

# **Next Level Legal Research**

Usask LRW 245

January 23, 2024

1:00pm - 3:00pm

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Co-Director, Legal Resources, Law Society (Regina)

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#### Overview

- Presentation (Large Group), 1:00 pm 1:45 pm
  - Good Practices for Legal Research
  - Demonstration Scenario

- Small Group Scenario (Breakout Rooms), 1:45 pm 2:45 pm
  - Section One Facilitators: Alan & Leah
  - Section Two Facilitators: Funmi & Ken
- Conclusion & Survey (Large Group), 2:45 pm 3:00 pm



#### Overview

# Legal Research & Resources for LAW 245.2 LRW: CanLII

Welcome to our presentation series for the LAW 245.2 Legal Research and Writing course. In this five video, fifty minute, presentation, you will learn about an online resource called CanLII as well as good legal research strategies and search techniques.









Organizing Your Legal Researc...



## **Learning Outcomes**

- The session is designed to:
  - 1. Highlight good practices for effective legal research.
  - 2. Demonstrate an approach to legal research that is broadly transferable to any area of law or online database.
  - 3. Convey the iterative nature of legal research through a demonstration scenario and a small group session scenario.





BAD HABITS
GOOD HABITS



# Myth: It's All Online!



"Relax—it's all online."



■ Reality: It's not quite as straightforward as that





# Myth: People Still Use Books?





Reality: Yes!

Online resources can be expensive

eBooks

- Navigable? (usually)
- Searchable (not always)
- Printable (sometimes)
- Copying text? (sometimes, sort of)
- Storable, shareable? (generally not)



- Tip: Use commentary to **energize** your legal research
- Free to use sources:
  - Law Library Catalogue
  - CanLII's Commentary
- Commercial sources:
  - Irwin Law/Emond Publishing ebooks
  - Westlaw/Quicklaw ebooks
  - Canadian Encyclopedic Digest
  - Halbury's Canada
- Consider:
  - A law library <u>libquide</u>, resource guide, or colleague



# Myth: Online Is Easy, Right?

Reality: Not quite!

■ Effective online research requires at least as much skill and knowledge as print research. The sources are varied in their content, organization, and mode of access.



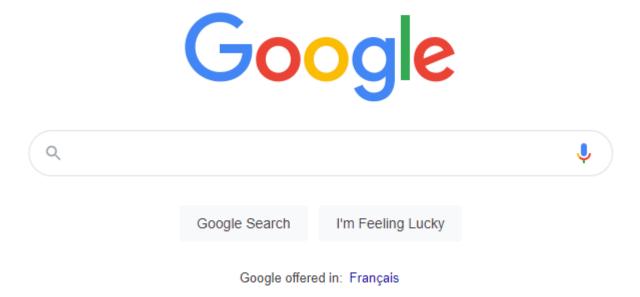


- Tip: Learn to use online and offline resources in tandem
  - It can be difficult to understand how digital resources are organized without any sense of how the corresponding print resources are organized
  - Using Vinyl & Spotify to Understand Legal Information





# Myth: Google is Evil?





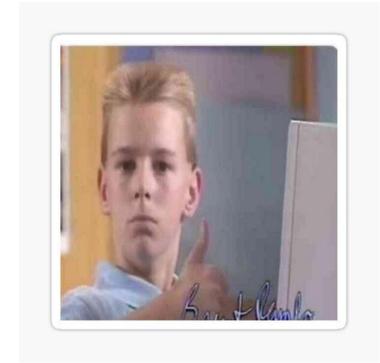
# Myth: Google is Good?

- Reality: Know when Google will you save time
- Google is:
  - Fast
  - Easy
- Legal Resourc
  - Authoritati
  - Curated
  - Objective
- Legal Informa
  - Accurate
  - Credible
  - Reliable

- Lawyer/firm contact information
- Parallel citations
- American Case law and Articles
- Recent issues in the news



- Finding out about recent legal developments
- Free to use sources:
  - Blogs (<u>LawBlogs.ca</u>)
  - CanLII's Commentary
  - Google
  - Government or court websites
- Commercial sources:
  - HeinOnline journal articles
  - The Lawyer's Daily
  - Quicklaw newsletters





#### Choose the best resource!

#### **Case Law**

- Free to use sources:
  - CanLII
- Commercial sources:
  - Quicklaw Advance
  - Westlaw Canada
  - vLex Canada

#### Legislation

- Provincial
  - Publications Saskatchewan
  - Legislative Assembly of Saskatchewan

- Federal
  - Justice Laws
  - Legisinfo

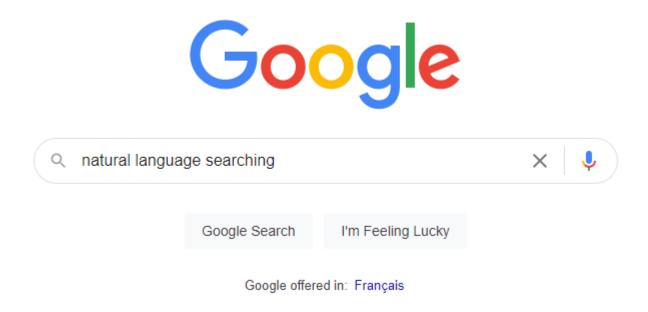


- How do the free and commercial resources compare?
  - Primary law coverage across Canada's free and commercial legal databases (CanLII, Quicklaw, Westlaw, etc.) is largely comparable with similar coverage being offered.
  - Commercial resources far exceeds free resources in terms of the digital commentary content available



