

Idaho Legal Research

CAROLINA ACADEMIC PRESS
LEGAL RESEARCH SERIES

Suzanne E. Rowe, Series Editor



- Arizona, Second Edition—Tamara S. Herrera
Arkansas—Coleen M. Barger
California, Second Edition—Hether C. Macfarlane, Aimee Dudovitz
& Suzanne E. Rowe
Colorado—Robert Michael Linz
Connecticut—Jessica G. Hynes
Federal, Second Edition—Mary Garvey Algero, Spencer L. Simons,
Suzanne E. Rowe, Scott Childs & Sarah E. Ricks
Florida, Fourth Edition—Barbara J. Busharis, Jennifer LaVia
& Suzanne E. Rowe
Georgia—Nancy P. Johnson, Elizabeth G. Adelman & Nancy J. Adams
Idaho, Second Edition—Tenielle Fordyce-Ruff & Kristina J. Running
Illinois, Second Edition—Mark E. Wojcik
Iowa—John D. Edwards, M. Sara Lowe, Karen L. Wallace
& Melissa H. Weresh
Kansas—Joseph A. Custer & Christopher L. Steadham
Kentucky—William A. Hilyerd, Kurt X. Metzmeier & David J. Ensign
Louisiana, Second Edition—Mary Garvey Algero
Massachusetts—E. Joan Blum
Michigan, Second Edition—Pamela Lysaght & Cristina D. Lockwood
Minnesota—Suzanne Thorpe
Mississippi—Kristy L. Gilliland
Missouri, Third Edition—Wanda M. Temm & Julie M. Cheslik
New York, Third Edition—Elizabeth G. Adelman, Theodora Belniak,
Courtney L. Selby & Brian T. Detweiler
North Carolina, Second Edition—Scott Childs & Sara Sampson
Ohio, Second Edition—Sara Sampson, Katherine L. Hall
& Carolyn Broering-Jacobs
Oklahoma—Darin K. Fox, Darla W. Jackson & Courtney L. Selby
Oregon, Third Edition—Suzanne E. Rowe
Pennsylvania—Barbara J. Busharis & Bonny L. Tavares
Tennessee—Sibyl Marshall & Carol McCrehan Parker
Texas, Revised Printing—Spencer L. Simons
Washington, Second Edition—Julie Heintz-Cho, Tom Cobb
& Mary A. Hotchkiss
West Virginia—Hollie Schwartz Temple
Wisconsin—Patricia Cervenka & Leslie Behroozi
Wyoming—Debora A. Person & Tawnya K. Plumb



Idaho Legal Research

Second Edition

Tenielle Fordyce-Ruff
Kristina J. Running

Suzanne E. Rowe, Series Editor



CAROLINA ACADEMIC PRESS

Durham, North Carolina

Copyright © 2015
Carolina Academic Press
All Rights Reserved.

Library of Congress Cataloging-in-Publication Data

Fordyce-Ruff, Tenielle, author.

Idaho legal research / Tenielle Fordyce-Ruff and Kristina Running. --
Second edition.

pages cm -- (Legal Research Series)

Includes bibliographical references and index.

ISBN 978-1-61163-367-2 (alk. paper)

1. Legal research--Idaho. I. Running, Kristina, author. II. Title.

KFI75.F67 2015

340.072'0796--dc23

2015022164

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 family, friends, and colleagues.
Thank you for all your help and encouragement.*

TFR

*To my husband, Mitch, for his support and love, and our baby girls,
Avery and Piper, for bringing immeasurable joy to our lives.*

KR

Summary of Contents

List of Tables and Figures	xvii
Series Note	xxi
Foreword	xxiii
Preface and Acknowledgments	xxv
Chapter 1 · The Research Process and Legal Analysis	3
Chapter 2 · Research Strategies and Organization	13
Chapter 3 · Online Legal Research	23
Chapter 4 · Constitutions	35
Chapter 5 · Judicial Opinions	43
Chapter 6 · Researching Judicial Opinions	65
Chapter 7 · Statutes	75
Chapter 8 · Bill Tracking and Legislative History	89
Chapter 9 · Administrative Law	109
Chapter 10 · Rules of Court and Professional Ethics	121
Chapter 11 · Citators	125

Chapter 12 · Secondary Sources and Practice Aids	139
Appendix A · Legal Citation	155
Appendix B · Selected Bibliography	169
About the Authors	171
Index	173

