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Fastcase

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A Guide to Legal Research in Virginia

Editor: Joyce Manna Janto



Continuing Legal Education by the Virginia Law Foundation

A GUIDE TO LEGAL RESEARCH IN VIRGINIA

Eighth Edition

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A GUIDE TO LEGAL RESEARCH IN VIRGINIA

Eighth Edition

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CHAPTER 9

FASTCASE™

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CHAPTER 9

FASTCASE™

9.1 HISTORY

In February 2005, the Virginia State Bar (VSB) Council approved plans to offer all Virginia lawyers free access to an online legal research program through a portal on the VSB's website. Then-Chief Justice Leroy Rountree Hassell, Sr., considered access to an online research tool a high priority for Virginia attorneys and urged the VSB to provide this kind of service.

On June 13, 2005, the Virginia Supreme Court adopted a formal Rule of Court directing the VSB “to contract to provide online computerized legal research services to its members.”¹

In February 2006, the VSB gave its notice of intent to award a contract to Fastcase, a legal research vendor now based in Washington, D.C. Fastcase provides online legal research services to more than two dozen bar associations and has been the provider of legal research services in Virginia since this original contract award. On January 26, 2016, the VSB published a notice of intent to award Fastcase a new three-year contract with optional one-year renewals. All lawyers admitted to practice in Virginia have access to the Fastcase platform as part of their annual bar dues.

¹ Section IV, paragraph 21 of the Rules of Integration of the Virginia State Bar, Part Six, www.courts.state.va.us/courts/scv/amendments/06_13_05_sec_4_para_21.pdf.

9.2 THE FASTCASE INTERFACE

9.201 In General. Fastcase is a web-based legal research platform to search primary legal authorities, including cases, statutes, and regulations. This content includes a nationwide collection of state and federal primary legal materials that can be searched from a single interface.

Fastcase is accessible through the Virginia State Bar's website, www.vsb.org, or at www.fastcase.com. The Fastcase interface offers a system to search multi-jurisdictional databases and provides instructional videos, live online chat, and scheduled webinars to help researchers learn how to use the system. In November 2016, the VSB introduced to all members an updated version of the system, Fastcase 7, which is a new interface to the site's content to be provided in parallel to the classic version of this platform.² Because some content is not yet available on the new platform, VSB members can access these features by using the Fastcase 6 interface.

The underlying content in the earlier version is the same as found in Fastcase 6. At launch, some features of the earlier version had not yet been introduced in Fastcase 7, but Fastcase representatives said that all features would be reintroduced once fully tested. This chapter focuses on the Fastcase 7 platform, noting where there are differences still in development in early 2017.

The top of the Fastcase 7 home page contains a single search box. The rest of the page has an arrangement of graphic tiles with links to: help and support; accessing user-created search alerts; a clickable list of recent searches; the print queue; and a final tile showing recent system news, such as a post to the Fastcase blog.

² See *Fastcase 7 Legal Research Tool Now Available to VSB Members*, www.vsb.org/site/news/item/fastcase_7_legal_research_tool_now_available_to_vsb_members.

Any search run using the main search box returns results from all Fastcase sources matching the search query. This approach incorporates a search feature present in many broad legal research platforms, including the latest versions of Lexis and Westlaw. The approach is to search everything first, encouraging users to filter results as a second step.

On Fastcase, search results typically include results from many sources, including some content outside the scope of the VSB contract, such as law reviews, legal forms, and treatises. All primary legal sources are included and accessible. To narrow results, a researcher applies filters to restrict results by document type, jurisdiction, or court hierarchy. This is done by clicking a box next to the result type, which also lists the number of matched documents from that collection. It is also possible to limit the result set by running a second search, which is restricted to the initial result set.

The Fastcase interface provides a fixed set of links at the top of every screen, with a search box and links to commonly used features. A search run with this element returns results from the most recently used collection. For instance, searching the full text of the latest compiled collection of Virginia statutes will result in a later search in this box with returns matching documents exclusively from this collection.

The Fastcase system also has an advanced search interface, where a researcher can select specific types of content or date ranges before beginning a search. This is helpful for restricting results to materials from one state, content type, or a range of dates.

