

Chapter 8: Research Sources for Primary Authority

Chapter Outline:

- ✓ § 8.1 The Path of Legal Research
- ✓ § 8.2 Using Additional Tabs for Online Research
- ✓ § 8.3 Interactive Study: Researching Case Law
 - Assignments
- ✓ § 8.4 Interactive Study: Researching Statutes
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- ✓ § 8.5 Interactive Study: Validating Authority
 - Assignments

§ 8.1 THE PATH OF LEGAL RESEARCH

Where to begin, and how to finish

The most common research questions are:

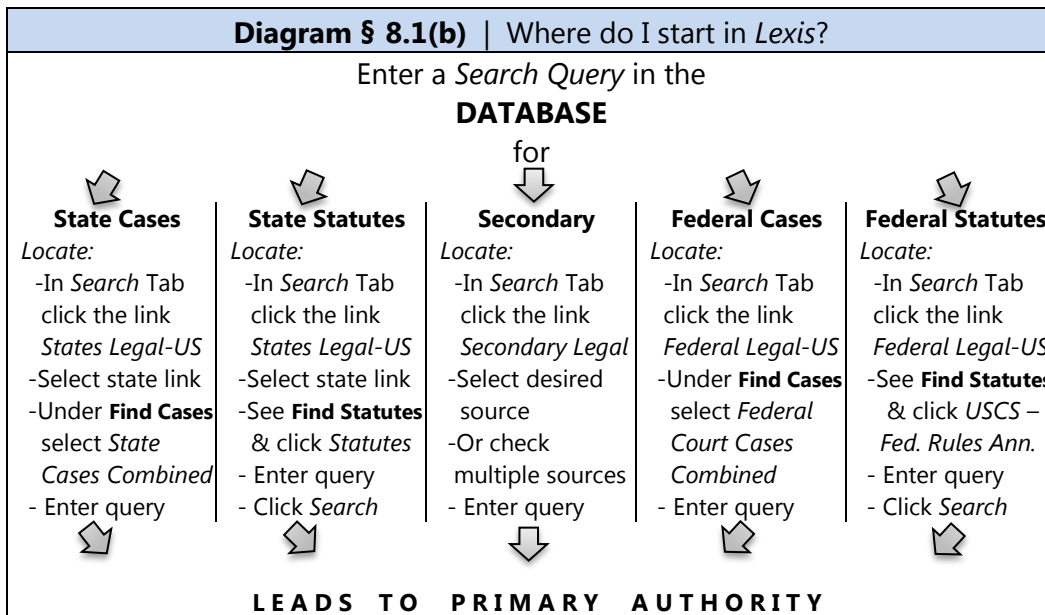
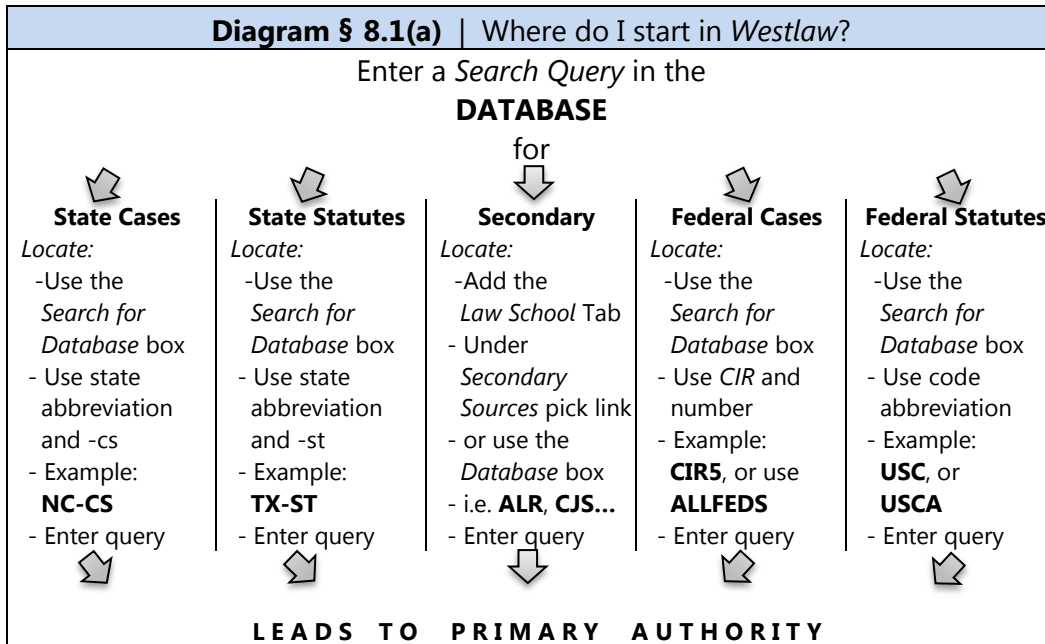
- Where do I start?
- How do I expand my research?
- How do I know I am finished?

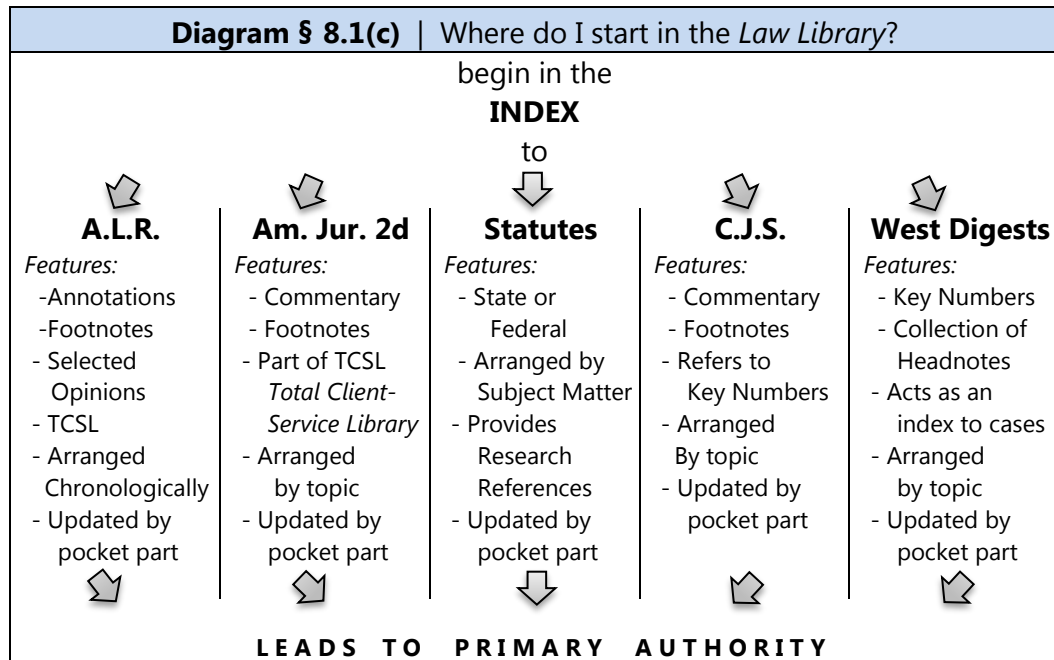
The *Research Flowcharts* on the following pages are designed to help students visualize the path of a research project. There are multiple points at which to begin a research project. There is no single answer. In fact, part of it will be personal preference.

Expanding and finishing any research project depends in great part on what is found in your initial search, but, as discussed in the following pages, there are considerations that can make the process less murky.

Where do I start?

There are several options when beginning research, but the traditional sources provide a solid foundation. After using those sources, the paralegal can then expand his or her research as needed. Following are flowcharts for beginning *Westlaw*, *Lexis*, and law library research.





How do I expand my research (locate additional authority)?

There are two common points where the paralegal may need to expand his or her research.

1. My initial results were not satisfactory
2. I need authority within my jurisdiction

There are ways to expand your research to either provide better results or to locate authority within your jurisdiction. The methods differ, of course, on whether you are researching online or in the law library.


Expanding my research in Westlaw Next

If the cases provided in the *Results Page* do not appear to be relevant, you will need to either revise your search query or select a broader filter – which is essentially a database - (such as ALLSTATES or ALLFEDS).

If you have located cases that appear relevant, but those cases are not from your state, try using the *Key Number* links in the headnotes. Locate a headnote that is relevant to your research, click on the *Key Number* link [such as 410k52(3)], choose your state, or a federal circuit, and click *Search*. In addition, refer to the cases, statutes, and other authority within the cases you have found (an oft overlooked source of additional authority).

Expanding my research in Lexis Advance

If the cases provided in the *Results Page* do not appear to be relevant, you will need to either revise your search query or select a broader database.

If you have located cases that appear relevant, but those cases are not from your state, try using the *All Headnote* links. To the right of **LEXISNEXIS® HEADNOTES**, click on *Show*. Locate a headnote that is relevant to your research, select the *All Headnotes* icon, (Example: ) , choose your state, or a federal circuit, and click *Go*.

You may also *Shepardize* the opinion to find additional cases. In addition, refer to the opinions, statutes, and other authority within the cases you have found.

Expanding my research in the Law Library

If you have not located relevant authority, you may need to try different resources. Consider using *Am. Jur. Proof of Facts*, *Am. Jur. Trials*, *Causes of Action*, or one of the many legal treatises provided in your law library. Also, you may need to broaden your search terms that you are using in the index.

If you have found a case but not in your jurisdiction, locate a relevant *Key Topic and Number* and go to a *West Digest* covering your jurisdiction (such as your state or regional digest). You may also *Shepardize* the opinion to find additional cases.

In addition, refer to the cases, statutes, and other authority within the cases you have found.

How do I know when I am finished?

Whether researching online or in the law library, identifying the finish line in a research project is not always easy. However there are two points that tend to determine whether the paralegal has finished the research project.

First, if the researcher begins to see references to the same authorities he or she has already found, that indicates that researcher has most likely found the most relevant research trail. Second, your attorney will most likely set a time limit on your project. Research is typically not allowed to be unlimited. Thus, if your allotted time is up, your project, for practical and financial purposes, is finished.

§ 8.2 ADDING FILTERS FOR ONLINE RESEARCH

The equivalent of hardbound library law books in online research are filters, which are actually databases. This *must* be understood by the researcher. Thus, any possibility of expanding your choice of filters is equivalent to expanding your choice of law books within which to research. In both *Westlaw* and *Lexis*, the easiest way to expand your choice of filters, and to make your online research more efficient, is to select different or additional filters.

Adding Filters in *Westlaw Next*

This is a simple process. Simply click on the Filters menu next to the Search Query Box and check any databases that you want to add as Filters.

You are also able to add filters after you have conducted a search and are viewing the Results Page. This has the effect of focusing the search results.

In the Narrow window at the left of the screen, select any filters that seem promising. Your results will be filtered to show only those documents that are found in the selected filter databases.

The screenshot shows the WestlawNext interface. At the top, there are tabs for 'All Content' and 'American Jurisprudence 2d'. The search bar contains the query '"day care center" liability injured child' and a 'SEARCH' button. Below the search bar, there is a 'NARROW:' sidebar on the left with various filters. The main content area displays search results for 'American Jurisprudence 2d (2,273)'. The results are sorted by 'Relevance' and show a list of items with checkboxes. The first result is '1. § 155. Generally' and the second is '2. § 257. Pecuniary-benefit test'.

Adding Filters in *Lexis Advance*

Again, after clicking on the Filters drop down, check the boxes next to any desired filters.

You are also able to easily add filters once you are in the Results Page. In the left Narrow By window, click on any filter to add it. (You can also remove filters by clicking on the X to the left of any active filter.)

You can even type terms or phrases to search within the current results. For example, if you wanted to add the term "license" to a search, type it within the Search Within Results text box. You will now find the results have been narrowed from your original results to show only documents that also contain that term.

The screenshot shows the 'Narrow By' sidebar on the left and a search result on the right. The sidebar includes a list of active filters: American Law Reports (ALR), Jurisprudence, and Civil Procedure, each with a close button (X). Below these is a 'Clear' button and a star icon. A 'Search Within Results' section contains a text input field with the placeholder 'Enter search terms' and a search icon. Underneath are expandable sections for 'Jurisdiction' and 'Practice Areas & Topics', with 'Civil Procedure' expanded to show 'Judgments' and 'Trials'. A 'Select multiple' link is at the bottom of the sidebar. The search result on the right is titled '1. Construction and application excluding injuries intended o...' and includes a snippet of text from the American Law Reports 4th edition, discussing liability insurance and the intent to injure.



