



Colorado Association of Law Libraries

Secondary Resources, Treatises, and Forms

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A Legal Problem

A Research Problem

BRAG: Bridge the Research and Analysis Gap
June 7, 2011



What do we know?

- Do we have a citation?
 - Case, Statute, Regulation
 - Const. provision, Municipal Ordinance, Court Rule
- Jurisdiction?
- What keywords do we have?



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Research Analysis

- What area of law is involved here?
- What type of primary authority should we find?
- In what publications will we find this authority?
- How much do I know about this area of law?



Secondary Authority

- Purposes
 - Broad overview
 - In-depth analysis
 - Jargon
 - Practical Guidance and Tips
 - Citations
 - Forms
- START HERE especially when you don't know enough about the subject area



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Legal Resources

- Secondary Authority Publications
 - Legal Encyclopedias
 - *American Law Report* annotations (ALR)
 - Treatises – books about the law
 - Law Journal Articles, Periodical Indexes
 - Form books
 - Restatements of the Law
 - Uniform Acts and Model Laws
 - Legal Dictionaries and Words & Phrases



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Secondary Authority

- Four Categories
 - Descriptive v. Prescriptive
 - Broad Overview v. In Depth Coverage of Narrow Topic
 - Scholarly v. Practical
 - National v. Local



Secondary Authority

Descriptive v. Prescriptive

- Descriptive – what the law is
- Prescriptive – what the law should be

Descriptive

Legal Encyclopedia articles

American Law Report annotation

Treatises

Restatements

Looseleaf services

Prescriptive

Law Journal Articles

Uniform Law / Model Act

Treatises



Secondary Authority

Broad Overview v. In Depth Analysis

- Broad Overview – high level, general parameters, big picture
- In Depth – detailed coverage of whole topic or

Broad Overview

Legal Encyclopedia articles

Nutshells

Student Hornbooks

In Depth

Law Journal Articles

Scholarly Treatises



Secondary Authority

Scholarly v. Practical

- Scholarly – broad, deep, comprehensive
- Practical – practitioner-oriented

Scholarly

Treatises

American Law Report annotation

Encyclopedia articles

Restatements

Law Journal Articles

Uniform Law / Model Act

Practical

Treatises

Looseleaf Services

Forms / form books



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Secondary Authority

National v. Local

- National – law from all jurisdictions considered
- Local – law from a particular state considered

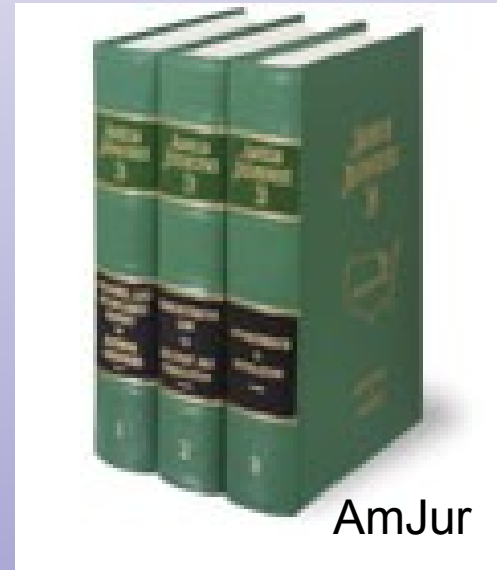
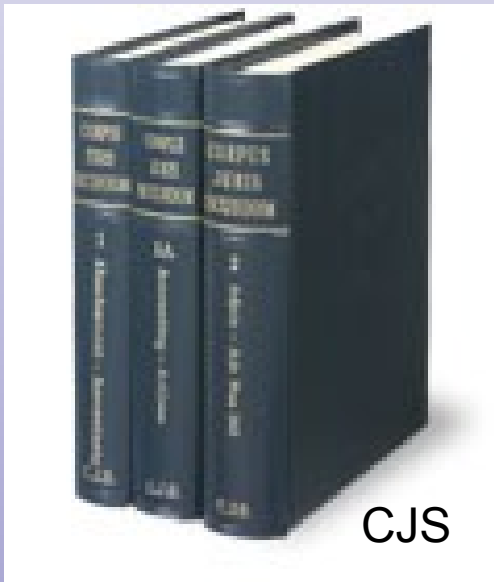
Type	National Coverage	Local Coverage
Encyclopedia	<i>CJS, AmJur</i>	<i>Colorado Law Annotated</i>
<i>ALR</i>	<i>American Law Reports</i>	NA
Treatise	<i>Employment Screening</i>	<i>Guide to Colorado Employment Law</i>
Restatements	Restatement of Torts	NA
Journals	<i>Yale Law Journal</i>	<i>The Colorado Lawyer</i>
Uniform Law / Model Act	<i>Uniform Laws Annotated</i>	NA
Forms	BRAG: Bridge the Research and Analysis Gap <i>West's Legal Forms</i>	<i>Colorado Real Estate Forms</i>

