

INTRODUCTION TO LEGAL RESEARCH – Course Outline & Glossary

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I. INTRODUCTION [BLR chs.1 & 2; Class 1 PowerPoint on the Section One ILR Course Webpage]

A. **Sources of the law** [BLR Ch. 1] - the primary sources, “THE LAW” itself, federal government and states have three branches of government that create legal rules - legislative, judicial and executive. The goal of legal research is to find, interpret and apply the laws created by these branches.

1. **Constitutions** - establish a system of government and define the boundaries of governmental authority. All states and the U.S. itself have a constitution. Think of a constitution as a “meta-statute” above all other statutes.

a. U.S. Constitution is the “supreme Law of the Land” (Art. VI, Cl. 2, “Supremacy Clause”) and thus state law must comply with its minimum requirements. If states and feds clash, feds usually “preempt” state law.

b. The U.S. Constitution defines and establishes the three branches of the federal government: Congress (Article I); Executive (Article II); Courts (Article III).

c. U.S. and state supreme courts are the final arbiters of what laws or governmental actions are “constitutional” under doctrine of judicial review.

2. **Statutes** - laws created by legislative branch, statutes enacted by U.S. Congress contained in the United States Code (U.S.C.) which is the official codification of all U.S. statutes; those created by Georgia’s General Assembly are contained in the Official Code of Georgia Annotated (“O.C.G.A.”).

a. Statutes are extremely important - always check for any state or federal statutory authority that may apply to your legal issue.

3. **Court opinions** - under our common law system, judge-made law is an independent source of the law. Rules are extracted from the published decisions

of state and federal appellate courts and applied by lawyers and judges in other cases with similar facts and issues.

- a. Courts also interpret statutes and regulations.
- b. Judicial opinions are collected in books called “reporters” that are published chronologically (see below at 11). Also, unreported court decisions (not published in a reporter) can be found in online computer databases, but watch out for local court rules governing the citation of unreported cases - some courts do not accept them as mandatory authority.
- c. Law school places excessive emphasis on case law. In real life, statutes and regulations are probably a bit more important. But, you will still research and read a tremendous amount of case law as practitioners, and use rules taken from cases to support legal arguments.

4. **Administrative regulations** - created by administrative agencies pursuant to statutory authority. Regulations are “issued” or “promulgated” by agencies.

- a. Although mostly part of the executive branch because they execute the mandates established by statute, nevertheless, many “independent” administrative agencies (e.g., U.S. Environmental Protection Agency, “EPA” and Securities and Exchange Commission (“SEC”)) exist with the autonomous power to legislate, adjudicate and enforce their own rules. Such independent agencies are sometimes referred to as the “headless fourth branch” of government for you “jack-booted thug” conspiracy types.
- b. Don’t ignore administrative regulations! Because the world has grown more complex, new administrative regulations governing narrow and technical issues such as work place safety and environmental standards have been issued with great frequency. These regulations have the same force and effect as statutes and rules from case law, and violations of regulations can result in major fines and penalties for your clients.
- c. Regulations issued by federal agencies are collected in the multi-volumed and unreadable Code of Federal Regulations (C.F.R.), now available online at <http://www.access.gpo.gov>
- d. States often have administrative agencies that are similar to federal agencies except that they only operate on the state level. E.g., US Environmental Protection Agency (“EPA”) at the federal level is the equivalent of the Georgia Department of Environmental Protection Division (of the Department of Natural Resources) (“EPD”) at the state level.

B. **Federalist system** - because we live in a governmental system with 50 sovereign states and one central federal government that claims to be supreme, there is substantial overlap and tension between state and federal government. When researching, always ask what jurisdiction you are in. If you are researching a state law issue, ask yourself if any federal laws or regulations might apply.

C. **Types of authority** - divided into “mandatory” (or “binding”) and “persuasive.”

1. Mandatory authority must be followed. E.g., the Georgia Court of Appeals must follow the rules contained in the decisions of the Georgia Supreme Court (the higher court up the chain) when deciding a case.

2. Persuasive authority is only just that, e.g., a court is not required to follow a rule taken from Williston, A Treatise on the Law of Contracts, but a court would likely find a citation from such a learned treatise to be extremely persuasive. The following chart is all you need to know :

TYPE	MANDATORY	PERSUASIVE
Primary (statutes, cases, regs)	Within the jurisdiction	Outside the jurisdiction
Secondary (everything else)	Never	Always

D. **Process of Research & Generating Search Terms** [BLR 6-23]

The general goal of legal research is to find primary authority that applies to a specific set of facts. Thus, once a case or statute is found that applies to the facts of a situation presented to you as a practicing lawyer, you will be able to advise your client as to whether there could be liability for certain conduct, whether defenses to an adverse claim exist, or whether the client could potentially file a lawsuit. Often times you will not find primary authority that exactly fits your factual situation, that is, you will not find a case or statute that is “on point.” Thus, you will need to read through and analyze several cases or statutes to find primary authority that applies to your facts by analogy.

1. **The process of legal research is not linear.** Sometimes you will have a specific case or statutory citation and then can jump right into the primary sources. Even after reading the primary sources, though, you may be completely confused and need to turn to a secondary source (e.g., ALR annotation, law review article, legal encyclopedia) for a clearer explanation. Sometimes you will jump back and forth between different sources. Remember that there are many tools available for the resourceful legal researcher. **Much of the work has**

already been done for you through indexing, headnotes, and other editorial enhancements.

2. Start with secondary sources. (see below at 6.) The approach of this course assumes that you will start a research project completely clueless. Thus, you will need to read commentary on the cases, statutes and regulations before you actually begin reading these primary sources.

3. Golden rules of research - the following guidelines will always apply to every legal research project, abbreviated **“JUST”**:

a. **Jurisdiction**: always begin with this. Did you client dump hazardous waste in Georgia or Tennessee? is it a federal matter? Was the contract that your client breached formed in Florida or Georgia? Figure out which jurisdiction’s law applies before starting to research.

b. **Update**: Although we are taught that under *Stare Decisis* the law generally remains the same, in fact, the law is constantly changing. Statutes are amended or repealed, cases are overruled or clarified. So, you must update you research:

1) **CHECK POCKET PARTS!** - to keep printed legal sources up to date without having to republish an entire new hardbound volume, softcover supplementary pamphlets are published that contain new information. These pamphlets are called “pocket parts” because they fit into a pocket in the back cover of the hardcover book. Sometimes, however, the supplements are too fat to fit into this pocket and are published as a separate volume.

2) **SHEPARDIZE!** - (see below at 22.) Shepard’s is the leading legal citator that lists all cases that have cited a certain case (also available for statutes, law review articles, restatements, and administrative regs)and will tell if your case has been overruled. Must be checked to insure that cases and statutes are still good law! Westlaw also maintains an electronic citator called **KeyCite**, which is similar to Shepard’s. (See below at 26.)

c. **Scope**: make sure that you have narrowed down the precise legal issue to research. Identify the key factual and legal elements. Break your issue down into a sentence before researching. E.g., Under Georgia law, may a storeowner be liable for the criminal acts of a third party that occur in the store’s parking lot; under Florida law, may a party to a contract rescind the contract because of a mutual mistake about the subject matter, etc.

d. **Search Terms** : the law is filled with jargon (“terms of art”) and most of the indexing and classification systems are designed around this terminology. Thus, you will need to fit your factual situation into a pre-existing universe of legal nomenclature. Having good search terms is also very important for computer- based legal research.

1) Generate search terms by “deconstructing” your factual situation and making a list of possible search terms. Next, turn to legal dictionaries and West’s Words and Phrases for more precise legal search terms. Then, look to indexes and digests with these terms to find applicable case law and statutes.

2) Some researchers generate search terms by categorizing the information by: [a] parties; [b] places and things; [c] potential claims and defenses; [d] relief. (BLR 19-21). This is a good way to get into West’s Digest Topics because they are categorized in a similar way. (More on West Topics at 11 -12, below.)

3) This outline contains a brief **glossary of terms used in legal research** , attached at Appendix I.

4. **Use human beings** - you will soon discover that people working in the legal system, government and academia are excellent resources. Seek out and ask law librarians, other lawyers, judicial law clerks, and government employees for guidance on legal issues. Don’t be too proud to claim ignorance and ask for help!

5. **Know when to stop researching!!!** - this is tough to do, especially when you have a psychic feeling that there is a case on point out there somewhere. As a practicing lawyer, this is a matter of economics. Clients freak out if you bill them for too much research time. Generally, when the same cases, statutes, or regulations begin to appear over and over again in your research, you can probably stop.

6. **Monopoly Capitalism** - At least 90% of traditional print and electronic legal publishing is controlled by two parent corporate entities: (a) the Thomson Corporation; and (b) Reed Elsevier PLC. Thomson owns West and Reed Elsevier owns Lexis-Nexis. Not to be xenophobic, but isn’t it kind of weird that the publishing of most American legal sources is controlled by foreign corporate entities (Thomson is Canadian, and Reed Elsevier is Anglo-Dutch). Don’t get too paranoid about this, though, since these corporations are merely *printing and publishing* The Law, which is still really “owned” by the People (right on!)

II. SECONDARY SOURCES [BLR Ch. 3; Checklist p.70-72; Class 2 & 3 PowerPoints available on ILR Course Webpage] Scholarly commentary on primary authority, includes legal

dictionaries and encyclopedias, Restatements, American Law Reports, legal periodicals/law reviews and treatises. Most are **available on Lexis & Westlaw**.

A. **When** do you use them?

1. When you are researching an area of the law with which you are unfamiliar.
2. When you are looking for primary persuasive authority (law from another jurisdiction) but conducting a nationwide survey of the law is inefficient. Secondary sources will cite to primary law from other jurisdictions that may be relevant to your research issue.
3. When you are researching an undeveloped area of the law.
4. When an initial search of primary sources yields either no authority or too much authority - secondary sources can educate you on your legal issue in away the may allow you to expand or refocus your research efforts.

B. **How** to use them? **Three** basic steps:

1. Use the index or table of contents to find references to material on the topic you are researching;
2. Locate the material in the main text of the source;
3. Update your research by checking the pocket part.

C. **Legal dictionaries** - West's Words and Phrases and Black's Law Dictionary. I really don't like Black's - it usually doesn't provide clear definitions and has too much historical minutiae. But, it's one of those sources that can be cited almost as if it's mandatory authority. Only cite to Black's, though, if you can't find a definition in a case or statute. Word's and Phrases & Black's sometimes do, however, contain definitions actually contained in reported cases.

1. **Idea:** you need to use a dictionary if you don't understand the issue you're researching; or if you understand the issue, but are confused by the meaning of a term of art or word that is associated with the issue.
2. **How to use:** just like Webster's - look a word up
3. Word's and Phrases, and sometimes Black's, both cite to cases. Go retrieve these cases from the reporters and read the headnotes. Get the topics and key numbers, write them down, and use them to research your issue in your jurisdiction.

