



Westlaw's new upgrade - WestlawNext

Report of an early adopter

BY JEFFREY ISAAC EHRLICH

On February 1, 2010, West rolled out its new, updated version of Westlaw, called WestlawNext ("WLN"). West is sparing no expense to market the new product, with ads in airports and high-traffic Web sites. In addition, whenever you sign-on to Westlaw (now called Standard Westlaw), you see a prominent invitation at the right of the screen to take a video tour of WLN. Basically, the promotional video touts three major improvements: new search algorithms that make it easier to find what you are looking for; a new updated interface that makes it easier to build effective searches; and new ways to organize and store the results of your research in folders created and stored within WLN.

After viewing the videos, I was interested in learning more. I e-mailed my Westlaw rep and asked her for more information. She sent me a temporary password, good for a week, which gave me full access to WLN. I didn't really have time to use the new product extensively that week. But in the brief time I used it I was impressed enough to want to know what it would cost to switch. The news didn't make me happy: A straight switch-over would increase my monthly Westlaw bill by about 20 percent, and would require a new three-year commitment. So I dropped one of the databases that I seldom used, which brought the cost down a bit, and signed up for the new product. Here is my report.

What's new?

•The interface – inspired by Google

According to reports I've read in legal-research blogs (I didn't know there were such things either), WLN is the product of 300 people who have been working full-time on the project since 2005. As far as the new interface goes, they have done a great job. The WLN interface looks like the offspring of Google and Westlaw, which is plainly no coincidence, and is a good thing. Plainly, part of West's goal was to make doing legal research more like doing research on the Web. So the main search screen for WLN has a single search box that tells you to "Enter search terms, citations, databases, anything . . ." This search box is akin to the box in Google's Chrome browser, which can figure out whether you are entering a URL or a search, and act accordingly.

West evidently debated on whether to do away with Boolean searches in WLN and rely solely on natural language. This issue was not resolved until shortly before the product launched. Happily, West decided to keep the Boolean capability. (This turns out to be a good call, for reasons I will get into below.) So you can enter a search either by using normal Boolean search logic (called "terms and connectors" in Standard Westlaw) or in natural language. You then select the jurisdiction you are interested in by selecting up to three in the "jurisdiction" box right next to the search box. When you click on this box, it opens into choices di-

vided between state and federal and which is keyed searching for case law. If you're looking for statutory or other non-case material, you specify the material in a "browse" box directly below the search box. The process is pretty intuitive when you are actually using it, even if my description doesn't make it sound that way.

The big difference between Standard Westlaw and WLN is the breadth of the initial search. In Standard Westlaw, you must first select the database or databases you want to run your search in. If you decide you want results from some other source, you change the database and re-run the search. And it costs extra to run searches in databases that are not part of your plan. In WLN, the search basically runs across the entire Westlaw platform; that is, in every database regardless of whether or not they are included in your plan. It then gives you the results in an "Overview" screen that lists Cases; Statutes; Regulations; Administrative Decisions and Guidance; Trial Court Orders; Secondary Sources; Briefs, Pleadings and Motions; Expert Testimony; Jury Verdicts; etc. It will tell you how many results your search generated in each category, and you click on the category to bring up a list. If the category is outside of your plan, it still displays all the results. But if you want to see the content, that's when you get charged.

You can easily sort the way the results are displayed. The default is by "relevance," but you can select date, most cited, or most used. If you want to



narrow your search, you do so by checking boxes that come up along the left margin. There is a “narrow” search box, which lets you run a new, more specific search within the existing search results. You can narrow by jurisdiction. You can put in date restrictions, or narrow by judge, attorney, law firm, key number, party, or docket number. You could do these things in Standard Westlaw too, but it’s much easier to select the various options in WLN, since they are all displayed as options.

Some nice touches: As you work through a list of material, WLN puts a small eyeglasses icon next to any document you have looked at. No more looking at a list of cases and wondering, “Did I already look at that one?” You can also change the amount of detail shown in a list with a single click. (There are three choices: less detail, more detail, and most detail.) If you select “more detail,” the list of cases will include a short blurb for each case that (may) explain what the case is about. This is hit or miss. For example, in *Aetna Health, Inc. v. Davila*, a Supreme Court ERISA-preemption case, the blurb is dead on: “LABOR AND EMPLOYMENT – ERISA. Claims for injuries resulting from decisions not to provide coverage for treatment were preempted.” But for another Supreme Court ERISA-preemption case, *Pilot Life Ins. Co. v. Dedeaux*, the blurb is worthless: “Employee brought common-law breach of contract and tort claims against insurance company that issued his employer’s group insurance policy. The United States District Court for the Southern . . .”

