Lawyering: Motion Practice Research
Agenda

- Research Process Review
- Procedural Research Plan Overview
  - Issue
  - Resources
- Substantive Research Plan Overview
  - Issue
  - Resources
Research Process

1. Plan
2. Research
3. Track/Journal
   - Sources
   - Results
4. Analyze/Evaluate
5. Report

- Don’t forget about citations!
Elements of a Research Plan

1. Jurisdiction
2. Issues
3. Search Terms
Elements of a Plan (continued)

- Sources
  - Goal
    - Primary
  - Starting Point
    - Secondary
Where Do I Start?

- Where are you at?
  - What do you already know?
  - What resources are available to you?
    - Research resources
    - Time and money to spend
Motion Practice Unit

Two Issues to Research:

1. Procedural Issue
   - Motion for Summary Judgment

2. Substantive Issue
   - Contracts, Torts, or Property
<table>
<thead>
<tr>
<th>Court</th>
<th>Minnesota</th>
<th>Federal</th>
</tr>
</thead>
<tbody>
<tr>
<td>District (Trial) Court</td>
<td>10 Districts (multiple courts) &amp; Problem-Solving Courts</td>
<td>4 District Courts (Duluth, Minneapolis, St. Paul, Fergus Falls)</td>
</tr>
<tr>
<td>Intermediary Court</td>
<td>MN Court of Appeals</td>
<td>8th Circuit Court of Appeals (St. Louis, St. Paul)</td>
</tr>
<tr>
<td>Highest Court</td>
<td>MN Supreme Court</td>
<td>US Supreme Court</td>
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Minneapolis is in the 8th circuit.
Jurisdiction – Our Issues

- **Procedural = Federal**
  - Summary Judgment and Standard of review under federal rules
- **Substantive = State**
  - Look to state law for the law governing the tort issues in the district/state where the claim originated
Motions are part of litigation - formal requests to the trial court for specific relief.

Research on your motion has two prongs:
- What is the Procedural Rule?
- What is the case law interpreting or applying the rule
Find Applicable Rule

- Where are they published?
  - Rules of Court (deskbook)
  - Statutes & Statutes Annotated
  - Westlaw, Lexis
    - Annotations
Find Applicable Rule

- Minnesota Rules of Court: v. II - Federal
  - Table of Contents
    - Rules are generally organized by the trial process: Scope, Commencement of Action, Pleadings and Motions, Parties, Disclosures & Discovery, Trials, Judgment, etc.

- Index
  - Motions
  - Summary Judgment
Rules and Case Law

- On their face, rules appear to be straightforward
- BUT...when applied to a specific situation, they can be ambiguous
- Cases explain or interpret how the rule is applied
Commentary on Rules

- Two leading Federal Practice Treatises:
  - Wright and Miller Federal Practice and Procedure (Westlaw)
  - Moore’s Federal Practice (Lexis)
Motion Practice Resources

This LibGuide will help you find resources on motions for summary judgment and motions to dismiss, and how to draft such motions in Minnesota.

**Legal Encyclopedias**

Legal encyclopedias can provide background information on specific motions. Our library has American Jurisprudence in print in the reference collection and on Westlaw and Corpus Juris Secundum (CJS) on Westlaw.

**Summary Judgment Guide**

Summary Judgment: Federal Law and Practice is a comprehensive resource that has a step-by-step guide and information attorneys need to make effective use of summary judgment. It is available on Westlaw with a current WL account.

**Federal Practice Treatises**

There are several treatises that cover practice in federal courts. A few are included here, but there are others that can be found through a search of the library catalog.

- Motion Practice - Herr, Haydock & Stempel, also available on Westlaw
- Federal Rules of Civil Procedure, Rules & Commentary available on Westlaw
- Federal Practice and Procedure - Wright & Miller, also available on Westlaw

**Database Access Info**

Some resources in this guide are Mitchell Hamline School of Law licensed databases. These are available to students, faculty, and staff either with a network login or individual password. Many of them are also available to the public from the computers in the library, as well as through computers signed into the college's wireless network.

Westlaw, Lexis Advance, and Bloomberg Law are subscription services that require users to have individual educational user accounts for access.

**Contact the Library**

If you need more information on this topic, please contact the reference desk by phone: 651-290-8424 or via email: reference@MitchellHamline.edu
Research Process Review

- Locate the rule
- Find secondary authority on that rule
  - What standards apply?
- Use the secondary source to locate cases within your jurisdiction (circuit or state) that set out the standards
- Remember, the research goal is to find binding primary authority supporting your arguments
So how do we find primary authority from secondary sources?

- Treatise footnotes
- Case headnotes
- West Key Number searches
- Keyword searches in either Westlaw or Lexis
Substantive Issues

- (Breach of) Contract
  - Ambiguity of terms

- Tort
  - Defamation
Research Plan for Substantive Issue

- Look for commentary on your substantive issue
  - Dictionary/Encyclopedia
    - CJS
  - ALR, Law Review, Treatise
  - Minnesota – Dunnell Digest, CLE’s

- Statutory? Or Constitutional?

- Case Law
Resources - Substantive Issues

- **Breach of Contract**
  - Williston

- **Defamation**
  - ALR
  - CJS
  - Dunnell Minnesota Digest
Research Process Review

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Q2: When Should I End My Research?

- Evaluate your initial statement of the issues
- Watch for diminishing returns in your search results:
  - recurring citations
  - no new rules
  - same fact patterns
- Apply the law to the facts to answer the question
Final Steps

- Update and verify your authorities
- Leave time for Bluebooking
- Format correctly
Recap of Research Resources

On Blackboard, Spring Units: Document & Video Library:

- Motion Practice Assignment Materials and Rubrics
- Motion Practice Unit Overview Materials & FAQ
- Videos and Tutorials, especially
  - Introduction to Federal Litigation: Reviews the structure of the federal court system.
  - What is Summary Judgment? Goes over a timeline of federal court litigation and discusses the summary judgment standard.
  - Researching Summary Judgment: Provides strategies for researching substantive and procedural law.
Recap of Research Resources

From the library:

- Attend Research Workshop in the Library on February 18, 2017 from 11:15 am – noon
- Motion Practice Research Guide
- Reference librarians
  - In person, email or chat
Questions?

Thank you and good luck with your research!