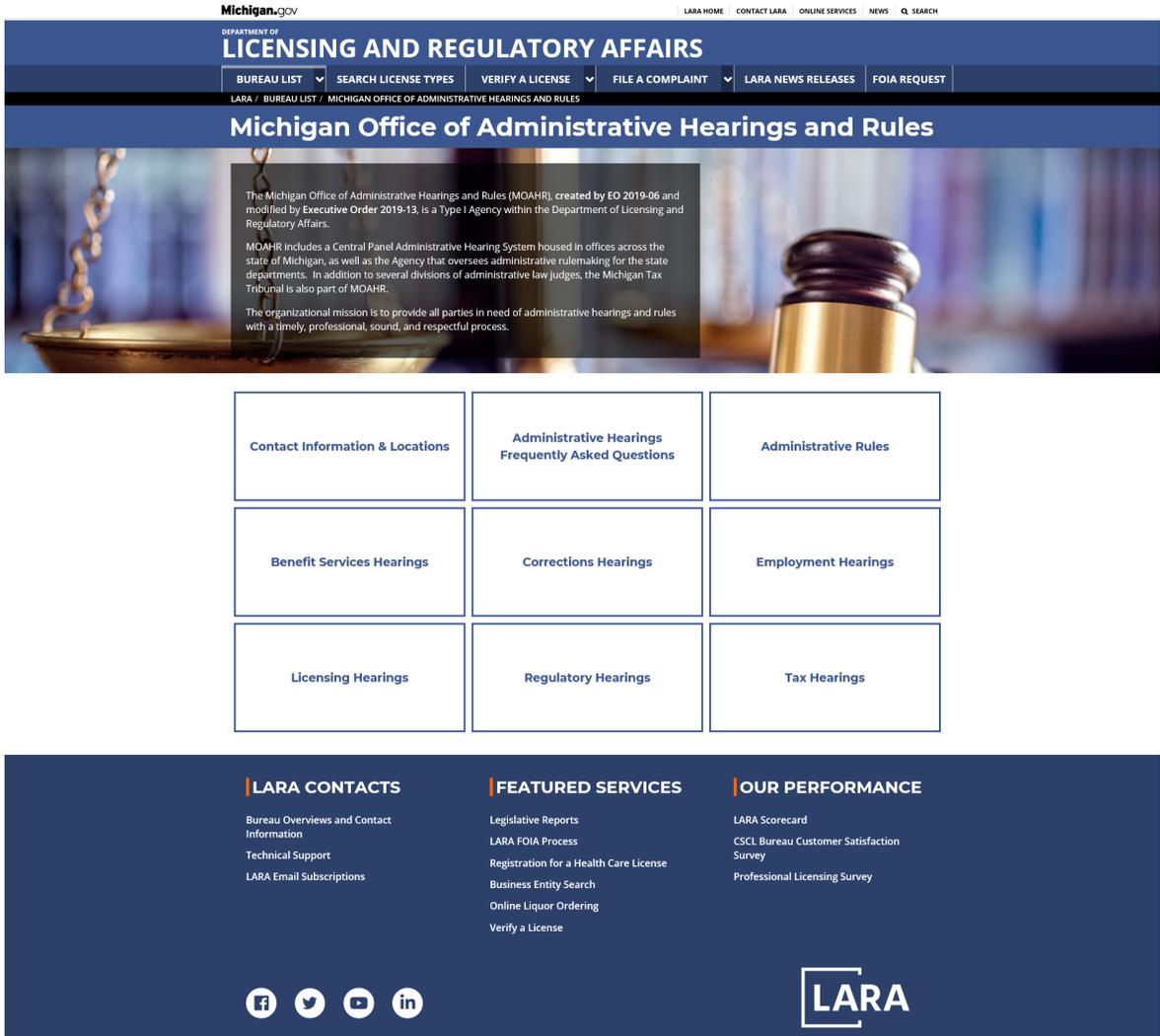


# How to Access and Search the MIOSHA Digest

1. Type/Copy and paste the following web address into your internet browser:  
[https://www.michigan.gov/lara/0,4601,7-154-89334\\_10576---,00.html](https://www.michigan.gov/lara/0,4601,7-154-89334_10576---,00.html)



2. Click the box titled “**Regulatory Hearings**” as shown below.



Please note images may appear slightly different than shown here due to website changes or the Adobe software version you are using. If any links identified within this document do not appear to work, please contact the MIOSHA Appeals Division at 517-284-7711 for assistance.

