Faculty Guide: First Year Legal Research & Writing Exercises

This guide includes a series of lesson plans and integrated exercises covering basic research concepts and skills using the Lexis+™ service. The green text is intended to guide instructors through each lesson explanation and search examples. If you are interested in providing this resource to students or specific lessons individually, please contact your LexisNexis® representative who will be able to provide you with complementary copies of a student version of the guide.

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Class Prep With Lexis+™

This lesson will cover methods using online legal research to help your students prepare for class and better understand the legal principals discussed in class.

An Important Resource: The LexisNexis® for Law School Homepage (lexisnexis.com/lawschool)

Often you can find helpful resources to assist you in learning about performing legal research and how to prepare for classes and exams on the LexisNexis law school homepage.

The homepage contains information that will assist you in learning about legal research and, more immediately, how to prepare for classes and exams.

- Class and Exam Preparation Resources—review by clicking on the Resources link and find helpful materials like free BARBRI® outlines and a 1L Success Toolkit.
- Find contact information for your LexisNexis® representative on the left middle of the page, as well as LexisNexis employed student reps. LexisNexis representatives are resources for your students. They can answer questions about how to conduct research with LexisNexis products and help students learn how to use the products to succeed in law school.

Preparing for Class With Confidence

Legal research will be an important skill that your students will use throughout their time in law school and the earlier they start, the more proficient they will be in the workplace. Students can immediately begin using the Lexis+ service to prepare for class.

Start Your Research Here: Quickly Find What You Need

- Explain to students that they can pull up a case by typing a citation into the search box or by searching for the party names.
• The intuitive word wheel will provide helpful suggestions like additional terms for the search, related documents and sources, and AI-driven answers to almost any question.

Type a legal concept into the search box to show the word wheel, (you can explain that it is like any other search on the web). Lexis+ recommends related sources, documents, legal phrases and questions. Example: due diligence

Be Fully Prepared Using Case Briefs

Students can supplement their casebook reading assignments with the Law School Case Briefs, which are included with the school’s LexisNexis subscription.

These will help supplement a student’s reading by highlighting important facts and issues discussed in the case.

1. Pull up a case
   Type a citation or the case name

   Example: 46 Wn.2d 197 or Garratt v. Dailey
2. Pull up a case brief and explain

The case brief is a prepared summary of each case commonly included in the 1L curriculum. It gives you the Rule, Facts, Issue and Conclusion.

LexisNexis case briefs can also be found on the open web by simply typing the case name and “lexis” (e.g. garratt v. dailey lexis) into any search engine—giving you quick access to the brief when it is needed with no login required.

3. Review LexisNexis headnotes for additional guidance

LexisNexis headnotes are mini outlines of the important Points of Law or Legal Holdings of a case, pulled directly from statements in the court’s opinion. Each Headnote contains a topic heading to show you what is discussed. LexisNexis headnotes are special because they are not prepared by editors. The language of our headnotes are verbatim what the court said.

Student Tip: Together, case briefs and headnotes will be very helpful with class readings and understanding why a case is important.

After the case brief explanation, scroll down to the headnotes. Using the Garratt case, scroll to HN1 to show a discussion about a tort against a minor and then show how the arrow allows a researcher to go back and forth between the opinion and the headnotes.

Note to Faculty: LexisNexis headnotes are rules and statements taken directly from the court’s opinion and categorized.

Note to Faculty: casebook versions of the case may be shortened/abridged so students should make sure to read the case in their casebooks.

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Next, move on to Exercise #1 and give the students 3 – 5 minutes to complete on their own. Ask for answers and review the steps for everyone.

Exercise #1

Type the party name “Palsgraf” into the Lexis+ search box and click on the suggestion from the word wheel for Palsgraf v. Long Island R. Co., 248 N.Y. 339. This is the famous negligence case that you reviewed in the Torts session earlier this week. Let’s practice how to get a jump-start on analyzing the case.

Question 1: What was the Conclusion of this case?
Answer: The railroad company could not have reasonably foreseen the type of injury that occurred, so they could not be held liable for negligence.

Question 2: According to Headnote #1, negligence is the absence of________________________?
Answer: care, according to the circumstances

Give students another 3 – 5 minutes to complete Exercise #2.

Exercise #2

Let’s try another case. Enter the citation 169 A.D.2d 254 in the search box (don’t worry about spacing or periods).

Question 1: Why did the new owner of the house seek to have the contract rescinded?
Answer: plaintiff learned the house had a reputation of being possessed by poltergeists.

Question: 2: According to the Conclusion, who was responsible for creating the reputation at issue in this case?
Answer: defendant herself had created and perpetuated the reputation the house was haunted.

Lexis Answers®

The Lexis Answers feature gives you baseline answers to legal questions by using Artificial Intelligence (AI) technology to find definitions and relevant case law for quick, reliable answers.
Using the topic, Duty to Disclose defects, type in Duty to Disclose into the search box and highlight where suggested questions are located. Click on the result for: What is the Definition of Duty to Disclose?“.