	CanLII	Quicklaw	vLex	Westlaw
Cost	Free	Commercial	Commercial	Commercial
Who?	Public	Commercial	Commercial	Commercial
Searchability	Comparable	Comparable	Comparable	Comparable
Case Law	Comparable	Comparable	Comparable	Comparable
Legislation	Comparable	Comparable	Ontario Only	Comparable
Commentary	<ul> <li>CanLII author's program</li> <li>CanLII Connects case digests</li> <li>Growing collection of miscellaneous and older commentary</li> </ul>	<ul> <li>Case law headnotes</li> <li>Dictionaries</li> <li>Drafting materials</li> <li>Halsbury's Laws of Canada</li> <li>Legislative concordances</li> <li>Multiple eTexts &amp; commentary</li> <li>Practical guidance</li> <li>Quantums</li> <li>QuickCite</li> </ul>	<ul> <li>Irwin Law eBooks</li> <li>Vincent</li> </ul>	<ul> <li>Articles &amp; newsletters</li> <li>Canadian Abridgment</li> <li>Canadian Encyclopedia Digest</li> <li>Case law digests</li> <li>Citing references</li> <li>Criminal Source</li> <li>Employment Source</li> <li>Estates Source</li> <li>Family Source</li> <li>ICLL</li> <li>Labour Source</li> <li>O'Brien's Forms</li> <li>Words &amp; Phrases</li> </ul>

# Myth: Boolean Searching Isn't Worth It!





Reality: Boolean operators offer more precision and efficiency. Common search syntax include:

AND robbery AND weapon

OR (armed OR weapon OR knife OR gun)

"child of marriage"

■ ( ) (drugs OR "controlled substance")

create\* creature, creation, create, creating, etc

■ /p officer /p ask

■ /5 officer /5 ask





Commentary
Case Law



family memb family memb also left a co \$5,000 gift to Nephew A is beneficiary. benefit?

The most effective legal research:

- Is iterative
- Is messy
- Includes mistakes and missteps
- Has multiple starts and stops
- Isn't static
- Is Rarely complete after the first attempt

■ A man dies, leaving a will be a to compare the compare gifts to various nd naming a few e estate. The man pt for "the led." However, eficiary, not a gift 's residual



# Commentary

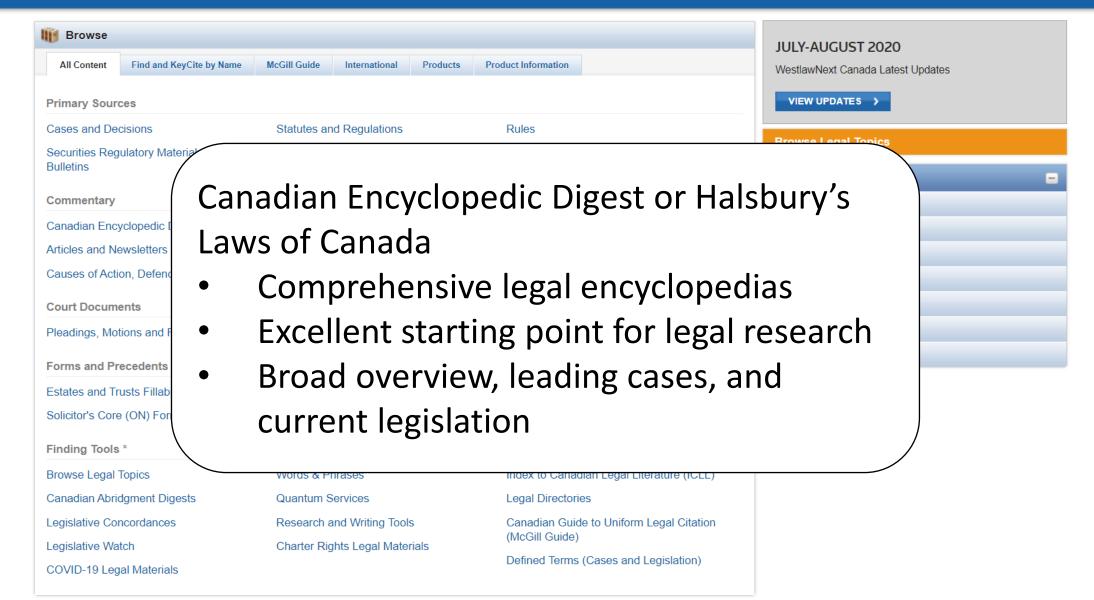


**Primary Law** 

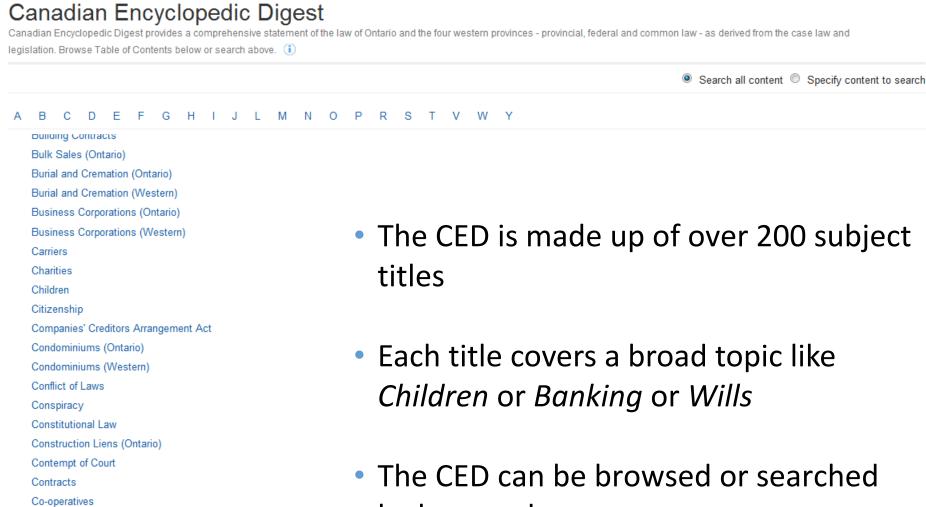


Q-Enter search terms, citations, databases, anything ...









