
The Internet Evolution

Savvy Search Strategies for Paralegals

Michelle Rigual
Albuquerque, New Mexico
July 31, 2007

Today's Agenda

- **Understanding Search Tools for More Effective Queries**
 - How to Find What Your Search Engine Can't – The Invisible Web
 - Practical Search Tips and Techniques
 - Conducting Legal Research
 - Finding People – Building a “Profile”
 - Locating Companies – Due Diligence and Background Information
-



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Quotes of the Day ▾ ▢ ✕

We can lick gravity, but sometimes the paperwork is overwhelming.
- [Wernher von Braun](#)

Nothing fixes a thing so intensely in the memory as the wish to forget it.
- [Michel de Montaigne](#)

Humility is the embarrassment you feel when you tell people how wonderful you are.
- [Laurence J. Peter](#)

Google Calendar ▾ ▢ ✕

« July 2007 »

| Su | M | Tu | W | Th | F | Sa |
|----|----|----|----|----|----|----|
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |
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| 8 | 9 | 10 | 11 | 12 | 13 | 14 |

Sudoku Puzzle ▾ ▢ ✕

easy sudoku [Solution](#) | [How To](#)

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| | 6 | | 3 | 4 | | | | 8 |
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| 8 | | | | 1 | | 2 | 9 | |
| | 2 | | 5 | | 9 | | | 4 |
| | 9 | 5 | | 3 | | | | 8 |
| 9 | | 6 | | | 3 | 8 | | 7 |
| | 7 | | | 6 | 4 | | | 2 |
| | | 3 | 9 | | | 6 | | |


new puzzle: ▾

[Add Free Flash Games To Your Google Homepage...](#)
[Click here!](#)

Joke of the Day ▾ ▢ ✕

- [+ A Nutty Game](#)
- [+ This old couple is ready to go to sleep so ...](#)
- [+ Farm Fugitives](#)

Date & Time ▾ ▢ ✕



Mon JUL 30

PacMan v2.4 ▾ ▢ ✕

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Understanding Search Tools for More Effective Queries

- **How do Search Engines Really Work?**
 - **Comparing Search Engines and Directories**
 - Indexing – Spiders and Web Crawlers
 - How “Relevant” Information is Retrieved
 - Using Meta-Crawlers to Achieve More Comprehensive Searches
 - Mastering the Rules of Boolean Searching and Advanced Search Functions
 - How Ranking, Metadata, and Search Engine Optimization Affect Your Searches
 - Using Keywords Creatively
 - Maximizing Browser Power – The “Find” Function and Managing Bookmarks
-

What Are Search Engines?

- Huge databases of web page files automatically assembled by machine.
- The best means invented (so far) for finding info on the web.

Examples:

- Google
 - Live Search
 - Ask.com
 - Jeteye
 - Blinkx
 - Rollyo
-

What Are Subject Directories?

- Created and maintained by human editors who review and select sites for inclusion
 - Annotations
 - Smaller than search engine databases (typically index only home page or top level pages)
-



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Search Directory

[Preferences](#)

The web organized by topic into categories.

[Arts](#)

[Movies](#), [Music](#), [Television](#),...

[Home](#)

[Consumers](#), [Homeowners](#), [Family](#),...

[Regional](#)

[Asia](#), [Europe](#), [North America](#),...

[Business](#)

[Industries](#), [Finance](#), [Jobs](#),...

[Kids and Teens](#)

[Computers](#), [Entertainment](#), [School](#),...

[Science](#)

[Biology](#), [Psychology](#), [Physics](#),...

[Computers](#)

[Hardware](#), [Internet](#), [Software](#),...

[News](#)

[Media](#), [Newspapers](#), [Current Events](#),...

[Shopping](#)

[Autos](#), [Clothing](#), [Gifts](#),...

[Games](#)

[Board](#), [Roleplaying](#), [Video](#),...

[Recreation](#)

[Food](#), [Outdoors](#), [Travel](#),...

[Society](#)

[Issues](#), [People](#), [Religion](#),...

[Health](#)

[Alternative](#), [Fitness](#), [Medicine](#),...

[Reference](#)

[Education](#), [Libraries](#), [Maps](#),...

[Sports](#)

[Basketball](#), [Football](#), [Soccer](#),...

[World](#)

[Deutsch](#), [Español](#), [Français](#), [Italiano](#), [Japanese](#), [Korean](#), [Nederlands](#), [Polska](#), [Svenska](#), ...

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When to Use a Search Engine

- To find:
 - ❑ unique keywords, phrases, quotes, and info buried in the full-text of web pages
 - ❑ a wide range of responses to specific queries, use a search engine
-

Search Engine Pros & Cons

- Pros:

- Access to a large portion of the publicly available pages on the Web
- So far, the best means devised

- Cons:

- High likelihood of thousands of responses to simple search requests.
 - Many irrelevant hits.
-



korean hostages

Search

Advanced Search Preferences

New! View and manage your web history

Web Results 1 - 10 of about 6,440,000 for korean hostages (0.15 seconds)

News results for korean hostages



Canoe.ca

Taliban: talks on S Korean hostages fail - 5 hours ago
KABUL, July 30 (Xinhua) -- Talks on 22 South Korean hostages held in central Afghanistan have failed after another deadline expired Monday noon, ...

Xinhua - 1700 related articles >

Pope appeals for release of Korean hostages in Afghanistan -

International Herald Tribune - 125 related articles >

Seoul Seeks Washington's Cooperation As Hostage Talks Go Nowhere - Korea Times - 19 related articles >

Sponsored Links

Korean Hostages

Late-breaking current events news.
Your source - OCRegister.com.
OCRegister.com
Albuquerque, NM

Taliban still holds S Korean hostages, demands prisoners swap

KABUL, July 24 (Xinhua) -- Taliban fighters did not kill 23 South Korean hostages after the deadline once again expired on Tuesday, but demanded the ...

news.xinhuanet.com/english/2007-07/25/content_6425542.htm - 24k - Jul 28, 2007 -

Cached - Similar pages

FOXNews.com - Taliban Offers Exchange for South Korean Hostages As ...

Taliban Offers Exchange for South Korean Hostages As Fate of German Captives Disputed, A purported Taliban spokesman says the hard-line militia wants to ...

www.foxnews.com/story/0,2933,290269,00.html - 51k - Cached - Similar pages

Taliban Threaten to Kill 18 Korean Hostages - New York Times

Taliban gunmen boarded a bus and abducted 18 South Koreans who were apparently volunteers for a Christian church group.

www.nytimes.com/.../asia/21afghan.html?n=Top%2FReference%2FTimes%20Topics%2FOrganizations%2FT%2FTaliban%20 - Similar pages

Taliban Says it Killed Two Germans, Threatens 23 South Korean ...

www.wsj.com/article/SB118503692504674157.html?mod=home_whats_news_us -

Similar pages

ABC News: Deadline Extended for 23 Korean Hostages

Taliban Extends Deadline for 23 South Korean Hostages Held in Southern Afghanistan. Relatives of South Koreans kidnapped in Afghanistan cry during a news ...

www.abcnews.go.com/International/wireStory?id=3402667 - Similar pages

When to Use a Directory

- For browsing and general searches.
 - To see what kind of information is available, browse through the subject categories.
 - For information on popular topics, organizations, commercial sites and products.
-

Directory Pros & Cons

- **Pros:**

- Capability of delivering a higher quality of content
- Provide fewer out of context results

- **Cons:**

- More dead links
 - Slower search process
-

Directories in Action

- Open Directory – www.dmoz.org
 - Look Smart - www.search.looksmart.com
 - Yahoo! – www.yahoo.com

 - Searching for:
 - Korean hostages
 - Weight Loss
-

[advanced](#)

Arts

[Movies](#), [Television](#), [Music](#)...

Business

[Jobs](#), [Real Estate](#), [Investing](#)...

Computers

[Internet](#), [Software](#), [Hardware](#)...

Games

[Video Games](#), [RPGs](#), [Gambling](#)...

Health

[Fitness](#), [Medicine](#), [Alternative](#)...

Home

[Family](#), [Consumers](#), [Cooking](#)...

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News

[Media](#), [Newspapers](#), [Weather](#)...

Recreation

[Travel](#), [Food](#), [Outdoors](#), [Humor](#)...

Reference

[Maps](#), [Education](#), [Libraries](#)...

Regional

[US](#), [Canada](#), [UK](#), [Europe](#)...

Science

[Biology](#), [Psychology](#), [Physics](#)...

Shopping

[Autos](#), [Clothing](#), [Gifts](#)...

Society

[People](#), [Religion](#), [Issues](#)...

Sports

[Baseball](#), [Soccer](#), [Basketball](#)...

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[Deutsch](#), [Español](#), [Français](#), [Italiano](#), [Japanese](#), [Nederlands](#), [Polska](#), [Dansk](#), [Svenska](#)...

