Choosing a Comment Topic and Preemption Checks

Prepared for the UB Law Journals

Adeen Postar
apostar@ubalt.edu
Director, UB Law Library
Fall 2017
AGENDA

• Choosing a Topic
• Finding General Sources
• Running a Preemption Check
• Starting Your Research
• Keeping your Research Up to Date
• See also our libguide at http://law.ubalt.libguides.com/Paper_Topics
More challenging than you might believe right now...

- Topic should
  - Engage you
  - Be timely and relevant
  - Novel and useful (Preemption check to be covered here later in the presentation)

- Be of publishable quality....
  - Well-researched
  - Well-written
  - Be in CORRECT Bluebook format

**HARDEST PART IS GENERATING THAT IDEA!**
<table>
<thead>
<tr>
<th>BOOKS</th>
<th>ARTICLES</th>
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Getting the Idea

- Websites:
  - Government agencies
  - Nonprofits
  - NGOs
  - Advocacy organizations
- Carry over from your summer
Finding Topics and Getting Advice

• Law journals and newsletters covering your field of interest
• Class readings and casebook readings
• Discussions with your editors, advisors, professors and librarians 😊
• The UB Law Library Website also has databases by subject at http://law.ubalt.edu/library/research/index.cfm
• All the sources I mention here should also be viewed as excellent places to conduct the research on your topic.
Current Awareness Sources

BUT...be careful that your topic is not TOO current...
News Sources

- Major legal and non-legal newspapers including:
  - **American Lawyer** *(Lexis Advance)*
  - **National Law Journal** *(Via UBLL Databases)*
  - **New York Times** Also @ UBLL
  - **Washington Post** Also @ UBLL
  - **Slate**
  - **Politico**
  - **Wall Street Journal** *(and LexisAdvance)*
  - **Law360** *(Via LexisAdvance off campus)*
  - **Bloomberg Law**
- See also our Research Guide on Alerts and Current Awareness Sources
Legal News Sources

• **BeSpacific**
  - [http://www.bespacific.com](http://www.bespacific.com)
  - News blog covering law, government, non-government organizations and technology.
  - Good resource for recent Executive Branch, CRS and GAO reports, as well as other recently-released official and semi-official documents.

• **Stateline**
  - [http://www.stateline.org](http://www.stateline.org)
  - LexisNexis ([Stateline.org](http://www.stateline.org))
  - Contains state government and politics news

• **Mealey’s Litigation Reports**  *Lexis Advance*
  - Lists top current awareness sources for the listed practice area. Includes new cases, statutes and legislative action. Search by subject and jurisdiction.
The 2013 Corporate Scorecard

An interactive chart package ranking firms in nine key practice areas for their work in 2012—a year that saw global M&A activity rise to $2.2 trillion, reaching its highest point since 2008.

Davis Polk Tops Bloomberg, MergerMarket Rankings for First Quarter of 2013

By Tom Huddleston Jr., THE AM LAW DAILY

Landing advisory roles on two of the biggest deals of the year’s first three months—the $28 billion sale of Heinz and Comcast’s $16.7 billion purchase of the remainder of NBCUniversal—helped push Davis Polk & Wardwell to the top of two rankings released Monday of legal advisers based on the total value of their corporate clients’ M&A transactions for the quarter. The firm also claimed the top spot on Thomson Reuters’s rankings last week.

Bracewell, Weil Advise on GE’s $3.3 Billion Lufkin Buy

By Diane Jeanet, THE AM LAW DAILY

In a move aimed at bolstering its energy division, General Electric Co. has agreed to acquire Lufkin Indus
News blog covering law, government, non-government organizations and technology. Good resource for recent Executive Branch, Congressional Research Service (CRS), and General Accountability Office (GAO) reports, as well as other recently-released official and semi-official documents.
Law360

Legal News with docket and litigation information – Topics covered include Antitrust, Financial, Labor, Environmental and more. Sign up for Email alerts by topic and/or monitor cases and companies.

