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Looking for Waldo

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Practicing Reference . . .

Looking for Waldo*

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¶1 Waldo is a bespectacled white man with striped hat and pullover who strolls genially through crowds of people in different locations—a beach, a ski resort, a campground.[1] Fans of books in the *Where's Waldo?* series welcome the challenge of finding him in each scene. In the wildly busy two-page spreads, Waldo isn't the only figure with red stripes, and it's easy to get distracted by a silly situation or a visual pun, so you have to look carefully.

¶2 Research[2] is sort of like that. When we're looking for case law, for instance, we are presented with a very cluttered landscape, with cases from many jurisdic-

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1. MARTIN HANDFORD, WHERE'S WALDO? (1987). The pages are unnumbered, but I can tell you these scenes are the second, third, and fourth two-page spreads. There have been many books, but my examples will come from the first, because that's the one I have. For a list of "primary" books and alternate-format books (such as sticker books), see *Where's Wally?*, WIKIPEDIA (last modified Aug. 13, 2019, 09:07) [https://perma.cc/4BCP-G74T]. Waldo started out life in the United Kingdom as Wally, but changed his name to Waldo for books published in the United States and Canada. He travels under other names around the world. As a North American writing for a North American audience, I'll stick with calling him Waldo.

  I mention that Waldo is white because, well, he is. And it's useful to remind ourselves of assumed whiteness—so we don't say that Tonto is an Indian but simply assume that the Lone Ranger is white. Some people have criticized stereotypes—for example, Native Americans in front of a tepee and Japanese sumo wrestlers—in some of Handford's cartoons. *E.g.*, Elisa Gall, *Looking Back: Where's Waldo?*, READING WHILE WHITE (Sept. 6, 2017), http://readingwhilewhite.blogspot.com/2017/09/looking-back -wheres-waldo.html [https://perma.cc/ZD5Z-UEQ5]. It's not for me to say that no one should be bothered by the drawings, but people of color are not uniquely targeted by Handford's pen. In the drawings I've examined, white people overwhelmingly look foolish. Generalizing from the drawings, one might say that white people are very, very silly. A collection of picture books should be much wider than the *Where's Waldo?* series, including books by illustrators of color, but I think *Waldo* can be a part of it.

  One school library removed *Where's Waldo*, not because of its stereotypes of Native Americans, but because of a glimpse of a woman's breast. Anna Quindlen, *Public & Private; The Breast Ban*, N.Y. TIMES, Apr. 7, 1993, at 23, https://www.nytimes.com/1993/04/07/opinion/public-private-the-breast -ban.html [https://perma.cc/3T52-T9VK]. Glimpses of breasts can be controversial, even criminally so. *See, e.g.*, Mary Whisner, Note, *Gender-Specific Clothing Regulation: A Study in Patriarchy*, 5 HARV. WOMEN's L.J. 73, 109–14 (1982) (discussing City of Seattle v. Buchanan, 584 P.2d 918 (Wash. 1978) (en banc) (upholding the convictions of five women who swam with uncovered breasts)).

2. Since this is *Law Library Journal*, I'm of course talking about legal research. But everything I say can apply to research using databases (or print tools, for that matter) in other fields, whether medicine (PubMed), sociology (Sociological Abstracts), or U.S. history (America: History and Life).

tions and time periods, addressing multifarious legal issues. After you retrieve a set of cases in an online search, you have to examine each to see whether it matches what you're looking for; if it were a cartoon figure, you'd be asking whether it has glasses, a hat, a striped sweater, and so on. If it doesn't have everything you're looking for, then you move on. If it does, then you've solved the puzzle and can move on.

¶3 But few people examine each figure in a *Where's Waldo?* spread in detail. In the beach scene, for instance, I don't look at each figure along the bottom edge of the drawing and carefully assess whether he or she could be Waldo. I can tell at a glance that most of them are not Waldo; I don't have to list the criteria I'm looking for and check off which are present. Of course, one *could* plod through methodically,[3] but finding Waldo would be a very slow process.[4] Similarly, experienced researchers learn to skim cases without analyzing them in depth. If a search yields, say, 100 cases, I can skim bits (e.g., the first paragraphs and the sentences where my search terms appear) and quickly decide that many aren't worth reading in full.

¶4 I find searching for Waldo most enjoyable when I step away from careful method (such as searching by quadrant) and instead let my eyes and my mind wander. Somehow Waldo pops out of the background as a pleasant surprise.[5] But I don't recommend that for research. When reviewing a list of search results, I do not flit from number 27 to number 93 in a relaxed, dreamlike state. Instead, I take advantage of the database's options for sorting. I often start with the most recent cases or articles, but I also like to sort by most cited. Sometimes I use the system's algorithmic determination of the most relevant documents and look at those first. Whereas Waldo is nearly as likely to show up in the middle of the left page as in the top right corner of the right page,[6] useful documents are arranged in a results list much less randomly. A case from a higher court is more likely to be useful than one from a lower court; one that has been cited by many other cases is probably more important than one that has never been cited (unless the never-cited case is very recent).