Become an Editor

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Search: **korean hostages**
No [Open Directory Project](#) results found

Try your search on:

- | | |
|---------------------------|------------------------|
| Altavista | Lycos |
| A9 | MSN |
| AOL | Teoma |
| Clusty | Wisnut |
| Gigablast | Yahoo |
| Google | |

[Advanced Search](#) [Help on Search](#)

"korean hostages" search on: [AltaVista](#) - [A9](#) - [AOL](#) - [Clusty](#) - [Gigablast](#) - [Google](#) - [Lycos](#) - [MSN](#) - [Teoma](#) - [Wisnut](#) - [Yahoo](#)

Search [advanced](#)

Arts

[Movies](#), [Television](#), [Music...](#)

Games

[Video Games](#), [RPGs](#), [Gambling...](#)

Kids and Teens

[Arts](#), [School Time](#), [Teen Life...](#)

Reference

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[Autos](#), [Clothing](#), [Gifts...](#)

World

[Deutsch](#), [Español](#), [Français](#), [Italiano](#), [Japanese](#), [Nederlands](#), [Polska](#), [Dansk](#), [Svenska...](#)

Business

[Jobs](#), [Real Estate](#), [Investing...](#)

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[Fitness](#), [Medicine](#), [Alternative...](#)

News

[Media](#), [Newspapers](#), [Weather...](#)

Regional

[US](#), [Canada](#), [UK](#), [Europe...](#)

Society

[People](#), [Religion](#), [Issues...](#)

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[Baseball](#), [Soccer](#), [Basketball...](#)



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- [Animal \(2,789\)](#)

- [Alternative \(6,752\)](#)
- [Conditions and Diseases \(15,254\)](#)
- [Healthcare Industry@ \(6,579\)](#)
- [Medicine \(12,846\)](#)
- [Mental Health \(6,493\)](#)
- [Regional \(0\)](#)

- [Addictions \(2,713\)](#)
- [Aging \(138\)](#)
- [Beauty \(603\)](#)
- [Child Health \(875\)](#)
- [Dentistry \(502\)](#)
- [Directories \(2\)](#)
- [Disabilities@ \(1,180\)](#)
- [Education \(171\)](#)
- [Employment@ \(544\)](#)
- [Environmental Health@ \(366\)](#)
- [Fitness \(2,015\)](#)
- [History@ \(6\)](#)
- [Home Health \(391\)](#)
- [Insurance@ \(157\)](#)
- [Men's Health \(348\)](#)
- [News and Media \(212\)](#)
- [Nursing \(1,588\)](#)
- [Nutrition \(583\)](#)
- [Occupational Health and Safety \(746\)](#)
- [Organizations \(75\)](#)
- [Pharmacy \(3,857\)](#)
- [Products and Shopping \(0\)](#)
- [Professions \(1,277\)](#)
- [Public Health and Safety \(3,606\)](#)
- [Publications@ \(167\)](#)
- [Reproductive Health \(2,352\)](#)
- [Resources \(227\)](#)
- [Search Engines \(13\)](#)
- [Senior Health \(1,007\)](#)
- [Senses \(413\)](#)
- [Services \(84\)](#)
- [Specific Substances \(838\)](#)
- [Support Groups \(478\)](#)
- [Teen Health \(75\)](#)
- [Travel Health@ \(71\)](#)
- [Weight Loss \(416\)](#)
- [Women's Health \(830\)](#)





Search the entire directory

Top: [Health: Weight Loss](#) (379)

[Description](#)
[FAQ](#)

- [Articles](#) (33)
- [Clinics and Services](#) (37)
- [Eating Disorders@](#) (327)
- [Fasting and Cleansing@](#) (63)
- [Low Fat Cooking@](#) (71)
- [Obesity@](#) (62)
- [Online Shopping@](#) (305)
- [Personal Pages](#) (138)
- [Support Groups](#) (88)
- [Surgery@](#) (127)

See also:

- [Health: Alternative: Herbs: Materia Medica: Hoodia Gordonii](#) (6)
- [Health: Fitness](#) (1,146)
- [Health: Nutrition](#) (599)
- [Home: Cooking: Special Diets](#) (248)

This category in other languages:

- [Chinese Simplified](#) (8)
- [Chinese](#) (7)
- [Czech](#) (16)
- [Danish](#) (31)
- [Dutch](#) (16)
- [Hungarian](#) (0)
- [Japanese](#) (28)
- [Russian](#) (8)
- [Swedish](#) (12)

- [Advanced Body Mass Index Calculator](#) - Calculates your body mass index and shows statistics to compare your body to others of the same height, sex and age. Handles pediatric and older adult ages.
- [Am I Fat?](#) - Find out if you are overweight and what can be done about it. Includes an overview of obesity, weight tables, calorie requirements, and a forum.
- [Analyzing Weight Loss](#) - Analyzing different methods including fads, natural diets and exercise.
- [BBC Online Health - Fighting Fat](#) - Details on how to keep to a healthy weight, eat well and reduce your risk of heart disease, diabetes and other health problems.
- [Calculate your Body Mass Index](#) - National Institute of Health (NIH) page uses height and weight (english or metric) to determine amount of body fat.



weight loss

Search

[Advanced Search](#)
[Preferences](#)

[New! View and manage your web history](#)

Web [News](#) Results 1 - 10 of about 89,700,000 for [weight loss](#). (0.33 seconds)

[Lap-Band Solutions](#) Sponsored Links
www.lapbandsolutions.com 30 minute laparoscopic Lap-Band procedure, no hospital stay!

[30lbs in 3 Weeks- No Diet](#)
www.Zovatol.com Amazing **Weight Loss** Secret As seen on CNN and 60 Minutes

Sponsored Links

[LOSE 9LBS EVERY 11 DAYS](#)
YOU WANT TO LOSE **WEIGHT**
IN ONLY 11 DAYS OR LESS TRY THIS
allshaun.4idiots.hop.clickbank.net/

Refine results for **weight loss**:

- [Treatment](#)
- [Tests/diagnosis](#)
- [For patients](#)
- [From medical authorities](#)
- [Symptoms](#)
- [Causes/risk factors](#)
- [For health professionals](#)
- [Alternative medicine](#)

[Jenny Craig Special Offer](#)
Join Jenny Craig For 6 Weeks
For Just \$36. Sign Up Today!
www.JennyCraig.com

[Weight Loss](#)

About.com's **weight loss** Web site provides links to a variety of information about diets, emotional eating, fitness, nutrition, cooking and more, ...
[weightloss.about.com/](#) - 30k - Jul 29, 2007 - [Cached](#) - [Similar pages](#)

["Lose 20 lbs in 3 Weeks"](#)
Shocking Chinese Diet Secret.
As Seen on CNN & Fox News!
www.MeltMoreFat.com

[Health & Diet Center- Find healthy eating and diet plans and tips ...](#)

From healthy diet plans to helpful **weight loss** tools, here you'll find the latest diet news and information.
www.webmd.com/diet/ - 119k - Jul 29, 2007 - [Cached](#) - [Similar pages](#)


[Special K®](#)
Take the New Special K Challenge
and Join a Group!
www.SpecialK.com

[L A Weight Loss Centers](#)

With L A **Weight Loss**, you lose the **weight**, not the lifestyle. Learn more about how our program fits your life. You will look great. You will feel healthier. ...
www.laweightloss.com/ - 11k - [Cached](#) - [Similar pages](#)

[Lose 35lbs during Summer](#)
Amazing Fat Burning Secret Revealed
As Seen on CNN and Fox News
www.Lipocerin.com

[News results for weight loss](#)

 [Doctor-dietitian duo aids weight loss](#) - Jul 27, 2007
NEW YORK (Reuters Health) - Getting advice from both a dietitian and a physician at the same time helps in achieving and maintaining **weight loss**, ...
Reuters.uk - [8 related articles »](#)

[Weight-Loss Pills Exposed](#)
Top 20 **Weight-Loss** Pills Reviewed
Lose 30 Pounds in 30 Days!
PricesExposed.net/Quick-Weight-Loss

[Weight Loss and Diet Pills for Sale](#)

The **Weight Loss** Institute offers information and sale of diet pills such as Phentermine, Xenical, Bontril and Meridia.
www.weight-loss-institute.com/ - 24k - [Cached](#) - [Similar pages](#)

[Top 5 Weight Loss Pills](#)
Which **Weight Loss** Pill's Strongest?
Top Diet Pills Voted- Learn More...
www.ConsumerPriceWatch.net

[Learn The Real Truth On Weight Loss - Hoodia Gordonii](#) —

[OnrabsDiet Weightl_oss tea](#)

Distinctions are Blurring

- The line between subject directories and search engines is blurring.
 - Most directories have partnered with search engines while search engines are acquiring subject directories or creating their own.
-

Search Engine/Directory Final Word

- If you're browsing and trying to determine what's available in your subject area start with a subject directory
 - If you're looking for a specific piece of information go to a major search engine
-

Understanding Search Tools for More Effective Queries

- **How do Search Engines Really Work?**

- Comparing Search Engines and Directories
- **Indexing – Spiders and Web Crawlers**
- How “Relevant” Information is Retrieved
- Using Meta-Crawlers to Achieve More Comprehensive Searches

- Mastering the Rules of Boolean Searching and Advanced Search Functions
 - How Ranking, Metadata, and Search Engine Optimization Affect Your Searches
 - Using Keywords Creatively
 - Maximizing Browser Power – The “Find” Function and Managing Bookmarks
-

Indexing – Spiders and Web Crawlers

- Spiders crawl from link to link
 - ❑ Sites with no links to other pages may be missed
 - ❑ May submit URLs for crawling



Indexing – Spiders and Web Crawlers

- Site is indexed
 - Index contains every web page the spider finds.
 - If a web page changes, the index is updated.
 - Pages are not available to searchers until spidered AND indexed.
-

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-

How “Relevant” Info is Retrieved

- Each search engine has unique software
 - Sifts through the pages recorded in the index
 - Finds matches to a search
 - Ranks the matches by relevance.
 - Remember, not up to the minute!!
-

Dead Search Engines

These search engines used to offer their own database or unique search features. They have all abandoned their position in search, although they still may have some kind of search functionality. The linked reviews reflect how these search engines used to work.

