
Workbook Answers

§ 1.2 IDENTIFYING PRIMARY AND SECONDARY AUTHORITY

1. Executive Order: A law created by the highest entity of the executive branch, such as the President or Governor. An example is a pardon.
2. Administrative Rules: Regulations created by administrative agencies.
3. Treaty: An agreement between two or more governments.
4. Charter: The basic and fundamental law of a local government.
5. Judgment: A decision of the court applying law to specific factual situations.
6. Administrative Decisions: Resolutions by administrative agencies applying administrative rules to factual situations.
7. Rules of Court: Rules that govern the procedures of the trial process.
8. Constitution: The fundamental law that establishes the basic rights and obligations of citizens, and creates the branches of government.
9. Ordinance: The local equivalent of a statute.
10. Statutes: Laws created by the legislative branch of government.

1.2 IDENTIFYING PRIMARY AND SECONDARY AUTHORITY

What kind of authority are the following: Primary, Secondary, or Non-authority?

Primary	a case
Secondary	Newsweek Magazine
Primary	a statute
Primary	an ordinance
Non-authority	an index
Secondary	a dictionary
Primary	the SALT Treaty
Primary	Nev. Rev. Statute Section. 131. 110
Secondary	an encyclopedia
Primary	a Presidential pardon
Primary	an administrative rule
Primary	a city charter
Primary	<i>Roe v. Wade</i>
Secondary	The Washington Post
Primary	The U.S. Constitution
Primary	The Colorado State Constitution
Secondary	Time Magazine
Primary	a court opinion
Primary	an executive order
Primary	the IRS code

§ 2.4 WORD ASSOCIATION

Cartwheel the following terms.

1. Interrogatories: *Discovery, Deposition, Rule of Civil Procedure 33*
2. Slip and Fall: *Personal Injury, Negligence, Tort*
3. Conflict of Interest: *Adversary, Opponent, Fiduciary Duty*
4. Husband-Wife Privilege: *Spousal Privilege, Spouses, Privileges*
5. Hospital: *Emergency Room, Medical Center, Physician Care Center*
6. Summary Judgment: *Rule of Civil Procedure 56, Motions, Summary Proceedings*

answers

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7. Fatal Car Accident: *2nd Degree Murder, Negligent Homicide, Vehicular Homicide, Automobiles*
 8. Drug Overdose: *Drugs, Illegal Substance Abuse, Illegal Substance*
 9. Plea Bargain: *Agreement, Settlement, Plea*

Note: Other possibilities for the above terms are possible.

§ 2.10 AM. JUR. 2D

1. The Am. Jur. 2d Index leads to which of the following:
 - a. *Volume number, series, page number*
 - b. A topic and section number**
 - c. *A topic and key number*
2. Does the index have a supplement?
Yes
3. Does the commentary refer to the footnotes?
Yes
4. What kind of research assistance do the footnotes provide?
Primarily case citations with additional research sources (i.e., A.L.R.)
5. How does Am. Jur. 2d update material within the main volume?
Pocket parts
6. Where does the researcher look in the supplement?
Under section number from the Title Index only
Corresponding topic and section number
Only corresponding section numbers
7. What research system is Am. Jur. 2d a part of?
Total Client Service Library

§ 2.10 ENCYCLOPEDIAS

1. How many national legal encyclopedias are there?
Two
2. Am. Jur. 2d stands for what?
American Jurisprudence 2d
3. C.J.S. stands for what?
Corpus Juris Secundum
4. Where would you begin your research in Am. Jur.?
Index
5. What purpose do the footnotes serve?
Footnotes lead to primary authority/additional authority.
6. How is the researcher led to footnotes?
Footnotes are cited in the commentary.
7. What kind of authority are Am. Jur. 2d and C.J.S.?
Secondary
8. What is the "Unified Theory of Research?"
Research beginning in the index, which leads to additional authority.
9. In this cite, *Smith v. Jones*, 354 P.2d 621 (Colo. 1988), what does the 354 and 621 stand for?
Volume 354 Page 621
10. Describe how you would find the following statute: 42 U.S.C. Section. 1405.
Locate Title 42 of the United States Code and refer to Section 1405.

§ 2.11 C.J.S.

1. The C.J.S. index leads to which of the following?
 - a. *Volume number, series, page number*
 - b. A topic and section number**
 - c. *A topic and key number*
2. Does the index have a supplement?
Yes
3. Does the commentary refer to the footnotes?
Yes
4. What kind of research assistance do the footnotes provide?
Primarily case citations with additional research sources (i.e., A.L.R.)
5. How does C.J.S. update material within the main volume?
Pocket parts
6. Where does the researcher look in the supplement?
Under section number from the Title Index only
Corresponding topic and section number
Only corresponding section numbers
7. What research system is C.J.S. part of?
Key Number System

§ 2.11 ENCYCLOPEDIAS

1. *Am. Jur. 2d* is published by what publisher?
Lawyer's Cooperative
2. *Am. Jur. 2d* uses what research system?
Total Client Service Library
3. When researching in *Am. Jur. 2d* where should one begin?
Index
4. What information does the index provide that leads to the main volumes?
Topic and section number
5. How does *Am. Jur. 2d* lead to additional authority?
Footnote citations
6. What should the researcher always do before leaving the main volume?
Check the pocket part
7. *C.J.S.* is published by what publishing company?
West
8. *C.J.S.* uses what research system?
Key Number System
9. When researching in *C.J.S.*, where should one begin?
Index
10. What information does the index provide that leads to the main volumes?
Topic and section number
11. How does *C.J.S.* lead to additional authority?
Footnote citations
12. What should the researcher always do before leaving the main volume?
Check the pocket parts
13. Both *Am. Jur. 2d* and *C.J.S.* are considered what kind of books?
Legal encyclopedias
14. Both *Am. Jur. 2d* and *C.J.S.* are considered what type of authority?
Secondary

§ 4.1 MANDATORY AND PERSUASIVE AUTHORITY: A

What courts could possibly be considered mandatory on the following?