On the other hand, West has improved the way cases display, and gives you the option to change display fonts, sizes, and the width of the display again with a single click. Headnotes can be toggled on or off by clicking a button to expand or contract their display.

And at the top of the display is a keycite menu with tabs for filings available (such as the briefs in the case you are viewing), negative treatment (with the number of listed), the direct history, and

citing references (with number listed.) All the information that might interest you is easy to access.

•*New search algorithms*

WLN uses different, supposedly more powerful, search algorithms than Standard Westlaw. They even have their own name, Westsearch. WLN boasts it is “Powered by Westsearch.” According to the Legal Research & Writing Pro blog, the new algorithms “leverage West’s human-created content – including the key number system and other proprietary analytical content (such as statutory annotations and treatises) – along with KeyCite results and customer usage information to return more relevant results earlier in the research process.” So, if the concept you are searching for is called different things in different jurisdictions, Westsearch is supposed to be able to figure this out and return relevant results.

•*New ways to organize and store research*

Standard Westlaw stores your research trails for 14 days and then deletes them. WLN stores your searches for a year. Even better, WLN allows you to create folders and subfolders and store your research in them. Hence, your research will be in the cloud and available to you whenever you access WLN, regardless of which computer you happen to be using. WLN stores them for a year at no charge; I’m not clear what happens after that. If you are looking at a case, you can save it to a folder with a single click. You can also highlight snippets from a case and store them in a folder. You can easily export everything in folder via email. You can also highlight text in cases, and add “sticky” notes. (You can do all these things with Standard Westlaw too, by e-mailing cases to yourself and saving them in folders on your system, and by cutting and pasting snippets into a document using the “copy with reference” command. But it’s just more cumbersome than using the tools provided by WLN.)

One feature I love is that WLN allows you to set your preferences for the citation form it appends to cases, including Blue Book and California citation form.

You can include subsequent history or not. This means that when you cut and paste from a case, the citation form will be correct without any editing. Standard Westlaw uses West’s non-standard citation form, which always requires clean-up editing.

What I like

The tools for storing and organizing research are terrific. They are what sold me on the product. The interface is easy to use, easy to customize, and quite intuitive. The little touches that let you know whether you have already viewed a document, and that use proper citation formats are wonderful if you do a lot of legal writing. Standard Westlaw is a powerful research tool, and WLN is evidently even more powerful. The time that West put into developing the new product clearly shows. WLN is clearly a better version of Westlaw – a true upgrade.

What needs work

Like any new technology, the switch to WLN was not seamless. The biggest flaw I discovered was WLN’s seeming inability to search for a specific phrase, say “clear recovery zone.” Even when I put it in quotes, I’d get cases that would include the word “clear” near the word “recovery” but not the precise phrase I wanted. Fortunately, there is a way to make the system find exactly what you want. You add the term “strict:” in front of your search, and put the search in quotes. But unless you call West Tech Support and ask how to find a specific phrase, you would not know this. It is not listed in any help screen, nor in the “getting started” pamphlet you can download. I could probably have made it work without the “strict” command by using tight Boolean search terms.

Also, WLN lacks the ability to jump to the “best” part of your search result – meaning the part that is most relevant to your result. Instead, you have to jump from search term to search term, which is much slower. I will be lobbying West to put the “best” command back.



Nor am I completely sold on the value of Westsearch. If you search for the name of a case, there does not appear to be a way to limit the search to case names. So WLN will pull up both cases with the terms in the title, and that cite the title within their text. So, when I ran a search for the Ninth Circuit's new decision in *Office Depot, Inc. v. Zuccarini*, I got six results, with the first five being cases that cited the district court's decision in the same case. Result six was the case I was looking for. It's frustrating to know the title of the case you want but have it come up last. (Had I displayed the results by date, that would have moved the new decision to the top. But that trick won't work unless you know you are looking for a brand-new case.) So, I'll be lobbying West for a way to search by title too.

Other options?

Lexis is working on their next-generation product. According to an article posted at ABAjournal.com on January 24, 2010, which discusses WLN and "New Lexis," Lexis's new product will also have a Google-like interface, and will pull results from the Web in addition to Lexis's proprietary databases. As described, it sounds like it organizes search results in ways similar to WLN.

