

# Identifying the Most Influential U.S. State Courts *Shepard's*® Citations Service Case Study

## Overview

Location: California

Industry: Government

### Situation:

How can it be determined which state courts are the most influential? The challenge in defining influence arises in determining whether another state court has actually agreed with the ruling.

### Solution:

*Shepard's*® Citations Service exclusive "followed by" analysis indicates when a court has explicitly relied on a previous ruling as a basis for its decision.

### Benefits:

- Exclusive to *Shepard's*®, "followed by" analysis allows you to quickly spot potential splits in authority.
- *Shepard's*® Table of Authorities analyses the authorities your citing case used as the basis for its opinion.
- *Shepard's*® legal editors add full treatment and history analysis right away so you receive current information.

## Situation:

Which state courts are the most influential? One way of judging influence involves identifying rulings that have been the basis for other states' judgments. However, the challenge in defining influence has been determining whether another state court has actually agreed with the ruling.

The most common methodology used in determining a court's influence has traditionally been straightforward citation analysis - a method that simply counts the number of times a case has been referenced by other courts. However, most citation analysis has failed to take into account why and how the cases are cited. Many citations of authority are basically neutral, and courts also cite authorities to express disagreement with them.

Jake Dear, chief supervising attorney, Supreme Court of California, and Edward W. Jessen, reporter of decisions of California, decided to investigate a different way of determining influence - and they turned to LexisNexis® to help them do so.

"We looked at previous studies that analyzed comparative influence of courts by measuring how frequently various courts are cited by others," said Jessen. "None of these studies, however, specifically addressed the questions that interested us - the frequency with which the decisions of various courts have been adopted or relied upon by courts of other jurisdictions."

## Situation:

*Shepard's*® Citations Service exclusive "followed by" analysis helps legal professionals ensure their legal arguments are based on solid, up-to-date precedent. Only *Shepard's* provides "followed by" analysis, which indicates when a court has explicitly relied on a previous ruling as a basis for its decision.

Dear and Jessen turned to LexisNexis® to mine data for the study. Drawing from its massive *Shepard's* database, LexisNexis pulled "followed by" citations to the decisions of all 50 state supreme courts for 66 years, from 1940 to 2005 - nearly 24,400 state high court decisions that have been relied upon by the courts of other states.

"For more than 100 years, *Shepard's* Citations Service has analyzed every published decision filed by every appellate court in every state to determine its subsequent treatment - whether it has been overruled, criticized, questioned, limited, distinguished, explained, harmonized or followed," said Jessen.



"Focusing on cases coded by *Shepard's*® as 'followed' offers an objective, fairly simple and effective method of analysis."

Edward W. Jessen  
Reporter of Decisions of California

"Using *Shepard's* exclusive "followed by" service allowed us to determine which courts were the most influential. Focusing on cases coded by *Shepard's* as 'followed' offers an objective, fairly simple and effective method of analysis."

In analyzing this data, Dear and Jessen first discovered that of the more than 24,000 "followed by" decisions, most had been followed only once by an out-of-state court. They found that the California Supreme Court is the most-followed state supreme court - with 1,280 of its decisions having been followed at least once. The study showed that in recent years some of the previously highest-ranked state high courts, including New York, have been eclipsed by other courts, such as the supreme courts of Washington and Colorado.

According to Dear and Jessen's study, the top 10 state supreme courts that have been followed at least once by an out-of-state court from 1940-2005 are:

1. California (1,260)
2. Washington (942)
3. Colorado (848)
4. Iowa (778)
5. Minnesota (774)
6. Kansas (737)
7. Massachusetts (671)
8. Wisconsin (660)
9. Oregon (658)
10. New York (627)

The 10 state supreme courts that have been followed the fewest times from 1940 to 2005 are:

50. Kentucky (177)
49. Louisiana (242)
48. South Carolina (261)
47. Hawaii (285)
46. Tennessee (296)
45. Vermont (299)
44. Delaware (304)
43. Missouri (327)
42. Rhode Island (328)
41. Virginia (337)

The study looked at state supreme court decisions that have been followed multiple times by other state courts, which may well provide an even more telling measure of a court's influence.

