Accelerate your Success……Fine Tune your Legal Research Skills!

Presented by Linda L. Kazmerski, Esq.
Agenda

• Overview of Legal Research
• The Legal Research Process
  • Analyze the Situation
  • Plan Legal Research Strategy
  • Conduct Good Legal Research
  • Apply the Law
• Best Practices
Why talk about Legal Research??
Why talk about Legal Research??

American Association for Paralegal Education

The Core Competencies for Paralegals

- Critical Thinking Skills
- Organizational Skills
- General Communication Skills
- **Legal Research Skills**
- Legal Writing Skills
- Computer Skills
- Interviewing & Investigation Skills
- Law Office Management Skills
What is Legal Research?

Legal Research is "the process of identifying and retrieving information necessary to support legal decision-making. In its broadest sense, legal research includes each step of a course of action that begins with an analysis of the facts of a problem and concludes with the application and communication of the results of the investigation."

Legal Research Process

Analyze
• Identify the Facts
• Identify the Legal Issues

Plan
• Plan Search Strategy

Research
• Find Authority
• Read
• Update

Apply the Law
Agenda

- Overview of Legal Research
- **Analyze the Situation**
- Plan Legal Research Strategy
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- Apply the Law

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Analyse

- Identify the Facts
- Identify the Legal Issues
Consider this Legal Research Scenario

Lois posted lewd and disparaging remarks about her manager and her California-based company on Facebook after she was demoted for repeatedly missing important deadlines. A colleague overheard other employees talking about the postings and reported it to Human Resources.

Lois’ employer wants Lois to turn over her user name and password so they can see the comments that were made on the social media site.
Lois’ employer wants Lois to turn over her user name and password so they can see the comments that were made on the social media site.

The ISSUE:  Can the employer do that???

Or, stated more formally:

“Whether an employer can demand the user name and password for an employee’s social media account in order to view disparaging comments by an employee that reflect on corporate reputation?”
Gathering Relevant Facts

Lois posted lewd and disparaging remarks about her manager and California-based company on Facebook after she was demoted for repeatedly missing important deadlines. A colleague overheard other employees talking about the postings and reported it to Human Resources.

The FACTS:

• Lois posted lewd and disparaging remarks
• Lois used her own personal social media site, Facebook
• The remarks were about her company
• Her company is located in California
• The remarks were about her manager
• Lois was demoted at work for missing deadlines
• Other employees have seen the postings
Research Interview

Other **FACTS** we may want to ask about with regard to Legal Situation:

- Where did this take place?
  - *Informs us as to what jurisdiction’s law we need to focus on; employment-related matters are often based in state law.*
- How large is this company?
  - *Informs us about which laws may or may not apply to this situation (some laws apply only to employers with over 50 employees, for example).*

- **OTHERS?**
Research Interview

Other important information to gather:

* Are there any key sources or key cases to look at first?

* What form should the work product take?

* What is the deadline for the research?

Always go back and ask for more information when / if you determine you need it!!
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Planning Your Research Strategy
Where do you start?

YOU WISH !!!
Planning Your Research Strategy

• Do you know much about this topic?
  • Consider reading up on the subject in secondary materials first.

• Where should I start looking?
  • Is this likely to be an issue addressed in a statute, or a regulation or a case? What primary law is out there?

• What resources do you have access to?
  • What can you use for free?

• What are the relevant keywords and synonyms you might use?
  • Legal thesaurus, legal dictionary
Secondary Material Examples

**Treatises/Practice Guides:**
- Background info on a specific area of law
- May include forms
- Citations to primary law

**Legal Encyclopedias:**
- American Jurisprudence (AmJur) – 140 volumes, short explanations of legal topics.

**Annotations:**
- American Law Reports (ALR) – articles dealing with unsettled issues of law; explains how the issue has been handled in various jurisdictions.

**Law Reviews/Law Journals:**
- Scholarly publications sponsored by law schools; managed by law students.
- Articles are usually written by professors; "Notes" or "Comments" are written by students.