June 7, 2011



National Encyclopedias

- *American Jurisprudence 2d* (AmJur)
- *Corpus Juris Secundum* (CJS)

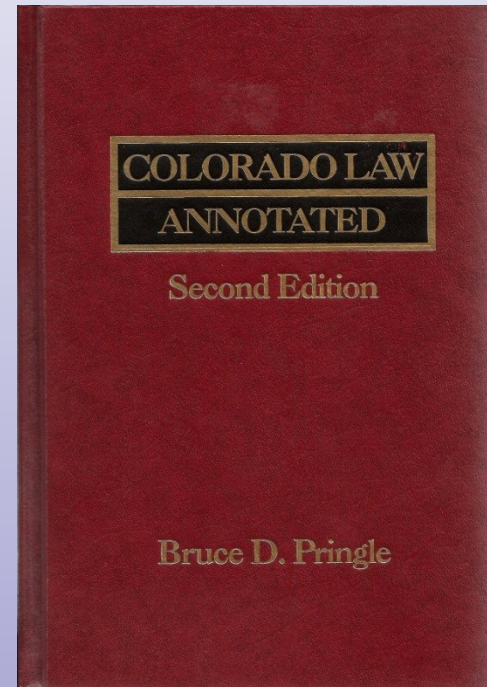




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Colorado Legal Encyclopedia

- *Colorado Law Annotated*
 - In two volumes
 - Coverage varies
- Westlaw - COLANN





Research Method

Legal Encyclopedias

1. Starting Points ...
 - Index
 - Topic Outline / Table of Contents
 - Table of Laws and Rules
2. Locate and Read Content
3. Note Citations to other Authority
4. Update
 - Pocket Part? Supplemental Volume?

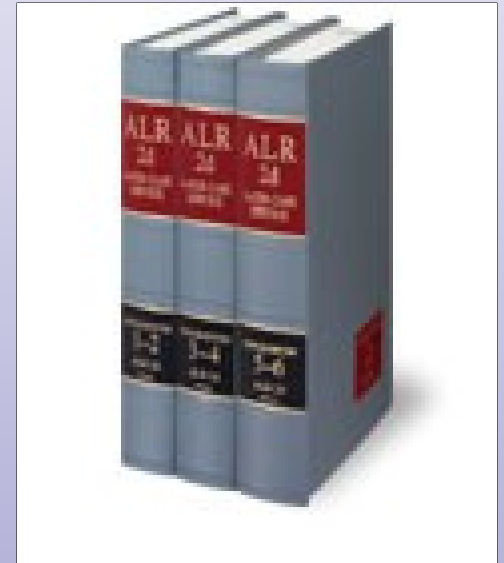


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American Law Reports

What it Does

- In-Depth Review of an Issue of Law
- Narrower coverage of topic than an Encyclopedia Article but comprehensive coverage of that topic
- Leading Case Method





American Law Reports

Parts of the ALR Set

- Eight Series including Federal
 - ✓ ALR 1st, 2nd, 3rd, 4th, 5th, and 6th (state issues – MOL)
 - ✓ Federal (federal issues)
 - ✓ International Law (*new)
- Various Indexes BUT use the Multi-set Index
- Digests – NOW use the West Topic and Key Number Digest
- Annotations Volumes
- Updating – Pocket Parts and Supplemental Volumes



American Law Reports

Annotations

- Annotation
 - Analysis
 - Research References
 - Cases (by jurisdiction)
 - Key Number Digest
 - Related ALR annotations
 - Westlaw databases
 - Encyclopedia articles
 - Law Journal articles
- Case on which the annotation is based
 - Printed either with the Annotation or within the volume



American Law Reports

Research Method – Starting Points

- ▣ Index
 - Multivolume Index for All Editions of ALR
 - Annotation History Table
 - All ALRs (even superseded ones)
 - Quick Index for Federal (located in by Fed. ALR)
- ▣ Use the ALR Digest
- ▣ ALR Citation (from another source)
 - Alert: Be Sure to Note the Proper ALR Series!



