FINDING THE LAW

Book Research

Electronic Research
We live in a society where rules govern how people conduct themselves. The failure to abide by these rules may lead to a legal dispute.

Courts resolve legal disputes by applying the relevant legal rule to the specific facts of a case.

Knowing the legal rules can help you avoid legal disputes, predict how a court will resolve them, or advocate for a particular resolution.

Today, we are going to talk about how you find legal rules.
- Our focus will be on book research rather than electronic research because of the costs associated with electronic research.
- However, we will provide you with some websites that offer no-cost or low-cost research services.
Federal System – powers are divided and/or shared between state and central governments (Current gov’t designed by framers)
Each branch of the government in each system generates legal material.

- **Legislative Branch**
  - Statutes
  - Constitutional Amendments

- **Executive Branch**
  - Administrative Rules, Regulations, and Decisions
  - Presidential or Gubernatorial Materials (e.g., Executive Orders)

- **Judicial Branch**
  - Court-made legal rules ("Common Law")
  - Interpretation of constitutional, statutory, and regulatory provisions
We refer to the law that comes directly from one of the three branches of government as Primary Authority.

Primary Authority is the **LAW itself**

- **Federal System—Examples of Primary Authority**
  - federal constitution
  - statutes passed by Congress
  - cases decided by the federal courts
  - regulations promulgated by the federal agencies

- **Texas State System—Examples of Primary Authority**
  - Texas constitution
  - statutes passed by the Texas legislature
  - cases decided by the Texas state courts
  - regulations promulgated by the Texas state agencies
In addition to Primary Authority (the LAW), there is Secondary Authority.

Secondary Authority is not the law.

Secondary Authority analyzes, summarizes or comments on the law.

- Legal Dictionaries
- Legal Encyclopedias
- Form Books and Practice Guides
- Treatises and Hornbooks
- Law Reviews and Journals
- Restatements
- American Law Reports (ALR)
While a court may be bound by Primary Authority, it is **never** bound by Secondary Authority.

- Secondary Authority can provide helpful background information.
- Secondary Authority can help you locate Primary Authority.

At the end of the day, though, Secondary Authority is only persuasive!
THE UNITED STATES HAS A DUAL SYSTEM OF GOVERNMENT.
http://www.capitol.state.tx.us/
WHAT “LAW” DO I NEED TO UNDERSTAND MY LEGAL ISSUE?

Federal Law?
- Federal taxation
- Bankruptcy
- Copyright
- Immigration
- Some drug offenses

Texas State Law?
- Family law
- Landlord-tenant law
- Consumer law
- Probate matters
- Traffic law
- Most crimes

Both?
- Constitutional Rights
- Federal Constitution
- State Constitution
- Employment Discrimination
- Federal Statute
- State Statute
Most Texas statutes are grouped by subject in “codes” (Probate Code, Family Code)

Each code has a Table of Contents and typically is subdivided into Titles

The entire set has a detailed index
Minnesota Legalizes Gay Marriage

The Minnesota legislature approved a same-sex marriage bill Monday and the state's Democratic Gov. Mark Dayton will sign it, perhaps as soon as Tuesday. Minnesota is the first Midwestern state to approve gay marriage by a legislative vote. In Iowa, the state Supreme Court ruled same-sex marriage legal in 2008.

Sources: National Conference of State Legislatures and Stateline research

Stateline infographic by Adam Rotmil and Jake Growum updated May 13, 2013
The Divided States Of Marijuana
Make It Legal®

States Where Marijuana Has Been Decriminalized To Some Degree
The state has decriminalized marijuana to some degree. Typically, decriminalization means no prison time or criminal record for first-time possession of a small amount for personal consumption. The conduct is treated like a minor traffic violation.

States With Medical Marijuana Laws Enacted
This state has medical marijuana laws enacted. Modern research suggests that cannabis is a valuable aid in the treatment of a wide range of clinical applications.

