

ORAL ARGUMENT NOT YET SCHEDULED

No. 22-7063

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

AMERICAN SOCIETY FOR TESTING AND MATERIALS, et al.,
Appellants

v.

PUBLIC.RESOURCE.ORG, INC.,
Appellee

Appeal from the United States District Court
for the District of Columbia
Hon. Tanya S. Chutkan, No. 1:13-cv-1215-TSC

PUBLIC APPENDIX
VOLUME 9 (JA7296-JA7675)
MATERIAL UNDER SEAL IN SEPARATE SUPPLEMENT

Andrew P. Bridges
abridges@fenwick.com
Matthew B. Becker
mbecker@fenwick.com
FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041
Tel: (415) 875-2300

David Halperin
davidhalperindc@gmail.com
1805 9th Street NW
Washington, DC 20005
Tel: (202) 905-3434

Counsel for Public.Resource.Org, Inc.

Donald B. Verrilli, Jr.
Rachel G. Miller-Ziegler
MUNGER, TOLLES & OLSON LLP
601 Massachusetts Avenue NW
Suite 500E
Washington, DC 20001
Tel: (202) 220-1100
donald.verrilli@mto.com

Kelly M. Klaus
MUNGER, TOLLES & OLSON LLP
560 Mission Street, 27th Floor
San Francisco, CA 94105
Tel: (415) 512-4000
kelly.klaus@mto.com

*Counsel for National Fire Protection
Association, Inc.*

January 20, 2023
(additional counsel on inside cover)

Corynne McSherry
corynne@eff.org
Mitchell L. Stoltz
mitch@eff.org
ELECTRONIC FRONTIER FOUNDATION
815 Eddy Street
San Francisco, CA 94109
Tel: (415) 436-9333

Counsel for Public.Resource.Org, Inc.

Jeffrey S. Bucholtz
David P. Mattern
KING & SPALDING LLP
1700 Pennsylvania Avenue NW
Washington, DC 20006
Tel: (202) 737-0500
jbucholtz@kslaw.com

Kenneth L. Steinthal
KING & SPALDING LLP
101 Second Street, Suite 2300
San Francisco, CA 94105
Tel: (415) 318-1200
ksteinthal@kslaw.com

*Counsel for American Society of Heating,
Refrigerating, and Air Conditioning
Engineers, Inc.*

Rose Leda Ehler
MUNGER, TOLLES & OLSON LLP
350 S. Grand Avenue, 50th Floor
Los Angeles, CA 90071
Tel: (213) 683-9100
rose.ehler@mto.com

*Additional Counsel for National Fire
Protection Association, Inc.*

J. Kevin Fee
Jane W. Wise
DLA PIPER LLP (US)
500 8th Street NW
Washington, DC 20004
Tel: (202) 799-4000
kevin.fee@us.dlapiper.com

Stanley J. Panikowski
DLA PIPER LLP (US)
401 B Street, Suite 1700
San Diego, CA 92101
Tel: (619) 699-2700
stanley.panikowski@us.dlapiper.com

*Counsel for American Society for
Testing and Materials d/b/a/ ASTM
International*

TABLE OF CONTENTS**VOLUME 1 (JA1-JA493)**

Docket Sheet, American Society for Testing and Materials, et al v. Public.Resource.Org, Inc., No. 13-cv-1215	JA1
Exhibit A to Complaint, DKT. 1-1	JA35
Transcript of 11/04/15 Status Hearing before Judge Tanya S. Chutkan, DKT. 116.....	JA45
Proposed Order Granting Plaintiffs’ Motion for Leave to File Under Seal, DKT. 117-1	JA66
Exhibit 1 to Declaration of Jordana S. Rubel in Support of Plaintiffs’ Motion for Summary Judgment, DKT. 117-2 (Material Under Seal).....	JA68
Plaintiffs’ Memorandum of Law in Support of Motion for Summary Judgment and Permanent Injunction, DKT. 118-1	JA182
Plaintiffs’ Statement of Material Facts in Support of Motion for Summary Judgment, DKT. 118-2.....	JA256
Declaration of Dennis J. Berry and Exhibits in Support of Plaintiffs’ Motion for Summary Judgment, DKT. 118-3	JA306
Declaration of Steven Cramer and Exhibits in Support of Plaintiffs’ Motion for Summary Judgment, DKT. 118-4	JA336
Declaration of James Golinveaux in Support of Plaintiffs’ Motion for Summary Judgment, DKT. 118-5	JA348
Declaration of Randy Jennings and Exhibit in Support of Plaintiffs’ Motion for Summary Judgment, DKT. 118-6	JA352
Declaration of Thomas B. O’Brien, Jr. and Exhibits in Support of Plaintiffs’ Motion for Summary Judgment, DKT. 118-7	JA362

VOLUME 2 (JA494-JA1297)

Declaration of Thomas B. O'Brien, Jr. and Exhibits in Support of Plaintiffs' Motion for Summary Judgment, DKT. 118-7 (continued).....	JA494
Declaration of James T. Pauley and Exhibits in Support of Plaintiffs' Motion for Summary Judgment, DKT. 118-8	JA629
Declaration of Kevin Reinertson in Support of Plaintiffs' Motion for Summary Judgment, DKT. 118-9	JA663
Declaration of Stephanie Reiniche and Exhibits in Support of Plaintiffs' Motion for Summary Judgment, DKT. 118-10	JA668
Declaration of James Thomas in Support of Plaintiffs' Motion for Summary Judgment, DKT. 118-11	JA697
Exhibit 1 to Declaration of Jordana S. Rubel in Support of Plaintiffs' Motion for Summary Judgment, DKT. 118-12 (Jarosz Report) (Material Under Seal).....	JA704
Exhibit 2 to Declaration of Jordana S. Rubel in Support of Plaintiffs' Motion for Summary Judgment, DKT. 118-12	JA818
Exhibit 3 to Declaration of Jordana S. Rubel in Support of Plaintiffs' Motion for Summary Judgment, DKT. 118-12 (Material Under Seal).....	JA896
Exhibit 8 to Declaration of Jordana S. Rubel in Support of Plaintiffs' Motion for Summary Judgment, DKT. 118-12	JA999
Exhibit 10 to Declaration of Jordana S. Rubel in Support of Plaintiffs' Motion for Summary Judgment, DKT. 118-12	JA1005
Defendant Public.Resource.Org's Statement of Material Facts in Support of Motion for Summary Judgment, DKT. 120-3 (Material Under Seal) (Public Version at DKT. 121-2)	JA1014
Declaration of Matthew Becker in Support of Public.Resource.Org's Motion for Summary Judgment, DKT. 120-4 (Material Under Seal).....	JA1050

Exhibit 4 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-6 (Material Under Seal).....	JA1072
Exhibit 22 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-9 (Material Under Seal).....	JA1092
Exhibit 53 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-10 (Material Under Seal).....	JA1100
Exhibit 74 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-11 (Material Under Seal).....	JA1119
Exhibit 80 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-14 (Material Under Seal).....	JA1122
Exhibit 87 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-20 (Material Under Seal).....	JA1125
Exhibit 88 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-21 (Material Under Seal).....	JA1136
Exhibit 89 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-22 (Material Under Seal).....	JA1149
Exhibit 90 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-23 (Material Under Seal).....	JA1204
Exhibit 91 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-24 (Material Under Seal).....	JA1206

Exhibit 92 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-25 (Material Under Seal)..... JA1208

Exhibit 93 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-26 (Material Under Seal)..... JA1231

Exhibit 94 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-27 (Material Under Seal)..... JA1238

Exhibit 129 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-29 (Material Under Seal)..... JA1245

Exhibit 146 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-33 (Material Under Seal)..... JA1254

Exhibit 150 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 120-34 (Material Under Seal)..... JA1257

Declaration of Carl Malamud in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 121-5 JA1260

Exhibits 1-10 to Public.Resource.Org’s Motion for Summary Judgment, DKT. 122-1..... JA1271

VOLUME 3 (JA1298-JA1677)

Exhibits 1-10 to Public.Resource.Org’s Motion for Summary Judgment, DKT. 122-1 (continued)..... JA1298

Exhibits 11-20 to Public.Resource.Org’s Motion for Summary Judgment, DKT. 122-2..... JA1569

VOLUME 4 (JA1678-JA2057)

Exhibits 11-20 to Public.Resource.Org’s Motion for Summary
Judgment, DKT. 122-2 (continued)..... JA1678

Exhibits 21-40 to Public.Resource.Org’s Motion for Summary
Judgment, DKT. 122-3..... JA1938

VOLUME 5 (JA2058-JA2437)

Exhibits 21-40 to Public.Resource.Org’s Motion for Summary
Judgment, DKT. 122-3 (continued)..... JA2058

Exhibits 41-60 to Public.Resource.Org’s Motion for Summary
Judgment, DKT. 122-4..... JA2107

Exhibits 61-80 to Public.Resource.Org’s Motion for Summary
Judgment, DKT. 122-5..... JA2204

Exhibits 61-80 to Public.Resource.Org’s Motion for Summary
Judgment, DKT. 122-5..... JA2258

Exhibits 81-100 to Public.Resource.Org’s Motion for Summary
Judgment, DKT. 122-6..... JA2296

VOLUME 6 (JA2438-JA2817)

Exhibits 81-100 to Public.Resource.Org’s Motion for Summary
Judgment, DKT. 122-6 (continued)..... JA2438

Exhibits 101-120 to Public.Resource.Org’s Motion for Summary
Judgment, DKT. 122-7..... JA2527

Exhibits 121-140 to Public.Resource.Org’s Motion for Summary
Judgment, DKT. 122-8..... JA2644

VOLUME 7 (JA2818-JA4847)

Exhibits 141-157 to Public.Resource.Org’s Motion for Summary
Judgment, DKT. 122-9..... JA2818

Exhibit 3 to Declaration of Kathleen Lu in Support of Public.Resource.Org’s Motion to Strike, DKT. 124-5	JA2952
Declaration of Steve Comstock in Support of Plaintiffs’ Reply to Opposition to Motion for Summary Judgment, DKT. 155-5	JA2955
Declaration of Christian Dubay in Support of Plaintiffs’ Reply to Opposition to Motion for Summary Judgment, DKT. 155-6	JA2960
Exhibit A to Declaration of Christian Dubay in Support of Plaintiffs’ Reply to Opposition to Motion for Summary Judgment, DKT. 155-6, exhibit A (Material Under Seal)	JA2965
Supplemental Declaration of Thomas B. O’Brien, Jr. in Support of Plaintiffs’ Reply to Opposition to Motion for Summary Judgment, DKT. 155-7	JA3849
Exhibit 10 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 163-6 (Material Under Seal).....	JA3925
Exhibit 11 to Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 163-7 (Material Under Seal).....	JA3928
Declaration of Matthew Becker in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 164-1	JA3930
Public.Resource.Org’s Supplemental Statement of Undisputed Material Facts in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 164-3	JA3934
Supplemental Declaration of Carl Malamud in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 164-8	JA3941
Exhibit 5 to Supplemental Declaration of Carl Malamud in Support of Public.Resource.Org’s Motion for Summary Judgment, DKT. 164-13	JA3943

Exhibit 6 to Supplemental Declaration of Carl Malamud in Support
of Public.Resource.Org’s Motion for Summary Judgment,
DKT. 164-14 JA3988

Memorandum Opinion, DKT. 175..... JA4003

Exhibit 156 to Declaration of Jane W. Wise in Support of Plaintiffs’
Second Motion for Summary Judgment, DKT. 198-40 JA4822

VOLUME 8 (JA4848-JA7295)

Exhibit 156 to Declaration of Jane W. Wise in Support of Plaintiffs’
Second Motion for Summary Judgment, DKT. 198-40 (continued)..... JA4848

Exhibit 167 to Declaration of Jane W. Wise in Support of Plaintiffs’
Second Motion for Summary Judgment, DKT. 198-48 JA4927

Exhibit 173 to Declaration of Jane W. Wise in Support of Plaintiffs’
Second Motion for Summary Judgment, DKT. 198-48 JA4934

Declaration of James S. Thomas and Exhibits in Support of Plaintiffs’
Second Motion for Summary Judgment, DKT. 198-49 JA4940

Supplemental Declaration of James T. Pauley in Support of Plaintiffs’
Second Motion for Summary Judgment, DKT. 198-50 JA4985

Plaintiffs’ Memorandum in Support of Second Motion for Summary
Judgment and for Permanent Injunction, DKT. 199-1
(Material Under Seal) (Public Version at DKT. 200)..... JA5001

Plaintiffs’ Second Supplemental Statement of Material Facts in
Support of Second Motion for Summary Judgment, DKT. 199-2
(Material Under Seal) (Public Version at DKT. 201)..... JA5059

Exhibit D to the Supplemental Declaration of James T. Pauley
in Support of Second Motion for Summary Judgment,
DKT. 199-15 (Material Under Seal) JA5121

Exhibit F to the Supplemental Declaration of James T, Pauley in Support of Second Motion for Summary Judgment, DKT. 199-17 (Material Under Seal)	JA5223
Exhibit P to the Supplemental Declaration of James T. Pauley in Support of Second Motion for Summary Judgment, DKT. 199-27 (Material Under Seal)	JA5571
Exhibit T to the Supplemental Declaration of James T. Pauley in Support of Second Motion for Summary Judgment, DKT. 199-31 (Material Under Seal)	JA6501
Exhibit V to the Supplemental Declaration of James T. Pauley in Support of Second Motion for Summary Judgment, DKT. 199-33 (Material Under Seal)	JA6916
Supplemental Declaration of Stephanie Reiniche in Support of Second Motion for Summary Judgment, DKT. 198-53	JA6944
Exhibit 1 to Supplemental Declaration of Stephanie Reiniche in Support of Second Motion for Summary Judgment, DKT. 199-34, exhibit 1 (Material Under Seal)	JA6948
Public Resource’s Second Motion for Summary Judgment, DKT. 202.....	JA7139
Public Resource’s Second Supplemental Statement of Material Facts in Opposition To Plaintiffs’ Motion for Summary Judgment and Permanent Injunction, and in Support of Public Resource’s Second Motion for Summary Judgment, DKT. 203-2 (Material Under Seal)	JA7142
Exhibit 77 to Public Resource’s Second Motion for Summary Judgment, DKT. 203-27 (Material Under Seal)	JA7197
Declaration of Carl Malamud in Support of Public Resource’s Second Motion for Summary Judgment, DKT. 204-4	JA7199
Declaration of Matthew Becker in Support of Public Resource’s Second Motion for Summary Judgment, DKT. 204-5	JA7216

Exhibit 34 to Public Resource’s Second Motion for Summary
Judgment, DKT. 204-40 JA7226

Exhibit 36 to Public Resource’s Second Motion for Summary
Judgment, DKT. 204-42 JA7228

VOLUME 9 (JA7296-JA7675)

Exhibit 36 to Public Resource’s Second Motion for Summary
Judgment, DKT. 204-42 (continued)..... JA7296

Exhibit 37 to Public Resource’s Second Motion for Summary
Judgment, DKT. 204-43 JA7317

Exhibit 38 to Public Resource’s Second Motion for Summary
Judgment, DKT. 204-44 JA7439

Exhibit 40 to Public Resource’s Second Motion for Summary
Judgment, DKT. 204-46 JA7541

Exhibit 41 to Public Resource’s Second Motion for Summary
Judgment, DKT. 204-47 JA7655

VOLUME 10 (JA7676-JA8154)

Exhibit 41 to Public Resource’s Second Motion for Summary
Judgment, DKT. 204-47 (continued)..... JA7676

Exhibit 42 to Public Resource’s Second Motion for Summary
Judgment, DKT. 204-48 (Material Under Seal) JA7761

Exhibit 43 to Public Resource’s Second Motion for Summary
Judgment, DKT. 204-49 JA7861

Exhibit 44 to Public Resource’s Second Motion for Summary
Judgment, DKT. 204-50 JA7959

Exhibit 45 to Public Resource’s Second Motion for Summary
Judgment, DKT. 204-51 JA8045

VOLUME 11 (JA8155-JA8817)

Exhibit 45 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-51 (continued)	JA8155
Exhibit 46 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-52 (Material Under Seal)	JA8165
Exhibit 55 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-61 (Material Under Seal)	JA8269
Exhibit 56 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-62 (Material Under Seal)	JA8297
Exhibit 60 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-66	JA8324
Exhibit 72 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-78 (Material Under Seal)	JA8327
Exhibit 73 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-79 (Material Under Seal)	JA8352
Exhibit 74 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-80 (Material Under Seal)	JA8378
Exhibit 75 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-81 (Material Under Seal)	JA8405
Exhibit 76 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-82 (Material Under Seal)	JA8435
Exhibit 77 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-83 (Material Under Seal)	JA8438
Exhibit 78 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-84 (Material Under Seal)	JA8440
Exhibit 79 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-85 (Material Under Seal)	JA8446

Exhibit 80 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-86 (Material Under Seal)	JA8448
Exhibit 84 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-90	JA8450
Exhibit 85 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-91	JA8456
Exhibit 86 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-92	JA8471
Exhibit 87 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-93	JA8489
Exhibit 88 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-94	JA8491
Exhibit 89 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-95	JA8534
Exhibit 90 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-96	JA8538
Exhibit 91 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-97	JA8654
Exhibit 96 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-102	JA8667
Exhibit 97 to Public Resource’s Second Motion for Summary Judgment, DKT. 204-103 (Material Under Seal)	JA8729
Plaintiffs’ Statement of Disputed Facts and Objections in Opposition to Public Resource’s Second Supplemental Statement of Material Facts, DKT. 212-1 (Material Under Seal) (Public Version at DKT. 213-20).....	JA8733

VOLUME 12 (JA8818-JA9197)

Plaintiffs’ Statement of Disputed Facts and Objections in Opposition to Public Resource’s Second Supplemental Statement of Material Facts, DKT. 212-1 (Material Under Seal) (Public Version at DKT. 213-20) (continued).....	JA8818
Plaintiffs’ Third Supplemental Statement of Material Facts in Support of Second Motion for Summary Judgment, DKT. 213-1	JA8858
Exhibit 176 to Declaration of Jane W. Wise in Support of Second Motion for Summary Judgment, DKT. 213-6	JA8864
Supplemental Reply Declaration of Matthew Becker in Support of Public Resource’s Second Motion for Summary Judgment, DKT. 215-3.....	JA9005
Exhibit 98 to Supplemental Reply Declaration of Matthew Becker in Support of Public Resource’s Second Motion for Summary Judgment, DKT. 215-4	JA9010

VOLUME 13 (JA9198-JA9505)

Exhibit 98 to Supplemental Reply Declaration of Matthew Becker in Support of Public Resource’s Second Motion for Summary Judgment, DKT. 215-4 (continued).....	JA9198
Exhibit 99 to Supplemental Reply Declaration of Matthew Becker in Support of Public Resource’s Second Motion for Summary Judgment, DKT. 215-5	JA9249
Memorandum and Opinion re Plaintiffs’ Motion for Summary Judgment and Permanent Injunction, and Defendant’s Cross-Motion for Summary Judgment, DKT. 239.....	JA9265
Appendix to Memorandum and Opinion re Plaintiffs’ Motion for Summary Judgment and Permanent Injunction, and Defendant’s Cross-Motion for Summary Judgment, DKT. 239-1	JA9312
Order granting in part and denying in part Plaintiffs’ Motion for Summary Judgment; granting in part and denying in part Plaintiffs’	

Motion for Permanent Injunction; granting in part and denying in part Defendant’s Cross-Motion for Summary Judgment, DKT. 240 JA9499

Notice of Appeal JA9502

[implemented - know]

<p>implemented 182:16 183:6 importance 131:5 important 131:7 148:13 149:2 166:9 include 86:23 87:7 122:11 128:3 173:14 included 86:20 includes 24:22 88:17 155:1 including 81:6 89:19 158:19 179:24 incomplete 63:11 110:14 inconsequential 113:4,16,20,24 114:8 inconsistent 156:21 incorporate 30:23 31:2,7,12 164:20 167:7 172:6 incorporated 26:2 106:7 145:6 incorporates 166:22 incorporation 30:17 31:5 49:9 49:14,18,23 50:7 50:11,12,18,19 51:2,5 incredibly 164:12 independent 19:12 index 6:1 indicate 159:11 indicates 62:22,24 170:12 183:4</p>	<p>indicating 33:8 individual 151:18 individuals 136:25 137:7,13,23 180:1 180:8 industry 17:3 26:12,19,24 27:11 163:21 inferior 166:13 info 88:5 information 25:17 34:11,15 64:13 66:3,5 86:16 88:8 88:17 102:8,11,15 114:23 116:11 143:22 146:10,11 146:12,14 193:21 196:3 informed 91:10 initial 17:16 18:16 48:2 initialed 201:13 ink 201:13 installation 125:10 installations 65:20 instance 36:20 65:4 71:18 94:13 100:3 128:3 190:2 instances 32:13,17 94:3,5 instruct 148:9 intend 66:3 intensive 164:12 interacted 26:12 26:17 interactions 15:16 27:17,21 interest 78:2 79:7 79:11,18,22 80:2 80:14 81:4,19 105:8,14,16</p>	<p>interested 8:23 139:4 195:15 202:17 interface 15:13 17:1 internal 87:7 internally 102:6 international 1:5 2:5 4:4 38:8,11 93:24 134:12 162:25 163:8,13 190:3,7 internet 25:17 33:5,7,9,12 interpret 65:20 66:1 interpreting 66:7 intervening 35:9 138:22 139:20,22 invited 196:8 involved 10:5 78:21 163:16 169:11 171:5 involvement 10:8 21:22 23:12 26:7 78:10,15,19 issue 35:6 86:4 91:21 92:20 124:12 190:23 issues 25:25 90:25 91:10 124:6,7,10 124:19,20 125:10 138:5,13 180:16 181:16 item 109:12 135:7 177:22,25 186:17 186:17</p>	<p>jerry 5:8 9:6 jerry.yen 5:13 job 1:24 john 5:21 8:20 judgment 166:24 167:6 july 7:4 35:25 131:4,18 132:4 135:21 139:16 170:8 jurisdiction 105:5 121:20 183:12 185:1 188:24 jurisdiction's 184:10,15 185:15 jurisdictions 52:24 117:25 121:7,14 122:4,6 122:11,14 127:25 128:6,8 175:5 182:17,23 183:7 184:17 188:11,14 188:16,19 195:15 justice 5:6</p>
			k
			<p>k 134:21,21,24 136:17 katrina 146:8,19 147:17 keep 52:11 81:8 88:5 101:12,19 171:23 kevin 4:6 9:19 kevin.fee 4:11 kind 108:1 128:17 185:8 195:8 196:3 kinds 40:16,21 knew 152:18 177:17 know 11:9 12:6,10 17:11 25:19 26:17</p>
		j	
		<p>j 4:6 january 23:6 36:2 139:19</p>	

[know - licensee]

26:21 37:4 43:19 49:12 50:5,15,25 51:12 53:13,16,16 53:18 54:1,7,13,23 54:24 55:18 56:1 56:7,12,14,22,24 56:25 57:1,5,6,8 57:11,13,18,20 58:17 60:3,12,14 60:18,19 61:6 62:17 68:5 69:5,8 69:20,25 70:21 71:12 72:2,20 73:8,13,15,16,20 73:22 74:2,4 75:1 75:10,15,21 76:12 76:23 77:17 82:13 82:17 86:11,14,16 87:9 90:2,9,15,19 90:24 92:1,21 94:19 95:8,17,18 95:25 96:16,17,19 96:23 97:6,9,14,17 97:22 98:1 100:18 100:19 101:12,16 103:10 107:2 108:7,20,21 109:6 109:10 111:5 112:25 114:2,5,19 114:21 119:21 121:11,15 122:3 122:23,24,25 123:3 126:7 127:10 128:6,13 128:17,20 129:15 129:18,18,20,24 130:4,6,9,10,14,15 130:18,19 131:17 131:21,24,25 132:2,7 134:6,8 135:7 136:8,16,21	136:22,23 137:3,5 137:10,12,17 138:14,17 140:24 141:4,5,8,9,12 142:2,5,15,17 143:7,8 144:4 146:16 147:2,13 148:3,6 149:4 150:6,12,24 151:21,23,25 152:20,23,24 157:21 158:5,6 159:22,25 160:3,8 160:8 162:3,6 164:2,9,15 171:8 172:14 173:23,24 187:2 188:23 189:8,22 190:6,7 190:10 192:14,17 192:20,21 193:3,5 194:10 195:17 197:16 198:16 knowledge 25:12 25:15,16 38:21 39:18,25 52:4,6,16 54:2 63:22 69:11 90:23 113:14,18 121:7 126:20 138:3 144:11,18 145:5 196:21 known 14:5,13 19:4 43:10	laid 47:4 lands 130:16 language 17:19 41:19 46:5 61:21 103:25 110:1,7,9 110:17 113:8,11 113:13 115:8,13 115:14,16,18 116:6,25 117:3 131:5 135:1 140:17,20,21 181:22 183:18 186:14,16 187:1 latest 22:21 law 3:6,15 4:7,17 5:9,16 10:24 14:2 14:10 16:16 17:10 26:2 28:16 36:6 40:16 44:18 45:6 51:6 52:23 89:7 89:18,21,23 104:12 111:16 117:24 121:17,22 122:1 131:13 165:20 175:6 177:17 178:12 185:16 law's 45:21 lawsuit 25:14 58:9 152:14 153:13 lawsuits 10:5,9 lawyers 148:16 153:15 lay 10:19 lays 47:14 leading 32:21 38:5 39:10 47:16 50:14 139:15,18 learn 196:18 leased 118:13,19	leaving 154:25 155:3 leda 3:14 left 110:14 legal 5:19 9:10 50:22 51:11 77:15 88:24 103:9 107:1 109:2,21 110:11 111:2,10,22 112:13,24 126:12 126:24 127:8 131:14 147:10 189:7,14 legend 62:18,22 legislated 115:14 legislation 105:3 legislature 41:11 letter 7:4 24:19,22 25:10 84:17 level 112:7 161:24 162:1,7,13 163:11 169:9 lewis 4:5 9:19 libraries 117:24 135:24 136:1,10 136:11,11,12 175:6,6,17,20 176:1,2 177:1,4,7 186:21 library 121:22 122:1 176:17 177:17 178:6,9,12 178:16,19 license 109:19 127:10 licensed 17:3 110:6 115:9 118:23 119:3,10 119:12 licensee 117:1
	I		
	lack 61:2,12 123:23 137:8,13 137:15 138:1,6 143:12,18 180:12 lacked 190:18 lacks 55:15 73:11 137:1 159:15		

[life - meetings]

life 29:25	122:10,11,14,14	m	34:4 49:8 57:24
light 59:11	122:17,21 123:1	macdonell 5:21	81:18 83:9 145:20
likewise 11:22	127:25 128:6,8,9	8:20	160:18 201:10,22
limit 12:17	128:11 140:18	machine 202:8	material 45:19
line 65:5 135:18	141:9 170:6	maeda 7:12 85:25	62:2 155:24
136:17 187:5	174:25 175:4	86:2 93:6	materials 1:4 2:4
lines 170:2 187:7	182:17,21,22	magazine 193:19	4:4 8:16 15:18
193:7	183:7,12 184:10	mail 193:18	17:14,15 20:2
link 52:21 54:19	184:15,17 185:14	maintain 122:1	21:24 199:6,13
54:25 55:6,12	188:11,13,19	maintains 121:23	matrix 64:6,8
58:5 61:10 67:19	195:14	makeup 47:3	matter 8:15 13:8
71:3,4,15 72:3	located 8:18	making 167:6	33:14 36:18
73:3 91:18,22	long 20:4 46:12	179:25 180:7,11	194:13
92:1,7 100:11,13	99:19 100:19	180:15	matters 10:15
101:23 102:20	110:21 144:1	malamud 88:5	maximum 108:18
134:3 173:15	149:11 161:18	152:24 153:10	mcgeorge 178:11
linked 33:15 39:6	longer 82:19	mall 2:21 8:18	mean 11:13 12:1
133:3 135:14	look 35:11 65:18	manager 146:5	16:22 24:2 26:17
links 54:22 60:21	69:6,20 83:8	151:19	26:22 29:8 31:1,3
60:25 61:6 72:8	86:18 154:23	mandate 131:14	32:19 37:4,5
89:21 123:6 133:6	155:5,7,21 156:16	march 7:11 94:17	49:11 93:18 95:17
179:17	156:22 157:21	margin 62:23	102:7 108:7,25
list 74:17 75:17	168:6 169:24	mark 24:8 33:1	120:12 123:3,17
135:20 176:17	170:2 172:4,17,18	34:17 57:21 83:4	124:17,19 128:9
177:1,22,23 178:1	175:9,10 176:5	107:9 141:19	150:8 155:12,15
178:5	177:21 178:4,11	marked 24:10,13	171:8
listed 38:13 67:6	180:18 185:5,13	33:3 34:18,21	meaning 50:13,18
75:4 135:24	looked 186:13	37:24 57:22,25	means 49:24 67:15
175:17,20 176:14	looking 19:2 44:25	74:6 83:6 85:10	110:18 124:24
187:22	61:7 131:3 156:25	85:12 107:11	182:20
lists 38:17 186:21	171:24 187:3	132:9,11,13	meant 182:8
little 82:19 161:5	looks 46:8 85:23	141:21,23 150:19	mechanical
162:18 168:7	139:14,15 155:16	150:20,22	124:14 133:23
173:10 184:23	162:20 169:25	marnell 151:19,21	134:13,17
live 10:17	178:15	151:23	meet 29:24 127:5
llp 3:4,13 4:5,14	los 3:18	marshal 30:1	meeting 18:6
7:5	lunch 99:2 102:17	106:16,17 128:21	19:24 21:24 45:14
load 126:16	103:13	129:16	46:2
local 49:15 52:23		marvelli 1:17 2:19	meetings 14:20
117:23,24 121:7		6:3 7:5,6 8:4,14	20:1,3,19
121:13,19 122:4		9:11 10:1,2 24:13	

[meets - national]

<p>meets 46:12 member 47:3 94:6 132:18 146:4 members 47:7 48:20 92:24 95:3 118:16 merit 17:25 20:1 met 30:3,7,8,10,12 46:18 95:5 104:10 104:13 131:18 160:23 167:3 method 134:25 135:3,6,10,14,16 173:19,20 methods 167:7 mia 1:17 2:19 6:3 7:4 8:4,14 9:10 10:1 201:10,22 michael 7:11 86:5 87:21 mike 85:25 93:6 millar 3:5 6:8,10 9:13,13 16:1,5,10 19:16 21:14 22:14 23:21 24:6,25 26:14 28:19 30:19 31:9 32:21 33:4,7 33:13,18 34:1 35:3 38:5 39:7,10 42:3,13,20 43:1,18 44:3 46:7 47:16 48:9 49:19 50:14 50:21 51:10 52:10 53:12 54:5 55:15 55:22 56:5,11 57:15 59:8 61:2 61:12 62:9 63:10 63:17 64:17 65:7 65:23 66:9 71:6 72:12,18 73:5,11 74:24 76:21 77:14</p>	<p>80:4,17,21,24 81:8 81:14,20 90:8 91:4,13 92:12 98:7,22 100:15,24 101:6,21 103:8 106:25 110:13,20 111:2,9 112:21 114:10,24 115:19 116:7 117:8,17 118:9,21 119:6,18 119:25 120:9,14 121:2 123:16,23 124:25 125:15 126:1,12,24 127:7 127:22 137:1,8,15 138:6,15 139:11 141:13,16 143:12 143:18 144:14 145:8 146:2 147:24 152:3,16 153:23 154:13,19 155:20 156:4,7,18 157:4,15 158:3,12 158:21 159:15 160:17,19 161:12 162:11,17 163:2 163:14,19,24 164:11,17,25 165:9,15,23 166:6 167:4,14 168:22 169:15 170:16 171:10,20 172:16 173:2,9 174:14,19 175:2 179:3,9,15 180:5 183:2,15,24 184:8,24 185:10 185:20 188:21 189:6,12,14 191:9 191:14 192:6,13 193:2 194:8,15 197:1,6,13,20,24</p>	<p>198:17,23 199:20 199:25 minimum 135:19 166:3 minor 113:4,15,20 113:24 114:3,7 minute 49:1 161:13 200:5 minutes 48:24 145:11 156:15 mischaracterizes 61:4 72:5 92:13 94:11 104:2 112:22 120:10 122:7 138:15 152:4 158:13 161:11 188:22 misspoke 129:2 misstates 54:6 64:17 74:24 mistake 101:1 mix 47:10 mobility 137:6,23 180:8 190:14 model 28:12,15 29:2 31:4,20 37:8 37:19 40:15 41:6 41:8,12,18,22,25 42:10,18 44:19 52:22 62:20,25 71:23 77:6 103:25 106:7 111:11,18 111:20 112:7 114:12 115:21 116:17,18 134:1 134:16 144:12,21 145:1 150:18 152:1,6 162:7 182:6 183:22,23 184:2 189:24 190:1 197:5,11</p>	<p>modelled 150:14 modified 33:10 149:6 moment 30:2 83:8 85:13 145:21 153:18 164:3 monday 1:19 2:23 8:1 money 173:18 monitor 127:20 monitoring 127:16 month 149:14,15 monthly 193:19 months 149:16,18 149:24 morgan 4:5 9:19 morganlewis.com 4:11 morning 8:8 9:23 9:24 10:2 move 81:25,25 86:1 173:10 mto.com 3:11,20 multiple 15:25 munger 3:4,13 9:14,17</p>
n			
<p>n.w. 3:7 name 9:25 15:21 53:16,19 124:3 127:13 147:14 151:18 160:18 202:20 named 44:10 58:8 58:9 names 14:8 national 1:6 2:6 3:3 7:24 9:15,17 41:8,12,18,22,24 42:10,18 43:10,13 43:15,22,25 44:8,9</p>			

[national - nfpa]

44:21 51:7 61:23 62:3 79:4 106:6 107:20 160:19 162:7,8,13,14 163:11 164:4,21 165:18,21 168:1,3 168:9,17 171:23 172:7,20 182:5 184:2 191:1,6 192:3,25 196:2,5 196:19 nature 15:16 96:7 152:11,12 156:11 ncb 7:17 142:2,5 142:10 near 178:11 nearman 7:12 85:25 86:5 87:22 93:6 nec 62:2 79:3 81:21 106:24 110:4,5 164:7 166:23,24 167:5,7 168:4 172:6,8,11 172:24 173:3,6,23 177:2 195:6 necessary 45:1,22 82:11 need 11:5,25 12:9 15:21 29:13 52:24 58:12,15 86:16 102:9 117:11,15 118:1,7 143:16 155:7 200:3,11 needed 40:25 143:10 needs 41:9 73:8 117:14,21 119:4 negotiate 111:7 negotiating 108:3	negotiation 107:24 108:7 149:7 negotiations 108:5 194:1,24 neither 202:16 nercessian 4:15 6:7,9,11 9:1,1,22 16:11,12 19:17 21:15,16 22:15 23:23 24:7,11 25:2,4 26:6,15,23 27:2,16 28:20 30:20 31:11,17 32:1,6,16,22 33:5 33:11,15,23 34:3,8 34:19 35:5 36:9 38:7,25 39:5,8,17 39:22,25 40:3,5 42:5,14,23 43:3,24 44:5,13 46:15 47:18 48:13,21 49:7,21 50:3,16 51:1,13,23 52:3,15 52:18 53:2,14 54:8 55:4,10,17,25 56:6,13,21 57:7,12 57:17,23 58:16,23 59:10,16,24 60:13 60:20 61:8,16 62:10,11,21 63:5,8 63:12,20 64:23 65:9,17 66:2,13 67:13,14 69:9 70:2,16,22 71:8,14 71:24 72:9,15,21 73:7,14,21 75:5,12 76:14,24 77:18 80:8,19 81:2,11,17 81:22,24 82:10,22 83:4,7 84:15 85:4 85:11 86:15 87:16	87:17 89:3 90:3 90:11,16 91:7,19 92:3,15 94:15 95:1,9,22 96:6,24 97:10,18 98:2,10 98:23 99:21 100:6 100:17 101:2,11 101:17,25 103:12 103:21 104:6 107:3,12 108:17 109:7,25 110:15 110:23 111:6,13 112:1,9,17 113:1 114:14 115:2,20 116:15,22 117:13 117:19 118:4,5,17 119:2,8,22 120:2 120:19 121:6,12 122:9 123:19 124:2 125:2,18 126:4,19 127:3,12 128:2 132:8,12 133:19 137:4,11 137:18 138:10,18 139:13 141:15,18 141:22 142:16,21 143:15,21 144:17 144:23 145:12,19 146:6 147:7 148:2 148:21 149:10,21 150:2,7,13,21 151:8 152:13,19 153:17 154:2,4,17 154:24 155:14,25 156:5,13,24 157:10,23 158:7 158:17 159:2,19 161:10 162:4,15 162:22 163:5,18 163:23 164:8,14 164:22 165:7,13	165:19 166:2 167:1,10 168:19 169:14 170:14 171:7,19 172:13 172:25 173:7,21 173:22 174:13,18 175:1 178:25 179:8,13 180:2 182:24 183:9,20 184:5,22 185:7,18 185:23 186:1,9 188:25 189:10,17 191:12,19 192:9 192:16,22 193:4 194:12,18 195:18 195:25 196:9,15 196:20 197:3,9,17 197:22 198:15,21 199:2,5 200:10 new 35:6 44:24 103:4 newsletter 194:23 nfpa 43:7,8,10 44:6,7 53:6,9 58:8 58:20 59:5,6,18,21 60:5,9,16,23 61:10 61:18 62:7,14 63:6 72:16,23 73:1 77:8,22 81:12 82:6,15 96:12 101:7 107:20 109:20 110:2,4 111:19 112:3,11,19 113:5 113:14 114:20 115:13,23 116:25 117:5,16 131:22 133:13,22 134:7 134:24 135:3,10 135:18 136:18,21 136:23 137:5,12
--	---	--	--

[nfpa - objection]

140:16,19 141:1,5 141:9 150:17 151:10,25 167:16 168:2,8,9,16,24 169:3 170:3,12,18 170:21,24 171:4 171:12,16 172:19 172:20,23 175:13 175:25 176:17,18 176:18 181:14 186:14 187:12,17 187:25 189:4 191:4 192:1,10 193:10,17,19,21 193:25 194:5,14 194:20,25 195:9 195:19 196:3 198:10 nfpa's 82:2,4 nfpa.org 58:6,17 58:25 59:3 100:14 nine 29:13,15,21 46:13,16 47:7 103:23 104:5,16 104:18 105:1,13 105:21 106:21 166:18 167:2 nodding 56:19 non 115:14 noncompetitive 142:8,10,13,22 143:17,24 144:5 nonexclusive 110:2 nonregulatory 113:25 nonresidential 198:9 nontransferrable 110:3	noon 103:18 nope 34:7 notary 8:22 notation 33:16 62:23 159:10 notations 153:21 154:10,25 155:3 155:17 157:1,12 158:1,9 note 35:11 115:15 noted 25:3 64:3 81:23 201:13 notice 18:5 45:21 195:14 noticed 45:20 notices 19:25 notify 91:17 november 99:11 number 17:12 31:19 34:15 74:14 82:3 83:18 93:11 145:2 179:5 numbered 62:17 176:6 numbering 114:6 nw 4:8	30:18,19 31:9,24 32:3,9,21 34:6 35:3 36:7 38:5,23 39:2,7,10 42:3,13 42:20 43:1,18 44:3,11 46:7 47:16,17 48:9,16 49:19,25 50:14,21 51:9,10,22 52:1 53:11,12 54:5 55:2,8,14,15,21,22 56:4,5,10,11 57:3 57:10,14 58:19,21 59:8,14,22 60:11 60:17 61:2,12 62:8,15 63:10,17 64:16,17 65:7,22 65:23 66:9 67:12 69:7,22 70:13,20 71:6,10,21 72:5,12 72:18 73:5,11,19 74:23,24 75:9 76:13,21 77:14 80:4,17 81:9,13,23 82:2,8 84:10 86:10 88:24 90:1 90:8,14 91:3,13,15 91:24 92:12 94:9 94:24 95:7,20 96:2,22 97:8,16,25 98:7,22 99:18 100:4,15,24 101:6 101:15,21 103:8 103:11 104:2 106:25 109:2,21 110:11,13,19,20 111:1,9,22 112:4 112:13,21,23 114:10,24 115:19 116:7,19 117:8,17 118:3,9,21 119:6	119:18,25 120:9 121:2,10 122:7 123:16,23 124:25 125:15,25 126:1 126:11,13,22 127:7,22 132:5 133:17 137:1,8,15 138:6 139:11 141:17 142:14,19 143:12,18 144:14 144:15,19 145:7,8 146:2 147:24 149:3,19,25 150:5 150:11 151:5 152:3,16 153:23 154:12,13,19 155:20 156:4,18 157:4,15 158:4,12 158:21 159:15 161:10 162:4,15 162:22 163:5,18 163:23 164:8,14 164:22 165:7,13 165:19 166:2 167:1,10 168:19 169:14 170:14 171:7,19 172:13 172:25 173:7,21 174:13,18 175:1 178:25 179:8,13 180:2 182:24 183:9,20 184:5,22 185:7,18 188:21 189:5,6,12,13 191:9,14 192:6,13 192:19 193:2 194:8,15 195:11 195:23 196:6,12 196:17 197:2,6,13 198:15,21
	o		
	oath 8:5 10:22 object 16:8 31:16 33:18,25 34:1 48:10 52:10 57:15 58:10 61:4 62:9 63:2,9 64:19 65:13,13 84:11 141:13 objecting 16:6 objection 16:1,5 19:16 21:14 22:14 23:21 24:6,25 25:2 26:5,14,20 27:1,13 28:19		

[obtain - paragraph]

<p>obtain 73:17 101:4 obviously 33:20 occupancies 41:17 42:1,17,24 182:1,5 182:15 198:9 occupant 126:16 occur 131:11 occurrence 189:22 occurs 139:9,12,19 139:22 october 84:7 99:11 offer 89:1 195:13 198:2,4,6 offers 56:25 57:2 office 5:7 9:7 15:17 24:18 42:6 45:20 53:1 57:1 84:5 86:4,19 89:7 89:17,21,23 128:20 129:15,24 145:24 165:1,5,11 165:24 182:9 195:17 official 88:14 89:8 officials 16:19,20 134:13 oh 15:7,11 20:25 94:16 120:14 129:2 140:11 okay 8:12 12:7 13:24 15:11 17:5 17:13,18 18:4 19:3 22:11,17 25:2 28:22 29:3,5 32:11 33:1 34:14 38:16 40:4,24 41:2 43:20 44:18 47:12 48:24,25 49:1,5 52:17,19 54:9 56:18 58:14 63:9 70:8 74:10</p>	<p>80:12,21 82:18 83:21 85:2 88:3 91:8 98:14 100:5 100:7 103:14,15 109:18 134:23 140:8,11 145:14 145:17 148:17 154:2 155:10 160:7,14 162:18 164:3 167:18 175:4 176:5,11,11 176:13 177:15 183:16 185:12 186:3,6,20 191:23 191:25 193:13 197:19,22 198:25 ola 89:6 olson 3:4,13 9:14 9:17 omit 115:18 ones 108:11 online 91:17,18 92:6 96:12 117:22 119:1,17,24 120:3 120:8,25 121:4,5,5 133:1,13,16,24,25 152:22 173:19,23 174:1,11,15 open 18:4 operator 8:12 49:1 49:5 82:24 83:1 103:15,19 145:15 145:17 160:11,14 186:3,6 199:22 200:12 opinion 24:22 25:5 25:7,9 opportunity 18:7 option 47:1 order 33:2 34:17 57:21 83:5 93:14</p>	<p>95:11 104:11 107:9 111:11 132:10 133:7 140:12 141:20 150:19 181:3 ordinances 49:15 182:16 183:6 organization 76:25 79:6,11 136:6 198:19 organizations 26:3 27:18,22 77:3,12 80:1,13 81:4,19 196:23 198:13 oriented 28:3 161:7,15 original 202:13 originate 146:15 originated 146:18 146:18 origins 40:11 oshpd 183:13 184:13 outline 139:5 output 22:12 outreach 198:2 outside 23:21 50:22 142:8,13 152:17 153:6 197:1,7,14 outstanding 74:13 overall 105:23 overlap 29:23 104:23 oversee 19:23 ow 166:15 owner 168:8 172:19 owns 58:18 168:2</p>	<p>p p.m. 2:22 8:2 package 30:14 46:3,14 page 6:6 7:3 34:24 34:24 35:1,12 37:13,24 38:13,17 40:6,25 61:10,20 61:21 62:16 64:1 64:3,3,5 74:6 82:4 85:18 87:14 93:4 93:13 95:11 107:21 109:10,16 114:25 115:3,16 116:24 133:3 134:21 138:21 140:10 151:12,13 153:20,21 154:1,6 154:10,15 155:1,4 155:18 156:22 157:12 158:9 159:5 167:25 169:25 171:25 172:4 175:10,22 176:15,25 177:7 178:4,8,14 181:2 181:21 182:1,18 186:12 pages 1:25 39:6 58:25 62:17 63:4 114:1,1 155:21 156:8 176:22 177:8,12 paid 45:10 pam 85:25 86:1 93:6 pamela 7:12 panic 106:16 paper 114:4,4 paragraph 74:11 74:15 93:9,15</p>
--	--	--	---

[paragraph - premium]

<p>99:10 113:2 167:25 168:7 170:1,2 172:5,18 172:19 175:11 181:25 186:18,19 187:5 paragraphs 168:16 parameters 105:3 part 25:8 28:16 31:4 32:13 33:22 33:24 34:11 36:17 36:20,23 43:4 47:5,12,19 48:15 70:10 85:9 89:13 93:17,18,20 105:19 106:3,8 115:12 121:17 131:12 134:15 143:3,10 154:7 158:18 167:5 180:25 181:6 182:4,13 183:3 189:19 190:12 participate 18:14 45:11 108:5 164:1 197:5,11 participation 163:21 particular 25:18 80:9 148:12 149:1 149:9 150:4 167:16 parties 139:4 parts 32:18 35:4 36:14 37:1,9 38:11,17 166:23 167:7 party 8:21 202:18 pass 132:9</p>	<p>passed 85:12 132:13 pause 16:7 49:1 pay 93:13 94:7,23 95:5 181:2 paying 189:4 payment 55:20 56:3,9 190:8 pays 197:10 pdf 33:11,15 99:13 99:23 100:21 101:4 102:2 pederson 1:22 2:23 202:25 penalty 201:11 pending 12:11 48:25 145:13 pennsylvania 4:8 people 17:20 92:5 94:22 95:4 173:11 195:15 performance 124:14 performed 20:9 performing 123:14 period 45:20 139:20,22,23 periodical 193:18 periods 14:20 perjury 201:11 permission 61:23 62:2 73:17 189:3 person 32:7 68:1,5 69:5,18 70:11,19 73:8 94:7 95:18 95:25 96:18,20 132:22 136:6 189:24,25 190:4,8 190:18,22</p>	<p>person's 95:15 personally 120:6 120:11,16 121:19 persons 90:25 91:11 147:12 pertain 36:17 pertains 202:12 petitions 47:25 phase 20:19 phone 93:10,11 180:24 piece 114:4 place 22:25 100:21 202:5 placed 139:10 places 72:11 95:15 178:22 179:5 plaintiff 3:3 4:3 44:10 58:9 plaintiffs 1:10 2:10 25:13 58:9 planning 129:25 play 16:13 19:12 19:15,18 21:11,18 22:1 127:16 146:9 played 146:25 plays 128:14 please 8:25 9:25 11:9,19,23 35:13 44:17 83:4,8 88:5 plumbing 133:23 134:12,18 point 11:8 25:9,23 29:13,15 46:13,16 90:13,17,21 103:23 104:5,16 104:18 105:1,13 105:21 106:21 133:7 156:1 166:18 167:2</p>	<p>pointing 113:10 points 37:7,19 90:9 96:10 poor 166:13 populations 179:23 portion 65:11 66:7 110:4 158:19 170:17 portions 61:22 62:1,6,13 65:5 115:8 133:1 position 23:15 positions 20:25 possible 55:11 68:9,12,16,21,23 69:13,17 118:18 118:25 119:1 127:13 132:19 165:4,8,10 possibly 46:20 77:22 78:23 155:21 posted 100:10 113:5,18 114:17 posting 113:6 potentially 185:17 185:19 pra 84:1 85:2 86:12,13,19 99:7 152:25 153:5,7 pras 153:4 pre 44:25 47:25 139:6 preliminaries 10:19 preliminary 99:1 premium 93:13 94:7,23 95:6,11 181:2</p>
--	--	--	---

[prep - publication]

<p>prep 7:6 prepare 12:24 13:10 prepared 20:18 21:24 prescribe 147:22 prescribed 29:25 prescribes 125:14 125:24 126:10 present 5:15 67:22 presented 18:6 46:1 preserving 141:16 pretty 81:15 139:7 previous 10:8 23:10 44:23 67:25 68:4 69:3 70:15 70:18,24 121:13 122:8 previously 12:5 36:1 71:25 93:5 106:21 107:4 115:3 128:9 price 140:19,23 141:1,6,10 principal 145:21 print 34:23 58:2 59:20 60:4,6 95:18 97:3,6 136:24 137:20 170:5 174:5,21,24 179:24 180:1 181:1 189:21 190:9 printed 32:20 53:1 133:2 printing 82:16 89:8 114:13 170:13 prior 84:2 104:13 131:11 142:7</p>	<p>151:1 202:7 privileges 120:8 121:1 probably 124:17 197:21 problem 184:25 problems 92:19 procedures 14:3 18:22 45:5 47:23 proceedings 202:4 202:6,8,14 process 13:22,25 13:25 14:5,16,17 19:13,19,24 22:8 22:12 47:15 63:21 75:7 78:24 102:10 116:9 142:3,6,12 142:17,23 143:3,9 143:11,17,24 144:6,9 161:21 162:3,10,19,20,25 163:4,7,10,16,21 164:1,13 169:6 196:22 198:7 199:11,12 processes 21:11,19 22:1,6,24 23:3 48:7 procurement 7:22 151:16 produce 87:4 produced 86:8 87:11 production 85:9 101:9 products 124:21 professional 118:23 119:3,13 professionals 119:11</p>	<p>profit 57:9,19 program 66:17 prohibit 103:5 promote 106:15 promotion 21:3,5 21:8 prompted 87:23 property 110:6 115:9 propose 76:6 108:9,12 163:9 194:5 proposed 17:21 29:10 40:14 45:11 45:17 104:22 105:2,18 106:1,11 106:15 158:25 159:7 194:14 protect 166:19 protecting 167:8 protection 1:6 2:6 3:3 7:24 9:15,18 26:1 44:8,9 62:3 107:20 160:19 168:2 protects 166:24 provide 16:24 17:14 45:13 66:6 67:16 89:8,24 114:22 143:22 195:19 196:4 199:7 provided 12:5 13:1 15:19 18:11 25:1 71:3,4,9 85:3 85:6 86:20 87:1 92:7 101:23 102:20 106:8 113:6,15 114:2 135:20 176:17</p>	<p>providers 152:2 provides 56:8 89:18 93:11 199:14 providing 103:6 provision 68:21 69:1,6,14,19,21 103:25 109:19 159:9 provisions 68:5 70:10 115:10 public 8:22 14:19 14:20 18:5,6,7,13 20:1,3,19 37:25 38:22 45:13,14 46:2,9 48:18 51:18,19 52:8 54:14 55:18 56:1 56:8 63:15 64:1 75:20 78:24 84:6 86:9 87:2,5,11 92:24 94:6 103:7 105:8,14,16,22 106:6 130:11 132:2 140:19 141:7,11 163:25 166:19 167:8 170:7 public.resource 25:13 86:9 87:2,5 152:21 153:3 public.resource. 153:1 public.resource.... 1:13 2:13 public.resource.... 8:17 9:3,5 publication 21:12 61:22 62:6 63:16 65:2 89:9 131:11 131:18 139:6,9,23</p>
--	---	---	--

[publications - receive]

<p>publications 7:21 publicly 21:25 52:25 publish 34:12 53:21,24 63:22 73:18 110:6 117:2 131:4 144:25 170:5 192:10,17 published 35:24 114:3 131:8 133:2 133:12,22,23 163:12 publisher 22:19 22:19 37:8 38:18 39:4,6 51:19 52:9 53:3,5,6,17 54:3 54:10 57:9,19 70:19 71:23 72:2 72:11 77:6 91:17 92:1,4,8 93:22 94:7 102:24 116:12,12 134:13 173:16 191:15 publisher's 38:4 72:8 73:10 101:23 102:21 117:23 publishers 38:8 103:4 107:6 108:24 123:7 168:13 publishes 39:19 116:12 184:18 191:4,15 192:1 publishing 38:12 170:13 purchase 37:25 38:2 96:13 117:10 117:15 118:15,25 119:16,24 120:6 120:16,20,24</p>	<p>purchased 120:7 121:4 purchasing 54:15 96:17,19 purely 192:11 purports 94:10 purpose 18:23 196:16 pursuant 85:6 111:15 put 26:3 33:20 91:18 101:23 195:14 puts 45:19</p>	<p>questioning 16:7 questions 10:21 12:21 56:17 64:20 82:1 83:19 99:1 138:19 160:4,21 168:13 173:25 179:21 180:4 182:11 185:21,22 186:10 197:18,21 197:25 199:1,21 quick 145:10,11 quite 108:16 143:25 quote 141:2</p>	<p>88:14 93:10 99:10 113:3 138:22 151:11 154:6 157:12 159:10 168:1 173:1 175:12 182:4 realize 12:4 realized 100:9 really 149:6 184:19 realtime 8:9 reason 12:20 18:23 29:12 45:25 46:18 61:9 68:24 69:1 86:7 115:24 118:6 133:20 154:25 198:12,18 reasonable 105:22 reasons 17:16 18:17 45:24 46:10 63:19,25 67:21,23 68:22 69:15 recall 51:20 70:25 87:25 88:8,11 92:21,23,25 93:7 94:19 99:20 100:3 103:25 104:4 107:6,24 108:16 110:22 113:17 133:8,14,18 135:5 135:9 143:14,20 143:25 145:3 146:21 148:11 149:11,13,17,23 150:1 151:2 179:17 187:15,16 187:24 188:1 191:1 194:13,17 194:19,24 196:23 receive 14:18 74:1 96:18 101:8 120:7</p>	
	q	r		
	<p>quality 166:1,13 quantities 175:18 question 11:9,12 11:19,22,25 12:11 22:4,16 23:24 26:10,16 27:5,20 30:21 31:10 32:5 32:12 48:12,25 55:3,24 64:21,25 65:16 68:6,15 69:25 70:1,4 71:12 78:13 80:7 80:11,16 81:3,15 91:6 96:4 102:16 108:1 112:16 116:3 124:1 125:1 125:16 126:3,5 127:1 144:16 145:10,12 147:5 148:1,18 154:16 154:17 155:8 157:9 160:22 166:16 183:1 185:9 191:24 193:11 199:3</p>	<p>rachel 3:5 9:13 160:18 rachel.miller 3:11 raised 191:1 rationale 18:22 read 13:1 25:5,7,8 26:24 35:12 38:14 40:22,25 41:1,17 88:10 91:1,11 109:23 113:7,11 113:19 134:3 139:21,24 148:7 151:18 168:23 169:2 170:12,17 170:20,21,24 174:15,21 175:25 180:23 182:14 192:23 201:11 reader 62:12,19 64:9,14 65:10,20 66:1,6 67:9,16 reading 31:21 131:22 139:14 140:24 reads 37:14 40:9 64:5 66:19 85:18</p>		

[received - requests]

<p>received 21:3 25:8 25:10 84:4 91:16 92:18 93:10 94:6 94:21 121:1 132:17,19 137:21 179:25 180:7,11 180:15,24 receives 73:23 111:20 receiving 78:22 84:3 95:4 recess 49:4 83:1 103:18 145:16 160:13 186:5 recognize 24:13 34:22 58:1 83:9 83:23 87:18 99:3 106:23 107:14 132:14 141:24 153:22 154:11,18 156:14 158:18,19 158:24 recognizes 154:16 recommend 30:5 recommendation 45:13,15 record 8:13 9:25 11:4 16:4 49:1,6 80:23 82:22,24 83:1 103:16,19 145:15,18 160:10 160:11,15 168:15 185:24 186:2,3,7 199:22 200:12,14 202:7,11 records 84:6 86:9 87:2,5,11 red 193:7 refer 31:22 32:8 61:20 64:2 66:21 74:5 93:4 102:21</p>	<p>reference 28:2,4,7 28:11,18,25 29:7 30:5,16,23,24 31:3 31:8,12,15,20,23 32:8,14,18 50:7,12 50:19 51:3,6,7 52:23 65:11,11 71:23 93:17 115:10 122:12 161:14,19 162:8 referenced 28:12 31:19 49:20 50:1 50:10 references 51:6 referencing 31:8 31:13 referred 17:13 18:16 28:4 41:15 46:17,21 93:25 110:5 115:1 188:11 189:24 referring 29:16 39:13,14,15 40:2 51:18 52:9 122:6 135:8 177:10 refers 181:6,12 reflect 64:13 67:3 reflected 59:12 60:25 61:10 88:8 reflects 65:4 109:19 166:24 refrigerating 1:8 2:8 regarding 88:14 135:10 147:4,9,18 153:2 186:11 195:20 199:7 regards 153:4 register 72:16,23 registry 45:21</p>	<p>regulate 166:13 regulated 184:15 regulations 14:12 14:14 22:17 89:9 89:10,14,16,19,25 90:5,7,13,21 154:7 158:25 175:16 185:6 regulatory 35:8 relate 23:3 related 8:21 21:11 21:19 22:2,6 175:16 190:23 198:4,11,13 relationship 19:8 relative 202:17 relevant 66:7 69:6 69:19 88:22 relies 161:16 165:17 rely 46:10 144:12 164:4 165:21 166:12,13 relying 167:5 remember 19:1 21:2 48:5 161:8 167:19 174:2 177:19 182:2,10 191:3 removed 100:10 renew 158:3 repeat 27:20 31:10 55:3,23 68:15 78:13 91:5 105:10 157:8 182:25 rephrase 11:10 16:11 21:15 27:6 28:21 48:14 56:7 62:10 67:13 70:7 91:8 108:2 116:4 118:4 122:10</p>	<p>185:11 191:22 replaced 100:13 report 94:17 reported 1:21 reporter 2:24 8:8 8:24 11:1 199:23 200:2,8 202:2 reporter's 11:16 reports 94:21 95:4 repository 175:6 represent 16:20 34:14 82:5 160:19 representation 12:16 13:12 representative 10:11 17:2 193:22 representatives 193:10,17 194:20 representing 9:2,5 9:7,10 represents 16:18 65:1 66:11,16 reprinted 32:14 32:18 reproduce 82:12 82:14 reproduced 61:22 62:2 request 84:1,6,9 85:6 86:9,13 87:2 87:5,11 99:7 137:21 152:25 189:18 190:11,16 190:17,21 requested 128:24 138:2 202:15 requesting 189:25 190:4,8,18,22 requests 153:5,7 179:25 180:6,10 180:14</p>
---	---	---	--

[require - says]

<p>require 88:23 124:23 required 16:17 28:13,14 40:16 48:3 94:7 165:20 175:25 176:19 177:3 190:8 requirement 125:7 176:21 183:18,22,23 requirements 16:15 65:19 125:3 127:6 170:4 requires 44:18 89:6 95:11 105:8 105:14 research 13:4,7 77:16,23 researched 75:21 resellers 136:18 reside 46:24 residences 42:2 residential 93:20 93:21,23 95:12,16 95:19 96:1,21,25 97:4,7,12,15,20,23 98:4,6,13,19 resource 164:12 respect 18:1 24:19 24:24 28:24 53:7 53:9 70:9 71:18 73:16,23 77:11 85:1 98:5,13,18 112:11 124:22,24 125:4 129:12 130:17 134:16 142:23 169:21 171:1 195:9,20 196:1,4 199:14 respond 45:23</p>	<p>responded 85:2 86:12,19 respondent 10:10 response 84:22 86:8 87:1,4,11 88:4 175:15 responses 11:5 responsibilities 19:21 21:7 responsible 14:15 38:12 169:20 170:12,18 responsive 85:3 rest 110:14 135:13 restate 80:10 191:24 restriction 95:17 restrictions 54:24 55:5,11 72:10 95:15 return 111:20 145:20 153:18 reveal 84:25 108:13 revenue 73:23 74:1 review 13:2 17:25 45:11 78:24 84:13 84:19 85:5,14 87:10 111:4,17 119:24 121:4 152:11 154:14 180:25 202:14 reviewed 20:18 21:23 26:19,22 27:11 45:4 108:8 115:4 119:13 147:10 reviewing 82:6 108:4 118:20 119:23 145:25</p>	<p>reviews 14:21 20:2 revision 22:25 revisions 110:5 right 17:17 19:1 20:4 24:12 34:4 34:20 39:24 40:6 52:13 56:22 62:18 63:13 69:10 70:7 75:19,24 81:25 98:18 99:3 103:12 107:4 120:15 134:24 135:17 139:25 140:12 155:22 157:7 166:20 167:9,22 168:18 169:17,22 170:9 172:24 174:8,16 176:20 177:4 178:24 181:7,10,12,23 182:23 183:7 184:3,10,21 185:16 186:10 192:12 195:8 199:19 rmr 1:23 role 16:13 17:5 19:12,15,18 20:5 20:20 21:4,10,10 21:17,18 22:1 26:11,19,25 53:9 86:1 108:2 127:16 128:14 145:25 146:9,25 171:22 roles 20:9,12 23:10 145:21 room 131:23 rose 3:14 9:16 rose.ehler 3:20 rough 139:5 200:6 200:9,10</p>	<p>roughly 20:7 roughs 200:2 round 186:13 188:10 190:25 row 66:24 rulemaking 14:5 14:18 15:17 17:13 17:15 19:13 20:18 22:24 45:2 46:1,3 47:15 48:2 63:21 rulemakings 14:22,24 15:19 rules 47:14 48:6 68:11,14,18 69:2 184:19 185:1,15 runs 58:18</p> <hr/> <p style="text-align: center;">s</p> <hr/> <p>s 4:13 sacramento 1:18 2:21 5:11 7:16 8:1 8:19 132:18 177:24 178:2,7,10 178:13,17,20,22 safety 14:2 17:11 29:20,25 66:16 106:16 123:12,21 124:9,12,20 130:3 166:9,14,19,25 167:8 sale 117:2,6 170:6 san 4:20 saw 145:24 saying 41:3 52:12 161:8 175:24 says 11:17 40:7 41:21,24 52:23 62:18 74:25 88:4 131:3 133:1,21 135:18 136:17 139:21 151:19 168:4,8,10,21</p>
--	---	---	---

[says - sorry]

170:3 172:19 182:14 school 129:3,7,12 178:12 schools 42:8 182:9 scope 23:22 50:22 152:17 172:5 195:12,23 196:6 197:1,7,14 199:3 scratch 165:6,12 screen 82:5 181:1 screenshots 59:12 63:5 82:3,11,16 search 60:14 95:25 96:20 97:11 97:14 searchable 99:13 99:23 100:21 101:4,8 102:1 sec 82:23 second 37:13 58:11 61:20,21 66:24 99:9 140:9 159:4 167:24 172:4 177:25 178:9 182:13 183:3 section 17:12 37:24 38:2 88:18 88:22 89:6 102:12 109:13,15 113:2 113:11 115:7 116:10,17,23 123:9 131:1 134:20,24 136:17 140:14 158:23,25 159:3,6 168:7 sections 64:11 67:6 115:9 see 17:20,21 33:17 41:19 59:12 61:24	62:4 64:6,9 66:19 72:16,23 74:11,15 75:21 82:5 85:17 88:6,14,20 93:9,14 99:9,14 104:20 109:15 110:7,8 113:7,13 115:8,16 117:3 125:22 131:5 133:4 135:1 135:21 136:9,12 136:19,20 138:21 138:23 139:16 140:20,21 146:12 152:11 154:8,9 156:21 157:25 158:8,25 159:6 168:23 169:25 175:10,22 181:3,5 182:6,18 186:16 186:25 187:10 193:6 seeing 119:17 143:6 seek 76:9 84:9 seeking 67:16 68:5 69:18 70:11 78:5 90:25 91:11 92:6 94:22 95:4 189:3 seen 58:2 84:2 85:14,16 150:25 151:6 selected 47:7 63:7 63:8 176:1 187:8 selective 136:11 175:19 177:1 sell 160:2 sense 12:12 sent 24:17 86:13 sentence 88:2 94:1 99:10,15,17 110:14 113:3	131:3 133:1 168:1 170:17 172:21 175:12,25 180:23 182:4,14 183:3 separate 18:10 32:8 103:1 separately 63:15 63:23 144:25 series 10:20 85:21 serve 20:20 47:9 53:9 served 20:4 83:13 service 71:19 129:4,8,13 188:15 services 5:18 7:18 7:22 9:10 19:10 23:17,19 35:19 107:19 118:11,15 119:16 120:23 143:23 146:5 151:16 set 170:5,8 175:18 184:25 202:5 sets 22:8 131:9 seven 134:21,22 134:23,23 178:21 sheet 7:17 33:21 33:24 sheets 33:20 175:17 short 96:17,19 shorthand 2:24 202:1,9 show 24:8 85:8 115:13 143:16 showing 191:7 192:4 shown 115:12 116:10 side 139:25 159:9 171:21	sight 137:14 138:1 180:12 190:19 signature 107:22 151:13,17 172:1 202:24 signed 145:23 172:1,22 173:4 significant 123:12 123:20 124:3 signing 151:18 similar 143:2 146:16 151:3 152:10,11,12 156:11 158:6 190:17,21 similarly 38:3 96:11 simply 81:17 simultaneously 21:1 single 145:6 site 35:2 72:4,17 72:24 situations 91:20 92:16 six 149:24 170:1 187:7,8 188:6 sixth 178:15,15 skim 156:6,15 slate 98:16 society 1:4,7 2:4,7 4:3 8:15 sole 168:8 172:19 solely 110:6 somebody 31:21 173:12 174:20 179:5 sorry 15:1,5 26:10 27:20 43:20 46:23 55:23 56:18,20 58:14 68:6,15
--	--	---	--

[sorry - state]

78:14 88:21 91:6 91:25 100:5 104:12 105:10,12 109:5 114:1 115:17 120:12 123:25 125:17 126:3 129:2 140:11 157:8 160:7 166:16 172:18 176:8 181:19 182:25 183:1 184:23 186:23 187:6,10 sort 149:5 195:4 sought 76:19 78:1 sound 172:24 184:21 sounds 104:25 sources 40:12 43:6 78:25 south 3:16 speak 119:10,11 121:16 183:11 speaking 184:11 special 113:4,15 113:19 specific 18:21 27:8 47:3 64:11 80:9 100:2 102:12 116:10,17 142:12 149:6 170:3 185:1 193:22 specifically 19:1 19:24 75:22 179:19 184:11 194:11 198:6 specifications 106:6 specifics 27:15 32:15 99:20 148:6	specifies 140:23 speculate 126:17 159:22 164:16 speculation 55:14 57:4 58:21 62:8 65:24 67:12 69:7 69:23 70:13,20 71:21 72:19 75:9 76:13,22 82:8 84:12 86:10 90:14 91:3,14 95:20 96:2,22 97:8,16,25 99:18 100:25 101:15 116:19 118:3,22 119:7,19 121:10 125:25 126:11,22 127:8 132:6 133:17 137:2 142:14 144:15,19 146:3 149:19,25 162:5 163:6 192:7,19 197:15 spoke 18:3 29:2 78:21 116:8 169:6 169:21 174:25 175:4 spoken 12:14 153:12 160:25 193:21 spring 20:15 sprinkler 125:10 sprinklers 125:11 ss 66:11,16 stack 167:17 180:21 staff 7:16 13:23 19:23 20:2 45:3 47:2 85:23,24 87:8 92:22 100:9 101:1,9 118:16	132:18 146:4,5 147:13 153:5 165:2,5 stages 14:16 stand 35:21 44:7 standalone 192:18 standard 7:13 22:13 26:3 27:8 27:17,21 30:5,16 31:7,8,13,13,20 32:8,14,18 41:7 44:6 65:11 107:17 149:5 standards 5:3 7:24 9:8,11 13:17,19,22 14:1,9 16:16 17:10 19:3,9 23:8 24:4 26:1,3,7,9,11 26:13,19,24,25 27:9,10,11,12,19 27:23,25 28:2,4,7 28:8,11,16,17,23 29:6,18 30:4,24 31:22 35:22 36:5 37:3,10 38:22 39:16,21,23 40:8 40:10,11,13 41:4,6 41:11 45:3,6,18 47:2 51:7,17,18 52:20,23 54:19 63:13,24 67:16 73:25 75:18 84:22 99:12,22 100:20 101:3,19 102:14 102:24 104:10,12 104:22,24 105:2,9 105:15,18,24 106:2,6,11,15 107:5,19 111:16 117:9 121:17 127:15 130:24	131:12 133:2 142:25 144:8,13 151:17 158:24 159:7,17 161:3,4,7 161:15,19,22 162:9 164:6 165:25 166:1,4,8,8 183:14 189:20 190:13 193:21 196:23 198:1,5,8 199:11 stands 35:18 142:10 start 11:22 116:18 161:5 starting 98:16 starts 74:7 187:7 state 5:5,17 7:13 9:25 10:12 13:21 14:19 15:23 17:22 18:25,25 19:15,18 21:23 23:13,25 29:17,18 30:1 35:16 38:20 39:13 39:14,18,20 40:15 40:23 41:5 44:18 44:18,22 45:10,14 45:15,16,23 46:11 48:1,7,19 51:14 52:4,6,11,12,17,18 52:22 63:22 64:10 66:15 68:9,12,16 69:11,15 73:22 74:3,14,20 75:1,6 75:15,17 76:17 77:24 78:4,22 79:17,21 89:5,9 103:23 104:9,15 106:16,17 109:8 111:17 115:15 116:9,16 117:2,6
---	--	--	--

[state - takes]

117:11,14,20 118:1,6,13,19 127:23 128:14,16 128:20,23 129:1,3 129:6,11,15,21,22 130:15,19 134:1 134:18 138:3,9,12 140:18 141:6 144:11 148:13 149:2 159:23 160:1 166:4,9,14 167:8 169:9,16 170:6 175:21 176:3 182:16,22 183:4,6,11,16 184:1,15 185:5,13 186:15,24 187:2,9 187:11,15,16,22 187:24 188:1 195:3 201:18 202:2 state's 123:13,21 124:4 stated 102:19 121:13 191:16 statement 17:16 18:16 40:18 45:24 45:25 46:10 63:18 63:25 67:21,23 68:22 69:2,15 120:4,18 122:13 122:16 123:11,15 133:21 135:13 140:22 191:11 statements 18:20 18:24 states 1:1 2:1 74:12 89:2 110:2 115:8 116:25 134:24 140:16 179:2	statewide 129:24 stating 61:21 86:13 stats 161:14 steps 116:4 123:1 137:19,22 store 37:5 street 3:7 4:18 5:10 strength 124:15 strike 16:23 31:1 34:16 38:1 41:23 43:14 48:1 51:3 51:15 52:5 53:8 64:4 66:4 67:8 68:2,7,11,25 69:11 69:12 70:17 73:15 74:18,19 76:16 77:2 78:8,9 84:16 86:22,24 92:17 93:1,3 94:4,16,20 95:2 96:16,18 98:12,14 108:11 115:12,14 120:3 125:19,21 130:24 131:16 132:1 133:10 141:4 144:9 154:2 155:1 155:16 190:16 196:2 strikeout 17:19 116:11 191:17,20 191:21 strikeouts 191:7 191:20 192:4,25 structural 66:16 124:14 study 15:1,3,9 sub 66:25 67:1 subdivision 122:18	subdomain 35:18 subject 13:8 36:18 41:18 182:5,15,21 183:5,5,10,12 194:13 sublicense 110:3 submittal 48:2 submitted 45:2 48:3 152:25,25 subpoena 7:9 23:22 24:20 50:23 83:15 84:3 86:21 86:23,25 152:17 subscribed 202:20 substance 148:22 194:2 substantive 148:10 successfully 144:6 suggest 172:22 suggests 156:14 suite 2:21 summarize 169:8 supplement 35:9 113:15,19,25 192:18 supplements 110:4 113:4 175:15,15 supplied 19:25 supplies 15:17 59:6 support 13:23 suppose 27:14 supposed 157:6 166:19 sure 16:22 17:2 22:4 35:14 48:11 65:15 82:24 98:8 112:15 120:5 146:18 155:8	157:6 166:15,17 171:11 172:17 183:3 185:11 197:16 suren 93:10 180:24 swears 8:24 switch 145:5 switching 186:2 sworn 9:21 202:7 systems 16:21 <hr/> <p style="text-align: center;">t</p> <hr/> table 64:8 65:1,18 65:21 66:3,5,10 tables 64:6,13 115:10 take 11:13 12:1 14:23 15:2 18:1 22:9 28:24 29:1 29:11,13 46:13 48:23 82:20 83:8 84:22 85:13 102:17 104:14 116:5 123:1 128:18 130:4 145:11 154:23 156:6,15 176:5 180:18 183:22 200:9,10 taken 2:20 10:3 22:25 26:18 48:4 94:12 98:4 103:18 137:19,22 138:4 138:12 179:22 202:4 takes 14:22 22:12 46:3 128:21 129:11,16,25 130:7,11,16,20 171:1
---	---	---	--

[talk - triennial]

<p>talk 11:17,18 18:24 104:19 161:4 162:2,2,18 167:15 171:21 talked 41:9 161:2 166:7 180:19,20 181:25 talking 15:6 80:18 80:25 81:16 128:25 162:13 167:19 173:10 182:2 talks 139:4 team 95:4 technical 17:25 45:9,11 47:10 163:16 technician 86:4 tell 11:23 27:15 114:19 139:8 148:12 154:15 156:10 162:3 163:3 173:14 176:14,25 177:8 188:16 tells 62:19 114:5 ten 13:23 15:13 16:16 18:9 156:15 188:8 tend 161:18 term 47:9 49:8,11 49:13,18,23 50:6,9 175:12 187:3 terminology 76:5 terms 17:16,18,24 18:2,4,10 45:25 73:9 129:19 145:22 146:1 147:1,4,9,18 148:10,13 149:1 150:4,9 151:3</p>	<p>testified 8:6 36:1 47:19 51:16 70:23 71:25 testify 7:9 83:15 testifying 202:7 testimony 10:14 10:17,22 12:15,17 13:11 51:20 54:6 61:5 64:18 70:25 72:6 92:13 93:1,3 104:3 112:22 121:13 122:8 129:5 138:16 150:14 152:4 161:6,11 188:22 201:14 202:11 testing 1:4 2:4 4:3 8:16 tests 97:19 text 38:21 52:7 55:19 56:2,8 60:8 60:15 61:17 62:4 71:16,18 72:4,7,11 92:5 97:22 101:13 101:19 102:1 103:6 115:15 174:5 192:10 thank 15:11 16:10 35:15 109:4 198:24 199:17 thanks 22:17 161:2 thing 25:6 109:24 156:25 157:11 169:8 things 122:13 171:22 think 17:17 27:24 30:2 41:14 70:5 80:6 81:14 94:12 104:7 106:19,22</p>	<p>114:16 123:25 124:18 161:13 165:1,4,10 166:7 166:17,23 198:18 third 40:6,21 109:16 178:5 thirteen 36:16 thought 128:24 187:20 thousand 82:16 155:21 156:8 three 20:6 35:7 40:10,18 41:4,14 47:9 109:12 181:21 182:1 187:8 188:4 time 11:25 12:9 18:7 21:2,3 86:3 99:19 100:19 108:16 110:21 123:10,13 124:18 132:22 133:13,16 144:24 152:10 156:6 172:22 173:4 202:5 timeframe 152:7 timeline 138:23 139:2,15 timetable 170:5 timing 48:1,2 139:5,5 title 14:6,7,7,10,10 14:12 19:19 35:4 35:6,23 36:15 37:15,18 41:19,21 41:22,25 42:11,18 43:5 47:6,12,20 48:15 89:11,13,15 89:20,22 90:4 93:18 115:12 134:15 154:7</p>	<p>155:1,3 182:6 titles 14:14 89:24 90:6,12,17,20 today 10:20,22 12:15,18,22 61:7 151:1 160:23,25 161:2 168:12 169:6 173:25 177:16 180:19,20 today's 12:24 83:15 tolles 3:4,13 9:14 9:17 tonight 200:8 top 48:5 62:17 64:4,5 65:4 108:20 111:5 114:21 121:16,25 151:11 172:4,17 175:11 184:18 track 116:6 training 195:1,2,4 195:5,14,16 196:4 196:8,14 198:19 199:9 trainings 195:8,20 196:1,11 198:4,6 198:11,13 199:7 transcribed 202:9 transcript 201:12 202:10,13,15 treated 90:5 tried 61:17 93:11 97:3,11,19 174:4 180:25 triennial 36:14 37:2,14 47:1 80:9 81:5 99:14 111:8 111:18,21 139:2 142:24</p>
---	---	---	---

[triennially - viewing]

<p>triennially 35:7 true 51:24 119:9 201:15 202:10 try 11:10,17,18 169:8 trying 27:7,24 70:6,9 tsc 1:7 2:7 turn 167:17,24 178:3,8 181:20,21 twenty 188:9 two 25:20 40:16 40:20 46:25 47:8 66:18 67:1,4 88:10 103:3 111:12,14 113:2 131:3 149:16,18 158:9 160:22 176:22 186:17 187:8 type 16:24 types 16:16 40:10 122:6 124:23 193:16</p>	<p>unauthorized 33:19 underline 17:20 underneath 151:15 178:18 undersigned 202:1 understand 10:21 11:1,5,8,20 12:1 15:11 22:4,5 27:6 27:7,24 28:1 30:21 31:23 32:12 41:3 43:21 50:11 50:17 53:21 64:24 65:10 71:12 76:4 85:9 93:18 110:9 115:24 152:14 156:9 understanding 40:23 49:22 50:9 50:18 51:2,5 65:16 70:5 79:10 79:14 89:17 110:17,24 111:19 112:2,6,10,18 163:3,15,20,25 172:8 189:1,11 understood 11:14 11:14 76:8 unfair 81:15 105:19 uniform 134:17,17 unit 148:20 149:8 united 1:1 2:1 universe 86:24,25 unnecessarily 106:2 unreasonable 105:18 url 35:12,13 58:5 100:14</p>	<p>use 14:3 50:4 63:2 102:5 110:3 111:11,14,16,20 117:11,14,21 118:1,7,12,14,16 119:1 134:14 166:5 199:6 useful 88:6,9 user 37:25 38:3 82:5 114:2,5 uses 161:3 utilize 14:1 23:15 23:19 112:6 utilized 188:15 utilizing 23:13</p> <p style="text-align: center;">v</p> <p>vague 19:16 53:12 55:22 56:5,11 65:7 80:5,17 81:9 81:13,15 91:4 98:7,22 106:2 111:1 118:9 121:2 123:16 139:11 141:14,17 149:3 150:5,11 151:5 161:24 162:1 163:5 166:16 184:23 vaguely 142:4 variety 18:24 193:20 various 14:18 107:6 127:23 161:19 162:25 169:9 verbal 11:6 56:17 verify 121:20 155:23 veritext 8:21 version 37:6,18 43:13,15,16,25</p>	<p>44:1 46:6 53:1 60:21 71:19 77:13 78:11,16,25 79:7 79:12,19,23 80:2 80:10,14 81:5,5 100:9 101:8 102:2 111:21 121:4 122:1 172:5 versions 33:8 122:5 versus 8:16 vertically 62:23 159:10 vet 45:1 vetting 162:8 viana 5:16 9:9 video 8:12 49:1,5 82:24 83:1 103:15 103:19 145:15,17 160:11,14 186:3,6 199:22 200:12 videographer 5:21 8:20 videotaped 1:17 2:19 view 93:12,14 94:8 95:6,11 96:9,12,15 98:11,20 123:5 165:24 173:12,16 173:18 174:10 177:18 178:22 179:6 181:3 viewable 39:3 123:4 viewed 21:25 96:25 174:1 viewer 59:6,18,21 60:5,7,9,16,23 61:10,18 63:6 viewing 59:6 98:3</p>
u			
<p>u.s. 24:23 uh 15:12,15 18:18 31:6 37:16 40:19 46:23 47:22 48:23 56:15 67:2 88:19 88:21 89:12 91:9 93:16 102:18 115:17 123:8 131:2 132:16 139:17 140:15 151:14 167:18 180:22 199:18 ultimately 14:20 46:5 169:20 unable 179:11</p>			

[violate - witness]

<p>violate 29:25 volume 1:20 2:20 6:4 159:5 volumes 145:6 voss 151:19,21,23 voted 163:11 vs 1:12 2:12</p>	<p>ways 124:24 173:11,14 we've 89:11 91:16 137:21 138:2 144:21 161:2 web 34:23,24 35:1 37:24 38:13,17 40:25 58:25 61:10 63:25 95:10 132:22 133:3 website 35:15 37:3 37:6,11,18 38:3 39:3 41:21,24 52:21 54:15,17,17 54:19,20,22,25 55:6,7,12,13 60:21 60:25 67:20 70:15 70:24 71:2,3,4,15 71:19,22 72:3,8,8 73:1,1,3,10 82:4,7 82:16 89:22 90:10 90:10,13,18,22 92:7 93:12 95:14 95:19 96:1,10,21 97:1,4,7,12,15,20 97:24 98:4,6,14,19 99:13,24 100:8,10 100:23 101:14,20 101:23,24 102:21 103:7 113:6,7,19 114:18,20,20,21 114:22 117:22,23 123:4 134:1,2,7 135:14 139:4 173:15 181:1,22 websites 38:4 123:7 weeks 24:17 83:13 weighed 46:12 went 40:24 106:20</p>	<p>west 4:14 7:5 9:2,5 wet 162:2 whereof 202:19 wholesale 136:18 wide 125:13 width 125:8,23 126:9 wish 152:18 witness 5:4 6:2 8:24 9:7,21 16:2,9 26:21 27:14 31:10 31:25 32:4,11,13 34:7 35:4 36:8 38:6,24 39:3,11 42:4,21 43:2,20,22 44:4,12 46:8 48:11,17 49:20 50:1,15,24 51:12 52:2,20 53:13 54:7 55:3,9,23 56:12,18,20 57:5 57:11,16 58:14,20 58:22 59:9,15,23 60:12,18 61:6,14 62:16 63:18 65:8 65:15,25 66:10 69:8,24 70:14,21 71:11,22 72:7,14 72:20 73:13,20 75:1,10 76:23 77:16 80:6 81:10 82:9,19 84:13 85:2 86:11 89:1 90:2,9,15 91:5,16 91:25 92:14 94:12 94:25 95:8,21 96:3,23 97:9,17 98:1,8 99:19 100:5,16 101:1,7 101:16,22 103:10 103:14 104:4</p>	<p>107:2 108:15 109:4,23 110:21 111:4,11,24 112:5 112:15,25 114:11 114:25 116:8,20 117:9,18 118:10 118:23 119:20 120:1,11,16 121:3 121:11 123:17,25 125:1,16 126:2,14 127:1,9,23 132:7 133:18 137:3,10 137:17 138:8,17 139:12 142:15,20 143:14,20 144:16 144:20 145:9,14 146:4 147:6,25 148:17,19 149:4 149:20 150:1,6,12 151:6 152:5,18 153:16 154:21 155:10,12,23 156:9,19 157:8,19 158:5,14,23 159:17 162:6,16 162:23 163:7 164:9,15,23 165:8 165:14,20 166:3 167:2,11 168:20 170:15 171:8 172:14 173:1,8 179:1,14 180:3 182:25 183:10,21 184:6,23 185:8,19 188:23 189:8,16 191:10,15 192:8 192:14,20 193:3 194:10,17 195:13 196:8,13,18 197:8 197:16 198:16,22 202:19</p>
w			
<p>wait 11:19 139:23 want 8:9 39:12 52:14 86:18 88:1 88:12 96:13,15 113:2 115:6 116:23,24 123:9 130:25 132:25 134:19,20 140:6 140:13 151:12 154:5 156:9 159:22 160:10,20 162:2 164:15 167:15 168:15 171:21 173:10 185:24 199:23 200:2 wanted 40:1 179:10 wanting 80:24 93:13 181:2 wants 102:13 washington 3:9 4:9 way 12:18 31:2 52:8 56:14,23,24 57:13 59:25 61:14 69:18 79:14 86:14 95:23 96:4 100:18 108:6 122:24 139:6 148:25 158:15 171:4,11 171:16 174:20 192:23 193:5</p>			

[witnesses - ziegler]

witnesses 202:6	157:19,24 158:14	
word 94:6	165:22 172:14	
wording 148:7	186:1 195:13	
194:4	year 35:25 47:9	
work 127:9 142:23	60:22 149:6	
170:1 172:5	years 20:6 35:7	
worked 78:20	46:25 47:8 88:10	
118:10 120:21	103:3,3 111:12,15	
146:22	144:2,21,22,22	
working 119:3	145:2 196:13	
133:7	yen 5:8 9:6,6	
workshops 45:1	32:10,12 39:12,20	
worries 15:7	39:24 40:1,4	
187:11	43:19,21 52:11,17	
write 87:23 165:5	52:19 55:14 56:16	
165:11	56:19 58:11,21	
writing 197:5,11	62:8,15 81:13	
written 106:17	82:18,21 84:11,24	
148:25 181:4,5	87:15 90:14	
www.dgs.ca.gov	101:15 103:11	
35:14	104:2 108:13	
x	109:2,21 110:11	
x's 66:25 67:3	110:19 111:1,22	
y	112:4,13,23	
yeah 30:9 50:24	116:19 118:3	
51:12 58:14,14,22	121:10 122:7	
58:22 65:8,15	125:25 133:17	
69:8,24,24 77:16	147:5 148:15,18	
77:23 82:19,21	149:3,19,25 150:5	
84:13 89:1 90:15	150:11 151:5	
98:8 100:19	153:14 155:7,11	
108:15 110:21	160:10 185:24	
111:4,24 112:15	200:1,4,11,15	
112:25 114:13	z	
123:17 126:2	zero 108:21,22,25	
127:9 132:7 138:8	109:9	
140:13 142:15	ziegler 3:5,11 6:8	
145:2,12 148:4,8	6:10 9:13,13 16:1	
148:19 149:4,20	16:5,10 19:16	
154:21 156:19	21:14 22:14 23:21	
	24:6,25 26:14	

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days

after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.

Case 1:13-cv-01215-TSC Document 204-43 Filed 11/13/19 Page 1 of 122

EXHIBIT 37

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA
3
4 AMERICAN SOCIETY FOR TESTING) Case No.
5 AND MATERIALS d/b/a ASTM) 1:13-cv-01215
6 INTERNATIONAL;) TSC-DAR
7)
8 NATIONAL FIRE PROTECTION)
9 ASSOCIATION, INC.; and)
10)
11 AMERICAN SOCIETY OF HEATING,)
12 REFRIGERATING, AND AIR)
13 CONDITIONING ENGINEERS,)
14)
15 Plaintiffs-Counterdefendants)
16 vs.)
17)
18 PUBLIC.RESOURCE.ORG, INC.,)
19 Defendant-Counterclaimant)
20)
21)
22 Videotaped Deposition of Mary H. Saunders
Washington, D.C.
August 15, 2019
10:16 a.m.
Reported by:
Bonnie L. Russo
Job No. 3461686
Pages 1 - 334

Page 2

1
2
3
4
5
6
7
8
9 Videotaped Deposition of Mary Saunders held at:
10
11 Veritext Legal Solutions
12 1250 Eye Street, N.W.
13 Washington, D.C.
14
15 Pursuant to Notice, when were present on behalf
16 of the respective parties:
17
18
19
20
21
22

Page 3

1 APPEARANCES:
2 On behalf of American Society for Testing and
3 Materials d/b/a ASTM International:
4 J. KEVIN FEE, ESQ.
5 JANE W. WISE, ESQ.
6 MORGAN, LEWIS & BOCKIUS, LLP
7 1111 Pennsylvania Avenue, N.W.
8 Washington, D.C. 20004
9 202-739-5596
10 kevin.fee@morganlewis.com
11 jane.wise@morganlewis.com
12
13 On behalf of National Fire Protection
14 Association, Inc.:
15 RACHEL G. MILLER-ZIEGLER, ESQ.
16 MUNGER, TOLLES & OLSON, LLP
17 1155 F Street, N.W.
18 Washington, D.C. 20004
19 202-220-1115
20 rachel.miller-ziegler@mto.com
21
22

Page 4

1 APPEARANCES (CONTINUED):
2 On behalf of Public.Resource.Org, Inc.:
3 MATTHEW B. BECKER, ESQ.
4 ANDREW P. BRIDGES, ESQ.
5 FENWICK & WEST, LLP
6 555 California Street, 12th Floor
7 San Francisco, California 94104
8 415-875-2300
9 mbecker@fenwick.com
10 abridges@fenwick.com
11 On behalf of the Witness:
12 GERALD W. GRIFFIN, ESQ.
13 CARTER, LEDYARD & MILBURN, LLP
14 2 Wall Street
15 New York, New York 10005
16 212-238-8672
17 griffin@clm.com
18
19 Also Present:
20 Sally P. Everett, Vice President and General
21 Counsel, National Fire Protection Association
22 Daniel Russo, Videographer

Page 5		Page 7	
1	CONTENTS	1	EXHIBITS (CONTINUED):
2	EXAMINATION OF MARY SAUNDERS	2	Exhibit 18 E-Mail Chain dated 3-18-12 237
3	BY MR. BECKER 12, 323		ANSI 3121-3122
4		3	Exhibit 19 ANSI Response to Request 237
	BY MR. FEE 311, 331		for Comments on
5		4	Incorporation by Reference
6		5	ANSI 3123-3128
7	EXHIBITS	6	Exhibit 20 E-Mail Chain dated 4-10-12 240
	Exhibit 1 Subpoena to Testify 15	7	ANSI 3602-3604
8	at a Deposition in	8	Exhibit 21 E-Mail Chain dated 6-27-12 245
	a Civil Trial	9	ANSI 3792-793
9	Exhibit 2 Letter dated 7-29-19 16	10	Exhibit 22 E-Mail Chain dated 7-16-12 247
10	Exhibit 3 ANSI Organization Chart 117	11	ANSI 3844
11	ANSI 1536	12	Exhibit 23 E-Mail Chain dated 7-16-12 250
	Exhibit 4 E-Mail Chain dated 8-28-15 118	13	ANSI 4530-531
12	PRO_00264718-723	14	Exhibit 24 House Outreach Matrix 250
13	Exhibit 5 Draft Report 150	15	ANSI 4472-4481
14	4-21-11		Exhibit 25 E-Mail Chain dated 1-8-14 256
15	ANSI 2690-2692	16	ANSI 8056
16	Exhibit 6 Draft Agenda 156	17	Exhibit 26 E-Mail Chain dated 2-27-13 259
17	4-21-11	18	ANSI 8802-805
18	ANSI 2296	19	Exhibit 27 E-Mail Chain dated 2-27-12 268
19	Exhibit 7 Agenda 157	20	ANSI 9053-056
20	4-21-11	21	Exhibit 28 E-Mail Chain dated 5-29-12 271
	ANSI 2538	22	ANSI 9121-124
21	Exhibit 8 Agreement on Technical 160		
22	Barriers to Trade		
Page 6		Page 8	
1	EXHIBITS (CONTINUED):	1	EXHIBITS (CONTINUED):
2	Exhibit 9 IBR Handbook 164	2	Exhibit 29 LinkedIn Profile 278
	July 2018	3	of Mary Saunders
3	Exhibit 10 Draft Minutes 179	4	Exhibit 31 Draft Meeting Report 288
4	3-22-12	5	10-27-11
5	ANSI 0638-0644	6	ASTMO16254-265
6	Exhibit 11 E-Mail dated 4-27-12 190	7	Exhibit 32 Draft Meeting Report 289
7	PRO_00167221-7222		5-21-12
8	Exhibit 12 Draft Proposed Agenda 204	8	ANSI 1179-187
9	ANSI 0303-307	9	Exhibit 33 Draft Proposed Agenda 289
10	Exhibit 13 Copyright Infringement and 205	10	ANSI 0263-267
11	Incorporation by Reference	11	Exhibit 34 Standards Incorporated 290
12	Recent Developments	12	by Reference into Law
	ANSI 0308-0327	13	ANSI 0268-0276
13	Exhibit 14 Draft Minutes 229	14	Exhibit 35 Draft Minutes 291
14	5-16-13		5-24-12
15	ANSI 0328-0336	15	ANSI 0277-284
	Exhibit 15 E-Mail dated 3-1-12 230	16	Exhibit 36 Draft Proposed Agenda 292
16	ANSI 2860	17	ANSI 0680-684
17	Exhibit 16 E-Mail dated 3-15-12 232	18	Exhibit 37 Draft Minutes 293
18	ANSI 3083	19	3-21-13
19	Exhibit 17 ANSI Response to Request for 235	20	ANSI 0685-691
20	Comments on Incorporation	21	Exhibit 38 Draft Meeting Report 294
21	by Reference	22	ANSI 1527-535
22	ANSI 3084-3089		

<p style="text-align: right;">Page 9</p> <p>1 EXHIBITS (CONTINUED):</p> <p>2 Exhibit 39 Draft Agenda 295 ANSI 0715-719</p> <p>3 Exhibit 40 Draft Minutes 296 4 11-6-13 5 ANSI 0729-736</p> <p>6 Exhibit 41 Discussion on Changes 296 7 to the Office of Management 8 and Budget Circular A-119 ANSI 0033-51</p> <p>9 Exhibit 42 Draft Agenda 297 10 7-24-14 11 ANSI 0771-775</p> <p>12 Exhibit 43 Federal Engagement in 298 13 Standards Activities 14 ANSI 0776-782</p> <p>15 Exhibit 44 Draft Minutes 299 16 7-24-14 ANSI 0783-790</p> <p>17 Exhibit 45 Draft Minutes 300 18 11-19-14 19 ANSI 0791-797</p> <p>20 Exhibit 46 Letter dated 6-28-19 301 21 Attachment 22 SAU 001-162</p>	<p style="text-align: right;">Page 11</p> <p>1 Public.Resource.Org, Incorporated, 2 defendant-counterclaimant, filed in the United 3 States District Court for the District of 4 Columbia, Case No. 1:13-cv-01215-TSC-DAR. 5 This deposition is being held at 6 Veritext Legal Solutions located at 1250 Eye 7 Street, Northwest, Washington, D.C. 8 My name is Daniel Russo from the 9 firm Veritext Legal Solutions and I am your 10 videographer today. The court reporter is 11 Bonnie Russo from the firm Veritext Legal 12 Solutions. 13 Counsel and all present in the room 14 and everyone attending remotely will now state 15 their appearances and affiliations for the 16 record, please. 17 MR. BECKER: Good morning. My name 18 is Matthew Becker of the law firm Fenwick & 19 West representing Public.Resource.Org and with 20 me is my colleague Andrew Bridges. 21 MR. GRIFFIN: Gerald Griffin, 22 Carter, Ledyard & Milburn, representing the</p>
<p style="text-align: right;">Page 10</p> <p>1 P R O C E E D I N G S</p> <p>2</p> <p>3 THE VIDEOGRAPHER: Good morning. We 4 are going on the record at 10:16 a.m. on August 5 15, 2019. 6 Please note that the microphones are 7 sensitive and may pick up whispering, private 8 conversations and cellular interference. 9 Please turn off all cell phones or place them 10 away from the microphones as they can interfere 11 with the deposition audio. Audio and video 12 recording will continue to take place unless 13 all parties agree to go off the record. 14 This is Media Unit 1 of the 15 video-recorded deposition of Mary Saunders 16 taken by counsel for defendant in the matter of 17 American Society for Testing and Materials 18 d/b/a ASTM International, National Fire 19 Protection Association, Incorporated, and 20 American Society of Heating, Refrigerating and 21 Air Conditioning Engineers, 22 plaintiffs-counterdefendants, versus</p>	<p style="text-align: right;">Page 12</p> <p>1 witness. 2 MR. FEE: Kevin Fee from Morgan 3 Lewis on behalf of ASTM. 4 MS. WISE: Jane Wise from Morgan 5 Lewis on behalf of ASTM. 6 MS. MILLER-ZIEGLER: Rachel 7 Miller-Ziegler, Munger, Tolles & Olsen on 8 behalf of NFPA. 9 MS. EVERETT: Sally Everett, NFPA. 10 THE VIDEOGRAPHER: Will the court 11 reporter please swear in the witness. 12 MARY H. SAUNDERS, 13 being first duly sworn, to tell the truth, the 14 whole truth and nothing but the truth, 15 testified as follows: 16 EXAMINATION BY COUNSEL DEFENDANT 17 BY MR. BECKER: 18 Q. Good morning, Ms. Saunders. Have 19 you ever had your deposition taken before? 20 A. I have not. 21 Q. Have you ever been involved in any 22 lawsuits before?</p>

Page 13

1 A. I have not.
2 Q. Let's see. So in that case, we will
3 set out some preliminaries. In a deposition,
4 I'm going to be asking you questions and you
5 will provide answers.
6 Do you understand that you are
7 giving testimony under oath today?
8 A. I do.
9 Q. Just as you would in a court of law?
10 A. Yes, I do.
11 Q. You understand that the court
12 reporter is taking down everything that you
13 say.
14 A. Yes, I do.
15 Q. In that case, we need only audible
16 responses and not just gestures or sort of
17 something of the like.
18 A. I understand.
19 Q. Thank you. If at any point you
20 don't understand a question, will you please
21 let me know and I will try to rephrase?
22 A. I will.

Page 14

1 Q. And in that case, I'm going to try
2 to give you the clearest questions I can so
3 long as you promise to let me know if you don't
4 understand the question. All right?
5 A. Yes.
6 Q. All right. If you ever need a break
7 for any reason, please let me know and as long
8 as a question isn't pending, I'll provide one.
9 A. Yes, thank you, I understand.
10 Q. If you come to realize that any of
11 your answers that you previously provided is
12 not completely correct, just let me know and we
13 will address it. Okay?
14 A. Yes.
15 Q. After the transcript and deposition
16 is prepared, you will have a chance to review
17 it and make changes to it. However, I can
18 comment on any changes that you make. Do you
19 understand?
20 A. Understood.
21 Q. Is there any reason preventing you
22 from giving your best testimony today?

Page 15

1 A. No.
2 MR. BECKER: Please mark this
3 Exhibit 1.
4 (Deposition Exhibit 1 was marked for
5 identification.)
6 BY MR. BECKER:
7 Q. Ms. Saunders, I am handing you what
8 has been marked as Exhibit 1.
9 Do you recognize this document?
10 A. Yes, I do.
11 Q. What is this document?
12 A. It's a subpoena to testify at a
13 deposition in a civil action.
14 Q. Is this a subpoena that you
15 received?
16 A. I did receive it.
17 Q. And are you familiar with this
18 lawsuit, ASTM, et al., versus
19 Public.Resource.Org?
20 A. Yes. I'm generally aware of the
21 lawsuit, yes.
22 MR. BECKER: Can you please mark

Page 16

1 this as Exhibit 2.
2 (Deposition Exhibit 2 was marked for
3 identification.)
4 BY MR. BECKER:
5 Q. Ms. Saunders, I am handing you what
6 has been marked as Exhibit No. 2.
7 Have you seen this document before?
8 A. I have seen this document.
9 Q. What is this document?
10 A. It's a letter from Russell Craig,
11 who's the associate chief of the general
12 litigation division at the U.S. Department of
13 Commerce, RE: Subpoenas to Mary H. Saunders
14 for a deposition and document production.
15 Q. When you say it's a letter to --
16 A. I'm sorry.
17 Q. You mean it's a letter to --
18 A. It's a letter to Russell Craig from
19 you as I remember.
20 Q. Do you understand what the purpose
21 of this letter is?
22 A. I do.

Page 17

1 Q. What is the purpose of this letter?
2 A. My understanding is that you had a
3 conversation with Mr. Craig and Henry Wixon who
4 is the general counsel for the National
5 Institute of Standards and Technology regarding
6 topics that were not open for discussion with
7 me since I'm testifying in my personal capacity
8 from the time when I was a government official.
9 These are internal -- any internal government
10 deliberations are protected under process
11 privilege.
12 Q. Did you have any conversation with
13 Mr. Craig about this matter?
14 A. About the letter?
15 Q. About this litigation.
16 A. I'm not following. About the letter
17 or about the --
18 Q. Have you had any conversation with
19 Mr. Craig about the Public Resource litigation?
20 A. I had a conversation with Mr. Craig
21 and Henry Wixon about my deposition, not about
22 the litigation per se.

Page 18

1 Q. When did that conversation take
2 place?
3 A. That was yesterday. That was
4 yesterday at 2:00.
5 Q. And what did you talk about?
6 A. We talked about the contents of this
7 letter that you sent to Mr. Craig. We just
8 wanted to make sure that I had the same
9 understanding that he and Henry, Mr. Wixon with
10 regarding -- with respect to what is not open
11 for discussion.
12 I also asked if they were planning
13 to be available and I understand Mr. Craig and
14 Mr. Wixon will be available by phone if needed.
15 Q. Did you talk about anything else?
16 A. No.
17 Q. Is there any other time, other than
18 yesterday at 2:00, that you talked to Mr. Craig
19 about this litigation?
20 A. No, there is no other time.
21 Q. And is there any other time that you
22 talked with Mr. Wixon about this litigation?

Page 19

1 A. No. I did not talk -- I spoke with
2 both Henry and Russell Craig yesterday at 2:00.
3 Q. Do you have any written
4 communications with Mr. Craig or Mr. Wixon
5 about this litigation?
6 A. Not about the litigation. I sent an
7 e-mail to Russell Craig, I believe a couple of
8 weeks ago asking if he had actually engaged
9 with you regarding what would be permissible
10 and not permissible. That's all that I have.
11 Q. Did you receive a response?
12 A. Yes. He said that he had, and
13 that's -- the result is this letter as I
14 understand it.
15 MR. BECKER: Would it be possible to
16 see a copy of that e-mail?
17 MR. GRIFFIN: If you are requesting
18 it, we will go back and look for it.
19 MR. BECKER: Sure, on a break, that
20 would be great. Thank you.
21 MR. GRIFFIN: I'm not sure I'll be
22 able to get it to you today, but after the

Page 20

1 deposition, yes.
2 Can we agree that this is the letter
3 that memorializes your agreement with Russell
4 Craig with respect to the questions that you
5 can and cannot ask Ms. Saunders today?
6 MR. BECKER: Yes.
7 MR. GRIFFIN: Okay. Thank you.
8 MR. BRIDGES: By this, Counsel,
9 you're referring to --
10 MR. GRIFFIN: Exhibit 2, correct.
11 BY MR. BECKER:
12 Q. Ms. Saunders, are there any other
13 names other than Mary Saunders that you have
14 gone by?
15 A. My maiden name is Mary Catherine
16 Howard.
17 Q. Ms. Saunders, where do you work
18 today?
19 A. I'm currently the vice president for
20 government relations and public policy at the
21 American National Standards Institute.
22 Q. And that's -- the American National

Page 21

1 Standards Institute is more commonly referred
2 to as ANSI?
3 A. That's correct.
4 Q. How long have you held that position
5 for?
6 A. I have held that position since the
7 1st of March, 2017.
8 Q. What was your employment immediately
9 before being VP of government relations and
10 public policy at ANSI?
11 A. I was the associate director for
12 management resources at the National Institute
13 of Standards and Technology also known as NIST.
14 I retired from federal service on the 3rd of
15 February, 2017.
16 Q. What is NIST?
17 A. NIST is the National Measurement
18 Institute for the United States. It is a
19 bureau of the U.S. Department of Commerce and
20 it has additional response -- mission related
21 responsibilities I can go into if you would
22 like me to, which were delegated under the --

Page 22

1 in 1988, under a revision to NIST
2 responsibilities. So NIST has broader
3 technology and standards-related
4 responsibilities as well as being the National
5 Measurement Institute for the United States.
6 Q. How long did you hold the role of
7 associate director for management resources for
8 NIST?
9 A. From the end of November 2012 until
10 the time that I retired, which as I mentioned,
11 was the 3rd of February, 2017.
12 Q. Did you hold any other employment
13 positions between -- sorry, let me rephrase
14 this.
15 Were you employed in any other
16 positions at any organization or entity between
17 November 2012 and today, other than the two
18 that you just referred to?
19 A. The two -- I'm sorry. I'm not
20 following. I was a federal employee so I was
21 employed at NIST from --
22 Q. Since November 2012 --

Page 23

1 A. Yes.
2 Q. -- have you held -- have you been
3 employed in any position other than the VP of
4 government relations and public policy at ANSI
5 and the associate director for management
6 resources at NIST?
7 A. I understand. No, I have not.
8 Q. What was your employment immediately
9 before being associate director at NIST?
10 A. You want me to go backwards. Okay.
11 So from March, the end of March 2011
12 through November 2012, I was the director of
13 the standards coordination office at NIST.
14 Q. Prior to that position, what was
15 your employment?
16 A. No, it's easier for me to do it
17 doing forward.
18 So going backwards, I was -- prior
19 to that, I was the deputy assistant secretary
20 for manufacturing and services at the
21 International Trade Administration which is
22 also a bureau of the Department of Commerce. I

Page 24

1 occupied that position from the 18th of
2 December, 2008, through the end of March 2011.
3 Q. What position did you hold before
4 that?
5 A. From October 2001 through the 18th
6 of -- well, 17th of December, 2008, I was the
7 chief of the standards services division at --
8 which is a component of technology services at
9 the National Institute of Standards and
10 Technology.
11 Q. And what was your employment
12 immediately prior to that?
13 A. So I transferred from the
14 international trade administration to NIST in
15 July of 1993 and I was an international
16 economist in -- what was called in 1993, the
17 office of standards services.
18 The office of standards services was
19 renamed the standards services division as part
20 of a realignment within NIST, so '93 to 2001, I
21 was in the -- what became the standards
22 services division but I was -- became the chief

Page 25

1 in October of 2001.
2 Q. Prior to July of 1993, what was your
3 employment immediately prior to that?
4 A. So I began my commerce department
5 career in January of 1996 at the International
6 Trade Administration. I held positions as an
7 international trade specialist in two offices
8 of the International Trade Administration, the
9 office of capital goods and the second position
10 was in the office of European community
11 affairs.
12 Q. When I refer to "standards," do you
13 know what I'm referring to?
14 A. Yes.
15 MR. GRIFFIN: Objection.
16 BY MR. BECKER:
17 Q. How would you define a standard?
18 A. So depending on context, there may
19 be a variety of definitions but the -- there
20 are standards of conduct, there are a variety
21 of standards, but if you are asking me about
22 technical standards, those are standards for

Page 26

1 products, processes or services. There is a
2 definition. The International Organization for
3 Standardization has a definition, the World
4 Trade Organization's technical barriers to
5 trade agreement has a definition. Those are
6 the definitions I believe you are referring to.
7 Q. Between those two definitions, is
8 there any difference?
9 MR. GRIFFIN: Objection.
10 THE WITNESS: I don't know. I don't
11 believe there is, but I haven't looked in
12 detail at those documents recently. I believe
13 the WTO TBT agreement takes its definition from
14 ISO.
15 BY MR. BECKER:
16 Q. What does standards coordination
17 mean?
18 A. In the context of the standards
19 coordination office?
20 Q. Yes.
21 A. So in the context of the standards
22 coordination office, it means coordinating

Page 27

1 internally within NIST with respect to
2 standards-related activities, documentary
3 standards-related activities and it means
4 working externally within -- with other federal
5 agencies and with White House offices and the
6 private sector in the context of the NIST
7 activities related to documentary standards,
8 particularly policy activities related to
9 documentary standards.
10 Q. When you refer to policy activities
11 related to document -- related to standards,
12 what is it that you are referring to?
13 A. I am referring to responsibilities
14 that NIST has under the National Technology
15 Transfer and Advancement Act of 1995,
16 specifically as expressed in NIST's mission as
17 it's described by Congress.
18 Q. What is the National Technology
19 Transfer and Advancement Act of 1995?
20 A. So I can't speak to the entire
21 National Technology Transfer Act of 1995, it
22 was a -- it's a revision. I can speak

Page 28

1 specifically to Section 12 of the National
2 Technology Transfer -- NTTAA of 1995 which
3 specifically directs federal agencies to use
4 technical standards developed by voluntary
5 consensus bodies in support of mission
6 activities where relevant and appropriate in
7 lieu of developing government-unique standards.
8 Q. Do you understand that today when I
9 use the word "standards," I will be referring
10 to technical standards unless I say otherwise?
11 A. Yes, I do.
12 MR. GRIFFIN: Objection.
13 THE WITNESS: Sorry. I will pause.
14 MR. GRIFFIN: That's okay.
15 BY MR. BECKER:
16 Q. When did you first begin working in
17 a position that required you to be familiar
18 with standards?
19 A. In my first position at the
20 International Trade Administration around the
21 time period 1989, I was in the office of
22 capital goods at the time, a component of the

Page 29

1 International Trade Administration and the
2 European community at that time led by the
3 European commission was embarking upon its
4 internal market program, which involved the
5 passage of a large amount of European
6 legislation related to product -- related to
7 how the European community would deal with
8 product safety and health requirements,
9 otherwise supported by standards.
10 These are technical regulations, but
11 in the European community at the time, now the
12 European Union, there are technical standards
13 that support legislation and that's how I first
14 became involved in standards in the trade
15 context.
16 Q. Had you been involved in standards
17 in any other context prior to that?
18 A. No.
19 Q. Does the United States develop its
20 own standards?
21 A. It's a little bit difficult to
22 answer that question. So standards are -- by

Page 30

1 the United States, do you mean the United
2 States Government or the United States -- I'm
3 not quite following.
4 Q. The United States Government. Does
5 the United States Government develop standards?
6 A. The United States Government at
7 large does not develop its own standards.
8 Individual federal agencies may develop
9 government-unique standards in support of
10 mission activities. I mentioned the National
11 Technology Transfer and Advancement Act, so
12 individual agencies may engage in standards
13 activities.
14 Q. In what situations do individual
15 U.S. Government agencies develop their own
16 standards?
17 MR. GRIFFIN: Objection.
18 THE WITNESS: So let me give you a
19 little bit more background. The
20 standardization system in the United States is
21 private sector led with government agency's
22 participation. In areas where government, a

Page 31

1 specific government agency or a part of an
2 agency has a need to support a regulation or --
3 a regulation or an other mission-related
4 activity and there is no technical standard
5 available in the private sector, the agency may
6 write its own documents. They are called
7 government-unique standards.
8 BY MR. BECKER:
9 Q. Typically, why is it that there
10 wouldn't be a standard available in the private
11 sector as required by the agency?
12 MR. GRIFFIN: Objection.
13 THE WITNESS: I don't know the
14 answer to that.
15 BY MR. BECKER:
16 Q. Do you offhand know of any standards
17 that a U.S. Government agency has developed?
18 A. I am aware generally of EPA test
19 methods which in some cases are -- have been
20 developed by the Environmental Protection
21 Agency.
22 Q. Do you know the names of any of

Page 32

1 those?
2 A. I do not.
3 Q. Do you know why the EPA would have
4 developed those standards rather than using a
5 standard that was privately developed?
6 MR. GRIFFIN: Objection to form.
7 MR. FEE: Objection.
8 THE WITNESS: I can't answer that
9 question. You would have to ask someone at the
10 EPA about that.
11 BY MR. BECKER:
12 Q. Have you ever had affiliations with
13 standard development organizations?
14 A. If by "affiliations," you mean have
15 I served on the boards of standards -- specific
16 standards development organizations, yes.
17 Q. Have you been a member of standards
18 development organizations?
19 A. I have, yes. During my federal
20 career, I was a member of ASTM International.
21 For a period of time, I was also a member of
22 the Institute for Electrical and Electronics

<p style="text-align: right;">Page 33</p> <p>1 Engineers. 2 Q. And that last organization is often 3 referred to as the IEEE, correct? 4 A. It is, correct. 5 Q. Any other standards development 6 organizations? 7 MR. GRIFFIN: Objection. 8 THE WITNESS: Can you clarify, have 9 I been a member -- 10 BY MR. BECKER: 11 Q. A member of -- 12 A. -- of any other standards 13 development organizations? 14 Q. Yes. 15 A. No, I have not. 16 Q. Do you understand what I am 17 referring to when I use the term "standards 18 development organization?" 19 MR. GRIFFIN: Objection. 20 THE WITNESS: Yes, I do. 21 BY MR. BECKER: 22 Q. What is a standards development</p>	<p style="text-align: right;">Page 35</p> <p>1 consensus standards developed under a process 2 including the characteristics that I 3 highlighted. 4 There are consortia standards. 5 There are open standards. There are many 6 different types of standards that are used 7 widely globally and in the United States. 8 BY MR. BECKER: 9 Q. What is an open standard? 10 A. And so my understanding here is 11 limited, but an open standard might -- as I 12 have heard it described, it's very common in 13 the IT sector. It's a standard where 14 individual technical experts come together and 15 discuss a particular technical area and may -- 16 the document is open to input manipulation -- 17 manipulation is a bad word, but open to input 18 and change from a variety of different sources. 19 It's, as I said, common in the IT sector. 20 Q. When you referred to a voluntary 21 consensus standard, you said that it's a 22 standard produced by a process that includes</p>
<p style="text-align: right;">Page 34</p> <p>1 organization? 2 A. A standards development organization 3 is an organization that engages in the 4 administration of process that leads to the 5 development of standards. We typically focus 6 on voluntary consensus standards. 7 Q. What is a voluntary consensus 8 standard? 9 A. A voluntary consensus standard is 10 defined in OMB Circular A-119, and I will be 11 paraphrasing, a voluntary consensus standard is 12 produced through a process that includes 13 characteristics of openness, transparency, 14 balance and consensus, due process as well. 15 Q. Is there an alternative to a 16 voluntary consensus standard? 17 MR. GRIFFIN: Objection. 18 THE WITNESS: There are many 19 different types of standards. There are 20 standards developed by treaty organizations 21 such as the International Telecommunications 22 Union. There are, as I mentioned, voluntary</p>	<p style="text-align: right;">Page 36</p> <p>1 characteristics of openness, transparency, 2 balance and consensus and due process; is that 3 correct? 4 A. That is correct. 5 Q. What do you mean by "balance?" 6 A. A balance of interest across 7 materially interested in affected parties, so 8 there are interest categories which may vary 9 depending on what type of standard is under 10 consideration, but generally speaking, interest 11 categories might include producer, user, 12 general interest, might include consumer, might 13 include labor interest. It's an intent to 14 achieve balance or a representation amongst -- 15 across a range of interests in a particular 16 topic. 17 Q. What stakeholders participate in the 18 development of voluntary consensus standards? 19 MR. FEE: Objection to form. 20 THE WITNESS: It's -- I can't 21 speak -- that's a very general question. I 22 can't speak to that. I said materially</p>

Page 37

1 interested in affected parties which may differ
2 depending on the technical topic.
3 BY MR. BECKER:
4 Q. Do members of government participate
5 in the development of voluntary consensus
6 standards in the United States?
7 MR. FEE: Objection to form.
8 THE WITNESS: They -- technical
9 staff and individual federal agencies may
10 participate in the development of standards.
11 They would be classified in the general
12 interest category.
13 BY MR. BECKER:
14 Q. Who else would be in the general
15 interest category?
16 A. I can't speak to that. It's not
17 solely government, but again, it depends on the
18 standard at -- under development as to who
19 would have a general interest. It would be any
20 individual organization that is not either a
21 producer, a user or in another category, but I
22 can't speak specifically to your -- in answer

Page 38

1 to your question.
2 Q. What are the -- other than the
3 general interest category, what are the other
4 categories of participants?
5 A. Again, that depends on the balance
6 and how that is achieved depends on the
7 individual standard at -- at issue. I am
8 speaking to high level categories as laid out
9 in the ANSI essential requirements for the
10 development of American national standards,
11 producer, user, general interests. Other
12 possible categories depending on the standard
13 include consumer interest, labor interests. It
14 depends.
15 Q. Is there industry interests?
16 A. Of course, producer, user, those can
17 both -- those categories can include industry
18 representatives.
19 Q. Any other interests?
20 MR. FEE: Objection to form.
21 THE WITNESS: It depends on the
22 standard under -- under development.

Page 39

1 BY MR. BECKER:
2 Q. Do government and representatives
3 participate in standard development?
4 MR. GRIFFIN: Objection.
5 THE WITNESS: So the National
6 Technology Transfer and Advancement Act, as I
7 mentioned, Section 12, specifically directs
8 federal agencies to use technical standards
9 developed by voluntary consensus standards
10 bodies. The law also directs the agencies to
11 participate in standards development activities
12 when those activities are relevant to their
13 mission interests.
14 BY MR. BECKER:
15 Q. And how -- how do members of
16 government participate in standards development
17 activities when those activities are relevant
18 to their mission interests?
19 MR. GRIFFIN: Objection.
20 MR. FEE: Objection to form.
21 THE WITNESS: The type of
22 participation, as I understand, will vary from

Page 40

1 agency to agency. Individual agencies have
2 particular guidelines for how their technical
3 staff participate in standards development
4 activities, so I -- I can't speak to the
5 general question. It varies from agency to
6 agency.
7 BY MR. BECKER:
8 Q. When you refer to "technical staff,"
9 are you referring to government employees?
10 A. Yes, I am referring to government
11 employees.
12 Q. Is ANSI an SDO?
13 A. No. ANSI is not a standards
14 development organization.
15 Q. What is ANSI?
16 A. ANSI is the -- ANSI's mission is to
17 represent the private sector-led
18 standardization system in the United States and
19 represent its interests.
20 ANSI is also -- as part of that
21 mission, ANSI is the national standards body
22 representing -- national standards body to the

Page 41

1 International Organization for Standardization
2 and through the U.S. national committee to the
3 International Electrotechnical Commission which
4 are two international -- two organizations that
5 develop international standards.
6 Q. So by that, do you mean ANSI
7 represents standards development organizations?
8 MR. GRIFFIN: Objection.
9 THE WITNESS: No, I do not mean that
10 ANSI represents -- you mean generally speaking?
11 Standards -- ANSI has several member
12 categories where ANSI is a federation, there is
13 a government member category, so government
14 agencies are members of ANSI. Organizational
15 membership category which includes standards
16 development organizations and other
17 organizations. There is a company member
18 category, there is a consumer category.
19 BY MR. BECKER:
20 Q. Any other categories?
21 MR. GRIFFIN: Objection.
22 THE WITNESS: Those are all the ones

Page 42

1 I remember.
2 BY MR. BECKER:
3 Q. You said that organizational
4 category includes standards development
5 organizations and other organizations.
6 What other organizations?
7 A. Trade associations that may not
8 develop standards.
9 Q. Any other organizations?
10 A. Not that I can enumerate currently.
11 Q. Are you a member of ANSI?
12 A. I'm on the staff of ANSI. I'm not a
13 member of ANSI.
14 Q. Were you previously a member of
15 ANSI?
16 A. Personally, no. The National
17 Institute of Standards and Technology was -- is
18 a government member of ANSI and I was a staff
19 member of the National Institute of Standards
20 and Technology.
21 Q. So you were never personally a
22 member of ANSI but you were -- you participated

Page 43

1 in ANSI through NIST?
2 A. That's correct.
3 MR. GRIFFIN: Objection. Wait one
4 second.
5 BY MR. BECKER:
6 Q. How did you participate in ANSI
7 through NIST?
8 A. In a variety of ways. I was a
9 member of the ANSI national policy committee.
10 I served as chair of the national policy
11 committee for a term. I participated in
12 international policy committee, I participated
13 in representing NIST in ANSI activities that
14 are relevant to the NIST mission.
15 Q. Did NIST pay any membership or
16 participation fee for you when you were
17 participating in ANSI?
18 MR. GRIFFIN: Objection.
19 THE WITNESS: Not for me personally.
20 BY MR. BECKER:
21 Q. Did NIST pay any membership or
22 participation fee so that you were able to

Page 44

1 participate in ANSI as a member -- as a person
2 employed by NIST?
3 A. Yes.
4 Q. Do you know what fees those were?
5 A. I mentioned that ANSI has different
6 membership categories. NIST paid the fees
7 relevant to the government membership category.
8 I don't have the details of those dues.
9 Q. Did you participate in any standards
10 development organizations in your capacity at
11 NIST?
12 A. I participated as a member of an
13 ASTM committee from 1993 probably for a couple
14 of years specifically. I believe the number is
15 E50. It's the ASTM committee that served as
16 the -- that administered the technical advisory
17 group to ISO, Technical 207 which is
18 environmental management systems, so I was a
19 member of that committee for a period of time.
20 Q. Do you know approximately how long
21 you were a member of that committee for?
22 A. Approximately two years would be my

Page 45

1 guess. It's been -- '93, 2003, it's been more
2 than 25 years.
3 Q. Did NIST pay your membership dues
4 when you were participating in that committee?
5 MR. GRIFFIN: Objection.
6 THE WITNESS: I paid my \$75
7 membership dues to ASTM when I was
8 participating in that committee personally.
9 BY MR. BECKER:
10 Q. Did you get those dues reimbursed?
11 A. No, I did not.
12 Q. Were you participating in that ASTM
13 committee in your personal capacity or in -- or
14 in a government employee capacity?
15 MR. FEE: Objection to form.
16 THE WITNESS: So as I mentioned
17 earlier, the National Technology Transfer and
18 Advancement Act directs federal agency
19 employees to participate in standards
20 development activities that are relevant to
21 their missions and that direction is also
22 codified in OMB Circular A119, so yes, I was

Page 46

1 participating pursuant to law and policy as a
2 NIST employee.
3 BY MR. BECKER:
4 Q. Did ASTM have a government
5 membership category at that time?
6 A. I'm not following that question.
7 Q. Was there -- did you pay a different
8 fee to ASTM as a member of government as
9 opposed to one you might pay if you were a
10 member of the private sector at the time?
11 A. No. My understanding is that the
12 \$75 membership fee applies to anyone who would
13 like to be a member of ASTM.
14 Q. Did you participate in the IEEE in
15 your capacity as a government employee?
16 A. I was a member of the IEEE standards
17 association board for one term in my capacity
18 as a NIST employee.
19 Q. When was that?
20 A. I would have to look at my risumi to
21 remember. I believe it was the early 2007,
22 2008, but I would have to look at my risumi to

Page 47

1 remind myself of the actual timing.
2 Q. Have you participated in any
3 standards development organizations in your
4 personal capacity?
5 A. No, I have not.
6 Q. When did you first become involved
7 with ANSI?
8 A. Again, it's been a long time. Let
9 me think. I mentioned I moved from the
10 International Trade Administration to NIST to
11 July of 1993 to the office of standards
12 services, it would have been sometime following
13 July of 1993.
14 Q. How were you involved with ANSI
15 initially?
16 MR. GRIFFIN: Objection.
17 THE WITNESS: I -- as I mentioned,
18 in 1993, that's more than 25 years ago. I
19 would have to go -- I can't give you a specific
20 answer. It would probably have been -- I can't
21 give you a specific answer.
22 BY MR. BECKER:

Page 48

1 Q. When you said that you were -- first
2 became involved with ANSI in July 1993, are you
3 referring to work that involved ANSI or in your
4 government capacity?
5 MR. GRIFFIN: Objection.
6 THE WITNESS: So as I mentioned
7 earlier, I moved to NIST to the office of
8 standard services in July of 1993. NIST, at
9 that time and still, is a member on behalf of
10 the Department of Commerce in ANSI.
11 So I would have been aware as a
12 staff person in the office of standards
13 services about NIST's participation in ANSI. I
14 believe at that time, participation in policy
15 committees was limited to board members so I
16 would not, at that time, have been directly
17 engaged in policy activities.
18 BY MR. BECKER:
19 Q. When did you first become directly
20 engaged in activities at ANSI?
21 A. Again, I would have to go look at my
22 risumi to remind myself of the particular

Page 49

1 dates, but as I mentioned, it's likely -- let's
2 see. Chief of global standards program --
3 2001, which is when I became chief of the
4 standards services division would be a
5 reasonable time frame to begin engagement in
6 policy activities at ANSI.
7 Q. What kind of policy activities were
8 you involved in with ANSI in -- when you were
9 chief of standards services division?
10 A. So I -- as I mentioned, I had a term
11 as the chair of the international policy
12 committee of ANSI. I also served as the chair
13 of the national -- not at the same time,
14 consecutively, as the chair of the national
15 policy committee of ANSI. I was on an
16 accreditation board dealing with environmental
17 management systems for a period of time.
18 Q. Subsequent to that, what other --
19 can you tell me the -- the positions that you
20 have held in ANSI in chronological order?
21 MR. GRIFFIN: Objection.
22 THE WITNESS: I would be happy to

Page 50

1 provide you with a copy of my risumi. I don't
2 have that data in my head that I could tell
3 you.
4 BY MR. BECKER:
5 Q. Do you recall some of the other
6 positions that you've held at ANSI?
7 MR. GRIFFIN: Objection.
8 THE WITNESS: Not off the top of my
9 head, no.
10 BY MR. BECKER:
11 Q. No other positions than those?
12 MR. GRIFFIN: Objection.
13 THE WITNESS: I would be happy to
14 provide you with my risumi which lists all the
15 positions.
16 BY MR. BECKER:
17 Q. Do you have a copy of your risumi
18 available today?
19 A. No, but I can send you one.
20 Q. What work did you do as chair of
21 international -- of the international policy
22 committee at ANSI?

Page 51

1 A. So the international policy
2 committee of ANSI is a committee which provides
3 information to ANSI members or members of the
4 community on international activities ranging
5 from the activities in the International
6 Organization for Standardization and the
7 International Electrotechnical Commission to --
8 reports on standards developments in other
9 parts of the world, such as the European Union,
10 China and so forth, its international policy.
11 Q. What work did you do as a member of
12 the national policy committee at ANSI?
13 A. So the responsibilities of the
14 national policy committee are to look at
15 national issues related to standardization.
16 The national policy committee has a committee
17 on education which focuses on education related
18 to standards activities, so that was a topic of
19 discussion and the national policy committee
20 also was the policy committee to which the ANSI
21 executive standards council and the board of
22 standards review reported.

Page 52

1 Those two committees are responsible
2 for overseeing the ANSI essential -- the
3 implementation of the ANSI essential
4 requirement and the development of American
5 national standards.
6 Q. What do you mean by "education
7 related to standards activities?"
8 A. So, there is a great interest in the
9 community at large, the private sector and the
10 government community in ensuring future
11 availability of standards professionals and
12 there are -- there are a growing number of
13 universities that include standards -- a
14 component in their education, engineering,
15 legal education, other education programs,
16 education programs focused on those types of
17 activities.
18 Q. So the committee on -- correct me if
19 I am mistaken, the committee on education
20 assisted in the education of future standards
21 professionals?
22 MR. GRIFFIN: Objection.

Page 53

1 THE WITNESS: You can look at the
2 information on the committee on education, I
3 believe it's available on the ANSI website but
4 the committee on education was a committee of
5 interested ANSI members who would either
6 provide materials that might be used in
7 universities or -- or discuss the value of
8 including knowledge about standards in various
9 university -- relevant university programs.

10 BY MR. BECKER:

11 Q. Other than as a member of the ASTM
12 Committee E50, have you had any other roles at
13 ASTM?

14 A. As I mentioned earlier, I was on the
15 board of ASTM for one term from 2010 to 2012.

16 Q. What did you do as a member of the
17 board of ASTM?

18 A. So I -- as a member of the board, I
19 heard reports from the president of ASTM and
20 from -- reports from the head of technical
21 operations at ASTM. We received reports and
22 had discussions.

Page 54

1 Q. Did you participate in
2 decisionmaking activities for ASTM when you
3 were a member of the board?

4 MR. GRIFFIN: Objection.

5 THE WITNESS: From my experience in
6 one term on the ASTM board, I don't remember
7 taking any specific decisions. As a government
8 employee, I recused -- would recuse myself from
9 any budgetary issues, items, fiduciary items.

10 BY MR. BECKER:

11 Q. Did you recuse yourself from any
12 other items other than budgetary and fiduciary
13 at ASTM?

14 A. No. As I -- no.

15 Q. How did you become a member of the
16 board at ASTM?

17 A. So NIST, as I have experienced, I
18 can only speak to NIST, NIST has had a -- had,
19 previously had a member of the ASTM board for
20 many -- for several terms. I was actually
21 asked to stand for a member election as a
22 potential member of the ASTM board when I was

Page 55

1 in the International Trade Administration
2 because of my trade expertise, and I agreed to
3 be a candidate for the board and I was elected
4 by the membership of the board.

5 Q. Who asked --

6 A. By the membership of ASTM.

7 Q. Who asked you to stand?

8 A. I -- it's -- I believe Jim Thomas
9 who was then the president of ASTM asked me if
10 I was willing to be a candidate.

11 Q. Were there other government
12 employees who were a member of the board of
13 ASTM at the time that you served as a member of
14 the board?

15 A. I would have to go back and look at
16 the membership at the time. That's almost ten
17 years ago. It's possible. I just can't
18 remember off the top of my head.

19 Q. Do you recall approximately how many
20 people comprised the board of ASTM at the time
21 that you served?

22 A. I believe it was 12 or 15. Again,

Page 56

1 from memory.

2 Q. Have you served in -- have you
3 participated as a member at ASTM in any other
4 capacity other than with E50 and as a member of
5 the board in 2010 to 2012?

6 A. So for a couple of years toward the
7 end of my tenure at NIST, I was a member of E60
8 which is the sustainability committee.

9 Q. What did you do as a member of E60?

10 A. I commented on draft -- I voted on
11 draft documents.

12 Q. When you say, "draft documents,"
13 what kind of documents?

14 A. Standards.

15 Q. Was that voting on the revision of
16 draft standards?

17 A. So the sustainability committee was
18 created at the time that I became a member so
19 the initial effort was to develop new
20 standards.

21 Q. Okay. So you voted on drafts of new
22 standards --

Page 57

1 A. That's correct.
2 Q. -- as a member of E60?
3 A. I did.
4 Q. And at approximately what time was
5 that?
6 A. Probably 2015 to -- or 2014 to 2017
7 when I retired. Again, the time frame is
8 coming from memory.
9 Q. When you were a member of the E60,
10 did E60 end up developing any standards that
11 were finalized and released to the public?
12 A. I don't remember specifically.
13 Q. What considerations went into your
14 decisions when you were voting on draft
15 standards?
16 A. So sustainability is an area that
17 was of -- is of interest to the national -- to
18 NIST, and I looked at the draft documents to --
19 with a view to whether they were -- how they
20 were written and whether they were easy to
21 understand.
22 Q. What is the purpose of voting on

Page 58

1 draft standards as a member of E60?
2 MR. GRIFFIN: Objection.
3 MR. FEE: Objection to form.
4 THE WITNESS: The purpose of voting?
5 As I mentioned earlier, committees looked to
6 achieve a balance of interests and those
7 interests are -- it is the expectation that
8 those interests will vote on standards.
9 BY MR. BECKER:
10 Q. Do the members of E60 have to
11 approve a standard by majority vote in order
12 for the draft to be published --
13 MR. FEE: Objection to form.
14 MR. GRIFFIN: Objection.
15 BY MR. BECKER:
16 Q. -- as final?
17 A. You would have to check with ASTM
18 about that, what their requirements are for
19 moving a draft through the various stages of
20 the process.
21 Q. How were drafts of standards
22 developed when you were a member of E60?

Page 59

1 MR. FEE: Objection to form.
2 THE WITNESS: I was essentially a
3 corresponding member of E60. I did not attend
4 a committee meeting so I can't speak to how
5 those drafts were developed.
6 BY MR. BECKER:
7 Q. What does "corresponding member"
8 mean?
9 A. It means I did not attend a meeting.
10 I received electronic versions of documents and
11 I voted on them.
12 Q. Did you ever contribute any text to
13 a standard when you were participating with
14 ASTM?
15 A. No, I did not.
16 MR. FEE: Objection to form.
17 BY MR. BECKER:
18 Q. What aspects of the draft standards
19 did you evaluate?
20 MR. GRIFFIN: Objection.
21 THE WITNESS: As I -- I'm not -- the
22 question is not clear. Can you rephrase that.

Page 60

1 BY MR. BECKER:
2 Q. Sure. Were there certain criteria
3 you used when reviewing draft standards, draft
4 ASTM standards?
5 A. My background is heavily in
6 trade-related issues, also I have a background
7 in political science and economics, so I looked
8 at the text of the draft standards, as I
9 mentioned earlier, for readability,
10 understandability, those types of issues, those
11 types of aspects.
12 Q. Did you ever submit any comments
13 referring to -- did you ever submit any
14 comments when you were a member of E60
15 suggesting changes in any of the drafts that
16 you reviewed?
17 A. I did not.
18 Q. Was your participation as a member
19 of E60 limited to just voting?
20 A. Yes.
21 Q. Did you ever vote against a draft as
22 a member of E60?

Page 61

1 A. I don't recall.
2 Q. Did you ever vote for a draft as a
3 member of E60?
4 A. Yes, I did.
5 Q. Other than as a member of E60 and a
6 member of E50 and a board member in 2010 to
7 2012, have you participated in ASTM in any
8 other capacity?
9 A. I was an invited speaker at an ASTM
10 event hosting standards -- national standards
11 bodies from I believe Latin America, so I was
12 an invited speaker on behalf of NIST at that
13 ASTM event.
14 Q. Other than that and the involvement
15 we just previously discussed, is there any
16 other way in which you participated in ASTM?
17 A. No.
18 Q. How have you participated in IEEE?
19 MR. GRIFFIN: Objection.
20 THE WITNESS: As I mentioned, I was
21 on the IEEE Standards Association board of
22 governors for one term, I believe it was 2007,

Page 62

1 2008. That is the extent of my engagement with
2 IEEE.
3 BY MR. BECKER:
4 Q. What do you do in that position at
5 the IEEE?
6 A. So the board of governors of the
7 standards association oversees
8 standards-related activities of the IEEE, so we
9 received reports from the patent committee, we
10 received reports from the various committees
11 that are available at IEEE to advise on
12 standards activities.
13 Q. When you say, "you oversee
14 standards-related activities," what does that
15 involve?
16 A. I should have said --
17 MR. GRIFFIN: Objection.
18 THE WITNESS: A better way to
19 support standards-related activities at the
20 IEEE. I mentioned the patent committee. At
21 the time that I was on the board of governors,
22 there was quite a bit of interest within the

Page 63

1 standards association at -- in expanding the
2 international visibility of IEEE, so I engaged
3 with other members of the board in activities
4 related to international engagement and
5 visibility.
6 BY MR. BECKER:
7 Q. Is there any other way that you
8 participated as a member of the board of
9 governors at IEEE?
10 A. Not that I remember, no. I think
11 that characterizes my engagement. Again, I was
12 -- understand primarily on the board of
13 governors because of my trade expertise.
14 Q. How do you become a member of the
15 board of governors at IEEE?
16 A. Again, there is an election of the
17 members. The slate of proposed board of
18 governors, new board of governors members is
19 sent out to the membership for a vote. A staff
20 person at the IEEE Standards Association asked
21 me if I would stand for election to the board
22 of governors.

Page 64

1 Q. Do you know who that staff person
2 was?
3 A. Judy Gorman who was at that time the
4 executive director of the standards
5 association.
6 Q. When you refer to "the standards
7 association," what are you referring to?
8 A. It's a subcomponent of IEEE.
9 Q. Do you know why Judy Gorman asked
10 you to serve as a member of the board of
11 governors of IEEE?
12 MR. GRIFFIN: Objection.
13 THE WITNESS: I didn't ask her why
14 she asked me. I assumed it's because of my
15 trade expertise.
16 BY MR. BECKER:
17 Q. What board positions have you held
18 at ANSI?
19 A. Board positions?
20 Q. Yeah.
21 MR. GRIFFIN: Objection.
22 THE WITNESS: I was a director at

Page 65

1 large on the board of ANSI. As I mentioned
2 earlier, as chair of the international policy
3 committee and also later as chair of the
4 national policy committee, those chairs are --
5 ex-officio are members of the board, so I was
6 both a director at large and I have also been
7 on the board as the IPC and the NPC chairs.
8 BY MR. BECKER:
9 Q. Have you had any other involvement
10 with -- as a member of the board of ANSI?
11 MR. GRIFFIN: Objection.
12 THE WITNESS: Have I had any other
13 positions? Is that your question?
14 BY MR. BECKER:
15 Q. Yes.
16 A. So I neglected to mention earlier
17 because I did not remember until now, that I
18 was -- I served as a vice chair of ANSI as well
19 and as a vice chair, I was also a member of the
20 board.
21 Q. What is the role of a vice chair of
22 ANSI?

Page 66

1 A. So there are -- there are four vice
2 chairs at ANSI. And the four vice chairs,
3 along with the chairman of the board, the past
4 chair advice the president and CEO of ANSI on
5 issues that he raises with that small group.
6 Q. When you refer to "that small
7 group," what are --
8 A. The four vice chairs, the chairman
9 of the board and the past chair.
10 Q. When were you vice chair of ANSI?
11 A. Let me think. It's in my risumi so
12 let's see. It would have -- certainly through
13 2016. So back up.
14 Probably, I would have to back it up
15 from there, but certainly through -- through
16 the end of 2016.
17 Q. Do you know approximately how many
18 years you served in that position?
19 A. I think it's two two-year terms.
20 Q. Two separate two-year terms?
21 A. Yes.
22 Q. Were those consecutive?

Page 67

1 A. Yes.
2 Q. How did you become the vice chair of
3 ANSI?
4 A. I put my hat in the ring to be
5 nominated to be a vice chair of ANSI and I was
6 selected by the nominating committee of ANSI --
7 or recommended by the nominating committee of
8 ANSI.
9 Q. Were you already a director at large
10 at the time that you became vice chair of ANSI?
11 A. I would have to go back and look if
12 I was a member of the board as -- on the basis
13 of chairing a policy committee or if I was a
14 director at large. I don't have those dates at
15 my fingertips.
16 Q. What were your responsibilities as a
17 director at large of ANSI?
18 A. So the ANSI board is very large.
19 There's 53 members of the ANSI board and I was
20 one of those 53 individuals. The board meets
21 twice a year and it receives briefings from the
22 staff of ANSI and the president and CEO on

Page 68

1 ANSI's activities.
2 Q. Did you attend each of those
3 meetings?
4 A. I did.
5 Q. Did you have any other
6 responsibilities as director at large of ANSI?
7 A. I'm not following your -- I was a
8 member of the board and --
9 Q. Other than attending those meetings?
10 A. And chairing the policy committees
11 when I -- at the time I was a chair? No.
12 Q. Was chairing the policy committees a
13 required component of being a director of the
14 board?
15 A. No. As I mentioned earlier, there
16 are different types of board members. Chairs
17 of policy committees are automatically members
18 of the board ex-officio, and then other members
19 of the board are directors at large who are
20 elected based -- directly to the board.
21 Q. As a member of the ANSI board, did
22 you vote on policy decisions by ANSI?

Page 69

1 MR. GRIFFIN: Objection.
2 THE WITNESS: So as I mentioned,
3 members of the board would receive briefings on
4 ANSI's activities. ANSI's strategic objectives
5 were presented to the board every year, ANSI's
6 activities in ISO and ISE were briefed to the
7 board on a regular basis.
8 There probably were instances where
9 the board was asked to vote. I don't remember
10 the specifics of those votes. I would have
11 recused myself from any fiduciary votes that
12 the board -- the board approves the budget
13 every year. I did not vote on that.
14 BY MR. BECKER:
15 Q. Did you ever participate in any
16 votes of the board of ANSI?
17 A. I'm sure I did.
18 Q. Do you recall any of those votes
19 that you participated in?
20 MR. GRIFFIN: Objection.
21 THE WITNESS: Not off the top of my
22 head.

Page 70

1 BY MR. BECKER:
2 Q. How did you become the VP of
3 government relations and public policy at ANSI?
4 A. I applied for the position and I was
5 selected.
6 Q. Were there other candidates for that
7 position?
8 A. I don't know.
9 Q. When did you apply for that
10 position?
11 A. In the fall of 2016. I had made my
12 retirement plans and I was looking at
13 post-government employment. It was one of
14 several positions I applied for.
15 Q. What were the other positions that
16 you applied for?
17 A. I applied for positions at other
18 501(c)(3) organizations, that -- well, I
19 applied for a position at the Association for
20 the Advancement of Medical Instrumentation as
21 well.
22 Q. Were there any other positions that

Page 71

1 you applied for at that time?
2 A. No.
3 Q. What is the Association for the
4 Advancement of Medical Instrumentation?
5 A. It's a nonprofit organization that
6 engages in activities, including standards
7 development activities related to the health
8 technology sector.
9 Q. When did you learn that you had
10 gotten the position as VP of government
11 relations and public policy at ANSI?
12 A. As I said, I had already made my
13 retirement plans. This was post-government
14 employment. I filed all the required
15 disclosure forms with the Department of
16 Commerce. I learned in December of 2016 that I
17 had been -- the job was offered to me in
18 December of 2016.
19 Q. Do you know when you accepted the
20 job?
21 A. I can't -- presumably about that
22 time. I can't remember specifically. As I

Page 72

1 said, I filed all the necessary disclosure
2 forms with the Department of Commerce prior to
3 engaging in a job search.
4 Q. What are the -- those disclosure
5 forms?
6 A. What organizations I was seeking a
7 position with and a disclaimer that I would --
8 information that I would recuse myself from any
9 decisions related to those organizations.
10 Q. Did you recuse yourself from any
11 decisions related to ANSI during that time?
12 A. I was the associate director for
13 management resources so I had -- at the time at
14 NIST, so I had no direct responsibilities with
15 respect to ANSI decisions in standards
16 activities.
17 Q. What was your job as associate
18 director for management resources?
19 A. So the associate director for
20 management resources is directly responsible
21 for all of the operational activities at NIST,
22 which are facilities and property management,

Page 73

1 acquisitions and grants management, health and
2 safety, human resources. The chief financial
3 officer reported to me as did the chief
4 information officer, so all of the operational
5 activities at NIST.
6 Q. So does that mean that you oversaw
7 the human resources department and other
8 departments?
9 A. That's correct. I reported to --
10 the chief officers reported to me.
11 MR. GRIFFIN: Objection.
12 BY MR. BECKER:
13 Q. What are your responsibilities as
14 the VP of government relations and public
15 policy at ANSI?
16 A. I'm responsible for ANSI's
17 relationships with federal -- with government
18 agencies not just federal agencies. Federal --
19 government agencies as well as keeping track of
20 any Congressional activities that might be
21 relevant to standards -- the standardization
22 community for ANSI.

Page 74

1 Q. When you refer to "the
2 standardization community," what are you
3 referring to?
4 A. I am referring to standards as well
5 as -- and assessment of conformity to
6 standards. That's why we use the term
7 standardization.
8 Q. When you refer to "assessment of
9 conformity to standards," what are you
10 referring to?
11 A. Testing, product certification,
12 inspection, verification and validation. Those
13 are confirming assessment activities.
14 Q. Does ANSI itself engage in any
15 assessment of conformity to standards?
16 A. No. ANSI, through its division, the
17 American National Accreditation Board accredits
18 conformity assessment activities. It does not
19 engage in the activities that I listed.
20 Q. When you say it "accredits those
21 activities," what are you referring to?
22 A. There are a suite of international

Page 75

1 standards establishing a hierarchy for what we
2 call conformity assessment activities
3 accreditation. It is a -- there are standards
4 at the accreditation level, ISO standards,
5 which speak to determining the competence of
6 conformity assessment organizations, so ANSI is
7 an accreditor.
8 Q. What is a conformity assessment
9 organization?
10 A. It could be a test lab, a product
11 certifier, an inspection body, a validation and
12 verification body, personnel certification.
13 There are a range of types of activities,
14 conformity assessment activities, all of which
15 have international standards associated with
16 them.
17 Q. Are there any instances you are
18 aware of in which a conformity assessment
19 organization requires ANSI accreditation in
20 order to operate?
21 A. Are you asking -- can you repeat the
22 question or clarify the question.

Page 76

1 Q. Are there any instance you are aware
2 of in which a conformity assessment
3 organization requires ANSI accreditation in
4 order to operate?
5 A. The question is still not clear. So
6 ANSI accreditation -- you're asking me if ANSI
7 accreditation is mandatory in specific cases?
8 Q. Yes.
9 A. Not specifically ANSI accreditation.
10 Q. What do you mean by that?
11 A. Accreditation -- well, the U.S.
12 system for conformity assessment, like the U.S.
13 standards system, has a multiplicity of --
14 there is not a national accreditation body in
15 the United States. There are multiple
16 accreditation bodies of which the ANSI national
17 accreditation board is one.
18 Accreditation generally may be --as
19 demonstration of a competence through
20 accreditation generally may be required by
21 purchasers, by specifiers, by particular
22 interests, and ANSI may be one of those

<p style="text-align: right;">Page 77</p> <p>1 accreditors. It's not the only one. 2 Q. Is accreditation ever required by 3 government law or regulation? 4 MR. FEE: Objection to form. 5 THE WITNESS: Do you want to 6 rephrase, please. 7 BY MR. BECKER: 8 Q. Yeah. Is accreditation ever 9 required by government law? 10 MR. FEE: Objection to form. 11 THE WITNESS: I can't -- I don't 12 know the answer whether any law requires 13 accreditation. There are regulations where 14 accreditation is determined to be a means of 15 demonstrating competence. 16 I would have to go back and read -- 17 the Food Safety Modernization Act might be one 18 example, but I'm more familiar with the 19 regulation activities than I am with the laws. 20 BY MR. BECKER: 21 Q. Are there any specific regulations 22 that you know of, sitting here today, that</p>	<p style="text-align: right;">Page 79</p> <p>1 activities with those of the private sector. 2 The most recent revision of OMB 3 Circular A119 has an extensive section on 4 conformity assessment activities in it which 5 reflect both developments in the -- at the 6 World Trade Organization's technical barriers 7 to trade agreement as well as other government 8 policies, and those documents encourage federal 9 agencies to rely on private sector conformity 10 assessment activities wherever feasible. 11 BY MR. BECKER: 12 Q. Going back to my question: Are 13 there specific examples of regulations, other 14 than the Food Safety Modernization Act, that 15 you know of that require accreditation? 16 MR. GRIFFIN: Objection. 17 MR. FEE: Objection to form. 18 THE WITNESS: So the Federal 19 Communications Commission directs accredit -- 20 that telecommunication certification bodies be 21 accredited. FCC's recognition of testing 22 laboratories that do electromagnetic</p>
<p style="text-align: right;">Page 78</p> <p>1 require accreditation in this capacity? 2 MR. GRIFFIN: Objection. 3 MR. FEE: Objection to form. 4 THE WITNESS: I mentioned the Food 5 Safety Modernization Act when the FDA 6 established its program for oversight of food 7 safety. There is a provision for accreditation 8 of competent organizations. The FDA 9 administers that overall program. I mean -- go 10 ahead. 11 BY MR. BECKER: 12 Q. Are there any other specific 13 regulations that you can think of, sitting here 14 today, that require accreditation? 15 MR. GRIFFIN: Objection. 16 MR. FEE: Objection. 17 THE WITNESS: I'll speak generally. 18 A component of the National Technology Transfer 19 and Advancement Act, we covered the standards 20 related -- directions under Section 12. 21 Section 12 also directs federal agencies to 22 coordinate their conformity assessment</p>	<p style="text-align: right;">Page 80</p> <p>1 compatibility testing, requires accreditation. 2 EPA's Energy Star Program, but EPA administers 3 that program. 4 BY MR. BECKER: 5 Q. Does ANSI provide the accreditation 6 in either the FCC examples that you just 7 provided or the Food Safety Modernization Act? 8 A. Yes, both. ANSI has been evaluated 9 and is recognized by both the FCC and EPA as a 10 qualified accreditation body as are others. 11 Q. Do you know approximately how many 12 other qualified accreditation bodies there are? 13 A. Not off the top of my head. 14 Q. Do you have an estimate? 15 A. Let's see. In the Food Safety 16 Management Act, I believe one other 17 accreditation body is -- has demonstrated 18 technically competent, but I -- again, you 19 would have to look on the -- at the FDA 20 website. 21 Q. Do you recall what -- what 22 accreditation body that is?</p>

Page 81

1 A. I believe it's the American
2 Association for Laboratory Accreditation.
3 Q. Does ANSI charge a fee for providing
4 accreditations?
5 A. All accreditation bodies charge fees
6 for accreditation.
7 Q. Do you know what ANSI's fee is?
8 A. I do not.
9 Q. And can I take that as a yes, that
10 ANSI does charge a fee to provide
11 accreditation?
12 A. Yes, accreditation is a
13 fee-for-service activity.
14 Q. Is ANSI listed in the Food Safety
15 Modernization Act as a body that can provide
16 accreditation?
17 A. Not under the Act, no.
18 Q. Is ANSI listed under a regulation as
19 a body that can provide accreditation under the
20 requirements of the Food Safety Modernization
21 Act?
22 A. As I mentioned, the Food and Drug

Page 82

1 Administration has evaluated ANSI with respect
2 to its competence to provide services related
3 to the Food Safety Modernization Act and its --
4 ANSI -- the American National Accreditation
5 Body, ANAB, the division of ANSI is listed I
6 believe by the FDA.
7 Q. Listed in a regulation?
8 A. No, listed on its website.
9 Q. Okay. Do any standards development
10 organizations provide conformity assessment --
11 provide accreditation for conformity assessment
12 organizations?
13 MR. FEE: Objection to form.
14 THE WITNESS: Are you asking me if
15 any standards development organizations are
16 also accreditors?
17 BY MR. BECKER:
18 Q. Yes.
19 A. No. Not to my knowledge.
20 Q. Why is that, do you know?
21 MR. FEE: Objection to form.
22 THE WITNESS: I -- I don't have an

Page 83

1 opinion on that.
2 BY MR. BECKER:
3 Q. Do you know what -- approximately
4 what portion of ANSI's revenues are derived
5 from accreditation?
6 A. I believe that information is
7 available in the annual report. I don't have
8 that number at my fingertips.
9 Q. Do you have an estimate?
10 A. I would have to go look at the
11 annual report.
12 Q. Is that annual report provided to
13 the public?
14 A. Yes.
15 Q. Under the Food Safety Modernization
16 Act and its related regulations, is there any
17 other means for a conformity assessment
18 organization to operate other than by
19 accreditation by ANSI or the other accreditors
20 that you had referenced?
21 MR. GRIFFIN: Objection.
22 MR. FEE: Objection to form.

Page 84

1 THE WITNESS: I can't answer that.
2 You would have to go look at the FDA website.
3 BY MR. BECKER:
4 Q. What's the role of a conformity
5 assessment organization in the scope of the
6 Food Safety Modernization Act?
7 A. I can't answer that.
8 MR. FEE: Objection to form.
9 THE WITNESS: I don't have the
10 details on the Food Safety Modernization Act.
11 That wasn't within my area of expertise.
12 BY MR. BECKER:
13 Q. Do you know what the term
14 "incorporation by reference" means?
15 MR. FEE: Objection to form.
16 THE WITNESS: In what context?
17 BY MR. BECKER:
18 Q. In the context of law.
19 MR. FEE: Same objection.
20 MR. GRIFFIN: Objection.
21 THE WITNESS: I am familiar with the
22 National Archives and Records Administration

Page 85

1 Incorporation by Reference Handbook for
2 incorporation into regulations, and I am
3 familiar with the OMB Circular A119 discussion
4 of incorporation by reference.
5 BY MR. BECKER:
6 Q. What's the National Archives and
7 Records Administration's Incorporation by
8 Reference Handbook?
9 A. The National Archives and Records
10 Administration houses the Office of Federal
11 Register. The Incorporation by Reference
12 Handbook is NARA's instructions to agencies as
13 to the appropriate way to incorporate material
14 by reference into regulations which will become
15 part of the Code of Federal Regulations.
16 Q. When you say, "it's NARA's
17 instructions to agencies," what do you mean by
18 that?
19 A. As I mentioned, the National
20 Archives and Records Administration houses the
21 Office of Federal Register and in that context,
22 it provides instructions to regulation writers

Page 86

1 and agencies as to how to prepare materials for
2 publication in the Office of Federal Register,
3 and at the end of the rulemaking, in the Code
4 of Federal Regulations.
5 Q. When you say, "it provides
6 instructions," are these instructions that the
7 regulation writers and agencies are required to
8 follow or is this just guidance?
9 MR. FEE: Objection to form.
10 THE WITNESS: The IBR -- the NARA
11 IBR handbook is available on the website. You
12 can review it directly. It is instructions for
13 how to prepare material to be published in the
14 Federal Register and in the Code of Federal
15 Regulations.
16 BY MR. BECKER:
17 Q. And my question was: Are those
18 instructions -- excuse me.
19 Are the writers of regulations and
20 agencies required to follow the instructions in
21 that handbook?
22 MR. FEE: Objection to form.

Page 87

1 THE WITNESS: Not having been a
2 regulation writer, I can't speak directly to
3 that.
4 BY MR. BECKER:
5 Q. What is "incorporation by
6 reference?"
7 A. Incorporation by reference is
8 incorporating a document by reference to that
9 document in a -- in a notice of proposed
10 rulemaking or a rule itself.
11 Q. What is the effect of incorporation
12 by reference?
13 MR. GRIFFIN: Objection.
14 MR. FEE: Objection to form.
15 THE WITNESS: I can only speak to
16 the effect of incorporation by reference as
17 defined in the NARA IBR handbook for materials
18 that are published in the Federal Register and
19 in the Code of Federal Regulations. It's
20 incorporated in by reference into the Code of
21 Federal Regulations. I can't speak beyond
22 that.

Page 88

1 BY MR. BECKER:
2 Q. Why is incorporation by reference
3 used?
4 MR. FEE: Objection to form.
5 MR. GRIFFIN: Objection.
6 THE WITNESS: Again, I refer to the
7 NARA handbook and the instructions. There are
8 a variety of reasons and for reasons of
9 efficiency, for reasons of reducing the volume
10 of the materials that are actually published,
11 and very importantly for copyright reasons,
12 documents that are copyrighted have protection
13 under the law.
14 BY MR. BECKER:
15 Q. Can you speak more to that?
16 MR. FEE: Objection to form.
17 MR. GRIFFIN: Objection.
18 THE WITNESS: What -- I'm not clear
19 about what additional --
20 BY MR. BECKER:
21 Q. When you say, "very importantly for
22 copyright reasons," what do you mean by that?

Page 89

1 A. So NARA -- the NARA handbook lists
2 several considerations that agencies should
3 take under advisement, as does the OMB
4 circular, with respect to incorporating
5 materials by reference, and one of those is
6 copyright obligations, obligations to protect,
7 to -- obligations to protect copyright.
8 Q. What do you mean by "obligations to
9 protect copyright?"
10 A. Well, copyrighted documents are
11 protected by the Copyright Act.
12 Q. So how does incorporation by
13 reference relate to an obligation to protect
14 copyright?
15 A. Incorporation by reference is in
16 lieu of producing -- reproducing an entire
17 copyrighted document in a federal document.
18 mean --
19 Q. And again, how does incorporation by
20 reference relate to an obligation to protect
21 copyright?
22 MR. FEE: Objection.

Page 90

1 THE WITNESS: I just -- I thought I
2 just answered that.
3 BY MR. BECKER:
4 Q. Are you saying that by not
5 publishing a document in full in a law or
6 regulation, the entity that is publishing that
7 law or regulation thereby avoids copyright
8 infringement?
9 MR. FEE: Objection.
10 MR. GRIFFIN: Objection.
11 THE WITNESS: Well, I'm not a
12 copyright lawyer so I can't speak to the
13 details of that. I refer you to the OMB
14 circular which has a very extensive discussion
15 of considerations for agencies and
16 incorporating material by reference as well as
17 the NARA handbook.
18 BY MR. BECKER:
19 Q. Do you know when the NARA handbook
20 was first published?
21 A. I do not.
22 Q. Do you know who drafts the NARA

Page 91

1 handbook?
2 A. The staff of the Office of Federal
3 Register is my understanding.
4 Q. Do you know how the NARA handbook is
5 drafted?
6 A. I do not.
7 MR. GRIFFIN: Objection.
8 BY MR. BECKER:
9 Q. Do you know who has input on the
10 contents of the NARA handbook?
11 MR. GRIFFIN: Objection.
12 THE WITNESS: I do not.
13 BY MR. BECKER:
14 Q. Do you have any estimate as to when
15 the NARA handbook was first issued?
16 MR. GRIFFIN: Objection.
17 THE WITNESS: I do not.
18 BY MR. BECKER:
19 Q. How long have you been referring to
20 the NARA handbook?
21 MR. GRIFFIN: Objection.
22 THE WITNESS: As a source document?

Page 92

1 The NARA handbook was -- is updated
2 periodically. The NARA handbook was updated in
3 -- following the publication -- I think
4 immediately prior to the publication of the
5 current version of the OMB circular. OMB
6 deferred to NARA to update its regulations
7 prior to completing the update of the OMB
8 circular and I -- the current version of the
9 NARA handbook is dated 2018.
10 BY MR. BECKER:
11 Q. Did you refer to the NARA handbook
12 as an authoritative source of information when
13 you were a government employee?
14 MR. GRIFFIN: Objection.
15 THE WITNESS: As I said, I never was
16 in a position to be a regulation writer.
17 Relevant documents are pointed to on
18 standards.gov and so it's the National
19 Technology Transfer and Advancement Act, the
20 OMB circular and the NARA handbook. There may
21 be other documents as well, but I have never
22 been a regulation writer.

Page 93

1 BY MR. BECKER:
2 Q. Did you ever refer to the NARA
3 handbook when you were a government employee?
4 A. Personally, no, because I never
5 wrote a regulation.
6 Q. Did you ever read the NARA handbook
7 while you were a government employee?
8 A. I have read the NARA handbook, yes.
9 Q. While you were a government
10 employee?
11 A. Yes.
12 Q. Why was it that you read the NARA
13 handbook while a government employee?
14 A. As I mentioned, there are -- the
15 relevant documents are the National Technology
16 Transfer and Advancement Act, the OMB circular
17 and the NARA handbook. There are related
18 executive orders as well as 1512866 and other
19 memos. I read all those documents. I was
20 familiar with those documents at a high level
21 because NIST is directed by Congress to promote
22 reliance on private voluntary consensus

Page 94

1 standards by federal agencies and those are
2 operative documents.
3 Q. When you say, "operative documents,"
4 what do you mean?
5 A. Those are relevant documents.
6 Q. Okay. How is the NARA handbook
7 relevant to the promotion of reliance on
8 private voluntary consensus standards by
9 federal agencies?
10 A. It speaks to good practices in
11 incorporated material by reference in the Code
12 of Federal Regulations and the material may
13 include standards.
14 Q. Is there a more authoritative source
15 of information on the practices for
16 incorporation by reference of material into
17 regulations?
18 MR. FEE: Objection to form.
19 MR. GRIFFIN: Objection.
20 THE WITNESS: I have listed the
21 documents I am aware of.
22 BY MR. BECKER:

Page 95

1 Q. But my question was: Is there a
2 more authoritative document other than that?
3 MR. FEE: Objection to form.
4 MR. GRIFFIN: Objection.
5 THE WITNESS: I don't know.
6 BY MR. BECKER:
7 Q. Do you consider the IBR handbook to
8 be an authoritative document?
9 MR. FEE: Objection to form.
10 THE WITNESS: I consider the IBR
11 handbook to be relevant to agencies that are
12 incorporating material by reference.
13 BY MR. BECKER:
14 Q. What kind of documents are
15 incorporated by reference into law?
16 MR. FEE: Objection to form.
17 MR. GRIFFIN: Objection.
18 THE WITNESS: I'm familiar with
19 regulations, not the law.
20 BY MR. BECKER:
21 Q. What's the distinction between law
22 and regulations?

Page 96

1 MR. GRIFFIN: Objection.
2 THE WITNESS: At the federal -- I am
3 familiar with the federal level, federal agency
4 activities only, which typically, agencies
5 issue regulations pursuant to laws that
6 Congress has passed.
7 BY MR. BECKER:
8 Q. So by laws, are you referring to
9 statutes?
10 MR. FEE: Objection.
11 THE WITNESS: I'm referring to
12 legislation that passes Congress and is signed
13 by the President.
14 BY MR. BECKER:
15 Q. Okay. When I - today, when I refer
16 to "law,"
17 I will be including regulations in the term
18 law.
19 If I want to refer to statutes or
20 legislations specifically or regulations
21 specifically, I will use those terms.
22 Does that make sense to you?

<p style="text-align: right;">Page 97</p> <p>1 A. I understand what you said. I will 2 continue to refer to them as regulations though 3 because I see a difference. 4 Q. What kind of documents are 5 incorporated by reference into regulations? 6 MR. FEE: Objection to form. 7 THE WITNESS: So I can't speak to 8 that general question. I haven't looked at 9 every regulation in terms of what documents 10 might be incorporated. 11 BY MR. BECKER: 12 Q. Can you give me examples of 13 documents that are incorporated by reference 14 into regulation? 15 A. Yes. There are -- some standards 16 are incorporated by reference into regulation. 17 Q. Are you aware of other documents, 18 other than standards, that are incorporated by 19 reference into regulation in the United States? 20 A. Not specifically. 21 Q. Are you aware of specific -- excuse 22 me.</p>	<p style="text-align: right;">Page 99</p> <p>1 regulations which are subject to the 2 Administrative Procedures Act, which means that 3 they go out for public comment. The agency 4 responds to those comments and then moves 5 through the process to a final rule. So 6 agencies are responsible for proposing 7 regulations and proposing material incorporated 8 in those regulations. Those actions are 9 subject to the Administrative Procedures Act. 10 BY MR. BECKER: 11 Q. So when you say that "an agency is 12 responsible for proposing material incorporated 13 into regulations," who makes the final decision 14 as to what material will be incorporated into 15 those regulations? 16 MR. GRIFFIN: Objection. 17 MR. FEE: Objection to form. 18 THE WITNESS: I can't speak to 19 internal agency processes as to who the 20 decisionmakers are. Likely, various from 21 agency to agency. It will be an internal 22 review process for a notice of proposed</p>
<p style="text-align: right;">Page 98</p> <p>1 Are you generally aware of other 2 documents that are incorporated by reference 3 into regulation in the United States other than 4 standards? 5 A. I am aware that there is the 6 possibility that other documents may be 7 incorporated by reference. I don't have any 8 direct experience. 9 Q. Do you know what types of other 10 documents might be incorporated by reference 11 into regulation in the United States? 12 A. I do not. 13 MR. GRIFFIN: Objection. 14 BY MR. BECKER: 15 Q. Who makes the decision to 16 incorporate a document by reference into a 17 regulation in the United States? 18 MR. GRIFFIN: Objection. 19 MR. FEE: Objection. 20 THE WITNESS: Who makes the 21 decision? So agencies -- regulatory agencies 22 have regulatory staff that write draft</p>	<p style="text-align: right;">Page 100</p> <p>1 rulemaking, and for certain rules over a 2 certain economic threshold, the Office of 3 Management and Budget will also reviews those 4 proposed rules. 5 BY MR. BECKER: 6 Q. Do members of the public have input 7 as to what documents will be incorporated by 8 reference into regulations in the United 9 States? 10 MR. GRIFFIN: Objection. 11 MR. FEE: Objection to form. 12 THE WITNESS: I mentioned that 13 regulations are subject to the Administrative 14 Procedures Act which means they are subject to 15 notice and comment by the public. 16 BY MR. BECKER: 17 Q. And what does notice and comment by 18 the public involve? 19 MR. GRIFFIN: Objection. 20 THE WITNESS: An agency develops and 21 publishes in the Office of Federal Register, a 22 notice of proposed rulemaking, allows a certain</p>

Page 101

1 period of time for comment on that proposed
2 rule, and then under the Administrative
3 Procedures Act must take the comments into
4 account and respond to those comments and move
5 through the process. That's what I mean.
6 BY MR. BECKER:
7 Q. Earlier, you had discussed the
8 reasons for incorporation by reference and --
9 as opposed to stating the contents of the
10 document that would be incorporated verbatim
11 into the law or regulation, and you had
12 mentioned that those reasons included
13 efficiency and also copyright concerns; is that
14 correct?
15 A. Yes.
16 MR. GRIFFIN: Objection.
17 BY MR. BECKER:
18 Q. Are there other reasons other than
19 efficiency and copyright concerns?
20 MR. GRIFFIN: Objection.
21 THE WITNESS: The OMB circular has
22 an extensive section on considerations that

Page 102

1 agencies need to take into account when
2 incorporating standards by reference into
3 regulations. I don't have at my fingertips
4 that full list, but I would refer you to that.
5 BY MR. BECKER:
6 Q. Are you referring to A119?
7 A. I'm referring to OMB Circular A119,
8 correct.
9 Q. What is the OMB Circular A119?
10 A. OMB Circular A119 is instructions to
11 federal agencies on use of voluntary consensus
12 standards and participation and standards
13 activities.
14 Q. Are you aware of any change in a
15 proposed incorporation by reference of a
16 standard in a regulation as a result of public
17 comment?
18 MR. GRIFFIN: Objection.
19 THE WITNESS: I wouldn't have that
20 information, since I have never worked at an
21 agency that issues regulations.
22 BY MR. BECKER:

Page 103

1 Q. Are you aware of any instance in
2 which there has been a change in a proposed
3 incorporation by reference of a standard in a
4 regulation as a result of input by the standard
5 development organization that publishes that
6 standard that would be incorporated by
7 reference?
8 A. I don't have the details of a
9 particular -- any particular rulemaking
10 process, so I can't speak to that.
11 Q. Sitting here today, are you aware of
12 any such instances?
13 MR. GRIFFIN: Objection.
14 THE WITNESS: No.
15 BY MR. BECKER:
16 Q. Are you aware of any instances in
17 which a standards development organization has
18 asked that its standard not be incorporated by
19 reference into a regulation?
20 A. Not personally, no.
21 Q. Are you aware of any change in a
22 proposed incorporation by reference of a

Page 104

1 standard in a regulation as a result of any
2 proceeding under the Administrative Procedure
3 Act?
4 MR. GRIFFIN: Objection.
5 THE WITNESS: I am not personally
6 aware of that.
7 BY MR. BECKER:
8 Q. Are you generally aware of any
9 instance where a standards development
10 organization has asked that its standard not be
11 incorporated by reference into a regulation?
12 A. No.
13 MR. GRIFFIN: Objection.
14 BY MR. BECKER:
15 Q. Are you generally aware of any
16 instances where a standards development
17 organization has asked that its standard be
18 incorporated by reference in a regulation?
19 A. No.
20 Q. So you are not aware of any instance
21 where a standards development organization has
22 asked that its standard be incorporated by

Page 105

1 reference into a regulation?
2 MR. GRIFFIN: Objection.
3 THE WITNESS: So my responsibilities
4 at NIST and the responsibilities of the
5 standards coordination office were at a very
6 high policy level. We did not engage in
7 specific -- specific engagements between
8 standards development organizations and
9 agencies.
10 BY MR. BECKER:
11 Q. What about in your role at ANSI or
12 at any of the standards development
13 organizations that you have participated with?
14 MR. GRIFFIN: Objection.
15 MR. FEE: Objection.
16 THE WITNESS: M I aware of any
17 instance in which a standards development
18 organization asked to have a standard? No.
19 BY MR. BECKER:
20 Q. Have you ever discussed with anyone
21 the possibility of a standards development
22 organization asking that its standard not be

Page 106

1 incorporated by reference into a regulation?
2 MR. GRIFFIN: Objection.
3 THE WITNESS: Not to my knowledge.
4 BY MR. BECKER:
5 Q. Did you ever come to hear directly
6 or indirectly that a standards development
7 organization asked that its standard not be
8 incorporated by reference into a regulation?
9 MR. GRIFFIN: Objection.
10 THE WITNESS: Not to my knowledge.
11 BY MR. BECKER:
12 Q. Is there any benefit to a standards
13 development organization in having its standard
14 incorporated by reference into a regulation?
15 MR. FEE: Objection to form.
16 THE WITNESS: So since I have never
17 been employed by a standards development
18 organization, I can't speak to the benefit that
19 might accrue.
20 BY MR. BECKER:
21 Q. Even despite being a board member of
22 two standards development organizations?

