

Westlaw Reference Attorney Research Series

Statute of Limitations

Reference Attorney: Bill Josten*

Finding a statute of limitations can be one of the most frustrating research tasks confronting an attorney, particularly a young attorney. As Reference Attorneys, we frequently field calls from associates whose latest research assignment requires them to find the Statutes of Limitations for several different causes of action in states whose laws they've never worked with before. Where to start!

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Summary of the Challenge [\[contents\]](#)

The first point that can cause hours of frustration is that, while there may be some exceptions, codified statutes will rarely refer to a Statute of Limitations in a chapter heading, a title, or a statute caption. More commonly, the relevant statutes will be grouped under headings like *Limitation of Action*, *Time for Filing of Action*, or even *Proscription of Action*. In New York, the relevant statutes are in the Civil Practice Law and Rules in an article entitled *Limitations of Time*. In California, they come under the Code of Civil Procedure in a title called *Of the Time of Commencing Civil Actions*. In these circumstances, browsing the Table of Contents may prove to be more of a hindrance than a help.

Strategies [\[contents\]](#)

Each of the three options listed below helped me to identify the applicable statute of limitations in less than five minutes.

Case Law [\[contents\]](#)

One strategy we often recommend is to start with cases. While a legislature may have a particular vernacular for writing and codifying statutes of limitations, courts and lawyers often refer to things using more common language. What the statutes might call a *Limitation of Action*, the courts still call a *Statute of Limitations*.

Strategy: Terms and Connectors

Query: **statute /3 limitation /s ["cause of action"] /s years**

As an example, I ran a sample search on Westlaw.com, limiting the search to just the California Statutes database: CA-ST-ANN.

Search: statute /3 limitations /s "breach of contract" /s years
Results: 8

The answer is in the search result, but it can be difficult without some digging to determine which of those eight is the correct answer.

If we run that same search in California cases (CA-CS), we might be able to find our answer quicker:

Search: statute /3 limitation /s "breach of contract" /s years
Results: 44 docs

We get more documents, but in the first two cases in the result list, we find this:

“Thus, to the extent there was a valid agreement between plaintiffs and respondents, it was either oral or implied, and the applicable statute of limitations for the breach of contract cause of action was two years.” Racancoj v. High Ten Partners, Inc., 2011 WL 5830733, 3 (Cal.App. 2 Dist.) (Cal.App. 2 Dist.,2011)

And,

“Where, as here, the cause of action is based on an alleged breach of contract, the statute of limitations is four years. (Code Civ. Proc., § 337.)” Shaham v. Nejat Rostami Medical Group, Inc., 2011 WL 4825891, 4 (Cal.App. 2 Dist.) (Cal.App. 2 Dist.,2011)

In our first two cases, we found the applicable statutes of limitations for both oral and written contracts.

Strategy: Terms and Connectors with KeyNumbers

Query: to(241) /p [“cause of action”] /s years

Query: to(241) /p toll! /s pend! /s #another #other related /2 action proceeding suit lawsuit

The topic number within the Westlaw Digest for limitations issues is 241, *Limitation of Actions*. If I begin a terms and connectors search with TO(241) and add additional terms, I can find cases dealing with limitation issues like tolling the statute. See the search above, for example. Or, we can browse the KeyNumber directory (Custom Digest) directly:

The screenshot shows the WestlawNext interface for the 241 LIMITATION OF ACTIONS KeyNumber directory. The page title is "241 LIMITATION OF ACTIONS" with a search bar and "All State & Federal" dropdown. Below the title, there are navigation options: "Select all content", "Expand All", "0 items selected", "Search all content", and "Specify content to search". The main content area lists five categories with expandable icons:

- I. STATUTES OF LIMITATION, k1-k42
- II. COMPUTATION OF PERIOD OF LIMITATION, k43-k138
- III. ACKNOWLEDGMENT, NEW PROMISE, AND PART PAYMENT, k139-k164
- IV. OPERATION AND EFFECT OF BAR BY LIMITATION, k165-k175
- V. PLEADING, EVIDENCE, TRIAL, AND REVIEW, k176-k202

WestlawNext Advantages [\[contents\]](#)

Plain Language Search: **statute of limitations for breach of contract**

This research can be even easier on WestlawNext. Because of the power of WestSearch and the content included, I don't have to try and come up with a terms and connectors formula, or choose between searching statutes and cases for my answer. WestlawNext gives me the ability to use simple, descriptive terms to search across 13 different content sets, including cases, statutes, secondary sources, trial orders, court filings, and briefs. All I have to do is formulate my query and select a jurisdiction. This time, let's use New York:

Jurisdiction: New York

Search: **statute of limitations for breach of contract**

Running that search, I find this in my first case result:

“Property owner's breach of contract cause of action against contractor for construction defects related to installation of drainage system accrued, and six-year statute of limitations began to run, upon contractor's completion of the actual physical work. McKinney's CPLR 213(2).” *Bryant v. Damiano*, 23 Misc. 3d 15, 877 N.Y.S.2d 820 (App. Term 2009)

Looking at the Overview, the first statute in the search result is NY CPLR § 213, the same statute cited by *Bryant*.