States Enforcing Mandatory Minimum Sentences
When someone is convicted of an offense punishable by a mandatory minimum sentence, the judge must sentence the defendant to the mandatory minimum sentence or to a higher sentence. The judge has no power to sentence the defendant to less time than the mandatory minimum. A prisoner serving an MMS for a federal offense and for most state offenses will not be eligible for parole. Even peaceful marijuana smokers sentenced to “life MMS” must serve a life sentence with no chance of parole.

www.makemarijuanalegal.org
RESEARCHING STATUTES ONLINE

TABLE OF CONTENTS

http://uscode.house.gov/browse.xhtml
RESEARCHING STATUTES ONLINE
WORD SEARCH

http://uscode.house.gov/browse.xhtml
The Popular Name Tool enables you to search or browse the United States Code Table of Acts Cited by Popular Name. For printing purposes, the PDF file is recommended. A detailed explanation of the Table is located here.

Act of

Short title, see 26 U.S.C. 1 note

1950 Amendment to Public Law 38
Aug. 5, 1950, ch. 552, 64 Stat. 414

1951 Amendments to the Universal Military Training and Service Act
June 19, 1951, ch. 144, 65 Stat. 75
Short title, see 50 U.S.C. App. 451 note

1955 Amendments to the Universal Military Training and Service Act
June 30, 1955, ch. 250, 68 Stat. 223

1959 Amendment to the Texas City Disaster Relief Act

1964 Amendments to the Alaska Omnibus Act

1979 White House Conference on the Arts Act

1979 White House Conference on the Humanities Act

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THE UNITED STATES HAS A DUAL SYSTEM OF GOVERNMENT.
Federal Court Structure

Supreme Court
9 Justices
Cases: Petitions: 9,302; Full Review: 82

Courts of Appeals
179 Judges in 13 Circuits
6 – 28 Judges/circuit
Cases Filed: 55,750

District Courts
678 Judges in 94 Districts
2 – 27 Judges/district
Cases Filed: 373,890

Administrative Office of the United States Court (2011)
TEXAS COURT SYSTEM (Simplified)

Supreme Court

civil matters

Court of Criminal Appeals

criminal matters

Courts of Appeals
(14; civil & criminal; not death penalty)

Trial Courts
(some specialized, some not; different levels)

Death penalty appeals
TEXAS—STATE COURTS OF APPEALS

1. Houston
2. Fort Worth
3. Austin
4. San Antonio
5. Dallas
6. Texarkana
7. Amarillo
8. El Paso
9. Beaumont
10. Waco
11. Eastland
12. Tyler
13. Corpus Christi
14. Houston
Texas Supreme Court (civil cases)
  - http://www.supreme.courts.state.tx.us/opinions/casesearch.asp

Texas Criminal Court of Appeals (criminal cases)

14th Court of Appeals (Houston-area appellate court)

1st Court of Appeals (Houston-area appellate court)

Texas Courts Online (chart of court structure, links to information about websites of state courts)
  - http://www.courts.state.tx.us/
A case is a published judicial opinion.

- Some cases deal with “common law” (judge-made)
- Some cases deal with “enacted law” (statutes, regulations, rules) by
  - Explaining how to interpret the law,
  - Discussing how to apply the law, or
  - Determining the law’s validity.

Cases may serve as binding precedent upon future parties and situations.

- This is determined by jurisdiction and level of court.
WHERE DO I FIND CASES?

- State and federal cases are published in “reporters.”
- Reporters compile cases chronologically, not by topic.
- A multi-part index, called a “digest,” will lead you to cases based on topic and subtopic.
The digest system that we’ll see today divides the law into 400+ subject matters called topics.
  - These topics are the same in all digests.

The digest then subdivides these topics into smaller categories (subtopics and sub-subtopics).
  - These subtopics and sub-subtopics are assigned a key number.
  - Key numbers are the same in all digests.
WHAT PARTS DOES A DIGEST SET HAVE?