- [AlltheWeb](#) [Switched to Yahoo! database in March 2004]
- [AltaVista](#) [Switched to Yahoo! database in March 2004]
- [Deja.com](#) [Defunct Usenet search, bought by Google and became Google Groups]
- [Direct Hit](#) [Defunct, redirecting to Teoma]
- [Excite](#) [Defunct as a separate database, now uses an InfoSpace meta search]
- [Excite News](#) (NewsTracker) [Defunct]
- [Flipper](#) [Hidden Web databases from [Quigo](#), defunct by Fall 2003]
- [Go](#) [Defunct as a separate database, took over Infoseek, switched to Overture, then to Google]
- [Go \(Infoseek\) News](#) [Defunct]
- [Infoseek](#) [Defunct as a separate database, bought by Disney for Go, then abandoned in favor of Overture]
- [HotBot](#) [Dropped Inktomi database in early 2005, now only a multi-search of Google and Ask Jeeves]
- [InvisibleWeb.com](#) [a hidden Web directory, defunct by 2003]
- [iWon](#) [Old Inktomi version defunct. Now uses Google "sponsored" ads and Web and image databases]
- [Lycos](#) [Switched to Yahoo!/Inktomi database in April 2004 and Ask Jeeves in 2005.]
- [Magellan](#) [Dead, redirects to WebCrawler]
- [MessageKing](#) [Defunct Web forum search engine as of Fall 2003]
- [MSN Search](#) [predecessor of [Live Search](#)]
- [NBCi \(formerly Snap\)](#) [Defunct, now uses metasearch engine Dogpile]
- [NBCi Live Directory \(formerly Snap\)](#) [Defunct directory]
- [Northern Light](#) [Defunct as a Web search engine as of 2002.]
- [Northern Light Current News](#) [Dead. Updates ceased as of Feb. 28, 2003.]
- [Openfind](#) [Under "reconstruction" as of 2003]

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-

Using Meta-Crawlers to Achieve More Comprehensive Searches

- Searches several search engines at the same time
 - Results are gathered and grouped
 - Each features different search engines and method of reporting results.
-

Examples of Meta-Crawlers

- www.mamma.com
 - www.search.com
 - www.dogpile.com
-



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Search

Help

Power Search

■ **menu**

- home
- about mamma.com
- contact us
- services & tools
- help

■ **more**

- company info
- media solutions
- advertisers
- publishers

■ **about mamma.com**

Mamma.com is a site owned and operated by Copernic Inc. (formerly known as Mamma.com Inc.). For corporate, investor, or press information about Copernic Inc., please visit our [corporate site](#).

Looking for advertising or publishing opportunities and partnerships? Please visit our media site, [Copernic Media Solutions](#).

Mamma.com is a "smart" metasearch engine — every time you type in a query Mamma simultaneously searches a variety of engines, directories, and deep content sites, properly formats the words and syntax for each, compiles their results in a virtual database, eliminates duplicates, and displays them in a uniform manner according to relevance. It's like using multiple search engines, all at the same time.

Created in 1996 as a master's thesis, ~~Mamma.com helped to introduce metasearch to the Internet as one of the first of its kind.~~ Due to its quality results, and the benefits of metasearch, Mamma grew rapidly through word of mouth, and quickly became an established search engine on the Internet. Mamma.com's ability to gather the best search results available from top search sources and to provide useful tools to its users has resulted in its receiving multiple Honourable Mentions in the Best Metasearch category in the annual [SearchEngineWatch Awards](#).



■ **about metasearch**

Every time you type in a query at a metasearch engine, they search a series of other search and content sites at the same time, compile their results, and display them either by source or by integrating them in a uniform manner, eliminating duplicates, and resorting them according to relevance. It's like using multiple search engines, all at the same time.



By using a metasearch engine, you get a snapshot of the top results from a variety of



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Search the Web

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Search

[Preferences](#)

All the best search engines piled into one.

Google **YAHOO! SEARCH**  **Live Search** **Ask**™



"Highest in Customer Satisfaction Among Internet Users
With Primary Search Engines/Functions"

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 - How “Relevant” Information is Retrieved
 - Using Meta-Crawlers to Achieve More Comprehensive Searches
 - Mastering the Rules of Boolean Searching and Advanced Search Functions
 - How Ranking, Metadata, and Search Engine Optimization Affect Your Searches
 - Using Keywords Creatively
 - Maximizing Browser Power – The “Find” Function and Managing Bookmarks
-

Boolean Searching

- Use connectors to add precision and relevance to search in ANY DATABASE.
 - AND: limits number of hits
 - OR: expands number of hits (to allow for idiosyncracies)
 - NOT: increases precision
-

Boolean Searching

■ AND

- truth

- truth AND justice

- truth AND justice AND ethics AND congress



Boolean Searching

- OR

- college

- college OR university

- college OR university OR campus



Boolean Searching

- NOT

- rico

- rico NOT puerto

- rico NOT act

Boolean Searching

- Nesting: increases precision by combining several search statements
 - (hybrid OR electric) AND (Toyota OR Honda)
 - Saturn
 - AND (car or automobile)
 - NOT (planet OR space)
-

Boolean Searching

- Proximity: limits number of hits
 - truth
 - truth AND justice
 - truth NEAR justice
-

Boolean Searching

- Field Searching: limits your hits and increases precision by searching only the relevant portion of a database.
 - Drop down menus
 - Tabs
 - Check boxes
-

Academic Search
Options[Quick Info](#)[News](#)[Business](#)[Legal Research](#)[Legal News](#)[Law Reviews](#)[Get a Case](#)[Shepard's® for](#)[U.S. Supreme](#)[Court](#)[Federal Case Law](#)[State Case Law](#)[Area of Law by](#)[Topic](#)[Federal Code](#)[Federal Regulations](#)[State Code](#)[Tax Law](#)[Canadian](#)[Legislative](#)[Materials](#)[Canadian Statutes](#)[& Regulations](#)[EU Law \(CELEX\)](#)[Commonwealth](#)[and Foreign Nations](#)[Patents](#)[Patent](#)[Classification](#)[Patent Manual](#)[Martindale-](#)[Hubbell®](#)[Law Schools](#)[Medical](#)[Reference](#)[Reference](#)[Search for Other](#)[Information](#)[Congressional](#)[Government Periodicals](#)[Index](#)

Basic

Guided Search

Additional Search Options

Enter keywords and select the field where you want the words to be found. Combine your search criteria using the connectors provided.

Search for: in

Entry Required

and in

and in

Date: Previous six months

From: To:

Court: [Source List](#)

Tips

This form's source selections are:

- **Supreme Court Decisions:** Full text opinions of all Supreme Court cases since 1790. In addition, all dispositions of cases that were appealed to the Supreme Court are included.
- **Supreme Court Briefs:** Working papers of the actual parties to the litigation as well as other interested parties, which are filed with the Supreme Court before the case is argued.
- **Supreme Court Previews:** Offers advance analysis by legal experts of the issues, facts and significance of each case being argued before the Supreme Court.
- **Court of Appeals:** All case law from the U.S. Circuit Courts. Appellate courts have authority over lower courts in a geographical area or jurisdiction. They review claimed errors of law, but will not review factual determinations made by the lower courts.
- **District Courts:** All case law from U.S. District Courts for all 50 States from 1789 to current, the District of Columbia, the District Court for Puerto Rico, the District Court for the Virgin Islands, the District Court for Guam, and the District Court for the Mariana Islands.
- **Customs & Patent Appeals:** Case law from the U.S. Court of Customs and Patent Appeals from June 1949 through September 1982.
- **Court of International Trade:** Case law from the U.S. Court of International Trade. This court supersedes the former Customs Court and has expanded jurisdiction over custom matters.
- **Bankruptcy Courts:** Case law from October 1979 through March 1999.
- **Tax Courts:** Case law from the U.S. Tax Court from 1942 to current, U.S. Tax Court Memorandum from 1942 to current and the former Board of Tax Appeals from 1924 to 1942.
- **Court of Veteran Appeals:** Case law from December 1989 through April 1999. The Court, created in 1988, hears appeals from decisions of the Board of Veterans Appeals.
- **Customs Courts:** Case law from the U.S. Customs Court, from June 1962 through October 1980.
- **Commerce Court:** Cases from July 1911 through November 1913. This Court no longer exists.