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American Law Reports

Research Method

- ▣ Locate and review Annotation
 - Consult Research References
 - Note cases in relevant jurisdiction
 - Note any additional ALR annotations

- ▣ Update research with appropriate tool



Treatises

What Are They?

- Books by scholars and experts on a particular legal subject
- One (or more) for every subject
- Type and depth of analysis varies
- Updated by pocket parts or cumulative pamphlets, or looseleaf pages



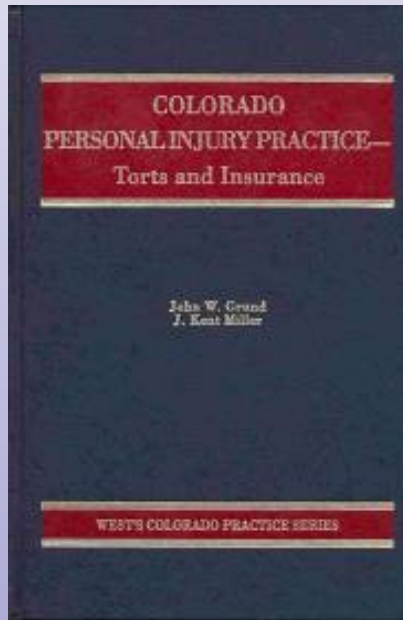
Treatises

- Type and depth of analysis varies
- Single or multivolume
- Bound volume or looseleaf
- Updated by pocket parts or cumulative pamphlets, or looseleaf pages
- Historical research

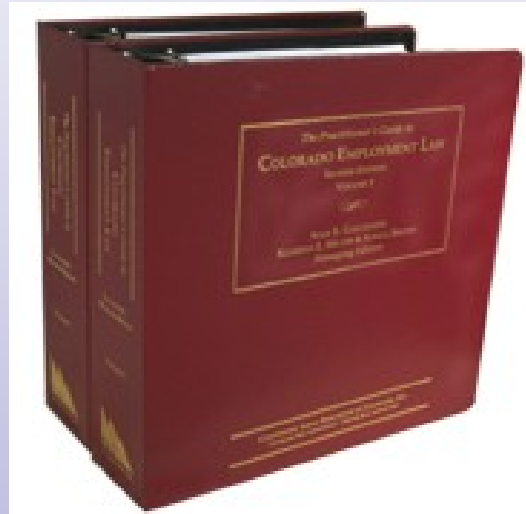


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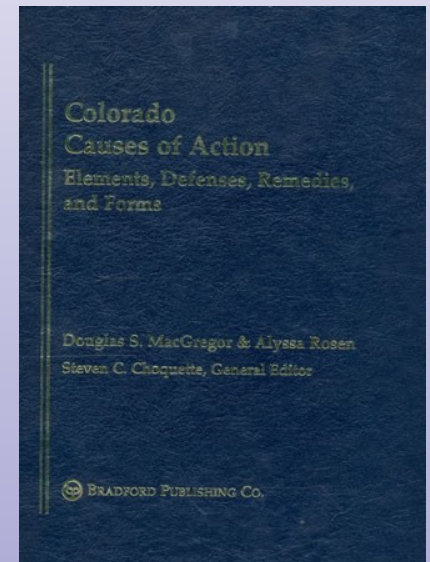
Colorado Treatises