1. **Descriptive Word Index**: tool to find relevant topics and key numbers
2. **Main volumes**: lists of case summaries organized by topic and key number
3. **Words & Phrases**: alphabetical list of cases that define or construe a legal term of art
4. **Table of Cases**: alphabetical list of cases by the name of both the plaintiff and the defendant
FOUR STEPS TO USING THE DIGESTS

1. Locate the correct **digest** set (for example, *Texas Digest*).

2. Use the digest’s **descriptive word index** to locate the topic and key number that relates to your issue.
   - Specifically, the descriptive word index allows you to “translate” everyday search words into a topic and key number that the digest uses.

3. Once you have found the topic and key number for your issue, go to the digest’s **main volume** that contains that topic and key number and read the case summaries under the key number.
   - Note: the digest’s main volumes do **not** contain case opinions: only case summaries.

4. Use the case’s location information (**case citation**) that appears with the case summary to look up the full case opinion in the **reporter**.
The *Texas Digest* contains summaries of cases from the state appellate courts and federal courts within Texas.

**Practice issue:** you want to find some Texas cases discussing bounced checks. Where might you begin?
HOW DOES A DIGEST TELL ME WHERE A CASE APPEARS IN A REPORTER?: THE CASE CITATION

25 S.W.2d 272

- **Red** (1st term) = volume of the reporter
- **Blue** (2nd term) = abbreviation for the reporter name*
- **Green** (3rd term) = page of the reporter volume that the case starts on

* Note: the abbreviation “S.W.2d” means *Southwestern Reporter, Second Series.*
SOUTH WESTERN REPORTER:
PUBLISHES TX, AK, MO, TN, AND KY CASES
RESEARCHING CASES ONLINE

- Persuasive Case law
- Law Review Articles
- Binding Case Law

Your Answer
## WHAT “LAW” DO I NEED TO UNDERSTAND MY LEGAL ISSUE?

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Categories of Law.

- Accidents & Injuries
- Bankruptcy
- Business Formation: LLCs & Corporations
- Criminal Law
- Debt Management
- Disability Law
- Divorce & Family Law
- DUI / DWI & Traffic Tickets
- Employment Law
- Foreclosure
- Immigration
- Landlords
- LGBT Law
- Nonprofits
- Patent, Copyright & Trademark
- Personal Finance
- Real Estate
- Small Business
- Small Claims Court & Lawsuits
- Social Security & Retirement
- Tenants
- Taxes
- Wills, Trusts & Probate

Online Legal Forms

- Easy to use
- Step-by-step instructions
- Business Forms
  - Protect Your Trademark
- Personal Forms
  - Create Your Will
FEDERAL OR STATE?

Federal Law?
Click on “US Case Law”

State Law?
Click on “[State] Law”

www.law.justia.com

US Federal Law
- US Constitution
- US Code
- US Code of Federal Regulations
- US Federal Register
- US Supreme Court
- US Courts of Appeals Cases
- US Federal District Courts Cases
- US Federal Court Dockets & Case Files

US State Law
- Alabama Law
- Alaska Law
- Arizona Law
- Arkansas Law
- California Law
- Colorado Law
- Connecticut Law
- Delaware Law
- District of Columbia Law
- Florida Law
- Georgia Law
- Hawaii Law
- Idaho Law
- Illinois Law
- Indiana Law
- Iowa Law
- Kansas Law
- Kentucky Law
- Louisiana Law
- Maine Law
- Maryland Law
- Massachusetts Law
- Michigan Law
- Minnesota Law
- Mississippi Law
- Missouri Law
- Montana Law
- Nebraska Law
- Nevada Law
- New Hampshire Law
- New Jersey Law
- New Mexico Law
- New York Law
- North Carolina Law
- North Dakota Law
- Ohio Law
- Oklahoma Law
- Oregon Law
- Pennsylvania Law
- Rhode Island Law
- South Carolina Law
- South Dakota Law
- Tennessee Law
- Texas Law
- Utah Law
- Vermont Law
- Virginia Law
- Washington Law
- West Virginia Law
- Wisconsin Law
- Wyoming Law
RESEARCHING TECHNIQUES

