

Minnesota Legal Research

Suzanne Thorpe

Suzanne E. Rowe, Series Editor

CAROLINA ACADEMIC PRESS

Durham, North Carolina

Copyright © 2010
Suzanne Thorpe
All Rights Reserved.

Library of Congress Cataloging-in-Publication Data

Thorpe, Suzanne.

Minnesota legal research / Suzanne Thorpe.

p. cm.

Includes bibliographical references and indexes.

ISBN 978-1-59460-585-7 (alk. paper)

1. Legal research--Minnesota. I. Title.

KFM5475.T48 2010

340.072'0776--dc22

2010005211

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.

Summary of Contents

Contents	vii
List of Tables and Figures	xv
Series Note	xix
Preface and Acknowledgments	xxi
Chapter 1 The Process of Legal Research	3
Chapter 2 Approaches for Finding and Using Resources	17
Chapter 3 Secondary Sources	35
Chapter 4 Constitutional Law	57
Chapter 5 Statutory Law	75
Chapter 6 Legislative History	99
Chapter 7 Administrative Law	119
Chapter 8 Case Law	139
Chapter 9 How to Research Case Law	155
Chapter 10 Rules of Court and Rules of Professional Responsibility	179
Appendix A Major Minnesota Legal Research Tools	189
Appendix B Where to Find Minnesota Primary Sources of Law	193
Appendix C A Few Words About Legal Citation	197
Appendix D Selected Legal Research Texts	201
About the Author	203
Index	205

Contents

List of Tables and Figures	xv
Series Note	xix
Preface and Acknowledgments	xxi
Chapter 1 • The Process of Legal Research	3
I. Introduction	3
II. Developing a Research Strategy	3
A. Define Your Task	3
1. Why Are You Doing This Research?	4
2. How Much Time Do You Have?	4
3. Are There Cost Constraints?	4
4. What Should Your Final Research Product Be?	5
B. Assess What You Already Know	5
1. Identify the Relevant Jurisdiction	5
2. Identify the Terminology Involved	5
3. State the Legal Issues You Will Research	7
4. Identify Relevant Primary Legal Sources for This Topic	7
a. Primary Sources of Law	8
b. Mandatory Authority	9
c. Persuasive Authority	10
5. Identify Relevant Secondary Sources for This Topic	10
6. Decide If You Need More Information	11
C. Make an Initial Research Plan for Each Issue	11
1. Primary or Secondary Sources First?	11
2. Hard Copy or Online Resources?	11
III. Doing the Research	12

A.	Consult the Legal Resources You Have Identified	12
1.	Make a Record of Each Resource You Consult	12
2.	Revise Your Research Plan	14
3.	Organize Relevant Authorities	14
B.	Check the Validity and Currency of the Relevant Authorities	15
IV.	Analyzing the Information Collected for Each Issue	16
Chapter 2 • Approaches for Finding and Using Resources		17
I.	Introduction	17
II.	Tools for Finding Relevant Sources	17
A.	Bibliographies and Research Guides	17
B.	Periodical Indexes	18
C.	Library Catalogs	19
III.	Approaches for Using Hard Copy Resources	20
A.	Check the Currency of the Publication	20
B.	Read Introductory Information	21
C.	Consult Special Finding Aids	21
IV.	Approaches for Using Online Resources	22
A.	Check the Contents	22
B.	Learn Searching Conventions	24
C.	Master Three Basic Approaches for Online Research	24
1.	Document Retrieval	26
2.	Subject Searching	26
3.	Word Searching	28
a.	Select Search Terms and Phrases for Each Concept	29
i.	Phrases	29
ii.	Alternative Terms and Phrases	30
b.	Connect Search Terms and Phrases for Each Concept	30
c.	Connect the Concepts	30
i.	AND Connector	30
ii.	Proximity Connectors	31
iii.	Ordering Connectors	31
d.	Restrict the Search to Parts of Documents	32

