IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

McCLURE FAMILY LIMITED PARTNERSHIP, and JMP INTERESTS, L.P. d/b/a JONES McCLURE PUBLISHING	§ § § § §	
Plaintiff,	§ §	
v.	§	CASE NO. _____
	§ §	
TEXAS LEGAL APPS, LLC, TEXAS LEGAL APPS, INC., TEXAS-LEGAL-APPS, JONATHAN J. PAULL, ALEX TORRY, RICHARD MCNAIRY, and DOES 1-5	§ § § § § § § §	
Defendants.	§ § §	

ORIGINAL COMPLAINT

EXHIBIT A

WILLIAMS ◆ KHERKHER

E. ARMISTEAD EASTERBY
Attorney at Law

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OF COUNSEL
Ned Barnett
Robert C. Kuehm

May 1, 2012

Via Facsimile (713) 227-5840 &
Certified Mail, RRR No. 7005 1160 0001 9604 4873

Mr. Jonathan J. Paull, President
Alex Torry, Chief Operating Officer
Richard McNairy, Chief Financial Officer
Push Legal
The Commercial Bank Building
917 Franklin, Suite 250
Houston, Texas 77002

      Re: Copyright work of McClure F.L.P.

Dear Mr. Paull:

      This law firm represents McClure Family Limited Partnership ("McClure F.L.P.") with regard to potential claims against Jonathan J. Paull, Alex Torry, Richard McNairy, Push Legal, Texas Legal Apps, LLC, and Texas Legal Apps, Inc. (collectively referred to as "Push Legal"). If Push Legal is represented by counsel, please direct this letter to your attorney and have your attorney notify us of such representation.

      We are writing to notify you that your unlawful copying of McClure F.L.P.'s various copyrighted works, which are specified below, infringe on our client's copyrights. Accordingly, Push Legal is hereby directed to

      CEASE AND DESIST ALL COPYRIGHT INFRINGEMENT.

      McClure F.L.P. is the owner of the following copyrighted works, amongst others. The following is a list of McClure F.L.P.'s copyrighted works that have been copied by Push Legal (according to our current analysis):

No.	Book Name	Edition(s)
1.	O'Connor's Federal Rules * Civil Trials	2010
2.	O'Connor's Texas Criminal Codes Plus	2009 2010
3.	O'Connor's Texas Rules * Civil Trials	2010 2011
4.	O'Connor's Federal Criminal Rules & Codes Plus	2010 2011
5.	O'Connor's Federal Rules * Civil Trials	2009 2010 2011
6.	O'Connor's Family Code Plus	2009 2010
7.	O'Connor's Probate Code Plus	2008 2009 2010
8.	O'Connor's Business & Commerce Code Plus	2011
9.	O'Connor's CPRC Plus	2008 2009 2010
10.	O'Connor's Property Code Plus	2010
11.	O'Connor's Business Organizations Code Plus	2010
12.	O'Connor's California Practice * Civil Pretrial	2011

It has come to our attention that Push Legal has been copying McClure F.L.P.'s above-described copyrighted works. We have undertaken to preserve each and every page containing evidence of impermissible copying from Push Legal's various e-books to preserve as evidence. Your actions constitute copyright infringement in violation of United States copyright laws. Under 17 U.S.C. § 504(c)(1), the consequences of copyright infringement include, at the Court's discretion, statutory damages of between $750 and $30,000 per work, and damages of $150,000 per work for willful infringement. If you continue to engage in copyright infringement after receiving this missive, your continued actions will be evidence of willful infringement.

McClure F.L.P. has spent millions of dollars and countless hours creating the aforementioned books. Each book includes thousands of case annotations, each of which was independently authored by a McClure F.L.P. employee. Each book, therefore, includes McClure F.L.P.'s selection and arrangement of statutes, rules, case law, and many other resources. These works are protected from infringement under 17 U.S.C. § 501.

As you are no doubt aware, the United States copyright laws reserves to the owner of the copyright the exclusive right to reproduce the copyrighted work, prepare derivative works from the original, and distribute copies of the work and derivative works. 17 U.S.C. § 106(1)-(3). If Push Legal wants to engage in any of these acts, it must first obtain a license to do so, which it has not done.

Moreover, Push Legal cannot claim that its conduct is protected by § 109(a) of the Copyright Act under the "first sale doctrine." That provision allows the owner of a *"particular copy* . . . lawfully made under this title"* to sell that particular copy. It does not

allow Push Legal to make another copy and sell it. *See Mirage Editions, Inc. v. Albuquerque A.R.T. Co.*, 856 F.2d 1341, 1344 (9th Cir. 1988)(holding the right to transfer [under the first sale doctrine] applies only to the particular copy of the book purchased and nothing else).

