

**IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE**

PUBLIC.RESOURCE.ORG)
ET AL.,)

Petitioners-Appellants,)

v.)

No. M2022-01260-COA-R3-CV

MATTHEW BENDER &)
COMPANY, INC., ET AL.,)

Respondents-Appellees.)

**APPENDIX: UNITED STATES COPYRIGHT OFFICE
COPY OF CORRESPONDENCE**



COPY OF CORRESPONDENCE

SR 1-10054382706

Correspondence Activities Report

SR 1-10054382706

Activity Type: Email - Outbound

Created on: 01/08/2021 04:10:56 PM

Subject: Confirmation of Receipt

Body:

THIS IS AN AUTOMATED EMAIL - PLEASE DO NOT REPLY.

Your Application and payment for the work Tennessee Code Annotated 2020 Supplement Volumes 1-12B, Index (35 pkgs) were received by the U.S. Copyright Office on 1/8/2021.

PLEASE NOTE: Your submission is not complete until you upload or mail the material you are registering. To do so, logon to https://eco.copyright.gov/eService_enu/ and click on case number 1-10054382706 in the Open Cases table. Follow the instructions to either upload a digital copy or mail a physical copy (with shipping slip attached) of the work being registered. Additional instructions and requirements for submitting the material being registered can be found at <http://www.copyright.gov/eco/tips/>.

SHIPPING SLIPS: If you mail physical copies of the material being registered, the effective date of registration will be based on the date on which we receive the copies WITH CORRESPONDING SHIPPING SLIPS ATTACHED.

A printable copy of the application will be available within 24 hours by clicking the My Applications link in the left top most navigation menu of the Home screen.

You may check the status of this claim via eCO using this number 1-10054382706. If you have questions or need assistance, Copyright Office contact information can be found at <http://www.copyright.gov/help/index.html#general>.

United States Copyright Office

Activity Type: Email - Outbound
Created on: 01/08/2021 04:13:24 PM
Subject: Acknowledgement of Uploaded Deposit
Body:

THIS IS AN AUTOMATED EMAIL. PLEASE DO NOT REPLY.

Thank you for submitting your registration claim using the Electronic Copyright Office (ECO) System.

The following files were successfully uploaded for service request 1-10054382706

FileName :pub_48205_tennessee_code_annotated_2020_supplement_volumes_1-12b_index_35_pkgs_declaration.pdf
File Size :27455 KB
Date/Time :1/8/2021 4:11:59 PM

File Name :t48205_x_1.pdf
File Size :2236972 KB
Date/Time :1/8/2021 4:12:08 PM

File Name :t48205_x_6a.pdf
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Date/Time :1/8/2021 4:12:47 PM

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File Size :2394470 KB
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Date/Time :1/8/2021 4:14:15 PM

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Date/Time :1/8/2021 4:14:25 PM

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Date/Time :1/8/2021 4:14:29 PM

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Date/Time :1/8/2021 4:14:36 PM

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Date/Time :1/8/2021 4:12:24 PM

File Name :t48205_x_2c.pdf
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Date/Time :1/8/2021 4:12:27 PM

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Date/Time :1/8/2021 4:12:34 PM

File Name :t48205_x_5.pdf
File Size :2825206 KB
Date/Time :1/8/2021 4:12:38 PM

[THREAD ID: 1-4MA579Y]

United States Copyright Office

Activity Type: Email - Outbound

Created on: 01/26/2021 04:23:17 PM

Attachment: Y

Subject: 1-10054382706 Tennessee Code Annotated 2020 Supplement Volumes 1-12B, Index (35 pkgs)

Body:

Dear Claudia Gurevich:

We are sending you this email and the attached letter because U.S. Copyright Office staff are currently working remotely in an effort to mitigate the spread of the COVID-19 respiratory virus. Ordinarily, we would send you our registration decision via U.S. mail. However, because many staff members are not in the Office, examiners cannot send hard-copy letters at this time. To ensure that you receive a timely registration decision, the Office has determined that we will send this letter to you as an email attachment.

