



# WestlawNext®

## Getting Started Guide

# Customer Service

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Information in this guide is current through October 2014.

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## Contents

Signing On to WestlawNext .....	1
Select Client ID .....	2
WestlawNext Home Page Overview .....	3
Perform All Research Tasks from the Global Search Box .....	4
Researching a Legal Issue .....	5
Searching Using WestSearch, the WestlawNext Search Engine .....	5
West Key Number System .....	6
Searching Using Boolean Terms and Connectors .....	7
Advanced Search .....	8
Browsing Content: Cases .....	9
Browsing Content: Statutes .....	10
Search Result .....	11
Overview Page .....	11
Content Type: Cases .....	12
Document Page .....	14
Overview .....	14
Workflow Tools .....	16
Checking Citations in KeyCite .....	17
Viewing Citing References to a Case .....	18
Document Delivery .....	19
Project Folder .....	20
Folder Overview .....	21
History .....	22
Alerts .....	23
Preferences .....	24
Help and Technical Support .....	25
Use a Current Browser to Optimize Your Research Experience .....	26
System Requirements .....	26
Using the WestlawNext iPad App .....	27



## Signing On to WestlawNext

Complete these steps to access WestlawNext:

- 1 Go to [www.Next.Westlaw.com](http://www.Next.Westlaw.com).
- 2 Type your username and password in the **OnePass Username** and **OnePass Password** boxes.
  - Select the **Remember my Username** check box if you want your username automatically entered each time you sign on to WestlawNext.
  - Select the **Remember my Username and Password** check box if you want your username and Password automatically entered each time you sign on to WestlawNext.
  - Select the **Remember Me on this Computer** check box if you want to store sign in information (on this device; for this browser only) and bypass the OnePass Sign In page. This feature may be disabled through any "Update My OnePass" link. Due to security restrictions, some users are not eligible for this feature.
- 3 Click **Sign In**. The Welcome page is displayed (see page 2).

WestlawNext™

OnePass Sign In

2 Username

Password

[Forgot my username or password](#)

☐ Save my Username

☐ Save my Username and Password

☐ Remember Me on this Computer [?]

3 Sign In

## Select Client ID

After you sign on, create or assign a Client ID for your research session.

- A Type a client identifier in the **Client ID** text box or click a client identifier in the list, then click **Continue**.
- B Click a link under Return to Your Recent Research to return to a previous session.

The WestlawNext home page is displayed (see page 3).

The screenshot shows the WestlawNext home page. At the top is a blue banner with the 'WestlawNext' logo. Below the banner, it says 'Welcome, Kate Bair.' The page is divided into two main sections. The left section, labeled 'A', is titled 'Client ID:' and contains a text box with '1000' and a 'CONTINUE' button. The right section, labeled 'B', is titled 'Return to your recent research:' and contains a list of recent research items. The first item is 'Monell v. Department of Social Services of City of New York' with details 'U.S.N.Y. June 06, 1978 436 U.S. 658'. Below this is a search result for 'Search - can a municipality be held liable for civil rights violations by its employees (14)' with details 'Search Type: Plain Language', 'Content: Overview', and 'Jurisdiction: 8th Circuit'.

**WestlawNext™**

**Welcome, Kate Bair.**

**A** Client ID:

1000

**CONTINUE**

**B** Return to your recent research:

**Monell v. Department of Social Services of City of New York**  
U.S.N.Y. June 06, 1978 436 U.S. 658

**Search - can a municipality be held liable for civil rights violations by its employees (14)**  
**Search Type:** Plain Language  
**Content:** Overview  
**Jurisdiction:** 8th Circuit

## WestlawNext Home Page Overview

Whenever you start a WestlawNext research session, you start your research from the WestlawNext home page. At the home page, you can retrieve a document by citation or a case by party name or search for documents using the search box at the top of the page. (For more information, see “Perform All Research Tasks from the Global Search Box” on page 4). You can also browse content using the links in the Browse section. (For more information, see “Browsing Content: Cases” on page 9 and “Browsing Content: Statutes” on page 10.)

### A Search Box

Type your issue in simple descriptive words or Terms and Connectors. Or type a citation. WestSearch recognizes your search format.

### B Jurisdiction Selector

Choose up to 3 jurisdictions before running a search.

### C Client ID

Allows you to track the time you spend on research projects.

### D Folders

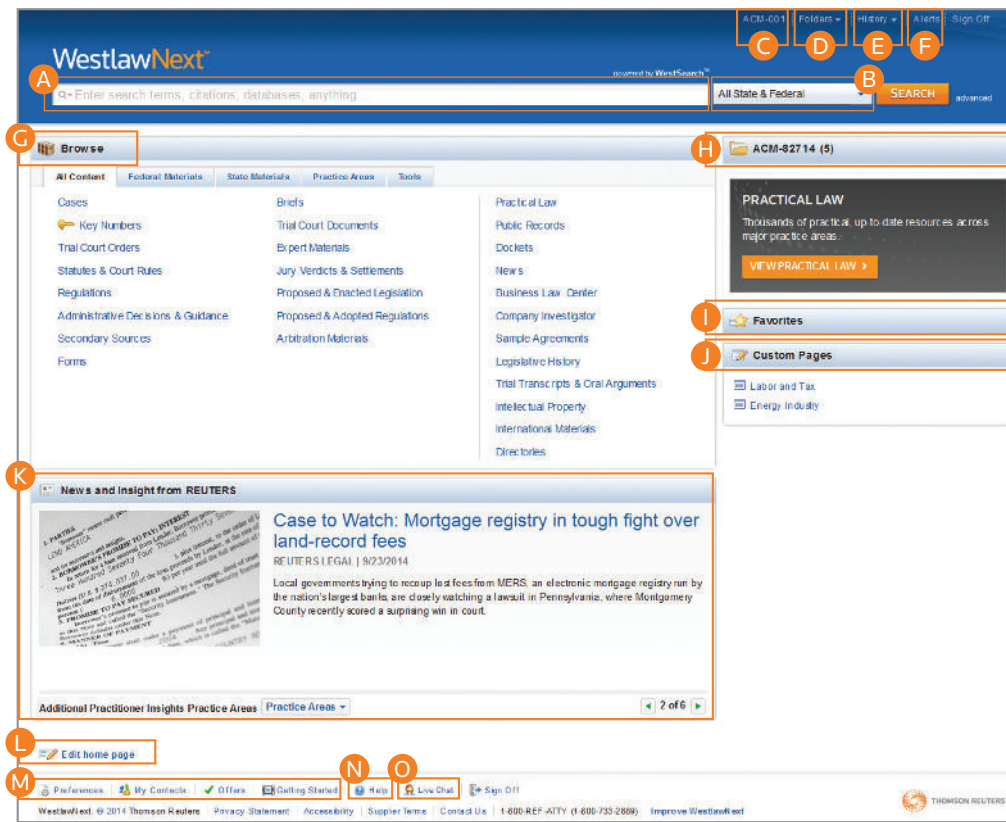
Access recently used folders from a list or click the link to view and organize all of your folders.

### E History

Access recent documents and searches from the list or click the link to access your research history for up to a year.

### F Alerts

Stay up-to-date on news, legal developments, and the status of your cases.



### G Browse

Navigate to content from thousands of databases before searching.

### H Project Folder

Add documents and snippets of text to your project folder from almost any page.

### I Favorites

Add content pages to your Favorites for easy access from the home page.

### J Custom Pages

Create a page with all your frequently used content on one page, plus tools like KeyCite a Citation and Alerts.

### K News and Insight from REUTERS

Rotating articles showcase insights and legal analysis from current news.

### L Edit Home Page

Choose to show or hide select home page features.

### M Preferences, My Contacts, Offers, Getting Started

- Set preferences for searching, delivery, citations, and more.
- Create groups with My Contacts.
- Watch the Getting Started video.

### N Help

Access video tutorials and documentation in the Help Center.

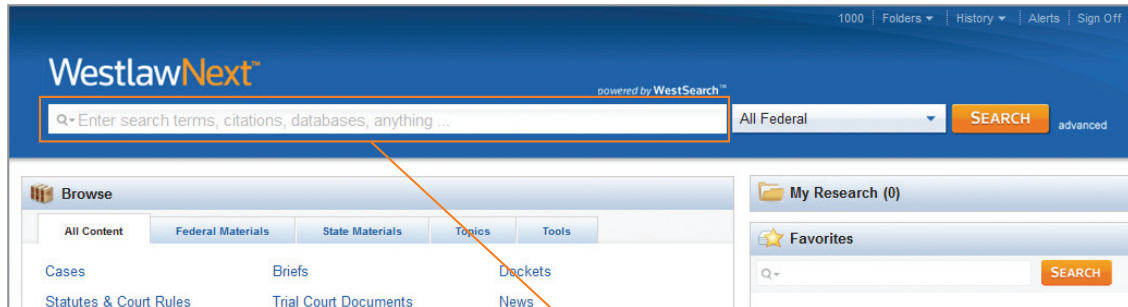
### O Live Chat

Get live research help.

