PRIMARY SOURCES: CASES

Decisions of the courts are the other main primary source of law. It is the decision of the court itself which holds the authority—not the headnote or the publisher’s summary of the case. So while databases like Briefcase (via WestlawNZ) are a very useful way of locating cases, the full decisions must be examined before the case is relied upon.

Decisions are published in different formats (but the content of the decision will ordinarily be the same). The earliest version obtainable will be the unreported version issued by the court. The decision may subsequently be published in one or several law report series.

In New Zealand the official, authorised case reports are the New Zealand Law Reports (NZLR), published by Lexis. Always cite this version if it exists.

Examples of other, specialist law reports are:

- *Human Rights Reports of New Zealand* (Thomson Reuters /WestlawNZ)
- *New Zealand Conveyancing Cases* (Wolters Kluwer / CCH)
- *Procedure Reports of New Zealand* (Thomson Reuters /WestlawNZ)
- *New Zealand Administrative Reports* (LexisNexis)

Law reports and unreported judgments are mostly available in print and/or online via subscription databases such as Westlaw, Lexis and CCH, or can be found freely online in their unreported condition via NZLII or the court’s website.

Subscription databases provide value-added linking and analysis to legislation and secondary sources. The free versions do not.

The Library provides access to these and more, and can be easily access via the Law Subject Guide—your portal to legal research https://otago.libguides.com/law

From Law Subject Guide, choose a NZ-based legal database to begin your search.

You should always search across all the databases—they get updated at different rates, and may link out to different sources.

Read on to learn about finding and using case law from three key databases: WestlawNZ, Lexis Advance, and CCH.

A NOTE ON PUBLISHERS

Legal publishers are rather insular, and would rather not share their content. This means you have to learn who publishes what, so that you can target the right databases when searching for reported (published) cases. The Library Catalogue, Library search | Ketu (LSK) will provide information about who publishes what in their bibliographic data.
FIND NEW ZEALAND CASES

Your starting point when looking for case law will vary, so your strategy will vary too.

<table>
<thead>
<tr>
<th>If your starting point is to find:</th>
<th>Your strategy might be:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. a specific case</td>
<td>citation search across a variety of databases</td>
</tr>
<tr>
<td>2. cases in which particular legislation is considered,</td>
<td>find the statute first, and link to cases citing</td>
</tr>
<tr>
<td>3. cases which reconsider earlier cases,</td>
<td>CaseBase or CaseCite to link to earlier cases</td>
</tr>
<tr>
<td>4. cases which consider particular legal definitions, or</td>
<td>keyword or phrase search across a variety of databases</td>
</tr>
<tr>
<td>5. cases on a specific topic.</td>
<td>browse sources focused on that subject or keyword search</td>
</tr>
</tbody>
</table>

Legal databases provide a very effective method of locating cases from all starting points—provided they are used efficiently. Remember not all cases are online!! You may have to find hardcopy versions.

If you have the correct citation or reference to a case, it is fairly easy to find on most platforms.

A full case citation is comprised of several parts: the names of the parties, plus a systematic and unique series of numbers and letters.

Think of it as an address.

For example, **Thompson v Vincent [2001] 3 NZLR 355**

It is common for a decision to be reported—i.e. published in more than one law report.

In this example, Thompson v Vincent is reported in the

- New Zealand Law Reports (the official report series), and the
- New Zealand Business Law Cases (a specialist law report published by CCH).

You usually only need the latter part of the citation, to find the case within.

E.g. [2001] 3 NZLR 355

But if that fails, try the party names.

**DECODING TIPS:**

- **NZXX** = Lexis Nexis, e.g. NZLR
- **XXNZ** = Westlaw, e.g. CRNZ
- **XXXC** = CCH e.g. NZBLC

1. See NZLSG Rule 3 for details about citing cases, and the different forms of citation. For more information, read Penk and Russell, *New Zealand Legal Method Handbook* 2014, Ch 18.

2. Not sure what ‘NZLR’ or ‘NZBLC’ means? Look them up in the Cardiff Index of Legal Abbreviations.
FIND A CASE QUICK FIND—WESTLAWNZ

Find a known case by citation by using the quick citation search on the homepage.

For example, [2001] 3 NZLR 355 is the citation element needed to find Thompson v Vincent

The citation elements required are just the numbers and letters of the full reference.

The citation is unique to that case, so should result in one answer. WestlawNZ does this function well. Note, the two references are not active links, because only the rival companies have reported this case.