- You can do a search on essentially any legal question. More common questions include a definition, burden of proof, standards of review, and elements of a claim or defense, statute of limitations or the name of a judge.
- Once you click Search, the Lexis Answer card, located at the top of your search results, gives you a concise answer that you can quickly review to get an understanding of the topic. At the bottom of the card, you can link to the authoritative source to learn more about the answer.
- Search “Who is” and the name of a judge for quick access to information including a detailed view of the most recent and noteworthy opinions.

Search: who is judge john roberts and click on the suggested SC judge to show the Judge cards.

Use Secondary Sources for Extra Guidance

[leixnexas.com/lawschool]
You can explain to your students that secondary sources are resources that help them gain an understanding of the law, like “cookbooks” for attorneys. They are not binding legal authority, like a case or a statute, but do provide a helpful analysis on how a legal issue is applied by the courts.

Some of the common secondary sources that will be helpful for first year students are Treatises, Jurisprudence (AmJur and ALR) and Restatements.
- The Lexis+ platform allows you to electronically search these sources and directly link to helpful descriptions of the law, which is great for class prep.

Get a Summary of the Law with Secondary Materials

_Since this is the first time you will be searching the system (rather than pulling up a document), explain how the search process works and explain that the quotations around a phase ensure that the system reads it as one term and not two words, which could cause irrelevant results to be retrieved._

**Example: “erie doctrine”**
- Lexis+ will search for the term “erie doctrine” and find all relevant documents that match it. The system will default to search all content.

_The different types of content are organized in a dropdown in the top left. They are organized by category of resources allowing you to select exactly what you are looking for. Show the dropdown category menu._

- Reviewing results, there are different types of content in the dropdown menu on the left side of the screen, e.g. cases, statutes, secondary materials, etc.
- Choose the **Secondary Materials** option to view relevant secondary materials like AmJur, ALR, law review articles and restatements. Also included in Secondary Materials are thousands of area-of-law and subject-specific **Matthew Bender® Treatises & Practice Guides** that are exclusively found on Lexis+ and used extensively in practice. These are excellent resources to get an in-depth review of a specific legal question.
- Results are automatically sorted by relevance, toward the top of the results list.
You can show your students how to change the way that their results are sorted. Click on the Sort by: option on the top right of the page to show the different ways that the results can populate.

**Find the Source You Want Using Filters:** Search filters, such as **Category**, **Jurisdiction** and **Sources**, make it easy to narrow a set of results to match your research needs. Click on **Practice Guides** under the Category filter, then scroll down to **Source** to view a list of specific publications where the results appear. Click on §3-II

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**Understanding the Erie Doctrine**

Treatises and Practice Guides provide excellent analysis of tough legal concepts in an easy-to-read format. Some sources include helpful checklists, charts and videos that are great for 1Ls.

- The Wagstaffe Group: Federal Civil Procedure before Trial is one such practice guide with over 100 short videos and expert guidance on some of the toughest civil procedure topics.

*Once in §3-II, go over the section and point out the video and transcript as well as the analysis and cross references to other helpful sources after the video. Play the first video as an example of what the videos are like.*
Don’t Miss Important Items with the Table of Contents View

The table of contents (TOC) can be used to see if there are other sections of a source that are relevant to the research being conducted.

- **Click the TOC arrow on the left to see** where the section being viewed falls within the TOC and other potentially related sections. This is like looking at the book version of the secondary source.

- **This is also great way** to get an overview of the source and make sure you are viewing all relevant sections related to the topic in which you are working.

*Give students 5 minutes to complete exercise #3, then ask for volunteers to show how they arrived at the answers.*

**Exercise #3**
You just learned from the *Palsgraf* case that negligence is the absence of care according to the circumstances. Let’s try to apply the absence of care according to the circumstances concept to a slip-and-fall case.

Question 1: If you search **absence of care according to the circumstances**, how many treatise sections appear in the results?

*Answer: 656 (as of May 2019)*

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Question 2: Narrow the search to treatises, name a treatise that looks on point for our research.

*Answer: Premises Liability—Law and Practice OR Personal Injury: Actions, Defenses, Damages*

*Note: you can also show how to search within results at this point. Type: slip and fall in the search within results box to narrow the treatises.*

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Question 3: Open the treatise in Question 2. What is the crucial factor to establish liability in a slip-and-fall case?

*Direct students to open Premises Liability section 2, Premises Liability—Law and Practice § 8A.03 (#1 in the results).*

*Answer: Showing that the defendant had notice of the hazardous condition.*

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*Finish the lesson with a recap of the materials covered to help them prepare for class: Case Briefs and Headnotes to help read and understand cases for class; and Secondary Sources to help fill in the gaps or learn more about the topics being discussed in class.*

**NOTES**

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**Start Your Open Research Assignment With an Advantage**

An open research assignment requires students to uncover the best cases and supporting legal documents, rather than those being provided by a professor. At some point during the 1L year, most students will be asked to perform research for an open assignment, typically drafting an open memo, summary judgment motion or
appellate brief. They will be given a legal issue, terms of art and a set of facts about the situation for which they will be asked to research. This section will show you how to equip your students with the tools and steps necessary to perform the proper research and successfully complete an open research assignment.