## Perform All Research Tasks from the Global Search Box

Use the search box at the top of every page to run different types of searches from a single location. For example, to retrieve documents by citation, type the citation, e.g., **127 sct 2162**, in the search box and click **Search**. To retrieve multiple documents by citation, type the citations, separated by semicolons, in the search box and click **Search**.

To retrieve a case by party name, begin typing the party name in the search box and select the case from the drop-down list.



WestSearch Search Types	Examples
Find by Citation	562fs263
Find Multiple Citations	562fs263; 97 sct 569; 42 u.s.c.1983
Find by Party Name	citizens united (select case from drop-down list)
KeyCite <sup>1</sup>	keycite 93 sct 1817 or kc: 93 sct 1817
Publication or Database	mn-st (Looking for this? will suggest Minnesota Statutes and Court Rules)
Boolean Terms and Connectors <sup>2</sup>	dedicate /s "private road" "public road"
Descriptive Terms	can a municipality be held liable for civil rights violations by its employees

<sup>1</sup> For more information, see "Checking Citations in KeyCite" on page 17.

<sup>2</sup> For more information, see "Searching Using Boolean Terms and Connectors" on page 7.

### TIP

You can run all these types of searches in the search box.



## Researching a Legal Issue

When you run a search, you search all of the core legal content on WestlawNext by default. Core content comprises cases, Key Numbers, statutes and court rules; regulations; administrative decisions and guidance; trial court orders; secondary sources; forms; briefs; trial court documents; expert materials; jury verdicts and settlements; proposed and enacted legislation; proposed and adopted regulations; and arbitration materials. You can search by simply typing descriptive terms that describe your legal issue or by using Boolean Terms and Connectors. (For further information, see "Searching Using Boolean Terms and Connectors" on page 7.)

## Searching Using WestSearch, the WestlawNext Search Engine

WestSearch, a search engine designed for law, helps you deliver the best results quickly. Simply type the legal issue you are researching into the search box at the top of the page.

### A WestSearch

A search engine designed for law, WestSearch incorporates 125 years of exclusive proprietary analysis of the law, and tools like Key Numbers, KeyCite, headnotes, notes of decisions, indexes, and secondary sources, to deliver relevant documents even if they use phrasing differently from your query.

### B Sorting the Result List

By default, results are ranked by relevance and include on-point documents even if they do not reference the specific terms used in your search.

You can also sort your result list by

- date
- most cited
- most used

The screenshot displays the WestlawNext interface. At the top, the search bar contains the query "can a municipality be held liable for civil rights violations of its". Below the search bar, the results are categorized under "Cases (2,293)". The first result is "1. Monell v. Department of Social Services of City of New York", a Supreme Court case from 1978. The snippet of the opinion states: "Female employees of the Department of Social Services and the Board of Education of the City of New York brought an action challenging the policies of those bodies in requiring pregnant employees to take unpaid leaves of absence before those leaves were required for medical reasons. The United States District Court for the..." The sidebar on the left shows a "VIEW:" section with counts for various legal materials: Overview (15), Cases (2,293), Key Numbers (10), Trial Court Orders (84), Statutes (62), Regulations (50), Administrative Decisions & Guidance (10,000), Secondary Sources (416), Forms (6), Briefs (952), Trial Court Documents (2,237), Expert Materials (3,607), Jury Verdicts & Settlements (2,029), Proposed & Enacted Legislation (10,000), Proposed & Adopted Regulations (1,484), Arbitration Materials (10,000), Public Records (Q), and All Results (43,220). The "RELATED DOCUMENTS" section on the right lists secondary sources, including "CIVIL RIGHTS CLAIMS AGAINST MUNICIPALITIES" and "MLI MA-CLE 8-1 2012 Massachusetts Continuing Legal Education, Inc.". A "TIP" box in the bottom right corner states: "Click the magnifying glass icon in the search box to access up to 20 of your most recent searches." Below this tip, a search bar shows the query "can a municipality be held liable" and a list of recent searches: "can a municipality be held liable for civil rights violations by its employees", "Brown v Board", "562fs263; 97 sct 569; 42 u.s.c.1983", "dedicate /s 'private road' 'public road'", and "road".

## West Key Number System

The West Key Number System® is the master classification system of U.S. law and widely regarded as the cornerstone of effective legal research. The West Key Number System is a proprietary component of the WestSearch legal search engine, which sets WestlawNext apart. Our attorney-editors create headnotes, which are classified to topics and key numbers from the West Key Number System. If you have a relevant topic or key number, or you know what legal terms and concepts courts have used when discussing your issue, you can conduct a comprehensive search in the West Key Number System for published opinions discussing points of law touching on your issue.

### Access the West Key Number System

- 1 In the Browse section, click **Key Numbers**.
- 2 Or on the Tools tab, click **West Key Number System**.

### West Key Number System Page

- 3 Use the search box on the top to Search for Key Numbers relevant to your issue.
- 4 Browse for relevant topics and key numbers.
- 5 Click a key number to its details. Then click a topic heading to view results relevant to your selected jurisdiction.

### Global Search Results

West Key Numbers appear in global search results after running a plain language.

#### TIP

Document headnotes also provide easy access to key number-specific results, relevant to the document's jurisdiction.

The first screenshot shows the WestlawNext homepage with the 'Browse' section. The 'Key Numbers' link is highlighted with a red box and a red arrow pointing to the second screenshot. The second screenshot shows the 'Tools' tab with the 'West Key Number System' link highlighted with a red box and a red arrow pointing to the third screenshot. The third screenshot shows the 'West Key Number System' page with a search box and a list of key numbers. The search box is highlighted with a red box and a red arrow pointing to the first screenshot. The list of key numbers is highlighted with a red box and a red arrow pointing to the first screenshot.

**WestlawNext** powered by WestSearch™

Q Enter search terms, citations, databases, anything ...

**Browse**

All Content Federal Materials State Materials Practice Areas Tools

1 Cases Briefs Practical Law  
Key Numbers Trial Court Documents Public Records  
Trial Court Orders

**WestlawNext** powered by WestSearch™

Q Enter search terms, citations, databases, anything ... 8th Circuit

**Browse**

All Content Federal Materials State Materials Topics Tools

2 West Key Number System

**WestlawNext** powered by WestSearch™

All Content West Key Number Headnotes ACM-001 | Folders

Q Search West Key Number Headnotes All State & Federal SEARCH

Home

3 West Key Number System Edit

Search for Key Numbers relevant to your issue ⓘ

Q Enter terms e.g., landlord duty of care to trespassers

Jurisdiction selected: All State & Federal Change Jurisdiction

4 Search all content Specify content to search

5

1 ABANDONED AND LOST PROPERTY	136 DOWER AND CURTESY	286 PARLIAMENTARY LAW
2 ABATEMENT AND REVIVAL	141 EASEMENTS	287 PARTIES
4 ABORTION AND BIRTH CONTROL	141E EDUCATION	288 PARTITION
5 ABSENTEES	142 EJECTMENT	289 PARTNERSHIP
6 ABSTRACTS OF TITLE	142T ELECTION LAW	290 PARTY WALLS
7 ACCESSION	143 ELECTION OF REMEDIES	291 PATENTS
8 ACCORD AND SATISFACTION	145 ELECTRICITY	294 PAYMENT

## Searching Using Boolean Terms and Connectors

WestlawNext allows you to search using Boolean Terms and Connectors. When you search using Boolean Terms and Connectors, you enter a query consisting of key terms from your issue and connectors specifying the relationship between those terms. For example, you can require that your terms appear in the same sentence or the same paragraph.

### Automatic Detection

Whenever you type a query that contains a field restriction, proximity connector, quotation marks, or expander (+, %, !), WestlawNext automatically processes your search as a Boolean Terms and Connectors query.

### Some Connectors and Expanders

(For a complete list, see page 8.)

/s in same sentence

/p in same paragraph

/n within *n* terms of

### Examples:

- hazard! /s waste /s dispos!
- burden +s proof prov!
- past /p consideration
- wrongful! /5 terminat!