We have undertaken a forensic investigation and review of the following Push Legal e-books, and have found conclusive evidence of copying with regard to the following:

Push Legal E-Book	McClure F.L.P. Book	No. of Copied Annotations
California Evidence Code	O'Connor's California Practice * Civil Pretrial	299, or about 45% of Push Legal's Annotations
Federal Rules of Civil Procedure	O'Connor's Federal Rules * Civil Trials	286, or about 62% of Push Legal's Annotations
Federal Rules of Criminal Procedure	O'Connor's Federal Criminal Rules & Codes Plus	369, or about 58% of Push Legal's Annotations
Federal Rules of Evidence (Civil)	O'Connor's Federal Rules * Civil Trials	78, or about 43% of Push Legal's Annotations
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
Texas Business & Commerce Code	O'Connor's Business & Commerce Code Plus	413, or about 40% of Push Legal's Annotations
Texas Business Organizations Code	O'Connor's Business Organizations Code Plus	292, or about 79% of Push Legal's Annotations
Texas Civil Practice & Remedies Code	O'Connor's CPRC Plus	810, or about 51% of Push Legal's Annotations
Texas Code of Criminal Procedure	O'Connor's Texas Criminal Codes Plus	740, or about 67% of Push Legal's Annotations
Texas Family Code	O'Connor's Family Code Plus	780, or about 55% of Push Legal's Annotations
Texas Health & Safety Code	O'Connor's Texas Criminal Codes Plus	59, or about 70% of Push Legal's Annotations
Texas Penal Code	O'Connor's Texas Criminal Codes Plus	309, or about 56% of Push Legal's Annotations
Texas Probate Code	O'Connor's Probate Code Plus	653, or about 73% of Push Legal's Annotations
Texas Property Code	O'Connor's Property Code Plus	564, or about 68% of Push Legal's Annotations
Texas Rules of Civil Procedure	O'Connor's Texas Rules * Civil Trials	530, or about 39% of Push Legal's Annotations
Texas Rules of Civil Evidence (Criminal)	O'Connor's Texas Criminal Codes Plus	68, or about 53% of Push Legal's Annotations
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

It appears that Push Legal, rather than authoring an independent work, has chosen instead to engage in wholesale copying of McClure F.L.P.'s books. Push Legal has copied McClure F.L.P.'s format and usage of case annotations as an expression of how various courts have analyzed and interpreted various statutes and rules. Further, we have amassed literally hundreds of examples where the Push Legal case annotation is identical to the McClure

F.L.P. annotation. As demonstrated above, Push Legal has copied thousands of McClure F.L.P. annotations, and in most cases well over 50% of the Push Legal e-book is comprised of copied McClure F.L.P. content.

We have attached side-by-side comparisons to further demonstrate Push Legal's copying. As demonstrated in the attached materials, there can be no question that Push Legal simply copied McClure F.L.P.'s copyrighted books.[1] It defies logic and reason to believe that Push Legal would have independently selected the exact same cases for its annotations. It is further beyond belief that Push Legal would have summarized these cases, many of which are 30-40 pages in length, with the exact same quoted materials or summaries. In many instances we have found that Push Legal even copied string-cites and internal McClure F.L.P. editorial practices, such as replacing party names with bracketed identifiers. Most of the Push Legal annotations even include McClure F.L.P.'s exact use of ellipses and punctuation.

We therefore demand that you immediately: (i) cease and desist your unlawful copying of McClure F.L.P.'s copyrighted works; (ii) remove the aforementioned Push Legal e-books from the Apple App Store, the Google App Store and the Blackberry App Store (and otherwise remove them from any other website or means of sale whatsoever); (iii) remove the aforementioned Push Legal books from your customer accounts, or take steps to ensure that such customers can no longer access the infringing e-books; (iv) remove the following web address: 69.164.202.37; and (iv) destroy the above-referenced Push Legal e-books and return to McClure F.L.P. any unauthorized reproductions of McClure F.L.P.'s copyrighted works that are in your possession, custody, and/or control.[2] Please provide us with a written assurance within seven (7) days from the date you receive this letter that you will comply with each of their directives.

We also request that Push Legal, and its affiliates, employees, and third-party contractors (including Mobisoft Infotech), preserve and maintain all documents (whether stored electronically or in hard copy) relating to the development, creation, and/or publication of the aforementioned Push Legal e-books.

If you do not comply with this cease and desist demand within this time period, McClure F.L.P. is entitled to use your noncompliance as evidence of willful infringement and will file an action in federal court seeking monetary damages and injunctive relief (including a temporary and permanent injunction). McClure F.L.P. has asked us to communicate to you that it will seek all available legal remedies, including statutory damages, actual damages, court costs, attorney's fees, and special damages for willful infringement.

McClure F.L.P. will also pursue its remedies against individuals who are vicariously liable for Push Legal's copyright infringement, including any individuals who control Push

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[1] It also appears that most, if not all, of Push Legal's other annotations were copied from other copyrighted materials owned by third parties.

[2] This includes Mobisoft Infotech.

Legal's actions, and who derive a direct financial benefit from the direct infringement. *See Perfect 10, Inc. v. Amazon.com, Inc.,* 508 F.3d 1146, 1173 (9th Cir. 2007).

