First Year Legal Research & Writing Exercises: 2019 Faculty Guide
This resource book includes a series of lesson plans and integrated exercises covering basic research concepts and skills using Lexis Advance. The green text is intended to guide instructors through each lesson. If you are interested in providing the workbook to students or specific lessons individually, please contact your local on-campus Research Attorney who will be able to provide you with complementary copies.

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Class Prep with Lexis Advance®

This lesson will cover methods to use online legal research to help you 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. The homepage also gives you quick access to a Legal Dictionary for those tricky Latin terms.

- Find contact information for your on-campus Lexis Representative on the left, as well as Lexis-employed student reps. All are available to help with any research questions, plus tips for getting through law school with better grades and less stress.

lexisnexis.com/lawschool
Preparing for Class with Confidence

Legal research will be an important skill that you will use throughout your time in law school and the earlier you start, the more proficient you will be in your legal career. You can immediately begin using it to prepare for class.

Start Your Research Here: Quickly Find What You Need

- Type in the case name or a citation from your textbook to pull up a case, or enter legal terms or concepts to run a search.

- You can also Shepardize® a document from the search box.

- The intuitive Word Wheel will provide helpful suggestions like additional terms for your search, related documents and sources and AI-driven answers to common questions.

Type in a legal concept into search box to show the word wheel, mention like any other search on the web, Lexis Advance recommends related terms, cases or sources in the word wheel. Example: personal jurisdiction
Be Fully Prepared Using Case Briefs

Supplement your casebook reading assignments with the Law School Case Briefs, which are included with the school’s Lexis subscription.

These will help supplement your reading by highlighting important facts and issues discussed in the case.

1. **Pull up a case**
   Type a citation or the case name from your casebook into the Search Box

   Example: 46 Wn.2d 197 or **Garratt v. Dailey**

2. **Read the Case Brief for all of your reading assignments**

   *Let’s pull up a case.*
   Type in the citation **46wn2d197** to pull up the case online (mention that spacing and punctuation do not matter)

   The Case Brief is a prepared summary of each case you will read during your 1L year giving 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.

   *Navigate out to google and run a quick search to show how to access case briefs on the open web with “LexisNexis <case name>.”*
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.

**Tip:** Together, Case Briefs and Headnotes will be very helpful as you read for class and try to understand why a particular case is important.

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After the Case Brief explanation, scroll down to the headnotes. Explain that the headnote language is pulled from the court opinion and can cover many different areas of law that relate to the case. Scroll to HN1 to show a discussion about a tort against a minor and then click on the arrow to show you can go straight to the opinion. Then click on the arrow to go back to the HNs.

**Note to Faculty:** this is a major difference between Lexis and West. West Headnote language is a summary of the law created by West editors while LexisNexis Headnotes are Rules and Statements taken directly from the Court’s opinion and categorized.

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

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

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**Exercise #1**

Type the party name “Palsgraf” into the Lexis Advance 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.

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**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 as being possessed by poltergeists.*

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**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*

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Lexis Answers

Lexis Answers help you find relevant search results quickly by using Artificial Intelligence (AI) technology to suggest searches that will give you quick, reliable answers.

*Using a topic from Stambovsky about the Duty to Disclose defects, type in Duty to Disclose into the search box and highlight where Lexis Answers are located. Click on the result for: What is the Definition of Duty to Disclose”*

- You can search for: definition of, burden of proof of, standards of review, and elements of a claim or defense, 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. On the right-hand side of the card, you can link to related concepts to learn more.

- Search “Who is” and the name of a judge for quick access to information including a detailed view of most recent and most noteworthy opinions.

*Search - who is judge john roberts and click on the suggested SC judge to demo the Judge cards.*

**Use Secondary Sources for Extra Guidance**

Secondary sources are resources that help you 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 you with helpful analysis on how a legal issue is applied by the courts.

Some of the common secondary sources you may encounter and find helpful during your 1L year are Treatises, Jurisprudence (AmJur and ALR) and Restatements.