e.	Restrict the Search by Date	32
f.	Search Within the Retrieved Results to Narrow Them	33
D.	Take Advantage of Simplified Searching Tools	34
1.	Templates	34
2.	Natural Language Searching	34
Chapter 3 •	Secondary Sources	35
I.	Introduction	35
II.	Traditional Secondary Sources for Legal Research	36
A.	Treatises	36
B.	Legal Periodicals	37
III.	Unique Secondary Sources for Legal Research	41
A.	Loose-Leaf Services	41
B.	Legal Encyclopedias	42
1.	<i>Dunnell Minnesota Digest</i>	43
2.	Other Legal Encyclopedias	45
C.	<i>American Law Reports</i>	45
D.	Restatements	46
E.	Uniform Laws and Model Codes	49
F.	“Practice” Series	51
G.	Form Books	51
H.	Jury Instructions	53
I.	Continuing Legal Education Publications	54
Chapter 4 •	Constitutional Law	57
I.	Introduction	57
II.	History of the Minnesota Constitution	58
III.	Organization of the Minnesota Constitution	60
IV.	Hard Copy Versions of the Minnesota Constitution	61
V.	Online Versions of the Minnesota Constitution	62
A.	Free Online Access	62
B.	Westlaw Access	63
C.	LexisNexis Access	64
VI.	Finding Relevant Minnesota Constitutional Provisions	65

A.	Follow the References Given in Other Legal Sources	65
B.	Use the Indexes to the Constitution	65
C.	Use Word Searches in the Online Versions of the Constitution	66
VII.	Finding Cases and Commentaries Regarding the Minnesota Constitution	66
A.	Use Annotated Codes and Guides	66
1.	<i>Minnesota Statutes Annotated</i>	67
a.	Interpretations	67
b.	Commentaries	67
2.	<i>Minnesota Annotated Constitution</i>	69
3.	Other Annotated Versions of the Constitution	70
B.	Use Citators	70
1.	<i>Shepard's</i>	71
2.	KeyCite	71
C.	Use Tables in Encyclopedias and Digests	72
D.	Use Word Searches in Full Text Case Databases	72
E.	Use Periodical Indexes	72
VIII.	United States Constitution	73
Chapter 5 •	Statutory Law	75
I.	Introduction	75
II.	Individual Enactments	75
A.	Slip Laws	75
B.	Session Laws	77
III.	Statutory Codes	79
A.	The Process of Codification	80
B.	Official Statutory Codes	82
C.	Unofficial Statutory Codes	84
IV.	How to Find Relevant Minnesota Statutory Law	86
A.	Working from a Citation	87
1.	To Find Individual Enactments from the Current Session	87
2.	To Find Individual Enactments from Previous Sessions	88
3.	To Find Code Sections	88

B. Working from a Popular Name	90
C. Working from a Topic	91
D. Using Word Searches in Full Text	92
V. Regulations Related to Minnesota Statutory Law	92
VI. Interpretations and Commentary Related to Minnesota Statutory Law	93
VII. Federal Statutory Law	93
A. Individual Enactments	93
1. Slip Laws	93
2. Session Laws	94
B. Codes	95
1. Official Code	95
2. Unofficial Codes	95
VIII. Updating and Analyzing Statutes	96
Chapter 6 • Legislative History	99
I. Introduction	99
II. Minnesota Legislative History	99
A. Legislative Process	99
B. Where to Find Minnesota Legislative History Materials	100
1. Texts of Bills	103
2. Floor Proceedings and Votes	103
3. Committee Proceedings	105
III. Researching the Legislative History of Codified Laws	107
A. Identify the Relevant Session Law(s)	107
B. Identify the Bill Number for Each Session Law	108
C. Check the Journals to Identify the Actions Taken and Their Dates	108
D. Check the Committee Minutes and Floor Proceedings	111
E. Read All Versions of the Bill	111
IV. Tracking Pending Bills	111
A. Using the Website of the Minnesota Legislature	112
B. Using LexisNexis and Westlaw	112

