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Missouri Legal Research

Second Edition

Wanda M. Temm
Julie M. Cheslik

Suzanne E. Rowe, Series Editor

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*For Keith and Bettie Sue Shumway,
whose passion for higher education
instilled in me the drive
to be the best teacher I can be.*

—WMT

*For Marlene L. Cheslik,
My Teacher.*

—JMC

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Series Note

The Legal Research Series published by Carolina Academic Press includes titles from many 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

Judge Laura Denvir Stith
Supreme Court of Missouri

The substantive classes that a law student takes teach the fundamental principles, concepts, and rules underlying particular areas of law. The knowledge gained in these classes will prove invaluable to the practicing lawyer. But, an understanding of how to undertake effective legal research is essential to being a successful law student and, more importantly, to becoming an effective lawyer. If one does not know what a regulation is, or how to find out whether a case is still good law, then the substantive knowledge gained in law school will be of little practical use to the student or a future client. The gap between acquiring substantive knowledge and providing helpful advice is filled by legal research.

Students of Professors Wanda Temm and Julie Cheslik at the University of Missouri at Kansas City have long had the benefit of their insights into legal research methods. I am delighted that they have chosen to publish their ideas so that others will have the opportunity to gain from their experience. *Missouri Legal Research* offers a clear guide to the various sources of law used by Missouri lawyers and gives insights into how to make legal research both useful and effective. There are so many ways to approach legal research, and so many research sources to choose from, that a new student often is not sure where to begin. This book carefully explains the different types of sources of law, which sources are best used for what purpose, and how to quickly find relevant laws or cases.

Missouri Legal Research shows how to find cases that apply the relevant concepts, how to research statutes and regulations that set out

the governing rules, and how to use treatises and law reviews to explain to a dubious judge or senior partner why the principles embodied in those cases should apply to the case at hand. In short, it teaches the skills the new law student needs in order to solve the mysteries of legal research.

Further, *Missouri Legal Research* has the added advantage of offering this excellent primer on legal research in a context that will be specifically useful to students in Missouri law schools who wish to become Missouri lawyers. Professors Temm and Cheslik explain the structure of the Missouri court system and the judicial decision-making process, thereby providing a useful context for understanding how and why particular types of research are useful and necessary. This book's suggestions are practical, and are geared to Missouri law and to the peculiarities of Missouri practice.

I am confident that this book will be a ready reference to all who find their way to its pages. Students will refer to this book time and again while taking legal research and writing, in preparing moot court briefs, and as they research issues for seminar papers or for legal clinics. New lawyers will find it invaluable when their work requires research into sources they have not utilized since their first-year courses. *Missouri Legal Research* is an invaluable addition to Missouri's law libraries.

Preface and Acknowledgments

This book is intended primarily for use by the student who is new to legal research or an area of legal research. Other audiences include practitioners who need to be familiar with Missouri resources, as well as paralegals, college students, and lay people. While some chapters may serve a reference-type purpose, such as the legislative history chapter, this book is primarily intended as an introduction to the tools and sources of Missouri and federal legal research. Excerpts of sample pages are included to help orient readers to the various resources. The format of sample pages may be altered to fit this book's smaller page size.

Structure and Themes

Each chapter of this book introduces one type of authority or a finding tool. The focus of each chapter is on a tripartite process: (1) At what stage of legal problem-solving is this source helpful? (2) How do legal researchers access and use this source? (3) How is this source updated?

In addition to the three process-oriented queries, there are four common themes to remember in learning about the sources of legal research. These themes consider whether a source is (1) primary vs. secondary authority, (2) mandatory vs. persuasive authority, (3) official vs. unofficial, and (4) compiled chronologically vs. topically. These themes will be addressed frequently throughout the book.

Print and Online Sources

This book focuses on the sources of law (statutes, case law, rules, and regulations, etc.) both in a print medium and in an online format. After explaining the print sources and how they are compiled and used to solve legal problems, each chapter shows how researchers can access these sources in an online format. An important aspect of the book is its discussions of how to make judgments about which medium to access and when to access it.

Online sources are divided into free-access Internet sites and fee-based online databases. Unlike print resources that make format changes on an infrequent basis, online sources change format and content much more often. As a result, changes can happen before a research book that describes an online source has left the printer. Indeed, the two major fee-based online databases, Westlaw and LexisNexis, both issued new format changes within a few months of this book's publication.

Westlaw's new interface is called WestlawNext. Westlaw currently continues to maintain the "old" Westlaw format, but we would anticipate it being phased out while this edition is in print. LexisNexis's new interface is called Lexis Advance for Law Schools. It will be available in late 2011. Since the publication of the first edition of this book, LexisNexis has come out with a new product, Lexis for Microsoft Office. This product creates hyperlinks to citations in a Word document that link to the full text of the citation on LexisNexis. These hyperlinks can facilitate researching while drafting a document. We anticipate that LexisNexis's current interface will also be phased out while this edition is in print.

Reflection

This book began as *The UMKC Legal Research Guide* in 1994, originally drafted by Julie Cheslik. Since then it has been updated annually. In 1999, Wanda Temm took the reins as Director of Legal Writing and continued the annual update. Over the years, the guide evolved to become a resource for students well after the first year of

law school. Numerous alumni maintained their copies and used the guide in their practices and clerkships. Through their suggestions that it be made available to a wider audience, this book was written.

Acknowledgments

This book is the work of many people, primarily former teaching assistants in the Legal Writing Program at the University of Missouri-Kansas City School of Law, who contributed early outlines, early chapter drafts, examples, and, above all, enthusiasm and dedication. Particular thanks to former teaching assistants Teresa Locke, Mark Dover, Tony Gosserand, Dianne Hansen, Barbara Hircock, Robert James, Elizabeth Lawrence, Derrick Pearce, Jacque Sparks, Roger Walker, Steve Ward, and Louie Wright, who helped start this project.

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Special thanks to Lawrence MacLachlan, Director of Research and Instructional Services, Leon E. Bloch Law Library, University of Missouri-Kansas City School of Law, for his patient and consistent review. He added valuable explanations and illustrations based on his years of experience teaching legal research. Thanks also to Rachelle Leutzinger for her assistance on the graphical information and to Pam Benton for her contributions to the Missouri legislative history section.

Series editor, Suzanne Rowe, also deserves special thanks. In addition to contributing portions of Chapter 1 and Appendix A, her able assistance in finalizing the manuscript and suggested improvements has helped make this book even more readable and user-friendly. Her dedication to this project was invaluable.

Thanks as well to Dean Ellen Suni, the UMKC administration, and the UMKC law faculty for their support of the Legal Writing Program

over the years. That support has allowed us to provide our students a top-notch program using innovative teaching methods. This book would not have been created without their support.

WMT and JMC