BUSINESS LAW

Need Help?
Contact Carolyn Ottoson (651-2204) cottoson@wtamu.edu
Govt Docs Dept on the 2nd floor (for in-depth assistance)
Go to the Reference Desk on the 1st floor (651-2215)
Online: Library home page http://www.wtamu.edu/library/
→ Ask a Librarian chat box (for brief questions)

Connecting From Home
To connect to databases from home, you will need to use Buff Advisor login.
Example:
js123456
urP@sswrd

Library Hours: Fall/Spring
Monday – Thursday 7:45 a.m. to 11:00 p.m.
Friday 7:45 a.m. to 5:00 p.m.
Saturday 10:00 a.m. to 5:00 p.m.
Sunday 2:00 p.m. to 11:00 p.m.

Books
American Jurisprudence 2d
An encyclopedia of United States law
Print last updated May 2003
KF 75 .A47 1962 Ref.
Online in database WestlawNext → Secondary Sources—but has no index volumes, only Table of Contents.

Black’s Law Dictionary
KF 156 .B53 Ref. (various editions)
Also available online in WestlawNext → Secondary Sources → Related Content → Black’s Law Dictionary

Code of Federal Regulations
Has federal rules and regulations of executive departments and agencies
AE 2:106/3:29/ (Government Documents – Reference – 2d floor)

Federal Register (microfiche and online)
A daily publication of rules, proposed rules, and notices of federal agencies and organizations, including executive orders

Legal Research: How to Find & Understand the Law. Nolo Press.

Texas Administrative Code
Has Texas state agency rules
http://www.sos.state.tx.us/tac/

Texas Jur III
An encyclopedia of Texas law
KFT 1280 .T490 Ref.

United States Code Annotated
Has United States laws
KF 62 1927 .W45 Ref.

Vernon’s Texas Codes Annotated/
Vernon’s Annotated Revised Civil Statutes
Has Texas laws
KFT 1230.5 V4 Ref.

Reference Dept.
• Books may not be checked out
• You may make photocopies
• Buffalo Gold card is your library card and copy card

E-mail: LexisNexis
Example: When you are looking at a case or article:
• Click on the small icon of an envelope (top right of screen)
• Fill in the form, click Send

LexisNexis Academic: Legal Research
• Has cases, law review articles, Shepard’s, etc.
• Tricky to do legal-only research
• TIP: Any version of Mozilla Firefox will not work well

Search by Name of Case: LexisNexis
• Sample case: Kelo v. City of New London
• Go to library home page → All Databases
• Click on LexisNexis Academic
• Click arrow by Look up a Legal Case
• To search by a case name, use the search boxes for “by Parties”
• In the first empty box, type in kelo
• In the second empty box, type in city of new london
• Click the Go button
• To read a case, click on the title (blue link)
• TIP: if you see more than one case, choose the one with the citation you have (EX: 545 U.S. 469)

Reading Cases, etc.: LexisNexis
When you see a list of cases, you may click on the case name to view the full text of the case. Other viewing options are helpful when you are searching a topic, instead of a particular case.

► Result Groups: the left column shows All Results.
  • For cases, will show various courts.
  • For law review articles, will show different categories.
  • You may click on a category to filter results to only those items.
  • You may "hide" this column

► Sort: drop-down menu. Items are automatically in order by date.
  You may change Sort: Newest to Oldest to Sort: Relevance to see the best items first.

► Show: drop-down menu. You may choose:
  • List: For a list
  • Expanded List: Shows every time a search word appears in a case or article, plus the surrounding 10 words for context
  • KWIC: Key Words In Context
  Shows every time a search word appears in a case or article—plus the surrounding 25 words for more context
  • Full Document: The entire text of the case or article

After reading a case, there is a link to Results List at top of screen.

