



WESTLAW REAL PROPERTY PRACTITIONER RESEARCH GUIDE

OCTOBER 2009



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WESTLAW REAL PROPERTY PRACTITIONER RESEARCH GUIDE

OCTOBER 2009

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About This Guide

In this guide, the graphics and step-by-step instructions are based on accessing Westlaw via the Internet. Because of the evolving nature of Internet technology, there may be recent changes to the Westlaw interface and functionality that are not reflected in this documentation.

Information in this guide is current through October 15, 2009.

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West

610 Opperman Drive

Eagan, MN 55123-1396

Printed in the United States of America

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1 Introduction

Welcome to Westlaw Real Property Practitioner

Efficient online access to comprehensive, current, and accurate information is an indispensable competitive advantage in the practice of real property law. Westlaw Real Property Practitioner is a legal research resource designed specifically for real property practitioners, providing access to a comprehensive online library of relevant materials.

This quick reference guide will assist you in using these materials as you perform research tasks such as the following:

- conducting client intake and evaluation
- negotiating and drafting purchase and sale agreements
- performing due diligence and financing
- preparing for closing
- dealing with breaches and defaults
- handling development, leasing, and association representation

Selecting the Tabbed Real Property Practitioner Page

When you access Westlaw, you can select a tabbed page that is customized for real property practice. The tabbed Real Property Practitioner page places resources and search options within easy reach to help you quickly access the materials you need. To add the Real Property Practitioner page, follow these steps:

1. Click **Add a Tab** at the top of any page. At the next page, click **Add Westlaw Tabs** to display a list of available tabbed pages.
2. Select the check box next to *Real Property Practitioner* under *Topical* and then click **Add to My Tab Set**.
3. A list of the pages you've selected is displayed under *In Tab Display*. One page is designated as your default page (the page that is displayed when you sign on to Westlaw). Click **Set as Default** next to *Real Property Practitioner* to set this page as your default.
4. To display the Real Property Practitioner page, click its tab (Figure 1).

The Real Property Practitioner page allows you to add materials for up to three jurisdictions. To add materials for a specific jurisdiction, click **Edit** in the left or right frame.

Real Property Practitioner Page Overview

The left frame provides quick access to common research tasks. The right frame allows you to easily access resources in the following areas:

- Model Documents
- Forms, Checklists, and Clauses
- Information About People and Companies
- Practice Guides
- News and Current Awareness
- Statutes, Regulations, and Cases
- Stimulus Plan

The screenshot shows the Westlaw Real Property Practitioner page. The top navigation bar includes links for FIND & PRINT, KEYCITE, DIRECTORY, KEY NUMBERS, COURT DOCS, FORMFINDER, SITE MAP, HELP, and SIGN OFF. Below the navigation bar, the page is organized into several sections:

- Shortcuts:** Includes a "Find by citation:" field with a "Go" button and a checkbox for "and Print". Below it is a "KeyCite this citation:" field with a "Go" button. There is also a "Search for a database:" section with a text input field and a "Go" button. Other shortcuts include "Profiler - Attorney or Judge:", "Westlaw Research Aids:", "Legal Due Diligence Report:", "Case Evaluator:", and "PLI Course Materials:".
- Resources:** Features "Find Fast Bankruptcy Briefs" with a note about 36,000 briefs. Below is "Real Property Documents (Model Docs)" with a list of links: Assignments, Construction, Leases, Management, Mortgages, Purchase or Sale, and Search All Publicly-Filed Real Property Documents. There is also a section for "Forms, Checklists & Clauses" and "Information about People and Companies" with links like PeopleMap, California Tax Assessor Records, and California Real Property Transaction Records.
- Practice Guides:** Lists various guides such as American Law Reports (ALR) by Topic, Taxing California Property, Commercial, Residential / Landlord-Tenant, Finance/Tax, Land Use and Zoning, and Construction and Development.
- News and Current Awareness:** Includes links to Legal Newspapers, Major Newspapers, California Newspapers, California News, Real Property News, and various reports like Quinlan Landlord Tenant Multibase, Construction Briefings, Construction Contracts Law Report, Current Trends & Practical Strategies in Land Use Law & Zoning, Housing and Development Reporter: Current Developments, Practical Real Estate Lawyer, and Zoning and Planning Report.
- Statutes, Regulations, and Cases:** Provides links to State and Federal Statutes & Regulations, ICC Model Construction Codes (I-Codes), 50 State Survey - Real Property Law, State and Federal Cases, West's Real Property Case Highlights, and National Association of Realtors (NAR) Legal Scan.
- Stimulus Plan:** Includes links to Stimulus Plan Federal Regulations, Stimulus Plan State Regulations, Stimulus Plan Federal Register, and Stimulus Plan Pending Legislation - State & Federal.

Figure 1. Real Property Practitioner page

2 Client Intake and Evaluation

Obtaining Information About People and Companies

It is important to perform a thorough evaluation of the people and companies involved in your transaction. Use the *Information About People and Companies* section of the Real Property Practitioner page to find public records that help you track individuals, investigate businesses, locate assets, and retrieve adverse filings.

COMPANY INFORMATION

1. Click **Business Tracker Records** to display a search template.
2. Type a company name in the *Business Name* text box, e.g., **messer construction**. You can also restrict your search by address, telephone number, or contact name.
3. Choose one or more jurisdictions, e.g., *OH*, by selecting its check box.
4. Click **Search Westlaw**. To view a document in the result list, click its number (Figure 2).

