



Bridge to Nowhere?

Successfully Spanning the Legal Research Gap

NOCALL Spring Institute Workshop
Friday, April 24, 2009



Getting the Assignment, Research Plan, and Levels of Authority

Susan Nevelow Mart
Kathy Skinner

Getting the Assignment

The Reference Interview

Questions To Ask

- **J**urisdiction
- **U**seful tips
- **S**cope of research
- **T**erms of art
- **A**cronyms
- **S**ources
- **K**ey cost constraints

Carolyn P. Ahearn, "The Right Way to Research," *Legal Times*, Sept. 29, 2003

J JURISDICTION

- Federal or state, court or administrative decisions, regulatory or legislative sources, or a combination thereof.

U USEFUL TIPS

- The assigning attorney may know of internal documents or experts on the issues, or may have noticed a recent case in a specialized newsletter. Obtain copies.

S SCOPE OF RESEARCH

- Does the assigning attorney want you to scorch the earth or scratch its surface?

T TERMS OF ART

- Ask the assigning attorney for standard terms of art and their definitions. This question will aid immeasurably in searching digests and databases.

A ACRONYMS

- Clarify the spelling and meaning of acronyms. Attorneys throw them around constantly, forgetting that these terms mean nothing to individuals new to the field.

S SOURCES

- As an expert, the assigning attorney will know the "bibles" of research in his/her field. Ask for the titles of those materials to save time in the library.

K KEY COST CONSTRAINTS

- Does the client limit CALR - computer assisted legal research or on-line database research charges? How many hours should you expect to bill on this project? Can you use messenger services, document retrieval service, Federal Express, faxes and other costly conveniences? Ask now and you won't be embarrassed later.

The Reporter's Questions

- WHO
- WHAT
- WHERE
- WHEN
- WHY
- HOW

Thanks to Paul D. Callister, J.D., M.L. <http://library.law.uiuc.edu/sub/survival/tab1.html>

WHO

Are the parties?

Which side:

Of the lawsuit?

Of the transaction?

Any legal entities involved?

Is the audience for my work?

Else has worked on a similar case?

WHAT

- Are the Facts/Descriptive Words
- Are the Legal Issues/Descriptive Words
- Are the Sources Known
- Ask for obvious missing important facts or information
- Will the work product look like?

WHERE

- Jurisdiction
 - Federal?
 - One circuit?
 - Other states?
 - State?
 - Choice of law?

WHY

- Objectives?
- Results Looking For?

WHEN

- Is it due?
- Are there other deadlines for review?

HOW

Much time should I allocate to this?

Level 1 - Frame Your Issues

- Decide what you need to find and formulate the question you are researching.
- Figure out what secondary sources (including work product) will best address your research needs (and ASK if you are not sure).
- Read the secondary sources to get context.
- Check your plan again and see if your research to date requires you to get clarification or if you have gotten off track with your research.

READ

The cases and statutes referred to in your
secondary sources

Level 2 – Refine Your Search and Update

- Once you have context, background, and citations to good primary law, come up with your secondary research plan.
- If you are looking for case law, you could refine your search strategy and then use case databases, headnotes and key numbers to find cases that are more factually similar to your client's case and to make sure all your cases are still good law.
- If a statute applies in your case, you can use annotated statutes to find good cases.
- There is no one strategy that will work with every problem. But breaking your problem down into parts and making sure you understand the context of the problem will always help.

RECORD

Your search results:

you may have to justify the
thoroughness of your searching,

and someone may pick up the file after
you and will not want to reinvent the
wheel.

ASK

For help:

The library is a risk-free zone for help

Levels of Authority

Law School is a Jurisdiction-Free Zone

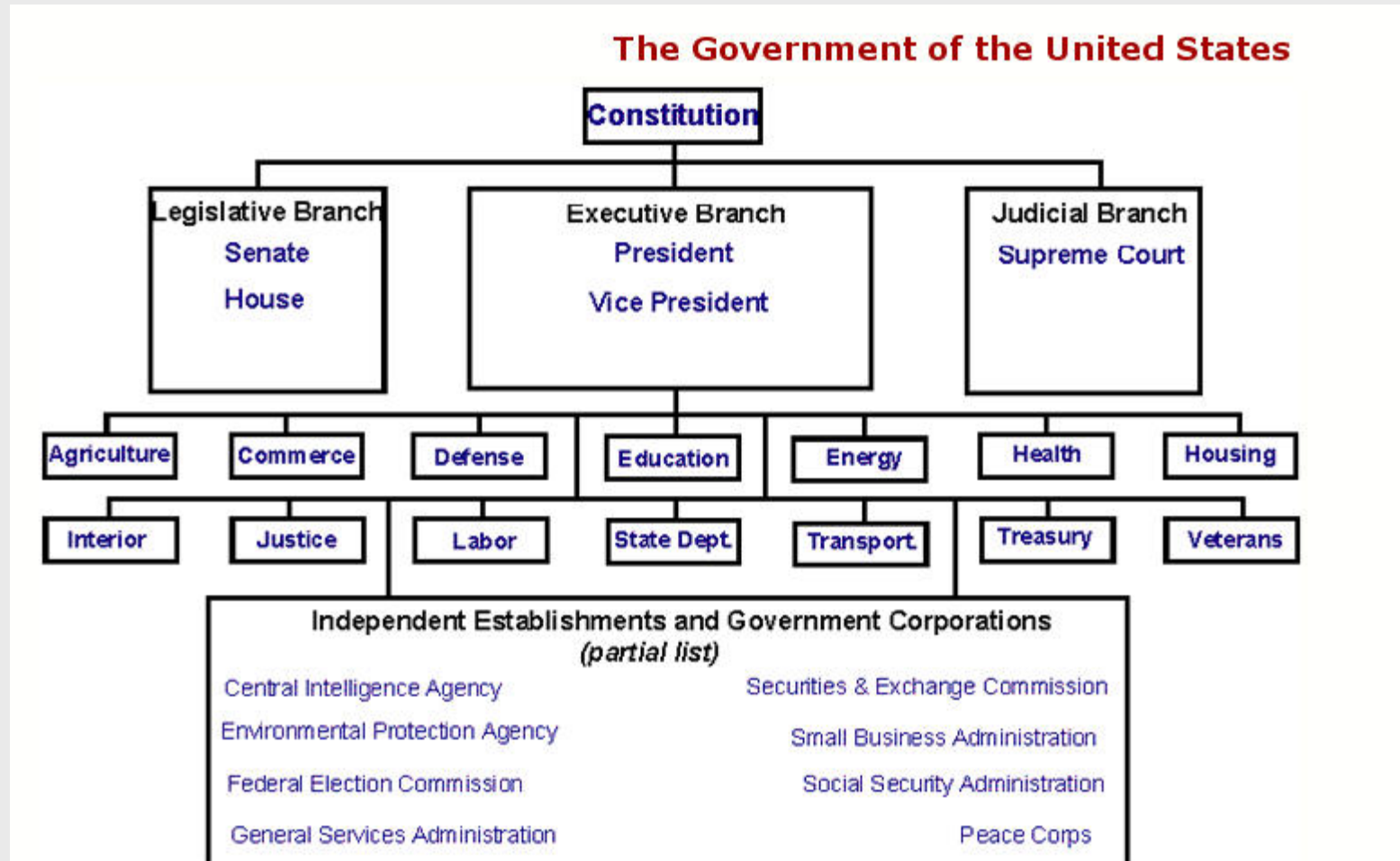
Levels of Authority

Clear Up Any Confusion About
Primary and Secondary Authority

Civics 101

Refresher Course on the Political Structure
of the United States and the States

The Origins Of Statutes, Regulations and Cases



Mandatory v. Persuasive

U.S. Supreme Court

Mandatory on all courts on points of federal law

Federal Courts of Appeals

Mandatory on district courts and specialized lower courts in the same circuit, persuasive for courts in other federal circuits and state courts

