

Environmental Law Series



FINDING THE LAW: LEGAL RESEARCH FOR ACTIVISTS

BILL BITTNER

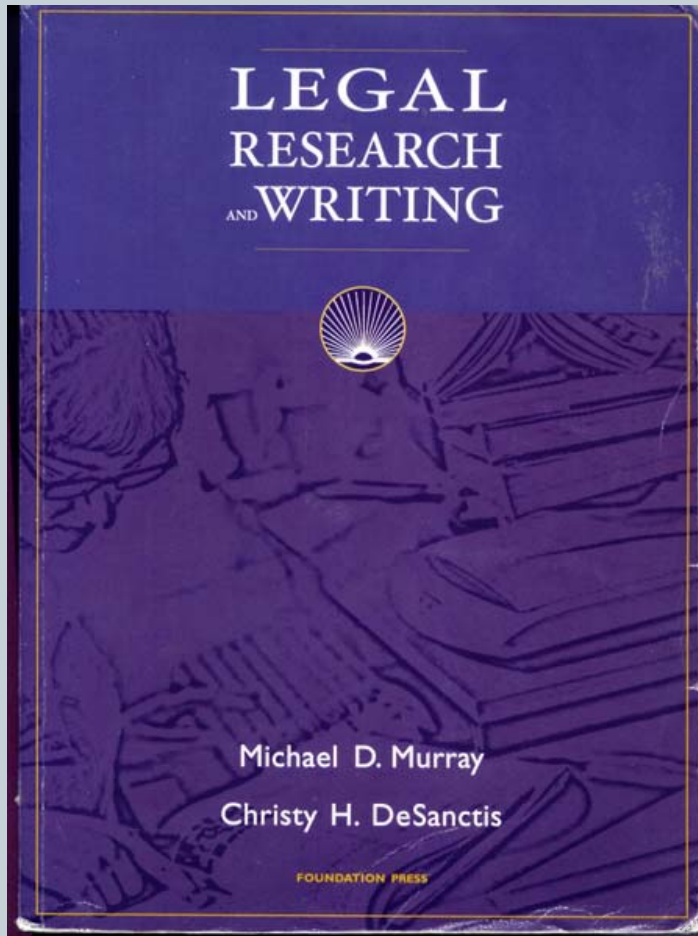


OUTLINE



- Introduction: IRAC
- Primary Sources: “The Law”
- Secondary Sources: Books about the law
- Research Strategy
- Citations: Legal Hyperlinks
- Law Libraries: Physical and Online

The Way In – A Legal Research Textbook



- Legal reasoning
- Determining the law from cases and statutes
- Citation mechanics
- Primary sources
 - Printed / online
- Secondary sources
 - Printed / online
- Research strategies
- Writing

INTRODUCTION



- **IRAC: The Legal Method**
 - **Issue:** What's the question I am facing?
 - ✦ *E.g. Can I paint my house in black and white zebra stripes?*
 - **Rule:** What rule will give the answer to the problem?
 - ✦ *Bittnerville Code § 101: "All houses built after 1900 must be painted in one solid color"*
 - **Analys**is: Apply the rule to my situation.
 - ✦ *My house was built in 1920, so my house was built after 1900. Therefore, it must be painted in one solid color.*
 - **Conclusion:** what's the answer to the problem now that the court has applied the rule to my situation?
 - ✦ *E.g. I cannot paint my house with black and white zebra stripes.*
- **Legal Research** = finding the **RULE** ("The Law") for your situation!

PRIMARY LAW



Federal	State	County / City
Constitution	Constitution	Charter?
Statutes	Statutes	Ordinances
Regulations	Regulations	
Federal and State Court Cases		

PRIMARY LAW



- **What is it?**
 - It's "The Law"
- **Types**
 - Constitutions, Statutes, Regulations, Local Laws
 - ✦ *E.g. "Bittnerville Code"*
 - Court Cases ("Case Law")
 - ✦ *What if my house was constructed in 1850, but was remodeled in 1920? We need some Case Law!*