Congressional Search Forms

- Congressional Publications
 - Basic Search
 - Advanced Search**
 - Search By Number
- Legislative Histories, Bills & Laws
- Members & Committees
- Regulations
- Congressional Record & Rules
- Political News/Hot Topics

Search for Other Information

- Academic
- Government Periodicals Index
- Statistical

Congressional Publications

Basic Search **Advanced Search** Search By Number

Enter search terms*

Improve results by using [Index Terms](#)

In

AND

Improve results by using [Index Terms](#)

In

AND

Improve results by using [Index Terms](#)

In

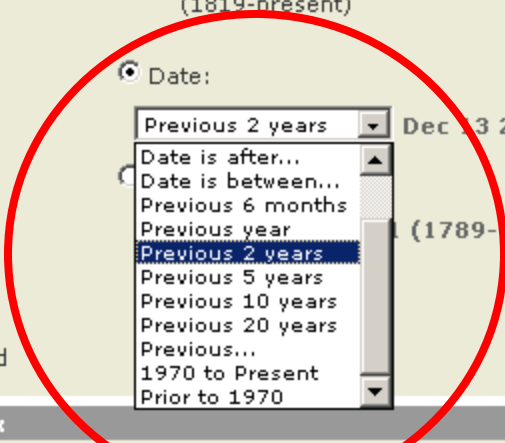
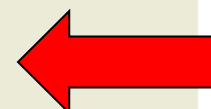
Search within [Select all](#) | [Clear all](#)

| | |
|--|---|
| <input checked="" type="checkbox"/> <input type="checkbox"/> Committee Prints (1830-present) | <input checked="" type="checkbox"/> <input type="checkbox"/> Legislative Histories (1969-present) |
| <input checked="" type="checkbox"/> <input type="checkbox"/> CRS Reports (1916-present) | <input type="checkbox"/> <input type="checkbox"/> Serial Set Maps (1789-1969) |
| <input checked="" type="checkbox"/> <input type="checkbox"/> Hearings (1824-present) | <input checked="" type="checkbox"/> <input type="checkbox"/> Serial Set (1789-1969) |
| <input checked="" type="checkbox"/> <input type="checkbox"/> House & Senate Documents (1817-present) | <input type="checkbox"/> 'Serial Set Only' options |
| <input checked="" type="checkbox"/> <input type="checkbox"/> House & Senate Reports (1819-present) | |

Restrict by Date:

(1789-1791) to 109 (2005-2006)

*required field [Clear form](#)



Search input field with a red arrow pointing to it.

Search

Menu Clear Selections Research History Research Folders

Check Citator

Check Citator

Search Tools

- My CCH
- Tax Tracker News
- Accounting & Audit
- Federal Tax**
- State Tax
- State Business Income Tax
- Sales/Property Tax
- Financial & Estate Planning
- Wealth Management
- Tax Practice Areas
- Pension & Payroll
- International Tax
- perform plus III forms
- ClientRelate
- Capital Changes
- Tax Tools
- CPE
- Training & Support



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Federal Tax

Current Features and Journals — Select All

- Federal Tax Day
- CCH Federal Tax Weekly
- TAXES - The Tax Magazine
- Journal of Retirement Planning
- Journal of Practical Estate Planning
- Journal of Tax Practice and Procedure
- ADVANCE RELEASE Documents
- Federal Excise Tax Report Letter
- Federal Estate and Gift Tax Report Letter
- Tax Treaties Report Letters

Legislation — Select All

- CCH Legislation Newswire
- Bills Worth Watching
- CCH Tax Briefings
- Pension Protection Act of 2006: Law, Explanation & Analysis
- Tax Increase Prevention and Reconciliation Act of 2005: Law & Explanation
- Hurricane Tax Relief Acts of 2005: Law, Explanation & Analysis
- Law, Explanation and Analysis Books (1989-2005)
- Tax Bills and Reports: 109th Congress (2005-2006)
- Major Tax Acts and Reports (1986-2005)
- JCT Blue Books
- CRS Reports and Other Studies (2003-2006)
- Historical Legislative Documents (2003-2004)
- Historical Legislative Documents (1954-2002)

TH Explanations and Analysis — Select All

- CCH Tax Research Consultant
- Standard Federal Income Tax Reporter
- Tax Treaties Reporter
- 2006 U.S. Master Tax Guide
- Tax Practice Guides
- Employee Benefits Analysis

Advanced Search Functions

- Look for “advanced” searching options.
 - Allows you to use Boolean logic and field searching.
-



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[Preferences](#)
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Find results

with **all** of the words 10 results

with the **exact phrase**

with **at least one** of the words

without the words

Language Return pages written in

File Format return results of the file format

Date Return web pages first seen in the

Numeric Range Return web pages containing numbers between and

Occurrences Return results where my terms occur

Domain return results from the site or domain
e.g. google.com, .org [More info](#)

Usage Rights Return results that are
[More info](#)

SafeSearch No filtering Filter using [SafeSearch](#)

Page-Specific Search

Similar Find pages similar to the page
e.g. www.google.com/help.html

Links Find pages that link to the page

Topic-Specific Searches

- [Google Book Search](#) - Search the full text of books
- [New! Google Code Search](#) - Search public source code
- [Google Scholar](#) - Search scholarly papers
- [Google News archive search](#) - Search historical news

23 of 24 - Clipboard
Item collected.



FCC Home Page

[site map](#)

Search:

[Help](#) | [Advanced](#)



- [About the FCC](#)
- [Auctions](#)
- [Closed Captioning](#)
- [Commission Meetings](#)
- [Contacting the FCC](#)
- [Customer Service Standards](#)
- [Debt Collection](#)
- [Employment Opportunities](#)
- [FCC Registration Number \(FRN\) Commission Registration System \(CORES\)](#)
- [Fees](#)
- [Forms](#)
- [Freedom of Information Act](#)
- [Internship Opportunities](#)
- [Licensing](#)
- [Rules & Regulations](#)
- [Statistical Reports](#)

lines [Daily Digest](#) | [Daily Business](#)

- 12/12/06
 Notice Concerning Ex Parte Status of Information Submitted to the Commercial Mobile Service Alert Advisory Committee.
 Public Notice: [Word](#) | [Acrobat](#)
- 12/11/06
 FCC Chairman and Commissioners Statements From Public Hearing on Media Ownership in Nashville, TN.
 Martin Statement: [Word](#) | [Acrobat](#)
 Copps Statement: [Word](#) | [Acrobat](#)
 Adelstein Statement: [Word](#) | [Acrobat](#)
- 12/11/06
 Statement of Commissioner McDowell Regarding Nashville Media Ownership Field Hearing.
[Word](#) | [Acrobat](#)
- 12/11/06
 FCC Announces Renewal of Diversity Committee's Charter, Appointment of Members to the Re-Chartered Committee; and Scheduling of December 21, 2006 Committee Meeting.
 Public Notice: [Word](#) | [Acrobat](#)
- 12/11/06
 FCC Announces Revised Agenda for Public Hearing on Media Ownership in Nashville, Tennessee.
 Public Notice: [Word](#) | [Acrobat](#)
- 12/8/06
 Memorandum from FCC General Counsel Sam Feder to Commissioner Robert McDowell on participation of Commissioner McDowell in the Commission's decision on the AT&T/BellSouth merger proceeding.
 Memorandum: [Acrobat](#)
- 12/8/06
 Chairman Martin Statement on Decision of General Counsel in AT&T/BellSouth Merger Proceeding.

Commissioners

- [Kevin J. Martin](#)
Chairman
- [Michael J. Copps](#)
Commissioner
- [Jonathan S. Adelstein](#)
Commissioner
- [Deborah Taylor Tate](#)
Commissioner
- [Robert M. McDowell](#)
Commissioner
- [All Commissioners & Press Photos](#)

Bureaus & Offices

- Bureaus:**
- [Consumer & Governmental Affairs](#)
 - [Enforcement](#)
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 - [Public Safety & Homeland Security](#)
 - [Wireless Telecommunications](#)
 - [Wireline Competition](#)



FCC Search

[FCC](#) > FCC Search

[site map](#)

[Other Search Tools](#)

Search:
for documents that

should contain in the body the words

should contain
must contain

must contain in the body the words

and

must not contain in the body the words

and show

10 results sorted by relevance with summaries

Show individual word scores

[Help](#) [Simple](#)

Search Scope: The FCC Search Engine searches throughout the FCC's web site, including the [Electronic Document Management System](#) (EDOCS), but does not collect information from the FCC's other databases and [electronic filing systems](#) such as the [Electronic Comment Filing System](#) (ECFS). Information is collected from web pages and many types of documents including Word, WordPerfect, Acrobat, Excel, and ASCII Text, and is constantly updated.

