

Comparing KeyCite and Shepard's for Completeness, Currency, and Accuracy*

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Mr. Taylor conducted a study to compare Shepard's and KeyCite for completeness, currency, and accuracy. Suggestions based on the results of the study are offered to improve the systems and to help legal researchers make better use of the systems.

¶1 Legal researchers are presented with a choice between two online citators, the Shepard's system available only through LEXIS-NEXIS, and the KeyCite system unique to Westlaw.¹ Surprisingly little research has been done to compare the two. Fred R. Shapiro published a statistical comparison in *Legal Information Alert*,² and Elizabeth M. McKenzie published a similar comparison with a smaller sample in *AALL Spectrum*.³ Further, *Law Library Resource Xchange*, an online periodical about legal research, has featured two articles: Tobe Liebert's analysis of the many areas of comparison between the two systems,⁴ and Victoria Szymczak's report of a debate between representatives of the two companies, held in May 1999, at Brooklyn Law School.⁵ Searches in *Library and Information Science Abstracts*, *Legal Resources Index*, *Index to Legal Periodicals*, and full-text databases on LEXIS and Westlaw found no other detailed comparisons.

¶2 The present study has two goals. First, to compare the completeness of the Shepard's and KeyCite databases by re-creating part of Fred Shapiro's statistical study in light of recent changes to the Shepard's online service. Second, to compare the currency and accuracy of the two systems, asserted by Liebert to be "arguably the most important basis of comparison."⁶ To my knowledge, this has not yet been done.

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1. Until July 1999 the Shepard's data had also been available on Westlaw.
2. Fred R. Shapiro, *KeyCite and Shepard's—Coverage and Currency of Citations to Recent Cases: A Comparative Study*, LEGAL INFO. ALERT, Apr. 1998, at 1.
3. Elizabeth M. McKenzie, *New Kid on the Block: KeyCite Compared to Shepard's*, AALL SPECTRUM, Oct. 1998, at 8.
4. Tobe Liebert, *New Shepard's v. KeyCite: How Do We Compare?* LAW LIBR. RESOURCE XCHANGE (June 1, 1999). <<http://www.llrx.com/features/keycite.htm>>
5. Victoria Szymczak, *The Great Citator Debate*, LAW LIBR. RESOURCE XCHANGE (July 1, 1999) <<http://www.llrx.com/features/citator.htm>>.

Completeness of Coverage

¶13 Researchers expect a citator to be complete, that is, to identify every citation of a given court opinion, in all subsequent opinions. I will focus on citations in court opinions because this is the only area in which the parent databases, LEXIS-NEXIS and Westlaw, can be expected to be identical. There is less basis for comparing the two for other materials (secondary sources, law reviews, and so on) because the number of such sources varies greatly between the two parent databases.

The Shapiro Study

¶14 Fred Shapiro's 1998 study compared the results from Shepard's and KeyCite for a random sample of 421 federal and state cases decided in January 1996.⁷ He found a large difference in the total number of citing references: 1,597 in KeyCite and 1,017 in Shepard's.

¶15 Upon examining the types of citations that were retrieved, Shapiro found that a large part of the discrepancy arose from law review articles: 244 citing documents in KeyCite were law review articles, but only 2 in Shepard's. This is not unexpected, since the print version of Shepard's, from which the database was then being created, identifies citations in only a small number of law reviews. KeyCite, on the other hand, draws citations from all of the many journals in the Westlaw full-text databases. Similarly, the 27 citations from Practising Law Institute sources that were found by KeyCite could not have been found by Shepard's, since no printed Shepard's product covers those sources.

¶16 Another large part of the discrepancy came from unpublished or unreported⁸ cases: KeyCite found 256 citations in these documents, while Shepard's found only 20. As with the discrepancy in articles, this is not a surprising result because the Shepard's database at the time contained the same information as the printed Shepard's product (i.e., citations only from published opinions).

¶17 In the time since Shapiro published his study, Shepard's has expanded its database significantly, so that it now includes citations from unpublished and unreported cases and from all the law reviews that are available on LEXIS-NEXIS in full text. In other words, Shepard's and KeyCite are now very similar in this regard. Because Westlaw contains many more full-text legal journals than LEXIS-NEXIS, one would expect that the number of law review citations retrieved would still be larger in KeyCite. In the area of case law, however, the number of citations retrieved for a random sample of relatively recent opinions should be identical, or at least very similar.