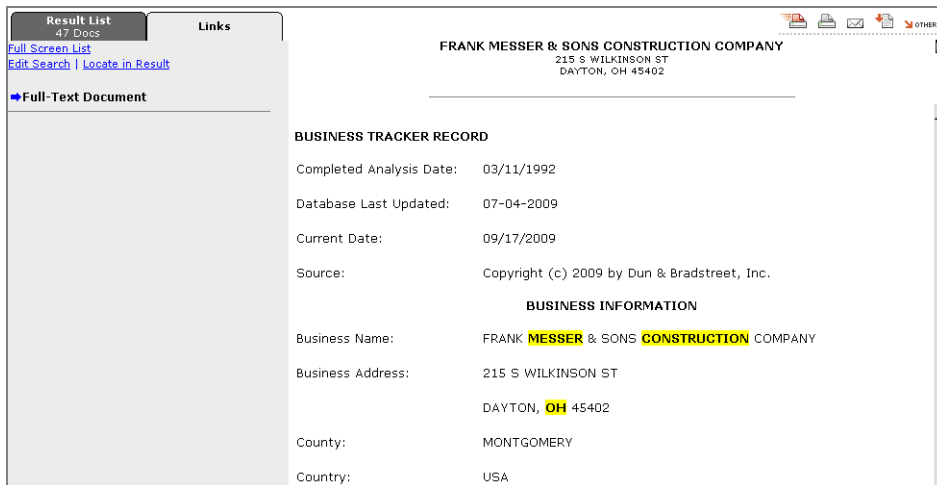


Figure 2. Document from search result

Identifying a Client's Potential Legal and Financial Liabilities

Real Property Practitioner can also help you retrieve a range of legal and financial records from your jurisdiction and nationwide. These records can help you identify a potential client's ability to pay, as well as determine his or her involvement in other legal proceedings.

ADVERSE FILINGS

1. Click a state-specific link such as **California Adverse Filings (Lawsuits, Liens, Bankruptcies, etc.)** in the *Information About People and Companies* section to display a template that you can use to retrieve adverse filings such as UCC records, lawsuits, lien and judgment records, bankruptcy filings, and unlawful detainer records.
2. Type an individual or company name in the *Name* text box, e.g., **vons companies**.
3. Specify a particular record type by selecting one or more check boxes or search all record types.
4. Click **Search Westlaw**. To view a document in the result list, click its number (Figure 3).

The screenshot displays a document page from a search result. On the left, there is a sidebar with a 'Result List' containing '2000 Docs' and a 'Links' section with options for 'Full Screen List', 'Edit Search', 'Locate in Result', and 'Full-Text Document'. The main content area is titled 'Debtor: A S M NUT COMPANY' and lists the creditor as 'THE VONS COMPANIES INC' and the filing office as 'RECORDERS OFFICE, CA'. Below this, the document is identified as a 'CIVIL JUDGMENT FILING RECORD'. The 'FILING INFORMATION' section includes: Filing Number: 931556837, Filing Type: JUDGMENT, Filing Office: RECORDERS OFFICE, 12400 E. IMPERIAL HWY, NORWALK, CA 90650, Filing County: LOS ANGELES, and Filing Date: 08/11/1993. The 'DEBTOR INFORMATION' section lists: Debtor: A S M NUT COMPANY, 1480 S BONNIE BEACH PLACE, LOS ANGELES, CA 90027. The 'CREDITOR INFORMATION' section lists: Creditor: THE VONS COMPANIES INC. The 'JUDGMENT INFORMATION' section lists: Amount Awarded: \$14,031.00 and Status: UNSATISFIED. The page also features a toolbar with icons for printing, saving, and other actions.

FILING INFORMATION	
Filing Number:	931556837
Filing Type:	JUDGMENT
Filing Office:	RECORDERS OFFICE 12400 E. IMPERIAL HWY NORWALK, CA 90650
Filing County:	LOS ANGELES
Filing Date:	08/11/1993

DEBTOR INFORMATION	
Debtor:	A S M NUT COMPANY 1480 S BONNIE BEACH PLACE LOS ANGELES, CA 90027

CREDITOR INFORMATION	
Creditor:	THE VONS COMPANIES INC

JUDGMENT INFORMATION	
Amount Awarded:	\$14,031.00
Status:	UNSATISFIED

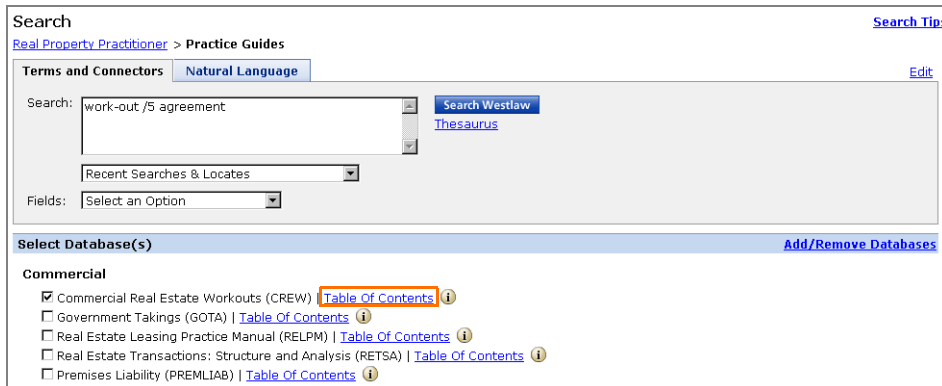
Figure 3. Document from search result

Evaluating the Transaction

The *Practice Guides* section of the Real Property Practitioner page contains resources that are useful for evaluating your transaction. Practice guides are organized by subject, helping you quickly find information relevant to your situation.

COMMERCIAL PRACTICE GUIDES

1. Click **Commercial** to display a Search page (Figure 4).



The screenshot shows a search interface with the following elements:

- Search** header with a [Search Tips](#) link.
- Breadcrumb: [Real Property Practitioner](#) > [Practice Guides](#)
- Terms and Connectors** section with a [Natural Language](#) tab and an [Edit](#) link.
- Search:** A text box containing "work-out /5 agreement" and a [Search Westlaw](#) button.
- Recent Searches & Locates:** A dropdown menu.
- Fields:** A dropdown menu with "Select an Option".
- Select Database(s)** section with an [Add/Remove Databases](#) link.
- Commercial** section with a list of databases and their [Table of Contents](#) links:
 - [Commercial Real Estate Workouts \(CREW\) | Table of Contents](#) ⓘ
 - [Government Takings \(GOTA\) | Table of Contents](#) ⓘ
 - [Real Estate Leasing Practice Manual \(RELPM\) | Table of Contents](#) ⓘ
 - [Real Estate Transactions: Structure and Analysis \(RETSA\) | Table of Contents](#) ⓘ
 - [Premises Liability \(PREMLIAB\) | Table of Contents](#) ⓘ

