

CHAPTER 7

THE LAW BOOKS

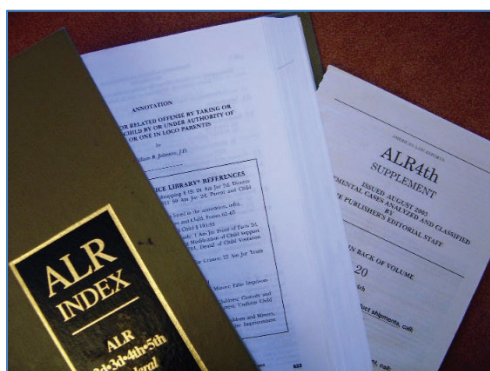
Chapter Outline

VOLUME 2, CHAPTER 7

- § 7.1 The Functions of Law Books
- § 7.2 Books: Secondary and Non-Authority
- § 7.3 Books: Primary Authority

ASSIGNMENTS

There are no assignments for this chapter.



Chapter 7 Introduction

A NEEDLE IN A HAYSTACK

When the researcher walks into a law library, the objective is not to be a crusader for the client. The goal is to find the law, good or bad, that applies to the client's case. A researcher on a crusade runs the risk of overlooking relevant authority. Sometimes there will be too much authority, sometimes too little. In fact, sometimes there may be only one or two cases in the entire library that address the relevant issue. The researcher must be open to any authority relevant to the matter being researched.

The average law library contains more than 8,000,000 cases. It may seem that finding a case on-point is akin to winning the lottery or finding a needle in a haystack. That is where research systems come in.

Many publishers have created books and research systems to make the researcher's job easier. These publishers include:

- *West (now Thomson Reuters)*
- *Lawyers Cooperative Publishing*
- *Bureau of National Affairs (BNA)*
- *Commerce Clearing House (CCH)*,
- *Michie*
- *American Law Institute (ALI)*

Competition among these publishers has resulted in many innovations, all designed to make the researcher's job easier so attorneys will buy the books, which are not cheap. The result is that the research systems have become so user-friendly that they can be used by anyone who is trained in the system. In this chapter you will hone the skills needed to use those systems to locate authority.

IN THIS CHAPTER . . .

LAW BOOKS THAT FIND THE LAW

LAW BOOKS THAT EXPLAIN THE LAW

LAW BOOKS THAT CONTAIN THE LAW

§ 7.1

The Function of Law Books

Form Follows Function

CRITICAL SKILL-SET

The law library and online research sites contain virtually every kind of information most paralegals will need in the course of their careers. Not all books (or databases) contain the law, but each serves a specific function. Some exist to help the researcher locate the law. Some exist to help the researcher use the law after it has been found. Almost all law library books fall into one of the following categories.

Books That Help Find the Law

Many secondary sources, such as the legal encyclopedias, *American Law Reports*, and *West's Digests*, exist primarily to assist the researcher in finding the law.

Books That Contain the Law

Reports and reporters contain cases. Codes contain statutes. The library contains regulations, court rules, the Constitution, and other books that contain the law. The law is primary authority.

Books That Help Use the Law

Form books, such as *Am. Jur. Proof of Facts*, *Am. Jur. Pleading and Practice Forms*, and *Bender's Discovery Forms*, help the researcher create legal documents. Other form books, such as *Am. Jur. Trials and Causes of Action*, help in developing trial strategy.

There are also general reference materials, such as the *Martindale-Hubbell Law Directory*, but the vast majority of law library books fall into one of the above categories. The materials on the following pages will make more sense if you ask yourself as you look at each book or set of books, "What purpose does this book serve?"

This chapter presents books in two groups: Those containing secondary and non-authority and those containing primary authority. Books that may contain a mixture of authority are grouped according to their predominant function. For instance, *A.L.R.* publishes selected cases, but it is valued for its annotations regarding those cases. Thus, *A.L.R.* is considered secondary authority.

A student's ultimate success in becoming a good researcher of law will depend in great part on her willingness to just dive into the various materials using basic skills, such as cartwheeling and index research, that have previously been taught in this textbook. So do not be afraid. Just hold your breath, and plunge right in.

DATABASES ARE USUALLY ONLINE BOOKS

Just No Spines

In some ways it has become more difficult to teach legal research with the advent of these online research tools, primarily *Westlaw* and *Lexis*. This is not because the online sources contain more information. They do not. It is because it is hard for users and students to think of databases we find online as books.

When the law library was still prevalent, it was always better to teach the law library version of the book first. Students would learn about the function of the book, how it was structured, how to access it, and (importantly) how it was updated. When viewing the same information in an online format it was easier for the student to contextualize the information on the screen after having seen it in the law library. There was the context of the books. Today, law students and paralegals are likely to have their initial, and possibly only, exposure to these publications in a digital format. It can be mind-numbing. Every screen seems to look the same.

Remember, most research databases are just online books

Online research material serves the same purpose as the books on the shelves. They are online publications of the same information. As such, the structure is still there. Look for it.

The screenshot displays the Westlaw Edge interface. At the top, the navigation bar includes 'THOMSON REUTERS WESTLAW EDGE', 'ICD', 'History', 'Folders', 'Favorites', 'Notifications', and 'Sign out'. The search bar contains 'American Law Reports' and '"day care center" liability for injured child'. The main content area shows the title 'Tort liability of private nursery school or day-care center, or employee thereof, for injury to child while attending facility' with a yellow highlight. Below the title is a 'TABLE OF CONTENTS' section with links for 'Article Outline', 'Index', 'Table of Cases, Laws, and Rules', and 'Research References'. An 'ARTICLE OUTLINE' section follows, listing sections like '§ 1[a] Introduction—Scope' and '§ 3[a] Primary negligence—where applicability of res ipsa loquitur doctrine was at issue—Doctrine applicable'. On the left side, there is a 'Locate authority by jurisdiction' window with a list of states and the Federal circuit, each with a checkbox. A red arrow labeled 'MAIN WINDOW' points to the main content area, with the text 'Contains the same information that would have been found in the book'. A red callout box labeled 'FILTERS WINDOW' points to the left sidebar, with the text 'The window in the left column will provide filter options to focus your research within the results for your search query'.