

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

October 7, 2013

Carl Malamud
Public.Resource.Org
1005 Gravenstein Highway North
Sebastopol, CA 95472

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
NO. 7001 1940 0000 3122 2314

Re: Letter of May 30, 2013 Addressed to Hon. Philip Gunn and Hon. Jim Hood

Dear Mr. Malamud:

The Legislature of the State of Mississippi, and specifically the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation ("Committee"), has received your material and correspondence of May 30, 2013 addressed to the Hon. Philip Gunn and the Hon. Jim Hood. The Committee has requested the Office of the Attorney General to respond and to take all appropriate actions. I am intellectual property counsel for and represent the Attorney General and have been specifically requested to respond.

The State of Mississippi appreciates your interest and efforts to provide access to the law for all citizens, including those of Mississippi. Its purpose has been and is always to make the state's statutes available so that the public has the unfettered ability to study, utilize, and access the law at any time.

To that end, the Legislature has for years contractually agreed with LexisNexis, the publisher of the Mississippi Code of 1972 Annotated, as amended, modified, and revised from time to time ("Code"), to have the latter publish an unannotated version of the Code on the publisher's Internet website at no cost to the Committee, the State, or the public. The Code is a compilation of the public statutory laws of the State of Mississippi organized by specific chapters, sections, and titles. Mississippi provides the published unannotated version of its Code through the LexisNexis website and accessible links to the site from the websites of the Mississippi Legislature, the Attorney General, the Mississippi Secretary of State, and the Mississippi Supreme Court, all at no cost to the public.

The Committee is cognizant of U.S. copyright law as it applies to the Code and operates within the guidelines set out within the law and expects all citizens to do the same. The Code includes annotations including, but not limited to, source and reference annotations, editor's notes and amendments, and administrative and judicial decision annotations, all of which are original works of authorship that include synopses, interpretations, and analyses of research references and cross references, Attorney General opinions, and administrative and judicial decisions.

The annotations are created for the Committee contractually by LexisNexis and by others employed with the Mississippi Legislature and/or the Committee. The annotations are produced over time and through significant creative efforts. These annotations are original works of the creators that are entitled to protection under U.S. copyright law. The unannotated version of the Code published by LexisNexis does not include the annotations and original works of authorship created by the publisher and by others. LexisNexis timely provides updates of the unannotated version of the Code on its website. The annotated Code is likewise always available to the public at the State Law Library and any public facility that maintains an updated set of Code volumes.

With respect to publication of the unannotated version of the Code, the Committee subscribes to the 2007 Open Government Working Group's 8 Principles of Open Government Data that promulgate that government data should be complete, primary, timely, accessible, machine processable, and license-free; that access to such data be non-discriminatory; that formats of such data be non-proprietary; and that compliance with such principles be reviewable. The Committee has been and is always available to address any matters relevant to the published unannotated version of the Code.

The published unannotated version of the Code is a complete, current, and official version of the law itself and does not include copyright-protected material which does not comprise the law. The Mississippi Legislature enacts only the law itself, not the annotations, summaries, and analyses. Moreover, it publishes only the law itself in the unannotated version (no cost basis) and publishes both the law itself and the annotations, summaries, and analyses in the annotated version (cost basis). Thus, the Mississippi Code of 1972 Annotated is also a complete, current, and official version of the law of the State and includes the law itself and copyright-protected material. The annotated version of the Code is the product and result of an independent commercial effort by the publisher to (1) copy the state statutes, i.e., the law itself, and (2) compile the law, on a for-profit basis, with additional copyright-protected annotations, summaries, and analyses that belong to the State under U.S. copyright law. Copyright in materials can reside with the State and the copyright to such annotations, summaries, and analyses is owned and will be enforced by the State. Although published with the law, such annotations, summaries, and analyses within the annotated version of the

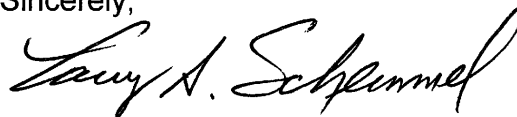
Code are not the law. As mentioned, absolutely no restriction exists on the use of or access to the current law itself.

The Committee is of the opinion and believes in good faith that the annotated version of the Code involves original works entitled to the rights of copyright protection and has requested the Attorney General, by statute, to take any and all actions necessary to enforce such rights. The contractual agreement between the Committee and LexisNexis, or any publisher, provides the State of Mississippi and the Legislature the practical ability to provide and maintain a quality and accurate Code at a reasonable cost to the taxpayers. The Committee is committed to ensuring full and complete copyright protection of the Code.

The Committee is likewise committed to providing accurate and publicly accessible statutory law and has provided ample assurance that such is and will continue to be timely updated and published. The Committee's position is that the annotated Code that you have copied and published is comprised of copyright-protected material. The Committee therefore requests that you immediately remove the annotated version of the Mississippi Code of 1972 Annotated from any and all of your website(s) and from all sites and all types of written and electronic media over which you have control. The Committee further requests that you respond in writing to me within five (5) days of the receipt of this letter that such action has been taken and include written assurance that the annotated version of the Code will not be published or provided to any individual or entity in any format in the future by you and will not be published on any such website(s) or provided by you through written, electronic, or any type of media whatsoever.

Thank you for your prompt attention to this matter. All correspondence should be directed to me at the Office of the Attorney General via the address shown below.

Sincerely,



Larry A. Schemmel
Special Assistant Attorney General
State of Mississippi

c: Ronny Frith, Co-Counsel, Joint Legislative Code Committee
Bubba Neely, Co-Counsel, Joint Legislative Code Committee
Anders Ganten, Senior Director Government Content Acquisition, LexisNexis

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