

on a mobile application (an “app”), which is available on the Apple App Store®, Google Play®, and the BlackBerry App World®. Defendants also market the infringing mobile deskbooks on their website, www.pushlegal.com. As shown in this Complaint, Defendants’ acts of copying are flagrant and willful.

II. THE PARTIES

3. Plaintiff, McClure Family Limited Partnership (“McClure F.L.P.”) is a Texas family limited partnership with its principal place of business in Houston, Harris County, Texas. McClure F.L.P. owns the copyrighted books at issue in this case.

4. Plaintiff JMP Interests, L.P., which does business as Jones McClure Publishing (“Jones McClure”), is a Texas limited partnership with its principal place of business in Houston, Harris County, Texas. Jones McClure is the beneficial owner of the copyrights to the books at issue in this case. Jones McClure is responsible for authoring and updating the copyrighted books and other materials belonging to McClure F.L.P., and enforcing and defending the McClure F.L.P. copyrights.

5. Defendant Texas Legal Apps, LLC is a Texas limited liability company that conducts business in the state of Texas, with its principal place of business located at The Commercial Bank Building, 917 Franklin, Suite 250, Houston, Texas 77002. Texas Legal Apps, LLC can be served by serving its registered agent for service of process, Jonathan J. Paull, at this same address.

6. Defendant Texas Legal Apps, Inc. is a Texas corporation that conducts business in the state of Texas, with its principal place of business located at The Commercial Bank Building, 917 Franklin, Suite 250, Houston, Texas 77002. Texas Legal Apps, LLC can be served by serving its registered agent for service of process, Jonathan J. Paull, at this same address.

7. Defendant Texas-Legal-Apps is a Texas unincorporated association that conducts business in the state of Texas, with its principal place of business located at The Commercial Bank Building, 917 Franklin, Suite 250, Houston, Texas 77002. Texas-Legal-Apps can be served by serving its registered agent for service of process, Jonathan J. Paull, at this same address.

8. Defendant Jonathan J. Paull is an individual, currently residing in Harris County, Texas, who is the President and founder of Defendants Texas Legal Apps, LLC; Texas Legal Apps, Inc.; and Texas-Legal-Apps. Paull may be served at 1646 Milford, Houston, Texas 77006.

9. Defendant Alex Torry is an individual, currently residing in Harris County, Texas, who is described as the Chief Operating Officer of Push Legal. Torry may be served at 5206 Paisley, Houston, Texas 77096-4126.

10. Defendant Richard McNairy is an individual, currently residing in Harris County, who is described as the Chief Financial Officer of Push Legal. McNairy may be served at 3803 Hanberry, Pearland, Texas 77584-4952.

11. On information and belief, there are five individuals or entities whose identities and addresses are unknown who are referred to here as Does 1 through 5. On information and belief, Does 1 through 5 materially participated in, contributed to, and/or induced the violations described in this Complaint.

12. Collectively, for purposes of this Complaint, Texas Legal Apps, LLC; Texas Legal Apps, Inc.; Texas-Legal-Apps; Jonathan J. Paull; Alex Torry; Richard McNairy; and Does 1 through 5 are referred to as "Defendants."

III. JURISDICTION AND VENUE

13. This Court has original jurisdiction over this action under 28 U.S.C. § 1331 (federal question) and §1338 (copyright).

14. This Court has personal jurisdiction over Defendants because they committed the acts described in this Complaint in this District and have sufficient minimal contacts with this District.

15. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a substantial part of the acts described in this Complaint took place in this district.

IV. FACTS

A. The O'Connor'sTM Copyrighted Books

16. Plaintiffs publish many well-known and highly regarded legal reference books in the United States that, over the last twenty years, have become known simply as the O'Connor'sTM books. With some notable exceptions, the O'Connor'sTM books generally come in three content types: practice guides, annotated rules and codes, and forms. Of the twenty-four titles published by Plaintiffs, fourteen contain annotated rules or statutes. At issue in this case are nearly all of the O'Connor'sTM annotated rules and codes.

17. In the early 1990s, Michol O'Connor conceived of the idea to utilize a limited selection of edited quotations from judicial opinions to create annotations for Texas rules of civil procedure and evidence. She knew from her experience, both in practice and on the bench, that the actual language from a judicial opinion could be more valuable to practitioners than a paraphrased or summarized version, which was the most prevalent method for annotating rules and statutes at the time. She believed that

edited, direct quotes from the opinions would permit an attorney to easily quote relevant case law, both in a brief and in open court.

18. O'Connor's concept was to provide practitioners with an expert selection of on-point court opinions, including relevant seminal opinions, which were edited to ensure quick readability, easy comprehension, and rapid application. By limiting the number of annotations, the concept ensured that attorneys would focus on the most important issues and not get lost in a sea of summaries like the old digest systems. Use of the court's actual language was meant to avoid debates that inevitably resulted from poor case summaries used in other works or difficult-to-understand author commentary. The various O'Connor'sTM annotated rules and codes books have been an unparalleled success and are familiar companions to trial lawyers and practitioners throughout the United States.

