

Problem Set H	You work for the state police. Your supervisor has asked you to research employment discrimination in police forces in order to design uniform policies to help the state police avoid illegal discrimination in the future.
Problem Set I	You represent the plaintiff in an automobile injury case. You need to research whether your client can collect for pain and suffering as a result of her injuries.
Problem Set J	You are counsel to the state legislative committee with responsibility for elections, voting, campaign finance, and similar issues. The chair of the committee has asked you for a briefing book on laws prohibiting felons and ex-felons from voting. You need to research felon disenfranchisement.
Problem Set K	Your client saw her employer dump toxic waste in an illegal manner. She reported the information to state authorities. The next day, she was fired from her job. You need to research whether she has a valid cause of action against her former employer for wrongful discharge under state whistleblower protections.
Problem Set L	Your client quit her job three years ago to care for her mother, who suffered from Alzheimer's disease. Your client's mother recently died, and your client has learned that she was cut out of her mother's will. She wants to challenge the validity of the will, which was executed while her mother was ill. You need to learn what evidence would be necessary to show that Alzheimer's disease affected your client's mother's capacity to execute the will (and thus the validity of the will).
Problem Set M	You work for a non-profit organization that promotes consumer rights. You are particularly interested in consumer protection laws as they relate to non-English speakers and individuals for whom English is a second language. You need to research consumer protection laws in general, as well as their effects on these individuals.
Problem Set N	You work for the public defenders office. Your client is a juvenile who was convicted of delinquency without the benefit of a lawyer. You are appealing her conviction. Part of your claim is that she did not receive her constitutional right to counsel at her trial and that she did not validly waive that right. You need to research these issues.
Problem Set O	You represent the mother of two young children in a custody dispute with the children's father. You need to research the factors that courts use to award custody and to change custody between biological parents.

I. Review Questions

- A. Would you be most likely to begin your research on a topic about which you knew very little with a legal encyclopedia or an A.L.R. Annotation? Explain your answer.
- B. Would you be most likely to use a legal encyclopedia or an A.L.R. Annotation to research the law of multiple jurisdictions? Explain your answer.

- C. Which of the following statements is false? (a) C.J.S. and Am. Jur. 2d are national encyclopedias that contain references to cases from across the country; (b) state-specific encyclopedias contain references to cases from an individual state; (c) A.L.R. Annotations address only questions of state law, not federal law.

II. Researching by Citation in Legal Encyclopedias

One resource that can be a useful starting point for a research project is a legal encyclopedia. Legal encyclopedias simply report on the state of the law in a very general way. They are helpful for obtaining general background information on your research topic and for locating limited citations to primary legal authority.

This section requires you to locate material in a legal encyclopedia from a citation. You can locate material by citation online or in print.

A. Retrieving a Source by Citation

Identify the legal encyclopedia and citation assigned to your problem set in the chart below. Using only the citation, retrieve your assigned section.

If you are researching online, simply type the encyclopedia abbreviation and citation into the search box to retrieve the section assigned for your problem set. For example, for Problem Set A, type the following into the search box:

Am. Jur. 2d Freedom of Information Acts 55

If you are researching in print, locate the appropriate topic in the main volumes of the encyclopedia assigned to your problem set, and turn to the assigned section.

Problem Set	Encyclopedia	Citation
Problem Set A	Am. Jur. 2d	Freedom of Information Acts § 55
Problem Set B	C.J.S.	Obscenity § 12
Problem Set C	Am. Jur. 2d	Products Liability § 860
Problem Set D	C.J.S.	Mental Health § 49
Problem Set E	Am. Jur. 2d	Searches and Seizures § 89
Problem Set F	C.J.S.	Damages § 242
Problem Set G	Am. Jur. 2d	Unemployment Compensation § 70
Problem Set H	C.J.S.	Civil Rights § 239
Problem Set I	Am. Jur. 2d	Damages § 213
Problem Set J	C.J.S.	Elections § 47

Problem Set	Encyclopedia	Citation
Problem Set K	Am. Jur. 2d	Wrongful Discharge § 116
Problem Set L	C.J.S.	Wills § 750
Problem Set M	Am. Jur. 2d	Consumer and Borrower Protection § 278
Problem Set N	C.J.S.	Criminal Procedure and Rights of the Accused § 680 (Hint: On Westlaw, you also could use the C.J.S. Table of Contents to locate this provision.)
Problem Set O	Am. Jur. 2d	Divorce and Separation § 797

Read the section, and answer the Legal Encyclopedia Questions assigned to your problem set in the chart below.