Contents

List of Tables and Figures	xvii
Series Note	xxi
Foreword	xxiii
Preface and Acknowledgments	xxv
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. Get Started	6
1. Gathering Facts and Determining the Jurisdiction	6
2. Generating Research Terms	6
B. Research Secondary Authorities	9
C. Research Enacted Law	9
D. Research Case Law	9
E. Update the Law	10
F. End Research	10
V. Researching the Law — Organization of This Book	10
Chapter 2 · Research Strategies and Organization	13
I. Planning a Research Strategy	13
A. Which Process?	13

B. Which Resources?	14
C. Which Media?	15
1. Where Is the Document Available?	15
2. How Fast and How Efficient Will Research Be?	15
3. What Is the Document?	15
4. Who Wrote the Document?	16
5. How Accurate Is the Document?	16
6. When Was the Document Published?	16
7. How Much Context Is Provided?	16
8. How Much Does It Cost, and Who Is Paying?	17
II. Taking Notes	18
A. Research Notes	18
B. Analytical Notes	18
III. Organizing Research	19
IV. Outlining the Analysis	21
V. Ending Research	22
Chapter 3 · Online Legal Research	23
I. Introduction to Online Sources for Legal Research	23
A. Commercial Providers	23
B. Government and University Websites	23
II. Research Using Lexis Advance, WestlawNext, and Other Services	25
A. Beginning Research with a Citation	26
B. Terms-and-Connectors Searching	26
C. Natural-Language Searching	29
D. Narrowing Results	31
E. Table-of-Contents Searching	32
F. Topic Searching	33
G. Databases	34
Chapter 4 · Constitutions	35
I. Researching the Idaho Constitution	37
A. Locating Constitutional Provisions	37
B. Interpreting the Idaho Constitution	38
C. Researching Related Cases and Secondary Materials	38
D. Researching the Constitution's History	39

II. Researching the United States Constitution	42
Chapter 5 · Judicial Opinions	43
I. Court Systems	43
A. Idaho Courts	44
B. Federal Courts	45
C. Courts of Other States	46
II. State Cases	46
A. Reporters for Idaho Cases	46
B. West's Regional Reporters	47
C. Citing Idaho Cases	48
D. Parts of a Reported Case	49
E. Tables in Reporters	53
F. Other Sources for Finding Idaho Cases	53
G. Idaho Cases on Lexis Advance and WestlawNext	54
III. Federal Cases	56
A. Sources for United States Supreme Court Cases	56
B. Sources for United States Courts of Appeals Cases	57
C. Sources for United States District Courts Cases	57
IV. Reading and Analyzing Cases	57
A. Basic Civil Procedure	58
B. Analyzing the Substance of Cases	59
C. Strategies for Reading Cases	61
Appendix 5-1. Excerpt from <i>State v. Jeppesen</i> in <i>Pacific Reporter</i>	63
Chapter 6 · Researching Judicial Opinions	65
I. West Digests	65
A. Topics and Key Numbers	66
B. Headnotes	66
II. Online Topic Searching	67
A. Topic and Key Number Searching on WestlawNext	67
B. Topical Practice Areas on WestlawNext	68
C. Topic Searching on Lexis Advance	68
D. Beginning with a Relevant Case	69
Appendix 6-1. Digest Research in Print Sources	71
A. Digests for Idaho Research	71

B. Beginning with the Descriptive-Word Index	72
C. Beginning with a Relevant Case	73
D. Beginning with the Topic Analysis	74
E. Beginning with Words and Phrases	74
F. Beginning with the Table of Cases	74
Chapter 7 · Statutes	75
I. Idaho Statutory Research	75
A. Statutory Compilations: <i>Idaho Code</i> and <i>West's Idaho Code Annotated</i>	76
B. The Research Process Using Idaho Code Compilations	77
1. Search the Index for Research Terms	78
2. Find and Read the Statutory Language	78
3. Find Cases that Interpret or Apply Statutes	79
C. Other Helpful Features of <i>Idaho Code</i> and <i>West's Idaho Code Annotated</i>	81
D. Online Sources for Idaho Statutes	83
1. State Website	83
2. Idaho Statutes on Lexis Advance	83
3. Idaho Statutes on WestlawNext	84
II. Applying and Interpreting Idaho Statutes	85
III. Researching the Statutes of Other States	86
IV. Federal Statutes	87
Chapter 8 · Bill Tracking and Legislative History	89
I. The Legislative Process	89
II. Idaho Bill Tracking	91
A. Researching with a Bill Number	92
B. Learning About Other Pending Bills	92
III. Idaho Legislative History Research	92
A. Sources of Idaho Legislative History	93
B. Compiling Idaho Legislative History	95
C. Idaho Legislative History on Lexis Advance and WestlawNext	103
D. Researching Older History	103
IV. Initiative and Referendum in Idaho	104

