

## Secondary Sources and Efficient Legal Research

### Summary:

Consulting a secondary source is an important first step for most legal research projects, yet it is also one that many practitioners neglect, leading to frustration, wasted time, and even shoddy work product. This hands-on, in-depth class will help attorneys to become familiar with major practice-oriented secondary sources and to learn how to use them to become more efficient at legal research.

### Introduction to Secondary Sources

A secondary source is any legal material that analyzes, summarizes, or comments upon the law. These sources are not primary law, like statutes or cases or regulations. Primary law is “the law” itself, and is citable legal authority, while secondary sources generally are not.

However, secondary sources are very useful, and often indispensable, tools in legal research, and proper use of secondary sources is one of the keys to effective legal research. You need to consult a secondary source for a few different reasons:

1. Knowledge of the doctrinal landscape of the subject area. You cannot properly frame the legal question involved unless you know where your question fits in to the particular area of law you are researching.
  - For example, if you are dealing with an employment case involving a disabled worker, you will find through review of secondary sources that workers with disabilities have the right to reasonable accommodations for their disabilities, and that a reasonable accommodation can, under certain circumstances, include transfer to a different position. Unless you are already familiar with this area of law, you cannot frame the problem properly, i.e.: whether the worker is entitled as an employee with a disability to a job transfer as a reasonable accommodation.
  - Knowledge of the area of law gained through secondary sources, in other words, allows you to identify relevant facts and important issues in a given situation.

2. Secondary sources provide you with the vocabulary you need to effectively search for relevant primary law.
  - For example, in the case of a disabled employee, the term “reasonable accommodation” and its definition is very important, and without a secondary source you may not know to search for statutes and cases containing that term.
  
3. Secondary sources provide a shortcut to some of the important primary law (statutes, Constitutions, cases, regulations) that governs the subject you’re researching.
  - They typically provide you with useful information about, and sometimes summaries of, the primary law, along with citations to where you can find that law. This gives you a big head start in your search for the binding legal authority you need.

Secondary sources of law come in several different forms. It’s important to know about the different kinds of secondary sources so you can select the right type of source for your particular research need. Each type of source performs a different function. Some common types of secondary sources include:

Type of Source	Examples	Characteristics
1. Legal Encyclopedias	<p><i>American Jurisprudence 2d</i></p> <p><i>Corpus Juris Secundum</i></p> <p><i>California Jurisprudence 3d</i></p>	<ul style="list-style-type: none"> <li>• Provide general, not detailed, information.</li> <li>• Good for background information and overviews for most legal topics.</li> <li>• Large, multi-volume sets.</li> <li>• Typically arranged alphabetically by topic.</li> </ul>

<p>2. Hornbooks and Nutshells</p>	<p><i>The Law of Torts</i> (hornbook)</p> <p><i>Wills, Trusts, and Estates: Including Taxation and Future Interests</i> (hornbook)</p> <p><i>Bankruptcy and Related Law in a Nutshell</i></p>	<p>Hornbooks:</p> <ul style="list-style-type: none"> <li>• One volume summaries of a particular area of law.</li> <li>• Introduce general legal doctrines, principles, and rules.</li> <li>• Each hornbook covers one broad subject area (e.g., torts, contracts, and civil procedure)</li> </ul> <p>Nutshells:</p> <ul style="list-style-type: none"> <li>• More concise than hornbooks.</li> </ul>
<p>3. Treatises</p>	<p><i>Corbin on Contracts</i></p> <p><i>Miller &amp; Starr California Real Estate</i></p> <p><i>Witkin Summaries of California Law</i></p>	<ul style="list-style-type: none"> <li>• In-depth summaries</li> <li>• Scholarly analysis</li> <li>• Useful for becoming familiar with a particular legal topic</li> <li>• Also useful for finding fairly detailed discussions of specific points of law and legal issues.</li> <li>• Usually written by legal scholars, whose names are often included in the titles. Can be national in scope or limited to a specific jurisdiction.</li> <li>• Typically multiple volumes.</li> </ul>





### Finding secondary sources in print:

Importance of this skill: Most law firms and sole practitioners cannot afford to purchase or subscribe to every secondary source they might need. So, you need to be able to find sources at a local law library.

#### 1. Library catalogs

One way to identify sources is through use of library catalogs. Most major law libraries, including the LA Law Library, make their catalogs available online. There are several methods for searching library catalogs.

*Title searching:* When you know the exact title of the book you need, catalogs typically have a title search or exact search option.

*Keyword searching:* Usually, however, you will not have the exact title of the resource you are looking for. In that case, one way to find relevant titles is to search by keyword. Keywords are simply the relevant words describing the book you want, whether it be the subject, title, author, or even the call number or part of the call number.