These matters are of the utmost importance to McClure F.L.P. If Push Legal continues to violate McClure F.L.P.'s rights under United States copyright law, we assure you that we will immediately pursue all available legal remedies. We hope that you will respect McClure F.L.P.'s rights and that we will not be required to take such action.

Regards,

Edwin Armistead "Armi" Easterby

cc: Hon. Michol O'Connor

Attachment

Side by Side

Comparisons

O'Connor's Criminal Codes Plus (2010-11) Code of Criminal Procedure art. 42.12	PUSH: legal App Code of Criminal Procedure art. 42.12
In re Hall, 989 S.W.2d 786, 789 (Tex.App.—Waco 1999, no pet.). "[D] argues that Respondent's orders suspending his sentence [and placing him into boot-camp program] are void because they were entered outside the 75- to 90-day [now 75- to 180-day] statutory window. [¶] The boot camp statute provides a 75- to 90-day [now 75- to 180-day] window. The Court of Criminal Appeals has interpreted a similar window under the former shock probation statute to require the sentencing court to act solely within that window. We believe that the boot camp statute should be similarly applied."	In re Hall, 989 S.W.2d 786, 789 (Tex. App. Waco 1999) [D] argues that Respondent's orders suspending his sentence [and placing him into boot-camp program] are void because they were entered outside the 75- to 90-day [now 75- to 180-day] statutory window. The boot camp statute provides a 75- to 90-day [now 75- to 180-day] window. The Court of Criminal Appeals has interpreted a similar window under the former shock probation statute to require the sentencing court to act solely within that window. We believe that the boot camp statute should be similarly applied.

JMP Expression

- JMP selected this case to annotate.
- JMP began its annotation by replacing the defendant's proper name, Hall, with a bracketed "D" for "defendant."
- JMP added the information in 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.
- JMP added the information in the third set of brackets to inform the reader that the statutory time frame referenced by the court changed after this opinion was issued.
- JMP added the bracketed paragraph symbol to indicate that the quoted language following the paragraph symbol was taken from a different paragraph on the same page of the court's opinion. This helps the reader locate the quoted language in the opinion.
- JMP deleted from its annotation an *Id.* citation used in the court's opinion. This makes the annotation more concise and easier to read.
- JMP provided a jump cite in the case citation to help the reader locate the quoted language in the opinion. PL is inconsistent in how it formats case citations and infrequently provides jump cites.

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. dism'd).	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. dism'd).*

JMP Expression

- JMP selected this case to annotate.
- JMP bracketed the first letter of the first word in its annotation to indicate that the annotation begins in the middle of the sentence found in the court's opinion.
- JMP 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.
- JMP abbreviated "chapter," which is spelled out in the quoted portion of court's opinion, to "ch." to make the annotation more concise.
- JMP uses the ellipsis to indicate that text has been deleted from the quoted sentence.
- JMP 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.
- JMP deleted from its annotation a citation used by the court in its opinion; this change makes the annotation more concise and easier to read.
- JMP selected an additional relevant case for the reader to consider and appended its citation to the end of the annotation. The *Nabelek* case is not referenced in the *In re Taylor* opinion.
- JMP formats the case citations for both the annotated case and the case at the end of the annotation uniformly and includes jump cites to help the reader locate the quoted language from the opinions. Although PL is inconsistent in how it formats case citations and infrequently provides jump cites, both PL's case citations here are identical to JMP's citations.

O'Connor's Family Code Plus (2010-11) Family Code §232.009	PUSH:legal Family Code §232.009
In re C.G., 261 S.W.3d 842, 850 (Tex.App.—Dallas 2008, no pet.). "Mother…argues…that Father failed to appear at 'the scheduled hearing[]'…. Therefore, … under §232.009 the trial court properly considered the allegations of the petition for suspension to be admitted pursuant to §232.009, and did not abuse its discretion in rendering the license suspension order. [¶] We disagree…. *At 851:* Although it appears Father did not request a hearing at all [, he] states that Mother noticed a hearing on the motion for suspension of license …, which Mother does not dispute. Accordingly, it was not necessary that Father request a hearing to avoid the default procedure under §232.009. [¶] Mother … asserts Father's failure to appear in person at the hearing authorizes the court to proceed under §232.009 even though his attorney did appear and participate in the hearing. [¶] [W]e decline to hold that a court may proceed under §232.009 when the person whose license is sought to be suspended appears at a scheduled hearing through his attorney of record."	IN RE CG, 261 SW 3d 842 (Tex. App. - Dallas 2008, no pet.) Mother…argues…that Father failed to appear at 'the scheduled hearing[]'…Therefore…,under §232.009 the trial court properly considered the allegations of the petition for suspension to be admitted pursuant to § 232.009, and did not abuse its discretion in rendering the license suspension order. We disagree… Although it appears Father did not request a hearing at all [, he,] states that Mother noticed a hearing on the motion for suspension of license…which Mother does not dispute. Accordingly, it was not necessary that Father request a hearing to avoid the default procedure under §232.009. Mother…asserts Father's failure to appear in person at the hearing authorizes the court to proceed under §232.009 even though his attorney did appear and participate in the hearing. [W]e decline to hold that a court may proceed under §232.009 when the person whose license is sought to be suspended appears at a scheduled hearing through his attorney of record.

