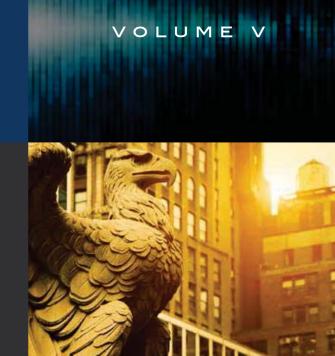




MEDIA LAW REVIEW

SUCCESS. SKILL. STRENGTH.







What Is This?



"**This**" is an update on the activities and successes of the Media Law practitioners of Jackson Walker L.L.P. Since our last edition, we've continued to deliver outstanding results for our clients. We have dipped our toe into

the pool of reality television cases for Dr. Phil, Dr. Oz, and Dr. Bon (a star of the reality show *Big Rich Texas*). We have helped shape Anti-SLAPP law in Texas and continued our successful

representation of numerous television stations, newspapers, and other media outlets.

The matters in which we have been involved range from allegations of defamation on a political blog, to quashing the subpoena of a reporter's testimony in a high-profile divorce case, to requesting open records of a former mayor. We are grateful to our clients, colleagues and friends for your continued support.

- Bob Latham, Partner



JW's Video Page

Chip Babcock, Jackson Walker attorney and member of the American College of Trial Lawyers, is featured in a series of litigation-focused videos on our website, JW.com.



Visit: JW.com/litigatorvids for discussions on:

- the number one mistake made by trial attorneys in the courtroom
- the importance, as a litigator, of evolving along with technology
- determining when to pursue litigation and when to avoid it
- the impact of citation rules on how a case is argued

About JW's Media Law Group

Jackson Walker's media law group is one of the most prominent in the country, providing a full range of services to its clients. In 2005, the firm's media practice celebrated 100 years of uninterrupted service to our media clients. It began in 1905 with representation of the old *Dallas Times Herald* and has grown into a practice that is now national and international in scope. The firm's extensive experience in this area developed from its representation of entities and individuals in media and communications related litigation, as well as pre-publication concerns. Jackson Walker's media practice has since grown into other practice areas as well, including counseling media law clients in transactional, employment, entertainment, intellectual property, advertising and other related matters. Jackson Walker's media law clients include local and regional broadcasters and news organizations, as well as national television networks, news organizations, publishers, production companies, syndicators and media conglomerates.

JACKSON WALKER HELPS SHAPE ANTI-SLAPP LAW IN TEXAS



With multiple recent victories for clients under the Texas Citizens Participation Act - including two cases of first impression - Jackson Walker continues to play a leading role in shaping this important area of law.

In 2011, the Texas Legislature passed the Texas Citizens Participation Act (TCPA). One of the strongest anti-SLAPP statutes in the nation, the TCPA aims to discourage retaliatory lawsuits brought against parties exercising their right to free speech by empowering trial court judges to dismiss unmeritorious defamation actions relating to matters of public concern at the outset of litigation.

In the years since its passage, interpretation of the TCPA has continued to evolve, and some key aspects remain in dispute. Jackson Walker partner Bob Latham discussed some of these changes in an interview with *Law360*. He said, for example, that in the early stages of the application of the TCPA, some trial court judges were hesitant to enforce the act in cases where there was a media defendant.

"Initially, there was some reluctance on the part of some trial court judges who thought that anti—SLAPP statutes are supposed to protect only someone akin to a whistleblower, with limited assets," Bob told *Law360*. "But there is nothing in the TCPA that is so limiting."

A few JW successes for clients under the TCPA include the following:

Cruz v. Burnt Orange Report, 160th Judicial District Court of Dallas County, Texas (2013):Anti-SLAPP motion granted on behalf of the Burnt Orange Report, a political blog that was sued by a former candidate for district judge in Dallas.

Better Business Bureau of Metropolitan Dallas, Inc. v. Lloyd Ward, 401 S.W. 3d 440(Tex.App.—Dallas 2013, pet. denied) and **Better Business Bureau of Metropolitan Dallas, Inc. v. BH DFW, Inc., 402 S.W. 3d 299 (Tex.App.—Dallas 2013, pet. denied):** JW won twin victories for the Better Business Bureau of Metropolitan Dallas, Inc. in two separate cases before the Court of Appeals for the Fifth District of Texas in Dallas. On appeal, the court cited two previous cases involving the TCPA that were successfully argued by JW.