19. Plaintiffs' books represent a substantial financial investment and are the product of thousands of hours of work contributed over the last twenty years. Even after a new O'Connor'sTM annotated rules or codes book is published, an enormous amount of work is required to keep the annotations current and relevant. Plaintiffs' employees, who are lawyer-editors, conduct extensive research each year to identify the most relevant and important case law for each rule and statute. After new cases are identified for possible inclusion, Plaintiffs' employees draft a concise annotation for each case; the employees then analyze each new annotation to confirm that it conveys the most significant aspects of law relevant to a specific code section or rule. The employees further assess whether the new annotation provides the reader with enough context to determine if he or she should spend money and time to access the case for further review.

20. When drafting an annotation, Plaintiffs' employees frequently splice together language from different paragraphs or pages within an opinion. In certain instances, the language of an important opinion is not readily annotatable; when that happens, Plaintiffs' employees will draft lead-in language or summarize the holding to make the annotation more meaningful. Plaintiffs' employees frequently append string cites of other cases to annotations to provide the reader with additional cases that have a similar or related holding or suggest a split between courts. This selection process is highly evaluative and creative; even among Plaintiffs' employees, the meaning and content of the same annotation could vary. In short, drafting annotations is an analytical art form.

21. Over the years, Plaintiffs have developed a comprehensive and documented set of rules dedicated solely to editing and verifying the format of its annotations. These detailed rules include, but are not limited to, the use of brackets to indicate a change in the court's language, paragraph symbols and jump cites to help the reader locate the quoted language in the case, ellipses to indicate quoted language that has been deleted, and the provision of party identifiers to avoid use of proper names of the parties. Thus, each O'Connor'sTM annotated rules and code book represents the author's unique and original expression relating to the subject-matter covered by that work.

22. Once the drafting procedure is completed, the new annotations go through no fewer than two reviews to confirm that all of Plaintiffs' annotation rules have been applied correctly. Then the annotated cases must be weighed against the cases already in the books to determine whether the new case is better, more reliable, and more important than one of the older cases. If the courts, Legislature, or Congress have

amended the rules, statutes, or codes, the annotated cases must also be read against those changes to confirm whether they are still applicable.

23. Despite all of this work, Plaintiffs' annotations are but merely one of many ways to "annotate" statutes, codes, and rules.¹ Some of the more common practices among established legal publishers include the use of (1) headnotes (e.g., West Publishing, Lexis), (2) summarized or paraphrased holdings (also known as a "squibs" or "notes of decision"), (3) author commentary or explanatory notes, and (4) a concordance of citing references and related secondary sources, such as treatises and law reviews. The amount of material included from judicial opinions will obviously vary by the method of annotation selected. Legal publishers also vary on the selection of annotations they will offer readers; some cover "the waterfront" and others, like Plaintiffs, provide a more refined selection of annotations to avoid overwhelming the reader with too much information. Legal publishers also organize their annotations differently; some have complex taxonomies and others simply list cases in order of authority and date. Any one of these presentations of expression—drafting, summarization, selection, or organization—sets one legal publisher's product apart from another and is the basis for rather heated competition in the annotated rules and codes markets.

24. The following is a list of Plaintiffs' copyrighted works² that are at issue in this case (the "O'Connor'sTM Copyrighted Books"):

¹ Importantly, Plaintiffs are not the only legal publisher that utilizes quotations from judicial opinions. Publishers such as LexisNexis and ALM's Texas Lawyer have followed this form of annotating rules and codes in various competing works.

² Plaintiff alleges that Defendants copied the editions included in Table 1. Plaintiff reserves the right to supplement and amend this list in the future.

Table 1. Infringed Materials			
No.	Book Name	Edition(s)	Copyright Registration No.
1	O'Connor's Federal Rules * Civil Trials	2009 2010 2011	TX0007280501 / 2011-01-11
2	O'Connor's Texas Criminal Codes Plus	2009 2010	TX0007126668 / 2010-01-11 TX0007280505 / 2011-01-11
3	O'Connor's Texas Rules * Civil Trials	2010 2011	TX0007307625 / 2011-01-11 TX0007499443 / 2012-03-14
4	O'Connor's Federal Criminal Rules & Codes Plus	2010 2011	TX0007280489 / 2011-01-11 TX0007499947 / 2012-03-14
5	O'Connor's Family Code Plus	2009 2010	TX0007128857 / 2010-01-11 TX0007306465 / 2011-01-11
6	O'Connor's Probate Code Plus	2008 2009 2010	TX0007095811 / 2010-01-11 TX0007127912 / 2010-01-11 TX0007312259 / 2011-01-11
7	O'Connor's Business & Commerce Code Plus	2011	TX0007499944 / 2012-03-14
8	O'Connor's CPRC Plus	2008 2009 2010	TX0007130621 / 2010-01-11 TX0007307550 / 2011-01-11
9	O'Connor's Property Code Plus	2010	TX0007306452 / 2011-01-11
10	O'Connor's Business Organizations Code Plus	2010	TX0007307621 / 2011-01-11
11	O'Connor's California Practice * Civil Pretrial	2011	Not yet available from the copyright office