Page 107

1 A. In my memory, those issues were not
2 discussed at the board level.
3 Q. Was incorporation by reference ever
4 discussed at the board level at either of the
5 standards development organizations that you
6 were a board member of?
7 A. Not that I represent.
8 Q. Was incorporation by reference ever
9 discussed at the board level at ANSI?
10 A. There are several board meetings
11 which reports on incorporation by reference
12 were provided. I believe Public.Resource.Org
13 has those documents as a result of a FOIA
14 request made to NIST.
15 Q. Does -- does ANSI advocate for the
16 incorporation by reference of standards into
17 regulation?
18 MR. GRIFFIN: Objection.
19 MR. FEE: Objection to form.
20 THE WITNESS: ANSI advocates for
21 federal agencies reliance on voluntary
22 consensus standards in carrying out their

Page 108

1 mission responsibilities.
2 BY MR. BECKER:
3 Q. When you say, "reliance," what do
4 you mean by that?
5 A. So depending on the agency, organic
6 legislation and their authorities, there are
7 various ways that agencies can rely on
8 voluntary standards to carry out their
9 missions.
10 Q. Does that -- including incorporation
11 by reference --
12 A. Yes.
13 Q. -- in the regulations?
14 A. That includes incorporation by
15 reference into regulations.
16 Q. What are the other ways that an
17 agency could rely on voluntary standards to
18 carry out its mission?
19 MR. FEE: Objection to form.
20 THE WITNESS: In the guidance area,
21 agencies can point to standards that are
22 relevant to an agency mission space and

<p style="text-align: right;">Page 109</p> <p>1 identify those for interested members of the 2 regulated community. 3 BY MR. BECKER: 4 Q. When you say, "point to standards 5 that are relevant to an agency mission and 6 identify those for interested members of the 7 regulated community," what's the difference 8 between that and incorporation by reference? 9 A. Incorporation by reference is a very 10 specific term. It's for documents that are 11 incorporated by reference into the Code of 12 Federal Regulations, so that is different than 13 identifying standards as part of guidance. 14 Q. Why wouldn't an agency just identify 15 a standard as part of guidance? 16 MR. GRIFFIN: Objection. 17 THE WITNESS: It depends on the 18 agency. What their -- their organic act and 19 the -- Congress, the direction Congress has 20 given to them as to how to carry out their 21 regulatory responsibilities so it's unique, it 22 depends on the agency.</p>	<p style="text-align: right;">Page 111</p> <p>1 with agency -- with those particular agencies. 2 MR. GRIFFIN: Just pause for one 3 second. 4 Before you answer, just pause for 5 one second. 6 THE WITNESS: Sorry. 7 BY MR. BECKER: 8 Q. Are you aware of any instances where 9 an agency both refers to standards and uses 10 incorporation by reference? 11 A. Not off the top of my head. I'm 12 sure there are instances where that occurs. 13 MR. GRIFFIN: We just hit the 14 two-hour mark, so whenever you -- 15 MR. BECKER: Sure. We can take a 16 break in just a few minutes unless someone is 17 dying to take a break right now. 18 MR. GRIFFIN: No, no. 19 BY MR. BECKER: 20 Q. You said that ANSI advocates for 21 federal agencies to rely on consensus standards 22 in carrying out their mission responses, and</p>
<p style="text-align: right;">Page 110</p> <p>1 BY MR. BECKER: 2 Q. I'm not certain I understand. 3 A. You would have to look to the 4 particular agency, scope of responsibilities 5 and how they are directed by Congress to carry 6 out those responsibilities. It differs from 7 agency to agency. 8 Q. So why would an agency -- why would 9 an agency just refer to a standard rather than 10 using incorporation by reference? 11 A. It may not -- 12 MR. GRIFFIN: Objection. 13 MR. FEE: Objection to form. 14 THE WITNESS: It may not be 15 permitted under their authorizing legislation. 16 BY MR. BECKER: 17 Q. Why wouldn't referring to a standard 18 be permitted under authorizing legislation? 19 A. Well, I can't speak to that. 20 MR. FEE: Objection to form. 21 MR. GRIFFIN: Objection. 22 THE WITNESS: You'd have to check</p>	<p style="text-align: right;">Page 112</p> <p>1 that there are various ways that agencies can 2 rely on voluntary standards to carry out their 3 missions. 4 One way of relying on those 5 standards is by incorporation by reference and 6 the other is by simply referring to those 7 standards, correct? 8 MR. FEE: Objection. 9 MR. GRIFFIN: Objection. 10 THE WITNESS: "An" other way, not 11 "the" other way. 12 BY MR. BECKER: 13 Q. And what are -- other than 14 incorporation by reference and referring to 15 these standards, are there other ways that an 16 agency could rely on voluntary standards to 17 carry out its mission? 18 A. So that is outside of my area of 19 expertise. 20 Q. Are you aware of any other ways, 21 other than referring to standards or 22 incorporating standards by reference into</p>

Page 113

1 regulation?
2 A. So I'm not going to guess as to
3 possible ways agencies may rely. It differs
4 from agency to agency.
5 Q. Does ANSI ever advocate for an
6 agency referring to a standard rather than
7 incorporating a standard by reference into
8 regulation?
9 A. That's the agency's decision.
10 Q. Is that a no?
11 A. That's a no.
12 Q. Does ANSI ever advocate for an
13 agency incorporating a standard by reference
14 into regulation rather than simply referring to
15 the standard?
16 A. No. I said that's the agency's
17 decision.
18 Q. Does ANSI ever discuss the benefits
19 or detriments of incorporation by reference
20 versus other reference to a standard in
21 regulation?
22 MR. GRIFFIN: Objection.

Page 114

1 THE WITNESS: ANSI as an institute?
2 I referred to the OMB Circular A119 and other
3 relevant documents I referred to earlier that
4 provides the overall context for this situation
5 so ANSI operates within that context.
6 BY MR. BECKER:
7 Q. And my question is: Does ANSI, as
8 an organization, ever discuss the benefits or
9 detriments of incorporation by reference versus
10 other reference to a standard in regulation?
11 MR. GRIFFIN: Objection.
12 THE WITNESS: With agencies?
13 BY MR. BECKER:
14 Q. Or generally.
15 A. No, not at that level of
16 specificity.
17 Q. Do they do so at a different level
18 of specificity?
19 A. No, you are asking for my personal
20 recollection.
21 MR. GRIFFIN: Objection.
22 THE WITNESS: The institute does not

Page 115

1 get into those types of differentiations.
2 BY MR. BECKER:
3 Q. Did NIST ever advocate for reference
4 to a standard as opposed to incorporation by
5 reference of a standard into regulation?
6 A. No, again, that's the agency's
7 decision.
8 Q. Did NIST ever provide guidance as to
9 when an agency should reference a standard
10 versus incorporate the standard by reference
11 into regulation?
12 A. No. That's the responsibility of
13 the individual regulatory agency.
14 MR. BECKER: We can take a break.
15 THE VIDEOGRAPHER: We are going off
16 the record. This is the end of Media Unit No.
17 1. The time is 12:23.
18 (A short recess was taken.)
19 THE VIDEOGRAPHER: We are going back
20 on the record. This is the start of Media Unit
21 No. 2. The time is 1:11.
22 BY MR. BECKER:

Page 116

1 Q. Ms. Saunders, are there any answers
2 to questions earlier today that you realized
3 are incorrect or that you would like to change?
4 A. I think we've covered the point that
5 I neglected to mention the first time you asked
6 me about my positions in which -- at ANSI,
7 which I neglected to mention, I was a vice
8 chair but we covered that in a later exchange.
9 Beyond that, I don't think I have
10 any connections.
11 Q. Okay. And, Ms. Saunders, if you
12 wouldn't mind, if you could just try to speak a
13 little bit slower --
14 A. I am trying.
15 Q. So our court reporter can get
16 everything and your attorney can make
17 objections. I know it's -- it's hard to do --
18 speak at the cadence required for a deposition.
19 A. I will do my best.
20 MR. BECKER: Can you please mark
21 that. I believe that is Exhibit 3.
22 (Deposition Exhibit 3 was marked for

Page 117

1 identification.)
2 BY MR. BECKER:
3 Q. I have handed you what has been
4 marked as Exhibit No. 3.
5 This is the document produced by
6 ANSI at Bates No. ANSI 1536.
7 Do you recognize this document?
8 A. Yes, I do.
9 Q. What is this document?
10 A. This is the current ANSI
11 organizational chart.
12 Q. So this document was produced in
13 2015. Is there -- has there been any change to
14 the ANSI organizational chart between 2015 and
15 today that you are aware of?
16 MR. GRIFFIN: Objection.
17 THE WITNESS: This looks -- this
18 looks accurate as of 2019.
19 BY MR. BECKER:
20 Q. Great. What positions on this ANSI
21 organization chart have you held?
22 MR. GRIFFIN: Objection.

Page 118

1 THE WITNESS: I have served, as we
2 noted earlier, on the ANSI board of directors.
3 I have served on the national policy committee
4 and as the chair of the national policy
5 committee. I have actually served on the
6 appeals board. This is one level below the
7 national policy committee.
8 I have served as a member and also a
9 chair of the international policy committee,
10 and as a government member, I was a member of
11 the government member from up here.
12 BY MR. BECKER:
13 Q. That's the government member listing
14 under forums?
15 A. Correct. And I served on several
16 occasions on the nominating committee which is
17 not a standing committee that's reconstituted
18 every year. Hold on a second. That's it.
19 (Deposition Exhibit 4 was marked for
20 identification.)
21 BY MR. BECKER:
22 Q. Ms. Saunders, I have handed you what

Page 119

1 has been marked as Exhibit No. 4.
2 This is a document produced as
3 PRO_00264718 to PRO_00264723.
4 Have you ever seen this document
5 before?
6 A. I must have, since it was a document
7 provided as part of discovery in response to
8 the FOIA request. It is a printout, as it says
9 at the top, of the NIST standard committee
10 participation database.
11 Q. Starting on the third to last page
12 of Exhibit No. 4 which is Bates-stamped
13 PRO_00264721, does this have a listing of the
14 SDOs that you have had a membership with?
15 MR. GRIFFIN: Objection.
16 MR. FEE: Objection to form.
17 THE WITNESS: It lists the standards
18 activities in which I participated that are
19 recorded in the standard committee
20 participation database. It appears to include
21 everything.
22 BY MR. BECKER:

Page 120

1 Q. Here, it lists ANSI as an SDO; is
2 that correct?
3 A. It lists ANSI as an SDO. It doesn't
4 list ANSI -- it lists ANSI as an SDO because
5 the database does not make provisions for other
6 types of organizations. ANSI is not an SDO.
7 Q. Are there other types of
8 organizations other than SDOs and ANSI that
9 would be listed in this database?
10 MR. FEE: Objection.
11 THE WITNESS: No. ANSI is the only
12 one, but ANSI is unique in that the database
13 was developed to track standards committee
14 participation which is mostly in SDOs. ANSI is
15 a policy level organization and it is included
16 in the database.
17 BY MR. BECKER:
18 Q. Looking over the -- this list, are
19 there any committees that you have been part of
20 for an SDO or ANSI that are not listed here?
21 A. The standards committee
22 participation database does not list my

Page 121

1 participation in ASTM E50 because I believe
2 that would have been 1993. That predated the
3 existence of the database.
4 Q. Anything else?
5 A. No.
6 Q. When you were participating with --
7 on the committee for ASTM E50, what was your
8 role?
9 MR. GRIFFIN: Objection.
10 THE WITNESS: I was a member of the
11 standards committee.
12 BY MR. BECKER:
13 Q. What does a member of the standards
14 committee do?
15 A. A member of the standards committee
16 participate in the development of documents --
17 standards under the -- that come under the
18 purview of that committee.
19 In this specific case, because E50
20 operated and operates as a U.S. technical
21 advisory group to the International
22 Organization for Standardization technical

Page 122

1 committee 207, it operated as -- in developing
2 U.S. positions on standards that were being
3 developed in ISO.
4 Q. Did E50 develop any ASTM standards?
5 MR. FEE: Objection to form.
6 THE WITNESS: I was specifically
7 participating in that committee in its role as
8 the U.S. technical advisory group to ISO, so
9 the documents I commented on and in which I
10 participated in discussions were to be ISO
11 standards.
12 BY MR. BECKER:
13 Q. When you say, "to be ISO standards,"
14 what's the distinction between that and an ASTM
15 standard?
16 A. Those are two different --
17 MR. GRIFFIN: Objection.
18 THE WITNESS: Those are two
19 different standards organizations. The
20 International Organization for Standardization
21 is headquartered in Geneva, participation is on
22 a national standards body basis, and ANSI is

Page 123

1 the national standards body representing the
2 U.S. to ISO. ANSI accredits U.S. technical
3 advisory groups. In this case, the technical
4 advisory group to TC 207 was administered by
5 ASTM.
6 BY MR. BECKER:
7 Q. Going back to Exhibit No. 3, and now
8 that you have the benefit of having Exhibit No.
9 4 in front of you, are there any additional
10 positions on the ANSI organization chart that
11 you have participated in that you didn't
12 previously tell me about?
13 A. I neglected to mention the executive
14 committee and I think a reason I did not
15 mention that is by dent of my -- it's a
16 chairman chair position first for the IPC and
17 the national policy committee, you are -- those
18 chairs are also automatically members of the
19 ANSI executive committee as are ANSI vice
20 chairs are automatically members of the ANSI
21 executive committee.
22 Q. Approximately how many individuals

Page 124

1 are on the ANSI executive committee?
2 A. Approximately 18.
3 Q. What is the role of the ANSI
4 executive committee?
5 A. The ANSI executive committee is --
6 serves as a subset of the ANSI board. The
7 executive committee meets three times a year
8 and is typically the committee where ANSI
9 policy positions that will be further
10 deliberated by the board are first -- first
11 discussed.
12 The executive committee is also
13 responsible for approving nominations of chair
14 positions I believe.
15 Q. What are the ANSI forums that's
16 listed here on the upper left side of Exhibit
17 No. 3?
18 A. As I mentioned earlier, ANSI has
19 different membership categories. These --
20 there is a forum for each of the membership
21 categories.
22 Q. When you say, "there is a forum for

Page 125

1 each of the membership categories," what
2 exactly is the forum?
3 A. So as a government member of -- I
4 say representative of a government member,
5 ANSI, I was automatically a member of the
6 forum. It is -- each of the fora are -- forums
7 are places where a membership category can meet
8 or -- to discuss shared interests and can share
9 information.
10 Q. So this is where government -- the
11 government member forum would be one where
12 government members of ANSI would meet and share
13 information?
14 A. Yes.
15 MR. GRIFFIN: Objection.
16 BY MR. BECKER:
17 Q. Did you ever participate in the ANSI
18 government member forum?
19 MR. GRIFFIN: Objection.
20 THE WITNESS: As an employee of a
21 government member, I was automatically a member
22 of the government member forum.

Page 126

1 BY MR. BECKER:
2 Q. Did you use that forum to engage in
3 communications with other government members?
4 A. Well, official communications? I
5 mean, can you clarify? I mean, the forum
6 periodically -- the forum periodically had
7 meetings.
8 Q. Did you participate in those
9 meetings?
10 A. I probably participated in a few of
11 those meetings.
12 Q. Do you know how regularly they had
13 meetings?
14 A. The forum -- the government member
15 forum did not meet regularly.
16 Q. Would that be once a year or there
17 is just no -- when you say, "it doesn't meet
18 regularly," do you mean that there is no set
19 number of meetings per year?
20 MR. GRIFFIN: Objection.
21 THE WITNESS: What I meant is that
22 in my memory, the government member forum would

Page 127

1 meet periodically.
2 BY MR. BECKER:
3 Q. Do you recall approximately how
4 frequently?
5 A. One to two times a year.
6 Q. What is the role of the appeals
7 board on the national policy committee?
8 A. So the -- I mentioned earlier, that
9 two of the committees which currently come
10 under the responsibility of the national policy
11 committee are the ANSI executive -- the ANSI
12 board of standards review and the ANSI
13 executive standards council. These two
14 entities are responsible for managing the
15 process by which American national standards
16 are developed and approved.
17 As part of the ANSI essential
18 requirements for process, there is a dispute
19 settlement provision so -- and there can be an
20 appeal at several levels of an action that is
21 taken by an accredited standards developing
22 organization or -- and there can be appeal

Page 128

1 about a particular standard, an American
2 national standard as well. The appeals board
3 is the final level of appeal at ANSI with
4 respect to actions related to American national
5 standards.
6 Q. What kind of disputes would come
7 under that dispute settlement provision?
8 MR. GRIFFIN: Objection.
9 THE WITNESS: Organizations can
10 raise questions about conformance to the ANSI
11 essential requirement, emulates to the process
12 of developing American national standards. It
13 specifically does not touch on the technical
14 content of the standard.
15 BY MR. BECKER:
16 Q. What are the ANSI essential
17 requirements?
18 A. So you can find a copy of the ANSI
19 essential requirements documents on the ANSI
20 website. As I mentioned earlier, the ANSI
21 essential requirements relate to openness,
22 transparency, balance, due process and

Page 129

1 consensus.
2 Q. Are you aware of any instances when
3 anyone has complained about the difficulty in
4 accessing a standard that is incorporated by
5 reference into federal regulation?
6 A. May I just add to my previous
7 answer.
8 Q. Of course.
9 A. Lack of dominance is an essential
10 requirement that I forgot.
11 Q. What is lack of dominance?
12 A. So balance and lack of dominance are
13 related, a balance of interest and the lack of
14 dominance of any particular interest category
15 in the consensus process.
16 Q. So does that mean that if, say,
17 industry had a majority of members or something
18 like that in the development of a standard,
19 then it might not be given ANSI accreditation?
20 MR. GRIFFIN: Objection.
21 THE WITNESS: What it means is that
22 standards developing organizations who process,

Page 130

1 conform to the essential requirements must make
2 best efforts to ensure balance, but also within
3 that balance, lack of dominance.
4 They may do that a variety of ways,
5 so if one interest category has a larger number
6 of participants then another interest category,
7 they can address -- they can address lack of
8 dominance through weighted devoting. There are
9 a variety of different ways.
10 BY MR. BECKER:
11 Q. Are you aware of any instance where
12 ANSI refused to -- or excuse me.
13 Are you aware of any instance where
14 ANSI declined to provide accreditation for a
15 particular standard?
16 MR. GRIFFIN: Objection.
17 THE WITNESS: So the actual
18 terminology would be that ANSI accredits
19 standards developing organizations, as
20 standards developing organizations may apply
21 for accreditation by ANSI, and the
22 accreditation relates to the conformance of the

Page 131

1 process that the standards developing
2 organization administers to the ANSI essential
3 requirements.
4 Only accredited SDOs can submit
5 draft -- can submit draft standards for
6 consideration as American national standards.
7 So they -- so they don't -- ANSI does not
8 accredit the standard. It accredits the
9 standards developing organization.
10 BY MR. BECKER:
11 Q. Thank you.
12 What is the benefit of having an
13 organization accredited by ANSI so that it can
14 submit draft standards for consideration as an
15 American national standard?
16 MR. GRIFFIN: Objection.
17 THE WITNESS: So ANSI considers the
18 benefit to be that the essential requirements
19 are the bedrock of the voluntary consensus
20 standards process. Very similar requirements
21 are reflected in the World Trade Organization's
22 technical barriers to trade agreement in its

Page 132

1 description of the process for international
2 standards development.
3 Typically, and a standards
4 developing organization will submit a
5 particular project for processes in American
6 national standard because its stakeholders find
7 that valuable. That may be -- its stakeholders
8 find that valuable.
9 BY MR. BECKER:
10 Q. Are there other benefits to being
11 able to submit a standard as an American
12 national standard?
13 MR. GRIFFIN: Objection.
14 THE WITNESS: Yes, but I can't
15 recall them -- I can't reflect them for you
16 right off the top of my head. We have an
17 entire set of pages on the American national
18 standards process and a presentation that our
19 senior standards coordinator gives
20 periodically, but I'm not recalling all the
21 benefits at this time.
22 BY MR. BECKER:

Page 133

1 Q. Are American national standards more
2 likely to be used by industry versus if a
3 standard is not designated an American national
4 standard?
5 MR. GRIFFIN: Objection.
6 THE WITNESS: The American national
7 -- the body of American national standards is a
8 very small subset of the overall body of
9 standards that are used generally in the United
10 States or globally. There are about 12,000 and
11 they tend to be -- they tend to be -- have
12 tended to be health and safety standards in
13 long established industry sectors.
14 BY MR. BECKER:
15 Q. Going back to my question: Are
16 American national standards more likely to be
17 used by industry versus if a standard is not
18 designated an American national standard?
19 MR. GRIFFIN: Objection.
20 THE WITNESS: Not to my knowledge.
21 BY MR. BECKER:
22 Q. Are American national standards more

Page 134

1 likely to be used by agencies for incorporation
2 by reference than standards that are not
3 designated American national standards?
4 MR. FEE: Objection to form.
5 THE WITNESS: So ANSI does not track
6 the implementation of particular American
7 national standards. ANSI is responsible for
8 the process by which those standards are
9 developed.
10 BY MR. BECKER:
11 Q. What do you mean by
12 "implementation?"
13 A. Use. The use of the standard.
14 Q. Is incorporation by reference a form
15 of implementation?
16 A. Yes.
17 Q. What are some other forms of
18 implementation?
19 A. A purchaser of a product that may be
20 -- as covered by an American national standard
21 may specify to suppliers that in order to be
22 considered a part of their supply chain, they

Page 135

1 must conform to a standard.
2 So purchasers of products, either
3 individual products or retailers, for example,
4 who have requirements for qualified suppliers,
5 it's possible insurance companies could give a
6 preference to particular standards.
7 Q. Did -- does NIST track the
8 incorporation by reference of standards into
9 regulations?
10 A. So NIST until 2016 maintained the
11 standards incorporated by reference database,
12 and in that sense, yes, provided information on
13 incorporations into the Code of Federal
14 Regulations.
15 Q. What happened in 2016?
16 MR. GRIFFIN: Objection.
17 THE WITNESS: The database had been
18 maintained by a contractor to the standard
19 services division. I believe that contractor
20 retired. In addition, ANSI had begun the
21 development and maintenance of the ANSI
22 incorporation by reference portal.

Page 136

1 BY MR. BECKER:
2 Q. So what is the ANSI incorporation by
3 reference portal?
4 A. So the ANSI IBR portal is a
5 read-only portal providing read-only access to
6 standards that are incorporated by reference
7 into the Code of Federal Regulations.
8 Q. So earlier, when I said, are
9 American national standards more likely to be
10 used by agencies for incorporation by reference
11 than standards that are not designated American
12 national standards, you said ANSI does not
13 track the temporary -- excuse me. The text is
14 not complete here.
15 But I believe you said that ANSI
16 doesn't track the incorporation by reference of
17 standards; is that true?
18 MR. GRIFFIN: Objection.
19 THE WITNESS: So ANSI, as an
20 institute, does not track the incorporation by
21 reference in the Code of Federal Regulations.
22 ANSI -- NIST provided the database, the

Page 137

1 standards incorporated by reference database to
2 ANSI as a basis for the creation of the -- of
3 the ANSI portal and ANSI maintains that portal.
4 When federal agencies incorporate a
5 standard by reference, either as part of a
6 notice of proposed rulemaking or later on as an
7 actual final rule, they reach out to ANSI and
8 ask to have that standard reflected in the
9 portal.
10 BY MR. BECKER:
11 Q. How did the creation of the ANSI IBR
12 portal affect the maintenance of the SIBR
13 database?
14 MR. FEE: Objection.
15 THE WITNESS: So the standards
16 incorporated by reference database is different
17 than the ANSI IBR portal. The standards
18 incorporated by reference database listed the
19 -- would list the reference, the specific
20 reference in the Code of Federal Regulations.
21 The agency that was incorporating the reference
22 and the place in the Code of Federal

Page 138

1 Regulations where the reference could be found,
2 and a -- and the number or title, in most cases
3 there is a number of the standard and the
4 sponsoring standards developing organization.
5 The SIBR database did not include
6 any standards content. It simply identified
7 the referenced document by title or by number.
8 The ANSI IBR portal provides read-only access
9 to the documents that are incorporated by
10 reference for those SDOs that do not maintain
11 their own link, their own portal for reasonable
12 availability.
13 BY MR. BECKER:
14 Q. Was the creation of the ANSI IBR
15 portal a factor in NIST's decision to stop
16 maintaining the SIBR database?
17 MR. GRIFFIN: Objection.
18 THE WITNESS: I don't know the
19 answer to that because that decision was taken
20 while I was the associate director for
21 management resources, so I have no part in that
22 decision.

Page 139

1 BY MR. BECKER:
2 Q. Why is it then that you referenced
3 the creation of the ANSI IBR database when I
4 asked what happened in 2016 to cause the --
5 NIST to cease maintaining the SIBR database?
6 A. 2016 was also the year that they
7 revised OMB Circular A119 was published in
8 January of 2016 with an extensive discussion of
9 reasonable availability when agencies
10 incorporate by reference.
11 My understanding is that ANSI
12 developed and offered the IBR portal as a means
13 of reasonable availability, and as I mentioned
14 earlier, it was my understanding that NIST
15 standards coordination office provided the SIBR
16 database to ANSI as a basis for that portal,
17 but I wasn't part of the decision as to timing.
18 Q. When did ANSI create the IBR portal?
19 A. I wasn't part of that decision as to
20 timing so I can't speak to that.
21 Q. Do you know why ANSI created the IBR
22 portal?

Page 140

1 MR. GRIFFIN: Objection.
2 THE WITNESS: To assist the federal
3 agency community with addressing the reasonable
4 availability principle.
5 BY MR. BECKER:
6 Q. Was there a concern that without the
7 ANSI IBR portal, standards incorporated by
8 reference into regulations otherwise would not
9 be reasonably available?
10 MR. GRIFFIN: Objection.
11 THE WITNESS: ANSI provided the
12 portal as an assistance, an aid to small
13 standards developing organizations that might not
14 have the resources to provide their own
15 read-only access provisions.
16 ANSI also as the national standards
17 body to ISO and IEC is the only organization in
18 the U.S. that could arrange with ISO and IEC
19 for access to those documents.
20 BY MR. BECKER:
21 Q. My question was: Was there a
22 concern that without the ANSI IBR portal,

Page 141

1 standards incorporated by reference into
2 regulations otherwise would not be reasonably
3 available?
4 MR. GRIFFIN: Objection.
5 MR. FEE: Objection.
6 THE WITNESS: No, I don't believe
7 that was the -- there was a general concern. I
8 believe -- ANSI provided the portal as an
9 assistance to small SDOs to minimize the burden
10 with respect to reasonable availability. I
11 would not say that there was a concern that
12 without it, there wouldn't be reasonable
13 availability.
14 BY MR. BECKER:
15 Q. Have you ever heard someone say that
16 without a read-only access, standards
17 incorporated by reference into regulations are
18 not reasonably available?
19 A. No. Both the OMB circular -- the
20 OMB circular specifically lists a variety of
21 different ways, which I will not be able to
22 repeat since I don't have the circular in front

Page 142

1 of me, for it to assure reasonable availability
2 including read-only access but not limited to
3 read-only access.
4 Q. So you are saying you have never
5 heard the -- anyone opine that without
6 read-only access, standards incorporated by
7 reference into regulations are not reasonably
8 available?
9 MR. GRIFFIN: Objection.
10 THE WITNESS: I can't answer that.
11 That is very general. I mean, I may have heard
12 an individual say that. It's not something
13 that I can attest to.
14 BY MR. BECKER:
15 Q. Have you ever heard -- have you ever
16 heard anyone opine that standards incorporated
17 by reference into regulations generally are not
18 reasonably available?
19 MR. GRIFFIN: Objection.
20 MR. FEE: Objection.
21 THE WITNESS: I may have heard that
22 comment. Again, I can't attest to that

Page 143

1 comment.
2 BY MR. BECKER:
3 Q. Have you ever heard Carl Malamud say
4 that standards incorporated by reference into
5 regulations are not reasonably available?
6 A. Yes.
7 Q. Have you heard anybody else say that
8 standards incorporated by reference into
9 regulations are not reasonably available?
10 MR. GRIFFIN: Objection.
11 THE WITNESS: So there were
12 significant discussions as part of the
13 administrative conference for the -- of the
14 U.S., and as part of the administrative
15 conference of the U.S., who the administrative
16 of conference developed their recommendation of
17 incorporation by reference, and as part of
18 those discussions, in which I believe Carl
19 Malamud participated as well as did many other
20 individuals, administrative law practitioners
21 and many others, I'm sure those comments came
22 up.

Page 144

1 BY MR. BECKER:
2 Q. Did you participate in that?
3 A. Yes.
4 Q. Who else participated in that -- in
5 that discussion?
6 MR. GRIFFIN: Objection.
7 THE WITNESS: You would have to --
8 I'm sure the ACUS -- the administrative
9 conference of the U.S. has the records of the
10 participation. There were several public
11 meetings and I think at least a six-month
12 process of discussion in the development of the
13 ACUS, A-C-U-S recommendation.
14 BY MR. BECKER:
15 Q. Have you ever heard someone say that
16 a particular standard is not reasonably
17 available -- excuse me.
18 Have you ever heard someone opine
19 that a particular standard incorporated by
20 reference into regulations is not reasonably
21 available?
22 MR. GRIFFIN: Objection.

Page 145

1 THE WITNESS: I can't speak to that.
2 It's very -- nonspecific question, have I ever
3 heard.
4 BY MR. BECKER:
5 Q. Are you aware of any instance where
6 an individual has said that they were unable to
7 access a standard that was incorporated by
8 reference into regulation?
9 A. It is likely that there are
10 constituencies that have made that comment.
11 Q. So my question was: Whether you
12 have ever heard that -- have you ever learned
13 of an individual complaining of not being able
14 to access a standard incorporated by reference
15 into regulation?
16 MR. FEE: Objection to form.
17 THE WITNESS: In my position at
18 NIST, we never -- I never -- I am not aware
19 that we received comments -- a comment directly
20 from an individual about that.
21 BY MR. BECKER:
22 Q. What about other than in your

Page 146

1 position at NIST?
2 MR. FEE: Same objection.
3 THE WITNESS: I didn't -- I haven't
4 received any of that -- any comment of that
5 type from -- in my position at ANSI.
6 BY MR. BECKER:
7 Q. Have you ever heard of an individual
8 saying that, that individual was unable to
9 access a standard that was incorporated by
10 reference into regulation?
11 MR. FEE: Objection to form.
12 THE WITNESS: It's possible. I
13 don't have a specific memory.
14 BY MR. BECKER:
15 Q. Do you have a general memory of an
16 individual stating that he or she was unable to
17 access a standard that was incorporated by
18 reference into regulation?
19 MR. FEE: Objection to form.
20 MR. GRIFFIN: Objection.
21 THE WITNESS: So what I can speak to
22 is the fact that there are a variety of means

Page 147

1 that agencies make available to their -- the
2 regulated constituency and the public reading
3 rooms, depository libraries, a variety of
4 different means to access regulations and
5 related documentation.
6 BY MR. BECKER:
7 Q. I don't think you have answered my
8 question, so I'm going to go back and say it
9 again.
10 Do you have a general memory of an
11 individual stating that he or she was unable to
12 access a standard that was incorporated by
13 reference into a regulation?
14 MR. GRIFFIN: Objection. Asked and
15 answered.
16 MR. FEE: Objection.
17 THE WITNESS: As I said, I don't
18 have a memory of an individual expressing that
19 concern. I am aware that there were extensive
20 discussions under the auspices of the
21 administrative conference of the U.S. and in
22 the process of revising the OMB circular where

Page 148

1 those comments may have been made.
2 BY MR. BECKER:
3 Q. Are you aware of any instance where
4 a government employee has said that he or she
5 was unable to access a standard that had been
6 incorporated by reference into a regulation?
7 MR. FEE: Objection to form.
8 MR. GRIFFIN: Objection.
9 THE WITNESS: I -- you have to give
10 me an example. I can't answer that general --
11 a general statement like that. It's --
12 BY MR. BECKER:
13 Q. Is there any instance you know of
14 where a government employee has said that he or
15 she was unable to access a standard that had
16 been incorporated by reference into a
17 regulation?
18 MR. FEE: Objection.
19 MR. GRIFFIN: Objection.
20 THE WITNESS: Not to my knowledge.
21 BY MR. BECKER:
22 Q. Did you ever learn of a report of a

<p style="text-align: right;">Page 149</p> <p>1 person or entity saying that they were unable 2 to access a standard incorporated by reference 3 into regulation? 4 MR. GRIFFIN: Objection. 5 THE WITNESS: I thought I answered 6 that. A report -- can you repeat the question. 7 BY MR. BECKER: 8 Q. Yes. Did you ever learn of a report 9 of a person or entity saying that they were 10 unable to access a standard incorporated by 11 reference into regulation? 12 MR. GRIFFIN: Objection. 13 THE WITNESS: So I was chief of the 14 standard services division for seven years and 15 the head of the standards coordination office 16 for -- in my position as chief of the standard 17 services division for seven years and director 18 of the standards coordination office for a 19 little over a year and a half, it is possible 20 that I came into contact with a comment like 21 that but I have no specific memory about that. 22 (Deposition Exhibit 5 was marked for</p>	<p style="text-align: right;">Page 151</p> <p>1 Q. What is GMF? 2 A. GMF is the ANSI Government Member 3 Forum. 4 Q. So is this a meeting of a government 5 committee and an ANSI committee? 6 A. That's correct. 7 Q. This took place on April 21, 2011? 8 A. That's what the document says, yes. 9 Q. Were you present at that meeting? 10 A. Yes. 11 Q. It says that you conducted the 12 opening of the meeting; is that correct? 13 A. Yes, in my position as chair of the 14 interagency committee on standards policy. 15 Q. Do you remember what the purpose of 16 this meeting was? 17 MR. GRIFFIN: Objection. 18 THE WITNESS: The purpose of the 19 meeting is outlined in Paragraph 3: "ANSI 20 staff agreed to arrange a meeting that would 21 allow the SDO community to showcase their 22 efforts to meet the needs of federal agencies</p>
<p style="text-align: right;">Page 150</p> <p>1 identification.) 2 BY MR. BECKER: 3 Q. I've handed you what's been marked 4 as Exhibit 5. 5 This is the document produced by 6 ANSI as ANSI 2690 to ANSI 2692. 7 Do you recognize this document? 8 A. I remember the joint meeting, yes. 9 Q. What is this document? 10 A. It's the draft report of a joint 11 interagency committee on standards policy, ANSI 12 government member forum meeting with standards 13 developers. 14 Q. What is ICSP? 15 A. The ICSP is the Interagency 16 Committee on Standards Policy. The committee 17 is established under OMB Circular A119 and it 18 is comprised of the standards executives of the 19 federal agencies that are tasked with 20 implementing the circular. 21 Q. Is that a government committee? 22 A. That is.</p>	<p style="text-align: right;">Page 152</p> <p>1 with respect to access to standards and 2 participation in the development of standards." 3 BY MR. BECKER: 4 Q. What were the needs of the federal 5 agencies for access to standards? 6 A. So federal agencies -- it is useful 7 for federal agencies, regulatory agencies in 8 particular to have access to standards as -- in 9 support of them conducting their mission 10 activities which include but are not limited to 11 development -- writing regulations. 12 Q. What is the role of federal agencies 13 in the development of standards? 14 MR. FEE: Objection to form. 15 THE WITNESS: So as I mentioned 16 earlier, the law, the National Technology 17 Transfer and Advancement Act as supported by 18 the OMB circular directs federal agencies where 19 consistent with the mission and public need to 20 also -- not only use voluntary consensus 21 standards but to participate in their 22 development.</p>

Page 153

1 BY MR. BECKER:
2 Q. How is it that federal employees
3 participate in the development of standards?
4 MR. FEE: Objection to form.
5 THE WITNESS: From my experience as
6 a NIST employee, we -- technical staff at NIST
7 participated as members of committees. They
8 might, if determined by the committee, actually
9 chair a committee. Those are methods of
10 participation. Obviously, serving on boards of
11 standards developing organizations as well
12 where relevant.
13 BY MR. BECKER:
14 Q. At this meeting, did federal
15 employees opine that they would like to have
16 free access to standards?
17 MR. FEE: Objection to form.
18 MR. GRIFFIN: Objection.
19 THE WITNESS: I have no memory of
20 that.
21 BY MR. BECKER:
22 Q. Could you turn to the third page of

Page 154

1 Exhibit No. 5.
2 Could you read the paragraph at the
3 top of that page.
4 A. "At least one federal agency noted
5 that they billed standards into their business
6 models and opined that it would be more
7 beneficial to pay the same membership dues as
8 all other participants, if it meant that access
9 to the standards was free. Free access to
10 standards as part of their membership would
11 also support their participation in the
12 development process as opposed to paying for
13 individual standards and receiving a special
14 membership discount."
15 Q. How is it that free access to
16 standards as part of a membership would support
17 government participation in the development
18 process?
19 MR. GRIFFIN: Objection.
20 MR. FEE: Objection to form.
21 THE WITNESS: I can't -- I can't
22 speak to that comment since it came from an

Page 155

1 unidentified federal agency and I don't know.
2 BY MR. BECKER:
3 Q. Three paragraphs below that, it
4 says: "The open discussion concluded noting
5 that each of the six SDOs have different
6 business models but nonetheless each one makes
7 provisions to accommodate the needs of the
8 federal agencies to achieve greater
9 participation in the development process and
10 access to the standards themselves."
11 What kind of provisions do SDOs
12 engage in to accommodate the needs of federal
13 agencies to access standards?
14 MR. FEE: Objection to form.
15 MR. GRIFFIN: Objection.
16 THE WITNESS: So while I know
17 generally that they do, I am not privy to the
18 business operations of individual SDOs so I
19 can't answer that.
20 BY MR. BECKER:
21 Q. Does this draft report accurately
22 characterize the discussion at the meeting to

Page 156

1 the best of your knowledge?
2 MR. FEE: Objection to form.
3 THE WITNESS: So given that the
4 meeting took place more than eight years ago, I
5 -- it seems accurate to me.
6 BY MR. BECKER:
7 Q. Were these reports regarding the --
8 this meeting and other meetings like it
9 regularly prepared and maintained in the course
10 of ANSI business?
11 MR. FEE: Objection to form.
12 THE WITNESS: Meeting reports of all
13 -- of policy commitments are developed and
14 maintained and certainly for forum meetings as
15 well, yes.
16 (Deposition Exhibit 6 was marked for
17 identification.)
18 BY MR. BECKER:
19 Q. I am handing you what has been
20 marked as Exhibit No. 6.
21 This is a document produced by ANSI
22 as ANSI 2296.

Page 157

1 Do you recognize this document?
2 A. It is the draft agenda of the same
3 meeting we just discussed.
4 Q. Were draft agendas such as this
5 regularly prepared and maintained in the course
6 of ANSI business?
7 A. Yes, draft agendas for meetings are
8 generally maintained -- prepared and
9 maintained.
10 (Deposition Exhibit 7 was marked for
11 identification.)
12 BY MR. BECKER:
13 Q. Including this one?
14 MR. GRIFFIN: Objection.
15 BY MR. BECKER:
16 Q. Exhibit No. 6?
17 MR. GRIFFIN: Objection.
18 THE WITNESS: So this was a joint
19 meeting of the interagency committee on
20 standards policy and the joint and the
21 government member forum. A portion of the
22 meeting involving the government member forum

Page 158

1 was an open meeting. The follow-on session
2 after lunch, the interagency committee on
3 standards policy was a closed session just for
4 government members of the interagency
5 committee.
6 BY MR. BECKER:
7 Q. My question to you was whether
8 Exhibit No. 6 had been prepared and maintained
9 in the course of business?
10 MR. GRIFFIN: Objection.
11 MR. FEE: Objection.
12 THE WITNESS: So I'm not following
13 your reference. The two are exactly the same
14 except the second one includes the closed
15 session of the interagency committee on
16 standards policy.
17 BY MR. BECKER:
18 Q. Do you have any reason to believe
19 that either Exhibit 6 or Exhibit 7 are not --
20 excuse me.
21 Do you have any reason to believe
22 that Exhibit 6 is a document that was not

Page 159

1 maintained -- prepared and maintained in the
2 regular course of business?
3 MR. GRIFFIN: Objection.
4 THE WITNESS: This agenda would have
5 been developed and maintained as part of the
6 regular course of business for ANSI and for the
7 ICSP.
8 BY MR. BECKER:
9 Q. I have handed you Exhibit No. 7
10 which is ANSI 2538.
11 Do you recognize this document?
12 A. As I said earlier, it's the same
13 agenda for the joint meeting but includes the
14 reference to the closed ICSP session that
15 followed the joint meeting.
16 MR. BECKER: Let's take a short
17 break.
18 THE VIDEOGRAPHER: We are going off
19 the record. This is the end of Media Unit No.
20 2. The time is 2:07.
21 (A short recess was taken.)
22 THE VIDEOGRAPHER: We are going back

Page 160

1 on the record. This is the start of Media Unit
2 No. 3. The time is 2:36.
3 BY MR. BECKER:
4 Q. Ms. Saunders, during the break, have
5 you come to the realization that any of your
6 prior answers was incorrect that you would like
7 to -- or are there any answers that you would
8 like to amend?
9 A. I would simply like to note that
10 Exhibit 6 is the draft agenda for the joint
11 meeting and Exhibit 7 is the final agenda which
12 includes what was in the draft plus the
13 addition of the closed session. That's the
14 only difference I seen between the two
15 documents.
16 (Deposition Exhibit 8 was marked for
17 identification.)
18 BY MR. BECKER:
19 Q. Ms. Saunders, I have handed you what
20 has been marked as Exhibit 8 which starts with
21 the Page No. 1 and says: "Technical barriers
22 to trade," at the very top and then ends on

Page 161

1 Page 26.
2 Do you know what this document is?
3 A. It's the World Trade Organization's
4 technical barriers to trade agreement.
5 Q. Is this the document that you had
6 referenced earlier when you talked about the
7 definition for standards?
8 A. Yes.
9 Q. And if you turn -- if you turn to
10 Page 23, is that the definition for standards
11 at Bullet Point No. 3 towards the bottom that
12 you had referenced earlier:
13 A. "A technical specification approved
14 by a recognized standardizing body for repeated
15 or continuous application with which compliance
16 is not mandatory." That is accurate. That's
17 not the -- yes.
18 Q. What were you going to say?
19 A. I was referring to the ISO
20 definition of standardization which I believe
21 is the same.
22 Q. Okay. So it says: "A standard is a

Page 162

1 technical specification approved by a
2 recognized standardizing body for repeated or
3 continuous application with which compliance is
4 not mandatory," correct?
5 A. Yes.
6 Q. And above, at Bullet Point No. 1, it
7 references the definition of technical
8 specification; is that correct?
9 A. Yes.
10 Q. It says: "A specification contained
11 in a document which lays down characteristics
12 of a product such as levels of quality,
13 performance, safety or dimensions. It may
14 include or deal exclusively with terminology
15 symbols, testing and test methods, packaging,
16 marking or labeling requirements as they apply
17 to a product;" is that correct?
18 A. Yes. So you take the two together.
19 This is a technical specification and then down
20 in standard, it's a technical specification,
21 referring to this paragraph, which is approved
22 by a recognized standardizing body. Take the

Page 163

1 two together.
2 Q. And then it references at Point No.
3 2, technical regulation --
4 A. Yes.
5 Q. -- and defines that as: "A
6 technical specification including the
7 applicable administrative provisions with which
8 compliance is mandatory;" is that correct?
9 A. Yes.
10 Q. What is -- in your understanding,
11 what is the difference between a technical
12 specification and a technical regulation?
13 A. One is mandatory and the other is
14 not.
15 Q. Is a standard that has been
16 incorporated by reference into a regulation a
17 technical regulation?
18 MR. GRIFFIN: Objection.
19 MR. FEE: Objection.
20 THE WITNESS: Not itself. It's a
21 component of a technical regulation.
22 BY MR. BECKER:

Page 164

1 Q. What are the other components of a
2 technical regulation?
3 A. So depending on the agency, a
4 technical regulation would include all of the
5 requirements with which the agency deems
6 necessary for the regulated community to
7 comply. It might, as part of that, might
8 include reporting requirements, a variety of
9 other actions. So I can't speak any more
10 specifically than that. It depends on the law
11 that is being implemented.
12 (Deposition Exhibit 9 was marked for
13 identification.)
14 BY MR. BECKER:
15 Q. I have handed you what has been
16 marked as Exhibit 9.
17 This is a document titled: "IBR
18 Handbook, July 2018, Office of the Federal
19 Register."
20 Do you recognize this document?
21 A. I do.
22 Q. What is this document?

Page 165

1 A. This document is the IBR handbook
2 that is produced by the Office of the Federal
3 Register.
4 Q. Is this the IBR handbook that we
5 were discussing earlier in the deposition
6 today?
7 A. Yes, it is.
8 Q. Could you please turn to Page 7 of
9 Exhibit 9.
10 And at the bottom of that page, it
11 says: "What is the required availability for
12 IBR material? A, incorporated materials must
13 be reasonably available."
14 Do you see that?
15 A. I do.
16 Q. And do you see the paragraph
17 immediately under that that's labeled .1?
18 A. Yes, I do.
19 Q. It says: "Material that is
20 incorporated by reference must be 'reasonably
21 available' during the life cycle of the
22 relevant regulation and its regulatory

Page 166

1 programs. This can pose a challenge for agency
2 especially when material is copyrighted. We
3 interpret 'reasonably available' in a flexible
4 case-by-case manner that takes specific
5 considerations into consideration. However,
6 the agency must provide the basis for a finding
7 of reasonably available."
8 Then it says: "2, when necessary,
9 the responsible agency should collaborate with
10 the standards development organizations and
11 other publishers of incorporated material to
12 ensure that the public has reasonable access to
13 the incorporated documents."
14 Do you see that?
15 A. I do.
16 Q. Are you aware of any efforts within
17 the U.S. Government to collaborate with SDOs to
18 ensure that the public has reasonable access to
19 incorporated documents?
20 A. So an individual agency when it
21 engages in a rulemaking may reach out to the
22 owner of the copyrighted standards that the

Page 167

1 agency intends to incorporate in whole or in
2 part, to make -- to discuss with the owning SDO
3 ways to make the material reasonably available.
4 To publish a notice of proposed
5 rulemaking in the Office of the Federal
6 Register, it is good practice to have a copy of
7 the standard that is incorporated by reference
8 available at a minimum in an agency reading
9 room.
10 So yes, I am aware of times when
11 agencies have reached out to SDOs to discuss
12 access to incorporated documents.
13 Q. What is an agency reading room?
14 A. So each agency has a --
15 historically, it was a physical reading room, a
16 room that people -- that interested parties
17 could come to in an agency where -- for a
18 regulatory agency, hard copy notices of
19 proposed rules and other documents would be
20 available for reading. Many agencies these
21 days have what are called electronic reading
22 rooms.

Page 168

1 Q. Is that a reading room that is
2 available online?
3 A. It can be, yes.
4 Q. Do those agencies' electronic
5 reading rooms provide copies of standards that
6 are incorporated by reference into regulations?
7 MR. FEE: Objection to form.
8 THE WITNESS: So I don't know the
9 specifics of individual reading rooms. I do
10 know that some agencies will point to the
11 owning organization, the owning centers
12 development organization, if that organization
13 has a -- their own portal or reading room. In
14 some cases, agencies have pointed interested
15 parties to the ANSI IBR portal, because ANSI
16 posts documents on request from federal
17 agencies that are engaged in proposed
18 rulemaking. It varies from agency to agency.
19 BY MR. BECKER:
20 Q. Are you aware of specific instances
21 where agencies have collaborated with SDOs to
22 ensure that the public has reasonable access to

Page 169

1 an incorporated standard?
2 MR. GRIFFIN: Objection.
3 THE WITNESS: I think that's a good
4 practice for agencies, so yes.
5 BY MR. BECKER:
6 Q. Can you name any of those particular
7 instances that you are aware of?
8 MR. GRIFFIN: Objection.
9 THE WITNESS: Department of
10 Transportation across a range of its programs
11 makes -- works with relevant SDOs to assure
12 reasonable access and there are likely others.
13 BY MR. BECKER:
14 Q. How do you define "reasonable
15 access?"
16 MR. GRIFFIN: Objection.
17 MR. FEE: Objection to form.
18 THE WITNESS: So as I mentioned
19 right down here on the bottom of Page 8B, NARA
20 outlines a few ways of -- that agencies may
21 make incorporated material reasonably
22 available. There is also a discussion of

Page 170

1 reasonable availability in -- as part of the
2 ACUS proceeding, administrative conference of
3 the U.S. as well as in the OMB circular.
4 BY MR. BECKER:
5 Q. It says at the bottom of Point B on
6 Page 8 that you're referencing: "Remember,
7 read-only access on its own may not meet the
8 reasonable availability requirement at the
9 final rule stage of rulemaking. If the
10 regulated parties are not able to use the
11 material (which may be different than simply
12 reading or accessing it) throughout the life of
13 the rulemaking, this could lead to enforcement
14 issues."
15 What do you understand that to mean?
16 MR. GRIFFIN: Objection.
17 MR. FEE: Objection to form.
18 THE WITNESS: I understand that to
19 be an advice to agencies regarding the fact
20 that read-only access might need to be
21 supplemented by other means of access in -- at
22 the final rule stage, when the rule is finally

Page 171

1 in place.
2 BY MR. BECKER:
3 Q. Are you aware of potential uses of
4 material that's been incorporated by reference
5 into regulations beyond uses that include
6 reading or accessing that material?
7 MR. FEE: Objection to form.
8 MR. GRIFFIN: Objection.
9 THE WITNESS: I'm sorry. Could you
10 repeat that. I didn't quite follow.
11 BY MR. BECKER:
12 Q. Yes. Are you aware -- so other than
13 reading or accessing, are you aware of other
14 potential uses of IBR standards?
15 MR. FEE: Objection to form.
16 MR. GRIFFIN: Objection.
17 THE WITNESS: I'm sorry, I'm still
18 not following.
19 BY MR. BECKER:
20 Q. So it says in the second sentence
21 that I had read a moment ago: "If the
22 regulated parties are not able to use the

Page 172

1 material which may be different than simply
2 reading or accessing it," what other uses of
3 incorporated material is there other than
4 reading or accessing?
5 MR. GRIFFIN: Objection.
6 MR. FEE: Objection.
7 THE WITNESS: Well, many industry --
8 many industries that are regulated have
9 subscriptions to standards as a normal course
10 of business that they use in terms of
11 conducting their every day business, so a use
12 of a material would include actually
13 implementing and ensuring that if your product
14 needs to comply with a particular -- conform to
15 a particular standard, your engineers have
16 access to those documents so that they can
17 ensure that's the case.
18 BY MR. BECKER:
19 Q. Would a use of the material also
20 include duplicating a portion of the
21 incorporated document and providing that to a
22 colleague?

<p style="text-align: right;">Page 173</p> <p>1 MR. GRIFFIN: Objection. 2 MR. FEE: Objection to form. 3 THE WITNESS: So my understanding -- 4 as I mentioned earlier, standards are 5 copyrighted documents and individuals in 6 companies or elsewhere can buy an individual 7 copy of a copyrighted document. A company or 8 organization can pay for a -- what is called a 9 site license so that any number of individuals 10 at that company or organization can use the 11 document, but if you buy an individual copy, my 12 understanding of copyright protection is that 13 you are not to make copies of that document. 14 BY MR. BECKER: 15 Q. Have you had any training in 16 copyright law? 17 MR. GRIFFIN: Objection. 18 THE WITNESS: No, I have not had any 19 training in copyright law. 20 BY MR. BECKER: 21 Q. My question was: Would the use of 22 incorporated material also include duplicating</p>	<p style="text-align: right;">Page 175</p> <p>1 reference other than simply reading or 2 accessing it as described in the IBR handbook. 3 And I am asking if the transcription 4 of a portion of the incorporated document and 5 providing that transcription to a colleague 6 would constitute use? 7 MR. GRIFFIN: Objection. 8 MR. FEE: Objection. 9 THE WITNESS: That's beyond my 10 capabilities to answer. I mean, you can call 11 anything you want to use, I suppose. I think 12 the intention of the National Archives and 13 Records Administration was with respect to what 14 we typically understand to be use of a standard 15 which is to purchase a copy and actually apply 16 it to the relevant product process or system. 17 BY MR. BECKER: 18 Q. Have you consulted with any 19 copyright experts to form your views on 20 copyright as applied to incorporated by 21 reference standards? 22 MR. GRIFFIN: Objection.</p>
<p style="text-align: right;">Page 174</p> <p>1 a portion of the incorporated document and 2 providing it to a colleague? Yes or no. 3 MR. GRIFFIN: Objection. 4 MR. FEE: Same objection. 5 THE WITNESS: I wouldn't call that 6 an authorized use of the material. 7 BY MR. BECKER: 8 Q. I didn't ask about authorized use. 9 I said, would a use of a material 10 also include duplicating a portion of the 11 incorporated document and providing that to a 12 colleague? 13 MR. FEE: Same objection. 14 MR. GRIFFIN: Objection. 15 THE WITNESS: You'd have to have 16 access to the entire document to begin with so 17 that you could copy the incorporated portion so 18 I mean, I don't know -- I'm not clear what you 19 are getting at, I mean. 20 BY MR. BECKER: 21 Q. My -- so I am trying to identify 22 other uses of material incorporated by</p>	<p style="text-align: right;">Page 176</p> <p>1 THE WITNESS: I have not. 2 BY MR. BECKER: 3 Q. Do you know what the Fair Use 4 Doctrine is? 5 A. I have a general idea. I do not 6 know the specifics of the Fair Use Doctrine. 7 Q. What do you know about the Fair Use 8 Doctrine? 9 MR. FEE: Objection to form. 10 THE WITNESS: That a very minimal 11 portion of a copyrighted document may be 12 subject to fair use, may be allowed to be 13 reproduced for fair use purposes. I don't know 14 the extenuating circumstances. 15 BY MR. BECKER: 16 Q. What is the basis of that view? 17 A. My view? 18 Q. Yes. 19 A. As I said general -- I have heard 20 generally about the Fair Use Doctrine. I know 21 nothing about the specifics of the Fair Use 22 Doctrine.</p>

Page 177

1 Q. Do you have a view as to the effect
2 on a regulation if an incorporated standard is
3 not reasonably available?
4 MR. GRIFFIN: Objection.
5 MR. FEE: Objection.
6 THE WITNESS: No.
7 BY MR. BECKER:
8 Q. Do you have a view as to the
9 enforcement of a regulation if an incorporated
10 standard is not reasonably available?
11 MR. GRIFFIN: Objection.
12 MR. FEE: Objection.
13 THE WITNESS: I do not.
14 BY MR. BECKER:
15 Q. I would like to turn to Page 9 of
16 this Exhibit No. 9.
17 At the top, it says: "C, balancing
18 procedural requirement and substantive
19 statutory authority. 1, when you propose to
20 incorporate material by reference, under the
21 NTTAA, you must balance the following: A,
22 statutory obligations regarding reasonable

Page 178

1 availability of the standards under FOIA, B,
2 U.S. copyright law, C, U.S. international trade
3 obligations, and D, the ability to
4 substantively regulate under its own
5 authorizing statutes."
6 What is -- do you know what NTTAA
7 refers to here?
8 A. It's the National Technology
9 Transfer and Advancement Act.
10 Q. Are you aware of any consultation by
11 any U.S. government agency with the copyright
12 office of the Library of Congress on copyright
13 issues related to incorporation by reference?
14 MR. FEE: Objection.
15 THE WITNESS: Not personally, no.
16 BY MR. BECKER:
17 Q. Are you aware of the U.S. Copyright
18 Office's position on the copyrightability of
19 edicts of government?
20 MR. GRIFFIN: Objection.
21 THE WITNESS: No, I am not.
22 BY MR. BECKER:

Page 179

1 Q. Are you aware of any standard
2 development organization consulting with the
3 copyright office regarding any copyright issues
4 concerning incorporation by reference?
5 A. I'm not personally aware of any
6 interactions.
7 Q. Have you received any information
8 about any party or individual consulting with
9 the U.S. Copyright Office regarding copyright
10 issues concerning incorporation by reference?
11 A. Not that I remember.
12 (Deposition Exhibit 10 was marked
13 for identification.)
14 BY MR. BECKER:
15 Q. I have handed you Exhibit 10 which
16 is produced as ANSI 0638 to 0644.
17 Do you recognize this document?
18 A. Draft minutes of an executive
19 committee meeting of the ANSI board of
20 directors from 2012.
21 Q. Were you present at that meeting?
22 A. It's likely that I was. I don't

Page 180

1 have a specific memory.
2 Q. Could you please turn to Page 4 of
3 that document.
4 A. Okay.
5 Q. Agenda Item 2.3: "Federal
6 engagement and standards activities."
7 It says that: "Ms. Saunders
8 discussed the work of the National Science and
9 Technology Council subcommittee on standards
10 who met several times in 2011;" is that
11 correct?
12 A. Yes.
13 Q. So does this refresh your
14 recollection that you were --
15 A. Yes.
16 Q. -- present? Okay.
17 On the following page, Page No. 5,
18 there is Agenda Item 2.6, current activities of
19 the copyright task group.
20 In the second paragraph -- well,
21 actually let me back up.
22 In the first paragraph it says Ms.

Page 181

1 Griffin.
2 Who is Ms. Griffin?
3 A. Patty Griffin is the general counsel
4 for ANSI.
5 Q. Do you know if she was a general
6 counsel at -- on this date, on March 22, 2012?
7 A. She has been the general counsel
8 since 2004.
9 Q. Okay. It says: "Ms. Griffin
10 discussed recent activities of the ANSI
11 copyright task group including its development
12 of an ANSI position paper on copyright
13 implications of government incorporation of
14 voluntary consensus standards."
15 What is the ANSI copyright task
16 group?
17 A. So ANSI -- intellectual property
18 rights policy committee has two task groups,
19 two standing task groups, and one is the
20 copyright task group and the other is the
21 trademark, I think, task group. It's a task
22 group of the intellectual property rights

Page 182

1 policy committee.
2 Q. Are you a member or have you ever
3 been a member of the ANSI copyright task group?
4 A. I have not.
5 MR. GRIFFIN: Objection.
6 BY MR. BECKER:
7 Q. Have you ever assisted the ANSI
8 copyright task group?
9 MR. GRIFFIN: Objection.
10 THE WITNESS: I have not.
11 BY MR. BECKER:
12 Q. Do you know what the ANSI position
13 paper on copyright implications of government
14 incorporation of voluntary consensus standards
15 is?
16 A. I do not have a memory of that. It
17 may be posted on the ANSI website but I don't
18 personally remember that.
19 Q. It refers to a February 27, 2012
20 Federal Register Notice regarding a petition to
21 amend the National Archives and Records
22 Administration's regulations governing

Page 183

1 materials incorporated by reference into the
2 Code of Federal Regulations.
3 Do you know what that petition is
4 that it's referring to?
5 A. I don't remember, that was eight,
6 not eight, seven years ago.
7 Q. It says: "Ms. Griffin noted that a
8 position paper would be sent to the ANSI IPRPC
9 for further input prior to ANSI governance
10 review."
11 What is the ANSI IPRPC?
12 A. It's the ANSI Intellectual Property
13 Rights Policy Committee.
14 Q. Have you ever been a member of the
15 IPRPC?
16 A. I have not.
17 MR. GRIFFIN: Objection.
18 BY MR. BECKER:
19 Q. Do you know what is referred to by
20 ANSI governance review?
21 A. ANSI governance means executive
22 committee and board review.

Page 184

1 Q. Remind me, were you on the ANSI
2 board as of March 22, 2012?
3 A. I believe so.
4 Q. The next paragraph says: "Mr.
5 Cooper discussed a box of documents including
6 73 standards that had been sent to ANSI by Mr.
7 Carl Malamud, founder of Public.Resource.Org,
8 who has been challenging SDOs rights to charge
9 for standards especially those incorporated by
10 reference."
11 Do you see that?
12 A. I do.
13 Q. Had you known of Carl Malamud prior
14 to the date of this meeting on March 22, 2012?
15 A. Yes.
16 Q. How did you know of Carl Malamud?
17 A. I had exchanges with Mr. Malamud
18 regarding -- early, much earlier than this,
19 regarding our -- the NIST standards
20 incorporated by reference database. He had
21 some questions about the information in the
22 database and some recommendations as I remember

<p style="text-align: right;">Page 185</p> <p>1 for making the information more -- for 2 improving how the information was presented, so 3 I was aware of Mr. Malamud. 4 Q. Do you know when those exchanges 5 occurred? 6 A. That would have been when I was the 7 chief of the standards services division so 8 that would be -- would be no later than the end 9 of 2008. 10 Q. This also refers to a related topic, 11 as it refers to it, the Pipeline Safety, 12 Regulatory Certainty and Job Creation Act of 13 2011, which is shortened to Pipeline Bill HR 14 2845. 15 Do you know what the pipeline bill 16 is? 17 A. I remember the piece of legislation, 18 yes. 19 Q. Going back just a moment, you had 20 said that Carl Malamud had sent recommendations 21 to you. 22 Do you recall what those</p>	<p style="text-align: right;">Page 187</p> <p>1 the underlying approach to creating the 2 standards incorporated by reference database. 3 I don't remember the specifics. 4 I think he may have pointed out some 5 incorrect references in the database and we 6 corrected those. 7 BY MR. BECKER: 8 Q. Do you have any recollection as to 9 how much correspondence, in terms of number of 10 e-mails, you had with Mr. Malamud? 11 A. Not specifically. 12 Q. Do you have an estimate? 13 A. My estimate would be three to four 14 exchanges. 15 Q. Did you produce any of those 16 documents in your discovery responses? 17 A. I don't have those documents. 18 Q. And why is that? 19 A. Because I retired from the federal 20 government and all my documents remained with 21 the Department of Commerce. I have nothing. 22 Q. And all of your communications were</p>
<p style="text-align: right;">Page 186</p> <p>1 recommendations were? 2 A. I don't. That would have been ten 3 years ago. I do remember having exchanges with 4 him about the standard incorporated by 5 reference database, but that's the extent of my 6 memory. 7 Q. Do you know if anyone acted on Mr. 8 Malamud's recommendations to you? 9 MR. GRIFFIN: Objection. 10 THE WITNESS: I believe that -- of 11 course, as a federal government employee, we 12 would have taken advice and implemented that 13 advice where we could, so yes, I don't remember 14 the specifics. 15 BY MR. BECKER: 16 Q. It says -- so are you saying that 17 some of the recommendations that Carl Malamud 18 provided were implemented? 19 MR. GRIFFIN: Objection. 20 MR. FEE: Objection to form. 21 THE WITNESS: I don't remember. I 22 remember having an exchange with him explaining</p>	<p style="text-align: right;">Page 188</p> <p>1 with your government e-mail address? 2 A. That's correct. 3 Q. Okay. Further down on Page 5, it 4 says: "It was noted that ASTM is working with 5 ASME and NFPA on a public relations outreach 6 campaign and plans to meet with the heads of 7 regulatory agencies to talk about the 8 contributions of SDOs." 9 Do you see that? 10 A. Yes, I do. 11 Q. Do you know what is being referred 12 to there? 13 A. Well, not more than what it says in 14 the text. 15 Q. Do you have any recollection from 16 the -- what discussion occurred at the meeting 17 regarding the public outreach campaign? 18 A. I do not. 19 Q. It then says at the next paragraph: 20 "Mr. Pauley noted that it was important to 21 address the free standards issue and the 22 misunderstanding by some of how the</p>

<p style="text-align: right;">Page 189</p> <p>1 standardization system works." 2 Do you know what the free standards 3 issue is? 4 A. My understanding is that Mr. Pauley 5 is referring to the comment above that -- let's 6 see. I want to get the exact wording. The 7 standards incorporated by reference should be 8 available for free. 9 Q. Who is Mr. Pauley? 10 A. Jim Pauley at the time, 2012, was 11 the chairman of the board of ANSI. 12 Q. Did -- was Mr. Pauley also 13 affiliated with NFPA at that time? 14 A. He -- Mr. Pauley's employer was the 15 electronics company. I am missing the name 16 now. Anyway, he was employed by a private 17 company in the electronics -- 18 electro-electronics field. He may have been -- 19 he was probably a member of the National Fire 20 Protection Association. He is an engineer. 21 Q. It goes on to say, this is referring 22 to Mr. Pauley: "He suggested that ANSI may</p>	<p style="text-align: right;">Page 191</p> <p>1 documents was because I had not seen any such 2 documents like that. 3 I have handed you what has been 4 marked as Exhibit No. 11. 5 This is the document produced as 6 PRO_00167221 to 167222. 7 Do you recognize this document? 8 A. I do now that you give it to me, and 9 that was when I was -- it was not in 2008, but 10 the second stint at NIST. 11 Q. This was the correspondence between 12 you and Carl Malamud that you were just 13 referring to; is that correct? 14 A. Yes. 15 Q. And so Mr. Malamud asked you 16 questions about the SIBR database; is that 17 correct? 18 A. Yes, that's correct. 19 Q. And he says that -- he is asking 20 about when the last time is that -- that NIST 21 had done an audit of the SIBR database; is that 22 correct?</p>
<p style="text-align: right;">Page 190</p> <p>1 need to engage a public relations firm to help 2 ANSI's communications team craft the 3 appropriate messaging to explain how the 4 standard system works and the public benefits 5 it brings." 6 Do you know if ANSI engaged a public 7 relations firm for that purpose? 8 A. ANSI did not. 9 Q. Why is that? 10 MR. FEE: Objection. 11 THE WITNESS: I don't know. I just 12 -- I know that ANSI -- the institute did not 13 engage a public relations firm. 14 (Deposition Exhibit 11 was marked 15 for identification.) 16 THE WITNESS: My timing was wrong. 17 BY MR. BECKER: 18 Q. That was going to be my next 19 question. 20 A. I apologize. I did not remember the 21 timing. 22 Q. My reason for asking about the</p>	<p style="text-align: right;">Page 192</p> <p>1 A. Yes, that's correct. 2 Q. And he is concerned that there are 3 errors? 4 A. Correct. 5 Q. And he also says that he is -- he 6 references a few instances or several instances 7 where he believes there are errors; is that 8 correct? 9 A. Yes, correct. 10 Q. And then he says he is finding a lot 11 of references to fed spec and fed STD 12 documents. 13 A. Yes. 14 Q. Do you know what those -- what that 15 refers to? 16 A. GSA documents, General Services 17 Administration documents. 18 Q. Are those produced by the U.S. 19 Government? 20 A. Yes. 21 Q. And then he raises a concern about 22 how current the database is.</p>

Page 193

1 A. Correct. I see that.
2 Q. And you respond that: "With respect
3 to the currency of the information compared to
4 the latest version of the C.F.R., the database
5 is not intended to be a real-time index of what
6 is in the C.F.R. It does not represent any
7 specific C.F.R. citation as it may be on a
8 particular day other than the day that a
9 specific record was verified as identified in
10 the database;" is that correct?
11 A. That's correct.
12 Q. What did you mean by "verified?"
13 A. As I mentioned earlier, we had an
14 individual on contract who was charged with
15 searching the Code of Federal Regulations on a
16 daily basis to identify citations that should
17 be included in the standards incorporated by
18 reference database, so he would verify on that
19 day but might not go back to reverify.
20 Q. When you say, "might not go back to
21 reverify," what does that distinction mean?
22 MR. FEE: Objection.

Page 194

1 THE WITNESS: Well, what I -- what I
2 meant was, he would identify a record as needs
3 to be included in the standards incorporated by
4 reference database and on the day that he
5 identified it, it would be included. If there
6 were updates to that reference later, they
7 might not be picked up.
8 BY MR. BECKER:
9 Q. Your e-mail goes on to say: "The
10 range of review data to be incorporated into
11 the database runs from 2001 through 2011;" is
12 that correct?
13 A. Where are you? Oh, I see, the next
14 page. Yes. Yes, I said it in my e-mail.
15 Q. And so what does that mean?
16 MR. GRIFFIN: Objection.
17 THE WITNESS: That the individual
18 was reviewing the Code of Federal Regulations
19 from, as it existed in 2001 through 2011.
20 BY MR. BECKER:
21 Q. He then in the next paragraph
22 writes: "You noted that several entries in the

Page 195

1 SIBR database contained the letters NDG or no
2 date given in the edition column. NIST uses
3 the acronym in the database when a text found
4 in a specific paragraph of the C.F.R.
5 references a voluntary consensus standard, VCS,
6 without citing a specific edition of the
7 standard."
8 A. Yes.
9 Q. Are there instances in U.S.
10 regulations where the text references a --
11 excuse me, where the text incorporates a
12 standard by reference but doesn't say what
13 edition of that standard is being incorporated
14 by reference?
15 MR. GRIFFIN: Objection.
16 THE WITNESS: Well, there must be at
17 least as reflected in the versions of the Code
18 of Federal Regulations that were being
19 reviewed. It is considered best practice for
20 agencies to cite the year of the edition that
21 they are referencing.
22 BY MR. BECKER:

Page 196

1 Q. You then write: "Some confusion may
2 occur when misuse of the acronym NDG for a
3 specific standard in one SIBR record, while it
4 cites the specific edition of the standard in
5 another related record from the same agency,
6 such as in the case identified in your
7 Public.Resources.Org comments to the OFR;" is
8 that correct?
9 A. Yes.
10 Q. Had you read Mr. Malamud's comments
11 to the OFR that you are referencing?
12 A. I had at the time obviously.
13 Q. You then say: "This is not an
14 error. It is and has been NIST's practice to
15 cite regulatory language exactly as it appears
16 in the text of each specific C.F.R. citation
17 and to not make assumptions about what a
18 regulatory agency intended in its regulation;"
19 is that correct?
20 A. That's correct.
21 Q. Why didn't NIST make assumptions
22 about what a regulatory agency intended in its

Page 197

1 regulation?
2 A. That would be irresponsible and out
3 of our scope of responsibility.
4 Q. Why would that be irresponsible?
5 A. NIST is not -- NIST is not a
6 regulatory agency. We don't have any -- NIST
7 did not have any authority over regulatory
8 agency activities. It's the responsibility of
9 the regulatory agency to make accurate
10 citations.
11 Q. Wasn't NIST able to figure out what
12 edition of the standard was -- the agency had
13 intended to incorporate?
14 MR. FEE: Objection to form.
15 THE WITNESS: No. Only the agency
16 would know that.
17 BY MR. BECKER:
18 Q. Why is it a best practice to refer
19 to a particular edition of a standard when
20 incorporated by reference?
21 A. Because agencies are incorporating
22 specific -- a standard as it stood in a

Page 198

1 specific point in time. As the standard is
2 updated, the content of the standard may change
3 and an agency would have to make a separate
4 decision about incorporating an updated
5 reference.
6 Q. Did NIST ever contact an agency to
7 try to find out what edition of a standard was
8 intended to be incorporated by reference into a
9 regulation?
10 A. No. Periodically, we distributed
11 portions of the standards incorporated by
12 reference database to each agency so you can
13 sort by agency as well as by -- you can sort by
14 any column. We would distribute on a periodic
15 basis DOT's sections to the Department of
16 Transportation, Departments of Interior's
17 section to them and just note to them, you
18 might -- you might want to look at the data.
19 It's their responsibility, not NIST's
20 responsibility.
21 Q. You then give an example, you say:
22 "For example," in the next paragraph: "For

Page 199

1 example, when NIST compiled the initial
2 inventory of standards incorporated by
3 reference, the Mine Safety and Health
4 Administration, MSHA, referenced the National
5 Fire Protection Association, NFPA, National
6 Electric Code, NFPA 70 in 30 C.F.R. 57.12048,
7 without citing a specific edition. NDG appears
8 in the edition column for that record."
9 "However, NIST also found other MSHA
10 references to NSPA 70 that identified a
11 specific edition. For example, in Paragraph 3,
12 C.F.R. 75.513-1, MSHA references the 1968
13 edition of NFPA 70. In this record, 1968
14 appears in the edition column. NIST cannot
15 speculate that the nondated incorporation
16 refers to or is intended to refer to the 1968
17 edition of NFPA 70 referenced in the date of
18 incorporation."
19 "That intent or interpretation is up
20 to the regulatory agency promulgating the
21 regulation. The format and manner in which
22 SIBRs are identified in the C.F.R. is an

Page 200

1 individual agency decision;" is that correct?
2 A. That's correct.
3 Q. So can you explain to me so I better
4 understand why is it that -- that NIST couldn't
5 just assume that the earlier reference to NFPA
6 70 in the MSHA referred to the 1968 edition,
7 seeing as elsewhere in the MSHA, it referred to
8 the 1968 edition?
9 A. We wouldn't have the information
10 necessary to make that determination and we are
11 not going to guess.
12 Q. In the next paragraph, you describe
13 NIST providing agency standards executives
14 Excel spreadsheets containing the referenced
15 records for their review.
16 Was that what you were earlier
17 describing in which NIST tried to point out
18 errors to certain agencies?
19 A. When I --
20 MR. GRIFFIN: Objection.
21 THE WITNESS: -- mentioned earlier
22 that we would provide hard-copied portions of

<p style="text-align: right;">Page 201</p> <p>1 the database, the Department of Transportation 2 portion, the Department of Interior and so on, 3 to each agency to review through their 4 standards management system, yes, that's what I 5 was referring to. 6 BY MR. BECKER: 7 Q. At the bottom of the page, you say: 8 "In addition to cross-references for 9 incorporation in the C.F.R., such as those 10 above, there are many federal specifications, 11 military specifications and other federal GSA 12 standard documents cited in the C.F.R. by 13 various agencies. Many of these have been 14 withdrawn, replaced or updated by the issuing 15 agency but not by the using agency. The 16 references will be retained in the database 17 until the using agency reviews and revises its 18 regulation in the C.F.R." 19 What's the distinction between an 20 issuing agency versus a using agency? 21 A. So a military specification is a 22 Department of Defense document. The Department</p>	<p style="text-align: right;">Page 203</p> <p>1 particular recommendation that Mr. Malamud 2 made? 3 A. Yes. 4 Q. Do you know if the SIBR database 5 was, in fact, identified -- updated to reflect 6 additional BSI standards as a result of any 7 action in response to Mr. Malamud's e-mail? 8 A. I can commit that the -- that the 9 person responsible for reviewing the Code of 10 Federal Regulations, I asked him to take a -- 11 to take a specific look and update the database 12 if he identified additional references. 13 MR. BECKER: Thank you. Let's take 14 a short break. 15 THE WITNESS: Okay. 16 THE VIDEOGRAPHER: We are going off 17 the record. This is the end of Media Unit No. 18 3. The time is 3:29. 19 (A short recess was taken.) 20 THE VIDEOGRAPHER: We are going back 21 on the record. This is the start of Media Unit 22 No. 4. The time is 3:41.</p>
<p style="text-align: right;">Page 202</p> <p>1 of Defense might withdraw a military 2 specification. If another agency such as the 3 Coast Guard or another component of an agency 4 outside of the Department of Defense had 5 referenced that military specifications, they 6 are the using agency. 7 Q. Is that the same -- kind of the same 8 thing as where a standards development 9 organization might withdraw their standard but 10 it might still be listed as incorporated by 11 reference into a particular regulation? 12 A. That's correct. 13 Q. You then say: "Finally, you note 14 that you identified five BSI standards 15 referenced in the C.F.R. while the SIBR 16 database only identified two. This is likely 17 due to the fact that NIST's periodic review has 18 not yet captured the additional three 19 references. We will take a closer look at this 20 specific case and update the database." 21 Was this the instance that you were 22 referring to about taking action on a</p>	<p style="text-align: right;">Page 204</p> <p>1 (Deposition Exhibit 12 was marked 2 for identification.) 3 BY MR. BECKER: 4 Q. I am handing you what has been 5 marked as Exhibit No. 12. 6 Do you recognize this document? 7 This is the document produced as 8 ANSI 0303 to ANSI 0307. 9 A. Yes. I recognize this to be an 10 agenda of the ANSI board of directors meeting. 11 Q. Were you in attendance at this board 12 of directors meeting? 13 A. I was. 14 Q. As you -- it says on the third page 15 that you are listed as presenting the federal 16 engagement and standards activities 17 information/discussion; is that correct? 18 A. Correct. 19 Q. It says that you are going to 20 provide updates on recent activities of the 21 National Science and Technology Council 22 subcommittee on standards and OMB A119</p>

<p style="text-align: right;">Page 205</p> <p>1 revision. 2 A. Yes. 3 Q. And above that, it says that there 4 is going to be updates, that standards 5 incorporated by reference into law are going to 6 be discussed and there will be updates on 7 incorporation by reference, Public.Resource.Org 8 and IBR portal; is that correct? 9 A. I see that, yes. 10 (Deposition Exhibit 13 was marked 11 for identification.) 12 BY MR. BECKER: 13 Q. I have handed you what has been 14 marked as Exhibit No. 13. 15 This is a document produced as ANSI 16 0308 to ANSI 0327. 17 Do you recognize this document? 18 A. Yes. 19 Q. What is this document? 20 A. It's the presentation that is 21 referenced in the board agenda on copyright 22 infringement and incorporation by reference,</p>	<p style="text-align: right;">Page 207</p> <p>1 Brazil, I think was a significant problem area, 2 and India. 3 Q. The next page says: "The unique 4 problem, standards incorporated by reference, 5 IBR, into law. Many countries are struggling 6 with what to do about standards that have been 7 incorporated by reference into law. Arguments 8 have been made that such standards should be 9 freely available. Counter-arguments have been 10 made that such standards are copyright 11 protected and that copyright should not yield 12 to free access;" is that correct? 13 A. That's what it says on the slide. 14 Q. Do you know who was making the 15 arguments that standards should be freely 16 available? 17 A. Referring to Bullet 2? 18 Q. Yes. 19 A. Not specifically. There are general 20 arguments on both -- on both sides of the 21 issue. 22 Q. The following three pages refer to</p>
<p style="text-align: right;">Page 206</p> <p>1 recent developments. 2 Q. Were you present for this 3 presentation? 4 A. I'm sure I was. 5 Q. It says on Slide 2, so that would be 6 the second page: "Copyright infringement up 7 generally. The posting of unauthorized 8 copyrighting standards on the internet has 9 skyrocketed over the last year;" is that 10 correct? 11 A. That's what it says, yes. 12 Q. Were you aware of concerns at that 13 time about the posting on the internet about 14 unauthorized copies of standards? 15 A. Yes. 16 Q. What is Attributor Guardian? 17 A. I -- other than it appears to be a 18 service that searches the web for violations, 19 for posting of copyrighted documents. Most of 20 the issues that were being faced -- many of the 21 issues being faced by copyright owners were 22 with respect to foreign postings, in China,</p>	<p style="text-align: right;">Page 208</p> <p>1 countries either requiring free access to 2 standards that have been incorporated into law 3 or countries that -- as is phrased here, uphold 4 copyright in IBR standards; is that correct? 5 A. Yes, that's correct. 6 Q. It lists eight countries that have 7 acquired free access to standards that are 8 incorporated into law and it lists four 9 countries that have not; is that correct? 10 A. Yes, that's correct. 11 Q. It then goes on to list the -- 12 U.S.A. requires reasonable access for IBR 13 standards, correct? 14 A. Yes. 15 Q. It says: "Some U.S.-based SDOs make 16 IBR standards available on a read-only basis 17 online and without fees, e.g., ASTM reading 18 room, API government cited and safety 19 documents, NFPA free access. Other SDOs do not 20 view reasonable access as requiring free online 21 access." 22 What is the ASTM reading room?</p>

Page 209

1 A. My understanding is that's ASTM's
2 electronic portal where they provide read-only
3 access to ASTM standards that have been
4 incorporated by reference into regulation.
5 Q. What is the API government cited and
6 safety documents?
7 A. I don't have specific knowledge, but
8 I assume it's a similar service, but I don't
9 know.
10 Q. Is API a standards development
11 organization?
12 A. It's the American Petroleum
13 Institute.
14 Q. What is NFPA free access?
15 A. National Fire Protection Association
16 free access. Again, that would be an NFPA
17 service.
18 Q. It says -- do you know what SDOs do
19 not view reasonable access as requiring free
20 online access?
21 MR. FEE: Objection to form.
22 MR. GRIFFIN: Objection.

Page 210

1 THE WITNESS: I don't have specific
2 knowledge about that. There are 240 accredited
3 standards developing organizations in the
4 United States and many more that are not
5 accredited by ANSI. It's a large number of
6 organizations.
7 BY MR. BECKER:
8 Q. Do you know of any specific
9 standards setting organizations -- excuse me,
10 standards development organizations that do not
11 provide free online access to standards that
12 have been incorporated by reference?
13 A. Well, I suppose I -- you could make
14 that determination by the process of
15 elimination. The three standards developing
16 organizations who are listed here with the
17 reading rooms and the SDOs who have made their
18 standards available via the IBR portal. I
19 don't have that number, but I can speak to the
20 positive. I don't have information about the
21 negative.
22 Q. The next page says: "U.S. dialogue

Page 211

1 on IBR, NARA petition."
2 What -- what does NARA stand for?
3 A. The National Archives and Records
4 Administration.
5 Q. It says: "On February 27, 2012, a
6 Federal Register Notice called for comment on a
7 petition filed by a group of academics to amend
8 the National Archives and Records
9 Administration, NARA's regulations governing
10 the approval of agency requests to incorporate
11 materials by reference into the Code of Federal
12 Regulations."
13 Are you familiar with that Federal
14 Register Notice?
15 A. Well, I was at the time. I don't
16 have any memory of it currently.
17 Q. Then it says: "ANSI developed a
18 consensus response on behalf of the
19 standardization community;" is that correct?
20 A. Yes.
21 Q. Did you participate in the consensus
22 response that ANSI developed?

Page 212

1 A. I don't remember.
2 Q. Do you remember what that consensus
3 response stated?
4 A. No, but it should be available in
5 NARA's record.
6 Q. On Slide 10, it refers to the
7 pipeline safety bill.
8 A. Yes.
9 Q. Do you recognize that to be the same
10 pipeline bill that we discussed earlier today?
11 A. I do.
12 Q. It says: "The U.S. Department of
13 Transportation Pipeline Hazardous Materials
14 Safety Administration, PHMSA, contacted SDOs to
15 request that their standards incorporated by
16 reference in PHMSA legislation be made
17 available online for free;" is that correct?
18 A. Yes.
19 Q. Do you recall that event occurring?
20 A. I recall hearing about it.
21 Q. Do you know what the justification
22 was for asking SDOs to make their standards

Page 213

1 incorporated by reference in PHMSA legislation
2 available for -- online for free?
3 MR. GRIFFIN: Objection.
4 MR. FEE: Objection to form.
5 THE WITNESS: So my -- well, if you
6 read the Section 4 of the bill, prohibited the
7 reference -- prohibited DOT from referencing
8 any standard unless the documents were made
9 available free of charge on an internet
10 website, so my understanding is that DOT then
11 reached out to SDOs to determine whether that
12 was feasible. With a view to making the
13 argument to the Congressional committee that it
14 was -- that this was not necessarily feasible
15 in all cases.
16 BY MR. BECKER:
17 Q. When you say, "with a view to making
18 the argument to the Congressional committee
19 that it was not necessarily feasible in all
20 cases," what is your basis for that knowledge?
21 A. There was a technical correction
22 made to the -- not to bill itself but to the

Page 214

1 record related to the legislation, which
2 altered this requirement and made it -- made it
3 more flexible so DOT, Department of
4 Transportation, Congressional legislative
5 affairs folks worked with the committee on the
6 technical correction to the bill.
7 Q. How is it that you -- strike that.
8 Have you -- had you spoken with
9 anybody from DOT about their views on the
10 pipeline bill?
11 A. Not since the time period 2012, 2013
12 when that was in play.
13 Q. At that time in 2012 or 2013, had
14 you spoken with anybody from the Department of
15 Transportation about their view on the pipeline
16 bill?
17 A. I actually participated in an open
18 community meeting that the Department of
19 Transportation, Pipeline and Hazardous Material
20 Safety Administration convened to discuss the
21 incorporation by reference in the particular
22 context of the bill, so I participated in a

Page 215

1 meeting that they held. It's on C-SPAN or
2 YouTube. It's available.
3 Q. So is it your view that the
4 Department of Transportation did not actually
5 want SDOs to make their standards incorporated
6 by reference in PHMSA legislation available
7 online for free?
8 MR. GRIFFIN: Objection.
9 MR. FEE: Objection to form.
10 THE WITNESS: I don't have an
11 opinion on that. The Department of
12 Transportation was working with the
13 Congressional committee to ensure that they
14 could comply with the committee's intent, while
15 at the same time, enable them to still continue
16 carrying out their regulatory responsibilities.
17 BY MR. BECKER:
18 Q. Moving on to Slide 12, that slide
19 discusses Public.Resource.Org; is that correct?
20 A. Yes, it does.
21 Q. Slide 13 then refers to a lawsuit
22 between Public Resource and the Sheet Metal and

Page 216

1 Air Conditioning Contractor's National
2 Association, Inc.; is that correct?
3 A. Yes.
4 Q. And that is a SDO, correct?
5 A. I believe so, yes, it's national
6 standards, yes.
7 Q. It's referred to as SMACNA?
8 A. Yes.
9 Q. SMACNA sent Public Resource a cease
10 and desist letter using Contributor Guardian in
11 response to posting SMACNA standards; is that
12 correct?
13 A. That's what the slide says, right.
14 Q. Were you -- at this time, were you
15 keeping updated on developments in the SMACNA
16 lawsuit?
17 A. No.
18 Q. Did you subsequently keep updated on
19 developments in the SMACNA lawsuit?
20 A. No.
21 Q. Slide 14 discusses the ANSI IBR
22 portal.

Page 217

1 A. Uh-huh.
2 Q. It says: "ANSI intends to provide a
3 portal for read-only access to a subset of
4 standards incorporated by U.S. federal agencies
5 in rulemaking. Goal is to make it easier for
6 interested parties to find IBR standards and to
7 access them via the internet at no cost."
8 How would this make it easier for
9 interested parties to find IBR standards and
10 access them via the internet with no cost?
11 MR. GRIFFIN: Objection.
12 MR. FEE: Objection.
13 THE WITNESS: So the IBR portal is a
14 portal which provides read-only access to a
15 number of -- to standards that are maintained
16 by a number of standards developing
17 organizations including ISO and IEC in one
18 place, so having all that information in one
19 place would make it easier for interested
20 parties to find the standards.
21 BY MR. BECKER:
22 Q. At this time, the ANSI IBR portal

Page 218

1 was not yet in existence; is that correct?
2 A. Correct.
3 Q. It says: "One important motivation
4 for providing this access is to encourage the
5 U.S. Government's reference to private sector
6 standards and regulations in lieu of having the
7 government develop its own standards;" is that
8 correct?
9 MR. FEE: Object to form.
10 THE WITNESS: That's correct.
11 BY MR. BECKER:
12 Q. Can you explain that motivation?
13 MR. GRIFFIN: Objection.
14 MR. FEE: Objection.
15 THE WITNESS: The National
16 Technology Transfer and Advancement Act directs
17 federal agencies to rely on private voluntary
18 consensus standards in lieu of developing their
19 own standards. That's simply a repetition of
20 the text of what -- the direction under the
21 law.
22 BY MR. BECKER:

Page 219

1 Q. How does the ANSI IBR portal factor
2 into that?
3 MR. GRIFFIN: Objection.
4 MR. FEE: Objection to form.
5 THE WITNESS: Well, as you mentioned
6 earlier and the bullet above, it provides it
7 easier, simpler access to a range of standards
8 that are incorporated by reference into
9 regulations.
10 BY MR. BECKER:
11 Q. And why would simpler access have
12 any relation to the U.S. Government's reference
13 to private sector standards and regulations in
14 lieu of having the government develop its own
15 standards?
16 MR. GRIFFIN: Objection.
17 MR. FEE: Objection.
18 THE WITNESS: Well, I mentioned that
19 the Bullet 3 refers to the direction from
20 Congress to federal agencies. That statement
21 simply supports what the direction that the law
22 provides. ANSI's IBR portal is -- was intended

Page 220

1 to be and currently is a tool for assisting
2 federal agencies and providing reasonable
3 access, reasonable availability.
4 BY MR. BECKER:
5 Q. It says on the next page: "Phase 1
6 will include only IBR standards that have been
7 developed by ANSI-accredited SDOs as well as by
8 IEC and ISO;" is that correct?
9 A. That's what it says.
10 Q. Is that -- when the ANSI IBR portal
11 was first made publicly available, did it
12 include only standards developed by
13 ANSI-accredited SDOs as well as by IEC and ISO?
14 A. That's -- I believe that -- that's
15 what it says on the slide. I can't
16 independently confirm that but I see no reason
17 to say that's not the case.
18 Q. It says: "A number of SDOs have
19 already given permission for ANSI to either
20 include their standards or a link to their
21 site;" is that correct?
22 A. That's what it says.

Page 221

1 Q. Through your involvement with ANSI
2 at this time, were you aware of ANSI believing
3 that it needed to get permission in order to
4 include a SDO standard on its read-only site?
5 MR. GRIFFIN: Objection.
6 THE WITNESS: That copyright belongs
7 to the copyright owner which in all of these
8 cases is the standards development
9 organization, so yes, ANSI could not post
10 copyrighted information even for read-only
11 purposes without permission from the copyright
12 owner.
13 BY MR. BECKER:
14 Q. Through your experience with ANSI at
15 this time, were you aware of ANSI believing it
16 needed to get permission from an SDO in order
17 to link to the SDO's own read-only site?
18 MR. GRIFFIN: Objection.
19 MR. FEE: Objection.
20 THE WITNESS: I know what is listed
21 on the slide. I don't think general practice
22 is -- I think it is good practice to reach out

Page 222

1 to owning organizations with respect to either
2 posting the copyrighted information or linking
3 to their sites for a specific purpose.
4 BY MR. BECKER:
5 Q. And why is that good practice?
6 A. Just sounds like good corporate
7 practice to me.
8 MR. FEE: Objection.
9 THE WITNESS: Why would you link
10 without permission.
11 BY MR. BECKER:
12 Q. Do you think that people typically
13 ask for permission each time that they link to
14 somewhere on the internet?
15 MR. GRIFFIN: Objection.
16 MR. FEE: Objection to form.
17 THE WITNESS: Well, that's ANSI's
18 practice. I can't speak to any other
19 organization.
20 BY MR. BECKER:
21 Q. Is that ANSI's practice for any
22 outbound link to another website?

Page 223

1 A. I don't know. You'd have to check
2 with our publications staff about that.
3 Q. Does ANSI make IBR standards
4 available to the print disabled?
5 MR. FEE: Objection to form.
6 THE WITNESS: I don't know. You
7 would have to look at the portal to see.
8 BY MR. BECKER:
9 Q. Are you aware of any availability to
10 the print disabled of IBR standards?
11 MR. FEE: Objection. Form.
12 THE WITNESS: I have no personal
13 knowledge.
14 BY MR. BECKER:
15 Q. Slide 16 discusses -- it says:
16 "Multiple dimensions of protection."
17 Do you know what that is referring
18 to, or what do you understand that to refer to?
19 A. I am assuming it is referring to the
20 bullets that are listed below the title.
21 Q. What does -- what is protection
22 referring to?

Page 224

1 A. Copyright protection is my
2 assumption.
3 Q. It says: "Read-only access users
4 can only open and read the licensed materials.
5 Print restriction, user cannot print the
6 licensed material. Text copy prevention,
7 contact cannot be copied. Screen shot
8 prevention, screen prints are disabled.
9 Machine limits, the licensed materials cannot
10 be copied to a different computer or network
11 file system. Watermarks, a watermark
12 containing text provided by the content
13 provider will be added to the protected license
14 to materials;" is that correct?
15 A. That's correct.
16 Q. Is this referring to aspects of the
17 ANSI read-only portal?
18 A. It's referring to the IBR -- the
19 ANSI IBR portal, yes.
20 Q. It then says on the next page:
21 "User will be presented with a form that must
22 be completed before the user is given access to

Page 225

1 the licensed materials. The form collects such
2 information as name, e-mail address, company or
3 organization name, and stores this information
4 in a secure database."
5 Do you know why users were required
6 to fill out this form before accessing the ANSI
7 IBR portal?
8 MR. GRIFFIN: Objection.
9 THE WITNESS: I do not.
10 BY MR. BECKER:
11 Q. Do you know if ANSI still requires
12 users to fill out this form in order to access
13 the IBR portal?
14 A. I do not know that.
15 Q. Do you know -- what -- do you know
16 whether this information that is collected is
17 used by ANSI in any way?
18 A. No.
19 MR. FEE: Objection to form.
20 THE WITNESS: I have no knowledge of
21 that.
22 BY MR. BECKER:

Page 226

1 Q. Who would know whether this
2 information collected by ANSI is used in any
3 way?
4 MR. FEE: Objection to form.
5 THE WITNESS: That's a part of our
6 business operations so somebody in the
7 standards facilitation staff would probably
8 know. I don't have that information and I
9 don't know who has that information.
10 BY MR. BECKER:
11 Q. It then says: "User will be
12 required to sign an end user license agreement,
13 EULA, before being permitted to access a
14 licensed material."
15 Do you recall any debate within ANSI
16 as to whether an end user license agreement
17 should be required in order to use the ANSI IBR
18 portal?
19 A. I do not.
20 Q. Do you know what the terms of the
21 end user license agreement are?
22 A. I have no idea.

Page 227

1 Q. On Slide 19, it says: "The portal
2 will also include the following statement:
3 Caution, the standards available on this site
4 are the versions and year dates actually
5 referenced in the respective federal
6 legislation or law. The standard reference may
7 not be the most recent or up-to-date version
8 available. It is possible that the standard
9 and/or technology at issue has changed or been
10 updated during the period of time since the
11 regulation/law was enacted. ANSI does not
12 control which standards and versions hereto are
13 referenced in federal regulations or laws of
14 the U.S.A."
15 Do you know why that statement was
16 included on the ANSI IBR portal?
17 A. I don't have any personal knowledge
18 of why that statement was included.
19 Q. Do you have a guess as to why this
20 statement was included?
21 MR. GRIFFIN: Objection.
22 MR. FEE: Objection to form.

Page 228

1 THE WITNESS: You want me to guess.
2 I think it's good practice to let individuals
3 who access a particular source of information
4 know if the reference is not the most recent or
5 up-to-date version.
6 BY MR. BECKER:
7 Q. Is there a concern -- are you
8 concerned that there could be a negative
9 result, as a result due to somebody relying on
10 an out-of-date standard?
11 MR. GRIFFIN: Objection.
12 MR. FEE: Objection to form.
13 THE WITNESS: So as I mentioned
14 earlier, agencies incorporate standards by
15 reference into regulations when it's relevant
16 and it helps them fulfill their mission. A
17 good practice is that agencies provide dated
18 references so it's the responsibility of the
19 agency to have a process in place to
20 periodically look to update references. But if
21 they don't update references, then those are
22 the references that are relevant for a

Page 229

1 particular regulation.
2 BY MR. BECKER:
3 Q. What does ANSI do for its IBR portal
4 when the regulation incorporating a standard
5 doesn't list the particular edition of that
6 standard?
7 MR. GRIFFIN: Objection.
8 THE WITNESS: I don't know the
9 answer of that. I don't know the details of
10 the portal. I have actually never looked at
11 it.
12 BY MR. BECKER:
13 Q. You've never used the portal?
14 A. No, I've never used the portal.
15 (Deposition Exhibit 14 was marked
16 for identification.)
17 BY MR. BECKER:
18 Q. I have handed you what has been
19 marked as Exhibit No. 14.
20 This is a document produced as ANSI
21 0328 to 0336.
22 Do you recognize this document?

Page 230

1 A. I do.
2 Q. What is this document?
3 A. These appear to be the minutes of
4 the -- related to two agenda items on the -- at
5 the May 16, 2013 meeting of the ANSI board of
6 directors.
7 Q. This is the same meeting that we
8 have been discussing for the past several
9 minutes, correct?
10 A. That's correct.
11 (Deposition Exhibit 15 was marked
12 for identification.)
13 BY MR. BECKER:
14 Q. I have handed you what has been
15 marked as Exhibit No. 15.
16 This is the document marked as ANSI
17 2860.
18 Do you recognize this document?
19 A. Yes.
20 Q. What is it?
21 A. It's an e-mail from Scott Cooper at
22 ANSI to Patricia Griffin, Fran Schrotter and

Page 231

1 Liz Neiman regarding my participation in an
2 ANSI review group.
3 Q. Do you know what review group that
4 is?
5 A. Let's see. Given the date March 1,
6 2012, it is probably a response to the NARA
7 request for information, request for input.
8 Q. It says further on: "Mary Saunders,
9 she would be pleased to be part of an ANSI
10 review group. She didn't think NIST would
11 respond on their own but I think she was
12 pleased to have the ANSI venue to allow her to
13 weigh in."
14 Do you know what is being -- what do
15 you understand it to mean when Scott Cooper
16 says: "She didn't think NIST would respond on
17 their own?"
18 MR. GRIFFIN: Objection.
19 THE WITNESS: That NIST would not
20 submit NIST comments to NARA on the -- on the
21 request.
22 Although, I would note, since you

Page 232

1 have given me now the minutes that NARA --
2 there was a comprehensive -- let's see. U.S.
3 Government, ICE -- no, never mind. That's not
4 relevant.
5 Government agencies did not respond
6 to NARA's requests I don't think.
7 (Deposition Exhibit 16 was marked
8 for identification.)
9 BY MR. BECKER:
10 Q. I have handed you what has been
11 marked as Exhibit No. 16.
12 This is the document Bates-stamped
13 ANSI 3083.
14 Do you recognize this document?
15 A. I am an addressee on this -- or I'm
16 copied on this e-mail to -- it's hard to tell
17 who the addressees are, but I'm copied on the
18 e-mail.
19 Q. It says on February 27 -- excuse me,
20 actually let me back up a moment.
21 Do you recall receiving this e-mail?
22 A. No, I do not.

Page 233

1 Q. Do you have any reason to believe
2 that this e-mail produced by ANSI and listing
3 your name and e-mail address as under the BCC
4 line is not authentic?
5 A. No, I do not.
6 Q. Do you have any reason to think that
7 you didn't receive this e-mail?
8 A. No, I don't have any reason to think
9 I didn't get it.
10 Q. And the e-mail that's listed for you
11 is Mary.Saunders@NIST.gov; is that correct?
12 A. That's correct.
13 Q. Did you always use your NIST e-mail
14 address when conversing with ANSI prior to
15 leaving NIST?
16 A. Yes.
17 Q. The e-mail says: "On February 27, a
18 Federal Register Notice called for comments on
19 a petition filed by a group of academics to
20 amend the National Archives and Records
21 Administration, NARA's regulations governing
22 the approval of agency requests to incorporate

Page 234

1 materials by reference, IBR, into the Code of
2 Federal Regulation. I am writing to you
3 because you volunteered to take part in a
4 review group that would participate in the
5 development of ANSI's response to this notice;"
6 is that correct?
7 A. Yes, that's correct.
8 Q. Is this -- is the subject of this
9 Exhibit 16 the same as the subject of Exhibit
10 15?
11 MR. FEE: Objection to form.
12 THE WITNESS: Hold on. Which is
13 Exhibit 15?
14 BY MR. BECKER:
15 Q. That was the e-mail we just looked
16 at saying that --
17 A. Got it.
18 Q. -- "you would be pleased to be part
19 of an ANSI review group."
20 A. Yes.
21 Q. Did you volunteer to take part in
22 this particular review group?

Page 235

1 A. I must have.
2 (Deposition Exhibit 17 was marked
3 for identification.)
4 BY MR. BECKER:
5 Q. I have handed you what has been
6 marked as Exhibit 17.
7 This is produced by ANSI as Bates
8 No. 3084 to 3089.
9 Do you recognize this document?
10 A. It's the ANSI response, request for
11 comments on incorporation by reference which
12 was sent to the National Archives and Records
13 Administration.
14 Q. Is this the document that was
15 attached to the e-mail we just looked at,
16 Exhibit No. 15?
17 MR. FEE: Objection. Form.
18 THE WITNESS: Well, I don't know.
19 This is the final -- this is the final document
20 that was submitted.
21 BY MR. BECKER:
22 Q. Are you certain that this is the

Page 236

1 final document?
2 MR. FEE: Objection.
3 THE WITNESS: No, I'm not certain.
4 It looks like the final document but I can't
5 tell you.
6 BY MR. BECKER:
7 Q. Looking back at Exhibit 16, the
8 e-mail, the attachment line says: "ANSI
9 response IBR_031512_review.docX"; is that
10 correct?
11 A. Yes, it does.
12 Q. And in the third paragraph -- the
13 final sentence of the third paragraph says:
14 "As such, we respectfully request that you send
15 any comments you have on this document by noon
16 on Monday, March 19, staff will then compile
17 your comments into a new version that will go
18 to the IPRPC;" is that correct?
19 A. That's what it says.
20 Q. After reviewing that, does this
21 refresh -- excuse me.
22 Does this refresh your recollection

Page 237

1 that Exhibit 17 was a draft of the ANSI
2 response that was attached to Exhibit 16?
3 MR. GRIFFIN: Objection.
4 THE WITNESS: I can't tell. There
5 is no date on that document.
6 (Deposition Exhibit 18 was marked
7 for identification.)
8 BY MR. BECKER:
9 Q. I have handed you what has been
10 marked as Exhibit No. 18 which ANSI produced as
11 Bates No. 3121 to 3122.
12 Do you recognize this document?
13 A. Yes.
14 Q. What is this document?
15 A. It's an e-mail from -- that I sent
16 to Liz Neiman at ANSI noting that I had
17 attached comments on the draft document all on
18 Page 6 of the draft.
19 Q. It lists an attachment on this
20 e-mail; is that correct?
21 A. Right.
22 (Deposition Exhibit 19 was marked

Page 238

1 for identification.)
2 BY MR. BECKER:
3 Q. I have handed you what has been
4 marked as Exhibit 19.
5 This is the document produced as
6 ANSI 3123 to ANSI 3128.
7 Is this the draft that you had sent
8 as part of Exhibit No. 18?
9 MR. GRIFFIN: Objection.
10 THE WITNESS: Well, I can't tell.
11 There is no date or any other identification.
12 BY MR. BECKER:
13 Q. If you turn to the -- actually, can
14 you compare the final page of Exhibit 19 with
15 the final page of Exhibit 17.
16 A. Yes.
17 Q. Do you see that in Exhibit 19, in
18 the -- let's see. The second line at the top
19 of the page, it says: "It is both an
20 independent federal agency and a federal
21 advisory committee."
22 A. Yes.

Page 239

1 Q. Do you recall inserting that text
2 into the draft?
3 A. No, but I must have, it's a
4 statement of fact.
5 Q. Do you recall inserting the
6 statement on the next line down: "Which was
7 passed on a voice vote at the December 2011
8 ACUS Plenary?"
9 A. I do not recall, but again, that's a
10 statement of fact.
11 Q. And then under Bullet Point No. 9,
12 the final sentence of that paragraph says:
13 "This could have a chilling effect on agencies'
14 willingness to refer to voluntary standards in
15 support of regulatory actions."
16 Do you recall adding that text to
17 this draft?
18 A. No, but I take the point that I must
19 have added it.
20 Q. How would an extended review period
21 at various stages of rulemaking have a chilling
22 effect on agencies' willingness to refer to

Page 240

1 voluntary standards in support of regulatory
2 actions?"
3 MR. FEE: Objection.
4 THE WITNESS: My -- I don't have
5 memory -- my memory is not specific enough to
6 remember the context. I mean, at the time, I
7 obviously had read the NARA petition and
8 related documents but it's been seven years so
9 I don't remember.
10 BY MR. BECKER:
11 Q. Do you know what was being referred
12 to there regarding an extended review period?
13 A. No, I don't remember it. It must
14 have been part of the petition.
15 (Deposition Exhibit 20 was marked
16 for identification.)
17 BY MR. BECKER:
18 Q. I have handed you what has been
19 marked as Exhibit No. 20.
20 This is a document produced as ANSI
21 3602 to ANSI 3604.
22 Do you recognize this document?

Page 241

1 A. I am a recipient of the e-mail, so
2 yes.
3 Q. What is this e-mail?
4 A. It's an e-mail from Liz Neiman of
5 ANSI to all ANSI members plus additional
6 addressees regarding the fact that the deadline
7 for comment has been extended to June 1 for the
8 ANSI -- deadline for comment on the NARA
9 incorporation by reference petition.
10 Q. Do you know why you were
11 specifically BCC'd on that?
12 A. It's not BCC. Those are all -- I'm
13 an addressee but in order to avoid every
14 addressee getting responses, they put you all
15 on BCC. I misspoke the first time.
16 No, I don't know why we are called
17 out separately.
18 Q. Do you know -- when it refers to all
19 ANSI members, is that all organizations that
20 are part of ANSI or is that a broader group?
21 A. I don't know what that e-mail alias
22 refers to specifically.

Page 242

1 Q. The following page lists questions
2 from the notice and the first one is: "Does
3 reasonably available mean that the material
4 should be available for free to anyone online,"
5 and then it says: "Create a digital divide by
6 excluding people without internet access."
7 Do you believe that if reasonable --
8 reasonably available meant that a document
9 needed to be available for free online that it
10 would create a digital divide by excluding
11 people with no internet access?
12 MR. GRIFFIN: Objection.
13 MR. FEE: Objection to form.
14 THE WITNESS: So the question here
15 is, does reasonably available create a digital
16 divide by excluding people without internet
17 access.
18 Reasonable availability, as I
19 understand it under the circular and with
20 respect to NARA, includes as one option, if
21 available via internet. There are other
22 options I mentioned, reading room, hard copy,

Page 243

1 depository libraries, so that people without
2 internet access could actually have access to
3 the documents.
4 BY MR. BECKER:
5 Q. So in that case, do you think that
6 if reasonably available required online access
7 for free, that it wouldn't create a digital
8 divide by excluding people without internet
9 access?
10 MR. GRIFFIN: Objection.
11 MR. FEE: Objection.
12 THE WITNESS: I don't have an
13 opinion on that.
14 BY MR. BECKER:
15 Q. Are you aware of whether ANSI has an
16 opinion on whether requiring reasonably
17 available to include -- excuse me, let me
18 strike that.
19 Do you -- are you aware of whether
20 ANSI has an opinion on whether reasonably
21 available requiring free online access would
22 result in a digital divide?

Page 244

1 MR. FEE: Objection.
2 THE WITNESS: If you want, I can
3 read you the relevant section from the ANSI
4 response. It does not speak directly to the
5 digital divide issue.
6 BY MR. BECKER:
7 Q. What does it say?
8 A. It says: "ANSI believes the text of
9 standards and associated documents should be
10 available to all interested parties on a
11 reasonable basis, which may include
12 compensation where appropriate." That
13 statement is footnoted.
14 "Reasonably available should not be
15 strictly defined using terms such as for free
16 and to anyone online. Rather, the definition
17 should encompass a broad spectrum of access
18 options."
19 The ANSI response does not address
20 the question regarding digital divide, so I
21 don't -- I don't see that ANSI took a position
22 on that.

Page 245

1 Q. If a standard is not available for
2 free online and a person must instead either
3 purchase the standard or fly to a location
4 where the standard is -- a physical copy of the
5 standard is housed to review the standard, does
6 that create a financial divide?
7 MR. GRIFFIN: Objection.
8 MR. FEE: Objection.
9 THE WITNESS: Now you've asked me
10 about a financial divide. I don't have an
11 opinion on that.
12 (Deposition Exhibit 21 was marked
13 for identification.)
14 BY MR. BECKER:
15 Q. I have handed you what has been
16 marked as Exhibit No. 21.
17 This is the document produced by
18 ANSI as Bates No. 3792 to 3793.
19 A. Yes.
20 Q. Do you recognize this document?
21 A. I do.
22 Q. What is this document?

Page 246

1 A. Well, it's an e-mail string. The
2 operative portion of which is Ms. Griffin
3 asking me for my thoughts on Department of
4 Transportation's proposed public workshop,
5 which is where I participated as a speaker and
6 my response to her request.
7 Q. Your response says: "Patty, my
8 understanding is that DOT feels like they are
9 likely to be sued either way. If they make
10 docs freely available, violating copyright, or
11 if they don't, pipeline safety community"
12 issue -- "issues. The issues the FR notice
13 outlines are all valid issues. My guess is
14 that DOT is looking for additional data to
15 support a request to the Hill for more time."
16 What was the basis for your guess
17 that DOT was looking for additional data to
18 support a request to the Hill for more time?
19 A. Well, as I mentioned earlier in our
20 discussion about the pipeline safety bill, the
21 Department of Transportation, Congressional
22 legislative affairs and the technical folks

Page 247

1 felt that the requirements would have
2 significant -- of the bill as written
3 initially, would have significant adverse
4 effects on their ability to carry out their
5 regulatory responsibilities and they asked --
6 so they were seeking public comment for
7 suggestions on how to address that problem or
8 that issue.
9 And I also mentioned to you that the
10 Department of Transportation worked with the
11 Congressional committee to implement, to work
12 with the technical, the Congressional committee
13 as the committee developed a technical
14 correction to the bill which resolved the issue
15 further outlined here.
16 (Deposition Exhibit 22 was marked
17 for identification.)
18 BY MR. BECKER:
19 Q. I have handed you what has been
20 marked as Exhibit 22.
21 This is a document Bates-stamped
22 ANSI 3844.

Page 248

1 This is an e-mail between Scott
2 Cooper and Elizabeth Neiman, CC'ing Patricia
3 Griffin and Fran Schrotter, and it says --
4 well, in the first e-mail, Elizabeth Neiman is
5 asking Scott Cooper about Friday, what is
6 referred to as Friday's workshop on the
7 webcast, and then Scott Cooper responds: "I
8 thought it went quite well. Mary Saunders and
9 Emily Bremer were showcased and were able to
10 make good points on importance of copyright for
11 USG, and need to continue to refine reasonable
12 availability."
13 Do you know what workshop they are
14 referring to?
15 A. It's the workshop that I referred to
16 earlier and which is referred to in the earlier
17 e-mail as well. It was a public workshop. I
18 don't have the dates, but so DOT first is noted
19 in the earlier exchange should the Federal
20 Register Notice seeking public input on the
21 construction of the pipeline safety bill. They
22 asked for public input and they -- public

Page 249

1 comment, they also had a public meeting.
2 That's the workshop I was referring to.
3 It was held at the Department of
4 Transportation, and as I mentioned earlier, I
5 was one of the speakers.
6 Q. Who is Emily Bremer?
7 A. Emily Bremer at the time was a staff
8 person working for the administrative
9 conference of the U.S. She's an administrative
10 law lawyer.
11 Q. Do you know Emily Bremer?
12 A. I do know Emily.
13 Q. How long have you known Emily Bremer
14 for?
15 A. I met Emily during the ACUS
16 deliberations.
17 Q. Did Emily Bremer have a standpoint
18 that you understood -- excuse me.
19 Did you understand Emily Bremer to
20 have a standpoint with regard to what
21 reasonable availability meant?
22 MR. FEE: Objection.

Page 250

1 THE WITNESS: So as I mentioned
2 earlier, the webcast of the pipeline safety
3 workshop is still available online. You can
4 access it. You can listen to Emily's statement
5 and mine as well. I don't -- I don't remember
6 the specifics of Emily's position.
7 BY MR. BECKER:
8 Q. Do you know if Emily Bremer
9 advocated against making standards available
10 for free?
11 MR. FEE: Objection.
12 THE WITNESS: I don't have that
13 information. No, I do not know.
14 (Deposition Exhibit 23 was marked
15 for identification.)
16 (Deposition Exhibit 24 was marked
17 for identification.)
18 BY MR. BECKER:
19 Q. I have handed you what has been
20 marked as Exhibit 23 which is ANSI 4530 to 31,
21 as well as Exhibit 24, ANSI 4472 --
22 A. Right.

Page 251

1 Q. -- to 4481.
2 Have you seen either of these
3 documents before?
4 A. Not that I -- no, not that I
5 remember. I am not an addressee on any of the
6 e-mails.
7 Q. So on June 29, 2012, Emily Bremer
8 writes -- excuse me.
9 Scott Cooper writes to Emily Bremer
10 and describes what looks like elements of
11 perhaps a panel or something like that. The
12 subject is: "ACUS ANSI IBR Conference."
13 Do you know what is being referred
14 to as the ACUS ANSI IBR conference?
15 A. No, I don't.
16 Q. Then Scott Cooper forwards the
17 e-mail and says -- to Joe Bhatia.
18 Who is Joe Bhatia?
19 A. Joe Bhatia is the president and CEO
20 of ANSI.
21 Q. And he says: "Dear Joe. There are
22 a number of fronts where the IBR issues are

Page 252

1 being played out. We have developed an
2 outreach plan to take the ANSI IBR message to
3 Congress and relevant agencies. Attached is
4 the updated outreach list. You and I have our
5 first meetings with the majority and minority
6 staff directors from the technology and
7 innovation subcommittee of health science on
8 July 27. Patty and I are meeting with lawyers
9 from ACUS and the Coast Guard to talk about IBR
10 copyright on July 23rd."
11 And then Exhibit 24 is a spreadsheet
12 that on the first page is titled: "House
13 Outreach Matrix," and then on the page
14 Bates-stamped ANSI 4478 is labeled:
15 "Administration Outreach Matrix."
16 Do you see that?
17 A. I do.
18 Q. And do you see yourself listed there
19 on Row 140, Mary Saunders. It says:
20 "Relevance is missed."
21 A. Right. Apparently I am on their
22 outreach list.

Page 253

1 Q. And then on the following page, Row
2 140 continued, and under where it says: "Date
3 of meeting," it says: "11-30-11 conference
4 call with Mary Saunders, Henry Wixon, Gordon
5 Gillerman and Ajit Jillavenkatase."
6 A. Jillavenkatase.
7 Q. Pardon me.
8 Do you recall having that conference
9 call?
10 A. I do not.
11 Q. Do you have any reason to doubt that
12 that conference call occurred?
13 A. I do not.
14 Q. Who is Henry Wixon?
15 A. Henry Wixon is the general counsel
16 for NIST.
17 Q. Who is Gordon Gillerman?
18 A. Gordon Gillerman and Ajit
19 Jillavenkatase at that time were both staff
20 members of the standards coordination office
21 working for me.
22 Q. Do you know why ANSI would have had

Page 254

1 an outreach call to you regarding IBR issues?
2 MR. GRIFFIN: Objection.
3 MR. FEE: Objection to form.
4 THE WITNESS: I don't know why they
5 would or would not.
6 BY MR. BECKER:
7 Q. What is your understanding of the
8 purpose of this outreach matrix?
9 MR. GRIFFIN: Objection.
10 MR. FEE: Objection to form.
11 THE WITNESS: I have never seen it
12 so I don't know. I can't speak to -- I mean,
13 this is a Scott Cooper document. I don't know.
14 BY MR. BECKER:
15 Q. What is your understanding of why
16 ANSI would have wanted to reach out to you on
17 the IBR message?
18 MR. GRIFFIN: Objection.
19 MR. FEE: Objection.
20 THE WITNESS: They might -- they
21 might have wanted to inform us about their Hill
22 meetings. I don't know.

Page 255

1 BY MR. BECKER:
2 Q. What are their Hill meetings?
3 A. The Hill meetings is what I am
4 talking about.
5 Q. The meetings with each of the
6 members of Congress and their staff?
7 A. Yes.
8 Q. What is your understanding of why
9 ANSI set up meetings with members of Congress
10 and their staff on this issue?
11 MR. GRIFFIN: Objection.
12 MR. FEE: Objection.
13 THE WITNESS: I don't know anything
14 more than is in this e-mail. I didn't
15 participate in any of these meetings and I
16 don't remember.
17 BY MR. BECKER:
18 Q. Bullet Point No. 3 in -- on Exhibit
19 23 says: "We have agreement with ACUS to put
20 on a late fall ACUS ANSI IBR event that would
21 bring in Congressional staff and the SDO
22 community to discuss reasonable availability.

Page 256

1 There is a brief discussion on that proposed
2 event attached below."
3 Do you know what ACUS ANSI IBR event
4 is being referred to there?
5 A. No, I didn't --
6 MR. GRIFFIN: Objection.
7 THE WITNESS: Sorry. I do not.
8 (Deposition Exhibit 25 was marked
9 for identification.)
10 BY MR. BECKER:
11 Q. I have handed you what has been
12 marked as Exhibit 25.
13 This is a document ANSI produced
14 Bates-stamped ANSI 8056.
15 In the lower e-mail on this page
16 titled: "For review, IBR testimony for 1/14,"
17 in the second paragraph, the second says -- or
18 the first sentence says: "Next step is to send
19 to the select group that Scott/Joe e-mailed
20 yesterday evening. Patty also proposed that we
21 include Mary Saunders in this review group."
22 Do you know what review group they

Page 257

1 were discussing?
2 A. It appears to be a group to review
3 the testimony that Patty Griffin gave before a
4 Congressional committee on January 14.
5 Q. In the e-mail above, Joe Bhatia
6 writes: "Somewhere, somehow, we should mention
7 that standards development in this country is
8 one of the earliest and most successful
9 examples of the public private partnership
10 which has benefitted our nation tremendously on
11 many fronts" - particularly, excuse me,
12 competitiveness -- I'm sorry.
13 "Competitiveness, public safety, successfully
14 commercializing American innovations globally,
15 and on and on. Congressmen particularly the
16 Republican ones should eat that up."
17 Why do you think that Joe Bhatia
18 would have suggested that Republican
19 Congressmen would be in favor of referring to a
20 public private partnership?
21 MR. GRIFFIN: Objection to form.
22 THE WITNESS: I have no insight into

Page 258

1 Joe's thinking on this matter.
2 BY MR. BECKER:
3 Q. Have you ever heard Joe Bhatia
4 suggest that -- the reference to public private
5 partnership should be made related to IBR
6 issues?
7 A. The public private partnership is
8 comprehensive. It's the public private
9 partnership in the development of voluntary
10 consensus standards.
11 Q. Do you recall any instances when Joe
12 Bhatia has suggested that referring to the
13 public private partnership would be especially
14 successful in influencing Republican
15 Congressmen?
16 A. He never made that statement to me.
17 MR. GRIFFIN: Objection.
18 BY MR. BECKER:
19 Q. What is your understanding of why
20 Joe Bhatia would have said this?
21 MR. GRIFFIN: Objection.
22 MR. FEE: Objection to form.

Page 259

1 THE WITNESS: I don't know. I
2 wasn't in on that conversation.
3 (Deposition Exhibit 26 was marked
4 for identification.)
5 BY MR. BECKER:
6 Q. I have handed you what has been
7 marked as Exhibit No. 26.
8 This is the document produced as
9 ANSI 8802 to ANSI 8805.
10 In the e-mails below the first and
11 most recent one, does this reflect an e-mail
12 correspondence that you had with -- with other
13 individuals?
14 A. Yes.
15 Q. Do you recall having this e-mail
16 correspondence?
17 A. No.
18 Q. Do you have any reason to think that
19 the e-mail correspondence is not accurate or
20 authentic?
21 A. I do not.
22 Q. In the earliest e-mail, if you turn

Page 260

1 to ANSI 8804, Patricia Griffin sends to you as
2 well as Mary McKiel an e-mail.
3 Who is Mary McKiel?
4 A. Mary McKiel at that time was the
5 standards executive for the Environmental
6 Protection Agency.
7 Q. Patricia Griffin says: "Hi Mary and
8 Mary. I hope you are doing well and
9 congratulations, Mary S on your new position."
10 What was that new position at the
11 time, do you recall?
12 A. Must be associate director for
13 management resources position.
14 Q. She goes on to say: "I wanted to
15 bring to your attention that Carl Malamud has
16 filed a declaratory judgment lawsuit Friday
17 against an ANSI accredited SDO who has sent
18 Public.Resource.Org a cease and desist letter
19 relating to IBR standard posted to Malamud's
20 site. I am going to be speaking to some
21 developers at U.S. and non-U.S. later in the
22 morning about steps others may be taking to

Page 261

1 address Malamud's activities."
2 Did you learn of steps that were
3 considered for addressing what is referred to
4 as Malamud's activities here?
5 MR. FEE: Objection.
6 THE WITNESS: I wasn't privy to
7 those conversations.
8 BY MR. BECKER:
9 Q. Ms. Griffin goes on to say: "One
10 question I will be asking is the status of the
11 U.S. Government efforts to address the
12 reasonable availability question is the
13 OMB/NARA initiative. Last I recall, OMB had
14 crafted a draft which it circulated to other
15 federal agencies for input. My understanding
16 was that a draft (either the original one or an
17 updated one) reflecting other agency comments
18 would then be available for public review at
19 some point. Do you know of any developments
20 that you could share with me (and me with other
21 SDOs currently looking into this issue)?"
22 Do you know what she is requesting

Page 262

1 -- what do you understand her to be requesting
2 there?
3 MR. GRIFFIN: Objection.
4 THE WITNESS: She is asking if -- if
5 and when a draft of the revision to the OMB
6 circular -- she is asking me when and if a
7 draft of the revised circular would be
8 available for public comment which it was not
9 at that time.
10 BY MR. BECKER:
11 Q. How is it that you would know
12 whether -- at that time whether a revision to
13 the OMB circular was available for public
14 comment at that time?
15 A. If it was available for public
16 comment, it would have been posted in the
17 Federal Register so I would know about it.
18 Q. What is your understanding of why
19 Ms. Griffin would have asked you instead of
20 checking the Federal Register herself?
21 MR. GRIFFIN: Objection.
22 MR. FEE: Objection to form.

Page 263

1 THE WITNESS: I don't know.
2 BY MR. BECKER:
3 Q. You then respond -- sorry.
4 Mary McKiel responds and then you
5 respond on top of that, saying: "Patty and
6 Mary, the latest version of the draft circular
7 that I have seen still has the neutral language
8 that Mary McKiel references below. I don't
9 think there is much/any interest at OMB in
10 leaning forward on this issue, that is, in
11 changing current practice dramatically."
12 What did you mean when you were
13 referring to "leaning forward?"
14 A. Changing current practice
15 dramatically.
16 Q. What do you mean by "changing
17 current practice dramatically?"
18 A. The question was with respect to
19 incorporation by reference or reasonable
20 availability, so that's what I meant. Changing
21 current practice with respect to -- in 2013,
22 and with respect to reasonable availability.

Page 264

1 Q. What was the basis for your belief
2 that there wasn't much or any interest at OMB
3 in terms of changing current practice
4 dramatically?
5 A. So I think this falls under the
6 exclusion that you talked with Henry and
7 Russell Craig about. These are internal
8 government deliberations, specifically with
9 respect to the circular. I can look at the
10 letter if you want.
11 Q. And you shared your -- this
12 information with Ms. Griffin?
13 A. No. You asked me how I would know
14 and that is -- those are nonpublic aspects. I
15 did not share any nonpublic information, but
16 you asked me how I would know about it through
17 discussions with OMB. I made a high-level
18 statement.
19 MR. GRIFFIN: I have to instruct her
20 not to answer the questions given the agreement
21 that you have with DOC that we put on the
22 record at the beginning until we get

Page 265

1 clarification if you need.
2 MR. BECKER: I understand that, but
3 I would like to know why it would be
4 permissible to discuss this with Ms. Griffin at
5 that time.
6 MR. GRIFFIN: She just said that she
7 didn't.
8 THE WITNESS: I didn't.
9 BY MR. BECKER:
10 Q. But you said that you believed that
11 there wasn't much or any interest at OMB in
12 changing current practice dramatically?
13 A. It was a general statement.
14 Q. So it's permissible to share a
15 general statement about internal political
16 deliberations, but it's not okay to share more
17 specific information?
18 MR. GRIFFIN: Objection.
19 MR. FEE: Objection to form.
20 THE WITNESS: You asked me how I
21 knew, which leads -- which would have led me to
22 discuss internal government deliberations. The

Page 266

1 information I shared was not privileged.
2 BY MR. BECKER:
3 Q. What would be the distinction
4 between privileged and nonprivileged
5 information in this context?
6 MR. GRIFFIN: Objection.
7 MR. FEE: Objection.
8 MR. GRIFFIN: Again, I'm going to
9 instruct her not to answer given the agreement
10 you have with DOC.
11 MR. BECKER: I am not looking for
12 the specifics, but I would like to know --
13 MR. GRIFFIN: You are sort of coming
14 close to that though.
15 MR. BECKER: I want to know what the
16 basis is for the distinction that she's making.
17 MR. GRIFFIN: Right. And you're
18 going to have to talk to DOC about that as you
19 agreed to do in your letter.
20 MR. BECKER: I don't think I need to
21 speak with DOC to know what the basis is for
22 her saying that one piece of information is

Page 267

1 privileged and another piece of information is
2 not privileged.
3 MR. GRIFFIN: I'm telling you that I
4 think you are crossing the line on what she is
5 permitted pursuant to the agreement to testify
6 to, and I'm going to err on the side of caution
7 and you can discuss it with Russell Craig as
8 you agreed to do.
9 BY MR. BECKER:
10 Q. Ms. Saunders, was it publicly known
11 at that time that OMB did not have much or any
12 interest in changing current practice
13 dramatically?
14 MR. FEE: Objection to form.
15 THE WITNESS: It might have been. I
16 don't have any reason to -- I don't know.
17 BY MR. BECKER:
18 Q. I'm sorry, you don't have any reason
19 to what?
20 A. I don't have any -- I can't answer
21 that question, was it publicly known. It's
22 likely. OMB -- the OMB staff have

Page 268

1 conversations with quite a few people, private
2 sector and government.
3 Q. Do you not know one way or the
4 other?
5 A. I do not know one way or the other.
6 (Deposition Exhibit 27 was marked
7 for identification.)
8 BY MR. BECKER:
9 Q. I have handed you what has been
10 marked as Exhibit No. 27.
11 This is a document produced by ANSI
12 as 9053 to 9056.
13 On the first page at the bottom,
14 there is an e-mail from Scott Cooper to Fran
15 Schrotter and Patricia Griffin and it says: "I
16 sent a message to Mary Saunders to see if she
17 wanted NPC to offer its good offices for the
18 corner bakery SDO activities."
19 What -- do you know what -- what do
20 you understand NPC to mean there?
21 A. National -- I don't know. My first
22 thought would have been national policy

Page 269

1 committee, but that doesn't make any sense.
2 Q. Why doesn't that make sense?
3 A. It makes no sense to have the ANSI
4 national policy committee offer its good
5 offices for some bakery meeting. I don't
6 understand what this e-mail is meaning.
7 Q. Have you ever heard of the corner
8 bakery meetings?
9 A. They are -- yes, they are meetings
10 of Washington representatives of standards
11 developing organizations who get together
12 monthly just to share information.
13 Q. Do you know what the subjects of the
14 meetings are?
15 A. Well, I do now since I am an ANSI
16 staff, but I didn't then. I was not aware at
17 that point of the corner bakery meeting.
18 Q. Have you ever provided an office for
19 a corner bakery meeting?
20 A. No.
21 Q. Do you know which standards
22 development organizations are involved in the

Page 270

1 corner bakery meetings?
2 A. The -- as I mentioned, it's the
3 Washington reps SDOs. Some SDOs have
4 Washington offices, others do not. There are,
5 I believe about 28 individuals on the e-mail
6 list.
7 Q. What is your understanding of why
8 SDOs maintain Washington offices?
9 MR. GRIFFIN: Objection.
10 MR. FEE: Objection to form.
11 THE WITNESS: I don't have a
12 specific -- the same reason any nonprofit
13 organization or company would maintain a
14 Washington office. I don't have anything more
15 specific than that.
16 BY MR. BECKER:
17 Q. What does that mean?
18 MR. GRIFFIN: Objection.
19 MR. FEE: Objection to form.
20 THE WITNESS: I can't speak to the
21 construct of individual SDO's Washington
22 offices. I just know that some of them have

Page 271

1 offices with staff in Washington.
2 BY MR. BECKER:
3 Q. Is it to be able to meet with
4 policymakers?
5 MR. GRIFFIN: Objection.
6 MR. FEE: Objection to form.
7 THE WITNESS: I can't -- I can't
8 answer that.
9 (Deposition Exhibit 28 was marked
10 for identification.)
11 BY MR. BECKER:
12 Q. I have handed you what has been
13 marked as Exhibit 28.
14 And this is a document produced by
15 ANSI as ANSI 9121 to ANSI 9124.
16 The earliest e-mail in this chain is
17 an e-mail from Ms. Griffin and it says: "In
18 light of the discussions last week at the NPC
19 IPRPC and board meetings, I revamped the
20 proposed e-mail to the copyright group and
21 given the urgency of these issues, proposed
22 sending an e-mail along these lines out today."

Page 272

1 And then in the draft of the
2 copyright task group e-mail on the following
3 page, it says at the bottom of the second
4 paragraph: "Recall that in response to the
5 NARA Federal Register Notice, ANSI said that
6 'reasonable available' should not be strictly
7 defined using terms such as for free and to
8 anyone online. Rather, the definition should
9 encompass a broad spectrum of access options.
10 For example, some SDOs make certain standards
11 available online on a read-only basis and many
12 SDOs make standards available at discounts or
13 without charge to consumers, policymakers and
14 small businesses."
15 Do you believe that making a
16 standard that is incorporated by reference
17 available at a discount constitutes reasonably
18 available?
19 MR. GRIFFIN: Objection.
20 MR. FEE: Objection to form.
21 THE WITNESS: As I mentioned
22 earlier, there are many different mechanisms

<p style="text-align: right;">Page 273</p> <p>1 for achieving reasonable availability. That 2 may be one of them. 3 BY MR. BECKER: 4 Q. Why would SDOs -- what is your 5 understanding of why SDOs would make standards 6 that are incorporated by reference available at 7 a discount to policymakers? 8 MR. GRIFFIN: Objection. 9 MR. FEE: Objection to form. 10 THE WITNESS: The reference -- the 11 specific sentence speaks to NIST makes 12 standards at large generally available at 13 discounts or without charge to consumers, to 14 policymakers and small businesses. It speaks 15 to standards generally. 16 BY MR. BECKER: 17 Q. Further down, on the two paragraphs 18 down, Ms. Griffin writes: "In light of the 19 forgoing, I would be grateful if you would send 20 by me Friday, June 1, specific examples of what 21 you are doing if anything to make incorporated 22 by reference standards reasonably available."</p>	<p style="text-align: right;">Page 275</p> <p>1 anything, ASME did to make standards reasonably 2 available? 3 MR. GRIFFIN: Objection. 4 THE WITNESS: I do not. I have no 5 knowledge of that. 6 BY MR. BECKER: 7 Q. What is your understanding of what 8 Ms. Neiman meant by "the good work that we 9 could include from other organizations like 10 ASTM, NFPA and others?" 11 MR. GRIFFIN: Objection. 12 MR. FEE: Objection. 13 THE WITNESS: I don't know. I 14 wasn't the addressee on this e-mail. 15 BY MR. BECKER: 16 Q. Is that referring to the fact that 17 ASTM and NFPA had their own read-only websites? 18 MR. GRIFFIN: Objection. 19 MR. FEE: Objection to form. 20 THE WITNESS: I don't know. 21 BY MR. BECKER: 22 Q. Does it seem to you that that's</p>
<p style="text-align: right;">Page 274</p> <p>1 Are you aware of any compilation by 2 ANSI of means that SDOs had taken to make 3 standards reasonably available? 4 A. No, I am not. 5 Q. In the e-mail that follows, 6 Elizabeth Neiman responds and says: "Hi, 7 Patty. Thanks very much for this. Just a few 8 typos below plus some other recommendations are 9 highlighted. More philosophically, I am not 10 sure though including the examples of access in 11 our own FR response. Beyond the deadline 12 issue, I think that it is enough for ANSI to 13 say that there are different ways to get it 14 done, as we have in the excerpt you included 15 below. If we get too specific, it may look 16 prescriptive, like, only the few examples given 17 are ANSI-endorsed. I am thinking here of ASME, 18 in particular, who are unlikely to give us an 19 example and may feel slighted by all the good 20 work that we could include from other 21 organizations, like ASTM, NFPA and others." 22 Do you know at that time what, if</p>	<p style="text-align: right;">Page 276</p> <p>1 likely what she was referring to? 2 MR. GRIFFIN: Objection. 3 MR. FEE: Objection to form. 4 THE WITNESS: It's possible. 5 BY MR. BECKER: 6 Q. I just want to step back a moment to 7 Exhibit No. 26. 8 Do you have that in front of you? 9 A. I do. 10 Q. On the second page, there was an 11 e-mail from you that was responding to the 12 earlier e-mail from Ms. Griffin that referred 13 to the Carl Malamud SMACNA declaratory judgment 14 lawsuit, and at the bottom of your e-mail, you 15 say: "It would be very interesting to track 16 the California case that Public Resource 17 filed." 18 Do you see that? 19 A. I do. 20 Q. What -- why did you think that it 21 would be interesting to track the SMACNA 22 lawsuit?</p>

Page 277

1 A. I don't remember. Let me look at
2 the e-mail to see if I can -- I don't know.
3 Q. Did you track the SMACNA lawsuit?
4 A. No, I did not.
5 Q. Did you track the lawsuit that ASTM,
6 NFPA and ASHRAE have filed against Public
7 Resource?
8 A. I did not.
9 Q. Have you read any of the documents
10 that have been filed in the lawsuit filed by
11 ASTM, et al., against Public Resource?
12 A. I have. I read the ANSI amicus
13 filing and I read the recent circuit court
14 decision, the appeal, May 11 of last year or
15 something like that. That's it.
16 Q. No other documents?
17 A. No.
18 Q. When did you read those documents?
19 A. Pretty close to the time that they
20 were published.
21 Q. Why did you read those documents
22 around the time that they were published?

Page 278

1 A. Why not? I mean, I was on -- I was
2 a member of the ANSI board so I think we were
3 all -- ANSI membership was -- was circulated a
4 copy of the ANSI amicus brief, so I just read
5 it for general -- general interest.
6 Q. How about the -- why did you read
7 the appeal decision?
8 A. Because as an ANSI staff member, it
9 was circulated to me when it was issued.
10 Q. Were there other filings in this
11 litigation that have been circulated to you?
12 MR. GRIFFIN: Objection.
13 THE WITNESS: No, not to my
14 knowledge.
15 BY MR. BECKER:
16 Q. Did you have any involvement in the
17 organization or drafting of the ANSI amicus
18 brief?
19 A. I don't remember having involvement
20 in the amicus brief.
21 (Deposition Exhibit 29 was marked
22 for identification.)

Page 279

1 BY MR. BECKER:
2 Q. I have handed you what has been
3 marked as Exhibit No. 29.
4 This document was produced by ASTM,
5 Bates-stamped ASTM 015659 to --
6 MR. FEE: Matt, you can't show her
7 this document unless it says on the face of the
8 document that she's received it as a
9 confidential under the protective order.
10 MR. BECKER: My apologies.
11 MR. FEE: We will just take it away
12 from you.
13 MR. GRIFFIN: I suppose I can't see
14 it either.
15 It's 5:15 now. Do you know how long
16 you're going to go and if it's longer, maybe we
17 could take a break.
18 MR. BECKER: It is longer, but we
19 can take a break. Sure. That's fine.
20 THE VIDEOGRAPHER: We are going off
21 the record. This is the end of Media Unit No.
22 4. The time is 5:18.

Page 280

1 (A short recess was taken.)
2 THE VIDEOGRAPHER: We are going back
3 on the record. This is the start of Media Unit
4 No. 5. The time is 5:37.
5 (Deposition Exhibit 30 was marked
6 for identification.)
7 BY MR. BECKER:
8 Q. Ms. Saunders, I have handed you what
9 has been marked as Exhibit No. 30.
10 What is this?
11 A. It's my LinkedIn page.
12 Q. Does this accurately reflect the
13 contents of your LinkedIn profile?
14 A. Yes.
15 Q. Is the information on your profile
16 accurate?
17 A. To the best of my knowledge, yes.
18 MR. GRIFFIN: I think we are on 29.
19 MR. BECKER: Excuse me. We struck
20 29 so this should actually be 30. So we will
21 leave it as 30 and we are striking 29 for the
22 record.

Page 281

1 BY MR. BECKER:
2 Q. Under ANSI vice president for
3 government relations and public policy, can you
4 please read to yourself what it says there.
5 A. Mary leads ANSI --
6 MR. GRIFFIN: No, read it to
7 yourself.
8 BY MR. BECKER:
9 Q. You can read it to yourself.
10 A. Oh, read it to myself. Okay. Fine.
11 Okay.
12 Q. Where you write: "Mary leads ANSI"
13 -- excuse me, actually let me just ask, have
14 you -- did you write this description?
15 A. Yes.
16 Q. Where you write: "Mary leads ANSI'S
17 efforts to advocate greater use of voluntary
18 consensus standards and conformance programs by
19 government agencies," what do you mean by
20 "use?"
21 A. I mean the same meaning that is in
22 the National Technology Transfer and

Page 282

1 Advancement Act and in OMB Circular A-119, use
2 in support of agency mission activities,
3 regulation, procurement and policy activities.
4 Q. Can you break that down a little bit
5 more for me, like, what you personally mean
6 here when you say "greater use of voluntary
7 consensus standards?"
8 MR. GRIFFIN: Objection.
9 BY MR. BECKER:
10 Q. What are the examples of use?
11 MR. GRIFFIN: Objection.
12 THE WITNESS: Agencies may use
13 standards as we discussed by incorporating by
14 reference in regulation. They may -- agencies
15 may use standards internally with respect to
16 their internal operations. Agent --
17 procurement agencies may use standards as part
18 of procurement actions. Agencies may use
19 standards in relationship to their policy
20 activities. There is a variety of different
21 ways of using standards.
22 BY MR. BECKER:

Page 283

1 Q. Do agencies enforce standards as one
2 of their uses?
3 A. Agencies enforce regulations.
4 Q. Do agencies enforce regulations that
5 incorporate standards by reference?
6 MR. GRIFFIN: Objection.
7 MR. FEE: Objection to form.
8 THE WITNESS: Agencies enforce
9 regulations which may incorporate standards by
10 reference.
11 BY MR. BECKER:
12 Q. Are you aware of any instances of an
13 agency enforcing the terms of a standard as
14 incorporated by reference into a regulation?
15 A. I'm not specifically aware of agency
16 enforcement activities. That is outside of my
17 agreement.
18 Q. Are you aware that U.S. federal
19 agencies do enforce the terms of standards as
20 incorporated by reference into regulations?
21 A. Agencies enforce regulations, some
22 of which incorporate standards by reference, so

Page 284

1 they enforce the regulation. That's what I'm
2 aware of. I don't have any specific examples
3 of enforcement actions by agencies.
4 Q. And if those regulations contain
5 standards incorporated by reference, do those
6 agencies then also enforce the terms of the
7 standards as incorporated?
8 MR. GRIFFIN: Objection.
9 MR. FEE: Objection to form.
10 THE WITNESS: I don't have direct
11 knowledge of how agencies enforce their
12 regulations so I can't speak to that.
13 BY MR. BECKER:
14 Q. You also write: "She also works
15 with ANSI members to create
16 standardization-related outreach programs to
17 legislators and to increase understanding of
18 the private sector standards community among
19 agencies involved in trading commerce issues."
20 A. Yes.
21 Q. What is the outreach that you are
22 describing there?

Page 285

1 A. So the most common form of outreach
2 are posting panel events on the Hill in -- at
3 the Longworth Building and Rayburn Building,
4 for example. These are open events where we --
5 ANSI hosts and features member organizations
6 talking about their standards activities and
7 how, in the case of the most recent event,
8 standards contribute to technology and
9 innovation supporting the nation's
10 infrastructure.
11 Those are informational events,
12 Congressional staff and others are invited to
13 attend those events. It's simply an
14 information-sharing activity.
15 Q. Does outreach legislature -- excuse
16 me.
17 Does outreach to legislators include
18 the suggestion of actions that they can take?
19 A. Not by me. ANSI is a 501(c)(3)
20 organization. We don't lobby. We educate, so
21 I don't make any recommendations about actions
22 that legislators might take.

Page 286

1 Q. Do you consider making a
2 recommendation as to what a legislator -- or
3 what action a legislator might take to be
4 lobbying?
5 MR. GRIFFIN: Objection.
6 MR. FEE: Objection to form.
7 THE WITNESS: I have a very narrow
8 definition of what is permitted under
9 educational activities and I adhere to that
10 definition.
11 BY MR. BECKER:
12 Q. Does ANSI have its own definition as
13 to what is permitted under educational
14 activities?
15 A. Not that is written down that I know
16 of.
17 Q. What is your definition of what is
18 permitted under educational activities?
19 A. In my personal role as the vice
20 president of government relations and public
21 policy, I provide fact-based information to
22 legislators. I mentioned the Hill event, just

Page 287

1 a statement of actions that are activities that
2 are taking place, but I don't cross the line
3 into making a specific recommendation for --
4 with respect to a piece of legislation.
5 Q. Does your outreach include the
6 suggestion that legislature -- legislation or
7 regulation favor the use of voluntary consensus
8 standards?
9 MR. GRIFFIN: Objection.
10 THE WITNESS: So as I have
11 mentioned, the law passed by Congress in early
12 -- and signed by presidential law in early
13 1996, directs federal agencies to rely on, to
14 use technical standards developed by voluntary
15 consensus standards organizations in conducting
16 their mission-related activities, so I hue to
17 that direction from Congress notifying
18 Congressional staff about the existence of the
19 law and the existence of OMB policy. It's a
20 fact-based activity.
21 BY MR. BECKER:
22 Q. Do you provide fact-based

Page 288

1 information about regulations that are suitable
2 for incorporation by reference?
3 A. No.
4 Q. Do you provide fact-based
5 information about standards that are suitable
6 for incorporation by reference?
7 MR. GRIFFIN: Objection.
8 THE WITNESS: No.
9 (Deposition Exhibit 31 was marked
10 for identification.)
11 BY MR. BECKER:
12 Q. I am handing you what has been
13 marked as Exhibit 31.
14 This is the document produced as
15 ASTM 016254 to 016265.
16 What is this document?
17 A. It's a draft meeting report of the
18 ANSI national policy committee meeting on -- of
19 October 27, 2011.
20 Q. Were you present at that meeting?
21 A. Yes. I was the chair of the
22 meeting.

<p style="text-align: right;">Page 289</p> <p>1 Q. Does this draft meeting report 2 appear to accurately reflect the proceedings of 3 that meeting? 4 A. I'm guessing that it does. I 5 haven't looked at it but I'm sure it does. 6 (Deposition Exhibit 32 was marked 7 for identification.) 8 BY MR. BECKER: 9 Q. I have handed you what has been 10 marked as Exhibit 32. 11 This document was produced as ANSI 12 1179 to ANSI 1187. 13 What is this document? 14 A. It's a draft meeting report of the 15 ANSI national policy committee meeting of May 16 21, 2012. 17 Q. Does it accurately reflect the 18 proceedings? 19 A. I assume so. 20 (Deposition Exhibit 33 was marked 21 for identification.) 22 BY MR. BECKER:</p>	<p style="text-align: right;">Page 291</p> <p>1 entitled: "Standards incorporated by reference 2 into law, presented by Scott Cooper, vice 3 president government relations, and Patricia 4 Griffin, vice president and general counsel at 5 the ANSI board meeting of May 24, 2012." 6 Q. Is that a PowerPoint presentation 7 that was presented at that same meeting? 8 A. I assume so. 9 MR. FEE: Objection to form. 10 BY MR. BECKER: 11 Q. Were you present at that meeting? 12 A. Yes. 13 (Deposition Exhibit 35 was marked 14 for identification.) 15 BY MR. BECKER: 16 Q. I have handed you what's been marked 17 as Exhibit 35. 18 This is a document produced as ANSI 19 02677. 20 What is that document? 21 A. It is a draft minutes of the ANSI 22 board of directors meeting of May 24, 2012,</p>
<p style="text-align: right;">Page 290</p> <p>1 Q. I have handed you what has been 2 marked as Exhibit 33. 3 This is the document produced as 4 ANSI 0263. 5 What is this document? 6 A. This is a draft proposed agenda for 7 the ANSI board of directors meeting of May 24, 8 2012. 9 Q. Does it accurately reflect the 10 proceedings? 11 A. It accurately reflects the proposed 12 agenda for that meeting, at least the portion 13 that is reproduced. 14 (Deposition Exhibit 34 was marked 15 for identification.) 16 BY MR. BECKER: 17 Q. I have handed you what's been marked 18 as Exhibit 34. 19 This document was produced as ANSI 20 0268. 21 What is this document? 22 A. It's a PowerPoint presentation</p>	<p style="text-align: right;">Page 292</p> <p>1 specific excerpts, Agenda Items 2.2 through 2 2.4. 3 Q. Does that document accurately 4 reflect the proceedings? 5 MR. FEE: Objection to form. 6 THE WITNESS: Without reading it, I 7 will stipulate that it does. 8 (Deposition Exhibit 36 was marked 9 for identification.) 10 BY MR. BECKER: 11 Q. I have handed you what has been 12 marked as Exhibit 36. 13 This is a document produced as ANSI 14 0680. 15 What is this document? 16 A. It's entitled: "Proposed agenda 17 executive committee of ANSI board of 18 directors," of a meeting date is March 21, 19 2013, and it's an excerpt covering two agenda 20 items. 21 Q. Does this accurately reflect the 22 proposed agenda for that meeting?</p>

Page 293

1 A. It appears to.
2 Q. Were you present for that meeting?
3 A. I was.
4 Q. Who prepares the agendas for these
5 meetings?
6 A. ANSI staff prepare the agendas for
7 these meetings.
8 (Deposition Exhibit 37 was marked
9 for identification.)
10 BY MR. BECKER:
11 Q. When you say, "staff," what staff
12 are you referring to?
13 A. The senior management team. The
14 lead is typically taken by ANSI's general
15 counsel and Patricia Griffin with input from
16 ANSI senior staff with respect to agenda items
17 that would be relevant for discussion at either
18 the executive committee or the board.
19 Q. I have handed you what has been
20 marked as Exhibit 37.
21 This is a document produced as ANSI
22 0685.

Page 294

1 What is this document?
2 A. It's a draft minutes of the
3 executive committee of the ANSI board of
4 directors meeting of March 21, 2013.
5 Q. That's the same meeting that the
6 previous document was referring to, right?
7 A. Yes.
8 Q. Does that -- does this exhibit
9 accurately reflect the proceedings?
10 A. I will stipulate that it does
11 without reading it.
12 (Deposition Exhibit 38 was marked
13 for identification.)
14 BY MR. BECKER:
15 Q. I have handed you what has been
16 marked as Exhibit 38, which has been produced
17 as ANSI 1527.
18 What is this document?
19 A. It's a draft meeting report of the
20 -- an ANSI policy committee meeting, a joint
21 meeting of the conformity assessment policy
22 committee and the national policy committee on

Page 295

1 the 14th of May, 2013.
2 Q. Were you present at that meeting?
3 A. I believe I was.
4 Q. Does this draft meeting report
5 accurately reflect the proceedings?
6 A. I will agree that it does. There
7 are two agenda items that are listed.
8 (Deposition Exhibit 39 was marked
9 for identification.)
10 BY MR. BECKER:
11 Q. I have handed you what has been
12 marked as Exhibit 39.
13 That's the document produced as ANSI
14 0715.
15 What is this document?
16 A. It's a draft agenda for the
17 executive committee of the ANSI board of
18 directors meeting, November 6, 2013.
19 Q. Were you present for that meeting?
20 A. Yes.
21 Q. Does this document accurately
22 reflect the proceedings?

Page 296

1 A. Yes.
2 (Deposition Exhibit 40 was marked
3 for identification.)
4 BY MR. BECKER:
5 Q. I have handed you what has been
6 marked as Exhibit 40.
7 This is the document produced as
8 ANSI 0729.
9 What is this document?
10 A. It's a draft minutes of the
11 executive committee of the ANSI board of
12 directors meeting, November 6, 2013.
13 Q. Is that the same meeting that -- as
14 the previous exhibit?
15 A. Yes.
16 Q. And does this document accurately
17 reflect the proceedings?
18 A. Yes.
19 (Deposition Exhibit 41 was marked
20 for identification.)
21 BY MR. BECKER:
22 Q. I have handed you what has been

Page 297

1 marked as Exhibit 41.
2 This is a document produced as ANSI
3 0033.
4 What is this document?
5 A. It's a copy of a PowerPoint
6 presentation entitled: "Discussion on changes
7 to the Office of Management and Budget, OMB
8 Circular A-119 presented by Patricia Griffin
9 March 6, 2014."
10 Q. Were you present for that
11 presentation on March 6, 2014?
12 A. Let's see. It's a webinar. I see.
13 I was -- I did participate in the webinar.
14 Yes.
15 Q. Does -- is this document, Exhibit
16 41, accurate and authentic?
17 A. I believe so.
18 (Deposition Exhibit 42 was marked
19 for identification.)
20 BY MR. BECKER:
21 Q. I have handed you what has been
22 marked as Exhibit 42.

Page 298

1 This is a document produced as ANSI
2 0771.
3 What is this document?
4 A. It's a draft agenda of the executive
5 committee of the ANSI board of directors
6 meeting, July 24, 2014.
7 Q. Were you present for that meeting?
8 A. Yes.
9 Q. Does this exhibit accurately reflect
10 the agenda for that meeting?
11 A. Agenda Item 2.1. It's the only one
12 reproduced.
13 (Deposition Exhibit 43 was marked
14 for identification.)
15 BY MR. BECKER:
16 Q. I have handed you what has been
17 marked Exhibit 43.
18 This is a document produced as ANSI
19 0776.
20 What is this document?
21 A. It's a copy of a PowerPoint
22 presentation entitled: "Federal engagement and

Page 299

1 standards activities presented at the ANSI
2 executive committee meeting by Scott Cooper,
3 July 24, 2014."
4 Q. Does this document correspond to the
5 same meeting that you said that you were
6 present for in the previous exhibit?
7 A. Yes.
8 Q. Is this Exhibit 43 accurate and
9 authentic?
10 A. It appears to be. It's not my
11 presentation.
12 Q. Did you witness that presentation?
13 A. I must have since I was at the
14 meeting.
15 (Deposition Exhibit 44 was marked
16 for identification.)
17 BY MR. BECKER:
18 Q. I have handed you what has been
19 marked as Exhibit 44.
20 This document was produced as ANSI
21 0783.
22 What is this document?

Page 300

1 A. Draft minutes of the executive
2 committee meeting of the ANSI board of
3 directors on July 24, 2014.
4 Q. Were you present for that meeting?
5 A. Yes.
6 Q. Does that document accurately
7 reflect the proceedings?
8 A. Yes.
9 (Deposition Exhibit 45 was marked
10 for identification.)
11 BY MR. BECKER:
12 Q. I have handed you what has been
13 marked as Exhibit No. 45.
14 This is a document produced as ANSI
15 0791.
16 What is this document?
17 A. Draft minutes of the executive
18 committee meeting of the ANSI board of
19 directors, November 19, 2014.
20 Q. Were you present for that meeting?
21 A. Yes.
22 Q. Does this document accurately

Page 301

1 reflect the proceedings?
2 A. With respect to Agenda Item 1.2,
3 approval of the agenda, yes.
4 Q. Is there anything inaccurate in that
5 document?
6 A. Not to my knowledge.
7 Q. Have you discussed the certiorari
8 petition by the State of Georgia to the Supreme
9 Court regarding Georgia's litigation with
10 Public Resource?
11 A. Have I discussed it?
12 Q. Yes.
13 A. No.
14 MR. GRIFFIN: Objection.
15 BY MR. BECKER:
16 Q. Have you discussed that case?
17 MR. GRIFFIN: Objection.
18 THE WITNESS: I haven't discussed
19 the case.
20 (Deposition Exhibit 46 was marked
21 for identification.)
22 BY MR. BECKER:

Page 302

1 Q. I have handed you what's been
2 produced by your attorney in response to the
3 requests for production that were delivered to
4 you along with the subpoena that you are
5 responding to today.
6 Do you recognize these documents?
7 A. Yes.
8 Q. These are the documents produced as
9 SAU 1 to 162, and it -- along with the cover
10 letter from your -- from the law firm of your
11 attorney; is that correct?
12 A. Yes.
13 Q. So did you -- were you the one who
14 gathered the documents that are produced as
15 Exhibit 46?
16 A. Yes.
17 Q. Are there -- let's see.
18 How did you go about gathering the
19 documents to produce for Exhibit 46?
20 A. I searched my e-mail files and my
21 hard copy files for relevant -- and my notes
22 for relevant information.

Page 303

1 Q. Could you please turn to SAU 004.
2 A. Yes.
3 Q. This is an e-mail between you and
4 someone at the FAA; is that correct?
5 A. That's correct.
6 Q. Is this e-mail you produced
7 accurate?
8 A. Yes.
9 Q. The individual at the FAA -- is that
10 the Federal Aviation Administration?
11 A. That's correct.
12 Q. He says in his e-mail towards the
13 end of his e-mail: "The portal description
14 says that these documents are accessible if
15 they are referenced in the C.F.R.s. In most
16 cases, the references are in official advisory
17 circulars, guidance documents to the rules in
18 the C.F.R.s or in policy documents used in
19 conjunction with the C.F.R.s. Do these
20 references count?"
21 And your response in the second
22 paragraph says that: "Standards referenced in

Page 304

1 advisory circulars and/or policy documents are
2 not accessible via the IBR portal."
3 Why is it that those documents are
4 not accessible via the IBR portal?
5 A. The IBR portal specifically focuses
6 on standards incorporated as referenced in the
7 Code of Federal Regulations.
8 Q. Are these -- let's see.
9 Could you please turn to SAU 090.
10 A. Yes.
11 Q. Is this your handwriting?
12 A. It is.
13 Q. And in this and the following pages
14 through SAU 100, what is this that you are
15 writing about?
16 MR. GRIFFIN: Objection.
17 THE WITNESS: So I attended a
18 meeting on April 18, 2018, of the pipeline --
19 pipeline standards developing organization
20 coordinating committee.
21 BY MR. BECKER:
22 Q. And what was discussed at that

Page 305

1 meeting?
2 A. So the meeting included the
3 organizations listed in my notes as well as
4 representatives of the Department of
5 Transportation's public -- Pipeline and
6 Hazardous Materials Safety Administration. It
7 is a standing committee that the DOT has
8 created.
9 Information was exchanged on what
10 standards are currently under development by
11 these organizations.
12 You want me to read my notes?
13 Q. Sure.
14 MR. GRIFFIN: Objection. You want
15 her to read the entire document?
16 MR. BECKER: Well, I just want to
17 know what the substance of the discussion was.
18 MR. GRIFFIN: I think he means to
19 review it and see if you can summarize them.
20 THE WITNESS: As I remember, it was
21 a general information session, the various
22 organizations updated the DOT folks on their

Page 306

1 current standards activities. I spoke about
2 the IBR portal and ANSI accreditation of SDOs
3 generally.
4 BY MR. BECKER:
5 Q. Could you please turn to -- towards
6 the end of this compilation of papers.
7 Could you please turn to SAU 157,
8 very close to the end.
9 A. Ah, yes.
10 Q. This is a document titled:
11 "Lobbying assignments for SDO education
12 outreach."
13 What is this document referring to?
14 A. Oxymoron. These are -- it's
15 referring to members of the House
16 administration committee and you can see
17 members of the House oversight and reform
18 committee and House judiciary. It's a very
19 long list, and individual staff representatives
20 of government relations representatives, in my
21 case of ANSI, and in other cases of specific
22 SDOs, agreed to -- it's an inaccurate title,

Page 307

1 agreed to contact staff of these Congress
2 people to set up informational meetings.
3 Contacts were only made actually
4 with the House administration committee
5 members. No other contacts were made.
6 Q. Who prepared this document?
7 A. Alec French who is an outside
8 consultant to the National Fire Protection
9 Association.
10 Q. Alec French is at Thorsen French
11 Advocacy; is that correct?
12 A. I believe so.
13 Q. If you turn to SAU 155.
14 A. Yes.
15 Q. Is that an e-mail from Alec French
16 that is attaching the lobbying assignment
17 documents that we just discussed --
18 MR. GRIFFIN: Objection to form.
19 THE WITNESS: Yes.
20 BY MR. BECKER:
21 Q. -- as well as a draft of the
22 copyright protection for codes and standards

Page 308

1 document as well as -- excuse me. No, just
2 those two documents?
3 MR. GRIFFIN: Objection.
4 THE WITNESS: As I said, the title
5 of the attachment is inaccurate. I did not
6 engage in any -- we did not -- the group did
7 not engage in any lobbying activities that I
8 participated in.
9 BY MR. BECKER:
10 Q. Is Thorsen French Advocacy a
11 lobbying organization?
12 MR. GRIFFIN: Objection.
13 THE WITNESS: I have no idea.
14 BY MR. BECKER:
15 Q. Do you know whether anyone
16 instructed Mr. French about lobbying
17 restrictions on 501(c)(3) organizations?
18 A. I have no idea.
19 Q. Turning to SAU 161.
20 A. Yes.
21 Q. Is this an e-mail to you -- excuse
22 me, an e-mail from you to Alice Yates and

Page 309

1 others?
2 MR. GRIFFIN: Objection.
3 THE WITNESS: No. On 161?
4 BY MR. BECKER:
5 Q. Excuse me, you are right. This is
6 from --
7 A. It's an e-mail from Alice Yates to
8 me.
9 Q. Yes, to you. And does this e-mail
10 contain the attachment that -- the following
11 page SAU 162?
12 A. Yes.
13 Q. What is that document?
14 A. It's a one-pager providing
15 fact-based information on the importance of
16 copyright protection for codes and standards.
17 Q. Did anyone object to the
18 distribution of this document or contacting
19 individuals in government as potentially being
20 lobbying?
21 MR. FEE: Objection to form.
22 THE WITNESS: I'm not clear where

Page 310

1 you're going with this. Did anyone object?
2 BY MR. BECKER:
3 Q. Did anybody object to this document
4 as being impermissible lobbying?
5 MR. FEE: Objection to form.
6 THE WITNESS: This is not a lobbying
7 document. I shared this with ANSI, ANSI's
8 general counsel as well as the other senior
9 staff. It's a fact-based statement of -- it's
10 a fact-based statement, it's not a lobbying
11 document.
12 BY MR. BECKER:
13 Q. Did anybody object to the document
14 titled: "Lobbying assignments," on the basis
15 that you used the word "lobbying?"
16 MR. FEE: Objection to form.
17 THE WITNESS: I don't think anybody
18 was paying that much attention to the title of
19 the attachment. As I said, it's not -- the
20 purpose was not lobbying.
21 MR. BECKER: With that, feel free to
22 ask your questions. I have concluded.

Page 311

1 MR. FEE: I think it will be best if
2 we take just a two or three-minute break.
3 MR. BECKER: Sure.
4 THE VIDEOGRAPHER: We are going off
5 the record. This is the end of Media Unit No.
6 5. The time is 6:20.
7 (A short recess was taken.)
8 THE VIDEOGRAPHER: We are going back
9 on the record. This is the start of Media Unit
10 No. 6. The time is 6:28.
11 EXAMINATION BY COUNSEL FOR ASTM INTERNATIONAL
12 BY MR. FEE:
13 Q. I just have a few questions for you.
14 A. No problem.
15 Q. I want to ask you primarily
16 questions about your time at NIST and the
17 positions that you took on behalf of NIST
18 during your employment there. Okay?
19 A. Yes.
20 Q. So during the time that you were at
21 NIST, did NIST have a position as to whether or
22 not the standards development organization's

Page 312

1 development of standards was a benefit to
2 society?
3 MR. BECKER: Object to form.
4 THE WITNESS: Yes. NIST doesn't
5 institute, felt that the activities of the
6 standards development organizations are a
7 benefit -- do benefit society.
8 BY MR. FEE:
9 Q. Can you identify some of the
10 benefits that NIST believed were -- arose out
11 of the standards development organization's
12 developments?
13 MR. BECKER: Object to form.
14 THE WITNESS: So a primary
15 contribution of the standards developing
16 organizations is to convene a wide range of
17 stakeholders in a particular technical activity
18 and to manage the process by which those
19 volunteers collaborate on the development of
20 voluntary standards. In many cases, those
21 standards are relevant and help protect public
22 health, safety, security and the environment.

Page 313

1 BY MR. FEE:
2 Q. Why did NIST believe it was
3 important to have a wide range of interests
4 participating in the development process as
5 opposed to just having industry regulators?
6 MR. BECKER: Object to form.
7 THE WITNESS: So as the national
8 measurement institute for the United States and
9 also with NIST's broader responsibilities given
10 to the institute by Congress under the National
11 Technology Transfer and Advancement Act, the
12 institute felt strongly that bringing in the
13 largest -- a large range of interested and
14 affected stakeholders was a best practice way
15 to produce robust documents that would meet the
16 broadest range of needs. In fact, NIST
17 followed -- follows still that practice in its
18 own activities.
19 BY MR. FEE:
20 Q. During your time at NIST, did you
21 become aware of the fact that it cost money to
22 develop these standards?

Page 314

1 A. Yes, I was aware of the fact that it
2 is a costly endeavor to support the
3 infrastructure that enables the development of
4 voluntary consensus standards.
5 Q. Do you have an understanding based
6 on your time at NIST, as to how standards
7 development organizations fund their
8 development activities?
9 A. Generally speaking, yes.
10 MR. BECKER: Object to form.
11 THE WITNESS: I am not familiar with
12 the business model -- specific business model
13 for individual standards developers.
14 BY MR. FEE:
15 Q. Were you aware of the fact that many
16 SDOs relied on copyright protection as part of
17 their method for funding their development
18 activities?
19 MR. BECKER: Object to form.
20 THE WITNESS: Yes, I'm aware of that
21 fact.
22 BY MR. FEE:

Page 315

1 Q. Did NIST have a position during the
2 time that you were there as to whether or not
3 it was appropriate for standards development
4 organizations to fund their operations at least
5 in part through the sale and licensing of
6 copyrighted documents?
7 MR. BECKER: Object to form.
8 THE WITNESS: I don't remember NIST
9 taking a position one way or the other on that.
10 BY MR. FEE:
11 Q. Does ANSI have a position with
12 respect to that?
13 MR. BECKER: Object to form.
14 THE WITNESS: ANSI strongly supports
15 the current private sector model of standards
16 development in the United States.
17 BY MR. FEE:
18 Q. Does that include support for the
19 ability to fund standards development through
20 the use of copyrights on the standard at issue?
21 MR. BECKER: Object to form.
22 THE WITNESS: Yes, that's an ANSI

Page 316

1 position.
2 BY MR. FEE:
3 Q. During the time that you were at
4 NIST, did the federal government have the
5 ability to write all the standards that were
6 adopted or incorporated by reference if there
7 were not standards development organizations
8 running those standards?
9 MR. BECKER: Object to form.
10 THE WITNESS: So in my personal
11 opinion, no, and -- in my personal opinion, no,
12 federal agencies did not and do not have the
13 capacity, the technical capacity or the
14 administrative capacity to develop all the
15 standards that they would need to carry out
16 their mission responsibilities.
17 BY MR. FEE:
18 Q. And is that belief based upon the
19 work that you did at NIST?
20 MR. BECKER: Object to form.
21 THE WITNESS: Yes. Pursuant to the
22 direction from Congress to federal agencies

Page 317

1 under the National Technology Transfer and
2 Advancement Act, we at NIST had several -- had
3 interactions with federal agencies and were
4 very cognizant of the limited technical
5 resources, the limited budget resources and the
6 value of relying on the private sector that led
7 to the standardization system.
8 BY MR. FEE:
9 Q. During the time that you were at
10 NIST, did NIST take any positions with respect
11 to whether or not incorporation by reference
12 should respect copyright protection?
13 A. No.
14 Q. During the time you were at NIST,
15 were you aware of any other government agencies
16 taking the position on that front?
17 A. No.
18 MR. BECKER: Object to form.
19 BY MR. FEE:
20 Q. Do you know if the OMB A-119 takes
21 any position with respect to whether government
22 agencies should respect copyrights of standards

Page 318

1 development organizations?
2 MR. BECKER: Object to form.
3 THE WITNESS: Beginning with the
4 1998 version of the OMB Circular A-119, which
5 is the first one with which I am familiar, all
6 versions pursuant -- succeeding versions have
7 directed agencies to respect the copyrights of
8 the standards developing organizations.
9 BY MR. FEE:
10 Q. Are you familiar with 1 C.F.R. Part
11 51?
12 A. No. Does it have a title?
13 Q. Yeah. It's the Office of Federal
14 Register's regulation with respect to
15 incorporated by reference.
16 A. Yes, I am familiar with it.
17 Q. Do you know if the Office of Federal
18 Register's regulations with respect to
19 incorporation by reference, take the position
20 with respect to whether or not copyrights
21 should be terminated upon incorporation by
22 reference?

Page 319

1 MR. BECKER: Object to form.
2 THE WITNESS: I believe the
3 regulations as well as the related IBR handbook
4 direct agencies to respect the copyrights of
5 standards developing organizations.
6 BY MR. FEE:
7 Q. During the time that you were at
8 NIST, were you involved in any discussion with
9 either the OMB or OFR with respect to the issue
10 of copyright protection for standards that are
11 incorporated by reference?
12 A. I was involved in discussions with
13 OMB, the office of international -- information
14 and regulatory affairs and with representatives
15 of the Office of the Federal Register about --
16 about the policy of incorporation by reference.
17 Q. Did you support OMB and OFR's
18 positions with respect to protection of
19 copyrighted works after incorporation by
20 reference?
21 MR. BECKER: Object to form.
22 THE WITNESS: Yes, and that was the

Page 320

1 Commerce Department's position as well.
2 BY MR. FEE:
3 Q. During the time that you were at
4 NIST, did NIST take any positions with respect
5 to whether or not reasonable accessibility
6 required free online, ability to print and save
7 standards incorporated by reference?
8 A. We -- the institute did not take a
9 position.
10 Q. Are you aware of any government
11 agencies that took a position with respect to
12 that issue during the time that you were at
13 NIST?
14 MR. BECKER: Object to form.
15 THE WITNESS: No.
16 BY MR. FEE:
17 Q. Are you aware of any government
18 agency that have ever required free online
19 access, including the ability to print and
20 download in order to be deemed reasonably
21 accessible under the Freedom of Information
22 Act?

