Idaho Legal Research
CAROLINA ACADEMIC PRESS
LEGAL RESEARCH SERIES

Suzanne E. Rowe, Series Editor

Arizona—Tamara S. Herrera
Arkansas—Coleen M. Barger
Georgia—Nancy P. Johnson, Elizabeth G. Adelman, & Nancy J. Adams
Idaho—Tenielle Fordyce-Ruff & Suzanne E. Rowe
Illinois—Mark E. Wojcik
Michigan—Pamela Lysaght
Missouri—Wanda M. Temm & Julie M. Cheslik
Oregon, Second Edition—Suzanne E. Rowe
Pennsylvania—Barbara J. Busharis & Bonny L. Tavares
Tennessee—Sibyl Marshall & Carol McCrehan Parker
Washington—Julie Heintz
Copyright © 2008
Tenelle Fordyce-Ruff and Suzanne E. Rowe
All Rights Reserved.

Library of Congress Cataloging-in-Publication Data
Fordyce-Ruff, Tenelle.
Idaho legal research / by Tenelle Fordyce-Ruff, Suzanne E. Rowe.
   p. cm. -- (Legal research series)
   Includes bibliographical references and index.
   1. Legal research--Idaho. I. Rowe, Suzanne E., 1961- II. Title.
   III. Series.

KFI75.F67 2008
340.072'0796--dc22

2007052219

CAROLINA ACADEMIC PRESS
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America.
To my parents, Scott and Pamela Thomas,
and to my siblings, Michael, Amanda, Charles, and Tiana,
for everything

And to my husband, Charlie,
with all of my love

T.F.R.
Summary of Contents

List of Tables xix
Series Note xxiii
Foreword xxv
Preface and Acknowledgments xxvii
Special Acknowledgments xxix

Chapter 1 The Research Process and Legal Analysis 3
Chapter 2 Researching in Print and Online 13
Chapter 3 Constitutions 29
Chapter 4 Judicial Opinions 39
Chapter 5 Researching Judicial Opinions 63
Chapter 6 Statutes 79
Chapter 7 Bill Tracking and Legislative History 95
Chapter 8 Administrative Law 119
Chapter 9 Rules of Court and Professional Ethics 135
Chapter 10 Citators 141
Chapter 11 Secondary Sources and Practice Aids 163
Chapter 12 Research Strategies and Organization 187

Appendix A Legal Citation 197
Appendix B Selected Bibliography 215

About the Authors 217
Index 219
Contents

List of Tables xix
Series Note xxiii
Foreword
   Justice Roger S. Burdick, Idaho Supreme Court xxv
Preface and Acknowledgments xxvii
Special Acknowledgments xxix

Chapter 1  The Research Process and Legal Analysis 3
   I.  Idaho Legal Research 3
   II. The Intersection of Legal Research and Legal Analysis 3
   III. Types of Legal Authority 4
   IV. Overview of the Research Process 6
      A.  Getting Started 7
         1.  Gathering Facts and Determining the Jurisdiction 7
         2.  Generating Research Terms 7
      B.  Researching Secondary Authorities 9
      C.  Researching Enacted Law 9
      D.  Researching Case Law 10
      E.  Updating the Law 10
      F.  Ending Research 10
   V.  Researching the Law—Organization of This Book 11
Chapter 2  Researching in Print and Online  

I. Determining the Advantages of Print and Online Sources  
   A. Where Is the Document Available?  
   B. How Fast and How Efficient Will Research Be?  
   C. What Is the Document?  
   D. Who Wrote the Document?  
   E. How Accurate Is the Document?  
   F. When Was the Document Published?  
   G. How Much Context Is Provided?  
   H. How Much Does It Cost, and Who Is Paying?  

II. Online Sources for Legal Research  
   A. Commercial Providers  
   B. Government and University Websites  

III. Searching LexisNexis and Westlaw  
   A. Beginning Research with a Citation  
   B. Terms-and-Connectors Searching  
      1. Constructing Basic Searches  
      2. “Segment” and “Field” Searching  
      3. Refining Searches with “FOCUS” and “Locate in Result”  
   C. Natural-Language Searching  
   D. Table-of-Contents Searching  
   E. Topic Searching  
   F. Databases and Idaho Tabs  

Chapter 3  Constitutions  

I. Researching the Idaho Constitution  
   A. Locating Constitutional Provisions  
   B. Interpreting the Idaho Constitution  
   C. Researching Related Cases and Secondary Materials  
   D. Researching the Constitution’s History  