**Restatements:**
- Model laws, designed to clarify and synthesize the common law (case law) in a particular area of law.

**Legislative History:**
- Explains the intent of a law; persuasive in interpreting law.

**Other:**
- Legal News
- Industry Trade Publications
- Reputable Websites – always verify!
Planning Your Research Strategy

• Do you know much about this topic?
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  • Is this likely to be an issue addressed in a statute, or a regulation or a case? What primary law is out there?

• What resources do you have access to?
  • What can you use for free?

• What are the relevant keywords and synonyms you might use?
  • Legal thesaurus, legal dictionary
  • Preference settings on legal research sites like LexisAdvance will give you legal phrase equivalents automatically
Primary Law Sources

Constitution

Judicial Branch:
Interprets Law

- CASE LAW
  (COMMON LAW)

Legislative Branch:
Makes Law

- STATUTES
  (CODES)

- RULES &
  REGULATIONS
  (ADMINISTRATIVE
  CODES)

Executive Branch:
Carries Out Law

- AGENCY
  DECISIONS

- EXECUTIVE
  ORDERS
What Primary Law Type Applies?

- **Statutes (or Codes)**
  - When one exists and is valid.

- **Cases (or Common Law)**
  - When there is no statute or code in place to address the issue.
  - When a statute or code needs to be interpreted.

- **Rules/Regulations (or Administrative Codes)**
  - When one exists and is valid. This is generally when a statute sets forth a law (Congress: everyone pays taxes) but doesn’t outline how it will be carried out (IRS rule: file Form 1040 by April 15). Regulations have the force of law by delegation of executive power.
Checks & Balances – Applied to Primary Laws

- **Cases** (or Common Law)
  - Can be invalidated by amended or new statutes.

- **Statutes** (or Codes)
  - Can be limited or overruled by case law.

- **Rules/Regulations** (or Administrative Codes)
  - Can be limited or overruled by case law, can be invalidated or amended by statutes.
State Level Courts

- Generally have a similar 3-level structure: trial courts, appellate courts, highest courts

- Cases begin in trial court – could be a city court, county court, state court – criminal or civil.

- Most states highest courts are called “Supreme” courts, but not all; for example, NY calls its trial court the Supreme Court.
Statutes – Where to Find Them

• **Statutory codes** are the subject arrangements of enacted laws currently in force.
  • **TIP:** The subject arrangement makes it easier to limit your search to a specific area of law.

• **Annotated codes** include the enacted laws in force, as well as the history of the section of the law (when it was enacted and dates of subsequent amendments), cases that interpret the law, and citations to regulations promulgated under the law, law review articles about the law and other research aids.
  • **TIP:** An annotated code may list case law interpreting the statute, but it is NO substitute for using a citator to validate whether it is still good law.

• **Session laws** are the chronological compilation of slip laws passed by the legislature during a legislative session. The session laws contain the official text of the law as passed by the legislature.
  • **TIP:** Session Laws are a great resource to get the entire text of an Act in one document.
Other Statute-Related Resources

• **Popular Name Table** – at the end of the Index – find statutes by common name (e.g., “the Clean Air Act)

• **Uniform Acts** – these are not law; rather, they are proposed by interested parties to all state legislatures. Most that are adopted are modified in some way, so “uniform” is relative. The UCC is an example – the Uniform Commercial Code.

• **Model Acts** – example: the Model Penal Code. Usually, goal is reform, not uniformity.

• **Restatements** – published by American Law Institute; they are model laws designed to restate areas of law that are still governed by case law/common law, rather than statutes.
Finding Regulations & Administrative Law

• Agencies are created by statute to regulate an area of conduct (e.g., FDA regulates food and drugs).

• Federal Agencies initially publish rules/regulations in the Federal Register; the official, enacted versions appear in the Code of Federal Regulations, organized by subject.