Newspaper Holdings, Inc. v Crazy Hotel Assisted Living, Ltd., 416 S.W.3d 71 (Tex. App. – Houston [1st Dist.] 2013, pet. denied): In a case of first impression with regard to the commercial speech exception of the TCPA, JW secured a victory for its clients when the Court of Appeals for the First District of Texas reversed and rendered the denial of a motion to dismiss under the TCPA. The Texas Supreme Court denied certiorari.

Avila v. Larrea, 394 S.W.3d 646 (Tex. App.—Dallas 2012, pet. denied): In the first case reaching the merits of a motion to dismiss under the TCPA, the Dallas Court of Appeals ruled in favor of JW client Univision 23 KUVN and ordered the trial judge to dismiss the case and award damages and costs to the television station.

Flores v. Houston Community College System, 61st Judicial District Court of Harris County, Texas (2011): Anti-SLAPP motion granted and attorneys' fees awarded to JW's client.

Bankson v. CNN and KHOU-TV, 193rd Judicial District Court of Dallas County, Texas (2013): JW represented CNN and KHOU-TV in defense of libel case in which plaintiffs alleged that the media defendants falsely accused them of having dead bodies on their property. Motion to dismiss granted in favor of CNN. Case settled for KHOU-TV.

Margetis v. Google Inc. et al., 95th District Court of Dallas County, Texas (2013): Plaintiff alleged defamatory statements were published on Google's blogspot.com website. After Anti-SLAPP motion was filed, the matter was resolved and the parties entered an agreed order of dismissal with prejudice.

Algae International Group, Inc. v. The Regents of the University of California et al., 44th Judicial District Court of Dallas County, Texas (2013): Dismissal of defamation and business disparagement claims brought against university and employee. This decision was notable because after the anti-SLAPP motion was filed but before the hearing, the plaintiff dismissed all claims without prejudice. After hearing argument on the pending motion, the Court entered a final judgment dismissing all claims and granting defendants their attorneys' fees and additional sanctions.

Bukhari v. Mazoor Memon and Amber Memon, 133rd District Court of Harris County, Texas (2013): Dismissal of defamation claims brought against the owner of a community newspaper and his wife.

Jackson Potter, et al. v. Don Folkerth, et al., 116th District Court of Dallas County, Texas (2013): Obtained voluntary dismissal with prejudice of defamation and other claims against television station and its reporter shortly before hearing on anti-SLAPP motion to dismiss.

Shipp v. Malouf, No. 05-13-01080-CV (Tex. App.—Dallas 2014, no pet.): Television news report concerning multi-million dollar Medicaid fraud lawsuit by state against largest dental provider in the program that included incorrect statement that dentist had filed personal bankruptcy was not defamatory per se. Reporter entitled to reversal of trial court order denying motion to dismiss.



HONORS AND MENTIONS

Jackson Walker's Litigation practice group was named the "Litigation Department of the Year" by *Texas Lawyer* in the magazine's first-ever awards recognizing the top trial groups in the state.

"We are very proud of this award because it reflects the consistent standard of excellence we provide in serving our clients," said firmwide managing partner Wade Cooper. "Over the past 125 years, some of the best trial attorneys in Texas have chosen to practice at Jackson Walker, and this generation of litigators is no exception. At the same time, we recognize that great lawyers are made by great clients, and we never forget what a privilege it is to represent outstanding clients in the cases that matter the most to them."

Announced in July 2013, the prestigious and competitive awards highlight the top general litigation and specialty litigation practice groups in several categories. Jackson Walker was named the top general litigation group in the large firm category and was profiled in a special *Texas Lawyer* supplement published on Aug. 19, 2013.

In choosing the Litigation Departments of the Year, *Texas Lawyer* asked firms to describe the scope and significance of their case work and to demonstrate why clients choose them for litigation. Jackson Walker partner Bob Latham, who heads the firm's media practice, said that experience and results are two of the main reasons clients turn to Jackson Walker.

Chip Babcock and Nancy Hamilton Receive Pro Bono Award

Jackson Walker attorneys Chip Babcock and Nancy Hamilton were named recipients of the Texas Civil Rights Project's (TCRP) 2013 Kristi Couvillon Pro Bono Award, which is presented annually to attorneys who handled significant cases for the TCRP.