<p style="text-align: right;">Page 321</p> <p>1 MR. BECKER: Object to form. 2 THE WITNESS: No, I'm not aware of 3 any. 4 BY MR. FEE: 5 Q. During the time that you were on the 6 ANSI board as -- you're acting on behalf of 7 NIST, correct? 8 A. That's correct. 9 Q. Did you, on behalf of NIST, express 10 any objections to the positions that ANSI took 11 with respect to copyrightability of standards 12 after they become incorporated by reference? 13 A. I did not. 14 Q. To the best of your recollection, 15 did you agree with the positions that ANSI took 16 with respect to the need for copyright 17 protection after incorporation by reference? 18 A. Yes, I did. 19 Q. And you were doing that on behalf of 20 NIST? 21 A. That's correct. 22 MR. BECKER: I will object to form</p>	<p style="text-align: right;">Page 323</p> <p>1 MR. GRIFFIN: Okay. 2 FURTHER EXAMINATION BY COUNSEL FOR DEFENDANT 3 BY MR. BECKER: 4 Q. Ms. Saunders, prior to -- when Mr. 5 Fee started talking to you at 6:28 today, were 6 you aware of any of the subjects that Mr. Fee 7 might ask you in the past several minutes since 8 he first began questioning you? 9 A. No. 10 Q. You said that it cost money to 11 develop standards, correct? 12 A. Yes. 13 Q. Do only SDOs pay those costs to 14 develop a standard? 15 MR. FEE: Objection to form. 16 THE WITNESS: SDOs bear the cost of 17 maintaining the infrastructure, including IT 18 infrastructure and organizational 19 infrastructure, staff, et cetera, to enable the 20 development of standards. That's an expense on 21 the part of SDOs. 22 BY MR. BECKER:</p>
<p style="text-align: right;">Page 322</p> <p>1 to that last one. 2 BY MR. FEE: 3 Q. Were you doing that on behalf of 4 NIST? 5 MR. BECKER: Object to form. 6 THE WITNESS: Yes. 7 BY MR. FEE: 8 Q. Okay. Are you aware of any instance 9 in which an individual was unable to access an 10 ASTM standard? 11 A. No, I am not aware of an instance. 12 Q. Are you aware of any instance when 13 an individual was unable to access an NFPA 14 standard? 15 A. No. 16 Q. Are you aware of any instance when 17 an individual was unable to access an ASHRAE 18 standard? 19 A. No, I am not. 20 MR. FEE: I have no other questions. 21 MR. BECKER: I would just like to do 22 a quick redirect on that.</p>	<p style="text-align: right;">Page 324</p> <p>1 Q. Do the individuals who participate 2 in the development of standards bear costs in 3 order to develop those standards? 4 A. So it varies based on the interest 5 category in which the -- in which the 6 participants are categorized. I mentioned many 7 standards developing organizations maintained 8 low or zero participation fees for the 9 volunteers, but volunteers or their home -- 10 and/or their home organizations will of course 11 bear the cost of the travel of the staff to 12 participate in a technical committee meeting 13 when that travel is necessary. 14 Q. And those costs might also include 15 hotel or accommodation costs as well, correct? 16 A. It's possible, yes. 17 Q. And those costs might also involve 18 time off of their job and other things like 19 that, correct? 20 MR. FEE: Objection to form. 21 THE WITNESS: So the costs of the 22 existing private sector-led standards</p>

Page 325

1 development system are shared by all of the
2 participants in the system. The standards
3 developing organizations as I mentioned bear a
4 significant share of the cost and the various
5 participants across a broad range of
6 stakeholders also bear some share of those
7 costs as well, distributed across a large range
8 of interested individuals and organizations.
9 BY MR. BECKER:
10 Q. Companies pay costs for their
11 employees to participate in standards
12 development, correct?
13 MR. GRIFFIN: Objection.
14 MR. FEE: Objection.
15 THE WITNESS: Companies have an --
16 that have an interest in standards because
17 those standards are relevant to their business
18 models in either domestic or global
19 competitiveness, they find that that's a
20 business expense that is relevant for
21 companies.
22 BY MR. BECKER:

Page 326

1 Q. Governments pay costs for their
2 employees who participate in the development of
3 those standards, correct?
4 A. Government --
5 MR. GRIFFIN: Objection.
6 MR. FEE: Objection to form.
7 THE WITNESS: Government agencies do
8 support their technical staff participating in
9 standards development.
10 BY MR. BECKER:
11 Q. That's at both the federal and state
12 level, correct?
13 A. I can't --
14 MR. GRIFFIN: Object to form.
15 MR. FEE: Objection to form.
16 THE WITNESS: -- speak to the state
17 level.
18 BY MR. BECKER:
19 Q. Academics or their institutions pay
20 costs for the academics to participate in
21 standards development, correct?
22 MR. GRIFFIN: Objection.

Page 327

1 MR. FEE: Objection to form.
2 THE WITNESS: I actually don't --
3 I'm not familiar with how universities fund or
4 do not fund their participants. I'm only
5 familiar with the government agencies and
6 company representatives.
7 BY MR. BECKER:
8 Q. Do the participants who develop the
9 standards receive any of the proceeds of the
10 sales of those standards?
11 MR. FEE: Objection to form.
12 THE WITNESS: No. They are not the
13 copyright owner.
14 BY MR. BECKER:
15 Q. Is that the sole determinant of who
16 should receive the proceeds?
17 MR. FEE: Objection to form.
18 MR. GRIFFIN: Objection.
19 THE WITNESS: In my experience, the
20 participants in voluntary standards development
21 process do not receive a share of the proceeds
22 from the sale and licensing of those documents.

Page 328

1 BY MR. BECKER:
2 Q. Even though they bear part of the
3 costs for the development of those documents?
4 MR. GRIFFIN: Objection.
5 MR. FEE: Objection to form.
6 THE WITNESS: As I said, the cost is
7 borne across the entire private sector-led
8 system, it is widely distributed.
9 BY MR. BECKER:
10 Q. You testified that SDOs have a wide
11 range of volunteer stakeholders and that they
12 manage the process by which -- sorry, one
13 second, excuse me.
14 You testified that SDOs have a wide
15 range of volunteers or stakeholders and that
16 they manage the process by which those people
17 collaborate; is that correct?
18 MR. GRIFFIN: Objection.
19 MR. FEE: Objection to form.
20 THE WITNESS: Can you clarify what
21 you mean by "manage the process by which they
22 collaborate."

<p style="text-align: right;">Page 329</p> <p>1 BY MR. BECKER: 2 Q. Do SDOs manage the collaboration 3 between individuals in -- in developing 4 standards? 5 MR. GRIFFIN: Objection to form. 6 MR. FEE: Objection to form. 7 THE WITNESS: ANSI-accredited SDOs, 8 I can speak to from personal experience, manage 9 a process which adheres to the ANSI essential 10 requirements which are also reflected in the 11 World Trade Organization's technical barriers 12 to trade agreement, so that -- those processes 13 are open to all materially interested and 14 affected stakeholders. 15 There is a policy of seeking 16 balance, ensuring lack of dominance, ensuring 17 that there are dispute settlement procedures 18 and reaching consensus. 19 BY MR. BECKER: 20 Q. You had said just earlier that SDOs 21 managed the process by which volunteers 22 collaborate; is that correct?</p>	<p style="text-align: right;">Page 331</p> <p>1 MR. FEE: Objection to form. 2 THE WITNESS: That activity includes 3 the process of developing the standard from 4 start to finish and participating in both -- as 5 the document moves from stage to stage. I 6 can't speak to the details of whether federal 7 agencies staff actually put pen to paper. 8 BY MR. BECKER: 9 Q. Do state and municipal governments 10 also send employees to participate in the 11 development of standards? 12 MR. GRIFFIN: Objection. 13 MR. FEE: Objection to form. 14 THE WITNESS: I have no knowledge of 15 the state and municipal level activities. 16 MR. BECKER: Okay. All set. Thank 17 you. 18 MR. FEE: I actually have one more 19 question. 20 FURTHER EXAMINATION BY COUNSEL FOR ASTM 21 INTERNATIONAL 22 BY MR. FEE:</p>
<p style="text-align: right;">Page 330</p> <p>1 MR. GRIFFIN: Objection. 2 MR. FEE: Objection to form. 3 THE WITNESS: Did I say that 4 specifically? 5 BY MR. BECKER: 6 Q. That was my recollection. 7 MR. GRIFFIN: Objection. That was 8 the question. 9 BY MR. BECKER: 10 Q. Did those volunteers include U.S. 11 Government employees? 12 MR. GRIFFIN: Objection. 13 MR. FEE: Objection to form. 14 THE WITNESS: In specific cases 15 where the standards development activity or the 16 -- either a new standard or the maintenance of 17 a standard has a direct -- is of a direct 18 interest to a particular agency, the agency may 19 assign staff to participate in that activity. 20 BY MR. BECKER: 21 Q. And does that activity include the 22 drafting of standards?</p>	<p style="text-align: right;">Page 332</p> <p>1 Q. Can you turn to Saunders Exhibit 1, 2 please, the subpoena. 3 A. Yes. 4 Q. I want you to look at Exhibit A 5 which is this -- this issue in this case. 6 A. Yes. 7 Q. My question is: Do you have any 8 knowledge as to whether any government employee 9 played any role in any of the standards listed 10 in Exhibit A? 11 A. I do not. 12 MR. FEE: Okay. That's the only 13 question I had. 14 MR. GRIFFIN: Thank you all. 15 MR. BECKER: Thank you. 16 THE VIDEOGRAPHER: We are off the 17 record at 6:47 p.m. This concludes today's 18 testimony given by Mary Saunders. The total 19 number of media units used was six and will be 20 retained by Veritext Legal Solutions. 21 (Whereupon, the proceeding was 22 concluded at 6:47 p.m.)</p>

Page 333

1
2 I declare under penalty of perjury
3 under the laws that the foregoing is
4 true and correct.
5
6 Executed on _____, 20____,
7 at _____, _____.
8
9
10 _____
11 MARY SAUNDERS
12
13
14 SUBSCRIBED AND SWORN TO BEFORE ME
15
16 THIS ____ DAY OF _____, 2019.
17
18 _____
19 (NOTARY PUBLIC) MY COMMISSION EXPIRES:
20
21
22

Page 334

1 CERTIFICATE OF NOTARY PUBLIC
2
3 I, Bonnie L. Russo, the officer before
4 whom the foregoing deposition was taken, do
5 hereby certify that the witness whose testimony
6 appears in the foregoing deposition was duly
7 sworn by me; that the testimony of said witness
8 was taken by me in shorthand and thereafter
9 reduced to computerized transcription under my
10 direction; that said deposition is a true
11 record of the testimony given by said witness;
12 that I am neither counsel for, related to, nor
13 employed by any of the parties to the action in
14 which this deposition was taken; and further,
15 that I am not a relative or employee of any
16 attorney or counsel employed by the parties
17 hereto, nor financially or otherwise interested
18 in the outcome of the action.
19
20
21 _____
22 Notary Public in and for
the District of Columbia
My Commission expires: June 30, 2020

Transcript Word Index

[& - 1-8-14]

&	031512 236:9	1 (cont.) 241:7 273:20 302:9 318:10	12th 4:5
& 3:6,16 4:5,13 11:18,22 12:7	0327 205:16	332:1	13 6:10 205:10,14 215:21
0	0328 229:21	1.2 301:2	14 6:13 216:21 229:15,19 257:4
001-162 9:22	0328-0336 6:15	1/14 256:16	140 252:19 253:2
00167221 191:6	0336 229:21	1:11 115:21	14th 295:1
00167221-7222 6:7	0638 179:16	1:13 1:4 11:4	15 1:16 5:7 6:15 10:5 55:22 230:11,15 234:10,13 235:16
00264718 119:3	0638-0644 6:5	10 6:3 179:12,15 212:6	150 5:13
00264718-723 5:12	0644 179:16	10:16 1:17 10:4	1512866 93:18
00264721 119:13	0680 292:14	100 304:14	1527 294:17
00264723 119:3	0680-684 8:17	10005 4:15	1527-535 8:22
0033 297:3	0685 293:22	10-27-11 8:5	1536 5:11 117:6
0033-51 9:8	0685-691 8:20	11 6:6 190:14 191:4 277:14	155 307:13
004 303:1	0715 295:14	1111 3:7	156 5:16
01215 1:4 11:4	0715-719 9:2	11-19-14 9:18	157 5:19 306:7
015659 279:5	0729 296:8	11-30-11 253:3	16 5:9 6:17 223:15 230:5 232:7,11 234:9 236:7 237:2
016254 288:15	0729-736 9:5	1155 3:17	160 5:21
016265 288:15	0771 298:2	11-6-13 9:4	161 308:19 309:3
0263 290:4	0771-775 9:11	117 5:10	162 302:9 309:11
0263-267 8:10	0776 298:19	1179 289:12	164 6:2
02677 291:19	0776-782 9:14	1179-187 8:8	167222 191:6
0268 290:20	0783 299:21	118 5:11	17 6:19 235:2,6 237:1 238:15
0268-0276 8:13	0783-790 9:16	1187 289:12	179 6:3
0277-284 8:15	0791 300:15	119 9:8 34:10 282:1 297:8 317:20 318:4	17th 24:6
0303 204:8	0791-797 9:19	12 5:3 6:8 28:1 39:7 55:22 78:20,21 204:1,5 215:18	18 7:2 124:2 237:6,10 238:8
0303-307 6:9	090 304:9	12,000 133:10	1-8-14 7:15
0307 204:8	1	12:23 115:17	
0308 205:16	1 1:22 5:7 10:14 15:3,4,8 115:17 160:21 162:6 165:17 177:19 220:5 231:5	1250 2:12 11:6	
0308-0327 6:12			

[18th - 30]

<p>18th 24:1,5</p> <p>19 7:3 227:1 236:16 237:22 238:4,14,17 300:19</p> <p>190 6:6</p> <p>1968 199:12,13,16 200:6,8</p> <p>1988 22:1</p> <p>1989 28:21</p> <p>1993 24:15,16 25:2 44:13 47:11 47:13,18 48:2,8 121:2</p> <p>1995 27:15,19,21 28:2</p> <p>1996 25:5 287:13</p> <p>1998 318:4</p> <p>1st 21:7</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 4:14 5:9 16:1,2,6 20:10 115:21 159:20 163:3 166:8 206:5 207:17</p> <p>2.1. 298:11</p> <p>2.2 292:1</p> <p>2.3 180:5</p> <p>2.4. 292:2</p> <p>2.6 180:18</p> <p>2:00 18:4,18 19:2</p> <p>2:07 159:20</p> <p>2:36 160:2</p> <p>20 7:6 240:15,19 333:6</p> <p>20004 3:8,18</p> <p>2001 24:5,20 25:1 49:3 194:11 194:19</p> <p>2003 45:1</p>	<p>2004 181:8</p> <p>2007 46:21 61:22</p> <p>2008 24:2,6 46:22 62:1 185:9 191:9</p> <p>2010 53:15 56:5 61:6</p> <p>2011 23:11 24:2 151:7 180:10 185:13 194:11,19 239:7 288:19</p> <p>2012 22:9,17,22 23:12 53:15 56:5 61:7 179:20 181:6 182:19 184:2,14 189:10 211:5 214:11,13 231:6 251:7 289:16 290:8 291:5 291:22</p> <p>2013 214:11,13 230:5 263:21 292:19 294:4 295:1,18 296:12</p> <p>2014 57:6 297:9,11 298:6 299:3 300:3,19</p> <p>2015 57:6 117:13,14</p> <p>2016 66:13,16 70:11 71:16,18 135:10,15 139:4,6,8</p> <p>2017 21:7,15 22:11 57:6</p> <p>2018 6:2 92:9 164:18 304:18</p> <p>2019 1:16 10:5 117:18 333:16</p> <p>2020 334:22</p> <p>202-220-1115 3:19</p> <p>202-739-5596 3:9</p> <p>204 6:8</p> <p>205 6:10</p> <p>207 44:17 122:1 123:4</p> <p>21 7:8 151:7 245:12,16 289:16 292:18 294:4</p> <p>212-238-8672 4:16</p>	<p>22 7:10 181:6 184:2,14 247:16,20</p> <p>2-27-12 7:19</p> <p>2-27-13 7:17</p> <p>229 6:13</p> <p>2296 5:18 156:22</p> <p>23 7:12 161:10 250:14,20 255:19</p> <p>230 6:15</p> <p>232 6:17</p> <p>235 6:19</p> <p>237 7:2,3</p> <p>23rd 252:10</p> <p>24 7:14 250:16,21 252:11 290:7 291:5,22 298:6 299:3 300:3</p> <p>240 7:6 210:2</p> <p>245 7:8</p> <p>247 7:10</p> <p>25 7:15 45:2 47:18 256:8,12</p> <p>250 7:12,14</p> <p>2538 5:20 159:10</p> <p>256 7:15</p> <p>259 7:17</p> <p>26 7:17 161:1 259:3,7 276:7</p> <p>268 7:19</p> <p>2690 150:6</p> <p>2690-2692 5:15</p> <p>2692 150:6</p> <p>27 7:19 182:19 211:5 232:19</p>	<p>27 (cont.) 233:17 252:8 268:6,10 288:19</p> <p>271 7:21</p> <p>278 8:2</p> <p>28 7:21 270:5 271:9,13</p> <p>2845 185:14</p> <p>2860 6:16 230:17</p> <p>288 8:4</p> <p>289 8:7,9</p> <p>29 8:2 251:7 278:21 279:3 280:18,20,21</p> <p>290 8:11</p> <p>291 8:14</p> <p>292 8:16</p> <p>293 8:18</p> <p>294 8:21</p> <p>295 9:2</p> <p>296 9:3,6</p> <p>297 9:9</p> <p>298 9:12</p> <p>299 9:15</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 5:10 70:18 116:21,22 117:4 123:7 124:17 151:19 160:2 161:11 199:11 203:18 219:19 255:18 285:19 308:17</p> <p>3:29 203:18</p> <p>3:41 203:22</p> <p>30 199:6 280:5,9,20,21 334:22</p>
---	--	---	--

[300 - a.m.]

300 9:17	3602 240:21	4530 250:20	70 199:6,10,13,17 200:6
301 9:20	3602-3604 7:7	4530-531 7:13	7-16-12 7:10,12
3083 6:18 232:13	3604 240:21	46 9:20 301:20 302:15,19	7-24-14 9:10,15
3084 235:8	37 8:18 293:8,20	5	7-29-19 5:9
3084-3089 6:22	3792 245:18	5 5:13 149:22 150:4 154:1 180:17 188:3 280:4 311:6	73 184:6
3089 235:8	3792-793 7:9	5:15 279:15	75 45:6 46:12
31 8:4 250:20 288:9,13	3793 245:18	5:18 279:22	75.513-1 199:12
311 5:4	38 8:21 294:12,16	5:37 280:4	8
3-1-12 6:15	3844 7:11 247:22	501 70:18 285:19 308:17	8 5:21 160:16,20 170:6
3121 237:11	39 9:2 295:8,12	51 318:11	8056 7:16 256:14
3121-3122 7:2	3rd 21:14 22:11	5-16-13 6:14	8-28-15 5:11
3122 237:11	4	5-21-12 8:7	8802 259:9
3123 238:6	4 5:11 118:19 119:1,12 123:9 180:2 203:22 213:6 279:22	5-24-12 8:14	8802-805 7:18
3123-3128 7:5	40 9:3 296:2,6	5-29-12 7:21	8804 260:1
3128 238:6	41 9:6 296:19 297:1,16	53 67:19,20	8805 259:9
3-15-12 6:17	4-10-12 7:6	555 4:5	8b 169:19
3-18-12 7:2	415-875-2300 4:7	57.12048 199:6	9
32 8:7 289:6,10	42 9:9 297:18,22	6 5:16 156:16,20 157:16 158:8,19,22 160:10 237:18 295:18 296:12 297:9,11 311:10	9 6:2 164:12,16 165:9 177:15,16 239:11
3-21-13 8:19	4-21-11 5:14,17,20	6:20 311:6	9053 268:12
3-22-12 6:4	4-27-12 6:6	6:28 311:10 323:5	9053-056 7:20
323 5:3	43 9:12 298:13,17 299:8	6:47 332:17,22	9056 268:12
33 8:9 289:20 290:2	44 9:15 299:15,19	6-27-12 7:8	9121 271:15
331 5:4	4472 250:21	6-28-19 9:20	9121-124 7:22
334 1:22	4472-4481 7:15	7	9124 271:15
34 8:11 290:14,18	4478 252:14	7 5:19 157:10 158:19 159:9 160:11 165:8	93 24:20 45:1
3461686 1:21	4481 251:1	8	94104 4:6
35 8:14 291:13,17	45 9:17 300:9,13	a	a.m. 1:17 10:4
36 8:16 292:8,12			

[a119 - agencies]

<p>a119 45:22 79:3 85:3 102:6,7,9 102:10 114:2 139:7 150:17 204:22</p> <p>ability 178:3 247:4 315:19 316:5 320:6,19</p> <p>able 19:22 43:22 132:11 141:21 145:13 170:10 171:22 197:11 248:9 271:3</p> <p>abridges 4:9</p> <p>academics 211:7 233:19 326:19,20</p> <p>accepted 71:19</p> <p>access 136:5 138:8 140:15,19 141:16 142:2,3,6 145:7,14 146:9,17 147:4,12 148:5 148:15 149:2,10 152:1,5,8 153:16 154:8,9,15 155:10 155:13 166:12,18 167:12 168:22 169:12,15 170:7,20 170:21 172:16 174:16 207:12 208:1,7,12,19,20 208:21 209:3,14,16,19,20 210:11 217:3,7,10,14 218:4 219:7,11 220:3 224:3,22 225:12 226:13 228:3 242:6,11,17 243:2,2 243:6,9,21 244:17 250:4 272:9 274:10 320:19 322:9 322:13,17</p> <p>accessibility 320:5</p> <p>accessible 303:14 304:2,4 320:21</p> <p>accessing 129:4 170:12 171:6,13 172:2,4 175:2 225:6</p> <p>accommodate 155:7,12</p> <p>accommodation 324:15</p> <p>account 101:4 102:1</p> <p>accredit 79:19 131:8</p> <p>accreditation 49:16 74:17 75:3,4,19 76:3 76:6,7,9,11,14,16,17,18,20 77:2,8,13,14 78:1,7,14 79:15 80:1,5,10,12,17,22 81:2,5,6,11,12,16,19 82:4</p>	<p>accreditation (cont.) 82:11 83:5,19 129:19 130:14,21,22 306:2</p> <p>accreditations 81:4</p> <p>accredited 79:21 127:21 131:4,13 210:2,5 220:7,13 260:17 329:7</p> <p>accreditor 75:7</p> <p>accreditors 77:1 82:16 83:19</p> <p>accredits 74:17,20 123:2 130:18 131:8</p> <p>accrue 106:19</p> <p>accurate 117:18 156:5 161:16 197:9 259:19 280:16 297:16 299:8 303:7</p> <p>accurately 155:21 280:12 289:2,17 290:9,11 292:3,21 294:9 295:5,21 296:16 298:9 300:6,22</p> <p>achieve 36:14 58:6 155:8</p> <p>achieved 38:6</p> <p>achieving 273:1</p> <p>acquired 208:7</p> <p>acquisitions 73:1</p> <p>acronym 195:3 196:2</p> <p>act 27:15,19,21 30:11 39:6 45:18 77:17 78:5,19 79:14 80:7,16 81:15,17 82:3 83:16 84:6,10 89:11 92:19 93:16 99:2,9 100:14 101:3 104:3 109:18 152:17 178:9 185:12 218:16 282:1 313:11 317:2 320:22</p> <p>acted 186:7</p> <p>acting 321:6</p> <p>action 15:13 127:20 202:22 203:7 286:3 334:12,16</p>	<p>actions 99:8 128:4 164:9 239:15 240:2 282:18 284:3 285:18 285:21 287:1</p> <p>activities 9:13 27:2,3,7,8,10 28:6 30:10,13 39:11,12,17,17 40:4 43:13 45:20 48:17,20 49:6,7 51:4,5,18 52:7,17 54:2 62:8,12,14,19 63:3 68:1 69:4,6 71:6,7 72:16 72:21 73:5,20 74:13,18,19 74:21 75:2,13,14 77:19 79:1,4,10 96:4 102:13 119:18 152:10 180:6,18 181:10 197:8 204:16,20 261:1,4 268:18 282:2,3,20 283:16 285:6 286:9,14,18 287:1,16 299:1 306:1 308:7 312:5 313:18 314:8 314:18 331:15</p> <p>activity 31:4 81:13 285:14 287:20 312:17 330:15,19,21 331:2</p> <p>actual 47:1 130:17 137:7</p> <p>acus 144:8,13 170:2 239:8 249:15 251:12,14 252:9 255:19,20 256:3</p> <p>add 129:6</p> <p>added 224:13 239:19</p> <p>adding 239:16</p> <p>addition 135:20 160:13 201:8</p> <p>additional 21:20 88:19 123:9 202:18 203:6,12 241:5 246:14,17</p> <p>address 14:13 130:7,7 188:1,21 225:2 233:3,14 244:19 247:7 261:1,11</p> <p>addressee 232:15 241:13,14 251:5 275:14</p> <p>addressees 232:17 241:6</p> <p>addressing 140:3 261:3</p> <p>adhere 286:9</p> <p>adheres 329:9</p>	<p>administered 44:16 123:4</p> <p>administers 78:9 80:2 131:2</p> <p>administration 23:21 24:14 25:6,8 28:20 29:1 34:4 47:10 55:1 82:1 84:22 85:10,20 175:13 192:17 199:4 211:4,9 212:14 214:20 233:21 235:13 252:15 303:10 305:6 306:16 307:4</p> <p>administration's 85:7 182:22</p> <p>administrative 99:2,9 100:13 101:2 104:2 143:13,14,15,20 144:8 147:21 163:7 170:2 249:8 249:9 316:14</p> <p>adopted 316:6</p> <p>advancement 27:15,19 30:11 39:6 45:18 70:20 71:4 78:19 92:19 93:16 152:17 178:9 218:16 282:1 313:11 317:2</p> <p>adverse 247:3</p> <p>advice 66:4 170:19 186:12,13</p> <p>advise 62:11</p> <p>advisement 89:3</p> <p>advisory 44:16 121:21 122:8 123:3 123:4 238:21 303:16 304:1</p> <p>advocacy 307:11 308:10</p> <p>advocate 107:15 113:5,12 115:3 281:17</p> <p>advocated 250:9</p> <p>advocates 107:20 111:20</p> <p>affairs 25:11 214:5 246:22 319:14</p> <p>affect 137:12</p> <p>affiliated 189:13</p> <p>affiliations 11:15 32:12,14</p> <p>agencies 27:5 28:3 30:8,12,15 37:9</p>
---	---	---	---

[agencies - apparently]

<p>agencies (cont.) 39:8,10 40:1 41:14 73:18 73:18,19 78:21 79:9 85:12 85:17 86:1,7,20 89:2 90:15 94:1,9 95:11 96:4 98:21,21 99:6 102:1,11 105:9 107:21 108:7,21 111:1,21 112:1 113:3 114:12 134:1 136:10 137:4 139:9 147:1 150:19 151:22 152:5,6,7,7 152:12,18 155:8,13 167:11 167:20 168:4,10,14,17,21 169:4,20 170:19 188:7 195:20 197:21 200:18 201:13 217:4 218:17 219:20 220:2 228:14,17 232:5 239:13,22 252:3 261:15 281:19 282:12,14 282:17,18 283:1,3,4,8,19 283:21 284:3,6,11,19 287:13 316:12,22 317:3,15 317:22 318:7 319:4 320:11 326:7 327:5 331:7</p> <p>agency 31:1,2,5,11,17,21 40:1,1,5 40:6 45:18 96:3 99:3,11,19 99:21,21 100:20 102:21 108:5,17,22 109:5,14,18 109:22 110:4,7,7,8,9 111:1 111:9 112:16 113:4,4,6,13 115:9,13 137:21 140:3 154:4 155:1 164:3,5 166:1 166:6,9,20 167:1,8,13,14 167:17,18 168:18,18 178:11 196:5,18,22 197:6 197:8,9,12,15 198:3,6,12 198:13 199:20 200:1,13 201:3,15,15,17,20,20 202:2,3,6 211:10 228:19 233:22 238:20 260:6 261:17 282:2 283:13,15 320:18 330:18,18</p> <p>agency's 30:21 113:9,16 115:6</p> <p>agenda 5:16,19 6:8 8:9,16 9:2,9 157:2 159:4,13 160:10,11 180:5,18 204:10 205:21 230:4 290:6,12 292:1,16 292:19,22 293:16 295:7,16 298:4,10,11 301:2,3</p> <p>agendas 157:4,7 293:4,6</p> <p>agent 282:16</p>	<p>ago 19:8 47:18 55:17 156:4 171:21 183:6 186:3</p> <p>agree 10:13 20:2 295:6 321:15</p> <p>agreed 55:2 151:20 266:19 267:8 306:22 307:1</p> <p>agreement 5:21 20:3 26:5,13 79:7 131:22 161:4 226:12,16,21 255:19 264:20 266:9 267:5 283:17 329:12</p> <p>ah 306:9</p> <p>ahead 78:10</p> <p>aid 140:12</p> <p>air 1:7 10:21 216:1</p> <p>ajit 253:5,18</p> <p>al 15:18 277:11</p> <p>alec 307:7,10,15</p> <p>alias 241:21</p> <p>alice 308:22 309:7</p> <p>allow 151:21 231:12</p> <p>allowed 176:12</p> <p>allows 100:22</p> <p>altered 214:2</p> <p>alternative 34:15</p> <p>amend 160:8 182:21 211:7 233:20</p> <p>america 61:11</p> <p>american 1:3,7 3:2 10:17,20 20:21 20:22 38:10 52:4 74:17 81:1 82:4 127:15 128:1,4 128:12 131:6,15 132:5,11 132:17 133:1,3,6,7,16,18 133:22 134:3,6,20 136:9 136:11 209:12 257:14</p> <p>amicus 277:12 278:4,17,20</p>	<p>amount 29:5</p> <p>anab 82:5</p> <p>andrew 4:4 11:20</p> <p>annual 83:7,11,12</p> <p>ansi 5:10,11,15,18,20 6:5,9,12 6:15,16,18,19,22 7:2,3,5,7 7:9,11,13,15,16,18,20,22 8:8,10,13,15,17,20,22 9:2 9:5,8,11,14,16,19 21:2,10 23:4 38:9 40:12,13,15,16 40:20,21 41:6,10,11,12,14 42:11,12,13,15,18,22 43:1 43:6,9,13,17 44:1,5 47:7 47:14 48:2,3,10,13,20 49:6 49:8,12,15,20 50:6,22 51:2 51:3,12,20 52:2,3 53:3,5 64:18 65:1,10,18,22 66:2,4 66:10 67:3,5,6,8,10,17,18 67:19,22 68:6,21,22 69:16 70:3 71:11 72:11,15 73:15 73:22 74:14,16 75:6,19 76:3,6,6,9,16,22 80:5,8 81:3,10,14,18 82:1,4,5 83:19 105:11 107:9,15,20 111:20 113:5,12,18 114:1 114:5,7 116:6 117:6,6,10 117:14,20 118:2 120:1,3,4 120:4,6,8,11,12,14,20 122:22 123:2,10,19,19,20 124:1,3,5,6,8,15,18 125:5 125:12,17 127:11,11,12,17 128:3,10,16,18,19,20 129:19 130:12,14,18,21 131:2,7,13,17 134:5,7 135:20,21 136:2,4,12,15 136:19,22 137:2,3,3,7,11 137:17 138:8,14 139:3,11 139:16,18,21 140:7,11,16 140:22 141:8 146:5 150:6 150:6,6,11 151:2,5,19 156:10,21,22 157:6 159:6 159:10 168:15,15 179:16 179:19 181:4,10,12,15,17 182:3,7,12,17 183:8,9,11 183:12,20,21 184:1,6 189:11,22 190:6,8,12 204:8,8,10 205:15,16 210:5 211:17,22 216:21 217:2,22 219:1 220:7,10 220:13,19 221:1,2,9,14,15 223:3 224:17,19 225:6,11</p>	<p>ansi (cont.) 225:17 226:2,15,17 227:11 227:16 229:3,20 230:5,16 230:22 231:2,9,12 232:13 233:2,14 234:19 235:7,10 236:8 237:1,10,16 238:6,6 240:20,21 241:5,5,8,19,20 243:15,20 244:3,8,19,21 245:18 247:22 250:20,21 251:12,14,20 252:2,14 253:22 254:16 255:9,20 256:3,13,14 259:9,9 260:1 260:17 268:11 269:3,15 271:15,15,15 272:5 274:2 274:12,17 277:12 278:2,3 278:4,8,17 281:2,5,12 284:15 285:5,19 286:12 288:18 289:11,12,15 290:4 290:7,19 291:5,18,21 292:13,17 293:6,16,21 294:3,17,20 295:13,17 296:8,11 297:2 298:1,5,18 299:1,20 300:2,14,18 306:2,21 310:7 315:11,14 315:22 321:6,10,15 329:7 329:9</p> <p>ansi's 40:16 68:1 69:4,4,5 73:16 81:7 83:4 190:2 219:22 222:17,21 234:5 281:16 293:14 310:7</p> <p>answer 29:22 31:14 32:8 37:22 47:20,21 77:12 84:1,7 111:4 129:7 138:19 142:10 148:10 155:19 175:10 229:9 264:20 266:9 267:20 271:8</p> <p>answered 90:2 147:7,15 149:5</p> <p>answers 13:5 14:11 116:1 160:6,7</p> <p>anybody 143:7 214:9,14 310:3,13 310:17</p> <p>anyway 189:16</p> <p>api 208:18 209:5,10</p> <p>apologies 279:10</p> <p>apologize 190:20</p> <p>apparently 252:21</p>
---	---	--	--

[appeal - aware]

appeal 127:20,22 128:3 277:14 278:7	arguments 207:7,9,15,20	associations 42:7	audio 10:11,11
appeals 118:6 127:6 128:2	arose 312:10	assume 200:5 209:8 289:19 291:8	audit 191:21
appear 230:3 289:2	arrange 140:18 151:20	assumed 64:14	august 1:16 10:4
appearances 3:1 4:1 11:15	ashrae 277:6 322:17	assuming 223:19	auspices 147:20
appears 119:20 196:15 199:7,14 206:17 257:2 293:1 299:10 334:6	asked 18:12 54:21 55:5,7,9 63:20 64:9,14 69:9 103:18 104:10,17,22 105:18 106:7 116:5 139:4 147:14 191:15 203:10 245:9 247:5 248:22 262:19 264:13,16 265:20	assumption 224:2	authentic 233:4 259:20 297:16 299:9
applicable 163:7	asking 13:4 19:8 25:21 75:21 76:6 82:14 105:22 114:19 175:3 190:22 191:19 212:22 246:3 248:5 261:10 262:4 262:6	assumptions 196:17,21	authoritative 92:12 94:14 95:2,8
application 161:15 162:3	asme 188:5 274:17 275:1	assure 142:1 169:11	authorities 108:6
applied 70:4,14,16,17,19 71:1 175:20	aspects 59:18 60:11 224:16 264:14	astm 1:4 3:3 10:18 12:3,5 15:18 32:20 44:13,15 45:7,12 46:4,8,13 53:11,13,15,17 53:19,21 54:2,6,13,16,19 54:22 55:6,9,13,20 56:3 58:17 59:14 60:4 61:7,9,13 61:16 121:1,7 122:4,14 123:5 188:4 208:17,22 209:3 274:21 275:10,17 277:5,11 279:4,5 288:15 311:11 322:10 331:20	authority 177:19 197:7
applies 46:12	assessment 74:5,8,13,15,18 75:2,6,8 75:14,18 76:2,12 78:22 79:4,10 82:10,11 83:17 84:5 294:21	astmo16254-265 8:6	authorized 174:6,8
apply 70:9 130:20 162:16 175:15	assign 330:19	astm's 209:1	authorizing 110:15,18 178:5
approach 187:1	assignment 307:16	attached 235:15 237:2,17 252:3 256:2	automatically 68:17 123:18,20 125:5,21
appropriate 28:6 85:13 190:3 244:12 315:3	assignments 306:11 310:14	attaching 307:16	availability 52:11 138:12 139:9,13 140:4 141:10,13 142:1 165:11 170:1,8 178:1 220:3 223:9 242:18 248:12 249:21 255:22 261:12 263:20,22 273:1
approval 211:10 233:22 301:3	assist 140:2	attachment 9:21 236:8 237:19 308:5 309:10 310:19	available 18:13,14 31:5,10 50:18 53:3 62:11 83:7 86:11 140:9 141:3,18 142:8,18 143:5,9 144:17,21 147:1 165:13,21 166:3,7 167:3,8 167:20 168:2 169:22 177:3 177:10 189:8 207:9,16 208:16 210:18 212:4,17 213:2,9 215:2,6 220:11 223:4 227:3,8 242:3,4,8,9 242:15,21 243:6,17,21 244:10,14 245:1 246:10 250:3,9 261:18 262:8,13 262:15 272:6,11,12,17,18 273:6,12,22 274:3 275:2
approve 58:11	assistance 140:12 141:9	attend 59:3,9 68:2 285:13	
approved 127:16 161:13 162:1,21	assistant 23:19	attendance 204:11	
approves 69:12	assisted 52:20 182:7	attended 304:17	
approving 124:13	assisting 220:1	attending 11:14 68:9	
approximately 44:20,22 55:19 57:4 66:17 80:11 83:3 123:22 124:2 127:3	associate 16:11 21:11 22:7 23:5,9 72:12,17,19 138:20 260:12	attention 260:15 310:18	
archives 84:22 85:6,9,20 175:12 182:21 211:3,8 233:20 235:12	associated 75:15 244:9	attest 142:13,22	
area 35:15 57:16 84:11 108:20 112:18 207:1	association 1:6 3:14 4:21 10:19 46:17 61:21 62:7 63:1,20 64:5,7 70:19 71:3 81:2 189:20 199:5 209:15 216:2 307:9	attorney 116:16 302:2,11 334:14	
areas 30:22		attributor 206:16 216:10	
argument 213:13,18		audible 13:15	

[aware - board]

<p>aware (cont.) 102:14 103:1,11,16,21 104:6,8,15,20 105:16 111:8 112:20 117:15 129:2 130:11,13 145:5,18 147:19 148:3 166:16 167:10 168:20 169:7 171:3,12,13 178:10,17 179:1,5 185:3 206:12 221:2,15 223:9 243:15,19 269:16 274:1 283:12,15,18 284:2 313:21 314:1,15,20 317:15 320:10 320:17 321:2 322:8,11,12 322:16 323:6</p>	<p>bates (cont.) 252:14 256:14 279:5</p> <p>bcc 233:3 241:12,15</p> <p>bcc'd 241:11</p> <p>bear 323:16 324:2,11 325:3,6 328:2</p> <p>becker 4:3 5:3 11:17,18 12:17 15:2,6,22 16:4 19:15,19 20:6,11 25:16 26:15 28:15 31:8,15 32:11 33:10,21 35:8 37:3,13 39:1,14 40:7 41:19 42:2 43:5,20 45:9 46:3 47:22 48:18 50:4,10 50:16 53:10 54:10 58:9,15 59:6,17 60:1 62:3 63:6 64:16 65:8,14 69:14 70:1 73:12 77:7,20 78:11 79:11 80:4 82:17 83:2 84:3,12,17 85:5 86:16 87:4 88:1,14,20 90:3,18 91:8,13,18 92:10 93:1 94:22 95:6,13,20 96:7 96:14 97:11 98:14 99:10 100:5,16 101:6,17 102:5 102:22 103:15 104:7,14 105:10,19 106:4,11,20 108:2 109:3 110:1,16 111:7,15,19 112:12 114:6 114:13 115:2,14,22 116:20 117:2,19 118:12,21 119:22 120:17 121:12 122:12 123:6 125:16 126:1 127:2 128:15 130:10 131:10 132:9,22 133:14,21 134:10 136:1 137:10 138:13 139:1 140:5,20 141:14 142:14 143:2 144:1,14 145:4,21 146:6,14 147:6 148:2,12 148:21 149:7 150:2 152:3 153:1,13,21 155:2,20 156:6,18 157:12,15 158:6 158:17 159:8,16 160:3,18 163:22 164:14 168:19 169:5,13 170:4 171:2,11 171:19 172:18 173:14,20 174:7,20 175:17 176:2,15 177:7,14 178:16,22 179:14 182:6,11 183:18 186:15 187:7 190:17 194:8,20 195:22 197:17 201:6 203:13 204:3 205:12 210:7 213:16 215:17 217:21 218:11,22 219:10 220:4</p>	<p>becker (cont.) 221:13 222:4,11,20 223:8 223:14 225:10,22 226:10 228:6 229:2,12,17 230:13 232:9 234:14 235:4,21 236:6 237:8 238:2,12 240:10,17 243:4,14 244:6 245:14 247:18 250:7,18 254:6,14 255:1,17 256:10 258:2,18 259:5 261:8 262:10 263:2 265:2,9 266:2,11,15,20 267:9,17 268:8 270:16 271:2,11 273:3,16 275:6,15,21 276:5 278:15 279:1,10,18 280:7,19 281:1,8 282:9,22 283:11 284:13 286:11 287:21 288:11 289:8,22 290:16 291:10,15 292:10 293:10 294:14 295:10 296:4,21 297:20 298:15 299:17 300:11 301:15,22 304:21 305:16 306:4 307:20 308:9,14 309:4 310:2,12,21 311:3 312:3 312:13 313:6 314:10,19 315:7,13,21 316:9,20 317:18 318:2 319:1,21 320:14 321:1,22 322:5,21 323:3,22 325:9,22 326:10 326:18 327:7,14 328:1,9 329:1,19 330:5,9,20 331:8 331:16 332:15</p> <p>bedrock 131:19</p> <p>began 25:4 323:8</p> <p>beginning 264:22 318:3</p> <p>begun 135:20</p> <p>behalf 2:15 3:2,13 4:2,11 12:3,5,8 48:9 61:12 211:18 311:17 321:6,9,19 322:3</p> <p>belief 264:1 316:18</p> <p>believe 19:7 26:6,11,12 44:14 46:21 48:14 53:3 55:8,22 61:11,22 80:16 81:1 82:6 83:6 107:12 116:21 121:1 124:14 135:19 136:15 141:6,8 143:18 158:18,21 161:20 184:3 186:10 216:5 220:14 233:1 242:7 270:5</p>	<p>believe (cont.) 272:15 295:3 297:17 307:12 313:2 319:2</p> <p>believed 265:10 312:10</p> <p>believes 192:7 244:8</p> <p>believing 221:2,15</p> <p>belongs 221:6</p> <p>beneficial 154:7</p> <p>benefit 106:12,18 123:8 131:12,18 312:1,7,7</p> <p>benefits 113:18 114:8 132:10,21 190:4 312:10</p> <p>benefitted 257:10</p> <p>best 14:22 116:19 130:2 156:1 195:19 197:18 280:17 311:1 313:14 321:14</p> <p>better 62:18 200:3</p> <p>beyond 87:21 116:9 171:5 175:9 274:11</p> <p>bhatia 251:17,18,19 257:5,17 258:3,12,20</p> <p>bill 185:13,15 212:7,10 213:6 213:22 214:6,10,16,22 246:20 247:2,14 248:21</p> <p>billed 154:5</p> <p>bit 29:21 30:19 62:22 116:13 282:4</p> <p>board 46:17 48:15 49:16 51:21 53:15,17,18 54:3,6,16,19 54:22 55:3,4,12,14,20 56:5 61:6,21 62:6,21 63:3,8,12 63:15,17,18,21 64:10,17 64:19 65:1,5,7,10,20 66:3 66:9 67:12,18,19,20 68:8 68:14,16,18,19,20,21 69:3 69:5,7,9,12,12,16 74:17 76:17 106:21 107:2,4,6,9 107:10 118:2,6 124:6,10 127:7,12 128:2 179:19 183:22 184:2 189:11</p>
b			
<p>back 19:18 55:15 66:13,14 67:11 77:16 79:12 115:19 123:7 133:15 147:8 159:22 180:21 185:19 193:19,20 203:20 232:20 236:7 276:6 280:2 311:8</p> <p>background 30:19 60:5,6</p> <p>backwards 23:10,18</p> <p>bad 35:17</p> <p>bakery 268:18 269:5,8,17,19 270:1</p> <p>balance 34:14 36:2,5,6,14 38:5 58:6 128:22 129:12,13 130:2,3 177:21 329:16</p> <p>balancing 177:17</p> <p>barriers 5:22 26:4 79:6 131:22 160:21 161:4 329:11</p> <p>based 68:20 208:15 286:21 287:20,22 288:4 309:15 310:9,10 314:5 316:18 324:4</p> <p>basis 67:12 69:7 122:22 137:2 139:16 166:6 176:16 193:16 198:15 208:16 213:20 244:11 246:16 264:1 266:16,21 272:11 310:14</p> <p>bates 117:6 119:12 232:12 235:7 237:11 245:18 247:21</p>			

[board - changes]

<p>board (cont.) 204:10,11 205:21 230:5 271:19 278:2 290:7 291:5 291:22 292:17 293:18 294:3 295:17 296:11 298:5 300:2,18 321:6</p> <p>boards 32:15 153:10</p> <p>bockius 3:6</p> <p>bodies 28:5 39:10 61:11 76:16 79:20 80:12 81:5</p> <p>body 40:21,22 75:11,12 76:14 80:10,17,22 81:15,19 82:5 122:22 123:1 133:7,8 140:17 161:14 162:2,22</p> <p>bonnie 1:20 11:11 334:3</p> <p>borne 328:7</p> <p>bottom 161:11 165:10 169:19 170:5 201:7 268:13 272:3 276:14</p> <p>box 184:5</p> <p>brazil 207:1</p> <p>break 14:6 19:19 111:16,17 115:14 159:17 160:4 203:14 279:17,19 282:4 311:2</p> <p>bremer 248:9 249:6,7,11,13,17,19 250:8 251:7,9</p> <p>bridges 4:4 11:20 20:8</p> <p>brief 256:1 278:4,18,20</p> <p>briefed 69:6</p> <p>briefings 67:21 69:3</p> <p>bring 255:21 260:15</p> <p>bringing 313:12</p> <p>brings 190:5</p> <p>broad 244:17 272:9 325:5</p> <p>broader 22:2 241:20 313:9</p>	<p>broadest 313:16</p> <p>bsi 202:14 203:6</p> <p>budget 9:8 69:12 100:3 297:7 317:5</p> <p>budgetary 54:9,12</p> <p>building 285:3,3</p> <p>bullet 161:11 162:6 207:17 219:6 219:19 239:11 255:18</p> <p>bullets 223:20</p> <p>burden 141:9</p> <p>bureau 21:19 23:22</p> <p>business 154:5 155:6,18 156:10 157:6 158:9 159:2,6 172:10,11 226:6 314:12,12 325:17,20</p> <p>businesses 272:14 273:14</p> <p>buy 173:6,11</p>	<p>capabilities 175:10</p> <p>capacity 17:7 44:10 45:13,14 46:15 46:17 47:4 48:4 56:4 61:8 78:1 316:13,13,14</p> <p>capital 25:9 28:22</p> <p>captured 202:18</p> <p>career 25:5 32:20</p> <p>carl 143:3,18 184:7,13,16 185:20 186:17 191:12 260:15 276:13</p> <p>carry 108:8,18 109:20 110:5 112:2,17 247:4 316:15</p> <p>carrying 107:22 111:22 215:16</p> <p>carter 4:13 11:22</p> <p>case 1:3 11:4 13:2,15 14:1 121:19 123:3 166:4,4 172:17 196:6 202:20 220:17 243:5 276:16 285:7 301:16,19 306:21 332:5</p> <p>cases 31:19 76:7 138:2 168:14 213:15,20 221:8 303:16 306:21 312:20 330:14</p> <p>categories 36:8,11 38:4,8,12,17 41:12 41:20 44:6 124:19,21 125:1</p> <p>categorized 324:6</p> <p>category 37:12,15,21 38:3 41:13,15 41:18,18 42:4 44:7 46:5 125:7 129:14 130:5,6 324:5</p> <p>catherine 20:15</p> <p>cause 139:4</p> <p>caution 227:3 267:6</p> <p>cc'ing 248:2</p> <p>cease 139:5 216:9 260:18</p> <p>cell 10:9</p>	<p>cellular 10:8</p> <p>centers 168:11</p> <p>ceo 66:4 67:22 251:19</p> <p>certain 60:2 100:1,2,22 110:2 200:18 235:22 236:3 272:10</p> <p>certainly 66:12,15 156:14</p> <p>certainty 185:12</p> <p>certificate 334:1</p> <p>certification 74:11 75:12 79:20</p> <p>certifier 75:11</p> <p>certify 334:5</p> <p>certiorari 301:7</p> <p>cetera 323:19</p> <p>chain 5:11 7:2,6,8,10,12,15,17 7:19,21 134:22 271:16</p> <p>chair 43:10 49:11,12,14 50:20 65:2,3,18,19,21 66:4,9,10 67:2,5,10 68:11 116:8 118:4,9 123:16 124:13 151:13 153:9 288:21</p> <p>chairing 67:13 68:10,12</p> <p>chairman 66:3,8 123:16 189:11</p> <p>chairs 65:4,7 66:2,2,8 68:16 123:18,20</p> <p>challenge 166:1</p> <p>challenging 184:8</p> <p>chance 14:16</p> <p>change 35:18 102:14 103:2,21 116:3 117:13 198:2</p> <p>changed 227:9</p> <p>changes 9:6 14:17,18 60:15 297:6</p>
	c		
	<p>c.f.r. 193:4,6,7 195:4 196:16 199:6,12,22 201:9,12,18 202:15 318:10</p> <p>c.f.r.s 303:18</p> <p>c.f.r.s. 303:15,19</p> <p>cadence 116:18</p> <p>california 4:5,6 276:16</p> <p>call 75:2 174:5 175:10 253:4,9 253:12 254:1</p> <p>called 24:16 31:6 167:21 173:8 211:6 233:18 241:16</p> <p>campaign 188:6,17</p> <p>candidate 55:3,10</p> <p>candidates 70:6</p>		

[changing - compliance]

changing 263:11,14,16,20 264:3 265:12 267:12	citing 195:6 199:7	coming 57:8 266:13	committees (cont.) 153:7
characteristics 34:13 35:2 36:1 162:11	civil 5:8 15:13	comment 14:18 99:3 100:15,17 101:1 102:17 142:22 143:1 145:10,19 146:4 149:20 154:22 189:5 211:6 241:7 241:8 247:6 249:1 262:8 262:14,16	committee's 215:14
characterize 155:22	clarification 265:1	commented 56:10 122:9	common 35:12,19 285:1
characterizes 63:11	clarify 33:8 75:22 126:5 328:20	comments 6:20 7:3 60:12,14 99:4 101:3,4 143:21 145:19 148:1 196:7,10 231:20 233:18 235:11 236:15,17 237:17 261:17	commonly 21:1
charge 81:3,5,10 184:8 213:9 272:13 273:13	classified 37:11	commerce 16:13 21:19 23:22 25:4 48:10 71:16 72:2 187:21 284:19 320:1	communications 19:4 79:19 126:3,4 187:22 190:2
charged 193:14	clear 59:22 76:5 88:18 174:18 309:22	commission 29:3 41:3 51:7 79:19 333:19 334:22	community 25:10 29:2,7,11 51:4 52:9 52:10 73:22 74:2 109:2,7 140:3 151:21 164:6 211:19 214:18 246:11 255:22 284:18
chart 5:10 117:11,14,21 123:10	clearest 14:2	commercializing 257:14	companies 135:5 173:6 325:10,15,21
check 58:17 110:22 223:1	clm.com 4:17	commit 203:8	company 41:17 173:7,10 189:15,17 225:2 270:13 327:6
checking 262:20	close 266:14 277:19 306:8	commitments 156:13	compare 238:14
chief 16:11 24:7,22 49:2,3,9 73:2,3,10 149:13,16 185:7	closed 158:3,14 159:14 160:13	committee 41:2 43:9,11,12 44:13,15 44:19,21 45:4,8,13 49:12 49:15 50:22 51:2,2,12,14 51:16,16,19,20 52:18,19 53:2,4,4,12 56:8,17 59:4 62:9,20 65:3,4 67:6,7,13 118:3,5,7,9,16,17 119:9,19 120:13,21 121:7,11,14,15 121:18 122:1,7 123:14,17 123:19,21 124:1,4,5,7,8,12 127:7,11 150:11,16,16,21 151:5,5,14 153:8,9 157:19 158:2,5,15 179:19 181:18 182:1 183:13,22 213:13,18 214:5 215:13 238:21 247:11,12,13 257:4 269:1 269:4 288:18 289:15 292:17 293:18 294:3,20,22 294:22 295:17 296:11 298:5 299:2 300:2,18 304:20 305:7 306:16,18 307:4 324:12	compared 193:3
chilling 239:13,21	closer 202:19	committees 48:15 52:1 58:5 62:10 68:10,12,17 120:19 127:9	compatibility 80:1
china 51:10 206:22	coast 202:3 252:9		compensation 244:12
chronological 49:20	code 85:15 86:3,14 87:19,20 94:11 109:11 135:13 136:7 136:21 137:20,22 183:2 193:15 194:18 195:17 199:6 203:9 211:11 234:1 304:7		competence 75:5 76:19 77:15 82:2
circuit 277:13	codes 307:22 309:16		competent 78:8 80:18
circular 9:8 34:10 45:22 79:3 85:3 89:4 90:14 92:5,8,20 93:16 101:21 102:7,9,10 114:2 139:7 141:19,20,22 147:22 150:17,20 152:18 170:3 242:19 262:6,7,13 263:6 264:9 282:1 297:8 318:4	codified 45:22		competitiveness 257:12,13 325:19
circulars 303:17 304:1	cognizant 317:4		compilation 274:1 306:6
circulated 261:14 278:3,9,11	collaborate 166:9,17 312:19 328:17,22 329:22		compile 236:16
circumstances 176:14	collaborated 168:21		compiled 199:1
citation 193:7 196:16	collaboration 329:2		complained 129:3
citations 193:16 197:10	colleague 11:20 172:22 174:2,12 175:5		complaining 145:13
cite 195:20 196:15	collected 225:16 226:2		complete 136:14
cited 201:12 208:18 209:5	collects 225:1		completed 224:22
cites 196:4 222:3	columbia 1:2 11:4 334:21		completely 14:12

[comply - copyrighted]

comply 164:7 172:14 215:14	confusion 196:1	constitutes 272:17	contribution 312:15
component 24:8 28:22 52:14 68:13 78:18 163:21 202:3	congratulations 260:9	construct 270:21	contributions 188:8
components 164:1	congress 27:17 93:21 96:6,12 109:19,19 110:5 178:12 219:20 252:3 255:6,9 287:11,17 307:1 313:10 316:22	construction 248:21	control 227:12
comprehensive 232:2 258:8	congressional 73:20 213:13,18 214:4 215:13 246:21 247:11,12 255:21 257:4 285:12 287:18	consultant 307:8	convene 312:16
comprised 55:20 150:18	congressmen 257:15,19 258:15	consultation 178:10	convened 214:20
computer 224:10	conjunction 303:19	consulted 175:18	conversation 17:3,12,18,20 18:1 259:2
computerized 334:8	connections 116:10	consulting 179:2,8	conversations 10:8 261:7 268:1
concern 140:6,22 141:7,11 147:19 192:21 228:7	consecutive 66:22	consumer 36:12 38:13 41:18	conversing 233:14
concerned 192:2 228:8	consecutively 49:14	consumers 272:13 273:13	cooper 184:5 230:21 231:15 248:2 248:5,7 251:9,16 254:13 268:14 291:2 299:2
concerning 179:4,10	consensus 28:5 34:6,7,9,11,14,16 35:1,21 36:2,18 37:5 39:9 93:22 94:8 102:11 107:22 111:21 129:1,15 131:19 152:20 181:14 182:14 195:5 211:18,21 212:2 218:18 258:10 281:18 282:7 287:7,15 314:4 329:18	contact 149:20 198:6 224:7 307:1	coordinate 78:22
concerns 101:13,19 206:12	consider 95:7,10 286:1	contacted 212:14	coordinating 26:22 304:20
concluded 155:4 310:22 332:22	consideration 36:10 131:6,14 166:5	contacting 309:18	coordination 23:13 26:16,19,22 105:5 139:15 149:15,18 253:20
concludes 332:17	considerations 57:13 89:2 90:15 101:22 166:5	contacts 307:3,5	coordinator 132:19
conditioning 1:8 10:21 216:1	considered 134:22 195:19 261:3	contain 284:4 309:10	copied 200:22 224:7,10 232:16,17
conduct 25:20	considers 131:17	contained 162:10 195:1	copies 168:5 173:13 206:14
conducted 151:11	consistent 152:19	containing 200:14 224:12	copy 19:16 50:1,17 128:18 167:6,18 173:7,11 174:17 175:15 224:6 242:22 245:4 278:4 297:5 298:21 302:21
conducting 152:9 172:11 287:15	consortia 35:4	content 128:14 138:6 198:2 224:12	copyright 6:10 88:11,22 89:6,7,9,11 89:14,21 90:7,12 101:13 101:19 173:12,16,19 175:19,20 178:2,11,12,17 179:3,3,9,9 180:19 181:11 181:12,15,20 182:3,8,13 205:21 206:6,21 207:10,11 208:4 221:6,7,11 224:1 246:10 248:10 252:10 271:20 272:2 307:22 309:16 314:16 317:12 319:10 321:16 327:13
conference 143:13,15,16 144:9 147:21 170:2 249:9 251:12,14 253:3,8,12	constituencies 145:10	contents 18:6 91:10 101:9 280:13	copyrightability 178:18 321:11
confidential 279:9	constituency 147:2	context 25:18 26:18,21 27:6 29:15 29:17 84:16,18 85:21 114:4,5 214:22 240:6 266:5	copyrighted 88:12 89:10,17 166:2,22 173:5,7 176:11 206:19
confirm 220:16	constitute 175:6	contract 193:14	
confirming 74:13		contractor 135:18,19	
conform 130:1 135:1 172:14		contractor's 216:1	
conformance 128:10 130:22 281:18		contribute 59:12 285:8	
conformity 74:5,9,15,18 75:2,6,8,14 75:18 76:2,12 78:22 79:4,9 82:10,11 83:17 84:4 294:21			

[copyrighted - delivered]

copyrighted (cont.) 221:10 222:2 315:6 319:19	counsel (cont.) 323:2 331:20 334:11,14	current 92:5,8 117:10 180:18 192:22 263:11,14,17,21 264:3 265:12 267:12 306:1 315:15	dear 251:21
copyrighting 206:8	count 303:20	currently 20:19 42:10 127:9 211:16 220:1 261:21 305:10	debate 226:15
copyrights 315:20 317:22 318:7,20 319:4	counter 207:9	cv 1:4 11:4	december 24:2,6 71:16,18 239:7
corner 268:18 269:7,17,19 270:1	counterclaimant 1:11 11:2	cycle 165:21	decision 98:15,21 99:13 113:9,17 115:7 138:15,19,22 139:17 139:19 198:4 200:1 277:14 278:7
corporate 222:6	counterdefendants 1:9 10:22	d	decisionmakers 99:20
correct 14:12 20:10 21:3 33:3,4 36:3,4 43:2 52:18 57:1 73:9 101:14 102:8 112:7 118:15 120:2 151:6,12 162:4,8,17 163:8 180:11 188:2 191:13,17,18,22 192:1,4,8,9 193:1,10,11 194:12 196:8,19,20 200:1 200:2 202:12 204:17,18 205:8 206:10 207:12 208:4 208:5,9,10,13 211:19 212:17 215:19 216:2,4,12 218:1,2,8,10 220:8,21 224:14,15 230:9,10 233:11 233:12 234:6,7 236:10,18 237:20 302:11 303:4,5,11 307:11 321:7,8,21 323:11 324:15,19 325:12 326:3,12 326:21 328:17 329:22 333:4	countries 207:5 208:1,3,6,9	d.c. 1:15 2:13 3:8,18 11:7	decisionmaking 54:2
corrected 187:6	country 257:7	daily 193:16	decisions 54:7 57:14 68:22 72:9,11 72:15
correction 213:21 214:6 247:14	couple 19:7 44:13 56:6	daniel 4:22 11:8	declaratory 260:16 276:13
correspond 299:4	course 38:16 129:8 156:9 157:5 158:9 159:2,6 172:9 186:11 324:10	dar 1:4 11:4	declare 333:2
correspondence 187:9 191:11 259:12,16,19	court 1:1 11:3,10 12:10 13:9,11 116:15 277:13 301:9	data 50:2 194:10 198:18 246:14 246:17	declined 130:14
corresponding 59:3,7	cover 302:9	database 119:10,20 120:5,9,12,16 120:22 121:3 135:11,17 136:22 137:1,13,16,18 138:5,16 139:3,5,16 184:20,22 186:5 187:2,5 191:16,21 192:22 193:4,10 193:18 194:4,11 195:1,3 198:12 201:1,16 202:16,20 203:4,11 225:4	deemed 320:20
cost 217:7,10 313:21 323:10,16 324:11 325:4 328:6	covered 78:19 116:4,8 134:20	date 181:6 184:14 195:2 199:17 227:7 228:5,10 231:5 237:5 238:11 253:2 292:18	deems 164:5
costly 314:2	covering 292:19	dated 5:9,11 6:6,15,17 7:2,6,8,10 7:12,15,17,19,21 9:20 92:9 228:17	defendant 1:11 10:16 11:2 12:16 323:2
costs 323:13 324:2,14,15,17,21 325:7,10 326:1,20 328:3	craft 190:2	dates 49:1 67:14 227:4 248:18	defense 201:22 202:1,4
council 51:21 127:13 180:9 204:21	crafted 261:14	day 172:11 193:8,8,19 194:4 333:16	deferred 92:6
counsel 4:21 10:16 11:13 12:16 17:4 20:8 181:3,6,7 253:15 291:4 293:15 310:8 311:11	craig 16:10,18 17:3,13,19,20 18:7,13,18 19:2,4,7 20:4 264:7 267:7	days 167:21	define 25:17 169:14
	create 139:18 242:5,10,15 243:7 245:6 284:15	deadline 241:6,8 274:11	defined 34:10 87:17 244:15 272:7
	created 56:18 139:21 305:8	deal 29:7 162:14	defines 163:5
	creating 187:1	dealing 49:16	definition 26:2,3,5,13 161:7,10,20 162:7 244:16 272:8 286:8 286:10,12,17
	creation 137:2,11 138:14 139:3 185:12		definitions 25:19 26:6,7
	criteria 60:2		delegated 21:22
	cross 201:8 287:2		deliberated 124:10
	crossing 267:4		deliberations 17:10 249:16 264:8 265:16 265:22
	currency 193:3		delivered 302:3

[demonstrated - discussion]

demonstrated 80:17	describing 200:17 284:22	development (cont.) 104:21 105:8,12,17,21	direction 45:21 109:19 218:20
demonstrating 77:15	description 132:1 281:14 303:13	106:6,13,17,22 107:5	219:19,21 287:17 316:22
demonstration 76:19	designated 133:3,18 134:3 136:11	121:16 129:18 132:2	334:9
dent 123:15	desist 216:10 260:18	135:21 144:12 152:2,11,13	directions 78:20
department 16:12 21:19 23:22 25:4	despite 106:21	152:22 153:3 154:12,17	directly 48:16,19 68:20 72:20
48:10 71:15 72:2 73:7	detail 26:12	155:9 166:10 168:12 179:2	86:12 87:2 106:5 145:19
169:9 187:21 198:15 201:1	details 44:8 84:10 90:13 103:8	181:11 202:8 209:10	244:4
201:2,22,22 202:4 212:12	229:9 331:6	210:10 221:8 234:5 257:7	director 21:11 22:7 23:5,9,12 64:4
214:3,14,18 215:4,11	determinant 327:15	258:9 269:22 305:10	64:22 65:6 67:9,14,17 68:6
246:3,21 247:10 249:3	determination 200:10 210:14	311:22 312:1,6,11,19	68:13 72:12,18,19 138:20
305:4	determine 213:11	313:4 314:3,7,8,17 315:3	149:17 260:12
departments 73:8 198:16	determining 75:5	315:16,19 316:7 318:1	directors 68:19 118:2 179:20 204:10
department's 320:1	detriments 113:19 114:9	323:20 324:2 325:1,12	204:12 230:6 252:6 290:7
depending 25:18 36:9 37:2 38:12	develop 29:19 30:5,7,8,15 41:5	326:2,9,21 327:20 328:3	291:22 292:18 294:4
108:5 164:3	42:8 56:19 122:4 218:7	330:15 331:11	295:18 296:12 298:5 300:3
depends 37:17 38:5,6,14,21 109:17	219:14 313:22 316:14	developments 6:12 51:8 79:5 206:1	300:19
109:22 164:10	323:11,14 324:3 327:8	216:15,19 261:19 312:12	directs 28:3 39:7,10 45:18 78:21
deposition 1:14 2:9 5:8 10:11,15 11:5	developed 28:4 31:17,20 32:4,5 34:20	develops 100:20	79:19 152:18 218:16
12:19 13:3 14:15 15:4,13	35:1 39:9 58:22 59:5	devoting 130:8	287:13
16:2,14 17:21 20:1 116:18	120:13 122:3 127:16 134:9	dialogue 210:22	disabled 223:4,10 224:8
116:22 118:19 149:22	139:12 143:16 156:13	differ 37:1	disclaimer 72:7
156:16 157:10 160:16	159:5 211:17,22 220:7,12	difference 26:8 97:3 109:7 160:14	disclosure 71:15 72:1,4
164:12 165:5 179:12	247:13 252:1 287:14	163:11	discount 154:14 272:17 273:7
190:14 204:1 205:10	developers 150:13 260:21 314:13	different 34:19 35:6,18 44:5 46:7	discounts 272:12 273:13
229:15 230:11 232:7 235:2	developing 28:7 57:10 122:1 127:21	68:16 109:12 114:17	discovery 119:7 187:16
237:6,22 240:15 245:12	128:12 129:22 130:19,20	122:16,19 124:19 130:9	discuss 35:15 53:7 113:18 114:8
247:16 250:14,16 256:8	131:1,9 132:4 138:4	137:16 141:21 147:4 155:5	125:8 167:2,11 214:20
259:3 268:6 271:9 278:21	140:13 153:11 210:3,15	170:11 172:1 224:10	255:22 265:4,22 267:7
280:5 288:9 289:6,20	217:16 218:18 269:11	272:22 274:13 282:20	discussed 61:15 101:7 105:20 107:2
290:14 291:13 292:8 293:8	304:19 312:15 318:8 319:5	differentiations 115:1	107:4,9 124:11 157:3
294:12 295:8 296:2,19	324:7 325:3 329:3 331:3	differers 110:6 113:3	180:8 181:10 184:5 205:6
297:18 298:13 299:15	development 32:13,16,18 33:5,13,18,22	difficult 29:21	212:10 282:13 301:7,11,16
300:9 301:20 334:4,6,9,12	34:2,5 36:18 37:5,10,18	difficulty 129:3	301:18 304:22 307:17
depository 147:3 243:1	38:10,22 39:3,11,16 40:3	digital 242:5,10,15 243:7,22	discusses 215:19 216:21 223:15
deputy 23:19	40:14 41:7,16 42:4 44:10	244:5,20	discussing 165:5 230:8 257:1
derived 83:4	45:20 47:3 52:4 71:7 82:9	dimensions 162:13 223:16	discussion 9:6 17:6 18:11 51:19 85:3
describe 200:12	82:15 103:5,17 104:9,16	direct 72:14 98:8 284:10 319:4	90:14 139:8 144:5,12
described 27:17 35:12 175:2		330:17,17	155:4,22 169:22 188:16
describes 251:10		directed 93:21 110:5 318:7	204:17 246:20 256:1

[discussion - electrical]

<p>discussion (cont.) 293:17 297:6 305:17 319:8</p> <p>discussions 53:22 122:10 143:12,18 147:20 264:17 271:18 319:12</p> <p>dispute 127:18 128:7 329:17</p> <p>disputes 128:6</p> <p>distinction 95:21 122:14 193:21 201:19 266:3,16</p> <p>distribute 198:14</p> <p>distributed 198:10 325:7 328:8</p> <p>distribution 309:18</p> <p>district 1:1,2 11:3,3 334:21</p> <p>divide 242:5,10,16 243:8,22 244:5,20 245:6,10</p> <p>division 16:12 24:7,19,22 49:4,9 74:16 82:5 135:19 149:14 149:17 185:7</p> <p>doc 264:21 266:10,18,21</p> <p>docs 246:10</p> <p>doctrine 176:4,6,8,20,22</p> <p>document 15:9,11 16:7,8,9,14 27:11 35:16 87:8,9 89:17,17 90:5 91:22 95:2,8 98:16 101:10 117:5,7,9,12 119:2,4,6 138:7 150:5,7,9 151:8 156:21 157:1 158:22 159:11 161:2,5 162:11 164:17,20,22 165:1 172:21 173:7,11,13 174:1,11,16 175:4 176:11 179:17 180:3 191:5,7 201:22 204:6,7 205:15,17,19 229:20,22 230:2,16,18 232:12,14 235:9,14,19 236:1,4,15 237:5,12,14,17 238:5 240:20,22 242:8 245:17,20 245:22 247:21 254:13 256:13 259:8 268:11 271:14 279:4,7,8 288:14 288:16 289:11,13 290:3,5 290:19,21 291:18,20 292:3</p>	<p>document (cont.) 292:13,15 293:21 294:1,6 294:18 295:13,15,21 296:7 296:9,16 297:2,4,15 298:1 298:3,18,20 299:4,20,22 300:6,14,16,22 301:5 305:15 306:10,13 307:6 308:1 309:13,18 310:3,7 310:11,13 331:5</p> <p>documentary 27:2,7,9</p> <p>documentation 147:5</p> <p>documents 26:12 31:6 56:11,12,13 57:18 59:10 79:8 88:12 89:10 92:17,21 93:15,19 93:20 94:2,3,5,21 95:14 97:4,9,13,17 98:2,6,10 100:7 107:13 109:10 114:3 121:16 122:9 128:19 138:9 140:19 160:15 166:13,19 167:12,19 168:16 172:16 173:5 184:5 187:16,17,20 191:1,2 192:12,16,17 201:12 206:19 208:19 209:6 213:8 240:8 243:3 244:9 251:3 277:9,16,18 277:21 302:6,8,14,19 303:14,17,18 304:1,3 307:17 308:2 313:15 315:6 327:22 328:3</p> <p>doing 23:17 260:8 273:21 321:19 322:3</p> <p>domestic 325:18</p> <p>dominance 129:9,11,12,14 130:3,8 329:16</p> <p>dot 213:7,10 214:3,9 246:8,14 246:17 248:18 305:7,22</p> <p>dot's 198:15</p> <p>doubt 253:11</p> <p>download 320:20</p> <p>draft 5:13,16 6:3,8,13 8:4,7,9,14 8:16,18,21 9:2,3,9,15,17 56:10,11,12,16 57:14,18 58:1,12,19 59:18 60:3,3,8 60:21 61:2 98:22 131:5,5 131:14 150:10 155:21</p>	<p>draft (cont.) 157:2,4,7 160:10,12 179:18 237:1,17,18 238:7 239:2,17 261:14,16 262:5 262:7 263:6 272:1 288:17 289:1,14 290:6 291:21 294:2,19 295:4,16 296:10 298:4 300:1,17 307:21</p> <p>drafted 91:5</p> <p>drafting 278:17 330:22</p> <p>drafts 56:21 58:21 59:5 60:15 90:22</p> <p>dramatically 263:11,15,17 264:4 265:12 267:13</p> <p>drug 81:22</p> <p>due 34:14 36:2 128:22 202:17 228:9</p> <p>dues 44:8 45:3,7,10 154:7</p> <p>duly 12:13 334:6</p> <p>duplicating 172:20 173:22 174:10</p> <p>dying 111:17</p> <hr/> <p style="text-align: center;">e</p> <hr/> <p>e.g. 208:17</p> <p>e50 44:15 53:12 56:4 61:6 121:1,7,19 122:4</p> <p>e60 56:7,9 57:2,9,10 58:1,10 58:22 59:3 60:14,19,22 61:3,5</p> <p>earlier 45:17 48:7 53:14 58:5 60:9 65:2,16 68:15 101:7 114:3 116:2 118:2 124:18 127:8 128:20 136:8 139:14 152:16 159:12 161:6,12 165:5 173:4 184:18 193:13 200:5,16,21 212:10 219:6 228:14 246:19 248:16,16 248:19 249:4 250:2 272:22 276:12 329:20</p> <p>earliest 257:8 259:22 271:16</p>	<p>early 46:21 184:18 287:11,12</p> <p>easier 23:16 217:5,8,19 219:7</p> <p>easy 57:20</p> <p>eat 257:16</p> <p>economic 100:2</p> <p>economics 60:7</p> <p>economist 24:16</p> <p>edicts 178:19</p> <p>edition 195:2,6,13,20 196:4 197:12,19 198:7 199:7,8 199:11,13,14,17 200:6,8 229:5</p> <p>educate 285:20</p> <p>education 51:17,17 52:6,14,15,15,16 52:19,20 53:2,4 306:11</p> <p>educational 286:9,13,18</p> <p>effect 87:11,16 177:1 239:13,22</p> <p>effects 247:4</p> <p>efficiency 88:9 101:13,19</p> <p>effort 56:19</p> <p>efforts 130:2 151:22 166:16 261:11 281:17</p> <p>eight 156:4 183:5,6 208:6</p> <p>either 37:20 53:5 80:6 107:4 135:2 137:5 158:19 208:1 220:19 222:1 245:2 246:9 251:2 261:16 279:14 293:17 319:9 325:18 330:16</p> <p>elected 55:3 68:20</p> <p>election 54:21 63:16,21</p> <p>electric 199:6</p> <p>electrical 32:22</p>
---	---	---	--

[electro - exhibit]

electro 189:18	ends 160:22	epa 31:18 32:3,10 80:2,9	example 77:18 135:3 148:10 198:21
electromagnetic 79:22	energy 80:2	epa's 80:2	198:22 199:1,11 272:10
electronic 59:10 167:21 168:4 209:2	enforce 283:1,3,4,8,19,21 284:1,6	err 267:6	274:19 285:4
electronics 32:22 189:15,17,18	284:11	error 196:14	examples 79:13 80:6 97:12 257:9
electrotechnical 41:3 51:7	enforcement 170:13 177:9 283:16 284:3	errors 192:3,7 200:18	273:20 274:10,16 282:10
elements 251:10	enforcing 283:13	especially 166:2 184:9 258:13	284:2
elimination 210:15	engage 30:12 74:14,19 105:6	esq 3:4,5,15 4:3,4,12	excel 200:14
elizabeth 248:2,4 274:6	308:6,7	essential 38:9 52:2,3 127:17 128:11	excerpt 274:14 292:19
embarking 29:3	engaged 19:8 48:17,20 63:2 168:17	128:16,19,21 129:9 130:1	excerpts 292:1
emily 248:9 249:6,7,11,12,13,15	190:6	131:2,18 329:9	exchange 116:8 186:22 248:19
249:17,19 250:8 251:7,9	engagement 9:12 49:5 62:1 63:4,11	essentially 59:2	exchanged 305:9
emily's 250:4,6	180:6 204:16 298:22	established 78:6 133:13 150:17	exchanges 184:17 185:4 186:3 187:14
employed 22:15,21 23:3 44:2 106:17	engagements 105:7	establishing 75:1	excluding 242:6,10,16 243:8
189:16 334:12,14	engages 34:3 71:6 166:21	estimate 80:14 83:9 91:14 187:12	exclusion 264:6
employee 22:20 45:14 46:2,15,18	engaging 72:3	187:13	exclusively 162:14
54:8 92:13 93:3,7,10,13	engineer 189:20	et 15:18 277:11 323:19	excuse 86:18 97:21 130:12 136:13
125:20 148:4,14 153:6	engineering 52:14	eula 226:13	144:17 158:20 195:11
186:11 332:8 334:13	engineers 1:8 10:21 33:1 172:15	european 25:10 29:2,3,5,7,11,12	210:9 232:19 236:21
employees 40:9,11 45:19 55:12 153:2	ensure 130:2 166:12,18 168:22	51:9	243:17 249:18 251:8
153:15 325:11 326:2	172:17 215:13	evaluate 59:19	257:11 280:19 281:13
330:11 331:10	ensuring 52:10 172:13 329:16,16	evaluated 80:8 82:1	285:15 308:1,21 309:5
employer 189:14	entire 27:20 89:16 132:17 174:16	evening 256:20	328:13
employment 21:8 22:12 23:8,15 24:11	305:15 328:7	event 61:10,13 212:19 255:20	executed 333:6
25:3 70:13 71:14 311:18	entities 127:14	256:2,3 285:7 286:22	executive 51:21 64:4 93:18 123:13
emulates 128:11	entitled 291:1 292:16 297:6 298:22	events 285:2,4,11,13	123:19,21 124:1,4,5,7,12
enable 215:15 323:19	entity 22:16 90:6 149:1,9	everett 4:20 12:9,9	127:11,13 179:18 183:21
enables 314:3	entries 194:22	ex 65:5 68:18	260:5 292:17 293:18 294:3
enacted 227:11	enumerate 42:10	exact 189:6	295:17 296:11 298:4 299:2
encompass 244:17 272:9	environment 312:22	exactly 125:2 158:13 196:15	300:1,17
encourage 79:8 218:4	environmental 31:20 44:18 49:16 260:5	examination 5:2 12:16 311:11 323:2	executives 150:18 200:13
endeavor 314:2		331:20	exhibit 5:7,9,10,11,13,16,19,21
endorsed 274:17			6:2,3,6,8,10,13,15,17,19

[exhibit - filings]

<p>exhibit (cont.) 158:19,19,22 159:9 160:10 160:11,16,20 164:12,16 165:9 177:16 179:12,15 190:14 191:4 204:1,5 205:10,14 229:15,19 230:11,15 232:7,11 234:9 234:9,13 235:2,6,16 236:7 237:1,2,6,10,22 238:4,8,14 238:15,17 240:15,19 245:12,16 247:16,20 250:14,16,20,21 252:11 255:18 256:8,12 259:3,7 268:6,10 271:9,13 276:7 278:21 279:3 280:5,9 288:9,13 289:6,10,20 290:2,14,18 291:13,17 292:8,12 293:8,20 294:8 294:12,16 295:8,12 296:2 296:6,14,19 297:1,15,18 297:22 298:9,13,17 299:6 299:8,15,19 300:9,13 301:20 302:15,19 332:1,4 332:10</p> <p>exhibits 5:7 6:1 7:1 8:1 9:1</p> <p>existed 194:19</p> <p>existence 121:3 218:1 287:18,19</p> <p>existing 324:22</p> <p>expanding 63:1</p> <p>expectation 58:7</p> <p>expense 323:20 325:20</p> <p>experience 54:5 98:8 153:5 221:14 327:19 329:8</p> <p>experienced 54:17</p> <p>expertise 55:2 63:13 64:15 84:11 112:19</p> <p>experts 35:14 175:19</p> <p>expires 333:19 334:22</p> <p>explain 190:3 200:3 218:12</p> <p>explaining 186:22</p> <p>express 321:9</p>	<p>expressed 27:16</p> <p>expressing 147:18</p> <p>extended 239:20 240:12 241:7</p> <p>extensive 79:3 90:14 101:22 139:8 147:19</p> <p>extent 62:1 186:5</p> <p>extenuating 176:14</p> <p>externally 27:4</p> <p>eye 2:12 11:6</p> <hr/> <p style="text-align: center;">f</p> <hr/> <p>faa 303:4,9</p> <p>face 279:7</p> <p>faced 206:20,21</p> <p>facilitation 226:7</p> <p>facilities 72:22</p> <p>fact 146:22 170:19 202:17 203:5 239:4,10 241:6 275:16 286:21 287:20,22 288:4 309:15 310:9,10 313:16,21 314:1,15,21</p> <p>factor 138:15 219:1</p> <p>fair 176:3,6,7,12,13,20,21</p> <p>fall 70:11 255:20</p> <p>falls 264:5</p> <p>familiar 15:17 28:17 77:18 84:21 85:3 93:20 95:18 96:3 211:13 314:11 318:5,10,16 327:3,5</p> <p>favor 257:19 287:7</p> <p>fcc 80:6,9</p> <p>fcc's 79:21</p> <p>fda 78:5,8 80:19 82:6 84:2</p>	<p>feasible 79:10 213:12,14,19</p> <p>features 285:5</p> <p>february 21:15 22:11 182:19 211:5 232:19 233:17</p> <p>fed 192:11,11</p> <p>federal 9:12 21:14 22:20 27:4 28:3 30:8 32:19 37:9 39:8 45:18 73:17,18,18 78:21 79:8,18 85:10,15,21 86:2,4,14,14 87:18,19,21 89:17 91:2 94:1,9,12 96:2,3,3 100:21 102:11 107:21 109:12 111:21 129:5 135:13 136:7 136:21 137:4,20,22 140:2 150:19 151:22 152:4,6,7 152:12,18 153:2,14 154:4 155:1,8,12 164:18 165:2 167:5 168:16 180:5 182:20 183:2 186:11 187:19 193:15 194:18 195:18 201:10,11 203:10 204:15 211:6,11,13 217:4 218:17 219:20 220:2 227:5,13 233:18 234:2 238:20,20 248:19 261:15 262:17,20 272:5 283:18 287:13 298:22 303:10 304:7 316:4 316:12,22 317:3 318:13,17 319:15 326:11 331:6</p> <p>federation 41:12</p> <p>fee 3:4 5:4 12:2,2 32:7 36:19 37:7 38:20 39:20 43:16,22 45:15 46:8,12 58:3,13 59:1 59:16 77:4,10 78:3,16 79:17 81:3,7,10,13 82:13 82:21 83:22 84:8,15,19 86:9,22 87:14 88:4,16 89:22 90:9 94:18 95:3,9,16 96:10 97:6 98:19 99:17 100:11 105:15 106:15 107:19 108:19 110:13,20 112:8 119:16 120:10 122:5 134:4 137:14 141:5 142:20 145:16 146:2,11,19 147:16 148:7,18 152:14 153:4,17 154:20 155:14 156:2,11 158:11 163:19 168:7 169:17 170:17 171:7,15 172:6 173:2 174:4,13</p>	<p>fee (cont.) 175:8 176:9 177:5,12 178:14 186:20 190:10 193:22 197:14 209:21 213:4 215:9 217:12 218:9 218:14 219:4,17 221:19 222:8,16 223:5,11 225:19 226:4 227:22 228:12 234:11 235:17 236:2 240:3 242:13 243:11 244:1 245:8 249:22 250:11 254:3,10,19 255:12 258:22 261:5 262:22 265:19 266:7 267:14 270:10,19 271:6 272:20 273:9 275:12,19 276:3 279:6,11 283:7 284:9 286:6 291:9 292:5 309:21 310:5,16 311:1,12 312:8 313:1,19 314:14,22 315:10,17 316:2,17 317:8 317:19 318:9 319:6 320:2 320:16 321:4 322:2,7,20 323:5,6,15 324:20 325:14 326:6,15 327:1,11,17 328:5,19 329:6 330:2,13 331:1,13,18,22 332:12</p> <p>feel 274:19 310:21</p> <p>feels 246:8</p> <p>fees 44:4,6 81:5 208:17 324:8</p> <p>felt 247:1 312:5 313:12</p> <p>fenwick 4:5 11:18</p> <p>fenwick.com 4:8,9</p> <p>fiduciary 54:9,12 69:11</p> <p>field 189:18</p> <p>figure 197:11</p> <p>file 224:11</p> <p>filed 11:2 71:14 72:1 211:7 233:19 260:16 276:17 277:6,10,10</p> <p>files 302:20,21</p> <p>filing 277:13</p> <p>filings 278:10</p>
---	--	--	---

[fill - getting]

fill 225:6,12	folks 214:5 246:22 305:22	form (cont.) 310:5,16 312:3,13 313:6 314:10,19 315:7,13,21 316:9,20 317:18 318:2 319:1,21 320:14 321:1,22 322:5 323:15 324:20 326:6 326:14,15 327:1,11,17 328:5,19 329:5,6 330:2,13 331:1,13	friday 248:5 260:16 273:20
final 58:16 99:5,13 128:3 137:7 160:11 170:9,22 235:19,19 236:1,4,13 238:14,15 239:12	follow 86:8,20 158:1 171:10	format 199:21	friday's 248:6
finalized 57:11	followed 159:15 313:17	forms 71:15 72:2,5 134:17	front 123:9 141:22 276:8 317:16
finally 170:22 202:13	following 17:16 22:20 30:3 46:6 47:12 68:7 92:3 158:12 171:18 177:21 180:17 207:22 227:2 242:1 253:1 272:2 304:13 309:10	forums 118:14 124:15 125:6	fronts 251:22 257:11
financial 73:2 245:6,10	follows 12:15 274:5 313:17	forward 23:17 263:10,13	fulfill 228:16
financially 334:15	food 77:17 78:4,6 79:14 80:7,15 81:14,20,22 82:3 83:15 84:6,10	forwards 251:16	full 90:5 102:4
find 128:18 132:6,8 198:7 217:6,9,20 325:19	footnoted 244:13	found 138:1 195:3 199:9	fund 314:7 315:4,19 327:3,4
finding 166:6 192:10	fora 125:6	founder 184:7	funding 314:17
fine 279:19 281:10	foregoing 333:3 334:4,6	four 66:1,2,8 187:13 208:8	further 124:9 183:9 188:3 231:8 247:15 273:17 323:2 331:20 334:12
fingertips 67:15 83:8 102:3	foreign 206:22	fr 246:12 274:11	future 52:10,20
finish 331:4	forgoing 273:19	frame 49:5 57:7	g
fire 1:5 3:13 4:21 10:18 189:19 199:5 209:15 307:8	forgot 129:10	fran 230:22 248:3 268:14	gathered 302:14
firm 11:9,11,18 190:1,7,13 302:10	form 32:6 36:19 37:7 38:20 39:20 45:15 58:3,13 59:1 59:16 77:4,10 78:3 79:17 82:13,21 83:22 84:8,15 86:9,22 87:14 88:4,16 94:18 95:3,9,16 97:6 99:17 100:11 106:15 107:19 108:19 110:13,20 119:16 122:5 134:4,14 145:16 146:11,19 148:7 152:14 153:4,17 154:20 155:14 156:2,11 168:7 169:17 170:17 171:7,15 173:2 175:19 176:9 186:20 197:14 209:21 213:4 215:9 218:9 219:4 222:16 223:5 223:11 224:21 225:1,6,12 225:19 226:4 227:22 228:12 234:11 235:17 242:13 254:3,10 257:21 258:22 262:22 265:19 267:14 270:10,19 271:6 272:20 273:9 275:19 276:3 283:7 284:9 285:1 286:6 291:9 292:5 307:18 309:21	francisco 4:6	gathering 302:18
first 12:13 28:16,19 29:13 47:6 48:1,19 90:20 91:15 116:5 123:16 124:10,10 180:22 220:11 241:15 242:2 248:4 248:18 252:5,12 256:18 259:10 268:13,21 318:5 323:8		free 153:16 154:9,9,15 188:21 189:2,8 207:12 208:1,7,19 208:20 209:14,16,19 210:11 212:17 213:2,9 215:7 242:4,9 243:7,21 244:15 245:2 250:10 272:7 310:21 320:6,18	general 4:20 16:11 17:4 36:12,21 37:11,14,19 38:3,11 40:5 97:8 141:7 142:11 146:15 147:10 148:10,11 176:5,19 181:3,5,7 192:16 207:19 221:21 253:15 265:13,15 278:5,5 291:4 293:14 305:21 310:8
five 202:14		freedom 320:21	generally 15:20 31:18 36:10 41:10 76:18,20 78:17 98:1 104:8 104:15 114:14 133:9 142:17 155:17 157:8 176:20 206:7 273:12,15 306:3 314:9
flexible 166:3 214:3		freely 207:9,15 246:10	geneva 122:21
floor 4:5		french 307:7,10,10,15 308:10,16	georgia 301:8
fly 245:3		frequently 127:4	georgia's 301:9
focus 34:5			gerald 4:12 11:21
focused 52:16			gestures 13:16
focuses 51:17 304:5			getting 174:19 241:14
foia 107:13 119:8 178:1			

[gillerman - hat]

<p>gillerman 253:5,17,18</p> <p>give 14:2 30:18 47:19,21 97:12 135:5 148:9 191:8 198:21 274:18</p> <p>given 109:20 129:19 156:3 195:2 220:19 224:22 231:5 232:1 264:20 266:9 271:21 274:16 313:9 332:18 334:10</p> <p>gives 132:19</p> <p>giving 13:7 14:22</p> <p>global 49:2 325:18</p> <p>globally 35:7 133:10 257:14</p> <p>gmf 151:1,2</p> <p>go 10:13 19:18 21:21 23:10 47:19 48:21 55:15 67:11 77:16 78:9 83:10 84:2 99:3 147:8 193:19,20 236:17 279:16 302:18</p> <p>goal 217:5</p> <p>goes 189:21 194:9 208:11 260:14 261:9</p> <p>going 10:4 13:4 14:1 23:18 79:12 113:2 115:15,19 123:7 133:15 147:8 159:18,22 161:18 185:19 190:18 200:11 203:16,20 204:19 205:4,5 260:20 266:8,18 267:6 279:16,20 280:2 310:1 311:4,8</p> <p>good 10:3 11:17 12:18 94:10 167:6 169:3 221:22 222:5 222:6 228:2,17 248:10 268:17 269:4 274:19 275:8</p> <p>goods 25:9 28:22</p> <p>gordon 253:4,17,18</p> <p>gorman 64:3,9</p> <p>gotten 71:10</p>	<p>governance 183:9,20,21</p> <p>governing 182:22 211:9 233:21</p> <p>government 17:8,9 20:20 21:9 23:4 28:7 30:2,4,5,6,9,15,21,22 31:1,7,17 37:4,17 39:2,16 40:9,10 41:13,13 42:18 44:7 45:14 46:4,8,15 48:4 52:10 54:7 55:11 70:3,13 71:10,13 73:14,17,19 77:3 77:9 79:7 92:13 93:3,7,9 93:13 118:10,11,13 125:3 125:4,10,11,12,18,21,22 126:3,14,22 148:4,14 150:12,21 151:2,4 154:17 157:21,22 158:4 166:17 178:11,19 181:13 182:13 186:11 187:20 188:1 192:19 208:18 209:5 218:7 219:14 232:3,5 261:11 264:8 265:22 268:2 281:3 281:19 286:20 291:3 306:20 309:19 316:4 317:15,21 320:10,17 326:4 326:7 327:5 330:11 332:8</p> <p>governments 326:1 331:9</p> <p>government's 218:5 219:12</p> <p>governors 61:22 62:6,21 63:9,13,15 63:18,18,22 64:11</p> <p>grants 73:1</p> <p>grateful 273:19</p> <p>great 19:20 52:8 117:20</p> <p>greater 155:8 281:17 282:6</p> <p>griffin 4:12,17 11:21,21 19:17,21 20:7,10 25:15 26:9 28:12 28:14 30:17 31:12 32:6 33:7,19 34:17 39:4,19 41:8 41:21 43:3,18 45:5 47:16 48:5 49:21 50:7,12 52:22 54:4 58:2,14 59:20 61:19 62:17 64:12,21 65:11 69:1 69:20 73:11 78:2,15 79:16 83:21 84:20 87:13 88:5,17 90:10 91:7,11,16,21 92:14 94:19 95:4,17 96:1 98:13 98:18 99:16 100:10,19</p>	<p>griffin (cont.) 101:16,20 102:18 103:13 104:4,13 105:2,14 106:2,9 107:18 109:16 110:12,21 111:2,13,18 112:9 113:22 114:11,21 117:16,22 119:15 121:9 122:17 125:15,19 126:20 128:8 129:20 130:16 131:16 132:13 133:5,19 135:16 136:18 138:17 140:1,10 141:4 142:9,19 143:10 144:6,22 146:20 147:14 148:8,19 149:4,12 151:17 153:18 154:19 155:15 157:14,17 158:10 159:3 163:18 169:2,8,16 170:16 171:8,16 172:5 173:1,17 174:3,14 175:7,22 177:4 177:11 178:20 181:1,2,3,9 182:5,9 183:7,17 186:9,19 194:16 195:15 200:20 209:22 213:3 215:8 217:11 218:13 219:3,16 221:5,18 222:15 225:8 227:21 228:11 229:7 230:22 231:18 237:3 238:9 242:12 243:10 245:7 246:2 248:3 254:2,9,18 255:11 256:6 257:3,21 258:17,21 260:1 260:7 261:9 262:3,19,21 264:12,19 265:4,6,18 266:6,8,13,17 267:3 268:15 270:9,18 271:5,17 272:19 273:8,18 275:3,11 275:18 276:2,12 278:12 279:13 280:18 281:6 282:8 282:11 283:6 284:8 286:5 287:9 288:7 291:4 293:15 297:8 301:14,17 304:16 305:14,18 307:18 308:3,12 309:2 323:1 325:13 326:5 326:14,22 327:18 328:4,18 329:5 330:1,7,12 331:12 332:14</p> <p>group 44:17 66:5,7 121:21 122:8 123:4 180:19 181:11,16,20 181:21,22 182:3,8 211:7 231:2,3,10 233:19 234:4 234:19,22 241:20 256:19 256:21,22 257:2 271:20 272:2 308:6</p> <p>groups 123:3 181:18,19</p>	<p>growing 52:12</p> <p>gsa 192:16 201:11</p> <p>guard 202:3 252:9</p> <p>guardian 206:16 216:10</p> <p>guess 45:1 113:2 200:11 227:19 228:1 246:13,16</p> <p>guessing 289:4</p> <p>guidance 86:8 108:20 109:13,15 115:8 303:17</p> <p>guidelines 40:2</p> <hr/> <p style="text-align: center;">h</p> <hr/> <p>half 149:19</p> <p>handbook 6:2 85:1,8,12 86:11,21 87:17 88:7 89:1 90:17,19 91:1,4,10,15,20 92:1,2,9 92:11,20 93:3,6,8,13,17 94:6 95:7,11 164:18 165:1 165:4 175:2 319:3</p> <p>handed 117:3 118:22 150:3 159:9 160:19 164:15 179:15 191:3 205:13 229:18 230:14 232:10 235:5 237:9 238:3 240:18 245:15 247:19 250:19 256:11 259:6 268:9 271:12 279:2 280:8 289:9 290:1,17 291:16 292:11 293:19 294:15 295:11 296:5,22 297:21 298:16 299:18 300:12 302:1</p> <p>handing 15:7 16:5 156:19 204:4 288:12</p> <p>handwriting 304:11</p> <p>happened 135:15 139:4</p> <p>happy 49:22 50:13</p> <p>hard 116:17 167:18 200:22 232:16 242:22 302:21</p> <p>hat 67:4</p>
--	---	--	---

[hazardous - incorporating]

<p>hazardous 212:13 214:19 305:6</p> <p>head 50:2,9 53:20 55:18 69:22 80:13 111:11 132:16 149:15</p> <p>headquartered 122:21</p> <p>heads 188:6</p> <p>health 29:8 71:7 73:1 133:12 199:3 252:7 312:22</p> <p>hear 106:5</p> <p>heard 35:12 53:19 141:15 142:5 142:11,15,16,21 143:3,7 144:15,18 145:3,12 146:7 176:19 258:3 269:7</p> <p>hearing 212:20</p> <p>heating 1:7 10:20</p> <p>heavily 60:5</p> <p>held 2:9 11:5 21:4,6 23:2 25:6 49:20 50:6 64:17 117:21 215:1 249:3</p> <p>help 190:1 312:21</p> <p>helps 228:16</p> <p>henry 17:3,21 18:9 19:2 253:4,14 253:15 264:6</p> <p>hereto 227:12 334:15</p> <p>hi 260:7 274:6</p> <p>hierarchy 75:1</p> <p>high 38:8 93:20 105:6 264:17</p> <p>highlighted 35:3 274:9</p> <p>hill 246:15,18 254:21 255:2,3 285:2 286:22</p> <p>historically 167:15</p> <p>hit 111:13</p> <p>hold 22:6,12 24:3 118:18</p>	<p>hold (cont.) 234:12</p> <p>home 324:9,10</p> <p>hope 260:8</p> <p>hosting 61:10</p> <p>hosts 285:5</p> <p>hotel 324:15</p> <p>hour 111:14</p> <p>house 7:14 27:5 252:12 306:15 306:17,18 307:4</p> <p>housed 245:5</p> <p>houses 85:10,20</p> <p>howard 20:16</p> <p>hr 185:13</p> <p>hue 287:16</p> <p>huh 217:1</p> <p>human 73:2,7</p> <hr/> <p style="text-align: center;">i</p> <hr/> <p>ibr 6:2 86:10,11 87:17 95:7,10 136:4 137:11,17 138:8,14 139:3,12,18,21 140:7,22 164:17 165:1,4,12 168:15 171:14 175:2 205:8 207:5 208:4,12,16 210:18 211:1 216:21 217:6,9,13,22 219:1,22 220:6,10 223:3 223:10 224:18,19 225:7,13 226:17 227:16 229:3 234:1 236:9 251:12,14,22 252:2 252:9 254:1,17 255:20 256:3,16 258:5 260:19 304:2,4,5 306:2 319:3</p> <p>ice 232:3</p> <p>icsp 150:14,15 159:7,14</p> <p>idea 176:5 226:22 308:13,18</p> <p>identification 15:5 16:3 117:1 118:20</p>	<p>identification (cont.) 150:1 156:17 157:11 160:17 164:13 179:13 190:15 204:2 205:11 229:16 230:12 232:8 235:3 237:7 238:1,11 240:16 245:13 247:17 250:15,17 256:9 259:4 268:7 271:10 278:22 280:6 288:10 289:7 289:21 290:15 291:14 292:9 293:9 294:13 295:9 296:3,20 297:19 298:14 299:16 300:10 301:21</p> <p>identified 138:6 193:9 194:5 196:6 199:10,22 202:14,16 203:5 203:12</p> <p>identify 109:1,6,14 174:21 193:16 194:2 312:9</p> <p>identifying 109:13</p> <p>iec 140:17,18 217:17 220:8,13</p> <p>ieee 33:3 46:14,16 61:18,21 62:2,5,8,11,20 63:2,9,15 63:20 64:8,11</p> <p>immediately 21:8 23:8 24:12 25:3 92:4 165:17</p> <p>impermissible 310:4</p> <p>implement 247:11</p> <p>implementation 52:3 134:6,12,15,18</p> <p>implemented 164:11 186:12,18</p> <p>implementing 150:20 172:13</p> <p>implications 181:13 182:13</p> <p>importance 248:10 309:15</p> <p>important 188:20 218:3 313:3</p> <p>importantly 88:11,21</p> <p>improving 185:2</p> <p>inaccurate 301:4 306:22 308:5</p> <p>include 36:11,12,13 38:13,17 52:13 94:13 119:20 138:5</p>	<p>include (cont.) 152:10 162:14 164:4,8 171:5 172:12,20 173:22 174:10 220:6,12,20 221:4 227:2 243:17 244:11 256:21 274:20 275:9 285:17 287:5 315:18 324:14 330:10,21</p> <p>included 101:12 120:15 193:17 194:3,5 227:16,18,20 274:14 305:2</p> <p>includes 34:12 35:22 41:15 42:4 108:14 158:14 159:13 160:12 242:20 331:2</p> <p>including 35:2 53:8 71:6 96:17 108:10 142:2 157:13 163:6 181:11 184:5 217:17 274:10 320:19 323:17</p> <p>incorporate 85:13 98:16 115:10 137:4 139:10 167:1 177:20 197:13 211:10 228:14 233:22 283:5,9,22</p> <p>incorporated 8:11 10:19 11:1 87:20 94:11 95:15 97:5,10,13,16 97:18 98:2,7,10 99:7,12,14 100:7 101:10 103:6,18 104:11,18,22 106:1,8,14 109:11 129:4 135:11 136:6 137:1,16,18 138:9 140:7 141:1,17 142:6,16 143:4,8 144:19 145:7,14 146:9,17 147:12 148:6,16 149:2,10 163:16 165:12,20 166:11 166:13,19 167:7,12 168:6 169:1,21 171:4 172:3,21 173:22 174:1,11,17,22 175:4,20 177:2,9 183:1 184:9,20 186:4 187:2 189:7 193:17 194:3,10 195:13 197:20 198:8,11 199:2 202:10 205:5 207:4 207:7 208:2,8 209:4 210:12 212:15 213:1 215:5 217:4 219:8 272:16 273:6 273:21 283:14,20 284:5,7 291:1 304:6 316:6 318:15 319:11 320:7 321:12</p> <p>incorporates 195:11</p> <p>incorporating 87:8 89:4 90:16 95:12</p>
---	--	---	---

[incorporating - issue]

<p>incorporating (cont.) 102:2 112:22 113:7,13 137:21 197:21 198:4 229:4 282:13</p> <p>incorporation 6:11,20 7:4 84:14 85:1,2,4 85:7,11 87:5,7,11,16 88:2 89:12,15,19 94:16 101:8 102:15 103:3,22 107:3,8 107:11,16 108:10,14 109:8 109:9 110:10 111:10 112:5 112:14 113:19 114:9 115:4 134:1,14 135:8,22 136:2 136:10,16,20 143:17 178:13 179:4,10 181:13 182:14 199:15,18 201:9 205:7,22 214:21 235:11 241:9 263:19 288:2,6 317:11 318:19,21 319:16 319:19 321:17</p> <p>incorporations 135:13</p> <p>incorrect 116:3 160:6 187:5</p> <p>increase 284:17</p> <p>independent 238:20</p> <p>independently 220:16</p> <p>index 193:5</p> <p>india 207:2</p> <p>indirectly 106:6</p> <p>individual 30:8,12,14 35:14 37:9,20 38:7 40:1 115:13 135:3 142:12 145:6,13,20 146:7 146:8,16 147:11,18 154:13 155:18 166:20 168:9 173:6 173:11 179:8 193:14 194:17 200:1 270:21 303:9 306:19 314:13 322:9,13,17</p> <p>individuals 67:20 123:22 143:20 173:5 173:9 228:2 259:13 270:5 309:19 324:1 325:8 329:3</p> <p>industries 172:8</p> <p>industry 38:15,17 129:17 133:2,13 133:17 172:7 313:5</p> <p>influencing 258:14</p>	<p>inform 254:21</p> <p>information 51:3 53:2 72:8 73:4 83:6 92:12 94:15 102:20 125:9 125:13 135:12 179:7 184:21 185:1,2 193:3 200:9 204:17 210:20 217:18 221:10 222:2 225:2 225:3,16 226:2,8,9 228:3 231:7 250:13 264:12,15 265:17 266:1,5,22 267:1 269:12 280:15 285:14 286:21 288:1,5 302:22 305:9,21 309:15 319:13 320:21</p> <p>informational 285:11 307:2</p> <p>infrastructure 285:10 314:3 323:17,18,19</p> <p>infringement 6:10 90:8 205:22 206:6</p> <p>initial 56:19 199:1</p> <p>initially 47:15 247:3</p> <p>initiative 261:13</p> <p>innovation 252:7 285:9</p> <p>innovations 257:14</p> <p>input 35:16,17 91:9 100:6 103:4 183:9 231:7 248:20,22 261:15 293:15</p> <p>inserting 239:1,5</p> <p>insight 257:22</p> <p>inspection 74:12 75:11</p> <p>instance 76:1 103:1 104:9,20 105:17 130:11,13 145:5 148:3,13 202:21 322:8,11 322:12,16</p> <p>instances 69:8 75:17 103:12,16 104:16 111:8,12 129:2 168:20 169:7 192:6,6 195:9 258:11 283:12</p> <p>institute 17:5 20:21 21:1,12,18 22:5 24:9 32:22 42:17,19 114:1 114:22 136:20 190:12</p>	<p>institute (cont.) 209:13 312:5 313:8,10,12 320:8</p> <p>institutions 326:19</p> <p>instruct 264:19 266:9</p> <p>instructed 308:16</p> <p>instructions 85:12,17,22 86:6,6,12,18 86:20 88:7 102:10</p> <p>instrumentation 70:20 71:4</p> <p>insurance 135:5</p> <p>intellectual 181:17,22 183:12</p> <p>intended 193:5 196:18,22 197:13 198:8 199:16 219:22</p> <p>intends 167:1 217:2</p> <p>intent 36:13 199:19 215:14</p> <p>intention 175:12</p> <p>interactions 179:6 317:3</p> <p>interagency 150:11,15 151:14 157:19 158:2,4,15</p> <p>interest 36:6,8,10,12,13 37:12,15 37:19 38:3,13 52:8 57:17 62:22 129:13,14 130:5,6 263:9 264:2 265:11 267:12 278:5 324:4 325:16 330:18</p> <p>interested 36:7 37:1 53:5 109:1,6 167:16 168:14 217:6,9,19 244:10 313:13 325:8 329:13 334:15</p> <p>interesting 276:15,21</p> <p>interests 36:15 38:11,13,15,19 39:13,18 40:19 58:6,7,8 76:22 125:8 313:3</p> <p>interfere 10:10</p> <p>interference 10:8</p> <p>interior 201:2</p>	<p>interior's 198:16</p> <p>internal 17:9,9 29:4 99:19,21 264:7 265:15,22 282:16</p> <p>internally 27:1 282:15</p> <p>international 1:4 3:3 10:18 23:21 24:14 24:15 25:5,7,8 26:2 28:20 29:1 32:20 34:21 41:1,3,4 41:5 43:12 47:10 49:11 50:21,21 51:1,4,5,7,10 55:1 63:2,4 65:2 74:22 75:15 118:9 121:21 122:20 132:1 178:2 311:11 319:13 331:21</p> <p>internet 206:8,13 213:9 217:7,10 222:14 242:6,11,16,21 243:2,8</p> <p>interpret 166:3</p> <p>interpretation 199:19</p> <p>inventory 199:2</p> <p>invited 61:9,12 285:12</p> <p>involve 62:15 100:18 324:17</p> <p>involved 12:21 29:4,14,16 47:6,14 48:2,3 49:8 269:22 284:19 319:8,12</p> <p>involvement 61:14 65:9 221:1 278:16 278:19</p> <p>involving 157:22</p> <p>ipc 65:7 123:16</p> <p>iprpc 183:8,11,15 236:18 271:19</p> <p>irresponsible 197:2,4</p> <p>ise 69:6</p> <p>iso 26:14 44:17 69:6 75:4 122:3,8,10,13 123:2 140:17,18 161:19 217:17 220:8,13</p> <p>issue 38:7 96:5 188:21 189:3 207:21 227:9 244:5 246:12</p>
--	---	---	--

[issue - level]

	k	l	lawyers
issue (cont.) 247:8,14 255:10 261:21 263:10 274:12 315:20 319:9 320:12 332:5	keep 216:18	lab 75:10	252:8
issued 91:15 278:9	keeping 73:19 216:15	labeled 165:17 252:14	lays 162:11
issues 51:15 54:9 60:6,10 66:5 102:21 107:1 170:14 178:13 179:3,10 206:20,21 246:12,12,13 251:22 254:1 258:6 271:21 284:19	kevin 3:4 12:2	labeling 162:16	lead 170:13 293:14
issuing 201:14,20	kevin.fee 3:10	labor 36:13 38:13	leads 34:4 265:21 281:5,12,16
item 180:5,18 298:11 301:2	kind 49:7 56:13 95:14 97:4 128:6 155:11 202:7	laboratories 79:22	leaning 263:10,13
items 54:9,9,12 230:4 292:1,20 293:16 295:7	knew 265:21	laboratory 81:2	learn 71:9 148:22 149:8 261:2
j	know 13:21 14:3,7,12 25:13 26:10 31:13,16,22 32:3 44:4,20 64:1,9 66:17 70:8 71:19 77:12,22 79:15 80:11 81:7 82:20 83:3 84:13 90:19,22 91:4,9 95:5 98:9 116:17 126:12 138:18 139:21 148:13 155:1,16 161:2 168:8,10 174:18 176:3,6,7,13,20 178:6 181:5 182:12 183:3,19 184:16 185:4,15 186:7 188:11 189:2 190:6,11,12 192:14 197:16 203:4 207:14 209:9,18 210:8 212:21 221:20 223:1,6,17 225:5,11,14,15,15 226:1,8 226:9,20 227:15 228:4 229:8,9 231:3,14 235:18 240:11 241:10,16,18,21 248:13 249:11,12 250:8,13 251:13 253:22 254:4,12,13 254:22 255:13 256:3,22 259:1 261:19,22 262:11,17 263:1 264:13,16 265:3 266:12,15,21 267:16 268:3 268:5,19,21 269:13,21 270:22 274:22 275:13,20 277:2 279:15 286:15 305:17 308:15 317:20 318:17	lack 129:9,11,12,13 130:3,7 329:16	learned 71:16 145:12
jane 3:5 12:4	known 21:13 184:13 249:13 267:10,21	laid 38:8	leave 280:21
jane.wise 3:11	knowledge 53:8 82:19 106:3,10 133:20 148:20 156:1 209:7 210:2 213:20 223:13 225:20 227:17 275:5 278:14 280:17 284:11 301:6 331:14 332:8	language 196:15 263:7	leaving 233:15
january 25:5 139:8 257:4	known 21:13 184:13 249:13 267:10,21	large 29:5 30:7 52:9 65:1,6 67:9 67:14,17,18 68:6,19 210:5 273:12 313:13 325:7	led 29:2 30:21 40:17 265:21 317:6 324:22 328:7
jillavenkatese 253:5,6,19	known 21:13 184:13 249:13 267:10,21	larger 130:5	ledyard 4:13 11:22
jim 55:8 189:10	known 21:13 184:13 249:13 267:10,21	largest 313:13	left 124:16
job 1:21 71:17,20 72:3,17 185:12 324:18	known 21:13 184:13 249:13 267:10,21	late 255:20	legal 2:11 11:6,9,11 52:15 332:20
joe 251:17,18,19,21 256:19 257:5,17 258:3,11,20	known 21:13 184:13 249:13 267:10,21	latest 193:4 263:6	legislation 29:6,13 96:12 108:6 110:15,18 185:17 212:16 213:1 214:1 215:6 227:6 287:4,6
joe's 258:1	known 21:13 184:13 249:13 267:10,21	latin 61:11	legislations 96:20
joint 150:8,10 157:18,20 159:13 159:15 160:10 294:20	known 21:13 184:13 249:13 267:10,21	law 8:12 11:18 13:9 39:10 46:1 77:3,9,12 84:18 88:13 90:5 90:7 95:15,19,21 96:16,18 101:11 143:20 152:16 164:10 173:16,19 178:2 205:5 207:5,7 208:2,8 218:21 219:21 227:6,11 249:10 287:11,12,19 291:2 302:10	legislative 214:4 246:22
judgment 260:16 276:13	known 21:13 184:13 249:13 267:10,21	laws 77:19 96:5,8 227:13 333:3	legislator 286:2,3
judiciary 306:18	known 21:13 184:13 249:13 267:10,21	lawsuit 15:18,21 215:21 216:16,19 260:16 276:14,22 277:3,5 277:10	legislators 284:17 285:17,22 286:22
judy 64:3,9	known 21:13 184:13 249:13 267:10,21	lawsuits 12:22	legislature 285:15 287:6
july 6:2 24:15 25:2 47:11,13 48:2,8 164:18 252:8,10 298:6 299:3 300:3	known 21:13 184:13 249:13 267:10,21	lawyer 90:12 249:10	letter 5:9 9:20 16:10,15,17,18,21 17:1,14,16 18:7 19:13 20:2 216:10 260:18 264:10 266:19 302:10
june 241:7 251:7 273:20 334:22	known 21:13 184:13 249:13 267:10,21		letters 195:1
justification 212:21	known 21:13 184:13 249:13 267:10,21		level 38:8 75:4 93:20 96:3 105:6 107:2,4,9 114:15,17 118:6 120:15 128:3 264:17 326:12,17 331:15

[levels - mary]

<p>levels 127:20 162:12</p> <p>lewis 3:6 12:3,5</p> <p>libraries 147:3 243:1</p> <p>library 178:12</p> <p>license 173:9 224:13 226:12,16,21</p> <p>licensed 224:4,6,9 225:1 226:14</p> <p>licensing 315:5 327:22</p> <p>lieu 28:7 89:16 218:6,18 219:14</p> <p>life 165:21 170:12</p> <p>light 271:18 273:18</p> <p>limited 35:11 48:15 60:19 142:2 152:10 317:4,5</p> <p>limits 224:9</p> <p>line 233:4 236:8 238:18 239:6 267:4 287:2</p> <p>lines 271:22</p> <p>link 138:11 220:20 221:17 222:9,13,22</p> <p>linkedin 8:2 280:11,13</p> <p>linking 222:2</p> <p>list 102:4 120:4,18,22 137:19 208:11 229:5 252:4,22 270:6 306:19</p> <p>listed 74:19 81:14,18 82:5,7,8 94:20 120:9,20 124:16 137:18 202:10 204:15 210:16 221:20 223:20 233:10 252:18 295:7 305:3 332:9</p> <p>listen 250:4</p> <p>listing 118:13 119:13 233:2</p> <p>lists 50:14 89:1 119:17 120:1,3 120:4 141:20 208:6,8</p>	<p>lists (cont.) 237:19 242:1</p> <p>litigation 16:12 17:15,19,22 18:19 18:22 19:5,6 278:11 301:9</p> <p>little 29:21 30:19 116:13 149:19 282:4</p> <p>liz 231:1 237:16 241:4</p> <p>llp 3:6,16 4:5,13</p> <p>lobby 285:20</p> <p>lobbying 286:4 306:11 307:16 308:7 308:11,16 309:20 310:4,6 310:10,14,15,20</p> <p>located 11:6</p> <p>location 245:3</p> <p>long 14:3,7 21:4 22:6 44:20 47:8 91:19 133:13 249:13 279:15 306:19</p> <p>longer 279:16,18</p> <p>longworth 285:3</p> <p>look 19:18 46:20,22 48:21 51:14 53:1 55:15 67:11 80:19 83:10 84:2 110:3 198:18 202:19 203:11 223:7 228:20 264:9 274:15 277:1 332:4</p> <p>looked 26:11 57:18 58:5 60:7 97:8 229:10 234:15 235:15 289:5</p> <p>looking 70:12 120:18 236:7 246:14 246:17 261:21 266:11</p> <p>looks 117:17,18 236:4 251:10</p> <p>lot 192:10</p> <p>low 324:8</p> <p>lower 256:15</p> <p>lunch 158:2</p>	<p style="text-align: center;">m</p> <p>machine 224:9</p> <p>maiden 20:15</p> <p>mail 5:11 6:6,15,17 7:2,6,8,10 7:12,15,17,19,21 19:7,16 188:1 194:9,14 203:7 225:2 230:21 232:16,18,21 233:2,3,7,10,13,17 234:15 235:15 236:8 237:15,20 241:1,3,4,21 246:1 248:1,4 248:17 251:17 255:14 256:15 257:5 259:11,15,19 259:22 260:2 268:14 269:6 270:5 271:16,17,20,22 272:2 274:5 275:14 276:11 276:12,14 277:2 302:20 303:3,6,12,13 307:15 308:21,22 309:7,9</p> <p>mailed 256:19</p> <p>mails 187:10 251:6 259:10</p> <p>maintain 138:10 270:8,13</p> <p>maintained 135:10,18 156:9,14 157:5 157:8,9 158:8 159:1,1,5 217:15 324:7</p> <p>maintaining 138:16 139:5 323:17</p> <p>maintains 137:3</p> <p>maintenance 135:21 137:12 330:16</p> <p>majority 58:11 129:17 252:5</p> <p>making 185:1 207:14 213:12,17 250:9 266:16 272:15 286:1 287:3</p> <p>malamud 143:3,19 184:7,13,16,17 185:3,20 186:17 187:10 191:12,15 203:1 260:15 276:13</p> <p>malamud's 186:8 196:10 203:7 260:19 261:1,4</p> <p>manage 312:18 328:12,16,21 329:2 329:8</p>	<p>managed 329:21</p> <p>management 9:7 21:12 22:7 23:5 44:18 49:17 72:13,18,20,22 73:1 80:16 100:3 138:21 201:4 260:13 293:13 297:7</p> <p>managing 127:14</p> <p>mandatory 76:7 161:16 162:4 163:8 163:13</p> <p>manipulation 35:16,17</p> <p>manner 166:4 199:21</p> <p>manufacturing 23:20</p> <p>march 21:7 23:11,11 24:2 181:6 184:2,14 231:5 236:16 292:18 294:4 297:9,11</p> <p>mark 15:2,22 111:14 116:20</p> <p>marked 15:4,8 16:2,6 116:22 117:4 118:19 119:1 149:22 150:3 156:16,20 157:10 160:16 160:20 164:12,16 179:12 190:14 191:4 204:1,5 205:10,14 229:15,19 230:11,15,16 232:7,11 235:2,6 237:6,10,22 238:4 240:15,19 245:12,16 247:16,20 250:14,16,20 256:8,12 259:3,7 268:6,10 271:9,13 278:21 279:3 280:5,9 288:9,13 289:6,10 289:20 290:2,14,17 291:13 291:16 292:8,12 293:8,20 294:12,16 295:8,12 296:2 296:6,19 297:1,18,22 298:13,17 299:15,19 300:9 300:13 301:20</p> <p>market 29:4</p> <p>marking 162:16</p> <p>mary 1:14 2:9 5:2 8:3 10:15 12:12 16:13 20:13,15 231:8 248:8 252:19 253:4 256:21 260:2,3,4,7,8,9 263:4,6,8 268:16 281:5,12 281:16 332:18 333:11</p>
--	--	---	---

[mary.saunders - moment]

mary.saunders 233:11	mechanisms 272:22	members 37:4 39:15 41:14 48:15	milburn 4:13 11:22
material 85:13 86:13 90:16 94:11 94:12,16 95:12 99:7,12,14 165:12,19 166:2,11 167:3 169:21 170:11 171:4,6 172:1,3,12,19 173:22 174:6,9,22 177:20 214:19 224:6 226:14 242:3	media 10:14 115:16,20 159:19 160:1 203:17,21 279:21 280:3 311:5,9 332:19	51:3,3 53:5 58:10 63:3,17 63:18 65:5 67:19 68:16,17 68:18 69:3 100:6 109:1,6 123:18,20 125:12 126:3 129:17 153:7 158:4 241:5 241:19 253:20 255:6,9 284:15 306:15,17 307:5	military 201:11,21 202:1,5
materially 36:7,22 329:13	medical 70:20 71:4	membership 41:15 43:15,21 44:6,7 45:3 45:7 46:5,12 55:4,6,16 63:19 119:14 124:19,20 125:1,7 154:7,10,14,16 278:3	miller 3:15 12:6,7
materials 1:4 3:3 10:17 53:6 86:1 87:17 88:10 89:5 165:12 183:1 211:11 212:13 224:4 224:9,14 225:1 234:1 305:6	meet 125:7,12 126:15,17 127:1 151:22 170:7 188:6 271:3 313:15	memorializes 20:3	mind 116:12 232:3
matrix 7:14 252:13,15 254:8	meeting 8:4,7,21 59:4,9 150:8,12 151:4,9,12,16,19,20 153:14 155:22 156:4,8,12 157:3,19,22 158:1 159:13 159:15 160:11 179:19,21 184:14 188:16 204:10,12 214:18 215:1 230:5,7 249:1 252:8 253:3 269:5 269:17,19 288:17,18,20,22 289:1,3,14,15 290:7,12 291:5,7,11,22 292:18,22 293:2 294:4,5,19,20,21 295:2,4,18,19 296:12,13 298:6,7,10 299:2,5,14 300:2,4,18,20 304:18 305:1,2 324:12	memory 56:1 57:8 107:1 126:22 146:13,15 147:10,18 149:21 153:19 180:1 182:16 186:6 211:16 240:5 240:5	mine 199:3 250:5
matt 279:6	meetings 68:3,9 107:10 126:7,9,11 126:13,19 144:11 156:8,14 157:7 252:5 254:22 255:2 255:3,5,9,15 269:8,9,14 270:1 271:19 293:5,7 307:2	memos 93:19	minimal 176:10
matter 10:16 17:13 258:1	meets 67:20 124:7	mention 65:16 116:5,7 123:13,15 257:6	minimize 141:9
matthew 4:3 11:18	member 32:17,20,21 33:9,11 41:11 41:13,17 42:11,13,14,18 42:19,22 43:9 44:1,12,19 44:21 46:8,10,13,16 48:9 51:11 53:11,16,18 54:3,15 54:19,21,22 55:12,13 56:3 56:4,7,9,18 57:2,9 58:1,22 59:3,7 60:14,18,22 61:3,5 61:6,6 63:8,14 64:10 65:10 65:19 67:12 68:8,21 106:21 107:6 118:8,10,10 118:11,13 121:10,13,15 125:3,4,5,11,18,21,21,22 126:14,22 150:12 151:2 157:21,22 182:2,3 183:14 189:19 278:2,8 285:5	mentioned 22:10 30:10 34:22 39:7 44:5 45:16 47:9,17 48:6 49:1,10 53:14 58:5 60:9 61:20 62:20 65:1 68:15 69:2 78:4 81:22 85:19 93:14 100:12 101:12 124:18 127:8 128:20 139:13 152:15 169:18 173:4 193:13 200:21 219:5 219:18 228:13 242:22 246:19 247:9 249:4 250:1 270:2 272:21 286:22 287:11 324:6 325:3	minority 252:5
mbecker 4:8		message 252:2 254:17 268:16	minutes 6:3,13 8:14,18 9:3,15,17 111:16 179:18 230:3,9 232:1 291:21 294:2 296:10 300:1,17 323:7
mckiel 260:2,3,4 263:4,8		message 252:2 254:17 268:16	missed 252:20
mean 16:17 26:17 30:1 32:14 36:5 41:6,9,10 52:6 59:8 73:6 76:10 78:9 85:17 88:22 89:8,18 94:4 101:5 108:4 126:5,5,18 129:16 134:11 142:11 170:15 174:18,19 175:10 193:12 193:21 194:15 231:15 240:6 242:3 254:12 263:12 263:16 268:20 270:17 278:1 281:19,21 282:5 328:21		mentioned 22:10 30:10 34:22 39:7 44:5 45:16 47:9,17 48:6 49:1,10 53:14 58:5 60:9 61:20 62:20 65:1 68:15 69:2 78:4 81:22 85:19 93:14 100:12 101:12 124:18 127:8 128:20 139:13 152:15 169:18 173:4 193:13 200:21 219:5 219:18 228:13 242:22 246:19 247:9 249:4 250:1 270:2 272:21 286:22 287:11 324:6 325:3	missing 189:15
meaning 269:6 281:21		message 252:2 254:17 268:16	mission 21:20 27:16 28:5 30:10 31:3 39:13,18 40:16,21 43:14 108:1,18,22 109:5 111:22 112:17 152:9,19 228:16 282:2 287:16 316:16
means 26:22 27:3 59:9 77:14 83:17 84:14 99:2 100:14 129:21 139:12 146:22 147:4 170:21 183:21 274:2 305:18		messaging 190:3	missions 45:21 108:9 112:3
meant 126:21 154:8 194:2 242:8 249:21 263:20 275:8		met 180:10 249:15	misspoke 241:15
measurement 21:17 22:5 313:8		metal 215:22	mistaken 52:19
		method 314:17	misunderstanding 188:22
		methods 31:19 153:9 162:15	misuse 196:2
		microphones 10:6,10	model 314:12,12 315:15
			models 154:6 155:6 325:18
			modernization 77:17 78:5 79:14 80:7 81:15,20 82:3 83:15 84:6 84:10
			moment 171:21 185:19 232:20

[moment - object]

moment (cont.) 276:6	nara's 85:12,16 211:9 212:5 232:6 233:21	neiman (cont.) 248:4 274:6 275:8	nonpublic 264:14,15
monday 236:16	narrow 286:7	neither 334:11	nonspecific 145:2
money 313:21 323:10	nation 257:10	network 224:10	noon 236:15
month 144:11	national 1:5 3:13 4:21 10:18 17:4 20:21,22 21:12,17 22:4 24:9 27:14,18,21 28:1 30:10 38:10 39:5 40:21,22 41:2 42:16,19 43:9,10 45:17 49:13,14 51:12,14 51:15,16,19 52:5 57:17 61:10 65:4 74:17 76:14,16 78:18 82:4 84:22 85:6,9,19 92:18 93:15 118:3,4,7 122:22 123:1,17 127:7,10 127:15 128:2,4,12 131:6 131:15 132:6,12,17 133:1 133:3,6,7,16,18,22 134:3,7 134:20 136:9,12 140:16 152:16 175:12 178:8 180:8 182:21 189:19 199:4,5 204:21 209:15 211:3,8 216:1,5 218:15 233:20 235:12 268:21,22 269:4 281:22 288:18 289:15 294:22 307:8 313:7,10 317:1	neutral 263:7	normal 172:9
monthly 269:12		new 4:15,15 56:19,21 63:18 236:17 260:9,10 330:16	northwest 11:7
morgan 3:6 12:2,4		nfpa 12:8,9 188:5 189:13 199:5 199:6,13,17 200:5 208:19 209:14,16 274:21 275:10 275:17 277:6 322:13	notary 333:19 334:1,21
morganlewis.com 3:10,11			note 10:6 160:9 198:17 202:13 231:22
morning 10:3 11:17 12:18 260:22		nist 21:13,16,17 22:1,2,8,21 23:6,9,13 24:14,20 27:1,6 27:14 43:1,7,13,14,15,21 44:2,6,11 45:3 46:2,18 47:10 48:7,8 54:17,18,18 56:7 57:18 61:12 72:14,21 73:5 93:21 105:4 107:14 115:3,8 119:9 135:7,10 136:22 139:5,14 145:18 146:1 153:6,6 184:19 191:10,20 195:2 196:21 197:5,5,6,11 198:6 199:1,9 199:14 200:4,13,17 231:10 231:16,19,20 233:13,15 253:16 273:11 311:16,17 311:21,21 312:4,10 313:2 313:16,20 314:6 315:1,8 316:4,19 317:2,10,10,14 319:8 320:4,4,13 321:7,9 321:20 322:4	noted 118:2 154:4 183:7 188:4 188:20 194:22 248:18
motivation 218:3,12			notes 302:21 305:3,12
move 101:4			notice 2:15 87:9 99:22 100:15,17 100:22 137:6 167:4 182:20 211:6,14 233:18 234:5 242:2 246:12 248:20 272:5
moved 47:9 48:7			notices 167:18
moves 99:4 331:5			notifying 287:17
moving 58:19 215:18			noting 155:4 237:16
msha 199:4,9,12 200:6,7			november 22:9,17,22 23:12 295:18 296:12 300:19
mt.com 3:20			npc 65:7 268:17,20 271:18
multiple 76:15 223:16			nspa 199:10
multiplicity 76:13			ntaa 28:2 177:21 178:6
munger 3:16 12:7			number 44:14 52:12 83:8 126:19 130:5 138:2,3,7 173:9 187:9 210:5,19 217:15,16 220:18 251:22 332:19
municipal 331:9,15			
n			o
n.w. 2:12 3:7,17	necessary 72:1 164:6 166:8 200:10 324:13	nist.gov 233:11	oath 13:7
name 11:8,17 20:15 169:6 189:15 225:2,3 233:3	need 13:15 14:6 31:2 102:1 152:19 170:20 190:1 248:11 265:1 266:20 316:15 321:16	nist's 27:16 48:13 138:15 196:14 198:19 202:17 313:9	object 218:9 309:17 310:1,3,13 312:3,13 313:6 314:10,19 315:7,13,21 316:9,20 317:18 318:2 319:1,21 320:14 321:1,22 322:5 326:14
names 20:13 31:22	needed 18:14 221:3,16 242:9	nominated 67:5	
nara 86:10 87:17 88:7 89:1,1 90:17,19,22 91:4,10,15,20 92:1,2,6,9,11,20 93:2,6,8 93:12,17 94:6 169:19 211:1,2 231:6,20 232:1 240:7 241:8 242:20 261:13 272:5	needs 151:22 152:4 155:7,12 172:14 194:2 313:16	nominating 67:6,7 118:16	
	negative 210:21 228:8	nominations 124:13	
	neglected 65:16 116:5,7 123:13	non 260:21	
	neiman 231:1 237:16 241:4 248:2	nondated 199:15	
		nonprivileged 266:4	
		nonprofit 71:5 270:12	

[objection - organization]

<p>objection 25:15 26:9 28:12 30:17 31:12 32:6,7 33:7,19 34:17 36:19 37:7 38:20 39:4,19 39:20 41:8,21 43:3,18 45:5 45:15 47:16 48:5 49:21 50:7,12 52:22 54:4 58:2,3 58:13,14 59:1,16,20 61:19 62:17 64:12,21 65:11 69:1 69:20 73:11 77:4,10 78:2,3 78:15,16 79:16,17 82:13 82:21 83:21,22 84:8,15,19 84:20 86:9,22 87:13,14 88:4,5,16,17 89:22 90:9,10 91:7,11,16,21 92:14 94:18 94:19 95:3,4,9,16,17 96:1 96:10 97:6 98:13,18,19 99:16,17 100:10,11,19 101:16,20 102:18 103:13 104:4,13 105:2,14,15 106:2,9,15 107:18,19 108:19 109:16 110:12,13 110:20,21 112:8,9 113:22 114:11,21 117:16,22 119:15,16 120:10 121:9 122:5,17 125:15,19 126:20 128:8 129:20 130:16 131:16 132:13 133:5,19 134:4 135:16 136:18 137:14 138:17 140:1,10 141:4,5 142:9,19,20 143:10 144:6,22 145:16 146:2,11,19,20 147:14,16 148:7,8,18,19 149:4,12 151:17 152:14 153:4,17,18 154:19,20 155:14,15 156:2 156:11 157:14,17 158:10 158:11 159:3 163:18,19 168:7 169:2,8,16,17 170:16,17 171:7,8,15,16 172:5,6 173:1,2,17 174:3,4 174:13,14 175:7,8,22 176:9 177:4,5,11,12 178:14,20 182:5,9 183:17 186:9,19,20 190:10 193:22 194:16 195:15 197:14 200:20 209:21,22 213:3,4 215:8,9 217:11,12 218:13 218:14 219:3,4,16,17 221:5,18,19 222:8,15,16 223:5,11 225:8,19 226:4 227:21,22 228:11,12 229:7 231:18 234:11 235:17 236:2 237:3 238:9 240:3 242:12,13 243:10,11 244:1 245:7,8 249:22 250:11</p>	<p>objection (cont.) 254:2,3,9,10,18,19 255:11 255:12 256:6 257:21 258:17,21,22 261:5 262:3 262:21,22 265:18,19 266:6 266:7 267:14 270:9,10,18 270:19 271:5,6 272:19,20 273:8,9 275:3,11,12,18,19 276:2,3 278:12 282:8,11 283:6,7 284:8,9 286:5,6 287:9 288:7 291:9 292:5 301:14,17 304:16 305:14 307:18 308:3,12 309:2,21 310:5,16 323:15 324:20 325:13,14 326:5,6,15,22 327:1,11,17,18 328:4,5,18 328:19 329:5,6 330:1,2,7 330:12,13 331:1,12,13</p> <p>objections 116:17 321:10</p> <p>objectives 69:4</p> <p>obligation 89:13,20</p> <p>obligations 89:6,6,7,8 177:22 178:3</p> <p>obviously 153:10 196:12 240:7</p> <p>occasions 118:16</p> <p>occupied 24:1</p> <p>occur 196:2</p> <p>occurred 185:5 188:16 253:12</p> <p>occurring 212:19</p> <p>occurs 111:12</p> <p>october 24:5 25:1 288:19</p> <p>offer 268:17 269:4</p> <p>offered 71:17 139:12</p> <p>offhand 31:16</p> <p>office 9:7 23:13 24:17,18 25:9,10 26:19,22 28:21 47:11 48:7 48:12 85:10,21 86:2 91:2 100:2,21 105:5 139:15 149:15,18 164:18 165:2 167:5 178:12 179:3,9 253:20 269:18 270:14</p>	<p>office (cont.) 297:7 318:13,17 319:13,15</p> <p>officer 73:3,4 334:3</p> <p>officers 73:10</p> <p>offices 25:7 27:5 268:17 269:5 270:4,8,22 271:1</p> <p>office's 178:18</p> <p>official 17:8 126:4 303:16</p> <p>officio 65:5 68:18</p> <p>ofr 196:7,11 319:9</p> <p>ofr's 319:17</p> <p>oh 194:13 281:10</p> <p>okay 14:13 20:7 23:10 28:14 56:21 82:9 94:6 96:15 116:11 161:22 180:4,16 181:9 188:3 203:15 265:16 281:10,11 311:18 322:8 323:1 331:16 332:12</p> <p>olsen 12:7</p> <p>olson 3:16</p> <p>omb 34:10 45:22 79:2 85:3 89:3 90:13 92:5,5,7,20 93:16 101:21 102:7,9,10 114:2 139:7 141:19,20 147:22 150:17 152:18 170:3 204:22 261:13,13 262:5,13 263:9 264:2,17 265:11 267:11,22,22 282:1 287:19 297:7 317:20 318:4 319:9 319:13,17</p> <p>once 126:16</p> <p>ones 41:22 257:16</p> <p>online 168:2 208:17,20 209:20 210:11 212:17 213:2 215:7 242:4,9 243:6,21 244:16 245:2 250:3 272:8,11 320:6,18</p> <p>open 17:6 18:10 35:5,9,11,16,17 155:4 158:1 214:17 224:4</p>	<p>open (cont.) 285:4 329:13</p> <p>opening 151:12</p> <p>openness 34:13 36:1 128:21</p> <p>operate 75:20 76:4 83:18</p> <p>operated 121:20 122:1</p> <p>operates 114:5 121:20</p> <p>operational 72:21 73:4</p> <p>operations 53:21 155:18 226:6 282:16 315:4</p> <p>operative 94:2,3 246:2</p> <p>opine 142:5,16 144:18 153:15</p> <p>opined 154:6</p> <p>opinion 83:1 215:11 243:13,16,20 245:11 316:11,11</p> <p>opposed 46:9 101:9 115:4 154:12 313:5</p> <p>option 242:20</p> <p>options 242:22 244:18 272:9</p> <p>order 49:20 58:11 75:20 76:4 134:21 221:3,16 225:12 226:17 241:13 279:9 320:20 324:3</p> <p>orders 93:18</p> <p>organic 108:5 109:18</p> <p>organization 5:10 22:16 26:2 33:2,18 34:1,2,3 37:20 40:14 41:1 51:6 71:5 75:9,19 76:3 83:18 84:5 103:5,17 104:10,17,21 105:18,22 106:7,13,18 114:8 117:21 120:15 121:22 122:20 123:10 127:22 131:2,9,13 132:4 138:4 140:17 168:11 168:12,12 173:8,10 179:2 202:9 209:11 221:9 222:19 225:3 270:13 278:17 285:20 304:19 308:11</p>
---	---	---	---

[organizational - permitted]

<p>organizational 41:14 42:3 117:11,14 323:18</p> <p>organizations 32:13,16,18 33:6,13 34:20 41:4,7,16,17 42:5,5,6,9 44:10 47:3 70:18 72:6,9 75:6 78:8 82:10,12,15 105:8,13 106:22 107:5 120:6,8 122:19 128:9 129:22 130:19,20 153:11 166:10 210:3,6,9,10,16 217:17 222:1 241:19 269:11,22 274:21 275:9 285:5 287:15 305:3,11,22 308:17 312:6,16 314:7 315:4 316:7 318:1,8 319:5 324:7,10 325:3,8</p> <p>organization's 26:4 79:6 131:21 161:3 311:22 312:11 329:11</p> <p>organizes 140:13</p> <p>original 261:16</p> <p>outbound 222:22</p> <p>outcome 334:16</p> <p>outlined 151:19 247:15</p> <p>outlines 169:20 246:13</p> <p>outreach 7:14 188:5,17 252:2,4,13 252:15,22 254:1,8 284:16 284:21 285:1,15,17 287:5 306:12</p> <p>outside 112:18 202:4 283:16 307:7</p> <p>overall 78:9 114:4 133:8</p> <p>oversaw 73:6</p> <p>oversee 62:13</p> <p>overseeing 52:2</p> <p>oversees 62:7</p> <p>oversight 78:6 306:17</p> <p>owner 166:22 221:7,12 327:13</p> <p>owners 206:21</p>	<p>owning 167:2 168:11,11 222:1</p> <p>oxymoron 306:14</p> <hr/> <p style="text-align: center;">p</p> <hr/> <p>p.m. 332:17,22</p> <p>packaging 162:15</p> <p>page 5:2 119:11 153:22 154:3 160:21 161:1,10 165:8,10 169:19 170:6 177:15 180:2 180:17,17 188:3 194:14 201:7 204:14 206:6 207:3 210:22 220:5 224:20 237:18 238:14,15,19 242:1 252:12,13 253:1 256:15 268:13 272:3 276:10 280:11 309:11</p> <p>pager 309:14</p> <p>pages 1:22 132:17 207:22 304:13</p> <p>paid 44:6 45:6</p> <p>panel 251:11 285:2</p> <p>paper 181:12 182:13 183:8 331:7</p> <p>papers 306:6</p> <p>paragraph 151:19 154:2 162:21 165:16 180:20,22 184:4 188:19 194:21 195:4 198:22 199:11 200:12 236:12,13 239:12 256:17 272:4 303:22</p> <p>paragraphs 155:3 273:17</p> <p>paraphrasing 34:11</p> <p>pardon 253:7</p> <p>part 24:19 31:1 40:20 85:15 109:13,15 119:7 120:19 127:17 134:22 137:5 138:21 139:17,19 143:12 143:14,17 154:10,16 159:5 164:7 167:2 170:1 226:5 231:9 234:3,18,21 238:8 240:14 241:20 282:17 314:16 315:5 318:10</p>	<p>part (cont.) 323:21 328:2</p> <p>participants 38:4 130:6 154:8 324:6 325:2,5 327:4,8,20</p> <p>participate 36:17 37:4,10 39:3,11,16 40:3 43:6 44:1,9 45:19 46:14 54:1 69:15 121:16 125:17 126:8 144:2 152:21 153:3 211:21 234:4 255:15 297:13 324:1,12 325:11 326:2,20 330:19 331:10</p> <p>participated 42:22 43:11,12 44:12 47:2 56:3 61:7,16,18 63:8 69:19 105:13 119:18 122:10 123:11 126:10 143:19 144:4 153:7 214:17,22 246:5 308:8</p> <p>participating 43:17 45:4,8,12 46:1 59:13 121:6 122:7 313:4 326:8 331:4</p> <p>participation 30:22 39:22 43:16,22 48:13,14 60:18 102:12 119:10,20 120:14,22 121:1 122:21 144:10 152:2 153:10 154:11,17 155:9 231:1 324:8</p> <p>particular 35:15 36:15 40:2 48:22 76:21 103:9,9 110:4 111:1 128:1 129:14 130:15 132:5 134:6 135:6 144:16,19 152:8 169:6 172:14,15 193:8 197:19 202:11 203:1 214:21 228:3 229:1,5 234:22 274:18 312:17 330:18</p> <p>particularly 27:8 257:11,15</p> <p>parties 2:16 10:13 36:7 37:1 167:16 168:15 170:10 171:22 217:6,9,20 244:10 334:12,14</p> <p>partnership 257:9,20 258:5,7,9,13</p> <p>parts 51:9</p> <p>party 179:8</p> <p>passage 29:5</p>	<p>passed 96:6 239:7 287:11</p> <p>passes 96:12</p> <p>patent 62:9,20</p> <p>patricia 230:22 248:2 260:1,7 268:15 291:3 293:15 297:8</p> <p>patty 181:3 246:7 252:8 256:20 257:3 263:5 274:7</p> <p>pauley 188:20 189:4,9,10,12,22</p> <p>pauley's 189:14</p> <p>pause 28:13 111:2,4</p> <p>pay 43:15,21 45:3 46:7,9 154:7 173:8 323:13 325:10 326:1 326:19</p> <p>paying 154:12 310:18</p> <p>pen 331:7</p> <p>penalty 333:2</p> <p>pending 14:8</p> <p>pennsylvania 3:7</p> <p>people 55:20 167:16 222:12 242:6 242:11,16 243:1,8 268:1 307:2 328:16</p> <p>performance 162:13</p> <p>period 28:21 32:21 44:19 49:17 101:1 214:11 227:10 239:20 240:12</p> <p>periodic 198:14 202:17</p> <p>periodically 92:2 126:6,6 127:1 132:20 198:10 228:20</p> <p>perjury 333:2</p> <p>permissible 19:9,10 265:4,14</p> <p>permission 220:19 221:3,11,16 222:10 222:13</p> <p>permitted 110:15,18 226:13 267:5</p>
--	--	---	---

[permitted - prevention]

permitted (cont.) 286:8,13,18	planning 18:12	portal (cont.) 205:8 209:2 210:18 216:22	powerpoint 290:22 291:6 297:5 298:21
person 44:1 48:12 63:20 64:1 149:1,9 203:9 245:2 249:8	plans 70:12 71:13 188:6	217:3,13,14,22 219:1,22 220:10 223:7 224:17,19 225:7,13 226:18 227:1,16 229:3,10,13,14 303:13 304:2,4,5 306:2	practice 167:6 169:4 195:19 196:14 197:18 221:21,22 222:5,7 222:18,21 228:2,17 263:11 263:14,17,21 264:3 265:12 267:12 313:14,17
personal 17:7 45:13 47:4 114:19 223:12 227:17 286:19 316:10,11 329:8	play 214:12	portion 83:4 157:21 172:20 174:1 174:10,17 175:4 176:11 201:2 246:2 290:12	practices 94:10,15
personally 42:16,21 43:19 45:8 93:4 103:20 104:5 178:15 179:5 182:18 282:5	played 252:1 332:9	portions 198:11 200:22	practitioners 143:20
personnel 75:12	please 10:6,9 11:16 12:11 13:20 14:7 15:2,22 77:6 116:20 165:8 180:2 281:4 303:1 304:9 306:5,7 332:2	pose 166:1	predated 121:2
petition 182:20 183:3 211:1,7 233:19 240:7,14 241:9 301:8	pleased 231:9,12 234:18	position 21:4,6 23:3,14 24:1,3 25:9 28:17,19 62:4 66:18 70:4,7 70:10,19 71:10 72:7 92:16 123:16 145:17 146:1,5 149:16 151:13 178:18 181:12 182:12 183:8 244:21 250:6 260:9,10,13 311:21 315:1,9,11 316:1 317:16,21 318:19 320:1,9 320:11	preference 135:6
petroleum 209:12	plenary 239:8	positions 22:13,16 25:6 49:19 50:6 50:11,15 64:17,19 65:13 70:14,15,17,22 116:6 117:20 122:2 123:10 124:9 124:14 311:17 317:10 319:18 320:4 321:10,15	preliminaries 13:3
phase 220:5	plus 160:12 241:5 274:8	positive 210:20	prepare 86:1,13 293:6
philosophically 274:9	point 13:19 108:21 109:4 116:4 161:11 162:6 163:2 168:10 170:5 198:1 200:17 239:11 239:18 255:18 261:19 269:17	possibility 98:6 105:21	prepared 14:16 156:9 157:5,8 158:8 159:1 307:6
phmsa 212:14,16 213:1 215:6	pointed 92:17 168:14 187:4	possible 19:15 38:12 55:17 113:3 135:5 146:12 149:19 227:8 276:4 324:16	prepares 293:4
phone 18:14	points 248:10	post 70:13 71:13 221:9	prescriptive 274:16
phones 10:9	policies 79:8	posted 182:17 260:19 262:16	present 2:15 4:19 11:13 151:9 179:21 180:16 206:2 288:20 291:11 293:2 295:2 295:19 297:10 298:7 299:6 300:4,20
phrased 208:3	policy 20:20 21:10 23:4 27:8,10 43:9,10,12 46:1 48:14,17 49:6,7,11,15 50:21 51:1,10 51:12,14,16,19,20 65:2,4 67:13 68:10,12,17,22 70:3 71:11 73:15 105:6 118:3,4 118:7,9 120:15 123:17 124:9 127:7,10 150:11,16 151:14 156:13 157:20 158:3,16 181:18 182:1 183:13 268:22 269:4 281:3 282:3,19 286:21 287:19 288:18 289:15 294:20,21 294:22 303:18 304:1 319:16 329:15	posting 206:7,13,19 216:11 222:2 285:2	prescription 132:18 205:20 206:3 290:22 291:6 297:6,11 298:22 299:11,12
physical 167:15 245:4	pointed 92:17 168:14 187:4	postings 206:22	presented 69:5 185:2 224:21 291:2,7 297:8 299:1
pick 10:7	points 248:10	posts 168:16	presenting 204:15
picked 194:7	policies 79:8	postings 206:22	president 4:20 20:19 53:19 55:9 66:4 67:22 96:13 251:19 281:2 286:20 291:3,4
piece 185:17 266:22 267:1 287:4	policy 20:20 21:10 23:4 27:8,10 43:9,10,12 46:1 48:14,17 49:6,7,11,15 50:21 51:1,10 51:12,14,16,19,20 65:2,4 67:13 68:10,12,17,22 70:3 71:11 73:15 105:6 118:3,4 118:7,9 120:15 123:17 124:9 127:7,10 150:11,16 151:14 156:13 157:20 158:3,16 181:18 182:1 183:13 268:22 269:4 281:3 282:3,19 286:21 287:19 288:18 289:15 294:20,21 294:22 303:18 304:1 319:16 329:15	potentially 309:19	presidential 287:12
pipeline 185:11,13,15 212:7,10,13 214:10,15,19 246:11,20 248:21 250:2 304:18,19 305:5	political 60:7 265:15	potential 54:22 171:3,14	presumably 71:21
place 10:9,12 18:2 137:22 151:7 156:4 171:1 217:18,19 228:19 287:2	portal 135:22 136:3,4,5 137:3,3,9 137:12,17 138:8,11,15 139:12,16,18,22 140:7,12 140:22 141:8 168:13,15		pretty 277:19
places 125:7	planning 18:12		preventing 14:21
plaintiffs 1:9 10:22	plans 70:12 71:13 188:6		prevention 224:6,8
plan 252:2	play 214:12		

[previous - purposes]

previous 129:6 294:6 296:14 299:6	proceedings (cont.) 300:7 301:1	project 132:5	providing (cont.) 220:2 309:14
previously 14:11 42:14 54:19 61:15 123:12	proceeds 327:9,16,21	promise 14:3	provision 78:7 127:19 128:7
primarily 63:12 311:15	process 17:10 34:4,12,14 35:1,22 36:2 58:20 99:5,22 101:5 103:10 127:15,18 128:11 128:22 129:15,22 131:1,20 132:1,18 134:8 144:12 147:22 154:12,18 155:9 175:16 210:14 228:19 312:18 313:4 327:21 328:12,16,21 329:9,21 331:3	promote 93:21	provisions 120:5 140:15 155:7,11 163:7
primary 312:14	processes 26:1 99:19 132:5 329:12	promotion 94:7	public 17:19 20:20 21:10 23:4 57:11 70:3 71:11 73:14 83:13 99:3 100:6,15,18 102:16 144:10 147:2 152:19 166:12,18 168:22 188:5,17 190:1,4,6,13 215:22 216:9 246:4 247:6 248:17,20,22,22 249:1 257:9,13,20 258:4,7,8,13 261:18 262:8,13,15 276:16 277:6,11 281:3 286:20 301:10 305:5 312:21 333:19 334:1,21
principle 140:4	procurement 282:3,17,18	promulgating 199:20	public.resource.org 1:11 4:2 11:1,19 15:19 107:12 184:7 205:7 215:19 260:18
print 223:4,10 224:5,5 320:6,19	produce 187:15 302:19 313:15	property 72:22 181:17,22 183:12	public.resources.org 196:7
printout 119:8	produced 34:12 35:22 117:5,12 119:2 150:5 156:21 165:2 179:16 191:5 192:18 204:7 205:15 229:20 233:2 235:7 237:10 238:5 240:20 245:17 256:13 259:8 268:11 271:14 279:4 288:14 289:11 290:3,19 291:18 292:13 293:21 294:16 295:13 296:7 297:2 298:1,18 299:20 300:14 302:2,8,14 303:6	propose 177:19	publication 86:2 92:3,4
prints 224:8	producer 36:11 37:21 38:11,16	proposed 6:8 8:9,16 63:17 87:9 99:22 100:4,22 101:1 102:15 103:2,22 137:6 167:4,19 168:17 246:4 256:1,20 271:20,21 290:6 290:11 292:16,22	publications 223:2
prior 23:14,18 24:12 25:2,3 29:17 72:2 92:4,7 160:6 183:9 184:13 233:14 323:4	producing 89:16	proposing 99:6,7,12	publicly 220:11 267:10,21
private 10:7 27:6 30:21 31:5,10 40:17 46:10 52:9 79:1,9 93:22 94:8 189:16 218:5 218:17 219:13 257:9,20 258:4,7,8,13 268:1 284:18 315:15 317:6 324:22 328:7	product 29:6,8 74:11 75:10 134:19 162:12,17 172:13 175:16	protect 89:6,7,9,13,20 312:21	publish 167:4
privately 32:5	production 16:14 302:3	protected 17:10 89:11 207:11 224:13	published 58:12 86:13 87:18 88:10 90:20 139:7 277:20,22
privilege 17:11	products 26:1 135:2,3	protection 1:5 3:13 4:21 10:19 31:20 88:12 173:12 189:20 199:5 209:15 223:16,21 224:1 260:6 307:8,22 309:16 314:16 317:12 319:10,18 321:17	publishers 166:11
privileged 266:1,4 267:1,2	professionals 52:11,21	protective 279:9	publishes 100:21 103:5
privy 155:17 261:6	profile 8:2 280:13,15	provide 13:5 14:8 50:1,14 53:6 80:5 81:10,15,19 82:2,10 82:11 115:8 130:14 140:14 166:6 168:5 200:22 204:20 209:2 210:11 217:2 228:17 286:21 287:22 288:4	publishing 90:5,6
pro 5:12 6:7 119:3,3,13 191:6	program 29:4 49:2 78:6,9 80:2,3	provided 14:11 80:7 83:12 107:12 119:7 135:12 136:22 139:15 140:11 141:8 186:18 224:12 269:18	purchase 175:15 245:3
probably 44:13 47:20 57:6 66:14 69:8 126:10 189:19 226:7 231:6	programs 52:15,16 53:9 166:1 169:10 281:18 284:16	provider 224:13	purchaser 134:19
problem 207:1,4 247:7 311:14	prohibited 213:6,7	provides 51:2 85:22 86:5 114:4 138:8 217:14 219:6,22	purchasers 76:21 135:2
procedural 177:18		providing 81:3 136:5 172:21 174:2 174:11 175:5 200:13 218:4	purpose 16:20 17:1 57:22 58:4 151:15,18 190:7 222:3 254:8 310:20
procedure 104:2			purposes 176:13 221:11
procedures 99:2,9 100:14 101:3 329:17			
proceeding 104:2 170:2 332:21			
proceedings 289:2,18 290:10 292:4 294:9 295:5,22 296:17			

[pursuant - reference]

<p>pursuant 2:15 46:1 96:5 267:5 316:21 318:6</p> <p>purview 121:18</p> <p>put 67:4 241:14 255:19 264:21 331:7</p>	<p>reached 167:11 213:11</p> <p>reaching 329:18</p> <p>read 77:16 93:6,8,12,19 136:5,5 138:8 140:15 141:16 142:2 142:3,6 154:2 170:7,20 171:21 196:10 208:16 209:2 213:6 217:3,14 221:4,10,17 224:3,4,17 240:7 244:3 272:11 275:17 277:9,12,13,18,21 278:4,6 281:4,6,9,10 305:12,15</p> <p>readability 60:9</p> <p>reading 147:2 167:8,13,15,20,21 168:1,5,9,13 170:12 171:6 171:13 172:2,4 175:1 208:17,22 210:17 242:22 292:6 294:11</p> <p>real 193:5</p> <p>realignment 24:20</p> <p>realization 160:5</p> <p>realize 14:10</p> <p>realized 116:2</p> <p>reason 14:7,21 123:14 158:18,21 190:22 220:16 233:1,6,8 253:11 259:18 267:16,18 270:12</p> <p>reasonable 49:5 138:11 139:9,13 140:3 141:10,12 142:1 166:12,18 168:22 169:12 169:14 170:1,8 177:22 208:12,20 209:19 220:2,3 242:7,18 244:11 248:11 249:21 255:22 261:12 263:19,22 272:6 273:1 320:5</p> <p>reasonably 140:9 141:2,18 142:7,18 143:5,9 144:16,20 165:13 165:20 166:3,7 167:3 169:21 177:3,10 242:3,8 242:15 243:6,16,20 244:14 272:17 273:22 274:3 275:1 320:20</p>	<p>reasons 88:8,8,9,11,22 101:8,12,18</p> <p>recall 50:5 55:19 61:1 69:18 80:21 127:3 132:15 185:22 212:19,20 226:15 232:21 239:1,5,9,16 253:8 258:11 259:15 260:11 261:13 272:4</p> <p>recalling 132:20</p> <p>receive 15:16 19:11 69:3 233:7 327:9,16,21</p> <p>received 15:15 53:21 59:10 62:9,10 145:19 146:4 179:7 279:8</p> <p>receives 67:21</p> <p>receiving 154:13 232:21</p> <p>recess 115:18 159:21 203:19 280:1 311:7</p> <p>recipient 241:1</p> <p>recognition 79:21</p> <p>recognize 15:9 117:7 150:7 157:1 159:11 164:20 179:17 191:7 204:6,9 205:17 212:9 229:22 230:18 232:14 235:9 237:12 240:22 245:20 302:6</p> <p>recognized 80:9 161:14 162:2,22</p> <p>recollection 114:20 180:14 187:8 188:15 236:22 321:14 330:6</p> <p>recommendation 143:16 144:13 203:1 286:2 287:3</p> <p>recommendations 184:22 185:20 186:1,8,17 274:8 285:21</p> <p>recommended 67:7</p> <p>reconstituted 118:17</p> <p>record 10:4,13 11:16 115:16,20 159:19 160:1 193:9 194:2 196:3,5 199:8,13 203:17 203:21 212:5 214:1 264:22</p>	<p>record (cont.) 279:21 280:3,22 311:5,9 332:17 334:10</p> <p>recorded 10:15 119:19</p> <p>recording 10:12</p> <p>records 84:22 85:7,9,20 144:9 175:13 182:21 200:15 211:3,8 233:20 235:12</p> <p>recuse 54:8,11 72:8,10</p> <p>recused 54:8 69:11</p> <p>redirect 322:22</p> <p>reduced 334:8</p> <p>reducing 88:9</p> <p>refer 25:12 27:10 40:8 64:6 66:6 74:1,8 88:6 90:13 92:11 93:2 96:15,19 97:2 102:4 110:9 197:18 199:16 207:22 223:18 239:14,22</p> <p>reference 6:11,21 7:4 8:12 84:14 85:1,4,8,11,14 87:6,7,8,12 87:16,20 88:2 89:5,13,15 89:20 90:16 94:11,16 95:12,15 97:5,13,16,19 98:2,7,10,16 100:8 101:8 102:2,15 103:3,7,19,22 104:11,18 105:1 106:1,8 106:14 107:3,8,11,16 108:11,15 109:8,9,11 110:10 111:10 112:5,14,22 113:7,13,19,20 114:9,10 115:3,5,9,10 129:5 134:2 134:14 135:8,11,22 136:3 136:6,10,16,21 137:1,5,16 137:18,19,20,21 138:1,10 139:10 140:8 141:1,17 142:7,17 143:4,8,17 144:20 145:8,14 146:10,18 147:13 148:6,16 149:2,11 158:13 159:14 163:16 165:20 167:7 168:6 171:4 175:1,21 177:20 178:13 179:4,10 183:1 184:10,20 186:5 187:2 189:7 193:18 194:4,6 195:12,14 197:20 198:5,8,12 199:3 200:5 202:11 205:5,7,22 207:4,7</p>
q			
<p>qualified 80:10,12 135:4</p> <p>quality 162:12</p> <p>question 13:20 14:4,8 29:22 32:9 36:21 38:1 40:5 46:6 59:22 65:13 75:22,22 76:5 79:12 86:17 95:1 97:8 114:7 133:15 140:21 145:2,11 147:8 149:6 158:7 173:21 190:19 242:14 244:20 261:10,12 263:18 267:21 330:8 331:19 332:7,13</p> <p>questioning 323:8</p> <p>questions 13:4 14:2 20:4 116:2 128:10 184:21 191:16 242:1 264:20 310:22 311:13,16 322:20</p> <p>quick 322:22</p> <p>quite 30:3 62:22 171:10 248:8 268:1</p>			
r			
<p>rachel 3:15 12:6</p> <p>rachel.miller 3:20</p> <p>raise 128:10</p> <p>raises 66:5 192:21</p> <p>range 36:15 75:13 169:10 194:10 219:7 312:16 313:3,13,16 325:5,7 328:11,15</p> <p>ranging 51:4</p> <p>rayburn 285:3</p> <p>reach 137:7 166:21 221:22 254:16</p>			

[reference - replaced]

<p>reference (cont.) 209:4 210:12 211:11 212:16 213:1,7 214:21 215:6 218:5 219:8,12 227:6 228:4,15 234:1 235:11 241:9 258:4 263:19 272:16 273:6,10,22 282:14 283:5,10,14,20,22 284:5 288:2,6 291:1 316:6 317:11 318:15,19,22 319:11,16,20 320:7 321:12 321:17</p> <p>referenced 83:20 138:7 139:2 161:6 161:12 199:4,17 200:14 202:5,15 205:21 227:5,13 303:15,22 304:6</p> <p>references 162:7 163:2 187:5 192:6 192:11 195:5,10 199:10,12 201:8,16 202:19 203:12 228:18,20,21,22 263:8 303:16,20</p> <p>referencing 170:6 195:21 196:11 213:7</p> <p>referred 21:1 22:18 33:3 35:20 114:2,3 183:19 188:11 200:6,7 216:7 240:11 248:6,15,16 251:13 256:4 261:3 276:12</p> <p>referring 20:9 25:13 26:6 27:12,13 28:9 33:17 40:9,10 48:3 60:13 64:7 74:3,4,10,21 91:19 96:8,11 102:6,7 110:17 112:6,14,21 113:6 113:14 161:19 162:21 183:4 189:5,21 191:13 201:5 202:22 207:17 223:17,19,22 224:16,18 248:14 249:2 257:19 258:12 263:13 275:16 276:1 293:12 294:6 306:13 306:15</p> <p>refers 111:9 178:7 182:19 185:10 185:11 192:15 199:16 212:6 215:21 219:19 241:18,22</p> <p>refine 248:11</p> <p>reflect 79:5 132:15 203:5 259:11 280:12 289:2,17 290:9 292:4,21 294:9 295:5,22</p>	<p>reflect (cont.) 296:17 298:9 300:7 301:1</p> <p>reflected 131:21 137:8 195:17 329:10</p> <p>reflecting 261:17</p> <p>reflects 290:11</p> <p>reform 306:17</p> <p>refresh 180:13 236:21,22</p> <p>refrigerating 1:7 10:20</p> <p>refused 130:12</p> <p>regard 249:20</p> <p>regarding 17:5 18:10 19:9 156:7 170:19 177:22 179:3,9 182:20 184:18,19 188:17 231:1 240:12 241:6 244:20 254:1 301:9</p> <p>register 85:11,21 86:2,14 87:18 91:3 100:21 164:19 165:3 167:6 182:20 211:6,14 233:18 248:20 262:17,20 272:5 319:15</p> <p>register's 318:14,18</p> <p>regular 69:7 159:2,6</p> <p>regularly 126:12,15,18 156:9 157:5</p> <p>regulate 178:4</p> <p>regulated 109:2,7 147:2 164:6 170:10 171:22 172:8</p> <p>regulation 31:2,3 77:3,19 81:18 82:7 85:22 86:7 87:2 90:6,7 92:16,22 93:5 97:9,14,16 97:19 98:3,11,17 101:11 102:16 103:4,19 104:1,11 104:18 105:1 106:1,8,14 107:17 113:1,8,14,21 114:10 115:5,11 129:5 145:8,15 146:10,18 147:13 148:6,17 149:3,11 163:3 163:12,16,17,21 164:2,4 165:22 177:2,9 196:18 197:1 198:9 199:21 201:18</p>	<p>regulation (cont.) 202:11 209:4 227:11 229:1 229:4 234:2 282:3,14 283:14 284:1 287:7 318:14</p> <p>regulations 29:10 77:13,21 78:13 79:13 83:16 85:2,14,15 86:4,15,19 87:19,21 92:6 94:12,17 95:19,22 96:5,17 96:20 97:2,5 99:1,7,8,13 99:15 100:8,13 102:3,21 108:13,15 109:12 135:9,14 136:7,21 137:20 138:1 140:8 141:2,17 142:7,17 143:5,9 144:20 147:4 152:11 168:6 171:5 182:22 183:2 193:15 194:18 195:10,18 203:10 211:9,12 218:6 219:9,13 227:13 228:15 233:21 283:3,4,9 283:20,21 284:4,12 288:1 304:7 318:18 319:3</p> <p>regulators 313:5</p> <p>regulatory 98:21,22 109:21 115:13 152:7 165:22 167:18 185:12 188:7 196:15,18,22 197:6,7,9 199:20 215:16 239:15 240:1 247:5 319:14</p> <p>reimbursed 45:10</p> <p>relate 89:13,20 128:21</p> <p>related 21:20 22:3 27:2,3,7,8,11 27:11 29:6,6 31:3 51:15,17 52:7 60:6 62:8,14,19 63:4 71:7 72:9,11 78:20 82:2 83:16 93:17 128:4 129:13 147:5 178:13 185:10 196:5 214:1 230:4 240:8 258:5 284:16 287:16 319:3 334:11</p> <p>relates 130:22</p> <p>relating 260:19</p> <p>relation 219:12</p> <p>relations 20:20 21:9 23:4 70:3 71:11 73:14 188:5 190:1,7,13 281:3 286:20 291:3 306:20</p> <p>relationship 282:19</p>	<p>relationships 73:17</p> <p>relative 334:13</p> <p>released 57:11</p> <p>relevance 252:20</p> <p>relevant 28:6 39:12,17 43:14 44:7 45:20 53:9 73:21 92:17 93:15 94:5,7 95:11 108:22 109:5 114:3 153:12 165:22 169:11 175:16 228:15,22 232:4 244:3 252:3 293:17 302:21,22 312:21 325:17 325:20</p> <p>reliance 93:22 94:7 107:21 108:3</p> <p>relied 314:16</p> <p>rely 79:9 108:7,17 111:21 112:2,16 113:3 218:17 287:13</p> <p>relying 112:4 228:9 317:6</p> <p>remained 187:20</p> <p>remember 16:19 42:1 46:21 54:6 55:18 57:12 63:10 65:17 69:9 71:22 150:8 151:15 170:6 179:11 182:18 183:5 184:22 185:17 186:3,13,21 186:22 187:3 190:20 212:1 212:2 240:6,9,13 250:5 251:5 255:16 277:1 278:19 305:20 315:8</p> <p>remind 47:1 48:22 184:1</p> <p>remotely 11:14</p> <p>renamed 24:19</p> <p>repeat 75:21 141:22 149:6 171:10</p> <p>repeated 161:14 162:2</p> <p>repetition 218:19</p> <p>rephrase 13:21 22:13 59:22 77:6</p> <p>replaced 201:14</p>
---	---	--	---

[report - safety]

<p>report 5:13 8:4,7,21 83:7,11,12 148:22 149:6,8 150:10 155:21 288:17 289:1,14 294:19 295:4</p> <p>reported 1:19 51:22 73:3,9,10</p> <p>reporter 11:10 12:11 13:12 116:15</p> <p>reporting 164:8</p> <p>reports 51:8 53:19,20,21 62:9,10 107:11 156:7,12</p> <p>represent 40:17,19 107:7 193:6</p> <p>representation 36:14</p> <p>representative 125:4</p> <p>representatives 38:18 39:2 269:10 305:4 306:19,20 319:14 327:6</p> <p>representing 11:19,22 40:22 43:13 123:1</p> <p>represents 41:7,10</p> <p>reproduced 176:13 290:13 298:12</p> <p>reproducing 89:16</p> <p>reps 270:3</p> <p>republican 257:16,18 258:14</p> <p>request 6:19 7:3 107:14 119:8 168:16 212:15 231:7,7,21 235:10 236:14 246:6,15,18</p> <p>requesting 19:17 261:22 262:1</p> <p>requests 211:10 232:6 233:22 302:3</p> <p>require 78:1,14 79:15</p> <p>required 28:17 31:11 68:13 71:14 76:20 77:2,9 86:7,20 116:18 165:11 225:5 226:12,17 243:6 320:6,18</p> <p>requirement 52:4 128:11 129:10 170:8 177:18 214:2</p> <p>requirements 29:8 38:9 58:18 81:20</p>	<p>requirements (cont.) 127:18 128:17,19,21 130:1 131:3,18,20 135:4 162:16 164:5,8 247:1 329:10</p> <p>requires 75:19 76:3 77:12 80:1 208:12 225:11</p> <p>requiring 208:1,20 209:19 243:16,21</p> <p>resolved 247:14</p> <p>resource 17:19 215:22 216:9 276:16 277:7,11 301:10</p> <p>resources 21:12 22:7 23:6 72:13,18 72:20 73:2,7 138:21 140:14 260:13 317:5,5</p> <p>respect 18:10 20:4 27:1 72:15 82:1 89:4 128:4 141:10 152:1 175:13 193:2 206:22 222:1 242:20 263:18,21,22 264:9 282:15 287:4 293:16 301:2 315:12 317:10,12,21,22 318:7,14,18,20 319:4,9,18 320:4,11 321:11,16</p> <p>respectfully 236:14</p> <p>respective 2:16 227:5</p> <p>respond 101:4 193:2 231:11,16 232:5 263:3,5</p> <p>responding 276:11 302:5</p> <p>responds 99:4 248:7 263:4 274:6</p> <p>response 6:19 7:3 19:11 21:20 119:7 203:7 211:18,22 212:3 216:11 231:6 234:5 235:10 236:9 237:2 244:4,19 246:6,7 272:4 274:11 302:2 303:21</p> <p>responses 13:16 111:22 187:16 241:14</p> <p>responsibilities 21:21 22:2,4 27:13 51:13 67:16 68:6 72:14 73:13 105:3,4 108:1 109:21 110:4,6 215:16 247:5 313:9 316:16</p> <p>responsibility 115:12 127:10 197:3,8</p>	<p>responsibility (cont.) 198:19,20 228:18</p> <p>responsible 52:1 72:20 73:16 99:6,12 124:13 127:14 134:7 166:9 203:9</p> <p>restriction 224:5</p> <p>restrictions 308:17</p> <p>result 19:13 102:16 103:4 104:1 107:13 203:6 228:9,9 243:22</p> <p>retailers 135:3</p> <p>retained 201:16 332:20</p> <p>retired 21:14 22:10 57:7 135:20 187:19</p> <p>retirement 70:12 71:13</p> <p>revamped 271:19</p> <p>revenues 83:4</p> <p>reverify 193:19,21</p> <p>review 14:16 51:22 86:12 99:22 127:12 183:10,20,22 194:10 200:15 201:3 202:17 231:2,3,10 234:4 234:19,22 239:20 240:12 245:5 256:16,21,22 257:2 261:18 305:19</p> <p>review.docx 236:9</p> <p>reviewed 60:16 195:19</p> <p>reviewing 60:3 194:18 203:9 236:20</p> <p>reviews 100:3 201:17</p> <p>revised 139:7 262:7</p> <p>revises 201:17</p> <p>revising 147:22</p> <p>revision 22:1 27:22 56:15 79:2 205:1 262:5,12</p> <p>right 14:4,6 111:17 132:16</p>	<p>right (cont.) 169:19 216:13 237:21 250:22 252:21 266:17 294:6 309:5</p> <p>rights 181:18,22 183:13 184:8</p> <p>ring 67:4</p> <p>risumi 46:20,22 48:22 50:1,14,17 66:11</p> <p>robust 313:15</p> <p>role 22:6 65:21 84:4 105:11 121:8 122:7 124:3 127:6 152:12 286:19 332:9</p> <p>roles 53:12</p> <p>room 11:13 167:9,13,15,16 168:1,13 208:18,22 242:22</p> <p>rooms 147:3 167:22 168:5,9 210:17</p> <p>row 252:19 253:1</p> <p>rule 87:10 99:5 101:2 137:7 170:9,22,22</p> <p>rulemaking 86:3 87:10 100:1,22 103:9 137:6 166:21 167:5 168:18 170:9,13 217:5 239:21</p> <p>rules 100:1,4 167:19 303:17</p> <p>running 316:8</p> <p>runs 194:11</p> <p>russell 16:10,18 19:2,7 20:3 264:7 267:7</p> <p>russo 1:20 4:22 11:8,11 334:3</p> <hr/> <p style="text-align: center;">s</p> <hr/> <p>safety 29:8 73:2 77:17 78:5,7 79:14 80:7,15 81:14,20 82:3 83:15 84:6,10 133:12 162:13 185:11 199:3 208:18 209:6 212:7,14 214:20 246:11,20 248:21 250:2 257:13 305:6 312:22</p>
--	---	--	---

