AMICUS EXHIBIT 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CODE REVISION COMMISSION on Behalf of and for the Benefit of the GENERAL ASSEMBLY OF GEORGIA and the STATE OF GEORGIA, Plaintiff, v. PUBLIC.RESOURCE.ORG, INC., Defendant.	CIVIL ACTION NO. 1:15-cv-2594-MHC

AFFIDAVIT OF ANDERS GANTEN

I, Anders Ganten, state as follows:

1. I am over the age of 18.

2. I currently serve as Senior Director Government Content Acquisition at LexisNexis, which oversees *amicus* Matthew Bender & Company, Inc. (for purposes of this Affidavit, "LexisNexis").

3. LexisNexis is a leading global provider of content-enabled workflow solutions designed specifically for professionals in the legal, risk management, corporate, government, law enforcement, accounting, and academic markets.

LexisNexis originally pioneered online information with its Lexis® and Nexis® services. LexisNexis also provides and publishes analytic legal research materials.

4. LexisNexis has executed a contract (the "Contract") with the Code Revision Commission on Behalf of and For the Benefit of the General Assembly of Georgia and the State of Georgia Commission (the "Commission") under which LexisNexis is responsible for researching, managing, creating, publishing, and distributing an annotated version of State laws as the Official Code of Georgia Annotated ("O.C.G.A.").

5. The Contract is awarded under an open bid process, whereby LexisNexis and third parties may present bids to administer the Commission's project to publish and distribute the laws of the state of Georgia in both hard bound book and electronic format.

6. Under the Contract, LexisNexis provides two functions: (1) publically and freely distributing the statutory texts of Georgia and (2) researching, creating, managing, publishing, and distributing annotations to the O.C.G.A. as a work for hire.

7. To distribute the statutory portion of the codification of Georgia's laws as required in the Contract, LexisNexis provides online 24/7/365 access to the statutory text of Georgia laws and the Georgia Constitution via a link to the State of Georgia website located at www.legis.ga.gov.

8. All statutory text and numbering, numbers of titles, chapters, articles, parts and subparts, captions and history lines are included in this publication. This online resource is entirely free to users.

9. The online electronic version of Georgia's laws includes robust features and capabilities, such as "terms and connectors" searching and "natural language" searching.

10. Online Georgia code users may also print copies, save it to their hard drive in PDF format, or e-mail copies to others.

11. As part of its obligations under the Contract with the Commission, LexisNexis's team of attorney-editors creates annotations for the relevant statutes in the O.C.G.A. (the "Annotations").

12. These editors create substantive original Annotations on select legal cases regarding the constitutionality, purpose, intent, and meaning of words and phrases, as well as illustrations of particular statutory provisions.

13. These Annotations generally provide a brief description of the application or interpretation of statutes, rules, laws or constitution, as well as analysis and guidance of the legal holdings within a case that have relevance to those provisions.

14. The attached document labeled *Amicus Exhibit 2* provides an example of the statutory text and LexisNexis's Annotations to Official Georgia Code § 10-7-21. *Amicus Exhibit 2* is a true and accurate copy of the material.

15. The creation of the Annotations for the entire Georgia code requires a labor-intensive, creative process.

16. The LexisNexis editors, who are all attorneys (which is required under the Contract), begin by reading case law opinions to identify discussion points and interpretation issues regarding the Georgia code, court rules, and constitutional provisions at issue.

17. The material is subjectively analyzed for noteworthiness, along with a determination of whether the court or other authority's discussion is relevant to an understanding of the provision.

18. After cases are culled and selected for inclusion, the editors then verify each potential source to ensure validity and to gain an understanding of how the statutory provision relates to the issue being discussed.

19. Upon verification, the editors draft the Annotation focusing on succinctness, accuracy, and guidance for future readers.

20. Each Annotation is an original and creative work of authorship that is protected by copyrights owned by the State of Georgia as a work for hire.

21. The Annotation often includes a written analysis of the court's application of the law to the particular facts of the case law opinion, or describing the court's interpretation or construction of the provision.

22. Certain cases are selected for an in-depth review and analysis by a quality review team and further editing.

23. For those Annotations created by the editors in the specialized Prospective Case Law Enhancements group, LexisNexis forwards the Annotations to Georgia legal analysts for additional review and editing.

