Tour 4
Secondary Sources

Two updates for Tour 4. After *Missouri Legal Research Workbook* went to print, *American Jurisprudence 2d* issued a new volume that contained the example. In the new volume, the section numbers had changed. Thus, the first update represents the new numbers. Next, we updated IIIID on the Restatements to reflect searching in WestlawNext instead of Westlaw Classic.

I. Legal Encyclopedias

When you are completely unfamiliar with an area of law, a legal encyclopedia is an excellent starting point to give you background on the general rule, and perhaps citations to primary authority in a jurisdiction. Remember the problem from the case law tour about whether the tenant can bring an action based on the breach of the implied warranty of habitability of an apartment? Let’s begin our search for authority with one of the two major legal encyclopedias, *Corpus Juris Secundum* (CJS) and *American Jurisprudence 2d* (Am. Jur. 2d). A researcher uses the same process for both encyclopedias.

A. How to Use

Locate CJS in the law library (KF154.C62). You should be standing in front of shelves containing more than 150 navy blue, bound, numbered volumes. As you can see, the volumes are arranged alphabetically by subject or topic.

As a beginning researcher, you will typically access CJS by using either the descriptive-word approach or the known-topic approach. Using the descriptive-word approach, you probably could come up with words like “rent,” “warranty,” “habitability,” “landlord,” and “tenant” to begin your search for authority.

Let’s start with “warranty.” Look up “warranty” in the General Index volume of CJS (the volume covering R-Z). As you can see, there are no entries. Now use “landlord” in the General Index Volume covering K-Q. Here, you can see several pages of entries for “LANDLORD AND TENANT.” Now you should use one of your other listed descriptive words as a subtopic. Look up the word “habitability” under “LANDLORD AND TENANT.” You should find “habitability, implied warranty of.” The first subtopic is “generally” and refers you to “Landlord § 715-719.” Find the alphabetical, topical volume(s) of the CJS that covers “Landlords” and go to the Title
Index at the beginning of the “LANDLORD AND TENANT” section. You will see that Section X is “PREMISES AND ENJOYMENT AND USE THEREOF,” but Section XI is “RENTS AND ADVANCES.” Briefly scan the subtopics for habitability. Anything look promising? Not really. The subtopics are voluminous. This is an instance where the known-topic method would not work well for a beginning researcher.

What if you had kept looking in the General Index? Under the same main topic “LANDLORD AND TENANT” and subtopic “Habitability, implied warranty of,” look at “rent” and you would be sent to “Rent, actions for, counterclaim, recoupment, and setoff, Landlord § 1258.”

Returning to the main volumes of CJS, locate volume 52A. Locate § 1258. Under each heading, you will find a short summary of the section that will allow you to review the sections fairly quickly to decide whether it will be relevant to your issue. What can we learn from just this summary? CJS tells you the same thing you learned in the case law tour—a tenant can bring action for recoupment without waiting to be sued for unpaid rent. Now review the text of the section for more in-depth discussion and for footnotes to other authority. If you did not realize that was what recoupment meant, look up “recoupment” in a legal dictionary. Most libraries have several located in convenient locations. Do that now and jot down answer for tour check-up. Returning to volume 52A of CJS, notice how many footnotes of case citations there are under § 1258. Look now to see if any of the cases we reviewed in the case law tour are listed. Does any other case look relevant for a Missouri tenant? Jot down that citation for the check-up.

CJS will also refer you to other secondary sources, such as American Law Reports (ALR), law review articles, and treatises. Look to see what other secondary sources are noted.

B. Updating

Take a minute now to update your search for information and primary authority on the warranty of habitability question. You should be looking in the pocket part of the topical volume containing “Landlord and Tenant, Habitability, implied warranty of, § 1258.”

The General Index to CJS is also updated annually by either replacing the paperbound General Index volumes with a new set of paperbound General Index volumes or adding a General Index Update Volume. If available, check that volume now for any additional references.
C. Unique Features of *American Jurisprudence 2d* (Am. Jur. 2d)

A unique feature of Am. Jur. 2d is its New Topic Service looseleaf binder. This feature allows West to respond quickly to significant shifts in doctrine or newly evolving areas in the law without requiring the wholesale revision and reissue of existing volumes. Look in the New Topic Service and find an entry on disabilities. Note how many federal statutes apply. Some names should be familiar to you.

An additional Am. Jur. 2d feature is the Am. Jur. 2d Desk Book. It serves as a legal almanac, containing a variety of miscellaneous legal information and facts in the form of charts, graphs, tables, and the like. Locate this publication and look through it. Go to the Index. What words would you use to locate an anatomical drawing of the muscles of an arm? Did you find anything under “arm”? Peruse that page of the index. Do any other terms look helpful? Use any helpful terms to locate the anatomical drawing. Remember to use your other descriptive words to locate the appropriate subtopic.

This “happenstance” of locating a proper term by perusing an index is one of the main advantages of doing research in print.

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[Use *Missouri Legal Research Workbook* at this point until IID]

III. Restatements of the Law

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D. Finding Court References to the Restatement

What if you want to determine whether your particular jurisdiction follows or has adopted § 5.2 of the Restatement (Second) of the Law, Property—Landlord and Tenant? Finding a case from your jurisdiction is the logical starting point. In print, locating case references can be time-consuming. Ask a law librarian for assistance if you should need to use the print Restatement appendix volumes and the pocket parts. For this research, stay online.

Sign on to WestlawNext. Enter “Rest 2d Prop-LT § 5.2” in the search box. This will pull up the Restatement section, followed by Comments, Illustrations, and Reporter’s Notes. Then, you will find “Research References.” Here you will find topic and key numbers, ALR annotations, and case citations. Has a Missouri court cited this section? Keep track for the tour.
check-up. You can also locate cases that have followed or adopted a Restatement section by entering it as a search term in the search box after you have selected the database that includes your jurisdiction.

Another method of finding case references to a section of the Restatement is to use a citator, as discussed in Tour 5.