The attached .pdf constitutes “written” notice per 37 C.F.R. § 202.5(b)(4) and 17 U.S.C. § 410(b).

Instructions for responding to the Office’s registration decision are provided in the attached .pdf. All responses should be sent according to these instructions, and not via reply email.

Questions about this process should be directed to the Public Information Office at 1 (877) 476-0778.

Please also note that U.S. Copyright Office fees for many services, including the fee to request reconsideration of a refused registration, increased as of March 20, 2020. We recommend a careful review of the new fees before preparing any future submissions or requests. Information about the new fees is available here:
<https://www.copyright.gov/about/fees.html>.

Sincerely,
SN
Literary Division
U.S. Copyright Office

When replying to this email, please include the following thread id (entire line) within the body of your response to expedite routing to the correct office.

[THREAD ID:1-4N7OC3P]



United States Copyright Office

Library of Congress • 101 Independence Avenue SE • Washington DC 20559-6000 • www.copyright.gov

January 26, 2021

LexisNexis
Attn: Claudia Gurevich
21 Barroilhet Ave
San Mateo, CA 94401
United States

Correspondence ID: 1-4N7OC2K

RE: Tennessee Code Annotated 2020... Index (35 pkgs)

Dear Claudia Gurevich:

We cannot register your copyright claim in this work because the material deposited does not contain a sufficient amount of original authorship on which to base a claim. Copyright protects "original works of authorship" that are fixed in any tangible medium of expression. To be registered as an "original work of authorship," a work must (1) be created by an eligible "author" and (2) contain a sufficient amount of original literary, pictorial, or other copyrightable expression.

- (1) AUTHORSHIP. The author of a work is generally the person who actually created the work, *except* when the work is made for hire. When a work is made for hire, the *employer or commissioning party* is considered the legal author for copyright registration purposes. 17 U.S.C. §201(b). This is the case regardless of the amount of effort expended by the employee or commissioned party.

Under the government edicts doctrine, "officials empowered to speak with the force of law cannot be the authors of – and therefore cannot copyright – the works they create in the course of their official duties." *Georgia v. Public.Resource.Org, Inc*, 140 S. Ct. 1498, 1506, 1513 (2020). This applies to both judges and legislators, and any commissions deriving power therefrom, regardless of whether the work carries the force of law. *See id.* at 1504, 1506, 1512.

For purposes of the Copyright Act, judges cannot be the "author[s]" of "whatever work they perform in their capacity" as lawmakers. *See Banks v. Manchester*, 128 U.S. 244, 253 (1888) ("there has always been a judicial consensus, from the time of the decision in the case of *Wheaton v. Peters*, 8 Pet. 591, that no copyright could under the statutes passed by Congress, be secured in the products of the labor done by judicial officers in the discharge of their judicial duties"); *Howell v. Miller*, 91 F. 129, 137 (6th Cir. 1898) (Harlan, J.) ("no one can obtain the exclusive right to publish the laws of a state in a book prepared by him").

In *Georgia*, the Supreme Court extended the government edicts doctrine from non-binding materials created by judges to those created by legislatures. *See Georgia v. Public.Resource.Org*,

Inc., 140 S. Ct. at 1504, 1506, 1512. The doctrine further extends to an arm of a legislative body acting in the course of its official duties. *See id.*

Therefore, the U.S. Copyright Office will not register a government edict or other judicial or legislative work that has been authored by a judicial or legislative body in the course of its official duties. This applies to both binding and nonbinding works, regardless of whether the author is an individual (such as a legislator or judge), a government body (such as a Legislature or Court), or a commission deriving power therefrom. Ineligible works include, but are not limited to: legislative enactments, judicial decisions, administrative rulings, public ordinances, official legal materials, unofficial non-binding legal materials, and non-binding explanatory annotations. *See generally* Compendium (Third) § 313.6(C)(2).

