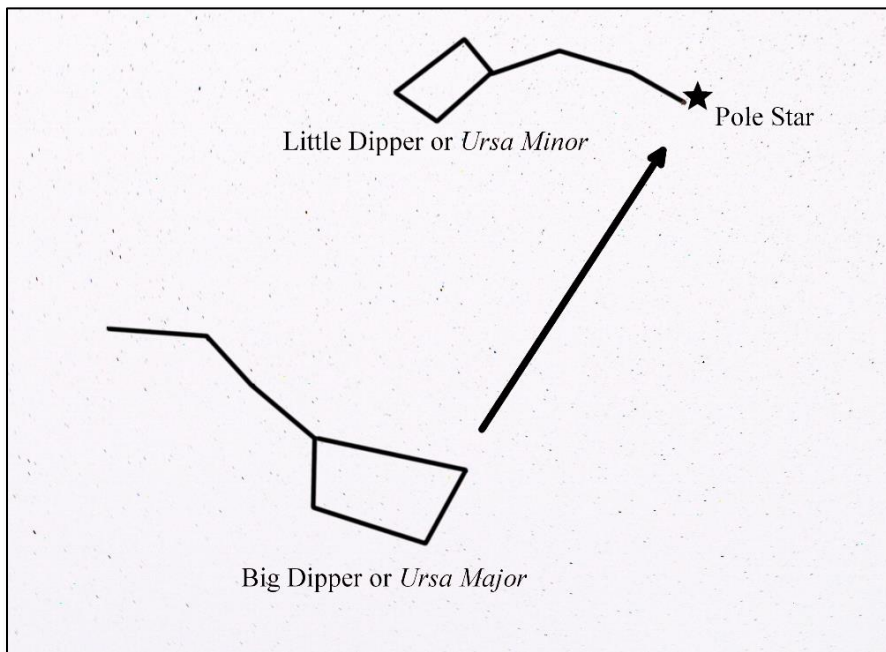


Figure 1-2—Ursa Major and Ursa Minor Outlined with the Pole Star

The Big Dipper and Little Dipper are constructs. We overlay them on the night sky to find the constellations *Ursa Major*, *Ursa Minor*, and the Pole Star (and find north). Constructs are incredibly important to developing expertise. When confronting problems, experts more quickly discard irrelevant information and cut to the heart of the issue. The same is true with skilled legal researchers. Hence, the use of constructs in this book. The screen shots of databases used in this text will become outdated, probably quite rapidly, but the constructs set forth herein will last.

## COMMON PROBLEMS OF NOVICE RESEARCHERS

Novice researchers share a variety of problems, which will be addressed in this book. Take, for example, the problems evident in the voice mail of Junior Associate, P.J. Wilson, from his boss, Mr. Widowmacher.

Table 1-1—Voice Mail Transcript of P.J. Wilson from His Boss

Message No.	Message Content	Type of Mistake or Problem
1	Wilson, it's Widowmacher. I got your "brilliant," one-paragraph memo stating there is no prior Missouri law on <i>As-Is Contracts</i> . So, you don't think there is a problem? Do you think you could have better used the thirty-two hours you were on Westlaw and Lexis by spending five minutes with an index? That's how I found it. Thanks. Bye!	
2	Wilson, it's Widowmacher again. We need you to research the average age of retirement for female OBGYN physicians in Los Angeles County. Good luck . . .	
3	Wilson, Widowmacher here. I like the memo you just drafted outlining the terms and issues for a purchase agreement. The only problem is we represent the buyer NOT the seller. Thanks. Bye.	
4	Wilson, it's Widowmacher. Mr. Gates called this morning. He wants to know how we are coming along with his trust. It seems he wants to be cryogenically frozen and leave everything to himself. Can you get back to me on this? Thanks. Bye!	
5	Wilson, it's me again. The next time you write a twenty-page brief, make sure you know what time period you're covering. We don't care about current law. The issue in question was for 2006. Thanks anyway. Bye.	
6	It's Widowmacher. Thanks for the one-foot high stack of cases for the issue I asked you to research. How about just one good case next time? Preferably one annotated by ALR. Thanks.	
7	Wilson, it's his "royal eminence," your boss. I appreciate your lengthy exposition on <i>1031 exchanges</i> by using the USCA. Wouldn't it have been wiser to simply use the <i>CCH Standard Federal Tax Reporter</i> ?	
8	Guess who? How are you coming on that 50-state survey for the treatise I'm writing on pet trusts? Don't worry—I'll be sure to mention you in a footnote. Thanks. Bye.	

In the column next to the transcript, see if you can briefly summarize the mistake P.J. Wilson made or the kind of problem he faces. As you proceed through the book, spotting and avoiding mistakes common to novices will become easier.

**ON YOUR OWN****Problem 1-1**

Can you describe an instance when a construct helped you solve a problem? Describe the construct's features and how it helped.