**Chapter Four**

 **Legal Research**

**I. Sample Test Questions**

**True/False**

**T F 1. The numbers preceding the name of a regional reporter refer to the volume number within the regional reporter.**

**T F 2. The regional reporters are updated every few weeks with pocket parts.**

**T F 3. The State Jurisprudence volumes are a set of multi-volume encyclopedias of law for a single state.**

**T F 4. The United States Supreme Court decisions are found in the Federal Reporter.**

**Fill-ins**

 **1. Regional reporters are organized in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ order.**

 **2. The set of law books that contains the decisions of the U.S. Courts of Appeal is**

**known as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

 **3. The set of law books that contains U.S. District Court cases is known as \_\_\_\_\_\_\_\_\_.**

 **4. The sets of books that amount to an index to the key number system are the**

 **\_\_\_\_\_\_\_\_\_\_\_\_.**

**Short Answer**

 **1. In the expression “245 So.2d 511,” what does So.2d stand for, what does 245 stand for, and what does 511 stand for?**

 **2. The citation for a case is 211 U.S. 888. What court decided this case?**

 **3. The citation for a case is 147 F.2d 727. What court decided this case?**

 **4. The citation for a case is 332 F.Supp. 923. What court decided this case?**

 **5. Name a research set that constitutes a general legal encyclopedia.**

 **6. Name a research set that includes the actual decisions of judges.**

 **7. Name a research set that includes the exact wording of legislative acts.**

 **8. Name a research set that includes the exact wording of rules of procedure.**

 **9. Name a research set that is organized chronologically (i.e., according to time, with the most recent material in the last volumes).**

**10. Name a research set that is organized numerically.**

**11. Name a research set that is updated with advance sheets.**

**12. Name a research set that is updated with pocket parts.**

**13. Name a research set that contains a Table of Cases volume.**

1. If I have a case that has a headnote with a particular key number and I want to find another case that has exactly the same key number at the top, which set do I use?
2. Identify the three primary ways in which legal research is performed on computers.
3. What are the advantages and disadvantages of using CD-ROMs for legal research?
4. What are the advantages and disadvantages of using Westlaw® and Lexis® for legal research?
5. What are the advantages and disadvantages of using the internet for legal research?

**Case Citation Exercises**

 **1. The case of *Adams v. Benson* was heard in the middle-level state appeals court in our state. It is a 2002 case, and it can be found in volume 933, page 134 of the regional reporter for our area. *Teacher’s note: This question is included only as a sample of a type that could be used. The instructor may want to utilize an actual case name, volume number, page number, and date so that the information is consistent with the numbers in the reporters that are currently being used. Depending upon the structure of the state court system, there may be several different middle-level state appeals, and the instructor may need to provide more specific information. If there is a state reporter for your state, the question may also require other information as well such as the volume and page number for that state reporter.***

 **2. The case of *Siegel v. Newton* was heard in the United States Supreme Court. It can be found in vol. 59, page 515, of the *Supreme Court Reporter*. It can also be found in vol. 51, page 414, of the *United States Reports*, and in vol. 67, page 879, of the *United States Supreme Court Reports, Lawyers' Edition, Second Series* set. It is a 1982 case. Write the correct citation for this case.**

 **3. Hanley has filed suit against Bergstrom in the highest court in our state. The case can be found in volume 825, page 31 of the appropriate set of books. It is a 2001 case. Write the correct citation for this case. *Note: Please see the teacher’s note at the end of Case Citation Exercise 1 above.***

1. Write the correct citation for our state Statute 946.75 (in this year’s statutes). ***Teacher’s note:*** *If the numbering system for the state statutes is different, the question should reflect local practice.*

 5. Write the correct citation for our state Rule of Civil Procedure 1.115 as it exists in our current rules of procedure. ***Teacher’s note:*** *If the numbering system for the state rules of procedure is different, the question should reflect local practice.*

 **6. The case of *Washington v. Carley* was heard in the United States Supreme Court. It can be found in vol. 45, page 876, of *United States Reports*. It can also be found in vol. 88, page 1431, of the *Supreme Court Reporter* and in vol. 112, page 31, of the *United States Supreme Court Reports, Lawyers' Edition, Second Series* set. It is a 1984 case. Write the correct citation for this case.**