4. **Citation:** Black's Law Dictionary 402 (Bryan A. Garnder ed., 7th ed., West 1999). [ALWD R. 25.1]

D. **Legal Encyclopedias** [BLR 28-31; sample pages 29-31, 33-4] American Jurisprudence, Second Edition (“Am. Jur. 2d”) and Corpus Juris Secundum (“C.J.S.”) are nationwide in scope. There are also state specific encyclopedias, such as Georgia Jurisprudence (“Ga. Jur.”) and the Encyclopedia of Georgia Law .

1. **Idea:** encyclopedias help you understand your issue better by providing a broad overview. Kind of like World Book or Encyclopedia Britannica, but limited to legal subjects and terms of art (and darn, no pictures or human anatomy drawings!!)

2. **How to use:** Encyclopedias have an index. Use your search terms to find an appropriate section. Once into the encyclopedia, cases citations are provided.

a. If you are researching state law only, use a state specific encyclopedia such as Ga. Jur. Obviously, the more specific a book series you can find, the better. So, if you're researching Georgia law only, turn first to Ga. Jur. rather than Am. Jur. 2d or C.J.S., which are much broader.

b. C.J.S. will get you into the West topic and key number system. Write these down when you find the ones that apply to your issue. C.J.S also provides citations to case law. If no cases from your jurisdiction are cited in C.J.S. footnotes, write down the case cites from other jurisdictions that seem to be relevant to your issue, look these cases up, read the headnotes, get the topic and key numbers and use them to search in the digest for your jurisdiction.

c. Many researchers like Am.Jur. 2d (also published by West) because, like C.J.S., it provides a broad overview of the law and has numerous citations to primary sources. But, Am. Jur. 2d also cites to applicable law review articles, A.L.R. annotations, treatises and statutes. The cases are listed under a heading called “Case Authorities;” the statutes under a “Statutes” heading; and everything else (A.L.R.'s, etc.) under a heading entitled “Practice Aids.”

3. **Drawback:** even though legal encyclopedias are updated with pocket parts and replacement volumes, they often seem to be behind the times. It never fails; you will find a section on point with your issue, only to find that the one primary source citation is to a Vermont case from 1820.

4. **Citation:** 31A C.J.S. Evidence § 175 (1964); 22 Am. Jur. 2d Damages § 33 (1988). List date in parenthesis to main volume, or if supplemented, also list the date of publication for the pocket part [ALWD R. 26]

E. **Restatements** [BLR 39-45; sample pages 43-4, 65-9] Compiled by leading legal scholars at the American Law Institute (A.L.I.) covering substantive topics like torts, contracts, agency, property, conflict of laws, etc. Dean Floyd, Professors Brennan and Milani are members of ALI.

1. **Idea:** Intended to “restate” the common law rules extracted from court decisions in the majority of U.S. jurisdictions. Scholarly commentary and examples are also provided.
2. **How to use:** scan the subject index or table of contents in the main Restatement subject volumes to find the applicable rules. Rules are organized by section (“§”) number.
 - a. Once a rule is found, read the formal statement of the law (will sort of read like a statute) and the following comments and illustrations. Citations to case law will also be listed
 - b. Turn next to the “Appendix Volumes” that are organized numerically by §. You will find case summaries from numerous jurisdictions interpreting the § you are researching. Note that the Appendix volumes are not cumulative, that is, they only cover certain time periods. Look at the spine of a volume to find the sections and time periods covered therein.
 - c. Because Restatements are compiled by the “grand old men and women” of the law, they carry great weight as authority. Although they are secondary sources, they can be cited as the “Restatement view” on a particular issue, which may have been adopted in your jurisdiction as “the Law.”

3. **Citation:** Restatement (Second) of Torts § 402A (1978); Restatement (Second) of Agency § 90 (1965). [ALWD R. 27]

F. **American Law Reports** [BLR 38-9, sample pages 40-1, 56-63] (“A.L.R.”) now in “A.L.R. 5th,” contain “Annotations” chockfull of commentary and citations on a narrow legal issue.

1. **Idea:** contains essays on very specific legal issues tracing the development and judicial treatment of that legal issue in all American jurisdictions.
2. **How to use:** start with the **six-volume ALR Index**.
 - a. A.L.R.’s are a compilation of “Annotations”. Each annotation summarizes the cases on a specific topic. Cases from both the state and federal courts and analyzed. There is also a separate A.L.R. Federal that covers issues of federal law.

b. At the beginning of each annotation, you will find a section called “Research References” which is a great resource: it provides you with cites, on your particular topic, to state and federal statutes, legal encyclopedias, treatises, law reviews, and gives applicable West topics and key numbers. It also shows sample search terms for use on LEXIS and WESTLAW. This section also cites to sources from the Total Client-Service Library (“TCSL”) legal reference source system, which includes Am. Jur.2d, Am. Jur. Proof of Facts, and Am. Jur. Forms, to name a few.

c. After “Research References,” you’ll see a heading entitled “Jurisdictional Table of Cited Statutes and Cases.” This table cross-references the cases and statutes cited in that particular annotation on a state-by-state basis. This is especially helpful if you’re researching law from just one or two states.

d. Remember to make sure that you have the most recent annotation on your topic. To do this use the “Annotation History Table” found at the end of each volume of the six-volume ALR Index. The table will tell you if an annotation has been **superseded** (or replaced) by a more recent one.

e. Like all legal research books, you need to use pocket parts at all times. Both the ALR Index and the individual annotations have pocket parts, check them both. Remember also that because the annotations contained in A.L.R.2d are so dated, they are not updated with pocket parts, but with a series of books called A.L.R.2d Later Case Service. These books are found on the library shelves next to the A.L.R.2ds.

3. **Drawback:** A benefit of A.L.Rs is there narrow focus, but this is also a drawback. If you can’t find an ALR Annotation on your precise issue, then ALRs are not much use. If you haven’t found an ALR Annotation on your issue, don’t fret. Look for an article in a legal periodical or law review. These can also provide an overview of an issue with numerous citations to primary authority.

4. **Citation:** Anne M. Payne, Sexual Partner’s Tort Liability to Other Partner for Fraudulent Misrepresentation Regarding Sterility or Use of Birth Control Resulting in Pregnancy, 2 A.L.R. 5th 301 (1992). [ALWD R. 24] (Don’t put JD after the author’s name!!)

G. **Treatises** [BLR 32] - books that describe a particular area of the law that are written by a leading scholar. Examples include: Corbin on Contracts and Wright & Miller, Federal Practice and Procedure .

1. Treatises may consist of one volume, or may be a multi-volume set. Brief single volume treatises are called Hornbooks (Prosser and Keeton on Torts is the classic example) and West publishes even briefer treatments called “Nutshells.”

2. There are numerous examples of treatises. Search the online public access catalog at any law library (LawCat at Mercer) to find one for your area of research. Most treatises contain extensive footnotes with citations to cases and thus are an excellent way to find primary authority. Don’t forget to check pocket parts with treatises, too.

H. **Law reviews and legal periodicals** [BLR 32-38, sample pages 36-8] legal magazines that are useful for finding background information on your issue and to raise your awareness of current trends in the law. Articles appearing in these magazines may also advocate legal reform in a particular area, or present a specific legal argument. Articles in legal magazines usually have numerous footnotes with cites to primary authority.

1. Legal magazines published by law schools are called law reviews. E.g., Mercer Law Review (Mercer L. Rev.). They are edited by law students and contain scholarly or theoretical articles that often explore the policies underlying the law. Generally, law professors, judges or lawyers write “articles”, and law students write “case notes,” “comments” and “reviews.” If you enjoy the nuances and subtleties of legal citation, try “grading on” or “writing on” to law review. (It looks good on a resume, too.)

2. Legal magazines other than law reviews include bar association publications (E.g., American Bar Association Journal, Georgia Bar Journal (“GBJ”)), commercial journals (Trial , For the Defense), and legal newspapers (E.g., National Law Journal). There are tons of these – you’ll see when you start practicing!

3. **How to use:** As always, break your issue down into search terms, then use these terms to search the printed indexes: Index to Legal Periodicals and Books (ILPB) and Current Law Index (CLP). I prefer to use the electronic legal index LegalTrac to locate articles. Also, **Westlaw** and **Lexis** have most legal magazine articles available in full-text, but note that some of the older articles are not available.

4. **Citation:**

a. Dean M. Richardson, Racism: A Tort of Outrage, 61 Or. L. Rev. 267 (1982).

1) example of consecutively paginated publication (beginning first issue within a volume with page 1 and then number the pages consecutively until the end of the volume). [ALWD R. 23] Note

also that you should use ALWD Appendix 5 for proper periodical abbreviations.

b. Barbara Ward, Progress for a Small Planet, Harv. Bus. Rev., Sept.-Oct. 1979, at 89, 90.

1) Example of a non-consecutively paginated publication. Most popular magazines are published this way, with each monthly issue beginning with page 1. See ALWD R. 23.1(d)

III. CASE LAW RESEARCH [BLR Ch.4, Checklist at 121; Class 4 & 5 PowerPoint presentations available on the ILR Course Webpage.]

A. **Publication of case law** - the written opinions of courts are published (usually appellate level court decisions only) chronologically in books called reporters.

1. Judicial decisions go through **three stages** of being printed in paper: **slip opinions**, **advance sheets**, and the final bound **reporter**.

2. **Official reporters** - published under state or federal government authority, such as Georgia Reports and Georgia Appeals Reports. May be published by a commercial publisher under government order (e.g., The Georgia General Assembly directs Darby Printing to publish Georgia Reports - the official reporter for the Georgia Supreme Court).

3. **Unofficial reporters** (or “commercial reporters”) If a state has an official reporter, a commercial reporter contains the text of a court’s opinion as published in the official reporter – but the commercial reporter includes editorial enhancements for further research and time-saving.

a. Some state and federal court opinions are **only published in commercial reporters** (e.g., U.S. District Court opinions in West’s Federal Supplement; appellate opinions from Florida and Kentucky courts in West’s Southern Reporter and Southwestern Reporter, respectively).

b. By far the largest commercial reporter is the **National Reporter System** published by **West**. This system is tied into the West Topic and Key number system and has other West editorial enhancements. The National Reporter System [BLR 77- Figure 4.4] consists of :

1) Regional reporters - with each volume collecting state case law from a particular region of the U.S - divided into seven regions. E.g., Georgia cases are collected in The South Eastern Reporter (“S.E.”, now into S.E.2d). The regions are based on outdated 19th

century political-geographical constructs. (e.g., Oklahoma court opinions are published in the Pacific Reporter)

2) Federal court reporters -collecting opinions from the federal courts, includes Federal Supplement (“F. Supp.” now into F. Supp. 2d) U.S. district courts cases, Federal Reporter (“F.” now into F.3d) U.S. court of appeals cases, and Supreme Court Reporter, (“S.Ct.”) U.S. Supreme Court cases.