Sample Legal Research Problem

“Jeffrey” is a methamphetamine dealer in New Mexico. His business has been doing quite well ever since he teamed up with his old chemistry teacher from high school. He had a problem though: what to do with all of the money he was making. Fortunately, he had an unethical lawyer, who was very good (or so he said) at laundering money.

The lawyers plan was to ... well let’s just let him tell us what the plan was. https://youtu.be/SFKDmCbflMS4

*NOTE: Before playing the video, make sure there is audio in the room.*

Sometime after the purchase of the nail salon, one of the salon employees was arrested for drunk driving. While in custody, the employee told police about Jesse and his money laundering scheme. The police investigated and eventually arrested Jesse for money laundering under federal law.

His lawyer is confident that the federal prosecutors do not have sufficient evidence to convict, and has advised Jeffrey that he is sure he can get him off.

You are a summer law clerk for Jeffrey’s lawyer and have been asked to research this issue and get back to him by the end of the day with any information that you find in a memo.

*Note to Faculty: As homework, you can have students read the problem ahead of class and complete exercise #1. If your students have not read the problem, you can give them about 5 minutes to do so and then review the facts briefly.*

Overview: Steps That Your Students Can Use for Completing Their Research Assignment

**Step 1** Organize your research to be **methodical and efficient**. Use folders in Lexis+ to keep track of all your research. Brainstorm and identify search terms to begin your research and create an outline. A good outline will structure your paper and give you a checklist as you research.

**Step 2** Begin with a **Secondary Source**, like a jurisprudence article or section of a treatise. These materials give a concise overview of the law and lead to primary sources, like cases and statutes, which will be needed to analyze legal issues.

As mentioned in the class prep session, these types of sources are an excellent resource to learn about an issue. They will also help your students find relevant primary authority, like cases and statutes.

**Step 3** Research **Primary Sources** like cases and statutes and save time by using Lexis+ enhancements to find additional supporting authority. Use exclusive tools like Ravel™ View Search Tree and Legal Issue Trail™ when viewing cases to expand and complete your research quickly.

**Step 4** **Shepardize®** every case or statute being relied upon to ensure that it is “good” law and to further expand research.
You can let your students know that Shepardizing™ or validating authority is the last step once a relevant case or statute is found. While Shepard's is mentioned here, it is discussed further below.

**When is a student’s research complete?**

- **Students will not necessarily find something exactly on-point.** 1L writing assignments are typically created to intentionally present 1Ls the opportunity to argue by analogy, extension of the law, etc. However, when a researcher continues to find the same authority repeatedly, they are usually your best research results.

The terms used on the following page provide good results, but try and elicit responses from the class, giving them hints if necessary. You can explain to your students that they want to extract terms that are so essential to the legal issue that they would need to appear in a document for it to be deemed relevant. Give your students a couple of minutes to complete Exercise #1, then discuss.

**Exercise #1**

Before you begin to research, it is best to brainstorm and think of search terms within your legal research problem to use. What terms would you include in your search?

*Suggested terms: money laundering, insufficient evidence, drugs, methamphetamine*

________________________  ______________________  ___________________
________________________  ______________________  ___________________
________________________  ______________________  ___________________

Stay Organized With Work Folders and Free Printing

Set up a Folder to save your research. You can create folders while you are looking at a document or results list or from the **vertical ellipses dots** at the top right of the page before you begin your research.

- From a document or results page, click the Folder icon at the top of the page and choose a folder to save the entire document or selected text. When you drag and highlight any text, one of the options is Save to a Folder.

*Start with Step 1 and show your students how to get organized. Create a folder for this session and title it: Open Memo. Show that you can create sub folders when you are inside of a folder (create one if you like).*
Most schools also have a dedicated **LexisNexis printer** on campus that allows your students to print their research from Lexis+ searches free of charge. This is an excellent resource for students, so it is worth mentioning and showing them how to print.

*You can show your students how to print by clicking on the printer icon within a document and selecting the LexisNexis printer option, if available at your school. Use the print dialogue box to print the entire case, a portion of the case or just the case summary.*

**Starting with Secondary Materials**

**Get a Summary of the Law:** Generally, it’s best to begin any research assignment in Secondary Materials. These materials are written by legal experts and provide a comprehensive analysis of the legal topics at issue. It’s also a quick, efficient and comprehensive approach to identifying primary sources, such as cases and statutes.

*Tip:* Students will often skip Secondary Sources to save time, but instead, end up running inefficient searches without an adequate understanding of their topic. It is important to emphasize to your students that, even if they believe they know the topic, they should spend time on Secondary Sources to save time and increase accuracy in their search results.

