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## Secondary Sources: Top Ten

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## Secondary Sources: Top Ten<sup>2</sup>

by Susan D. Zago

Secondary sources are a legal researcher's best friend. They are a great place to begin researching a new topic as they provide a framework for understanding the subject. Not only will a good secondary source provide researchers with a way of approaching the topic, but it will also introduce beginning researchers to the language of the subject. Secondary sources also contain expert analysis, references to primary law such as cases, statutes, and regulations, and will also include such other resources as governmental reports, statistics, and other secondary sources. While secondary sources are an incredibly valuable research tool, they can offer such a wide array of options that researchers become overwhelmed with the sheer number of choices. This can strike anyone, even a fairly experienced researcher. Librarians, too, can become overwhelmed, especially when faced with teaching law students about the value of secondary sources and how to harness their power.

### *The Lists and How They Came To Be*

While I was team-teaching an advanced legal research course this past fall, the students in the class commented that they would find it valuable to have a list of secondary sources that are often used in practice. They complained that a partner would sometimes recommend a resource and would expect them to know what they were talking about. Unfortunately, this was not always the case, and the student would either gather the courage to ask for clarification or spend a considerable amount of time trying to figure out what source was meant when the partner used the kind of shorthand that all attorneys are guilty of using. Students wanted me to create a list of secondary sources that they could take with them to try and make sense of those "shorthand" instructions they are often given.

I thought this was an inspired suggestion and wanted to incorporate it into my upcoming session. However, it turned out to be a bigger project than I expected.

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## Secondary Sources

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I wanted to create a list that would be, most importantly, useful when students went into the “real world,” but also something that would be short enough for me to explain in an hour’s lecture. I considered making a “Top Ten” list a la David Letterman. When I taught this same subject last year, I found that there are so many secondary sources that it was nearly impossible to include them all in an

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### ***Secondary sources are a legal researcher’s best friend.***

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hour’s lecture, never mind trying to create a short but useful list of secondary sources, which students would remember.

After considering my options, I decided I needed help. So, I called on the “major leaguers” of the law library world by posting my question to the LLNE and the law-lib discussion lists (December 3, 2004). I got some fantastic input, and set to the task of creating a “Top Ten” list that would be useful for students going into practice.

This list is not only from responses to those December postings, but from a variety of reference questions I have had over the years. In addition, I garnered ideas from library colleagues, professors (during and after my own law school education), and alumni. If there are any flaws, they are solely my own.

### ***Top Ten (Plus One) Secondary Sources You May Need in Practice***

*These are all available in print. Electronic versions are noted where applicable.*

1. BNA’s *U.S. Law Week* available by subscription at [www.bna.com/](http://www.bna.com/).
2. *Uniform Commercial Code* (also known in “attorney shorthand” as White and Summers) available on Westlaw (not on academic subscriptions) – UCC-WS.
3. *Federal Practice and Procedure* (also known as Wright and Miller) – available on Westlaw – FPP.
4. *Moore’s Federal Practice* – available on LexisNexis – filename: MOORES.
5. *LaFave’s Substantive Criminal Law* – available on Westlaw – SUBCRL; *LaFave’s Criminal Procedure* – available on Westlaw – CRIM-PROC; and *LaFave’s Search and Seizure* – available on Westlaw – SEARCHSZR.

6. *Nimmer on Copyright* – available on LexisNexis – filename: NIMMER.
7. *Laurence Tribe on American Constitutional Law*
8. *Collier on Bankruptcy* – available on LexisNexis – filename: COLBKR.
9. *Corbin on Contracts* – available on LexisNexis – filename: CORBIN.
10. *Prosser on Torts*
11. Commerce Clearing House’s (CCH) *Standard Federal Tax Reporter* available by subscription through CCH at <http://tax.cchgroup.com>.

