

SURVEYING TRANSACTIONAL LAW ATTORNEYS' RESEARCH HABITS

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Abstract¹

Transactional law, a subset of general law practice, differs substantially from both the traditional law school curriculum and the public image of attorneys. Rather than writing briefs and primarily using statutes and cases to address clients' issues, transactional lawyers draft deal documents and locate company information. It logically follows, then, that transactional lawyers would research differently and use different research methodologies than litigation-focused attorneys. To inform the curriculum of a transactional legal research course, I conducted a focus group with lawyers who practice transactional law to gain a broad understanding of the databases, research methods, and skills that transactional lawyers use when conducting research. Using the data from the focus group, I surveyed transactional lawyers. From the survey, I determined transactional lawyers' (1) most frequently used databases for conducting transactional law research and (2) their most common research methods. This paper summarizes the results of the focus group and survey and provides suggestions for future research and potential use in transactional law research courses.

Introduction

Lawyers who practice transactional law must know how to conduct transactional law research.² Practicing attorneys—and their clients—increasingly demand that law school graduates be “practice-ready,” and that those graduates have experience doing the types of tasks lawyers routinely do.³ Logically, then, law school graduates entering the field of transactional law should be taught how to research transactional law. As of the summer of 2018, however, only fifteen law schools had ever

¹ I am incredibly grateful to Marie Kennedy, Kristine R. Brancolini, Greg Guest, and Lili Luo for their insights and guidance, and for the assistance provided by the Institute for Research Design in Librarianship. Special thanks to Dave Schwieder, who guided me through my factor analysis and without whom this paper's analysis would be significantly weaker.

² See Robert J. Rhee, *Specialization in Law and Business: A Proposal for a J.D./“MBL” Curriculum*, 17 CHAP. L. REV. 39–40 (2013).

³ Jay Gary Finkelstein, *Practice in the Academy: Creating “Practice Aware” Law Graduates*, 64 J. LEGAL EDUC. 622, 624, 631 (2015) (advocating for the idea of “practice aware graduates,” which recognizes that law school cannot substitute for practice experience); see, e.g., Carl J. Circo, *Teaching Transactional Skills in Partnership with the Bar*, 9 BERKELEY BUS. L.J. 187, 194–95 (2012) (discussing law firm competency models as a system for determining what law graduates should learn in law school).

offered a transactional law research class.⁴ Although more than the three offered during the 2013–2014 academic year,⁵ this dearth of transactional law research classes contrasts starkly with the percentage of law students—at least 50%⁶—who will practice transactional law.⁷

This significant increase of schools offering a transactional law research class provides some evidence of the growing recognition of the importance of such classes. To ensure that recognition remains, transactional law research classes must be useful and tailored to the actual practice of transactional law. As law librarians⁸ develop the curriculum for a transactional law research class, they must base their courses on both a solid pedagogical foundation and a knowledge of the types of transactional law research typically performed in practice. For the more than 50% of graduating law students who will practice transactional law, and for the substantial portion of the remaining 50% who may encounter a transactional law issue, a class in transactional legal research will provide an immediate benefit.

The literature, however, contains little information about the sources and methodologies used by transactional lawyers when researching and no discussion of how to translate the needs of transactional law firms into an effective, pedagogically sound transactional legal research course. We need to know the transactional law research

⁴ Data on file with author, collected Summer 2018. These classes have a variety of different names—Specialized Legal Research in Corporate Law (Yale Law School), Business Law Research (University of Georgia Law School, Boston College, and University of Denver), and Corporate & Transactional Legal Research (Southern Methodist University)—but all address the fundamental concepts of transactional law research. Of the fifteen schools, ten have offered the class multiple times.

⁵ Cassie Dubay, *Specialized Legal Research Courses: The Next Generation of Advanced Legal Research*, 33 LEGAL REFERENCE SERVS. Q. 203, 217 (2013). Additionally, the American Association of Law Libraries recently approved a new caucus, the Business & Corporate Research Instruction Caucus, further evidence of the growth of these courses. Am. Ass'n of L. Libr., *Caucuses - AALL*, HOMEPAGE - AALL, <https://www.aallnet.org/community/caucuses/> (“The Business and Corporate Research Instruction Caucus is a collective of law librarians formed in 2020 . . .”).

⁶ Lisa Penland, *What a Transactional Lawyer Needs to Know: Identifying and Implementing Competencies for Transactional Lawyers*, 5 J. ASS'N LEGAL WRITING DIRS. 118, 118, 121–22 (2008).

⁷ Throughout this paper I will use the term “transactional” to describe any legal area covering business law, corporate law, commercial law, etc. My definition is purposely overbroad to include as much as possible to capture the range of transactional research conducted.

⁸ I focus on law librarians here because they typically teach any stand-alone research class in law schools.

methods from the perspectives of those who practice transactional law. Collecting this information will allow us to both (1) develop a curriculum for a transactional legal research class based on real-world skills, and (2) highlight the class as one that creates practice-ready law school graduates and closes the space between what law school teaches graduates and what practitioners expect of graduates. This study, therefore, will ultimately fill two gaps: an examination of the sources and methodologies that transactional lawyers use in practice and a translation of the results of that examination into a pedagogically sound transactional legal research course.

This paper will fill the first gap by interviewing and surveying attorneys who practice transactional law to determine what transactional legal research databases and methods these attorneys use, as well as those attorneys' opinion regarding the skills law students should learn about transactional law research in law school. The immediate results will be aggregated and summarized in this paper; then, in a later paper, the results will inform a discussion of how to create a transactional law research course. Specifically, this paper will seek to answer: (1) what databases are most frequently used by transactional lawyers when they conduct research, (2) what research methods are most used by transactional lawyers when conducting transactional law research, and (3) from the perspective of transactional lawyers, what transactional law research skills should law students learn in law school.

The Need for a Survey Focused on Transactional Law Research

For years, scholars have written about the legal research skills of law students and whether those skills effectively translate into practice once the law student graduates; they inevitably conclude that law students have poor legal research skills.⁹ Numerous solutions have been proposed and some have likely been implemented, but scholars continue to lament the lack of research abilities of young law school graduates.¹⁰ Many of these scholars base their conclusions on surveys of law librarians working

⁹ See Patrick Meyer, *Law Firm Legal Research Requirements for New Attorneys*, 101 L. LIBR. J. 297 *passim* (2009); Joan S. Howland & Nancy J. Lewis, *The Effectiveness of Law School Legal Research Training Programs*, 40 J. LEGAL EDUC. 381, 383 (1990).