# How to Access and Search the MIOSHA Digest

3. Click on the box labeled Michigan Occupational Safety & Health Administration” as shown below.

The screenshot shows the Michigan.gov website interface. At the top, there is a navigation bar with 'Michigan.gov' on the left and links for 'LARA HOME', 'CONTACT LARA', 'ONLINE SERVICES', 'NEWS', and 'SEARCH' on the right. Below this is a dark blue header for the 'DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS'. A secondary navigation bar contains links for 'BUREAU LIST', 'SEARCH LICENSE TYPES', 'VERIFY A LICENSE', 'FILE A COMPLAINT', 'LARA NEWS RELEASES', and 'FOIA REQUEST'. Below the navigation is a breadcrumb trail: 'LARA / BUREAU LIST / MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES'. The main content area is titled 'Regulatory Hearings' and features a grid of ten boxes, each representing a different department or hearing type. A red arrow points to the box labeled 'Michigan Occupational Safety & Health Administration'.

Department of Education	Environment, Great Lakes, and Energy
Department of Insurance and Financial Services	Department of Natural Resources
Department of Transportation	Historic District Act Hearings
Michigan Occupational Safety & Health Administration	Nursing Home Complaints
Public Service Commission	Wage and Hour

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# How to Access and Search the MIOSHA Digest

4. Scroll to the bottom of the MIOSHA page to the section labeled “Links to MIOSHA Digest” and click on the MIOSHA Digest .pdf document.

Michigan.gov

LARA HOME CONTACT LARA ONLINE SERVICES NEWS QL SEARCH

DEPARTMENT OF  
**LICENSING AND REGULATORY AFFAIRS**

BUREAU LIST SEARCH LICENSE TYPES VERIFY A LICENSE FILE A COMPLAINT LARA NEWS RELEASES FOIA REQUEST

LARA / BUREAU LIST / MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

## MIOSHA

### How Do MIOSHA Matters Come To MOAHR?

**Citation Appeals**

Section 29 of MIOSHA, MCL 408.1029, provides that MIOSHA representatives (safety officers or hygienists) may inspect public and private places of employment at reasonable times and without delay. If, based on the inspection, the safety officer believes that violations of the promulgated rules or Act 154 have occurred, citations may be issued to the inspected employer. Every citation has three parts – the allegation of violation containing a description of the violation and reference to the rule or section of the Act alleged to have been violated, a time period for correction of the alleged violation, and a proposed penalty.

**Petitions to Modify Abatements (PMAs)**

If an employer allows a citation to become final by not filing a petition or appeal, but still needs more time to correct a specific violation, the employer may file a PMA with the issuing division.

**Variations**

Section 27 of MIOSHA allows an employer to suggest a method of abatement that is different from what the promulgated rules provide. If the division is convinced that the employer's suggested method of protecting employees will provide protection as safe as that required by the applicable rule, the division may grant the employer a variance from the rule.

**Discrimination**

Section 65 of MIOSHA prevents an employer from discriminating against an employee who exercises rights permitted by the Act. An employee who believes he or she has been discharged, disciplined, or otherwise discriminated for exercising rights permitted by MIOSHA may file a complaint with MIOSHA. After an investigation, MIOSHA issues a decision that may be appealed within 15 working days to MOAHR by either the employer or employer. The burden of proof is on the employee to show that the employer violated Section 65 by discriminating against the employee for the exercise of rights permitted by the Act.

### What Types Of MIOSHA Hearings Does MOAHR Hold?

**Citation Appeals**

Section 41 established a two-step appeal process. An employer or employee representative has 15 working days from receipt of a citation to file a petition for dismissal. The employer may object to the violation alleged, the proposed penalty, or request more time for abatement. The employee representative may only object to the length of the abatement period.

