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Mr. Michael E. Gans, Clerk of Court
United States Court of Appeals
for the Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, MO 63102

Re: *Johnson v. West Publishing Corp.*, Case No. 11-8020

Dear Mr. Gans:

West has submitted a letter to the Court regarding some comments made during the September 22, 2011 oral argument in *Cook, et al. v. ACS State & Local Solutions, et al.*, No. 10-3818. West's letter, which was submitted through no formal procedure or rule, improperly attempts to inject additional issues into its petition before the Court. But West's letter adds nothing new, and simply attempts to create ambiguity where none exists.

There is no "misunderstanding about West's business practices;" rather, the record clearly sets forth West's business practices, including in West's own words in its response brief in opposition to Plaintiff's motion for class certification. *See, e.g.*, D.E. #58. The record in the District Court makes clear that West has admitted that it does not obtain Plaintiff's and the Class' personal information directly from states. This admission places West in a far different position than the defendants in *Cook*, where the defendants obtained such personal information directly from states.

West had the opportunity to set forth its "business practices" in its petitions before the Court, and in its amicus brief in *Cook*, yet deemed it imprudent to do so. While West may now view the filing of its amicus brief as an ill-advised measure, it is of no import to the petition currently before the Court, particularly where said brief was not filed in connection with West's petition, and West did not advise Plaintiff of its filing. West cannot now complain about a situation in which it voluntarily inserted itself, and about facts that it has already admitted.

Respectfully,

/s/ Ralph K. Phalen
Ralph K. Phalen