



KEY POINTS

A LEGAL RESEARCH NEWSLETTER FOR
FEDERAL GOVERNMENT FROM WEST

Volume 28, Number 2
March 2010

Jay Shuck, J.D., Editor
Thomson Reuters
610 Opperman Dr.
Eagan, MN 55123-1396
e-mail: jay.shuck@thomsonreuters.com

For search assistance, call the
West Reference Attorneys at
1-800-REF-ATTY (1-800-733-2889)

For assistance using Westlaw®, call
1-800-WESTLAW (1-800-937-8529)

For information on West, visit west.thomson.com

Deflating the Experts

*“Challenging an expert and questioning his
expertise is the lifeblood of our legal system.”*

— Judge David Bazelon

RETRIEVING LAW REVIEWS: THE NO-SEARCH SOLUTION

Q: How do you formulate an elaborate query in a law review database? A: Don't bother!

Legal researchers often turn to law review articles—but not out of academic curiosity. Law review articles can provide

- useful background on an unfamiliar topic
- important concepts and terms to use in subsequent research
- controlling authorities
- exhaustive footnotes
- extensive analysis of emerging areas

Further, law review articles are thoroughly researched and reviewed. If you find a law review article on point, much of your own research may already be done.

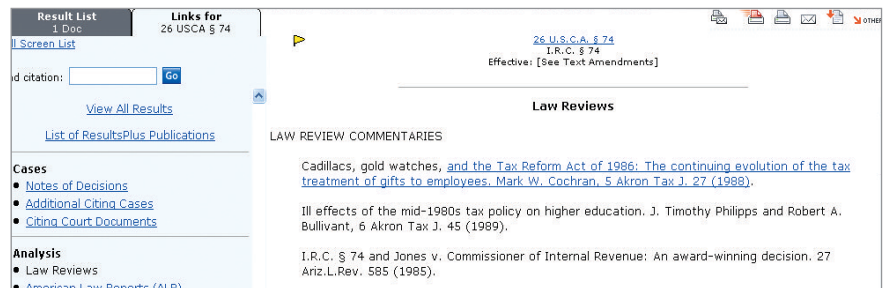
Problem: How do I find a law review article on point?

With hundreds of thousands of articles from more than 1,000 journals and law reviews available to you, the prospect of retrieving an article tailored to your issue may seem daunting. After all, a law review article is not supplied with a synopsis, headnotes, West topic and key numbers, or other enhancements containing terms that describe important concepts from the article.

Solution: Get KeyCite® citing references for a pivotal statute or regulation

In many legal areas, there are one or two governing statutes or regulations that are mentioned in every serious analysis. For example, a thorough discussion of taxation of prizes and awards will almost certainly mention 26 U.S.C.A. § 74.

If you suspect that every law review article on your issue will cite a particular statute or regulation, then start with the statute or regulation. (Type the citation in the *Find this document by citation* text box and click **Go**.) Then simply click **Law Reviews** under *Analysis* on the Links tab to view a list of law review articles citing the statute or regulation.



Law Reviews link



WEST KEY NUMBER DIGEST: MAKE IT WORK FOR YOU!

When you have the right key number, you can easily retrieve cases on a point of law from any and all jurisdictions.

But with 100,000 key numbers available in the West Key Number Digest, how do you find the right one?

Here are two easy ways:

Use headnote links from a case on point

If you're already viewing a case on Westlaw that discusses a relevant point of law—even if it's a case from a jurisdiction you don't care about—you're home free.

Click the West topic or key number preceding the headnote in which a relevant point of law is summarized. The Custom Digest search page is displayed. Select one or more jurisdictions, specify one or more terms that you want to appear in the headnotes (if desired), and click **Search**.

You retrieve a list of headnotes classified under the same topic or key number, with links to the cases. The list even features KeyCite status flags, where applicable.