If the citation search does not work (perhaps it is incorrect), then try the search by party names

This search may not be as precise. Be ready to scan several results.

NB the use of ‘and ‘ instead of ‘v’ ... It yields a better result this way. More on this later.

INTERPRET RESULT

No hot citation links. Why?
Because both citations are links to other publishers’ law reports

Briefcase and CiteCase provide analysis;
Judgment Text is the original decision from the Court of Appeal.
**FIND A CASE QUICK FIND—LEXIS ADVANCE**

Lexis Advance has a “quick Find” pod for searching and finding specific cases or statutes. The good thing is that it is quick and accurate, BUT it will not easily link you out to support material such as cases citing, and secondary sources.

As you type in the Quick Find pod, it will also populate the Big Red Box, so you can see how the search is structured.

Type in the citation like this. If it is correct, no other data is necessary.

Or, try searching by party names. The result may not be as precise.

NB the use of ‘and’ instead of ‘v’ …. It yields a better result this way. More on this later.

**INTERPRET RESULT**

Note first of all, one result. A citation is like an address, so it very precise.

Six Records, with four hot links.

- **CaseBase** provides analysis.
- **LinxPlus** is the unreported judgment, coming from the Law Society’s collection.

**[2001] 3 NZLR 355** is the link to the official reported version of the decision. Use this version whenever possible.
Access CCH via the quick links on the Law Subject Guide. It provides full text access only to those cases they have published (reported) in their own law reports.

Therefore, to find the case **Thompson v Vincent [2001] 3 NZLR 355, (2001) 7 NZBLC 103,389** you will need to search using the CCH citation: **(2001) 7 NZBLC 103,389**.

How do you recognise which citation is a CCH one? See publisher tips on page one. A CCH citation always ends in “C”. “C” for cases; “C” for CCH. E.g NZBLC

Searching for the case using the NZLR citation will bring up other cases and commentary that have cited this case, but not the case itself.

### Find in CCH

#### Narrow your results

<table>
<thead>
<tr>
<th>All results</th>
<th>Textual Type</th>
<th>Case Summary</th>
<th>Citations</th>
<th>Name and Date</th>
<th>Context</th>
<th>Details</th>
</tr>
</thead>
</table>

#### Search results

1. **Type in the citation.**
   - 14 results!
   - These results include expert opinion on this case, and cases citing this case. Try searching with the NZLR citation to see more results (because cases citing this case are more likely to use the official citation than the CCH one).

2. **If the citation search doesn’t work, try party names.** Again, as with the other databases, the results can be fuzzy. See there are more results in this search result, but some will be ‘false positives’.

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**For interests sake, here’s what a search result using the NZLR citation looks like.**

The best way to do this search, is to use the Westlaw NZ Advanced Search Template. The template lets you be in control of the search.

However, you do need to use the fields provided and get the ‘right’ data into those fields.

Compare this strategy to the one you used to find the statute, and then linked to cases. This time we will start with the cases, and search for the statute.

Advanced Search Templates are on the homepage, top left.

Click on Cases—because you want your results to be cases.

Two ways to find cases citing the statute:

Freetext search the statutory words (for this, you need to be prepared for a lot of ‘false positives’)

OR

Type in the title of the Act (and the section) in the Legislation Cited (Title) and Legislation Cited (Provision) Fields.

Only 7 results!

EVALUATE! Why are there only 7, when this section of the Act is such a popular reason to go to court.

Remember, this Act is an amalgamation of four contracts Acts from the 1970s, where the purpose—and even the words have not been altered.

So, all the other cases are still attached to the old Act—and some of those cases might still be the substantive ones.
FIND CASES CITING LEGISLATION — BIG RED SEARCH BOX — LEXIS ADVANCE

If you know what the governing statute is, you can use that as a starting point to find cases citing that statute.

You can also search for the section at the same time.

E.g. Contract and Commercial Law Act 2017 and s43

Lexis Advance will automatically phrase search the whole act (as you have typed it) and “s43” as two elements to the search.

EXPLORE RESULTS (GATHER CLUES)

Below is the Big Red Box search result for the statute and section. The result defaults to cases….What’s really going on here?

Note the low number of cases—only 10! There are several reasons.

First, the cases showing are strictly related to two phrases, “Contract and Commercial Law Act 2017”, plus the phrase “s43”, which could be a section of any Act

Secondly, the search itself is limited to results only where the phrase “s43” exists—so it is not finding cases that list a range of section numbers, e.g. ss30,32,43

Thirdly, in theory, there just might not be much case law on the topic—although in this example, that is highly unlikely!

