

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

AMERICAN EDUCATIONAL RESEARCH  
ASSOCIATION, INC., AMERICAN  
PSYCHOLOGICAL ASSOCIATION, INC., and  
NATIONAL COUNCIL ON MEASUREMENT IN  
EDUCATION, INC.,

Plaintiffs,

v.

PUBLIC.RESOURCE.ORG,

Defendant.

Case No. 1:14-CV-00857-TSC-DAR

**DEFNDANT-COUNTERCLAIMANT  
PUBLIC.RESOURCE.ORG, INC.’S  
INDEX OF CONSOLIDATED  
EXHIBITS IN SUPPORT OF ITS  
MOTION FOR SUMMARY  
JUDGMENT AND OPPOSITION TO  
PLAINTIFFS’ MOTION FOR  
SUMMARY JUDGMENT AND  
PERMANENT INJUNCTION**

Action Filed: May 23, 2014

Defendant-Counterclaimant Public.Resource.Org, Inc. (“Public Resource”) submits the following Index of Consolidated Exhibits in Support of its Motion for Summary Judgment and Opposition to Plaintiffs’ Motion for Summary Judgment and Permanent Injunction.

<b>Exh. No.</b>	<b>Document Title</b>
1	Public Resource’s Articles of Incorporation, at <a href="https://public.resource.org/public.resource.articles.html">https://public.resource.org/public.resource.articles.html</a> .
2	Excerpts of the deposition of Diane L. Schneider, dated April 23, 2015
3	Excerpts of the deposition of Marianne Ernesto, dated April 29, 2015
4	Excerpts of the deposition of Wayne Camara, dated May 1, 2015.
5	Excerpts of the deposition of Felice Levine, dated May 4, 2015
6	Excerpts of the deposition of Laress Wise, dated May 11, 2015
7	Excerpts of the deposition of Carl Malamud, dated May 12, 2015
8	Excerpts of the deposition of Kurt F. Geisinger, dated September 10, 2015
9	Exhibit 43 from the deposition of Carl Malamud, entitled “Public Works for a Better Government.”

Exh. No.	Document Title
10	Exhibit 1064 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NOME_0031521-22.
11	Exhibit 1065 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0004708-09.
12	Exhibit was marked as Exhibit 1068 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0014887-93.
13	Exhibit 1069 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0031486-87.
14	Exhibit 1070 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0031803-806.
15	Exhibit 1071 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0031459-60.
16	Exhibit 1072 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0004710.
17	Exhibit 1075 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0031139-40.
18	Exhibit 1078 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0031116-19.
19	Exhibit 1082 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0004719-20.
20	Exhibit 1085 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0031456-58.
21	Exhibit 1086 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0004713-14.
22	Exhibit 1089 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0031461-62.
23	Exhibit 1090 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0031430-31.
24	Exhibit 1091 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0004715-16.

<b>Exh. No.</b>	<b>Document Title</b>
25	Exhibit 1094 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0004717-18.
26	Exhibit 1097 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0031414-16.
27	Exhibit 1099 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0026988-89.
28	Exhibit 1104 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0031478-79.
29	Exhibit 1105 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME0031885-92.
30	Exhibit 1112 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0031463-65.
31	Exhibit 1114 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0031523.
32	Exhibit 1116 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0031518-20.
33	Exhibit 1121 in the deposition of Marianne Ernesto, produced by Plaintiffs bearing control number AERA_APA_NCME_0004820-23.
34	Exhibit 1157 in the deposition of Wayne Camara, produced by Plaintiffs bearing control number AERA_APA_NCME_0004946-56.
35	Exhibit 1197 in the deposition of Felice Levine, produced by Plaintiffs bearing control number AERA_APA_NCME_0004519-20.
36	Exhibit 1198 in the deposition of Felice Levine, produced by Plaintiffs bearing control number AERA_APA_NCME_0004542-43.
37	Exhibit 1200 in the deposition of Felice Levine, produced by Plaintiffs bearing control number AERA_APA_NCME_0004546-48.
38	Exhibit 1205 in the deposition of Felice Levine, produced by Plaintiffs bearing control number AERA_APA_NCME_0004818.
39	Exhibit 1207 in the deposition of Felice Levine, produced by Plaintiffs bearing control number AERA_APA_NCME_0031848.
40	Exhibit 1208 in the deposition of Felice Levine, produced by Plaintiffs bearing control number AERA_APA_NCME_0005137.
41	Exhibit 1211 in the deposition of Felice Levine, produced by Plaintiffs bearing control number AERA_APA_NCME_0032527.