II. Researching the United States Constitution
Chapter 4 Judicial Opinions 39

I. Court Systems 40
   A. Idaho Courts 40
   B. Federal Courts 41
   C. Courts of Other States 42

II. State Cases 43
   A. Reporters for Idaho Cases 43
   B. West’s Regional Reporters 44
   C. Citing Idaho Cases 45
   D. Parts of a Reported Case 46
   E. Tables in Reporters 50
   F. Advance Sheets 51
   G. Other Sources for Finding Idaho Cases 52
   H. Idaho Cases on LexisNexis and Westlaw 52

III. Federal Cases 54
   A. Sources for United States Supreme Court Cases 54
   B. Sources for United States Courts of Appeals Cases 55
   C. Sources for United States District Courts Cases 55

IV. Reading and Analyzing Cases 56
   A. Basic Civil Procedure 56
   B. Analyzing the Substance of Cases 58
   C. Strategies for Reading Cases 60

Chapter 5 Researching Judicial Opinions 63

I. West Digests 63
   A. Scope of Digests 64
   B. Topics and Key Numbers 65
   C. Headnotes 66

II. Digest Research 67
   A. Beginning with the Descriptive Word Index 67
   B. Beginning with a Relevant Case 69
   C. Beginning with the Topic Analysis 70
   D. Beginning with Words and Phrases 70
   E. Beginning with the Table of Cases 70
xii Contents

III. Online Topic Searching 71
   A. West's Key Number Digest Online 71
   B. Westlaw's Key Numbers 72
   C. KeySearch on Westlaw 72
   D. Topical Practice Areas on Westlaw 73
   E. Topic Searching on LexisNexis 74
   F. Beginning with a Relevant Case 74

Chapter 6 Statutes 79
   I. Researching Idaho Statutes 79
      A. Statutory Compilations: Idaho Code and West's Idaho Code Annotated 80
      B. The Research Process Using Idaho Code Compilations 81
         1. Search the Index for Research Terms 82
         2. Find and Read the Statutory Language 83
         3. Find Cases that Interpret or Apply Statutes 85
      C. Other Helpful Features of Idaho Code and West's Idaho Code Annotated 86
      D. Idaho Statutes Online 88
         1. State Website 88
         2. Idaho Statutes on Westlaw 88
         3. Idaho Statutes on LexisNexis 89
   II. Applying and Interpreting Idaho Statutes 90
   III. Researching the Statutes of Other States 92
   IV. Researching Federal Statutes 93

Chapter 7 Bill Tracking and Legislative History 95
   I. The Legislative Process 95
   II. Idaho Bill Tracking 98
      A. Researching with a Bill Number 98
      B. Learning About Other Pending Bills 98
   III. Idaho Legislative History Research 99
      A. Sources of Idaho Legislative History 100
Contents

B. Compiling Idaho Legislative History 103
C. Researching Idaho Legislative History on LexisNexis and Westlaw 108
D. Researching Older History 108

IV. Initiative and Referendum in Idaho 108

V. Attorney General Opinions 109

VI. Federal Legislative Research 111
A. Federal Bill Tracking 111
B. Federal Legislative History 111
1. Sources of Federal Legislative History 112
2. Compiled Legislative History 113
3. Print Sources for Federal Legislative History 113
4. Online Sources for Federal Legislative History 113

Appendix. Examples of Idaho Legislative History 114

Chapter 8 Administrative Law 119

I. Administrative Law and Governmental Agencies 119

II. Administrative Rules 121

III. Researching Idaho Administrative Law 122
A. The Enabling Act 123
B. Idaho Administrative Code 123
C. Idaho Administrative Bulletin 125
1. Updating an Idaho Rule 125
2. Other Bulletin Information 127
D. Guidance Documents 127
E. Agency Decisions and Judicial Opinions 128

IV. Researching Federal Administrative Law 129
A. Code of Federal Regulations 130
B. Federal Register 132
C. Updating a Federal Regulation 132
D. Decisions of Federal Agencies 133
E. Judicial Opinions 133
Chapter 12 Research Strategies and Organization