Colorado Practice Series



The Practitioner's
Guide to Colorado
Employment Law



Colorado Causes of Action

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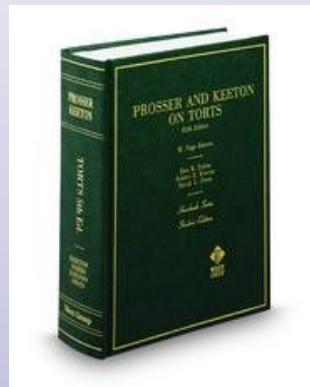
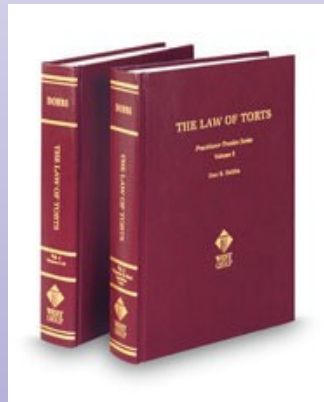


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Treatises

Also Treatises

- Hornbooks
- Nutshells



The Hornbook

Dr. Johnson described the hornbook as "the first book of children, covered with horn to keep it unsoiled." Pardon's *New General English Dictionary* (1758) defined it as "A leaf of written or printed paper pasted on a board, and covered with horn, for children to learn their letters by, and to prevent their being torn and daubed."

It was used throughout Europe and America between the late 1400s and the middle 1700s.

Shaped like an old-fashioned butter paddle, the first hornbooks were made of wood. The paper lesson the child was to learn was fastened to the wooden paddle and covered with a piece of horn. The transparent strip of horn was made by soaking a cow's horn in



hot water and peeling it away at the thickness of a piece of celluloid. The horn was necessary to protect the lesson from the damp and perhaps grubby hands of the child. Hornbooks commonly contained the alphabet, the vowels, and the Lord's Prayer. Later hornbooks were made of various materials: brass, copper, silver, ivory, bronze, leather, and stone.

As the art of printing advanced, the hornbook was supplanted by the primer in the book form we know today. Subsequently West Publishing Company developed its "Hornbook Series", a series of scholarly and well-respected one volume treatises on particular areas of law. Today they are widely used by law students, lawyers and judges.



Treatises

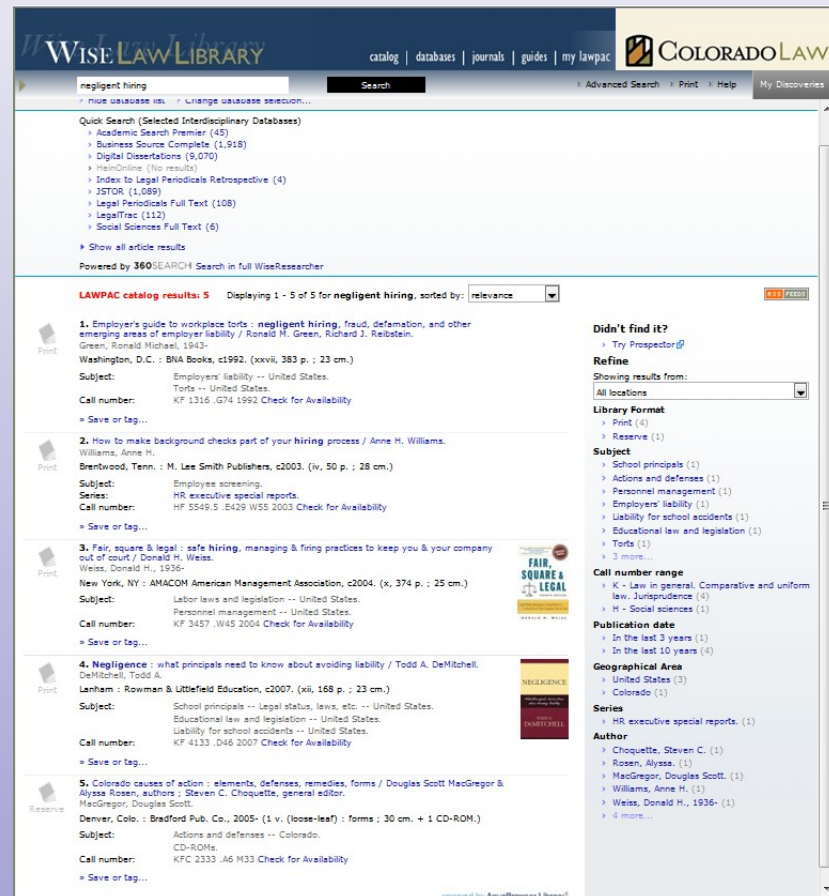
- Research Methods
 - Index
 - Table of Contents
 - Table of Cases
 - Table of Statutes (laws and rules)
- Forms
- Note Colorado citations ...



