

Since much of the American legal system is dictated by the precedence of common law, researching case law is a critical component of legal research. Unless one has access to subscription legal databases such as LexisNexis, LoisLaw, or Westlaw, the best method for finding case law is probably through the use of a digest.

FINDING CASE LAW WITH DIGESTS:

Court opinions are printed in sets of books called Reporters. The National Reporter System devised by Thomson West arranges the 50 states and Washington D.C. into seven regional reporters.

A geographic map of the Reporters can be found at:
<http://lawschool.westlaw.com/federalcourt/NationalReporterPage.asp?mainpage=23&appflag=39>

Thomson West also publishes the majority of legal digests in America, arranging the entire body of American Law by the Key Number System. Because the cases printed in reporters are arranged in sequential order by date of publication, Digests serve as a “finding tool” for judicial opinions; essentially a subject-index to cases.

For three of the seven Regional Reporters there is a Regional Digest. For opinions found in the Northeastern, Southern, or Southwestern Reporter, a researcher would need to use a State Digest. A State Digest differs from a Regional Digest because it contains federal court opinions as well as state court opinions.

KEY NUMBER SYSTEM:

A digest allows case law to be researched by subject. There are over 400 individual Topics, and each Topic is further divided into Key Numbers. Under each Topic and Key Number, a researcher is given short case summaries with citations to where in a Reporter an opinion is published.

There are several ways to locate a Topic and Key Number. Some common methods include:

1. Reading an opinion
2. Annotated statute
3. Secondary resource
4. Descriptive word index/Topic Outline

1. Reading an Opinion:

One element of an opinion published in a West Reporter is a series of summary paragraphs written on specific areas of the law. These paragraphs are known as Head Notes. Each head note is assigned a Topic and Key Number. By finding a Topic and Key Number in one case that is helpful, a researcher can use a Digest see if similar cases containing the same Topic and Key Number have been published in a Reporter.

A guide to using the National Reporter System can be found at:
<http://west.thomson.com/documentation/westlaw/wlawdoc/lawstu/lsnrs06.pdf>

2. Using an Annotated Statute:

An annotated statute is a great way to begin case research, for in addition to the text of the law, there will be brief summaries of cases interpreting, analyzing or applying each statutory section. Not only might these cases help your research, but the Head Notes in these cases may also lead to valuable Topic and Key Numbers.

The United States Code and the statutes for most states are available online for free; but for the majority of these web sites, annotations are not available.

If an annotated statute is published by West, frequently references to Topic and Key Numbers are

given in the “library reference,” and “notes of decision,” listings included after the text of each statutory section. The library has copies of all 50 State annotated statutes and the United States Code Annotated.

3. Using a Secondary Source:

If a researcher consults a secondary resource that is published by West, then references to Topic and Key Numbers will frequently be given. ALRs have digest volumes arranged by Topic and Key Number. Recently published volumes of both American Jurisprudence and Corpus Juris Secundum (U.S. section of Library) have “Reference Resources” giving Topic and Key Number references. For Pennsylvania resources such as Summary of Pennsylvania Practice 2d, or Goodrich Amram 2d, Topic and Key Number notations are readily available throughout the publications.

4. Descriptive Word Index/Topic Outline

Finally, a researcher can locate Topic and Key Numbers by using the volumes titled “Descriptive Word Index” at the end of each digest set. Through these volumes, alphabetically listed key words lead a researcher to a relevant Topic and Key Number in the main digest volumes. A researcher may also browse the main volumes and consult the outline at the start of a topic to locate a specific Key Number. Topics in a digest, like any encyclopedia, are arranged alphabetically. So if a researcher is interested in tax issues, it may be best to pull the volume that contains the topic taxation, and scan the outline to locate a specific Key Number in taxation.

WHEN A TOPIC & KEY NUMBER IS FOUND:

1. Locate opinions in a Reporter:

Now that a researcher has found relevant topic and key numbers, the next step will be to read the case summaries printed in the Digests. Each case summary comes with a notation of what court the case is from, a brief synopsis of the issues dealt with in the case, the names of the parties involved, and a citation to where the full opinion can be found in a Reporter. An example citation is as follows: State v. Lambert, 754 A2d 182; the 754 indicates the volume number, the A2d refers to the Reporter (Atlantic 2d

Reporter), and the 182 refers to the page number in that volume of the reporter where the opinion starts.

2. Update Research:

An important step in conducting case law research is to update or ensure that the primary authority you have found in case opinions is still “good law.” By using a “citor” service, a researcher can see that opinions have not been overruled or weakened somehow by subsequent cases. Typically an attorney will use an online legal database to accomplish this step, but a print citator titled Shepard’s Citations is also available for all West Digests and for state digests, including the Delaware and Pennsylvania Digests. Shepard’s will tell a researcher if a case has been overruled by a higher court. Since Shepard’s will list subsequent cases that have cited to it, and provide references to a case in secondary sources, this is also an effective tool by which to locate additional opinions on-point that might not otherwise have been located.

Shepard’s can be found online at:

www.lexisnexis.com/lawschool with a similar service called Keycite available at: www.lawschool.westlaw.com
A detailed analysis of the two services can be found at: <http://law.creighton.edu/pdf/5/10.pdf>

Using a digest is the traditional way to do case law research in print. While often time-consuming and tedious, this approach can be a very effective way in which to uncover valuable case law. Often it is done due to the lack of access to a subscription database, but this research approach can also supplement online research -- uncovering legal issues or precedents that electronic research missed. In fact, www.lawschool.westlaw.com provides for Topic and Key Number searching online. Upon logging into Westlaw, click on “site map” at the top of the page, and on the next page, click on “West Key Number Digest”. www.lexisnexis.com/lawschool has a similar index-approach to case law research. Under the “search” tab at the top of the main research screen, a researcher can search by topic across multiple sources or headnote in case law databases.

Still have questions?

Delaware Reference: 302-477-2114

Harrisburg Reference: 717-541-3933

Email: use “Ask a Librarian” at: www.law.widener.edu/LawLibrary.aspx