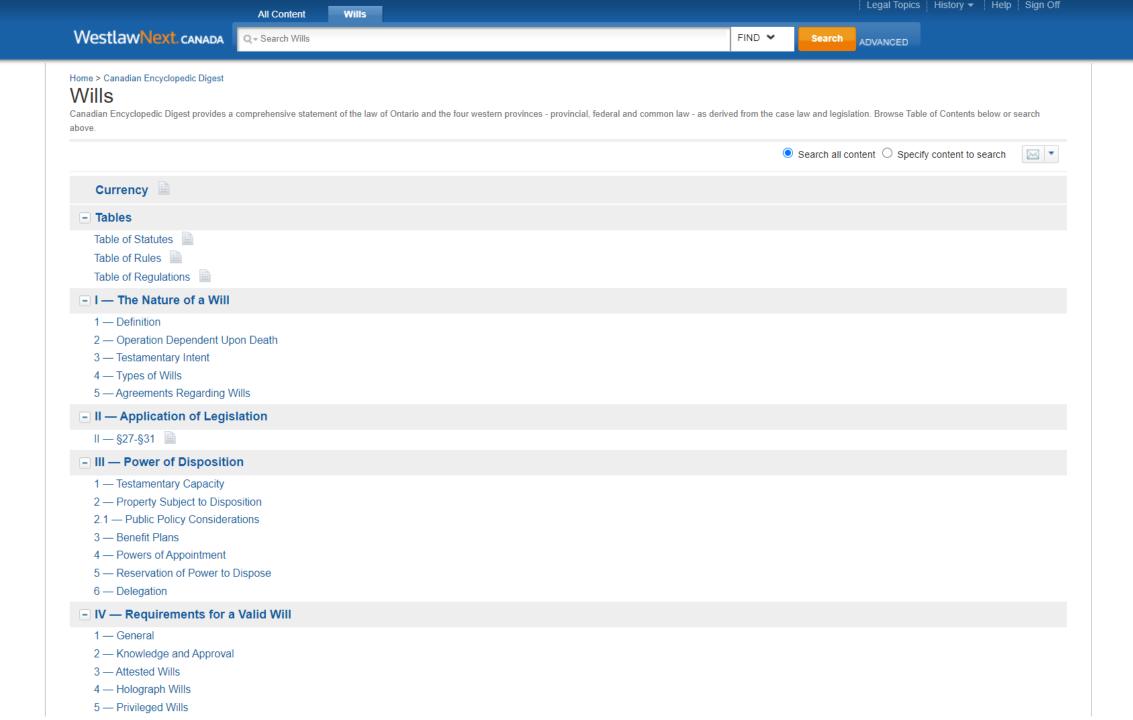
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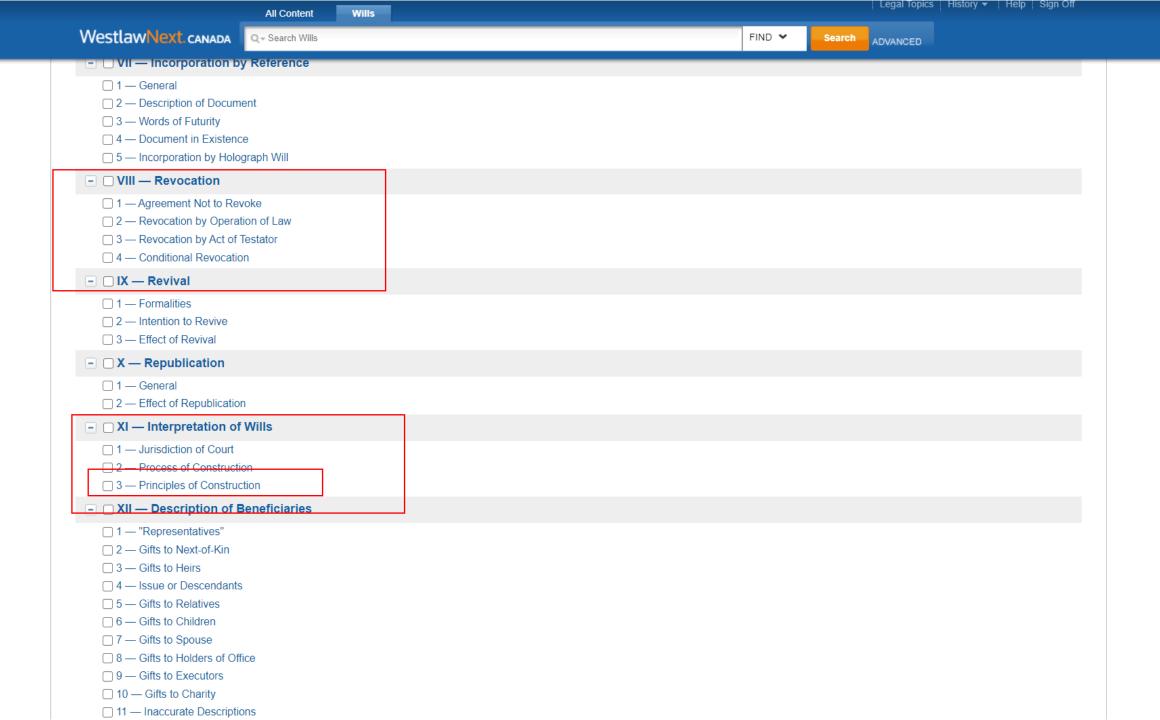
Courts (Ontario)

