

September 2005
A Monthly Publication

Tom Enneking, Editor

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The Cincinnati Law Library Association

Hamilton County Courthouse
1000 Main Street, Room 601
Cincinnati, OH 45202

General: (513) 946-5300
Fax: (513) 946-5252
Reference: (513) 946-5303
reference@cms.hamilton-co.org

Hours: Monday-Friday 7:30-4:30

<http://www.hamilton-co.org/cinlawlib/>

24 Hour Case Law Member Benefit

David Whelan, Law Librarian

Go virtual with the Law Library and enjoy 24 hour access to case law as a benefit of your membership! Beginning September 1, solo members and firms with full membership can now access case law for all 50 states, as well as Federal appellate, district, and bankruptcy courts. The Law Library has acquired access to Fastcase.com that enables our members to use their database from anywhere with an Internet connection.

What Is It?

Fastcase.com is one of the middle-tier case law products that aims to provide primary law at a lower cost, but without the enhancements you might expect from Westlaw or Lexisnexis. They have case law from 1950 to the present for all 50 states, links to state statutory codes and administrative regulations, and Federal case law. A special piece of the Law Library's license includes access to Federal bankruptcy cases. Your members-only access is equivalent to their \$995 a year Premium plan.

How Do I Use Fastcase?

You can access Fastcase for case law in the same way that you access HeinOnline's 1000+ law journals 24 hours a day: from

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Ohio Supreme Court Expands Taxation of Business Real Estate Fixtures

Dana A. Rose
Weston Hurd Fallon Paisley & Howley LLP
Cleveland, OH
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In Ohio, real estate with its attached buildings, structures, improvements and fixtures is not subject to sales and use tax. However, although attached to the land, a "business fixture" is taxable. Ohio sales and use tax law defines a "business fixture" as anything that becomes permanently attached to land, buildings,

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structures or improvements “that primarily benefits the business conducted by the occupant on the premises and not the realty.”

In a close 4-3 decision, the Ohio Supreme Court has interpreted the definition of business fixture so as to make taxable the cost of virtually any type of building, structure or permanent improvement on real estate which is in any sense unique to the business operated at those premises. In the case of *Funtime, Inc. v. Wilkins* decided on December 22, 2004, the Court ruled that certain amusement park rides at the Geauga Lake Amusement Park, although permanently attached to the land, were nonetheless subject to sales and use tax because the rides would not benefit any new owner of the land who engaged in a different business. Paradoxically, the Court stated that a farm silo was an example of a fixture which would not be taxable as a business fixture because it “would be beneficial, if not necessary, to the use of the land. . . regardless of the nature of business which might be located on such land.” This ignores that a subsequent owner of such land might engage in a business where a farm silo would have no use.

Given the ruling in *Funtime*, businesses constructing buildings, structures or improvements somehow unique to their operations may be targeted for more audits and assessments by the Ohio Department of Taxation. Of course, such specialty construction can be expensive and therefore could entail large sales and/or use tax bills.

One of the Justices in the majority of the *Funtime* case has retired, and therefore, with a different court makeup, a case similar to *Funtime* might be decided differently. Additionally, amusement parks are a unique business operation. However, the wording of the majority decision in *Funtime* will likely invite more audits and assessments by the Ohio Department of Taxation for so-called “business fixtures.”

Mr. Rose may be reached at (216) 987-3342 or at drose@westonhurd.com. This article is intended to inform and should not be construed as legal advice.