1. The Virginia Supreme Court
The U.S. Supreme Court
2. The U.S. Supreme Court
No other courts are mandatory authority for the US Supreme Court
3. The New Hampshire Supreme Court
The U.S. Supreme Court
4. The U.S. 9th Circuit Court of Appeals
The U.S. Supreme Court
5. The Virginia Circuit Court (a state trial court)
Intermediate Virginia state appellate courts
Virginia Supreme Court
The U.S. Supreme Court
6. The U.S. District Court, District of Arizona
Federal appellate courts (looking first to the 9th Circuit)
The U.S. Supreme Court
7. The California Court of Appeals
California Supreme Court
The U.S. Supreme Court
8. The Hawaii Circuit Court (a trial court)
Intermediate Hawaii state appellate courts
Hawaii Supreme Court
The U.S. Supreme Court
9. The U.S. 5th Circuit Court of Appeals
The U.S. Supreme Court
10. A case from the Nevada Reports
(hint: Nevada Reports only reprints Nevada Supreme Court cases)
The U.S. Supreme Court
11. A case from the Federal Reporter
(hint: Federal Reporter reprints U.S. Court of Appeals cases)
The U.S. Supreme Court
12. A case from the North Carolina Reports
(hint: The North Carolina Reports only reprints N.C. Supreme Court cases)
The U.S. Supreme Court
13. A case from the Nebraska Supreme Court
The U.S. Supreme Court
14. A case from the Tennessee Court of Appeals
Tennessee Supreme Court
The U.S. Supreme Court
15. A case from the Federal Supplement
(hint: Federal Supplement only reprints Federal District Court cases)
Federal Courts of Appeals
(looking first to the circuit in which the district court sits)
The U.S. Supreme Court

§ 4.1 MANDATORY AND PERSUASIVE AUTHORITY: B

PART 1: What kind of authority is presented below?

1. You are in the Circuit Court of Virginia, a trial court. A case you have found is on point and from the Virginia Supreme Court.
Primary/Mandatory
2. Your client's case is being heard by the Supreme Court of Colorado. The on point authority you have found is a case from the Colorado Court of Appeals.
Primary/Persuasive
3. The trial your supervising attorney is involved in is in Washington Superior Court, a trial court. The case you have located is from the Supreme Court of Georgia and is on point.
Primary/Persuasive
4. You are in the U.S. District Court. An on point case is in the Federal Reporter, 2d.
Primary/Mandatory (hint: Federal Reporter reprints U.S. Court of Appeals cases)
5. Your client is involved in litigation in the U.S. District Court. An on point case from the Supreme Court of Texas is the authority your attorney is relying on.
Primary/Persuasive
6. You are in the U.S. Circuit Court of Appeals. The case in which you are relying was found in the U.S. Reports and is on point.
Primary/Mandatory (hint: U.S. Reports reprints US Supreme Court cases)
7. Your attorney is arguing a case in the Washington State Appellate Court. You have found an on point discussion of the issue in American Law Reports.
Secondary/Persuasive
8. Your client has a case in the 3rd Circuit Court of Appeals. The relevant case you have researched is from the 9th Circuit Court of Appeals.
Primary/Persuasive
9. Your case is in the U.S. Supreme Court. The on point case you are using is a case decided a year earlier by the U.S. Supreme Court.
Primary/Persuasive
10. Your supervising attorney is involved in litigation in the New Mexico Court of Appeals. You have found a case decided by the 10th Circuit Court of Appeals that is on point.
Primary/Persuasive
11. You have a case in the Colorado District Court, a trial court. You have found an invalid case from the U.S. Supreme Court that is on point.
Non-authority
12. You are in the Alabama Appellate Court. The case on which you are relying is from the Supreme Court of New Mexico. It is on point.
Primary/Persuasive
13. You have a case in the California Supreme Court. You are relying on an on point case from the U.S. District Court, District of Southern California.
Primary/Persuasive
14. You are in the Washington Appellate Court. Your on point authority is from the U.S. Supreme Court.
Primary/Mandatory

PART 2: What kind of authority would the following citations be on the North Carolina Court of Appeals assuming all authorities are relevant?

1. *Jackson v. Stewart*, 138 F.3d 198 (4th Cir. 1998)
Primary/Persuasive
2. *Gross v. State*, 372 N.C. 738, 634 S.E.2d 78 (1989)
Primary/Mandatory

answers

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3. *Britten v. Ventura*, 367 F. Supp. 1132 (E.D.N.J. 1977)
Primary/Persuasive
 4. *Navallo v. Squigley*, 473 U.S. 267 (1994)
Primary/Mandatory
 5. *Peters v. Wilson*, 126 Utah 548, 384 P.2d 901 (1965)
Primary/Persuasive
 6. *Corey v. Zane*, 231 Mich. App. 110, 463 N.W.2d 13 (1981)
Primary/Persuasive

PART 3: What kind of authority would the following citations be on the Massachusetts Supreme Court (the highest court in that state) assuming all authorities are relevant?

1. *Lyle v. Elling*, 138 F.2d 198 (3rd Cir. 1998)
Primary/Persuasive
2. *Bryant v. State*, 372 N.C. 738, 634 S.E.2d 78 (1989)
Primary/Persuasive
3. *Victor v. Westerly*, 367 F. Supp. 1132 (D. Colo. 1977)
Primary/Persuasive
4. *In re Malone*, 145 U.S. 276 (1954)
Primary/Mandatory
5. *Loutte v. Pfiesser*, 97 Nev. 467, 442 P.2d 385 (1975)
Primary/Persuasive
6. *Ford v. Coffey*, 231 Tenn. 17, 476 S.W.2d 193 (1981)
Primary/Persuasive

PART 4: Assuming all are relevant, what kind of authority would the following cases be on a matter in the Tennessee Court of Appeals?

