

LEGAL RESEARCH

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Types of Sources

2

- Primary Sources
 - Cases
 - Statutes
 - Administrative Regulations
 - Court Rules

- Secondary Sources
 - Treatises
 - Journals
 - Legal Encyclopedias

The Law

3

- Case Law/Common Law
 - ▣ Law created by judges through published opinions
 - ▣ *Brown. v. Board of Education*, 347 U.S. 483 (1954): state laws that established separate public schools for black and white students violated the 14th amendment (equal protection)

- Statutory Law
 - ▣ Law created by legislatures
 - ▣ *Americans with Disabilities Act of 1990*, 42 U.S.C. §§ 12101 *et seq.*

- Administrative Law
 - ▣ Rules and regulations created by government agencies
 - ▣ 36 C.F.R. § 272 (use of the “Woodsy Owl” symbol)

The Law

4

- Federal law
- State law
- Local law (municipal)

Federal Court System

5

- ❑ **U.S. Supreme Court**
- ❑ **U.S. Circuit Courts of Appeal**
- ❑ **U.S. District Courts**
- ❑ **Courts for Special matters**



Federal Court System

6

- **U.S. Supreme Court**
 - Highest Court in the land
 - Final arbiter of the Constitution
 - <http://www.supremecourtus.gov/>
 - <http://www.oyez.org/>



