Pennsylvania Legal Research
CAROLINA ACADEMIC PRESS
LEGAL RESEARCH SERIES

Suzanne E. Rowe, Series Editor

Arkansas Legal Research
Coleen M. Barger

Florida Legal Research, Third Edition
Barbara J. Busharis & Suzanne E. Rowe

Georgia Legal Research
Nancy P. Johnson, Elizabeth G. Adelman & Nancy J. Adams

Illinois Legal Research
Mark E. Wojcik

Michigan Legal Research
Pamela Lysaght

Missouri Legal Research
Wanda M. Temm & Julie M. Cheslik

Oregon Legal Research, Second Edition
Suzanne E. Rowe

Pennsylvania Legal Research
Barbara J. Busharis & Bonny L. Tavares

Tennessee Legal Research
Sibyl Marshall & Carol McCrehan Parker

Washington Legal Research
Julie Heintz
Pennsylvania Legal Research

Barbara J. Busharis
Florida State University
College of Law

Bonny L. Tavares
Temple University
Beasley School of Law

Suzanne E. Rowe, Series Editor

Carolina Academic Press
Durham, North Carolina
Summary of Contents

List of Tables and Illustrations xvi
Series Note xx
Preface and Acknowledgments xxii

Chapter 1 The Research Process and Legal Analysis 3
Chapter 2 Planning and Organizing Research 13
Chapter 3 Judicial Opinions and Reporters 35
Chapter 4 Finding and Updating Case Law 57
Chapter 5 Statutes and Legislative History 87
Chapter 6 Pennsylvania Constitutional Law 115
Chapter 7 Administrative Law 121
Chapter 8 Rules of Court and Ethics 141
Chapter 9 Secondary Sources 153

Appendix A Updating a Case with the Print Version of Shepard's Citations 191
Appendix B Legal Citation 201

About the Authors 221
Index 223
# Contents

List of Tables and Illustrations ................................................................. xvii
Series Note ................................................................................................... xxi
Preface and Acknowledgments ................................................................. xxiii

Chapter 1  The Research Process and Legal Analysis .............................. 3
  I. Pennsylvania Legal Research ............................................................... 3
  II. The Intersection of Legal Research and Legal Analysis .................. 4
  III. Types and Weight of Legal Authority .............................................. 5
      A. Types of Legal Authority ............................................................ 5
      B. Weight of Legal Authority ...................................................... 6
  IV. Court Systems ................................................................................... 7
      A. Pennsylvania Courts ................................................................. 7
      B. Federal Courts ......................................................................... 9
      C. Courts of Other States ........................................................... 10
  V. Overview of the Research Process .................................................... 11
  VI. Organization of This Text .................................................................. 12

Chapter 2  Planning and Organizing Research ........................................ 13
  I. Planning Your Research ..................................................................... 13
      A. Ask Threshold Questions .......................................................... 14
      B. Choose Sources and Media ....................................................... 14
         1. Sources ................................................................................. 14
         2. Media ................................................................................. 15
            a. Print versus Online Research ......................................... 15
Contents

b. Using Online Sources 16
C. Generate Research Terms 19
D. Understand the Context of Your Issue 20
E. Locate Primary Authority 21
F. Update 22

II. Organizing Your Research 23
A. Note-Taking 23
B. Organize Your Materials 24
1. Summary of Issue and Strategy 26
2. Separate List of Sources and Terms 26
3. Notes on Secondary Sources 27
4. Notes on Primary Authorities 27
5. Optional: Updating List 28
C. Outline 29

III. Turning Research into a Work Product 30

Appendix 1: Sample Case Cover Sheet 32
Appendix 2: Sample Analysis Chart 33

Chapter 3 Judicial Opinions and Reporters 35
I. Reporters for Pennsylvania Cases 36
A. The Parts of a Reported Case 39
B. Tables in Reporters 45
C. Advance Sheets 45
D. Other Sources for Finding Pennsylvania Cases 46

II. Reporters for Federal Cases 46
A. United States Supreme Court 46
B. United States Courts of Appeals 47
C. United States District Courts 48

III. Topical Reporters 48

IV. Case Analysis 49
A. Understanding the Procedural Posture of a
   Civil Case 49
B. Assessing the Relevance of Cases 52
C. Strategies for Reading Cases 54
Chapter 4  Finding and Updating Case Law  57