Expression

- JMP selected this case to annotate.
- JMP used three-dot ellipses throughout the annotation to indicate that text was deleted from the quoted sentences. JMP used a four-dot ellipsis to indicate that the end of the quoted sentence has been deleted.
- JMP used the first set of double brackets to indicate that a comma had been deleted from the quoted sentence. In the context of the annotation, the comma is no longer grammatically correct.
- JMP added bracketed paragraph symbols throughout the annotation to indicate that the quoted language following the paragraph symbol was taken from a different paragraph on the same page of the court's opinion. This helps the reader locate the quoted language in the opinion.
- JMP placed double quotation marks around its entire annotation to indicate that the language is quoted from the court's opinion; consequently JMP also changed any quotations marks within the court's opinion to single quotation marks.
- JMP abbreviated the word "section," which is spelled out five times in the quoted portion of the opinion, to a section symbol "§." This is done to make the annotation more concise.
- JMP used *"At 851:"* to indicate a change in jump cite, so the reader can locate the quoted language in the opinion.
- JMP used the second set of brackets to indicate that language from the court's opinion was deleted and to replace "Father" with the pronoun "he."
- JMP used the third set of brackets to capitalize the "W" in "[W]e" to indicate that the annotated sentence begins in the middle of the sentence found in the court's opinion.

Simon v. Dibble, 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.

JMP Expression

- JMP selected this case to annotate.
- The first word of this annotation is not a quotation from the court's opinion; instead, JMP 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. PL mistakenly left off the lead-in word when copying this annotation, so the question framework does not make sense in the PL annotation.
- JMP used the ellipsis to indicate that text has been deleted from the sentence.
- JMP used the first set of brackets to replace a word in the case with language that furthers the question format of the annotation. The language in the brackets does not appear in the court's opinion.
- JMP 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, JMP gave a one-word holding statement in answer to the question posed by the annotation.
- Note that PL mistakenly typed "Help" instead of "Held" when copying this annotation.

O'Connor's Criminal Codes Plus (2010-11)
Code of Criminal Procedure art. 42.02

PUSH: legal App
Code of Criminal Procedure art. 42.02

Carroll v. State, 42 S.W.3d 129, 133 (Tex.Crim.App.2001).

"[A]fter *Mitchell* [*v. United States*, 526 U.S. 314 (1999)], [we cannot conclude] that the trial court may consider invocation by appellant of her federal constitutional right to silence as a circumstance against her when determining her punishment."

Carroll v. State, 42 S.W.3d 129, 133 (Tex. Crim. App. 2001)

[A]fter Mitchell [v. United States, 526 U.S. 314 (1999)], [we cannot conclude] that the trial court may consider invocation by appellant of her federal constitutional right to silence as a circumstance against her when determining her punishment.

JMP Expression

- JMP selected this case to annotate.
- JMP bracketed the first letter of the first word in its annotation to indicate that the annotation begins in the middle of the sentence found in the court's opinion.
- JMP added the information in the second set of brackets to provide the reader with the full citation of the case being referenced by the court. The citation does not appear here in the opinion.
- JMP added the information in the third set of brackets to make the annotation more concise and easier to understand.
- JMP provided a jump cite in the case citation of the annotated opinion to help the reader locate the quoted language from the opinion. PL is inconsistent in how it formats case citations and infrequently provides jump cites.

Leboire v. Royce (1st Dist. 1950) 100
Cal.App.2d 610, 619.

"Once [D-purchaser] saw fit to place a part
of the conversation before the court, [P-
broker], under [CCP §1854, now Evid.
Code §356], was legally entitled to bring
out the balance of the conversation. [D-
purchaser] was obviously trying to create
the impression that [P-broker] was trying to
collect improperly from both [D-purchaser]
and [third-party supplier] without [D-
purchaser's] knowledge."

Leboire v. Royce, (1st Dist. 1950) 100 Cal.
App. 2d 610

Once [D-purchaser] saw fit to place a part
of the conversation before the court, [P-
broker], under [CCP §1854, now Evid.
Code §356], was legally entitled to bring
out the balance of the conversation. [D-
purchaser] was obviously trying to create
the impression that [P-broker] was trying to
collect improperly from both [D-purchaser]
and [third-party supplier] without [D-
purchaser's] knowledge.

JMP Expression

- JMP selected this case to annotate.
- JMP used brackets throughout the annotation to replace the generic party names used in the court's opinion with more informative names.
    - The word "Appellant" and the appellant's proper name, "Royce," were replaced with "[D-purchaser]."
    - The proper name "Leboire" was replaced with "[P-broker]."
    - The proper name "Davis" was replaced with "[third-party supplier]."
- JMP also used brackets in this annotation to replace the court's reference to "this section" with the actual code section and to further inform the reader that the code section was recodified under the Evidence Code after the opinion was issued.