I. Planning a Research Strategy 187
   A. Which Process? 187
   B. Which Resources? 188
   C. Which Media? 189

II. Taking Notes 189
   A. Research Notes 189
   B. Analytical Notes 190

III. Organizing Research 191

IV. Outlining the Analysis 193

V. Ending Research 193

Appendix A Legal Citation 197

I. Idaho Citation—General Practices 198

II. Other States’ Citation Rules 199

III. National Citation Manuals 199
   A. Navigating the ALWD Manual and the Bluebook 200
      1. Index 200
      2. “Fast Formats” and “Quick Reference” 200
      3. Bluebook “Bluepages” 200
      4. ALWD Appendices and Bluebook Tables 201
   B. Citing Idaho Material 201
   C. Incorporating Citations into a Document 201
   D. Case Citations 202
      1. Full Citations to Cases 202
      2. Short Citations to Cases 207
   E. Federal Statutory Citations 208
   F. Signals 209
   G. Explanatory Parentheticals 209
   H. Quotations 210
   I. Additional Citation Details 211

IV. Bluebook Citations for Law Review Articles 212

V. Citations Not Covered by a Manual 214
<table>
<thead>
<tr>
<th>Contents</th>
<th>xvii</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appendix B Selected Bibliography</td>
<td>215</td>
</tr>
<tr>
<td>General Research (tending to focus on federal material)</td>
<td>215</td>
</tr>
<tr>
<td>Texts on Legal Analysis</td>
<td>215</td>
</tr>
<tr>
<td>About the Authors</td>
<td>217</td>
</tr>
<tr>
<td>Index</td>
<td>219</td>
</tr>
</tbody>
</table>
# List of Tables

## Chapter 1  The Research Process and Legal Analysis  
Table 1-1. Examples of Authority in Idaho Research  
Table 1-2. Overview of the Research Process  
Table 1-3. Generating Research Terms  

## Chapter 2  Researching in Print and Online  
Table 2-1. Online Research Websites  
Table 2-2. “Get a Document” on LexisNexis  
Table 2-4. “Find by citation” on Westlaw  
Table 2-5. Boolean Connectors and Commands  
Table 2-6. Natural-Language Search on LexisNexis  
Table 2-7. Table-of-Contents Search on Westlaw  

## Chapter 3  Constitutions  
Table 3-1. Articles of the Constitution of Idaho  
Table 3-2. Collateral References  
Table 3-3. Compiler’s Notes for Article I, § 7  

## Chapter 4  Judicial Opinions  
Table 4-1. Regional Reporters and States Included  
Table 4-3. Westlaw Star Paging in *State v. Jeppesen*  
Table 4-4. Reporters for Federal Court Cases
xx  List of Tables

Chapter 5  Researching Judicial Opinions  63
  Table 5-1. Selected Digests 65
  Table 5-2. Outline for Digest Research with the Descriptive Word Index 67
  Table 5-3. Custom Digest on Westlaw 75
  Table 5-4. Topic Searching on LexisNexis 77

Chapter 6  Statutes  79
  Table 6-1. Outline for Idaho Statutory Research 80
  Table 6-2. Chapters in Idaho Code Title 32, Domestic Relations 81
  Table 6-3. Selected Entries for MARRIAGE in the Idaho Code Index 82
  Table 6-4. Example Idaho Statute 84
  Table 6-5. Outline of an Idaho Statute 85

Chapter 7  Bill Tracking and Legislative History  95
  Table 7-1. Bill Tracking Online 98
  Table 7-2. Legislative History Documents 101
  Table 7-3. Excerpt from Idaho Code with Source Notes 103
  Table 7-4. Excerpt from Idaho Session Laws 2002 106
  Table 7-5. Selected Sources for Federal Legislative History in Print 113
  Appendix 7-A. Excerpt from Senate Committee Minutes 115
  Appendix 7-B. Statement of Purpose 117
  Appendix 7-C. Online Daily Data Tracking History 118

Chapter 8  Administrative Law  119
  Table 8-1. Example of Idaho Administrative Rule Numbering 122
  Table 8-2. Outline for Idaho Administrative Law Research 123
  Table 8-3. Excerpt from an Idaho Rule 126
  Table 8-4. Example of a Federal Regulation 131

Chapter 9  Rules of Court and Professional Ethics  135
  Table 9-1. Idaho Court Rules (Michie) 136
List of Tables xxi