I. Overview: The Process of Finding Cases  57

II. Using Digests in Print and Online  58
   A. West Digests  59
      1. Topics and Key Numbers  62
      2. Headnotes  62
   B. Digest Research in Print  64
      1. Beginning with the Descriptive Word Index  64
         a. Develop a List of Research Terms  64
         b. Find the Research Terms in the Descriptive Word Index  64
         c. Check the Pocket Part to the Descriptive Word Index  65
         d. Review Each Topic/Key Number in the Main Digest Volumes  67
         e. Update Each Topic/Key Number in Digests and Reporters  69
         f. Read the Relevant Cases  70
      2. Beginning with the Topic Analysis  70
      3. Beginning with the Table of Cases  70
      4. Beginning with One Relevant Case  71
      5. Beginning with the Words and Phrases Volumes  71
   C. Using Digests Online  72

III. Searching for Cases Online  74
   A. Full-Text Searching  74
   B. Westlaw: KeySearch and Topical Searching  76
   C. LexisNexis: Search Advisor  78
   D. Customizing Westlaw and LexisNexis  79

IV. Updating Cases  79
   A. Updating Online Using LexisNexis  80
   B. Updating Online Using Westlaw  82
   C. Relying on Treatment Symbols  83

V. Professional Standards for Case Research  83

VI. Conclusion  85
Contents

II. Finding a Pennsylvania Constitutional Provision and Cases Interpreting It 116

III. Researching Other Constitutions 118

Chapter 7 Administrative Law 121

I. Overview of Administrative Lawmaking 121

II. Researching Administrative Law Issues 123

III. Pennsylvania Administrative Law Materials 125
   A. Pennsylvania Code 125
   B. Pennsylvania Bulletin 126
   C. Researching Recent or Proposed Changes to a Regulation 127
   D. Historical Research 128
   E. Decisions of Administrative Agencies 129
   F. Attorney General Opinions 129

IV. Federal Administrative Law Materials 130
   A. Code of Federal Regulations 131
      1. CFR in Print 132
      2. CFR Online 133
   B. Federal Register 133
   C. Researching Changes in a Regulation that Have Occurred Since It Was Last Published in CFR 134
   D. Updating Regulations Using Shepard’s and KeyCite 135
   E. Finding Old Regulations 135
   F. Decisions of Administrative Agencies 136
   G. Attorney General Opinions 136

Appendix: USC & CFR Titles 138

Chapter 8 Rules of Court and Ethics 141

I. Introduction 141

II. Researching Pennsylvania Rules of Court 142
   A. Finding the Text of Pennsylvania Rules of Court 142
   B. Interpreting Specific Pennsylvania Rules of Court 143
C. Finding Amendments to Pennsylvania Rules of Court 144

III. Researching Federal Rules of Court 145
   A. Finding the Text of Federal Rules of Court in Print 145
   B. Finding the Text of Federal Rules of Court Online 146
   C. Finding the Text of Local Federal Rules of Court in Print 147
   D. Finding the Text of Local Federal Rules of Court Online 148
   E. Interpreting Specific Rules of Court 148

IV. Pennsylvania Ethics 149

Chapter 9 Secondary Sources 153
I. Introduction 153
   A. When to Use Secondary Sources 154
   B. Choosing among Secondary Sources 154
   C. Whether to Use Print or Online Secondary Sources 155
   D. A General Note on Updating and Citing Secondary Sources 156

II. Treatises 157
   A. Overview 157
   B. Locating Treatises 157
   C. The Role of Treatises in Your Research 158
   D. Updating Treatises 159
   E. Citing Treatises 159

III. Legal Encyclopedias 160
   A. Overview 160
   B. Using Encyclopedias 161
   C. The Role of Encyclopedias in Your Research 165
   D. Updating and Citing Encyclopedias 165

IV. American Law Reports 166
   A. Overview 166
Contents

B. Locating Annotations 167
C. The Role of Annotations in Your Research 168
D. Updating Annotations 168
E. Citing Annotations 169

V. CLE Materials 169
A. Overview 169
B. Locating CLE Materials 170
C. Beginning Research with CLE Materials 171
D. Updating and Citing CLE Materials 171

VI. Form Books 172
A. Overview 172
B. Locating Form Books and Specific Forms 173
C. Updating and Citing Formbooks 175

VII. Looseleaf Services and “Mini-Libraries” 176
A. Overview 176
B. Print Resources 176
C. Online Services 177
D. Updating Looseleaf Services 178
E. Citing Looseleaf Services 178

