

Declaration of Teresa Miguel-Stearns in Support of Public.Resource.Org

I, Teresa Miguel-Stearns, declare as follows:

1. I am the Associate Dean, Legal Information Innovation and Director, Law Library & Professor of Law at the University of Arizona School of Law. Before joining the University of Arizona School of Law, I worked at the Yale Law School for 15 years, including as the Director of the Law Library from 2016 to 2020. I have personal knowledge of the facts stated in this declaration and know them to be true and correct. I could competently testify to them if called as a witness. The views expressed in this declaration are my own, and do not necessarily represent the viewpoints of the University of Arizona School of Law or its affiliates.
2. In my capacity as Director of the Law Library at both Yale Law School and the University of Arizona School of Law, I am responsible for negotiating with third-parties, such as Bloomberg, Lexis, and West, in order to obtain access to edicts of government and other legal materials for the library.
3. Students and faculty at both Yale Law School and the University of Arizona School of Law regularly utilize LexisNexis and Westlaw to perform legal research. Lexis and West collect data and statistics on the way that students and faculty use these resources, but both companies provide data that is unreliable and not compliant with the library standard for usage data, known as COUNTER.
4. Without this information, it is extremely difficult for me to ensure that students and faculty have access to the research materials they need. At the University of Arizona School of Law, our contracts with Bloomberg, Lexis, and West cost the law school roughly \$40,000 each.¹ As I understand it, our contracts are fairly standard. By hiding these usage statistics from us, Bloomberg, Lexis, and West are forcing me to make decisions about what materials to include in our subscription package based on imperfect information.
5. Instead of being able to tailor subscriptions to the materials my students and faculty most need access to, as determined by actual usage data, I am forced to take the package of materials that Bloomberg, Lexis, and West decide to include based on the amount of money I

¹ Bloomberg, Lexis, and West impose non-disclosure clauses on private educational institutions such that I am unable to disclose the price that we paid for access to these materials while at Yale Law School. Public institutions, like the University of Arizona School of Law, cannot agree to a non-disclosure clause under state law.

am able to pay. Even worse, Bloomberg, Lexis, and West do not allow us to purchase discrete sets of materials to supplement our subscription. This leaves me, and the students and faculty I serve, without any meaningful say in the materials the law school has access to.

6. For example, when I canceled our West subscription to the Practice Ready program online platform earlier this year due to our perceived low usage and poorly designed platform, we lost access to the Tribal Law Collection. The University of Arizona has one of the most important Native American law centers in the country. I attempted to subscribe to the Tribal Law Collection separately but West has not met our request to provide this database separately from the bundle of services in the "Practice Ready" program.

7. It is my belief that these vendors are only able to extract such restrictive contract terms because of their significant market power, knowing that law librarians like me have no viable competitors that we can turn to for access to the legal research materials that we need.

8. Bloomberg, Lexis, and West also erect significant barriers to accessing materials through claims that their annotations to edicts of government that they publish are proprietary. Often, only one vendor will provide access to a certain state's edicts of government. This creates a system where each vendor has a monopoly over a particular state's official edicts of government, thereby forcing us to maintain subscriptions with all three vendors. Again, it is my belief that these vendors are only able to do so given their entrenched market power.

9. I also have grave privacy concerns about the usage data that Bloomberg, Lexis, and West collect. While I was at Yale, I was able to negotiate a memorandum of understanding with Lexis would not collect usage data from students who used these resources as part of their work in the immigration clinic. However, I understand my ability to execute this memorandum of understanding was unique. I find it deeply troubling that these vendors could be collecting usage information from students and faculty, or even law firms, and later selling this potentially confidential information.

10. In 2014, I began an organization called ALLStAR. It is a national survey of law libraries throughout the country, and the aim is to serve as a comprehensive database to allow law libraries to share information. However, one important metric -- what law libraries pay for access to Bloomberg, Lexis, and West -- is not part of the information collected by ALLStAR due

to the non-disclosure agreements these vendors and others impose on private educational institutions.

11. Through a mailing list used by law library directors, many law libraries discovered that Bloomberg was cutting off users who were accessing federal court dockets "too much," as decided solely by the vendor and without notice. I was part of a group of law librarians that confronted Bloomberg about this in January 2020, explaining that cutting off access to particular materials is detrimental to the ability to conduct proper legal research. Law Librarians made several alternative proposals and pricing schemes to support the quantity of research needed. Nonetheless, even with multiple law libraries approaching them about the same issue Bloomberg did not budge. I think this demonstrates that Bloomberg is fully aware of their market power and ability to leverage that power to control negotiations with law libraries and ultimately impose onerous contract terms on their customers.

12. In my view, the ultimate effect of this scheme is that it impedes the advancement of legal research. Without broad access to edicts of government - an important source of primary law - the ability of our students and faculty to advance research is seriously stunted.

I declare that the foregoing is true and correct.

Executed on July 8/20/2021, 2021 in Tucson, Arizona.

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