
Assignment Sheet 1 *in Sequence of Assignments #1*
Using Secondary Sources

Estimated Time
of Completion
(including recommended
background reading):
3.0 – 4.0 hrs.

Print Your Name:

(If you are doing this assignment as part of a class exercise, you may neatly write your answers directly on these sheets, staple all sheets together, and turn them in. If you prefer to write your answers separately using your computer, please be sure to number your answers to correspond to the appropriate questions before printing your answer sheets.)

Background Reading: To learn more about the resources and concepts introduced in this Assignment Sheet, read Chapter 2 of *Legal Research in a Nutshell* or a comparable chapter in a textbook assigned by your professor. (See Appendix A.)

Background Information: Your partner has asked you to look into a specific question on behalf of your client. Since you don't yet know a lot about the topic this question covers, secondary sources are a good place to get started. In legal research, secondary sources are a rich source of information on a variety of legal topics and also can often point you directly to primary law that may have an impact on the question before you. Re-read pages 21-22 and pages 24-25 in this workbook for more information on the importance of using secondary sources.

What You Will Learn. By the end of this assignment, you will:

- Be able to identify two leading legal research encyclopedias
- Find and update information in a legal encyclopedia
- Identify your state encyclopedia, if there is one
- Recognize the significant value of legal treatises
- Recognize the origin and purpose of Restatements
- Be alert to a number of online options for finding secondary sources

The Research Process:

A. USING LEGAL ENCYCLOPEDIAS

Introduction: Print copy legal encyclopedias are easy to use because they are akin to the general encyclopedias you have seen for years and are set out in relatively simple terms. Unlike legal periodicals (which you'll learn about later in this Assignment Sheet), they are not generally used as persuasive secondary authority (although you will still see an encyclopedia cited in a court opinion from time to time). Instead, encyclopedias are tools that introduce you to general concepts and lead you to further research. The two national encyclopedias, Corpus Juris Secundum (C.J.S.) and American Jurisprudence 2d (Am. Jur. 2d), are very similar, but it's a good idea to be able to use both. Like using the World Book Encyclopedia and The Encyclopedia Britannica, researching in both legal encyclopedias might enable you to pick up something from one that you didn't find in the other. In this assignment, you will get to try your hand at both.

1. Corpus Juris Secundum (C.J.S.) and American Jurisprudence 2d (Am. Jur. 2d)

Step 1: Although Am. Jur. 2d and C.J.S. perform pretty much the same function, you will find that they differ in some respects. Over time, you may develop a preference for one over the other, or you may find more thorough coverage of a particular subject in one or the other. Choose one of these encyclopedias to begin your research. Write the name of the encyclopedia here: _____, then **go to the location of the encyclopedia you chose.**



ONLINE TIP: Although many resources can be found online and in hard copy, issues of cost, convenience, and scope of coverage are critical factors lawyers must consider when deciding whether to search online or to use traditional books. In addition, studies indicate that many readers browse more comfortably using actual books rather than online materials. See generally Debra Moss Curtis & Judith R. Karp, In a Case, On the Screen, Do They Remember What They've Seen? Critical Electronic Reading in the Law School Classroom, 30 Hamline L. Rev. 248 (2007). Recognizing this challenge, both Westlaw and Lexis have recently added online browsing features such as Tables of Contents, Indexes, and search tools that allow readers to move backwards and forward online. By 2008, online access to Am. Jur. and C.J.S. will be restricted to Westlaw. You can locate alternative secondary source materials on Lexis by clicking on the “Search” tab at the top of the Lexis homepage, choosing the “Search by Source” option, and then clicking on the link provided for Secondary Legal Sources. On Westlaw, you can locate additional secondary source materials on the Law School homepage by clicking on the links listed under “Secondary Source” grouping. On the main Westlaw homepage, click on the “View Westlaw Directory” hyperlink. Using secondary resources to get oriented to a new topic is as important when you are doing research online as it is when you are using hard copy materials.

