

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EDWARD L. WHITE, P.C.,

Plaintiff,

v.

WEST PUBLISHING CORPORATION d/b/a West;
and REED ELSEVIER, INC. d/b/a LexisNexis,

Defendants.
-----X

12 Civ. 1340 (JSR)
Filed Electronically

**DECLARATION OF
JOHN R. GERBA IN
SUPPORT OF
DEFENDANT WEST
PUBLISHING
CORPORATION'S
MOTION FOR
SUMMARY
JUDGMENT**

I, John R. Gerba, declare under penalty of perjury as follows:

1. I am an attorney admitted to practice before the Courts of the State of New York and the Southern District of New York. I am an associate at Weil, Gotshal & Manges LLP, attorneys for Defendant West Publishing Corporation ("West").

2. I am familiar with the facts, circumstances, and proceedings in this case and submit this Declaration in support of West's Motion for Summary Judgment against Plaintiff Edward L. White, P.C. ("Plaintiff").

3. A true and correct copy of the Amended Complaint in this action is attached hereto as Exhibit A.

4. A true and correct copy of West's Answer to the Amended Complaint is attached hereto as Exhibit B.

5. A true and correct copy of excerpts of the transcript of the August 30, 2012 Deposition of Edward L. White is attached hereto as Exhibit C.

6. A true and correct copy of excerpts of the transcript of the September 6, 2012 Deposition of Martin S. High is attached hereto as Exhibit D.

7. A true and correct copy of West's First Set of Requests for Admission to Plaintiff is attached hereto as Exhibit E. Plaintiff never served answers or objections to these Requests, and the time period for doing so has elapsed. Pursuant to Federal Rule of Civil Procedure 36(a)(3), Plaintiff has admitted the matters contained in these Requests.

8. A true and correct copy of "Plaintiffs' Combined Motion For Summary Judgment for Plaintiffs, Beer and Ramsey, and Brief in Support" ("Beer Summary Judgment Motion"), Beer v. XTO Energy, Inc., Case No. CIV-07-798-L (W.D. Okla. May 20, 2009), Bates numbered P56-P85, is attached hereto as Exhibit F.

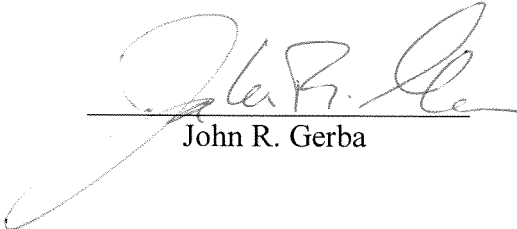
9. A true and correct copy of Plaintiff's copyright registration certificate for the Beer Summary Judgment Motion, dated May 20, 2010, Bates numbered P119-120, is attached hereto as Exhibit G.

10. A true and correct copy of "Plaintiffs' Motion in Limine" ("Beer Motion in Limine"), Beer v. XTO Energy, Inc., Case No. CIV-07-798-L (W.D. Okla. Mar. 15, 2010), Bates numbered P1-P24, is attached hereto as Exhibit H.

11. A true and correct copy of Plaintiff's copyright registration certificate for the Beer Motion in Limine, dated May 21, 2010, Bates numbered P54-P55, is attached hereto as Exhibit I.

12. A true and correct copy of the Order of the Hon. Tim Leonard, Beer v. XTO Energy, Inc., Case No. CIV-07-798-L (W.D. Okla. July 20, 2010), is attached hereto as Exhibit J.

I declare under penalty of perjury that I have reviewed this document and that the foregoing facts are true and correct. This declaration was executed on the 5th day of October, 2012.


John R. Gerba