V. Attorney General Opinions	104
VI. Federal Legislative Research	106
A. Federal Bill Tracking	106
B. Federal Legislative History	106
1. Sources of Federal Legislative History	107
2. Compiled Legislative History	107
3. Print Sources for Federal Legislative History	107
4. Online Sources for Federal Legislative History	108
Chapter 9 · Administrative Law	109
I. Administrative Law and Governmental Agencies	109
II. Administrative Rules	110
III. Researching Idaho Administrative Law	112
A. The Enabling Act	112
B. <i>Idaho Administrative Code</i>	112
C. <i>Idaho Administrative Bulletin</i>	114
1. Updating an Idaho Rule	115
2. Other <i>Bulletin</i> Information	115
D. Guidance Documents	115
E. Agency Decisions	116
IV. Researching Federal Administrative Law	117
A. <i>Code of Federal Regulations</i>	117
B. <i>Federal Register</i>	118
C. Decisions of Federal Agencies	119
D. Judicial Opinions	119
Chapter 10 · Rules of Court and Professional Ethics	121
I. Court Rules	121
A. Idaho Court Rules	121
B. Federal Court Rules	123
II. Ethical Rules	123
Chapter 11 · Citators	125
I. Citator Fundamentals	126
A. Sources Covered	126
B. Colored Symbols	127

C. Online Tutorials	127
II. Using Citators to Update Authorities	127
A. Shepard's on Lexis Advance	127
1. Access the Citator	127
2. Select the Type of Citing List	127
3. Review the Citator Symbols and Limit the Search Results	129
4. Read and Analyze the Citing Sources	131
B. KeyCite on WestlawNext	132
1. Access the Citator	132
2. Select the Type of Citing List	132
3. Review the Citator Symbols and Limit the Search Results	134
4. Read and Analyze the Citing Sources	134
C. Updating Details	134
1. "Alert" Functions on Shepard's and KeyCite	134
2. Citing Reference Signals	135
3. Headnote References	135
4. Table of Authorities Function	135
5. Prioritizing Cases	136
D. When to Update	136
III. Using Citators to Expand Research	136
IV. Updating Other Authorities	137
Chapter 12 · Secondary Sources and Practice Aids	139
I. Introduction	139
II. Sources for Secondary Materials	139
III. Treatises, Practice Guides, and Other Books	140
A. Treatises	141
B. Idaho Practice Guides	141
IV. Legal Encyclopedias	142
V. Legal Periodicals	144
A. Law Reviews and Law Journals	144
B. Bar Journals	145
C. Locating Articles	145
VI. <i>American Law Reports</i>	146

VII. Continuing Legal Education Publications	147
VIII. Forms	147
IX. Mini-Libraries and Loose-Leaf Services	149
X. Restatements	150
XI. Uniform Laws and Model Codes	151
XII. Jury Instructions	152
XIII. Using Secondary Sources and Practice Aids in Research	152
Appendix A · Legal Citation	155
I. Idaho Citation—General Practices	156
II. Other States’ Citation Rules	156
III. National Citation Manuals	157
A. Navigating the <i>ALWD Guide</i> and the <i>Bluebook</i>	157
1. Index	157
2. “Fast Formats” and “Quick Reference”	158
3. <i>Bluebook</i> “Bluepages”	158
4. <i>ALWD</i> Appendices and <i>Bluebook</i> Tables	158
B. Citing Idaho Material	158
C. Incorporating Citations into a Document	159
D. Case Citations	160
1. Full Citations to Cases	160
2. Short Citations to Cases	163
E. Federal Statutory Citations	164
F. Signals	164
G. Explanatory Parentheticals	165
H. Quotations	165
I. Additional Citation Details	166
IV. Citations Not Covered by a Manual	166
Appendix B · Selected Bibliography	169
About the Authors	171
Index	173