New Titles at the Law Library

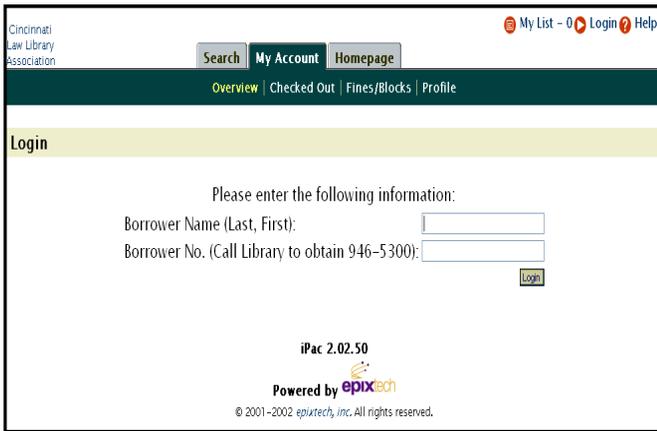
- George C. Koutouras, et al. *Related Party Transactions*. Washington DC: Tax Management, Inc., 2005.
- Hugh K. Webster. *Trade Associations*. Washington DC: Tax Management, Inc., 2005.
- Anthony P. Polito. *Small Business Corporation Stock: Special Tax Incentives*. Washington DC: Tax Management, Inc., 2005.
- John Cosgrove McBride. *Government Contracts: Cyclopedic Guide to Law, Administration and Procedure*. New York, NY: Matthew Bender, 2005.
- Anthony Mancuso. *How to Form a Nonprofit Corporation*. Berkeley, CA: Nolo, 2005.
- David L. Faigman. *Modern Scientific Evidence: The Law and Science of Expert Testimony*. St. Paul, MN: West Group, 2002.
- Gary A. Dieran. *Vehicle Collisions: Reconstruction and Biomechanics in Ohio*. Eau Claire, WI: Lorman Education Services, 2005.
- Morton Moskin and E. Carolan Berkley. *Third Party Legal Options*. Washington DC: Bureau of National Affairs, 2005.
- *Multistate Corporate Income Tax Review*. Chicago, IL: CCH, 2005.
- *Ohio Parole Board Guidelines Manual*. Columbus, OH: Department of Rehabilitation and Correction, 2000.

Your Law Library Account Online

Julie Koehne

You may already use the Law Library’s online catalog to find out what materials the Library holds in your practice area. Members can use the catalog for far more than keyword searching and browsing the many print and electronic titles in our collection. One of the most useful functions is to manage your library account online, enabling you to see what you have checked out and renew books online, 24 hours a day.

To start, go to the online catalog and click on the My Account tab.
<http://lawlib.hamilton-co.org/ipac20/ipac.jsp?profile=clla#focus>

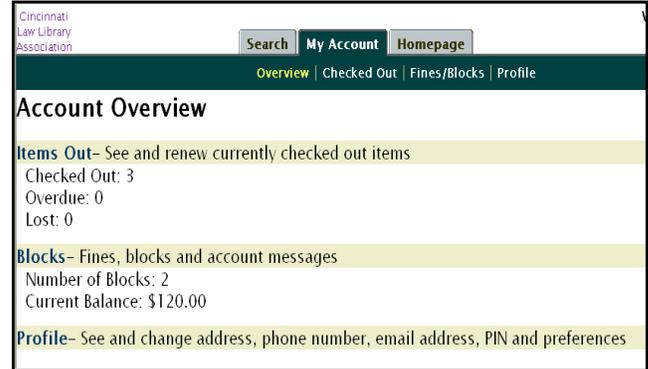


The Account Login screen will appear. Type in your name, last name before first, and borrower number in the spaces provided.

Note: your newsletter label shows your name as it appears in our system, as well as your borrower number. Be sure to include your middle initial after your first name (e.g., Holmes Oliver W.) if that is what appears on your newsletter label.

Review Your Account

Once you have successfully logged in you may observe an overview of you account, the items you have checked out, fines, and other account information.



Renew Books

You can renew books from the **Checked Out** tab, which shows the list of items you have out of the library and the dates they are due. The left column of this screen allows you to designate which titles to *renew*. Click the box next to the title (or select the box at the top of the column to renew ALL titles) and then click the **RENEW** button. Each title selected will reflect the new due date.



Fastcase, cont'd from page 1

our Web site! Go to:

<http://www.hamilton-co.org/cinlawlib/intra/fastcaselogin.asp>

and type in your last name, your Law Library borrower number, and your e-mail address. Don't know your borrower number? Give us a call at 946-5300 and we'd be glad to help you.

Remote Access = Convenient Research

We recognize that, for many of our members, the Law Library's hours and location are not always convenient for research. Fastcase.com, and HeinOnline, provide remote access for you to do case law, statutory, and law journal research whenever it's convenient. You can then supplement your research with your own print and electronic resources, or take advantage of the Law Library's additional print and electronic databases.