§ 8.3 INTERACTIVE STUDY | RESEARCHING CASE LAW

Case law is one of the most powerful forms of law because it applies other law (cases, statutes, regulations, etc.) to an actual set of facts. In addition, within the case the paralegal will find references to other authority that can expand the research effort.

Reports and *reporters* are the major publications that contain case law. As a general (but not universal) rule, *reports* are official publications (published by the government), and *reporters* are unofficial publications (published by a private company, usually *West Publishing*).

When researching for cases in reports or reporters, it is not as simple as going straight to that set of books. This is because reports and reporters do not have indexes. Instead, *West Publishing* has created corresponding books called *Digests*. *Digests* have two functions:

- Digests collect case headnotes in topical order
- Digests act as an index to cases

Key Number System

West Publishing has also created an organizational structure called the *Key Number System*. When *West* publishes a court opinion in a reporter, it adds research tools, such as headnotes. Each headnote is assigned at least one relevant key topic and key number. The headnote is then published both in the opinion and in its corresponding digest volumes.

For instance, a case in the *Pacific Reporter* from Hawaii deals with the topic of lack of consideration within contracts. *West Publishing* will assign that specific topic the *Key Number of Contracts 49(3)*. The headnote will then be published in the *Hawaii Digest* and the *Pacific Digest* under the topic of *Contracts, Key Number 49(3)*, along with all the other headnotes from cases dealing with lack of consideration.

Thus, once a *Key Number* (which actually includes a topic and a number) relevant to your research project is identified, this system allows the researcher to quickly expand or focus his or her search. If, as in the above example, the case originally found was from Hawaii, the researcher can use the same *Key Number* [*Contracts Key Number 49(3)*] to research within a local digest, such as the *New York Digest*, *Texas Digest*, *Southern Digest*, or any other *Digest* published by *West*.

Westlaw also allows the researcher to use *Key Number* for online research.

QuickView § 8.3 | Researching Case Law

Westlaw Next

1. Using the *Filters drop down menu* at the right of the *Search Query Text Box*, select at least one jurisdictional filter
2. Type your *Search Query* into the text box and click *Search*
3. In the *Results Page*, select any case title links that appear relevant
4. If a relevant case has been found review the *KeyCite* bar to validate the case (making sure there is no negative treatment or history)
5. Download, email, or print any relevant cases

Lexis Advance

1. Click the *Filter button* at the right of the *Search Query Text Box*, select the *Jurisdiction* option, and select the *state* or *Federal jurisdiction* as a *Filter*. Select the *Category* option and set *Cases* as a *Filter*.
2. Enter your *Search Query* and press *Search*
3. In the *Results Page*, view any relevant cases by clicking on the title
4. Refer to the *Shepard's box* to the right of the caption to validate
5. If any relevant cases are found, have them delivered by printing, download, or email

Law Library

1. Determine the *reporter* or *jurisdiction* in which you want to search
2. Locate the corresponding *Digest*, i.e. the *S.E. Digest* for *S.E. Reporter*
3. Research in the *Digest index*, which provides *Key Topic & Number*
4. Using the *Key Topic and Number*, access the *Main Volumes*
5. In *Main Volume*, read the headnotes which provide citations to cases

Assignment § 8.3(a) | Researching Case Law using *Westlaw Next*

If the paralegal is researching in the law library searching specifically for case law, the choice is fairly straight forward. Start in a local set of *West Digests* (which acts as an index to the reporters).

Alternately, when researching on *Westlaw*, the research method depends on whether a paralegal is starting from scratch, or whether the researcher is already in possession of a relevant *Key Number*. For this discussion, we will assume the researcher is starting from scratch, and later will use the *Key Number System* to focus his or her research.

1. *Select your Filters*

If you know the name or citation of a case, just type it in the *Search Query Text Box* and click *Search*. Otherwise, follow these steps:

You should, by now, be familiar with the *Filters* options. There is, however, a nice shortcut system for case law databases in *Westlaw*. To locate a specific state database, in the *Search Query Text Box* type the two-letter postal code, followed by a hyphen and the letters *cs*.



Click on the desired recommendation that appears below the box.

§ 8.3(a) Examples 1 | State Case Law Databases

ak-cs	ca-cs	co-cs	dc-cs
fl-cs	il-cs	nc-cs	md-cs
nv-cs	ny-cs	pa-cs	tx-cs
tn-cs	va-cs	wa-cs	wv-cs

For federal courts, the system is just as simple. Use the initials *cir* (or *cta*) and the number of the desired circuit. The search results will include both trial court and appellate court cases from within that circuit.

§ 8.3(a) Examples 2 | Case Law Databases from Federal Circuits

cir1	cir2	cir3	cir4
cir5	cir6	cir7	cir8
cir9	cir10	cir11	cirdc
or			
cta1	cta2	cta3	cta4
cta5	cta6	cta7	cta8
cta9	cta10	cta11	ctadc

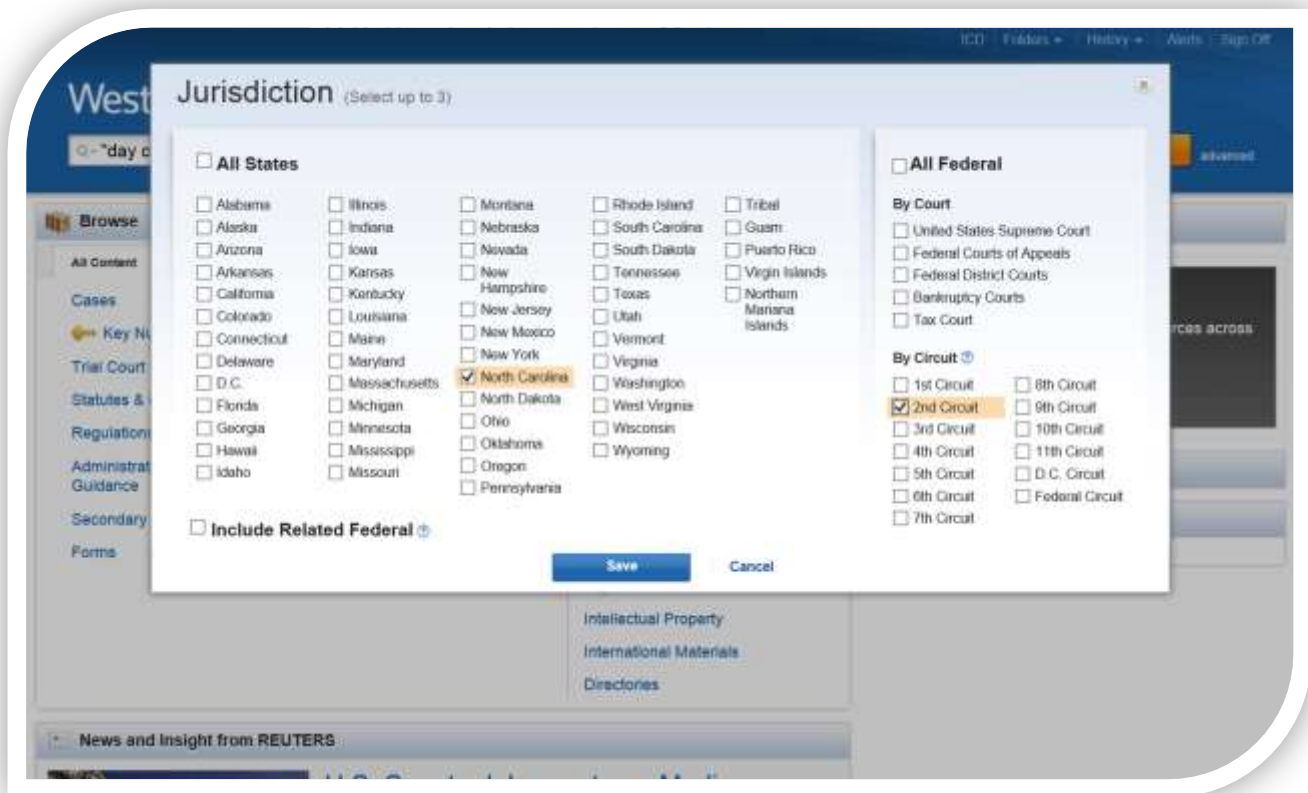
There are also four catch-all databases that search for all federal cases, all U.S. Supreme Court cases, all federal circuit cases, or all state cases.

§ 8.3(a) Example 3 | Broad Case Law Databases

- allstates Cases from all U.S. states
- allfeds All federal cases, including District, Circuit, & Supreme
- cta Cases from all U.S. Circuits
- sct U.S. Supreme Court cases

To reiterate, try entering your state database, and click *Search*.

The more traditional option is to simply click the *Filters* menu at the top right and select any jurisdictions that are relevant to your client’s case.



After selecting any desired jurisdictions, click *Save*. Your search will now focus on only those jurisdictions that have been chosen as filters. (Remember, a filter is basically a database.)

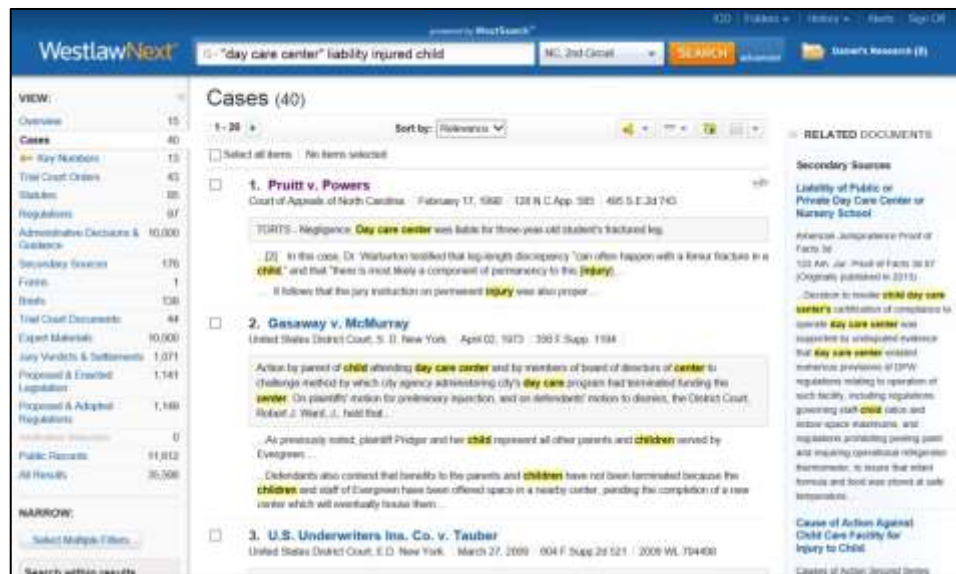
2. Enter your search query



After you have set your filter, enter your search query and click *Search*

3. Select a case from the search results

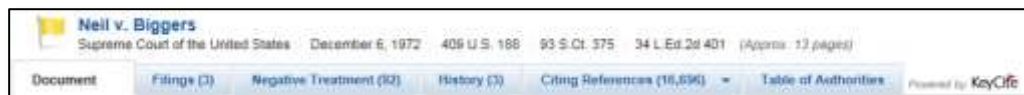
The Results Page will present cases by what *Westlaw* assumes to be most relevant. You will need to check the summaries following the title link to determine for yourself which results are most worthy of your attention.



Note that the terms from your search query are highlighted. You can either click on the title to the case, which is also a link, and be taken to the beginning of the case, or you can click on one of your highlighted terms to be taken to the point within that case where the term is located.

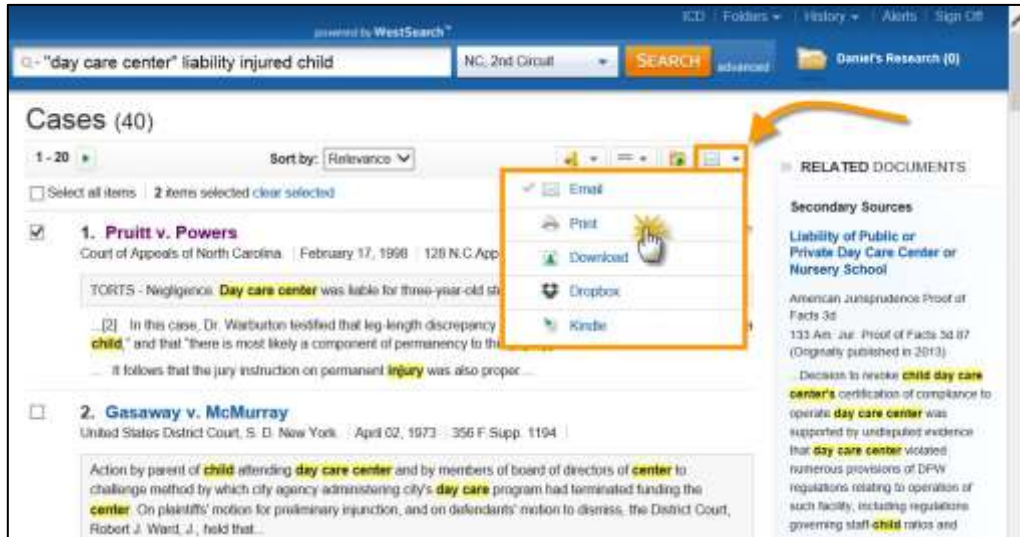
4. Review relevant cases

Click on the title link to view any relevant cases. To validate a case (meaning to make sure the case is still good law), observe the *KeyCite Bar* toward the top of the window. If there are any Negative Treatments or Histories you should probably not rely on that case to support your client. Also, any yellow or red flags are indications that a case is likely not considered good authority. (See below.)



