

Case Law Research

Opinions and Reporters

The basic format for an opinion is a slip opinion. The term refers to a written case disposition as issued by the court. At the very least, the content of a slip opinion is the name or caption of the cause, the docket number, the date of issuance, the names of counsel representing each party, the author and text of the opinion, any concurring or dissenting opinions with authors. The court may issue a syllabus as part of the slip opinion. A syllabus is a summary that is not part of the opinion and has no precedential value.

Most courts will publish slip opinions to their web sites on the date of issuance, or shortly thereafter. The timeliness of posting depends on the court. Lexis and Westlaw add opinions as quickly as possible, but not always on the date of release. The Supreme Court of the United States is one exception. Opinions by the Court will appear on Lexis and Westlaw within 20 minutes to an hour after public release.

One aspect of locating opinions on various court web sites is understanding the manner in which they can be arranged. Typically, a court's web site offers publicly available opinions arranged by date, name, docket number, or some combination of these. These types of organization are best used for selecting opinions rather than searching them for relevant documents. Therefore, one generally must have some knowledge of this information in advance of locating an opinion.

Some courts will allow limited (especially compared to what's available on Lexis and Westlaw) key word searching. This usually takes the form of searching simple words or phrases. As a consequence, subjective or relational research is difficult at most court-sponsored web sites. Lexis and Westlaw offer far more access points with complex search statements and the ability to limit searches to specific segments or fields within a document. Moreover, Lexis and Westlaw combine various courts into a single database (e.g. all federal courts, all Illinois state courts, Illinois state and federal courts) for more efficient searches.

Courts and Their Reporters

The trial courts of Illinois are broken into circuits, which are jurisdictions based on grouping of Illinois counties. These are organized into Judicial Districts. Cook County alone comprises the 1st Judicial District, and contains the Circuit Court of Cook County. In contrast, the 2nd Judicial District comprises the 15th, 16th, 17th, 18th, and 19th Judicial Circuits. The other three Judicial Districts are similarly organized with their respective Judicial Circuits. For more information about the Illinois Circuit Courts, see <http://www.state.il.us/court/CircuitCourts/default.htm> on the Illinois Supreme Court web site.

A trial court may issue an opinion as part of a decision. These are rarely reported in the state court systems. Based on the volume of cases at the trial level in most state courts, it is impractical to collect and publish any opinions that exist. In any event, any opinion at the trial level is not binding on any other court. This tends to discourage their creation with most state trial courts simply announcing a result. Any documents generated during with the litigation, -- complaints, motions, supporting memoranda, etc. -- are locatable in the court file in the clerk's office for that jurisdiction.

Some state trial courts do have reporters. Pennsylvania has district and county reports for various parts of the state. The opinions are reported in a series of reporters called *District and County Reports*. In New York, the Supreme Court is actually a trial court and decisions with opinions are reported in the *New York Supplement*, which is a West Group reporter. They also appear in a set of official reports called *New York Miscellaneous Reports*. The trend for most states, however, is not to publish these materials. Lexis and Westlaw will only carry these trial decisions if there is a paper counterpart.

Federal District Courts

Trial judges in the federal district courts do issue opinions, and many (but not all) are collected in the Federal Supplement (now in its second series). Each state may have one or more federal district courts, depending on how congress has organized the federal courts of an individual state. Illinois has three districts – the Northern, Middle, and Southern Districts. Kansas, for example, has only one district.

State Appellate Courts

State Appellate Courts do issue opinions, and they are published in at least one and more often in two places. Using Illinois as an example, all of the opinions of the Illinois Appellate Court are published in *Illinois Appellate Court Reports*, which is the official publication by the Court. The volumes are now in their third series. The second place they are published is the *Northeastern Reporter*, beginning with the second series. The Northeastern Reporter is one of several regional reporters published by Thompson/West Group that cover courts in all 50 states and territories. West also publishes *Illinois Decisions*, which is another unofficial reporter of opinions from the Illinois Appellate and Supreme Courts. Citations for the same case in different reporters are referred to as parallel citations.

Illinois is broken into 5 appellate districts, with Cook County comprising the 1st District. The other four comprise different groupings of counties covering the rest of Illinois. Cases decided by the Appellate Court are only binding within the district in which they were issued. Cases cited from other districts may be persuasive, but they are not binding on the court. The Illinois Supreme Court has the responsibility of resolving any conflicts between Districts. For more information about the Illinois Appellate Courts, see <http://www.state.il.us/court/AppellateCourt/default.htm> on the Illinois Supreme Court web site.