3) Special federal court reporters - includes Bankruptcy Reporter (“B.R.”) and Federal Rules Decisions (“F.R.D.”), among others.

4. **Anatomy of a court opinion** published in a West reporter [BLR 76-9, sample pages Popkin v. N.Y. State; also Class 4 Handout on Section One ILR Course Webpage] West’s editorial enhancements are **not “THE LAW”** (Never cite to a headnote in a motion or brief!) and are only provided by West’s attorney-editors as an aid for time-pressured practitioners. These enhancements include:

a. **Synopsis or editorial summary** - a paragraph length summary of facts, procedural posture and main holdings of an opinion. Also, includes name of authoring judge and sometimes the judge from the lower court.

b. **Headnote paragraphs** - sentence-length summaries, each considering a point of law discussed in the case. Note that each headnote paragraph has a unique number (in addition to the West Topic & Key Number), and these numbers are referenced again in brackets in the body of the opinion where the material summarized in the headnote appears.

c. **Key Number classifications** [BLR 82 –sample case summary; West Topic & Key Number handout on Course Webpage] - each important point of law discussed in an opinion is summarized by a headnote and assigned one or more of West’s 450 legal subject “Topics.” The point of law is further assigned a subtopic and pre-defined classification number (called a “Key Number”).

- 1) West's Topic and Key number system is a pre-existing classification system (like Dewey Decimal) that attempts to organize the entire universe of legal issues, and West attorney-editors try to cram points of law into this system.
- 2) For a comprehensive list of West’s Topic and Key Number classification system, see West’s Analysis of American Law: Guide to the American Digest System, 1994 Ed. (in reference collection at Z697.L4 W48). West’s Analysis is one of my

favorite reference books to use in practice – it helps to narrow search vocabulary.

5. **Digests** [BLR 80-94, note sample pages 105-20; Class Five PowerPoint presentation on the Section One ILR Course Webpage.] You can use West Topics and Key numbers to find other cases discussing similar points of law in printed finding tools published by West called “Digests.” These books collect the paragraph summaries (headnotes) found at the beginning of cases printed in West reporters and organizes them by Topic and Key Number.

a. Find the Digest series that applies to the jurisdiction in which you are researching, e.g., Georgia Digest or Federal Practice Digest (See list at BLR 84-85)

b. Start with the "**Descriptive-Word Index**" for the digest series you are using to find applicable Topics and Key Numbers.

c. Find the digest volume for your topic by scanning the spines of the applicable digest series. Turn to your Topic, note that at the beginning there is a general and detailed outline of the Topic, subdividing the topic by point of law and providing relevant Key Numbers.

d. Turn to the relevant Key Number, note that the headnote paragraphs appear in the Digest in hierarchical order: federal cases before state cases; newer cases before older cases. At the end of each headnote paragraph is a citation to the case from which it is taken. Note that this citation will usually not follow the proper Bluebook citation format.

e. **Update** [see BLR 89-92] – check the pocket part (or separate supplement) for the applicable digest. Also check the **closing table** in the front of a digest volume or pocket part. That table will tell you the last volume and page number of a reporter covered by the digest volume or pocket part. Then go to the volumes of that reporter which have been published since the ones listed in the closing table, and check the “mini-digests” in the back of the reporter volume to see if any new cases are listed under your Topic and Key Number.

6. “**Unpublished opinions**”- Some opinions rendered by courts are not designated for publication in a West or official reporter. Thus, these cases are called “unreported” or “unpublished” opinions. These cases can generally be found in computerized databases (or official court websites) with unique citation formats (using a * or ¶, rather than page number).

** Be careful when using unreported cases in a memo or brief as controlling authority, though, because the rules of some courts expressly

forbid citation thereto, (e.g., Georgia courts, see below at 14-17) or require that you attach a copy of the case. See ALWD, Appendix 2 for state-by-state listing of local court citation rules (also check www.alwd.org for updates to these rules.)

B. Cases as finding tools - because of our common law system based on legal precedent, decisions of courts are based on rules extracted from other cases. So, by **finding "one good case"** on point with your issue, that case will contain citations to other cases that might apply. Of course, finding "one good case" will usually be the most time consuming (and possibly frustrating) part of a legal research project.

1. Use the **West Topics and Key Numbers** assigned to the "one good case" to access a digest and find other cases covering the same or similar issues.
2. "**Shepardizing**" (see below at 26) the "one good case" will often lead the way to other applicable authority. If you check a Shepard's citator for your case, the other cases that cite to your case listed in Shepard's will often include a notation showing the headnote number from your case that is also discussed in a citing case. Then you will know which court opinions might be useful to you because they also discuss the point of law that is the subject of your research issue.

C. The structure of state courts. [BLR 75, fig 4.3] A good listing of all state courts and applicable official and regional reporters can be found in ALWD, Appendix 1, "Primary Sources by Jurisdiction" (beginning on p. 333)(2d ed.) and the Blue Book "blue pages" at Table 1 ("T.1 ") beginning at p.183)(17th ed.) The proper jurisdiction of a state court is usually set forth in that state's constitution and statutes.

D. Georgia Courts [Class 4 handout; ALWD 342; BlueBook 198] - typical three-part hierarchy (including several specialized courts with limited jurisdiction), judges in Georgia are elected. (See 1983 Constitution of Georgia, Article VI, Section VII).

1. **Georgia Supreme Court** - court of last resort, 7 Justices elected for six year terms (Justice Thompson is a Mercer Law grad). Exclusive appellate jurisdiction in cases involving constitutional issues, contested elections, felonies in which the death penalty is imposed, titles to land, wills, *Habeas corpus*, equity, divorces and alimony, extraordinary remedies. Also considers certified questions and certiorari from Ga. Court of Appeals. *Website:* <http://www2.state.ga.us/Courts/Supreme/> (Current docket information and recent opinions are now available on this site.)

a. **where published - all opinions** of the Georgia Supreme Court are published in the official reporter Georgia Reports and in West's South Eastern Reporter:

- 1) Fulton County Daily Report – ("FCDR") first place a Georgia case is published in print, runs about two weeks behind.

2) Georgia Reports – (“Ga.”) official reporter, published by Darby Printing Company in Atlanta for the State of Georgia. (Published by Harrison until 1984.)

3) South Eastern Reporter (“S.E.”), now into S.E.2d.

4) Also available in databases found in the Georgia state directory on Westlaw and Lexis, and for free at <http://www2.state.ga.us/Courts/Supreme/>

5) offprint reporter – West’s Georgia Cases(still abbreviate S.E.), contains just Georgia cases from the South Eastern Reporter.

b. **abbreviation:** (Ga.) (see ALWD, Appendix 1 at 342)

c. **citation:** Because Georgia Supreme Court opinions are published in **both official and unofficial reporters**, as a general rule you should cite to both reporters. Example: Hopkins v. Hamby Corp., 273 Ga. 19, 538 S.E.2d 37 (2000). Remember both reporters contain the exact same opinion, but only the West regional reporter gives you extra stuff - like headnotes and an editorial synopsis. Note the absence of a court abbreviation in the parenthetical, because the “Ga.” cite makes it obvious that it’s a Georgia Supreme Court citation.

1) Citing to both reporters is called a **parallel citation**. West Reporters always list parallel cites to the official reporters, above the case name. You can also get parallel cites from Shepard's (see below at 20)

2) ALWD tells you to provide parallel citations “only when required by local rule or custom . . . [.]” (R. 12.4(c)(2)). Georgia Supreme Court Rule 22 (quoted in ALWD, Appendix 2, at 382) states that “***Georgia citations must include volume and page number of the official Georgia reporters (Harrison or Darby).***”(In accord, Georgia Court of Appeals Rule 23(c)) So, there is no Georgia court rule requiring parallel citations to the South Eastern Reporter,

3) The Bluebook Rule 10.3.1(a) & Practitioner’s Notes P.3 (blue pages in the front), state that “all citations to cases should be to the reporters preferred by local rules, including any parallel citations to the official state reporter, if required.”

4) If you only cite to a Georgia Supreme Court case using a citation to the South Eastern Reporter (i.e., citing the case in a motion or brief in another state) be sure that "Ga." is added to the parenthetical so that the reader will know it is a case decided by the state's highest court. So, the example citation above would be: Hopkins v. Hamby Corp., 538 S.E.2d 37 (Ga. 2000) (*See* ALWD Rule 12.6(e) & Appendix 3; Blue Book Prac. Notes P.3, Rule 10.4(b); State abbreviations at Table 10.)

d. **applicable digest** – Georgia Digest - now in 2d series, 1st series covers period from 1792-1980.

2. **Georgia Court of Appeals** -12 judges, elected for six year terms (Judges Adams and Miller are Mercer Law grads). Decide cases in panels of 3, and *en banc*. Intermediate appellate court, reviews cases appealed from trial courts. Jurisdiction in cases where the Ga. Supreme Court does not have specific appellate jurisdiction (see list above at 14.) The Georgia Court of Appeals may also certify legal questions to the Georgia Supreme Court. *Website:* <http://www.gaappeals.us/>

a. **where published** - Most opinions of the Court of Appeals are reported in full in the official Georgia Appeals Reports and West's South Eastern Reporter. Over the past several years, the Court has published an average of 1,461 opinions per year.

1) Fulton County Daily Report – (“FCDR”) first place a Georgia case is published in print, runs about two weeks behind.

2) Georgia Appeals Reports– (“Ga. App.”) official reporter, published by Darby Printing Company in Atlanta for the State of Georgia.

3) South Eastern Reporter ("S.E."), now into S.E.2d.

4) Also available in databases found in the Georgia state directory on Westlaw and Lexis. Opinions since 1999 are available through Lexisone (requires free registration), which is linked from the court's website: <http://www.gaappeals.us/>

5) offprint reporter – West's Georgia Cases(still abbreviate S.E.), contains just Georgia cases from the South Eastern Reporter .

6) Unreported Opinions - Ga. App. Rule 33(b): “an unreported opinion is neither a physical nor binding precedent but establishes

the law of the case as provided by OCGA § 9-11-60 (h).” Under Rule 35, “[t]he official reports shall list the cases in which opinions were written but not officially reported and shall indicate the authors and participants in the opinions.”