Fourthly, even though the words from the old to new Acts have not changed, it’s only pulling up the cases heard since September 2017.

So if we wanted to find all the cases relating to this point of law, the best thing to do is to track down the Act from before 2017, and find those older cases.

WHEN THE CLUES LOOK ODD, CHANGE YOUR TACTICS AND SEARCH ANOTHER WAY
FIND CASES CITING REPEALED LEGISLATION — BIG RED SEARCH BOX — LEXIS ADVANCE

Lexis Advance does not automatically link you from a new statute to an old version. Use WestlawNZ for that ability.

Gather clues from earlier searches, or go back to the problem question to get details of the 1979 Act, and repeat the search.

E.g. Contractual Remedies Act 1979 and s9

Lexis Advance will automatically phrase search the whole act (as you have typed it) and “s9” as two elements to the search.

Now you have too many results!

Find further ways to narrow this result.

E.g. Re-sort the list from Relevance to Newest

E.g. Use the filters on the left, such as the court, or date-range or topic.

E.g. add more search-terms to this set of results.

EXPLORE RESULTS (GATHER CLUES)

Take a closer look at Thompson v Vincent. CaseBase is the link to the analytics, such as cases citing...

Note the colour-coding of terms too.

Explore these links.

Note there is no link to the legislation being cited. That is because said legislation is repealed, and has been removed from the ‘active’ databases within Lexis Advance. Use WestlawNZ instead.
FIND CASES CITING LEGISLATION — CCH INTELLICONNECT

CCH is a boutique database with a focus on commercial law, business, tax, torts, and wills & trusts.

The search functionality is not quite as sophisticated as the other two products.

If you want to find cases citing a specific statute and section, search for the Act first, then use the internal linking and analysis to find the cases that have cited the statute.

Search tips:
- Put double speech marks around the statute title to ensure a whole phrase search.
- Search s 9 (not s9)

Results are relevance-ranked.
- Drill down by Document Type to find cases.

Watch out for ‘false positives’.
- The Act and the section are from different documents!

3 cases results searching with the new Act.
- Note the Supreme Court decision, with a reference to a CCH law report (NZConvC).
- All SC decisions get reported in the NZLRs—the official law reports series for NZ, so you should go and find that version instead.

Or, drill down by Document Type to find Acts, find the section, then look for the “related Documents” link.
FIND CASES WHICH RECONSIDER EARLIER CASES —WESTLAWNZ

This is all about understanding how the legal arguments have matured, developed, or even completely changed over time.

Legal databases specialise in this kind of linking—and it is where their value lies.

There are two ways to approach this: either find the newer case, and link to the older ones; or find the older cases and link to the newer ones.

Find Thompson v Vincent [2001] 3 NZLR 355

TIP: Remember to select the Citation Button.

The tabs all provide different pieces of the puzzle. Note, the Judgment Text is the original court decision.

The first two tabs provide case citation data back and forwards in time.

Briefcase is a brief about the case. It will list the cases cited in Thompson v Vincent—that is, the cases they used to support and develop their own arguments.

Note: the Summary is handy overview of the case to help you decide if it is important. The summary is NOT the judgment, so do not use or quote it.

CiteCase shows you subsequent cases that have relied on Thompson v Vincent for their arguments. That is, the more recent cases, that might develop the body of law in this area.

CiteCase also includes other sources that cited Thompson v Vincent, e.g. journals articles

Explore these tabs too—for lots of other useful linked data
FIND CASES WHICH RECONSIDER EARLIER CASES — LEXIS ADVANCE

This is all about understanding how the legal arguments have matured, developed, or even completely changed over time.

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There are two ways to approach this: either find the newer case, and link to the older ones; or find the older cases and link to the newer ones.

Find Thompson v Vincent [2001] 3 NZLR 355

In this example, both fields are filled in. 

In reality just one will usually do.

The Case Citation is the most targeted option, so try that first.

Note also how your search terms are populating the Big Red Search Box, when you use Quick Find.

Click on CaseBase to see the cases referring to this case (more recent cases), and Cases considered by this case (older cases).

CaseBase Signals

CaseBase Signals indicate whether the case decision has received positive, negative, cautionary or neutral treatment in subsequent judgments. The signals are based on case annotations prepared by the CaseBase editors. They are derived from both the procedural history of a case and the subsequent judicial consideration of it.