B. Defendants' Business Model and Infringement

25. Two years ago, Defendant Jonathan J. Paull, a local criminal law and civil litigation attorney, allegedly conceived the idea for a mobile app that would “give lawyers the ease of access to law documents and rules from their phones.” This app, dubbed “Push:Legal,” sought to distinguish itself by proclaiming to be the first platform to offer annotated deskbooks for mobile phones. The app was competing against both traditional book publishers and other mobile app developers that offered access to rules, statutes, and codes. Push:Legal wanted to be different by offering the one thing print publishers did not have—mobile access—and two things the digital competitors did not have—annotations

(“leading cases tied to the rules and statutes they interpret”) and a hyperlink to search for cases on Google Scholar.

26. Because it is difficult to convince consumers to buy something new without at least giving them a taste of what’s in store, Defendants packaged Push:Legal with a freebie: a fully annotated Federal Rules of Civil Evidence. The “try it before you buy it” approach is a good hook to get the customer in the door, and Defendants executed on it successfully, taking in over 18,000 reported subscribers since Push:Legal’s launch in November of 2011. Since then, Defendants have offered other mobile deskbooks on an annual subscription basis for prices ranging from \$12.99 to \$149.99.

27. On or about March 16, 2012, the Houston Business Journal published an article regarding Push:Legal’s mobile app. In that article, Defendant Paul was quoted as saying:

Lawyers rely on desk books, and it occurred to me this was an opportunity to have a desk book in the form of a mobile application[.] A lot of times, when you walk into court, you don’t have all the facts. This app allows you to quickly look up what you need.

28. After reading the Houston Business Journal article, Plaintiffs downloaded the Push:Legal app and performed a cursory review of the annotations contained in the free Federal Rules of Civil Evidence title. Plaintiffs found that several of Defendants’ case annotations were virtually identical to annotations contained in Plaintiffs’ O’Connor’s™ books, including the two annotations featured in screen shots on Defendants’ website.

C. Plaintiffs’ Forensic Investigation

29. Plaintiffs then undertook a forensic analysis comparing the content of the O’Connor’s™ books with Defendants’ mobile deskbooks.

30. In order to complete a thorough forensic investigation, Plaintiffs reviewed each and every annotation in the Infringing Mobile Deskbooks to determine whether they were substantially similar to content appearing in any of the O'Connor's™ Copyrighted Book(s) (in various editions). This laborious process took roughly a month to complete.

31. The forensic analysis revealed Defendants copied each and every unique aspect of the O'Connor's™ Copyrighted Books, including: (i) copying the overall arrangement of each book, which was to use case law annotations to express the current state of law for the relevant statute section or rule number; (ii) copying the same judicial opinion—out of hundreds or thousands of relevant opinions—that Plaintiffs had selected to make that expression; (iii) copying the same quoted language from those cases; (iv) choosing the same organization of facts by removing sentences, paragraphs, or citations and adding important contextual information; (v) copying Plaintiffs' narrative descriptions of the case; (vi) copying the order of selected cases even when it didn't make sense in the Infringing Mobile Deskbooks; (vii) copying Plaintiffs' unique editorial marks, such as using bracketed identifiers and ellipses; and (viii) copying Plaintiffs' citations to other cases in the annotation that do not appear in the main case (in other words, copying a string cite that one of Plaintiffs' lawyer-editors had independently evaluated and created).

32. Upon information and belief, Defendants' Infringing Mobile Deskbooks also include annotations copied without authorization from other copyrighted books of other publishers. It appears that Defendants' business model is nothing more than an orchestrated rip-off—exploiting years of legal publishing experience, financial investment, and development from multiple publishers of annotated rules and codes.

