



Newsletter

ONLINE EDITION



**REMEMBER
DELS DINNER DANCE
3RD MARCH 2006
AT SAUNTON SANDS HOTEL
BOOK YOUR PLACE NOW...**



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DEVON & EXETER
LAW SOCIETY

www.devonlawsociety.org.uk

January 2006

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If you don't like it, help change it

The Law Society is changing - now is your opportunity to have a say in the future of your professional body

- What do you want from the Law Society?
- How can it help you to practise more successfully?

We want to build a new, reinvigorated Law Society that works harder for you. Tell us what you want. Your input can make a real difference.

Complete the questionnaire at
www.haveyoursaylawsociety.org.uk
or ring 0845 603 1786 for a copy

It's your Law Society,
so make sure you have your say.



The Law Society

it's
YOUR
Law Society
Have Your Say

www.haveyoursaylawsociety.org.uk

The Meteorological Office Tours – Just a few places left

There are a few places left for the morning tour of the Met Office on Friday 31st March 2006.

Please email Tony Steiner to reserve your place at:

tony.steiner@devonlawsociety.org.uk

Congratulations to DELS Honorary Secretary, Anthony Spiers who was presented his MBE by Her Majesty the Queen at Buckingham Palace on the 14th December 2005



DELS ANNUAL GENERAL MEETING

The Society's Annual General Meeting will be held on **Tuesday 11th April 2006** at **The Exeter Golf & Country Club, Exeter**, at **6.00 p.m.**



Would members please make a note of the date and time in their diary now. The Agenda and copies of the various reports will be circulated to the membership with the March Newsletter. The format will be a short business meeting followed by a members' dinner.

YOUR COMMITTEE

Nominations are invited for the General Committee of the Society. The Committee consists of the Officers of the Society (President, Vice President, Junior Vice President, Honorary Treasurer and Honorary Secretary) together with "our" member of the Council of The Law Society, Chairmen of all Committees and Sub-Committees.

In addition, there is a maximum of 40 elected members as well as any co-opted member. All must be members of the Society. The Committee endeavour to ensure that there is co-opted to the Committee each year a solicitor employed full time in local government, a representative of the Devon Young Solicitors Group, and a solicitor employed full time in the Crown Prosecution Service if no such solicitor is an elected member of the Committee.

In the year 2005/2006 there were 7 elected members of the Committee in addition to the Officers of the Society and any co-opted members. Members of the Society are entitled to nominate to the Committee any qualified member of the Society to serve on the Committee.

Proposals are already emerging for the future of the national Law Society. Unless you are willing for others to set the future agenda you should make your views known. DELS Committee is the local forum for this. The Committee needs younger members to

help mould the future of the profession. Devon & Exeter Law Society is highly regarded and its views are listened to at Chancery Lane. If you want to help shape the future start by completing the nomination slip herewith.

A form of nomination will be found below and this should please be returned to the Honorary Secretary by no later than: **5.30 pm on Tuesday 31st January 2006**

To: J A Spiers MBE
 DELS Honorary Secretary
 Suite 5, Renslade House
 Bonhay Road
 Exeter EX4 3AY
[DX 8361 EXETER]

I wish to nominate

.....

of

.....

For election to the General Committee and I confirm that the nominee is willing for his/her name to go forward.

Signed

.....

Address

.....

.....

Year of Admission of Nominee

**Please return this form by
 Tuesday 31st January 2006**

PRESIDENT'S DIARY

Rod Mole
President



*"Ring out the old,
ring in the new"*

In the closing weeks of 2005 the "International Scene" featured once again in my diary. In an effort to bolster my CPD points I joined a Brussels two day study visit organised through the Greater London Regional Office of The Law Society. The programme included visits to the European Parliament. The UKREP Offices, the CCBE Headquarters and The Law Society's own Brussels Office. It also included meetings with selected MEPS and presentations by Michael Renouf the Council Member for EU Matters and representatives from the Commission's Legal Service, the Secretariat of the Council Ministers, and our own Government's Legal Advisory Team. At an overall cost of £340, which I hasten to add was not paid by the Society and with the added benefit of ten CPD points, I found it a very valuable and informative visit. I believe the South West Regional Office are also thinking about promoting such a visit. If so, I would strongly recommend it to those who wish to get a more informed view of what happens in the European corridors of power.