The screenshot displays the WestlawNext interface. At the top, the search bar contains the query: `adv: dedicate /s "private road" "public road"`. Below the search bar, the results are categorized under 'Cases (373)'. Two cases are visible:

- 1. Bateman v. Platte County**  
Supreme Court of Missouri, En Banc. | April 03, 2012 | 363 S.W.3d 39 | 2012 WL 1108246 | SC91898  
REAL PROPERTY - Easements. Subdivision plat that divided dominant tenement did not eliminate **private** easements, as required to **dedicate** them for **public** use.  
...Lot owners, as servient tenement owners, had no power to **dedicate** dominant tenement owners' private easement to public use, and because...  
...public, any purported dedication of easement by county as a **public road** pursuant to statutory provision that a recorded plat was a...  
...k. User by public. A common law dedication of a **private road** to the public requires proof of the owner's intent to **dedicate** the road to public use, public acceptance of such use...  
...this case, Ms. Camahan subdivided her land and purported to **dedicate** Wild's easement as a **public road**. Id. Wild blocked the public road and was convicted of...
- 2. Jackson v. Board of Com'rs of County of Monroe**  
Court of Appeals of Indiana. | November 16, 2009 | 916 N.E.2d 696 | 2009 WL 3817453 | 53A05-0901-CV-20  
REAL PROPERTY - Dedication. Evidence did not establish owner intended to **dedicate** portion of **road** to the **public** through written "consent" to use **road**.  
...insufficient to establish that each segment of road became a **public road** by public use before campground opened; (2) evidence was...  
...3) evidence did not establish that prior landowner intended to **dedicate** portion of **private road** to the public; and (4) court would conclude that entire road was a **private road**. Reversed West Headnotes 11130 Appeal and Error 30XII Briefs...

The right sidebar shows 'RELATED DOCUMENTS' and 'Secondary Sources', including sections like § 92:22, Answer—Affirmative defense—Failure to explicitly dedicate property for public use as road in county with population of 50,000 or less, and § 13.3, Plats.

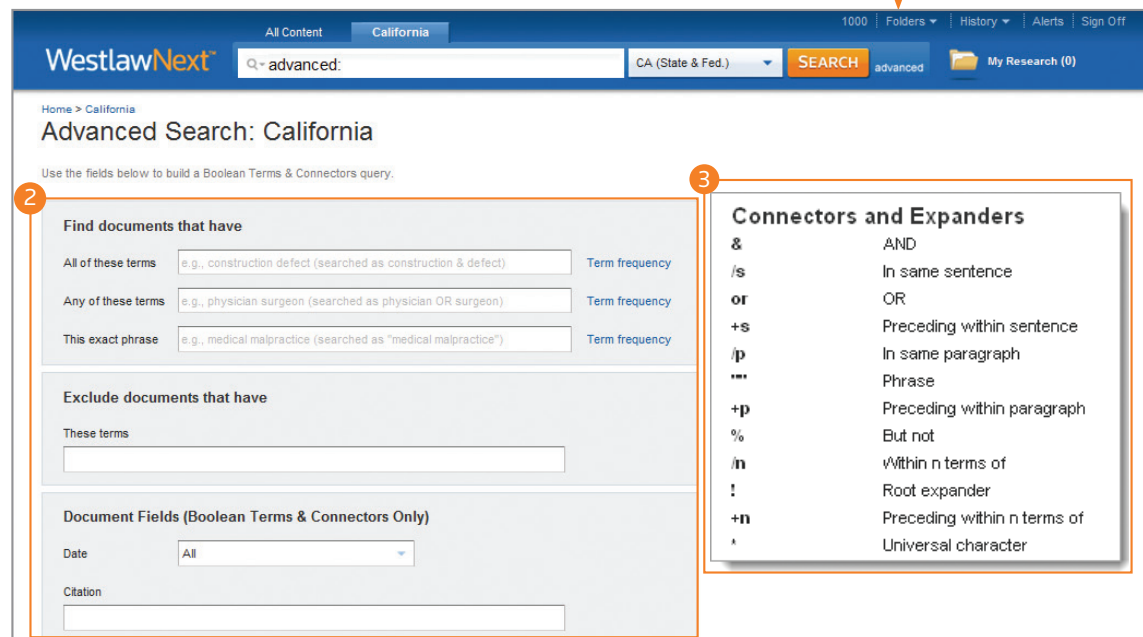
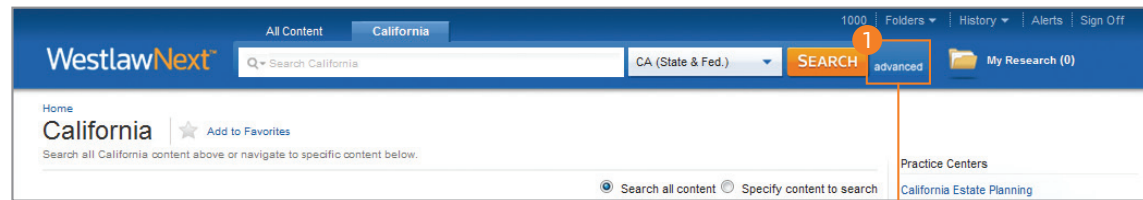
### TIP

- Use the jurisdiction selector or browse to the content you want to search before entering your query.
- When used without other connectors or fields, ampersands (&), and spaces (OR) are considered part of a descriptive terms search. Use Advanced Search or look for WestSearch's suggestion to modify your results to documents that include these connectors after running your initial search. (For more information "Advanced Search", on page 8.)

## Advanced Search

Advanced search templates help you quickly build precise queries, making it easy to search for specific content within a jurisdiction or specific information within document fields.

- 1 Accessing Advanced Search**  
Click **advanced** next to the Search button to display the Advanced Search page.
- 2 Content-Specific Fields**  
The fields available in a template are specific to the content or document type you are viewing when you click **advanced**.
- 3 Boolean Connectors and Expanders**  
Use to create your Terms and Connectors query.



### TIP

Individual content pages have Advanced Search templates tailored for their content. Browse to a individual (like California Cases) and click **Advanced Search** to see the options available for that content set.

### TIP

**WestlawNext™**

Return to the home page by clicking the WestlawNext logo at the top of any page.

## Browsing Content: Cases

There are several ways you can retrieve cases in WestlawNext. Running a search from the WestlawNext home page will return results in the core content areas – including cases. Or, to search only cases, start from the Browse section, click the **All Content** tab, then click **Cases** to display the Cases page.

When you click a link for a specific court, such as **U.S. Supreme Court**, a list of the 10 most recent cases from that court is displayed. A corresponding tabbed search box is displayed at the top of the page. You can search all cases from the court by typing a search in the search box and clicking **Search**.

### 1 Browse to cases under:

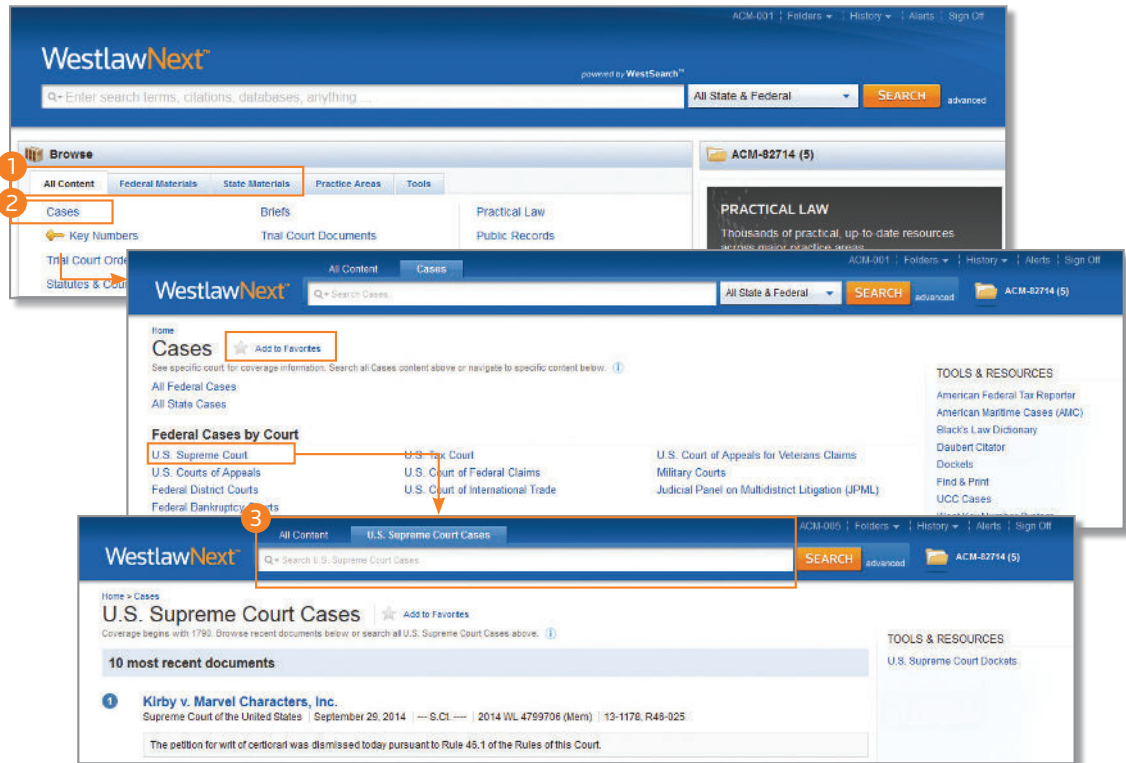
- All Content
- Federal Materials
- State Materials

### 2 Navigate Further

Browse until you reach the jurisdiction you would like to search.

