

CML 1101: Principles of Legal Research (Fall 2009)

Introduction to the course and to the methodology of legal research

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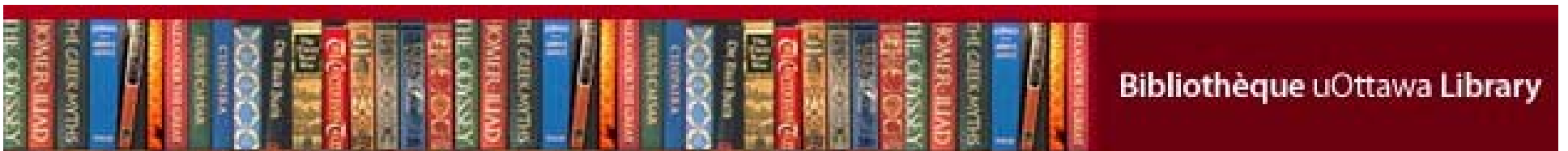
Outline

- Introduction to the course and to me
- Importance of legal research
- Paper vs. electronic: advantages / disadvantages
- Legal abbreviations
- Pre-course questionnaire



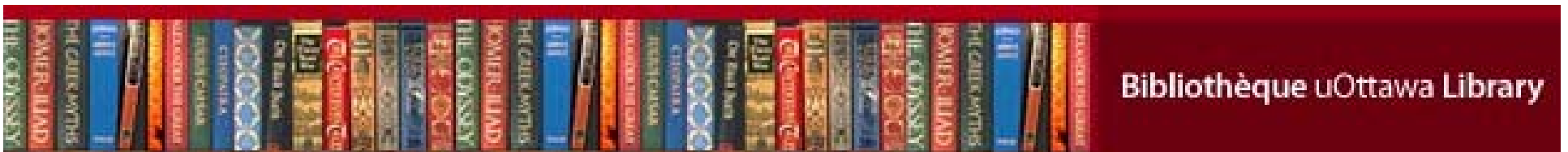
Who am I?

- Law Librarian / Instructor
- Part of the “helping professions”
- Role at the Brian Dickson Law Library



Why this course is important

- Research is *fundamental* to a lawyer's work
- But, more practically:
 - More opportunities for work/credit as a student:
 - Ottawa Law Review
 - Law & Technology Journal
 - Canadian Internet Policy and Public Interest Clinic
 - Internships
 - Pro bono
 - Legal aid clinic
 - Dean's Legal Research and Writing Fellowship



Importance of legal research



The Law Society of
Upper Canada

Barreau
du Haut-Canada

- Rules of Professional Conduct
 - [Rule 2: Relationship to Clients](#)
 - “competent lawyer”



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Cases where (lack of) legal research discussed

1. *Lougheed Enterprises Ltd. v. Armbruster* (1992), [63 B.C.L.R. \(2nd\) 316 \(C.A.\)](#).

- counsel has a **duty** to research all cases on point
- the duty to inform the court includes a duty to refer the court to cases which may **contradict** counsel's argument, as well as those that may be **unreported**



Cases where (lack of) legal research discussed

2. *World Wide Treasure Adventures Inc. v. Trivia Games Inc.* (1987), [16 B.C.L.R. 135 \(Sup.Ct.\)](#).

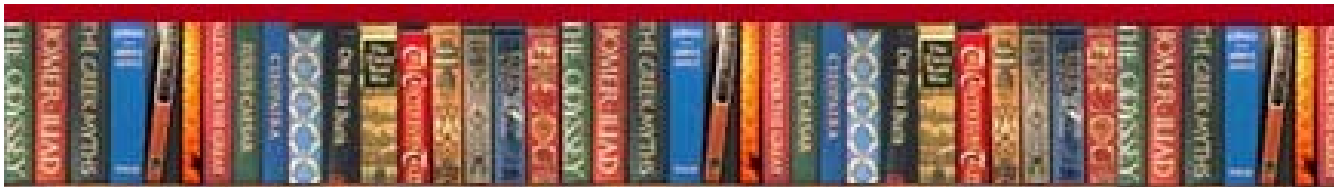
- counsel's failure to properly research and understand the law may indicate negligence on the part of the lawyer
- here, this failure resulted in solicitor-client costs being awarded against *the lawyer*



Cases where (lack of) legal research discussed

3. *Gibb v. Jiwan*, [1996] O.J. No. 1370 (S.C.J. (Gen. Div.).

