

## Citation Services: Deep Analysis and Unique Product Details Lead Researchers to *Shepard's*® Citations Service at *lexis.com*®

*Shepard's*® Citations Service at *lexis.com*® offers more of the features essential to legal researchers:

- More Vital **Citing References Surfaced** Quickly. (See page 2.)
- More **Complete, Detailed Analysis** of the Court's Actions (See page 2—and find out what's missing in the "stars.")
- More **Headnote Tools** to Identify Specific Legal Issues (See page 4.)
- More Tools to Navigate and Pinpoint **the Right Facts Easily** (See page 6.)
- More Case Analysis in **Tables of Authority** to Determine Case Underpinnings (See page 7.)

Who really offers more citing references? See page 8.

*It's impossible [for] competent counsel to use a case and not Shepardize® it and not realize that the same case [had been] modified a year later.*

— *Mardirossian & Associates, Inc. v. Seth Ersoff et. al*, 2007 Cal. App. Unpub. LEXIS 4841 (June 18, 2007)

For more than 135 years, *Shepard's* Citations Service has been the legal community's early warning system, alerting attorneys and judges to vital changes in the authorities used as case foundations and even leading researchers to newer, stronger cases.

Why do so many judges and lawyers rely on *Shepard's* Citations Service, exclusively from LexisNexis®, when it comes to validating research?

There are competitive, more recently introduced citation services, such as the KeyCite® service from West Publishing Corporation. Legal researchers and courts continue to cite—and rely upon—*Shepard's*. **Court staffs even choose *Shepard's* for major research projects.**<sup>1</sup>

*The process of "Shepardizing™" a case is fundamental to legal research and can be completed in a matter of minutes....*

—*Meadowbrook v. Flower*, 959 P. 2d 115, 120 (Utah 1998)

It's a matter of trust. Researchers using *Shepard's* know that federal and state authorities have been read and analyzed by LexisNexis® editors, who can recognize implied things in a case, even when they're not stated, much better than just discussion length alone, which can miss the subtle or implied elements. For example, a succinctly written opinion that questions, criticizes or distinguishes another case may be missed.

<sup>1</sup> Jake Dear and Edward W. Jessen, "Followed Rates" and Leading State Cases, 1940 – 2005, 41 U.C. Davis L. Rev. 683, 694 (2007). Dear and Jessen determined that *Shepard's* exclusive "followed by" treatment can be quantified and measure a state supreme court's influence. Read more of the research findings at <http://www.lexisnexis.com/document/shepardstudy.pdf>

## What's Missing in the "Stars"?

West Publishing Corporation heavily touts the "KeyCite Star system" as an advantage over *Shepard's*. The KeyCite Star system attempts to rate the relative importance of citing cases based on the length of discussion, not the substance of discussion. It assigns a star value to each case that cites to your case. Four stars indicates a discussion of more than a page; three stars means discussion of less than a page, more than a paragraph; two stars means less than a paragraph, more than a passing reference; and one star indicates a passing reference (string citation, for example).

This system clearly implies users need only concentrate on those citing cases that discuss their case at length. But what if a citing case says something vital about your case—in concise language? For example, if a citing case states, "Plaintiff urges us to follow *Jones v. Smith*; however, the analysis in that case is flawed, and we reject it," KeyCite would likely assign that case only two stars (cited).

Though West® often describes the Star system as a "depth of analysis" tool or "depth of treatment stars," the stars offer no depth of analysis or treatment. Only *Shepard's* offers that degree of depth through full-spectrum analysis.

And *Shepard's* Citations Service offers more of the features essential to legal and court researchers:

### More Vital Citing References Surfaced Quickly

*Shepard's* surfaces the most important information—in a summary box right at the top of the report. Researchers can view the details; no clicks needed. And they can navigate to the report sections most relevant to their analysis easily. *Shepard's* Summaries show:

- negative analysis in the Subsequent Appellate History chain
- phrases assigned to citing references
- what is generating the signal value assigned to the case
- other sources which cite to the case, e.g., law reviews, treatises, statutes and court documents.

Additionally *Shepard's* Summary lists the LexisNexis® headnotes of the *Shepardized*™ case matched to citing cases discussing similar points of law. You can also find a link to the full-text headnotes of the *Shepardized* case.

When you enter a cite on KeyCite, you get what KeyCite calls "History," which is the direct appellate chain and citing cases assigned negative analysis. To move to non-negative KeyCite citing references requires an additional link.

