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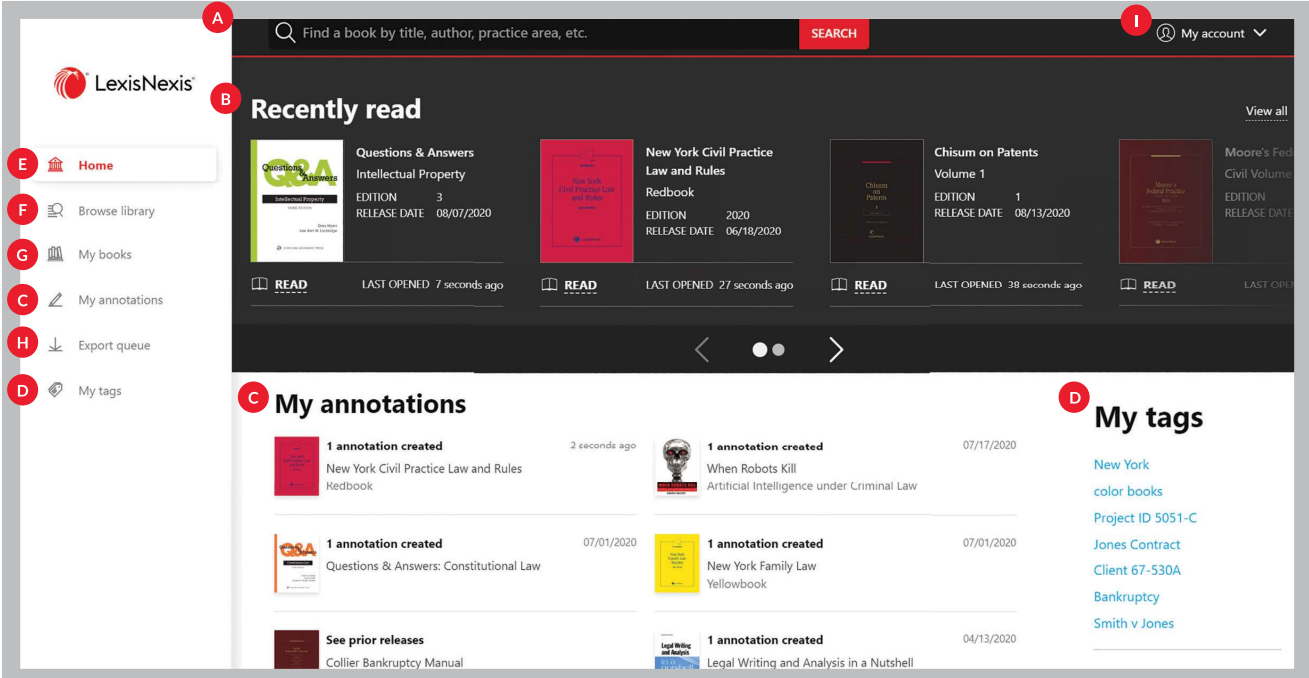
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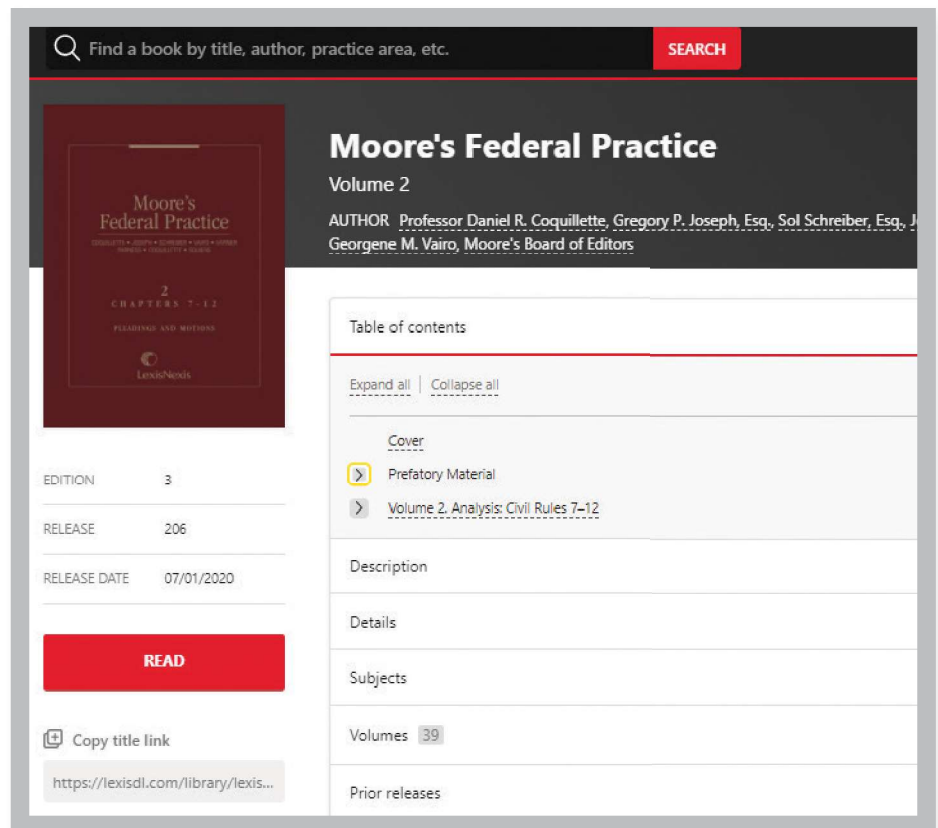
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Volume 2