* If you can’t cite to unpublished opinions, review them anyway - study the court’s reasoning supported by reported authority.

b. **abbreviation:** (Ga. App.) (see ALWD, Appendix 1 at 342)

c. **citation:** same as Georgia Supreme Court cases (see above at 15-16). Example: Jackson v. Wal-Mart Stores, Inc., 206 Ga. App. 165, 424 S.E.2d 845 (1992). Remember - if you only cite to the South Eastern Reporter, makes sure you put “Ga. App.” in parentheses with the date of the decision (so the reader knows which court made the decision).

d. **applicable digest** – Georgia Digest - now in 2d series, 1st series covers period from 1792-1980.

3. **Court of general jurisdiction – Superior Court** – 49 circuits & 188 judges. General trial jurisdiction, and exclusive jurisdiction to try felonies, divorces, land title disputes, and equity cases.

a. Hear cases with witnesses, testimony and possibly juries.

b. appellate jurisdiction over probate, magistrate and municipal courts (see below)

b. Superior Court decisions are not published in reporters, but if a trial judge did render an opinion, it could be found filed in the Clerk of Court's office located in the county where the court sits. These opinions are a matter of public record and can be accessed by anyone.

c. The Georgia Trial Reporter Monthly publication summarizing jury cases from Superior Courts, State Courts and U.S. District Courts in Georgia, since 1987. Aimed at personal injury practitioners, and useful for evaluating a potential case or determining a settlement amount. Cases are summarized each month with 8 indexes, allowing access to Experts, Injuries, Subject Matter, Attorneys, Defendants, Jurisdiction, Judge, and Insurance Carrier. Website: <http://www.georgiaverdicts.com>

4. **Courts of limited jurisdiction** – several in Georgia, opinions are not published.

- a. **State courts** – 67 courts – jurisdiction for misdemeanor and traffic cases. Civil cases in which Superior Court does not have exclusive jurisdiction.
- b. **Magistrate courts** – 159 courts – criminal matters relating to warrants, traffic and county ordinance violations. Civil small claims cases under \$5000.00 in controversy.
- c. **Probate courts** – 159 courts – Exclusive jurisdiction in probating wills, administering estates, and appointing guardians. May also issue marriage licenses, supervise elections and try hunting and fishing violations.
- d. **Juvenile Courts** – jurisdiction over children under 17 years old said to be delinquent, unruly or charged with traffic offenses.

E. **Structure of federal courts** [BLR 74, Class 12 PowerPoint presentation available on course webpages] - a similar three-part hierarchy, established under Article III of the U. S. Constitution.

1. **Supreme Court of the United States** - highest court in the U. S., nine justices, appointed for life terms by the President and subject to approval by 2/3 of the Senate. Can grant certiorari to review cases from U. S. courts of appeal.

a. **Where published:**

1) official reporter: U. S. Reports ("U. S.");

2) commercial reporters: Supreme Court Reporter ("S. Ct.") (West's reporter), United States Supreme Court Reports, Lawyer's Edition, ("L. Ed.") (Lexis) United States Law Week ("U.S.L.W.") (collects recently decided cases in looseleaf binders).

3) Opinions are first published as **slip opinions**. Recent slip opinions (since 2000) are now available at:
<http://www.supremecourtus.gov/opinions/opinions.html>

b. **Citation:** Pike v. Bruce Church, Inc., 397 U.S. 137, 90 S. Ct. 844, 25 L. Ed. 2d 174 (1970). You only need to cite to U.S. Reports, but most lawyers provide parallel cites to S.Ct. and L. Ed. (*See* ALWD R. 12.4(b))

c. **Applicable digest** - West's U.S. Supreme Court Digest and Federal Practice Digest.

2. **U. S. Court of Appeals** - The U.S. is divided into 11 circuits with a court of appeals for each circuit, plus a D.C. and a Federal Circuit (total of 13 – see map BLR 74; see also <http://www.uscourts.gov/links.html>). Georgia is in the 11th Circuit. The U. S. Court of Appeals reviews cases on appeal from the U. S.

District court. Judges are appointed for life terms by the President and subject to approval by 2/3 of the Senate.

a. **Where published:** West's Federal Reporter, (now “F.3d”) Also, Westlaw & Lexis, go to <http://www.uscourts.gov/links.html> for links to individual court sites. Many courts post reported and unreported opinions on their websites.

b. **Citation:** Smelser v. Norfolk S. Ry., 105 F.3d 299 (11th Cir. 1997). [ALWD R. 12.6]

c. **Applicable digest:** Federal Practice Digest, State Digests where court is located.

3. U. S. District Courts - the trial courts of the federal system.

a. **jurisdiction** over all controversies arising under the U. S. Constitution and federal statutes ("**federal question jurisdiction**"), and over lawsuits between citizens of different states involving disputed amounts in excess of \$75, 000 ("**diversity of citizenship jurisdiction**").

b. District judges are appointed for life terms by the President and subject to approval by 2/3 of the Senate. Exceptions to this requirement are U. S. Bankruptcy Court judges and U. S. Magistrates who are appointed by federal judges for fourteen-year and six-year terms, respectively.

c. Note that the larger states are divided into sub-districts, E.g. Georgia has a Northern, Middle and Southern U.S. District Court; Kentucky has an Eastern and Western U.S. District Court. The U.S. District Court for the Middle District of Georgia sits in Macon: <http://www.gamd.uscourts.gov/>

d. **Where Published:** West's Federal Supplement (“F. Supp.”, now F. Supp.2d) and Federal Rules Decisions (“F.R.D.”) (Collecting cases deciding issues on federal rules, such as the Federal Rules of Civil Procedure and Federal Rules of Evidence. Bankruptcy Reporter (“B.R.”) Also, Westlaw & Lexis, go to <http://www.uscourts.gov/links.html> for links to individual court sites. Many courts post reported and unreported opinions on their websites.

c. Citation: Tetra Technologies, Inc. v. Harter, 823 F.Supp. 1116 (S.D. N.Y. 1993). [ALWD R. 12.6]

d. Applicable digest: Federal Practice Digests, state digests where court is located.

4. **Unpublished (or unreported) federal court opinions** – Paradoxically, West started publishing a printed series of “unpublished” federal courts of appeal opinions called Federal Appendix in 2001.

a. Under [FRAP 32.1](#), attorneys may cite to “unpublished cases” in federal courts. The court, however, has the discretion to decide what weight to accord an unpublished decision.

a. federal district courts and court of appeals unpublished opinions are available on Westlaw, Lexis, and in some cases on websites maintained by the courts themselves.

b. Statistics from Administrative office of U.S. Courts (<http://www.uscourts.gov/judbus2002/contents.html>) - In 2002 there were 27,758 cases terminated on the merits (after oral hearings or submission on briefs). There were 5,336 written opinions published - just 19%. 21,151 written opinions - 76% -were unpublished, most of which were also unsigned. When you include the "written, unsigned, without comment" cases, **80% of U.S. Court of Appeals’ opinions were unpublished.**

c. There is much discourse among the federal courts, however, regarding the precedential value of unreported cases. (*See generally*, Stephen R. Barnett, *From Anastasoff to Hart to West's Federal Appendix: The Ground Shifts Under No-Citation Rules*, 4 J. App. Prac. & Process 1 (2002).) **Remember: Always check the court’s local rules!**

IV. STATUTES [BLR Ch. 6; Class 11 PowerPoint presentation available on course webpages]
- Like cases, there are both state and federal statutes. Congress passes federal statutes; state statutes are passed by state legislatures. Whether a bill is state or federal, it must be signed into law by the relevant chief executive (i.e., the governor or the President). Although law school emphasizes the learning of black letter rules derived from case law, as a practicing lawyer (depending on your specialty) you will frequently deal with both state and federal statutes.

A. **How published** – federal and Georgia statutes are basically published in three steps:

1. Published first as a separate document (“slip law”) after a bill becomes a law. When a fed law is passed it gets a Public Law Number. **No** slip laws for Georgia.
2. Included in a chronological listing of all statutes passed within a session of the legislative body, often referred to as “session laws.”(U.S. = Statutes at Large; GA= Georgia Laws)

3. Reorganized by subject matter into what is called a code. This is the final version and codification of the law. Statutes are arranged numerically in codes, usually by title, chapter and section.

a. **Official codes** - Although each jurisdiction has only one “code,” that is one set of statutes in force, some jurisdictions have both an official (arranged by the government to be published) and unofficial codes. The official federal code is the United States Code (“U.S.C.”) published by the Government Printing Office (“GPO”).

b. **Annotated codes** - most jurisdictions have an “annotated code” which contains the text of the statutes, as well as editorial enhancements. An annotated, but unofficial federal code, is the United States Code Annotated (“U.S.C.A.”) published by the West Group. But The Official Code of Georgia Annotated (“O.C.G.A.”) is both official and annotated .

** Annotated codes are one of the best research tools available for the practitioner, because not only do they provide the primary statutory material, but also references to cases, regulations and secondary sources - all in one package.

B. Statutory interpretation- courts interpret statutes by applying them to a set of facts presented in a lawsuit. Under the well-accepted doctrine of **judicial review**, courts also can determine whether a statute is constitutional. Under our system of “checks and balances,” if a court finds a statute to be unconstitutional, then the legislature can amend the statute, or strike it and enact a new one to pass constitutional muster. There is a tremendous amount of case law dealing with a court’s interpretation of a statute. Here are the basic rules:

1. **Plain meaning doctrine** - if the meaning of a statutory word or phrase is plain on its face (in other words, obvious) the court will use the everyday commonsense definition of the word or phrase in trying to figure out what the legislative body meant when it enacted the statute (“legislative intent”).

2. **Rules of statutory construction** - also called “canons of construction,” specific statutes enacted by the legislature declaring how statutes should be interpreted.

3. **Determining intent through legislative history** - if the meaning is not clear from the face of a statute, the court will have to determine the legislature’s intent by looking back at the history of the law when it was passed. In other words, the court will have to see if the legislative body issued written reports or gave speeches, etc., in which the statute was discussed. From that background, the court will use its best efforts to determine legislative intent. This is known as doing a legislative history search. Note, however, that legislative history is not

accorded much weight by some judges, since legislators often consider competing policies when drafting a new law.

4. **“filling in the gap”**- note also that the legislative body sometimes intentionally leave “blanks” in a statute for courts to interpret over time. Statutes may be vaguely written to allow courts to decide what conduct, or which class of persons, should fall within the statute’s purview.

C. **State statutes** - most have annotated codes, and the process of publishing statutes is the same as the feds. Check ALWD, Appendix 1, “Primary Sources by Jurisdiction” (beginning on p. 333)(2d ed.) and the Blue Book "blue pages" at Table 1 ("T.1 ") beginning at p.183)(17th ed.) for a complete list of all 50 states’ codes, as well as proper name and citation format of each state’s code.

D. **Georgia Statutes** - laws enacted by the **Georgia General Assembly**, the formal title of the legislature. The Ga. General Assembly was formed in 1777 and is **older** than the United States Congress. At the time of its origin, the legislature consisted of a single house, but in 1789 it became a bicameral body, consisting of a House of Representatives and a Senate.