### More Complete, Detailed Analysis of the Court's Actions

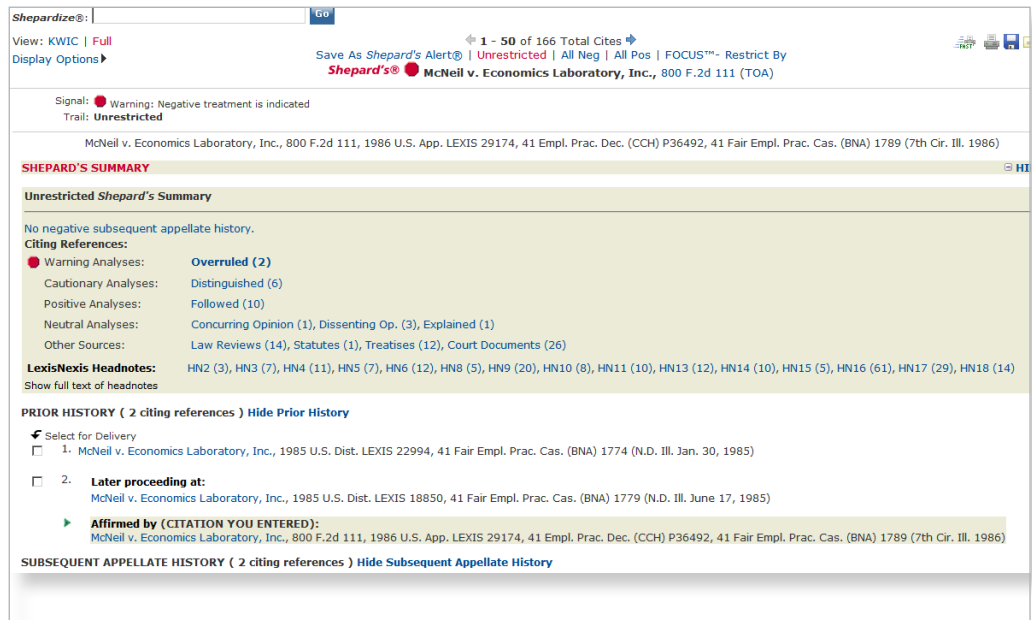
"Full spectrum of analysis," interpreting how a judge actually treats a case, is more important than the length of the judge's comments.

**Only *Shepard's* delivers this true depth of analysis**, applied by highly skilled legal editors whose sole responsibility is to read cases and apply analysis, ranging from very negative treatment (e.g., overruled), validity questioned (e.g., questioned by), mild negative (e.g., criticized), neutral (e.g., explained), to the positive (e.g., followed by).

**The critical differentiator is the phrase "followed by."** Only *Shepard's* reports show when cases have been expressly followed on one or more points of law by a citing case. **Thus, only *Shepard's* Citations is able to surface the possibility of a "split of authority,"** that is, when one case stands for multiple issues of law, and *one of those issues is subsequently overruled while another issue is expressly followed.*

## Compare Reports:

*Shepard's* Summary shows you the complete picture. See at a glance negative and positive treatment—even identifying a potential split of authority where one point of law is overruled but another—perhaps the one you need—is expressly followed. Navigate quickly to any reference.



Shepardize®:  Go

View: KWIC | Full  
Display Options ▶

Signal: ● Warning: Negative treatment is indicated  
Trail: **Unrestricted**

McNeil v. Economics Laboratory, Inc., 800 F.2d 111, 1986 U.S. App. LEXIS 29174, 41 Empl. Prac. Dec. (CCH) P36492, 41 Fair Empl. Prac. Cas. (BNA) 1789 (7th Cir. Ill. 1986)

**SHEPARD'S SUMMARY**

**Unrestricted Shepard's Summary**

No negative subsequent appellate history.

**Citing References:**

Warning Analyses:	<b>Overruled (2)</b>
Cautionary Analyses:	Distinguished (6)
Positive Analyses:	Followed (10)
Neutral Analyses:	Concurring Opinion (1), Dissenting Op. (3), Explained (1)
Other Sources:	Law Reviews (14), Statutes (1), Treatises (12), Court Documents (26)

**LexisNexis Headnotes:** HN2 (3), HN3 (7), HN4 (11), HN5 (7), HN6 (12), HN8 (5), HN9 (20), HN10 (8), HN11 (10), HN13 (12), HN14 (10), HN15 (5), HN16 (61), HN17 (29), HN18 (14)  
Show full text of headnotes

