



KEY POINTS

A LEGAL RESEARCH NEWSLETTER FOR
FEDERAL GOVERNMENT FROM WEST

Volume 28, Number 9
November 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

One Robe, No Calculator

*"[W]ith no staff economists, no
experts schooled in the 'efficient-
capital-market hypothesis,'
no ability to test the validity
of empirical market studies,
we are not well equipped to
embrace novel constructions of a
statute based on contemporary
microeconomic theory."*

—U.S. Supreme Court Justice
Byron White, *Basic Inc., v. Levinson*,
108 S. Ct. 978, 994–995 (1988)
(White, J., concurring)

NOTES OF DECISIONS: GET THEM FOR REGULATIONS, TOO

When you retrieve a statute in print or on Westlaw, you typically retrieve one or more notes of decisions. A note of decision contains the following:

- a summary of a point of law in a case
- a citation to the case
- a West topic and key number to help you retrieve other cases discussing the same point of law

Consequently, notes of decisions are time-saving tools for interpreting a section and expanding research so as not to miss relevant sources.

Isn't there a way to get notes of decisions for a federal regulation, too? On Westlaw, there is: While viewing the regulation, click **Notes of Decisions** on the Links tab. The notes of decisions are displayed in the right frame, beginning with the notes of decisions index.

From there, it's simply a matter of clicking links. To jump to a specific section of the notes of decisions list, click the appropriate link in the notes of decisions index. To retrieve the full text of a case cited in the notes of decisions, click the case's link. To access the West Key Number Digest to retrieve case law from the same or a different jurisdiction, click the West topic or key number.

If you prefer, you can print or deliver the list of notes of decisions—with or without live links—for later use.

The screenshot shows a Westlaw search result for 21 CFR § 101.70. The interface includes a search bar, a 'Links for' tab, and a 'NOTES OF DECISIONS' section. The 'NOTES OF DECISIONS' section contains a list of links and their corresponding case citations:

- Dietary supplements [3](#)
- Significant scientific agreement [2](#)
- Standing [2](#)
- Validity of approval process [1](#)
- [1](#). Validity of approval process

Below the list, there are three paragraphs of text, each starting with a heading: 'Nutrition Labeling and Education Act (NLEA)/Food and Drug Administration (FDA) requirement for prior approval...', 'Health claim precertification process established under Dietary Supplement Health and Education Act (DSHEA) was unconstitutionally overbroad...', and 'Health claim precertification process established under Nutritional Labeling and Education Act (NLEA) was unconstitutionally overbroad...'

Notes of Decisions



U.S. SUPREME COURT DOCUMENTS: MANY ROADS LEAD TO THE RIGHT ONE

Suppose you need a document from the U.S. Supreme Court. You could search the U.S. Supreme Court database—if there were such a thing as *the* U.S. Supreme Court database, that is. Instead, there are at least 60 databases containing U.S. Supreme Court materials available to you, including databases limited to judicial opinions, oral argument transcripts, briefs, petitions, case summaries, or documents from a specific practice area.

Here are a few ways to track down the right document without wasting time:

Browse the Directory

To identify U.S. Supreme Court-related databases to search—and for links giving you quick access to those databases—browse the online Westlaw Directory. To access the Directory, click **Directory** at the top of any Westlaw page. Then click the links in the right frame to browse the Directory. For example, click **U.S. Federal Materials, Federal Cases and Judicial Materials, Judicial Materials, and U.S. Supreme Court Databases**. A list of databases is displayed, with links to the database Search pages.

In the alternative, you can download the [Westlaw Database Directory for the Federal Judiciary](#), 2010 Edition, in PDF.

Use Links in a Federal Court Document

If you are viewing a relevant opinion, petition, brief, decision on certiorari, or other U.S. Supreme Court document, you can retrieve related documents simply by clicking the appropriate link on the Links tab (e.g., a KeyCite® history link or **Petitions, Briefs and Filings**) or links within the document you are viewing. No search required.

For example, if you are viewing the Court's opinion in *Olympic Airways v. Husain*, 124 S. Ct. 1221 (2004), you can click **Petitions, Briefs and Filings** on the Links tab to display links to appellate briefs, the petition for rehearing, the joint appendix, a transcript of the oral argument, and the court docket. Linking works in many directions, so, for example, you can start with one of the appellate briefs, click **Petitions, Briefs and Filings**, and retrieve a similar list of links.