• State Agencies follow suit; most have online registers, and all publish enacted regulations in their Administrative Code. May also be called Rules & Regulations or other variants.
Regulations & Administrative Law

• Various Federal and state Agencies also publish guidelines and advisory bulletins; these are informal and non-binding, but important as guidance.

• Some have informal tribunals and some have formal tribunals with Administrative Law Judges whose opinion are not binding precedent, but are considered valuable. These formal decisions are published, generally.
Planning Your Research Strategy

- Do you know much about this topic?
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- Where should I start looking?
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- What resources do you have access to?
  - What can you use for free?

- What are the relevant keywords and synonyms you might use?
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Free legal information on the web

• Lexis Web: www.lexisweb.com


• Cornell Law School Legal Information Institute: www.law.cornell.edu

• Google Scholar: http://scholar.google.com/

• Justia: www.justia.com

• Findlaw: www.findlaw.com

• Google: www.google.com
Free legal information on the web

- Reliability of Content
- Lack of Coverage (Far from Comprehensive)
- Lack of Corrections (i.e. Editorial Work)
- Inconsistency of Results Over Time
- Lack of Enhancements
- Lack of a comprehensive Citator
- The Filter Bubble
- Not all information is “free”
Free legal information on the web

Courts Recognize the Unreliability of the Open Web

Trademark Props. v. A&E TV Networks

“Mr. Halloran based his supplemental expert opinion on damages on an article in the New York Times and on various Internet searches.”

FN 2: The accuracy and reliability of information from the Internet is highly questionable.

“Open Web” Inaccuracy
According to a recent study conducted by Scholastic, 39% of American 9-to-17-year-olds believe that the information they find online is always correct.

“The New York Times
September 29, 2010

Open Web” Inaccuracy
“Let me just say precisely: It’s a sewer out there.”
Eric Schmidt, CEO of Google
Comments to the Newspaper Assoc. of America, April 7, 2009

Google Indexes Only a Small % of the Web
“While doing online research, be aware that not everything on the Web is searchable through Google or any other search engine. In fact, research suggests that Google only taps into about 1 percent of what is actually out there on the Web.”
Virginia Lawyers Weekly
April 27, 2009
Planning Your Research Strategy

• Do you know much about this topic?
  • Consider reading up on the subject in secondary materials first.

• Where should I start looking?
  • Is this likely to be an issue addressed in a statute, or a regulation or a case?

• What resources do you have access to?
  • What can you use for free?

• Create a search query. What are the relevant keywords and synonyms you might use?
  • Legal thesaurus, legal dictionary
### BASIC SEARCHING

<table>
<thead>
<tr>
<th>Quotation marks</th>
<th>Requires words to searched as a phrase, in the exact order you type them.</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot; &quot;</td>
<td>&quot;working mothers&quot;</td>
</tr>
<tr>
<td>&quot; &quot;</td>
<td>&quot;affirmative action&quot;</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Common Words Usually Ignored</th>
<th>Search which versus that. Only versus is searched on. Which and that are ignored. Additional common words to be searched.</th>
</tr>
</thead>
<tbody>
<tr>
<td>+ or &quot; &quot;</td>
<td>+which versus +that</td>
</tr>
<tr>
<td>to search them</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Excluding</th>
<th>Exclude instances of a word or phrase in quotes.</th>
</tr>
</thead>
<tbody>
<tr>
<td>-word</td>
<td>&quot;genetic cancer&quot;</td>
</tr>
<tr>
<td>&quot;phrase in quotes&quot;</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OR allows more than one term</th>
<th>The OR operator allows you to specify it to appear somewhere in the advanced search. OR blacks OR &quot;global warming&quot; OR &quot;greenhouse effect&quot;</th>
</tr>
</thead>
</table>

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<thead>
<tr>
<th>AND (default)</th>
<th>AND is the default and only needs to be typed if you are using other Boolean operators with (). infopeople training is logically the same as infopeople and training</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>USES:</th>
<th>The more words you enter connected by AND, the fewer documents you get. All your words will be searched on.</th>
</tr>
</thead>
<tbody>
<tr>
<td>o The AND operator is generally used to join different kinds of concepts, different aspects of the question.</td>
<td></td>
</tr>
<tr>
<td>o &quot;global warming&quot; AND &quot;sea level rise&quot; AND california</td>
<td></td>
</tr>
</tbody>
</table>
Planning – Your Starting Point

Your **Search Query**

employer require access to social media account
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• Analyze the Situation
• Plan Legal Research Strategy
• **Conduct Good Legal Research**
• Apply the Law

Research
• Find Authority
• Read
• Update
Free Internet Searching with Legal Research in Mind...