Exh. No.	Document Title
42	Exhibit 1212 in the deposition of Felice Levine, produced by Plaintiffs bearing control number AERA_APA_NCME_0032526.
43	Exhibit 1214 in the deposition of Felice Levine, produced by Plaintiffs bearing control number AERA_APA_NCME_0032520–23.
44	Exhibit 1217 in the deposition of Felice Levine, produced by Plaintiffs bearing control number AERA_APA_NCME_0004706.
45	Exhibit 1218 in the deposition of Felice Levine, produced by Plaintiffs bearing control number AERA_APA_NCME_0004746–55.
46	Exhibit 1219 in the deposition of Felice Levine, produced by Plaintiffs bearing control number AERA_APA_NCME_0013137–39.
47	Webpages from www.aera.net, Exhibit 1220 in the deposition of Felice Levine.
48	Webpages from www.aera.net, Exhibit 1221 in the deposition of Felice Levine.
49	Photograph, Exhibit 1222 in the deposition of Felice Levine.
50	Account statement, Exhibit 1263 in the deposition of Kurt Geisinger.
51	Expert Report of James R. Fruchterman, dated June 13, 2015.
52	“OCR Issues Draft Guide on Disparate Impact in Educational Testing,” Society for Industrial and Organizational Psychology, October 1999, at <a href="http://www.siop.org/tip/backissues/tipocto99/22Camara.aspx">http://www.siop.org/tip/backissues/tipocto99/22Camara.aspx</a>
53	AERA Membership Benefits, at <a href="http://www.aera.net/Membership/MembershipBenefits/tabid/10224/Default.aspx">http://www.aera.net/Membership/MembershipBenefits/tabid/10224/Default.aspx</a> ;
54	American Psychological Association Member information at <a href="http://www.apa.org/membership/member/index.aspx?tab=4">http://www.apa.org/membership/member/index.aspx?tab=4</a> .
55	Matthew Bender/LexisNexis store sales link for the “District of Columbia Official Code” for \$849.00, at <a href="http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&amp;catId=364&amp;prodId=prod19670410">http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&amp;catId=364&amp;prodId=prod19670410</a>
56	Matthew Bender/LexisNexis store sales link for the “Criminal Jury Instructions for the District of Columbia, Fifth Edition” for \$186.00 at <a href="http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&amp;skuId=SKU44095&amp;catId=128&amp;prodId=44095">http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&amp;skuId=SKU44095&amp;catId=128&amp;prodId=44095</a>
57	Thomson Reuters/WestLaw sales link for “District of Columbia Rules of Court – District, 2015 ed. (Vol. 1, District of Columbia Court Rules)” for \$182.00 at <a href="http://legalsolutions.thomsonreuters.com/law-products/Court-Rules/District-of-Columbia-Rules-of-Court---District-2016-ed-Vol-I-District-">http://legalsolutions.thomsonreuters.com/law-products/Court-Rules/District-of-Columbia-Rules-of-Court---District-2016-ed-Vol-I-District-</a>

