

**From the 'Lectric Law Library's stacks**  
**How To Shepardize**

Table of Contents

Introduction

Definitions

How To Shepardize Cases

    Research steps

Interpreting the Citations Information you Find

    Parallels and case histories

    Case treatment letters

    Using headnotes

    Headnote Sample

    Docket numbers

    Divisions within a citator

Shepardizing statutes

Update options

Finding case names

Case exercise

Selecting the right citator

    Selecting the right citator

    Federal Citators

    Specialized Citators

Appendicies

    History treatment

    History letters exercise

    Case treatment

    Case letters exercise

    Statutes treatment

    Statute letters exercise

INTRODUCTION

Try to imagine the impact of the millions of cases decided in this country over the past 200 years. Because the principle of stare decisis

(to adhere to or abide by past decisions) forms the basis for our legal

system, every legal decision has potential precedential value. For example, some cases are followed as precedent; i.e., they are "good law," while others can no longer be used to support future decisions and

are considered "bad law." As a legal researcher, you must be aware of both types of decisions. Yet how could you possibly remember-or even find out-what happened to each and every case?

Thanks to Frank Shepard, that is not necessary. In the early 1870's, he

realized the necessity for tracking the discussion of principles of law in court opinions, and also tracking the history of these opinions. He devised a method for extracting this information from published opinions and indexing it for the benefit of legal researchers. So, you don't need to rely on your memory; you can rely on the information compiled in Shepard's Citations.

First printed in 1873, Shepard's Citations has evolved into a vitally important method of tracking legal information. Today, the company named for Frank Shepard continues working to fulfill his vision. Shepard's collects all of the legal data necessary for a legal researcher to:

- \* (1) Determine whether your case has continued precedential value through the history letters assigned by the company's legal editors;
- \* (2) evaluate and analyze significant decisions by reference to treatment letters, which indicate what other judges have written about your case; and
- \* (3) trace the discussion of specific points of law or fact through the use of headnote numbers.

## DEFINITIONS

To understand Shepard's Citations, it helps to review the meanings of the following common legal terms as they apply to Citations.

CASE, CITATION, CITATION SUMMARY, CITATOR, CITE, COMMON LAW, LEGAL AUTHORITY, PRECEDENT, REPORTER, SHEPARDIZE, STARE DECISIS

-----  
---

CASE: This is an ambiguous term, with two or more distinct meanings. First, the term generally refers to a legal action litigated between opposing parties, e.g., Mr. Smith and Ms. Jones. That "case" starts in a trial court, before a judge, and where required or requested, a jury. Following the outcome of the trial between Smith and Jones, the case may be heard by a court of appeals, a higher state appellate court, or even

by the U.S. Supreme Court. As it progresses through the various courts, that litigation may collectively be referred to as the case of Smith v. Jones.

The term "case" is also used to mean a single opinion written by a judge. In that opinion the judge applies the law (i.e., case law and statutory law), to the facts and explains how the decision was reached. Any written opinion, whether published in a case reporter or not, may be referred to as a case, by its case name. Using the example above, the case name Smith v. Jones would be used to refer to opinions written during the course of the litigation. These "cases" may be used as precedent in subsequent cases.

CITATION: A citation is an unambiguous reference to a legal authority. A citation can tell you where to find the full text of a statute, case, or other source of legal information. EXAMPLE: Greer v. Northwestern National Insurance Co., 109 Wash.2d 191, 743 P.2d 1244 (1987) is a citation to a case. It identifies the locations of the Greer opinion in the Washington case reporters.

In this example, the case of Greer v. Northwestern National Insurance Co. is located in volume 109 of Washington Reports, Second Series at page 191. The Greer opinion is also located in volume 743 of West's Pacific Reporter, Second Series, at page 1244. This is a parallel citation for the Greer case. (more information on parallel citations)

A citation can also be a reference to a statute or other legal authority. For example, Mich.Comp. Laws S 208.23 (1995) is a citation to a statute. It identifies the location in the Michigan Compiled Laws where your statute can be found.

CITATION SUMMARY: Citation summaries address the relationship between a cited case and a citing case. Included in the summary is an identification of the point of law for which the case was cited, and usually a quote from the citing case. Citation summaries are found in several of the printed citators and in CD-ROM citators.

**CITATOR:** A case citator is a publication that reports the subsequent litigation of a case, as well as how courts unrelated to the litigation have commented on that case. A citator for statutes reports whether any subsequent legislative action has affected or modified particular code sections and lists cases citing those sections. Because Shepard's has been producing citators for more than 100 years, "Shepard's" and "citator" are nearly synonymous.

**CITE:** Used as a verb, to "cite" a case or other authority simply means to refer to that authority. The reference can be made in a positive, negative or neutral manner. Used as a noun, "cite" is synonymous with "citation."

