Legal Writing & Research
Citators: KeyCite and Shepard’s

Why do legal researchers use citators?

● For verification:
  ● What is the direct history of your case?
  ● How do other courts view your case?
  ● Is the point of law you want to use still good law?

● For research:
  ● Are there other cases that cite your case positively? (You may be able to use those cases, too.)
  ● Are there secondary sources that cite or explain your case?

Important notes

● You can use citators for statutes as well as cases.

● The flags and citator reports are tools to help you identify potential weaknesses, but they don’t do the analysis for you.

● Make sure you allocate sufficient time to review citator reports for each case and statute you will rely on. You may have to review and analyze treatment of your source by many other cases so do not leave it to the last minute!
Westlaw (KeyCite)

1. Select **History** to view the direct history of your case, including any appellate history.
   - If there is a red flag, you must determine which point of law is no longer good law.
   - You **cannot use the case** if it has been overturned for the same point of law.

2. Click on the **Negative Treatment** (if applicable) and **Citing References** tabs
   - **Negative Treatment** shows the negative direct history and negative citing references.
   - **Citing References** shows all sources citing your case.
     - Filter by Cases (citing references can also be secondary sources)
     - Filter by Headnote or search within results as necessary
   - For any negative history, you must **read and determine for every case citing your case**:
     a. Is it from a court in the direct line of appeal?
     b. Is it on the same legal issue?
     c. Is the holding actually negative? Or can the other court’s holding be explained by a difference in facts?

Lexis (Shepard’s)

1. Click on **Shepardize document**.

2. Select the **History tab** to view the direct history of your case.
   - If there is a warning or caution sign, you must determine which point of law is no longer good law.
   - You **cannot use the case** if it has been overturned for the same point of law.

3. Select the **Citing Decisions tab** to view a list of the cases that have cited your case.
   - Filter by Headnote or search within results as necessary
   - If there is negative history (under Caution), you must **read and determine for every case citing your case**:
     a. Is it from a court in the direct line of appeal?
     b. Is it on the same legal issue?
     c. Is the holding actually negative? Or can the other court’s holding be explained by a difference in facts?