### 3 Search Box

Type your search terms at the top of the page.



#### TIP

Click the star icon (★) next to content to add the pages to your Favorites for quick access from the home page.



## Browsing Content: Statutes

WestlawNext provides several ways to retrieve statutes. Running a search from the WestlawNext home page will return results in the core content areas – including statutes. Or, to search only statutes, start from the Browse section:

- Click the **All Content** tab, then click **Statutes and Court Rules** to display the Statutes and Court Rules page. Click **United States Code Annotated (USCA)** to display the table of contents for the *United States Code Annotated* (USCA), or click a state name to display the table of contents for that state's statutes and court rules.
- Click the **Federal Materials** tab, then click **United States Code Annotated (USCA)** to display the USCA table of contents.
- Click the **State Materials** tab to view a list of states. Click a state name, then click the link to that state's statutes under Statutes and Court Rules. The table of contents is displayed.

To browse a table of contents, click the links. To run a search, type your search in the corresponding tabbed search box at the top of the page and click **Search**. While viewing the text of a statute section, you can click the arrows next to the section symbol (§) on the document toolbar to view the next and previous sections. To return to the table of contents, click **Table of Contents** on the document toolbar.

- A Table of Contents**  
Click a link for statutes and court rules to display a table of contents.
- B Select Content**  
Search all content from a page or specify content to search.

The screenshot shows the WestlawNext interface for California. The top navigation bar includes 'All Content' and 'California' tabs. The search bar contains 'Search California' and the dropdown menu is set to 'CA (State & Fed.)'. The 'SEARCH' button is highlighted. The main content area is divided into sections: 'Cases', 'Key Numbers', 'Trial Court Orders', and 'Statutes & Court Rules'. The 'Statutes & Court Rules' section is highlighted with a red box and labeled 'A'. Below this section, a list of statutes is displayed, including the 'Constitution of the State of California 1878' and the 'Constitution of 1849 the State of California with Amendments (Superseded by Constitution of 1879)'. A red box labeled 'B' highlights the search options: 'Search all content' and 'Specify content to search'.

# Search Result

## Overview Page

After running a descriptive terms or Boolean Terms and Connectors search from the WestlawNext homepage, the search result Overview page is displayed, which lists the documents most relevant to your legal issue organized by content types.

- A Choose a Content Type**  
Click a content category in the left column to display the result page for that content.
- B Relevant Results by Content Type**  
The top results from each content type are included in the Overview.
- C Setting the Default Landing Page**  
You can set the default landing page for all of your searches. Click **Set Default** and click a content type in the list.

The screenshot shows the WestlawNext interface with the search query "fair use of performance under copyright". The page is titled "Overview (15)".

**Left Panel (Content Types):**

VIEW:	Count
Overview	15
Cases	371
Key Numbers	10
Trial Court Orders	30
Statutes	74
Regulations	60
Administrative Decisions & Guidance	10,000
Secondary Sources	5,151
Forms	27
Briefs	474
Trial Court Documents	948
Expert Materials	2,477
Jury Verdicts & Settlements	3,683
Proposed & Enacted Legislation	10,000
Proposed & Adopted Regulations	1,447
Arbitration Materials	9,181
Public Records	43,923
All Results	43,923

**Center Panel (Results):**

**Cases** | View all 371

**Harper & Row Publishers, Inc. v. Nation Enterprises**  
Supreme Court of the United States | May 20, 1985 | 471 U.S. 539 | 105 S.Ct. 2218 | 83-1632

Copyright infringement action was brought arising out of magazine's unauthorized publication of verbatim quotes from Press-States District Court, the Southern District of New York, 557 F.Supp. 1067, entered judgment in favor of copyright holders. the Second...

... Section 107 provides that notwithstanding the provisions of § 106 giving a copyright owner the exclusive right to reproduce derivative works based on the copyrighted work, the fair use of a copyrighted work for purposes such as comment and ne copyright...

... In view of the First Amendment protections already embodied in the Copyright Act's distinction between copyrightable exp ideas, and the latitude for scholarship and comment traditionally afforded by fair use, we see no warrant for expanding the amounts to a public figure exception to copyright...

... See Latman 7; Strauss, Protection of Unpublished Works (1957), reprinted as Study No. 29 in Copyright Law Revision Senate Committee on the Judiciary, 86th Cong., 2d Sess., 4, n. 32 (1961) (citing cases); R. Shaw, Literary Property in the Un "fair use" of unpublished material); Ball 250, n. 5 ("[T]he doctrine of fair use does not apply to unpublished works"); A. Weil (1917) (the author of an unpublished work...

...Although the Committee selected photocopying of classroom materials to illustrate fair use, it emphasized that "the same applicable to all kinds of uses of copyrighted material."

**Campbell v. Acuff-Rose Music, Inc.**  
Supreme Court of the United States | March 07, 1994 | 510 U.S. 569 | 114 S.Ct. 1164 | 92-1292

Copyrights. Commercial character of song parody did not create presumption against fair use.






For purposes of determining whether parody of copyrighted work is "fair use," the more "transformative" the new work is, the less significant are other factors, like

**Right Panel (Select the content to display first):**

- Overview
- Cases
- Key Numbers
- Trial Court Orders
- Statutes
- Regulations
- Administrative Decisions & Guidance
- Secondary Sources
- Forms
- Briefs
- Trial Court Documents
- Expert Materials
- Jury Verdicts & Settlements
- Proposed & Enacted Legislation
- Proposed & Adopted Regulations
- Arbitration Awards

## Content Type: Cases

From the Overview page, if you click **Cases** you will see that WestlawNext provides tools to help you further refine your search.

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>A Return to Home Page</b><br/>Return to the home page by clicking the <b>WestlawNext</b> logo.</p> <p><b>B Search Box</b><br/>Type a new search at the top of any page.</p> <p><b>C Project Folder</b><br/>Save or access your documents at any time.</p> <p><b>D Content List</b><br/>Navigate to other content types.</p> <p><b>E Sort By</b><br/>Relevance, Date (reverse chronological), Most Cited, Most Used</p> <p><b>F Create KeyCite Alert Entry</b><br/>Create a WestClip Alert from your search.</p> <p><b>G View Detail</b><br/>Choose the level of detail you want to display for each result.</p> <p><b>H Save Documents to a Folder</b><br/>Keep documents for later use.</p> <p><b>I Deliver</b><br/>Email, print, or download the document. You can also send it to an Amazon Kindle.</p> <p><b>J Related Documents</b></p> <ul style="list-style-type: none"><li>• Secondary Sources</li><li>• Briefs</li><li>• Pleadings, Motions, and Memoranda</li></ul> | <p><b>K KeyCite Flag</b><br/>Alerts you to when a point of law in a document has been negatively discussed (  ) or is no longer good law (  ).</p> <p><b>L Document Title</b><br/>Quickly scan the document title, court, date, and citation.</p> <p><b>M Research Icons</b><br/>Indicate previous document activity:</p> <ul style="list-style-type: none"><li> Note Added</li><li> Previously Viewed in the last 30 days</li><li> Saved to Folder</li></ul> <p><b>N Editorial Summary</b><br/>Case specific summaries provided by our attorney-editors.</p> <p><b>O Search Terms in Context</b><br/>Your search terms are highlighted in yellow.</p> <p><b>P Snippets</b><br/>Clicking a document snippet in a result list takes you directly to that section in the document.</p> <p><b>Q Narrow with Filters</b></p> <ul style="list-style-type: none"><li>• Date</li><li>• Reported/Unreported</li><li>• Jurisdiction</li><li>• Search within Results</li><li>• and more.....</li></ul> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



**WestlawNext** powered by WestSearch™

ACM-001 | Folders | History | Alerts | Sign Off

Q- fair use of performance under copyright All State & Federal SEARCH advanced ACM-82714 (6)

**VIEW:**

- Overview 15
- Cases 371
- Key Numbers 10
- Trial Court Orders 30
- Statutes 74
- Regulations 60
- Administrative Decisions & Guidance 10,000
- Secondary Sources 5,151
- Forms 27
- Briefs 474
- Trial Court Documents 948
- Expert Materials 2,477
- Jury Verdicts & Settlements 3,683
- Proposed & Enacted Legislation 10,000
- Proposed & Adopted Regulations 1,447
- Arbitration Materials 9,181
- Public Records
- All Results 43,923

**NARROW:**

Select Multiple Filters

Search within results

Jurisdiction

+ Federal 353

**Cases (371)**

1 - 100 Sort by: Relevance

Select all items No items selected

**1. Harper & Row Publishers, Inc. v. Nation Enterprises**

Supreme Court of the United States | May 20, 1985 | 471 U.S. 539 | 105 S.Ct. 2218 | 83-1632

**Copyright** infringement action was brought arising out of magazine's unauthorized publication of verbatim quotes from President Ford's memoirs. The United States District Court, the Southern District of New York, 557 F.Supp. 1067, entered judgment in favor of **copyright** holders. The United States Court of Appeals for the Second...