1. The **House of Representatives and Senate** operate with similar powers, except that appropriation bills must originate in the House, while confirmation of the Governor’s appointments rests with the Senate. The concurrence of both bodies is necessary before any bill may become a law.

2. The House of Representatives has 180 members and the Senate has 56. **Two-year terms of office apply to both houses**, and the entire membership of each body is elected at the same time.

3. Website: <http://www.legis.state.ga.us/> (includes a searchable, unannotated version of the Official Georgia Code)

4. **How published:**

a. **Session laws** – titled Georgia Laws, chronological publication of laws passed by the General Assembly during a specific session. Print version goes back to 1820 (Furman Smith Law Library has them all!)

1) useful for learning the exact language of a statute section when passed - & and the way the language has changed since; and

2) show the context in which the relevant statute section was passed - allow you to look at all other statute sections passed at the same time.

3) Available online through Galileo

b. **Official Code** – Official Code of Georgia Annotated (O.C.G.A.)

Also called the "Code of 1981," because the Georgia code was recodified in 1981 (becoming the OCGA), and became effective in 1982. Included new numbering scheme for all the statutes.

- 1) published by Lexis, includes case annotations & citations to relevant secondary sources.
- 2) has general and title indexes
- 3) has a **history line** showing amendments & other changes, also includes more legislative history information.

c. **Unofficial codes:**

1) Georgia Code Annotated (Ga. Code. Ann.) also called the "Code of 1933" and the "Harrison Code." Still uses the old (pre-1982) numbering scheme. Published by the Harrison Company, which was recently purchased by West. (The Georgia Code Annotated is now defunct – bought by West, so Code of Georgia Annotated will replace it. (See below)

2) West's Code of Georgia Annotated - New in 2003, uses same numbering scheme as OCGA. Has more case annotations than either of the other codes, also includes:

- (i) references to relevant topics and key numbers &
- (ii) references to the state administrative code (regulations)
- (iii) has general and title indexes
- (iv) has a **history line** showing amendments & other changes, also includes more legislative history information

5. Organization - Titles usually cover a broad area of law and span part of a volume, an entire volume or more than one volume. **Chapters** are subdivisions or sub-topics within a title. **Sections** are the specific laws or statutes.

a. E.g., Public drunkenness statute in Georgia code (O.C.G.A. '16-11-41) = Title 16 : Crimes and Offenses (DON'T CONFUSE WITH VOLUME 16!!), Chapter 11: Offenses Against Public Order and Safety, Section 41: Public drunkenness

b. Cite as AOCGA ' 16-11-41.” Note that AWLD & the Bluebook says to cite the official code as: “Ga. Code. Ann.” But, the O.C.G.A. is the official code for Ga, and is cited as O.C.G.A. by everyone in the state.

6. Attorney General Opinions – An opinion interpreting state law (when no case law exists) issued by state government’s chief counsel at the request of a state government entity or agency. AG opinions are not binding on a court, but are generally accorded some persuasive authority. The Furman Smith Law Library owns print and/or microform copies of Ga AG opinions from 1878 to present. Opinions since 1994 are online at: <http://www.ganet.org/ago/opinions.html>

E. Federal Statutes [BLR Ch. 6]

1. **Codifications** - codes are accessed by way of an index. Get a good search term, and search the **general index** for the appropriate statutory section. All the codes have a **popular name index**, allowing you to look up a statute by its commonly known name, rather than the specific title and section numbers(also good source for amendments). All codes also contain the text of the U.S. Constitution.

a. **United States Code (“U.S.C.”)** official unannotated code. Gathers together all general, in force statutes of the United States into fifty different topics.

- 1) issued every six years (current version - 2000)
- 2) supplements issued during interim
- 3) good indexing (general and popular name) and subject arrangement of U.S. laws
- 4) includes a **history line** and some legislative history information.
- 5) too slow to be published, doesn’t integrate statutory text with cases that comment upon the law.
- 6) **updating**: no pocket parts, only has annual, noncumulative supplements. Need to look in all supplements to check for changes in a statute (what a hassle!)
- 7) available for free at <http://www.gpoaccess.gov>
- 8) **citation** example: 8 U.S.C. § 1423 (2000). [see ALWD R. 14]

b. **United States Code Annotated (“U.S.C.A.”)** published by the West Group. Provides comprehensive coverage of cases related to the statute you’re interested in.

- 1) provides West headnotes of cases related to your section of the law. Attempts to catalog every case pertinent to the statutory section
- 2) West topics and key numbers provide access to the West research system.

- 3) provides citations to: (a) relevant administrative rules and regulations; (b) secondary sources; and cross-references to other statutes in the U.S. Code.
- 4) includes a **history line** and some legislative history information.
- 5) **update**: has pocket parts & supplementary pamphlets
- 6) good index and conversion tables for finding Public Law Numbers and Statutes at Large citations.
- 7) popular name index - very useful
- 8) Available on Westlaw
- 9) **citation** example: 12 U.S.C.A. § 1426 (West 1994). [see ALWD R. 14]

c. **United States Code Service (“U.S.C.S.”)** formerly published by Lawyer’s Cooperative, but is now published by Lexis. Reprints every section of the U.S. Code, and at the end of each section, gathers together relevant cases.

- 1) selects those cases that are “important” in interpreting your statute & thus provides fewer annotations
- 2) provides citations to administrative materials (e.g., Code of Federal Regulations)
- 3) provides narrative material and other aids
- 4) provides entrance to the Total Client Service Library (“TCSL”) legal reference system (citing to ALR annotations and other former Lawyer’s Coop products- Am. Jur., Proof of Facts, form books, etc.)
- 5) includes a **history line** and some legislative history information
- 6) good index and tables
- 7) **update**: has pocket parts & supplementary pamphlets (“Later Case & Statutory Service”)
- 8) Available on Lexis
- 9) **citation** example: 12 U.S.C.S. § 1710 (Lexis 2000). [see ALWD R. 14]

d. **U.S.C.A. vs. U.S.C.S.** - both are good products, and the centerpieces of large, comprehensive research systems. If possible, check both since the annotations are products of two different editorial judgments.

- 1) U.S.C.S. prints actual language of the U.S. Statutes at Large.
- 2) U.S.C.A. prints U.S. Code version
- 3) verify everything - don't rely on annotated codes, check back to the U.S. Statutes at Large. Sometimes items that may indicate legislative intent (i.e., perambles or introductions) are dropped from the annotated codes and thus can only be found in the Statutes at Large.

2. Session laws

a. **United States Statutes at Large (“Stat.”)** - compiles new legislation of each session of Congress into one volume, printing laws in chronological order of passage.

- 1) has index and tables
- 2) provides Public Law Numbers for bills and U.S. Code designations
- 3) includes some legislative history information
- 4) too slow to be published -can lag 3 to 4 years behind the session covered
- 5) updated by individually published slip law pamphlets
- 6) citation: Federal Advisory Committee Act, Pub. L. No. 92- 463, 86 Stat. 770 (1972). [see ALWD R. 14.7]

b. **United States Code Congressional and Administrative News Service (“U.S.C.C.A.N.”)** - published by West Group. Arrangement of laws by Public Law Number, published after they are enacted.

- 1) contains a selected legislative history, including House & Senate Reports and references to the Congressional Record.
- 2) includes an advance sheet service for newly enacted law.

IV. **SHEPARD’S & KEYCITE CITATORS** [BLR Ch.5; see brochures: “Shepard’s At-A-Glance,” available in pdf at <http://www.lexisnexis.com/lawschool/resource> and; “Using KeyCite” in pdf at <http://west.thomson.com/product/RM116275/product.asp>]

A. **Shepard’s** is a multi-volume, multi-series set of maroon books, commonly referred to as a “citor.” The sole purpose of Shepard’s is to list every source (well, almost every) that has ever cited any given case. Shepard’s also publishes citators for federal and state statutes, federal regulations, the Restatements, law reviews, and other specific subject areas. The process of using Shepard’s is referred to among practitioners as “**Shepardizing**” or “cite-checking.” As a

newly-licensed attorney, it is highly likely that you will be called upon by your superior (whether a law firm partner, judge or prosecutor) to Shepardize cases and statutes, sometimes at the last minute - get to know the system!

1. **When to use Shepard's ?**

a. To determine who else has cited your case, statute, law review article, etc - as soon as you've found an on-point case or statute, use Shepard's to find other relevant authority.

b. To update your case or statute, i.e., determine if it has been reversed on appeal (cases) or amended/repealed (statutes).

3. To find parallel citations for state cases - remember, many states (e.g., Georgia) have official reporters for case law, but the West regional reporters (e.g., S.E.2d) also contain the exact same cases (*avec* key numbers, headnotes, etc.). So, sometimes you may have a citation to a case in an official reporter, but you will also need to provide the proper parallel cite to the appropriate regional reporter under a court's local rules. Shepard's will thus give you the proper "parallel" citation to the regional reporter (or conversely, to the official reporter).

2. **Why use Shepard's ?** As we have discussed throughout this course, updating the law is extremely important. ALWAYS CHECK pocket parts when available in digests, annotated statutory compilations, etc., and Shepardize cases and statutes to make sure they are still "good law." Also, if you have an old case, Shepard's can point you to a more recent case. Given the choice, you should cite the most recent case, from the highest court, you can find.

3. **Online services** - Remember, the print version of Shepard's is 1-4 months out-of-date. Thus, many attorneys prefer to Shepardize cases by using Lexis, because Shepard's online is current within twenty-four hours. Also, online Shepard's eliminates the need to check those pesky supplemental pamphlets that can be easily misshelved in a library. Online Shepard's is also much easier to read and less cryptic than the print version, using colorful icons rather than the case treatment codes. Perhaps the most advantageous feature of Shepard's online is that cited cases can be directly accessed through hyperlinks.

4. Note that **Shepard's is not available through Westlaw**, which has its own citator service called **KeyCite**, which uses its own flag iconography to show the status of a case.