[sale - significant]

sale 315:5 327:22	scott (cont.) 268:14 291:2 299:2	security 312:22	session 158:1,3,15 159:14 160:13 305:21
sales 327:10	screen 224:7,8	seeing 200:7	set 13:3 126:18 132:17 255:9 307:2 331:16
sally 4:20 12:9	sdo 40:12 120:1,3,4,6,20 151:21 167:2 216:4 221:4 221:16 255:21 260:17 268:18 306:11	seeking 72:6 247:6 248:20 329:15	setting 210:9
san 4:6	sdos 119:14 120:8,14 131:4 138:10 141:9 155:5,11,18 166:17 167:11 168:21 169:11 184:8 188:8 208:15 208:19 209:18 210:17 212:14,22 213:11 215:5 220:7,13,18 261:21 270:3 270:3,8 272:10,12 273:4,5 274:2 306:2,22 314:16 323:13,16,21 328:10,14 329:2,7,20	seen 16:7,8 119:4 160:14 191:1 251:2 254:11 263:7	settlement 127:19 128:7 329:17
sau 9:22 302:9 303:1 304:9,14 306:7 307:13 308:19 309:11	sdo's 221:17 270:21	select 256:19	seven 149:14,17 183:6 240:8
saunders 1:14 2:9 5:2 8:3 10:15 12:12,18 15:7 16:5,13 20:5 20:12,13,17 116:1,11 118:22 160:4,19 180:7 231:8 248:8 252:19 253:4 256:21 267:10 268:16 280:8 323:4 332:1,18 333:11	se 17:22	selected 67:6 70:5	share 125:8,12 261:20 264:15 265:14,16 269:12 325:4,6 327:21
save 320:6	search 72:3	send 50:19 236:14 256:18 273:19 331:10	shared 125:8 264:11 266:1 310:7 325:1
saying 90:4 142:4 146:8 149:1,9 186:16 234:16 263:5 266:22	searched 302:20	sending 271:22	sharing 285:14
says 119:8 151:8,11 155:4 160:21 161:22 162:10 165:11,19 166:8 170:5 171:20 177:17 180:7,22 181:9 183:7 184:4 186:16 188:4,13,19 191:19 192:5 192:10 204:14,19 205:3 206:5,11 207:3,13 208:15 209:18 210:22 211:5,17 212:12 216:13 217:2 218:3 220:5,9,15,18,22 223:15 224:3,20 226:11 227:1 231:8,16 232:19 233:17 236:8,13,19 238:19 239:12 242:5 244:8 246:7 248:3 251:17,21 252:19 253:2,3 255:19 256:17,18 260:7 268:15 271:17 272:3 274:6 279:7 281:4 303:12,14,22	searches 206:18	sends 260:1	sheet 215:22
schrotter 230:22 248:3 268:15	searching 193:15	senior 132:19 293:13,16 310:8	short 115:18 159:16,21 203:14 203:19 280:1 311:7
science 60:7 180:8 204:21 252:7	second 25:9 43:4 111:3,5 118:18 158:14 171:20 180:20 191:10 206:6 238:18 256:17,17 272:3 276:10 303:21 328:13	sense 96:22 135:12 269:1,2,3	shortened 185:13
scope 84:5 110:4 197:3	sections 198:15	sensitive 10:7	shorthand 334:7
scott 230:21 231:15 248:1,5,7 251:9,16 254:13 256:19	sector 27:6 30:21 31:5,11 35:13 35:19 40:17 46:10 52:9 71:8 79:1,9 218:5 219:13 268:2 284:18 315:15 317:6 324:22 328:7	sent 18:7 19:6 63:19 183:8 184:6 185:20 216:9 235:12 237:15 238:7 260:17 268:16	shot 224:7
	sectors 133:13	sentence 171:20 236:13 239:12 256:18 273:11	show 279:6
	secure 225:4	separate 66:20 198:3	showcase 151:21
		separately 241:17	showcased 248:9
		serve 64:10	sibr 137:12 138:5,16 139:5,15 191:16,21 195:1 196:3 202:15 203:4
		served 32:15 43:10 44:15 49:12 55:13,21 56:2 65:18 66:18 118:1,3,5,8,15	sibrs 199:22
		serves 124:6	side 124:16 267:6
		service 21:14 81:13 206:18 209:8 209:17	sides 207:20
		services 23:20 24:7,8,17,18,19,22 26:1 47:12 48:8,13 49:4,9 82:2 135:19 149:14,17 185:7 192:16	sign 226:12
		serving 153:10	signed 96:12 287:12
			significant 143:12 207:1 247:2,3 325:4

[similar - standards]

similar 131:20 209:8	sounds 222:6	specification 161:13 162:1,8,10,19,20 163:6,12 201:21 202:2	standard (cont.) 59:13 102:16 103:3,4,6,18 104:1,10,17,22 105:18,22 106:7,13 109:15 110:9,17 113:6,7,13,15,20 114:10 115:4,5,9,10 119:9,19 122:15 128:1,2,14 129:4 129:18 130:15 131:8,15 132:6,11,12 133:3,4,17,18 134:13,20 135:1,18 137:5 137:8 138:3 144:16,19 145:7,14 146:9,17 147:12 148:5,15 149:2,10,14,16 161:22 162:20 163:15 167:7 169:1 172:15 175:14 177:2,10 179:1 186:4 190:4 195:5,7,12,13 196:3 196:4 197:12,19,22 198:1 198:2,7 201:12 202:9 213:8 221:4 227:6,8 228:10 229:4,6 245:1,3,4,5 245:5 260:19 272:16 283:13 315:20 322:10,14 322:18 323:14 330:16,17 331:3
simpler 219:7,11	source 91:22 92:12 94:14 228:3	specifications 201:10,11 202:5	
simply 112:6 113:14 138:6 160:9 170:11 172:1 175:1 218:19 219:21 285:13	sources 35:18	specificity 114:16,18	
site 173:9 220:21 221:4,17 227:3 260:20	space 108:22	specifics 69:10 168:9 176:6,21 186:14 187:3 250:6 266:12	
sitting 77:22 78:13 103:11	span 215:1	specifiers 76:21	
situation 114:4	speak 27:20,22 36:21,22 37:16 37:22 40:4 54:18 59:4 75:5 78:17 87:2,15,21 88:15 90:12 97:7 99:18 103:10 106:18 110:19 116:12,18 139:20 145:1 146:21 154:22 164:9 210:19 222:18 244:4 254:12 266:21 270:20 284:12 326:16 329:8 331:6	specify 134:21	
situations 30:14	speaker 61:9,12 246:5	spectrum 244:17 272:9	
six 144:11 155:5 332:19	speakers 249:5	speculate 199:15	
skyrocketed 206:9	speaking 36:10 38:8 41:10 260:20 314:9	spoke 19:1 306:1	
slate 63:17	speaks 94:10 273:11,14	spoken 214:8,14	
slide 206:5 207:13 212:6 215:18 215:18,21 216:13,21 220:15 221:21 223:15 227:1	special 154:13	sponsoring 138:4	
slighted 274:19	specialist 25:7	spreadsheet 252:11	
slower 116:13	specific 31:1 32:15 47:19,21 54:7 76:7 77:21 78:12 79:13 97:21 105:7,7 109:10 121:19 137:19 146:13 149:21 166:4 168:20 180:1 193:7,9 195:4,6 196:3,4,16 197:22 198:1 199:7,11 202:20 203:11 209:7 210:1 210:8 222:3 240:5 265:17 270:12,15 273:11,20 274:15 284:2 287:3 292:1 306:21 314:12 330:14	spreadsheets 200:14	standardization 26:3 30:20 40:18 41:1 51:6 51:15 73:21 74:2,7 121:22 122:20 161:20 189:1 211:19 284:16 317:7
smacna 216:7,9,11,15,19 276:13 276:21 277:3	specifically 27:16 28:1,3 37:22 39:7 44:14 57:12 71:22 76:9 96:20,21 97:20 122:6 128:13 141:20 164:10 187:11 207:19 241:11,22 264:8 283:15 304:5 330:4	staff 37:9 40:3,8 42:12,18 48:12 63:19 64:1 67:22 91:2 98:22 151:20 153:6 223:2 226:7 236:16 249:7 252:6 253:19 255:6,10,21 267:22 269:16 271:1 278:8 285:12 287:18 293:6,11,11,16 306:19 307:1 310:9 323:19 324:11 326:8 330:19 331:7	standardizing 161:14 162:2,22
small 66:5,6 133:8 140:12 141:9 272:14 273:14		stakeholders 36:17 132:6,7 312:17 313:14 325:6 328:11,15 329:14	standards 8:11 9:13 17:5 20:21 21:1 21:13 22:3 23:13 24:7,9,17 24:18,19,21 25:12,20,21 25:22,22 26:16,18,21 27:2 27:3,7,9,11 28:4,7,9,10,18 29:9,12,14,16,20,22 30:5,7 30:9,12,16 31:7,16 32:4,15 32:16,17 33:5,12,17,22 34:2,5,6,19,20 35:1,4,5,6 36:18 37:6,10 38:10 39:8,9 39:11,16 40:3,13,21,22 41:5,7,11,15 42:4,8,17,19 44:9 45:19 46:16 47:3,11 48:12 49:2,4,9 51:8,18,21 51:22 52:5,7,11,13,20 53:8 56:14,16,20,22 57:10,15 58:1,8,21 59:18 60:3,4,8 61:10,10,21 62:7,8,12,14 62:19 63:1,20 64:4,6 71:6 72:15 73:21 74:4,6,9,15 75:1,3,4,15 76:13 78:19 82:9,15 94:1,8,13 97:15,18 98:4 102:2,12,12 103:17
society 1:3,7 3:2 10:17,20 312:2,7		stamped 119:12 232:12 247:21 252:14 256:14 279:5	
sole 327:15		stand 54:21 55:7 63:21 211:2	
solely 37:17		standard 25:17 31:4,10 32:5,13 34:8 34:9,11,16 35:9,11,13,21 35:22 36:9 37:18 38:7,12 38:22 39:3 48:8 58:11	
solutions 2:11 11:6,9,12 332:20			
somebody 226:6 228:9			
sorry 16:16 22:13,19 28:13 111:6 171:9,17 256:7 257:12 263:3 267:18 328:12			
sort 13:16 198:13,13 266:13			

[standards - sworn]

standards (cont.) 104:9,16,21 105:5,8,12,17 105:21 106:6,12,17,22 107:5,16,22 108:8,17,21 109:4,13 111:9,21 112:2,5 112:7,15,16,21,22 119:17 120:13,21 121:11,13,15,17 122:2,4,11,13,19,22 123:1 127:12,13,15,21 128:5,12 129:22 130:19,20 131:1,5 131:6,9,14,20 132:2,3,18 132:19 133:1,7,9,12,16,22 134:2,3,7,8 135:6,8,11 136:6,9,11,12,17 137:1,15 137:17 138:4,6 139:15 140:7,13,16 141:1,16 142:6,16 143:4,8 149:15 149:18 150:11,12,16,18 151:14 152:1,2,5,8,13,21 153:3,11,16 154:5,9,10,13 154:16 155:10,13 157:20 158:3,16 161:7,10 166:10 166:22 168:5 171:14 172:9 173:4 175:21 178:1 180:6 180:9 181:14 182:14 184:6 184:9,19 185:7 187:2 188:21 189:2,7 193:17 194:3 198:11 199:2 200:13 201:4 202:8,14 203:6 204:16,22 205:4 206:8,14 207:4,6,8,10,15 208:2,4,7 208:13,16 209:3,10 210:3 210:9,10,11,15,18 212:15 212:22 215:5 216:6,11 217:4,6,9,15,16,20 218:6,7 218:18,19 219:7,13,15 220:6,12,20 221:8 223:3 223:10 226:7 227:3,12 228:14 239:14 240:1 244:9 250:9 253:20 257:7 258:10 260:5 269:10,21 272:10,12 273:5,12,15,22 274:3 275:1 281:18 282:7,13,15 282:17,19,21 283:1,5,9,19 283:22 284:5,7,18 285:6,8 287:8,14,15 288:5 291:1 299:1 303:22 304:6,19 305:10 306:1 307:22 309:16 311:22 312:1,6,11 312:15,20,21 313:22 314:4 314:6,13 315:3,15,19 316:5,7,8,15 317:22 318:8 319:5,10 320:7 321:11 323:11,20 324:2,3,7,22 325:2,11,16,17 326:3,9,21 327:9,10,20 329:4 330:15	standards (cont.) 330:22 331:11 332:9 standards.gov 92:18 standing 118:17 181:19 305:7 standpoint 249:17,20 star 80:2 start 115:20 160:1 203:21 280:3 311:9 331:4 started 323:5 starting 119:11 starts 160:20 state 11:14 301:8 326:11,16 331:9,15 stated 212:3 statement 148:11 219:20 227:2,15,18 227:20 239:4,6,10 244:13 250:4 258:16 264:18 265:13,15 287:1 310:9,10 states 1:1 11:3 21:18 22:5 29:19 30:1,2,2,4,5,6,20 35:7 37:6 40:18 76:15 97:19 98:3,11 98:17 100:9 133:10 210:4 313:8 315:16 stating 101:9 146:16 147:11 status 261:10 statutes 96:9,19 178:5 statutory 177:19,22 std 192:11 step 256:18 276:6 steps 260:22 261:2 stint 191:10 stipulate 292:7 294:10 stood 197:22	stop 138:15 stores 225:3 strategic 69:4 street 2:12 3:17 4:5,14 11:7 strictly 244:15 272:6 strike 214:7 243:18 striking 280:21 string 246:1 strongly 313:12 315:14 struck 280:19 struggling 207:5 subcommittee 180:9 204:22 252:7 subcomponent 64:8 subject 99:1,9 100:13,14 176:12 234:8,9 251:12 subjects 269:13 323:6 submit 60:12,13 131:4,5,14 132:4 132:11 231:20 submitted 235:20 subpoena 5:7 15:12,14 302:4 332:2 subpoenas 16:13 subscribed 333:14 subscriptions 172:9 subsequent 49:18 subsequently 216:18 subset 124:6 133:8 217:3 substance 305:17 substantive 177:18 substantively 178:4	succeeding 318:6 successful 257:8 258:14 successfully 257:13 sued 246:9 suggest 258:4 suggested 189:22 257:18 258:12 suggesting 60:15 suggestion 285:18 287:6 suggestions 247:7 suitable 288:1,5 suite 74:22 summarize 305:19 supplemented 170:21 suppliers 134:21 135:4 supply 134:22 support 28:5 29:13 30:9 31:2 62:19 152:9 154:11,16 239:15 240:1 246:15,18 282:2 314:2 315:18 319:17 326:8 supported 29:9 152:17 supporting 285:9 supports 219:21 315:14 suppose 175:11 210:13 279:13 supreme 301:8 sure 18:8 19:19,21 60:2 69:17 111:12,15 143:21 144:8 206:4 274:10 279:19 289:5 305:13 311:3 sustainability 56:8,17 57:16 swear 12:11 sworn 12:13 333:14 334:6
---	---	--	---

[symbols - training]

<p>symbols 162:15</p> <p>system 30:20 40:18 76:12,13 175:16 189:1 190:4 201:4 224:11 317:7 325:1,2 328:8</p> <p>systems 44:18 49:17</p>	<p>technology (cont.) 313:11 317:1</p> <p>telecommunication 79:20</p> <p>telecommunications 34:21</p> <p>tell 12:13 49:19 50:2 123:12 232:16 236:5 237:4 238:10</p> <p>telling 267:3</p> <p>temporary 136:13</p> <p>ten 55:16 186:2</p> <p>tend 133:11,11</p> <p>tended 133:12</p> <p>tenure 56:7</p> <p>term 33:17 43:11 46:17 49:10 53:15 54:6 61:22 74:6 84:13 96:17 109:10</p> <p>terminated 318:21</p> <p>terminology 130:18 162:14</p> <p>terms 54:20 66:19,20 96:21 97:9 172:10 187:9 226:20 244:15 264:3 272:7 283:13 283:19 284:6</p> <p>test 31:18 75:10 162:15</p> <p>testified 12:15 328:10,14</p> <p>testify 5:7 15:12 267:5</p> <p>testifying 17:7</p> <p>testimony 13:7 14:22 256:16 257:3 332:18 334:5,6,10</p> <p>testing 1:3 3:2 10:17 74:11 79:21 80:1 162:15</p> <p>text 59:12 60:8 136:13 188:14 195:3,10,11 196:16 218:20 224:6,12 239:1,16 244:8</p> <p>thank 13:19 14:9 19:20 20:7 131:11 203:13 331:16 332:14,15</p>	<p>thanks 274:7</p> <p>thing 202:8</p> <p>things 324:18</p> <p>think 47:9 63:10 66:11,19 78:13 92:3 116:4,9 123:14 144:11 147:7 169:3 175:11 181:21 187:4 207:1 221:21 221:22 222:12 228:2 231:10,11,16 232:6 233:6 233:8 243:5 257:17 259:18 263:9 264:5 266:20 267:4 274:12 276:20 278:2 280:18 305:18 310:17 311:1</p> <p>thinking 258:1 274:17</p> <p>third 119:11 153:22 204:14 236:12,13</p> <p>thomas 55:8</p> <p>thorsen 307:10 308:10</p> <p>thought 90:1 149:5 248:8 268:22</p> <p>thoughts 246:3</p> <p>three 124:7 155:3 187:13 202:18 207:22 210:15 311:2</p> <p>threshold 100:2</p> <p>time 17:8 18:17,20,21 22:10 28:21,22 29:2,11 32:21 44:19 46:5,10 47:8 48:9,14 48:16 49:5,13,17 55:13,16 55:20 56:18 57:4,7 62:21 64:3 67:10 68:11 71:1,22 72:11,13 101:1 115:17,21 116:5 132:21 159:20 160:2 189:10,13 191:20 193:5 196:12 198:1 203:18,22 206:13 211:15 214:11,13 215:15 216:14 217:22 221:2,15 222:13 227:10 240:6 241:15 246:15,18 249:7 253:19 260:4,11 262:9,12,14 265:5 267:11 274:22 277:19,22 279:22 280:4 311:6,10,16,20 313:20 314:6 315:2 316:3</p>	<p>time (cont.) 317:9,14 319:7 320:3,12 321:5 324:18</p> <p>times 124:7 127:5 167:10 180:10</p> <p>timing 47:1 139:17,20 190:16,21</p> <p>title 138:2,7 223:20 306:22 308:4 310:18 318:12</p> <p>titled 164:17 252:12 256:16 306:10 310:14</p> <p>today 11:10 13:7 14:22 19:22 20:5,18 22:17 28:8 50:18 77:22 78:14 96:15 103:11 116:2 117:15 165:6 212:10 271:22 302:5 323:5</p> <p>today's 332:17</p> <p>tolles 3:16 12:7</p> <p>tool 220:1</p> <p>top 50:8 55:18 69:21 80:13 111:11 119:9 132:16 154:3 160:22 177:17 238:18 263:5</p> <p>topic 36:16 37:2 51:18 185:10</p> <p>topics 17:6</p> <p>total 332:18</p> <p>touch 128:13</p> <p>track 73:19 120:13 134:5 135:7 136:13,16,20 276:15,21 277:3,5</p> <p>trade 5:22 23:21 24:14 25:6,7,8 26:4,5 28:20 29:1,14 42:7 47:10 55:1,2 60:6 63:13 64:15 79:6,7 131:21,22 160:22 161:3,4 178:2 329:11,12</p> <p>trademark 181:21</p> <p>trading 284:19</p> <p>training 173:15,19</p>
--	---	--	---

[transcript - videographer]

transcript 14:15	typically 31:9 34:5 96:4 124:8 132:3	unique (cont.) 120:12 207:3	usg 248:11
transcription 175:3,5 334:8	175:14 222:12 293:14	unit 10:14 115:16,20 159:19 160:1 203:17,21 279:21 280:3 311:5,9	v
transfer 27:15,19,21 28:2 30:11 39:6 45:17 78:18 92:19 93:16 152:17 178:9 218:16 281:22 313:11 317:1	typos 274:8	united 1:1 11:2 21:18 22:5 29:19 30:1,1,2,4,5,6,20 35:7 37:6 40:18 76:15 97:19 98:3,11 98:17 100:8 133:9 210:4 313:8 315:16	valid 246:13
transferred 24:13	u	units 332:19	validation 74:12 75:11
transparency 34:13 36:1 128:22	u.s. 16:12 21:19 30:15 31:17 41:2 76:11,12 121:20 122:2,8 123:2,2 140:18 143:14,15 144:9 147:21 166:17 170:3 178:2,2,11 178:17 179:9 192:18 195:9 208:15 210:22 212:12 217:4 218:5 219:12 232:2 249:9 260:21,21 261:11 283:18 330:10	universities 52:13 53:7 327:3	valuable 132:7,8
transportation 169:10 198:16 201:1 212:13 214:4,15,19 215:4 215:12 246:21 247:10 249:4	u.s.a. 208:12 227:14	university 53:9,9	value 53:7 317:6
transportation's 246:4 305:5	uh 217:1	update 92:6,7 202:20 203:11 228:20,21	varies 40:5 168:18 324:4
travel 324:11,13	unable 145:6 146:8,16 147:11 148:5,15 149:1,10 322:9 322:13,17	updated 92:1,2 198:2,4 201:14 203:5 216:15,18 227:10 252:4 261:17 305:22	variety 25:19,20 35:18 43:8 88:8 130:4,9 141:20 146:22 147:3 164:8 282:20
treaty 34:20	unauthorized 206:7,14	updates 194:6 204:20 205:4,6	various 53:8 58:19 62:10 99:20 108:7 112:1 201:13 239:21 305:21 325:4
tremendously 257:10	underlying 187:1	uphold 208:3	vary 36:8 39:22
trial 5:8	understand 13:6,11,18,20 14:4,9,19 16:20 18:13 19:14 23:7 28:8 33:16 39:22 57:21 63:12 97:1 110:2 170:15 170:18 175:14 200:4 223:18 231:15 242:19 249:19 262:1 265:2 268:20 269:6	upper 124:16	vcs 195:5
tried 200:17	understanding 60:10	urgency 271:21	venue 231:12
true 136:17 333:4 334:9	understanding 17:2 18:9 35:10 46:11 91:3 139:11,14 163:10 173:3,12 189:4 209:1 213:10 246:8 254:7,15 255:8 258:19 261:15 262:18 270:7 273:5 275:7 284:17 314:5	use 28:3,9 33:17 39:8 74:6 96:21 102:11 126:2 134:13 134:13 152:20 170:10 171:22 172:10,11,19 173:10,21 174:6,8,9 175:6 175:11,14 176:3,6,7,12,13 176:20,21 226:17 233:13 281:17,20 282:1,6,10,12 282:15,17,18 287:7,14 315:20	verbatim 101:10
truth 12:13,14,14	understood 14:20 249:18	useful 152:6	verification 74:12 75:12
try 13:21 14:1 116:12 198:7	unidentified 155:1	user 36:11 37:21 38:11,16 224:5,21,22 226:11,12,16 226:21	verified 193:9,12
trying 116:14 174:21	union 29:12 34:22 51:9	users 224:3 225:5,12	verify 193:18
tsc 1:4 11:4	unique 28:7 30:9 31:7 109:21	uses 111:9 171:3,5,14 172:2 174:22 195:2 283:2	veritext 2:11 11:6,9,11 332:20
turn 10:9 153:22 161:9,9 165:8 177:15 180:2 238:13 259:22 303:1 304:9 306:5 306:7 307:13 332:1			version 92:5,8 193:4 227:7 228:5 236:17 263:6 318:4
turning 308:19			versions 59:10 195:17 227:4,12 318:6,6
twice 67:21			versus 10:22 15:18 113:20 114:9 115:10 133:2,17 201:20
type 36:9 39:21 146:5			vices 4:20 20:19 65:18,19,21 66:1,2,8,10 67:2,5,10 116:7 123:19 281:2 286:19 291:2,4
types 34:19 35:6 52:16 60:10,11 68:16 75:13 98:9 115:1 120:6,7			video 10:11,15
			videographer 4:22 10:3 11:10 12:10

[videographer - writes]

<p>videographer (cont.) 115:15,19 159:18,22 203:16,20 279:20 280:2 311:4,8 332:16</p> <p>videotaped 1:14 2:9</p> <p>view 57:19 176:16,17 177:1,8 208:20 209:19 213:12,17 214:15 215:3</p> <p>views 175:19 214:9</p> <p>violating 246:10</p> <p>violations 206:18</p> <p>visibility 63:2,5</p> <p>voice 239:7</p> <p>volume 88:9</p> <p>voluntary 28:4 34:6,7,9,11,16,22 35:20 36:18 37:5 39:9 93:22 94:8 102:11 107:21 108:8,17 112:2,16 131:19 152:20 181:14 182:14 195:5 218:17 239:14 240:1 258:9 281:17 282:6 287:7 287:14 312:20 314:4 327:20</p> <p>volunteer 234:21 328:11</p> <p>volunteered 234:3</p> <p>volunteers 312:19 324:9,9 328:15 329:21 330:10</p> <p>vote 58:8,11 60:21 61:2 63:19 68:22 69:9,13 239:7</p> <p>voted 56:10,21 59:11</p> <p>votes 69:10,11,16,18</p> <p>voting 56:15 57:14,22 58:4 60:19</p> <p>vp 21:9 23:3 70:2 71:10 73:14</p> <p>vs 1:10</p>	<p>wall 4:14</p> <p>want 23:10 77:5 96:19 175:11 189:6 198:18 215:5 228:1 244:2 264:10 266:15 276:6 305:12,14,16 311:15 332:4</p> <p>wanted 18:8 254:16,21 260:14 268:17</p> <p>washington 1:15 2:13 3:8,18 11:7 269:10 270:3,4,8,14,21 271:1</p> <p>watermark 224:11</p> <p>watermarks 224:11</p> <p>ways 43:8 108:7,16 112:1,15,20 113:3 130:4,9 141:21 167:3 169:20 274:13 282:21</p> <p>web 206:18</p> <p>webcast 248:7 250:2</p> <p>webinar 297:12,13</p> <p>website 53:3 80:20 82:8 84:2 86:11 128:20 182:17 213:10 222:22</p> <p>websites 275:17</p> <p>week 271:18</p> <p>weeks 19:8</p> <p>weigh 231:13</p> <p>weighted 130:8</p> <p>went 57:13 248:8</p> <p>west 4:5 11:19</p> <p>we've 116:4</p> <p>whispering 10:7</p> <p>white 27:5</p> <p>wide 312:16 313:3 328:10,14</p>	<p>widely 35:7 328:8</p> <p>willing 55:10</p> <p>willingness 239:14,22</p> <p>wise 3:5 12:4,4</p> <p>withdraw 202:1,9</p> <p>withdrawn 201:14</p> <p>witness 4:11 12:1,11 26:10 28:13 30:18 31:13 32:8 33:8,20 34:18 36:20 37:8 38:21 39:5,21 41:9,22 43:19 45:6 45:16 47:17 48:6 49:22 50:8,13 53:1 54:5 58:4 59:2,21 61:20 62:18 64:13 64:22 65:12 69:2,21 77:5 77:11 78:4,17 79:18 82:14 82:22 84:1,9,16,21 86:10 87:1,15 88:6,18 90:1,11 91:12,17,22 92:15 94:20 95:5,10,18 96:2,11 97:7 98:20 99:18 100:12,20 101:21 102:19 103:14 104:5 105:3,16 106:3,10 106:16 107:20 108:20 109:17 110:14,22 111:6 112:10 114:1,12,22 117:17 118:1 119:17 120:11 121:10 122:6,18 125:20 126:21 128:9 129:21 130:17 131:17 132:14 133:6,20 134:5 135:17 136:19 137:15 138:18 140:2,11 141:6 142:10,21 143:11 144:7 145:1,17 146:3,12,21 147:17 148:9 148:20 149:5,13 151:18 152:15 153:5,19 154:21 155:16 156:3,12 157:18 158:12 159:4 163:20 168:8 169:3,9,18 170:18 171:9 171:17 172:7 173:3,18 174:5,15 175:9 176:1,10 177:6,13 178:15,21 182:10 186:10,21 190:11,16 194:1 194:17 195:16 197:15 200:21 203:15 210:1 213:5 215:10 217:13 218:10,15 219:5,18 221:6,20 222:9 222:17 223:6,12 225:9,20 226:5 228:1,13 229:8</p>	<p>witness (cont.) 231:19 234:12 235:18 236:3 237:4 238:10 240:4 242:14 243:12 244:2 245:9 250:1,12 254:4,11,20 255:13 256:7 257:22 259:1 261:6 262:4 263:1 265:8 265:20 267:15 270:11,20 271:7 272:21 273:10 275:4 275:13,20 276:4 278:13 282:12 283:8 284:10 286:7 287:10 288:8 292:6 299:12 301:18 304:17 305:20 307:19 308:4,13 309:3,22 310:6,17 312:4,14 313:7 314:11,20 315:8,14,22 316:10,21 318:3 319:2,22 320:15 321:2 322:6 323:16 324:21 325:15 326:7,16 327:2,12,19 328:6,20 329:7 330:3,14 331:2,14 334:5,6,10</p> <p>wixon 17:3,21 18:9,14,22 19:4 253:4,14,15</p> <p>word 28:9 35:17 310:15</p> <p>wording 189:6</p> <p>work 20:17 48:3 50:20 51:11 180:8 247:11 274:20 275:8 316:19</p> <p>worked 102:20 214:5 247:10</p> <p>working 27:4 28:16 188:4 215:12 249:8 253:21</p> <p>works 169:11 189:1 190:4 284:14 319:19</p> <p>workshop 246:4 248:6,13,15,17 249:2 250:3</p> <p>world 26:3 51:9 79:6 131:21 161:3 329:11</p> <p>write 31:6 98:22 196:1 281:12 281:14,16 284:14 316:5</p> <p>writer 87:2 92:16,22</p> <p>writers 85:22 86:7,19</p> <p>writes 194:22 251:8,9 257:6</p>
w			
<p>wait 43:3</p>			

[writes - ziegler]

writes (cont.) 273:18
writing 152:11 234:2 304:15
written 19:3 57:20 247:2 286:15
wrong 190:16
wrote 93:5
wto 26:13
y
yates 308:22 309:7
yeah 64:20 77:8 318:13
year 66:19,20 67:21 69:5,13 118:18 124:7 126:16,19 127:5 139:6 149:19 195:20 206:9 227:4 277:14
years 44:14,22 45:2 47:18 55:17 56:6 66:18 149:14,17 156:4 183:6 186:3 240:8
yesterday 18:3,4,18 19:2 256:20
yield 207:11
york 4:15,15
youtube 215:2
z
zero 324:8
ziegler 3:15,20 12:6,7

Case 1:13-cv-01215-TSC Document 204-44 Filed 11/13/19 Page 1 of 102

EXHIBIT 38

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR : NO.
TESTING AND MATERIALS : 1:13-cv-01215-TSC-
d/b/a ASTM : DAR
INTERNATIONAL; :
NATIONAL FIRE :
PROTECTION :
ASSOCIATION, INC.; :
and AMERICAN SOCIETY :
OF HEATING, :
REFRIGERATION, AND :
AIR CONDITIONING :
ENGINEERS, :
Plaintiffs :
vs. :
PUBLIC.RESOURCE.ORG, :
INC., :
Defendant :

Videotaped deposition of JOHN C.
JAROSZ taken at the law offices of Veritext
Legal Solutions, 1250 I Street NW,
Washington, DC, commencing at 10:09 a.m.
THURSDAY, AUGUST 27, 2015, before Debbie
Leonard, Registered Diplomate Reporter,
Certified Realtime Reporter.

PAGES 1 - 260

1 APPEARANCES:
 2
 3 KING & SPALDING
 4 By: J BLAKE CUNNINGHAM, ESQ
 5 101 Second Street
 6 Suite 2300
 7 San Francisco, California 94105
 8 (415) 318-1200
 9 beunningham@kslaw.com
 10 Representing the Plaintiff American
 11 Society For Testing and Materials d/b/a
 12 ASTM International
 13
 14 MUNGER, TOLLES & OLSON LLP
 15 By: THANE REHN, ESQ
 16 560 Mission Street
 17 27th Floor
 18 San Francisco, California 94105
 19 (415) 512-4000
 20 thane.rehn@mto.com
 21 Representing the Plaintiff National Fire
 22 Protection Association, Inc
 23
 24 MORGAN LEWIS & BOCKIUS LLP
 25 By: J KEVIN FEE, ESQ
 1111 Pennsylvania Avenue NW
 Washington, DC 20004
 (202) 739-3000
 jkfee@morganlewis.com
 Representing the Plaintiff American
 Society of Heating, Refrigeration, and Air
 Conditioning Engineers
 (continued)
 Page 2

1 INDEX TO WITNESSES
 2
 3 WITNESS: JOHN C. JAROSZ PAGE
 4
 5 BY MR. BRIDGES 8
 6
 7
 8
 9 INDEX TO EXHIBITS
 10 PAGE
 11 EXHIBIT DESCRIPTION MARKED
 12 Exhibit 1 Expert Report of John C. Jarosz 6
 13 June 5, 2015
 14 Exhibit 2 Handwritten notes 97
 15 Exhibit 3 Handwritten notes 97
 16 Exhibit 4 Spreadsheet 175
 "NFPA Publication Sales
 2009 to 2013"
 17 JAROSZ02443
 18
 19 Exhibit 5 Article 210
 "ASHRAE Takes on Energy
 Standard"
 20
 21
 22
 23
 24
 25
 Page 4

1 APPEARANCES (continued):
 2
 3 FENWICK & WEST LLP
 4 By: ANDREW P. BRIDGES, ESQ.
 5 555 California Street
 6 12th Floor
 7 San Francisco, California 94104
 8 (415) 875-2300
 9 abridges@fenwick.com
 10 Representing the Defendant
 11
 12 FENWICK & WEST LLP
 13 By: MATTHEW BECKER, ESQ.
 14 801 California Street
 15 Mountain View, California 94041
 16 (650) 988-8500
 17 mbecker@fenwick.com
 18 Representing the Defendant
 19
 20 ALSO PRESENT:
 21
 22 Carl Malamud, Public Resource
 23
 24 Jonathan Perry, Videographer
 25
 Page 3

1 DEPOSITION SUPPORT INDEX
 2
 3 INSTRUCTION NOT TO ANSWER:
 4 Page Line
 5 NONE
 6
 7 REQUEST FOR PRODUCTION OF DOCUMENTS:
 8 Page Line
 9 NONE
 10
 11 STIPULATIONS:
 12 Page Line
 13 9 16
 14
 15 QUESTIONS MARKED:
 16 Page Line
 17 NONE
 18
 19
 20
 21
 22
 23
 24
 25
 Page 5

1 * * *
2 (Jarosz Exhibit 1 marked for
3 identification.)
4 * * *
5 THE VIDEOGRAPHER: We are now
6 on the record.
7 Please note that the
8 microphones are sensitive and may pick
9 up whispering and private
10 conversations.
11 Please turn off all cell phones
12 or place them away from the
13 microphones, as they can interfere
14 with the deposition audio.
15 Recording will continue until
16 all parties agree to go off the
17 record.
18 My name is Jonathan Perry. I'm
19 here representing Veritext. Today's
20 date is August 27th, 2015. The time
21 is approximately 10:09 a.m.
22 We are at the offices of
23 Veritext, located at 1250 I Street
24 Northwest in Washington, D.C.
25 The caption on the case is the

Page 6

1 American Society for Testing and
2 Materials, et al., versus
3 Public.Resource.Org, Incorporated,
4 case filed in the US District Court
5 for the District of Columbia, Case
6 Number 1:13-cv-0215 [sic] TSC-DAR.
7 The name of the witness is
8 John C. Jarosz.
9 Would counsel present please
10 introduce themselves and state whom
11 they represent.
12 MR. BRIDGES: This is Andrew
13 Bridges of Fenwick & West for the
14 defendant, and with me is Matthew
15 Becker.
16 MR. FEE: Kevin Fee from Morgan
17 Lewis on behalf of ASTM.
18 MR. REHN: Thane Rehn from
19 Munger, Tolles & Olson on behalf of
20 the National Fire Protection
21 Association.
22 MR. CUNNINGHAM: Blake
23 Cunningham of King & Spalding on
24 behalf of the American Society for
25 Heating, Refrigerating, and

Page 7

1 Air-Conditioning Engineers.
2 THE VIDEOGRAPHER: Today our
3 court reporter is Debbie Leonard with
4 Veritext. Would you please swear in
5 the witness.
6 * * *
7 JOHN C. JAROSZ,
8 having been first duly sworn, testified as
9 follows:
10 * * *
11 EXAMINATION
12 * * *
13 BY MR. BRIDGES:
14 Q. Good morning, Mr. Jarosz.
15 A. Good morning, Mr. Bridges.
16 Q. What do you do for a living?
17 A. I'm an economist.
18 Q. What types of work do you do as
19 an economist?
20 A. I'm not exactly sure what
21 you're asking. I am employed at an economic
22 consulting firm, and I am involved in applied
23 microeconomics and industrial organization,
24 among other things.
25 I apply much of my expertise to

Page 8

1 the valuation and evaluation of intellectual
2 property rights. Some of that work is in the
3 context of damages assessments. Some of it
4 outside such contexts. Some of my work is in
5 litigation, and some of my work is not.
6 Q. Have you valued any of the
7 intellectual property at issue in this case?
8 MR. FEE: Objection. Form.
9 MR. REHN: And --
10 MR. FEE: Wait. Before we go
11 any further, should -- do you want to
12 get into a stipulation that they don't
13 have to join every objection that one
14 or the other plaintiffs makes, or do
15 you want us to make them all seriatim?
16 MR. BRIDGES: I'll stipulate to
17 that.
18 MR. FEE: Okay.
19 THE WITNESS: I'm not exactly
20 sure what you mean by "value," but I
21 haven't done a formal valuation of any
22 of the IP. I have evaluated the
23 intellectual property rights, and I
24 have done the assessment that you see
25 in my expert report.

Page 9

1 BY MR. BRIDGES:
2 Q. Have you made any attempt to
3 put a value on any of the intellectual
4 property rights claimed by the plaintiffs in
5 this case?
6 MR. FEE: Objection to form.
7 THE WITNESS: What do you mean
8 by "value"?
9 BY MR. BRIDGES:
10 Q. I mean by "value" what you
11 referred to earlier when you stated that
12 among your activities is the valuation of
13 intellectual property rights.
14 A. I have not done a formal
15 valuation, and I have not assigned a dollar
16 amount to any of the intellectual property
17 rights at issue here.
18 I have evaluated the rights and
19 determined issues associated with harm and
20 irreparable harm. You see my results
21 contained in my report.
22 Q. What do you mean by "evaluating
23 the intellectual property rights"?
24 A. I have looked at, from an
25 economist's perspective, the rights and the

Page 10

1 impact of having IP protection or not having
2 IP protection for the subject matter at
3 issue.
4 Q. Have you done anything else to
5 evaluate the intellectual property rights of
6 the plaintiffs?
7 MR. FEE: Objection to form.
8 THE WITNESS: I've done the
9 analyses underlying my report, but the
10 summary of the work that I've done and
11 the conclusions that I've drawn are
12 contained in my report. I don't have
13 other conclusions that are not
14 contained in those -- in that report.
15 BY MR. BRIDGES:
16 Q. What intellectual property
17 rights of plaintiffs have you evaluated?
18 A. The copyrights at issue here.
19 I'm sorry. Let me be -- let me
20 alter that by saying I have evaluated the
21 alleged copyrights at issue here, and I have
22 evaluated the trademark rights at issue here.
23 Q. Why did you change your
24 testimony to refer to "alleged copyrights"
25 instead of "copyrights"?

Page 11

1 A. I don't know that there -- I --
2 let me start this over again.
3 I believe there are fights
4 about whether the plaintiffs are entitled to
5 these copyrights. I don't know that there's
6 been a conclusion by this Court that they are
7 valid rights. I'm working under the
8 assumption that they are, but I believe the
9 defendant is disputing those rights.
10 Q. What did you do to evaluate
11 trademark rights in this case?
12 A. What I've done is summarized in
13 my report. I have an understanding that
14 there are marks and logos at issue that are
15 important to the plaintiffs and that Public
16 Resource activities impair the rights of the
17 plaintiffs in those trademarks and may
18 possibly cause confusion in the marketplace.
19 Q. What work did you do to
20 determine whether any activities of the
21 defendant does or may cause confusion in the
22 marketplace?
23 A. The work that you see is
24 summarized in my report. I haven't done
25 anything beyond that which is summarized

Page 12

1 here.
2 Q. And by the "report," you're
3 referring to Exhibit 1 that I've marked and
4 placed before you?
5 A. Yes.
6 Q. Where did you state your
7 conclusions in your report regarding
8 trademark rights of the plaintiff -- of the
9 plaintiffs?
10 A. In part, I think it's covered
11 in paragraphs 150 and 151. It may be covered
12 in other sections.
13 Q. Take the time and let me know
14 what other sections trademark rights are
15 covered in.
16 MR. FEE: Objection. Are you
17 asking him to read the whole report
18 and answer that now?
19 MR. BRIDGES: No. Presumably
20 he's relatively familiar with it, so
21 it wouldn't require him to read it and
22 spend a great deal of time. I
23 don't -- he's referred to his report
24 in his answer, so I just want to make
25 sure that I have a complete

Page 13

1 understanding.
2 MR. FEE: All right. Well,
3 take as long as you need to answer
4 that, then.
5 THE WITNESS: In part, you see
6 it addressed in paragraph 30.
7 Right now, those are the
8 sections that I see that touch on that
9 topic. There may be others that I'm
10 overlooking right now.
11 BY MR. BRIDGES:
12 Q. And do you need more time?
13 MR. FEE: Objection. Asked and
14 answered.
15 THE WITNESS: I don't think so.
16 I've looked through at a fairly
17 cursory level. If you want me to read
18 the whole report to make absolutely
19 sure, I will, but I'm not sure if
20 you're asking me to do that, but --
21 BY MR. BRIDGES:
22 Q. No, I wouldn't want to take the
23 time, unless counsel is willing to give me
24 lots of extra time or if you want to do it
25 during a break. But if you're confident that

Page 14

1 those are the paragraphs that cover the
2 evaluation of trademark rights, then we can
3 proceed.
4 A. I'm not sure if there's a
5 pending question, but I didn't say I was
6 confident that those are the only places.
7 Q. Oh, then take more time,
8 please.
9 A. I think --
10 Q. Then please --
11 A. -- that those are the three
12 that address it.
13 Q. Well, what else reflects your
14 evaluation of trademark rights in this case?
15 A. Okay. If you'd like, I'll take
16 a little bit more time looking at the report.
17 I think in paragraph 2, I
18 believe part of the copying is the marks
19 and/or logos.
20 Q. And that paragraph 2 reflects
21 your evaluation?
22 MR. FEE: Objection to form.
23 THE WITNESS: Yes. My
24 evaluation includes understanding the
25 issues and then drawing conclusions

Page 15

1 from the facts.
2 BY MR. BRIDGES:
3 Q. All right. I would like to
4 know where in the report your report reveals
5 any observations or conclusions by you about
6 the evaluation of the trademark rights.
7 MR. FEE: Just so the record is
8 clear, you're withdrawing the previous
9 question now?
10 MR. BRIDGES: No. It's a new
11 question.
12 MR. FEE: Okay. Well, he
13 didn't --
14 Are you finished going through
15 the entire report and identifying
16 everywhere where you've evaluated the
17 trademarks?
18 Or do you not want him to keep
19 doing that?
20 MR. BRIDGES: I just -- I just
21 asked him a question. I'd like an
22 answer to the question.
23 MR. FEE: Okay.
24 BY MR. BRIDGES:
25 Q. I'd like to know where in

Page 16

1 the -- in the report your report reveals any
2 observations or conclusions by you about your
3 evaluation of the trademark rights of the
4 plaintiffs.
5 MR. FEE: Objection. And I
6 think it would be misleading if it's
7 not stated for the record that he has
8 not gotten past paragraph 2 in
9 responding to the prior question, and
10 you've instructed him not to further
11 proceed with respect to that question.
12 You can go ahead and answer the
13 current question.
14 THE WITNESS: So right now, I'm
15 working under the assumption that
16 there's only one pending question, and
17 that is your most recent question.
18 BY MR. BRIDGES:
19 Q. Yes.
20 A. Part of the implications of
21 loss -- I'm sorry.
22 Part of the implications of
23 trademark infringement are reflected in
24 paragraph 6, though they're not stated there.
25 That is when I address harm. That

Page 17

1 encompasses both the harm of loss of
2 copyright protection and the repercussions of
3 trademark infringement.
4 Same answer with regard to
5 paragraph 7.
6 There are also counterpart
7 paragraphs at the end of the report that I
8 think are identical to 6 and 7, so I won't
9 identify those numbers.
10 Though I didn't say it in a
11 number of paragraphs, I make reference to
12 conclusions with regard to the copyright
13 infringement.
14 I understand that the copyright
15 infringement is associated with certain
16 actions that, in part, encompass trademark
17 infringement, though I don't think I
18 explicitly said that in every section in
19 which I discover -- in which I discussed the
20 copyright protection and the conclusions
21 flowing from that.
22 I don't think I have anything
23 else to add besides what I have discussed
24 already.
25 Q. What conclusions do you see

Page 18

1 about a likelihood of confusion in the
2 marketplace arising from the defendant's use
3 of the marks?
4 A. I haven't drawn any conclusions
5 with regard to that topic.
6 Q. And what conclusions have you
7 drawn about the economic value or dollar
8 value of the plaintiffs' trademarks?
9 A. I have not assigned a dollar
10 value to the plaintiffs' trademarks.
11 Q. What conclusions have you drawn
12 about any harm to the plaintiffs arising from
13 the defendant's alleged use of the
14 plaintiffs' marks?
15 A. I've drawn the conclusion that
16 there could be harm if the materials, in
17 fact, are inaccurate use -- inaccurate
18 copies, therefore impacting the reputation of
19 either the materials or the organizations in
20 the marketplace.
21 Q. What studies did you rely upon
22 for that conclusion?
23 MR. FEE: Objection. Vague.
24 THE WITNESS: Nothing other
25 than what you see reflected in my

Page 19

1 report.
2 BY MR. BRIDGES:
3 Q. What facts did you rely upon
4 for that conclusion?
5 A. Well, I understand that there
6 has been some inaccurate copying and
7 dissemination of plaintiff materials. I
8 don't recall exactly where I got that
9 information from, but I believe that there's
10 some materials, for instance, that have been
11 copied and disseminated that are upside-down.
12 There are other materials that are difficult
13 to read. There may be materials that are
14 disseminated with the thought that those are
15 the most recent standards when, in fact, they
16 may not be.
17 Q. You have no idea how you
18 learned that information?
19 A. I don't recall --
20 MR. FEE: Objection. Vague.
21 And form.
22 THE WITNESS: I don't recall,
23 sitting here right now. I may have
24 seen representations in some of the
25 written materials, but I don't recall

Page 20

1 what those written materials are.
2 BY MR. BRIDGES:
3 Q. Have you seen any upside-down
4 pages in any of the defendant's materials?
5 A. I don't recall seeing that
6 personally, no.
7 Q. Have you seen any
8 difficult-to-read materials produced by the
9 defendant?
10 A. I don't recall that right now.
11 Q. Do you know what rationale the
12 defendant has for disseminating materials
13 that are not the most recent standards?
14 MR. FEE: Objection. Form.
15 THE WITNESS: I'm not sure that
16 I know, no.
17 BY MR. BRIDGES:
18 Q. On what information -- I'd like
19 for you to recall all the information on
20 which you relied for the determination that
21 the defendant may have engaged in activities
22 that may have caused any harms to the
23 plaintiffs' reputation.
24 MR. FEE: Could you read that
25 back -- oh, I have it here. Forget

Page 21

1 it.
2 Objection to form. You're
3 asking him to recall, without having
4 all the materials in front of him?
5 MR. BRIDGES: Yeah.
6 MR. FEE: Okay.
7 THE WITNESS: It's all laid out
8 in my report, and the sources are
9 provided in my report. I've not
10 memorized all those.
11 BY MR. BRIDGES:
12 Q. But I don't think your report
13 refers to upside-down materials, does it?
14 A. I don't recall for sure, but I
15 thought some of the documents that I cited
16 make reference to those materials. I'm not
17 sure that I cited the, for instance,
18 upside-down materials, but I think I have
19 discussions about that phenomenon.
20 Q. With whom?
21 A. In written materials that I've
22 cited.
23 Q. Have you had oral discussions
24 about what you have referred to as that
25 phenomenon?

Page 22

1 A. Yes.
2 Q. With whom?
3 A. Counsel here.
4 Q. With anybody else?
5 A. I don't think so. It's
6 possible, but I'm not recalling anything
7 else.
8 Q. And when you say discussions
9 with "counsel here," you're referring to the
10 counsel at the table here today at the
11 deposition?
12 A. Correct.
13 And we should add to that
14 Jordana Rubel, who's been a person that I've
15 had conversations with over the last several
16 months.
17 Q. What did you do to verify any
18 of the statements to you from counsel about
19 these facts you've referred to about the
20 materials that the defendant has
21 disseminated?
22 A. I don't think I did separate
23 verification. I may have seen some documents
24 that provide or provided confirmation of that
25 fact, but I don't recall separately going out

Page 23

1 beyond the document production to verify that
2 information.
3 Q. But you don't recall seeing any
4 defective materials yourself, correct?
5 A. That's correct. I do not.
6 Q. You just relied upon the word
7 of others, correct?
8 MR. FEE: Objection. Vague.
9 Mischaracterizes his testimony.
10 THE WITNESS: I relied upon
11 written documents I saw and
12 conversations that I had.
13 BY MR. BRIDGES:
14 Q. What written documents did you
15 see that discussed these issues?
16 MR. FEE: Objection. Asked and
17 answered.
18 THE WITNESS: And I'm sorry. I
19 can't point you to the particular
20 ones. Perhaps, through the course of
21 the day, my memory will be refreshed
22 on that.
23 BY MR. BRIDGES:
24 Q. If you relied upon those
25 written documents, would you have cited to

Page 24

1 those written documents in your report?
2 A. Perhaps.
3 Q. Why do you say "perhaps"?
4 A. I can't say with absolute
5 certainty what I do. But often, if something
6 is a direct support for a factual
7 observation, I will often cite that source,
8 but not always.
9 Q. What previous -- strike that.
10 What training or education have
11 you ever received with respect to standards
12 development organizations?
13 MR. FEE: Objection to form.
14 THE WITNESS: I don't recall if
15 I've had a course in standard
16 development. Probably it has been
17 part of some of the economics courses
18 that I've taken over the years.
19 In my profession and the work
20 that I've done in the last 30 years,
21 I've had occasion to look at and
22 evaluate standards organizations and
23 the output from those organizations.
24 So it is among the topics that
25 I've investigated in the course of my

Page 25

1 consulting career.
2 BY MR. BRIDGES:
3 Q. In what context?
4 A. There have been several matters
5 I've had, litigations, that have involved
6 standard setting organizations and the
7 outputs from those organizations.
8 Q. What organizations?
9 A. Well, some that come to mind
10 are ETSI, IEEE, the Blu-ray Association,
11 MPEG, MPEG L.A., the Philips 6C and Philips
12 3C organizations. Those are among the ones
13 that come to mind.
14 Q. And what types of litigation
15 did your work relating to those standard
16 setting organizations involve?
17 MR. FEE: Objection to form.
18 THE WITNESS: It was almost all
19 intellectual property litigation, with
20 probably the bulk of the analyses
21 undertaken with regard to patent
22 rights.
23 BY MR. BRIDGES:
24 Q. Do you recall --
25 A. I guess I should -- there were

Page 26

1 standards development organization that
2 you've worked on?
3 A. Again, I'd have to go back and
4 look at my records. I can't right now recite
5 any, but there very well could be one or
6 more.
7 Q. Did you review any of your work
8 in -- from earlier copyright cases involving
9 standards development organizations in
10 connection with your work in this case?
11 A. Not to the best of my memory,
12 no.
13 Q. What background do you have in
14 the creation of standards by standard
15 development organizations?
16 MR. FEE: Objection to form.
17 THE WITNESS: In the context of
18 some of my consulting assignments, I
19 have examined processes undertaken by
20 SDOs.
21 BY MR. BRIDGES:
22 Q. Anything else?
23 A. Nothing else comes to mind.
24 I've certainly looked at the output
25 associated with those processes, but there's

Page 28

1 probably some breach of contract matters as
2 well.
3 Q. Did you work on any matters
4 involving copyright law where you became
5 familiar with the work and outputs of
6 standards setting organizations before this
7 case?
8 A. Probably, but I cannot say that
9 with absolute certainty. I've been involved
10 in several matters over a course of many
11 years.
12 Q. Can you name any copyright
13 matter involving a standards development
14 organization that you recall?
15 A. Not now, without going back and
16 looking at my records.
17 Q. Would they be listed in the
18 cases attached to Exhibit 1?
19 A. That would summarize some of my
20 records. The cases that are embodied in my
21 tab 1 are those that led to deposition or
22 trial testimony. I've been involved in many
23 matters beyond those.
24 Q. But sitting here, you cannot
25 recall any copyright case involving a

Page 27

1 nothing else that comes to mind.
2 Q. What processes undertaken by
3 standards development organizations did you
4 examine?
5 MR. FEE: Objection. Are you
6 asking prior to the report still?
7 MR. BRIDGES: Yes.
8 MR. FEE: Okay.
9 THE WITNESS: I'm not quite --
10 MR. BRIDGES: Or other than in
11 this case.
12 MR. FEE: Okay.
13 THE WITNESS: I'm not quite
14 sure what you're asking. I've seen
15 discussion of the some of the
16 processes of various organizations.
17 I'm not -- I'm not quite sure what
18 you're asking. Perhaps you could ask
19 it somewhat differently.
20 BY MR. BRIDGES:
21 Q. Well, no. You said, quote, "I
22 have examined processes undertaken by SDOs."
23 So my question is, what
24 processes undertaken by standards development
25 organizations did you examine?

Page 29

<p>1 A. It sounds like the same 2 question to me. 3 Q. Specifically, what processes 4 did you examine? 5 A. That still sounds like the same 6 question, but let me try to answer it by 7 saying I've looked, for instance, at the 8 mechanisms that ETSI undertook in developing 9 standards. So I am familiar generally with 10 the processes that it follows. Similarly 11 with regard to other standard setting 12 organizations. 13 Q. What other standard setting 14 organizations? 15 A. Well, I think I identified 16 those a few moments ago. Do you want me to 17 repeat those? 18 Q. Well, if -- are you saying 19 that, for all of those organizations, you 20 examined their processes? 21 A. In some dimension, probably for 22 most of the organizations, I had at least 23 some knowledge of the process. I can't say 24 that I investigated in depth all of the 25 processes for all of the organizations that</p> <p style="text-align: right;">Page 30</p>	<p>1 manufacturers only. Others include a wider 2 array of companies. 3 In all instances, though, the 4 companies are trying to -- the standards 5 setting organizations are trying to develop 6 at least some form of consensus -- sometimes 7 it's very broad consensus; sometimes it's 8 more narrow consensus -- about what would be 9 good for that standards setting organization. 10 Sometimes the SSOs are 11 interested in what's best for the 12 manufacturers and the ability for them to 13 supply in an interoperable environment. In 14 some cases, the SSOs are very alert to the 15 needs of consumers and users of products and 16 services that comply with standards. 17 Q. You've distinguished between 18 standards setting organizations and standard 19 development organizations. What is the 20 distinction that you -- that you identify 21 between the two? 22 A. I think I said I didn't know if 23 there is for sure a distinction, but I think 24 an SSO is perhaps a broader concept than an 25 SDO, but I might be wrong on that.</p> <p style="text-align: right;">Page 32</p>
<p>1 have been involved in my consulting 2 assignments that are standards oriented. 3 Q. What do you recall about your 4 investigation of the processes by which 5 standards development organizations create 6 their standards? 7 A. I should say I -- SDO is 8 probably not the right term to use. I should 9 probably say standards setting organizations. 10 There may be a distinction between an SSO and 11 an SDO. 12 But, generally, each SSO has a 13 process that's unique to its organization. 14 Some solicit input from a wide range of 15 constituents; some from a more narrow range. 16 The ones that I have examined 17 have all been fairly careful in the work that 18 they've done, seeking input at many steps 19 along the way. 20 Some organizations, like SDOs 21 at issue here, seek a broader array of inputs 22 than do others. 23 Some organizations, standards 24 setting organizations, include primarily or 25 only manufacturers and sometimes large</p> <p style="text-align: right;">Page 31</p>	<p>1 I know the companies -- I -- 2 the plaintiffs here are SDOs. The 3 associations are, among other things, in the 4 business of creating and developing 5 standards. 6 There could be other SSOs that 7 have different constituents that are of 8 interest to them. I don't know for sure that 9 an SSO is a broader concept than an SDO, but 10 it could be. 11 Q. What do you understand to be 12 the constituents of the plaintiffs in this 13 case? 14 MR. FEE: Objection to form. 15 THE WITNESS: I laid that out 16 in my report. In summary, I believe 17 they try to include in the process 18 both those -- both supply-side 19 entities and demand-side entities. 20 BY MR. BRIDGES: 21 Q. Who else are plaintiffs' 22 constituents? 23 MR. FEE: Same objection. 24 THE WITNESS: I can't think of 25 anything that doesn't fall within</p> <p style="text-align: right;">Page 33</p>

1 those two categories as the
2 constituents of the plaintiffs.
3 BY MR. BRIDGES:
4 Q. Only entities are constituents
5 of the plaintiffs?
6 MR. FEE: Objection. Vague.
7 THE WITNESS: An individual can
8 be an entity, in my mind. It's not
9 necessarily a company.
10 BY MR. BRIDGES:
11 Q. And what do you mean by a
12 supply-side entity or person?
13 A. Those companies or individuals
14 that provide products or services that, among
15 other things, comply with the standards.
16 Q. Do you mean anything else by
17 supply-side entities or individuals?
18 MR. FEE: Objection to form.
19 THE WITNESS: I don't think so.
20 BY MR. BRIDGES:
21 Q. What do you mean by demand-side
22 entities or individuals?
23 MR. FEE: Same objection.
24 THE WITNESS: Just so that
25 there's no confusion between us, I

Page 34

1 believe an entity can encompass an
2 individual.
3 BY MR. BRIDGES:
4 Q. I understand, but I want the
5 record to be clear. And since "entity" tends
6 to suggest a non-breathing person, I would
7 like to include both breathing persons and
8 non-breathing legal persons in my question.
9 A. I'm not sure if that's a
10 question.
11 Q. The pending question was, what
12 do you mean by demand-side entities or
13 individuals?
14 MR. FEE: Objection to form.
15 THE WITNESS: Okay. I'm not --
16 I'm not sure I used the phrase
17 "entities or individuals" when I
18 talked about demand side.
19 Regardless, it's companies or
20 individuals that are the users or
21 potential users of products or
22 services that, in part, comply with
23 the standards.
24 BY MR. BRIDGES:
25 Q. Are you aware of any other

Page 35

1 constituents of the plaintiffs?
2 MR. FEE: Objection to form.
3 THE WITNESS: Nothing else
4 comes to mind, although I'm certainly
5 open to learning that I have not
6 included something that I should
7 include.
8 BY MR. BRIDGES:
9 Q. What about regulators?
10 A. I'm sorry. What's the
11 question?
12 Q. What about regulators?
13 MR. FEE: Objection to form.
14 THE WITNESS: I heard those
15 words. I don't understand the
16 question.
17 BY MR. BRIDGES:
18 Q. You don't understand the
19 question?
20 A. Correct.
21 Q. You've referred to supply-side
22 entities. You've referred to demand-side
23 entities. I'm saying now what about
24 government -- what about regulators? You
25 don't understand that question --

Page 36

1 A. I don't.
2 Q. -- in this context?
3 A. Are you asking whether a
4 regulator is on the demand side or supply
5 side?
6 Q. I'm asking whether regulators
7 are constituents of the plaintiffs.
8 MR. FEE: Objection to form.
9 BY MR. BRIDGES:
10 Q. Have you ever given that any
11 thought?
12 A. Which question --
13 MR. FEE: Objection. Compound.
14 THE WITNESS: -- should I
15 answer?
16 BY MR. BRIDGES:
17 Q. Both.
18 MR. FEE: Objection to form.
19 THE WITNESS: The question of
20 have I given that any thought,
21 perhaps.
22 To the question of are they a
23 constituent of the plaintiffs here, I
24 guess in some dimension they are.
25 They are interested parties because

Page 37

1 they have both supply-side and
2 demand-side interests that they
3 consider.
4 BY MR. BRIDGES:
5 Q. Don't they also have regulatory
6 interests aside from being supply side or
7 demand side?
8 MR. FEE: Objection to form.
9 THE WITNESS: What do you mean
10 by "regulatory interests"?
11 BY MR. BRIDGES:
12 Q. You don't understand the term?
13 A. No, I don't know what you mean
14 by that term.
15 Q. Do they have public interests
16 other than supply or demand side interests?
17 MR. FEE: Objection to form.
18 THE WITNESS: I don't know that
19 it would be "other than," because I
20 think of the public interest as being
21 either demand or supply side. I don't
22 know what might not be included.
23 BY MR. BRIDGES:
24 Q. What about somebody that has a
25 safety interest? How do you classify them as

Page 38

1 a constituent of the plaintiffs?
2 MR. FEE: Objection to form.
3 THE WITNESS: It depends on who
4 that is. I have an interest in my
5 house being safe, for instance, and I
6 consider myself as part of the
7 demand-side constituency.
8 I think that there could be
9 companies that are in the business of
10 manufacturing smoke detectors, for
11 instance. I would think of them
12 primarily as being on the supply side,
13 although they're certainly alert to
14 the demand-side considerations.
15 BY MR. BRIDGES:
16 Q. How do you understand the
17 plaintiffs here -- strike that.
18 What do you understand to be
19 the process by which the plaintiffs develop
20 standards?
21 MR. FEE: Objection to form.
22 THE WITNESS: I don't know all
23 the steps. I've summarized some of
24 the steps that I understand in the
25 report.

Page 39

1 The Web sites and information
2 that I looked at for each of the
3 plaintiffs certainly give more detail.
4 But, in essence, a need for a
5 standard is brought to the attention
6 of the group. That need can be
7 identified from any number of places.
8 And then a group is chartered
9 with assessing what that need is and
10 how best to respond to that need.
11 That group often comes up with
12 proposals to respond to the issue and
13 adjusts that proposal as it gets more
14 input and gives more thought.
15 Ultimately consensus is arrived
16 at for each of the organizations, and
17 a standard is developed and published.
18 The processes are slightly
19 different for each of the
20 organizations but generally follow
21 that route.
22 BY MR. BRIDGES:
23 Q. How do the processes differ
24 among the three plaintiff organizations?
25 MR. FEE: Objection to form.

Page 40

1 THE WITNESS: I don't know all
2 of the differences. They may have, in
3 part, been summarized in my report. I
4 see, for instance, on page 29,
5 paragraph 70, I have identified the
6 four steps that I saw that NFPA
7 follows in developing standards.
8 BY MR. BRIDGES:
9 Q. I'm just asking you -- you
10 don't need to spend time going through the
11 report. I just want to know, sitting here
12 today, how you understand the processes
13 differ.
14 MR. FEE: Object to form, to
15 the extent you are asking him not to
16 look at his report. I think he should
17 be permitted to do that.
18 THE WITNESS: Just by -- just
19 going by memory, I don't recall
20 substantial differences in the
21 processes. I understand each one to
22 follow the general scheme that I
23 identified a few moments ago. I'm
24 quite sure that there are differences
25 in each plaintiff's implementation of

Page 41

1 that scheme.
2 BY MR. BRIDGES:
3 Q. You used the word "group"
4 several times in discussing the process by
5 which the standards -- the plaintiffs develop
6 standards. What did you mean by "group"?
7 A. I don't recall exactly what
8 context I used it in, but I think of a set of
9 individuals representing either themselves or
10 companies that have interest in the topic and
11 might have some thoughts as to how best to
12 address that topic and develop a standard.
13 The groups can be wide
14 assortments. Sometimes they're individual
15 users. Sometimes they're large company
16 representatives. Sometimes they're small
17 company representatives. Sometimes there
18 are -- they are employees of the SDO.
19 But each one of the SDOs tends
20 to have a fairly wide and diverse set of
21 groups that addresses these topics.
22 Q. You say some members of the
23 groups may be individuals, correct, and their
24 own -- acting on their own interest; is that
25 correct?

Page 42

1 A. That's my understanding, yes.
2 Q. Why is that your understanding?
3 How -- what -- what's the basis of your
4 understanding?
5 A. I think I've probably seen that
6 in some of the written materials, but I can't
7 point you to particular materials that --
8 that I relied on for that.
9 Q. And you said that some
10 individuals may participate in groups as
11 representatives of large companies; is that
12 correct?
13 A. Yes.
14 Q. Some individuals may
15 participate as -- participate as
16 representatives of small companies, correct?
17 A. Yes.
18 Q. And I don't think you mentioned
19 that any individuals participate as
20 representatives of government?
21 A. That's probably also the case.
22 Q. What types of governments?
23 MR. FEE: Objection. Vague.
24 Form.
25 THE WITNESS: I don't know in

Page 43

1 particular, but the -- the options are
2 federal, state, and local.
3 BY MR. BRIDGES:
4 Q. Have you --
5 A. But I don't know that each
6 group assessing the need for a standard
7 always has representations at each level of
8 government.
9 Q. What do you know about
10 participation by employees of standards
11 development organizations in what you call
12 the "groups"?
13 MR. FEE: Objection to form.
14 THE WITNESS: My memory is that
15 each one of the standard development
16 organizations that are at issue here
17 have at least one employee that's --
18 that's involved in the process.
19 Sometimes those employees are
20 facilitators. Often that's the case.
21 Sometimes they have substantive input.
22 But they often help the process along.
23 BY MR. BRIDGES:
24 Q. And what do you mean by
25 "substantive input"?

Page 44

1 A. Some people may have particular
2 knowledge about a particular industry or
3 topic. They all have some knowledge about
4 the standards development process.
5 Q. Do you have any understanding
6 as to why the various individuals in the
7 groups participate in the standards
8 development process?
9 MR. FEE: Objection to form.
10 THE WITNESS: Generally,
11 they're interested in addressing a
12 topic of some concern and coming to a
13 resolution, one that's acceptable to,
14 at the very least, the party that
15 they're representing and one that
16 is of -- has sufficient consensus
17 support to be a practical and
18 acceptable solution to a pending
19 problem.
20 BY MR. BRIDGES:
21 Q. What do you mean by "a pending
22 problem"?
23 A. Typically, there's a need
24 identified, and the SDO has decided a
25 standard may help address that need. For

Page 45

1 instance, the fire at the shirt factory in
2 New York a hundred years ago, it was
3 identified that we didn't want those
4 disasters to occur in the future and that we
5 would like to investigate avenues to minimize
6 such risks.
7 Q. What do you mean by "avenues to
8 minimize such risks"?
9 A. Well, consideration is given to
10 determining whether there should be quality
11 standards that manufacturers should comply
12 with in order to reduce the disastrous
13 outcomes that occur because of fires, for
14 instance.
15 Q. And what do you mean by
16 "quality standards"?
17 A. Just by way of example, to have
18 more ingress and egress available to
19 employees and to have that as a requirement
20 or have a standard that may eventually be
21 incorporated into law so that buildings are
22 erected in such a way to allow employees to
23 leave the building rather than be engulfed in
24 flames.
25 Q. And what do you mean by

Page 46

1 "incorporated into law"?
2 MR. FEE: Objection. Calls for
3 a legal conclusion. Form.
4 THE WITNESS: As an economist,
5 I generally understand it to be that
6 there's some federal, state, and local
7 laws that make reference to certain
8 standards and have that reference as
9 part of the law.
10 The legal implications I am
11 certainly not an expert in, and I
12 hesitate to characterize any more than
13 I have.
14 BY MR. BRIDGES:
15 Q. Well, you, in fact, have a law
16 degree, correct?
17 A. I have a law degree. I am not
18 now, nor have I ever been a practicing
19 attorney.
20 Q. Okay. But you have a juris
21 doctor degree, correct?
22 A. Is that different from a law
23 degree?
24 Q. It's a type of law degree.
25 A. I -- I didn't know that, but I

Page 47

1 do have a JD.
2 Q. You don't have a Ph.D. in
3 economics, correct?
4 A. Correct. I was in the Ph.D.
5 program and have completed most of the
6 requirements for my Ph.D. but not all.
7 Q. What interests do you
8 understand the plaintiffs to have -- strike
9 that.
10 What interests do you
11 understand the plaintiffs to have in having
12 standards incorporated into law?
13 MR. FEE: Objection to form.
14 THE WITNESS: I think that's
15 laid out in my report in a variety of
16 ways; but generally, the plaintiffs
17 are interested in effectuating their
18 charters, and that is they want to
19 address certain problems in an
20 effective way. And if those solutions
21 get incorporated into standards and
22 those standards get incorporated by
23 reference into law, that can be an
24 effective way for dissemination of a
25 solution.

Page 48

1 BY MR. BRIDGES:
2 Q. What do you mean by
3 "effectuating" the plaintiffs' charters?
4 A. Well, each plaintiff has a goal
5 or set of goals it would like to achieve,
6 whether that's safety or interoperability.
7 But generally, they want to achieve a
8 socially good purpose and one that is good
9 for members of the industry.
10 Q. In your answer, you're
11 referring specifically to these plaintiffs?
12 A. Yes.
13 Q. Do these plaintiffs have an
14 interoperability goal?
15 A. I don't think explicitly, but I
16 think -- I don't think as part of the charter
17 for the plaintiff, but I think with regard to
18 certain topics that they address
19 interoperability helps achieve some of those
20 goals of the individual topics that help
21 achieve the overall goals of the
22 organization.
23 Q. What are some of the goals of
24 interoperability that you've identified for
25 plaintiffs?

Page 49

1 A. That I've identified in my
2 report?
3 Q. In your work on -- in your work
4 on this matter for the plaintiffs.
5 A. I'm not exactly sure what
6 you're asking, but I talked about the merits
7 of interoperability and why these
8 organizations -- why certain standards are
9 oriented toward interoperability.
10 I think one of the specific
11 illustrations is -- of the need for and the
12 achieving of interoperability goals is the
13 NEC. That allows one to safely and
14 effectively receive power across the world.
15 That's good for manufacturers, and it's good
16 for consumers.
17 Q. You said that plaintiffs are
18 interested, I believe, in addressing certain
19 problems in an effective way. Do you recall
20 that?
21 A. Generally I recall that, yes.
22 Q. And, generally speaking,
23 referring to these plaintiffs, what are the
24 problems you understand them to be trying to
25 address?

Page 50

1 MR. FEE: Objection to form.
2 THE WITNESS: I've laid that
3 out in my report. In page 64 I've
4 laid out, in essence, the ASTM
5 mission, as I understand it.
6 In paragraph 68 I've laid out
7 the NFPA mission, as I understand it.
8 And in paragraph 73 I've laid
9 out the ASHRAE mission, as I
10 understand it.
11 BY MR. BRIDGES:
12 Q. So now my question is, what are
13 the problems that you understand the
14 plaintiffs are trying to address in an
15 effective way?
16 MR. FEE: Objection to form.
17 THE WITNESS: Well, generally,
18 they're addressing the mission that
19 they have here and their individual
20 problems that are brought to the SDOs'
21 attention that, if addressed
22 effectively, would help each
23 organization fulfill its mission.
24 BY MR. BRIDGES:
25 Q. So generally speaking, what are

Page 51

1 the problems that they are trying to address?
2 MR. FEE: Same objection.
3 THE WITNESS: Generally, ASTM
4 is addressing problems associated with
5 public health and safety; support --
6 protection and sustainability of the
7 environment; overall quality of life;
8 the reliability of materials, product
9 systems, and services; and
10 facilitating international, regional,
11 and national commerce.
12 BY MR. BRIDGES:
13 Q. Now, those are problems?
14 A. They are trying to achieve
15 their mission by addressing problems that may
16 stand in the way of achieving those missions.
17 Q. So please give me an example of
18 some problems that the plaintiffs are trying
19 to address. My questioning has been focused
20 on problems. You've been responding about
21 mission, but I -- I'd like for you to
22 identify some of the problems, generally
23 speaking, that you understand the plaintiffs
24 are trying to address.
25 MR. FEE: Objection to form.

Page 52

1 Compound.
2 THE WITNESS: I thought I did,
3 so I'll try with some different words.
4 BY MR. BRIDGES:
5 Q. Can you answer without
6 reference to your report --
7 A. I'd rather --
8 Q. -- based on your general
9 knowledge?
10 A. I'd rather not.
11 Q. Well, I'd rather that you tell
12 us what you can recall about the -- about the
13 problems that plaintiffs are trying to
14 address.
15 A. So you don't --
16 MR. FEE: Objection.
17 THE WITNESS: -- want me to
18 look at my report? This is just a
19 memory contest?
20 BY MR. BRIDGES:
21 Q. No, it's not a memory contest.
22 I'd like to know what you happen to know,
23 sitting here.
24 A. I'd like to do that by looking
25 at my report.

Page 53

1 Q. You may after I get your answer
2 first.
3 A. Okay.
4 MR. FEE: Objection to making
5 this a memory test and not allowing
6 him to review materials he's indicated
7 he needs to review to fully and
8 accurately respond to the question.
9 If you can answer without
10 looking at your report, go ahead.
11 THE WITNESS: By way of
12 example, ASTM has addressed problems
13 associated with the safety of
14 amusement rides.
15 By way of example, NFP [sic]
16 has addressed problems associated with
17 electrical fires in buildings.
18 By way of example, ASHRAE is
19 addressing -- but I'm not thinking of
20 a good example for ASHRAE right now.
21 I apologize. I'd have to look at my
22 report.
23 BY MR. BRIDGES:
24 Q. Okay. And I believe that you
25 testified -- bear with me just a second. Let

Page 54

1 me get the exact testimony.
2 You said earlier that the
3 plaintiffs are interested in effectuating
4 their charters, and that is they want to
5 address certain problems in an effective way.
6 And if those solutions get incorporated into
7 standards and those standards get
8 incorporated into law, that can be an
9 effective way for dissemination of a
10 solution.
11 Do you recall that testimony?
12 A. Yes, I do.
13 Q. What did you mean by
14 "solutions" in that context?
15 A. Standards are a form of
16 solution.
17 Q. In what respect?
18 A. They provide definition around
19 what is a best practice, an advisable
20 practice, and that practice is intended to
21 address existing and potential problems.
22 Q. And what do you mean by
23 "practices" in that -- in your answer?
24 A. Perhaps you could read it back,
25 and that will help me answer the question.

Page 55

1 Q. You said standards "provide
2 definition around what is a best practice, an
3 advisable practice, and that practice is
4 intended to address existing and potential
5 problems."
6 What did you mean by "practice"
7 in that answer?
8 A. It was an example of what
9 somebody should do.
10 Q. And what do you mean by "what
11 somebody should do"?
12 MR. FEE: Objection. Vague.
13 THE WITNESS: I don't know how
14 to define it any more than that. I'm
15 sorry.
16 BY MR. BRIDGES:
17 Q. Is it a course of action that
18 somebody should take?
19 A. That would be another way to
20 say it. I don't think that's a definition.
21 It's -- it's another presentation of what I
22 said.
23 Q. Is -- a suitable method for
24 accomplishing a goal?
25 MR. FEE: Objection to form.

Page 56

1 THE WITNESS: That -- that
2 could be an example, yes.
3 BY MR. BRIDGES:
4 Q. And would it be in terms of
5 some of plaintiffs' standards?
6 MR. FEE: Same objection.
7 THE WITNESS: I think so.
8 BY MR. BRIDGES:
9 Q. Would it be optimal or best
10 procedures for accomplishing a result?
11 MR. FEE: Objection to form.
12 THE WITNESS: That could be.
13 I'm not sure that that's a definition,
14 but it -- that's a possibility.
15 BY MR. BRIDGES:
16 Q. And does that apply to
17 plaintiffs' standards?
18 MR. FEE: Same objection.
19 THE WITNESS: I'm sorry. What
20 is the question?
21 BY MR. BRIDGES:
22 Q. That plaintiffs' standards
23 articulate optimal procedures for
24 accomplishing certain results.
25 MR. FEE: Objection to form.

Page 57

1 THE WITNESS: I don't know that
2 I've seen that. I think that they are
3 consensus based, and what one party
4 may define as optimum may be different
5 from what another party defines as
6 optimal.
7 But I think they're the result
8 of a variety of parties coming
9 together and sometimes balancing
10 interests and opinions.
11 BY MR. BRIDGES:
12 Q. And recommending certain
13 procedures for accomplishing certain
14 outcomes?
15 A. By way --
16 MR. FEE: Objection to form.
17 THE WITNESS: By way of
18 example, yes.
19 Are we at a point for a break?
20 We've been going a little over an
21 hour.
22 BY MR. BRIDGES:
23 Q. I'd like to go a little bit
24 further to conclude a line of questioning.
25 It will be about ten more minutes.

Page 58

1 MR. FEE: Are you okay with
2 that?
3 THE WITNESS: I'm okay with
4 that. I don't know what you mean by
5 "a little bit further."
6 BY MR. BRIDGES:
7 Q. About ten more -- about ten
8 more minutes.
9 A. I'd rather keep it closer to
10 now than ten minutes from now.
11 Q. Well, let me just finish a
12 couple of things here.
13 MR. FEE: Well, you take a
14 break whenever you want to take a
15 break.
16 MR. BRIDGES: Well, I -- I'm in
17 the middle of a line of questioning.
18 MR. FEE: There's no question
19 pending. He can take a break now if
20 he wants. If he's willing to give you
21 a couple more minutes, then that's
22 great, too.
23 BY MR. BRIDGES:
24 Q. You said that if solutions get
25 incorporated into standards and standards get

Page 59

1 incorporated into law, that can be an
2 effective way for dissemination of a
3 solution.
4 What makes incorporation into
5 law an effective way for dissemination of a
6 solution with respect to the plaintiffs'
7 activities?
8 MR. FEE: Objection to form.
9 THE WITNESS: I -- I'm
10 certainly not --
11 MR. FEE: It mischaracterizes
12 his prior testimony.
13 THE WITNESS: I -- I'm not a
14 legal expert, and I'm not an expert of
15 an -- on the topic of incorporation by
16 reference into law.
17 But if a particular statute
18 lays out that legally someone must
19 follow what's laid out in certain
20 standards, I would expect that,
21 because most people are interested in
22 lawful rather than unlawful activity,
23 that people would follow that dictate.
24 BY MR. BRIDGES:
25 Q. And that incorporation into law

Page 60

1 would be effective for dissemination of a
2 standard?
3 MR. FEE: Same objections.
4 BY MR. BRIDGES:
5 Q. Is that your testimony?
6 A. It's not necessarily the most
7 effective way, but it -- as -- as far as I
8 know, it would be an effective way.
9 Q. What are other effective ways
10 for dissemination of a standard?
11 A. I -- I haven't given that any
12 thought. I would just be speculating.
13 MR. BRIDGES: Okay. We can
14 take a break.
15 THE WITNESS: Thank you.
16 THE VIDEOGRAPHER: Off the
17 record at 11:12.
18 * * *
19 (Recess from 11:12 a.m. to
20 11:23 a.m.)
21 * * *
22 THE VIDEOGRAPHER: On the
23 record at 11:23.
24 BY MR. BRIDGES:
25 Q. Mr. Jarosz, have you evaluated

Page 61

1 any harms that the plaintiffs have actually
2 suffered to date as a consequence of the
3 defendant's activities?
4 MR. FEE: Objection to form.
5 THE WITNESS: To the extent I
6 have, it's embodied in my report.
7 You'll see there's a little bit of
8 evidence of actual tangible harm to
9 date, and there's certainly more
10 discussion of harm. The tangible
11 evidence I have is reflected in my
12 report.
13 BY MR. BRIDGES:
14 Q. And what do you understand that
15 evidence to be?
16 A. I believe the number of
17 downloads from the Public Resource
18 dissemination have been fairly substantial.
19 I believe that the purchase of publications
20 has declined some at the plaintiffs -- at the
21 various plaintiffs. It certainly has not
22 risen. Those are among the things that come
23 to mind.
24 I think I discuss the topic in
25 more depth in paragraph, among other thing --

Page 62

1 among other places, in paragraph 133 of my
2 report.
3 Q. Have you been able to quantify
4 any financial losses to plaintiffs as a
5 consequence of defendant's activities?
6 A. No.
7 Q. Why not?
8 A. Not with any great certainty.
9 Q. Why not?
10 A. Well, I don't have the records
11 that would allow me to do that. Moreover, I
12 am not sure that the impact from the past
13 will be close to the impact that will occur
14 in the future if the Court finds that there
15 has been no copyright or trademark
16 infringement.
17 Q. Why do you make the statement
18 you just did? What's your basis for it?
19 MR. FEE: Objection to form.
20 THE WITNESS: I think there
21 were a few things in my statement.
22 Which would you like me to expound on?
23 BY MR. BRIDGES:
24 Q. Just that sentence. I'd like
25 to know what the basis is for the sentence

Page 63

1 you just said, quote, "I am not sure that the
2 impact from the past would be close to the
3 impact that will occur in the future if the
4 Court finds that there has been no copyright
5 or trademark infringement."
6 A. It's everything laid out in my
7 report. I -- it's really the -- at the heart
8 of what I did.
9 Q. And please summarize for me
10 what data you base that statement on.
11 A. That's identified in my report.
12 Q. Okay. Show me, please, in the
13 report.
14 A. It's all of what's in
15 Exhibit 1.
16 Q. No, I want -- I want the basis
17 for your statement that the impact from
18 conduct to date -- strike that -- that you're
19 not sure that the impact from the conduct to
20 date would be close to the impact that will
21 occur in the future if the Court find --
22 makes a certain finding, right?
23 A. Correct.
24 Q. So please identify for me
25 something specific that forms the basis of

Page 64

1 that statement.
2 MR. FEE: Objection. Asked and
3 answered.
4 THE WITNESS: Among other
5 things, paragraphs 112 through 155.
6 BY MR. BRIDGES:
7 Q. So these are the "Costs of
8 Losing Copyright Protection"; is that
9 correct?
10 A. That's the title of this
11 section, and then there's some discussion of
12 trademark protection as well.
13 Q. And those would be the harms
14 that you identify that would flow from a
15 decision by the Court that the plaintiffs
16 cannot enforce their copyrights against the
17 defendant, correct?
18 MR. FEE: Objection to form.
19 THE WITNESS: What I can say --
20 I'm sorry.
21 MR. FEE: I just objected to
22 form.
23 THE WITNESS: What I can say
24 with a reasonable degree of certainty.
25 BY MR. BRIDGES:

Page 65

1 Q. So those would be harms caused
2 by a court decision?
3 MR. FEE: Same objection.
4 THE WITNESS: By continuing
5 activities by the defendant that are
6 not halted by the Court.
7 BY MR. BRIDGES:
8 Q. Well, it comes across, frankly,
9 in your report as though you're identifying
10 harms that would flow from a court decision.
11 MR. FEE: Objection.
12 BY MR. BRIDGES:
13 Q. Is that correct or not?
14 A. No, I think you --
15 MR. FEE: Mischaracterizes the
16 report.
17 THE WITNESS: -- you misread
18 it. I don't think I said that or
19 meant to say that.
20 BY MR. BRIDGES:
21 Q. So what harms have occurred
22 from the -- from the defendant's conduct to
23 date?
24 A. At the risk of repeating
25 myself, some of that is summarized in

Page 66

1 paragraph 133, with regard to tangible
2 evidence on harm. With regard to other
3 evidence, it's throughout the report.
4 Q. So why would it make a
5 difference to what the defendant's harms
6 are -- strike -- strike that.
7 Why would it make a defendants
8 [sic] to the plaintiffs' harms if the
9 plaintiffs' harms were continue with --
10 strike that.
11 Is it your testimony that harms
12 to plaintiffs would be different depending on
13 the particular basis of the Court's ruling?
14 MR. FEE: Objection. Vague.
15 THE WITNESS: I -- I don't
16 understand your question.
17 BY MR. BRIDGES:
18 Q. It looks as though you're
19 stating what the harms would be if the Court
20 found that incorporation by reference would
21 cause the plaintiffs to lose copyright
22 protection; is that correct?
23 A. I don't --
24 MR. FEE: Objection. Vague.
25 THE WITNESS: -- think so. I

Page 67

1 think basically what I'm saying is
2 what would -- or addressing, is what
3 would be the harm to the plaintiffs if
4 there's no permanent injunction.
5 BY MR. BRIDGES:
6 Q. Well, what did you mean by
7 "losing copyright protection" in the
8 paragraph -- in the heading VI on page 48?
9 A. In essence, you can think of it
10 as what would happen if there's no permanent
11 injunction. In other words, what the
12 defendant has done in the past and what it's
13 likely to do in the future is allowed to
14 continue.
15 Q. And you immediately go into
16 paragraph 112 talking about Emily Bremer,
17 correct?
18 A. I don't know what you mean by
19 "immediately." It's the first paragraph in
20 Section VI.
21 Q. Right. Was Emily Bremer in the
22 passage you referred to referring to the
23 presence or absence of a permanent injunction
24 in this case?
25 A. I don't think explicitly she

Page 68

1 was addressing that issue, no.
2 Q. Do you think implicitly she was
3 referring to this case?
4 A. No. I thought you were asking
5 about permanent injunction. I don't think
6 she was addressing the -- an injunction
7 issue. She was addressing the concept of
8 copyright protection.
9 Q. And that's what you quoted her
10 for, right, was for the concept of copyright
11 protection for standards?
12 MR. FEE: Objection. You're
13 referring just to paragraph 112?
14 BY MR. BRIDGES:
15 Q. You may answer.
16 MR. FEE: Objection to form.
17 THE WITNESS: I -- I don't
18 understand the question.
19 BY MR. BRIDGES:
20 Q. You quoted her in
21 paragraph 112, correct?
22 A. Yes. From one of her two
23 articles, yes.
24 Q. Right. Regarding the concept
25 of copyright protection?

Page 69

1 A. Generally. I think she's
2 talking about standards development and
3 incorporation by reference. I don't remember
4 if she said at the very beginning of the
5 article that it was about copyright
6 protection, but she certainly talks about
7 copyright protection.
8 Q. And you're quoting her about
9 losing copyright protection, and you're
10 placing it in the context of harms of the
11 loss of copyright protection, correct?
12 MR. FEE: Objection to form.
13 THE WITNESS: This excerpt
14 doesn't specifically talk about losing
15 copyright protection, but it talks
16 about the concept of it. If there was
17 no longer copyright protection granted
18 to the SDOs, what would be the
19 repercussions.
20 BY MR. BRIDGES:
21 Q. And that's the context that you
22 identified in the first line of
23 paragraph 112, correct?
24 A. Yes.
25 MR. FEE: Objection to form.

Page 70

1 BY MR. BRIDGES:
2 Q. Let me direct your attention to
3 paragraph 35 of your report. It says, "With
4 regard to expansion beyond the specific
5 actions of Public Resource here, the
6 'product' offerings of Public Resource -
7 scans of paper copies of standards with some
8 rekeying of text and some redrawing of
9 diagrams (with some containing errors) -
10 represent a rudimentary first step in the use
11 of Plaintiffs' standards that is likely to
12 become much more sophisticated if the Court
13 holds that third parties are free to use
14 Plaintiffs' standards with impunity after
15 they are incorporated by reference into law."
16 Do you see that?
17 A. Yes, I do.
18 Q. That is your statement,
19 correct?
20 A. Yes.
21 Q. What are the steps that you're
22 envisioning there beyond the rudimentary
23 first step that you identify?
24 A. I think they're laid out in the
25 next sentence.

Page 71

1 Q. "Such products" --
2 A. And in the next two sentences.
3 Q. And these are other products
4 that "could include more sophisticated
5 Web-based availability, published
6 compilations of incorporated standards, and
7 other ancillary products that incorporate the
8 standards"; isn't that correct?
9 A. You didn't read that right. It
10 starts "such products could include."
11 Q. Okay. Otherwise, that reading
12 is correct, correct?
13 A. I think so.
14 Q. You consider that to be harm to
15 the plaintiffs?
16 MR. FEE: Objection. Vague.
17 THE WITNESS: It could be, yes.
18 It's likely to be, if the copyright
19 infringement or the assumption of a
20 copyright infringement continues. It
21 could broaden.
22 BY MR. BRIDGES:
23 Q. Right. But the fact that these
24 other types of products would enter the
25 marketplace is part of the harm that you

Page 72

1 envision from the defendant in this case?
2 MR. FEE: Objection to form.
3 THE WITNESS: It's potential --
4 there's a potential that the defendant
5 could do that. There's also the
6 potential that other parties could do
7 that.
8 BY MR. BRIDGES:
9 Q. What --
10 A. I don't know for sure what the
11 defendant has in mind.
12 Q. Why did you take into account
13 harms caused by other parties in this case?
14 A. Because --
15 MR. FEE: Objection. Lack of
16 foundation.
17 Go ahead.
18 THE WITNESS: If no copyright
19 protection is allowed here, in other
20 words, there's no permanent
21 injunction, Public Resource and other
22 parties like it will have freedom to
23 do what the plaintiffs believe they
24 should not have freedom to do.
25 BY MR. BRIDGES:

Page 73

1 Q. In other words, if the Court
2 makes a decision in a certain way, there will
3 be harms from persons or entities other than
4 Public.Resource.Org to the plaintiffs? Is
5 that your testimony?
6 MR. FEE: Objection to form.
7 THE WITNESS: You used the
8 phrase "in a certain way." I don't
9 know what you mean by that. I'm
10 addressing the issue of whether there
11 should be a permanent injunction or
12 not.
13 BY MR. BRIDGES:
14 Q. So your view is that, if the
15 Court does not enter a permanent injunction,
16 the plaintiffs will suffer harms from parties
17 other than Public.Resource.Org. Is that your
18 testimony?
19 A. That potential exists. I don't
20 know for sure. That's, in part, why the harm
21 is irreparable or very difficult to quantify.
22 Q. The -- what harm?
23 A. Continuing activity of Public
24 Resource and others. I don't know exactly
25 what will happen, but the potential is that

Page 74

1 there could be very broad dissemination of
2 the standards, which would impact these SDOs
3 tremendously.
4 Q. What harm would
5 Public.Resource.Org cause to plaintiffs if
6 there is no permanent injunction?
7 A. A permanent injunction would --
8 lack of a permanent injunction would harm the
9 SDOs.
10 Q. That wasn't my question. My
11 question was, what harm would
12 Public.Resource.Org cause to plaintiffs if
13 there is no permanent injunction?
14 A. At the very least, it's
15 associated with its historical dissemination
16 of these standards, and there would be, in
17 essence, a carte blanche for other
18 organizations or individuals to access those.
19 So my expectation is that the
20 dissemination of the materials that have
21 already been disseminated will expand.
22 It could also be the case that
23 Public Resource will undertake further
24 activities that would disseminate either
25 already disseminated standards or other

Page 75

1 standards.
2 Q. What further harm would
3 Public.Resource.Org cause to plaintiffs with
4 respect to the standards at issue in this
5 case if no -- if the Court does not
6 permanently enjoin Public.Resource.Org?
7 MR. FEE: Objection to form.
8 THE WITNESS: If there's no
9 permanent injunction, there will, in
10 essence, be a message sent to the
11 marketplace that the standards that
12 have already been disseminated are out
13 there and can be used by others.
14 So right now my expectation is
15 that some number of consumers of the
16 standards have been reluctant or
17 unknowing as to the standards
18 disseminated by Public Resource. Now
19 there will be more knowledge about
20 that and more approval of that
21 activity. That is if there's no
22 permanent injunction.
23 BY MR. BRIDGES:
24 Q. What harms will plaintiffs
25 suffer if the Court rules that the plaintiffs

Page 76

1 do not own the copyrights in this case?
2 MR. FEE: Objection. Calls for
3 speculation.
4 THE WITNESS: In essence,
5 you're asking if there's no copyright
6 infringement?
7 BY MR. BRIDGES:
8 Q. No. What harms -- have you
9 identified what harms the plaintiffs would
10 suffer if the Court rules that the plaintiffs
11 do not own the copyrights at issue, that
12 there are no copyrights that the plaintiffs
13 own --
14 MR. FEE: Objection to form.
15 BY MR. BRIDGES:
16 Q. -- at issue in this case?
17 A. I haven't addressed or thought
18 about that issue. There are also, don't
19 forget, trademark issues.
20 Q. I'm asking about copyright, so
21 I ask you to confine your answers to my
22 questions.
23 My question is, what -- you
24 assume for purposes of your analysis that
25 plaintiffs own valid copyrights, correct?

Page 77

1 A. I assume that there's copyright
2 infringement. I don't know that I've made an
3 explicit assumption with regard to ownership.
4 Q. And you assume infringement
5 without assuming ownership of the copyrights?
6 A. I haven't made any explicit
7 assumption with regard to ownership. I know
8 that's an issue in this case, but it's well
9 beyond my expertise.
10 Q. So if it turns out that -- do
11 you understand your testimony to have any
12 bearing on whether plaintiffs' standards are
13 copyrightable?
14 MR. FEE: Objection. Calls for
15 speculation.
16 I would instruct you to not
17 disclose any communications you had
18 with counsel that weren't the basis
19 for any of your opinions in this case.
20 You can otherwise answer.
21 THE WITNESS: Could you read
22 that back or ask it again, please?
23 BY MR. BRIDGES:
24 Q. Do you understand your
25 testimony and opinions in this case to have

Page 78

1 any bearing on whether plaintiffs' standards
2 are copyrightable?
3 MR. FEE: Same objection and
4 instruction. Plus objection, calls
5 for a legal conclusion.
6 THE WITNESS: I don't know one
7 way or the other. I've not taken on
8 that assignment.
9 BY MR. BRIDGES:
10 Q. Do you understand whether your
11 testimony and opinions in this case are
12 relevant to whether plaintiffs deserve
13 copyright protection in this case?
14 MR. FEE: Objection. Calls for
15 a legal conclusion.
16 And same objection with respect
17 to communications between you and
18 counsel that were not the bases for
19 your opinions or your report.
20 THE WITNESS: I don't know one
21 way or the other. I did not take on
22 that assignment.
23 BY MR. BRIDGES:
24 Q. Do you mean by your analysis
25 and opinions to suggest in any way that

Page 79

1 plaintiffs deserve copyright protection for
2 these standards?
3 MR. FEE: Objection to form.
4 THE WITNESS: I don't have an
5 opinion on that one way or the other.
6 I have not thought about that topic.
7 BY MR. BRIDGES:
8 Q. Do you have any expertise in
9 copyright law as a field of law?
10 MR. FEE: Objection. Vague.
11 THE WITNESS: No, I don't have
12 legal expertise. I have expertise in
13 looking at harm associated with
14 copyright infringement.
15 BY MR. BRIDGES:
16 Q. Do you have any expertise with
17 respect to harm caused by invalidation of
18 copyrights?
19 MR. FEE: Same objection.
20 THE WITNESS: I'm not quite
21 sure I'm fully appreciating your
22 question. Again, I'm an expert in the
23 economics of IP protection. One of
24 the areas in which I do work is harm
25 associated with copyright protection.

Page 80

1 BY MR. BRIDGES:
2 Q. Have you done any work in this
3 case to quantify what harms plaintiffs would
4 suffer if a court were to rule that they
5 lacked copyright rights in the standards at
6 issue in this case?
7 MR. FEE: Objection to form.
8 Go ahead.
9 THE WITNESS: Not explicitly,
10 to my knowledge.
11 BY MR. BRIDGES:
12 Q. Have you done anything
13 implicitly?
14 MR. FEE: Same objection.
15 THE WITNESS: Not to my
16 knowledge.
17 BY MR. BRIDGES:
18 Q. Have you done any work in this
19 case to analyze the incentives that
20 participants have in the standards
21 development process?
22 MR. FEE: Objection to form.
23 Vague.
24 THE WITNESS: I have in the
25 sense that I've examined the materials

Page 81

1 that I've cited, and some of those
2 talk about the standard development
3 process and why participants are
4 active in the process. So in that
5 regard, I've considered incentives.
6 BY MR. BRIDGES:
7 Q. What do you understand the
8 incentives to be?
9 A. Well, for the supply side
10 constituents, they're interested in effective
11 manufacturing and selling of products that
12 will -- and services that will be well
13 received in the marketplace; and on the
14 demand side, the constituents are interested
15 in products and services that address certain
16 quality and compatibility issues or problems
17 and help resolve those.
18 Q. Do you know who actually
19 creates the text of the standards?
20 MR. FEE: Objection to form.
21 THE WITNESS: Are you talking
22 about who actually types in the words?
23 BY MR. BRIDGES:
24 Q. No.
25 A. Because I don't know what you

Page 82

1 mean by "creates the text."
2 Q. Who actually suggests the
3 words?
4 A. I think a number of
5 constituents do, typically.
6 Q. What types of constituents
7 suggest the words of the standards?
8 MR. FEE: Objection to form.
9 THE WITNESS: I think it's
10 sometimes SDO employees. I think,
11 more times than not, it's industry
12 participants, often supply-side
13 people, sometimes demand-side people.
14 Frequently those people are working
15 from preexisting standards or similar
16 standards and revising those as
17 appropriate.
18 So I think a number of people
19 have input to the words.
20 BY MR. BRIDGES:
21 Q. Do you actually know of
22 instances where SDO employees have proposed
23 text as opposed to editing text?
24 A. I can't --
25 MR. FEE: Objection --

Page 83

1 THE WITNESS: -- point to --
2 MR. FEE: -- form.
3 THE WITNESS: -- any particular
4 instances as I sit here now.
5 BY MR. BRIDGES:
6 Q. Can you think of any other
7 motivations that the participants in the
8 standards writing process have?
9 A. I'm sorry. Other than what?
10 Q. Other than the incentives you
11 referred to earlier of the supply-side
12 constituents and the demand-side
13 constituents.
14 A. Nothing else comes to mind,
15 although I'm certainly open to the fact that
16 I haven't thought of or expressed all the
17 incentives.
18 Q. Well, what other incentives can
19 you think of as you sit here?
20 A. As I just said, nothing else
21 comes to mind.
22 Q. What incentives do you
23 understand the plaintiffs to have in
24 developing standards?
25 MR. FEE: Objection to form.

Page 84

1 THE WITNESS: I think,
2 generally, they want consensus among
3 interested parties in how to address a
4 particular issue or problem that those
5 constituents face.
6 They are each non-profit
7 organizations, so they're not
8 intending to profit off their
9 activities, but they're certainly
10 intending to fund their activities
11 going forward.
12 BY MR. BRIDGES:
13 Q. What do you understand the
14 activities of the standards development
15 organizations to be in creating the standards
16 at issue in this case?
17 MR. FEE: Objection to form.
18 THE WITNESS: At the very
19 least, they facilitate the process
20 through arranging logistics. They do
21 other things, including participate in
22 discussions, and -- as I understand
23 it, and create versions of proposed
24 standards.
25 They also serve as a

Page 85

1 clearinghouse for resources.
2 BY MR. BRIDGES:
3 Q. When you say they "create
4 versions of the proposed standards," it's, in
5 fact, the various groups, as you call them,
6 that create versions, perhaps with a staff
7 member from the organizations themselves,
8 correct?
9 MR. FEE: Objection to form.
10 Vague.
11 THE WITNESS: I think that's
12 sometimes correct.
13 BY MR. BRIDGES:
14 Q. Do you know that --
15 A. Perhaps often.
16 Q. Or perhaps always?
17 A. Perhaps always.
18 MR. FEE: Objection.
19 BY MR. BRIDGES:
20 Q. How do the plaintiffs serve as
21 clearinghouses for resources?
22 A. They allow a forum for the
23 various constituents to identify and address
24 issues that those constituents face in a
25 particular subject area.

Page 86

1 Q. What investments do you
2 understand the plaintiffs to make in the
3 standards development process?
4 MR. FEE: Objection to form.
5 THE WITNESS: Are you asking
6 for dollar amounts, or are you asking
7 for types of activities?
8 BY MR. BRIDGES:
9 Q. Types of -- types of
10 expenditures.
11 MR. FEE: Same objection.
12 THE WITNESS: There are many
13 types, as I understand it. One type
14 is simply providing people to be
15 involved in the process and paying the
16 salaries of those people.
17 I think they probably provide
18 computing resources to help produce
19 the standards.
20 I think they probably provide
21 meeting resources.
22 I think they probably provide
23 an e-mail exchange mechanism by which
24 information is shared.
25 I think they create copies of

Page 87

1 standards, print copies of standards,
2 and disseminate copies of standards.
3 They are involved in teaching
4 and training sometimes associated with
5 standards.
6 They participate in advertising
7 campaigns about the output of the SDO.
8 Those are among the things that
9 they contribute.
10 BY MR. BRIDGES:
11 Q. And when you say "providing
12 people to be involved and pay salaries,"
13 you're talking about the -- generally
14 speaking, the staff members who may functions
15 as liaisons to various committees and groups
16 that draft the standards?
17 MR. FEE: Objection to form.
18 Lack of foundation.
19 BY MR. BRIDGES:
20 Q. Is that what you understand?
21 A. Staff people that help
22 facilitate. Some are purely helping in a
23 logistics front. Others are helping on a
24 more substantive front. They pay their
25 salaries. They pay taxes, provide benefits.

Page 88

1 They provide travel expenses. Those are some
2 of the things that are done.
3 Q. On page 76 -- sorry -- page 33.
4 Let me ask you to turn to paragraph 76 of
5 your report. Are you there?
6 A. I am, yes.
7 Q. In the final sentence, it says,
8 "In fiscal year 2014, ASHRAE spent more than
9 \$1 million to cover the costs of developing
10 or updating its standards."
11 Do you see that?
12 A. I do, yes.
13 Q. Are -- on -- how many years is
14 the typical cycle for revision of ASHRAE's
15 90.1 standard?
16 A. That is under continuous
17 maintenance, and I think that's -- it's
18 supplemented and updated automatically every
19 three years. Perhaps they address it more
20 frequently, but at least every three years.
21 Q. So it would be fair to assume
22 that, during one cycle, ASHRAE spent
23 something over \$3 million to cover the costs
24 of developing or updating its standards?
25 A. You said at least \$3 million?

Page 89

1 Q. Right. Or approximately
2 \$3 million?
3 A. Are you limiting it just to
4 90.1 or all its standards?
5 Q. Well, that's a good question.
6 What -- what's -- what did you intend the
7 last sentence in paragraph 76 to refer to?
8 All of its standards or 90.1?
9 A. I think it's all of its
10 standards, but we could visit the screenshot
11 from the Web site to confirm that.
12 Q. Okay.
13 A. I -- I could be wrong. I don't
14 think I am, but I could be.
15 Q. Okay. In the previous
16 sentence, you say, "ASHRAE and its volunteer
17 members devoted more than 86,400 man-hours,
18 3,600 hotel nights, and 1,200 round-trip
19 flights as part of the process."
20 And that -- "the process"
21 appears to refer to updating the ASHRAE 90.1
22 standard, correct?
23 A. Yes.
24 Q. When you say "ASHRAE and its
25 volunteer members," and then you give those

Page 90

1 statistics, those statistics refer primarily
2 to the man-hours, hotel nights, and
3 round-trip flights of the volunteer members?
4 MR. FEE: Objection. Vague.
5 THE WITNESS: Probably. As
6 opposed to ASHRAE-employed staff.
7 BY MR. BRIDGES:
8 Q. Do you know how much ASHRAE's
9 volunteer members and their employers --
10 strike that.
11 Do you know how much ASHRAE's
12 volunteer members and their employers spent
13 in salaries and disbursements for the
14 man-hours, hotel nights, and round-trip
15 flights that were part of the process of
16 updating the ASHRAE 90.1 standard?
17 A. I don't know, but it -- I would
18 imagine it's a noticeable amount, but I don't
19 know the amount.
20 Q. What would be your best
21 estimate?
22 A. I don't have a best estimate.
23 Q. Would it be probably over
24 \$10 million?
25 MR. FEE: Objection to form.

Page 91

1 THE WITNESS: Again, I don't
2 have an estimate.
3 BY MR. BRIDGES:
4 Q. Do you know -- did ASHRAE pay
5 for the time, the hotel bills, and the plane
6 fares of its volunteer members in updating
7 the ASHRAE 90.1 standard?
8 A. I would expect rarely. It's
9 possible that there are certain instances in
10 which there was some set of out-of-pocket
11 expenses covered, but I would imagine the
12 bulk of the time it's the volunteer's
13 employer.
14 MR. BRIDGES: Sorry. How long
15 have we been going? I didn't get when
16 we went back on.
17 MR. FEE: 34 minutes.
18 BY MR. BRIDGES:
19 Q. Did you speak with Emily Bremer
20 at any point in this case?
21 A. No.
22 Q. How did you become acquainted
23 with her writings?
24 A. I think Kevin Fee and/or
25 Jordana Rubel brought to my attention that

Page 92

1 she had written on this topic. I don't
2 recall whether then we separately obtained
3 her two articles or Mr. Fee slash Ms. Rubel
4 provided those to us.
5 Q. What independent work did you
6 do to research writings regarding the
7 economics of standards development?
8 MR. FEE: Objection to form.
9 THE WITNESS: We did
10 independent research in the sense that
11 people that work with me did a
12 literature search to determine what
13 writings had been done in the area.
14 I was previously aware of some
15 amount of the scholarship to begin
16 with.
17 BY MR. BRIDGES:
18 Q. How is that literature search
19 reflected in any documents?
20 A. The results are shown in my
21 tab 2, and in particular it is page 2 of my
22 tab 2, at the bottom.
23 Q. And were these items found by
24 you or your team?
25 MR. FEE: Objection to form.

Page 93

1 THE WITNESS: Yes, with the
2 exception that, in the first instance,
3 lawyers at Morgan Lewis brought to our
4 attention the Bremer -- the existence
5 of Bremer articles.
6 BY MR. BRIDGES:
7 Q. Did you study any of the
8 materials that Bremer -- strike that.
9 Bremer's articles are law
10 review articles, correct?
11 A. Yes.
12 Q. Did any plaintiff -- did your
13 team's research identify any articles that
14 you chose not to include in tab 2?
15 A. I don't think so.
16 Q. Did any plaintiff or its
17 counsel furnish you with correspondence
18 between the plaintiffs and Emily Bremer for
19 review?
20 A. No, not to my knowledge.
21 Q. How many conversations with
22 representatives of the plaintiffs did you
23 have?
24 MR. FEE: Objection.
25 I would instruct you not to

Page 94

1 answer questions regarding
2 communications with counsel, unless
3 they formed the basis of your
4 opinions, in which case you can answer
5 questions with respect to those
6 conversations.
7 BY MR. BRIDGES:
8 Q. So I -- I'll change my question
9 slightly.
10 How many -- how many
11 conversations did you have with non-lawyer
12 employees or former employees of the
13 plaintiffs?
14 A. None that the -- that did not
15 include the lawyers.
16 Q. Right. I'm -- so I'm asking
17 you to tell me what they were. If the
18 presence of lawyer -- if you had a
19 conversation with a -- with an employee or
20 former employee of the plaintiff, I'd like to
21 know what that was. So the fact that lawyers
22 may have been present wouldn't excuse it from
23 the scope of the answer.
24 A. I had somewhere between four
25 and six conversations with people who were at

Page 95

1 the various plaintiffs.
2 Q. With whom?
3 A. They are all identified in
4 paragraph 10 of my report.
5 Q. Which of those did you
6 personally have conversations with?
7 A. All of them, as I recall. It's
8 possible there's someone I did not, but I'm
9 not remembering that being the case.
10 Q. Approximately how long did you
11 spend with -- did you have conversations with
12 any of them together?
13 A. Yes, several of them were
14 together.
15 Q. Which ones?
16 A. I don't recall all
17 combinations. I can say with some confidence
18 that there was never more than one plaintiff
19 on a call. In other words, there were
20 several people from a particular plaintiff on
21 a call, but not more than one plaintiff.
22 So I had various combinations
23 of calls with ASTM that may have occurred on
24 three occasions; with NFPA, one or two
25 occasions; and with ASHRAE, one or two

Page 96

1 occasions.
2 Q. And approximately how long
3 total did you spend in conversations with
4 representatives of each plaintiff?
5 MR. FEE: Objection to form.
6 THE WITNESS: Cumulatively,
7 somewhere between three and five hours
8 is my best guess right now.
9 BY MR. BRIDGES:
10 Q. When you say cumulative --
11 "cumulatively," you mean for all plaintiffs?
12 A. Yes. Meaning I'm -- I've added
13 up the conversations I had across all three
14 plaintiffs.
15 Q. Right. What's your best
16 estimate as to the period of time you spent
17 with each plaintiff?
18 A. With ASTM, it may have been two
19 to three hours. For NFPA, one to two hours.
20 For ASHRAE, one to two hours. That's my best
21 guess right now.
22 * * *
23 (Jarosz Exhibit 2 and Jarosz-3
24 marked for identification.)
25 * * *

Page 97

1 BY MR. BRIDGES:
2 Q. Mr. Jarosz, I'm handing you
3 Exhibits 2 and 3. I'll represent that these
4 were furnished to us by e-mail last night, I
5 think around 6 p.m. Eastern or thereabouts.
6 Can you please identify
7 Exhibits 2 and 3?
8 MR. FEE: Objection to form.
9 THE WITNESS: To the best of my
10 knowledge, Exhibit 2 is notes that
11 Mr. Chapman took in conversations that
12 we had with various people, and
13 Exhibit 3 is notes that Mr. Hamasaki
14 took in conversations with plaintiff
15 personnel.
16 BY MR. BRIDGES:
17 Q. Did you take any notes of
18 conversations with plaintiffs' personnel?
19 A. I believe I did, but I did not
20 keep those notes. Those were -- I followed
21 my normal procedure. And by the time we got
22 to the report, I had not kept those notes.
23 Q. Did you have those -- did you
24 refer to those notes in drafting your report?
25 MR. FEE: Objection. Vague.

Page 98

1 THE WITNESS: Not that I
2 recall.
3 BY MR. BRIDGES:
4 Q. In your report --
5 A. Well, I guess I should say, I
6 looked back at the notes at some time, and
7 the report was done over a period of time.
8 So I guess in some dimension I did, but as it
9 came toward the final stages, I did not.
10 Q. Well, I'm just curious, because
11 your report indicates, among a number of the
12 footnotes, there's citations to conversations
13 with various persons. And I'm trying to
14 figure out how -- on what you drew to cite
15 specifically to various conversations in your
16 report. And I'll give you examples.
17 Footnotes 193, 194, and 196 through 200.
18 On what were you relying in
19 referring to those conversations?
20 MR. FEE: Objection to form.
21 THE WITNESS: Conversations
22 with Mr. Chapman and/or Mr. Hamasaki.
23 BY MR. BRIDGES:
24 Q. So you were relying on
25 conversations with Messrs. Chapman and

Page 99

1 Hamasaki?
2 MR. FEE: Objection. Vague.
3 THE WITNESS: Yes, in part.
4 BY MR. BRIDGES:
5 Q. What else, other than relying
6 upon conversations with them?
7 A. And the memory that I had of
8 the conversations with the individuals.
9 Q. And you -- but you didn't rely
10 upon your own notes?
11 A. Not at the point that I was
12 drafting up footnotes, no.
13 Q. Why would you take notes and
14 then dispose of them before you wrote your
15 report?
16 A. Well, I find it -- I find it
17 useful to follow along in a conversation by
18 taking notes so that I can follow up with
19 certain points. I find it useful to write
20 things down. It helps in the memory process.
21 But I did not keep those notes in the final
22 drafting of the report.
23 Q. Why would you -- when you had
24 those conversations, did you anticipate that
25 you were going to prepare a report?

Page 100

1 A. I thought that there was a very
2 good possibility, yes.
3 Q. Why did you not retain notes of
4 conversations to have on hand for the
5 preparation of your report?
6 A. I followed my normal procedure.
7 I don't typically take notes. I'm not a
8 great note-taker, and my handwriting leaves
9 much to be desired. So I tend to find my
10 notes themselves to be of limited assistance.
11 Q. And that's your normal
12 procedure, is to throw away notes that
13 reflect conversations that you rely on?
14 A. No. My normal procedure is to
15 keep materials that I do rely upon and not
16 keep materials that I don't need to rely
17 upon.
18 Q. And you didn't need to rely
19 upon any of your notes to recall your
20 conversations, so you went and discussed the
21 conversations with two other persons?
22 A. Yes.
23 Q. Did -- I see -- it's my
24 understanding that your report sites
25 conversations with Stephen Comstock 17 times,

Page 101

1 conversations with Jim Thomas 11 times,
2 conversations with Jim Pauley seven times,
3 conversations with John Pace four times,
4 conversations with Stephanie Reiniche four
5 times, and conversations with Mark Owen three
6 times.
7 Did you make the citations to
8 those conversations in the report based on
9 your memory?
10 MR. FEE: Objection. Lack of
11 foundation.
12 THE WITNESS: In part, and I
13 think in part the citations were put
14 there based on the memory and
15 knowledge of Mr. Chapman and
16 Mr. Hamasaki.
17 BY MR. BRIDGES:
18 Q. Did you get any materials from
19 Mr. Chapman and Mr. Hamasaki other than
20 Exhibits 2 and 3 on which you relied in
21 preparing this report?
22 MR. FEE: Objection. Lack of
23 foundation. Mischaracterizes his
24 testimony.
25 THE WITNESS: Actually, as a

Page 102

1 factual matter, this is the very first
2 time I've seen these notes. I've
3 never seen these before.
4 BY MR. BRIDGES:
5 Q. What did you rely upon in
6 making all of the detailed references to
7 conversations in the report?
8 A. My --
9 MR. FEE: Objection. Asked and
10 answered.
11 THE WITNESS: My memory of
12 conversations with those individuals
13 and conversations that I had with
14 Mr. Hamasaki and Mr. Chapman.
15 BY MR. BRIDGES:
16 Q. Did anyone else prepare the
17 language regarding that -- the information
18 from those conversations that you relied upon
19 in creating your report?
20 A. No, not to my knowledge. Now,
21 lawyers did look at draft of the report,
22 although we're not going into the substance
23 of it. But that was -- we could, in part, be
24 refreshed if we were wrong as to any cite,
25 but I don't think we were.

Page 103

1 Q. Did you rely upon the writing
2 of the language by other people in deciding
3 to include language regarding information
4 learned from conversations in your report?
5 MR. FEE: Objection. Vague.
6 THE WITNESS: I can answer that
7 by saying Mr. Hamasaki, Mr. Chapman,
8 and I were all involved in this
9 project and the report. It was the
10 case that we all had some input in the
11 writing of the words, though I was
12 responsible for and directly
13 supervised all of it.
14 BY MR. BRIDGES:
15 Q. And did you rely upon input
16 from Mr. Hamasaki and Mr. Chapman in the form
17 of written input, such as drafts?
18 MR. FEE: Objection.
19 THE WITNESS: As I --
20 MR. FEE: Hold on a second.
21 I don't believe that you're
22 entitled to discovery regarding his
23 drafts, and I'll instruct him not to
24 answer that --
25 MR. BRIDGES: I --

Page 104

1 MR. FEE: -- unless you have --
2 unless there's something in there that
3 makes this subject to an exception of
4 Rule 26, as limitation on discovery
5 from experts, which I'm not aware of.
6 MR. BRIDGES: I am entitled to
7 discovery about materials he relied
8 upon --
9 MR. FEE: Okay. That's fair.
10 MR. BRIDGES: -- and that is my
11 question.
12 MR. FEE: Okay.
13 BY MR. BRIDGES:
14 Q. And I'd like to know if you
15 relied upon drafts prepared by other persons
16 regarding the statements and facts for which
17 conversations are mentioned in the citations.
18 MR. FEE: Objection to form.
19 THE WITNESS: I don't know how
20 to answer that besides what I said a
21 moment ago, and let me perhaps say it
22 a little bit differently and see if
23 that's responsive.
24 Mr. Hamasaki, Mr. Chapman, and
25 I were all involved in this project

Page 105

1 and in this report. We were all
2 involved in writing and rewriting and
3 talking and questioning one another.
4 BY MR. BRIDGES:
5 Q. And were you relying, in part,
6 upon the memories or recorded memories of
7 Mr. Hamasaki and Mr. Chapman?
8 MR. FEE: Objection. Vague as
9 to "relying."
10 And if you're asking him if
11 he's relied upon those conversations
12 as the basis for facts or assumptions,
13 you can answer it. If you mean relied
14 in any other context, you shouldn't
15 answer it.
16 THE WITNESS: I certainly
17 didn't rely on any recordings of
18 conversations. I had not seen any
19 notes. This is the first I've seen
20 notes from Mr. Chapman and
21 Mr. Hamasaki.
22 We talked about virtually all
23 of these topics. I don't know if you
24 would call that "relying" or not. But
25 we worked together on this project.

Page 106

1 BY MR. BRIDGES:
2 Q. Did they prepare draft language
3 referring to information from those
4 conversations with citations to those
5 conversations that you relied upon in
6 completing the report?
7 MR. FEE: Objection. Vague as
8 to "relied."
9 To the extent that should be
10 interpreted as meaning relied upon for
11 reaching any conclusions in your
12 report or relied upon for assumptions,
13 you can answer it. You shouldn't
14 answer it otherwise.
15 THE WITNESS: I just don't know
16 how to answer that question besides
17 saying, at various points in time, one
18 or the other -- others of us were
19 involved in the Word document that we
20 created. So it was almost never the
21 case that the three of us were in the
22 Word document at the same time.
23 So there were times that, for
24 instance, Mr. Hamasaki was doing some
25 work in the document and then I would

Page 107

1 go behind him or vice versa.
2 So I don't know if that answers
3 your question, but that's the process
4 that we followed.
5 BY MR. BRIDGES:
6 Q. And did the process include
7 their writing the facts that corresponded to
8 the conversations with plaintiffs' employees
9 and your reviewing and revising what they had
10 written?
11 MR. FEE: Objection.
12 To the extent that question
13 calls for responsive information that
14 is unrelated to bases that form your
15 opinions or conclusions or assumptions
16 that you made, I would instruct you
17 not to answer that portion of the
18 question. You can otherwise respond.
19 THE WITNESS: We all reviewed
20 and revised the document. I don't
21 think that there were any facts that
22 came only from one of them that I
23 wasn't aware of.
24 BY MR. BRIDGES:
25 Q. Were there recollections that

Page 108

1 came from them that you relied upon in
2 creating your report?
3 MR. FEE: Same objection and
4 same instruction.
5 THE WITNESS: There may have
6 been confirmations of things that I
7 recalled or knew, but I don't think
8 that they brought to my attention
9 things that I didn't previously know.
10 BY MR. BRIDGES:
11 Q. And what types of confirmations
12 were there things that you relied upon in
13 approving this report?
14 MR. FEE: Same objection and
15 instruction.
16 THE WITNESS: Virtually
17 everything you see in the report, all
18 three of us were involved in it, and
19 all three of us were confirming and
20 denying things or evaluating things
21 along the way.
22 MR. BRIDGES: I think we have
23 to pause for a change of media, so why
24 don't we take a break.
25 THE VIDEOGRAPHER: Off the

Page 109

1 record at 12:17. This is the end of
2 media unit number 1.
3 * * *
4 (Recess from 12:17 p.m. to
5 12:32 p.m.)
6 * * *
7 THE VIDEOGRAPHER: On the
8 record at 12:32. This is the
9 beginning of media unit 2 in the
10 deposition of John Jarosz.
11 BY MR. BRIDGES:
12 Q. Mr. Jarosz, your report, as I
13 referred to earlier, cites a number of
14 conversations with employees of the
15 plaintiffs. For what purpose did you have
16 conversations with the plaintiffs' employees?
17 A. To learn more about the
18 organization and their view as to the impact
19 of continued copyright protection --
20 continued copyright infringement and
21 trademark infringement.
22 Q. What view did you learn from
23 them?
24 MR. FEE: Objection to form.
25 THE WITNESS: Well, I solicited

Page 110

1 and learned many facts about the
2 organizations. I also learned that
3 each one of them viewed continued
4 copyright infringement and trademark
5 infringement as quite detrimental to
6 their organizations, detrimental to
7 the members, detrimental to the
8 public.
9 They viewed continued IP
10 infringement as potentially
11 devastating to their organizations.
12 BY MR. BRIDGES:
13 Q. These were their views?
14 A. Yes. I'm just paraphrasing, of
15 course.
16 Q. What members did you interview?
17 A. None, other than the employees.
18 I don't know if you call those "members" or
19 not. But the volunteer membership, I didn't
20 go to.
21 THE VIDEOGRAPHER: Excuse me.
22 Counsel, could you move your
23 microphone to your lapel? Thank you.
24 BY MR. BRIDGES:
25 Q. What members of the public did

Page 111

1 you interview?
2 A. I don't think I interviewed any
3 members of the public either.
4 Q. What steps did you do to
5 ascertain the views of the members of the
6 organizations, other than the employees?
7 A. I read the materials that were
8 produced here. I read the deposition
9 testimony of the various individuals. I read
10 the articles published by Ms. Bremer. And I
11 read the other academic literature and
12 practical literature that I had.
13 Q. Which of those sources stated
14 the views of the non-employee members of the
15 various organizations?
16 A. I don't know that views of --
17 that their views were explicitly addressed in
18 my report or represented. I understood what
19 the impacts of the lack of honoring the
20 copyrights and trademarks would have, but I
21 don't know that I saw non-employee member
22 views explicitly summarized.
23 Q. So what steps did you do to
24 ascertain the views of the members of the
25 organizations --

Page 112

1 MR. FEE: Objection.
2 BY MR. BRIDGES:
3 Q. -- other than their employees?
4 MR. FEE: Asked and answered.
5 THE WITNESS: Well, I talked to
6 the employees, and they interact with
7 the members on a very regular basis,
8 so they gave me some sense of what the
9 views of the members were.
10 It also could be that some of
11 the perspectives of the members are
12 reflected in some of the documents I
13 identified in tab 2.
14 BY MR. BRIDGES:
15 Q. Well, I'm just trying to find
16 out where -- it sounds as though -- strike
17 that.
18 It sounds as though a minute
19 ago you said you couldn't recall anything
20 specifically calling out views of
21 non-employee members, correct?
22 A. Correct. I think that's right.
23 Q. What did you do to verify the
24 statements that employees of the plaintiffs
25 made about the views of the non-employee

Page 113

1 members of their organizations?
2 A. I did what I normally do in an
3 assignment like this and look at the produced
4 materials.
5 Q. And the produced materials did
6 not call out specifically any views of
7 non-employee members of the plaintiff
8 organizations, correct?
9 A. I don't recall any specific
10 views being summarized. My memory may not be
11 perfect on that, though.
12 Q. What research, if any, did you
13 do among members of the public about whether
14 lack of copyright protection for the
15 plaintiffs' standards would be detrimental to
16 the -- to the public?
17 A. The information that I reviewed
18 is in tab 2. I didn't have material beyond
19 what is identified in tab 2.
20 Q. So what in tab 2 reflects your
21 steps to ascertain the views of members of
22 the public?
23 MR. FEE: Objection to form.
24 THE WITNESS: I think the
25 Bremer articles, in part, address

Page 114

1 that. I think some of the federal
2 government's circulars that I
3 identify, in part, reflect the
4 reviews, in particular the NTTAA of
5 1995 and OMB Circular A-119. I think
6 they, in part, reflect public views.
7 There are probably other things.
8 BY MR. BRIDGES:
9 Q. Did you review OMB Circular
10 A-119 personally?
11 A. Yes. As I recall, I did.
12 Q. Did you review any materials
13 pertaining to the discussions or
14 deliberations of the Administrative
15 Conference of the United States in connection
16 with your research or analysis?
17 A. What particular materials or
18 meetings are you referring to?
19 Q. Any.
20 A. I don't recall, but it's
21 possible.
22 Q. Does tab 2 refer you to any
23 documents that would provide you information
24 about the discussions or deliberations of the
25 Administrative Conference of the United

Page 115

1 States other than law review articles by
2 Emily Bremer?
3 A. As I sit here right now, I'm
4 not aware of any documents that discuss the
5 deliberations, but my memory is not perfect.
6 Q. Do you know if there was a
7 consensus in any relevant committee of the
8 Administrative Conference of the United
9 States regarding the conclusions that
10 Ms. Bremer states in her law review articles?
11 A. I don't.
12 MR. FEE: Objection. Vague.
13 BY MR. BRIDGES:
14 Q. Do you know whether there was
15 any dissent in any relevant committee of the
16 Administrative Conference of the United
17 States regarding the conclusions that
18 Ms. Bremer states in her law review articles?
19 MR. FEE: Objection to form.
20 THE WITNESS: I don't.
21 BY MR. BRIDGES:
22 Q. Do you know why persons get
23 appointed to the Administrative Conference of
24 the United States?
25 A. I may have known that, but I

Page 116

1 don't recall that sitting here now.
2 Q. Do you know whether
3 Ms. Bremer's articles -- strike that.
4 Do you know whether
5 Ms. Bremer's law review articles reflect a
6 view of the Administrative Conference of the
7 United States --
8 MR. FEE: Objection to form.
9 BY MR. BRIDGES:
10 Q. -- or of any of its committees?
11 MR. FEE: Objection to form.
12 THE WITNESS: I'm not aware
13 that they officially reflect that. I
14 believe she gathered information, and
15 they may, in fact, represent the views
16 of some or all members, but I don't
17 think that's -- that either article is
18 an official representation --
19 BY MR. BRIDGES:
20 Q. Are you --
21 A. -- of that body.
22 Q. Are you aware of the fact that
23 her articles -- her law review articles
24 specifically disclaim her articles as the
25 views of any government entity and indicate

Page 117

1 that they are her personal views?
2 A. I wouldn't be surprised and
3 may -- I may have read that, but I would
4 expect that that would be in the first
5 footnote of one or both articles.
6 Q. What did you do to examine the
7 alleged facts that the representatives of
8 plaintiffs stated to you in their
9 conversations with you?
10 MR. FEE: Objection to form.
11 THE WITNESS: I looked at --
12 MR. FEE: Asked and answered.
13 THE WITNESS: I'm sorry. I
14 looked at the document production and
15 the other materials shown in tab 2.
16 BY MR. BRIDGES:
17 Q. You looked at the document
18 production that the plaintiffs' counsel
19 furnished you?
20 A. In part. There were other
21 things in tab 2 that were not provided to me
22 by plaintiffs' counsel.
23 Q. What other materials in
24 tab 2 -- strike that.
25 Please identify for me in tab 2

Page 118

1 the materials that plaintiffs' counsel
2 furnished you.
3 A. I don't know with absolute
4 certainty, but let me give you my best guess.
5 I believe all the depositions that are shown
6 on page 1. I believe the Bates ranges at the
7 very top of the page were provided by
8 counsel.
9 The deposition transcripts and
10 exhibits were provided by counsel. I believe
11 the financial statements and plans were
12 provided by counsel. I believe the legal
13 documents were provided by counsel. I
14 believe the miscellaneous items were provided
15 by counsel.
16 I don't know about the cases
17 and laws. I just don't remember if we
18 separately gathered those or were provided
19 those.
20 The analyst reports, articles,
21 books, and presentations, I think we gathered
22 all of those, with the possible exception of
23 the two Bremer articles. I don't recall if
24 counsel provided that or we obtained those
25 separately.

Page 119

1 I believe counsel did not
2 provide the Web site screenshots, but I might
3 be wrong on that.
4 Q. And did you do anything --
5 what, if anything, did you do to test the
6 validity of the factual assertions that the
7 plaintiffs made to you in your conversations
8 with their employees?
9 MR. FEE: Objection to form.
10 Asked and answered.
11 THE WITNESS: Well, we looked
12 at materials. If we found things that
13 conflicted with what we learned, that
14 would prompt us to investigate
15 further. But I don't recall seeing
16 any documentary evidence that
17 conflicted with facts that were
18 provided by plaintiff personnel, but I
19 might be wrong.
20 BY MR. BRIDGES:
21 Q. Did you investigate
22 independently whether documents existed that
23 contradicted plaintiffs' statements of facts?
24 A. Not with that in mind. We
25 looked at the documents and were mindful of

Page 120

1 whether there were conflicts within documents
2 or conflicts between documents and other
3 information, but I don't recall that we saw
4 anything that gave us substantial pause.
5 There were probably some things
6 where there were some uncertainties whether
7 there was a conflict or not and some where
8 there were insignificant conflicts, but I
9 think mostly the information we saw did not
10 conflict with the information we learned from
11 plaintiff personnel.
12 Q. Did you investigate
13 independently whether other documents, apart
14 from the documents plaintiffs furnished you,
15 existed that contradicted plaintiffs'
16 statements of facts --
17 MR. FEE: Objection to form.
18 BY MR. BRIDGES:
19 Q. -- in conversations with you?
20 A. Yes, in the sense that we
21 gathered some information that we did not
22 receive from plaintiffs' counsel, but all of
23 that is identified in tab 2.
24 Q. Which part of tab 2?
25 A. Well, as I said, I think the

Page 121

1 Web sites we gathered ourselves, and I think
2 the reports and articles, with the exception
3 of the Bremer articles, we gathered
4 ourselves.
5 Q. Do you know why you got no
6 documents from NFPA, no Bates range documents
7 from NFPA?
8 MR. REHN: Object to form --
9 THE WITNESS: I don't know why
10 we did not receive Bates documents --
11 THE REPORTER: Wait.
12 MR. REHN: Sorry. Object to
13 the form. Lacks foundation.
14 THE WITNESS: I don't know for
15 sure that we didn't receive
16 Bates-stamped documents, but I believe
17 some of the documents we received were
18 NFPA documents.
19 BY MR. BRIDGES:
20 Q. Do you recall seeing any NFPA
21 documents that -- in which NFPA personnel
22 stated that they could not show any harm from
23 the defendant's activities?
24 A. Received any documents that
25 said that?

Page 122

1 Q. Uh-huh.
2 A. Perhaps you would have
3 something that would refresh my memory. I
4 don't recall, sitting here right now, but
5 it's possible.
6 Are you talking about
7 historical -- historically no harm, or are
8 you talking about prospectively?
9 Q. Either one. Did you -- do you
10 recall seeing any internal NFPA documents
11 that call into question where NF -- whether
12 NFPA has suffered any harm from the
13 defendant's activities?
14 A. I don't recall documents on it.
15 There may have been some deposition testimony
16 about past activities, but I don't know if it
17 was activities prior to Public Resource
18 actions here or after.
19 Q. Do you recall learning about
20 any litigation that NFPA had engaged in
21 pertaining to standards and copyright?
22 A. I think I heard that there's
23 some overseas litigation involving Public
24 Resource. Whether that involves NFPA, I
25 don't know.

Page 123

1 Q. What did you hear about
2 overseas litigation involving Public
3 Resource?
4 A. I think I heard that there was
5 a German -- or a suit in Germany, but I'm not
6 sure that I learned much more than that. I
7 don't recall what status that suit -- what
8 the status of that suit is.
9 Q. Do you recall anyone disclosing
10 to you litigation involving NFPA in the
11 United States that pertained to standards and
12 copyright?
13 A. It's possible, but I don't
14 recall any, sitting here right now.
15 Q. Do you recall inquiring about
16 public statements of fact that NFPA has made
17 regarding copyright and standards in
18 litigation other than this litigation in the
19 United States?
20 MR. FEE: Objection to form.
21 THE WITNESS: I do not.
22 BY MR. BRIDGES:
23 Q. Are you familiar with a case
24 called Veeck, V-E-E-C-K?
25 A. I'm familiar with an opinion in

Page 124

1 the Veeck case.
2 Q. What do you know about that
3 opinion?
4 MR. FEE: Objection.
5 I would instruct you not to
6 disclose anything you know about that
7 opinion that was a result of
8 communications with counsel and that
9 did not form the basis of any of the
10 opinions in your report or any of the
11 assumptions that you relied upon in
12 reaching your conclusions.
13 THE WITNESS: I did talk with
14 counsel about that case, and that case
15 didn't form any basis for any of my
16 observations or conclusions here.
17 BY MR. BRIDGES:
18 Q. Why did the Veeck case not form
19 any basis for any of your observations or
20 conclusions here?
21 A. I don't know how to answer that
22 question. I -- it didn't present any facts
23 that were specific to this case, as far as I
24 recall.
25 Q. What do you recall of the facts

Page 125

1 of that case?
2 A. I recall generally it had to do
3 with activities of certain municipalities
4 using what was copyrighted or what was
5 claimed to be copyrighted material by a group
6 that developed materials explicitly to be put
7 into the law.
8 Q. Do you recall what the decision
9 was in the opinion you seem to be familiar
10 with?
11 MR. FEE: Objection to form.
12 THE WITNESS: I think,
13 generally, that copyright protection
14 was not available. I'm sure there was
15 more to it, but that's my general
16 opinion, my general memory.
17 BY MR. BRIDGES:
18 Q. And copyright protection was
19 not available for what?
20 A. Well, the asserted copyrights
21 in that matter.
22 Q. And do you recall what the
23 matter was that was at issue in Veeck?
24 A. Well, as I said, I think it was
25 certain municipalities were using certain

Page 126

1 standards and using the materials from
2 certain standards and perhaps disseminating
3 it. I -- I forget the facts.
4 Q. Do you recall what kind of
5 standards they were?
6 MR. FEE: Objection. Vague.
7 THE WITNESS: They may
8 generally have had to deal with
9 building codes, but I could be wrong
10 on that.
11 BY MR. BRIDGES:
12 Q. What analysis did you do of
13 harms suffered by the code developers of
14 those building codes as a consequence of the
15 Veeck decision?
16 A. I didn't do any analysis
17 associated with the facts of that case.
18 Q. Why not?
19 A. Because those facts are
20 different than the facts here, including what
21 the organization was.
22 Q. Are the facts -- what -- what
23 case studies are you familiar of -- are you
24 familiar with regarding measurements of harms
25 suffered by entities that develop codes when

Page 127

1 a court rules that those codes are not
2 subject to copyright?
3 MR. FEE: Objection to form.
4 Vague. Lack of foundation.
5 THE WITNESS: What case
6 studies? Are you talking about
7 something akin to a business school
8 case study? I don't know what you
9 mean by that term.
10 BY MR. BRIDGES:
11 Q. I'm just -- what opportunities
12 do you -- have you identified for finding
13 comparable circumstances where a court has
14 made a ruling that building codes are not
15 subject to copyright in order to study what
16 the consequences were --
17 MR. FEE: Objection.
18 BY MR. BRIDGES:
19 Q. -- what the economic
20 consequences were of the Court's decision?
21 MR. FEE: Objection to form.
22 Vague as to "comparable." Lack of
23 foundation.
24 You can answer.
25 THE WITNESS: I don't know that

Page 128

1 I can answer. I don't -- I don't
2 under -- I don't know how to answer
3 your question. I read that court
4 case.
5 BY MR. BRIDGES:
6 Q. And did you stop to say at some
7 point -- strike that.
8 Why did you read the court
9 case?
10 A. Because I understand that
11 Public Resource believes it's of some
12 significance to this case.
13 Q. Do you believe that that -- do
14 you have an understanding as to whether the
15 Veeck case is of any significance to this
16 case?
17 MR. FEE: Objection. Calls for
18 a legal conclusion.
19 THE WITNESS: I don't know.
20 I'm not a legal expert.
21 BY MR. BRIDGES:
22 Q. What steps did you take to
23 ascertain what economic harms flowed from the
24 Court's decision in the Veeck case?
25 MR. FEE: Objection. Asked and

Page 129

1 answered.
2 THE WITNESS: Again, I read the
3 case. I didn't do any analysis beyond
4 that of that particular case.
5 BY MR. BRIDGES:
6 Q. What steps did you take to
7 ascertain what public harms flowed from the
8 Court's decision in the Veeck case?
9 A. Other than reading the case,
10 the opinion in the case, I didn't do anything
11 beyond that to understand the implications of
12 that holding.
13 Q. You didn't do any investigation
14 as to the economic consequences to any
15 entity, industry, or person as a consequence
16 of the decision in the Veeck case, correct?
17 MR. FEE: Objection to form.
18 THE WITNESS: I think that's
19 correct, yes.
20 BY MR. BRIDGES:
21 Q. How has the process of
22 standards development changed in the last 100
23 years, to your knowledge?
24 A. I don't know the specifics, and
25 I don't know that there is one standards

Page 130

1 development process. I think there are a
2 variety of processes pursued by a number of
3 SSOs or SDOs. I'm sure that there have been
4 changes on the margin. There may have been
5 larger changes. I just don't know. I have
6 not studied the trend in the standard
7 development process over time.
8 Q. What changes are you aware of
9 in the standards development process of NFPA
10 over the past 100 years?
11 A. I don't know. I've not studied
12 that topic.
13 Q. What changes are you aware of
14 in the standards development process of the
15 ASHRAE 90.1 standard?
16 A. I don't know. I've not studied
17 that.
18 Q. How did ASHRAE come to develop
19 the 90.1 standard?
20 A. I think, generally, a need was
21 identified and a group of constituents
22 convened to derive a standard, but I don't
23 know the specifics beyond that.
24 Q. Do you know who identified the
25 need?

Page 131

1 A. Not sitting here right now, I
2 don't.
3 Q. Do you know whether ASHRAE took
4 over development of what became standard 90.1
5 from any other group or entity?
6 A. No, I do not.
7 Q. Have you ever quantified the
8 value of the contributions made by the
9 volunteers of the various organizations to
10 the standards at issue in this case?
11 MR. FEE: Objection to form.
12 THE WITNESS: Not other than
13 having some sense of hours or a
14 limited sense of dollars, but not
15 beyond that, no.
16 BY MR. BRIDGES:
17 Q. Can you put a rough dollar
18 value on the time and expenses of the
19 volunteers with respect to any of the
20 standards in this case?
21 MR. FEE: Objection to form.
22 THE WITNESS: Not sitting here
23 right now. That would entail a little
24 bit of a study. I have not done that.
25 BY MR. BRIDGES:

Page 132

1 Q. What -- what would be required?
2 A. To understand basically the
3 out-of-pocket expenses incurred and the
4 opportunity costs incurred. So among other
5 things, one would want to look at time
6 records, have an understanding of
7 compensation, have an understanding of the
8 activities of those individuals. Those
9 are -- would be among the inputs.
10 Q. What changes are you aware of
11 in the distribution of standards in the past
12 100 years by the plaintiffs?
13 MR. FEE: Objection to form.
14 THE WITNESS: I haven't
15 investigated that particular issue,
16 but I understand that some of the
17 standards today are distributed
18 through the Internet that certainly
19 didn't exist 100 years ago.
20 Some of the standards are
21 distributed for free with limitations.
22 I don't know if that was true 100
23 years ago, but it might have been.
24 I would expect some of the
25 copying and dissemination capabilities

Page 133

1 are much greater today than they were
2 in 1915, but I don't know that the
3 general methods of -- I don't know how
4 the general methods of distribution
5 have changed.
6 BY MR. BRIDGES:
7 Q. What changes are you aware of
8 in sales trends over the past 20 years?
9 MR. FEE: Objection to form.
10 THE WITNESS: I don't have data
11 going back as far as 20 years ago. I
12 have some information on publication
13 sales, for instance, in tabs 3, 4, and
14 5. They only -- that information only
15 goes back a few years, however.
16 BY MR. BRIDGES:
17 Q. Did you review any information
18 earlier than the dates shown in the documents
19 at tabs 3, 4, and 5?
20 MR. FEE: Objection. Vague.
21 THE WITNESS: It's possible
22 that some of the source documents had
23 earlier information, but I don't
24 recall that. I would need to look at
25 those source documents.

Page 134

1 BY MR. BRIDGES:
2 Q. And those source documents
3 would be within the Bates ranges identified
4 in tab 2 of your report?
5 A. Within the Bates ranges or
6 identified elsewhere in tab 2. For instance,
7 the AS team -- ASTM audited -- audited
8 consolidated financial statements, I think,
9 may not all be Bates-stamped. I could be
10 wrong on that. But I would look in that set
11 of financial documents.
12 Q. What do you know about what you
13 said -- strike that.
14 You said earlier that some
15 standards are distributed for free with some
16 limitations; is that correct?
17 A. Yes, that's my understanding.
18 Q. What do you know about that?
19 MR. FEE: Objection. Vague.
20 THE WITNESS: I've written
21 about that in my report. I believe
22 that each one of the plaintiffs has
23 provided what is sometimes called a
24 "reading room" so that people can look
25 at those standards but are not given

Page 135

1 the right to reproduce, copy, or
2 disseminate those standards but can
3 look at them online.
4 BY MR. BRIDGES:
5 Q. Have you used the reading rooms
6 of any of the plaintiffs?
7 A. No, I have not.
8 Q. Have you reviewed the interface
9 that the -- have you reviewed the interfaces
10 that the plaintiffs offer to persons wishing
11 to view materials for free online?
12 A. No, I don't think so.
13 Q. Do you know what effect, if
14 any, the presence of those free materials on
15 the plaintiffs' Web sites has had on the
16 plaintiffs' revenues?
17 MR. FEE: Objection to form.
18 THE WITNESS: No, I don't.
19 BY MR. BRIDGES:
20 Q. Have you -- have you
21 investigated that?
22 MR. FEE: Same objection.
23 THE WITNESS: I've been
24 opening -- I've been open to learning
25 about that, but I haven't learned that

Page 136

1 there's a direct or indirect effect.
2 There might be, but I haven't seen
3 evidence of that.
4 BY MR. BRIDGES:
5 Q. My question was, have you
6 investigated that?
7 MR. FEE: Same objection.
8 THE WITNESS: Perhaps you could
9 read back my answer.
10 BY MR. BRIDGES:
11 Q. I've heard the answer. It was
12 not responsive to my question. The -- you
13 said you did not know what effect, if any,
14 the presence of those free materials on the
15 plaintiffs' Web sites has had on the
16 plaintiffs' revenues.
17 And my question is, have you
18 investigated that?
19 MR. FEE: Same objection.
20 THE WITNESS: No, I've not
21 undertaken a separate investigation.
22 I've been alert to that topic, but I
23 haven't assigned myself that
24 investigation.
25 BY MR. BRIDGES:

Page 137

1 Q. Was something that was --
2 remained pending at the time you wrote this
3 report as something that you expected to do
4 in the future?
5 A. No.
6 MR. FEE: Objection. Vague.
7 THE WITNESS: I'm sorry.
8 No.
9 BY MR. BRIDGES:
10 Q. Did you study the practices of
11 any standards development organizations,
12 other than the plaintiffs, for purposes of
13 your work in this case?
14 MR. FEE: Objection. Vague.
15 THE WITNESS: Not that I
16 recall. I saw reference to other SDOs
17 in the Bremer articles, for instance,
18 but I didn't undertake a separate
19 investigation of the practices of any
20 other SDOs for purposes of my
21 assignment here.
22 BY MR. BRIDGES:
23 Q. Are you aware of practices or
24 policies of other SDOs with reference to
25 either copyright or free availability of

Page 138

1 their materials?
2 MR. FEE: Objection to form.
3 THE WITNESS: I may have been
4 aware through other assignments I've
5 undertaken in the past, but I didn't
6 undertake any separate investigation
7 for purposes of this matter.
8 BY MR. BRIDGES:
9 Q. What awareness do you have of
10 the practices or policies of other SDOs
11 through other assignments you've undertaken
12 in the past?
13 MR. FEE: Objection to form.
14 THE WITNESS: I can only recall
15 most generally that they view
16 intellectual property protection as
17 being very important, but I can't be
18 any more specific than that.
19 BY MR. BRIDGES:
20 Q. Which SDOs you -- do you recall
21 treating intellectual property protection as
22 very important?
23 A. Well, again, I've -- I've dealt
24 with standards setting organizations. I
25 don't know if any of those are technically

Page 139

1 SDOs, but the standard setting organizations
2 that are the candidates are the ones that I
3 identified earlier today.
4 Q. Which SDOs do you recall
5 treating copyright protection of their
6 standards as very important?
7 A. I just don't recall right now.
8 I -- I have some vague recollection that
9 copyright considerations are addressed by
10 ETSI, but I could be wrong on that.
11 Q. What do you know about policies
12 or practices of the Blu-ray organization with
13 respect to copyright protection?
14 A. I assume you're talking about
15 the Blu-ray Association? I may have known
16 when I was involved in that matter. I do not
17 remember, sitting here now.
18 Q. Do you recall that your report
19 actually refers to the Blu-ray Association?
20 A. I think I refer to Blu-ray
21 standards. I don't recall if I refer to the
22 Blu-ray Association, but perhaps you could
23 refresh my memory.
24 Q. I believe you point it out at
25 the bottom of page 62. "While certain SDOs

Page 140

1 (e.g., the Blu-ray disc association) provide
2 unrestricted access to their standard
3 publications for free, the Plaintiffs here do
4 not."
5 Do you recall that?
6 A. Now I do. Thank you for
7 refreshing my memory.
8 Q. What economic effects are you
9 aware of the fact that the Blu-ray Disc
10 Association provides unrestricted access to
11 its standard publications for free?
12 A. I have not investigated that
13 issue, so I don't know.
14 Q. What other SDOs have you
15 identified that provide unrestricted access
16 to their standards for free?
17 A. I don't think I've identified
18 any others in my report.
19 Q. Did you look for any others?
20 A. Not that I recall.
21 Q. Why not?
22 A. I don't know how to answer
23 that. I was aware of the Blu-ray Disc
24 Association's policy in this regard, so I
25 wrote about it here.

Page 141

1 Q. Why did you not consider the
2 economic effects of free distribution of
3 standards with respect to other
4 organizations?
5 A. I didn't quite see the
6 relevance to this matter.
7 Q. Why?
8 A. I don't know how to prove a
9 negative.
10 Q. What's the negative you were
11 thinking of that would need to be proved or
12 disproved?
13 A. That something is not relevant.
14 Q. You just didn't see the
15 relevance?
16 A. I don't understand how that
17 would be helpful in the assignment that I had
18 here.
19 Q. And what was the assignment you
20 had here?
21 A. Well, I've laid it out --
22 Q. I can read the report. I'm not
23 asking you to read -- read the report. I'd
24 like your own words now, sitting here.
25 MR. FEE: Objection.

Page 142

1 BY MR. BRIDGES:
2 Q. How do you -- how do you
3 view --
4 A. I'd like to answer it by
5 looking at my report.
6 Q. No, I'd like for you to give me
7 a straight answer, because if you're just
8 going to refer to the report, the report will
9 speak for itself, and I don't need you to
10 read it to me.
11 I'd like for you to tell me
12 what you understand, sitting here, to have
13 been your assignment in this case.
14 MR. FEE: Objection.
15 You can answer the question
16 however you deem appropriate.
17 THE WITNESS: I've aptly laid
18 it out in my report, so I defer to the
19 words in my report.
20 But I've, in essence, looked at
21 the topic of the impact of copyright
22 and trademark infringement here, and
23 asked myself the question whether a
24 permanent injunction would be
25 appropriate from an economic

Page 143

1 perspective.
2 BY MR. BRIDGES:
3 Q. And what is the relevance of
4 economic analysis to that question, as you
5 understand it?
6 MR. FEE: Objection to form.
7 Vague. Might also be construed to
8 require a legal conclusion.
9 THE WITNESS: Economists have a
10 view and perspective at looking at
11 issues that some courts have found to
12 be useful.
13 BY MR. BRIDGES:
14 Q. Well, I'm asking, with specific
15 relevance to this case, what do you
16 understand the importance of economic
17 analysis to be in this case --
18 MR. FEE: Objection. Calls --
19 BY MR. BRIDGES:
20 Q. -- as you have purported to
21 practice it?
22 MR. FEE: Calls for a legal
23 conclusion.
24 Also, to the extent that
25 responding to that would require you

Page 144

1 to disclose communications with
2 counsel that did not form the basis
3 for any of your opinions or
4 conclusions and did not provide any
5 assumptions that were the basis for
6 your opinions or conclusions, you
7 should not answer that portion of the
8 question.
9 THE WITNESS: I understand
10 that, generally, economists like me
11 are quite helpful in determining
12 questions of harm, particularly harm
13 as it relates to infringement of IP
14 rights.
15 BY MR. BRIDGES:
16 Q. How do you distinguish between
17 harms that are caused by an infringement by
18 the defendant versus harms that might be
19 caused by a court decision that plaintiffs
20 lack copyrights?
21 MR. FEE: Objection to the
22 extent it calls for a legal
23 conclusion.
24 THE WITNESS: I don't know how
25 to answer that question. I didn't ask

Page 145

1 myself the question of ownership or
2 impact of ownership. I asked myself
3 the question here of impact of
4 infringement.
5 BY MR. BRIDGES:
6 Q. If it turns out that the Court
7 rules that the plaintiff -- sorry. Strike
8 that.
9 If it turns out the Court rules
10 here that the defendant has engaged in fair
11 use, is it your understanding that none of
12 your harms analysis is relevant --
13 MR. FEE: Objection.
14 BY MR. BRIDGES:
15 Q. -- because of a finding of
16 non-infringement?
17 MR. FEE: Calls for a legal
18 conclusion.
19 To the extent answering that
20 question would require you to disclose
21 communications you had with counsel
22 that don't form the basis for any of
23 your opinions or conclusions and don't
24 provide any assumptions that you
25 relied upon, you shouldn't disclose

Page 146

1 those communications.
2 THE WITNESS: You're asking for
3 a legal conclusion. I'm not an expert
4 on that.
5 BY MR. BRIDGES:
6 Q. I'm understanding your
7 understanding -- I'm asking for your
8 understanding of the relevance of your
9 contributions to this case.
10 MR. FEE: Objection. Asked and
11 answered. Plus all the prior
12 objections and instructions.
13 THE WITNESS: I believe my
14 testimony and report are relevant to
15 the issue of harm and potential harm.
16 BY MR. BRIDGES:
17 Q. From what?
18 A. From continuing -- the
19 continuing activities and possible expanded
20 activities of the defendant here.
21 Q. From activities or from
22 violations of law?
23 MR. FEE: Objection. Vague.
24 Calls for a legal conclusion.
25 THE WITNESS: I -- I'm working

Page 147

1 under the assumption that the
2 activities violate the law.
3 BY MR. BRIDGES:
4 Q. If the activities -- do you
5 believe -- do you understand that your
6 analysis is relevant to a determination of
7 whether the defendant has violated the law?
8 MR. FEE: Objection. Calls for
9 a legal conclusion.
10 To the extent that your
11 understanding is based upon
12 communications with counsel, you
13 shouldn't disclose them, unless they
14 formed the basis for your opinions or
15 conclusions or provided assumptions
16 that you relied upon in reaching your
17 conclusions.
18 THE WITNESS: I don't know.
19 BY MR. BRIDGES:
20 Q. Do you have any view as to
21 whether the defendant has violated copyright
22 law?
23 MR. FEE: Objection. Calls for
24 a legal conclusion.
25 THE WITNESS: No, I've not

Page 148

1 taken on that assignment.
2 BY MR. BRIDGES:
3 Q. Do you have any view as to
4 whether the defendant's activities constitute
5 fair use?
6 MR. FEE: Objection. Calls for
7 a legal conclusion.
8 THE WITNESS: No, I've not
9 taken on that assignment.
10 BY MR. BRIDGES:
11 Q. If a court determines that the
12 defendant has not infringed upon plaintiffs'
13 copyrights, do you understand that the
14 decision would result in economic harm to the
15 plaintiffs?
16 MR. FEE: Objection to the
17 extent it calls for a legal
18 conclusion.
19 THE WITNESS: I'm not following
20 your question. Could you ask it a
21 little bit differently, please?
22 BY MR. BRIDGES:
23 Q. No, I'll restate it if you just
24 need to rehear it.
25 A. No, I don't need to rehear it.

Page 149

1 If you could recast it, please.
2 Q. No. Then please answer my
3 question.
4 MR. FEE: Objection.
5 BY MR. BRIDGES:
6 Q. I get to ask the questions.
7 MR. FEE: He just said he
8 couldn't answer it.
9 THE WITNESS: I don't
10 understand the question.
11 BY MR. BRIDGES:
12 Q. What is it you don't
13 understand?
14 A. I understand each word but not
15 how you put them together.
16 Q. If a court determines that the
17 defendant has not infringed upon the
18 plaintiffs' copyrights, do you believe that
19 that decision would result in economic harm
20 to the plaintiffs?
21 MR. FEE: Objection to the
22 extent it calls for a legal
23 conclusion. Plus asked and answered.
24 THE WITNESS: It sounds like
25 exactly the same words, so I'm not

Page 150

1 sure how to answer that question.
2 BY MR. BRIDGES:
3 Q. Would a decision that the
4 defendant has not infringed upon plaintiffs'
5 copyrights result in economic harm to the
6 plaintiffs?
7 MR. FEE: Objection. Calls for
8 a legal conclusion.
9 THE WITNESS: I'm just not
10 following. I under -- I'm worked --
11 I'm working under the assumption that
12 the activity here represents a
13 copyright infringement. I'm -- and
14 I'm being asked and answering the
15 question of the impact of that and
16 whether there would be harm and what
17 kind of harm and whether that's
18 reparable harm.
19 So I'm focusing on what has
20 been done and what may continue to be
21 done by the defendant.
22 BY MR. BRIDGES:
23 Q. That's non-responsive. I'll
24 ask you to answer my question. And if you
25 just don't want to answer the question,

Page 151

1 that's fine.
2 A. I want to, but I cannot.
3 Q. Well --
4 A. I do not understand the
5 question.
6 Q. I'll say it again.
7 Would a decision by the Court
8 that the defendant has not infringed upon the
9 plaintiffs' copyrights result in economic
10 harm to the plaintiffs?
11 MR. FEE: Objection. Calls for
12 a legal conclusion. Asked and
13 answered.
14 THE WITNESS: I --
15 MR. FEE: Vague.
16 THE WITNESS: I cannot answer
17 it any differently. I'm sorry.
18 Is this a good time for a
19 break, or do you want to keep going?
20 MR. BRIDGES: Sure. We can
21 take one if you want.
22 THE VIDEOGRAPHER: Off the
23 record at 1:17.
24 * * *
25 (Recess from 1:17 p.m. to

Page 152

1 2:12 p.m.)
2 * * *
3 THE VIDEOGRAPHER: On the
4 record at 2:12.
5 BY MR. BRIDGES:
6 Q. Good afternoon, Mr. Jarosz.
7 A. Good afternoon.
8 Q. Could you outline for me,
9 please, what steps you took in your
10 engagement in this case? What are the
11 different activities you engaged in?
12 A. Generally, I had a discussion
13 with counsel about the matter. Then we
14 examined documents that would -- were
15 provided to us to give us background. We
16 then proceeded to gather our own information
17 from third-party sources, primarily through
18 Internet searches.
19 We obtained information that
20 had been produced as part of discovery. We
21 had conversations with people at the various
22 plaintiff organizations.
23 We outlined the report and
24 summarized some of the information that you
25 see in the tabs. We had discussions with

Page 153

1 counsel. And then we finalized the report,
2 submitting it to counsel on June 5th, 2015.
3 Q. Do you know how many standards
4 of each plaintiff are at issue in this case?
5 A. How many -- I'm sorry --
6 standards are at issue?
7 Q. Yes.
8 A. I have that number written
9 down. It's in the hundreds, and I forget, as
10 I sit here right now, precisely the number.
11 I will look it up. And I was giving you an
12 answer that was a cumulation across the three
13 plaintiffs.
14 I am not seeing that number
15 right now. I'll keep looking.
16 Q. Do you know what --
17 A. You may be able to point me
18 quicker than I recall where it was.
19 Q. Do you -- do you know what
20 proportion of plaintiffs -- of each
21 plaintiffs' standards is at issue in this
22 case?
23 A. Are you asking me the ratio of
24 the standards at issue versus the total
25 standards developed by the organizations?

Page 154

1 Q. Yes.
2 A. I think it's less than a
3 majority for each organization. I'm fairly
4 certain of that with regard to ASTM. I think
5 that's true with regard to NFPA. I think
6 it's true with regard to ASHRAE.
7 Q. Do you have any better
8 information than less than a majority --
9 A. Well, I --
10 Q. -- for each of them?
11 A. The precise numbers are in the
12 report. Let's see here. One can figure that
13 out. You may remember where I summarized the
14 number of standards. I just don't remember.
15 It's easy to determine because the data are
16 all here.
17 Q. Have you analyzed differences
18 in sales trends between standards that are at
19 issue in this case and plaintiffs' other
20 standards?
21 A. No, I don't think I have those
22 data at my disposal.
23 Q. Did you ever ask for those
24 data?
25 A. I don't recall.

Page 155

1 Q. Have you analyzed any
2 differences in sales trends between those of
3 plaintiffs' standards that have been
4 incorporated into law and those of
5 plaintiffs' standards that have not been
6 incorporated into law?
7 A. I don't think so. I don't
8 think I have those data, and I'm not sure
9 that each plaintiff knows precisely how many
10 have been incorporated into law.
11 Q. Did you ask for any data
12 regarding the distinction between standards
13 incorporated by reference and standards not
14 incorporated by reference in the law?
15 A. I don't --
16 MR. FEE: Objection to form.
17 THE WITNESS: I'm sorry. I
18 don't recall.
19 BY MR. BRIDGES:
20 Q. You made observations about
21 sales trends earlier in your deposition. I
22 think you said that there's been a reduction
23 in sales of certain of plaintiffs' standards;
24 is that correct?
25 A. I'm not quite sure what the

Page 156

1 earlier testimony was, but I think I was
2 pointing you to paragraph 133 with regard to
3 downloads of -- and other measures of
4 activity, as I had at my disposal.
5 Q. Well, I'm trying to find out
6 what changes you have studied in plaintiffs'
7 economics that you attribute to defendant's
8 activities.
9 A. I'm not quite sure what your
10 question is.
11 Q. Well, I'm trying to find out
12 what information you have studied to
13 determine what changes in the finances of
14 each of the plaintiffs have occurred as a
15 consequence of the defendant's activities.
16 MR. FEE: Objection to form.
17 THE WITNESS: I'm still not
18 sure that I'm hearing a question. But
19 to the extent that I had information
20 on changes in activity level, I
21 summarized that in paragraph 133.
22 BY MR. BRIDGES:
23 Q. My question is, what
24 information did you study to determine any
25 changes in finances of each of the

Page 157

1 plaintiffs?
 2 MR. FEE: Same objection.
 3 THE WITNESS: It's reflected in
 4 paragraph 133 and in the tabs,
 5 particularly 3, 4, and 5. But the
 6 tabs are not at the granular level
 7 that I think are of interest to you.
 8 BY MR. BRIDGES:
 9 Q. What do you mean by the
 10 "granular level" that would be of interest to
 11 me?
 12 A. I don't think it breaks out
 13 publications by standard, for instance.
 14 Q. Does it break out publications
 15 by whether a standard has been incorporated
 16 by reference or not?
 17 A. I don't think so.
 18 Q. Does it break out by whether a
 19 standard has been publicly made available by
 20 defendant or not?
 21 A. I don't think so. Not in
 22 tabs 3, 4, and 5.
 23 Q. How do you establish causation
 24 between defendant's activities and any of the
 25 data that you provide in section -- in

Page 158

1 paragraph 133?
 2 MR. FEE: Objection. Calls for
 3 a legal conclusion. Form.
 4 THE WITNESS: One can and
 5 should look at all evidence available,
 6 including circumstantial evidence. I
 7 don't have direct information about
 8 the precise impact of defendant's
 9 activities, but I have important
 10 information that bears on that issue,
 11 including information that's in
 12 deposition transcripts.
 13 BY MR. BRIDGES:
 14 Q. So my question is, how do
 15 you -- do you -- strike that.
 16 Are your conclusion -- are you
 17 making conclusions in paragraph 133 about the
 18 cause of changes in sales of the plaintiffs'
 19 products?
 20 MR. FEE: Objection to form.
 21 THE WITNESS: Not definitively.
 22 I have observations about the
 23 magnitude and trend of the downloads
 24 of -- through defendant's sites. I
 25 have some information on the downloads

Page 159

1 of certain of the standards. I've
 2 presented that.
 3 I don't have direct evidence of
 4 the precise impact historically of
 5 defendant's activities on plaintiffs'
 6 financials.
 7 BY MR. BRIDGES:
 8 Q. What evidence of any kind do
 9 you have of any kind of impact historically
 10 of the defendant's activities on plaintiffs'
 11 financials?
 12 MR. FEE: Objection to form.
 13 THE WITNESS: That which is
 14 reported in paragraph 133, that of
 15 which is contained in deposition
 16 testimony, and that of which I
 17 summarized in other parts of the
 18 report.
 19 BY MR. BRIDGES:
 20 Q. So when you're referring to
 21 deposition testimony, you're referring to the
 22 citations to the footnotes in paragraph 133?
 23 A. No, I don't think it's just
 24 limited to that. I think there's some other
 25 deposition transcripts that talk about the

Page 160

1 impact or potential impact of defendant's
 2 activities on each one of the plaintiffs.
 3 Q. Did you make any independent
 4 assessment of causation of any financial
 5 effects on plaintiffs by the defendant's
 6 activities?
 7 MR. FEE: Objection to form.
 8 Calls for a legal conclusion.
 9 THE WITNESS: What do you mean
 10 by the term of "independent assessment
 11 of causation"?
 12 BY MR. BRIDGES:
 13 Q. You, as an expert, not relying
 14 just on what other people have said or
 15 speculated or thought.
 16 MR. FEE: Same objections.
 17 Plus compound.
 18 THE WITNESS: We experts rely
 19 on other information to draw the
 20 conclusions that we do, and then we
 21 bring our training to it. So our
 22 observations shouldn't be in a vacuum.
 23 BY MR. BRIDGES:
 24 Q. But they should be objective,
 25 correct?

Page 161

1 A. Yes.
2 Q. And that means perhaps not
3 relying upon the views of the parties to the
4 lawsuit alone, but doing independent analysis
5 and research, correct?
6 MR. FEE: Objection to form.
7 THE WITNESS: I think one can
8 and should evaluate and consider the
9 views of the parties, but not limited
10 investigation to that.
11 BY MR. BRIDGES:
12 Q. So what independent analysis
13 and research did you do other than reviewing
14 the views and statements of the parties in
15 this case?
16 MR. FEE: Objection. Vague.
17 THE WITNESS: I reviewed and
18 summarized the data, as you see in
19 133, that I had at my disposal. I
20 reviewed writings about the impacts.
21 And I took important
22 information from the fact that the
23 plaintiffs have brought this lawsuit.
24 The plaintiffs don't want this
25 activity to continue. That is

Page 162

1 revealed preference information that's
2 quite important.
3 BY MR. BRIDGES:
4 Q. Tell me about what you mean by
5 repealed -- sorry. Strike that.
6 Tell me what you mean by
7 "revealed preference."
8 A. What people do often provides
9 information on what their preferences are.
10 Q. And so the fact that plaintiffs
11 brought this lawsuit has revealed to you that
12 they prefer to bring the lawsuit, correct?
13 MR. FEE: Objection. Vague.
14 THE WITNESS: Given the cost,
15 they prefer to bring the lawsuit
16 rather than not bring it, yes.
17 BY MR. BRIDGES:
18 Q. What else -- strike that.
19 What are the data you're
20 referring to in page -- strike that.
21 What are the data you're
22 referring to in paragraph 133 that you took
23 into account in discussing or analyzing
24 effects of defendant's activities on
25 plaintiffs?

Page 163

1 A. I took all the data --
2 MR. FEE: Objection. Form.
3 Objection to form.
4 THE WITNESS: I took all this
5 data into account. That's why I
6 reported it here.
7 BY MR. BRIDGES:
8 Q. And the data that you
9 identified in the footnotes in
10 paragraph 134 -- sorry -- 133?
11 A. Yes, I considered that
12 information.
13 Q. Do you know in what year the
14 defendant posted the 2008 version of the
15 National Electrical Code on its Web site?
16 A. I don't know with absolute
17 certainty. I do know a number of the alleged
18 activities occurred in late 2012. I don't
19 know if it's specific to that code or not.
20 Q. Does it matter to your analysis
21 exactly when the defendant posted the 2008
22 National Electrical Code on its Web site or
23 to Internet Archive?
24 A. I would --
25 MR. FEE: Objection to form.