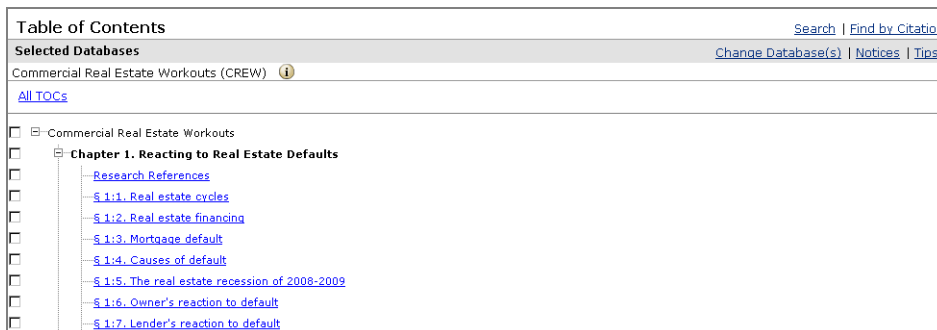
Figure 4. Practice Guides Search page

2. Type a Terms and Connectors query in the *Search* text box such as **work-out /5 agreement**.
3. Choose a database such as *Commercial Real Estate Workouts (CREW)* by selecting its check box.
4. Click **Search Westlaw**.

TABLES OF CONTENTS

Use a practice guide's table of contents to zero in on relevant materials. For example, to view the table of contents for the treatise *Commercial Real Estate Workouts*, complete the following steps:

1. From the displayed Search page (Figure 4), click **Table of Contents** next to *Commercial Real Estate Workouts (CREW)*. The table of contents for the treatise is displayed (Figure 5).



The screenshot shows the table of contents for the *Commercial Real Estate Workouts (CREW)* database. The interface includes:

- Table of Contents** header with [Search](#) and [Find by Citation](#) links.
- Selected Databases** section with [Change Database\(s\)](#), [Notices](#), and [Tips](#) links.
- Commercial Real Estate Workouts (CREW)** database selected.
- [All TOCs](#) link.
- Expandable tree view for **Commercial Real Estate Workouts**:
 - Chapter 1. Reacting to Real Estate Defaults**
 - [Research References](#)
 - [§ 1:1. Real estate cycles](#)
 - [§ 1:2. Real estate financing](#)
 - [§ 1:3. Mortgage default](#)
 - [§ 1:4. Causes of default](#)
 - [§ 1:5. The real estate recession of 2008-2009](#)
 - [§ 1:6. Owner's reaction to default](#)
 - [§ 1:7. Lender's reaction to default](#)

Figure 5. *Commercial Real Estate Workouts* table of contents

2. Browse the table of contents by clicking the plus (+) and minus (-) symbols. To display a document, click its link.

Using Checklists

A checklist can ensure that you don't overlook important steps during your representation. The Real Property Practitioner page provides easy access to checklists from real property treatises and forms collections on Westlaw.

To retrieve checklists, complete these steps:

1. Click **Real Property Forms and Checklists by Title** in the *Forms, Checklists, and Clauses* section. A Search page is displayed.
2. Click the **Natural Language** tab, if necessary, and type a Natural Language description in the *Search* text box, e.g., **design services agreement**.
3. Choose a database such as *Miller & Starr California Real Estate Forms (MILCALRE-FRM)* by selecting its check box.
4. Click **Search Westlaw**. To view a document in the result list, click its title (Figure 6).

The screenshot shows a Westlaw search results page. The top navigation bar includes 'Result List' (20 Docs) and 'Links for MILCALRE-FRM § 5:3'. The search criteria are 'MILCALRE-FRM § 5:3' and 'Approx. 4 pages'. The search results list shows two items:

- 1. 5 Cal. Real Est. Forms § 5:3**
Miller & Starr California Real Estate Forms Database updated June 2009 Alexander E. Hamilton[FN] Chapter 5. Other Construction Contracts II. Design Services Agreements B. Checklist § 5:3. Drafting checklist—Design services agreement
- 2. 5 Cal. Real Est. Forms § 5:2**
Miller & Starr California Real Estate Forms Database updated June 2009 Alexander E. Hamilton[FN] Chapter 5. Other Construction Contracts II. Design Services Agreements A. Generally § 5:2. Design services agreements—Generally

The first result is expanded, showing the following text:

§ 5:3. Drafting checklist—Design services agreement

The following is a checklist for use in drafting a **design services agreement**. It is intended to prompt a party preparing the **agreement** to consider many of the necessary provisions for the preparation of the **design services agreement**. Not all of these provisions will be necessary in every **design services agreement**, and the party preparing the **agreement** should use its best judgment and knowledge of the work being performed in selecting the proper provisions to include.

- **Names and Addresses of Parties**
 - Owner
 - Contractor
 - Architect
 - Engineer
- **Description of Project**
- **Description of Property**
- **Identification of Contract Documents**
 - Prime contract
 - General conditions

Figure 6. Design services agreement

3 Negotiating and Drafting Purchase and Sale Agreements

Retrieving Forms

Many model purchase and sale agreements can be found in the forms and checklists collections on Westlaw. Using the resources in the *Forms, Checklists, and Clauses* and the *Real Property Documents (Model Docs)* sections of the Real Property Practitioner page, you can search a substantial collection of forms, checklists, and model documents.

SEARCH ALL FORMS

To search all forms and checklists simultaneously, complete these steps:

1. Click **All Real Property Topics** under *National* in the *Forms, Checklists, and Clauses* section. A search template is displayed (Figure 7).

The screenshot shows the Westlaw search interface for 'All State and General Real Property Forms, Clauses and Checklists (RPFOR-ALL)'. The interface includes a search bar with the text 'purchase buy /s agreement /s commercial', a 'Limit by Topic' dropdown menu with 'Purchase/Sale/Exchange' selected, and 'Document Type' checkboxes for 'Forms', 'Checklist', and 'Clause'. The 'Jurisdiction Selection' section has 'All Available Jurisdictions' checked. A 'Search Westlaw' button is visible at the bottom.

Figure 7. All State and General Real Property Forms, Clauses, and Checklists search template

2. In the *Enter Search Terms* text box, type a Terms and Connectors query such as **purchase buy /s agreement /s commercial**.
3. Choose the topic you want to search from the *Limit by Topic* list box, e.g., **Purchase/Sale/Exchange**.
4. Choose a document type and jurisdiction by selecting the appropriate check boxes.
5. Click **Search Westlaw**.