[5] [KeyCite Citing References for this Headnote](#)

- ↳ [149E](#) Environmental Law
- ↳ [149EXI](#) Plants and Wildlife
- ↳ [149Ek538](#) Administrative Agencies and Proceedings
- ↳ [149Ek541](#) k. Notice and Comment. [Most Cited Cases](#)

Fish and Wildlife Service (FWS), in deciding not to designate critical habitat for stickleback fish species after such designation was proposed subsequent to species' listing, was not required to provide opportunity for public comment, since Endangered Species Act (ESA) did not expressly require notice and comment for agency finding that revision or designation should not be made. [5 U.S.C.A. § 706\(2\)\(A\)](#); Endangered Species Act of 1973, § 4(b)(6)(A), [16 U.S.C.A. § 1533\(b\)\(6\)\(A\)](#).

Digest link above headnote

Custom Digest ⓘ [West Key Number Digest](#) > [Search](#)

Your digest selection(s): ENVIRONMENTAL LAW 149Ek541 --Notice and comment [delete](#)

Your digest options:

Order:

- Most Recent Cases
- Most Cited Cases

Include ALR, law reviews, and other references

Your default state jurisdiction is: Minnesota

- State: New York
- Federal: All
- State & Federal: All
- Topical: U.S. Supreme Court
- U.S. Courts of Appeals
- U.S. Court of Appeals - D.C. Circuit
- Include cases from the U.S. Court of Appeals - Federal Circuit
- U.S. Court of Appeals - 1st Circuit
- U.S. Court of Appeals - 2nd Circuit
- U.S. Court of Appeals - 3rd Circuit
- U.S. Court of Appeals - 4th Circuit
- U.S. Court of Appeals - 5th Circuit
- U.S. Court of Appeals - 6th Circuit
- U.S. Court of Appeals - 7th Circuit
- U.S. Court of Appeals - 8th Circuit
- U.S. Court of Appeals - 9th Circuit
- U.S. Court of Appeals - 10th Circuit
- U.S. Court of Appeals - 11th Circuit
- U.S. District Courts
- U.S. Bankruptcy Courts
- Puerto Rico Federal Cases

Add search terms and/or

Date Restriction:

Local Intranet

Custom Digest search page



Use the Search for Key Numbers feature

What if you aren't starting with a relevant case? Do you have to sift through 100,000 topic and key numbers and guess which ones are assigned to your issue?

Not at all. You can use the Search for Key Numbers feature, which instantly identifies the topic and key numbers assigned to a legal issue and retrieves on-point cases via the West Key Number Digest.

To access this feature, click **Key Numbers** at the top of any Westlaw page or on the site map. A page is displayed that contains the *Search for Key Numbers* text box, as well as links to the West Key Number Digest and to KeySearch®.

Type a short description of your issue, e.g., **jurisdiction in internet fraud case**, in the text box. You don't have to use connectors. If desired, click **Change Jurisdiction** and select one or more jurisdictions using the check boxes provided. (If you don't select a jurisdiction, the default jurisdiction is your home state.) Then click **Search**. The Search for Key Numbers feature displays a list of topic and key numbers potentially relevant to your issue.

Click a topic and key number to retrieve jurisdiction-specific headnotes classified under the topic and key number—with links to the cases.

Search for Key Numbers
 Enter terms e.g., *landlord duty of care to trespassers*

Add Related Terms: [MISREPRESENTATION](#) [DECEPTION](#) [CONCEALMENT](#) [RELIANCE](#) [MATERIALITY](#) [INDUCEMENT](#) ["DUTY TO INVESTIGATE"](#) ["NEGLIGENT MISREPRESENTATION"](#) [DEFALCATION](#) [FIDUCIARY](#) [PROCEEDING](#) [ACTION](#) [SUIT](#) [SELECT ALL]

Jurisdiction selected: **2nd Circuit Court of Appeals**
 Change Jurisdiction▼

[West Key Number Digest Outline](#)

2nd Circuit Court of Appeals

TRADEMARKS

- 382Tk1560 **Jurisdiction** > Internet use; cybersquatting
- 382Tk1551 IN GENERAL > Constitutional and statutory provisions

FEDERAL COURTS

- 170Bk76.15 Actions against non-residents; "long-arm" **jurisdiction** in general > Transacting or doing business
- 170Bk76.5 Actions against non-residents; "long-arm" **jurisdiction** in general > Contacts with forum state
- 170Bk79 Corporations, actions by or against > Corporate activities and contacts within district; doing business in general
- 170Bk76.25 Actions against non-residents; "long-arm" **jurisdiction** in general > Tort **cases**
- 170Bk76.30 Actions against non-residents; "long-arm" **jurisdiction** in general > Contract **cases**