Upon receipt of a petition, MIOSHA has 15 working days to issue a decision. Upon receipt of this decision, the employer and employee representative each have 15 working days to appeal to the Board. Upon receipt of an appeal, the Board schedules the matter for a prehearing conference. If the case cannot be resolved, the appeal is referred to MOAHR as a contested case.

The burden of proof in a citation appeal case is on MIOSHA to show beyond a preponderance of evidence that the employer was in violation of the cited rule. MIOSHA generally starts off with the safety officer, but may call employees of the cited employer and expert witnesses. The employer and employee group, if any, may cross-examine each division witness. The ALJ may also have questions of the witnesses.

The employer has the burden of proof to establish by a preponderance of the evidence any recognized affirmative defenses such as greater hazard, isolated incident, or impossibility of performance.

**Petitions to Modify Abatements (PMAs)**

If an employer allows a citation to become final by not filing a petition or appeal, but still needs more time to correct a specific violation, the employer may file a PMA with the issuing division. This procedure is addressed in Section 44(2) of MIOSHA and in Administrative Rules R. 792.11107, et seq. If MIOSHA agrees with the requested time extension, MIOSHA issues an order extending the abatement date. If the request is denied, the employer may appeal to the Board. As with citation appeals, the Board sets the matter for a prehearing conference. If the case continues to be disputed, the appeal is referred to MOAHR as a contested case.

In order to prevail in a PMA, the employer has the burden to show a good faith effort to meet the time period established by MIOSHA, but not withstanding this effort, “abatement has not been completed because of circumstances beyond the reasonable control of the employer...”

**Variations**

If the application for variance is denied, the employer may file an appeal. In this event the matter is forwarded to MOAHR as a contested case. Administrative Rules R 792.11116, et seq. have been promulgated for this subject. The burden of proof is on the employer to show that the offered method of abatement will provide employees with protection as safe as that required by the applicable rule.

**Discrimination**

At the hearing, the ALJ issues a decision in favor of, or against the Petitioner, based on the evidence created in the record. The Division is a party at the hearing. If the ALJ finds a violation of Section 65, the ALJ must order all appropriate relief, including rehiring with back pay. The ALJ may also order the employer to pay attorney fees, hearing costs, and transcript costs.

### What Authority Does MOAHR Have In This Process?

**Citation Appeals**

The Administrative Law Judge (ALJ) prepares a proposed decision for review by the Michigan Board of Health and Safety Compliance and Appeals (Board). The Board then issues its final decision on the case. Decisions from the Board are appealable to the circuit court.

**Petitions to Modify Abatements (PMAs)**

PMA cases may be appealed to the Board. After the ALJ issues a proposed decision, the Board members have 30 days to “direct review.” Any one member may exercise this authority. If no Board member directs review within the 30 day period, the ALJ's decision becomes the final decision of the Board and may be appealed to circuit court. During the first 20 days of the 30-day review period, the parties may file exceptions to the ALJ's decision. However, even if exceptions are filed, the Board does not review the case unless a member directs review. See Administrative Rule R. 792.1115.

**Variations**

In the variance area, the ALJ prepares a proposed decision for the Department Director. The Department Director issues the final decision in the matter.

**Discrimination**

The ALJ prepares a final agency decision. Appeals from the Board, Department Director, and the ALJ are to the circuit court.

