

Case Law: What It Is and Where to Find It ¹

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What are cases?

In law, the word "case" has several meanings. Generally, it refers to a dispute between two or more persons or entities called "parties." The party who files a lawsuit in court is called the plaintiff. The other party is called the defendant. Each case file is given a docket number. The file is open and available to the public in the courthouse, and sometimes online.

When the case is finally decided by a court, the judge or panel of judges may publish an opinion about it. Opinions are called cases too. They consist of a review of the facts and a discussion of the law that applies, ending with the court's decision or judgment. A published collection of opinions in chronological order from designated courts is called a case reporter. A casebook is a collection of legal opinions from a variety of courts, but it is used as a textbook in law schools. Sometimes the word case also refers to related parts of a case, such as judgment, order, opinion, decision, or ruling.

The three main approaches to finding cases are by name, by legal citation, or by subject matter. Once a case is found, it must be updated to see whether it is still "good law." Cases are updated by using either *Shepard's Citations* (in print and on Lexis) or Keycite on Westlaw.

How to find a case by its name.

In print:

1. *Table of Cases and Defendant Plaintiff Table.*

At the end of case digests (publications that summarize and organize cases by subject matter) are volumes called *Table of Cases* and *Defendant Plaintiff Table*. The *Table of Cases* lists the plaintiff's name first. The *Defendant Plaintiff Table* lists the defendant's name first. New cases are published in supplements which are filed into pockets in the back cover of the volumes. Digests are published in a block of years, usually ten years, and are not cumulative, so it is necessary to check the *Table(s)* for each series.

2. *Shepard's Acts and Cases by Popular Name.* Sometimes cases are referred to by popular name, such as the "Right to Die Case." These cases are listed with their full citations.

Free on the Internet: It is possible to find some cases on public websites. Most of these websites include cases for only a few years back. An exception is United States Supreme Court cases which are available back to 1893.

1. **Findlaw** retrieves by case name when you know the jurisdiction of the case, e.g., the state or federal court. For state cases, click on "Laws: Cases & Codes," then "U.S. State Resources," then the state name, and then "Primary Materials - Cases, Codes and Regulations." In the box where you can enter a title of the case or docket number, enter the names of the parties of your case. For federal cases, follow similar steps.

2. **Other sites for federal cases** include:

Legal Information Institute's Project Hermes at <http://supct.law.cornell.edu/supct/>
GPO Access Supreme Court at http://www.access.gpo.gov/su_docs/supcrt/index.html
Federal Courts Finder at <http://www.law.emory.edu/FEDCTS/> and
State Court Web Sites at http://www.ncsconline.org/D_KIS/info_court_web_sites.html

3. **Use a search engine.** Search engines include:

Metacrawler, <http://www.metacrawler.com/>
Alta Vista, <http://www.altavista.com/>
HotBot, <http://www.hotbot.com/>
LawRunner, <http://www.lawrunner.com/>
LookSmart, <http://www.looksmart.com/> and
Yahoo, <http://www.altavista.com>

Online in commercial databases:

1. **Westlaw Group:** For Westlaw, use the Title Field and insert the name of the case in parentheses, e.g., TI(roe and wade). <http://westlaw.com/>
2. **Lexis Group:** For Lexis, use a Name Segment search, e.g., NAME(roe and wade). Note: do not use the "v." in the case name, but use "and" instead. <http://support.lexis-nexis.com/lexiscom/>

How to find a case by its citation.

1. **In print:** A citation is a short form of information about a publication. For example, the citation for the case *Ahern v. Thomas* is 733 A.2d 756 (Conn. 1999). It includes the name of the case reporter, A. for *Atlantic Reporter*, the volume number 733, and the number of the first page of the case, 756. First locate the case reporter, find the volume number at the top of the page in the right corner, and look for the number of the first page of the case. Abbreviations are explained at the beginning of each volume.

Some cases are printed in more than one reporter, the state reporter and the regional reporter, for example. Citations to each reporter will be different, although the cases are the same. These are called *parallel citations*.

2. **Online in commercial databases:** Each commercial database offers a way to find cases by citation. For Westlaw, use the "Find" command. For Lexis, use the "Get a document" command or the LEXSEE command.

How to find a case by *subject matter*.

In print: Digests. The digests of cases provide detailed topical or subject matter indexes and case summaries. For West digests, use the "Descriptive Word Index" volumes of each digest.