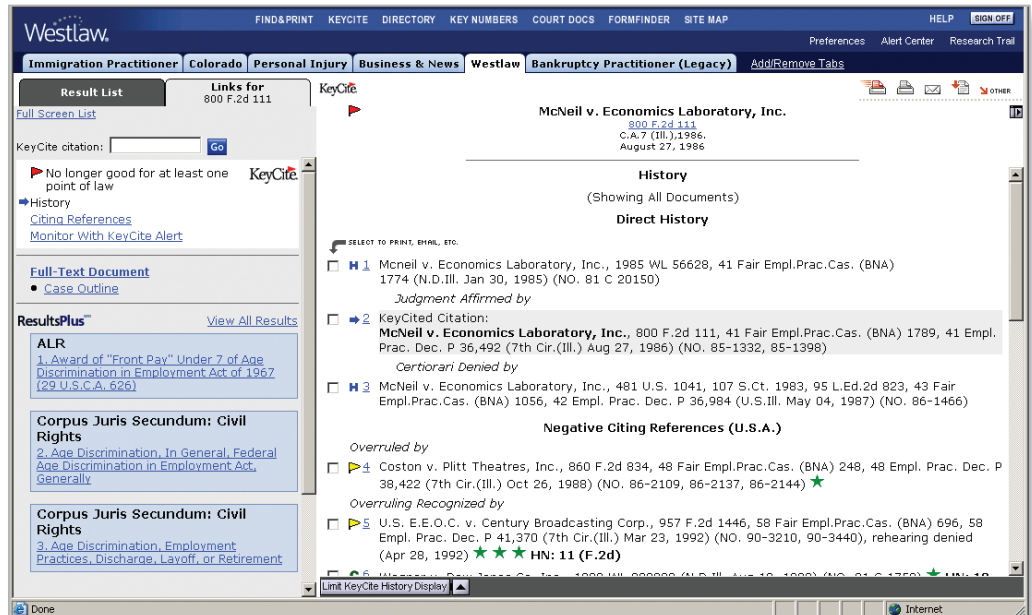
**PRIOR HISTORY ( 2 citing references ) Hide Prior History**

☒ Select for Delivery

1. McNeil v. Economics Laboratory, Inc., 1985 U.S. Dist. LEXIS 22994, 41 Fair Empl. Prac. Cas. (BNA) 1774 (N.D. Ill. Jan. 30, 1985)
2. **Later proceeding at:**  
McNeil v. Economics Laboratory, Inc., 1985 U.S. Dist. LEXIS 18850, 41 Fair Empl. Prac. Cas. (BNA) 1779 (N.D. Ill. June 17, 1985)  
**Affirmed by (CITATION YOU ENTERED):**  
McNeil v. Economics Laboratory, Inc., 800 F.2d 111, 1986 U.S. App. LEXIS 29174, 41 Empl. Prac. Dec. (CCH) P36492, 41 Fair Empl. Prac. Cas. (BNA) 1789 (7th Cir. Ill. 1986)

**SUBSEQUENT APPELLATE HISTORY ( 2 citing references ) Hide Subsequent Appellate History**

KeyCite reports do not have a Summary, nor do they include positive analysis (followed by), and you cannot identify a potential split in authority. You only know at least one point of law is no longer good.



Westlaw. FIND & PRINT KEYCITE DIRECTORY KEY NUMBERS COURT DOCS FORMFINDER SITE MAP HELP SIGN OFF

Preferences Alert Center Research Trail

Immigration Practitioner Colorado Personal Injury Business & News Westlaw Bankruptcy Practitioner (Legacy) Add/Remove Tabs

**Result List** Links for 800 F.2d 111

Full Screen List

KeyCite citation:  Go

No longer good for at least one point of law

History  
Citing References  
Monitor With KeyCite Alert

Full-Text Document  
Case Outline

**ResultsPlus™** View All Results

**ALR**  
1. Award of "Front Pay" Under 7 of Age Discrimination in Employment Act of 1967 (29 U.S.C.A. 626)

**Corpus Juris Secundum: Civil Rights**  
2. Age Discrimination, In General, Federal Age Discrimination in Employment Act, Generally

**Corpus Juris Secundum: Civil Rights**  
3. Age Discrimination, Employment Practices, Discharge, Layoff, or Retirement

**McNeil v. Economics Laboratory, Inc.**  
800 F.2d 111  
C.A.7 (Ill.), 1986  
August 27, 1986

**History**  
(Showing All Documents)

**Direct History**

SELECT TO PRINT, EMAIL, ETC.