Legal Encyclopedia Questions

Problem Set A	1. Does the FOIA make distinctions based on who is requesting the information?	2. Under the FOIA, each agency must make nonexempt records available to any person who requests them if the request is made properly. In making any record available to a person, an agency must provide the record in what form or format?
Problem Set B	1. A publication must have certain characteristics to be obscene under the principles enunciated by the United States Supreme Court. What are those characteristics?	2. How may a state not define obscenity?
Problem Set C	1. Name two types of advertising statements that may serve as a basis for imposing liability for negligent misrepresentation on a defendant seller or manufacturer, or in other words, are actionable.	2. When is there no cause of action against a manufacturer of a product based on that manufacturer's advertising?
Problem Set D	1. What are the goals of civil commitment or confinement?	2. What are the two legal foundations or justifications for the exercise of authority to confine the mentally ill?
Problem Set E	1. What does an investigatory or <i>Terry</i> stop usually involve?	2. What level of suspicion must an investigatory stop be supported by?
Problem Set F	1. What is to be considered in determining whether exemplary damages will be awarded?	2. What must be the justification of punitive damages?

Problem Set G	1. What is the basic element to be considered when interpreting and applying the provisions of unemployment compensation statutes?	2. What types of acts constitute misconduct warranting denial of unemployment compensation?
Problem Set H	1. Under what conditions may an employer give and act upon the results of an ability test for job applicants?	2. When does a test have a disparate impact?
Problem Set I	1. According to this section, “pain and suffering” has served as a convenient label for several specific conditions. List two of these conditions.	2. Under what conditions may pain and suffering be psychosomatic in origin?
Problem Set J	1. Under what circumstances did a provision disenfranchising persons convicted of crimes involving moral turpitude violate the Equal Protection Clause?	2. What purpose do felon disenfranchisement laws serve?
Problem Set K	1. What must a plaintiff demonstrate under some states’ acts to establish a prima facie case of retaliatory discharge under the whistleblower statute?	2. What must the court look at to determine whether an employee’s report of a violation or suspected violation of law is made in good faith for purposes of a state whistleblower statute?
Problem Set L	1. What type of evidence may be sufficient to carry the issue of testamentary capacity to the jury?	2. Does evidence that relates only to the testator’s physical condition compel a conclusion of unsoundness of mind?
Problem Set M	1. Under an unfair-trade practices act, when is an act “unfair”?	2. Generally when is a transaction not unfair?
Problem Set N	1. What are the purposes of the constitutional guarantee of the right to effective assistance of counsel?	2. To whom does the right to counsel belong?
Problem Set O	1. In some jurisdictions, under what conditions do courts give a preference to the mother in custody disputes?	2. In many jurisdictions, there is no prima facie presumption in favor of the mother. In those jurisdictions, what consideration are the parents to receive for custody of a minor child?

1. Answer the first legal encyclopedia question for your problem set.
 2. Answer the second legal encyclopedia question for your problem set.
- B. If you are researching in print, update your research by checking the pocket part for the main volume. (If you are using Westlaw or Lexis, simply enter “not applicable” as your answer.) Does the pocket part contain any additional information? If so, provide the name of a case or other resource cited in the pocket part. If not, answer “None.” (Hint: Volumes published within the past year will not have pocket parts. If the volume you use is too new to have a pocket part, answer “None.”)

III. Researching by Word Search or Index in A.L.R. Annotations

American Law Reports, or A.L.R., Annotations collect summaries of cases, typically from a variety of jurisdictions, to provide an overview of the law on a narrow topic. Unlike legal encyclopedias, which usually focus on very broad topics, A.L.R. Annotations tend to focus on narrower legal questions. A.L.R. Annotations are also more detailed than legal encyclopedia entries because they include summaries of specific cases. Like encyclopedia entries, however, they do not contain much analysis. They simply report the results of decisions. A.L.R. Annotations can be a helpful way to begin your legal research to give you an overview of your research topic as well as providing authorities on both sides of an issue. They can also direct you to primary authority from the controlling jurisdiction and persuasive authority from other jurisdictions.

This section directs you to research A.L.R. Annotations using a word search (online) or an index search (in print).

If you are searching online, you will use bold terms to form a word search to retrieve relevant annotations.

In Westlaw: From the “All Content” tab, follow the links to “Secondary Sources” and click on American Law Reports. Click on “Advanced,” enter the bold terms and phrases in the “Title” box separated by “and,” and execute the search. Sort by relevance. (For example, in Problem Set A you would enter: records and agency and Freedom of Information Act.)

In Lexis: From the Explore Content menu and the “Content Type” tab, select “Secondary Materials” and then click on “American Law Reports (ALR).” Enter the bold terms and phrases in the “Title” box separated by “and” and execute the search. Sort by relevance. (For example, in Problem Set A you would enter: records and agency and Freedom of Information Act.)