Page 164

1 THE WITNESS: I would consider
2 that information if I had it, but I
3 don't have any reason to think that it
4 would change any of the conclusions
5 that I drew.
6 BY MR. BRIDGES:
7 Q. The timing of when the
8 defendant posted certain matters wouldn't
9 change your conclusions?
10 A. Not based on what I know right
11 now. My understanding is that much of the
12 activity occurred in 2012, the later half of
13 2012, and I still have the whole body of
14 evidence that I have considered. So I'm not
15 sure if the precise timing would change, but
16 I certainly would consider that.
17 Q. Do you know in what year
18 Public.Resource.Org posted the 2011 version
19 of the National Electrical Code?
20 A. Same answer to the question
21 that you had with regard to the 2008 code.
22 Q. Can you look at the data in
23 your -- the tables attached to your report
24 and see if that helps refresh your memory as
25 to when the defendant posted NEC 2008 and

Page 165

1 NEC -- NEC 2011?
2 A. I can look, and I will.
3 No, it doesn't answer that
4 question, I don't think.
5 Q. Can you make a prediction as to
6 when the defendant posted NEC 2008 and
7 NEC 2011, based on the data attached to your
8 report in Exhibit 1?
9 MR. FEE: Objection to form.
10 THE WITNESS: No, I don't
11 think, based on just those data.
12 BY MR. BRIDGES:
13 Q. Can you make -- give an
14 estimate as to when the defendant posted
15 NEC 2008 and NEC 2011, based on the data
16 attached to your report as Exhibit 1?
17 MR. FEE: Same objection.
18 THE WITNESS: No, I don't
19 think, based on just that information.
20 BY MR. BRIDGES:
21 Q. Well, just looking at your
22 report, can you tell when defendant posted
23 NEC 2008 and NEC 2011?
24 A. My answer hasn't changed. I
25 still don't know precisely when those were

Page 166

1 posted.
2 Q. But that doesn't make a
3 difference to your economic analysis of the
4 effects of defendant's activities on the
5 plaintiffs?
6 A. Well, I would be curious --
7 MR. FEE: Objection to form.
8 THE WITNESS: -- curious about
9 that information, but I don't have any
10 reason to think it would change the
11 conclusions that I drew, and that is
12 that a permanent injunction is
13 appropriate here.
14 BY MR. BRIDGES:
15 Q. Is it your job to determine
16 whether a permanent injunction is
17 appropriate? Is that what you were hired to
18 do?
19 A. No.
20 MR. FEE: Objection. Calls for
21 a legal conclusion. Form. Compound.
22 THE WITNESS: I think it's
23 ultimately the Court's decision to
24 make, but I've been asked what my
25 economic view is as to the

Page 167

1 appropriateness of a permanent
2 injunction here.
3 BY MR. BRIDGES:
4 Q. Is the appropriate of -- is the
5 appropriateness of a permanent injunction an
6 economic question?
7 A. I think, in part, economic
8 considerations can be and often are taken
9 into account in answering that question.
10 Q. Is it an economic question?
11 MR. FEE: Objection.
12 BY MR. BRIDGES:
13 Q. That was my question.
14 MR. FEE: Asked and answered.
15 THE WITNESS: Again, in part.
16 BY MR. BRIDGES:
17 Q. The propriety of
18 a preliminary -- of a -- strike that.
19 It's your testimony that the
20 propriety of a permanent injunction is, in
21 part, an economic question?
22 MR. FEE: Objection. Asked and
23 answered. Form. Calls for a legal
24 conclusion.
25 THE WITNESS: Yes. As I

Page 168

1 understand it, one factor to consider
2 is the reparability or irreparability
3 of harm. I believe, at its core,
4 that's an economic question.
5 BY MR. BRIDGES:
6 Q. And what economic theories did
7 you rely upon to conclude that, as an
8 economic matter, a preliminary -- strike
9 that.
10 What economic theories did you
11 rely upon to conclude that, as an economic
12 matter, a permanent injunction is appropriate
13 in this case?
14 MR. FEE: Same objections.
15 THE WITNESS: I don't know what
16 candidates you have in mind for
17 economic theories.
18 BY MR. BRIDGES:
19 Q. Whichever ones you relied upon.
20 A. I --
21 MR. FEE: Same objections.
22 THE WITNESS: -- used all of my
23 training and applied it to the facts
24 of this case and drew the conclusions
25 that I did.

Page 169

1 BY MR. BRIDGES:
2 Q. And are there any particular
3 aspects of training that you have beyond what
4 a first-year college student would have
5 gotten in a first-year economics course that
6 you have brought to bear by applying
7 particular economic theories to this case?
8 A. I think my training makes me
9 who I am and has helped me in assignments
10 like this. I have beyond a first-year-in-
11 college understanding of basic economics, but
12 they're very important concepts that are
13 taught and learned in first-year economics.
14 Q. Well, I want to know if there
15 are any economic concepts beyond first-year
16 economics that you have brought to bear in
17 rendering your conclusions in this case.
18 MR. FEE: Objection to form.
19 Asked and answered.
20 THE WITNESS: Generally, there
21 are, yes.
22 BY MR. BRIDGES:
23 Q. What economic concepts have you
24 brought to bear in your report and analysis
25 in this case?

1 THE WITNESS: We learn about
2 price theory. We learn about consumer
3 behavior. We talk -- we learn about
4 manufacturer and supplier actions. We
5 learn about game theory. We learn
6 about econometrics. We learn more
7 broadly about quantitative methods.
8 We learn about a variety of aspects of
9 industrial organization. There are
10 many things that we learn beyond the
11 first year of economics training.
12 BY MR. BRIDGES:
13 Q. No, I'm asking what you brought
14 to bear in your analysis in this case.
15 A. All those.
16 Q. Okay. What aspect of price
17 theory did you bring to bear in this case?
18 A. I don't know how to answer that
19 question besides I understand basic price
20 theory and have researched it much and
21 applied that to the facts here.
22 Q. What was the specific
23 application of price theory that you brought
24 to bear in this case?
25 A. I can't be any more specific

1 A. I'm sorry, because I don't know
2 what you mean by "economic concepts." We get
3 trained in things like quantitative methods
4 and intermediate microeconomics, in price
5 theory, in econometrics, in consumer
6 behavior. All those things are beyond the
7 first year. I don't know if you're calling
8 those economic theories. Your -- your
9 questioning confuses me.
10 Q. Well, you referred to the
11 important concepts in response to my question
12 to you about particular aspects of training
13 that you have beyond what a first-year
14 college student would have gotten in a
15 first-year economics course that you brought
16 to bear by applying economic theories to this
17 case, and your answer refers to very
18 important concepts that are taught and
19 learned.
20 And so I'm asking you, what
21 very important economic concepts have you
22 brought to bear in your analysis of this
23 case?
24 MR. FEE: Objection to form.
25 Lack of foundation.

1 than that. I don't understand your question.
2 Q. What aspect of training about
3 consumer behavior did you bring to bear in
4 this case?
5 A. I can't be any more specific
6 than saying that.
7 Q. What aspects of your training
8 about game theory have you brought to bear in
9 your work on this case?
10 A. I can't be any more specific
11 than that.
12 Q. What aspects of econometrics in
13 your training have you brought to bear on
14 this case?
15 A. I can't be any more specific
16 than that.
17 Q. What inform -- what aspects of
18 training in qualitative methods have you
19 brought to bear on this case?
20 A. I didn't say "qualitative
21 methods," and so it may have been mis-keyed
22 in. I said "quantitative methods."
23 Q. All right. What aspects of
24 quantitative methods of your training did you
25 bring to bear on this case?

1 A. I can't be any more specific
2 than that.
3 Q. What aspect of your training
4 regarding aspects of industrial organization
5 have you brought to bear on this case?
6 A. I can't be any more specific
7 than that.
8 Q. But you did bring the theory of
9 reveal -- revealed preferences to bear on
10 this case, correct?
11 A. Yes.
12 Q. What other economic theories do
13 you recall bringing to bear on this case?
14 MR. FEE: Objection. Asked and
15 answered.
16 THE WITNESS: Everything that
17 I've --
18 MR. FEE: And vague.
19 Go ahead.
20 THE WITNESS: -- I've learned
21 in my training, both educational
22 training and career training.
23 BY MR. BRIDGES:
24 Q. Can you be more specific than
25 that?

Page 174

1 A. No.
2 * * *
3 (Jarosz Exhibit 4 marked for
4 identification.)
5 * * *
6 BY MR. BRIDGES:
7 Q. Mr. Jarosz, do you recognize
8 Exhibit 4 as a document that you produced in
9 response to a subpoena in this case?
10 A. Yes.
11 Q. What is this document?
12 A. It appears to be a summary over
13 the years 2009 through 2013 of dollars and
14 quantity of NFPA standards that were sold in
15 the marketplace.
16 Q. Based upon the trends that you
17 see in this exhibit, can you estimate when
18 you believe it is most likely that the
19 defendant first published -- strike that.
20 Based upon the trends that you
21 see in this Exhibit 4, can you estimate when
22 you believe it is most likely that the
23 defendant first posted each of the standards
24 identified here?
25 A. I don't think so, not based

Page 175

1 just on this information.
2 Q. What else would you need?
3 A. I don't know, because I think
4 it's probably a very easy factual question to
5 determine when the downloading first
6 occurred, so I don't know why one would need
7 to back into it.
8 Q. Well, when -- would one be able
9 to use sales trends as a way of identifying
10 likely effects of a posting of each standard
11 by the defendant?
12 MR. FEE: Objection. Vague.
13 Compound.
14 THE WITNESS: Maybe; maybe not.
15 BY MR. BRIDGES:
16 Q. Why do you say "maybe; maybe
17 not"?
18 A. I just wouldn't think to do it
19 that way, so I don't know what you exactly
20 have in mind.
21 Q. Do you associate the posting of
22 standards by defendant with changes in sales
23 volume of the standards that the defendant
24 has posted?
25 MR. FEE: Objection to form.

Page 176

1 THE WITNESS: I don't know what
2 you mean by that question.
3 BY MR. BRIDGES:
4 Q. You don't understand the
5 question?
6 A. I do not.
7 Q. Can you correlate the posting
8 of standards by defendant with any changes in
9 sales volumes of the standards that the
10 defendant has posted?
11 MR. FEE: Objection to form.
12 THE WITNESS: I don't think
13 I've attempted to compute the
14 correlation coefficient here
15 associated with postings.
16 BY MR. BRIDGES:
17 Q. I'm not asking for a specific
18 correlation coefficient. I'm just asking,
19 generally, can you correlate the posting of
20 standards by defendant with any changes in
21 sales volumes of the standards that
22 defendants has -- that the defendant has
23 posted with reference to Exhibit 4?
24 A. I don't know --
25 MR. FEE: Objection. Form.

Page 177

1 THE WITNESS: I don't recall
2 attempting to do that. And I wouldn't
3 necessarily think that the historical
4 impact would -- is the end of the
5 story as to the harm here.
6 BY MR. BRIDGES:
7 Q. Is historical impact part of
8 the story as to the harm here?
9 A. Yes.
10 Q. What -- what can you say by
11 looking at Exhibit 4 about the historical
12 impact of the posting of the defendant -- of
13 the plaintiffs' standards by the defendant?
14 A. I don't know that I can say
15 much, because I believe the postings largely
16 occurred in late 2012, and I only have one
17 period after that.
18 Q. If it turns out that
19 defendant's postings were well before 2012,
20 would that affect your analysis of the trends
21 in sales data of the plaintiffs'
22 publications?
23 MR. FEE: Objection to form.
24 Compound. Vague.
25 THE WITNESS: Maybe. I would

Page 178

1 consider that information in
2 conjunction with these data if you
3 wanted me to.
4 BY MR. BRIDGES:
5 Q. How -- what -- what would
6 change?
7 A. I don't know. I haven't done
8 that analysis.
9 Q. Have you verified the dates on
10 which plaintiffs -- strike that.
11 Have you verified the dates at
12 which defendant posted the various standards
13 to its Web site or to Internet Archive?
14 A. I don't --
15 MR. FEE: Objection. Vague.
16 THE WITNESS: I don't recall
17 verifying it.
18 And are you asking did I
19 separately go out and determine what
20 that date is and see if that was the
21 same as what was represented in the
22 Complaint, for instance?
23 BY MR. BRIDGES:
24 Q. Yes.
25 A. No, I don't recall doing that.

Page 179

1 Q. Have you determined in any way
2 the dates at which defendant posted various
3 standards to its Web site or to the Internet
4 Archive?
5 A. I don't recall doing a separate
6 analysis of that, no.
7 Q. How did you learn about the
8 dates at which defendant posted various
9 standards to its Web site or to Internet
10 Archive?
11 A. I had conversations with
12 counsel on that topic, and I may have seen
13 that information contained in certain
14 documents like the Complaint, but I don't
15 recall.
16 Q. Did you rely upon information
17 regarding those dates from conversations with
18 counsel?
19 MR. FEE: In arriving at his
20 opinions, you're asking?
21 MR. BRIDGES: Arriving at his
22 understanding of the facts.
23 THE WITNESS: I don't know that
24 I did, because I don't recall
25 reporting those specific dates

Page 180

1 anywhere in my report.
2 BY MR. BRIDGES:
3 Q. Do you recall taking specific
4 dates into account in analyzing the effect of
5 defendant's actions?
6 MR. FEE: Objection to form.
7 Vague.
8 THE WITNESS: I don't recall
9 one way or the other.
10 BY MR. BRIDGES:
11 Q. Do you know how -- strike that.
12 Do you know how much revenue
13 each plaintiff derives from the standards at
14 issue in this case?
15 A. I don't think I know that
16 precise number.
17 Q. Did you -- did you ever know
18 that number?
19 A. I don't think so.
20 Q. Did you ever know how much
21 revenue each plaintiff derives from standards
22 that have been incorporated into law?
23 A. As opposed to those that have
24 not been incorporated? Is that --
25 Q. Well, I'm -- I'm asking about

Page 181

1 those standards that have been incorporated
2 in the law. I'm asking if you know how much
3 revenue each plaintiffs derives -- each
4 plaintiff derives from those standards.
5 A. I don't --
6 MR. FEE: Objection. Form.
7 THE WITNESS: -- think I know
8 that number, and I'm not sure the
9 plaintiffs know that number.
10 BY MR. BRIDGES:
11 Q. Do you know the percentage of
12 revenue that each plaintiff derives from
13 standards that have been incorporated into
14 law?
15 MR. FEE: Objection to form.
16 THE WITNESS: I don't think I
17 do, and I don't believe the plaintiffs
18 do.
19 BY MR. BRIDGES:
20 Q. Are you aware of any difference
21 in profitability to plaintiffs between those
22 standards that have been incorporated into
23 law and those standards that have not been
24 incorporated into law?
25 MR. FEE: Objection to form.

Page 182

1 THE WITNESS: I don't believe
2 so.
3 BY MR. BRIDGES:
4 Q. Do you know -- strike that.
5 Are you aware of any difference
6 in profitability to plaintiffs between those
7 standards that defendant has posted to the
8 Internet and those standards that defendant
9 has not posted to the Internet?
10 MR. FEE: Objection to form.
11 THE WITNESS: I don't believe
12 so. And as with the previous
13 question, I don't think the plaintiffs
14 have that information at their
15 disposal.
16 BY MR. BRIDGES:
17 Q. For each plaintiff, what do you
18 understand to be the percentage of gross
19 revenue from the sale of standards?
20 MR. FEE: Objection to form.
21 THE WITNESS: I -- I've
22 reported that in my report. My memory
23 is that it's something on the order of
24 66 percent for ASTM and for NFPA. And
25 if you add in memberships, it's

Page 183

1 something just north of 50 percent for
2 ASHRAE.
3 BY MR. BRIDGES:
4 Q. What do you mean by "if you add
5 in memberships"?
6 A. I'm not -- I'm not quite sure
7 what you're asking me to define.
8 Q. I'm asking you to explain the
9 phrase that you just used, "if you add in
10 memberships." What did that mean?
11 A. I talked about that in my
12 report. Membership fees are a fairly good
13 recollect -- a fairly good reflection of
14 amount that would have been paid for
15 publications. In other words, publication
16 fees -- it -- let me start this over again.
17 It makes about as much sense to
18 become a member of ASHRAE as it is to buy
19 some of the individual publications. As a
20 result, many people choose to become members
21 rather than just buying the publication, as I
22 understand it.
23 Q. How did you learn that?
24 A. Having knowledge of the -- of
25 the price difference and through discussions

Page 184

1 with people at ASHRAE.
2 Q. How did you learn about the
3 price difference?
4 A. I don't recall how I learned
5 it, but I report it in my report based on
6 certain documents I've seen. Perhaps I
7 learned it from their Web site.
8 Q. Did you do any surveys of
9 ASHRAE members to validate that assumption?
10 A. I'm sorry. Validate what
11 assumption?
12 Q. About purchase of a membership
13 instead of buying the publication.
14 A. I'm not sure that there's an
15 assumption in there. My understanding is
16 that ASHRAE people are of the belief that
17 many people buy membership rather than
18 individual publications.
19 Q. And in your work, did you
20 assume that?
21 A. I didn't assume that. I worked
22 on that -- under that understanding.
23 Q. Oh, it's an understanding, but
24 not an assumption?
25 A. Yes.

Page 185

1 Q. Did that understanding make a
2 difference to your analysis?
3 A. It was a factual underpinning.
4 Q. An underpinning, but not an
5 assumption?
6 A. It was not an explicit
7 assumption.
8 Q. But it was an underpinning, not
9 an assumption, is your testimony?
10 MR. FEE: Objection. Asked and
11 answered.
12 THE WITNESS: Yes. I don't
13 know what or why you're arguing with
14 me on this.
15 BY MR. BRIDGES:
16 Q. I'm not arguing.
17 A. I don't understand.
18 Q. I'm just trying to understand
19 your testimony. That's all. So I'm asking
20 some follow-up questions.
21 You stated earlier some
22 percentages of revenue from the sale of
23 standards. Did you mean to be identifying
24 what you thought were the percentages of
25 revenue from the sale of standards or from

Page 186

1 the sale of all publications?
2 A. Let me -- let me double-check
3 that.
4 Well, in the case of ASTM, for
5 instance, I believe it's copyrighted
6 publications.
7 Q. What page are you referring to
8 in your report?
9 A. Right now I'm looking at
10 page 36, but I think I talk about it at other
11 areas.
12 Q. So page 36, you're talking
13 about which paragraph?
14 A. Well, right now I was --
15 Q. 83?
16 A. -- I was looking at 83, but I'm
17 turning back to, for more reliable
18 information, to paragraph 15, for instance,
19 which says in 2014, 67.1 percent of the
20 revenue was generated by the sale of
21 copyrighted publications. For NFPA, that
22 information is shown in paragraph 18. And
23 for ASHRAE, that information is shown in
24 paragraph 22.
25 Q. All three of those references

Page 187

1 are to copyrighted publications, correct?
2 A. With the exception of number 3,
3 which refers to copyrighted publications and
4 memberships.
5 Q. Okay. So my question wasn't
6 about copyrighted publications. My question
7 is, what percentage do you understand of
8 plaintiffs' revenues comes from the sale of
9 standards at issue in this case?
10 A. Thank you for that reminder of
11 what the question is.
12 I don't think I know that
13 precise percentage.
14 Q. What percentage of plaintiffs'
15 revenues, to your knowledge, comes from the
16 sale of standards incorporated into law?
17 A. I don't know that number.
18 Q. What percentage of plaintiffs'
19 revenues, to your understanding, comes from
20 the sale of all standards?
21 A. I'm sorry. I thought you asked
22 that question. I thought the immediate one
23 before that was standards.
24 Q. No. It was standards at issue
25 in this case. Then --

Page 188

1 A. The one before that.
2 Q. -- standards incorporated into
3 law. And now it's all standards.
4 A. Right. Thank you.
5 I don't know that number
6 either.
7 Q. What percentage of
8 plaintiffs' -- strike that.
9 What dollar value do you
10 associate with the investments that each
11 plaintiff has made in the development of the
12 standards at issue in this case?
13 A. I don't think I attributed a
14 dollar amount to that precise activity,
15 because I don't know that amount.
16 Q. What percentage of plaintiffs'
17 operating expenses do you associate with the
18 plaintiffs' development of the standards at
19 issue in this case?
20 A. I don't think I know that
21 number.
22 Q. What percentage of plaintiffs'
23 operating expenses do you associate with the
24 plaintiffs' development of standards
25 incorporated into law?

Page 189

1 A. I don't think I know that
2 number.
3 Q. What percentage of plaintiffs'
4 operating expenses do you associate with the
5 plaintiffs' development of standards
6 generally?
7 A. I don't think I know that
8 number.
9 Q. Do you have any estimates of
10 any of those numbers that you just said you
11 don't think you know?
12 MR. FEE: Objection to form.
13 THE WITNESS: Not sitting here
14 right now.
15 BY MR. BRIDGES:
16 Q. Did you at one point ever
17 determine those numbers?
18 A. Not that I recall.
19 Q. Do you know what percentage of
20 the staff or employees of each plaintiff has
21 worked on the development of standards at
22 issue in this case?
23 MR. FEE: Objection to form.
24 THE WITNESS: I don't think I
25 know that number.

Page 190

1 BY MR. BRIDGES:
2 Q. Do you know what percentage --
3 do you have an estimate?
4 A. No.
5 MR. FEE: Objection to form.
6 THE WITNESS: Not as I sit
7 here, no.
8 BY MR. BRIDGES:
9 Q. Do you know what percentage of
10 the staff or employees of each plaintiff has
11 worked on the development of standards
12 incorporated into law?
13 MR. FEE: Objection to form.
14 THE WITNESS: Not as I sit here
15 right now.
16 BY MR. BRIDGES:
17 Q. Do you have an estimate?
18 A. Not as I sit here right now.
19 Q. Do you know what percentage of
20 the staff or employees of each plaintiff has
21 worked on the development of standards in
22 general?
23 A. Not as I sit here right now.
24 Q. Do you have an estimate?
25 A. Not as I sit here right now.

Page 191

1 Q. Have you ever had access to any
2 information that I've asked in the last
3 several questions?
4 MR. FEE: Objection to form.
5 THE WITNESS: I don't believe
6 so.
7 BY MR. BRIDGES:
8 Q. Do you know whether plaintiffs
9 prepare standards through joint sponsorship
10 with any other organizations?
11 MR. FEE: Objection. Vague.
12 THE WITNESS: I think I may
13 have seen a reference to that. I
14 don't know the extent to which it
15 occurs, but I wouldn't be surprised to
16 be reminded that it does occur.
17 BY MR. BRIDGES:
18 Q. Are you aware of any, as you
19 sit here?
20 A. Not as I sit here right now,
21 but I think I'm aware that it has occurred.
22 Q. Do you know whether plaintiffs
23 receive grants, revenue, or stipends from
24 governments that use, reference, or adopt
25 their standards?

Page 192

1 MR. FEE: Objection to form.
2 THE WITNESS: There are grant
3 monies that go to NFPA. I don't know
4 the source of those grants. I don't
5 see a line for grant revenues for the
6 other two organizations.
7 BY MR. BRIDGES:
8 Q. Did you ask any of the
9 plaintiffs about the revenues or expenses
10 they have specifically attributable to the
11 standards that defendant has posted to the
12 Internet?
13 MR. FEE: Objection to form.
14 THE WITNESS: We generally
15 talked about that topic with each
16 plaintiff, and I don't think the
17 plaintiffs know that amount. They
18 undertake activities that are
19 standards oriented. They don't know
20 which of those standards will be
21 incorporated by reference.
22 BY MR. BRIDGES:
23 Q. Did you --
24 A. Or which have been. I don't
25 think they systematically track those.

Page 193

1 Q. I guess my question didn't have
2 anything to do with incorporated by
3 reference. My question is, did you ask any
4 of the plaintiffs about the revenues or
5 expenses that they have had that are
6 specifically attributable to the standards
7 that the defendant has posted to the
8 Internet?
9 MR. FEE: Objection to form.
10 THE WITNESS: I think we
11 generally talked about that topic, and
12 I don't believe they have information
13 at that level.
14 BY MR. BRIDGES:
15 Q. Did you ask the plaintiffs to
16 estimate revenues or expenses specifically
17 attributable to the standards at issue in
18 this case?
19 MR. FEE: Objection to form.
20 THE WITNESS: Not that I
21 recall. We may have asked whether
22 they are collected, but we didn't ask
23 for the plaintiffs to separately
24 estimate those numbers, as I recall.
25 BY MR. BRIDGES:

Page 194

1 Q. In paragraph 49, you state that
2 ASHRAE standard 90.1 was first published in
3 1974. What's your basis for that statement?
4 A. I don't recall. It may have
5 been in a produced document. It may have
6 been in conversations. I just don't recall.
7 Q. Did you attempt to verify that
8 information independently?
9 A. Not that I recall.
10 Q. Do you know if ASHRAE standard
11 90-75 was first published in 1975?
12 A. I don't happen to know, sitting
13 here now.
14 Q. You cite to an article in
15 footnotes 73, 74 of your report. Did you
16 review that article?
17 A. Yes.
18 Q. Did you independently verify
19 the information in it?
20 A. Not that I recall.
21 Q. You just took it at face value?
22 A. I think so. I didn't have
23 reason to question any of the facts there.
24 Q. Did you ever have reason to
25 question any of the facts that anybody from

Page 195

1 the plaintiffs told you in this case?
2 MR. FEE: Objection to form.
3 THE WITNESS: Well, I kept an
4 open mind to the facts that I was
5 given over the phone and sought to
6 determine if I learned things that
7 conflicted or not with that
8 information.
9 BY MR. BRIDGES:
10 Q. Where did you --
11 A. But --
12 Q. I'm sorry. I didn't realize
13 you were still --
14 A. But I didn't separately go out
15 and write down the facts and attempt to get
16 separate verification of each fact.
17 Q. So you were looking for
18 internal inconsistencies in the
19 communications that plaintiffs had with you
20 in order to determine whether to question any
21 of the facts that the plaintiffs' employees
22 related to you?
23 MR. FEE: Objection to form.
24 BY MR. BRIDGES:
25 Q. Is that your testimony?

Page 196

1 MR. FEE: Mischaracterizes the
2 testimony.
3 THE WITNESS: I'm not sure if
4 it is. Let me try and answer and see
5 if that's responsive.
6 I was aware of the information
7 we received over the telephone, and in
8 the process of looking through the
9 documents that we had, I kept an open
10 eye toward learning things that
11 conflicted with those oral
12 conversations.
13 BY MR. BRIDGES:
14 Q. And the documents -- what
15 are -- what were the documents that you're
16 saying you had?
17 A. Everything that's in tab 2.
18 Q. Most of which, apart from the
19 Web-based resources and the articles other
20 than Ms. Bremer's law review articles, the
21 plaintiffs' counsel furnished to you,
22 correct?
23 MR. FEE: Objection to form.
24 THE WITNESS: I think that's
25 right. They didn't author those

Page 197

1 documents, but they provided them as
2 part of the discovery process.
3 BY MR. BRIDGES:
4 Q. Did you ask them for any
5 documents that they had not provided?
6 A. I think we generally described
7 the kinds of information that we find useful
8 or typically find useful in matters like
9 this.
10 Q. After you received documents
11 from plaintiffs' counsel, did you ask them
12 for any more?
13 A. That -- that's possible. I
14 don't recall that.
15 Q. You don't recall. Did you --
16 do you have any understanding as to the
17 dollar value of staff time and expenses that
18 the plaintiffs have incurred in promoting
19 incorporation of their standards into law?
20 MR. FEE: Objection to form.
21 Lack of foundation.
22 THE WITNESS: I don't think I
23 have that number, no.
24 BY MR. BRIDGES:
25 Q. Do you have an estimate?

Page 198

1 MR. FEE: Same objections.
2 THE WITNESS: Not as I sit here
3 now, no.
4 BY MR. BRIDGES:
5 Q. Did you discuss that issue with
6 anyone representing the plaintiffs?
7 MR. FEE: Same objections.
8 THE WITNESS: It's possible,
9 but I don't recall having that
10 discussion.
11 BY MR. BRIDGES:
12 Q. In paragraph 57 of your report,
13 you refer to "thousands of private-sector
14 standards." Was your sole support for the
15 statement in paragraph 57 the Bremer article
16 you cited in footnote 88?
17 A. No. You see I discuss and
18 provide support for that in subsequent
19 paragraphs in that section.
20 Q. And that includes in
21 paragraph 58?
22 A. Yes.
23 Q. And did you review the
24 Standards Incorporated by Reference Database
25 that you refer to in paragraph 58?

Page 199

1 A. I looked at some parts of it.
2 I don't recall that I looked at all aspects
3 of the database.
4 Q. Did you verify how many
5 standards were incorporated by reference
6 according to that database?
7 A. No, I did not.
8 Q. What do you mean by, "This
9 database reports nearly 13,000 instances of
10 incorporation by reference"?
11 A. I don't know what you're asking
12 me to define.
13 Q. I'm not asking you to define
14 anything. I'm asking you to explain what you
15 meant by that clause, "This database
16 reports" --
17 A. I'm sorry. I'm just -- I'm
18 going to be just rearranging words a little
19 bit. There were 13,000 times that there was
20 incorporation by reference of a standard.
21 I -- I don't -- I'm sorry. I
22 don't understand what your confusion is.
23 Q. I'm not confused. I'm just
24 asking you questions. Okay? So please don't
25 understand -- please don't assume that I'm

Page 200

1 confused. I'm trying to understand what you
2 meant by that.
3 You mean separate instances?
4 You mean separate laws? What do you mean?
5 A. Yes. Separate instances slash
6 separate laws.
7 Q. What did you count as an
8 instance?
9 A. Mention in a particular law of
10 a standard.
11 Q. Did you or anybody working with
12 you attempt to determine the number of
13 standards that those 13,000 instances of
14 incorporation by reference referred to?
15 A. Not entirely. But if you read
16 on that -- in that same section, it talks
17 about the number of ASTM standards, the
18 numbers of -- the number of NFPA standards,
19 and the number of ASHRAE standards.
20 Q. Well, please tell me where it
21 refers to the number of standards.
22 A. It says, "Including more than
23 2,400 instances involving ASTM standards."
24 So you're right. It doesn't
25 have the number of standards. It just has

Page 201

1 mentions of standard. You're absolutely
2 right.
3 Q. And the same thing is true of
4 the NFPA standards and ASHRAE standards?
5 A. You're absolutely right, yes.
6 Q. Do you know how many standards
7 that database shows as having been
8 incorporated by reference?
9 A. Not sitting here right now.
10 One could perhaps look at what I cited to
11 answer that question, but I don't know right
12 now.
13 Q. Do you know whether anyone
14 working for you ever did that work to make
15 that determination?
16 A. I don't recall that being done.
17 Q. Paragraph 59, you say, "At the
18 state level, privately-developed standards
19 are incorporated by reference as part of the
20 exercise of a range of governmental
21 functions."
22 Do you see that?
23 A. Yes.
24 Q. What do you mean by
25 "governmental functions" in that statement?
Page 202

1 A. Things that government agencies
2 do.
3 Q. And you give a couple of
4 examples, but speaking broadly, what are
5 governmental functions that involve
6 incorporation by reference of privately
7 developed standards at the state level?
8 MR. FEE: Objection to form.
9 THE WITNESS: I can only answer
10 generally. Health and human services,
11 things that are related to that,
12 safety, driving rules and regulation.
13 Those are among the things that come
14 to mind.
15 BY MR. BRIDGES:
16 Q. What are the governmental
17 functions related to health and human
18 services that you have in mind?
19 A. I don't have any particular
20 ones in mind.
21 Q. What are the governmental
22 functions relating to safety that you have in
23 mind?
24 A. I don't have any particular
25 ones in mind.
Page 203

1 Q. What are the governmental
2 functions with respect to driving that you
3 have in mind?
4 A. I don't have any particular
5 ones in mind.
6 Q. In paragraph 59, you say, "At
7 least 44 states and territories have adopted
8 ASHRAE 90.1 as part of the commercial
9 building energy code."
10 Do you see that?
11 A. Yes, I do.
12 Q. And that also has footnote 95
13 associated with that as well, correct?
14 A. Yes, that's correct.
15 Q. How do you explain the fact
16 that that reference in footnote 95 shows that
17 those 44 states, in fact, adopted the
18 International Energy Conservation Code that
19 merely has a reference to an option to use
20 ASHRAE 90.1?
21 MR. FEE: Objection. Lack of
22 foundation.
23 THE WITNESS: I don't have any
24 explanation for that.
25 BY MR. BRIDGES:
Page 204

1 Q. Did you verify that?
2 A. I did not, no.
3 Q. Who did?
4 A. I'm sorry. Who verified what?
5 Q. On what -- on what did you rely
6 to make that statement with that footnote?
7 A. I may not understand your
8 question. I relied on what's identified in
9 footnote 95.
10 Q. But you didn't review foot --
11 what's in footnote 95, right?
12 MR. FEE: Objection. Lack of
13 foundation.
14 THE WITNESS: I did.
15 BY MR. BRIDGES:
16 Q. You -- you reviewed that Web
17 site?
18 A. Yes.
19 Q. Personally?
20 A. Yes, I believe so.
21 Q. Do you have an explanation as
22 to why the resource cited in footnote 95
23 actually shows that the 44 states adopted the
24 International Energy Conservation Code?
25 MR. FEE: Objection. Lack of
Page 205

1 foundation.
2 THE WITNESS: I would like to
3 understand the facts that you're
4 positing right now.
5 BY MR. BRIDGES:
6 Q. Well, we're not going to take
7 time to go look at a Web site right now, so
8 I'm asking you based on what you know.
9 Do you have an explanation as
10 to why the resource cited in footnote 95
11 actually shows that 44 state -- the 44 states
12 adopted the International Energy Conservation
13 Code?
14 MR. FEE: Objection. Lack of
15 foundation.
16 THE WITNESS: I don't know if
17 your factual representation is
18 accurate or not, and I don't recall
19 investigating that particular issue.
20 BY MR. BRIDGES:
21 Q. Have you made any effort to
22 determine what resources were expended,
23 incurred, or contributed by parties other
24 than ASHRAE in the development of standard
25 90.1?

Page 206

1 MR. FEE: Objection to form.
2 THE WITNESS: I generally
3 understand that there were many
4 members who participated in that. I
5 think I reported earlier in the report
6 the number of hours and other
7 indications of activity undertaken by
8 members.
9 BY MR. BRIDGES:
10 Q. My question is, have you made
11 any effort to determine what resources were
12 expended, incurred, or contributed by parties
13 other than ASHRAE and ASHRAE members in the
14 development of standard 90.1?
15 MR. FEE: Same objection.
16 THE WITNESS: I didn't realize
17 that you had in your original question
18 "and other than ASHRAE members."
19 BY MR. BRIDGES:
20 Q. I didn't. Now I -- now my
21 question does.
22 A. Beyond that, I don't recall
23 undertaking that investigation, meaning
24 beyond ASHRAE and its members.
25 Q. Have -- are you aware of any

Page 207

1 change in membership sales by ASHRAE over the
2 past ten years?
3 A. I don't think I have data that
4 goes as far as ten years ago. I do have
5 information on ASHRAE membership revenue back
6 to 2012. That's summarized in tab 5.
7 Q. And that membership figure has
8 risen each year since 2012, correct?
9 A. Yes. Slightly each year, it
10 has risen.
11 Q. Do you draw any conclusions
12 with respect to this case from that trend?
13 A. I don't think so.
14 Q. Have you calculated the
15 effects -- the financial effect on the
16 plaintiffs of the incorporation into law of
17 their standards?
18 MR. FEE: Objection to form.
19 THE WITNESS: No, I don't think
20 I've independently -- I don't think
21 I've separately done that.
22 BY MR. BRIDGES:
23 Q. Are you aware of any data
24 regarding the financial effect on the
25 plaintiffs of the incorporation into law of

Page 208

1 their standards?
2 MR. FEE: Same objection.
3 THE WITNESS: I'm aware that
4 the plaintiffs benefit greatly by
5 incorporation by reference, but I
6 don't know that I've seen a
7 quantitative study of that topic.
8 BY MR. BRIDGES:
9 Q. What do you understand about
10 the benefits that accrue to plaintiffs by
11 incorporation by reference?
12 A. Some of those are laid out in
13 my report on pages 19 through 26. I have a
14 particular section called "Benefits of
15 Incorporation" that starts at page 20.
16 Q. Well, I'm asking you, what
17 benefits accrue to the plaintiffs from
18 incorporation by reference?
19 A. Generally, it allows each one
20 to satisfy its mandate of providing services
21 to the entirety of the industry that it
22 focuses its attention on. And so it allows
23 for the collection and then dissemination of
24 standards that allow and achieve outcomes
25 that are good for the industry.

Page 209

1 Q. What other benefits do
2 plaintiffs gain from incorporation by
3 reference of their standards?
4 A. I think that generally covers
5 it. I may be forgetting things that are laid
6 out in my report, but that's what covers it,
7 to the best of my memory right now.
8 Are we at a good point for a
9 break?
10 Q. If you want. Sure.
11 A. Thanks.
12 THE VIDEOGRAPHER: Off the
13 record at 3:12. This is the end of
14 media unit number 2.
15 * * *
16 (Recess from 3:12 p.m. to
17 3:41 p.m.)
18 * * *
19 THE VIDEOGRAPHER: On the
20 record at 3:41. This is the beginning
21 of media unit number 3 in the
22 deposition of John Jarosz.
23 * * *
24 (Jarosz Exhibit 5 marked for
25 identification.)

Page 210

1 * * *
2 BY MR. BRIDGES:
3 Q. Mr. Jarosz, I've handed you
4 Exhibit 5. This is an article that you cited
5 in your report, correct?
6 A. Yes, I believe so.
7 Q. Do you recall how this article
8 came to your attention?
9 A. I do not.
10 Q. Is this an article that you
11 understand to have been published by
12 plaintiff ASHRAE in its journal?
13 A. Yes, that's my understanding.
14 Q. And this is an article you
15 relied upon with respect to the development
16 of standard 90, which became standard 90.1,
17 correct?
18 A. Yes.
19 Q. In paragraph 133 of your
20 report, you talk about a number of
21 downloads -- strike that -- you talk about a
22 number of documents accessed through Public
23 Resource's Web site. Do you see that?
24 A. I talk about the number of ASTM
25 documents that are -- that were accessed over

Page 211

1 a particular period.
2 Q. And then you do the same for
3 NFPA documents, correct?
4 A. Yes.
5 Q. What do you calculate as the
6 dollar value of harm to the -- to ASTM from
7 the accesses and downloads that you refer to
8 in paragraph 133?
9 A. I haven't calculated that harm.
10 Q. Why not?
11 A. I'm not sure if I can at this
12 stage. One estimate would be those number of
13 downloads times the -- well, actually, no,
14 let me take that back. I just don't know how
15 to do it.
16 Q. Can you be certain that these
17 accesses or down -- and downloads referred to
18 in paragraph 133, in fact, resulted in
19 economic loss to ASTM?
20 MR. FEE: Objection to form.
21 THE WITNESS: Not with absolute
22 certainty, but with reasonable
23 certainty I can say some -- in some
24 number of these instances, it's likely
25 the case that the -- that the

Page 212

1 information would have been obtained
2 from ASHRAE in -- or ASTM, rather,
3 in -- through legal means.
4 BY MR. BRIDGES:
5 Q. Would that -- in those
6 instances where you say that the information
7 would have been obtained from ASTM through
8 legal means, can you put a dollar value on --
9 or even an estimate of the increased revenue
10 that ASTM would have gotten from those
11 instances where people obtained the
12 information from ASHRAE -- sorry -- from
13 AST --
14 MR. FEE: Object --
15 BY MR. BRIDGES:
16 Q. -- from ASTM?
17 MR. FEE: Objection to form.
18 THE WITNESS: No, not based on
19 the information I have. I don't think
20 I have any indication of who was doing
21 the downloading and why.
22 BY MR. BRIDGES:
23 Q. And do you know what
24 alternatives persons who were doing the
25 downloading may have had for obtaining the

Page 213

1 information?
2 A. Not with certainty, because I
3 don't know who those persons were, but I
4 would expect one alternative would be to
5 obtain it properly, directly from ASTM.
6 Q. Would that have resulted in
7 more revenue to ASTM?
8 A. It may have. If they're
9 materials that were taken improperly that
10 would have been paid for, then that would
11 represent a loss of revenue to ASTM.
12 Q. Do you know whether any of the
13 persons who obtained this information from
14 defendant would have paid for the information
15 from ASTM?
16 A. No, not with certainty, because
17 I don't know the identity of the downloaders
18 or the reasons for their downloading.
19 Q. Moreover, those persons might
20 have accessed the standards from ASTM's
21 reading room for free and with no revenue to
22 ASTM, correct?
23 A. You mean in a but-for world?
24 Had they not done what they actually did,
25 alternatively they could have gone to the

Page 214

1 free reading room?
2 Q. Right.
3 A. That's a possibility, yes.
4 Q. Do you have an understanding as
5 to why persons would want to download a file
6 of a standard instead of viewing it at one of
7 the plaintiffs' reading rooms?
8 A. Not with absolute certainty,
9 but I would imagine downloading would allow
10 more flexibility in referring to the standard
11 and using it and sharing that information
12 with others, whereas reading it in -- through
13 an Internet site is somewhat less flexible,
14 provides less flexibility for the use of that
15 information.
16 Q. What did -- what do you
17 understand to be the difference in
18 flexibility between possession of a download
19 and access to a standard through a reading
20 room?
21 A. Well, I think that a download
22 typically has a document that's in hard-copy
23 form. Copies can made -- be made of that and
24 distributed. Reading things just online
25 doesn't allow for the wide distribution and

Page 215

1 more extended use of that document.
2 Q. Do you have any evidence about
3 wide distribution of plaintiffs' standards as
4 a consequence of defendant's actions?
5 A. I do not.
6 Q. Have you reviewed any studies
7 that would allow you to establish any
8 connection between the number of accesses or
9 downloads that Public Resource made possible
10 and any financial harms to the plaintiffs?
11 MR. FEE: Objection to form.
12 THE WITNESS: I don't think
13 I've seen any study on that, no.
14 BY MR. BRIDGES:
15 Q. Have you conducted any studies
16 that would have allowed you to establish any
17 connection between the number of accesses or
18 downloads that Public Resource made possible
19 and any financial harms to the plaintiffs?
20 MR. FEE: Objection to form.
21 THE WITNESS: Not other than
22 what's contained in my report.
23 BY MR. BRIDGES:
24 Q. Please turn to page 45,
25 paragraph 107, which spills into page 108.

Page 216

1 MR. FEE: Page 108?
2 THE WITNESS: I'm sorry.
3 Page 108 or paragraph?
4 BY MR. BRIDGES:
5 Q. I'm sorry. Paragraph -- strike
6 that.
7 Let me ask you to turn
8 paragraph 107 on pages 45 to 46.
9 A. Okay. I'm there.
10 Q. I just want to make sure I
11 understand your language correctly at the
12 bottom of page 45 and the top of page 46.
13 Is it your opinion that the
14 copyright that the plaintiffs assert in their
15 standards drives sales of other publications
16 other than the standards themselves?
17 MR. FEE: Objection. Form.
18 Vague.
19 THE WITNESS: I think they're
20 important for driving sales of
21 publications that embody those
22 standards. I don't know that I've
23 drawn a conclusion that it drives the
24 sale of other products, but that makes
25 some sense.

Page 217

1 BY MR. BRIDGES:
2 Q. Well, doesn't that sentence at
3 the bottom of 45 and going on to 46 say that
4 copyright on plaintiffs' standards drive
5 sales of "handbooks that provide commentary
6 on the standards by referring to them"?
7 A. You haven't read --
8 MR. FEE: Objection.
9 Mischaracterizes the document.
10 THE WITNESS: You haven't read
11 the whole sentence. I see that
12 sentence to which you refer.
13 BY MR. BRIDGES:
14 Q. Right. I know I haven't read
15 the whole sentence, but didn't I fairly
16 capture one part of it, which is the sales
17 of -- strike that -- that copyright on
18 plaintiffs' standards drives sales of, among
19 other things, "handbooks that provide
20 commentary on standards by referring to
21 them"?
22 MR. FEE: Same objection.
23 THE WITNESS: I think you have
24 generally paraphrased it accurately,
25 yes.

Page 218

1 BY MR. BRIDGES:
2 Q. And that plaintiffs' copyright
3 protection -- this is the top of -- strike
4 that.
5 And turning to the top of
6 page 46, plaintiffs' copyright protection on
7 their standards provides plaintiff with a
8 competitive advantage with respect to what
9 you call value-added publications, correct?
10 A. You've read part of a sentence,
11 but I do see that sentence, yes.
12 Q. And I've fairly paraphrased it
13 correctly, correct?
14 MR. FEE: Objection to form.
15 THE WITNESS: I think,
16 generally, yes.
17 BY MR. BRIDGES:
18 Q. Do plaintiffs, to your
19 understanding, have separate copyrights in
20 those value-added publications, such as
21 commentaries and handbooks?
22 A. I don't know.
23 Q. You don't know?
24 A. Correct. I do not know.
25 Q. Is it important to you to know

Page 219

1 whether plaintiffs have copyright in --
2 rights in their value-added publications?
3 MR. FEE: Objection. Vague.
4 THE WITNESS: I would be
5 curious to know that, but I'm not sure
6 of the significance. I don't think it
7 would change my conclusions, but I
8 would be curious to know that.
9 BY MR. BRIDGES:
10 Q. Do you know whether
11 incorporation into law drives -- strike that.
12 Do you know whether
13 incorporation into law of plaintiffs'
14 standards drives sales of plaintiffs'
15 standards?
16 MR. FEE: Objection to form.
17 Vague.
18 THE WITNESS: I don't know with
19 absolute certainty, but it would make
20 some sense to me.
21 BY MR. BRIDGES:
22 Q. Is it your understanding that
23 it does?
24 MR. FEE: Same objection.
25 THE WITNESS: It would make

Page 220

1 some sense to me, yes.
2 BY MR. BRIDGES:
3 Q. Are you aware that, in some
4 instances, at least one plaintiff uses the
5 legal status of its code to promote the sale
6 of handbooks?
7 MR. FEE: Objection to form.
8 THE WITNESS: I don't know one
9 way or the other. I don't have reason
10 to dispute it, but there's not a
11 particular instance that comes to mind
12 right now. Maybe you have something
13 to refresh my memory.
14 BY MR. BRIDGES:
15 Q. Can you provide a dollar value
16 benefit that plaintiffs receive economically
17 from the incorporation of their standards by
18 reference?
19 MR. FEE: Objection. Vague.
20 Form.
21 THE WITNESS: I want to make
22 sure that I'm understanding. Could
23 you read that back, please?
24 BY MR. BRIDGES:
25 Q. I'll restate it.

Page 221

1 Can you provide a -- can you
2 put a dollar value, even an estimate, on the
3 economic benefit that plaintiffs receive from
4 incorporation of their standards into law?
5 MR. FEE: Objection to form.
6 THE WITNESS: I have not. And
7 I'm not sure how one would do that,
8 subject to thinking more about it.
9 BY MR. BRIDGES:
10 Q. At the top of page 46, you say,
11 "The Plaintiffs' copyright protection on
12 their privately-developed standards provides
13 a competitive advantage with regard to the
14 sale of these value-added publications as the
15 copyright protection limits the ability of
16 others to sell those publications unless they
17 are unwilling [sic] to compensate the
18 Plaintiffs for such use."
19 MR. FEE: Objection.
20 Mischaracterizes the statement.
21 BY MR. BRIDGES:
22 Q. Is there something unfair about
23 my characterization of that statement?
24 A. I think you read it wrong. You
25 read "willing" to read "unwilling" for some

Page 222

1 reason.
2 Q. Oh, I'm sorry. Thank you.
3 I'll restate the sentence.
4 "In particular, the Plaintiffs'
5 copyright protection on their
6 privately-developed standards provides a
7 competitive advantage with regard to the sale
8 of these value-added publications as the
9 copyright protection limits the ability of
10 others to sell those publications unless they
11 are willing to compensate the Plaintiffs for
12 such use."
13 Do you see that statement?
14 A. I do, yes.
15 Q. And the competitive advantage
16 you've identified there, whom do you
17 understand to be the competition?
18 A. Other potential providers of
19 these so-called value-added publications.
20 Q. And what -- when you say
21 "value-added publications," please give me
22 more examples of what types of things fall
23 into that category, as you use the term.
24 A. Examples would be handbooks
25 that provide commentary on the standards.

Page 223

1 Q. What else?
2 A. That's what comes to mind.
3 Q. Anything else?
4 A. Not this moment, no. I guess,
5 potentially, when I think some more about it,
6 training and seminars, for instance.
7 Q. Providers of training and
8 seminars?
9 A. Yes. So that's broader than
10 value-added publications, but there are
11 potentially alternative providers of training
12 and seminars.
13 Q. In paragraph 109, you say, "In
14 addition to direct sales of copyrighted
15 materials, the Plaintiffs' materials
16 associated with their privately-developed
17 standards provide a competitive advantage
18 with regard to the sale of downstream
19 ancillary/complementary services and
20 products."
21 Do you see that?
22 A. Yes. That's what I had in
23 mind.
24 Q. And who are the competitors you
25 have in mind in paragraph 109?

Page 224

1 A. I don't know particular names,
2 but -- at least I don't recall any sitting
3 right now -- sitting here right now, but I
4 think there are other providers of these
5 downstream services and products.
6 Q. And please give me examples of
7 what you're calling "downstream services and
8 products."
9 A. Again, seminars and training,
10 for instance.
11 Q. Anything else?
12 A. That's what comes to mind right
13 now.
14 Q. Turning to paragraph 110, you
15 state, "I understand that the ability to
16 control these downstream products and
17 services is particularly important to the
18 Plaintiffs here because the barriers to entry
19 in the marketplace for downstream products,
20 such as training and user manuals, are
21 relatively low. For example, according to
22 Mr. Comstock of ASHRAE, it is relatively easy
23 for unauthorized instructors to read a
24 standard and become (or think that they have
25 become) qualified to provide training or

Page 225

1 guidance on that standard."
2 Do you see that?
3 A. I do, yes.
4 Q. What do you understand -- what
5 did you mean by "unauthorized instructors"?
6 A. People that have provided or
7 trying to provide services to the marketplace
8 that have not been explicitly approved by,
9 for instance, ASHRAE.
10 Q. What do you understand the --
11 the nature of -- strike that.
12 You called them "instructors,"
13 correct?
14 A. Yes.
15 Q. Does that mean that you
16 envision that these persons are providing
17 some kind of instruction?
18 A. Yes.
19 Q. What instruction do you
20 understand -- what instruction did you have
21 in mind when you referred to "unauthorized
22 instructors"?
23 A. Generally, how best to
24 implement standards or provisions of certain
25 standards.

Page 226

1 Q. What else?
2 A. Nothing else comes to mind
3 right now.
4 Q. Would your understanding of
5 "unauthorized instructors" include persons
6 who were instructing the public as to what
7 the standards require?
8 MR. FEE: Objection to form.
9 Vague.
10 THE WITNESS: I didn't have
11 that in mind. I guess that's a
12 possibility.
13 BY MR. BRIDGES:
14 Q. And would it be relatively easy
15 for unauthorized persons like that to read a
16 standard and think that they have become
17 qualified to provide training or guidance on
18 that standard?
19 MR. FEE: Objection. Vague.
20 BY MR. BRIDGES:
21 Q. Is that your understanding?
22 A. According to Mr. Comstock, I
23 believe that's correct.
24 Q. What do you believe?
25 A. I have no reason to doubt him.

Page 227

1 Q. You're just parroting what
2 Mr. Comstock said, or did you have an
3 independent view?
4 A. No, I heard what he said, and
5 it made sense to me.
6 Q. So you put it in your report?
7 A. Yes.
8 Q. What independent thought or
9 investigation did you do before you put that
10 in your report?
11 MR. FEE: Objection. Vague.
12 Compound.
13 THE WITNESS: I can't point to
14 anything in particular.
15 BY MR. BRIDGES:
16 Q. Would a law-school course on
17 the law and regulation of building
18 construction provide instruction to law
19 students?
20 MR. FEE: Objection. Vague.
21 Calls for speculation.
22 THE WITNESS: I guess it could.
23 I have a hard time imagining there
24 would be much demand for such a
25 course, but I'm in general agreement

Page 228

1 that that, in concept, could occur.
2 BY MR. BRIDGES:
3 Q. Would it be possible to
4 envision that, in the course of such
5 teaching, a teacher may wish to analyze some
6 of plaintiffs' standards that have been
7 incorporated into law as law and as
8 regulation?
9 MR. FEE: Objection. Calls for
10 speculation. Vague. Form.
11 THE WITNESS: I guess that's
12 possible, but I would expect a law
13 professor would be talking about legal
14 implications, not the technical
15 aspects of a standard. I think they
16 might talk about the implication in a
17 business that's different from a
18 vendor business.
19 BY MR. BRIDGES:
20 Q. Well, what about the legal
21 implications of a code for contractors?
22 MR. FEE: Objection.
23 BY MR. BRIDGES:
24 Q. Is that -- is that fair ground
25 for a law professor to discuss with law

Page 229

1 students?
2 MR. FEE: Objection. Compound.
3 Form. Vague.
4 THE WITNESS: I guess, in -- in
5 concept. I'm having a hard time
6 imagining that that would, in fact,
7 occur at any law school, but it might.
8 I somehow doubt that the law professor
9 would be talking about the substance
10 of the standard as opposed to the
11 process or implications of a standard.
12 BY MR. BRIDGES:
13 Q. You're not familiar with
14 courses in construction law?
15 A. I'm generally aware that there
16 are courses in construction law.
17 Q. Is it your view that, for a law
18 professor to provide a copy of, let's say,
19 the National Electrical Code to students for
20 their study would require permission of the
21 National Fire Protection Association?
22 MR. FEE: Objection. Calls for
23 a legal conclusion.
24 THE WITNESS: I don't know.
25 That seems to be a legal question. I

Page 230

1 do not know.
2 BY MR. BRIDGES:
3 Q. Is it your view that a law
4 professor who does not get any permission
5 from NFPA or who does not purchase a copy of
6 the National Electrical Code would be an
7 unauthorized instructor --
8 MR. FEE: Objection.
9 BY MR. BRIDGES:
10 Q. -- by using that code with his
11 or her students as part of a law-school
12 course?
13 MR. FEE: Objection to form.
14 Compound. Calls for a legal
15 conclusion.
16 THE WITNESS: Again, that seems
17 to be a legal question. I'm not sure
18 it would be authorized, but I'm also
19 not sure that it would be improper.
20 BY MR. BRIDGES:
21 Q. Well, you've used the term
22 "unauthorized" in your report, so I'm asking
23 you, given the term "unauthorized" as used --
24 you have used it in the report, would the
25 scenario I have described mean that the law

Page 231

1 professor was an unauthorized instructor?
2 MR. FEE: Objection. Form.
3 Compound. Calls for a legal
4 conclusion. Vague.
5 THE WITNESS: That seems to be
6 a legal question. Just as an economic
7 proposition or just as a matter of the
8 English language, I would think that
9 they might be an unauthorized user but
10 not an improper user.
11 I don't think they've gotten
12 explicit authorization; therefore,
13 they're unauthorized. But I'm not
14 sure if it's illegal for them to refer
15 to a standard.
16 BY MR. BRIDGES:
17 Q. What about making copies of the
18 standard and furnishing it to students?
19 MR. FEE: Same objections.
20 THE WITNESS: Same answer.
21 BY MR. BRIDGES:
22 Q. Do you have any opinion about
23 the economic harms that plaintiffs would
24 suffer if a law professor were to provide
25 an -- a copy of the National Electrical Code

Page 232

1 to each student in a construction law class
2 without having purchased those copies?
3 MR. FEE: Objection.
4 Incomplete hypothetical. Form.
5 You can answer, if you know.
6 THE WITNESS: I don't know. I
7 have not investigated or even thought
8 about that issue.
9 BY MR. BRIDGES:
10 Q. In paragraphs 117 through 119,
11 I see no footnotes referencing sources of
12 your conclusions or referencing facts on
13 which your conclusions are based.
14 What studies, if any, did you
15 rely on for your assertions in paragraphs 117
16 to 119?
17 MR. FEE: Objection to form.
18 Lack of foundation.
19 THE WITNESS: The study that's
20 summarized in Exhibit 1.
21 BY MR. BRIDGES:
22 Q. I'm referring specifically to
23 paragraphs 117 to 119.
24 A. I thought you were. I was
25 answering that question.

Page 233

1 Q. You can't point to any
2 particular investigation or fact that you're
3 relying on in paragraphs 117 to 119?
4 MR. FEE: Objection to form.
5 Asked and answered.
6 THE WITNESS: Everything that's
7 embedded in Exhibit 1 is, in part, a
8 basis for the observations that I draw
9 in those paragraphs.
10 BY MR. BRIDGES:
11 Q. What probability do you assign
12 to your prediction in the first sentence of
13 paragraph 119?
14 MR. FEE: Objection. Form.
15 Lack of foundation.
16 THE WITNESS: I'm not sure that
17 I've used the term "prediction," but I
18 wouldn't assign a particular
19 quantitative probability.
20 BY MR. BRIDGES:
21 Q. Can you give an estimate?
22 A. No.
23 Q. Why not?
24 A. I don't have a basis for that
25 estimate. I have reasoning underlying it,

Page 234

1 but I don't have a basis to provide a
2 quantitative estimate of my level of
3 confidence.
4 Q. You refer to "uncertainties" in
5 the second sentence of paragraph 119,
6 correct?
7 A. I do, yes.
8 Q. What probability do you assign
9 to the likelihood that you refer to with the
10 word "likely" in the first sentence of
11 paragraph 120?
12 MR. FEE: Objection. Form.
13 Lack of foundation.
14 THE WITNESS: I don't have a
15 particular quantitative measure of
16 that. And are you referring to my use
17 of the term "likely"?
18 BY MR. BRIDGES:
19 Q. Yes.
20 A. Yes, I don't have a particular
21 quantification of that.
22 Q. What particular facts are you
23 relying on for that paragraph?
24 A. Everything that you see
25 reported in Exhibit 1.

Page 235

1 Q. What probability do you assign
2 to the likelihood that you refer to in the
3 first sentence of paragraph 121?
4 MR. FEE: Objection to form.
5 Lack of foundation.
6 THE WITNESS: I don't have a
7 particular quantitative likelihood
8 measure.
9 BY MR. BRIDGES:
10 Q. Can you give an estimate?
11 MR. FEE: Same objection.
12 THE WITNESS: No.
13 BY MR. BRIDGES:
14 Q. Turning to paragraph 126, you
15 refer to an "option available to Plaintiffs
16 to respond to the loss of protection for
17 incorporated standards."
18 Is it your belief that, if the
19 plaintiffs lose this case, they will shut
20 down their creation of new standards?
21 A. I think that's a possibility.
22 Q. What probability do you assign
23 to that?
24 MR. FEE: Objection to form.
25 Lack of foundation.

Page 236

1 THE WITNESS: I don't have a
2 particular quantitative measure of
3 probability for that.
4 BY MR. BRIDGES:
5 Q. What's your best estimate?
6 MR. FEE: Same objection.
7 THE WITNESS: I don't have a
8 quantitative best estimate.
9 BY MR. BRIDGES:
10 Q. Is it more or less than
11 50 percent?
12 MR. FEE: Same objections.
13 THE WITNESS: I still don't
14 have a quantitative estimate.
15 BY MR. BRIDGES:
16 Q. Is it more or less than
17 80 percent?
18 MR. FEE: Same objections.
19 THE WITNESS: Still don't have
20 a quantitative estimate.
21 BY MR. BRIDGES:
22 Q. Is it more or less than
23 5 percent?
24 MR. FEE: Same objections.
25 THE WITNESS: Still don't have

Page 237

1 a quantitative estimate. I think that
2 there -- with reasonable probability I
3 can draw this conclusion, but I can't
4 be any more precise than that.
5 BY MR. BRIDGES:
6 Q. What do you mean, "with
7 reasonable probability"?
8 A. Based on the information that I
9 have and the training and logic I bring to
10 it, I think there is a -- I say with some
11 confidence what I have said here.
12 Q. And when you say "likely," do
13 you mean more than 50 percent likely?
14 A. Not necessarily, no.
15 Q. Are you aware of other
16 standards development organizations active in
17 the same field as the plaintiffs?
18 MR. FEE: Objection. Vague.
19 Form.
20 THE WITNESS: Perhaps you could
21 tell me what you have in mind with
22 your use of the term "fields."
23 BY MR. BRIDGES:
24 Q. Well, are you familiar with
25 AHRI?

Page 238

1 A. I have perhaps seen reference
2 to that.
3 Q. Do you know with which of these
4 plaintiffs it -- do you -- do you know what
5 field it's in?
6 A. I don't recall, sitting here
7 right now, no.
8 Q. Are you familiar with NFRC?
9 A. I may have seen reference to
10 that acronym.
11 Q. Do you know what field it's in?
12 A. Not sitting here right now.
13 Q. Are you familiar with ICC?
14 A. I have seen reference to that.
15 I don't recall what it is, sitting here now.
16 Q. Do you know whether other
17 standards developments organizations would be
18 in a position to step forward and to continue
19 the maintenance and preservation and further
20 development of the standards of plaintiffs
21 here if plaintiffs lose this case?
22 MR. FEE: Objection to form.
23 THE WITNESS: I don't know.
24 BY MR. BRIDGES:
25 Q. Have you done any investigation

Page 239

1 to see what alternatives there are among
2 standards development organizations currently
3 in existence to carry forward the work of
4 plaintiffs if plaintiffs chose to stop
5 standards development as a result of the loss
6 of this case?
7 MR. FEE: Same objection.
8 THE WITNESS: Not that I
9 recall, but I am of the understanding
10 that each SDO has a different charter,
11 so I don't know that any SDO has an
12 identical charter to that of any of
13 the three plaintiffs.
14 BY MR. BRIDGES:
15 Q. Are you aware that these
16 plaintiffs compete with other SDOs in the
17 creation of standards in particular fields?
18 MR. FEE: Objection to form.
19 Vague.
20 THE WITNESS: What do you mean
21 by the term "compete with" in this
22 context?
23 BY MR. BRIDGES:
24 Q. That they consider others
25 rivals for the same market, in part.

Page 240

1 MR. FEE: Objection to form.
2 Vague.
3 THE WITNESS: I don't recall
4 seeing reference to that, but my
5 memory is not perfect.
6 BY MR. BRIDGES:
7 Q. The -- in paragraph 131, you
8 say, "Simply put, freely-distributed,
9 unrestricted versions of Plaintiffs'
10 standards that are or could be incorporated
11 by reference can be expected to adversely
12 impact the market for Plaintiffs' standards
13 that are incorporated by reference and to
14 displace sales of these standards by the
15 Plaintiffs - which can be expected to have a
16 material adverse effect on Plaintiffs'
17 revenues."
18 Do you see that?
19 A. Yes.
20 Q. By "expected," do you mean more
21 than 50 percent likely?
22 A. Not necessarily. I don't have
23 a quantitative assessment of what I mean by
24 "expected."
25 Q. Do you mean more than 5 percent

Page 241

1 likely?
2 A. I haven't quantified that, but
3 I would expect that it's -- more than
4 5 percent would be a reasonable definition of
5 "expected."
6 Q. More than 10 percent?
7 A. I don't know. I've not
8 quantified that number.
9 Q. And what amount of an effect on
10 plaintiffs' revenues have you identified as
11 "material"?
12 A. I haven't --
13 MR. FEE: Objection to form.
14 THE WITNESS: -- been able to
15 quantify the specific effects, so I
16 don't know the amount.
17 BY MR. BRIDGES:
18 Q. Well, what -- I'm not asking
19 for your quantification of a specific effect,
20 but how large would an effect have to be for
21 to you consider it "a material adverse effect
22 on Plaintiffs' remedies"?
23 MR. FEE: Objection to form.
24 THE WITNESS: I don't know that
25 I have a particular quantitative

Page 242

1 guideline in mind.
2 BY MR. BRIDGES:
3 Q. Have you ever -- are you
4 familiar with audit inquiry letters regarding
5 litigation?
6 A. Generally, yes.
7 Q. And you're familiar with the
8 fact that auditors will often specify to
9 those they send the letters to what amounts
10 would be material for purposes of the audit
11 response?
12 A. Yes.
13 Q. So you understand the concept
14 of certain amounts being material to certain
15 companies or entities?
16 A. Yes, for certain purposes.
17 Q. So I'd like to know what amount
18 you have identified as being material as an
19 adverse effect on plaintiffs' revenues for
20 each of the three plaintiffs, please.
21 MR. FEE: Objection. Compound.
22 Asked and answered.
23 THE WITNESS: I have not
24 considered a particular amount.
25 BY MR. BRIDGES:

Page 243

1 Q. Do you consider \$100,000 to be
2 material as an adverse effect on plaintiffs'
3 revenues?
4 MR. FEE: Objection to form.
5 Compound.
6 THE WITNESS: I haven't
7 considered that question. I don't
8 know the answer to it.
9 BY MR. BRIDGES:
10 Q. Have you considered whether
11 50,000 is a material amount as an adverse
12 effect on plaintiffs' revenues?
13 MR. FEE: Same objections.
14 THE WITNESS: Same answer.
15 BY MR. BRIDGES:
16 Q. Starting at page -- sorry.
17 Strike that.
18 Starting at paragraph 139, you
19 make several references to Mr. Malamud's
20 theory.
21 A. I'm sorry. To -- I missed a
22 word that you said. References to his what?
23 Q. To Mr. Malamud's theory --
24 A. Okay.
25 Q. -- T-H-E-O-R-Y. You refer to

Page 244

1 it in paragraph 139; 140; 144, with the word
2 "theorized"; 145, "theory"; 146, "theory."
3 What facts do you have that
4 have disproved the theory in paragraph 139?
5 A. Perhaps most important is the
6 revealed preference information. If the
7 plaintiffs believed they were better off by
8 lack of copyright protection, they would have
9 pursued such a model.
10 They don't believe they're
11 better off. Moreover, they're expending
12 tremendous resources in bringing and pursuing
13 this litigation to halt the activity at
14 issue.
15 Q. What other facts, if any, do
16 you have that have disproved Mr. Malamud's
17 theory in paragraph 139?
18 A. That's what comes to mind right
19 now.
20 Q. What facts do you have or are
21 you aware of that have disproved
22 Mr. Malamud's theory as you refer to it in
23 paragraph 140?
24 A. That's the same theory that's
25 being referenced in 139, so there's nothing

Page 245

1 new in terms of a theory.
2 Q. Do you have the same answer
3 with respect to -- strike that.
4 What facts do you have --
5 strike that.
6 What facts are you aware of to
7 disprove -- to disprove Mr. Malamud's theory
8 that you refer to in paragraph 144?
9 A. Again, it's the same theory
10 that's being referenced, but there's
11 additional facts; and that is, the downstream
12 products and services aren't particularly
13 substantial to these plaintiffs and don't
14 appear to be enhanced by a lack of copyright
15 protection; that is, the plaintiffs have had
16 copyright protection and have said -- had
17 some downstream products and services. It's
18 hard to imagine that elimination of that
19 copyright protection will enhance that
20 business.
21 Q. It's hard to imagine, but are
22 you aware of any studies to disprove
23 Mr. Malamud's theory?
24 A. No.
25 MR. FEE: Objection. Vague.

Page 246

1 THE WITNESS: I'm sorry.
2 BY MR. BRIDGES:
3 Q. Have you conducted any studies
4 to disprove Mr. Malamud's theory?
5 MR. FEE: Same objection.
6 THE WITNESS: Not other than
7 what's reflected here in Exhibit 1.
8 BY MR. BRIDGES:
9 Q. What academic literature have
10 you relied upon to criticize Mr. Malamud's
11 theory in paragraph 144?
12 A. Nothing specific comes to mind.
13 Q. In paragraph 145, you state
14 that, "Mr. Malamud's suggestion that the sale
15 of downstream products and services
16 represents an untapped and undeveloped
17 opportunity for the Plaintiffs is incorrect."
18 Do you see that?
19 A. Yes, I do.
20 Q. And then you go on and make
21 some statements for the rest of the
22 paragraph, correct?
23 A. Yes.
24 Q. What studies did you engage in
25 to determine the facts that you stated in the

Page 247

1 rest of that paragraph?
2 MR. FEE: Objection. Vague.
3 THE WITNESS: I looked at the
4 financial information, and I talked to
5 people at the various plaintiffs.
6 BY MR. BRIDGES:
7 Q. You talked to people at the
8 various plaintiffs?
9 A. Yes.
10 Q. What did you do to verify the
11 truth and accuracy of the things that various
12 plaintiffs said to you in their
13 conversations?
14 MR. FEE: Objection to form.
15 THE WITNESS: I looked at the
16 financial information, and I kept my
17 eyes and mind open to the information
18 in the rest of the record to determine
19 if it conflicted with what I learned
20 from the company personnel.
21 BY MR. BRIDGES:
22 Q. Whose financial information did
23 you look at?
24 A. All three of the plaintiffs.
25 It's summarized in tabs 3, 4, and 5.

Page 248

1 Q. Did you look at the financial
2 information of any entities other than the
3 plaintiffs?
4 A. I looked at Public Resource
5 financial information.
6 Q. Apart from Public Resource and
7 the plaintiffs, did you look at the financial
8 information of any other entities in making
9 the assertions that you made in
10 paragraph 145?
11 A. Not in undertaking my
12 assignment here.
13 Q. Did you consider the business
14 models of any entities other than the
15 plaintiffs and the defendant in making the
16 statements criticizing Mr. Malamud's theory
17 in paragraph 145?
18 A. Nothing in particular comes to
19 mind. I understand that there are
20 front-loaded business models, but -- at DIN,
21 for instance, but I don't recall undertaking
22 an investigation of the downstream activities
23 that they have.
24 Q. Did you undertake any
25 investigation of downstream activities of

Page 249

1 other US-based standards development
2 organizations that make their standards
3 freely available to the public?
4 A. Not that I recall.
5 Q. Would that have been relevant
6 to your analysis?
7 A. It wasn't necessary to do my
8 analysis, but I would be curious if I had
9 that information. If I -- if I had the
10 ability to examine that information, I would
11 be curious as to what that shows.
12 Q. In paragraph 146, you state,
13 "The loss of publications here will likely
14 reduce the Plaintiffs' sales of those
15 downstream products and services."
16 Do you see that?
17 MR. FEE: That's in 146?
18 THE WITNESS: Is that the last
19 sentence you were reading from?
20 BY MR. BRIDGES:
21 Q. Yes.
22 A. Yeah.
23 Q. Paragraph 146.
24 A. Yes, I do see that.
25 Q. Did you mean the loss of

Page 250

1 copyright in the publications here?
2 A. Certainly the loss of
3 publications, but I believe it would probably
4 be better to put the loss of copyright in the
5 publications as more reflective of the
6 assignment that I undertook here.
7 Q. What probability do you assign
8 to the likelihood that you refer to in that
9 sentence?
10 MR. FEE: Objection to form.
11 Lack of foundation.
12 THE WITNESS: I haven't
13 assigned a quantitative probability to
14 that.
15 BY MR. BRIDGES:
16 Q. Have you any estimate?
17 MR. FEE: Same objections.
18 THE WITNESS: I do not.
19 BY MR. BRIDGES:
20 Q. Have you any estimate as to the
21 magnitude of the likely reduction of
22 plaintiffs' sales of downstream products and
23 services?
24 MR. FEE: Same objections.
25 THE WITNESS: No, I have been

Page 251

1 unable to quantify that with great
2 accuracy.
3 BY MR. BRIDGES:
4 Q. Have you considered any
5 comparable circumstances apart from this case
6 that would provide guidance for your
7 prediction in the last sentence of
8 paragraph 146?
9 MR. FEE: Objection to form.
10 Vague.
11 THE WITNESS: I kept my mind
12 and eyes open to that, but I didn't
13 see information of a good comparator.
14 BY MR. BRIDGES:
15 Q. Did you research whether there
16 might be good comparators?
17 A. I --
18 MR. FEE: Same objection.
19 THE WITNESS: I did in the
20 sense of reading through the
21 literature and information to see if I
22 could learn of something that would be
23 a good comparator, but I didn't learn
24 of such comparator.
25 BY MR. BRIDGES:

Page 252

1 Q. You looked only at the
2 information shown in tab 2 to Exhibit 1?
3 A. Yes, I think that's right.
4 Q. What economic effect are you
5 aware of to the Blu-ray Disc Association from
6 its providing unrestricted access to its
7 standard publications for free?
8 A. I don't know. I thought you
9 had asked that earlier. If not, I apologize.
10 Nonetheless, I don't recall knowing the
11 answer to that question or undertaking that
12 evaluation.
13 Q. Did Blu-ray Disc Association go
14 out of business?
15 A. I don't think it's out of
16 business, no.
17 Q. Has it suffered material harm,
18 to your knowledge, because of unrestricted
19 access to its standard publications for free?
20 A. I don't know.
21 Q. Do you believe that, on the
22 theory of revealed preference, Blu-ray Disc
23 Association has determined that unrestricted
24 access to its standard publications for free
25 is in its interest?

Page 253

1 A. Yes. It's a different entity
2 than the SDOs here; but for its purposes, it
3 would appear that it's of the belief that
4 that's the optimal path to follow.
5 MR. BRIDGES: I think -- I
6 think we may pause things now and
7 reserve the remainder of our time.
8 Just a second. Oh, yes.
9 BY MR. BRIDGES:
10 Q. Do you believe that the
11 plaintiffs are harmed when the defendant
12 posts a standard that has been incorporated
13 by reference -- let me strike that.
14 Do you believe that plaintiffs
15 suffer harm from defendant posting a standard
16 that is not the latest version of the
17 standard?
18 MR. FEE: Objection. Form.
19 Compound.
20 THE WITNESS: Potentially, it
21 could cause confusion in the
22 marketplace as to what's the latest
23 standard, and there may be some
24 entities out there that are interested
25 in obtaining an earlier standard that

Page 254

1 would be obtaining it free rather than
2 through the legal routes established
3 by the plaintiffs.
4 BY MR. BRIDGES:
5 Q. Have you done any studies to
6 determine what confusion may be likely in the
7 marketplace in that regard?
8 MR. FEE: Objection to form.
9 THE WITNESS: I have not done a
10 likelihood of confusion study, no.
11 BY MR. BRIDGES:
12 Q. What research have you done as
13 to whether -- strike that.
14 What information do you have
15 about what market there is for earlier
16 versions of standards when there is a newer
17 version in the market?
18 MR. FEE: Objection to form.
19 THE WITNESS: I don't recall
20 undertaking specific research on that
21 topic.
22 BY MR. BRIDGES:
23 Q. What harm do you understand
24 plaintiffs would suffer if defendants post a
25 standard that is out of print?

Page 255

1 MR. FEE: Objection. Lack of
2 foundation. Vague.
3 THE WITNESS: I'm not -- I'm
4 not sure that I understand the concept
5 of a standard being out of print, so
6 maybe you could help me with that.
7 BY MR. BRIDGES:
8 Q. Do you know the term "out of
9 print"?
10 A. Generally, I do, yes.
11 Q. What do you understand it to
12 mean?
13 A. That it's no longer provided in
14 print form.
15 Q. All right. So what harm do you
16 understand plaintiffs would suffer if
17 defendants posted a standard that is out of
18 print?
19 MR. FEE: Objection to form.
20 THE WITNESS: Potentially, it
21 could be the harm similar to outdated
22 standards.
23 BY MR. BRIDGES:
24 Q. In other words, confusion in
25 the marketplace?

Page 256

1 A. Potential confusion in the
2 marketplace and potentially providing -- yes,
3 that -- that would be one form of it.
4 Q. What other harms do -- would
5 you identify from the defendants posting a
6 standard that is out of print?
7 A. Nothing else comes to mind this
8 moment, but there could be other things
9 that -- that I'm not thinking of right now.
10 Q. What harms do you understand
11 plaintiffs would suffer if a condition of a
12 standard being incorporated into law is that
13 plaintiffs could not forbid other entities
14 from making that law available widely and
15 freely to the public?
16 MR. FEE: Objection to form.
17 Incomplete hypothetical. Compound.
18 Calls for speculation.
19 THE WITNESS: I don't know.
20 I've not undertaken that assignment.
21 I've not given that particular
22 question any thought.
23 It seems economically to be
24 quite similar to the actions that have
25 occurred here, but I don't know. I've

Page 257

<p>1 not thought about that particular 2 topic. 3 MR. BRIDGES: Okay. I think 4 we'll pause here and reserve the rest 5 of the time for a later visit with 6 you, Mr. Jarosz. 7 Kevin, this is in reliance on 8 an exchange of correspondence between 9 Matt and you, I believe. If, for some 10 reason -- well, no. I think that's 11 all. 12 Anything else? 13 MR. FEE: Well, I don't have 14 any questions. 15 Do you guys have any questions? 16 MR. REHN: Not at this time. 17 MR. CUNNINGHAM: No. 18 MR. BRIDGES: Great. Thank 19 you. 20 THE WITNESS: Thank you. 21 THE VIDEOGRAPHER: All right. 22 Off the record at 4:31. This ends 23 media unit number 3 and ends testimony 24 for August 27th, 2015. 25 * * *</p> <p style="text-align: right;">Page 258</p>	<p>1 CERTIFICATE 2 3 I do hereby certify that I am a Notary 4 Public in good standing, that the aforesaid 5 testimony was taken before me, pursuant to 6 notice, at the time and place indicated; that 7 said deponent was by me duly sworn to tell 8 the truth, the whole truth, and nothing but 9 the truth; that the testimony of said 10 deponent was correctly recorded in machine 11 shorthand by me and thereafter transcribed 12 under my supervision with computer-aided 13 transcription; that the deposition is a true 14 and correct record of the testimony given by 15 the witness; and that I am neither of counsel 16 nor kin to any party in said action, nor 17 interested in the outcome thereof 18 19 WITNESS my hand and official seal this 20 11th day of September, 2015 21 22 23 24 25</p> <p style="text-align: center;"><%signature%> <i>Debbie Leonard</i> Debbie Leonard, ADR, CRR Notary Public</p> <p style="text-align: right;">Page 260</p>
<p>1 (Witness excused.) 2 * * * 3 (Off the record at 4:31 p.m.) 4 * * * 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 259</p>	

[& - 6]

&	12th 3:4	114:20 115:22	318-1200 2:5
& 2:2,8,14 3:2,7 7:13,19,23	13,000 200:9,19 201:13	118:15,21,24,25 121:23,24 135:4,6 197:17 210:14 253:2	33 89:3 34 92:17 35 71:3 36 187:10,12
0	131 241:7	2,400 201:23	3:12 210:13,16 3:41 210:17,20 3c 26:12
01215 1:4 0215 7:6	133 63:1 67:1 157:2 157:21 158:4 159:1 159:17 160:14,22 162:19 163:22 164:10 211:19 212:8,18	20 134:8,11 209:15 200 99:17 20004 2:15 2008 164:14,21 165:21,25 166:6,15 166:23 2009 4:17 175:13 2011 165:18 166:1,7 166:15,23 2012 164:18 165:12 165:13 178:16,19 208:6,8 2013 4:17 175:13 2014 89:8 187:19 2015 1:21 4:13 6:20 154:2 258:24 260:11 202 2:16 210 4:18 22 187:24 2300 2:4 26 105:4 209:13 260 1:25 27 1:21 27th 2:10 6:20 258:24 29 41:4 2:12 153:1,4	4
1	134 164:10 139 244:18 245:1,4 245:17,25 140 245:1,23 144 245:1 246:8 247:11 145 245:2 247:13 249:10,17 146 245:2 250:12,17 250:23 252:8 15 187:18 150 13:11 151 13:11 155 65:5 16 5:13 17 101:25 175 4:16 18 187:22 19 209:13 1915 134:2 193 99:17 194 99:17 196 99:17 1974 195:3 1975 195:11 1995 115:5 1:13 1:4 7:6 1:17 152:23,25	3	4 4:16 134:13,19 158:5,22 175:3,8,21 177:23 178:11 248:25 415 2:5,11 3:5 44 204:7,17 205:23 206:11,11 45 216:24 217:8,12 218:3 46 217:8,12 218:3 219:6 222:10 48 68:8 49 195:1 4:31 258:22 259:3
1 1:25 4:12 6:2 13:3 27:18,21 64:15 89:9 110:2 119:6 166:8 166:16 233:20 234:7 235:25 247:7 253:2 1,200 90:18 10 91:24 96:4 242:6 100 130:22 131:10 133:12,19,22 100,000 244:1 101 2:3 107 216:25 217:8 108 216:25 217:1,3 109 224:13,25 10:09 1:20 6:21 11 102:1 110 225:14 1111 2:15 112 65:5 68:16 69:13,21 70:23 117 233:10,15,23 234:3 119 115:5,10 233:10 233:16,23 234:3,13 235:5 11:12 61:17,19 11:23 61:20,23 11th 260:11 120 235:11 121 236:3 1250 1:19 6:23 126 236:14 12:17 110:1,4 12:32 110:5,8	2	3 4:15 89:23,25 90:2 97:23 98:3,7,13 102:20 134:13,19 158:5,22 188:2 210:21 248:25 258:23 3,600 90:18 30 14:6 25:20	5
	2		5 4:13,18 134:14,19 158:5,22 208:6 210:24 211:4 237:23 241:25 242:4 248:25 50 184:1 237:11 238:13 241:21 50,000 244:11 512-4000 2:11 555 3:3 560 2:9 57 199:12,15 58 199:21,25 59 202:17 204:6 5th 154:2
	2 4:14 15:17,20 17:8 93:21,21,22 94:14 97:23 98:3,7,10 102:20 110:9 113:13 114:18,19		6
			6 4:12 17:24 18:8 98:5

[62 - allowing]

62 140:25	250:10	active 82:4 238:16	adjusts 40:13
64 51:3	able 63:3 154:17	activities 10:12	administrative
650 3:9	176:8 242:14	12:16,20 21:21 60:7	115:14,25 116:8,16
66 183:24	abridges 3:5	62:3 63:5 66:5	116:23 117:6
67.1 187:19	absence 68:23	75:24 85:9,10,14	adopt 192:24
68 51:6	absolute 25:4 27:9	87:7 122:23 123:13	adopted 204:7,17
6c 26:11	119:3 164:16	123:16,17 126:3	205:23 206:12
7	212:21 215:8	133:8 147:19,20,21	advantage 219:8
7 18:5,8	220:19	148:2,4 149:4	222:13 223:7,15
70 41:5	absolutely 14:18	153:11 157:8,15	224:17
73 51:8 195:15	202:1,5	158:24 159:9 160:5	adverse 241:16
739-3000 2:16	academic 112:11	160:10 161:2,6	242:21 243:19
74 195:15	247:9	163:24 164:18	244:2,11
76 89:3,4 90:7	acceptable 45:13,18	167:4 193:18	adversely 241:11
8	access 75:18 141:2	249:22,25	advertising 88:6
8 4:4	141:10,15 192:1	activity 60:22 74:23	advisable 55:19
80 237:17	215:19 253:6,19,24	76:21 151:12 157:4	56:3
801 3:8	accessed 211:22,25	157:20 162:25	affect 178:20
83 187:15,16	214:20	165:12 189:14	aforesaid 260:3
86,400 90:17	accesses 212:7,17	207:7 245:13	afternoon 153:6,7
875-2300 3:5	216:8,17	actual 62:8	agencies 203:1
88 199:16	accomplishing	add 18:23 23:13	ago 30:16 41:23
9	56:24 57:10,24	183:25 184:4,9	46:2 105:21 113:19
9 5:13	58:13	added 97:12 219:9	133:19,23 134:11
90 211:16	account 73:12	219:20 220:2	208:4
90-75 195:11	163:23 164:5 168:9	222:14 223:8,19,21	agree 6:16
90.1 89:15 90:4,8,21	181:4	224:10	agreement 228:25
91:16 92:7 131:15	accrue 209:10,17	addition 224:14	ahead 17:12 54:10
131:19 132:4 195:2	accuracy 248:11	additional 246:11	73:17 81:8 174:19
204:8,20 206:25	252:2	address 15:12 17:25	ahri 238:25
207:14 211:16	accurate 206:18	42:12 45:25 48:19	aided 260:7
94041 3:9	accurately 54:8	49:18 50:25 51:14	air 1:12 2:17 8:1
94104 3:4	218:24	52:1,19,24 53:14	akin 128:7
94105 2:4,10	achieve 49:5,7,19,21	55:5,21 56:4 82:15	al 7:2
95 204:12,16 205:9	52:14 209:24	85:3 86:23 89:19	alert 32:14 39:13
205:11,22 206:10	achieving 50:12	114:25	137:22
97 4:14,15	52:16	addressed 14:6	alleged 11:21,24
988-8500 3:9	acquainted 92:22	51:21 54:12,16	19:13 118:7 164:17
a	acronym 239:10	77:17 112:17 140:9	allow 46:22 63:11
a.m. 1:20 6:21 61:19	acting 42:24	addresses 42:21	86:22 209:24 215:9
61:20	action 56:17 260:9	addressing 45:11	215:25 216:7
ability 32:12 222:15	actions 18:16 71:5	50:18 51:18 52:4,15	allowed 68:13 73:19
223:9 225:15	123:18 172:4 181:5	54:19 68:2 69:1,6,7	216:16
	216:4 257:24	74:10	allowing 54:5

[allows - aspects]

<p>allows 50:13 209:19 209:22</p> <p>alter 11:20</p> <p>alternative 214:4 224:11</p> <p>alternatively 214:25</p> <p>alternatives 213:24 240:1</p> <p>american 1:3,9 2:6 2:17 7:1,24</p> <p>amount 10:16 91:18 91:19 93:15 184:14 189:14,15 193:17 242:9,16 243:17,24 244:11</p> <p>amounts 87:6 243:9 243:14</p> <p>amusement 54:14</p> <p>analyses 11:9 26:20</p> <p>analysis 77:24 79:24 115:16 127:12,16 130:3 144:4,17 146:12 148:6 162:4 162:12 164:20 167:3 170:24 171:22 172:14 178:20 179:8 180:6 186:2 250:6,8</p> <p>analyst 119:20</p> <p>analyze 81:19 229:5</p> <p>analyzed 155:17 156:1</p> <p>analyzing 163:23 181:4</p> <p>ancillary 72:7 224:19</p> <p>andrew 3:3 7:12</p> <p>answer 5:2 13:18,24 14:3 16:22 17:12 18:4 30:6 37:15 49:10 53:5 54:1,9 55:23,25 56:7 69:15 78:20 95:1,4,23 104:6,24 105:20 106:13,15 107:13</p>	<p>107:14,16 108:17 125:21 128:24 129:1,2 137:9,11 141:22 143:4,7,15 145:7,25 150:2,8 151:1,24,25 152:16 154:12 165:20 166:3,24 171:17 172:18 197:4 202:11 203:9 232:20 233:5 244:8 244:14 246:2 253:11</p> <p>answered 14:14 24:17 65:3 103:10 113:4 118:12 120:10 130:1 147:11 150:23 152:13 168:14,23 170:19 174:15 186:11 234:5 243:22</p> <p>answering 146:19 151:14 168:9 233:25</p> <p>answers 77:21 108:2</p> <p>anticipate 100:24</p> <p>anybody 23:4 195:25 201:11</p> <p>apart 121:13 197:18 249:6 252:5</p> <p>apologize 54:21 253:9</p> <p>appear 246:14 254:3</p> <p>appearances 2:1 3:1</p> <p>appears 90:21 175:12</p> <p>application 172:23</p> <p>applied 8:22 169:23 172:21</p> <p>apply 8:25 57:16</p> <p>applying 170:6 171:16</p>	<p>appointed 116:23</p> <p>appreciating 80:21</p> <p>appropriate 83:17 143:16,25 167:13 167:17 168:4 169:12</p> <p>appropriateness 168:1,5</p> <p>approval 76:20</p> <p>approved 226:8</p> <p>approving 109:13</p> <p>approximately 6:21 90:1 96:10 97:2</p> <p>aptly 143:17</p> <p>archive 164:23 179:13 180:4,10</p> <p>area 86:25 93:13</p> <p>areas 80:24 187:11</p> <p>arguing 186:13,16</p> <p>arising 19:2,12</p> <p>arranging 85:20</p> <p>array 31:21 32:2</p> <p>arrived 40:15</p> <p>arriving 180:19,21</p> <p>article 4:18 70:5 117:17 195:14,16 199:15 211:4,7,10 211:14</p> <p>articles 69:23 93:3 94:5,9,10,13 112:10 114:25 116:1,10,18 117:3,5,23,23,24 118:5 119:20,23 122:2,3 138:17 197:19,20</p> <p>articulate 57:23</p> <p>ascertain 112:5,24 114:21 129:23 130:7</p> <p>ashrae 4:19 51:9 54:18,20 89:8,22 90:16,21,24 91:6,16 92:4,7 96:25 97:20 131:15,18 132:3 155:6 184:2,18</p>	<p>185:1,9,16 187:23 195:2,10 201:19 202:4 204:8,20 206:24 207:13,13 207:18,24 208:1,5 211:12 213:2,12 225:22 226:9</p> <p>ashrae's 89:14 91:8 91:11</p> <p>aside 38:6</p> <p>asked 14:13 16:21 24:16 65:2 103:9 113:4 118:12 120:10 129:25 143:23 146:2 147:10 150:23 151:14 152:12 167:24 168:14,22 170:19 174:14 186:10 188:21 192:2 194:21 234:5 243:22 253:9</p> <p>asking 8:21 13:17 14:20 22:3 29:6,14 29:18 37:3,6 41:9 41:15 50:6 69:4 77:5,20 87:5,6 95:16 106:10 142:23 144:14 147:2,7 154:23 171:20 172:13 177:17,18 179:18 180:20 181:25 182:2 184:7,8 186:19 200:11,13 200:14,24 206:8 209:16 231:22 242:18</p> <p>aspect 172:16 173:2 174:3</p> <p>aspects 170:3 171:12 172:8 173:7 173:12,17,23 174:4 200:2 229:15</p>
--	---	---	--

[assert - best]

<p>assert 217:14 asserted 126:20 assertions 120:6 233:15 249:9 assessing 40:9 44:6 assessment 9:24 161:4,10 241:23 assessments 9:3 assign 234:11,18 235:8 236:1,22 251:7 assigned 10:15 19:9 137:23 251:13 assignment 79:8,22 114:3 138:21 142:17,19 143:13 149:1,9 249:12 251:6 257:20 assignments 28:18 31:2 139:4,11 170:9 assistance 101:10 associate 176:21 189:10,17,23 190:4 associated 10:19 18:15 28:25 52:4 54:13,16 75:15 80:13,25 88:4 127:17 177:15 204:13 224:16 association 1:8 2:12 7:21 26:10 140:15 140:19,22 141:1,10 230:21 253:5,13,23 association's 141:24 associations 33:3 assortments 42:14 assume 77:24 78:1,4 89:21 140:14 185:20,21 200:25 assuming 78:5 assumption 12:8 17:15 72:19 78:3,7 148:1 151:11 185:9 185:11,15,24 186:5 186:7,9</p>	<p>assumptions 106:12 107:12 108:15 125:11 145:5 146:24 148:15 ast 213:13 astm 1:5 2:7 7:17 51:4 52:3 54:12 96:23 97:18 135:7 155:4 183:24 187:4 201:17,23 211:24 212:6,19 213:2,7,10 213:16 214:5,7,11 214:15,22 astm's 214:20 attached 27:18 165:23 166:7,16 attempt 10:2 195:7 196:15 201:12 attempted 177:13 attempting 178:2 attention 40:5 51:21 71:2 92:25 94:4 109:8 209:22 211:8 attorney 47:19 attributable 193:10 194:6,17 attribute 157:7 attributed 189:13 audio 6:14 audit 243:4,10 audited 135:7,7 auditors 243:8 august 1:21 6:20 258:24 author 197:25 authorization 232:12 authorized 231:18 automatically 89:18 availability 72:5 138:25 available 46:18 126:14,19 158:19 159:5 236:15 250:3 257:14</p>	<p>avenue 2:15 avenues 46:5,7 aware 35:25 93:14 105:5 108:23 116:4 117:12,22 131:8,13 133:10 134:7 138:23 139:4 141:9 141:23 182:20 183:5 192:18,21 197:6 207:25 208:23 209:3 221:3 230:15 238:15 240:15 245:21 246:6,22 253:5 awareness 139:9</p> <hr/> <p style="text-align: center;">b</p> <hr/> <p>b 1:5 2:6 back 21:25 27:15 28:3 55:24 78:22 92:16 99:6 134:11 134:15 137:9 176:7 187:17 208:5 212:14 221:23 background 28:13 153:15 balancing 58:9 barriers 225:18 base 64:10 based 53:8 58:3 72:5 102:8,14 148:11 165:10 166:7,11,15,19 175:16,20,25 185:5 197:19 206:8 213:18 233:13 238:8 250:1 bases 79:18 108:14 basic 170:11 172:19 basically 68:1 133:2 basis 43:3 63:18,25 64:16,25 67:13 78:18 95:3 106:12 113:7 125:9,15,19 145:2,5 146:22</p>	<p>148:14 195:3 234:8 234:24 235:1 bates 119:6 122:6,10 122:16 135:3,5,9 bcunningham 2:5 bear 54:25 170:6,16 170:24 171:16,22 172:14,17,24 173:3 173:8,13,19,25 174:5,9,13 bearing 78:12 79:1 bears 159:10 becker 3:8 7:15 beginning 70:4 110:9 210:20 behalf 7:17,19,24 behavior 171:6 172:3 173:3 belief 185:16 236:18 254:3 believe 12:3,8 15:18 20:9 33:16 35:1 50:18 54:24 62:16 62:19 73:23 98:19 104:21 117:14 119:5,6,10,12,14 120:1 122:16 129:13 135:21 140:24 147:13 148:5 150:18 169:3 175:18,22 178:15 182:17 183:1,11 187:5 192:5 194:12 205:20 211:6 227:23,24 245:10 251:3 253:21 254:10,14 258:9 believed 245:7 believes 129:11 benefit 209:4 221:16 222:3 benefits 88:25 209:10,14,17 210:1 best 28:11 32:11 40:10 42:11 55:19</p>
---	---	--	--

[best - california]

<p>56:2 57:9 91:20,22 97:8,15,20 98:9 119:4 210:7 226:23 237:5,8 better 155:7 245:7 245:11 251:4 beyond 12:25 24:1 27:23 71:4,22 78:9 114:18 130:3,11 131:23 132:15 170:3,10,15 171:6 171:13 172:10 207:22,24 bills 92:5 bit 15:16 58:23 59:5 62:7 105:22 132:24 149:21 200:19 blake 2:3 7:22 blanche 75:17 blu 26:10 140:12,15 140:19,20,22 141:1 141:9,23 253:5,13 253:22 bockius 2:14 body 117:21 165:13 books 119:21 bottom 93:22 140:25 217:12 218:3 breach 27:1 break 14:25 58:19 59:14,15,19 61:14 109:24 152:19 158:14,18 210:9 breaks 158:12 breathing 35:6,7,8 bremer 68:16,21 92:19 94:4,5,8,18 112:10 114:25 116:2,10,18 119:23 122:3 138:17 199:15 bremer's 94:9 117:3 117:5 197:20</p>	<p>bridges 3:3 4:4 7:12 7:13 8:13,15 9:16 10:1,9 11:15 13:19 14:11,21 16:2,10,20 16:24 17:18 20:2 21:2,17 22:5,11 24:13,23 26:2,23 28:21 29:7,10,20 33:20 34:3,10,20 35:3,24 36:8,17 37:9,16 38:4,11,23 39:15 40:22 41:8 42:2 44:3,23 45:20 47:14 49:1 51:11,24 52:12 53:4,20 54:23 56:16 57:3,8,15,21 58:11,22 59:6,16,23 60:24 61:4,13,24 62:13 63:23 65:6,25 66:7,12,20 67:17 68:5 69:14,19 70:20 71:1 72:22 73:8,25 74:13 76:23 77:7,15 78:23 79:9,23 80:7 80:15 81:1,11,17 82:6,23 83:20 84:5 85:12 86:2,13,19 87:8 88:10,19 91:7 92:3,14,18 93:17 94:6 95:7 97:9 98:1 98:16 99:3,23 100:4 102:17 103:4,15 104:14,25 105:6,10 105:13 106:4 107:1 108:5,24 109:10,22 110:11 111:12,24 113:2,14 115:8 116:13,21 117:9,19 118:16 120:20 121:18 122:19 124:22 125:17 126:17 127:11 128:10,18 129:5,21 130:5,20 132:16,25 134:6,16 135:1</p>	<p>136:4,19 137:4,10 137:25 138:9,22 139:8,19 143:1 144:2,13,19 145:15 146:5,14 147:5,16 148:3,19 149:2,10 149:22 150:5,11 151:2,22 152:20 153:5 156:19 157:22 158:8 159:13 160:7,19 161:12,23 162:11 163:3,17 164:7 165:6 166:12,20 167:14 168:3,12,16 169:5,18 170:1,22 172:12 174:23 175:6 176:15 177:3 177:16 178:6 179:4 179:23 180:21 181:2,10 182:10,19 183:3,16 184:3 186:15 190:15 191:1,8,16 192:7,17 193:7,22 194:14,25 196:9,24 197:13 198:3,24 199:4,11 203:15 204:25 205:15 206:5,20 207:9,19 208:22 209:8 211:2 213:4 213:15,22 216:14 216:23 217:4 218:1 218:13 219:1,17 220:9,21 221:2,14 221:24 222:9,21 227:13,20 228:15 229:2,19,23 230:12 231:2,9,20 232:16 232:21 233:9,21 234:10,20 235:18 236:9,13 237:4,9,15 237:21 238:5,23 239:24 240:14,23 241:6 242:17 243:2</p>	<p>243:25 244:9,15 247:2,8 248:6,21 250:20 251:15,19 252:3,14,25 254:5,9 255:4,11,22 256:7 256:23 258:3,18 bring 161:21 163:12 163:15,16 172:17 173:3,25 174:8 238:9 bringing 174:13 245:12 broad 32:7 75:1 broaden 72:21 broader 31:21 32:24 33:9 224:9 broadly 172:7 203:4 brought 40:5 51:20 92:25 94:3 109:8 162:23 163:11 170:6,16,24 171:15 171:22 172:13,23 173:8,13,19 174:5 building 46:23 127:9,14 128:14 204:9 228:17 buildings 46:21 54:17 bulk 26:20 92:12 business 33:4 39:9 128:7 229:17,18 246:20 249:13,20 253:14,16 buy 184:18 185:17 buying 184:21 185:13</p>
c			
<p>c 1:17 4:3,12 7:8 8:7 124:24 260:1,1 calculate 212:5 calculated 208:14 212:9 california 2:4,10 3:3 3:4,8,9</p>			

[call - comes]

<p>call 44:11 86:5 96:19,21 106:24 111:18 114:6 123:11 219:9 called 124:24 135:23 209:14 223:19 226:12 calling 113:20 171:7 225:7 calls 47:2 77:2 78:14 79:4,14 96:23 108:13 129:17 144:18,22 145:22 146:17 147:24 148:8,23 149:6,17 150:22 151:7 152:11 159:2 161:8 167:20 168:23 228:21 229:9 230:22 231:14 232:3 257:18 campaigns 88:7 candidates 140:2 169:16 capabilities 133:25 caption 6:25 capture 218:16 career 26:1 174:22 careful 31:17 carl 3:13 carry 240:3 carte 75:17 case 6:25 7:4,5 9:7 10:5 12:11 15:14 27:7,25 28:10 29:11 33:13 43:21 44:20 68:24 69:3 73:1,13 75:22 76:5 77:1,16 78:8,19,25 79:11,13 81:3,6,19 85:16 92:20 95:4 96:9 104:10 107:21 124:23 125:1,14,14 125:18,23 126:1 127:17,23 128:5,8</p>	<p>129:4,9,12,15,16,24 130:3,4,8,9,10,16 132:10,20 138:13 143:13 144:15,17 147:9 153:10 154:4 154:22 155:19 162:15 169:13,24 170:7,17,25 171:17 171:23 172:14,17 172:24 173:4,9,14 173:19,25 174:5,10 174:13 175:9 181:14 187:4 188:9 188:25 189:12,19 190:22 194:18 196:1 208:12 212:25 236:19 239:21 240:6 252:5 cases 27:18,20 28:8 32:14 119:16 categories 34:1 category 223:23 causation 158:23 161:4,11 cause 12:18,21 67:21 75:5,12 76:3 159:18 254:21 caused 21:22 66:1 73:13 80:17 145:17 145:19 cell 6:11 certain 18:15 47:7 48:19 49:18 50:8,18 55:5 57:24 58:12,13 60:19 64:22 74:2,8 82:15 92:9 100:19 126:3,25,25 127:2 140:25 155:4 156:23 160:1 165:8 180:13 185:6 212:16 226:24 243:14,14,16 certainly 28:24 36:4 39:13 40:3 47:11 60:10 62:9,21 70:6</p>	<p>84:15 85:9 106:16 133:18 165:16 251:2 certainty 25:5 27:9 63:8 65:24 119:4 164:17 212:22,23 214:2,16 215:8 220:19 certified 1:23 certify 260:2 change 11:23 95:8 109:23 165:4,9,15 167:10 179:6 208:1 220:7 changed 130:22 134:5 166:24 changes 131:4,5,8 131:13 133:10 134:7 157:6,13,20 157:25 159:18 176:22 177:8,20 chapman 98:11 99:22,25 102:15,19 103:14 104:7,16 105:24 106:7,20 characterization 222:23 characterize 47:12 charter 49:16 240:10,12 chartered 40:8 charters 48:18 49:3 55:4 check 187:2 choose 184:20 chose 94:14 240:4 circular 115:5,9 circulars 115:2 circumstances 128:13 252:5 circumstantial 159:6 citations 99:12 102:7,13 105:17 107:4 160:22</p>	<p>cite 25:7 99:14 103:24 195:14 cited 22:15,17,22 24:25 82:1 199:16 202:10 205:22 206:10 211:4 cites 110:13 claimed 10:4 126:5 class 233:1 classify 38:25 clause 200:15 clear 16:8 35:5 clearinghouse 86:1 clearinghouses 86:21 close 63:13 64:2,20 closer 59:9 code 127:13 164:15 164:19,22 165:19 165:21 204:9,18 205:24 206:13 221:5 229:21 230:19 231:6,10 232:25 codes 127:9,14,25 128:1,14 coefficient 177:14 177:18 collected 194:22 collection 209:23 college 170:4,11 171:14 columbia 1:2 7:5 combinations 96:17 96:22 come 26:9,13 62:22 131:18 203:13 comes 28:23 29:1 36:4 40:11 66:8 84:14,21 188:8,15 188:19 221:11 224:2 225:12 227:2 245:18 247:12 249:18 257:7</p>
---	---	--	---

[coming - containing]

<p>coming 45:12 58:8 commencing 1:20 commentaries 219:21 commentary 218:5 218:20 223:25 commerce 52:11 commercial 204:8 committee 116:7,15 committees 88:15 117:10 communications 78:17 79:17 95:2 125:8 145:1 146:21 147:1 148:12 196:19 companies 32:2,4 33:1 34:13 35:19 39:9 42:10 43:11,16 243:15 company 34:9 42:15 42:17 248:20 comparable 128:13 128:22 252:5 comparator 252:13 252:23,24 comparators 252:16 compatibility 82:16 compensate 222:17 223:11 compensation 133:7 compete 240:16,21 competition 223:17 competitive 219:8 222:13 223:7,15 224:17 competitors 224:24 compilations 72:6 complaint 179:22 180:14 complementary 224:19 complete 13:25 completed 48:5</p>	<p>completing 107:6 comply 32:16 34:15 35:22 46:11 compound 37:13 53:1 161:17 167:21 176:13 178:24 228:12 230:2 231:14 232:3 243:21 244:5 254:19 257:17 compute 177:13 computer 260:7 computing 87:18 comstock 101:25 225:22 227:22 228:2 concept 32:24 33:9 69:7,10,24 70:16 229:1 230:5 243:13 256:4 concepts 170:12,15 170:23 171:2,11,18 171:21 concern 45:12 conclude 58:24 169:7,11 conclusion 12:6 19:15,22 20:4 47:3 79:5,15 129:18 144:8,23 145:23 146:18 147:3,24 148:9,24 149:7,18 150:23 151:8 152:12 159:3,16 161:8 167:21 168:24 217:23 230:23 231:15 232:4 238:3 conclusions 11:11 11:13 13:7 15:25 16:5 17:2 18:12,20 18:25 19:4,6,11 107:11 108:15 116:9,17 125:12,16 125:20 145:4,6</p>	<p>146:23 148:15,17 159:17 161:20 165:4,9 167:11 169:24 170:17 208:11 220:7 233:12,13 condition 257:11 conditioning 1:12 2:18 8:1 conduct 64:18,19 66:22 conducted 216:15 247:3 conference 115:15 115:25 116:8,16,23 117:6 confidence 96:17 235:3 238:11 confident 14:25 15:6 confine 77:21 confirm 90:11 confirmation 23:24 confirmations 109:6 109:11 confirming 109:19 conflict 121:7,10 conflicted 120:13,17 196:7 197:11 248:19 conflicts 121:1,2,8 confused 200:23 201:1 confuses 171:9 confusion 12:18,21 19:1 34:25 200:22 254:21 255:6,10 256:24 257:1 conjunction 179:2 connection 28:10 115:15 216:8,17 consensus 32:6,7,8 40:15 45:16 58:3 85:2 116:7</p>	<p>consequence 62:2 63:5 127:14 130:15 157:15 216:4 consequences 128:16,20 130:14 conservation 204:18 205:24 206:12 consider 38:3 39:6 72:14 142:1 162:8 165:1,16 169:1 179:1 240:24 242:21 244:1 249:13 consideration 46:9 considerations 39:14 140:9 168:8 considered 82:5 164:11 165:14 243:24 244:7,10 252:4 consolidated 135:8 constituency 39:7 constituent 37:23 39:1 constituents 31:15 33:7,12,22 34:2,4 36:1 37:7 82:10,14 83:5,6 84:12,13 85:5 86:23,24 131:21 constitute 149:4 construction 228:18 230:14,16 233:1 construed 144:7 consulting 8:22 26:1 28:18 31:1 consumer 171:5 172:2 173:3 consumers 32:15 50:16 76:15 contained 10:21 11:12,14 160:15 180:13 216:22 containing 71:9</p>
---	--	---	---

[contest - curious]

<p>contest 53:19,21 context 9:3 26:3 28:17 37:2 42:8 55:14 70:10,21 106:14 240:22 contexts 9:4 continue 6:15 67:9 68:14 151:20 162:25 239:18 continued 2:19 3:1 110:19,20 111:3,9 continues 72:20 continuing 66:4 74:23 147:18,19 continuous 89:16 contract 27:1 contractors 229:21 contradicted 120:23 121:15 contribute 88:9 contributed 206:23 207:12 contributions 132:8 147:9 control 225:16 convened 131:22 conversation 95:19 100:17 conversations 6:10 23:15 24:12 94:21 95:6,11,25 96:6,11 97:3,13 98:11,14,18 99:12,15,19,21,25 100:6,8,24 101:4,13 101:20,21,25 102:1 102:2,3,4,5,8 103:7 103:12,13,18 104:4 105:17 106:11,18 107:4,5 108:8 110:14,16 118:9 120:7 121:19 153:21 180:11,17 195:6 197:12 248:13</p>	<p>copied 20:11 copies 19:18 71:7 87:25 88:1,2 215:23 232:17 233:2 copy 136:1 215:22 230:18 231:5 232:25 copying 15:18 20:6 133:25 copyright 18:2,12 18:14,20 27:4,12,25 28:8 63:15 64:4 65:8 67:21 68:7 69:8,10,25 70:5,7,9 70:11,15,17 72:18 72:20 73:18 77:5,20 78:1 79:13 80:1,9 80:14,25 81:5 110:19,20 111:4 114:14 123:21 124:12,17 126:13 126:18 128:2,15 138:25 140:5,9,13 143:21 148:21 151:13 217:14 218:4,17 219:2,6 220:1 222:11,15 223:5,9 245:8 246:14,16,19 251:1 251:4 copyrightable 78:13 79:2 copyrighted 126:4,5 187:5,21 188:1,3,6 224:14 copyrights 11:18,21 11:24,25 12:5 65:16 77:1,11,12,25 78:5 80:18 112:20 126:20 145:20 149:13 150:18 151:5 152:9 219:19 core 169:3 correct 23:12 24:4,5 24:7 36:20 42:23,25</p>	<p>43:12,16 47:16,21 48:3,4 64:23 65:9 65:17 66:13 67:22 68:17 69:21 70:11 70:23 71:19 72:8,12 72:12 77:25 86:8,12 90:22 94:10 113:21 113:22 114:8 130:16,19 135:16 156:24 161:25 162:5 163:12 174:10 188:1 197:22 204:13,14 208:8 211:5,17 212:3 214:22 219:9 219:13,24 226:13 227:23 235:6 247:22 260:8 correctly 217:11 219:13 260:6 correlate 177:7,19 correlation 177:14 177:18 corresponded 108:7 correspondence 94:17 258:8 cost 163:14 costs 65:7 89:9,23 133:4 counsel 7:9 14:23 23:3,9,10,18 78:18 79:18 94:17 95:2 111:22 118:18,22 119:1,8,10,12,13,15 119:24 120:1 121:22 125:8,14 145:2 146:21 148:12 153:13 154:1,2 180:12,18 197:21 198:11 260:8 count 201:7 counterpart 18:6 couple 59:12,21 203:3</p>	<p>course 24:20 25:15 25:25 27:10 56:17 111:15 170:5 171:15 228:16,25 229:4 231:12 courses 25:17 230:14,16 court 1:1 7:4 8:3 12:6 63:14 64:4,21 65:15 66:2,6,10 67:19 71:12 74:1,15 76:5,25 77:10 81:4 128:1,13 129:3,8 145:19 146:6,9 149:11 150:16 152:7 court's 67:13 128:20 129:24 130:8 167:23 courts 144:11 cover 15:1 89:9,23 covered 13:10,11,15 92:11 covers 210:4,6 create 31:5 85:23 86:3,6 87:25 created 107:20 creates 82:19 83:1 creating 33:4 85:15 103:19 109:2 creation 28:14 236:20 240:17 criticize 247:10 criticizing 249:16 crr 260:15 cumulation 154:12 cumulative 97:10 cumulatively 97:6 97:11 cunningham 2:3 7:22,23 258:17 curious 99:10 167:6 167:8 220:5,8 250:8 250:11</p>
---	---	--	---

[current - differently]

<p>current 17:13 currently 240:2 cursor 14:17 cv 1:4 7:6 cycle 89:14,22</p>	<p>defendant 1:16 3:6 3:10 7:14 12:9,21 21:9,12,21 23:20 65:17 66:5 68:12 73:1,4,11 145:18 146:10 147:20 148:7,21 149:12 150:17 151:4,21 152:8 158:20 164:14,21 165:8,25 166:6,14,22 175:19 175:23 176:11,22 176:23 177:8,10,20 177:22 178:12,13 179:12 180:2,8 183:7,8 193:11 194:7 214:14 249:15 254:11,15</p>	<p>84:12 228:24 denying 109:20 depending 67:12 depends 39:3 deponent 260:4,6 deposition 1:17 5:1 6:14 23:11 27:21 110:10 112:8 119:9 123:15 156:21 159:12 160:15,21 160:25 210:22 260:7 depositions 119:5 depth 30:24 62:25 derive 131:22 derives 181:13,21 182:3,4,12 described 198:6 231:25 description 4:10 deserve 79:12 80:1 desired 101:9 detail 40:3 detailed 103:6 detectors 39:10 determination 21:20 148:6 202:15 determine 12:20 93:12 155:15 157:13,24 167:15 176:5 179:19 190:17 196:6,20 201:12 206:22 207:11 247:25 248:18 255:6 determined 10:19 180:1 253:23 determines 149:11 150:16 determining 46:10 145:11 detrimental 111:5,6 111:7 114:15 devastating 111:11</p>	<p>develop 32:5 39:19 42:5,12 127:25 131:18 developed 40:17 126:6 154:25 202:18 203:7 222:12 223:6 224:16 developers 127:13 developing 30:8 33:4 41:7 84:24 89:9,24 development 25:12 25:16 27:13 28:1,9 28:15 29:3,24 31:5 32:19 44:11,15 45:4 45:8 70:2 81:21 82:2 85:14 87:3 93:7 130:22 131:1,7 131:9,14 132:4 138:11 189:11,18 189:24 190:5,21 191:11,21 206:24 207:14 211:15 238:16 239:20 240:2,5 250:1 developments 239:17 devoted 90:17 diagrams 71:9 dictate 60:23 differ 40:23 41:13 difference 67:5 167:3 182:20 183:5 184:25 185:3 186:2 215:17 differences 41:2,20 41:24 155:17 156:2 different 33:7 40:19 47:22 53:3 58:4 67:12 127:20 153:11 229:17 240:10 254:1 differently 29:19 105:22 149:21</p>
<p>d</p>	<p>146:10 147:20 148:7,21 149:12 150:17 151:4,21 152:8 158:20 164:14,21 165:8,25 166:6,14,22 175:19 175:23 176:11,22 176:23 177:8,10,20 177:22 178:12,13 179:12 180:2,8 183:7,8 193:11 194:7 214:14 249:15 254:11,15</p>	<p>84:12 228:24 denying 109:20 depending 67:12 depends 39:3 deponent 260:4,6 deposition 1:17 5:1 6:14 23:11 27:21 110:10 112:8 119:9 123:15 156:21 159:12 160:15,21 160:25 210:22 260:7 depositions 119:5 depth 30:24 62:25 derive 131:22 derives 181:13,21 182:3,4,12 described 198:6 231:25 description 4:10 deserve 79:12 80:1 desired 101:9 detail 40:3 detailed 103:6 detectors 39:10 determination 21:20 148:6 202:15 determine 12:20 93:12 155:15 157:13,24 167:15 176:5 179:19 190:17 196:6,20 201:12 206:22 207:11 247:25 248:18 255:6 determined 10:19 180:1 253:23 determines 149:11 150:16 determining 46:10 145:11 detrimental 111:5,6 111:7 114:15 devastating 111:11</p>	<p>d 1:5 2:6 d.c. 6:24 damages 9:3 dar 1:5 7:6 data 64:10 134:10 155:15,22,24 156:8 156:11 158:25 162:18 163:19,21 164:1,5,8 165:22 166:7,11,15 178:21 179:2 208:3,23 database 199:24 200:3,6,9,15 202:7 date 6:20 62:2,9 64:18,20 66:23 179:20 dates 134:18 179:9 179:11 180:2,8,17 180:25 181:4 day 24:21 260:11 dc 1:20 2:15 deal 13:22 127:8 dealt 139:23 debbie 1:21 8:3 260:15 decided 45:24 deciding 104:2 decision 65:15 66:2 66:10 74:2 126:8 127:15 128:20 129:24 130:8,16 145:19 149:14 150:19 151:3 152:7 167:23 declined 62:20 deem 143:16 defective 24:4</p>

[differently - economics]

152:17 difficult 20:12 21:8 74:21 dimension 30:21 37:24 99:8 din 249:20 diplomate 1:22 direct 25:6 71:2 137:1 159:7 160:3 224:14 directly 104:12 214:5 disasters 46:4 disastrous 46:12 disbursements 91:13 disc 141:1,9,23 253:5,13,22 disclaim 117:24 disclose 78:17 125:6 145:1 146:20,25 148:13 disclosing 124:9 discover 18:19 discovery 104:22 105:4,7 153:20 198:2 discuss 62:24 116:4 199:5,17 229:25 discussed 18:19,23 24:15 101:20 discussing 42:4 163:23 discussion 29:15 62:10 65:11 153:12 199:10 discussions 22:19,23 23:8 85:22 115:13 115:24 153:25 184:25 displace 241:14 disposal 155:22 157:4 162:19 183:15	dispose 100:14 disprove 246:7,7,22 247:4 disproved 142:12 245:4,16,21 dispute 221:10 disputing 12:9 disseminate 75:24 88:2 136:2 disseminated 20:11 20:14 23:21 75:21 75:25 76:12,18 disseminating 21:12 127:2 dissemination 20:7 48:24 55:9 60:2,5 61:1,10 62:18 75:1 75:15,20 133:25 209:23 dissent 116:15 distinction 31:10 32:20,23 156:12 distinguish 145:16 distinguished 32:17 distributed 133:17 133:21 135:15 215:24 241:8 distribution 133:11 134:4 142:2 215:25 216:3 district 1:1,2 7:4,5 diverse 42:20 doctor 47:21 document 24:1 107:19,22,25 108:20 118:14,17 175:8,11 195:5 215:22 216:1 218:9 documentary 120:16 documents 5:6 22:15 23:23 24:11 24:14,25 25:1 93:19 113:12 115:23 116:4 119:13	120:22,25 121:1,2 121:13,14 122:6,6 122:10,16,17,18,21 122:24 123:10,14 134:18,22,25 135:2 135:11 153:14 180:14 185:6 197:9 197:14,15 198:1,5 198:10 211:22,25 212:3 doing 16:19 107:24 162:4 179:25 180:5 213:20,24 dollar 10:15 19:7,9 87:6 132:17 189:9 189:14 198:17 212:6 213:8 221:15 222:2 dollars 132:14 175:13 double 187:2 doubt 227:25 230:8 download 215:5,18 215:21 downloaders 214:17 downloading 176:5 213:21,25 214:18 215:9 downloads 62:17 157:3 159:23,25 211:21 212:7,13,17 216:9,18 downstream 224:18 225:5,7,16,19 246:11,17 247:15 249:22,25 250:15 251:22 draft 88:16 103:21 107:2 drafting 98:24 100:12,22 drafts 104:17,23 105:15 draw 161:19 208:11 234:8 238:3	drawing 15:25 drawn 11:11 19:4,7 19:11,15 217:23 drew 99:14 165:5 167:11 169:24 drive 218:4 drives 217:15,23 218:18 220:11,14 driving 203:12 204:2 217:20 duly 8:8 260:4
e			
e 87:23 98:4 124:24 124:24 244:25 260:1,1 e.g. 141:1 earlier 10:11 28:8 55:2 84:11 110:13 134:18,23 135:14 140:3 156:21 157:1 186:21 207:5 253:9 254:25 255:15 eastern 98:5 easy 155:15 176:4 225:22 227:14 econometrics 171:5 172:6 173:12 economic 8:21 19:7 128:19 129:23 130:14 141:8 142:2 143:25 144:4,16 149:14 150:19 151:5 152:9 167:3 167:25 168:6,7,10 168:21 169:4,6,8,10 169:11,17 170:7,15 170:23 171:2,8,16 171:21 174:12 212:19 222:3 232:6 232:23 253:4 economically 221:16 257:23 economics 25:17 48:3 80:23 93:7			

[economics - exhibits]

<p>157:7 170:5,11,13 170:16 171:15 172:11 economist 8:17,19 47:4 economist's 10:25 economists 144:9 145:10 editing 83:23 education 25:10 educational 174:21 effect 136:13 137:1 137:13 181:4 208:15,24 241:16 242:9,19,20,21 243:19 244:2,12 253:4 effective 48:20,24 50:19 51:15 55:5,9 60:2,5 61:1,7,8,9 82:10 effectively 50:14 51:22 effects 141:8 142:2 161:5 163:24 167:4 176:10 208:15 242:15 effectuating 48:17 49:3 55:3 effort 206:21 207:11 egress 46:18 either 19:19 38:21 42:9 75:24 112:3 117:17 123:9 138:25 189:6 electrical 54:17 164:15,22 165:19 230:19 231:6 232:25 elimination 246:18 embedded 234:7 embodied 27:20 62:6 embody 217:21</p>	<p>emily 68:16,21 92:19 94:18 116:2 employed 8:21 91:6 employee 44:17 95:19,20 112:14,21 113:21,25 114:7 employees 42:18 44:10,19 46:19,22 83:10,22 95:12,12 108:8 110:14,16 111:17 112:6 113:3 113:6,24 120:8 190:20 191:10,20 196:21 employer 92:13 employers 91:9,12 encompass 18:16 35:1 encompasses 18:1 ends 258:22,23 energy 4:19 204:9 204:18 205:24 206:12 enforce 65:16 engage 247:24 engaged 21:21 123:20 146:10 153:11 engagement 153:10 engineers 1:13 2:18 8:1 english 232:8 engulfed 46:23 enhance 246:19 enhanced 246:14 enjoin 76:6 entail 132:23 enter 72:24 74:15 entire 16:15 entirely 201:15 entirety 209:21 entities 33:19,19 34:4,17,22 35:12,17 36:22,23 74:3 127:25 243:15</p>	<p>249:2,8,14 254:24 257:13 entitled 12:4 104:22 105:6 entity 34:8,12 35:1,5 117:25 130:15 132:5 254:1 entry 225:18 environment 32:13 52:7 envision 73:1 226:16 229:4 envisioning 71:22 erected 46:22 errors 71:9 esq 2:3,9,14 3:3,8 essence 40:4 51:4 68:9 75:17 76:10 77:4 143:20 establish 158:23 216:7,16 established 255:2 estimate 91:21,22 92:2 97:16 166:14 175:17,21 191:3,17 191:24 194:16,24 198:25 212:12 213:9 222:2 234:21 234:25 235:2 236:10 237:5,8,14 237:20 238:1 251:16,20 estimates 190:9 et 7:2 etsi 26:10 30:8 140:10 evaluate 11:5 12:10 25:22 162:8 evaluated 9:22 10:18 11:17,20,22 16:16 61:25 evaluating 10:22 109:20 evaluation 9:1 15:2 15:14,21,24 16:6</p>	<p>17:3 253:12 eventually 46:20 evidence 62:8,11,15 67:2,3 120:16 137:3 159:5,6 160:3,8 165:14 216:2 exact 55:1 exactly 8:20 9:19 20:8 42:7 50:5 74:24 150:25 164:21 176:19 examination 8:11 examine 29:4,25 30:4 118:6 250:10 examined 28:19 29:22 30:20 31:16 81:25 153:14 example 46:17 52:17 54:12,15,18 54:20 56:8 57:2 58:18 225:21 examples 99:16 203:4 223:22,24 225:6 exception 94:2 105:3 119:22 122:2 188:2 excerpt 70:13 exchange 87:23 258:8 excuse 95:22 111:21 excused 259:1 exercise 202:20 exhibit 4:10,12,14 4:15,16,18 6:2 13:3 27:18 64:15 97:23 98:10,13 166:8,16 175:3,8,17,21 177:23 178:11 210:24 211:4 233:20 234:7 235:25 247:7 253:2 exhibits 4:9 98:3,7 102:20 119:10</p>
---	---	--	---

[exist - fee]

<p>exist 133:19 existed 120:22 121:15 existence 94:4 240:3 existing 55:21 56:4 exists 74:19 expand 75:21 expanded 147:19 expansion 71:4 expect 60:20 92:8 118:4 133:24 214:4 229:12 242:3 expectation 75:19 76:14 expected 138:3 241:11,15,20,24 242:5 expended 206:22 207:12 expending 245:11 expenditures 87:10 expenses 89:1 92:11 132:18 133:3 189:17,23 190:4 193:9 194:5,16 198:17 expert 4:12 9:25 47:11 60:14,14 80:22 129:20 147:3 161:13 expertise 8:25 78:9 80:8,12,12,16 experts 105:5 161:18 explain 184:8 200:14 204:15 explanation 204:24 205:21 206:9 explicit 78:3,6 186:6 232:12 explicitly 18:18 49:15 68:25 81:9 112:17,22 126:6 226:8</p>	<p>expound 63:22 expressed 84:16 extended 216:1 extent 41:15 62:5 107:9 108:12 144:24 145:22 146:19 148:10 149:17 150:22 157:19 192:14 extra 14:24 eye 197:10 eyes 248:17 252:12</p> <hr/> <p style="text-align: center;">f</p> <hr/> <p>f 260:1 face 85:5 86:24 195:21 facilitate 85:19 88:22 facilitating 52:10 facilitators 44:20 fact 19:17 20:15 23:25 47:15 72:23 84:15 86:5 95:21 117:15,22 124:16 141:9 162:22 163:10 196:16 204:15,17 212:18 230:6 234:2 243:8 factor 169:1 factory 46:1 facts 16:1 20:3 23:19 105:16 106:12 108:7,21 111:1 118:7 120:17 120:23 121:16 125:22,25 127:3,17 127:19,20,22 169:23 172:21 180:22 195:23,25 196:4,15,21 206:3 233:12 235:22 245:3,15,20 246:4,6 246:11 247:25</p>	<p>factual 25:6 103:1 120:6 176:4 186:3 206:17 fair 89:21 105:9 146:10 149:5 229:24 fairly 14:16 31:17 42:20 62:18 155:3 184:12,13 218:15 219:12 fall 33:25 223:22 familiar 13:20 27:5 30:9 124:23,25 126:9 127:23,24 230:13 238:24 239:8,13 243:4,7 far 61:7 125:23 134:11 208:4 fares 92:6 federal 44:2 47:6 115:1 fee 2:14 7:16,16 9:8 9:10,18 10:6 11:7 13:16 14:2,13 15:22 16:7,12,23 17:5 19:23 20:20 21:14 21:24 22:6 24:8,16 25:13 26:17 28:16 29:5,8,12 33:14,23 34:6,18,23 35:14 36:2,13 37:8,13,18 38:8,17 39:2,21 40:25 41:14 43:23 44:13 45:9 47:2 48:13 51:1,16 52:2 52:25 53:16 54:4 56:12,25 57:6,11,18 57:25 58:16 59:1,13 59:18 60:8,11 61:3 62:4 63:19 65:2,18 65:21 66:3,11,15 67:14,24 69:12,16 70:12,25 72:16 73:2 73:15 74:6 76:7 77:2,14 78:14 79:3</p>	<p>79:14 80:3,10,19 81:7,14,22 82:20 83:8,25 84:2,25 85:17 86:9,18 87:4 87:11 88:17 91:4,25 92:17,24 93:3,8,25 94:24 97:5 98:8,25 99:20 100:2 102:10 102:22 103:9 104:5 104:18,20 105:1,9 105:12,18 106:8 107:7 108:11 109:3 109:14 110:24 113:1,4 114:23 116:12,19 117:8,11 118:10,12 120:9 121:17 124:20 125:4 126:11 127:6 128:3,17,21 129:17 129:25 130:17 132:11,21 133:13 134:9,20 135:19 136:17,22 137:7,19 138:6,14 139:2,13 142:25 143:14 144:6,18,22 145:21 146:13,17 147:10 147:23 148:8,23 149:6,16 150:4,7,21 151:7 152:11,15 156:16 157:16 158:2 159:2,20 160:12 161:7,16 162:6,16 163:13 164:2,25 166:9,17 167:7,20 168:11,14 168:22 169:14,21 170:18 171:24 174:14,18 176:12 176:25 177:11,25 178:23 179:15 180:19 181:6 182:6 182:15,25 183:10 183:20 186:10 190:12,23 191:5,13</p>
---	---	--	--

[fee - foundation]

192:4,11 193:1,13 194:9,19 196:2,23 197:1,23 198:20 199:1,7 203:8 204:21 205:12,25 206:14 207:1,15 208:18 209:2 212:20 213:14,17 216:11,20 217:1,17 218:8,22 219:14 220:3,16,24 221:7 221:19 222:5,19 227:8,19 228:11,20 229:9,22 230:2,22 231:8,13 232:2,19 233:3,17 234:4,14 235:12 236:4,11,24 237:6,12,18,24 238:18 239:22 240:7,18 241:1 242:13,23 243:21 244:4,13 246:25 247:5 248:2,14 250:17 251:10,17 251:24 252:9,18 254:18 255:8,18 256:1,19 257:16 258:13 fees 184:12,16 fenwick 3:2,7 7:13 fenwick.com 3:5,10 field 80:9 238:17 239:5,11 fields 238:22 240:17 fighths 12:3 figure 99:14 155:12 208:7 file 215:5 filed 7:4 final 89:7 99:9 100:21 finalized 154:1 finances 157:13,25 financial 63:4 119:11 135:8,11	161:4 208:15,24 216:10,19 248:4,16 248:22 249:1,5,7 financials 160:6,11 find 64:21 100:16 100:16,19 101:9 113:15 157:5,11 198:7,8 finding 64:22 128:12 146:15 finds 63:14 64:4 fine 152:1 finish 59:11 finished 16:14 fire 1:7 2:12 7:20 46:1 230:21 fires 46:13 54:17 firm 8:22 first 8:8 54:2 68:19 70:22 71:10,23 94:2 103:1 106:19 118:4 170:4,5,10,13,15 171:7,13,15 172:11 175:19,23 176:5 195:2,11 234:12 235:10 236:3 fiscal 89:8 five 97:7 flames 46:24 flexibility 215:10,14 215:18 flexible 215:13 flights 90:19 91:3,15 floor 2:10 3:4 flow 65:14 66:10 flowed 129:23 130:7 flowing 18:21 focused 52:19 focuses 209:22 focusing 151:19 follow 40:20 41:22 60:19,23 100:17,18 186:20 254:4 followed 98:20 101:6 108:4	following 149:19 151:10 follows 8:9 30:10 41:7 foot 205:10 footnote 118:5 199:16 204:12,16 205:6,9,11,22 206:10 footnotes 99:12,17 100:12 160:22 164:9 195:15 233:11 forbid 257:13 forget 21:25 77:19 127:3 154:9 forgetting 210:5 form 9:8 10:6 11:7 15:22 20:21 21:14 22:2 25:13 26:17 28:16 32:6 33:14 34:18 35:14 36:2,13 37:8,18 38:8,17 39:2,21 40:25 41:14 43:24 44:13 45:9 47:3 48:13 51:1,16 52:25 55:15 56:25 57:11,25 58:16 60:8 62:4 63:19 65:18,22 69:16 70:12,25 73:2 74:6 76:7 77:14 80:3 81:7,22 82:20 83:8 84:2,25 85:17 86:9 87:4 88:17 91:25 93:8,25 97:5 98:8 99:20 104:16 105:18 108:14 110:24 114:23 116:19 117:8,11 118:10 120:9 121:17 122:8,13 124:20 125:9,15,18 126:11 128:3,21 130:17 132:11,21 133:13 134:9	136:17 139:2,13 144:6 145:2 146:22 156:16 157:16 159:3,20 160:12 161:7 162:6 164:2,3 164:25 166:9 167:7 167:21 168:23 170:18 171:24 176:25 177:11,25 178:23 181:6 182:6 182:15,25 183:10 183:20 190:12,23 191:5,13 192:4 193:1,13 194:9,19 196:2,23 197:23 198:20 203:8 207:1 208:18 212:20 213:17 215:23 216:11,20 217:17 219:14 220:16 221:7,20 222:5 227:8 229:10 230:3 231:13 232:2 233:4 233:17 234:4,14 235:12 236:4,24 238:19 239:22 240:18 241:1 242:13,23 244:4 248:14 251:10 252:9 254:18 255:8 255:18 256:14,19 257:3,16 formal 9:21 10:14 formed 95:3 148:14 former 95:12,20 forms 64:25 forum 86:22 forward 85:11 239:18 240:3 found 67:20 93:23 120:12 144:11 foundation 73:16 88:18 102:11,23 122:13 128:4,23 171:25 198:21
--	--	---	--

[foundation - harm]

204:22 205:13 206:1,15 233:18 234:15 235:13 236:5,25 251:11 256:2 four 41:6 95:24 102:3,4 francisco 2:4,10 3:4 frankly 66:8 free 71:13 133:21 135:15 136:11,14 137:14 138:25 141:3,11,16 142:2 214:21 215:1 253:7 253:19,24 255:1 freedom 73:22,24 freely 241:8 250:3 257:15 frequently 83:14 89:20 front 22:4 88:23,24 249:20 fulfill 51:23 fully 54:7 80:21 functions 88:14 202:21,25 203:5,17 203:22 204:2 fund 85:10 furnish 94:17 furnished 98:4 118:19 119:2 121:14 197:21 furnishing 232:18 further 9:11 17:10 58:24 59:5 75:23 76:2 120:15 239:19 future 46:4 63:14 64:3,21 68:13 138:4	122:1,3 general 41:22 53:8 126:15,16 134:3,4 191:22 228:25 generally 30:9 31:12 40:20 45:10 47:5 48:16 49:7 50:21,22 51:17,25 52:3,22 70:1 85:2 88:13 126:2,13 127:8 131:20 139:15 145:10 153:12 170:20 177:19 190:6 193:14 194:11 198:6 203:10 207:2 209:19 210:4 218:24 219:16 226:23 230:15 243:6 256:10 generated 187:20 german 124:5 germany 124:5 give 14:23 40:3 52:17 59:20 90:25 99:16 119:4 143:6 153:15 166:13 203:3 223:21 225:6 234:21 236:10 given 37:10,20 46:9 61:11 135:25 163:14 196:5 231:23 257:21 260:8 gives 40:14 giving 154:11 go 6:16 9:10 17:12 28:3 54:10 58:23 68:15 73:17 81:8 108:1 111:20 174:19 179:19 193:3 196:14 206:7 247:20 253:13 goal 49:4,14 56:24	goals 49:5,20,21,23 50:12 goes 134:15 208:4 going 16:14 23:25 27:15 41:10,19 58:20 85:11 92:15 100:25 103:22 134:11 143:8 152:19 200:18 206:6 218:3 good 8:14,15 32:9 49:8,8 50:15,15 54:20 90:5 101:2 152:18 153:6,7 184:12,13 209:25 210:8 252:13,16,23 260:3 gotten 17:8 170:5 171:14 213:10 232:11 government 36:24 43:20 44:8 117:25 203:1 government's 115:2 governmental 202:20,25 203:5,16 203:21 204:1 governments 43:22 192:24 grant 193:2,5 granted 70:17 grants 192:23 193:4 granular 158:6,10 great 13:22 59:22 63:8 101:8 252:1 258:18 greater 134:1 greatly 209:4 gross 183:18 ground 229:24 group 40:6,8,11 42:3,6 44:6 126:5 131:21 132:5 groups 42:13,21,23 43:10 44:12 45:7	86:5 88:15 guess 26:25 37:24 97:8,21 99:5,8 119:4 194:1 224:4 227:11 228:22 229:11 230:4 guidance 226:1 227:17 252:6 guideline 243:1 guys 258:15
			h
			h 244:25 half 165:12 halt 245:13 halted 66:6 hamasaki 98:13 99:22 100:1 102:16 102:19 103:14 104:7,16 105:24 106:7,21 107:24 hand 101:4 260:10 handbooks 218:5,19 219:21 221:6 223:24 handed 211:3 handing 98:2 handwriting 101:8 handwritten 4:14 4:15 happen 53:22 68:10 74:25 195:12 hard 215:22 228:23 230:5 246:18,21 harm 10:19,20 17:25 18:1 19:12,16 62:8,10 67:2 68:3 72:14,25 74:20,22 75:4,8,11 76:2 80:13,17,24 122:22 123:7,12 145:12,12 147:15,15 149:14 150:19 151:5,16,17 151:18 152:10 169:3 178:5,8 212:6
g			
gain 210:2 game 172:5 173:8 gather 153:16 gathered 117:14 119:18,21 121:21			

[harm - index]

212:9 253:17 254:15 255:23 256:15,21 harmed 254:11 harms 21:22 62:1 65:13 66:1,10,21 67:5,8,9,11,19 70:10 73:13 74:3,16 76:24 77:8,9 81:3 127:13,24 129:23 130:7 145:17,18 146:12 216:10,19 232:23 257:4,10 heading 68:8 health 52:5 203:10 203:17 hear 124:1 heard 36:14 123:22 124:4 137:11 228:4 hearing 157:18 heart 64:7 heating 1:10 2:17 7:25 help 44:22 45:25 49:20 51:22 55:25 82:17 87:18 88:21 256:6 helped 170:9 helpful 142:17 145:11 helping 88:22,23 helps 49:19 100:20 165:24 hesitate 47:12 hired 167:17 historical 75:15 123:7 178:3,7,11 historically 123:7 160:4,9 hold 104:20 holding 130:12 holds 71:13 honoring 112:19 hotel 90:18 91:2,14 92:5	hour 58:21 hours 90:17 91:2,14 97:7,19,19,20 132:13 207:6 house 39:5 huh 123:1 human 203:10,17 hundred 46:2 hundreds 154:9 hypothetical 233:4 257:17 <p style="text-align: center;">i</p> icc 239:13 idea 20:17 identical 18:8 240:12 identification 6:3 97:24 175:4 210:25 identified 30:15 40:7 41:5,23 45:24 46:3 49:24 50:1 64:11 70:22 77:9 96:3 113:13 114:19 121:23 128:12 131:21,24 135:3,6 140:3 141:15,17 164:9 175:24 205:8 223:16 242:10 243:18 identify 18:9 32:20 52:22 64:24 65:14 71:23 86:23 94:13 98:6 115:3 118:25 257:5 identifying 16:15 66:9 176:9 186:23 identity 214:17 ieee 26:10 illegal 232:14 illustrations 50:11 imagine 91:18 92:11 215:9 246:18,21 imagining 228:23 230:6	immediate 188:22 immediately 68:15 68:19 impact 11:1 63:12 63:13 64:2,3,17,19 64:20 75:2 110:18 143:21 146:2,3 151:15 159:8 160:4 160:9 161:1,1 178:4 178:7,12 241:12 impacting 19:18 impacts 112:19 162:20 impair 12:16 implement 226:24 implementation 41:25 implication 229:16 implications 17:20 17:22 47:10 130:11 229:14,21 230:11 implicitly 69:2 81:13 importance 144:16 important 12:15 139:17,22 140:6 159:9 162:21 163:2 170:12 171:11,18 171:21 217:20 219:25 225:17 245:5 improper 231:19 232:10 improperly 214:9 impunity 71:14 inaccurate 19:17,17 20:6 incentives 81:19 82:5,8 84:10,17,18 84:22 include 31:24 32:1 33:17 35:7 36:7 72:4,10 94:14 95:15 104:3 108:6 227:5	included 36:6 38:22 includes 15:24 199:20 including 85:21 127:20 159:6,11 201:22 incomplete 233:4 257:17 inconsistencies 196:18 incorporate 72:7 incorporated 7:3 46:21 47:1 48:12,21 48:22 55:6,8 59:25 60:1 71:15 72:6 156:4,6,10,13,14 158:15 181:22,24 182:1,13,22,24 188:16 189:2,25 191:12 193:21 194:2 199:24 200:5 202:8,19 229:7 236:17 241:10,13 254:12 257:12 incorporation 60:4 60:15,25 67:20 70:3 198:19 200:10,20 201:14 203:6 208:16,25 209:5,11 209:15,18 210:2 220:11,13 221:17 222:4 incorrect 247:17 increased 213:9 incurred 133:3,4 198:18 206:23 207:12 independent 93:5 93:10 161:3,10 162:4,12 228:3,8 independently 120:22 121:13 195:8,18 208:20 index 4:1,9 5:1
---	--	---	--

[indicate - issue]

<p>indicate 117:25 indicated 54:6 260:4 indicates 99:11 indication 213:20 indications 207:7 indirect 137:1 individual 34:7 35:2 42:14 49:20 51:19 184:19 185:18 individuals 34:13,17 34:22 35:13,17,20 42:9,23 43:10,14,19 45:6 75:18 100:8 103:12 112:9 133:8 industrial 8:23 172:9 174:4 industry 45:2 49:9 83:11 130:15 209:21,25 inform 173:17 information 20:9,18 21:18,19 24:2 40:1 87:24 103:17 104:3 107:3 108:13 114:17 115:23 117:14 121:3,9,10 121:21 134:12,14 134:17,23 153:16 153:19,24 155:8 157:12,19,24 159:7 159:10,11,25 161:19 162:22 163:1,9 164:12 165:2 166:19 167:9 176:1 179:1 180:13 180:16 183:14 187:18,22,23 192:2 194:12 195:8,19 196:8 197:6 198:7 208:5 213:1,6,12,19 214:1,13,14 215:11 215:15 238:8 245:6 248:4,16,17,22 249:2,5,8 250:9,10 252:13,21 253:2</p>	<p>255:14 infringed 149:12 150:17 151:4 152:8 infringement 17:23 18:3,13,15,17 63:16 64:5 72:19,20 77:6 78:2,4 80:14 110:20 110:21 111:4,5,10 143:22 145:13,17 146:4,16 151:13 ingress 46:18 injunction 68:4,11 68:23 69:5,6 73:21 74:11,15 75:6,7,8 75:13 76:9,22 143:24 167:12,16 168:2,5,20 169:12 input 31:14,18 40:14 44:21,25 83:19 104:10,15,17 inputs 31:21 133:9 inquiring 124:15 inquiry 243:4 insignificant 121:8 instance 20:10 22:17 30:7 39:5,11 41:4 46:1,14 94:2 107:24 134:13 135:6 138:17 158:13 179:22 187:5,18 201:8 221:11 224:6 225:10 226:9 249:21 instances 32:3 83:22 84:4 92:9 200:9 201:3,5,13,23 212:24 213:6,11 221:4 instruct 78:16 94:25 104:23 108:16 125:5 instructed 17:10 instructing 227:6</p>	<p>instruction 5:2 79:4 109:4,15 226:17,19 226:20 228:18 instructions 147:12 instructor 231:7 232:1 instructors 225:23 226:5,12,22 227:5 intellectual 9:1,7,23 10:3,13,16,23 11:5 11:16 26:19 139:16 139:21 intend 90:6 intended 55:20 56:4 intending 85:8,10 interact 113:6 interest 33:8 38:20 38:25 39:4 42:10,24 158:7,10 253:25 interested 32:11 37:25 45:11 48:17 50:18 55:3 60:21 82:10,14 85:3 254:24 260:9 interests 38:2,6,10 38:15,16 48:7,10 58:10 interface 136:8 interfaces 136:9 interfere 6:13 intermediate 171:4 internal 123:10 196:18 international 1:6 2:7 52:10 204:18 205:24 206:12 internet 133:18 153:18 164:23 179:13 180:3,9 183:8,9 193:12 194:8 215:13 interoperability 49:6,14,19,24 50:7 50:9,12</p>	<p>interoperable 32:13 interpreted 107:10 interview 111:16 112:1 interviewed 112:2 introduce 7:10 invalidation 80:17 investigate 46:5 120:14,21 121:12 investigated 25:25 30:24 133:15 136:21 137:6,18 141:12 233:7 investigating 206:19 investigation 31:4 130:13 137:21,24 138:19 139:6 162:10 207:23 228:9 234:2 239:25 249:22,25 investments 87:1 189:10 involve 26:16 203:5 involved 8:22 26:5 27:9,22 31:1 44:18 87:15 88:3,12 104:8 105:25 106:2 107:19 109:18 140:16 involves 123:24 involving 27:4,13,25 28:8 123:23 124:2 124:10 201:23 ip 9:22 11:1,2 80:23 111:9 145:13 irreparability 169:2 irreparable 10:20 74:21 issue 9:7 10:17 11:3 11:18,21,22 12:14 31:21 40:12 44:16 69:1,7 74:10 76:4 77:11,16,18 78:8 81:6 85:4,16 126:23 132:10 133:15</p>
---	---	---	---

[issue - lawsuit]

141:13 147:15 154:4,6,21,24 155:19 159:10 181:14 188:9,24 189:12,19 190:22 194:17 199:5 206:19 233:8 245:14 issues 10:19 15:25 24:15 77:19 82:16 86:24 144:11 items 93:23 119:14	kevin 2:14 7:16 92:24 258:7 keyed 173:21 kin 260:9 kind 127:4 151:17 160:8,9 226:17 kinds 198:7 king 2:2 7:23 knew 109:7 know 12:1,5 13:13 16:4,25 21:11,16 32:22 33:1,8 38:13 38:18,22 39:22 41:1 41:11 43:25 44:5,9 47:25 53:22,22 56:13 58:1 59:4 61:8 63:25 68:18 73:10 74:9,20,24 78:2,7 79:6,20 82:18,25 83:21 86:14 91:8,11,17,19 92:4 95:21 105:14 105:19 106:23 107:15 108:2 109:9 111:18 112:16,21 116:6,14,22 117:2,4 119:3,16 122:5,9,14 123:16,25 125:2,6 125:21 128:8,25 129:2,19 130:24,25 131:5,11,16,23,24 132:3 133:22 134:2 134:3 135:12,18 136:13 137:13 139:25 140:11 141:13,22 142:8 145:24 148:18 154:3,16,19 164:13 164:16,17,19 165:10,17 166:25 169:15 170:14 171:1,7 172:18 176:3,6,19 177:1,24 178:14 179:7 180:23 181:11,12	181:15,17,20 182:2 182:7,9,11 183:4 186:13 188:12,17 189:5,15,20 190:1,7 190:11,19,25 191:2 191:9,19 192:8,14 192:22 193:3,17,19 195:10,12 200:11 202:6,11,13 206:8 206:16 209:6 212:14 213:23 214:3,12,17 217:22 218:14 219:22,23 219:24,25 220:5,8 220:10,12,18 221:8 225:1 230:24 231:1 233:5,6 239:3,4,11 239:16,23 240:11 242:7,16,24 243:17 244:8 253:8,20 256:8 257:19,25 knowing 253:10 knowledge 30:23 45:2,3 53:9 76:19 81:10,16 94:20 98:10 102:15 103:20 130:23 184:24 188:15 253:18 known 116:25 140:15 knows 156:9 kslaw.com 2:5	246:14 251:11 256:1 lacked 81:5 lacks 122:13 laid 22:7 33:15 48:15 51:2,4,6,8 60:19 64:6 71:24 142:21 143:17 209:12 210:5 language 103:17 104:2,3 107:2 217:11 232:8 lapel 111:23 large 31:25 42:15 43:11 242:20 largely 178:15 larger 131:5 late 164:18 178:16 latest 254:16,22 law 1:18 27:4 46:21 47:1,9,15,17,22,24 48:12,23 55:8 60:1 60:5,16,25 71:15 80:9,9 94:9 116:1 116:10,18 117:5,23 126:7 147:22 148:2 148:7,22 156:4,6,10 156:14 181:22 182:2,14,23,24 188:16 189:3,25 191:12 197:20 198:19 201:9 208:16,25 220:11 220:13 222:4 228:16,17,18 229:7 229:7,12,25,25 230:7,8,14,16,17 231:3,11,25 232:24 233:1 257:12,14 lawful 60:22 laws 47:7 119:17 201:4,6 lawsuit 162:4,23 163:11,12,15
j			
j 2:3,14 jarosz 1:18 4:3,12 6:2 7:8 8:7,14 61:25 97:23,23 98:2 110:10,12 153:6 175:3,7 210:22,24 211:3 258:6 jarosz02443 4:17 jd 48:1 jim 102:1,2 jkfee 2:16 job 167:15 john 1:17 4:3,12 7:8 8:7 102:3 110:10 210:22 join 9:13 joint 192:9 jonathan 3:15 6:18 jordana 23:14 92:25 journal 211:12 june 4:13 154:2 juris 47:20			
k			
k 124:24 keep 16:18 59:9 98:20 100:21 101:15,16 152:19 154:15 kept 98:22 196:3 197:9 248:16 252:11			
		l	
		l.a. 26:11 lack 73:15 75:8 88:18 102:10,22 112:19 114:14 128:4,22 145:20 171:25 198:21 204:21 205:12,25 206:14 233:18 234:15 235:13 236:5,25 245:8	

[lawyer - materials]

<p>lawyer 95:11,18 lawyers 94:3 95:15 95:21 103:21 lays 60:18 learn 110:17,22 172:1,2,3,5,5,6,8,10 180:7 184:23 185:2 252:22,23 learned 20:18 104:4 111:1,2 120:13 121:10 124:6 136:25 170:13 171:19 174:20 185:4,7 196:6 248:19 learning 36:5 123:19 136:24 197:10 leave 46:23 leaves 101:8 led 27:21 legal 1:19 35:8 47:3 47:10 60:14 79:5,15 80:12 119:12 129:18,20 144:8,22 145:22 146:17 147:3,24 148:9,24 149:7,17 150:22 151:8 152:12 159:3 161:8 167:21 168:23 213:3,8 221:5 229:13,20 230:23,25 231:14 231:17 232:3,6 255:2 legally 60:18 leonard 1:22 8:3 260:15 letters 243:4,9 level 14:17 44:7 157:20 158:6,10 194:13 202:18 203:7 235:2 lewis 2:14 7:17 94:3</p>	<p>liaisons 88:15 life 52:7 likelihood 19:1 235:9 236:2,7 251:8 255:10 limitation 105:4 limitations 133:21 135:16 limited 101:10 132:14 160:24 162:9 limiting 90:3 limits 222:15 223:9 line 5:3,7,12,16 58:24 59:17 70:22 193:5 listed 27:17 literature 93:12,18 112:11,12 247:9 252:21 litigation 9:5 26:14 26:19 123:20,23 124:2,10,18,18 243:5 245:13 litigations 26:5 little 15:16 58:20,23 59:5 62:7 105:22 132:23 149:21 200:18 living 8:16 llp 2:8,14 3:2,7 loaded 249:20 local 44:2 47:6 located 6:23 logic 238:9 logistics 85:20 88:23 logos 12:14 15:19 long 14:3 92:14 96:10 97:2 longer 70:17 256:13 look 25:21 28:4 41:16 53:18 54:21 103:21 114:3 133:5 134:24 135:10,24 136:3 141:19</p>	<p>154:11 159:5 165:22 166:2 202:10 206:7 248:23 249:1,7 looked 10:24 14:16 28:24 30:7 40:2 99:6 118:11,14,17 120:11,25 143:20 200:1,2 248:3,15 249:4 253:1 looking 15:16 27:16 53:24 54:10 80:13 143:5 144:10 154:15 166:21 178:11 187:9,16 196:17 197:8 looks 67:18 lose 67:21 236:19 239:21 losing 65:8 68:7 70:9,14 loss 17:21 18:1 70:11 212:19 214:11 236:16 240:5 250:13,25 251:2,4 losses 63:4 lots 14:24 low 225:21</p>	<p>247:14 249:16 man 90:17 91:2,14 mandate 209:20 manuals 225:20 manufacturer 172:4 manufacturers 31:25 32:1,12 46:11 50:15 manufacturing 39:10 82:11 margin 131:4 mark 102:5 marked 4:10 5:15 6:2 13:3 97:24 175:3 210:24 market 240:25 241:12 255:15,17 marketplace 12:18 12:22 19:2,20 72:25 76:11 82:13 175:15 225:19 226:7 254:22 255:7 256:25 257:2 marks 12:14 15:18 19:3,14 material 114:18 126:5 241:16 242:11,21 243:10 243:14,18 244:2,11 253:17 materials 1:4 2:6 7:2 19:16,19 20:7 20:10,12,13,25 21:1 21:4,8,12 22:4,13 22:16,18,21 23:20 24:4 43:6,7 52:8 54:6 75:20 81:25 94:8 101:15,16 102:18 105:7 112:7 114:4,5 115:12,17 118:15,23 119:1 120:12 126:6 127:1 136:11,14 137:14 139:1 214:9 224:15 224:15</p>
--	--	---	---

[matt - never]

<p>matt 258:9 matter 11:2 27:13 50:4 103:1 126:21 126:23 139:7 140:16 142:6 153:13 164:20 169:8,12 232:7 matters 26:4 27:1,3 27:10,23 165:8 198:8 matthew 3:8 7:14 mbecker 3:10 mean 9:20 10:7,10 10:22 34:11,16,21 35:12 38:9,13 42:6 44:24 45:21 46:7,15 46:25 49:2 55:13,22 56:6,10 59:4 68:6 68:18 74:9 79:24 83:1 97:11 106:13 128:9 158:9 161:9 163:4,6 171:2 177:2 184:4,10 186:23 200:8 201:3,4,4 202:24 214:23 226:5,15 231:25 238:6,13 240:20 241:20,23,25 250:25 256:12 meaning 97:12 107:10 207:23 means 162:2 213:3,8 meant 66:19 200:15 201:2 measure 235:15 236:8 237:2 measurements 127:24 measures 157:3 mechanism 87:23 mechanisms 30:8 media 109:23 110:2 110:9 210:14,21 258:23</p>	<p>meeting 87:21 meetings 115:18 member 86:7 112:21 184:18 members 42:22 49:9 88:14 90:17,25 91:3 91:9,12 92:6 111:7 111:16,18,25 112:3 112:5,14,24 113:7,9 113:11,21 114:1,7 114:13,21 117:16 184:20 185:9 207:4 207:8,13,18,24 membership 111:19 184:12 185:12,17 208:1,5,7 memberships 183:25 184:5,10 188:4 memories 106:6,6 memorized 22:10 memory 24:21 28:11 41:19 44:14 53:19,21 54:5 100:7 100:20 102:9,14 103:11 114:10 116:5 123:3 126:16 140:23 141:7 165:24 183:22 210:7 221:13 241:5 mention 201:9 mentioned 43:18 105:17 mentions 202:1 merely 204:19 merits 50:6 message 76:10 messrs 99:25 method 56:23 methods 134:3,4 171:3 172:7 173:18 173:21,22,24 microeconomics 8:23 171:4</p>	<p>microphone 111:23 microphones 6:8,13 middle 59:17 million 89:9,23,25 90:2 91:24 mind 26:9,13 28:23 29:1 34:8 36:4 62:23 73:11 84:14 84:21 120:24 169:16 176:20 196:4 203:14,18,20 203:23,25 204:3,5 221:11 224:2,23,25 225:12 226:21 227:2,11 238:21 243:1 245:18 247:12 248:17 249:19 252:11 257:7 mindful 120:25 minimize 46:5,8 minute 113:18 minutes 58:25 59:8 59:10,21 92:17 mis 173:21 miscellaneous 119:14 mischaracterizes 24:9 60:11 66:15 102:23 197:1 218:9 222:20 misleading 17:6 misread 66:17 missed 244:21 mission 2:9 51:5,7,9 51:18,23 52:15,21 missions 52:16 model 245:9 models 249:14,20 moment 105:21 224:4 257:8 moments 30:16 41:23 monies 193:3</p>	<p>months 23:16 morgan 2:14 7:16 94:3 morganlewis.com 2:16 morning 8:14,15 motivations 84:7 mountain 3:9 move 111:22 mpeg 26:11,11 mto.com 2:11 munger 2:8 7:19 municipalities 126:3 126:25</p> <p style="text-align: center;">n</p> <p>name 6:18 7:7 27:12 names 225:1 narrow 31:15 32:8 national 1:7 2:12 7:20 52:11 164:15 164:22 165:19 230:19,21 231:6 232:25 nature 226:11 nearly 200:9 nec 50:13 165:25 166:1,1,6,7,15,15,23 166:23 necessarily 34:9 61:6 178:3 238:14 241:22 necessary 250:7 need 14:3,12 40:4,6 40:9,10 41:10 44:6 45:23,25 50:11 101:16,18 131:20 131:25 134:24 142:11 143:9 149:24,25 176:2,6 needs 32:15 54:7 negative 142:9,10 neither 260:8 never 96:18 103:3 107:20</p>
---	--	--	---

[new - offerings]

<p>new 16:10 46:2 236:20 246:1 newer 255:16 nf 123:11 nfp 54:15 nfpa 4:16 41:6 51:7 96:24 97:19 122:6,7 122:18,20,21 123:10,12,20,24 124:10,16 131:9 155:5 175:14 183:24 187:21 193:3 201:18 202:4 212:3 231:5 nfr 239:8 night 98:4 nights 90:18 91:2,14 non 35:6,8 85:6 95:11 112:14,21 113:21,25 114:7 146:16 151:23 normal 98:21 101:6 101:11,14 normally 114:2 north 184:1 northwest 6:24 notary 260:2,15 note 6:7 101:8 notes 4:14,15 98:10 98:13,17,20,22,24 99:6 100:10,13,18 100:21 101:3,7,10 101:12,19 103:2 106:19,20 notice 260:4 noticeable 91:18 ntaa 115:4 number 7:6 18:11 40:7 62:16 76:15 83:4,18 99:11 110:2 110:13 131:2 154:8 154:10,14 155:14 164:17 181:16,18 182:8,9 188:2,17 189:5,21 190:2,8,25</p>	<p>198:23 201:12,17 201:18,19,21,25 207:6 210:14,21 211:20,22,24 212:12,24 216:8,17 242:8 258:23 numbers 18:9 155:11 190:10,17 194:24 201:18 nw 1:19 2:15</p>	<p>106:8 107:7 108:11 109:3,14 110:24 113:1 114:23 116:12,19 117:8,11 118:10 120:9 121:17 124:20 125:4 126:11 127:6 128:3,17,21 129:17 129:25 130:17 132:11,21 133:13 134:9,20 135:19 136:17,22 137:7,19 138:6,14 139:2,13 142:25 143:14 144:6,18 145:21 146:13 147:10,23 148:8,23 149:6,16 150:4,21 151:7 152:11 156:16 157:16 158:2 159:2 159:20 160:12 161:7 162:6,16 163:13 164:2,3,25 166:9,17 167:7,20 168:11,22 170:18 171:24 174:14 176:12,25 177:11 177:25 178:23 179:15 181:6 182:6 182:15,25 183:10 183:20 186:10 190:12,23 191:5,13 192:4,11 193:1,13 194:9,19 196:2,23 197:23 198:20 203:8 204:21 205:12,25 206:14 207:1,15 208:18 209:2 212:20 213:17 216:11,20 217:17 218:8,22 219:14 220:3,16,24 221:7,19 222:5,19 227:8,19 228:11,20 229:9,22 230:2,22</p>	<p>231:8,13 232:2 233:3,17 234:4,14 235:12 236:4,11,24 237:6 238:18 239:22 240:7,18 241:1 242:13,23 243:21 244:4 246:25 247:5 248:2 248:14 251:10 252:9,18 254:18 255:8,18 256:1,19 257:16 objections 61:3 147:12 161:16 169:14,21 199:1,7 232:19 237:12,18 237:24 244:13 251:17,24 objective 161:24 observation 25:7 observations 16:5 17:2 125:16,19 156:20 159:22 161:22 234:8 obtain 214:5 obtained 93:2 119:24 153:19 213:1,7,11 214:13 obtaining 213:25 254:25 255:1 occasion 25:21 occasions 96:24,25 97:1 occur 46:4,13 63:13 64:3,21 192:16 229:1 230:7 occurred 66:21 96:23 157:14 164:18 165:12 176:6 178:16 192:21 257:25 occurs 192:15 offer 136:10 offerings 71:6</p>
---	--	---	--

[offices - particular]

<p>offices 1:18 6:22 official 117:18 260:10 officially 117:13 oh 15:7 21:25 185:23 223:2 254:8 okay 9:18 15:15 16:12,23 22:6 29:8 29:12 35:15 47:20 54:3,24 59:1,3 61:13 64:12 72:11 90:12,15 105:9,12 172:16 188:5 200:24 217:9 244:24 258:3 olson 2:8 7:19 omb 115:5,9 ones 24:20 26:12 31:16 96:15 140:2 169:19 203:20,25 204:5 online 136:3,11 215:24 open 36:5 84:15 136:24 196:4 197:9 248:17 252:12 opening 136:24 operating 189:17,23 190:4 opinion 80:5 124:25 125:3,7 126:9,16 130:10 217:13 232:22 opinions 58:10 78:19,25 79:11,19 79:25 95:4 108:15 125:10 145:3,6 146:23 148:14 180:20 opportunities 128:11 opportunity 133:4 247:17 opposed 83:23 91:6 181:23 230:10</p>	<p>optimal 57:9,23 58:6 254:4 optimum 58:4 option 204:19 236:15 options 44:1 oral 22:23 197:11 order 46:12 128:15 183:23 196:20 organization 8:23 27:14 28:1 31:13 32:9 49:22 51:23 110:18 127:21 140:12 155:3 172:9 174:4 organizations 19:19 25:12,22,23 26:6,7 26:8,12,16 27:6 28:9,15 29:3,16,25 30:12,14,19,22,25 31:5,9,20,23,24 32:5,18,19 40:16,20 40:24 44:11,16 50:8 75:18 85:7,15 86:7 111:2,6,11 112:6,15 112:25 114:1,8 132:9 138:11 139:24 140:1 142:4 153:22 154:25 192:10 193:6 238:16 239:17 240:2 250:2 oriented 31:2 50:9 193:19 original 207:17 outcome 260:9 outcomes 46:13 58:14 209:24 outdated 256:21 outline 153:8 outlined 153:23 output 25:23 28:24 88:7 outputs 26:7 27:5</p>	<p>outside 9:4 overall 49:21 52:7 overlooking 14:10 overseas 123:23 124:2 owen 102:5 ownership 78:3,5,7 146:1,2</p> <p style="text-align: center;">p</p> <p>p 3:3 p.m. 98:5 110:4,5 152:25 153:1 210:16,17 259:3 pace 102:3 page 4:3,10 5:3,7,12 5:16 41:4 51:3 68:8 89:3,3 93:21 119:6 119:7 140:25 163:20 187:7,10,12 209:15 216:24,25 217:1,3,12,12 219:6 222:10 244:16 pages 1:25 21:4 209:13 217:8 paid 184:14 214:10 214:14 paper 71:7 paragraph 14:6 15:17,20 17:8,24 18:5 41:5 51:6,8 62:25 63:1 67:1 68:8,16,19 69:13,21 70:23 71:3 89:4 90:7 96:4 157:2,21 158:4 159:1,17 160:14,22 163:22 164:10 187:13,18 187:22,24 195:1 199:12,15,21,25 202:17 204:6 211:19 212:8,18 216:25 217:3,5,8 224:13,25 225:14 234:13 235:5,11,23</p>	<p>236:3,14 241:7 244:18 245:1,4,17 245:23 246:8 247:11,13,22 248:1 249:10,17 250:12 250:23 252:8 paragraphs 13:11 15:1 18:7,11 65:5 199:19 233:10,15 233:23 234:3,9 paraphrased 218:24 219:12 paraphrasing 111:14 parroting 228:1 part 13:10 14:5 15:18 17:20,22 18:16 25:17 35:22 39:6 41:3 47:9 49:16 72:25 74:20 90:19 91:15 100:3 102:12,13 103:23 106:5 114:25 115:3 115:6 118:20 121:24 153:20 168:7,15,21 178:7 198:2 202:19 204:8 218:16 219:10 231:11 234:7 240:25 participants 81:20 82:3 83:12 84:7 participate 43:10,15 43:15,19 45:7 85:21 88:6 participated 207:4 participation 44:10 particular 24:19 43:7 44:1 45:1,2 60:17 67:13 84:3 85:4 86:25 93:21 96:20 115:4,17 130:4 133:15 170:2 170:7 171:12 201:9 203:19,24 204:4</p>
--	---	---	---

[particular - plaintiffs]

206:19 209:14 212:1 221:11 223:4 225:1 228:14 234:2 234:18 235:15,20 235:22 236:7 237:2 240:17 242:25 243:24 249:18 257:21 258:1 particularly 145:12 158:5 225:17 246:12 parties 6:16 37:25 58:8 71:13 73:6,13 73:22 74:16 85:3 162:3,9,14 206:23 207:12 parts 160:17 200:1 party 45:14 58:3,5 153:17 260:9 passage 68:22 patent 26:21 path 254:4 pauley 102:2 pause 109:23 121:4 254:6 258:4 pay 88:12,24,25 92:4 paying 87:15 pending 15:5 17:16 35:11 45:18,21 59:19 138:2 pennsylvania 2:15 people 45:1 60:21 60:23 83:13,13,14 83:18 87:14,16 88:12,21 93:11 95:25 96:20 98:12 104:2 135:24 153:21 161:14 163:8 184:20 185:1 185:16,17 213:11 226:6 248:5,7 percent 183:24 184:1 187:19 237:11,17,23	238:13 241:21,25 242:4,6 percentage 182:11 183:18 188:7,13,14 188:18 189:7,16,22 190:3,19 191:2,9,19 percentages 186:22 186:24 perfect 114:11 116:5 241:5 period 97:16 99:7 178:17 212:1 permanent 68:4,10 68:23 69:5 73:20 74:11,15 75:6,7,8 75:13 76:9,22 143:24 167:12,16 168:1,5,20 169:12 permanently 76:6 permission 230:20 231:4 permitted 41:17 perry 3:15 6:18 person 23:14 34:12 35:6 130:15 personal 118:1 personally 21:6 96:6 115:10 205:19 personnel 98:15,18 120:18 121:11 122:21 248:20 persons 35:7,8 74:3 99:13 101:21 105:15 116:22 136:10 213:24 214:3,13,19 215:5 226:16 227:5,15 perspective 10:25 144:1,10 perspectives 113:11 pertained 124:11 pertaining 115:13 123:21 ph.d. 48:2,4,6	phenomenon 22:19 22:25 philips 26:11,11 phone 196:5 phones 6:11 phrase 35:16 74:8 184:9 pick 6:8 place 6:12 260:4 placed 13:4 places 15:6 40:7 63:1 placing 70:10 plaintiff 2:6,12,17 13:8 20:7 40:24 49:4,17 94:12,16 95:20 96:18,20,21 97:4,17 98:14 114:7 120:18 121:11 146:7 153:22 154:4 156:9 181:13,21 182:4,12 183:17 189:11 190:20 191:10,20 193:16 211:12 219:7 221:4 plaintiff's 41:25 plaintiffs 1:13 9:14 10:4 11:6,17 12:4 12:15,17 13:9 17:4 19:8,10,12,14 21:23 33:2,12,21 34:2,5 36:1 37:7,23 39:1 39:17,19 40:3 42:5 48:8,11,16 49:3,11 49:13,25 50:4,17,23 51:14 52:18,23 53:13 55:3 57:5,17 57:22 60:6 62:1,20 62:21 63:4 65:15 67:8,9,12,21 68:3 71:11,14 72:15 73:23 74:4,16 75:5 75:12 76:3,24,25 77:9,10,12,25 78:12 79:1,12 80:1 81:3	84:23 86:20 87:2 94:18,22 95:13 96:1 97:11,14 98:18 108:8 110:15,16 113:24 114:15 118:8,18,22 119:1 120:7,23 121:14,15 121:22 133:12 135:22 136:6,10,15 136:16 137:15,16 138:12 141:3 145:19 149:12,15 150:18,20 151:4,6 152:9,10 154:13,20 154:21 155:19 156:3,5,23 157:6,14 158:1 159:18 160:5 160:10 161:2,5 162:23,24 163:10 163:25 167:5 178:13,21 179:10 182:3,9,17,21 183:6 183:13 188:8,14,18 189:8,16,18,22,24 190:3,5 192:8,22 193:9,17 194:4,15 194:23 196:1,19,21 197:21 198:11,18 199:6 208:16,25 209:4,10,17 210:2 215:7 216:3,10,19 217:14 218:4,18 219:2,6,18 220:1,13 220:14 221:16 222:3,11,18 223:4 223:11 224:15 225:18 229:6 232:23 236:15,19 238:17 239:4,20,21 240:4,4,13,16 241:9 241:12,15,16 242:10,22 243:19 243:20 244:2,12 245:7 246:13,15 247:17 248:5,8,12
--	--	---	---

[plaintiffs - products]

