

Thursday, February 11, 2021 (class 4 of 30!!)

Today:

- (Optional) TRIP!! Walking tour of courts *next Thurs. Feb. 18!*
- Legal authorities follow-up: *binding vs. persuasive*
- "Determining governing law": *what does it mean?!*
- U.S. (federal) legal system *including impeachment trial!*

Fri. & Mon, Feb. 12 & 15: **NO** classes! *Happy Lincoln's Birthday & Presidents' Day.*

For Tue. Feb. 16: **YES** classes! ☺

- Reply to a classmate's "Who I Am" post.
- Read on OL: (1) excerpt on NY court system, (2) "NYS Courts: An Introductory Guide," *and* (3) NYS court charts & maps.

Th. Feb. 18: (Optional) tour of courts! *To be discussed.*

Tu. Feb. 23: Quiz #1! (intro to legal research, types of authorities, US legal systems) *and* read ch. 3 (Court Decisions) pp. 37-61.

* * *

Revisiting **Types of legal authorities!!** (sources of law) *focusing on binding (mandatory) vs. persuasive!!*

Primary Sources = "The Law"

- 1st choice to cite
- can be binding (mandatory) or persuasive, depending on jurisdiction
- *include:* constitutions, statutes, court decisions (cases), administrative agency regs, other gov't policies

Secondary Sources = "About The Law"

- 2d choice to cite (after primary)
- can only be persuasive (never binding/mandatory)
- *include:* law textbooks (incl'g treatises & hornbooks), law dictionaries, legal encyclopedias, legal periodicals (e.g., law reviews and journals)

Finding Tools = direct you to the law

- **DO NOT** cite!!
- **they're not even persuasive!** Just a tool to get to the law.
- *include:* digests, citators (e.g., *Shepard's*)

binding (mandatory) authority = legal authority a court is required to follow in deciding a case

- **Only** primary sources can be binding (constitutions, cases, statutes, etc.). *Secondary sources are never binding.*
- **BUT...** not all primary sources are binding on all courts! *Depends on jurisdiction.*

persuasive authority = legal authority a court is not required to follow, but may choose to consider.

- Both primary *and* secondary sources can be persuasive. *Again—depends on jurisdiction (plus other circumstances).*

Jurisdiction ("jurx") = authority to decide disputes, apply laws, exercise control over persons or property.

- In legal research, we're concerned mostly about geographic jurx and trial/original vs. appellate jurx → *to determine the governing law.*

* * *

"Determining governing law" → what does it mean?!

governing law = binding/mandatory authority! ☺

- Law that governs the answer to a legal question.
- *Only* primary sources! (constitutions, statutes, cases, etc.) . . . ***but from which jurx(s)?***

Example of how such questions arise: You are a paralegal at a law firm in Idaho. Your firm represents Petra Plaintiff, who uses a wheelchair. Petra was unable to enter an Idaho restaurant because her wheelchair did not fit through the doorway. She wants to know whether she has a legal cause of action against the restaurant for violating her civil rights. Your supervising attorney has asked you to research that question.

?? **Where to start?!** Need to figure out: ***what is the governing law?***