5. Read any relevant cases, or select for delivery

For this exercise, scan several cases and read those that appear relevant. You can have any relevant cases “delivered” by download, email, or print.



A researcher can quickly expand his or her search by using relevant headnote references. If you determine that a case is relevant, review the headnote references that appear after the caption of the case. If you identify any particularly relevant headnotes, click on the *Cases that cite this headnote* link. Westlaw will list other cases that rely on that same legal logic. So, if the case you have located in the Results Page is relevant, but not from your jurisdiction, using the headnote references may help you locate additional cases from your own (and other) jurisdictions.



After your first couple of searches as a student, begin developing time-conscious habits even during this course by:

1. *conducting a query*
2. *selecting cases*
3. *having those selected cases delivered*
4. *getting in and out of Westlaw very quickly*

Checklist § 8.3(a) | Researching Case Law on *Westlaw Next*

- Select your *filter*, or enter your state abbreviation and “-cs” (Example: fl-cs)
- Enter your *search query*
- In *Results Page*, modify the query, or search within results, as needed
- Select *case* from list of search results and review
- Refer to the *KeyCite Bar* to make sure the authority is still valid
- Expand or focus your research by using the *Key Number References*
- To save the client money, have relevant cases *delivered* (print, email, or download) or locate those cases in the law library instead of reading online

Tasks & Questions § 8.3(a) | Researching Cases on *Westlaw Next*

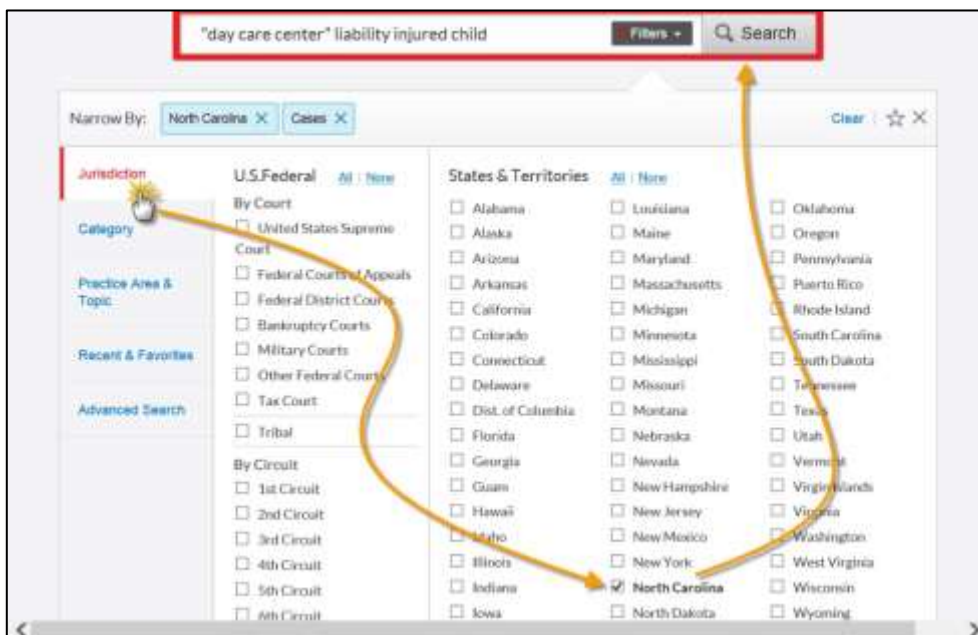
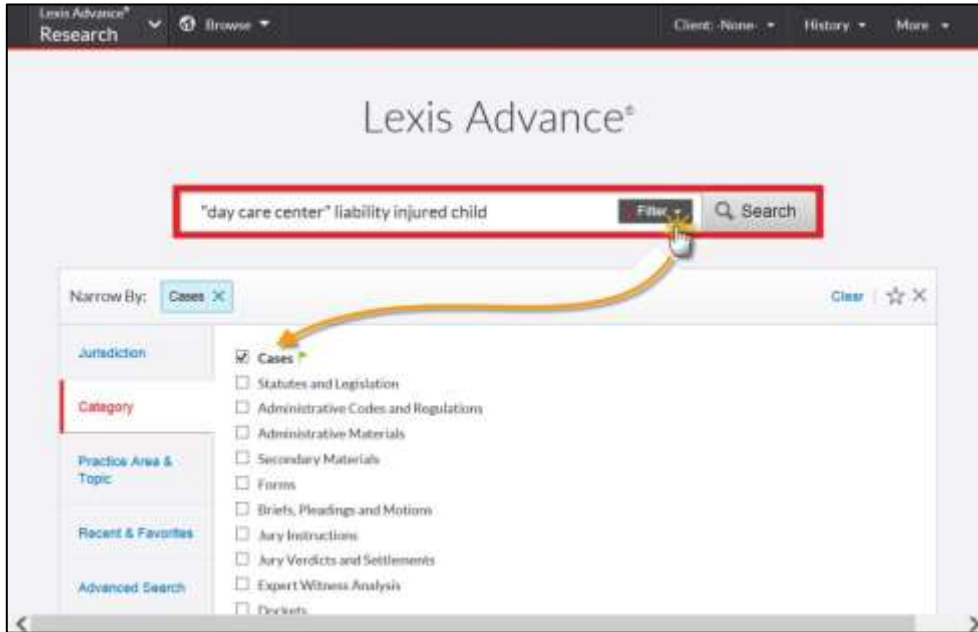
1. What method did you use to locate the database?
2. What search query did you use?
3. Were you satisfied with your search query, or did you need to modify your query?
4. List at least 3 case citations from the *Results Page* that appear relevant to your research.
5. Were you able to locate any relevant *Key Numbers*? If yes, list those *Key Topics and Number* below?

Assignment § 8.3(b) | Researching Case Law using Lexis Advance

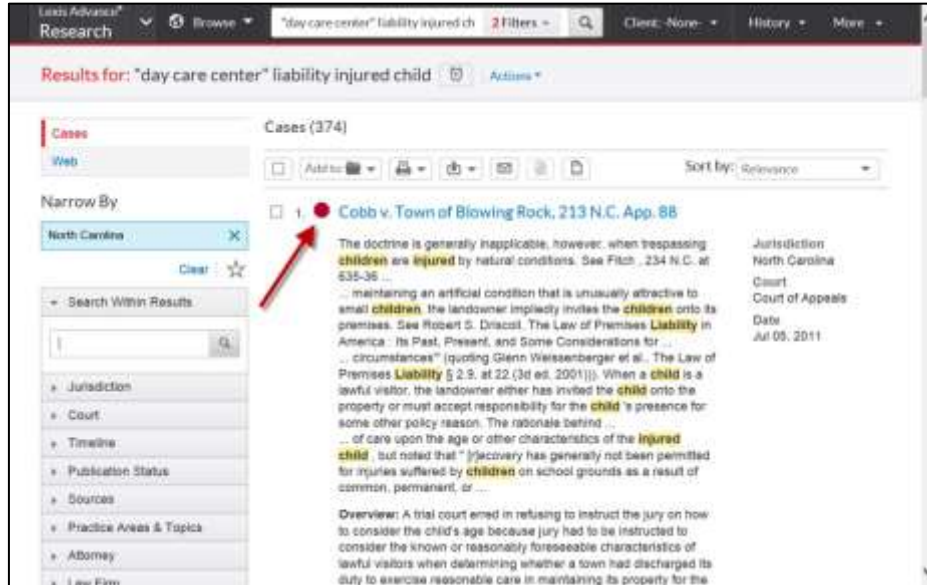
In Lexis, case law research begins by selecting *filters*.

1. *Select your Jurisdictional and Category Filters*

Using the Category option, select Cases. Then using the Jurisdiction option, select your state or federal jurisdiction. (The setting of these filters can be done in any order.)

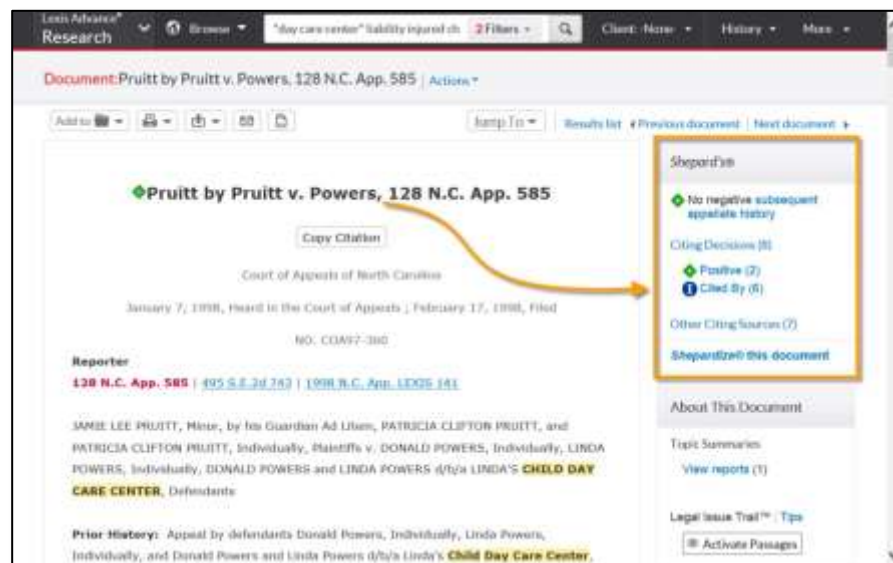


2. *Enter your search query*
Type your search query in the text box and click Search.
3. *Select cases to view from the Results Page*



Once a case has been identified that appears to be relevant, click on the title link to that case.

4. *Read the opinion and validate the case*
Lexis provides the full court opinion. If the case looks relevant you will want to read the entire opinion. That should not be done online, since your attorney will be charged for the time you spend reading the case. (We will discuss document delivery below.) Refer to the *Shepard's box* at right to quickly determine whether the case is valid.



5. *Have any relevant cases "delivered"*
Lexis provides several options for delivery of relevant cases, including printing, download, and email.



Checklist § 8.3(b) | Researching Case Law using *Lexis Advance*

- Select the desired *filters for your search*
- Click the title of any relevant *cases* to view the full opinion
- Read the headnotes to quickly determine whether a case is worth *delivering*
- Check the *Shepard's* box to determine whether the case is still valid
- To save the client money, have relevant cases *delivered* (print, email, or download) or locate those cases in the law library instead of reading online

Tasks & Questions § 8.3(b) | Researching Case Law using *Lexis Advance*

1. What method did you use to locate the database?
2. What search query did you use?
3. Were you satisfied with your search query, or did you need to modify your query?
4. List at least 3 case citations from the *Results Page* that appear relevant to your research.
5. Were you able to locate any relevant *Key Numbers*? (Note: This is a trick question!)



Assignment § 8.3(c) | Researching Case Law in the *Law Library*

There are many secondary sources that can eventually lead to case law. *Am. Jur. 2d*, *A.L.R.*, *Restatements of the Law*, and *C.J.S.* are excellent research sources that will lead to case law. However, the most direct method of finding case law in a law library is by the use of *West Digests*. The following paragraphs were first presented in Chapter 7 discussing the *Key Number System*. They are presented again here as review, and in the context of using digests.

Digests serve two major functions:

- Digests collect headnotes in topical order
- Digests act as an index to case law

Digests are arranged topically. When *West* publishes a court opinion in a reporter, it adds several research tools, such as headnotes. Each headnote is assigned an appropriate key topic and key number. That headnote is then published with the opinion, and in its appropriate digest volumes. For instance, a case in the *Pacific Reporter* from Hawaii deals with the topic of lack of consideration within contracts. *West Publishing* will assign that topic the *Key Number of Contracts 49(3)*. The headnote will then be published in the *Hawaii Digest* and the *Pacific Digest* under the topic of *Contracts Key Number 49(3)*, along with all the other headnotes from cases dealing with lack of consideration.