¹⁰ See generally Thomas A. Woxland, *Why Can't Johnny Research? or It All Started with Christopher Columbus Langdell*, 81 L. LIBR. J. 451 (1989) (suggesting different approaches to teaching legal research); Ian Gallacher, *Forty-Two: The Hitchhiker's Guide to Teaching Legal Research to the Google Generation*, 39 AKRON L. REV. 151 (2006) (proposing updates and alternatives to legal research instruction).

in law firms, likely because law librarians typically instruct new law graduates on legal research when those graduates first start working at a firm.¹¹ These surveys tend to focus on the basic legal research skills that law graduates lack, with a few considering the ideal research skills of a law school graduate.¹²

Unsurprisingly, almost all of the surveys focus on the basic skills necessary for traditional legal research,¹³ reflecting the litigation focus of most law schools.¹⁴ This prioritization of basic legal research skills reflects the primary interest of most of the authors: that of developing and enhancing the pedagogy and curriculum of first-year legal research, with the primary goal being to tailor these courses to the skills students will need upon graduating.¹⁵

A second category of scholarship, rather than surveying law firm librarians, instead turns inward to examine how legal research is being and should be taught in law schools. These discussions focus on best practices for legal research courses and, similarly to the first category of scholarship, focus almost exclusively on traditional legal research. There are a few exceptions for certain specialized advanced legal research classes, such as Foreign, Comparative, and International Law advanced legal research;¹⁶ regardless, most of the studies conducted of advanced legal research classes discuss the content and structure of those classes, and almost all discuss generalized advanced legal research, not specialized advanced legal research.¹⁷

¹¹ Howland & Lewis, *supra* note 9, at 381–82; Jill L. K. Brooks, *Great Expectations: New Associates' Research Skills from Law School to Law Firm*, 28 LEGAL REFERENCE SERVS. Q. 291 (2009).

¹² Howland & Lewis, *supra* note 9, at 384–88; Susan C. Wawrose, *What Do Legal Employers Want to See in New Graduates? Using Focus Groups to Find Out*, 39 OHIO N.U. L. REV. 505, 532–37 (2013).

¹³ By traditional legal research, I mean the legal research instruction taught to all law students during their first year of law school. Traditional legal research historically echoes the litigation focus of law schools, in that it teaches students how to research statutes, cases, and secondary sources, which are the building blocks of litigation research.

¹⁴ See generally Lynnise Pantin, *Deals or No Deals: Integrating Transactional Skills in the First Year Curriculum*, 41 OHIO N.U. L. REV. 61 (2014).

¹⁵ See *id.* at 63.

¹⁶ See generally Dubay, *supra* note 5 (summarizing surveys on the content of specialized legal research courses).

¹⁷ See, e.g., Christopher A. Knott, *On Teaching Advanced Legal Research*, 28 LEGAL REFERENCE SERVS. Q. 101 (2009) (advising professors how to teach and construct advanced legal research courses); Elizabeth Christian, *Designing Your First Advanced Legal Research Class*, 18 AALL SPECTRUM 2, 9 (2013) (providing tips on teaching an advanced legal research class).

For those lawyers who will practice transactional law, however, much of the coursework in these generalized advanced legal research courses does not address the type of research in transactional law. Transactional law research differs substantially from traditional legal research in terms of its terminology, sources, and methodology, so the current literature provides only limited guidance when creating a transactional law research course.¹⁸ Indeed, the surveys used as a basis for studying traditional legal research ask only about traditional legal research methods and sources, such as researching statutes and cases, using citators, and updating.¹⁹ None of the surveys asked any questions about transactional law or even about legal research outside the context of litigation-type legal research (e.g., research that is not traditional legal research). One survey of recent law school graduates asked what legal research content the graduates used; none of the content listed by the survey would be a source typically used in transactional law research.²⁰ One of the largest surveys, with over 700 responses, acknowledged that survey questions “tend to be slanted to favor responses from practitioners in general practice or litigation,” and that the questions themselves asked about “the research process and resources-materials and skills that are critical to generalists and litigators.”²¹ Transactional lawyers rarely litigate.

Additionally, because almost all surveys direct the questions at law librarians, the surveys necessarily leave out those law firms that do not have law librarians, which further biases survey results towards the larger law firms that are more likely to have law librarians. Nor do the surveys ask questions of transactional attorneys themselves. Transactional law practitioners thus have not been asked to explain the sources and methodologies they use to research, nor have they been asked to express their thoughts about law school graduates’ transactional law research skills, a deficiency that needs to be remedied.

¹⁸ Taryn Marks, 2016 (paper on file with author).

¹⁹ See, e.g., Howland & Lewis, *supra* note 9, at 385–86.

²⁰ Steven A. Lastres, *Rebooting Legal Research in a Digital Age*, INSIGHTS PAPER, 1, 4 (2013), <https://perma.cc/4T5K-76EA>.

²¹ SUSAN NEVELOW MART ET AL., A REPORT OF THE QUALITATIVE RESPONSES FROM THE SURVEY OF PRACTITIONERS ON THE LEGAL RESEARCH PRACTICES AND OPINIONS OF NEW ASSOCIATES' RESEARCH SKILLS 1, 23 (2015), <https://perma.cc/A9CC-WCEN>.

Methodology & Analytical Techniques

Study Methodology: Focus Group

To fully understand the transactional law research methods of transactional law attorneys, I conducted a focus group of eight practicing law attorneys at a mid-sized law firm in North Carolina, who indicated a practice area of transactional law.²² By learning about transactional law research methods through a focus group, I wanted to capitalize on the “sum greater than its parts” aspect of a focus group study.²³ By conducting a focus group rather than individual interviews, I hoped to spark a more varied and complex conversation than what would occur in an individual interview. Many attorneys conduct research alone and rarely discuss their processes, so a discussion of research methodologies would be a unique experience that could stimulate greater conversation. Additionally, although most attorneys habitually keep track of their time for billing purposes, the level of detail between a time entry description noting that research was done into a company’s background to determine its eligibility as a client and an explanation of how they conducted that research differ dramatically. The focus group allowed me to ask about research methods used, the efficacy of those research methods, and the tools and databases the attorneys used to determine the answer. Even with a timesheet, an attorney may have difficulty remembering these precise facts about each research interaction, if I were to ask such questions during a single in-person interview. But, by leading the focus groups to discuss research habits, the conversation would hopefully trigger additional memories of databases used, common tricks for researching transactional law, and other information that might not be as forthcoming in a single in-person interview.

I also used the focus groups to gain additional information about how transactional attorneys do research, knowledge that I then used to craft a more accurate survey instrument that was more targeted to the sources and methodologies used by transactional attorneys in their practice. For example, as an academic law librarian with access to university-based subscriptions, I frequently used the database D&B

²² See *infra*, Appendix A (The law firm was chosen solely because of a personal connection that enabled me to conduct an in-person focus group with the transactional law attorneys in that firm. The law firm did not have a law librarian on staff).

²³ GREG GUEST, ET AL., COLLECTING QUALITATIVE DATA: A FIELD MANUAL FOR APPLIED RESEARCH 172 (Lauren Habib et al. eds., 2013).

Hoover's/Avention to search for company information. When I asked the focus group about that database, none of the attorneys had heard of it, so I removed it from the survey. In our conversation, however, they mentioned a database I had not initially included, PitchBook, so I added that database to the survey.