Mandatory v. Persuasive

U.S. District Court

Mandatory on specialized lower courts in the same district

State Courts

Decisions of each state's Supreme Court on that state's law is mandatory on all lower courts; state appellate court decisions are mandatory on all lower courts

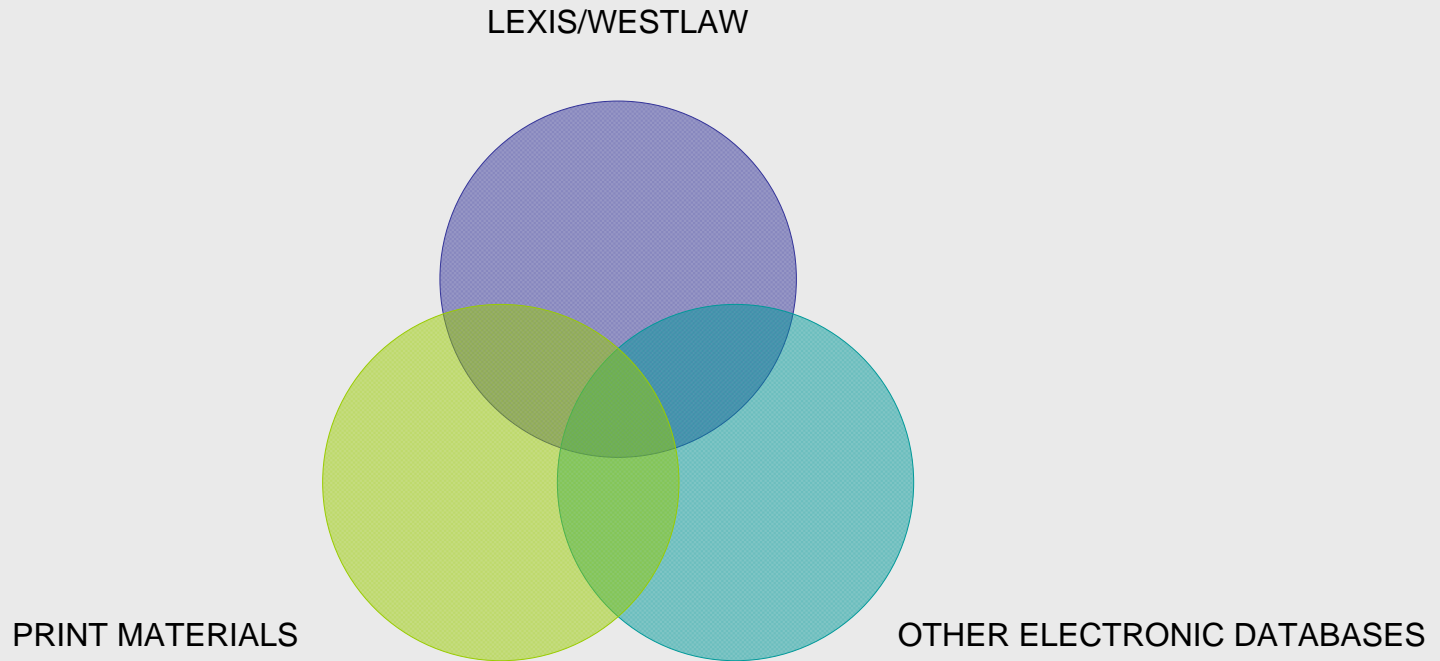
Published and Unpublished

Citable at All

Weight

Check Local Rules

Tip #1: Build Redundancies Into Your Research

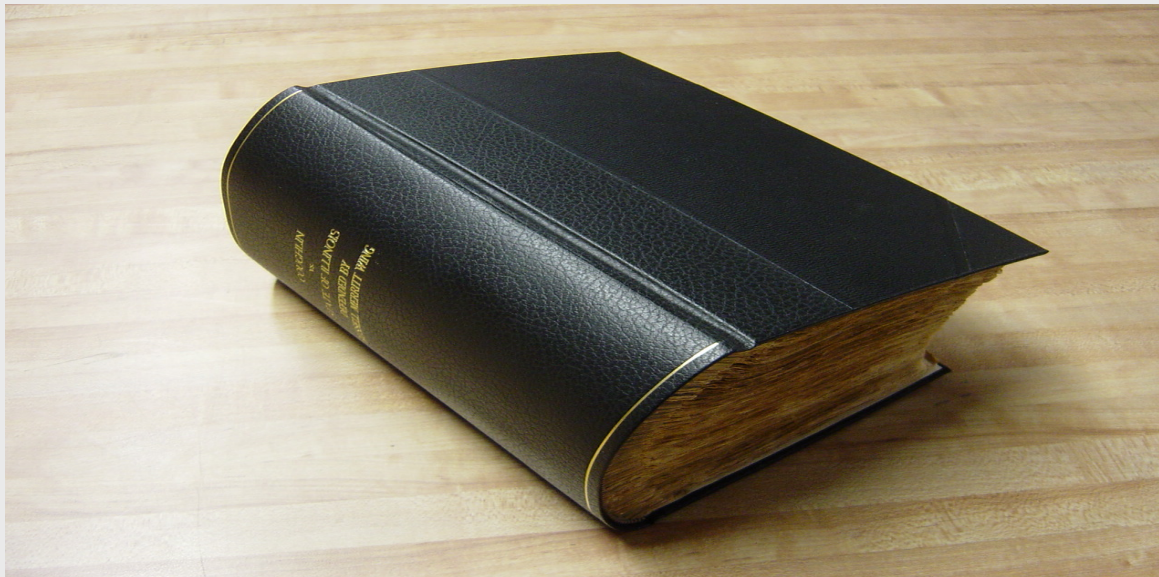


Tip #2:

Start With a Treatise or Practice Guide

Treatises and practice guides come first! Get context.

After you have context, use the leading primary sources found to locate case law that more closely tracks the facts of the client's case.

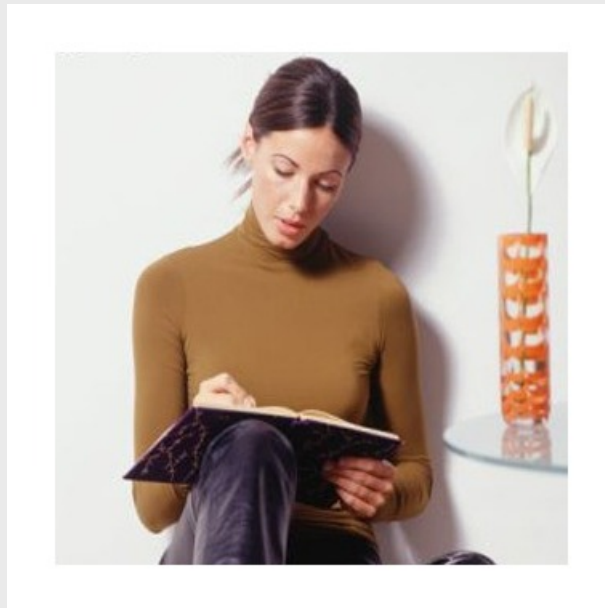


Tip #3:

Write It Down and Play It Back

Write down the assignment and “replay” to the requestor. Check back in to confirm that you are on track.