Table 9-2. Topics of Idaho Rules of Professional Conduct 139

Chapter 10 Citators 141
Table 10-1. Outline for Using Online Citators 143
Table 10-2. “Shepard’s for Research” on LexisNexis 146
Table 10-3. Symbols for Updating Cases with Shepard’s 147
Table 10-4. Citing Decisions on LexisNexis 148
Table 10-5. LexisNexis Restrictions 149
Table 10-6. “Full History” in KeyCite on Westlaw 151
Table 10-7. Selected Symbols for Updating Cases with KeyCite 152
Table 10-A. Outline for Shepardizing in Print 158
Table 10-B. Example from Shepard’s Pacific Reporter Citations 160

Chapter 11 Secondary Sources and Practice Aids 163
Table 11-1. Outline for Researching Secondary Sources in Print 164
Table 11-2. Websites for Idaho Research 165
Table 11-3. Excerpt from Wright & Miller’s Federal Practice and Procedure 167
Table 11-4. Topics of Idaho State Bar Publications 168
Table 11-5. Excerpt from C.J.S. Topic “Contracts” 170
Table 11-6. Sample Idaho Form 177
Table 11-7. Restatement Topics 181

Chapter 12 Research Strategies and Organization 187
Table 12-1. Planning a Research Strategy 187
Table 12-2. Sample Analysis Chart 194

Appendix A Legal Citation 197
Table A-1. Purposes of Legal Citations 197
Table A-2. Example Citations Under Idaho Conventions 198
Table A-3. Example Citations in ALWD and Bluebook Format 202
List of Tables

Table A-4. Examples of Citation Sentences and Citation Clauses 203
Table A-5. Comparison of Selected Word Abbreviations in *ALWD* and the *Bluebook* 204
Table A-6. Comparison of *ALWD* and *Bluebook* Formats 212
Table A-7. *Bluebook* Typeface for Law Review Footnotes 213
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, laypeople, and librarians 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.
Foreword

Justice Roger S. Burdick
Idaho Supreme Court

Without a clearly worded, thoroughly and honestly researched theory, followed by a logical analysis of facts to the theory, practitioners and students will not be successful in advocating their client’s cause. *Idaho Legal Research* can help students acquire the skills they need to research legal theory and apply the law to their client’s problems; it can also help Idaho practitioners refresh and update their research skills.

This book will give you a framework with which to go forward in the preparation of zealously advocating for your client. It not only provides a general framework that can be found in a number of general research guides, but most importantly for those of us practicing in Idaho, it is specific to our needs. This tailoring of general to specific is especially helpful in the use of our constitutional history, our specific quirks of procedure and pleading, and our use of authority. This book contains material, advice, and techniques that every attorney should consult over the course of her career. *Idaho Legal Research* integrates all methods of research and details the sources of law that are important to Idaho attorneys.

Any attorney undertaking a research project in an unfamiliar area of the law would be well served by consulting this book as the first step in effective and efficient research. *Idaho Legal Research* is a fine book for students, as well as practitioners, now and in the future. This is truly a book for Idaho lawyers.
Preface and Acknowledgments

While this book was a collaborative effort, Tenielle Fordyce-Ruff provided most of the Idaho-specific materials. She took primary responsibility for chapters on the Idaho constitution, cases, statutes, legislative history, administrative law, and court rules. Suzanne Rowe drafted the other chapters (online research, digests, citators, secondary sources, research strategies, and citation); some material in this book reflects her work on other books in the Legal Research Series.

Both authors appreciate the research and administrative assistance of Kelly Fahl, Julia Harty, John McDonald, Stephanie Midkiff, Angus Nesbit, Harvey Rogers, James Strong, Gloria Trainor, Rick Visser, and Donna Williamson.

We are grateful to LexisNexis and Westlaw for permission to reproduce various book pages and screen shots from their products. Please note that further reproduction of any kind is prohibited.

Tenielle Fordyce-Ruff
Suzanne E. Rowe
January 2008
I owe thanks to all of my colleagues at the Idaho Supreme Court. I am especially grateful for the support and mentorship of Justice Roger Burdick. He has provided not only the foreword to this book, but also his encouragement throughout the drafting process. Additionally, I owe my gratitude to Shyla Freestone and Shirley Sanchezotena for their encouragement and friendship. Both of these remarkable women have smiled and laughed with me throughout this process.

I must also thank my co-author, editor, and mentor, Suzanne Rowe. She introduced me to the world of legal research when I was a student and then graciously offered me the opportunity to work with her on this book.

Finally, my appreciation goes to Julia Harty, James Strong, and Jessica Wedin, who all understood the difference between a pamphlet and a book and who never doubted that I could produce this fine text.

Tenile Fordyce-Ruff
January 2008