Locate the A.L.R. Annotation with a title that most closely corresponds to the search terms for your problem set.

If you are researching in print, locate the A.L.R. Index in your library. Use the search terms assigned for your problem set to locate the citation to an A.L.R. Annotation in the A.L.R. Index. Retrieve the Annotation from the main A.L.R. volumes.

Problem Set	A.L.R. Search Terms
Problem Set A	Freedom of Information Acts; Agency records; what are “ records ” of agency which must be made available under Freedom of Information Act (5 U.S.C.A. § 522(a)(3))
Problem Set B	Lewdness, Indecency, and Obscenity; Zoning; validity of ordinances restricting location of “ adult entertainment ” or sex-oriented businesses
Problem Set C	Products Liability; Advertising; statements in advertisements as affecting liability of manufacturers or sellers for injury caused by product other than tobacco
Problem Set D	Incompetent or Insane Persons; Civil rights and discrimination; commitment, right to relief under Federal Civil Rights Act of 1871 (42 U.S.C.A. § 1983) for alleged wrongful commitment to or confinement in mental hospital
Problem Set E	Drugs and Narcotics; courier profile; testimony, admissibility of drug courier profile testimony in criminal prosecution
Problem Set F	Punitive Damages; Malice; false imprisonment and arrest, defendant’s state of mind necessary or sufficient to warrant award of punitive damages in action for false arrest or imprisonment
Problem Set G	Unemployment Compensation; Conduct; off-duty, conduct or activities of employees during off-duty hours as misconduct barring unemployment compensation benefits
Problem Set H	Age Discrimination; Law enforcement employment, actions under Age Discrimination in Employment Act (29 U.S.C.A. §§ 621-634) challenging hiring or retirement practices in law enforcement employment
Problem Set I	Pain and Suffering; Mental or psychological damages, excessiveness or adequacy of damages awarded for injuries causing mental or psychological damages
Problem Set J	Elections and Voting; Conviction; voting rights, effect of conviction under federal law, or law of another state or country, on right to vote or hold public office
Problem Set K	Discharge from Employment or Office; Damages; at-will employment, damages recoverable for wrongful discharge of at-will employee; excessiveness or adequacy or damages under state law
Problem Set L	Wills; Alzheimer’s disease as affecting testamentary capacity
Problem Set M	Trademarks, Tradenames, and Unfair Trade Practices; Consumer protection; practices forbidden by state deceptive trade practice and consumer protection acts, generally
Problem Set N	Attorneys; Children and minors; waiver of right to counsel, validity and efficacy of minor’s waiver of right to counsel —cases decided since Application of Gault , 387 U.S. 1, 87 S. Ct. 1428, 18 L.Ed.2d 527 (1967)
Problem Set O	Custody and Support of Children; Religion and religious societies; custody of children, religion as factor in child custody cases

- A. Provide the title and A.L.R. citation of the Annotation you located.
- B. Browse the Annotation, and answer the two A.L.R. Annotation questions below for your problem set.

A.L.R. Annotation Questions

Problem Set A	1. Using the Article Outline or Index for this Annotation, locate the “Summary and comment” section. The United States Supreme Court in <i>U.S. Dep’t of Justice v. Tax Analysts</i> held that in order for requested materials to qualify as “agency records” for purposes of FOIA, they must meet two conditions. List the two qualifications or conditions.	2. Locate the section dealing with “Personal notes or letters.” Why did the Supreme Court in <i>Kissinger v. Reporters Committee for Freedom of the Press</i> reject the argument that material acquired the status of agency records when it was removed from White House files and taken to the party’s office at the Department of State?
Problem Set B	1. Using the Article Outline or Index for this Annotation, locate the section on “Summary and comment—generally.” What dimension is added when zoning regulations exclude a sexually oriented business such as an “X-rated” movie theater or an adult bookstore?	2. Locate the section on “Summary and comment—Practice pointers.” What should an adult business client do when a federal forum is desired for the trial of constitutional claims?
Problem Set C	1. Using the Article Outline or Index for this Annotation, locate the section on “Summary and comment—Practice pointers.” What question does products liability litigation often present initially?	2. Why is this question critical?
Problem Set D	1. Using the Article Outline or Index for this Annotation, locate the section on “Tort elements: Duty.” In <i>Campbell v. Glenwood</i> , what did the court say was an essential element in tort liability (and consequently in an action for deprivation of civil rights)?	2. Locate the section on “Background, summary, and comment—Practice Pointers.” What does the federal statute 28 U.S.C. § 1343(3) do?
Problem Set E	1. Using the Article Outline or Index, locate the section on “Summary and comment—Generally.” What do characteristics of the drug courier profile include?	2. Locate the section on “Summary and comment—Practice pointers.” What should defense counsel consider in situations when a drug courier profile is, or may be, admissible in part or for certain purposes?