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Treatises

- Finding Treatises
 - Cross Reference
 - Library Catalog



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Treatises

- Finding Treatises
 - Stand and Scan
 - Find a Friend
 - Ask a Librarian

Library of Congress Call Number Guide

Administrative Law KF 5401-5425
Admiralty KF 1104-1109
Agency KF 1341-1348
Agriculture KF 1682
Antitrust KF 1631-1657
Appellate Practice (Civil) KF 9050-9058
Appellate Practice (Crim) KF 9690
Arbitration KF 3482
Art Law KF 4288-4296
Aviation KF 2400
Banking KF 966-1032
Bankruptcy KF 1501-1548
Blue Sky Law KF 1068



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Treatises

- Finding Treatises
 - Classic Treatises

Classic Treatises – By Familiar Title

- "Appleman"** Appleman on Insurance, Holmes's Appleman on insurance, 2d, Eric Mills Holmes and Mark S. Rhodes (St. Paul, Minn. : West Pub. Co., 1996
- "Collier's"** Collier on Bankruptcy, Collier on bankruptcy 15th ed.rev., Lawrence P. King, editor-in chief (New York : Matthew Bender, 1996-
- "Corbin"** Corbin on Contracts, Corbin on contracts, Arthur Linton Corbin. Rev. ed., Joseph M. Perillo (St. Paul, Minn. : West Pub. Co., 1993-
- "Couch"** Couch on Insurance, Couch on insurance 3d, Lee R. Russ, in consultation with Thomas F. Segalla. (Dorfield, IL : Clark Boardman Callaghan, 1995
- "Dobbs"** Law of Remedies, Dobbs law of remedies : damages equity restitution, Dan B. Dobbs. 2nd ed. (St. Paul, Minn. : West Pub. Co., 1993. 3 v.
- "Fletcher's"** Fletcher Encyclopedia of the Law of Private Corporations, Fletcher encyclopedia of the law of private corporations. Permanent ed. (Wilmette, Ill. : Callaghan, 1931-
- "Loss"** Loss on Securities Regulation, Fundamentals of securities regulation, Louis Loss and Joel Seligman. 5th ed. (New York : Aspen, 2004
- "McQuillin"** Law of Municipal Corporations, The law of municipal corporations, Eugene McQuillin. 3rd ed. (Wilmette, Ill. : Callaghan, 1949-
- "Moore's"** Moore's Federal Practice, Moore's federal practice, James Wm. Moore. et al. 3rd ed. (New York, NY : M. Bender, 1997-
- "Prosser"** Prosser on Torts (now Dobbs on Torts), The law of torts, Dan B. Dobbs. (St. Paul, Minn. : West Group, 2001
- "Sutherland"** Sutherland on Statutory Construction, Statutes and statutory construction, Norman J. Singer and J.G. Sutherland. 6th ed., 2000 revision. (St. Paul, Minn. : West Group, 2000-
- "ULA"** Uniform Laws Annotated, Uniform laws annotated. Master ed. (St. Paul, MN : West Pub.Co., 1968-
- "Wigmore"** Wigmore on Evidence, Evidence in trials at common law, John Henry Wigmore. Vol. 10-11, 4th ed. (Boston : Little, Brown, 1961)
- "Williston"** Williston on Contracts, A treatise on the law of contracts, Samuel Williston. 4th ed., Richard A. Lord. (Rochester, N.Y. : Lawyers Cooperative, 1990-
- "Wright & Miller"** Wright and Miller / Federal Practice and Procedure, Federal practice and procedure. (St. Paul : West Pub. Co., 1969-

Advanced Legal Research Spring 2009

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Form books

- Books of Forms
- Cover all topics
- Two Types
 - Transactional/substantive
 - Practice/litigation
- Annotated
- Save time
- Not authoritative