V. Federal Legislative History	113
A. Legislative Process and Documents	113
B. Finding Federal Legislative History of Existing Laws	114
1. Identify a Bill Number	114
2. Identify All Actions, Dates of Actions, and Documents for the Bill	116
C. Tracking Pending Bills	117
1. Using THOMAS	117
2. Using Daily Calendars	117
3. Using LexisNexis and Westlaw	117
Chapter 7 • Administrative Law	119
I. Introduction	119
II. Minnesota Administrative Sources	119
A. Rules	120
1. <i>Minnesota State Register</i>	121
2. <i>Minnesota Rules</i>	122
B. Administrative Decisions	125
1. Decisions of the Office of Administrative Hearings	125
2. Decisions of the Tax Court	126
3. Decisions of the Workers' Compensation Court of Appeals	127
4. Opinions of the Attorney General	127
III. How to Find Relevant Minnesota Administrative Rules	128
A. Working from a Citation	129
1. To Find Rules in Effect	129
2. To Track Pending Rules	129
B. Working from a Topic Using Indexes	130
C. Using Word Searches in Full Text	131
D. Working from a Statutory Provision	131
IV. How to Find Minnesota Cases and Commentary Related to Minnesota Administrative Rules	131
V. Federal Administrative Law	132
A. Federal Administrative Sources	132
1. Regulations	132
a. <i>Federal Register</i>	133

b. <i>Code of Federal Regulations</i>	133
c. Finding and Updating Regulations	135
2. Administrative Decisions	137
VI. Analyzing Minnesota and Federal Administrative Law	137
Chapter 8 • Case Law	139
I. Introduction	139
A. Court Systems	140
1. Minnesota	140
2. Federal	140
B. Trial Court Cases	141
C. Appellate Court Cases	142
D. Slip Opinions	143
E. Reported Opinions	145
1. Official Reporters	146
2. Commercially Published Reporters	146
II. Minnesota Case Law	149
A. Slip Opinions	149
B. Reported Opinions	151
III. Federal Case Law	152
A. Slip Opinions	152
B. Reported Opinions	152
Chapter 9 • How to Research Case Law	155
I. Introduction	155
II. Looking for a Known Case	155
A. Recent Slip Opinions or Unreported Cases	155
B. Reported Cases	156
1. By Citation	156
2. By Party Names	157
III. Looking for Cases by Subject Matter	157
A. West's Topic and Key Number System	158
1. Using West's Digests	161
2. Using West's Digest System on Westlaw	164
B. <i>Dunnell Minnesota Digest</i>	166
C. LexisNexis Headnote Topics	166

IV. Looking for Cases Using a Word Search	168
V. What to Do After Finding Relevant Cases	168
A. Read and Analyze Each Case	169
B. Use Citators to Check the Current Validity and Authority of Each Case	170
1. <i>Shepard's Citations</i>	172
2. <i>Shepard's Citations</i> Online	172
3. KeyCite	174
Chapter 10 • Rules of Court and Rules of Professional Responsibility	179
I. Introduction	179
II. Rules of Court	179
A. Minnesota Rules of Court	180
1. Rulemaking Process	180
2. Rule Compilations	181
3. Publications Containing Minnesota Rules of Court	181
B. Federal Rules of Court	184
III. Finding Rules of Court	186
IV. Reading and Understanding Court Rules	187
V. Rules of Professional Responsibility	187
Appendix A • Major Minnesota Legal Research Tools	189
Appendix B • Where to Find Minnesota Primary Sources of Law	193
Appendix C • A Few Words About Legal Citation	197
Appendix D • Selected Legal Research Texts	201
About the Author	203
Index	205

List of Tables and Figures

Tables

Chapter 1 • The Process of Legal Research	3
Table 1-1 Research Terms	6
Table 1-2 Primary Sources of Law from Each Branch of Government	8
Table 1-3 Mandatory and Persuasive Authority for Minnesota	10
Table 1-4 Comparison of Hard Copy and Online Resources	13
Table 1-5 Evaluating Authorities	15
Chapter 2 • Approaches for Finding and Using Resources	17
Table 2-1 Minnesota Library Online Research Guides	18
Table 2-2 Important Searching Conventions	25
Table 2-3 Steps for Document Retrieval on LexisNexis and Westlaw	27
Table 2-4 Steps for Subject Searching on LexisNexis and Westlaw	28
Table 2-5 Word Searching Steps	29
Table 2-6 LexisNexis and Westlaw Searching Conventions	33
Chapter 3 • Secondary Sources	35
Table 3-1 Major Minnesota Legal Periodicals	40
Table 3-2 West's <i>Minnesota Practice</i> Titles	52
Chapter 4 • Constitutional Law	57
Table 4-1 Articles of the Minnesota Constitution	61