O'Connor's Criminal Codes Plus (2010-11)
Code of Criminal Procedure art. 40.001

PUSH: legal App
Code of Criminal Procedure art. 40.001

Keeter v. State, 74 S.W.3d 31, 38 (Tex.Crim.App.2002).

With respect to evidence of recantation, in denying a motion for new trial based on newly discovered evidence, "the trial court acts within its discretion so long as the record provides some basis for disbelieving the testimony. Such bases include, but are not limited to: evidence that the recanting witness was subject to pressure by family members or to threats from co-conspirators, evidence showing part of the recantation to be false, circumstances showing that the complainant recanted after moving in with family members of the defendant, and where an accomplice recants after being convicted."

Keeter v. State, 74 S.W.3d 31, 38 (Tex. Crim. App. 2002)

With respect to evidence of recantation, in denying a motion for new trial based on newly discovered evidence, "the trial court acts within its discretion so long as the record provides some basis for disbelieving the testimony. Such bases include, but are not limited to: evidence that the recanting witness was subject to pressure by family members or to threats from co-conspirators, evidence showing part of the recantation to be false, circumstances showing that the complainant recanted after moving in with family members of the defendant, and where an accomplice recants after being convicted."

JMP Expression

- JMP selected this case to annotate.
- The beginning of this annotation is not a quotation from the court's opinion; instead, JMP drafted a lead-in phrase to make the annotation more concise and easier to read.
- JMP deleted from its annotation four footnote references used in the court's opinion. This makes the annotation more concise and easier to read.
- JMP provided a jump cite in the case citation to help the reader locate the quoted language in the opinion. PL is inconsistent in how it formats case citations and infrequently provides jump cites.

State v. Salinas, 982 S.W.2d 9, 11-12 (Tex.App.—Houston [1st Dist.] 1997, pet. ref'd).

"[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.

State v. Salinas, 982 S.W.2d 9, 11-12 (Tex. App. Houston 1st Dist. 1997)

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.

JMP Expression

- JMP selected this case to annotate.
- JMP bracketed the first letter of the first word in its annotation to indicate that the annotation begins in the middle of the sentence found in the court's opinion.
- JMP deleted from its 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 court's opinion; instead, JMP summarized the holding of the case for the reader.
- JMP provided a jump cite in the case citation to help the reader locate the quoted language in the court's opinion. PL is inconsistent in how it formats case citations and infrequently provides jump cites.

Palmer v. Palmer, 831 S.W.2d 479, 480-82 (Tex. App.—Texarkana 1992, no writ).

Held: The statute of limitations that applies to an action on an installment note secured by a deed of trust on real property is CPRC §16.035 (not CPRC §16.004, which applies to installment notes that are not secured). Under §16.035, the four-year statute begins to run on the entire debt when the final installment becomes due in a suit seeking foreclosure on the deed of trust and order of sale. Unpaid installments due more than four years before that suit are not barred by limitations. *See also McLemore v. Pacific Sw. Bank*, 872 S.W.2d 286, 292-93 (Tex.App.—Texarkana 1994, writ dism'd).

JMP Expression

- JMP selected this case to annotate.
- This annotation is not a quotation from the court's opinion; instead, it is JMP's summary of the court's holding. JMP summarizes a holding only when the actual language of a case will not make a good explanation of the law—no matter how it is pieced together.
- JMP selected an additional relevant case for the reader to consider and appended the citation to the end of its annotation. The **McLemore** case is not referenced in the **Palmer** opinion.
- JMP's case citations for both the annotated case and the case at the end of the annotation are formatted uniformly and include jump cites to help the reader locate the quoted language from the opinion. Although PL is inconsistent in how it formats case citations and infrequently provides jump cites, both of PL's case citations here mirror JMP's citations and include the same multi-paged jump cites.

Ex parte Brooks, 97 S.W.3d 639, 640 (Tex.App.—Waco 2002, orig. proceeding).

Held: D's pretrial application for writ of habeas corpus denied because he had an adequate remedy at law. He could assert his racial-profiling claims in a motion to suppress.

Ex parte Brooks, 97 S.W.3d 639, 640 (Tex. App. Waco 2002)

Held: D's pretrial application for writ of habeas corpus denied because he had an adequate remedy at law. He could assert his racial-profiling claims in a motion to suppress.

JMP Expression

- JMP selected this case to annotate.
- This annotation is not a quotation from the court's opinion; instead, it is JMP's summary of the court's holding. JMP summarizes a holding only when the actual language of a case will not make a good explanation of the law—no matter how it is pieced together.
- JMP used the letter "D" in place of the defendant's proper name, Brooks.
- JMP provided a jump cite in the case citation to help the reader locate the quoted language in the opinion. PL is inconsistent in how it formats case citations and infrequently provides jump cites.