Click on "[State] Case Law" (e.g., "Texas Case Law")

Highlight URL and then Copy ("ctrl + c"; "cmd + f")
BUZZWORDS & THE INTERNET

Insert Keywords (e.g., eviction tenant property trash)

Click on “site or domain” and then paste (“ctrl+ v”; ”cmd + v”)

Find pages with...
- all these words:
- this exact word or phrase:
- any of these words:
- none of these words:
- numbers ranging from:

Then narrow your results by...
- language:
- region:
- last update:
- site or domain:
- terms appearing:
- SafeSearch:
- reading level:
- file type:
- usage rights:
Without entering the house, she saw that a garbage can was overflowing with eviction proceedings - much less gain possession - before giving the tenant at...

All tenants in the Wal-Mart store disposed of their trash in the Wal-Mart trash... The duties owed by a landowner to one on its property depend upon the status of...

The property had a rundown shack with trash around it and a few isolated... he recognized Sun NLF=s ownership of the property by agreeing to be a tenant...

It is well settled that a warrant is not required for the seizure of abandoned property... The wallet was found in a steel drum used by all the tenants of the apartment for the ... 1971) which held that material placed in a trash can for collection was...

The parking lot was constantly filled with trash... trial court allowed Dr. Davidow to amend his pleadings to include the defense of constructive
Speed up Search Results with the “Find” Shortcut.

(“Ctrl + f” or “Cmd + f”)

(e.g., trash, section, etc.)
Secondary Sources

Law Review Articles

Articles

Volume 50, Number 5: Spring 2013

Articles


Aya Gruber, Neofeminism, 50 Hous. L. Rev. 1325 (2013). (Abstract) (Westlaw)


Comments


Brant E. Wischnewsky, “Election” of Remedies: The City of Houston, the Sitter Courts, and the Mission to Interpret the Tort Claims Act, 50 Hous. L. Rev. 1507 (2013). (Abstract) (Westlaw)
COMMENT

EMPLOYING THE RIGHT TEST: THE IMPORTANCE OF RESTRICTING AT&T V. CONCEPCION TO CONSUMER ADHESION CONTRACTS

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   A. The Problem with AT&T v. Concepcion ................. 1448
   B. Employment Contracts ......................................... 1451
      1. Class Waivers in Employment Contracts .......... 1452
Paste URL in Google’s Advanced Search Page.

Look for repeating symbols/letters in URL (e.g., %2F)
What are Elements for your Issue?

Type in “no” and add a keyword from an element.

Search the database for relevant case law.

If you want a certain phrase, type it in here.

http://law.justia.com/cases/texas/
ORGANIZING YOUR RESEARCH

First Element is Satisfied

Organize your research by separating the cases.

Summarize why the court made its decision.

Rinse and repeat for each element.

First Element is not Satisfied
Federal courts are divided into three levels:

- **U.S. Supreme Court** (court of last resort)
- **U.S. Circuit Courts of Appeals** (appellate level)
  - Example: Fifth Circuit Court of Appeals
- **U.S. District Courts** (trial level)
  - Example: Southern District of Texas
DIGEST TO ALL FEDERAL CASES: “FEDERAL PRACTICE DIGEST”

Contains summaries of cases from all federal courts and provides citation to full opinions in reporters.
REPORTER FOR U.S. SUPREME COURT CASES: “SUPREME COURT REPORTER” (S. CT.)