Names of Books: Abbreviations
For “Case Law Reporters”
U.S. = United States Reports
S. Ct. = Supreme Court Reporter
F.2d = Federal Reporter, Second Series
F.3d = Federal Reporter, Third Series
F. Supp = Federal Supplement
F. Supp. 2d = Federal Supplement, Second Series
S.W. = Southwestern Reporter
S.W. 2d = Southwestern Reporter, Second Series
S.W. 3d = Southwestern Reporter, Third Series

What is a Citation?
For a case, the citation is:
• volume number
• name of book (EX: the “case reporter”—often abbreviated)
• first page number of the case
  • Example: 542 U.S. 1
  • Example: 124 S. Ct. 2301
  • Example: 159 L. Ed. 2d 98
  • 542 U.S. 1 is a U.S. Supreme Court case. It is printed in volume 542 of United States Reports. Page 1 in the book is the first page of the case.
  • TIP: All the above citations are for the same case, but printed in different sets by different publishers.
**Search by Citation of Case: LexisNexis**
- Sample case citation: 545 U.S. 469
- Go to All Databases → LexisNexis Academic
- Click arrow by Look up a Legal Case
- To search by citation, use the search box for By Citation
- Type 545 U.S. 469 → Click Go button
- Normally, you will find only one case to read—“your” case
- TIP: Click here for citation help is near the Go button
  (Not available if using Mozilla Firefox)

**Changing Your Search: LexisNexis**
These options are near the top of the screen

- **Search within results**: To modify your search by adding more search words (for fewer, better hits)
- **Edit Search**: To go back to your original search
- **New Search**: To go back to the home page

**What to “Brief” – U.S. Supreme Court Case:**

- **Syllabus** –
  Written by Supreme Court employee, not a judge.
  Has summary and holdings. Not the “Opinion.”
  Do not brief it.

- **Opinion** –
  Appears after Case Summary, Headnotes, Decision, Summary, Syllabus, Counsel, Judges.
  Any information before Opinion (except syllabus) is written by the publisher and could be incorrect, so do not rely on it.
  Brief the Opinion. Do not brief the information before the Opinion.

- **Concurring or dissenting opinions** –
  If written for a case, will have the heading “CONCUR” or “DISSENT.” These opinions are printed after the Opinion of the case, so may appear to be part of the text of the opinion. But not the Opinion. However, you may want to brief.

- **Footnotes** –
  Sometimes easier to read printout of a case by penciling an “X” through every footnote. Then read the case. Next, go back to read the footnotes.

**PDF: LexisNexis Academic**
Some recent Supreme Court cases have a link to the PDF: “View Lawyer’s Edition PDF of This Document”

**Law Review and Law Journal Articles: LexisNexis**
- Scholarly articles written by experts
- Published by law schools, etc.
- Use relevant cases as examples
- Might explain your case in everyday language
  - Sample case: *Kelo v. City of New London*
  - Go to *LexisNexis Academic*
  - Click on arrow by Advanced Options
  - ONLY CHECK BOX FOR: LAW REVIEWS
    - Click button to Apply
    - Use the single search box
  - Type in case name OR citation:
    - 545 u.s. 469
    - *kelo w/sent city of new london*
    (This search will find words in the same sentence.)
  - Click Search
  - Will now see list of law review articles
  - Can change Show: List to Show: Expanded List
    (To see how many times your search terms appear in each article)
  - Change Sort: Newest to Oldest to Sort: Relevance
  - Will see snapshots of best articles listed first
  - Click on a blue link Copyright (c) → to read the article
  - TIP: to browse more quickly, change Show: Expanded List back to Show: List

**What is Shepardizing?**
Frank Shepard owned a company that published “citators.”
- Followed cases, statutes, etc.
- Showed which legal sources had cited those cases, etc.

For cases, the citators would list treatment of the case (negative and positive) by subsequent (later) cases and laws. Also showed any other cases, law reviews, etc. that cited that particular case.

The task of using the Shepard’s books was nicknamed “Shepardizing.” The service is now owned by LexisNexis.

**Shepardizing is Used To:**
- Read prior history (to see who won in the lower court and which party appealed)
- Find subsequent history (to see if it is still “good law”)
- Locate law reviews that cite the case (for explanation of case)
- Locate other cases that cite the case (not necessary for you)

**Available:**
- All federal and state Shepard’s citators are online in LexisNexis Academic

**Shepardizing: Why Update a Case?**
- With the doctrine of stare decisis, attorneys use previously decided cases as examples in arguing current cases with similar legal principles or fact patterns.
- Attorneys can argue in court that the issues or facts in their case should be decided the same way as similar cases were previously decided.
- Because of the use of precedence (earlier, preceding cases), attorneys need to make sure that the earlier cases cited are still “good law.”
- “Good” law means that the cases have not been reversed on appeal, overruled, or criticized by later cases.