**Remember what we
are looking for...**



ISSUE

RULE

ANALYSIS

CONCLUSION

SECONDARY SOURCES

Treatises

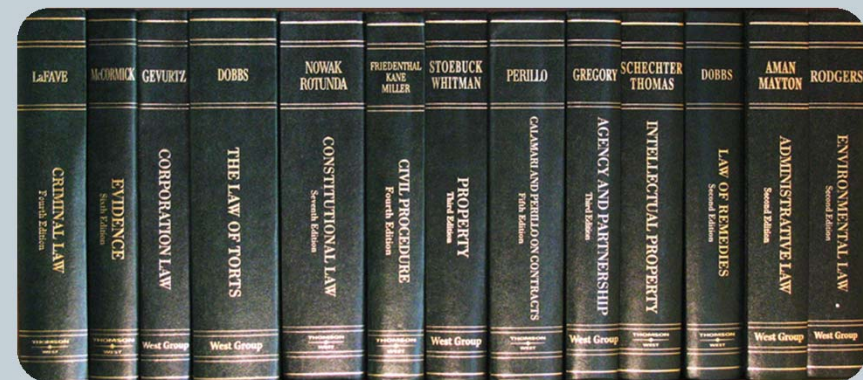
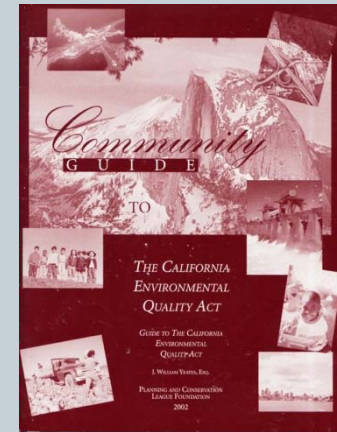
Summaries of the law

Law Reviews

Articles on specific topics

Restatements

“Suggested” law



SECONDARY SOURCES

What are they?

- Summarize and organize the primary law

What are they used for?

- Research tools!

Federal:

- Legal Encyclopedias
 - ✦ *American Jurisprudence (Am Jur)*
- Annotations (ALRs)

California:

- Legal Encyclopedias
 - ✦ *California Jurisprudence (Cal Jur)*
- Super Treatises
 - ✦ *Witkin Summary of California Law*

In General:

- Law Reviews
 - ✦ *Loyola Law Review*

SECONDARY SOURCES



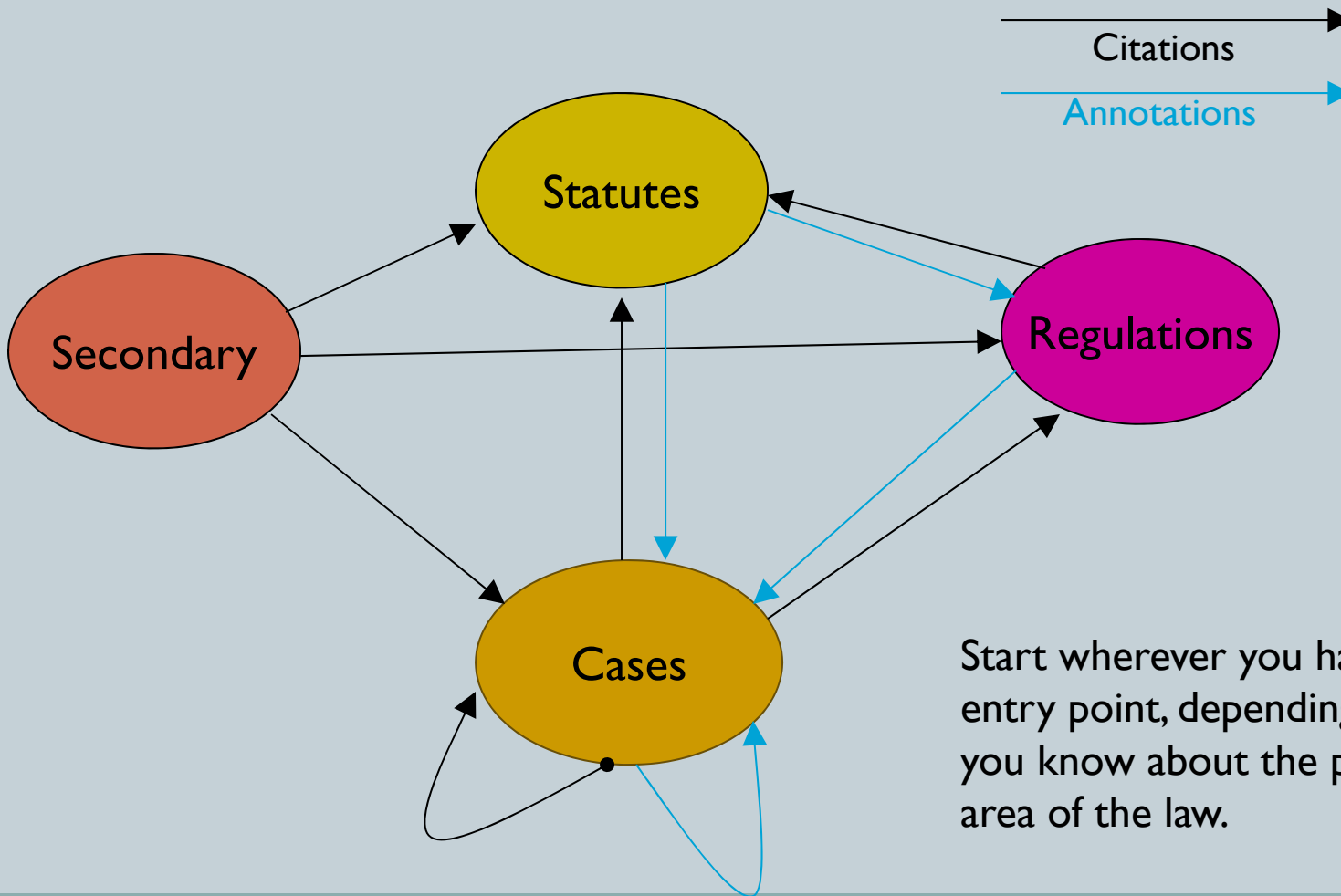
Example: Witkin's Summary of California Law