Start with a search using some of the terms that were discovered during Exercise #1:
Explain what is happening when you run a natural language search (feel free to use your own explanation). When we type in a search on Lexis+, the results will contain documents that have all the words that we searched for. So, these secondary sources that appear have all our terms somewhere in the document.

**Search:** money laundering, then choose Secondary Materials from the Category dropdown menu.

As you type in the terms, stop at money laundering and allow the word wheel to suggest terms. Point out the different suggested results then finish typing the search.

Results in each content area will be ranked in order of relevancy, the most relevant documents appearing toward the top of the results list.

![Search results for money laundering](image)

You can review the different types of secondary sources available under the Category feature and the difference between them.

Review the different types of Secondary Sources under the Category filter on the left. Some of the more popular types of Secondary Sources for research are Treatises, Law Reviews and Journals, and Jurisprudence.

Important Secondary Sources

- **American Jurisprudence (AmJur) and ALR**—jurisprudence materials with plain English text of the law for all 50 states and links to primary authority. A legal encyclopedia.
- **Restatements**—common law rule statements with illustrations and case links.
- **Treatises**—Lexis+ contains thousands of area-of-law and jurisdiction-specific treatises that provide expert analysis of the law on that topic. Most are exclusive to LexisNexis.
- **Law Reviews and Journals**—in-depth review of current awareness issues in the law written by law school scholars.

Post-Search Filters
You can narrow the results with post-search filters to control and refine search results for additional precision.

- **Category Type**: Narrow your results to a specific type of Secondary Source. Select: Treatise
- **Source**: Narrow to a particular publication. Select: U.S. Money Laundering
- **Jurisdiction**: When working on a specific state law, this is a great filter to use.

Show students these three filters for secondary sources; explain that they can clear the filters to get back to the original results by clicking the “x.”

Select: 1 U.S. Money Laundering §9.04 to retrieve it. You can explain to your students that they can review the section to gain a brief overview of the the issue and case law related to money laundering. They can then use the links in the footnotes to access the cases and statutes directly on point with their issue.

Review the section. Show that through the footnotes you can link directly to a case or statute, or note it for later.

**Tip**: Remember to remind your students to save their research as they go. They will want to access these documents later, so encourage them to save to a folder. Click the Folder icon at the top of the page and choose a folder.

Save this document to the folder you created.

Show the Table of Contents. Point out that they can link to the Introduction Section or the Elements discussion in section 9.01 or 9.03. Read through section 9.04 a bit with the class to gain an understanding of the issue.
Tip: Remember that the Table of Contents gives you the ability to quickly access additional sections in the document. Click on the Table of Contents arrow to the left to expand the Table of Contents.

Case Law Research

Now that we have an overview of the law we can move on and look for additional case law on point. Click on the Category dropdown and choose Cases to start reviewing relevant case law. The results can be reviewed immediately or the researcher can apply filters and narrow them to find the best documents for this topic.

Click the back button, then click on the cases option from the Category dropdown. Here would be a good time to discuss that you are generally working with a set of facts that includes a jurisdiction and that is always a smart filter to apply. Let your students know post-search filters allow you to eliminate the results that do not apply to your research assignment.

Easily Spot Your Search Terms with Search Term Maps

Patented Search Term Maps give you the ability to quickly find your search terms within a case and will also show you exactly where your terms appear in the document. Search Terms Maps is available for over 35 types of Lexis+ content.

Look for the star in the map to see the most relevant portion of the document based on the highest concentration of your search terms.
You can explain to students that the ability to interpret and use visualization tools, like Search Term Maps, is becoming essential to legal research in practice. Further, it allows a researcher to determine relevancy without having to open a document, so it saves time, too.

**Add in Specific Facts with “Search Within Results”**

Search Within Results is a quick way to narrow results using additional search terms. This allows a researcher to find cases that contain additional terms, which may be helpful for their research.

**In Search Within Results, type “insufficient evidence.”**

Students should have identified that the main issue in the case is whether the government had sufficient evidence to convict. Guide them to try and find cases that discuss money laundering where insufficient evidence was at issue.

Searching within the results will find cases within this cite list that contain the phrase “insufficient evidence.” You can add additional terms (methamphetamine) or you can use other post-search filters to narrow to the results, e.g. Court: U.S. Federal, etc.

Search within results for methamphetamine to narrow it down again and show how to remove or edit a filter from the top bar.

**See Your Results Graphically with Ravel View**

Ravel View is another visualization tool designed to help researchers spot important cases. Click on the Ravel View option to show the graphical display—highlight the size of the bubble and the court and date axis, then show relationships.
Ravel View provides a visual overview of your top 75 search results, showing you both the most cited cases in your results (signified by the size of the bubble—the larger the bubble, the more times that case has been cited), relevancy of the cases (the higher a bubble on the axis, the more relevant) and the relationships between the top 75 cases, i.e., what cases have cited to one another and what they said.

