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The Process of Legal Research

Practices and Resources • Ninth Edition

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Wolters Kluwer

THE PROCESS OF LEGAL RESEARCH

Practices and Resources

Ninth Edition

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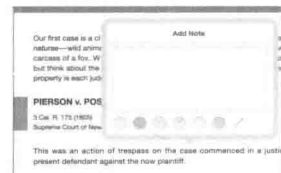
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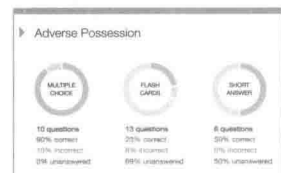
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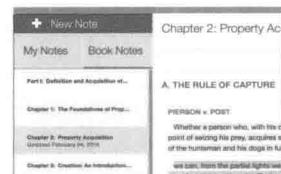
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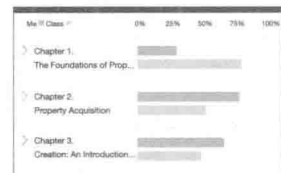
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*This book is dedicated to those who have
taught us the importance of learning and the joy of discovering,
in particular Aynur Konar and Luke Bowmann Arents.*

PREFACE

You are about to learn a skill that requires curiosity and diligence, precision and creativity. To most novices, legal research is daunting—yet we believe you will find it rewarding. Although legal research can seem ponderous at times, it is also the basis for legal work that helps individuals and organizations maintain their well-being, achieve their goals, and resolve their conflicts. Indeed, the research that we do as lawyers makes our pursuit of justice possible.

We are honored that you are learning this important skill through our book. This book is the ninth edition of *The Process of Legal Research*; the first edition was published in 1986. Over the years, we, along with the co-authors of previous editions and those who have taught research with us, have picked up certain ideas about learning legal research. Here are our observations, along with suggestions for how to use this book to maximize your learning.

Discussion of sources and resources. As you will see, *sources* are the texts created by lawmakers and those who write about the law; *resources* are publications that contain sources. Our complex government produces an abundance of sources, and you must have a solid grasp of what they are and how they interact. In recent decades, with the development of online publishing, we now have an even more dizzying array of legal research resources. This book explains what you need to know about both legal sources and resources.

To help you solidify this knowledge, we have italicized key concepts throughout the text, provided visual presentations, and included some detailed information in matrix charts. In addition, near the end of most chapters you will find a “Build Your Understanding” component. Under the title “Test Your Knowledge” is a set of questions designed to reinforce the key concepts. Indeed, you may want to read those questions before you read the chapter, to prime your reading. The answers to those questions appear at the very end of each chapter.

Ten practices of skilled legal researchers. The point of the title of this book, *The Process of Legal Research*, is that legal research is an activity—indeed a rather challenging one, as you will soon see. Furthermore, it should be purposeful, not random, as set out in Chapter 2’s discussion of the ten practices of skilled legal researchers. Thus, most chapters not only discuss sources and resources, but also generally how to research in them, drawing on these ten practices.

To help you fully understand these practices, we have provided demonstrations throughout the book. In Chapter 1, we set out some client situations, covering a range of (we hope) interesting topics. Along the way,

we recount how we researched these situations. Carefully read our narratives; study the documents that we have included here; and think about how what we did fits into the ten practices. Indeed, ponder what you might have done differently and what you would do next.

In addition, in the “Build Your Understanding” component under the title “Put It into Practice,” we have provided a scenario for you to research, along with specific tasks tracking our research steps. We encourage you to engage in this extended research project so that you can replicate what we have demonstrated and see how the sources covered in the separate chapters combine into a complete research file for a client’s situation. Note that the answers do not appear in the book for two reasons: there are no fixed answers for most questions, and answers change over time. Nonetheless, “Put It into Practice” is designed so that you can achieve good results with solid effort and be able to recognize those results yourself.

Your responsibility for your own learning. As you learn to research, you prepare to learn throughout your career; as lawyers, we have to discover over and over what the law is for our next client’s situation. So too legal research itself is an activity that will change during your career. Although the types of sources and ten practices discussed in this book will hold steady, the resources that you are likely to use will change in small and big ways. Thus, as you learn legal research, it is important to be a self-teacher and to reflect on this enterprise from time to time.

To help you with this, we have not provided a high level of detail as to any specific resource; we do not tell you where on a screen to click to accomplish a particular task, for example. By and large, many resources have understandable interfaces, tutorials, or training staff to help you with this.

We have provided at the end of each chapter a question to prompt you to think more broadly about legal research, in the “Build Your Understanding” component under the title “Make Connections.” As you might guess, there are no fixed answers to these questions, so none are provided.

A final word. Among us, we have over 100 years of experience in researching in the law. We continue to find it fascinating, and we hope you do too.

*Deborah A. Schmedemann
Ann L. Bateson
Mehmet Konar-Steenberg*

February 2016

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This is the ninth edition of a book that debuted in 1986. Although much of it is new—legal research being a *very* fast-changing field—we owe a great deal to those who started and sustained this endeavor over the years. The list is long, but we must single out Christina Kunz, who generated the idea for the book and “drove the bus” as William Mitchell’s Legal Writing Program coordinator for decades, and Matthew Downs, a strong contributor during his tenure as William Mitchell’s library director.

This book is nourished on an ongoing basis by those in our respective professional communities. Thus we thank the many students who have been our research learners; the colleagues with whom we have taught research, including the library staffs and adjunct faculty; the faculties and administrations of our respective law schools; and the wider legal writing and law library communities. For this edition, we thank Lynette Fraction at Mitchell Hamline School of Law for her able and cheerful administrative assistance.

We write a manuscript; a publishing team produces a book. Thus we thank the following people for their highly skilled and ever patient work on various aspects of the creation of this book: Kathy Langone (developmental editor), Sarah Hains (production editor), Susan McClung (copyeditor), Marla Cook (proofreader); S4Carlisle Publishing Services (composition team); and Keithley and Associates, Inc. (designers).

Many pages in this book are documents drawn from legal resources. While some are from government resources, others are drawn from commercial publications. We acknowledge, with deep thanks, the permissions to reprint materials, as listed below.

Finally, as always, this book is nourished, as we are nourished, by our respective personal support crews. They know who they are; thanks yet again!

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