On the 16th of December Andy and I were, once again, fortunate to attend the Annual Dinner of the Bilbao-Vizcaya Bar. We were also spectators at the traditional cut throat basketball match between the Bilbao and the Verona Bars, which I have to report, the home team won handsomely. I am sure there must be an opportunity to field a Devon & Exeter Team at some stage in the future.

On the domestic front, it was a great pleasure to host, in North Devon, the Society's Annual Luncheon to which colleagues from aligned professions are invited. Although this is traditionally an informal affair I was fortunate to be able to secure the services of David Shepherd MBE, the recently retired Cricket Umpire, as an after luncheon speaker. As it would happen Monique was the lucky winner of the charity raffle and so acquired a signed copy of David Shepherd's autobiography. She

tells me that she should be qualified as an umpire by the start of the next season!

The December Committee Meeting was followed by an informal event jointly sponsored by the Society and the DCA aimed at providing information to those who may be thinking about a judicial appointment at some stage in their career. I would like to thank District Judge Read for her contribution and offer congratulations on her election to Membership of the Society.

Well, that was 2005, what does 2006 hold and what predictions or resolutions should we make at the beginning of a New Year?

For me personally the AGM looms large and you will shortly have a new columnist.

For the Society, will it continue to expand its influence nationally and internationally; will it be involved in mergers with other Societies; will it top the 1.000 membership; will it secure its own premises but, more importantly, will it offer the services and support that you as its members require from it? What of the National Law Society? How will that be shaped and function?

Whilst I am happy to pose the questions I am not, unfortunately, able to provide the answers. I can however offer you two resolutions. Have your say and get involved! It is your Local Law Society and your National Law Society. Things are changing and if you wish to influence that change it requires personal commitment and focus.

Don't forget to visit our website:

www.devonlawsociety.org.uk

**Click on Newsletters, you will
find past copies of the
Newsletter**



DISTRICT JUDGES' **CORNER**

District Judge Crosse
*Exeter Crown &
County Court*



Consent orders in ancillary relief cases

At this time of the year, the Court appears to receive more consent applications in ancillary relief cases than at other times of the year. Perhaps it is the spirit of goodwill or a desire to make a fresh start in the New Year. Whatever the reason, it must be disappointing to those clients who have finally reached agreement to find that their application has been rejected by the District Judge who seeks further information. I have no doubt that some clients may feel that they are capable of reaching a decision without further enquiry from a District Judge but this ignores the requirement for a Judge to be satisfied, after taking into account the matters disclosed in the statement of information, that the proposed order is one which can be approved. I am setting out below some examples of draft orders that have been rejected:

- Insufficient information as to the values of assets mentioned in the draft order
- No indication as to where the parties are living or cohabiting
- One party will receive a larger share of the family assets with no obvious explanation for this
- Why a clean break is appropriate where there are dependent children
- The proposed order reflects what was agreed at the time of separation but a copy of the separation agreement has not been filed
- One party is ordered to do something which the court has no jurisdiction to order and which should therefore appear as a recital
- One party is unrepresented and it is unclear whether he/she has had the benefit of independent legal advice
- The address of the pension provider has not been given

- The order provides for the payment of a lump sum and/or transfer of property after these transactions have already taken place. The District Judges at Exeter would like to take this opportunity of wishing you all a happy and prosperous New Year.

COUNCIL MEMBER'S **REPORT**

Christopher Palmer
Council Member



The major forthcoming event (to which much time has been devoted) is the consultation with the profession due to be "launched" on 19 January. These are challenging times. New forms of practice may be allowed where solicitors and other legal professionals, and non-lawyers, can form business entities to provide legal and other services. These new entities could be owned by lawyers or by external investors. A new independent body, the Office for Legal Complaints, will deal with complaints. A new "oversight" body the "Legal Services Board" is proposed to supervise the way the Law Society and other "front line" regulators regulate lawyers.

In anticipation of this new regime, (which will require legislation) the Law Society has separated its regulatory and representative functions. Separate Boards have been established to oversee regulation and complaints. The result of this is that the Law Society will be able to focus principally on representation issues. The Law Society has undertaken extensive market research, with representative random samples of solicitors, about what solicitors want most from their professional body. The Law Society is now proposing to consult all solicitors. What is it that a national body for solicitors could and should do? What difference could it make to your professional life as a solicitor? How could a new Law Society help your firm?