There are dozens of digests: state digests, regional digests, topical digests (i.e. *Bankruptcy Digest*), the *Decennial Digests*, the *General Digest*, the *Federal Digest*, etc. For this assignment, use the regional digest from your region. For example, if you are in the *Pacific Region*, use the *Pacific Digest*. (For some reason, there is no *West Digest* for the Northwest or Southeast regions. If you are in one of these regions, try using your state digest.) Since digests act as indexes to case law, and indexes would never be quoted, digests are non-authority.

1. *Begin your research in the index*

After selecting a set of digests, go to the index. In *West Digests*, the index is called the *Descriptive Word Index*. It is a hardbound, multi-volume set. As with all indexes, its job is to refer the researcher to relevant material within the main volumes. After cartwheeling your topic, look up all of the terms in the index. Don't stop when you locate one term and find *Key Numbers*. Look under all possible subject matter in the index. Also check the *pocket part (cumulative supplement)* in the back of each index volume used. Take note of all relevant *Key Numbers* provided by the index.

Tasks & Questions § 8.3(c) | Part 1

Using the *Descriptive Word Index* to a state or regional digest, (such as the *California Digest* or *Pacific Digest*) answer these questions. (Note: In whatever digest you begin, make sure you are using the most recent set of that digest. (Note: Do not use the *General Digest* or the *Decennial Digest* at this point.)

1. How many volumes make up the *Descriptive Word Index*?
2. Is your research topic covered in the index?
3. The digest index leads to which of the following?
 - volume number, series, page number
 - topic and section number
 - topic and key number
4. Does the index have a supplement? If yes, where is it located?
5. If there is an index supplement, is your topic covered?
6. Provide any cites to the digest's main volumes the index may have provided (such as *Negligence Key Number 35*).

2. *Go to the Main Volume corresponding with the topic provided*

The index leads the researcher to the main digest volumes, which are arranged by topic. After obtaining a *Key Topic and Number* from the *Descriptive Word Index*, the researcher must find the volume that covers the topic, followed by the specific *Key Number*. The researcher should find the section of the material which collects and arranges headnotes.

Note: Don't get bogged down in the *Scope of Topics* at the beginning of each topic. This acts as a table of contents for that topic. The *Scope of Topics* section can help expand research later, but the index does not lead you here. Instead, turn to the pages covering the specific *Key Number*.

If there are any cases relevant to the topic, *West* will provide short paragraph summaries of those cases with the case citations. These paragraphs are basically reprinted headnotes. Note that *West's Digests* do not discuss or annotate law, and since the reprinted headnotes would never be quoted, digests are non-authority.



Tasks & Questions § 8.3(c) | Part 2

Locate the main volume containing your topic and *Key Number*, then answer these questions.

1. What is the subject matter under your topic and key number? (There should be a short, boldface sentence.)
2. Does the digest provide footnotes?
3. Provide at least one citation to a case:

3. *Always check the pocket part (cumulative supplement)*
Supplements update the material within the main volume.

Digests supplement their main volumes primarily through the use of pocket parts. Some pocket parts are cumulative. This means that at least one, and possibly several, previous supplements have been replaced by this new supplement. All the material contained in the previous supplement is combined within this most recent update.

In *West's Digests*, the researcher should research the corresponding *Key Topics and Numbers* in the pocket part for each *Key Topic and Number* researched in the main volume. Even if nothing relevant was found in the main volume, the researcher may be able to find relevant material in the supplement.



Tasks & Questions § 8.3(c) | Part 3

Locate the supplements needed to answer these questions.

1. How is your digest volume updated?
 - pocket part
 - hardbound supplement
 - softbound supplement
2. Is there any relevant information in the supplement for your research assignment?

4. *Expanding your research: Accessing additional West Digests*

With a *Key Topic and Number*, a researcher can access any *West Digest*.

West's Digests are popular because researchers can locate an identified *Key Topic and Number* in any of the digests published by *West*.

For example, if the researcher finds a case exactly on point or a *Key Topic and Number* exactly on-point, he or she can take those topics and numbers to a state digest (such as the *Virginia Digest*, *West Virginia Digest*, or the *Hawaii Digest*) or regional digests (such as the *Pacific Digest*). This is the most valuable aspect of the *Key Number System*.

Tasks & Questions § 8.3(c) | Part 4

Using a *Key Topic and Number* found earlier in the index, answer these questions.

1. In which digest have you been researching up to this point? (i.e. Pacific Digest? Texas Digest? Federal Practice Digest? etc.)
2. Write one of the *Key Topics and Numbers* you found.
3. Find another digest, different from the one listed above. Which digest did you choose?
4. Continue your research in this digest. Do you have to use the index for this digest?
5. Why, or why not?

5. *Decennial Digests and General Digests*

The *Decennial Digest* is a ten-year collection of state and federal, appellate, supreme and, in some cases, selected trial court material. Because of the veritable explosion in the number of cases, *West* now divides *Decennials* into *Part 1* and *Part 2* for the most recent editions. The parts are published in five-year intervals, beginning with the *9th Decennial Digest*. One can access the *Decennial Digest* as one would access any digest: By using the descriptive word index or a *Key Topic and Number* obtained in some other digest. Some researchers begin their research in the index of the most recent *Decennial* because it is so very thorough.

Decennial Digests have no pocket parts. The *Decennial Digest* has a separate set of books, the *General Digest*, which updates the most recent set.

Tasks & Questions § 8.3(c) | Part 5

Locate the *Decennial Digests* and answer these questions.

1. Which Decennial Digest did you pick? (i.e., Eighth Decennial; Ninth Decennial, Part 1; etc.)
2. Continue your research in this digest. Do you have to use the index for this digest?
3. Do the main volumes have pocket parts?
4. How many volumes make up the *Descriptive Word Index* in the *Decennial Digest*?

6. *Federal Case Law Research in the Law Library*

There are several publications that contain federal case law. If you work for an attorney who practices in federal court, having foundational knowledge of these books and what they contain will make you a more valuable employee.



United States Supreme Court Cases

There are three publications that publish all U.S. Supreme Court Cases, one official and two unofficial.

- U.S. Supreme Court Reports (*Official*)
- Supreme Court Reports (*West Publishing*)
- U.S. Supreme Court Reports, Lawyer's Edition (*Lawyer's Cooperative*)

The researcher will typically use one of the unofficial publications (or both) when looking up U.S. Supreme Court cases in the law library. This is because the unofficial publications not only publish the full court opinion, they also provide other research tools, such as headnotes, the *Total Client-Service Library*, and the *Key Number System*. However, when citing such cases, all three publications may need to be cited. Remember when citing cases that the official is cited first, followed by the two unofficials (usually U.S., S. Ct., then L. Ed. 2d).

To get a feel for each of the publications, choose one of the following citations and look the case up in the official, as well as each parallel (unofficial) cite. (You are only required to look up one of the following cases in the three books, but for practice you may want to do more.)

1. 425 U.S. 435, 96 S. Ct. 1619, 48 L. Ed. 2d 71
2. 495 U.S. 385, 110 S. Ct. 1964, 109 L. Ed. 2d 384
3. 487 U.S. 285, 108 S. Ct. 2389, 101 L. Ed. 2d 261
4. 445 U.S. 552, 100 S. Ct. 1358, 63 L. Ed. 2d 622
5. 465 U.S. 770, 104 S. Ct. 1473, 79 L. Ed. 2d 790
6. 431 U.S. 195, 97 S. Ct. 1774, 52 L. Ed. 2d 250
7. 434 U.S. 308, 98 S. Ct. 584, 54 L. Ed. 2d 563
8. 436 U.S. 412, 98 S. Ct. 1893, 56 L. Ed. 2d 417
9. 440 U.S. 147, 99 S. Ct. 970, 59 L. Ed. 2d 210
10. 442 U.S. 560, 99 S. Ct. 2479, 61 L. Ed. 2d 82

Open each publication up to the case, and for comparison purposes consider the following commentary as you review the books.

Using the Unofficial Publications

When researching U.S. Supreme Court cases, the researcher commonly uses one of the unofficial publications. The official publication contains only the opinion with limited notes, but the unofficial publications contain research tools, such as headnotes and *Key Numbers*.

Star Pagination

The unofficial publications (S. Ct. and L. Ed. 2d) employ a system called star pagination to inform the researcher of which page the case would be found in the official publication (U.S. Reports). Can you find star pagination notations in the unofficial publications? They are usually set apart by the use of asterisks, or brackets. (If you can't find one, ask the instructor to point it out.)

Headnotes, Annotations, and Briefs

Headnotes are short paragraphs at the beginning of a case that refer to portions of the case. Both unofficial publications of U.S. Supreme Court cases contain headnotes. Some editions of the official *U.S. Reports* include them, as well.

Annotations are commentaries or discussions of a case

The *United States Supreme Court Reports, Lawyer's Edition* includes annotations of selected cases. These annotations are contained in the back of each volume. The annotations are updated by means of pocket parts in L. Ed. 2d.

L. Ed. 2d. provides another unique tool for the researcher. Many cases are supplemented in the back of each volume with a summary of the attorney's argument at trial (briefs). This is very valuable, providing the strategy argued before the court.



United States Circuit Court of Appeals Cases

The *Federal Reporter* (first, second and third series) contains U.S. Circuit Courts of Appeals cases. Not all federal appellate court opinions are published. The court designates which opinions will be published.

Note: One of the more recently published law books - the *Federal Appendix* - prints cases that have not been designated by the court for publication. It is somewhat controversial as a source of authority and most likely should be cited only as a last resort.

Choose one of the following citations in the *Federal Reporter* to locate in the law library.

- | | |
|-----------------|------------------|
| 1. 203 F.2d 430 | 6. 905 F.2d 471 |
| 2. 256 F.3d 516 | 7. 342 F.2d 255 |
| 3. 153 F.2d 615 | 8. 156 F.3d 581 |
| 4. 134 F.2d 217 | 9. 87 F.3d 431 |
| 5. 31 F.2d 325 | 10. 567 F.2d 225 |



United States District Court Cases

The *Federal Supplement*, first and second series, contains the published cases from U.S. District Courts. Only cases designated by the court are published.

Choose one of the following citations in the *Federal Supplement* to locate in the law library.

- | | |
|----------------------|--------------------------|
| 11. 717 F. Supp. 162 | 16. 1 F. Supp. 2d 103 |
| 12. 609 F. Supp. 733 | 17. 51 F. Supp. 2d 597 |
| 13. 460 F. Supp. 573 | 18. 77 F. Supp. 2d 1014 |
| 14. 528 F. Supp. 664 | 19. 519 F. Supp. 2d 1029 |
| 15. 723 F. Supp. 107 | 20. 18 F. Supp. 2d 182 |

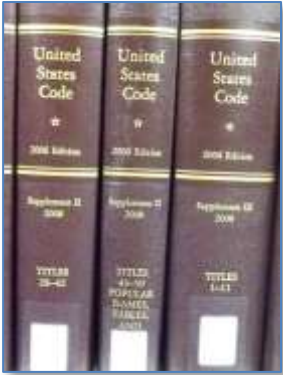
Tasks & Questions § 8.3(c) | Part 6

The following questions are regarding federal case law.

1. Which of the three publications reporting U.S. Supreme Court decisions refer to the *Key Number System*?
2. Which of the three publications reporting U.S. Supreme Court decisions include annotations and pocket parts updating those annotations?
3. Do the Federal Reporter and the Federal Supplement use the Key Number System?

Checklist § 8.3(c) | Researching Case Law in the *Law Library*

- Determine the *reporter* or *jurisdiction* in which you want to search
- Locate the corresponding *Digest*, i.e. the *Atlantic Digest* for the *Atlantic Reporter*
- Research in the *Digest Index*, which will provide a *Key Topic & Number*
- Using the Key Topic and Number, access the Main Volumes
- In the Main Volumes, read the *headnotes*
- Make note of any *citations* that follow relevant headnotes
- Retrieve the *cases* from their reporters and read to determine relevance
- Expand or focus your research by using the *Key Numbers* to access additional digests.
- To focus your research more specifically, use your state digest.
- To broaden your research (if you can't find enough authority), use the *Regional Digest*, or the *Decennial Digest* (beginning with the most recent set).



§ 8.4 INTERACTIVE STUDY | RESEARCHING STATUTES

Researching statutes is a more straightforward process than researching case law. The first decision is whether the matter calls for researching state statutes (if the matter is in state court) or federal statutes (if the matter is in federal court).

The second decision is whether to research using the law library, *Westlaw*, or *Lexis*.

