A Guide to Legal Resources

Including an Overview of the Court System

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The Appellate Division (4th Dept.) Law Library

Phone: 585-530-3250

- **Mission:**
  - “…to provide legal information to the Appellate Division, to the Rochester metropolitan region and to the entire legal community of the Fifth, Seventh, and Eighth Judicial Districts. Our role is unique as the only appellate-level court library in New York State which serves both an active judiciary and practicing bar, and is also **open to the general public**. Through our services, the Library strives to be one of the best court libraries on the nation.”
The Appellate Division Law Library

- **Location:**
  - 50 East Avenue (Corner of Chestnut) Downtown Rochester, NY

- **Hours:**
  - 9-5, M-F

- **Staff of 11:**
  - 5 MLSs

- **Facilities:**
  - 8 Public-access PCs
  - Document and Microform scanners for public use
The Appellate Division Law Library

• Reference Services:
• Ask-A-Librarian (email): ad4ref@nycourts.gov
• Phone: 585-530-3251
• Catalog: http://ad4.nycourts.gov/polaris/

• Circulation:
  • Borrowing limited to members of the bar in NYS (attorneys)
  • Most items circulate
  • Over 300,000 volumes
    • 98% directly law-related
Who We Serve

What legal resources are most requested by library patrons?

Well, that depends on the patron:

– Court staff:
  • Judges, Court Attorneys, Law Clerks, Legal Assistants

– Private Legal Community:
  • Local & Non-Local Attorneys, Paralegals, Law Firm Librarians

– Other Governmental Officials:
  • Municipalities, Agencies, etc.
Who We Serve

• **Individuals representing themselves (Pro Se):**
  – **Pro Se patrons** represent a unique challenge for law librarians:
    • Primarily due to concerns regarding the “Unauthorized Practice of Law” (UPL).
    • Our disclaimer is summarized as follows:
      – **What We Can Do**
        Answer factual, unambiguous questions.
        Provide information about resources that may help answer your question.

  **What We Cannot Do**
  Answer lengthy, complex, or vague questions.
  Conduct legal research for you.
  **Suggest** which form, statute, or case applies to your situation.
  Give legal advice, which includes **interpreting** or **explaining** a statute, legal opinion, or administrative regulation.
  **If you need legal advice, we recommend that you consult an attorney.**
Unauthorized Practice of Law

• What it boils down to:
  – We **can** help find **what** you **might** need...
  – ...But we **can’t** suggest **how** to proceed, or help “interpret” the law. (That last part can get silly...)

It depends upon what the meaning of the word 'is' is. If 'is' means 'is and never has been' that's one thing - if it means 'there is none', that was a completely true statement,

— William J. Clinton —
In All Seriousness...

• Enabling “access to the law” is the most important thing that public law librarians do!

• Access to the law is a concept that motivates me personally and professionally!
  – “Public legal information from all countries and international institutions is part of the common heritage of humanity. Maximizing access to this information promotes justice and the rule of law;
  – Public legal information is digital common property and should be accessible to all on a non-profit basis and free of charge;
  – Organizations such as legal information institutes have the right to publish public legal information and the government bodies that create or control that information should provide access to it so that it can be published by other parties.”

The American Legal System 101

- The US was founded on a system of dual sovereignty:
  - State and federal authority both valid, but federal law supersedes state law
  - Result is a legal system with two layers
  - Each “layer” (state & federal) contains similar elements
Three Branches of Government

• Legislative:
  – Federal: Senate + House = Congress
  – NYS: Senate + Assembly = Legislature

• Executive:
  – Federal: President and Agencies
    • Department of __________. (State, Homeland Security, Agriculture, Defense, Energy, Labor, etc.)
  – NYS: Governor and Agencies
    • Department(s) of Education, State, Financial Services, etc.
    • Office of General Services, Information Technology Services, Emergency Management, etc.
Three Branches of Government

- **Judicial:**
  - Completely separate court systems.
  - (Usually) Only link between the two is if the US Supreme Court deems a NYS decision unconstitutional.
  - They have similar, but not identical structures.
Overview of the Federal Court System

Final Appellate Court →

First Appellate Court →

Federal Trial Level Court →

**Supreme Court**
- Highest court in the federal system
- Nine Justices, meeting in Washington, D.C.
- Appeals jurisdiction through *certiorari* process
- Limited original jurisdiction over some cases