Costs

Coroners and Medical Examiners

by keyword





WestlawNext CANADA

Q - Search 3 — Principles of Construction

All Content

FIND 🕶

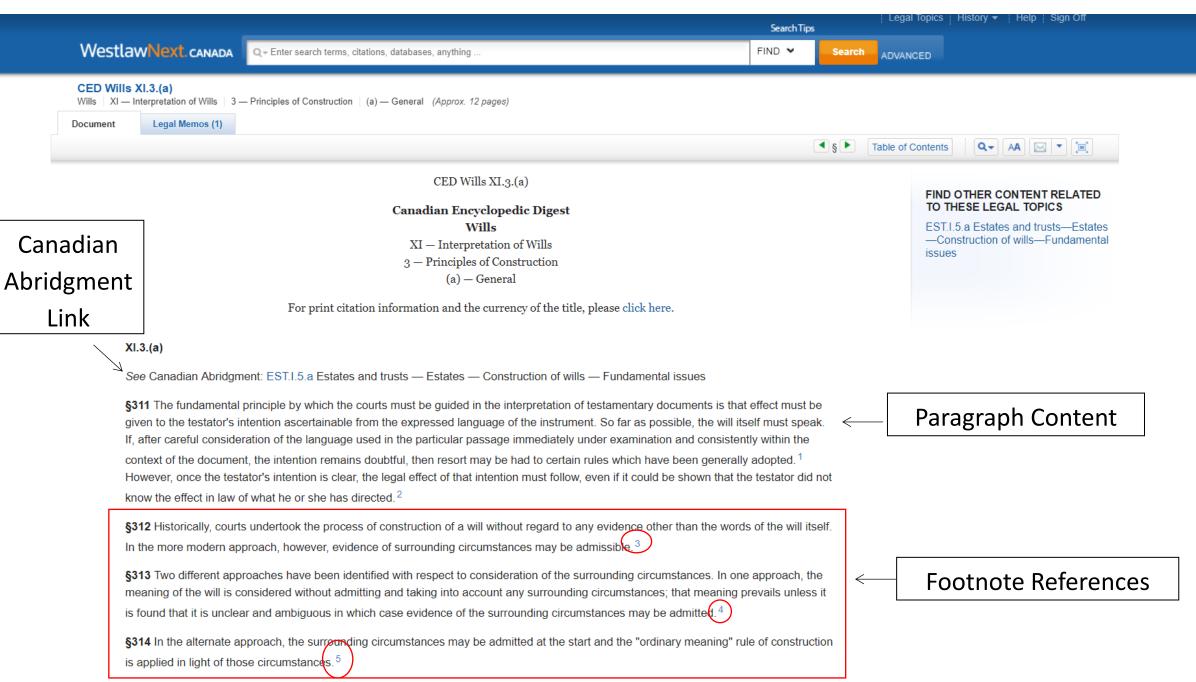
Search

ADVANCED

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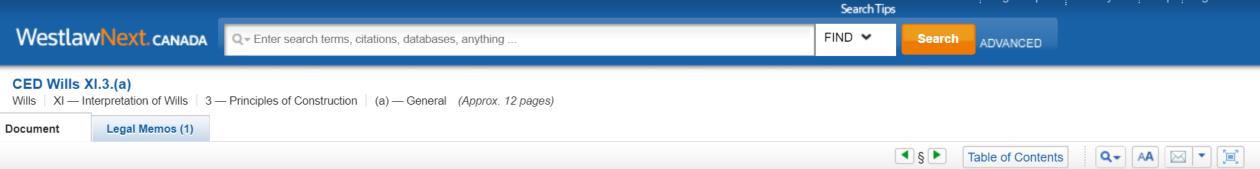
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§315 The evidence regarding "surrounding circumstances" refers only to indirect extrinsic evidence ("armchair evidence") such as the

٦,



passing to cousins who were strangers; court ordered residue to different beneficiaries).

- Lecky Estate v. Lecky (2011), 2011 CarswellAlta 2230 (Alta. Q.B.); Smith v. Home of the Friendless (1932), 1932 CarswellOnt 70 (S.C.C.) (duty of court is to ascertain intention of testator, which intention is to be collected from whole will taken together; in construing language of testator where ambiguous, court can consider not only provisions of will, but also circumstances surrounding and known to testator at time when will made, and adopt meaning most intelligible and reasonable as being testator's intention); Grand Estate, Re (1945), 1945 CarswellOnt 319 (Ont. H.C.); Oosterhoff, Oosterhoff on Wills and Succession, 7th ed. (Carswell, 2011), pp. 487-500.
- Haidl v. Sacher (1979), 1979 CarswellSask 131 (Sask. C.A.); Dice v. Dice Estate (2012), 2012 CarswellOnt 8608 (Ont. C.A.) (golden rule in interpreting wills is to give effect to testator's intention as ascertained from language used, having regard to will as whole; where intention cannot be ascertained from plain meaning of language used, court may consider surrounding circumstances known to testator when will made, known as "armchair rule"); Moffet Estate v. Irwin (2011), 2011 CarswellOnt 9361 (Ont. S.C.J.) (court should have regard to clear terms of will and only take into account surrounding circumstances when terms of will are unclear); Smith Estate, Re (2010), 2010 CarswellBC 500 (B.C. C.A.); TLC The Land Conservancy of British Columbia Inc. No. S36826, Re (2014), 2014 CarswellBC 3568 (B.C. C.A.).
- Haidl v. Sacher (1979), 1979 CarswellSask 131 (Sask. C.A.) (second approach is most likely to elicit testator's intention and for that reason is more desirable approach); Wernicke v. Quirk (2011), 2011 CarswellSask 551 (Sask. C.A.) (correct approach in Saskatchewan is to admit evidence of surrounding circumstances at start and apply "ordinary meaning" rule of construction on that context; generally only indirect evidence is admissible because primary evidence of testator's intention is will itself); Marks v. Marks (1908), 1908 CarswellBC 61 (S.C.C.) (court bound to read language of testator in light of all circumstances that surrounded and were known to testator at time, and to give effect to intention so disclosed); Lecky Estate v. Lecky (2011), 2011 CarswellAlta 2230 (Alta. Q.B.); Davis, Re (1983), 1983 CarswellAlta 290