Chapter 5 • Statutory Law	75
Table 5-1 Selected Criminal Law Chapters in the <i>Minnesota Statutes</i>	79
Chapter 6 • Legislative History	99
Table 6-1 Steps in Minnesota Lawmaking	101
Table 6-2 Locations of Minnesota Bills	104
Table 6-3 Locations of Recordings of Minnesota Floor Proceedings	105
Table 6-4 Locations of Legislative Committee Materials	106
Table 6-5 Comparison of Minnesota and Federal Legislative Documents	114
Table 6-6 Congressional Publications Online	115
Chapter 7 • Administrative Law	119
Table 7-1 Sections of the <i>Minnesota State Register</i>	121
Chapter 8 • Case Law	139
Table 8-1 Minnesota Court System	141
Table 8-2 United States Court System	142
Table 8-3 National Reporter System	148
Chapter 9 • How to Research Case Law	155
Table 9-1 West Digests	162
Table 9-2 Important Segments and Fields for Researching Cases	169
Table 9-3 <i>Shepard's Citations</i> Symbols Found on LexisNexis Cases	174
Table 9-4 KeyCite Letters and Symbols Found on Westlaw Cases	176
Table 9-5 Steps for Using a Citator to Verify and Update Cases	177
Chapter 10 • Rules of Court and Rules of Professional Responsibility	179
Table 10-1 Minnesota Rules of Criminal Procedure	182
Table 10-2 Treatises Commenting on Minnesota Court Rules	183

Figures

Chapter 2 • Approaches for Finding and Using Resources	17
Figure 2-1 LexisNexis “Find a Source”	23
Figure 2-2 Westlaw “Search for a Database”	23
Chapter 3 • Secondary Sources	35
Figure 3-1 Excerpts from <i>Dunnell Minnesota Digest</i> § 2.01	44
Figure 3-2 Excerpt from <i>Restatement of the Law, Second: Conflict of Laws</i> § 296	48
Chapter 4 • Constitutional Law	57
Figure 4-1 Minnesota Constitution Table of Contents on Westlaw	64
Figure 4-2 <i>Minnesota Statutes Annotated</i> Sample Annotation	68
Figure 4-3 <i>Minnesota Annotated Constitution</i> Case Notes	69
Figure 4-4 <i>Minnesota Annotated Constitution</i> Sample Annotation	69
Chapter 5 • Statutory Law	75
Figure 5-1 Chapter 1 Enacted by the 85th Legislature	78
Figure 5-2 Text of Chapter 258, Sections 4–7 in the 1979 Session Laws	81
Figure 5-3 Text and History Line of <i>Minnesota Statutes</i> § 609.221	82
Figure 5-4 Annotations for § 609.221 in the <i>Minnesota Statutes Annotated</i>	85
Figure 5-5 Annotations for § 609.221 in the <i>Minnesota Annotated Statutes</i>	87
Figure 5-6 Excerpt of Chapter 258 from the Table of Session Laws in the <i>Minnesota Statutes Annotated</i>	90
Figure 5-7 Popular Name Table in the <i>Minnesota Statutes Annotated</i>	91