Californians Regulate Employer Access to Employees' Social Media. - Privacy and Inf...Blog

Employers use social media extensively in communication for personal and business reasons. Employers are increasingly monitoring its use, and insisting on access to some of the more popular sites. California is the third state to limit access to employees' social media accounts. Other states and industries typically prohibit employees from requiring, employers to disclose a user name or password for the purpose of personal social media. To access personal passwords, employers are increasingly monitoring their employees' use of social media.

Employer Access to Social Media Passwords: 2012 Legislation

Legislation in 2012 to restrict employers from requesting access to Facebook and other social media usernames and passwords of applicants, students, or employees...relating to employer access to social media usernames and passwords. 2012...disclose a user name or password for a personal social media account. Maryland and Michigan laws apply to employers. California...requests access to social...
Looks like there are statutes in place...

Like or dislike? Social media profiles and employer access

December 19, 2012 - by: admin

by Phillip W. Pemberton and Lindsey A. Smith

Numerous states and the federal government are moving forward with legislation addressing employers’ access to employees’ and applicants’ social media accounts. Even if your state has yet to consider legislation prohibiting employers from accessing that type of data, the way other states have handled the issue may shape just how far employers can go when using social media as a source of information in making employment decisions.

An unfriendly request

Robert Collins worked as a corrections officer for the Maryland Department of Public Safety and Correctional Services. After taking a leave of absence for his mother’s death, he reapplied for his previous job. As part of the rehiring process, he underwent a security interview. During the interview, he was forced to provide his Facebook user name and password. The interviewer proceeded to review his personal messages, wall posts, and family photos.

Collins contacted his local American Civil Liberties Union (ACLU) office, which contacted the state corrections department. In response to the ACLU’s pressure, the department revised its policy and allowed applicants to “voluntarily participate” in the social media screening process. The revised voluntary policy didn’t go far enough for the ACLU, and it pursued a legislative change.

Maryland updates its status

In May, as a result of the Collins incident, Maryland became the first state to adopt legislation prohibiting an employer from requesting or requiring an employee or applicant to disclose his user name or password for personal Internet sites. The bill also prohibits employers from taking or threatening disciplinary action against an employee or applicant who refuses to disclose personal social media information.
Jackpot!

Employer Access to Social Media Usernames and Passwords 2013

Increasing numbers of Americans use social media both on and off the job. Recently, some employers have asked employees to turn over their usernames or passwords for their personal accounts. Some employers argue that access to personal accounts is needed to protect proprietary information or trade secrets, to comply with federal financial regulations, or to prevent the employer from being exposed to legal liabilities. But others consider requiring access to personal accounts an invasion of employee privacy.

State lawmakers introduced legislation beginning in 2012 to prevent employers from requesting passwords to personal Internet accounts to get or keep a job. Some states have similar legislation to protect students in public colleges and universities from having to grant access to their social networking accounts.

2013 Legislation

As of Sept. 12, 2013

Legislation has been introduced or is pending in at least 36 states. Ten states—Arkansas, Colorado, Illinois, Nevada, New Jersey, New Mexico, Oregon, Utah, Vermont and Washington—have enacted legislation so far in 2013. (See also 2012 legislation.)

Arizona
S.B. 1411
Status: Feb. 20, 2013; Failed; Regular session adjourned.
Relates to social media passwords; relates to prohibition.