- Lexis Advance 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 are searching the system (rather than pulling up a document), explain how the search process works and quoted language as an exact phrase in the results. Its very similar to searching on Google, but rather than searching the web, we’re running a search through all of the content available on Lexis Advance.*

Type in the issue being discussed in your class in the Search Box — **“erie doctrine”**

- Lexis Advance will search for the term “erie doctrine” and find all relevant documents that match your search terms. It automatically searches all of the content available on Lexis Advance.

*The different types of content are organized in a dropdown in the top left – by category of resource allowing you to pick exactly what you are looking for – show the new dropdown category menu.*
• Reviewing results, you’ll see 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 Advance. These are excellent resources to get an in-depth review of a specific legal question.

• Results are automatically sorted with the **Most Relevant Documents**, toward the top of the results list.

*Click on the Sort By option in the top right of the page to show the default sort by is most relevant.*

**Find the Source You Want Using Filters**

The search filters, such as **Category**, **Jurisdiction** and **Source**, allow you to easily narrow down 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 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 Practice Guide is one such source with short videos and expert guidance on some of the toughest civil procedure topics.

Review the document pointing to the video and transcript as well as the analysis and cross references to other helpful sources after the video. Play the first video.

Don’t Miss Important Items with the Table of Contents View

Whenever you find a helpful secondary source, it’s important to view the Table of Contents for the source, to ensure your research is complete.

• Click the Table of Contents arrow on the left to see where you are in the secondary source and other related sections around your location. This is similar to looking at the book version of the secondary source.

• This is also great way to get an overview on the legal topic and make sure you are viewing all relevant sections related to the topic on which you are working.
Give students 5 minutes to complete exercise #3, then ask for volunteers and show how you 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)

**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.

**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 the 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

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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An open research assignment requires you to uncover the best cases and supporting legal documents, rather than those being provided by your Professor. At some point during your 1L year, you’ll be asked to perform research for an open assignment, typically drafting an open memo, summary judgment motion or appellate brief. You’ll be given a legal issue, terms of art and a set of facts about the situation for which you’re researching. This section will prepare you with the tools and steps necessary to perform the proper research.

Legal Research Problem

Jessie Pinkman 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. Jesse had a problem though: what to do with all of the money he was making. Fortunately for Jesse, he had an unethical lawyer, Saul Goodman, who was very good (or so he said) at laundering money.

Saul’s plan was to… Well let’s just let Saul tell us what the plan was. https://youtu.be/SFKDmCbFMS4

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 Jessie and his money laundering scheme. The police investigated and eventually arrested Jessie for money laundering under federal law.

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

Saul has asked you, as his summer law clerk, 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. Review the facts briefly but you do not have to read the whole problem.
Overview: Steps for Completing Your Research Assignment

**Step 1**  Organize and stay ahead of the mess. Create a folder in Lexis Advance to keep track of all of 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 will give you a concise overview of the law and lead you to primary sources, like cases and statutes, which you will need to analyze your issue.

*As mentioned in the class prep session, these types of sources are an excellent resource to use to learn about an issue. They will also help you find sources like cases and statutes that are on point.*

**Step 3**  Research Primary Sources like cases and statutes and save time by using the added features in each to find additional supporting authority. Use exclusive tools like Ravel View and the Legal Issue Trail when viewing cases to expand and complete your research quickly.

*Once you gain an understanding of the law, it’s time to turn to case law and statutes. We’ll show you how to navigate these sources using helpful tools which make it easier to find the right authority.*

**Step 4**  Shepardize every case or statute that you cite in your work to ensure that it is “good” law and to further expand your research.

*“Shepardizing” or validating your authority is the last step once you find a good case and statute. We’ll briefly mention it in this lesson but will discuss in more detail in a later class.*

**When is your research complete?**

- **You will not necessarily find something exactly on-point.** 1L writing assignments are purposely created to present 1Ls the opportunity to argue by analogy, extension of the law, etc. However, when the “usual suspects” appear over and over again, these are your best research results.

*The terms we use in lesson plan below provide the best results but try and elicit responses from the class giving them hints if necessary. Talk about the who what where & why. Give the students a couple 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?

________________________  ___________________________  ___________________________

________________________  ___________________________  ___________________________

________________________  ___________________________  ___________________________
Stay Organized with Folders and Free Printing

Set up a **Folder** to save your research as you work. You can create folders as you research or from the **More** option at the top right of the page.

