

**A RESEARCH  
GUIDE FOR  
LAW STUDENTS  
AND  
BEGINNING  
ATTORNEYS**

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**2003**

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## **PREFACE**

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This guide is divided into four sections. In the first section, we have provided you with a suggested outline approach to the legal research problems you likely will encounter in your legal career. What we want to suggest to you is that legal research often follows the same basic process regardless of the type of problems which you may encounter. What will vary will be the chief sources you will consult, the resources which will be available to you, and the time and financial constraints for your research. If you have developed a strong methodological approach to legal research of the type we advocate herein, any variance in the time and resources available will not be problematic for you. If, from the start, you begin your legal research by using the approach we suggest on the following pages, your research should be efficient and fruitful, leaving you more time to devote to analysis and writing.

In the second section of this guide, we discuss and list various finding tools that can be used to help you identify and locate secondary sources pertaining to a particular topic. Section three of this guide lists a variety of other legal research guides that you may wish to refer to if you have questions about specific legal research sources and strategies. The legal research guides listed in that section may be helpful if you are researching in either general or specialized areas of the law (prime examples of specialized legal research being tax law research and compiling a legislative history).

The final section of this guide discusses some important considerations when doing web-based legal research and lists some major websites that often serve as good starting points when doing legal research on the web. Given that there are no added costs associated with most of these legal websites, they may prove as worthwhile alternatives to the more costly, though complete, Lexis and Westlaw services.

When starting out at a new workplace, it is critical that you familiarize yourself with your workplace's own library collection. Check to see what materials, if any, are available to you in CD-ROM or other electronic formats. Find out what limits may exist with respect to your ability to use online resources such as Lexis and Westlaw. Also ask your librarian (if your firm, organization or agency has one) for research advice and an overview of the library's collection. Be sure to ask questions: the people you work with, including your workplace's librarian, can be excellent resources.

## **RESEARCH METHODOLOGY: SUGGESTED STRATEGY**

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The following is a suggested methodological course of action for analyzing and researching any legal issue. In addition, you may want to consult the general legal research guides listed in this guide beginning on page 8.

### **I. Preliminary Analysis**

- Step 1:* Gather all facts available.
- Step 2:* Identify and analyze preliminarily significant facts.
- Step 3:* Identify the legal issues raised by the facts, and formulate the legal issues to be researched.
- Step 4:* Arrange the legal issues in a logical order in which to be researched.

### **II. Start With Secondary Sources**

- A. For most legal research problems, it is best to start with a secondary source before going to the primary authorities.
- B. Objectives:
  - 1. To learn terms of art to focus your research. In some instances, you can miss finding relevant authorities if you fail to use specialized terms or terms of art in your research. This is especially true with online research.
  - 2. To learn blackletter law - including basic statutory and case law.
  - 3. To obtain citations to relevant primary authorities.
  - 4. To avoid overlooking pertinent issues or authorities.
  - 5. To save time and effort.

- C. Sources: treatises, the various Witkin titles, legal encyclopedias (AmJur, CalJur), ALR, Restatements, CEB materials, Rutter Group materials, other practice materials, nutshells, hornbooks, looseleaf services, and law journal articles.

While many secondary sources are now available online, they generally are easier to use in print. On pages 6-7 of this guide, we have outlined various ways in which you can identify secondary sources to consult when doing legal research in particular areas of law.

### **III. Locate Existing Primary Authorities**

- A. Primary authorities include, among other things, court decisions, statutes, regulations, municipal ordinances, and court rules. They are either mandatory (*i.e.*, controlling or binding) or persuasive in terms of their authoritativeness and effect. It is important to know and understand which authorities are mandatory for your research question and which are only persuasive.
  
- B. Important points:
  - 1. Always explore whether any mandatory statutory/regulatory/case law authority exists.
  - 2. Locate any court opinions construing mandatory statutes or regulations.
  - 3. Locate persuasive case law authority when there is no mandatory authority (or when there is only contrary mandatory authority).
  