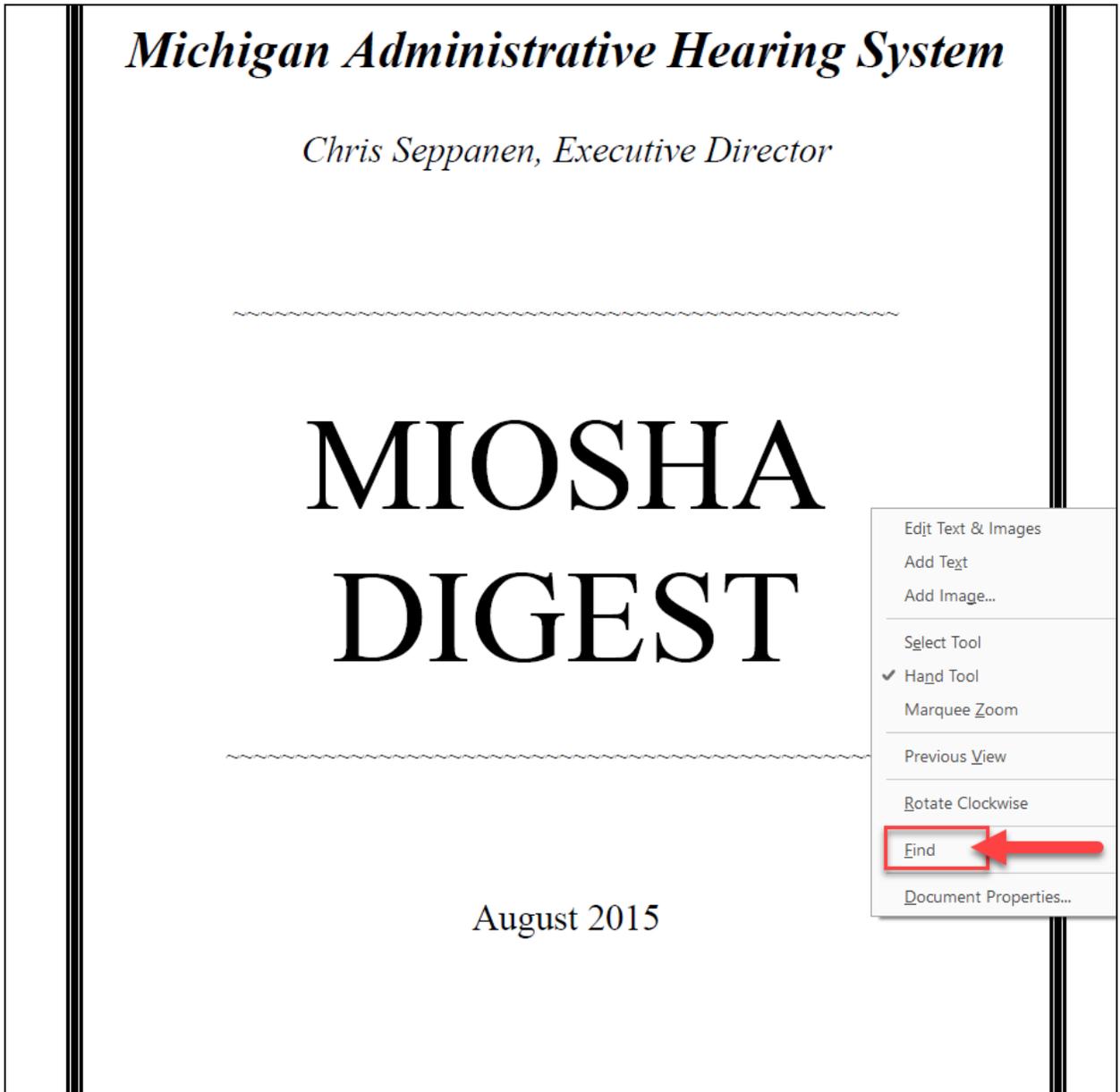
### Links To MIOSHA Digest

[MIOSHA Digest 2015](#) 

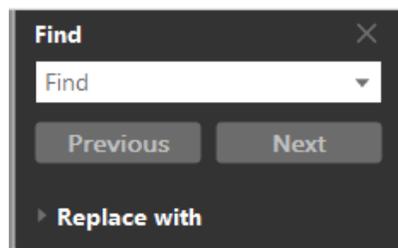
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## How to Access and Search the MIOSHA Digest

5. Once the Digest document is open, right click your mouse anywhere within the document and select "Find" from the menu.