**COMMON LAW:** Also known as case law, common law is a set of principles and rules of action that have been made by judges, in the course of writing opinions in litigated matters. That is to be distinguished from statutory law, which is law created by legislative bodies. Common law rests on the principle of stare decisis, which means that judges will abide by, or adhere to decided cases or precedent. Common law reflects the principles determined by the social needs of the community, which change over time.

**LEGAL AUTHORITY:** A legal authority is a case, statute, regulation, treatise, law review article, or other legal reference source. Those sources may be binding or persuasive to a court interpreting and applying the law to the evidence presented by the parties to a case.

**PRECEDENT:** Precedent is a case opinion that provides guidance to a judge in a subsequent case, generally either because the prior case is similar in its facts or raises similar questions of law. Judges are usually required to decide the cases before them on the basis of principles established in prior cases. (See stare decisis.)

**REPORTER:** This term has historically meant books or other publications that contain the actual text of cases. A reporter may also appear in other media, such as CD-ROM.

SHEPARDIZE: To Shepardize a case or other legal authority means to use

Shepard's Citations to identify other cases and authorities that have discussed the authority being Shepardized. By Shepardizing authorities, you can analyze their current value as precedent.

STARE DECISIS: To stand by that which was decided; to adhere to or abide by prior case decisions.

## HOW TO SHEPARDIZE CASES

### Research Steps 1-3

1. Select the Shepard's citator set that corresponds to the reporter in which your case is published. For example, if you want to Shepardize the case of Greer v. Northwestern National Insurance Co., 109 Wash.2d 191,743 P.2d 1244 (1987) you would look it up in Shepard's Washington Citations or Shepard's Pacific Reporter Citations.

2. Check the "What Your Library Should Contain" section on the cover of the most recent Shepard's supplement, and collect all the bound volumes and supplements listed. For example, when Shepardizing the Greer case in Shepard's Washington Citations, you would check the most recent Washington advance sheet. The "What Your Library Should Contain" section on that cover shows that you need the 1994 bound volumes of Shepard's Washington Citations, as well as the October, 1994 Annual Cumulative Supplement, the September, 1995 Cumulative Supplement, and the September, 1995 Advance Sheet.

3. Find the division in the most recent Shepard's supplement that matches the reporter and series in which your case was published. Because Greer is reported in Washington Reports, Second Series, you would look for that case in the Washington Reports, Second Series division of Shepard's Washington Citations.

4. Look in that division for the appropriate volume and beginning page number of your case. Shepard's shows volume numbers across the tops of

the pages, and both volume and page numbers within the columns. To find Greer, you would look for "Vol. 109" across the top of the pages. When you find that, you would look down the columns for page 191 (-191-).

5. Listed beneath the beginning page number of your case will be citations to cases that have cited your case.

IMPORTANT! You must look up your case and repeat this process in every book you collected in step 2. Make a list of all citations relevant to your research. Start from the most current supplement and work backward until you have Shepardized your case in all the listed supplements and bound volumes. Be methodical, and be sure not to miss a supplement!

### INTERPRETING THE CITATION INFORMATION YOU FIND

#### PARALLEL CITATIONS

The case you are researching may be published in more than one reporter. The citation for the case as published in a different source is called a parallel citation. Parallel citations are shown in Shepard's with parentheses.

EXAMPLE: (743P2d1244)

This is a parallel citation to Greer v. Northwestern National Insurance Co. The parentheses indicate that Greer is also printed in volume 743 of the Pacific Reporter, Second Series at page 1244. Parallel citations are shown the first time your case is cited in a Shepard's citator supplement or bound volume. They are not repeated in subsequent bound volumes or supplements.

#### HISTORY LETTERS

Immediately following any parallel citations are history citations. In general, these are citations to cases that are part of the same litigation as the case you are Shepardizing. They can be decisions

rendered either before or after your decision. For example, a court of appeals case you are Shepardizing may have reversed a trial court decision. Both the prior trial court decision (if published), and the subsequent supreme court decision will be shown as history citations.

EXAMPLE: s36WAp330 History letters are used to indicate the relationship between your case and these prior or subsequent cases. The letters precede the cite. For a detailed definition of the history letters, see History of the Case.

#### TREATMENT LETTERS

Treatment letters indicate how judges in unrelated cases evaluated the case you are Shepardizing. Shepard's legal editors read each new opinion as it comes out, and they analyze the opinion to determine how the new case impacts all the cases and statutes cited therein. The impact, or effect, of a new case on past law is shown with treatment letters. The letter precedes the citation in the citators. For a detailed definition of each treatment letter, see Treatment of Cases. Compare these cases to the cases reported in the Pacific Reporter division, Washington Cases.