Arkansas
H.B. 1901
Status: April 22, 2013; Signed by Governor. Act 1480
Prohibits an employer from requiring or requesting a current or prospective employee from disclosing his or her username or password for a social media account.

H.B. 1902
Status: April 8, 2013; Signed by Governor. Act 998
Prohibits an institution of higher education from requiring or requesting a current or prospective employee or student from disclosing his or her username or password for a social media account.

California
A.B. 25
Existing law prohibits a private employer from requiring an employee or applicant for employment to disclose a username or password for the purpose of accessing personal social media, to access personal social media in the presence of the employer, or to divulge any personal social media. Existing law prohibits a private employer from discharging, disciplining, threatening to discharge or discipline, or otherwise retaliating against an employee or applicant for not complying with a request or demand that violates these provisions. The bill would apply the provisions described above to public employers. The bill would state that its provisions address a matter of statewide interest and apply to public employers generally, including charter cities and counties.
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Colorado
H.B. 1046
Status: May 11, 2013; Signed by Governor. Chapter 195
Concerns employer access to personal information through electronic communication devices.

Connecticut
H.B. 5690
Status: March 10, 2013; Filed. Regular session adjourned.
BILL NUMBER: AB 25        INTRODUCED
BILL TEXT

INTRODUCED BY  Assembly Member Campos

DECEMBER 3, 2012

An act to amend Section 980 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 25, as introduced, Campos. Employment: social media.
Existing law prohibits a private employer from requiring or requesting an employee or applicant for employment to disclose a username or password for the purpose of accessing personal social media, to access personal social media in the presence of the employer, or to divulge any personal social media. Existing law prohibits a private employer from discharging, disciplining, threatening to discharge or discipline, or otherwise retaliating against an employee or applicant for not complying with a request or demand that violates these provisions.
This bill would apply the provisions described above to public employers. The bill would state that its provisions address a matter of statewide interest and apply to public employers generally, including charter cities and counties.
Use your legal research provider to find the current status of the bill ...
Use your legal research provider to find the current statute with a warning of pending legislation that may apply.
Use your legal research provider to find cases that might address your issue.
Validate Cases and Statutes with one of these Recognized Citators

- Sheppard’s (LexisNexis)
- JustCite - (Justis Publishing)
- KeyCite (Westlaw)
- Oxford Law Citator
- BCIT
Validate – is it still good law?

Shepard’s Statute Report

One view shows affecting legislation, pending bills and citing cases.
# Shepard’s Report - Indicators

Listed below are all *Shepard’s* Signal Indicators along with the Most Common Analysis Phrases.