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3. The first figure is white, like Waldo, but his shirt is white, not striped, and he has no hat or glasses: he's not Waldo. The second character is white and has a red-striped top, but he's blond, so he's not Waldo. The third has brown skin, black hair, and no stripes: not Waldo. And so on.

4. Also probably not much fun.

5. Learning to look for Waldo requires processing skills important for reading. *Where's Wally? Eye Tracking Skills for Improving Reading*, YOUR SPEECH ROOM (July 28, 2016), http://www .yourspeechroom.com.au/blog/eye-tracking-skills-for-improving-reading [https://perma.cc/42B8 -32G4] [hereinafter *Eye Tracking*]; *see also* Kat Eschner, *The Science Behind Our Search for Waldo*, SMITHSONIAN.COM (Sept. 21, 2017), https://www.smithsonianmag.com/smart-news/science-search -waldo-180964909/ [https://perma.cc/2RKR-Q6CW].

    As with many tasks, machine learning can be used to automate the search for Waldo. *See* Dami Lee, *This Robot Uses AI to Find Waldo, Thereby Ruining Where's Waldo*, VERGE (Aug. 8, 2018, 4:12 PM EDT), https://www.theverge.com/circuitbreaker/2018/8/8/17665268/wheres-waldo -finding-robot-google-cloud-automl-ai [https://perma.cc/MNB4-JT3K] (includes video). It can still be fun to do something—like looking for Waldo—even if you know that a computer can do it faster.

6. It turns out that Waldo's locations are not entirely random—for instance, he's never on the very bottom of the right page. Randy Olson, *Here's Waldo: Computing the Optimal Search Strategy for Finding Waldo*, RANDAL S. OLSON BLOG (Feb. 3, 2015), http://www.randalolson.com/2015/02/03 /heres-waldo-computing-the-optimal-search-strategy-for-finding-waldo/ [https://perma.cc/9GWY -743C]. For purposes of this discussion, let's assume that Waldo's location in each drawing is nearly random.

¶5 This is an important difference between recreationally looking for Waldo and doing research. The scenes in *Where's Waldo?* are intentionally chaotic, with figures that make little sense in their context: the figure in a parka and fur hat is between two people wearing typical beach outfits; a few feet from the water's edge a man in a white lab coat is holding a stethoscope to a horse's behind. Research materials, on the other hand, come with lots of structure. Even an individual document (e.g., case, statute, or article) has markers that situate it within a context that adds to its meaning. For example, a case includes jurisdiction, level of court, and date; a statutory section indicates jurisdiction, the broader title it's part of, and the year of the code. An article indicates the journal (e.g., bar journal, scholarly journal), the author and the author's affiliation (e.g., student, professor, or judge), and the date. You don't even need the full document: because of conventions, even the citation alone will give you this information about a case, statute, or article.[7]

¶6 Not only does each document (or citation) have these markers, but the structure of legal materials offers many ways to see the nonrandom relationships among authorities. When Case B cites Case A, we assume that the two cases are linked by subject matter (if only one narrow point of law). When a case from Nevada cites a case from California, we know that the cited case is being used as persuasive precedent because California cases are not binding in Nevada. If a new act amends an old one, we know that the newer one is the one that has legal effect. Cases and articles that cite other cases and articles open doors to lines of authority or scholarly analysis. And, trivial though it might seem, we know that a 2003 article cannot offer insights about a law that was passed in 2012 or a case that was decided in 2015. All of this means that a list of search results is fundamentally different from a page of *Waldo.* While characters can appear in a scene for no reason but the visual wit of the artist, retrieved documents fit into a large, interconnected fabric of legal authority.

¶7 The more experience researchers gain, the more they can take advantage of the structure built into the research universe. An apparently easy way to search in Lexis and Westlaw[8] is to type terms into the general box at the top of the home page. The algorithms developed by the companies' programmers take over and, by default, the researcher is presented with a list of materials ranked by relevance (as determined by the algorithms). Each system bows to the existence of categories of authority because, at this point, the user must choose cases, secondary sources, or whatever.[9] A researcher can select filters in the sidebar to sort further—e.g., by jurisdiction or by date. As an experienced researcher, I prefer to do a lot of that sorting before I search, by choosing a narrower database (e.g., a practice area or type of secondary source) and a date range.

