



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 29, 1996

The Honorable Mike Driscoll
Harris County Attorney
1001 Preston, Suite 634
Houston, Texas 77002-1891

Opinion No. DM-250-A

Re: Correction of summary of Attorney
General Opinion DM-250 (1993) (RQ-915)

Dear Mr. Driscoll:

It has recently been brought to my attention that certain language in the summary of Attorney General Opinion DM-250 may not accurately reflect the conclusion reached in the text of the opinion and may be misleading.

In response to your second question concerning the fees that may be charged if service of process by registered or certified mail is made by the clerk of the justice court, we state in Attorney General Opinion DM-250 as follows:

We think [that] 'all other processes and procedures in a civil matter in a justice court' under section 118.122 includes service of process by registered or certified mail in civil cases. We therefore conclude that pursuant to sections 118.121 and 118.122 of the Local Government Code, service of process by mail is a 'service rendered before judgment' that is included in the \$15.00 filing fee established for a civil matter in justice court.

Attorney General Opinion DM-250 (1993) at 3.

In the summary, we state that: "Pursuant to sections 118.121 and 118.122 of the Local Government Code, the justice court clerk may charge a fee of \$15.00 for service of process by registered or certified mail . . ." *Id.* at 5.

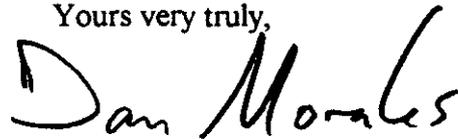
We agree that the quoted language does not accurately reflect the conclusion reached in the text of the opinion and is misleading and, accordingly, revise the summary to read as follows:

S U M M A R Y

Pursuant to rule 536 of the Texas Rules of Civil Procedure, the clerk of a justice court must serve citation by mail or publication if asked to do so. Rule 536 of the Texas Rules of Civil Procedure permits any sheriff, constable or any person authorized by law or any

person authorized by court order who is at least eighteen years old to serve process in justice cases by registered or certified mail. Rule 116 authorizes service by publication in justice court cases by the sheriff or any constable of any county in Texas or the clerk of the court in which the case is pending. Pursuant to sections 118.121 and 118.122 of the Local Government Code, the justice court clerk may charge a fee of \$15.00 for filing the case. The justice court clerk may not charge a fee for service of process by certified or registered mail; however, the justice court clerk may collect advance payment for the expense of postage for serving process by mail unless another statute exempts the party from paying such costs. [Emphasis added.]

Yours very truly,

A handwritten signature in black ink that reads "Dan Morales". The signature is written in a cursive, slightly slanted style.

DAN MORALES
Attorney General of Texas

JORGE VEGA
First Assistant Attorney General

SARAH J. SHIRLEY
Chair, Opinion Committee

Prepared by Sarah J. Shirley
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