248:24 249:3,7,15 250:14 251:22 254:11,14 255:3,24 256:16 257:11,13 plane 92:5 plans 119:11 please 6:7,11 7:9 8:4 15:8,10 52:17 64:9 64:12,24 78:22 98:6 118:25 149:21 150:1,2 153:9 200:24,25 201:20 216:24 221:23 223:21 225:6 243:20 plus 79:4 147:11 150:23 161:17 pocket 92:10 133:3 point 24:19 43:7 58:19 84:1 92:20 100:11 129:7 140:24 154:17 190:16 210:8 228:13 234:1 pointing 157:2 points 100:19 107:17 policies 138:24 139:10 140:11 policy 141:24 portion 108:17 145:7 positing 206:4 position 239:18 possession 215:18 possibility 57:14 101:2 215:3 227:12 236:21 possible 23:6 92:9 96:8 115:21 119:22 123:5 124:13 134:21 147:19 198:13 199:8 216:9 216:18 229:3,12	possibly 12:18 post 255:24 posted 164:14,21 165:8,18,25 166:6 166:14,22 167:1 175:23 176:24 177:10,23 179:12 180:2,8 183:7,9 193:11 194:7 256:17 posting 176:10,21 177:7,19 178:12 254:15 257:5 postings 177:15 178:15,19 posts 254:12 potential 35:21 55:21 56:4 73:3,4,6 74:19,25 147:15 161:1 223:18 257:1 potentially 111:10 224:5,11 254:20 256:20 257:2 power 50:14 practical 45:17 112:12 practice 55:19,20,20 56:2,3,3,6 144:21 practices 55:23 138:10,19,23 139:10 140:12 practicing 47:18 precise 155:11 159:8 160:4 165:15 181:16 188:13 189:14 238:4 precisely 154:10 156:9 166:25 prediction 166:5 234:12,17 252:7 preexisting 83:15 prefer 163:12,15 preference 163:1,7 245:6 253:22	preferences 163:9 174:9 preliminary 168:18 169:8 preparation 101:5 prepare 100:25 103:16 107:2 192:9 prepared 105:15 preparing 102:21 presence 68:23 95:18 136:14 137:14 present 3:12 7:9 95:22 125:22 presentation 56:21 presentations 119:21 presented 160:2 preservation 239:19 presumably 13:19 previous 16:8 25:9 90:15 183:12 previously 93:14 109:9 price 171:4 172:2,16 172:19,23 184:25 185:3 primarily 31:24 39:12 91:1 153:17 print 88:1 255:25 256:5,9,14,18 257:6 prior 17:9 29:6 60:12 123:17 147:11 private 6:9 199:13 privately 202:18 203:6 222:12 223:6 224:16 probability 234:11 234:19 235:8 236:1 236:22 237:3 238:2 238:7 251:7,13 probably 25:16 26:20 27:1,8 30:21 31:8,9 43:5,21	87:17,20,22 91:5,23 115:7 121:5 176:4 251:3 problem 45:19,22 85:4 problems 48:19 50:19,24 51:13,20 52:1,4,13,15,18,20 52:22 53:13 54:12 54:16 55:5,21 56:5 82:16 procedure 98:21 101:6,12,14 procedures 57:10 57:23 58:13 proceed 15:3 17:11 proceeded 153:16 process 30:23 31:13 33:17 39:19 42:4 44:18,22 45:4,8 81:21 82:3,4 84:8 85:19 87:3,15 90:19 90:20 91:15 100:20 108:3,6 130:21 131:1,7,9,14 197:8 198:2 230:11 processes 28:19,25 29:2,16,22,24 30:3 30:10,20,25 31:4 40:18,23 41:12,21 131:2 produce 87:18 produced 21:8 112:8 114:3,5 153:20 175:8 195:5 product 52:8 71:6 production 5:6 24:1 118:14,18 products 32:15 34:14 35:21 72:1,3 72:7,10,24 82:11,15 159:19 217:24 224:20 225:5,8,16 225:19 246:12,17 247:15 250:15
---	--	--	--

[products - questions]

251:22 profession 25:19 professor 229:13,25 230:8,18 231:4 232:1,24 profit 85:6,8 profitability 182:21 183:6 program 48:5 project 104:9 105:25 106:25 promote 221:5 promoting 198:18 prompt 120:14 properly 214:5 property 9:2,7,23 10:4,13,16,23 11:5 11:16 26:19 139:16 139:21 proportion 154:20 proposal 40:13 proposals 40:12 proposed 83:22 85:23 86:4 proposition 232:7 propriety 168:17,20 prospectively 123:8 protection 1:7 2:12 7:20 11:1,2 18:2,20 52:6 65:8,12 67:22 68:7 69:8,11,25 70:6,7,9,11,15,17 73:19 79:13 80:1,23 80:25 110:19 114:14 126:13,18 139:16,21 140:5,13 219:3,6 222:11,15 223:5,9 230:21 236:16 245:8 246:15,16,19 prove 142:8 proved 142:11 provide 23:24 34:14 55:18 56:1 87:17,20 87:22 88:25 89:1	115:23 120:2 141:1 141:15 145:4 146:24 158:25 199:18 218:5,19 221:15 222:1 223:25 224:17 225:25 226:7 227:17 228:18 230:18 232:24 235:1 252:6 provided 22:9 23:24 93:4 118:21 119:7 119:10,12,13,14,18 119:24 120:18 135:23 148:15 153:15 198:1,5 226:6 256:13 providers 223:18 224:7,11 225:4 provides 141:10 163:8 215:14 219:7 222:12 223:6 providing 87:14 88:11 209:20 226:16 253:6 257:2 provisions 226:24 public 3:13 12:15 38:15,20 52:5 62:17 71:5,6 73:21 74:23 75:23 76:18 111:8 111:25 112:3 114:13,16,22 115:6 123:17,23 124:2,16 129:11 130:7 211:22 216:9,18 227:6 249:4,6 250:3 257:15 260:3,15 public.resource.org 1:14 7:3 74:4 75:5 75:12 76:3,6 165:18 public.resource.org. 74:17 publication 4:16 134:12 184:15,21 185:13	publications 62:19 141:3,11 158:13,14 178:22 184:15,19 185:18 187:1,6,21 188:1,3,6 217:15,21 219:9,20 220:2 222:14,16 223:8,10 223:19,21 224:10 250:13 251:1,3,5 253:7,19,24 publicly 158:19 published 40:17 72:5 112:10 175:19 195:2,11 211:11 purchase 62:19 185:12 231:5 purchased 233:2 purely 88:22 purported 144:20 purpose 49:8 110:15 purposes 77:24 138:12,20 139:7 243:10,16 254:2 pursuant 260:3 pursued 131:2 245:9 pursuing 245:12 put 10:3 102:13 126:6 132:17 150:15 213:8 222:2 228:6,9 241:8 251:4	quantitative 171:3 172:7 173:22,24 209:7 234:19 235:2 235:15 236:7 237:2 237:8,14,20 238:1 241:23 242:25 251:13 quantity 175:14 question 15:5 16:9 16:11,21,22 17:9,11 17:13,16,17 29:23 30:2,6 35:8,10,11 36:11,16,19,25 37:12,19,22 51:12 54:8 55:25 57:20 59:18 67:16 69:18 75:10,11 77:23 80:22 90:5 95:8 105:11 107:16 108:3,12,18 123:11 125:22 129:3 137:5 137:12,17 143:15 143:23 144:4 145:8 145:25 146:1,3,20 149:20 150:3,10 151:1,15,24,25 152:5 157:10,18,23 159:14 165:20 166:4 168:6,9,10,13 168:21 169:4 171:11 172:19 173:1 176:4 177:2,5 183:13 188:5,6,11 188:22 194:1,3 195:23,25 196:20 202:11 205:8 207:10,17,21 230:25 231:17 232:6 233:25 244:7 253:11 257:22 questioning 52:19 58:24 59:17 106:3 171:9 questions 5:15 77:22 95:1,5 145:12
---	---	--	---

[questions - refresh]

150:6 186:20 192:3 200:24 258:14,15 quicker 154:18 quite 29:9,13,17 41:24 80:20 111:5 142:5 145:11 156:25 157:9 163:2 184:6 257:24 quote 29:21 64:1 quoted 69:9,20 quoting 70:8	realize 196:12 207:16 really 64:7 realtime 1:23 rearranging 200:18 reason 165:3 167:10 195:23,24 221:9 223:1 227:25 258:10 reasonable 65:24 212:22 238:2,7 242:4 reasoning 234:25 reasons 214:18 recall 20:8,19,22,25 21:5,10,19 22:3,14 23:25 24:3 25:14 26:24 27:14,25 31:3 41:19 42:7 50:19,21 53:12 55:11 93:2 96:7,16 99:2 101:19 113:19 114:9 115:11,20 117:1 119:23 120:15 121:3 122:20 123:4 123:10,14,19 124:7 124:9,14,15 125:24 125:25 126:2,8,22 127:4 134:24 138:16 139:14,20 140:4,7,18,21 141:5 141:20 154:18 155:25 156:18 174:13 178:1 179:16,25 180:5,15 180:24 181:3,8 185:4 190:18 194:21,24 195:4,6,9 195:20 198:14,15 199:9 200:2 202:16 206:18 207:22 211:7 225:2 239:6 239:15 240:9 241:3 249:21 250:4 253:10 255:19	recalled 109:7 recalling 23:6 recast 150:1 receive 50:14 121:22 122:10,15 192:23 221:16 222:3 received 25:11 82:13 122:17,24 197:7 198:10 recess 61:19 110:4 152:25 210:16 recite 28:4 recognize 175:7 recollect 184:13 recollection 140:8 recollections 108:25 recommending 58:12 record 6:6,17 16:7 17:7 35:5 61:17,23 110:1,8 152:23 153:4 210:13,20 248:18 258:22 259:3 260:8 recorded 106:6 260:6 recording 6:15 recordings 106:17 records 27:16,20 28:4 63:10 133:6 redrawing 71:8 reduce 46:12 250:14 reduction 156:22 251:21 refer 11:24 90:7,21 91:1 98:24 115:22 140:20,21 143:8 199:13,25 212:7 218:12 232:14 235:4,9 236:2,15 244:25 245:22 246:8 251:8 reference 18:11 22:16 47:7,8 48:23	53:6 60:16 67:20 70:3 71:15 138:16 138:24 156:13,14 158:16 177:23 192:13,24 193:21 194:3 199:24 200:5 200:10,20 201:14 202:8,19 203:6 204:16,19 209:5,11 209:18 210:3 221:18 239:1,9,14 241:4,11,13 254:13 referenced 245:25 246:10 references 103:6 187:25 244:19,22 referencing 233:11 233:12 referred 10:11 13:23 22:24 23:19 36:21,22 68:22 84:11 110:13 171:10 201:14 212:17 226:21 referring 13:3 23:9 49:11 50:23 68:22 69:3,13 99:19 107:3 115:18 160:20,21 163:20,22 187:7 215:10 218:6,20 233:22 235:16 refers 22:13 140:19 171:17 188:3 201:21 reflect 101:13 115:3 115:6 117:5,13 reflected 17:23 19:25 62:11 93:19 113:12 158:3 247:7 reflection 184:13 reflective 251:5 reflects 15:13,20 114:20 refresh 123:3 140:23 165:24
r			
r 244:25 260:1 range 31:14,15 122:6 202:20 ranges 119:6 135:3 135:5 rarely 92:8 ratio 154:23 rationale 21:11 ray 26:10 140:12,15 140:19,20,22 141:1 141:9,23 253:5,13 253:22 rdr 260:15 reaching 107:11 125:12 148:16 read 13:17,21 14:17 20:13 21:8,24 55:24 72:9 78:21 112:7,8 112:9,11 118:3 129:3,8 130:2 137:9 142:22,23,23 143:10 201:15 218:7,10,14 219:10 221:23 222:24,25 222:25 225:23 227:15 reading 72:11 130:9 135:24 136:5 214:21 215:1,7,12 215:19,24 250:19 252:20			

[refresh - resource]

221:13 refreshed 24:21 103:24 refreshing 141:7 refrigerating 7:25 refrigeration 1:11 2:17 regard 18:4,12 19:5 26:21 30:11 49:17 67:1,2 71:4 78:3,7 82:5 141:24 155:4,5 155:6 157:2 165:21 222:13 223:7 224:18 255:7 regarding 13:7 69:24 93:6 95:1 103:17 104:3,22 105:16 116:9,17 124:17 127:24 156:12 174:4 180:17 208:24 243:4 regardless 35:19 regional 52:10 registered 1:22 regular 113:7 regulation 203:12 228:17 229:8 regulator 37:4 regulators 36:9,12 36:24 37:6 regulatory 38:5,10 rehear 149:24,25 rehn 2:9 7:18,18 9:9 122:8,12 258:16 reiniche 102:4 rekeying 71:8 related 196:22 203:11,17 relates 145:13 relating 26:15 203:22 relatively 13:20 225:21,22 227:14	relevance 142:6,15 144:3,15 147:8 relevant 79:12 116:7,15 142:13 146:12 147:14 148:6 250:5 reliability 52:8 reliable 187:17 reliance 258:7 relied 21:20 24:6,10 24:24 43:8 102:20 103:18 105:7,15 106:11,13 107:5,8 107:10,12 109:1,12 125:11 146:25 148:16 169:19 205:8 211:15 247:10 reluctant 76:16 rely 19:21 20:3 100:9 101:13,15,16 101:18 103:5 104:1 104:15 106:17 161:18 169:7,11 180:16 205:5 233:15 relying 99:18,24 100:5 106:5,9,24 161:13 162:3 234:3 235:23 remainder 254:7 remained 138:2 remedies 242:22 remember 70:3 119:17 140:17 155:13,14 remembering 96:9 reminded 192:16 reminder 188:10 rendering 170:17 reparability 169:2 reparable 151:18 repealed 163:5 repeat 30:17	repeating 66:24 repercussions 18:2 70:19 report 4:12 9:25 10:21 11:9,12,14 12:13,24 13:2,7,17 13:23 14:18 15:16 16:4,4,15 17:1,1 18:7 20:1 22:8,9,12 25:1 29:6 33:16 39:25 41:3,11,16 48:15 50:2 51:3 53:6,18,25 54:10,22 62:6,12 63:2 64:7 64:11,13 66:9,16 67:3 71:3 79:19 89:5 96:4 98:22,24 99:4,7,11,16 100:15 100:22,25 101:5,24 102:8,21 103:7,19 103:21 104:4,9 106:1 107:6,12 109:2,13,17 110:12 112:18 125:10 135:4,21 138:3 140:18 141:18 142:22,23 143:5,8,8 143:18,19 147:14 153:23 154:1 155:12 160:18 165:23 166:8,16,22 170:24 181:1 183:22 184:12 185:5,5 187:8 195:15 199:12 207:5 209:13 210:6 211:5,20 216:22 228:6,10 231:22,24 reported 160:14 164:6 183:22 207:5 235:25 reporter 1:22,23 8:3 122:11 reporting 180:25	reports 119:20 122:2 200:9,16 represent 7:11 71:10 98:3 117:15 214:11 representation 117:18 206:17 representations 20:24 44:7 representatives 42:16,17 43:11,16 43:20 94:22 97:4 118:7 represented 112:18 179:21 representing 2:6,12 2:17 3:6,10 6:19 42:9 45:15 199:6 represents 151:12 247:16 reproduce 136:1 reputation 19:18 21:23 request 5:6 require 13:21 144:8 144:25 146:20 227:7 230:20 required 133:1 requirement 46:19 requirements 48:6 research 93:6,10 94:13 114:12 115:16 162:5,13 252:15 255:12,20 researched 172:20 reserve 254:7 258:4 resolution 45:13 resolve 82:17 resource 3:13 12:16 62:17 71:5,6 73:21 74:24 75:23 76:18 123:17,24 124:3 129:11 205:22 206:10 216:9,18 249:4,6
--	---	--	--

[resource's - sections]

<p>resource's 211:23 resources 86:1,21 87:18,21 197:19 206:22 207:11 245:12 respect 17:11 25:11 55:17 60:6 76:4 79:16 80:17 95:5 132:19 140:13 142:3 204:2 208:12 211:15 219:8 246:3 respond 40:10,12 54:8 108:18 236:16 responding 17:9 52:20 144:25 response 171:11 175:9 243:11 responsible 104:12 responsive 105:23 108:13 137:12 151:23 197:5 rest 247:21 248:1,18 258:4 restate 149:23 221:25 223:3 result 57:10 58:7 125:7 149:14 150:19 151:5 152:9 184:20 240:5 resulted 212:18 214:6 results 10:20 57:24 93:20 retain 101:3 reveal 174:9 revealed 163:1,7,11 174:9 245:6 253:22 reveals 16:4 17:1 revenue 181:12,21 182:3,12 183:19 186:22,25 187:20 192:23 208:5 213:9 214:7,11,21 revenues 136:16 137:16 188:8,15,19</p>	<p>193:5,9 194:4,16 241:17 242:10 243:19 244:3,12 review 28:7 54:6,7 94:10,19 115:9,12 116:1,10,18 117:5 117:23 134:17 195:16 197:20 199:23 205:10 reviewed 108:19 114:17 136:8,9 162:17,20 205:16 216:6 reviewing 108:9 162:13 reviews 115:4 revised 108:20 revising 83:16 108:9 revison 89:14 rewriting 106:2 rides 54:14 right 14:2,7,10 16:3 17:14 20:23 21:10 28:4 31:8 54:20 64:22 68:21 69:10 69:24 72:9,23 76:14 90:1 95:16 97:8,15 97:21 113:22 116:3 123:4 124:14 132:1 132:23 136:1 140:7 154:10,15 165:10 173:23 187:9,14 189:4 190:14 191:15,18,23,25 192:20 197:25 201:24 202:2,5,9,11 205:11 206:4,7 210:7 215:2 218:14 221:12 225:3,3,12 227:3 239:7,12 245:18 253:3 256:15 257:9 258:21 rights 9:2,23 10:4 10:13,17,18,23,25</p>	<p>11:5,17,22 12:7,9 12:11,16 13:8,14 15:2,14 16:6 17:3 26:22 81:5 145:14 220:2 risen 62:22 208:8,10 risk 66:24 risks 46:6,8 rivals 240:25 room 135:24 214:21 215:1,20 rooms 136:5 215:7 rough 132:17 round 90:18 91:3,14 route 40:21 routes 255:2 rubel 23:14 92:25 93:3 rudimentary 71:10 71:22 rule 81:4 105:4 rules 76:25 77:10 128:1 146:7,9 203:12 ruling 67:13 128:14</p>	<p>224:14 241:14 250:14 251:22 san 2:4,10 3:4 satisfy 209:20 saw 24:11 41:6 112:21 121:3,9 138:16 saying 11:20 30:7 30:18 36:23 68:1 104:7 107:17 173:6 197:16 says 71:3 89:7 187:19 201:22 scans 71:7 scenario 231:25 scheme 41:22 42:1 scholarship 93:15 school 128:7 228:16 230:7 231:11 scope 95:23 screenshot 90:10 screenshots 120:2 sdo 31:7,11 32:25 33:9 42:18 45:24 83:10,22 88:7 240:10,11 sdos 28:20 29:22 31:20 33:2 42:19 51:20 70:18 75:2,9 131:3 138:16,20,24 139:10,20 140:1,4 140:25 141:14 240:16 254:2 seal 260:10 search 93:12,18 searches 153:18 second 2:3 54:25 104:20 235:5 254:8 section 18:18 65:11 68:20 158:25 199:19 201:16 209:14 sections 13:12,14 14:8</p>
---	--	---	---

[sector - specific]

<p>sector 199:13 see 9:24 10:20 12:23 14:5,8 18:25 19:25 24:15 41:4 62:7 71:16 89:11 101:23 105:22 109:17 142:5,14 153:25 155:12 162:18 165:24 175:17,21 179:20 193:5 197:4 199:17 202:22 204:10 211:23 218:11 219:11 223:13 224:21 226:2 233:11 235:24 240:1 241:18 247:18 250:16,24 252:13 252:21 seeing 21:5 24:3 120:15 122:20 123:10 154:14 241:4 seek 31:21 seeking 31:18 seen 20:24 21:3,7 23:23 29:14 43:5 58:2 103:2,3 106:18 106:19 137:2 180:12 185:6 192:13 209:6 216:13 239:1,9,14 sell 222:16 223:10 selling 82:11 seminars 224:6,8,12 225:9 send 243:9 sense 81:25 93:10 113:8 121:20 132:13,14 184:17 217:25 220:20 221:1 228:5 252:20 sensitive 6:8 sent 76:10</p>	<p>sentence 63:24,25 71:25 89:7 90:7,16 218:2,11,12,15 219:10,11 223:3 234:12 235:5,10 236:3 250:19 251:9 252:7 sentences 72:2 separate 23:22 137:21 138:18 139:6 180:5 196:16 201:3,4,5,6 219:19 separately 23:25 93:2 119:18,25 179:19 194:23 196:14 208:21 september 260:11 seriatim 9:15 serve 85:25 86:20 services 32:16 34:14 35:22 52:9 82:12,15 203:10,18 209:20 224:19 225:5,7,17 226:7 246:12,17 247:15 250:15 251:23 set 42:8,20 49:5 92:10 135:10 setting 26:6,16 27:6 30:11,13 31:9,24 32:5,9,18 139:24 140:1 seven 102:2 shared 87:24 sharing 215:11 shirt 46:1 shorthand 260:6 show 64:12 122:22 shown 93:20 118:15 119:5 134:18 187:22,23 253:2 shows 202:7 204:16 205:23 206:11 250:11</p>	<p>shut 236:19 sic 7:6 54:15 67:8 222:17 side 33:18,19 34:12 34:17,21 35:12,18 36:21,22 37:4,5 38:1,2,6,7,16,21 39:7,12,14 82:9,14 83:12,13 84:11,12 signature 260:14 significance 129:12 129:15 220:6 similar 83:15 256:21 257:24 similarly 30:10 simply 87:14 241:8 sit 84:4,19 116:3 154:10 191:6,14,18 191:23,25 192:19 192:20 199:2 site 90:11 120:2 164:15,22 179:13 180:3,9 185:7 205:17 206:7 211:23 215:13 sites 40:1 101:24 122:1 136:15 137:15 159:24 sitting 20:23 27:24 41:11 53:23 117:1 123:4 124:14 132:1 132:22 140:17 142:24 143:12 190:13 195:12 202:9 225:2,3 239:6 239:12,15 six 95:25 slash 93:3 201:5 slightly 40:18 95:9 208:9 small 42:16 43:16 smoke 39:10 socially 49:8 society 1:3,9 2:6,17 7:1,24</p>	<p>sold 175:14 sole 199:14 solicit 31:14 solicited 110:25 solution 45:18 48:25 55:10,16 60:3,6 solutions 1:19 48:20 55:6,14 59:24 somebody 38:24 56:9,11,18 somewhat 29:19 215:13 sophisticated 71:12 72:4 sorry 11:19 17:21 24:18 36:10 56:15 57:19 65:20 84:9 89:3 92:14 118:13 122:12 138:7 146:7 152:17 154:5 156:17 163:5 164:10 171:1 185:10 188:21 196:12 200:17,21 205:4 213:12 217:2 217:5 223:2 244:16 244:21 247:1 sought 196:5 sounds 30:1,5 113:16,18 150:24 source 25:7 134:22 134:25 135:2 193:4 sources 22:8 112:13 153:17 233:11 spalding 2:2 7:23 speak 92:19 143:9 speaking 50:22 51:25 52:23 88:14 203:4 specific 50:10 64:25 71:4 114:9 125:23 139:18 144:14 164:19 172:22,25 173:5,10,15 174:1,6 174:24 177:17</p>
---	--	---	--

[specific - strike]

180:25 181:3 242:15,19 247:12 255:20 specifically 30:3 49:11 70:14 99:15 113:20 114:6 117:24 193:10 194:6,16 233:22 specifics 130:24 131:23 specify 243:8 speculated 161:15 speculating 61:12 speculation 77:3 78:15 228:21 229:10 257:18 spend 13:22 41:10 96:11 97:3 spent 89:8,22 91:12 97:16 spills 216:25 sponsorship 192:9 spreadsheet 4:16 sso 31:10,12 32:24 33:9 ssos 32:10,14 33:6 131:3 staff 86:6 88:14,21 91:6 190:20 191:10 191:20 198:17 stage 212:12 stages 99:9 stamped 122:16 135:9 stand 52:16 standard 4:19 25:15 26:6,15 28:14 30:11 30:13 32:18 40:5,17 42:12 44:6,15 45:25 46:20 61:2,10 82:2 89:15 90:22 91:16 92:7 131:6,15,19,22 132:4 140:1 141:2 141:11 158:13,15 158:19 176:10	195:2,10 200:20 201:10 202:1 206:24 207:14 211:16,16 215:6,10 215:19 225:24 226:1 227:16,18 229:15 230:10,11 232:15,18 253:7,19 253:24 254:12,15 254:17,23,25 255:25 256:5,17 257:6,12 standards 20:15 21:13 25:11,22 27:6 27:13 28:1,9,14 29:3,24 30:9 31:2,5 31:6,9,23 32:4,9,16 32:18 33:5 34:15 35:23 39:20 41:7 42:5,6 44:10 45:4,7 46:11,16 47:8 48:12 48:21,22 50:8 55:7 55:7,15 56:1 57:5 57:17,22 59:25,25 60:20 69:11 70:2 71:7,11,14 72:6,8 75:2,16,25 76:1,4 76:11,16,17 78:12 79:1 80:2 81:5,20 82:19 83:7,15,16 84:8,24 85:14,15,24 86:4 87:3,19 88:1,1 88:2,5,16 89:10,24 90:4,8,10 93:7 114:15 123:21 124:11,17 127:1,2,5 130:22,25 131:9,14 132:10,20 133:11 133:17,20 135:15 135:25 136:2 138:11 139:24 140:6,21 141:16 142:3 154:3,6,21,24 154:25 155:14,18 155:20 156:3,5,12	156:13,23 160:1 175:14,23 176:22 176:23 177:8,9,20 177:21 178:13 179:12 180:3,9 181:13,21 182:1,4 182:13,22,23 183:7 183:8,19 186:23,25 188:9,16,20,23,24 189:2,3,12,18,24 190:5,21 191:11,21 192:9,25 193:11,19 193:20 194:6,17 198:19 199:14,24 200:5 201:13,17,18 201:19,21,23,25 202:4,4,6,18 203:7 208:17 209:1,24 210:3 214:20 216:3 217:15,16,22 218:4 218:6,18,20 219:7 220:14,15 221:17 222:4,12 223:6,25 224:17 226:24,25 227:7 229:6 236:17 236:20 238:16 239:17,20 240:2,5 240:17 241:10,12 241:14 250:1,2 255:16 256:22 standing 260:3 start 12:2 184:16 starting 244:16,18 starts 72:10 209:15 state 7:10 13:6 44:2 47:6 195:1 202:18 203:7 206:11 225:15 247:13 250:12 stated 10:11 17:7,24 112:13 118:8 122:22 186:21 247:25 statement 63:17,21 64:10,17 65:1 71:18	195:3 199:15 202:25 205:6 222:20,23 223:13 statements 23:18 105:16 113:24 119:11 120:23 121:16 124:16 135:8 162:14 247:21 249:16 states 1:1 115:15 116:1,9,10,17,18,24 117:7 124:11,19 204:7,17 205:23 206:11 stating 67:19 statistics 91:1,1 status 124:7,8 221:5 statute 60:17 step 71:10,23 239:18 stephanie 102:4 stephen 101:25 steps 31:18 39:23,24 41:6 71:21 112:4,23 114:21 129:22 130:6 153:9 stipends 192:23 stipulate 9:16 stipulation 9:12 stipulations 5:11 stop 129:6 240:4 story 178:5,8 straight 143:7 street 1:19 2:3,9 3:3 3:8 6:23 strike 25:9 39:17 48:8 64:18 67:6,6 67:10 91:10 94:8 113:16 117:3 118:24 129:7 135:13 146:7 159:15 163:5,18,20 168:18 169:8 175:19 179:10 181:11 183:4 189:8 211:21 217:5
--	---	--	---

[strike - testimony]

218:17 219:3 220:11 226:11 244:17 246:3,5 254:13 255:13 student 170:4 171:14 233:1 students 228:19 230:1,19 231:11 232:18 studied 131:6,11,16 157:6,12 studies 19:21 127:23 128:6 216:6,15 233:14 246:22 247:3,24 255:5 study 94:7 128:8,15 132:24 138:10 157:24 209:7 216:13 230:20 233:19 255:10 subject 11:2 86:25 105:3 128:2,15 222:8 submitting 154:2 subpoena 175:9 subsequent 199:18 substance 103:22 230:9 substantial 41:20 62:18 121:4 246:13 substantive 44:21 44:25 88:24 suffer 74:16 76:25 77:10 81:4 232:24 254:15 255:24 256:16 257:11 suffered 62:2 123:12 127:13,25 253:17 sufficient 45:16 suggest 35:6 79:25 83:7 suggestion 247:14 suggests 83:2	suit 124:5,7,8 suitable 56:23 suite 2:4 summarize 27:19 64:9 summarized 12:12 12:24,25 39:23 41:3 66:25 112:22 114:10 153:24 155:13 157:21 160:17 162:18 208:6 233:20 248:25 summary 11:10 33:16 175:12 supervised 104:13 supervision 260:7 supplemented 89:18 supplier 172:4 supply 32:13 33:18 34:12,17 36:21 37:4 38:1,6,16,21 39:12 82:9 83:12 84:11 support 5:1 25:6 45:17 52:5 199:14 199:18 sure 8:20 9:20 13:25 14:19,19 15:4 21:15 22:14,17 29:14,17 32:23 33:8 35:9,16 41:24 50:5 57:13 63:12 64:1,19 73:10 74:20 80:21 122:15 124:6 126:14 131:3 151:1 152:20 156:8 156:25 157:9,18 165:15 182:8 184:6 185:14 197:3 210:10 212:11 217:10 220:5 221:22 222:7 231:17,19 232:14 234:16 256:4 surprised 118:2 192:15	surveys 185:8 sustainability 52:6 swear 8:4 sworn 8:8 260:4 systematically 193:25 systems 52:9 <hr/> t t 244:25 260:1,1 tab 27:21 93:21,22 94:14 113:13 114:18,19,20 115:22 118:15,21 118:24,25 121:23 121:24 135:4,6 197:17 208:6 253:2 table 23:10 tables 165:23 tabs 134:13,19 153:25 158:4,6,22 248:25 take 13:13 14:3,22 15:7,15 56:18 59:13 59:14,19 61:14 73:12 79:21 98:17 100:13 101:7 109:24 129:22 130:6 152:21 206:6 212:14 taken 1:18 25:18 79:7 149:1,9 168:8 214:9 260:3 taker 101:8 takes 4:19 talk 70:14 82:2 125:13 160:25 172:3 187:10 211:20,21,24 229:16 talked 35:18 50:6 106:22 113:5 184:11 193:15 194:11 248:4,7	talking 68:16 70:2 82:21 88:13 106:3 123:6,8 128:6 140:14 187:12 229:13 230:9 talks 70:6,15 201:16 tangible 62:8,10 67:1 taught 170:13 171:18 taxes 88:25 teacher 229:5 teaching 88:3 229:5 team 93:24 135:7 team's 94:13 technical 229:14 technically 139:25 telephone 197:7 tell 53:11 95:17 143:11 163:4,6 166:22 201:20 238:21 260:4 ten 58:25 59:7,7,10 208:2,4 tend 101:9 tends 35:5 42:19 term 31:8 38:12,14 128:9 161:10 223:23 231:21,23 234:17 235:17 238:22 240:21 256:8 terms 57:4 246:1 territories 204:7 test 54:5 120:5 testified 8:8 54:25 testimony 11:24 24:9 27:22 55:1,11 60:12 61:5 67:11 74:5,18 78:11,25 79:11 102:24 112:9 123:15 147:14 157:1 160:16,21 168:19 186:9,19 196:25 197:2
---	---	---	---

[testimony - trend]

258:23 260:3,5,8 testing 1:4 2:6 7:1 text 71:8 82:19 83:1 83:23,23 thane 2:9 7:18 thane.rehn 2:11 thank 61:15 111:23 141:6 188:10 189:4 223:2 258:18,20 thanks 210:11 theories 169:6,10,17 170:7 171:8,16 174:12 theorized 245:2 theory 171:5 172:2 172:5,17,20,23 173:8 174:8 244:20 244:23 245:2,2,4,17 245:22,24 246:1,7,9 246:23 247:4,11 249:16 253:22 thereabouts 98:5 thereof 260:9 thing 62:25 202:3 things 8:24 33:3 34:15 59:12 62:22 63:21 65:5 85:21 88:8 89:2 100:20 109:6,9,12,20,20 115:7 118:21 120:12 121:5 133:5 171:3,6 172:10 196:6 197:10 203:1 203:11,13 210:5 215:24 218:19 223:22 248:11 254:6 257:8 think 13:10 14:15 15:9,17 17:6 18:8 18:17,22 22:12,18 23:5,22 30:15 32:22 32:23 33:24 34:19 38:20 39:8,11 41:16 42:8 43:5,18 48:14 49:15,16,16,17	50:10 56:20 57:7 58:2,7 62:24 63:20 66:14,18 67:25 68:1 68:9,25 69:2,5 70:1 71:24 72:13 83:4,9 83:10,18 84:6,19 85:1 86:11 87:17,20 87:22,25 89:17 90:9 90:14 92:24 94:15 98:5 102:13 103:25 108:21 109:7,22 112:2 113:22 114:24 115:1,5 117:17 119:21 121:9,25 122:1 123:22 124:4 126:12,24 130:18 131:1,20 135:8 136:12 140:20 141:17 155:2,4,5,21 156:7,8,22 157:1 158:7,12,17,21 160:23,24 162:7 165:3 166:4,11,19 167:10,22 168:7 170:8 175:25 176:3 176:18 177:12 178:3 181:15,19 182:7,16 183:13 187:10 188:12 189:13,20 190:1,7 190:11,24 192:12 192:21 193:16,25 194:10 195:22 197:24 198:6,22 207:5 208:3,13,19 208:20 210:4 213:19 215:21 216:12 217:19 218:23 219:15 220:6 222:24 224:5 225:4,24 227:16 229:15 232:8,11 236:21 238:1,10 253:3,15 254:5,6	258:3,10 thinking 54:19 142:11 222:8 257:9 third 71:13 153:17 thomas 102:1 thought 20:14 22:15 37:11,20 40:14 53:2 61:12 69:4 77:17 80:6 84:16 101:1 161:15 186:24 188:21,22 228:8 233:7,24 253:8 257:22 258:1 thoughts 42:11 thousands 199:13 three 15:11 40:24 89:19,20 96:24 97:7 97:13,19 102:5 107:21 109:18,19 154:12 187:25 240:13 243:20 248:24 throw 101:12 thursday 1:21 time 6:20 13:13,22 14:12,23,24 15:7,16 41:10 92:5,12 97:16 98:21 99:6,7 103:2 107:17,22 131:7 132:18 133:5 138:2 152:18 198:17 206:7 228:23 230:5 254:7 258:5,16 260:4 times 42:4 83:11 101:25 102:1,2,3,5 102:6 107:23 200:19 212:13 timing 165:7,15 title 65:10 today 8:2 23:10 41:12 133:17 134:1 140:3 today's 6:19	told 196:1 tolles 2:8 7:19 top 119:7 217:12 219:3,5 222:10 topic 14:9 19:5 42:10,12 45:3,12 60:15 62:24 80:6 93:1 131:12 137:22 143:21 180:12 193:15 194:11 209:7 255:21 258:2 topics 25:24 42:21 49:18,20 106:23 total 97:3 154:24 touch 14:8 track 193:25 trademark 11:22 12:11 13:8,14 15:2 15:14 16:6 17:3,23 18:3,16 63:15 64:5 65:12 77:19 110:21 111:4 143:22 trademarks 12:17 16:17 19:8,10 112:20 trained 171:3 training 25:10 88:4 161:21 169:23 170:3,8 171:12 172:11 173:2,7,13 173:18,24 174:3,21 174:22,22 224:6,7 224:11 225:9,20,25 227:17 238:9 transcribed 260:6 transcription 260:7 transcripts 119:9 159:12 160:25 travel 89:1 treating 139:21 140:5 tremendous 245:12 tremendously 75:3 trend 131:6 159:23 208:12
--	--	--	--

[trends - value]

<p>trends 134:8 155:18 156:2,21 175:16,20 176:9 178:20 trial 27:22 trip 90:18 91:3,14 true 133:22 155:5,6 202:3 260:7 truth 248:11 260:5,5 260:5 try 30:6 33:17 53:3 197:4 trying 32:4,5 50:24 51:14 52:1,14,18,24 53:13 99:13 113:15 157:5,11 186:18 201:1 226:7 tsc 1:4 7:6 turn 6:11 89:4 216:24 217:7 turning 187:17 219:5 225:14 236:14 turns 78:10 146:6,9 178:18 two 32:21 34:1 69:22 72:2 93:3 96:24,25 97:18,19 97:20 101:21 119:23 193:6 type 47:24 87:13 types 8:18 26:14 43:22 72:24 82:22 83:6 87:7,9,9,13 109:11 223:22 typical 89:14 typically 45:23 83:5 101:7 198:8 215:22</p>	<p>227:5,15 231:7,22 231:23 232:1,9,13 uncertainties 121:6 235:4 underlying 11:9 234:25 underpinning 186:3 186:4,8 understand 18:14 20:5 33:11 35:4 36:15,18,25 38:12 39:16,18,24 41:12 41:21 47:5 48:8,11 50:24 51:5,7,10,13 52:23 62:14 67:16 69:18 78:11,24 79:10 82:7 84:23 85:13,22 87:2,13 88:20 129:10 130:11 133:2,16 142:16 143:12 144:5,16 145:9 148:5 149:13 150:10,13,14 152:4 169:1 172:19 173:1 177:4 183:18 184:22 186:17,18 188:7 200:22,25 201:1 205:7 206:3 207:3 209:9 211:11 215:17 217:11 223:17 225:15 226:4,10,20 243:13 249:19 255:23 256:4,11,16 257:10 understanding 12:13 14:1 15:24 43:1,2,4 45:5 101:24 129:14 133:6,7 135:17 146:11 147:6,7,8 148:11 165:11 170:11 180:22 185:15,22,23 186:1 188:19 198:16</p>	<p>211:13 215:4 219:19 220:22 221:22 227:4,21 240:9 understood 112:18 undertake 75:23 138:18 139:6 193:18 249:24 undertaken 26:21 28:19 29:2,22,24 137:21 139:5,11 207:7 257:20 undertaking 207:23 249:11,21 253:11 255:20 undertook 30:8 251:6 undeveloped 247:16 unfair 222:22 unique 31:13 unit 110:2,9 210:14 210:21 258:23 united 1:1 115:15 115:25 116:8,16,24 117:7 124:11,19 unknowing 76:17 unlawful 60:22 unrelated 108:14 unrestricted 141:2 141:10,15 241:9 253:6,18,23 untapped 247:16 unwilling 222:17,25 updated 89:18 updating 89:10,24 90:21 91:16 92:6 upside 20:11 21:3 22:13,18 use 19:2,13,17 31:8 71:10,13 146:11 149:5 176:9 192:24 204:19 215:14 216:1 222:18 223:12,23 235:16 238:22</p>	<p>useful 100:17,19 144:12 198:7,8 user 225:20 232:9 232:10 users 32:15 35:20,21 42:15 uses 221:4</p>
			v
			<p>v 124:24 vacuum 161:22 vague 19:23 20:20 24:8 34:6 43:23 56:12 67:14,24 72:16 80:10 81:23 86:10 91:4 98:25 100:2 104:5 106:8 107:7 116:12 127:6 128:4,22 134:20 135:19 138:6,14 140:8 144:7 147:23 152:15 162:16 163:13 174:18 176:12 178:24 179:15 181:7 192:11 217:18 220:3,17 221:19 227:9,19 228:11,20 229:10 230:3 232:4 238:18 240:19 241:2 246:25 248:2 252:10 256:2 valid 12:7 77:25 validate 185:9,10 validity 120:6 valuation 9:1,21 10:12,15 value 9:20 10:3,8,10 19:7,8,10 132:8,18 189:9 195:21 198:17 212:6 213:8 219:9,20 220:2 221:15 222:2,14 223:8,19,21 224:10</p>
u			
<p>uh 123:1 ultimately 40:15 167:23 unable 252:1 unauthorized 225:23 226:5,21</p>			

[valued - witness]

<p>valued 9:6 variety 48:15 58:8 131:2 172:8 various 29:16 45:6 62:21 86:5,23 88:15 96:1,22 98:12 99:13 99:15 107:17 112:9 112:15 132:9 153:21 179:12 180:2,8 248:5,8,11 veeck 124:24 125:1 125:18 126:23 127:15 129:15,24 130:8,16 vendor 229:18 verification 23:23 196:16 verified 179:9,11 205:4 verify 23:17 24:1 113:23 195:7,18 200:4 205:1 248:10 verifying 179:17 veritext 1:18 6:19 6:23 8:4 versa 108:1 version 164:14 165:18 254:16 255:17 versions 85:23 86:4 86:6 241:9 255:16 versus 7:2 145:18 154:24 vi 68:8,20 vice 108:1 videographer 3:15 6:5 8:2 61:16,22 109:25 110:7 111:21 152:22 153:3 210:12,19 258:21 videotaped 1:17 view 3:9 74:14 110:18,22 117:6 136:11 139:15</p>	<p>143:3 144:10 148:20 149:3 167:25 228:3 230:17 231:3 viewed 111:3,9 viewing 215:6 views 111:13 112:5 112:14,16,17,22,24 113:9,20,25 114:6 114:10,21 115:6 117:15,25 118:1 162:3,9,14 violate 148:2 violated 148:7,21 violations 147:22 virtually 106:22 109:16 visit 90:10 258:5 volume 176:23 volumes 177:9,21 volunteer 90:16,25 91:3,9,12 92:6 111:19 volunteer's 92:12 volunteers 132:9,19 vs 1:14</p>	<p>51:15 52:16 54:11 54:15,18 55:5,9 56:19 58:15,17 60:2 60:5 61:7,8 74:2,8 79:7,21,25 80:5 109:21 176:9,19 180:1 181:9 221:9 ways 48:16 61:9 we've 58:20 web 40:1 72:5 90:11 120:2 122:1 136:15 137:15 164:15,22 179:13 180:3,9 185:7 197:19 205:16 206:7 211:23 went 92:16 101:20 west 3:2,7 7:13 whichever 169:19 whispering 6:9 wide 31:14 42:13,20 215:25 216:3 widely 257:14 wider 32:1 willing 14:23 59:20 222:25 223:11 wish 229:5 wishing 136:10 withdrawing 16:8 witness 4:3 7:7 8:5 9:19 10:7 11:8 14:5 14:15 15:23 17:14 19:24 20:22 21:15 22:7 24:10,18 25:14 26:18 28:17 29:9,13 33:15,24 34:7,19,24 35:15 36:3,14 37:14 37:19 38:9,18 39:3 39:22 41:1,18 43:25 44:14 45:10 47:4 48:14 51:2,17 52:3 53:2,17 54:11 56:13 57:1,7,12,19 58:1 58:17 59:3 60:9,13 61:15 62:5 63:20</p>	<p>65:4,19,23 66:4,17 67:15,25 69:17 70:13 72:17 73:3,18 74:7 76:8 77:4 78:21 79:6,20 80:4 80:11,20 81:9,15,24 82:21 83:9 84:1,3 85:1,18 86:11 87:5 87:12 91:5 92:1 93:9 94:1 97:6 98:9 99:1,21 100:3 102:12,25 103:11 104:6,19 105:19 106:16 107:15 108:19 109:5,16 110:25 113:5 114:24 116:20 117:12 118:11,13 120:11 122:9,14 124:21 125:13 126:12 127:7 128:5 128:25 129:19 130:2,18 132:12,22 133:14 134:10,21 135:20 136:18,23 137:8,20 138:7,15 139:3,14 143:17 144:9 145:9,24 147:2,13,25 148:18 148:25 149:8,19 150:9,24 151:9 152:14,16 156:17 157:17 158:3 159:4 159:21 160:13 161:9,18 162:7,17 163:14 164:4 165:1 166:10,18 167:8,22 168:15,25 169:15 169:22 170:20 172:1 174:16,20 176:14 177:1,12 178:1,25 179:16 180:23 181:8 182:7 182:16 183:1,11,21 186:12 190:13,24</p>
	w		
	<p>wait 9:10 122:11 want 9:11,15 13:24 14:17,22,24 16:18 30:16 35:4 41:11 46:3 48:18 49:7 53:17 55:4 59:14 64:16,16 85:2 133:5 151:25 152:2,19,21 162:24 170:14 210:10 215:5 217:10 221:21 wanted 179:3 wants 59:20 washington 1:20 2:15 6:24 way 31:19 46:17,22 48:20,24 50:19</p>		

[witness - york]

191:6,14 192:5,12	93:5,11 107:25
193:2,14 194:10,20	138:13 173:9
196:3 197:3,24	185:19 202:14
198:22 199:2,8	240:3
203:9 204:23	worked 28:2 106:25
205:14 206:2,16	151:10 185:21
207:2,16 208:19	190:21 191:11,21
209:3 212:21	working 12:7 17:15
213:18 216:12,21	83:14 147:25
217:2,19 218:10,23	151:11 201:11
219:15 220:4,18,25	202:14
221:8,21 222:6	world 50:14 214:23
227:10 228:13,22	write 100:19 196:15
229:11 230:4,24	writing 84:8 104:1
231:16 232:5,20	104:11 106:2 108:7
233:6,19 234:6,16	writings 92:23 93:6
235:14 236:6,12	93:13 162:20
237:1,7,13,19,25	written 20:25 21:1
238:20 239:23	22:21 24:11,14,25
240:8,20 241:3	25:1 43:6 93:1
242:14,24 243:23	104:17 108:10
244:6,14 247:1,6	135:20 154:8
248:3,15 250:18	wrong 32:25 90:13
251:12,18,25	103:24 120:3,19
252:11,19 254:20	127:9 135:10
255:9,19 256:3,20	140:10 222:24
257:19 258:20	wrote 100:14 138:2
259:1 260:8,10	141:25
witnesses 4:1	
word 24:6 42:3	y
107:19,22 150:14	y 244:25
235:10 244:22	yeah 22:5 250:22
245:1	year 89:8 164:13
words 36:15 53:3	165:17 170:4,5,10
68:11 73:20 74:1	170:13,15 171:7,13
82:22 83:3,7,19	171:15 172:11
96:19 104:11	208:8,9
142:24 143:19	years 25:18,20
150:25 184:15	27:11 46:2 89:13,19
200:18 256:24	89:20 130:23
work 8:18 9:2,4,5	131:10 133:12,19
11:10 12:19,23	133:23 134:8,11,15
25:19 26:15 27:3,5	175:13 208:2,4
28:7,10 31:17 50:3	york 46:2
50:3 80:24 81:2,18	

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days

after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2014. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

Case 1:13-cv-01215-TSC Document 204-46 Filed 11/13/19 Page 1 of 114

EXHIBIT 40

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

- - -

AMERICAN SOCIETY FOR : Case No.
TESTING AND MATERIALS d/b/a: 1:13-cv-01215-PSC-DAR
ASTM INTERNATIONAL; :
:
NATIONAL FIRE PROTECTION :
ASSOCIATION, INC.; and :
:
AMERICAN SOCIETY OF :
HEATING, REFRIGERATING, :
AND AIR-CONDITIONING :
ENGINEERS, INC. :
Plaintiffs, :
:
vs. :
:
PUBLIC.RESOURCE.ORG, INC., :
Defendant. :
:

AND RELATED COUNTERCLAIMS. :
:

Videotaped 30(b)(6) deposition
of American Society for Testing & Materials,
through DANIEL SMITH, held in the offices of
Veritext Philadelphia, 1801 Market Street,
Ten Penn Center, Suite 1800, Philadelphia,
Pennsylvania 19103, commencing at 10:43 a.m.,
July 24, 2015, before Linda Rossi Rios, a
Federally Approved RPR, CCR and Notary
Public.

PAGES 1 - 292

1 A P P E A R A N C E S :
 2
 3 On behalf of the Plaintiffs
 4 MORGAN LEWIS & BOCKIUS LLP
 BY: J KEVIN FEE, ESQUIRE
 5 1111 Pennsylvania Avenue NW
 Washington, D C 20004
 6 (202) 739-5353
 jkfee@morganlewis.com
 7
 8 On behalf of the Defendant,
 9 Public Resource Org, Inc
 10 FENWICK & WEST LLP
 BY: MATTHEW BECKER, ESQUIRE
 11 and
 ANDREW P BRIDGES, ESQUIRE
 12 555 California Street
 12th Floor
 13 San Francisco, California 94104
 (415) 875-2389
 14 mbecker@fenwick.com
 abridges@fenwick.com
 15
 16 A L S O P R E S E N T :
 17 THOMAS B O'BRIEN, JR , Vice President
 18 and General Counsel, ASTM International
 19 CARL MALAMUD, Public Resource Org
 (via telecon)
 20
 RYAN ARMSTRONG, Videographer
 21
 22 - - -
 23
 24
 25

Page 2

1 Exhibit 1291 Certificates of Copyright 122
 Registration,
 2 ASTM000001 - ASTM000168
 3 Exhibit 1292 Check, ASTM049368 171
 4 Exhibit 1293 2011 Membership renewal 173
 invoices,
 5 ASTM086030 - ASTM086031
 6 Exhibit 1294 Organizational Membership 181
 Directory
 7
 8 Exhibit 1295 E-mail chain with 187
 attachment,
 ASTM025633 - ASTM025640
 9
 10 Exhibit 1296 Membership application, 195
 ASTM068894
 11 Exhibit 1297 2010 ASTM International 201
 Committee Membership
 Application,
 ASTM079420
 12
 13 Exhibit 1298 ASTM Application, 204
 14 ASTM073844
 15 Exhibit 1299 ASTM Applications, 205
 ASTM066848 - ASTM066853
 16
 17 Exhibit 1300 Membership application, 209
 ASTM067024
 18 Exhibit 1301 Membership applications, 210
 ASTM066871, ASTM069213,
 19 ASTM069058, ASTM080176,
 ASTM061450, ASTM063146,
 20 ASTM063147, ASTM065682 &
 ASTM066345
 21
 22 Exhibit 1302 Compilation of documents, 229
 ASTM066829, ASTM067015,
 23 ASTM067321, ASTM067813,
 ASTM070124, ASTM071068,
 ASTM074751, ASTM075283,
 24 ASTM060533, ASTM051140,
 ASTM081145
 25

Page 4

1 I N D E X
 2
 3 WITNESS PAGE
 4 DANIEL SMITH
 By Mr Becker 10
 5 By Mr Fee 288
 6
 7 E X H I B I T S
 8 MARKED DESCRIPTION PAGE
 9 Exhibit 1284 ASTM International 34
 Participation and
 Acknowledgement Form,
 10 ASTM103273
 11 Exhibit 1285 Intellectual Property 60
 Policy of ASTM,
 12 ASTM103277 - ASTM103284
 13 Exhibit 1286 Intellectual Property 64
 Policy of ASTM
 14 International ("Policy"),
 ASTM103285 - ASTM103290
 15
 16 Exhibit 1287 Intellectual Property 65
 Policy of ASTM
 17 International ("Policy"),
 18 ASTM003445 - ASTM003448
 19 Exhibit 1288 Intellectual Property 68
 Policy of ASTM
 20 International ("Policy"),
 ASTM003437 - ASTM003441
 21
 22 Exhibit 1289 Defendant 88
 Public Resource Org,
 Inc 's Amended Notice of
 23 Rule 30(b)(6) Deposition
 of American Society for
 24 Testing and Materials
 25 Exhibit 1290 Exhibit A from Complaint 121

Page 3

1 Exhibit 1303 Compilation of documents, 232
 various Bates from
 2 ASTM069093 to ASTM057841
 3 Exhibit 1304 2010 Membership Renewal 235
 Invoice,
 4 ASTM075697
 5 Exhibit 1305 2011 Membership Renewal 238
 Invoice,
 6 ASTM082973
 7 Exhibit 1306 E-mail chain, 239
 ASTM101777 - ASTM101779
 8
 9 Exhibit 1307 E-mail chain, 243
 ASTM099502 - ASTM099506
 10 Exhibit 1308 8/20/14 E-mail with 244
 attachment,
 11 ASTM003314 & ASTM003315
 12 Exhibit 1309 ASTM Collaboration Area, 253
 ASTM103272
 13
 14 Exhibit 1310 ASTM Membership 255
 Application,
 ASTM103274 - ASTM103276
 15
 16 Exhibit 1311 Record Retention Policy, 257
 ASTM003501 - ASTM003522
 17 Exhibit 1312 11/21/08 E-mail with 260
 attachment,
 18 ASTM088320 - ASTM088325
 19 Exhibit 1313 Web site screenshots, 261
 ASTM001792 - ASTM001800
 20
 21 Exhibit 1314 Screenshots, 263
 ASTM001801 - ASTM001813
 22 Exhibit 1315 ASTM Member Application 264
 Forms,
 23 ASTM052816, ASTM052817,
 ASTM062194, ASTM062195,
 24 ASTM062198 & ASTM062199
 25 Exhibit 1316 Regulations Governing 266
 ASTM Technical Committees

Page 5

1 Exhibit 1317 Participating Membership 277
 2 Applications,
 3 ASTM064686 - ASTM064692
 4 Exhibit 1318 E-mail chain with 277
 5 attachment,
 6 ASTM087493 - ASTM087497
 7 Exhibit 1319 2011 ASTM International 278
 8 Committee Membership
 9 Application,
 10 ASTM061183
 11 Exhibit 1320 How To Standards Writing 279
 12 101 New Standards
 13 Exhibit 1321 How Standards are 280
 14 Developed article
 15 Exhibit 1322 8/13/08 E-mail, 281
 16 ASTM073852
 17 Exhibit 1323 Bates Numbers of 284
 18 Assignment Documents
 19
 20
 21
 22
 23
 24
 25

Page 6

1 DEPOSITION SUPPORT INDEX
 2
 3 Direction to Witness Not To Answer
 4 Page Line Page Line
 5 161 21 286 13
 6 241 7 286 20
 7 242 12 287 1
 8 243 5 287 10
 9 286 2 287 22
 10
 11 Request For Production of Documents
 12 Page Line Page Line
 13 (None)
 14 Stipulations
 15 Page Line
 16 10 3
 17 Questions Marked
 18 Page Line Page Line
 19 (None)
 20
 21
 22
 23 - - -
 24
 25

Page 7

1 - - -
 2 VIDEOGRAPHER: We are now on is
 3 record.
 4 Please note that the microphones
 5 are sensitive and may pick up
 6 whispering and private conversations.
 7 Please turn off all cell phones or
 8 place them away from the microphones
 9 as they can interfere with the
 10 deposition audio. Recording will
 11 continue until all parties agree to go
 12 off the record.
 13 My name is Ryan Armstrong
 14 representing Veritext Legal Solutions.
 15 The date today is July 24, 2015,
 16 and the time is approximately 10:43
 17 a.m.
 18 This deposition is being held at
 19 Veritext located at 1801 Market
 20 Street, Suite 1800, Philadelphia,
 21 Pennsylvania, and is being taken by
 22 counsel for the defense.
 23 The caption of this case is
 24 American Society for Testing and
 25 Materials International, et al. V

Page 8

1 Public.Resource.Org, Incorporated.
 2 This case is being held in the
 3 United States District Court for the
 4 District of Columbia, Case Number
 5 1:13-cv-01215-EGS. The name of the
 6 witness is Dan Smith.
 7 At this time the attorneys
 8 present in the room and everyone
 9 attending remotely will identify
 10 themselves and the parties they
 11 represent. Our court reporter Linda
 12 Rossi, representing Veritext Legal
 13 Solutions, will swear in the witness
 14 and we can proceed.
 15 MR. BECKER: This is Matthew
 16 Becker and Andrew Bridges of Fenwick &
 17 West for the defendant
 18 Public.Resource.Org.
 19 MR. FEE: Kevin Fee from Morgan
 20 Lewis on behalf of ASTM.
 21 MR. BRIDGES: We also have
 22 somebody there --
 23 MR. O'BRIEN: Tom O'Brien from
 24 ASTM.
 25 MR. BRIDGES: And then on the

Page 9

1 phone is Carl Malamud of
2 Public.Resource.Org.
3 MR. FEE: I'm sorry. I did hear
4 the caption had EGS at the end.
5 That's the wrong caption now. It's
6 re-assigned ending with PSC-DAR.
7 Before we get started, I want to
8 reserve reading and signing for the
9 witness.
10 - - -
11 DANIEL SMITH, after having been
12 duly sworn, was examined and testified
13 as follows:
14 - - -
15 EXAMINATION
16 - - -
17 BY MR. BECKER:
18 Q. My name is Matthew Becker of
19 Fenwick & West for the defendant
20 Public.Resource.Org, and I'll be taking your
21 deposition today.
22 Could you, please, state your
23 full name for the record?
24 A. Daniel Gerald Smith.
25 Q. Mr. Smith, have you ever had

Page 10

1 your deposition taken before?
2 A. No.
3 Q. Mr. Smith, have you ever been
4 involved in any lawsuits before?
5 A. No.
6 MR. FEE: Objection. Vague.
7 Remember give me a second to object
8 first.
9 BY MR. BECKER:
10 Q. Mr. Smith, let's just go over
11 the rules so that you're familiar with them.
12 In a deposition I'll be asking the questions
13 and you'll be providing answers to those
14 questions. Do you understand that you're
15 giving testimony under oath today as
16 though -- today as you would in a court of
17 law?
18 A. Yes.
19 Q. And do you understand that the
20 court reporter is taking down everything that
21 you say?
22 A. Yes.
23 Q. And that means that we need
24 audible responses to everything, not nods and
25 gestures.

Page 11

1 A. Yes.
2 Q. If at any point you do not
3 understand a question, will you, please, let
4 me know and I'll try to clarify the question?
5 A. Yes.
6 Q. And if you answer my question,
7 I'll assume that you understood. Does that
8 make sense?
9 A. Yes.
10 VIDEOGRAPHER: The time is now
11 10:46. We're going off the video
12 record.
13 - - -
14 (A recess was taken.)
15 - - -
16 VIDEOGRAPHER: The time is now
17 10:46. We're back on the video
18 record.
19 BY MR. BECKER:
20 Q. Mr. Smith, if you ever need a
21 break for any reason, please let me know and
22 we'll take a break as long as I'm not in the
23 middle of a line of questioning. If I am in
24 the middle of a line of questioning, then
25 I'll ask that we can finish that line of

Page 12

1 questioning and then you can take a break.
2 Does that sound good?
3 A. Yes.
4 MR. FEE: That's fine. We'll
5 let you at least finish your question
6 and get an answer.
7 BY MR. BECKER:
8 Q. And if you come to realize at
9 any point that one of your answers is not
10 completely correct, will you, please, let me
11 know and we can address it?
12 A. Yes.
13 Q. And after the deposition, the
14 transcript is prepared, you'll have a chance
15 to review it and make changes to it.
16 However, if you make any changes, I will be
17 able to comment on those changes. Do you
18 understand?
19 A. Yes.
20 Q. Mr. Smith, is there any
21 medication or other reason that might prevent
22 you from giving your best testimony today?
23 A. No.
24 Q. Is there any reason that you
25 can think of that might prevent you from

Page 13

1 giving your best testimony today?
2 A. No.
3 Q. Mr. Smith, what do you do for a
4 living?
5 A. I work for ASTM International.
6 Q. And when you say you work for
7 ASTM International, what do you mean?
8 A. I'm the vice --
9 MR. FEE: Objection. Vague.
10 You can answer.
11 THE WITNESS: I'm the vice
12 president of technical committee
13 operations.
14 BY MR. BECKER:
15 Q. And what is technical committee
16 operations?
17 A. It's a division within ASTM.
18 Q. What does technical committee
19 mean?
20 A. Technical committees develop
21 standards.
22 Q. When you say "standards," what
23 do you mean by that?
24 A. Consensus standards.
25 Q. By "consensus standards," what

Page 14

1 do you mean by that?
2 A. Documents.
3 Q. Any documents?
4 A. Specifications, test methods,
5 practices, guides, classifications and
6 terminology.
7 Q. Does the term "standards" have
8 any specific meaning to you?
9 MR. FEE: Objection. Vague.
10 THE WITNESS: I'm not sure what
11 you mean by that.
12 BY MR. BECKER:
13 Q. Can you define what a standard
14 is?
15 A. Just what I said previously,
16 it's a test method, a specification, a
17 practice, a guide, classification or
18 terminology.
19 Q. And you say that the technical
20 committees develop standards. How do --
21 actually, let me back up.
22 What is a technical committee?
23 A. I'm not sure how to answer
24 that. I'm not sure what you mean by that.
25 Q. How would you define a

Page 15

1 technical committee?
2 A. A group of experts that develop
3 standards.
4 Q. And who are those experts?
5 A. Volunteers.
6 Q. And are they only volunteers?
7 MR. FEE: Objection. Vague.
8 THE WITNESS: For the most part
9 from my knowledge, they're all
10 volunteers.
11 BY MR. BECKER:
12 Q. How does a technical committee
13 go about developing standards as you say?
14 A. They use our consensus process.
15 Q. What is the consensus process?
16 A. It's two levels of voting
17 starting with the subcommittee and then the
18 main committee.
19 Q. What's the difference between a
20 subcommittee and a main committee?
21 A. A subcommittee is typically
22 smaller with a more narrow interest. A main
23 committee has broader interest.
24 Q. So within a technical
25 committee, then, there is -- is there just

Page 16

1 one main committee?
2 A. A main committee is a technical
3 committee.
4 Q. And are there numerous
5 subcommittees?
6 A. Yes.
7 Q. And how many subcommittees on
8 average?
9 A. It varies.
10 Q. Could you give me a range by
11 which it might vary?
12 A. The best of my knowledge, maybe
13 from 3 to 40, 50.
14 Q. When you say there is a
15 consensus process that involves voting in the
16 subcommittee and then voting at the main
17 committee level, can you elaborate on that
18 process?
19 MR. FEE: Objection. Vague.
20 THE WITNESS: They vote on
21 standards so the folks on that
22 committee will vote on whether or not
23 they agree or not agree with the
24 content of the standard.
25 BY MR. BECKER:

Page 17

1 Q. Is that agree or don't agree on
2 the content of a draft standard or the
3 finalized standard?
4 A. A draft standard.
5 Q. Could we just back up a little
6 bit and could you walk me through how a
7 standard is developed at ASTM?
8 A. It varies, but it could be
9 by -- it starts typically with a task group.
10 Q. And what does the task group
11 do?
12 A. They'll develop the content of
13 the draft.
14 Q. And who composes the task
15 group?
16 MR. FEE: Objection. Vague.
17 THE WITNESS: The task group is
18 typically made up of volunteers who
19 wish to serve on the task group.
20 BY MR. BECKER:
21 Q. Are -- is everyone in a task
22 group an ASTM member?
23 A. No, not necessarily.
24 Q. In what situations would
25 individuals who are not members of ASTM

Page 18

1 compose members of the task group?
2 MR. FEE: Objection to form.
3 THE WITNESS: I'm not sure what
4 you mean by that. Could you repeat
5 that or say that differently?
6 BY MR. BECKER:
7 Q. Let's see. Are -- let me back
8 up just a moment.
9 Are any members of the task
10 group also members of ASTM?
11 A. Yes.
12 Q. But some members of the task
13 groups are not members of ASTM?
14 A. Could be. It's mostly members.
15 Q. And why would individuals who
16 are not members of ASTM be members of the
17 task group?
18 MR. FEE: Objection. Calls for
19 speculation.
20 THE WITNESS: From my
21 experience, because they're interested
22 in the standard that's being
23 developed.
24 BY MR. BECKER:
25 Q. How large are task groups on

Page 19

1 average?
2 A. It varies, but it could be
3 anywhere from 3 to 30 approximately.
4 Q. And you said that the task
5 group develops the content or the original
6 draft of a standard. Is that correct?
7 MR. FEE: Objection. Lack of
8 foundation.
9 THE WITNESS: From my
10 experience, that's what a task group
11 does.
12 BY MR. BECKER:
13 Q. How is a task group initially
14 formed?
15 A. It's formed by a group of
16 volunteers who want to develop a standard or
17 a revision to a standard.
18 Q. Do the members and -- excuse
19 me.
20 Do the ASTM members and
21 nonmembers of ASTM who compose task groups
22 generally have the same or similar interests?
23 MR. FEE: Objection. Calls for
24 speculation.
25 THE WITNESS: I don't know. I

Page 20

1 would think they would have a variety
2 of different interests.
3 BY MR. BECKER:
4 Q. Are there any characteristics
5 other than ASTM membership that would
6 distinguish ASTM members who are members of
7 task groups and those members of task groups
8 who are not ASTM members?
9 MR. FEE: Objection to form.
10 THE WITNESS: The members pay
11 the \$75 membership fee. Nonmembers
12 don't pay the membership. That's the
13 only thing I can think of.
14 BY MR. BECKER:
15 Q. How does a task group go about
16 developing the initial draft of a standard?
17 A. They could do it in a variety
18 of ways.
19 Q. Could you give me some examples?
20 A. They could do it through the
21 use of our collaboration areas, an online
22 space that allows them to develop the draft.
23 Q. And in what other ways?
24 A. They could do it through course
25 of e-mail.

Page 21

1 Q. And in what other ways?
2 A. Through a meeting.
3 Q. And in what other ways?
4 A. None other come to mind at this
5 point.
6 Q. Are there any differences in
7 how a task group would develop a draft of a
8 standard today versus how they might have
9 developed a draft of a standard in the 1970s
10 or 1980s?
11 MR. FEE: Objection. Lack of
12 foundation. Calls for speculation.
13 You can answer.
14 THE WITNESS: Just from common
15 sense, we wouldn't have had our Web
16 tools, they wouldn't have been able to
17 use our Web tools or our virtual
18 meeting technology in the '70s.
19 BY MR. BECKER:
20 Q. Do you know how task groups
21 developed drafts in the 1970s and 1980s?
22 A. I don't know firsthand, but my
23 guess is they would have done it at meetings.
24 Q. When did ASTM first provide the
25 online collaboration areas for the use by

Page 22

1 task groups?
2 A. Guessing, it was sometime
3 probably in the early 2000s roughly.
4 Q. How long have you been at ASTM
5 for?
6 A. About 23 years.
7 Q. So you were at ASTM for roughly
8 a decade, at least a decade prior to when the
9 online collaboration area was first rolled
10 out. Is that correct?
11 A. Approximately.
12 Q. So prior to when the online
13 collaboration area was rolled out, how did
14 task groups develop draft standards at ASTM?
15 A. To my knowledge, it would have
16 been at meetings.
17 Q. Were these meetings organized
18 by ASTM?
19 A. Some of them.
20 Q. But other meetings might not
21 have been organized by ASTM, is that what
22 you're saying?
23 MR. FEE: Objection. Vague.
24 THE WITNESS: They could. They
25 could organize their own meetings

Page 23

1 outside of ASTM.
2 BY MR. BECKER:
3 Q. Do you know how drafts of
4 the -- of ASTM standards were exchanged
5 between task group members prior to the
6 introduction of the online collaboration area
7 by ASTM?
8 A. My guess would be through mail
9 and fax.
10 Q. Do you know if that mail and
11 fax of drafts was facilitated by ASTM?
12 MR. FEE: Objection. Vague.
13 THE WITNESS: I would imagine
14 that some of them would have been
15 facilitated by ASTM and others would
16 not have been.
17 BY MR. BECKER:
18 Q. Prior to the introduction of
19 the online collaboration area, were there
20 specific forms that task group members were
21 made to fill out when drafting drafts of ASTM
22 standards?
23 MR. FEE: Objection to form.
24 THE WITNESS: I believe we had
25 forms starting in about 2003 on our

Page 24

1 membership applications that required
2 members to assign all rights to ASTM.
3 BY MR. BECKER:
4 Q. So the membership, the forms on
5 the membership applications for ASTM that
6 asked individuals to assign all rights to
7 ASTM, as you said, started in 2003 and didn't
8 exist prior to that date?
9 A. I believe that's correct.
10 Q. And this just concerned the
11 membership applications. Correct?
12 MR. FEE: Objection. Vague.
13 THE WITNESS: We also had them
14 on our renewal forms, membership
15 renewal forms. And then we also had
16 them on our work item registration,
17 and then our collaboration.
18 BY MR. BECKER:
19 Q. What is a work item registration
20 form?
21 A. It's for essentially opening up
22 a new work item.
23 Q. What is a work item?
24 A. Either a revision to a standard
25 or development of a new standard.

Page 25

1 Q. And when was the language that
2 you say concerns assignments of rights
3 introduced to the work item form?
4 A. I think it was in about 2003,
5 '04, '05, somewhere in there.
6 Q. So somewhere in the 2003 to
7 2005 period, you're not certain precisely
8 when?
9 A. I believe so.
10 Q. But it didn't exist on those
11 forms prior to at earliest 2003?
12 A. That's correct.
13 Q. Who fills out a work item form?
14 A. A member.
15 Q. Is it only ASTM members who
16 fill out work item forms?
17 A. If a member would ask a staff
18 person to help facilitate filling out a form,
19 they may do that.
20 Q. What is a collaboration form?
21 A. The collaboration, if a member
22 wants to initiate a collaboration area, they
23 have to go through an online process to
24 initiate it.
25 Q. Just so I understand, is that

Page 26

1 to create the online collaboration area that
2 you had described earlier as being a location
3 online provided by ASTM where members of a
4 task group could go to help develop the draft
5 for a standard?
6 A. Yes.
7 Q. And so the collaboration form
8 was only introduced after the collaboration
9 areas had been provided by ASTM to its
10 members?
11 A. Yes.
12 Q. And when, again, did you say
13 that that was?
14 A. I think it was about 2003.
15 Q. People who are members of task
16 groups for developing standards but are not
17 themselves ASTM members, do they fill out
18 membership applications for ASTM?
19 A. No.
20 Q. And those individuals who I
21 just described a moment ago, do they fill out
22 renewal forms for ASTM?
23 A. No.
24 Q. And those individuals who I
25 just described a moment ago, do they fill out

Page 27

1 work item registration forms for ASTM?
2 A. No.
3 Q. And those individuals I
4 described a moment ago, do they fill out
5 collaboration forms for ASTM?
6 A. Yes.
7 Q. They do. Are they required to
8 fill out collaboration forms for ASTM in
9 order to participate in the development of a
10 draft of a standard?
11 MR. FEE: Objection. Vague.
12 THE WITNESS: Yes.
13 BY MR. BECKER:
14 Q. From approximately what year
15 forward have individuals who are members of
16 ASTM task groups but not themselves members
17 of ASTM been required to fill out
18 collaboration forms in order to participate
19 in the drafting of an ASTM standard?
20 A. To my knowledge, since the
21 beginning.
22 Q. When you say "since the
23 beginning," what do you mean?
24 A. When we had -- when we created
25 the form.

Page 28

1 Q. So that would be approximately
2 2003, you're saying?
3 A. Yes.
4 Q. Were individuals who were
5 members of task groups but not themselves
6 members of ASTM required to fill out any
7 forms in order to participate in the drafting
8 of an ASTM standard prior to 2003?
9 A. Not to my knowledge.
10 Q. Is there any means by which
11 ASTM claims that individuals who are -- who
12 were members of task groups but not
13 themselves members of ASTM have assigned any
14 copyrights that they might have in the drafts
15 of the standards that were created and
16 eventually published through ASTM -- to ASTM?
17 MR. FEE: Objection. Calls for
18 a legal conclusion. Instruct you not
19 to disclose any communications you
20 might have had with counsel regarding
21 that subject. If you have an
22 independent knowledge that is
23 responsive, you can answer that.
24 THE WITNESS: I don't know. Not
25 to my knowledge.

Page 29

1 BY MR. BECKER:
2 Q. Today when individuals who are
3 members of ASTM task groups but not members
4 of ASTM fill out collaboration forms, does
5 ASTM believe that by doing so those
6 individuals are assigning their copyright
7 interest to ASTM in the draft of the standard
8 that they have created?
9 MR. FEE: Objection. Calls for
10 a legal conclusion. Again, I instruct
11 you not to disclose your
12 communications with counsel. But if
13 you have an understanding otherwise,
14 you can answer.
15 THE WITNESS: I believe it does.
16 BY MR. BECKER:
17 Q. Does ASTM believe that it does?
18 MR. FEE: Same objection and
19 instruction.
20 THE WITNESS: I would think so,
21 yes.
22 BY MR. BECKER:
23 Q. What are all the forms that
24 nonmembers may provide to ASTM in the course
25 of their activities with the technical

Page 30

1 committees?
2 MR. FEE: Objection to form.
3 Vague as to time. You may answer.
4 THE WITNESS: The collaboration
5 form. No other forms come to mind
6 that a nonmember would submit to ASTM,
7 but there could be some.
8 BY MR. BECKER:
9 Q. Are there any other means by
10 which nonmembers of ASTM who are themselves
11 members of an ASTM task group may assign
12 their copyright interest to ASTM other than
13 the collaboration form?
14 MR. FEE: Objection. Calls for
15 a legal conclusion. I instruct you
16 not to disclose your communications
17 with counsel. If you have any other
18 responsive information, you can
19 provide that.
20 THE WITNESS: We had a form that
21 we did use for assigning rights to
22 ASTM.
23 BY MR. BECKER:
24 Q. What form is this?
25 A. It's a form for assigning

Page 31

1 interest to ASTM.
2 Q. And who is given this form?
3 A. A task group or an individual
4 who might be bringing something forward to
5 contribute to ASTM.
6 Q. Were all members of ASTM task
7 groups given this form that you're
8 describing?
9 A. No.
10 Q. What members of ASTM task
11 groups were given this form that you're
12 assigning?
13 A. If an individual is bringing a
14 significant -- like a document to ASTM that
15 they wanted to convert into an ASTM standard.
16 Q. When you say "a document," what
17 do you mean by that?
18 A. A piece of paper.
19 Q. In what instances would
20 individuals have brought documents such as
21 you're describing to be converted into an
22 ASTM standard?
23 A. If an individual wanted to take
24 a document that they had and make it into an
25 ASTM standard, they brought it forward to

Page 32

1 ASTM.
2 Q. Could you give me some examples
3 of why somebody might do that?
4 A. Because they want to make it
5 into an ASTM standard.
6 Q. Would this be individuals or
7 companies that had previously drafted
8 standards that they would then like to see
9 turned into ASTM standards?
10 MR. FEE: Objection. Calls for
11 speculation.
12 THE WITNESS: Could be.
13 BY MR. BECKER:
14 Q. What years -- from between
15 which years were -- was this form that you're
16 describing used?
17 A. I think it was created in
18 approximately 2002 or somewhere in that area.
19 Q. Is this document still used?
20 A. I'm not aware of any recent
21 use, but it may have.
22 Q. Do you know if this document
23 was produced to Public.Resource?
24 MR. FEE: Objection. Calls for
25 speculation.

Page 33

1 THE WITNESS: I don't know.
 2 MR. BECKER: Counsel, do you
 3 know if this document was produced to
 4 Public.Resource?
 5 MR. FEE: I'm not here to answer
 6 your questions. You might want to
 7 look at the documents that we sent you
 8 today or yesterday. I think that
 9 would be what he's talking about.
 10 THE WITNESS: It was in the
 11 packet.
 12 BY MR. BECKER:
 13 Q. Do you know what the title of
 14 the document that you're describing is?
 15 A. No, I'm not sure. It's just
 16 one page.
 17 Q. Is it the ASTM International
 18 Participation and Acknowledgement Form?
 19 A. I'm not sure. If I could see
 20 it, I could tell you.
 21 - - -
 22 (Exhibit 1284, ASTM
 23 International Participation and
 24 Acknowledgement Form, Bates
 25 ASTM103273, was marked for

Page 34

1 identification.)
 2 - - -
 3 BY MR. BECKER:
 4 Q. I'm handing you what's been
 5 marked as Exhibit 1284.
 6 A. Yes.
 7 Q. This document was produced by
 8 ASTM last night at approximately 9:00 p m.,
 9 and the document is Bates labeled ASTM103273.
 10 And the document is titled: "ASTM
 11 International Participation and
 12 Acknowledgement Form." Is this the document
 13 that you were just describing when you said
 14 there was a form for assigning rights to
 15 ASTM?
 16 A. Yes.
 17 MR. FEE: Objection to the
 18 extent that your preamble is you're
 19 asking him to respond to any of that,
 20 you should ask him that separately.
 21 If you're asking him to respond to
 22 your question is this the document, I
 23 don't have an objection.
 24 BY MR. BECKER:
 25 Q. Do you recognize this document?

Page 35

1 A. Yes.
 2 Q. Could you tell me what this
 3 document is?
 4 A. I believe it's a document that
 5 we would give an individual who is interested
 6 in bringing forward a document to have it
 7 become an ASTM standard.
 8 Q. And is this document the
 9 document that you had described just earlier
 10 being a form for assigning rights to ASTM?
 11 A. Yes.
 12 Q. And you said that you believe
 13 this document was first used in 2002. Is
 14 that correct?
 15 A. I believe that's about right.
 16 Q. Is this form required for all
 17 members of a task group to fill out?
 18 MR. FEE: Objection. Vague.
 19 THE WITNESS: No, not to my
 20 knowledge, it's not.
 21 BY MR. BECKER:
 22 Q. Is this form required for all
 23 members of a task group who are contributing
 24 to the drafting of a standard under ASTM?
 25 MR. FEE: Objection. Are you

Page 36

1 done? Objection to the extent it
 2 calls for a legal conclusion. Also
 3 vague.
 4 THE WITNESS: No, not to my
 5 knowledge.
 6 BY MR. BECKER:
 7 Q. What individuals does ASTM
 8 require to fill out this form?
 9 MR. FEE: Objection. Asked and
 10 answered. You can answer again.
 11 THE WITNESS: We would give this
 12 form to an individual who is
 13 interested in providing a document to
 14 ASTM to make it into an ASTM standard.
 15 BY MR. BECKER:
 16 Q. And so on this form where it
 17 says number 1, "I am submitting my original
 18 material," regardless of that statement, this
 19 document is not required if a member of a
 20 task group were to be drafting original
 21 material for the use in the ASTM standard
 22 draft so long as he was doing so directly
 23 with the task group itself and not bringing
 24 in outside documents?
 25 MR. FEE: Objection. Calls for

Page 37

1 a legal conclusion. Vague.
2 Confusing. You can answer if you can.
3 THE WITNESS: I think I'll
4 answer it by just saying the purpose
5 of this form is for when an individual
6 wants to bring a document into ASTM to
7 make it into an ASTM standard.
8 BY MR. BECKER:
9 Q. So this document is not
10 required of every member of a task group who
11 contributes original material to an ASTM
12 standard draft?
13 MR. FEE: Objection. Vague. To
14 the extent it calls for a legal
15 conclusion.
16 THE WITNESS: This form would
17 not be.
18 BY MR. BECKER:
19 Q. When is the last time, to your
20 knowledge, that this form, Exhibit 1284, was
21 used by ASTM?
22 A. I don't know.
23 Q. Do you have any guess as to
24 what year this form was last used by ASTM?
25 MR. FEE: Objection. Lack of
Page 38

1 foundation. Calls for speculation.
2 THE WITNESS: I don't know.
3 BY MR. BECKER:
4 Q. Do you know any specific
5 standards that this form was used in
6 conjunction with?
7 A. I don't know offhand, no. No
8 specifics.
9 Q. Does ASTM retain the signed
10 copies that it receives of this Participation
11 and Acknowledgement Form?
12 A. I'm not sure.
13 Q. Do you know how many of these
14 Participation and Acknowledgement Forms have
15 been signed and returned to ASTM?
16 A. No.
17 Q. Do you have any approximate
18 guess as to how many of these Participation
19 and Acknowledgement Forms have been signed
20 and returned to ASTM?
21 MR. FEE: Objection. Calls for
22 speculation.
23 THE WITNESS: No.
24 BY MR. BECKER:
25 Q. Do you know if this
Page 39

1 Participation and Acknowledgement Form has
2 ever been signed and returned to ASTM?
3 A. I don't know for sure, but I
4 would guess it has been.
5 Q. And what's your basis for
6 guessing that it has been?
7 A. I vaguely remember instances
8 where we would have to use this.
9 Q. And what instances were those?
10 A. I can't remember.
11 Q. What other information do you
12 recollect in conjunction with those instances
13 where you believe that you had to use this
14 form as you describe it?
15 MR. FEE: Objection. Vague.
16 THE WITNESS: The only thing I
17 can remember is members interested in
18 bringing forward documents that they
19 were interested in having become ASTM
20 standard.
21 BY MR. BECKER:
22 Q. Prior to the introduction of
23 the Participation and Acknowledgement Form in
24 approximately 2002, was there any means by
25 which ASTM had members of task groups who
Page 40

1 contributed original contents to the drafts
2 of ASTM standards but were not themselves
3 members of ASTM thereby transferred their
4 copyrights to ASTM?
5 MR. FEE: Objection. Calls for
6 a legal conclusion. To the extent --
7 you shouldn't disclose any
8 communications you had with counsel
9 regarding the subject matter. If you
10 have independent information that you
11 can share, go ahead and answer with
12 respect to that.
13 THE WITNESS: I'm not aware of
14 any formal forms that we used prior to
15 2003.
16 BY MR. BECKER:
17 Q. Are you aware of any informal
18 means by which individuals such as those that
19 I just described in my previous question
20 might have transferred their copyright to
21 ASTM?
22 MR. FEE: Same objection and
23 instruction.
24 THE WITNESS: I'm not sure what
25 you mean by "informal."
Page 41

1 BY MR. BECKER:
2 Q. I'm simply asking because you
3 say you're not aware any formal forms that
4 are used prior to 2003. So I'm asking if
5 there were any informal means by which ASTM
6 believes that individuals transferred their
7 copyright to ASTM prior to 2003?
8 MR. FEE: Objection. Calls for
9 a legal conclusion. You shouldn't
10 disclose your communications with
11 counsel on this subject, but if you
12 have other information, you can answer
13 about that.
14 THE WITNESS: I don't believe --
15 we didn't feel like we needed any
16 formal, any formal assignment paper.
17 BY MR. BECKER:
18 Q. Why didn't ASTM feel like it
19 needed any formal assignment paper?
20 MR. FEE: Objection. Calls for
21 a legal conclusion. You shouldn't
22 disclose any communication you had
23 with counsel regarding the subject,
24 but if you have any other information
25 that's responsive, you can answer

Page 42

1 about that.
2 THE WITNESS: Because we felt
3 that there was a basic understanding,
4 there is a basic understanding today
5 and there's been a basic understanding
6 for as long as ASTM has been around
7 that the reason they come to the table
8 is for the sole purpose of developing
9 an ASTM standard that will receive a
10 logo, and that will be copyrighted and
11 be distributed. Our members buy the
12 resulting standards from ASTM. We've
13 never, that I can recall, have had a
14 member or a nonmember take issue with
15 ASTM selling the resulting copyrighted
16 standard to them and to others. I
17 believe that the reason they come to
18 the table is because they want --
19 they're there for the sole purpose of
20 having a standard that will have an
21 ASTM logo on it.
22 BY MR. BECKER:
23 Q. Anything else?
24 MR. FEE: Same objections and
25 instructions.

Page 43

1 THE WITNESS: Not at this time.
2 BY MR. BECKER:
3 Q. The basic understanding that
4 you just described, how is that basic
5 understanding documented?
6 MR. FEE: Objection. Again,
7 instruct you not to disclose
8 communications with counsel on that
9 subject, but if you have other
10 information, you can go ahead and
11 disclose that.
12 THE WITNESS: I'm not sure what
13 you mean by "documented."
14 BY MR. BECKER:
15 Q. Are there any documents that
16 reflect the basic understanding that you just
17 described concerning the reasons for
18 individuals contributing in the drafting of
19 ASTM standards?
20 A. No, we didn't feel like
21 documentation was needed.
22 Q. Does ASTM have any documents to
23 support its position that there was a basic
24 understanding between the members who --
25 excuse me, let me rephrase that.

Page 44

1 Does ASTM have any documents to
2 support its position that there was a basic
3 understanding between the individuals who
4 drafted ASTM standards and ASTM that the
5 copyright in those standards were to belong
6 to ASTM?
7 MR. FEE: Objection. Instruct
8 you not to disclose communications
9 with counsel on that subject. If
10 you're aware of other documents, you
11 can go ahead and respond with respect
12 to them.
13 THE WITNESS: I'm not aware of
14 any documents.
15 BY MR. BECKER:
16 Q. Just a moment ago you were
17 describing the reasons why people participate
18 in the drafting of ASTM standards. Could you
19 describe some of the incentives for
20 individuals to participate in the drafting of
21 ASTM standards?
22 MR. FEE: Objection. Lack of
23 foundation. You can answer.
24 THE WITNESS: In general, you
25 can say that an individual would -- or

Page 45

1 a company or an individual would be
2 interested in having an ASTM standard
3 that they could say their product or
4 service is in compliance with.
5 BY MR. BECKER:
6 Q. Are there any other reasons?
7 MR. FEE: Objection.
8 THE WITNESS: I'm sure there are
9 other reasons, I just can't think of
10 any right now.
11 BY MR. BECKER:
12 Q. Does ASTM have any forms by
13 which companies have assigned any copyrights
14 that they may have in the draft standards to
15 ASTM?
16 MR. FEE: Objection. To the
17 extent it calls for a legal
18 conclusion, I instruct you not to
19 disclose communications with counsel
20 on this subject, but if you have any
21 documents to identify, go ahead.
22 THE WITNESS: I'm not aware of
23 any.
24 BY MR. BECKER:
25 Q. Does ASTM distinguish between

Page 46

1 companies and individuals in the -- in its
2 understanding of the granting of copyright
3 rights to ASTM?
4 MR. FEE: Objection. Vague. To
5 the extent I understand it, I think it
6 calls for a legal conclusion. To the
7 extent you think that requires you to
8 disclose any communication from
9 counsel, you shouldn't do so. If you
10 understand you have non-privileged
11 information that is responsive, go
12 ahead and provide it.
13 THE WITNESS: I'm not sure what
14 you mean by that question.
15 BY MR. BECKER:
16 Q. Let me rephrase. If an
17 individual fills out a form that ASTM
18 believes assigns a copyright to ASTM but that
19 individual is employed by a company and is
20 acting in the scope of employment, does ASTM
21 believe that a copyright is granted to it?
22 MR. FEE: Objection. Calls for
23 a legal conclusion. Calls for
24 speculation. You shouldn't disclose
25 any communications with counsel that

Page 47

1 you might think are responsive to
2 that. If you have other information,
3 you can go ahead and answer.
4 THE WITNESS: My understanding
5 is that the members join as
6 individuals, and that when they come
7 to an ASTM meeting, they're
8 contributing their own knowledge to
9 the ASTM standard.
10 BY MR. BECKER:
11 Q. When you say that's your
12 understanding, is that also ASTM's
13 understanding?
14 A. Yes.
15 MR. FEE: Same objections.
16 THE WITNESS: Yes.
17 MR. FEE: And instructions.
18 BY MR. BECKER:
19 Q. When you say "members join as
20 individuals," does this also include
21 individuals who are government employees?
22 A. Yes.
23 Q. Does ASTM believe that
24 government employees who are acting within
25 the scope of their employment by the federal

Page 48

1 government join as individuals when they join
2 ASTM?
3 MR. FEE: Objection. Calls for
4 a legal conclusion. Calls for
5 speculation. Instruct you not to
6 disclose communications with counsel
7 on this subject, but you can answer if
8 you have other information.
9 THE WITNESS: I'm not sure what
10 the individual members believe. I
11 believe our committees believe that
12 the input they get on the standards
13 are from that individual, the
14 individual knowledge that they're
15 providing, not necessarily a company
16 or a government position.
17 BY MR. BECKER:
18 Q. And what's your basis for
19 believing that that is what the members of
20 the committee believe?
21 A. Just my experience.
22 Q. What experience are you
23 referring to?
24 A. My experience with working with
25 technical committees.

Page 49

1 Q. Can you provide any specific
2 examples?
3 MR. FEE: Objection. Vague.
4 THE WITNESS: I've managed
5 probably 20 maybe different committees
6 during my time. A specific example
7 would be D04 road and paving
8 committee.
9 BY MR. BECKER:
10 Q. And could you, please, describe
11 what instances you're referring to?
12 MR. FEE: Objection. Vague.
13 THE WITNESS: Instances of what?
14 BY MR. BECKER:
15 Q. Instances where you believe
16 that the participation of government, federal
17 government employees constituted their
18 participation in an individual capacity and
19 not in their capacity as employees of the
20 federal government?
21 A. Just like I said, my
22 experience. I'm not sure how I would be able
23 to characterize a specific example.
24 Q. Could you refer to particular
25 individuals who you -- who were members, who

Page 50

1 are employed by the federal government that
2 you interacted with in your management of
3 these 20 different committees that you
4 believe were participating in their
5 individual capacity and not as employees of
6 the federal government?
7 MR. FEE: Objection. Calls for
8 a legal conclusion.
9 THE WITNESS: No, I don't know.
10 I don't know for sure.
11 BY MR. BECKER:
12 Q. The membership fees for federal
13 government employees, are these typically
14 paid by the individuals or paid by the
15 federal government?
16 MR. FEE: Objection. This is
17 beyond the scope, I think, of any of
18 the topics we're here to have
19 testimony today. Does this have
20 something to do with one of the three
21 topics?
22 MR. BECKER: I don't believe
23 this is beyond the scope. This has to
24 do with --
25 MR. FEE: Which topic does it

Page 51

1 relate to?
2 MR. BECKER: This relates to the
3 issue of ownership and copyright.
4 The forms that were provided to
5 us include --
6 MR. FEE: I'll let you answer
7 his question.
8 THE WITNESS: I don't know.
9 MR. FEE: We've been going about
10 an hour, could we take a short break
11 now?
12 MR. BECKER: In just a couple of
13 minutes or so.
14 MR. FEE: I'll give you a couple
15 more questions. I'm ready to take a
16 break. Go ahead.
17 BY MR. BECKER:
18 Q. What communications do you have
19 with individuals who were employed by the
20 federal government and participated in at
21 least one of those 20 different committees
22 that you managed that reflected their
23 participation in an individual capacity and
24 not as federal government employees?
25 MR. FEE: Objection. Calls for

Page 52

1 a legal conclusion. Compound.
2 THE WITNESS: I'm not sure what
3 you're asking.
4 BY MR. BECKER:
5 Q. Do you have any specific
6 communications that reflect your belief that
7 individuals who you interacted with on one of
8 these 20 different committees that you manage
9 were participating as in their individual
10 capacity and not as federal government
11 employees?
12 MR. FEE: Objection. Calls for
13 a legal conclusion. Compound.
14 THE WITNESS: I don't have any
15 concrete examples that I can think of.
16 BY MR. BECKER:
17 Q. And do you have any specific
18 observations that you can think of that would
19 show that individuals who participated in one
20 of these 20 different committees were acting
21 in their individual capacity and not as
22 employees of the federal government?
23 MR. FEE: Objection. Calls for
24 a legal conclusion and compound.
25 THE WITNESS: Again, just my

Page 53

1 experience in sitting in the meetings
2 and observing the individual members
3 contribute to the development of the
4 standards.
5 BY MR. BECKER:
6 Q. What about those contributions
7 of those members gave you that impression?
8 MR. FEE: Objection. Calls for
9 a legal conclusion. Compound.
10 THE WITNESS: I'm not thinking
11 of any one example. I'm just thinking
12 over time in all of my different
13 committees and all the different
14 meetings that I've attended, to me it
15 appears that people are contributing
16 off the cuff spontaneously in the
17 development of the standard.
18 BY MR. BECKER:
19 Q. When they participate, do
20 members of the federal government use their
21 federal government issued e-mail addresses?
22 MR. FEE: Objection. Compound.
23 Calls for speculation.
24 THE WITNESS: They may or they
25 may not.

Page 54

1 BY MR. BECKER:
2 Q. What is it about off-the-cuff
3 or spontaneous contributions that you think
4 means that these individuals are
5 participating in their individual capacity
6 and not as federal government employees?
7 MR. FEE: Objection. Calls for
8 a legal conclusion.
9 THE WITNESS: Just my belief
10 based on what I'm observing that I
11 think it's a very spontaneous
12 conversation, people providing
13 contributions based on what they
14 believe, not necessarily what their
15 company believes.
16 BY MR. BECKER:
17 Q. Are individuals who
18 participate -- excuse me.
19 Are federal government
20 employees who participate in ASTM committees
21 or task groups classified differently than
22 other individuals who participate in those
23 committees or task groups?
24 MR. FEE: Objection. Vague.
25 THE WITNESS: I'm not sure what

Page 55

1 you mean by "differently."
2 BY MR. BECKER:
3 Q. Is there a specific
4 classification that's given to government
5 employees who participate in the development
6 of standards under ASTM?
7 A. They're given a classification
8 just as all other members are.
9 Q. And what is that classification?
10 A. It could either be a producer,
11 user, general interest, depending upon the
12 scope of the committee.
13 Q. Would a federal government
14 employee count as a producer?
15 A. I can't think of a situation
16 where they would be.
17 Q. Would a federal government
18 employee count as a user?
19 A. They may.
20 Q. Would a federal government
21 employee count as a general interest member?
22 A. They may.
23 Q. In what circumstances might a
24 federal government employee count as a user
25 versus a general interest member?

Page 56

1 A. It depends on the scope of the
2 committee.
3 Q. Could you give some examples?
4 A. On my road and paving
5 committee, federal highway would be
6 considered a user.
7 MR. FEE: We've been going quite
8 some time. I asked to have a short
9 break. We're going to take a break
10 now, no question pending.
11 MR. BECKER: We can take a
12 break.
13 VIDEOGRAPHER: Time is now
14 11:48. We're going off the video
15 record.
16 - - -
17 (A recess was taken.)
18 - - -
19 VIDEOGRAPHER: The time is now
20 12:02. We're back on the video
21 record.
22 BY MR. BECKER:
23 Q. Mr. Smith, do you have any
24 additional recollections or other information
25 that you would like to add in response to any

Page 57

<p>1 of the questions we've discussed so far 2 today? 3 A. Relative to our members' 4 awareness that they're assigning copyrights 5 to ASTM, I believe you had asked that 6 question prior to 2003. 7 Q. Yes. 8 A. ASTM also has an Intellectual 9 Property Policy that makes our members aware 10 of that as well. 11 Q. And when was ASTM's 12 Intellectual Property Policy first 13 instituted? 14 A. I'm not sure, but I believe it 15 was in the '90s. 16 Q. Is there anything else other 17 than ASTM's Intellectual Property Policy that 18 you believe contributes to ASTM's belief that 19 there was an understanding that the copyright 20 of individuals who participated in the 21 drafting of ASTM standards was owned by ASTM? 22 MR. FEE: Objection. Asked and 23 answered. Are you asking him to 24 repeat all the other things he 25 mentioned before or are you excluding</p> <p style="text-align: right;">Page 58</p>	<p>1 - - - 2 (Exhibit 1285, Intellectual 3 Property Policy of ASTM, Bates 4 ASTM103277 - ASTM103284, was marked 5 for identification.) 6 - - - 7 BY MR. BECKER: 8 Q. I'm handing you what's been 9 marked as Exhibit 1285. Is this the 10 Intellectual Property Policy of ASTM that you 11 had just mentioned? 12 A. Yes, I believe this is a 13 version of it. 14 Q. Are there multiple versions of 15 the ASTM intellectual property policy? 16 A. I believe there were at least 17 two or three. 18 Q. This says it was approved on 19 April 28, 1999. Correct? 20 A. It does say that. 21 Q. It says that at the top of the 22 first page and at the bottom of the last 23 page. Is that correct? 24 A. That's correct. 25 MR. FEE: Objection. It says</p> <p style="text-align: right;">Page 60</p>
<p>1 those? 2 MR. BECKER: Were there other 3 things that he mentioned before? 4 MR. FEE: Oh, yeah. I'll be 5 honest. Actually I shouldn't say 6 that. But you're asking him to list 7 everything he can think of now again? 8 MR. BECKER: In terms of 9 documents. 10 MR. FEE: Oh, documents. 11 MR. BECKER: I don't think there 12 was anything else, was there? 13 MR. FEE: Your prior question 14 wasn't limited to documents, that's 15 why I said that. 16 THE WITNESS: Is it before 2003? 17 BY MR. BECKER: 18 Q. Yes. 19 A. I'm not aware of any other 20 documents. 21 Q. Is there anything else that you 22 have to add to your earlier testimony other 23 than your mention of the IP Policy? 24 A. I can't think of anything at 25 this time.</p> <p style="text-align: right;">Page 59</p>	<p>1 adopted on the last page, not 2 approved. 3 BY MR. BECKER: 4 Q. And for the record, this is the 5 document Bates number ASTM 103277 to 6 ASTM 103284 titled: "INTELLECTUAL PROPERTY 7 POLICY OF ASTM." It says at the top of page 8 Bates number ASTM103277 "Approved 28 9 April 1999." Is that correct? 10 A. Yes. 11 Q. Was this the first edition of 12 the Intellectual Property Policy of ASTM? 13 A. I believe there was one prior 14 to this. 15 Q. Do you know when the 16 Intellectual Property Policy of ASTM that 17 existed prior to this was created? 18 A. No. 19 Q. Do you have any idea? 20 A. I think it was at some point in 21 the '90s. Maybe mid '90s, but I'm not sure. 22 Q. Does ASTM have any record of an 23 Intellectual Property Policy prior to this 24 one, Exhibit 1285? 25 A. I'm not sure.</p> <p style="text-align: right;">Page 61</p>

1 Q. Do you know how many versions
2 of ASTM's Intellectual Property Policy have
3 been formally adopted by ASTM over the years?
4 MR. FEE: Objection. Vague.
5 THE WITNESS: I'm not sure.
6 BY MR. BECKER:
7 Q. Do you know who drafted the
8 ASTM Intellectual Property Policy?
9 MR. FEE: Objection. Vague.
10 You're asking about 1285?
11 BY MR. BECKER:
12 Q. Exhibit 1285.
13 A. I'm not certain.
14 Q. Do you know who might have
15 drafted Exhibit 1285?
16 MR. FEE: Objection. Calls for
17 speculation.
18 THE WITNESS: I'm not certain.
19 BY MR. BECKER:
20 Q. When you say you're not
21 certain, you mean you have no idea?
22 A. I would assume it would have
23 been under general counsel.
24 Q. And who would that have been on
25 April 28, 1999?

Page 62

1 A. It would have been Moe Brooke.
2 Q. Can you spell that for me,
3 please?
4 A. B-R-O-O-K-E.
5 Q. Do you know approximately what
6 years Moe Brooke was the general counsel of
7 ASTM from?
8 A. Roughly from maybe 1980 to late
9 '90s.
10 Q. And who took over as general
11 counsel after Moe Brooke?
12 A. Tom O'Brien.
13 Q. And Tom O'Brien is the current
14 general counsel. Is that correct?
15 A. Correct.
16 Q. Do you know when Tom O'Brien
17 took over as general counsel of ASTM?
18 A. I think it was in about 2004.
19 Q. So was there anybody who was
20 the general counsel of ASTM between Moe
21 Brooke and Tom O'Brien?
22 A. I don't believe on staff we had
23 anybody between Moe Brooke and Tom O'Brien.
24 Q. Was there a gap of some years
25 between the time when Moe Brooke was general

Page 63

1 counsel and when Tom O'Brien took over as
2 general counsel?
3 A. I'm not certain.
4 - - -
5 (Exhibit 1286, Intellectual
6 Property Policy of ASTM International
7 ("Policy"), Bates ASTM103285 -
8 ASTM103290, was marked for
9 identification.)
10 - - -
11 BY MR. BECKER:
12 Q. I'm handing you what's been
13 marked as Exhibit 1286. This is the document
14 produced by ASTM last night as Bates number
15 ASTM103285 to ASTM103290, titled:
16 "INTELLECTUAL PROPERTY POLICY OF ASTM
17 INTERNATIONAL ('POLICY')."
18 Do you recognize this document?
19 A. It's our Intellectual Property
20 Policy.
21 Q. What is the relationship of
22 this Exhibit 1286 to the document 1285 that
23 we were just discussing?
24 MR. FEE: Objection. Vague.
25 THE WITNESS: It appears to be a

Page 64

1 revision.
2 BY MR. BECKER:
3 Q. Can you tell me what the date
4 is that's in the top right-hand corner of
5 this document?
6 A. It appears to be 3/17/10 maybe.
7 I assume.
8 Q. At the bottom of the last page
9 it says, "As amended by the ASTM
10 International Board of Directors, October 28,
11 2003 and April 13, 2010." Is that correct?
12 A. It does say that.
13 Q. Does this appear to be a
14 redline showing the changes to the
15 Intellectual Property Policy of ASTM that
16 were instituted in 2010?
17 A. That's what it appears to be.
18 - - -
19 (Exhibit 1287, Intellectual
20 Property Policy of ASTM International
21 ("Policy"), Bates ASTM003445 -
22 ASTM003448, was marked for
23 identification.)
24 - - -
25 BY MR. BECKER:

Page 65

1 Q. I'm handing you what's been
 2 marked as Exhibit 1287. This is a document
 3 produced by ASTM as Bates number ASTM003445
 4 to ASTM003448. Do you recognize this
 5 document?
 6 A. It appears to be a draft of the
 7 Intellectual Property Policy.
 8 Q. Why do you say that it is a
 9 draft of the Intellectual Property Policy?
 10 A. Or perhaps a version, I should
 11 say.
 12 Q. Do you know what the date of
 13 this version is?
 14 A. At the top it says, Originally
 15 approved April 1999 [as read], and then on
 16 the back it says, "As Amended by the Board of
 17 Directors, _____ 2003."
 18 Q. Do you know if this version of
 19 the ASTM Intellectual Property Policy went
 20 into effect?
 21 A. I don't know for sure, this
 22 particular version.
 23 Q. Who would know?
 24 MR. FEE: Objection. Calls for
 25 speculation.

Page 66

1 THE WITNESS: I don't know. Our
 2 general counsel could probably figure
 3 it out, I think. I don't know if this
 4 is the -- I just don't know if this is
 5 the exact version that was approved --
 6 BY MR. BECKER:
 7 Q. Did you review the --
 8 A. -- by the board.
 9 Q. Excuse me. I'm sorry, go
 10 ahead.
 11 A. I don't know if this is the
 12 exact version that was adopted by our board
 13 in 2003 since the exact date is not at the
 14 end.
 15 Q. Did you review this document in
 16 preparation for your deposition today?
 17 A. I don't know if I reviewed this
 18 exact document.
 19 Q. Did you review any versions of
 20 the ASTM Intellectual Property Policy in
 21 preparation for your deposition today?
 22 A. Yes.
 23 Q. Do you know approximately how
 24 many versions of the ASTM Intellectual
 25 Property Policy that you reviewed in

Page 67

1 preparation for your deposition today?
 2 A. I believe it was one.
 3 Q. Do you know which version that
 4 was that you reviewed in preparation for your
 5 deposition today?
 6 A. The current 2013 -- or 2010
 7 rather. The one that was adopted in 2010.
 8 Q. Is the one adopted in 2010 the
 9 most recent version of the ASTM Intellectual
 10 Property Policy?
 11 A. To my knowledge, yes.
 12 - - -
 13 (Exhibit 1288, Intellectual
 14 Property Policy of ASTM International
 15 ("Policy"), Bates ASTM003437 -
 16 ASTM003441, was marked for
 17 identification.)
 18 - - -
 19 BY MR. BECKER:
 20 Q. I'm handing you what's been
 21 marked as Exhibit 1288. This is the document
 22 produced by plaintiffs as Bates number
 23 ASTM003437 to ASTM003441. Do you recognize
 24 this document?
 25 A. Yes.

Page 68

1 Q. What is this document?
 2 A. It's the ASTM Intellectual
 3 Property Policy.
 4 Q. What is the date of this
 5 version of the ASTM Intellectual Property
 6 Policy?
 7 A. It was originally approved in
 8 April of 1999. This particular version was
 9 amended by the ASTM International Board of
 10 Directors on October 28, 2003, and April 13,
 11 2010.
 12 Q. So this is the most current
 13 version of the ASTM Intellectual Property
 14 Policy then?
 15 A. I would think.
 16 Q. Is this the version that you
 17 reviewed in preparation for the deposition
 18 today?
 19 A. Yes.
 20 Q. And on the final page of
 21 Exhibit 1288 it says at the bottom, "As
 22 amended by the ASTM International Board of
 23 Directors October 28, 2003 and April 13,
 24 2010," whereas on the front it says -- at the
 25 top of the front page it says, "Originally

Page 69

1 Approved 28 April 1999."
2 So this document appears to
3 list three different versions of the ASTM
4 Intellectual Property Policy. Is that
5 correct?
6 A. Yes.
7 Q. What is your basis for
8 believing -- excuse me, let me rephrase.
9 After reviewing these dates, do
10 you still believe there was a version of the
11 ASTM Intellectual Property Policy that
12 existed prior to April 28, 1999?
13 A. I believe we did.
14 Q. What is your basis for
15 believing that there was a prior version of
16 the ASTM Intellectual Property Policy?
17 A. I just seem to recall, but I
18 could be wrong. I thought there was.
19 Q. If there was a prior version of
20 the ASTM Intellectual Property Policy prior
21 to April 28, 1999, that was formally adopted
22 by ASTM, who would know that?
23 MR. FEE: Objection. Calls for
24 speculation.
25 THE WITNESS: I don't know.

Page 70

1 BY MR. BECKER:
2 Q. Did you discuss the existence
3 of a version of the ASTM Intellectual
4 Property Policy that existed prior to
5 April 28, 1999, with anyone in preparation
6 for your deposition today?
7 A. No.
8 Q. Do you know why the ASTM
9 Intellectual Property Policy was revised on
10 at least two occasions?
11 MR. FEE: Objection. To the
12 extent that that calls for you to
13 disclose communications with counsel,
14 you shouldn't disclose those, but if
15 you know otherwise, you can answer.
16 THE WITNESS: No, I don't.
17 BY MR. BECKER:
18 Q. Looking at Exhibit 1285, the
19 April 28, 1999, version of the ASTM
20 Intellectual Property Policy, does ASTM
21 believe that this Intellectual Property
22 Policy grants it any copyrights in the drafts
23 of standards created by individuals who are
24 not employed by ASTM?
25 MR. FEE: Objection. Calls for

Page 71

1 a legal conclusion. You shouldn't
2 disclose any communications you've had
3 with counsel regarding that subject.
4 If you otherwise can respond, go
5 ahead.
6 THE WITNESS: I'm not a lawyer,
7 but in reading page 4 of the policy
8 part D, I believe that that does do
9 what you asked.
10 BY MR. BECKER:
11 Q. That is the section V policy
12 part D?
13 A. Yes.
14 Q. Would you, please, compare that
15 section V part D for Exhibits 1285 and
16 Exhibit 1288?
17 MR. FEE: Objection. Vague if
18 that's the question.
19 BY MR. BECKER:
20 Q. Do you see any differences
21 between section V part D in the Exhibit 1288
22 versus Exhibit 1285?
23 A. I'd have to go through it word
24 by word. Is there anything particular
25 that --

Page 72

1 Q. Do you see that in the 2013 --
2 excuse me, 2010 edition, Exhibit 1288, it
3 adds the line, "Each member agrees by such
4 participation and enjoyment of his/her annual
5 membership benefits, to have transferred any
6 and all ownership interests, including
7 copyright, they possess or may possess in the
8 ASTM IP to ASTM"?
9 A. I do see that.
10 Q. Why did ASTM insert this
11 sentence into the ASTM Intellectual Property
12 Policy?
13 MR. FEE: Objection. Calls for
14 a legal conclusion. I instruct you
15 not to disclose any communications you
16 had with counsel regarding that
17 subject.
18 THE WITNESS: I don't know.
19 BY MR. BECKER:
20 Q. Do you have any knowledge about
21 the revisions that were made to the ASTM
22 Intellectual Property Policy subsequent to
23 the 1999 version?
24 MR. FEE: Objection. Vague.
25 Compound. You can answer yes or no.

Page 73

1 THE WITNESS: Maybe.
2 MR. FEE: Or maybe.
3 BY MR. BECKER:
4 Q. When you say "maybe," what do
5 you mean?
6 A. I'm not sure exactly what you
7 mean. I know I can see right here there were
8 revisions, I could read these. 1286, like
9 the difference, the differences, but...
10 Q. Could you tell me what is the
11 purpose of the clause at part IV C in
12 Exhibit 1286?
13 MR. FEE: Objection to the
14 extent it calls for a legal
15 conclusion. To the extent your
16 understanding of the purpose of any --
17 MR. BECKER: Excuse me.
18 MR. FEE: -- changes in clauses
19 is based upon communications with
20 counsel, I instruct you not to answer.
21 MR. BECKER: Let me say -- let
22 me rephrase.
23 BY MR. BECKER:
24 Q. I meant Exhibit 1288.
25 MR. FEE: Same objections and

Page 74

1 instructions.
2 BY MR. BECKER:
3 Q. Let me restate for the record.
4 In Exhibit 1288, what is the purpose of the
5 clause at part IV C?
6 MR. FEE: Objection. Calls for
7 a legal conclusion. To the extent of
8 your understanding of the purpose of
9 that clause is based on communications
10 with counsel, you shouldn't disclose
11 that. If you have another basis for
12 understanding the purpose of that
13 clause, go ahead and answer.
14 THE WITNESS: I don't know what
15 that means. It seems like it's very
16 legal speak.
17 BY MR. BECKER:
18 Q. Who would know?
19 MR. FEE: Objection. Calls for
20 speculation. To the extent that your
21 answering that question would require
22 you to disclose communications that
23 you've had with counsel, you shouldn't
24 disclose those. If you otherwise know
25 who would know the answer to that

Page 75

1 question, go ahead and answer.
2 THE WITNESS: I would imagine
3 our general counsel would know.
4 BY MR. BECKER:
5 Q. If you look at Exhibit 1285,
6 does clause IV C exist in that document?
7 A. I don't see it.
8 MR. FEE: Objection. The
9 document speaks for itself.
10 BY MR. BECKER:
11 Q. Do you know why ASTM introduced
12 that clause at section IV C subsequent to the
13 April 28, 1999, version of the ASTM
14 Intellectual Property Policy?
15 MR. FEE: Objection. Calls for
16 a legal conclusion. You shouldn't
17 disclose any communications with
18 counsel regarding that subject matter.
19 If you otherwise know why that was
20 done, you can answer it.
21 THE WITNESS: No.
22 BY MR. BECKER:
23 Q. Is ASTM aware of any ASTM
24 members seeking legal advice to explain any
25 of the language in the ASTM Intellectual

Page 76

1 Property Policy?
2 MR. FEE: Hold on a second. You
3 can answer it yes or no or maybe.
4 THE WITNESS: I'm not aware of
5 any.
6 BY MR. BECKER:
7 Q. If you don't know what the
8 clause at section IV C means, why would you
9 expect an ASTM member to know what that
10 clause means?
11 MR. FEE: Objection. Calls for
12 speculation. Mischaracterizes his
13 testimony. You can answer.
14 THE WITNESS: I don't know.
15 BY MR. BECKER:
16 Q. Does ASTM know whether any ASTM
17 member actually understands this language --
18 MR. FEE: Objection. Calls
19 for --
20 BY MR. BECKER:
21 Q. -- in the IP Policy?
22 MR. FEE: Vague. Calls for
23 speculation.
24 THE WITNESS: I don't know
25 either way.

Page 77

1 BY MR. BECKER:
2 Q. Does ASTM know one way or
3 another whether any members actually
4 understand the language in its Intellectual
5 Property Policy?
6 MR. FEE: Objection. Calls for
7 speculation.
8 THE WITNESS: I can't think of
9 any evidence either way.
10 BY MR. BECKER:
11 Q. Returning to Exhibit 1288,
12 section V D, it says, "If requested by ASTM
13 International, such Participants and
14 committee members agree to execute any and
15 all documents deemed necessary or appropriate
16 by ASTM International to transfer and
17 effectuate ownership of all such rights,
18 including but not limited to copyrights, they
19 may possibly have in ASTM IP." And the first
20 page, first paragraph says, "...Standards,
21 Draft Standards, Adjuncts, Certification
22 Programs and related materials, Technical
23 Papers, Research Reports, Manuals, Software,
24 Training Course Materials and Logos
25 collectively referred to as 'ASTM IP'"?

Page 78

1 A. Where were you reading that
2 first sentence?
3 Q. That was from the first
4 paragraph on the front page under
5 "INTRODUCTION," it defines ASTM IP as those
6 items that I just listed.
7 A. Okay.
8 Q. So returning to section V D,
9 are you aware of -- excuse me, is ASTM aware
10 of any instances where it has requested
11 individuals to agree to execute any documents
12 necessary to transfer copyright ownership to
13 ASTM?
14 MR. FEE: Objection. Vague.
15 THE WITNESS: The only
16 situations that I can recall are the
17 ones that we talked about earlier
18 using that form. I seem to remember
19 that there were instances where we
20 used that form, but I don't know the
21 specifics about them.
22 BY MR. BECKER:
23 Q. Subsequent to the drafting of
24 any standards, has ASTM ever retroactively
25 asked an individual to assign their copyright

Page 79

1 in that draft standard to ASTM?
2 MR. FEE: Objection. Calls for
3 a legal conclusion.
4 THE WITNESS: I'm not sure I
5 understand that question.
6 BY MR. BECKER:
7 Q. Just to back up a moment.
8 When -- in your previous answer when you said
9 that the only situations you can recall are
10 the ones we talked about earlier using that
11 form, were you referring to Exhibit 1284, the
12 ASTM International Participation and
13 Acknowledgement Form?
14 A. Yes.
15 Q. Returning to my question, let's
16 see if I can clarify. Section V D says, "If
17 requested by ASTM International, such
18 Participants and committee members agree to
19 execute any and all documents deemed
20 necessary, or appropriate by ASTM
21 International to transfer and effectuate
22 ownership of all such rights, including but
23 not limited to copyrights, they may possibly
24 have in ASTM IP."
25 Once a -- once an individual

Page 80

1 has contributed to the drafting of an ASTM
2 standard, has ASTM ever asked an individual
3 to assign the copyright in a draft document
4 that he or she has already created to ASTM?
5 MR. FEE: Objection. Calls for
6 a legal conclusion.
7 THE WITNESS: I really don't
8 know either way. It's possible.
9 BY MR. BECKER:
10 Q. Other than your reference to
11 Exhibit 1284, are there other instances in
12 which ASTM has asked an individual to execute
13 an assignment of copyright to ASTM?
14 A. Yes.
15 Q. What instances are those?
16 A. On our work item registration
17 process, there is a click through that
18 requests that that individual assign all
19 rights to their contributions both past and
20 present as well as on our membership
21 application and also on our renewal
22 application and also on our collaboration
23 area.
24 Q. And those are the online forms
25 that you referred to earlier today as having

Page 81

1 first been instituted in approximately 2003.
2 Correct?
3 A. Correct.
4 Q. Who would know if ASTM has ever
5 asked an individual to assign the copyright
6 in a draft document that that individual has
7 already previously created to ASTM?
8 MR. FEE: Objection. Assumes
9 facts not in evidence. You can
10 answer.
11 THE WITNESS: Yeah, I don't know
12 who it would be because it would
13 depend on which committee it involved.
14 BY MR. BECKER:
15 Q. Would a staff member be
16 involved in that or would it simply be a
17 volunteer committee member?
18 MR. FEE: Objection. Vague.
19 THE WITNESS: Involved in what
20 exactly?
21 BY MR. BECKER:
22 Q. In the request for an
23 assignment of copyright for a work that had
24 already previously been created by an
25 individual to ASTM?

Page 82

1 A. And that they would bring it in
2 to ASTM for the develop -- as developing as
3 an ASTM standard?
4 Q. They -- or that they had
5 developed as part of an ASTM committee but
6 had not executed any assignments to ASTM for
7 that document.
8 A. I'm sorry, is your question who
9 would know that?
10 Q. Yeah, who would know that?
11 A. The staff person, whoever the
12 staff manager for that particular committee
13 would be would have knowledge of that.
14 Q. Would the ASTM general counsel
15 have knowledge of whether an assignment was
16 made concerning a particular work to ASTM
17 subsequent to the creation of that work?
18 A. Maybe.
19 Q. Did you speak with any ASTM
20 staff members about any assignments of
21 copyright to ASTM in preparation for your
22 deposition today?
23 MR. FEE: Objection. Vague.
24 THE WITNESS: Particular
25 assignments?

Page 83

1 BY MR. BECKER:
2 Q. Yes.
3 A. No.
4 Q. Did you speak with any ASTM
5 staff members about documents that ASTM
6 believes generally assign copyright to
7 ASTM --
8 MR. FEE: Objection. Vague.
9 BY MR. BECKER:
10 Q. -- in preparation for your
11 deposition today?
12 A. In general, yes. And then
13 there were also a few specific forms, forms
14 that had actual members renewing or applying
15 for membership.
16 Q. And who did you speak with,
17 excluding counsel, regarding the subjects of
18 copyright assignments to ASTM in preparation
19 for your deposition today?
20 A. Specific examples of?
21 Q. Both specific and general
22 examples.
23 A. In general I talked to Marge
24 Cassidy, our treasurer.
25 Q. Anybody else?

Page 84

1 A. Jim Thomas, our president.
2 Q. Anybody else?
3 A. John Pace, our vice president
4 of -- our vice president of publications.
5 Q. Anybody else?
6 A. Phil Lively, our vice president
7 of technology.
8 Q. Anybody else?
9 A. Kathie Morgan, our executive
10 vice president.
11 Q. Anybody else?
12 A. I believe that's everybody.
13 Q. What did you speak with Marge
14 Cassidy about in preparation for your
15 deposition today?
16 A. Just any information that she
17 would have relative to assignment of
18 copyright by our members.
19 Q. And what did you learn from
20 Marge Cassidy?
21 A. Nothing.
22 Q. What did Marge Cassidy say
23 about assignment of copyright from ASTM
24 members?
25 A. She really didn't have any

Page 85

1 knowledge.
 2 Q. Did you approach Marge Cassidy
 3 or did she approach you in preparation for
 4 your deposition today?
 5 MR. FEE: Objection. Lack of
 6 foundation.
 7 THE WITNESS: I didn't initiate
 8 it and she didn't initiate it. We
 9 called a meeting. Our general counsel
 10 called a meeting.
 11 BY MR. BECKER:
 12 Q. Who was in attendance at that
 13 meeting?
 14 A. Our legal team and Marge.
 15 Q. Do you know the date of that
 16 meeting?
 17 A. It was yesterday.
 18 Q. How long did you meet for?
 19 A. Maybe 10, 15 minutes.
 20 Q. What did you speak with Marge
 21 about at that meeting?
 22 A. Just wanted to get her
 23 perspective on anything that has to do with
 24 assigning copyright.
 25 Q. And what was Marge's

Page 86

1 perspective?
 2 A. She didn't have much of a
 3 perspective as someone who works in
 4 accounting. But she's a senior staff person
 5 who has been at ASTM for a long time, so I
 6 was interested in that.
 7 Q. How long has Marge Cassidy been
 8 at ASTM for?
 9 A. 50 years.
 10 Q. Did you ask Marge about the
 11 assignment of copyright at ASTM prior to your
 12 tenure at ASTM?
 13 A. Yes.
 14 Q. And what did she say about
 15 that?
 16 A. She didn't really remember
 17 anything of significance that I can share.
 18 Q. Do you recall any details about
 19 your conversation with Marge Cassidy about
 20 the assignment of copyright?
 21 A. No.
 22 VIDEOGRAPHER: The time is now
 23 12:54. We're going off the video
 24 record. This concludes disc one.
 25 - - -

Page 87

1 (A recess was taken.)
 2 - - -
 3 VIDEOGRAPHER: The time is now
 4 1:58. We're back on the video record.
 5 This begins disc two.
 6 - - -
 7 (Exhibit 1289, Defendant
 8 Public.Resource.Org, Inc.'s Amended
 9 Notice of Rule 30(b)(6) Deposition of
 10 American Society for Testing and
 11 Materials, was marked for
 12 identification.)
 13 - - -
 14 BY MR. BECKER:
 15 Q. Mr. Smith, I'm handing you
 16 what's been marked as Exhibit 1289. This is
 17 the "PUBLIC.RESOURCE.ORG AMENDED NOTICE OF
 18 RULE 30(B)(6) DEPOSITION OF AMERICAN SOCIETY
 19 FOR TESTING AND MATERIALS." Do you recognize
 20 this document?
 21 A. I do.
 22 Q. Have you seen this document
 23 before?
 24 A. I believe I have.
 25 Q. And do you understand that you

Page 88

1 are testifying on behalf of ASTM today?
 2 A. I do.
 3 MR. FEE: Just so the record is
 4 clear, he's testifying on behalf of
 5 ASTM with respects to Topics 2, 3 and
 6 24 only.
 7 MR. BECKER: And for the record,
 8 Public.Resource.Org had requested that
 9 ASTM provide a witness on additional
 10 topics beyond 2, 3 and 24, and ASTM
 11 has refused to provide that additional
 12 witness that was requested.
 13 MR. FEE: That's not correct.
 14 You've had a witness on every other
 15 topic. Jeff Grove. Jeff Grove,
 16 G-R-O-V-E.
 17 MR. BECKER: And as we've
 18 discussed, Public.Resource.Org does
 19 not believe that Jeff Grove was a
 20 sufficient witness on many of those
 21 topics and, therefore, has requested a
 22 witness on the topics on which
 23 Mr. Grove was deficient.
 24 MR. FEE: Suffice to say we
 25 disagree with that.

Page 89

1 BY MR. BECKER:
2 Q. Mr. Smith, you understand that
3 you are responsible for preparing to answer
4 questions on the topics on which you've been
5 noticed and which you are appearing on behalf
6 of ASTM. Correct?
7 A. Yes, I believe it's 2, 3 and
8 24.
9 Q. And have you prepared to answer
10 questions on Topics 2, 3 and 24?
11 A. Yes.
12 Q. And you understand that you are
13 answering these questions on those topics on
14 behalf of ASTM?
15 A. Yes.
16 Q. Mr. Smith, when did you prepare
17 to answer topics at deposition today?
18 MR. FEE: Objection. Vague.
19 THE WITNESS: Yesterday and on
20 Tuesday.
21 BY MR. BECKER:
22 Q. Tuesday of this week?
23 A. Correct.
24 Q. And when were you first
25 notified that you would be appearing as the
Page 90

1 witness for the deposition today?
2 A. I think we found out, exactly
3 the date was sometime in maybe the first week
4 in July.
5 Q. Have you done any preparation
6 for your deposition today between the first
7 week of July and Tuesday of this week?
8 A. Yes.
9 Q. What did you do to prepare
10 during that time period?
11 A. I reviewed the membership
12 screens, the renewal screens, the work item
13 registration pages and --
14 Q. Did you do -- I'm sorry.
15 A. -- any ASTM intellectual
16 property files.
17 Q. And when you say the membership
18 screens, the renewal screens, and the work
19 item registration pages, are you referring to
20 the same pages that you had discussed near
21 the start of our deposition today?
22 A. Yes.
23 Q. And when you say that you
24 reviewed any ASTM intellectual property
25 files, what do you mean by that?
Page 91

1 A. I reviewed our current ASTM
2 Intellectual Property Policy.
3 Q. Did you do anything else to
4 prepare for the deposition today?
5 A. I met with the people that I
6 mentioned previously.
7 Q. Did you review any other
8 documents other than the ones that you've
9 just listed a moment ago?
10 A. I reviewed documents that had
11 the Bates numbers associated with them.
12 Q. Do you know which documents
13 that have Bates numbers associated with them
14 that you reviewed?
15 THE WITNESS: Do we have them
16 somewhere, the ones that we produced?
17 MR. FEE: You have to answer his
18 questions, I can't give you the
19 answers.
20 THE WITNESS: I'm sorry.
21 BY MR. BECKER:
22 Q. Do you recall the titles of any
23 of the documents that you reviewed that had
24 Bates numbers on them?
25 A. There were specific examples of
Page 92

1 memberships that were filled out by a member.
2 I think it was a renewal that may have been
3 completed by a member. Screens that I had
4 mentioned. There were other documents I'm
5 not thinking of right now, but yes.
6 Q. The other documents that you
7 reviewed, did they all have Bates numbers on
8 them?
9 A. Yes.
10 Q. So were there any other
11 documents other than the ones that you
12 described just a moment ago specifically that
13 you reviewed in preparation for your
14 deposition today that did not have Bates
15 numbers on them?
16 MR. FEE: Objection. Asked and
17 answered. Go ahead.
18 THE WITNESS: I don't believe
19 so.
20 BY MR. BECKER:
21 Q. When did you meet with Jim
22 Thomas in preparation for your deposition
23 today?
24 A. On Tuesday, whatever day that
25 was. On Tuesday, last Tuesday.
Page 93

1 Q. What did you discuss with Jim
2 Thomas when you met with him then?
3 A. I asked Jim about any memory
4 that he has relative to assignments of
5 copyright.
6 Q. And what did he say?
7 A. Pretty much what I've explained
8 to you relative to formally getting
9 documentation from our members on assignment
10 from 2003 to the present relative to our
11 renewal forms, membership application forms,
12 collaboration area. And then prior to that,
13 Jim's recollection and feelings were that
14 copyright assignment from our members was a
15 very basic understanding that our members had
16 and our staff have had, the sole purpose they
17 come to an ASTM meeting is to develop a
18 standard that's going to result in an ASTM
19 approved standard with a logo on it that's
20 copyrighted.
21 Q. Did Mr. Thomas identify any
22 basis for his belief that copyright
23 assignment from ASTM members was a very basic
24 understanding, as you described it, that ASTM
25 members had with the purpose of developing an
Page 94

1 ASTM standard?
2 A. Can you explain?
3 Q. Let me rephrase that. Did
4 Mr. Thomas identify any basis for his belief
5 that ASTM members had an understanding that
6 their drafts would be -- that the copyright
7 for their drafts would be held by ASTM?
8 A. I think his basis was on the
9 fact that we've never had a member that has
10 really questioned, that we can recall, or
11 challenged ASTM copyrighting something.
12 Another basis being that we sell our
13 standards and our members are some of our
14 biggest customers, so they're buying the
15 standards from us. Jim Thomas has provided
16 numerous presentations at different committee
17 meetings announcing about this lawsuit and
18 what the ramifications potentially could be.
19 How it could affect our business model and
20 how we want to maintain our low entry for
21 participation, \$75 membership, no meeting
22 fees, and we sell our resulting standards so
23 that we can support our operations. And the
24 members, based on the presentations that I've
25 seen, have embraced that concept.
Page 95

1 Q. Did Jim Thomas say all of that
2 to you? When I say "all of that," I'm
3 referring to your previous statement that you
4 attributed to Jim Thomas, were all of those
5 statements from Jim Thomas?
6 MR. FEE: Objection. Compound.
7 THE WITNESS: Jim has told me
8 and I have seen Jim do these
9 presentations.
10 BY MR. BECKER:
11 Q. When you spoke with Jim Thomas
12 on Tuesday, did he say that a member has
13 never challenged the copyright assertions by
14 ASTM?
15 A. Yes.
16 Q. And when you met with Jim
17 Thomas on Tuesday, did he say that the fact
18 that ASTM sells standards to its members is a
19 basis for why there may be an understanding
20 that by ASTM members, that their
21 contributions would be copyrighted by ASTM?
22 A. He had indicated that the fact
23 that we sell the standards back to our
24 members is probably a real good indication
25 that there's a basic understanding from our
Page 96

1 members that we are copyrighting the material
2 that they contribute.
3 Q. Did Jim Thomas say anything
4 else to you when you met with him on Tuesday?
5 MR. FEE: Objection. Vague.
6 THE WITNESS: I can't think of
7 anything else specific that he said.
8 BY MR. BECKER:
9 Q. Did you ask Jim Thomas any
10 questions when you met with him on Tuesday?
11 A. No, I don't think I asked him
12 any questions. I think the meeting was
13 basically to discuss copyright assignment.
14 And I don't know if -- it was more of a
15 discussion, I don't think we had -- I had
16 questions. I mean, I didn't need to ask
17 questions. It was a discussion.
18 Q. A moment ago you referred to
19 the \$75 fee. Do ASTM members -- excuse me,
20 let me rephrase.
21 Do individuals have to pay ASTM
22 a fee to participate in the standard drafting
23 process?
24 MR. FEE: Objection. Asked and
25 answered.
Page 97

1 THE WITNESS: They have to pay
2 \$75 to be a member, but they don't
3 have to pay \$75 to participate. So an
4 individual can participate without
5 paying ASTM.
6 BY MR. BECKER:
7 Q. What are the differences that
8 individuals who are members of ASTM enjoy in
9 their participation in the standard drafting
10 process versus individuals who are not
11 members?
12 MR. FEE: Objection. Vague.
13 THE WITNESS: They get to --
14 free volume of standards and they get
15 to vote. When it's on the ballots,
16 they get to cast votes. Nonmembers do
17 not.
18 BY MR. BECKER:
19 Q. When you say "on the ballots,"
20 what ballots are you referring to?
21 A. On the technical standards.
22 Q. Are those ballots for voting up
23 or down on the revision or creation of
24 particular standards?
25 A. Correct.

Page 98

1 Q. Have you had any other
2 communications with Jim Thomas about your
3 deposition today other than the meeting you
4 had with him on Tuesday?
5 A. No.
6 Q. And have you had any
7 communications with Marge Cassidy in
8 preparation for your deposition today other
9 than the meeting that you had with her?
10 A. No.
11 Q. You said you met with John
12 Pace, the vice president of publications, as
13 well in preparation for your deposition
14 today. Correct?
15 A. Uh-huh.
16 Q. What did you discuss with
17 Mr. Pace?
18 A. Any knowledge that he would
19 have relative to the assignment of copyright
20 from our members.
21 Q. What did Mr. Pace say?
22 A. He didn't provide any input.
23 He didn't have any knowledge.
24 Q. Did you discuss any other
25 issues with Mr. Pace at that meeting?

Page 99

1 A. No.
2 Q. When was that meeting?
3 A. That meeting was yesterday.
4 Q. So Mr. Pace provided no
5 information to you on the subject of
6 copyright by individuals to ASTM?
7 A. No.
8 MR. FEE: Objection. Vague.
9 BY MR. BECKER:
10 Q. A moment ago you referred to
11 presentations by Jim Thomas. Can you give
12 any specific -- can you tell me about any
13 specific presentations by Jim Thomas that you
14 think address issues of copyright ownership
15 by ASTM?
16 A. I can't recall any
17 presentations that he did specific on that
18 subject.
19 Q. What presentations were you
20 referring to?
21 A. At ASTM conferences where we
22 have breakfast meetings with all of the
23 individuals attending that meeting, are
24 invited to a breakfast meeting. And we hold
25 them in four different committee weeks; in

Page 100

1 January, April, May and June of every year.
2 I've heard Jim Thomas talk about what I said
3 at those breakfast meetings.
4 Q. Do you recall on what dates
5 Mr. Thomas spoke about those issues at
6 breakfast meetings?
7 A. I can't provide specific dates.
8 Q. Do you have general dates as in
9 this year, last year or the year prior?
10 A. I believe it was this year was
11 mentioned. And it was probably last year as
12 well.
13 Q. Do you recall Mr. Thomas
14 mentioning anything on this subject prior to
15 last year?
16 A. I can't say for sure.
17 Q. Are these breakfast meetings
18 recorded in any way?
19 A. No.
20 Q. Are there any minutes kept of
21 the breakfast meetings?
22 A. No, but we have annual -- our
23 annual meeting -- we may have minutes from
24 our annual meeting, but I'm not sure. I
25 think we might have slides actually,

Page 101

1 presentation slides that are available for
2 our annual meetings.
3 Q. You said you also meet with
4 Phil Lively, the vice president of
5 technology. Is that correct?
6 A. Yes.
7 Q. When did you meet with him?
8 A. I met with Phil yesterday.
9 Q. What did you speak with Phil
10 Lively about yesterday?
11 A. About copyright assignments for
12 members to ASTM.
13 Q. And what did Phil Lively tell
14 you?
15 A. About his involvement and help
16 with having the language that we talked about
17 earlier on the membership application screens
18 and the membership renewal screens and the
19 collaboration area screen and the work item
20 registration screens.
21 Q. When you say, "the language
22 that we talked about earlier," are you
23 referring to language that ASTM believes
24 assigns copyright from individuals to ASTM?
25 MR. FEE: Objection. Calls for
Page 102

1 a legal conclusion.
2 THE WITNESS: The language that
3 we talked about that is on the
4 membership applications, yes. That
5 the members acknowledge when they're
6 either registering a work item or
7 joining as a new member or renewing
8 their membership or opening up a
9 collaboration area that assigns all of
10 their past, present and future
11 contributions to ASTM standards --
12 into ASTM standards to ASTM.
13 BY MR. BECKER:
14 Q. What was Mr. Lively's
15 involvement in the language that you are
16 referring to?
17 MR. FEE: Objection. Vague.
18 THE WITNESS: He helped us with,
19 from a technology standpoint, getting
20 that language up onto our Web site,
21 onto the screens.
22 BY MR. BECKER:
23 Q. So you're saying that
24 Mr. Lively was involved in the -- Mr. Lively
25 did not draft the language, but Mr. Lively
Page 103

1 helped create the electronic version of the
2 forms that appear on the ASTM Web site. Is
3 that what you're saying?
4 MR. FEE: Objection. Compound.
5 THE WITNESS: I'm not sure what
6 exactly you mean by that, but
7 essentially he was able to accomplish
8 getting the language up onto the
9 screens so that the members can
10 acknowledge the statement during the
11 process.
12 BY MR. BECKER:
13 Q. Did Mr. Lively draft any of the
14 language on the membership application or
15 renewal forms or any of the other forms that
16 you're describing?
17 MR. FEE: Objection. Compound.
18 THE WITNESS: I don't believe
19 so.
20 BY MR. BECKER:
21 Q. What did Mr. Lively tell you
22 about the work that he did related to
23 copyright assignments?
24 A. Just that he could remember
25 helping with putting the information up on
Page 104

1 the Web screens, and he could remember when
2 he was a staff manager back in the very
3 beginning time, I think it was early '80s
4 when he was a staff manager, and kind of
5 reiterating what I had previously said about
6 there being an understanding that our members
7 understand that their contributions to ASTM,
8 is well understood that we're going to
9 copyright that material.
10 Q. Did Mr. Lively provide any
11 basis for his statement that there was an
12 understanding in the early '80s that ASTM
13 would copyright the material provided by
14 individuals that was incorporated into the
15 standard drafts?
16 A. Can you repeat that question?
17 Q. Yes. Did Mr. Lively provide
18 any basis for his statement that there was an
19 understanding in the early '80s that ASTM
20 would copyright the material provided by
21 individuals that was incorporated into the
22 standard drafts?
23 A. No. I think it was just his
24 belief just as it was my belief.
25 Q. Did you discuss anything else
Page 105

1 with Mr. Lively at that meeting?
2 A. Not that I can recall.
3 Q. Did you have any other
4 communications with Mr. Lively in preparation
5 for your deposition today other than that
6 meeting yesterday?
7 A. No.
8 Q. And did you have any other
9 communications with John Pace in preparation
10 for your deposition today other than your
11 meeting with him yesterday?
12 A. No.
13 Q. You said that you also met with
14 Kathie Morgan, the executive vice president,
15 in preparation for your deposition today. Is
16 that true?
17 A. Yes.
18 Q. And when did you meet with
19 Kathie?
20 A. Yesterday.
21 Q. What did you discuss with
22 Kathie at your meeting yesterday?
23 A. We discussed the form that we
24 had here, 1284, and her recollection of what
25 that form was used for.

Page 106

1 Q. That's Exhibit 1284 you were
2 referencing?
3 A. Yes.
4 Q. What did Kathie Morgan say
5 about Exhibit 1284?
6 A. She thought that that form was
7 used by ASTM whenever an individual who was
8 bringing forward a full document into ASTM,
9 that we would want to have that form filled
10 out which would assign the copyright of that
11 information to ASTM.
12 Q. Did Kathie Morgan tell you
13 anything else about Exhibit 1284?
14 A. Not that I can recall.
15 Q. Did Kathie Morgan tell you when
16 Exhibit 1284 was first used by ASTM?
17 A. I think -- I don't know for
18 sure. I think our recollection was the same
19 as mine earlier, that it was about, you know,
20 maybe prior to 2003.
21 Q. When you say "prior to 2003,"
22 approximately what year do you believe that
23 this form, Document 1284, was first used?
24 MR. FEE: Objection. Asked and
25 answered.

Page 107

1 THE WITNESS: Yeah, I'm not
2 sure. I think it -- it was -- I think
3 it was in the early 2000s.
4 BY MR. BECKER:
5 Q. Taking a step back, when you
6 spoke with Phil Lively yesterday in
7 preparation for your deposition today, did
8 you ask him when the Web forms were first set
9 up that included language concerning
10 copyright assignments on the ASTM Web site?
11 MR. FEE: Objection to form.
12 Compound.
13 THE WITNESS: I don't believe I
14 asked him.
15 BY MR. BECKER:
16 Q. Did Mr. Lively tell you
17 yesterday when the Web forms that include
18 language concerning copyright assignments on
19 the ASTM Web site were first set up?
20 MR. FEE: Objection to form.
21 Compound.
22 THE WITNESS: I don't believe
23 he -- I don't believe he said.
24 BY MR. BECKER:
25 Q. Other than Marge Cassidy, Jim

Page 108

1 Thomas, John Pace, Phil Lively and Kathie
2 Morgan, was there anybody else that you met
3 with in preparation for your deposition
4 today?
5 A. Besides our legal team?
6 Q. Yes.
7 A. No.
8 Q. And other than those
9 individuals, was there anybody else that you
10 communicated with in preparation for your
11 deposition today?
12 A. No.
13 Q. Collectively about how much
14 time would you say that you spent in
15 preparation for your deposition today?
16 A. Maybe 15 hours.
17 Q. Returning to Exhibit 1288, the
18 ASTM Intellectual Property Policy from 2010,
19 please turn to section VI B, "Intellectual
20 Property Other Than Standards." That's Bates
21 numbered ASTM003440. Can you, please, review
22 subsections 1a and b from this document. For
23 the record, that's section VI B1a and VI B1b.
24 Please tell me when you're done reviewing it.
25 A. [Reviewing document.] Okay.

Page 109

1 Q. This section says it relates to
2 "Intellectual Property Other Than Standards,"
3 and it says, "ASTM International recognizes
4 different ways to assign intellectual
5 property rights: ...When individual authors
6 submit manuscripts of technical papers for
7 publication by ASTM International, the author
8 must sign an agreement (Author Agreement)
9 whereby ownership of the material is assigned
10 to ASTM International...."
11 Why does ASTM have a special
12 agreement for authors of intellectual
13 property other than standards?
14 MR. FEE: Objection. Calls for
15 a legal conclusion. To the extent you
16 can answer that question without
17 disclosing communications with
18 counsel, you may go ahead and do so.
19 THE WITNESS: I don't know.
20 BY MR. BECKER:
21 Q. Do you know who would know?
22 MR. FEE: Objection. Calls for
23 speculation.
24 THE WITNESS: I would --
25 potentially in part the ASTM general

Page 110

1 counsel.
2 BY MR. BECKER:
3 Q. Is there anybody else who would
4 know?
5 MR. FEE: Same objection.
6 THE WITNESS: I don't know.
7 BY MR. BECKER:
8 Q. This document again goes on to
9 say, "... however, if a technical paper was
10 prepared in the course of the author's
11 employment by the U.S., Canadian, or British
12 Governments, ASTM acknowledges that copyright
13 does not exist."
14 Why does ASTM acknowledge that
15 copyright doesn't exist if the technical
16 paper was prepared in the course of an
17 author's employment by one of these federal
18 governments?
19 MR. FEE: Objection. Calls for
20 a legal conclusion. Instruct you not
21 to disclose communications with
22 counsel regarding that subject, but if
23 you have knowledge from some other
24 source, go ahead and answer.
25 THE WITNESS: I don't know.

Page 111

1 BY MR. BECKER:
2 Q. Does ASTM believe that if a
3 standard was prepared in the course of the
4 author's employment by the U.S., Canadian or
5 British governments, that a copyright exists
6 in that standard?
7 MR. FEE: Objection. Calls for
8 a legal conclusion. Instruct you not
9 to disclose any communications with
10 counsel regarding that matter. If you
11 can answer it without disclosing those
12 communications, go ahead.
13 THE WITNESS: I don't know.
14 BY MR. BECKER:
15 Q. Who would know?
16 MR. FEE: Objection. Calls for
17 speculation.
18 THE WITNESS: I would
19 potentially think that our ASTM
20 general counsel would know.
21 BY MR. BECKER:
22 Q. Is there anybody else who would
23 know?
24 MR. FEE: Same objection.
25 THE WITNESS: I don't know.

Page 112

1 BY MR. BECKER:
2 Q. Does ASTM recognize a
3 distinction between standards and
4 intellectual property other than standards in
5 terms of its copyrightability when created by
6 someone who is acting in the course of their
7 employment by the U.S., Canadian or British
8 governments?
9 MR. FEE: Objection. Vague.
10 Confusing. Compound. Calls for a
11 legal conclusion. Instruct you not to
12 disclose any communications with
13 counsel regarding that matter. If you
14 have other information you can share,
15 go ahead.
16 THE WITNESS: I really don't
17 know.
18 BY MR. BECKER:
19 Q. Just to rephrase so we have a
20 clear question here, does ASTM recognize a
21 distinction between standards and
22 intellectual property other than standards in
23 terms of its copyrightability when created by
24 someone who is acting in the course of their
25 employment by the U.S. government?

Page 113

1 MR. FEE: Objection. Vague.
2 Compound. Calls for a legal
3 conclusion. Instruct you not to
4 disclose communications with counsel
5 regarding the subject. If you have
6 other information you can share, go
7 ahead.
8 THE WITNESS: I don't know.
9 BY MR. BECKER:
10 Q. Who would know?
11 MR. FEE: Calls for speculation.
12 Objection.
13 THE WITNESS: Potentially our
14 general counsel.
15 BY MR. BECKER:
16 Q. Did you discuss this issue in
17 preparation for your deposition today?
18 A. No.
19 Q. Did you inquire about the
20 copyrightability of material created by
21 employees of the federal government in the
22 course of their employment with the federal
23 government in preparation for your deposition
24 today?
25 MR. FEE: Hold on one second.

Page 114

1 You can answer it yes or no.
2 THE WITNESS: I don't think we
3 did. Not that I -- I can't recall
4 that we talked about that
5 specifically.
6 BY MR. BECKER:
7 Q. The next clause of the
8 Intellectual Property Policy states, When
9 ASTM contracts, subsidizes, or agrees with
10 writers, authors, editors, or others to
11 prepare or otherwise help create ASTM
12 Intellectual Property other than technical
13 papers as given in 1a above, a "Work For
14 Hire" Agreement must be signed in which
15 copyright is acknowledged to reside in ASTM
16 or will be assigned to ASTM [as read].
17 MR. FEE: You skipped the word
18 "International" there twice, for the
19 record.
20 MR. BECKER: Excuse me.
21 BY MR. BECKER:
22 Q. You're right, I'm looking at
23 the earlier version of the Intellectual
24 Property Policy, it appears that
25 international has been inserted into the more

Page 115

1 recent version, so let me read that again.
2 Section VI B1b states, "When
3 ASTM International contracts, subsidizes, or
4 agrees with writers, authors, editors, or
5 others to prepare or otherwise help create
6 ASTM IP other than technical papers as given
7 in 1a above, a 'Work for Hire' Agreement must
8 be signed in which copyright is acknowledged
9 to reside in ASTM International or will be
10 assigned to ASTM International."
11 Have you ever seen one of these
12 "Work for Hire" Agreements that's referenced
13 in this clause?
14 A. Not that I can recall.
15 Q. Do you know of any situations
16 in which a "Work for Hire" Agreement as
17 described in clause VI B1b has been executed?
18 A. I don't know of any specific
19 ones that have been executed.
20 Q. Did you discuss the existence
21 of any "Work for Hire" Agreements in
22 preparation for your deposition today?
23 A. No.
24 Q. Do you know of any "Work for
25 Hire" Agreements that have been executed with

Page 116

1 respect to any ASTM standards?
2 A. No.
3 Q. Have any "Work for Hire"
4 Agreements been executed with respect to any
5 ASTM standards?
6 A. I'm not aware of any, but there
7 could have been.
8 Q. Who would know?
9 MR. FEE: Objection. Calls for
10 speculation.
11 THE WITNESS: Whoever the vice
12 president of technical committee
13 operations has been for, you know,
14 however long you want to go back.
15 BY MR. BECKER:
16 Q. I'm sorry, so that would be --
17 you're saying that the previous vice
18 president of technical committee operations
19 prior to yourself would know, might know if
20 there had been any "Work for Hire" Agreements
21 executed in relation to ASTM standards?
22 MR. FEE: Objection. Calls for
23 speculation.
24 THE WITNESS: They might. And
25 our general counsel might know as

Page 117

1 well.
2 BY MR. BECKER:
3 Q. How long have you been the vice
4 president of technical committee operations?
5 A. Six months.
6 Q. Who was the vice president of
7 technical committee operations prior to you?
8 A. Kathie Morgan.
9 Q. How long was she the VP of
10 technical committee operations at ASTM?
11 MR. FEE: Objection. Calls for
12 speculation. Lack of foundation.
13 THE WITNESS: Roughly seven
14 years, eight years.
15 BY MR. BECKER:
16 Q. And who was the vice president
17 of technical committee operations prior to
18 Kathie Morgan?
19 A. Ken Pearson.
20 Q. How long was he the vice
21 president of technical committee operations?
22 A. Probably 25 years. 20 to 25
23 years.
24 Q. Do you know who the vice
25 president of technical committee operations

Page 118

1 was before Ken Pearson?
2 A. I think it was Jim Thomas.
3 Q. Do you know how long Jim Thomas
4 was the vice president of technical committee
5 operations?
6 A. No.
7 Q. When you spoke with Kathie
8 Morgan in preparation for your deposition
9 today, did you discuss "Work for Hire"
10 Agreements with her?
11 A. No.
12 Q. You stated earlier that you're
13 not certain if an Intellectual Property
14 Policy existed prior to April 28, 1999. Is
15 that correct?
16 MR. FEE: Objection.
17 Mischaracterizes his testimony.
18 THE WITNESS: You're saying that
19 I wasn't sure --
20 BY MR. BECKER:
21 Q. Yes.
22 A. -- whether there was?
23 Q. Yes.
24 A. Yeah. I thought I recalled
25 that there was.

Page 119

1 Q. Do you know who would know if
2 an Intellectual Property Policy existed prior
3 to April 28, 1999?
4 A. Yeah, I would like to go back,
5 if I could, to a previous answer that I
6 provided.
7 Q. Please do.
8 A. With respect to my meeting with
9 Jim Thomas, Jim Thomas also had discussion
10 during that meeting relative to his belief
11 that there was an Intellectual Property
12 Policy prior to 1999.
13 Q. And did Jim Thomas state what
14 his basis was for thinking that there was an
15 Intellectual Property Policy prior to 1999?
16 MR. FEE: Objection.
17 THE WITNESS: I believe he was
18 just saying he remembered one, he
19 recalled that there was one.
20 BY MR. BECKER:
21 Q. Did you do anything to try to
22 get a copy of any Intellectual Property
23 Policy that may have existed prior to 1999?
24 A. No.
25 Q. Is there anyone other than Jim

Page 120

1 Thomas who would know whether an Intellectual
2 Property Policy existed prior to 1999?
3 A. I don't think so.
4 MR. BECKER: Counsel, given
5 Topic Number 2 in the Notice of
6 Deposition, we need somebody who is
7 able to say definitively whether an
8 Intellectual Property Policy existed
9 prior to 1999.
10 MR. FEE: Do you have any other
11 questions for him or are you done?
12 MR. BECKER: No, we're
13 continuing.
14 MR. FEE: Okay. Go ahead.
15 - - -
16 (Exhibit 1290, Exhibit A from
17 Complaint, was marked for
18 identification.)
19 - - -
20 BY MR. BECKER:
21 Q. I'm handing you what's been
22 marked as Exhibit 1290. This is Exhibit A
23 from the Complaint filed by plaintiffs. Do
24 you recognize this document?
25 A. I don't think I looked at this

Page 121

1 document.
 2 Q. Well, this is the listing of
 3 standards that ASTM is asserting are
 4 infringed by Public.Resource.Org.
 5 - - -
 6 (Exhibit 1291, Certificates of
 7 Copyright Registration, Bates
 8 ASTM000001 - ASTM000168, was marked
 9 for identification.)
 10 - - -
 11 BY MR. BECKER:
 12 Q. I'm handing you what has been
 13 marked as Exhibit 1291. These are the
 14 documents produced as Bates number ASTM000001
 15 to ASTM000168. Do you recognize this
 16 document?
 17 MR. FEE: Objection.
 18 Mischaracterizes what has been marked
 19 as 1291 as one document.
 20 THE WITNESS: I think I saw an
 21 example of one yesterday.
 22 BY MR. BECKER:
 23 Q. What is Exhibit 1291?
 24 MR. FEE: Objection. Lack of
 25 foundation.

Page 122

1 THE WITNESS: They look like
 2 they're examples of Certificates of
 3 Copyright Registration.
 4 BY MR. BECKER:
 5 Q. I will represent to you that
 6 Exhibit 1291 is all of the Certificates of
 7 Copyright Registration that ASTM has produced
 8 to Public.Resource in this action.
 9 You said you saw an example of
 10 one of these Certificates of Copyright
 11 Registration yesterday?
 12 A. Yes.
 13 Q. Was that in preparation for
 14 your deposition?
 15 A. Yes.
 16 Q. And in what context did you see
 17 an example of the Certificate of Copyright
 18 Registration?
 19 MR. FEE: Objection. Vague.
 20 THE WITNESS: I'm not sure what
 21 you mean by "context."
 22 BY MR. BECKER:
 23 Q. Were you shown an example of
 24 the Certificate of Copyright Registration by
 25 anybody?

Page 123

1 A. It was just in the materials
 2 along with other Bates numbered documents.
 3 Q. Do you recall which Certificate
 4 of Copyright Registration you viewed
 5 yesterday?
 6 A. No.
 7 Q. Was it only one Certificate of
 8 Copyright Registration that you looked at?
 9 A. I believe so.
 10 Q. Did you have any discussions
 11 with anyone in preparation for your
 12 deposition today concerning Certificates of
 13 Copyright Registration by ASTM?
 14 MR. FEE: You can answer it yes
 15 or no.
 16 THE WITNESS: Yes.
 17 BY MR. BECKER:
 18 Q. And who did you have these
 19 discussions with?
 20 A. I had a discussion with Kathe
 21 Hooper.
 22 Q. Anybody else?
 23 A. Other than the legal team, I
 24 don't think so.
 25 Q. I don't believe that Kathe

Page 124

1 Hooper was one of the people that you listed
 2 as an individual that you spoke with in
 3 preparation for your deposition?
 4 A. Yeah, we -- I didn't -- we did
 5 not have a special meeting with her.
 6 Q. What did you discuss when you
 7 spoke with Kathe Hooper in preparation for
 8 your deposition today?
 9 A. We discussed why, when this
 10 form was filled out, why we had checked off
 11 the box yes to question 2a about "Was this
 12 contribution to the work a work made for
 13 hire."
 14 Q. And why is that, that box 2a
 15 was checked off on the copyright
 16 registrations?
 17 A. She said that the copyright
 18 office had told her to fill out the form that
 19 way.
 20 Q. Did she say why the copyright
 21 office told her to fill out the form that
 22 way?
 23 A. I don't believe so.
 24 Q. Was she the one who prepared
 25 the copyright registrations?

Page 125

1 A. I think she started back in
2 1984, I think she may have said.
3 Q. Do you know who was filling out
4 ASTM Certificate of Copyright Registration
5 forms prior to Kathe Hooper?
6 A. A name was mentioned yesterday,
7 but I don't recall the name.
8 Q. Was that individual Robert L.
9 Meltzer?
10 A. I recognize that name, but I
11 don't know if Robert Meltzer was the one that
12 was filling out this form.
13 Q. Do you know who Robert Meltzer
14 is?
15 A. He was a former vice president
16 of publications.
17 Q. Did Kathe Hooper say what
18 communications with the copyright office led
19 to her decision to check box 2a of the
20 copyright registrations?
21 A. What led her to fill out this
22 form that way?
23 Q. Did she say what communications
24 she had with the copyright office that led
25 her to fill out the forms to check box 2a?

Page 126

1 A. She had said that her
2 predecessor had a conversation with the
3 copyright office, and they had informed her
4 that it should be filled out that way.
5 Q. Do you know if Kathe Hooper had
6 any interactions with the copyright office in
7 which the copyright office told her to fill
8 out the registrations by checking box 2a?
9 A. I don't believe she did.
10 Q. What is Kathe Hooper's role at
11 ASTM?
12 A. She assists the vice president
13 of publications.
14 Q. How long has Kathe Hooper held
15 that role for at ASTM?
16 A. I can't say for certain, but I
17 think she said yesterday, since about 1984
18 she was in that role.
19 Q. And currently the vice
20 president of publications is John Pace.
21 Correct?
22 A. Correct.
23 Q. Do you know how long John Pace
24 has held that role for?
25 A. It's been about 11 years.

Page 127

1 Q. Do you know what had been the
2 discussion with the copyright office by Kathe
3 Hooper's predecessor concerning checking box
4 2a?
5 A. Do I know?
6 MR. FEE: Objection.
7 BY MR. BECKER:
8 Q. Yeah.
9 MR. FEE: Vague.
10 THE WITNESS: I only know what
11 Kathe Hooper told me.
12 BY MR. BECKER:
13 Q. And what precisely did Kathe
14 Hooper tell you about that?
15 MR. FEE: Objection. Asked and
16 answered.
17 THE WITNESS: That the copyright
18 office had informed Kathe Hooper's
19 predecessor to check box yes to the
20 answer -- to the question on 2a.
21 BY MR. BECKER:
22 Q. Did Kathe Hooper tell you any
23 information about what her predecessor had
24 said to the copyright office that led to the
25 copyright office telling her to check box 2a?

Page 128

1 A. No. My understanding is it was
2 just a question on how to fill out the form.
3 Q. Did ASTM ever have a lawyer
4 review the applications for copyright
5 registration?
6 A. I don't know.
7 Q. Do you have any knowledge about
8 what information the copyright office had
9 obtained from ASTM when it said to check box
10 2a?
11 A. No.
12 Q. If ASTM had provided different
13 facts concerning the material that was being
14 copyrighted, that might call for a different
15 answer to whether box 2a should be checked on
16 the copyright registration form. Correct?
17 MR. FEE: Objection. Calls for
18 speculation. Calls for a legal
19 conclusion. Calls for expert
20 testimony. You can answer if you
21 know.
22 THE WITNESS: I don't know.
23 BY MR. BECKER:
24 Q. Why is ASTM listed as the
25 author under section 2a?

Page 129

1 A. I think the copyright office
2 told us to fill out the form in that manner.
3 Q. Did Kathe Hooper tell you that
4 the copyright office said to fill out the
5 copyright registration form by putting
6 American Society for Testing and Materials
7 under name of author, section 2a?
8 A. Yes.
9 Q. Did Kathe Hooper tell you
10 anything else about listing ASTM under the
11 name of author field in section 2a?
12 A. No.
13 Q. Are there any documents that
14 reflect ASTM's communication with the
15 copyright office concerning how to fill out
16 section 2a of the forms for copyright
17 registration?
18 MR. FEE: Objection. Calls for
19 speculation. This is beyond the
20 scope. You can answer.
21 THE WITNESS: Not that I'm aware
22 of.
23 BY MR. BECKER:
24 Q. Are there any letters that
25 reflect ASTM's communication with the

Page 130

1 copyright office concerning how to fill out
2 section 2a of the forms for copyright
3 registration?
4 MR. FEE: Objection. Same
5 objections as before, plus you just
6 answered that question. You can
7 answer it again.
8 THE WITNESS: Not that I'm aware
9 of.
10 BY MR. BECKER:
11 Q. Are there any internal memos
12 that reflect ASTM's communication with the
13 copyright office concerning how to fill out
14 section 2a of the forms for copyright
15 registration?
16 MR. FEE: Objection. Calls for
17 speculation. It's beyond the scope of
18 his designation. You can answer if
19 you know.
20 THE WITNESS: Not that I'm aware
21 of.
22 BY MR. BECKER:
23 Q. Who would know whether any
24 documents exist that reflect ASTM's
25 communications with the copyright office

Page 131

1 concerning how to fill out section 2a of the
2 forms for copyright registration?
3 MR. FEE: Objection. Calls for
4 speculation. Beyond the scope of his
5 designation. You can answer.
6 THE WITNESS: I don't know.
7 Maybe the people that worked in our
8 publications department at the time
9 that that question was -- at the time
10 that the copyright office had informed
11 us.
12 BY MR. BECKER:
13 Q. Do you know who was the
14 president of publications as of the time that
15 ASTM communicated with the copyright office
16 regarding how to fill out section 2a of the
17 copyright registration forms?
18 A. I believe it was Bob Meltzer,
19 Robert Meltzer.
20 Q. Do you know if Robert Meltzer
21 is still alive?
22 A. I don't know for sure.
23 MR. FEE: Matt, is now a good
24 time to take a break?
25 MR. BECKER: We can in just a

Page 132

1 moment.
2 BY MR. BECKER:
3 Q. Please turn to page ASTM000107
4 of Exhibit 1291. I will represent to you
5 that this is the earliest copyright
6 registration that ASTM has provided to
7 Public.Resource in this action. Under
8 section 2-1, in the section that says, "NAME
9 OF AUTHOR," do you see that it lists
10 "American Society for Testing and Materials,"
11 and then says, "Was this author's
12 contribution to the work a 'work made for
13 hire,'" and then checks the box yes?
14 A. Yes.
15 Q. And then on the next page, do
16 you see that under the "CERTIFICATION" near
17 the bottom of the page, it lists "Robert L.
18 Meltzer," and then has his -- what appears to
19 be his signature --
20 A. Yes.
21 Q. -- with a date of January 31,
22 1980?
23 A. Yes.
24 Q. Is it your belief that as of at
25 least January 31, 1980, Kathe Hooper's

Page 133

1 predecessor had had a conversation with the
2 copyright office in which they instructed her
3 to check the box saying that the -- scratch
4 that.
5 Is it your understanding that
6 as of at least January 31, 1980, someone at
7 ASTM had had a conversation with someone from
8 the copyright office in which that person
9 from ASTM was instructed to check the box
10 saying that the work was a "work made for
11 hire," and listing the name "American Society
12 for Testing and Materials" under the "NAME OF
13 AUTHOR" field?
14 MR. FEE: Objection to form.
15 THE WITNESS: I'm not sure I
16 understand the question. If you could
17 rephrase it, I'm a little lost.
18 BY MR. BECKER:
19 Q. Sure. Is it your -- after
20 looking at this document, page ASTM000107 to
21 108, is it your understanding that as of at
22 least January 31, 1980, someone at ASTM had a
23 conversation with someone from the copyright
24 office in which that person from ASTM was
25 instructed to check the box saying that the

Page 134

1 work was a "work made for hire," and listing
2 the names "American Society for Testing and
3 Materials" under the "NAME OF AUTHOR" field?
4 MR. FEE: Objection. Form. Go
5 ahead.
6 THE WITNESS: Yeah, I believe
7 that's right, I just don't know
8 when that con -- I don't know when
9 that conversation exactly was made.
10 BY MR. BECKER:
11 Q. But you believe it was as of at
12 least January 31, 1980?
13 A. I don't know. It could have
14 been before that. I really don't know.
15 MR. BECKER: All right. We can
16 go off the record.
17 VIDEOGRAPHER: The time is now
18 3:08. We're going off the video
19 record.
20 - - -
21 (A recess was taken.)
22 - - -
23 VIDEOGRAPHER: The time is now
24 3:20. We're back on the video record.
25 BY MR. BECKER:

Page 135

1 Q. Mr. Smith, do you know which
2 standards at issue in this litigation each
3 copyright registration that ASTM has provided
4 corresponds to?
5 A. I'm not sure I get the
6 question.
7 Q. If you look at, we were just
8 discussing ASTM000107 in Exhibit 1291, that's
9 a standard, the title of the work is "1980
10 ANNUAL BOOK OF ASTM STANDARDS, Part
11 1:Steel-Piping, Tubing, Fittings." Is that
12 correct?
13 A. Correct.
14 Q. Do you know how many standards
15 are in the 1980 Annual Book of ASTM
16 Standards, Part 1:Steel-Piping, Tubing,
17 Fittings?
18 A. No.
19 MR. FEE: Objection. Beyond the
20 scope of his designation.
21 THE WITNESS: No, I don't.
22 MR. BECKER: I would disagree, I
23 don't think this is beyond the scope
24 of his designation. This has to do
25 with the -- with copyright ownership

Page 136

1 and the chain of title. This is --
2 MR. FEE: You just asked him how
3 many chapters essentially there were
4 in a book.
5 MR. BECKER: Well, that's one of
6 the questions I have, is related to
7 this particular registration. It's a
8 registration for a work.
9 MR. FEE: We disagree for the
10 record.
11 BY MR. BECKER:
12 Q. Are there multiple standards
13 listed in the 1980 Annual Book of ASTM
14 Standards, Part 1:Steel-Piping, Tubing,
15 Fittings?
16 MR. FEE: Same objection.
17 THE WITNESS: Yes.
18 BY MR. BECKER:
19 Q. How do you know that?
20 A. Because it's our volume of
21 standards and volumes contain more than one
22 standard.
23 Q. Is there a way to confirm --
24 excuse me, scratch that.
25 Do you know how to determine

Page 137

1 how many standards are in the 1980 Annual
2 Book of ASTM Standards, Part 1:Steel-Piping,
3 Tubing, Fittings?
4 MR. FEE: Same objection.
5 THE WITNESS: I don't know if
6 there would be a way to find that out
7 today.
8 BY MR. BECKER:
9 Q. Why not?
10 MR. FEE: Same objection.
11 Beyond the scope.
12 THE WITNESS: I just don't know
13 if we still have that information from
14 35 years ago.
15 BY MR. BECKER:
16 Q. How would you go about trying
17 to determine how many standards were in the
18 1980 Annual Book of ASTM Standards, Part
19 1:Steel-Piping, Tubing, Fittings?
20 MR. FEE: Same objection.
21 THE WITNESS: I would probably
22 ask our publications department if we
23 had any record of the index for that
24 book. And if we did, you can count
25 them.

Page 138

1 BY MR. BECKER:
2 Q. Would you be able to determine
3 this from anything else other than the book
4 itself or an index for that book?
5 MR. FEE: Same objection.
6 THE WITNESS: I don't know.
7 BY MR. BECKER:
8 Q. Does ASTM keep complete copies
9 of every book it has published?
10 MR. FEE: Same objection.
11 THE WITNESS: I don't know. I
12 don't think so.
13 BY MR. BECKER:
14 Q. Who would know?
15 MR. FEE: Objection. Calls for
16 speculation. Beyond the scope.
17 THE WITNESS: Maybe folks from
18 our publications department.
19 BY MR. BECKER:
20 Q. Would Kathe Hooper know?
21 MR. FEE: Objection. Calls for
22 speculation. Beyond the scope.
23 THE WITNESS: She might.
24 BY MR. BECKER:
25 Q. Would John Pace know?

Page 139

1 MR. FEE: Same objections.
2 THE WITNESS: He might.
3 BY MR. BECKER:
4 Q. Who else is in the publications
5 department other than Kathe Hooper and John
6 Pace?
7 MR. FEE: Objection. Beyond the
8 scope of his designation.
9 BY MR. BECKER:
10 Q. Let me rephrase. Who else
11 other than --
12 A. 50-some people. I don't know.
13 Q. Let me rephrase. Other than
14 John Pace and Kathe Hooper, who else might
15 know whether the -- whether copies of all of
16 ASTM's publications are kept?
17 A. I don't know.
18 MR. FEE: Objection. Beyond the
19 scope of his designation.
20 THE WITNESS: I don't know.
21 MR. FEE: Calls for speculation.
22 BY MR. BECKER:
23 Q. If you look at Exhibit 1290 and
24 compare it with -- compare the second page of
25 1290 with ASTM0000107, the copyright

Page 140

1 registration page that we've been discussing,
2 you will see that in the middle of the page,
3 page 2 of Exhibit 1290 it lists ASTM A370 as
4 a designation, the edition 1997e2, "Standard
5 Methods and Definition for Mechanical Testing
6 of Steel Products" with a registration
7 certificate number TX 434-207. Do you see
8 that?
9 A. Yes.
10 Q. Do you see that the
11 registration number TX 434-207 corresponds
12 with the registration number in the top
13 right-hand corner of the page ASTM000107 from
14 Exhibit 1291?
15 A. Yes.
16 Q. Do you know how ASTM
17 confirmed -- do you know if ASTM confirmed
18 that ASTM standard A370 1997e2 was in the
19 1980 Annual Book of ASTM Standards, Part
20 1:Steel-Piping, Tubing, Fittings?
21 MR. FEE: Objection. Beyond the
22 scope of his designation.
23 THE WITNESS: I don't know if
24 you're suggesting that because the
25 registration certificate numbers in

Page 141

<p>1 Exhibit 1291 and A370 in Exhibit 1292, 2 if you are suggesting because they are 3 the same certificate numbers, that 4 that confirms that this standard is in 5 this volume? Is that what you're 6 asking me? 7 BY MR. BECKER: 8 Q. Well, I'm wondering if that 9 does confirm that. 10 A. I don't know because I'm not 11 sure how the registration number process 12 really works. I don't know for sure. 13 Q. So do you have any way of 14 telling us which standard that is at issue in 15 this litigation corresponds to which of the 16 copyright registrations that ASTM has 17 provided to Public.Resource? 18 MR. FEE: Objection. Beyond the 19 scope of his designation. You can 20 answer. 21 THE WITNESS: I don't know. I 22 don't know. 23 MR. BECKER: I just want to 24 state for the record I strongly 25 disagree that this is beyond the scope</p> <p style="text-align: right;">Page 142</p>	<p>1 is suing Public.Resource over in this 2 litigation? 3 MR. FEE: Objection. Beyond the 4 scope of his designation. You can 5 answer. 6 THE WITNESS: No. 7 BY MR. BECKER: 8 Q. Do you know if the 1980 Annual 9 Book of ASTM Standards, Part 1:Steel-Piping, 10 Tubing, and Fittings is available in ASTM's 11 digital library? 12 MR. FEE: Objection. Beyond the 13 scope of his designation. 14 THE WITNESS: I don't know. 15 BY MR. BECKER: 16 Q. Do you know how to determine 17 what works are available in ASTM's digital 18 library? 19 MR. FEE: Objection. Beyond the 20 scope of his designation. 21 THE WITNESS: I think it's 22 searchable. 23 BY MR. BECKER: 24 Q. Searchable by whom? 25 MR. FEE: Same objection.</p> <p style="text-align: right;">Page 144</p>
<p>1 of his designation. Topic 2 says, 2 "All elements of the Chain of Title of 3 copyright ownership, including 4 copyright authorship and ownership of 5 component parts of the Works-At-Issue 6 in this case." The issue of what 7 standards are covered by which 8 registrations seems very relevant to 9 the question of copyright ownership, 10 at least to the extent that ASTM is 11 claiming copyright ownership. 12 Are you still objecting that 13 this is beyond the scope of his 14 designation? 15 MR. FEE: Yes. Just like every 16 other deposition objection, they're 17 not going to get resolved here, they 18 get resolved, if necessary, at a later 19 date. 20 BY MR. BECKER: 21 Q. In preparation for your 22 deposition today, did you speak to anybody 23 about how to correlate the copyright 24 registrations that ASTM has provided to 25 Public.Resource with the standards that ASTM</p> <p style="text-align: right;">Page 143</p>	<p>1 THE WITNESS: By standard. 2 BY MR. BECKER: 3 Q. Can members of the public 4 search ASTM's digital library? 5 MR. FEE: Same objection. 6 Objection. Vague also. 7 THE WITNESS: If you pay for it 8 in a subscription. 9 BY MR. BECKER: 10 Q. So members of the public cannot 11 search ASTM's digital library unless they pay 12 for a subscription? 13 MR. FEE: Objection. Vague. 14 Beyond the scope of his designation. 15 THE WITNESS: Correct. 16 BY MR. BECKER: 17 Q. Returning to Exhibit 1291 and 18 turning to the next page, ASTM 00108, it's 19 the back of this same copyright registration 20 form that we've been discussing. The section 21 near the top that says, "PREVIOUS 22 REGISTRATION," and it says that -- checks yes 23 for the box that says, "Has registration for 24 this work or for an earlier version of this 25 work, already been made in the Copyright</p> <p style="text-align: right;">Page 145</p>

1 Office?" And then it says, "give: Previous
2 Registration Number," and the registration
3 number "TX 226-040 Year of Registration 1979"
4 is provided. Is that correct?
5 MR. FEE: Objection.
6 Mischaracterizes, eliminates portions
7 of that section.
8 THE WITNESS: That reads as you
9 said.
10 BY MR. BECKER:
11 Q. Do you know if the standard
12 ASTM A370 1997e2 was featured in this other
13 work that's registered as TX 226-040 with the
14 year of registration 1979?
15 MR. FEE: Objection. Beyond the
16 scope of his designation.
17 THE WITNESS: I don't know for
18 sure. I don't know.
19 BY MR. BECKER:
20 Q. Do you know how somebody would
21 determine what work is referenced by this
22 registration number that's provided?
23 MR. FEE: Objection. Vague.
24 Calls for speculation. Beyond the
25 scope of his designation.