- As you research, click the **Folder** icon at the top of the document and choose a folder to save a document or selected text. When you select any text, one of the options is **Save to a Folder**.

*Start with Step 1 and get organized - Create a folder for this session, title it – Open Memo. Show that you can create sub folders (create one if you like).*

- From the homepage, click the **More** option, then **Folders** link, then Create New Folder.

Most schools also have a dedicated **LexisNexis Printer** on campus that allows you to print your research free of charge. Click on the printer icon within a document and select the LexisNexis printer option. 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 in an attempt to save time, but instead, end up running inefficient searches without an adequate understanding of their topic. Even if you believe you know the topic, spend time on Secondary Sources to save time and increase accuracy in your search results.

Let’s begin with a search using some of the terms that we just discovered:

*Explain what is happening when we run a natural language search (feel free to use your own explanation). When we type in a search on Lexis Advance, the results will contain documents that have all of the words that we searched for. So these secondary sources that appear have all of 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.

*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 Category filter on the left. Two of the more popular types of Secondary Sources for research are *Treatises* and *Jurisprudences.*
Important Secondary Sources

- **American Jurisprudence (AmJur) and A.L.R.** – jurisprudence materials with plain English text of the law for all 50 states and links to primary authority.
- **Restatements** – common law rule statements with illustrations and case links.
- **Treatises** – Lexis Advance contains thousands of area-of-law and jurisdiction-specific treatises that provide expert analysis of the law on that topic – most are exclusive to Lexis Advance.
- **Law Reviews & Journals** – in-depth review of current awareness issues in the law written by law school faculty and students.

Post-Search Filters

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. Beneath Category, **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. Review the section to gain a brief overview of the the issue and case law related to money laundering. Then, use the links in the footnotes to access the cases and statutes directly on point with your issue.

*Review the section showing the value of these materials. Point to the hierarchy to show what this section relates to and review the contents showing the footnotes and how to access them. Show that you can link directly to a case or statute or note it for later.*

lexisnexis.com/lawschool
Tip: Remember to save your research as you go. You will want to access this document later, so save it to your 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 on 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 on your search. We can review the results or immediately begin narrowing to find the best documents for this topic using the filters on the left.

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 the jurisdiction. The 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.
Look for the star in the map guide for the highest concentration of your search terms in the document.

Visualization tools, like Search Term Maps, are becoming more important (and desired) in legal research based on their ability to guide users to results more quickly. Briefly mention visualization tools and the importance of them to quickly find relevant search results.

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

Search Within Results is a quick way to narrow your results using additional search terms. This will allow you to find cases that contain additional terms which may be helpful for your research.

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

Here, 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 cases where insufficient evidence was at issue.

This will find cases within this cite list that contain the phrase “insufficient evidence,” and add the phrase to your Narrow By list. 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 demo the graphical display – highlight the size of the bubble and the court/date axis, then show relationships. For an intro discussion of Ravel View, it may be best to keep the discussion of Ravel simple.
Ravel View provides a visual overview of your top seventy-five 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) and the relationships between the top seventy-five cases, i.e. what cases have cited to one another and what they said.

Let’s 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 – point out that there is also a Case Summary on every case in Lexis Advance.*

**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 you a quick indication 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.

*Headnotes are a mini outline of the legal topics discussed in a case. These are great to review to determine whether a case is on point and worth reading more in-depth. They are also a great tool when you find a headnote that discusses your topic. 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

You will receive more instruction on how to properly cite to authority in future legal writing courses using (ALWD or Bluebook). Lexis Advance has a copy feature that will display the proper format for your 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 will require you to show where you found a particular argument, i.e. cite your authority. There are multiple citation formats but the most common forms used in law school are Bluebook & ALWD.

Lexis Advance® allows you to highlight text and choose a citation format to insert into your work. Select Copy (Advanced) once the text is highlighted, then 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 your mouse to copy the contents of this box before closing the window. Then paste into Word, an email or other document.

Want to read more of this case in the future? The hyperlinked citation you paste will take you right back to the quote in the full case document in Lexis Advance.