**II. Answers to the Sample Test Questions**

**True/False**

 **1. T**

 **2. F**

 **3. T**

 **4. F**

**Fill-ins**

 **1. chronological**

 **2. *Federal Reporter***

 **3. *Federal Supplement***

 **4. digests**

**Short Answer**

 **1. So.2d stands for *Southern Reporter, Second Series*;**

**“245” is the volume number of the reporter**

**“511” is the page number on which the case begins**

 **2. the U.S. Supreme Court**

 **3. the U.S. Court of Appeals**

 **4. the U.S. District Court**

 **5. *Corpus Juris Secundum* (CJS) or *American Jurisprudence* (AmJur2d)**

 **6. Any case reporter**

 **7. Answers will vary, but may include:**

**State statutes or state statutes annotated**

***United States Code* (U.S.C.) or *United States Code Annotated* (U.S.C.A.)**

 **8. State statutes annotated, or U.S.C.A.**

 **9. Any case reporter**

**10. State statutes**

**11. Any case reporter**

**12. Answers will vary, but may include:**

**statutes**

**digests**

**state jurisprudence volumes**

***United States Code Annotated* (U.S.C.A.)**

***American Jurisprudence* (AmJur2d)**

***Corpus Juris Secundum* (CJS)**

**federal digests**

**13. state or federal digests, or state or federal jurisprudence sets**

**14. state or federal digests**

1. Computers are used in legal research in connection with a. CD-ROMs, b. Westlaw® and Lexis®**, and c. the internet.**
2. CD-ROMs have a number of advantages over traditional legal research. First, they save an enormous amount of space, because the information on several CDs might eliminate the need for several dozen shelves of books. Second, they have the advantage of “portability”. This means that they can be transported wherever the need arises, whether one is going to the courthouse, to the office, or home. It also eliminates the need to go to the law library to do legal research. Third, the cost of CDs is generally considerably less than purchasing the sets of books that contain the same information. Fourth, Shepardizing is an easier and faster process than it is with traditional law books. Finally, with a CD-ROM, one has the option of printing portions of relevant references from the computer. This can reduce the likelihood of copying errors and can provide accurate attachment to legal documents. The primary disadvantage of research using CDs is that the information in the CD can only be as current as the CD itself. Since many of the CDs made for legal research only come out every three months, then they obviously cannot contain any cases, statutes, administrative regulations, or other law-related information that is more recent.
3. The use of either Westlaw® and Lexis® **has its distinct advantages. The information from these sources is much more current than the information available in traditional sets of law books. Another significant advantage to using these databases is that they are easily accessible from virtually any location. Also, as in the case of CD-ROMs, Shepardizing is an easier and faster process than it is with traditional law books. The primary disadvantages of the Westlaw® and Lexis® databases is that they are comparatively expensive.**
4. Use of the internet in legal research has its distinct advantages, including the fact that it is quite helpful for finding government information, information about people, or some primary sources of law. It may also be possible to find information that is not strictly of a legal nature, such as medical information necessary to support a personal injury action. The primary disadvantage of using the internet in legal research is that many secondary sources like legal encyclopedias are not on the internet. Thorough legal research of most issues cannot be done on the internet alone. Furthermore, websites may contain out-of-date information, and the problem may be compounded if the website fails to indicate when it was last updated. The websites themselves may even be withdrawn by those who originally placed them on the internet. Note also that unless one is accessing a commercial or government internet address, no-one may be responsible for monitoring or verifying the information on a given site. This means that there is a real potential for inaccurate information being posted. Therefore, one must evaluate not only the data retrieved from various internet sites, but also each site itself for issues of bias, credibility, reliability, and intellectual rigor.