... Section 107 provides that notwithstanding the provisions of § 106 giving a **copyright** owner the exclusive right to reproduce the **copyrighted** work and to prepare derivative works based on the **copyrighted** work, the **fair use** of a **copyrighted** work for purposes such as comment and news reporting is not an infringement of **copyright**....

...In view of the First Amendment protections already embodied in the **Copyright** Act's distinction between **copyrightable** expression and uncopyrightable facts and ideas, and the latitude for scholarship and comment traditionally afforded by **fair use**, we see no warrant for expanding the doctrine of **fair use** to create what amounts to a public figure exception to **copyright**....

... See Latman 7; Strauss, Protection of Unpublished Works (1957), reprinted as Study No. 29 in **Copyright** Law Revision Studies Nos. 29-31, prepared for the Senate Committee on the Judiciary, 86th Cong., 2d Sess., 4, n. 32 (1961) (citing cases); R. Shaw, Literary Property in the United States 67 (1950) ("[T]here can be no **'fair use'** of unpublished material"); Ball 260, n. 5 ("[T]he doctrine of **fair use** does not apply to unpublished works"); A. Weil, American **Copyright** Law § 276, p. 115 (1917) (the author of an unpublished work....

...Although the Committee selected photocopying of classroom materials to illustrate **fair use**, it emphasized that "the same general standards of **fair use** are applicable to all kinds of uses of **copyrighted** material." ...

**2. Campbell v. Acuff-Rose Music, Inc.**

Supreme Court of the United States | March 07, 1994 | 510 U.S. 569 | 114 S.Ct. 1164 | 92-1292

**Copyrights.** Commercial character of song parody did not create presumption against **fair use**.

...For purposes of determining whether parody of **copyrighted** work is "**fair use**," the more "transformative" the new work is, the less significant are other factors, like commercialism, that might weigh against finding of **fair use**, even though transformative use is not absolutely necessary for finding of **fair use**; transformative works lie at heart of **fair use** doctrine's guarantee of breathing space within confines of **copyright**...

... In **copyright** cases brought under the Statute of Anne of 1710, 6 English courts held that in some instances "fair abridgements" would not infringe an author's rights, see W. Patry, The **Fair Use** Privilege in **Copyright** Law 6-17 (1985)

**RELATED DOCUMENTS**

**Secondary Sources**

**UNBUNDLING FAIR USES**

77 Fordham L. Rev. 2537  
April, 2009  
Fordham Law Review

...[FN565] While **fair use** certainly serves these purposes, each of these conceptions of **fair use** encompasses only some important aspects of **fair use**, especially those discussed in Parts I and II, not the whole of **fair use**....

**WHAT IS TRANSFORMATIVE? AN EXPLANATORY SYNTHESIS OF THE CONVERGENCE OF TRANSFORMATION AND PREDOMINANT PURPOSE IN COPYRIGHT FAIR USE LAW**

11 Chi.-Kent J. Intell. Prop. 260  
Spring, 2012  
Chicago-Kent Journal of Intellectual Property

...L.J. 1059 (2008) (how the definition of authors' rights including the Kantian definition of moral rights and transformative authorship should impact **copyright** law and policy in the United States and the United Kingdom especially with regard to the treatment of visual vs. literary works); Andrew S. Long, Comment: Mashed Up Videos and Broken Down **Copyright**: Choosing **Copyright** to Promote the

# Document Page

## Overview

Once you view a case or any other document, you will find many features to help you with your research.

- A Document Title**  
Quickly scan the title, court, date, and citations.
- B Tabs Powered by KeyCite**  
Access additional content related to the document.
  - Cases**
    - Filings
    - Negative Treatment
    - History
    - Citing References
    - Table of Authorities
  - Statutes**
    - Notes of Decision
    - History
    - Citing References
    - Context and Analysis
- C Return to List**  
Click this button to get back to your search result.
- D Previous and Next**  
Move through documents in your search result.
- E Browse by Search Term**  
View the portions of each document that contain your search terms.
- F Show KeyCite Flags**  
Display KeyCite flags for citations that appear inline with the text of the case.
- G Go to**  
Jump to specific sections of the document.
  - West Headnotes
  - Attorneys and Law Firms
  - Opinion
  - Parallel Citations
  - Page #
- H Create KeyCite Alert Entry**  
Create a KeyCite Alert entry for this document.
- I Search Document Text**  
Search text in this document.
- J Display Options**  
Adjust the document font styles, sizes, and margins.
- K Add Document Note**  
Add a note to the top of the document or hide notes you added previously.
- L Save to Folder**  
Save the document to a folder.
- M Deliver**  
Email, print, or download the document. You can also send it to an Amazon Kindle.
- N Full Screen Mode**  
Expands the document view for easier reading.

WestlawNext™ powered by WestSearch™

Q- fair use of performance under copyright All State & Federal SEARCH advanced ACM-82714 (6)

**A Harper & Row Publishers, Inc. v. Nation Enterprises**  
 Supreme Court of the United States May 20, 1985 471 U.S. 539 105 S.Ct. 2218 85 L.Ed.2d 588 See Additional Citations (Approx. 40 pages)

Document **B** Filings (18) Negative Treatment (26) History (10) Citing References (7,853) Table of Authorities Powered by KeyCite

**C** Return to list **D** 1 of 371 results **E** Search term **F** Show KeyCite® Flags **G** Go to **H** **I** **J** **K** **L** **M** **N**

**C** Disagreement Recognized by *Sandoval v. New Line Cinema Corp.*, S.D.N.Y., August 21, 1997

Original Image of 105 S.Ct. 2218 (PDF)

105 S.Ct. 2218  
 Supreme Court of the United States

**HARPER & ROW, PUBLISHERS, INC.** and the Reader's Digest Association, Inc., Petitioners  
 v.  
 NATION ENTERPRISES and the Nation Associates, Inc.

No. 83-1632. Argued Nov. 6, 1984. Decided May 20, 1985.

**Copyright** infringement action was brought arising out of magazine's unauthorized publication of verbatim quotes from President Ford's memoirs. The United States District Court, the Southern District of New York, 557 F.Supp. 1067, entered judgment in favor of **copyright** holders. The United States Court of Appeals for the Second Circuit, 723 F.2d 195, reversed the District Court's finding of infringement, holding that defendant magazine's act was sanctioned as a "fair use" of the **copyrighted** material, and **copyright** holders petitioned for a writ of certiorari. The Supreme Court, Justice O'Connor, held that magazine's unauthorized publication of verbatim quotes from essentially the "heart" of unpublished presidential memoirs, which was intended to supplant **copyright** holders' commercially valuable right of first publication, was not a "fair use" within meaning of **Copyright** Revision Act.

Reversed and remanded.

Justice Brennan filed dissenting opinion in which Justice White and Justice Marshall joined.

**SELECTED TOPICS**

**Copyrights and Intellectual Property**

- Purpose and Character Prong of the Test of Fair Use of Copyrighted Work
- Author Copyrighted Unpublished Manuscript
- Possession of Certificate of Copyright Registration Shifts Burden

**Secondary Sources**

**Extent of Doctrine of "Fair Use" under federal Copyright Act**

23 A.L.R.3d 139 (Originally published in 1969)  
 ...This annotation examines the cases considering the nature or extent of the **uses** which one other than the **copyright** owner may "fairly" or properly make of **copyrighted** works without the express consent o...

**Cause of Action for Copyright Infringement Under the Federal Copyright Act of 1976, as Amended**

9 Causes of Action 2d 65 (Originally published in 1997)  
 ...This article discusses suits involving **copyright** infringement under the federal **Copyright** Act of 1976, as amended. 17 U.S.C.A. § 101 et seq.. The elements a plaintiff

**NOTE**




Some features of document pages are content specific.

## Workflow Tools

The workflow tools found on all document pages are designed to make continuing your research easier. If you do not have the time to complete your research in one session, the workflow tools will help you pick up right where you left off. Research icons indicate whether you have already seen or saved this document. Selected topics suggest additional areas to investigate. Plus you can highlight text and add notes to the document.