VIII. Legal Periodicals 179
A. Overview 179
B. Locating Periodicals 181
C. The Role of Periodical Articles in Your Research 182
D. Updating Periodical Articles 183
E. Citing Periodical Articles 183

IX. Restatements 184
A. Overview 184
B. Locating Applicable Restatement Sections and Cases Citing Them 185
C. The Role of Restatements in Your Research 187
D. Updating Restatements 187
E. Citing Restatements 188
Appendix A  Updating a Case with the Print Version of Shepard’s Citations 191

I. Shepard’s Titles and Volumes 192

II. Compile Lists of Citations 193

III. Analyze the Citations and Shepard’s Symbols 194
   A. Parallel Citations 194
   B. Citing Sources and Analysis Abbreviations 196
      1. History Sources 196
      2. Treatment Sources 196
      3. Distinguishing History and Treatment Sources 198
   C. Headnote Identifiers 199

IV. Read Citing Sources 200

Appendix B  Legal Citation 201

I. The ALWD Manual 202
   A. Incorporating Citations into a Document 203
   B. Case Citations 204
      1. Essential Components of Case Citations 204
      2. Full and Short Citations to Cases 206
      3. Prior and Subsequent History 208
   C. Statutes 208
   D. Signals 209
   E. Explanatory Parentheticals 209
   F. Quotations 210
   G. Citation Details 211

II. The Bluebook 212
   A. The Bluebook: Citations for Practice Documents 213
      1. Quick Reference Guide and the Bluepages 213
      2. Index 214
      3. Case Citations 214
      4. Statutes 215
      5. Signals and Parenthetical Information 216
      6. Quotations 216
Contents

7. Tables in the Bluebook 217
B. The Bluebook: Citations for Law Review Articles 217
III. Editing Citations 218
About the Authors 221
Index 223
List of Tables and Illustrations

Chapter 1 The Research Process and Legal Analysis 3
  Table 1-1. Examples of Authority in Pennsylvania Research 6
  Figure 1-1. Pennsylvania Unified Judicial System 8
  Table 1-2. Overview of the Research Process 11

Chapter 2 Planning and Organizing Research 13
  Table 2-1. CD-ROM Products 17
  Table 2-2. Bookmarks 18
  Table 2-3. Generating Research Terms 20
  Table 2-4. Effective Note-Taking 25

Chapter 3 Judicial Opinions and Reporters 35
  Table 3-1. Excerpt from Commonwealth v. Fontanez, 559 Pa. 92 (1999) 40
  Table 3-2. Reporters for Federal Court Cases 47
  Table 3-3. Analyzing Cases 53

Chapter 4 Finding and Updating Case Law 57
  Table 4-1. Excerpts from Pennsylvania Digest 2d 60
  Table 4-2. Selected Digests 61
  Table 4-3. Court Abbreviations in Pennsylvania Digest 2d 63
  Table 4-4. Outline for Digest Research with the Descriptive Word Index 65
  Table 4-5. Excerpt from the Descriptive Word Index in Pennsylvania Digest 2d 66
xviii List of Tables and Illustrations

Table 4-6. Excerpt from *Pennsylvania Digest 2d* 68
Table 4-7. Excerpt from Words & Phrases in *Pennsylvania Digest 2d* 72
Table 4-8. Selected Boolean Commands 75

Chapter 5 Statutes and Legislative History 87
Table 5-1. Sample Pennsylvania Statute 91
Table 5-2. Websites for Federal Legislative Research 101
Table 5-3. Example of Statute Outlined 110

Chapter 7 Administrative Law 121
Table 7-1. Pennsylvania Administrative Law Sources 124
Table 7-2. Federal Administrative Law Sources 131

Chapter 9 Secondary Sources 153
Table 9-1. Excerpt from Summary of *Pennsylvania Jurisprudence 2d* 163
Table 9-2. Recent Presentations of the Pennsylvania Bar Institute 170
Table 9-3. How to Choose an Article 180

Appendix A Updating a Case with the Print Version of Shepard’s Citations 191
Table A-1. Process for Shepardizing in Print 191
Table A-3. Selected History Abbreviations 197
Table A-4. Selected Treatment Abbreviations 198