Not all states have official reports at present. Rules of those states usually designate the applicable West reporter for that state as the official source for opinions. The *Uniform System of Citation*, otherwise known as the “Blue Book,” contains an appendix (T.1: United States Jurisdictions) that describes the available reports and citation rules for each jurisdiction. States may have had official reports at one time and then stopped publishing them. For example, the state of Missouri published official Missouri Supreme Court Reports starting in 1821 (the year of admittance to the Union) and ceased publication in 1956. Opinions from the Appellate Court started in 1876 and ceased publication in 1954. Opinions issued past these dates are available exclusively in the Southwestern Reporter 2nd Series. About half to two-thirds of the states still publish official reports of one type or another.

Federal Appellate Courts

The federal courts are broken into 13 Circuits. They comprise the 1st through 11th Circuit Courts of Appeals, the Circuit Court of Appeals for the District of Columbia, and the Circuit Court of Appeals for the Federal Circuit. The latter has specialized jurisdiction in patent appeals, trade disputes, and other specific causes. Other than the COA for the Federal Circuit, the federal appellate court system is organized geographically. Illinois is in the 7th Circuit, which comprises the states of Wisconsin, Illinois, and Indiana. Most federal appellate opinions are reported in the *Federal Reporter*, now in its third series. The exception to this statement is described in the section on unpublished opinions, below.

State Supreme Courts

Each state has one appellate level court that is considered the ultimate judicial authority in that state. In Illinois, it is the Illinois Supreme Court. Some states have a supreme court, and no appellate court. Again, the Blue Book appendix noted above should help identify the organization within unfamiliar jurisdictions. Note also that the technical names of courts may vary. The highest court in Massachusetts is called the Supreme Judicial Court. In New York, the highest court is the Court of Appeals, while the New York Supreme Court is actually a trial court. Texas has two supreme courts: the Supreme Court of Texas handles civil appeals while the Court of Criminal Appeals has jurisdiction over criminal matters. The Texas Supreme Court may overrule the Court of Criminal Appeals, but rarely exercises that jurisdiction.

The Illinois Supreme Court publishes its opinions in *Illinois Reports*, which is the official publication of the court. West also publishes the Court’s opinions in both the *Northeastern Reporter*, and *Illinois Decisions*. These parallel reports contain the exact report that the Court issued, usually with the addition of case summaries and headnotes not found in the official reports or in slip opinions.

The United States Supreme Court

The U.S. Supreme Court reports its opinions in *United States Reports*, which is the official publication of the Court. Lexis now publishes U.S. Reports Lawyer's Edition, and West publishes the Supreme Court Reporter. These are unofficial. Many people rely on the latter two for citations as they will appear in print long before the Court's official publication, which can lag from one to two years from the release of an opinion.

Published and Unpublished Opinions

Not all opinions of a court are published and/or reported. Most courts have rules about citation of unpublished opinions. In Illinois, it is Supreme Court Rule 23 which states that the Court (including the Appellate Court) may designate a disposition as an order, in which case it will not appear in the official or unofficial reports, and cannot be cited as precedent. Generally Lexis and Westlaw will pick up these unpublished opinions. However, this is a recent trend with these research services. They have not gone back to retrospectively add previously unpublished opinions or orders. Aside from their availability, courts tend to enforce the non-citation aspect of these opinions. The logic behind the rule is that these opinions add nothing to the development of the law because they are usually the same application of settled law time and time again. Whether or not this is true, a court has the option of issuing a document with a "not for publication" designation.

Illinois court rules also limit the length of opinions in printed Illinois case reporters. There are times when an opinion which appears online will have whole sections of text which do not appear in the published report. The online versions will have obvious markers that delineate the unpublished text from that which is published.

The demand for these types of opinions is still high, especially from attorneys who feel they must uncover every applicable opinion, citable or not. West, in fact, began a publication called the *Federal Appendix* to collect these opinions from the federal courts. Each case report, however, still carries the "not-for-citation" admonishment with citation to the specific court rule barring the use.