1. *Jackman v. Stemple*, 582 S.W.2d 893 (Tenn. 1983)
Mandatory
2. *Hacker v. Black*, 622 S.W.2d 83 (La. 1989)
Persuasive

Assuming all are relevant, what kind of authority would the following cases be on a matter in the U.S. District Court, District of Eastern Washington?

3. *Hughes v. Ventana*, 783 P.2d 290 (Wash. 1991)
Persuasive
4. *Copper v. Williams*, 386 Ariz. 118, 582 P.2d 893 (1988)
Persuasive

Assuming all are relevant, what kind of authority would the following cases be on a matter in the Michigan Court of Appeals?

5. *Tistle v. Mancos*, 264 Mich. App. 854, 330 N.W.2d 391 (1993)
Persuasive
6. *Kite v. Johns*, 292 Iowa 452, 623 N.W.2d 1032 (1985)
Persuasive

Assuming all are relevant, what kind of authority would the following cases be on a matter in the U.S. District Court, Western District of Massachusetts?

7. *Britton v. Wheeler*, 582 F.2d 893 (4th Cir. 1983)
Mandatory (However, the W.D. Mass. court would first look to the 1st Circuit)
8. *Esterly v. Northrop*, 783 F. Supp. 290 (D. Mont. 1991)
Persuasive

Assuming all are relevant, what kind of authority would the following cases be on a matter in the U.S. Court of Appeals, 6th Circuit?

9. *Jordan v. Hancock*, 244 F. Supp. 41 (D. Kan. 1977)
Mandatory (However, the D. Kan. would first look to the 10th Circuit)
10. *Horace v. Socker*, 27 F.3d 1295 (9th Cir. 1991)
Persuasive

§ 4.1 MANDATORY AND PERSUASIVE AUTHORITY: C

1. You are in the Circuit Court of Hawaii, a trial court. A case you have found is on point and from the California Supreme Court.
Primary/Persuasive
2. Your client's case is being heard by the Supreme Court of South Carolina. The on point authority you have found is a case from the N.C. Supreme Court.
Primary/Persuasive
3. The trial your supervising attorney is involved in is in the Colorado District Court, a trial court. The case you have located is from the Colorado Court of Appeals and is on point.
Primary/Mandatory
4. You are in the U.S. District Court. An on point case is in the Federal Supplement, 2d.
Primary/Persuasive (hint: Federal Supplement reprints U.S. District Court cases)
5. You are in the U.S. Court of Appeals. An on point case is in the Federal Supplement, 2d series.
Primary/Persuasive
6. You are in the U.S. Court of Appeals. The case you are relying on was found in L. Ed. 2d and is on point.
Primary/Mandatory (hint: L. Ed. 2d reprints US Supreme Court cases)
7. Your attorney is arguing a case in the Maryland Supreme Court. You have found an on point case in the Federal Reporter.
Primary/Persuasive (hint: Federal Reporter reprints U.S. Appellate Court cases)

§ 5.3 FORM BOOKS

1. When researching in a form book, where would one generally start?
Index
2. What else might form books provide besides forms?
Sample discovery documents (interrogatories, requests for admissions, requests for production of documents), trial examination questions, trial checklists, etc.
3. Form books are also referred to by what other general term?
Treatises
4. Name at least four form books.
Am. Jur. Proof of Facts; West Legal Forms; Am. Jur. Pleading and Practice Forms; Bender's Discovery Forms; Am. Jur. Modern Legal Forms

answers

5. What kind of authority are form books?
Non-authority

§ 6.0 PLEADINGS: A

1. This document initiates a legal action.
Complaint
2. This document responds to the above.
Answer
3. This document is a claim by a defendant against the plaintiff.
Counterclaim
4. This document is a claim by one defendant against another.
Cross-claim
5. Name five elements of the document that initiates a legal action.
 - a. *Caption*
 - b. *Jurisdiction*
 - c. *Cause(s) of Action*
 - d. *Ad Damnum Clause (Prayer for Relief)*
 - e. *Subscription*
6. What can be included within the Answer?
Affirmative defenses and counterclaim

§ 6.0 PLEADINGS: B

1. What pleading initiates the litigation process?
Complaint
2. What pleading responds to the above pleading?
Answer
3. In what pleading might you also find affirmative defenses and counterclaims?
Answer
4. Why is it important to be able to identify the last pleading (or responsive pleading) filed in a case?
The responsive pleading sets forth the defendant's admissions and denials, as well as any affirmative defenses and counterclaims.
5. What is pleading paper?
Pleading paper is numbered on the left-hand column; the standard is 28 lines.
6. How many lines are usually accounted for in pleading paper?
The standard is 28 lines.
7. What is another name for cause of action?
Claim for Relief
8. What are the three elements that make up the caption?
Title of the document, court where the matter is being filed, the names of the parties.
9. What is another name for the caption?
Style
10. What are the five required elements of every complaint?
 - a. *Caption*
 - b. *Jurisdiction*
 - c. *Cause of Action*
 - d. *Ad Damnum Clause (Prayer for Relief)*
 - e. *Subscription*

