



# Introduction to United States Legal Materials for Canadian Researchers



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# COURTS IN THE UNITED STATES

The United States has a federal court system and 50 state court systems.

The federal court system is more limited in size and purpose than are the state courts.

Federal courts have jurisdiction over cases:

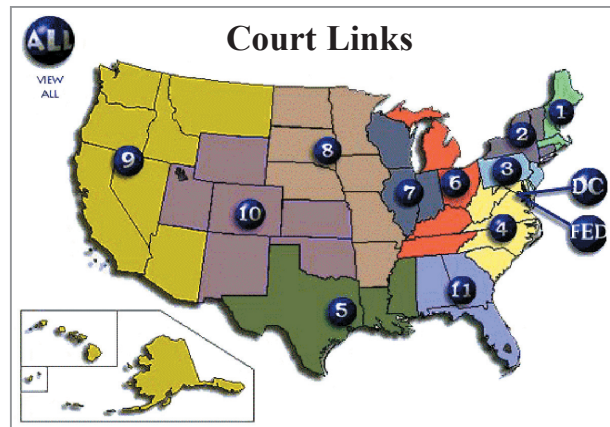
- (1) in which the United States is a party
- (2) involving foreign officials
- (3) in civil matters, if more than \$10,000 is involved with parties from different states
- (4) involving the CONSTITUTION OF THE UNITED STATES and federal laws
- (5) "federal specialties," cases involving patents, copyrights, or bankruptcies

State courts share jurisdiction with federal courts in categories (3) and (4), and they exercise sole, or exclusive, jurisdiction in all other cases, mainly those involving state law. Only those state court decisions that involve the U.S. Constitution and federal law may be appealed to the federal courts.

## COURT LEVELS IN THE UNITED STATES

### District Courts or Trial Courts

There are 89 District Courts in the United States. The majority of District Court cases are unreported as they are not considered precedent-setting.



### Federal Courts of Appeals or Circuit Courts

Each of the 50 states belongs to one of 11 circuits.

### Supreme Court of the United States

The Supreme Court of the United States is the highest appellate court for cases within federal jurisdiction. The Court agrees to decide on about 150 of the 4,000 to 4,500 cases appealed to it each year. The Supreme Court's decisions, however, are binding on all other courts. LexisNexis™ contains Supreme Court Cases from 1790.

LexisNexis™ file: *US Supreme Court and Courts of Appeals Cases*

### State Courts

The state court systems are similar in structure, but they vary widely in specifics and nomenclature. The major trial court may be a circuit court in one state and a district court, or superior court, in another. Some courts derive their titles and functions from a past era and are not the result of systematic planning. Most states have a tier of trial courts with limited or special jurisdiction, such as justice-of-the-peace courts or juvenile courts.

Next is a level of general-jurisdiction trial courts that hear the full range of serious cases and often appeals in minor cases from lower courts. Finally, each state has courts with mainly appellate jurisdiction. Every state has a Supreme Court, although it is not always called by that name; about half of the states have intermediate appellate courts below the level of their highest courts.

# UNITED STATES CASE LAW

Under the doctrine of *stare decisis* (“to stand by things decided”) or precedent, previously decided cases serve as a model for resolution of future disputes involving similar legal principles or fact patterns.

Following the doctrine of *stare decisis*, legal researchers cite to cases in support of their arguments in order to convince the court that the issues or facts presented in their cases should be decided in the same way as the earlier cases, or to argue that the facts or issues presented in their cases are sufficiently different to warrant different treatment.

Decisions of lower courts are not binding on higher courts, although from time to time a higher court will adopt the reasoning and conclusion of a lower court. Decisions by courts of the same level (usually appellate courts) are considered persuasive authority. That is, they should always be carefully considered by the later court but need not be followed.

## Reporters and Case Citations

Traditionally, cases are published, or “reported,” in a series of books called “reporters.” Reporters contain the written decisions of the court. They do not contain transcripts of arguments or trials, nor do they contain the briefs submitted by the parties. Reporters are organized in chronological order by date of decision.

- Reporters are published by geographical location (e.g. a state reporter) or by jurisdiction (e.g. all United States District Court decisions).
- Most jurisdictions have an “official” reporter that is governmentally approved. For example, opinions of the U.S. Supreme Court are “officially” reported in the United States Reports, which is published by the U.S. Government Printing Office.
- Commercial publishers have stepped in with “unofficial” reporters, which usually publish cases before the official versions. The text of the court’s opinion is the same, but each publisher adds proprietary editorial matter.
- The first named plaintiff or petitioner and the first named defendant or respondent is listed as the case name. Surnames only are used for individuals.