CPRC Plus (2009-10)	PUSH: legal App
KJ Eastwood Invs. v. Enlow, 923 S.W.2d 255, 257 (Tex.App.—Fort Worth 1996, orig. proceeding). "[M]andatory venue provisions are inapplicable where the action in question involves title only incidentally or secondarily, and not directly." *See also Midland Nat'l Life Ins. Co. v. Bridges*, 889 S.W.2d 17, 18-19 (Tex.App.—Eastland 1994, writ denied) (title to land was only incidentally involved in suit); *Scarth v. First Bank & Trust Co.*, 711 S.W.2d 140, 142-43 (Tex.App.—Amarillo 1986, no writ) (suit attempting to fix lien on real property did not directly involve title).	KJ Eastwood Investments, Inc. v. Enlow, 923 SW 2d 255, 257 (Tex. App. - Fort Worth 1996, orig. proceeding) [M]andatory venue provisions are inapplicable where the action in question involves title only incidentally or secondarily, and not directly. ... *See also Midland Nat'l Life Ins. Co. v. Bridges, 889 S.W.2d 17, 18-19 (Tex. App. - Eastland 1994, writ denied)* (title to land was only incidentally involved in suit); *Scarth v. First Bank & Trust Co., 711 S.W. 2d 140, 142-43 (Tex. App. - Amarillo 1986, no writ)* (suit attempting to fix lien on real property did not directly involve title).

JMP Expression

- JMP selected this case to annotate.
- JMP bracketed the first letter of the first word in its annotation to indicate that the annotation begins in the middle of the sentence found in the court's opinion.
- JMP selected two additional relevant cases for the reader to consider and appended the citations for each to the end of the annotation. For each citation, JMP provided original parentheticals to help the reader understand the relevance of the opinions. The *Scarth* case is discussed in *KJ Eastwood, Inc.*, but the *Midland* case is not.
- JMP's case citations for the annotated opinion and both appended opinions are formatted uniformly and include jump pages to help the reader locate the quoted language in the opinions. Although PL is inconsistent in how it formats case citations and infrequently provides jump cites, all three of PL's case citations here mirror JMP's citations and include jump cites.

Conner v. ContiCarriers & Terminals, Inc., 944 S.W.2d 405, 416 (Tex.App.— Houston [14th Dist.] 1997, no writ).

"[W]e find that a foreign corporation cannot logically enjoy the same privileges as a domestic corporation unless it actually does business in the state. A foreign corporation seeking to do business in Texas *must* obtain a certificate of authority and *must* appoint an agent for service or otherwise have the secretary of state automatically become its agent for service. A foreign corporation, however, cannot voluntarily consent to jurisdiction by compliance with the Texas registration statute unless it is actually 'doing business' in Texas. By registering to do business, a foreign corporation only *potentially* subjects itself to jurisdiction." *But see **Goldman v. Pre-Fab Transit Co.**,* this page.

Conner v. ContiCarriers and Terminals, 944 SW 2d 405 (Tex.App.-Houston [14th Dist.] 1997, no writ).

[W]e find that a foreign corporation cannot logically enjoy the same privileges as a domestic corporation unless it actually does business in the state. A foreign corporation seeking to do business in Texas *must* obtain a certificate of authority and *must* appoint an agent for service or otherwise have the secretary of state automatically become its agent for service. A foreign corporation, however, cannot voluntarily consent to jurisdiction by compliance with the Texas registration statute unless it is actually "doing business" in Texas. By registering to do business, a foreign corporation only *potentially* subjects itself to jurisdiction. But see Goldman v. Pre-Fab Transit Co., this page.

JMP Expression

- JMP selected this case to annotate.
- JMP brackets the first letter of the first word in its annotation to indicate that the annotation begins in the middle of the sentence found in the court's opinion.
- At the end of the annotated case, JMP cross references the reader to a contrary opinion that it also annotates. Because the annotation appears on the same page, JMP uses the following format: *"But see ...* this page." PL is an electronic app (with no pages), so its use of this same format makes no sense.

Moveforfree.com, Inc. v. David Hetrick, Inc.,
___ S.W.3d ___ (Tex.App.—Houston [14th
Dist.] 2009, n.p.h.) (No. 14-07-00044-CV; 5-
21-09).

"In assessing venue under §15.002(a)(1), we
analyze whether the evidence shows that the
actions or omissions at issue are materially
connected to the cause of action. More than
one county can constitute a county in which a
substantial part of the events or omissions
giving rise to the claim occurred. Thus, our
initial inquiry is whether the defendant
challenging venue under this provision proved
there was no substantial connection between
the plaintiff's claim and chosen county, not
whether it proved a substantial connection to
the defendant's alternative choice. In other
words, if both counties at issue would be
appropriate venue choices, the plaintiff's
choice controls." *See also Velasco v. Texas
Kenworth Co.,* 144 S.W.3d 632, 635
(Tex.App.—Dallas 2004, pet. denied).