But I Already Use Westlaw, LexisNexis, Casemaker . . .

Even if you already have access to a case law service, Fastcase may be able to supplement your subscription. It has nearly 30 more states than Casemaker, which you may already use if you are an Ohio State Bar Association member. Many lawyers do not purchase a national case law plan or may not have access to Federal bankruptcy court cases. Fastcase can help to fill that gap.

Like Casemaker, you will still need to Shepardize or otherwise update your research. If you have access to LexisNexis or Westlaw, you can use their citators, Shepard's or KeyCite. Otherwise, you can visit the Law Library where we also have access to Shepard's online. You can also use Shepard's or KeyCite without a contract, by paying only when you want to use it. Shepard's is available at \$4.25 a search (<http://www.lexisone.com/legalresearch/index.html>) and KeyCite can be used with a credit card (<http://creditcard.westlaw.com/>).

Who Can Use Fastcase through the Library?

Our license enables all of our solo members and lawyers in firms that have a firm membership to have unlimited access to Fastcase. Unlike HeinOnline, which is limited to law firms with fewer than 50 lawyers, Fastcase is open to all firms. Law Library members from Hamilton and any of the surrounding Ohio, Indiana, and Kentucky counties may access Fastcase through their Library membership. If you have a question about how you can access Fastcase, please don't hesitate to call me at (513) 946-5263 or drop me an e-mail at dwhelan@cms.hamilton-co.org.

Did You Know Our Members Receive:

- ❖ Free LexisNexis Access in the Library
- ❖ Free Internet Access in the Library
- ❖ Free Access to CD-ROM law libraries and forms
- ❖ Free Reference Assistance, in person, by phone, or via e-mail
- ❖ Extensive Ohio and Federal primary law collection in print and electronic formats
- ❖ Practice materials, including:
 - handbooks
 - rules
 - treatises
 - jury verdicts
- ❖ Borrowing privileges to nearly all materials in the Library's collection, including CLE materials.



Requesting Books After Hours

Julie Koehne

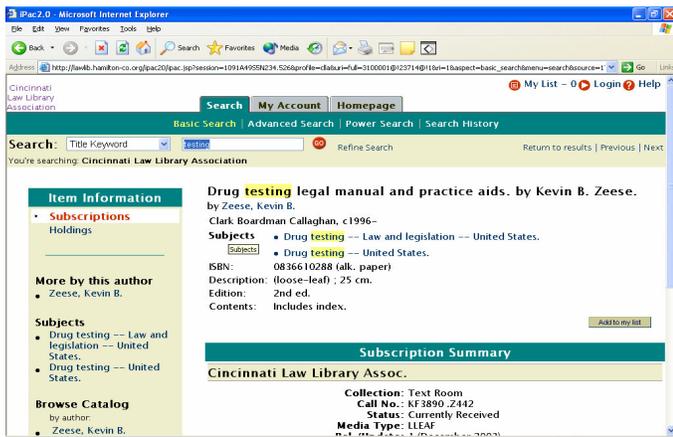
You can access the Law Library's online catalog 24 hours a day. If you would like a title in the collection to be held for you, you can request the book online after hours. Library staff will receive your request and process it the next morning. If you would like a book held for you during our normal business hours, feel free to call the Circulation desk at (513) 946-5301 and we will hold it for you.

