

Advanced Legal Research Teleseminar

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I. The basics (everything you learned in law school but forgot)

A. Primary Sources → Case law and enacted law (statutes, constitutions and administrative regulations).

1. Always start your research with enacted law first because constitutional provisions and statutes take precedence over case law.
2. Then search for cases that have interpreted the particular statute or constitutional provision.

B. Secondary Sources → Treatises, legal periodicals, and legal encyclopedias.

1. Text that explains and analyzes legal topics.
2. Provides citations to primary sources of law and other secondary materials.
3. Not binding law. Persuasive authority only.

II. Your Research Objectives

A. Make your research understandable.

1. As you research, synthesize the information.
2. Take notes as you go along.

B. Get the most information you need in the most efficient manner possible.

1. Keep track of what you've researched and search terms that you have ruled out.
2. You can print your search queries from Lexis and Westlaw.

C. Keep yourself organized so that your efforts are not duplicated.

1. Divide your project into issues.
2. Start a binder, alphabetize cases by issue.

III. Researching caselaw

A. The one good case method.

1. Everybody does it; they just don't realize they do it. Why?
 - a) The one good case method builds from a known case on point to find more cases directly related.
 - b) Use key number digests and citators like Shepard's or KeyCite to identify more authorities.
2. How to identify the one good case?
 - a) someone tells you
 - b) annotated statutes
 - c) secondary sources

IV. WESTLAW Researching

A. Key Number Searching

1. Search all Michigan Cases containing this Key Number as well as other jurisdictions.
2. Most cited: Most cited for that point of law → this gives you the lead case.
3. Compare to Lexis: Lexis uses natural language to search for cases that use similar terms.

B. Copy with reference function

C. Limiting your search query

1. Excluding unpublished cases in your searches
 - a) % ci(slip no not unpub! unreport! table!)

(1) But not slip or no or not unpublished or unreported tables

D. Searching with quotes

E. Researching statutes

1. USCA Popular Name Index (USCA-POP)

a) Great way to research statutes if you are starting with very little research information.

2. Index by state statutes, no popular name database but there is a state popular name index.

F. Results Plus

1. When you search a topic, Westlaw will automatically give you a list of secondary sources and key numbers that are on point.

G. Court Docs

1. New feature: Briefs and Court filings

2. You can email as word document for easy manipulation of document.

3. Good for researching substantive law as well.

V. LEXIS Researching

A. Database location

1. States Legal – U.S.

B. Copy w/cite

C. Focus Function

D. Major differences between Westlaw and Lexis

1. No key number search – natural language

2. Searching without quotes

VI. Legislative Intent: What exactly is that again?

A. Courts determine what statutory language means by asking what the legislature intended it to mean.

1. The first source is the language of the statute itself.
 - a) Plain Meaning: Ordinary meaning – sometimes the dictionary meaning.
 - b) But, if the statute regulates a particular industry, it may be interpreted according to their technical meanings in that industry.
 - c) Check to see if the exact language is used elsewhere in the statute.
 - d) Don't forget to check the definitions section if the statute includes one!

2. Sometimes, the court must examine other evidence about the statutory language.

- a) A court may also seek to determine what policy the legislature intended to pursue through the statute by determining the purpose of the statute. The court interprets the statute in a way that furthers that policy.
- b) Legislative History: Legislative history consists of different elements.

(1) Predecessor statutes

(2) Documents that were produced during the statute's legislative journey from its beginning as a bill introduced in the legislature, through the proceedings in the committee or committees to which it was assigned, and to its passage into law.

(a) Examples: transcripts of committee hearings, the committee report (most favored source for federal statutes), and the Congressional Record account of the debate on the floor.

(b) You may find legislators' statements about what they meant by the disputed language.

(c) If you don't find statements about the disputed language, then read the documents to try and find the more general purpose of the statute and interpret the language in a way that promotes that purpose.

B. Research tips for Legislative Intent

1. Westlaw has a legislative history box.
2. Look at the editor's notes. This is not the intent, but will provide information as to what happened with the statute. Ex. Amended in 1992, amended in 1999.

VII. Free Resources

A. Secretary of State Websites for business entity searches. Note—some states charge a nominal fee for search.

1. E.g. mi.gov
2. Though not free, Westlaw has a great database. This is not typically included in smaller firm plans:
 - a) Corporate Records Search Westlaw [database identifier: All-Corps]

B. www.icle.org/mlo -- State Bar and ICLE database

C. www.legislature.mi.gov – Michigan Legislature

D. http://www.michbar.org/publications/bar_journal.cfm -- Michigan Bar Journal

VIII. Some favorite Sources

A. Procedural Issues

1. Michigan Law
 - a) Michigan Pleading and Practice
2. Federal Practice
 - a) Federal Practice and Procedure: Wright & Miller

B. More Specific Substantive Law

1. Insurance Law

a) Couch on Insurance Third Edition

2. California Law

a) Witkin California Treatises – Summary of CA Law, CA Evid, CA Proced

3. Michigan Law

a) Michigan Civil Jurisprudence

b) Michigan Bar Journal

One final thought: Don't forget that paper sources still exist – sometimes it's just faster to use them!