



Research Methodologies Lecture

Overview

- Overview of Legal Research
 - Why talk about research now?
 - Sources of law and research tools
 - General approach to legal research
- Ethical Considerations



Legal Research

Why discuss legal research now?

- Understanding the organization of the law library and of legal research
- Understanding where the law comes from
- Knowing how to look up information in the library

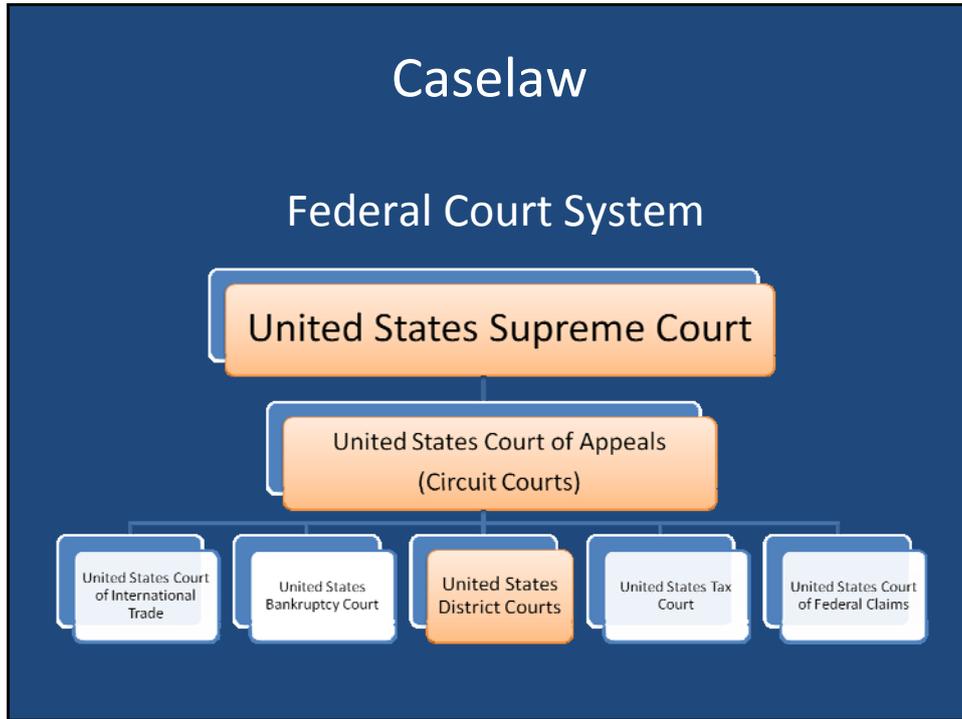
Sources of Law and Research Tools

Where does law come from?

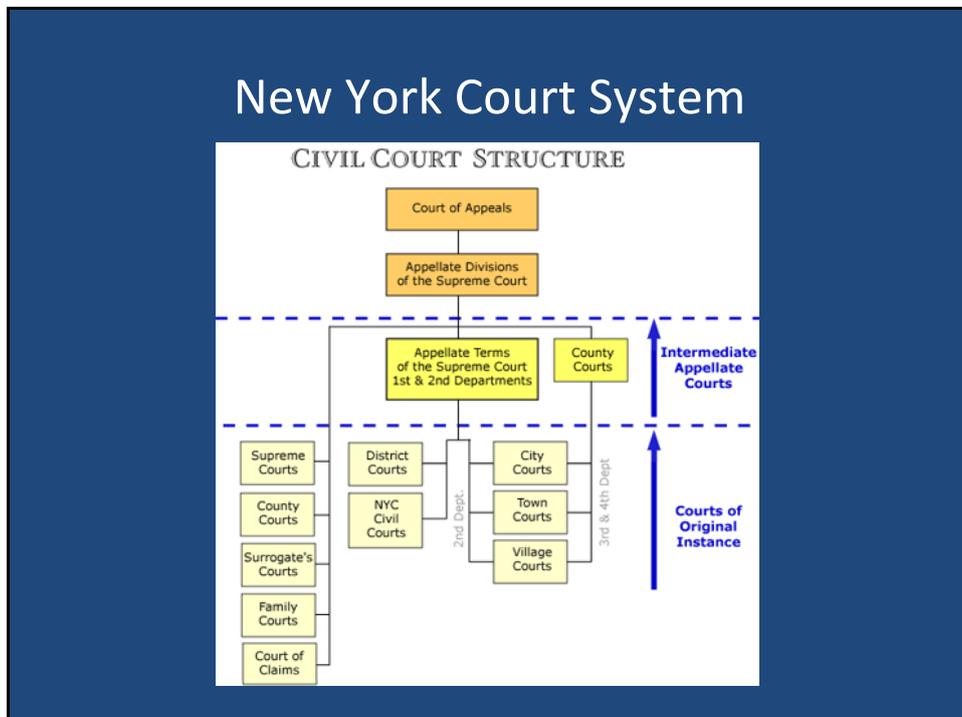
- Enacted law (statutes and constitutions)
- Caselaw (court decisions)