6. Liebert, *supra* note 4.

7. For the methodology and results summarized here, see Shapiro, *supra* note 2, at 2-3.

8. Since these terms can be ambiguous, let me define them for my purposes: "unpublished" means that the opinion was reported only in a table and the full text was not published in the printed reporter; "unreported" means that even the existence of the opinion was not noted in any printed reporter.

Methodology

¶18 To find out if this is true, I set out to re-create that part of Shapiro's study that dealt with case law.⁹ My method was identical to his, although I chose a different sample of cases. I used Westlaw¹⁰ to identify all published opinions issued by state and federal courts in April 1997 and, like Shapiro, took every tenth case from the list, for a total of 459 citations. I checked these citations in KeyCite and Shepard's (using WestCheck and CheckCite to automate the process) within a few hours of each other on the same day, September 28, 1999.

Results

¶19 As expected, the discrepancy that Shapiro found no longer exists. Shepard's retrieved 1,764 citations and KeyCite retrieved 1,752. Similarly, where Shapiro had seen 619 citations that were retrieved only by KeyCite and 39 retrieved only by Shepard's, in my test there were 100 citations unique to KeyCite and 112 unique to Shepard's. The redesign of the Shepard's database seems to have eliminated the disadvantage pointed out by Shapiro's article.

¶10 In examining the citations that were unique to one system, I noticed another difference. Shapiro had found twenty recent cases that should have been in both systems but were only in KeyCite (no such recent cases were unique to Shepard's). He interpreted this as evidence of a "KeyCite advantage in currency."¹¹ Shapiro did not state his definition of "recent," so I chose a time period of four weeks. In my sample, two of the cases unique to KeyCite had been decided less than four weeks prior to the search, and six of the ones unique to Shepard's were that recent. This suggests that the difference Shapiro identified has also been eliminated in the intervening two years.

¶11 As table 1 shows, by far the largest number of citations that were missed by one service or the other came from unreported or unpublished cases. A scattered few had been published only in specialized reporters or loose-leaf services. These results raise an interesting question that is beyond the scope of this present study: how many of the citations that were missed came from documents that were nonetheless available in the "parent" database (LEXIS-NEXIS for Shepard's, Westlaw for KeyCite), and how many were missed simply because the citing opinion was not available in the parent database?

9. I focused on citations to court opinions because, at the time of my study, these were the only documents covered by KeyCite. Since then, KeyCite has added statutes to its database; a comparison of the two systems' results for a sample of statutes would be very useful.

10. I followed Shapiro in using Westlaw rather than LEXIS-NEXIS to gather the sample because Westlaw allows one to easily identify published opinions by searching for only those that have at least one headnote. See Shapiro, *supra* note 2, at 2-3. Because the sample consists of only published opinions, Shepard's is not disadvantaged by this procedure.

11. *Id.* at 3.

Table 1
Types of Opinions with Citations Unique to One Service

	KeyCite	Shepard's
New (opinion issued within prior 4 weeks)	2	6
Reported in standard reporter	10	22
Reported in table form only (unpublished)	42	n/a*
Not reported in any source (unreported)	38	74
Reported in specialized reporter or loose-leaf only	8	10
Total	100	112

* Since the Shepard's database does not identify "table cases" as such, these are included as part of the 74 unreported cases for Shepard's.

Currency

¶12 Along with completeness of coverage, researchers expect currency from Shepard's and KeyCite. By currency, I mean that the existence of a citation in a newly released opinion should be reflected in the database as quickly as possible, ideally within a day of the citing opinion's release; and if the citing opinion has an effect on the validity or persuasiveness of the cited opinion, that should also be indicated by the system within a few days.

Methodology

¶13 In order to study the two systems' currency, I spent some time in spring 1999 creating my own citator—on a very limited scale, of course—which I could then compare with Shepard's and KeyCite. For my sample, I used opinions from the Federal Courts of Appeals. I chose these because they are numerous enough to amass a reasonable sample in a short period of time, but not so numerous as to overwhelm me; because they are of national interest; and because I assumed that both services would give highest priority to processing U.S. Supreme Court opinions and lowest priority to state court opinions, thus making the Federal Court of Appeals opinions the most "typical" in the speed with which they were processed.