§ 6.0 PLEADINGS & DISCOVERY

1. Name five pleadings.
 - a. *Complaint*
 - b. *Answer*
 - c. *Counterclaim/Affirmative Defense*
 - d. *Cross-claim*
 - e. *Reply*
2. Name five discovery tools.
 - a. *Interrogatories*
 - b. *Requests for Admission*
 - c. *Requests for Production*
 - d. *Request for Mental or Physical Exam*
 - e. *Deposition*
3. What pleadings contain allegations of one party against another party?
Counterclaim
4. What pleadings respond to allegations from one party against another party?
Cross-claim
5. What are the differences between pleadings and discovery?
Pleadings are legal documents filed with the court stating a party's position in litigation. Discovery is the pretrial mechanism to expose relevant facts. Thus, pleadings are intended as filings for the court, while discovery is intended to aid a party in preparing/defending a court case.
6. What are the similarities between pleadings and discovery?
Both processes aid in preparation for trial.
7. What are the differences between pleadings and motions?
Pleadings are fact based while motions are requests for the court to take a particular legal action.
8. What are the similarities between pleadings and motions?
Pleadings and motions request the court to grant relief/take action on legal matters.

§ 6.0 LITIGATION DOCUMENTS

1. Who initiates a lawsuit?
The plaintiff
2. Who responds to the lawsuit?
The defendant
3. List as many possible claims for your client's action as you can. (At least two).
Case-specific
4. Who may serve a complaint?
A process server or an individual over 18 years of age who is a nonparty to the litigation.
5. What are the requirements for a person who serves a complaint?
The service must be by a person who is over 18 years of age and a nonparty to the litigation.
6. What do these mean "// // //" at the bottom of a page?
The line has intentionally been left blank.
7. What is "pleading paper?"
Pleading paper is numbered on the left-hand column; the standard is 28 lines.
8. Is pleading paper required for pleadings in your state?
State-specific.
9. Is your state a fact-pleading state or a notice-pleading state?
State-specific

answers

§ 6.10 DISCOVERY: A

1. Name the five tools of discovery.
 - a. *Interrogatories*
 - b. *Requests for Admission*
 - c. *Requests for Production*
 - d. *Request for Mental or Physical Exam*
 - e. *Deposition*
2. Which discovery device consists of a set of statements?
Requests for Admissions
3. Which discovery tool demands materials or copies of items?
Requests for Production
4. List three ethically challenging situations a paralegal might face during discovery.
 - a. *Determining the scope of work-product*
 - b. *Client's failure to produce damaging information/documents*
 - c. *Abridging a client's interrogatory answers*
5. Discovery documents are in what form?
Pleading

§ 6.10 DISCOVERY: B

1. Discovery generally occurs during what stage of litigation?
Pretrial
2. Under what circumstances can discovery become an issue during trial?
Discovery may become an issue at trial if the discovery answers contradict trial testimony (both are given under oath).
3. What discovery tool is a set of statements to the opposing party?
Requests for Admissions
4. What discovery tool is a set of questions to the opposing party?
Interrogatories
5. What could happen if an attorney knowingly hides or falsifies discovery responses?
The court may impose sanctions, including but not limited granting the opposing party attorney's fees.
6. What ethical situations are of concern during the discovery process?
Obstructive or evasive techniques should be avoided during discovery.
7. What motion is filed if one party claims another party has not adequately responded to discovery requests?
Motion to Compel
8. How does arbitration affect the discovery process?
Witnesses may be called to testify at the arbitration hearing. The examination during the hearing is similar to examination during a deposition (part of the discovery process).

§7.2 and 7.3 AUTHORITY: LAW BOOKS

1. What is a treatise?
A legal treatise is a book authored by a private individual about a specific area of law.
2. How does a treatise differ from an encyclopedia?
While a legal encyclopedia provides a little information about every area of law, a treatise provides a great deal of information about a single area of law (e.g., Property Law).
3. How are treatises and encyclopedias similar?

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- They both provide research background.*
4. What is an annotation?
An annotation is a commentary or discussion by a private publisher.
 5. What does A.L.R. contain?
A.L.R. contains cases and commentary, providing additional research tools and references.
 6. What are the three publications that contain the federal statutes?
United States Code, United States Code Annotated, United States Code Service
 7. Referring to Question 6, which is the official?
United States Code (U.S.C.)
 8. Referring to Question 6, which are unofficial?
United States Code Annotated (U.S.C.A.) and United States Code Service (U.S.C.S.)
 9. Referring to Question 6, which would the paralegal use for research purposes?
U.S.C.A. or U.S.C.S.
 10. Referring to Question 6, to which would the paralegal cite?
U.S.C.

§ 8.5 AMERICAN LAW REPORTS

1. In what set of books would you begin your research?
The index.
2. What does the index provide you with?
Volume, series, page number (e.g., 14 A.L.R. 4th 481)
3. Does the index have a pocket part?
Yes
4. To what did the index lead you, a case or an annotation?
Annotation
5. Does the annotation have a section called the Total Service Library?
Yes
6. If yes, what does it do?
Provides additional research sources
7. Read the Table of Contents for the annotation. Are there opposing views or contrary authorities provided? How might these be useful to a researcher?
The Table of Contents provides research References, Index, and Jurisdictional Table of Cited Statutes and Cases.
8. Do all series of A.L.R. have pocket parts?
No
9. Explain your answer to the above question.
While most series of A.L.R. are updated by pocket parts, A.L.R. (first series) and A.L.R. 2d are supplemented by hardbound series. A.L.R. (first series) does not have pocket parts. The A.L.R. Blue Book of Supplemental Decisions acts as a hardbound supplement to A.L.R. (first series). Also, note that the A.L.R. Blue Book itself has pocket parts.
10. How do you locate material within the A.L.R. pocket parts?
The volume, series, and page number of the main volume has a corresponding update in the pocket parts.