<table>
<thead>
<tr>
<th>Signal Indicators</th>
<th>Common Analysis Phrases</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Positive treatment indicated</strong></td>
<td>Followed by—The citing opinion relies on the case you are Sheparding™ as controlling or persuasive authority.</td>
</tr>
<tr>
<td><em>The green Shepard’s Signal indicates that citing references in the Shepard’s Citations Service contain history or treatment that has a positive impact on your case (for example, affirmed or followed by).</em></td>
<td></td>
</tr>
<tr>
<td><strong>Warning: Negative treatment is indicated for statute</strong></td>
<td>Unconstitutional by—The citing case declares unconstitutional the statute, rule or regulation you are Sheparding.</td>
</tr>
<tr>
<td><em>The red exclamation point Shepard’s Signal™ indicates that citing references in the Shepard’s® Citations Service contain strong negative treatment of the Shepardized™ section (for example, the section may have been found to be unconstitutional or void).</em></td>
<td></td>
</tr>
<tr>
<td><strong>Warning: Negative treatment is indicated</strong></td>
<td>Overruled by—The citing case expressly overrules or disapproves all or part of the case you are Sheparding.</td>
</tr>
<tr>
<td><em>The red Shepard’s Signal indicates that citing references in the Shepard’s Citations Service contain strong negative history or treatment of your case (for example, overruled by or reversed).</em></td>
<td></td>
</tr>
<tr>
<td><strong>Questioned: Validity questioned by citing references</strong></td>
<td>Abrogated by—The citing case effectively, but not explicitly, overrules or departs from the case you are Sheparding.</td>
</tr>
<tr>
<td><em>The orange Shepard’s Signal indicates that the citing references in the Shepard’s Citations Service contain treatment that questions the continuing validity or precedential value of your case because of intervening circumstances, including judicial or legislative overruling.</em></td>
<td></td>
</tr>
<tr>
<td><strong>Caution: Possible negative treatment indicated</strong></td>
<td>Superseded by—The citing reference, typically a session law, other record of legislative action or a record of administrative action, supersedes the statute, regulation or order you are Sheparding.</td>
</tr>
<tr>
<td><em>The yellow Shepard’s Signal indicates that citing references in the Shepard’s Citations Service contain history or treatment that may have a significant negative impact on your case (for example, limited or criticized by).</em></td>
<td></td>
</tr>
<tr>
<td><strong>Citing references with analysis available</strong></td>
<td>Criticized by—The citing opinion disagrees with the reasoning/result of the case you are Sheparding, although the citing court may not have the authority to materially affect its precedential value.</td>
</tr>
<tr>
<td><em>The blue “A” Shepard’s Signal indicates that citing references in the Shepard’s Citations Service contain treatment of your case that is neither positive nor negative (for example, explained).</em></td>
<td></td>
</tr>
<tr>
<td><strong>Citation information available</strong></td>
<td>Distinguished by—The citing case differs from the case you are Sheparding, either involving dissimilar facts or requiring a different application of the law.</td>
</tr>
<tr>
<td><em>The blue “I” Shepard’s Signal indicates that citing references are available in the Shepard’s Citations Service for your case, but the references do not have history or treatment analysis (for example, the references are law review citations).</em></td>
<td></td>
</tr>
<tr>
<td><strong>Cited in Dissenting Opinion at</strong></td>
<td>Explained by—The citing opinion interprets or clarifies the case you are Sheparding in a significant way.</td>
</tr>
<tr>
<td><em>A dissenting opinion cites the case you are Sheparding.</em></td>
<td>Cited in Dissenting Opinion at—A dissenting opinion cites the case you are Sheparding.</td>
</tr>
<tr>
<td><strong>Interpreted or construed by</strong></td>
<td></td>
</tr>
<tr>
<td><em>The citing opinion interprets the statute, rule or regulation you are Sheparding in some significant way, often including a discussion of the statute’s legislative history.</em></td>
<td></td>
</tr>
</tbody>
</table>
One of Shepard's key differentiators is that it has the analysis phrase “followed by,” which is critical to identifying potential splits of authority.

**Analysis By Court** shows a breakdown of how each court treats a case by jurisdiction. This bird's-eye view helps make it easy to spot splits of authority.

**Analysis By Date** shows yearly treatment of a case. This view helps show potential splits of authority by allowing you to see a case treated negatively, but subsequently expressly followed. This analysis shows if the case is still “good law” as evidenced by the reliance upon it and how the case is viewed by other courts over time.
Validate – is it still good law?

Shepard’s Case Report

What is a Shepard's® depth of discussion indicator?

These indicators show you the various ways in which citing documents consider the cited reference. The number of bars indicate categories.

<table>
<thead>
<tr>
<th>Image</th>
<th>Indicator</th>
<th>The Citing Document...</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Analyzed</td>
<td>Fully considers the cited reference</td>
</tr>
<tr>
<td></td>
<td>Discussed</td>
<td>Discusses the cited reference with some measure of analysis</td>
</tr>
<tr>
<td></td>
<td>Mentioned</td>
<td>Mentions the cited reference but does so briefly</td>
</tr>
<tr>
<td></td>
<td>Cited</td>
<td>Cites to the reference with minimal if any discussion</td>
</tr>
</tbody>
</table>
Shepards Alerts

Create New Shepard's Alert

Title:
Griffin v. State

Client:
Griffin v. State

Monitor:
Any change
New negative analysis
Custom settings

Deliver:
Signal Change and

Distribution is subject to Terms & Conditions

Save Cancel
When to stop
When to stop

Don't waste your time
Research is a recursive process. As you learn more about the law you may need to modify your research plan to look at things that did not seem relevant at first.