When searching by keyword, there are a few important tools to know about. First, what is called a “truncator” symbol can be used to cover different versions or tenses of the same word, in order to expand the reach of your keyword search. For example, “disab?” in the LA Law Library catalog will retrieve records for any word starting with disab- , including disabled, disability, disabilities, etc.

You can also specify how the catalog should treat multiple keywords. For example, on the LA Law Library catalog, you can search for records containing all of a given set of keywords, any of a given set of keywords, or you may search for an exact phrase.

Once you have entered a search in the catalog, you can generally sort and filter the results retrieved in a variety of ways to save yourself time as you scan the results for relevant titles. For example, you can sort by “publish date descending” on the LA Law Library catalog, which is often a good idea, since usually you need more up-to-date materials. You can also limit to particular types of materials using the “Post limit” function on the LA Law Library catalog, including materials in a certain language, in a certain format, in a certain medium, or in a certain branch location.

Once you select a catalog record to view, there is a variety of useful information there to help you consider whether to use a certain resource. For example, you can see the publisher, which can tell you, for example, if you are reading the record for a Rutter Group guide or a Continuing Education of the Bar guide. You can see the year of publication, and when the resource was last updated. You can see if it is a serial publication like a law review or periodical. You can see how many volumes the title has, and how many pages.

You can also see the subject headings to which the title has been assigned. This is an important part of the record, because it not only tells you the subjects the particular title covers, but it can also connect you to a list of all of the titles in a library's collection on that subject. Thus, subject headings are a very powerful way to identify relevant titles.

A similar way to find relevant titles is to click on the call number, which, when using the LA Law Library catalog, allows you to see a virtual version of the shelf where that title is placed. Because the call number system groups books on the same subject together, this is also a useful way to identify relevant resources.

## 2. Research guides

Many law libraries and organizations publish online subject-specific research guides, which can be a very efficient way of identifying the major secondary sources in a given area. These guides are meant to provide starting points for researchers, including major treatises and practice guides, as well as nutshells and hornbooks and other secondary sources we did not cover today like looseleaf services.

In addition, research guides often provide important information about how the law is structured and published. For example, the research guide on tax law available at UCLA School of Law's library website, is my go-to source whenever I need to find a certain type of case or other source in this rather complex area of law.

Because many research guides are published online, the best way to locate them is simply to use Google or another search engine. Simply type "research guide [area of law]" and most times you will find a useful guide or two.

### 3. Call a librarian!

Reference librarians are here to help, and consultations with the librarians at public law libraries and many law school libraries are completely free. This is a tremendous value. Librarians at private law firms with their own libraries are paid fairly well, and yet you can call the LA Law Library and get the same service for free.

Reference librarians have a high degree of both expertise in identifying relevant secondary sources, as well as familiarity with using the sources themselves. Chances are, the librarian will be able to help you find the right secondary source and help you use it if needed. Librarians at LA Law Library can be reached on site, over the phone, or through online chat. (See [www.lalawlibrary.org](http://www.lalawlibrary.org) for details.)

### 4. Scan the shelf at the law library

A final way to identify relevant secondary sources is to scan the shelf at a law library where a certain subject of titles is shelved. If you can make it to the library, this can be a quick and fairly comprehensive way to get a sense of the titles published in a certain area. Most libraries, including LA Law Library, have call number guides and maps telling you where subjects and different types of material are shelved. Or, you can ask a librarian to point you in the right direction.

#### Using Secondary Sources:

Once you identify a useful print resource, there are a few different ways to find the information you need:

1. Subject index – The subject index tells you where a given subject is discussed. Entries are arranged hierarchically, with broad topics and narrower sub-topics. Often, the index will redirect you to a different part of the index when the subject you want is categorized under a broader entry. In the legal publishing world, most indexes cite to section numbers rather than page numbers.
2. Table of statutes and/or cases – These tables tell you where certain statutes or cases are cited in the title. If you are looking for cases interpreting a given statute, or want to know what the source has to say about a certain case or statute for which you already have the name or citation, these tables are useful.

3. Table of contents – Secondary sources in the legal field typically come with very detailed tables of contents to enable the researcher to find exactly where to find the subject they need. Using the table of contents to find what you need has the advantage of showing you how the law is structured in the relevant subject area.

Determining currency: Because the law is always changing, many secondary sources are updated, sometimes as frequently as semi-annually, but more often once a year or every few years depending upon the type of source. How you determine the currency of the material in a secondary source depends upon the format of the source.

If the source is in a looseleaf binder format, which is updated by replacing old pages individually with newer pages, the first volume of the title will have at the very front a sheet indicating the date of the most recent update. If the source is a bound volume, you will have to determine whether there is either a pocket part in the back of the volume, or a separate softbound supplement on the shelf.

- Warning: Just because a secondary source is recently updated does not necessarily mean its discussion of the law is totally up-to-date. Authors do occasionally fail to learn about a recent development in the law.