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)

DECLARATION OF BRETT BOGAN IN SUPPORT OF DEFENDANT REED ELSEVIER INC.'S MOTION FOR SUMMARY JUDGMENT

I, Brett Bogan, pursuant to 28 U.S.C. § 1746, hereby declare:

1. I submit this declaration in support of Defendant Reed Elsevier Inc.'s Motion for Summary Judgment. The facts set forth herein are based upon my personal knowledge, information supplied to me by those working at my direction in the ordinary course of business, or my review of regularly kept, contemporaneously made business books and records of Reed Elsevier Inc. If called as a witness, I could and would competently testify about the matters stated herein.

2. I have been an employee of LexisNexis, a division of Reed Elsevier Inc. ("Lexis") since August 7, 2000 and, since April 2010, have been Manager, Security Investigations for Reed Elsevier Inc.

3. I performed an analysis to determine the total number of times a Lexis user[1] accessed the following two documents from Lexis's service: (1) Plaintiffs' Combined Motion for Summary Judgment For Plaintiffs, Beer And Ramsey, And Brief In Support, 2009 U.S. Dist. Ct. Motions LEXIS 79681 ("the Summary Judgment Motion") and (2) Plaintiffs' Motion in Limine, 2010 U.S. Dist. Ct. Motions LEXIS 5166 ("the Motion in Limine").

4. Pursuant to my analysis, I determined that the Summary Judgment Motion was accessed a total of one time on March 8, 2012 by a law firm in New York, New York.

5. Pursuant to my analysis, I determined that the Motion in Limine was accessed a total of nine times as follows: on March 24, 2011, it was accessed seven times within a fifteen minute period by a law student at Oklahoma City University in Oklahoma City, Oklahoma; on April 20, 2011, it was accessed one time by a law firm in Denver, Colorado; and on November 9, 2011, it was accessed one time by a law firm in Los Angeles, California.

6. All data reviewed and analyzed in connection with this declaration was kept in the ordinary course of Lexis's regularly conducted business activity, and it is Lexis's regular practice to access this type of data in preparing reports and other business documents. Lexis relies on the accuracy of this data in the conduct of its business.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 4th day of October, 2012, in Washington, D.C.

Brett Bogan

[1] The analysis does not include any accesses by counsel in this action after February 22, 2012.