§ 8.6 WEST DIGESTS

1. In what set of books would you begin your research?
The index
2. What does the index provide to the researcher?
Topic and key number
3. Does the index have a pocket part?
Yes
4. The main volumes are collections of what?
Summaries of cases collected in topical order
5. Generally, the main volume leads the researcher to what?
Case law
6. Since the main volume provides summaries, is it necessary to actually look up a case?
Yes; the summaries are merely research references and are, therefore, considered non-law
7. Would the researcher Shepardize the case before looking it up?
Generally, a researcher Shepardizes a case once he reads the case and decides to use it as legal authority for his position. However, Shepardizing may also be useful for finding additional authority.
8. Do digests have pocket parts?
Yes
9. If yes, how do you locate the material within the digest pocket part?
Topic and key number

§ 8.7 SHEPARD'S CITATORS

1. What are the three main reasons a researcher would utilize this set of books?
Shepard's validates authority, provides parallel citations, and acts as a case-finder
2. If the researcher has found authority from outside his jurisdiction, how might this research tool be helpful?
Shepard's groups citing material by jurisdiction; therefore, a researcher may be able to easily locate citing cases in his jurisdiction.
3. What are the abbreviations at the left of each column?
History and treatment notations
4. What do the small, raised numbers represent?
Shepard's uses a raised number to represent the headnote from the cited case that is addressed by the citing case
5. What kind of authority is this tool considered?
Non-authority

§ 8.0 RESEARCH REVIEW: 1

American Jurisprudence, 2d

1. In what set of books would you begin your research?
The index
2. What does the index provide the researcher with?
Topic and section number
3. In the main volumes, the pages are generally split into two parts. What parts make up a typical page in an encyclopedia?
Commentary (top half of page) and footnotes (containing legal authority)
4. How does the Am. Jur. 2d lead the researcher to other forms of authority?
The footnotes cite relevant cases and statutes, as well as other legal resources.
5. Does Am. Jur. 2d have pocket parts? If yes, how are they accessed?
Yes; the pocket parts are accessed by topic and section number, just as the main volumes.

Corpus Juris Secundum

6. In what set of books would you begin your research?
The index
7. What does the index provide the researcher with?
The index provides topic and section numbers.
8. In the main volumes, the pages are generally split into two parts. What parts make up a typical page in an encyclopedia?
Commentary (top half of page) and footnotes (containing legal authority)
9. How does C.J.S. lead the researcher to other forms of authority?
The footnotes cite relevant cases and statutes, as well as other legal resources.
10. Does C.J.S. have pocket parts?
Yes
11. If yes, how are the pocket parts accessed?
The pocket parts are accessed by topic and section number, just as the main volumes are.

A.L.R.

12. Is the Index to A.L.R. a single volume or multivolumes?
Multivolumes
13. What does the index provide you with? (Example: A topic and key number)
Volume, series, page number (e.g., 14 A.L.R. 4th 481)
14. Does the index have a pocket part?
Yes

West Digests

15. In what set of books would you begin your research?
Index
16. What does the index provide the researcher? (Example: A section number)
Topic and Key Number
17. Does the index have a pocket part?
Yes

Shepard's

18. What kinds of authorities may be Shepardized?
Cases, statutes, regulations, periodicals, annotations, etc.
19. Does Shepard's have an index?
No
20. Does Shepard's have pocket parts?
No; Shepard's updates with advance sheets and cumulative sheets

§ 8.0 RESEARCH REVIEW: 2

1. American Law Reports is part of what research system?
Total Client Service Library
2. Is A.L.R. arranged chronologically or topically?
Chronologically
3. Where does the researcher begin when researching in A.L.R.?
A.L.R. Index
4. Is there one index for A.L.R., or are there multiple indexes?
A.L.R. has one multivolume index.
5. The index for A.L.R. leads to the main volumes of A.L.R. How?
The researcher is led to a specific volume, series, and page number (14 A.L.R. 4th 481).
6. How are the first and second series of A.L.R. updated?
While most series of A.L.R. are updated by pocket parts, A.L.R. (first series) and A.L.R. 2d are supplemented by hardbound series. A.L.R. (first series) does not have pocket parts. The A.L.R. Blue Book of Supplemental Decisions acts as a hardbound supplement to A.L.R. (first series). The volume, series, and page number referenced in the main volume has corresponding updates in the Blue Book and the Blue Book has pocket parts.
7. How are all other series of A.L.R. updated?
With pocket parts
8. What is an annotation?
A comment on a case or statute. For example, an annotated statute may list cases that have discussed the statute.
9. Name at least three tools A.L.R. provides to help the researcher access the annotation.
 - a. *A.L.R. Index*
 - b. *Total Client Service Library*
 - c. *A.L.R. Digest*
10. What is the encyclopedia published by West?
Corpus Juris Secundum (C.J.S.)
11. What encyclopedia is published by Lawyer's Co-op?
American Jurisprudence, 2d (Am. Jur. 2d)
12. Which encyclopedia is part of the Total Client Service Library?
C.J.S.
13. When researching within an encyclopedia, where should one begin?
The index
14. How does the index lead to the main volumes?
The index refers the researcher to the topics, which are contained in the main volume.
15. How do main volumes lead to additional authority?
The footnotes in the encyclopedias lead to additional legal authority, including cases, statutes, and other secondary sources (e.g., A.L.R.).
16. Encyclopedias are what kind of authority?
Secondary
17. What is the basic purpose of a digest?
An index to case law
18. What specifically do digests contain?
Digests contain a collection of case summaries, similar to headnotes, collected in topical order.