Page 146

1 THE WITNESS: I think it's this,
2 the 1980 Annual Book of ASTM Standards
3 or the 1979 book correlates with this
4 registration.
5 BY MR. BECKER:
6 Q. For ASTM A370 1997e2, what does
7 the 19 -- excuse me, did I say -- let me
8 rephrase that.
9 For ASTM A370 1977e2, what does
10 1977 designate?
11 A. It means that's the year that
12 that version was approved. So A370 may have
13 been a new standard that was first approved
14 in 1977, or it could have been revised and
15 that version was approved in 1977.
16 Q. So 1977 is the year of most
17 recent either approval or revision?
18 MR. FEE: Objection. Compound.
19 Vague. Mischaracterizes his testimony.
20 THE WITNESS: Not necessarily.
21 There could be -- there could be more
22 recent versions.
23 BY MR. BECKER:
24 Q. For ASTM A370 1977e2, could
25 there have been more recent versions of it

Page 147

1 than 1977?
2 A. Yes.
3 Q. And in what case would there be
4 more recent versions?
5 A. If the committee successfully
6 balloted a revision to the standard.
7 Q. In what circumstances would a
8 revision result in a change of the year
9 that's listed from 1977 to a different year?
10 A. If it was approved, if a
11 revision was approved in a different year, it
12 would be provided that year date.
13 Q. But for the version that is
14 marked as 1977e2, was that version first
15 released in 1977?
16 A. It depends when it was -- it
17 depends. If it was approved at the end of
18 1977, it could have been published in 1978.
19 Q. Would it have been published
20 any later than 1978? Excuse me, would it
21 have been first published any later than
22 1978?
23 A. This particular 1977 version, I
24 wouldn't have --
25 Q. Yes.

Page 148

1 A. I wouldn't have thought that it
2 would be published any later than 1978.
3 Q. Does ASTM release a new version
4 of the Annual Book of ASTM Standards every
5 year?
6 A. Yes.
7 Q. What is contained in the Annual
8 Book of ASTM Standards? Is that every
9 standard that ASTM -- excuse me. Is that
10 every ASTM standard that is current as of
11 that year?
12 MR. FEE: Objection. Compound.
13 THE WITNESS: The Annual Book of
14 ASTM Standards comprises a collection
15 of volumes, so there are specific
16 volumes of ASTM standards. This Part
17 1:Steel-Piping, Tubing, Fittings is a
18 volume.
19 BY MR. BECKER:
20 Q. Would volume have been -- would
21 there have been a 1979 Annual Book of ASTM
22 Standards, Part 1:Steel-Piping, Tubing,
23 Fittings?
24 A. Yes.
25 Q. Would there have been a 1978

Page 149

1 Annual Book of ASTM Standards, Part
2 1:Steel-Piping, Tubing, Fittings?
3 A. I don't know specifically if
4 there would be -- you know, if it was called
5 the same thing, a Part 1 or -- because
6 sometimes we have to reshuffle our volumes
7 depending -- as they get bigger, we have to
8 manage the size of each volume. So I don't
9 know if it was -- would have been called Part
10 1 or something else, but I also don't know if
11 the same exact standards that were in there
12 in 1979 are not necessarily in there in 1980.
13 Q. Would ASTM A370 1977e2 have
14 been published in an Annual Book of ASTM
15 Standards prior to 1980?
16 A. Most -- yeah, most likely, yep.
17 Q. Do you know why ASTM has not
18 provided Public.Resource with the copyright
19 registrations for any such volumes prior to
20 1980?
21 MR. FEE: Objection. Calls for
22 speculation. Beyond the scope of his
23 designation.
24 THE WITNESS: I don't know.
25 BY MR. BECKER:

Page 150

1 Q. Why are some standards
2 re-approved?
3 MR. FEE: Objection. Beyond the
4 scope of his designations.
5 THE WITNESS: The technical
6 committees make the decision as to
7 whether or not they want to re-approve
8 the standard through the consensus
9 process.
10 BY MR. BECKER:
11 Q. And in what situations are
12 standards re-approved?
13 MR. FEE: Same objection.
14 THE WITNESS: If the committees
15 want -- it's up to the committees. So
16 if there's -- if the committees are
17 happy with the current state of the
18 standard and they don't feel like
19 there's any revisions that are
20 necessary, then they can initiate a
21 ballot for a re-approval.
22 BY MR. BECKER:
23 Q. And does that re-approval mean
24 there are no changes from the previous
25 version?

Page 151

1 A. Yes. Nothing is technically
2 significant.
3 Q. Returning to ASTM000108, just
4 below where it lists the information under
5 "PREVIOUS REGISTRATION," it has a section
6 that says, "COMPILATION OR DERIVATIVE WORK"
7 which says, "PREEXISTING MATERIAL." And then
8 below that it says, "1979 Annual Book of ASTM
9 Standards, Part 1." And then below that,
10 "MATERIAL ADDED TO THIS WORK," it says,
11 "Compilation of previously published text
12 plus additional text."
13 Do you know what that
14 additional text is that was added to the 1979
15 Annual Book of ASTM Standards, Part 1 to
16 create the 1980 Annual Book of ASTM
17 Standards, Part 1?
18 A. I don't know exactly what that
19 text was, but it's -- my guess is that it
20 means revisions to the standards that were
21 included in the 1979 book that are also
22 included in the 1980 book, but there are also
23 revisions, and any new standards that were
24 approved that were not in the 1979 book but
25 made it to the 1980 book.

Page 152

1 Q. Is the basis of your previous
2 statement that typically the next years'
3 Annual Book of Standards includes standards
4 that had been recently approved or changed in
5 that past year?
6 MR. FEE: Objection.
7 Mischaracterizes his testimony. Vague
8 and confusing.
9 THE WITNESS: Can you restate
10 that?
11 BY MR. BECKER:
12 Q. Yeah. Maybe I'll just ask you,
13 what's the basis for your guess that the
14 revisions to the standards that were included
15 in the 1979 book are -- excuse me.
16 What is the basis for your
17 statement that your guess is that any
18 revisions to the 1979 book of standards that
19 resulted in the 1980 book of standards is
20 attributable to new standards or revised
21 standards within that past year?
22 MR. FEE: Objection. Vague.
23 Confusing.
24 THE WITNESS: I'm not sure I
25 completely understand what your

Page 153

1 question means, but I'll just explain
2 it that if there -- let's just say,
3 for example, that there's a standard
4 that is in the 1979 book. If that
5 standard is revised, then the revision
6 is included in the 1980 book. Does
7 that kind of answer your question?
8 MR. BECKER: Yes.
9 BY MR. BECKER:
10 Q. And generally that's the case
11 for any successive Annual Book of Standards.
12 Is that correct?
13 MR. FEE: Objection. Vague.
14 Compound.
15 THE WITNESS: Yeah, that's the
16 way it works.
17 BY MR. BECKER:
18 Q. Is there a log of every
19 revision over time to any particular standard
20 from its first creation?
21 MR. FEE: Objection. Vague.
22 THE WITNESS: ASTM is 115 years
23 old, so I don't think there is a log
24 that exists for standards that were
25 approved in our early stages.

Page 154

1 BY MR. BECKER:
2 Q. Does ASTM keep a log of every
3 revision over time to any particular standard
4 from its first creation for those standards
5 that have been created in the past ten years?
6 MR. FEE: Objection. Vague.
7 THE WITNESS: We might. It's
8 possible.
9 BY MR. BECKER:
10 Q. Do you know who would know
11 whether this is the case or not?
12 A. I just don't know the
13 particular time frame. You say ten years, I
14 don't know if it's ten years or what the time
15 frame is that we have it in our system.
16 Q. So are you saying that a log
17 exists but you're not certain how far back it
18 goes?
19 A. Correct.
20 MR. FEE: Objection. Vague.
21 THE WITNESS: Correct.
22 BY MR. BECKER:
23 Q. And is that log publicly
24 available or is that only internal to ASTM?
25 MR. FEE: Objection. Vague, and

Page 155

1 compound.
2 THE WITNESS: It's internal to
3 ASTM, but we do make historical
4 versions of standards available from
5 our Web site. I believe we started
6 that from 19 -- it might have been
7 like 2000.
8 BY MR. BECKER:
9 Q. And who maintains these logs?
10 MR. FEE: Objection. Vague.
11 THE WITNESS: It's part of our
12 automated system.
13 BY MR. BECKER:
14 Q. Who is in charge of that
15 automated system?
16 A. I guess the system itself, our
17 technology area.
18 Q. Would that be the VP of
19 technology who is in charge of that?
20 A. Uh-huh. Yes. I'm sorry.
21 Q. On Exhibit 1291, please turn to
22 ASTM000149. And when you have that open,
23 please also flip to ASTM000155. If you look
24 at ASTM000149 under the section 2-1, it says,
25 "AUTHOR OF (Briefly describe nature of this

Page 156

1 author's contribution)," and it says, "Entire
2 Text." In contrast, if you look at
3 ASTM000155 under section 2-1 "AUTHOR OF
4 (Briefly describe nature of this author's
5 contribution)," it says, "Collective Work."
6 Do you know why ASTM has said
7 that under one registration, that they are
8 the author of the entire text, but under a --
9 this other registration, ASTM000155, ASTM
10 says that it is a collective work?
11 A. I don't know why.
12 MR. FEE: Objection.
13 Mischaracterizes the document. Did
14 you answer? Sorry.
15 THE WITNESS: I'm sorry, too.
16 BY MR. BECKER:
17 Q. Who would know why there is
18 this difference between these two copyright
19 registrations?
20 MR. FEE: Objection. Calls for
21 speculation.
22 THE WITNESS: I don't know.
23 BY MR. BECKER:
24 Q. You don't know who would know
25 the answer to that question?

Page 157

1 MR. FEE: Objection. Asked and
2 answered.
3 THE WITNESS: I don't know. Bob
4 Meltzer maybe since it was from 1980.
5 BY MR. BECKER:
6 Q. Please turn to ASTM000167 of
7 Exhibit 1291. This is a copyright
8 registration for "F1193-06 Standard Practice
9 for Quality, Manufacture, and Construction of
10 Amusement Rides and Devices." Is this a
11 registration for a single standard by ASTM?
12 MR. FEE: Objection. Calls for
13 a legal conclusion.
14 THE WITNESS: It appears to be.
15 BY MR. BECKER:
16 Q. Is F1193-06 just one standard?
17 A. Yes.
18 Q. Why has ASTM here registered a
19 single standard whereas for the bulk of the
20 registrations that are provided by ASTM to
21 Public.Resource they have registered entire
22 volumes of standards?
23 MR. FEE: Objection. I think I
24 need to talk about a privilege issue
25 before he can respond to that

Page 158

1 question. Go outside for one second.
2 VIDEOGRAPHER: The time is now
3 3:56. We're going off the video
4 record. This concludes disc two.
5 - - -
6 (A recess was taken.)
7 - - -
8 VIDEOGRAPHER: The time is now
9 4:02. We're back on the video record.
10 This begins disc three.
11 MR. FEE: If you could just read
12 back the question so he can respond.
13 - - -
14 (The court reporter read the
15 pertinent part of the record.)
16 - - -
17 THE WITNESS: My understanding
18 was that back when we only published
19 books and we didn't make our standards
20 available as separates, we would
21 copyright, we would submit copyright
22 registrations for the entire volume.
23 As we began making standards available
24 as single standards available for
25 purchase, we began -- and those single

Page 159

1 copies were available prior to them
2 being available in the volume, we
3 began filing separate registrations.
4 BY MR. BECKER:
5 Q. At approximately what time did
6 ASTM begin filing for separate registrations?
7 MR. FEE: Objection. Vague.
8 THE WITNESS: I'm not exactly
9 sure.
10 BY MR. BECKER:
11 Q. Was it prior to 2013 when ASTM
12 first started filing for individual
13 registrations of individual standards?
14 A. Yes.
15 Q. The standard listed in
16 ASTM000167 that we're discussing says its
17 year of completion was 2006 and date of first
18 publication was March 3, 2006. But the
19 effective date of the registration as stated
20 in the top right-hand corner is April 10,
21 2013. Was this standard first registered in
22 2013?
23 MR. FEE: Objection. Calls for
24 speculation. Calls for a legal
25 conclusion. You can answer.

Page 160

1 THE WITNESS: Yeah. I really
2 don't know.
3 BY MR. BECKER:
4 Q. If you look in Exhibit 1291 at
5 the four registrations immediately preceding
6 this registration we're discussing as
7 ASTM 00167, so that's the pages ASTM 00159 to
8 166. These are all copyright registrations
9 from 2013 -- excuse me, March 5, 2013, but
10 they concern standards that were first
11 published many years prior to 2013. Is that
12 correct?
13 MR. FEE: Objection. Compound.
14 Calls for speculation.
15 THE WITNESS: I don't know for
16 sure.
17 BY MR. BECKER:
18 Q. Do you know if ASTM filed for
19 these registrations in preparation for
20 litigation with Public.Resource?
21 MR. FEE: Objection. I'm going
22 to instruct him not to answer that
23 question.
24 THE WITNESS: I won't answer
25 that question.

Page 161

1 MR. BECKER: Counsel, why is it
2 that you're instructing him not to
3 answer that question?
4 MR. FEE: If it's done in
5 anticipation of litigation, it's work
6 product. You're asking him for work
7 product.
8 MR. BECKER: Counsel, I'm not
9 certain if I agree with that. This is
10 a public filing.
11 MR. FEE: It doesn't matter if
12 you agree with it. I'm not -- you can
13 say whatever you want, but his
14 instruction is what it is, he's going
15 to follow it.
16 MR. BECKER: Counsel, I'll state
17 for the record that I believe that
18 this concerns a public filing and it's
19 not work product.
20 MR. FEE: The reason why
21 something was done is not contained in
22 these public filings. That's what
23 you're asking him. If you want to ask
24 him questions about what appears in
25 the case of public filings, feel free.

Page 162

1 MR. BECKER: Counsel, I'm not
2 interested in any attorney-client
3 communications here. I'm simply
4 asking about the reasons why ASTM took
5 a particular action here.
6 MR. FEE: I've instructed him
7 not to answer. He said he's not
8 answering the question.
9 BY MR. BECKER:
10 Q. Do you still refuse to answer
11 this question?
12 A. Yes.
13 Q. What was the business reason
14 for filing any of these five registrations
15 that I just discussed that were filed in
16 2013?
17 MR. FEE: Objection. Calls for
18 a legal -- strike that.
19 Objection. To the extent that
20 that requires you to disclose
21 attorney-client communications, I
22 would direct you not to do so. If you
23 are aware of business reasons
24 unrelated to attorney-client
25 communications, you can disclose

Page 163

1 those.
2 THE WITNESS: I'm not aware of
3 any other business reasons for why we
4 filed these as we would for any other
5 standard that we produced.
6 BY MR. BECKER:
7 Q. What are the business reasons
8 for filing for Certificates of Registration
9 for any of these standards under ASTM's name?
10 MR. FEE: Objection. To the
11 extent that requires you to disclose
12 attorney-client communications, you
13 shouldn't do so. If you're aware of
14 business reasons separate and apart
15 from legal communications, you can go
16 ahead and answer.
17 THE WITNESS: My understanding
18 is that we copyright these standards
19 so that we can sell them and support
20 the operations of the organization.
21 BY MR. BECKER:
22 Q. What are ASTM organizational
23 members?
24 A. Organizational members are
25 essentially members that wish to support ASTM

Page 164

1 through a larger membership fee of \$400.
2 Q. Is there any distinction other
3 than the payment of \$400 that separates
4 organizational members from individual
5 members?
6 MR. FEE: Objection. Vague.
7 Beyond the scope of his designation.
8 THE WITNESS: Organizational
9 members may get some other fringe
10 benefits that the individual members
11 don't receive.
12 BY MR. BECKER:
13 Q. Do organizational members
14 constitute organizations as apart from
15 individuals?
16 MR. FEE: Objection. Vague.
17 Beyond the scope of his designation.
18 THE WITNESS: Organizational
19 members get to designate a particular
20 individual on the committee. Others
21 that would join ASTM from that
22 organization would be considered
23 individual members.
24 BY MR. BECKER:
25 Q. Do individuals who are not part

Page 165

1 of any organizations typically sign up for
2 organizational memberships?
3 MR. FEE: Objection. Vague.
4 Beyond the scope of his designation.
5 THE WITNESS: I don't know.
6 BY MR. BECKER:
7 Q. Can organizational members be
8 members of technical committees?
9 A. Yes. As a matter --
10 MR. FEE: There's no question
11 pending.
12 BY MR. BECKER:
13 Q. I'm sorry, what were you about
14 to say?
15 A. I believe all organizational
16 members are members of technical committees
17 Q. Have any organizational members
18 executed copyright assignments for ASTM?
19 A. Not to my knowledge. I'm
20 sorry, can you repeat that question?
21 Q. Yes. Have any organizational
22 members executed copyright assignments for
23 ASTM?
24 A. Through the membership
25 applications that we talked about earlier,

Page 166

1 through the renewal applications that we
2 talked about earlier, if they're involved in
3 a collaboration area, they would make an
4 assignment, and if they registered a work
5 item, they would make an assignment.
6 Q. So those are the same -- the
7 same assignment language that would relate to
8 individual members you're saying would also
9 relate to organizational members when
10 organizational members sign up for
11 membership?
12 A. Correct.
13 Q. How do organizational members
14 participate in technical committees?
15 A. The same way as participating
16 members, individual members.
17 Q. Can you elaborate on that?
18 MR. FEE: Objection. Vague.
19 THE WITNESS: I don't think I
20 can. There's no difference.
21 BY MR. BECKER:
22 Q. Do organizational members
23 designate an individual to participate on
24 their behalf?
25 MR. FEE: Objection. Asked and

Page 167

1 answered.
2 THE WITNESS: No. Organizations
3 designate a member, an employee to
4 participate on technical committees.
5 BY MR. BECKER:
6 Q. What's the difference between
7 what you just said and an organizational
8 member designating an individual to
9 participate on technical committees on its
10 behalf?
11 MR. FEE: Objection.
12 Mischaracterizes his testimony to the
13 extent it purports to summarize it.
14 You can answer.
15 THE WITNESS: An organizational
16 member is an individual, it's not the
17 organization. So the organization
18 designates a member, an employee to be
19 a member to represent it on a
20 technical committee.
21 BY MR. BECKER:
22 Q. When you say the organization
23 designates an employee to be a member to be a
24 representative on a technical committee, when
25 you say representative, do you mean a

Page 168

1 representative of that organization?
2 A. Maybe.
3 Q. Does ASTM have any knowledge as
4 to whether organizational members, when they
5 designate an individual to participate in a
6 technical committee, whether those
7 organizations are designating that individual
8 on the organization's behalf?
9 MR. FEE: Objection. Vague.
10 May call for a legal conclusion.
11 THE WITNESS: I think it varies.
12 I think organizational -- again,
13 organizations that choose to support
14 ASTM through an organizational
15 membership designate an individual to
16 participate on a technical committee.
17 That individual may be contributing to
18 the content of ASTM standards as an
19 individual even as an organizational
20 member, not necessarily representing
21 the organization's -- the
22 organizational views.
23 BY MR. BECKER:
24 Q. For organizational memberships,
25 does the organization itself typically pay

Page 169

1 the \$400 fee?
2 MR. FEE: Objection. Calls for
3 speculation.
4 THE WITNESS: I don't know for
5 sure. Not necessarily. But probably
6 in most cases, probably.
7 BY MR. BECKER:
8 Q. Do you know of any instance
9 when a person indicated that he or she
10 disagreed with his or her organization's
11 position with respect to an action on a
12 technical committee?
13 A. No.
14 Q. Do you know of any instance
15 when an individual indicated that he or she
16 was specifically speaking on his or her own
17 behalf as apart from the organization that he
18 or she is part of?
19 A. No.
20 Q. Are any U.S. federal agencies
21 organizational members of ASTM?
22 A. I don't know.
23 Q. Who would know if any federal
24 agencies are organizational members of ASTM?
25 MR. FEE: Objection. Calls for
Page 170

1 speculation. Also beyond the scope of
2 his designation.
3 THE WITNESS: We have an
4 organizational member directory on the
5 Web site.
6 BY MR. BECKER:
7 Q. And where on the Web site is
8 that organizational member directory located?
9 A. I think it's on the membership
10 page.
11 - - -
12 (Exhibit 1292, Check, Bates
13 ASTM049368, was marked for
14 identification.)
15 - - -
16 BY MR. BECKER:
17 Q. I'm handing you what's been
18 marked as 1292. This is the document
19 produced by plaintiffs as Bates number
20 ASTM049368.
21 Do you recognize this document?
22 A. No.
23 Q. Do you have any reason to
24 believe that this document produced by ASTM
25 is not authentic?
Page 171

1 MR. FEE: Objection. This is
2 beyond the scope of his designation.
3 THE WITNESS: No.
4 MR. BECKER: For the record, I
5 don't believe that this is beyond his
6 designation as this concerns an
7 organizational membership renewal.
8 MR. FEE: I don't think he was
9 designated to authenticate checks from
10 2013, but we'll agree to disagree.
11 BY MR. BECKER:
12 Q. Does this document indicate to
13 you that the Department of Consumer Affairs
14 from the State of California had paid for an
15 organizational membership renewal with ASTM?
16 MR. FEE: Objection. Calls for
17 speculation. Beyond the scope of his
18 designation.
19 THE WITNESS: I guess you could
20 assume that. I don't know for sure.
21 BY MR. BECKER:
22 Q. Do you have any reason for
23 thinking this -- that's not what this
24 document shows?
25 MR. FEE: Same objections.
Page 172

1 THE WITNESS: No, no reason not
2 to believe.
3 - - -
4 (Exhibit 1293, 2011 Membership
5 renewal invoices, Bates ASTM086030 -
6 ASTM086031, was marked for
7 identification.)
8 - - -
9 BY MR. BECKER:
10 Q. I'm handing you what's been
11 marked as Exhibit 1293. This is the document
12 produced by plaintiffs as ASTM086030 to
13 086031. Can you tell me what this document
14 is?
15 A. It is a 2011 membership renewal
16 invoice.
17 Q. It is a different 2011
18 membership renewal invoice on each side.
19 Correct?
20 A. Yeah. For different persons,
21 yeah.
22 Q. And these persons are employees
23 of NIST. Is that correct?
24 MR. FEE: Objection. Calls for
25 speculation. Beyond the scope of his
Page 173

1 designation.
2 THE WITNESS: It says here
3 they're from NIST.
4 BY MR. BECKER:
5 Q. NIST is a federal agency.
6 Correct?
7 MR. FEE: Same objections.
8 THE WITNESS: I believe. Sorry.
9 I believe so.
10 BY MR. BECKER:
11 Q. And they both give their NIST
12 e-mail addresses. Is that correct?
13 MR. FEE: Objection. Calls for
14 speculation. Beyond the scope of his
15 designation. You can answer.
16 THE WITNESS: The e-mail
17 addresses are on this piece of paper.
18 BY MR. BECKER:
19 Q. And the e-mail addresses say
20 @nist.gov. Correct?
21 A. Yes.
22 Q. And the addresses that they
23 provide are for NIST. Correct?
24 MR. FEE: Objection. Calls for
25 speculation. Beyond the scope of his
Page 174

1 designation.
2 THE WITNESS: Yes, the NIST
3 address is on these pieces of paper.
4 BY MR. BECKER:
5 Q. And did -- the credit card
6 information and payer is the same for both
7 renewal invoices. Correct?
8 MR. FEE: Objection. Beyond the
9 scope of his designation.
10 THE WITNESS: It appears that
11 the names are the same.
12 BY MR. BECKER:
13 Q. And that name appears to be
14 Aruella Kuehl, K-U-E-H-L. Aruella is spelled
15 A-R-U-E-L-L-A -- excuse me, that's Arvella,
16 A-R-V-E-L-L-A.
17 MR. FEE: Objection. Beyond the
18 scope of his designation.
19 BY MR. BECKER:
20 Q. Is that correct?
21 MR. FEE: Same objection.
22 THE WITNESS: If that's -- yeah,
23 that's the way you want to spell it.
24 BY MR. BECKER:
25 Q. Could you, please, indicate
Page 175

1 where on these renewal invoices, if anywhere,
2 language exists that would assign any
3 copyright that Charles E. Gibson or Benjamin
4 K. Tsai, the individuals listed on these
5 membership renewal invoices, might have
6 granted to ASTM?
7 MR. FEE: Objection. Calls for
8 a legal conclusion. Compound. You
9 can answer if you know.
10 THE WITNESS: No, there's
11 language in the middle of both pages
12 beginning with "You agree...."
13 BY MR. BECKER:
14 Q. Is that where it says, "You
15 agree, by your participation in ASTM and
16 enjoyment of the benefits of your annual
17 membership, to have transferred and assigned
18 any and all interest you possess or may
19 possess, including copyright, in the
20 development or creation of ASTM standards or
21 ASTM IP to ASTM. For additional information,
22 please see the ASTM IP Policy, available at
23 www.astm.org"?.
24 A. Yes.
25 Q. For these membership renewal
Page 176

1 invoices, are individuals required to check
2 any box showing that they have read and
3 understand the provision that I just read out
4 loud?
5 MR. FEE: Objection. Vague.
6 Compound.
7 THE WITNESS: I don't see here
8 where there's a box to check off.
9 BY MR. BECKER:
10 Q. For the membership renewal
11 invoices, are the members required to sign
12 anywhere on the renewal invoice?
13 MR. FEE: Same objections.
14 THE WITNESS: I don't see
15 anywhere else other than the signature
16 for where the credit card information
17 is.
18 BY MR. BECKER:
19 Q. And if an individual pays by
20 some other means that doesn't require a
21 credit card, would it not be necessary to
22 sign this membership renewal invoice at all
23 in order to get a membership renewal?
24 MR. FEE: Objection. Calls for
25 speculation. Form.
Page 177

1 THE WITNESS: I don't know. I
2 guess you could sign a check. The
3 only other way you could pay is
4 through a check, so you could sign a
5 check.
6 BY MR. BECKER:
7 Q. It also lists electronic
8 payments. Correct?
9 A. Yes.
10 Q. So if somebody were to provide
11 an electronic payment, then they would not
12 need to sign anywhere on this form. Is that
13 correct?
14 MR. FEE: Objection. Calls for
15 speculation.
16 THE WITNESS: I suppose.
17 BY MR. BECKER:
18 Q. Is there any means through the
19 membership renewal invoice that ASTM ensures
20 that it has the understanding and assent of
21 the individual renewing his or her membership
22 that any copyright he or she has in the
23 development or creation of ASTM standards is
24 to be assigned to ASTM?
25 MR. FEE: Objection. Vague and
Page 178

1 confusing. Calls for speculation.
2 Calls for a legal conclusion.
3 THE WITNESS: Through the
4 original membership application,
5 through the work item registration
6 process, and through the collaboration
7 registration process.
8 BY MR. BECKER:
9 Q. My question was with regards to
10 the 2011 membership renewal invoice. I'll
11 read it again.
12 Is there any means through the
13 membership renewal invoice that ASTM ensures
14 that it has the understanding and assent of
15 the individual renewing his or her membership
16 that any copyright he or she has in the
17 development or creation of ASTM standards is
18 to be assigned to ASTM?
19 MR. FEE: Objection to form.
20 Vague and confusing. Compound. Calls
21 for speculation and calls for a legal
22 conclusion.
23 THE WITNESS: Within the 2011
24 membership renewal invoice, the only
25 thing that is there is this language
Page 179

1 that we read.
2 BY MR. BECKER:
3 Q. And my question is, is there
4 any means through the membership renewal
5 invoice that ASTM ensures that it has the
6 understanding and assent of the individual
7 who is renewing his or her membership that
8 any copyright he or she has in the
9 development or creation of ASTM standards is
10 to be assigned to ASTM?
11 MR. FEE: Same objections. Plus
12 asked and answered.
13 THE WITNESS: Plus what?
14 MR. FEE: Asked and answered.
15 THE WITNESS: Same answer.
16 BY MR. BECKER:
17 Q. It's a yes or no answer.
18 MR. FEE: No. Answer it however
19 you want to answer it.
20 THE WITNESS: Within the 2011
21 membership renewal invoice, there is
22 this clause that we feel is -- informs
23 the members that they're assigning
24 their copyright to us within their
25 participation at ASTM.
Page 180

1 BY MR. BECKER:
2 Q. How does ASTM know that a
3 member has read that clause?
4 A. We don't.
5 Q. How does ASTM know that a
6 member agrees with that clause?
7 MR. FEE: Objection to the
8 extent it calls for a legal
9 conclusion. Also calls for
10 speculation. You can answer.
11 THE WITNESS: We don't know for
12 sure.
13 - - -
14 (Exhibit 1294, Organizational
15 Membership Directory, was marked for
16 identification.)
17 - - -
18 BY MR. BECKER:
19 Q. I'm handing you what's been
20 marked as Exhibit 1294. It's a document
21 titled: "Organizational Membership
22 Directory." This is two separate printouts
23 combined. It is the A to K listing and the L
24 to Z listing. It's something -- it's over
25 100 pages long.
Page 181

1 Do you recognize this document?
2 A. Yes.
3 MR. FEE: Objection. You should
4 really look at the document before you
5 answer that question.
6 THE WITNESS: The first page I
7 do. I mean, if this is just the
8 organizational directory, I'm aware
9 that it exists and I recognize it.
10 BY MR. BECKER:
11 Q. Is this the organizational
12 directory?
13 A. It appears to be.
14 Q. Is this the organizational
15 directory that you were discussing earlier
16 today that lists the organizational members
17 of ASTM?
18 A. Yes.
19 Q. This is the -- just to be
20 clear, this is the organizational membership
21 directory of ASTM. Correct?
22 A. Yes.
23 Q. Unfortunately I don't think
24 that this document has page numbers on it,
25 but if you look, let's see, at the 11th from
Page 182

1 last page, please. This page, in about the
2 middle of the page you'll see the U.S. AIR
3 FORCE, U.S. AIR FORCE NONDESTRUCTIVE
4 INSPECTION OFFICE, U.S. AMC LOGSA PSCC, the
5 U.S. Army Engineering Research & Development
6 Center and the U.S. Army Natick Soldier RD&E
7 Center. Let me know when you see that.
8 A. Yes.
9 Q. Does this indicate to you that
10 a number of federal agencies are
11 organizational members of ASTM?
12 MR. FEE: Objection. Beyond the
13 scope of the designation.
14 THE WITNESS: Yes.
15 BY MR. BECKER:
16 Q. Such as the U.S. Air Force, for
17 instance. Correct?
18 MR. FEE: Same objection.
19 THE WITNESS: I don't see the
20 U.S. Air Force on here.
21 BY MR. BECKER:
22 Q. Just above the middle of the
23 page, right below the ASTM logo that's in the
24 middle of the page.
25 A. I have EPA that's below that.
Page 183

1 Q. Okay.
2 A. Unless I'm on the wrong page.
3 MR. FEE: Let me see your page.
4 THE WITNESS: Maybe you meant
5 the 12th page in?
6 BY MR. BECKER:
7 Q. Yes, I meant the next page. Do
8 you see the U.S. Air Force now?
9 A. Yes.
10 Q. Okay. So does this indicate to
11 you that the U.S. Air Force is an
12 organizational member of ASTM?
13 MR. FEE: Objection. Beyond the
14 scope of his designation.
15 THE WITNESS: It would appear to
16 be.
17 BY MR. BECKER:
18 Q. Looking at this page and the
19 following two pages, which lists a number of
20 U.S. federal agencies, please tell me if any
21 of them participate in standards development
22 at ASTM?
23 MR. FEE: Objection. Vague.
24 Beyond the scope of his designation.
25 Compound.
Page 184

1 THE WITNESS: I'm not sure how
2 to answer that other than if you had
3 asked me a specific question. I might
4 know some of them, but I mean, they're
5 members, but also I'm not sure how you
6 define "participation."
7 BY MR. BECKER:
8 Q. Do any of these U.S. government
9 agencies that are listed in those three pages
10 I mentioned help to draft standards at ASTM?
11 MR. FEE: Objection. Compound.
12 Vague.
13 THE WITNESS: For my --
14 MR. FEE: Sorry.
15 THE WITNESS: That's okay. I
16 mean, I can give you one example from
17 my personal experience is the USEPA
18 participates on our environmental
19 assessment committee.
20 BY MR. BECKER:
21 Q. And when you say they
22 participate on the environmental assessment
23 committee, do you mean that they assist in
24 the drafting of standards?
25 MR. FEE: Objection. Vague.
Page 185

1 THE WITNESS: They make
2 contributions at the meetings.
3 BY MR. BECKER:
4 Q. And do those contributions end
5 up in the final approved standards?
6 MR. FEE: Objection. Vague.
7 THE WITNESS: I don't -- I can't
8 say specifically.
9 BY MR. BECKER:
10 Q. What kind of contributions do
11 they provide at these meetings?
12 MR. FEE: Objection. Vague.
13 THE WITNESS: Oral contributions.
14 BY MR. BECKER:
15 Q. Do they provide any written
16 contributions?
17 MR. FEE: Objection. Vague.
18 THE WITNESS: They may through
19 the balloting process.
20 BY MR. BECKER:
21 Q. Do they vote on standard drafts
22 or revisions?
23 MR. FEE: Objection. Form.
24 THE WITNESS: They may. They
25 have the opportunity to.

Page 186

1 - - -
2 (Exhibit 1295, E-mail chain with
3 attachment, Bates ASTM025633 -
4 ASTM025640, was marked for
5 identification.)
6 - - -
7 BY MR. BECKER:
8 Q. I'm handing you what's been
9 marked as Exhibit 1295.
10 Could you, please, take a
11 moment to try to put the pages for the
12 previous exhibit back in the same order that
13 they were provided to you, if possible?
14 MR. BRIDGES: I'll do that.
15 Hand them to me, I'll do that.
16 THE WITNESS: I think that's the
17 order.
18 BY MR. BECKER:
19 Q. Do you recognize this document
20 that has been provided to you as
21 Exhibit 1295? It is Bates number ASTM025633
22 to 025640.
23 A. No.
24 Q. Are you copied on this e-mail
25 that's Exhibit 1295?

Page 187

1 A. Yes.
2 Q. Did you ever receive this
3 e-mail that's Exhibit 1295?
4 A. I may have.
5 Q. Do you have any reason to think
6 that if you had -- that you did not receive
7 this e-mail produced by ASTM that has your
8 name listed under the cc line?
9 A. No.
10 Q. Do you have any reason to
11 believe that this document provided by ASTM
12 is not authentic?
13 MR. FEE: Objection. Calls for
14 a legal conclusion.
15 THE WITNESS: I have no idea.
16 BY MR. BECKER:
17 Q. Is that a yes or a no?
18 A. I don't know. I don't see any
19 reason why it wouldn't be.
20 Q. If you turn to the second page,
21 it says -- this is an e-mail from Sarah
22 Petre, P-E-T-R-E, to Jeff Grove that says --
23 in which you are cc'd at dsmith@astm.org. Is
24 that correct?
25 A. Yes.

Page 188

1 Q. And it says, "Jeff: Attached
2 is a summary of all the potentially relevant
3 standards related to the UE's efforts that
4 focus on the environmental footprint of
5 products and services. This list is more
6 over inclusive. I also included a list of
7 the EPA members that participate in E50 or
8 E60." Is that correct?
9 A. That's what it says.
10 Q. Then if you turn to Bates
11 number ASTM025637, the second paragraph from
12 the top says, "The following representatives
13 from EPA participate on the relevant ASTM
14 committees...", and then lists a number of
15 individuals. Is that correct?
16 A. Yes.
17 Q. Do you know any of these
18 individuals that are listed?
19 A. Yes.
20 Q. Which individuals do you know?
21 A. I know Deb Goldblum. I know
22 Sven-Erik Kaiser. And I know Patricia
23 Overmeyer.
24 Q. Who is Deborah Goldblum?
25 A. She works in the EPA. It's --

Page 189

1 I'm not sure what region it is, but it's in
2 Philadelphia, office in Philadelphia.
3 Q. Do you know what her position
4 is?
5 A. I don't.
6 Q. Do you know what Sven-Erik
7 Kaiser's position is?
8 A. No.
9 Q. Do you know what Patricia
10 Overmeyer's position is?
11 A. No.
12 Q. How do you know Deborah
13 Goldblum?
14 A. Through my work on Committee
15 E50 on environmental assessment.
16 Q. And how do you know Sven-Erik
17 Kaiser?
18 A. The same.
19 Q. And how do you know Patricia
20 Overmeyer?
21 A. The same.
22 Q. How has Deborah Goldblum
23 participated on the Committee E50?
24 MR. FEE: Objection. Vague.
25 THE WITNESS: She brought

Page 190

1 forward an idea for standards.
2 BY MR. BECKER:
3 Q. What idea was that?
4 A. It was there were standards for
5 green cleanup.
6 Q. So she brought forward the idea
7 for a standard for green cleanup?
8 A. Yes.
9 Q. And what happened with her
10 idea?
11 MR. FEE: Objection. Vague.
12 THE WITNESS: She presented --
13 my recollection is that she presented
14 it to the subcommittee in E50.
15 BY MR. BECKER:
16 Q. Was that standard -- excuse me.
17 Was that idea that Deborah
18 Goldblum presented made into an official
19 standard under ASTM?
20 MR. FEE: Objection. Vague.
21 THE WITNESS: I'm not sure. I'm
22 no longer with that committee.
23 BY MR. BECKER:
24 Q. What year is this that Deborah
25 Goldblum brought forward that idea?

Page 191

1 A. Just roughly maybe 2009. 2008,
2 2010, in that time frame.
3 Q. What happened after Deborah
4 Goldblum brought forward her idea in that
5 committee?
6 MR. FEE: Objection. Vague.
7 It's also beyond the scope of his
8 designation.
9 THE WITNESS: I believe the
10 committee formed a task group to
11 develop the standard.
12 BY MR. BECKER:
13 Q. And what happened at the task
14 group to develop that standard?
15 MR. FEE: Same objection.
16 Beyond the scope and calls for
17 speculation.
18 THE WITNESS: I mean, there were
19 many task group meetings, they had
20 discussions about developing content.
21 BY MR. BECKER:
22 Q. What was Deborah Goldblum's
23 idea for a standard concerning green cleanup,
24 to the best of your knowledge?
25 MR. FEE: Objection. Beyond the

Page 192

1 scope of his designation.
2 THE WITNESS: It was, I think,
3 for remediation at a construction
4 site.
5 BY MR. BECKER:
6 Q. Do you know any other details
7 about Deborah Goldblum's idea for green
8 cleanup?
9 MR. FEE: Same objection.
10 THE WITNESS: No.
11 BY MR. BECKER:
12 Q. What aspects of remediation at
13 a construction site did Deborah Goldblum's
14 idea concern?
15 MR. FEE: Hold a second.
16 THE WITNESS: I really --
17 MR. FEE: Hold on.
18 THE WITNESS: I'm sorry.
19 MR. FEE: Objection. Beyond the
20 scope of his designation. Also asked
21 and answered. Go ahead.
22 THE WITNESS: I really don't
23 know. I'm not a technical person.
24 BY MR. BECKER:
25 Q. Did Sven-Erik Kaiser provide

Page 193

1 any contributions for standards or standard
2 revisions for Committee E50?
3 MR. FEE: Objection. Compound.
4 Form. You can answer.
5 THE WITNESS: I don't know.
6 BY MR. BECKER:
7 Q. Did Patricia Overmeyer provide
8 any contributions for standards for Committee
9 E50?
10 MR. FEE: Objection. Vague.
11 THE WITNESS: I don't know other
12 than they -- Patricia participated at
13 the meetings and attended meetings.
14 MR. FEE: Matt, why don't we
15 take a break, we've been going an hour
16 and a half.
17 MR. BECKER: Just a moment.
18 BY MR. BECKER:
19 Q. Did Patricia vote in the
20 Committee E50?
21 A. I don't know.
22 MR. FEE: Objection. Beyond the
23 scope of his designation.
24 BY MR. BECKER:
25 Q. Do you know if Deborah Goldblum
Page 194

1 voted in Committee E50?
2 MR. FEE: Same objection.
3 THE WITNESS: No, I don't know.
4 BY MR. BECKER:
5 Q. Do you know if Sven-Erik Kaiser
6 voted in Committee E50?
7 MR. FEE: Same objection.
8 THE WITNESS: I don't know.
9 MR. BECKER: We can take a
10 break.
11 VIDEOGRAPHER: The time is now
12 4:57. We're going off the video
13 record.
14 - - -
15 (A recess was taken.)
16 - - -
17 VIDEOGRAPHER: The time is now
18 5:05. We're back on the video record.
19 - - -
20 (Exhibit 1296, Membership
21 application, Bates ASTM068894, was
22 marked for identification.)
23 - - -
24 BY MR. BECKER:
25 Q. I'm handing you what's been
Page 195

1 marked as Exhibit 1296. This is the document
2 produced by plaintiffs as Bates number
3 ASTM068894. Can you tell me what this
4 document is?
5 A. It appears to be a membership
6 application, but I -- an older version of a
7 membership application.
8 Q. And what does the -- there's
9 a -- it looks like a stamp with some
10 handwriting in the bottom right-hand corner.
11 It says, "ACCT #," "ORD #," "DEC 02 2008,"
12 "PROCESSED BY: DG." And then it has some
13 other numbers associated with it. Do you
14 know what that is?
15 A. The account number is the -- is
16 that individual's membership number. So when
17 you join, you get assigned a membership
18 number. I don't know what the order number
19 is. Dec 02, 2008, is, I guess, the date that
20 was processed by ASTM, but I don't know for
21 sure.
22 Q. And do you know who DG is when
23 it says, "PROCESSED BY: DG"?
24 A. No.
25 Q. Does that designate an
Page 196

1 individual or a department?
2 A. I don't know.
3 Q. Does this stamp indicate that
4 this form has been processed and entered into
5 the system --
6 MR. FEE: Objection.
7 BY MR. BECKER:
8 Q. -- at ASTM?
9 MR. FEE: Objection. Vague.
10 It's beyond the scope of his
11 designation.
12 THE WITNESS: I really don't
13 know the specifics of processing these
14 forms.
15 BY MR. BECKER:
16 Q. Who would know whether this
17 stamp in the bottom right-hand corner of this
18 page designates that this application has
19 been processed into ASTM's system?
20 MR. FEE: Objection. Vague.
21 Beyond the scope.
22 Matt, can you explain to me how
23 this has anything to do with these
24 three topics you are supposed to be
25 talking about today?
Page 197

1 MR. BECKER: Yeah. It's a
 2 membership application. That's one of
 3 the ways that ASTM claims that it gets
 4 assignment of rights.
 5 MR. FEE: And the identity of
 6 who DG is is relevant to all this
 7 because of what?
 8 MR. BECKER: Because this is --
 9 this is a feature on the membership
 10 application and I need to understand
 11 what it means.
 12 MR. FEE: I'll let you ask that
 13 question, but I'm not going to allow
 14 too many more questions along these
 15 lines, but go ahead.
 16 MR. BECKER: I think this is
 17 perfectly relevant right here. My
 18 question goes to whether this was
 19 entered into the system and whether
 20 this person is, therefore, a member of
 21 ASTM.
 22 MR. FEE: Do you want to read
 23 back the question? Or do you know
 24 what it is?
 25 THE WITNESS: I'm not -- I'm a

Page 198

1 little --
 2 MR. FEE: You can answer.
 3 THE WITNESS: No. Just for
 4 clarity, I'd like it repeated, if
 5 possible.
 6 BY MR. BECKER:
 7 Q. Who would know whether this
 8 stamp in the bottom right-hand corner of this
 9 page designates that this application has
 10 been processed into ASTM's system?
 11 MR. FEE: Objection. Vague.
 12 Beyond the scope of his designation.
 13 THE WITNESS: Possibly somebody
 14 who works in our customer service
 15 department back in 2008.
 16 BY MR. BECKER:
 17 Q. Who heads the customer service
 18 department at ASTM?
 19 MR. FEE: Objection. Vague.
 20 THE WITNESS: Derek Franco is
 21 the director of our, I believe it's
 22 called internal sales.
 23 BY MR. BECKER:
 24 Q. Was Derek Franco the head of
 25 internal sales in 2008?

Page 199

1 A. Could have been. I don't know
 2 for sure, though.
 3 Q. Do you know who else might have
 4 been the head of internal sales in 2008?
 5 A. I'm not exactly sure.
 6 Q. Could you show me where, if
 7 anywhere, on this document Exhibit 1296 there
 8 is language that ASTM believes it is assigned
 9 copyright through?
 10 MR. FEE: Objection. Calls for
 11 a legal conclusion. To the extent
 12 that question calls for you to
 13 disclose attorney-client
 14 communications, I'd instruct you not
 15 to do that. If you have an answer
 16 otherwise, you can go ahead and
 17 answer.
 18 THE WITNESS: I don't see the
 19 language on this form that was on the
 20 other forms.
 21 BY MR. BECKER:
 22 Q. Is there any language on this
 23 page that would transfer copyright from the
 24 individual who is listed on this form, Diana,
 25 I believe it's M-E-N-A-G-E-D to ASTM?

Page 200

1 MR. FEE: Objection. Calls for
 2 a legal conclusion. To the extent the
 3 answer would disclose attorney-client
 4 communications, I instruct you not to
 5 disclose that. You can answer if you
 6 have knowledge of it otherwise.
 7 THE WITNESS: I don't see any
 8 language on this particular form that
 9 would indicate that.
 10 - - -
 11 (Exhibit 1297, 2010 ASTM
 12 International Committee Membership
 13 Application, Bates ASTM079420, was
 14 marked for identification.)
 15 - - -
 16 BY MR. BECKER:
 17 Q. I'm handing you what's been
 18 marked as Exhibit 1297. This is the document
 19 produced by ASTM as ASTM079420. Do you know
 20 what this document is?
 21 A. It says, "2010 ASTM International
 22 Committee Membership Application."
 23 Q. Is there any language on this
 24 document, Exhibit 1297, that would assign
 25 copyright from the applicant to ASTM?

Page 201

<p>1 MR. FEE: Objection. Calls for 2 a legal conclusion. To the extent 3 that question would require you to 4 disclose attorney-client 5 communications, I instruct you not to 6 do so. If you can answer otherwise, 7 go ahead. 8 THE WITNESS: I don't see any 9 language on here similar to the 10 language that we had talked about 11 earlier. 12 BY MR. BECKER: 13 Q. The applicant here, Raymond 14 Ortiz, is an organization member of the 15 Defense Energy Support Center. Is that 16 correct? 17 MR. FEE: Objection. 18 Mischaracterizes the document. 19 THE WITNESS: I don't see how 20 you're figuring out he's an 21 organizational member. 22 BY MR. BECKER: 23 Q. Excuse me, let me rephrase 24 that. 25 Raymond Ortiz says -- lists his</p> <p style="text-align: right;">Page 202</p>	<p>1 that is on the form. 2 - - - 3 (Exhibit 1298, ASTM Application, 4 Bates ASTM073844, was marked for 5 identification.) 6 - - - 7 BY MR. BECKER: 8 Q. I'm handing you what's been 9 marked as Exhibit 1298. This is a document 10 produced by ASTM as ASTM073844. Can you tell 11 me what this document is? 12 A. It looks like it's an ASTM 13 application. 14 Q. Is there any language on this 15 document that -- Exhibit 1298, that ASTM 16 believes assigns copyright from the applicant 17 to ASTM? 18 MR. FEE: Objection. Calls for 19 a legal conclusion. To the extent 20 that question would require you to 21 disclose attorney-client 22 communication, I instruct you not to 23 do so. If you have other responsive 24 information, go ahead and do so. 25 THE WITNESS: I don't see the</p> <p style="text-align: right;">Page 204</p>
<p>1 organization name as "Defense Energy Support 2 Center." Is that correct? 3 A. That would appear to be right. 4 Q. And he lists a, looks like a 5 military e-mail address. Is that correct? 6 MR. FEE: Objection. Calls for 7 speculation. Beyond the scope of his 8 designation. 9 THE WITNESS: That's what would 10 appear from this form. 11 BY MR. BECKER: 12 Q. It would appear that Raymond 13 Ortiz is a member of the military. Is that 14 correct? 15 MR. FEE: Objection. Calls for 16 speculation. Beyond the scope of his 17 designation. 18 THE WITNESS: I suppose that 19 looks like that's the case. 20 BY MR. BECKER: 21 Q. And it appears that someone 22 else, Zoe Fitzsimmonds is paying by credit 23 card, Visa, for Mr. Ortiz's committee 24 membership application. Is that correct? 25 A. That's the name that appears,</p> <p style="text-align: right;">Page 203</p>	<p>1 language on this form that was on the 2 previous forms. 3 BY MR. BECKER: 4 Q. When you say "the previous 5 forms," are you referring to Exhibit 1293? 6 A. Correct. 7 Q. But you're not referring to 8 Exhibit 1297 or Exhibit 1296. Correct? 9 A. Correct. 10 - - - 11 (Exhibit 1299, ASTM 12 Applications, Bates ASTM066848 - 13 ASTM066853, was marked for 14 identification.) 15 - - - 16 BY MR. BECKER: 17 Q. I'm handing you what's been 18 marked as Exhibit 1299. These are the 19 documents produced by ASTM as ASTM066848 to 20 ASTM066853. Could you tell me what these 21 documents are? 22 A. Looks like they're ASTM 23 applications. 24 Q. These are ASTM applications 25 that are in Spanish. Correct?</p> <p style="text-align: right;">Page 205</p>

1 A. Would appear to be that.
2 Q. Are they membership applications?
3 A. I believe they are.
4 Q. Is there any language on these
5 membership applications that ASTM believes
6 assigns ASTM any copyright by the applicants?
7 MR. FEE: Objection. Calls for
8 expert testimony to the extent it
9 requires a translation, to the extent
10 it is in Spanish. Calls for a legal
11 conclusion. To the extent that that
12 question requires the disclosure of
13 any attorney-client communication, you
14 shouldn't disclose it. You can answer
15 it otherwise.
16 THE WITNESS: I don't know.
17 BY MR. BECKER:
18 Q. Do you speak Spanish?
19 A. No.
20 Q. Have you seen this document
21 previously?
22 A. No.
23 Q. In preparation for your
24 deposition today, had you spoken with
25 anybody -- excuse me, let me rephrase.

Page 206

1 In preparation for your
2 deposition today, have -- had you
3 communicated with anyone at ASTM about
4 membership applications that were not in
5 English?
6 A. No.
7 Q. I will submit to you that there
8 is no assignment language on this document.
9 MR. FEE: Move to strike that to
10 the extent you're ever going to try to
11 use it for something.
12 BY MR. BECKER:
13 Q. Do you know what an MOU
14 affiliation is?
15 A. It stands for Memorandum of
16 Understanding.
17 Q. What is a Memorandum of
18 Understanding?
19 A. It's part of our MOU program
20 that we have with developing countries.
21 Q. What is the MOU program?
22 A. It's roughly that we will
23 provide on a gratuitous basis standards to
24 national standards bodies of developing
25 countries. And in return, they provide us

Page 207

1 reports on the use of ASTM standards.
2 Q. Are those national standards
3 bodies that you're describing government
4 bodies or private bodies?
5 MR. FEE: Objection. Beyond the
6 scope of his designation.
7 THE WITNESS: I'm not exactly
8 sure.
9 BY MR. BECKER:
10 Q. What uses of ASTM standards do
11 these national standards bodies report to
12 ASTM?
13 MR. FEE: Same objection.
14 THE WITNESS: I'm not exactly
15 sure. I just think in general use,
16 but I've never seen one of the
17 reports.
18 BY MR. BECKER:
19 Q. When you say "general use,"
20 what do you mean by that?
21 MR. FEE: Same objection.
22 THE WITNESS: How they may be
23 utilizing ASTM standards within their
24 country.
25 BY MR. BECKER:

Page 208

1 Q. When you say how they are
2 utilizing ASTM standards within their
3 country, when you say "they," are you
4 referring to these standards bodies?
5 MR. FEE: Same objection.
6 Vague.
7 THE WITNESS: I believe it's how
8 they're -- the people are utilizing
9 them. If they're referenced in
10 regulation or if they're being used.
11 BY MR. BECKER:
12 Q. When you say "the people," are
13 you referring to the actual citizens of
14 that -- those countries?
15 MR. FEE: Objection. Beyond the
16 scope. Matt, I'm going to let him
17 answer this question, but you are so
18 far off of the topics now, that this
19 is going to be the last question on
20 this topic. You can answer it. Go
21 ahead.
22 THE WITNESS: I'm not sure.
23 - - -
24 (Exhibit 1300, Membership
25 application, Bates ASTM067024, was

Page 209

<p>1 marked for identification.) 2 - - - 3 BY MR. BECKER: 4 Q. I'm handing you what's been 5 marked as Exhibit 1300. Could you, please, 6 identify this document? 7 A. It says at the top "Laboratory 8 Inspection Program," but it would appear to 9 be a membership application. 10 Q. I'll note that this document is 11 produced by ASTM as ASTM067024. Is there any 12 mention of copyright assignment or ASTM's IP 13 Policy on this document? 14 MR. FEE: Objection to form. 15 THE WITNESS: I don't see that 16 language on here, no. 17 - - - 18 (Exhibit 1301, Membership 19 applications, Bates ASTM066871, 20 ASTM069213, ASTM069058, ASTM080176, 21 ASTM061450, ASTM063146, ASTM063147, 22 ASTM065682 & ASTM066345, was marked 23 for identification.) 24 - - - 25 BY MR. BECKER:</p> <p style="text-align: right;">Page 210</p>	<p>1 respective years, 2007 through 2014? 2 MR. FEE: Objection to form. 3 THE WITNESS: There probably 4 was, yes. 5 BY MR. BECKER: 6 Q. How do you know that? 7 A. Well, because I know our 8 applications, we have applications that have 9 the language that we spoke about earlier that 10 was on, was it 1293, Exhibit 1293? We have 11 copies of membership applications that have 12 that language on there. 13 Q. Exhibit 1293 is a membership 14 renewal invoice. Correct? 15 A. Yes. 16 Q. And a membership renewal 17 invoice is different from a membership 18 application. Correct? 19 A. Yes. 20 Q. So when you say that there are 21 different versions, do you mean that there is 22 different versions of the membership 23 applications for each year or that there is a 24 membership application and there also is a 25 membership renewal invoice --</p> <p style="text-align: right;">Page 212</p>
<p>1 Q. I'm handing you what's been 2 marked as Exhibit 1301. This is a 3 compilation of documents that were provided 4 by ASTM as single pages. It is one example 5 from each year from which ASTM has provided a 6 membership application starting with the 2007 7 membership application and ending with the 8 2014 membership application. And the Bates 9 numbers are ASTM066871, ASTM069213, 10 ASTM069058, ASTM080176, ASTM061450, 11 ASTM063146, ASTM063147, ASTM065682 and 12 ASTM066345. 13 Are these the ASTM membership 14 application forms for the years 2007 through 15 2014? 16 MR. FEE: Objection to the 17 extent the witness has cherry picked 18 pages of membership applications that 19 were produced to you; to form as well, 20 and compound. 21 THE WITNESS: These are versions 22 of the application from these years. 23 BY MR. BECKER: 24 Q. Were there multiple versions of 25 the ASTM membership applications for these</p> <p style="text-align: right;">Page 211</p>	<p>1 MR. FEE: Objection. Form. 2 BY MR. BECKER: 3 Q. -- for each year? 4 A. We have membership applications 5 for these years that have that language from 6 Exhibit 1293 on them. 7 Q. How do you know that there are 8 membership applications for all of the years 9 2007 through 2014 that have the same language 10 that is from the 2011 membership renewal 11 invoice Exhibit 1293? 12 MR. FEE: Objection to form. 13 THE WITNESS: Because I believe 14 we put the language on the renewal 15 forms and the application forms at the 16 same time. 17 BY MR. BECKER: 18 Q. Why would there be membership 19 applications that do not have the language 20 that you're referring to? And to -- let 21 me -- hold on. Let me clarify. 22 By the language that you're 23 referring to on Exhibit 1293, you're 24 referring to the purported copyright 25 assignment language that starts with "You</p> <p style="text-align: right;">Page 213</p>

1 agree. By your participation in ASTM...."
2 Correct?
3 A. Yes.
4 MR. FEE: Hold on. Objection to
5 form.
6 THE WITNESS: Sorry.
7 MR. FEE: It's compound. Calls
8 for a legal conclusion.
9 THE WITNESS: The language that
10 I'm talking about is on Exhibit 1293
11 that begins with "You agree, by your
12 participation...."
13 BY MR. BECKER:
14 Q. Why do you believe that ASTM
15 put the language that you're referring to on
16 the renewal forms and the application forms
17 at the same time?
18 A. That's what I recall.
19 Q. Recall from what?
20 MR. FEE: Objection. Vague.
21 THE WITNESS: Just what I
22 remember.
23 BY MR. BECKER:
24 Q. Do you know when ASTM first
25 used the language that you're referring to

Page 214

1 from Exhibit 1293?
2 A. Not exactly sure.
3 Q. Do you have any idea as to what
4 year ASTM first started using that language
5 that appears on Exhibit 1293?
6 A. I thought it was in about 2005.
7 Q. Do you have any way to confirm
8 when ASTM began using that language that was
9 featured on Exhibit 1293?
10 MR. FEE: Objection. Vague.
11 THE WITNESS: Not right here,
12 now.
13 BY MR. BECKER:
14 Q. How would you go about
15 confirming that?
16 A. I would ask our general counsel.
17 Q. Is there any other way that you
18 would confirm that?
19 A. Not right now.
20 Q. Is there anyone who would know
21 other than ASTM's general counsel when the
22 copyright assignment language that you're
23 referring to from 1293 was first used by ASTM
24 on membership forms?
25 A. I'm not sure.

Page 215

1 Q. How many different forms of
2 membership application existed in 2007?
3 A. I don't know.
4 Q. Do you know how many different
5 forms of membership application ASTM had for
6 the year 2008?
7 A. No.
8 Q. Do you know how many forms of
9 membership application ASTM had for the year
10 2009?
11 A. No.
12 Q. Do you know how many forms of
13 membership application ASTM had for 2010?
14 A. No.
15 Q. How about for 2011?
16 A. No.
17 Q. Or 2012?
18 A. No.
19 Q. Or 2013?
20 A. No.
21 Q. Or 2014?
22 A. No.
23 Q. Do you know why ASTM has
24 different membership application forms?
25 MR. FEE: Objection. To the

Page 216

1 extent that your answering that
2 question would disclose
3 attorney-client communications, you
4 shouldn't disclose that. You can
5 answer otherwise.
6 THE WITNESS: No. My experience
7 has been that if we go to a very
8 focused individual conference, there
9 may be a -- it could be the staff
10 manager prepares an application for
11 that particular committee and did not
12 use the most current application.
13 BY MR. BECKER:
14 Q. Is there a difference between
15 ASTM membership application forms and ASTM
16 committee membership application forms?
17 MR. FEE: Objection. Vague.
18 THE WITNESS: We have a type of
19 membership that's called a
20 participating membership where you
21 join technical committees. And then
22 we also have informational members
23 that just joined ASTM but they do not
24 join a particular technical committee.
25 But I'm not aware of a difference

Page 217

1 between a committee membership
2 application and a membership
3 application.
4 BY MR. BECKER:
5 Q. If you look in this
6 Exhibit 1301 at page Bates number ASTM063146
7 and compare that with ASTM063147 following
8 it, do you see that ASTM063146 is a 2012
9 membership application whereas ASTM063147 is
10 an ASTM committee membership application?
11 A. Yes.
12 Q. Can you, please, indicate
13 where, if anywhere on ASTM063146, the 2012
14 membership application, there is any language
15 that ASTM believes assigns it copyright from
16 the applicant?
17 MR. FEE: Objection. Calls for
18 a legal conclusion. To the extent
19 that requires you to disclose
20 attorney-client communications, you
21 shouldn't do so, but you can answer
22 otherwise.
23 THE WITNESS: At the top it
24 mentions that by applying or renewing
25 your ASTM membership, you acknowledge
Page 218

1 you have read and agree and abide by
2 ASTM's Intellectual Property Policy.
3 The policy is available in the ASTM
4 Web site (www.astm.org) and/or by
5 request to ASTM International
6 headquarters [as read].
7 BY MR. BECKER:
8 Q. Does this document, ASTM063146,
9 include any of the text from the ASTM
10 Intellectual Property Policy?
11 MR. FEE: Objection. The
12 document speaks for itself. You can
13 answer.
14 THE WITNESS: The document
15 speaks for itself. It references the
16 intellectual -- recognizes and says,
17 "YOU ACKNOWLEDGE YOU HAVE READ AND
18 AGREE TO ABIDE BY ASTM'S INTELLECTUAL
19 PROPERTY POLICY."
20 BY MR. BECKER:
21 Q. But does it include the text
22 from the ASTM Intellectual Property Policy
23 that it requires members to abide by?
24 MR. FEE: Same objection.
25 THE WITNESS: Same answer.
Page 219

1 BY MR. BECKER:
2 Q. And what's that answer?
3 MR. FEE: Same objection again.
4 Asked and answered.
5 THE WITNESS: At the top of the
6 page it says, "YOU ACKNOWLEDGE YOU
7 HAVE READ AND AGREE TO ABIDE BY ASTM'S
8 INTELLECTUAL PROPERTY POLICY."
9 BY MR. BECKER:
10 Q. But does it include the text
11 from the Intellectual Property Policy that it
12 says that the membership applicant must abide
13 by?
14 MR. FEE: Objection. Asked and
15 answered.
16 BY MR. BECKER:
17 Q. It's a yes or no question.
18 MR. FEE: He can answer the
19 question however he feels appropriate.
20 THE WITNESS: If you're asking
21 me if the actual text of the
22 Intellectual Property Policy is on
23 this membership application, the
24 answer is no.
25 BY MR. BECKER:
Page 220

1 Q. This application is filled in
2 by hand. Correct?
3 MR. FEE: Objection. Calls for
4 speculation.
5 THE WITNESS: It appears to be.
6 BY MR. BECKER:
7 Q. Does ASTM ever receive requests
8 for its Intellectual Property Policy by
9 anybody other than Public.Resource.Org?
10 A. Possibly.
11 Q. Do you know one way or the
12 other?
13 A. No.
14 Q. Who would know?
15 MR. FEE: Objection. Calls for
16 speculation. It's also beyond the
17 scope of the designation.
18 THE WITNESS: Anyone who has
19 ever received a request would know.
20 BY MR. BECKER:
21 Q. Are you personally aware of any
22 requests?
23 MR. FEE: Same objection.
24 THE WITNESS: Not that I can
25 think of.
Page 221

1 BY MR. BECKER:
2 Q. On the next page, ASTM063147,
3 it has different language concerning the ASTM
4 Intellectual Property Policy than the 2012
5 membership application that we were just
6 discussing. Is that correct?
7 MR. FEE: Hold on one second.
8 You can answer.
9 THE WITNESS: Yes, that language
10 is different.
11 BY MR. BECKER:
12 Q. The language that's on
13 ASTM063147 is similar to the language that's
14 on Exhibit 1293, the 2011 membership renewal
15 invoice. Is that correct?
16 MR. FEE: Objection. Vague.
17 THE WITNESS: Yep, that looks
18 correct. Slightly different.
19 BY MR. BECKER:
20 Q. Why is this language different
21 for the 2012 committee membership application
22 than for the 2012 membership application?
23 MR. FEE: Objection. To the
24 extent that would require you to
25 disclose attorney-client

Page 222

1 communications, you shouldn't do so.
2 If you can answer otherwise, go ahead.
3 THE WITNESS: My perspective is
4 that they're the same thing. They're
5 both intended for an individual to
6 join a particular committee.
7 BY MR. BECKER:
8 Q. Why is the copyright -- you say
9 they're the same thing, the copyright
10 assignment language?
11 MR. FEE: Same objection and
12 instruction.
13 THE WITNESS: No, I believe the
14 form is the same thing. It serves the
15 same purpose. It's an application so
16 an individual can join the technical
17 committee.
18 BY MR. BECKER:
19 Q. And my question was about the
20 actual language that ASTM believes concerns
21 copyright assignment. Why is there a
22 difference in the language concerning ASTM's
23 IP Policy on ASTM063146 as opposed to the
24 language concerning ASTM's IP Policy on
25 ASTM063147?

Page 223

1 MR. FEE: Objection to form. I
2 also object to the extent it calls for
3 attorney-client communications. You
4 shouldn't disclose any communications
5 between you and counsel, but you can
6 answer otherwise.
7 THE WITNESS: I believe the
8 language that is at the top of
9 ASTM063146 was language that we used
10 prior to the language that we used
11 that's contained on ASTM063147.
12 BY MR. BECKER:
13 Q. But if you then turn the page
14 to ASTM065682, that's a 2013 membership
15 application, and it has the same language
16 concerning the ASTM Intellectual Property
17 Policy as on ASTM063146. Correct?
18 A. That's what it looks like.
19 Q. If you turn the page to the
20 following page, the 2014 membership
21 application also has that same language.
22 Correct?
23 A. Yes.
24 Q. So ASTM has continued to use
25 this language into 2014?

Page 224

1 MR. FEE: Objection. Vague.
2 THE WITNESS: That's what it
3 would appear to me.
4 BY MR. BECKER:
5 Q. Who knows how many different
6 versions exist for the membership
7 applications during each year from 2007 to
8 2014?
9 A. I don't know if anybody knows.
10 Q. Why is that?
11 MR. FEE: Objection. Calls for
12 speculation.
13 THE WITNESS: My experience as
14 being a staff manager is I don't think
15 people think about the version of an
16 application that's being used. I
17 think it's viewed as a tool that
18 enables an individual to join a
19 technical committee.
20 BY MR. BECKER:
21 Q. Who creates the membership
22 applications such as the 2014 membership
23 application ASTM066345?
24 A. I'm not sure who creates it.
25 Maybe our customer relations. Maybe it's our

Page 225

1 membership department. But ASTM knows.
2 Q. How can you find out how many
3 versions of the membership application exists
4 for each year from 2007 to 2014?
5 A. I don't know if you can figure
6 it out. I don't know if there's a way.
7 Q. Who knows how many different
8 versions exist for ASTM committee
9 applications during each year from 2007 to
10 2014?
11 A. Did you say who would know how
12 many versions?
13 Q. I said -- yes.
14 A. I don't know who would know. I
15 don't know if anyone would know.
16 Q. Has Public.Resource received
17 all applications and renewals of all
18 participants in all standards that ASTM is
19 seeking to enforce in this lawsuit going back
20 to the first creation of the standards at
21 issue in this litigation?
22 MR. FEE: Hold on one second.
23 Objection. Calls for
24 speculation. Calls for a legal
25 conclusion. It's beyond the scope of
Page 226

1 his designation. You can answer if
2 you know.
3 THE WITNESS: I have no idea.
4 BY MR. BECKER:
5 Q. Who would know?
6 MR. FEE: Same objections.
7 THE WITNESS: I don't know.
8 Maybe possibly our general counsel.
9 BY MR. BECKER:
10 Q. Would anyone other than ASTM's
11 general counsel know?
12 MR. FEE: Same objections.
13 THE WITNESS: I don't think so.
14 BY MR. BECKER:
15 Q. Has ASTM collected for
16 production all applications and renewals of
17 all participants in all standards that ASTM
18 is seeking to enforce in this lawsuit going
19 back to the first creation of the standards
20 at issue in this litigation?
21 MR. FEE: Objection. Calls for
22 speculation. Beyond the scope of his
23 designation. Calls for a legal
24 conclusion.
25 THE WITNESS: I don't understand
Page 227

1 what the question means, collection --
2 "collected for production."
3 BY MR. BECKER:
4 Q. Has ASTM looked for and located
5 in order to comply with its discovery
6 obligations in this case all applications and
7 renewals of all participants in all standards
8 that ASTM is seeking to enforce in this
9 lawsuit going back to the first creation of
10 the standards at issue in this litigation?
11 MR. FEE: Objection. It's
12 beyond the scope of his designation.
13 Calls for speculation. Legal
14 conclusion.
15 THE WITNESS: I don't know.
16 BY MR. BECKER:
17 Q. Who would know?
18 MR. FEE: Same objections.
19 THE WITNESS: Possibly our
20 general counsel.
21 BY MR. BECKER:
22 Q. Would anybody other than ASTM's
23 general counsel know?
24 MR. FEE: Same objections.
25 THE WITNESS: I don't know.
Page 228

1 - - -
2 (Exhibit 1302, Compilation of
3 documents, Bates ASTM066829,
4 ASTM067015, ASTM067321, ASTM067813,
5 ASTM070124, ASTM071068, ASTM074751,
6 ASTM075283, ASTM060533, ASTM051140,
7 ASTM081145, was marked for
8 identification.)
9 - - -
10 BY MR. BECKER:
11 Q. I'm handing you what's been
12 marked as Exhibit 1302. This is a
13 compilation of documents produced by ASTM as
14 ASTM066829, ASTM067015, ASTM067321, 067813,
15 070124, 071068, 074751, 075283, 060533,
16 051140, 081145.
17 MR. FEE: I object to the use of
18 cherry picked documents assembled in
19 this manner --
20 MR. BECKER: That's fine.
21 MR. FEE: -- used as an exhibit.
22 MR. BECKER: That's fine. There
23 are many more like this.
24 BY MR. BECKER:
25 Q. Once you've had a chance to
Page 229

1 look at them, can you tell me what these
2 documents are?
3 A. I believe these are portions of
4 our renewal notice that we send each year.
5 Q. When ASTM members return the
6 renewal letters that ASTM sends them, do they
7 sometimes return only portions of the renewal
8 letters?
9 MR. FEE: Objection. Beyond the
10 scope of his designation. Calls for
11 speculation.
12 THE WITNESS: Possibly.
13 BY MR. BECKER:
14 Q. Do you know one way or the
15 other?
16 MR. FEE: Same objections.
17 THE WITNESS: No.
18 BY MR. BECKER:
19 Q. Who would know?
20 MR. FEE: Same objections.
21 THE WITNESS: I don't know. I
22 suppose the people at our customer
23 relations department that receives the
24 invoices to process.
25 BY MR. BECKER:

Page 230

1 Q. Did you speak with anyone in
2 preparation for the deposition today about
3 individuals who had returned partial
4 membership invoices that did not include any
5 discussion of ASTM copyright or ASTM IP
6 Policy?
7 A. I believe you asked if I talked
8 to any of the people who returned partial and
9 the answer to that is no.
10 Q. I'll read back my question.
11 Did you speak with anyone in preparation for
12 the deposition today about individuals who
13 had returned partial membership invoices that
14 did not include any discussion of ASTM
15 copyright or ASTM IP Policy?
16 A. No.
17 Q. Is there any reason why ASTM
18 would remove any mention of ASTM copyright or
19 ASTM's IP Policy from membership renewal
20 invoices once they had received them from
21 members?
22 MR. FEE: Objection. Beyond the
23 scope of his designation. Calls for
24 speculation.
25 THE WITNESS: No, I don't know.

Page 231

1 The only possible thing I can think of
2 is that they're only including a
3 portion of the renewal notice that
4 pertains to the payment. I believe
5 it's about a four-page form or
6 five-page form that has other
7 information on there.
8 - - -
9 (Exhibit 1303, Compilation of
10 documents, various Bates from
11 ASTM069093 to ASTM057841, was marked
12 for identification.)
13 - - -
14 BY MR. BECKER:
15 Q. I'm handing you what's been
16 marked as Exhibit 1303. This, again, is a
17 compilation of documents produced by ASTM.
18 It starts with ASTM069093, and I won't read
19 all of the page numbers in between, but I'll
20 simply say that the last page is Bates number
21 ASTM057841.
22 MR. FEE: Object to this exhibit
23 as well as being cherry picked
24 portions of documents or document
25 production.

Page 232

1 MR. BECKER: And as I noted
2 before, there are many more documents
3 that ASTM has produced that look just
4 like these.
5 BY MR. BECKER:
6 Q. Could you tell me what these
7 documents appear to be?
8 A. The same as the previous
9 exhibit.
10 Q. When you say "the same as the
11 previous exhibit," do you mean it is a
12 partial membership application or partial
13 membership renewal form?
14 A. Looks like it's the payment
15 information from the renewal form.
16 Q. It appears for some of them
17 such as the second page ASTM069635, that this
18 payment section of the renewal form has been
19 torn off from the rest of the renewal form.
20 Correct?
21 MR. FEE: Objection. Beyond the
22 scope of his designation. Calls for
23 speculation.
24 THE WITNESS: I don't know that.
25 BY MR. BECKER:

Page 233

1 Q. How so?
2 MR. FEE: Same objections.
3 THE WITNESS: I just don't know
4 that.
5 BY MR. BECKER:
6 Q. Who would know that?
7 MR. FEE: Same objections.
8 THE WITNESS: I guess if the
9 person who processed this back in 2008
10 would remember, maybe that person.
11 BY MR. BECKER:
12 Q. Is there any way to find out
13 whether, when these renewal invoices were
14 sent in to ASTM, if they included just this
15 single third section of the ASTM renewal
16 invoice?
17 MR. FEE: Same objections.
18 THE WITNESS: No, other than by
19 asking people that processed these.
20 BY MR. BECKER:
21 Q. Does ASTM keep the original
22 copies of renewal invoices that it receives
23 from members?
24 MR. FEE: Same objections.
25 THE WITNESS: I don't know.
Page 234

1 Probably for a certain period of time.
2 BY MR. BECKER:
3 Q. Who would know?
4 MR. FEE: Same objections.
5 THE WITNESS: People on our
6 internal sales.
7 BY MR. BECKER:
8 Q. Anybody else?
9 MR. FEE: Same objections.
10 THE WITNESS: Not that I'm aware
11 of.
12 BY MR. BECKER:
13 Q. Do you know any specific people
14 in ASTM's internal sales that would know the
15 answer to that question?
16 MR. FEE: Same objections.
17 THE WITNESS: Possibly Derek
18 Franco.
19 BY MR. BECKER:
20 Q. And what is Derek Franco's role
21 at ASTM?
22 A. He's the director of internal
23 sales.
24 - - -
25 (Exhibit 1304, 2010 Membership
Page 235

1 Renewal Invoice, Bates ASTM075697, was
2 marked for identification.)
3 - - -
4 BY MR. BECKER:
5 Q. I'm handing you what's been
6 marked as Exhibit 1304. This has been
7 produced by ASTM as ASTM075697. Can you tell
8 me what this document is?
9 A. It says it's the "2010
10 Membership Renewal Invoice."
11 Q. It would appear that somebody
12 has crossed out language on this renewal
13 invoice and it includes the language that
14 references the ASTM IP Policy. Is that
15 correct?
16 MR. FEE: Objection.
17 Mischaracterizes the document.
18 THE WITNESS: Yes. It looks
19 like that information and other
20 information is crossed out.
21 BY MR. BECKER:
22 Q. Does somebody review the
23 membership renewal invoices when they are
24 delivered to ASTM?
25 A. We have someone that processes
Page 236

1 that.
2 Q. Is a membership renewal ever
3 refused for crossing out the language
4 referencing the ASTM IP Policy?
5 MR. FEE: Objection. Beyond the
6 scope of his designation. Calls for
7 speculation.
8 THE WITNESS: I have no idea.
9 BY MR. BECKER:
10 Q. Who would know?
11 MR. FEE: Same objections.
12 THE WITNESS: I don't know.
13 BY MR. BECKER:
14 Q. Does ASTM attribute any
15 significance to the IP Policy language being
16 crossed out in membership invoices that are
17 returned to it?
18 MR. FEE: Objection. Calls for
19 a legal conclusion. To the extent
20 that question requires you to disclose
21 attorney-client communications, you
22 shouldn't do so. If you can answer
23 that question otherwise, go ahead.
24 THE WITNESS: I don't know. But
25 our online renewal process does not
Page 237

1 allow you to not acknowledge it.
2 BY MR. BECKER:
3 Q. ASTM continues to this day to
4 accept mail-in membership renewal forms.
5 Correct?
6 A. Yes.
7 - - -
8 (Exhibit 1305, 2011 Membership
9 Renewal Invoice, Bates ASTM082973, was
10 marked for identification.)
11 - - -
12 BY MR. BECKER:
13 Q. I'm handing you what's been
14 marked as Exhibit 1305. Can you tell me what
15 this document is?
16 A. It says it's the "2011
17 Membership Renewal Invoice."
18 Q. And this document has the ASTM
19 IP Policy crossed out as well. Correct?
20 MR. FEE: Objection.
21 Mischaracterizes the document.
22 THE WITNESS: There's a line
23 through the section 2.
24 BY MR. BECKER:
25 Q. And section 2 includes the

Page 238

1 AS -- the language referencing the ASTM IP
2 Policy. Correct?
3 A. Yes, the statement is in there,
4 "You agree, by your participation...."
5 Q. For the record, this is
6 document Bates number ASTM082973.
7 MR. BECKER: We can go off the
8 record.
9 VIDEOGRAPHER: The time is now
10 6:06. We're going off the video
11 record. This concludes disc three.
12 - - -
13 (A recess was taken.)
14 - - -
15 VIDEOGRAPHER: The time is now
16 6:14. We're back on the video record.
17 This begins disc four.
18 - - -
19 (Exhibit 1306, E-mail chain,
20 Bates ASTM101777 - ASTM101779, was
21 marked for identification.)
22 - - -
23 BY MR. BECKER:
24 Q. I've handed you what's been
25 marked as Exhibit 1306. This is a document

Page 239

1 produced by ASTM as ASTM101777 to 101779. Is
2 that you addressed on this e-mail as Smith,
3 Dan at dsmith@astm.org [as read]?
4 A. Yes.
5 Q. Do you recognize this document?
6 A. No.
7 Q. Do you have any reason to
8 believe that you did not receive this
9 document?
10 A. No.
11 Q. Do you have any reason to
12 believe that this document is not authentic?
13 A. No.
14 Q. Do you know which retreat this
15 document is referring to when at the top line
16 of the e-mail it says, "One more 'talking
17 points' document for the retreat"?
18 A. It was most likely for our
19 spring 2012 retreat.
20 Q. What was the purpose of the
21 spring 2012 retreat?
22 MR. FEE: Objection. This is
23 beyond the scope. Explain to me how
24 this has had anything to do with the
25 three topics.

Page 240

1 MR. BECKER: This has to do with
2 a document that he is included on.
3 MR. FEE: That's it?
4 MR. BECKER: We have a 30(b)(6)
5 designee and we can ask him documents
6 that relate to his work with ASTM.
7 MR. FEE: I'm going to instruct
8 him not to answer that question.
9 MR. BECKER: This also has to do
10 with copyright issues.
11 MR. FEE: Copyright issues. If
12 it has to do with one of the three
13 topics, he's not going to answer your
14 question about it, and I don't think
15 it has to do with any of the three.
16 You haven't articulated even an
17 argument that it does.
18 MR. BECKER: I disagree, and I
19 believe that the witness should answer
20 any questions that are posed to him
21 that we have. And we are entitled to
22 be able to ask the witness about his
23 background and his operations with
24 ASTM.
25 MR. FEE: This isn't about his

Page 241

1 background. I'm instructing him not
2 to answer this question.
3 MR. BECKER: We are entitled to
4 ask the witness what we want. As a
5 30(b)(6) witness, we can ask him in
6 his individual capacity, and this
7 e-mail is fair game under that.
8 BY MR. BECKER:
9 Q. Mr. Smith, are you going to
10 answer the questions that we ask regarding
11 this document?
12 MR. FEE: No, he's not.
13 THE WITNESS: No, I'm not.
14 MR. BECKER: Counsel, I believe
15 that's in violation of the 30(b)(6)
16 requirements.
17 MR. FEE: The court's order said
18 that this was supposed to be on the
19 three topics that we've been talking
20 about all day. That's what the basis
21 for this deposition is.
22 MR. BECKER: The 30(b)(6) rules
23 allow us to ask questions of the
24 30(b)(6) designee. They don't have to
25 be focused purely on those topics, but
Page 242

1 if they are outside of those topics,
2 you can always object to them, but you
3 cannot instruct your client not to
4 answer the question.
5 MR. FEE: The court has
6 specifically ordered what the subject
7 matter of this deposition is going to
8 be. It did not include anything other
9 than those three topics, so I'm
10 instructing him not to answer.
11 MR. BECKER: I disagree.
12 MR. FEE: Disagree.
13 MR. BECKER: The court
14 instructed --
15 - - -
16 (Exhibit 1307, E-mail chain,
17 Bates ASTM099502 - ASTM099506, was
18 marked for identification.)
19 - - -
20 BY MR. BECKER:
21 Q. Mr. Smith, I'm handing you the
22 document that's been marked as Exhibit 1307.
23 This is the document produced by ASTM as
24 ASTM099502 to ASTM099506. Do you see that
25 you are cc'd on this document?
Page 243

1 A. Yes.
2 Q. Do you recognize this document?
3 A. No.
4 Q. Do you have any reason to
5 believe that this document is not authentic?
6 A. No.
7 Q. Do you have any reason to
8 believe that you did not receive this
9 document at the time it was sent?
10 A. No.
11 Q. Do you have any reason to
12 believe that you didn't review this document
13 at the time that it was sent to you?
14 A. I'm not sure.
15 - - -
16 (Exhibit 1308, 8/20/14 E-mail
17 with attachment, Bates ASTM003314 &
18 ASTM003315, was marked for
19 identification.)
20 - - -
21 BY MR. BECKER:
22 Q. I'm handing you what's been
23 marked as Exhibit 1308. This is a document
24 produced by ASTM as Bates number ASTM003314
25 to 15.
Page 244

1 MR. BECKER: I'll note simply to
2 counsel that in the court's order
3 concerning the deposition for today,
4 the court did not limit the deposition
5 to any topics. The court simply
6 denied the plaintiff's motion for a
7 protective order and ordered that a
8 deposition was to commence.
9 BY MR. BECKER:
10 Q. Mr. Smith, do you see your name
11 listed under the "To" line for Exhibit 1308?
12 A. Yes.
13 Q. Did you receive this e-mail?
14 A. I'm sure I did.
15 Q. Mr. Smith, do you -- is this
16 document as produced by ASTM authentic?
17 MR. FEE: Objection. Calls for
18 a legal conclusion. Beyond the scope
19 of his designation.
20 MR. BECKER: How is a request
21 for authentication a --
22 MR. FEE: Subject to the federal
23 rules of evidence.
24 MR. BECKER: Authentication?
25 BY MR. BECKER:
Page 245

1 Q. Mr. Smith, is this a correct
2 copy of the -- this e-mail that you received?
3 A. It could be. There's only
4 one -- looks like there's only one metric
5 attached here.
6 Q. And is that the document
7 titled: "GMAC.DOCX," that's the first
8 attachment listed in the e-mail?
9 MR. FEE: Objection. Calls for
10 speculation.
11 THE WITNESS: There's only one
12 attachment here, GMAC.
13 BY MR. BECKER:
14 Q. What is page 2 of this document?
15 A. It's one of the five metrics
16 that we have in 2015.
17 Q. What do you mean "one of the
18 five metrics"?
19 MR. FEE: Objection. This is
20 beyond the scope of his designations.
21 Does this have something to do with
22 respect to three topics that are the
23 subject of today's deposition?
24 MR. BRIDGES: Absolutely.
25 MR. FEE: How?

Page 246

1 MR. BECKER: This concerns the
2 federal government participation in
3 the creation of standards.
4 MR. FEE: And that is relevant
5 to which of your three topics?
6 MR. BECKER: Copyright ownership
7 and assignments and chain of title.
8 MR. FEE: This is respective
9 works at issue. Do you contend that
10 this document has something to do with
11 the work at issue? It's seven years
12 after the most recent work of issue.
13 MR. BECKER: But it still
14 concerns the, potentially the works
15 that are at issue given some of the
16 discussions that are on this document.
17 MR. FEE: I'll give you a little
18 bit of leeway on this, but frankly I
19 don't see that that's going to be the
20 case. Go ahead.
21 BY MR. BECKER:
22 Q. What are the five metrics that
23 you were mentioning?
24 A. We have five different metric
25 projects that we have focused on in 2015.

Page 247

1 Q. And when you say "we," are
2 you -- do you mean ASTM?
3 A. Correct.
4 Q. And who specifically at ASTM is
5 focusing on these five projects?
6 A. Our organization.
7 Q. And what are the five different
8 metrics?
9 MR. FEE: Objection. This is
10 beyond the scope. Did any of the five
11 metrics have to do with ownership of
12 copyrights?
13 THE WITNESS: No.
14 MR. BECKER: I'd like to know
15 what the background of this document
16 is.
17 MR. FEE: Is there any link to
18 the topics that are at issue in this?
19 MR. BRIDGES: He's explained
20 that, Counsel.
21 MR. FEE: It's turned out that
22 it has nothing do with copyright
23 issues.
24 MR. BRIDGES: You don't get to
25 ask him the questions.

Page 248

1 MR. FEE: He's already said it.
2 If you can link this to one of your
3 three topics, go ahead, but he's not
4 going to spend the next ten minutes
5 talking about a topic that's beyond
6 the scope of his designation.
7 MR. BECKER: The document
8 concerns the 1,500 federal agency
9 participants in ASTM technical
10 committees. I would like to know what
11 the background of this document is and
12 why it was created.
13 MR. FEE: If you want to ask him
14 about the 1,500 federal government
15 participants, go ahead.
16 BY MR. BECKER:
17 Q. What are the five metrics?
18 MR. FEE: Objection. Beyond the
19 scope. Go ahead. Let him ask a
20 couple more questions.
21 THE WITNESS: That's fine. This
22 is one metric. We have another metric
23 that is investigating whether or not
24 there would be a value to hire
25 technical expertise within ASTM staff.

Page 249

1 We have another metric that is
2 piloting new technology for
3 collaborating in development of
4 documents. We have another metric
5 that is evaluating a technology
6 options for consolidating or having a
7 content management system, a unified
8 content management system. And
9 there's another one that I'm not
10 thinking of right now.
11 BY MR. BECKER:
12 Q. What is -- what metric does
13 this document concern?
14 MR. FEE: Objection. Vague.
15 THE WITNESS: It deals with
16 coordinating, it says it right at the
17 top. Addresses government interaction
18 issues and creates an ASTM Government
19 Member Advisory Committee to advance
20 the following objectives.
21 BY MR. BECKER:
22 Q. What is the ASTM Government
23 Member Advisory Committee?
24 A. There is not one.
25 Q. So the ASTM Government Member
Page 250

1 Advisory Committee was never created?
2 A. No.
3 Q. Does ASTM plan to -- is ASTM
4 still considering creating a Government
5 Member Advisory Committee?
6 MR. FEE: Objection. Beyond the
7 scope.
8 THE WITNESS: We're considering
9 it.
10 BY MR. BECKER:
11 Q. Who prepared this metric?
12 MR. FEE: Objection. Vague.
13 THE WITNESS: I'm not sure.
14 BY MR. BECKER:
15 Q. Who would know?
16 MR. FEE: Objection. Beyond the
17 scope. Calls for speculation.
18 THE WITNESS: Jim Thomas.
19 BY MR. BECKER:
20 Q. Would anybody else besides Jim
21 Thomas know who prepared this?
22 MR. FEE: Same objections.
23 THE WITNESS: Possibly.
24 BY MR. BECKER:
25 Q. Can you name anybody else who
Page 251

1 would know?
2 MR. FEE: Same objections.
3 THE WITNESS: Not for sure.
4 BY MR. BECKER:
5 Q. Was Jim Thomas in charge of
6 this metric?
7 MR. FEE: Objection. Vague.
8 THE WITNESS: No.
9 MR. FEE: Calls for speculation.
10 Beyond the scope of his designation.
11 THE WITNESS: No.
12 BY MR. BECKER:
13 Q. The top bullet point statement
14 on the second page says, "Take inventory of
15 the existing 1,500 Federal agency
16 participants in ASTM technical committees to
17 identify areas of under-representation and
18 participation."
19 Do you know if that figure of
20 1,500 federal agency participants in ASTM
21 technical committees is correct?
22 MR. FEE: Objection. Vague.
23 THE WITNESS: It's probably
24 ballpark.
25 BY MR. BECKER:
Page 252

1 Q. Who would know what the exact
2 number of federal agency participants in ASTM
3 technical committees is?
4 MR. FEE: Objection. Calls for
5 speculation. Beyond the scope of his
6 designation.
7 THE WITNESS: Perhaps somebody
8 in our membership department. It's a
9 figure that changes on a daily basis.
10 - - -
11 (Exhibit 1309, ASTM
12 Collaboration Area, Bates ASTM103272,
13 was marked for identification.)
14 - - -
15 BY MR. BECKER:
16 Q. I'm handing you what's been
17 marked as Exhibit 1309. This is the document
18 that was produced by ASTM last night as Bates
19 number ASTM103272. It's titled "ASTM
20 Collaboration Area." And it appears that it
21 was printed on -- it was printed yesterday.
22 Could you tell me what this document is?
23 A. I believe it is a picture of an
24 image on our Web site that indicates a member
25 must agree to the language that's stated
Page 253

1 there before joining a collaboration area.
2 Q. Is this the ASTM collaboration
3 area language concerning the ASTM IP Policy
4 and copyright that you had discussed earlier
5 today in the deposition?
6 A. Looks like it's very similar,
7 yeah.
8 Q. When you say it's "very
9 similar," is there any differences that you
10 see between this and the version that is on
11 the ASTM Web site that you were describing
12 earlier today?
13 MR. FEE: Objection. Vague.
14 THE WITNESS: I meant that this
15 is very similar to the language that
16 we talked about earlier that was on
17 the renewal form.
18 BY MR. BECKER:
19 Q. When you described earlier that
20 participants in technical committees who set
21 up an ASTM collaboration area would have to
22 agree to language concerning copyright and
23 the ASTM IP Policy, were you describing this
24 document 1309?
25 MR. FEE: Objection to form.

Page 254

1 THE WITNESS: When earlier was
2 that?
3 BY MR. BECKER:
4 Q. At the start of the deposition.
5 MR. FEE: Same objection.
6 THE WITNESS: I may have been.
7 I'm not sure I recall the beginning of
8 the deposition, but I think that's
9 right.
10 - - -
11 (Exhibit 1310, ASTM Membership
12 Application, Bates ASTM103274 -
13 ASTM103276, was marked for
14 identification.)
15 - - -
16 BY MR. BECKER:
17 Q. I'm handing you what's been
18 marked as Exhibit 1310. This is the document
19 produced by ASTM last night as Bates number
20 ASTM103274 to ASTM103276.
21 Do you recognize this document?
22 A. It looks like it's our
23 membership application that we have on our --
24 on the Web.
25 Q. Is this a correct depiction of

Page 255

1 the membership application as it currently
2 exists on the Web?
3 A. It might be, or it might be
4 part of it.
5 Q. What is missing, if anything,
6 from this document if it is the membership
7 application on the Web?
8 A. This appears to be the 2003
9 version, so I don't think this is the most
10 recent version. It appears that there is
11 language at the very bottom of page
12 ASTM013275, it asks for acknowledgment about
13 reading and understanding ASTM's Intellectual
14 Property Policy, and agree to abide by its
15 terms, [check off box].
16 Q. It says, "put in weblink"
17 there. Do you know why it says that?
18 A. No, I don't know why.
19 Q. Does this appear to be a draft
20 of the ASTM membership application as of
21 approximately 2003?
22 A. I would -- I can't say for sure
23 but since it says, "Costs for 2003" up top, I
24 would say that's probably correct.
25 Q. Do you know if this precise

Page 256

1 version of the ASTM member application was
2 ever implemented online on the ASTM Web site?
3 A. I don't know for sure, but I'm
4 guessing it was since this looks like a
5 picture from the ASTM Web site.
6 Q. Who would know for certain?
7 A. I don't know if anybody would
8 at this point since it was an online
9 application.
10 MR. BECKER: Let's go off the
11 record.
12 VIDEOGRAPHER: The time is now
13 6:40. We're going off the video
14 record.
15 - - -
16 (A recess was taken.)
17 - - -
18 VIDEOGRAPHER: The time is now
19 7:01. We're back on the video record.
20 - - -
21 (Exhibit 1311, Record Retention
22 Policy, Bates ASTM003501 - ASTM003522,
23 was marked for identification.)
24 - - -
25 MR. FEE: Before we get started,

Page 257

1 I just want to say that Mr. Smith has
2 been available to be deposed since
3 10:00 a.m. this morning. It's now
4 7:00. We have about 55 minutes left.
5 We're not staying past 8:00. So if
6 you're going to take any other breaks,
7 it better be short. That was a
8 20-minute break and I think a complete
9 waste of time. Go ahead.
10 BY MR. BECKER:
11 Q. Mr. Smith, I've handed you
12 what's marked as Exhibit 1311. This is a
13 document produced by ASTM as 003501 to 3522.
14 Could you, please, identify it?
15 A. It says, "RECORD RETENTION
16 POLICY."
17 Q. Is this ASTM's record retention
18 policy?
19 A. Yes, I believe it is.
20 Q. Have you -- did you review
21 ASTM's record retention policy in preparation
22 for the deposition today?
23 A. I reviewed it very briefly.
24 Q. Do you know what category under
25 the record retention policy that membership

Page 258

1 application forms would qualify as?
2 MR. FEE: Objection. It's
3 beyond the scope of his designation.
4 THE WITNESS: Are you referring
5 to any particular pages?
6 BY MR. BECKER:
7 Q. Yes. If you look at ASTM 3502
8 and 3503, it says, "Types of Records." That
9 includes "Temporary Records," "Final Records"
10 and "Permanent Records." And then it also
11 has B is -- section B, "Types of Records That
12 have Legal or Regulatory Periods of
13 Retention," "Accounting and Corporate Tax
14 Records," "Corporate Records," "Employment
15 and Employee Records," "Bank Records," and
16 "Legal Records."
17 A. I don't know what category
18 membership application would fall under,
19 would just -- I'm not sure.
20 Q. Do you know what category the
21 ASTM IP Policy would fall under?
22 MR. FEE: Objection. Beyond the
23 scope.
24 THE WITNESS: No, I don't know.
25 I'm not very familiar with the "Types

Page 259

1 of Records," section III.
2 - - -
3 (Exhibit 1312, 11/21/08 E-mail
4 with attachment, Bates ASTM088320 -
5 ASTM088325, was marked for
6 identification.)
7 - - -
8 BY MR. BECKER:
9 Q. I'm handing you what's been
10 marked as Exhibit 1312. This is the document
11 produced by ASTM as ASTM088320 to ASTM088325.
12 It is an e-mail with an attachment that says,
13 "ASTM International Author/Copyright Owner
14 Agreement." Is this attachment a correct
15 copy of the ASTM International
16 Author/Copyright Ownership Agreement?
17 MR. FEE: Objection. Vague as
18 to time. Beyond the scope of the
19 designation as well.
20 THE WITNESS: I'm not sure.
21 BY MR. BECKER:
22 Q. Who would know whether this
23 attachment is a correct copy of the ASTM
24 International Author/Copyright Ownership
25 Agreement?

Page 260

1 MR. FEE: Objection. Beyond the
2 scope.
3 THE WITNESS: I would have to
4 read it first to possibly give you an
5 answer.
6 Our publications department
7 might be able to tell you whether or
8 not this is the correct
9 Author/Copyright Owner Agreement since
10 it's a journal paper, relevant to a
11 journal paper.
12 - - -
13 (Exhibit 1313, Web site
14 screenshots, Bates ASTM001792 -
15 ASTM001800, was marked for
16 identification.)
17 - - -
18 BY MR. BECKER:
19 Q. I'm handing you what's been
20 marked as Exhibit 1313. This document was
21 produced by ASTM with Bates number ASTM001792
22 to 1800. What is this document?
23 A. This looks like it is
24 screenshots from our Web site for how an
25 individual would renew their membership.

Page 261

1 Q. Is this a correct copy of the
2 current language for the renewal -- for the
3 membership renewal process on the ASTM Web
4 site?
5 MR. FEE: Objection. Vague.
6 THE WITNESS: These are Web
7 screenshots, so I'm not sure if this
8 is the current version or not. It's
9 kind of hard to read, but it looks
10 like it was -- I mean, it could be
11 current.
12 BY MR. BECKER:
13 Q. Did you review the membership
14 renewal online application in preparation for
15 your deposition today?
16 A. Yes.
17 Q. Is there any reason why you
18 think that this may not be an accurate copy
19 of the current membership renewal process on
20 the ASTM Web site?
21 A. No.
22 Q. Looking at Exhibit 1313, on the
23 second page near the top of the page
24 ASTM001793, does that depict the membership
25 renewal screen that discusses a copyright and

Page 262

1 the ASTM IP Policy?
2 A. Yes.
3 MR. FEE: Objection. The
4 document speaks for itself.
5 THE WITNESS: It's a little
6 tough to read, but it would appear
7 that way.
8 - - -
9 (Exhibit 1314, Screenshots,
10 Bates ASTM001801 - ASTM001813, was
11 marked for identification.)
12 - - -
13 BY MR. BECKER:
14 Q. I've handed you what's been
15 marked as Exhibit 1314. This is the ASTM
16 document Bates labeled ASTM001801 to 1813
17 Could you, please, identify this document?
18 A. This looks like screenshots of
19 the path that an individual could take to
20 access the membership application and
21 complete it and submit it online so that they
22 can join a technical committee.
23 Q. Is this for joining a technical
24 committee or is this for getting an ASTM
25 membership?

Page 263

1 A. This is for joining a technical
2 committee. It's a participating membership
3 application. So on page ASTM001802 you
4 select the type of membership that you want
5 to purchase. And in this particular instance
6 the screenshots show that they've selected
7 the participating member. And then after
8 that it's an example of what one would see if
9 they selected the organizational membership.
10 And then the informational and then the
11 student.
12 - - -
13 (Exhibit 1315, ASTM Member
14 Application Forms, Bates ASTM052816,
15 ASTM052817, ASTM062194, ASTM062195,
16 ASTM062198 & ASTM062199, was marked
17 for identification.)
18 - - -
19 BY MR. BECKER:
20 Q. I'm handing you what's been
21 marked as Exhibit 1315. This is a
22 document -- this is a number of documents
23 Bates labeled ASTM052816 to 817, ASTM062194
24 to 195, and ASTM062198 to 199. Would you,
25 please, tell me what these documents are?

Page 264

1 MR. FEE: Object to the use of
2 randomly selected documents stapled
3 together as one exhibit. You can
4 answer.
5 THE WITNESS: It says at the top
6 in English "ASTM MEMBER APPLICATION
7 FORM."
8 BY MR. BECKER:
9 Q. Is this an ASTM member
10 application form that's in English and
11 Chinese?
12 MR. FEE: Objection. Calls for
13 expert testimony to the extent you're
14 asking him to speak to what language
15 this is.
16 THE WITNESS: I've never seen
17 this application before, but it says
18 ASTM member application form. It's
19 perhaps something that we used as a
20 service to have Chinese members or
21 have Chinese individuals join ASTM.
22 BY MR. BECKER:
23 Q. Are you aware of any discussion
24 of copyright or the ASTM IP Policy in these
25 forms that are in both English and Chinese

Page 265

1 that I've provided here as Exhibit 1315?
2 MR. FEE: Same objections, plus
3 lack of formation -- or foundation.
4 Sorry.
5 THE WITNESS: I'm not aware of
6 whether there was or there was not.
7 - - -
8 (Exhibit 1316, Regulations
9 Governing ASTM Technical Committees,
10 was marked for identification.)
11 - - -
12 BY MR. BECKER:
13 Q. I'm handing you what's been
14 marked as Exhibit 1316. Could you, please,
15 tell me what this document is?
16 A. The front page says the
17 "REGULATIONS GOVERNING ASTM TECHNICAL
18 COMMITTEES."
19 Q. What are the Regulations
20 Governing ASTM Technical Committees?
21 A. It's essentially this entire
22 document if it's all included here.
23 Q. Does it appear to be all
24 included there?
25 A. I'd have to go through it, but

Page 268

1 it could. Looks like it.
2 Q. What is the purpose of the
3 Regulations Governing ASTM Technical
4 Committees?
5 MR. FEE: Objection. Beyond the
6 scope. Vague.
7 THE WITNESS: Technical
8 committees follow the regulations and
9 develop member standards.
10 BY MR. BECKER:
11 Q. Do you use the Regulations
12 Governing ASTM Technical Committees in the
13 course of your work with ASTM?
14 A. Yes.
15 Q. How do you use them?
16 A. As staff people, we advise our
17 technical committees on the regulations so
18 that they -- the regulations can be followed
19 in the development of their standards.
20 Q. Do staff members do other
21 things to assist the members of the technical
22 committees?
23 MR. FEE: Objection. Vague.
24 THE WITNESS: Yes.
25 BY MR. BECKER:

Page 267

1 Q. What do staff members do to
2 assist the members of technical committees?
3 MR. FEE: Objection. Vague.
4 THE WITNESS: General
5 assistance. Provide them with advice
6 on regulations, on our form and style
7 manual. We have interlaboratory study
8 program that assists our members. A
9 variety of things. I don't know if
10 there's anything specific that you
11 want me to focus on.
12 BY MR. BECKER:
13 Q. Does -- how does ASTM staff
14 members assist individual -- assist technical
15 committee members in the drafting or revision
16 of standards?
17 MR. FEE: Objection. Vague.
18 THE WITNESS: We have -- we
19 provide them with editorial
20 assistance, so we'll provide editorial
21 help within the documents. Our
22 interlaboratory study program is
23 responsible for organizing round-robin
24 studies for collecting the data and
25 doing the number crunching in order to

Page 269

1 produce precision statements. Our ILS
2 team will produce the research reports
3 which are referenced in the standard.
4 We will help -- we have a graphics
5 department that will create graphics
6 for the standards, for committee
7 members. We have an up-front editor
8 that provides a great deal of
9 assistance if we have a draft that
10 needs to be put into proper ASTM form
11 and style. We provide them with
12 assistance on language for caveats
13 that are placed in the ASTM standards.
14 BY MR. BECKER:
15 Q. Anything else?
16 A. We provide an awful lot of
17 assistance, but nothing else that comes to
18 mind at this particular time.
19 Q. When you say editorial
20 assistance, what do you mean by that?
21 A. Grammatical things. We'll
22 inform members if they have mandatory
23 language in a non-mandatory section, that
24 that's outside the form and style policy. Or
25 vice versa, if they have non-mandatory

Page 269

1 language in a mandatory section, we'll
2 provide assistance in tweaking that language
3 so that it's within the form and style
4 guidelines.
5 Q. Anything else in terms of
6 editorial assistance other than grammatical
7 assistance?
8 A. We could take a document and
9 place it and organize it so that it has the
10 relevant sections as defined in the form and
11 style manual.
12 Q. Do you mean to reorganize a
13 draft standard, is that what you're saying?
14 A. Yes.
15 Q. What are -- excuse me.
16 Anything else in terms of
17 editorial assistance?
18 A. Our editors will also take a
19 document that's been approved through our
20 balloting process, if it's a new standard,
21 they'll put it into publication format and
22 work with the technical contacts to make sure
23 that everything looks good prior to
24 publication.
25 Q. When you say they put it into

Page 270

1 publication format, does that involve any
2 changes to the content of the draft standard?
3 MR. FEE: Objection. Vague.
4 THE WITNESS: It involves taking
5 what was balloted in the Word format
6 and placing it into our XML format
7 that we use for producing PDFs.
8 BY MR. BECKER:
9 Q. Is that a no?
10 MR. FEE: Objection. You can
11 answer the question however you like.
12 You don't have to answer it yes or no.
13 THE WITNESS: Did you ask me is
14 that a no?
15 BY MR. BECKER:
16 Q. Yeah.
17 A. What was -- can you repeat the
18 original question?
19 Q. The question was, when you say
20 you put it into publication format, does that
21 involve any changes to the content of the
22 draft standards?
23 MR. FEE: Objection. Vague.
24 THE WITNESS: It could,
25 editorial changes, yes.

Page 271

1 BY MR. BECKER:
2 Q. Is that the same grammatical
3 changes that you were referring to before?
4 MR. FEE: Objection.
5 Mischaracterizes his testimony.
6 Vague.
7 BY MR. BECKER:
8 Q. I'm sorry, what did you say?
9 A. The editors could work with the
10 technical contacts to incorporate editorial
11 changes, grammatical or reorganization of
12 content.
13 Q. Who are the technical contacts?
14 A. Who are they?
15 Q. Yeah.
16 A. They are individuals that take
17 the lead in developing a new standard or in
18 developing a revision to an existing
19 standard.
20 Q. Are those volunteers or are
21 those employees of ASTM?
22 MR. FEE: Objection. Vague.
23 Calls for a legal conclusion.
24 THE WITNESS: They're
25 volunteers.

Page 272

1 BY MR. BECKER:
2 Q. What did you mean when you said
3 precision statements?
4 A. Precision statements are
5 included in test methods.
6 Q. What are precision statements?
7 A. Precision statements include
8 statements on repeatability and reproducibility.
9 Q. What do you mean by that?
10 A. For a test method, a statement
11 of repeatability would be a laboratory taking
12 the ASTM test method and running the test in
13 the laboratory several times. And they take
14 the results of that test and they see how
15 close each iteration is. And if the results
16 are very close, then that would indicate good
17 precision. If it's -- if the results are not
18 close, then that would indicate poor
19 precision. So that's what repeatability is.
20 Then reproducibility is at least six labs
21 doing the same thing as what I just described
22 as that one lab. And then the
23 reproducibility is a statement that analyzes
24 the results from all six or more labs.
25 Q. Do the same precision

Page 273

1 statements appear in different standards?
2 A. In test methods.
3 Q. For test methods they do?
4 A. Yes.
5 Q. What is the work that the
6 graphics department does?
7 MR. FEE: Objection. Vague.
8 THE WITNESS: Graphics, I don't
9 know exactly everything that they do,
10 but they will take figures that are
11 perhaps old from years ago and we will
12 use them in our technology, update
13 them to make them more user friendly.
14 BY MR. BECKER:
15 Q. Are these figures that were
16 created by committee members or how are these
17 figures created that the graphics department
18 would update?
19 MR. FEE: Objection to form.
20 THE WITNESS: I would assume by
21 the committee members.
22 BY MR. BECKER:
23 Q. Do members -- do committee
24 members vote on the changes that -- or
25 additions that you just described?

Page 274

1 MR. FEE: Objection.
2 Mischaracterizes his testimony. Vague
3 and ambiguous.
4 THE WITNESS: Yes.
5 BY MR. BECKER:
6 Q. Do committee members vote on
7 the final versions of ASTM standards?
8 A. I'm not sure what you mean by
9 "final versions."
10 Q. Do committee members vote on
11 ASTM standards, on the final appearance of
12 ASTM standards?
13 MR. FEE: Objection. Vague.
14 THE WITNESS: The final
15 appearance, the published format?
16 BY MR. BECKER:
17 Q. Yes.
18 A. No.
19 Q. Do ASTM committee members vote
20 on the content that appears in the final form
21 of ASTM standards?
22 MR. FEE: Objection. Vague.
23 THE WITNESS: The content that
24 is balloted and approved through our
25 consensus process is not changed

Page 275

1 significantly when it's transformed
2 into the published version.
3 BY MR. BECKER:
4 Q. When you say it's not changed
5 significantly, what do you mean?
6 A. There could be editorial
7 changes. So that's a service that our
8 editors perform. When they're putting it
9 into the published version, they will work
10 with the technical contact to incorporate any
11 editorial changes that may have been agreed
12 upon by the committee.
13 Q. You mentioned caveats in ASTM
14 standards. What are those?
15 A. There are caveats that are in
16 our form and style manual.
17 Q. Are those -- what exactly are
18 the caveats in the form and style manual?
19 MR. FEE: Objection. Vague.
20 THE WITNESS: I wouldn't be able
21 to name all of them for you, but there
22 are caveats related to the use of
23 units, so the standard will -- the --
24 there will be a caveat that will
25 identify the use of units within a

Page 276

1 particular standard. We have certain
2 safety caveats and hazardous caveats.
3 I think we have a caveat that deals
4 with mercury being used in the
5 standard. I'm sure there are some
6 others.
7 - - -
8 (Exhibit 1317, Participating
9 Membership Applications, Bates
10 ASTM064686 - ASTM064692, was marked
11 for identification.)
12 - - -
13 BY MR. BECKER:
14 Q. I'm handing you what's been
15 marked as Exhibit 1317. This document has
16 been produced by ASTM as ASTM064686 to 64692.
17 What is this document?
18 A. This looks like a copy of an
19 old application that was downloaded and saved
20 from our Web site and that was filled out by
21 hand. Best guess.
22 - - -
23 (Exhibit 1318, E-mail chain with
24 attachment, Bates ASTM087493 -
25 ASTM087497, was marked for

Page 277

1 identification.)
2 - - -
3 BY MR. BECKER:
4 Q. I'm handing you what's been
5 marked as Exhibit 1318. Does this exhibit
6 appear to show an individual who was
7 attempting to renew his application,
8 membership application with ASTM by phone --
9 A. I'd have to read it.
10 Q. -- and e-mail?
11 A. [Reviewing document.] Looks
12 like, based on what I'm reading here, they
13 were trying to renew the membership by phone,
14 but it doesn't say that it actually happened.
15 Q. Can ASTM members renew their
16 membership by phone or e-mail?
17 A. They could. It's not -- I
18 don't think it's very common, but they could.
19 - - -
20 (Exhibit 1319, 2011 ASTM
21 International Committee Membership
22 Application, Bates ASTM061183, was
23 marked for identification.)
24 - - -
25 BY MR. BECKER:

Page 278

1 Q. I'm handing you what's been
2 marked as Exhibit 1319, document produced by
3 ASTM as Bates number ASTM061183. What is
4 this document?
5 A. It says, "2011 ASTM...Committee
6 Membership Application."
7 Q. Does this document appear to
8 have a line crossed through the language
9 concerning the ASTM IP Policy?
10 MR. FEE: Objection. The
11 document speaks for itself.
12 THE WITNESS: I can't say that
13 that's a line or whether that's an
14 indicator towards the individual's
15 account number.
16 - - -
17 (Exhibit 1320, How To Standards
18 Writing 101 New Standards, was marked
19 for identification.)
20 - - -
21 BY MR. BECKER:
22 Q. I'm handing you what's been
23 marked as Exhibit 1320. What is this
24 document?
25 A. I'm not sure. It says

Page 279

1 Standards Writing 101 How To [as read]. It
2 looks like something that was written in
3 Standardization News back in 2000.
4 Q. Does this document accurately
5 reflect the way that standards were developed
6 at ASTM in approximately March of 2000?
7 MR. FEE: You're going to have
8 to read the whole document to answer
9 that question.
10 THE WITNESS: This was, I
11 believe, a way that an individual
12 could request the development of a new
13 standard.
14 BY MR. BECKER:
15 Q. So there were other ways that
16 an individual could request the development
17 of a new standard as of March 2000?
18 A. Yeah, they could make a request
19 from the subcommittee or by the subcommittee
20 chairman.
21 - - -
22 (Exhibit 1321, How Standards are
23 Developed article, was marked for
24 identification.)
25 - - -

Page 280

1 BY MR. BECKER:
2 Q. I'm handing you what's been
3 marked as Exhibit 1321. This document was
4 printed from the ASTM Web site at
5 www.astm.org/MEMBERSHIP/standardsdevelop.HTML.
6 What is this document?
7 A. It looks like maybe an article.
8 MR. FEE: Objection. Lack of
9 foundation.
10 THE WITNESS: Maybe an article
11 we have on our Web site that helps
12 provide guidance for our members.
13 BY MR. BECKER:
14 Q. Do you know what a US TAG ISO
15 list is?
16 A. A US --
17 Q. US TAG ISO list.
18 A. United States Technical
19 Advisory Group ISO list, I don't know if that
20 refers to the list of members that are
21 serving on the technical advisory group.
22 - - -
23 (Exhibit 1322, 8/13/08 E-mail,
24 Bates ASTM073852, was marked for
25 identification.)

Page 281

1 - - -
2 BY MR. BECKER:
3 Q. I'm handing you what's been
4 marked as Exhibit 1322 which has been
5 produced by ASTM as ASTM073852. Can you tell
6 me what this document is?
7 A. It's an e-mail from Tom O'Toole
8 to our customer service department.
9 Q. Does this refresh your
10 recollection at all as to what a US TAG ISO
11 list is?
12 A. I'm assuming it's the
13 membership list, because it says, "...listed
14 as members of the US TAG to ISO TC 160."
15 Q. Is that an ASTM membership
16 list?
17 A. It appears that it's ASTM
18 subcommittee C14.92, holds the US TAG to the
19 ISO technical committee 160.
20 MR. BECKER: All right. Let's
21 go off the record and take a short
22 break.
23 VIDEOGRAPHER: The time is now
24 7:44. We're going off the video
25 record.

Page 282

1 - - -
2 (A recess was taken.)
3 - - -
4 VIDEOGRAPHER: The time is now
5 7:49. We're back on the video record.
6 BY MR. BECKER:
7 Q. Looking at Exhibit 1289 which
8 is the Amended Notice of Rule 30(b)(6)
9 Deposition, topic --
10 MR. FEE: Hold it. Let him grab
11 it.
12 BY MR. BECKER:
13 Q. Okay. Do you have it?
14 A. Yeah.
15 Q. If you turn to page 7. Topic
16 24 is -- on which you've been designated is,
17 "The bates numbers of at least one instance
18 of every form of assignment with which You
19 claim a person assigned any copyright in the
20 Works-At-Issue to You."
21 Could you, please, provide the
22 Bates number of at least one instance of
23 every form of assignment with which ASTM
24 claims that a person assigned any copyright
25 in the Works-At-Issue to ASTM?

Page 283

1 A. I believe I can.
2 MR. FEE: Do you want to mark
3 that?
4 MR. BECKER: Yeah. Let's mark
5 this as the next one.
6 - - -
7 (Exhibit 1323, Bates Numbers of
8 Assignment Documents, was marked for
9 identification.)
10 - - -
11 BY MR. BECKER:
12 Q. Is this your answer to my
13 question?
14 A. Yes.
15 Q. Is this correct to the best of
16 your -- is this Exhibit 1323 your answer to
17 my question concerning Topic 24?
18 A. Yes.
19 Q. Is this Exhibit 1323 correct,
20 to the best of your knowledge?
21 A. Yes, to the best of my
22 knowledge.
23 Q. Who prepared this document,
24 Exhibit 1323?
25 A. I'm not sure. I think our

Page 284

1 counsel.
2 Q. Were you provided this
3 document, Exhibit 1323, by counsel?
4 A. Yes.
5 Q. What did you do to confirm that
6 Exhibit 1323 is accurate?
7 A. I didn't go through number by
8 number.
9 Q. Did you look at any of the
10 Bates numbers that are listed on this
11 Exhibit 1323 and confirm that they
12 corresponded with any assignment language?
13 A. We looked at them yesterday,
14 yes.
15 Q. Did you look at all of them?
16 A. I believe I did.
17 Q. All of the Bates numbers that
18 are listed?
19 A. I don't know if I looked at the
20 exact Bates numbers to correspond -- to
21 correspond with each individual document, but
22 I believe I looked at all of the documents.
23 Q. Has there been any impairment
24 to the operations of the ASTM technical
25 committees that has arisen in the past five

Page 285

1 years?
2 MR. FEE: Objection. Vague.
3 Beyond the scope of his designation.
4 What topic does this relate to? I'm
5 instructing him not to answer unless
6 there's a topic that this relates to.
7 BY MR. BECKER:
8 Q. In your work with the ASTM
9 technical committees, are you familiar with
10 of any difficulties that have arisen in the
11 past five years that concern the operations
12 of the ASTM technical committees?
13 MR. FEE: Can you identify any
14 topic that that relates to? I take
15 your silence as refusal to do so.
16 I'll instruct him not to answer.
17 BY MR. BECKER:
18 Q. Have -- are you going to refuse
19 to answer that question?
20 MR. FEE: Yes, he is.
21 THE WITNESS: Yes.
22 BY MR. BECKER:
23 Q. Has there been any lack of
24 resources for the operations of the ASTM
25 technical committees in the past five years?
Page 286

1 MR. FEE: Can you identify a
2 topic to which that relates? I take
3 that as a no. I'll instruct you not
4 to answer that question.
5 MR. BECKER: I don't have to
6 identify any topics to which that
7 relates.
8 BY MR. BECKER:
9 Q. Will you answer that question?
10 MR. FEE: No, he won't.
11 THE WITNESS: No.
12 BY MR. BECKER:
13 Q. In the scope of your work with
14 ASTM, are you familiar with any lack of
15 resources that members of ASTM technical
16 committees have encountered in the past five
17 years?
18 MR. FEE: Can you identify any
19 topic to which that relates?
20 MR. BECKER: I do not have to
21 identify a topic.
22 MR. FEE: If you don't do so,
23 I'm going to instruct him not to
24 answer.
25 BY MR. BECKER:
Page 287

1 Q. Are you refusing to answer that
2 question?
3 A. Yes.
4 MR. BECKER: Then I'm going to
5 end the deposition now and reserve my
6 right to follow up on those questions --
7 MR. FEE: Just so the record is
8 clear --
9 MR. BECKER: -- and the
10 questions that counsel instructed the
11 witness to refuse to answer.
12 MR. FEE: Okay. We're now at
13 six minutes and 50 -- six hours and
14 55 minutes of testimony, just so the
15 record is clear. I have one or two
16 questions for you.
17 - - -
18 EXAMINATION
19 - - -
20 BY MR. FEE:
21 Q. Would you turn back to 1323.
22 A. Yes.
23 Q. I just want to make sure that
24 we're clear about one question. You see in
25 the middle, slightly above the middle of that
Page 288

1 page it says, "Bates Range of Paper
2 Membership Forms," and it says ASTM034596
3 through ASTM0088302. Did you review
4 approximately 54,000 pages in connection with
5 the creation of this document?
6 A. No.
7 MR. BECKER: Object as to form.
8 BY MR. FEE:
9 Q. Would you turn to Exhibit 1313.
10 A. I'm afraid I --
11 Q. That is, I believe, the
12 membership renewal --
13 A. Got it. Got it.
14 Q. -- pages of their screenshots.
15 A. Yes.
16 Q. Do you recall Mr. Becker
17 pointed you to, I believe, language on the
18 second page of this document and asked
19 whether or not that had any language related
20 to the IP Policy or assignments?
21 A. Yes.
22 MR. BECKER: Object as to form.
23 BY MR. FEE:
24 Q. Are there any other portions of
25 what's been marked as 1313 that relate to the
Page 289

<p>1 IP Policy or assignments? 2 MR. BECKER: Object as to form. 3 THE WITNESS: There is 4 additional language. This document 5 identifies membership renewal Web 6 screenshots for different types of 7 members. So I identified page 2, and 8 then there's also additional language 9 on page ASTM001796 as well as 10 ASTM001798. And I believe that's it. 11 MR. FEE: I have no other 12 questions. 13 Do you have any other questions 14 or is he done? 15 MR. BECKER: No, no redirect. 16 MR. FEE: Great. Thank you. 17 THE WITNESS: Thanks. 18 VIDEOGRAPHER: The time is now 19 7:57. This concludes the videotape 20 deposition of Dan Smith. 21 - - - 22 (Witness excused.) 23 - - - 24 (Deposition concluded at 7:57 25 p.m.)</p> <p style="text-align: right;">Page 290</p>	<p>1 I declare under penalty of perjury 2 under the laws that the foregoing is 3 true and correct. 4 5 Executed on _____, 20____, 6 at _____, _____. 7 8 9 10 11 _____ 12 DANIEL SMITH 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 292</p>
<p>1 C E R T I F I C A T E 2 3 4 I do hereby certify that I am a Notary 5 Public in good standing, that the aforesaid 6 testimony was taken before me, pursuant to 7 notice, at the time and place indicated; that 8 said deponent was by me duly sworn to tell 9 the truth, the whole truth, and nothing but 10 the truth; that the testimony of said 11 deponent was correctly recorded in machine 12 shorthand by me and thereafter transcribed 13 under my supervision with computer-aided 14 transcription; that the deposition is a true 15 and correct record of the testimony given by 16 the witness; and that I am neither of counsel 17 nor kin to any party in said action, nor 18 interested in the outcome thereof. 19 20 WITNESS my hand and official seal this 21 7th day of August, 2015. 22 23 _____ 24 Notary Public 25</p> <p style="text-align: right;">Page 291</p>	

[& - 199]

&	10:00 258:3	1296 4:9 195:20	1322 6:11 281:23
& 1:15 2:4,10 4:20 5:11,24 9:16 10:19 183:5 210:22 244:17 264:16	10:46 12:11,17 11 127:25 11/21/08 5:17 260:3 1111 2:5 115 154:22 11:48 57:14 11th 182:25	196:1 200:7 205:8 1297 4:11 201:11,18 201:24 205:8 1298 4:13 204:3,9 204:15 1299 4:15 205:11,18	282:4 1323 6:12 284:7,16 284:19,24 285:3,6 285:11 288:21 15 86:19 109:16 244:25
0	12 7:6 121 3:25 122 4:1 1284 3:9 34:22 35:5 38:20 80:11 81:11 106:24 107:1,5,13 107:16,23 1285 3:12 60:2,9 61:24 62:10,12,15 64:22 71:18 72:15 72:22 76:5 1286 3:14 64:5,13 64:22 74:8,12 1287 3:16 65:19 66:2 1288 3:19 68:13,21 69:21 72:16,21 73:2 74:24 75:4 78:11 109:17	12:02 57:20 12:54 87:23 12th 2:12 184:5 13 7:5 65:11 69:10 69:23 1300 4:16 209:24 210:5 1301 4:18 210:18 211:2 218:6 1302 4:21 229:2,12 1303 5:1 232:9,16 1304 5:3 235:25 236:6 1305 5:5 238:8,14 1306 5:7 239:19,25 1307 5:8 243:16,22 1308 5:10 244:16,23 245:11 1309 5:12 253:11,17 254:24 1310 5:13 255:11,18 1311 5:15 257:21 258:12 1312 5:17 260:3,10 1313 5:19 261:13,20 262:22 289:9,25 1314 5:20 263:9,15 1315 5:22 264:13,21 266:1 1316 5:25 266:8,14 1317 6:1 277:8,15 1318 6:3 277:23 278:5 1319 6:5 278:20 279:2 1320 6:8 279:17,23 1321 6:9 280:22 281:3	160 282:14,19 161 7:5 166 161:8 171 4:3 173 4:4 1800 1:18 8:20 261:22 1801 1:17 8:19 181 4:6 1813 263:16 187 4:7 19 147:7 156:6 19103 1:19 195 4:9 264:24 1970s 22:9,21 1977 147:10,14,15 147:16 148:1,9,15 148:18,23 1977e2 147:9,24 148:14 150:13 1978 148:18,20,22 149:2,25 1979 146:3,14 147:3 149:21 150:12 152:8,14,21,24 153:15,18 154:4 1980 63:8 133:22,25 134:6,22 135:12 136:9,15 137:13 138:1,18 141:19 144:8 147:2 150:12 150:15,20 152:16 152:22,25 153:19 154:6 158:4 1980s 22:10,21 1984 126:2 127:17 199 264:24
1	1 1:25 7:6 37:17 136:11,16 137:14 138:2,19 141:20 144:9 149:17,22 150:2,5,10 152:9,15 152:17 1,500 249:8,14 252:15,20 10 3:4 7:6,15 86:19 160:20 100 181:25 101 6:8 279:18 280:1 101779 240:1 103277 61:5 103284 61:6 108 134:21	1289 3:21 88:7,16 283:7 1290 3:25 121:16,22 140:23,25 141:3 1291 4:1 122:6,13 122:19,23 123:6 133:4 136:8 141:14 142:1 145:17 156:21 158:7 161:4 1292 4:3 142:1 171:12,18 1293 4:4 173:4,11 205:5 212:10,10,13 213:6,11,23 214:10 215:1,5,9,23 222:14 1294 4:6 181:14,20 1295 4:7 187:2,9,21 187:25 188:3	

[1997e2 - 739-5353]

<p>1997e2 141:4,18 146:12 147:6 1999 60:19 61:9 62:25 66:15 69:8 70:1,12,21 71:5,19 73:23 76:13 119:14 120:3,12,15,23 121:2,9 1:13 1:3 9:5 1:58 88:4 1a 109:22 115:13 116:7</p>	<p>200:4 216:6 234:9 2009 192:1 216:10 201 4:11 2010 4:11 5:3 65:11 65:16 68:6,7,8 69:11,24 73:2 109:18 192:2 201:11,21 216:13 235:25 236:9 2011 4:4 5:5 6:5 173:4,15,17 179:10 179:23 180:20 213:10 216:15 222:14 238:8,16 278:20 279:5 2012 216:17 218:8 218:13 222:4,21,22 240:19,21 2013 68:6 73:1 160:11,21,22 161:9 161:9,11 163:16 172:10 216:19 224:14 2014 211:8,15 212:1 213:9 216:21 224:20,25 225:8,22 226:4,10 2015 1:20 8:15 246:16 247:25 291:12 202 2:6 204 4:13 205 4:15 209 4:16 21 7:5 210 4:18 22 7:7 226-040 146:3,13 229 4:21 23 23:6 232 5:1 235 5:3 238 5:5 239 5:7</p>	<p>24 1:20 8:15 89:6,10 90:8,10 283:16 284:17 241 7:5 242 7:6 243 5:8 7:6 244 5:10 25 118:22,22 253 5:12 255 5:13 257 5:15 260 5:17 261 5:19 263 5:20 264 5:22 266 5:25 277 6:1,3 278 6:5 279 6:8 28 60:19 61:8 62:25 65:10 69:10,23 70:1 70:12,21 71:5,19 76:13 119:14 120:3 280 6:9 281 6:11 284 6:12 286 7:5,5,7 287 7:6,6,7 288 3:5 292 1:25 2a 125:11,14 126:19 126:25 127:8 128:4 128:20,25 129:10 129:15,25 130:7,11 130:16 131:2,14 132:1,16</p>	<p>31 133:21,25 134:6 134:22 135:12 34 3:9 35 138:14 3502 259:7 3503 259:8 3522 258:13 3:08 135:18 3:20 135:24 3:56 159:3</p>
<p>2</p>			<p>4</p>
<p>2 7:7 89:5,10 90:7 90:10 121:5 141:3 143:1 238:23,25 246:14 290:7 2-1 133:8 156:24 157:3 20 7:5 50:5 51:3 52:21 53:8,20 118:22 258:8 292:5 2000 156:7 280:3,6 280:17 20004 2:5 2000s 23:3 108:3 2002 33:18 36:13 40:24 2003 24:25 25:7 26:4,6,11 27:14 29:2,8 41:15 42:4,7 58:6 59:16 65:11 66:17 67:13 69:10 69:23 82:1 94:10 107:20,21 256:8,21 256:23 2004 63:18 2005 26:7 215:6 2006 160:17,18 2007 211:6,14 212:1 213:9 216:2 225:7 226:4,9 2008 192:1 196:11 196:19 199:15,25</p>			<p>4 72:7 40 17:13 400 165:1,3 170:1 415 2:13 434-207 141:7,11 4:02 159:9 4:57 195:12</p>
			<p>5</p>
			<p>5 7:6 161:9 50 17:13 87:9 140:12 288:13 54,000 289:4 55 258:4 288:14 555 2:12 5:05 195:18</p>
			<p>6</p>
			<p>6 1:14 3:23 88:9,18 241:4 242:5,15,22 242:24 283:8 60 3:12 64 3:14 64692 277:16 65 3:16 68 3:19 6:06 239:10 6:14 239:16 6:40 257:13</p>
			<p>7</p>
			<p>7 7:5 283:15 70s 22:18 739-5353 2:6</p>
		<p>3</p>	
		<p>3 7:15 17:13 20:3 89:5,10 90:7,10 160:18 3/17/10 65:6 30 1:14 3:23 20:3 88:9,18 241:4 242:5 242:15,22,24 283:8</p>	

[75 - answer]

<p>75 21:11 95:21 97:19 98:2,3 7:00 258:4 7:01 257:19 7:44 282:24 7:49 283:5 7th 291:12</p>	<p>accurately 280:4 acknowledge 103:5 104:10 111:14 218:25 219:17 220:6 238:1 acknowledged 115:15 116:8 acknowledgement 3:10 34:18,24 35:12 39:11,14,19 40:1,23 80:13 acknowledges 111:12 acknowledgment 256:12 acting 47:20 48:24 53:20 113:6,24 action 123:8 133:7 163:5 170:11 291:10 activities 30:25 actual 84:14 209:13 220:21 223:20 add 57:25 59:22 added 152:10,14 additional 57:24 89:9,11 152:12,14 176:21 290:4,8 additions 274:25 address 13:11 100:14 175:3 203:5 addressed 240:2 addresses 54:21 174:12,17,19,22 250:17 adds 73:3 adjuncts 78:21 adopted 61:1 62:3 67:12 68:7,8 70:21 advance 250:19 advice 76:24 268:5 advise 267:16 advisory 250:19,23 251:1,5 281:19,21</p>	<p>affairs 172:13 affect 95:19 affiliation 207:14 aforesaid 291:4 afraid 289:10 agencies 170:20,24 183:10 184:20 185:9 agency 174:5 249:8 252:15,20 253:2 ago 27:21,25 28:4 45:16 92:9 93:12 97:18 100:10 138:14 274:11 agree 8:11 17:23,23 18:1,1 78:14 79:11 80:18 162:9,12 172:10 176:12,15 214:1,11 219:1,18 220:7 239:4 253:25 254:22 256:14 agreed 276:11 agreement 110:8,8 110:12 115:14 116:7,16 260:14,16 260:25 261:9 agreements 116:12 116:21,25 117:4,20 119:10 agrees 73:3 115:9 116:4 181:6 ahead 41:11 44:10 45:11 46:21 47:12 48:3 52:16 67:10 72:5 75:13 76:1 93:17 110:18 111:24 112:12 113:15 114:7 121:14 135:5 164:16 193:21 198:15 200:16 202:7 204:24 209:21 223:2 237:23 247:20 249:3,15,19 258:9</p>	<p>aided 291:8 air 1:7 183:2,3,16,20 184:8,11 al 8:25 alive 132:21 allow 198:13 238:1 242:23 allows 21:22 ambiguous 275:3 amc 183:4 amended 3:22 65:9 66:16 69:9,22 88:8 88:17 283:8 american 1:2,6,15 3:23 8:24 88:10,18 130:6 133:10 134:11 135:2 amusement 158:10 analyzes 273:23 andrew 2:11 9:16 announcing 95:17 annual 73:4 101:22 101:23,24 102:2 136:10,15 137:13 138:1,18 141:19 144:8 147:2 149:4,7 149:13,21 150:1,14 152:8,15,16 153:3 154:11 176:16 answer 7:3 12:6 13:6 14:10 15:23 22:13 29:23 30:14 31:3 34:5 37:10 38:2,4 41:11 42:12 42:25 45:23 48:3 49:7 52:6 71:15 73:25 74:20 75:13 75:25 76:1,20 77:3 77:13 80:8 82:10 90:3,9,17 92:17 110:16 111:24 112:11 115:1 120:5 124:14 128:20 129:15,20 130:20 131:7,18 132:5</p>
<p>8</p>			
<p>8/13/08 6:11 281:23 8/20/14 5:10 244:16 80s 105:3,12,19 817 264:23 875-2389 2:13 88 3:21 8:00 258:5</p>			
<p>9</p>			
<p>90s 58:15 61:21,21 63:9 94104 2:13 9:00 35:8</p>			
<p>a</p>			
<p>a.m. 1:19 8:17 258:3 a370 141:3,18 142:1 146:12 147:6,9,12 147:24 150:13 abide 219:1,18,23 220:7,12 256:14 able 13:17 22:16 50:22 104:7 121:7 139:2 241:22 261:7 276:20 abridges 2:14 absolutely 246:24 accept 238:4 access 263:20 accomplish 104:7 account 196:15 279:15 accounting 87:4 259:13 acct 196:11 accurate 262:18 285:6</p>			

[answer - assign]

<p>142:20 144:5 154:7 157:14,25 160:25 161:22,24 162:3 163:7,10 164:16 168:14 174:15 176:9 180:15,17,18 180:19 181:10 182:5 185:2 194:4 199:2 200:15,17 201:3,5 202:6 206:14 209:17,20 217:5 218:21 219:13,25 220:2,18 220:24 222:8 223:2 224:6 227:1 231:9 235:15 237:22 241:8,13,19 242:2 242:10 243:4,10 261:5 265:4 271:11 271:12 280:8 284:12,16 286:5,16 286:19 287:4,9,24 288:1,11 answered 37:10 58:23 93:17 97:25 107:25 128:16 131:6 158:2 168:1 180:12,14 193:21 220:4,15 answering 75:21 90:13 163:8 217:1 answers 11:13 13:9 92:19 anticipation 162:5 anybody 63:19,23 84:25 85:2,5,8,11 109:2,9 111:3 112:22 123:25 124:22 143:22 206:25 221:9 225:9 228:22 235:8 251:20,25 257:7 apart 164:14 165:14 170:17</p>	<p>appear 65:13 104:2 184:15 203:3,10,12 206:1 210:8 225:3 233:7 236:11 256:19 263:6 266:23 274:1 278:6 279:7 appearance 275:11 275:15 appearing 90:5,25 appears 54:15 64:25 65:6,17 66:6 70:2 115:24 133:18 158:14 162:24 175:10,13 182:13 196:5 203:21,25 215:5 221:5 233:16 253:20 256:8,10 275:20 282:17 applicant 201:25 202:13 204:16 218:16 220:12 applicants 206:6 application 4:9,12 4:13,16 5:14,22 6:6 81:21,22 94:11 102:17 104:14 179:4 195:21 196:6 196:7 197:18 198:2 198:10 199:9 201:13,22 203:24 204:3,13 209:25 210:9 211:6,7,8,14 211:22 212:18,24 213:15 214:16 216:2,5,9,13,24 217:10,12,15,16 218:2,3,9,10,14 220:23 221:1 222:5 222:21,22 223:15 224:15,21 225:16 225:23 226:3 233:12 255:12,23 256:1,7,20 257:1,9 259:1,18 262:14</p>	<p>263:20 264:3,14 265:6,10,17,18 277:19 278:7,8,22 279:6 applications 4:15,18 6:2 25:1,5,11 27:18 103:4 129:4 166:25 167:1 205:12,23,24 206:2,5 207:4 210:19 211:18,25 212:8,8,11,23 213:4 213:8,19 225:7,22 226:9,17 227:16 228:6 277:9 applying 84:14 218:24 approach 86:2,3 appropriate 78:15 80:20 220:19 approval 147:17 151:21,23 approve 151:7 approved 1:21 60:18 61:2,8 66:15 67:5 69:7 70:1 94:19 147:12,13,15 148:10,11,17 151:2 151:12 152:24 153:4 154:25 186:5 270:19 275:24 approximate 39:17 approximately 8:16 20:3 23:11 28:14 29:1 33:18 35:8 40:24 63:5 67:23 82:1 107:22 160:5 256:21 280:6 289:4 april 60:19 61:9 62:25 65:11 66:15 69:8,10,23 70:1,12 70:21 71:5,19 76:13 101:1 119:14 120:3 160:20 area 5:12 23:9,13 24:6,19 26:22 27:1</p>	<p>33:18 81:23 94:12 102:19 103:9 156:17 167:3 253:12,20 254:1,3 254:21 areas 21:21 22:25 27:9 252:17 argument 241:17 arisen 285:25 286:10 armstrong 2:20 8:13 army 183:5,6 article 6:10 280:23 281:7,10 articulated 241:16 aruella 175:14,14 arvella 175:15 asked 25:6 37:9 57:8 58:5,22 72:9 79:25 81:2,12 82:5 93:16 94:3 97:11,24 107:24 108:14 128:15 137:2 158:1 167:25 180:12,14 185:3 193:20 220:4 220:14 231:7 289:18 asking 11:12 35:19 35:21 42:2,4 53:3 58:23 59:6 62:10 142:6 162:6,23 163:4 220:20 234:19 265:14 asks 256:12 aspects 193:12 assembled 229:18 assent 178:20 179:14 180:6 asserting 122:3 assertions 96:13 assessment 185:19 185:22 190:15 assign 25:2,6 31:11 79:25 81:3,18 82:5</p>
---	---	---	--

[assign - astm]

84:6 107:10 110:4 176:2 201:24 assigned 10:6 29:13 46:13 110:9 115:16 116:10 176:17 178:24 179:18 180:10 196:17 200:8 283:19,24 assigning 30:6 31:21 31:25 32:12 35:14 36:10 58:4 86:24 180:23 assignment 6:13 42:16,19 81:13 82:23 83:15 85:17 85:23 87:11,20 94:9 94:14,23 97:13 99:19 167:4,5,7 198:4 207:8 210:12 213:25 215:22 223:10,21 283:18 283:23 284:8 285:12 assignments 26:2 83:6,20,25 84:18 94:4 102:11 104:23 108:10,18 166:18 166:22 247:7 289:20 290:1 assigns 47:18 102:24 103:9 204:16 206:6 218:15 assist 185:23 267:21 268:2,14,14 assistance 268:5,20 269:9,12,17,20 270:2,6,7,17 assists 127:12 268:8 associated 92:11,13 196:13 association 1:5 assume 12:7 62:22 65:7 172:20 274:20	assumes 82:8 assuming 282:12 astm 1:3 2:18 3:9,12 3:14,17,19 4:11,13 4:15 5:12,13,22,25 6:5 9:20,24 14:5,7 14:17 18:7,22,25 19:10,13,16 20:20 20:21 21:5,6,8 22:24 23:4,7,14,18 23:21 24:1,4,7,11 24:15,21 25:2,5,7 26:15 27:3,9,17,18 27:22 28:1,5,8,16 28:17,19 29:6,8,11 29:13,16,16 30:3,4 30:5,7,17,24 31:6 31:10,11,12,22 32:1 32:5,6,10,14,15,22 32:25 33:1,5,9 34:17,22 35:8,10,15 36:7,10,24 37:7,14 37:14,21 38:6,7,11 38:21,24 39:9,15,20 40:2,19,25 41:2,3,4 41:21 42:5,7,18 43:6,9,12,15,21 44:19,22 45:1,4,4,6 45:18,21 46:2,12,15 46:25 47:3,17,18,20 48:7,9,23 49:2 55:20 56:6 58:5,8 58:21,21 60:3,10,15 61:5,6,7,12,16,22 62:3,8 63:7,17,20 64:6,14,16 65:9,15 65:20 66:3,19 67:20 67:24 68:9,14 69:2 69:5,9,13,22 70:3 70:11,16,20,22 71:3 71:8,19,20,24 73:8 73:8,10,11,21 76:11 76:13,23,23,25 77:9 77:16,16 78:2,12,16 78:19,25 79:5,9,13	79:24 80:1,12,17,20 80:24 81:1,2,4,12 81:13 82:4,7,25 83:2,3,5,6,14,16,19 83:21 84:4,5,7,18 85:23 87:5,8,11,12 89:1,5,9,10 90:6,14 91:15,24 92:1 94:17 94:18,23,24 95:1,5 95:7,11 96:14,18,20 96:21 97:19,21 98:5 98:8 100:6,15,21 102:12,23,24 103:11,12,12 104:2 105:7,12,19 107:7,8 107:11,16 108:10 108:19 109:18 110:3,7,10,11,25 111:12,14 112:2,19 113:2,20 115:9,11 115:15,16 116:3,6,9 116:10 117:1,5,21 118:10 122:3 123:7 124:13 126:4 127:11,15 129:3,9 129:12,24 130:10 132:15 133:6 134:7 134:9,22,24 136:3 136:10,15 137:13 138:2,18 139:8 141:3,16,17,18,19 142:16 143:10,24 143:25 144:9 145:18 146:12 147:2,6,9,24 149:3 149:4,8,9,10,14,16 149:21 150:1,13,14 150:17 152:8,15,16 154:22 155:2,24 156:3 157:6,9 158:11,18,20 160:6 160:11 161:7,7,18 163:4 164:22,25 165:21 166:18,23 169:3,14,18 170:21	170:24 171:24 172:15 176:6,15,20 176:21,21,22 178:19,23,24 179:13,17,18 180:5 180:9,10,25 181:2,5 182:17,21 183:11 183:23 184:12,22 185:10 188:7,11 189:13 191:19 196:20 197:8 198:3 198:21 199:18 200:8,25 201:11,19 201:21,25 204:3,10 204:12,15,17 205:11,19,22,24 206:5,6 207:3 208:1 208:10,12,23 209:2 210:11 211:4,5,13 211:25 214:1,14,24 215:4,8,23 216:5,9 216:13,23 217:15 217:15,23 218:10 218:15,25 219:3,5,9 219:22 221:7 222:3 223:20 224:16,24 226:1,8,18 227:15 227:17 228:4,8 229:13 230:5,6 231:5,5,14,15,17,18 232:17 233:3 234:14,15,21 235:21 236:7,14,24 237:4,14 238:3,18 239:1 240:1 241:6 241:24 243:23 244:24 245:16 248:2,4 249:9,25 250:18,22,25 251:3 251:3 252:16,20 253:2,11,18,19 254:2,3,11,21,23 255:11,19 256:20 257:1,2,5 258:13 259:7,21 260:11,13
---	--	--	--

[astm - astm087497]

260:15,23 261:21	astm001792 5:19	astm057841 5:2	astm067024 4:17
262:3,20 263:1,15	261:14,21	232:11,21	209:25 210:11
263:24 264:13	astm001793 262:24	astm060533 4:24	astm067321 4:22
265:6,9,18,21,24	astm001796 290:9	229:6	229:4,14
266:9,17,20 267:3	astm001798 290:10	astm061183 6:7	astm067813 4:22
267:12,13 268:13	astm001800 5:19	278:22 279:3	229:4
269:10,13 272:21	261:15	astm061450 4:19	astm068894 4:10
273:12 275:7,11,12	astm001801 5:21	210:21 211:10	195:21 196:3
275:19,21 276:13	263:10,16	astm062194 5:23	astm069058 4:19
277:16 278:8,15,20	astm001802 264:3	264:15,23	210:20 211:10
279:3,5,9 280:6	astm001813 5:21	astm062195 5:23	astm069093 5:2
281:4 282:5,15,17	263:10	264:15	232:11,18
283:23,25 285:24	astm003314 5:11	astm062198 5:24	astm069213 4:18
286:8,12,24 287:14	244:17,24	264:16,24	210:20 211:9
287:15	astm003315 5:11	astm062199 5:24	astm069635 233:17
astm's 48:12 58:11	244:18	264:16	astm070124 4:23
58:17,18 62:2	astm003437 3:20	astm063146 4:19	229:5
130:14,25 131:12	68:15,23	210:21 211:11	astm071068 4:23
131:24 140:16	astm003440 109:21	218:6,8,13 219:8	229:5
144:10,17 145:4,11	astm003441 3:20	223:23 224:9,17	astm073844 4:14
164:9 197:19	68:16,23	astm063147 4:20	204:4,10
199:10 210:12	astm003445 3:18	210:21 211:11	astm073852 6:11
215:21 219:2,18	65:21 66:3	218:7,9 222:2,13	281:24 282:5
220:7 223:22,24	astm003448 3:18	223:25 224:11	astm074751 4:23
227:10 228:22	65:22 66:4	astm064686 6:2	229:5
231:19 235:14	astm003501 5:16	277:10,16	astm075283 4:23
256:13 258:17,21	257:22	astm064692 6:2	229:6
astm.org 240:3	astm003522 5:16	277:10	astm075697 5:4
astm.org. 188:23	257:22	astm065682 4:20	236:1,7
astm000001 4:2	astm0088302 289:3	210:22 211:11	astm079420 4:12
122:8,14	astm013275 256:12	224:14	201:13,19
astm0000107	astm025633 4:8	astm066345 4:20	astm080176 4:19
140:25	187:3,21	210:22 211:12	210:20 211:10
astm000107 133:3	astm025637 189:11	225:23	astm081145 4:24
134:20 136:8	astm025640 4:8	astm066829 4:22	229:7
141:13	187:4	229:3,14	astm082973 5:6
astm000108 152:3	astm034596 289:2	astm066848 4:15	238:9 239:6
astm000149 156:22	astm049368 4:3	205:12,19	astm086030 4:5
156:24	171:13,20	astm066853 4:15	173:5,12
astm000155 156:23	astm051140 4:24	205:13,20	astm086031 4:5
157:3,9	229:6	astm066871 4:18	173:6
astm000167 158:6	astm052816 5:23	210:19 211:9	astm087493 6:4
160:16	264:14,23	astm067015 4:22	277:24
astm000168 4:2	astm052817 5:23	229:4,14	astm087497 6:4
122:8,15	264:15		277:25

[astm088320 - becker]

<p>astm088320 5:18 260:4,11</p> <p>astm088325 5:18 260:5,11</p> <p>astm099502 5:9 243:17,24</p> <p>astm099506 5:9 243:17,24</p> <p>astm101777 5:7 239:20 240:1</p> <p>astm101779 5:7 239:20</p> <p>astm103272 5:12 253:12,19</p> <p>astm103273 3:11 34:25 35:9</p> <p>astm103274 5:14 255:12,20</p> <p>astm103276 5:14 255:13,20</p> <p>astm103277 3:13 60:4 61:8</p> <p>astm103284 3:13 60:4</p> <p>astm103285 3:15 64:7,15</p> <p>astm103290 3:15 64:8,15</p> <p>attached 189:1 246:5</p> <p>attachment 4:8 5:10 5:17 6:4 187:3 244:17 246:8,12 260:4,12,14,23 277:24</p> <p>attempting 278:7</p> <p>attendance 86:12</p> <p>attended 54:14 194:13</p> <p>attending 9:9 100:23</p> <p>attorney 163:2,21 163:24 164:12 200:13 201:3 202:4 204:21 206:13</p>	<p>217:3 218:20 222:25 224:3 237:21</p> <p>attorneys 9:7</p> <p>attributable 153:20</p> <p>attribute 237:14</p> <p>attributed 96:4</p> <p>audible 11:24</p> <p>audio 8:10</p> <p>august 291:12</p> <p>authentic 171:25 188:12 240:12 244:5 245:16</p> <p>authenticate 172:9</p> <p>authentication 245:21,24</p> <p>author 110:7,8 129:25 130:7,11</p> <p>133:9 134:13 135:3 156:25 157:3,8 260:13,16,24 261:9</p> <p>author's 111:10,17 112:4 133:11 157:1 157:4</p> <p>authors 110:5,12 115:10 116:4</p> <p>authorship 143:4</p> <p>automated 156:12 156:15</p> <p>available 102:1 144:10,17 155:24 156:4 159:20,23,24 160:1,2 176:22 219:3 258:2</p> <p>avenue 2:5</p> <p>average 17:8 20:1</p> <p>aware 33:20 41:13 41:17 42:3 45:10,13 46:22 58:9 59:19 76:23 77:4 79:9,9 117:6 130:21 131:8 131:20 163:23 164:2,13 182:8 217:25 221:21 235:10 265:23</p>	<p>266:5</p> <p>awareness 58:4</p> <p>awful 269:16</p> <p>b</p> <p>b 1:3,14 2:17 3:7,23 63:4 88:9,18 109:19 109:22 241:4 242:5 242:15,22,24 259:11,11 283:8</p> <p>b1a 109:23</p> <p>b1b 109:23 116:2,17</p> <p>back 12:17 15:21 18:5 19:7 57:20 66:16 80:7 88:4 96:23 105:2 108:5 117:14 120:4 126:1 135:24 145:19 155:17 159:9,12,18 187:12 195:18 198:23 199:15 226:19 227:19 228:9 231:10 234:9 239:16 257:19 280:3 283:5 288:21</p> <p>background 241:23 242:1 248:15 249:11</p> <p>ballot 151:21</p> <p>balloted 148:6 271:5 275:24</p> <p>balloting 186:19 270:20</p> <p>ballots 98:15,19,20 98:22</p> <p>ballpark 252:24</p> <p>bank 259:15</p> <p>based 55:10,13 74:19 75:9 95:24 278:12</p> <p>basic 43:3,4,5 44:3,4 44:16,23 45:2 94:15 94:23 96:25</p> <p>basically 97:13</p>	<p>basis 40:5 49:18 70:7,14 75:11 94:22 95:4,8,12 96:19 105:11,18 120:14 153:1,13,16 207:23 242:20 253:9</p> <p>bates 5:1 6:12 34:24 35:9 60:3 61:5,8 64:7,14 65:21 66:3 68:15,22 92:11,13 92:24 93:7,14 109:20 122:7,14 124:2 171:12,19 173:5 187:3,21 189:10 195:21 196:2 201:13 204:4 205:12 209:25 210:19 211:8 218:6 229:3 232:10,20 236:1 238:9 239:6 239:20 243:17 244:17,24 253:12 253:18 255:12,19 257:22 260:4 261:14,21 263:10 263:16 264:14,23 277:9,24 278:22 279:3 281:24 283:17,22 284:7 285:10,17,20 289:1</p> <p>becker 2:10 3:4 9:15 9:16 10:17,18 11:9 12:19 13:7 14:14 15:12 16:11 17:25 18:20 19:6,24 20:12 21:3,14 22:19 24:2 24:17 25:3,18 28:13 30:1,16,22 31:8,23 33:13 34:2,12 35:3 35:24 36:21 37:6,15 38:8,18 39:3,24 40:21 41:16 42:1,17 43:22 44:2,14 45:15 46:5,11,24 47:15 48:10,18 49:17 50:9</p>
---	--	--	---

[becker - beyond]

50:14 51:11,22 52:2 52:12,17 53:4,16 54:5,18 55:1,16 56:2 57:11,22 59:2 59:8,11,17 60:7 61:3 62:6,11,19 64:11 65:2,25 67:6 68:19 71:1,17 72:10 72:19 73:19 74:3,17 74:21,23 75:2,17 76:4,10,22 77:6,15 77:20 78:1,10 79:22 80:6 81:9 82:14,21 84:1,9 86:11 88:14 89:7,17 90:1,21 92:21 93:20 96:10 97:8 98:6,18 100:9 103:13,22 104:12 104:20 108:4,15,24 110:20 111:2,7 112:1,14,21 113:1 113:18 114:9,15 115:6,20,21 117:15 118:2,15 119:20 120:20 121:4,12,20 122:11,22 123:4,22 124:17 128:7,12,21 129:23 130:23 131:10,22 132:12 132:25 133:2 134:18 135:10,15 135:25 136:22 137:5,11,18 138:8 138:15 139:1,7,13 139:19,24 140:3,9 140:22 142:7,23 143:20 144:7,15,23 145:2,9,16 146:10 146:19 147:5,23 149:19 150:25 151:10,22 153:11 154:8,9,17 155:1,9 155:22 156:8,13 157:16,23 158:5,15 160:4,10 161:3,17	162:1,8,16 163:1,9 164:6,21 165:12,24 166:6,12 167:21 168:5,21 169:23 170:7 171:6,16 172:4,11,21 173:9 174:4,10,18 175:4 175:12,19,24 176:13 177:9,18 178:6,17 179:8 180:2,16 181:1,18 182:10 183:15,21 184:6,17 185:7,20 186:3,9,14,20 187:7 187:18 188:16 191:2,15,23 192:12 192:21 193:5,11,24 194:6,17,18,24 195:4,9,24 197:7,15 198:1,8,16 199:6,16 199:23 200:21 201:16 202:12,22 203:11,20 204:7 205:3,16 206:17 207:12 208:9,18,25 209:11 210:3,25 211:23 212:5 213:2 213:17 214:13,23 215:13 217:13 218:4 219:7,20 220:1,9,16,25 221:6 221:20 222:1,11,19 223:7,18 224:12 225:4,20 227:4,9,14 228:3,16,21 229:10 229:20,22,24 230:13,18,25 232:14 233:1,5,25 234:5,11,20 235:2,7 235:12,19 236:4,21 237:9,13 238:2,12 238:24 239:7,23 241:1,4,9,18 242:3 242:8,14,22 243:11 243:13,20 244:21	245:1,9,20,24,25 246:13 247:1,6,13 247:21 248:14 249:7,16 250:11,21 251:10,14,19,24 252:4,12,25 253:15 254:18 255:3,16 257:10 258:10 259:6 260:8,21 261:18 262:12 263:13 264:19 265:8,22 266:12 267:10,25 268:12 269:14 271:8,15 272:1,7 273:1 274:14,22 275:5,16 276:3 277:13 278:3 278:25 279:21 280:14 281:1,13 282:2,20 283:6,12 284:4,11 286:7,17 286:22 287:5,8,12 287:20,25 288:4,9 289:7,16,22 290:2 290:15 began 159:23,25 160:3 215:8 beginning 28:21,23 105:3 176:12 255:7 begins 88:5 159:10 214:11 239:17 behalf 2:3,8 9:20 89:1,4 90:5,14 167:24 168:10 169:8 170:17 belief 53:6 55:9 58:18 94:22 95:4 105:24,24 120:10 133:24 believe 24:24 25:9 26:9 30:5,15,17 36:4,12,15 40:13 42:14 43:17 47:21 48:23 49:10,11,11 49:20 50:15 51:4,22	55:14 58:5,14,18 60:12,16 61:13 63:22 68:2 70:10,13 71:21 72:8 85:12 88:24 89:19 90:7 93:18 101:10 104:18 107:22 108:13,22,23 112:2 120:17 124:9,25 125:23 127:9 132:18 135:6,11 156:5 162:17 166:15 171:24 172:5 173:2 174:8,9 188:11 192:9 199:21 200:25 206:3 209:7 213:13 214:14 223:13 224:7 230:3 231:7 232:4 240:8,12 241:19 242:14 244:5,8,12 253:23 258:19 280:11 284:1 285:16,22 289:11,17 290:10 believes 42:6 47:18 55:15 84:6 102:23 200:8 204:16 206:5 218:15 223:20 believing 49:19 70:8 70:15 belong 45:5 benefits 73:5 165:10 176:16 benjamin 176:3 best 13:22 14:1 17:12 192:24 277:21 284:15,20 284:21 better 258:7 beyond 51:17,23 89:10 130:19 131:17 132:4 136:19,23 138:11 139:16,22 140:7,18
---	---	--	--

[beyond - certificates]

141:21 142:18,25 143:13 144:3,12,19 145:14 146:15,24 150:22 151:3 165:7 165:17 166:4 171:1 172:2,5,17 173:25 174:14,25 175:8,17 183:12 184:13,24 192:7,16,25 193:19 194:22 197:10,21 199:12 203:7,16 208:5 209:15 221:16 226:25 227:22 228:12 230:9 231:22 233:21 237:5 240:23 245:18 246:20 248:10 249:5,18 251:6,16 252:10 253:5 259:3 259:22 260:18 261:1 267:5 286:3 bigger 150:7 biggest 95:14 bit 18:6 247:18 board 65:10 66:16 67:8,12 69:9,22 bob 132:18 158:3 bockius 2:4 bodies 207:24 208:3 208:4,4,11 209:4 book 136:10,15 137:4,13 138:2,18 138:24 139:3,4,9 141:19 144:9 147:2 147:3 149:4,8,13,21 150:1,14 152:8,15 152:16,21,22,24,25 153:3,15,18,19 154:4,6,11 books 159:19 bottom 60:22 65:8 69:21 133:17 196:10 197:17 199:8 256:11	box 125:11,14 126:19,25 127:8 128:3,19,25 129:9 129:15 133:13 134:3,9,25 145:23 177:2,8 256:15 break 12:21,22 13:1 52:10,16 57:9,9,12 132:24 194:15 195:10 258:8 282:22 breakfast 100:22,24 101:3,6,17,21 breaks 258:6 bridges 2:11 9:16,21 9:25 187:14 246:24 248:19,24 briefly 156:25 157:4 258:23 bring 38:6 83:1 bringing 32:4,13 36:6 37:23 40:18 107:8 british 111:11 112:5 113:7 broader 16:23 brooke 63:1,6,11,21 63:23,25 brought 32:20,25 190:25 191:6,25 192:4 bulk 158:19 bullet 252:13 business 95:19 163:13,23 164:3,7 164:14 buy 43:11 buying 95:14	california 2:12,13 172:14 call 129:14 169:10 called 86:9,10 150:4 150:9 199:22 217:19 calls 19:18 20:23 22:12 29:17 30:9 31:14 33:10,24 37:2 37:25 38:14 39:1,21 41:5 42:8,20 46:17 47:6,22,23 49:3,4 51:7 52:25 53:12,23 54:8,23 55:7 62:16 66:24 70:23 71:12 71:25 73:13 74:14 75:6,19 76:15 77:11 77:18,22 78:6 80:2 81:5 102:25 110:14 110:22 111:19 112:7,16 113:10 114:2,11 117:9,22 118:11 129:17,18 129:19 130:18 131:16 132:3 139:15,21 140:21 146:24 150:21 157:20 158:12 160:23,24 161:14 163:17 170:2,25 172:16 173:24 174:13,24 176:7 177:24 178:14 179:1,2,20,21 181:8 181:9 188:13 192:16 200:10,12 201:1 202:1 203:6 203:15 204:18 206:7,10 214:7 218:17 221:3,15 224:2 225:11 226:23,24 227:21 227:23 228:13 230:10 231:23 233:22 237:6,18	245:17 246:9 251:17 252:9 253:4 265:12 272:23 canadian 111:11 112:4 113:7 capacity 50:18,19 51:5 52:23 53:10,21 55:5 242:6 caption 8:23 10:4,5 card 175:5 177:16 177:21 203:23 carl 2:19 10:1 case 1:2 8:23 9:2,4 143:6 148:3 154:10 155:11 162:25 203:19 228:6 247:20 cases 170:6 cassidy 84:24 85:14 85:20,22 86:2 87:7 87:19 99:7 108:25 cast 98:16 category 258:24 259:17,20 caveat 276:24 277:3 caveats 269:12 276:13,15,18,22 277:2,2 cc 188:8 cc'd 188:23 243:25 ccr 1:21 cell 8:7 center 1:18 183:6,7 202:15 203:2 certain 26:7 62:13 62:18,21 64:3 119:13 127:16 155:17 162:9 235:1 257:6 277:1 certificate 123:17 123:24 124:3,7 126:4 141:7,25 142:3 certificates 4:1 122:6 123:2,6,10
	c c 2:1 74:11 75:5 76:6,12 77:8 291:1 291:1 c14.92 282:18		

[certificates - complete]

<p>124:12 164:8 certification 78:21 133:16 certify 291:3 chain 4:7 5:7,8 6:3 137:1 143:2 187:2 239:19 243:16 247:7 277:23 chairman 280:20 challenged 95:11 96:13 chance 13:14 229:25 change 148:8 changed 153:4 275:25 276:4 changes 13:15,16,17 65:14 74:18 151:24 253:9 271:2,21,25 272:3,11 274:24 276:7,11 chapters 137:3 characteristics 21:4 characterize 50:23 charge 156:14,19 252:5 charles 176:3 check 4:3 126:19,25 128:19,25 129:9 134:3,9,25 171:12 177:1,8 178:2,4,5 256:15 checked 125:10,15 129:15 checking 127:8 128:3 checks 133:13 145:22 172:9 cherry 211:17 229:18 232:23 chinese 265:11,20 265:21,25 choose 169:13 circumstances 56:23 148:7</p>	<p>citizens 209:13 claim 283:19 claiming 143:11 claims 29:11 198:3 283:24 clarify 12:4 80:16 213:21 clarity 199:4 classification 15:17 56:4,7,9 classifications 15:5 classified 55:21 clause 74:11 75:5,9 75:13 76:6,12 77:8 77:10 115:7 116:13 116:17 180:22 181:3,6 clauses 74:18 cleanup 191:5,7 192:23 193:8 clear 89:4 113:20 182:20 288:8,15,24 click 81:17 client 163:2,21,24 164:12 200:13 201:3 202:4 204:21 206:13 217:3 218:20 222:25 224:3 237:21 243:3 close 273:15,16,18 collaborating 250:3 collaboration 5:12 21:21 22:25 23:9,13 24:6,19 25:17 26:20 26:21,22 27:1,7,8 28:5,8,18 30:4 31:4 31:13 81:22 94:12 102:19 103:9 167:3 179:6 253:12,20 254:1,2,21 collected 227:15 228:2 collecting 268:24 collection 149:14 228:1</p>	<p>collective 157:5,10 collectively 78:25 109:13 columbia 1:1 9:4 combined 181:23 come 13:8 22:4 31:5 43:7,17 48:6 94:17 comes 269:17 commence 245:8 commencing 1:19 comment 13:17 committee 4:11 6:6 14:12,15,18 15:22 16:1,12,18,20,23,25 17:1,2,3,17,22 49:20 50:8 56:12 57:2,5 78:14 80:18 82:13,17 83:5,12 95:16 100:25 117:12,18 118:4,7 118:10,17,21,25 119:4 148:5 165:20 168:20,24 169:6,16 170:12 185:19,23 190:14,23 191:22 192:5,10 194:2,8,20 195:1,6 201:12,22 203:23 217:11,16 217:24 218:1,10 222:21 223:6,17 225:19 226:8 250:19,23 251:1,5 263:22,24 264:2 268:15 269:6 274:16,21,23 275:6 275:10,19 276:12 278:21 279:5 282:19 committees 5:25 14:20 15:20 31:1 49:11,25 50:5 51:3 52:21 53:8,20 54:13 55:20,23 151:6,14 151:15,16 166:8,16 167:14 168:4,9</p>	<p>189:14 217:21 249:10 252:16,21 253:3 254:20 266:9 266:18,20 267:4,8 267:12,17,22 268:2 285:25 286:9,12,25 287:16 common 22:14 278:18 communicated 109:10 132:15 207:3 communication 42:22 47:8 130:14 130:25 131:12 204:22 206:13 communications 29:19 30:12 31:16 41:8 42:10 44:8 45:8 46:19 47:25 49:6 52:18 53:6 71:13 72:2 73:15 74:19 75:9,22 76:17 99:2,7 106:4,9 110:17 111:21 112:9,12 113:12 114:4 126:18,23 131:25 163:3,21,25 164:12,15 200:14 201:4 202:5 217:3 218:20 223:1 224:3 224:4 237:21 companies 33:7 46:13 47:1 company 46:1 47:19 49:15 55:15 compare 72:14 140:24,24 218:7 compilation 4:21 5:1 152:6,11 211:3 229:2,13 232:9,17 complaint 3:25 121:17,23 complete 139:8 258:8 263:21</p>
---	---	--	--

[completed - copyright]

<p>completed 93:3 completely 13:10 153:25 completion 160:17 compliance 46:4 comply 228:5 component 143:5 compose 19:1 20:21 composes 18:14 compound 53:1,13 53:24 54:9,22 73:25 96:6 104:4,17 108:12,21 113:10 114:2 147:18 149:12 154:14 156:1 161:13 176:8 177:6 179:20 184:25 185:11 194:3 211:20 214:7 comprises 149:14 computer 291:8 con 135:8 concept 95:25 concern 161:10 193:14 250:13 286:11 concerned 25:10 concerning 44:17 83:16 108:9,18 124:12 128:3 129:13 130:15 131:1,13 132:1 192:23 222:3 223:22,24 224:16 245:3 254:3,22 279:9 284:17 concerns 26:2 162:18 172:6 223:20 247:1,14 249:8 concluded 290:24 concludes 87:24 159:4 239:11 290:19</p>	<p>conclusion 29:18 30:10 31:15 37:2 38:1,15 41:6 42:9 42:21 46:18 47:6,23 49:4 51:8 53:1,13 53:24 54:9 55:8 72:1 73:14 74:15 75:7 76:16 80:3 81:6 103:1 110:15 111:20 112:8 113:11 114:3 129:19 158:13 160:25 169:10 176:8 179:2,22 181:9 188:14 200:11 201:2 202:2 204:19 206:11 214:8 218:18 226:25 227:24 228:14 237:19 245:18 272:23 concrete 53:15 conditioning 1:7 conference 217:8 conferences 100:21 confirm 137:23 142:9 215:7,18 285:5,11 confirmed 141:17 141:17 confirming 215:15 confirms 142:4 confusing 38:2 113:10 153:8,23 179:1,20 conjunction 39:6 40:12 connection 289:4 consensus 14:24,25 16:14,15 17:15 151:8 275:25 considered 57:6 165:22 considering 251:4,8</p>	<p>consolidating 250:6 constitute 165:14 constituted 50:17 construction 158:9 193:3,13 consumer 172:13 contact 276:10 contacts 270:22 272:10,13 contain 137:21 contained 149:7 162:21 224:11 contend 247:9 content 17:24 18:2 18:12 20:5 169:18 192:20 250:7,8 271:2,21 272:12 275:20,23 contents 41:1 context 123:16,21 continue 8:11 continued 224:24 continues 238:3 continuing 121:13 contracts 115:9 116:3 contrast 157:2 contribute 32:5 54:3 97:2 contributed 41:1 81:1 contributes 38:11 58:18 contributing 36:23 44:18 48:8 54:15 169:17 contribution 125:12 133:12 157:1,5 contributions 54:6 55:3,13 81:19 96:21 103:11 105:7 186:2 186:4,10,13,16 194:1,8 conversation 55:12 87:19 127:2 134:1,7</p>	<p>134:23 135:9 conversations 8:6 convert 32:15 converted 32:21 coordinating 250:16 copied 187:24 copies 39:10 139:8 140:15 160:1 212:11 234:22 copy 120:22 246:2 260:15,23 262:1,18 277:18 copyright 4:1 30:6 31:12 41:20 42:7 45:5 47:2,18,21 52:3 58:19 73:7 79:12,25 81:3,13 82:5,23 83:21 84:6 84:18 85:18,23 86:24 87:11,20 94:5 94:14,22 95:6 96:13 97:13 99:19 100:6 100:14 102:11,24 104:23 105:9,13,20 107:10 108:10,18 111:12,15 112:5 115:15 116:8 122:7 123:3,7,10,17,24 124:4,8,13 125:15 125:17,20,25 126:4 126:18,20,24 127:3 127:6,7 128:2,17,24 128:25 129:4,8,16 130:1,4,5,15,16 131:1,2,13,14,25 132:2,10,15,17 133:5 134:2,8,23 136:3,25 140:25 142:16 143:3,4,9,11 143:23 145:19,25 150:18 157:18 158:7 159:21,21 161:8 164:18 166:18,22 176:3,19 178:22 179:16</p>
--	---	--	---