Note:
Not every case has a CaseBase Signal.

<table>
<thead>
<tr>
<th>Signal</th>
<th>Summary</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td><img src="image" alt="Negative treatment" /></td>
<td>Warning – Negative treatment indicated. A negative (red) signal is given to decisions which have been subsequently reversed, disapproved or overruled.</td>
<td></td>
</tr>
<tr>
<td><img src="image" alt="Cautionary treatment" /></td>
<td>Caution – Questioning or distinguishing treatment indicated. A cautionary (yellow) signal is given to decisions which have been subsequently distinguished, explained, not followed, questioned or varied.</td>
<td></td>
</tr>
<tr>
<td><img src="image" alt="Positive treatment" /></td>
<td>Positive treatment indicated. A positive (green) signal is given to decisions which have been subsequently applied, approved, followed or affirmed.</td>
<td></td>
</tr>
<tr>
<td><img src="image" alt="Neutral treatment" /></td>
<td>Neutral or citing treatment indicated. A neutral signal is given to decisions which been either considered or cited (also ‘referred to’ or ‘discussed’).</td>
<td></td>
</tr>
<tr>
<td><img src="image" alt="Citation information" /></td>
<td>Link to CaseBase entry. A citation information signal is given to decisions for which there is only citation information available.</td>
<td></td>
</tr>
</tbody>
</table>
FIND CASES WHICH RECONSIDER EARLIER CASES —CCH INTELLICONNECT

This is all about understanding how the legal arguments have matured, developed, or even completely changed over time.

Legal databases specialise in this kind of linking—and it is where their value lies.

CCH is rather limited in this function, compared to WestlawNZ and Lexis Advance, due to it’s narrower subject focus.

However, sometimes this database will reveal content not found in the other databases—for the same reason!


There’s a trick: you can search by party names as a phrase, e.g. “Thompson v Vincent”, or you can search by the reference, e.g. [2001] 3 NZLR 355, or you can search by the references to the other reported version, e.g. ,(2001) 7 NZBLC 103,389

Try all three—you might get different results.

Now narrow your results by Document Type—Cases.

EVALUATE

Only four results, and only Supreme Court Results.

Re-run your search on another platform.... This time!
FIND CASES WHICH CONSIDER LEGAL DEFINITIONS, OR ARE ON A SPECIFIC TOPIC — WESTLAW NZ

KEYWORD SEARCH TIPS AND TECHNIQUES

Remember your search strategy for synonyms, and a break down of the separate ideas you need to cover.

Most database search engines use these search ‘rules’ (although sometimes the rules are slightly different.... Use the database Help for more, well, help.

Phrase search e.g. “grant relief”. When two or more words must be in a specific order, place double quotation marks around them

AND e.g. cancellation and court. When you use AND between words, you are saying both terms must be present, anywhere is the document.

Words, just words. A string of words will be relevancy ranked. That is, the database will first try and find instance of both or all of the words, or just single words

Truncation e.g. cancels!. An exclamation mark at the end of the root of the word will search all the different endings, e.g. cancels, cancelled, cancelling, cancellation.

Proximity Operators e.g. cancellation w/10 court. This means, find records where cancellation is within 10 words of court. This a powerful search tip that really only appears in legal databases. It allows you to force a relationship between your words. That is, the closer the words are to each other, the more likely they are related to each other. You can also search within a sentence (w/s) or a paragraph (w/p) or pick a different number (w/25).

Mix it up a bit!

Try a search like this “grant relief” and contract and cancel!

Note: Australian results will also come up initially, so your first filter should always be jurisdiction—New Zealand.

After that you can filter by Court, e.g. the Supreme Court.

These hotlinks are Classification clusters of similarly described cases, going from broad to narrower descriptions.

Note: a person is creating these topic pathways, with their own interpretations...
EXPLORE RESULTS AND GATHER CLUES

One way to evaluate results is whether the judgment has been reported (aka published), as it is a signal from the profession that the case is worthy. If a case has been reported in the NZLR (New Zealand Law Reports), the official report series for New Zealand, it is good and proper practice to find and use that version.

However, unreported cases might be useful for research. Sometimes it takes time for the judgment to become important to a body of law. The symbols or letter beside the party names provide a rough clue about how the case has been used.

Scan the BriefCase description, look at the legislation followed and the cases cited to help you decide its usefulness. Then read the full case!

BriefCase and CiteCase provide unique and detailed analysis of the case, such as legislation cited, cases used in this case, and cases that have subsequently cited this case.