SEARCH A SPECIFIC FORMS PUBLICATION

To retrieve forms from a specific publication, complete these steps:

1. Click **Real Property Forms and Checklists by Title** to display a Search page.
2. Click the **Natural Language** tab if it is not already selected and type a Natural Language description such as **installment sale**.
3. Choose a database such as *Commercial Real Estate Forms (COMREFRM)* by selecting its check box.
4. Click **Search Westlaw**. To view a document in the result list, click its title (Figure 8).

The screenshot shows a Westlaw search result page. At the top, there is a navigation bar with 'Previous Section' and 'Next Section' links. Below this, the search results are displayed. On the left side, there is a sidebar with 'Result List' and 'Links for COMREFRM § 10:7'. The main content area shows the title '3 Com. Real Estate Forms 3d § 10:7' and 'Commercial Real Estate Forms 3d Database updated May 2009' by 'Stuart M. Saft'. Below the title, there are links for 'Correlation Table' and 'References'. The main text of the document is visible, starting with '§ 10:7. Installment sale agreement'. The text defines an installment sale as a disposition of property where at least one payment is to be received after the close of the taxable year. It also mentions that pursuant to I.R.C. § 451, the installment sale of depreciable property between related persons will result in a determination that for tax purposes all payments were received in the year of disposition. A sale between related persons as defined in I.R.C. § 1229(b) is a sale between the taxpayer and the taxpayer's spouse or a partnership or corporation in which the spouse has an 80 percent interest. Effective for installment obligations arising from sales after December 31, 1987, dealers in real and personal property may no longer use the installment method. All payments to be received from a dealer's disposition of property are received in the year of sale.

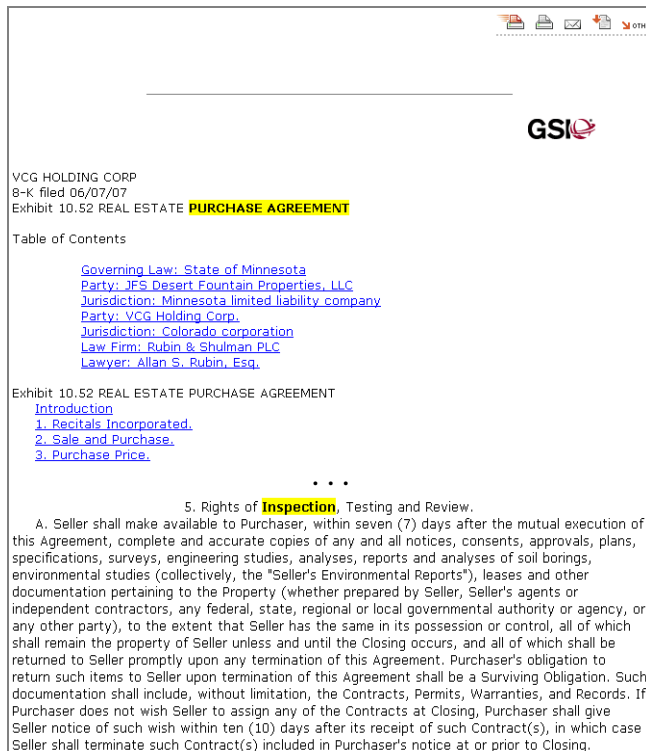
Figure 8. Installment sale agreement

Retrieving Model Documents

The Real Property Practitioner page also provides you with access to model documents relating to construction, leases, purchase and sale, and other real property transactions. To retrieve model documents and clauses, click a topic under *Real Property Documents (Model Docs)* in the right frame.

For example, to retrieve purchase agreements governed by Minnesota law that contain inspection clauses, follow these steps:

1. Click **Search All Publicly-Filed Real Property Documents** to display a search template.
2. In the *Clause Title* text box, type **inspection**.
3. In the *Governing Law* text box, type **minnesota**.
4. Select the check box next to **Purchase or Sale**.
5. Click **Search Westlaw**. To view a document in the result list, click its number (Figure 9).



The screenshot shows a document viewer interface. At the top right, there are icons for print, save, and other actions. The document title is "VCG HOLDING CORP 8-K filed 06/07/07 Exhibit 10.52 REAL ESTATE PURCHASE AGREEMENT". Below the title, there is a "Table of Contents" section with links for "Governing Law: State of Minnesota", "Party: JFS Desert Fountain Properties, LLC", "Jurisdiction: Minnesota limited liability company", "Party: VCG Holding Corp.", "Jurisdiction: Colorado corporation", "Law Firm: Rubin & Shulman PLC", and "Lawyer: Allan S. Rubin, Esq.". The main text of the document is "Exhibit 10.52 REAL ESTATE PURCHASE AGREEMENT" followed by "Introduction", "1. Recitals Incorporated.", "2. Sale and Purchase.", "3. Purchase Price.", and "5. Rights of Inspection, Testing and Review.". The "5. Rights of Inspection, Testing and Review." section is highlighted in yellow. The text of this section reads: "A. Seller shall make available to Purchaser, within seven (7) days after the mutual execution of this Agreement, complete and accurate copies of any and all notices, consents, approvals, plans, specifications, surveys, engineering studies, analyses, reports and analyses of soil borings, environmental studies (collectively, the "Seller's Environmental Reports"), leases and other documentation pertaining to the Property (whether prepared by Seller, Seller's agents or independent contractors, any federal, state, regional or local governmental authority or agency, or any other party), to the extent that Seller has the same in its possession or control, all of which shall remain the property of Seller unless and until the Closing occurs, and all of which shall be returned to Seller promptly upon any termination of this Agreement. Purchaser's obligation to return such items to Seller upon termination of this Agreement shall be a Surviving Obligation. Such documentation shall include, without limitation, the Contracts, Permits, Warranties, and Records. If Purchaser does not wish Seller to assign any of the Contracts at Closing, Purchaser shall give Seller notice of such wish within ten (10) days after its receipt of such Contract(s), in which case Seller shall terminate such Contract(s) included in Purchaser's notice at or prior to Closing."

Figure 9. Purchase agreement with inspection clause

4 Due Diligence and Financing

Retrieving Real Property Records

Before you close a transaction, you'll want to undertake a due diligence investigation to ensure that the property in question meets your client's needs. A thorough review of property records such as leases, subleases, mortgages, and title policies, among other documents, will help ensure that the transaction is free of problems.