I hope that every solicitor will respond to the consultant questionnaire. It has been designed to take no more than ten minutes to complete!

Preliminary details of the consultation have already appeared in the Law Society Gazette. More information is due in January including questionnaire forms being included in two separate editions of the Gazette. It is hoped that many will answer the questions on line. However, you can also request a hard copy by e-mailing:

haveyoursay@lawsociety.org.uk.

All this will be explained in more detail in the Gazette in early January. The closing date is 21 April 2006. I do urge all members of this Society to "have your say."

As some of you may know, I am retiring as a partner in Ashfords at the end of April. I will, however, be staying on part time, as a consultant, until the end of December to cover some maternity leave. I have been your Council member since July 1999 and I have decided that it would be right to retire, as a Council Member, at the AGM in July 2006; and to make way for someone younger, more energetic and more in touch with the profession. My successor will serve the remaining one year of my current four-year term i.e. until the AGM in July 2007. On the face of it that is not a very exciting prospect! However, the structure of the Law Society and of the Council is likely to change substantially in 2007/08. The result of the consultation exercise and the decisions which will flow from that will almost certainly result in a Council of a different size and representing different geographical areas, sectors and groups. It is probable, I think, that the Council will reduce in size. However, my successor will be on the Council during interesting times and will be able to play a part in the future direction and role of the "new" Law Society. He or she will also have the opportunity to be a part of the new representational body from 2007 onwards, whatever the changes may bring about.

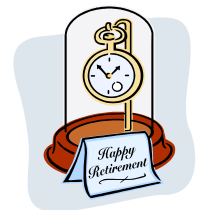
I would urge any member, who might be interested in standing for election as a new Council member, to register their interest with the Honorary Secretary. The post is, as you know, not remunerated although I suspect it will be in the future, within the new structure. Expenses are, however, reimbursed. I am very often asked the extent of the commitment. Although there may only be five Council meetings a year (usually

meaning two days out of the office) most Council members become involved in committees, Boards or other ad hoc working groups. I have found these particularly rewarding and interesting. My best estimate is that being a Council Member takes up, on average, approximately one day per week throughout the year.

It has been a privilege to represent you. I have enjoyed doing it and I would recommend the post to anyone who might be interested. If there is such a person out there, please do not hesitate to get in touch with me for any further information.

COUNCIL MEMBER REQUIRED

Stephen Lawson
Vice President
*Association of South Western
Law Societies*



Council Member, Christopher Palmer, has indicated his intention to retire from The Law Society's Council with effect from the 2006 AGM which is held in July.

Christopher will have served for seven years and we are much indebted to him for such willing, effective and conscientious service.

Your Committee is most anxious to ensure that Christopher is succeeded by a member of DELS so as to maintain our voice at Chancery Lane.

With the impending constitutional changes the new Council Member will in fact only have one year to serve (the balance of Christopher's term) and thereafter the composition of the Council will be different and in accordance with whatever the new constitution may provide.

If anyone is interested in putting their name put forward to succeed Christopher and would like to discuss the implications with him then they are more than welcome to contact Christopher, in confidence, on 0870 427 3007.

DELS STRATEGIC PLAN



Members will be aware that a small group of members together with DELS staff have been undertaking a review of DELS strategy ensuring that your Society is ready to meet the challenges of the Post Clementi era and a competitive market for its services.

Thanks are especially due to Tracy Lambert of Tozers and Marcus Thorpe of Ashfords who joined the Society's Executive for this task. We were also fortunate to have the support of Simon Young who will be known to many and is The Law Society Council Member for the Law Management Section.

The Key Points of the review are set out below. A copy of the full text is available on the website www.devonlawsociety.org.uk

DELS KEY POINTS OF THE STRATEGIC PLAN 2005 – 2008



The Strategic Plan 2005 – 2008 considers the key issues that DELS needs to look at to develop as one of the leading local Law Societies in the country.

It recognises that the two main primary service areas of DELS are that of the recruitment service and the provision of training. These are both areas that could be developed further.

It also notes the imminent reorganisation of the profession post-Clementi, and promotes the flexibility necessary to meet future demands (which are difficult to predict).