### A Research Icons

Indicate previous document activity:

-  Previously Viewed in the last 30 days
-  Saved to Folder
-  Note Added


### B Selected Topics

Continue your research by exploring topics related to the document you are viewing.

### C Selected Text Menu

When you select text in a document, WestlawNext provides the following features:

- **Save to**  
Allows you to save selected text to your project folder as a snippet. Clicking the snippet within the folder will return you to that place in the document.
- **Add a Note**  
Allows you to add a note anywhere in the document.
- **Highlight**  
Allows you to highlight text for later reference.
- **Copy with Reference**  
Allows you to insert the correct citation and page number when you paste the copied text into another document.



The screenshot displays the WestlawNext web application. At the top, there's a search bar with the query "fair use of performance under copyright" and a "SEARCH" button. Below the search bar, the document title "Harper & Row Publishers, Inc. v. Nation Enterprises" is shown, along with its citation: "Supreme Court of the United States, May 20, 1985, 471 U.S. 539, 105 S.Ct. 2218, 85 L.Ed.2d 588". The document is categorized under "Document" and "Filings (18)". A table of authorities is visible, listing various legal sources. On the right side, a "SELECTED TOPICS" sidebar lists related legal topics such as "Copyrights and Intellectual Property" and "Secondary Sources". A context menu is open over a highlighted paragraph in the main text, offering options like "Save to ACM-82714", "Add a Note", "Highlight", and "Copy with Reference (Standard)".

#### TIP

When you use the Copy with Reference feature, you can choose from over 30 state and national citation formats, including Standard and ALWD.





## Checking Citations in KeyCite



KeyCite®, the industry's most complete, accurate, and up-to-date citation service, verifies whether a case, statute, regulation, or administrative decision is still good law. It's the only online citator to do so directly on the face of the document and on a result list.

### A KeyCite Status Flags

#### Checking Cases in KeyCite

-  A red flag warns that the case is no longer good law for at least one of the points of law it contains.
-  A yellow flag warns that the case has some negative history but has not been reversed or overruled.

#### Checking Statutes in KeyCite

-  A red flag indicates that the statute has been amended by a recent session law, repealed, superseded, or held unconstitutional or preempted in whole or in part.
-  A yellow flag indicates that the statute has been renumbered or transferred by a recent session law; that an uncodified session law or proposed legislation affecting the statute is available; that the statute was limited on constitutional or preemption grounds or its validity was otherwise called into doubt; or that a prior version of the statute received negative treatment from a court.

### B Negative Treatment

When applicable, a description and a link for the most negative treatment is available at the top of the document.



### TIP

#### Accessing KeyCite

Type one of the following with a citation in the search box:

- keycite
- keycite:
- kc
- kc:

Example:

## Viewing Citing References to a Case

KeyCite provides a list of cases, administrative materials, secondary sources, briefs, and other court documents that cite your case and ensures you are citing good law. And KeyCite also provides more citing references for more types of documents than any other citation service.

### A Access Citing References

To view documents that cite your case, click the Citing References tab.

### B Sort

To change the order in which the citing references are displayed, click an option in the Sort By list on the toolbar.

### C Filter

To narrow the list of citing references, you can

- type terms in the **Search within results** box in the left column.

- click a document type in the left column, e.g., **Cases**. You can further narrow this list by selecting a filter under **Narrow** in the left column, such as **Jurisdiction** or **Headnote Topics**.

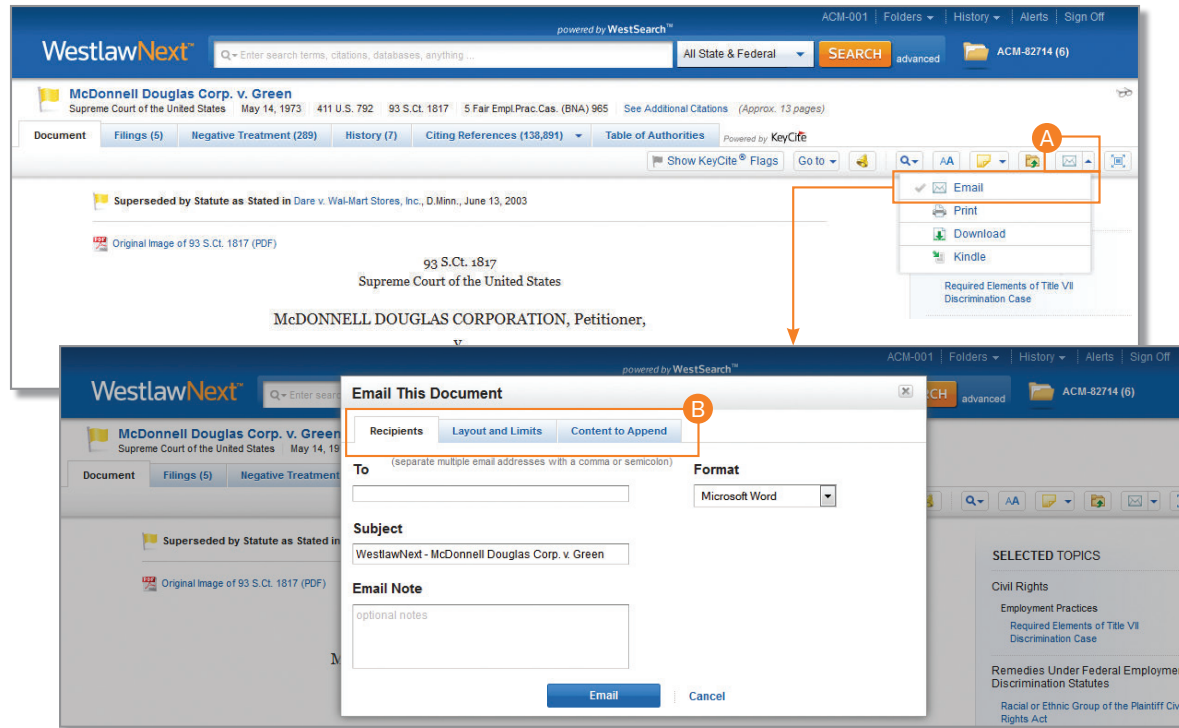
### D KeyCite Depth of Treatment Bars

KeyCite depth of treatment bars indicate the extent to which a citing case, administrative decision, or brief discusses the cited case.

■■■■■	Examined	The citing case, administrative decision, or brief contains an extended discussion of the cited case, usually more than a printed page of text.
■■■■	Discussed	The citing case, administrative decision, or brief contains a substantial discussion of the cited case, usually more than a paragraph but less than a printed page.
■■■	Cited	The citing case, administrative decision, or brief contains some discussion of the cited case, usually less than a paragraph.
■	Mentioned	The citing case, administrative decision, or brief contains a brief reference to the cited case, usually in a string citation.

## Document Delivery

If you decide that you need a copy of a document, WestlawNext offers multiple options for document delivery. Documents, snippets, and result lists can be emailed, printed, or downloaded from nearly every page in WestlawNext. Documents can also be sent directly to your Amazon Kindle, exported to Case Notebook, or saved to a project folder. (For more information, see “Project Folder” on page 20.)



### A Delivery Icon

The last delivery method you used is displayed. The default method is email.

### B Delivery Options

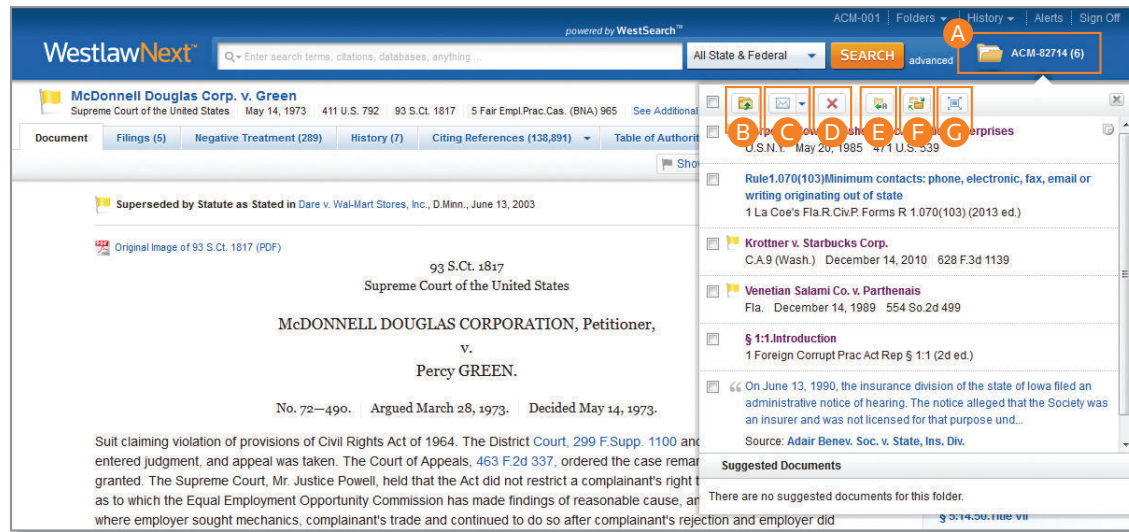
Deliver full text documents, with or without notes and highlighting, or lists from a result page. Click a tab to modify the format of your delivered document. Options vary based on the documents you want to deliver and the delivery method you select.