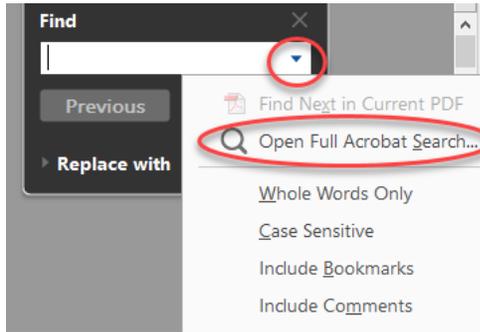
6. A Find search box will appear on the document as shown below.



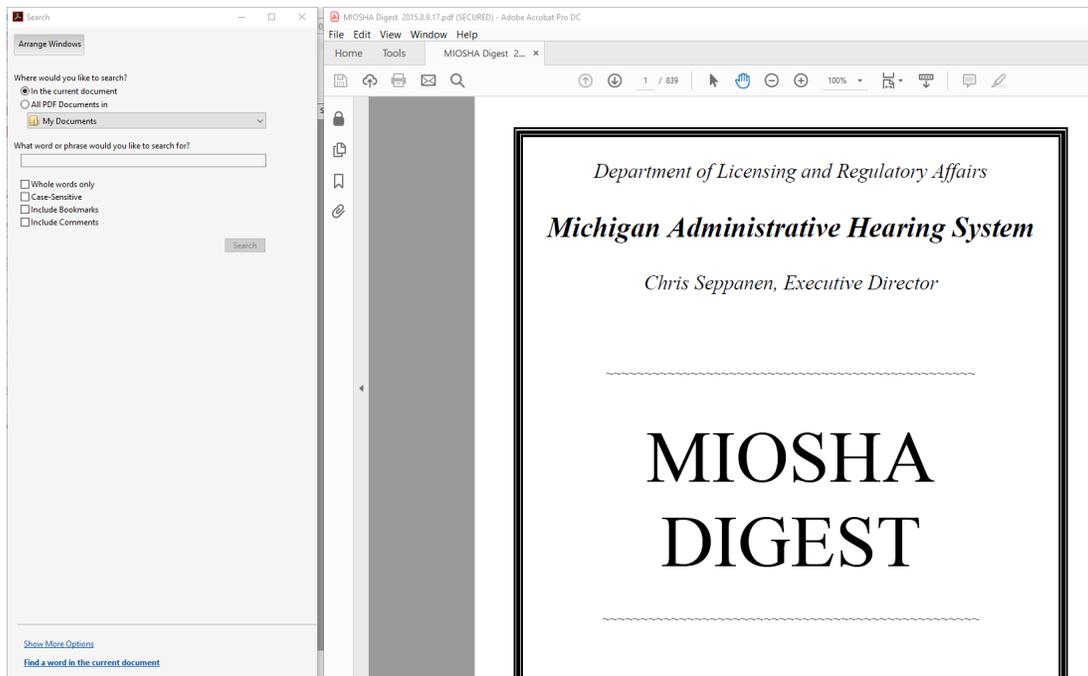
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# How to Access and Search the MIOSHA Digest

7. Click the down arrow and select “Open Full Acrobat Search” from the drop-down menu.



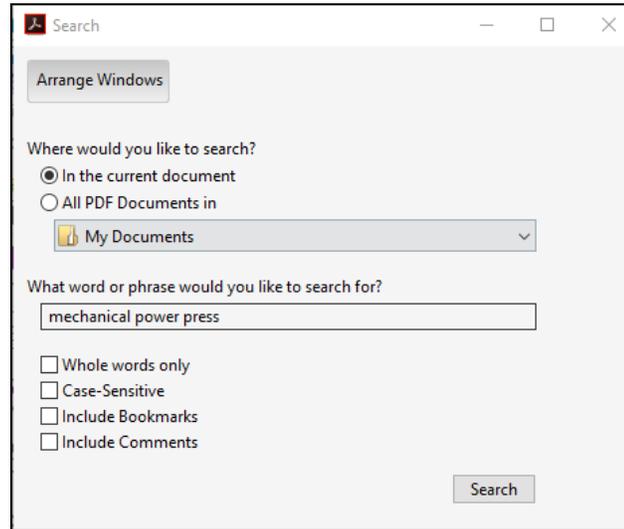
8. A Search window will appear to the left of the document as shown below.



