



COURT RECORDS & BRIEFS

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I. INTRODUCTION

Records and briefs are the papers which were submitted to or generated by a court in a particular case, from the complaint (in a civil case) or the indictment (in a criminal case) to pleadings, motions, orders, transcripts of the trial, jury verdicts, and associated materials.

Legal researchers may consult these materials for a variety of reasons. Frequently, pleadings provide additional insight into the arguments which persuaded (or failed to persuade) the court. Because appellate courts review only questions of law, the record on appeal may also provide more factual background about the original case than is provided in an appellate court's opinion.

Although court filings are considered to be **public records**, their availability varies widely by jurisdiction. The growth of electronic filing has improved online access to recent materials. However, historical records and briefs may be more difficult to obtain without contacting the office of the court clerk, which may require a substantial copying fee. This guide outlines sources for compiled records and briefs which are available online and in the Goodson Law Library, as well as strategies for locating specific types of documents associated with a particular case.

II. GETTING STARTED

Before attempting to track down records on appeal or specific filings, it is most helpful to first **locate the following information** about the case:

1. The full names of the parties
2. The docket numbers and/or citations of the original case, as well as any appeals
3. The location of the court in which the case was filed, as well as the courts of any appeals
4. The date (at least approximate) of the case and any appeals
5. Names of judges and/or attorneys involved in the case

Keep in mind that many court materials may not be available electronically, especially for cases filed or decided prior to 1996. Also, depending upon the jurisdiction, statutes and court rules may permit the **sealing** of selected documents or even entire case records. In the most extreme circumstances, courts may issue orders to **destroy** an entire case file; this will generally be noted in the docket information. Historical records might also be destroyed by a court as part of a routine schedule, although these records may have previously been preserved on microform collections which could be available from libraries in the court's geographic area. (See section III, part D, for more information.)

Finally, note that it is generally easier to locate court documents related to cases which have been appealed, since the record of the trial-level case would have already been compiled and sent to the appellate court for review.

III. COMPILED RECORDS & BRIEFS

Some records and briefs are available in either print or microform sets, although the exact contents of each set will vary. The Goodson Law Library maintains collections of records and briefs for the United States Supreme Court, the U.S. Court of Appeals for the Fourth Circuit, the North Carolina Supreme Court, and the North Carolina Court of Appeals.

A. U.S. Supreme Court

The Goodson Law Library contains records and briefs for U.S. Supreme Court cases in the **Microforms Room** on Level 1 (1920-present). Records prior to 1950 are arranged according to the case's *U.S. Reports* citation. From the 1950 Term to the present, the records are arranged in docket number order. The set includes records and briefs from decided cases (1920-present), as well as the petitions for certiorari from cases in which the Court did not grant review (1985-present). Records and briefs are also available in PDF format from the *Making of Modern Law* database **U.S. Supreme Court Records and Briefs: 1832-1978** (<http://search.library.duke.edu/search?id=DUKE004173355>). For additional resources for Supreme Court briefs, consult the library's **U.S. Supreme Court Research Guide**: <http://www.law.duke.edu/lib/researchguides/ussup#briefs>.

If you require briefs and records from earlier Supreme Court cases, the Kathrine R. Everett Law Library at UNC-Chapel Hill owns a microform set which covers dates not available at

Duke: *Appellate Case Files of the Supreme Court of the United States* (1792-1831); copies of these materials can be requested through Duke's interlibrary loan service. For more information, see their research guide to **Finding Records & Briefs at the Kathrine R. Everett Law Library** (<http://library.law.unc.edu/research/guides/courtrecords/default.aspx>).

Some earlier Supreme Court case materials may also be available at the Goodson Law Library in *Landmark Briefs and Arguments of the Supreme Court of the United States: Constitutional Law* (Level 3, shelved with the reporters). This set begins in 1792 and contains briefs from selected cases; however, it is *highly* selective in the cases it covers (usually 1-2 cases per Court term).

B. Fourth Circuit Court of Appeals

Compiled records and briefs from the United States Court of Appeals from the Fourth Circuit (covering federal appeals from Maryland, North Carolina, South Carolina, Virginia, and West Virginia) are available in the Goodson Law Library **Microforms Room** (Level 1) from 1983-1998. These records are arranged by docket number. (A print index housed near the microfiche collection provides case names and docket numbers, but does not indicate which materials are provided for an individual case.)