- C. Sources for finding primary authority:
  - 1. Secondary Sources

2. Statutory Codes: use the index to find pertinent statutes. Always use the annotated versions of statutory codes, such as U.S.C.A. or the West's or Deering's Annotated California Codes. Review annotations (cites to cases, regulations, and other secondary sources).
3. Regulatory Codes: pertinent regulations can be found by using indexes to regulatory codes or by references obtained from annotated statutory codes.
4. Digests: use digests to find cases via appropriate digest topics and key numbers gathered from (1) known cases, (2) descriptive word indices, or (3) topic outlines.
5. Looseleaf services: often reprint the text of statutes, regulations and/or cases.
6. Resist the temptation to log on to the online systems immediately when starting your research. You should formulate search statements before logging on (if charged on an hourly basis). It is very important to assess and reflect on available print sources and whether they will better serve your needs.

Think about taking advantage of any CD-ROM resources that your library has that relate to your topic. Available CD-ROMs will serve as a "free" means of electronic searching, as opposed to Lexis or Westlaw, which are often charged to a client. Ask your librarian about available CD-ROM resources and for help with search techniques.

#### **IV. Update Research**

##### A. Objectives:

1. To ensure the validity of the primary authorities you have located.
2. To identify new developments or new authority.

B. Sources:

1. Shepard's, KeyCite, and other citator services.
2. Westlaw/Lexis searching for the most current materials (these databases contain very recent cases and possibly the most current versions of statutory and regulatory code sections).
3. CHECK YOUR POCKET PARTS AND SUPPLEMENTS.

**V. Tips for Legal Research**

- A. Research discrete questions separately.
- B. Research dispositive issues first. Start with the fast and easy issues.
- C. Never assume the absence of relevant statutes/regulations. Case law is not the end all and be all of legal research.
- D. Be flexible and creative with respect to your search terms when searching indexes and digests. For online searching, utilize synonyms, use natural language and terms & connectors, and use field (Westlaw)/segment (Lexis) restrictions when appropriate. Finally, if one search strategy (in print or online) is not working, stop and try a new approach.
- E. Always read the primary authorities yourself (*i.e.*, don't rely exclusively on secondary source descriptions).
- F. Always try to find mandatory authority if it exists.
- G. Check all appropriate supplements and pocket parts.
- H. Always consider the librarian as a resource to consult for assistance, guidance and suggestions.
- I. Feel comfortable asking questions of the person who gave you the legal research problem, or of others who might be able to help you. Your employer would rather you ask when you are stuck than spend hours wasting time.

## **FINDING TOOLS FOR SECONDARY SOURCES**

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Secondary sources are wonderful tools in legal research, but identifying a relevant resource on your topic can sometimes be challenging. “Finding Tools” are sources that identify secondary sources by topic.

Treatises, hornbooks and nutshells, practice materials, legal encyclopedias, looseleaf services, American Law Reports (ALR), Restatements, and periodicals are the major categories of secondary sources. With the exception of individual periodical articles, all the types of secondary sources listed above should be listed in your library’s catalogue. Most catalogues are searchable by author, title, subject, keyword, or some combination thereof. Each source has a call number designating its location in the library. With the call number, one can often find other materials on that topic by browsing the surrounding books on the shelf.

### **Periodical Articles:**

Periodical indexes are useful for locating scholarly articles. Indexes are available in different formats, including print, CD-ROM, and online. Two common U.S. legal periodical indexes are *Index to Legal Periodicals (I.L.P.)* and *Current Law Index (C.L.I.)*.

*I.L.P.* is available online through the USC Electronic Resources Page (as a First Search database). At the USC Law Library, it is also made available through CD-ROM (WilsonDisc). It may also be made available at your firm through Westlaw, Lexis and/or WilsonWeb (through a web-based subscription).

*C.L.I.* is a newer index, but it includes more journals in its coverage. It may be available at your firm as LegalTrac (either on CD-ROM or on the web). It is also accessible on Westlaw and Lexis (where it is referred to as Legal Resource Index). [At the USC Law Library, LegalTrac is available via CD-ROM.]

The full text law journal sources/databases on Lexis/Westlaw may also be helpful when researching a specific legal issue.

## **General Finding Tools:**

The following resources are additional tools you might want to use to help you identify secondary sources published on different legal topics (call numbers are provided for those currently in the USC Law School Library's collection). Note that the last two items are available online.

*Legal Information Buyer's Guide & Reference Manual 2002*, K. Svengalis (Rhode Island LawPress, 2002). KF1 .L44.  
Location: Reference Office

*Legal Looseleafs in Print*, A. Eis (InfoSources Pub., 2003). KF1 .S57. Location: Ready Reference

*The Law Library Reference Shelf: Annotated Subject Guide*, 4<sup>th</sup> ed., E. Matthews (W.S. Hein & Co., 1999). KF1 .M33 1999.  
Location: Main Floor

*Bowker's Law Books and Serials in Print 2002: A Multimedia Sourcebook* (RR Bowker).