Federal Court System

7

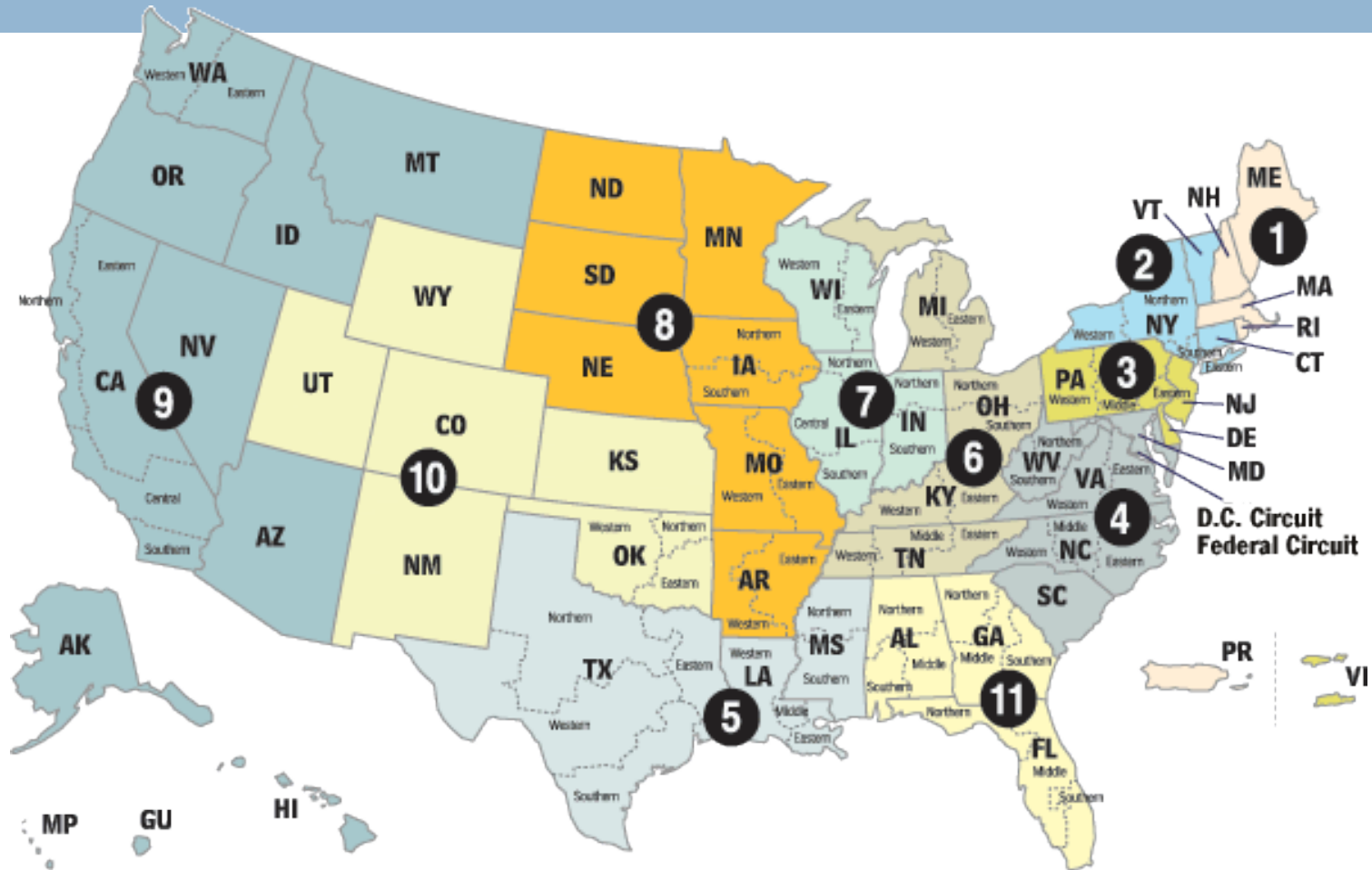
□ U.S. Circuit Courts of Appeal

- 13 U.S. Circuit Courts of Appeal
- Michigan is in the 6th Circuit with Kentucky, Ohio, and Tennessee
- Located in Cincinnati, OH
- 16 active judges
- <http://www.ca6.uscourts.gov>



U.S. Circuit Courts of Appeal

8



Federal Court System

9

□ U.S. District Courts

- Trial courts of the federal system
- 94 federal judicial districts
- U.S. District Court for the Western District of Michigan
 - <http://www.miwd.uscourts.gov/>
- U.S. District Court for the Eastern District of Michigan
 - <http://www.mied.uscourts.gov/>

U.S. District Courts (MI has Eastern and Western Districts)

10



State Court System

11

- **Michigan Supreme Court**
- **Michigan Court of Appeals**
- **Trial Courts**
 - ▣ District Court
 - ▣ Circuit Court
 - ▣ Probate Court
 - ▣ Municipal Court
 - ▣ Court of Claims

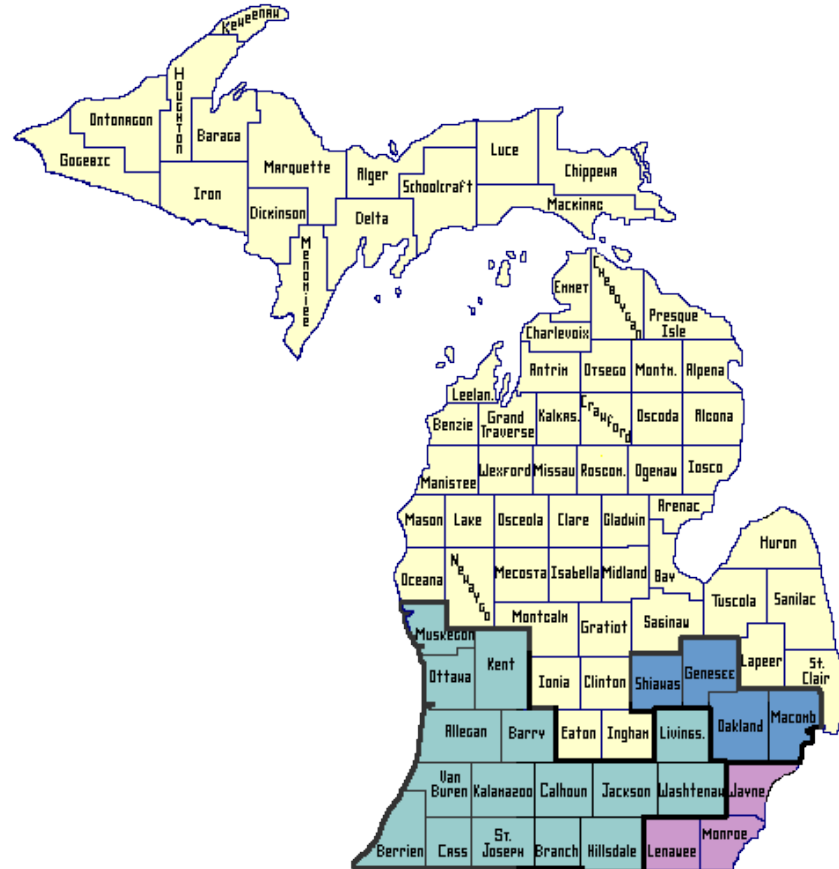
<http://courts.michigan.gov/>

MI Court of Appeals

12

Four districts:

- ▣ Detroit (District I)
- ▣ Troy (District II)
- ▣ GR (District III)
- ▣ Lansing (District IV)



Legal Publishing of Cases

13

□ Slip Opinions

- An opinion not yet published in a reporter
- Generally available from the court's website
- Subject to revision! Not the final opinion!



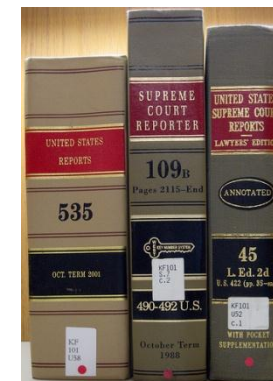
□ Advance Sheets

- Paperback pamphlets with opinions in chronological order



□ Bound Volumes of Reporters

- Official: authorized by the government
- Unofficial: commercial
- Pocket parts!



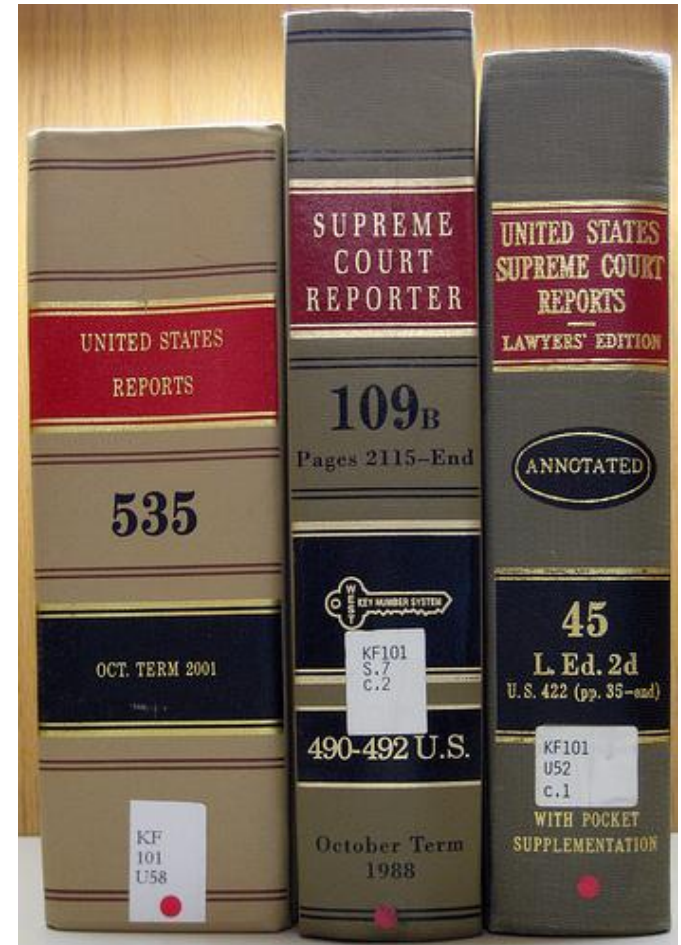
Official and Unofficial: Supreme Court

14

- ***United States Reports*** (U.S.)
 - Official publication
 - Published by the GPO
 - 410 U.S. 113 (1973)

- ***Supreme Court Reporter*** (S.Ct.)
 - Unofficial -- Published by West
 - 93 S.Ct. 705 (1973)

- ***United States Supreme Court Reports, Lawyer's Edition*** (L.Ed. 2d)
 - Unofficial -- Published by Lexis
 - 35 L.Ed 2nd 147 (1973)



Case Law Reporters (other than USSC)