1. McNeil v. Economics Laboratory, Inc., 1985 WL 56628, 41 Fair Empl.Prac.Cas. (BNA) 1774 (N.D.Ill. Jan 30, 1985) (NO. 81 C 20150)  
Judgment Affirmed by
2. KeyCited Citation:  
**McNeil v. Economics Laboratory, Inc.**, 800 F.2d 111, 41 Fair Empl.Prac.Cas. (BNA) 1789, 41 Empl. Prac. Dec. P 36,492 (7th Cir.(Ill.) Aug 27, 1986) (NO. 85-1332, 85-1398)  
Certiorari Denied by
3. McNeil v. Economics Laboratory, Inc., 481 U.S. 1041, 107 S.Ct. 1983, 95 L.Ed.2d 823, 43 Fair Empl.Prac.Cas. (BNA) 1056, 42 Empl. Prac. Dec. P 36,984 (U.S.Ill. May 04, 1987) (NO. 86-1466)

**Negative Citing References (U.S.A.)**

Overruled by

4. Coston v. Plitt Theatres, Inc., 860 F.2d 834, 48 Fair Empl.Prac.Cas. (BNA) 248, 48 Empl. Prac. Dec. P 38,422 (7th Cir.(Ill.) Oct 26, 1988) (NO. 86-2109, 86-2137, 86-2144) ★

Overruling Recognized by

5. U.S. E.E.O.C. v. Century Broadcasting Corp., 957 F.2d 1446, 58 Fair Empl.Prac.Cas. (BNA) 696, 58 Empl. Prac. Dec. P 41,370 (7th Cir.(Ill.) Mar 23, 1992) (NO. 90-3210, 90-3440), rehearing denied (Apr 28, 1992) ★ ★ ★ HN: 11 (F.2d)

Limit KeyCite History Display

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*A split of authority may also occur when a court in one jurisdiction expressly follows a case while a court in a different jurisdiction expressly overrules the same case.*

For example, *Shepard's* Summary might show both “criticized by” and “followed by” as editorial phrases assigned in the same *Shepard's* report—an excellent indication there might be a split of authority. It signifies that the holding of the case being *Shepardized* on a specific issue of law has been followed by one court and the same analysis on that specific issue has been rejected by another court.

Courts generally do not overrule, vacate, reverse, etc., a case in its entirety. Generally a case is overruled, vacated, reversed, etc., on less than all of the issues addressed in that case, leaving intact those points of law not considered. **With both positive and negative treatment, only *Shepard's* can surface this possibility.**

One more important advantage of the “followed by” phrase: It’s also an excellent marker for researchers seeking additional authority to support their specific point of law. And because researchers can navigate among citing references quickly and easily—focusing to specific points of law or headnotes and to specific phrases—it’s an efficient method for expanding a table of supporting cases.

KeyCite limits editorial analysis for citing cases to negative treatments, based on the false assumption that the only essential research is to determine if a case has been treated negatively, i.e., is it still good law? While certainly important, this simplistic approach belies the fact that a case may be “bad law” on one issue but still valid on a different issue—the very issue a user is researching. Unlike *Shepard's*, KeyCite lacks positive analysis (followed by) and cannot alert users that further research is needed to understand if your case is still valid for a particular point of law.

### **More Headnote Tools to Identify Specific Issues of Law**

The purpose of headnotes in a citation service is to identify citing cases that discuss the specific issue of law researchers are studying in the case they are checking. *Shepard's* and KeyCite both incorporate the headnotes of their individual systems.

*Shepard's* approach provides **three major ease-of-use advantages over KeyCite**:

1. *A common concern for researchers is remembering which case headnote they were researching.* Thus they need to refer back to the text of their case's headnotes from within the citator. *Shepard's* reports allow access to the headnotes several different ways:
  - a link to the list of headnotes in the *Shepard's* Summary box
  - each citing reference that has been assigned a LexisNexis headnote includes a link to the text of the headnotes
  - the FOCUS™- Restrict By form includes a link to the headnote text

Each of these links opens a separate window containing the text of the headnotes from the *Shepardized* case.

Within KeyCite, you can only find the headnotes by clicking the "Limits" tool, which is the KeyCite version of restrictions.

2. *Shepard's actually offers headnote links from the Shepard's citing reference to the specific citing case itself.* Click a headnote link and move to the citing case—to the location where the court is discussing the legal issue of interest. In other words, the user is taken to the relevant portion of the citing case.

In KeyCite, there is only one link on a citing case, and it always takes the user to the first mention of the KeyCite citation, not necessarily the relevant portion of the citing case.

3. *Shepardize: Restrict By Headnote*: Click this link in a full-text case at *lexis.com* and *Shepardize* the case you are viewing, then filter the report to just those citing cases that discuss the issue contained in that headnote automatically. At *lexis.com*, this link only appears if there are citing references in *Shepard's* that have been matched to that headnote.