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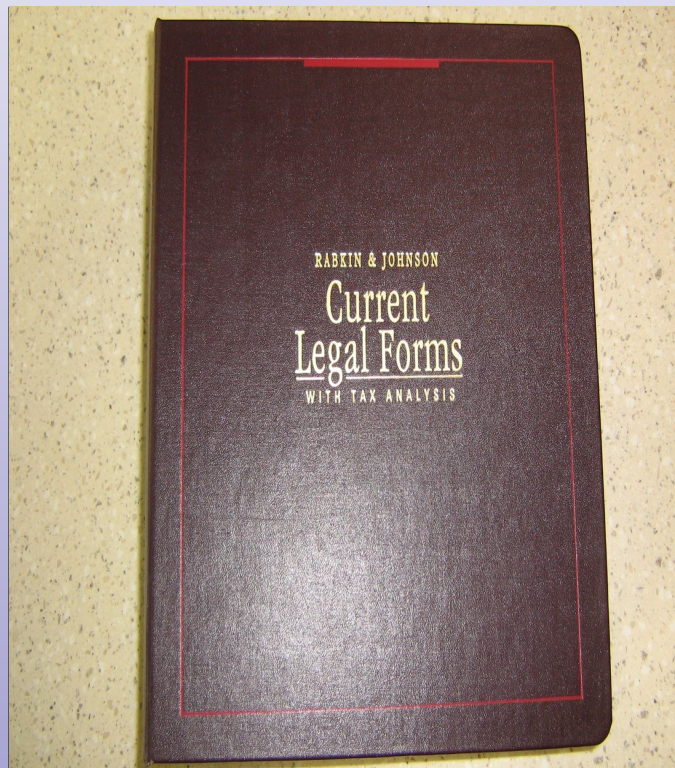
Form books

- Notable Titles
 - Rabkin and Johnson, *Current Legal Forms*
 - *AmJur Legal Forms 2d*
 - *West's Legal Forms*
 - Nichols' *Cyclopedia of Legal Forms*



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Form books



STORE & Easier


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Keywords, Titles Advanced Search

> Current Legal Forms with Tax Analysis



 **Current Legal Forms with Tax Analysis**
Current Legal Forms provides a wealth of sample forms, drafting guidance and expert legal commentary to assist in the fundamental, and often time-consuming, task of document drafting

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Comprehensive Coverage: Current Legal Forms covers practically every area of the law (except for criminal law and litigation), corporate, commercial, intellectual property, domestic relations, employment, and computer agreements, including e-commerce and Internet agreement, family/estate planning, employment and real estate, making it a resource that can be used by an entire firm, not just a single department.

Great Structure: Easy-to-use format including tax background, practice background, checklists, drafting guidelines and forms for most topics. Each chapter includes:

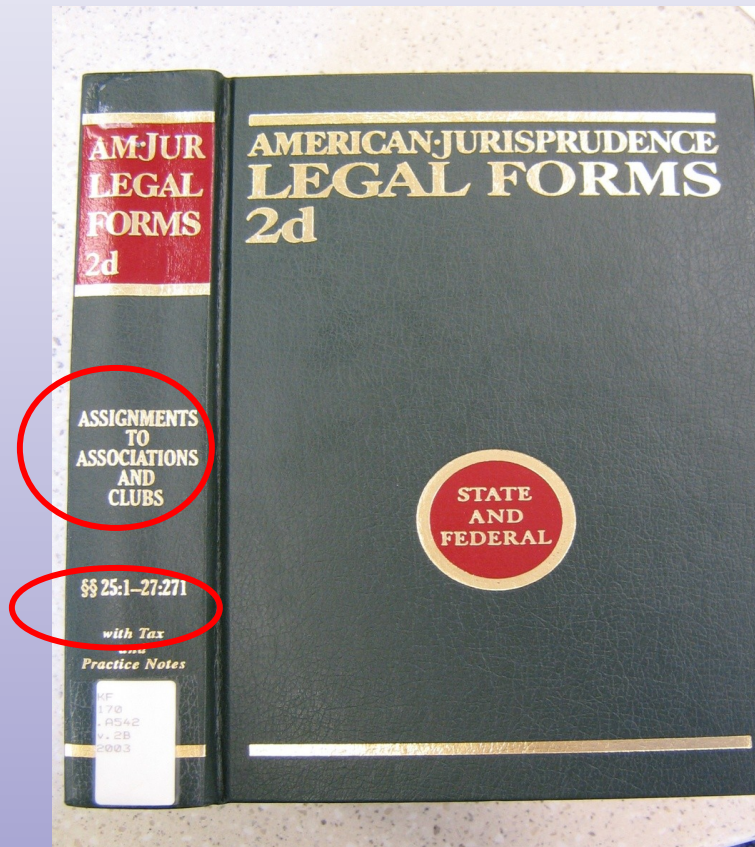
- > A Tax Background that reviews the basic tax concepts and issues reflected in the forms.
- > A Practice Background that analyzes the legal issues to be considered in researching, planning and drafting the forms.