QuickView § 8.4 | Researching Statutes

Westlaw Next

1. Type the statute citation in the *Search Query Box*, **or** using the *Filters drop down menu* at the right of the *Search Query Text Box*, select at least one jurisdictional filter
2. Type your *Search Query* into the text box and click *Search*
3. In the *Results Page*, select any relevant statute title links
4. If a relevant statute has been found review the *KeyCite* bar to validate the statutes (making sure there is no negative treatment or history)
5. Download, email, or print any relevant statutes

Lexis Advance

1. Click the *Filter button* at the right of the *Search Query Text Box*, select the *Jurisdiction* option, and select the *state* or *Federal jurisdiction* as a *Filter*. Select the *Category* option and set *Statutes* as a *Filter*.
2. Enter your *Search Query* and press *Search*
3. In the *Results Page*, view any relevant statutes by clicking on the title
4. Refer to the *Shepard's box* to the right of the caption to validate
5. If any relevant statutes are found, have them delivered by printing, download, or email

Law Library

1. Determine whether to research in state statutes or within the federal statutes (*United States Code Annotated* or *United States Code Service*)
2. Locate the set of statutes
3. Research in the *index* for the statutes
4. Using the *statute citation* provided by the index, locate the statute in the *Main Volumes*
5. Review the statute, and if relevant review the cases in the *Notes* or *Research References*

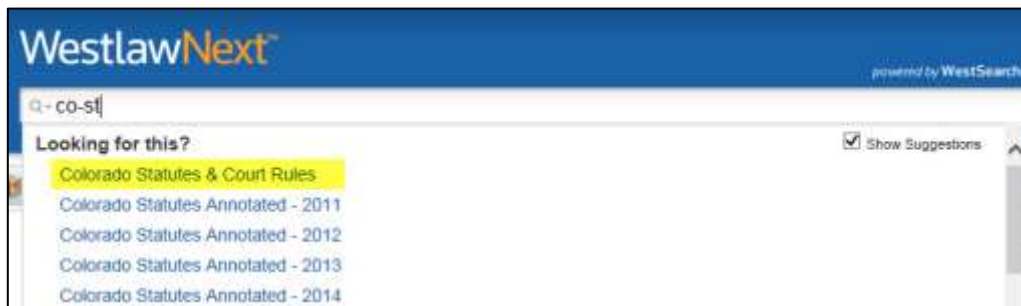
Assignment § 8.4(a) | Researching Statutes in *Westlaw Next*

For this assignment it is assumed you are researching for your state statutes. However, the process for researching federal statutes (the United States Code) is identical, except, of course, for the database abbreviation. (USC or USCA for the federal code.)

1. *Select your Filters.*

If you know the citation of the statute just type it in the *Search Query Text Box* and click *Search*. Otherwise, follow these steps:

You should, by now, be familiar with the *Filters* options. There is, however, a nice shortcut system for case law databases in *Westlaw*. To locate a specific state database, in the *Search Query Text Box* type the two-letter postal code, followed by a hyphen and the letters *st*.



Click on the desired recommendation that appears below the box.

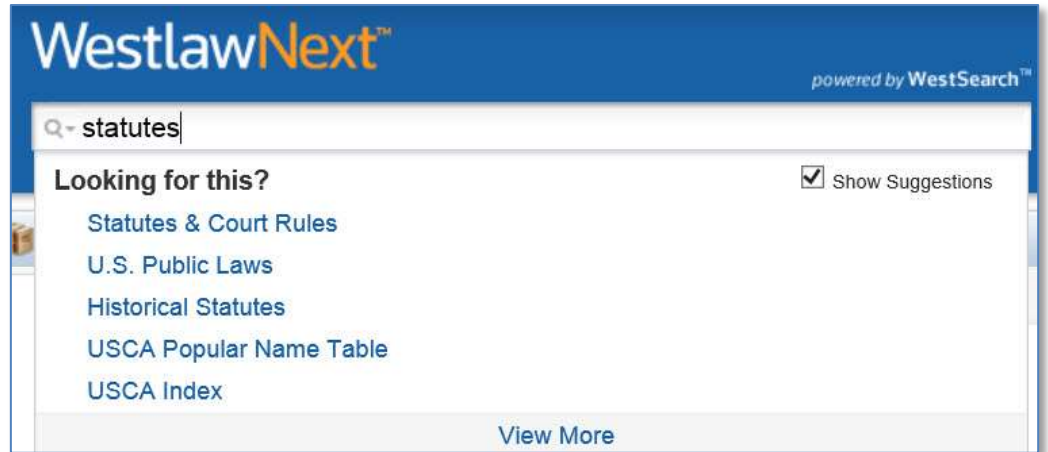
The shortcut system for state statute databases in *Westlaw* is very similar to researching for state case law. To locate a specific state statute database, use the two-letter postal code, followed by a hyphen and the letters *st*.

§ 8.4(a) Examples | State Case Law Databases

ak-st	ca-st	co-st	dc-st
fl-st	il-st	nc-st	md-st
nv-st	ny-st	pa-st	tx-st
tn-st	va-st	wa-st	wv-st

Enter the database in which you want to search and click the *Search* button.

If you prefer, you can also simply type *statutes* in the text box. (See below.)



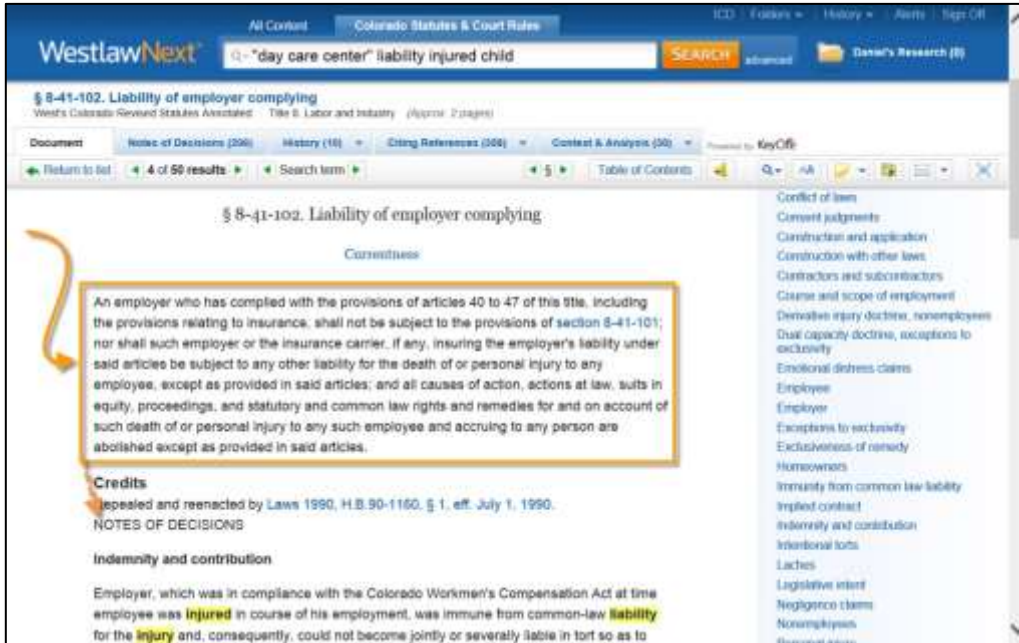
2. *Enter your Search Query*
Type your query in the *Search Query Text Box* and click *Search*.
3. *Review your Results*
The Results Page will provide short excerpts from statutes that match your search query.



Note that in the *Related Documents* window at right the researcher is also provided with references to secondary authority that may be relevant.

4. *Identify relevant statutes and validate*

To view a statute, click on the Title Link in the Results Page. That statute will open in a new page.



The statute itself is often surprisingly brief, sometimes only one or two paragraphs. The rest of the material is made up of references to cases or secondary sources that have mentioned or relied upon that very statute. (See NOTES OF DECISIONS in the above image.)

This means that once a researcher locates a relevant statute, it is usually easy to also find relevant case law using this feature. (The Notes of Decisions feature is found not only in online sources, but also in law library statutes.)

*Note: **Notes of Decisions** is sometimes referred to as **Case References** or other similar titles.*

To validate a statute in Westlaw Next refer to the KeyCite Bar. Any red or yellow flags, or negative treatment or history, may indicate that the statute is no longer valid.



5. *Have any relevant statutes "delivered"*
The researcher can choose to have a statute delivered by means of printing, email, or download.

Checklist § 8.4(a) | Researching Statutes on *Westlaw Next*

- Locate the *Search Query Text Box* on the Home Page
- Enter your state abbreviation and "-st" (Example: *il-st*)

or

For federal statutes, type *USCA*
- Enter your search query
- Select any relevant statute or statutes
- Review the statute and make sure it is valid
- Refer to additional research sources, such as cases, provided for in the *Notes of Decisions*

Tasks & Questions § 8.4(a) | Researching Statutes on *Westlaw Next*

1. What method did you use to locate the database?
2. What search query did you use?
3. Were you satisfied with your search query, or did you need to modify your query?
4. List at least one statute citation from the *Results Page* that appears relevant to your research.
5. Were you able to locate any relevant *additional authority*? Such as case law or secondary sources from the *Notes* or *Research References*? If so, provide them here.

Assignment § 8.4(b) | Researching Statutes in *Lexis Advance*

For this assignment it is assumed you are researching for your state statutes. However, the process for researching federal statutes (the United States Code) is very similar, except, of course, for the database.

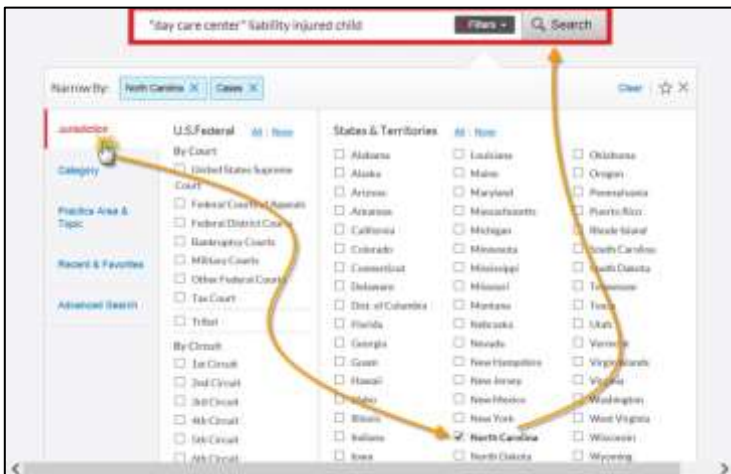
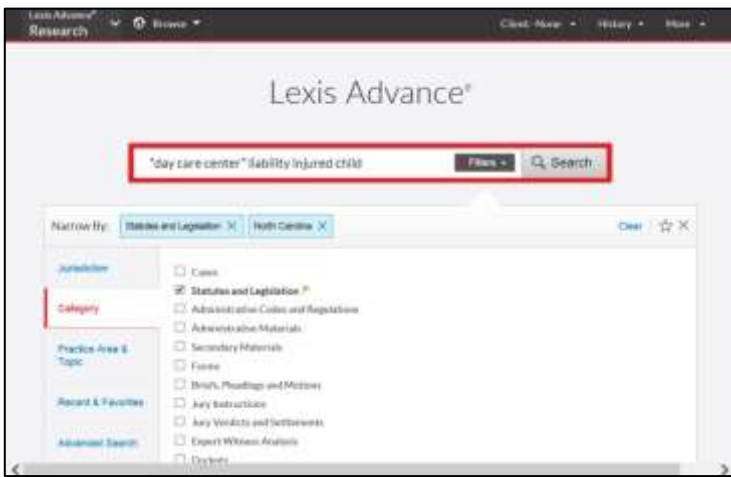
1. *Select your Filters.*

If you know the citation of the statute just type it in the *Search Query Text Box* and click *Search*. Otherwise, follow these steps:

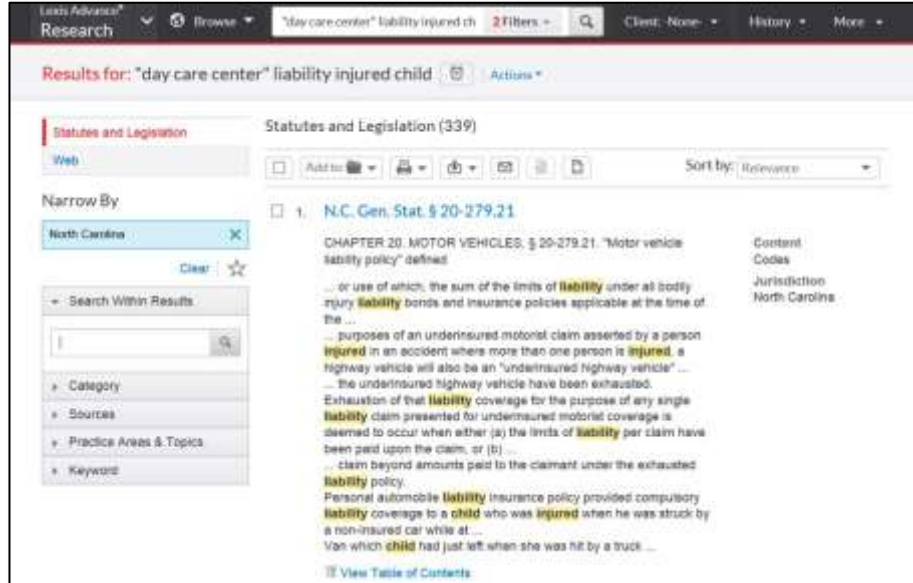
1. *Select your Jurisdictional and Category Filters*

If you know the citation of the statute just type it in the *Search Query Text Box* and click *Search*. Otherwise, follow these steps:

Using the *Category* option, select *Cases*. Then, using the *Jurisdiction* option, select your state or federal jurisdiction. (The setting of these filters can be done in any order.)