One of the most "followed by" California cases mentioned in the study is *Foley v. Interactive Data Corp.*, 47 Cal. 3d 654 (1988), concerning employment termination in violation of public policy, which has been followed 15 times by other state courts. Parts of the *Shepard's* report for *Foley* are illustrated here.

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Shepardize:

View:          **Shepard's®** **Foley v. Interactive Data Corp., 47 Cal. 3d 654 (1988)**

Signal  Possible negative treatment  
Trail:

*Foley v. Interactive Data Corp.*, 47 Cal. 3d 654, 254 Cal. Rptr. 211, 765 P.2d 373, 1988 Cal. LEXIS 269, 3 I.E.R. Cas. (BNA) 1729, 110 Lab. Cas. (CCH) P55978 (1988)

**SHEPARD'S SUMMARY** [Hide Summary](#)

**Unrestricted Shepard's Summary**

No subsequent appellate history. Prior history available.

**Citing References:**

Cautionary Analyses: [Criticized \(1\)](#), [Distinguished \(30\)](#)

Positive Analyses: [Followed \(135\)](#)

Neutral Analyses: [Concurring Opinion \(10\)](#), [Conflict Authority \(2\)](#), [Dissenting Op. \(42\)](#), [Explained \(39\)](#), [Harmonized \(1\)](#), [Quest. Precedent \(39\)](#)

Other Sources: [Law Reviews \(365\)](#), [Secondary Sources \(1\)](#), [Statutes \(2\)](#), [Treatises \(171\)](#), [Court Documents \(434\)](#)

**LexisNexis Headnotes:** [HN1 \(56\)](#), [HN2 \(75\)](#), [HN3 \(5\)](#), [HN4 \(6\)](#), [HN5 \(43\)](#), [HN6 \(199\)](#), [HN7 \(33\)](#), [HN8 \(70\)](#), [HN9 \(2\)](#), [HN10 \(9\)](#), [HN11 \(114\)](#), [HN12 \(133\)](#), [HN13 \(154\)](#), [HN14 \(45\)](#), [HN15 \(19\)](#), [HN16 \(136\)](#), [HN17 \(19\)](#), [HN18 \(30\)](#), [HN19 \(382\)](#)

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**ARIZONA COURT OF APPEALS**

125. **Followed by:**  
[Mintz v. Bell Atl. Sys. Leasing Int'l Inc.](#), 195 Ariz. Adv. Rep. 19, 115 No. 30 Ariz. Bus. Gaz. 27 (Ariz. Ct. App. July 18, 1995)  
195 Ariz. Adv. Rep. 19 [p.20](#)

**COLORADO COURT OF APPEALS**

126. **Followed by:**  
[Decker v. Browning-Ferris Indus.](#), 903 P.2d 1150, 1995 Colo. App. LEXIS 4, 24 Colo. Law. 621, 19 Brief Times Rptr. 7 (Colo. Ct. App. 1995) [LexisNexis Headnotes](#) [HN13](#)  
903 P.2d 1150 [p.1156](#)  
19 Brief Times Rptr. 7 [p.10](#)

**CONNECTICUT APPELLATE COURT**

127. **Followed by:**  
[Barry v. Posi-Seal Int'l](#), 40 Conn. App. 577, 672 A.2d 514, 1996 Conn. App. LEXIS 127, 11 I.E.R. Cas. (BNA) 978 (1996) [LexisNexis Headnotes](#) [HN13](#), [HN19](#)  
40 Conn. App. 577 [p.586](#)  
672 A.2d 514 [p.519](#)

**DELAWARE SUPREME COURT**

128. **Followed by:**  
[E.I. DuPont de Nemours & Co. v. Pressman](#), 679 A.2d 436, 1996 Del. LEXIS 179, 11 I.E.R. Cas. (BNA) 1643, 132 Lab. Cas. (CCH) P58138, 31 U.C.C. Rep. Serv. 2d (CBC) 680 (Del. 1996) [LexisNexis Headnotes](#) [HN13](#)  
679 A.2d 436 [p.446](#)

