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## Teaching Legal Research Using Fairy Tales

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*Once upon a time in a legal research class far, far away, there was a princess who did not have access to Westlaw or Lexis . . .*

*Alright maybe there was not a fairy tale like that, but . . .*

### I. Introduction

In my weekly attempts to make my legal research class more interesting and engage students with the materials, I have been employing “fairy tales.” I have learned that fairy tales can function in a variety of ways. They not only serve to keep the students’ interest during a three-hour night class, but they can easily be adapted to various parts of the class as examples, group exercises, weekly assignments, or as fact patterns for mid-terms or final exams. If the students are not interested and engaged in the materials, then they are not going to learn as much. I really enjoy legal research and find it interesting, and I want to share my enthusiasm with the students.

### II. Legally Correct Fairy Tales

I cannot take credit for the use of fairy tales as they relate to legal scenarios. An excellent book, *Legally Correct Fairy Tales*, by David Fisher, is a great starting point.<sup>1</sup> My goal is to describe in detail how I use fairy tales in a legal research class to engage students in the materials. Any of the fairy tale scenarios can be changed into a fact pattern in which the students can be asked to apply a given legal research concept to a fact pattern. I tend to use the fact patterns

toward the end of my class when the students have, hopefully, been able to apply what they have been learning throughout the term.

#### A. Researching Federal Statutes—Snow White

One of the fairy tales that I have used the most successfully is Snow White. First, picture an image on the screen of Snow White and the seven dwarfs. The dwarfs are equipped with their pickaxes and look like they are headed off to work. Snow White is in the background by a house waving goodbye to the dwarfs. I then have the students guess the legal issues involved with the scenario. In the fact pattern from *Legally Correct Fairy Tales*, Snow White runs a diamond mining company, “Snow White Inc.,” and her employees are the seven dwarfs. Some students guess she might have violated child labor laws, some guess slavery, adultery, and other off-color accusations. I then ask the students, “Does anyone notice any similarities among the type of employees Snow White has hired?” I give them some time and eventually most classes notice that Snow White has hired not one, not two, but seven individuals—all of whom are men, all of whom are white, and all of whom are short (each is exactly 48 inches). Therefore, the Kingdom is charging Snow White with employment discrimination. We actually have three separate issues for the students to research: first, discrimination based on gender, second, discrimination based on race, and third, discrimination based on height. This gives three legal issues and, adding the prosecution or defense of each issue, we have six separate areas for the students to research.

I then break up the students into six groups. Each group is given an index card with a specific issue to research. For example, group one’s card might say, “Prosecution team: Can Snow White hire only men to work in her diamond mine?” Group two’s card would say, “Defense team: Are there any exceptions that make it permissible to hire only one gender in the workplace?” Next, students would research the fact pattern using Westlaw or Lexis. I would then

<sup>1</sup> Davis Fisher, *LEGALLY CORRECT FAIRY TALES* (1996). For other resources discussing fairy tales and the law, see Katherine J. Roberts, *Once Upon the Bench: Rule Under the Fairy Tale* (<https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1247&context=yjllh>) and *FABLES OF THE LAW: FAIRY TALES IN A LEGAL CONTEXT* (Daniela Carpi & Maret Leiboff eds., 2016).

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go around to each group, making sure that they are on the “right” track and giving them suggestions, steering them toward primary or secondary sources. Each of the scenarios is designed to emphasize a certain type of legal research bibliographic source.

For the first two legal issues, discrimination based on race and discrimination based on gender, both have federal statutes on point.<sup>2</sup> The defense teams are encouraged to research any exceptions that might exist in either of the first two issues. For example, even though the United States Code Title VII states that one cannot discriminate based on gender, there is a “bona fide occupation qualification” defense. The students may discover that the airline industry tried to use this defense to explain why they could hire only female flight attendants. A current-day exception under the “bona fide occupation qualification” might be to argue that a women’s prison should have only female prison guards.

For the third legal issue of height discrimination, there are no federal statutes and very few states that have laws on the point. This is a great opportunity to shift the focus to secondary sources. There is an excellent sixty-page law review focused entirely on height discrimination.<sup>3</sup> Ideally, the students would find this law review and recognize the usefulness of the article. The article comprehensively describes the current status of height discrimination, discusses the few states that have laws, and provides 323 footnotes for additional research. The students will see in application the concept that there are certain sources in legal research in which someone else has already done much of the research on a given topic, and to take advantage of this research. A discussion of other similar sources that provide comprehensive coverage such as *American Law Reports* could follow.

In addition, during the class on citators, I try to emphasize that one can Shepardize/KeyCite materials other than primary sources.

Since the law review article was a bit older, this was an opportunity to see if any of the students remembered that law reviews can be Shepardized/Key Cited in order to find any newer law reviews on the same topic.

#### B. Teaching Statutory Interpretation/Annotated Codes—Goldilocks Fact Pattern

When using fairy tales, I often start with the lesson that I want the students to learn and then “reverse engineer” the appropriate fairy tale to achieve the goal. My aim is to find a good fit for a given fairy tale to a given legal research topic.