FCC Search

[FCC](#) > FCC Search

[site map](#)

[Other Search Tools](#)

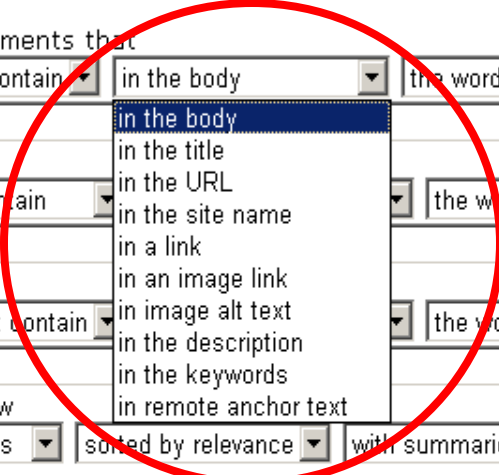
Search:
for documents that

| | | |
|------------------|--|--------------|
| should contain | <input type="text" value="in the body"/> | in the words |
| and | <input type="text" value=""/> | |
| must contain | <input type="text" value=""/> | in the words |
| and | <input type="text" value=""/> | |
| must not contain | <input type="text" value=""/> | in the words |
| and show | <input type="text" value=""/> | |

10 results | sorted by relevance | with summaries

Show individual word scores

[Help](#) [Simple](#)



Search Scope: The FCC Search Engine searches throughout the FCC's web site, including the [Electronic Document Management System](#) (EDOCS), but does not collect information from the FCC's other databases and [electronic filing systems](#) such as the [Electronic Comment Filing System](#) (ECFS). Information is collected from web pages and many types of documents including Word, WordPerfect, Acrobat, Excel, and ASCII Text, and is constantly updated.

FCC Search

[FCC](#) > FCC Search

[site map](#)

[Other Search Tools](#)

Search:

for documents that

should contain in the body the words

and

must contain in the body the words

and

must not contain in the body the words

and show

10 results sorted by relevance with summaries

Show individual word scores

[Help](#) [Simple](#)

Search Scope: The FCC Search Engine searches throughout the FCC's web site, including the [Electronic Document Management System](#) (EDOCS), but does not collect information from the FCC's other databases and [electronic filing systems](#) such as the [Electronic Comment Filing System](#) (ECFS). Information is collected from web pages and many types of documents including Word, WordPerfect, Acrobat, Excel, and ASCII Text, and is constantly updated.

Congressional Search Forms

- Congressional Publications
 - Basic Search
 - Advanced Search**
 - Search By Number
- Legislative Histories, Bills & Laws
- Members & Committees
- Regulations
- Congressional Record & Rules
- Political News/Hot Topics

Search for Other Information

- Academic
- Government Periodicals Index
- Statistical

Congressional Publications

Basic Search **Advanced Search** Search By Number

Enter search terms*

Improve results by using [Index Terms](#)

In

AND

Improve results by using [Index Terms](#)

In

AND

Improve results by using [Index Terms](#)

In

Search within [Select all](#) | [Clear all](#)

| | |
|--|---|
| <input checked="" type="checkbox"/> <input type="button" value="i"/> Committee Prints (1830-present) | <input checked="" type="checkbox"/> <input type="button" value="i"/> Legislative Histories (1969-present) |
| <input checked="" type="checkbox"/> <input type="button" value="i"/> CRS Reports (1916-present) | <input type="checkbox"/> <input type="button" value="i"/> Serial Set Maps (1789-1969) |
| <input checked="" type="checkbox"/> <input type="button" value="i"/> Hearings (1824-present) | <input checked="" type="checkbox"/> <input type="button" value="i"/> Serial Set (1789-1969) |
| <input checked="" type="checkbox"/> <input type="button" value="i"/> House & Senate Documents (1817-present) | <input type="checkbox"/> 'Serial Set Only' options |
| <input checked="" type="checkbox"/> <input type="button" value="i"/> House & Senate Reports (1819-present) | |

Restrict by Date:

Dec 13 2004 to Dec 13 2006

(1789-1791) to 109 (2005-2006)

[Clear form](#)

*required field

Academic Search
Options[Quick Info](#)[News](#)[Business](#)[Legal Research](#)[Legal News](#)[Law Reviews](#)[Get a Case](#)[Shepard's® for](#)[U.S. Supreme](#)[Court](#)[Federal Case Law](#)[State Case Law](#)[Area of Law by](#)[Topic](#)[Federal Code](#)[Federal Regulations](#)[State Code](#)[Tax Law](#)[Canadian](#)[Legislative](#)[Materials](#)[Canadian Statutes](#)[& Regulations](#)[EU Law \(CELEX\)](#)[Commonwealth](#)[and Foreign Nations](#)[Patents](#)[Patent](#)[Classification](#)[Patent Manual](#)[Martindale-](#)[Hubbell®](#)[Law Schools](#)[Medical](#)[Reference](#)[Search for Other](#)[Information](#)[Congressional](#)[Government Periodicals](#)[Index](#)

Basic

Guided Search

Additional Search Options

Enter keywords and select the field where you want the words to be found. Combine your search criteria using the connectors provided.

| | | | |
|----------------|--|--------------------------|---|
| Search for: | <input type="text"/> | in | <input type="text" value="Full Text"/> |
| Entry Required | | | |
| | <input type="text"/> | in | <input type="text" value="Full Text"/> |
| | <input type="text"/> | in | <input type="text" value="Full Text"/> |
| Date: | <input checked="" type="radio"/> Previous six months | | |
| | <input type="radio"/> From: <input type="text"/> | To: <input type="text"/> | |
| Court: | <input type="text" value="Supreme Court Cases"/> | | Source List |
| | <input type="button" value="Search"/> | | <input type="button" value="Clear Form"/> |

Tips

This form's source selections are:

- **Supreme Court Decisions:** Full text opinions of all Supreme Court cases since 1790. In addition, all dispositions of cases that were appealed to the Supreme Court are included.
- **Supreme Court Briefs:** Working papers of the actual parties to the litigation as well as other interested parties, which are filed with the Supreme Court before the case is argued.
- **Supreme Court Previews:** Offers advance analysis by legal experts of the issues, facts and significance of each case being argued before the Supreme Court.
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- **District Courts:** All case law from U.S. District Courts for all 50 States from 1789 to current, the District of Columbia, the District Court for Puerto Rico, the District Court for the Virgin Islands, the District Court for Guam, and the District Court for the Mariana Islands.
- **Customs & Patent Appeals:** Case law from the U.S. Court of Customs and Patent Appeals from June 1949 through September 1982.
- **Court of International Trade:** Case law from the U.S. Court of International Trade. This court supersedes the former Customs Court and has expanded jurisdiction over custom matters.
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- **Tax Courts:** Case law from the U.S. Tax Court from 1942 to current, U.S. Tax Court Memorandum from 1942 to current and the former Board of Tax Appeals from 1924 to 1942.
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- **Customs Courts:** Case law from the U.S. Customs Court, from June 1962 through October 1980.
- **Commerce Court:** Cases from July 1911 through November 1913. This Court no longer exists.

Understanding Search Tools for More Effective Queries

- How do Search Engines Really Work?
 - Comparing Search Engines and Directories
 - Indexing – Spiders and Web Crawlers
 - How “Relevant” Information is Retrieved
 - Using Meta-Crawlers to Achieve More Comprehensive Searches
 - Mastering the Rules of Boolean Searching and Advanced Search Functions
 - How Ranking, Metadata, and Search Engine Optimization Affect Your Searches
 - Using Keywords Creatively
 - Maximizing Browser Power – The “Find” Function and Managing Bookmarks
-

Search Engine Optimization

- The process web developers use to increase the volume and quality of traffic from search engines to their web site.
 - The higher a site "ranks," the more searchers will visit.
-

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[Search engine optimization - Wikipedia, the free encyclopedia](#)
Search engine optimization (SEO) is the process of improving the volume and quality of traffic to a web site from **search** engines via "natural" ("organic" or ...
[en.wikipedia.org/wiki/Search_engine_optimization](#) - 85k - [Cached](#) - [Similar pages](#)

[Search Engine Optimization, Google Optimization - SEO Chat](#)
Search Engine Optimization, Google **Optimization** - SEO Chat.
[www.seochat.com/](#) - 109k - Jul 30, 2007 - [Cached](#) - [Similar pages](#)

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Search Engine Optimization, ranking, placement, and submission tutorial. Free step-by-step **SEO** tools and advice. **SEO** training and services offered. ...
[www.bruceclay.com/web_rank.htm](#) - 87k - [Cached](#) - [Similar pages](#)

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 SEO Inc offers Turn-Key solutions for your **search engine optimization** and PPC marketing initiatives. Services include **Search Engine Optimization**, ...
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[Search Engine Optimization and Search Engine Marketing](#)
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[Inteliture™ Search Engine Optimization and Internet Marketing ...](#)
 Inteliture™ a professional **search engine optimization** and internet marketing company. Offers internet marketing solutions, **search engine optimization** ...