Supreme Court Nominee Confirmation Hearings (SCT-CONFIRM) ⓘ
Transcripts of U.S. Supreme Court Oral Arguments (SCT-ORALARG) ⓘ
U.S. Supreme Court Briefs (SCT-BRIEF) ⓘ
United States Supreme Court Briefs Multibase (SCT-BRIEF-ALL) ⓘ
United States Supreme Court Criminal Briefs (SCT-CRBRIEF) ⓘ
United States Supreme Court Criminal Briefs & Petitions (SCT-CRBRIEF-ALL) ⓘ
United States Supreme Court Criminal Petitions (SCT-CRPETITION) ⓘ
United States Supreme Court Joint Appendices (SCT-JA) ⓘ
Westlaw Bulletin - U.S. Supreme Court (WLB-SCT) ⓘ
 Supreme Court Justice Databases

Westlaw Directory (detail)



Result List
1 Doc
Links for 124 S.Ct. 1221

Full Screen List

Find citation: Go

Some negative history but not overruled

Full History
Direct History (Graphical View)
Citing References
Monitor With KeyCite Alert

Featured Trial Document Donated by KeyCite

In re: DEEP VEIN THROMBOSIS LITIGATION, Vincent...

★ ★ ★ HN: 1
Trial Motion, Memorandum and Affidavit (N.D.Cal., 2008)

Plaintiff Mair Vincent's Opposition to Defendant American Airlines, Inc.'s Motion for Summary Judgment...

See All Trial Documents Citing this Case

Full-Text Document

- Case Outline
- Petitions, Briefs & Filings**
 - Appellate Court Documents
 - Dockets

ResultsPlus™ View All Results

ALR
1. Limitation of Liability of Air Carrier for

Olympic Airways v. Husain
240 U.S. 614, 124 S.Ct. 1221
U.S.:2004
February 24, 2004

Dockets

Appellate Court Documents

U.S. Appellate Briefs

- Appellate Brief, Brief of Petitioner Olympic Airways, 2003 WL 21664830 (U.S., Jul. 11, 2003) Olympic Airways v. Husain
- Appellate Brief, Brief of the Air Transport Association of America, Inc. as Amicus Curiae in Support of Petitioner, 2003 WL 21673767 (U.S., Jul. 11, 2003) Olympic Airways v. Husain
- Appellate Brief, Brief for Respondents, 2003 WL 22069773 (U.S., Aug. 29, 2003) Olympic Airways v. Husain
- Appellate Brief, Brief for the United States as Amicus Curiae Supporting Respondents, 2003 WL 22087627 (U.S., Aug. 29, 2003) Olympic Airways v. Husain
- Appellate Brief, Reply Brief of Petitioner Olympic Airways, 2003 WL 22299777 (U.S., Oct. 01, 2003) Olympic Airways v. Husain
- Appellate Brief, Petition for Rehearing, 2004 WL 597236 (U.S., Mar. 19, 2004) OLYMPIC AIRWAYS, Petitioner, v. Rubina HUSAIN, etc., et al., Respondents.

U.S. Joint Appendices

- Joint Appendix, 2003 WL 21911175 (U.S., Jul. 09, 2003) Olympic Airways v. Husain

U.S. Oral Arguments

- Oral Argument, Oral Argument, 2003 WL 22827484 (U.S., Nov. 12, 2003) Olympic Airways v. Husain

Audio Available

Petitions, Briefs & Filings link

Retrieve KeyCite Citing References for a Leading Statute, Regulation, or Case

You might know of a particular statute, regulation, case, or other leading authority that is likely to be cited in a U.S. Supreme Court opinion on an issue. In that instance, you could start by retrieving that leading authority and then using KeyCite to retrieve citing cases from the U.S. Supreme Court.

For example, a case in which the U.S. Supreme Court analyzes the income tax deduction for depreciation will most likely cite 26 U.S.C.A. § 167 at least once in the opinion. Therefore, you might start by retrieving that statute. Then complete these steps:

1. Click **Citing References** on the Links tab. A long list of KeyCite citing references is displayed.
2. Click **Limit KeyCite display**. At the KeyCite Limits page, click **Clear All** in the right frame. Select the check box next to *Highest court* and type *s.ct.* in the *Publication* text box.
3. Click **Apply**.