Exh. No.	Document Title
	<a href="#">of-Columbia-Court-Rules/p/101765392.</a>
58	Barnes & Noble sales link for “Moby Dick” for \$8.99 at <a href="http://www.barnesandnoble.com/w/moby-dick-melville-herman/1110282307?ean=9781593080181#productInfoTabs">http://www.barnesandnoble.com/w/moby-dick-melville-herman/1110282307?ean=9781593080181#productInfoTabs</a>
59	Barnes & Noble sales link for “The Adventures of Tom Sawyer” for \$6.25 at <a href="http://www.barnesandnoble.com/w/adventures-of-tom-sawyer-barnes-noble-classics-series-mark-twain/1106017534?ean=9781593081393">http://www.barnesandnoble.com/w/adventures-of-tom-sawyer-barnes-noble-classics-series-mark-twain/1106017534?ean=9781593081393</a> .
60	Barnes & Noble website link for “Barnes & Noble Classics” at <a href="http://www.barnesandnoble.com/h/bnclassics/about">http://www.barnesandnoble.com/h/bnclassics/about</a> .
61	Excerpts of the deposition of Christopher Butler, dated December 2, 2014.
62	Plaintiff’s Objections and Answers to Defendant/Counterclaim Plaintiff’s First Set of Interrogatories (Nos. 1-10), dated January 20, 2015.
63	Email correspondence from Mitch Stoltz to Jonathan Hudis et al., re: “AERA, APA, NCME v. Public Resource – Discovery Issues Followup,” dated March 17, 2015.
64	Exhibit 1012 in the deposition of Diane Schneider, produced by Plaintiffs bearing control number AERA_APA_NCME_0013446-449.
65	Federal Register “Incorporation by Reference”, available at <a href="http://www.archives.gov/federal-register/cfr/ibr-locations.html">http://www.archives.gov/federal-register/cfr/ibr-locations.html</a> .
66	“Putting a Number on Federal Education Spending,” available at <a href="http://economix.blogs.nytimes.com/2013/02/27/putting-a-number-on-federal-education-spending/?_r=0">http://economix.blogs.nytimes.com/2013/02/27/putting-a-number-on-federal-education-spending/?_r=0</a> .
67	U.S. Department of Education, Federal Pell Grant Program information, available at <a href="http://www2.ed.gov/programs/fpg/funding.html">http://www2.ed.gov/programs/fpg/funding.html</a> .
68	“Federal Programs: What are Title IV Programs?,” available at <a href="http://federalstudentaid.ed.gov/site/front2back/programs/programs/fb_03_01_0030.htm">http://federalstudentaid.ed.gov/site/front2back/programs/programs/fb_03_01_0030.htm</a>
69	“For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success,” Executive Summary, available at <a href="https://www.help.senate.gov/imo/media/for_profit_report/ExecutiveSummary.pdf">https://www.help.senate.gov/imo/media/for_profit_report/ExecutiveSummary.pdf</a>
70	U.S. Department of Education, DCL ID: GEN-15-09, “Title IV Eligibility for Students Without a Valid High School Diploma Who Are Enrolled in Eligible Career Pathway Programs,” dated May 22, 2015, available at <a href="https://ifap.ed.gov/dpcletters/GEN1509.html">https://ifap.ed.gov/dpcletters/GEN1509.html</a>
71	“PROPRIETARY SCHOOLS: Stronger Department of Education Oversight Needed to Help Ensure Only Eligible Students Receive Federal Student Aid,” available at <a href="http://www.gao.gov/new.items/d09600.pdf">http://www.gao.gov/new.items/d09600.pdf</a>

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72	“Program Integrity Issues,” Federal Register, available at: <a href="https://www.federalregister.gov/articles/2010/10/29/2010-26531/program-integrity-issues#h-4">https://www.federalregister.gov/articles/2010/10/29/2010-26531/program-integrity-issues#h-4</a>
73	Internet Engineering Task Force Request for Comments 7231, "Hypertext Transfer Protocol (HTTP/1.1): Semantics and Content" § 4.3 (June 2014).
74	Brief of Amicus Curiae States of Ohio and Ten Other States and Territories Supporting Appellant Veeck Upon Rehearing En Banc, Case No. 99-40632, dated November 13, 2001.

Dated: January 21, 2016

Respectfully submitted,

/s/ Andrew P. Bridges

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