Additionally, a printed set of records and briefs dating from 1891-1976 is available for delivery from the **Library Service Center**, an off-site storage facility (<http://search.library.duke.edu/search?id=DUKE001055589>). The catalog record lists the available volumes as well as the docket numbers contained in each. Allow 1-2 business days for delivery to the Goodson Law Library; note that the volumes must be used within the library.

See section IV of this guide for information on locating case briefs and other filings from the 4th Circuit after 1998.

C. North Carolina State Courts

The **Records & Briefs** collection on Level 1 contains printed copies of records and briefs from the North Carolina Supreme Court (1929-1982). The **Microforms Room** on Level 1 contains more current N.C. Supreme Court records and briefs on microfiche (1982– present, with approximately a 2-year delay between case publication and fiche availability). Both the print and the microfiche set are organized by the cases' *N.C. Reports* citation.

The Records & Briefs collection on Level 1 also contains materials from the North Carolina Court of Appeals, in the set *North Carolina Court of Appeals Briefs and Records* (1968-1999). More recent case materials, from both the Supreme Court and the Court of Appeals, are available online at http://www.ncappellatecourts.org/nc_main_1.nsf. (Note that the Search feature works better than the Browse feature; if your initial search results seem incomplete, choose the "Full Text Search" option for a fuller display.)

The Duke Libraries have selected records from earlier time periods, such as the set *North Carolina Higher-Court Records* (KFN7919.A4 A7), which includes colonial court records from

1670-1730. To locate these materials, search the online catalog for the **subject heading** “Court records—North Carolina.”

D. Other Courts

Records and briefs from other courts may be available online, from the court’s clerk, or from libraries within the geographic region of the court.

For federal courts, the best source for recent (1996-present) records and briefs is **PACER** (<http://pacer.psc.uscourts.gov/>), or **Public Access to Court Electronic Records**. PACER is a service from the federal judiciary, and includes case and docket information from U.S. District, Appeals, and Bankruptcy courts. Because most federal courts require documents to be filed electronically, the majority of materials are available for download in PDF format, generally from 1996-present.

Members of the Duke Law community can inquire at the Goodson Law Library’s Reference Desk to obtain password access to PACER. Because PACER operates under a pay-per-page-view system, reference librarians may request that you visit the library in person to receive an orientation. Note that not all material from a particular case may be provided full-text in PACER, and many of the individual types of court documents available on PACER are duplicated in PDF on LexisNexis and Westlaw (see section IV for more information).

For records and briefs from other state courts, and for federal court cases prior to 1996, libraries within the court’s geographic region may have received print or microform sets which are similar to Duke’s North Carolina and Fourth Circuit collections. Although somewhat outdated, Whiteman & Campbell’s *A Union List of Appellate Court Records and Briefs: Federal and State* (Ref. KF105.9 .W49 1999) provides an excellent starting point for determining whether compiled records and briefs may be available for a particular court from a particular time period. You may be able to obtain copies of these materials through Interlibrary Loan (<http://www.law.duke.edu/lib/ill>).

IV. SPECIFIC DOCUMENT TYPES

When reading a particular case on **LexisNexis** and **Westlaw**, a link to available related documents will be provided at the top of the page. These links generally include PDFs of dockets, briefs, other pleadings, and orders. The types of available documents will vary widely, depending upon the jurisdiction and time period of the case.

Specific types of court documents may also be searched separately on LexisNexis and Westlaw, as well as other online resources. The remainder of this guide outlines sources and strategies for locating these materials.

A. Docket Information

A case’s **docket** (or **docket sheet**) is the formal record maintained by the court which lists all of the proceedings and filings in a particular case, outlined with brief descriptions and organized

in reverse chronological order. Think of the docket as the “table of contents” to all of the materials associated with a particular case. The case’s docket sheet can help a researcher pinpoint exactly what documents exist for a particular case and when each was filed with the court.

1. Federal Courts

The major electronic source for federal docket information is **PACER** (<http://pacer.psc.uscourts.gov/>), or **Public Access to Court Electronic Records**. PACER provides docket information from U.S. District, Appeals, and Bankruptcy courts, generally from 1996-present, with many of the documents listed in the docket available full-text in PDF. Inquire at the Reference Desk for PACER access.