- counsel has a duty to be **competent** and to keep informed of developments in their area of practice
- counsel must adequately research and understand the law prior to giving advice to a client or prior to appearing in court



Brian Dickson Law Library website

- A quick tour of:

www.biblio.uottawa.ca/ftx

– Focus on the [catalogue](#)



Course Wiki

<http://legalresearchprinciples.pbworks.com>

Principles of Legal Research

VIEW

EDIT

FrontPage

last edited by Julie Lavigne 2 wks ago

Page history

Welcome to **Principles of Legal Research**, a wiki created to allow students enrolled in the course CML 1101 (Fall 2009) at the [University of Ottawa](#), to access resources of use in conducting legal research.

Photo by [zalqon](#), made available under [Creative Commons](#).

Comments (0)

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[Legal Research Manual](#)

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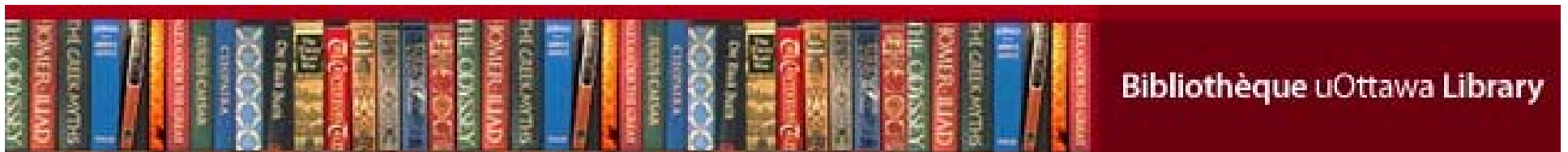
[Exercises/Assignments](#)

[Brian Dickson Law Library](#)

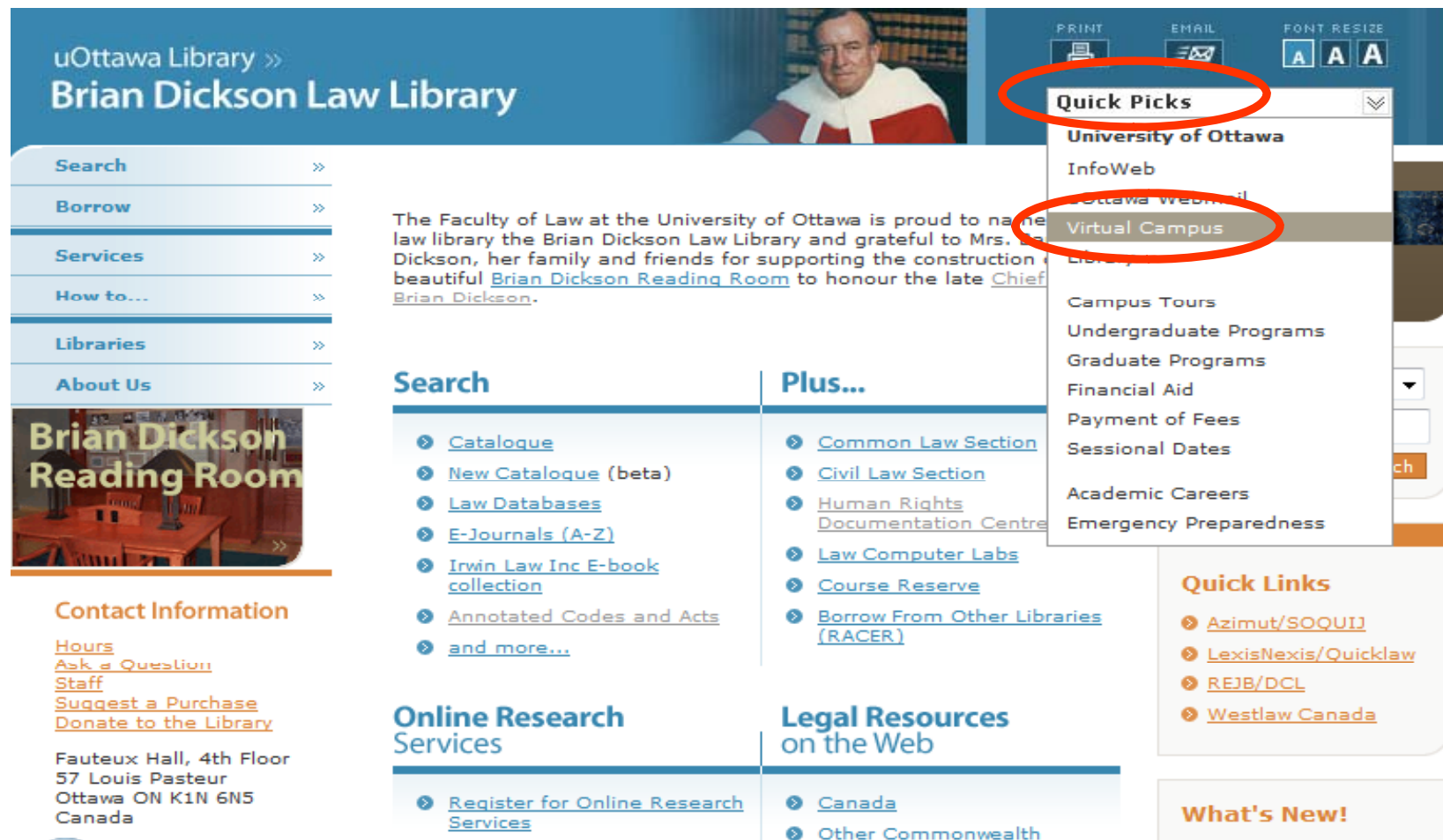
[Library Basics](#)