#### Wills

Canadian Encyclopedic Digest provides a comprehensive statement of the law of Ontario and the four western provincial, federal and common law - as derived from the case law and legislation. Browse Table of Contents below or

search above.		
☐ Select all content ☐ Collapse All	Search all content	$\square$
□ Currency 🖺		
- Tables		
<ul> <li>□ Table of Statutes</li> <li>□ Table of Rules</li> <li>□ Table of Regulations</li> </ul>		
- □ I — The Nature of a Will		
<ul> <li>□ 1 — Definition</li> <li>□ 2 — Operation Dependent Upon Death</li> <li>□ 3 — Testamentary Intent</li> <li>□ 4 — Types of Wills</li> <li>□ 5 — Agreements Regarding Wills</li> </ul>		
- □ II — Application of Legislation		
□ II — §27-§31 🖺		
- □ III — Power of Disposition		
□ 1 — Testamentary Capacity □ 2 — Property Subject to Disposition □ 2.1 — Public Policy Considerations		



Home > Canadian Encyclopedic Digest > Wills

#### Advanced Search: Wills

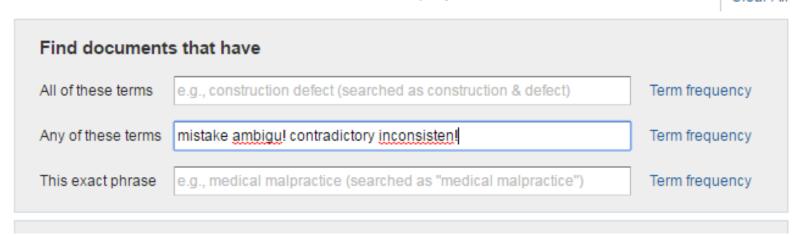
Use the fields below to build a Boolean Terms & Connectors query. Clear All **Connectors and Expanders** Find documents that have AND entence e.g., construction defect (searched as construction & defect) Term frequency All of these terms OR or Preceding within sentence +s Any of these terms e.g., physician surgeon (searched as physician OR surgeon) Term frequency In same paragraph /p Phrase This exact phrase e.g., medical malpractice (searched as "medical malpractice") Term frequency Preceding within paragraph +p % But not /n Within n terms of Exclude documents that have Root expander Preceding within n terms of +n These terms Universal character Prefix to turn off plurals and equivalents CED Title CED Classification

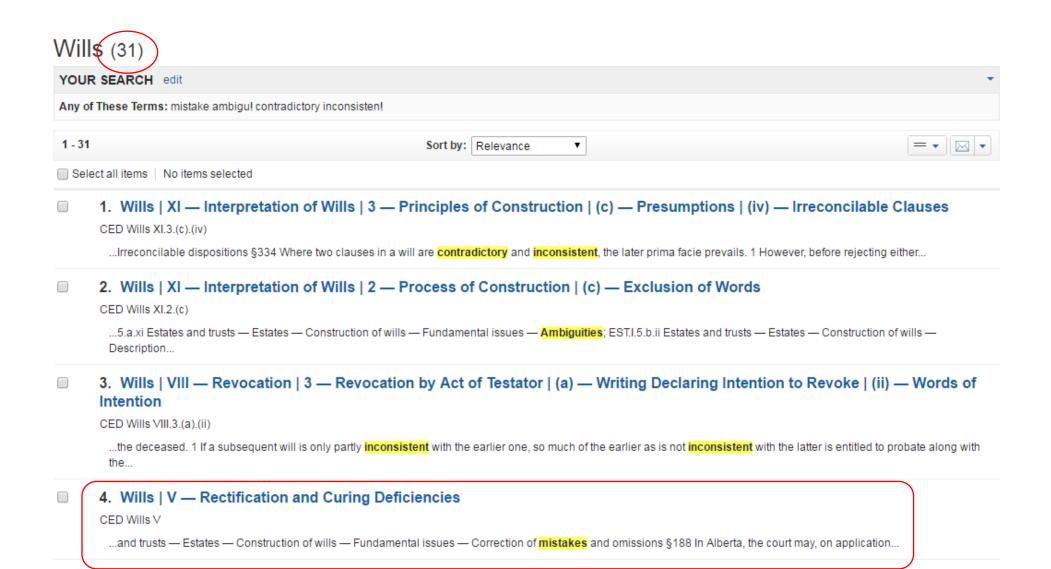
#### Home > Canadian Encyclopedic Digest > Wills

#### Advanced Search: Wills

Use the fields below to build a Boolean Terms & Connectors query.

Clear All









**Primary Law** 



- Keyword Search Strategy:
  - Step 1: Brainstorm for keywords
  - Step 2: Identify concepts
  - Step 3: Create query and execute search
  - Step 4: Analyze results
  - Step 5: Refine search



Keyword Search Strategy:

Step 1: Brainstorm for keywords

 Will, estate, codicil, construction, interpretation, gift, bequest, donation, residual, cancel, revoke, negate, mistake, error, ambiguity



- Keyword Search Strategy:
  - Step 2: identify key concepts, grouping synonyms
  - CONCEPT 1 = estates AND wills
  - CONCEPT 2 = Construction, interpretation
  - CONCEPT 3 = Gift, bequest, donation
  - CONCEPT 4 = cancel, revoke, negate
  - CONCEPT 5 = mistake, error, ambiguity



Keyword Search Strategy:

Advanced Search Formula:

(1a OR 1b OR 1c) AND (2a OR 2b OR 2c) AND (3a OR 3b OR 3c)