15

- **Federal Supplement** (F. Supp.)
 - ▣ Federal District Courts
- **Federal Reporter** (F. 2d, F. 3d)
 - ▣ Federal Courts of Appeal (Circuit Courts)
- **Atlantic Reporter** (A. 2d)
 - ▣ CT, DE, DC, ME, MD, NH, NJ, PA, RI, VT
- **Southern Reporter** (So. 2d)
 - ▣ AL, FL, LA, MS
- **South Eastern Reporter** (S.E. 2d)
 - ▣ GA, NC, SC, VA, WV
- **Pacific Reporter** (P. 2d)
 - ▣ AK, AZ, CO, HI, ID, KS, MT, NV, NM, OK, OR, UT, WA, WY

Case Law Reporters (other than USSC)

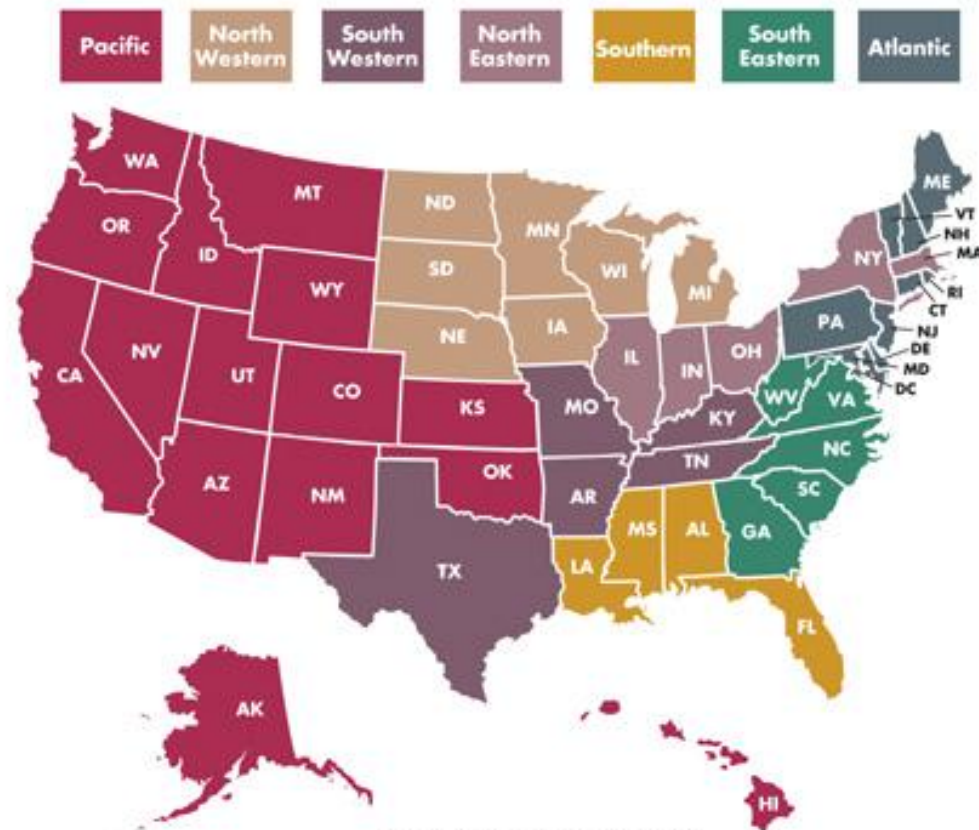
16

- ***South Western Reporter*** (S.W. 2d)
 - AR, KY, MO, TN, TX
- ***North Eastern Reporter*** (N.E. 2d)
 - IL, IN, MA, NY, OH
- ***North Western Reporter*** (N.W. 2d)
 - IA, MI, MN, NE, ND, SD, WI
- ***California Reporter*** (Cal. Rptr. 2d)
 - CA Supreme Court and appellate courts
- ***New York Supplement*** (N.Y.S. 2d)
 - NY Court of Appeals, Appellate Division of the State Supreme Court, additional state courts

Case Law Reporters

17

Regional Reporters (State Cases)



National Reporter System Map
showing the states included in each reporter

Official and Unofficial: U.S. Code

18

- ***United States Code (USC)***
 - Official – published by GPO
 - Most current print is 2006 (<http://www.gpoaccess.gov/uscode>)
 - Updated through classification tables and THOMAS
- ***United States Code Annotated (USCA)***
 - Unofficial - Published by West
- ***United States Code Service (USCS)***
 - Unofficial - Published by Lexis

- Updating U.S. Code online:
<http://www.law.uga.edu/library/research/guides/uscodeupdate.pdf>