The MLRC is a non-profit professional association based in New York City for content providers in all media and for their defense lawyers. The organization provides a range of resources relating to media and content law, as well as policy issues. The MLRC's Defense Counsel Section includes more than 200 law firms worldwide that specialize in media defense representation.

Shannon Teicher Named Chair-Elect of TIPS Media, Privacy and Advertising Law Committee

Jackson Walker partner Shannon Teicher was named Chair-Elect of the American Bar Association's

(ABA) TIPS Media, Privacy and Advertising Law Committee. Shannon will serve as Chair–Elect of the Committee from September 2013 to September 2014 and as Chair from September 2014 to September 2015. The committee concentrates on the law of and insurance coverage for media law issues, privacy law developments, and defamation law concerns. Jackson Walker partner Chip Babcock also serves on the committee as Vice—Chair.

Jackson Walker Receives Prestigious Thomas L. Sager Award for Diversity

Jackson Walker has been awarded the prestigious 2014
Thomas L. Sager Award for the South Region from the
Minority Corporate Counsel Association. The award is
presented each year to law firms that have demonstrated
sustained commitment to improve the hiring, retention, and
promotion of minority attorneys.

"Receiving this award is a tremendous honor for Jackson Walker," said Jackson Walker partner and Diversity Committee Chair Bruce Ruzinsky. "We are very proud of the diversity we have achieved at the firm, and we will continue to seek ways to recruit, retain, and advance a diverse workforce while maintaining an inclusive environment."



'Litigation Department of the Year'

Jackson Walker's Litigation practice group was named the "2013 Litigation Department of the Year' by Texas Lawyer in the magazine's first-ever awards recognizing the top trial groups in the state.

Chip and Nancy were recognized for their successful representation of an internet publication called The Burnt Orange Report in a lawsuit filed by a former candidate for district judge in Dallas. The case involved a comment posted on a Burnt Orange Report bulletin board which dealt with the qualifications of the judge for office. The Jackson Walker team filed a motion to dismiss under the Texas Citizens Participation Act, which was granted, and continues to handle the matter on appeal.

Bob Latham Finishes Term as President of the MLRC Defense Counsel Section

Jackson Walker partner Bob Latham concluded his year-long term as President of the Media Law Resource Center's (MLRC) Defense Counsel Section and member of the MLRC Board of Directors.

'Texas Lawbook' Article Highlights Jackson Walker's Success in Promoting Women to Partner

Jackson Walker is the leading firm in Texas in promoting women to partner, according to a recent article by *The Texas Lawbook*. The article, which explored a lack of partner promotions for women as a general trend in the Texas legal industry, revealed that Jackson Walker is among the few law firms in Texas that have been successful in promoting women to partner.

"No law firm in Texas has a better record in recent years of promoting women to partner than Jackson Walker. The Dallas-based firm elevated 20 women to partner between 2012-2014 — nearly double the number of any other Texas law firm," the article stated.

Honors and Mentions (cont.)



Bob Latham appears on WFAA Channel 8 as a guest on Dale Hansen's **Sunday night show**

jw.com/hansen

Jackson Walker Wins Victory for Dr. Oz in Case of First Impression **Before New York Supreme Court** jw.com/droz



Law360 @Law360

How They Won It: Jackson Walker Shapes Anti-SLAPP Law jw.com/howtheywon



Yahoo Finance @YahooFinance

Jackson Walker Wins Twin Anti-SLAPP Victories for Dallas Better Business Bureau jw.com/betterbusiness

NEWS

Another round of free Speech As. Letolin; Chib Babcock Writing in the Philadelphia Inquirer jw.com/philly

The Dallas Morning News: Jackson Walker Wins **Summary Judgment for Spaeth Communications Against Mike Leach** jw.com/spaeth



Paul Watler Presents James Madison Award on Behalf of Freedom of Information **Foundation of Texas**

jw.com/madison



Stacy Allen featured on KUT 90.5 FM, Austin's NPR affiliate, on **Texas Open Access** Laws

jw.com/kut

Award-Winning VIA ePostCard

Staying Connected

Jackson Walker's Media Law practice group produces "VIA" ePostCard with insightful quips and updates. It's easy to connect with us. Just go to jw.com/via





Towering Attendees

Jackson Walker attorneys Chip Babcock, Stacy Allen, Amanda Zimmerman, Bob Latham, and Steve Fogle at the Tower of London during the 2013 MLRC Conference.