- 1 and 2 and 3 are distinct CONCEPTS
- 1a, 1b, 1c are variants of CONCEPT 1



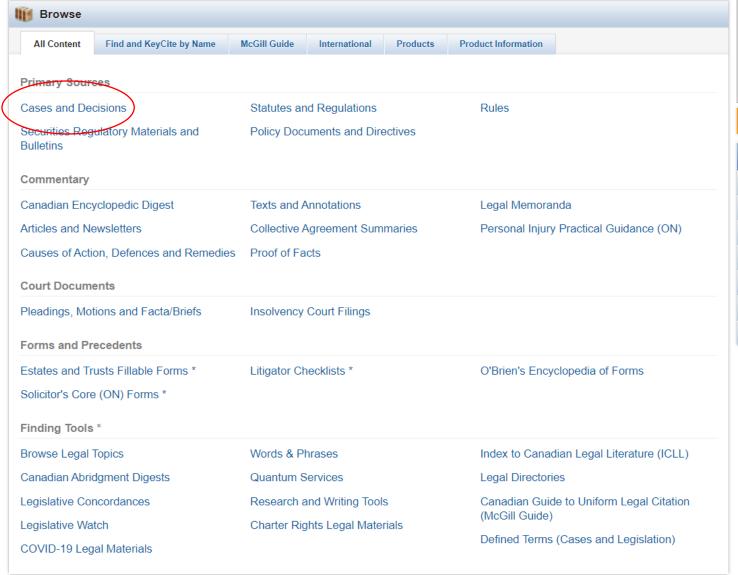
- Keyword Search Strategy:
  - Advanced Search Formula:
    - CONCEPT 2 = Construction, interpretation
    - CONCEPT 3 = Gift, bequest, donation
    - CONCEPT 4 = cancel, revoke, negate
      - Adv: (construction or interpretation) & (gift or bequest or donation) & (cancel! or revoke or revoca! or negat!)



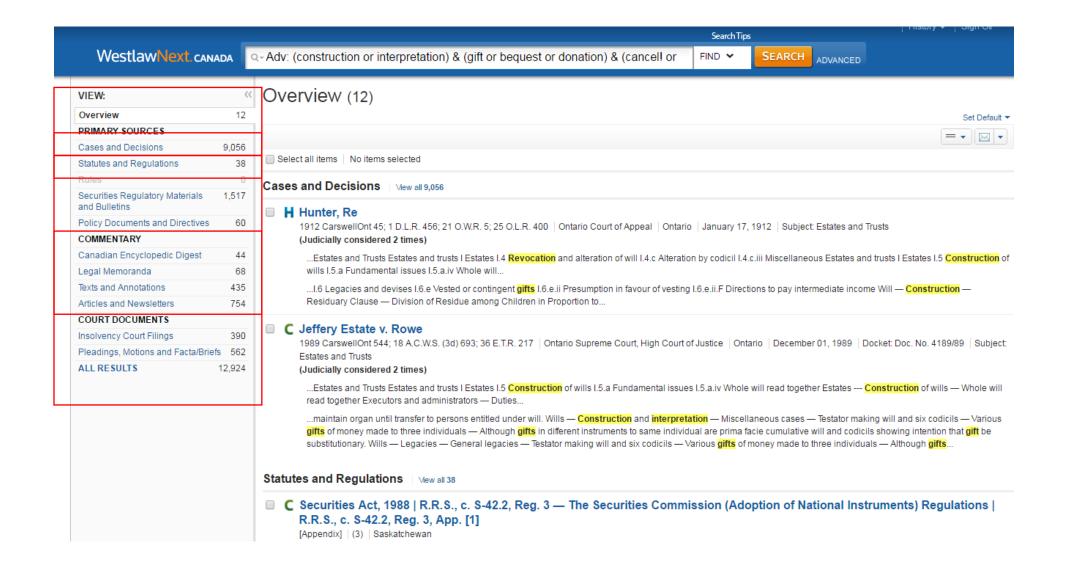
# Westlaw Next canada

Adv: (construction or interpretation) & (gift or bequest or donation) & (cancell or revoke or revocal or negatl)









- Keyword Search Strategy:
- Step 4: Analyze Results
  - Review the first few results from the initial results page. In the best results, are there key words/concepts that appear that should be added to your query?
  - Look at the volume of results. Are their too many or too few?



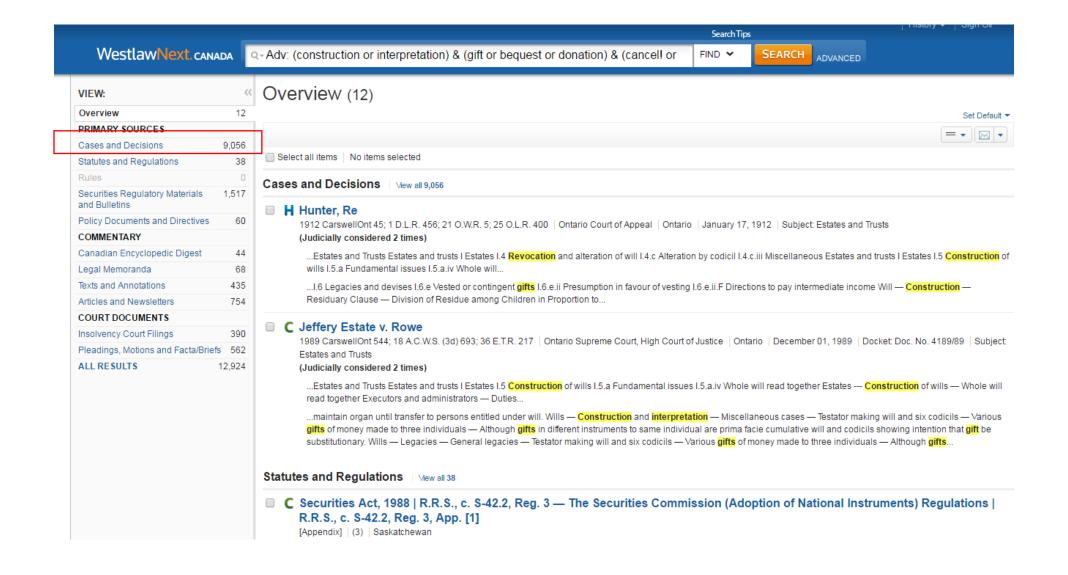
### Too Many Results Retrieved

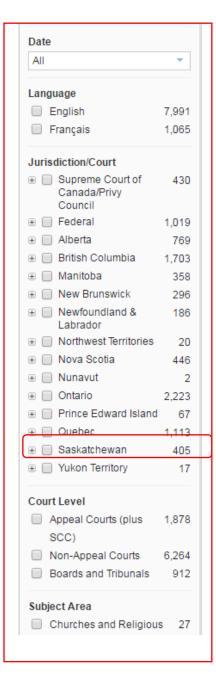
- Reduce the results to a more manageable number
  - Filter the results using the database
  - Add additional concepts to the query
  - Remove synonyms from the query