TAX ASSESSOR RECORDS

The *Information About People and Companies* section of the Real Property Practitioner page provides resources to accomplish this task. For example, to obtain tax assessor records for a particular property, complete these steps:

1. Click a state-specific tax assessor records link such as **California Tax Assessor Records and Real Property Reports** to display a search template.
2. Type the property owner's name in the *Current Owner/Seller Name* text box, e.g., **kmart**. You can also search by parcel number and address.
3. Click **Search Westlaw**. To view a document in the result list, click its number (Figure 10).

The screenshot displays a web interface for a California tax assessor record. On the left, there is a sidebar with navigation options: 'Result List 64 Docs', 'Links for APN:032-291-23-10', 'Full Screen List', 'Edit Search | Locate in Result', and 'Full-Text Document'. Below these are sections for 'Reports' (including Comprehensive Report, Legal & Vesting Report, ValuePoint4 Report, Property Detail Report, and Comparable Sales Report) and 'Images' (Deed Image and Parcel Map). The main content area is titled 'REAL PROPERTY TAX ASSESSOR RECORD' and contains the following information:

- Owner(s): **KMART CORP**
Property Address: 1030 TATA LN
SOUTH LAKE TAHOE CA 96150
Parcel Number: 032-291-23-10
- Tax Roll Certification Date: 07-31-2008
- Owner Information Current Through: 09-14-2009
- County Last Updated: 09-25-2009
- Current Date: 10/19/2009
- Source: TAX ASSESSOR EL DORADO, **CALIFORNIA**
- OWNER INFORMATION**
Owner(s): **KMART** CORP
PROP TAX COMP DEPT
Corporate Owner: CORPORATE OWNER
Ownership Rights: CORPORATION
Property Address: 1030 TATA LN
SOUTH LAKE TAHOE, CA 96150

Figure 10. California tax assessor record

Retrieving Deed Images

You can display and print a PDF image of an original deed from a real property record. For example, to display the deed associated with the tax assessor record retrieved with the previous search, complete these steps:

1. From the displayed record, click the **Links** tab in the left frame, if it is not already displayed.
2. Click **Deed Image** on the Links tab. A File Download dialog box is displayed.
3. Click **Open** or **Save** to retrieve the deed image (Figure 11). (You will incur an additional charge only if an image is available.)

CITY NATIONAL BANK

02834
 COUNTY OF SANTA CLARA
 RECORDING REQUESTED BY:
 Please Use Company
 03 JAN 15 AM 5:03
 LORITA "JEAN" BELL
 COUNTY RECORDER - CLERK

RECORDING REQUESTED BY:
 AND WHEN RECORDED MAIL THIS DEED
 AND MAIL TAX STATEMENTS TO:

EBART Corporation
 Mr. Michael D. McDaniel Real Estate Dept.
 700 S. Orange
 Costa, CA 91710

TITLE ORDER NO. 91275-04 RECORD NO. 028180-AM SPACE ABOVE THIS LINE FOR RECORDER'S USE

INDIVIDUAL GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLAR(E)S
 DOCUMENTARY TRANSFER TAX is \$ 1,072.50

computed on full value of property conveyed, or
 computed on full value less value of liens or encumbrances remaining at time of sale.
 Unincorporated area (S) City of South Lake Tahoe, AND

FOR A VAILABLE CONSIDERATION, recite of which is hereby acknowledged,

BRIAN E. STACK, an Unmarried Man and TIMOTHY D. MORAN, an Unmarried Man, as Tenants in Common

hereby GRANT(S) to:
 EBART CORPORATION, a Michigan Corporation

the real property in the city of South Lake Tahoe, County of El Dorado, State of California, described as:
 LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A AND MADE A PART HEREOF
 A.P.N. # 28-289-23

DATED January 6, 1993
 STATE OF CALIFORNIA
 COUNTY OF Santa Clara

On January 7, 1993 before me, Brian E. Stack
 a Notary Public, Timothy D. Moran

personally appeared Brian E. Stack and Timothy D. Moran
 (personally known to me OR I have proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.
 Signature: [Signature] (This area for official notarial seal)

NOV 3944 REC 526

Figure 11. Deed image

Researching Statutes and Regulations

In the course of your due diligence investigation, you may need to research underlying statutes and regulations that could affect the transaction. The *Statutes, Regulations, and Cases* section of the Real Property Practitioner page gives you the tools needed for this task.

FEDERAL REGULATIONS

Suppose you are researching federal regulations concerning the innocent landowner defense as it relates to the purchase of contaminated property. To retrieve relevant regulations, complete these steps:

1. Click **State and Federal Statutes and Regulations**. A Search page is displayed.
2. Type a Terms and Connectors query such as **innocent /s land-owner /s defense**.
3. Choose the *Federal Register (FR)* database by selecting its check box.
4. Click **Search Westlaw**. To view a document in the result list, click its number (Figure 12).

The screenshot shows a search result for a Federal Register document. The document title is "74 FR 27435-01". The content includes the title "RULES and REGULATIONS", the agency "DEPARTMENT OF HOMELAND SECURITY Coast Guard", and the subject "33 CFR Parts 1, 25, 66, 70, 72, 100, 110, 133, 135, 136, 137, 138, 155, 157, 161, 165, and 169 Navigation and Navigable Waters; Technical, Organizational and Conforming Amendments". It also includes a docket number "USCG-2009-0416", a RIN "1625-ZA23", and a date "Wednesday, June 10, 2009". A summary states: "AGENCY: Coast Guard, DHS. *27435 ACTION: Final rule. SUMMARY: This rule makes non-substantive changes throughout Title 33 of the Code of Federal Regulations. The purpose of this rule is to make conforming amendments and technical corrections to Coast Guard navigation and navigable water regulations. This rule will have no substantive effect on the regulated public. These changes are provided to coincide with the annual recodification of Title 33 in July."

Figure 12. *Federal Register* document

STATE STATUTES

Suppose you want to retrieve statutes from your state addressing cleanup of contaminated property. To retrieve these statutes, complete these steps:

1. Click **State and Federal Statutes and Regulations**. A Search page is displayed.
2. Type a Terms and Connectors query, restricting your search to the prelim (pr) and caption (ca) fields: **pr,ca(clean-up /p contaminat! /p property)**
3. Choose a state-specific database such as *California Statutes (CA-ST-ANN)* by selecting its check box.
4. Click **Search Westlaw**.