JW attorneys Emilio Nicolas (left), Paul Watler (center left), Bob Latham (center right), and Stacy Allen (right) with special keynote speaker Jerry Springer (center) at the Texas Association of Broadcasters' 59th Annual Convention & Trade Show.

The depth of Jackson Walker's media group, the experience of our attorneys (several of whom are former journalists), and our commitment to client service are why clients across the country continue to choose us for their legal needs.







Shannon Teicher Amanda Thompson

Larry Waks

Paul Watler



Efficient Results. Broad Experience.

EARLY RESOLUTIONS

Martin-Duarte v. Blossman, 193rd District Court of Dallas County, Texas (2013) –

Dismissal of defamation suit brought against client Bonnie Blossman Myer, star of reality TV show *Big Rich Texas*. Causes of action brought were for libel and slander, business disparagement, tortious interference with contract, and conspiracy. Summary judgment was granted on behalf of Dr. Blossman dismissing with prejudice all claims brought against her.

Leach v. Craig James, ESPN, Inc. and Spaeth Communications, Inc., 99th District Court of Lubbock County, Texas (2013) —

Obtained summary judgment for client, Spaeth Communications, Inc., in a defamation, tortious interference and conspiracy case filed by former Texas Tech Head Football Coach Mike Leach. Leach was terminated from Texas Tech after an investigation into allegations that he mistreated a student athlete who had suffered a concussion.

Paselk v. State of Texas, et al.,

(E.D. Tex. 2013) — Obtained order granting Rule 12 motion to dismiss in case where plaintiff asserted trespassing, RICO and other claims against three separate groups of media clients.

Haak v. Associated Texas Newspapers, Inc., et al., 53rd District Court of Travis County, Texas

(2012) — A local politician sued the newspaper and two citizens who ran a political ad adverse to Haak who dismissed the suit against the newspaper after a brief round of pre-trial discovery. JW filed a motion to dismiss the suit under the Citizens Participation Act, but the case was dismissed before the motion was ruled on by the trial court.

Busch v. Oprah Winfrey, et al., 160th District Court of Dallas County, Texas (2009) –

Dismissal of defamation and other claims brought against Oprah Winfrey.

Riccio v. Phillip McGraw, et al., (Superior Court of California, County of Los Angeles

2009) — Anti-SLAPP special motion to strike granted in favor of Dr. Phil McGraw in defamation suit arising out of Dr. Phil television program.

Burgess, et al. v. The Dallas Morning News, 116th District Court of Dallas County, Texas (2009) — Plaintiffs sued over a four-part series that covered allegations of exploitation of the elderly and a will contest over a run-down but

elderly and a will contest over a run-down but historically significant mansion. JW secured summary judgment on defamation and other claims brought against the newspaper and reporter.

Arango vs. The Baptist Standard, et al., 139th District Court of Hidalgo County,

Texas (2009) — High-profile pastor, who was investigated by church governing body for allegedly misusing church funds in controversial church starting program, sued for libel. Represented by Paul Watler of JW, the newspaper defendant obtained a highly favorable outcome in mediation while the newspaper's comprehensive motion for summary judgment was pending.

Rose v. Tribune Broadcasting Company, et al., 16th District Court of Denton County

(2010) — Plaintiff sued after a broadcast about a teacher, ultimately identified as plaintiff, who made an online confession that he had sex "all the time" with a 17-year-old student and that he might be willing to do it again. JW obtained a dismissal on jurisdictional grounds for the parent media company and summary judgment on defamation and other claims brought against television station, reporter and news director.

Akins v. Trinity Valley Broadcasting
Company, et al., (E.D. Tex. 2011) — Political
activist and candidate for office sued radio station.
JW obtained dismissal of defamation and other
claims against the radio station and reporter for lack
of subject matter jurisdiction.

Akins v. Trinity Valley Broadcasting
Company, et al., 253rd District Court of
Liberty County, Texas (2013) — Political activist
and candidate for office sued radio station.
Defamation and other claims against the radio
station and reporter were dismissed.

