What are Restatements of the Law?

- Respected secondary authority written by judges, law professors, and attorneys
  - Restatements are frequently cited in court opinions.
  - The American Law Institute began the Restatements in 1923.
  - To define, summarize or restate the common law.

- Clarifications of common law -- restating the best possible rule (which might be a minority rule)
  - Sometimes the “rules” are referred to as “black letter” rules.
  - With illustrative examples and
  - Comments and Reporters’ notes

- Source for finding cases – Case citations are in the volumes and the pocket parts.

What areas of law are included in the Restatements?

- Conflict of Laws
- Contracts, KF395.A2 C61
- Judgments, KF395.A2 J81
- Property, KF395.A2 P722
- Property (Landlord and Tenant), KF395.A2 P722
- Property (Wills and Donative Transfers), KF395.A2 P721
- Property (Mortgages), KF395.A3 P722
- Property (Servitudes), KF657 .R4 1998
- Law Governing Lawyers, KF300 .R469 2000
- Restitution, KF395.A2 R46 1937
- Security, KF395.A2 S41
- Suretyship and Guaranty, KF395 .A2 S7 1996
- Torts, KF395.A2 T62
- Torts: Apportionment of Liability, KF1312 .R469 2000
- Trusts, KF730 .R4723 2003
- Trusts (Prudent Investor Rule), KF730 .R4725 1991
- Unfair Competition, KF3195 .R468 1995

How up-to-date are the Restatements?

- Revised editions are published periodically.
- Most have a 2d or 3d edition.
- Some court jurisdictions adopt an earlier version of the rule published in an earlier edition.
- Update restatements by Sheparding.

How are Restatements Cited?

See Bluebook Rule 12.8.5 and its examples

See other side for guidelines on using the Restatements.
Organization of the Restatements

- Each volume has its own index.
  - 2d and 3d series sets have indexes, usually in the last volume of the set.
- The first edition of the Restatement of the Law has a comprehensive index.
- Each set and volume has a Table of Contents.
- Restatements are organized by chapter, topic and title, and section.
- Each section contains:
  - The statement of the principle of law or rule (“black letter rule”) of law
  - Explanatory comments
  - Hypothetical examples that illustrate the legal principle
  - Reporters notes that provide
    - Information on development of the rule
    - Citations to cases used in developing the rule
- Each set has appendix volumes with annotated citations of cases that cite the restatement.
  - 2d and 3d series sets also include cross-references to West Topics and Key Numbers and ALR annotations
  - Appendix volumes are updated by pocket parts, supplements, and pamphlets.

How to Use the Restatements

- Search the indexes.
- Look at the Table of Contents.
- Read the section(s) – including the “black letter” rule and the comments, illustrations and reporter’s notes.
- Update by looking for pocket parts, supplements, and pamphlets.
  - For older sets, search the Appendix and Cumulative supplement for additional citations and summaries.
- Shepardize the sections.
- Shepardize the cases cited.

Are the Restatements available online?

Yes. Either Lexis and Westlaw can be used to research the Restatements.

hf, fall 2008