

## GUIDE SERIES 2 – CALIFORNIA RESEARCH



### GUIDE 2D - CASE LAW: HEARINGS & REHEARINGS

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California researchers sometimes find a blank page in place of a case to which they have a citation. (An example may be found at 102 Cal. App. 3rd 446). These situations of "disappearing cases" or "phantom cases" occur when an opinion published in an advance sheet is modified or superseded by subsequent judicial action before publication of a bound volume. In addition, decisions of the Courts of Appeal may be superseded by the granting of a hearing by the California Supreme Court. When subsequent action nullifies a decision printed in an advance sheet, that decision is not included in the permanent, bound volume. (Not directly related but nonetheless confusing: since 1984 the Courts of Appeal have been authorized to publish only portions of their decisions. You can find an example at 2 Cal. App. 4th 1357.) A researcher must verify that recent opinions, found in advance sheets or through other sources, are still valid and may be cited.

The Law Library retains superseded issues of *California Official Reports* (the advance sheet for the official *California Reports* and *California Appellate Reports*) for researchers who find that a case they seek was not printed in a bound volume of the official reporter. These "unprinted" decisions are also often found in the bound volumes of *West's California Reporter* which are occasionally issued before the California Supreme Court announces that an opinion is not to be printed.

The following sources can be used to determine if a recent opinion has been affected by subsequent action of a California court:

**1. *California Official Reports Review Granted Opinions Pamphlet*** (located on the Plaza level west wall, directly following *California Reports and California Appellate Reports*). This pamphlet is issued in January and supplemented in July of each year. It contains the full text of the Court of Appeal opinions that were granted review by the Supreme Court. Be sure to check the preface for precise coverage.

**2. *California Official Reports Advance Sheets*** (located on the Plaza level west wall, directly following *California Reports and California Appellate Reports*). Included in the back of each issue of this service is a "Cumulative Subsequent History Table" which lists cases by name. Subsequent histories of opinions are published here until the opinion appears in a bound volume of *California Reports* or *California Appellate Reports*.

**3. *West's California Citation Guide*** (Plaza Shepard's Carrel) Designed to determine if a case has been overruled, disapproved or disagreed with by the California Supreme Court or by one of the Courts of Appeal. Contains annotations for all overruled or disapproved California reported decisions. See preface for detail on coverage-this guide is specifically not designed to substitute for Shepardizing a case.

**4. West's California Subsequent History Table** (located on the Plaza level west wall directly following West's California Reporter). This source may be consulted for any hearings or rehearings affecting cases published from the first volume of West's California Reporter (or volume 248 of the Pacific Reporter) to date. It is arranged by citation to the original opinion. The tables give the citation to the later decision (hearing or rehearing) or, for recent cases, whether a hearing has been granted. The volume of tables is itself rarely updated and a researcher is directed to comparable and more recent tables in the front of each advance sheet of West's California Reporter.

**5. California Appellate Reports 3rd Series, Table of Cases / Table of Depublished Opinions** (Located on the Plaza West wall after Cal. App. 3rd). The *Table of Depublished Opinions* lists cases that appeared in the advance pamphlets of the *Official Reports* but were subsequently depublished or otherwise superseded, and therefore do not appear in the bound volumes for the Third Series only.

**6. California Supreme Court Pending Case Service** (Located in the Open Reserve area on the Plaza level at KFC 45.1 C35). This loose-leaf service is updated weekly and is one of the fastest print sources through which a researcher can determine if a petition for hearing has been filed with the California Supreme Court or if such a petition has been granted or denied. Each "weekly report" includes a list of petitions filed during the previous week, a list of those cases where review had been granted in the previous week, summaries of new

opinions, and publication and depublication orders issued during the week. The service also includes a summary of each case for which hearing or rehearing has been granted. These summaries include relevant dates, questions presented, names of counsel, the press release, and the names of those justices voting for hearing. The set includes indexes by case name and subject. The name index includes the subsequent history of each case. The indexes are updated monthly. A researcher should scan the recent "weekly reports" for activity by the court since the last index was published.

**7. Daily Appellate Report (DAR) and California Daily Opinion Service (CDOS)** The DAR and CDOS (located on the Plaza level West wall directly following California Reports) publish monthly the California Supreme Court tables of pending cases and case status lists.

**8. Shepard's California Express Citations** (Plaza Shepard's Carrel) twice a month features a table of California Courts of Appeal cases which have been either depublished by the California Supreme Court, or superseded by the Supreme Court's grant of review. The sources for the information are CDOS, DAR, and the Judicial Council of California's electronic bulletin board system. These citations are repeated in successive issues of Express Citations until they're transferred into the regular *Shepard's California Citations*.

**9. Lexis and Westlaw** Both of these online services include citators to help you determine if a hearing or rehearing was granted or denied. Check the guides for each service for details.

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