Westlaw and LexisNexis Directories, available online and in print. ([www.westlaw.com](http://www.westlaw.com) or [www.lexis.com](http://www.lexis.com)).

Indexmaster, an online database containing the Tables of Contents and Indexes from thousands of legal books and treatises. This database is accessible from the USC Law Library's "Online Resources and Research Links" web page (if you are at the USC campus or accessing the web page through a USC account). Indexmaster may also be available at your firm.

## **LEGAL RESEARCH GUIDES**

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There are a variety of research guides both in print and on the Internet that are valuable when doing legal research. In addition to the general legal research guides listed below, we have identified guides for two specialized areas of legal research that are common yet challenging and require additional skills and information: (1) Federal Taxation and (2) Legislative History. Please note that one of the sources listed under "Federal Taxation", *Specialized Legal Research*, also contains guides for a variety of other practice areas (see the description below for further information).

We have provided information for both hard copy and Internet legal research guides. Where we mention hard copy guides, we provide the location and call number for the USC Law Library. Where we mention Internet guides, we provide the website address.

### **I. General Legal Research**

#### **A. Federal**

1. Fundamentals of Legal Research, 7<sup>th</sup> ed., J. Jacobstein, R. Mersky and D. Dunn (Foundation Press, 1998). KF240 .J25 1998 Location: Open Reserve
2. Legal Research in a Nutshell, 7th ed., M. Cohen et al. (West, 2000). KF240 .C678 2000 Location: Open Reserve
3. The Legal Research Manual: A Game Plan for Legal Research and Analysis, 2d ed., C. Wren et al. (Adams & Ambrose Publishing, 1986). KF240 .W92 1986 Location: Open Reserve
4. Finding the Law, 11th ed., R. Berring (West Publishing, 1999). KF240 .H839 1999 Location: Closed Reserve
5. Zimmerman Research Guide (<http://www.llrx.com/guide/index.htm>)

#### **B. California**

1. California Legal Research Handbook, L. Dershem (Littleton, 1997 (looseleaf format)). KFC74 .D47 1997 Location: Ready Reference

2. Henke's California Law Guide, 5th ed., D. Martin (LEXIS Publishing, 1999). KFC74 .H53 1999 Location: Closed Reserve
3. Legal Research in California, 3rd ed., J. Hanft (West, 1999). KFC74 .H36 1999 Location: Closed Reserve

C. State

Guide to State Legislative and Administrative Materials, W. Manz (Fred B. Rothman Publications, 2000). KF 1 .G8 2000 Location: Ready Reference

## **II. Federal Taxation**

- A. Fundamentals of Legal Research, 7<sup>th</sup> ed., J. Jacobstein, R. Mersky and D. Dunn (Foundation Press, 1998) (ch.24). KF240 .J25 1998 Location: Open Reserve
- B. Specialized Legal Research, L. Chanin (Boston : Little, Brown, 1987- (looseleaf format))(ch.3). KF240 .S63 Location: Ready Reference (This book is also a helpful resource for research in other particular substantive areas of the law. Other topics covered include: securities, UCC, copyright, federal labor and employment, environmental law and land use planning, admiralty and maritime, immigration, banking, and patent and trademark.)
- C. West's Tax Research, 6<sup>th</sup> ed., W. Raabe, G. Whittenburg, D. Sanders and J. Bost (Thomson, 2003). KF241.T38 R33 2003 Location: Ready Reference

## **III. Legislative History**

- A. Federal Legislative History
  1. Fundamentals of Legal Research, 7<sup>th</sup> ed., J. Jacobstein, R. Mersky and D. Dunn (Foundation Press, 1998)(ch.9). KF240 .J25 1998 Location: Open Reserve
  2. LLSDC Legislative Source Book: Federal Legislative History Research (<http://www.llsdc.org/sourcebook/fed-leg-hist.htm>)

3. **Federal Legislative History, USC Legal Research Guide Series**  
(<http://lawweb.usc.edu/library/services/researchguide/FederalLegislativeHistory.pdf>)