Survey Instrument and Survey Sample

Following the focus group, I edited and finalized my survey instrument. I could not find any surveys conducted of transactional lawyers that focused on their research methods. As such, I drafted my survey questions by consulting surveys that have been conducted of law librarians that ask about general legal research, changing the language to reflect the specific language of transactional law research. I also relied heavily on the information that I gained from the focus group to ask questions about certain databases or methodologies. I sent the survey out to a pilot test group (consisting primarily of law school professors who focused on transactional law) and then edited the survey based on their comments.

I next determined my survey sample. The survey sample was drawn from the Florida Bar's Lawyer Directory database. The Florida Bar, as the official arm of the Florida Supreme Court, includes "all persons who are admitted . . . to the practice of law in this state and who maintain their membership."²⁴ Attorneys not part of the Florida Bar cannot practice law in the state of Florida;²⁵ the sample thus theoretically includes all attorneys in Florida eligible to practice law in Florida. When an attorney registers for a Florida Bar membership, the attorney must select the practice areas that best represent their practice. The Florida Bar lists four practice areas that would fit within the definition of transactional law: business, business and taxation, corporate, and securities.

Using the Lawyer Directory database to identify eligible Florida attorneys who practice in the areas of transactional law yielded a sample size of approximately 4,500 attorneys.²⁶ My sample is as comprehensive

²⁴ FLA. BAR R. 1-3.1.

²⁵ FLA. BAR R. 1-3.6.

²⁶ Lawyer Directory, THE FLORIDA BAR, <https://www.floridabar.org/directories/find-mbr/?lName=&sdX=N&fName=&eligible=Y&deceased=N&firm=&locValue=&locType=C&pracAreas=B04%7CB05%7CC15%7CS01&lawSchool=&services=&langs=&certValue=&pageNumber=1&pageSize=10> (selecting "Eligible lawyers only" checkbox; then selecting "Business", "Business and Taxation", "Corporate", and "Securities" from the "Practice Area" dropdown) (last visited Oct. 4, 2018).

as is feasible, given several possible restraints. First, although by law any attorney who practices law in the State of Florida must be registered with the Florida Bar, my data set does not include any attorneys who have not done so. Second, the dataset provided by the Florida Bar does not provide a comprehensive listing of in-house or corporate counsel who may work in Florida but are not barred in Florida, mainly because the registration requirements for those types of attorneys differ from those of other lawyers.²⁷ Last, I relied on the practice areas specified by the Florida Bar and then chosen by the individual attorney. Attorneys choose the practice areas they believe represent their individual practice. Because of the many interpretations and definitions that the terms “transactional lawyer” and “transactional law” can have, I chose to include in my survey those transactional attorneys who self-identified as transactional attorneys, rather than defining the term and choosing attorneys based on my own arbitrary designation.

I sent the survey to all of the attorneys identified by my search, excluding one attorney who participated in my focus group. The Florida Bar search provided email addresses for all of the attorneys, so the survey was sent using an anonymous link through Qualtrics.²⁸ I decided to send the survey to all 4,552 attorneys who identified at least one of the practice areas I noted above because I anticipated a low rate of return on the survey, based in part on the typical low rate of response to online surveys and my suspicion that attorney response rate would likely be lower than the average.²⁹ In total, 160 attorneys completed the survey, a response rate of just over 3.5%.³⁰ The survey contained eleven questions, including questions about years of experience and size of law firm.³¹

²⁷ FLA. BAR R. 17-1.4.

²⁸ The survey was first sent on October 4, 2018, with follow-up emails to those who had not yet completed the survey sent on October 11, October 26, and a final reminder sent on November 2, 2018, when the survey closed.

²⁹ See, e.g., Colleen Cook et al., *A Meta-Analysis of Response Rates In Web Or Internet-Based Surveys*, 60 EDUC. & PSYCHOL. MEASUREMENT 821 (2000).

³⁰ See *infra*, Appendix C (providing IRB approval). I also included an incentive in my survey that offered every seventieth person who filled out a separate, de-anonymized survey with their name and email address a two-hour research session, which would have been conducted either by me or by a representative from Westlaw or Lexis. Fewer than seventy people filled out this additional survey, so the incentive was never realized.

³¹ See *infra*, Appendix B.

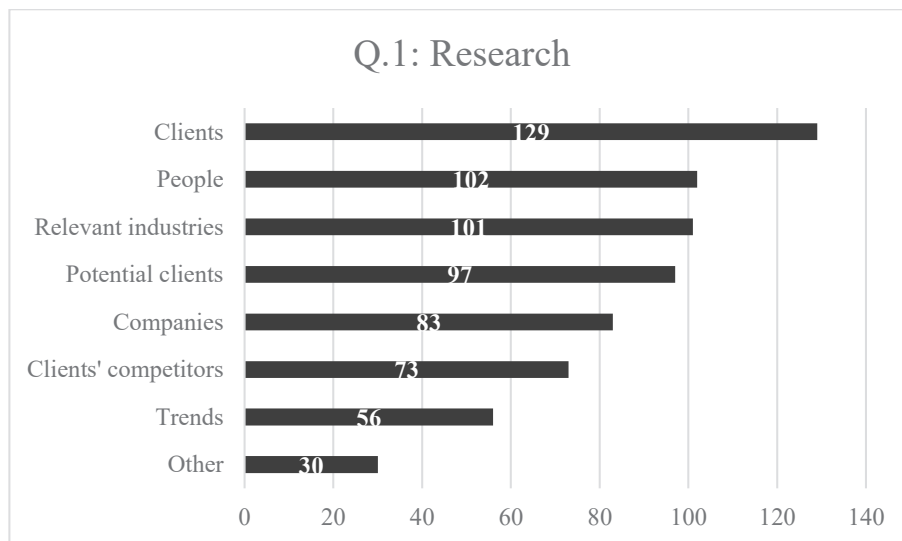
Survey Results

As indicated above, 160 attorneys filled out the survey to completion.³² First, I conducted a descriptive analysis for each question, primarily relying on the default reports generated by Qualtrics. Then, with the help of another librarian, I analyzed the correlations between the three independent-type variables (percentage of time spent researching per week, years as a practicing attorney, and size of law firm) and the search activity variables (research conducted, sources used, and databases used) via a factor analysis. Below are the results of these analyses.

³² *Id.*

A. Question 1: Research Subjects

Q.1 Do you conduct research on any of the following as part of your job? Check all that apply.



Descriptive Analysis

Question 1 demonstrates that over 80% of respondents (80.625%) conducted research on clients. The next highest-researched areas were clumped together, with 63.75% researching people, 63.125% researching relevant industries, and 60.625% researching potential clients. Interestingly, just over half (51.875%) researched companies, while less than half (45.625%) researched clients' competitors. Trends and Other rounded out the list, with 35% and 18.75%, respectively.

Factor Analysis

A factor analysis was used to examine the underlying structure of the respondent's search activities; this factor analysis produced the following matrix.³³

³³ We used a polychoric factor analysis with varimax rotation because the responses were binary and coded as such. Responses to "Other" were excluded from this analysis.

Figure 1. Pattern matrix for question: Do you conduct research on any of the following as part of your job?