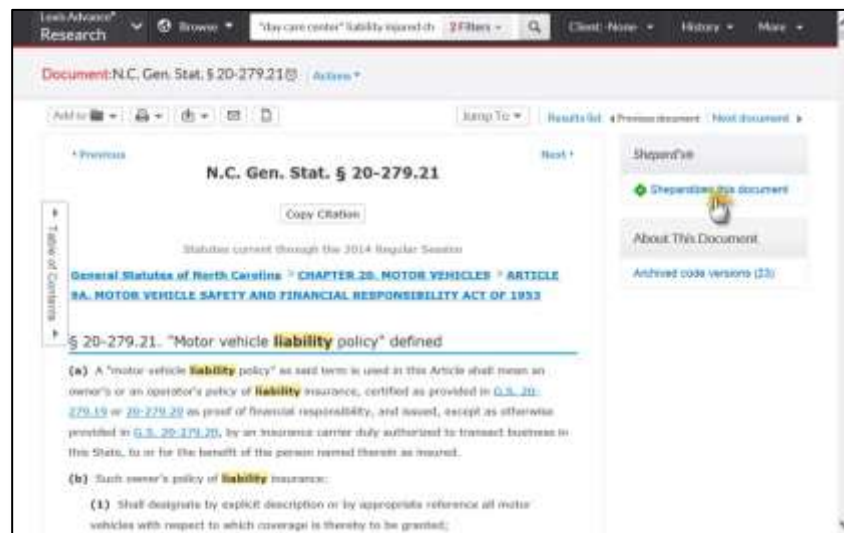
2. *Enter your search query*
Type your search query in the text box and click Search.
3. *Select statutes to view from the Results Page*

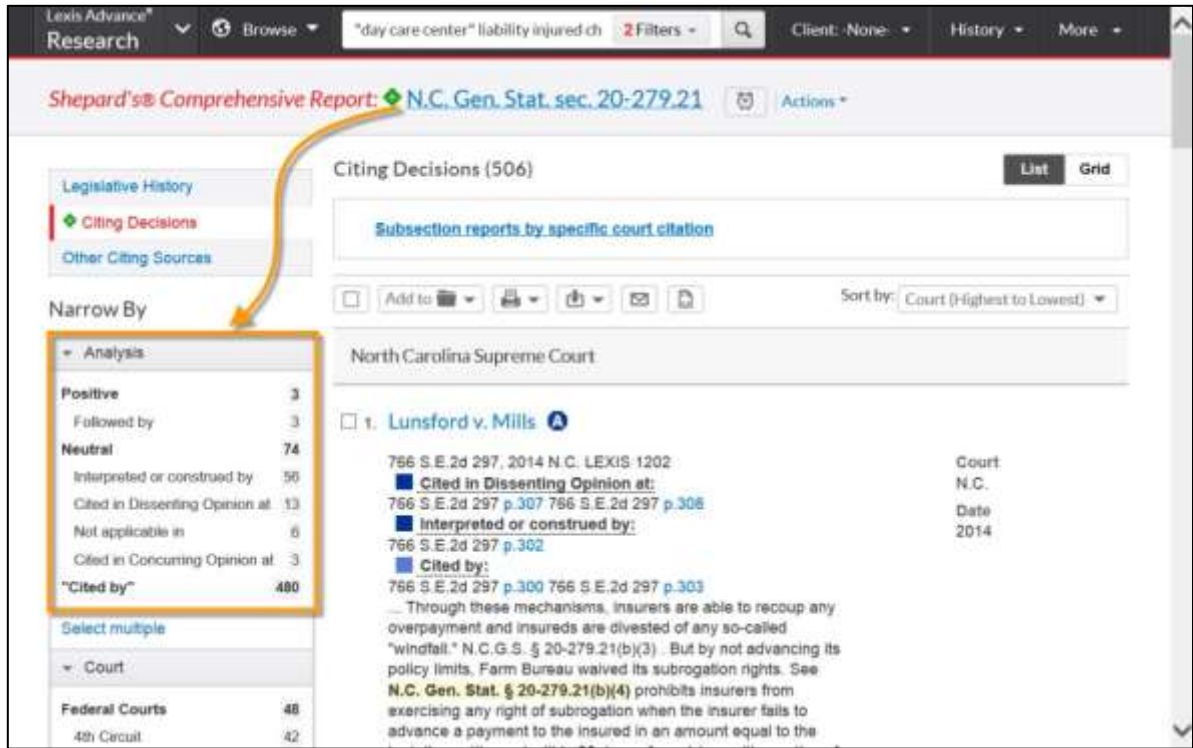


Once a statute has been identified that appears to be relevant, click on the title link to that case.

4. *Read the statute and validate*
Lexis provides the full statute as well as cases that have mentioned (cited) or relied upon that statute.

To validate the statute (making sure it is still valid law) click on *Shepardize this Document* in the right column.





The *Shepard's Page* will inform the researcher of any positive, negative, or neutral treatment or history. If there is negative treatment, your client will likely not rely on that statute to support his or her position. The cases listed in the main window above have all mentioned (cited) the statute in question.

5. *Have any relevant statutes "delivered"*
Lexis provides several options for delivery of relevant statutes, including printing, download, and email.



Assignment § 8.4(c) | Researching Statutes in the Law Library

Researching statutes using traditional hardcover versions of the books in the law library is not difficult. As we will see, the most important difference is that the supplements (pocket parts) need to always be checked for updates.

State Statutes

Although there are differences among statutes from one state to another, many aspects are consistent throughout the states.

Statutes are arranged by topic. For instance, all the statutes that deal with traffic laws are collected in the same chapter or title.

Federal Statutes

There are three publications that contain the entire federal statutes:

- U.S.C. (United States Code)
- U.S.C.A. (United States Code Annotated) by *West Publishing*
- U.S.C.S. (United States Code Service) by *Lawyer's Cooperative*

When researching federal statutes, one should always use either the U.S.C.A., U.S.C.S., or both. While the U.S.C. contains only the statutes, the two unofficial publications contain additional information. However, when citing the code, one should cite to the official publication, even if researching in an unofficial publication of the code. Simply drop the "A" in U.S.C.A. or the "S" in U.S.C.S. All three contain the U.S. Code.

1. *In the statutes, begin your research in the index*

Locate the statutes in which you wish to research, and find the index at the end of the set. Research your key terms and phrases. The index will provide you with citations to statutes within the main volumes.

2. *Go to main volumes, locate the statute, and review*

Statutes are arranged by title and section number, Chapter and section number, or some variant of that system. Once you have the citation to a statute provided by the index (or other source), look for the **title** on the binding. *Be careful to find the title, not the volume number.* They are easy to confuse.

Next, turn to the page on which the **section number** appears. Be aware that the researcher is *not* led to an exact page number.

State Statutes

Consider the following statutory citation: §13-22-221(1)(a) C.R.S. 1999.

This citation refers to:

- Title 13
- Chapter 22
- Section 221
- Subsection 1
- Sub-subsection (a)
- of the Colorado Revised Statutes

Be flexible. Some states arrange the citation so that the chapter, or title, and the section number are not immediately evident. For instance: N.R.S. §200.110(2)(c). This example refers to the *Nevada Revised Statutes*, Chapter 200, Section 110, subsection 2, sub-subsection c. Note that each subsection is self-contained within its own set of parenthesis.

Federal Statutes

18 U.S.C. §4180 (1980) refers to:

- Title 18
- in the United States Code
- Section 4180.

Once you find the title (or chapter) and section number within the main volume, note the topic of the statute. It will be in bold print. Following the topic is the statute itself. The statute is usually surprisingly brief. Read the entire statute. Use your ability to break rules into elements to more thoroughly grasp the full meaning of the statute.

Following the statute will be a series of dates and section numbers in parentheses detailing the history of the statute. Historical and revision notes detail any changes in the statute and often help indicate the purpose of those changes.

3. Use the additional resources to broaden your research

Cross References, *Library References*, and *Code of Federal Regulations* help the researcher broaden the scope of research. *Notes of Decisions* are case summaries (similar to headnotes) that have applied, or defined, the statute. They are often preceded by an index to the notes themselves, making U.S.C.A. and U.S.C.S excellent case finders.

4. *Always check the pocket part (supplement)*

Online statutes are immediately and almost automatically updated, but hardcover books require that the researcher take the extra step of checking the supplements in the back of the book. This is not an option. It is a necessity. Checking for updates in pocket parts is essential to thorough law library research.

Checklist § 8.4(c) | Researching Statutes in the *Law Library*

Determine whether to research in *state statutes*

or

Whether to research in *federal statutes*

(United States Code Annotated or United States Code Service)

Locate the set of statutes

Research in the *index*, found at the end of the set

Using the statute citation provided by the index, locate the statute in the *Main Volumes*

Review the statute

If relevant review the cases in the *Notes or Research References*

Always check the pocket part (supplements) in the back of each volume

Tasks & Questions § 8.4(c) | Researching Statutes in the *Law Library*

1. Name at least one federal and state statute that deals with involuntary manslaughter
2. Name at least one federal and state statute that deals with education
3. Name at least one federal and state statute that deals with Internet communications
4. Name at least one federal and state statute that deals with state or national parks



§ 8.5 INTERACTIVE STUDY | VALIDATING AUTHORITY

To validate authority is to make sure the law being quoted or relied upon is still good law. Before relying on any law in a legal document, the researcher must validate that law. For decades, the standard for validating authority was a set of books in the law library called *Shepard's Citations*. Lexis has long offered *Shepard's* online as part of its subscription. Westlaw, in response, developed its own validation tool, *KeyCite*, which provides the same functions as *Shepard's*. With law libraries seeking to reduce operating costs, and with *Shepard's* being a very expensive set of books, most law libraries have chosen to end their *Shepard's* subscriptions and offer online validation to researchers. Thus, knowing how to validate authority online is crucial. When validating authority, it is important to understand that the authority being validated is the **cited** authority, and the cases that end up validating the authority are the **citing** authorities.

QuickView § 8.5 | Validating Authority

Westlaw Next

1. Navigate to the page top of the case, statute, or other authority
2. Locate the *KeyCite Bar* (identified with the *Powered by KeyCite* icon at the far right of the bar)
3. Look for any red or yellow flags that indicate the "cited" authority may not be valid
4. Identify authority that may invalidate the cited authority by clicking on *Negative Treatment* in the *KeyCite Bar*
5. Determine whether the cited authority has been overturned on appeal or otherwise modified by a higher court by clicking on *History* in the *KeyCite Bar*

Lexis Advance

1. Navigate to the page top of the case, statute, or other authority
2. Locate the *Shepard's Box* (on the right side of the page)
3. Look for any negative signals (red, orange, yellow)
4. Be aware of any negative signals next to the title of the case or statute
5. Do not use any authority that has been overturned in support of your client's case

Law Library

Not required for this Assignment because most libraries no longer update hardbound volumes of Shepard's

Assignment § 8.5(a) | Validating Authority in *Westlaw Next*

In response to the powerful validation tool *Shepard's*, *Westlaw* created *KeyCite*, and entirely online validation system. *KeyCite* is easy to use and offers great features.

There are three potential reasons to use any validation tool.

- To validate the authority
- To obtain parallel citations
- To find additional relevant authority

KeyCite achieves all of these tasks in a very efficient manner, allowing the researcher to validate any primary authority (and many secondary sources) with just a few clicks of the mouse.