Search Engine Optimization

- Indexing data, matching it to your search and ranking the matches are the heart of each search engine.
 - Important factors:
 - number of times a term matches
 - where on page it appears
 - who links to it
 - how often it is accessed
-

Understanding Search Tools for More Effective Queries

- How do Search Engines Really Work?
 - Comparing Search Engines and Directories
 - Indexing – Spiders and Web Crawlers
 - How “Relevant” Information is Retrieved
 - Using Meta-Crawlers to Achieve More Comprehensive Searches
 - Mastering the Rules of Boolean Searching and Advanced Search Functions
 - How Ranking, Metadata, and Search Engine Optimization Affect Your Searches
 - **Using Keywords Creatively**
 - Maximizing Browser Power – The “Find” Function and Managing Bookmarks
-

Using Keywords

- Imagine the ideal “hit”.
 - General search construction tips:
 - Be specific: Hurricane Hugo
 - Think about words you'd expect to find: anorexia bulimia eating disorder
 - Use multiple words: interaction vitamins drugs
 - Use nouns: fiesta dinnerware plates cups
 - Important terms first: hybrid electric gas vehicles
-

Using Keywords

- General search construction tips:
 - Make phrases: "search engine tutorial"
 - Avoid common words unless part of a phrase: "bottled water"
 - To cut down on response time, search engines ignore small and common words
 - a, about, an, and, are, as, at, be, by, from, how, I, in, is, it, of, on, or, that, the, this, to, we, what, when, where, which, with, etc.
-

Academic Search Forms

- > [Quick Info](#)
- > [News](#)
- > [Business](#)
- > [Legal Research](#)
- > [Medical](#)
- > [Reference](#)

Search for Other Information

- > [Congressional](#)
- > [Government Periodicals Index](#)
- > [Statistical](#)

Basic Guided Search

State Case Law: California

[Tips](#)

Keyword and Additional Terms search the full text of cases. Only cases that match all the criteria you enter will be found.

Search terms:
Entry Required e.g. professional negligence

Narrow search with additional terms:
e.g. accountant OR CPA

Court: [Source List](#)

Date:
 From: To: [Examples](#)

Tips

This form's source selections are:

- **All Courts:** Court decisions from all court levels
- **High Courts:** Court decisions from the state's highest court, usually the state Supreme Court
- **Appellate Courts:** Decisions from state court of appeal

Note: Cases are returned hierarchically by court -- in most states, the supreme court, followed by the appellate court. Consequently, if you're looking for information from an appellate court, you may want to check toward the end of the list of documents retrieved.

Please review the [Finding Information](#) section of the help pages to learn how to build a successful search. You will learn more about [state case reporters](#), [how to read a citation](#), and [footnotes and star pagination](#). Using Help, you will also learn how you can use [connectors](#) (AND, OR, etc.) and [wildcards](#) (* and !) to help express your search.

Keyword

You do not need to enclose phrases within quotation marks.

Example: **professional negligence**

Additional Terms

You can limit your search by specifying additional words or phrases that must appear in the document before it will be retrieved.

Search Terms: slip and fall

FOCUS™

Search Within Results

Edit Search

Print Email

Document List Expanded List KWIC Full

Documents 1 - 25 of 34. next >>

Tag for delivery
Clear

Sorted by Court | Sort by: Relevance



- 1. [People v. Schmeck](#), S015008 , SUPREME COURT OF CALIFORNIA , 37 Cal. 4th 240; 33 Cal. Rptr. 3d 397; 2005 Cal. LEXIS 9350; 2005 Cal. Daily Op. Service 7669; 2005 Daily Journal DAR 10433, August 25, 2005, Filed, As modified Oct. 12, 2005., Time for Granting or Denying Rehearing Extended People v. Schmeck (Mark L.), 2005 Cal. LEXIS 11199 (Cal., Sept. 26, 2005) Modified by People v. Schmeck, 2005 Cal. LEXIS 11169 (Cal., Oct. 12, 2005) Modified and rehearing denied by People v. Schmeck, 2005 Cal. LEXIS 11739 (Cal., Oct. 12, 2005)
- 2. [People v. Carter](#), S023000 , SUPREME COURT OF CALIFORNIA , 36 Cal. 4th 1215; 117 P.3d 544; 32 Cal. Rptr. 3d 838; 2005 Cal. LEXIS 8910; 2005 Cal. Daily Op. Service 7222; 2005 Daily Journal DAR 9833, August 15, 2005, Filed, Companion case at People v. Carter, 36 Cal. 4th 1114, 32 Cal. Rptr. 3d 759, 117 P.3d 476, 2005 Cal. LEXIS 8908 (2005) Modified by People v. Carter, 2005 Cal. LEXIS 11890 (Cal., Oct. 26, 2005) Modified and rehearing denied by People v. Carter, 2005 Cal. LEXIS 12016 (Cal., Oct. 26, 2005) Later proceeding at People v. Carter, 2005 Cal. LEXIS 12564 (Cal., Nov. 3, 2005)
- 3. [Koebke v. Bernardo Heights Country Club](#), S124179 , SUPREME COURT OF CALIFORNIA , 36 Cal. 4th 824; 115 P.3d 1212; 31 Cal. Rptr. 3d 565; 2005 Cal. LEXIS 8359; 2005 Cal. Daily Op. Service 6731; 2005 Daily Journal DAR 9214, August 1, 2005, Filed
- 4. [Aral v. Earthlink, Inc.](#), B177146 , COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FOUR , 2005 Cal. App. LEXIS 1847, November 29, 2005, Filed
- 5. [Solv-All v. Superior Court](#), E037021 , COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION TWO , 131 Cal. App. 4th 1003; 32 Cal. Rptr. 3d 202; 2005 Cal. App. LEXIS 1225; 2005 Cal. Daily Op. Service 6922; 2005 Daily Journal DAR 9422, July 6, 2005, Filed, The Publication Status of this Document has been Changed by the Court from Unpublished to Published August 3, 2005.
- 6. [Union Bank of California v. Superior Court](#), A107553 , COURT OF APPEAL OF CALIFORNIA, FIRST APPELLATE DISTRICT, DIVISION THREE , 130 Cal. App. 4th 378; 29 Cal. Rptr. 3d 894; 2005 Cal. App. LEXIS 977; 2005 Cal. Daily Op. Service 5259; 2005 Daily Journal DAR 7204, June 17, 2005, Filed, Related proceeding at Peregrine Funding v. Sheppard Mullin Richter & Hampton Llp, 2005 Cal. App. LEXIS 1640 (Cal. App. 1st Dist., Oct. 19, 2005)
- 7. [NAKAUCHI v. VOLLERO](#), B175810, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION SEVEN, 2005 Cal. App. Unpub. LEXIS 11429, December 12, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 8. [PEOPLE v. RUGG](#), C047245, COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT, 2005 Cal. App. Unpub. LEXIS 10630, November 21, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 9. [In re HODGE](#), B180414, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION THREE, 2005 Cal. App. Unpub. LEXIS 10408, November 14, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.



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People v. Schmeck

S015008

SUPREME COURT OF CALIFORNIA

37 Cal. 4th 240; 33 Cal. Rptr. 3d 397; 2005 Cal. LEXIS 9350; 2005 Cal. Daily Op. Service 7669; 2005 Daily Journal DAR 10433

August 25, 2005, Filed

NOTICE: As modified Oct. 12, 2005.

SUBSEQUENT HISTORY: Time for Granting or Denying Rehearing Extended People v. Schmeck (Mark L.), 2005 Cal. LEXIS 11199 (Cal., Sept. 26, 2005)
Modified by People v. Schmeck, 2005 Cal. LEXIS 11169 (Cal., Oct. 12, 2005)
Modified and rehearing denied by People v. Schmeck, 2005 Cal. LEXIS 11739 (Cal., Oct. 12, 2005)

OPINION: ... [*249] [*404] [***5] William Duffy that defendant had a plan to make money, in which he would "pretend [to] buy a motor home out of a newspaper and he would put the gun to the owner's head and insist [***6] that the owner sign over the pink slip to him or he would blow him away." On May 27, defendant told an acquaintance, John Maartense, he was going to obtain a motor home. When Maartense inquired how defendant would purchase a motor home without having a job, ...

... [*250] [*405] [***8] automatic teller machines, and Weber gave defendant \$ 300 in cash. Weber agreed to pay defendant a balance of \$ 1,200. Defendant gave Weber [***9] the motor home and several documents, including the pink slip, a bill of sale, a certificate of nonoperation, and a registration renewal form.

Later on May 30, Weber made efforts to determine whether defendant was the legitimate owner of the motor home. Weber subsequently met with ...

... [*254] [*408] [*** 18] asked defendant how he could telephone from the jail without calling collect, defendant said he used a satellite or calling card number. [*255]

Raymond Ruiz, a product manager at Pacific Bell, testified that starting in the fall of 1985 through the summer of 1986, the company received complaints from long distance carriers concerning telephone calls that were being made from a number of penal institutions such as Santa Rita Jail, and were being billed to the carrier. ...