33. The following table summarizes the “Infringing Mobile Deskbooks” and the extent of Defendants’ copying:

Table 2. PushLegal’s Infringing Mobile Deskbooks			
	Push Legal E-Book	Plaintiffs’ Book	No. of Copied Annotations
1	California Evidence Code	O’Connor’s California Practice * Civil Pretrial	299, or about 45% of Push Legal’s Annotations
2	Federal Rules of Civil Procedure	O’Connor’s Federal Rules * Civil Trials	286, or about 62% of Push Legal’s Annotations
3	Federal Rules of Criminal Procedure	O’Connor’s Federal Criminal Rules & Codes Plus	369, or about 58% of Push Legal’s Annotations
4	Federal Rules of Evidence (Civil)	O’Connor’s Federal Rules * Civil Trials	78, or about 43% of Push Legal’s Annotations
5	Federal Rules of Evidence (Criminal)	O’Connor’s Federal Criminal Rules & Codes Plus; and O’Connor’s Federal Rules * Civil Trials	139, or about 67% of Push Legal’s Annotations
6	Texas Business & Commerce Code	O’Connor’s Business & Commerce Code Plus	413, or about 40% of Push Legal’s Annotations
7	Texas Business Organizations Code	O’Connor’s Business Organizations Code Plus	292, or about 79% of Push Legal’s Annotations
8	Texas Civil Practice & Remedies Code	O’Connor’s CPRC Plus	810, or about 51% of Push Legal’s Annotations
9	Texas Code of Criminal Procedure	O’Connor’s Texas Criminal Codes Plus	740, or about 67% of Push Legal’s Annotations
10	Texas Family Code	O’Connor’s Family Code Plus	780, or about 55% of Push Legal’s Annotations
11	Texas Health & Safety Code	O’Connor’s Texas Criminal Codes Plus	59, or about 70% of Push Legal’s Annotations
12	Texas Penal Code	O’Connor’s Texas Criminal Codes Plus	309, or about 56% of Push Legal’s Annotations
13	Texas Probate Code	O’Connor’s Probate Code Plus	653, or about 73% of Push Legal’s Annotations
14	Texas Property Code	O’Connor’s Property Code Plus	564, or about 68% of Push Legal’s Annotations
15	Texas Rules of Civil Procedure	O’Connor’s Texas Rules * Civil Trials	530, or about 39% of Push Legal’s Annotations
16	Texas Rules of Civil Evidence (Criminal)	O’Connor’s Texas Criminal Codes Plus	68, or about 53% of Push Legal’s Annotations
17	Texas Transportation Code Title 7, subtitle B, ch. 524 Title 7, subtitle C, ch. 550, subch. B Title 7, subtitle J, ch. 724	O’Connor’s Texas Criminal Codes Plus	50, or about 50% of Push Legal’s Annotations

34. Given the number, selection, and substantial similarity of the annotations in Defendants’ Infringing Mobile Deskbooks to the O’Connor’s™ Copyrighted Books, it is inconceivable that Defendants selected and created the annotations without access to Plaintiffs’ Copyrighted Works, which are for sale on the Internet, in book stores, and

available for use in law school libraries. It is likewise statistically impossible that Defendants created the annotations by independent authorship, which would require the mammoth coincidence of using exactly the same method for expressing cases as Plaintiffs, selecting exactly the same cases to annotate as Plaintiffs (out of the thousands of potential cases for each statute and rule), selecting exactly the same quotations and eliminating exactly the same material from those cases as Plaintiffs, and applying exactly the same editorial rules as Plaintiffs (including references to cases not cited in the original case, bracketed identifiers for parties, ellipses, and many others). The only rational conclusion is that Defendants engaged in wholesale, willful copying of the O'Connor's™ Copyrighted Books in an effort to gain a competitive advantage over other publishers of annotated rules and codes.

35. The following examples are illustrate the scope and breadth of Defendants' copying and copyright infringement:

First example of infringement	
O'Connor's Criminal Codes Plus (10-11) Penal Code §37.02	PUSH: legal App Penal Code §37.02
<i>State v. Salinas</i> , 982 S.W.2d 9, 11-12 (Tex.App.—Houston [1st Dist.] 1997, pet. ref'd).	State v. Salinas, 982 S.W.2d 9, 11-12 (Tex. App. Houston 1st Dist. 1997)
“[T]he Election Code provides: ‘This code supersedes a conflicting statute outside this code unless this code or the outside statute expressly provides otherwise.’ Because neither the Election Code nor the perjury statute expressly provides otherwise, the Election Code supersedes the perjury statute.” Held: Prosecution for inaccurate contribution and expenditure reports must be conducted under Election Code.	The Election Code Provides: “This code supersedes a conflicting statute outside this code unless this code or the outside statute expressly provides otherwise.” Because neither the Election Code nor the perjury statute expressly provides otherwise, the Election Code supersedes the perjury statute. Held: Prosecution for inaccurate contribution and expenditure reports must be conducted under Election Code.
Plaintiffs' Expression:	
<ul style="list-style-type: none"> • Plaintiffs selected where to begin and end the annotation. 	

- Plaintiffs bracketed the first letter of the first word in this annotation to indicate that the annotation begins in the middle of the sentence found in the court’s opinion.
- Plaintiffs deleted from this annotation a citation used in the court opinion. This deletion makes the annotation more concise and easier to read.
- The last sentence is not a quotation from the judicial opinion; instead, Plaintiffs summarized the holding of the case for the reader.
- Plaintiffs provided a jump cite in the case citation to help the reader locate the quoted language in the court’s opinion. Defendants are inconsistent in how it formats case citations and infrequently provides jump cites.