Access through Lexis Advance if off campus
Register through the website with your UB email address

- **Stay Current / News & Analysis**
- **Docket Information** (Litigation and Docket tab)
- **BNA Law Reports:** BLAW users also have quick access to *Bloomberg BNA Law Reports* from the homepage.
- Other resources include federal docket information and materials PLI publications and much more.
Bloomberg BNA

- BNA publishes U.S. legal materials including topical newsletters that summarize recent case law and other developments.
- They cover many areas of law and federal agencies by topic, are current and considered authoritative.
- They cover a vast variety of subjects, and include legislative and regulatory developments by topic.
- You can use these materials to spot developments by agency or topic.

Access via our website or on Bloomberg Law
List of BNA Databases
Available through UB Law Library

ABA/BNA Lawyers' Manual on Professional Conduct
Americans with Disabilities Act Manual
Antitrust & Trade Regulation Daily
Antitrust & Trade Regulation Report
Banking Daily
Banking Report
Bankruptcy Law Reporter
Benefits Practice Center
BioTech Watch
Broker/Dealer Compliance Report
Chemical Regulation Reporter
Class Action Litigation Report
Collective Bargaining Negotiations & Contracts Compensation Planning Journal
Computer Technology Law Report
Corporate Accountability Report
Corporate Compliance Library
Corporate Counsel Weekly
Corporate Governance Report
Corporate Law Daily
Corporate Practice Library
Criminal Law Reporter
Daily Environment Report
Daily Labor Report
Daily Report for Executives
Daily Tax Report
Digital Discovery & e-Evidence
E-Commerce Tax Report
Electronic Commerce & Law Report
Employment Discrimination Report
Employment Discrimination Verdicts and Settlements
Environment & Safety Library
Environment Reporter
Environmental Due Diligence Guide
Estates, Gifts and Trusts Journal
Expert Evidence Report
Family Law Reporter
Federal Contracts Report
Federal Environment & Safety Regulatory Monitoring Report
Government Employee Relations Report
HazMat Transportation News
Health Care Daily Report
Health Care Fraud Report
Health Care Policy Report
Health Insurance Report
Health Law & Business Library
Health Law Reporter
Homeland Security Briefing
Human Resources Report
Intellectual Property Law Resource Center (BNA)
International Business & Finance Daily
International Environment Reporter
International Journal
International Labor and Employment Laws, 2d ed
International Tax Monitor
International Trade Daily
International Trade Reporter
Labor & Employment Law Resource Center (BNA)
Labor Relations Reporter/Labor and Employment Law Library
Labor Relations Week
Life Sciences Law & Industry Report
Media Law Reporter
Medical Devices Law & Industry Report
Medical Research Law & Policy Report
Medicare Report
Money & Politics Report
Occupational Safety & Health Daily
Occupational Safety & Health Reporter
Patent Trademark & Copyright Journal
Patent Trademark & Copyright Law Daily
Pension & Benefits Daily
Pension & Benefits Reporter
Pharmaceutical Law & Industry Report
Privacy & Security Law Report
Privacy Law Watch
Product Safety & Liability Reporter
Real Estate Journal
Real Estate Law & Industry Report
Right-To-Know Planning Guide
Securities Law Daily
Securities Regulation & Law Report
State Environment & Safety Regulatory Monitoring Report
State Environment Daily
State Health Care Regulatory Developments
Tax and Accounting Center (BNA)
Tax Management International Forum
Tax Management Memorandum
Tax Management Portfolios
Tax Management State Tax Library
Tax Management Transfer Pricing Report
Tax Management Weekly Report
Tax Management Weekly State Tax Report
Tax Planning International Asia-Pacific Focus
Tax Planning International European Tax Service
Tax Planning International European-Union Focus
Tax Planning International Review
Tax Planning International Transfer Pricing
TaxCore
Telecommunications Monitor
Toxics Law Reporter
Transportation Watch
U.S. Law Week
U.S. Patents Quarterly/Intellectual Property Library
Workplace Law Report
World Communications Regulation Report
World Data Protection Report
World Intellectual Property Report
World Securities Law Report
WTO Reporter
BNA Health Law Resources
04/19/2012: Class Alleges Flawed Security by California Health System That Posted Patient Data
SAN FRANCISCO—A California health system negligently allowed personal and medical information of 31,800 patients to be posted online, according to a putative state class action filed April 2 in California Superior Court in Sonoma County and Los Angeles County (DeBaeke v. St. Joseph Health System, Cal. Super. Ct., No. SCV 251417, filed 4/2/12; Graewingholt v. St. Joseph Health System, Cal. Super. Ct., No. BC41922, filed 4/2/12).