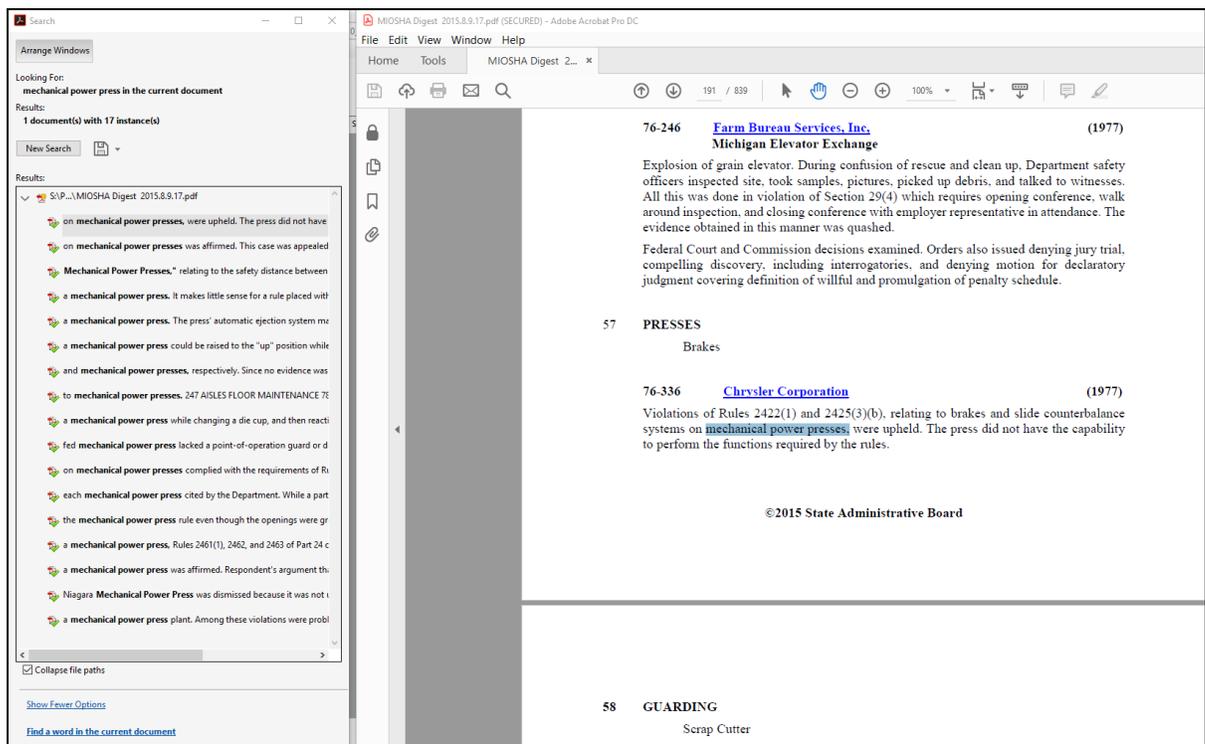
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# How to Access and Search the MIOSHA Digest

9. Make sure “In the current document” search option is clicked then type your search term into the search box and click Search.