You can take a closer look at how to spot a “good case” and use it to find additional authority. Go back to the search term map view and click the link to retrieve United States v. Cessa, 785 F.3d 165

United States v. Cessa is not a case that is typically found in textbooks so it does not have the Case Brief link. However, you can point out that there is also a Case Summary on every case found in a Lexis+ search.

Understand How Terms and Connectors Impact a Search Using the Search Tree

Use the search tree to see the relationship between search terms and connectors and the results retrieved. Your students will save time crafting searches by being able to see what terms and connectors caused their results to be what they are. Knowing when a term or connector is either causing results to be too broad or narrow will allow your students to quickly adjust searches to retrieve the results they desire. Anytime you see the research tree symbol you can view this analysis.

Craft a terms and connectors search to show the research tree. Search money laundering /75 insufficient evidence and drugs. You can give a brief explanation of the different terms and connectors and show the Advanced Search page found on the Experience Dock.
Spot the Important Issues with Headnotes

The headnotes (points of law) that have come from this case are listed below the case summary and are categorized by topic. Headnotes give a quick indication of whether a case may be on point and worth reading further. You can quickly link to the discussion of the headnote within the opinion by clicking on the down arrow.

Pull back up United States v. Cessa, 785 F.3d 165.

Headnotes are a mini outline of the legal topics discussed in a case and help you quickly identify potentially relevant cases. Scroll to Headnote 7 and point to the topic hierarchy, then click on the arrow to drop down to the opinion where this language was mentioned.

Properly Cite Your Authority

Your students will likely receive more instruction on how to properly cite to authority in future legal writing courses). Lexis+ has a copy feature that will display the proper format for a case or statute using a number of formats, including the newest edition of The Bluebook.

Highlight a portion of text and click Copy Advanced to display the formats. Mention that Standard is the most current edition of The Bluebook.

Most legal research assignments require students to show where they found a particular argument, i.e., cite your authority. There are multiple citation formats, but the most common forms used in law school are The Bluebook & ALWD.
Lexis+ allows text to be highlighted and the researcher can choose a citation format to insert into their work. *Highlight the text then select Copy (Advanced) and choose your desired format. This will allow you to copy and paste the segment of text, along with the citation in the proper format, including the pinpoint page. “Standard” is the most recent edition of The Bluebook.*

Use Ctrl+C or a mouse to copy the contents of this box to be able to paste into Word, an email or other document.

The hyperlinked citation takes you right back to the quote in the full case document in Lexis+.

*Demonstrate this feature in a Word document before moving on. Show customization options (italic vs. underline).*

**Find Additional Supporting Authority with the Legal Issue Trail Feature**

Once you find an on-point case, the Legal Issue Trail tool is great for finding additional cases that discuss a specific part of your case. To activate the Legal Issue Trail, click Activate Passages in the right hand panel of the case under About This Document. Legal Issue Trail will segment the case into various legal issues, outlining them with purple boxes. Select a specific passage or issue from the case and track that issue through time.

Legal Issue Trail lists cases that cite to the case you are viewing as well as the authority cited by your case for that legal issue.

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ii. Analysis

Drawing all reasonable inferences in favor of the government, the evidence establishes, at best, that Hulton knowingly accepted drug money from known drug dealers in exchange for horse-training services. Although this had the effect of concealing the proceeds of Los Zetas’ illegal activities, that alone is not enough to show that Hulton joined the conspiracy knowing its purpose was to conceal the source or nature of the funds. See Caetlar, 553 U.S. at 567.

Every Government witness who testified about Hulton testified that he was a reputable horse trainer and that he was not involved in Los Zetas’ illegal bribery, extortion, or drug-trafficking activities. For instance, Mario...

Clicking on a case from the list will direct you to the discussion of your case so you can see exactly what was said.

Explain the report noting that, Regalado is a case that was cited by Cessa and we should look at it as it is likely a relevant case. United States v. Stanford is potentially relevant because it cited our case for the selected legal issue. You can also click on a case from the report to show that it automatically takes you to the portion of the case that cites the issue.

Give students 5 minutes to complete this exercise on their own. Then ask volunteers for answers.

Exercise #2

Let’s go back to our results list and review the case tools. Click on the United States v. Keck, 643 F.3d 789 case.

1. Which headnote discusses the Right to Confrontation?
Answer: HN6 (HN7 also works)

2. At which page number will you find a Right to Confrontation discussion in the opinion?

Answer: 795 – 96


Answer: Crawford v. Washington, Melendez-Diaz or United States v. Pablo

Make Sure Your Case is “Good Law” with Shepard’s® (More detail coming in Lesson Three)

First year law students need to understand Shepard’s Citations Service. All primary authority should be Shepardized™ in order to determine whether it’s still valid/good. Shepard’s can also be used to find additional related case law and other authority.

The Shepard’s service provides a detailed report of how your case has been treated by other courts. The signal next to the case name provides a way for a researcher to immediately know the status of their primary authority.