04/19/2012: Cardiology Practice to Pay $100,000 To Settle Allegations of HIPAA Violations
A small cardiology practice in Phoenix has agreed to pay $100,000 to the federal government and implement a corrective action plan to settle allegations it violated Health Insurance Portability and Accountability Act Privacy and Security Rules.

03/22/2012: Employers Should Assess HIPAA Compliance To Avoid New Higher Penalties, Speakers Say
Employers with health plans should assess their compliance with the Health Information Technology for Economic and Clinical Health (HITECH) Act in order to avoid hefty penalties under the Department of Health and Human Services’s increased enforcement effort, speakers March 15 said in a webcast.

03/22/2012: Final Insurance Exchange Rule Requires States to Develop Privacy, Security Policies
State health insurance exchanges will be required to establish and follow privacy and security protections for all personally identifiable data they collect or use, according to a final rule released March 12 by the Department of Health Human Services.

03/15/2012: New Social Media Pose Legal Risks For Health Care Providers, Attorneys Say
The explosive growth of blogs, Twitter, Facebook, and other social media creates new legal risks for health care professionals in areas ranging from privacy to employment, legal experts warned at a panel discussion March 8.

03/15/2012: Release of Therapist Notes Did Not Cause Harm
A jury’s finding that the disclosure of the plaintiff’s therapist notes to her work supervisors was not a substantial factor in causing her emotional distress was supported by the evidence, the California Court of Appeal, Fourth Appellate District, affirmed March 3 in an unpublished opinion (Cranford v. Huntington Beach, Cal. Ct. App., No. G043791, unpublished opinion 3/2/12).

03/15/2012: Tennessee Blues to Pay $1.5M in First Breach Notification Rule Action by HHS
RALEIGH, N.C.—BlueCross BlueShield of Tennessee has agreed to pay $1.5 million and institute a corrective action plan to resolve Department of Health and Human Services claims of insufficient protection of personal health information in the first enforcement action under the Health Information Technology for Economic and Clinical Health Breach Notification Rule, HHS announced March 13.

03/08/2012: Method of Transmitting Medical Records Key to Determining Connecticut Sales Taxes
BOSTON—The Connecticut Department of Revenue Services ruled in a document circulated March 1 that the manner in which medical records are provided to individuals or companies requesting copies of those files will determine what sort of tax is imposed on the provision of those records.

03/01/2012: Alleged Future Harm From Stolen Health Data Insufficient to State Claim
The failure of plaintiffs whose health and personal information was breached to allege that a thief or a third party viewed or used the data in a way that caused financial harm or emotional distress defeated their negligence and Oregon unlawful trade practice claims, a unanimous Oregon Supreme Court ruled Feb. 24 (Paul v. Providence Health Systems-Oregon, Or. No. S058381, 3/1/12).
Health Information > 04/19/2012: Data Breaches: Class Alleges Flawed Security by California Health System That Posted Patient Data

Data Breaches

Class Alleges Flawed Security by California Health System That Posted Patient Data

By Joyce E. Cutler

SAN FRANCISCO—A California health system negligently allowed personal and medical information of 31,800 patients to be posted online, according to putative state class actions filed April 2 in California Superior Court in Sonoma County and Los Angeles County (DeBeake v. St. Joseph Health System, Cal. Super., Ct., No. SCV 251417, filed 4/2/12; Graewingholt v. St. Joseph Health System, Cal. Super., Ct., No. BC481922, filed 4/2/12).

The filings bring to four the number of lawsuits in which plaintiffs allege privacy violations arising out of a data breach within the St. Joseph Health System.

