

Write a publishable note for your law review or journal

Law review or journal membership and article publication will strengthen your resume and advance your legal career. So how do you craft a compelling note that will be picked for publication?

Choose a topic that interests you. You will spend a significant portion of law school working on your note. If published, it will come up in every job interview for the rest of your legal career.

Authors are passed over for publication when their article fails to make a real argument.

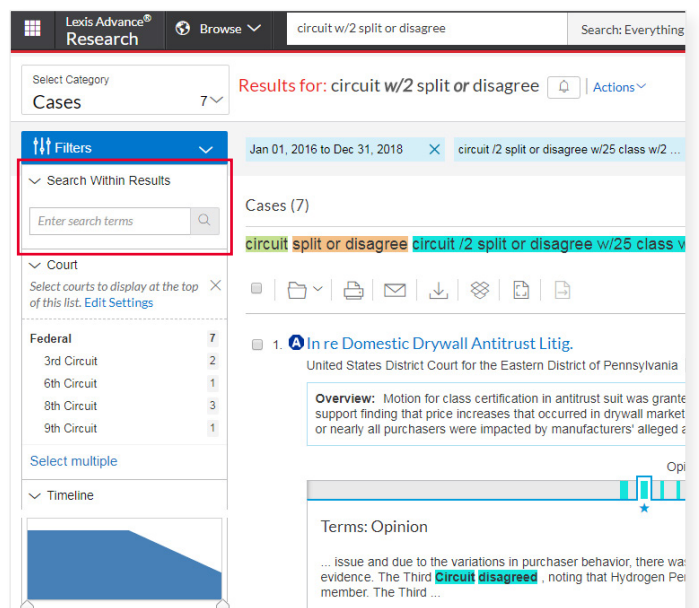
- When selecting a topic, you don't necessarily have to know what your argument will be, but you do need to select a topic for which an argument can be made.
- Think current, unique and arguable. Newly controversial topics should be avoided as they tend to be preempted or not yet ripe.

Choose from four topic categories for a compelling note topic

1. Unresolved points of law—circuit splits

A circuit split exists when two or more circuits disagree on the application of law on the same issue. A circuit split makes a great note topic because it addresses an unresolved issue that could potentially end up in front of the Supreme Court.

- Type **circuit w/2 split or disagree** in the search box. Select **Cases**, then select **U.S. Federal**. Use **Timeline** to retrieve opinions from the previous 18 months. Use **Sort by:** to sort your search results by **Date (newest - oldest)**.
- Narrow your search results by using **Search Within Results**. For example, type **circuit w/2 split or disagree w/25 class w/2 certification** to find circuit splits concerning class certification.



The screenshot shows the Lexis Advance Research interface. The search bar at the top contains the text "circuit w/2 split or disagree". The search results are displayed on the right side, showing a list of cases. The first case is "In re Domestic Drywall Antitrust Litig." from the United States District Court for the Eastern District of Pennsylvania. The overview of the case is visible, mentioning a motion for class certification in an antitrust suit. On the left side, the "Filters" panel is open, showing the "Search Within Results" section with a search bar. The "Court" filter is expanded, showing a list of federal circuits with their respective case counts: Federal (7), 3rd Circuit (2), 6th Circuit (1), 8th Circuit (3), and 9th Circuit (1). The "Timeline" filter is also visible at the bottom of the filters panel.

2. Challenged pieces of legislation—start in Legal News

This note topic can explore the piece of legislation, how the courts have interpreted it and the impact of the dispute.

- Type **law or legislation or statute w/25 challenge or lawsuit** in the search box. Select **Legal News**. Use **Timeline** to retrieve articles from the previous 18 months.
- Under **Sources**, select multiple, choose **Law360 Legal News** or **New York Law Journal**.

The screenshot shows the Lexis Advance Research interface. The search bar at the top contains the query "law or legislation or statute w/25 challenge or lawsuit". The search results are displayed under the "Legal News" category, which has 6,934 results. The left sidebar shows filters for "Search Within Results" and "Jurisdiction". The "Jurisdiction" list includes U.S. Federal (4,898), Alabama (131), Alaska (55), American Samoa (1), and Arizona (190). The "Timeline" filter is set to "Jan 01, 2016 to Dec 31, 2018". The search results list includes "1. Retroactive Tax Legislation Undermines The Rule Of Law" and "2. NC Privacy Group Wants In On Bathroom Law Fight".

3. Issues or jurisdictions of interest—check Legal News

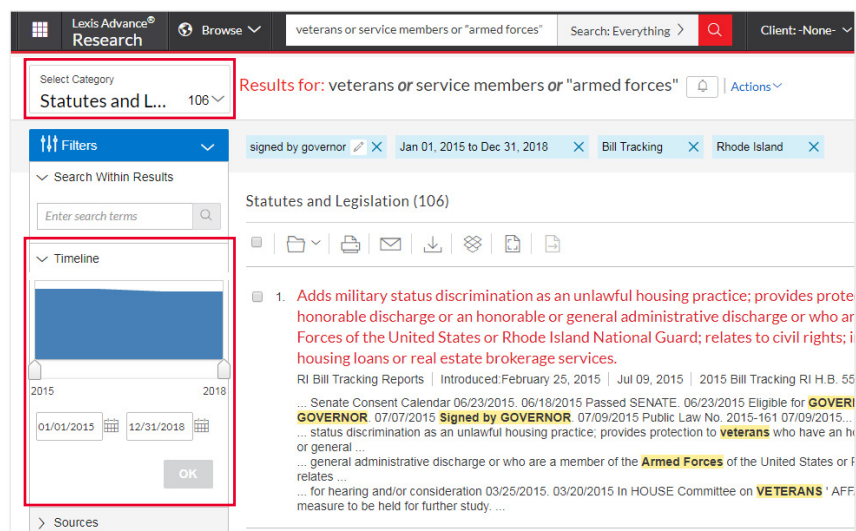
Look for cases of first impression in a particular jurisdiction. There is no controlling precedent if it is the first time the question or issue has been dealt with for legal interpretation in that jurisdiction.