Second example of infringement

O’Connor’s CPRC Plus (2009-10)
CPRC §14.004

In re Taylor, 28 S.W.3d 240, 247 (Tex.App.—Waco 2000), *disapproved on other grounds*, *In re Z.L.T.*, 124 S.W.3d 163 (Tex.2003).

“[T]he provisions of [CPRC] ch. 14 ... regarding inmate litigation apply ‘only to a suit brought by an inmate in a district, county, justice of the peace, or small claims court.’ Therefore, because this is an original proceeding filed in a court of appeals, the declaration of previous litigation mandated by §14.004 is not required.” *See also Nabelek v. Garrett*, 94 S.W.3d 648, 649 (Tex.App.—Houston [14th Dist.] 2002, *pet. dismiss’d*).

PUSH: legal App
CPRC §14.004

In re Taylor, 28 S.W.3d 240, 247 (Tex. App. - Waco 2000) *disapproved on other grounds*, *In re Z.L.T.*, 124 S.W.3d 163 (Tex. 2003).

[T]he provisions of [CPRC] ch. 14 ... regarding inmate litigation apply only to a suit brought by an inmate in a district, county, justice of the peace, or small claims court.” Therefore, because this is an original proceeding filed in a court of appeals, the declaration of previous litigation mandated by §14.004 is not required. *See also Nabelek v. Garrett*, 94 S.W.3d 648, 649 (Tex. App. - Houston [14th Dist.] 2002, *pet. dismiss’d*).

Plaintiffs’ Expression:

- Plaintiffs selected where to begin and end the annotation.
- Plaintiffs bracketed the first letter of the first word in this annotation to indicate that the annotation begins in the middle of the sentence found in the court’s opinion.
- Plaintiffs used the second set of brackets to give the reader relevant context that does not appear here in the court’s opinion. This change makes the annotation easier to understand.
- Plaintiffs abbreviated “chapter,” which is spelled out in the quoted portion of court’s opinion, to “ch.” to make the annotation more concise.

- Plaintiffs use ellipsis to indicate that text has been deleted from the quoted sentence.
- Plaintiffs abbreviated the word “section,” which is spelled out in the quoted portion of court’s opinion, to a section symbol “§.” This was done to make the annotation more concise.
- Plaintiffs deleted a citation used by the court in its opinion; this change makes the annotation more concise and easier to read.
- Plaintiffs selected an additional relevant judicial opinion for the reader to consider and appended its citation to the end of the annotation. The *Nabelek* opinion is not referenced in the *In re Taylor* opinion.
- Plaintiffs format the case citations for both the annotated opinion and the opinion at the end of the annotation uniformly and includes jump cites to help the reader locate the quoted language from the opinions. Although Defendants are inconsistent in how it formats case citations and infrequently provides jump cites, both Defendants’ case citations here are identical to Plaintiffs’ citations.

Third example of infringement	
O’Connor’s Probate Code Plus (2008-09) Probate Code §41	PUSH: legal App Probate Code §41
<i>Simon v. Dibble</i> , 380 S.W.2d 898, 899 (Tex.App.—San Antonio 1964, writ ref’d). Can “an insane husband who shoots and kills his wife ... receive the proceeds of insurance policies taken out by her with him as beneficiary, and [can he] inherit her share of the community property[?]” Held: Yes.	Simon v. Dibble, 380 SW 2d 898 (Tex. App.- San Antonio 1964, writ redd) [A]n insane husband who shoots and kills his wife... receive the proceeds of insurance policies taken out by her with him as beneficiary, and [can he] inherit her share of the community property. [?]” Help: Yes.
Plaintiffs’ Expression:	
<ul style="list-style-type: none"> • Plaintiffs selected this judicial opinion to annotate because it is related to the subject matter of Texas Probate Code §41(d), but importantly, the opinion does not actually cite to that code section. Only a lawyer who knew both the subject-matter of the statute and had read this case would have knowledge of this substantive relationship and would have selected it for inclusion. • Plaintiffs selected where to begin and end the annotation. • The first word of this annotation is not a quotation from the court’s opinion; instead, Plaintiffs created a one-word lead-in to present the issue in the form of a question. This is a concise presentation that is easy for the reader to understand. Defendants mistakenly left off the lead-in word when copying this annotation, so the question framework does not make sense in Defendants’ annotation. 	

- Plaintiffs used ellipsis to indicate that text has been deleted from the sentence.
- Plaintiffs used the first set of brackets to replace a word in the opinion with language that furthers the question format of the annotation. The language in the brackets does not appear in the court's opinion.
- Plaintiffs used the second set of brackets to insert a question mark to facilitate the question format of the annotation.
- The last two words of the annotation do not appear in the court's opinion; instead, Plaintiffs gave a one-word holding statement in answer to the question posed by the annotation.
- Note that Defendants mistakenly typed "writ redd" instead of "writ ref'd" and "Help" instead of "Held" when copying this annotation.