### Too Few Results Retrieved

- Increase the results
  - Deselect filtering options from the database
  - Remove concepts to the query
  - Add synonyms to the query
  - Revise the query







...Estates and Irusts Estates and trusts I Estates I.4 Revocation and alteration of will I.4.a Revocation I.4.a.v By divorce Estates --- Revocation and alteration of will — Revocation — By divorce Wills — Construction — Gift to my husband [AB]" — Subsequent divorce — Effect of gift. The testatrix left the universality of her goods to "my...

...after the divorce would indicate an intention to maintain the gift, such reasoning could not be relied upon here, where the...

#### ■ H 4. Norman Estate v. Watch Tower Bible and Tract Society of Canada

2013 CarswellBC 3493; 2013 BCSC 2099; [2014] B.C.W.L.D. 251; [2014] B.C.W.L.D. 252; [2014] B.C.W.L.D. 253; 235 A.C.W.S. (3d) 861; 55 B.C.L.R. (5th) 196 | British Columbia Supreme Court | British Columbia | October 17, 2013 | Docket: New Westminster S146205 | Subject: Estates and Trusts; Corporate and Commercial; Civil Practice and Procedure

...his wife ("donors") were practising Jehovah's Witnesses who made regular donations to defendant, registered charity representing Jehovah's Witnesses — Pursuant to conditional donation agreement, donors made conditional donation of \$200,000 to defendant; but should donors have personal need, they could request return of donation — Donors advanced total of \$310,000 to defendant, of which \$60,000...

...was converted to outright contributions for which they received charitable **donation** receipts — When donors had both died, defendant issued charitable **donation** receipt for balance of \$250,000 in conditional **donation** — Plaintiff, administrator of deceased's estate, applied for orders that conditional **donations** were testamentary dispositions and were invalid for failure to comply with s. 4 of Wills Act — Application dismissed — Conditional **donations** were not testamentary dispositions, as donors intended agreement to have immediate effect — Agreement evidenced **gift** ...

#### ■ C 5. Bates v. Oryshchuk

2009 CarswellAlta 1923; 2009 ABQB 688; [2010] A.W.L.D. 694; 183 A.C.W.S. (3d) 303; 18 Alta. L.R. (5th) 306; 485 A.R. 379; 54 E.T.R. (3d) 207 | Alberta Court of Queen's Bench | Alberta | November 23, 2009 | Docket: St. Paul ES14-02245 | Subject: Estates and Trusts; Corporate and Commercial

#### (Judicially considered 2 times)

...Corporate and Commercial Estates and trusts I Estates I.5 Construction of wills I.5.b Description of property I.5.b.i Definitions I.5.b.i.I "Personal property" Estates and trusts --- Estates — Construction of wills — Description of property — Definitions — "Personal property" O executed...

...s. 7 of Wills Act — Second will did not contain revocation clause, but intention to revoke could still be inferred — "Personal assets", determined in context to...

#### C 6. Public Television Assn. of Quebec v. Minister of National Revenue

2015 CarswellNat 3184; 2015 CarswellNat 7670; 2015 CAF 170; 2015 FCA 170; [2015] 6 C.T.C. 179; 2015 D.T.C. 5085; 255 A.C.W.S. (3d) 786; 475 N.R. 319 | Federal Court of Appeal | Federal | July 22, 2015 | Docket A-406-13 | Subject Income Tax (Federal)

...tax II.22 Special rules II.22.e Charities II.22.e.vii Revocation of registration II.22.e.vii.C Grounds Tax --- Income tax — Special rules — Charities — Revocation of registration — Grounds Registered charity's objects included advancement of education...

...adjustments — Agent conducted its own fundraising and merely assigned Canadian donations to charity — CRA upheld Minister's proposal under s. 168(1) of Income Tax Act to revoke charity's registration as charity on ground that charity had failed...

	Non-Appeal Courts Boards and Tribunals	303 22		
Subject Area				
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_	Constitutional	21		
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	Evidence	23		
	Family	107		
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	(GST)			
	Human Rights	8		
	Income Tax (Federal)	2		
	Insolvency	18		
	Insurance	9		
	Intellectual Property	1		
	International	5		
	Labour	25		
	Municipal	3		
	Natural Resources	6		
	Occupational Health and	1		
	Safety			

oubject. Estates and musts

...Estates and Trusts Estates and trusts I Estates I.4 Revocation and alteration of will I.4.a Revocation I.4.a.vi Dependent relative revocation Estates and trusts I Estates I.4 Revocation and alteration of will I.4.b Alteration on face of will I.4.b.ii Effect of obliteration Estates --- Revocation and alteration of will — Revocation — Dependent relative revocation Estates --- Revocation and alteration of will — Alteration on face of will — Effect...

...of obliteration Whether lines drawn through initials and solicitor's name cancelled the will or part thereof. Whether doctrine of dependent relative revocation applies. The testator, John Johannsson, also known as Johnnie Walker...

#### 8. Milburn v. Grayson

1920 CarswellSask 73; [1920] 2 W.W.R. 518; 13 Sask. L.R. 289 | Saskatchewan Court of Appeal | Saskatchewan | May 03, 1920 | Subject: Estates and Trusts

...1920 CarswellSask 73 1920 CarswellSask 73 Most Negative Treatment: Reversed Most Recent Reversed: Milburn v. Grayson | 1921 CarswellSask...