As you can see, I could not quite limit the world of secondary sources to just a simple list of 10 titles. There were just too many possibilities and must-haves to include. The problem was that I had so many more resources that came from other librarians’ suggestions via the law-lib discussion list, the assigned legal research text, and my fellow instructors in the legal research course. I just could not justify having a session on secondary sources without mentioning some of these crucial sources to the students, so I could not resist creating a second “Top Ten” list. Thus, the following list is based on the traditional workhorses of secondary sources and was formed so that I could discuss their value and how they should be used as a first step in developing a research strategy. I call this list, “Secondary Sources That Will Make Your Research Easier,” and I annotated it.

### ***Secondary Sources That Will Make Your Research Easier***

*These are all available in print. Electronic versions are noted where applicable.*

1. *American Law Reports (ALR)* – on both LexisNexis – LEDALR and on Westlaw – ALR. A great place to look when starting your research, especially if you need comparisons between jurisdictions. Remember, however, the topics are selective.
2. *American Jurisprudence 2d*. (Am Jur) available on LexisNexis – AMJUR and Westlaw – AMJUR/Corpus Juris Secundum (CJS) – available on Westlaw – CJS. These are two legal encyclopedias that provide wonderful grounding in a topic.
3. *Annotated Codes* (State and Federal) available in both LexisNexis and Westlaw. Yes, these are primary resources, but the editorial commentary lists other relevant cases, law review articles, and resources that make them valuable additions to your legal research toolkit.
4. *Words and Phrases* is a multi-volume set that lists words and phrases that have been defined

by judges and includes citations to the decision(s) where that definition was discussed. Regional and state digests also have a *Words and Phrases* volume that lists judicially defined terms specific to that jurisdiction.

5. *Martindale Hubbell Law Digests* give a great summary of the law in all 50 states. This set also includes the International Digests that contain summaries of law for many countries.
6. *Bieber's Dictionary of Legal Abbreviation* (Bieber's) is the librarians' best friend as it helps decipher a citation abbreviation that is otherwise unfamiliar.
7. *Uniform Laws Annotated* (ULA) available in Westlaw – ULA. This multi-volume set contains reprints of the model laws conceived by the National Conference of Commissioners on Uniform State Laws and the American Law Institute. It includes such laws as the Uniform Commercial Code and the Uniform Probate Code. There is also a table of states that tells

you if a state's legislature has adopted all or portions of each model law.

8. *Restatement of the Law* (Contracts, Conflict of Laws, Torts, etc.) available on Westlaw – REST (this database includes all of the restatements). This American Law Institute publication puts the basic concepts of various legal topics into a standard "black letter law."
9. The American Jurisprudence series, such as *Causes of Action* (COA), *Trials, and Proof of Facts* (POF), available on Westlaw – AMJUR-ALL (this database includes all of the sets mentioned and also forms). These are good resources for practitioners or students, especially if the latter are doing a summer internship or working at a clinic. These sets contain outlines of selected topics and also have useful checklists, sample documents, and forms.
10. *Sutherland Statutes and Statutory Construction* (Sutherland) available on Westlaw – Sutherland.

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### **Print versus Electronic**

Secondary sources, such as treatises, law review articles, legal newspapers, legal encyclopedias, dictionaries, and restatements, have been slowly finding their way into the electronic arena. Law review articles were one of the first items to appear in electronic form. They lent themselves well to fulltext searching and were able to be easily separated from the traditional publishing medium of the journal. However, the same treatment was not always appropriate for other types of secondary sources. The creation of subject-specific tools, such as LexisNexis' SearchAdvisor™, has made selecting an appropriate database so much easier for novice researchers and the more experienced.

The incorporation of the electronic table of contents (TOC) is a valuable addition to the regular keyword searching that has made the electronic version of the secondary source so much more accessible to researchers. Also, with the advent of Westlaw's ResultsPlus™, you can perform a caselaw search and be presented with other possible resources including links to pertinent secondary sources including online treatises and American Law Report (ALR) articles on the subject area you are researching.

However, not every secondary source is available in electronic format and not every secondary source is available on every type of subscription. I found this out the hard way. I was preparing to teach a class on secured transactions and was dismayed to discover that the very valuable four-volume practitioners' treatise, *Uniform Commercial Code* by James J. White and Robert S.

