

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE ELECTRONIC BOOKS ANTITRUST LITIGATION)	No. 11-md-02293 (DLC)
)	
)	ECF CASE
)	
THE STATE OF TEXAS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 12-cv-03394 (DLC)
)	
PENGUIN GROUP (USA) INC., et al.,)	ECF CASE
)	
Defendants.)	
)	

**PLAINTIFF STATES' RESPONSE TO CLASS PLAINTIFFS' MOTION TO
EXCLUDE OPINIONS OFFERED BY DR. JOSEPH P. KALT**

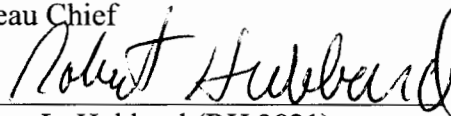
Apple served the Declaration of Joseph P. Kalt, Ph.D. with a caption in the Consolidated Class Action (Case No. 11-md-02293), and not the State Action (Case No. 12-cv-03394). Dr. Kalt's opinions are offered in opposition to Class Plaintiffs' motion for class certification and in response to the testimony of Plaintiffs' expert, Dr. Roger Noll. *See* ECF Nos. 444, 445 in Case No. 11-md-02293.

Because the Court's ruling in the Consolidated Class Action could have a collateral impact on the State Action, Plaintiff States submit this response joining the arguments made by Class Plaintiffs to exclude Dr. Kalt's opinions. For the reasons set forth in Class Plaintiffs' memorandum in support of that motion, Dr. Kalt's opinions should be excluded and not admitted at trial in this matter for any purpose relevant to the State Action.

Dated: December 18, 2013
New York, New York

Respectfully submitted,

STATE OF NEW YORK
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