Variable	Factor 1	Factor 2	Factor 3	Uniqueness
Q1_1a	0.8268			0.2560
Q1_2a	0.4835	0.5146	0.4137	0.3303
Q1_3a	0.6950	0.3576		0.3557
Q1_4a	0.5243	0.7108		0.2071
Q1_5a		0.4344	0.6023	0.4454
Q1_6a	0.4011		0.6547	0.3950
Q1_7a		0.6975	0.3134	0.3932

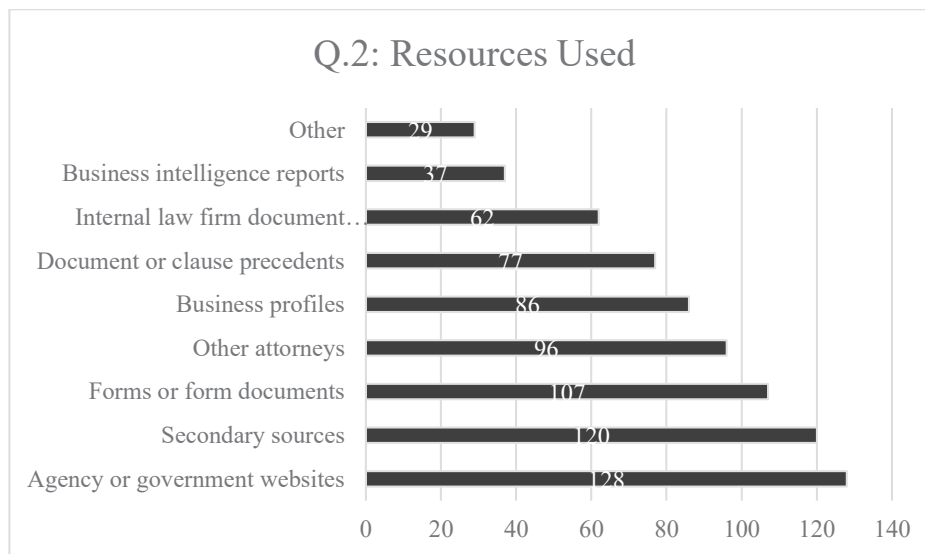
Blanks represent $\text{abs}(\text{loading}) < .3$

As the Figure 1 demonstrates, three factors emerged: Factor 1, on clients and potential clients; Factor 2, clients' competitors, relevant industries, and trends/others; and Factor 3, companies and people.

Factor 1 clearly demonstrates a client-based focus, while Factor 2's interpretation shows a focus on the broader context surrounding the client: the client's competitors, relevant industries, and what trends might currently be in play. Factor 3 is less clear: it's possible that research into companies and people meld together when conducting research, but it's also possible that these terms were so generic that no connection can really be drawn.

Question 2: Resources Used

Q.2: Which of the following have you used when you conduct research or look for information as part of your job? Check all that apply.

Descriptive Analysis

In Resources Used, agency and government websites ranked first. 80% of respondents checked agency or government websites; 75% checked secondary sources. 66.88% checked form or form documents, while 60% checked other attorneys.

These results are unsurprising, given how highly regulatory the legal system has become and how much information government websites provide about the law. The high rate of secondary sources was likewise unsurprising, given the information and quick access to answers that secondary sources can provide.

Factor Analysis

As in Question 1, a factor analysis was conducted on this question, producing the below matrix:

Figure 2. Pattern matrix for question: Which of the following have you used when you conduct research or look for information as part of your job?

Variable	Factor 1	Factor 2	Factor 3	Uniqueness
Q2_1a		0.5288		0.7102
Q2_2a		0.5909	0.3840	0.4900
Q2_3a	0.9208			0.0990
Q2_4a	0.8616		0.4556	0.0003
Q2_5a	0.5014	0.7011		0.2274
Q2_7a	0.3695		0.8754	0.0775
Q2_9a	0.5383	0.5286	0.4917	0.1891

Blank represent $\text{abs}(\text{loading}) < .3$

Through this analysis, we again saw three factors. Factor 1 involves document or clause precedents, forms or form documents, and agency or government websites. The first two logically seem connected; perhaps agency or government websites are also within this factor because the attorneys would use those websites in order to find precedents or forms.

Factor 2 includes business intelligence reports, business profiles, and the internal law firm document management system. As with Factor 1, the first two seem logical to connect since it is likely an attorney would need both intelligence reports and business profiles when researching a specific company. Perhaps the internal law firm document management system is connected because attorneys use that system to research whether reports or profiles had previously been pulled on that company or whether the system had information about any prior representation or contact that the attorney had previously had with the business they were researching.

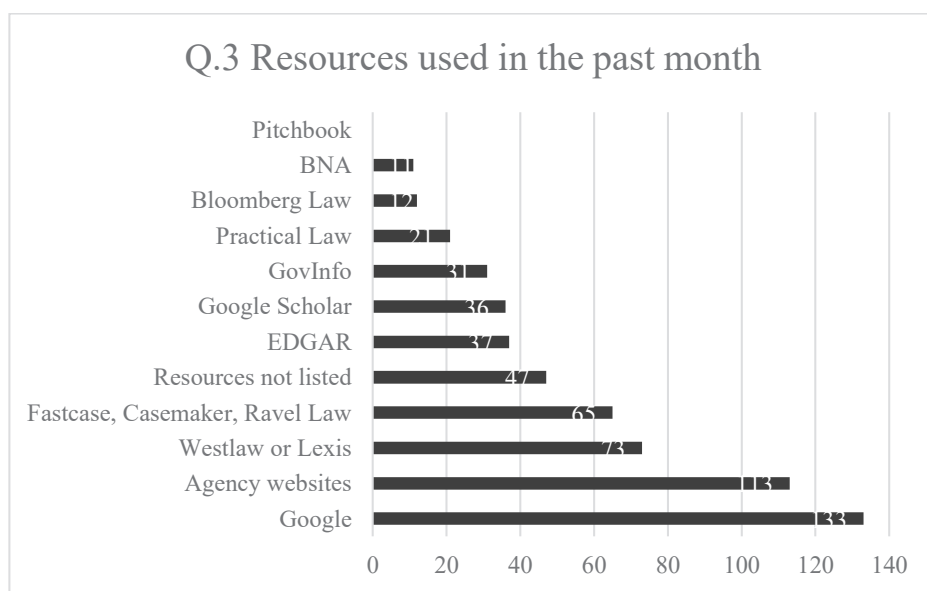
Factor 3 represents a quite interesting result, that of other attorneys or practitioners. This result indicates that picking up the phone or walking down the hall to ask a research question or to get advice about a specific area of research is still a highly used and important source of information for attorneys. Interestingly, this echoes studies that have been done of other professionals, which show that one of the top sources of

information professionals seek out when doing research are colleagues and conversations.³⁴

Questions 3, 4, and 5: Resources Used, Frequency of Use and Method of Search

The next three questions were connected. The first question asked which of resources listed the attorney had used in the past month. For each of the sources selected by the respondent, the next two questions asked the frequency of the use of the source, then the method used to find information in that source.