The Orange, Calif.-based St. Joseph announced in February it had stored unencrypted personal information, including treatment dates and test results, on unsecured systems that allowed personally identifiable information to be located through a simple internet search and downloaded by unauthorized parties.

St. Joseph said the personal information was available between February 2011 and February 2012. It said incorrect security settings allowed the information to be available on patients treated between February 2011 and August 2011.

"It's really astounding. It's a basic breach of security and what people expect when they go to the hospital," said Jeremiah Frei-Pearson, with Meselson, Denlea, Packman, Carton & Eberz PC, in White Plains, N.Y., who represents plaintiff Danna Graewingholt.

"When you go the hospital you give up your most personal and private information. And you expect they're going to keep it private," Frei-Pearson told BNA April 11.

Failure to Implement Security Procedures?


Plaintiff's attorneys Eric Grover and Caryn Been, with Keller Grover LLP in San Francisco, said in a statement that in the Sonoma County Superior Court lawsuit, their client seeks to recover damages of $1,000 for each California resident whose medical information was disclosed without authorization.


A separate Orange County lawsuit also filed in February alleged negligent hiring, training, and supervision of employees and violation of the state unfair business practices act, Cal. Bus. & Prof. Code § 17200 (Kerkow v. Mission Hospital Regional Health Center, Cal. Super., Ct., No. 2012-00547145-CU-NP-CX, filed 2/23/12).

St. Joseph is an integrated health system that operates Santa Rosa Medical Center in Santa Rosa, Calif.; Queen of the Valley Medical Center in Napa, Calif.; Petaluma Valley Hospital in Petaluma, Calif.; St. Jude Hospital in Fullerton, Calif.; Mission Hospital Mission Viejo in Mission Viejo, Calif.; and Mission Hospital Laguna Beach in Laguna Beach, Calif.

St. Joseph spokesman Brian Greene April 11 said the system could not speak specifically to the lawsuits. "We obviously regret the release of the information but we're doing everything in our power to make things right," including one year of identity theft services for those affected by the breach, Greene told BNA.

Internet Search Reveals Data

Plaintiff DeBeake ran an internet search of her name Jan. 24 and found records about her treatment at Santa Rosa Hospital, including height, weight, patient account numbers, and treatment dates. Plaintiff Loba Moon was a patient at Santa Rosa Hospital in February and March 2011, and her information also was publicly available, the Sonoma County lawsuit said.

Graewingholt in her California Superior Court, Los Angeles County, lawsuit said she likewise found out about her records from an internet search that her son ran on her family's name.

Graewingholt alleged this was a violation by St. Joseph of her privacy. An April 10 letter from St. Joseph informed Graewingholt that five unencrypted, nonpassword-protected computers were stolen in a burglary of a constituent hospital's computer room.

The plaintiffs are represented by James Denlea, Jeffrey Carton, and Jeremiah Frei-Pearson, Meselson, Denlea, Packman, Carton & Eberz PC, in White Plains, N.Y.; John P. Nash, John P. Nash Attorney Inc., in Hacienda Heights, Calif.; Eric Grover and Carey Been, Keller Grover LLP, in San Francisco; Wayne Kregor, Law Offices of Wayne S. Kregor PA, in Santa Monica, Calif.; Robert Chalenk, Chalenk & Chalenk PC, in Dallas; and Mark P. Robinson Jr., Daniel S. Robinson, Scott D. Wilson, and Wesley Polshuk, Robinson
Supreme Court Review

Note Cases Denied Review
Legal issues in where Federal circuit courts have reached different (split) decisions are often good topics for scholarly writing.
U.S. Law Week

(Particularly the Circuit Split column, which is now under the Case Alert and Legal News Tab)

This excellent source provides current analysis of federal and state cases in all practice areas as well as important legislative and regulatory developments.
Seton Hall Circuit Review (2005—)

Law review that contains a “Current Split Circuits” column which is arranged by topic.