Because PACER charges under a pay-per-page-view system, it is always preferable to retrieve known citations than to search for party names. A researcher using PACER should already know the specific court in which the case was filed and the docket number. The **Justia Docket Search** (<http://dockets.justia.com/>) is a free front-end search engine linked to PACER, which can assist with locating preliminary information about a federal District Court case (2004-present; selective cases from earlier years). Justia Docket Search results provide basic information about a case, and link directly into PACER for additional results (such as the full docket sheet and links to full-text filings). Selected cases may also include free copies of the documents themselves. Note that Justia does not index dockets from the U.S. Courts of Appeals (Circuit Courts) or Bankruptcy Courts.

Current members of the Duke Law community can also locate federal docket information on **LexisNexis** (<http://lawschool.lexis.com>) and **Westlaw** (<http://lawschool.westlaw.com>). Dockets for a particular case will be linked from the top of the opinion; dockets may also be searched in separate databases. Lexis and Westlaw offer more sophisticated search options than PACER or Justia, and also provide more comprehensive historical coverage than Justia.

To search federal court dockets on LexisNexis, follow the path **Public Records > Find Filings > Civil & Criminal Court Filings and Regulatory Actions** to view available databases. The **Total Litigator** tab’s **Draft, File & Serve** section also offers some access to fuller docket reports, which contain an itemized list of all filings associated with the case.

To search federal court dockets on Westlaw, follow the path **Directory > Litigation > Dockets** to view available databases. Westlaw provides dockets for U.S. District courts (2000-present), U.S. Courts of Appeals and Bankruptcy Courts (1997-present), and the U.S. Court of Federal Claims, Tax Court, and Court of Federal Claims (2000-present). Westlaw dockets include the basic case summary information as well as the itemized list of filings. In some cases, the documents will be linked in PDF below the entries on the docket sheet. (In other cases, there will be a link to “Send Runner to the Court”; this service is not available to educational accounts.)

2. State Courts

LexisNexis and Westlaw provide some dockets for state courts as well, although the coverage varies widely by state. Note also that some states provide only civil, not criminal, materials.

On LexisNexis, follow the path **Public Records > Public Records > Find Filings > Civil & Criminal Court Filings and Regulatory Actions > Civil & Criminal Filings - Selected States** to view available databases.

On Westlaw, follow **Directory > Litigation > Dockets** to view available state docket databases. Westlaw dockets include the basic case summary information as well as the itemized list of filings. In some cases, the available documents will be linked in PDF below the entries on the docket sheet. (Underneath each individual entry, there will be a link to “Send Runner to the Court”; this retrieval service is not available to educational accounts.)

Individual court websites may also provide public search engines to their docket information. As with the online services, dates of availability will vary greatly. For quick access to an individual court’s website, consult the National Center for State Courts’ list of **State Court Web Sites** (<http://www.ncsc.org/information-and-resources/browse-by-state/state-court-websites.aspx>).

For cases from dates or jurisdictions which are not included in the electronic services, you may be able to obtain docket information from a compiled set of records and briefs; see section III of this guide for more information.

B. Briefs and other Filings

Briefs, motions, pleadings and related orders are generally the most easily accessible court documents. They can be found in a variety of free and fee-based sources online, as well as in compiled sets of records and briefs (see section III).

1. Federal Courts

PACER (<http://pacer.psc.uscourts.gov/>) provides docket information from U.S. District, Appeals, and Bankruptcy courts, generally from 1996-present, with many of the documents listed in the docket available full-text in PDF. Inquire at the Reference Desk for PACER access. Note that LexisNexis and Westlaw duplicate many of the briefs and other filings which are available in PACER; before incurring charges on PACER, current members of the Duke Law community should first consult available documents on Lexis and Westlaw.

In LexisNexis and Westlaw, available briefs for a particular case will be linked from the top of the opinion. Databases of briefs and other case materials may also be searched separately. On Lexis, follow the path **Legal > Briefs, Motions, Pleadings & Verdicts** to view available databases. On Westlaw, follow **Directory > Litigation > Trial Filings (pleadings, motions,**

and other filings combined) > **Federal Trial Filings**, or use the **Court Docs** link at the top of every screen.

Many briefs from PACER have also been uploaded to **RECAP** (<http://archive.recapthelaw.org/>), an initiative to provide greater free access to the public records in PACER. Other popular free court document repositories include **JD Supra** (<http://www.jdsupra.com/search/>), **The Smoking Gun** (<http://www.thesmokinggun.com/>), and **Justia's Cases in the News – Documents** (<http://news.justia.com>). The case parties, attorneys, or interested organizations (such as those which filed an amicus brief) may also have posted documents related to the case online; conduct a search of the general web to locate free postings.