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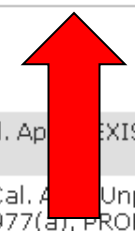
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- 1. [Aral v. Earthlink, Inc.](#), B177146 , COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FOUR , 2005 Cal. App. Unpub. LEXIS 1847, November 29, 2005, Filed
- 2. [NAKAUCHI v. VOLLERO](#), B175810, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION SEVEN, 2005 Cal. App. Unpub. LEXIS 11429, December 12, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 3. [SHISLER v. CATHEDRAL PROPS., INC.](#), C046819, COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT, 2005 Cal. App. Unpub. LEXIS 10013, November 2, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 4. [FRANK E. MADDOCKS, INC. v. UNIVERSITY MED. PRODUCTS/USA](#), B172559, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION EIGHT, 2005 Cal. App. Unpub. LEXIS 7546, August 22, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 5. [ACOSTA v. SUPER CTR. CONCEPTS, INC.](#), B172692, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION SEVEN, 2005 Cal. App. Unpub. LEXIS 7416, August 17, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977 (a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 6. [MCKENNA v. CITY OF REDDING](#), C045062, COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT, 2005 Cal. App. Unpub. LEXIS 6998, August 9, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 7. [WINTER v. SANTA MONICA FAMILY YMCA](#), B176118, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION THREE, 2005 Cal. App. Unpub. LEXIS 6446, July 25, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 8. [LINDSAY DIST. HOSPS. v. WORKERS' COMPENSATION APPEALS BD. & BOBBIE FULLER](#), F047651, COURT OF APPEAL OF CALIFORNIA, FIFTH APPELLATE DISTRICT, 2005 Cal. App. Unpub. LEXIS 6397, July 21, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.

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Aral v. Earthlink, Inc.

B177146

COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FOUR

2005 Cal. App. LEXIS 1847

November 29, 2005, Filed

OPINION: ... [*26] Florida-based cruise line. Once they paid their fare, they received tickets from the cruise line containing fine print limiting litigation to Florida courts. While in international waters, the wife suffered a **slip and fall** injury. The Supreme Court "d[id] not address the question [of] whether [plaintiffs] had sufficient notice of the forum clause before entering the contract for passage" because plaintiffs "essentially have conceded that they had notice of the forum-selection provision." (*Id.* at p. 590 ...

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- 1. [In re Koven](#), No. B184017 (Arising out of B159344), No. B184018 (Arising out of B168013) , COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION SIX, 2005 Cal. App. LEXIS 1818, November 22, 2005, Filed
- 2. [Viola v. Department of Managed Health Care](#), B174455 , COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FOUR , 133 Cal. App. 4th 299; 34 Cal. Rptr. 3d 626; 2005 Cal. App. LEXIS 1586; 2005 Cal. Daily Op. Service 8918; 2005 Daily Journal DAR 12142, October 11, 2005, Filed, As modified Nov. 4, 2005 and November 9, 2005., Modified and rehearing denied by Viola v. State Dept. of Managed Health Care, 2005 Cal. App. LEXIS 1710 (Cal. App. 2d Dist., Nov. 4, 2005)
- 3. [Quintanilla v. Dunkelman](#), B171789 , COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FIVE , 133 Cal. App. 4th 95; 34 Cal. Rptr. 3d 557; 2005 Cal. App. LEXIS 1581; 2005 Cal. Daily Op. Service 8846; 2005 Daily Journal DAR 12038, September 12, 2005, Filed, CERTIFIED FOR PARTIAL PUBLICATION* *Pursuant to California Rules of Court, rules 976(b) and 976.1, this opinion is certified for publication with the exception of parts II thru XIV of the discussion. , The Publication Status of this Document has been Changed by the Court from Unpublished to Partially Published October 6, 2005.
- 4. [Garrison v. Superior Court](#), No. B179957 , COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FIVE , 132 Cal. App. 4th 253; 33 Cal. Rptr. 3d 350; 2005 Cal. App. LEXIS 1364; 2005 Cal. Daily Op. Service 7804; 2005 Daily Journal DAR 10580, August 29, 2005, Filed, CERTIFIED FOR PARTIAL PUBLICATION n1 n1 Pursuant to California Rules of Court, rules 976(b) and 976.1, this opinion is certified for publication with the exception of part III.C., Review denied by, Request denied by Garrison v. L.A. County Superior Court, 2005 Cal. LEXIS 13078 (Cal., Nov. 16, 2005)
- 5. [David M. v. Beverly Hospital](#), B176692 , COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION TWO , 131 Cal. App. 4th 1272; 32 Cal. Rptr. 3d 649; 2005 Cal. App. LEXIS 1256; 2005 Cal. Daily Op. Service 7247; 2005 Daily Journal DAR 9856, August 12, 2005, Filed, Modified and rehearing denied by David M. v. Beverly Hospital, 2005 Cal. App. LEXIS 1382 (Cal. App. 2d Dist., Aug. 31, 2005) Review denied by David M. v. Beverly Hosp., 2005 Cal. LEXIS 13058 (Cal., Nov. 16, 2005)
- 6. [Arredondo v. Regents of University of California](#), B176881 , COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION ONE , 131 Cal. App. 4th 614; 31 Cal. Rptr. 3d 800; 2005 Cal. App. LEXIS 1181; 2005 Cal. Daily Op. Service 6654; 2005 Daily Journal DAR 9091, July 27, 2005, Filed
- 7. [Root v. American Equity Specialty Ins. Co.](#), G033818 , COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION THREE , 130 Cal. App. 4th 926; 30 Cal. Rptr. 3d 631; 2005 Cal. App. LEXIS 1025; 2005 Cal. Daily Op. Service 5799; 2005 Daily Journal DAR 7914, June 28, 2005, Filed, Request denied by Root v. American Equity Specialty, 2005 Cal. LEXIS 12596 (Cal., Nov. 2, 2005)
- 8. [KAيروس SCI. INC. v. FISH & RICHARDSON P.C.](#), A107085 & A107486, COURT OF APPEAL OF CALIFORNIA, FIRST APPELLATE DISTRICT, DIVISION TWO, 2005 Cal. App. Unpub. LEXIS 11356, December 9, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 9. [GOINGS & GOINGS, INC. v. U.S. RISK, INC.](#), G034008, COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION THREE, 2005 Cal. App. Unpub. LEXIS 11395, December 8, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.

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In re Koven

No. B184017 (Arising out of B159344), No. B184018 (Arising out of B168013)
COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION SIX

2005 Cal. App. LEXIS 1818

November 22, 2005, Filed

SUMMARY:

CALIFORNIA OFFICIAL REPORTS SUMMARY

[...*1] Contempt proceedings were initiated in the Court of Appeal against an attorney. The proceedings arose from two petitions for rehearing filed by the attorney on behalf of her client in a legal malpractice action. The court issued two orders requiring the attorney to show cause why she should not be adjudged guilty of contempt and punished for impugning the appellate court's integrity. (Superior Court of Ventura County, Nos. B184017 and ...

OPINION: ... [*2] rehearing. We refer Koven to the State Bar for investigation and, if appropriate, the imposition of disciplinary sanctions. (Bus. & Prof. Code, § 6086.7.)

Factual and Procedural Background

Koven represented Bashkin in a legal malpractice action [*3] brought against DeWitt F. Blase and Heily & Blase (hereafter defendants). (Bashkin v. Blase et al., Ventura Super. Ct. No. CIV183660.) This action arose from defendants' representation of Bashkin in a combined legal malpractice and medical malpractice action against Bashkin's former attorney (Stephen Marpet) and a psychiatrist (Arthur Sorosky). (Bashkin v. Sorosky & Marpet, Los Angeles Super. Ct. No. LC026201.)

On Bashkin's behalf, Koven filed ...

... [*13] a depository of the public trust.'

6. 'Far from viewing the evidence in the light most favorable to [Bashkin], this Court spent two pages of its Opinion trashing [Bashkin] as the "patient-from-hell"[n1] who allegedly ordered his doctor to alter his medical records. ... How convenient for this Court to concoct a trumped-up review of this issue that fits so snugly into its own predetermined perception of this litigant!'

7. 'THIS COURT MISREPRESENTED THE EVIDENCE IN ORDER TO ...

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- 1. [HAGSTROM v. REGENTS OF THE UNIV. OF CALIFORNIA](#), B176153, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION EIGHT, 2005 Cal. App. Unpub. LEXIS 9782, October 26, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 2. [PAGARIGAN v. AETNA U.S. HEALTHCARE OF CALIFORNIA, INC.](#), B167722, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION SEVEN, 2005 Cal. App. Unpub. LEXIS 9666, October 25, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 3. [LOWGREN v. INMAN](#), B164713, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION SEVEN, 2005 Cal. App. Unpub. LEXIS 9266, October 12, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 4. [SHAW v. SCHULNER](#), B179190, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION ONE, 2005 Cal. App. Unpub. LEXIS 7671, August 25, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 5. [ALAITI v. SCPIE INDEM. CO.](#), B177145, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FOUR, 2005 Cal. App. Unpub. LEXIS 7540, August 22, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 6. [GONZALES v. NASSER-MOADDELI](#), B176152, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FIVE, 2005 Cal. App. Unpub. LEXIS 7398, August 17, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 7. [Field v. Pb](#), D043154, COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION ONE, 2005 Cal. App. Unpub. LEXIS 6358, July 20, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 977(B). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 977.
- 8. [GARAMENDI v. MISSION INS. CO.](#), B176663, COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FOUR, 2005 Cal. App. Unpub. LEXIS 5858, July 5, 2005, Filed, NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 977(a), PROHIBIT

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HAGSTROM v. REGENTS OF THE UNIV. OF CALIFORNIA

B176153

COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION EIGHT

2005 Cal. App. Unpub. LEXIS 9782

October 26, 2005, Filed

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DISPOSITION: Reversed.