36. Neither McClure F.L.P. nor Jones McClure have ever granted any license to Defendants to use Plaintiffs' copyrighted works, and upon information and belief, no other legal publisher has granted a license to Defendants to use its copyrighted works.

37. Upon information and belief, Plaintiffs have lost sales, and will continue to lose sales, as a direct or proximate result of Defendants' illegal and impermissible copying.

D. The Cease-and-Desist Letter

38. On May 1, 2012, the undersigned counsel sent a cease-and-desist letter to Defendants, which is attached hereto as Exhibit A. The cease and desist letter demanded that Defendants take the following actions: (i) cease and desist unlawful copying of the O'Connor's™ Copyrighted Books; (ii) remove the aforementioned Infringing Mobile Deskbooks from Apple App Store®, Google Play®, and the BlackBerry App World® (and otherwise remove them from any other website or means of sale whatsoever); (iii) remove the aforementioned Infringing Mobile Deskbooks from its customer accounts, or take steps to ensure that such customers can no longer access the Infringing Mobile Deskbooks; (iv) remove the following web address: <http://69.164.202.37>; and (iv) destroy the above-referenced Push Legal Infringing Mobile Deskbooks and return any

unauthorized reproductions of Plaintiffs' Copyrighted Works that are in Defendants' possession, custody, and/or control.

39. The cease-and-desist letter requested a written assurance that Defendants would comply with these demands within seven (7) days of receiving the letter.

E. Defendants' "Response" to the Cease-and-Desist Letter

40. As of the date of the filing of this Complaint, Defendants have not formally responded to the cease and desist letter.

41. On the afternoon of May 10, 2012—nine days after receiving the cease-and-desist letter—the undersigned counsel received an e-mail from K.A.D. "Kiwi" Camara, indicating he had been hired to represent Defendants Push:Legal, Paull, and Alex Torry in connection with the cease-and-desist letter. Camara indicated that Defendant Push:Legal had taken steps towards complying with the demands stated in the cease-and-desist letter. Upon information and belief, Defendant Richard McNairy remains unrepresented.

42. Upon information and belief, Defendants have removed several of the Infringing Mobile Deskbooks from their app bookstore, but the Federal Rules of Evidence (Civil) is still given away freely with every download of the Push:Legal app. Additionally, the content of all the mobile deskbooks is still available to customers that purchased them before the removal, and infringing material is still freely available at the web address <http://69.164.203.37/>.

43. Upon information and belief, Defendants are in the process of modifying the mobile deskbooks and will offer them for sale again in the near future.

F. Possible Contributory Infringers

44. Upon information and belief, Defendants hired several students (some of whom are now in law school) to “create” annotations for Defendants mobile deskbooks. Plaintiffs believe that these individuals (who are currently referred to as Does 1 through 5), simply obtained the O’Connor’s™ books and copied them.

V. CAUSES OF ACTION

A. Copyright Infringement against all Defendants

45. Plaintiffs reallege all allegations in the previous paragraphs as if included verbatim here.

46. Plaintiff McClure F.L.P. owns every copyright to the O’Connor’s™ Copyrighted Books in Table 1. Plaintiff McClure F.L.P. registered the copyright to the copyrighted works referenced in Table 1. The Copyright Office assigned the books registration numbers. The date of registration for each book is contained in the pertinent Registration Certificates. Copies of the Registration Certificates are attached hereto as Exhibit B.

47. Plaintiff Jones McClure holds a beneficial interest in every copyright to the Copyrighted Works in Table 1 by virtue of an exclusive contract to publish the O’Connor’s™ Copyrighted Books.

48. Each of the O’Connor’s™ Copyrighted Books constitutes original material that is copyrightable under federal law. Employees of Plaintiffs created the O’Connor’s™ Copyrighted Books in the course of, and in accordance with, their regular duties or assignment.

49. The Defendants had access to the O’Connor’s™ Copyrighted Books because each book was publicly available, either for sale, or accessible through a library.

50. Defendants, without authorization, copied entire portions of the O'Connor's™ Copyrighted Books, including the actual copying of thousands of Plaintiffs' annotations. The Infringing Mobile Deskbooks are both probatively and strikingly similar to the O'Connor's™ Copyrighted Books; there is no possibility that Defendants independently created the Infringing Mobile Deskbooks.

51. The Infringing Mobile Deskbooks are also substantially similar to the O'Connor's™ Copyrighted Books as the annotations are virtually indistinguishable making the Defendants' infringement immediately apparent to the ordinary observer.

52. Defendants have directly and indirectly infringed on Plaintiffs' copyrights by inducing, causing, or materially contributing to the above-described conduct.

53. Because of Defendants' unlawful acts, Plaintiffs have suffered and continue to be threatened with irreparable harm, as well as economic and non-economic damages including, but not limited to, lost profit, sales, market position, business reputation, and goodwill, as well as other pecuniary and consequential losses, in an amount to be proven at trial.