2. State Courts

In LexisNexis and Westlaw, available briefs for a particular case will be linked from the top of the opinion. Databases of briefs and other case materials may also be searched separately. On Lexis, follow the path **Legal > Briefs, Motions, Pleadings & Verdicts** to view available databases. On Westlaw, follow **Directory > Litigation > Trial Filings (pleadings, motions, and other filings combined)** > **State Trial Filings**, or use the **Court Docs** link at the top of every screen.

You may also be able to obtain briefs and other materials directly from a state court's website, although availability will vary. For quick access to an individual court's website, consult the National Center for State Courts' list of **State Court Web Sites** (<http://www.ncsc.org/information-and-resources/browse-by-state/state-court-websites.aspx>). The directory **Free and Fee Based Appellate Court Briefs Online** (<http://www.llrx.com/features/briefsonline.htm>) is periodically updated with links to state court briefs. The **Court Records Free Reference and Directory** (<http://www.courtreference.com>) also provides direct links to U.S. trial courts, some of which provide downloadable documents.

State court documents may also be provided on some free legal document repositories, such as **JD Supra** (<http://www.jdsupra.com/search/>) and **The Smoking Gun** (<http://www.thesmokinggun.com/>). The case parties, attorneys, or interested organizations (such as those which filed an amicus brief) may also have posted documents related to the case online; conduct a general web search to locate free postings.

C. Trial Transcripts/Oral Arguments

Availability of transcripts will vary depending on the court, the time period, and whether the case was appealed. The proceedings of particularly notorious historical trials may have been published separately as a book. To determine whether such a book has been published, search the **Duke Libraries Catalog** (<http://search.library.duke.edu>) and/or **WorldCat** (<http://www.worldcat.org>) for “[party name] and trials”, e.g., *alphonse capone and trials*. Such publications were commonplace in the 19th century, and many from that era have been digitized into **HeinOnline's** World Trials Library

(<http://search.library.duke.edu/search?id=DUKE003131760>) or **The Making of Modern Law: Trials 1600-1926** (<http://search.library.duke.edu/search?id=DUKE004173356>).

Individual courts may also make trial proceedings available, such as the United Kingdom's "Old Bailey" (Central Criminal Court in London), which has digitized **The Proceedings of the Old Bailey, 1674-1913** (<http://www.oldbaileyonline.org/>).

1. Federal Courts

Transcripts of U.S. Supreme Court oral arguments dating back to 2000 are available in PDF at http://www.supremecourt.gov/oral_arguments/argument_transcripts.aspx. The Court's official reporting service posts the latest argument transcripts on the same day as the oral argument, although these transcripts are subject to final review. Transcripts of earlier Supreme Court cases are available on LexisNexis (1978-present), Westlaw (1990-present), the OYEZ Project (<http://www.oyez.org/>; 1995-present; includes audio), and in the microfiche set *The Complete Oral Arguments of the Supreme Court of the United States* (Microforms Room, 1953-present).

In 2007, PACER (<http://pacer.psc.uscourts.gov/>) instituted a policy to automatically include PDF transcripts from U.S. District and Bankruptcy courts, with a 90-day delay during which the transcripts may be inspected at the court clerk's office. Inquire at the Reference Desk for PACER access.

Transcripts from the U.S. Courts of Appeals (Circuit Courts) are not provided in PACER. Selected circuits do make selected oral argument recordings available on their own web sites:

- **1st Circuit:** <http://www.ca1.uscourts.gov/files/audio/audiorss.php> (2008-)
- **3^d Circuit:** <http://www.ca3.uscourts.gov/oralargument/OralArg.htm> (2007-)
- **4th Circuit:** <http://www.ca4.uscourts.gov/OAarchive/OAList.asp> (2011-)
- **5th Circuit:** <http://www.ca5.uscourts.gov/OralArgumentRecordings.aspx> (2008-)
- **7th Circuit:** <http://www.ca7.uscourts.gov/> (1994-)
- **8th Circuit:** <http://www.ca8.uscourts.gov/oralargs/oaFrame.html> (2000-)
- **9th Circuit:** <http://www.ca9.uscourts.gov/media/> (2005-)
- **Federal Circuit:** <http://oralarguments.cafc.uscourts.gov/> (2006-)

Other circuits may make audio recordings or transcripts available upon request, generally for a fee. Use the U.S. Courts' **Court Links** page (http://www.uscourts.gov/court_locator.aspx) to access the clerk's office for the appropriate Court of Appeals.