5 Closing

Using Checklists

As you perform a document review prior to closing the transaction, a checklist can help ensure that you don't forget or overlook important steps. The Real Property Practitioner page provides ready access to the checklists and forms collections on Westlaw.

For example, to retrieve checklists for commercial closings, complete these steps:

1. Click **Real Property Forms and Checklists by Title** in the *Forms, Checklists, and Clauses* section. A Search page is displayed.
2. Type a Terms and Connectors query such as **closing /s check-list**.
3. Choose a database such as *Commercial Real Estate Forms (COMREFRM)* by selecting its check box.
4. Click **Search Westlaw**.

The screenshot shows a Westlaw search result page. On the left, there is a sidebar with navigation options: 'Result List 4 Docs', 'Links for COMREFRM § 11:1', 'Full Screen List', 'Edit Search | Locate in Result', 'Full-Text Document' (with a sub-link 'Table of Contents'), and 'ResultsPlus™' (with a sub-link 'View All Results'). Below these are three publication entries: 'Am. Jur. Proof of Facts 1. Liability of Escrow Agent for Fee Attorney Absconding with Escrow Funds', 'PLI 2. Buyer's Comments to Seller's Form-87 01/08 2008', and 'PLI 3. Negotiating the Purchase Agreement 2008'. At the bottom of the sidebar is a link 'View All Results' and 'List of ResultsPlus Publications'. The main content area shows the search results for '3 Com. Real Estate Forms 3d § 11:1'. The title is 'Commercial Real Estate Forms 3d Database updated May 2009' by 'Stuart M. Saft'. The section is 'Part II. Acquisition and Disposition of Property Chapter 11. Closing Acquisitions/Dispositions'. The specific section is '§ 11:1. The closing'. Below the title is a paragraph of text: 'At the closing, the transaction described in the Agreement of Sale is consummated, the property conveyed, and the purchase price (in cash and financing) finalized. Closings can occur at one time with all the parties in a room, over a period of time as documents cross in the mail, or in escrow with the parties not present. The nature of the closing is established by the terms of the Agreement of Sale or subsequent to the execution of the Agreement of Sale by agreement of the parties. Prior to closing, it is helpful to prepare a checklist of documents that have to be prepared for, and executed at, the closing. The closing agenda could including the following items:'. This is followed by a numbered list of 10 items: 1. Execute deed or assignment of ground lease. 2. Execute assignments and assumptions of leases. 3. Execute bill of sale for personal property. 4. Execute notification letters to tenants and supplies relating to the sale. 5. Execute assignment of warranties and guaranties. 6. Execute reaffirmation of contract representations and warranties that survive the closing. 7. Execute assignment of permits and licenses. 8. Execute leaseback, if applicable. 9. Execute purchase money promissory note, if applicable. 10. Execute purchase money mortgage, if applicable. At the top right of the main content area, there are links: 'Quick Print | Print | Email | Download | Fax | Save | Manager'. Below the title, there are navigation links: 'Previous Section', 'COMREFRM § 11:1', and 'Next Section'.

Figure 13. Commercial closing checklist

Using Practice Guides

In addition to the checklists available through the Real Property Practitioner page, you can also search practice guides for useful commentary.

For example, to retrieve documents discussing remedies for failure to close a commercial transaction, complete these steps:

1. Click **Commercial** in the *Practice Guides* section to display a Search page.
2. Type a Terms and Connectors query such as **remedy /s fail! /s clos!**.
3. Choose a database such as *Real Estate Transactions: Structure and Analysis (RETSA)* by selecting its check box.
4. Click **Search Westlaw**.
5. To view a document in the result list, click its link (Figure 14). Click **Previous Section** or **Next Section** at the top of the document to view the sections that immediately precede or follow it. To access the publication's table of contents, click **Table of Contents** on the Links tab in the left frame.

The screenshot displays a Westlaw search result page. On the left, a sidebar contains navigation options: 'Result List' (5 Docs), 'Links for RETSA § 1:77', 'Full Screen List', 'Edit Search | Locate in Result', 'Full-Text Document', and 'Table of Contents' (highlighted). Below this is the 'ResultsPlus' section with three ALR items: '1. Provision in Land Contract for Liquidated Damages Upon Default of Purchaser as Affecting Right of Vendor to Maintain Action for Damages for Breach of Contract', 'Williston on Contracts 2. Liquidated Damages and Penalties, Introduction, Validity of Provisions for Liquidated Damages, Generally', and 'Am.Jur. Proof of Facts 3. Reduction or Mitigation of Damages-Sales Contract'. The main content area shows the document title '1 Real Estate Transactions: Structure and Analysis with Forms § 1:77', author 'Alvin L. Arnold', and chapter 'Part I. Purchase, Sale, and Lease Chapter 1. Negotiating the Purchase and Sale of Real Estate XXIII. Remedies for Failure to Close'. A 'References' section is visible, followed by the heading '§ 1:77. Default by buyer; seller's remedies'. The text below discusses the buyer's obligations and the seller's remedies in the event of a default.

Figure 14. Document from search result

6 Breaches and Defaults

Researching Case Law

It is critical in real property practice to draft documents so as to avoid disputes that can lead to a default or breach of contract. A review of the case law can help you see what areas have been previously litigated and avoid those issues. The Real Property Practitioner page gives you direct access to state and federal case law.

For example, suppose you are concerned about liability for possible latent defects in a particular property. To see how the courts have addresses such claims, complete these steps:

1. Click **State and Federal Cases** in the *Statutes, Regulations, and Cases* section. A Search page is displayed (Figure 15).