To see how *KeyCite* works, locate the caption to a case, statute, or other authority. You may use an authority found during your previous research, or if you prefer, search for the following citation: 443 N.E.2d 687.




1. *Using the KeyCite icon to the left of the caption, determine whether the authority is valid*




By far the most common usage of *KeyCite* is the quick determination as to whether an authority being viewed is still valid. At the top left next to the caption will be a *KeyCite* status signal. These signals instantly inform the researcher whether the authority being viewed is still valid.


Status signals


KeyCite status signals indicate:


-  A yellow flag indicates a document has some negative treatment.
-  A red flag indicates a document is no longer good law for at least one point of law.
-  A blue-striped flag indicates a document has been appealed to the U.S. Courts of Appeals or the U.S. Supreme Court (excluding appeals originating from agencies).


 *Negative treatment, but still valid*

The researcher should be concerned if a  (yellow flag) signal appears, but that signal does not necessarily mean the authority may not be used. The case is still valid, but another court may have disagreed or been critical. If the case being validated is not that crucial, the researcher may want to use other authority. But if the researcher was relying on the case in a major way, he or she will need to locate the criticizing authority.

 *No longer valid*

The signal that most concerns a researcher is the  (red flag). The case is no longer valid as to at least one, and possibly all, points of law. While it is technically possible to cite a part of a case that was not affected, most attorneys, and thus paralegals, would not want to rely on an authority that had even partially been overturned. A researcher can rely on a case for a point that was not invalidated, but only if no better authority is available. In other words, only if you are desperate.

 *No longer valid*

If a case is in the process of being appealed to either the U.S. Circuit Court of Appeals or the U.S. Supreme Court the signal  (blue-striped flag) will appear.

Most researchers use *KeyCite* for this validation step only, to quickly determine an authority's validity. This is the foundational and most crucial function of *KeyCite*. The following steps are helpful research methods, but the validation step is the one crucial element the researcher must be aware of, even if *KeyCite* is used for nothing else.

2. *Use the KeyCite Bar to determine validity, and more*

At the top of the page you will see the *KeyCite* Bar. It includes the following features:



- **Filings**

If any filings, such as a Notice of Appeal, are available they will be provided here

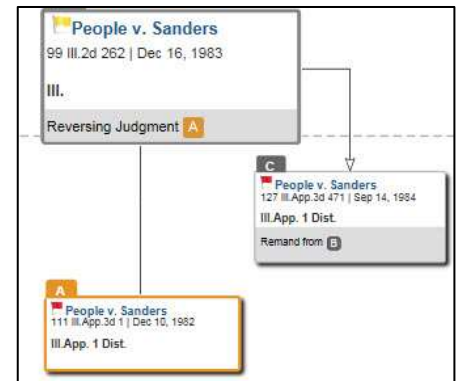
- **Negative Treatment**

Along with History, this is the most important feature of *KeyCite*. If any Negative Treatments are available you must review them to determine if they affect your case (which they likely do).



- **History**

History is any previous or subsequent published opinion dealing with the same case, such as a later opinion on appeal. If there is any history, you must check to ensure the cited authority is still valid.



- **Citing References**

If another opinion mentions (cites) your "cited" case, it will be listed here. This is an excellent way to expand your research and find additional authority that deals with the same or similar legal issues. Also provides a green bar indicating how much in depth the cited case was mentioned.

Title	Date	Type	Depth	Headnote (n)
1. People v. Phillips 2011 WL 19483511, *35, Ill.App. 5 Dist.	Dec. 02, 2011	Case	3/5	N.E.2d
¶ 1 Held: Where the defendant's constitutional and statutory rights were not violated, we affirm the holdings of the trial court relative to speedy trial and funding for expert...				
2. People v. Kaiser 606 N.E.2d 895, 899, Ill.App. 2 Dist.	Dec. 29, 1992	Case	3/5	-
Mental Health Records: Subpoena for defendant's mental health treatment records violated Mental Health and Developmental Disabilities Confidentiality Act.				
3. People v. Muzard 589 N.E.2d 26, 33, Ill.App. 1 Dist.	Feb. 05, 1991	Case	3/5	N.E.2d
Defendant was convicted in the Circuit Court, Cook County, Earl B. Hoffenberg, J., of murder, and he appealed. The Appellate Court affirmed.				

- **Table of Authorities**

A very nice feature that lists all of the authorities, such as cases and statutes, that have been cited within the opinion.

- **Powered by** 

A brief guide explaining how *KeyCite* works and what the signals mean.

3. *Use KeyCite to obtain parallel citations*


If you only have the unofficial citation and need the official, or vice versa, the caption in *KeyCite* will provide both cites for the researcher. (Most regular case captions provide parallel cites as well, when both an official and unofficial publication publish the case.)

4. *Use KeyCite to broaden research by finding additional authority*

It is important to remember that for a case to be listed as history or citing authority in *KeyCite*, it must either be the same case at a different point of litigation, or it must be *citing* the case being validated. Thus, any cases listed in *KeyCite* results most likely deal with similar issues.

KeyCite will lead the researcher to additional authority most effectively by using Citing References.

Citing References

KeyCite will provide a list of authorities that have cited (mentioned) the case. If you need more authorities, these could be good sources. The status signals next to the citing authority citations refer to the status of that citing case (not the case you are currently validating). Thus, in the *citing authorities* example below the  indicates that *People v. Kaiser* has, itself, been questioned by some other court opinions. The researcher most likely would not even look it up. But that yellow flag has no effect on the current case being validated. In this page, it relates to *People v. Kaiser's* validity.

<input type="checkbox"/> Treatment	Title	Date	Type	Depth	Headnote (s)
<input type="checkbox"/> Cited by	<p>1. People v. Phillips 2011 WL 10483311, *30, Ill.App. 5 Dist.</p> <p>¶ 1 Held: Where the defendant's constitutional and statutory rights were not violated, we affirm the holdings of the trial court relative to speedy trial and funding for expert...</p>	Dec. 02, 2011	Case		5 N.E.2d
<input type="checkbox"/> Cited by	<p> 2. People v. Kaiser 606 N.E.2d 695, 699, Ill.App. 2 Dist.</p> <p>Mental Health Records. Subpoena for defendant's mental health treatment records violated Mental Health and Developmental Disabilities Confidentiality Act.</p>	Dec. 29, 1992	Case		—

Checklist § 8.5(a) | Validating Authority on Westlaw Next

- Navigate to the *caption* of the case or statute you want to validate
- Look for the controlling *KeyCite Flag* at the top left of the caption
- Use the KeyCite Bar to determine if any negative authority exists
- View any *Negative Treatment* and *History* to determine validity
- Review the *Citing References* to expand your research

Tasks & Questions § 8.5(a) | Validating Authority on Westlaw Next

Using *KeyCite*, determine whether the following authorities are still valid.

Yes No 641 So. 2d 610

Yes No 506 A.2d 428

Yes No 40 S.W.3d 294

Yes No 673 P.2d 1297

Yes No 119 Haw. 467

Yes No 91 S.E. 1070

Yes No 520 S.W.2d 894

Yes No 688 P.2d 749

Yes No 722 N.Y.S.2d 3

Yes No 28 U.S.C.A. 1346

Yes No F.S.A. § 435.03

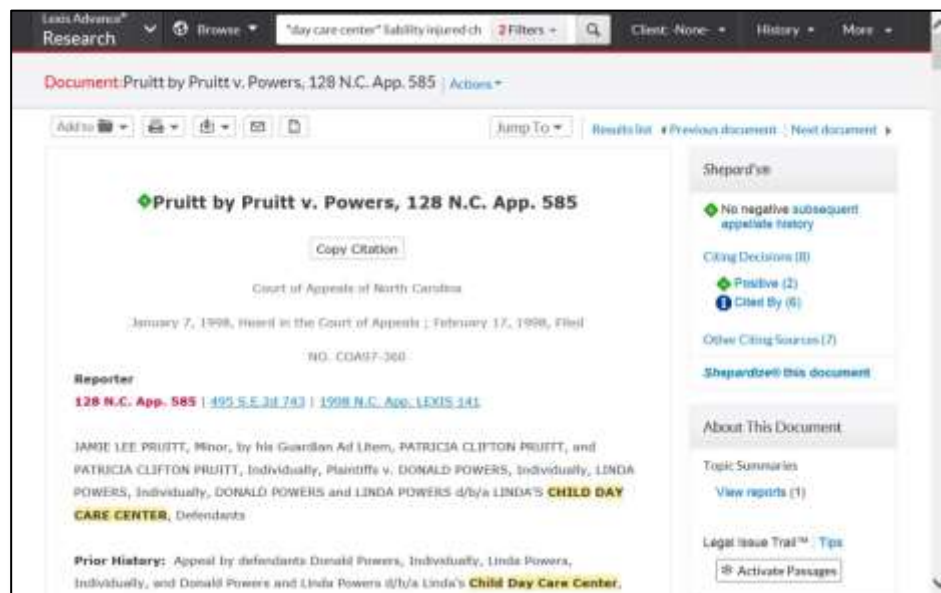
Yes No N.C.G.S.A. 20-17.1

Assignment § 8.5(b) | Validating Authority in Lexis Advance

As with most online legal research tasks, there are striking similarities between the validation systems used by *Lexis* and *Westlaw*. There are also a couple of differences of which the researcher needs to be aware. *Shepard's* is the classic validator. Even if an attorney uses *Westlaw*, he or she may tell a paralegal to *Shepardize* a case even though *KeyCite* will be used for *Westlaw* subscribers. In short, the term *Shepardize* has become synonymous with the term *validate*.

There are three potential reasons to use any validation tool.

- To validate the authority
 - To obtain parallel citations
 - To find additional relevant authority
1. *Using the KeyCite icon to the left of the caption, determine whether the authority is valid*



By far the most common usage of *Shepard's* is the quick determination as to whether an authority being viewed is still valid. At the top left next to the caption will be a *Shepard's* status signal. These signals instantly inform the researcher whether the authority being viewed is still valid.

In the above image, notice the green signal next to the title of the case. As we will see, this signal indicates that there is no negative treatment, and thus the authority is still valid. Had there been a different icon, such as a red stop sign signal, that would not have been the case.

Signals

Shepard's Signal™ indicator

Warning: Negative treatment is indicated.

The red *Shepard's* Signal™ indicator indicates that citing references in the *Shepard's*® Citations Service contain strong negative history or treatment of your case (for example, overruled by or reversed).

Warning

The red *Shepard's* Signal™ indicator indicates that citing references in the *Shepard's*® Citations Service contain strong negative treatment of the section (for example, the section may have been found to be unconstitutional or void).

Questioned: Validity questioned by citing reference.

The orange *Shepard's* Signal™ indicator indicates that the citing references in the *Shepard's*® Citations Service contain treatment that questions the continuing validity or precedential value of your case because of intervening circumstances, including judicial or legislative overruling.

Caution: Possible negative treatment indicated

The yellow *Shepard's* Signal™ indicator indicates that citing references in the *Shepard's*® Citations Service contain history or treatment that may have a significant negative impact on your case (for example, limited or criticized by).

Positive treatment indicated

The green *Shepard's* Signal™ indicator indicates that citing references in the *Shepard's*® Citations Service contain history or treatment that has a positive impact on your case (for example, affirmed or followed by).

Citing references with analysis available. Click to Shepardize®.

The blue "A" *Shepard's* Signal™ indicator indicates that citing references in the *Shepard's*® Citations Service contain treatment of your case that is neither positive nor negative (for example, explained).

Citation information available

The blue "I" *Shepard's* Signal™ indicator indicates that citing references are available in the *Shepard's*® Citations Service for your case, but the references do not have history or treatment analysis (for example, the references are law review citations).