Volumes 1 – 13 #2 (2017) are available on HeinOnline.
Case Law Databases for Split Circuit & Novel Decisions

- Westlaw (Federal Cases): circuit/s split and DA(aft 8/2015)
LAW JOURNALS

Indexes and Sources other than Lexis and Westlaw
Law Journal Indexes

• Look for journal articles on your subject.
• **DO NOT RELY ONLY ON** journals and law reviews on Westlaw, Lexis Advance or Bloomberg Law
  • These databases cover only a fraction of the law reviews, newsletters, legal newsletters and bar journals published in the U.S.
• Use indexes to law journals instead
• Good way to scout hot topics and to get an idea of how arguments and issues are presented.
The drawback for students is that entries do not always link to the full text of the article, requiring a search for the print or HeinOnline version.

Note that there are only about 600 journals each on Lexis Advance and Westlaw.

Note also that the search feature on HeinOnline is difficult to use and not as robust as LegalTrac’s.
Index to Legal Periodicals & Books

- This covers about 450 journals and has more full text entries than Legaltrac
- The ILP retrospective goes back to 1770
- Use keyword and subject searches for the best results.

UBLibrary Website ➔ Research Databases ➔ Index to Legal Periodicals & Books
Current Index to Legal Periodicals (CILP)

- This online publication is made available through the auspices of the University of Washington Law Library, and contains citations to very recent journal articles indexed by topic.
- It is published weekly and provides quick access to articles with links to Lexis and/or Westlaw.
- Organized through a table of contents or 100 legal subjects.
- Law review articles are indexed here 4-6 weeks before they are indexed by commercial legal periodical indexes such as LegalTrac or the Index to Legal Periodicals.
- UB faculty and students can subscribe to SmartCILP, for email delivery of articles by subject. **Code is 6141**
OTHER JOURNAL INDEXES

• Have an international or comparative law topic? Use the *Index to Foreign Legal Periodicals*, which is available on [HeinOnline](https://heinonline.org).
Legal Scholarship Blog | http://legalscholarshipblog.com/

This blog features law-related Calls for Papers, Conferences, and Workshops as well as general legal scholarship resources.

Access to many working papers and e-journals; link to other articles that cite an article you have already found. Use the advanced search feature for best results – Settings>Library Links (top right) get you access to our subscriptions to Hein Online and more.
Hein Online

• Full text of over 1600 law journals, usually from the first volume, with many that are current.
• Full text searching not effective.
• Many more databases available on HeinOnline also.
**Non-Law Databases**

- Best used for searching for non-law or "law &" topics.
- Coverage varies.
- Use our [Database List](#) to find them.

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**JSTOR: The Scholarly Journal Archive**

**ABI/INFORM Global**

**Academic Search Complete**
Sources for viewing and downloading unpublished, forthcoming, working papers and newly published articles by law faculty and others

**Bepress Legal Repository**

**SSRN**
(Social Science Research Network)

Contains working papers and forthcoming articles from many law schools. You can search abstracts of papers, and download the complete papers in PDF format.
Web-based legal news and real-time legal research service run by part-time law student reporters, editors and Web developers and led by law professor Bernard Hibbitts at the University of Pittsburgh School of Law.
Front end access to over 1000 legally related blogs by lawyers, judges, legal researchers and librarians. This is a good way to find blog posts that follow particular cases or agency developments.
Other Databases & Sources
OTHER SOURCES

• Topical searches in Westlaw and Lexis
  • Restrict to law journal articles in your broad subject area

• **Westlaw Bulletin**  Searchable brief reports on interesting cases from all jurisdictions

• **Westlaw Topical Highlights**
  • 24 topics with summaries of judicial, legislative and administrative actions i.e., Securities Regulation

Lexis Advance

• **Emerging Issues Analysis**  Search this list by topic
Topical searches in Westlaw

Restrict to your search to your broad subject area (under Practices Area tab on the home screen)
**Lexis Advance Topical Sources**

Find Topics under Browse and drill down or under Practice Area or Industry Tab on main page