### TIP

To set a default delivery format and other delivery options, click **Preferences** at the bottom of any page, then click the **Delivery** tab. (For further information, see “Preferences” on page 24.)

## Project Folder

Saving your documents to a project folder helps you organize your research and makes it easy to return to prior research.



### TIP

When starting your research, create a new project folder. Place documents and snippets in the folder as you go. When finished, select the items you want, then email, print, or download them all at once. You can also export the entire folder to your computer or share the contents with a colleague.

### A Project Folder

You can access your project folder from any page.

### B Copy, Move

Move or copy documents and snippets from your project folder to other folders.

### C Deliver

Email, print, download, or send documents and snippets to your Amazon Kindle directly from the project folder.

### D Delete

Delete documents and snippets from your project folder.

### E Rename

Change the name of your project folder at any time.

### F Change Folder

Quickly change your project folder to another folder.

### G Expand

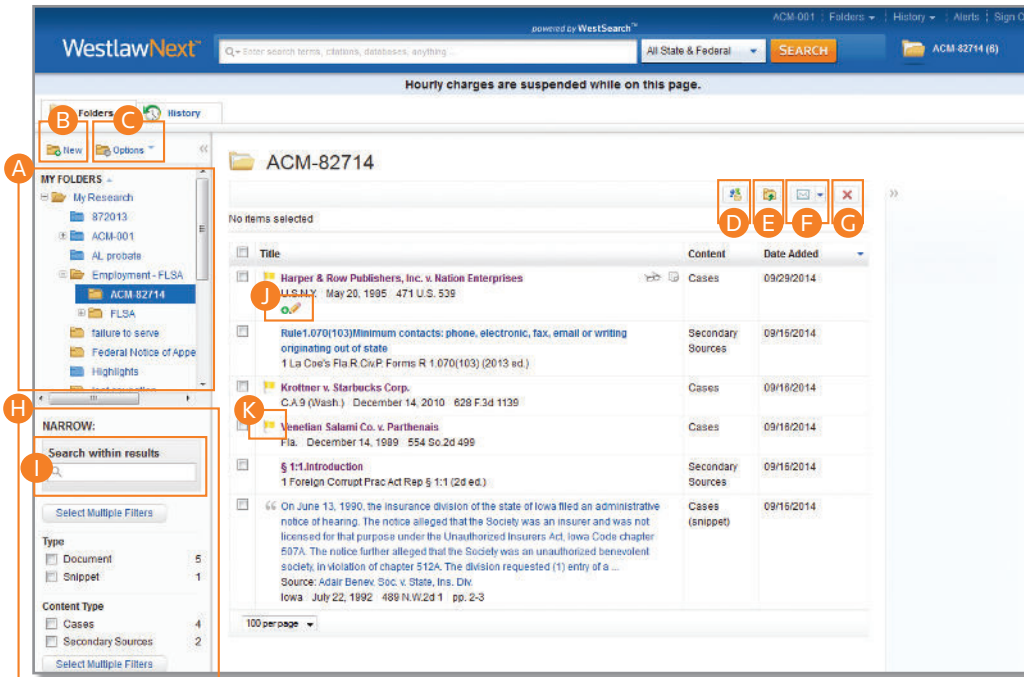
View the full contents of your project folder within the Folders page.



## Folder Overview

Documents that you add to your folders are saved on WestlawNext for as long as you choose. Click **Folders** at the top of any page to display the Folders page.

- A My Folders**  
Create, manage, and navigate your folders.
- B New**  
You can create as many folders as you need.
- C Options**  
Copy, move, rename, delete, export, send to Amazon Kindle, and share your folders.
- D Share Folder**  
Share entire folders with others at your organization.
- E Copy or Move**  
Copy or move contents of the folder.
- F Deliver**  
Email, print, download, or send to Kindle.



- G Delete**  
Deleting items moves them to the Trash. Items are not completely deleted until you empty the Trash.
- H Narrow**  
Sort and filter your folders to find what you are looking for quickly and easily.
- I Search within Results**  
Search for documents and snippets within your folders.
- J Add a Description**  
Point to a document in your folder, then click the pencil icon to add a description to the document.
- K Current KeyCite Information**  
Documents that you save to folders are automatically updated by WestlawNext and, therefore, always reflect current law.

### TIP

You can access a document or snippet of text in a folder at no charge for an entire year after the first time it is viewed in the folder.

## History

Return to previous research quickly and easily with History. Your research history on WestlawNext is automatically saved for one year, including all document views and searches.

**A Recent Documents and Recent Searches**

Hover over History to see your five most recent documents and five most recent searches.

**B Complete History**

Click **History** at the top of any page to view your complete history from the past 12 months.

**C Search within Results**

Search within your history or use filters to find specific documents.

The screenshot shows the WestlawNext interface. At the top right, the 'History' link is highlighted with a red box and labeled 'A'. In the center, the 'History: A' section is highlighted with a red box and labeled 'B'. On the left side, the 'NARROW:' section is highlighted with a red box and labeled 'C'. The 'Recent Documents' and 'Recent Searches' panels are also visible, showing a list of recent research items with details like case names, dates, and search types.

Recent Documents	Recent Searches
<b>Harper &amp; Row Publishers, Inc. v. Nation Enterprises</b> U.S.N.Y. May 20, 1985 471 U.S. 539	<b>217k3513(1) (5)</b> Search Type: Browse Content: Key Number System Jurisdiction: Court of Appeals of Texas, Houston (1st Dist.) Key Number: (1) In general
<b>Harris v. American Protection Ins. Co.</b> Tex.App.-Fort Worth February 10, 2005 158 S.W.3d 614	<b>217 (10,000)</b> Search Type: Browse Content: Key Number System Jurisdiction: All State and Federal Key Number: 217 INSURANCE
<b>Concierge Nursing Centers, Inc. v. Antex Roofing, Inc.</b> Tex.App.-Hous. (1 Dist.) May 09, 2013 433 S.W.3d 37	<b>fair use of performance under copyright (371)</b> Search Type: Plain Language Content: Cases Jurisdiction: All State & Federal
<b>§ 59A-37-9. Violations</b> NM ST § 59A-37-9	<b>private and road (10,000)</b> Search Type: Plain Language Content: Cases Jurisdiction: All State & Federal
<b>§ 59A-37-30. Enterprise risk filing</b> NM ST § 59A-37-30	<b>adv: "private road" (15)</b> Search Type: Boolean T&C Content: Overview Jurisdiction: All State & Federal

**TIP**

Clicking **History** is the quickest way to pick up where you left off during your previous WestlawNext session.

## Alerts

Alerts help you keep current on recent developments. Alerts include:

- **KeyCite Alert** – automatically monitors the status of cases, statutes, and administrative materials and sends you updates when their KeyCite information changes.
- **WestClip** – runs your searches on a regular basis so you can stay up-to-date on news and legal developments.
- **Court Wire Alert** – same day reports of newly filed cases.
- **Docket Alert** – know when new cases are filed that meet your criteria for jurisdiction, case type, party, attorney, and more.
- **Docket Track** – receive prompt, automatic notification of additions and changes to dockets.
- **Publication Alert** – receive the latest documents from a particular publication as soon as they are published on WestlawNext.
- **Company Investigator** – track a company's business information, potential assets or potentially adverse information.
- **Business Law Center Alert** – flexible functionality to create alerts for transactional research.

### 1 Accessing the Alerts Page

Click **Alerts** at the top of any page to display the Alerts page.

### 2 Creating an Alert

Click **Create Alert**, then click the type of alert you want to create on the menu.

### 3 Viewing Your Alerts

Click an alert type to view your alerts.