Result List
1 Doc
Links for 26 USCA § 167

Full Screen List

KeyCite citation: Go

Proposed Legislation
History
Citing References
Monitor With KeyCite Alert

Graphical Statutes

Full-Text Document

- Table of Contents
- Versions
- Section Outline

ResultsPlus™ View All Results

ALR
1. Amount Deductible for Property Contributed to Charity Under 170 of Internal Revenue Code of 1954 (26 U.S.C.A. 170) as affected by Nature of Property or Form of Contribution: Current Cases

ALR
2. Subscription, Mailing, and Customer Lists, Acquired by Taxpayer, as

KeyCite

26 U.S.C.A. § 167
I.R.C. § 167
Effective: December 29, 2007

Citing References: limited to S.Ct, Highest Court
(Showing 63 of 7932 documents)

Citations From U.S.C.A. (U.S.A.)

SELECT TO PRINT, EMAIL, ETC.

- 3. ---- Allocation of cost, purpose
 - 1 Hertz Corp. v. U.S., 80 S.Ct. 1420, 1421+, 364 U.S. 122, 124+, 4 L.Ed.2d 1603, 1603+, 5 A.F.T.R.2d 1792, 1792+, 60-2 USTC P 9555, 9555+, 1960-2 C.B. 70, 70+ (U.S.Del. Jun 27, 1960) (NO. 283)
 - 2 Massey Motors, Inc. v. U.S., 80 S.Ct. 1411, 364 U.S. 92, 4 L.Ed.2d 1592, 5 A.F.T.R.2d 1780, 60-2 USTC P 9554, 1960-2 C.B. 445 (U.S.Fla. Jun 27, 1960) (NO. 141, 143)
 - 3 Massey Motors Inc. v. U.S., 80 S.Ct. 1424, 364 U.S. 92, 4 L.Ed.2d 1592 (U.S.Fla. Jun 27, 1960) (NO. 141, 143, 283)
- 4. ---- Control of utility rate increases, purpose
 - 4 Federal Power Commission v. Memphis Light, Gas and Water Division, 93 S.Ct. 1723, 1723+, 411 U.S. 458, 458+, 99 P.U.R.3d 56, 56+, 36 L.Ed.2d 426, 426+, 31 A.F.T.R.2d 73-1240, 73-1240+, 73-1 USTC P 9412, 9412+ (U.S.Dist.Col. May 07, 1973) (NO. 72-486, 72-488)
- 7. ---- Recovery of cost, purpose
 - 5 C. I. R. v. Idaho Power Co., 94 S.Ct. 2757, 2758+, 418 U.S. 1, 1+, 41 L.Ed.2d 535, 535+, 34 A.F.T.R.2d 74-5244, 74-5244+, 74-2 USTC P 9521, 9521+, 1974-2 C.B. 85, 85+ (U.S. Jun 24, 1974) (NO. 73-263) (in dissent)
- 8. ---- Time and use, purpose
 - 6 Detroit Edison Co. v. C.I.R., 63 S.Ct. 902, 319 U.S. 98, 87 L.Ed. 1286, 43-1 USTC P 9418, 30

Edit Limits Cancel Limits

KeyCite citing references (limited to documents published in the *Supreme Court Reporter*®)



Advanced SEARCH TIP

KeyCite Alert: When an Agency Holds Forth, You'll Know

Q: What's the easiest way to search for the latest agency decisions interpreting an important regulation?

A: Don't search at all!

"The growth of the administrative state produced a manifold increase in the reductionist tendency, as Congress delegates more and more decision-making authority to federal agencies," commentators observe. Further, "[t]he authority of these agencies has been insulated by the standards of review set by Congress and the Courts."*

Translation: You can't afford to be unaware of the latest agency decisions that interpret an important regulation.

Does that mean you have to run daily searches of agency decisions? Not at all: Create a KeyCite Alert entry instead.

KeyCite Alert automatically notifies you when an agency decision is added to a regulation's KeyCite citing references. To create a KeyCite Alert entry for the regulation you are viewing, click **Monitor With KeyCite Alert** on the Links tab. Then do the following:

1. Change the client identifier, if desired, and click **Next**.
2. At the next page that is displayed, click **Limit Citing Refs.**
3. The KeyCite Alert Limits page is displayed. Click the arrow next to **Document Type**.
4. Clear all check boxes except the *Administrative Decisions* check box. Click **Apply**.
5. Use the subsequent pages to choose the frequency with which you want KeyCite Alert to check your citation, the period of time in which you want KeyCite Alert to monitor your citation, the destination to which you want your results delivered, and whether you want the full text of new decisions.
6. Click **Finish** to save your entry.

*John A. Powell and Stephen M. Menendian, *Remaking Law: Moving Beyond Enlightenment Jurisprudence*, 54 ST. LOUIS U. L.J. 1035, 1060 (2010).

