

January 29, 1996

RA-915

Ms. Sarah Shirley, Division Chief
Office of the Attorney General
State of Texas
Price Daniel Sr. Building
Austin, TX 78701

RE: Opinion No. DM-250

Dear Ms. Shirley:

It has come to our attention that the captioned Opinion appears to contain an inaccuracy which is being disseminated widely by West Publishing via their "pocket part" service. This situation came to our attention as we began our biennial revision of the Fees Appendix (copy enclosed) to the TEXAS JUSTICE COURT DESKBOOK published by the Training Center. We thought you would want to be made aware of the problem before we publish an alert to the justices of the peace throughout Texas.

The language we are concerned with is in answer to the second question addressed, which states, in part:

We think "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 the justice court. [Emphasis added.] Attorney General Opinion DM-250 (1993) at 1304.

* * *

SUMMARY

... 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. [Emphasis added.] *Id.* at 1306.

It is this statement from the Summary alone that is quoted in the West Publishing Co. *pocket part* (copy enclosed). See Volume 1, V. T. C. A. Local Government Code, Sections 118.121 and 118.122, "Notes of Decisions". The statement seems to authorize an additional fee and could be very misleading, especially if the reader does not have access to the entire opinion.

Please be advised that we are in full agreement with the conclusions reached by DM-250, but not with the statement in the Summary. Further, it is our position that the Summary is not controlling and that, although it is at variance with the text of the Opinion, it does not undermine DM-250 when read in its totality.

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We believe it advisable to contact West Publishing Co. to request a revision of the *pocket part*, and we would appreciate having your input on this matter. Please contact me by phone or letter at your earliest convenience so that we may address the issue with our clientele and West Publishing. Thank you for your continuing support for the justice courts of Texas.

Sincerely yours,

Patricia F. Broline
General Counsel

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