Moveforfree.com, Inc. v. David Hetrick, Inc.,
___ S.W.3d ___ (Tex. App. - Houston [14th
Dist.] 2009, n.p.h.) (No. 14-07-00044-CV; 5-
21-09)

[I]n assessing venue under §15.002(a)(1), we
analyze whether the evidence shows that the
actions or omissions at issue are materially
connected to the cause of action. *See KW
Constr.,* 165 S.W.3d at 882; *Chiriboga v. State
Farm Mut. Auto. Ins. Co.,* 96 S.W.3d 673, 680
(Tex. App.-Austin 2003, no pet.). More than
one county can constitute a county in which a
substantial part of the events or omissions
giving rise to the claim occurred. *Velasco,*
144 S.W.3d at 634-35; *S. County Mut. Ins.
Co. v. Ochoa,* 19 S.W.3d 452, 457-59 (Tex.
App.-Corpus Christi 2000, no pet.). Thus, our
initial inquiry is whether the defendant
challenging venue under this provision proved
there was no substantial connection between
the plaintiff's claim and chosen county, not
whether it proved a substantial connection to
the defendant's alternative choice. *See
Velasco, 144 S.W.3d at 632, 635 (Tex. App. -
Dallas 2004, pet. denied).* In other words, if
both counties at issue would be appropriate
venue choices, the plaintiff's choice controls.
See KW Constr., 165 S.W.3d at 879;
*Unauthorized Practice of Law Comm. v.
Nationwide Mut. Ins. Co.,* 155 S.W.3d 590,
596 (Tex. App.-San Antonio 2004, pet.
denied).

JMP Expression

- JMP selected this case to annotate.
- JMP used its unique case citation format for opinions that have not yet been reported. This format includes both the docket number and the date the opinion was issued, so readers are not restricted to using Lexis or Westlaw numbers when locating the case.
- JMP abbreviated the word "section," which is spelled out in the quoted portion of the court's opinion, to a section symbol "§." This is done to make the annotation more concise.
- JMP deleted from its annotation five citations used by the court in its opinion; this makes the annotation more concise and easier to read.

O'Connor's Family Code Plus (2010-11)
Family Code §153.257

PUSH: legal App
Family Code §153.257

| *In re M.A.S.*, 233 S.W.3d 915, 922-23 (Tex.App.—Dallas 2007, pet. denied).

"When specifying a means of travel, even if optional, the trial court must specify the duties of the conservators to provide transportation to and from [, in this case,] the airport. The trial court's notice provision [requiring timely, written notice between parents] is merely part of those duties. It is prudent to require written notice when flight numbers and flight times are involved." | In re MAS, 233 SW 3d 915 (Tex. App. - Dallas 2007, pet. denied)

When specifying a means of travel, even if optional, the trial court must specify the duties of the conservators to provide transportation to and from [, in the case,] the airport. The trial court's notice provision [requiring timely, written notice between parents] is merely part of those duties. It is prudent to require written notice when flight numbers and flight times are involved. |

JMP Expression

- JMP selected this case to annotate.
- JMP added the information in both the first and second set of brackets to give the reader relevant context that does not appear in these sentences in the court's opinion. These changes make the annotation easier to read and understand.
- JMP deleted from its annotation one citation used by the court in its opinion; this makes the annotation more concise and easier to read.

Ergon, Inc. v. Dean, 649 S.W.2d 772, 774 (Tex.App.—Austin 1983, no writ).

"[T]he Secretary [of State] issued rules outlining the factors to be considered when making the determination whether a name is 'deemed similar' to another name. Currently, the rules propose three categories of name similarity: (1) same, (2) deceptively similar, and (3) similar requiring letter of consent. In addition, the rules provide a subcategory that, for want of a better description, we will refer to as 'corporate name not similar requiring letter of consent.' A violation of these rules is the functional equivalent of a violation of the statute." (Internal quotes omitted.)

Ergon, Inc. v. Dean, 649 SW 2d 772 (Tex. App.-Austin 1983, no writ).

[T]he Secretary issued rules outlining the factors to be considered when making the determination whether a name is "deemed similar" to another name. Currently, the rules propose three categories of name similarity: (1) same, (2) deceptively similar, and (3) similar requiring letter of consent. In addition, the rules provide a subcategory that, for want of a better description, we will refer to as corporate name not similar requiring letter of consent. A violation of these rules is the functional equivalent of a violation of the statute.(Internal quotes omitted.)

JMP Expression

- JMP selected this case to annotate.
- JMP brackets the first letter of the first word in its annotation to indicate that the annotation begins in the middle of the sentence found in the court's opinion.
- JMP adds the information in the second bracket to clarify for the reader which Secretary is being discussed.
- JMP deleted from its annotation two citations used in the court opinion; this deletion makes the annotation more concise and easier to read.
- JMP has included a parenthetical at the end of the annotation to let the reader know that the annotation does not include internal quotation marks—a JMP rule when a court uses single quotation marks in its opinion; this language does not appear in the opinion.

Quintano v. Mercury Cas. Co. (1995) 11 Cal.4th 1049, 1062. "[D] asks that we take judicial notice [of statements made by] the author of the bill [enacting the legislation at issue]. [S]tatements of an individual legislator, including the author of a bill, are generally not considered in construing a statute, as the court's task is to ascertain the intent of the Legislature as a whole in adopting a piece of legislation."	Quintano v. Mercury Casualty Co., (1995) 906 P. 2d 1057 [D] asks that we take judicial notice [of statements made by] the author of the bill [enacting the legislation at issue.] [S]tatements of an individual legislator, including the author of a bill, are generally not considered in construing a statute, as the court's task to ascertain the intent of the Legislature as a whole in adopting a piece of legislation.

