

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

**KAREN McPETERS**, individually, and on §  
behalf of those individuals, persons and entities §  
who are similarly situated §  
Plaintiff §

vs. §

CIVIL ACTION NO. 4:10-CV-01103

JURY

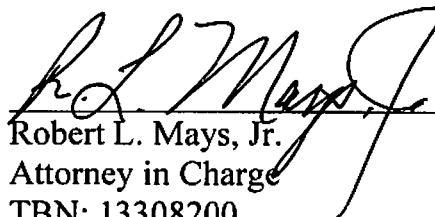
**THE HONORABLE FREDERICK E. §  
EDWARDS; BARBARA GLADDEN §  
ADAMICK, DISTRICT CLERK; §  
MONTGOMERY COUNTY, TEXAS, and §  
REED ELSEVIER, INC. d/b/a LexisNexis §  
Defendants §**

**PLAINTIFF'S POST-SUBMISSION LETTER BRIEF**

Plaintiff Karen McPeters submits her post-submission letter brief  
(attached).

Date: December 23, 2010

Respectfully submitted,

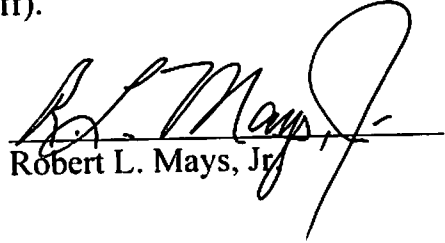


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Plaintiff's Post-Submission Letter Brief  
December 23, 2010

CERTIFICATE OF SERVICE

I certify that a copy of this "Plaintiff's Post-Submission Letter Brief" will be delivered on December 23, 2010 to each counsel for Defendant through the court's electronic filing system (at no additional cost to Plaintiff).

  
Robert L. Mays, Jr.

## Post-Submission Letter Brief

At the December 9, 2010 hearing on the due process and equal protection issues raised by the pending motions to dismiss, the Court raised the case of *United States v. Kras*, 409 U.S. 434, 93 S.Ct. 631 (1973) as bearing upon the *McPeters* constitutional issues.

In *Kras* the Supreme Court was careful to distinguish *Boddie v. Connecticut*, 401 U.S. 371, 91 S.Ct. 780 (1971), a case involving fees in a divorce proceeding. *Boddie* involved access to courts in connection with the marital relationship, an issue of fundamental importance under the Constitution; access to the courts was therefore protected by due process and equal protection. *Kras* at 444. *Kras*, however, involved a discharge in bankruptcy. It held that it was not an issue not of fundamental importance and thus not protected as a fundamental right. Without proof of a suspect class or lack of rational basis in setting a filing fee, the issues of due process and equal protection were not implicated. *Kras* at 446-47.

Neither *Kras* nor *Boddie* involved recurring, mandatory, unregulated charges over and above the original filing fee, apparently duplicate charges for the same services, charges by a third party (non-governmental entity), or recurrent charges not levied against all litigants in the same venue. The *McPeters* case includes all of these factors. More importantly, *McPeters*, like *Boddie*, is the exercise of a fundamental right (open courts) protected under the umbrella of the Constitutional rights to equal protection and due process.

*Kras* therefore demonstrates that when a fundamental right, such as open courts, is implicated, the law requires that the principle of strict judicial scrutiny be applied to due process and equal protection violations. Any violation is prohibited. *Kras* holds that because there is no right to a discharge in bankruptcy, there is no fundamental right of access to a bankruptcy court.