CONSTITUTIONAL LAW

- 92k3965(8) Particular parties or circumstances > Media and publishing
- 92k3966 **Jurisdiction** and venue > **Jurisdiction** of property; in rem and quasi in rem **jurisdiction**
- 92k3965(1) Particular parties or circumstances > In general

Search for Key Numbers feature

ResultsPlus™ [View All Results](#)

Am.Jur.2d: Computers and the Internet

1. Procedural Effects of Use of Internet or E-Mail; Electronic Signatures, Transactions, and Contracts, Use of Internet as Conferring Jurisdiction Over Nonresident; Venue, Registration or Use of Domain Name

ALR

2. Validity of State Statutes and Administrative Regulations Regulating Internet Communications Under Commerce Clause and First Amendment of Federal Constitution

Result List Links for 170Bk76.5

Full Screen List
 Edit Search | Locate in Result

Result Options ▼

Custom Digest
 170Bk76.5
 22 Headnotes

Headnotes

1. 170Bk76.5 22 Headnotes
 170B FEDERAL COURTS
 170B11 Venue
 170B11(A) In General
 170B17g Actions Against Non-Residents; ?"Long-Arm" Jurisdiction in General
 170B176.25 k. Contacts with forum state.

2. 170Bk76.15 26 Headnotes
 170B FEDERAL COURTS
 170B11 Venue
 170B11(A) In General
 170B17g Actions Against Non-Residents; ?"Long-Arm" Jurisdiction in General
 170B176.25 k. Transacting or doing business.

3. 170Bk76.25 17 Headnotes
 170B FEDERAL COURTS
 170B11 Venue
 170B11(A) In General
 170B17g Actions Against Non-Residents; ?"Long-Arm" Jurisdiction in General
 170B176.25 k. Tort cases.

4. 170Bk76.30 8 Headnotes
 170B FEDERAL COURTS
 170B11 Venue
 170B11(A) In General

Porina v. Marward Shipping Co., Ltd., 521 F.3d 122
 170B FEDERAL COURTS
 170B11 Venue
 170B11(A) In General
 170B17g Actions Against Non-Residents; ?"Long-Arm" Jurisdiction in General
 170B176.25 k. Contacts with forum state.
 C.A.2.N.Y.,2008
 A court's "general jurisdiction" over a non-resident is based on a defendant's general business contacts with the forum, and permits a court to exercise its power in a case where the subject matter of the suit is unrelated to those contacts. See publication Words and Phrases for other judicial constructions and definitions.

Porina v. Marward Shipping Co., Ltd., 521 F.3d 122
 C.A.2.N.Y.,2008
 In general jurisdiction cases, the court examines a defendant's contacts with the forum state over a period that is reasonable under the circumstances-up to, and including, the date the suit was filed.

Bank Brussels Lambert v. Fiddler Gonzalez & Rodriguez, 305 F.3d 120
 C.A.2.N.Y.,2002
 A forum state may assert general jurisdiction, that is, jurisdiction irrespective of whether the claim arises from or relates to the defendant's forum contacts, only where the contacts are continuous and systematic. *U.S.C.A. Const.Amend. 14.*

Search for Key Numbers result



Advanced SEARCH TIP

When You Need the Leading Cases

There's no denying the persuasive power of a leading case. Why settle for merely good law if *well-established* law is available?

That's where the Most Cited Cases feature on Westlaw comes in. This feature makes it easy to identify holdings that have been cited most often for a point of law.

To access Most Cited Cases from a headnote containing a relevant topic and key number in a case you are viewing, click **Most Cited Cases** in the headnote classification hierarchy for that headnote. The Custom Digest search

page is displayed with *Most Cited Cases* selected as the default order. If you prefer, you can use this page to select a different jurisdiction, add search terms, or restrict your result by date. Then click **Search**.

You retrieve a single document that lists all cases in the selected jurisdiction containing headnotes classified under your topic and key number. Each citation indicates the number of times the case has been cited.