**“Shepardize” a Case: Use LexisNexis or Westlaw?**
- Use both!!!
- For some complex cases, it may only be clear in one of them

**Shepardize a Case: LexisNexis**
Prior History (and Subsequent History if available) is often printed at the beginning of a case in LexisNexis Academic.

Sample case: 163 U.S. 537
For full Shepard’s information, follow these steps:
- Note: This method is easier than using the link to Shepard’s Citations (under Search by Content Type on LexisNexis home page)
- First, find the case you are interested in; look at full text of case.
- Change Next Steps: More Like This to Next Steps: Shepardize
  (In top, right area of screen) → Click Go button
- To determine if a case is still “good law”, read the information in the Unrestricted Shepard's Summary (grey box).
- It is still “good law” if it has not been overruled, etc.
- If not overruled, it still might have some negative treatment.
- Click any blue link showing Shepard’s editorial treatment (e.g., reversed by, on remand at, vacated by, followed by, distinguished by) to read its definition.

**Shepardizing: Prior History for Case Brief**
Look at the “prior” trial(s) of the case. Read to see:
- Who won in the lower court?
- Which party is appealing?
### Shepardizing: Update Case for Case Brief

Look for subsequent (later) history to see if it is still “good” law.

Negative treatment, such as overruled, means that a later case, etc. is changing the authority of the case you are briefing.

### Shepardizing: What does this mean?

Examples of treatment seen when Shepardizing appear below. In the explanations, the phrase “the case” indicates the case that you are briefing. Please note that not all terms for negative treatment are listed below.

- **No subsequent history:** Please note: even if there is no later appellate history (case was not appealed) for the case, IT MAY NOT BE “GOOD” LAW.

- **Overruled:** “Bad” law. The decision in the case was rejected by a higher court. Just like a repealed statute, it can no longer be used as a controlling law. You will need to give the citation of the case that overruled the case you are briefing.

- **Criticized by:** The citing opinion disagrees with the reasoning/result of the case you are Shepardizing, although the citing court may not have the authority to materially affect its precedential value. You will need to give the citation of the case that criticized the case you are briefing.

- **Reversed by:** “Bad” law. On appeal, reconsideration, or rehearing, the citing case reverses the case you are Shepardizing. You will need to give the citation of the case that reversed the case you are briefing.

- **Modified:** On appeal, reconsideration, or rehearing, the citing case modified or changed in some way, including affirmance in part and reversal in part, the case you are Shepardizing. You will need to give the citation of the case that modified the case you are Shepardizing.

- **Remanded:** If an appeals court reverses the judgment of the lower court, it may “remand” (send back) a case to the trial court for further action. Please note that you will probably not see a revised opinion published by the lower court. You can assume that the change was made by the lower court. You will need to give the citation of the case that remanded the case you are Shepardizing.

- **Superseded by statute:** Made void by a law.

- **Appeal denied:** The request to appeal the case was turned down.

- **Writ of Certiori denied:** The case was not accepted by the higher court.

In cases in which there is no appeal as a matter of right, certiori is a writ (order) by the appeals court to a lower court to send all the documents in a case so that the appeals court can review the decision. Most commonly used by the U.S. Supreme Court. A party seeking Supreme Court review does so by “petitioning” the Court to issue a writ of certiori.

### What do I write in my case brief if the case has no subsequent history?

If you are unsure about this or any other question when briefing a case, please contact your instructor for clarification.

### WestlawNext

Another database with cases and law review articles

- **All Databases** → WestlawNext
- **You must allow pop-ups to see information**
- **TIP:** To search a phrase in Westlaw, you must put the words in quotation marks. EX: “wells fargo”

**Search by Name of Case:** WestlawNext

- **Click on link to advanced**
- **Scroll down to search box for Name/Title**
- **Type in name of case. EX: “Watters v. Wachovia”**
- **TIP:** put case name in “quotation marks”
- **Click All Federal** → add check to box: **All State**
- **Now Searching All Federal & All State** → click Search
- **TIP:** if you see more than one case, choose the one with the citation you have (EX: 550 U.S. 1)

**Search by Citation of Case:** WestlawNext

- **Click on link to advanced**
- **Scroll down to search box for Citation**
- **Type in citation. EX: “550 U.S. 1”**
- **TIP:** put citation in “quotation marks”
- **Search All Federal & All State** → click Search
- **TIP:** Best way to find a particular case