¶8 Researchers can also use their knowledge of the interrelationship of legal materials. If you know that secondary sources will (among other things) describe important themes and cite important cases and statutes, then you might start out your research looking for a secondary source rather than jumping into a case law database. Even within secondary sources, you can use your knowledge of publishing conventions to search for material that's likely to be useful. For instance, if you

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7. *See generally* Alexa Z. Chew, *Citation Literacy*, 70 Ark. L. Rev. 870 (2018).

8. To use the latest names, Lexis Advance and Westlaw Edge. You know what I mean.

9. They both default to showing cases, if a researcher doesn't look at the sidebar and choose something else.

want practice tips for lawyers on the ethical and liability issues related to data breaches, looking for recent bar journal articles will probably be more productive than searching legal encyclopedias. If you want a review of cases from many jurisdictions, you can look for an annotation from *American Law Reports*. And if you want a critique of tort law based on critical race theory, you'll be better off searching scholarly journals than legal newsletters.

¶9 The basic *Where's Waldo?* activity is looking for the one Waldo in each picture.[10] If you don't find it right away, you can keep looking, confident in the knowledge that there will be one. You don't have to spend time thinking about the characteristics of the figures who aren't Waldo. You don't care about the people with blue stripes, with solid tops, without hats, and so on. And if you find Waldo, you can pat yourself on the back, knowing that you've found the only one in that spread. But research isn't like that. If we use "Waldo" as a shorthand for "a useful source," we never know for sure whether there will be a Waldo, and if there is one, we don't know if it's the only one. Recently a lawyer told me that she was concerned about associates who struggled with either stopping research after finding one relevant case (when there might be others) or not knowing what to do when research doesn't yield even one.[11] In a way, they are viewing research as a *Where's Waldo?* exercise, assuming that every one problem will be solved by exactly one relevant case.

¶10 When teaching research, we can make it look like a search for Waldo. For example, preparing for an in-class demonstration, we might carefully craft the sample searches so they lead to a document that is obviously helpful: here's a hypothetical research problem (that we made up) and here's the search (that we practiced) and voilà! here's the perfect source. Unfortunately, when the students go off to run their own searches, they might experience something different—no Waldo or too many Waldos. To build confidence, we sometimes construct exercises that steer the students to success. We can frame the question to lead to just one document (find the 1994 federal district court case brought by a spectator at a Charlotte Knights baseball game who was hit by a foul ball[12]).

¶11 Some examples like these are probably useful,[13] but I think we should also include more realistic illustrations. In our demonstrations, we can set up examples that yield a lot of results and explain that as researchers we would need to read them and think about them as we analyze the problem we're working on. Even a very good search doesn't solve a research problem in one blow. We can also try searches that don't retrieve anything useful. And when we give assignments, we can

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10. Using checklists at the back of the book, you can look for other people and objects. For instance, the beach scene checklist includes "A dog biting a boy's bottom" and "A man who is overdressed" as well as "A cactus" and "Two oddly fitting hats."

11. There are many possible responses to finding no cases besides giving up. The researcher might need to reconsider the search terms used. Or it might be an occasion for broadening the search to other jurisdictions, for persuasive authority. Or the researcher might need to think of analogous situations that would have developed legal principles that could apply to these new facts. Maybe there are not published cases because the legal issue is very recent: perhaps searching pleadings and dockets would turn up some early litigation. Or maybe the issue isn't one that lends itself to litigation at all: who would the plaintiffs be? would they have standing? would they have the resources to bring suit?

12. Gunther v. Charlotte Baseball, Inc., 854 F. Supp. 424 (D.S.C. 1994).

13. Among other things, the assignments that ask students to find a Waldo that we know is there are easier to grade than ones filled with ambiguity: did the student find the Waldo or not?

set up scenarios to help students explore those uncertain landscapes, where they might need to examine many potentially relevant sources, or their first searches don't turn up anything that looks good. While researchers are looking for that one good Waldo—the perfect source that perfectly fits the question presented—it is often worthwhile to look at the wider picture. For example, some related cases might suggest that there is room for the courts to change a rule as stated in the good case you found.

¶12 The *Where's Waldo?* books are entertaining and can even help with reading readiness.[14] Searching for Waldo is a good metaphor for research—but it is limited. Unlike the children and adults enjoying the whimsical Waldo drawings, researchers need to know about the fundamental structure of legal sources. And unlike the search for Waldo, real-life research often requires looking for a range of material, not just one man in a striped top. We need to be prepared for multiple Waldos, or none at all.

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14. *See, e.g., Eye Tracking, supra* note 5; Allison McDonald, *How to Use "Where's Waldo?" for Literacy Skill Building,* Scholastic Parents (Oct. 9, 2014), https://www.scholastic.com/parents/books-and-reading/raise-a-reader-blog/how-to-use-wheres-waldo-literacy-skill-building.html [https://perma.cc/ZGY7-9X3T].