Caselaw

Federal Court System

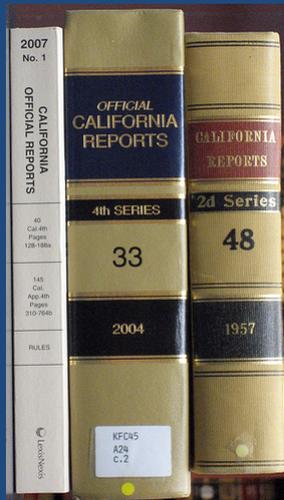


New York Court System



Caselaw

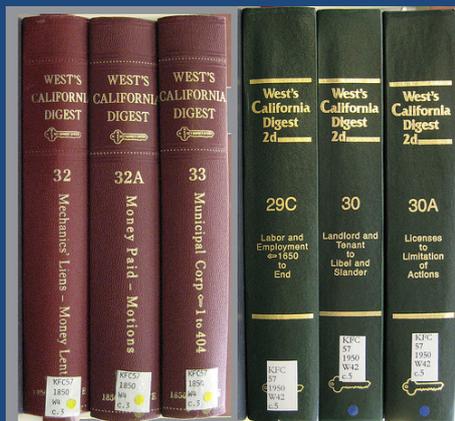
Reporters



- Series of volumes where reported decisions are chronologically compiled

Caselaw

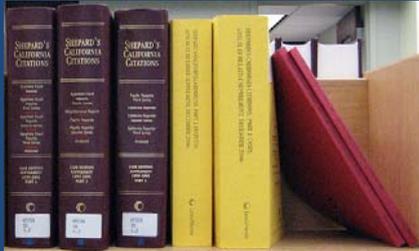
Digests



- provide subject access to the cases in the *Reporters*
- Located at the end of a *Reporters* series

Caselaw

Citators



- Use to know if a case is still good law
- Located on the shelves after the Digests

CITATIONS TO LAW, AS PUBLISHED IN COURT DECISIONS							
CITED COURT DECISIONS							
- 171 - 352FS411 So C 194S#403	- 714 - 351FS589 h351FS955 57FRD999	- 780 - 504F2d1108 Vol. 387	- 167 - 471F2d1190 352FS708	- 541 - 471F2d11091 127Ca515 521l2d480	- 175 - 31NY951	273So2d624 Calli 105CaR677 105CaR719 106CaR107 106CaR110 106CaR112 505P2d531 505P2d534 505P2d536 505P2d3	16Md4529 292Mo402 96PRR389 96PRR392 96PRR393 96PRR394 96PRR711 108RI31 1TrGr123 1TrGr185 1TrGr350 1TrGr417 1TrGr6
- 213 - 352FS1741 174Co1271 174Co1599 71LA104 16Md4 72Ms22 273	- 724 - 352FS1001	- 1 - 1F2d578 1FS188 51187	- 213 - 470F2d4955 194S#319 NY - 244 - 73FRD 470	470F2d1153 470F2d1162 470F2d1380 470F2d1390 470F2d1718 d470F2d1949 d471F2d1119 471F2d485	- 218 - 470F2d1153 470F2d1162 470F2d1380 470F2d1390 470F2d1718 d470F2d1949 d471F2d1119 471F2d485	106CaR1107 96PRR394 106CaR112 108RI31 1TrGr123 1TrGr185 1TrGr350 1TrGr417	
CITED VOLUME (sidehead)		CITED PAGE (boldface)					