Hover over the symbol next to the case name to show that it tells you what the symbol means. Briefly mention the Shepardizing feature and that it will be covered in more detail in a later lesson.
Statutory Research

Often at this point in the research process, you will have found the applicable law on point through either a Secondary Source or from the case law. If not, you can quickly view related statutory materials by going to the results page.

*Click History at the top of the page to navigate back to a previous search. Mention the “view all history” option to get to older documents and searches Click on the money laundering search from the search history list.*

To view statutes (codes) on this topic, choose the Statutes and Legislation option in the Category dropdown. This will provide the statutes, codes and related legislative materials for the search.

Typically, you will narrow this category to Codes and choose the Jurisdiction you are researching, (e.g., Jesse Pinkman is being charged with a federal crime), so we would want to choose U.S. Federal under Jurisdiction.

*Scroll through the results list and click on a statute to open it. Point out the general layout and table of contents. The main goal here is to give them a framework of how to find statutes in the future—whether researching federal or state statutes.*

Review

At this point, your students should have a solid foundation to tackle any research assignment in law school or employment. They can use this basic method to start any research assignment.

*You can conclude by summarizing the steps: organize, secondary sources, case and statute tools, and Shepardize (which we’ll discuss in another lesson).*

**Have Confidence in Your Citations With Shepard’s®**

*Shepard’s Citations Service Helps You Know What to Rely On*
The law is constantly evolving and changing. When you look at cases and statutes, you need to know if the legal principles you are relying on from those cases and statutes are still good law.

*Shepard’s* is a legal citator that tells you how your authority has been treated, so you can determine whether you are using valid (good) law. *Shepard’s* Citations Service is only available from LexisNexis and it is the superior alternative for legal citators. Not only will you be able to validate your law, you will be able to use *Shepard’s* reports as a research tool to find other authority.

**Use the Shepard’s Report to Validate What You Cite**

A *Shepard’s* report shows you all other legal authorities that have cited to the case or statute you want to use. When conducting legal research, two questions need to be answered:

1. **Do You Have Good Law?**
   
   You can feel confident you have good law with *Shepard’s*. The law changes, so you must make sure the law you’re relying on is valid – that it hasn’t been overruled, abrogated, deemed unconstitutional or treated negatively (criticized, distinguished, questioned). Any of these could weaken your argument.

2. **Is Your Research Complete?**
   
   It’s important to feel confident that your research is complete. The most efficient way to expand your research, and make sure you’re not missing important relevant law, is with the *Shepard’s* Citations Service. You can build more effective arguments and find more supporting authority to easily improve the depth and quality of your research.

*The following video provides a real-world example of Marsha Clark being asked if she Shepardized a statute during the OJ Simpson trial: [https://www.youtube.com/watch?v=QFOY0Glg0gU]*

**Shepard’s Signal™ Indicators Are Shortcuts, Not Answers**

Think of the *Shepard’s* Signal indicator as the cover of a book. The signal will give you an idea of what the book is about, but you cannot intelligently discuss the book without reading further.

Your first step when *Shepardizing* is to look at the signal associated with the authority you are viewing. This will give you a quick indication of how to proceed with the case. The signal will tell you what your next step should be.

*Briefly review the different symbols in your own words highlighting the importance of the red signals and their implication. Refer students to the table below to get a more in-depth description of the signals.*
Highlight the point that the signals are issue-specific and that even though a case may have negative analysis for one issue, it may still be fine to use for other issues. Oftentimes courts will only overrule one or a few rules of law, leaving others still valid. Mention that this will be highlighted more as you move through the lesson.

Shepard’s Signal Indicators In-Depth

**Warning: Negative treatment is indicated**
The red Shepard’s Signal indicator indicates that citing references in the Shepard’s Citations Service contain strong negative history or treatment of your case (for example, overruled by or reversed).

**Warning: Negative treatment is indicated for statute**
The red exclamation point Shepard’s Signal indicator indicates that citing references in the Shepard’s Citations Service contain strong negative treatment of the Shepardized section (for example, the section may have been found to be unconstitutional or void).

**Questioned: Validity questioned by citing references**
The orange Shepard’s Signal indicator indicates that the citing references in the Shepard’s Citations Service contain treatment that questions the continuing validity or precedential value of your case because of intervening circumstances, including judicial or legislative overruling.

**Caution: Possible negative treatment indicated**
The yellow Shepard’s Signal indicator indicates that citing references in the Shepard’s Citations Service contain history or treatment that may have a significant negative impact on your case (for example, distinguished or criticized).

**Positive treatment indicated—only Lexis+ will show you cases that follow your case**
The green Shepard’s Signal indicators indicates that citing references in the Shepard’s Citations Service contain history or treatment that has a positive impact on your case (for example, affirmed or followed by).

**Citing references with analysis available**
The blue “A” Shepard’s Signal indicator indicates that citing references in the Shepard’s Citations Service contain treatment of your case that is neither positive nor negative (for example, explained).