**Courts of Appeal**
- Intermediate level in the federal system
- 12 regional “circuit” courts, including D.C. Circuit
- No original jurisdiction; strictly appellate

**District Courts**
- Lowest level in the federal system
- 94 judicial districts in 50 states & territories
- No appellate jurisdiction
- Original jurisdiction over most cases

Source: [http://www.catea.gatech.edu/grade/legal/structure.html](http://www.catea.gatech.edu/grade/legal/structure.html)
New York State Court Structure

Source: http://www.nycourts.gov/courts/structure.shtml
NYS Court Structure

• Essentially, the NYS court system is comprised of 3 levels:
  
  – Trial-Level Courts
    • County, Family, Surrogate’s, City, Town, Village
  
  – First Appellate Level Courts
    • 4 Appellate Divisions
    • Geographic jurisdictions

  – Final Appeals Court
    • Court of Appeals* (NY’s highest court)

*NOT “Supreme Court”
New York State – When “Supreme” is not Quite Supreme

But it sure made the courtroom scenes seem more dramatic!

Maryland is the only other state that does not have the word “Supreme” in its highest court.
New York State Courts Geography

Source: http://www.nycourts.gov/courts/ad4/Court/Dept-Districts.html
Common Questions

• As I mentioned earlier, at the Appellate Division Law Library, we essentially deal with four categories of patrons:
  – Court staff
  – Private legal community
  – Governmental officials
  – Pro se patrons

• We law librarians generally refer to:
  – Pro se patrons
  – Non-pro se patrons
Pro Se vs. Non-Pro Se Patrons

- Reference law librarians deal with each type of patron in different ways.

- Although we tailor our service differently, we are committed to providing the same quality of service regardless of whether we are dealing with a pro se patron or a non-pro se patron.
Assisting Non-Pro Se Patrons

• We help lawyers and their staff find information (usually) about a particular area of law:

• Examples:
  – Do you have a treatise* on ____________?
    • *A treatise, sometimes called a “hornbook,” can be defined as “a scholarly legal publication containing all the law relating to a particular [subject] area.”
  – I’m looking for information regarding CPLR §3211.
  – I’m looking for an article, the citation is ____________.
    • Law reviews, scholarly publications, etc.
  – Record on Appeal; aka Cases & Points, Records & Briefs

*http://legal-dictionary.thefreedictionary.com/treatise
Records & Briefs Definition:

• “Briefs are valuable to researchers because they state the legal arguments the parties relied upon in pursuing or defending their case. The briefs also explain the facts of a case from a particular point of view.

• “The records include pleadings, motions, trial transcripts and other documents from prior stages of the litigation.

• “Reviewing records and briefs can help researchers to understand why the Court decided a case the way that it did and to explore the arguments that prevailed or failed.”

Sources of Records & Briefs

• U.S. Supreme Court:
  – ADLL has 1989-present of microfiche
  – Lexis-Nexis (subscription required)
  – Westlaw (subscription required)

• New York Appellate Courts:
  – ADLL has:
    • Court of Appeals: c.1890—present*
    • Appellate Division, 1\(^{st}\), 2\(^{nd}\), 3\(^{rd}\) Departments: 1896—present*
    • Appellate Division, 4\(^{th}\) Department: 1850—present *

*Some gaps in coverage
Primary Law vs. Secondary Law

• Primary Law:
  – “A statement of the law itself from a governmental entity, such as a court, legislature, executive agency, President or Governor.”
  – **Examples:** Casebooks (Reporters); Statutes (Laws); Codes & Regulations; Administrative Decisions

• Secondary Law:
  – “Materials that **discuss, explain, interpret, and analyze** what the law is or what it should be. Secondary sources also provide extensive **citations** to primary legal materials and other relevant secondary sources.”
  – **Examples:** Treatises, Law Reviews, Encyclopedias, Legal Newspapers/Periodicals

Source: [http://library.noctrl.edu/subject/business_law_primary_sources.pdf](http://library.noctrl.edu/subject/business_law_primary_sources.pdf)
Treatises

• Treatises, a form of secondary law, are often the most helpful sources for lawyers and non-lawyers alike.