-
19. Where should a paralegal begin his research within the digest?
The index
 20. What two pieces of information does the index provide that lead the researcher to the digest main volumes?
Topic and Key Number
 21. What does a Decennial Digest contain?
The Decennial Digest collects materials from all digests, state and federal, over ten-year periods.
 22. What kinds of authority are digests?
Non-authority.
 23. Digests lead to what, specifically?
Cases.
 24. Name the three basic functions of Shepard's
 - a. *Validates (updates) authority*
 - b. *Provides parallel citations*
 - c. *Locates additional authority*
 25. What is a history notation?
A history notation indicates cases that are previous or subsequent to the cited case.
 26. What are treatment notations?
Treatment Notations indicated how other cases have viewed a cited case. For example, another court may follow the cited case, distinguish it, even overrule it.
 27. Where are history and treatment notations found specifically?
To the left of the citing material.
 28. If your cite is 463 S.W.2d 839, in what volume would you begin to Shepardize your case?
Shepard's Southwestern Reporter Volume 463
 29. Is the case being Shepardized the cited case or the citing case?
The cited case.
 30. How does Shepard's indicate that a citing case deals with the same topic as a specific headnote in the cited case?
Shepard's indicates which headnote from the cited case the citing case addresses by using a raised number between the citing publication abbreviation and the page number.
 31. Sometimes the researcher finds dozens, or even hundreds, of cases listed as citing materials. Name four tools that Shepard's provides to help focus on the scope of your research.
 - a. *History Notations*
 - b. *Treatment Notations*
 - c. *Headnote References*
 - d. *Jurisdiction Grouping*
 32. What kind of authority is Shepard's?
Non-authority
 33. What is the difference, generally, between Reports and Reporters?
Both report cases
 34. What do Reports and Reporters contain?
Cases. Full court opinions
 35. Is it possible to Shepardize statutes?
Yes.
 36. When citing federal statutes, should the author cite U.S.C., U.S.C.A., or U.S.C.S.?
U.S.C.

37. When researching federal statutes, should the author research within U.S.C., U.S.C.A. or U.S.C.S.?

U.S.C.A. or U.S.C.S.

38. If you were beginning your research, and wanted to find some case law in the Pacific Reporter, in what set of books would you begin?

Pacific Digest.

39. What kind of book is Words and Phrases?

A legal dictionary defining terms using case law.

40. What are the three basic functions of Martindale-Hubbell?

a. State-by-state listing of attorneys

b. Digested state laws

c. Digested foreign laws

41. What book publishes opinions not designated for publication by the court?

Federal Appendix.

§11.1 NONTRADITIONAL RESEARCH

1. What does the General Digest update?

The General Digest updates the Decennial Digests.

2. Where is the Table of Key Numbers found?

Main Volume

3. What two publications are used to access subjects covered in legal periodicals?

Current Law Index and Index to Legal Periodicals.

4. In what two manners may one look up a periodical article?

Subject Matter Index or Author/Title Index.

5. What kind of book is a Restatement of Law?

Legal treatise

6. Where does one begin researching in Restatements?

Index

7. What is a Title, or Volume Index?

Index contained in the main volume

8. What two tools does A.L.R. 5th introduce?

Electronic Search Query and Key Number System

9. Are the above tools found in any other series of A.L.R.?

Electronic Search Query and Key Number System are found in the supplements of A.L.R. 4th.

10. What are the three elements of West's American Digest System?

1. Index to case law

2. arranged by jurisdiction (region or federal)

3. use of "universal" key number system in all digests

COMPREHENSIVE REVIEW

Legal Memorandum Preparation

- a. What are the seven elements of a legal memorandum?
 1. *Caption*
 2. *Assignment*
 3. *Facts*
 4. *Issues*
 5. *Analysis*
 6. *Conclusion*
 7. *Recommendation*
- b. Define legal analysis.

Legal analysis is the application of the law to facts.
- c. What are the four steps of the analytical method?
 1. *Issue Introduction*
 2. *Rule*
 3. *Application of rule/law to facts of your case*
 4. *Conclusion*
- d. What kind of authority could be cited in a legal memorandum?

Primary and secondary, with preference for primary.

Court Structure

- a. What is the name of the state trial court in your state?

State-specific
- b. How many appellate level courts does your state have?

State-specific
- c. What are the federal courts?

U.S. District Court, U.S. Court of Appeals or U.S. Circuit Court of Appeals, U.S. Supreme Court.
- d. What is the federal trial court?

U.S. District Court.
- e. What are the two federal appellate-level courts?

U.S. Court of Appeals and U.S. Supreme Court.

Stages of Litigation

- a. Name five pretrial tasks that might be performed by a paralegal.

<i>Interviewing</i>	<i>Drafting pleadings</i>	<i>Trial Notebook</i>	<i>Calendar Control</i>
<i>Drafting Discovery</i>	<i>Investigation</i>	<i>Research</i>	<i>Client Contact</i>
<i>Set Hearing Dates</i>	<i>Arrange Deposition</i>	<i>File Maintenance</i>	<i>Prepare Exhibits</i>
<i>File Court Documents</i>			
- b. Name five trial-stage tasks that might be performed by a paralegal.

<i>Research</i>	<i>Maintain Trial Notebook</i>	<i>Prepare Evidence</i>
<i>Draft Motions</i>	<i>Coordinate Witnesses</i>	<i>Client Contact</i>
<i>Calendar Control</i>	<i>Arrange Subpoenas</i>	<i>File Court Documents</i>
<i>File Maintenance</i>		
- c. Name five post-trial tasks that might be performed by a paralegal.