54. Pursuant to 17 U.S.C. § 504(c), Defendants are liable for statutory damages in a sum not less than \$750 or more than \$30,000 for each edition of each book that was copied.

55. Pursuant to 17 U.S.C. § 504(c)(2), Plaintiffs would show that Defendants' infringement was committed willfully, and Plaintiffs seek statutory damages at the maximum amount of \$150,000 for each edition of each book that was copied.

56. Defendants' conduct was willful, wanton, and malicious, thereby entitling Plaintiffs to exemplary damages.

57. Pursuant to 17 U.S.C. § 505, Plaintiffs seek recovery of full costs and its reasonable attorney's fees.

B. Civil Conspiracy and Joint Liability against all Defendants

58. Plaintiffs reallege all allegations in the previous paragraphs as if included verbatim here.

59. Upon information and belief, all Defendants were aware of and agreed to make impermissible use of the O'Connor's™ Copyrighted Books.

60. As stated above, Defendants collectively engaged in a concerted action with the intent to accomplish the unlawful act of infringing Plaintiffs' copyrights. Defendants had a meeting of the minds on the object or course of action, which was to unlawfully copy Plaintiffs' books and sell them as the Infringing Mobile Deskbooks. One or more of the Defendants engaged in the unlawful, overt act of copying Plaintiffs' copyrighted materials.

61. Individual Defendants Paull, Torry, and McNairy were at all pertinent times in control of Push:Legal's actions (including the actions of Texas Legal Apps, LLC; Texas Legal Apps, Inc.; and Texas-Legal-Apps), and individual Defendants Paull, Torry, and McNairy derived and continue to derive a direct financial benefit from the copyright infringement.

62. Because of Defendants' unlawful acts, Plaintiffs suffered and continue to be threatened with irreparable harm, as well as economic and non-economic damages including, but not limited to, lost profits, sales, market position, business reputation, and goodwill, as well as other pecuniary and consequential losses, in an amount to be proven at trial.

63. Due to their conspiracy and control, Defendants are jointly and severally liable for all damages.

64. Defendants' conduct was willful, wanton, and malicious, thereby entitling Plaintiffs to exemplary damages.

VI. APPLICATION FOR TEMPORARY RESTRAINING ORDER

65. Plaintiffs reallege all allegations in the previous paragraphs as if included verbatim here.

66. Pursuant to Fed. R. Civ. P. 65, Plaintiffs move for a Temporary Restraining Order and, after a hearing, a Preliminary Injunction enjoining Defendants against the sale, distribution, use, retention, and/or disclosure of the Infringing Mobile Deskbooks, or any other works that infringe Plaintiffs' copyrights.

67. Unless Defendants are enjoined from their continuous and ongoing infringement, Plaintiffs will suffer immediate and irreparable harm, which cannot be compensated by an award of money damages and for which the Plaintiffs have no adequate remedy at law. There is a substantial likelihood that Plaintiffs will succeed on the merits of their copyright infringement claim against Defendants. The injuries that Plaintiffs have sustained from Defendants' continuous and ongoing infringement of the O'Connor's™ Copyrighted Books outweigh any injury Defendants may sustain as a result of the requested injunctive relief. Granting of a temporary restraining order enjoining Defendants from their continuous and ongoing infringement will not substantially harm other interested parties or adversely affect public policy or the public's interest.

68. Unless the Court promptly enjoins and restrains Defendants, Plaintiffs' losses will continue to mount and will in all probability continue to irreparably harm

Plaintiffs' business. Defendants are apparently in the process of modifying the Infringing Mobile Deskbooks, which will force Plaintiffs to engage in repeated investigations of Defendants' works to determine the amount of copying for the "revised" deskbooks. Injunctive relief is necessary and proper.

69. Plaintiffs, therefore, request a Temporary Restraining Order restraining Defendants, including their related entities, directors, officers, employees, agents, vendors, and anyone involved in the distribution, sale, or use of the Infringing Mobile Deskbooks (or other infringing works) from:

- i. Displaying via the Internet or any other means (including the Apple App Store®, Google Play®, and the BlackBerry App World®, or any other source whatsoever), marketing, selling, distributing, offering for download or use (whether for a fee or for free) or otherwise making commercial use of or commercially benefitting from the sale and/or transfer of the Infringing Mobile Deskbooks identified herein.
- ii. Displaying via the internet or any other means (including the Apple App Store®, Google Play®, and the BlackBerry App World®, or any other source whatsoever), marketing, selling, distributing, offering for download or use (whether for a fee or for free) or otherwise making commercial use or commercially benefitting from the sale and/or transfer of any other works that infringe the O'Connor's™ Copyrighted Books.
- iii. Continuing to operate the web address 69.164.202.37.
- iv. Engaging in any future acts of copying any works that infringe on valid copyrights.
- v. Continuing to provide Defendants' existing customers with access to Infringing Mobile Deskbooks that were previously purchased and/or downloaded, and to remove Infringing Mobile Deskbooks from all customers' mobile devices of any kind whatsoever within seven (7) days of the date the Court signs the Temporary Restraining Order; and
- vi. Deleting, altering, destroying, or removing any e-mails, documents, data, information, electronic postings, text messages, records, files, history data or properties, contained or stored on any of Defendants' (including their directors, officers, employees, independent contractors, agents, vendors, or anyone else involved in the distribution, sale, or use of the Infringing Mobile Deskbooks, or other infringing works) computers, electronic devices, data storage devices, external devices, computer hardware, Blackberries, iPhones, cell phones, PDAs, software, zip drives, hard drives, and any other electronic equipment or storage devices of any kind whatsoever, or data that is otherwise