• Examples:
  – *Stein on New York Commercial Mortgage Transactions* (LexisNexis)
  – *Zoning and Land Use* (NYSBA, New York Lawyers’ Practical Skills Series)
  – *Landlord’s Legal Guide in New York* (Sphinx Legal)
  – *Nolo Press* — Written for non-lawyers
Primary Law Examples

• Case Reporters (Decisions):
  – United States Reports (US)
  – New York Reports (NY)
  – Appellate Division Reports (AD)

• Statutes/ Codes/ Laws:
  – McKinney’s Consolidated Laws of New York Annotated
  – United States Code Service
Case Law Citation

- **Case Reporters (Decisions):**
  - Citations to cases often take the following form:
    - People v Morel [164 AD2d 677]
    - **164 A.D.2d 677**
      - 164 refers to the volume number
      - A.D.2d or AD2d refers to the source:
        - In this example, AD2d refers to “Appellate Division Reports, Second Series” (Consult Google if unsure)
      - 677 refers to the page number
    - Another example: 548 US 521
      - “US” stands for “United States Reports,” which contains decisions of the US Supreme Court
Case Law Citation

• When it comes to case citations, remember...
  – ...Google is your friend!!!

• When you run a search for the two previous examples:
  – People v Morel [164 AD2d 677]
    • Found at https://casetext.com/case/people-v-morel-14
  – Beard v. Banks [548 US 521]
    • Found on Oyez, Justia
Case Law Citation

• New York Official Reports website:
    • Two competing areas of the site:
      – Slip Opinion Service
      – Official Reports Service
    • I recommend using the **Official Reports Service**
      – Includes *reported* NYS cases since 1956
      – More on “reported” in a moment

• Even after you’ve tried all these tools, your patron may still be asking…
Where’s My Case?

• This may be a surprise to you, but the vast majority of cases are not published anywhere.
• By law, the only cases that must be published are those that reach the appellate level.
• This is a product of history:
  – Court “reporters”
    • Most rulings were oral
    • Reporters attended and took notes
    • Published and sold to lawyers
    • Though modified through legislation, this system is still in place
Where’s My Case?

• For “unpublished” cases, one will usually have to contact the court or the county clerk where the case took place.

• Monroe County:
  • Can be technically...challenging, depending on the county
Statute Citations

• When assisting pro se patrons, he/she will often have documents indicating they have been charged with a particular offense.
  – For example, **PEN §120.45**
  – It may also be listed as “**section 120.45 of the Penal Law**”

• Since we have a set of **McKinney’s Consolidated Laws of New York Annotated**, my next step is locate the statute within the text:
  – This is actually very easy to do...
  – ...even easier than using a computer.
Statute Citations

• However, since a single set of “McKinney’s” costs $16,249, chances are your library does not own a copy.
  – Again, when it comes to statute citations,
    • Google is your friend!
Statute Citations

• Let’s conduct a Google search for:
  – NYS PEN 120.45 (or)
  – NY Penal Law section 120.45
  – What results did you get?
    • [http://ypdcrime.com/penal.law/article120.htm](http://ypdcrime.com/penal.law/article120.htm)
  – All three sites above generally have up-to-date, accurate information.
    • I trust **FindLaw** more than the other two.
    • None of the above are the “official” site...
Statutes Online – NYS’s “public.legalinfo.state.ny.us” Website

• To get to the “official” site, Google New York Laws or Laws of New York:
  – Top result should be http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO: [link]

• Closest thing to an “official” free, online source for New York State statutes.

• Let’s attempt a “Search [for a] Word or Phrase”
  – Using the search box near the top of the page
  – Search for anything you like...
  – Chances are, you’ll end up with...
Statutes Online – NYS’s “public.legalinfo.state.ny.us” Website

THE FRUSTRATION IS REAL

Obligatory cat photo
Luckily, You Have Options!

• Other sources for NYS statutes online:
    • No search capability, no better than state site
  – [https://codes.findlaw.com/ny/](https://codes.findlaw.com/ny/)
    • No search capability, no better than state site

• Generally, I have found both sites to be trustworthy and accurate.

• FindLaw *used to* have good search functionality, but this is no longer the case.
  – I now recommend using the official NYS site.
Luckily, You Have Options!

• Google remains a great tool for searching for NYS laws.

• Googling the phrase “NYS stalking laws” yields useful results:
  – Be wary of law firm websites:
    • Can be useful, but often out-of-date
  – Results from FindLaw and Cornell LII are trustworthy
Luckily, You Have Options!