OPINION: [*1] A defendant to a medical malpractice action filed a motion for summary judgment supported only by the declaration of the **doctor** accused of committing the **malpractice**. The plaintiffs filed an untimely opposition containing no evidence. After rejecting a request for a continuance to conduct additional discovery, the trial court granted summary judgment in favor of the hospital.

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AETNA HEALTH INC., *fka* AETNA U. S. HEALTHCARE INC. *et al.* v. DAVILA

certiorari to the united states court of appeals for the fifth circuit

No. 02-1845. Argued March 23, 2004--Decided June 21, 2004^{*}

Respondents brought separate Texas state-court suits, alleging that petitioners, their health maintenance organizations (HMOs), had refused to cover certain medical services in violation of an HMO's duty "to exercise ordinary care" under the Texas Health Care Liability Act (THCLA), and that those refusals "proximately caused" respondents' injuries. Petitioners removed the cases to federal courts, claiming that the actions fit within the scope of, and were thus completely pre-empted by, §502 of the Employee Retirement Income Security Act of 1974 (ERISA). The District Courts agreed, declined to remand the cases to state court, and dismissed the complaints with prejudice after respondents refused to amend them to bring explicit ERISA claims. Consolidating these and other cases, the Fifth Circuit reversed. It found that respondents' claims did not fall under ERISA §502(a)(2), which allows suit against a plan fiduciary for breaches of fiduciary duty to the plan, because petitioners were being sued for mixed eligibility and treatment decisions that were not fiduciary in nature, see *Pegram v. Herdrich*, [530 U. S. 211](#); and did not fall within the scope of §502(a)(1)(B), which provides a cause of action for the recovery of wrongfully denied benefits, because THCLA did not duplicate that cause of action, see *Rush Prudential HMO, Inc. v. Moran*, [536 U. S. 355](#).

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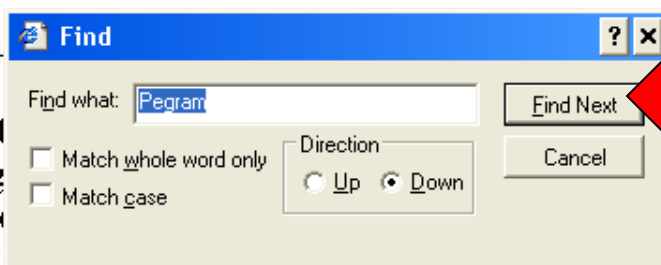
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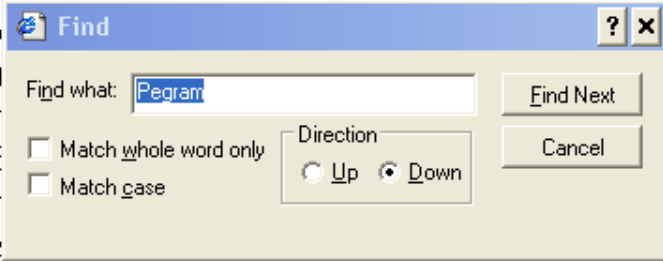
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therefore could have brought §502(a)(1)(B) claims to recover the allegedly wrongfully denied benefits. Both respondents allege violations of the THCLA's duty of ordinary care, which they claim is entirely independent of any ERISA duty or the employee benefits plans at issue. However, respondents' claims do not arise independently of ERISA or the plan terms. If a managed care entity correctly concluded that, under the relevant plan's terms, a particular treatment was not covered, the plan's failure to cover the requested treatment would be the proximate cause of any injury arising from the denial. More significantly, the THCLA provides that a managed care entity is not subject to THCLA liability if it denies coverage for a treatment not covered by the plan it administers. Pp. 7-12.

(c) The Fifth Circuit's reasons for reaching its contrary conclusion are all erroneous. First, it found significant that respondents asserted tort, rather than contract, claims and that they were not seeking reimbursement for benefits denied. However, distinguishing between pre-empted and non-pre-empted claims based on the particular label affixed to them would allow parties to evade ERISA's pre-emptive scope simply by relabeling contract claims as claims for tortious breach of contracts. And the fact that a state cause of action attempts to authorize remedies beyond those that ERISA §502(a) authorizes does not put it outside ERISA's pre-emptive scope. See, e.g., *Pilot Life Ins. Co. v. Dedeaux*, 481 U. S. 41, 43. Second, the fact that there is an external ordinary care duty, but the wrong is not external to respondents' rights under ERISA does not suggest that ERISA §502(a)'s pre-emptive scope is not broad enough to encompass this cause. Nor would it be consistent with ERISA's purpose to allow such a claim.



mechanism. See, e.g., *Pilot Life Ins. Co. v. Dedeaux*, 481 U. S. 41, 43. Second, the fact that there is an external ordinary care duty, but the wrong is not external to respondents' rights under ERISA does not suggest that ERISA §502(a)'s pre-emptive scope is not broad enough to encompass this cause. Nor would it be consistent with ERISA's purpose to allow such a claim. *Rush Prudential* did this Court that precisely duplicate an ERISA claim. Pp. 12-14.

(d) Also unavailing is respondents' argument that the THCLA is a law regulating insurance that is saved from pre-emption by ERISA §514(b)(2)(A). This Court's understanding of §514(b)(2)(A) is informed by the overpowering federal policy embodied in ERISA §502(a), which is intended to create an exclusive federal remedy, *Pilot Life*, 481 U. S., at 52. Allowing respondents to proceed with their state-law suits would "pose an obstacle" to that objective. *Ibid.* Pp. 14-16.

(e) *Pegram*'s holding that an HMO is not intended to be treated as a fiduciary to the extent that it makes mixed eligibility decisions acting through its physicians is not implicated here because petitioners' coverage decisions are pure eligibility decisions. A benefit determination under ERISA is part and parcel of the ordinary fiduciary responsibilities connected to the administration of a plan. That it is infused with medical judgments does not alter this result. *Pegram* itself recognized this principle, see 530 U. S., at 231-232. And ERISA and its implementing regulations confirm this interpretation. Here, petitioners are neither respondents' treating physicians nor those physicians' employees. Pp. 16-19.

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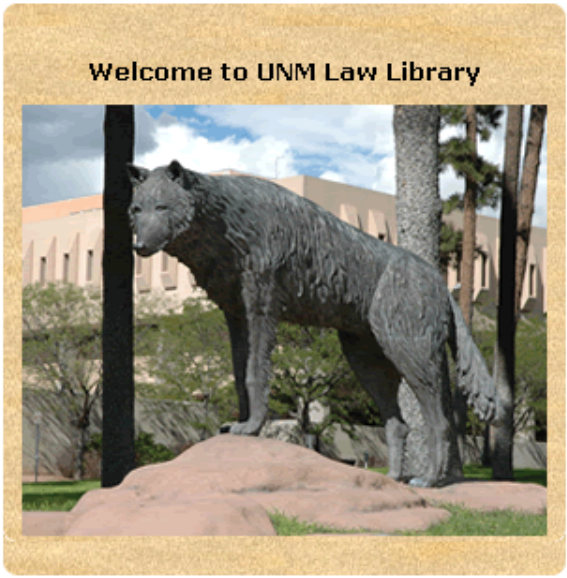
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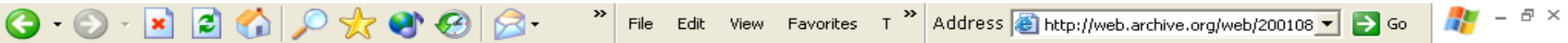
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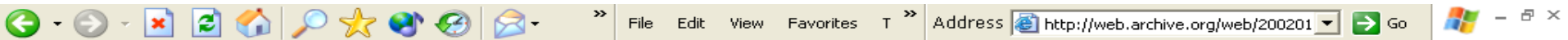


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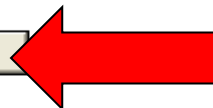
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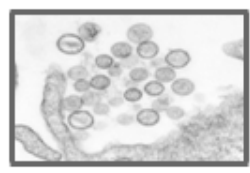
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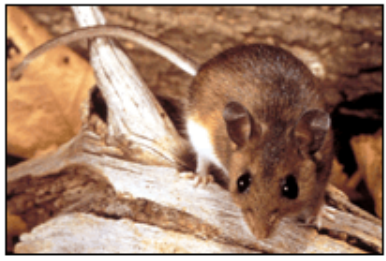
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Hantavirus Pulmonary Syndrome (HPS)

Hantavirus pulmonary syndrome (HPS) is a deadly disease from rodents. Humans can contract the disease when they come into contact with infected rodents or their urine and droppings. HPS was first recognized in 1993 and has since been identified throughout the United States. Although rare, HPS is potentially deadly. Rodent control in and around the home remains the primary strategy for preventing **hantavirus** infection.



Got Mice?
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