Demonstrate this feature in an actual word document before moving on. Show advanced to customize (italic vs. underline).
Find Additional Supporting Authority with the Legal Issue Trail

Once you find an on-point case, the **Legal Issue Trail** is a great tool to find 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. The 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.

The 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.

Clicking on a case from the list will automatically 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 important. 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)

When you find a useful case you must Shepardize® it in order to determine whether it’s still a valid/good case. Shepard’s can also be used to find additional related case law and other authority. Click on Shepardize this document in the Shepard’s Summary to the right of the case to retrieve the Shepard’s Report.

Shepard’s provides a detailed report of what other cases have said about your case. The Signal next to the case name provides an overall impression of how carefully you’ll need to scrutinize this case.

Briefly mention Shepardizing 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 or document, mention the view all history option to get to older documents and searches – click on the money laundering search from the dropdown history list.*

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

Typically, you will narrow this Category to **Codes** and choose the Jurisdiction you are researching, e.g. Jessie 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, then move on.*

Review

You now have a solid foundation to tackle any research assignment in law school or employment. Use this basic method to start any research assignment.

*Conclude by summarizing the steps organize, secondary sources, case and statute tools, and Shepardize (which we’ll discuss in another lesson)*
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 an online “citator” that shows you what has happened to your case or statute, so that you can determine whether you are using valid (good) law. Shepard’s is only available on Lexis Advance® and only Shepard’s has the tools we’ll look at to help you easily identify cases with strong supporting value.

Use the Shepard’s Report to Validate What You Cite

Shepard’s gives you a report of all other legal authorities that have cited to the case or statute you want to use. When conducting legal research, you need to answer TWO main questions:

1. Do You Have Good Law?
   You can feel confident you have good law with Shepard’s. The law changes, so you have to make sure the law you’re relying on is valid – that it hasn’t been overruled, 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 Shepard’s. 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=QFOYOGlg0gU

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 its implication. Refer students to the table below to get 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. This will be highlighted more as you move through the lesson.

Shepard’s Signals In-Depth

**Warning: Negative treatment is indicated**
The red Shepard’s Signal 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 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 refs.**
The orange Shepard’s Signal 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 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 Advance will show you cases that follow your case.**
The green Shepard’s Signal 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 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 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 the case view.*
• The **Reason for Shepard’s Signal** feature will direct you to the top citing reference in the *Shepard’s Report* so that 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**

The **Narrow By** section provides you with a summary of the entire *Shepard’s* report.

The **Analysis** section displays only existing analysis, and 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 a “85” next to Followed by, it has been followed eighty five 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.*
Step 3 – Filter: Narrow the Report to What You Need

Customize your report based upon a given Analysis, Court or Headnote to take a closer look at the information most relevant to your research.

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.
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 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.

Notice the changes in the Analysis section. Are there 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, do you see any positive treatment?
**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 *US 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 symbol for this case? Click on the Shepard’s 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 our questions.

1. Which holding remains good law?

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

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*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. Also highlight 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. Jessie 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 – 20

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

   **Answer:** 8

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 that they will receive more detailed instruction on Shepard's on campus from their on-campus reps.

NOTES
Hierarchy of United States 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

94 District Courts

United States Tax Courts

United States Court of International Trade

United States Court of Federal Claims

United States Court of Veteran Appeals

Intermediate Appellate Courts

State Trial Courts

Courts Martial

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

United States Bankruptcy Courts

lexisnexis.com/lawschool
Map of U.S. Federal Judicial Circuits

13 Federal Judicial Circuits

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 Facebook Page** where you can see what other law students are saying. Visit: facebook.com/LexisNexis4LawStudents
- **The LexisNexis Twitter feed**, where you can stay up-to-date on relevant support for your law school curriculum. Visit: twitter.com/LNLawSchool
- **The LexisNexis YouTube channel**, where legal research how-to and law student videos take you inside law school work and life. Visit: youtube.com/LexisNexisLawSchools
- **The LexisNexis LinkedIn page**, where law students and law school graduates can find career news, insights and resources. Visit: linkedin.com/company/lexisnexis-for-law-schools

lexisnexis.com/lawschool