HOW TO DO LEGAL RESEARCH WITH WESTLAW

Today’s Topic is researching the law. By the law, I am referring specifically to a number of sources of law, such as case law (which is the decisions rendered by courts of law, and administrative agencies). We also have statutory law, which are basically the laws passed by both the U.S. Congress and our state legislatures, as well as the supreme law of the land, our U.S. Constitution.

You may be surprised that you can do a great deal of this from your computer. In fact, the vast majority of your legal research for this class will be done right from your computer, though EKU’s library resources, specifically a database called WESTLAW.

Westlaw is a database provided by West Publishing. It is a tremendous research tool that allows us to access law review articles, case law, statutory law and administrative law decisions.

So, let’s get started. You may want print out this presentation/session and then follow along in Westlaw after you hear my presentation.

First, go to the EKU home page:
Click on Libraries (which is approximately in the middle of the page);

Now click on Databases:
Do you see Frequently Used Databases? Click on Westlaw Campus Research;
If you have a page that says Attention: Pop-Up Blocker Detected, then click on Continue to Campus Research;

You will now be in Campus Research.
Click on the tab **LAW**.

You can now use either the **Advanced Search** or click on the tab **Basic Search**.

Let’s start with the basic search. Click on **Basic Search**.

In the query box, type in “**workers compensation**” and **Kentucky** (note the quotations marks around workers compensation);

Now, go down to Select Database(s) and check the box by Journals and Law Reviews and select Kentucky from the drop down box.

Go to either the top of the page or the bottom of the page and click on **SEARCH**.

What comes up is a list of law review articles about the subject of workers compensation. This is a good source for finding out some key cases or issues or hot topics in workers compensation.

You can now either go back or click on **Edit Search** in the top left hand corner. If you want to narrow your search then change the wording in the search query box.

Let’s say we now want to go to some cases decided on by Kentucky Courts. Keep the same query and unclick Journals and law reviews. Now click on **state cases** and click on Kentucky in the drop down box. Click on Search.

You are now seeing cases that are Kentucky decisions about workers compensation. Click on the name of the first case, it should be in blue if you have a colored screen.

Your case comes up now. You can read the case or send it to yourself by email. By emailing it to yourself, you can then save it and print it. I have found this to be the best way to get these cases.
When you read the case by scrolling down the case, using the scroll bar on the right hand side, you may come to another case that appears to be what you are looking for. Put your cursor on that case and right click. This case will now appear on your screen. Again, you can email it to yourself and keep a copy of it.

On any case, you can check out the left hand side of the screen and you will see the history of your case. Click on these boxes to find out what has happened in your case in lower court decisions. You may want to open these cases, as they may provide you with more details as to the facts of the case. The decisions of the higher courts tend to provide less of the facts of the cases and more of the reasoning for their decisions.

Now, go back to the original screen for Westlaw search. In the left hand column, you should see a box that says, **Shortcuts**, search these sources.

If you have the citation of a case, such as 951 S.W.2d 329 (the citation for **Miller v. East Kentucky Beverage/Pepsico, Inc.**), you can type in this case citation and hit go. This will automatically bring up your one case and not a list of cases.

Let’s now say you want to look at your state workers compensation statute. The annotated version. Annotated means that the cases and revisions to the statute are included at the bottom of the statutory language. For example, go to the query box and type in “workers compensation” and then go down to section on **Statutes and Regulations**, and click on the box for **State Statutes**. In the drop down box click on **Kentucky**. Now, click on **Search** or just hit your Enter key.

You should see 100 documents and the first document is KRS 342.0011. Click on the colored line. This will give you KRS 342.0011, the definitions section of the Kentucky Workers Compensation Act. If you scroll down the document, you will find the comments on legal cases that interpreted or discussed these definitions. This is what we mean by being an annotated statute. You can then review these cases if you want by clicking on them.
Now, what if you want some other section of the Kentucky Workers Compensation Act? Go back to the top of the page and click on **Chapter 342**, which should be in blue. This takes you to a new page which starts you off at the beginning of the statute. You can then review the entire statute from here. To go to the next part, click on **NEXT PART>>** at the top of the page. Another way to review the full statute is to look at the left hand column and click on Full Text Version. This will take you to a page that gives you the Table of Contents for the Kentucky Workers Compensation Act. In this left hand column, you can also click on cases that have been decided in the last 60 days for that statute.

Now let me take a few minutes and discuss how to research some of the assignments you will be having. Most of the time, I will be asking you to look up cases (that is case law) in your jurisdictions. The reason I want you to look up these cases in YOUR jurisdictions is that you just as well be looking at cases where you live and work, rather than some state 500 hundred miles away that may have a significantly different workers compensation statute. Of course, it is also a really good idea to look at some other jurisdictions just to see how they system works. But, for the most part, I will be giving you assignments that allow you to research your own state.

One of the difficult parts of doing this research is using the appropriate query terms that provide you with cases that address the issues you are researching. This can be quite difficult at times, but the more you practice it, the better you become at doing it.

Let say that your assignment is to research the 5 lines of interpretation under the first prong of the test for compensability under workers compensation. These are proximate cause, peculiar risk, increased risk, actual risk and positional risk tests. So, if I asked you to tell me whether any or all of these tests are used in your jurisdiction, what would you do? I would put into my query box one or more of the following terms, along with workers compensation (in quotation marks). If you put all of them in, you are asking Westlaw to find cases that have all of these terms. Well, it is highly unlikely that any case discusses all of these terms. So, you may try one at a time or 2 or more. Many cases will discuss the history of their
state and mention that they used to follow one or more tests, but now only recognize one or another test.

If you are struggling, you can even use these terms to look at law review journals to find articles (which are generally very long) that may discuss the history of workers compensation in your jurisdiction. These law review journals can be quite helpful to see how workers compensation has evolved in your state. On the other hand, the law review journal article may be only discussing one small aspect of workers compensation in your state. But, in most law review articles, they do discuss the history as they show how the issue, even if narrow in scope, has gotten to the point it is in that jurisdiction.

Finally, when researching anything on Westlaw, the terms you use in your query can either provide you with way too many cases, or in some situation, too few cases. You will just have to play around to see how you can best research these cases. I tend to start with broad queries and then narrow it down if I have a lot of cases come up.

In addition, if you find a pretty good case, it will likely point you to some key case or cases that are called seminal cases – which are the key important cases that the highest court in your state has decided and now all cases on that particular issue, try to follow the line of reasoning that the seminal case describes.

So, if you find a pretty good case, which is on point regarding your issue of research, check out the cases it refers to in the body of the decision and see if they also support your arguments or area of inquiry.

I know that what we have reviewed here today is a lot to grasp, but I assure you that it is much better to learn this system than going to a law library and trying to find all of this information in the “books”.

Have a great day.