¶14 I searched Westlaw or LEXIS-NEXIS each day for Court of Appeals opinions that had been handed down two workdays¹² previously. I identified the opinions that were already in both systems (since my purpose was not to compare the currency of LEXIS-NEXIS and Westlaw¹³), and then read them to identify citations that I believed should appear in KeyCite and Shepard's with some sort of negative analysis. For convenience sake, I will call the union of an opinion having a citation and the opinion it refers to as a "citing pair" in a "citing relation-

12. I defined a workday as any day except Saturday, Sunday, or a national holiday.

ship.” The citing pairs fall into two categories: related opinions, where the citing opinion is a later phase of the same legal matter, such as appeals, rehearings en banc, substituted opinions, or supplemental opinions; and unrelated opinions, where the citing opinion is from a different legal matter but has some effect on the persuasiveness of the cited opinion. I eventually collected eighty-seven citing pairs, of which nineteen were related opinions and sixty-eight were unrelated.

¶15 On the second workday after the citing opinion’s date, and every two workdays thereafter, I checked each cited opinion in KeyCite and Shepard’s (always within fifteen minutes or less of each other) to see whether the citing relationship was reflected and whether any analysis was given. I checked every two workdays through the tenth workday and then again on the fifteenth workday. This schedule is admittedly arbitrary, reflecting the amount of time I had available for the work, but I would argue that the fifteen-workday cutoff is not. I think users should be able to assume that the updating of the database will not take longer than three weeks, especially for opinions from sources as important as the United States Courts of Appeals. The end result, then, on which my conclusions below are based, is eighty-seven citing pairs, each followed for three weeks in KeyCite and Shepard’s.

Results

¶16 First the good news: Every citing relationship was reflected in KeyCite and Shepard’s within two workdays of the date of the citing opinion. (Remember, this presupposes that the text of the citing opinion was available in the parent database.) This is an outstanding feat of computerized textual analysis. Granted, it is made easier by the highly regular form of legal citations, but I still would have expected a few to fall between the cracks. That none did is a credit to both companies’ programmers.

¶17 More good news: For the examples where the citing opinion and the cited opinion were related, the citing relationship and the analysis were usually reflected in both systems within two workdays. The two systems were remarkably similar in this regard, although there were only eighteen such cases,¹⁴ so statistical conclusions are shaky—consider it anecdotal evidence. As shown in table 2, KeyCite had only two instances and Shepard’s had only three where it took longer than two workdays for the correct analysis to appear.

¶18 The not-so-good news about currency comes when we look at the examples where the citing opinion is unrelated to the cited opinion, but does have some effect on the cited opinion. There were forty-five such instances identified by Shepard’s and forty-three by KeyCite.¹⁵ The citing relationship was reflected in

13. This would, however, be an interesting area of further study, since obviously the currency of Shepard’s or KeyCite depends on that of the parent database. It was surprising that many of the opinions were only available on one of the two systems, even two workdays after their publication date.

14. The nineteenth instance for each service was one in which it failed to record an analysis when it should have.

Table 2*Time for Analysis to Appear for Opinions in Related Cases*

Number of workdays since citing opinion released	Number of analyses added to database during this period: Shepard's	Number of analyses added to database during this period: KeyCite
0–2	15	16
3–4	3	0
5–6	–	2

the database within two workdays in both systems, but the analysis may not have been shown until sometime later. How much later is indicated by table 3.

¶19 Shepard's is evidently faster at getting the analyses of unrelated opinions into the database: the median number of workdays that Shepard's took was between three and four, and the 11 percent of cases that took longer had all been analyzed by the fifth or sixth workday. For KeyCite, on the other hand, the median number of workdays was between nine and ten, and almost 25 percent of the cases took eleven to fifteen workdays. Although the sample is small, the distribution of the data shown in table 3, with a large majority of instances clustered around the median, suggests that it is probably representative. Without a much larger, random sample, however, we should be cautious in applying these results to the set of Courts of Appeals opinions as a whole.