In Westlaw®, every headnote has a link that performs a similar interaction with KeyCite—except often this link simply takes you to a KeyCite report indicating there are no citing cases matched to that headnote.

## More Tools to Navigate and Pinpoint the Right Facts Easily

### What Does This Editorial Phrase Really Mean?

One of the most common questions citator users have is “What does this editorial phrase mean?”

Within *Shepard's*, hover the mouse over the phrase, and the phrase becomes a link. Click that link and get the phrase definition and its value. (You can also link to the complete list of all *Shepard's* phrases and definitions.)

KeyCite does not have a similar feature. However, users can call the customer help line to find out what a KeyCite phrase means.

### Pinpointing the Relevant Jurisdiction

One of the most important factors that researchers consider when reviewing citing cases is the jurisdiction of the citing cases.

Unlike *Shepard's*, KeyCite and its Star System, only *Shepard's* arranges citing cases by specific jurisdiction, and users can link to the citing cases from the most relevant jurisdiction immediately.

### Navigating and Filtering Tools

Both services have ways to revise the report views to help make it easier for users to manage large reports. *Shepard's* has superior filtering and navigation tools, making it much more efficient—and easier—to work with:

- *Shepard's*: A one-stop FOCUS™ Restrict By form lets researchers customize the *Shepard's* report by filtering it based on individual editorial phrases, jurisdiction, LexisNexis headnotes, or date (year). Additionally, researchers can enter FOCUS search terms to identify citing documents that contain those terms. All of these options are on one form and can be combined with one another.

KeyCite: The similar option is its “Limits” feature, but each option appears on a different page, which makes combining filtering features cumbersome.

- *Shepard's*: Researchers can select filters such as “all negative” and “all positive.”

KeyCite: Does not offer this because its only editorial filter is negative—the only editorial treatment it provides.

- *Shepard's*: Links from *Shepard's* Summary take researchers to the first place in the report where the selected item occurs. Then a navigation bar in the lower right corner allows simple navigation to subsequent occurrences. For example, if researchers see in the *Shepard's* Summary that their case has been followed 11 times, they simply click the "followed" link, which moves them directly to the first citing case assigned "followed by." Thereafter they can use the navigation bar to move among the remaining cases.

KeyCite: no similar feature.

### **Display Options/Default Options**

Researchers need a variety of options to display their citation reports—at the individual report level and at the default display level.

*Shepard's* Citations offers the option to display or hide the citing reference signal indicators (i.e., the graphics indicating the signal value of the citing cases themselves), point pages and LexisNexis headnotes. Plus researchers can set the default results to the full, complete report—or to all negative, all positive or any citing reference assigned an editorial phrase.

KeyCite always defaults to an "all negative" result.

### **More Case Analysis in Tables of Authority to Determine Case Underpinnings**

Tables of Authority (TOA) provide a list of the cases cited by your case. Both KeyCite and *Shepard's* provide products called "Table of Authorities."

*Shepard's* TOA is superior because it also provides the editorial treatment phrase indicating how your case treated the case(s) it cited to. Researchers can quickly determine which cases a case relied upon (indicated by the phrase "following") and which cases it differentiated itself from (for example, "distinguishing" or "criticizing"). It's much easier to determine the underpinnings of your case.

The KeyCite TOA is simply a list of cases.

## Who Really Offers More Citing References?

A common perception is that KeyCite has superior coverage of citing references. This view is typically based on the total number of citing references in the KeyCite and *Shepard's* reports for the same case. The bottom line is that, objectively, *neither service has a dramatically superior collection of secondary citing documents, since both systems have very different coverage*. Each service has citing sources that the other does not.

Law Reviews: Both systems cover hundreds of law reviews and include them as citing references. The publications are not 100 percent identical, so there are some publications one service might show as a citing reference that the other might not.

Treatises: Only *Shepard's* can include citing references to premier Matthew Bender® treatises, a LexisNexis exclusive. KeyCite does cite to treatise materials that are not covered within *Shepard's*.

Statutes: Only *Shepard's* will show statutes as citing references to a case. Typically these are statutes where the case appears as an annotation to the section. Once in a while a statute specifically cites to a case, and those are included as well. KeyCite does not include statutes as citing references to cases.

Court Documents (Briefs, Pleadings, Motions, etc.): Both services include citing references to online briefs, pleadings and motions. West has a larger collection of this sort of material online, so naturally it will show more of these as citing references. LexisNexis is more selective, adding only the documents from the most relevant cases, e.g., newer cases and influential cases, and thus often has fewer or different citing court documents.

Comparison data based on information available as of 03/12.

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