

# CHAPTER 5

## LITIGATION SUPPORT THROUGH RESEARCH

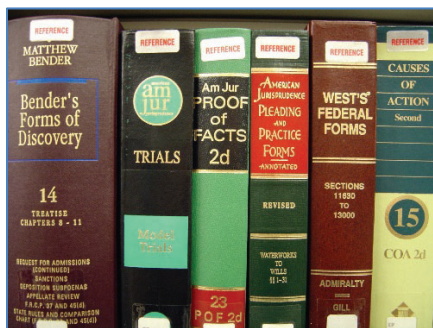
### Chapter Outline

#### VOLUME 2, CHAPTER 5

- § 5.1 The Paradox of Litigation Skills
- § 5.2 Form Books
- § 5.3 Remote Working

#### ASSIGNMENTS

- Assignment § 5.2(A)**  
Research forms using *Westlaw*
- Assignment § 5.2(B)**  
Research forms using *Lexis*
- Assignment § 5.2(C)** (Optional)  
Research forms using the *law library*



### Chapter 5 Introduction

#### DON'T REINVENT THE WHEEL

The best attorneys' work is guided by a tenet that makes their efforts much more productive. The tenet is this: *Never, ever work when you do not have to.* In other words, "Don't reinvent the wheel!"

Lawyers do relatively little original work. This is not a criticism. The best and most productive lawyers rely on form books and litigation aids. They do not create the law but rely on previously existing authority (*stare decisis*.) They find annotations, law reviews, and other material to help them create legal arguments. The paradox is this: The best lawyers are those who rely on previously created materials. This paradox holds for paralegals just as well as it does for lawyers. When given an assignment by a supervising attorney that calls for the creation of a legal document, the paralegal

could take the following initial steps:

- *Ask the attorney if he or she has previously created such a document, and in what file it can be found*
- *Ask other attorneys and paralegals in the firm for examples*
- *Research within Westlaw, Lexis, or the law library to locate a form*

Assume that in your first job you are asked to draft a Motion for Summary Judgment.

- *Do you start from scratch?*
- *Is there a possibility the firm has an example of that document?*
- *Maybe even a form?*
- *Perhaps even a template?*

Your final product will be easier to produce and better in quality if you use forms and templates. Win-win!

#### IN THIS CHAPTER . . .

**AM. JUR. PROOF OF FACTS**

**FORM BOOKS ONLINE**

**FORM BOOKS IN THE LAW LIBRARY**

## § 5.1

## The Paradox of Litigation Skills

### *Easier, but Better*

#### CRITICAL SKILL-SET

The most important legal writing skill being developed in this chapter, as well as throughout this textbook, is that of *form manipulation*. You want to be able to create a new document once provided with a valid example. Examples can come from your attorney, your files, a form book, or a combination of these sources.

- **Templates**

These are previously created computer files that the paralegal uses by filling in the blanks or making changes to fit the client's case.

- **Forms**

Examples of documents, or parts of documents. Typically, a form is not a complete document, but may contain just the heading, or (more typically) the body. However, the term "form" is often used as a catch-all for any previously existing document.

- **Form books**

Publications containing examples of various forms. Some form books are very general, while others provide very specific content. When using a form book, typically only the body of the document is provided. The paralegal will need to provide the appropriate caption and other elements of the finished document.

- **Legal Treatises**

These are law books published by a private company that attempt to educate the researcher about the theory and strategies of litigation relating to the project being researched.

Some attorneys use the terms *form books* and *legal treatises* interchangeably. Most law libraries, in fact, shelve form books and treatises together. Some books, such as *Am. Jur. Proof of Facts*, are essentially a combination of a form book and a legal treatise, providing not only examples of documents, but also litigation aids such as checklists, sample examination questions, and commentary regarding the subject matter.

#### A PAIR OF GEMS

### POF and COA

#### Am. Jur. Proof of Facts (POF)

This incredible series tells the researcher what to prove and how to prove it to win your case. Written by well-known judges, attorneys, and experts in technical, scientific, and medical fields. Explains how to determine quickly and confidently the facts essential to winning a case, and how to prove them for a wide range of civil litigation and selected criminal defense topics, including: personal injury/torts, employment litigation (discrimination, harassment and wrongful termination), real estate litigation, business torts, and commercial litigation.



#### Causes of Action (COA)

Resource providing legal analysis of required elements for causes of action and defenses, including guidelines, checklists, and sample initial pleadings.



The fact that not many researchers (especially paralegals) use these two publications can work to your advantage, but only if you use them. They are great research tools.