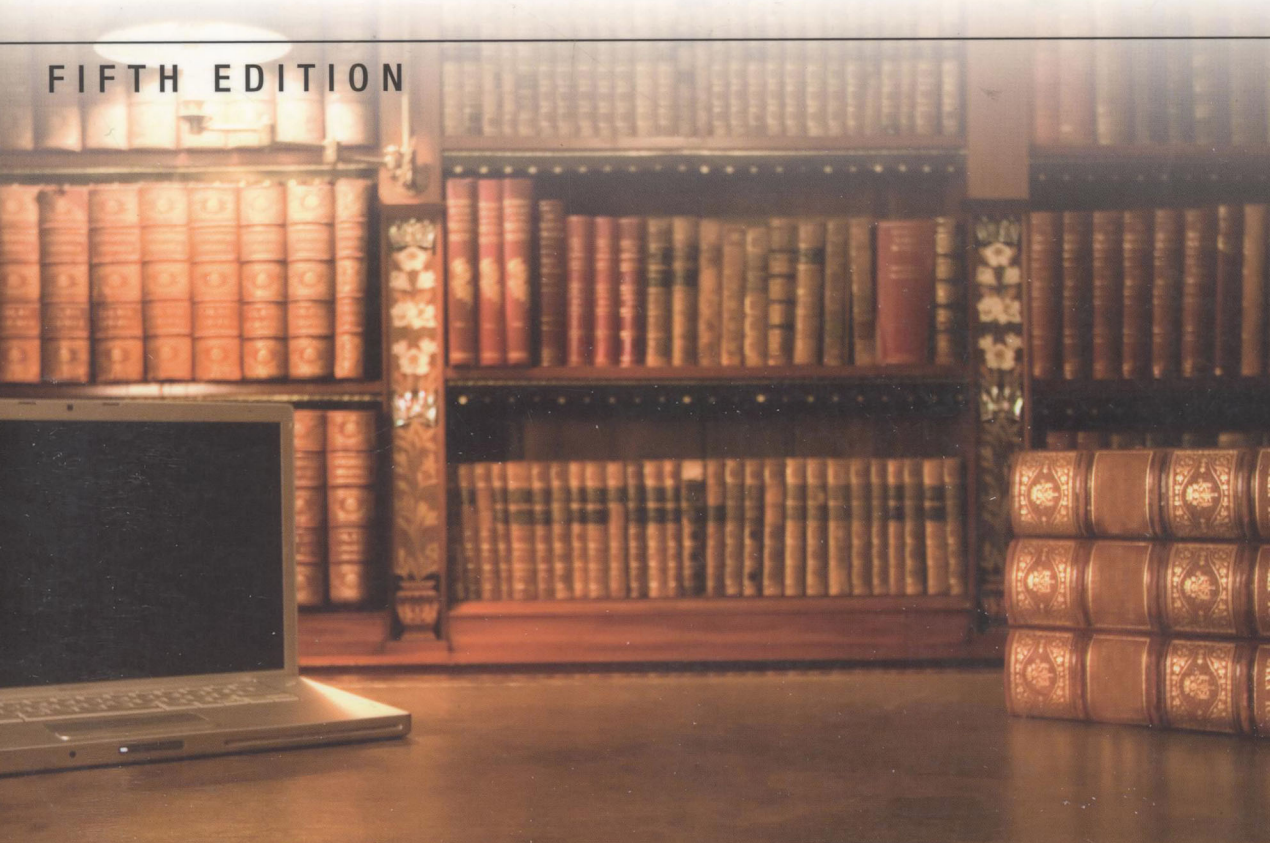


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■ Deborah E. Bouchoux

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FIFTH EDITION



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Law & Business

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Legal Research and Writing for Paralegals

Fifth Edition

Deborah E. Bouchoux

Georgetown University

Washington, D.C.



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For my husband, Don, and my children,
Meaghan, Elizabeth, Patrick, and Robert,
who have provided immeasurable support
and inspiration in helping me achieve my
goal of writing a legal research and writing
textbook for paralegal students

Preface

You will soon discover that legal research is truly a “hands-on” subject. While there are numerous books to be found that discuss methods and techniques, there is no substitute for actually performing the task of legal research. A simple analogy can be drawn to driving a car: You may find several manuals that discuss driving and provide tips on better driving, but simply reading about operating a car is not a substitute for actually driving a car yourself. Similarly, you will learn the most about legal research, about which shortcuts are invaluable, and about which techniques are non-productive, only by doing legal research. To that end, library assignments are placed at the conclusion of each chapter so you can see and use the books discussed in each chapter. You should never have to use a book or set of books that have not been discussed in the chapter you have finished reading or any preceding chapter. Take the time to explore the books by reviewing the foreword, table of contents, and index found in each volume. Familiarize yourself with all of the features of the books or electronic resources you use, and you will simplify your legal research.

Performing legal research can be both frustrating and gratifying. It can be frustrating because there is often no one perfect answer and because there are no established guidelines on how much research to do and when to stop. On the other hand, legal research is gratifying because you will be engaged in a task that requires you to do something and one in which you will be rewarded by finding the right case, statute, or other authority.

You should view legal research as an exciting treasure hunt—a search for the best authorities to answer a question or legal issue. In this sense, the task of using and exploring the law library or the Internet for answers to legal issues or questions should be a welcome relief from the assignments of other classes, which may be passive in nature and involve copious amounts of reading.