Problem Set F	1. Using the Article Outline or Index for this Annotation, locate the section on “Summary and comment—generally.” Some courts have specifically held that the requisite malice may be inferred from two circumstances. What are those two circumstances?	2. What has been said to warrant an award of punitive damages in an action for false arrest or imprisonment?
Problem Set G	1. Using the Article Outline or Index for this Annotation, locate the section on “Arrests or convictions—Public employees—Benefits allowed.” What did the court hold in <i>Beaty v. City of Idaho Falls</i> ?	2. Locate the “Practice pointers” section. Why must unemployment security law be liberally construed in many jurisdictions?
Problem Set H	1. Using the Article Outline or Index for this Annotation, locate the section on “Background, summary, and comment—Background.” What is an exception to the prohibition on age discrimination against employees or applicants for employment who are between the ages of 40 and 70?	2. Locate the section on “Background, summary, and comment—Practice pointers.” What is a preliminary procedural issue of which counsel in an ADEA law enforcement action should be aware?
Problem Set I	1. Using the Article Outline or Index for this Annotation, locate the “Summary and comment—Practice pointers” section. What is the first step an attorney must take, after determining that the person has a cause of action for personal injuries, and after establishing an attorney-client relationship?	2. Locate the section on “Summary and comment—Preparation for settlement discussions.” After an attorney has determined the nature of the client’s injuries and the various elements arising out of the injuries and related matters which can be the basis for damages, what is the attorney ready to do?
Problem Set J	1. Using the Article Outline or Index for this Annotation, locate the section on “Convictions under law of another state: Held disqualification.” According to the court in <i>Application of Smith</i> , what is the purpose of the disqualifying statute?	2. Locate the “Summary and comment—Practice pointers” section. How may a person convicted of a crime and not allowed to register to vote raise the issue of his qualifications?

Problem Set K	1. Using the Article Outline for this Annotation, locate the “Summary and comment” section. Under exceptions to the at-will doctrine, a remedy is available in most states for wrongful discharge when the employee has engaged in what kind of conduct?	2. What types of damages are available to an employee for wrongful discharge?
Problem Set L	1. Using the Article Outline or Index for this Annotation, locate the section on “Summary and comment—Generally.” What does the presence or absence of testamentary capacity determine?	2. Locate the section on “Summary and comment—Practice pointers” section. Which witnesses’ testimony can be critical in a case where the testamentary capacity of the testator is questioned because of Alzheimer’s disease?
Problem Set M	1. Using the Article Outline or Index for this Annotation, locate the section on “Background, summary, and comment—Generally.” The past decade has seen the enactment of myriad state statutes intended to do what?	2. Locate the section on “Background, summary, and comment—Practice pointers.” Why is the body of case law considering questions as to what acts or practices violate state deceptive trade practice and consumer protection statutes relatively limited?
Problem Set N	1. Using the Article Outline or Index for this Annotation, locate the section on “Summary and comment—Generally.” Which party bears the burden of proof as to a valid waiver?	2. Locate the section on “Summary and comment—Practice pointers.” When may the issue of whether a juvenile was adequately advised of the right to counsel typically be reviewed for the first time?
Problem Set O	1. Using the Article Outline or Index for this Annotation, locate the section dealing with “Consideration of religious factors generally.” In custody proceedings involving contests between natural parents of a child, what view have courts held or expressed with respect to religious factors?	2. Locate the section on “Summary and comment—Practice pointers.” Typically, in a custody determination, what does the court assume?

1. Answer the first A.L.R. Annotation question for your problem set.
 2. Answer the second A.L.R. Annotation question for your problem set.
- C. Locate the table listing the jurisdictions from which the Annotation cites authority. What is the first jurisdiction listed? (Hint: A.L.R. uses a variety of labels on the table listing jurisdictions. It may be called Table of Jurisdictions Represented, Table of Cases, Jurisdictional Table of Cited Statutes and Cases, or something else to that effect.)
- D. If you are researching in print, check the pocket part to the main volume to update your research. If you are using Westlaw or Lexis, check “Research References” on Westlaw or the section on Lexis labelled “Related matters” or “Related annotations.” Does the pocket part or “Research References” or “Related matters/annotations” list any related A.L.R. Annotations? If so, provide the title and citation of the first Annotation listed. If not, answer “None.”