24. Once the Annotation is checked for accuracy, style , and jurisdictional requirements, the most on-point and specific classification, as selected by the editors, is assigned to the Annotation from the LexisNexis taxonomy scheme for indexing. Upon completion, the Annotation is included for online and print product publication.

25. The O.C.G.A. is subject to continuous review to ensure that the information is accurate. LexisNexis also makes additions to the statutory text of state laws previously approved and enacted by the legislature of the State of Georgia. When appropriate, subsequent history is added to each case Annotation. When LexisNexis determines that the Annotation is no longer relevant due to negative treatment, it is removed or limited.

26. As shown in *Amicus Exhibit 2*, the Annotations created by LexisNexis not only include case notes, but also Attorney General opinions, advisory opinions of the State Bar, law reviews, and bar journals. The Annotations contain evaluative, analytical or subjectively descriptive analysis and guidance. Moreover, the analysis and guidance, selection are carefully crafted by LexisNexis' editors, who have years of legal and statutory experience to illustrate and interpret the texts.

27. The LexisNexis editorial staff regularly reviews these materials and subjectively selects those it deems the most noteworthy for inclusion in its Annotations to the statutory and constitutional texts.

28. The Official Code of Georgia Annotated series also includes the United States Constitution, commentary from the Corporate Code Committee of the Business Law Section of the State Bar of Georgia, the Rules and Regulations of the State Board of Workers' Compensation, and the Rules and Regulations of the Subsequent Injury Trust Fund. These secondary and regulatory materials are selected, compiled and assimilated by the LexisNexis editorial staff.

29. Pursuant to the Contract, the State of Georgia owns the copyright in the Annotations as a work for hire, which it exclusively licenses to LexisNexis. LexisNexis does not charge the Commission any fee to create the Annotations. Instead in recognition of the significant time, expertise and creativity required to

generate the O.C.G.A., the Contract authorizes LexisNexis to charge a fee to customers accessing online copies of and to sell hardcopy books and CD's of the work. However, the Commission places a contractual cap on the amount LexisNexis may charge for such access and works. Contractually, LexisNexis must also incur the expense of keeping inventory on hand to provide a reasonable supply of complete sets of hard copies of the O.C.G.A. so that it may fill any request within two weeks.

30. If the Annotations were not subject to copyright protection or if the PRO and the public could freely access the O.C.G.A. as a fair use under the Copyright Act, LexisNexis could not recoup its significant investment of creativity and resources in developing the Annotations, and it would lose all incentive to remain in the Contract or create the Annotations unless it were directly paid for such services.

31. PRO does not transform the Annotations. PRO does not add, edit, modify, comment on, criticize or create any analysis or notes of its own. The Annotations are already made available electronically by LexisNexis with a robust, fully searchable engine. PRO's use of the Annotations is for exactly the same purpose as LexisNexis and the Commission makes the Annotations available—for legal and scholarly research and public and judicial review. The activities of PRO destroy the marketplace and economic incentives for LexisNexis to create the

Annotations. No person will pay for annotations when the identical annotations are available online for free.

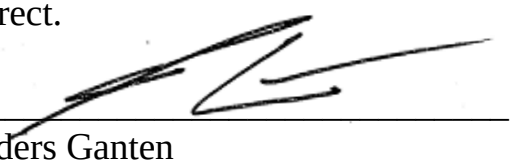
32. LexisNexis's sole revenue to recoup these costs is through hard copy sales, and licensing online access to the O.C.G.A. as permitted by the Contract, and which are easily and economically offered to the public. Because PRO has copied every word of every Annotation verbatim and posted them free of charge, PRO's misappropriation destroys LexisNexis's ability to recover these costs.

33. Since 2003, Thomson West has created its own annotations to the Official Georgia Code in its *West's® Code of Georgia Annotated*, and it sells hardcopies and licenses access to its annotations to recoup the costs and profit from the efforts.

[*valediction and signature on following page*]

FURTHER AFFIANT SAYETH NAUGHT

The undersigned declares under penalty of perjury that the foregoing is true and correct.



Anders Ganten

Date: _5/17/16_____