9.202 Fastcase Case Law Database Content. The extensive collection of federal and state case law contains the full text of all included decisions. However, the system lacks some editorial and indexing features found on services such as Lexis, Westlaw, or Bloomberg Law. For instance, it does not provide editorial enhancements such as annotations or key number classi-

fication. The Fastcase collection includes access to millions of documents from courts in all jurisdictions of the United States. In general, state case law collections date back to 1950, with states such as Virginia having even more comprehensive content. New court decisions are added within 24 to 48 hours of being published. The date coverage for case law databases is as follows:³

United States Supreme Court	1754 (1 U.S. 1)-Current
Federal courts of appeals	1924 (1 F.2d 1)-Current
Federal district courts	1912 (1 F. Supp. 1)-Current
Federal bankruptcy courts	1979 (1 B.R. 1)-Current
Board of Immigration Appeals	1955-Current
U.S. Court of Claims	1929-1982
U.S. Customs Court	1938-1980
U.S. Tax Court	1924-Current
Sp. Ct., Regional Rail Reorg. Act	1974-2001
U.S. Court of Int'l Trade	1980-2001
Court of Customs & Patent Appeals	1929-1971
State cases	1950 (or older)-Current
Virginia Supreme Court & Court of Appeals	Supreme Court 1887 (82 Va. 702)-Current; Court of Appeals from 1985
Virginia circuit courts	Very limited

³ Any changes to the scope of coverage are updated on the Fastcase website at www.fastcase.com/whatisfastcase/coverage/.

The Virginia case law coverage in Fastcase back to 1887 is deeper than coverage in many other states. While Fastcase has expressed plans to add Virginia circuit court opinions, there are only a limited number of them included currently. Practitioners requiring access to these decisions should look to other services.

9.203 Searching Case Law Options. There are three ways to search case law on Fastcase:

1. *Keyword (Boolean) searching* uses AND, OR, NOT, (), “”, w/# connectors. A list of connector options appears if the researcher selects “Show Search Tips” on the advanced search page. If no connector is used between two words, the space is presumed to be an “and.” An asterisk (*) wildcard operator is also available to find variations of a word.
2. *Natural language searches* allow searching content using a concept or statement in plain English. This search option was not available in Fastcase 7 in early 2017.
3. *Citation Lookup* retrieves materials by citation, such as reporter or statute. To obtain multiple sources in a single search, separate citations with a comma.

Search results are returned by relevance and can be sorted to list the oldest cases first, the most recent cases first, or the most authoritative cases—the ones most cited by other cases—first. The results screen contains a brief “synopsis” of the case, which is actually the paragraph from each case most relevant to your search.

When viewing a court decision on the system, there are document navigation features to move between search terms as well as cases. Another option allows the researcher to save cases to favorites, which can be organized into folders for later use. This

might include a group of cases or statutes for a current legal matter or subject of interest.

For state decisions with parallel citations, West reporter pages appear together with the related state reporter, when available. The “official” reporter pagination is reflected by brackets within the paragraphs.

One major change with the Fastcase 7 interface is that the results display includes several system features on a single page. Each section can be hidden or expanded by clicking on an arrow in the upper-right corner of that page section. This allows researchers the option to expand or collapse content to change the amount of screen the display takes up. For instance, one can expand a case to view it in full screen or browse just a list of citations.

Fastcase provides a visual representation of a search provided as an “interactive timeline” that graphically illustrates the most relevant cases. With this, Fastcase creates a grid with circles representing each decision—the larger the circle, the more times the case is cited in the entire case law database. Cases that have a smaller yellow dot within a dot represent cases within the current search results.

One unique feature of Fastcase is a service called *Forecite*. Fastcase describes this feature to include decisions that do not contain one or more of the search terms you entered. However, they are frequently cited by the other decisions in your search results and therefore, may be highly relevant to the topic you are researching. By analyzing citation patterns, this feature attempts to address deficiencies that can arise when court opinions addressing similar topics use dissimilar words. Results may include cases with similar law but different terminology or may include cases frequently cited for procedural standards, such as the standard for summary judgment expressed in *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986).