5. **How to use print Shepard's**

- a. Locate the volumes of Shepard's which cover the reporter (or statute, etc.) In which your original case appears (e.g., Shepard's Georgia Citations or Shepard's South Eastern Citations)
- b. Remember, Shepard's is not cumulative, so you may have to check 2 or 3 bound volumes and another 2 or 3 paperback supplemental pamphlets (or "advance sheets"). To see which pamphlets you should be checking, look on the front cover of the latest pamphlet. It has a section "What Your Library Should Contain" listing the Shepard's volumes necessary for a complete search.
- c. Once you have the proper Shepard's volumes, open to the page that covers the volume number of the reporter in which your case appears. Scan the tabular listings until you find the page number of your case. If your case's page number is not there, then your case has not been cited. If it does appear, then read the listing of cited cases. These cite are organized by jurisdiction.
- d. Look for any case history and/or case treatment codes. If you forget what these notations mean, go to the first few pages of the Shepard's volume and refer to the table that explains these codes.
- e. The most important case history and treatment codes to remember are: **M** (modified); **R** (reversed); **O** (overruled); **V** (vacated). These codes mean that something significant has happened to your case.
- f. If one of these codes appear after one of the cited cases, and it is not favorable to your position, don't freak out! Go get that case and read it. Your case may still be good law, because the reviewing court's reversal may have been on a different issue. Cite such a case using the explanatory phrase rev'd in part on other grounds (see ALWD R. 12.8)
- g. **Headnotes**- one of the best timesaving features of Shepard's is that listed citations may have superscript numbers referring to the specific headnote number of the cited case. You can really narrow your search by referring only to the cases that cite to the headnote that pertains to your specific issue
- h. **Shepardizing statutes**- can be done to see if any courts in your jurisdiction have interpreted your statute, or whether a statute has been amended or repealed. But since this information is contained in annotated codes (see below), I've never found Shepard's for statutes to be that useful (but many people do, however).

6. How to use Shepards on Lexis.com [BLR 136-139]:

a. Click on the “Shepard’s-Check a Citation” tab at the top of the screen.

Note: You can also move into Shepard’s directly from a case you are viewing by clicking on the “Shepardize” link at the top of the screen.

b. Type the citation in the open field.

c. Click the radio button to select the “KWIC” or the “FULL” report format (FULL is the default).

1) “Shepard’s for Validation” (the KWIC format) helps you determine whether your case is still “good law,” and retrieves all subsequent appellate history, citing references that contain positive or negative treatment of your case, and new citing cases that have yet to be analyzed by Shepard’s editors; or

2) “Shepard’s for Research” (the FULL format) shows you the universe in which your case has been cited. This set of results will include all prior and subsequent history and every citing reference from case law, law reviews, periodicals, annotated statute, and annotations.

d. Click “Check” to process your request.

e. Review your results screens, which include:

1) “Shepard’s Summary”- presents a synopsis, showing you why your case received the Shepard’s Signal Indicator shown. You can move to any grouping in the Shepard’s Summary by clicking on a hyperlink, then click the Return to Shepard’s link to return to your Shepard’s report.

2) “Prior History and Subsequent Appellate History”- provide short explanations of what happened at each stage of the case (e.g., writ of certiorari denied, or cost and fees proceeding).

3) “Citing Decisions” – numbered and organized by jurisdiction and court, then sorted by date in reverse chronological order.

4) “Shepard’s Navigation Bar” - located at the bottom of the screen, is like the electronic table of contents of your Shepard’s report. Click on the drop-down menu

next to the Cites box to view the report sections, then highlight to select the portion of the report you want to see.

- 5) Following the “Shepard’s Summary” are the “history citations.” After the history citations, you find the list of “Citing Decisions” which are arranged by jurisdiction and court, followed by secondary authorities.

The total number of citing references is provided in the parentheses at the beginning of the “Citing Decisions” section.

f. graphical **Shepard’s Signal indicator** icons (compare KeyCite flags) - provide graphic indicator of your case’s precedential status:

- 1) **red octagon (stop sign)** - the red signal is for “warning”, indicating your case has received negative treatment, e.g.; it has been reversed or overruled.
- 2) **yellow triangle (yield sign)** - “caution”, indicating your case has received possible negative treatment, e.g.; it has been criticized or limited.
- 3) **green diamond surrounding a plus sign** – “true positive” indicates your case has received positive treatment, e.g.; it has been followed or affirmed.
- 4) **Blue circle surrounding letter A** - citing references with analysis available.
- 5) **Blue circle surrounding letter I** - case cited only, no discussion.

g. **Customizing** Shepard’s Display (like “Limit KeyCite Display”) Click the “Custom” link at the top of the report to display the “Custom Restrictions Form.” Can limit display by: (1) type of analysis; (2) jurisdiction; (3) West headnote; (4) date.

B. KeyCite [BLR 137-141] – West’s online response to Shepard’s

1. **How to use** - you can access KeyCite using one of the following methods:

- a. From the Start Menu, type a citation in the “KeyCite a citation” text box and click GO.
- b. Click the Tasks drop-down list in the toolbar and select “KeyCite a Citation.” The KeyCite a Citation dialog box is displayed. Type a citation in the Enter a Citation text box and click OK.

c. Access KeyCite directly from a case you are viewing.

- 1) If the case has **negative history** that may affect its precedential value, you will see a **red or yellow case status flag** in the document header. If the case has **some history but it is not known to be negative history**, a **blue "H"** will be displayed in the document header. Click the flag or the blue "H" to access KeyCite and display the history of the case.
- 2) **red flag** warns that the case is no longer good law for at least one of the points it contains.
- 3) **yellow flag** warns that the case has history but hasn't been reversed or overruled.
- 4) **blue "H"** indicates that the case has some history.
- 5) **green "C"** indicates case has citing references but no direct or negative indirect history

d. Displaying "**The History of the Case**" - When you first access KeyCite, the history of the case is displayed (can also be accessed by clicking the blue "History" hyperlink on the left-side frame.) The history is divided into the following categories:

- 1) "Direct History" traces the same case through the appellate process and includes prior and subsequent history.
- 2) "Negative Indirect History" lists cases outside the direct appellate line that may have a negative impact on the precedential value of your case.
- 3) "Related References" lists cases that involve the same parties and facts as your case, whether or not the legal issues are the same.

e. Displaying "**Citations to the Case**"- To retrieve citing references for your case, click blue "**Citing References**" hyperlink on the left-side frame. A list of all cases on Westlaw and secondary sources, such as law review articles and ALR annotations that cite your case is displayed. Sometimes you will have a case cited by hundreds of other cases and secondary sources. KeyCite tries to make long citation lists more manageable:

- 1) The citations most likely to be essential are listed first; namely, the negative citing cases that may limit your case's precedential value, followed by positive citing cases ranked in order of depth of treatment. You can tell which cases on the list are most likely to be important by noting the number of "**depth of treatment stars**" assigned to each group of cases (see below)

2) “**Limit KeyCite Display**” button – on bottom of screen, use to limit the list of citing cases to references from a particular jurisdiction, date or West publication; to those providing a specified depth of treatment; or to those discussing points of law summarized in specific headnotes or classified under specific topics.

f. KeyCite **Depth of Treatment Categories:**

4 Stars	Examined	Indicates an extended discussion of the cited case, usually more than a printed page of text.
3 Stars	Discussed	A substantial discussion of the cited case, usually more than a paragraph but less than a printed page.
2 Stars	Cited	Some discussion of the cited case, usually less than a paragraph.
1 Star	Mentioned	A brief reference to the cited case, usually in a string citation.

2. KeyCite for **Statutes** –

a. To view the **history of a displayed statute**, click blue History hyperlink on the left-side frame. Statute history lists cases affecting the validity of a statute plus legislation affecting the statute, which is divided into the following categories:

- 1) Updating Documents - lists citations to session laws that amend or repeal the section.
- 2) Pending Legislation - lists citations to pending bills that reference the section (federal statutes and statutes from selected states).
- 3) Credits - lists in chronological order the citations to session laws that have enacted, amended, or renumbered the section.

b. **West Flag icons for statutes** – When viewing the text of a federal statute on Westlaw, remember that the KeyCite **Red flag icon** denotes the statute or regulation has been amended by a recent session law or rule, repealed, superseded, or held unconstitutional or preempted in whole or in part. **Yellow flag icon** signals that

- 1) the statute has been renumbered or transferred by a recent session law;
- 2) an uncodified session law or pending legislation affecting the statute is available (KeyCite provides a **hyperlink to pending legislation** – not on Shepards!); or

- 3) the statute was limited on constitutional or preemption grounds or its validity was otherwise called into doubt, or
- 4) a prior version of the statute or regulation received negative treatment from a court.

V. ADMINISTRATIVE REGULATIONS [BLR Ch. 8; Class 11 PowerPoint presentation available on course webpages]

The final primary legal source considered in our class. Although mostly part of the executive branch because they execute the mandates established by statute, nevertheless, many "independent" administrative agencies (e.g., U.S. Environmental Protection Agency, "EPA" and Securities and Exchange Commission "SEC") exist with the autonomous power to legislate, adjudicate and enforce their own rules. (see above at 2, and chart on Class 11 PowerPoint slide number 63). Still, administrative agencies can only act within the scope of **their authority** (i.e., within the scope of their "**enabling**" **statutes**, which are enacted by Congress to define an agency's authority). Typically, a court can review an agency's action to prevent arbitrary or capricious government action. (Although in practice courts will usually defer to agency discretion.)

A. **How agencies work** - can perform functions akin to all three branches of government: "quasi" legislative, judicial and executive functions.

1. **quasi-legislative** - agencies pass statute-like laws called regulations (or "regs," also informally called "rules," although technically agency rules are different than regs). But, instead of "passing" or enacting statutes like a legislature, agencies promulgate or issue regulations. When an agency proposes a regulation for promulgation, it is subject to "notice and comment," allowing interested parties to voice their opinions (in writing, or possibly in a hearing-like format). Remember, regulations have the same force and effect as laws passed by the legislature.

2. **quasi-executive** - agencies often have their own law enforcement officials to ensure that regs are complied with; e.g., OSHA compliance inspectors; SEC fraud investigators. The violation of some regs can lead to criminal penalties. Also, there is considerable case law on the constitutionality of administrative searches and seizures.

3. **quasi-judicial** - an agency can conduct its own hearings with agency judges known as administrative law judges ("ALJ's"). E.g., the National Labor Relations Board ("NLRB") has ALJ's who hear labor disputes. A hearing can mean anything from a telephone call from an agency official to a trial-like proceeding.

