

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

EDWARD L. WHITE, P.C.,

Plaintiff,

v.

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

Defendants.

ECF CASE

Civil Action No. 12-CV-1340 (JSR)

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**DECLARATION OF JAMES HOUGH IN SUPPORT OF DEFENDANT REED  
ELSEVIER INC.'S MOTION FOR SUMMARY JUDGMENT**

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I, James E. Hough, hereby declare:

1. I am a member of the Bar of the State of New York and am admitted to practice before this Court. I am a partner in the law firm of Morrison & Foerster LLP, counsel for Defendant LexisNexis, a division of Reed Elsevier Inc. (“Lexis”), in this action. I submit this Declaration in support of Defendant Reed Elsevier Inc.’s Motion for Summary Judgment. I have personal knowledge of the following facts.

2. Attached hereto as Exhibit A is a true and correct copy of relevant excerpts from the transcript of the deposition of Edward L. White in this action, dated August 30, 2012.

3. Attached hereto as Exhibit B is a true and correct copy of relevant excerpts from the transcript of the deposition of Martin S. High in this action, dated September 6, 2012.

4. Attached hereto as Exhibit C is a true and correct copy of the resume of Edward L. White, included as Exhibit 1 to the deposition of Mr. White in this action.

5. Attached hereto as Exhibit D is a true and correct copy of the May 10, 2010 Certificate of Registration with the United States Copyright Office for Plaintiff’s Combined Motion For Summary Judgment For Plaintiffs, Beer And Ramsey, And Brief In Support, bearing production numbers P00119-120 and included as Exhibit 5 to the deposition of Mr. White in this action.

6. Attached hereto as Exhibit E is a true and correct copy of the May 21, 2010 Certificate of Registration with the United States Copyright Office for Plaintiff’s Motion In Limine, bearing production numbers P00054-55 and included as Exhibit 6 to the deposition of Mr. White in this action.

7. Attached hereto as Exhibit F is a true and correct copy of Plaintiff’s Combined Motion for Summary Judgment for Plaintiffs, Beer and Ramsey, and Brief in Support, filed on May 20, 2009 in the United States District Court of the Western District of Oklahoma in the case of *Ladene Ramsey Beer, et. al v. XTO Energy, Inc. f/k/a Cross Timbers Oil Company*, Case No CIV-07-798-L (the “*Beer* Litigation”), bearing production numbers P00056-85 and included as Exhibit 7 to the deposition of Mr. White in this action.

8. Attached hereto as Exhibit G is a true and correct copy of Plaintiff's Motion In Limine, filed on March 15, 2010 in the United States District Court of the Western District of Oklahoma, in the *Beer* Litigation, Case No CIV-07-798-L, bearing production numbers P00001-24 and included as Exhibit 8 to the deposition of Mr. White in this action.

9. Attached hereto as Exhibit H is a true and correct copy of the July 23, 2012 Motion In Support of Class Counsel's Fee Request and Request For Separate Allocation of Fees to White and to Prior Class Representatives, filed by Plaintiff in the *Beer* Litigation, included as Exhibit 10 to the deposition of Mr. White in this action.

10. Attached hereto as Exhibit I is a true and correct copy of the March 15, 2010 email message set by the CM/ECF system for the Western District of Oklahoma reflecting the notice of electronic filing of the Motion In Limine by Plaintiff in the *Beer* Litigation, bearing production numbers P00025-29 and included as Exhibit 11 to the deposition of Mr. White in this action.

11. Attached hereto as Exhibit J is a true and correct copy of the May 20, 2009 email message set by the CM/ECF system for the Western District of Oklahoma reflecting the notice of electronic filing of the Motion for Summary Judgment and Brief by Plaintiff in the *Beer* Litigation, bearing production numbers P00086-91 and included as Exhibit 12 to the deposition of Mr. White in this action.

12. Attached hereto as Exhibit K is a true and correct copy of the CM/ECF Registration Form for the United States District Court Western District of Oklahoma, bearing production numbers LN00003080-3081 and included as Exhibit 13 to the deposition of Mr. White in this action.

13. Attached hereto as Exhibit L is a true and correct copy of a document titled October 2009 Case Management/Electronic Case Files, bearing production numbers LN00000146-149 and included as Exhibit 15 to the deposition of Mr. White in this action.

14. Attached hereto as Exhibit M is a true and correct copy of Defendant Reed Elsevier Inc.'s First Set of Requests for Admission to Plaintiff Edward L. White, P.C., dated

September 7, 2012. These requests for admission were served on Plaintiff's counsel via email on September 7, 2012. Plaintiff did not send a response to these requests for admission.

15. Attached hereto as Exhibit N are true and correct copies of Lexis marketing specimens, bearing production numbers LN00000024-25 and LN00000027.

16. Attached hereto as Exhibit O is a true and correct copy of Plaintiff's Combined Motion for Summary Judgment for Plaintiffs, Beer and Ramsey, and Brief in Support, filed on May 20, 2009 in the *Beer* Litigation, as was available on lexis.com with the Lexis citation 2009 U.S. Dist. Ct. Motions LEXIS 79861, bearing production numbers LN00000109-119.

17. Attached hereto as Exhibit P is a true and correct copy of Plaintiff's Motion In Limine, filed on March 15, 2010 in the *Beer* Litigation, as was available on lexis.com with the Lexis citation 2010 U.S. Dist. Ct. Motions LEXIS 5166, bearing production numbers LN00000128-136.

18. Attached hereto as Exhibit Q is a true and correct copy of the Order Decertifying the Class in the *Beer* Litigation, Docket Entry 189.

19. Attached hereto as Exhibit R is a true and correct copy of the Motion to Intervene and Brief in Support, by Bill Fankhouser and Tim Goddard in the *Beer* Litigation, Docket Entry 191.

20. Attached hereto as Exhibit S is a true and correct copy of the Motion for Relief from Order of Decertification and Dismissal and to Stay Distribution of Notice to Class, by Bill Fankhouser and Tim Goddard in the *Beer* Litigation, Docket Entry 195.

21. Attached hereto as Exhibit T is a true and correct copy of the Chronology of the Federal Judiciary's Electronic Public Access (EPA) Program, available at <http://www.pacer.gov/documents/epachron.pdf>, last visited Oct. 3, 2012.

22. Attached hereto as Exhibit U is a true and correct copy of a screenshot of the PACER website home page, available at <http://www.pacer.gov>, last visited Oct. 3, 2012.

23. Attached hereto as Exhibit V is a true and correct copy of a screenshot of the PACER Frequently Asked Questions website, available at <http://www.pacer.gov/psc/faq.html>, last visited Oct. 3, 2012.

24. Attached hereto as Exhibit W is a true and correct copy of a screenshot of the United States Courts Court Records website, available at <http://www.uscourts.gov/CourtRecords.aspx>, last visited Oct. 3, 2012.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on October 5, 2012.

/s/ James E. Hough  
James E. Hough