JMP Expression

- JMP selected this case to annotate.
- JMP began its annotation by replacing the defendant's proper name, Mercury, with a bracketed "D" for "defendant."
- JMP used the second and third set of brackets to give the reader relevant context that does not appear here in the court's opinion and to indicate that language from the opinion has been deleted. These changes make the annotation more concise and easier to understand.
- JMP used the last set of brackets to indicate that the annotated sentence begins in the middle of the sentence found in the court's opinion.

Gomez v. PASADENA HEALTH CARE MANAGEMENT, 246 SW 3d 306 (Tex.App.-Houston [14th Dist.] 2008, no pet.).

The first issue in this appeal is whether application of the three-year survival provision of [TBCA] Art. 7.12 [now BOC §11.356] to a minor's health care liability claim violates the Open Courts Provision of the Texas Constitution. [Parent] contends that [TBCA] Art. 7.12 [now BOC §11.356] effectively cuts off a minor's cause of action against a dissolved corporation before he is legally able to assert it, in direct violation of [Tex. Const.] art.1, §§13 and 19. ... [Parent] asserts that [minor] has a well-recognized cause of action for medical negligence at common law, and argues that the legislature has failed to provide an adequate substitute remedy for minors with claims against dissolved hospital corporations. [Parent] therefore urges this Court to find a reasonable exception to [TBCA] Art. 7.12 [BOC §11.356] as applied to minor claimants.[Held: BOC §11.356 does not violate Open Courts Provision.]

The next issue in this appeal is whether the statute of limitations of [Medical Liability and Insurance Improvement Act §10.01, now CPRC §74.251,] or the three-year survival provision of [TBCA] Art. 7.12 [now BOC §11.356], applies to [parent's] suit. [Parent] contends that, in this case, [TBCA] Art. 7.12 [now BOC §11.356], conflicts with the provisions of the Medical Liability Act as construed by the Texas Supreme Court ... and therefore the three-year survival provision of [TBCA] Art. 7.12 [now BOC §11.356], should not be applied to [minor's] claims against [corporation].

[T]he Medical Liability Act is a tolling statute that tolls the tort statute of limitations for a specific amount of time.

However,[TBCA] Art. 7.12 [now BOC §11.356] is a survival statute, not a statute of limitations. When a plaintiff fails to sue within the period provided by a statute of limitations, the claim still exists, but, unless the statute of limitations affirmative defense is waived, it can no longer be brought by that plaintiff. *Martin*, 930 S.W.2d at 721. Conversely, if a party fails to sue within the time limits of the survival statute, there is no longer an entity that can be sued.

Under [TBCA] Art. 7.12 [now BOC §11.356],[parent]was required to file suit on behalf of [minor] within three years of [corporation's] dissolution, or the claim would thereafter be extinguished.

[TBCA] Art. 7.12 [now BOC §11.356] prevails over the statute of limitations contained in the Medical Liability Act."

Comparative Analysis found on last page of document.

JMP Expression

- JMP used bracketed language throughout the annotation in the following ways:
    - To abbreviate "Texas Business Corporation Act" to "TBCA" to make the annotation more concise and easier to read.
    - To inform the reader when a specific TBCA article had been codified under the BOC, which took place after the opinion was issued.
    - To replace specific party names with more informative names.
        - Proper name "Gomez" was replaced with the word "parent."
        - Proper name "Michael" was replaced with "minor."
        - Proper name "Pasadena" was replaced with "corporation."
    - To indicate that language from the case was deleted.
    - To abbreviate "Texas Constitution" to "Tex. Const."
    - To provide the complete name of the "Medical Liability and Insurance Improvement Act" and to inform the reader that the section being referenced by the court had been codified as CPRC §74.251.
- JMP also used brackets to provide a summary of the court's holding on the first issue presented in the annotation. This language does not appear in the opinion, but providing a summary at this point in the annotation makes it more concise and easier for the reader to understand.
- JMP deleted from its annotation four footnote references and two case citations used in the quoted portions of the opinion. These changes make the annotation easier to read.
- JMP abbreviated the word "article," which is spelled out nine times in the quoted portions of opinion, to "art." to make the annotation more concise and easier to read.
- JMP abbreviated the word "sections" to two section symbols (§§) to make the annotation more concise.
- JMP used ellipses to indicate that text has been deleted from the quoted sentences.
- JMP added bracketed paragraph symbols throughout the annotation to indicate that the quoted language following the paragraph symbol was taken from a different paragraph on the same page of the court's opinion. This helps the reader locate the quoted language in the opinion.
- JMP added "At 314-15:" and "At 316:" to indicate a change in jump cite, so the reader will know where to find the quoted material in the opinion.

* * * COMMUNICATION RESULT REPORT (MAY. 1. 2012 5:28PM) * * *

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