

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS**

ROBERT STEINBUCH

PLAINTIFF

v.

Case No.: 4-06 CV0000 620WRW

**JESSICA CUTLER AND HYPERION BOOKS AND
DISNEY PUBLISHING WORLDWIDE AND
HOME BOX OFFICE AND TIME WARNER**

DEFENDANTS

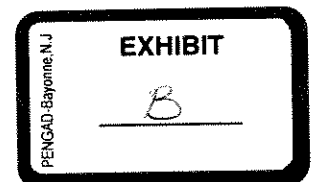
AFFIDAVIT OF SHARON KITTER

STATE OF NEW YORK)
) SS
COUNTY OF NEW YORK)

SHARON KITTER, being first duly sworn, states:

1. My name is Sharon Kitter. I am over the age of eighteen and am a resident of the state of New York. I currently serve as the Executive Director of Operations for Hyperion, an imprint of Buena Vista Books, Inc. ("BVB"). I have knowledge of the matters stated below, either from personal knowledge or from information provided to me in my capacity as Executive Director of Operations for BVB. If called as a witness, I could and would competently testify as follows:

2. Hyperion, an imprint of BVB, is the publisher of *The Washingtonienne*, and is named as a defendant in the above-captioned case.



3. On October 1, 2003, BVB entered into a book distribution agreement (the "Agreement") with Time Warner Book Group, Inc., now Hachette Book Group, USA ("HBG"). A true copy of the Agreement is attached hereto as Exhibit 1.

4. BVB does not own HBG, and, as the Agreement states, BVB and the distributor are not a joint venture. On information and belief, HBG is not based in the state of Arkansas.

5. HBG has the exclusive right to distribute *The Washingtonienne* through normal channels of trade, i.e. retail or wholesale accounts.

6. With respect to distribution within the United States, the Agreement, which is attached and speaks for itself, provides broadly for distribution in the United States, without specifying or targeting states or regions. BVB has not directed HGB to target any title, including *The Washingtonienne*, specifically for distribution in either the state of Arkansas or the region of the country in which it is located.

7. In calendar year 2005, HGB sold two copies of the hardcover edition of *The Washingtonienne* to retail or wholesale accounts in the state of Arkansas for total net revenue of \$25.87. BVB is not aware if the two copies were actually bought by individual customers in Arkansas.

8. At the time this case was filed, HGB sold forty-six copies of the paperback edition of *The Washingtonienne* to retail or wholesale accounts in the

state of Arkansas for total net revenue of \$272.02. BVB is not aware if those copies, if any, were actually sold to individual customers in Arkansas.

9. BVB is unaware, and has no control over, whether any copies of *The Washingtonienne* that were shipped by HBG to wholesalers in Arkansas were actually sold in Arkansas or were shipped to retailers outside of Arkansas.

10. BVB has made no direct consumer sales of *The Washingtonienne*; all such sales go through the distributor, HBG.

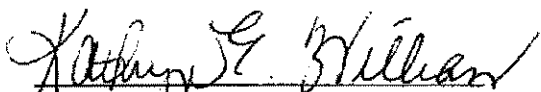
FURTHER AFFIANT SAYETH NOT.



Sharon Kitter

ACKNOWLEDGMENT

Subscribed and sworn to before me this 17th day of August, 2006.



Notary Public

KATHRYN E. WILLIAMS
Notary Public, State of New York
No. 01W15026055
Qualified In Bronx County
Commission Expires April 11, 2010