Chapter 6 • Legislative History	99
Figure 6-1 Listing for H.F. No. 555 in <i>Senate Journal Index</i>	109
Figure 6-2 House Journal Entries for Actions Taken on S.F. No. 1880	110
Chapter 7 • Administrative Law	119
Figure 7-1 <i>Minnesota Rules</i> Part 1400.2040	124
Figure 7-2 Adoption of Amendment to <i>Minnesota Rules</i> 1400.2400	125
Figure 7-3 Outline of Part I of Title 50 of the <i>Code of Federal Regulations</i>	136
Chapter 8 • Case Law	139
Figure 8-1 Slip Opinion of <i>State v. Ortiz</i> Case	144
Figure 8-2 <i>State v. Ortiz</i> in West Reporter	150
Chapter 9 • How to Research Case Law	155
Figure 9-1 Excerpt from the Topic “Assault and Battery” in <i>West’s Minnesota Digest, 2d</i>	159
Figure 9-2 Excerpt from “Assault and Battery,” Key Number 48 in <i>West’s Minnesota Digest, 2d</i>	160
Figure 9-3 Descriptive-Word Index for Assault and Battery on an Officer	163
Figure 9-4 Westlaw Custom Digest Search	165
Figure 9-5 LexisNexis Search by Headnote	167
Figure 9-6 <i>Shepard’s Minnesota Citations</i>	173
Figure 9-7 Shepard’s Display on LexisNexis	175

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.

Preface and Acknowledgments

This work is written to provide practical guidance to law students, legal assistants, librarians, attorneys, and others who are interested in researching Minnesota law. It describes important hard copy and on-line legal resources and explains when and how to use them. While Minnesota legal resources are the focus of the book, important federal legal resources and selected works that are useful for researching the law of any jurisdiction are also discussed. The concise nature of the series in which this book is published limits coverage to current sources that are widely available. For detailed information on additional Minnesota legal resources, consult the bibliographic *Minnesota Legal Research Guide* by John Tessner, Brenda Wolfe, and George Jackson (2d ed., William S. Hein 2002).

Throughout this book, the term “legal sources” is used to refer to legal authorities (i.e., cases, statutes, regulations, court rules) and commentary about them. In contrast, “legal resources” refers to the publications and databases in which legal sources are found. The on-line resources covered are primarily those available on LexisNexis, Westlaw, and the Internet.

For online research, the book uses the term “file” to refer to a LexisNexis database, which is how LexisNexis refers to its databases. To view a LexisNexis file, click on “by Source” under “Search” at the top of any screen. Under “Option 2,” click on “Find a Source.” In the box under “Option 1,” enter the relevant file name listed in the book. The book identifies Westlaw databases as “databases,” which reflects the terminology used by Westlaw. To view a Westlaw database, enter the database name listed in the book in the “Search for a Database” box found on the left side of most Westlaw screens.

After an introduction to the research process, the book continues with basic guidance for effectively finding and using hard copy and

online resources. It then discusses secondary sources. The remaining chapters focus on specific primary legal sources for Minnesota. Appendix A provides a listing of the major Minnesota legal resources in use today. Appendix B offers a quick guide for finding Minnesota primary legal sources in hard copy and online resources.

The book touches briefly on legal citation and provides references to citation rules found in *The Bluebook: A Uniform System of Citation* (The Columbia Law Review et al. eds., 18th ed., The Harvard Law Review Assn. 2005) and the *ALWD Citation Manual: A Professional System of Citation* by the Association of Legal Writing Directors & Darby Dickerson (3d ed., Aspen Publishers 2006). These two citation manuals are abbreviated as “Bluebook” and “ALWD” respectively throughout the book. Citation examples for the Bluebook conform to practice format, which varies slightly from law review format. Appendix C provides more background on legal citation. The footnote citations given in this book are based on the ALWD manual, though various chapters provide example citations from both manuals in the text.

Although the chapters in the book briefly discuss federal legal resources, other legal research texts should be consulted for more detailed information. Appendix D provides a listing of important texts covering federal legal research.

I am extremely grateful for the opportunity to write this book. I wish to thank Professor Bradley Clary, Director of Applied Legal Instruction at the University of Minnesota Law School, for recommending me for this project. In addition, I am indebted to Professor Suzanne Rowe, Director of the Legal Research and Writing Program at the University of Oregon School of Law. Her ground-breaking book, *Oregon Legal Research*, served as the model for this text. As editor of Carolina Academic Press’ *Legal Research Series*, she offered me expert editorial advice and encouragement. I wish to express my deepest appreciation to my husband, Louis Janus. His sage advice and unfailing support made it possible for me to write this book. Finally, I would like to thank Sonja, my feline companion and muse, for inspiring me throughout the writing process.