

# LRC Week 3 Training

## Secondary Sources



# What we will cover

- Differences between primary and secondary sources
- Types of secondary sources
  - Legal Encyclopedias (AmJur, CJS, Cal Jur, and Witkin Summary of California Law)
  - Treatises and Practice Guides (Witkin Treatises, Matthew Bender Practice Guides, CEB Practice Guides, Rutter Practice Guides)
  - American Law Reports
  - Legal Periodicals
- Searching for secondary sources: using natural language & filters source.

**In-Class Research Problem: Medical Marijuana**

# Primary sources (primary authority)

- Examples: Caselaw, statutes & codes, regulations, treaties, etc.
- Created by legislative bodies, courts, and agencies
- It's the law!
  
- Binding/mandatory vs. nonbinding/persuasive
  - Jurisdiction
  - Weight of authority (level of court)

# Secondary sources (secondary authority)

- Secondary sources (secondary authority) are background resources.
- Examples: encyclopedias, treatises and practice guides, A.L.R. annotations, journal or law review articles, and restatements of the law.
- Secondary sources are NOT binding, but they can be a good way to start research as they contain valuable citations to primary sources.

**Secondary sources are huge time-savers!**

# Legal Encyclopedias

- Report on the general state of the law in different many subject areas.
- There are two multi-state legal encyclopedias: *American Jurisprudence* (Am. Jur.) and *Corpus Juris Secundum* (C.J.S.).
- In addition, California has two state encyclopedias: *California Jurisprudence* (Cal. Jur.) and *Witkin's Summary of California Law*.

# Treatises and Practice Guides

- Essentially, single-subject legal books.
- Treatise examples: Corbin on Contracts, Products Liability in a Nutshell, Witkin California Criminal Law.
- Practice guide examples: California Landlord-Tenant Practice, California Civil Practice.
- Popular practice guide publishers include Matthew Bender ([Lexis](#)), CEB ([OnLaw](#)), and Rutter ([Westlaw](#))

# American Law Reports (ALR)

- contains articles called “Annotations.”
- Annotations collect summaries of cases from a variety of jurisdictions to provide an overview of the law on a topic.
- They are more detailed than encyclopedias.

# Legal Periodicals

- Law journals or law reviews
- Contain detailed articles on very specific topics, e.g. *Last Resorts and Fundamental Rights: The Substantive Due Process Implications of Prohibitions on Medical Marijuana*, 118 Harv. L. Rev. 1985 (2005)
- Generally, not a good place to start your legal research if you are just getting familiar with a topic.

## Searching for secondary sources

In Westlaw and Lexis you have two options for accessing secondary sources.

**Option 1:** Type in the name of the item (e.g. California Jurisprudence, American Law Reports, etc.) and select one of the populated options, and search within the item.

**Option 2:** Search by **natural language** and **filter** by clicking on secondary sources, jurisdiction, and/or type.



# In-Class Research Problem

## Fact Pattern:

Calvin is a resident of San Diego and suffers from chronic back pain. He has a valid medical marijuana card and often smokes in the morning to alleviate the pain. His employer routinely administers drug tests. Calvin is worried that he could be fired for failing a marijuana drug test even though he has a medical marijuana card.

- What is California's law regarding medical marijuana?
- Should Calvin be worried about failing a drug test even though he has a medical marijuana card?