EXAMPLE: The letter "d" informs you that the Greer opinion is "distinguished" by the opinion reported in volume 57 of the Washington Appellate Reports, on page 351. The letter "f" informs you that on page 464 of the opinion reported in volume 927 of Federal Reporter, Second Series, the Greer case is "followed."

#### HEADNOTE NUMBERS

Proper use of headnote numbers while Shepardizing cases can dramatically improve the efficiency of your research. Often the case you are Shepardizing will have been cited dozens of times; some cases have been cited hundreds of times. By referring to the headnote references in Shepard's citators, you can focus your research on only those cases that are relevant to your issues.

Most case reporters add numbered "headnotes" or "syllabi" immediately preceding the text of each case. These headnotes -- usually prepared by the publisher, not the court -- summarize points of law discussed within the case. Shepard's uses the headnote numbers in its citators to specifically identify the point of law for which each case is cited. Headnote numbers (representing legal points from the case being Shepardized), are added to the citing case reference as a superscript numeral preceding the page number. Often you will be interested in a case for only one of several points of law contained therein, and so you will want to focus your Shepardizing by looking for cases that cited your case because of that point of law.

EXAMPLE: The superscript "1" tells you that the point of law summarized in headnote 1 of Greer is discussed in these later cases.

Headnote numbers are included in citing references only when two criteria have been met. First, the point of law for which a case is cited must be clear to Shepard's editors. Judges will often cite cases without clearly identifying the relevant point of law; Shepard's will not draw inferences in those instances. The second criterion is that the relevant point of law within the case being Shepardized must have been captured as a headnote by the reporter's publisher. It may be clear, for example, that the case you're Shepardizing was cited for its discussion of a jury instruction issue. If the publisher of the opinion, however, did not summarize that point of law in a headnote, Shepard's cannot show a headnote for that citation. Obviously, if your interest in that case relates to jury instructions, cases reported without superscript headnote numerals may still be important to you.

See Headnote Example for an illustration of how to use headnote references in Shepard's Citations.

DOCKET NUMBERS

Some citations shown in Shepard's are referenced by the number assigned to the case by the court, i.e., the docket number. Shepard's receives very current cases and analyzes them before the opinion is printed in a reporter, leaving the docket number as the best means of identification. Information identifying the court that issued the opinion can be found in the preface of the citator of the most recent supplement. Because the slip opinions themselves are sometimes difficult to find, many of Shepard's citators (including Shepard's Federal Citations, Shepard's United States Citations and Shepard's California Citations), include "Docket Number Reference Tables" to provide you with parallel citations for those very recent cases.

Below is an example from the Washington citator supplement showing docket numbers of very recent cases. If you need more information about a citing case, just look it up in the docket reference table.

For example, if you need the full case name and official citation for WADk 34558-3-I, you can find that information in the docket reference table. It shows that the case name is Alamo Rent A Car Inc. v. Schulman, it was decided in 1995, and it is reported in volume 897 of Pacific Reporter, Second Series, at page 405.

#### DIVISIONS WITHIN A CITATOR

There are multiple divisions within many of Shepard's citators. If the case you are Shepardizing happens to be reported in more than one reporter, you should look it up in each of the reporter divisions in the appropriate citator. This is important because the sources referenced in Shepard's may vary from one division to another. Also, the publication schedules of the reporters themselves can vary significantly. Thus, a case mentioning your case may be published in one reporter, but not yet published in its parallel reporter. Consequently, the unpublished case may not yet appear as a citation in the corresponding division of

Shepard's.

For example, the Greer case is reported in both Washington Reports and Pacific Reporter, Second Series. It is important to look Greer up in both divisions, because there are differences between the two. The example to the immediate right illustrates what you might find if you Shepardized Greer in the Pacific Reporter division of Shepard's Washington Citations. Compare this with the example from the Washington Reports division.

Notice that the majority of references come from the same reporter as the citation you are looking up. You will see Washington Reports references in the Washington Reports division, and Pacific Reporter references in the Pacific Reporter division. Also, references from local state law reviews and other regional legal periodicals appear in the Washington Reports division only. (See the "Selecting the Right Citator" section for more details on the differences between state and regional divisions of a citator.)

## SHEPARDIZING STATUTES

In addition to caselaw set out by the courts, Shepard's allows you to research statutory law as set out by Congress and state legislatures. When your issue is governed by statutory law, use Shepard's statutes citations to pinpoint relevant caselaw, statutes, or other authorities that impact your statutory section. Not only can you use Shepard's to research state and federal statutes, but numerous constitutions, regulations, court rules, jury instructions, and other such bodies of law can be Shepardized as well. Check the table of contents of Shepard's citators to learn exactly which of these can be Shepardized.