B. **Federal administrative law research**

1. **Federal Register ("FR")** published daily in a magazine-like format, it is the official announcement of regulations and legal notices

issued by fed agencies. For any administrative regulation to be legally effective, it must first be published in the FR. Requests for "notice and comment" on a proposed reg (mentioned above) are published in FR.

a. Final regulations are first published in the FR, and then codified annually in the Code of Federal Regulations ("CFR")(see below) - by using the FR & CFR together, with their indexes and tables, you can identify all currently existing regs issued to a specific fed law, or find non-final, proposed regs.

b. a typical FR issue includes (i) Presidential executive orders (EO) and proclamations (Proc.); (ii) rules and regulations - regulatory docs of the agencies; (iii) proposed rules - changes or amendments to already existing regs, or new rules that an agency is considering. Publication in the FR permits interested parties to comment on the proposals through hearings or by written statements; and (iv) Notices- information other than rules or proposed rules that are applicable to the public such as announcements of hearings or investigations.

d. available for free online at <http://www.gpoaccess.gov>

e. **Citation:** 60 Fed. Reg. 37,734 (Aug. 5, 1995). [ALWD R. 19.3]

2. **The Code of Federal Regulations (CFR)** -the primary source of federal regulatory material. It is the final codification of all general and permanent rules promulgated by the Executive departments and agencies of the United States Government.

a. Organized by subject into 50 titles. Each title is updated annually, on a cyclical basis.

b. The paper issues are color-coded each year. However, until the current year's title appears on the shelf, the previous year's title should be consulted and appropriately updated.

c. Updating: accomplished through the use of the **List of Sections Affected ("LSA")** and the FR. (see above)

d. **Finding:** If you do not have a citation to the CFR you will need to search by subject. This can be accomplished through the use of three basic sources:

- 1) CFR Index and Finding Aids, issued by the GPO;
- 2) The CIS CFR Index published by Congressional Information Service (CIS); or
- 3) The USCS CFR Index published with the USCS set.

e. available for free online at <http://www.gpoaccess.gov>

f. **Citation:** 16 C.F.R. § 1700.15 (1995) [ALWD 19.1]

C. Georgia state administrative law – The Ga. Secretary of State compiles regulations issued by state agencies in a multi-volume, olive-drab covered, looseleaf set: Official Compilation Rules and Regulations of the State of Georgia. The regulations are listed alphabetically by agency, with a chapter number and agency-assigned control number. There is no official index with the set, but one is commercially published: Weil’s Guide to Georgia Law and Regulations (softbound books next to olive-drab set).

1. **Cite example:** Ga. Comp. R. & Regs. r. 320-3-.01 [ALWD, App 1. at 342]
2. Online: www.georgia.gov (full list of state agencies); and www.sos.state.ga.us/rules_regs.htm (full text of Ga. Comp. R. & Regs.)

Legal Research Glossary

Act (e.g., Civil Rights Act) - A perfect example of a word with more than one meaning. An act may be a law on a particular subject such as the Clean Air Act. The word act is also often used in the name of proposed legislation or bills such as in the Working Families Flexibility Act of 1996, proposed legislation introduced in the 104th congress. The bill was not enacted and was reintroduced in the 105th congress.

Administrative law – see **Regulation**, below.

Advance Sheets - Judicial decisions go through three stages of being printed in paper: slip opinions, advance sheets, and the final bound reporter. Advance sheets are paperback books collecting several cases. The citations to the cases are generally what they will be when they appear in the final hard bound volume which is essentially published when the publisher has enough cases to make up the volume.

ALWD – Abbreviation for **Association of Legal Writing Directors**. Association that established its own citation system, contained in ALWD Citation Manual – A Professional System of Citation (now in a 2d edition, published by Aspen). Competes with the very similar **Blue Book** system, but the ALWD Manual provides better examples and is considered easier to use.

Annotated code - A version of a code (a subject compilation of laws) which in addition to the language of the law also contains references to law review articles, other relevant statutes or regulations, and, most importantly, summaries of cases which discuss or interpret the particular code section. The annotations are provided by the editors and are not a part of the official language of the code. United States Code Annotated, published by West, is an annotated version of the official United States Code published by the federal government. Official Code of Georgia Annotated is the official code of Georgia, and also includes editorial enhancements from Lexis. Most annotated codes are statutory. There are very few annotated regulatory codes.

Appeal - The process of review by a higher court of a ruling of a lower court. In Georgia, the Georgia Supreme Court is the highest court and hears appeals from the Georgia Court of Appeals, which hears appeals from trial courts.

Appellant - The party who initiates an appeal to a reviewing court. The appellant may be either the defendant or the plaintiff.

Appellate Court - A reviewing court which hears appeals on issues of law from a lower court. Except in rare, specific circumstances, it is not a trial court.

Appellee - The party against whom an appeal is taken. The appellee argues in favor of the lower court ruling. The appellee may be either the plaintiff or the defendant.

Blackletter law - This phrase refers to the basic standard elements for a particular field of law, whether it is the standard elements for a contract or the technical definition of battery. Blackletter law is not recorded in any one place or research source, nor is "blackletter" a term you will find in most indices. Instead, you will need to research the specific area of law to determine the standard elements. Secondary sources are your best source for these.

Bluebook - The Bluebook: A Uniform System of Citation (now in 17th ed.) is published by the Harvard Law Review and other leading law reviews and sets forth abbreviations and rules of citation for legal materials. It is a widely used standard in law school writing, but not necessarily followed by courts or attorneys who may be required to follow local rules. Compare ALWD Citation Manual, above.

Case - A term that has several meanings. Technically, a case is a dispute between two or more parties. "Case" also refers to the opinion of a court and its ruling on a particular set of facts and legal issues. Thus, your casebook for a class is a collection of opinions. Case, judgment, ruling, opinion, and decision are often used interchangeably.

Citation - The reference which helps you identify a particular case, law review

article, book, statute or other resource, whether primary or secondary. For example, the citation for Roe v. Wade is 410 US 959 (1973). The case appears in volume 410 of the official United States Reports beginning at page 959. The opinion was rendered in 1973. 42 USC Section 1983 is the citation for civil rights legislation which appears in title 42 of the United States Code, at section 1983. See also parallel citation. The ALWD Citation Manual and the Bluebook will provide you with the rules on proper citation format.

Basic citations to know:

U.S. - United States Reports, the official reporter for US Supreme Court cases.

S. Ct. - Supreme Court Reporter, an unofficial reporter of US Supreme Court cases.

L.Ed.2d - Lawyers' Edition, second series, an unofficial reporter of US Supreme Court cases.

U.S.C. - United States Code, the official version of the federal statutory code.

U.S.C.A. & U.S.C.S. - two unofficial, annotated versions of the federal statutory code.

C.F.R. - Code of Federal Regulations, the codified subject arrangement of current regulations issued by federal agencies.

F., F.2d, and F.3d - Federal Reporter, first second and third series. This is the reporter for opinions of the federal courts of appeals. Not all of the federal circuit courts' opinions are published.

F. Supp. and F. Supp.2d - The Federal Supplement is the reporter for published opinions of the federal district court, which is a trial court. Most opinions of the district courts are not published.

Ga. – Georgia Reports, official reporter of Georgia Supreme Court opinions.

Ga. App. – Georgia Appeals Reports, official reporter of the Georgia Court of Appeals.

S.E.2d – West's Southeastern Reporter , unofficial reporter of Georgia appellate court opinions.

Cite - noun: short for citation; verb: to give the citation for a particular item.

Civil - Everything that is not criminal. Civil cases involve disputes not arising out of violation of criminal statutes. This will make more sense (and get more complicated) later. Don't worry.

Code - A systematic subject compilation of laws which may be statutory or regulatory. Statutes and regulations are initially published chronologically, as they are enacted. The code pulls together all the statutes or regulations on a particular subject, such as Title 26 of the United States Code covering taxation. Without codification, you would have to look through multiple volumes published over many years to find all the federal tax laws. Note that when people ask, "What does the code say," they are generally referring to a statutory code.

Common law - The law developed over centuries and derived from judicial opinions rather than from legislative enactments. For example, the laws relating to negligence have been developed by judicial decisions over several hundreds of years. In modern times these basic principles are often incorporated into statutory laws. (Note, the United States, the United Kingdom, and most Commonwealth countries, have a common law system as contrasted with the civil law systems of other European countries.)

Controversy - A dispute or case.

Court/court (upper case/lower case) - When the word "court" by itself is capitalized in a sentence, it is generally referring to the United States Supreme Court. Lower case "court" refers to all other courts. When naming a specific court, such as the Court of Appeals for the Ninth Circuit, the word court is capitalized.

Criminal law - Relating to the laws of crimes, criminal law is everything which is not civil. This is not a good definition, but don't worry. It will become easier (and more complicated) later.

Decision - A ruling by a court which may or may not be explained by an opinion. However, when a professor asks you for the court's decision, she will be referring to the opinion and will want you to explain the ruling and not just state the final result.

Defendant - The person against whom a law suit or prosecution has been brought. In a civil suit this is the person from whom a plaintiff seeks relief. In a criminal action, it is the accused.

Descriptive Word Index - Digests are the key print source for categorizing cases by subjects. In the West digest system, the subjects are referred to as topics and each topic is broken down into sub-topics which are each assigned a number. Thus Contracts # 27 is on implied contracts and Criminal Law # 27 is on felonies and misdemeanors. If you were to look these topic and key numbers up in the

digest you would find all of the cases which the editors of West believe are on those subjects. You may know a relevant topic and key number from the headnote of a relevant case. Otherwise, the best way to identify the topic and key number for your research is to use the Descriptive Word Index for the digest, which is located in several volumes either at the end or the beginning of the digest. The Descriptive Word Index is organized like any other index; you should search under general terms that describe your research problem. This should lead you to the appropriate topic and key number.

Digests - Finding tools which provide subject access to cases. They usually consist of several volumes containing summaries of legal issues (the headnotes) from cases. Digests are organized by a subject-based outline.

Dissent - A judge's disagreement with the majority of the court. Appellate court cases are heard by a panel of judges which can vary in number depending on the jurisdiction. A judge who disagrees with the majority ruling and opinion will often write a dissenting opinion explaining his or her reasons for disagreement.

En Banc – (French “on the bench”) All judges for a particular court decide a case together.

Et seq. (Latin meaning "and the following") - Used in statutory citations, such as 15 U.S.C. §§ 2301 *et seq.* Indicates that the referenced statute begins at Title 15, Section 2301 and spans through an unspecified number of following sections. Note the ALWD Manual, Rule 6.6(d), does not encourage the use of *et seq.* (provide the reader with the actual span of statutory sections, e.g., 15 U.S.C. §§ 2301-2310). Also, the Bluebook, Rule 3.4(b), prohibits the use of *et seq.* But you will see it quite often in judicial opinions.

Form Books – Collection of sample “fill in the blank” documents for use in a particular practice area or jurisdiction. They may contain complete sample forms, or suggested checklists and language for use in drafting legal documents. Form Books can range from self-help manuals (e.g., Robertson & Haman’s How to File for Divorce in Georgia) to more extensive guides to complex areas of practice (e.g., Melville’s Forms & Agreements on Intellectual Property and International Licensing).

Headnote - Editors of published case reports include with the opinions a series of one paragraph summaries of the major issues (as seen by the editors) at the beginning of cases. These headnotes are not written by the judges and **are not part of the opinion** (DON’T YOU DARE CITE THEM!!!) In the West system, the headnotes include the topic and key number and contain the same language as the digest summary of the case. The West digest system provides a compilation of these headnotes by subject.