LexisNexis and Westlaw educational accounts do not include access to full transcript databases for other federal courts. However, when reading a court opinion on Lexis or Westlaw, a link to available related documents will be provided at the top of the page. While these documents do not include full transcripts of the trial, they may include excerpted transcripts of testimony, particularly expert witness testimony. (Expert witness testimony databases may also be searched separately. On LexisNexis, follow the path **Legal > Briefs**,

Motions, Pleadings & Verdicts > Experts; on Westlaw, follow **Directory > Litigation > Expert Witnesses > Expert Witnesses – Testimony.**)

2. State Courts

Transcripts of state trial-level proceedings where cases **have been appealed** will most likely be found in a compiled set of records and briefs for the appellate court (see sections IIIC-D of this guide for more information).

Finding transcripts of state trials which **have not been appealed** may be more difficult. Although transcripts can be obtained directly from the court in which the case was heard, this will often involve a significant fee for the transcription services. However, high-profile trials may have been followed closely in the news media, and video or written transcripts may be available on the websites of local or national newspapers and/or television stations. Although these reports might be summarized narratives rather than official transcripts, they are a cheaper alternative than contacting the court.

As with federal cases (see above), when reading a state court opinion on LexisNexis or Westlaw, links will be provided to available related documents. While these documents do not include full transcripts of the trial, they may include excerpted transcripts of testimony, particularly expert witness testimony. (Expert witness testimony databases may also be searched separately. On LexisNexis, follow the path **Legal > Briefs, Motions, Pleadings & Verdicts > Experts;** on Westlaw, follow **Directory > Litigation > Expert Witnesses > Expert Witnesses – Testimony.**)

D. Verdicts, Sentences, and Settlements

The text of jury verdicts, criminal sentences and plea agreements, and civil settlements will likely be reproduced in compiled sets of records and briefs (see section III), or linked to the court's opinion in LexisNexis and Westlaw. In addition, copies of the actual documents or (more likely) summaries may be available in the resources listed below.

Note that in some cases, civil settlements and criminal plea agreements may be sealed by the court as part of the agreement.

1. Jury Verdicts & Settlements

Jury verdicts and settlement agreements may be provided in PACER, or linked to the court's opinion in LexisNexis or Westlaw. Alternative databases provide *summaries* of verdicts and settlements (rather than the actual filings). In LexisNexis, follow the path **Legal > Briefs, Motions, Pleadings & Verdicts > Jury Verdicts & Settlements** to view available databases. On Westlaw, follow **Directory > Litigation > Jury Verdicts, Settlements & Judgments.**

These databases on LexisNexis and Westlaw compile information from commercial reports of jury verdicts and settlements, which are frequently consulted by practicing attorneys in

order to estimate the likeliest outcome in a similar case. The Goodson Law Library does not generally collect these reports in print, although alternative electronic access may be available through the libraries' catalog to such titles as *Personal Injury Verdict Review* and *Medical Verdict and Law Weekly* (both available campus-wide through LexisNexis Academic).

Summaries of verdicts and settlements are also frequently published in legal newspapers, such as *North Carolina Lawyers Weekly* (NC Alcove and Reserves), whose website offers an archive search back to 1989 which may be restricted to Verdicts & Settlements (<http://nclawyersweekly.com/?s=&x=7&y=11#/>; password required). Many legal newspapers from other states, such as the *New York Law Journal*, can be searched in Westlaw's LEGALNP database.

2. Sentencing and Plea Bargain Information

If sentencing or plea agreements are not provided in PACER, or linked to the court opinion in LexisNexis or Westlaw, general information may also be available in the local or national news media. The database **America's Newspapers** (<http://search.library.duke.edu/search?id=DUKE003242034>) is an excellent starting point for researching U.S. news articles from 1985-present. For assistance locating older news articles, consult a reference librarian.

If a defendant in a particular case is currently serving his or her sentence, information about the specific charges and the sentence may be found in an inmate search. For federal inmates, the **Bureau of Prisons** maintains a search engine (<http://www.bop.gov/iloc2/LocateInmate.jsp>) which provides information on incarcerations dating back to 1982. Many state governments maintain similar inmate searches; a commercial genealogy site provides a helpful directory to state departments of corrections and (where available) inmate lookups: http://www.ancestorhunt.com/prison_search.htm.

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