West Reporters and the National Reporter System

The National Reporter System is a creation of West. It essentially publishes all state and federal reports that are generally available through several units. All available state cases are published in the following:

Atlantic Reporter
Northeastern Reporter
Northwestern Reporter
New York Supplement
Pacific Reporter
Southeastern Reporter

Southern Reporter
Southwestern Reporter

There are other miscellaneous reporters such as *Illinois Decisions*, the *California Reporter*, and others. These however, are mostly duplicated in one of the regional reporters listed above.

The federal component consists of:

The Federal Supplement
The Federal Reporter
Federal Rules Decisions
The Supreme Court Reporter

There are other topical West reporters such as the *Bankruptcy Reporter*, *Federal Rules Decisions*, the *Military Justice Reporter*, and others. However, the general reports of the federal courts are in the titles listed above.

Federal Cases set

The title *Federal Cases* is a reporter published by the predecessor to West Group. It compiles federal opinions that were issued by the federal courts prior to the creation of the *Federal Reporter* and the *Federal Supplement*. These cases are assigned unique numbers and are cited by these numbers according to convention. Note the rule in the *Blue Book* describing the citation format (p. 185 in the 17th Edition).

Annotations, Key Numbers, and Headnotes

When West reports a case in a volume of the National Reporter System, the editors will add material to aid the researcher. These will consist of a summary paragraph at the beginning of the case, and a series of headnotes. The headnotes consist of point-by-point breakdowns of the law as considered or applied by the court. In effect, these are mini-summaries of segments of the opinion in a sequential order. The number of headnotes is a matter of editorial discretion by the publisher. Different publications of the same opinion may yield different numbers of headnotes. Illinois cases that are officially reported also have headnotes, but these will vary in text and number from West's versions.

Once West headnotes are created for each case, they are classified against a fairly complex outline of the law. In the early history of West, the editors broke the law into 400 or so general topics, and then sub-divided those topics into complex outlines. They assigned what is known as a key number to the smallest division within an outline. For example, the key number Wills 402 covers the issue of "Power to Award Costs in General." Other outlines may have several hundred or several thousand ultimate key numbers.

Headnotes to cases are collected in jurisdictional digests and organized against these outlines. Thus, one can examine all the headnotes assigned to a particular topic and key number in one place, resulting in the ability to examine all cases from a particular jurisdiction on the same point of law. The *Illinois Digest* collects headnotes for all state and federal cases arising from Illinois. The *Federal Digest* and the 4 succeeding *Modern Federal Practice Digests* collect headnotes for all federal jurisdictions over specific periods of time. Most, but not all, jurisdictions have West digests.

Digests have several identifiable parts, including the topic volumes (the majority of volumes), the Descriptive Word Index, the Table of Cases, and sometimes a Plaintiff-Defendant and Defendant-Plaintiff set of volumes. The Descriptive Word Index volumes are particularly useful as they act as an index to the entire set. Common words and legal terms of art are indexed and cross-referenced against topics and key numbers contained in the topical volumes.

Digests do not appear on Lexis and Westlaw, although Westlaw includes headnotes and a technique to search them against the same outline as in the paper versions. Lexis includes headnotes and summaries which are searchable as part of the opinion. However, Lexis does not organize their headnotes against a topic and outline number format as does West.

Be advised that the outline is dynamic, and that the editors at West will revise the organization of specific topics. When this happens, they will provide cross-reference tables from old and new key numbers in the pocket part, or in the next bound volume revision. These will appear after the topic outline and before the collection of annotations. Online key numbers automatically cross-reference when searched.

Cases on Lexis and Westlaw

Cases are organized in various ways for easy access. Databases are usually organized by jurisdiction, such as Illinois Appellate cases, or 7th Circuit cases. Sometimes groups are combined for common types of searches, such as all Illinois and 7th Circuit cases. These combinations give you the ability to find all cases for a project with one search rather than several searches in smaller databases. The organization of these databases is not tied to the various reporters anymore, but they do share the same organizational rationale.

Both West and Lexis offer database citations that are specific to the online version of an opinion. Lexis includes their citation with every display of the case. West, on the other hand, will only display a Westlaw citation until a paper citation appears. At that point, the editors suppress the Westlaw citation. However, West still allows one to search using the Westlaw citation, even if it has been suppressed from the case display.

Not all opinions appear on both services. All reported (i.e., published in paper) opinions will appear on both services. The distinction will arise with unpublished opinions, with the more obscure documents appearing on one or the other, as they get them from the courts.