For example, if I want the students to learn the importance of an annotated code, I often have them first look at just the state code at a given state’s website (non-annotated). I then use a fairy tale in which there is a statute where they have to look at the case annotations to see how the statute has been interpreted by a given jurisdiction.

Goldilocks and the Three Bears is a good fit for this scenario since Goldilocks can be accused of a few different crimes. In my altered scenario, Goldilocks goes hiking with her hiking club up at Big Bear Lake in California. She gets separated from her group. It gets late, she comes across a cabin, enters the cabin, helps herself to some food, and decides to spend the night there. I first have the students brainstorm as to the possible crimes Goldilocks could have committed.

Possible crimes include the following: breaking and entering, trespassing, and burglary. For issues related to burglary, California requires that one have intent to commit a felony upon entering a property for it to be a burglary. The students must consider Goldilocks’s intent, asking, “Did she intend to commit a crime when she first came across the Bear family cabin?” Often, I have the students explore other facets of the burglary statute. In my altered fact pattern, Goldilocks takes some small items from the Bear family cabin when she leaves in the morning. Another aspect for the students to explore is that burglary, in certain jurisdictions, can be committed only at night. Students learn that they often must find additional information

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<sup>2</sup> 42 U.S.C. § 2000e (2018).

<sup>3</sup> See, e.g., Isaac B. Rosenberg, *Height Discrimination in Employment*, 3 UTAH L. REV. 907 (2009).

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and must ask additional questions in order to have all of the information to properly research a given situation. For example, in this case, they need to know at what time Goldilocks entered the Bear family cabin, and what the definition of “night” is in the statute or the case law.

The breaking and entering statute is another useful example in which the students could learn about statutory interpretation and the importance of the annotated codes. The students must read the case annotations in order to see how “breaking” is defined in the given state’s statutes. In California, it is possible that just going over the space (called the plane) between a screen door and the main door of a residence counts as a “breaking” even if the person never opens the main door of a residence. It is my hope that students will see, in a practical setting, that the statutes are notorious for containing vague words and the importance of statutory interpretation.<sup>4</sup>

An additional lesson is that virtually no states have an annotated code on their state websites. This can lead to further discussion and lessons on the best use of the Internet versus Westlaw and Lexis and ethical considerations of using or not using each service.

#### C. Researching Federal/State Jurisdiction/ Administrative Regulations

One can also tailor any of the fairy tale scenarios to either one’s own state’s jurisdiction or federal jurisdiction. For example, when I want the students to research administrative regulations I ask, “What if the cabin Goldilocks broke into was a vacation cabin that was located on federal land?” and “Which agencies may manage federal land?” This leads to a discussion of the possible federal agencies involved.<sup>5</sup> Or, “Where would one find all of a given federal agency’s regulations?” This question leads the class to then apply their

previously learned knowledge of the Code of Federal Regulations and the Federal Register.

#### D. Additional Research Fact Pattern: Statutory Interpretation—Hansel and Gretel

Another fact pattern that lends itself well to statutes and statutory interpretation is Hansel and Gretel. In the *Legal Correct Fairy Tales* version, Hansel and Gretel have been using psychedelic drugs in the woods. The two become disoriented and claim to come across a gingerbread cabin with a candy-covered roof. In their hallucinogenic-influenced and slightly paranoid state, Hansel and Gretel end up killing a sweet old grandmother in the cabin. Hansel and Gretel claim that the grandmother was in fact a cannibalistic evil witch. There are various defenses and issues that Hansel and Gretel may explore such as self-defense, mens rea, and the insanity defense.

#### E. Teaching Secondary Sources— Sleeping Beauty

If I want the students to understand the importance of choosing the best secondary source for the situation, one fairy tale I often start with is Sleeping Beauty. In *Legally Correct Fairy Tales*, the King is hesitant to allow a potentially heroic attempt at reviving Sleeping Beauty. The hero attempts to use an experimental treatment known as “mouth-to-mouth” resuscitation.

Ideally, the students would have already learned that law reviews are often a great place to look for a discussion of issues in which the law has not yet caught up with the advances in science and technology. Students who are new to the law often assume that they should be able to find a case on any situation. One lesson they could learn is that there is very little case law for a given legal situation, especially in areas related to science and technology. However, certain sources, such as law reviews, lend themselves well to discussions of how future laws might or should apply to quickly changing areas such as experimental medical treatments.

#### F. Research Fact Pattern for Complex Litigation—Big Bad Wolf

If I would like the students to research a more complex issue, for a final exam perhaps, *Legally Correct Fairy Tales* has some more complex causes

<sup>4</sup> Another fact pattern that can be used to explore this concept is the stereotypical cartoon image of a freshly baked pie sitting on a windowsill.

<sup>5</sup> A given parcel of federal land could be managed by the Bureau of Land Management, the National Forest Service, the National Parks Service, or the Fish and Wildlife Service.

of action as well. One example I have used for a final exam is the Three Little Pigs. In this fairy tale, the Big Bad Wolf is charged under a RICO claim for the ongoing racketeering, extortion, and general terrorizing of the three little pigs. RICO is a good cause of action since most first-year law students or paralegal students are not going to have any prior knowledge of this statute. However, RICO is a bit complicated because it involves both criminal and civil causes of action.