accessible through computer or other information storage or retrieval systems, work accounts and/or any other personal, business e-mail, social networking, or cloud-based storage accounts.

- vii. Plaintiffs request that that Defendants be ordered to immediately return, any and all original and copies of Plaintiffs' copyrighted materials (or other property of Plaintiffs in Defendants' possession, custody, or control) to counsel for Plaintiffs.

VII. REQUEST FOR PRELIMINARY AND PERMANENT INJUNCTION

70. Plaintiffs reallege all allegations in the previous paragraphs as if included verbatim here.

71. Pursuant to Fed. R. Civ. P. 65 and 17 U.S.C. §502, Plaintiffs move for a preliminary injunction and, after a final hearing on the merits, a permanent injunction enjoining Defendants against distribution or sale of the Infringing Mobile Deskbooks, and/or any other works that infringe the O'Connor's™ Copyrighted Books.

72. As stated above, injunctive relief is appropriate because: (i) Plaintiffs have and will continue to suffer immediate and irreparable harm that cannot be compensated by an award of money damages; (ii) Plaintiffs have a substantial likelihood of success on the merits; (iii) Plaintiffs' injuries outweigh any injuries Defendants may sustain as a result of the requested injunctive relief; and (iv) the requested injunctive relief is in the public's interest.

73. Plaintiffs, therefore, request a Preliminary Injunction, and upon Final Judgment, a Permanent Injunction restraining Defendants, including their related entities, directors, officers, employees, agents, vendors, and anyone involved in the distribution, sale, or use of the Infringing Mobile Deskbooks (or other infringing works) from:

- i. Displaying via the Internet or any other means (including the Apple App Store®, Google Play®, and the BlackBerry App World®, or any other source whatsoever), marketing, selling, distributing, offering for

- download or use (whether for a fee or for free) or otherwise making commercial use of or commercially benefitting from the sale and/or transfer of the Infringing Mobile Deskbooks identified herein.
- ii. Displaying via the internet or any other means (including the Apple App Store®, Google Play®, and the BlackBerry App World®, or any other source whatsoever), marketing, selling, distributing, offering for download or use (whether for a fee or for free) or otherwise making commercial use or commercially benefitting from the sale and/or transfer of any other works that infringe the O'Connor's™ Copyrighted Books.
 - iii. Continuing to operate the web address 69.164.202.37.
 - iv. Engaging in any future acts of copying any works that infringe on valid copyrights.
 - v. Continuing to provide Defendants' existing customers with access to Infringing Mobile Deskbooks that were previously purchased and/or downloaded, and to remove Infringing Mobile Deskbooks from all customers' mobile devices of any kind whatsoever within seven (7) days of the date the Court signs the Temporary Restraining Order; and
 - vi. Deleting, altering, destroying, or removing any e-mails, documents, data, information, electronic postings, text messages, records, files, history data or properties, contained or stored on any of Defendants' (including their directors, officers, employees, independent contractors, agents, vendors, or anyone else involved in the distribution, sale, or use of the Infringing Mobile Deskbooks, or other infringing works) computers, electronic devices, data storage devices, external devices, computer hardware, Blackberries, iPhones, cell phones, PDAs, software, zip drives, hard drives, and any other electronic equipment or storage devices of any kind whatsoever, or data that is otherwise accessible through computer or other information storage or retrieval systems, work accounts and/or any other personal, business e-mail, social networking, or cloud-based storage accounts.
 - vii. Plaintiffs request that that Defendants be ordered to immediately return, any and all original and copies of Plaintiffs' copyrighted materials (or other property of Plaintiffs in Defendants' possession, custody, or control) to counsel for Plaintiffs.

VIII. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully request that the Court issue a Temporary Restraining Order, Preliminary Injunction, and subsequently a Permanent Injunction as requested here. Plaintiffs further pray that they receive a judgment against Defendants for actual damages, statutory damages, exemplary damages, pre- and post-judgment interest at the maximum lawful rate, attorney's fees at

the trial court level and through appeals, costs of court, and any such other and further relief, at law or in equity, to which it may show itself justly entitled.

Respectfully submitted,

**WILLIAMS KHERKHER HART
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