**Case Citation Exercises**

 1. Answers will vary by state.

 **2. *Siegel v. Newton*, 51 U.S. 414, 59 S.Ct. 515, 67 L.Ed.2d 89 (1982)**

 **3. Answers will vary by state.**

 **4. Answers will vary by state.**

 **5. Answers will vary by state.**

 **6. *Washington v. Carley*, 45 U.S. 876, 88 S.Ct. 1431, 112 L.Ed.2d 31 (1984)**

III. Answers to the Review Questions in the Text

**Note to the instructor:** *The first ten questions are answered with a step-by-step analysis in the textbook and are not therefore addressed in this Instructor’s Manual.. It should be understood that the approach used to answer the questions in both the text and the Instructor’s Manual may be only one of several possible ways in which to solve the problem.*

11. Where can one find a reference to freedom of religion in the Idaho Constitution?

*Ans. - Article 1, Sec. 4.* This was found by going to the *Idaho Code* and looking in the volume entitled “Constitutions, Federal Laws, Historical Documents and Tables.” (In many of the sets of state statutes, the volume containing the state constitution is at the end of the set, while in this case, it appears as the *first* volume.) By going to the end of the part of this volume that has the state constitution in it, one can find the index for the Idaho Constitution. If one then looks under “Freedom of Religion,” he or she will find the subtopic of “Declaration of rights, Const. Idaho, Art. 1, Sec. 4. One can verify in the pocket part that the article number and the section have not been changed since the publication date of the pocket part.

12. What is eminent domain?

*Ans. -* In order to find the answer to this question, one possible method of research is to look in one of the legal encyclopedias such as *American Jurisprudence 2d* or *Corpus Juris Secundum.* Since the encyclopedias are set up alphabetically, one could look in the volume that contains the topic of “Eminent Domain.” If the researcher is using *American Jurisprudence 2d,* the specific volume that would be used would be “Elections 207-495 to Eminent Domain 1-473,” which is the first book that contains information about this subject matter. One can find the table of contents for the topic by going to the first page under “Eminent Domain.” Since it would be reasonable to assume that the topic would be defined in one of the first sections, the researcher can scan the beginning of the table of contents within “Eminent Domain” and see that the second section is entitled “Definitions: “eminent domain”, “inverse condemnation.” He or she will then find that the topic pertains to a governmental taking of private property for a public purpose. The pocket part does not contain any material that contradicts the basic meaning of the term.

13. What is the name of the case that can be located at 555 S.E.2d 500?

*Ans. - State v. Rogers.* This can be found by going to *Southeastern Reporter, Second Series,* locating volume 555, and then turning to page 500 within that volume. It is a Court of Appeal case from Louisiana from the Fourth Circuit in 1989.

14. During the process of jury selection, an attorney may ask the court to dismiss a potential juror without explaining the reason for the dismissal. These are known as “peremptory challenges.” In the state of North Dakota, how many peremptory challenges does an attorney have in a criminal case? Does the severity of the charge make a difference as to the number of challenges available?

*Ans. -* To find the answer to this question, one must go to the end of the *North Dakota Century Code* where there is a volume entitled “Court Rules Annotated.” At the end of the *Rules of Criminal Procedure,* the researcher can find the index for the rules. Looking under “Jury,” one sees a reference to “Challenges to jurors,” and within that subtopic, a reference to “Peremptory challenges, N.D.R.Crim.P 24(b).” The court rule indicates that “Each side is entitled to four (4) peremptory challenges when a six (6) person jury is to be impaneled and six (6) peremptory challenges when a twelve (12) person jury is to be impaneled except if the offense charged is a AA felony, each side is entitled to ten (10) peremptory challenges...” By definition, this answers the second half of the question, which asks whether the severity of the charge makes a difference as to the number of challenges available.

15. What is the Rule of Civil Procedure in your state that pertains to counterclaims?

*Ans. -* The answer to this question depends upon which state’s law is being examined, but the method of research would be the same. If one were in the state of Ohio, he or she would go to *Page’s Ohio Revised Code Annotated.* At the end of the set is a volume entitled “Civil Rules.” The index to these rules appears immediately following them. By looking under the subject of “Counterclaims,” one sees the reference to “Counterclaims, CivR 13,” which means Ohio Rule of Civil Procedure 13.

16. What is the maximum penalty for petit larceny in your state? At what monetary value does the larceny become a felony?