¶20 Although not definitive, these results tend to contradict the assertions from both companies that they "aspire" to (and, by implication, usually are able to) analyze cases within one to two days.¹⁶ It would seem that each system meets this goal only for related opinions, which are a small minority of the total number of opinions to be analyzed.

Accuracy

¶21 Users also judge a citator by its accuracy, that is, whether the system correctly identifies all citing opinions that have a negative effect on the validity or persuasiveness of the cited opinion. Shepard's goes further, appending analysis codes to citing opinions that have a neutral or positive effect on the cited opinion. Since KeyCite does not do the latter, however, there is no basis of comparison in this regard, and I will only compare their ability to identify negative effects.

Methodology

¶22 In order to study the accuracy of these two citator systems, I used the two

15. Among these were seven instances where Shepard's identified a positive effect of the citing case on the cited case. KeyCite does not identify positive effects, so there are no such instances for KeyCite in the sample.

16. For these claims, see Szymczak, *supra* note 5.

Table 3
Time for Analysis to Appear in Unrelated Cases

Number of workdays since citing opinion released	Number of analyses added to database during this period: Shepard's	Number of analyses added to database during this period: KeyCite
0-2	15	2
3-4	25	4
5-6	5	1
7-8	—	11
9-10	—	15
11-15	—	10

KeyCite does not do the latter, however, there is no basis of comparison in this regard, and I will only compare their ability to identify negative effects.

Methodology

¶22 In order to study the accuracy of these two citator systems, I used the two samples described earlier: the 1,864 citing pairs used to study completeness (call it Sample A) and the 87 used to study currency (Sample B). For each set, I located all of the citing pairs that showed a negative analysis in either KeyCite, Shepard's, or both. If one system lacked a negative analysis that the other system had, I counted that as a failure by the first system.¹⁷

Results

¶23 In Sample A, out of 1,864 citing pairs, 78 had a negative analysis in one or both systems. Of these, 29 were identified as negative by both systems, 20 were negative only in KeyCite, and 29 were negative only in Shepard's. In Sample B, there were 68 pairs that had a negative analysis in one or both systems. Of these, 7 were unique to Shepard's and 13 were unique to KeyCite.¹⁸

¶24 In other words, if your research required you to find all negative analyses of the opinions in Sample A, you could find 78 by running those citations through both systems. If you only used KeyCite, you would miss 29 of those 78 analyses (37 percent); if you only used Shepard's, you would miss 20 analyses (25 percent). If you were cite-checking the opinions in the smaller sample, KeyCite would miss 7 (10 percent) of the 68 possible negative analyses, and Shepard's would miss 13 (19 percent).

17. It is possible that some of these negative analyses are unique to one system because they are mistakes. Looking at the text of each citing opinion, I did find some that I thought were incorrectly identified as negative, but I have decided not to interpose my own judgment in this very subjective area.

18. For a list of the citing pairs unique to one system or the other, see *infra* appendix A (KeyCite only) and appendix B (Shepard's only)

¶125 These results suggest a problem with accuracy, but how strong is the suggestion? In other words, can we draw conclusions about the overall databases based on this experiment? The conclusions would be stronger if the samples were drawn completely at random from all published court opinions, but creating such a sample was not possible in the limited time at my disposal. Instead, Sample A, although random, is drawn from a limited, specific period of time, the month of April 1997. If we are willing to assume that the opinions handed down that month have similar characteristics to all opinions handed down in, say, the last five years, then the results of this sample could be applied to the database for that time period. It does, however, seem likely that the characteristics of opinions handed down thirty or fifty or seventy-five years ago may be quite different from those of April 1997, so the results found with Sample A are less likely to be representative of what would happen when you check opinions from those time periods or from the universe of all opinions. Sample B is also restricted in time and further restricted to just one level of the federal court system, so it should be considered extensive anecdotal evidence rather than a statistical sample.

Conclusions

What Should Shepard's and KeyCite Do?