Q.3: Which of the following have you used in the past month? Check all that apply.



Descriptive Analysis

Google clearly dominated the resources used, as 83.13% reported that they had used Google. Unsurprisingly, given the results from the previous question, that was followed quite closely by agency websites (at

³⁴ Gloria J. Leckie, et al., *Modeling the Information Seeking of Professionals: A General Model Derived from Research on Engineers, Health Care Professionals, and Lawyers*, 66 LIBR. Q. 161, 183–84 (1996).

70.63%). Westlaw or Lexis (relatively expensive legal research databases) came in next with 45.625%, though they were followed closely by Fastcase, Casemaker, and Ravel Law (low-cost legal research databases), with 40.625% of respondents indicating that they used one or more of those databases.

The next highest-reported response—resources not listed (29.475% of respondents)—in many ways demonstrates the need for this study and for future studies like it. Despite my own knowledge and the knowledge of the focus group, almost one-third of survey respondents frequently used resources not present in the survey. Additionally, the survey results reflect my own academic inclinations: Practical Law, Bloomberg Law, and BNA resources, while ubiquitous at most law schools, were used relatively rarely by practicing attorneys. This may reflect the high cost of these resources or that these resources are less useful to attorneys once in practice. It was also unsurprising that Google ranked highest on this list. Lawyers routinely use Google for legal and other research and may default to Google over paid resources such as Westlaw or Lexis, depending on the subscription structure.³⁵ Indeed, many research classes these days teach the use of Google as a tool in research, provided students also understand its limitations.³⁶

Factor Analysis

I also conducted a factor analysis of this question, producing the below matrix:

Figure 3: Pattern Matrix for Which of the following [information sources] have you used in the past Month:

³⁵ Ellie Margolis, *Surfin' Safari - Why Competent Lawyers Should Research on the Web*, 10 YALE J.L. & TECH. 82, 108–11 (2007); see also Stephann Makri, Ann Blandford & Anna L. Cox, *Investigating the Information-Seeking Behavior of Academic Lawyers: From Ellis's Model to Design*, 44 INFO. PROCESSING & MGMT. 613, 618 (2008) (noting that “academic lawyers mainly used a core set of electronic resources, most commonly . . . LexisNexis Professional and Westlaw, the search engine Google and the academic search engine Google Scholar”).

³⁶ See, e.g., Alena Wolotira, *Googling the Law: Apprising Students of the Benefits and Flaws of Google as a Legal Research Tool*, 21 PERSP. 33 (2012) (assessing Google as a research tool and advocating teaching students both its strengths and weaknesses when conducting legal research).

Variable	Factor 1	Factor 2	Factor 3	Uniqueness
Q3_2a				0.8897
Q3_3a		0.4933	0.7693	0.1633
Q3_4a	0.8748			0.1798
Q3_5a	0.7961			0.3082
Q3_6a	0.4966			0.7301
Q3_7a		0.5056		0.7293
Q3_8a	0.3657			0.8152
Q3_11a		0.9281		0.1350
Q3_12a			0.6756	0.4780

Blanks represent $\text{abs}(\text{loading}) < .3$

Factor 1 involves four responses, Agency websites; GovInfo or GPO; BNA or any BNA resource; and Fastcase, Casemaker, Ravel Law, or other low-cost legal research databases. While three of these responses grouped—agency websites, GovInfo/GPO, and the low-cost legal research databases—make intuitive sense because they are free or low cost, the addition of BNA or any BNA resource does not fit within that set (indeed, BNA resources, when they were available separately from Bloomberg Law, could be quite expensive). One possible explanation is that survey respondents were using the print versions of BNA materials, which could explain the connection.

Factor 2 involved Westlaw and Practical Law; an unsurprising connection given that they are owned by the same company and that many attorneys who use Practical Law do so via an add-on to their Westlaw subscription.

Factor 3 is the most interesting, as it grouped EDGAR and other resources, again indicating that there were several resources that transactional attorneys used that the survey did not identify. That EDGAR and these other resources were grouped together perhaps indicates resources related to either company research (for example, company websites themselves), SEC filings, or other specialized regulatory research.

Q.4 & Q.5: Frequency and methods of use of sources identified in Q.3

Once respondents answered Question 3, only the sources that they checked appeared in the next two questions, which asked about the frequency of the use of the source and the method of searching used within that source. Question 4 asked about frequency, using a frequency matrix with the following time periods:

- multiple times per day;
- once per day, average;
- multiple times per week but not every day;
- multiple times per month but not every week;
- once per month average.

Descriptive Analysis

Only one resource was used multiple times per day, with 72.52% of the 131 respondents who selected Google in Question 3 indicating that they used Google multiple times per day. The next closest was Westlaw/Lexis Advance, in which, of the seventy-two respondents who selected this answer, 25% used that resource multiple times per day.

Other interesting results include Google Scholar, which thirty-five respondents selected; 54.29% of them indicated that they used Google Scholar multiple times per month but not every week; and BNA or any BNA resource, which, while only eleven respondents selected this result, 54.55% of them indicated they used this resource multiple times per month though not every week.³⁷

Question 5 then asked about the method that respondents used to find information in each source selected in Question 3, asking whether they used:

- a keyword search using natural language;
- a keyword search using Boolean operators/advanced search;

³⁷ See *infra*, Appendix D.

- Index (search or browse);
- browsing/scrolling; or
- Table of Contents (search or browse).

Unsurprisingly, in every source indicated, keyword searching using natural language was the most commonly used search method, although in some of the databases, keyword searching using Boolean operators/advanced search ranked a close second. For example, among those who used Fastcase, Casemaker, Ravel Law, or other low-cost legal databases, 40.35% reported that they used natural language searches and 33.33% reported that they used Boolean operator searches. Those who used Practical Law also indicated that they used natural language searches for 36.67% of the time and Boolean operator searches 23.33% of the time.

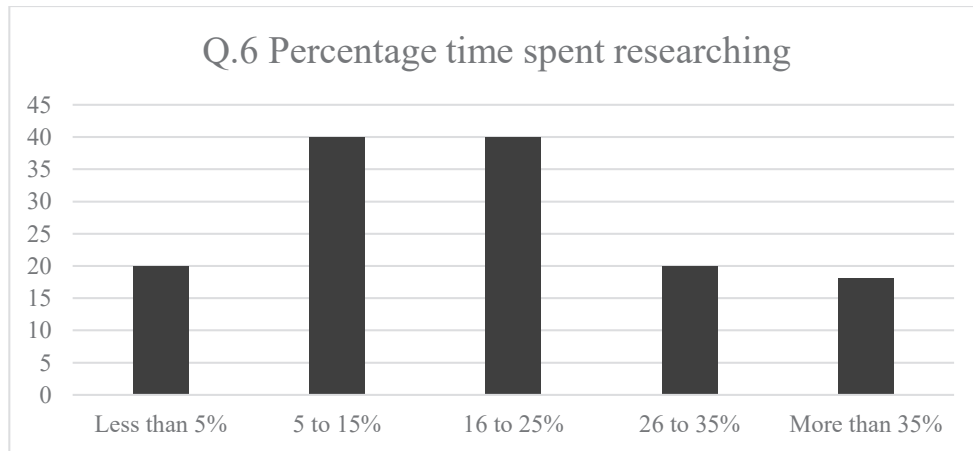
However, given some of the responses, it was clear that some respondents were unsure about the definitions of indexes and table of contents. For example, fifteen and thirteen respondents indicated that they used a table of contents search or an index search, respectively, when using Google. It is possible that the same confusion existed about the difference between keyword searching and Boolean/advanced searching, but that confusion was not revealed in the data in the same way that the confusion about Google's browsing and index capabilities were.