Official and Unofficial: MI Statutes

19

- **Michigan Compiled Laws (MCL)**
 - Official
 - Print discontinued in 1979 (updated by annual *Public and Local Acts*)
- **Michigan Compiled Laws Annotated (MCLA)**
 - Unofficial - Published by West
 - Updated by *Michigan Legislative Service*
 - Annotations updated by *Interim Annotation Service*
- **Michigan Compiled Laws Service (MCLS)**
 - Unofficial - Published by Lexis
 - Law and annotations updated by *Advance Legislative Service*
- <http://www.legislature.mi.gov>

Finding Stuff

20

- Many cases, statutes, etc. are online FOR FREE
- Why use Lexis or Westlaw?
- Value-added services:
 - ▣ Syllabus
 - ▣ Headnotes
 - ▣ Shepardizing/KeyCiting

Where Do I Search in Westlaw?

21

- Advanced Search
- Choose a database to search

Find...

22

- 384 U.S. 436
 - Citation search

- *Korematsu v. United States*
 - Party name search

How to Read a Case

23

- Search for party name *Plessy v. Ferguson*
- Caption
 - ▣ Name of the case
- Syllabus
 - ▣ Summary of the case
- Headnotes
 - ▣ Written by an editor, extracts points of law
- Star pagination

How to Read a Case

24

- Opinion
 - ▣ A written resolution of an issue of law
- Concurring Opinion
 - ▣ Judge(s) reach the same result as the Opinion, but for different reasons
- Dissenting Opinion
 - ▣ Judge(s) would reach a different outcome
- Concurring in part, Dissenting in part

Key Citing

25

- Term used in Westlaw
- Finds positive and negative treatment
- Tells you how current the law is



- In cases and administrative decisions, a **red flag** warns that the case or administrative decision is no longer good law for at least one of the points of law it contains.



- In cases and administrative decisions, a **yellow flag** warns that the case or administrative decision has some negative treatment, but has not been reversed or overruled.



In cases and administrative decisions, a **blue H** indicates that there is direct history but it is not known to be negative.



A **green C** indicates that the case/administrative decision has citing references but no direct history or negative citing references. It also indicates that a statute/regulation has citing references, but no updating documents.




Depth of treatment stars indicate how extensively a cited case or administrative decision has been discussed by the citing case.


KeyCiting = Shepardizing


26


- Called “Shepardizing” in Westlaw
- Tells you how current the law is


* Signal Legend:


 - Warning: Negative treatment is indicated

 - Questioned: Validity is questioned by citing references

 - Caution: Possible negative treatment

 - Positive treatment is indicated

 - Citing references with analysis is available

 - Citation information is available

* Click any *Shepard's* editorial treatment code (e.g., distinguished, questioned) to view its definition.

Key Citing

27

- Search for party name *Plessy v. Ferguson*
 - Key Cite
 - What case overruled *Plessy*?

Advanced Searching in Westlaw

Use the Singular rather than Plural

29

- The singular form of a word will retrieve the regular plural (but not vice versa)
- **gun** will retrieve **guns**
- **foot** does NOT retrieve **feet**
- **knife** does NOT retrieve **knives**