[How do I find sources on...? A summary of sources for locating legal information](#)

[Other Research Guides](#)



Virtual Campus



The screenshot displays the uOttawa Library website. The header includes the text "uOttawa Library » Brian Dickson Law Library" and a portrait of Brian Dickson. A navigation menu on the left lists "Search", "Borrow", "Services", "How to...", "Libraries", and "About Us". A "Quick Picks" dropdown menu is open, showing options like "University of Ottawa", "InfoWeb", "Virtual Campus" (highlighted with a red circle), "Campus Tours", "Undergraduate Programs", "Graduate Programs", "Financial Aid", "Payment of Fees", "Sessional Dates", "Academic Careers", and "Emergency Preparedness". The main content area features a paragraph about the Brian Dickson Law Library and a "Search" section with links to "Catalogue", "New Catalogue (beta)", "Law Databases", "E-Journals (A-Z)", "Irwin Law Inc E-book collection", "Annotated Codes and Acts", and "and more...". A "Plus..." section lists "Common Law Section", "Civil Law Section", "Human Rights Documentation Centre", "Law Computer Labs", "Course Reserve", and "Borrow From Other Libraries (RACER)". A "Contact Information" section provides hours, contact links, and address. A "Quick Links" section lists "Azimut/SOQUIJ", "LexisNexis/Quicklaw", "REJB/DCL", and "Westlaw Canada". A "What's New!" section is also present.

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Brian Dickson Reading Room

The Faculty of Law at the University of Ottawa is proud to name the new law library the Brian Dickson Law Library and grateful to Mrs. Brian Dickson, her family and friends for supporting the construction of this beautiful [Brian Dickson Reading Room](#) to honour the late [Chief Justice Brian Dickson](#).

Search

- › [Catalogue](#)
- › [New Catalogue \(beta\)](#)
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- › [E-Journals \(A-Z\)](#)
- › [Irwin Law Inc E-book collection](#)
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Plus...

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- › [Law Computer Labs](#)
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57 Louis Pasteur
Ottawa ON K1N 6N5
Canada

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What's New!



Virtual Campus

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CML 1101 - Principles of Legal Research



[Getting Started](#)
Start here!



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More info on legal resources and research strategies!



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The legal research process



How legal research differs from research in other contexts

- You need to be:
 - Aware of legal materials;
 - Familiar with multiple sources and different techniques for each researching various types of problems;
 - Able to search for primary authorities, as well as a large range of secondary sources; and,
 - Certain that your research is up-to-date.



Information Satisfaction

- The Google approach (Eureka!)
- General info approach
- I don't know what I want approach



Categories of legal research materials

- **Primary authority**

- information in its original form
 - judicial and administrative decisions, and enacted legislation

- **Secondary authority**

- an **interpretation** of case law and/or legislation
 - textbooks, reports, government documents, articles, etc.

- **Finding tools**

- Library catalogue, periodical indexes, search engines, legal gateways/portals, case digests



Paper vs. electronic research

- Advantages & disadvantages – *your thoughts?*
- Why you'll need both
- When to use each method



Paper vs. electronic research

Print sources are good for searching for background information or for very broad terms, or simply when you don't have a lot of \$\$\$.

Online sources are good once you have an idea of what you're looking for, or when you have to search a very narrow term. But they can cost lots of \$\$\$, so pick your source carefully!