¶126 When a new opinion is handed down that contains a negative analysis of an earlier opinion, the findings about currency suggest that there is likely to be a delay before the negative analysis is entered in the database—three to four days in the case of Shepard's, and nine to ten days in the case of KeyCite. I would, therefore, strongly recommend that all recent opinions not yet analyzed by a human editor should be marked, listed separately, or otherwise identified for the researchers.

¶127 As things stand now, citing opinions with a negative effect on the cited opinion are clearly identified with an analysis in both systems, and all others are displayed as if they were positive or neutral. Nonetheless, lurking among these seemingly neutral opinions may well be some recent ones that *are* actually negative but have not been identified as such because no editor has analyzed them yet. The display should alert researchers to this possibility by identifying the not-yet-analyzed documents in some way.

What Should Legal Researchers Do?

¶128 Be aware of the strengths and weaknesses of these systems, and work around the weaknesses when possible. In particular, do not assume that analyses will usually be entered into the databases within forty-eight hours. Rather, read and analyze yourself any citing opinion that is newer than two weeks if you are using Shepard's or three weeks if you are using KeyCite.

¶129 To improve accuracy, check a citation in both databases, remembering that, in my samples, between 10 and 37 percent of the possible negative analyses were missed if the citation was checked in only one system.

Appendix A
Negative Analyses Identified Only by KeyCite

From Sample A (459 cited opinions from April 1997)

Citing Opinion	Cited Opinion	KeyCite Analysis
Salcedo v. John Hancock Mutual Life Insurance Co., 38 F. Supp. 2d 37, 44 (D. Mass. 1998)	Doe v. Blue Cross and Blue Shield United of Wisconsin, 112 F.3d 869 (7th Cir. 1997)	Declined to follow
PrimeCo Personal Communications v. Village of Fox Lake, 26 F. Supp. 2d 1052, 1054 (N.D. Ill. 1998)	Illinois RSA No. 3, Inc. v. County of Peoria, 963 F. Supp. 732 (C.D. Ill. 1997)	Disagreed with
Iowa Wireless Services v. City of Moline, 29 F. Supp. 2d 915, 920 (C.D. Ill. 1998)	Illinois RSA No. 3, Inc. v. County of Peoria, 963 F. Supp. 732 (C.D. Ill. 1997)	Declined to follow
Cellular Telephone Co. v. Zoning Board of Adjustment of Borough of Ho-Ho-Kus, 24 F. Supp. 2d 359, 373 (D.N.J. 1998)	Illinois RSA No. 3, Inc. v. County of Peoria, 963 F. Supp. 732 (C.D. Ill. 1997)	Distinguished
Clay v. State, 502 S.E. 2d 267, 269 (Ga. Ct. App. 1998)	Russell v. State, 485 S.E. 2d 717 (Ga. 1997)	Distinguished
Hanson v. St. Lukes United Methodist Church, 682 N.E. 2d 1314, 1317 (Ind. Ct. App. 1997)	Strayer v. Covington Creek Condominium Association, 678 N.E. 2d 1286 (Ind. Ct. App. 1997)	Disagreed with
United States v. Byram, 145 F.3d 405, 409 (1st Cir. 1998)	United States v. Elie, 111 F.3d 1135 (4th Cir. 1997)	Disagreed with
United States v. Watkins, 147 F.3d 1294, 1296 (11th Cir. 1998)	United States v. Davis, 112 F.3d 118 (3rd Cir. 1997)	Distinguished
Leffler v. Allstate Insurance Co., 1998 WL 442770, at *3, 1998 Del. Super. LEXIS 299, at *7 (Del. Super. Ct. 1998)	Sylvestre v. United Services Automobile Association Casualty Insurance Co., 692 A.2d 1254 (Conn. 1997)	Distinguished