**Law Review/Law Journal Articles:** WestlawNext

- **Go to WestlawNext home page**
- **All Content** → **Secondary Sources** → **Law Reviews & Journals**
- **TIP:** Can click on Texas to read only Texas publications—not an option in LexisNexis
- **In search box, type in one case name or one citation in “quotation marks”**:  
  - “watters v. wachovia”
  - watters w/sent wachovia
  - “550 U.S. 1”

- **Click Search button**
- **Will see list of law review articles (in order by relevance)**
- **Click on a blue link/ name of article to read—it—might find background information on your case**

**“Shepardize” a Case:** WestlawNext

You can only “Shepardize” in LexisNexis Academic. Westlaw has created a similar product called “KeyCite”. KeyCite is available for state and federal cases.

To use KeyCite:

- Find a case—look at full text of case: 163 U.S. 537
- Top of screen—should see a brief note that states if the case is overruled, superseded, etc.
- Click tab for **Negative Treatment** (to see if still “good law”)
- Click tab for **History**
  - **Graphic option is GREAT for PowerPoint slide**
    - Click icon for Fullscreen Mode
    - Hide left column—click on <<
    - F11 → Ctrl + Print Screen
    - F11 → Ctrl + V to paste into PowerPoint
  - If tab is “History(0)” there will NOT be a graphic
- KeyCite will not always state “there is no subsequent history”
- **Note:** sometimes information is not always as obvious in KeyCite as it is in Shepard’s

**WestlawNext: Home Page**

If you do not see a link to the WestlawNext home page:

- **Click on WestlawNext logo**
Positive treatment includes:

Strong negative treatment includes:

Shepard's Treatment

Caution: Possible negative treatment

Positive treatment includes:

- Followed
- Affirmed
- Approved

Shepard's Treatment

Reminders: LexisNexis

In a U.S. Supreme Court case, any information before the heading Opinion, is not part of the opinion written by the court. This additional information should not be included when you brief the case. Also, if a concurring opinion or dissenting opinion is written, it is okay to brief it—but be aware it is not part of the official opinion of the court.

If you type in two or more words, they are searched as a phrase. Example: real property. If the words you are searching are not a phrase, connect them with a “connector word” such as AND. EX: alcohol AND blue laws

Shepard's:

- TIP: Signal Legends are—
  - Warning: Negative treatment is indicated
  - Questioned: Validity is questioned by citing references
  - Caution: Possible negative treatment
  - Positive treatment is indicated
  - Citing references with analysis is available
  - (This one is for source information, NOT Shepard’s analysis)

Sample Full Citations

Sample Citations

Citing Your Sources

The Bluebook: A Uniform System of Citation

About citations for federal and state cases, laws, etc.
Most recent edition available at the Reference Desk.
(Published by the Harvard Law Review Association)
KF 245 .B58 Ref.

The Greenbook: Texas Rules of Form

About citations for Texas cases, laws, etc.
(Published by the Texas Law Review)
Govt. Docs. Dept. – Texas Document Shelves Z UA345.5 T312RUF 2010

Sample Citations

(Dr. Rider’s class uses this citation style.)
(Ask your instructor if case names should be underlined or in italics.)

U.S. SUPREME COURT:


FEDERAL COURT OF APPEALS:


FEDERAL DISTRICT COURTS:


STATE HIGH COURTS:


OTHER STATE COURTS:


Sample Full Citations

(Ask your instructor if and when you should use a full citation.)

Contains:

Name of the case
Published source
Parenthetical indicating the court and year of decision
Other parenthetical information, if any
Subsequent history of the case, if any

(“[W]here the state courts have rejected a constitutional claim, a habeas court may not grant relief simply because it believes constitutional error has been committed.”), aff’d, 324 F.3d (2d Cir. 2003).

Green v. Georgia, 442 U.S. 95, 97 (1979) (per curiam) (holding that exclusion of relevant evidence at sentencing hearing constitutes denial of due process).


Cooper v. Dupnik, 924 F.2d 1520, 1530-31 (9th Cir. 1991) (holding that police officers’ actions did not rise to level of due process violation), rev’d en banc, 963 F.2d 1220 (9th Cir. 1992).