A note on style. This is a media neutral citation created by the Supreme Court as a unique identifier. See New Zealand Law Style Guide (NZLSG) Rule 3.

This case has also been published (reported) in several Law Reports, but no hot links to them. These are rival publishers! See Tips and Tricks below.

There is a PDF link to the NZSC unreported judgment, which you can use, although ideally, you would find and use the official reported version of this case—the NZLR version, from Lexis Advance.

The Status flags and symbols provide clues on the outcome of the case. Hover over the symbols to learn their meaning. Use the symbols as a signal to help evaluate the usefulness of the case.
FIND CASES WHICH CONSIDER LEGAL DEFINITIONS, OR ARE ON A SPECIFIC TOPIC — LEXIS ADVANCE

KEYWORD SEARCH TIPS AND TECHNIQUES

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Phrase search e.g. “grant relief”. When two or more words must be in a specific order, place double quotation marks around them. Lexis Advance also has an automatic phrase search for words in a string.

AND e.g. cancellation and court. When you use AND between words, you are saying both terms must be present, anywhere in the document.

Words, just words. A string of words will be phrase-searched, then relevancy ranked. That is, the database will first try the phrase, and then find instance of both or all of the words, or just single words.

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Mix it up a bit!

Try a search like this “grant relief” and contract and cancel!

Lexis Advance allows you to take control of your search if you want to, or, “Let Advance decide”!!

The results are relevance-ranked. However, if you are looking for legal definitions, you may want to filter down to the higher courts (Appeal or Supreme).

Also look at the CaseBase records for further search terms to add to your search strategy and narrow your search.

Also, use your own knowledge!

Do some of these cases look familiar to you?

Try this search again, without the “” phrase marks, e.g. grant relief and contract and cancel!. Is it better? Different?
FIND CASES WHICH CONSIDER LEGAL DEFINITIONS, OR A SPECIFIC TOPIC — CCH INTELLICONNECT

KEYWORD SEARCH TIPS AND TECHNIQUES

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Mix it up a bit!

Try a search like this “grant relief” and contract and cancel!

Filter the results by Document Type—cases.

Note, Australian cases are here too, so filter by Jurisdiction!

Also consider filtering by Topic.

Are the powers of the court to grant relief in tax law relevant?
FIND CASES FROM OTHER JURISDICTIONS—WESTLAW

*Westlaw (International)* is mainly a US-focused database, but it does include a lot of content from other countries too.

Note: Australian content is held in WestlawNZ; UK content is held in ICLR Online.

From the Law subject guide, scroll down the quick links to the Foreign Law section, and select *Westlaw*.

Use this search box for US cases, US statutes and US secondary sources.

For non-US content, click on International Materials.

Drill down to the specific jurisdiction or content type. Note, the search box at the top becomes more and more contextualised.

At the most granular level, you get an Advanced Search template, plus instructions to connect your search terms.

For more help, go to the Law Subject Guide > Research Strategies > Database Guides.
FIND CASES FROM OTHER JURISDICTIONS—LEXIS ADVANCE US

*Lexis Advance US* is mainly a US-focused database, but it does include a lot of content from other countries too.

Note: UK content is held in ICLR Online.

From the Law subject guide, scroll down the quick links to the Foreign Law section, and select *Lexis Advance US*. You may be asked to login.

This is the clearest signal to differentiate between the NZ and US platforms.

Start typing, and select the case as it appears

To find non-US cases, select the jurisdiction from the International Tab and follow your nose.
**FIND CASES FROM OTHER JURISDICTIONS—ICLR ONLINE**

*ICLR Online* is a large database of cases (and statutes) from the United Kingdom. The Incorporated Council of Law Reporting (ICLR) holds the publishing rights for the official UK law report series, e.g. AC, PC, HL, QB...

From the Law subject guide, scroll down the quick links to the Foreign Law section, and select *ICLR Online*.
FIND CASES FROM OTHER JURISDICTIONS—FREE SOURCES

Although the commercial databases provide a richer research experience, there are occasions where you might need to use freely available website instead. When you go out to practice law, you may find yourself working in a place or a company that cannot afford the commercial products.

This is where the Legal Information Institute comes in. The local New Zealand (free) database is called NZLII. The Australian one is AUSTLII, the British one is BAILII. I’m sure you get the picture. The Law Subject guide links to many free sources.

All of the results are unreported judgments, direct from the courts. If the case has been published (i.e. reported) in a law report, best practice says to source that published version.