Shepardizing statutes is a time saving alternative to ponderous searches by subject matter. Instead of being forced to sift through cases that are not relevant to your issue, you can target the most pertinent legal authorities by Shepardizing your statute.

Research Steps

1. Choose the citator that matches the jurisdiction of your statute. For example, if you wanted to Shepardize Michigan Compiled Laws Annotated, Section 208.23, you would look in Shepard's Michigan Citations.
2. Check the "What Your Library Should Contain" section on the cover of the most recent supplement, and gather all the bound volumes and supplements listed. If you were using Shepard's Michigan Citations, you would check the most recent advance sheet and be sure to collect all the relevant bound Shepard's volumes and supplements. Cited Case
3. Use the table of contents to find the division that contains your statute. In Shepard's Michigan Citations, you would look for the most recent division of Michigan Compiled Laws Annotated.

#### UPDATE SERVICE

Be sure to use Shepard's Update Service to get the most current citations information available. Shepard's receives very current information from the courts via electronic bulletin boards and other electronic sources. It is available to you in almost any access method you require:

- \* By phone
- \* By FAX
- \* Over the Internet
- \* On-Line, through LEXIS Overnight
- \* On Shepnet, Shepard's electronic bulletin board system
- \* On Microsoft Network

This information can be as current as 24-48 hours from the date of a decision from the courts. When you access Shepard's Update Service, you will get the most recent citations from the time of your last supplement or CD-ROM to date. They will include Shepard's editorial analysis, so you can quickly determine the importance of those citations to your research.

For more information on accessing these services, call Shepard's technical support at 1-800-899-6000.

#### CASE NAMES CITATORS

When you need to find a citation to a case, but all you have is a case name or merely the name of one of the parties, you can use Shepard's case names citators.

You can use this citation to do further Shepardizing, or you can use it in your brief or other legal document.

Shepard's Case Names citators are arranged alphabetically by party name.

You can, therefore, look up the name of a case by either the plaintiff's or the defendant's name. When you do, you will get the full name of the case, the date of decision and the full citation including parallels. For example, suppose you were aware of a relevant case from Illinois involving "Wimp Packing Company," but you didn't know its citation. Use Shepard's Illinois Case Names Citations to find your case.

#### RESEARCH EXAMPLE:

Now you know what Shepard's does . . . let's see how it can work for you!

You find the case of *People v. Jones*, 203 Cal. App. 3d 456,249 Cal.Rptr. 840 (1988). You think this case supports your position in your legal research problem and you want to find out whether it's still good law.

First: Because *People v. Jones* is reported in both California Appellate Reports and California Reporter, you would choose either Shepard's California Citations or Shepard's California Reporter Citations.

Second: Suppose you have California Appellate Reports in your library. You would then choose to Shepardize *Jones* in Shepard's California Citations. You would find the most recent supplement of that citator and look at the "What Your Library Should Contain" section on the front cover. Collect all the bound volumes and supplements listed.

Third: *People v. Jones* is reported in the third series of California Appellate Reports. In order to Shepardize *People v. Jones* in Shepard's

California Citations, you must find the California Appellate Reports, Third Series division of that citator. You could also find Jones in the California Reporter division .(See discussion of parallel citations.)

Fourth: In the California Appellate Reports, Third Series division, find volume 203 by referring to the headings in the top corners of the pages.

Once you find that volume, look down the citator columns to find page 456. Beneath that page number you will find cases mentioning Jones.

By looking at all those references you can:

1. Find the parallel citation to Jones.
2. Find other cases that are part of the Jones litigation.
3. Determine whether Jones is still "good law."
4. Find cases that discuss Jones or the same topics as Jones.
5. Find another "good case" upon which to rely.
6. Find any case that may weaken either your position or that of your opponent.

#### HEADNOTE NUMBERS - AN EXAMPLE

Suppose that you are relying on the case of United States v. Trullo, 809 F2d 108 (1st Cir. 1987), to support your argument that when a police officer stops a motorist, the fact that the officer drew his gun did not convert the stop into an arrest. That point of law is summarized in headnote 2 of the Trullo case.

Upon Shepardizing Trullo, you find that it was cited in volume 50 of Federal Reporter 3d. at page 1193. Moreover, the superscript numeral "2" tells you specifically that Trullo was cited for its discussion of the point of law in headnote 2 -- whether drawing a gun converts a stop into an arrest.

You then look up page 1193 of 50 F3d (the case of Baker v. Monroe Tp., 50 F3d 1186), to read the discussion of Trullo. See Headnote Example.

-----  
Brought to you by - The 'Lectric Law Library  
The Net's Finest Legal Resource For Legal Pros & Laypeople Alike.  
<http://www.lectlaw.com>