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<thead>
<tr>
<th>Content Type</th>
<th>Practice Area or Industry</th>
<th>International</th>
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<tbody>
<tr>
<td>Administrative Law</td>
<td>Construction</td>
<td>Governments</td>
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<tr>
<td>Admiralty &amp; Maritime Law</td>
<td>Contracts Law</td>
<td>Healthcare Law</td>
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<td>Copyright Law</td>
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<td>Bankruptcy Law</td>
<td>Criminal Law &amp; Procedure</td>
<td>International Law</td>
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<td>Education Law</td>
<td>International Trade Law</td>
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<tr>
<td>Civil Procedure</td>
<td>Energy &amp; Utilities Law</td>
<td>Labor &amp; Employment Law</td>
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<td>Civil Rights Law</td>
<td>Entertainment &amp; Sports</td>
<td>Legal Ethics</td>
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<tr>
<td>Commercial Law (UCC)</td>
<td>Environmental Law</td>
<td>Life Sciences/Pharmaceutical</td>
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<td>Communications Law</td>
<td>Estate, Gift &amp; Trust Law</td>
<td>Manufacturing</td>
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<tr>
<td>Computer &amp; Internet Law</td>
<td>Evidence</td>
<td>Mergers &amp; Acquisitions</td>
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<tr>
<td>Constitutional Law</td>
<td>Family Law</td>
<td>Military &amp; Veterans Law</td>
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Then filter by document type or source
U.S. Supreme Court

Special Sources
Scotus Blog

Covers the Court with commentary, news and transcripts of arguments and more.

Available at http://www.scotusblog.com
ABA website and publication covering all aspects of Supreme Court cases, including many merit briefs.

Also in Print and on HeinOnline.
The Supreme Court Database is the definitive source for researchers, students, journalists, and citizens interested in the U.S. Supreme Court. The Database contains over two hundred pieces of information about each case decided by the Court between the 1946 and 2013 terms. Examples include the identity of the court whose decision the Supreme Court reviewed, the parties to the suit, the legal provisions considered in the case, and the votes of the Justices.

Current Dataset
2014 Release 01
released
July 23, 2014
Includes terms
1946 - 2013
Case Centered rows
12,981
Justice Centered rows
116,362

Are you interested in a particular legal or political issue? Do you seek information solely about the current Court or about a particular year? Perhaps you are interested in the votes of the Justices in cases about religion, commerce, or another area of the law. The analysis tools allow you to select and summarize cases from the Database based on your needs.

Getting Started
SCDB Web 101
Are you new to the Supreme Court Database? Wondering how to start doing your online analysis? The SCDB Web 101 series can get you underway on the quick.
View the 101 Lessons

Looking for the Codebook? We have an online and downloadable version. Access them using the below links.

Online Codebook
LEGISLATION

Some Basic Sources
Tracking Current Legislation

- **Govtrack.us** -- This is a free site that lets you search bills by keywords or number, and then track them. You can also search by sponsor. They also have rss feeds available that follow recently active legislation, recently active legislation excluding newly introduced bills, newly introduced bills, and newly enacted laws.

- **Congress.gov** – The Library of Congress' legislation website is a fantastic tool for tracking current legislation. You can search by keywords or bill number, or browse by sponsor. Once you have the bill, you can find cosponsors, the bill text, committee, amendments, related bills, CBO cost estimates, and all congressional actions.
Legislative Resources on Lexis and Westlaw

• **Lexis Advance** – Offers several tools to help you track current legislation. You can track bills, read their texts, and get the odds on their passage through the process. Under Statutes and Legislation>Bill Tracking

• **Westlaw** – Databases for bill tracking are very similar to the Lexis Advance databases (in some cases, their content is from the same provider). WLprovides current schedules for the various congressional committees and sub-committees.
Federal Legislation Information

Also really useful when following the legislative process:

Here are a few of the best sites:

- **CQ.com** Great database for analyzing current federal legislative actions.
- **Roll Call** - This daily political newspaper is another publication of CQ Press. It is a terrific tool for following the politics of the process.

