

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

ROBERT STEINBUCH

PLAINTIFF

VS.

NO. 4:06-cv-00620-WRW

JESSICA CUTLER, HYPERION BOOKS,
DISNEY PUBLISHING WORLDWIDE,
HOME BOX OFFICE, and TIME WARNER

DEFENDANTS

**RESPONSE OF HOME BOX OFFICE, INC. AND TIME WARNER INC.
TO PLAINTIFF'S MOTION TO STRIKE**

Defendants Home Box Office, Inc. ("HBO") and Time Warner Inc. ("Time Warner") submit this response to plaintiff's motion to strike their reply brief in further support of their motion to dismiss.

The response to plaintiff's motion is three-fold, but simple:

- While the local rules of the United States District Court for the Eastern District of Arkansas do not provide for a reply brief, they do not prohibit such briefs either. The presiding judge of each court in this district is entitled to control his docket, and HBO and Time Warner duly requested permission to file a reply.¹ Had plaintiff or his counsel familiarized himself with local practice, perhaps this motion to strike could have been avoided.
- Plaintiff again files a motion directed to all defendants when, in fact, his arguments run only to defendants Hyperion and Ms. Cutler. Plaintiff attempts to obfuscate the facts by treating five separate and distinct defendants as one. But arguments directed at certain defendants and alleging certain facts relating to specific defendants cannot be the basis for a decision as to other defendants, especially independent and unrelated defendants such as HBO and Time Warner.
- Once again, plaintiff attempts to mislead the Court by referring to an entity which is not a defendant in this matter and attempting to attribute alleged acts of

¹ See letter dated October 13, 2006 (attached to response as Exhibit A) to Court from Claire Hancock, requesting permission to file reply per instructions from chambers. Plaintiff's counsel was copied on the letter and did not object at that time.

that entity to Time Warner. As set forth in HBO's and Time Warner's reply brief, Time Warner did not contract to publish and distribute *The Washingtonienne*, but rather the letter and agreement to which plaintiff refers clearly involve Time Warner Book Group Inc., not defendant Time Warner. As previously stated, Time Warner Book Group Inc. is a *former* subsidiary of Time Warner that currently has no corporate relationship with Time Warner or HBO. Rather, the book company is a subsidiary of European-based Lagardère SCA. See HBO's and Time Warner's Reply Brief at p. 2, n.2.

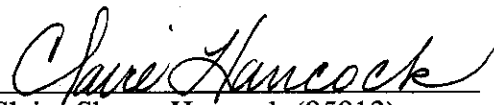
Plaintiff's motion to strike is without merit and should be denied.

CONCLUSION

Defendants Home Box Office, Inc. and Time Warner Inc. respectfully request that this Court deny plaintiff's motion to strike in its entirety.

Respectfully submitted,

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CERTIFICATE OF SERVICE


I hereby certify that on November 20, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to the following:

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