**Citation information available**
The blue “I” Shepard’s Signal indicator indicates that citing references are available in the Shepard’s Citations Service for your case, but the references do not have history or treatment analysis (for example, the references are law review citations).

Shepardizing™ 101

**Step 1—Shepardize: Look at the Signal, then Pull the Report**
You can pull the Shepard’s report for a case or statute by clicking on the signal in the document or by clicking the Shepardize link in the Shepard’s Summary on the right. The Shepard’s Summary gives you a view of the Citing Decisions—what other cases have said about this case.
Use the History feature to pull up Palsgraf or type the citation in the red search box (248 NY 339) then point to the Shepard’s preview from inside the case.

- The **Reason for Shepard’s Signal** feature will direct you to the top citing reference in the Shepard’s report so you can quickly see why the case received a particular treatment. These cases have been selected as the strongest influence in the Shepard’s report.

**Step 2—Analyze: View the Analysis Section for a Summary**

Use the filters to navigate and narrow the Shepard’s report.

The Analysis section tells you how many times your case has been given a particular treatment. For example, if you don’t see Overruled as an option, the case has never been overruled. Similarly, if you see “85” next to Followed by, it has been followed 85 times.
Explain that Shepard’s reports contain 4 categories of citing references in a report but today we are just going to focus on the Citing Decisions category—other cases that have cited to Palsgraf.

You also have the ability to search through the citing references in a Shepard’s report. This enables you to find something specific, like a fact that is important to you or an issue that must appear. The narrowing filters can be cleared to allow you to customize the report.

Point out the different filters available in a Shepard’s report, highlight Headnote, Jurisdiction and Search within Results.
Customize your report based upon a given Analysis, Court or Headnote to take a closer look at the information most relevant to your research.

**Know When Your Case is Vulnerable to Negative Treatment with Shepard’s® At Risk**

The *Shepard’s At Risk* feature will help you know when your case is at risk of being overruled. It provides a deeper level of analysis by telling you when your case has cited authority that is no longer valid. Since there is not a citing relationship between the overruling authority and your case, the *Shepard’s* signal indicator remains unchanged for your case. It may not be apparent that there are rule(s) of law in your case that may be weak due to the authority in which it stands on, but *Shepard’s* At Risk makes it easy for you to know when your case is at risk of being overruled.


A court determined in *Durrah v. State Farm Fire & Cas.* that Hernandez by publication for purposes of obtaining [**556**] a nominal judgment against her in the first action. We disagree.

The trial court properly dismissed the case against State Farm based upon the rule that **HN27** when an uninsured motorist is dismissed based upon a lack of personal service before a plaintiff obtains a nominal judgment against the UM carrier, the case against the UM carrier must be dismissed as well. See *Cohen v. Allstate Ins. Co.*, 277 Ga. App. 437, 441 (2) (626 SE2d 628) (2006). In this case, [***3***] the trial court dismissed Hernandez from the renewal action based upon a lack of personal service in the original action before the expiration of the statute of limitations. See *Castillo v. Bohlers*, 278 Ga. App. 759, 792 (2) (629 SE2d 577) (2006); *Howkins v. Wilkows*, 248 Ga. App. 264, 285 (546 SE2d 33) (2001).

**Step 3—Filter: Narrow the Report to What You Need**

*Shepardizing a Case*

Let’s take a look at another case related to money laundering – *United States v. Beddow, 957 F.2d 1330* and follow the 3-step process.

- **Shepardize**—Click on the *Shepard’s* Signal indicator or *Shepardize* this document to pull the report.
- **Analyze**—Notice how many times *Beddow* has received Negative, Positive and Neutral treatment from subsequent courts.
- **Filter**—Now, you can narrow for what you need. *Click the link for 10th Circuit* to see only the subsequent cases from this court. You will save time by starting with the cases from your binding/mandatory jurisdiction.

*You can ask your students to notice the changes in the Analysis section. Ask them if there are any cases in the 10th Circuit with the “Questioned” treatment.*
Positive “Followed By” Treatment Uncovers the Strongest Authority

Support your arguments quickly. Shepard’s highlights cases that have followed your case for at least one point of law analyzed in the case. This is important because it will help strengthen your argument by leading you to additional cases with the same type of analysis.

It is also helpful to quickly identify splits of authority, e.g., the 9th Circuit is following a particular case’s analysis while the 7th Circuit has overruled the same case. This happens often and Shepard’s makes it easy to spot.

**TIP:** Even if you do not see the Positive signal by the name of the case, the Shepard’s summary may show cases that have followed it.

Look back at the report for Beddow and ask your students if they see any positive treatment.

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**Trust You Have Cited All Relevant Authority in A Memo or Brief with Brief Analysis**

When conducting legal research, there is always the fear that relevant authority has been missed. Using Brief Analysis lets you feel confident that you are aware of and have cited to all the relevant authority for a legal issue.