The following is a summary of its key points in no particular order, though the first two are probably the most pressing at the moment:-

Geographical Scope

Actively seek ways of operating more closely with neighbours including being pro-active in suggesting formal mergers where appropriate.

Premises

Consider the costing and viability of new premises, providing conferences and training facilities. The decision on this is to be taken by February 2007, bearing in mind the provisions of the Society's current lease.

Governance

The Hon. Treasurer is to keep the tax status of DELS under review with a view where possible to reducing our corporation tax bill.

Staffing

The current staffing levels are adequate to take DELS forward; however if DELS acquires its own conference and seminar suite then the staffing issue will have to be revisited.

Recruitment

Aim to increase growth. The target is to grow by 7% to 8% p.a., though it is recognised that this area is fundamentally dependent upon the level of activity within the job market. The target remains to become the preferred method of recruitment both for firms and for individuals seeking employment.

Training and Seminars

There is scope for further development of the training function especially considering:

- 1. The possibility of improvement of facilities if DELS acquires its own training suite*
- 2. The increase in CPD requirements that may be brought in by The Law Society*
- 3. Expansion of joint ventures with other neighbouring Law Societies and*
- 4. The scope for more opportunities for in-house training for larger firms.*

The Training Committee is also asked to consider annual 'themed' events and the development of reliable patterns of regular, frequent events, both of these models being successfully used by the Society of Trust and Estate Practitioners.

Mediation

The Society is committed as far as is practicable to support and encourage forms of Alternative Dispute Resolution.

Social Activities

Social Calendar to be arranged in sympathy with the constraints of modern practice.
Encourage younger lawyers and interaction with other professions.
Propose Sports and/or Charity day.

Young Solicitors and Trainee Solicitors

Concerted efforts to be made to persuade senior members of the profession to support their younger colleagues in DELS activities.
Organisational help should be offered to the TSG and YSG.
Assistance with regards to the website facilities should be offered and developed.
An annual DELS lecture with a national speaker should be investigated.

The Newsletter

Retain informal style.
Include developments in the Law.
Modernise appearance.

Electronic Service Delivery

Put more documents on the web – agendas, meeting minutes.
Keep under review the benefits of distribution of the newsletter via email and of on-line payment facilities for seminars and training.

Complaints handling

To be promoted more widely to both members and the public.

Practice Management

DELS has led the way forward for the South West with regards to the practice management committee. The idea has already been used in Plymouth and we hope to use it in Cornwall and Somerset. The need for this service may increase further if the Law Society's plans to make firms appoint heads of finance, heads of legal practice and also administrators, go ahead. This work should be supported especially if it needs to be expanded.

Representational Roles

DELS to identify and respond to potential representational gaps following The Law Society's own review.

Sub-Committees' Roles

The Sub-Committees only work with the commitment of the members. It is therefore imperative that every effort is made to

persuade members to become involved. For this to happen DELS must enable members to become more aware about the work that the Sub-Committees undertake.

Sub-Committee Chairs actively to recruit suitable members from amongst the local profession's leaders.

International

International work should continue and DELS should be constantly looking for new ways in which the already developed international contacts can be used to benefit members.

Targeting of services

All of the services that DELS offers should be designed to be attractive to lawyers whatever their background. Whilst the personal needs of all members should be recognised in the delivery of those services, efforts should be made to represent all sections of the legal community. DELS should also be prepared to work with local representatives of any specialist organisation where possible.

DEVON & EXETER LAW SOCIETY NEW MEMBERS

We would like to welcome:



Ms C Ashby

*Christine Ashby Solicitor,
Ottery St Mary*

Miss L Bailey

Ashfords, Exeter

Miss S Brookes

Peter Peter & Wright, Barnstaple

Miss K Hamer

Everys, Honiton

Miss L Keldusild

Ashfords, Exeter

Miss K Kent

Seldon Ward & Nuttall, Bideford

Miss R Murray

Ashfords, Exeter

Mr D Paull

Boyce Hatton, Torquay

District Judge Read

Barnstaple

Mr J Shute

Torbay Council, Torquay

Miss Z Weir

Seldon Ward & Nuttall, Bideford

THE FRIENDS OF EXETER CATHEDRAL

By Robin Challans
DELS Past President



Centuries before the Norman Conquest there was an Anglo Saxon church attached to a monastery on the site of the present Cathedral in Exeter. In 1050 Bishop Leofric removed his cathedra (his seat) from Crediton to Exeter, and the monastic church in Exeter became the cathedral. Thus it was that Exeter Cathedral was founded, and Bishop Leofric enthroned as Bishop for the new diocese of Devon and Cornwall, by King Edward the Confessor. Following the Norman Invasion the successors to Leofric demanded that the Cathedral be rebuilt in the Norman style, on the same site as the smaller Saxon building. The two square Norman towers are a reminder of that Norman design, but it was a later generation that produced the grand Gothic design of the Cathedral we see today.

Back in 1929 Exeter became only the second Cathedral in the country – the first was Canterbury Cathedral – to have a society of Friends. So Exeter Cathedral Friends recently celebrated their 75th Anniversary, and over the years the friends have contributed to many aspects of Cathedral life. The first grants were made for the restoration and repair of the ancient wall paintings, and the minstrels' gallery.

Today there are nearly 3000 members, about one half from Devon and others from as far away as Canada, Australia and New Zealand and indeed from all corners of the globe. The Friends of Exeter Cathedral are a registered charity, and rely on members' subscriptions, donations and legacies. The cost of conservation is higher every year and the Friends help to play their part in preserving and maintaining this wonderful building for the future. If you would like to become a Friend, or to take part in their activities, the address to write to is: The Friends of Exeter Cathedral, 1 The Cloisters, Exeter, EX1 1HS (telephone 01392 423931).

NON CONTENTIOUS SUB COMMITTEE'S ANNUAL VISIT TO PLYMOUTH LAND REGISTRY

By Marcus Thorpe
*Ashfords Solicitors,
Exeter*



Five committee members accepted the Land Registrar's kind invitation to visit Plumer House for an afternoon to discuss conveyancing developments and for a tour of the office.

Of the 24 self-funding Land Registry offices in E & W, with 8,000 employees and an annual income of £400m, Plymouth is something of a flagship. Since the bad old days when applications took months to complete (birthday cards to HMLR from fee earners were not unheard of) and numerous transactions could have accrued before completion of a first registration, Plymouth has come far: they now deal daily with 2200 OCE & search requests, 150 first registrations and 700 dealings of the whole; aiming to complete 50% of the latter on the day of receipt.

First Registrations:

Although 20,000,000 titles are now registered, there are a further 5,000,000 unregistered. Plymouth, in particular, is now actively marketing first registrations of unregistered land (to such freeholders as landed estates, golf clubs, local authorities, charities etc) with a target to complete the register by 2012, which is recognised as unachievable. Angela Jackson, the Regional Development Manager, points to the advantages to voluntary registration (over and above guaranteed title, adverse possession protection, transaction speed etc.): nominal fees for large estates, a cheap mapping service; points of contact to manage registrations; informal communication rather than formal requisitions. For further information contact:

Angela.Jackson@landregistry.gsi.gov.uk.

Chain Matrix:

The purpose of the Matrix is to provide transparency, identifying delays in the chain. Improvements have been made after consultations with practitioners. It is accepted that the information posted is only as reliable as the clients providing it. Due for piloting in specific areas of the country in early 2007 (with e-signatures incorporated), it will not be introduced before HIPs (June 2007). Electronic Funds Transfers are not included in the trials. Although HMLR are keen to have HMRC on board given SDLT, the project will not be held back if HMRC can't keep up. It is intended that the Matrix will be case-management friendly, using XML standards ("Esperanto for computers"). HMLR have worked closely, although not exclusively, with PISCES in developing the software. Further information about the Chain Matrix pilot scheme will be circulated by the DELS Non-Contentious Business Committee shortly.

The members received a warm welcome and fine buffet lunch and are grateful to the Registrar, Andrew Pain, and the Area Manager, Julian Mitchell, and all the other people at the Registry who contributed to the success of the visit.

MONEY LAUNDERING

In the November issue of the newsletter we are sad to say that an error was printed in the Money Laundering article written by Trevor Hellawell. You may have noticed that a table was printed twice. Please find below the correct version of paragraph E. We are very sorry for this mistake. (A full copy of the amended article can be found on the website in the November edition of the newsletter.)