The Four C's of good legal research:



orrect
omprehensive
redible
ost-effective



The legal research process

- **Basic steps:**

- Identify the relevant facts and the legal issue(s)
- Work with specialized legal and non-legal research tools and sources
- Apply the law you find to solve the legal problem



Types of legal research

- **Research done by a legal scholar**
 - Usually directed toward general conclusions
 - Broad/exhaustive searches
 - Attempt to find and discuss all relevant material
 - End result: a critical piece of work
- **Research done by a lawyer**
 - Attempt to find and apply legal authority relevant to the *precise* question of client
 - More narrowly focused
 - Deadline-driven
 - End result: a specific legal document, *e.g.* memorandum of law



“FILAC” Approach

- Facts
- Issues
- Law
- Analysis/Application of law to facts
- Communication

See Maureen Fitzgerald, *Legal Problem Solving: Reasoning, Research and Writing*, 3d ed. (Toronto: Butterworths, 2004) at 2-4.



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“FILAC” Approach

- **Facts**

Correctly identify the relevant facts –
sometimes obvious, sometimes not

*But what if I don't know enough about the
subject at hand?*

- Issues

- Law

- Analysis/Application of law to facts

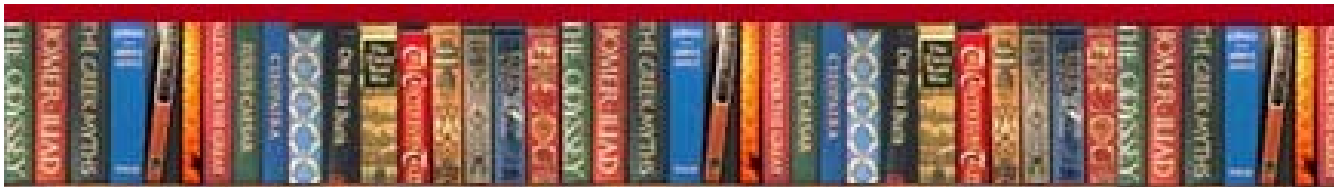
- Communication



“FILAC” Approach

- Facts
- **Issues**
- Law
- Analysis/Application of law to facts
- Communication

Identify relevant issues to be researched. These arise from the facts, usually stated in the form of legal questions that the client needs answered.



“FILAC” Approach

- Facts
- Issues
- **Law**

Find the relevant law.
1) Use secondary sources – broad overview.
2) Narrow in on primary sources.

- Analysis/Application of law to facts
- Communication



“FILAC” Approach

- Facts
- Issues
- Law
- **Analysis/Application of law to facts**
- Communication

Apply the relevant law to the facts to analyze the way a judge would decide the matter given the same set of facts.



“FILAC” Approach

- Facts
- Issues
- Law
- Analysis/Application of law to facts
- **Communication**

Communicate results of the research problem – be clear, accurate, concise.



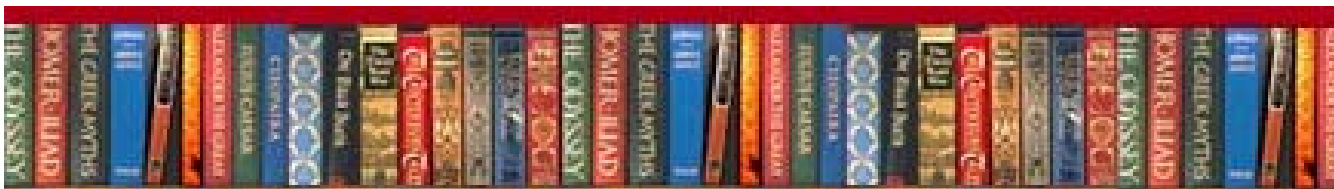
When can I stop researching?

- When you have completed the steps in the legal research model you're using
- When you have used a variety of appropriate sources
- When you are finding the same authorities over and over again
- When cost exceeds benefit, i.e. you run out of time



Deciphering legal abbreviations

- What gets abbreviated?
 - Names of courts & tribunals, periodicals, yearbooks, case law reporters
- McGill Cite Guide includes appendices with abbreviations
- Dictionaries of legal abbreviations
- [Online legal abbreviation sources](#)



Online legal abbreviation sources

- Brian Dickson [in-house binder](#)
- *[Cardiff Index to Legal Abbreviations](#)
- [Liste des abréviations juridiques](#) (U de Montréal)



Summary

- Legal research...
 - Can be done in print and/or online
 - Is not linear or necessarily straightforward
 - Requires an awareness of what primary & secondary materials are and where they can be found
 - Can be frustrating and tedious at times
 - Requires patience and practice!



Exercises

- If we have time!
- Practice exercise about the library:
 - Complete the first exercise in pairs.
 - Complete the second exercise individually. Hand it in today OR at the beginning of next week's class

