



2/12/2007

As an attorney, you have an ethical duty to perform competent and complete legal research. Quite possibly the most important step in this process is to make sure that the law you use is still “good” before you cite it as authority. *Shepard's Citations* have been the traditional print method of performing this inquiry. *Shepard's Citations* can assist you in determining the continuing validity all state and federal cases (including the U.S. Supreme Court), statutes, and administrative regulations. The process of verifying the good-standing of a case or statute is often referred to as “Shepardizing.” *Shepard's* is a citator. Citators trace the prior and subsequent history of your case or statute, provide parallel citations to your case, help you determine how later cases and authorities have treated your case, and update your research to the present.

FCSL has *Shepard's* for Florida, Georgia, Southern Reporter, South Eastern Reporter, Federal, and U.S. Supreme Court cases only. They are located on the 3rd Floor in the Regional Collection. To Shepardize cases from other jurisdictions, you may contact Lexis Nexis at the number set forth in Step #8 below, or use *Shepard's* on LexisNexis or KeyCite on Westlaw.

Shepardizing by Case Citation

Step #1: Locate the *Shepard's Citations* set that matches the reporter in which your case is published. For instance, if you wanted to Shepardize a *South Eastern Reporter* case, you would need to use the *South Eastern Shepards*. Volumes are not cumulative and are tailored to match the features specific to each reporter. If you are not starting with a citation, see below on *Shepard's Case Name Citators*.

Step #2: Select the most recent softbound supplement for that citator set by checking the date in the upper right corner of the cover. Collect the bound volumes and supplements listed in the “**What Your Library Should Contain**” box on the front cover of the most recent supplement. A complete state citator set usually, but not always, contains (i) one or more bound volumes, (ii) a red paperback cumulative supplement, and (iii) a gold annual or semi-annual supplement.

Step #3: Select the earliest *Shepard's* bound volume that matches the reporter volume of your case. Reporter coverage is listed on the spine of each *Shepard's* volume.

Step #4: Use the headings at the top of the page to find the reporter volume and beginning page number of your case. Beneath the beginning page number are citations to cases and authorities that have cited your case up to the point in time that particular volume was published. These citing references will provide (i) the volume number of the reporter of the citing case; (ii) the reporter of the citing case; and (iii) the page number on which the cited case appears in the cited case (not the beginning page of the case per the usual case citation format).

You must keep in mind the difference between the **cited** case and **citing** cases! The former is the cite you are Shepardizing to verify whether it is still good law; the latter are materials such as other cases, law review articles, or ALR annotations that cite to the original (cited) case.

Your citation may not appear in every volume. However, this does not mean the Shepardizing task is complete. Absence of a citation in one volume means only that there were no citing cases contained in the reporters for which that volume covers. You must inspect *every* relevant *Shepard's* volume to ensure that you have discovered

all citing cases.

As mentioned in Step #1, *Shepard's* volumes are specific to the reporters they are covering. For example, if a particular reporter does not utilize West headnotes (because it is not published by West), then the *Shepard's* for that particular reporter will not include reference to headnotes. This is so even if the case is also reported in a West reporter with accompanying headnotes. Similarly, state-specific *Shepard's* are likely to include secondary sources that cite the case you are Shepardizing; information on secondary sources will not appear in regional *Shepard's*, such as the *Shepard's* for the *South Eastern Reporter*.

The citations listed in the columns in *Shepard's* always follow the same order: parallel cites (in parenthesis the first time it is cited in *Shepard's*); history of your case; treatment by other authorities of the law in your case; and finally, a listing of any secondary authorities citing your case (depending on your *Shepard's*, see above).

Step #5: Interpret the abbreviations and codes of the citations by using the tables in the front of the *Shepard's* volume. *Shepard's* attempts to give you as much information about a case in the smallest amount of space possible. Therefore, everything from case analysis to citation information is extensively abbreviated. *Shepard's* abbreviations are consistent across all of its publications, although new abbreviations may be added to later volumes. When the citing reference refers to the cited case in regard to a particular headnote in the cited case, that headnote appears as a superscript immediately following the reporter information in the citation (e.g., So2d⁵).

Case analysis abbreviations fall into one of two categories: history codes and treatment codes. Case history citations are those citations indicating prior or subsequent proceedings in the **same case**. History codes are codes that directly impact the validity of the cited case. Examples include **a** (affirmed), **m** (modified), **r** (reversed), and **v** (vacated).

Treatment codes indicate **how other courts have evaluated the cited case as precedent for other cases**. Examples include: **c** (criticized), **d** (distinguished), **e** (explained), **f** (followed), and **o** (overruled). In the treatment portion of the list of cites, citing references to cases are organized by jurisdiction and court; the highest court is listed first, followed by primary citing authorities and secondary citing authorities.

You **must** read the case(s) which produce negative indications to see how that ruling affects the authority of your case. Although a case has been negatively treated, it may still be possible that it remains perfectly valid for the point of law for which you intend to use it. Absence of a treatment code indicates that the case has been cited in the citing reference, but no substantive discussion, positive or negative, occurred.

Step #6 Repeat steps 4 and 5 for each subsequent bound volume (if any) and each paperback supplement contained in the citator set. The pattern is to work from the oldest bound volume to the most recent paperback supplement in which your citation appears.

Step #7: Review each of the citing sources. Reviewing these sources is vital because, although the case shows up as a citing reference to the case you are Shepardizing, this tells you nothing about its continuing validity as good law.

Step #8: As a last check, contact *Shepard's Daily Update Service* at 1-800-899-6000 (option 5) to find out if your case has been cited since publication of the most recent supplement. You speak to a real person and this service is free.

Shepard's Case Names Citators

If you know the name of at least one party and the jurisdiction in which the case was litigated, but do not know the citation, you can find the citation by consulting a *Shepard's Case Names Citator* for that jurisdiction. By looking up a party's name, you can find the full case name, citation, and the date of the decision. At this point, you may Shepardize the case following the steps set forth above.