E. PRACTICAL ISSUES

The author offers the following simplification of the Law Society's flowchart approach.

The main steps to consider are:


In relation to litigation matters:

| | | |
|---|--|------------------------------|
| 1 | Are the funds received in the litigation process, restitution to a victim by the perpetrator of the criminal act which defrauded them? | If YES, PoCA does not apply. |
| | If NO, then | |
| 2 | Is there a suspicion that | If NO, proceed |

| | | |
|---|---|-----------|
| | funds involved in the litigation are derived from criminal sources? | as normal |
| | If YES, then | |
| 3 | Report details to MLRO for internal record purposes. | |
| 4 | Continue to conduct matters to conclusion and distribute assets. | |

In relation to non-contentious transactional work:

| | | |
|---|--|--------------------------|
| 1 | Are we suspicious that an offence may be being committed under PoCA, ss 327, 328, 329 or 330 by ourselves, our clients or third parties? | If NO, proceed as normal |
| | If YES, then | |
| 2 | Consider whether information on which suspicion is based is covered by common-law legal professional privilege (ss 327-329) or statutory privilege (s 330) | If NO, REPORT |
| | If YES, then | |
| 3 | Contact client to discuss position and seek waiver of privilege | If GRANTED, REPORT |
| | If DECLINED, then | |
| 4 | Consider if client or others have a criminal or fraudulent purpose, in which case privilege disappears | If YES, REPORT |
| | If NO, then | |
| 5 | Withdraw from the transaction, making no report other than internal report to MLRO for record purposes. | |



Solicitors Support Network

For confidential help ring

0800 328 4203

FREE & CONFIDENTIAL SUPPORT FOR SOLICITORS

ARE YOU EXPERIENCING PERSONAL OR PROFESSIONAL PROBLEMS?

If so, you do not have to do so alone. Support groups exist to assist you.

OBITUARY

Jeremy James 1933 – 2005

Jeremy James, who died suddenly in September 2005, joined Hooper & Wollen in Torquay 1961, after serving his Articles in London. By the time Jeremy retired in 1999 (prior to a term as a consultant) he had been Senior Partner for 18 years, during which time the firm grew and prospered.

Jeremy served as a Deputy District Judge for over 15 years. Apart from a distinguished legal career, Jeremy worked tirelessly, and anonymously, for charity. He was a Trustee and Governor of the Home Farm Trust which supports adults with learning disabilities.

His many friends will remember him as a true sportsman, and a country gentleman. He loved fly fishing, tennis and shooting and was never happier than when he was walking the moors in the driving rain with his dogs. As Chairman of the Parish Council and Chairman of the Lower Teign Fishing Association his wisdom and guidance was invaluable.

Jeremy gathered friends from every part of his full and varied life, and all of them, and his family, will miss him greatly.

media and explain why “no comment” is usually the wrong response.

This 2 hour seminar will cover:

- The purpose of communication
- How to handle a crisis
- How to establish a good working relationship with the media
- How to handle an interview

There will be a comprehensive presentation followed by a Question and Answer session.

The Seminar will take place at the Bank of England, Exeter on the 1st March 2006, between 5 – 7pm (registration 4.30pm). 2 hours CPD will be given on attendance of this seminar.

The cost of the seminar will be £65.00 + VAT @17.5% = £76.38 PER DELEGATE

If you are interested in attending the press and public relations seminar please contact Seren Clements at the Regional Law Society Office **by Tuesday 21 February 2006** on 0117 929 5175 or email: seren.clements@lawsociety.org.uk

PRESS AND PUBLIC RELATIONS SEMINAR

HOW TO HANDLE THE MEDIA AND WHY IT'S GOOD FOR BUSINESS



What's your reaction to hearing a journalist wants to talk to you?

Do you try and avoid any contact thinking this can only be bad news for you and your firm? Or do you see this as an opportunity to use your expertise and enhance the reputation of your firm?

Two experts from the Law Society's press office, Geoffrey Negus and Isobel Rowley, will help you learn how to deal with the

LEGAL SUNDAY SERVICE 2006

This year's Legal service will take place on **11th June 2006** at **Exeter Cathedral**.

Anyone wishing to take part in the Procession, would they please **contact:**

Monique Bertoni
at Devon and Exeter Law Society
on: **01392 411585**.

