

1 Alan Harris (SBN 146079)  
2 David Zelenski (SBN 231768)  
3 HARRIS & RUBLE  
4 6424 Santa Monica Boulevard  
5 Los Angeles, California 90038  
6 Telephone: (323) 962-3777  
7 Facsimile: (323) 962-3004  
8 aharris@harrisandruble.com  
9 dzelenski@harrisandruble.com

6 Perrin Disner (SBN 257586)  
7 LAW OFFICES OF PERRIN F. DISNER  
8 1855 Camden Avenue, Suite 3  
9 Los Angeles, California 90025  
10 Telephone: (310) 742-7944  
11 Facsimile: (888) 544-5154  
12 pdisner@disnerlaw.com

JS-6

10 *Attorneys for Plaintiffs*

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

14 STEPHEN STETSON, SHANE  
15 LAVIGNE, CHRISTINE LEIGH  
16 BROWN-ROBERTS, VALENTIN YURI  
17 KARPENKO, and JAKE JEREMIAH  
18 FATHY, individually and on behalf of all  
19 others similarly situated,

18 Plaintiffs,

19 v.

20 WEST PUBLISHING CORPORATION,  
21 a Minnesota corporation dba BAR/BRI,  
22 and KAPLAN, INC.,

23 Defendants.

Case No. CV-08-00810 R (Ex)

**ORDER GRANTING MOTION FOR  
FINAL APPROVAL OF CLASS-  
ACTION SETTLEMENT,  
GRANTING IN PART AND  
DENYING IN PART PLAINTIFFS'  
MOTION FOR ATTORNEY'S FEES,  
AND DENYING THE GRISSOM  
OBJECTORS' PETITION FOR  
INCENTIVE AWARDS AND  
ATTORNEY'S FEES; JUDGMENT  
OF DISMISSAL**

Date: August 19, 2013  
Time: 10:00 a.m.  
Courtroom: 8

*Assigned to Hon. Manuel L. Real*

1  
2 On April 19, 2013, this Court preliminarily approved the Stipulation and  
3 Settlement Agreement (“Settlement Agreement”) reached in the within action between  
4 Plaintiffs Stephen Stetson, Shane LaVigne, Christine Leigh Brown-Roberts, Valentin  
5 Yuri Karpenko, and Jake Jeremiah Fathy, on behalf of themselves and all others similarly  
6 situated, and Defendants West Publishing Corporation and Kaplan, Inc. Capitalized  
7 terms not otherwise defined herein shall have the meaning set forth in the Settlement  
8 Agreement.

9 In connection with the Order granting preliminary approval, the Court  
10 conditionally certified the following class (“Class”) for settlement purposes:

11 All persons and entities who paid for a BAR/BRI full-service bar-review  
12 course provided by Defendant West Publishing Corporation from August 1,  
13 2006, through and including March 21, 2011.

14 Plaintiffs have now moved the Court for final approval of the Settlement  
15 Agreement, as well as for fees and costs associated with prosecuting and settling this  
16 action. Having read and considered all the relevant papers, having conducted a final  
17 fairness hearing as required by Federal Rule of Civil Procedure 23(e), and good cause  
18 appearing, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

19 1. The following settlement class (“Settlement Class”) is certified under  
20 Federal Rule of Civil Procedure 23(c):

21 All members of the Class preliminarily approved on April 19, 2013, who did  
22 not properly and timely request exclusion pursuant to the procedures  
23 specified in the Settlement Agreement.

24 2. The Court has jurisdiction over the subject matter of this Action and all of  
25 the parties herein, including the Settlement Class, pursuant to 28 U.S.C. § 1331.

26 3. The Settlement Agreement is fair, reasonable, and adequate. Substantial  
27 investigation and research have been conducted such that respective counsel for Plaintiffs  
28 and Defendants have been reasonably able to evaluate their respective positions. The

1 Settlement Agreement was the result of intensive, non-collusive, arm's length  
2 negotiations, including private mediation before the special master appointed to oversee  
3 discovery in the related action of Rodriguez v. West Publishing Corporation, Central  
4 District of California Case No. CV 05-3222 R (who recommends approval of the  
5 Settlement Agreement "without reservation"), as well as extensive mediation before the  
6 appointed Ninth Circuit Mediator. The Court has considered the nature of Plaintiffs'  
7 claims, the amounts and kinds of benefits to be paid under the Settlement Agreement, the  
8 Plan of Allocation of the settlement proceeds to the Settlement Class, and the fact that the  
9 Settlement Agreement represents a compromise of the respective positions of Plaintiffs  
10 and Defendants rather than the result of a finding of liability at trial. The Court further  
11 finds that the response of the preliminarily approved Class to the terms of the Settlement  
12 Agreement supports final approval. A total of 36,162 timely and 290 untimely claims  
13 were submitted through July 22, 2013, equal to 20% of the preliminarily approved Class.  
14 Only thirteen individuals requested exclusion, and only one objection relating to the  
15 substance of the settlement was submitted. That objection, submitted by Jonathan  
16 Brown, lacks merit and is overruled on the merits. Moreover, Mr. Brown's objection was  
17 untimely and is overruled on that separate ground as well.