Step 2: Determine which major area(s) of law your client’s case falls under. Often, identification of a proper area of law where you can begin researching isn’t obvious. In this case, however, you’re lucky because your senior partner has already identified the legal issues that he or she would like you to investigate. As a rule in legal research you need to be flexible and creative in thinking of a variety of possible terms that will lead you to the area of the encyclopedia that will discuss what you’re interested in. Look back at your partner’s memo for guidance. Next, list one or two terms to begin with here:



TIP: When you are generating “search terms” in legal research, experienced teachers will wisely encourage you to keep in mind the “5 W’s” that you may have learned about in a beginning journalism class (who, what, when, where, and why). In a legal context, applying these concepts helps you think about the parties or things involved (minor child, teacher, dog, etc.), the type of action or conflict (battery, robbery, trespass), when the action occurred (vacation, workday, off duty), where the action occurred (bank, school, playground) and why the action occurred (malice, self-defense, mistake, protection of property). Generating synonyms broadens the chance that you will find the law in a place where editors or publishers have also catalogued the information. It’s not enough to think (although that’s a good start); you have to think creatively about where the law might be stored. As you gain experience, you will become more familiar with the terms that have been used by legal publishers and practitioners over the years to categorize certain types of actions, defenses, classes of people, etc. with consistency.

Step 3: Find the multi-volume General Index located at the end of the entire set and look up the terms you listed in Step 2 above. (Note that there are also individual Topic indexes at the end of each individual Topic). The General Index and the individual Topic Indexes contain *Topic* and *Section* numbers that will lead you to the main volume that will contain entries related to the search terms you’ve generated. You will find the Topics published alphabetically in the main volumes (like other print copy encyclopedias you may have used); Sections are sub-parts of the larger Topics. Spending a few extra minutes with the General Index is often a wise investment of time. The Index can help you narrow your search quickly and will also refer you to other subject areas (Topics) you hadn’t even considered. In the space below, write down the references and corresponding Section numbers to at least three entries you found in the General Index that look like they might relate to your partner’s question:

Please return the General Index to the shelf now so that others may use it.

Step 4: In the main set, find the text for the references you noted in Step 3 above. Read the entries in the text. Choose one of these entries and, in the space provided, summarize the general law on the point it addresses and describe how it relates to our client’s problem. If the Sections you have read do not appear to be on point, read the following “BOMB” and “TIP” and repeat Steps 1 through 3 until you find a Section that does.



BEWARE: Occasionally the sections cited in the General Index are incorrect or confusing. If the sections your search has led you to seem incorrect, consider using the individual index at the end of each Topic to find a section you want to read. See the **TIP** below for more ideas on how to find the information you want in the encyclopedia.



TIP: The General Index and the individual index for each Topic are both good resources for finding an encyclopedia Section to read. Each Section, of course, is a sub-division of a larger Topic. It is often helpful to look at the Table of Contents (called an “Analysis”) that appears at the beginning of every Topic if you are having difficulty finding an entry on point. This is a good habit to get into even when you think the more narrow Section you’ve found is directly on point. You may find related Sections listed that would yield additional ideas for further research.

Use this space to summarize the general law on the point your Section addresses and describe how that law relates to your client’s problem:

Step 5: In the space below, write the correct Bluebook or ALWD citation to the Section you have summarized (see Rule 15.8 of The Bluebook or Rule 26 of The ALWD Manual for an example of how to cite to C.J.S. and Am. Jur. 2d):

DO NOT RESHELVE YOUR ENCYCLOPEDIA VOLUME YET.

Step 6: In addition to being good sources of general background information, C.J.S. and Am. Jur. 2d entries are also a good source for locating relevant case law (court decisions) from a wide variety of jurisdictions. You will learn other ways to find case law in Assignment Sheets 2 and 3 of this Sequence of Assignments. While you still have the encyclopedia open to the section you summarized above, look at the bottom of the page for references to relevant case law. Find an entry to a case on point and write the citation exactly as it is printed there in the space below (note that the way the publisher has printed this citation may or may not be in compliance with the way The Bluebook or The ALWD Manual recommends that you cite the case if you write about it in the future. Always check your citation manual for proper citation form if you're writing an important document):

What state is that case from? (See the following TIP).



TIP: Written opinions reflecting the decisions that judges have reached about particular cases (usually appellate cases) are published in “reporters” in chronological order based on when the decision was handed down. These decisions are published in “official,” and sometimes “unofficial,” form. The “official” form is the one chosen by the proper authority to represent the actual opinion of the court, but in reality there are rarely any errors in an “unofficial” form so both versions of the case will almost always look the same. Some courts automatically publish all of their opinions. Other courts publish only select opinions. In North Carolina, for example, only about 35% of decided cases from the North Carolina Court of Appeals have opinions that are subsequently published. The North Carolina Supreme Court, on the other hand, publishes all of its written opinions. You can learn more about how lawyers access and use “unpublished” opinions by reading the “BOMB” on page 76 of Assignment Sheet 2.

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