<i>Prepare Notices</i>	<i>Draft Motions</i>	<i>File Maintenance</i>
<i>Research</i>	<i>Client Contact</i>	<i>File Court Documents</i>
<i>Calendar Control</i>	<i>Draft Appellate Brief</i>	
<i>Retrieve Court Exhibits</i>		

answers

Ethical Considerations

- a. Name two activities a paralegal may not engage in.
A paralegal may not (1) give legal advice and (2) represent another in court.
- b. When interviewing a client or witness, what should a paralegal do first?
Identify himself.
- c. May a paralegal ask questions at a deposition? Explain.
No; to do so would be to act in a representative capacity and calls for judgment.

Court Rules

- a. When researching in court rules, where does one begin?
Index
- b. What is cartwheeling?
Cartwheeling is a word association tool for researching in indexes.
- c. What are the rules covering civil trials in your state called?
State-specific

Litigation

- a. What is litigation?
Litigation is the process of preparing for and going through trial.
- b. A valid _____ is required in order to sue.
Cause of Action
- c. What is a tort?
A civil wrong
- d. What are the five elements of a Complaint?
 1. *Caption*
 2. *Claims for Relief (also called Causes of Action)*
 3. *Ad Damnum Clause (also called Prayer for Relief or Wherefore Clause)*
 4. *Subscription*
 5. *Jurisdiction*
- e. What is served with the Complaint?
Summons
- f. Define "Process."
The Summons and Complaint
- g. What are pleadings?
Pleadings are legal documents filed with the court that state the parties' positions.
- h. What is the difference between dismissal with and without prejudice?
Dismiss with prejudice means the case cannot be brought again.
Dismissal without prejudice means the case may be filed again, generally because it has been dismissed because of procedural errors.
- i. Discuss the different kinds of examination.
Direct: An attorney calls his own witness to the stand.
Cross: Follows direct; it is the opportunity to examine the opponent's witness.
The questioning during cross must be within the scope of the direct examination.
Re-Direct: Rehabilitative questioning after cross-examination.

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- j. Discuss the differences between direct and circumstantial evidence.
Direct evidence is based upon personal observation and does not require any inferences regarding the evidence (it is direct evidence of an act/tort/crime). Circumstantial evidence requires an inference be made about the evidence.

Discovery

- a. What is discovery?
Discovery is the pretrial mechanism to find (or "discover") the facts of a case.
- b. Define the five kinds of discovery.
1. *Interrogatories*
 2. *Requests for Admissions*
 3. *Requests for Production of Documents*
 4. *Requests for Mental and Physical Examination*
 5. *Depositions*
- c. How can a paralegal help prepare for a deposition?
Prepare questions; set up the room; arrange for court reporter; notice/subpoena witnesses and other parties.
- d. Who must be notified of the deposition? How?
Witnesses and all parties; With a Notice of Deposition
- e. How is a deposition transcript made more accessible?
Deposition Index, which includes a Deposition Digest; also known as a Deposition Summary

Legal Writing

- a. What tools help in the preparation of legal documents?
Forms, templates, and form books
- b. Are paralegals allowed to prepare legal documents for the general public? Discuss.
Paralegals generally should only prepare legal documents under the direction of an attorney because such work generally calls for legal judgment.
- c. Name three form books.
Am. Jur. Proof of Facts
West Legal Forms
Am. Jur. Pleading and Practice Forms
Bender's Discovery Forms
Am. Jur. Modern Legal Forms, etc.

Arbitration

- a. What is arbitration?
Arbitration is the pretrial process where an impartial party holds a hearing and makes a decision on the case. The arbitration may be mandatory but is not necessarily binding.
- b. What dollar amount makes a case exempt?
Jurisdiction-specific.
- c. What rules cover arbitration?
Jurisdiction-specific.

answers

Hearsay

- a. Where is the hearsay rule found?
Rules of Evidence or Rules of Court
- b. Is hearsay admissible?
Hearsay is admissible only if it falls within an exception.

Legal Interviewing

- a. What steps should a paralegal take prior to interviewing a client?
Prepare questions
- b. What should the goal of the paralegal be when interviewing a client?
To remain neutral
- c. What steps should be taken prior to interviewing a witness?
Prepare questions
- d. What should the goal of a paralegal be when interviewing a witness?
To pursue the client's interests
- e. Can an interview with a client or witness be audiotaped? Discuss.
Only with the client's/witness' permission
- f. What are the three stages of a legal interview?
 - 1. *Pre-Event*
 - 2. *Event*
 - 3. *Post-Event*

Investigation

- a. Is a paralegal required to identify himself as a paralegal to a witness in an investigation? Discuss.
Yes; but the paralegal does not have to state who the client is.
- b. What is skip-tracing?
Process of looking for a missing person.
- c. What is the major difference between a criminal and a financial skip?
A criminal skip is more likely to stay in the immediate vicinity.
- d. What are the differences between the first and second tiers of law office investigation?
First tier is in-office investigation; second tier is out-of-office investigation; and third tier is desperation. Okay, the third tier wasn't covered in the book but there you have it!
- e. Discuss the differences between formal and informal witness statements.
Formal witness statements are notarized; while informal statements are usually the result of a surprise in the interview, and are generally handwritten.
- f. What is the basic goal of investigation?
To find facts
- g. What law library tools may assist the paralegal in investigation?
Am. Jur. Proof of Facts; Martindale-Hubbell Law Directory

Citations

- a. What is a citation?
The address for a legal document/case.
- b. What is the name for the most common citation form?
Bluebook (Uniform System of Citation)
- c. What is a parallel citation?
The same opinion published in a different publication (official/unofficial).
- d. What is the difference between an official and unofficial citation?
The official citation is published by the government while the unofficial is published by a private publisher (and usually has additional research helps).
- e. Which should come first in a citation, the official or unofficial?
Official
- f. When should the court be indicated within parenthesis?
When the reader can't tell the court by the publication (e.g., a regional reporter).
- g. How should the title of a citation be indicated?
Underlined or italicized

Authority

- a. Define authority.
Anything the court can or must use in reaching its decision.
- b. Define non-authority.
Anything the court would not use in reaching its decision.
- c. What is the difference between primary and secondary authority?
Primary authority is law; secondary authority is non-law, but aids the researcher in finding primary authority.
- d. What is the difference between mandatory and persuasive authority?
The court must follow mandatory authority and may follow persuasive authority, but is not required to.
- e. What must happen for a case to be considered mandatory authority?
The case must be from a higher court than the court where the case is being heard.
- f. May secondary authority be quoted? Discuss.
Yes; but it does not carry the weight of primary authority.

