

PARA 250: TEST # 2 REVIEW

Chapter 6:

1. Legal Encyclopedias: Am. Jur. 2d; C.J.S.

- explainers (text) & locaters (footnotes)
- general, broad coverage
- get into through Index-see p. 213 sample-arranged by subjects/topics
- updated by annual, cumulative pocket parts
- sample pages: see pp. 204 & 207
- citation form: see B8 and B8.2 in Bluepages (pp.17& 18) and Rule 15.8, p. 135

4 C.J.S. Constitutional Law § 34 (year)

5 Am. Jur. 2d Constitutional Law § 41 (year)

2. Legal Periodicals:

- Law reviews/ journals, magazines
- hot topics
- scholarly, detailed articles, heavily footnoted
- explainer (text) and locater (footnotes)
- get into through ILP
 - arranged by subject/author format; see p. 227 in text
 - also has Table of Cases and Tables of Statutes in back of index (p.228)

P. 2

--disadvantage of periodicals: only good to date published; researcher must update (Shepardize or Key-Cite) all authority from article

--citation form: Rule 16 and Table T.13 and B 9 on pp. 18 & 19-Bluepages;
short-form: see B9.2 on p. 19 of Bluepages

Stanley L. Paulson, Due Process, 41 Dick. L. Rev. 1091 (1996).

Janet Goodwin, Note, The Death of a Lawyer, 56 Colum. L. Rev. 606 (1986).

3. Treatises:

-- books written by experts on particular legal topic

-- could be single volume or multi-volume

-- explainer (text) and locator (footnotes)

-- example- p. 235

--hint: Collier on Bankruptcy
Prosser on Torts

--citation form: Rule 15 and also B 8 in Bluepages; short-form at B8.2

Susan L. Baker, Federal Sentencing Guidelines § 12.06 (3d ed. 1999).

4. Restatements:

-- created by American Law Institute

-- secondary authority until adopted by a court

P. 3

- reviews and re-states general legal principles developed from case law
- first 4-5 volumes : Restatements sections, containing comments, illustrations, etc.
- followed by Appendix volumes (several) presenting current info and recent cases
- example on p. 241
- viewed as more persuasive than a lot of other secondary authorities
- citation form : Rule 12.8.5 in Bluebook, p. 111 & 112 and see p. 112, examples under comments, notes, etc in middle of page

Restatement (Second) of Torts § 280A (year)

Restatement (Second) of Contracts § 302 cmt. a, illus.2 (year)

Chapter 7: Misc Secondary Authorities:

1. Attorney General Opinions:

- highly persuasive because written by chief enforcement officer
- requested by govt entities, officials, etc.

2. Legal Dictionaries:

- Black's most common-see p. 253
- presents definitions of legal words and phrases and cites to cases discussing them

P. 4

-- citation form: Rule 15.8 and B 8 on page 17 Bluepages

Black's Law Dictionary 908 (9th ed. 2009).

3. Directories:

--Martindale-Hubbell: national in scope

-- contains info on attorneys throughout US and foreign countries

--digest volumes summarize basic laws for all 50 states and some foreign countries (see pp. 259 & 260 in text)

-- should be used as a starting point for research on particular state BUT researcher must always verify by consulting state statutes

-- contains texts of some Uniform Laws/Acts

4. Uniform Laws/Acts

-- created by Natl Conference of Commer's on Uniform State Laws

--these are proposed statutes that state legislatures are free to adopt in total, in part, or to reject

-- until adopted by legislature, they are secondary authority

-- once adopted by state legislature, becomes primary, mandatory authority upon that state's courts

-- if your state has uniform law but no court cases interpreting it, check other states that have adopted same law and use other state's cases as persuasive authority to argue your position

-- see pages 270 & 272 for examples

P. 5

5. Loose-leaf Services:

- 3-ring binders mostly
- used for materials that change rapidly and frequently
- combines alot of material for researchers:
 1. code §
 2. C.F.R. §
 3. explanation
 4. cases interpreting code § and C.F.R. §

6. Jury Instructions:

- special source books or through internet
- set out elements that litigants need to prove to establish cause of action or defense
- example on p. 278

CHAPTER 8: CITATION

- for test, there will be citation exercises citing to the materials in your booklet
- will also be short-form exercises (you can not use the Ch 8 worksheets, exercises we did in class)

CHAPTER 9: SHEPARD'S CITATORS & WESTLAW'S KEY-CITE:

- Shepard's is the main validator but also serves as locator
- review sample pages in text—there will be a Shepard's problem or two in test

- first entry after bold page number (if in parenthesis) is parallel citation
- go over history references-p. 375 and treatment references, p. 376
 - for cases :
 - for history: "a" & "r" significant
 - for treatment: "o", "f", "c", "q" significant
- for cases, you can shepardize by headnote number to help find more meaningful cases
- the higher the volume in the citing references, the more recent the materials
- cited reference: the law (case or statute) you are shepardizing
- citing references: other authorities that have mentioned/discussed/ examined/ analyzed your cited reference
- if using regional Shepard's Citator (i.e. Shepard's NW2d Citations), for state cases, you should also supplement by using Shepard's state citator to make sure you get all the info out there
- review materials for statutes/const provisions : pp. 381-382-history in legislature & judicial treatment codes (per extra handouts)
- significant legislative history codes: "A", "R", "S"
- significant judicial treatment codes : "C" or "U"
- remember: in paper versions, Read the Box on the most current Shepard's citator volume to determine what constitutes full set; then start with most current and work backwards

CHAPTER 10: SPECIAL RESEARCH ISSUES

1. Executive materials:

- proclamations
- executive orders

2. Administrative Law:

- regulations and rules: enacted by agencies
- proposed and final : Federal Register (daily pub)
- final : C.F.R.: see p. 431
- C.F.R.: arranged by title, chapter, part, & section
- but cite to only title and section
- get into through Index volume: subject matter/ agency name-see p. 432
- administrative decisions; ALJ's in agency—published in specialty reporters
- update regulations in L.S.A. (monthly) and C.F.R. Parts Affected in Federal Register (daily)
- citation form: Rule 14.2 and also see Table T.1 on p. 196 in Bluebook under Administrative Compilation and B 6.1.4 in Bluepages;

short-form for regs: Rule 14.10 on pp. 128 & 129 & B6.2 on pp. 16 & 17

26 C.F.R. § 304 (a) (2009)

- look over examples in text and browse through the C.F.R. before test

3. Rules of Court:

-- federal rules published in U.S.C.A.

-- state rules published in state statutory codes

-- citation form: Rule 12.8.3 in Bluebook and B 6.1.3 in Bluepages, p. 15

Fed. R. Civ. P. 12(b)(6)

Minn. R. Evid. 333