

Montgomery County Law Library Newsletter



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In Praise of Secondary Sources

Even though a few keystrokes can result in pages of documents citing pertinent search terms, sometimes a researcher needs to approach an issue from another direction. In performing legal research, “getting started on the right foot” can make all the difference.

Secondary sources do the initial legwork by citing to both primary and other secondary authorities related to an area of law, and often explain that area of law more thoroughly than would a single case or statute. Using the value-added enhancements of a table of contents or an index can provide quick access to specific issues.

Below is a refresher of the types of legal secondary sources created to provide direction for the researcher:

Treatises

Legal treatises are single or multi-volume works dedicated to the examination of an area of law. They describe and offer a “contour” of the law and provide references and citations to relevant cases and statutes. Many of the classic treatises, such as “Wigmore on Evidence,” are considered persuasive.

Popular Legal Texts

Without the time-tested authority of classic treatises, popular legal texts tend to be contemporary treatments of current issues. Often published by bar associations, they offer the insight of attorneys practicing in the field and focus on recent court opinions and enacted laws or regulations. Some popular texts reprint the content of institutes and CLE programs.

Handbooks and Hornbooks

Generally, handbooks, manuals, practice guides, and hornbooks are a collection of relevant statutes, case law, forms, and commentary or they are condensed versions of multi-volume treatises. They can be national in scope or state specific. They often provide checklists and forms, along with the “mechanics” of practicing in a specific area of law. Hornbooks or student books are used by practitioners for refreshing their memory regarding theory or areas of the law.

Legal Periodicals

The articles are usually in-depth treatments of narrow areas of the law or legal issues. Law review articles tend to be more theoretical about contemporary legal issues and articles found in practitioner-oriented journals tend to be more practical. Both will usually provide numerous footnotes and citations, directing the reader to primary law. A pertinent, well-researched article can be an instant short-cut to interpretive research. *LegalTrac* and *Index to Legal Periodicals* are the two major indexing services, though *HeinOnline* also provides keyword searching as well as full-text retrieval of articles.

Legal Encyclopedias

As any encyclopedia, a basic introduction to a legal topic is provided. The entries are edited for succinctness and generally do not delve deeply into an area of law. However, the user will obtain citations to case law and statutes, along with related texts. In addition to the traditional print format, both *Westlaw* and *LexisNexis* provide electronic access to national and state encyclopedias.

ALR

The American Law Reports series is a preeminent secondary source. The topical annotations provide the user with an excellently edited interpretation of the law on narrowly prepared topics, along with lists of “finding tools,” such as case and statute citations and titles of related books and services. The ALR indexes and digests are often a quicker access to pertinent information than electronic keyword searching.

Restatements

The legal scholars of the American Law Institute developed the Restatements in order to categorize immense areas of case law, such as Agency, Contracts, and Torts and determine how the law has grown from the application of statutes by the courts. They offer a statement of common law principles backed by commentaries and examples. The Institute and the Restatements have received a high degree of acceptance by the courts.

Recent Acquisitions

KF 1164 .O78 2017	Handbook on Insurance Coverage Disputes.
KF 3608 .A4 M435 2017	2017 Medicare Handbook.
KF 8935 .Z9 B633 2005	100 Vignettes for Improving Trial Evidence Skills.
KF 8964 .A15 M43 2016	Medical Evidence
KFO 147 .B37 2016	Basics of Estate Administration. OSBA
KFO 341.5 .P65 M32 2016	The 2016 Medicaid/Medicare Forum. OSBA
KFO 375 .B66 2016	Booze, Bullets, and Bingo. OSBA
KFO 537 .T34 2016	Taking and Defending Effective Depositions. OSBA
KFO 555 .A75 2016	Appellate Practice. OSBA

In order to perform a subject search in the Law Library's catalog, access the following URL:

www.mcoho.org/lawlibrary

Click on the Catalog link on the left side of the screen and utilize either the browse search or advanced search feature by entering terms in the appropriate fields as necessary.

Please call the Law Library at 225-4496 if you wish to reserve a title. The interactive "place on hold" feature is not engaged.

Remembering Former Law Librarian Betty Busch

Former Law Librarian Betty Busch passed away on January 27, 2017. Betty served as Law Librarian of the former Dayton Law Library Association from November, 1971, until August, 1993. Anticipating just a short respite from her prior years as a Domestic Relations Court Referee, Betty truly found a home at the Law Library.

During the years Betty served as Law Librarian, the collection increased to its largest size and in April 1981, the Dayton Law Library became the first courthouse library in the state to install a Lexis terminal.

The nearly exhausting pace of the automation of legal research took its toll on the print collection of the Law Library and in 1992 Betty oversaw the first of three reductions in the square footage of the facility.

It is her commitment and efforts on behalf of the Law Library that we remember today.