- (2) COPYRIGHTABLE MATERIAL. A legal publication that analyzes, annotates, summarizes, or comments upon a legislative enactment, a judicial decision, an executive order, an administrative regulation, or other edicts of government *may* be registered, provided that the publication contains a sufficient amount of new copyrightable authorship and the author is not an ineligible party identified in (1) above. *See* Compendium (Third) § 717.1.

In certain circumstances, “citators” may be registered for copyright. A citator contains specialized indexes for tracing the prior and subsequent history of a judicial decision; for identifying decisions that have followed, explained, distinguished, criticized, or overruled a previous judicial decision; or for researching a specific area of the law. This type of work may be registered if it contains a sufficient amount of new text, such as an introduction or a brief summary of the issues discussed in each case; or may be registered as a compilation, provided that the author exercised a sufficient amount of creativity in selecting, coordinating, and/or arranging the categories that appear within the work. However, registration will be refused if the deposited work does not contain enough original copyrightable text to merit registration, or if the compilation authorship is insufficiently creative. *See* Compendium (Third) § 717.1.

The deposited work you submitted with this claim was either created by an ineligible author unable to claim copyright under the government edicts doctrine, or lacks a sufficient amount of new copyrightable authorship. This conclusion was confirmed in your email correspondence with the Copyright Office and/or in the Note to Copyright Office.

Since the material submitted does not contain a sufficient amount of original authorship, we must refuse registration. This letter is for your information only; no response is necessary.

Sincerely,

SN
Literary Division
U.S. Copyright Office

Enclosures:
Reply Sheet



United States Copyright Office

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* 1 - 4 N 7 0 C 2 K *

Use this sheet if you request reconsideration

How to request reconsideration:

- Send your written explanation of why the claim should be registered or why it was improperly refused.
- Be sure to include the Correspondence ID Number (listed under the bar code above) on the first page of your Request.
- Indicate whether you are requesting a “First Reconsideration” or “Second Reconsideration.”
- **Submit your request ONLINE:** We strongly recommend sending all requests for reconsideration via email following these steps:

EMAIL YOUR REQUEST (BUT NOT THE REQUIRED FEE) to:

copreviewboard@loc.gov.

- The subject line should say “First Reconsideration” or “Second Reconsideration”
- Once your email request is received, you will be contacted with instructions on how to submit the required fee.

IMPORTANT NOTE: Your request and the required fee must be received no later than three months after a refusal is issued.

- **Alternatively, you may submit your request VIA MAIL, but the Copyright Office’s response will be delayed due to the COVID-19 pandemic:**
 - **IMPORTANT NOTE:** Your request must be postmarked (via the U.S. Postal Service) or dispatched (via commercial carrier, courier, or messenger) no later than three months after a refusal is issued.
 - Enclose the required fee.
 - Address your request to:

RECONSIDERATION
Copyright RAC Division
P.O. Box 71380
Washington, DC 20024-1380

First Request for Reconsideration: The Registration Program Office considers the first request. If it upholds the refusal, you may submit a second request.

Second Request for Reconsideration: The Copyright Office Board of Review considers the second request. The Board consists of the Register of Copyrights and the General Counsel (or their respective designees), and a third member appointed by the Register. The Board's decision constitutes final agency action.

Notification of decision: While working remotely due to COVID-19, the Copyright Office will send all notifications of its decisions by email.

FEES:

- | | |
|-----------------------|-----------------------|
| First Request | \$350 per application |
| Second Request | \$700 per application |

Activity Type: Email - Inbound

Created on: 01/27/2021 12:27:02 PM

Attachment: Y

Subject: RE: 1-10054382706 Tennessee Code Annotated 2020 Supplement Volumes 1-12B, Index (35 pkgs)

Body:

Thank you. I understand.

Thanks,
Claudia
415-908-3379