Dietl v. Oz, et al., (NY Supreme Court, 2013) – Plaintiff sued, alleging negligence, after suffering burns from a home remedy seen on *The Dr. Oz Show*. The court found that "no direct or quasi physician-patient relationship" existed between Dr. Oz and the plaintiff. In the lengthy opinion, the court further found that such a cause of action would be unprecedented, not founded in New York

law and, in any event, prohibited by the First

Amendment.

Bombaywala v. Manzoor Memon and Amber Memon, 334th District Court of Harris County, Texas (2013) — Summary judgment granted as to defamation claim brought against owner of a community newspaper and his wife.

Wills Ranch, LLC, et al. v. KXAS-TV, et al., 17th District Court of Tarrant County,

Texas (2009) — Summary judgment granted in favor of KXAS-TV against horse boarding facility and its owner in libel and business disparagement lawsuit arising out of news broadcasts and an online article.

Virgie Arthur v. CBS Studios, Inc., et al., 80th District Court of Harris County, Texas (2008) — Summary judgment granted in favor of CBS Studios, Inc. as to plaintiff's defamation claim arising out of two Entertainment Tonight broadcasts.

Teresa Stephens v. Cable News Network, Inc., Turner Broadcasting System, Inc., and Time Warner Inc.,(N.D. Tex. 2009) —

Motion to dismiss granted under 28 U.S.C. 1915(e) in lawsuit alleging violations of the Electronic Communications Privacy Act and invasion of privacy.

Brown v. Belo Corp., 191st District Court of Dallas County, Texas (2013) — Obtained voluntary dismissal with prejudice four months after case was filed; dismissal followed efforts to seek discovery from plaintiff and shortly before a motion to compel was filed.

Efficient Results. Broad Experience. (cont.)

APPEALS

Newspaper Holdings, Inc. v. Crazy Hotel Assisted Living, Ltd., 416 S.W.3d 71 (Tex. App.—Houston [1st Dist.] 2013, pet. denied) — In a case of first impression with regard to the commercial speech exception of the Texas Citizens Participation Act, JW secured a victory for our clients when the Court of Appeals reversed and rendered the denial of a motion to dismiss under the TCPA.

Kalpoe v. Superior Court, et al., 222 Cal.App.4th 206 (Cal. App. 2nd Dist. 2013) — In the ongoing case based on the disappearance of Natalee Holloway, the court of appeals held the California's retraction statute (Cal.Civ. Code Section 48a) which requires a demand for retraction in order to recover general and punitive damages, applies to "all types of television shows" not only those engaged in the business of rapid and immediate dissemination of the news.

In re Harris, 315 S.W.3d 685 (Tex. App. – Houston [1st Dist.] 2010, no pet.) – Grant of petition for writ of mandamus finding the trial court had abused its discretion in issuing an overbroad discovery order compelling our client/reporter to turn over all his "electronic media" including laptops, external hard drives, jump drives and "other such repositories of electronic communications" to a special master for forensic examination.

INVOCATIONS OF TEXAS FREE FLOW OF INFORMATION ACT AND OTHER MOTIONS TO OUASH

Bloomberg News/Dondero, (Dallas County 2013) – Successfully quashed trial subpoena for reporter's testimony and obtained protective order in high-profile divorce case.

Ceja v. Texas Bay Barclay Square Limited Partnership, (Dallas County 2009) — Successfully quashed civil subpoena for reporter's testimony and secured continued access to court proceedings.

State of Texas v. Franklin Davis, (Dallas County 2013) — After arguing motion to quash but before judge ruled, obtained voluntary withdrawal of trial subpoena issued to television reporter by defendant in capital murder case.

Wooldridge v. Red Frog Events et al., (Dallas County 2013) – On eve of hearing on motion to quash, obtained voluntary withdrawal of trial and discovery subpoenas issued to reporter.

OPPOSING PRIOR RESTRAINTS

Margetis v. Google Inc., (Dallas County 2013)

 Plaintiff alleged defamatory statements were published on Google's blogspot.com website.
 Immediately dissolved an *ex parte* TRO and subsequently avoided a temporary injunction sought against Google.

Bombaywala v. Manzoor Memon, (Harris County 2012) – Successfully defended against an injunction preventing the publication of the criminal record of the plaintiff, which he claimed had been expunged.