Root Expanders and Universal Characters

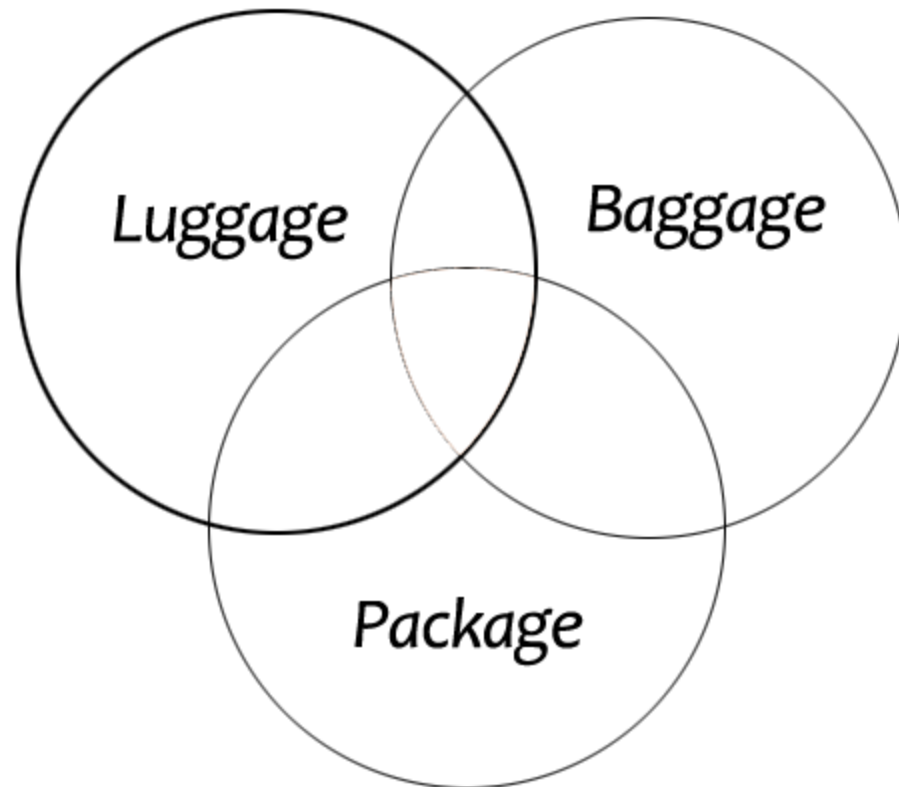
30

- ! finds a root word plus all the terms made by adding letters to the end of it.
- **recycl!** finds:
 - **recycle**
 - **recycling**
 - **recyclable**
- * replaces one letter in a word.
- **wom*n** finds:
 - **women**
 - **woman**

Boolean Operators

31

- AND, OR, NOT
- Automatic “OR”



The OR Connector in Lexis

32

In “Michigan State Cases:”

- **baggage**
 - ▣ 195 hits
- **baggage OR luggage**
 - ▣ 302 hits
- **baggage OR luggage OR package**
 - ▣ 1713 hits



OR is Great For...

33

- Abbreviations
 - “Freedom of Information Act” OR FOIA
- Synonyms
 - dog OR canine

Five Types of AND in Westlaw

34

- AND
- &
- /p (in same paragraph)
- /s (in same sentence)
- /n (within n terms of)

The AND Connector in Westlaw

35

- Use **AND** when it doesn't matter how close your search words appear in a document

- In “Michigan State Cases:”
 - lemon **AND** test
 - 167 hits

The /P Connector in Westlaw

36

- Use /P to find documents with search words that appear within the SAME PARAGRAPH

- In “Michigan State Cases:”
 - lemon /p test
 - 37 hits

The /S Connector in Westlaw

37

- Use /S to find documents with search words that appear within the SAME SENTENCE

- defect! /s design!
 - defective design
 - defectively designed
 - designed defectively

- In “Michigan State Cases:”
 - lemon /s test
 - 5 hits

The /N Connector in Westlaw

38

- Use /N to find documents with search words that appear within "n" words of each other
- The value of "n" can be any number up to 255
- In “Michigan State Cases:”
 - lemon /3 test
 - 2 hits
- Great for names!
 - Michael /2 Jordan

Phrases and Nesting

39

- Use quotes to force a phrase search
 - “slip and fall”

- Use parentheses to search for THOSE terms FIRST
 - $(3 + 4) \times 5 = 35$
 - $3 + (4 \times 5) = 23$
 - (car or truck) and tire

Mix it Up!

40

- airport /s noise /10 abat!
- (car OR truck OR vehicle OR auto!) /s tire AND insurance
- (search! OR seiz!) /s (bag! OR luggage OR suitcase) /p (air! OR plane)

Find...

41

- Construct a search to find cases involving a plaintiff who slipped and fell down in a parking lot

Model Answer

42

- (slip! OR trip! OR f*ll!) /s (lot OR ramp)

Lexis v. Westlaw

43

- Lexis does NOT allow using /n in the same search as /s or /p
- Westlaw DOES
- Lexis and Westlaw features compared:
<https://www.law.csuohio.edu/lawlibrary/guides/wexiscompared>

K College Law Guide

44

- <http://www.kzoo.edu/is/library/reference/guides/law.html>