List of Tables and Figures

Tables

Table 1-1. Examples of Authority in Idaho Research	5
Table 1-2. Overview of the Research Process	7
Table 1-3. Generating Research Terms	8
Table 2-1. Planning a Research Strategy	13
Table 2-2. Sample Analysis Chart	21
Table 3-1. Online Research Websites	24
Table 3-2. Boolean Connectors and Commands	29
Table 4-1. Articles of the Constitution of Idaho	36
Table 4-2. Collateral References	40
Table 4-3. Compiler's Notes for Article I, §7	41
Table 5-1. Regional Reporters and States Included	47
Table 5-2. Reporters for Federal Court Cases	56
Table 6-1. Selected Digests	72
Table 6-2. Outline for Digest Research with the Descriptive-Word Index	72
Table 7-1. Outline for Idaho Statutory Research	77
Table 7-2. Outline of an Idaho Statute	81
Table 8-1. Bill Tracking Online	91
Table 8-2. Legislative History Documents	94

Table 8-3. Selected Sources for Federal Legislative History in Print	108
Table 9-1. Example of Idaho Administrative Rule Numbering	111
Table 9-2. Outline for Idaho Administrative Law Research	112
Table 10-1. Idaho Court Rules (Michie)	122
Table 10-2. Topics of Idaho Rules of Professional Conduct	124
Table 11-1. Outline for Using Online Citators	126
Table 11-2. Symbols for Updating Cases with Shepard's	129
Table 12-1. Websites for Idaho Research	140
Table 12-2. Topics of Idaho State Bar Publications	142
Table 12-3. Restatement Topics	150
Table A-1. Purposes of Legal Citations	155
Table A-2. Example Citations Under Idaho Conventions	156
Table A-3. Example Citations in <i>ALWD</i> and <i>Bluebook</i> Format	159
Table A-4. Examples of Citation Sentences and Citation Clauses	160
Table A-5. Signals	164

Figures

Figure 3-1. Lexis Advance Search with Citation	27
Figure 3-2. WestlawNext Results	28
Figure 3-3. Lexis Advance Natural-Language Search	30
Figure 3-4. WestlawNext Narrowing by Source	31
Figure 3-5. Filtering Results with Lexis Advance and WestlawNext	32
Figure 3-6. Table-of-Contents Search on WestlawNext	33
Figure 5-1. Case Excerpt: <i>State v. Jeppesen</i> , 138 Idaho 71, 57 P.3d 782 (2002)	50
Figure 5-2. Star Paging in <i>State v. Jeppesen</i> with WestlawNext	55
Figure 6-1. Custom Digest on WestlawNext	70

Figure 7-1. Chapters in Title 32, Domestic Relations	76
Figure 7-2. Selected Entries for MARRIAGE in the <i>Idaho Code</i> Index	78
Figure 7-3. Example Idaho Statute	80
Figure 8-1. Excerpt from <i>Idaho Code</i> with Source Notes	96
Figure 8-2. Excerpt from <i>Idaho Session Laws</i> 2002	98
Figure 8-3. Statement of Purpose	99
Figure 8-4. Online Daily Data Tracking History	100
Figure 8-5. Excerpt of Minutes from Senate Committee	101
Figure 9-1. Excerpt from an Idaho Rule: IDAPA 02.02.04.050	114
Figure 9-2. Example of a Federal Regulation	118
Figure 11-1. Citing Decisions on Lexis Advance	128
Figure 11-2. Filter Results on Lexis Advance	130
Figure 11-3. Citing Decisions by Grid on Lexis Advance	131
Figure 11-4. Negative Treatment in KeyCite on WestlawNext	133
Figure 12-1. Excerpt from C.J.S. Topic “Contempt”	143
Figure 12-2. Sample Idaho Form	148

Series Note

The Legal Research Series published by Carolina Academic Press includes titles from states around the country as well as a separate text on federal legal research. 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 jurisdiction. Unlike more bibliographic texts, the Legal Research Series books seek to explain concisely both the sources of legal research and the process for conducting legal research effectively.

Foreword

Chief 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.

With the second edition, *Idaho Legal Research* has been updated to stay current with the constantly evolving research tools available through online sources. Any attorneys 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

This book is a collaborative effort. However, Tienielle Fordyce-Ruff took primary responsibility for updating the Westlaw materials and Kristina Running took primary responsibility for updating the LexisNexis materials. Like other books in the Legal Research Series, this edition draws from *Oregon Legal Research*, particularly in Chapters 1, 5, 11, and 12.

Both authors appreciate the research and administrative assistance of Anne Comstock, Ariana Denley, Sarah Garrott, Diana Gleason, Brit Kreimeyer, Kerry Lohmeier, Anne Mostad-Jensen, Therese Pritiken, and Corina Ubario.

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.

Tienielle Fordyce-Ruff
Kristina Running
July 2015