Questions 6, 7 & 8: Time spent researching & Demographics

The next set of questions asked about time spent researching and the demographics of the survey respondents. I had hoped that this would reveal interesting correlations (such as, for example, that the more time a respondent had been a practicing attorney, the less time they spent researching); and potentially open up areas of additional study to explore those correlations.

Q.6: At your job, approximately what percentage of time do you spend researching in a typical week (any type of research—law, business, people, etc.)?

Question 6 asked what percentage of time respondents spent each week conducting research for their job, in order to gauge both the amount of time and to see if there were any connections between the amount of time spent, sources used, and years practicing.



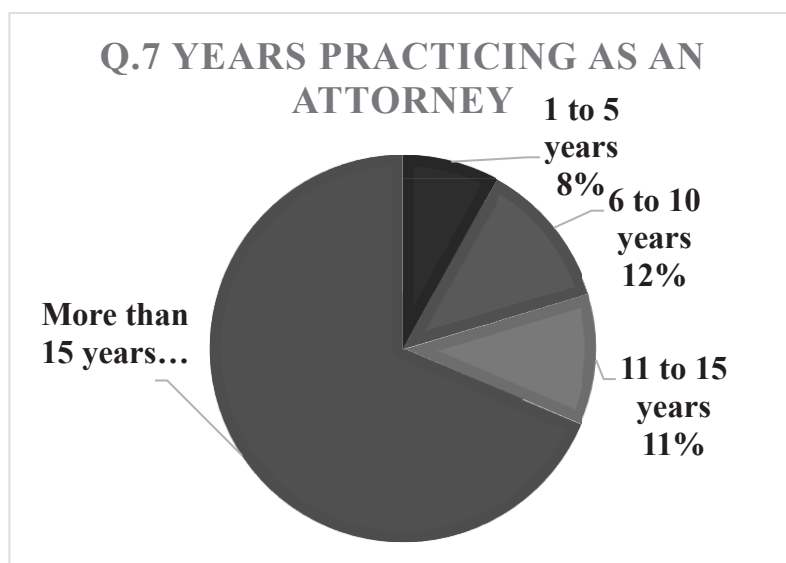
Descriptive Analysis

The middle ranges of this question, between 5 and 25%, accounted for over 50% of the responses. Given the importance of research to the law and the wide range of research attorneys need to conduct, it is unsurprising that a decent portion of an attorney's time is spent researching. This question also revealed a relatively even trend between the amount of time: 14.49% spending less than 5% of their time researching, the same percentage of respondents who indicated they spent

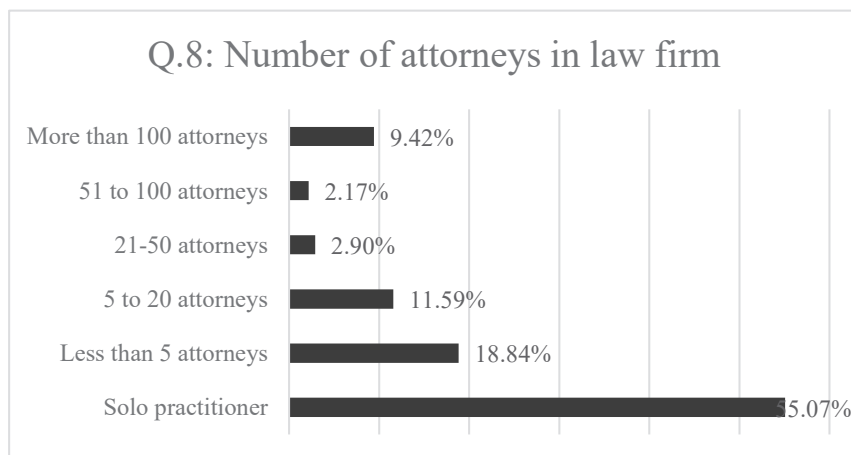
26 to 35% of their time researching, while 13.04% of respondents spent more than 35% of their time researching.

The last two questions asked about demographics: Question 7 asked how many years the respondent had been a practicing attorney, while Question 8 asked how many attorneys were in the respondent's law firm/business. Interestingly, over 65% of the respondents had been practicing for more than 15 years, and just over 55% were solo practitioners.

Q.7 How many years have you been a practicing attorney?



Q.8 How many attorneys are in your law firm/business?



Questions 9 & 10: Primary Area of Practice and a Transactional Legal Research Course

Q.9: What is your primary area of practice as an attorney?

Question 9 was an open-ended question that asked respondents to indicate their primary area of practice as an attorney. I asked this question to confirm the scope of my survey respondents. Although all of the attorneys I sent the survey to had indicated to the Florida Bar that their practice area fell into one of the four related to transactional law that I had identified, I hypothesized that attorneys might provide a more nuanced description of their practice area within transactional law; and I hoped that it would demonstrate that the Florida Bar's practice areas were relatively accurate.³⁸ Surprisingly, of the 135 responses I received to this question, only sixty-five, or just over 48%, indicated a practice area that would fall under my definition of transactional law above.³⁹ Other common responses included probate, estate planning, real estate law, civil or commercial litigation, or tax as primary practice areas.

The answers to this question also demonstrate that my target audience (transactional attorneys) may not have been accurately represented in this survey data. As such, duplicating this survey in a different population of transactional attorneys and comparing the results would be a useful next step for this project.

Q. 10: One of the reasons for this survey is to inform the law school curriculum for a business law research class. What do you think a law student should learn in a business law research class?⁴⁰

The last question was also an open-ended question that asked respondents what they thought a law student should learn in a transactional law research class. The 112 respondents who provided an

³⁸ Initially, my draft survey provided a list of practice areas (business law, corporate law, transactional law, securities, etc.), but a pilot tester of the survey pointed out that attorneys may have different practice areas, that practice areas may overlap, and that it may be difficult for some attorneys to identify one specific area of practice. As a result of this feedback, the question was changed to an open-ended question.

³⁹ I coded the responses to this question myself.

⁴⁰ In the time between distributing this survey and writing this paper, I decided to shift my language from "business" to "transactional," in order to be more inclusive of the two types of attorneys.

answer had a broad range of responses, which fell into several broad categories:⁴¹

- General business information;
- Financials & finances;
- Substantive law (particularly related to the Uniform Commercial Code and contracts);
- Government and agency websites;
- Boolean/advanced search technique;
- The differences between the available databases, their costs, and methods for use;
- The need for critical thinking and an analysis of the problem, including what two respondents referred to as “creative thinking”;
- Efficient research and the practical consequences of research (including the cost that is passed onto clients);
- Using Google/Wikipedia/other free or low-cost resources.