Legal Research

- a. What is the "Unified Theory of Legal Research?"
Research beginning in the index, which leads to additional authority.
- b. Legal research involves finding _____.
Law
- c. What do "reports" contain?
Official reports of cases
- d. What do "reporters" contain?
Unofficial reports of cases
- e. A federal circuit is a collection of _____.
state
- f. What is a federal circuit?
A collection of federal districts

answers

-
-
- g. What kind of law do regional reporters contain?
State law
 - h. What kind of law do federal reporters contain?
Federal law

American Law Reports

- a. How does the arrangement of A.L.R. differ from other secondary sources?
It is arranged chronologically.
- b. What are the two basic elements contained in A.L.R.?
Selected cases, with annotations of the cases.
- c. How does the index to A.L.R. lead to the main volume?
Volume, Series, and Page Number.
- d. Does every set of A.L.R. contain pocket parts? Explain.
No; the first two sets are updated by hardbound volumes (A.L.R. Blue Book of Supplemental Decisions, and A.L.R. 2d Later Case Service)
- e. What kind of authority is A.L.R. considered?
Secondary
- f. What tools does A.L.R. utilize for the benefit of the researcher?
Total Client Service Library, Index (to the annotation), Table of Authorities, Research References, Table of Key Numbers, Electronic Search Query (last two are in A.L.R. 5th and the pocket parts to A.L.R. 4th)

American Jurisprudence, 2d

- a. What is Am. Jur. 2d?
A national legal encyclopedia
- b. How does the index to Am. Jur. 2d lead to the main volume?
Topic and section number
- c. What in the main volumes lead the researcher to additional authority?
Footnotes
- d. Does Am. Jur. 2d have pocket parts?
Yes
- e. What kind of authority is Am. Jur. 2d?
Secondary

Corpus Juris Secundum

- a. What is C.J.S.?
A national legal encyclopedia
- b. How does the index to C.J.S. lead to the main volumes?
Topic and section number
- c. What in the main volumes lead the researcher to additional authority?
Footnotes
- d. Does C.J.S. have pocket parts?
Yes
- e. What kind of authority is C.J.S.?
Secondary

West Digests

- a. What is a digest?
A collection of headnotes arranged in topical order. Acts as an index to cases.
- b. How does the index to a digest lead to the main volumes?
Topic and Key Number
- c. How do the main volumes lead to additional authority?
After each summary (headnotes), a case citation is provided.
- d. Do digests have pocket parts?
Yes
- e. What kind of authority are digests?
Non-authority

Words and Phrases

- a. What is Words and Phrases?
A legal dictionary.
- b. How does this set of books differ from other legal encyclopedias?
It quotes court opinions to assist in defining a term.
- c. How do the main volumes lead to additional authority?
After each quote, a citation is provided.
- d. Does this book have pocket parts?
Yes

Legal Treatises

- a. What is a treatise?
A law book written by a private person(s) on a single area of law.
- b. Where does one begin researching in a treatise?
Index
- c. Do the main volumes lead to additional authority?
Yes
- d. Can you give examples of treatises?
Restatements, Willston on Torts, Corbin on Contracts, etc.
- e. What kind of authority are treatises?
Secondary

Shepard's

- a. What is Shepard's?
A citator that validates authority.
- b. Does Shepard's have an index?
No
- c. How would you Shepardize 352 S.W.2d 57?
Start in Shepard's South Western Citations volume covering volume 352 of the second series; turn to the pages covering volume 352 (located in upper corner); scan down to the page number; update in the soft- and hardbound supplements.
- d. Does Shepard's have pocket parts? Explain.
No, it has softbound and hardbound supplements.
- e. What kind of authority is Shepard's?
Non-authority

answers

Statutes

- a. What are statutes?
Rules of society, created by legislatures.
- b. Where would you begin research in statutes?
Index
- c. What are the state statutes for your state?
State-specific
- d. Do statutes typically have pocket parts?
Usually, unless they are in loose-leaf form.
- e. What kind of authority are statutes?
Primary
- f. Discuss the similarities and differences between U.S.C., U.S.C.A., and U.S.C.S.
U.S.C. is the official publication for the United States Codes. U.S.C.A. and U.S.C.S. are annotated versions of the U.S.C.

Am. Jur. Proof of Facts

- a. What is Am. Jur. POF?
A form book.
- b. How does the index to POF lead to the main volumes?
Volume, Series, and Page Number.
- c. How do the main volumes lead to additional authority?
Footnotes and citations within the commentary.
- d. Does POF have pocket parts?
Yes
- e. What kind of authority is POF?
Secondary authority
- f. What unique research assistance does POF provide?
Provides checklists, sample discovery questions, illustrations, charts and graphs.

Restatements

- a. What kind of law books are Restatements?
Legal treatises.
- b. What kind of authority are Restatements?
Secondary.
- c. Where does one begin researching in Restatements?
Index.

Legal Periodicals

- a. Name two indexes for these publications.
Current Law Index (CLI), and the Index to Legal Periodicals (ILP).
- b. What are the two ways the above indexes may be accessed?
Subject Matter Index or Author/Title Index.