You can drag and drop files into the Brief Analysis tool found on the experience dock.
Almost immediately, you are provided with a detailed report analyzing your document. The Dashboard gives you a summary of the different components within the report. From the Dashboard you can also navigate to any part of the report that you would like more information about. Artificial intelligence identifies concepts in the document and offers case recommendations based on the passages in the uploaded document.

There is also a *Shepard’s* analysis that can be used to ensure that the cases cited in the document are still valid and intact.
Within the Case Recommendations section, you can see that the report highlights the passages selected for recommendations and, on the right, tells you what cases are recommended for that passage. It is also showing the relevant passage in the recommended case, allowing the researcher to quickly identify the relationship between the selected passage and recommended case. Brief Analysis makes it easy to identify gaps in your research and it allows you to feel confident that your research is complete. This practical tool will be one that can help students in both academics and practice.

Exercise #1
Pull up the Lee decision and review the case summary for the case highlighting the two different holdings, then give students 3 – 5 minutes to complete the exercise. Encourage them to complete the exercise without using the steps below.

Find United States v. Lee, 22 F.3d 736. It has two principle holdings:

Holding 1: Theft from a person is NOT a violent felony.

Holding 2: Classification of a crime must be based on the elements of the offense as revealed in the charging papers.

Can we cite to United States v. Lee in the federal courts for either of these holdings?

Shepardize—Begin by typing the citation into the search box: 22 F.3d 736. What is the Shepard’s Signal indicator for this case? Click on the signal to pull the report.

Analyze—Take a look at the analysis section for the summary of the treatment.

Filter—Now, we can narrow for what we need. Click the link for Federal Courts to see only the subsequent cases from federal courts.

• Since we still have a strong negative (Warning) signal, we should click that link to view those cases first.

• Notice that the second case—United States v. Howze—has both “overruled in part” and “followed by” analysis.

• We can click directly to the page where the court gives these analyses by clicking the blue hyperlink in the report to go to page 924.

• Scroll down to the last paragraph on that page to find the answer to the questions.

1. Which holding remains good law?

Classification of a crime must be based on the elements of the offense as revealed in the charging papers.

2. Would we have known this if we did not have the “followed by” analysis?

We could have if we went to the Howze case and read it. However, having the followed by analysis filter saved you time.

Explain to the students that this is an example of a case that has been overruled for part of the case, but other parts of the case remain valid. Highlight again the point that just because the case has a negative signal, it is not automatically useless.

Exercise #2

Let’s pull up United States v. Keck, 643 F.3d 789 and try to answer the following two questions below using the Shepard’s report.
3. Jesse Pinkman is being charged in New Mexico. Are there any cases that have cited to Keck from state or federal courts in New Mexico? How many? (Hint: look in the Appendix to see what Federal Circuit NM is in.)

Answer: New Mexico – 1, 10th Circuit – 25

4. How many of those cases have “followed by” analysis?

Answer: 9

Conclude by summarizing the importance of Shepardizing all authority that will be used in an assignment and that they are now well prepared to analyze whether they have valid authority. Remind them they will receive more detailed instruction on Shepard’s from your school’s LexisNexis representative.

NOTES

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Appendix

Hierarchy of U.S. Courts

Supreme Court of the United States

Writ of Certiorari

United States Courts of Appeals
11 Circuits & Federal Circuit

United States Court of Appeals for the Federal Circuit

State Supreme Courts

United States Court of Appeals for the Armed Forces

Courts Martial

Court of Criminal Appeals for the Army, Air Force, Navy, Marine Corps & Coast Guard

State Trial Courts

Intermediat eAppelate Courts

United States Court of Veteran Appeals

United States Court of Federal Claims

United States Court of International Trade

United States Tax Court

94 District Courts

United States Bankruptcy Courts

lexisnexis.com/lawschool
Additional Resources for Law School Preparation

Use these URLs to get ready for law school and to keep getting tips and tools to make classwork easier throughout your time in law school.

- **How to Prepare for Law School** is a website with links to many resources for law students, especially first-years, or 1Ls. Visit: lexisnexis.com/prelaw
- **The LexisNexis page on Facebook®** where you can see what other law students are saying. Visit: facebook.com/LexisNexis4LawStudents
- **The LexisNexis feed on Twitter®** where you can stay up to date on relevant support for your law school curriculum. Visit: twitter.com/LNLawSchool
- Lexis+ Training on-the-go videos:
  - [Intro to Lexis+]™
  - [Navigation on Lexis+]™
Legal Research on Lexis+™
Folders on Lexis+™
Search Techniques on Lexis+™
Document View on Lexis+™
Missing & Must Include on Lexis+™
Search Term Maps on Lexis+™
Lexis Answers® on Lexis+™
Shepard’s® At Risk
Practical Guidance on Lexis+™
Brief Analysis on Lexis+™
Search Tree
Ravel™ View

- Delete this bullet

**The LexisNexis channel on YouTube™** where legal research how-to and law student videos take you inside law school work and life. Visit: [youtube.com/LexisNexisLawSchools](https://www.youtube.com/LexisNexisLawSchools)

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