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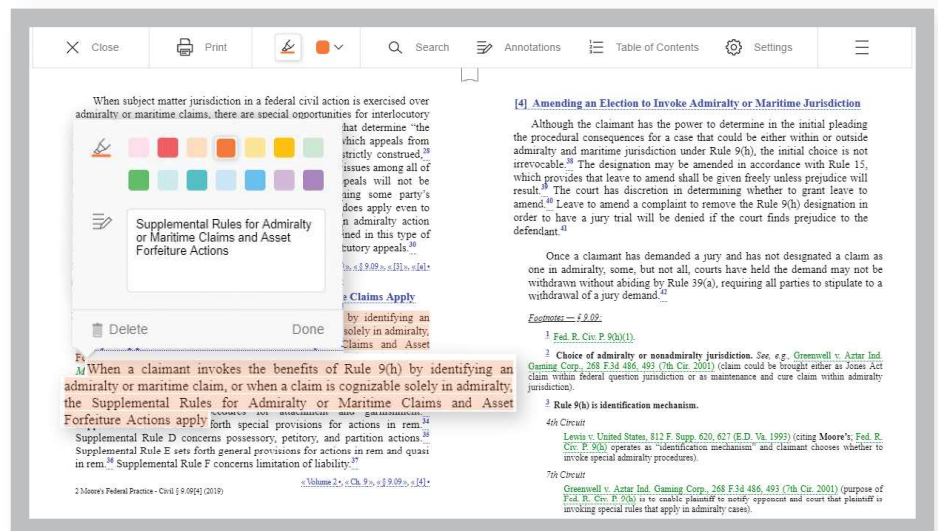
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When subject matter jurisdiction in a federal civil action is exercised over admiralty or maritime claims, there are special opportunities for interlocutory appeals that determine "the issues among all of peals will not be some party's does apply even to a admiralty action used in this type of tutory appeals."

Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions

by identifying an solely in admiralty, claims and Asset

[4] Amending an Election to Invoke Admiralty or Maritime Jurisdiction

Although the claimant has the power to determine in the initial pleading the procedural consequences for a case that could be either within or outside admiralty and maritime jurisdiction under Rule 9(h), the initial choice is not irrevocable.³⁹ The designation may be amended in accordance with Rule 15, which provides that leave to amend shall be given freely unless prejudice will result.⁴⁰ The court has discretion in determining whether to grant leave to amend.⁴¹ Leave to amend a complaint to remove the Rule 9(h) designation in order to have a jury trial will be denied if the court finds prejudice to the defendant.⁴²

Once a claimant has demanded a jury and has not designated a claim as one in admiralty, some, but not all, courts have held the demand may not be withdrawn without abiding by Rule 39(a), requiring all parties to stipulate to a withdrawal of a jury demand.⁴³

Footnotes — 1-2-02

³⁹ Fed. R. Civ. P. 9(a)(1).

⁴⁰ Choice of admiralty or nonadmiralty jurisdiction. See, e.g., *Greenwell v. Astor Ind. Gaming Corp.*, 268 F.3d 486, 493 (7th Cir. 2001) (claim could be brought either in Jones Act claim within federal question jurisdiction or as maintenance and cure claim within admiralty jurisdiction).

⁴¹ Rule 9(h) is identification mechanism.

⁴² 4th Circuit

Lewis v. United States, 812 F. Supp. 620, 627 (E.D. Va. 1993) (citing *Moore's Fed. R. Civ. P. 9(h)* operates as "identification mechanism" and claimant chooses whether to invoke special admiralty procedures).

⁴³ 7th Circuit

Greenwell v. Astor Ind. Gaming Corp., 268 F.3d 486, 493 (7th Cir. 2001) (purpose of Fed. R. Civ. P. 9(h) is to enable plaintiff to notify opponent and court that plaintiff is invoking special rules that apply in admiralty cases).



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