Another more complex area for students to research is the products liability case that Jack and Jill bring against the Imperial Bucket Corporation. Jack and Jill claim that their untimely tumbling down a steep hill was caused by the faulty design and manufacture of the water bucket. Other related issues that the students could research are lack of instructions on how to use the bucket or lack of warning labels on the obviously dangerous product. As you can see, there are a variety of issues for the students to research.

#### G. Additional Research Fact Pattern for Complex Litigation: Little Red Riding Hood

I have also used a long-involved scenario of Little Red Riding Hood who is bringing a copyright infringement case against a film company that is using her likeness and name in a new film called, “The Adventures of Little Red Riding Hood.” In the *Legally Correct Fairy Tales* version, Little Red Riding Hood is a very successful businesswoman who makes a wide range of “Little Red Riding Hood” products. The legal issues that I have had students research in the past have included the following: copyright infringement, trademark, right to publicity, and invasion of privacy. As with all of the fairy tales, I often slightly alter the facts in order to emphasize a given cause of action.

#### H. Research Fact Pattern: Cases/Common Law—Humpty Dumpty

If I discover that a legal issue is just too complex for the students, I can always just change the questions to ask what their initial findings were on the lawsuit and what sources they used to come up with those findings. For a less complicated legal fact pattern, I have used Humpty Dumpty for students

to research the issues of negligence, assumption of risk, and medical malpractice. In *Legally Correct Fairy Tales*, Humpty Dumpty claims that all the King’s horses and all the King’s men did not correctly put him back together again.

#### I. Researching Secondary Sources—The Old Lady Living in the Shoe

In my class, I emphasize the importance of understanding the differences among all of the various secondary sources. In a mid-term or a final, I often have students explain why they did or did not choose a given secondary source in order to research a given fact pattern. This helps me figure out first, which students learned the differences among the various secondary sources and second, which students are able to choose a secondary source that fits the needs of a particular research fact pattern. In other words, was the student able to evaluate the secondary sources and choose one that would help them get the information they needed in the most efficient way?

Again, my goal is to engage the students with the fact patterns in order to encourage them to think what the best sources might be, given a certain type of fact pattern. For example, in *Legally Correct Fairy Tales*, the Old Lady Living in a Shoe dies and does not leave a will. You could ask the class what is the best way to start their research. I begin by telling students, “Let’s say that you do not know anything about wills and trusts.” Then I ask them, “In this case, where might be a good place to begin your research?” This leads to a discussion of legal encyclopedias and other good sources to use when one knows little or nothing of a given topic.

Then the students in a class could actually start researching the scenario using Westlaw or Lexis. Traditionally, going back a few years, we would use the print statutes and cases for the first two or three weeks of the course and then use the online research databases for the rest of the course.

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### III. The Flexibility of Fairy Tales as Fact Patterns

Fairy tales can be adapted to just about any aspect of a legal research class. As I stated earlier, they can be used as brief examples, in-class group activities, or fact patterns for mid-terms or finals.

It does take a fair amount of time to match the fairy tale to a given legal research concept. However, once you have worked out this part, the examples may be used repeatedly, as examples or group projects. In other words, even if you have already used a given fairy tale as a final exam you can still use it the next term as a group project, or as a practice for the new final exam.

Traditionally, I have taught my legal research class in a more traditional bibliographic manner, at least for the first few weeks. The students have to know and understand the differences between primary and secondary sources, codes and annotated codes, and know the wide-ranging purposes of the varieties of secondary sources. Against the current testing trends, I continue to give closed-book knowledge-based mid-terms where the students have to memorize

certain legal research points and concepts.

Toward the end of the course, I introduce the application of their knowledge to fact patterns.

### IV. Researching Happily Ever After

My goal in writing this Article is to suggest a fun way to help newer instructors of legal research and for those who might have limited experience as junior attorneys. I have found that one of the most challenging parts of teaching is coming up with examples, group exercises, and a brand-new mid-term and final exam every single term. I have often used the fact patterns either straight from *Legally Correct Fairy Tales* or I have adapted them to the particular lessons of the class that term. Even if I have to adapt the facts in the fairy tales, it takes much less time than coming up with an original fact pattern from scratch. Finally, it is my hope that by exposing new legal researchers to interesting fact patterns, it increases the likelihood that they will be actively engaged while effectively learning the legal research concepts. In this way, it is also my hope that legal research will not be seen as a necessary evil, but rather something that students will enjoy in their careers, *happily ever after*.

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## Appendix 1

### Quick Reference Chart

Research Topic	Fairy Tale Fact Pattern
Federal Statutes	Snow White and the Seven Dwarfs
Annotated Codes	Goldilocks, Hansel and Gretel
Complex Research	Big Bad Wolf, Little Red Riding Hood, Jack and Jill
Federal Jurisdiction	Goldilocks
Administrative regulations	Goldilocks
Secondary Sources	Old Woman Who Lives in a Shoe, Sleeping Beauty
Simple Fact	Humpty Dumpty