

CHAPTER 11

THE DESPERATE RESEARCHER

Chapter Outline

VOLUME 2, CHAPTER 11

- § 11.1 “I can’t find anything!”
- § 11.2 Legal Treatises
- § 11.3 Legal Periodicals
- § 11.4 Federal Regulations
- § 11.5 Social Media

ASSIGNMENTS

□ Assignment § 11.2

- (a) Researching Treatises using *Westlaw*
- (b) Researching Treatises using *Lexis*
- (c) Researching Treatises using the Library
(Optional)

□ Assignment § 11.3

- (a) Researching Periodicals using *Westlaw*
- (b) Researching Periodicals using *Lexis*
- (c) Researching Periodicals in the Library
(Optional)

Chapter 11 Introduction

AN OPPORTUNITY

Using materials that most paralegals, and even some attorneys, do not use is an opportunity. Think outside the box. Here are a few books every paralegal *should* use, but few *do* use.

Am. Jur. Proof of Facts

As discussed previously, this is more than just a form book. POF provides lists of facts that need to be proven to win at trial, discovery questions and answers, checklists, and forms. Most lawyers and paralegals do not know it exists.

Causes of Action

Similar to POF, but deals with elements of specific causes of action.

Legal Periodicals

The articles contained in these publications contain a vast amount of research, including analysis and citations. The article has done your work for you.

Restatements of the Law

Restatements are known by every attorney, but most paralegals have never used them. These books are legal treatises broken into sets covering different areas of law, such as *Restatements of Criminal Law*, *Restatements of Family Law*, and even *Restatements of the Law Governing Lawyers*. If there is a set of *Restatements* for an area of law in which you are interested, take a weekend, and read the first 50 sections. It will give you a foundation that will act like a mini-law school education on that area of law.

Oldies but Goodies

Even though these are more commonly researched, not every researcher uses them:

- *American Law Reports*
- *Am. Jur. Trials*
- *Am. Jur. Pleading & Practice*
- *Am. Jur. Legal Forms*

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LEGAL TREATISES

PERIODICALS

REGULATIONS

§ 11.1

“I can’t find anything!”*Don’t Stop Trying***OVERCOMING RESEARCH ROADBLOCKS**

Following are examples of problems that may arise for the legal researcher and several possible solutions.

I know the name of a case. How do I find the full citation?

Your attorney approaches you and says, “I need a case I used a couple of years ago. Its name is *Trammel v. U.S.*, but I don’t know the cite.” This is not an uncommon problem. Use the following steps if you ever face this dilemma.

Westlaw

A simple process. A researcher can find a case, and its citation, if he or she knows the names of the parties, or even just one of the parties.

- Login to *Westlaw*
- Enter the names of the parties in the *Search Query Box*
- Select a case from the recommendations

Lexis

Again, a simple process. A researcher can find a case, and its citation, if he or she knows the names of the parties, or even just one of the parties.

- Login to *Lexis*
- Enter the names of the parties in the *Search Query Box*
- Select a case from the recommendations

Law Library

Not as easy as going online, but still a rather simple process with a couple of options.

- Shepard’s Case Name Citators*
(Applies for those law libraries that subscribe to *Shepard’s*.) Every set of *Shepard’s* has a case name citator that lists all the cases found in that specific set of *Shepard’s*. While your library may not contain all the case name citators, it probably has the citator for your region and state and the federal citators. The case may be accessed by either the plaintiff or defendant names.

- Digest Table of Cases*
Every set of *West's Digests* has a volume or volumes with a Table of Cases, kept usually at the end of the set of digests. Again, the case may be researched using either plaintiff's name or defendant's name.
- Digest Plaintiff/Defendant Table*
As with the Table of Cases, the Plaintiff/Defendant Table is kept at the end of the set of digests. The book provides the full cite to any cases in which a specific party was involved if the case is printed in that specific set of digests. This is helpful when a party is not included in the title to a case. (Example: When there are multiple plaintiffs.)
- Call the Court*
If you know the court from which the opinion was rendered, call the court. The staff will probably have the case listed by docket number, case name, and the names of all parties.

I have just one or two cases and cannot find anything else.

There is no such thing as "only finding one case." That is because the one case you have found will, itself, include or lead you to other cases. Finding one case is a success! You just need to expand your research.

First, the obvious

Be sure you have checked all your regular resources and that you have used *KeyCite* or *Shepardized* any cases you have found. These can provide additional cases that deal with the same topic, and perhaps even some cases within your jurisdiction.

Authority within Authority

If you have even one case, you have more than you think. That case must have relied on authority, so check for cases and statutes within the opinion itself. Also check the headnotes for *Key Numbers* that will lead you to digests or enable you to conduct an online search for cases using the *Key Number Tool* in *Westlaw*.

Statutory Research Tools

Check any statutes you have found. They might contain research tools, such as references to *Key Numbers* or cases, as well as other statutes.

Legal Treatises

If you have not already done so, research legal treatises on your topic.

Administrative Regulations

If your case involves an administrative matter, such as immigration, consider researching administrative regulations and decisions.