Analysis

 Red	Warning
 Orange	Questioned
 Yellow	Caution
 Green	Positive
 Blue	Neutral
 Light Blue	No phrase exists

Depth of Discussion

 Analyzed
 Discussed
 Mentioned
 Cited

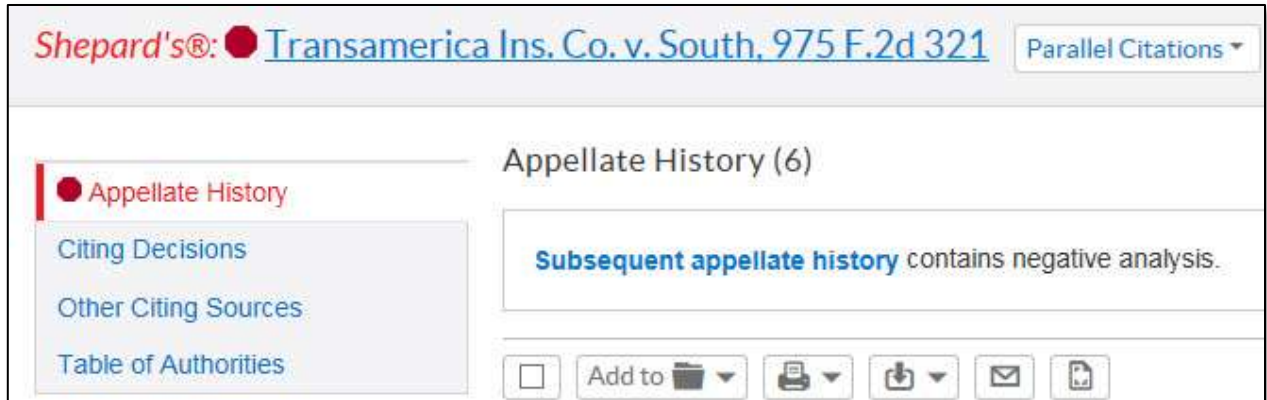
Most researchers use *Shepard's* for this validation step only, to quickly determine an authority's validity. This is the foundational and most crucial function of *Shepard's*. The following steps are helpful research methods, but the validation step is the one crucial element the researcher must be aware of, even if *Shepard's* is used for nothing else.

2. Use the Shepard's Box to view a summary of validation
At the right side of the top of the page for a found authority you will see the *Shepard's Box*.

The screenshot displays the Lexis Advance Research interface. At the top, the search bar contains the query "day care center liability injured ch" with 2 filters applied. The document title is "Pruitt by Pruitt v. Powers, 128 N.C. App. 585". The main content area shows the document title with a green diamond icon, a "Copy Citation" button, and the court name "Court of Appeals of North Carolina". Below this, the date "January 7, 1998, Heard in the Court of Appeals ; February 17, 1998, Filed" and the case number "NO. COA97-360" are listed. The "Reporter" section includes the citation "128 N.C. App. 585 | 495 S.E.2d 743 | 1998 N.C. App. LEXIS 141". The case summary identifies the parties: "JAMIE LEE PRUITT, Minor, by his Guardian Ad Litem, PATRICIA CLIFTON PRUITT, and PATRICIA CLIFTON PRUITT, Individually, Plaintiffs v. DONALD POWERS, Individually, LINDA POWERS, Individually, DONALD POWERS and LINDA POWERS d/b/a LINDA'S CHILD DAY CARE CENTER, Defendants". The "Prior History" section notes an appeal by the defendants. On the right side, the "Shepard's" box is highlighted with an orange border and contains the following information: "No negative subsequent appellate history", "Citing Decisions (8)", "Positive (2)", "Cited By (5)", and "Other Citing Sources (7)". A link "Shepardize this document" is visible at the bottom of the box. Below the Shepard's box, there is a section for "About This Document" with "Topic Summaries" and "View reports (1)". At the bottom right, there is a "Legal Issue Trail™ | Tips" section and an "Activate Passages" button.

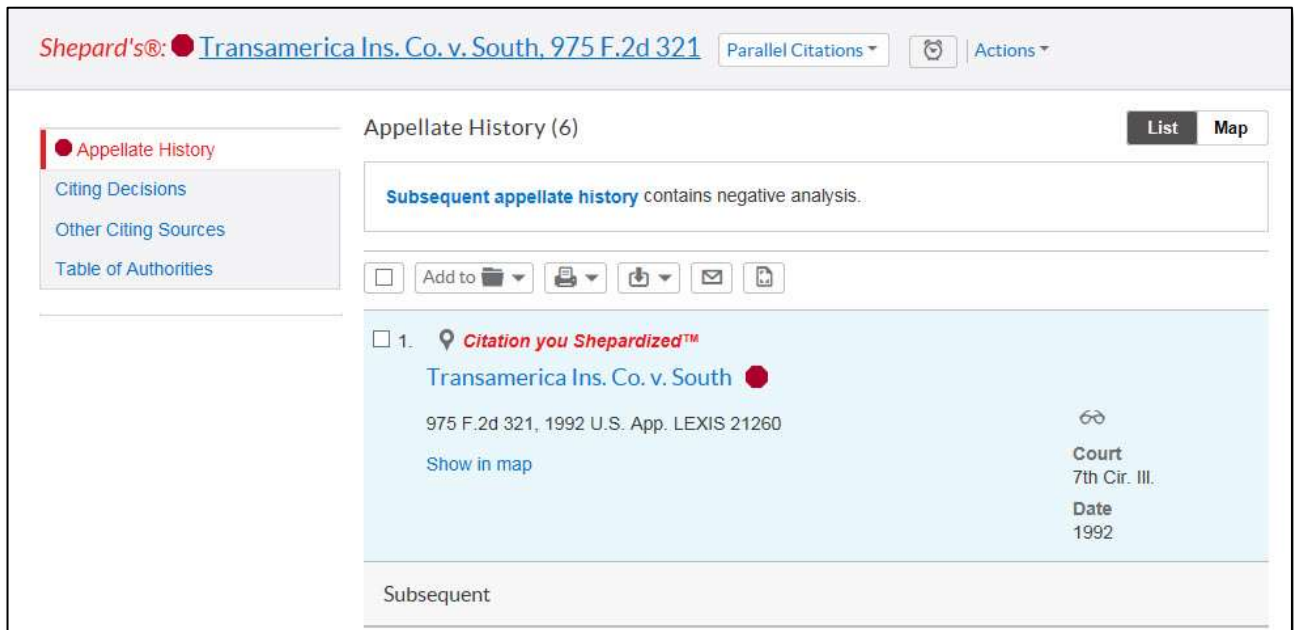
To view full validation information, click on the *Shepardize this document* link.

3. Use the Shepard's multiple validation features



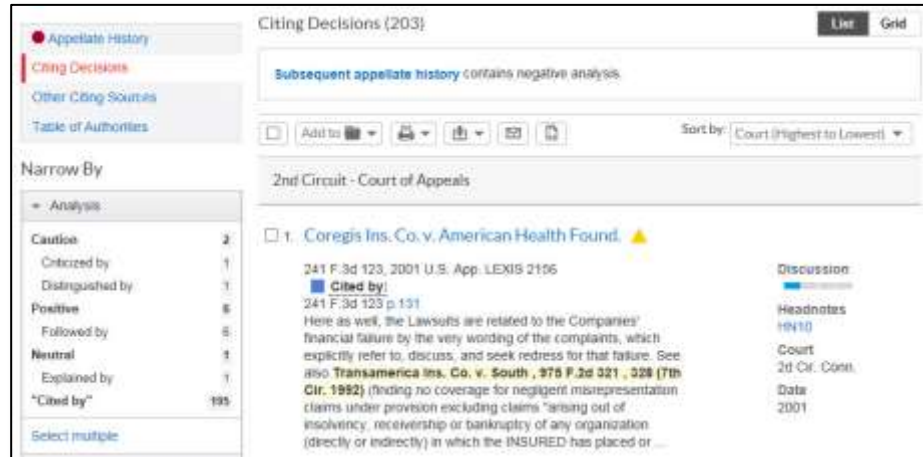
Following are the most valuable features provided by *Shepard's* on *Lexis Advance*.

- **Appellate History**
If the cited case was appealed Shepard's will inform the researcher of the results of that appeal, including whether it invalidated the cited case, as is the situation below.



- **Citing Decisions**

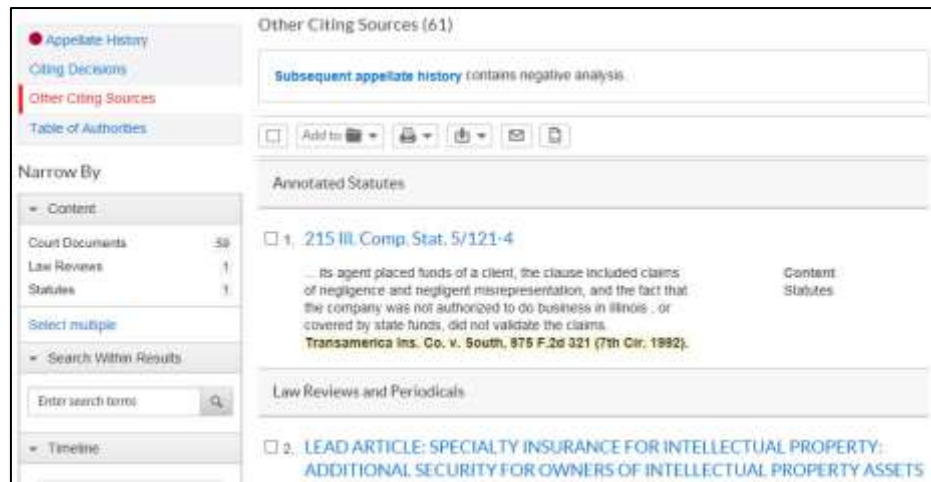
Along with History, this is the most important feature of *KeyCite*. If any Negative Treatments are available you must review them to determine if they affect your case (which they likely do).



- **Other Citing Sources**

Other Citing Sources can include statutes, annotations, form books, treatises, and other legal material.

In the left *Narrow By* column the researcher is able to see a summary of the types of documents listed, and can even search within those limited results to further focus the research.



- **Table of Authorities**

A very nice feature that lists all of the authorities, such as cases and statutes, that have been cited within the opinion.

- **Parallel Citations**

Shepard's provides parallel cites. Just click on the Parallel Citations option to the right of the case title and a drop down will appear that will include any parallel citations.



Checklist § 8.5(b) | Validating Authority on Lexis Advance

- Navigate to the *caption* of the case you want to validate
- Click on the *Shepardize this case* link in the Shepard's Box
- In the Shepard's Page, review the *Appellate History*
- In the Shepard's Page, review the *Citing Decisions*
- In the Shepard's Page, review the *Other Citing Sources*
- Use the *Table of Authorities*, as needed
- To broaden research, select a citing case from your jurisdiction, or use the headnote feature for cases dealing with the same topic

Tasks & Questions § 8.5(b) | Validating Authority on Lexis Advance

Using *Shepard's*, determine whether the following authorities are valid.

- | | |
|--|---|
| <input type="checkbox"/> Yes <input type="checkbox"/> No 297 P. 198 | <input type="checkbox"/> Yes <input type="checkbox"/> No 836 N.E.2d 414 |
| <input type="checkbox"/> Yes <input type="checkbox"/> No 320 N.W.2d 164 | <input type="checkbox"/> Yes <input type="checkbox"/> No 909 F. Supp. 525 |
| <input type="checkbox"/> Yes <input type="checkbox"/> No 384 A.2d 687 | <input type="checkbox"/> Yes <input type="checkbox"/> No 855 S.W.2d 116 |
| <input type="checkbox"/> Yes <input type="checkbox"/> No 178 Cal. App. 3d 1094 | <input type="checkbox"/> Yes <input type="checkbox"/> No 556 F.3d 967 |
| <input type="checkbox"/> Yes <input type="checkbox"/> No 553 F. Supp. 1298 | <input type="checkbox"/> Yes <input type="checkbox"/> No 10 USCS § 919 |

Assignment § 8.5(c) | Validating Authority in the *Law Library*

Most law libraries have ended subscriptions to hardcover, traditional sets of Shepard's due to the high cost of those books. Thus, students are not required to validate authority in the law library as a part of these assignments.

Students who wish to see how *Shepard's* is utilized in a law library may visit the website accompanying this manual for additional instruction, demonstrations, exercises, and quizzes.

CHAPTER 8 WRAP-UP

WHAT YOU SHOULD KNOW...

After reading this chapter you should know the following:

- Understand the general path of legal research, including how to expand or focus your research
- Know how to setup additional *Tabs* using *Westlaw* and *Subtabs* using *Lexis*
- How to research case law using *Westlaw*, *Lexis*, and the Law Library
- How to research statutes using *Westlaw*, *Lexis*, and the Law Library
- How to validate authority using *Westlaw* and *Lexis*

ASSIGNMENTS

For this chapter you will be required to complete the following (unless otherwise instructed):

- Assignment § 8.3** Due Date: / /
- (a) *Researching Case Law using Westlaw*
 - (b) *Researching Case Law using Lexis*
 - (c) *Researching Case Law using the Law Library*

- Assignment § 8.4** Due Date: / /
- (a) *Researching Statutes using Westlaw*
 - (b) *Researching Statutes using Lexis*
 - (c) *Researching Statutes using the Law Library*

- Assignment § 8.5** Due Date: / /
- (a) *Validating authority using Westlaw*
 - (b) *Validating authority using Lexis*
 - (c) *Not applicable*