Log In to the Online Catalog

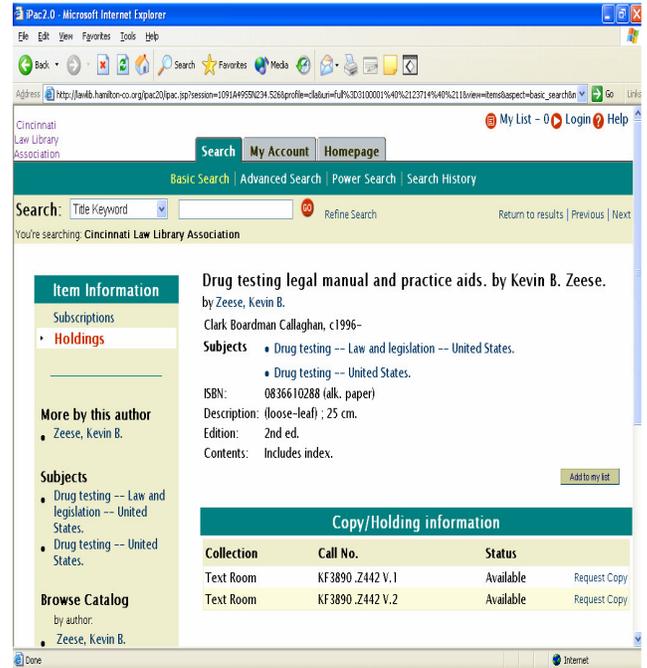
Access the Library's catalog at <http://lawlib.hamilton-co.org/ipac20/ipac.jsp?profile=clla>. This function is only available to Association members, so you will first need to log into the catalog. Select the **My Account** tab at the top of the Web page and type in your name and Library borrower number. Type your last name, followed by your first name. If your Association Newsletter mailing label has an initial, please include that. Your borrower number is also printed on your Newsletter mailing label or you can call (513) 946-5300 to find out what it is.

Online Requests

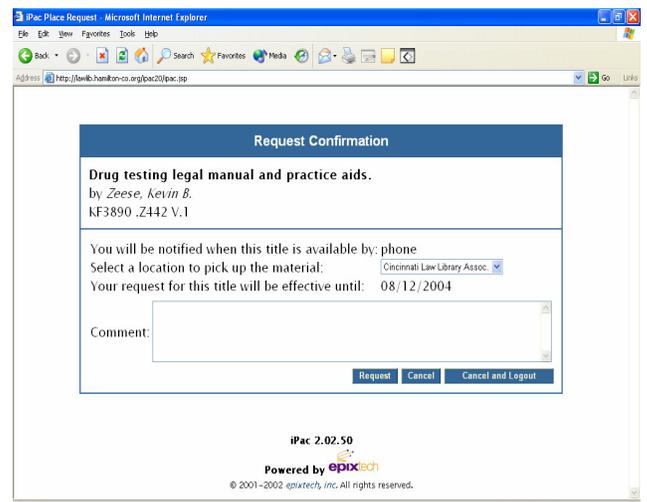
You can search for information by title keywords, by author, and by subject. Once you have found the book or CLE you are looking for, you can then view the individual volumes or copies in the Library. Select the **Holding** option in the left menu.



The Holdings screen will appear, to show what the Library has and whether it is available. You can select a single volume from a set or multiple volumes. For each item you would like to have held, click on the **Request Copy** link to the right of the item.



You will be asked to confirm your request. If the Request information is correct – you've selected the right volume, for example – then click the **Request** button at the bottom of the screen to submit your request.



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Search National Consumer Law Center Publications Online

Those attorneys who practice in the area of consumer law are familiar with the National Consumer Law Center, which bills itself as “the nation's consumer law expert, helping consumers, ... advocates, and public policy makers to use ... consumer laws to assure justice for vulnerable ... Americans.”

The NCLC publishes a number of well-known publications, including:

- Automobile Fraud 2nd ;
- Consumer Banking Law 7th;
- Credit Discrimination 4th;
- Fair Debt Collection 5th; and
- Unfair and Deceptive Acts and Practices 6th.

You can now search these titles, and others, via the Internet. By visiting NCLC’s website ([http://216.132.95.250/NCLC Manuals/](http://216.132.95.250/NCLC%20Manuals/)), you can search the text of all sixteen publications, or by selecting from the dropdown menu, you can narrow the search to an individual title.

If you need assistance in conducting a search, NCLC provides you with a list of Boolean connectors and expanders designed to help you search more effectively. NCLC also furnishes a link to a help page and tips on searching for statutes and cases.