Make sure that “the ball hasn’t moved.”



Tip #4: Be A Skeptic

Maintain a certain skepticism about the facts each side relates.

Understand that the facts are the subject of the dispute as well as the law. What you are told are the “facts” need to be verified, and possibly proven in court.



Tip #5:

When Did the Event Occur?

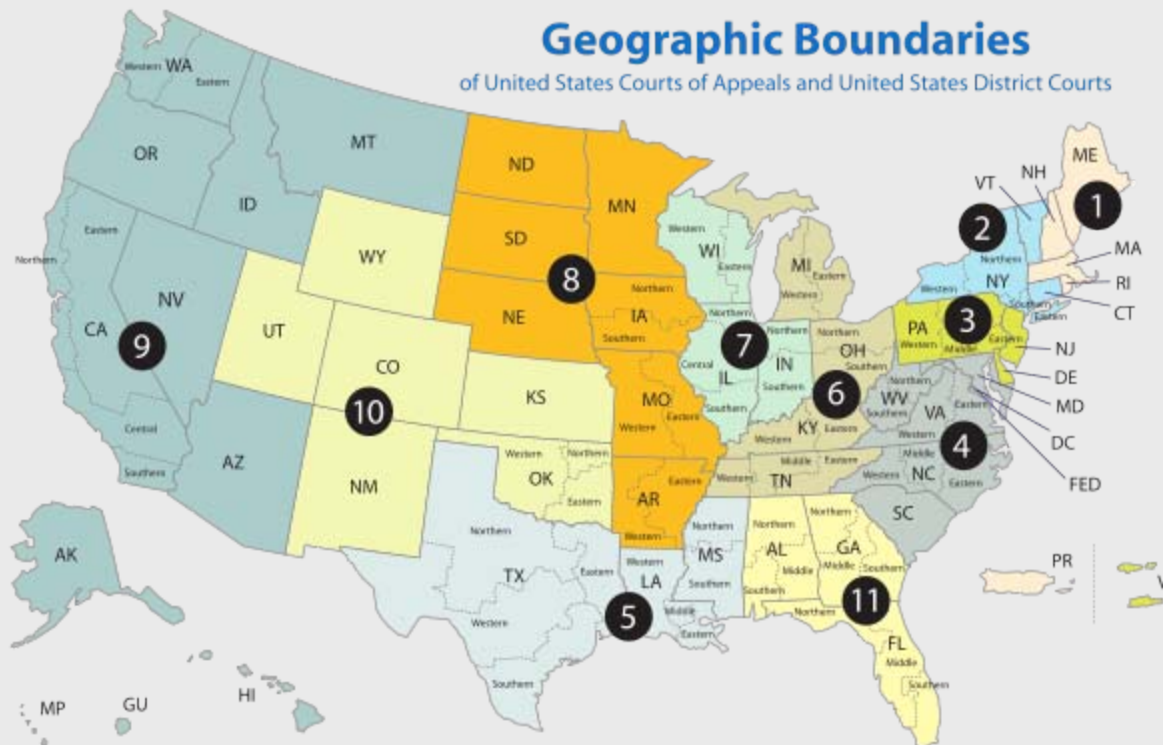
Be aware of the timing of the events you are researching.

If the events took place in 2001, the law as it existed in 2001 is what you must find. That might not be the current law.



Tip #6: Where Is It Being Litigated?

Understand mandatory and persuasive authority:
know your jurisdiction.





Practice Materials: The Practical Way to Practice Law

Yvonne Boyer
Dean C. Rowan
Schelle Simcox

New & Summer Associates: Fresh Out of Law School

- Assume your new hires know little or nothing about practice materials.
- Law school prepares students to "think like a lawyer."
 - Inductive, case method approach persists.
 - Some attention to statutes
 - Occasional attention to research, albeit usually of an academic sort
 - The persistent lure of Westlaw, Lexis, and Google...
- Firm work entails thinking *and acting* like a cost-effective lawyer.
 - A mighty big difference...

The Law School Experience: Examples from Berkeley Law

- **Advanced Legal Research (ALR) course**
 - A thorough survey of legal bibliography, research sources, and methods
 - Practical exercises
 - Attention to the limitations of each tool
 - You should be able to recognize students from ALR.
- **Real World Research**
 - Lunch time sessions focused on a real topic
 - E.g., practice guides, OnLaw, legislative histories, the court system
- **The Reference Desk**
 - Often a good opportunity to demonstrate practical materials

The Law School Experience: More Examples from Berkeley Law

- **Externships**
 - Library responses to externs' actual research assignments
 - A valuable opportunity to demonstrate practical materials
- **Writing Requirement**
 - Tends toward the scholarly, but often requires consultation with Reference Librarians
- **Research Assistantships (RAs)**
 - Scholarly, but another avenue to the Library
- **Writing Requirement**
 - Scholarly, but another avenue to the Library

The Law School Experience: Final Examples from Berkeley Law

- **Legal Research and Writing (LRW)**
 - A focus on writing, but exposure to digests, etc.
- **Classroom**
 - Professors are slowly becoming more sensitive to the need to inform students about Library resources.

Core Concepts: Hit Them Over The Head

- These are the resources practicing attorneys use.
 - They need to shift focus away from being a student and into practice mode.
 - Practicing attorneys need to save money & find answers quickly.
 - Practicing attorneys frequently need to learn a new area of law - practice materials are often the best resources to get up to speed as fast as possible.
 - Practice guides are specially formulated for the practicing attorney.

Core Concepts: Hit Them Over The Head

- Important that summer associates know that these resources exist - and that this is the starting point for research.
- What do we mean by practice materials?
 - For purpose of this discussion, includes secondary sources that practicing attorneys use.
 - Many referred to as practitioner treatises, practice guides, practice handbook, practitioner's resource, etc. (often have "practice" as part of the title)
 - The term secondary sources is often meaningless and too general.

Core Concepts: Hit Them Over The Head

- Summer associates may have been exposed to "secondary sources" such as *ALR*, *AmJur*, *CalJur*, etc.
- Practice materials can be available in either print or electronic format.
- Some publishers specialize in practice materials - CEB, PLI treatises, Law Journal Press.
- Mention that each area of law often has its "bible(s)".

Ideas for Teaching: A Starting Point

- You can't say it enough - practice guides are the starting point for research.
- Tell them it is the **ONE THING** you want them to take away from the orientation.

Ideas for Teaching: Main Points

- Practice Guides are:
 - an antidote to jumping into case law first
 - timesaving
 - cost effective
 - the starting point

Ideas for Teaching: From the General to the Specific

- Remind orientees that there are often multiple practice guides on any topic, and chapters in sets.
- Show them examples of specific titles:
 - CEB's *Administrative Mandamus*
 - Rutter's *Business and Professions Code 17200*
 - Law Journal Press' *Partnerships, Joint Ventures & Strategic Alliances*
- Show them examples of multivolume general titles:
 - Miller & Starr, *California Real Estate Law*
 - Witkin, *Summary of California Law*

Ideas for Teaching: Don't Reinvent The Wheel

- New associates are unfamiliar with an area of law. The treatise provides a frame for the law.
- A good practice guide will tell them:
 - where the law has been
 - where the law stands now
 - major cases
 - related statutes and regulations
 - where the law may be headed

Ideas for Teaching: Hours vs. Days

The phone call...