18 4. Members of the preliminarily approved Class were provided with ample  
19 time to submit claims, object, or request exclusion, and the form, manner, and content of  
20 the Notice delivered to the preliminarily approved Class constituted the best notice  
21 practicable under the circumstances. The Claims Administrator appointed by the Court  
22 in connection with the Order granting preliminary approval—Gilardi & Co., LLC  
23 ("Gilardi")—provided individual notice to members of the preliminarily approved Class  
24 via e-mail. For those members of the preliminarily approved Class whose e-mails were  
25 undeliverable or not on file, Gilardi mailed them postcard notice via U.S. mail. Prior to  
26 mailing, Gilardi updated all physical addresses through the National Change of Address  
27 Database; if a mailing was returned with an undeliverable address, Gilardi further  
28 updated those addresses through a third-party locator service and re-mailed the postcard

1 notice to those updated addresses. Both the e-mails and the follow-up postcards directed  
2 members of the preliminarily approved Class to a website at which copies of the long-  
3 form Notice and Claim Form approved by the Court could be reviewed and downloaded.  
4 The Class Notice and Claim Form informed members of the preliminarily approved Class  
5 of the terms of the Settlement Agreement, their right to object to the Settlement  
6 Agreement or to request exclusion, and their right to appear in person or by counsel at the  
7 final-approval hearing. In addition, the website contained instructions on how to submit  
8 Claim Forms, objections, and exclusion requests; it included Gilardi's contact  
9 information and answers to frequently asked questions; and it permitted the online  
10 submission of claims. Gilardi also established a toll-free telephone number to respond to  
11 any inquiries, as well as arranged for a Summary Notice to be published in *The National*  
12 *Law Journal*, *Lawyers Weekly USA*, and *USA Today*. Accordingly, the form, manner,  
13 and content of the Notice meets the requirements of Federal Rule of Civil Procedure  
14 23(c)(2).

15         5. This Order and Judgment applies to all claims or causes of action settled  
16 under the terms of the Settlement Agreement, and shall be fully binding with respect to  
17 all Settlement Class Members. Settlement Class Members are hereby barred and  
18 permanently enjoined from asserting, instituting, or prosecuting, either directly or  
19 indirectly, any and all claims released as provided in the Settlement Agreement. All of  
20 the released claims shall be conclusively deemed released and discharged as to the  
21 Released Parties as provided in the Settlement Agreement.

22         6. This Order and Judgment is intended to have res judicata force and effect as  
23 to each Settlement Class Member.

24         7. All claims asserted by Plaintiffs are hereby dismissed with prejudice.

25         8. All payments to Settlement Class Members, Class Counsel, and the Claims  
26 Administrator shall be disbursed pursuant to the procedures specified in the Settlement  
27 Agreement. Class Counsel have requested, and Defendants do not oppose, that the 290  
28 above-noted untimely submitted claims be honored. In the interests of fairness and

1 justice, the Court finds that those claims shall be treated as if they were timely. Payments  
2 for Class Counsel’s fees and costs, on the one hand, and Gilardi’s fees and costs, on the  
3 other hand, shall be made in the amounts specified below.

4 9. Harris & Ruble and the Law Offices of Perrin Disner are qualified to  
5 represent the Settlement Class, and the Court confirms their appointment as Class  
6 Counsel. Pursuant to Federal Rule of Civil Procedure 23(h), Class Counsel’s request for  
7 an award, in light of the time and effort expended by Class Counsel in prosecuting this  
8 action, which time and effort benefitted the Settlement Class, of attorney’s fees in the  
9 amount of \$1,900,000 and for reimbursement of incurred costs in the amount of  
10 \$49,934.89 is hereby granted in part and denied in part. Class counsel are hereby  
11 awarded attorneys’ fees in the amount of \$585,000 and reimbursement of \$20,588.17 in  
12 costs, for the reasons stated on the record.

13 10. The Court approves the payment of settlement-administration fees and  
14 expenses to Gilardi.

15 11. The Court finds that it [is or is not] appropriate to grant Incentive Awards in  
16 the amounts of \$4,000 to each of the five Representative Plaintiffs in recognition of their  
17 contributions to the Action and their services to the Settlement Class. These payments  
18 [shall or shall not] be made pursuant to the procedures specified in the Settlement  
19 Agreement.

20 12. The July 29, 2013, “Petition for Inventive [*sic*] Awards and Attorney Fees”  
21 filed Seth Bryant Grissom, James Ralph Garrison III, Dustin Kennemer, Nathan Hunt,  
22 John Kelley, and John Amari (the “Grissom Objectors”) is denied for the reasons stated  
23 on the record. The separate objection submitted by Leo Hendges is denied as moot.

24 13. Without affecting the finality of this Order and Judgment in any way, the  
25 Court hereby retains jurisdiction over the parties, including the Settlement Class  
26 Members, for the purpose of construing, enforcing, and administering this Order and  
27 Judgment, as well as the Settlement Agreement itself. This Order and Judgment shall  
28 constitute a final judgment for purposes of Federal Rule of Civil Procedure 58.

1 //

2 14. This case is hereby **DISMISSED WITH PREJUDICE**, with each party to  
3 bear its own attorney's fees and costs, except as otherwise expressly set forth herein.

4 **IT IS SO ORDERED.**

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6 Dated: SEPT. 20, 2013



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U.S. District Court Judge

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2 Submitted Pursuant to Central District of California Local Rule 5-4.4 by:

3 HARRIS & RUBLE

4 /s/ Alan Harris<sup>1</sup>

5 David Zelenski

6 Alan Harris

7 *Attorneys for Plaintiffs*

8  
9 Endorsed Pursuant to Central District of California Local Rule 52-8 by:

10 SATTERLEE STEPHENS BURKE & BURKE LLP

11 /s/ James F. Rittinger

12 James F. Rittinger

13 *Attorneys for Defendant West Publishing Corp.*

14 MUNGER, TOLLES & OLSON LLP

15 /s/ Stuart N. Senator

16 Stuart N. Senator

17 *Attorneys for Defendant Kaplan, Inc.*

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<sup>1</sup> Pursuant to Central District of California Local Rule 5-4, I attest that all of the  
28 signatories listed on this signature page, and on whose behalf this filing is submitted,  
concur in the filing's content.