Interestingly, two respondents indicated such a class was not needed, although neither respondent elaborated.

Correlational Analysis

Last, I wanted to test an assumption that variables like percentage of work time spent on research, years in practice, and size of firm would shape information search patterns. For example, I thought it might be

⁴¹ I classified the categories myself after reading through the responses.

possible that as attorneys gain familiarity with the sources and laws in their practice area, the amount of time that they researched would decrease. So, again with the help of another librarian, I conducted both bivariate (crosstabs) and multivariate (logistic regression) analyses to evaluate this. Surprisingly, however, these analyses revealed virtually no correlation between these sets of variables. This means that, at least within the set of practitioners that I surveyed, there was no correlation between percentage of time spent on research, years in practice, and size of practice on an attorney's information search patterns. Given, however, the limitations of my survey—a small sample size, limited to just Florida attorneys—I do not think any larger conclusions can be drawn at this point about whether such a correlation exists. Follow-up studies that target specific populations—such as junior associates compared with senior associates—could be useful in examining which set of skills, methodologies, or sources are best taught in law schools and which are best taught in practice.

Significance and Next Steps

My goal with this survey was to benefit those instructors who teach or would like to teach a transactional law research class and to provide information about the types of databases, methodologies, and sources that lawyers are most likely to use in the practice of transactional law. By conducting focus groups with and surveying current transactional lawyers to determine the most utilized transactional law research databases and methods of transactional law research, I hope to lay the groundwork to help law schools and law librarians create transactional law research classes rooted in the actual practice of law rather than theoretical conjecture as to how transactional lawyers research. This will allow instructors to tweak and adapt their curriculum to best meet the demands of transactional law research in practice. Given that most of the surveys conducted of law firms focus on the litigation side of legal research, it is possible that transactional law research classes teach aspects of transactional law research little-used in practice. This research can help to avoid the curriculum disconnect between what law graduates need to know about transactional law research and what law graduates are taught in law school.

My hope, too, is that this research will also benefit law students in transactional law research classes, as those students will know that the skills they learn in class are skills wanted by law firms; and law students will have more confidence and thus make a better impression on law firm

partners when those law students begin to work. In the long term, it could benefit transactional law associates and partners in law firms, as well as their clients. By hiring a law school graduate with knowledge about transactional law research, the firm saves time and money previously used to train law graduates and also receives law graduates who can better assist the firm with its work. It also could serve to decrease the learning curve between law school and the law firm, allowing a new law graduate to more quickly become a viable asset to the firm.

The next step in this process will be to translate the results of this survey into the curriculum created for a transactional law research course. Additionally, given the small sample size, age of this survey, the breadth of practice areas in my respondents, and dearth of research into this area, there is significant room for additional surveys of attorneys in other states, that focus in on specific areas of transactional law, or that attempt to replicate the results of this survey to further inform a transactional law research course. Another possibility would be a case study approach that examined specific sources, methodologies, and processes of a practicing transactional attorney and then mapped that case study onto a proposed curriculum.

Ultimately, this survey will hopefully both generate new research into this area and strengthen the transactional law research courses currently being taught or planned.

Appendix A: Focus Group Questions⁴²

1. How would you define business law? What is a business law attorney?
2. One of the common things is keeping them out of trouble and looking to the future. Is a lot of what you're doing figuring out what the regulations are and how they apply?
3. Where are you going to find clauses? Are you just using the SEC filings?
4. Do you use template documents/template clauses or is that something that's unique to certain spaces?
5. I could ask 2Ls, 3Ls, first year attorneys and ask them to do due diligence on a company and many of them wouldn't know what due diligence was or how to do it. Do you teach associates how to do due diligence? Do you just give them a bunch of documents and let them go?
6. When you are searching for information, what do you use?
7. Do you use the advanced search functions, how are you using (name of answers to Q.6)
8. Are there sources that you wish we had that source?
9. How many of you use the SEC/EDGAR database?
10. Have any of you used: (went through below list of databases)
 - a. Hoover's
 - b. IBISWorld
 - c. Bloomberg Law's SEC database
 - d. BNA
 - e. Lexis
 - f. Westlaw
 - g. PrivCo
 - h. MarketLine
 - i. ABI/Inform
 - j. Capital IQ
 - k. Investech/Thomson One.

⁴² I have included here only the prepared questions asked of the focus group. As the conversation necessitated, I also asked follow-up questions and for more detail.

- l. Morningstar
 - m. CRSP
 - n. WRDS
 - o. Bureau van Dijk
 - p. FDSys/GovInfo
 - q. Investopedia
 - r. Google Scholar
 - s. Fastcase
 - t. Casemaker
 - u. Casetext
 - v. Ravel
 - w. OECD/IMF/World Bank/NGO websites
11. When you do your research, what are you looking for? Are you ever looking for company information, industry information, stock price information, marketing information, historic stock prices, hedge fund information, CTA data?
 12. Do you primarily use the company websites and news searches or how are finding your information?
 13. If you could control what law students learned about business law and researching business law, what would you require that they learn before they graduate law school?
 14. Are there any other resources that you find yourself using a lot that we didn't mention?

Appendix B: Full Survey Instrument

Q1. Do you conduct research on any of the following as part of your job?
Check all that apply.

- Clients
 - Clients' competitors
 - Potential clients
 - Industries relevant to your area of practice or to a client
 - Companies (who are not clients/potential clients)
 - People
 - Trends/what other companies are doing
 - Other, please describe
-

Q2. Which of the following have you used when you conduct research or look for information as part of your job? Check all that apply.

- Business intelligence reports
 - Business profiles
 - Document or clause precedents
 - Forms or form documents
 - Internal law firm document management system
 - Secondary sources (treatises, blogs, practice guides, handbooks, trade websites (such as the Association for Corporate Counsel or ABA websites), etc.)
 - Agency or government websites
 - Other attorneys or practitioners in the field
 - Other, please describe
-

Q3. Which of the following have you used in the past MONTH? Check all that apply.