Ideas for Teaching: Finding Practice Materials

- How do they find these resources?
 - Emphasize that summer associates should come to librarians to find out what resources are available both in-house and offsite.
 - Does the firm have an online catalog which lists all print and electronic resources?
 - Does the firm library have a web page on the firm Intranet which provides useful/practical information?
 - Can you send links to this information electronically via e-mail?

Ideas for Teaching: Local Nicknames

- Remind summer associates that practicing attorneys may have nicknames for materials:
 - Witkin (*Summary*)
 - Schwarzer (*Fed Civ Pro*)
 - Pink Rutter (*CA Employment Litigation*)
- Some libraries put them in the catalog that way, so librarians can help decipher odd descriptions, nicknames.

One Lawyer's Practice Guide Is Another's Rosetta Stone

- Practice materials are formatted for ease of use, but...
- Not all students are aware of their special features...
- And new attorneys from outside California are unaware of the wealth of practical literature.
 - Witkin?
 - CEB?
 - Rutter Group?
 - *CalJur*?

Anatomy of a Practice Guide

- Ex.: Rutter Group's *California Civil Procedure Before Trial*
 - TOC, both summary and detailed
 - Index
 - Forms (for *CCPBT*, a separate volume, as is the SOL volume)
 - Practice tips
 - Design features, such as font, layout, tabs
 - Checklists
 - Tables of cases, statutes, etc.
- If you have time, use a practice guide or treatise activity to demonstrate.

Complex Message = Difficult Medium

- But some print practice materials are *not* so easy to use.
- Ex.: *Nimmer on Copyright*
 - Analysis volumes
 - Forms volumes
 - Reference Materials volumes (inc. Appendices)
 - Tables, an index
 - Supplemental volumes, e.g., the DMCA committee reports, “Volume CR1”
- Ex.: *CCH Standard Federal Tax Reporter*
- Point out that mastery of a legal practice entails an understanding of its information resources.
- There are good reasons a useful treatise might not be as immediately useful as an ordinary reference book.

It's A Hybrid World

- A hybrid world – both print and online – demands hybrid training.
- Reveal online avenues to treatises and practice materials.
 - Westlaw, Lexis
 - CCH
 - BNA
 - OnLaw
- Take a virtual tour of your library via these services.

Begin Practically

- Begin your online training with treatises and practice materials.
- Invite vendor reps to start their training with treatises.
- Show your attorneys
 - How to find treatises online using, e.g., the Westlaw & Lexis directories
 - The online and print counterparts in your library
 - Other libraries and online resources
 - Use a large academic law library catalog to identify a treatise not in your library.
 - How to explore the TOC features on Lexis & Westlaw.

Ideas for Teaching: Don't Forget Non-Litigation Resources

- Special issues – how to teach the transactional or corporate attorney?
 - Find out which resources partners use regularly (i.e. everyone uses)
 - Red Book (*Securities Law Handbook*)
 - TheCorporateCounsel.net
 - CCH Securities Library, etc.
 - Manuals on drafting contracts

Ideas for Teaching: Non-Litigation Resources

- Point out these resources if you have a strong practice in this area and give examples on how they might be used by corporate attorneys.
 - Use CCH to find out how the SEC interprets a particular rule or regulation through SEC releases, no-action letters, etc.
 - Use 10K Wizard to find sample SEC filings - especially language used in agreements found in exhibits.
 - Balotti & Finkelstein have numerous forms.

Five Tips

- Emphasize that practice resources are what practicing attorneys use.
- Use handouts or presentation to make sure you cover all the points during your orientation.
- Develop a handout of FAQs.
- Use non-litigation resources as examples.
- Be a broken record.



West Digests

Craig Griffith
Lee Ryan
Schelle Simcox

Why Teach Digests? Why Do They Matter?

- Encourage reasoning by analogy
- Facilitate researching the rules rather than the facts
- Can provide the larger context for an issue
- Enable thorough (“scorched earth”) case-law research
- Give access to “dictum”
(Dictum: statements in case law that do not directly relate to the “holding” or rule of a case but can give guidance as to how judges might approach a problem, issue or situation.)

Why Teach Digests? Why Do They Matter?

- Provide one alternative path to full-text searching.
- Helpful when you have one good case.
- Offer avenues into cases not available in any other way.
- Offer comprehensive case law access –
Digests include cases arising under common law and cases interpreting statutes; will include cases even if not groundbreaking (and so not appearing in the treatises.) Every *published* case in the jurisdiction is included.

If summers/new attorneys aren't using digests,
they are probably missing cases.

Ideas for Teaching

Digests are one of 5 ways to find a case

- Secondary sources –
treatises and practitioner resources, including knowledgeable senior attorneys.
- Annotated codes
(on West, cases up for review in the California Supreme Court disappear from the key number system and code. Deerings has them.)
- Full text (online) searching of case law
- Cite checking –
part of the “one good case method” (Shepards and Keycite.)
- West’s Key Number Digests

5 Ways to Teach Digesting

1. Descriptive Word index (Print Only)
Not quite the same as doing a field sy/di search
2. Browse the Outline (in print or online)
3. One good case method
(Find your case and then use the Topic and KeyNumber associated with your headnote or headnotes of interest.)
4. Search for key numbers
by entering key terms associated with your issue
5. Enter your Topic and KeyNumber
and go directly to headnotes associated with it.

Teaching – When You Own The Print

1. You have it, you've already paid for it and searching is “free”.
2. Descriptive word index (unique to print) lets you search by fact-based (and legal-concept-based) terms.
3. Use *West's Analysis of American Law* to see where your Key Number is placed in the Topic outline. It is easier to do this in print than online.
4. Layout and ease of reading in print.

What Do Newbies Know?

Not much!

- Exposure/instruction? Very little if any.
- Appreciation for role of Digests – high once they appreciate what it can do.

Narrowing your search from a case

Westlaw

FIND&PRINT KEYCITE DIRECTORY KEY NUMBERS COURT DOCS FORMFINDER SITE MAP LIVE HELP SIGN OFF

Public Records Public Records (Legacy) Librarians 50 State Surveys Financial Crisis Expert PeopleMap Bankr

Result List 1 Doc Links for 698 P.2d 116

Full Screen List
Locate in Result
Find citation: Go

No longer good for at least one point of law
Full History
Direct History (Graphical View)
Citing References
Monitor With KeyCite Alert

1. Find case
2. Locate headnote
3. Click KeyNumber

Becker v. IRM Corp.
38 Cal.3d 454, 698 P.2d 116
Cal., 1985.
April 29, 1985 (Approx. 24 pages)

Paramount policy of strict products liability rule is the spreading throughout society of cost of compensating otherwise defenseless victims of manufacturing defects.

[6] KeyCite Citing References for this Headnote

233 Landlord and Tenant
233VII Premises, and Enjoyment and Use Thereof
233VII(E) Injuries from Dangerous or Defective Condition
233k164 Injuries to Tenants or Occupants
233k164(1) k. In General; Defective or Dangerous Conditions. Most Cited Cases

Absence of a continuing business relationship between builder of apartments and landlord who subsequently acquired them would not preclude holding landlord strictly liable in tort for latent defects of rented premises existing at time of lease because landlords are an integral part of enterprise and they should bear cost of injuries resulting from such defects rather than injured persons who are powerless to protect themselves.