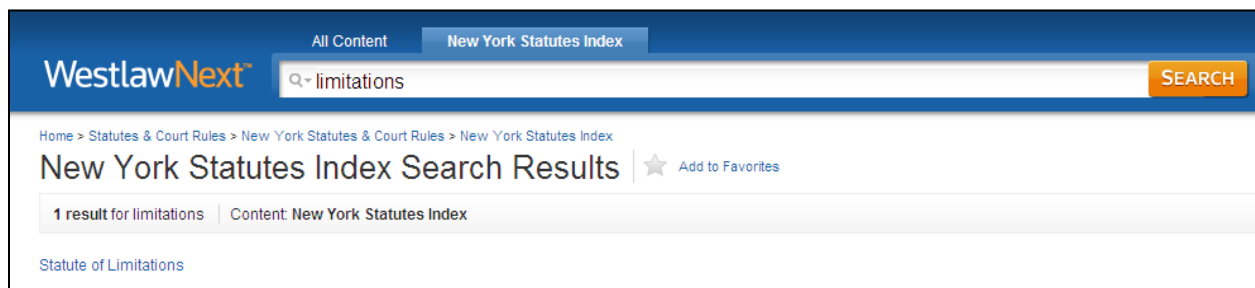
In one simple, efficient search, we've identified the statute, and have a case to double-check our work.

The Statutes Index [\[contents\]](#)

One other very handy, but often overlooked tool for finding a limitation period, and other puzzling statutory questions is the Statutes Index. These are available for all states, and can be a handy shortcut to finding statutes on particular issues. On WestlawNext, you can find the Index in the upper right hand corner of the statutes page:



For example, I ran a search on WestlawNext for *Limitations* in the New York Statutes Index. I receive a result for *Statute of Limitations* which is further broken down into two categories, *Limitation of Actions* and *Limitation of Prosecutions*.



When I click on Limitations of Action, I get a list organized alphabetically: A-Fine, Fire-Personal Injuries, Personal Injury-Yonkers. When I click on A-Fine, I scroll down to Contracts, and I see a link to NY CPLR § 213.

WestlawNext Search New York Statutes

- Collusion, Absence of Between Claimants, Abbreviation of Period
- Commercial Paper, NY CplR § 213, NY UCC § 3-122
- Computers, Confidential or Privileged Information, Theft, Notice:
- Computing Period of Limitation, NY CplR § 203
- Constable
- Consumer Goods, Incentives to Purchase, Violations: NY Gen B
- Contingent Interest, Enforcement Where Action Commenced to F
- Contracts, NY CplR § 213** ←
- Controlled Substance, Forfeiture of Vehicle, Vessel or Aircraft Ille
- Cooperative Corporations, Joint and Several Liability for Services
- Coroner, Official Acts or Omissions: NY CplR § 215
- Corporate Action Against Director, Officer or Stockholder: NY Cpl
- Counterclaim, NY CplR § 203
- Counties
- Court of Claims, Filing of Claims: NY CT Clms § 10
- Crime Victims
- Crime Victims Litigation, Tolling of Statute, Commencement of C
- Crimes and Offenses: Limitation of Prosecutions
- Current Account, Computing Period: NY CplR § 206
- Death
- Defenses, NY CplR § 203
- Delivery of Personal Property, Computing Period Where Necess:
- Demand
- Deposit in Federal Court, Recovery of Deposit Paid to State: NY A

Strategic Summary [\[contents\]](#)

Start in Case Law

statute /3 limitation /s [“cause of action”] /s years

to(241) /p years /s [“cause of action”] /s years

to(241) /p toll! /s [reason for tolling]

Run a plain language search in WestlawNext

statute of limitations for [cause of action]

Use the statutes index

Look for the “Limitation of Actions” entry in the Westlaw or Westlaw Next Statutes Index

alternative search: statute /3 limitation /s [“cause of action”] /s years