I would encourage you to research with other students if you are comfortable doing so. Often you will learn a great deal by comparing notes with others who may be able to share successful strategies for effectively using various books or electronic resources or finding the answers to research problems. Naturally, sharing ideas and tips for research techniques should not be viewed as an excuse not to do the work

yourself or a license to use answers discussed by others. In other words, you should research with other students (if you find it useful to do so), but you should never write together. Not only is this practice dishonest, but it will prevent you from effectively learning the skill of legal research. Ultimately, an employer is not interested in how many “points” you obtained on a class exercise or what grade you obtained, but in whether you can be depended upon to research an issue competently. As adult learners and professionals, you should concentrate on learning the skill of legal research rather than focusing on the number of right answers you can obtain.

Although this text shows case names and book titles in italics, underlining or underscoring is also acceptable according to *The Bluebook: A Uniform System of Citation* (Columbia Law Review Ass’n et al. eds., 18th ed. 2005) and ALWD & Darby Dickerson, *ALWD Citation Manual* (3d ed., Aspen Publishers 2006), which are the standard reference tools for citation form. There is variation among practitioners, so check with your firm or office to determine if there is a preference.

When you begin reading this book, most of you will be unfamiliar with cases, statutes, constitutions, or the numerous other legal authorities. As you progress in class and through the chapters and assignments in this text, you will readily be able to measure your progress. When you complete this text and your legal research class, you will have gained thorough mastery of legal research and writing techniques as well as familiarity with the numerous sets of law books and electronic resources that you will be required to use in your profession.

This fifth edition of the text introduces several new features, including the following:

- Each chapter provides one or more “Ethics Alerts,” which offer a quick and concise tip relating to the ethical implications of the information provided in that chapter.
- A “Research Scenario” has been added to Chapter 1 (providing a snapshot of the legal research process).
- Chapter 8 (Citation Form) now includes a section on citing to court documents and an expanded chart showing the differences in *Bluebook* and *ALWD* citation form.
- Chapters 9 (Updating and Validating Your Research) and Chapter 11 (relating to research using Lexis and Westlaw) have been completely rewritten and streamlined.
- Chapter 12’s discussion of conducting legal research using the Internet is enhanced by a new section on how to assess the credibility of websites.
- The chapters relating to writing have been expanded by including a discussion on writing by text messaging and on various readability formulas and tests.
- All new Practice Tips, Discussion Questions, and Internet Legal Research Assignments have been included.

Additionally, new charts and diagrams are included, such as a chart comparing Lexis's and Westlaw's abbreviations, symbols, and Terms and Connectors; a Project Checklist that can be used when preparing projects on the job; and an expanded list of abbreviations commonly used in legal writing and note taking. Reflecting the continuing and dramatic effect of the Internet on legal research and the ever-increasing accessibility of resources in cyberspace, new material relating to amended Federal Rule of Appellate Procedure 32.1 (allowing the citation of unpublished decisions) is included in Chapter 4, and links for Web-based tutorials are given when applicable. Chapter 13 (which provides an overview of the legal research process) includes a full range of open-ended research questions, requiring readers to use and apply all skills learned in previous chapters to obtain answers to these research questions.

The vast number of legal authorities available both in a conventional law library and through digital law libraries means that effective legal researchers are flexible. Sometimes the materials you need are not on the shelves and you will need to switch directions. Sometimes new methods of locating materials emerge. In any event, you will find legal research an interesting hunt for the authorities you need, whether in conventional print sources, on Lexis or Westlaw (the computer-assisted legal research systems), or on the Internet.

Deborah E. Bouchoux

May 2008

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Legal Research and Writing for Paralegals

Summary of Contents

<i>Contents</i>	<i>xi</i>
<i>Preface</i>	<i>xxxiii</i>
<i>Acknowledgments</i>	<i>xxxvii</i>

Section I Legal Research: Primary Authorities 1

Chapter 1	Finding the Law	3
Chapter 2	The Federal and State Court Systems	31
Chapter 3	Statutory Law	63
Chapter 4	Case Law and Judicial Opinions	109
Chapter 5	The Use of Digests, Annotated Law Reports, and <i>Words and Phrases</i>	161

Section II Legal Research: Secondary Authorities and Other Research Aids 199

Chapter 6	Encyclopedias, Periodicals, Treatises, and Restatements	201
Chapter 7	Miscellaneous Secondary Authorities	249
Chapter 8	Legal Citation Form	291
Chapter 9	Updating and Validating Your Research	371
Chapter 10	Special Research Issues	401
Chapter 11	The Digital Library: Lexis, Westlaw, and Nonprint Research Sources	465
Chapter 12	E-Research: Legal Research Using the Internet	503
Chapter 13	Overview of the Research Process	533

Section III Legal Writing 563

Chapter 14	Back to Basics	565
Chapter 15	Strategies for Effective Writing	593
Chapter 16	Legal Correspondence	631
Chapter 17	Legal Memoranda	655
Chapter 18	Legal Briefs	673
Chapter 19	Postwriting Steps	699

Appendices

Appendix A	Sample Legal Memorandum	717
Appendix B	Sample Brief for Court	723
Appendix C	Sample Appellate Brief	731
Appendix D	Sample Table of Authorities	745

<i>Glossary</i>	749
<i>Resources</i>	763
<i>Index</i>	767