# FINDING CASE LAW USING [lexis.com](https://www.lexis.com)<sup>®</sup>

## 1. FINDING A CASE BY CITATION

The fastest way to locate a case is by its citation. To retrieve a case by citation you must:

- Click “**Get a Document**” on the toolbar at the top of your *lexis.com*<sup>®</sup> screen.
- Making sure that you have the “**citation**” tab selected (the tabs will appear immediately under the “**Get a Document**” button), enter the citation. You may use any of the case’s parallel citations, official or unofficial, to retrieve the opinion.
- **418 U.S. 323**
- Click “**Get.**”

You should now be looking at the United States Supreme Court case, *Gertz v. Robert Welch, Inc.*

At the top of the screen you will find the **caption** of the case. The caption includes the names of the parties to the case, the court deciding the case, citations to the case from both official and unofficial reporters, and the date of the decision.

After the caption is the case’s **history** — both prior and subsequent. Next, you will find the **disposition** of the case, which is the court’s ruling or decision. Next, you will find a summary of the case written by editors at LexisNexis™. This **summary** contains valuable information about the case including an overview of the procedural posture, facts, issues, and holding in the case.

You may also find a section of **core concepts**, which identify the major points of law found in the opinion, expressed in the actual language of the court. Core concepts appear in the Full view format when the Display Core Concepts link is active (click “Hide Concepts” if you don’t want them displayed).

## 2. FINDING CASES BY NAME

The second method of locating cases is **Finding Cases by Name**. To retrieve a case by name you must:

- Click “**Get a Document.**” (Notice that the tab is still located at the top of the screen even though you are viewing a case)

- Click the “**Party Name**” tab [at the top of the screen (immediately to the right of the “citation” tab you used earlier)]
- Type in the case name using “tab” to move from the first party name to the second party name. Note: You do not need to include both party names; if you only know one party name, simply enter it in the first space and leave the other space blank.
- Select a **jurisdiction** for your search using the radio buttons and pull-down selections provided
- If you know that there are likely to be multiple cases with the same name (particularly if you only know the name of one party in your case), you may want to place a date restriction on your search. You do this by using the radio button and pull-down menu at the bottom of the screen. Notice that the default is set for no date restriction.
- Retrieve the **U.S. Supreme Court case of “Bush v. Gore”**
- Click “**Search**” to retrieve the case. Note: You may retrieve more than one case. If you do, you will need to scroll through the list of results to find the particular case you are looking for. When you have located the specific case (or if you need to look at the text of the opinion in order to determine if you have located the correct case), simply click on the case name to link into the text of the opinion. If you only retrieve one opinion, you will likely see it in KWIC™ format. To view the full text of the opinion, simply click on “FULL” at the top left of the screen.

### 3. FINDING CASES BY TOPIC

To retrieve a case by topic you must:

- Using “Lexis® Search Advisor” you have two options:
  - searching for a legal topic from your own search terms or
  - exploring legal topics from a list of legal topics prepared by LexisNexis™ editors
- To use your own search terms:
  - Enter search terms (words relevant to the legal topic you are interested in researching) in the open text box of “**Option 1-Find a Legal Topic**”
  - Click “**find.**” A list of relevant “search advisory classifications” appears. You need to read through the list and determine which classification(s) address(es) your research issue.
- To use pre-selected topic categories, simply click on a topic
- Using “option 1” begin a topic search to determine if a wife can be forced to testify against her husband in a RICO case. Use the search terms “wife” and “testify.”

Once you have selected a legal topic, you will have two options for finding relevant materials:

- You can link to Analytical Materials (e.g. Law Reviews) or
- You can Search in Case law

To Search in Case law you must:

- Select a jurisdiction using the pull-down menu in the “**select jurisdiction**” field
- Select your search mode (either “**terms and connectors**” or “**natural language**”) using the radio buttons at the top of the search field
- Enter your search terms in the open text field
- Enter a date restriction if you wish to limit your search by date of decision
- Click “**search.**”

## HOW TO *Shepardize*® US CASE LAW

When you are viewing cases, you will notice a *Shepard's*® Signal Indicator to the left of the record in cite, view and at the top center of the document in all other views. *Shepard's*® Signal Indicators give you an at-a-glance indication of the precedential status of a case. To *Shepardize*® when viewing the case in full, click on the signal or the hyperlink.

If you are not viewing the case:

- Click on the **Check a Citation** tab
- Type the citation **800 f2d 111** in the field
- Ensure that ***Shepard's*® for Research (FULL)** is selected
- Click on Check

At this stage you are able to narrow your results by jurisdiction, analyses, headnotes and by date.

- Click on **Custom Restrictions** at the top of your screen
- Check inside the **Negative: Overruled** and the **Positive: Followed box**

- Click on **Show Restrictions**

You can also Use *Shepard's*® FOCUS™ Search to pinpoint issues or fact patterns by searching for words or phrases within the full text of all your citing references!

