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Posted on November 16, 2022 by Olivia Smith Schlinck

After transitioning from a written to a "live" format for assignments in my Advanced Legal Research class, I noticed a vaguely familiar pattern of students unintentionally scrolling past relevant information on their screens.

It would happen like this: I'd ask a question, like "is an employer's failure to accommodate an employee's disability in an on-the-job training session a violation of the Americans with Disabilities Act?"

The student, sharing their screen via Zoom so I could observe, would identify a relevant statute, 42 U.S.C. § 12112. They'd open the statute and, as soon as the page loaded, they'd immediately scroll about halfway down the page, landing somewhere around subsection (c) or (d). The student would read those subsections and either attempt to answer the question using them (which would be incorrect) or decide 42 U.S.C. § 12112 was not correct after all and look elsewhere for an answer.

But the student *did* find the most relevant statute. They missed the relevant information because they scrolled right past subsections (a) and (b)(5)(A), where they would have read that "no covered entity shall discriminate against a qualified individual on the basis of disability in regard to [...] job training," where discriminating on the basis of disability includes "not making reasonable accommodations" for an otherwise qualified employee unless those accommodations would be an undue hardship on the employer.

After 230 hours of personally observing over 100 students' screens as they research—about 1/3rd of which echoed the above scrolling habit—I've dubbed this distinct pattern the "Food Blog Scroll."

You know how, when you find a recipe on a food blog, you have to scroll and scroll and scroll past a 20,000-word backstory and love letter to carrot cake before you get to the actual list of ingredients and instructions? You scroll and then pause, scroll and then pause, scanning the page for anything that might signal the recipe is near, and then scroll again after finding no relevant cues. That's the Food Blog Scroll. It's instinctual. We've been conditioned, Pavlovian-style, to automatically scroll, ignoring everything on the first half of the webpage.

The Food Blog Scroll is just a reincarnation of the decline in deep reading that legal educators have noted for the last decade (and as recently as this past August on the RIPS Blog). Skimming is, by definition, reading superficially. It is useful when the reader needs to know the main points but not develop a deep understanding of the text. It is problematic when the reader needs to critically analyze a text but reads only a few sentences out of an entire page. Students that default to scrolling, skimming, and scanning behaviors risk missing important information by failing to carefully parse the text on their screens.

A benefit of the live assignment is that I can catch quirks like the Food Blog Scroll and correct them. I typically reorient a Food Blog Scroller by gently suggesting they start reading at the top of the page. The student will scroll

back up, begin to read, and immediately realize their error. Most of these students do not repeat the mistake in subsequent live assignments. But how do we approach the scroll without devoting hundreds of hours to individual student meetings? I think a three-step strategy could be useful here.

First, make students aware of the Food Blog Scroll and other skimming/scanning reading habits. Students should know that they have these habits and understand why they have them. This awareness, even standing alone, will encourage students to notice their unconscious online tendencies and start to adjust where necessary.

Second, help students hone their skimming and scanning to make it more effective. Much like how it is useless to tell today's students not to use Google for legal research, it will be useless to tell students not to skim, scan, and scroll. (And much like how failing to teach today's students how to effectively use Google to find free legal information would be educational malpractice, so too would it be malpractice to fail to recognize the numerous benefits and uses for quickly skimming content).

On this point, I've assigned short videos for my class like this one on lateral reading from Crash Course. You might consider an exercise to practice skimming, scanning, and close reading, respectively. Exercises on these three reading strategies online are designed for mostly middle schoolers but can be adapted to legal research easily enough.

Third, make sure students know when to pivot reading strategies from scrolling and skimming into close reading. Skimming might be fine when trying to determine whether a secondary source is relevant enough to use, but students should transition to close reading once they find a relevant source. Scanning for a term of art in a case—or using the "Find" command to find it for you—might be a good starting point, but only if the student reads the case in its entirety afterwards.

Research does not exist without reading, and online research often does not happen without skimming, scanning, and scrolling. If we encourage our students to learn about these habits and help them hone them into specifically employable research strategies, we can help them become even stronger researchers.

Recommended reading—or skimming 😉

Jenae Cohn, Skim, Dive, Surface: Teaching Digital Reading (2021).

Kari Mercer Dalton, *Their Brains on Google: How Digital Technologies Are Altering the Millennial Generation's Brain and Impacting Legal Education*, 16 SMU Sci. & Tech. L. Rev. 409 (2013).

Carolyn V. Williams, *#CriticalReading #WickedProblem*, 44 S. Ill. U. L. J. 179 (2020).

Ann Sinsheimer & David J. Herring, *Lawyers at Work: A Study of the Reading, Writing, and Communication Practices of Legal Professionals*, 21 J. Legal Writing Inst. 63 (2016).

Sam Wineburg & Sarah McGrew, *Lateral Reading and the Nature of Expertise: Reading Less and Learning More When Evaluating Digital Information*, Tchrs. Coll. Rec., Nov. 2019 at 1.

2 Responses to *The "Food Blog" Scroll and Its Impact on Online Legal Research*

Rebecca Plevel *says:*

November 17, 2022 at 11:29 am

Nice to have a name for a skill I learned – or I should say reinforced – in Library School. It has taken me a year to disassociate myself from the habit so that I can actually read a book for pleasure! ~whether print or ebook.
Thank you Olivia! Something else to incorporate into my teaching toolbox.

Reply

Brian Flaherty *says:*

December 9, 2022 at 3:47 pm

I used to do a similar live exercise with students, and encountered similar issues. First, to echo what you say here, when a student found the correct law or regulation (it didn't happen as much with cases) they would immediately scroll down to about the middle, read a bit, and decide that what they found wasn't quite relevant. Interestingly, I'm old enough to have done this when a significant amount of the research was done in books. Oddly enough they did not find the right law or regulation in a book and then flip a few pages in.

The other thing students used to do which drove me crazy was : they would do an effective search on Westlaw or Lexis and retrieve good results, where I could see a relevant document as #1 or 2. They would scroll through the first full page of results, and go back and edit their original search... without actually having looked at a single document. I never understood this – I suspect it may have been a function of being nervous? feeling judged or graded?

Anyhow, thank you for the article, and for the phrase "Food blog scroll" – brilliant.

Reply

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