- Google
- Google Scholar
- EDGAR (the SEC's Electronic Data Gathering, Analysis and Retrieval System)
- Agency (state or federal) websites
- GovInfo or GPO.gov
- BNA or any BNA resource
- Westlaw or Lexis Advance
- Fastcase, Casemaker, Ravel Law, or other low-cost legal research database
- Bloomberg Law
- Pitchbook
- Practical Law
- I used resources not listed here in the past month

Display This Question:

*If Which of the following have you used in the past MONTH? Check all that apply. =
I used resources not listed here in the past month*

Please list the top 3 resources that you have primarily used in the past month:

Q4. For each resource that you've used in the past month, indicate approximately how frequently you've used that resource.	Multiple times per day	Once per day, average	Multiple times per week, but not every day	Multiple times per month, but not every week	Once per month, average
Google	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Google Scholar	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
EDGAR (the SEC's Electronic Data Gathering, Analysis and Retrieval System)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Agency (state or federal) websites	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
GovInfo or GPO.gov	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
BNA or any BNA resource	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Westlaw or Lexis Advance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Fastcase, Casemaker, Ravel Law, or other low-cost legal research database	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Bloomberg Law	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pitchbook	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Practical Law	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I used resources not listed here in the past month	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q5. For each resource that you've used in the past month, indicate what method you used to find information in that resource. Check all methods that you've used in that resource.	Keyword search using natural language	Keyword search using Boolean operators/advanced search	Index (search or browse)	Browsing/scrolling	Table of Contents (search or browse)
Google	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Google Scholar	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
EDGAR (the SEC's Electronic Data Gathering, Analysis and Retrieval System)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Agency (state or federal) websites	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GovInfo or GPO.gov	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BNA or any BNA resource	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Westlaw or Lexis Advance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fastcase, Casemaker, Ravel Law, or other low-cost legal research database	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bloomberg Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pitchbook	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Practical Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I used resources not listed here in the past month	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q6. At your job, approximately what percentage of time do you spend researching in a typical week (any type of research--law, businesses, people, etc.)?

- Less than 5%
- 5% to 15%
- 16% to 25%
- 26% to 35%
- More than 35%

Q7. How many years have you been a practicing attorney?

- Less than 1 year
- 1 to 5 years
- 6 to 10 years
- 11 to 15 years
- More than 15 years

Q8. How many attorneys are in your law firm/business?

- Solo practitioner
- Less than 5 attorneys
- 5 to 20 attorneys
- 21 to 50 attorneys
- 51 to 100 attorneys
- More than 100 attorneys

Q9. What is your primary area of practice as an attorney?

Q10. One of the reasons for this survey is to inform the law school curriculum for a business law research class. What do you think a law student should learn in a business law research class?

Appendix C: IRB Approval

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UF Institutional Review Board UNIVERSITY of FLORIDA

Behavioral/NonMedical Institutional Review Board
02A00005790

ΠΟ Βοξ 11
Γραμμοτ/ο: ΦΑ 32611-
Τελετροπο: (352) 392-
Φαξ: (352) 392-
Εμ. οφ: ηφ2= οφ

DATE: 7/27/2018
TO: Taryn Marks
PO BOX 117628
GAINESVILLE, Florida 326117628
FROM: Ira Fischler, Ph.D., Professor Emeritus
Chair IRB-02

IRB#: **IRB201801608**
TITLE: Determining the Business Law Research Needs of Business Lawyers

Approved as Exempt

You have received IRB approval to conduct the above-listed research project. Approval of this project was granted on 7/27/2018 by IRB-02. This study is approved as exempt because it poses minimal risk and is approved under the following exempt category/categories:

2. Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey or interview procedures, or the observation of public behavior, so long as confidentiality is maintained. If both of the following are true, exempt status can not be granted: (a) Information obtained is recorded in such a manner that the subject can be identified, directly or through identifiers linked to the subject, and (b) Subject's responses, if known outside the research, could reasonably place the subject at risk of criminal or civil liability or be damaging to the subject's financial standing or employability or reputation.

Special Note(s) to Investigator:

In the myIRB system, exempt approved studies will not have an approval stamp on the consents, fliers, emails, etc. However, the documents reviewed are the ones to be used. Therefore, under ATTACHMENT: you should find the document that has been reviewed and approved. If you need to modify the document(s) in any manner then you'd need to submit to our office for review and approval prior to implementation.

Principal Investigator Responsibilities:

The PI is responsible for the conduct of the study.

- Using currently approved consent form to enroll subjects (if applicable)
- Renewing your study before expiration
- Obtaining approval for revisions before implementation
- Reporting Adverse Events
- Retention of Research Records
- Obtaining approval to conduct research at the VA
- Notifying other parties about this project's approval status

Should the nature of the study change or you need to revise the protocol in any manner please contact this office prior to implementation.

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Study Team:

The Foundation for The Gator Nation
An Equal Opportunity Institution

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Appendix D: Responses to Questions 4 & 5

Question 4: For each resource you've used in the past month, indicate approximately how frequently you've used that resource.

Question	Multiple times per day	Once per day, average	Multiple times per week, but not every day	Multiple times per month, but not every week	Once per month, average	Total
Google	72.52%	8.40%	16.03%	2.29%	0.76%	131
Google Scholar	5.71%	2.86%	20.00%	54.29%	17.14%	35
EDGAR (the SEC's Electronic Data Gathering, Analysis and Retrieval System)	11.43%	0.00%	11.43%	31.43%	45.71%	35
Agency (state or federal) websites	17.86%	12.50%	36.61%	29.46%	3.57%	112
GovInfo or GPO.gov	3.23%	3.23%	41.94%	35.48%	16.13%	31
BNA or any BNA resource	0.00%	9.09%	18.18%	54.55%	18.18%	11
Westlaw or Lexis Advance	25.00%	19.44%	23.61%	20.83%	11.11%	72
Fastcase, Casemaker, Ravel Law, or other low-cost legal research database	12.50%	7.81%	17.19%	45.31%	17.19%	64
Bloomberg Law	16.67%	0.00%	25.00%	33.33%	25.00%	12
Pitchbook	0.00%	0.00%	0.00%	0.00%	0.00%	0
Practical Law	5.00%	15.00%	20.00%	45.00%	15.00%	20
I used resources not listed here in the past month	16.28%	23.26%	25.58%	23.26%	11.63%	43

Question 5: For each resource that you've used in the past month, indicate what method you used to find information in that resource. Check all methods that you've used in that resource.

Question	Keyword search using natural language	Keyword search using Boolean operators /advanced search	Index (search or browse)	Browsing /scrolling	Table of Contents (search or browse)	Total
Google	54.15%	15.28%	5.68%	18.34%	6.55%	229
Google Scholar	58.00%	36.00%	0.00%	4.00%	2.00%	50
EDGAR (the SEC's Electronic Data Gathering, Analysis and Retrieval System)	50.00%	17.31%	21.15%	3.85%	7.69%	52
Agency (state or federal) websites	32.91%	12.82%	17.95%	17.52%	18.80%	234
GovInfo or GPO.gov	37.04%	16.67%	14.81%	12.96%	18.52%	54
BNA or any BNA resource	40.00%	6.67%	13.33%	6.67%	33.33%	15
Westlaw or Lexis Advance	31.69%	28.96%	13.66%	12.02%	13.66%	183
Fastcase, Casemaker, Ravel Law, or other low-cost legal research database	40.35%	33.33%	9.65%	8.77%	7.89%	114
Bloomberg Law	50.00%	7.14%	28.57%	7.14%	7.14%	14
Pitchbook	0.00%	0.00%	0.00%	0.00%	0.00%	0
Practical Law	36.67%	23.33%	16.67%	16.67%	6.67%	30
I used resources not listed here in the past month	26.32%	12.63%	23.16%	16.84%	21.05%	95

