



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 other 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 reporter 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 appellate case materials are available in compiled sets of records and briefs, 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).

Historical 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>), as well as **ProQuest Supreme Court Insight** (<https://search.library.duke.edu/search?id=DUKE007839658>), which will include records and briefs for the years 1975-2016 by the end of 2017.

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 **Court Records & Briefs in the Law Library** (<http://guides.lib.unc.edu/c.php?g=41010&p=261356>).

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).

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>.

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), dating from 1891-1976, are available in the **Records & Briefs collection** on Level 1. Later years 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.)

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

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 Kathrine R. Everett Law Library is in the process of digitizing historical N.C. Supreme Court briefs for expected public release (<https://library.law.unc.edu/research/supremecourt/>).

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/>.

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://www.pacer.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 have full access to PACER materials via Bloomberg Law (<http://www.bloomberglaw.com>); additional documents may be available on Lexis and Westlaw. Members of the University community and general public should be aware that the PACER.gov site operates under a pay-per-page-view system, and not all material from a particular case may be provided full-text in PACER.

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**, **Westlaw** or **Bloomberg Law**, a link to available related documents will be provided at the top of the page. These links generally include 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 these legal research services, 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://www.pacer.gov/>), which 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.

Current Duke Law students, faculty and staff may access PACER through **Bloomberg Law** (<http://www.bloomberglaw.com>), which provides free federal docket searching, document delivery and updating to educational accounts under its "Litigation Resources" section. Generally, all documents which are available in the paid version of PACER are also available through Bloomberg Law. Inquire at the Reference Desk to set up an account with Bloomberg Law.

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. To search federal court dockets on Lexis Advance, click "Dockets" underneath the main search box to view available databases. To search federal court dockets on Westlaw, choose "Dockets" from the Browse menu on the home page. Although dockets are viewable and can be updated, filing downloads or courier dispatch services are not available to academic users.

It is always preferable to retrieve known citations than to search for party names. Ideally, a researcher should already know the specific court in which the case was filed and the docket number. **Justia Dockets & Filings** (<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 or Circuit Court of Appeals case, generally from 2004-present. Justia 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. Bankruptcy Courts, although bankruptcy cases which have been appealed will be found in the appropriate Circuit Court.

2. State Courts

Bloomberg, 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 through these services.

On Bloomberg Law, follow the path **Browse All Content > Litigation & Dockets > Docket Coverage** to view available state dockets and their dates of coverage.

On Lexis Advance, click “**Dockets**” underneath the main search box to view available databases.

In Westlaw, click **Dockets** and choose the appropriate state to view available materials.

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://www.pacer.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. Note that online research services such as Bloomberg Law, 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 through these services.

In Bloomberg Law, the “**Dockets Search**” section includes full access to PACER materials, including briefs, motions and other pleadings. In LexisNexis and Westlaw, available briefs for a particular case will be linked from the opinion. Databases of briefs and other case materials may also be searched separately. In Lexis Advance, click **Briefs, Pleadings & Motions** underneath the main search box to view available databases. In Westlaw, click **Briefs** and choose the appropriate state to view available materials.

Many briefs from PACER have also been uploaded to the **RECAP Archive** (<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 Featured Cases in the News**] (<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 Bloomberg Law, the “**Dockets Search**” section includes docket access for selected states, providing access to briefs, motions and other pleadings. In LexisNexis and Westlaw, available briefs for a particular case will be linked from the opinion. Databases of briefs and other case materials may also be searched separately.

LLMC Digital (<http://search.library.duke.edu/search?id=DUKE003350980>) provides online records and briefs for selected California and New York cases. Records and briefs for the New York Court of Appeals cover the time period 1847-1956. California case records and briefs are available for various dates, with some as early as the nineteenth century.

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 **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 or pamphlet. 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>).

To determine whether such an account 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*. For U.S. murder trials before 1900, a good source for locating information about such publications is *The Annals of Murder: A Bibliography of Books and Pamphlets on American Murders from Colonial Times to 1900* (KF221 .M87 A56).

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/>; 1955-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://www.pacer.gov>) instituted a policy to automatically include PDF transcripts from U.S. District and Bankruptcy courts if they are ordered by a party and subsequently produced, with a 90-day delay during which the transcripts may be inspected at the court clerk's office. Selected District Courts (including the Southern District of New York) also provide digital audio recordings of proceedings in PACER at the discretion of the trial judge. The Duke Law community may access PACER materials through Bloomberg Law.

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

- **1st Circuit:** <http://www.ca1.uscourts.gov/sign-opinions-and-oral-argument-feed>
- **2^d Circuit:** http://www.ca2.uscourts.gov/oral_arguments.html (2016-)
- **3^d Circuit:** <http://www.ca3.uscourts.gov/oral-argument-recordings> (2005-)
- **4th Circuit:** <http://www.ca4.uscourts.gov/oral-argument/listen-to-oral-arguments> (2011-)
- **5th Circuit:** <http://www.ca5.uscourts.gov/oral-argument-information/oral-argument-recordings> (2008-)
- **6th Circuit:** http://www.ca6.uscourts.gov/internet/court_audio/audSearch.htm (2013-)
- **7th Circuit:** <http://media.ca7.uscourts.gov/oralArguments/oar.jsp> (2008-)
- **8th Circuit:** <http://www.ca8.uscourts.gov/oral-arguments> (2000-)
- **9th Circuit:** <http://www.ca9.uscourts.gov/media/> (2005-)
- **11th Circuit:** <http://www.ca11.uscourts.gov/oral-argument-recordings-page> (2017-)
- **D.C. Circuit:** <http://www.cadc.uscourts.gov/recordings/recordings.nsf/DocsByRDate?OpenView&count=100> (2007 -)
- **Fed. Cir.:** <http://www.cafc.uscourts.gov/oral-argument-recordings/search/audio.html> (2006-)

The Free Law Project's **Court Listener Oral Argument Audio** site includes a search feature for more than 20,000 oral argument recordings (<https://www.courtlistener.com/audio/>). Other audio recordings or transcripts may be 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.

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 IIC-D of this guide for more information). Court Listener's **Oral Argument Audio Archive** (<https://www.courtlistener.com/audio/>) also includes recordings of oral argument from selected state appellate courts.

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, when reading a state court opinion on Bloomberg Law, 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.

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 Bloomberg, 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/Bloomberg Law docket listings, or linked to the court's opinion in LexisNexis or Westlaw. Alternative databases provide *summaries* of verdicts and settlements (rather than the actual filings). On Lexis Advance, click **Jury Verdicts & Settlements** to view available databases. Westlaw includes a link to **Jury Verdicts & Settlements** on its main search page. These databases 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.

Summaries of verdicts and settlements are also frequently published in legal newspapers, such as *North Carolina Lawyers Weekly* (NC Alcove), whose website offers an archive search back to 1989 (<http://nclawyersweekly.com/category/verdicts-settlements/>; password required). Many legal newspapers from other states can be searched in Westlaw's LEGALNP database. Lexis Advance contains the full text of American Lawyer Media (ALM) publications, such as the *New York Law Journal*.

2. Sentencing and Plea Bargain Information

If sentencing or plea agreements are not provided in PACER/Bloomberg Law, 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 News** (<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. The Duke University Libraries also offer campus-wide access to the popular genealogy site **Ancestry Library Edition** (<http://search.library.duke.edu/search?id=DUKE005922918>), which includes selected historical criminal and other legal records.

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