[7] KeyCite Citing References for this Headnote

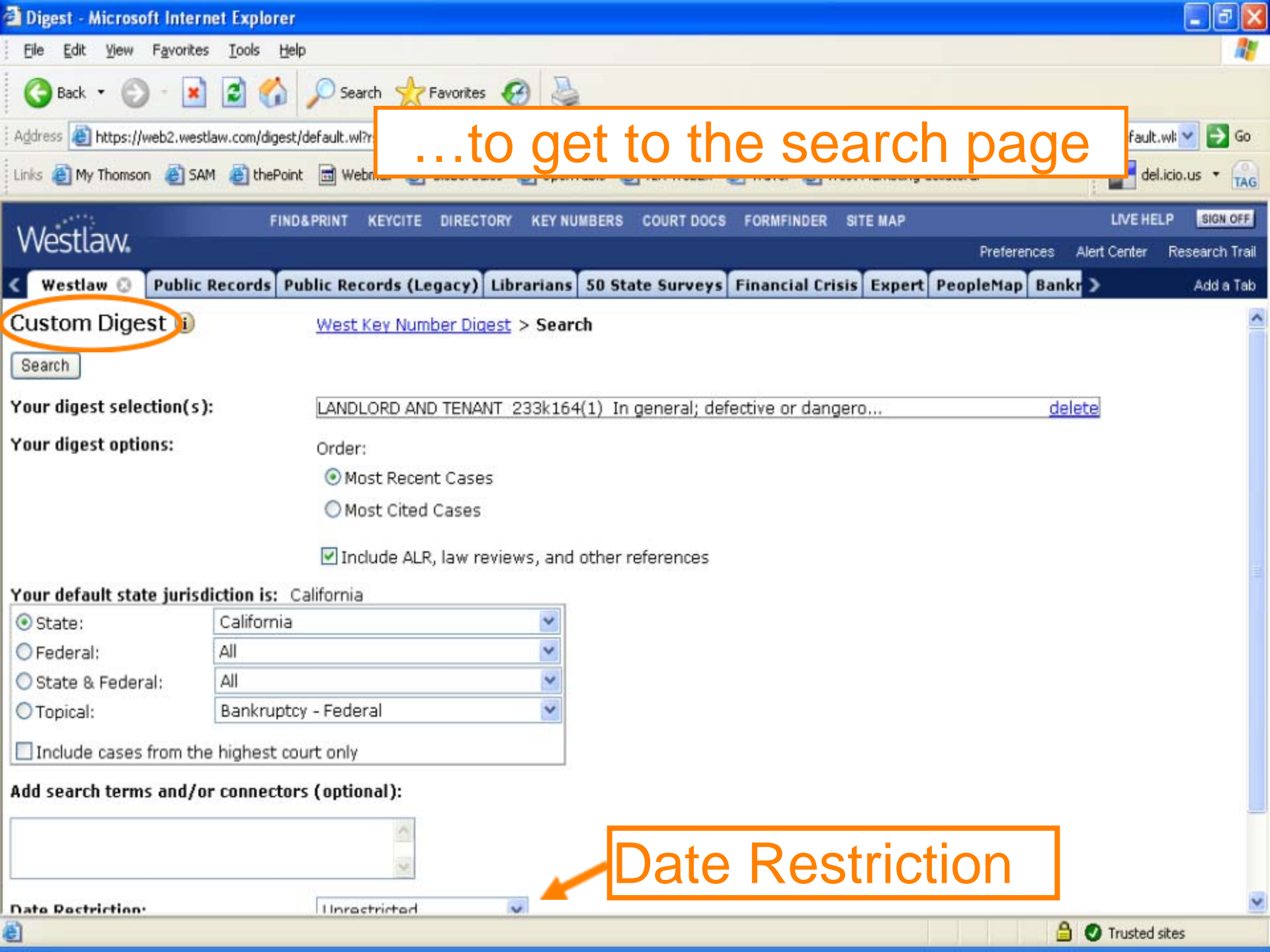
ResultsPlus™ View All Results

ALR
1. Landlord's Liability for Failure to Protect Tenant from Criminal Acts of Third Person

Am.Jur.2d: Landlord and Tenant
2. Breach of Covenant, Interference by Landlord Generally

Tools Go

Trusted sites



...to get to the search page

Custom Digest

[West Key Number Digest](#) > Search

Search

Your digest selection(s):

LANDLORD AND TENANT 233k164(1) In general; defective or dangero... [delete](#)

Your digest options:

Order:

☒ Most Recent Cases

☐ Most Cited Cases

☒ Include ALR, law reviews, and other references

Your default state jurisdiction is: California

☒ State: California

☐ Federal: All

☐ State & Federal: All

☐ Topical: Bankruptcy - Federal

☐ Include cases from the highest court only

Add search terms and/or connectors (optional):

Date Restriction

Date Restriction:

Unrestricted

Result - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Back Forward Stop Home Search Favorites Reload Print

Address [https://web2.westlaw.com/result/default.wl?ftm=USDIGEST&fm=NotSet&hiddenquery=ODTOPKEY\(233k164\(1\)\)&sv=Split&rs=WLW9.038&mqv=s8eq=Digest&rltdigdict=CLID_DIG1](https://web2.westlaw.com/result/default.wl?ftm=USDIGEST&fm=NotSet&hiddenquery=ODTOPKEY(233k164(1))&sv=Split&rs=WLW9.038&mqv=s8eq=Digest&rltdigdict=CLID_DIG1) Go

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Preferences Alert Center Research Trail

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Result List 1 Doc

Full Screen List Edit Search **Locate in Result**

Result Options Go

SELECT TO PRINT, EMAIL, ETC.

☐ 1. **233K164(1)** 193 Headnotes

- 233 LANDLORD AND TENANT
- 233VII Premises, and Enjoyment and Use Thereof
- 233VII(E) Injuries from Dangerous or Defective Condition
- 233k164 Injuries to Tenants or Occupants
- 233k164(1) k. In general, ?defective or dangerous conditions.

Clear all

Next Part>>

Custom Digest 233K164(1) 193 Headnotes

Headnotes

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[Yu Fang Tan v. Arnel Management Co., 88 Cal.Rptr.3d 754](#)

- 233 LANDLORD AND TENANT
 - 233VII Premises, and Enjoyment and Use Thereof
 - 233VII(E) Injuries from Dangerous or Defective Condition
 - 233k164 Injuries to Tenants or Occupants
- 233 k164(1) k. In general; ?defective or dangerous conditions. Cal.App.2.Dist., 2009

Tenant's rejection of landlords' offer to rent him a parking space within a gated area of the apartment complex where he lived precluded him from raising the claim that landlords violated their duty to prevent the harm from foreseeable third party criminal acts on the premises by renting parking spaces to non-tenants, after tenant was injured in a carjacking while parking his car in an ungated area of the apartment complex; tenant's theory was that the practice of renting parking spaces to non-tenants reduced the number of nonassigned spaces within the gated area, thus forcing him to park in

Tools Go

Done Trusted sites

Locate to save money

Headnotes, not cases

Want to Browse the Key Numbers?

