Legal Research - Strategy

Following a legal research strategy will help you control your research, avoid information overload, and avoid wasting limited time and resources on wild goose chases. By following a comprehensive research strategy, you can feel confident that you have been both efficient and thorough in researching the problem presented to you – two qualities that employers and clients will appreciate.

There are many frameworks for creating a legal research strategy. Which framework you use isn’t as important as the simple act of actually using one.

One popular framework is the Rombauer Method, which we will cover in this video. There are 4 steps to the Rombauer Method:

- The preliminary analysis
- Checking for statutes
- Search for cases
- Refining, double-checking, & updating your research

This framework is flexible, so you can use it to map a strategy for any legal problem you come across. It provides a “checklist” to ensure that your research is complete. You may not always use all of these steps in future research projects, but you should do so when faced with a broad research project or a topic that is new to you.

The preliminary analysis is the most important step. What you do here will dictate your entire research process, so devote an adequate amount of time to think and work through this step.

During the preliminary analysis, you want to:

- Identify relevant facts and issues
- Identify keywords and phrases and expand them to other potential search terms
- Identify the Jurisdiction
- And Assess your knowledge

Remember: research is rarely linear. As you gather sources and do more reading, you’ll rethink the issue and refine your approach. You need to be sure no relevant authority has been missed, and you need to be sure what authority you have found along the way is still good law. This is where the 4th step of Rombauer comes into play, which is to refine, double check, and update your research.

Refine your research throughout the process by finding additional information if needed. For example, you may need to follow up on newly discovered terms of art.

Double check that you have searched all relevant places, using all relevant search methods. If you haven’t, do so.

Use citators throughout the process and again at the very end to make sure all statutes and cases are still good for your point of law.

Now, let’s put together everything you’ve learned about legal research thus far by working through an example.
To celebrate Labor Day this year, Michael Brewer threw a large party for his law firm colleagues at his house on Lake Hopatcong in New Jersey. He provided a full bar and 3 kegs of beer for his guests to drink. Jake Long, an associate at the firm, arrived at the party around noon. Michael poured Jake beers all day long, even after Jake was visibly intoxicated. Later that evening, as Jake was stumbling to the bathroom, he bumped into and spilled his beer on another party-goer, summer associate Bill Lewis. Bill demanded that Jake apologize, to which Jake responded, “I'll give you an apology,” and proceeded to punch Bill in the face and break his nose. Bill has hired you to represent him in civil court. He knows he can recover damages from Jake, but he would like to know if Michael also can be held liable for damages because Michael continued to serve alcohol to Jake even though Jake was visibly intoxicated.

Let’s work through the steps of Rombauer, starting with the preliminary analysis...

Think about the facts and issues using the 5 W questions:

- Who is involved?
  - Host & guests
- What happened?
  - Host served beer to intoxicated guest
  - Intoxicated guest injured another guest
- When?
  - September 1, 2014
- Where?
  - New Jersey
- Why is there a possible cause of action?
  - We need to determine if the host of party is liable for damages when one guest is injured by another intoxicated guest?

We can now take these factors and turn them into a list of key terms and phrases to help us conduct our research. At this stage, considering possible synonyms or related terms can be quite helpful, since fact patterns may be slightly different but still applicable and even with identical facts a judge or legislator’s word choice can vary. So for....

Key Terms & Phrases:

- Host, we also have hostess and party-giver
- For Guest, there’s attendee and invitee,
- Beer can also be alcohol, liquor, spirits
- Relatedly, Intoxicated is also inebriated or drunk
- For Injury, we have wound, fight, punch, hit
- And lastly, liability might be responsibility

Bearing in mind that our jurisdiction is New Jersey, we can conduct a knowledge Assessment:
Do we have a known item, such as a statute or case? No, and you probably do not know very much about this area of law. Therefore, let’s begin researching by finding applicable secondary sources that will provide an overview and point us in the right direction for primary materials.

1. Secondary Sources

Starting in State Materials We go to New Jersey Secondary Sources. Using some of the key terms & phrases we identified in the preliminary analysis, we can create a terms & connectors search

When you get your results, the first thing you may notice is the term “social host” that pops up repeatedly – this will turn out to be a valuable term of art. While it is possible that all of these results contain valuable information, result #6 AN IN-DEPTH ANALYSIS OF THE DEVELOPMENT AND RAMIFICATIONS OF NEW JERSEY’S SOCIAL HOST LIABILITY STATUTE in the Seton Hall Legislative Journal is jurisdiction-specific, so let’s start with that. Remember, there are a few good reasons to start with secondary sources: reading this law review article could give us context and background on the state of the law in New Jersey. In addition, we get a citation to the definitions section of a New Jersey statute that is a direct link to the statutory provision. If we click on the Table of contents, the header “Limitation of nonliability of social host” jumps out.

2. Statutes

The statute is very short and looks pretty clear, but remember to always check the Notes of Decisions to make sure that the courts have not interpreted the statute in different ways that might match the facts of our case.

3. Case Law

Under the only topic in the notes of decisions, case #4 Componile v. Maybee is on point:

The plaintiff was punched and kicked by an intoxicated party goer – this fits our facts. Unfortunately for our client, the judge held that the host was only liable in the case of an intoxicated minor guest or car accident involving an intoxicated guest.

4. Now we Refine, Double Check, & Update

Refine:

What is the actual meaning of “social host liability”? Does it apply to my issue?

Here we might consult secondary sources such as Black’s Law Dictionary or the ALR on this topic to find out that a social host is differentiated from a professional server such as a bartender, convenience store clerk, or waiter.

Double check:

Run through all methods for searching for statutes and case law one last time – you should check the terms you used if you conducted a keyword search, skim additional secondary sources that look promising, and make sure you have thoroughly read the entire statute, not just limited sections.

Update:
Use citator to check that your statutes and cases are still good law

With no red or yellow flags and no negative treatment, KeyCite indicates the statute and case are still good law.

So, according to statutory and case law, Michael cannot be held liable for damages to Bill, even though Michael continued to serve alcohol to Jake even after Jake was visibly intoxicated.

While this is an atypically simple scenario, Rombauer or other methods of developing a research strategy can easily scale to larger, more complex projects and keep your research organized, thorough, and efficient.

This concludes our video on using a legal research strategy. If you have more questions, please feel free to ask a librarian for help.