9.204 Authority Check. Although Fastcase has no direct equivalent to Lexis’s *Shepard’s Citations* or Westlaw’s KeyCite, it does offer an automated search called “Authority Check” and incorporates automated analysis with a feature called the “Bad Law Bot.” Authority Check identifies later cases that cite a case by matching citations in written opinions. Authority Check does not include editorial treatment information about the case, such as “followed,” “reversed,” or “distinguished.” Also, it does not indicate the depth of analysis or discussion present in a subsequent case. But it does work well as a starting point to find a decision’s citation history.

The Authority Check feature is accessed by clicking on a flag icon at the top of the case display. If there is negative treatment, the flag is red. Otherwise, the flag is white. An Authority Check report will summarize the citing courts and accompany the display with an interactive timeline of citing references.

Bad Law Bot is a feature introduced in 2013 that relies on automated text analysis of citing decisions to identify negative treatment. It will indicate when a later court decision has overturned or reversed the case in question. Cases with this style of negative treatment are identified with a red flag in any citation list or full-text display.

The Fastcase tutorial states that it does “not hold Authority Check out as a complete replacement for services such as Shepard’s or Keycite.”

9.205 Statutes. The Fastcase service includes the United States Code and statutes from all fifty states and the District of Columbia. By default, a search of statutes will cover the most recent compiled version, and most jurisdictions also include at least some prior compiled editions. The following are sample collections of statutes covered in the service.

Code of Virginia 2008-Current

United States Code 2006, 2010-2011, 2013-Current

Maryland	2008-Current
North Carolina	2007-Current

Several state collections also include compiled session laws as well as selective city or regional codes. For Virginia, only the Virginia Code is available.

Researchers can search statutes in full text or browse them by chapter, title, and section. There is an option to browse a statute collection outline, which is helpful if the researcher needs to read adjacent sections in a title, akin to working with statutes in print. The Fastcase statute collection does not include annotation summaries found in versions produced by commercial publishers. However, for Virginia and some jurisdictions, statute text is accompanied by links to citing cases, provided in an annotation section. These annotations link to the full text of citing cases.

The system-generated annotation feature was not available in early 2017 on the Fastcase 7 platform, but it is expected to be added. Until this is available, VSB members can access these features by using the Fastcase 6 interface.

9.206 Additional Databases. Fastcase also offers additional database sources and provides links to services through publisher collaboration. For items in a search result outside of the VSB contract, a small red dollar sign appears next to the cited material. The price to access these materials will vary by source.

These additional collections include newspapers through www.NewsLibrary.com, a collection of legal treatises, federal filings, and legal forms. All these require a subscription or pay-as-you-go access to full text reports.

In December 2013, Fastcase partnered with the publisher HeinOnline to provide links to materials such as law reviews and other cited sources for people who subscribe to both services. HeinOnline has scanned versions of hundreds of law reviews, bar journals, and other sources. The HeinOnline service contains com-

plete collections for almost all of the titles in their collection. Many law firms provide access to HeinOnline, and some law schools have programs for alumni or members of the public to access these materials on site.

9.207 Additional System Features. The Fastcase service includes a few additional features that can differentiate the platform from other electronic collections of primary legal materials. These include the ability to set alerts, save documents, print and download documents, and integrate time tracking with the CLIO practice management system.

Alerts allow you to receive, via email, updates when new materials are added to Fastcase that match your search terms. Alert email messages include the case caption, direct case link, and introductory paragraph for up to ten matching sources. Alert summaries also appear on the default Fastcase screen.

Favorites are direct links to sources such as cases or statutes, which can be organized into folders on Fastcase. For instance, this might include frequently referenced statutes or cases consulted for a client matter.

To print or download materials on Fastcase, the researcher adds documents to a print queue and then downloads them once compiled. Options include choosing between a one- or two-column display. Downloads are available in multiple file formats, including Word and PDF.

Fastcase has partnered with the web-based practice management company CLIO, where users can associate search activity with a client matter in the CLIO system. The system can record time spent researching the law to provide a way to integrate time tracking with client matters stored in the CLIO system.