Hornbook - treatises or secondary sources written for law students. They set forth

the basic established principles of law for a given field and often explain how the law has developed. They usually do not provide the critical analysis of cutting edge issues found in other scholarly treatises or law review articles but do provide more information that would be found in a legal encyclopedia. They are good starting points for research and the hornbooks on first year subjects are heavily used by students. You can find whether there is a hornbook on your subject by doing a keyword search on LawCat. For example, "hornbook torts" will retrieve Prosser on Torts. Many of the Library's hornbooks are kept on reserve at the Circulation Desk.

Index to Legal Periodicals and Books: Also known as ILPB, this source has indexed articles in law reviews since the nineteenth century and books since 1994. In addition to a subject/author index, it has a table of cases and a table of statutes which allow you to locate articles on a particular case or statute. The print volumes are not cumulative so you may need to check several to find the relevant articles. If you are looking for articles on a particular case, you should check all volumes since that case was decided and not just the volume published at the time of the decision. Authors will continue to write about major cases for years after the opinion was written. ILPB is available on Westlaw, Lexis, and through [Galileo](#) - select the "Databases A-Z" tab and click on "I."

Judgment - The ruling or decision of a court which may not necessarily be explained by a written opinion.

Key number - In the West Digest System, the 450 topics which West believes all legal issues can be classified into are in turn subdivided. Each topic is outlined with the sub-topics numbered. These numbers are referred to as key numbers. Other digest systems number the sub-topics as well, but the "key number" phrase is a copyright of West.

Looseleafs - Because of the need for currency and the amount of time involved in publishing books, the legal publishing industry relies on looseleaf format for materials in some areas of law. These come in two major types. First, is the type in which additional pages are added at the end of the set as new cases are published or new materials are developed. United States Law Week, which reports activities of federal courts and publishes Supreme Court opinions, is an example. The majority of looseleaf sets, however, consist of binders of pages in which new pages are interfiled in the set at the point in the text where the changes have been made. This allows for materials to be updated on a regular basis, often weekly. Looseleaf sets may provide secondary source material or they may contain primary materials such as cases, regulations and statutes. Some sets contain almost everything a practitioner in that field would need. For example, the CCH Standard Federal Tax Reporter has the internal revenue code, the tax regulations, cases, digests of cases, finding tools, and even a citator.

LegalTrac - An index of legal periodical literature available through the Furman

Smith Law Library: [LegalTrac Link](#) . LegalTrac indexes most English-language legal periodical literature from 1980 to the present. Note that this is an index of articles and the full-text of the journals are not in LegalTrac. You can search LegalTrac by author, title, subject, and keyword. You will retrieve citations to articles (author, title of article, volume, journal, subject descriptors of the article). After you have found a citation, you should use the “search by title” option on LawCat to see if the journal you want is in the law library’s collection. The majority of law reviews are kept in the Mulberry Wing.

Nutshell - West publishes a series of brief paperback volumes on basic legal research subjects that are often used by students in their studies and research. These are referred to as the Nutshell series. Sample titles are Legal Research in a Nutshell and Contracts in a Nutshell. Most of these are on Reserve at the Circulation Desk.

Official code/reporter -Cases, regulations and statutes are published electronically or in book format in either official or unofficial publications. Official publications are those which have been authorized by statute or governmental ruling. They are not necessarily published by the government itself. Unofficial publications, which have not been so sanctioned, often have additional research aids to help the user. For example, the Supreme Court Reporter is an unofficial version of US Supreme Court opinions while US Reports is official. Citation rules may require references to both official and unofficial versions or only one version.

Opinion - The reasons given for a court's judgment, finding or conclusion. When a professor says "What's the opinion of the court?", she is referring to this majority opinion. A concurring opinion is by a justice who agrees with the ruling but for reasons different from the majority. Dissenting opinions are by justices who disagree with the ruling itself. Opinions may or may not be published.

Ordinances – Local legislation passed at the city, town or county level. Frequently cover education, zoning, housing, social welfare, municipal services, transportation, public safety and local taxation.

Panel - In referring to a court, it is the group of judges hearing and deciding a particular case. Trial court cases are almost always presided over by one judge. Upper level courts are presided over by a panel of judges. A federal court of appeals may have several judges but a panel of three of them will hear a particular case. An en banc panel is made up of all the judges from that court, usually sitting to review a decision of a three judge panel of the same court.

Parallel Citation - Many documents such as cases and statutes are printed by more than one publisher. The opinions of the United States Supreme Court appear in print format in United States Reports (the official reporter), the United States Supreme Court Reporter (an unofficial reporter), and Lawyers Edition (another

unofficial reporter). The text of the opinion will be the same in each of these printed formats although there may be different editorial notes. The citation for a case will be different in each reporter due to how the editors arrange the cases. For example, Roe v. Wade can be found at 410 US 113, 93 S. Ct. 705 and 35 L.Ed.2d 147. The citations are referred to as parallel citations. They provide you with the same document in different books.

Plaintiff - The individual or organization who initiates a lawsuit by filing a complaint. In a criminal action it is the government.

Pocket part - Pocket parts are pamphlets inserted into a pocket in the back of a book which update the information in the book itself. They are most often found in statutory codes, digests, and encyclopedias. It is absolutely essential that you check the pocket part if you are using a volume that has one. The pocket part in digests will give you additional cases on your topic. Pocket parts in codes will tell you whether your code section has been amended or repealed since the main volume was published.

Precedent - An existing opinion, usually published, which because of its similar facts and legal issues, serves to guide a court in the case before it. Our common law system is based upon precedent. Courts will want to look to principles established in earlier cases. Those decisions which involve similar facts or legal issues serve to guide a court and are regarded as precedent.

Primary Sources – “The LAW” itself whether statutory, administrative (regulations) or case law. The United States Code is a primary source. A book discussing and explaining the code is a secondary source. See Secondary sources.

Regulation - Rule or order issued by an agency of the executive branch of government which has the force of law. Regulations must be authorized by the statute and generally provide more details on a particular subject than does the **enabling statute**. For example, the statutes on public accommodations under the American with Disabilities Act, 42 USC §12181 *et seq.*, are supplemented with additional definitions and requirements in regulations issued by the Department of Justice. These can be found at 28 CFR § 36.101 *et seq.* The CFR is the **Code of Federal Regulations**, the subject compilation of current regulations currently which are initially published chronologically in the **Federal Register**.

Reporter - Court opinions from a particular court or group of courts are published in books referred to as reporters. Reporters may be **official** (e.g., Georgia Reports or Georgia Appellate Reports) or **unofficial**. Also, **offprint reporters** - for certain states, West publishes an individual state’s court opinions from a regional reporter in a state specific reporter (e.g., Georgia Cases).

Ruling - The ruling of a court is its order or judgment whether on a particular issue or the final verdict. In administrative law a ruling is an interpretation or

decision by an administrative agency.

Secondary Authority/Source - Materials that explain, analyze and interpret primary authority or sources. Examples are law review articles, encyclopedias, and books. These sources can lead you to key primary sources as well as other secondary sources.

Slip opinion - Slip opinions are the first stage of the printed format for judicial opinions. Usually, the opinions from a case are first issued as slip opinions, pamphlets containing the court's opinion along with any dissenting and concurring opinions. These are issued by the court, and do not have the enhancements of headnotes, nor do they have their final official or unofficial citations. (Note that U.S. Supreme Court slip opinions do contain a **syllabus**.) The opinions will be reprinted in advance sheets when enough exist to make up an issue. These in turn will be cumulated into the final bound volumes.

Syllabus - Like a **headnote**, a summary of a court's opinion and holding provided at the beginning of an opinion. Often included with official publication of a court's opinion, such as the United States Supreme Court. Note that the syllabus of a U.S. Supreme Court opinion is not part of the case, but is only provided as a convenience for the reader. Some state courts permit citation of a syllabus, however, such as the Ohio Supreme Court. Always get to know the court rules of the jurisdiction where you will practice!

Statute - The written enactment from a legislative body, whether federal or state. Federal statutes are published chronologically (in the order they are enacted) in Statutes at Large and are then codified (statutes currently in force organized by subject) in the United States Code.

Supreme Court - The court level of a "supreme court" varies by jurisdiction. In most jurisdictions, including the federal, the supreme court is the highest court or court of last resort. In New York, the Supreme Court is the name for the trial court while the highest court is the Court of Appeals.

Table of Cases - A table of cases in a periodical index will help you locate articles which have been written about particular cases. In a digest, the table of cases helps you identify the citation for the case when you know one or both of the parties' names.

Term of art (or "word of art") – words that have a specific meaning within a legal context, but may mean something else in another context. E.g., "last clear chance" or "attractive nuisance" in tort law. Legal indexes are often organized by terms of art. That means when you are doing legal research, you will frequently need to translate common parlance into a specific term of art before you can access a primary or secondary source.

Title - Another word with multiple meanings. Title may refer to a major division of a code. For example, the United States Code is organized into 50 titles, each one on a particular broad subject. 42 USC 2000a is a citation to the Civil Rights Act of 1964. It is in title 42 of the United States Code, which is the title for public health and welfare. But in a different use of the word "title," Title VII of the Civil Rights Act indicates a large portion of the Civil Rights Act that is found at 42 USC 2000e et seq. Here the word title is referring to a portion of an act that covers a particular subset of the entire act. The Roman numeral comes from the organization of the act's sections in the original session laws or Statutes at Large (pre-codification) version of the act.

Topic - For the West Digest System, editors have selected 450 legal subjects to classify American law. These subjects are referred to as topics. Each in turn is divided into more specific subjects in an outline format and the subjects in the outline are numbered, with the numbers referred to as key number.

Treatises - Secondary sources that provide an analysis of the law in a specific area. Treatises often give the background to the law's development, and more detailed examples to the various possible alternative developments for a particular area. Some treatises are aimed at practitioners, others are more scholarly. Some treatises (e.g., Corbin or Williston's Contracts, Wright & Miller, Federal Practice & Procedure) are considered to be so authoritative that courts will often treat them like primary sources.

Unannotated code - The subject compilation of statutes or regulations which contains just the language of the law. It does not contain references to secondary sources or summaries of cases discussing the various code sections.

Uniform Laws – laws proposed by the National Conference of Commissioners of Uniform State Laws (“NCCUSL”) (see www.nccusl.org). The laws are proposed to create the same statutory schemes in multiple jurisdictions (to promote legal uniformity from state-to-state). A uniform law that you will get to know well is the Uniform Commercial Code (or UCC), which is followed in all 50 states. If Georgia adopts a particular uniform law, you can use West's Uniform Laws Annotated to research how other states have interpreted that law.

Unofficial code/reporter - A published version of case opinions or laws **not** authorized or sanctioned by statute or ruling (compare official code/reporter, above). The language of the opinions and codes are identical in both official and unofficial versions if both exist. Unofficial versions may contain research aids or commentary not available in official versions. These editorial enhancements include case annotations in annotated codes.