

Legal Research Refresher

Legal Research Center Video Series



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What we will cover

- Research plan
- Advanced searching
- Citators

Outline of the research plan

1. Obtain preliminary information about your research
2. Develop an issue statement and identify search terms
3. Find and review secondary sources

Outline of the research plan

4. Review primary authority
 - a. Locate statutory sections & review annotations
 - b. Read cases & find similar cases using Headnotes, Topics, & Key Numbers
 - c. Natural language and advanced searching
 - d. Use citators (Shepard's and KeyCite) for 2 purposes
 - i. Research: locate cases that have cited to a statute or case you've already found
 - ii. Validation: make sure all your primary authority is still good law

Advanced Searching

Natural language searches

- Similar to Google searches—enter a search phrase in plain English
- Default search method on both Lexis and Westlaw
- Common words like “is” and “for” may be ignored
- Variations of terms you’ve entered may be automatically included (“defamed” → “defamation”)
- Key concepts in the phrase may be automatically identified, such as legal terms of art

Advanced searches

- More control and precision can produce more relevant results
- Increased efficiency can reduce research time

Note: You cannot mix natural language and terms and connectors search phrases.

Terms & connectors

Terms

- Words and phrases capturing the core concepts
- Express legal concepts, factual scenarios

Connectors

- Commands for searching
- Choose based on relationships between the terms being connected
- Can heavily limit or expand the number of results

Terms

Synonyms

- Ex: noncompete clause, noncompete agreement, covenant not to compete
- Ex: driving under the influence, driving while intoxicated

Antonyms

- Ex: constitutional, unconstitutional
- Ex: buyer, seller

Related concepts

- Ex: alcohol, liquor, spirits, beer, wine, drugs, narcotics
- Ex: defamation, slander, libel

Quotation Marks

You can search for an exact phrase by enclosing it in quotation marks: **“like this”** (e.g. “double jeopardy”)

- Use carefully
 - “noncompete clause”
 - What about covenant not to compete, noncompetition agreement, noncompete covenant, etc.?
- **Quotation marks around a single word are redundant and unnecessary.**

The search string
arson AND “burning”
does not achieve anything different than
arson AND burning

Quotation Marks, cont.

- Quotation marks don't increase relevance and an advance search will not search for variations unless you specify them.
- **Quotation marks around a single word are redundant and unnecessary.**

The search string

arson AND "burning"

does not achieve anything different than

arson AND burning

Word variations

Root expander: !

- Substitutes for letters at the end of a root of your choosing
- Use truncation instead of all variations:
 - *contract!* = contract, contracts, contracted, contracting, contractual
- Proceed carefully: is *constit!* a good way to truncate “constitution”?

Basic connectors

AND

- Retrieves documents with all terms
 - *divorce AND insurance*
- Lacks precision

Basic connectors

OR

- Retrieves documents with any term
- Variations
 - *liable OR liability*
- Synonyms
 - *car OR automobile OR vehicle*

Note: Westlaw treats a space between terms or phrases as an implied OR connector, e.g.

car automobile vehicle

is interpreted as

car OR automobile OR vehicle

Proximity connectors

/n

- Within # of words
 - *oral /5 contract*

/s

- Within the same sentence
 - *execution /s will*

/p

- Within the same paragraph
 - *administration /p coach*

Ensure relevance

NOT

- Westlaw: BUT NOT (%)
- Lexis: AND NOT
- Exclude documents with the terms that follow it
- Add to the end of the search phrase:
 - *rico % puerto*

ATLEAST n (term)

- Retrieves documents with the term at least n times
 - *ATLEAST5(gravity)*

More connectors

Similar (but not identical) across the major platforms

- Westlaw → Advanced (under “Connectors and Expanders” heading)
- Lexis → Advanced Search → (under “Use Connectors”; click “View all connectors and commands” for more)

Using parentheses

(bankruptcy AND discharge) /p “student loan”

- Forces search to be processed in the order you want
- Parentheses are always processed first
- Group terms together by concept—helps organize your search

Citators

THOMSON REUTERS
WESTLAW PRECISION

KeyCite®

Shepard's®
Lexis+™

What citators tell you

- The **direct history** of a case

- **Negative** treatment of a case







Note what point of law is being treated negatively

- **Positive** treatment of a case

Identify similar cases or useful secondary sources








- Cases citing a **statute** and whether it is still good law

KeyCite's signals & analysis phrases

| Signal | Analysis phrases |
|--|---|
|  The document is no longer good law for at least of the points it contains | Judgment Vacated by; Overturned Due to Legislative Action; Unpublished/noncitable |
|  (new) The case is no longer good for at least one identified point of law. | Overruled by; Abrogated by; Disapproved of by |
|  The document has some negative treatment but has not been reversed or overruled. | Distinguished by; Declined to extend; Disagreement recognized by |
|  Overruling Risk; the document may no longer be good on at least one point of law because it relies on another overruled decision | |
|  (no flag) The document has only positive treatment | Examined by; Discussed by; Cited by; Mentioned by |
|  The case has been appealed to the US Court of Appeals or the US Supreme Court | |

<https://answers.legalprof.thomsonreuters.com/wlp/citecheckingwlp/how-to-check-your-ci-wlp>

Shepard's signals & analysis phrases

| Signal | | Analysis phrases |
|---|--|--|
|  | Positive treatment indicated | Followed by |
|  | Warning: Negative treatment is indicated | Overruled by; Abrogated by; Superseded by |
|  | Warning: Negative treatment is indicated for statute | Unconstitutional by; Void or invalid by |
|  | Questioned: Validity questioned by citing references | Questioned by |
|  | Caution: Possible negative treatment indicated | Criticized by; Distinguished by |
|  | Neutral: Citing reference with analysis | Explained by; Cited in dissenting opinion; Interpreted or construed by |
|  | Cited by: Citation information available | Cited by |

<https://www.lexisnexis.com/pdf/lexis-advance/Shepards-Signal-Indicators-and-analysis-phrases-Final.pdf>

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