If all you need is access to cases, did you know that Google has a product that gives you access to a substantial amount of state and federal law for free? It's called Google Scholar. You can access it from Google. Just click the button for "Legal opinions and journals." Beware though – it does not reflect subsequent history, such as a case being depublished. If you need state statutes or regulations, you can usually access them for free on the State's official Web site.

The ABA Journal article also discusses a company called Fastcase, of which I'd never heard (www.fastcase.com). It provides a low-cost research plan called Fastcase, that provides access to caselaw from all 50 states, and federal coverage dating to 1 U.S.1; 1 F.2d 1; and 1

F.Supp.1. It also has statutes, regulations, court rules and constitutions.

According to its Web site, it enhances research by displaying the most relevant citations first. You can sign up for free trial from the Web site. Many bar associations offer subscriptions to Fastcase as a member benefit – including the San Fernando Valley Bar Association. What it lacks is access to secondary sources like those available on Westlaw. That means no Rutter Treatises or Witkin. Without those, I don't know how I'd practice law. Another problem is that it has no built-in citator. Instead, it has links to KeyCite or Sheppards, which cost extra – about \$5 per cite. That could add up. And for me, one of the best features of Westlaw and Lexis is that they automatically cite the cases as you view them, which eliminates the risk of forgetting to take that step.

Thelaw.net appears to offer a service similar to Fastcase. They only market through the Internet. You probably have e-mails from them in your spam filter explaining why their product is better and cheaper than Westlaw. They sell a yearly subscription for \$575, and allow you to cancel and get a full refund within in the first 30 days. As with Fastcase, they don't have access to secondary sources, and there is no real citator. You can, however, search for each case that you cite in your brief and see if any other cases have cited it. If not, then you will at least know that no case has overruled or criticized it by name. But you still run the risk that a case your case relied on was overruled, and therefore the rationale of your case is no longer valid. Keycite and Sheppards somehow find this kind of indirect criticism (at least sometimes.) And this kind of case-by-case approach to cite checking is a step backward, resembling how it was done manually with Sheppards. It's cumbersome. But these services are much less expensive than Westlaw.

Is it worth making the switch to WLN?

I have used Westlaw for most of my career, and have used it exclusively for

the last 15 years. I think it's a terrific product. If all products worked as well as Westlaw, the world would be a significantly better place. (It would also be nice if all West products or services worked as well as Westlaw. But they don't. I use West's practice-management software, Prolaw, but would happily replace it in a heartbeat but for the sunk costs involved. And don't even get me started on West's Web-marketing service, Findlaw.)

Based on what I have seen in the blogs, people who use WLN like it and want it. The sticking point is price. West plainly considers WLN to be a premium product; the Lexus to its Westlaw Standard Toyota, and prices it accordingly. There has been considerable grumbling as a result. My experience was very similar to what people are posting on the Internet. My Westlaw rep offered me three proposals. One was to simply migrate my existing subscription to the new platform, for 21 percent more each month. The other two deleted some content that I seldom used, replaced it with a massive amount of stuff I didn't think I'd ever need, and would have made my monthly cost increase by more than 40 percent. All proposals required a new three-year commitment.

I didn't like any of them, so I decided to drop some content that I didn't use very much, which saved me \$400 annually. As a result, switching to WLN increased my total monthly cost by 13 percent (\$64). That will be higher if it turns out that over the course of the year I need to use the databases that I dropped.

Was it worth it? For me, I think it was. I spend a lot of time doing legal research, and between the new interface and enhanced storage/organization features, there is no question that WLN will save me time and allow me to work more efficiently. Plus I simply like the new interface more, and since I use Westlaw so often and so much, it was worth it to switch. It might be a splurge, but not a huge one. Even though the cost increase



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was substantial as a percentage of what I was paying, the absolute cost was manageable. But I'm a sole practitioner. If your firm has several lawyers, and a commensurately higher monthly bill, a rate hike of 13 percent to 20 percent would turn into real dollars and would be much harder to justify.

Obviously, once Lexis rolls out its new product, giving lawyers a choice of new-generation tools, it's likely that West will respond with more aggressive pricing. And when that happens, Lexis will likely respond in kind, and there will be deals to be had. Until then, unless you are wowed by the new interface or the ability to store

your research in the cloud, it may pay to continue to use Standard Westlaw.

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