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Form books



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Form books

West's Digest References
Assignments 5, 40

§ 25:131 Assignment—Copyright

Assignment

_____ [Name of assignor], a corporation organized and existing under the laws of _____ [state], with its principal place of business at _____ [address], _____ [city], _____ County, _____ [state] ("assignor"), in consideration of \$_____ and other good and valuable consideration paid by _____ [name of assignee], a corporation organized and existing under the laws of _____ [state], with its principal place of business at _____ [address], _____ [city], _____ County, _____ [state] ("assignee"), assigns to assignee, its successors and assigns, all its interest in the copyright of a _____ [book or as the case may be] entitled "_____", and described as follows: _____, and in all renewals and extensions of the copyright that may be secured under the laws now or subsequently in force in the United States of America or in any other country.

Assignor, through its duly authorized officer below, has executed this assignment at _____ [designate place of execution], on _____ [date].

[Seal] _____ [Signature of corporation by authorized officer]

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Form books

§ 25:132 AM JUR LEGAL FORMS 2d

For forms concerning assignments of copyrights generally, see Copyright and Literary and Artistic Property (Ch 72).

Tax Notes

For tax aspects of the assignment of royalties, see Federal Tax Guide To Legal Forms, Compromises, Settlements and Assignments § 12:58.

Research References

Text References

Transfer of copyright ownership generally, see Am. Jur. 2d, Copyright and Literary Property §§ 160 et seq.

West's Digest References

Assignments ⇨ 5, 40 ←

§ 25:133 **Assignment—Interest in trust**

Assignment

I, _____ [name of assignor], of _____ [street address], _____ [city], _____ County, _____ [state], in consideration of the love and affection that I have and bear towards _____ [name of assignee], of _____ [street address], _____ [city], _____ County, _____ [state], and other good and



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Legal Periodicals

- Commentary & Analysis on a Narrow Area of Law
- Support Arguments by citing a Scholar
- Citations



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Legal Periodicals

- Written by
 - Law Professors
 - Law Students
 - Lawmakers
 - Lawyers

- Quality by Author and Journal
 - Peer Reviewed



Legal Periodicals -- Types

- Law Review or Law Journal
 - Broad (i.e., law school law review)
 - Special-Interest (i.e., Technology Law, International Law)
- Bar Association Journals
 - *The Colorado Lawyer, Florida Bar Journal*
- Legal Newspaper
 - *Law Week Colorado*
- Topical Newsletters
 - *CCH Workers' Compensation Business Management Guide*
 - *North Carolina Employment Law Letter*



Colorado Bar Journal Articles

- *The Colorado Lawyer*
 - Published by the Colorado Bar Association
 - Practical articles written by members of the Bench and Bar (and occasionally librarians)
 - Published monthly; membership fee
 - Special features:
 - Annual Survey of Colorado Law
 - Colorado Appellate courts opinion summaries
 - Legislative Update – August Issue



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Legal Periodicals

Publication Formats	
<u>Format</u>	<u>Coverage Dates</u>
Westlaw & Lexis (electronic)	Full Coverage Since 1994. Selected Coverage from 1980/1981
HeinOnline (electronic - PDF)	Comprehensive Coverage of Most Titles
Index to Legal Periodicals & Books Full Text (electronic)	Selective Full Text; Dates Vary
Publisher Web Site (electronic)	Varies but recent years only
Print (vol. title pg. no.)	Complete



Legal Periodicals

How to Find Articles ...

- Periodical Index
 - *Index to Legal Periodicals* (since 1908)
 - *Current Law Index* (since 1980)
- HeinOnline (www.heinonline.org)
- Google Scholar (scholar.google.com)
 - “and HeinOnline”
- Annotated Code cross-references
- Other Secondary Authority



Restatement

- Written by American Law Institute
- Editions are significant
 - First is descriptive
 - Second is prescriptive
- “Black letter rule,” comments, illustrations
- Annotated with case summaries
- Persuasive authority
- Cover various topics such as ?