Cases available at:
http://www.findlaw.com/casecode/supreme.html
REPORTER FOR FEDERAL CIRCUIT COURT CASES: “FEDERAL REPORTER” (F., F.2D, F.3D)

Cases for the Fifth Circuit Court of Appeals available at: http://www.ca5.uscourts.gov/Opinions.aspx
Cases for the Southern District of Texas available at:

http://www.txs.uscourts.gov/district/opinions/
Just because a case is in a reporter doesn’t mean that it’s still “good law.” For example:

- As a lawsuit moves up the “judicial ladder,” a higher court can alter or reverse the lower court’s opinion (direct history).
  - Examples: “reverse,” “vacate,” “modify”
- In a later, separate lawsuit, the same court or a higher court can change the law established by the case that you found (indirect history).
  - Example: “overrule”

**Bottom line:** You must check to see if the case you find is still good law. A law Librarian can provide assistance.
The Federal Rules of Civil Procedure govern conduct in civil actions brought in federal district courts:
http://www.law.cornell.edu/rules/frcp/index.htm

The Texas Rules of Civil Procedure govern conduct in civil actions brought in Texas district courts:
http://www.supreme.courts.state.tx.us/rules/trcp/home.asp
O’Quinn Law Library
12 Law Library
Houston, TX  77204
(713) 743-2300

Operating Hours
- Mon-Thurs: 7:30 a.m. – Midnight
- Fridays: 7:30 a.m. – 11:00 p.m.
- Saturdays: 9:00 a.m. – 8:00 p.m.
- Sundays: 9:00 a.m. – 11:00 p.m.
Fred Parks Law Library

1303 San Jacinto St.
Houston, TX 77002
(713) 646-1711

Operating Hours

- Mon-Thurs: 7:30 a.m. – Midnight
- Fridays: 7:30 a.m. – 10:00 p.m.
- Saturdays: 8:30 a.m. – 10:00 p.m.
- Sundays: 10:00 a.m. – 10:00 p.m.
Thurgood Marshall School of Law Library

3100 Cleburne St.
Houston, TX  77004
(713) 313-7125

Operating Hours

- Mon-Thurs: 7:00 a.m. – Midnight
- Fridays: 7:00 a.m. – 10:00 p.m.
- Saturdays: 9:00 a.m. – 10:00 p.m.
- Sundays: Noon – Midnight
HARRIS COUNTY LAW LIBRARY

Harris County Law Library
1019 Congress
Houston, TX  77002
(713) 755-5183

Operating Hours
▪ Mon.-Fri.: 8:00 a.m. – 7:00 p.m.
WEBSITES FOR LOCAL SERVICES

- Mental Health and Mental Retardation Authority of Harris County
  - [http://www.mhmraharris.org/](http://www.mhmraharris.org/)

- Harris County Child Protective Services
  - [http://www.hc-ps.org/](http://www.hc-ps.org/)

- Houston Volunteer Lawyers Program
  - [http://www.makejusticehappen.org](http://www.makejusticehappen.org)
MORE WEBSITES FOR LOCAL SERVICES

- Attorney General’s Office: Child Support Division
  - Phone Numbers Listed for Local Offices on Website
  - [http://www.oag.state.tx.us/cs/parents/faq.shtml](http://www.oag.state.tx.us/cs/parents/faq.shtml)

- Lonestar Legal Aid
  - 800-733-8394
  - [http://www.lonestarlegal.org/](http://www.lonestarlegal.org/)

- Legal Aid to Victims of Domestic Abuse
  - 713-224-9911
  - [http://avda-tx.org/v2/](http://avda-tx.org/v2/)

- Harris County District Clerk’s Office
  - 713-755-7300
  - 201 Caroline, Suite 420, Houston, Texas 77002
OTHER HELPFUL WEBSITES

- Information Concerning Federal Courts
  - http://www.uscourts.gov/

- Federal Laws and Regulations
  - http://www.usa.gov/Topics/Reference_Shrelf/Laws.shtml

- Houston Code of Ordinances
  - http://www.houstontx.gov/codes/

- Do-It-Yourself Legal Resources
  - http://www.nolo.com/
LAW BLOGS FOCUS ON PARTICULAR JURISDICTIONS OR LEGAL SPECIALTIES

- **Texas Bar Blog**

- **Texas Family Law**
  - [http://chrislawyerblog.com/](http://chrislawyerblog.com/)

- **Texas Immigration Law**