Summers, is not included in an academic subscription on Westlaw. (Licensing restrictions are likely behind such a decision.) This can often be the case according to Patrick Meyer as discussed in his article, "Think Before You Type: Reflections of an Online Researcher" 13 Perspectives 19 (Fall 2004). In footnote 1, Meyer says, "Less than 15 percent of all titles in *Legal Looseleaves in Print 2004* (Arlene L. Eis, comp. & ed. 2004) are listed as being located on either Westlaw or LexisNexis" Id. He also notes that there are other services that have broken off from the big giants such as CCH and BNA who offer their own services for electronic secondary sources.

Oftentimes academic, small firm, and court libraries are not able to license new electronic products due to extraordinarily high price tags and restrictive rules about access. Even when academic library budgets contain the funds to license these BNA or CCH resources, librarians are often selective in what they can offer their students and faculty so as not to break the budget. Providing affordable access to all patrons is another barrier to many libraries purchasing many of these secondary sources in electronic form. Often the licenses will only allow access to current students and faculty within a specific location. This can be a dilemma if the library has a mission to provide service to the general public, members of the bar, or alumni. If this is the case, these electronic resources are not practical or cost-effective as a purchasing decision. Licensing them under some of the vendor's restrictive terms would come at an astronomical cost.

*– Susan D. Zago*

## Secondary Sources

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- In this set, the rules of statutory construction and interpretation are outlined. Sutherland also contains corresponding caselaw citations.
11. Law review articles are available on both LexisNexis – ALLREV and Westlaw – JLR. These have two main functions. First, law review articles are fantastic for helping to put the law in context. Second, the footnotes are the best for identifying other possible resources on your research topic.
  12. Subject area treatises and other scholarly or practitioner works look in the directories of both Lexis and Westlaw for specific titles as a starting point. Treatises are useful for the analysis they contain. Their authors also bring together the law and the practice of the legal issue(s).
  13. National, state, and local legal newspapers are available on both LexisNexis and Westlaw. These periodicals are great for getting your feet wet in a particular jurisdiction and essential for keeping current with new legal developments. Some newspapers report on lower court legal decisions, amendments to local court rules, profiles of judges, and other developments in the law field.
  14. *Black's Law Dictionary* available on Westlaw – BLACKS. This source is often called the gold standard of legal dictionaries. Published by West Group, it now includes relevant Topic and Key Numbers where applicable.
  15. State or subject area research guides are essential as they can quickly let you know about the body of resources available to you in a particular area of law. These are often written by law librarians with an expertise in a subject area or who work in a certain jurisdiction. Law library (state, academic, firms, court, and government) web sites are the easiest way to locate such gold nuggets, but there are also webzines and blogs such as Law Library Resource eXchange (LLRX) – [www.llrx.com/](http://www.llrx.com/), beSpacific – [www.bespacific.com](http://www.bespacific.com), and The Virtual Chase (TVC) – [www.virtualchase.com](http://www.virtualchase.com).

Print secondary resources will continue to appear in law library collections for their value to the researcher and ease of use, as well as the flexibility of access to a vast number and array of patrons. Regardless of how you access the secondary source, there is no argument that they are valuable tools for the legal researcher.

## Conclusion

Over the years, I have found that fewer and fewer students seem to have been exposed to secondary sources. I find these resources invaluable, especially for novice researchers. They should, nine times out of ten, be the first step in a research strategy. Unfortunately, it often seems that convincing students to explore these gold mines of legal information can be challenging. One reason might be that students and other researchers feel overwhelmed by

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the sheer number of resources available. They apparently find it difficult to identify and locate what they need.

I can appreciate that feeling of being overwhelmed. There are so many wonderful secondary sources out there that it was difficult to select just a few, especially for a “Top Ten” list or two. However, without these lists, I have found it very difficult to present the world of secondary sources to a group of law students in just one class session. I hope the lists will be helpful to other librarians, both in the ivory tower and out in the “real world” of practicing law.

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