Rodriguez v. DeBuono, 44 F. Supp. 2d 601, 610 (S.D.N.Y. 1999)	Blessing v. Freestone, 520 U.S. 329 (1997)	Declined to extend
National Telecommunications Advisors v. City of Chicopee, 16 F. Supp. 2d 117, 118 (D. Mass. 1998)	Blessing v. Freestone, 520 U.S. 329 (1997)	Distinguished
Lunge v. National Casualty Co., 977 F. Supp. 672, 676 (D. Vt. 1997)	Grain Dealers Mutual Insurance Co. v. McKee, 943 S.W. 2d 455 (Tex. 1997)	Declined to follow
United States v. Garcia, 182 F.3d 1165, 1172 (10th Cir. 1999)	United States v. Rector, 111 F.3d 503 (7th Cir. 1997)	Overruling recognized
In re Andersen, 232 B.R. 127, 138 (B.A.P. 8th Cir. 1999)	In re Pena, 207 B.R. 919 (B.A.P. 9th Cir. 1997)	Disagreed with
In re Lawrence, 237 B.R. 61, 81 (Bankr. D.N.J. 1999)	In re DeLauro, 207 B.R. 412 (Bankr. D.N.J. 1997)	Distinguished
Beers v. General Motors, 1999 WL 325378, at 5 (N.D.N.Y. 1999)	Harmon v. CSX Transportation, 110 F.3d 364 (6th Cir. 1997)	Distinguished
Panigeon v. Alliance Navigation Line, 1997 WL 473385, at 3 (S.D.N.Y. 1997)	Estate of Re v. Kornstein, Veisz, and Wexler, 958 F. Supp. 907 (S.D.N.Y. 1997)	Disagreement recognized
State v. Brown, 702 So. 2d 744, 750 (La. Ct. App. 1997)	State v. Bosley, 691 So.2d 347 (La. Ct. App. 1997)	Declined to follow
Williams v. Wal-Mart Stores, 702 So.2d 8, 10 (La. Ct. App. 1997)	Tanner v. Brookshire Grocery Company, 691 So.2d 871 (La. Ct. App. 1997)	Called into doubt
Hobbs v. Harken, 969 S.W.2d 318, 323 (Mo. Ct. App. 1998)	Carter v. Jones Truck Lines, 943 S.W.2d 821 (Mo. Ct. App. 1997)	Distinguished

From Sample B (87 Appeals Court opinions from April to June 1997)

Citing Opinion	Cited Opinion	Analysis
United States v. Davis, 174 F.3d 941, 946 (8th Cir. 1999)	United States v. Boyer, 574 F.2d 951 (8th Cir.1978)	Distinguished
United States v. Pitts, 176 F.3d 239, 247 (4th Cir. 1999)	United States v. Glymph, 96 F.3d 722 (4th Cir. 1996)	Distinguished
Roach v. Angelone, 176 F.3d 210, 220 (4th Cir. 1999)	Simmons v. South Carolina, 512 U.S. 154 (1994)	Declined to extend
Starcom v. NLRB, 176 F.3d 948, 951 (7th Cir. 1999)	NLRB v. Fluor Daniel, Inc., 161 F.3d 953 (6th Cir. 1998)	Declined to follow
United States v. Stotts, 176 F.3d 880, 886 (6th Cir. 1999)	United States v. Datcher, 830 F.Supp. 411 (M.D. Tenn. 1993)	Disapproval recognized
Prescott v. County of El Dorado, 177 F.3d 1102, 1108 (9th Cir. 1999)	Price v. International Union, United Auto., Aerospace & Agric. Implement Workers, 927 F.2d 88 (2d Cir.1991)	Disagreed with
United States v. Gold Unlimited, Inc., 177 F.3d 472, 484 (6th Cir. 1999)	Carella v. California, 491 U.S. 263 (1989)	Distinguished
Harper v. Showers, 174 F.3d 716, 718 (5th Cir.1999)	Moore v. Carwell, 168 F.3d 234 (5th Cir. 1999)	Declined to extend
Ficklin v. Hatcher, 177 F.3d 1147, 1151 (9th Cir. 1999)	Suniga v. Bunnell, 998 F.2d 664 (9th Cir. 1993)	Distinguished
Jenkins v. Haubert, 179 F.3d 19, 28 (2d Cir. 1999)	Black v. Coughlin, 76 F.3d 72 (2d Cir. 1996)	Holding limited
Arredondo v. United States, 178 F.3d 778, 784 (6th Cir. 1999)	Durrive v. United States, 4 F.3d 548 (7th Cir. 1993)	Called into doubt
P & P Industries v. Sutter Corp., 179 F.3d 861, 870 (10th Cir. 1999)	Central Valley Typographical Union, No. 46 v. McClatchy Newspapers, 762 F.2d 741 (9th Cir. 1985)	Disagreed with