Statutory Law

- Federal and State statutes
- Enacted law appears in different forms:
 - Slip law
 - Session law
 - Official code
 - Unofficial code

Statutory Law

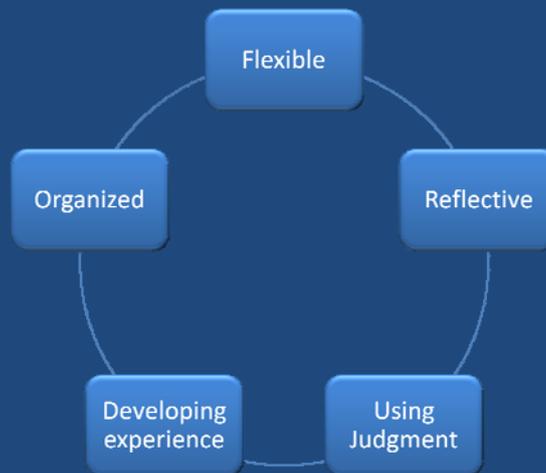
Digests

- organized alphabetically by topic and provide subject matter access to the statutes
- The *Digests* for statutes are shelved after the statute books they cover.

Other Research Tools

- The Bluebook
- Legal Encyclopedias
- Treatises, Restatements, Hornbooks
- The Index to Legal Periodicals

Process of Legal Research



General Approach to Legal Research

- Read the problem, question, assignment;
- Narrow down the location of the question or issue (federal, state; which state);
- Look for words and phrases that help describe the issue(s);
- Identify and begin to articulate the issue(s);
- Consider whether the issues are substantive or procedural, have case law, statutory, regulatory, other components; and
- Keep track of all pathways, materials found, and sources; make copies and keep careful notes as needed.

Legal Research in Context

John went to visit his friend from graduate school, Mark who lives in Brooklyn. He stayed at Mark's house drinking and talking for two hours before he decided to go for a drive. At that point, Mark had served him five shots of whisky and four beers. Before leaving, John told Mark it was a nice night for a drive and he should come with him, but Mark said he would rather stay home. A few minutes after he left, John crashed into another car. The driver of the other car was seriously injured.

Issue:

- Can Mark be liable for the serious injuries of the driver?

Where to begin?

How would you start your research?

- Identify the jurisdiction
- Generate search terms

Where do you start looking?

- If you do not know the research subject, start with a secondary source.

Where to begin?

- *Use the Index of the different secondary sources such as Digests or encyclopedias or the Index to Legal Periodicals*
- Articles in encyclopedias are a good place for general access to a topic that will lead you to more specific descriptive words and phrases.

Where to begin?

- *Unofficial Code* – If you know a statute governs your issue, look at an unofficial code which includes useful annotations.
- *Digests* are another good place to begin your research if you have a sense of at least some of the broad topics, issues or descriptive words.
- *Shepards* may be a good place to begin if you have a case citation.

Things to Remember

- Circular nature to the process of research
- Finding your way into the right loop
- There is no perfect answer
- Learning how to use what you find

Ethics & Methodology

- never cite or quote from a case you have not read;
- never cite or quote a headnote;
- check all citations personally and only use citations that you have personally checked;
- understand what constitutes plagiarism.