**The Hill** Another Hill newspaper


**Senate Leader pages** – Locate the priorities of the two parties in the Senate at their Leaders’ websites. The Majority Leader also provides a link to the Senate Calendar on the left side of the home page under the heading *Today in the Senate*. The Minority Leader also has a Senate Calendar, also on the right side of the home page, under the heading *In The Senate Today*. This calendar is not as detailed as the one on the Majority Leader's page. The Majority Leader's page is at [http://republican.senate.gov](http://republican.senate.gov), and the Minority Leader's page is at [http://democrats.senate.gov](http://democrats.senate.gov).
State Law & Legal Resources

Westlaw 50 State Surveys
By topic, statutory and regulatory provision

• Lexis Advance also has 50 State Surveys
State and Local Government Sources

- **GovSpot.com** – State Government
- **Public Library of Law** – PLoL
  - [http://www.plol.org](http://www.plol.org)
- **National Conference of State Legislatures**
  - [Multistate.com](http://www.multistate.com) – Resource for State and Local Government Relations
  - [http://www.multistate.com](http://www.multistate.com)
- **State Legislative Histories**
  - [State Legislative History Research Guides on the Web](http://www.multistate.com)
  - [NCSL – Bill Information](http://www.multistate.com)
State Legislative Tracking and Information (Beyond Lexis and Westlaw)

**LLSDC.org** -- For each state, it gives links to the websites of the individual legislatures, telephone numbers for the legislative information offices and state law libraries, and links to the state codes and regulations.

**National Conference of State Legislators** –

Many states have their own legislative tracking information, including via social media

See Maryland’s page at http://mgaleg.maryland.gov/webmga/frmTrackingMain.aspx?pid=trackpage for an example

*Much harder to find, and when you find it, the quality and substance varies greatly from state to state.*
<table>
<thead>
<tr>
<th>Source</th>
<th>URL</th>
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</tr>
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<tbody>
<tr>
<td>Fraser at the St. Louis Fed</td>
<td><a href="http://fraser.stlouisfed.org/">http://fraser.stlouisfed.org/</a></td>
<td>Statistics and data on economics, business and money</td>
</tr>
<tr>
<td>Supreme Court Database</td>
<td><a href="http://scdb.wustl.edu/">http://scdb.wustl.edu/</a></td>
<td>(covers cases from the 1953 term) on parties, legal provisions and votes</td>
</tr>
</tbody>
</table>
Preemption checking is the process for determining whether there is any pertinent legal or specialized literature on your topic that has previously published. This is a crucial step in the process of writing your comment. See our Preemption Checking Research Guide.
**Preemption Checking**

**STEP 1: BOOKS AND BOOK CHAPTERS**

- Look for books on your subject in the UB Catalog, the USMAI Library catalog, and on [WorldCat](http://law.ubalt.edu/library/research/AtoZdatabases.cf#W), an online database containing most books published in the U.S. and Europe.

- Use both to find a book or book chapter that may have been published about your topic.

- Search these databases using both keyword searches and subject searches to locate books that might address your topic.

- Both are available on the [library website](http://law.ubalt.edu/library/research/AtoZdatabases.cf#W) and WorldCat from http://law.ubalt.edu/library/research/AtoZdatabases.cf#W
**STEP 2: LAW PERIODICALS**

- Look for journal articles on your subject.
- DO NOT RELY ONLY ON journals and law reviews on Lexis or Westlaw.
- These databases cover only a fraction of the law reviews, newsletters, legal newsletters and bar journals published in the U.S.
- Use these indexes to law journals instead: ILP, Legaltrac, Index to Foreign Legal Periodicals and other where appropriate, non-law periodical indexes.
Preemption Checking

**Step 3: Current Awareness and Topical Sources**

• Use the sources discussed previously such as major legal and non-legal newspapers, including *American Lawyer*, *National Law Journal*, the *New York Times*, *Washington Post*, *Slate*, *Politico*
Other thoughts

• Is your comment based on a case? Be sure to Keycite/Shepardize and check the citing sources and references.

• Be sure to check non-legal and unpublished materials (SSRN and BePress).

• Ask your friendly librarian for assistance!
Differentiating your Article
In the event you have a preemption issue....
If you run into a preemption problem...