*Ans. -* The answer to this question depends upon which state’s law is being examined, but the method of research would be essentially the same in every state. In Florida, the researcher would go to *West’s Florida Statutes Annotated.* Using the index at the end of the set (General Index L to Z), one would look for the subject of “Larceny.” Next to the subject of “Larceny” in the index, it says “Theft, generally, this index.” That means that one needs to look under the word “Theft” rather than the word “Larceny” in the index. Under “Theft,” there is a subtopic of “Petit theft,” and under that there is a reference to “Definitions, 812.014.” This means that the definition of petit theft can be found in Florida Statute 812.014. The statute indicates that unless the property is taken from a dwelling or from the unenclosed curtilage of a dwelling, then it is petit theft of the first degree “if the property stolen is valued at $100 or more, but less than $300...” The statute states that it is punishable as first degree misdemeanor, which according to another statute (Florida Statute 775) provides for “a definite term of imprisonment not exceeding 1 year.” It is a petit theft of the second degree for amounts below $100 unless the property is taken from a dwelling or from the unenclosed curtilage of a dwelling. A petit theft of the second degree is punishable as a second degree misdemeanor (again according to Florida Statute 775) by “a definite term of imprisonment not exceeding 60 days.”

17. What statute in your state pertains to the number of people required for a grand jury?

*Ans. -* The answer to this question depends upon which state’s law is being examined, but the method of research would be essentially the same in every state. In the state of North Carolina, one would go to the end of the *General Statutes of North Carolina Annotated* to the index (General Index A to I) and look up the topic of “Grand Jury.” Beneath this topic, there is a reference to “Number of grand jurors, Sec. 15A-621.” The numbering system for the statutes in North Carolina begins with 1-(#) and continues through 168-(#). Going to 15A-621, one finds that “a grand jury is a body consisting of not less than 12 nor more than 18 persons, impaneled by a superior court and constituting a part of such court.

18. There is a Florida state court case in which the names of one of the parties is Quinn and the name of the other is something like Miller. The case pertains to an automobile accident. Find the decision.

*Ans. -* In order to find the decision, the researcher must use the *Table of Cases* for the *West’s Florida Digest 2d (Table of Cases Mi-Sl)* and look for the name “Quinn.” As of the publication date of this manual, there are only three cases under the name Quinn: *Quinn v. Millard, Quinn v. State,* and *U.S. v. Quinn.* Since *Quinn v. Millard* appears to be the case that we are looking for, the citation next to that case needs to be examined. It appears as “FlaApp3 Dist, 358 So.2d 1378.” If one goes to volume 358 in *Souther Reporter, Second Series* and turns to page 1378, he or she will find

that the summary paragraph after the title of the case and before the headnotes does indeed refer to an automobile accident.

19. What is the number of the Georgia statute that defines a “living will”? What is the penalty for concealing a living will?

*Ans. -* If one goes to the end of the *Official Code of Georgia Annotated* and looks in the index (General Index J-Z), he or she can find a reference under the topic of “Living will” to “Definitions, Sec. 31-32-2.” The Georgia statutes are organized from Sec. 1 to 51, and the statutory definition can be found by turning to the volume that contains Sec. 31. To answer the question with regard to the concealment of a living will, one can look in the index under “Living will” and then under the subtopic “Concealment of living will, 31-32-10.” According to that statute, “[any] person who willfully conceals, cancels, defaces, obliterates, alters, or damages the living will of another without such declarant’s consent...shall be guilty of a misdemeanor.” To determine what the punishment is for a misdemeanor in the state of Georgia, one can look in the index under “Misdemeanors,” and then look at the subtopic of “Punishment, Generally, Sec. 17-10-3.” That statute provides as a general rule that “Except as otherwise provided by law, every crime declared to be a misdemeanor shall be punished as follows: (1) By a fine not to exceed $1,000.00 or by confinement...for a total term not to exceed 12 months, or both.”

20. Give the name and citation for a 2000 Michigan case that has Children Out-of-Wedlock key number 67.

*Ans. -* To find the answer, one needs to use *West’s Michigan Digest 2d,* which is set up alphabetically. Looking in the volume that contains key number subjects starting with the letter “C,” the researcher find the topic of “Children Out-of-Wedlock,” and under that topic number 67, which deals with “Award for Support and Expenses.” Under Children Out-of-Wedlock 67, one finds a reference to “*Crego v. Coleman,* 615 N.W.2d 218, 463 Mich 248, certiorari denied 121 S.C. 767, 531 U.S. 1074, 148 L.Ed.2d 667 (2000).”