West also categorizes its subject matter in a combination topic and number system called the "*key number*" system. With a key number, it is possible to go directly to the part of the digest containing summaries of all the cases addressing a particular subject. Each digest entry includes a short summary of the case and its citation.

When using digests, remember that the precision of the subject matter index depends on the skill of the publisher's employees. It is possible sometimes that a subject may be indexed under several terms. At other times, the subject may not appear under any index heading.

Digests are published for individual states, for federal courts, for certain specialized subject matter, and comprehensively in the American Digest system for all jurisdictions in the United States. Examples include *West's Federal Practice Digest* series, *United States Supreme Court Digest*; *Digest of United States Supreme Court Reports, Lawyers' Edition*; West's regional digests such as the *Atlantic Digest*; state digests such as *West's District of Columbia Digest*; *West's Bankruptcy Digest*; *United States Federal Claims Digest*; and the comprehensive *American Digest*, with its Century Edition, 1658-1896 and *Decennial* editions for years following 1896.

In print: Legal Encyclopedias, *American Law Reports*, Hornbooks and Treatises.

Many researchers begin a subject matter search in the legal encyclopedias and hornbooks or treatises. These resources often provide citations to leading cases. Legal encyclopedias provide succinct summaries and outlines of areas of law. Hornbooks are usually one volume introductions to a particular subject matter or field of law. Multi-volume treatises provide more detailed and expansive coverage.

1. ***Legal Encyclopedias:*** The two most comprehensive legal encyclopedias are *Corpus Juris Secundum* (CJS) and *American Jurisprudence* (AmJur).
2. ***Hornbooks and Treatises:*** There are many hornbooks and multi-volume treatises. Ask a librarian for help in identifying hornbooks and treatises on a particular subject matter.
3. ***American Law Reports* (ALR).** This can provide extensive listings of leading cases on a topic and a comprehensive overview of a topic. ALR includes the full text of a leading case, with extensive annotation. The *Index* references annotations in all the different series of ALR, except the first series.

How to *update* a case.

In print: ***Shepard's Citations.*** If a case is cited by other cases, it will appear in one of the *Shepard's Citations*. There are *Shepard's* for state reporters, federal reporters, and regional state reporters.

Bound volumes are supplemented by paperback pamphlets. On the front of the supplement is an explanation of which volumes and supplements should be in the library. Some of the softbound volumes are cumulative, but the hardbound volumes are not. You need to look at all the volumes, hardbound and softbound, to thoroughly update your case.

Within each volume, cases are organized by volume number and then by first page number. The name of the case is printed under the page number. Next the cases citing it are listed by citation. These citations are annotated with letters and numbers, which are explained in tables at the beginning of the volume.

Some abbreviations, “r” for reversed and “o” for overruled, for example, are used to determine whether a case is still good law. *Shepard’s* will only designate a case “o” or “r”, however, when another case clearly states that it is overruling or reversing the earlier case. A case may be overruled or reversed indirectly, however, by the effect of a ruling on another set of facts, rules, or policies, without its name ever being mentioned. Shepardizing will not reveal this. A review of literature on the topic may make it clear, however, that the case is no longer good law. Even when a case is overruled or reversed, it is necessary to read the case and the reasoning. A case might be reversed or overruled, for example on the basis of a particular set of facts or circumstances or reasoning. With other facts or reasoning or policies, the case may still be good law.

For help in learning how to use *Shepard’s*, ask a law librarian or call *Shepard’s* at 1-800-899-6000 (and also ask for a copy of *How to Shepardize* and *Questions and Answers*).

In Lexis & Westlaw:

Lexis owns *Shepard’s* and hence makes it available online on a subscription basis. It is also possible to use *Shepard’s* on the Internet by credit card for a fee per citation checked. See <http://www.shepards.com/>. **Keycite**, a similar updating service from Westlaw is available for a fee per citation. See <http://www.keycite.com/>.

Reference:

Robert C. Berring & Elizabeth A. Edinger, *Finding the Law* (11th ed. 1999). KF 240.B45 1999

Harvard Law Review Association, *The Bluebook: A Uniform System of Citation* (17th ed. 2000). Res. KF 245.B58

J. Myron Jacobstein and Roy M. Mersky, *Fundamentals of Legal Research* (7th ed. 1998). KF 240.J32

¹ P:\My Documents\guides and pathfinders\how to find a case.wpd, updated 2-02-01.