

Finding Secondary Materials on Legal Topics in Westlaw

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Introduction

- The Public Access Law Libraries’ subscription to Westlaw provides abundant resources to topics and issues litigated in the courts.
- Secondary materials identify important cases and laws.
- Footnotes are essential parts of a legal treatise and should be read carefully.
- Finding the best resource requires understanding
 - the purposes of the different types of legal materials
 - how to use the searching and navigation aids (browsing table of contents, searching indexes).

Recommended Handouts

- *Browsing for forms and checklists*
- *Citation Services Westlaw’s Keycite*
- *Finding a Statute When You Don’t Have a Citation*
- *Finding Law Review Articles in Westlaw*
- *Types of Legal Materials*
- *What is the purpose of legal research?*

Methods of finding treatises

Step 1 – Can you locate a dictionary definition of your topic or phrase? A legal definition can help you identify the broader subject area in which a question falls. For instance, the opposing party states that the business judgment rule applies. Reading the definition in Black's Law Dictionary provides not only an explanation, but additional key words and phrases that assist searching:

business-judgment rule (1946) Corporations. The judicial presumption that in making business decisions not involving direct self-interest or self-dealing, corporate directors act on an informed basis, in good faith, and in the honest belief that their actions are in the corporation's best interest. • The rule shields directors and officers from liability for unprofitable or harmful corporate transactions if the transactions were made in good faith, with due care, and within the directors' or officers' authority. BUSINESS-JUDGMENT RULE, Black's Law Dictionary (10th ed. 2014)

Step 2 – Is the topic covered by statute? The annotations to codes include references to the publisher's treatises. See the handout *Finding a Statute When You Don't Have a Citation*.

Step 3 – Do you have a case and need discussion on it? Keyciting the case will retrieve Westlaw treatises. See the handout *Citation Services Westlaw's Keycite*

Step 4 – Is the topic a question of New York State law? Searching for legal materials is not an attempt to get everything on a topic, but what is pertinent. Westlaw has tools to narrow or limit results. One of the ways to fine-tune searching is to limit by jurisdiction (the geographic area or the topic a court has power over – CourtHelp Glossary). To get a searchable list of Westlaw’s New York secondary sources, from the Westlaw opening screen, select **New York > Secondary Sources > New York Secondary Sources > All New York Texts & Treatises**

THOMSON REUTERS
WESTLAW New York Texts & Tre... Search New York Texts & Treatises Advanced

Home > Secondary Sources > New York Secondary Sources
New York Texts & Treatises
See specific publication for coverage information. Search all New York Texts & Treatises above or navigate to specific content below.

Bench Book for Trial Judges-New York	New York Examination Before Trial and Other Disclosure Devices
Callaghan's Family Court Law & Practice	New York Forms Legal & Business
Carmody-Wait 2d New York Practice with Forms	New York Jurisprudence
Charges to the Jury & Requests to Charge in a Criminal Case in New York	New York Landlord and Tenant Rent Control and Rent Stabilization
Civil Practice in the Southern District of New York	New York Law & Practice of Real Property
Criminal Law in New York	New York Law of Domestic Violence
Criminal Procedure in New York	New York Law Reports Style Manual
Handling a Criminal Case in New York	New York Matrimonial Law & Practice
Handling the DWI Case in New York	New York Matrimonial Practice
Harris New York Estates: Estate Planning & Taxation	New York Medical Malpractice
Harris 6th Edition New York Estates: Probate Administration and Litigation	New York Motions in Limine
Law and The Family New York Forms	New York Pattern Jury Instructions & Carmody-Wait 2d New York Practice with Forms
Lien Priorities in New York	New York Pattern Jury Instructions Companion Handbook
Litigating Construction Accident Cases in New York	New York Practice Series
Mechanics' Liens in New York	New York Products Liability 2d
Modern New York Discovery	New York Vehicle & Traffic Law
Mortgages & Mortgage Foreclosure in New York	New York Wills
Mortgage Liens in New York	New York Zoning Law & Practice, Fourth Edition
New York Condominium & Cooperative Law	Rasch's New York Landlord & Tenant, Including Summary Proceedings
New York Construction Law Manual	Residential Landlord-Tenant Law in New York
New York Court of Appeals on Criminal Law	Siegel's New York Practice
New York Driving While Intoxicated	Spouse and Child Support in New York
New York Elder Law & Special Needs Practice	The Powers of the New York Court of Appeals
New York Evidence Proof of Cases	Village Town & District Courts in New York