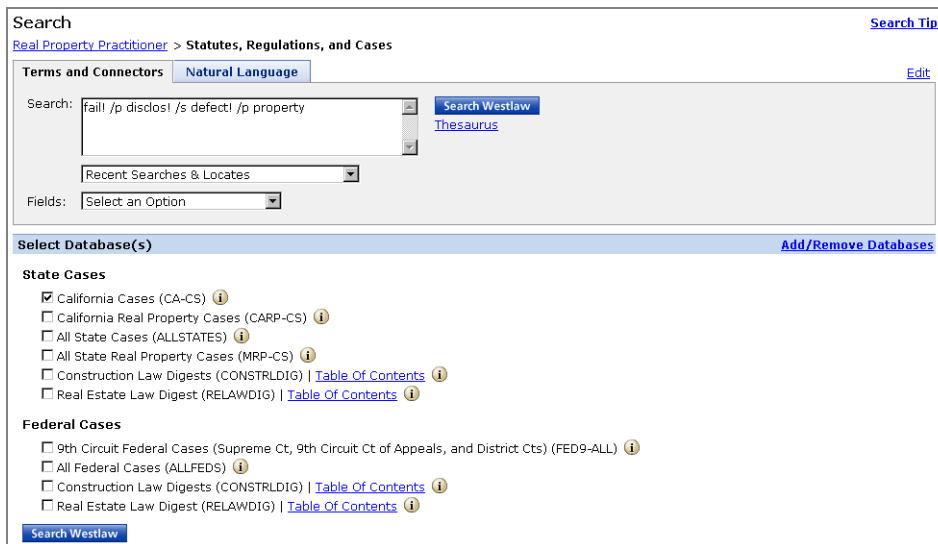


Figure 15. Statutes, Regulations, and Cases Search page

2. Type a Terms and Connectors query such as **fail! /p disclos! /s defect! /p property**.
3. Choose a state-specific case law database such as *California Cases (CA-CS)* by selecting its text box.
4. Click **Search Westlaw**.

Reviewing Case Law Highlights

Monitor recent case law developments across all jurisdictions with West's real property case highlights. To retrieve recent summaries, complete these steps:

1. Click **West's Real Property Case Highlights** in the *Statutes, Regulations, and Cases* section. A list of documents added to Westlaw in the last two weeks is automatically displayed.
2. To view a document in the list, click its title (Figure 16).

The screenshot shows a Westlaw search results page. On the left is a 'Result List' with 11 documents. The first document is highlighted: '1. Easements: An owner of land abutting private road has an easement to use the road.' Below this are three other items: '2. Mortgages and Deeds of Trust: Bank's receipt of TARP funds did not warrant applying equitable estoppel to prevent bank's foreclosure on mortgagor's home', '3. Vendor and Purchaser: Vendor's obligation to complete construction was not illusory, so as to preclude application of ILSA exemption.', and '4. Agents and Brokers: Array of services defense to RESPA no-services claim was unavailable.' The main content area on the right displays the full summary for the selected case, '2009 WL 2902085 (Utah App.)'. The summary includes a 'TOPICAL HIGHLIGHTS' section for 'Real Property' dated 'September 17, 2009'. The text of the summary states: 'Easements: An owner of land abutting private road has an easement to use the road. When a party acquires land via a deed that references a recorded plat showing privately owned streets or other privately owned areas of common use for the apparent benefit of the landowner, a right to use those streets or common areas will typically arise in favor of the landowner. This right may be enforced not only as against the original developer, but also as against neighboring landowners who attempt to interfere with the right. However, when the street or common area is privately owned and the dispute is not with the original developer, equitable considerations come into play. These considerations include the intent of the parties, notice, and the purpose or use of the roadway or other common area at the time the land was acquired. For example, if the neighboring owners determined that the street or common area would be used for a different purpose prior to the new landowner's purchase of his or her lot, and the new purchaser of the lot had actual or constructive notice of the different purpose for the street or common area—and thus that any inconsistent plat designation was no longer viable—the right of use suggested by the plat may well be unenforceable. In the case at hand, the abutting landowner had an easement to use the road based on the deed's reference to the plat in light of the fact that the road was used as a roadway at the time the landowner obtained title to the and was still used as a roadway. The issue was one of first impression in the state. This decision may not yet be released for publication.' The case name 'Oak Lane Homeowners Ass'n v. Griffin' and the citation '2009 WL 2902085 (Utah App.)' are also visible.

Figure 16. Summary from search result

To search the entire database, click **Edit Search** at the top of the result list or on the Result List tab. At the displayed Search page, type a new search in the *Search* text box.

7 Development, Leasing, and Association Representation

Researching Development Issues

PRACTICE GUIDES

The Real Property Practitioner page provides materials on all phases of property development. For example, to retrieve information on repaying the principal on a construction loan complete these steps:

1. Click **Construction and Development** in the *Practice Guides* section. A Search page is displayed (Figure 17).

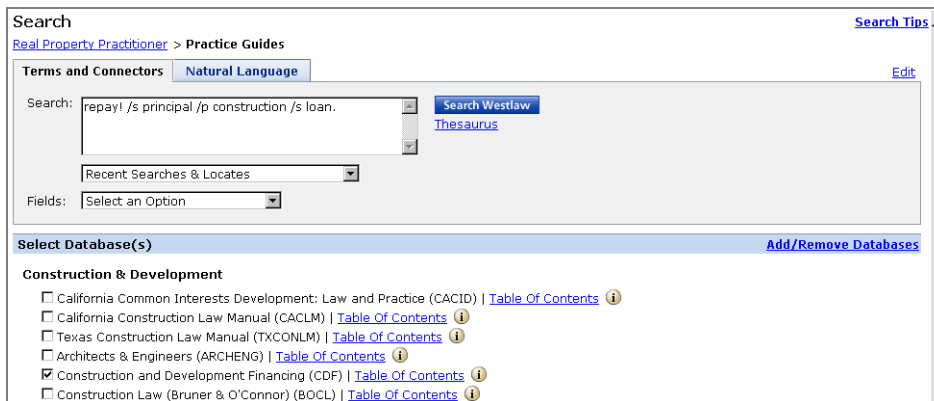


Figure 17. Practice Guides Search page

2. Type a Terms and Connectors query such as **repay! /s principal /p construction /s loan.**
3. Choose a database such as *Construction and Development Financing (CDF)* by selecting its check box.
4. Click **Search Westlaw.**

Representing the Association

FORMS AND CHECKLISTS

The forms and checklists collections available through Real Property Practitioner can help you draft association documents efficiently and cost-effectively. To retrieve sample association bylaws, complete these steps:

1. Click **All Real Property Topics** under *National* in the *Forms, Checklists & Clauses* section. A search template is displayed (Figure 18).