## UNITED STATES STATUTES and REGULATIONS

Under the U.S. and state constitutions, statutes are considered the primary source of law in the U.S. — that is, legislatures make the law (statutes) and courts interpret the law (cases).

When an Act is passed by both houses of Congress, it is submitted to the President for his signature or veto. When the President signs or vetoes the bill, he may add a **signing statement** or **veto message** that sets out the rationale for his action.

Once the Act is signed it becomes a **law** and is assigned a **public law number**. In addition to the bill number, the public law number is central to tracking legislative history.

The hyphenated public law number is comprised of two parts — the Congressional session number and the chronological order of the bill. For example, the twentieth bill to be signed into law during the 107th Congress would be Public Law No. 107-20.

The new public law is first published as a **slip law**. At the end of each legislative session, all of the public laws are compiled chronologically and published as **Session Laws**. The session law for U.S. federal legislation is called the **Statutes at Large**.

### United States Code

In order to begin tracking a law's legislative history, you need either its public law number or its bill number; however, most times a legal researcher begins working with legislation in its codified form — the United States Code. To aid researchers, Federal statutes are organized into subject matter titles within the United States Code (for example, Title 18 for crimes and Title 11 for bankruptcy). LexisNexis™ contains the United States Code Service, which is an annotated version of the United States Code. In USCS you will find coverage of all Titles of the United States Code, the Constitution, Executive Orders, Court Rules, Private Law Conventions, exhaustive references to the Code of Federal Regulations, and full coverage of Public Laws in the Advance Legislative Service.

Fortunately, each section of the U.S.C. contains a reference to the public law from which the statute came. To find a public law number from a known section of the U.S. Code using the *lexis.com*® service you must:

- Click "**Get a Document**" on the toolbar at the top of your *lexis.com*® screen
- Making sure that you have the "**citation**" tab selected (the tabs will appear immediately under the "Get a Document" button) **enter the citation 42 U.S.C. § 12113**.
- Click "**Get**"
- Scroll down through the text of the statute to the notes at the end. In the "History" parenthesis you will find references to the public law number, date of enactment, and Statutes at Large citation.

Unfortunately, legal researchers don't always begin their legislative history research with a specific code section. Sometimes you will **not** have either the public law number or a code citation, but you may know what the law is commonly referred to by the media or by other sources. In that case you must consult the Popular Names Index to the U.S. Code.

To do this, you must:

- Click on the "**Search**" button at the top left corner of your screen
- Click on "**Federal Legal-U.S.**" in the displayed list
- Click on "**United States Code Service (USCS) Materials**" in the right column of the displayed list
- Click on "**USCS Popular Name Table.**"

At this point you have two options:

- First, you can use the Popular Names Table like a book. Type the number corresponding to the first letter of the first word of the Act you wish to view. This brings up the document that contains all the popular names that begin with that letter. You can then browse through the documents (each letter of the alphabet is a single document) until you find the Act you are seeking.

- Second, you can search the index for known words of the popular name. This is very useful when you don't know the exact popular name of the Act.
- Before moving on to the next page, find the public law number of the Brady Bill.

You now know that the Public Law number for the Brady Handgun Violence Prevention Act is P.L. 103-159, but you do not have the full text of the Act.

To retrieve the text of the Public Law you would:

- Click on the “**Get a Document**” tab
- Make sure that the “**Citation**” tab is selected
- Type the **public law number** in the open field of the template in this format: 103 pl 159 where the first number is the Congressional session and the second number is the law number (e.g. P.L. no. 107-442 would be entered “107 pl 442”).
- Click on “**Get.**”

Note on the search request: The correct format for typing the Public Law citation as a *lexis.com*® search request differs from the official Public Law citation.

### United States Regulations

The **Federal Register** is the official source of publication of U.S. government agency rules and regulations intended to have general application and legal effect. Many laws enacted by Congress contain regulations necessary to enact the legislation. Other laws require regulatory action and the responsible agency draws up the necessary regulations to enact the law. All agency regulations promulgated to enact legislation are published in the Federal Register. It also contains proposed rules, notices, and Presidential documents.

You can search the *Federal Register* on LexisNexis™ via:

- Federal Register
- Combined Federal Register and CFR
- Get a Document: example **66 FR 43186**

The **Code of Federal Regulations** is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles, representing broad areas subject to Federal regulation. Each title is further sub-divided into parts covering specific regulatory areas. In addition to the ability to search the full text of the CFR, LexisNexis™ has incorporated the ability to browse through the Code of Federal Regulations or look through the Table of Contents (TOC) in order to make navigation easier. The Code of Federal Regulations is kept up-to-date by the Federal Register. These two files must be used together to determine the latest version of any given rule.

You can search the *Code of Federal Regulations* on LexisNexis™ via:

- Code of Federal Regulations
- Combined file Federal Register and CFR
- CFR Archives from 1981 of the CFR
- Get a Document: example **15 CFR 10.8**

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