- Type **"first impression" w/25 second circuit** in the search box. Select **Legal News**. Use **Sort by:** to sort your search results by **Date (newest - oldest)**.

The screenshot shows the Lexis Advance Research interface. The search bar at the top contains the query "first impression w/25 second circuit". The search results are displayed under the "Legal News" category, which has 1,086 results. The left sidebar shows filters for "Search Within Results" and "Jurisdiction". The "Jurisdiction" list includes U.S. Federal (895), International (28), Alabama (16), Alaska (15), and Arizona (16). The "Timeline" filter is set to "Jan 01, 2016 to Dec 31, 2018". The search results list includes "1. Litigation Activity in a Single Lawsuit Is No Basis for Civil RICO Claims" and "2. Litigation Activity in a Single Lawsuit Is No Basis for Civil RICO Claims".

4. **New legislation—Federal or State** Newly enacted legislation can be a note topic as long as it is controversial or interesting. Recent legislation provides insight as to which issues may be judicially examined in the near future.

- Type an issue of interest to you in the search box. For example, type **veterans or service members or “armed forces”** in the search box. Select **Statutes and Legislation**, then **U.S. Federal** or a particular state jurisdiction, then **Bill Tracking** under **Categories**. Use **Timeline** to restrict your results to the past three years. To narrow results to bills that have become law, type “**signed by the president**” (federal) or “**signed by governor**” (state) in **Search Within Results**.



Make sure your note is not preempted

Preemption checking is the most important part of the publication process. A thorough preemption check assures the originality of a note. The more original a note, the more likely it will be selected for publication.

WHAT DOES IT MEAN TO BE PREEMPTED?

If someone has already written about your topic, you cannot write about it as well. You are preempted.

You usually are not preempted if:

1. You find an article written on your topic, but it was written several years ago and new and interesting **issues have since changed** the legal landscape.
2. You find an article written on your topic, but it is **making a different argument**.
3. You find an article and one of its sections is on your topic. This usually is an overview of the topic and **your note will be a more in-depth analysis**.
4. You find an article that has a similar introduction or background as your chosen topic. A similar introduction is fine **as long as the remainder of your article is unique**.

You usually are preempted if:

You find a relatively recent article on your topic that **makes the same argument** and comes to the same conclusion.

Refine your topic with an initial preemption check

An initial preemption check can help refine a broad topic by showing you what has already been argued and discussed. Once you have found a topic that interests you, it is important to determine that the topic and its issues have not been written about extensively. If they have, the odds that you are preempted increase significantly.

Sample initial preemption check

- Type **stalking w/25 "social media" or facebook or twitter** in the search box.
- Select **Secondary Materials**, then **Law Reviews and Journals**.
- You want to have your topic narrowed to the point where this search retrieves a manageable set of results. Too few results indicates that your topic might not yet be ripe or is too novel. Too many results indicates that your topic is so popular that it will be difficult for you to bring something new to the discussion.

Lexis Advance® Research

stalking w/25 "social media" or facebook or twitter

Search: Everything >

Client: N

Select Category

Secondary Ma... 122

Results for: stalking w/25 "social media" or facebook or twitter

Law Reviews and Journals

Secondary Materials (122)

66 DePaul L. Rev. 901

DePaul Law Review. COMMENT: WHAT'S THE DIFFERENCE BETWEEN PRIVATE AND PUBLIC MEDIA? A PUSH FOR CLEARER LANGUAGE IN THE ILLINOIS CYBERSTALKING STATUTE 19938 words

... General Assembly needs to ensure that all forms of **stalking** are covered under the Statute. ... **social media** component into the law, the legislature will not only be ... able to protect victims of cyberstalking, but will also put **social media** users on notice of the repercussions for posting, searching, or using those sites to **stalk** others. III. Analysis To ensure handled appropriately, the ...

... Id. This Comment argues that Illinois' **stalking** law, as it is currently written, does not adequately protect defendants of the statutory **social media** restrictions. This lack of information creates problems for violators ...

... Its current form is unclear as to which types of **social media** communication constitute a violation of "contact" or "**stalking**" elements of the Statute. 10 See id. ...

... of cyberstalking, it might create a deterrence effect on Facebook **stalking**. Implementing a **social media** component into the Statute will ensure that victims of ...

Ongoing preemption check

Preemption checking is not a one-time proposition. It is an ongoing process. Once you have refined your topic, please contact your LexisNexis® Account Executive to receive guidance on running your final preemption check and setting up an alert to monitor your search results for possible preemption in the future.



Get help with legal research:

[LEXISNEXIS.COM/LAWSCHOOL](https://www.lexisnexis.com/lawschool)

[YOUTUBE.COM/LEXISNEXISLAWSCHOOLS](https://www.youtube.com/lexisnexislawschools)