...16.a General principles Estates and trusts I Estates I.4 Revocation and alteration of will I.4.c Alteration by codicil I...

#### H 9. Bernesky v. Smith

2003 CarswellSask 146; 2003 SKQB 96; [2003] 7 W.W.R. 453; [2003] W.D.F.L. 216; [2003] S.J. No. 151; 122 A.C.W.S. (3d) 404 | Saskatchewan Court of Queen's Bench | Saskatchewan | March 03, 2003 | Docket: Battleford SUR. 101/02 | Subject: Estates and Trusts; Family (Judicially considered 4 times)

...and Trusts; Family Estates and trusts I Estates I.4 Revocation and alteration of will I.4.a Revocation I.4.a.i General principles Estates --Revocation and alteration of will — Revocation — General Deceased and applicant cohabited from 1977 to deceased's death...

...applied — Section 17(1)(b) of Wills Act operates to revoke testator's will only where two year anniversary of continuous cohabitation...

#### ■ H 10. Johnson, Re

1957 CarswellSask 16; 21 W.W.R. 289; 8 D.L.R. (2d) 221 | Saskatchewan Court of Appeal | Saskatchewan | March 19, 1957 | Subject: Estates and Trusts

#### (Judicially considered 10 times)

...Thereby on Survivor — Whether Irrevocable — Will of Survivor Purporting to Revoke Joint Will. Judgments — Interpretation — When Reasons and Affidavits Incorporated in Reasons May Be Referred...

...1947. The executor, being in doubt as to the proper construction of the will, applied to a Queen's Bench judge in...

#### □ C 11. Ruse Estate, Re

### Cases and Decisions (405)



...2002 SKCA 53, 2002 CarswellSask 246 2002 SKCA 53 Most Negative Treatment: Distinguished Most Recent Distinguished: Fuchs v. Fuchs | 2013 ABQB...

...XIV.7.c Miscellaneous Estates and trusts I Estates I.5 Construction of wills I.5.a Fundamental issues I.5.a.v Ordinary and...

...I.5.a.v.B Miscellaneous Estates and trusts I Estates I.5 Construction of wills I.5.d Practice and procedure on application for construction of will I.5.d.iv Evidence I.5.d.iv.C Miscellaneous Estates and...

...I.9.c Application for probate I.9.c.i General principles Estates --- Construction of wills — General principles — Ordinary and natural meaning of words...

#### C 2. McLean Estate, Re

1992 CarswellSask 382; [1993] 3 W.W.R. 132; 106 Sask. R. 173; 47 E.T.R. 310 | Saskatchewan Surrogate Court | Saskatchewan | November 16, 1992 | Docket: Doc. Humboldt 31/92 | Subject: Estates and Trusts (Judicially considered 1 time)

- Keyword Search Strategy:
- Step 4: Analyze Results
- The term "negat!" netted many irrelevant hits using the word "negative"
- The term "donation" wasn't really helping, so we can eliminate it
- "construction" and "interpretation" are good terms, but only when used in proximity to the word "will"



Your Keyword Search Strategy:

Step 5: Reformulate Search

Adv: (will /s (construction or interpretation)) & (gift or bequest) & (cancel! or revoke or revoca!)





1:45 pm - 2:45 pm

Your principal has asked you to conduct research on an important criminal law matter this afternoon.



- Your principal has asked you to conduct research on an important criminal law matter this afternoon:
  - Two undercover police constables enter a bar where they believe drugs are being sold. They notice two young men (the accused and a friend) who look suspicious, approach them, and ask to buy some cocaine. The accused then sells them a small amount of powder cocaine. The next day, the constables arrest the accused (our client) and charge him with drug trafficking. Given that the police asked to buy drugs, is entrapment a viable defense?



# ■ Breakout Rooms

Section 1: Facilitators: Alan, Leah	Section 2: Facilitators: Funmi, Ken
Breakout Room 1: CanLII, 5 students	Breakout Room 1: CanLII, 5 students
Breakout Room 2: CanLII, 5 students	Breakout Room 2: CanLII, 5 students
Breakout Room 3: CanLII, 5 students	Breakout Room 3: CanLII, 5 students
Breakout Room 4: CanLII, 5 students	Breakout Room 4: CanLII, 5 students
Breakout Room 5: Westlaw, 5 students	Breakout Room 5: Westlaw, 5 students
Breakout Room 6: Westlaw, 5 students	Breakout Room 6: Westlaw, 5 students
Breakout Room 7: Westlaw, 5 students	Breakout Room 7: Westlaw, 5 students
Breakout Room 8: Westlaw, 5 students	Breakout Room 8: Westlaw, 5 students
Breakout Room 9: Quicklaw, 5 students	Breakout Room 9: Quicklaw, 5 students
Breakout Room 10: Quicklaw, 5 students	Breakout Room 10: Quicklaw, 5 students
Breakout Room 11: Quicklaw, 5 students	Breakout Room 11: Quicklaw, 5 students
Breakout Room 12: Quicklaw, 5 students	Breakout Room 12: Quicklaw, 5 students



- Objectives:
  - Your group's goal is to get started and explore the legal research process with your assigned database:
    - 1. Locate commentary sources for this area of law.
    - 2. Construct a search for case law using the five-step search process demonstrated.



### • Questions:

- Please select a group representative who will report back to the larger group on these three questions:
  - 1. How did you feel about the search? (i.e., successes, concerns, frustrations?)
  - 2. Was your search iterative? (Did your successes and mistakes lead to a revised search and better results?)
  - 3. Where did you get stuck?



# Conclusion

Survey:

Please complete this anonymous survey after today's session: <a href="https://forms.gle/aZfPvKzKSMQF67ZVA">https://forms.gle/aZfPvKzKSMQF67ZVA</a>.