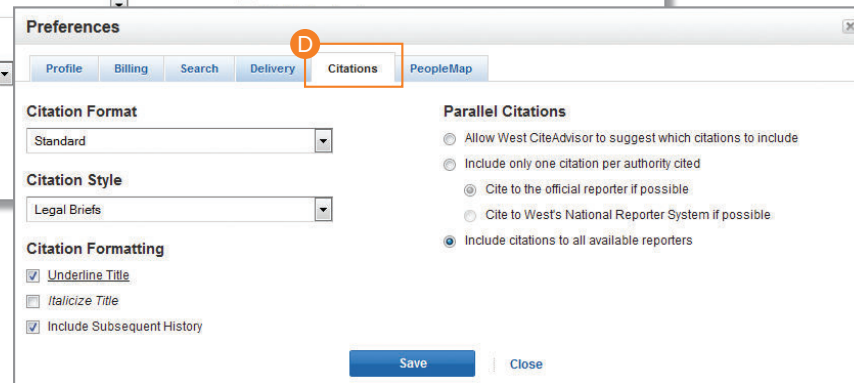
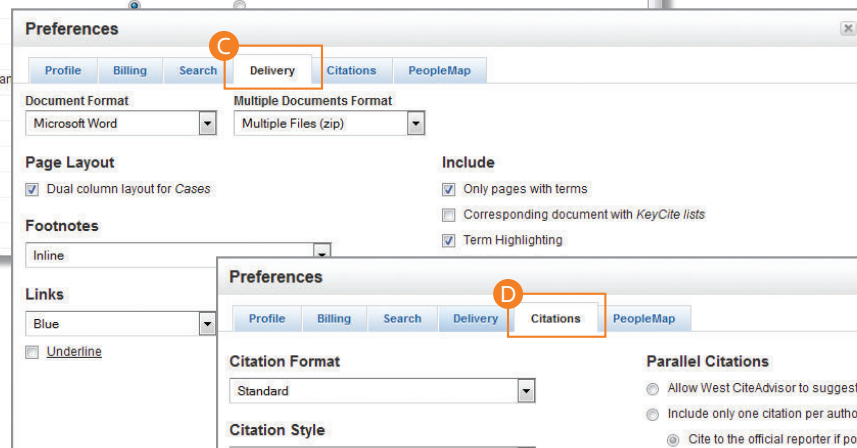
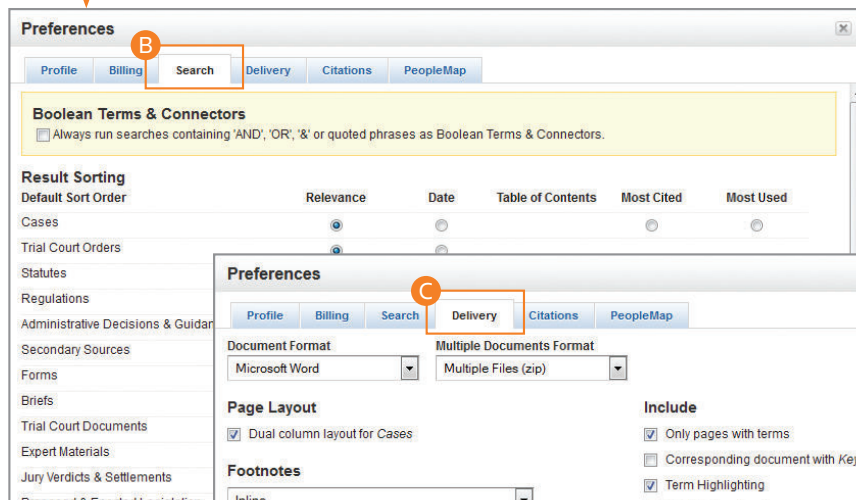
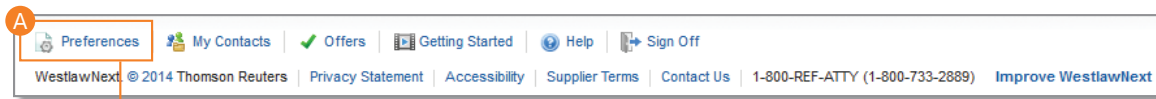
The screenshot shows the WestlawNext Alerts page. At the top, the 'Alerts' tab is selected in the navigation bar (callout 1). Below the navigation bar, the 'Alerts' section has a '+ Create Alert' button (callout 2). On the left, a sidebar lists various alert types with their counts: All (75), WestClip (41), KeyCite (14), Court Wire Alert (2), Docket Alert (6), Docket Track (7), Publication Alert (5), Company Investigator (0), and Business Law Center Alert (0). This sidebar is highlighted with a red box (callout 3). The main content area displays a list of alerts. The first alert is '787 N.W.2d 623', showing its last update, next update, client ID, owner, citation, content, and privacy status. The second alert is 'All Supreme Court cases', showing its last update, next update, client ID, owner, search summary, content, and privacy status.

#### TIP

For assistance creating alerts, you can contact the reference attorneys at 1-800-850-9378 or [West.WestlawNextResearch@ThomsonReuters.com](mailto:West.WestlawNextResearch@ThomsonReuters.com).

# Preferences

You can customize many aspects of your WestlawNext research session using the Preferences page.



## A Accessing Preferences

To access the Preferences page, click Preferences at the bottom of any page.

## B Search Preferences

Set the default sort order of your search result by content type.

## C Delivery Preferences

Set the default document format, file type, layout, and included content for the documents you email, print, download, or send to Amazon Kindle.

## D Citations Preferences

- Set the default citation format and style for use in the Copy with Reference feature. Choose from over 30 citation formats.
- Choose how you would like to include parallel citations.

## Help and Technical Support

If you have questions about using WestlawNext, or experience any technical issues, please contact us for help.

The screenshot shows the WestlawNext Help Center interface. At the top, a navigation bar contains links for Preferences, My Contacts, Offers, Getting Started, Help (highlighted with callout A), and Sign Off. Below the navigation bar, a banner reads "WestlawNext. © 2014 Thomson Reuters" followed by links for Privacy Statement, Accessibility, Supplier Terms, Contact Us, 1-800-REF-ATTY (1-800-733-2889), and Improve WestlawNext. The main content area is titled "WestlawNext® Help Center" and includes a status message: "All charges are suspended while in the Help Center." Below this, a section titled "Get to Know WestlawNext" features a "GETTING STARTED" box with a "DOWNLOAD PDF" button (16 MB, PDF format) and a "Research Help (Reference Attorneys)" box (callout B). The "Research Help" box provides contact information for Reference Attorneys: 1-800-REF-ATTY (1-800-733-2889), Law Students call 1-800-850-9378, 24 hours a day, 365 days a year, and an Email link. Below the "Research Help" box are two columns: "Documentation" (callout E) and "Video Tutorials" (callout F). The "Documentation" column includes a "Searching a Legal Issue" guide and a note about detailed instructions. The "Video Tutorials" column includes a video player and a note about step-by-step video tutorials. To the right of the "Documentation" and "Video Tutorials" columns are two more boxes: "Technical Support" (callout C) and "Customer Service" (callout D). The "Technical Support" box provides contact information for Technical Support: 1-800-WESTLAW (1-800-937-8529), 24 hours a day, 365 days a year, and an Email link. The "Customer Service" box provides contact information for Customer Service: 1-800-328-4880.

### A Accessing Help

Click **Help** at the bottom of any WestlawNext page to display the Help Center page.

### B Reference Attorneys

You can call a reference attorney at 1-800-REF-ATTY (1-800-733-2889) or email [West.WestlawNextResearch@ThomsonReuters.com](mailto:West.WestlawNextResearch@ThomsonReuters.com).

### C Technical Support

Call 1-800-937-8529 or email [West.WestlawNextTech@ThomsonReuters.com](mailto:West.WestlawNextTech@ThomsonReuters.com).

### D Customer Service

Call 1-800-328-4880 or email [West.WestlawNextCustServ@ThomsonReuters.com](mailto:West.WestlawNextCustServ@ThomsonReuters.com).

### E Documentation

View and print user guides.

### F Video Tutorials

Watch short video demos and tutorials.

## Use a Current Browser to Optimize Your Research Experience

To get the fastest, most reliable performance with WestlawNext, make sure your computer meets the system requirements and that you are using an updated browser.

### System Requirements

You will need the following to operate WestlawNext:

#### Supported Operating Systems

- Windows 7, 8.1, or 10
- Windows Vista®
- Mac® OS 10.5 or later

#### Internet Browser

- Internet Explorer® 8 or later recommended (Windows only)
- Mozilla Firefox® current version or Extended Support Release version
- Safari 5.0 or later
- Chrome current version

#### Other Requirements

- JavaScript and cookies enabled in the browser
- 1024x768 or higher screen resolution recommended
- Adobe Acrobat Reader 9.0 or later
- Adobe Flash Player 10.0 or later

## Using the WestlawNext iPad App

WestlawNext is available as an iPad app and is free for existing WestlawNext users. The app allows you to perform a wide range of tasks, including finding, viewing, and emailing documents, and organizing your research into folders. You can also use the offline capability of the app to view and save documents. The app is automatically synchronized with the WestlawNext website and WestlawNext Mobile, so research started on one device can easily be accessed and continued on another. Simply download the WestlawNext app from the Apple iTunes store.