Ex Parte In Re Z.J.B., (Hays County 2014) – Successfully opposed petition for expunction of broadcaster's website content regarding arrest record as prior restraint.

ACCESS TO INFORMATION/COURTROOM.

U.S. Bank National Association, Litigation
Trustee of the Indearc Inc. Litigation Trust, et al. v. Verizon Communications, Inc., et al.,
(N.D. Tex. 2012) —Secured access to courtroom during trial for Bloomberg and reporter on a \$9.5 billion lawsuit brought by creditors against Verizon and others.

In re Associated Press, Tex. App. LEXIS 4515 (Tex. App.—Corpus Christi 2013, no pet.) –

Successfully represented The Associated Press against a court order barring publicity in a murder case. JW filed a writ of mandamus with the court of appeals, and the district court rescinded its original order.

North Texas Regional Certification Agency v. The Dallas Morning News, Inc., 14th District Court of Dallas County, Texas (2013) — Following bench trial, obtained final judgment declaring that plaintiff was a governmental body subject to the Texas Public Information Act, a writ of mandamus requiring production of all documents responsive to reporter's TPIA request, an award of \$77,392.50 in attorneys' fees and \$1,866.65 in court costs, and dismissal with prejudice of plaintiff's claims for declaratory relief and attorneys' fees against client.

Walker v. Neiman Marcus Group, et al., 95th District Court of Dallas County, Texas (2013) — Obtained order granting access to court records.

Eddie Ray Routh, Arrest Records, 266th Criminal Court of Erath County, Texas (2013)

 Obtained court records related to arrest of alleged killer of Chris Kyle, a former Navy SEAL known for being the "deadliest sniper" in U.S. history.

Highland Capital Management, L.P., et al. v. Daughtery et al., 68th District Court of Dallas County, Texas (2014) — Obtained voluntary withdrawal of motion to permanently seal court records and an order withdrawing temporary sealing order after client intervened and opposed efforts to seal court records in high-profile business dispute.

Dwaine R. Caraway v. Greg Abbott, Attorney General of Texas, 68th District Court of Dallas County, Texas (2011) — Represented open records requestor, *The Dallas Morning News.*Successfully defeated former Dallas Mayor Caraway's request for temporary injunction to prevent the release of official police records and reports relating to January 2, 2011, incident at his home.

Notable Speaking Engagements

ABA Forum on Communications Law,
"Hot Issues in Internet Law," Dana Point, CA 2013

Dallas Bar Association and Press Club of Dallas, "The Power of the Press: Freedom, Ethics and Responsibility in Today's New World," Dallas, TX 2013

American College of Trial Lawyers, "Bloggers, Tweeters, and Anonymous Speakers: Has the Internet Changed the First Amendment and Everything Else?" Naples, FL 2013

ABA Forum on Communications Law,

"Hot Issues in Ethics," Orlando, FL 2012

Houston Bar Association, "Protecting American Free Speech When Publication is Global — An Update on International Libel Law," 2010

NAA/NAB/Media Law Resource Center Conference, "Privacy, Publicity and Use and Protection of Data," Chantilly, VA 2010



JW HAS REPRESENTED MEDIA CLIENTS IN 47 STATES AND THE DISTRICT OF COLUMBIA





FIRM FACTS

FIRMWIDE MANAGING PARTNER: C. WADE COOPER

NUMBER OF LAWYERS FIRMWIDE: 340+

OFFICES: AUSTIN, DALLAS, FORT WORTH, HOUSTON,
SAN ANGELO, SAN ANTONIO, TEXARKANA

YEAR FOUNDED: 1887
AFFILIATIONS: GLOBALAW™

RANKINGS:

• AMLAW TOP 200 FIRM (THE AMERICAN LAWYER, 2014)

• 6TH LARGEST FIRM IN TEXAS (TEXAS LAWYER, 2014)

Austin - Largest (Austin Business Journal, 2014)

• DALLAS - 4TH LARGEST (DALLAS BUSINESS JOURNAL, 2014)

• SAN ANTONIO - 5TH LARGEST (SAN ANTONIO BUSINESS JOURNAL, 2014)

• HOUSTON - 11TH LARGEST (HOUSTON BUSINESS JOURNAL, 2014)

• FORT WORTH - 13TH LARGEST (FORT WORTH BUSINESS PRESS 2014)

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