- Cornell Law School Legal Information Institute:
  - https://www.law.cornell.edu
  - https://www.law.cornell.edu/states/new_york

  - Better coverage of **federal** and US Supreme Court laws and case decisions
  - Very Reliable
Other Common Questions: Forms

• One of the most common questions we get from pro se patrons, and...
• ...one of the most frustrating to answer.
• Remember, we are barred by law from recommending a specific form or assisting in filling out the form. (UPL)
• However, the frustration stems more from the inadequacy of any single source to satisfy patron requests for legal forms, and...
Other Common Questions: Forms

- ...the fact that “forms” is a misnomer.
- Legal “forms” should probably be called “templates”
- True “fill-in-the-blank” style forms are relatively rare.
- Even the best forms available are actually templates.
Forms

DEMAND LETTER
(Sample letter for a commercial claim arising out of a consumer transaction)

Date: (Date of Letter)

To: (Name of Defendant)
(Mailing Address of Defendant)

Dear. (Name of Defendant)

You have not paid a debt owed to (Name and Address of Plaintiff) which you incurred on (date debt was incurred). Our records show that you have made the following payment(s) in partial satisfaction of this debt (date(s) and amount(s) paid). The amount remaining unpaid on the debt is $ (amount due). Demand is hereby made that this money be paid. Unless payment of this amount is received by the undersigned no later than (date payment expected), a lawsuit will be brought against you in the commercial claims part of the court.

If a lawsuit is commenced, you will be notified of the hearing date and you will be entitled to appear at the hearing and present any defense you may have to this claim.

Sincerely,

(Claimant's Name)
(Claimant's Address)
(Claimant's Telephone Number)
Forms: Online Sources

• Nycourts.gov forms sources:
  – http://www.nycourts.gov/forms/
  – 7th JD https://www.nycourts.gov/forms/7jd/index.shtml
  – http://nycourts.gov/courthelp//
    • General page containing links for pro se litigants
  – http://www.nycourts.gov/courthelp/diy/
    • “DIY Forms” – very limited offering of “programs” that walk the user through the creation of specific forms.

• NYSBA “Downloadable Forms”
Forms: Online Sources

- [http://www.lawhelpny.org/](http://www.lawhelpny.org/)
  – Good general website for pro se litigants
Other Online Resources

**LawHelpNY.org**

- In my opinion, one of the **best sites out there** for legal information intended for non-attorneys.
- Organized by legal subject area.
- Only site of its kind that allows users to intuitively get legal information.
Other Online Resources

- Monroe County Bar Association
  
  https://www.mcba.org/

  - Lawyer Referral Service:
    - $40 fee
    - I’ve received a wide range of feedback about this service

- List of NYS county bar associations:
Last but not least...

• Unless I know of a specific resource elsewhere, I begin almost all forms-based questions with a Google search.

• I have found dozens of forms through the years by conducting specific searches in Google.
• The trick is knowing the specific terminology to enter for search terms, for example:
• Enter: **commercial lease agreement form new york**
  – One of the first results is:
  – Although this is a “pay to download” form, the user could easily copy & paste and/or re-create the form using simple word processing software.
I’ve Tried Everything...Now What?

• Call Us!
  – AD4 Law Library Reference Desk 585-530-3251

• Email Us!
  – http://www.nycourts.gov/library/ad4/library_services/references.shtml or direct to ad4ref@nycourts.gov
  – Direct to form at: http://iapps.courts.state.ny.us/ad4lib/ask_librarian.jsp

• Stop in!
  – 50 East Avenue (Corner of Chestnut St.) 9-5, M-F

• Refer your patrons to any of the above...

• ...We’re happy to help!
I’ve Tried Everything...Now What?

• Sources of free/low-cost legal services in the area:
    • Brochure produced by AD4 Law Library
  – Volunteer Legal Services Project / 7th JD Help Center:
    • Website: [https://www.vlsprochester.org/the-help-center](https://www.vlsprochester.org/the-help-center)
    • VLSP website: [https://www.vlsprochester.org/home](https://www.vlsprochester.org/home)
  – List of NYS Court Help Centers:
    • [https://www.nycourts.gov/courthelp/GoingToCourt/helpcenters.shtml](https://www.nycourts.gov/courthelp/GoingToCourt/helpcenters.shtml)
Other Useful Links

• New York Regulations (NYCRR) Online:
  – [https://www.dos.ny.gov/info/nycrr.html](https://www.dos.ny.gov/info/nycrr.html)

• Court Help:
  – [https://www.nycourts.gov/courthelp/](https://www.nycourts.gov/courthelp/)
  – Website run by NYS Unified Court System
  – Designed to help Pro Se litigants
The End

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