

CHAPTER 9: UPDATING & VALIDATING RESEARCH

- I. Shepard's Citations & Westlaw's KeyCite: main validators (history references)
 - A. Also serves locator function (treatment references)
 - B. Distinguish between cited source and citing source
 1. Shepardizing Cases:
 - a. set of Shepard's for every case reporter system
 - (1) U.S. Supreme Court decisions: Shepard's United States Citations
 - (2) Federal trial courts (U.S. Dist Cts) federal intermediate appellate courts US Circuit Courts of Appeal): Shepard's Federal Citations
 - b. Hardbound volumes and pamphlets
 - c. Process: see Figure 9-5, p. 379
 - d. Analysis of Shepard's References:
 - (1) History references(p.375):

(2) Treatment references(p.376):
--see p. 376 for difference between
reversing and overruling

(3) Reference to headnotes (p.377):

(4) Reference to Sources (other than
cases)- p. 377:

e. Common questions regarding shepardizing-
see p. 379

(1) "r" and "o" are most important

(2) use headnotes

(3) shepardize early in research process
so you don't waste time on negative case

(4) start with most recent Shepard's
and work back to the first time your
cited source appeared

2. Trouble-shooting:

a. Make sure you Shepardize in correct
SERIES

(1) i.e. if Shepardizing a case from
N.W.2d Reporter, need to be in
N.W.2d Shepard's Citator

b. Check citation of cited source for
accuracy

- c. Verify you're in the right Shepard's
- d. Parallel Citations
- e. Read the Box
- f. Shepard's Daily Update Service:
1-800-899-6000 to update since last
print supplement

3. Shepardizing Statutes

- a. Federal statutes: Shepard's Federal
Statute Citations-see p. 381
- b. State statutes: State Citator, i.e.
North Dakota Citations or Shepard's
Minnesota Citations-

c. Process

(1) History References-what legislature
has done to statute

(2) Treatment References-what courts
have done to statute

(3) Carefully analyze negative
references

i.e. "R" = repealed;

"U" = Unconstitutional

4. Shepardizing Constitutional Provisions:
 - a. Shepard's Federal Statute Citations-
5. Shepardizing Federal Regulations:
 - a. Shepard's Code of Federal Regulations Citations
6. Shepardizing state constitutional provisions, statutes, regs and city ordinances:
 - a. Use state citator: i.e. Minnesota Citations
7. Shepardizing Court Rules: use state citators & Federal Statute Citations
8. Specialized Citators
 - a. Shepard's Acts and Cases by Popular Name
 - b. Shepard's State Case Name Citators
9. See p. 382 for shepardizing other authorities

II. Electronic Updating:

- A. See pp. 383-387 regarding shepardizing online
- B. Westlaw's KeyCite function for cases:

--see p. 387 for steps to use

--has red & yellow flags, blue H,
and green C

(1) red flag: case is no longer
good (reversed or overruled)

(2) yellow flag: case has some
negative history- i.e. criticized
or limited

(3) blue H: some history

(4) green C: no direct history
and no negative citing references

--history options: full; only negative;
omitting minor history

--new feature: graphical direct history,
see p. 388

--Citations to Cases section: cites to
other cases, law reviews, AmJur2d
sections, ALR's

--limit citations: do date or court
restrictions; headnote restrictions

--depth of treatment:

1. 4 stars: examines your case in
depth

2. 3 stars: significant discussion of
your case

3. 2 stars: brief discussion of your
case

4. 1 star: only cites to your case

**see p. 390 in text

--headnote references: reference to "HN3" means that the cited case discusses a point of law from headnote # 3 in your original case

--KeyCite Alert: clip service that automatically notifies you of any changes in the treatment of your case (daily, weekly....)

C. KeyCiting Statutes & Regulations

1. If viewing a statute on WL, in upper left corner, use KeyCite
2. If not viewing statute on WL, see steps on p. 391
3. History of statute is displayed, including links to recent session laws that amend or repeal statute
4. KC Citing Ref tab displays cases, admin materials, & secondary sources that mention your statute

--red flag: statute has been amended, repealed, or held unconstitutional

--yellow flag: statute has been limited or has received some negative treatment from a court

--green C: various authorities cite your statute

**Other West Products:

1. WestCheck: extracts citations from your document, checks validity, & produces printed report
2. WestCheck.com: eliminates the need to load software on your computer-see p. 391
3. WestCite Link: hyper-links to cases you cite in briefs, allowing access to full texts of cases
4. Brief Tools- see p. 392

** See pages 392 & 393 for comparisons & costs

** Other Electronic Citator Services: Loislaw, JuriSearch, & VersusLaw

** See importance of shepardizing in judge's note on p. 393

**See CyberSites on p. 394