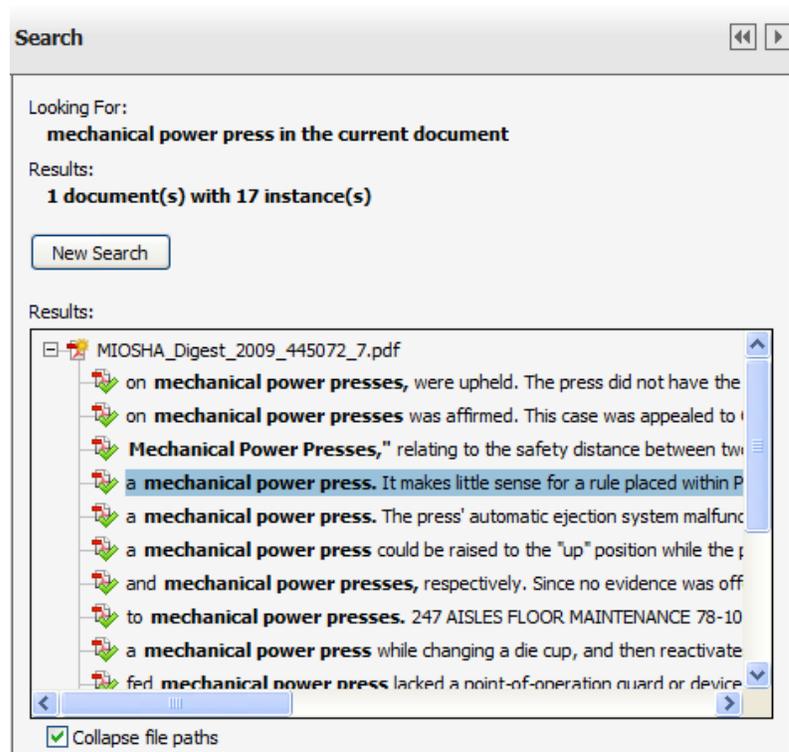
10. A Results list will appear to the left of the document as shown below identifying the instances where the search term appears. The Digest will also advance to the first instance in the document where the search term appears.



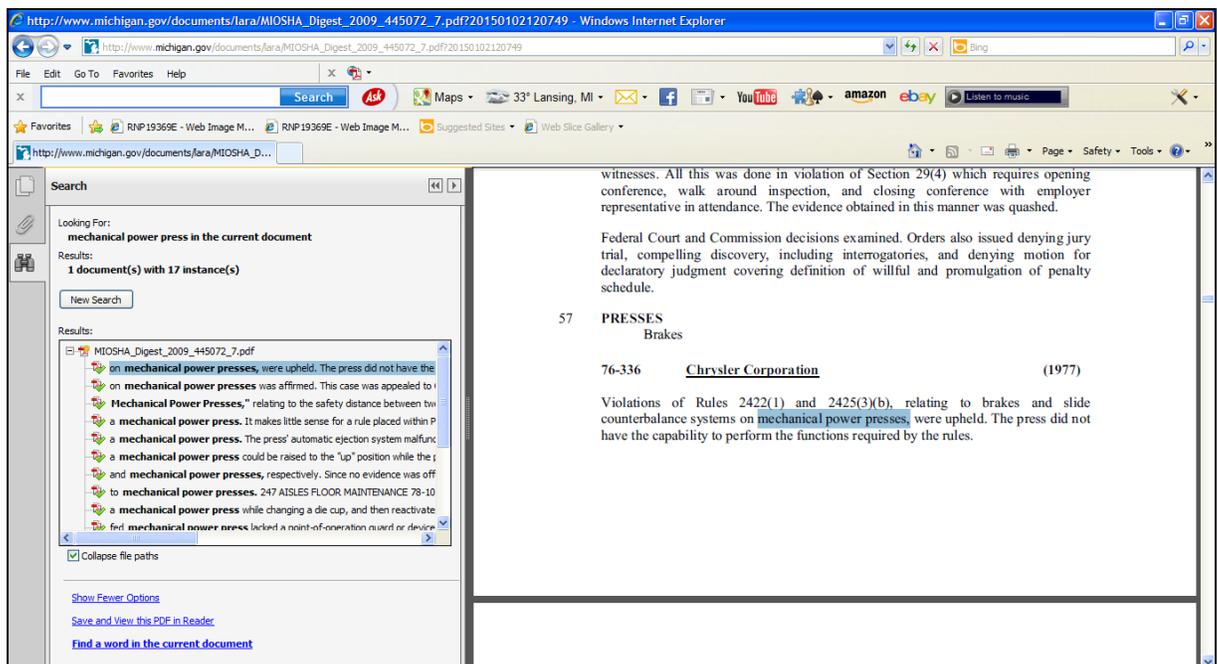
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# How to Access and Search the MIOSHA Digest

11. Place your mouse over the entry in the results menu you wish to view. When the an underline appears below the text, click the mouse.



12. The window to the right of your screen will then show the selected case summary with the search term highlighted. Repeat step 11 to view additional results.



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