When you keep finding the same things in your research results you don’t need to look any longer.

Don't stop too soon
Make sure you have identified all the issues necessary to fully research your problem.

Remember to look at each issue from both sides, not just what causes of action exist, but also what defenses and procedural challenges could be brought.

Make sure you answer the question asked of you!

• Boston College Law School
• URL: http://lawguides.bc.edu/tips
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• Plan Legal Research Strategy
• Conduct Good Legal Research
• **Apply the Law**
## Applying the Law to the Facts: The IRAC Formula

A commonly used methodology for legal analysis is IRAC (*Issue, Rule, Application, and Conclusion*); you can use this as the basis for applying the law to your facts and reaching a conclusion.

<table>
<thead>
<tr>
<th>ISSUE</th>
<th>What is the question to be answered?</th>
<th>Whether a California employer can demand the user name and password for an employee’s social media account to view disparaging comments by an employee that reflect on corporate reputation?</th>
</tr>
</thead>
<tbody>
<tr>
<td>RULE</td>
<td>What is the <em>governing law</em> for the issue? Statute? Case law? Regulations?</td>
<td>Section 980 of the California Labor Code expressly denies the employer the right to demand social media account passwords.</td>
</tr>
<tr>
<td>APPLICATION</td>
<td>Does the rule <em>apply</em> to these unique facts?</td>
<td>Here, the employer seeks to demand a password from an employee, to view remarks which may reflect on corporate reputation. The statute makes no exception for such circumstances, and there is no case law interpreting the statute.</td>
</tr>
<tr>
<td>CONCLUSION</td>
<td>Answers the question presented by the issue.</td>
<td>Therefore, it appears that the employer may not demand the password.</td>
</tr>
</tbody>
</table>
Summary

Best Practices for Legal Research

Best Search Strategies
Legal Research Best Practice Tips

• If you are unfamiliar with the research topic, start in secondary sources
• Determine the relevant Jurisdiction
• Be sure to look at all primary legal authorities that can be relevant
  • Statutes
  • Regulations related to statutes and agency opinions interpreting or providing guidance
• For statutory research, use the annotated code
• Most current authority: *Validate legal arguments with citator tools!!!*
• Check to see if any upcoming changes to statutes or regulations
• Start with a Cite: Use Citator tools to find additional supporting authority and analysis
• Use automated tracking/alert services for up to date notifications
• Incorporate collaborative tools such as work folders and search histories in workflow
  • Consistently share with in house and outside counsel-avoids duplication of efforts and legal spend
Search Strategies

- **Local, State, Federal, National, International Scope Issue**
  - Restrict or broaden your resource set
- **Level of knowledge or expertise on topic**
  - Broaden search parameters to learn more
  - Consult secondary and analytical sources
- **Citator Service as efficient research tool**
  - Start with a case citation to find additional supporting authority
  - Start with a statute citation to find case analysis or potential changes in the law
- **Natural language/Relevancy vs. Terms and Connectors**
- **Utilize alerts for monitoring and tracking of developments in the law**
Search Strategies for Free Sources – Open Web

- Open Web (e.g., Google) FOR INVESTIGATION
  - SHOULD Be a Resource, but . . .
    - Risk of Inaccurate Info (False Info and Easy Editorializing)
    - Risk of Incomplete Info (Index % and the Filter Bubble)

- Open Web (e.g., Google Scholar) for LEGAL RESEARCH
  - COULD be a resource, but ...
    - Risk of Incomplete Info (esp. Recent and Unpublished Opinions)
    - Risk of Inconsistent Results (over time)
    - Lack of Enhancements and Features (e.g. Shepard’s®)
    - Risk of Wrong Information
Share your Research Tips and Best Practices!

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