Appendix B Legal Citation 201
Table B-1. Purposes of Legal Citations 202
Table B-2. Examples of Citation Sentences and Citation Clauses 203
Table B-3. Examples of Full Citations 206
Table B-4. Common Signals 210
Table B-5. Comparison of *ALWD* and *Bluebook* Formats 213
List of Tables and Illustrations xix

Table B-6. Comparison of Selected Word Abbreviations in ALWD and the Bluebook 215
Table B-7. Bluebook Typeface for Law Review Footnotes 218
Series Note

The Legal Research Series published by Carolina Academic Press includes an increasing number of titles from states around the country. The goal of each book is to provide law students, practitioners, paralegals, college students, and laypeople with the essential elements of legal research in each state. Unlike more bibliographic texts, the Legal Research Series books seek to explain concisely both the sources of state law research and the process for conducting legal research effectively.
Preface and Acknowledgments

This book was written to provide researchers with a practical introduction to legal research, with a special focus on Pennsylvania. It is intended to be of use to students who are beginning their legal careers; to practitioners who may need a concise description of research tools they have not used extensively; and to attorneys from other jurisdictions who are experienced legal researchers, but who lack familiarity with basic Pennsylvania sources.

The series of which this volume is a part is designed to bridge the gap between general research texts, which often focus on federal materials, and state-specific resources which may be less comprehensive or more bibliographic.

*Pennsylvania Legal Research* begins with an overview of the legal research process, a discussion of the interrelationship between legal research and legal analysis, and guidance on planning and organizing research tasks. Although researchers who are new to a legal subject should begin with secondary source research, this text discusses primary resources first to emphasize their importance since finding mandatory, binding authority is frequently a researcher’s goal. However, the chapters in the book may be used in any order and each chapter stands on its own.

Online research is a necessary component of thorough and efficient legal research. Accordingly, computer-assisted research is discussed in every chapter of *Pennsylvania Legal Research*, with particular attention paid to web-based legal research services and the major commercial providers of online legal research, LexisNexis and Westlaw. However, each chapter begins with a discussion of print resources because understanding the fundamentals of print research is
critical to successful research in computerized formats. Where online or print sources have a clear advantage, we have tried to indicate as much. Professors who defer certain aspects of online instruction until a second semester can still use the text easily, however, because the emphasis in all chapters is on the process of researching rather than on specific tools.

In writing this book we drew, of course, on our teaching and practice experience. We also used that experience to divide the primary drafting responsibility for certain chapters. Professor Tavares drafted Chapter 1, The Research Process and Legal Analysis; Chapter 3, Judicial Opinions and Reporters; Chapter 4, Finding and Updating Case Law; Chapter 8, Rules of Court and Ethics; and portions of Chapter 9, Secondary Sources. The remaining chapters were drafted by Professor Busharis. The final result, however, is a collaborative work.

We also benefitted from the efforts of those who have preceded us in the state-specific legal research series. The second edition of Oregon Legal Research was particularly helpful in drafting several chapters, especially the introductory chapter and the chapters on case law research. In addition, Appendix A, Updating a Case with the Print Version of Shepard's Citations, and Appendix B, Legal Citation, were largely drawn from Oregon Legal Research. Because one of the authors was simultaneously revising the third edition of Florida Legal Research, chapters on statutes, administrative law, rules of court and ethics, and secondary sources were, in part, inspired by their Florida counterparts.

We have also, indirectly, benefitted from the feedback provided by users of earlier versions of those textbooks. This book, like other current books in the series, tries to strike a balance between including sample pages and other graphics and keeping the overall size of the book manageable. We recognize that other texts include more images and sample pages; however, we hope this book provides helpful illustrations while remaining small enough to easily be carried.

We gratefully acknowledge the invaluable assistance of the librarians at Temple University’s Beasley School of Law Library. A special thank you to Head Librarian John Necci, and to Law Librarians Poliana Irizarry, Steve Pavlo, and Noa Kaumeheiwa. Many thanks to our
Preface and Acknowledgments

Paralegal, Shannon Markley, who provided administrative assistance especially with the graphics in the book. A special thanks to our excellent Research Assistant, Daniel M. Kettering, who spent many hours in the library researching Pennsylvania resources. Thanks also to Professor Theresa Glennon at Temple for providing feedback on an early draft of the manuscript.

Finally, Barbara Busharis sends a special thank you to her husband Stan Tozer and their children, Aidan and Ethan. Bonny Tavares thanks her husband Greg and daughter Haley for their encouragement and patience.

Barbara J. Busharis
Bonny Tavares
May 2007