Step 5 – Westlaw algorithms, Keyword searching, refining search results and limiting results After selecting **New York Texts & Treatises**, a keyword search can be run in the query box. The Westlaw search system is programmed to recognize legal phrases. Typing business judgment rule, the system runs an algorithm and displays three text sections from relevant New York treatises:

The screenshot shows the Westlaw search interface. The search bar contains the text "business judgment r". The results are displayed under the heading "Secondary Sources". There are three results listed:

Choice Number	Section Title	Source	Effective Date
S 1195	Business Judgment Rule	NYJUR BUSINESREL s 1195	5/5/2017
S 1609	Business Judgment Rule	NYJUR BUSINESREL s 1609	5/5/2017
S 94:38	Business Judgment Rule	NYPRAC-COMM s 94:38	9/23/2016

Below the secondary sources, there is a section for "Cases". The left sidebar shows the navigation menu with "New York Texts & Treatises" selected.

Clicking on choice number *§ 94:38 Business Judgment rule* retrieves an in-depth discussion of the business judgment rule in Chapter 94, Director and Officer Liability in Commercial Litigation in New York State Courts echoing the Black's Law Dictionary definition of the business judgment rule.

You can also choose to ignore the three suggestions. Complete typing out the phrase and run the search. Here we get a large set that requires refinement. The Westlaw algorithm retrieves over six thousand results. Such a large set needs to be narrowed down, perhaps by a subject specific treatise.

The screenshot shows the Westlaw search interface. The search term is 'business judgment rule' and the results are filtered to 'New York Texts & Treatises' with 6,113 results. The left-hand navigation bar includes filters for Jurisdiction (National, New York), Date (All), Publication Type (Texts & Treatises), and Publication Name (Other Publications, Carmody-Wait 2d New York Practice with Forms, New York Jurisprudence, Second Edition, New York Practice Series Publications). The main results list shows the following items:

- § 12:3. Recognition of the business judgment rule**
New York Condominium and Cooperative Law Second Edition
- § 8:34. The business-judgment rule**
West's McKinney's Forms
- § 6:69. Cooperatives—Cooperative corporation eviction of a shareholder/proprietary lessee**
Residential Landlord - Tenant Law in New York
- § 165. Business judgment standard of review**
New York Jurisprudence, Second Edition
- § 166. Scope of court's inquiry**
New York Jurisprudence, Second Edition
- § 121:132. Business judgment rule**
Carmody-Wait 2d New York Practice with Forms
- § 10:1. Overview**
New York Condominium and Cooperative Law Second Edition
- § 94:38. Business judgment rule**
New York Practice Series - Commercial Litigation in New York State Courts

For this search, we want to find a discussion on cooperatives and the business judgment rule. The first result in the list is from New York Condominium and Cooperative Law. Clicking on result number one retrieves only section §12:3 and not other locations in that title discussing the business judgment rule. From the left-hand navigation bar click on **Select a Publication Name** and from the drop-down, select New York Condominium and Cooperative Law. This narrows the search result to forty-three sections, a workable set. If this set was too large, using a treatise's index (if available) could narrow a search to sections providing substantial discussion of the search phrase.

Conclusion

The Public Access Law Libraries' on-line subscriptions provide access to trust-worthy interpretations of law. If you need help searching or finding useful search terms, talk to the Library staff.