21. Give the name and citation for a 2000 Nebraska state court case that has the same key number as the one found in *Breezevale Ltd. v. Dickson,* 783 A.2d 573 (D.C. 2001).

*Ans. -* In order to find the answer to this question, one has to look up the case of *Breezevale Ltd. v. Dickson* to find out what the key number is at the top of that case. The case can be found by going to volume 783 of *Atlantic Reporter, Second Series* and turning to page 573. When this case is found, the researcher will find that there is only one key number at that top of the case, which is Attorney and Client key number 105. In order to find a Nebraska case having this key number, one turns to *West’s Nebraska Digest 2d,* which is organized alphabetically. Looking in the volume that contains key number subjects starting with the letter “A,” the researcher finds the topic of “Attorney and Client,” and under that topic number 105. After checking the pocket part first, one will find the case of *Rodriguez v. Nielson,* 609 N.W.2d 368, 259 Neb. 264 (2000).

22. What is the citation in *North Western Reporter, Second Series* for the Wisconsin case of *Grube v. Daun?*

*Ans. -* When one has the name of a case but not the citation, he or she should look in the Table of Cases for the digest in the appropriate state. In this case, the researcher would use *West’s Wisconsin Key Number Digest,* Table of Cases (A-G). After checking the pocket part first, one would look under “G” for Grube and find the following reference: *“Grube v. Daun,* 570 N.W.2d 851 (213 Wis@d 633).” If one needed to look up the case, he or she could do so by going to volume 570 of *North Western Reporter, Second Series* and turning to page 851.

23. Give the name of a Texas case that has the same key number as the *first* one found in the Texas case of *Roberts v. Padre Island Brewing Co., Inc.*

*Ans. -* In order to find the answer to this question, one has to look up the case of *Roberts v. Padre Island Brewing Co., Inc.* to find out what the key number is at the top of that case. Since we don’t have a citation, it will be necessary to look in the Table of Cases for *West’s Texas Digest 2d* under “R” for “Roberts.” When that is done, the researcher will find the following reference: *Roberts v. Padre Island Brewing Co., Inc.,* 28 S.W.3d 618, review denied. The case can be found by going to volume 28 of *South Western Reporter, Third Series* and turning to page 618. When this case is found, the researcher will find that there is only one key number at the top of the case, which is Appeal and Error key number 962. In order to find another Texas case having this key number, one turns to *West’s Texas Digest 2d,* which is organized alphabetically. Looking in the volume that contains key number subjects starting with the letter “A,” the researcher finds the topic of “Appeal and Error,” and under that topic number 962. After checking the pocket part fist, one will find (among others) the case of *Thompson v. Texas Dept. of Criminal Justice-Institutional Div.*, 33 S.W.3d 412, rehearing overruled and review denied.

24. What is the Rule of Civil Procedure in Pennsylvania that pertains to the videotaping of depositions?

*Ans. -* At the end of *Purdon’s Pennsylvania Statutes and Consolidated Statutes Annotated,* one can find the Pennsylvania Rules of Civil Procedure. In the index in the back of those rules, the researcher can then look under the topic of “Videotape” and find the subtopic of “Depositions, R.C.P.Rule 4017.1,” or, one can look under the topic of “Depositions” and find the subtopic of “Videotape, R.C.P.rule 4017.1.”

25. How is insanity defined as it pertains to a criminal case in your state?

*Ans. -* (The answer presumes that the issue of insanity being addressed in the question pertains to insanity at the time of the commission of the crime, which is a defense in many states.) The answer to this question depends upon which state’s law is being examined, but the method of research would be essentially the same in every state. In the state of New York, one might consult the state’s legal encyclopedia, which is *New York Jurisprudence 2d.* The research set is organized alphabetically, and therefore one should look in the volume that contains subjects starting with the letter “C” to find the topic of “Criminal Law.” If one goes to the first page of that topic in order to find the table of contents for the subject, he or she can then scan the main subtopics to see if any of them deal with the question at hand. Section XXV pertains to Defenses to Criminal Liability, and a subdivision of that topic is entitled “Mental Disease or Defect.” Going to that section, the researcher can find a discussion of criminal insanity as a defense in New York.