The screenshot shows a search interface with the following sections:

- Search** header with a "Change Database(s) | Tips" link.
- Selected Databases:** All State and General Real Property Forms, Clauses and Checklists (RPFORM-ALL).
- Navigation tabs:** Terms and Connectors, Natural Language, Template.
- Search Westlaw** button.
- Enter Search Terms:** A text box containing "ti(by-law /s association)".
- Connectors/Expanders:** A dropdown menu.
- Limit by Topic:** A list box with "Co-op/Condo/Associations" selected. Other options include Development/Construction, Land Use/Zoning, Liens, Foreclosure/Eviction, and Natural Resource Rights.
- Document Type:** Checkboxes for Forms, Checklist, and Clause, all of which are checked.
- Jurisdiction Selection:** Checkboxes for All Available Jurisdictions, California, Louisiana, Missouri, and Ohio.
- Help text:** Two informational boxes on the right side provide guidance on using connectors and limiting search results.

Figure 18. All State and General Real Property Forms, Clauses, and Checklists database (RPFORM-ALL) search template

2. In the *Enter Search Terms* text box, type a Terms and Connectors query, restricting your search to the title field (ti), e.g., **ti(by-law & association)**.
3. Choose the document topic you want to search from the *Limit by Topic* list box, e.g., **Co-op/Condo/Associations**.
4. Choose a document type and jurisdiction by selecting the appropriate check boxes.
5. Click **Search Westlaw**.

8 Staying Current

Westlaw offers a wide range of resources that can keep you current on real property law. The *News and Current Awareness* section of the Real Property Practitioner page includes the following sources:

- legal and nonlegal newspapers
- real property news
- newsletters such as *Construction Briefings*, *Housing and Development Reporter*, and *Zoning and Planning Law Report*

In addition, the WestClip clipping service can automatically search these sources and notify you of developments as they occur.

Monitoring Real Property News

The Real Property News database (RPNEWS) contains articles from newspapers, magazines, journals, newsletters, and newswires and transcripts of radio and television news programs.

To retrieve recent news about low-income housing tax credits, complete the following steps:

1. Click **Real Property News** to display a Search page (Figure 19).

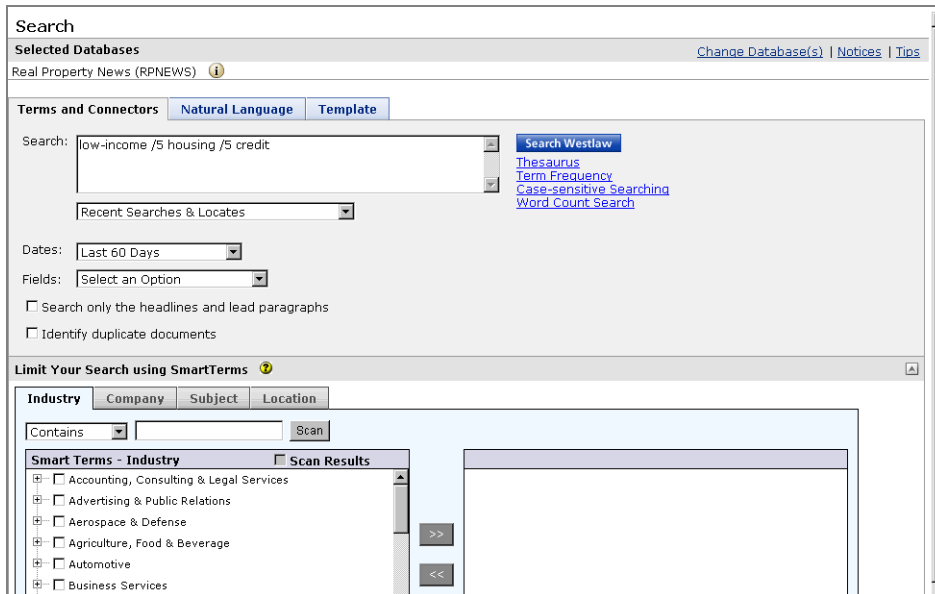


Figure 19. Real Property News Search page

2. Type a Terms and Connectors query such as **low-income /5 housing /5 credit**.
3. Choose a date restriction, e.g., **Last 60 Days**, from the *Dates* drop-down list, if desired.
4. Click **Search Westlaw**.

Using WestClip

Use the WestClip clipping service to monitor sources of real property information on Westlaw and stay up-to-date on news and developments that could affect your clients. WestClip will run your Terms and Connectors queries on a regular basis and deliver the results to you automatically.

Access WestClip in one of two ways:

- Click **Alert Center** at the top of any page to display the Alert Center Directory and then click **Create** in the *WestClip* section.
- Click **Add Search to WestClip** from a result list, or from a displayed document, choose **Add Search to WestClip** from the *Result Options* drop-down list on the Result List tab.

After you access WestClip in one of the ways described above, the WestClip: Create Entry page is displayed (Figure 20).

WestClip: Create Entry

Create Entry | Directory | Tips

Entry Details

Complete each item below:

Name of clip: low-income housing

Client ID: REALPROP

Database(s): RPNEWS [Find a Database](#)

Separate multiple databases with a comma (,)

Query: Terms and Connectors

LOW-INCOME /5 HOUSING /5 CREDIT & DA(LAST 60 DAYS) [Full Search Editor](#)

[Limit Your News Search using SmartTerms](#)

Save Cancel

Delivery Settings [Edit](#)

Frequency: Daily

Destination: Notify at sign on

Limits: Maximum documents per result: 25

Result format: List of All Citations

Results: Inform me of no results

Date created: 09/21/2009

Last run date:

End date: No end date

Figure 20. WestClip: Create Entry page

To create a WestClip entry, follow these steps:

1. Type a name for the entry (maximum of 40 characters) in the *Name of clip* text box, if desired.
2. The client identifier for the current research session is displayed in the *Client ID* text box. Type a new client identifier to assign this entry to another client.
3. Specify a database in which you want your search to be run by typing the database identifier in the *Database(s)* text box. If you accessed WestClip from a search result, the database identifier is entered for you.
4. Type a Terms and Connectors query in the *Query* text box. If you accessed WestClip from a search result, the query is entered for you.
5. Click **Edit** next to *Delivery Settings* to display the WestClip: Edit Delivery Settings page. Change your delivery settings, such as frequency, delivery destination, and result format. When you are finished making changes, click **Save** to save the delivery settings and return to the WestClip: Create Entry page.
6. When you are finished setting up your entry, click **Save**.

Published 10/09. L-353864. Replaces Material #40643635.

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RM165785

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