Address <https://web2.westlaw.com>

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7 Docs**Links for**
233K164(3)[Full Screen List](#)
[Edit Search](#) [Create in Result](#)

Go back to the search page

Result Options [Go](#)

- ☐ **3. 233K164(3)** 18 Headnotes
 - ↳ [233 LANDLORD AND TENANT](#)
 - ↳ [233VII Premises, and Enjoyment and Use Thereof](#)
 - ↳ [233VII\(E\) Injuries from Dangerous or Defective Condition](#)
 - ↳ [233k164 Injuries to Tenants or Occupants](#)
 - ↳ [233k164\(3\) k. Injuries due to negligence in making repairs.](#)

- ☐ **4. 233K164(4)** 4 Headnotes
 - ↳ [233 LANDLORD AND TENANT](#)
 - ↳ [233VII Premises, and Enjoyment and Use Thereof](#)
 - ↳ [233VII\(E\) Injuries from Dangerous or Defective Condition](#)
 - ↳ [233k164 Injuries to Tenants or Occupants](#)
 - ↳ [233k164\(4\) k. Injuries due to unlighted passageways.](#)

- ☐ **5. 233K164(5)** 5 Headnotes
 - ↳ [233 LANDLORD AND TENANT](#)

Headnotes

▶ [McDaniel v. Sunset Manor Co., 269 Cal.Rptr. 196](#)

- ↳ [233 LANDLORD AND TENANT](#)
- ↳ [233VII Premises, and Enjoyment and Use Thereof](#)
- ↳ [233VII\(E\) Injuries from Dangerous or Defective Condition](#)
- ↳ [233 k164 Injuries to Tenants or Occupants](#)

↳ [233 k164\(3\) k. Injuries due to negligence in making repairs.](#)

Cal.App.1.Dist., 1990

Regardless of whether landlord in particular situation is duty bound to improve his property, once he undertakes repairs or improvements to property, then he has assumed duty to act with ordinary care.

▶ [McDaniel v. Sunset Manor Co., 269 Cal.Rptr. 196](#)

Cal.App.1.Dist., 1990

Landlord who makes repairs or improvements on property which give deceptive appearance of safety is subject to liability for injury caused by condition.

Doc 3 of 7

Tools [Go](#)

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Add a Tab

Custom Digest

Selected Databases

California (CA-HN-OD)

Custom Digest

West Key Number Digest

Search

Search

Your digest selection(s):

LANDLORD AND TENANT 233k164 Injuries to tenants or occupants

delete

Your digest options:

Order:

Most Recent Cases

Most Cited Cases

Include ALR, law reviews, and other references

Your default state jurisdiction is: California

State:California

Federal:All

State & Federal:All

Topical:Bankruptcy - Federal

Include cases from the highest court only

Add search terms and/or connectors (optional):

Done

Trusted sites



- Click
and
Search
multiple
selections

Search for Key Numbers

Enter terms e.g., *landlord duty of care to trespassers*Jurisdictions selected: **All Federal Cases**[Change Jurisdiction](#) **California State & Federal**

Browse Key Numbers

West Key Number Digest Outline

Browse through the 400+ topics of the West American Digest System.

KeySearch

KeySearch, powered by the West Key Number System, identifies relevant Key Numbers and their underlying concepts and runs a query for you. KeySearch can retrieve reported cases as well as documents that don't contain Key Numbers, such as law reviews and unpublished cases.

What is a Key Number? [Show](#)

3 Ways to start your search using KeyNumbers

1. Keyword search of KeyNumbers

2. Browse the KeyNumbers...

3. KeySearch

Search for Key Numbers

Enter terms e.g., *landlord duty of care to trespassers*

landlord duty of care to trespassers

Search

Add Related Terms: [OWNER](#) [LESSOR](#) [FREEHOLDER](#) ["DUE CARE"](#) ["ORDINARY CARE"](#) ["REASONABLE CARE"](#) ["STANDARD OF CARE"](#) [FORESEEABILITY](#) [CAUTION](#) [PRUDENCE](#) [CUSTODY](#) [SUPERVISION](#) [INTRUDER](#) [INVADER](#) ["WRONGFUL ENTRY"](#) [\[SELECT ALL \]](#)Jurisdictions selected: **All Federal Cases**[Change Jurisdiction](#) **California State & Federal**[West Key Number Digest Outline](#)

1. Keyword search of KeyNumbers

All Federal Cases

Results list

NEGLIGENCE

- ☐ [272k1045\(3\)](#) **Trespassers** > **Care** required in general
- ☐ [272k1045\(4\)](#) **Trespassers** > Knowledge, discovery or acquiescence
- ☐ [272k1067](#) **Care** as to children > Trespassing children

LANDLORD AND TENANT

- ☐ [233k162](#) INJURIES FROM DANGEROUS OR DEFECTIVE CONDITION > Nature and extent of **landlord's duty**
- ☐ [233k164\(1\)](#) Injuries to tenants or occupants > In general; defective or dangerous conditions
- ☐ [233k167\(8\)](#) Injuries to third persons and their property > Injuries to visitors or

ResultsPlus™

[View All Results](#)

Am.Jur.2d: Railroads

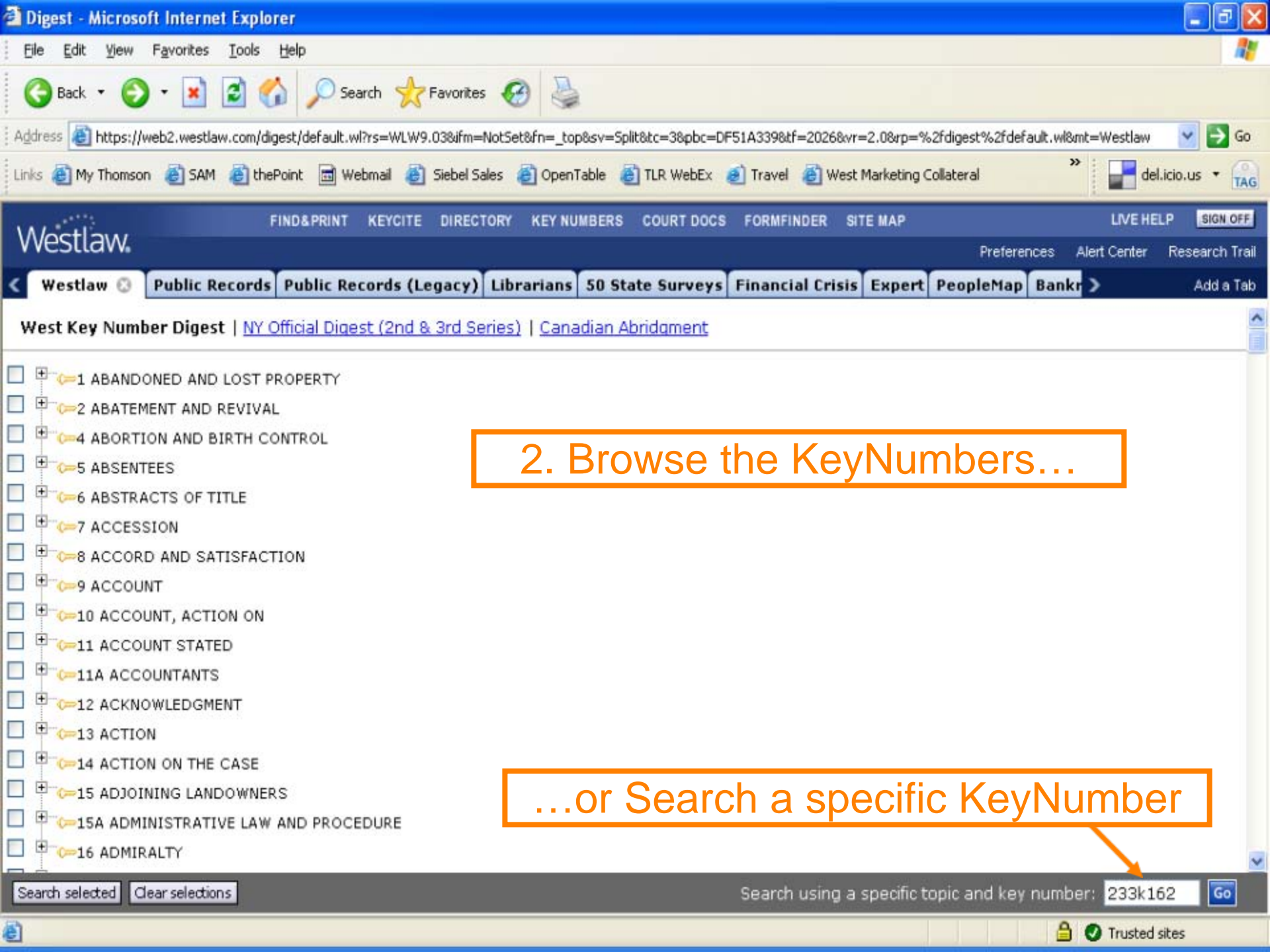
[1. Status of Person Injured, In General, Trespasser](#)