Appendix B
Negative Analyses Identified Only by Shepard's

From Sample A (459 cited opinions from April 1997)

Citing Opinion	Cited Opinion	Shepard's Analysis
State Farm Mutual Automobile Insurance Co. v. Sommers 954 S.W.2d 18, 20 (Mo. Ct. App. 1997)	Jackson v. Safeco Insurance Co. of America, 949 S.W.2d 130 (Mo. Ct. App. 1997)	Distinguished
Taylor v. FDIC, 132 F.3d 753, 767 (D.C. Cir. 1997)	Claybrook v. Slater, 111 F.3d 904 (D.C. Cir. 1997)	Criticized
Roberta Jo W. v. Leroy W. (In re Roberta Jo W.) 578 N.W.2d 185, 190 (Wis. 1998)	Brad Michael L. v. Lee D. (In re Brad Michael L.), 564 N.W. 2d 354 (Wis. Ct. App. 1997)	Distinguished
Gasoline Marketers, Inc. v. Vermont Agency of Natural Resources, 739 A.2d 1230 (Vt. 1999)	Fremont Lumber Co. v. Energy Facility Siting Council (In re Amendment of Rules OAR 345 Div. 50), 936 P.2d 968 (Ore. 1997)	Distinguished
APT Pittsburgh Limited Partnership v. Penn Township, 32 F.Supp.2d 793, 794 (W.D. Pa. 1998)	Illinois RSA No. 3 v. County of Peoria, 963 F. Supp. 732 (C.D. Ill. 1997)	Criticized
Torrez v. BEI Graphics Corporation, 134 F.3d 383 (table case) (10th Cir. Colo. 1998)	Fejes v. Gilpin Ventures, 960 F. Supp. 1487 (D. Colo. 1997)	Distinguished
Foster v. Evergreen Healthcare, Inc., 716 N.E.2d 19 (Ind. Ct. App. 1999)	Strayer v. Covington Creek Condominium Association, 678 N.E.2d 1286 (Ind. Ct. App. 1997)	Distinguished
United States v. Murray, 144 F.3d 270, 273 (3d Cir. Pa. 1998)	United States v. Davis, 112 F.3d 118 (3d Cir. Pa. 1997)	Distinguished
Reynolds v. Giuliani, 35 F. Supp. 2d 331, 340 (S.D.N.Y. 1999)	Blessing v. Freestone, 520 U.S. 329 (1997)	Distinguished

Omnipoint Communications, Inc., v. Penn Forest Township, 42 F. Supp. 2d 493, 505 (M.D. Pa. 1999)	Blessing v. Freestone, 520 U.S. 329 (1997)	Distinguished
Parry by and Through Parry v. Crawford, 990 F. Supp. 1250, 1254 (D. Nev. 1998)	Blessing v. Freestone, 520 U.S. 329 (1997)	Distinguished
LaShawn A. by Moore v. Barry, 144 F.3d 847, 855 (D.C. Cir. 1998)	Blessing v. Freestone, 520 U.S. 329 (1997)	Criticized
Wal-Mart Stores Associates Health and Welfare Plan v. Bond, 21 Employee Benefits Cas. (BNA) 1010, 1013 (E.D. Pa. 1997)	Bollman Hat Company v. Root, 112 F.3d 113 (3d Cir. Pa. 1997)	Distinguished
Ward v. Wal-Mart Stores Associates Health and Welfare Plan, 7 F. Supp. 2d 927, 929 (W.D. Mich. 1998)	Bollman Hat Company v. Root, 112 F.3d 113 (3d Cir. Pa. 1997)	Distinguished
In re Walsh, 31 F. Supp. 2d 200, 205	Steffen F. v. Severina P., 966 F. Supp. 922 (D. Ariz. 1997)	Distinguished
State v. Hedgepeth, 517 S.E.2d 605, 620 (N.C. 1999)	State v. Gaines, 483 S.E.2d 396 (N.C. 1997)	Distinguished
State v. McNeil, 518 S.E.2d 486, 512 (N.C. 1999)	State v. Gaines, 483 S.E.2d 396 (N.C. 1997)	Distinguished
State v. Peterson, 516 S.E.2d 131, 143 (N.C. 1999)	State v. Gaines, 483 S.E.2d 396 (N.C. 1997)	Distinguished
State v. Bonnett, 502 S.E.2d 563, 585. 1998)	State v. Gaines, 483 S.E.2d 396 (N.C. 1997)	Distinguished
State v. Lemons, 501 S.E.2d 309, 333 (N.C. 1998)	State v. Gaines, 483 S.E.2d 396 (N.C. 1997)	Distinguished
State v. Hill, 493 S.E.2d 264, 282 (N.C. 1997)	State v. Gaines, 483 S.E.2d 396 (N.C. 1997)	Distinguished