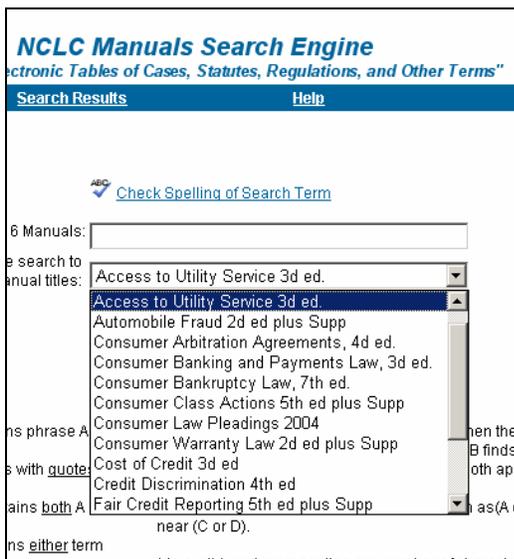
When you access the results, you will find your search terms highlighted and listed in page number order.

Results 1-20 of 125 for 'Document:denied;Manuals:(Access to Utility Service,3d ed)'; (>0.001 seconds)		
Hrs	TITLE	PAGE NUMBER
7	Access to Utility Service, 3d ed. ...Indiana Utility Regulatory Commission had primary jurisdiction to determine whether customer unfairly denied gas service based on unpaid bill from former residence that was time-barred...	12
7	Access to Utility Service, 3d ed. ...N Y S 2d 46 525 N E 2d 692 1988 re-argument denied 72 N Y S 2d 910 532 N Y S 2d 758...	27
7	Access to Utility Service, 3d ed. ...cooperatives however as they are unregu- lated 263 When UDAP coverage is denied to regulated activities the most common rationale is the pervasiveness of the...	31
8	Access to Utility Service, 3d ed. ...n v FTC 767 F 2d 957 D C Cir 1985 cert denied 475 U S 1011 1986 FTC promulgation of rule concerning creditor practices... v FTC 767 F 2d 957 971 D C Cir 1985 cert denied 475 U S 1011 1986 1 7 2 2 Access to Utility...	32
7	Access to Utility Service, 3d ed. ...Util Counsel v FCC 183 F 3d 393 5th Cir 1999 cert denied 530 U S 1210 1223 2000 30 Id at 421 424 31...	38

One complaint is that you must then consult the paper copy, either at the Law Library or in your personal collection, but electronic access would likely result from purchasing a subscription. Nonetheless, you can complete a portion of your research before you visit the Law Library.

Requesting Books, cont'd from page 4

First thing the next morning, Library staff will pull all requests made after 4pm the previous day. If there is any question relating to your request, we will call you. Otherwise, the titles you requested will be available for pickup at the Circulation desk.



CLE Near You!

Don't miss **High Octane Internet Legal Research**, a 3.5 hour seminar, given by David Whelan, our Law Librarian. The CLE will walk you through Internet search techniques, free primary law resources and services, and other practice-oriented sites and databases.

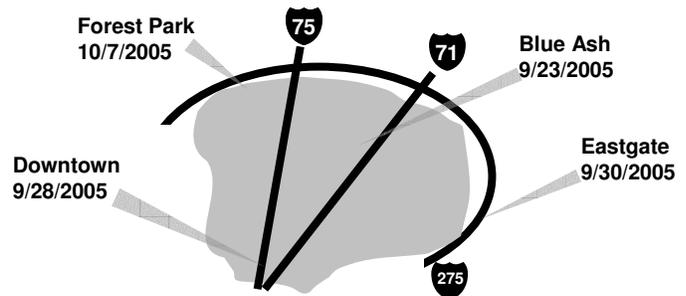
And now you don't have to come downtown for Law Library CLE. Mark your calendar for the location nearest you:

- Fri., **September 23, 2005**, 7:45 – noon, Clarion Hotel & Suites, **Blue Ash**;
- Wed., **September 28, 2005**, 7:45 – noon, Cincinnati Law Library, **Downtown**;
- Fri., **September 30, 2005**, 7:45 – noon, Comfort Inn & Suites, **Eastgate**;
- Fri., **October 7, 2005**, 7:45 – noon, Lee's Inn & Suites, **Forest Park**.

Each seminar is \$35 for members, and \$90 for non-members. All 4 locations are approved by the Ohio Supreme Court Commission on CLE for 3.5 general credit hours. The September 28 CLE is also approved by the Kentucky Bar Association for 3.5 general credit hours

To reserve your spot, call Madonna @ 946-5301 or register online at:

<http://www.hamilton-co.org/cinlawlib/cle/signup.html>.



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ADDRESS CORRECTION REQUESTED

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