**B. California Legislative History**

1. **California Legislative History, USC Legal Research Guide Series**  
(<http://lawweb.usc.edu/library/services/researchguide/california.legislative.history.pdf>)
2. **Henke's California Law Guide, 5th ed., D. Martin (LEXIS Publishing 1999)(ch.4). KFC74 .H53 1999 Location: Open Reserve**

## **LEGAL RESEARCH ON THE INTERNET**

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The Internet is quickly becoming an integral part of the legal research continuum with a wealth of valuable information available. It is now possible to locate primary authorities, government reports, directories and databases on the Web. Unfortunately a lack of consistent structure or organization means that much of this information may be hard to find or easily overlooked. Problems that novice Web legal researchers face include finding pertinent information in an efficient manner and properly evaluating the information located in terms of its reliability and authoritativeness. Just because someone has published something onto the Web does not make it accurate or valuable. Exercising good judgment is critical when using Web-based information.

There are many useful sites that you can use as your starting point for web-based legal research. A short list of useful websites is provided below. For a more complete list of useful Internet resources, we suggest that you consult the USC Law Library's Legal Resources on the Internet page (<http://lawweb.usc.edu/library/california/ca.html>). We also recommend *The Internet Guide for the Legal Researcher, Third Edition*, Ken Kozlowski (Infosources Publishing 2001) (updated with a companion website) and *The Internet Guide for California Lawyers, Third Edition*, J. Adams et al. (CEB 2001), both of which discuss a wide range of legal websites.

Internet searching requires variety to be effective. Directory-centered products such as Yahoo! (<http://www.yahoo.com>) and usually provide categories of web sites of a certain type. Search engines such as Google (<http://www.google.com>), are especially useful for finding known items, such as the FBI website, or the LA Superior Court web site. Many legal websites also have their own search engines; each site will have its own unique searching features, and it is important to check a site's "Help" or "Searching Tips" pages in order to make the most effective use of that web site.

Once a website is found, it is necessary to evaluate it to resolve any credibility issues. One effective way to evaluate or determine the credibility of a website is to ask what the purpose of the site is. To discover a website's purpose, ask why the information is made available. Is the purpose to educate, promote a certain viewpoint, or to sell you something? Identify the site's author or creator. What authority does this individual or group have in the area? Is the information provided by an established or highly regarded source? Web site sponsors tend to fall into one of the following categories: educational entities, governmental organizations, businesses, nonprofit organizations, and individuals. Placing the creator in one of these categories might help clarify the site's purpose and clue you into the possibility of financial and other motives for creating

the site. Finally, don't forget to check whether the information is current. This is especially important due to the dynamic nature of legal authority. Many web pages provide a "Last Updated" date to indicate the currentness of the material provided.

Certain other qualities make a site more or less desirable. Keep in mind some sites require a fee, do not include primary material, or are incomplete. It is also not unusual to find websites that provide general information without significant in-depth treatment. Finally, when a site sends you to a related site, you will need to evaluate the new site according to the criteria explained above.

## **Useful Websites**

### **Federal and California Government Websites**

THOMAS (<http://thomas.loc.gov>)

Contains federal legislative information including the text and/or summary of Bills, the Congressional Record, committee information, and links to other relevant documents and websites.

GPO Access ([www.gpoaccess.gov](http://www.gpoaccess.gov))

Official government website that provides free electronic access to government information and products.

Legislative Counsel of California ([www.leginfo.ca.gov](http://www.leginfo.ca.gov))

The official site for California legislative information maintained by the Legislative Counsel of California.

California Courts ([www.courtinfo.ca.gov](http://www.courtinfo.ca.gov))

Judicial website for the state of California that provides information and materials related to the California court system.

### **School and Commercial Sponsored Websites**

Hieros Gamos ([www.hg.org](http://www.hg.org)) and Findlaw ([www.findlaw.com](http://www.findlaw.com))

Two comprehensive legal sites containing links to federal and

state primary and secondary material, international resources, and other information of interest for legal scholars, practitioners, and students.

Cornell's Legal Information Institute ([www.law.cornell.edu](http://www.law.cornell.edu))

Website maintained by Cornell Law School with links to federal and state primary and secondary material, international resources, and other law related information.

lexisONE ([www.lexisone.com](http://www.lexisone.com))

Website containing primary and secondary legal information made available by the LexisNexis Group.