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Restatement

- Agency
- Conflict of Laws
- Contracts
- Foreign Relations Law
- Judgments
- Law Governing Lawyers
- Property
- Restitution
- Security
- Suretyship & Guaranty
- Torts
- Trusts
- Unfair Competition



Restatement

Research Methods

- Find applicable Restatement for your topic/issue
- Use index(es) OR table of contents (or both)
- Locate material in main text
- To find cases
 - Appendix volumes
 - Pocket part
 - Softbound supplements



Uniform Laws & Model Acts

- Drafted by
 - National Conference of Commissioners on Uniform State Laws (uniform laws)
 - American Law Institute (model acts)
- Notable examples
 - Uniform Commercial Code
 - Uniform Probate Code
- Secondary authority until it is enacted by a state legislature



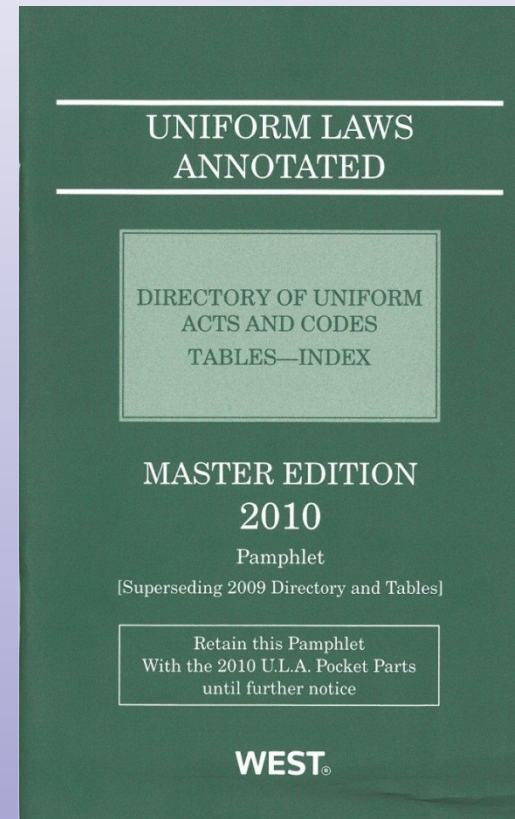
Uniform Laws & Model Acts

- *Uniform Laws Annotated*
 - Provides text of uniform law
 - *List of states that have enacted the law*
 - Notes of Decisions
 - Research References (West Publication)



Uniform Laws & Model Acts

- *Uniform Laws Annotated*
 - Set Index (pamphlet),
 - Directory of Uniform Acts
 - Jurisdiction Listing Uniform Acts Adopted
 - Value for Legal Research ...
 - If your state has enacted the uniform law, but the particular aspect of it that you are researching has not been litigated in your state, this helps you find cases from other jurisdictions that have adopted the law and addressed the issue and may prove to be persuasive to your court





Legal Dictionaries

- Definitions of words and phrases
- Derived from legal sources
- Black's Law Dictionary, 9th ed. 2009
- Dictionary of Environmental Legal Terms
- English/Spanish – Spanish/English



Words and Phrases

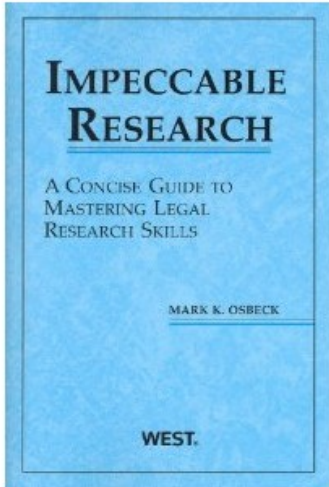
- Words and Phrases Judicially Defined
- Case Finding Tool like a Digest
- West Publication (Reference)
- Parts of Case Reporters and Digests
- Westlaw: WP field in cases databases



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Book Recommendation

- *Impeccable Research: A Concise Guide to Mastering Legal Research Skills*, Mark K. Osbeck



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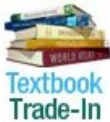
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[Mark K. Osbeck](#) ☒ (Author)
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