- Look to the “spin” to change the topic/legal theory to distinguish your topic from the existing article.
- Get advice from your editors, professors and librarians
- You can almost always find a way to differentiate....
Find a Niche

Well known approaches include:

- Examining a recent decision
- Split circuits
- Cases of first impression
- Gathering “the law” in an area where this has not been done
Additional Approaches

- Consider:
  - Law reform article
  - Legislative developments and their impact
  - Comparative – between Federal and State, between States and between U.S. and foreign countries
  - Empirical Research
  - Legal history/history of regulation/legislation in a particular area
  - Theory – analyze and/or apply legal trends and theories
  - Interdisciplinary – Use of theories/practices for other disciplines
Source Gathering

• If you need a source that is not available at the UB Law Library, you can obtain it through interlibrary loan.

• Be sure to leave enough time to obtain your source through ILL – it may take as long as 2 weeks to get your material.

• Additional information on interlibrary loan is posted at http://law.ubalt.edu/library/services/ill/index.cfm
ILL Policies

• We do not borrow cover OR copyright pages of reporters or table of contents from law journals.

• We do not borrow photocopies of newspaper articles if they are readily available online or in Lexis or Westlaw. Check our databases, Enoch Pratt and the Library of Congress.

• We do not borrow statutes – U MD Law has print state statutes and codes, but this is the last year they will have them.

• Consult and use Rule 18 in the BB.

• CHECK WITH A LIBRARIAN IF YOU CAN’T FIND A SOURCE BEFORE YOU TRAVEL ANYWHERE TO FIND IT!!!
Finding Books

• Our catalog
  http://law.ubalt.edu/library/
• WorldCat/WorldCat Local
• USMAI Ebooks
• Your public library e-book collection
Work Flowchart for Books:

1. WorldCat
2. University System of Maryland
3. Langsdale
4. UB Law Library
5. On campus
6. USMAI
7. Request Item through Interlibrary Loan
8. Request Item
Work Flowchart to **Search for Articles**

Traditional law journal?

1. A to Z Journals List
2. Google scholar
3. HeinOnline
4. EBSCO Discovery Service
5. ScholarWorks
6. WorldCat
7. Illiad

(or whatever that professor’s university calls their digital repository, usually found on the law library’s website)
Finding Sources: Searching

EDS

• Searches UB Law, Langsdale, USMAI, and some databases, including Hein and EBSCO, simultaneously.

• Includes links to most Westlaw, Lexis and Bloomberg Law e-treatises
Patron-placed holds on USMAI books

- Allows you to request any available book at any USMAI library (including our library and Langsdale) using your UB network ID & password.
- Can select the library where you would like to have the book sent.
- Quick turnaround.
Use **WorldCat** – To Search Infinity and Beyond.....
Your Research Strategy

• Depends on what you know
• The less you know the more you need secondary sources
• Legal pubs are either chronological, by subject or both
• ALWAYS update your research (Keycite/Shepardize) and generally pay attention to the dates of what you are using
More on your research strategy

• Legal research sources derived from the print - “human ordering” (key numbers, indexes, citators).

• Your skills are derived from the online world – you need to bridge that divide to do the BEST research.

• Let someone else do the initial and basic work for you – e.g., look for compiled legislative histories, summaries and explanations of legal developments in books and treatises.

• Be sure to find the seminal books/cases/articles relating to your topic.

• Be organized so you don’t lose any sources or information during the very long writing period.
KEEPING YOUR RESEARCH UPDATED

GOOGLE ALERTS

LEXIS ADVANCE ALERT

Westlaw Alerts
From bell icon on your WL search page
Concluding your Research
Ask yourself the following:

• Did you answer the question you started with?
• Have you checked and updated all the sources you used and cited?
• Are you seeing the same sources every time you attempt to do further research?
• If you do, you are probably finished, especially if your deadline is approaching. If you are not sure – stop by and chat with one of the research librarians to make sure you didn’t overlook any sources.
Consult an expert reference librarian. Come to the Reference Desk in the library, IM us, email us at lawlibref@ubalt.edu, or contact one of us individually. If it takes you longer than 10 minutes to find something you are better off asking the experts – your librarians!

Use our research guides!

Contact me at apostar@ubalt.edu

BEST OF LUCK!!!