ALR

[2. Modern Status of **Landlord's Tort Liability for Injury or Death of Tenant or Third Person Caused by Dangerous Condition of Premises**](#)

Am.Jur.2d: Premises Liability

[3. **Duty Owed Trespassers**](#)



2. Browse the KeyNumbers...

...or Search a specific KeyNumber

Search using a specific topic and key number: 233k162

3. KeySearch

[Browse...](#)

KeySearch

A research tool powered by the [West Key Number System](#) that identifies the terms and key numbers most relevant to your legal issue and creates a query for you.

Click a folder icon or its corresponding topic to browse more subtopics.

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[Open Meetings](#), [Exhaustion](#), [Primary Jurisdiction](#),

[Agriculture](#)

[Federal Aid](#), [Veterinarians](#), [Pest Control](#),

[Alternative Dispute Resolution \(ADR\)](#)

[Securities Law](#), [Insurance](#), [Bankruptcy](#),

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[Art, Entertainment, and Sports Law](#)

[Agents](#), [Licenses](#), [Torts](#),

[Bankruptcy](#)

[Exemptions](#), [Stay](#), [Priorities](#), [Preferences](#),

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[Corporations](#), [Partnerships](#),

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KeySearch

Click a folder or its corresponding topic to browse more subtopics.

Click a magnifying glass or its corresponding topic to search for documents.

Search the list of topics and subtopics for these terms:

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KeySearch Topics

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Agriculture

Alternative Dispute Resolution (ADR)

Antitrust and Trade Regulation

Art, Entertainment, and Sports Law

Bankruptcy

Business Organizations

Civil Procedure

Civil Remedies

Civil Rights

All Topics > Bankruptcy > Discharge

Search all of Discharge, or select a topic below.

Ability to Repay

Alimony and Maintenance

Child Support

Co-Signers and Co-Debtors

Concealment

Credit Cards

Debts Dischargeable

Discharge Injunction

Driver's Licenses

DUI Obligations

Educational Loans

Failure to Explain Loss

Failure to Keep Records

False Financial Statements

False Oaths

Fiduciary Fraud or Defalcation

Fines and Restitution

Liens

Proceedings for Discharge

Drill down to magnifying glass and click...

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KeySearch

Tips

[All topics](#) > [Bankruptcy](#) > [Discharge](#) > Educational Loans

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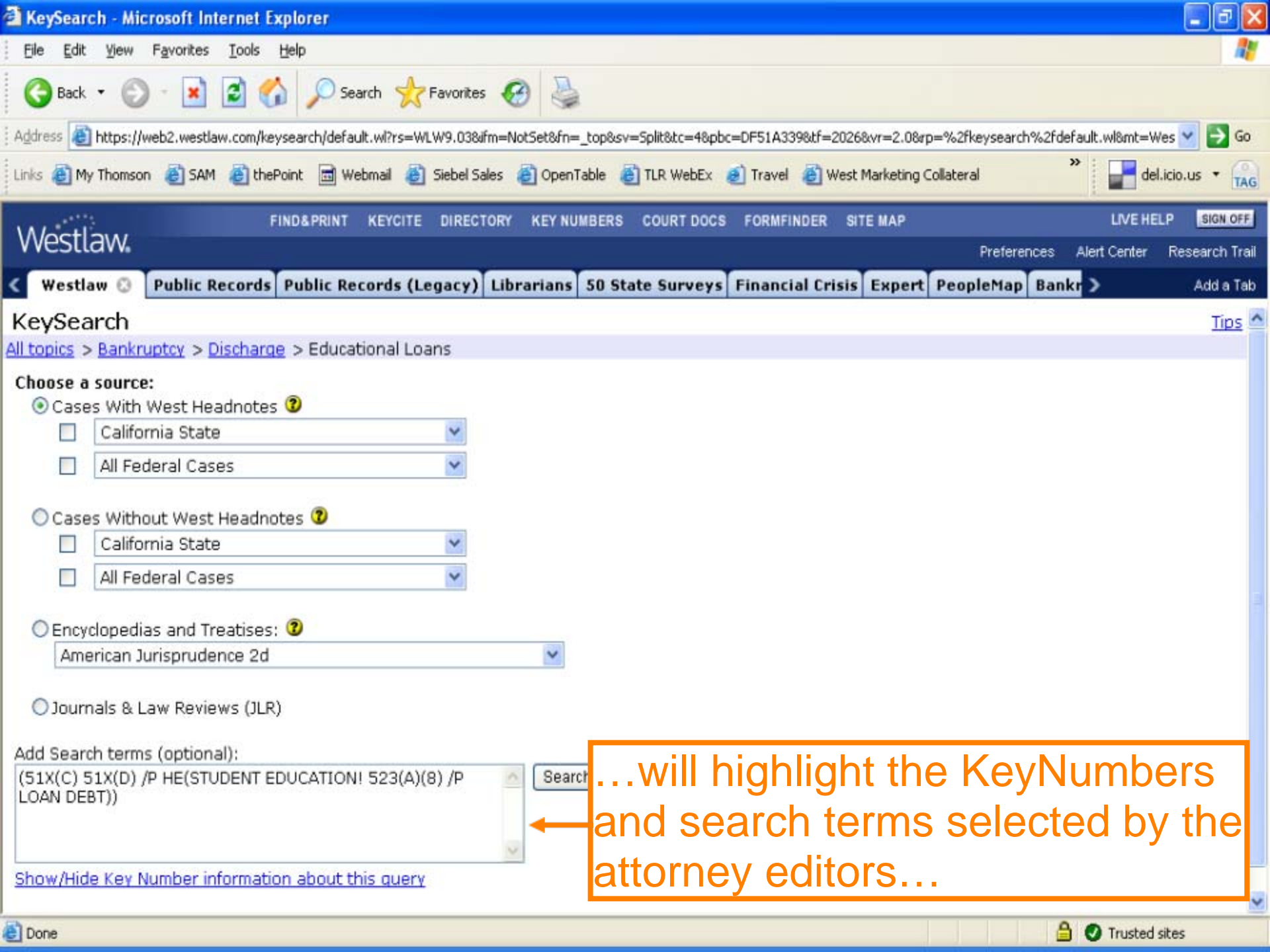
☒ Cases With West Headnotes ?☐ California State☐ All Federal Cases☐ Cases Without West Headnotes ?☐ California State☐ All Federal Cases☐ Encyclopedias and Treatises: ?☐ Journals & Law Reviews (JLR)

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...will highlight the KeyNumbers and search terms selected by the attorney editors...

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Search: (51X(C) 51X(D) /P HE(STUDENT EDUCATION! 523(A)(8) /P LOAN DEBT)

OTHER

Results: 1115 Documents

...in your search results

SELECT TO PRINT, EMAIL, ETC.

