Mea Culpa

To the Editor:

In March 2014, I had the privilege of publishing an article in this journal ("Statutory Conversion and Treble Damages: Puzzles of Statutory Interpretation"). In it, I offered some thoughts on *Aroma Wines and Equipment, Inc v Columbian Distribution Services, Inc*, a recent Court of Appeals decision; the matter has since been appealed to the Michigan Supreme Court and is being argued this month.[1] In the event that my article comes up during argument, I want to admit to and clarify an unfortunate mistake: on page 36, I referred to "canons of statutory conversion," but I meant to say "canons of statutory *construction*." I regret the error.

To make up for the mistake, I would point interested parties to additional information I have run across since publishing the article. In *Lipman v Peterson*,[2] the court held that "'conversion' and 'conversion to his own use' are synonymous terms."[3] I believe this lends further support (albeit from outside Michigan) for my article's argument. Although some commentary has disapproved this reasoning,[4] that conclusion seems to be drawn from the presumption of a "difference in meaning normally attributable to a difference in language."[5] *Normally*, this is a safe assumption; here, however, I think it fails to confront the unique history that these particular words have in common-law pleading. The "own use" language I described as "a vestigial remnant of the legal fiction that was the foundation for the tort of conversion" has also been described as "nothing more than sloppy surplusage"[6] and "nothing but a carry over from common-law pleading in trover, and mean[ing] no more than that the converter deprived the rightful owner of his property."[7] "[I]n the context, 'to his own use' means simply 'not to the use of the [true owner].'"[8]

I hope this information can be of some use to the bench and bar when *Aroma Wines* is argued this month.

Adam D. Pavlik
Caro

ENDNOTES

1. *Aroma Wines and Equip, Inc v Columbian Distribution Servs, Inc*, 303 Mich App 441; 844 NW2d 727 (2013), lv gtd 497 Mich 864 (2014).
2. *Lipman v Peterson*, 223 Kan 483; 575 P2d 19 (1978).
3. *Id.* at 486.
4. E.g., UCC § 7-204, official comment 4 (2014).
5. *Refrigeration Sales Co, Inc v Mitchell-Jackson, Inc*, 575 F Supp 971, 977 (ND Ill, 1983).
6. *United States v Hearn*, unpublished opinion of the United States District Court for the Southern District of Texas, issued March 21, 2011 (Docket No. H-10-500).
7. *Hubbard v United States*, 79 F2d 850, 854 (CA 9, 1935).
8. *United States v Harrelson*, 223 F Supp 869, 870 (ED Mich, 1963).