**DELAWARE COURT OF CHANCERY**

129. **Followed by:**  
[Jurca v. Brom](#), 2000 Del. Ch. LEXIS 143 (Del. Ch. Oct. 6, 2000)  
2000 Del. Ch. LEXIS 143

**MINNESOTA COURT OF APPEALS**

130. **Followed by:**  
[Donahue v. Schwegman, Lundberg, Woessner & Kluth, P.A.](#), 586 N.W.2d 811, 1998 Minn. App. LEXIS 1342, 2 No. 51 Minn. Lawyer 17 (1998) [LexisNexis Headnotes](#) [HN7](#), [HN6](#)  
586 N.W.2d 811 [p.815](#)  
2 No. 51 Minn. Lawyer 17 [p.18](#)

**NEVADA SUPREME COURT**

131. **Followed by:**  
[D'Angelo v. Gardner](#), 1991 Nev. LEXIS 18, 123 Lab. Cas. (CCH) P57098 (Nev. Mar. 7, 1991) [LexisNexis Headnotes](#) [HN11](#)  
123 Lab. Cas. (CCH) P57098

132. **Followed by, Cited in Dissenting Opinion at:**  
[Western States Minerals Corp. v. Jones Corp.](#), 1991 Nev. LEXIS 17, 6 I.E.R. Cas. (BNA) 556, 119 Lab. Cas. (CCH) P56629 (Nev. Mar. 7, 1991) [LexisNexis Headnotes](#) [HN11](#), [HN12](#), [HN18](#)

**Followed by:**  
6 I.E.R. Cas. (BNA) 556 [p.558](#)

**NEW MEXICO SUPREME COURT**

133. **Followed by, Cited by:**  
[Bourgeois v. Horizon Healthcare Corp.](#), 117 N.M. 434, 872 P.2d 852, 1994 N.M. LEXIS 150, 33 N.M. B. Bull. 544, 9 I.E.R. Cas. (BNA) 596, 128 Lab. Cas. (CCH) P57765 (1994) [LexisNexis Headnotes](#) [HN16](#), [HN19](#)

**Followed by:**  
117 N.M. 434 [p.439](#)  
872 P.2d 852 [p.857](#)

Again, California's Supreme Court led the nation with 160 decisions followed three or more times, and 45 decisions followed five or more times. The Supreme Court of Washington was second with 72 decisions followed three or more times, and 17 decisions followed five or more time.

"Shepard's® Citations Service is compiled by professional legal editors, who have used consistent standards for more than 100 years."

Edward W. Jessen  
California Reporter of Decisions

#### Benefits:

The study provides another perspective on the unique value of *Shepard's* Citations Service, which has been a cornerstone of the legal-research process since 1873. Generations of lawyers, judges and other legal researchers *Shepardize*® their cases to be sure they are still good law and to retrieve comprehensive lists of authorities that have cited those cases. But the use of *Shepard's* editorial analysis in a major study of court influence is something new.

"*Shepard's* Citations Service is compiled by professional legal editors, who have used consistent standards for more than 100 years," said Jessen. "Through the analysis of its legal editors, *Shepard's* has continuously applied its unique 'followed' designation when 'the citing opinion relies on the case... as controlling or pervasive authority.' Accordingly, we believe the data compiled for this study is objective and a good measure for defining influence."

*Shepard's*® Citation Service, available exclusively on LexisNexis, uses skilled attorney-editors whose sole responsibility is to analyze court opinions to ensure that even the most subtle impact on cited decisions is reflected. Today, *Shepard's* on *lexis.com*® combines this reliable, time-tested editorial analysis with powerful navigational tools, making it easier and faster than ever before for legal researchers to be sure they have marshaled the best authorities and researched sound conclusions.

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