- > *Real Property*
- > *Waters*
- > *Nature of Rights to Water*
- > *Public Rights:*

*“(1) **Political Subdivisions.** The fact that a stream flows through a political subdivision does not give that subdivision any rights in the water. The state and its subdivisions have no rights except insofar as they own lands in their proprietary capacity. The same is true of the United States and its licensees. ([Palmer v. Railroad Com. of Calif. \(1914\) 167 C. 163, 173, 138 P. 997](#); [Miller & Lux v. San Joaquin Light & Power Corp. \(1932\) 120 C.A. 589, 612, 8 P.2d 560.](#)) A municipality may, however, acquire water rights by following the statutory procedure for appropriation. (See [Water C. 1460 et seq., 106.5, 1203](#); [infra, §942 et seq.](#))”*

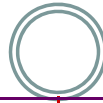
- 12 Witkin, Summary 10th (2005) Real Prop, § 918, p. 1107 (emphasis added)

RESEARCH STRATEGY



Start wherever you have an entry point, depending on what you know about the particular area of the law.

CITATIONS – Legal Hyperlinks



	Federal	California	L.A. County / City
Constitution	U.S. Const. art. III § 2	Cal. Const. art. VI § 3	Los Angeles City Charter
Statutes (Code)	16 U.S.C. §§ 1531-1544	Cal. Pub. Resources Code §§ 21000-21177	Los Angeles Mun. Code (Cal.) § 31.00(a)(1)(A)
Regulations (Code)	50 C.F.R. § 17.21	23 Cal. Code Regs. tit. 23 § 497.2	
Cases	<i>Sierra Club v. Froehike</i> , 534 F.2d 1289, 1292	<i>Sierra Club v. County of Napa</i> , 121 Cal.App.4th 1490	

START RESEARCHING

- **County Law Library (downtown)**

- Free Westlaw and LexisNexis

- **Law Schools:**

- Loyola
- U.S.C.
- U.C.L.A.
- Southwestern
- Pepperdine
- Whittier

- **Pro**

- No need for computer
- Easier to read hard copy
- Free of charge
- Physical browsing
- Reference librarian

- **Con**

- Need to go there
- Some types of search more difficult

START RESEARCHING

- **Free** - Findlaw.com

- Federal

- ✦ Constitution
- ✦ US Code
- ✦ Code of Federal Regulations
- ✦ Federal Court Cases

- California

- ✦ Constitution
- ✦ Codes
- ✦ Regulations
- ✦ Court of Appeals and Supreme Court Cases

- **Paid** – Westlaw and LexisNexis

- Subscription (\$\$\$\$)
- Pay as you go document retrieval

- **Advantages:**

- Many more search options and hyperlinks
- Many more sources (esp. secondary)
- Truly “law library in a box”

SUMMARY

- **Primary Law**

- “The Law”
- You must be able to *find and choose* the applicable law

- **Secondary Sources**

- Research Tools
- Find and understand the primary law so you can apply it!