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Journal Watch

ARBITRATION	<p>“Preparing for Arbitration: The Background Investigation, Part I.” 71 Dispute Resolution Journal 139 (2016, No. 3).</p> <p>“Fighting the Fine Print.” 53 Trial 24 (January 2017, No. 1).</p>
BANKRUPTCY	<p>“A Missing Piece: The Importance of Control over an Undue Hardship in a Request to Discharge Student Loans Through Bankruptcy.” 105 Kentucky Law Journal 177 (2016-2017, No. 1).</p>
CHARITABLE GIVING	<p>“CGAs: A Surrogate for Fixed Income During Retirement.” 155 Trusts & Estates 26 (December 2016, No. 12).</p>
CLASS ACTIONS	<p>“An Opt-In Option for Class Actions.” 115 Michigan Law Review 171 (November 2016, No. 2).</p>
CRIMINAL LAW	<p>“Too Many Solutions: A Cross-Cultural Perspective of Neonatal Abstinence Syndrome and the Current Legal Approaches in the United States.” 55 University of Louisville Law Review 81 (Winter 2017, No. 1).</p> <p>“From False Evidence Ploy to False Guilty Plea: An Unjustified Path to Securing Convictions.” 126 The Yale Law Journal 545 (November 2016, No. 2).</p>
DEFERRED PROSECUTION	<p>“More than Just a Potted Plant: A Court’s Authority to Review Deferred Prosecution Agreements under the Speedy Trial Act and under Its Inherent Supervisory Power.” 115 Michigan Law Review 135 (October 2016, No. 1).</p>
DOMESTIC RELATIONS	<p>“A Family Affair: Acknowledging Children’s Voices in Custody Mediation.” 71 Dispute Resolution Journal 171 (2016, No. 2).</p>
DISCOVERY	<p>“Social Data Discovery and Proportional Privacy.” 65 Cleveland State Law Review 61 (2016, No. 1).</p>
EMPLOYMENT LAW	<p>“Disability Rights and Labor: Is this Conflict Really Necessary?” 92 Indiana Law Journal 277 (Early Winter 2016, No. 1).</p> <p>“The NLRB Finds Online Employee Communications to be Protected ‘Concerted Activities’ (Part 1).” 62 The Practical Lawyer 11 (December 2016, No. 6).</p> <p>“Reasonable Compensation Series Part Two: Elements of Compensation.” 97 Practical Tax Strategies 269 (December 2016, No. 6).</p> <p>“Does Title VII Work for Temps? <i>Faush v. Tuesday Morning</i> Reconsiders the Employment Relationship.” 61 Villanova Law Review 653 (2016, No.4)</p>
EVIDENCE	<p>“The Use of Computer-Generated Animations and Simulations at Trial.” 83 Defense Counsel Journal 439 (October 2016, No. 4).</p>
FMLA	<p>“When an Employer Must Offer an Unrequested Leave of Absence.” 59 For the Defense 63 (January 2017, No. 1).</p>
HOBBS ACT	<p>“Private Actors and Public Corruption: Why Courts Should Adopt a Broad Interpretation of the Hobbs Act.” 115 Michigan Law Review 413 (December 2016, No. 3).</p>

Journal Watch

IMMIGRATION LAW	"Reconciling Expectations with Reality: The Real ID Act's Corroboration Exception for Otherwise Credible Asylum Applicants." 115 Michigan Law Review 553 (February 2017, No. 4).
LEGAL WRITING	"All Copying is not Created Equal: Borrowed Language in Supreme Court Opinions." 17 The Journal of Appellate Practice and Process 21 (Spring 2016, No. 1).
LIABILITY	"Attorneys' Liability for Data Breaches." 58 For the Defense 14 (November 2016, No. 11).
MILITARY LAW	"Zero Tolerance or Zero Accountability? An Examination of Command Discretion and the Need for an Independent Prosecutorial Authority in Military Sexual Assault Cases." 41 University of Dayton Law Review 89 (Spring 2016, Issue 1).
PREMISES LIABILITY	"Seven Factors to Consider in a Child Dog Bite Case." 52 Trial 26 (December 2016, No. 12). "High-Flying Danger." 52 Trial 40 (December 2016, No. 12).
REAL PROPERTY	"Digging Beneath the Surface of Ohio's Dormant Mineral Act." 41 University of Dayton Law Review 331 (Summer 2016, Issue 2).
SENTENCING LAW	"Mending the Federal Sentencing Guidelines Approach to Consideration of Juvenile Status." 130 Harvard Law Review 994 (January 2017, No. 3). "Child Pornography Sentencing in the Sixth Circuit." 41 University of Dayton Law Review 381 (Fall 2016, Issue 3).
TAX LAW	"What is the Remedy for Breach of a Closing Agreement?" 126 Journal of Taxation 14 (January 2017, No. 1). "Significant Tax Developments in 2016." 98 Practical Tax Strategies 338 (January 2017, No. 1). "New Developments in Outbound Transfers of Intangible Property." 48 The Tax Adviser 38 (January 2017, No. 1). "Current Developments in Partners and Partnerships." 48 The Tax Adviser 108 (February 2017, No. 2). "State and Local Income Tax Aspects of Corporate Acquisitions." 125 Journal of Taxation 245 (December 2016, No. 6). "Deductibility of Settlement Payments to the Government." 125 Journal of Taxation 132 (September 2016, No. 3). "The New Transfer Pricing Rules and Intellectual Property Valuation." 97 Practical Tax Strategies 121 (September 2016, No. 3).
TRUCKING LAW	"How the Amended Rules of Civil Procedure Will Affect Transportation Industry ESI Discovery in Federal Courts." 58 For the Defense 67 (December 2016, No. 12).
TRUSTS	"Understanding Qualified Domestic Trusts and Portability." 47 The Tax Adviser 870 (December 2016, No. 12).
WITNESSES	"Ah Yes, I Remember It Well": Why the Inherent Unreliability of Human Memory Makes Brain Imaging Technology a Poor Measure of Truth-telling in the Courtroom." 65 Defense Law Journal 1 (November 2016, No. 4).