Mruz v. Caring, Inc., 991 F. Supp. 701, 718 (D.N.J. 1998)	Tarr v. Credit Suisse Asset Management, 958 F. Supp. 785 (E.D.N.Y. 1997)	Distinguished
Raleigh v. Haskell (In re Haskell), 1998 Bankr. LEXIS 1488, at *10, 1998 WL 809517, at *4 (Bankr. N.D. Ill. 1998)	In re DeLauro, 207 B.R. 412 (Bankr. D.N.J. 1997)	Distinguished
Vance v. United States, 182 F.3d 34 (6th Cir. Ky. 1999) (table decision)	Harmon v. CSX Transportation, 110 F.3d 364 (6th Cir. Tenn. 1997)	Distinguished
United States v. Nonahal, 165 F.3d 34 (7th Cir. Wis. 1998) (table decision)	United States v. Bryson, 110 F.3d 575 (8th Cir. Mo. 1997)	Distinguished
People v. Howard, 595 N.W.2d 497, 499 (Mich. App. 1998)	People v. Tanner, 564 N.W.2d 197 (Mich. App. 1997)	Distinguished
People v. Keen, 687 N.Y.S.2d 7, 9 (N.Y. App. Div. 1st Dept 1999)	People v. Bennett, 655 N.Y.S.2d 509 (N.Y. App. Div. 1st Dept 1997)	Distinguished
THC Holdings Corporation v. Chinn, 1998 U.S. Dist. LEXIS 1276, at *18, 1998 WL 50202, at *6 (S.D.N.Y. 1998)	Estate of Re by Coarsely v. Kornstein, Veisz & Wexler, 958 F. Supp. 907 (S.D.N.Y. 1997)	Criticized
Farragher v. City of Boca Raton, 524 U.S. 775, 799 (1998)	Yamaguchi v. United States Department of the Air Force, 109 F.3d 1475 (9th Cir. Haw. 1997)	Questioned

From Sample B (87 Appeals Court opinions from April to June 1997)

Citing opinion	Cited opinion	Analysis
United States v. Davis, 174 F.3d 941, 946 (note) (8th Cir. 1999)	United States v. Clarke, 110 F.3d 612 (8th Cir. 1997)	Distinguished
United States v. Pitts, 176 F.3d 239, 248 (4th Cir. 1999)	United States v. Pollard, 959 F.2d 1011 (D.C. Cir. 1992)	Distinguished
Fox v. Van Oosterum, 176 F.3d 342, 352 (6th Cir. 1999)	Heck v. Humphrey, 512 U.S. 477 (1994)	Distinguished
Prescott v. County of El Dorado 177 F.3d 1102 (9th Cir. 1999)	Prescott v. County of El Dorado, 915 F. Supp.1080 (E.D. Cal. 1996)	Reversed
Danco v. Wal Mart, 178 F.3d 8, 17 (1st Cir. 1999)	United States v. Pritchard, 973 F.2d 905 (11th Cir. 1992)	Distinguished
United States v. Bencomo-Castillo, 176 F.3d 1300, 1304 (10th Cir. 1999)	United States v. DiSantillo, 615 F.2d 128 (3d Cir. 1980)	Distinguished
American Trucking Associations v. Environmental Protection Agency, 175 F.3d 1027, 1037 (D.C. Cir. 1999)	International Union, UAW v. OSHA, 37 F.3d 665 (D.C. Cir. 1994).	Distinguished