1. In re Coleman,

--- F.3d ---, 2009 WL 764564, 09 Cal. Daily Op. Serv. 3760, 2009 Daily Journal D.A.R. 4534, C.A.9 (Cal.), March 25, 2009 (NO. 06-16477)

...of repayment, after which their remaining debts are discharged. 11 U.S.C.A. § 1328(a)(2) [5] 51 Bankruptcy 51X Discharge 51X(C) Debts and Liabilities Discharged 51X(C)3 Educational Loans 51k 3371 Hardship 51k 3371(1) k. In General. To show undue hardship, as required for student loan debt to be discharged in bankruptcy, the debtor must show (1) that she cannot maintain, based on current income and expenses, a minimal standard of living for herself and her dependents if forced to repay the loans, (2) that additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment portion of the student loans, and (3) that the debtor has made good faith efforts to repay the loans. 11 U.S.C.A. § 523(a)(8) [6] 118A Declaratory Judgment 118AI Nature and Grounds in General 118AI(D) Actual or Justiciable Controversy 118Ak 62 k. Nature...

...nevertheless be prudentially ripe if that development would do little to aid the court's decision. [14] 51 Bankruptcy 51X Discharge 51X(C) Debts and Liabilities Discharged 51X(C)3 Educational Loans 51k 3371 Hardship 51k 3371(1) k. In General. The undue hardship inquiry for determining whether a student loan debt is dischargeable in bankruptcy contemplates factual contingencies many years into the future. 11 U.S.C.A. § 523(a)(8) [15] 51 Bankruptcy 51X Discharge 51X(C) Debts and Liabilities Discharged 51X(C)3 Educational Loans 51k 3371 Hardship 51k 3371(1) k. In General. 51 Bankruptcy 51X Discharge 51X(D) Determination of

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BNA Tax Management Portfolio

1. Income, Deductions, Credits and Computation of Tax, 517-2nd: Scholarships and Educational Expenses, Interest on Educational Loans

Am.Jur.2d: Limitation of Actions

2. Modifying, Suspending, or Repealing Existing Statutes, Lengthening of Period, Revival of Barred Causes of Action

ALR

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Top Tips – Digests

- Teach digests as a way to get a different view of an issue (more contextual, more based on rules)
- Teach at the point of need – emphasizing what's in it for them.
- Teach multiple ways of getting into Digests, finding useful Topics and Key Numbers.
- Exploit knowledge of Westlaw reps (for ideas, materials, training).
- Buy *West's Analysis of American Law* (~ \$50) to aid cost-effective ID and browsing of Topics.



Advanced Online Search:

Tips AND Techniques BUT NOT Time Wasters

Keri F. Klein
Sara R. Paul
Dean C. Rowan

How Are Law Schools (Not to Mention Life) Preparing New Attorneys for Online Research?

- Assume Google is the paradigm.
- A generation gap? Young attorneys have new expectations of search tools and results.
- Associates may not understand the limits of online research.
- *“Boolean, schmooglean!”*
 - Lexis and Westlaw trainers in law school don’t use technical language.
 - Only students who have taken ALR would know the terminology.
 - Instead of technical language – Boolean, proximity, precision, relevance – stick to the colloquial – advanced, refine a search, narrow results.

Boolean, Schmoolean? Really?

- Will you teach a search **system** (i.e., the one identified for better or worse with Boole's logic)?
 - Many common functions are not Boolean.
 - But online resources do share similar functions.
- Or will you teach an assortment of *ad hoc tools*?
 - Fields in Westlaw, segments in Lexis.
 - Controlled vocabularies
- Your decision may depend on the time you're allotted to provide training, and the knowledge level of the summers.

Core Concepts, Terms & Examples

- System or Toolbox?
- Research Foundations
- Addressing Costs
- Searching Tools & Techniques
- Pedagogical Pointers

System or Toolbox?

- What opportunities to teach will you have?
 - Formal?
 - Informal and brief?
 - Ad hoc?
- Might this summer be different?
 - More time for summer associates?
 - Library generated training?
 - “Canned” assignments?

Research Foundations

Training new associates to prepare to do research...

- Introductions to varieties of search modes
 - Boolean (terms/connectors)
 - Natural language
 - Templates
- In House Resources
 - Firm work product
 - Consultation with assigning attorneys
 - Reference interview
- Fully exploiting online (paid) resources
 - Consulting research attorneys (phone or online chat)
 - Vendor facilitated trainings

Addressing Costs

- Transactional Pricing vs. Fixed Cost
 - What costs flow to the client?
 - What costs must the firm absorb?
- Traps for the Unwary
 - Searching large files in WL/LX
 - ResultsPlus
- Cheaper Yet Very Useful Functions
 - Locate/Focus
 - KeyCite
- What can be done for “free”?
 - e.g. using WL/LX research attorneys to run searches they develop?

Searching Tools and Techniques

- (Nearly) Universal Techniques for Effective Online Searching
 - Boolean Searching
 - Truncation and Wildcards
 - Phrase Searching
 - Proximity Operators
 - Database Field vs. Keyword Searching
 - Stop Words
- Navigating Individual Databases
 - Using the Directory/Finding a File
 - File Information, Scope Notes, Publications Included
 - Currency?

Teaching Google

- Why is it important?
 - Summers often start their research on Google, so they should be as efficient as possible.
 - “Street cred”
- What to teach?
 - How search engines work
 - What is and is not findable by Google
 - Cached pages
 - Advanced searching
 - Tips and tricks

Pedagogical Tips

- No single online tool has “everything.”
- Use examples rather than abstractions.
 - Especially in point-of-need opportunities.
- Compare resource results.
- Navigate different resources.
- Choose the best search tool.
- Use help screens and documents.
- Interactive technology?

Examples

- Formulating a search string
- Fields/segments compared from file to file
 - Judge, Attorney
 - Title (in large files on Lexis or Westlaw, to effect an artificially relevant result)
- Google Advanced Search
 - vs. Scholar and Book Search
- BNA
 - Headnotes
 - Indexing



Cost Effective Research

Yvonne Boyer
Holly M. Riccio

Cost Effective Research

So...how do we help our summer associates become more cost effective in their research?

Some of the key points described in earlier presentations that we should emphasize in our training of summer associates are:

- Ask questions
- Start with practice materials
- Develop search strategy (before going online)

Ask Questions

Emphasize with your summer associates that it is OK to ask!

- Ask the assigning attorney.
 - Understand what is needed – what is the scope of the project and the desired result/output?
 - Are there any recommended resources?
- Ask the librarian.
 - Especially important to ask for assistance on how to get started.

Ask Questions

- Ask themselves during the research process.
 - Continually re-evaluate throughout the research project if they are finding what they need to produce the desired results.
 - Remember the "15 minute rule" – if they are spinning their wheels for 15 minutes (not going anywhere productive) – stop, go back and ask more questions (of the assigning attorney, librarian, etc.)

Start With Practice Materials

- Emphasize how practice materials can help them
 - To better understand the area of law they are researching.
 - To save time and, ultimately, costs.
- Strongly encourage them to ask the librarian for recommended materials.
- Encourage them to use digests or key number searching to find cases – before going online.
 - Help narrow or better define research strategy.
 - Identify additional terms or understand context better.
- Try to provide as many access points as possible:
 - Catalog
 - Intranet
 - Handouts

Develop Search Strategy

Always do this BEFORE going online!

- Check with the librarian.
- Call/use customer support.
- Be aware of costs involved.



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