[copyright - deficient]

180:8,24 200:9,23 201:25 204:16 206:6 210:12 213:24 215:22 218:15 223:8,9,21 231:5,15,18 241:10 241:11 247:6 248:22 254:4,22 260:13,16,24 261:9 262:25 265:24 283:19,24 copyrightability 113:5,23 114:20 copyrighted 43:10 43:15 94:20 96:21 129:14 copyrighting 95:11 97:1 copyrights 29:14 41:4 46:13 58:4 71:22 78:18 80:23 248:12 corner 65:4 141:13 160:20 196:10 197:17 199:8 corporate 259:13,14 correct 13:10 20:6 23:10 25:9,11 26:12 36:14 60:19,23,24 61:9 63:14,15 65:11 70:5 82:2,3 89:13 90:6,23 98:25 99:14 102:5 119:15 127:21,22 129:16 136:12,13 145:15 146:4 154:12 155:19,21 161:12 167:12 173:19,23 174:6,12,20,23 175:7,20 178:8,13 182:21 183:17 188:24 189:8,15 202:16 203:2,5,14 203:24 205:6,8,9,25 212:14,18 214:2	221:2 222:6,15,18 224:17,22 233:20 236:15 238:5,19 239:2 246:1 248:3 252:21 255:25 256:24 260:14,23 261:8 262:1 284:15 284:19 291:9 292:3 correctly 291:7 correlate 143:23 correlates 147:3 correspond 285:20 285:21 corresponded 285:12 corresponds 136:4 141:11 142:15 costs 256:23 counsel 2:18 8:22 29:20 30:12 31:17 34:2 41:8 42:11,23 44:8 45:9 46:19 47:9,25 49:6 62:23 63:6,11,14,17,20 64:1,2 67:2 71:13 72:3 73:16 74:20 75:10,23 76:3,18 83:14 84:17 86:9 110:18 111:1,22 112:10,20 113:13 114:4,14 117:25 121:4 162:1,8,16 163:1 215:16,21 224:5 227:8,11 228:20,23 242:14 245:2 248:20 285:1 285:3 288:10 291:9 count 56:14,18,21 56:24 138:24 counterclaims 1:11 countries 207:20,25 209:14 country 208:24 209:3	couple 52:12,14 249:20 course 21:24 30:24 78:24 111:10,16 112:3 113:6,24 114:22 267:13 court 1:1 9:3,11 11:16,20 159:14 243:5,13 245:4,5 court's 242:17 245:2 covered 143:7 create 27:1 104:1 115:11 116:5 152:16 269:5 created 28:24 29:15 30:8 33:17 61:17 71:23 81:4 82:7,24 113:5,23 114:20 155:5 249:12 251:1 274:16,17 creates 225:21,24 250:18 creating 251:4 creation 83:17 98:23 154:20 155:4 176:20 178:23 179:17 180:9 226:20 227:19 228:9 247:3 289:5 credit 175:5 177:16 177:21 203:22 crossed 236:12,20 237:16 238:19 279:8 crossing 237:3 crunching 268:25 cuff 54:16 55:2 current 63:13 68:6 69:12 92:1 149:10 151:17 217:12 262:2,8,11,19 currently 127:19 256:1 customer 199:14,17 225:25 230:22	282:8 customers 95:14 cv 1:3 9:5 <hr/> <p style="text-align: center;">d</p> <hr/> d 1:3 3:1 72:8,12,15 72:21 78:12 79:8 80:16 200:25 d.c. 2:5 d04 50:7 daily 253:9 dan 9:6 240:3 290:20 daniel 1:16 3:3 10:11,24 292:12 dar 1:3 10:6 data 268:24 date 8:15 25:8 65:3 66:12 67:13 69:4 86:15 91:3 133:21 143:19 148:12 160:17,19 196:19 dates 70:9 101:4,7,8 day 93:24 238:3 242:20 291:12 deal 269:8 deals 250:15 277:3 deb 189:21 deborah 189:24 190:12,22 191:17 191:24 192:3,22 193:7,13 194:25 dec 196:11,19 decade 23:8,8 decision 126:19 151:6 declare 292:1 deemed 78:15 80:19 defendant 1:10 2:8 3:21 9:17 10:19 88:7 defense 8:22 202:15 203:1 deficient 89:23
--	--	--	--

[define - disclose]

<p>define 15:13,25 185:6</p> <p>defined 270:10</p> <p>defines 79:5</p> <p>definition 141:5</p> <p>definitively 121:7</p> <p>delivered 236:24</p> <p>denied 245:6</p> <p>department 132:8 138:22 139:18 140:5 172:13 197:1 199:15,18 226:1 230:23 253:8 261:6 269:5 274:6,17 282:8</p> <p>depend 82:13</p> <p>depending 56:11 150:7</p> <p>depends 57:1 148:16,17</p> <p>depict 262:24</p> <p>depiction 255:25</p> <p>deponent 291:5,7</p> <p>deposed 258:2</p> <p>deposition 1:14 3:23 7:1 8:10,18 10:21 11:1,12 13:13 67:16 67:21 68:1,5 69:17 71:6 83:22 84:11,19 85:15 86:4 88:9,18 90:17 91:1,6,21 92:4 93:14,22 99:3 99:8,13 106:5,10,15 108:7 109:3,11,15 114:17,23 116:22 119:8 121:6 123:14 124:12 125:3,8 143:16,22 206:24 207:2 231:2,12 242:21 243:7 245:3 245:4,8 246:23 254:5 255:4,8 258:22 262:15 283:9 288:5 290:20 290:24 291:8</p>	<p>derek 199:20,24 235:17,20</p> <p>derivative 152:6</p> <p>describe 40:14 45:19 50:10 156:25 157:4</p> <p>described 27:2,21 27:25 28:4 36:9 41:19 44:4,17 93:12 94:24 116:17 254:19 273:21 274:25</p> <p>describing 32:8,21 33:16 34:14 35:13 45:17 104:16 208:3 254:11,23</p> <p>description 3:8</p> <p>designate 147:10 165:19 167:23 168:3 169:5,15 196:25</p> <p>designated 172:9 283:16</p> <p>designates 168:18 168:23 197:18 199:9</p> <p>designating 168:8 169:7</p> <p>designation 131:18 132:5 136:20,24 140:8,19 141:4,22 142:19 143:1,14 144:4,13,20 145:14 146:16,25 150:23 165:7,17 166:4 171:2 172:2,6,18 174:1,15 175:1,9,18 183:13 184:14,24 192:8 193:1,20 194:23 197:11 199:12 203:8,17 208:6 221:17 227:1 227:23 228:12 230:10 231:23 233:22 237:6</p>	<p>245:19 249:6 252:10 253:6 259:3 260:19 286:3</p> <p>designations 151:4 246:20</p> <p>designee 241:5 242:24</p> <p>details 87:18 193:6</p> <p>determine 137:25 138:17 139:2 144:16 146:21</p> <p>develop 14:20 15:20 16:2 18:12 20:16 21:22 22:7 23:14 27:4 83:2 94:17 192:11,14 267:9</p> <p>developed 6:10 18:7 19:23 22:9,21 83:5 280:5,23</p> <p>developing 16:13 21:16 27:16 43:8 83:2 94:25 192:20 207:20,24 272:17 272:18</p> <p>development 25:25 28:9 54:3,17 56:5 176:20 178:23 179:17 180:9 183:5 184:21 250:3 267:19 280:12,16</p> <p>develops 20:5</p> <p>devices 158:10</p> <p>dg 196:12,22,23 198:6</p> <p>diana 200:24</p> <p>difference 16:19 74:9 157:18 167:20 168:6 217:14,25 223:22</p> <p>differences 22:6 72:20 74:9 98:7 254:9</p> <p>different 21:2 50:5 51:3 52:21 53:8,20 54:12,13 70:3 95:16</p>	<p>100:25 110:4 129:12,14 148:9,11 173:17,20 212:17 212:21,22 216:1,4 216:24 222:3,10,18 222:20 225:5 226:7 247:24 248:7 274:1 290:6</p> <p>differently 19:5 55:21 56:1</p> <p>difficulties 286:10</p> <p>digital 144:11,17 145:4,11</p> <p>direct 163:22</p> <p>direction 7:3</p> <p>directly 37:22</p> <p>director 199:21 235:22</p> <p>directors 65:10 66:17 69:10,23</p> <p>directory 4:6 171:4 171:8 181:15,22 182:8,12,15,21</p> <p>disagree 89:25 136:22 137:9 142:25 172:10 241:18 243:11,12</p> <p>disagreed 170:10</p> <p>disc 87:24 88:5 159:4,10 239:11,17</p> <p>disclose 29:19 30:11 31:16 41:7 42:10,22 44:7,11 45:8 46:19 47:8,24 49:6 71:13 71:14 72:2 73:15 75:10,22,24 76:17 111:21 112:9 113:12 114:4 163:20,25 164:11 200:13 201:3,5 202:4 204:21 206:14 217:2,4 218:19 222:25 224:4 237:20</p>
--	--	---	---

[disclosing - electronic]

<p>disclosing 110:17 112:11 disclosure 206:12 discovery 228:5 discuss 71:2 94:1 97:13 99:16,24 105:25 106:21 114:16 116:20 119:9 125:6 discussed 58:1 89:18 91:20 106:23 125:9 163:15 254:4 discusses 262:25 discussing 64:23 136:8 141:1 145:20 160:16 161:6 182:15 222:6 discussion 97:15,17 120:9 124:20 128:2 231:5,14 265:23 discussions 124:10 124:19 192:20 247:16 distinction 113:3,21 165:2 distinguish 21:6 46:25 distributed 43:11 district 1:1,1 9:3,4 division 14:17 document 32:14,16 32:24 33:19,22 34:3 34:14 35:7,9,10,12 35:22,25 36:3,4,6,8 36:9,13 37:13,19 38:6,9 61:5 64:13 64:18,22 65:5 66:2 66:5 67:15,18 68:21 68:24 69:1 70:2 76:6,9 81:3 82:6 83:7 88:20,22 107:8 107:23 109:22,25 111:8 121:24 122:1 122:16,19 134:20 157:13 171:18,21</p>	<p>171:24 172:12,24 173:11,13 181:20 182:1,4,24 187:19 188:11 196:1,4 200:7 201:18,20,24 202:18 204:9,11,15 206:20 207:8 210:6 210:10,13 219:8,12 219:14 232:24 236:8,17 238:15,18 238:21 239:6,25 240:5,9,12,15,17 241:2 242:11 243:22,23,25 244:2 244:5,9,12,23 245:16 246:6,14 247:10,16 248:15 249:7,11 250:13 253:17,22 254:24 255:18,21 256:6 258:13 260:10 261:20,22 263:4,16 263:17 264:22 266:15,22 270:8,19 277:15,17 278:11 279:2,4,7,11,24 280:4,8 281:3,6 282:6 284:23 285:3 285:21 289:5,18 290:4 documentation 44:21 94:9 documented 44:5,13 documents 4:21 5:1 6:13 7:9 15:2,3 32:20 34:7 37:24 40:18 44:15,22 45:1 45:10,14 46:21 59:9 59:10,14,20 78:15 79:11 80:19 84:5 92:8,10,12,23 93:4 93:6,11 122:14 124:2 130:13 131:24 205:19,21 211:3 229:3,13,18</p>	<p>230:2 232:10,17,24 233:2,7 241:5 250:4 264:22,25 265:2 268:21 284:8 285:22 doing 30:5 37:22 268:25 273:21 downloaded 277:19 draft 18:2,4,13 20:6 21:16,22 22:7,9 23:14 27:4 28:10 30:7 37:22 38:12 46:14 66:6,9 78:21 80:1 81:3 82:6 103:25 104:13 185:10 256:19 269:9 270:13 271:2 271:22 drafted 33:7 45:4 62:7,15 drafting 24:21 28:19 29:7 36:24 37:20 44:18 45:18 45:20 58:21 79:23 81:1 97:22 98:9 185:24 268:15 drafts 22:21 24:3,11 24:21 29:14 41:1 71:22 95:6,7 105:15 105:22 186:21 dsmith 188:23 240:3 duly 10:12 291:5</p>	<p>244:16 245:13 246:2,8 260:3,12 277:23 278:10,16 281:23 282:7 291:1 291:1 e50 189:7 190:15,23 191:14 194:2,9,20 195:1,6 e60 189:8 earlier 27:2 36:9 59:22 79:17 80:10 81:25 102:17,22 107:19 115:23 119:12 145:24 166:25 167:2 182:15 202:11 212:9 254:4,12,16 254:19 255:1 earliest 26:11 133:5 early 23:3 105:3,12 105:19 108:3 154:25 edition 61:11 73:2 141:4 editor 269:7 editorial 268:19,20 269:19 270:6,17 271:25 272:10 276:6,11 editors 115:10 116:4 270:18 272:9 276:8 effect 66:20 effective 160:19 effectuate 78:17 80:21 efforts 189:3 egs 9:5 10:4 eight 118:14 either 25:24 56:10 77:25 78:9 81:8 103:6 147:17 elaborate 17:17 167:17 electronic 104:1 178:7,11</p>
		<p>e e 2:1,1,16,16 3:1,7 4:7 5:7,8,10,17 6:3 6:11 21:25 54:21 63:4 89:16 174:12 174:16,19 175:14 175:15,16 176:3 187:2,24 188:3,7,21 188:22,22 200:25 200:25 203:5 239:19 240:2,16 242:7 243:16</p>	

[elements - extent]

<p>elements 143:2 eliminates 146:6 embraced 95:25 employed 47:19 51:1 52:19 71:24 employee 56:14,18 56:21,24 168:3,18 168:23 259:15 employees 48:21,24 50:17,19 51:5,13 52:24 53:11,22 55:6 55:20 56:5 114:21 173:22 272:21 employment 47:20 48:25 111:11,17 112:4 113:7,25 114:22 259:14 enables 225:18 encountered 287:16 energy 202:15 203:1 enforce 226:19 227:18 228:8 engineering 183:5 engineers 1:7 english 207:5 265:6 265:10,25 enjoy 98:8 enjoyment 73:4 176:16 ensures 178:19 179:13 180:5 entered 197:4 198:19 entire 157:1,8 158:21 159:22 266:21 entitled 241:21 242:3 entry 95:20 environmental 185:18,22 189:4 190:15 epa 183:25 189:7,13 189:25</p>	<p>erik 189:22 190:6,16 193:25 195:5 esquire 2:4,10,11 essentially 25:21 104:7 137:3 164:25 266:21 et 8:25 evaluating 250:5 eventually 29:16 everybody 85:12 evidence 78:9 82:9 245:23 exact 67:5,12,13,18 150:11 253:1 285:20 exactly 74:6 82:20 91:2 104:6 135:9 152:18 160:8 200:5 208:7,14 215:2 274:9 276:17 examination 10:15 288:18 examined 10:12 example 50:6,23 54:11 122:21 123:9 123:17,23 154:3 185:16 211:4 264:8 examples 21:19 33:2 50:2 53:15 57:3 84:20,22 92:25 123:2 exchanged 24:4 excluding 58:25 84:17 excuse 20:18 44:25 55:18 67:9 70:8 73:2 74:17 79:9 97:19 115:20 137:24 147:7 148:20 149:9 153:15 161:9 175:15 191:16 202:23 206:25 270:15</p>	<p>excused 290:22 execute 78:14 79:11 80:19 81:12 executed 83:6 116:17,19,25 117:4 117:21 166:18,22 292:5 executive 85:9 106:14 exhibit 3:9,12,14,16 3:19,21,25,25 4:1,3 4:4,6,7,9,11,13,15 4:16,18,21 5:1,3,5,7 5:8,10,12,13,15,17 5:19,20,22,25 6:1,3 6:5,8,9,11,12 34:22 35:5 38:20 60:2,9 61:24 62:12,15 64:5 64:13,22 65:19 66:2 68:13,21 69:21 71:18 72:16,21,22 73:2 74:12,24 75:4 76:5 78:11 80:11 81:11 88:7,16 107:1 107:5,13,16 109:17 121:16,16,22,22 122:6,13,23 123:6 133:4 136:8 140:23 141:3,14 142:1,1 145:17 156:21 158:7 161:4 171:12 173:4,11 181:14,20 187:2,9,12,21,25 188:3 195:20 196:1 200:7 201:11,18,24 204:3,9,15 205:5,8 205:8,11,18 209:24 210:5,18 211:2 212:10,13 213:6,11 213:23 214:10 215:1,5,9 218:6 222:14 229:2,12,21 232:9,16,22 233:9 233:11 235:25 236:6 238:8,14</p>	<p>239:19,25 243:16 243:22 244:16,23 245:11 253:11,17 255:11,18 257:21 258:12 260:3,10 261:13,20 262:22 263:9,15 264:13,21 265:3 266:1,8,14 277:8,15,23 278:5,5 278:20 279:2,17,23 280:22 281:3,23 282:4 283:7 284:7 284:16,19,24 285:3 285:6,11 289:9 exhibits 72:15 exist 25:8 26:10 76:6 111:13,15 131:24 225:6 226:8 existed 61:17 70:12 71:4 119:14 120:2 120:23 121:2,8 216:2 existence 71:2 116:20 existing 252:15 272:18 exists 112:5 154:24 155:17 176:2 182:9 226:3 256:2 expect 77:9 experience 19:21 20:10 49:21,22,24 50:22 54:1 185:17 217:6 225:13 expert 129:19 206:8 265:13 expertise 249:25 experts 16:2,4 explain 76:24 95:2 154:1 197:22 240:23 explained 94:7 248:19 extent 35:18 37:1 38:14 41:6 46:17</p>
---	---	---	--

[extent - fenwick.com]

47:5,7 71:12 74:14 74:15 75:7,20 110:15 143:10 163:19 164:11 168:13 181:8 200:11 201:2 202:2 204:19 206:8,9,11 207:10 211:17 217:1 218:18 222:24 224:2 237:19 265:13	18:16 19:2,18 20:7 20:23 21:9,11 22:11 23:23 24:12,23 25:12 28:11 29:17 30:9,18 31:2,14 33:10,24 34:5 35:17 36:18,25 37:9,25 38:13,25 39:21 40:15 41:5,22 42:8 42:20 43:24 44:6 45:7,22 46:7,16 47:4,22 48:15,17 49:3 50:3,12 51:7 51:16,25 52:6,9,14 52:25 53:12,23 54:8 54:22 55:7,24 57:7 58:22 59:4,10,13 60:25 62:4,9,16 64:24 66:24 70:23 71:11,25 72:17 73:13,24 74:2,13,18 74:25 75:6,19 76:8 76:15 77:2,11,18,22 78:6 79:14 80:2 81:5 82:8,18 83:23 84:8 86:5 89:3,13 89:24 90:18 92:17 93:16 96:6 97:5,19 97:22,24 98:12 100:8 102:25 103:17 104:4,17 107:24 108:11,20 110:14,22 111:5,19 112:7,16,24 113:9 114:1,11,25 115:17 117:9,22 118:11 119:16 120:16 121:10,14 122:17 122:24 123:19 124:14 128:6,9,15 129:17 130:18 131:4,16 132:3,23 134:14 135:4 136:19 137:2,9,16 138:4,10,20 139:5	139:10,15,21 140:1 140:7,18,21 141:21 142:18 143:15 144:3,12,19,25 145:5,13 146:5,15 146:23 147:18 149:12 150:21 151:3,13 153:6,22 154:13,21 155:6,20 155:25 156:10 157:12,20 158:1,12 158:23 159:11 160:7,23 161:13,21 162:4,11,20 163:6 163:17 164:10 165:1,6,16 166:3,10 167:18,25 168:11 169:9 170:1,2,25 172:1,8,16,25 173:24 174:7,13,24 175:8,17,21 176:7 177:5,13,24 178:14 178:25 179:19 180:11,14,18 181:7 182:3 183:12,18 184:3,13,23 185:11 185:14,25 186:6,12 186:17,23 188:13 190:24 191:11,20 192:6,15,25 193:9 193:15,17,19 194:3 194:10,14,22 195:2 195:7 197:6,9,20 198:5,12,22 199:2 199:11,19 200:10 201:1 202:1,17 203:6,15 204:18 206:7 207:9 208:5 208:13,21 209:5,15 210:14 211:16 212:2 213:1,12 214:4,7,20 215:10 216:25 217:17 218:17 219:11,24 220:3,14,18 221:3	221:15,23 222:7,16 222:23 223:11 224:1 225:1,11 226:22 227:6,12,21 228:11,18,24 229:17,21 230:9,16 230:20 231:22 232:22 233:21 234:2,7,17,24 235:4 235:9,16 236:16 237:5,11,18 238:20 240:22 241:3,7,11 241:25 242:12,17 243:5,12 245:17,22 246:9,19,25 247:4,8 247:17 248:9,17,21 249:1,13,18 250:14 251:6,12,16,22 252:2,7,9,22 253:4 254:13,25 255:5 257:25 259:2,22 260:17 261:1 262:5 263:3 265:1,12 266:2 267:5,23 268:3,17 271:3,10 271:23 272:4,22 274:7,19 275:1,13 275:22 276:19 279:10 280:7 281:8 283:10 284:2 286:2 286:13,20 287:1,10 287:18,22 288:7,12 288:20 289:8,23 290:11,16 feel 42:15,18 44:20 151:18 162:25 180:22 feelings 94:13 feels 220:19 fees 51:12 95:22 felt 43:2 fenwick 2:10 9:16 10:19 fenwick.com 2:14 2:14
f			
f 291:1 f1193-06 158:8,16 facilitate 26:18 facilitated 24:11,15 fact 95:9 96:17,22 facts 82:9 129:13 fair 242:7 fall 259:18,21 familiar 11:11 259:25 286:9 287:14 far 58:1 155:17 209:18 fax 24:9,11 feature 198:9 featured 146:12 215:9 federal 48:25 50:16 50:20 51:1,6,12,15 52:20,24 53:10,22 54:20,21 55:6,19 56:13,17,20,24 57:5 111:17 114:21,22 170:20,23 174:5 183:10 184:20 245:22 247:2 249:8 249:14 252:15,20 253:2 federally 1:21 fee 2:4 3:5 9:19,19 10:3 11:6 13:4 14:9 15:9 16:7 17:19			

[field - general]

<p>field 130:11 134:13 135:3 figure 67:2 226:5 252:19 253:9 figures 274:10,15,17 figuring 202:20 filed 121:23 161:18 163:15 164:4 files 91:16,25 filing 160:3,6,12 162:10,18 163:14 164:8 filings 162:22,25 fill 24:21 26:16 27:17,21,25 28:4,8 28:17 29:6 30:4 36:17 37:8 125:18 125:21 126:21,25 127:7 129:2 130:2,4 130:15 131:1,13 132:1,16 filled 93:1 107:9 125:10 127:4 221:1 277:20 filling 26:18 126:3 126:12 fills 26:13 47:17 final 69:20 186:5 259:9 275:7,9,11,14 275:20 finalized 18:3 find 138:6 226:2 234:12 fine 13:4 229:20,22 249:21 finish 12:25 13:5 fire 1:4 first 11:8 22:24 23:9 36:13 58:12 60:22 61:11 78:19,20 79:2 79:3 82:1 90:24 91:3,6 107:16,23 108:8,19 147:13 148:14,21 154:20 155:4 160:12,17,21</p>	<p>161:10 182:6 214:24 215:4,23 226:20 227:19 228:9 246:7 261:4 firsthand 22:22 fittings 136:11,17 137:15 138:3,19 141:20 144:10 149:17,23 150:2 fitzsimmonds 203:22 five 163:14 232:6 246:15,18 247:22 247:24 248:5,7,10 249:17 285:25 286:11,25 287:16 flip 156:23 floor 2:12 focus 189:4 268:11 focused 217:8 242:25 247:25 focusing 248:5 folks 17:21 139:17 follow 162:15 267:8 288:6 followed 267:18 following 184:19 189:12 218:7 224:20 250:20 follows 10:13 footprint 189:4 force 183:3,3,16,20 184:8,11 foregoing 292:2 form 3:10 19:2 21:9 24:23 25:20 26:3,13 26:18,20 27:7 28:25 31:2,5,13,20,24,25 32:2,7,11 33:15 34:18,24 35:12,14 36:10,16,22 37:8,12 37:16 38:5,16,20,24 39:5,11 40:1,14,23 47:17 79:18,20 80:11,13 106:23,25</p>	<p>107:6,9,23 108:11 108:20 125:10,18 125:21 126:12,22 129:2,16 130:2,5 134:14 135:4 145:20 177:25 178:12 179:19 186:23 194:4 197:4 200:19,24 201:8 203:10 204:1 205:1 210:14 211:19 212:2 213:1,12 214:5 223:14 224:1 232:5,6 233:13,15 233:18,19 254:17 254:25 265:7,10,18 268:6 269:10,24 270:3,10 274:19 275:20 276:16,18 283:18,23 289:7,22 290:2 formal 41:14 42:3 42:16,16,19 formally 62:3 70:21 94:8 format 270:21 271:1 271:5,6,20 275:15 formation 266:3 formed 20:14,15 192:10 former 126:15 forms 5:22 24:20,25 25:4,14,15 26:11,16 27:22 28:1,5,8,18 29:7 30:4,23 31:5 39:14,19 41:14 42:3 46:12 52:4 81:24 84:13,13 94:11,11 104:2,15,15 108:8 108:17 126:5,25 130:16 131:2,14 132:2,17 197:14 200:20 205:2,5 211:14 213:15,15 214:16,16 215:24</p>	<p>216:1,5,8,12,24 217:15,16 238:4 259:1 264:14 265:25 289:2 forward 28:15 32:4 32:25 36:6 40:18 107:8 191:1,6,25 192:4 found 91:2 foundation 20:8 22:12 39:1 45:23 86:6 118:12 122:25 266:3 281:9 four 100:25 161:5 232:5 239:17 frame 155:13,15 192:2 francisco 2:13 franco 199:20,24 235:18 franco's 235:20 frankly 247:18 free 98:14 162:25 friendly 274:13 fringe 165:9 front 69:24,25 79:4 266:16 269:7 full 10:23 107:8 future 103:10</p>
g			
<p>g 89:16 200:25 game 242:7 gap 63:24 general 2:18 45:24 56:11,21,25 62:23 63:6,10,14,17,20,25 64:2 67:2 76:3 83:14 84:12,21,23 86:9 101:8 110:25 112:20 114:14 117:25 208:15,19 215:16,21 227:8,11 228:20,23 268:4</p>			

[generally - hire]

<p>generally 20:22 84:6 154:10 gerald 10:24 gestures 11:25 getting 94:8 103:19 104:8 263:24 gibson 176:3 give 11:7 17:10 21:19 33:2 36:5 37:11 52:14 57:3 92:18 100:11 146:1 174:11 185:16 247:17 261:4 given 32:2,7,11 56:4 56:7 115:13 116:6 121:4 247:15 291:9 giving 11:15 13:22 14:1 gmac 246:12 gmac.docx 246:7 go 8:11 11:10 16:13 21:15 26:23 27:4 41:11 44:10 45:11 46:21 47:11 48:3 52:16 67:9 72:4,23 75:13 76:1 93:17 110:18 111:24 112:12 113:15 114:6 117:14 120:4 121:14 135:4,16 138:16 159:1 164:15 193:21 198:15 200:16 202:7 204:24 209:20 215:14 217:7 223:2 237:23 239:7 247:20 249:3 249:15,19 257:10 258:9 266:25 282:21 285:7 goes 111:8 155:18 198:18 going 12:11 52:9 57:7,9,14 87:23 94:18 105:8 135:18</p>	<p>143:17 159:3 161:21 162:14 194:15 195:12 198:13 207:10 209:16,19 226:19 227:18 228:9 239:10 241:7,13 242:9 243:7 247:19 249:4 257:13 258:6 280:7 282:24 286:18 287:23 288:4 goldblum 189:21,24 190:13,22 191:18 191:25 192:4 194:25 goldblum's 192:22 193:7,13 good 13:2 96:24 132:23 270:23 273:16 291:4 governing 5:25 266:9,17,20 267:3 267:12 government 48:21 48:24 49:1,16 50:16 50:17,20 51:1,6,13 51:15 52:20,24 53:10,22 54:20,21 55:6,19 56:4,13,17 56:20,24 113:25 114:21,23 185:8 208:3 247:2 249:14 250:17,18,22,25 251:4 governments 111:12 111:18 112:5 113:8 grab 283:10 grammatical 269:21 270:6 272:2,11 granted 47:21 176:6 granting 47:2 grants 71:22 graphics 269:4,5 274:6,8,17</p>	<p>gratuitous 207:23 great 269:8 290:16 green 191:5,7 192:23 193:7 group 16:2 18:9,10 18:15,17,19,22 19:1 19:10,17 20:5,10,13 20:15 21:15 22:7 24:5,20 27:4 31:11 32:3 36:17,23 37:20 37:23 38:10 192:10 192:14,19 281:19 281:21 groups 19:13,25 20:21 21:7,7 22:20 23:1,14 27:16 28:16 29:5,12 30:3 32:7 32:11 40:25 55:21 55:23 grove 89:15,15,19 89:23 188:22 guess 22:23 24:8 38:23 39:18 40:4 152:19 153:13,17 156:16 172:19 178:2 196:19 234:8 277:21 guessing 23:2 40:6 257:4 guidance 281:12 guide 15:17 guidelines 270:4 guides 15:5</p>	<p>handing 35:4 60:8 64:12 66:1 68:20 88:15 121:21 122:12 171:17 173:10 181:19 187:8 195:25 201:17 204:8 205:17 210:4 211:1 229:11 232:15 236:5 238:13 243:21 244:22 253:16 255:17 260:9 261:19 264:20 266:13 277:14 278:4 279:1 279:22 281:2 282:3 handwriting 196:10 happened 191:9 192:3,13 278:14 happy 151:17 hard 262:9 hazardous 277:2 head 199:24 200:4 headquarters 219:6 heads 199:17 hear 10:3 heard 101:2 heating 1:6 held 1:16 8:18 9:2 95:7 127:14,24 help 26:18 27:4 102:15 115:11 116:5 185:10 268:21 269:4 helped 103:18 104:1 helping 104:25 helps 281:11 highway 57:5 hire 115:14 116:7,12 116:16,21,25 117:3 117:20 119:9 125:13 133:13 134:11 135:1 249:24</p>
		h	
		<p>h 3:7 175:14 half 194:16 hand 65:4 141:13 160:20 187:15 196:10 197:17 199:8 221:2 277:21 291:11 handed 239:24 258:11 263:14</p>	

[historical - instruct]

<p>historical 156:3 hold 77:2 100:24 114:25 193:15,17 213:21 214:4 222:7 226:22 283:10 holds 282:18 honest 59:5 hooper 124:21 125:1,7 126:5,17 127:5,14 128:11,14 128:22 130:3,9 139:20 140:5,14 hooper's 127:10 128:3,18 133:25 hour 52:10 194:15 hours 109:16 288:13 huh 99:15 156:20</p>	<p>identify 9:9 46:21 94:21 95:4 210:6 252:17 258:14 263:17 276:25 286:13 287:1,6,18 287:21 identity 198:5 iii 260:1 ils 269:1 image 253:24 imagine 24:13 76:2 immediately 161:5 impairment 285:23 implemented 257:2 impression 54:7 inc.'s 3:22 88:8 incentives 45:19 include 48:20 52:5 108:17 219:9,21 220:10 231:4,14 243:8 273:7 included 108:9 152:21,22 153:14 154:6 189:6 234:14 241:2 266:22,24 273:5 includes 153:3 236:13 238:25 259:9 including 73:6 78:18 80:22 143:3 176:19 232:2 inclusive 189:6 incorporate 272:10 276:10 incorporated 9:1 105:14,21 independent 29:22 41:10 index 7:1 138:23 139:4 indicate 172:12 175:25 183:9 184:10 197:3 201:9 218:12 273:16,18</p>	<p>indicated 96:22 170:9,15 291:5 indicates 253:24 indication 96:24 indicator 279:14 individual 32:3,13 32:23 36:5 37:12 38:5 45:25 46:1 47:17,19 49:10,13 49:14 50:18 51:5 52:23 53:9,21 54:2 55:5 79:25 80:25 81:2,12,18 82:5,6 82:25 98:4 107:7 110:5 125:2 126:8 160:12,13 165:4,10 165:20,23 167:8,16 167:23 168:8,16 169:5,7,15,17,19 170:15 177:19 178:21 179:15 180:6 197:1 200:24 217:8 223:5,16 225:18 242:6 261:25 263:19 268:14 278:6 280:11,16 285:21 individual's 196:16 279:14 individuals 18:25 19:15 25:6 27:20,24 28:3,15 29:4,11 30:2,6 32:20 33:6 37:7 41:18 42:6 44:18 45:3,20 47:1 48:6,20,21 49:1 50:25 51:14 52:19 53:7,19 55:4,17,22 58:20 71:23 79:11 97:21 98:8,10 100:6 100:23 102:24 105:14,21 109:9 165:15,25 176:4 177:1 189:15,18,20 231:3,12 265:21</p>	<p>272:16 inform 269:22 informal 41:17,25 42:5 information 31:18 40:11 41:10 42:12 42:24 44:10 47:11 48:2 49:8 57:24 85:16 100:5 104:25 107:11 113:14 114:6 128:23 129:8 138:13 152:4 175:6 176:21 177:16 204:24 232:7 233:15 236:19,20 informational 217:22 264:10 informed 127:3 128:18 132:10 informs 180:22 infringed 122:4 initial 21:16 initially 20:13 initiate 26:22,24 86:7,8 151:20 input 49:12 99:22 inquire 114:19 insert 73:10 inserted 115:25 inspection 183:4 210:8 instance 170:8,14 183:17 264:5 283:17,22 instances 32:19 40:7 40:9,12 50:11,13,15 79:10,19 81:11,15 instituted 58:13 65:16 82:1 instruct 29:18 30:10 31:15 44:7 45:7 46:18 49:5 73:14 74:20 111:20 112:8 113:11 114:3 161:22 200:14</p>
<p>i</p>			
<p>idea 61:19 62:21 188:15 191:1,3,6,10 191:17,25 192:4,23 193:7,14 215:3 227:3 237:8 identification 35:1 60:5 64:9 65:23 68:17 88:12 121:18 122:9 171:14 173:7 181:16 187:5 195:22 201:14 204:5 205:14 210:1 210:23 229:8 232:12 236:2 238:10 239:21 243:18 244:19 253:13 255:14 257:23 260:6 261:16 263:11 264:17 266:10 277:11 278:1,23 279:19 280:24 281:25 284:9 identified 290:7 identifies 290:5</p>			

[instruct - ken]

201:4 202:5 204:22 241:7 243:3 286:16 287:3,23 instructed 134:2,9 134:25 163:6 243:14 288:10 instructing 162:2 242:1 243:10 286:5 instruction 30:19 41:23 162:14 223:12 instructions 43:25 48:17 75:1 intellectual 3:12,14 3:16,19 58:8,12,17 60:2,10,15 61:6,12 61:16,23 62:2,8 64:5,16,19 65:15,19 66:7,9,19 67:20,24 68:9,13 69:2,5,13 70:4,11,16,20 71:3 71:9,20,21 73:11,22 76:14,25 78:4 91:15 91:24 92:2 109:18 109:19 110:2,4,12 113:4,22 115:8,12 115:23 119:13 120:2,11,15,22 121:1,8 219:2,10,16 219:18,22 220:8,11 220:22 221:8 222:4 224:16 256:13 intended 223:5 interacted 51:2 53:7 interaction 250:17 interactions 127:6 interest 16:22,23 30:7 31:12 32:1 56:11,21,25 176:18 interested 19:21 36:5 37:13 40:17,19 46:2 87:6 163:2 291:10 interests 20:22 21:2 73:6	interfere 8:9 interlaboratory 268:7,22 internal 131:11 155:24 156:2 199:22,25 200:4 235:6,14,22 international 1:3 2:18 3:9,15,17,20 4:11 6:5 8:25 14:5,7 34:17,23 35:11 64:6 64:17 65:10,20 68:14 69:9,22 78:13 78:16 80:12,17,21 110:3,7,10 115:18 115:25 116:3,9,10 201:12,21 219:5 260:13,15,24 278:21 introduced 26:3 27:8 76:11 introduction 24:6 24:18 40:22 79:5 inventory 252:14 investigating 249:23 invited 100:24 invoice 5:3,5 173:16 173:18 177:12,22 178:19 179:10,13 179:24 180:5,21 212:14,17,25 213:11 222:15 234:16 236:1,10,13 238:9,17 invoices 4:4 173:5 175:7 176:1,5 177:1 177:11 230:24 231:4,13,20 234:13 234:22 236:23 237:16 involve 271:1,21 involved 11:4 82:13 82:16,19 103:24 167:2	involvement 102:15 103:15 involves 17:15 271:4 ip 59:23 73:8 77:21 78:19,25 79:5 80:24 116:6 176:21,22 210:12 223:23,24 231:5,15,19 236:14 237:4,15 238:19 239:1 254:3,23 259:21 263:1 265:24 279:9 289:20 290:1 iso 281:14,17,19 282:10,14,19 issue 43:14 52:3 114:16 136:2 142:14 143:5,6 158:24 226:21 227:20 228:10 247:9,11,12,15 248:18 283:20,25 issued 54:21 issues 99:25 100:14 101:5 241:10,11 248:23 250:18 item 25:16,19,22,23 26:3,13,16 28:1 81:16 91:12,19 102:19 103:6 167:5 179:5 items 79:6 iteration 273:15 iv 74:11 75:5 76:6 76:12 77:8	96:7,8,11,16 97:3,9 99:2 100:11,13 101:2 108:25 119:2 119:3 120:9,9,13,25 251:18,20 252:5 jim's 94:13 jkfee 2:6 john 85:3 99:11 106:9 109:1 127:20 127:23 139:25 140:5,14 join 48:5,19 49:1,1 165:21 196:17 217:21,24 223:6,16 225:18 263:22 265:21 joined 217:23 joining 103:7 254:1 263:23 264:1 journal 261:10,11 jr 2:17 july 1:20 8:15 91:4,7 june 101:1
k			
k 63:4 175:14 176:4 181:23 kaiser 189:22 190:17 193:25 195:5 kaiser's 190:7 kathe 124:20,25 125:7 126:5,17 127:5,10,14 128:2 128:11,13,18,22 130:3,9 133:25 139:20 140:5,14 kathie 85:9 106:14 106:19,22 107:4,12 107:15 109:1 118:8 118:18 119:7 keep 139:8 155:2 234:21 ken 118:19 119:1			
j			
j 2:4 january 101:1 133:21,25 134:6,22 135:12 jeff 89:15,15,19 188:22 189:1 jim 85:1 93:21 94:1 94:3 95:15 96:1,4,5			

[kept - levels]

<p>kept 101:20 140:16 kevin 2:4 9:19 kin 291:10 kind 105:4 154:7 186:10 262:9 know 12:4,21 13:11 20:25 22:20,22 24:3 24:10 29:24 33:22 34:1,3,13 38:22 39:2,4,7,13,25 40:3 51:9,10 52:8 61:15 62:1,7,14 63:5,16 66:12,18,21,23 67:1 67:3,4,11,17,23 68:3 70:22,25 71:8 71:15 73:18 74:7 75:14,18,24,25 76:3 76:11,19 77:7,9,14 77:16,24 78:2 79:20 81:8 82:4,11 83:9 83:10 86:15 92:12 97:14 107:17,19 110:19,21,21 111:4 111:6,25 112:13,15 112:20,23,25 113:17 114:8,10 116:15,18,24 117:8 117:13,19,19,25 118:24 119:3 120:1 120:1 121:1 126:3 126:11,13 127:5,23 128:1,5,10 129:6,21 129:22 131:19,23 132:6,13,20,22 135:7,8,13,14 136:1 136:14 137:19,25 138:5,12 139:6,11 139:14,20,25 140:12,15,17,20 141:16,17,23 142:10,12,21,22 144:8,14,16 146:11 146:17,18,20 150:3 150:4,9,10,17,24 152:13,18 155:10</p>	<p>155:10,12,14 157:6 157:11,17,22,24,24 158:3 161:2,15,18 166:5 170:4,8,14,22 170:23 172:20 176:9 178:1 181:2,5 181:11 183:7 185:4 188:18 189:17,20 189:21,21,22 190:3 190:6,9,12,16,19 193:6,23 194:5,11 194:21,25 195:3,5,8 196:14,18,20,22 197:2,13,16 198:23 199:7 200:1,3 201:19 206:16 207:13 212:6,7 213:7 214:24 215:20 216:3,4,8,12 216:23 221:11,14 221:19 225:9 226:5 226:6,11,14,14,15 226:15 227:2,5,7,11 228:15,17,23,25 230:14,19,21 231:25 233:24 234:3,6,25 235:3,13 235:14 237:10,12 237:24 240:14 248:14 249:10 251:15,21 252:1,19 253:1 256:17,18,25 257:3,6,7 258:24 259:17,20,24 260:22 268:9 274:9 281:14,19 285:19 knowledge 16:9 17:12 23:15 28:20 29:9,22,25 36:20 37:5 38:20 48:8 49:14 68:11 73:20 83:13,15 86:1 99:18 99:23 111:23 129:7 166:19 169:3 192:24 201:6</p>	<p>284:20,22 knows 225:5,9 226:1,7 kuehl 175:14 <hr/> l l 2:16 126:8 133:17 175:14,15,15,16,16 181:23 lab 273:22 labeled 35:9 263:16 264:23 laboratory 210:7 273:11,13 labs 273:20,24 lack 20:7 22:11 38:25 45:22 86:5 118:12 122:24 266:3 281:8 286:23 287:14 language 26:1 76:25 77:17 78:4 102:16 102:21,23 103:2,15 103:20,25 104:8,14 108:9,18 167:7 176:2,11 179:25 200:8,19,22 201:8 201:23 202:9,10 204:14 205:1 206:4 207:8 210:16 212:9 212:12 213:5,9,14 213:19,22,25 214:9 214:15,25 215:4,8 215:22 218:14 222:3,9,12,13,20 223:10,20,22,24 224:8,9,10,15,21,25 236:12,13 237:3,15 239:1 253:25 254:3 254:15,22 256:11 262:2 265:14 269:12,23 270:1,2 279:8 285:12 289:17,19 290:4,8</p>	<p>large 19:25 larger 165:1 late 63:8 law 11:17 laws 292:2 lawsuit 95:17 226:19 227:18 228:9 lawsuits 11:4 lawyer 72:6 129:3 lead 272:17 learn 85:19 led 126:18,21,24 128:24 leeway 247:18 left 258:4 legal 8:14 9:12 29:18 30:10 31:15 37:2 38:1,14 41:6 42:9,21 46:17 47:6 47:23 49:4 51:8 53:1,13,24 54:9 55:8 72:1 73:14 74:14 75:7,16 76:16 76:24 80:3 81:6 86:14 103:1 109:5 110:15 111:20 112:8 113:11 114:2 124:23 129:18 158:13 160:24 163:18 164:15 169:10 176:8 179:2 179:21 181:8 188:14 200:11 201:2 202:2 204:19 206:10 214:8 218:18 226:24 227:23 228:13 237:19 245:18 259:12,16 272:23 letters 130:24 230:6 230:8 level 17:17 levels 16:16</p>
--	---	--	--

[lewis - matter]

<p>lewis 2:4 9:20 library 144:11,18 145:4,11 limit 245:4 limited 59:14 78:18 80:23 linda 1:20 9:11 line 7:4,4,10,10,14 7:18,18 12:23,24,25 73:3 188:8 238:22 240:15 245:11 279:8,13 lines 198:15 link 248:17 249:2 list 59:6 70:3 189:5 189:6 281:15,17,19 281:20 282:11,13 282:16 listed 79:6 92:9 125:1 129:24 137:13 148:9 160:15 176:4 185:9 188:8 189:18 200:24 245:11 246:8 282:13 285:10,18 listing 122:2 130:10 134:11 135:1 181:23,24 lists 133:9,17 141:3 152:4 178:7 182:16 184:19 189:14 202:25 203:4 litigation 136:2 142:15 144:2 161:20 162:5 226:21 227:20 228:10 little 18:5 134:17 199:1 247:17 263:5 lively 85:6 102:4,10 102:13 103:24,24 103:25 104:13,21 105:10,17 106:1,4 108:6,16 109:1</p>	<p>lively's 103:14 living 14:4 llp 2:4,10 located 8:19 171:8 228:4 location 27:2 log 154:18,23 155:2 155:16,23 logo 43:10,21 94:19 183:23 logos 78:24 logs 156:9 logsa 183:4 long 12:22 23:4 37:22 43:6 86:18 87:5,7 117:14 118:3 118:9,20 119:3 127:14,23 181:25 longer 191:22 look 34:7 76:5 123:1 136:7 140:23 156:23 157:2 161:4 182:4,25 218:5 230:1 233:3 259:7 285:9,15 looked 121:25 124:8 228:4 285:13,19,22 looking 71:18 115:22 134:20 184:18 262:22 283:7 looks 196:9 203:4 203:19 204:12 205:22 222:17 224:18 233:14 236:18 246:4 254:6 255:22 257:4 261:23 262:9 263:18 267:1 270:23 277:18 278:11 280:2 281:7 lost 134:17 lot 269:16 loud 177:4</p>	<p>low 95:20 m m 200:25 machine 291:7 mail 4:7 5:7,8,10,17 6:3,11 21:25 24:8 24:10 54:21 174:12 174:16,19 187:2,24 188:3,7,21 203:5 238:4 239:19 240:2 240:16 242:7 243:16 244:16 245:13 246:2,8 260:3,12 277:23 278:10,16 281:23 282:7 main 16:18,20,22 17:1,2,16 maintain 95:20 maintains 156:9 making 159:23 malamud 2:19 10:1 manage 53:8 150:8 managed 50:4 52:22 management 51:2 250:7,8 manager 83:12 105:2,4 217:10 225:14 mandatory 269:22 269:23,25 270:1 manner 130:2 229:19 manual 268:7 270:11 276:16,18 manuals 78:23 manufacture 158:9 manuscripts 110:6 march 160:18 161:9 280:6,17 marge 84:23 85:13 85:20,22 86:2,14,20 87:7,10,19 99:7 108:25</p>	<p>marge's 86:25 mark 284:2,4 marked 3:8 7:17 34:25 35:5 60:4,9 64:8,13 65:22 66:2 68:16,21 88:11,16 121:17,22 122:8,13 122:18 148:14 171:13,18 173:6,11 181:15,20 187:4,9 195:22 196:1 201:14,18 204:4,9 205:13,18 210:1,5 210:22 211:2 229:7 229:12 232:11,16 236:2,6 238:10,14 239:21,25 243:18 243:22 244:18,23 253:13,17 255:13 255:18 257:23 258:12 260:5,10 261:15,20 263:11 263:15 264:16,21 266:10,14 277:10 277:15,25 278:5,23 279:2,18,23 280:23 281:3,24 282:4 284:8 289:25 market 1:17 8:19 material 37:18,21 38:11 97:1 105:9,13 105:20 110:9 114:20 129:13 152:7,10 materials 1:3,15 3:24 8:25 78:22,24 88:11,19 124:1 130:6 133:10 134:12 135:3 matt 132:23 194:14 197:22 209:16 matter 41:9 76:18 112:10 113:13 162:11 166:9 243:7</p>
--	--	---	--

[matthew - mid]

<p>matthew 2:10 9:15 10:18 mbecker 2:14 mean 14:7,19,23 15:1,11,24 19:4 28:23 32:17 41:25 44:13 47:14 56:1 62:21 74:5,7 91:25 97:16 104:6 123:21 151:23 168:25 182:7 185:4,16,23 192:18 208:20 212:21 233:11 246:17 248:2 262:10 269:20 270:12 273:2,9 275:8 276:5 meaning 15:8 means 11:23 29:10 31:9 40:24 41:18 42:5 55:4 75:15 77:8,10 147:11 152:20 154:1 177:20 178:18 179:12 180:4 198:11 228:1 meant 74:24 184:4,7 254:14 mechanical 141:5 medication 13:21 meet 86:18 93:21 102:3,7 106:18 meeting 22:2,18 48:7 86:9,10,13,16 86:21 94:17 95:21 97:12 99:3,9,25 100:2,3,23,24 101:23,24 106:1,6 106:11,22 120:8,10 125:5 meetings 22:23 23:16,17,20,25 54:1 54:14 95:17 100:22 101:3,6,17,21 102:2 186:2,11 192:19</p>	<p>194:13,13 meltzer 126:9,11,13 132:18,19,20 133:18 158:4 member 5:22 18:22 26:14,17,21 37:19 38:10 43:14 56:21 56:25 73:3 77:9,17 82:15,17 93:1,3 95:9 96:12 98:2 103:7 168:3,8,16,18 168:19,23 169:20 171:4,8 181:3,6 184:12 198:20 202:14,21 203:13 250:19,23,25 251:5 253:24 257:1 264:7 264:13 265:6,9,18 267:9 members 18:25 19:1 19:9,10,12,13,14,16 19:16 20:18,20 21:6 21:6,7,8,10 24:5,20 25:2 26:15 27:3,10 27:15,17 28:15,16 29:5,6,12,13 30:3,3 31:11 32:6,10 36:17 36:23 40:17,25 41:3 43:11 44:24 48:5,19 49:10,19 50:25 54:2 54:7,20 56:8 58:3,9 76:24 78:3,14 80:18 83:20 84:5,14 85:18 85:24 94:9,14,15,23 94:25 95:5,13,24 96:18,20,24 97:1,19 98:8,11 99:20 102:12 103:5 104:9 105:6 145:3,10 164:23,24,25 165:4 165:5,9,10,13,19,23 166:7,8,16,16,17,22 167:8,9,10,13,16,16 167:22 169:4 170:21,24 177:11</p>	<p>180:23 182:16 183:11 185:5 189:7 217:22 219:23 230:5 231:21 234:23 265:20 267:20,21 268:1,2,8 268:14,15 269:7,22 274:16,21,23,24 275:6,10,19 278:15 281:12,20 282:14 287:15 290:7 membership 4:4,6,9 4:11,16,18 5:3,5,13 6:1,6 21:5,11,12 25:1,4,5,11,14 27:18 51:12 73:5 81:20 84:15 91:11 91:17 94:11 95:21 102:17,18 103:4,8 104:14 165:1 166:24 167:11 169:15 171:9 172:7 172:15 173:4,15,18 176:5,17,25 177:10 177:22,23 178:19 178:21 179:4,10,13 179:15,24 180:4,7 180:21 181:15,21 182:20 195:20 196:5,7,16,17 198:2 198:9 201:12,22 203:24 206:2,5 207:4 209:24 210:9 210:18 211:6,7,8,13 211:18,25 212:11 212:13,16,17,22,24 212:25 213:4,8,10 213:18 215:24 216:2,5,9,13,24 217:15,16,19,20 218:1,2,9,10,14,25 220:12,23 222:5,14 222:21,22 224:14 224:20 225:6,21,22 226:1,3 231:4,13,19</p>	<p>233:12,13 235:25 236:10,23 237:2,16 238:4,8,17 253:8 255:11,23 256:1,6 256:20 258:25 259:18 261:25 262:3,13,19,24 263:20,25 264:2,4,9 277:9 278:8,13,16 278:21 279:6 281:5 282:13,15 289:2,12 290:5 memberships 93:1 166:2 169:24 memorandum 207:15,17 memory 94:3 memos 131:11 mention 59:23 210:12 231:18 mentioned 58:25 59:3 60:11 92:6 93:4 101:11 126:6 185:10 276:13 mentioning 101:14 247:23 mentions 218:24 mercury 277:4 met 92:5 94:2 96:16 97:4,10 99:11 102:8 106:13 109:2 method 15:16 273:10,12 methods 15:4 141:5 273:5 274:2,3 metric 246:4 247:24 249:22,22 250:1,4 250:12 251:11 252:6 metrics 246:15,18 247:22 248:8,11 249:17 microphones 8:4,8 mid 61:21</p>
--	--	--	---

[middle - objection]

middle 12:23,24 141:2 176:11 183:2 183:22,24 288:25 288:25 military 203:5,13 mind 22:4 31:5 269:18 mine 107:19 minute 258:8 minutes 52:13 86:19 101:20,23 249:4 258:4 288:13,14 mischaracterizes 77:12 119:17 122:18 146:6 147:19 153:7 157:13 168:12 202:18 236:17 238:21 272:5 275:2 missing 256:5 model 95:19 moe 63:1,6,11,20,23 63:25 moment 19:8 27:21 27:25 28:4 45:16 80:7 92:9 93:12 97:18 100:10 133:1 187:11 194:17 months 118:5 morgan 2:4 9:19 85:9 106:14 107:4 107:12,15 109:2 118:8,18 119:8 morganlewis.com 2:6 morning 258:3 motion 245:6 mou 207:13,19,21 move 207:9 multiple 60:14 137:12 211:24	name 8:13 9:5 10:18 10:23 126:6,7,10 130:7,11 133:8 134:11,12 135:3 164:9 175:13 188:8 203:1,25 245:10 251:25 276:21 names 135:2 175:11 narrow 16:22 natick 183:6 national 1:4 207:24 208:2,11 nature 156:25 157:4 near 91:20 133:16 145:21 262:23 necessarily 18:23 49:15 55:14 147:20 150:12 169:20 170:5 necessary 78:15 79:12 80:20 143:18 151:20 177:21 need 11:23 12:20 97:16 121:6 158:24 178:12 198:10 needed 42:15,19 44:21 needs 269:10 neither 291:9 never 43:13 95:9 96:13 208:16 251:1 265:16 new 6:8 25:22,25 103:7 147:13 149:3 152:23 153:20 250:2 270:20 272:17 279:18 280:12,17 news 280:3 night 35:8 64:14 253:18 255:19 nist 173:23 174:3,5 174:11,23 175:2 nist.gov. 174:20	nods 11:24 non 47:10 269:23,25 nondestructive 183:3 nonmember 31:6 43:14 nonmembers 20:21 21:11 30:24 31:10 98:16 notary 1:21 291:3 291:15 note 8:4 210:10 245:1 noted 233:1 notice 3:22 88:9,17 121:5 230:4 232:3 283:8 291:5 noticed 90:5 notified 90:25 number 9:4 37:17 61:5,8 64:14 66:3 68:22 121:5 122:14 141:7,11,12 142:11 146:2,3,22 171:19 183:10 184:19 187:21 189:11,14 196:2,15,16,18,18 218:6 232:20 239:6 244:24 253:2,19 255:19 261:21 264:22 268:25 279:3,15 283:22 285:7,8 numbered 109:21 124:2 numbers 6:12 92:11 92:13,24 93:7,15 141:25 142:3 182:24 196:13 211:9 232:19 283:17 284:7 285:10,17,20 numerous 17:4 95:16	nw 2:5 o o 2:16 63:4,4 89:16 o'brien 2:17 9:23,23 63:12,13,16,21,23 64:1 o'toole 282:7 oath 11:15 object 11:7 224:2 229:17 232:22 243:2 265:1 289:7 289:22 290:2 objecting 143:12 objection 11:6 14:9 15:9 16:7 17:19 18:16 19:2,18 20:7 20:23 21:9 22:11 23:23 24:12,23 25:12 28:11 29:17 30:9,18 31:2,14 33:10,24 35:17,23 36:18,25 37:1,9,25 38:13,25 39:21 40:15 41:5,22 42:8 42:20 44:6 45:7,22 46:7,16 47:4,22 49:3 50:3,12 51:7 51:16 52:25 53:12 53:23 54:8,22 55:7 55:24 58:22 60:25 62:4,9,16 64:24 66:24 70:23 71:11 71:25 72:17 73:13 73:24 74:13 75:6,19 76:8,15 77:11,18 78:6 79:14 80:2 81:5 82:8,18 83:23 84:8 86:5 90:18 93:16 96:6 97:5,24 98:12 100:8 102:25 103:17 104:4,17 107:24 108:11,20 110:14,22 111:5,19 112:7,16,24 113:9
n			
n 2:1,16 3:1 200:25			

[objection - owned]

114:1,12 117:9,22 118:11 119:16 120:16 122:17,24 123:19 128:6,15 129:17 130:18 131:4,16 132:3 134:14 135:4 136:19 137:16 138:4,10,20 139:5 139:10,15,21 140:7 140:18 141:21 142:18 143:16 144:3,12,19,25 145:5,6,13 146:5,15 146:23 147:18 149:12 150:21 151:3,13 153:6,22 154:13,21 155:6,20 155:25 156:10 157:12,20 158:1,12 158:23 160:7,23 161:13,21 163:17 163:19 164:10 165:6,16 166:3 167:18,25 168:11 169:9 170:2,25 172:1,16 173:24 174:13,24 175:8,17 175:21 176:7 177:5 177:24 178:14,25 179:19 181:7 182:3 183:12,18 184:13 184:23 185:11,25 186:6,12,17,23 188:13 190:24 191:11,20 192:6,15 192:25 193:9,19 194:3,10,22 195:2,7 197:6,9,20 199:11 199:19 200:10 201:1 202:1,17 203:6,15 204:18 206:7 208:5,13,21 209:5,15 210:14 211:16 212:2 213:1	213:12 214:4,20 215:10 216:25 217:17 218:17 219:11,24 220:3,14 221:3,15,23 222:16 222:23 223:11 224:1 225:1,11 226:23 227:21 228:11 230:9 231:22 233:21 236:16 237:5,18 238:20 240:22 245:17 246:9,19 248:9 249:18 250:14 251:6,12,16 252:7,22 253:4 254:13,25 255:5 259:2,22 260:17 261:1 262:5 263:3 265:12 267:5,23 268:3,17 271:3,10 271:23 272:4,22 274:7,19 275:1,13 275:22 276:19 279:10 281:8 286:2 objections 43:24 48:15 74:25 131:5 140:1 172:25 174:7 177:13 180:11 227:6,12 228:18,24 230:16,20 234:2,7 234:17,24 235:4,9 235:16 237:11 251:22 252:2 266:2 objectives 250:20 obligations 228:6 observations 53:18 observing 54:2 55:10 obtained 129:9 occasions 71:10 october 65:10 69:10 69:23 offhand 39:7	office 125:18,21 126:18,24 127:3,6,7 128:2,18,24,25 129:8 130:1,4,15 131:1,13,25 132:10 132:15 134:2,8,24 146:1 183:4 190:2 offices 1:16 official 191:18 291:11 oh 59:4,10 okay 79:7 109:25 121:14 184:1,10 185:15 283:13 288:12 old 154:23 274:11 277:19 older 196:6 once 80:25,25 229:25 231:20 ones 79:17 80:10 92:8,16 93:11 116:19 online 21:21 22:25 23:9,12 24:6,19 26:23 27:1,3 81:24 237:25 257:2,8 262:14 263:21 open 156:22 opening 25:21 103:8 operations 14:13,16 95:23 117:13,18 118:4,7,10,17,21,25 119:5 164:20 241:23 285:24 286:11,24 opportunity 186:25 opposed 223:23 options 250:6 oral 186:13 ord 196:11 order 28:9,18 29:7 177:23 187:12,17 196:18 228:5 242:17 245:2,7	268:25 ordered 243:6 245:7 organization 164:20 165:22 168:17,17 168:22 169:1,25 170:17 202:14 203:1 248:6 organization's 169:8,21 170:10 organizational 4:6 164:22,24 165:4,8 165:13,18 166:2,7 166:15,17,21 167:9 167:10,13,22 168:7 168:15 169:4,12,14 169:19,22,24 170:21,24 171:4,8 172:7,15 181:14,21 182:8,11,14,16,20 183:11 184:12 202:21 264:9 organizations 165:14 166:1 168:2 169:7,13 organize 23:25 270:9 organized 23:17,21 organizing 268:23 original 20:5 37:17 37:20 38:11 41:1 179:4 234:21 271:18 originally 66:14 69:7,25 ortiz 202:14,25 203:13 ortiz's 203:23 outcome 291:10 outside 24:1 37:24 159:1 243:1 269:24 overmeyer 189:23 190:20 194:7 overmeyer's 190:10 owned 58:21
--	---	---	---

[owner - placing]

<p>owner 260:13 261:9 ownership 52:3 73:6 78:17 79:12 80:22 100:14 110:9 136:25 143:3,4,9,11 247:6 248:11 260:16,24</p>	<p>paper 32:18 42:16 42:19 111:9,16 174:17 175:3 261:10,11 289:1 papers 78:23 110:6 115:13 116:6 paragraph 78:20 79:4 189:11 part 16:8 72:8,12,15 72:21 74:11 75:5 83:5 110:25 136:10 136:16 137:14 138:2,18 141:19 144:9 149:16,22 150:1,5,9 152:9,15 152:17 156:11 159:15 165:25 170:18 207:19 256:4 partial 231:3,8,13 233:12,12 participants 78:13 80:18 226:18 227:17 228:7 249:9 249:15 252:16,20 253:2 254:20 participate 28:9,18 29:7 45:17,20 54:19 55:18,20,22 56:5 97:22 98:3,4 167:14 167:23 168:4,9 169:5,16 184:21 185:22 189:7,13 participated 52:20 53:19 58:20 190:23 194:12 participates 185:18 participating 6:1 51:4 53:9 55:5 167:15 217:20 264:2,7 277:8 participation 3:10 34:18,23 35:11 39:10,14,18 40:1,23 50:16,18 52:23 73:4</p>	<p>80:12 95:21 98:9 176:15 180:25 185:6 214:1,12 239:4 247:2 252:18 particular 50:24 66:22 69:8 72:24 83:12,16,24 98:24 137:7 148:23 154:19 155:3,13 163:5 165:19 201:8 217:11,24 223:6 259:5 264:5 269:18 277:1 parties 8:11 9:10 parts 143:5 party 291:10 path 263:19 patricia 189:22 190:9,19 194:7,12 194:19 paving 50:7 57:4 pay 21:10,12 97:21 98:1,3 145:7,11 169:25 178:3 payer 175:6 paying 98:5 203:22 payment 165:3 178:11 232:4 233:14,18 payments 178:8 pays 177:19 pdfs 271:7 pearson 118:19 119:1 penalty 292:1 pending 57:10 166:11 penn 1:18 pennsylvania 1:19 2:5 8:21 people 27:15 45:17 54:15 55:12 92:5 125:1 132:7 140:12 209:8,12 225:15 230:22 231:8</p>	<p>234:19 235:5,13 267:16 perfectly 198:17 perform 276:8 period 26:7 91:10 235:1 periods 259:12 perjury 292:1 permanent 259:10 person 26:18 83:11 87:4 134:8,24 170:9 193:23 198:20 234:9,10 283:19,24 personal 185:17 personally 221:21 persons 173:20,22 perspective 86:23 87:1,3 223:3 pertains 232:4 pertinent 159:15 petre 188:22 phil 85:6 102:4,8,9 102:13 108:6 109:1 philadelphia 1:17 1:18 8:20 190:2,2 phone 10:1 278:8,13 278:16 phones 8:7 pick 8:5 picked 211:17 229:18 232:23 picture 253:23 257:5 piece 32:18 174:17 pieces 175:3 piloting 250:2 pipng 136:11,16 137:14 138:2,19 141:20 144:9 149:17,22 150:2 place 8:8 270:9 291:5 placed 269:13 placing 271:6</p>
p			
<p>p 2:1,1,11,16 188:22 p.m. 35:8 290:25 pace 85:3 99:12,17 99:21,25 100:4 106:9 109:1 127:20 127:23 139:25 140:6,14 packet 34:11 page 3:2,8 7:4,4,10 7:10,14,18,18 34:16 60:22,23 61:1,7 65:8 69:20,25 72:7 78:20 79:4 133:3,15 133:17 134:20 140:24 141:1,2,3,13 145:18 171:10 182:6,24 183:1,1,2 183:23,24 184:2,3,5 184:7,18 188:20 197:18 199:9 200:23 218:6 220:6 222:2 224:13,19,20 232:5,6,19,20 233:17 246:14 252:14 256:11 262:23,23 264:3 266:16 283:15 289:1,18 290:7,9 pages 1:25 91:13,19 91:20 161:7 176:11 181:25 184:19 185:9 187:11 211:4 211:18 259:5 289:4 289:14 paid 51:14,14 172:14</p>			

[plaintiff's - produced]

<p>plaintiff's 245:6 plaintiffs 1:8 2:3 68:22 121:23 171:19 173:12 196:2 plan 251:3 please 8:4,7 10:22 12:3,21 13:10 50:10 63:3 72:14 109:19 109:21,24 120:7 133:3 156:21,23 158:6 175:25 176:22 183:1 184:20 187:10 210:5 218:12 258:14 263:17 264:25 266:14 283:21 plus 131:5 152:12 180:11,13 266:2 point 12:2 13:9 22:5 61:20 252:13 257:8 pointed 289:17 points 240:17 policy 3:12,14,15,17 3:17,19,20 5:15 58:9,12,17 59:23 60:3,10,15 61:7,12 61:16,23 62:2,8 64:6,7,16,17,20 65:15,20,21 66:7,9 66:19 67:20,25 68:10,14,15 69:3,6 69:14 70:4,11,16,20 71:4,9,20,22 72:7 72:11 73:12,22 76:14 77:1,21 78:5 92:2 109:18 115:8 115:24 119:14 120:2,12,15,23 121:2,8 176:22 210:13 219:2,3,10 219:19,22 220:8,11 220:22 221:8 222:4 223:23,24 224:17</p>	<p>231:6,15,19 236:14 237:4,15 238:19 239:2 254:3,23 256:14 257:22 258:16,18,21,25 259:21 263:1 265:24 269:24 279:9 289:20 290:1 poor 273:18 portion 232:3 portions 146:6 230:3,7 232:24 289:24 posed 241:20 position 44:23 45:2 49:16 170:11 190:3 190:7,10 possess 73:7,7 176:18,19 possible 81:8 155:8 187:13 199:5 232:1 possibly 78:19 80:23 199:13 221:10 227:8 228:19 230:12 235:17 251:23 261:4 potentially 95:18 110:25 112:19 114:13 189:2 247:14 practice 15:17 158:8 practices 15:5 preamble 35:18 preceding 161:5 precise 256:25 precisely 26:7 128:13 precision 269:1 273:3,4,6,7,17,19,25 predecessor 127:2 128:3,19,23 134:1 preexisting 152:7 preparation 67:16 67:21 68:1,4 69:17 71:5 83:21 84:10,18</p>	<p>85:14 86:3 91:5 93:13,22 99:8,13 106:4,9,15 108:7 109:3,10,15 114:17 114:23 116:22 119:8 123:13 124:11 125:3,7 143:21 161:19 206:23 207:1 231:2 231:11 258:21 262:14 prepare 90:16 91:9 92:4 115:11 116:5 prepared 13:14 90:9 111:10,16 112:3 125:24 251:11,21 284:23 prepares 217:10 preparing 90:3 present 9:8 81:20 94:10 103:10 presentation 102:1 presentations 95:16 95:24 96:9 100:11 100:13,17,19 presented 191:12,13 191:18 president 2:17 14:12 85:1,3,4,6,10 99:12 102:4 106:14 117:12,18 118:4,6 118:16,21,25 119:4 126:15 127:12,20 132:14 pretty 94:7 prevent 13:21,25 previous 41:19 80:8 96:3 117:17 120:5 145:21 146:1 151:24 152:5 153:1 187:12 205:2,4 233:8,11 previously 15:15 33:7 82:7,24 92:6 105:5 152:11</p>	<p>206:21 printed 253:21,21 281:4 printouts 181:22 prior 23:8,12 24:5 24:18 25:8 26:11 29:8 40:22 41:14 42:4,7 58:6 59:13 61:13,17,23 70:12 70:15,19,20 71:4 87:11 94:12 101:9 101:14 107:20,21 117:19 118:7,17 119:14 120:2,12,15 120:23 121:2,9 126:5 150:15,19 160:1,11 161:11 224:10 270:23 private 8:6 208:4 privilege 158:24 privileged 47:10 probably 23:3 50:5 67:2 96:24 101:11 118:22 138:21 170:5,6 212:3 235:1 252:23 256:24 proceed 9:14 process 16:14,15 17:15,18 26:23 81:17 97:23 98:10 104:11 142:11 151:9 179:6,7 186:19 230:24 237:25 262:3,19 270:20 275:25 processed 196:12,20 196:23 197:4,19 199:10 234:9,19 processes 236:25 processing 197:13 produce 269:1,2 produced 33:23 34:3 35:7 64:14 66:3 68:22 92:16 122:14 123:7 164:5</p>
---	--	--	---

[produced - read]

171:19,24 173:12 188:7 196:2 201:19 204:10 205:19 210:11 211:19 229:13 232:17 233:3 236:7 240:1 243:23 244:24 245:16 253:18 255:19 258:13 260:11 261:21 277:16 279:2 282:5 producer 56:10,14 producing 271:7 product 46:3 162:6 162:7,19 production 7:9 227:16 228:2 232:25 products 141:6 189:5 program 207:19,21 210:8 268:8,22 programs 78:22 projects 247:25 248:5 proper 269:10 property 3:12,14,16 3:19 58:9,12,17 60:3,10,15 61:6,12 61:16,23 62:2,8 64:6,16,19 65:15,20 66:7,9,19 67:20,25 68:10,14 69:3,5,13 70:4,11,16,20 71:4 71:9,20,21 73:11,22 76:14 77:1 78:5 91:16,24 92:2 109:18,20 110:2,5 110:13 113:4,22 115:8,12,24 119:13 120:2,11,15,22 121:2,8 219:2,10,19 219:22 220:8,11,22 221:8 222:4 224:16 256:14	protection 1:4 protective 245:7 provide 22:24 30:24 31:19 47:12 50:1 89:9,11 99:22 101:7 105:10,17 174:23 178:10 186:11,15 193:25 194:7 207:23,25 268:5,19 268:20 269:11,16 270:2 281:12 283:21 provided 27:3,9 52:4 95:15 100:4 105:13,20 120:6 129:12 133:6 136:3 142:17 143:24 146:4,22 148:12 150:18 158:20 187:13,20 188:11 211:3,5 266:1 285:2 provides 269:8 providing 11:13 37:13 49:15 55:12 provision 177:3 psc 1:3 10:6 psec 183:4 public 1:22 145:3,10 162:10,18,22,25 291:4,15 public.resource 33:23 34:4 123:8 133:7 142:17 143:25 144:1 150:18 158:21 161:20 226:16 public.resource.org 1:10 2:9,19 3:22 9:1 10:20 88:8,17 89:8 89:18 221:9 public.resource.org. 9:18 10:2 122:4 publication 110:7 160:18 270:21,24 271:1,20	publications 85:4 99:12 126:16 127:13,20 132:8,14 138:22 139:18 140:4,16 261:6 publicly 155:23 published 29:16 139:9 148:18,19,21 149:2 150:14 152:11 159:18 161:11 275:15 276:2,9 purchase 159:25 264:5 purely 242:25 purported 213:24 purports 168:13 purpose 38:4 43:8 43:19 74:11,16 75:4 75:8,12 94:16,25 223:15 240:20 267:2 pursuant 291:4 put 187:11 213:14 214:15 256:16 269:10 270:21,25 271:20 putting 104:25 130:5 276:8	163:8,11 166:10,20 179:9 180:3 182:5 185:3 198:13,18,23 200:12 202:3 204:20 206:12 209:17,19 217:2 220:17,19 223:19 228:1 231:10 235:15 237:20,23 241:8,14 242:2 243:4 271:11,18,19 280:9 284:13,17 286:19 287:4,9 288:2,24 questioned 95:10 questioning 12:23 12:24 13:1 questions 7:17 11:12,14 34:6 52:15 58:1 90:4,10,13 92:18 97:10,12,16 97:17 121:11 137:6 162:24 198:14 241:20 242:10,23 248:25 249:20 288:6,10,16 290:12 290:13 quite 57:7
			r
		q	r 2:1,16 63:4 89:16 175:15,16 188:22 291:1 ramifications 95:18 randomly 265:2 range 17:10 289:1 raymond 202:13,25 203:12 rd&e 183:6 read 66:15 74:8 115:16 116:1 159:11,14 177:2,3 179:11 180:1 181:3 198:22 219:1,6,17 220:7 231:10

[read - remember]

232:18 240:3 261:4 262:9 263:6 278:9 280:1,8 reading 10:8 72:7 79:1 256:13 278:12 reads 146:8 ready 52:15 real 96:24 realize 13:8 really 81:7 85:25 87:16 95:10 113:16 135:14 142:12 161:1 182:4 193:16 193:22 197:12 reason 12:21 13:21 13:24 43:7,17 162:20 163:13 171:23 172:22 173:1 188:5,10,19 231:17 240:7,11 244:4,7,11 262:17 reasons 44:17 45:17 46:6,9 163:4,23 164:3,7,14 recall 43:13 70:17 79:16 80:9 87:18 92:22 95:10 100:16 101:4,13 106:2 107:14 115:3 116:14 124:3 126:7 214:18,19 255:7 289:16 recalled 119:24 120:19 receive 43:9 165:11 188:2,6 221:7 240:8 244:8 245:13 received 221:19 226:16 231:20 246:2 receives 39:10 230:23 234:22 recess 12:14 57:17 88:1 135:21 159:6 195:15 239:13	257:16 283:2 recognize 35:25 64:18 66:4 68:23 88:19 113:2,20 121:24 122:15 126:10 171:21 182:1,9 187:19 240:5 244:2 255:21 recognizes 110:3 219:16 recollect 40:12 recollection 94:13 106:24 107:18 191:13 282:10 recollections 57:24 record 5:15 8:3,12 10:23 12:12,18 57:15,21 61:4,22 75:3 87:24 88:4 89:3,7 109:23 115:19 135:16,19 135:24 137:10 138:23 142:24 159:4,9,15 162:17 172:4 195:13,18 239:5,8,11,16 257:11,14,19,21 258:15,17,21,25 282:21,25 283:5 288:7,15 291:9 recorded 101:18 291:7 recording 8:10 records 259:8,9,9,10 259:11,14,14,15,15 259:16 260:1 redirect 290:15 redline 65:14 refer 50:24 reference 81:10 referenced 116:12 146:21 209:9 269:3 references 219:15 236:14	referencing 107:2 237:4 239:1 referred 78:25 81:25 97:18 100:10 referring 49:23 50:11 80:11 91:19 96:3 98:20 100:20 102:23 103:16 205:5,7 209:4,13 213:20,23,24 214:15,25 215:23 240:15 259:4 272:3 refers 281:20 reflect 44:16 53:6 130:14,25 131:12 131:24 280:5 reflected 52:22 refresh 282:9 refrigerating 1:6 refusal 286:15 refuse 163:10 286:18 288:11 refused 89:11 237:3 refusing 288:1 regarding 29:20 41:9 42:23 72:3 73:16 76:18 84:17 111:22 112:10 113:13 114:5 132:16 242:10 regardless 37:18 regards 179:9 region 190:1 registered 146:13 158:18,21 160:21 167:4 registering 103:6 registration 4:1 25:16,19 28:1 81:16 91:13,19 102:20 122:7 123:3,7,11,18 123:24 124:4,8,13 126:4 129:5,16 130:5,17 131:3,15 132:2,17 133:6	136:3 137:7,8 141:1 141:6,11,12,25 142:11 145:19,22 145:23 146:2,2,3,14 146:22 147:4 152:5 157:7,9 158:8,11 160:19 161:6 164:8 179:5,7 registrations 125:16 125:25 126:20 127:8 142:16 143:8 143:24 150:19 157:19 158:20 159:22 160:3,6,13 161:5,8,19 163:14 regulation 209:10 regulations 5:25 266:8,17,19 267:3,8 267:11,17,18 268:6 regulatory 259:12 reiterating 105:5 relate 52:1 167:7,9 241:6 286:4 289:25 related 1:11 78:22 104:22 137:6 189:3 276:22 289:19 relates 52:2 110:1 286:6,14 287:2,7,19 relation 117:21 relations 225:25 230:23 relationship 64:21 relative 58:3 85:17 94:4,8,10 99:19 120:10 release 149:3 released 148:15 relevant 143:8 189:2,13 198:6,17 247:4 261:10 270:10 remediation 193:3 193:12 remember 11:7 40:7 40:10,17 79:18
--	--	--	---

[remember - role]

<p>87:16 104:24 105:1 214:22 234:10 remembered 120:18 remotely 9:9 remove 231:18 renew 261:25 278:7 278:13,15 renewal 4:4 5:3,5 25:14,15 27:22 81:21 91:12,18 93:2 94:11 102:18 104:15 167:1 172:7 172:15 173:5,15,18 175:7 176:1,5,25 177:10,12,22,23 178:19 179:10,13 179:24 180:4,21 212:14,16,25 213:10,14 214:16 222:14 230:4,6,7 231:19 232:3 233:13,15,18,19 234:13,15,22 236:1 236:10,12,23 237:2 237:25 238:4,9,17 254:17 262:2,3,14 262:19,25 289:12 290:5 renewals 226:17 227:16 228:7 renewing 84:14 103:7 178:21 179:15 180:7 218:24 reorganization 272:11 reorganize 270:12 repeat 19:4 58:24 105:16 166:20 271:17 repeatability 273:8 273:11,19 repeated 199:4 rephrase 44:25 47:16 70:8 74:22</p>	<p>95:3 97:20 113:19 134:17 140:10,13 147:8 202:23 206:25 report 208:11 reporter 9:11 11:20 159:14 reports 78:23 208:1 208:17 269:2 represent 9:11 123:5 133:4 168:19 representation 252:17 representative 168:24,25 169:1 representatives 189:12 representing 8:14 9:12 169:20 reproducibility 273:8,20,23 request 7:9 82:22 219:5 221:19 245:20 280:12,16 280:18 requested 78:12 79:10 80:17 89:8,12 89:21 requests 81:18 221:7,22 require 37:8 75:21 177:20 202:3 204:20 222:24 required 25:1 28:7 28:17 29:6 36:16,22 37:19 38:10 177:1 177:11 requirements 242:16 requires 47:7 163:20 164:11 206:9,12 218:19 219:23 237:20 research 78:23 183:5 269:2</p>	<p>reserve 10:8 288:5 reshuffle 150:6 reside 115:15 116:9 resolved 143:17,18 resources 286:24 287:15 respect 41:12 45:11 117:1,4 120:8 170:11 246:22 respective 212:1 247:8 respects 89:5 respond 35:19,21 45:11 72:4 158:25 159:12 response 57:25 responses 11:24 responsible 90:3 268:23 responsive 29:23 31:18 42:25 47:11 48:1 204:23 rest 233:19 restate 75:3 153:9 result 94:18 148:8 resulted 153:19 resulting 43:12,15 95:22 results 273:14,15,17 273:24 retain 39:9 retention 5:15 257:21 258:15,17 258:21,25 259:13 retreat 240:14,17,19 240:21 retroactively 79:24 return 207:25 230:5 230:7 returned 39:15,20 40:2 231:3,8,13 237:17 returning 78:11 79:8 80:15 109:17 145:17 152:3</p>	<p>review 13:15 67:7 67:15,19 92:7 109:21 129:4 236:22 244:12 258:20 262:13 289:3 reviewed 67:17,25 68:4 69:17 91:11,24 92:1,10,14,23 93:7 93:13 258:23 reviewing 70:9 109:24,25 278:11 revised 71:9 147:14 153:20 154:5 revision 20:17 25:24 65:1 98:23 147:17 148:6,8,11 154:5,19 155:3 268:15 272:18 revisions 73:21 74:8 151:19 152:20,23 153:14,18 186:22 194:2 rides 158:10 right 36:15 46:10 65:4 74:7 93:5 115:22 135:7,15 141:13 160:20 183:23 196:10 197:17 198:17 199:8 203:3 215:11 215:19 250:10,16 255:9 282:20 288:6 rights 25:2,6 26:2 31:21 35:14 36:10 47:3 78:17 80:22 81:19 110:5 198:4 rios 1:20 road 50:7 57:4 robert 126:8,11,13 132:19,20 133:17 robin 268:23 role 127:10,15,18,24 235:20</p>
--	--	---	--

[rolled - side]

<p>rolled 23:9,13 room 9:8 rossi 1:20 9:12 roughly 23:3,7 63:8 118:13 192:1 207:22 round 268:23 rpr 1:21 rule 3:23 88:9,18 283:8 rules 11:11 242:22 245:23 running 273:12 ryan 2:20 8:13</p>	<p>238:16 240:16 250:16 252:14 256:16,17,23 258:15 259:8 260:12 265:5,17 266:16 279:5,25 282:13 289:1,2 scope 47:20 48:25 51:17,23 56:12 57:1 130:20 131:17 132:4 136:20,23 138:11 139:16,22 140:8,19 141:22 142:19,25 143:13 144:4,13,20 145:14 146:16,25 150:22 151:4 165:7,17 166:4 171:1 172:2 172:17 173:25 174:14,25 175:9,18 183:13 184:14,24 192:7,16 193:1,20 194:23 197:10,21 199:12 203:7,16 208:6 209:16 221:17 226:25 227:22 228:12 230:10 231:23 233:22 237:6 240:23 245:18 246:20 248:10 249:6,19 251:7,17 252:10 253:5 259:3 259:23 260:18 261:2 267:6 286:3 287:13 scratch 134:3 137:24 screen 102:19 262:25 screens 91:12,12,18 91:18 93:3 102:17 102:18,20 103:21 104:9 105:1</p>	<p>screenshots 5:19,20 261:14,24 262:7 263:9,18 264:6 289:14 290:6 seal 291:11 search 145:4,11 searchable 144:22 144:24 second 11:7 77:2 114:25 140:24 159:1 188:20 189:11 193:15 222:7 226:22 233:17 252:14 262:23 289:18 section 72:11,15,21 76:12 77:8 78:12 79:8 80:16 109:19 109:23 110:1 116:2 129:25 130:7,11,16 131:2,14 132:1,16 133:8,8 145:20 146:7 152:5 156:24 157:3 233:18 234:15 238:23,25 259:11 260:1 269:23 270:1 sections 270:10 see 19:7 33:8 34:19 72:20 73:1,9 74:7 76:7 80:16 123:16 133:9,16 141:2,7,10 176:22 177:7,14 182:25 183:2,7,19 184:3,8 188:18 200:18 201:7 202:8 202:19 204:25 210:15 218:8 243:24 245:10 247:19 254:10 264:8 273:14 288:24 seeking 76:24 226:19 227:18 228:8</p>	<p>seen 88:22 95:25 96:8 116:11 206:20 208:16 265:16 select 264:4 selected 264:6,9 265:2 sell 95:12,22 96:23 164:19 selling 43:15 sells 96:18 send 230:4 sends 230:6 senior 87:4 sense 12:8 22:15 sensitive 8:5 sent 34:7 234:14 244:9,13 sentence 73:11 79:2 separate 160:3,6 164:14 181:22 separately 35:20 separates 159:20 165:3 serve 18:19 serves 223:14 service 46:4 199:14 199:17 265:20 276:7 282:8 services 189:5 serving 281:21 set 108:8,19 254:20 seven 118:13 247:11 share 41:11 87:17 113:14 114:6 short 52:10 57:8 258:7 282:21 shorthand 291:7 show 53:19 200:6 264:6 278:6 showing 65:14 177:2 shown 123:23 shows 172:24 side 173:18</p>
<p>s</p>			
<p>s 2:1,16,16 3:7 safety 277:2 sales 199:22,25 200:4 235:6,14,23 san 2:13 sarah 188:21 saved 277:19 saw 122:20 123:9 saying 23:22 29:2 38:4 103:23 104:3 117:17 119:18 120:18 134:3,10,25 155:16 167:8 270:13 says 37:17 60:18,21 60:25 61:7 65:9 66:14,16 69:21,24 69:25 78:12,20 80:16 110:1,3 133:8 133:11 143:1 145:21,22,23 146:1 152:6,7,8,10 156:24 157:1,5,10 160:16 174:2 176:14 188:21,22 189:1,9 189:12 196:11,23 201:21 202:25 210:7 219:16 220:6 220:12 236:9</p>			

[sign - standards]

<p>sign 110:8 166:1 167:10 177:11,22 178:2,4,12 signature 133:19 177:15 signed 39:9,15,19 40:2 115:14 116:8 significance 87:17 237:15 significant 32:14 152:2 significantly 276:1,5 signing 10:8 silence 286:15 similar 20:22 202:9 222:13 254:6,9,15 simply 42:2 82:16 163:3 232:20 245:1 245:5 single 158:11,19 159:24,25 211:4 234:15 site 5:19 103:20 104:2 108:10,19 156:5 171:5,7 193:4 193:13 219:4 253:24 254:11 257:2,5 261:13,24 262:4,20 277:20 281:4,11 sitting 54:1 situation 56:15 situations 18:24 79:16 80:9 116:15 151:11 six 118:5 273:20,24 288:13,13 size 150:8 skipped 115:17 slides 101:25 102:1 slightly 222:18 288:25 smaller 16:22 smith 1:16 3:3 9:6 10:11,24,25 11:3,10</p>	<p>12:20 13:20 14:3 57:23 88:15 90:2,16 136:1 240:2 242:9 243:21 245:10,15 246:1 258:1,11 290:20 292:12 society 1:2,6,15 3:23 8:24 88:10,18 130:6 133:10 134:11 135:2 software 78:23 soldier 183:6 sole 43:8,19 94:16 solutions 8:14 9:13 somebody 9:22 33:3 121:6 146:20 178:10 199:13 236:11,22 253:7 sorry 10:3 67:9 83:8 91:14 92:20 117:16 156:20 157:14,15 166:13,20 174:8 185:14 193:18 214:6 266:4 272:8 sound 13:2 source 111:24 space 21:22 spanish 205:25 206:10,18 speak 75:16 83:19 84:4,16 85:13 86:20 102:9 143:22 206:18 231:1,11 265:14 speaking 170:16 speaks 76:9 219:12 219:15 263:4 279:11 special 110:11 125:5 specific 15:8 24:20 39:4 50:1,6,23 53:5 53:17 56:3 84:13,20 84:21 92:25 97:7 100:12,13,17 101:7 116:18 149:15</p>	<p>185:3 235:13 268:10 specifically 93:12 115:5 150:3 170:16 186:8 243:6 248:4 specification 15:16 specifications 15:4 specifics 39:8 79:21 197:13 speculation 19:19 20:24 22:12 33:11 33:25 39:1,22 47:24 49:5 54:23 62:17 66:25 70:24 75:20 77:12,23 78:7 110:23 112:17 114:11 117:10,23 118:12 129:18 130:19 131:17 132:4 139:16,22 140:21 146:24 150:22 157:21 160:24 161:14 170:3 171:1 172:17 173:25 174:14,25 177:25 178:15 179:1,21 181:10 192:17 203:7,16 221:4,16 225:12 226:24 227:22 228:13 230:11 231:24 233:23 237:7 246:10 251:17 252:9 253:5 spell 63:2 175:23 spelled 175:14 spend 249:4 spent 109:14 spoke 96:11 101:5 108:6 119:7 125:2,7 212:9 spoken 206:24 spontaneous 55:3 55:11</p>	<p>spontaneously 54:16 spring 240:19,21 staff 26:17 63:22 82:15 83:11,12,20 84:5 87:4 94:16 105:2,4 217:9 225:14 249:25 267:16,20 268:1,13 stages 154:25 stamp 196:9 197:3 197:17 199:8 standard 15:13 17:24 18:2,3,4,7 19:22 20:6,16,17 21:16 22:8,9 25:24 25:25 27:5 28:10,19 29:8 30:7 32:15,22 32:25 33:5 36:7,24 37:14,21 38:7,12 40:20 43:9,16,20 46:2 48:9 54:17 80:1 81:2 83:3 94:18,19 95:1 97:22 98:9 105:15,22 112:3,6 136:9 137:22 141:4,18 142:4,14 145:1 146:11 147:13 148:6 149:9,10 151:8,18 154:3,5,19 155:3 158:8,11,16 158:19 160:15,21 164:5 186:21 191:7 191:16,19 192:11 192:14,23 194:1 269:3 270:13,20 271:2 272:17,19 276:23 277:1,5 280:13,17 standardization 280:3 standards 6:8,8,9 14:21,22,24,25 15:7 15:20 16:3,13 17:21</p>
--	--	--	---

[standards - take]

23:14 24:4,22 27:16 29:15 33:8,9 39:5 41:2 43:12 44:19 45:4,5,18,21 46:14 49:12 54:4 56:6 58:21 71:23 78:20 78:21 79:24 95:13 95:15,22 96:18,23 98:14,21,24 103:11 103:12 109:20 110:2,13 113:3,4,21 113:22 117:1,5,21 122:3 136:2,10,14 136:16 137:12,14 137:21 138:1,2,17 138:18 141:19 143:7,25 144:9 147:2 149:4,8,14,16 149:22 150:1,11,15 151:1,12 152:9,15 152:17,20,23 153:3 153:3,14,18,19,20 153:21 154:11,24 155:4 156:4 158:22 159:19,23,24 160:13 161:10 164:9,18 169:18 176:20 178:23 179:17 180:9 184:21 185:10,24 186:5 189:3 191:1,4 194:1,8 207:23,24 208:1,2,10,11,23 209:2,4 226:18,20 227:17,19 228:7,10 247:3 267:9,19 268:16 269:6,13 271:22 274:1 275:7 275:11,12,21 276:14 279:17,18 280:1,5,22 standardsdevelop.... 281:5 standing 291:4	standpoint 103:19 stands 207:15 stapled 265:2 start 91:21 255:4 started 10:7 25:7 126:1 156:5 160:12 215:4 257:25 starting 16:17 24:25 211:6 starts 18:9 213:25 232:18 state 10:22 120:13 142:24 151:17 162:16 172:14 stated 119:12 160:19 253:25 statement 37:18 96:3 104:10 105:11 105:18 153:2,17 239:3 252:13 273:10,23 statements 96:5 269:1 273:3,4,6,7,8 274:1 states 1:1 9:3 115:8 116:2 281:18 staying 258:5 steel 136:11,16 137:14 138:2,19 141:6,20 144:9 149:17,22 150:2 step 108:5 stipulations 7:13 street 1:17 2:12 8:20 strike 163:18 207:9 strongly 142:24 student 264:11 studies 268:24 study 268:7,22 style 268:6 269:11 269:24 270:3,11 276:16,18 subcommittee 16:17 16:20,21 17:16 191:14 280:19,19	282:18 subcommittees 17:5 17:7 subject 29:21 41:9 42:11,23 44:9 45:9 46:20 49:7 72:3 73:17 76:18 100:5 100:18 101:14 111:22 114:5 243:6 245:22 246:23 subjects 84:17 submit 31:6 110:6 159:21 207:7 263:21 submitting 37:17 subscription 145:8 145:12 subsections 109:22 subsequent 73:22 76:12 79:23 83:17 subsidizes 115:9 116:3 successfully 148:5 successive 154:11 suffice 89:24 sufficient 89:20 suggesting 141:24 142:2 suing 144:1 suite 1:18 8:20 summarize 168:13 summary 189:2 supervision 291:8 support 7:1 44:23 45:2 95:23 164:19 164:25 169:13 202:15 203:1 suppose 178:16 203:18 230:22 supposed 197:24 242:18 sure 15:10,23,24 19:3 34:15,19 39:12 40:3 41:24 44:12 46:8 47:13 49:9	50:22 51:10 53:2 55:25 58:14 61:21 61:25 62:5 66:21 74:6 80:4 101:16,24 104:5 107:18 108:2 119:19 123:20 132:22 134:15,19 136:5 142:11,12 146:18 153:24 160:9 161:16 170:5 172:20 181:12 185:1,5 190:1 191:21 196:21 200:2,5 208:8,15 209:22 215:2,25 225:24 244:14 245:14 251:13 252:3 255:7 256:22 257:3 259:19 260:20 262:7 270:22 275:8 277:5 279:25 284:25 288:23 sven 189:22 190:6 190:16 193:25 195:5 swear 9:13 sworn 10:12 291:5 system 155:15 156:12,15,16 197:5 197:19 198:19 199:10 250:7,8
t			
t 2:16 3:7 188:22 291:1,1 table 43:7,18 tag 281:14,17 282:10,14,18 take 12:22 13:1 32:23 43:14 52:10 52:15 57:9,11 132:24 187:10 194:15 195:9 252:14 258:6			

[take - time]

263:19 270:8,18 272:16 273:13 274:10 282:21 286:14 287:2 taken 8:21 11:1 12:14 57:17 88:1 135:21 159:6 195:15 239:13 257:16 283:2 291:4 talk 101:2 158:24 talked 79:17 80:10 84:23 102:16,22 103:3 115:4 166:25 167:2 202:10 231:7 254:16 talking 34:9 197:25 214:10 240:16 242:19 249:5 task 18:9,10,14,17 18:19,21 19:1,9,12 19:17,25 20:4,10,13 20:21 21:7,7,15 22:7,20 23:1,14 24:5,20 27:4,15 28:16 29:5,12 30:3 31:11 32:3,6,10 36:17,23 37:20,23 38:10 40:25 55:21 55:23 192:10,13,19 tax 259:13 tc 282:14 team 86:14 109:5 124:23 269:2 technical 5:25 14:12 14:15,18,20 15:19 15:22 16:1,12,24 17:2 30:25 49:25 78:22 98:21 110:6 111:9,15 115:12 116:6 117:12,18 118:4,7,10,17,21,25 119:4 151:5 166:8 166:16 167:14 168:4,9,20,24 169:6 169:16 170:12	193:23 217:21,24 223:16 225:19 249:9,25 252:16,21 253:3 254:20 263:22,23 264:1 266:9,17,20 267:3,7 267:12,17,21 268:2 268:14 270:22 272:10,13 276:10 281:18,21 282:19 285:24 286:9,12,25 287:15 technically 152:1 technology 22:18 85:7 102:5 103:19 156:17,19 250:2,5 274:12 telecon 2:19 tell 34:20 36:2 65:3 74:10 100:12 102:13 104:21 107:12,15 108:16 109:24 128:14,22 130:3,9 173:13 184:20 196:3 204:10 205:20 230:1 233:6 236:7 238:14 253:22 261:7 264:25 266:15 282:5 291:5 telling 128:25 142:14 temporary 259:9 ten 1:18 155:5,13,14 249:4 tenure 87:12 term 15:7 terminology 15:6,18 terms 59:8 113:5,23 256:15 270:5,16 test 15:4,16 273:5 273:10,12,12,14 274:2,3 testified 10:12	testifying 89:1,4 testimony 11:15 13:22 14:1 51:19 59:22 77:13 119:17 129:20 147:19 153:7 168:12 206:8 265:13 272:5 275:2 288:14 291:4,6,9 testing 1:3,15 3:24 8:24 88:10,19 130:6 133:10 134:12 135:2 141:5 text 152:11,12,14,19 157:2,8 219:9,21 220:10,21 thank 290:16 thanks 290:17 thereof 291:10 thing 21:13 40:16 150:5 179:25 223:4 223:9,14 232:1 273:21 things 58:24 59:3 267:21 268:9 269:21 think 13:25 21:1,13 26:4 27:14 30:20 33:17 34:8 38:3 46:9 47:5,7 48:1 51:17 53:15,18 55:3 55:11 56:15 59:7,11 59:24 61:20 63:18 67:3 69:15 78:8 91:2 93:2 95:8 97:6 97:11,12,15 100:14 101:25 105:3,23 107:17,18 108:2,2 112:19 115:2 119:2 121:3,25 122:20 124:24 126:1,2 127:17 130:1 136:23 139:12 144:21 147:1 154:23 158:23 167:19 169:11,12	171:9 172:8 182:23 187:16 188:5 193:2 198:16 208:15 221:25 225:14,15 225:17 227:13 232:1 241:14 255:8 256:9 258:8 262:18 277:3 278:18 284:25 thinking 54:10,11 93:5 120:14 172:23 250:10 third 234:15 thomas 2:17 85:1 93:22 94:2,21 95:4 95:15 96:1,4,5,11 96:17 97:3,9 99:2 100:11,13 101:2,5 101:13 109:1 119:2 119:3 120:9,9,13 121:1 251:18,21 252:5 thought 70:18 107:6 119:24 149:1 215:6 three 51:20 60:17 70:3 159:10 185:9 197:24 239:11 240:25 241:12,15 242:19 243:9 246:22 247:5 249:3 time 8:16 9:7 12:10 12:16 31:3 38:19 44:1 50:6 54:12 57:8,13,19 59:25 63:25 87:5,22 88:3 91:10 105:3 109:14 132:8,9,14,24 135:17,23 154:19 155:3,13,14 159:2,8 160:5 192:2 195:11 195:17 213:16 214:17 235:1 239:9 239:15 244:9,13 257:12,18 258:9 260:18 269:18
---	---	---	--

[time - vague]

282:23 283:4 290:18 291:5 times 273:13 title 34:13 136:9 137:1 143:2 247:7 titled 35:10 61:6 64:15 181:21 246:7 253:19 titles 92:22 today 8:15 10:21 11:15,16 13:22 14:1 22:8 30:2 34:8 43:4 51:19 58:2 67:16,21 68:1,5 69:18 71:6 81:25 83:22 84:11 84:19 85:15 86:4 89:1 90:17 91:1,6 91:21 92:4 93:14,23 99:3,8,14 106:5,10 106:15 108:7 109:4 109:11,15 114:17 114:24 116:22 119:9 124:12 125:8 138:7 143:22 182:16 197:25 206:24 207:2 231:2 231:12 245:3 254:5 254:12 258:22 262:15 today's 246:23 told 96:7 125:18,21 127:7 128:11 130:2 tom 9:23 63:12,13 63:16,21,23 64:1 282:7 tool 225:17 tools 22:16,17 top 60:21 61:7 65:4 66:14 69:25 141:12 145:21 160:20 189:12 210:7 218:23 220:5 224:8 240:15 250:17 252:13 256:23 262:23 265:5	topic 51:25 89:15 121:5 143:1 209:20 249:5 283:9,15 284:17 286:4,6,14 287:2,19,21 topics 51:18,21 89:5 89:10,21,22 90:4,10 90:13,17 197:24 209:18 240:25 241:13 242:19,25 243:1,9 245:5 246:22 247:5 248:18 249:3 287:6 torn 233:19 tough 263:6 training 78:24 transcribed 291:7 transcript 13:14 transcription 291:8 transfer 78:16 79:12 80:21 200:23 transferred 41:3,20 42:6 73:5 176:17 transformed 276:1 translation 206:9 treasurer 84:24 true 106:16 291:8 292:3 truth 291:6,6,6 try 12:4 120:21 187:11 207:10 trying 138:16 278:13 tsai 176:4 tubing 136:11,16 137:14 138:3,19 141:20 144:10 149:17,22 150:2 tuesday 90:20,22 91:7 93:24,25,25 96:12,17 97:4,10 99:4 turn 8:7 109:19 133:3 156:21 158:6 188:20 189:10	224:13,19 283:15 288:21 289:9 turned 33:9 248:21 turning 145:18 tweaking 270:2 twice 115:18 two 16:16 60:17 71:10 88:5 157:18 159:4 181:22 184:19 288:15 tx 141:7,11 146:3,13 type 217:18 264:4 types 259:8,11,25 290:6 typically 16:21 18:9 18:18 51:13 153:2 166:1 169:25	understands 77:17 understood 12:7 105:8 unfortunately 182:23 unified 250:7 united 1:1 9:3 281:18 units 276:23,25 unrelated 163:24 update 274:12,18 use 16:14 21:21 22:17,25 31:21 33:21 37:21 40:8,13 54:20 207:11 208:1 208:15,19 217:12 224:24 229:17 265:1 267:11,15 271:7 274:12 276:22,25 usepa 185:17 user 56:11,18,24 57:6 274:13 uses 208:10 utilizing 208:23 209:2,8
		u	
		u 175:14,15 u.s. 111:11 112:4 113:7,25 170:20 183:2,3,4,5,6,16,20 184:8,11,20 185:8 ue's 189:3 uh 99:15 156:20 understand 11:14 11:19 12:3 13:18 26:25 47:5,10 78:4 80:5 88:25 90:2,12 105:7 134:16 153:25 177:3 198:10 227:25 understanding 30:13 43:3,4,5 44:3 44:5,16,24 45:3 47:2 48:4,12,13 58:19 74:16 75:8,12 94:15,24 95:5 96:19 96:25 105:6,12,19 129:1 134:5,21 159:17 164:17 178:20 179:14 180:6 207:16,18 256:13	
		v	
		v 8:25 72:11,15,21 78:12 79:8 80:16 89:16 175:16 vague 11:6 14:9 15:9 16:7 17:19 18:16 23:23 24:12 25:12 28:11 31:3 36:18 37:3 38:1,13 40:15 47:4 50:3,12 55:24 62:4,9 64:24 72:17 73:24 77:22 79:14 82:18 83:23 84:8 90:18 97:5 98:12 100:8 103:17 113:9 114:1 123:19 128:9 145:6,13 146:23 147:19	

[vague - witness]

<p>153:7,22 154:13,21 155:6,20,25 156:10 160:7 165:6,16 166:3 167:18 169:9 177:5 178:25 179:20 184:23 185:12,25 186:6,12 186:17 190:24 191:11,20 192:6 194:10 197:9,20 199:11,19 209:6 214:20 215:10 217:17 222:16 225:1 250:14 251:12 252:7,22 254:13 260:17 262:5 267:6,23 268:3,17 271:3,23 272:6,22 274:7 275:2,13,22 276:19 286:2 vaguely 40:7 value 249:24 varies 17:9 18:8 20:2 169:11 variety 21:1,17 268:9 various 5:1 232:10 vary 17:11 veritext 1:17 8:14 8:19 9:12 versa 269:25 version 60:13 66:10 66:13,18,22 67:5,12 68:3,9 69:5,8,13,16 70:10,15,19 71:3,19 73:23 76:13 104:1 115:23 116:1 145:24 147:12,15 148:13,14,23 149:3 151:25 196:6 225:15 254:10 256:9,10 257:1 262:8 276:2,9</p>	<p>versions 60:14 62:1 67:19,24 70:3 147:22,25 148:4 156:4 211:21,24 212:21,22 225:6 226:3,8,12 275:7,9 versus 22:8 56:25 72:22 98:10 vi 109:19,23,23 116:2,17 vice 2:17 14:8,11 85:3,4,6,10 99:12 102:4 106:14 117:11,17 118:3,6 118:16,20,24 119:4 126:15 127:12,19 269:25 video 12:11,17 57:14,20 87:23 88:4 135:18,24 159:3,9 195:12,18 239:10 239:16 257:13,19 282:24 283:5 videographer 2:20 8:2 12:10,16 57:13 57:19 87:22 88:3 135:17,23 159:2,8 195:11,17 239:9,15 257:12,18 282:23 283:4 290:18 videotape 290:19 videotaped 1:14 viewed 124:4 225:17 views 169:22 violation 242:15 virtual 22:17 visa 203:23 volume 98:14 137:20 142:5 149:18,20 150:8 159:22 160:2 volumes 137:21 149:15,16 150:6,19 158:22</p>	<p>volunteer 82:17 volunteers 16:5,6,10 18:18 20:16 272:20 272:25 vote 17:20,22 98:15 186:21 194:19 274:24 275:6,10,19 voted 195:1,6 votes 98:16 voting 16:16 17:15 17:16 98:22 vp 118:9 156:18 vs 1:9</p> <hr/> <p style="text-align: center;">w</p> <hr/> <p>walk 18:6 want 10:7 20:16 33:4 34:6 43:18 95:20 107:9 117:14 142:23 151:7,15 162:13,23 175:23 180:19 198:22 242:4 249:13 258:1 264:4 268:11 284:2 288:23 wanted 32:15,23 86:22 wants 26:22 38:6 washington 2:5 waste 258:9 way 77:25 78:2,9 81:8 101:18 125:19 125:22 126:22 127:4 137:23 138:6 142:13 154:16 167:15 175:23 178:3 215:7,17 221:11 226:6 230:14 234:12 263:7 280:5,11 ways 21:18,23 22:1 22:3 110:4 198:3 280:15 we've 43:12 52:9 57:7 58:1 89:17</p>	<p>95:9 141:1 145:20 194:15 242:19 web 5:19 22:15,17 103:20 104:2 105:1 108:8,10,17,19 156:5 171:5,7 219:4 253:24 254:11 255:24 256:2,7 257:2,5 261:13,24 262:3,6,20 277:20 281:4,11 290:5 weblink 256:16 week 90:22 91:3,7,7 weeks 100:25 went 66:19 west 2:10 9:17 10:19 whispering 8:6 wish 18:19 164:25 witness 3:2 7:3 9:6 9:13 10:9 14:11 15:10 16:8 17:20 18:17 19:3,20 20:9 20:25 21:10 22:14 23:24 24:13,24 25:13 28:12 29:24 30:15,20 31:4,20 33:12 34:1,10 36:19 37:4,11 38:3,16 39:2,23 40:16 41:13 41:24 42:14 43:2 44:1,12 45:13,24 46:8,22 47:13 48:4 48:16 49:9 50:4,13 51:9 52:8 53:2,14 53:25 54:10,24 55:9 55:25 59:16 62:5,18 64:25 67:1 70:25 71:16 72:6 73:18 74:1 75:14 76:2,21 77:4,14,24 78:8 79:15 80:4 81:7 82:11,19 83:24 86:7 89:9,12,14,20,22 90:19 91:1 92:15,20 93:18 96:7 97:6</p>
--	--	--	--

[witness - zoe]

98:1,13 103:2,18 104:5,18 108:1,13 108:22 110:19,24 111:6,25 112:13,18 112:25 113:16 114:8,13 115:2 117:11,24 118:13 119:18 120:17 122:20 123:1,20 124:16 128:10,17 129:22 130:21 131:8,20 132:6 134:15 135:6 136:21 137:17 138:5,12,21 139:6 139:11,17,23 140:2 140:20 141:23 142:21 144:6,14,21 145:1,7,15 146:8,17 147:1,20 149:13 150:24 151:5,14 153:9,24 154:15,22 155:7,21 156:2,11 157:15,22 158:3,14 159:17 160:8 161:1 161:15,24 164:2,17 165:8,18 166:5 167:19 168:2,15 169:11 170:4 171:3 172:3,19 173:1 174:2,8,16 175:2,10 175:22 176:10 177:7,14 178:1,16 179:3,23 180:13,15 180:20 181:11 182:6 183:14,19 184:4,15 185:1,13 185:15 186:1,7,13 186:18,24 187:16 188:15 190:25 191:12,21 192:9,18 193:2,10,16,18,22 194:5,11 195:3,8 197:12 198:25 199:3,13,20 200:18	201:7 202:8,19 203:9,18 204:25 206:16 208:7,14,22 209:7,22 210:15 211:17,21 212:3 213:13 214:6,9,21 215:11 217:6,18 218:23 219:14,25 220:5,20 221:5,18 221:24 222:9,17 223:3,13 224:7 225:2,13 227:3,7,13 227:25 228:15,19 228:25 230:12,17 230:21 231:25 233:24 234:3,8,18 234:25 235:5,10,17 236:18 237:8,12,24 238:22 241:19,22 242:4,5,13 246:11 248:13 249:21 250:15 251:8,13,18 251:23 252:3,8,11 252:23 253:7 254:14 255:1,6 259:4,24 260:20 261:3 262:6 263:5 265:5,16 266:5 267:7,24 268:4,18 271:4,13,24 272:24 274:8,20 275:4,14 275:23 276:20 279:12 280:10 281:10 286:21 287:11 288:11 290:3,17,22 291:9 291:11 wondering 142:8 word 72:23,24 115:17 271:5 work 14:5,6 25:16 25:19,22,23 26:3,13 26:16 28:1 81:16 82:23 83:16,17 91:12,18 102:19	103:6 104:22 115:13 116:7,12,16 116:21,24 117:3,20 119:9 125:12,12 133:12,12 134:10 134:10 135:1,1 136:9 137:8 145:24 145:25 146:13,21 152:6,10 157:5,10 162:5,6,19 167:4 179:5 190:14 241:6 247:11,12 267:13 270:22 272:9 274:5 276:9 286:8 287:13 worked 132:7 working 49:24 works 87:3 142:12 143:5 144:17 154:16 189:25 199:14 247:9,14 283:20,25 writers 115:10 116:4 writing 6:8 279:18 280:1 written 186:15 280:2 wrong 10:5 70:18 184:2 www.astm.org 176:23 219:4 281:5	284:4 year 28:14 38:24 101:1,9,9,10,11,15 107:22 146:3,14 147:11,16 148:8,9 148:11,12 149:5,11 153:5,21 160:17 191:24 211:5 212:23 213:3 215:4 216:6,9 225:7 226:4 226:9 230:4 years 23:6 33:14,15 62:3 63:6,24 87:9 118:14,14,22,23 127:25 138:14 153:2 154:22 155:5 155:13,14 161:11 211:14,22 212:1 213:5,8 247:11 274:11 286:1,11,25 287:17 yep 150:16 222:17 yesterday 34:8 86:17 90:19 100:3 102:8,10 106:6,11 106:20,22 108:6,17 122:21 123:11 124:5 126:6 127:17 253:21 285:13
			z
			z 181:24 zoe 203:22
		x	
		x 3:1,7 xml 271:6	
		y	
		yeah 59:4 82:11 83:10 108:1 119:24 120:4 125:4 128:8 135:6 150:16 153:12 154:15 161:1 173:20,21 175:22 198:1 254:7 271:16 272:15 280:18 283:14	

Commonwealth of Pennsylvania Rules of Civil

Procedure

Title 231, Chapter 4000

Depositions and Discovery

Rule 4017

(c) When the testimony is fully transcribed a copy of the deposition with the original signature page shall be submitted to the witness for inspection and signing and shall be read to or by the witness and shall be signed by the witness, unless the inspection, reading and signing are waived by the witness and by all parties who attended the taking of the deposition, or the witness is ill or cannot be found or refuses to sign. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the person before whom it was taken with a statement of the reasons given by the witness for making the changes. If the deposition is not signed by the witness within thirty days of its submission to the witness, the person before whom the deposition was taken shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the refusal to sign together with the reason, if

any, given therefor; and the deposition may then be used as fully as though signed, unless the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2014. PLEASE REFER TO THE APPLICABLE STATE RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

Case 1:13-cv-01215-TSC Document 204-47 Filed 11/13/19 Page 1 of 106

EXHIBIT 41

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR)
TESTING AND MATERIALS,)
d/b/a ASTM INTERNATIONAL;) Civil Action No.
NATIONAL FIRE PROTECTION) 1:13-cv-01215-TSC
ASSOCIATION, INC.; and)
AMERICAN SOCIETY OF)
HEATING, REFRIGERATION AND)
AIR CONDITIONING ENGINEERS,)
Plaintiffs and)
Counter-Defendants,)
vs.)
PUBLIC.RESOURCE.ORG, INC.,)
Defendant and)
Counter-Plaintiff.

VIDEOTAPED 30(b)(6) DEPOSITION OF NATIONAL
FIRE PROTECTION ASSOCIATION, INC., BY
CHRISTIAN DUBAY, before Jeanette N. Maracas,
Registered Professional Reporter and Notary
Public in and for the Commonwealth of
Massachusetts, at 42 Chauncy Street, Boston,
Massachusetts, on Wednesday, April 1, 2015,
commencing at 10:00 a.m.

PAGES 1 - 250

1 APPEARANCES:
 2
 3 MORGAN, LEWIS & BOCKIUS, LLP
 By: J Kevin Fee, Esq
 4 1111 Pennsylvania Avenue, NW
 Washington, DC 20004
 5 For ASTM
 E-mail: Jkfee@morganlewis.com
 6
 7 MUNGER, TOLLES & OLSON, LLP
 By: Thane Rehn, Esq
 8 560 Mission Street
 27th Floor
 9 San Francisco, California 94105
 For NFPA and the Deponent
 10 E-mail: Thane.rehn@mto.com
 11
 12 FENWICK & WEST, LLP
 By: Andrew P Bridges, Esq
 555 California Street
 13 San Francisco, California 94104
 For Public Resource Org, Inc
 14 E-mail: Abridges@fenwick.com
 15
 Anthony Piccirilli, Videographer
 16
 17
 18 ALSO PRESENT:
 Sally P Everett, Esq, NFPA
 19 Mitch Stolz, Esq, Electronic
 Frontier Foundation
 20 Carl Malamud, Public Resource Org,
 Inc (via telephone)
 21
 22
 23
 24
 25

Page 2

1 (Exhibits continued)
 2
 3 No Description Page
 4
 5 Exhibit 1239 ADS011280 128
 6 Exhibit 1240 ADS007361 130
 7 Exhibit 1241 ADS008689 130
 8 Exhibit 1242 ADS023243 to
 3244 131
 9 Exhibit 1243 ADS011118 134
 10 Exhibit 1244 ADS011153 142
 11 Exhibit 1245 ADS011232 143
 12 Exhibit 1246 ADS011250 to
 1254 143
 13
 14 Exhibit 1247 ADS011265 145
 15 Exhibit 1248 ADS019171 146
 16 Exhibit 1249 ADS019166 to
 9167 146
 17 Exhibit 1250 ADS019249 to
 9259 147
 18
 19 Exhibit 1251 ADS019270 149
 20 Exhibit 1252 ADS020865 150
 21 Exhibit 1253 ADS007551 to
 7560 150
 22 Exhibit 1254 ADS002334 to
 2335 151
 23
 24 Exhibit 1255 ADS000090 152
 25

Page 4

1 I N D E X
 2
 3 Testimony of: Direct Cross
 4 Christian Dubay
 (by Mr Bridges) 9,247
 5 (by Mr Rehn) 246
 6
 7 E X H I B I T S
 8 No Description Page
 9
 10 Exhibit 1227 NFPA Regulations
 and Procedures
 document 48
 11
 12 Exhibit 1228 NFPA Terms of Use
 document 93
 13 Exhibit 1229 NFPA Disclaimers
 document 94
 14
 15 Exhibit 1230 NFPA-PR0038497 to
 8507 95
 16 Exhibit 1231 NFPA-PR0038518 to
 8520 103
 17
 18 Exhibit 1232 NFPA-PR0020393 to
 0402 117
 19 Exhibit 1233 ADS011129 to 1130 125
 20 Exhibit 1234 ADS007008 126
 21 Exhibit 1235 ADS001673 127
 22 Exhibit 1236 ADS011112 127
 23 Exhibit 1237 ADS011147 128
 24 Exhibit 1238 ADS011264 128
 25

Page 3

1 (Exhibits continued)
 2
 3 No Description Page
 4
 5 Exhibit 1256 ADS000175 to
 0200 153
 6
 7 Exhibit 1257 ADS019172 to
 9173 156
 8 Exhibit 1258 ADS020867 to
 0868 156
 9
 10 Exhibit 1259 ADS024931 to
 5100 157
 11 Exhibit 1260 ADS000089 to
 0174 158
 12
 13 Exhibit 1261 NFPA-PR0048987 163
 14
 15 Exhibit 1262 NFPA-PR0049128 166
 16
 17 Exhibit 1263 NFPA-PR0038686 169
 18
 19 Exhibit 1264 NFPA-PR0038697 to
 8698 171
 20 Exhibit 1265 NFPA-PR0039043 185
 21 Exhibit 1266 NFPA-PR0038683 185
 22 Exhibit 1267 NFPA-PR0096607 to
 6608 187
 23
 24 Exhibit 1268 NFPA-PR0048992 191
 25
 26 Exhibit 1269 NFPA-PR0066821 to
 6822 192
 27 Exhibit 1270 NFPA-PR0066842 to
 6843 195

Page 5

1	(Exhibits continued)
2	
3	
4	No Description Page
5	Exhibit 1271 NFPA-PR0042205 to 2208 203
6	Exhibit 1272 NFPA-PR0042201 to 2202 208
7	Exhibit 1273 NFPA-PR0055814 to 5815 222
9	Exhibit 1274 NFPA-PR0068261 to 8262 223
10	Exhibit 1275 NFPA-PR0092785 224
12	Exhibit 1276 NFPA-PR0050050 to 0052 226
13	Exhibit 1277 NFPA-PR0049260 227
14	Exhibit 1278 NFPA-PR0049264 228
15	Exhibit 1279 NFPA-PR0049521 to 9522 229
16	Exhibit 1280 NFPA-PR0092773 to 2775 231
18	Exhibit 1281 NFPA-PR0040625 to 0627 232
19	Exhibit 1282 NFPA-PR0044700 232
20	Exhibit 1283 NFPA-PR0092763 to 2766 232
21	
22	
23	
24	
25	

1	MR. BRIDGES: Yes.	10:01:12
2	THE WITNESS: Yes.	10:01:12
3	MR. REHN: Yes.	10:01:13
4	MR. FEE: Yes.	10:01:13
5	VIDEOGRAPHER: At this time will	10:01:15
6	counsel and all present identify themselves	10:01:17
7	for the record, after which our court	10:01:17
8	reporter will swear in the witness and we	10:01:18
9	can proceed.	10:01:19
10	MR. BRIDGES: This is Andrew Bridges	10:01:20
11	from Fenwick & West, representing the	10:01:23
12	defendant, Public.Resource.org. With me	10:01:26
13	is Mitch Stoltz from Electronic Frontier	10:01:31
14	Foundation, also representing	10:01:32
15	Public.Resource.org. I believe that we	10:01:35
16	have listening in only on the telephone	10:01:36
17	Carl Malamud of Public.Resource.org.	10:01:39
18	MR. MALAMUD: Yes, I'm here. Thank	10:01:43
19	you.	10:01:45
20	MR. REHN: I'm Thane Rehn from	10:01:45
21	Munger, Tolles & Olson, representing the	10:01:45
22	National Fire Protection Association and the	10:01:49
23	witness.	10:01:51
24	MS. EVERETT: I'm Sally Everett,	10:01:52
25	general counsel of National Fire Protection	10:01:53

1	PROCEEDINGS	
2	VIDEOGRAPHER: Good morning. We	
3	are now on the record at 10:00 a.m. on	10:00:18
4	April 1st, 2015. This is the video-recorded	10:00:21
5	deposition of Christian Dubay.	10:00:25
6	My name is Anthony Piccirilli, here	10:00:28
7	with our court reporter, Jeanette Maracas.	10:00:30
8	We are here from Veritext National Deposition	10:00:32
9	and Litigation Services.	10:00:35
10	This deposition is being held at	10:00:37
11	G&M Court Reporters in Boston, Massachusetts.	10:00:39
12	The caption of this case is American Society	10:00:42
13	for Testing and Materials versus	10:00:45
14	Public.Resource.org, Incorporated.	10:00:47
15	Please note that audio and video	10:00:50
16	recording will take place unless all parties	10:00:51
17	agree to go off the record. Microphones are	10:00:54
18	sensitive and may pick up whispers, private	10:00:56
19	conversations and cellular interference.	10:00:58
20	I am not authorized to administer	10:01:01
21	an oath. I am not related to any party in	10:01:02
22	this action, nor am I financially interested	10:01:05
23	in the outcome in any way. May I please have	10:01:07
24	an agreement by all parties that we can	10:01:09
25	proceed?	10:01:11

1	Association.	10:01:56
2	MR. FEE: Kevin Fee from Morgan	10:01:56
3	Lewis, on behalf of ASTM International.	10:01:59
4	CHRISTIAN DUBAY	10:02:02
5	A witness called for examination	
6	by counsel for the Defendant and	
7	Counter-Plaintiff, having been first duly	
8	sworn, was examined and testified as follows:	
9	DIRECT EXAMINATION	
10	BY MR. BRIDGES:	10:02:09
11	Q. Good morning, Mr. Dubay.	10:02:10
12	A. Good morning.	10:02:11
13	Q. Have you ever been deposed before?	10:02:12
14	A. No.	10:02:13
15	Q. Have you ever testified under oath before?	10:02:14
16	A. No.	10:02:16
17	Q. Did you have a chance to meet with counsel	10:02:16
18	to discuss how a deposition proceeds?	10:02:20
19	A. Yes.	10:02:23
20	Q. How long did you spend either meeting with	10:02:23
21	counsel or in other conversations with	10:02:26
22	counsel talking about depositions?	10:02:28
23	A. Approximately about four hours.	10:02:31
24	Q. When did you do that?	10:02:32
25	A. Monday.	10:02:34

1 Q. Was anyone else present at that meeting? 10:02:34
 2 A. No. 10:02:38
 3 Q. Did they explain to you how a deposition 10:02:38
 4 proceeds and how objections can be made and 10:02:45
 5 how there may be times for you to receive 10:02:48
 6 instructions from counsel? 10:02:52
 7 A. Yes. 10:02:54
 8 Q. Do you have any physical or mental reason 10:02:54
 9 why you can't testify accurately and 10:03:03
 10 truthfully today? 10:03:06
 11 A. No. 10:03:06
 12 Q. Will you please state your full name for 10:03:07
 13 the record. 10:03:13
 14 A. Sure. My name is Christian Dubay. 10:03:13
 15 Q. What's your home address? 10:03:16
 16 A. 32 Alvin Circle, Raynham, Massachusetts. 10:03:17
 17 Q. What's your work address? 10:03:22
 18 A. One Batterymarch Park, Quincy, Massachusetts. 10:03:23
 19 Q. What is your job at NFPA? 10:03:27
 20 A. I'm vice president and chief engineer. 10:03:33
 21 Q. When did you first begin working for NFPA? 10:03:36
 22 A. 1995. 10:03:42
 23 Q. What work did you have before you joined 10:03:44
 24 NFPA? 10:03:51
 25 A. I was a college student and a co-op engineer 10:03:51
 Page 10

1 with the U.S. Navy. 10:03:54
 2 Q. Please take me through your college 10:03:58
 3 education. 10:04:02
 4 A. I have a Bachelor's degree in fire protection 10:04:02
 5 engineering with a co-op distinction due to 10:04:05
 6 my work with the U.S. Navy. 10:04:09
 7 Q. Where was that university degree from? 10:04:10
 8 A. University of Maryland. 10:04:13
 9 Q. Please take me through your career at NFPA, 10:04:14
 10 and tell me what your positions have been 10:04:24
 11 since 1995. 10:04:27
 12 A. I started out as an associate engineer, 10:04:28
 13 worked through the various levels of 10:04:32
 14 engineering all the way through principal 10:04:34
 15 and ultimately vice president and chief 10:04:36
 16 engineer. 10:04:38
 17 Q. Did you receive any academic education after 10:04:40
 18 your Bachelor's degree? 10:04:51
 19 A. Not formal degree programs, but continuing 10:04:53
 20 education, management development, things 10:04:57
 21 like that. 10:05:00
 22 Q. Please take me through your areas of 10:05:01
 23 responsibility starting in 1995 till now in 10:05:07
 24 your work at NFPA. 10:05:11
 25 A. My primary role when I started was answering 10:05:13
 Page 11

1 technical questions relating to our codes and 10:05:17
 2 standards. 10:05:20
 3 Q. Then what? 10:05:25
 4 A. Then I was given responsibility for a library 10:05:25
 5 of smaller documents as a new engineer to 10:05:31
 6 handle the committee process and the 10:05:35
 7 management of our technical committees. 10:05:37
 8 Q. What did you mean by a library of smaller 10:05:39
 9 documents? 10:06:04
 10 A. As a staff liaison, I was given approximately 10:06:04
 11 on the order of maybe 10 or 12 different 10:06:09
 12 standards that I was responsible for with the 10:06:13
 13 standards process around those documents. 10:06:17
 14 Q. Did the 10 or 12 different standards that you 10:06:22
 15 were responsible for have a common theme? 10:06:27
 16 A. It was a long time ago, but the best I can 10:06:31
 17 recall, yes, mostly around commercial 10:06:34
 18 cooking, chimneys, things like that. 10:06:39
 19 Q. How long did you have that role? 10:06:51
 20 A. To the best of my recollection, I had that 10:07:06
 21 smaller set of documents for about two to 10:07:09
 22 three years and then I took on a larger role, 10:07:12
 23 handling a smaller set of standards, but 10:07:16
 24 larger documents around automatic fire 10:07:19
 25 sprinkler systems. 10:07:22
 Page 12

1 Q. What were those documents? 10:07:26
 2 A. Specifically NFPA 13, NFPA 13R, 13E, some of 10:07:31
 3 them. There's a few more. 10:07:42
 4 Q. That group had a common theme of sprinkler 10:07:47
 5 systems? 10:07:50
 6 A. All related to automatic fire sprinkler 10:07:51
 7 systems. 10:07:54
 8 Q. When did you have that role? 10:07:59
 9 A. I had that role until -- I forget the 10:08:01
 10 specific start date, but I had that role 10:08:05
 11 until 2007. 10:08:07
 12 Q. At that point how did your role at NFPA 10:08:12
 13 change? 10:08:17
 14 A. At that point I was named vice president and 10:08:18
 15 chief engineer. 10:08:20
 16 Q. You've had the same title from 2007 till now? 10:08:21
 17 A. Yes. 10:08:27
 18 Q. What have your functions been as vice 10:08:28
 19 president and chief engineer? 10:08:32
 20 A. I have primarily two responsibilities. The 10:08:33
 21 first and foremost is the overseeing of our 10:08:37
 22 codes and standards operations. My second 10:08:40
 23 role in serving as chief engineer is the 10:08:44
 24 primary technical spokesman for the 10:08:47
 25 association. 10:08:50
 Page 13

1 Q. In what forums do you speak as NFPA's primary 10:09:00
 2 technical spokesman? 10:09:12
 3 A. One example is media interviews. 10:09:15
 4 Q. How else? 10:09:25
 5 A. Another example is public forums around our 10:09:26
 6 technical topics of expertise, our standards. 10:09:32
 7 Q. What type of public forums do you mean? 10:09:36
 8 A. One example is speaking at the conferences 10:09:40
 9 and training seminars and such. 10:09:47
 10 Q. What types of conferences do you speak at 10:09:49
 11 for NFPA? 10:09:52
 12 A. In my current role primarily, I guess that's 10:09:52
 13 a standards role, technically it could 10:09:57
 14 involve the topic at hand. It could be a 10:09:59
 15 trade event or an association of, say, an 10:10:01
 16 association of manufacturers or constituents 10:10:08
 17 or government, like fire marshals. 10:10:11
 18 Q. On what topics do you typically speak at 10:10:18
 19 those conferences? 10:10:23
 20 A. As broad as our scope of NFPA. 10:10:25
 21 Q. And how broad is that scope? 10:10:34
 22 A. We -- our mission is based upon safety and 10:10:36
 23 improving safety and reducing loss. And that 10:10:42
 24 covers approximately 300 codes and standards 10:10:44
 25 on a multitude of topics. 10:10:49

Page 14

1 Q. How do codes and standards improve safety 10:11:01
 2 and reduce loss? 10:11:03
 3 A. Codes and standards are designed -- part of 10:11:05
 4 them is to learn from losses, learn from 10:11:13
 5 incidents as such to ensure what protection 10:11:17
 6 needs to be in place to account for that. 10:11:20
 7 That's one of the ways. 10:11:23
 8 Q. How else do codes and standards improve 10:11:27
 9 safety and reduce losses? 10:11:30
 10 MR. REHN: I'll just object that 10:11:35
 11 these questions are outside the scope of the 10:11:36
 12 topics for which this witness was designated, 10:11:38
 13 but you can answer. 10:11:41
 14 MR. BRIDGES: I disagree, but we 10:11:42
 15 don't need to argue it. 10:11:44
 16 A. Codes and standards, at least the NFPA 10:11:46
 17 process, brings together a multitude of 10:11:48
 18 interested parties which can determine, 10:11:51
 19 through the consensus process, a best minimum 10:11:53
 20 level of safety. 10:11:58
 21 Q. Who determines what the best minimum level 10:12:14
 22 of safety is in that process? 10:12:50
 23 MR. REHN: Objection as to form. 10:12:55
 24 Q. You may answer. 10:12:58
 25 A. At NFPA our process relies upon our technical 10:12:59

Page 15

1 committee volunteers. 10:13:04
 2 Q. Is it the technical committee of volunteers 10:13:15
 3 who determine what constitutes the best 10:13:22
 4 minimum level of safety? 10:13:24
 5 MR. REHN: Objection as to form. 10:13:26
 6 A. It's a combination of -- our technical 10:13:29
 7 committee members determine the final 10:13:32
 8 technical requirements, however, that's 10:13:34
 9 balanced with extensive public review and 10:13:37
 10 comment. 10:13:39
 11 Q. I'll come back to that in a minute. How else 10:13:49
 12 do you -- in what other forums do you speak 10:14:14
 13 as primary technical spokesman for NFPA? You 10:14:17
 14 mentioned media interviews, certain public 10:14:24
 15 forums. You mentioned conferences and 10:14:27
 16 training seminars. Are there any other ways 10:14:29
 17 in which you serve as the primary technical 10:14:32
 18 spokesman for NFPA? 10:14:34
 19 A. I often give presentations relating to 10:14:35
 20 awareness of our process and awareness of how 10:14:39
 21 to get involved and how to be part of this 10:14:42
 22 public codes and standards process. 10:14:46
 23 Q. To whom do you make those presentations? 10:14:51
 24 A. Various affected parties. Again, really 10:14:55
 25 depends on the breadth of topics. So it 10:14:59

Page 16

1 varies. 10:15:04
 2 Q. What are some examples of groups to which you 10:15:04
 3 make these presentations? 10:15:08
 4 A. For example, if there's an emerging technical 10:15:09
 5 topic of safety or concern to the 10:15:13
 6 association, I may meet with fire marshals or 10:15:16
 7 local safety officials in a given 10:15:19
 8 jurisdiction or state to present what we know 10:15:22
 9 at that time. 10:15:26
 10 Q. To your knowledge, what use do they make of 10:15:30
 11 the information that you present to them? 10:15:42
 12 MR. REHN: Objection as to form. 10:15:45
 13 Calls for speculation. 10:15:47
 14 A. It would really depend on the group. 10:15:49
 15 Q. Let's say fire marshals. 10:15:56
 16 MR. REHN: Same objection. 10:15:58
 17 A. They often utilize that information as 10:16:01
 18 information to make safety decisions within 10:16:05
 19 their various jurisdictions or with the 10:16:07
 20 situations that they're facing. 10:16:11
 21 Q. What kind of safety decisions are you 10:16:12
 22 referring to? 10:16:14
 23 A. It could be, for example, how to understand a 10:16:19
 24 new technology or a new application of 10:16:27
 25 safety, a new safety standard, a new adoption 10:16:34

Page 17

1 or new application area. 10:16:37
 2 Q. When you say a new adoption, what do you 10:16:40
 3 mean? 10:16:44
 4 A. For example, if a jurisdiction is looking to 10:16:44
 5 incorporate, say, residential sprinklers in 10:16:51
 6 the jurisdiction, they may want to utilize an 10:16:54
 7 NFPA standard, an installation standard. And 10:16:57
 8 as part of their regulation, I will spend 10:17:01
 9 time with them explaining the standard, 10:17:03
 10 explain the requirements. 10:17:05
 11 Q. To whom else do you make presentations as 10:17:10
 12 NFPA's primary technical spokesman? 10:17:23
 13 A. Industry groups is another example. 10:17:26
 14 Q. Who else? 10:17:45
 15 A. Peer standards developers is another example. 10:17:46
 16 Q. Sorry? 10:17:53
 17 A. Peer standards developers, we refer to them 10:17:53
 18 as SDOs, standards development organizations. 10:17:58
 19 Q. Which ones do you have in mind when you say 10:18:01
 20 that? 10:18:03
 21 A. Again, there's a lot of them, so it depends. 10:18:03
 22 The most common example I would say is 10:18:10
 23 working with ANSI, the American National 10:18:13
 24 Standards Institute, which brings together a 10:18:16
 25 lot of standards developers. So that's the 10:18:17
 Page 18

1 best example I can give you of a place where 10:18:19
 2 we chat about standards operations. 10:18:23
 3 Q. Is ANSI a peer or an umbrella organization? 10:18:25
 4 MR. REHN: Objection as to form. 10:18:28
 5 A. ANSI is a federation of membership 10:18:30
 6 organization for standards developers as well 10:18:36
 7 as organizations that are impacted by 10:18:40
 8 standards. 10:18:42
 9 Q. Does NFPA belong to ANSI? 10:18:45
 10 MR. REHN: Objection as to form. 10:18:48
 11 Q. Is it a member of ANSI? 10:18:49
 12 A. Yes. 10:18:51
 13 Q. Do you have any position within ANSI? 10:18:51
 14 MR. REHN: Objection as to form. 10:19:01
 15 Vague and ambiguous. 10:19:02
 16 A. I am a member of a few of their equivalent, 10:19:04
 17 something like a section. I'm a member of 10:19:11
 18 their executive standards council as an 10:19:13
 19 example. 10:19:15
 20 Q. What other memberships or committees or units 10:19:16
 21 within ANSI do you have? 10:19:21
 22 A. I'm also a member of the Organizational 10:19:23
 23 Member Forum or OMF. 10:19:26
 24 Q. Anything else? 10:19:32
 25 A. I'm also a member of the National Policy 10:19:35
 Page 19

1 Committee, NPC. 10:19:38
 2 Q. What else? 10:19:42
 3 A. I'm also co-chair, private sector co-chair of 10:19:44
 4 the -- I apologize, I don't recall the exact 10:19:53
 5 document, but it's HDSCC, I believe. 10:19:54
 6 Q. What does that stand for? 10:19:59
 7 A. It's a Homeland Security working group around 10:20:00
 8 different issues that the nation is facing 10:20:06
 9 around Homeland Security and -- Homeland 10:20:11
 10 Security is the best way to describe it. 10:20:16
 11 Q. What else? 10:20:19
 12 A. To the best of my recollection, those are the 10:20:20
 13 only specific ANSI activities that I have. 10:20:26
 14 Q. How much of your time as an NFPA employee is 10:20:32
 15 spent engaged in ANSI-related activities? 10:20:37
 16 MR. REHN: Objection as to form. 10:20:43
 17 Lacks foundation. 10:20:46
 18 A. Maybe ten days per year, approximately. 10:20:47
 19 Q. Is that ten days per year where the days are 10:20:56
 20 devoted to ANSI-related activities? 10:21:04
 21 MR. REHN: Objection as to form. 10:21:06
 22 A. It depends. Some days may be a one-hour call 10:21:09
 23 or some days may be a full-day meeting. 10:21:13
 24 Q. I'm just trying to get clear, you do 10:21:17
 25 ANSI-related work on only ten days during the 10:21:21
 Page 20

1 year or ten full days per year with other 10:21:23
 2 activities? How do you divide it? How do 10:21:26
 3 you mean ten days? 10:21:30
 4 A. The way I would describe it is approximately, 10:21:31
 5 to the best of my recollection, I'm just 10:21:35
 6 thinking now, is only ten days a year. 10:21:36
 7 Not -- I don't view it as ten full days, but 10:21:40
 8 there's probably ten times per year where I'm 10:21:43
 9 involved in ANSI activities. On a couple of 10:21:45
 10 occasions, they're full-day activities. 10:21:48
 11 Q. Does that include any type of activity 10:21:52
 12 whether you're sending e-mails to people at 10:21:55
 13 ANSI and the like? 10:21:57
 14 MR. REHN: Objection as to form. 10:21:58
 15 A. Honestly, I don't keep track of each and 10:22:00
 16 every e-mail, so I wouldn't know. When you 10:22:03
 17 asked me the question, I'm estimating how 10:22:06
 18 many days that I have -- I have an ANSI day, 10:22:09
 19 there's something going on, formal. 10:22:12
 20 Q. What are your duties at NFPA as chief 10:22:22
 21 engineer, apart from being the primary 10:22:46
 22 technical spokesman? 10:22:48
 23 MR. REHN: Objection to form. Asked 10:22:53
 24 and answered. 10:22:54
 25 A. Chief engineer. That's my primary, the 10:22:59
 Page 21

1 technical aspects. 10:23:03
 2 Q. What do you do in your role as chief engineer 10:23:08
 3 internally within NFPA when you're not giving 10:23:18
 4 maybe interviews or speaking at public 10:23:25
 5 forums? 10:23:27
 6 A. The only thing I can think of is acting as 10:23:33
 7 part of the senior management team in 10:23:39
 8 day-to-day operations. 10:23:41
 9 Q. Do you provide technical input within NFPA? 10:23:47
 10 MR. REHN: Objection as to form. 10:24:03
 11 It's vague. 10:24:06
 12 A. I'm not sure I understand the question. 10:24:07
 13 Q. Do you provide technical information or 10:24:09
 14 technical assistance within NFPA as chief 10:24:14
 15 engineer? 10:24:16
 16 MR. REHN: Same objection. 10:24:19
 17 A. Could you clarify your question? To me it's 10:24:19
 18 just not connecting with providing technical 10:24:24
 19 information internally. 10:24:27
 20 Q. Are you a resource for technical information 10:24:28
 21 internally within NFPA in your role as chief 10:24:31
 22 engineer at NFPA? 10:24:35
 23 MR. REHN: Same objection. 10:24:36
 24 A. Yes, I view myself as a resource. 10:24:37
 25 Q. Who within the organization calls upon you 10:24:41
 Page 22

1 for your engineering expertise? 10:24:44
 2 MR. REHN: Object to the form. 10:24:48
 3 A. I would view the senior management team as an 10:24:52
 4 example of those that would call upon me. 10:24:59
 5 Q. Who else within the organization calls upon 10:25:01
 6 you for your technical expertise as chief 10:25:04
 7 engineer? 10:25:08
 8 MR. REHN: Same objection. 10:25:08
 9 A. The standards -- codes and standards 10:25:09
 10 operation team, which I'm responsible for. 10:25:15
 11 Q. Who else? 10:25:18
 12 MR. REHN: Same objection. 10:25:21
 13 A. At times marketing and such like that, things 10:25:27
 14 like that. 10:25:35
 15 Q. Who else? 10:25:37
 16 MR. REHN: Same objection. 10:25:39
 17 A. I really can't think of another aspect of 10:25:41
 18 that. 10:25:45
 19 Q. Do outreach public affairs personnel call 10:25:48
 20 upon you for your technical expertise? 10:25:56
 21 A. Yes, they're part of the senior management 10:25:59
 22 team. 10:26:05
 23 MR. REHN: Objection. 10:26:06
 24 Q. In what respect do they call upon you for 10:26:06
 25 your technical expertise? 10:26:12
 Page 23

1 A. Primarily around the media interviews. 10:26:12
 2 Q. Any other ways? 10:26:15
 3 A. The primary, from a public communications 10:26:21
 4 resource outreach aspect, is through media 10:26:32
 5 inquiries, media interviews and media 10:26:37
 6 responses when I'm requested. 10:26:40
 7 Q. How many media interviews have you given 10:26:41
 8 in the past year? 10:26:48
 9 A. I don't know. Approximately ten. 10:26:49
 10 Q. On what subjects? 10:27:02
 11 A. I don't recall. 10:27:06
 12 Q. You don't recall any of the subjects? 10:27:09
 13 A. Not off the top of my head, no, I do not. 10:27:19
 14 Q. You say that NFPA brings together a multitude 10:27:22
 15 of interested parties who participate in a 10:28:09
 16 consensus process to determine the best level 10:28:15
 17 of minimum safety; is that right? 10:28:18
 18 MR. REHN: Object to the form. 10:28:20
 19 A. NFPA has an open consensus standards 10:28:24
 20 development process that brings together many 10:28:27
 21 differing viewing points of interest, 10:28:32
 22 interest categories as well as the public in 10:28:35
 23 order to develop our codes and standards. 10:28:39
 24 Q. How does NFPA bring them together? 10:28:43
 25 MR. REHN: Objection as to form. 10:28:51
 Page 24

1 A. One way is through our technical committee 10:28:53
 2 meetings. 10:28:55
 3 Q. How else does NFPA bring them together? 10:29:01
 4 A. Through our annual meeting. 10:29:07
 5 Q. How else? 10:29:10
 6 A. Through special, specially called topical 10:29:17
 7 meetings. 10:29:23
 8 Q. How else? 10:29:28
 9 A. Through technical forums and summits. 10:29:29
 10 Q. How else? 10:29:40
 11 A. That's all I can think of off the top of my 10:29:41
 12 head. 10:29:57
 13 Q. And what does NFPA do to bring them together? 10:29:57
 14 MR. REHN: Object to the form. 10:30:05
 15 Vague. 10:30:07
 16 A. With respect to our technical committee 10:30:10
 17 meetings, we, through the committee, call the 10:30:12
 18 meeting and book the meeting facility and 10:30:16
 19 host the meeting. 10:30:20
 20 Q. Anything else? 10:30:30
 21 MR. REHN: Same objection. 10:30:32
 22 A. To clarify, with respect to committee 10:30:35
 23 meetings? 10:30:37
 24 Q. Yes. 10:30:38
 25 A. We publicly promote them, as all of our 10:30:39
 Page 25

1 meetings are open to anyone who wishes to 10:30:44
 2 attend. 10:30:46
 3 Q. Anything else? 10:30:46
 4 A. No. I think that covers it. 10:30:49
 5 Q. What do you mean by call the meeting, NFPA 10:30:55
 6 calls the meeting? 10:31:06
 7 A. We provide advance public notice when we call 10:31:08
 8 the meeting, including on our website, social 10:31:12
 9 media announcements to the committee members 10:31:16
 10 to make not only the committee but the public 10:31:20
 11 aware of the next meeting date, location, 10:31:22
 12 et cetera. 10:31:26
 13 Q. How does NFPA book the meeting? 10:31:29
 14 A. We have a meetings department whose 10:31:34
 15 responsibility is to book all of our 10:31:38
 16 meetings. 10:31:41
 17 Q. Does that mean to arrange the logistics, like 10:31:42
 18 the hotels and conferences rooms and things 10:31:47
 19 like that? 10:31:50
 20 A. The meetings department is responsible -- 10:31:52
 21 MR. REHN: Objection to form. 10:31:51
 22 A. The meetings department is responsible for 10:31:56
 23 taking care of finding a proper hotel, large 10:32:02
 24 enough meeting rooms, things like that. 10:32:04
 25 Whatever the size of the logistics, they 10:32:07
 Page 26

1 handle all the logistics around that meeting 10:32:09
 2 space and any required hotels. 10:32:12
 3 Q. How does NFPA host the meeting? 10:32:14
 4 MR. REHN: Objection to the form. 10:32:20
 5 Q. I should say how does NFPA host the meetings? 10:32:24
 6 MR. REHN: Same objection. 10:32:28
 7 A. I think the best approach is that because 10:32:29
 8 it's an NFPA meeting, so it's -- we're 10:32:31
 9 calling -- when I say we're calling the 10:32:36
 10 meeting, so it's our committee meeting as an 10:32:37
 11 example. 10:32:41
 12 So NFPA staff is there, technical 10:32:41
 13 staff is there facilitating and running the 10:32:46
 14 meeting along with the actual volunteer 10:32:48
 15 technical committee chair. So I think that 10:32:50
 16 should clarify what I'm implying by 10:32:54
 17 "hosting." 10:32:56
 18 Q. How does the NFPA staff facilitate and run 10:32:57
 19 the meetings along with the technical 10:33:15
 20 committee chairs? 10:33:17
 21 A. Again, just to clarify, just focusing on 10:33:20
 22 technical committee meetings? 10:33:23
 23 Q. Yes. 10:33:24
 24 A. Okay. We have a technical staff liaison 10:33:25
 25 who's assigned to each of our standards and a 10:33:30
 Page 27

1 portion of their job is to attend the 10:33:33
 2 technical committee meetings. 10:33:36
 3 Q. What do the liaisons do at those meetings 10:33:39
 4 when they attend them? 10:33:45
 5 MR. REHN: Object to the form. 10:33:45
 6 A. Their primary responsibility is to capture 10:33:46
 7 all of the technical changes that the 10:33:51
 8 committee is making to the document they're 10:33:54
 9 working on or standard they're working on. 10:33:57
 10 Q. What do you mean by technical changes in that 10:34:02
 11 context? 10:34:24
 12 A. Our technical committees are responsible for 10:34:27
 13 developing changes to our codes and 10:34:31
 14 standards. And one of the primary 10:34:34
 15 responsibilities of the technical staff 10:34:37
 16 liaison is to capture those changes. 10:34:39
 17 Q. In what respect are those changes technical 10:34:46
 18 changes? 10:34:50
 19 A. Those changes are specific, technical being 10:34:53
 20 scientific or wording changes to our codes 10:34:57
 21 and standards which are technical documents. 10:35:01
 22 Q. How do you distinguish between scientific 10:35:08
 23 changes and wording changes to the technical 10:35:11
 24 documents? 10:35:17
 25 MR. REHN: Object to the form. 10:35:18
 Page 28

1 Lacks foundation. Mischaracterizes the 10:35:19
 2 testimony. 10:35:22
 3 A. A technical change, in my view, would be 10:35:22
 4 changing a specific requirement. A wording 10:35:28
 5 change may be a change the committee could do 10:35:32
 6 if they have determined that the requirement 10:35:34
 7 is confusing or not clear what the specific 10:35:36
 8 requirement is, so they may adjust the 10:35:40
 9 wording to make it easier to interpret or 10:35:41
 10 understand what that actual technical 10:35:45
 11 requirement is. 10:35:46
 12 Q. Who determines what wording changes are 10:35:48
 13 appropriate in the technical committees? 10:35:52
 14 MR. REHN: Objection to the form. 10:35:55
 15 Ambiguous. 10:35:56
 16 A. It's a combination of extensive public review 10:35:58
 17 and comment, the committee's review of that 10:36:02
 18 and their expertise and with the help of our 10:36:05
 19 technical staff to land on the final wording, 10:36:09
 20 which is ultimately decided by the technical 10:36:13
 21 committee. 10:36:15
 22 Q. What criteria do the members of the technical 10:36:23
 23 committee use in choosing the wording of a 10:36:32
 24 code or standard? 10:36:38
 25 MR. REHN: Object to the form. 10:36:39
 Page 29

1 Lacks foundation. 10:36:41
 2 A. Ultimately those decisions are based upon the 10:36:43
 3 technical committee members' expertise and 10:36:47
 4 knowledge within the field. 10:36:50
 5 Q. And when you say that the technical staff 10:37:00
 6 liaison has a responsibility to capture all 10:37:18
 7 of the technical changes that the committee 10:37:22
 8 is making to the document, what do you mean 10:37:26
 9 by capture? 10:37:28
 10 A. NFPA has a very robust standards development 10:37:29
 11 platform that allows our committees to work 10:37:36
 12 on the text within the document. And the 10:37:40
 13 technical staff captures those changes in the 10:37:43
 14 system so that we can then support that staff 10:37:46
 15 with editorial changes and such before 10:37:51
 16 publication. 10:37:54
 17 Q. I still don't understand what you mean by 10:38:00
 18 capture in that context. You said that the 10:38:02
 19 technical staff captures those changes. What 10:38:07
 20 do you mean by capture there? 10:38:12
 21 MR. REHN: Object to the form. 10:38:13
 22 A. The committee makes a decision. It is the 10:38:15
 23 responsibility of the technical staff to not 10:38:18
 24 only just record those changes, but 10:38:22
 25 understand the technical context that the 10:38:25

Page 30

1 committee is trying to accomplish to ensure 10:38:27
 2 that when those changes go out for ballot to 10:38:29
 3 our technical committees, it's accurate. 10:38:32
 4 Q. That it accurately reflects what the 10:38:35
 5 technical committee intended to produce? 10:38:38
 6 A. The primary job -- 10:38:41
 7 MR. REHN: Object to the form. 10:38:43
 8 A. The primary job of the technical staff 10:38:44
 9 liaison is to ensure that any recorded 10:38:46
 10 actions accurately reflect that intent of the 10:38:48
 11 technical committee. 10:38:51
 12 MR. REHN: If I can just remind the 10:38:52
 13 witness to give me a chance to object after 10:38:53
 14 the question is asked. Helps the court 10:38:56
 15 reporter out if we're not talking over each 10:39:03
 16 other. 10:39:06
 17 A. Sorry. 10:39:07
 18 Q. You mentioned some sort of the editorial 10:39:16
 19 activity in support of the technical 10:39:30
 20 committees; is that correct? 10:39:35
 21 MR. REHN: Object to form. 10:39:35
 22 Q. You used the word "editorial." I didn't 10:39:36
 23 quite understand the context. 10:39:39
 24 A. There's an extensive amount of support that 10:39:41
 25 NFPA staff provides to our standards 10:39:43

Page 31

1 development process. A piece of that is, for 10:39:45
 2 example, compliance with our manual of style. 10:39:50
 3 Q. What form does that support take? 10:39:57
 4 MR. REHN: Object to the form. 10:40:03
 5 A. It takes several forms. First and foremost 10:40:07
 6 is to capture the specific text or record the 10:40:10
 7 specific technical changes that occurred at 10:40:14
 8 the meeting. 10:40:17
 9 Q. Anything else? 10:40:17
 10 A. Second is to ensure that the wording is in 10:40:26
 11 compliance with our manual style. 10:40:32
 12 Q. Anything else? 10:40:39
 13 A. Also the technical staff is there to ensure 10:40:40
 14 that the new or modified requirements align 10:40:47
 15 with the remainder of the document. 10:40:51
 16 Q. Anything else? 10:40:58
 17 A. They also spend time reviewing those 10:41:05
 18 requirements, the technical staff does, to 10:41:10
 19 make sure they don't establish conflicting 10:41:12
 20 requirements with other portions of that 10:41:14
 21 document or other NFPA standards. 10:41:18
 22 Q. Anything else? 10:41:21
 23 A. Another responsibility is to come back to 10:41:25
 24 NFPA to their offices and ensure that our 10:41:32
 25 editorial production team has full knowledge 10:41:34

Page 32

1 of those changes as they modify the -- 10:41:39
 2 develop the next edition of the standard. 10:41:43
 3 Q. Anything else? 10:41:48
 4 A. There's an extensive amount of back and forth 10:42:08
 5 between the editorial and production staff 10:42:11
 6 and the technical staff to finalize the 10:42:14
 7 language prior to balloting. 10:42:18
 8 Q. Anything else? 10:42:27
 9 A. Once the language is finalized, the technical 10:42:31
 10 staff works with our project administrators 10:42:37
 11 to develop a technical committee ballot which 10:42:41
 12 is then circulated to that technical 10:42:44
 13 committee. 10:42:44
 14 Q. Anything else? 10:42:51
 15 A. Once the ballot is completed and approved, 10:43:16
 16 the technical staff, working with the project 10:43:22
 17 administrators, then circulates the ballot of 10:43:23
 18 the proposed changes to that full technical 10:43:27
 19 committee. 10:43:30
 20 Q. Do they circulate the proposed ballot or 10:43:39
 21 the actual ballot to the full technical 10:43:39
 22 committee? 10:43:39
 23 A. The actual ballot. The actual ballot is 10:44:03
 24 submitted to the committee for formal voting. 10:44:07
 25 Q. Anything else? 10:44:15

Page 33

<p>1 A. Once the initial ballot is complete, the 10:44:18 2 results are then recirculated to the 10:44:21 3 committee to ensure -- to finalize the 10:44:23 4 results. 10:44:45 5 Q. When you say the results are recirculated 10:44:45 6 to the committee, does that mean the vote 10:44:47 7 tally or the text that was the subject of the 10:44:49 8 ballot for vote? 10:44:54 9 MR. REHN: Object to form. 10:44:57 10 A. Both. 10:45:00 11 Q. So when the initial ballot is complete, the 10:45:00 12 technical committee receives a report of the 10:45:03 13 results and the presumptive final language of 10:45:07 14 the change; is that correct? 10:45:12 15 MR. REHN: Object to the form. 10:45:13 16 A. No. 10:45:17 17 Q. How is that incorrect? 10:45:19 18 A. The final text is what's being balloted. 10:45:20 19 Q. When you say the results are recirculated to 10:45:28 20 the committee to finalize the results; is 10:45:32 21 that what you said? 10:46:06 22 A. Mm-hmm. 10:46:07 23 Q. What does it mean to finalize the results? 10:46:08 24 A. We have an initial ballot. Our committee 10:46:13 25 members vote, then we provide another 10:46:16 Page 34</p>	<p>1 A. Through our online codes and standards 10:47:46 2 system. 10:47:49 3 Q. What happens after the public comment period? 10:47:55 4 A. The technical committee meets and reviews 10:48:00 5 each public comment. 10:48:05 6 Q. Then what happens? 10:48:08 7 A. The technical committee determines if any -- 10:48:24 8 excuse me. The technical committee develops 10:48:29 9 responses to each of those public comments. 10:48:31 10 Q. Then what happens? 10:48:40 11 A. The technical committee determines if any 10:48:43 12 further revisions or changes are required to 10:48:48 13 address those public comments. 10:48:52 14 Q. Then what happens when the technical 10:49:03 15 committee determines that further changes are 10:49:06 16 required? 10:49:08 17 A. They would develop a second revision. 10:49:11 18 Q. And what would happen -- what would happen 10:49:18 19 after a second revision? 10:49:22 20 MR. REHN: Objection as to form. 10:49:26 21 A. The technical staff liaison would then 10:49:28 22 capture or record that change. 10:49:31 23 Q. Then what would happen? 10:49:37 24 A. They would then -- the technical staff would 10:49:43 25 then integrate one or more changes, whatever 10:49:46 Page 36</p>
<p>1 opportunity for the committee members to see 10:46:19 2 all the votes and the reasons the committee 10:46:21 3 voted a certain way to decide if they want to 10:46:24 4 either change their vote or keep their vote 10:46:26 5 the same. 10:46:28 6 Q. And with that information is another copy of 10:46:31 7 the text that was the subject of the ballot? 10:46:37 8 A. No. 10:46:40 9 Q. They just get the results and the 10:46:43 10 descriptions of the votes? 10:46:46 11 A. Yes. 10:46:47 12 Q. Then what happens? 10:46:48 13 A. Once the ballot results are final, a first 10:46:51 14 draft report is published for public comment. 10:46:55 15 Q. Then what happens? 10:47:10 16 A. There's a period of open public comment on 10:47:12 17 that document. 10:47:17 18 Q. How long does that last? 10:47:19 19 A. It varies, but approximately ten weeks long. 10:47:20 20 Q. How does the public have access to that 10:47:28 21 comment at the time? 10:47:35 22 MR. REHN: Objection to form. 10:47:36 23 Q. How does the public have access to the 10:47:37 24 proposed changes at that time? 10:47:41 25 MR. REHN: Objection as to form. 10:47:44 Page 35</p>	<p>1 was appropriate, into the draft document. 10:49:49 2 Q. And then what happens? 10:49:57 3 A. The technical staff would then return to NFPA 10:49:59 4 and ensure that all of the technical changes 10:50:05 5 were properly captured and in compliance with 10:50:08 6 our manual style. 10:50:12 7 Q. Then what happens? 10:50:24 8 A. The technical staff would then work with the 10:50:25 9 editorial and production team to ensure all 10:50:29 10 of the proposed technical changes are 10:50:34 11 properly recorded and captured within the 10:50:37 12 draft document. 10:50:40 13 Q. Then what happens? 10:50:46 14 A. Once the editorial and production team has 10:50:56 15 finalized their work, the technical staff 10:51:01 16 liaison again reviews all the changes to 10:51:04 17 ensure that they remain an accurate 10:51:06 18 reflection of the intent and the wording that 10:51:09 19 the technical committee established. 10:51:12 20 Q. Then what happens? 10:51:15 21 A. The technical staff liaison then works with 10:51:23 22 the project administrators to develop a 10:51:26 23 ballot for the technical committee. 10:51:30 24 Q. Then does the ballot process, after that 10:51:35 25 point, follow the same process you described 10:51:37 Page 37</p>

1 earlier? 10:51:39
 2 MR. REHN: Objection as to form. 10:51:40
 3 A. For the second draft we repeat the same 10:51:43
 4 ballot process. 10:51:46
 5 Q. After the same ballot process, is the revised 10:51:47
 6 language again laid open for public comment? 10:51:54
 7 A. After the second draft meeting and ballot, we 10:52:00
 8 produce a second draft report. 10:52:04
 9 Q. And what happens with that second draft 10:52:08
 10 report? 10:52:12
 11 A. The second draft report is open for what we 10:52:12
 12 term as NITMAM's, N I T M A M, apostrophe S. 10:52:16
 13 Q. What does that mean? 10:52:24
 14 A. It's a notice for an intent to make a motion. 10:52:28
 15 Q. What does that mean? 10:52:38
 16 A. If someone continues to or is not happy with 10:52:39
 17 the results of the process at this point, 10:52:48
 18 they can file a motion to continue the 10:52:53
 19 debate. 10:52:55
 20 Q. Who can make such a motion? 10:53:01
 21 A. It depends on the type of motion they're 10:53:04
 22 making. 10:53:11
 23 Q. What are the different types of motions? 10:53:12
 24 A. For example, one example is to overturn a 10:53:17
 25 change the committee has proposed at the 10:53:23
 Page 38

1 second draft stage. In that case, anyone can 10:53:25
 2 make that motion. 10:53:31
 3 Q. What other types of motions can continue the 10:53:35
 4 debate? 10:53:51
 5 MR. REHN: Objection as to form. 10:53:51
 6 A. Another motion is to accept a public comment. 10:53:53
 7 Q. Who can make that kind of motion? 10:54:00
 8 A. The submitter of that public comment. 10:54:07
 9 Q. What other types of motions can occur after 10:54:13
 10 the second draft report? 10:54:21
 11 A. In some cases you can make a motion to return 10:54:24
 12 the entire document. 10:54:28
 13 Q. Does that mean return the entire document to 10:54:30
 14 the technical committee to start all over 10:54:38
 15 again? 10:54:40
 16 MR. REHN: Objection as to form. 10:54:41
 17 A. Returning the document is for new standards, 10:54:41
 18 and it would return it back to the technical 10:54:45
 19 committee in its entirety for further action. 10:54:48
 20 Q. What other types of motion can occur after 10:54:57
 21 the second draft report? 10:55:00
 22 A. The only other motions, and in this case I 10:55:14
 23 would rely on our regulations, 10:55:18
 24 government-committed projects, there's a 10:55:22
 25 table of motions in there, but, to the best 10:55:22
 Page 39

1 of my recollection, the only other motions 10:55:24
 2 that are available are variations of those 10:55:26
 3 main motions. 10:55:29
 4 Q. How are the motions -- how are these various 10:55:34
 5 motions you've referred to decided? 10:55:37
 6 MR. REHN: Objection as to form. 10:55:40
 7 A. It's a multistep process which starts with 10:55:42
 8 someone submitting a NITMAM, again, a notice 10:55:49
 9 of intent to make a motion. 10:55:52
 10 Q. Take me through the rest of the process, 10:55:55
 11 please. 10:55:57
 12 MR. REHN: Objection as to form, 10:55:58
 13 vague, compound. 10:56:01
 14 A. The first part of that process is that a 10:56:02
 15 person who wishes to submit a NITMAM would, 10:56:07
 16 through our online system, fill out a form 10:56:10
 17 and say what motion they wish to make. 10:56:13
 18 Q. Keep going. 10:56:16
 19 A. The next step is that motion is captured by 10:56:17
 20 our standards administration staff. 10:56:24
 21 Q. Is that all? 10:56:32
 22 A. No. 10:56:34
 23 Q. Take me through the whole process, please. 10:56:34
 24 MR. REHN: Objection as to form. 10:56:38
 25 A. The next step is our standard administration 10:56:40
 Page 40

1 staff provides an initial review to make sure 10:56:46
 2 the motion is in order. 10:56:48
 3 Q. I've asked you to take me through the whole 10:56:56
 4 process. Please continue, and continue until 10:56:59
 5 the end of the process. 10:57:02
 6 MR. REHN: Objection as to form. 10:57:03
 7 It's compound. 10:57:05
 8 A. The next step of the process, after standards 10:57:07
 9 administration review, is to then provide a 10:57:11
 10 report to a motions committee of our 10:57:14
 11 standards council. 10:57:17
 12 Q. Is that your complete answer to my question? 10:57:22
 13 A. No. 10:57:24
 14 Q. Please continue your answer till you've 10:57:25
 15 answered my question. 10:57:28
 16 MR. FEE: Objection. Calls for a 10:57:30
 17 narrative. 10:57:31
 18 MR. REHN: Yes, same objection and 10:57:33
 19 it's a compound question. 10:57:34
 20 A. The next step of the process is that 10:57:37
 21 subcommittee of our standards council, the 10:57:40
 22 motions committee reviews those motions and 10:57:45
 23 determines if they're in order or not in 10:57:46
 24 order. 10:57:48
 25 Q. So that's your testimony as to what the 10:58:07
 Page 41

1 complete process is? 10:58:09
 2 A. No. 10:58:10
 3 Q. My question was please describe the complete 10:58:11
 4 process. 10:58:14
 5 MR. REHN: Same objection. 10:58:15
 6 Q. Can you please answer my questions. 10:58:16
 7 MR. REHN: It calls for a narrative 10:58:19
 8 answer. It's a compound question. I'm 10:58:21
 9 objecting on that basis. 10:58:22
 10 MR. BRIDGES: You can make that 10:58:22
 11 objection, but that's not an instruction not 10:58:23
 12 to answer the question as I've asked. 10:58:25
 13 Q. So I'm not sure why you have a hard time 10:58:28
 14 answering the question I have given you. I'm 10:58:31
 15 asking you to lay out the rest of the 10:58:33
 16 complete process. 10:58:35
 17 MR. REHN: Same objections. 10:58:36
 18 A. The next step of the process after the 10:58:39
 19 motions committee reviews it, there is a vote 10:58:42
 20 of the motions committee to determine what 10:58:44
 21 motions are in order or not in order and a 10:58:47
 22 motions committee report is published. 10:58:50
 23 Q. Do you have anything further to say in answer 10:58:54
 24 to the question? 10:58:57
 25 MR. REHN: Same objection. It's 10:58:58
 Page 42

1 vague now, in addition. 10:59:01
 2 A. To the point that we have come to in the 10:59:06
 3 process, my answer is complete. 10:59:08
 4 Q. I'm asking you to tell me about the complete 10:59:09
 5 process. For some reason you're resisting 10:59:12
 6 giving an answer to the question I've made. 10:59:14
 7 I'm asking you for a complete answer to 10:59:17
 8 describe the entire process. 10:59:19
 9 MR. REHN: Objection as to form. 10:59:21
 10 Argumentative, calls for a compound. It's a 10:59:22
 11 compound question, calls for a narrative. 10:59:25
 12 You're now pretty vague about what we're even 10:59:27
 13 talking about. 10:59:30
 14 Q. You may answer. 10:59:33
 15 A. Once the motions committee report is 10:59:37
 16 published, there is an opportunity for appeal 10:59:40
 17 or challenge of that motions committee 10:59:43
 18 report. 10:59:47
 19 Q. So is your answer now complete? 10:59:50
 20 A. No. 10:59:52
 21 Q. Tell me when your answer is complete, please. 10:59:52
 22 MR. REHN: Objection as to form. 11:00:06
 23 Argumentative. It's a compound question. 11:00:07
 24 A. I would ask that you restate the question 11:00:15
 25 because our process is a long process and 11:00:19
 Page 43

1 there's many, many steps. Each one has 11:00:23
 2 multiple points. 11:00:25
 3 Q. Please take me through it. 11:00:28
 4 MR. REHN: Same objections. 11:00:30
 5 Q. Please tell me what the steps are and the 11:00:31
 6 multiple points are in that process and tell 11:00:35
 7 me when your answer is complete. 11:00:37
 8 MR. REHN: Same objections. 11:00:38
 9 Compound question. 11:00:39
 10 A. For clarification, I'd like you to state 11:00:41
 11 where you would like me to start. 11:00:44
 12 Q. Where you left off. 11:00:45
 13 A. After the appeal process, if there's none, 11:00:48
 14 then that would be the motions committee 11:00:57
 15 report, which would be the agenda for our 11:00:59
 16 technical committee session. 11:01:01
 17 Q. Tell me when your answer is complete. 11:01:14
 18 MR. REHN: Objection as to form. If 11:01:17
 19 there's a specific question pending -- 11:01:20
 20 MR. BRIDGES: There is a specific 11:01:25
 21 question pending. 11:01:25
 22 MR. REHN: The question is extremely 11:01:25
 23 broad. It's calling for a long narrative 11:01:28
 24 answer and it's compound. It's vague. And 11:01:31
 25 he's answering the question. 11:01:33
 Page 44

1 MR. BRIDGES: Your objections are 11:01:35
 2 noted. 11:01:36
 3 MR. REHN: Is there a question 11:01:37
 4 pending? 11:01:38
 5 MR. BRIDGES: Yes, there is. 11:01:39
 6 MR. REHN: I'm not aware of it. 11:01:40
 7 A. Can you please restate the question for me. 11:01:44
 8 Q. Please tell me what the steps are and the 11:01:52
 9 multiple points that are in that process and 11:02:03
 10 tell me when your answer is complete. 11:02:07
 11 A. Again, for clarification. 11:02:11
 12 MR. REHN: Objection as to form. 11:02:13
 13 It's clearly a compound question, and I 11:02:15
 14 object on that basis in addition to the form 11:02:19
 15 of the question and the other objections that 11:02:23
 16 we've noted. 11:02:27
 17 A. Again, for clarification, you picked one 11:02:29
 18 point in our process and my answer is not 11:02:34
 19 complete. If you have a specific question 11:02:40
 20 related to our process, I'd be happy to 11:02:41
 21 answer that. 11:02:45
 22 Q. I want you to complete describing the process 11:02:45
 23 that I asked you about. I asked you to take 11:02:48
 24 me through the whole process and the multiple 11:02:51
 25 points. I'm asking you to give a complete 11:02:54
 Page 45

<p>1 description. 11:02:58 2 MR. REHN: Same objection. 11:03:00 3 Q. That's a fair question and if you're refusing 11:03:01 4 to answer, that's fine. Are you saying 11:03:03 5 you're refusing to answer my question? 11:03:05 6 MR. REHN: Same objection. 11:03:07 7 Argumentative. Mischaracterizes what the 11:03:08 8 witness has said. And if you have a specific 11:03:12 9 question about the process, please ask that 11:03:16 10 question. 11:03:18 11 MR. BRIDGES: No, I have a general 11:03:18 12 question about the process that I'm asking 11:03:20 13 him to give me a complete answer to. 11:03:22 14 Q. So please keep going. 11:03:23 15 MR. REHN: We registered our 11:03:24 16 objections to that question. 11:03:26 17 MR. BRIDGES: Many times. 11:03:26 18 MR. REHN: It's vague. It's 11:03:27 19 compound. 11:03:28 20 MR. BRIDGES: And you've not 11:03:28 21 instructed him not to answer. 11:03:30 22 MR. FEE: It's obvious the witness 11:03:31 23 doesn't understand what you're asking. 11:03:33 24 MR. BRIDGES: No, he understands 11:03:34 25 what I'm asking. 11:03:35 Page 46</p>	<p>1 all you want. And if he's not answering, 11:04:20 2 the record will show that. We can take a 11:04:22 3 break. If he wants to look back through the 11:04:23 4 transcript and understand what the question 11:04:25 5 is, fine. Let's go off the record. 11:04:26 6 MR. REHN: Okay. We can go off the 11:04:29 7 record. 11:04:31 8 VIDEOGRAPHER: The time is 11:04. 11:04:31 9 We are now off the record. 11:04:33 10 (Break taken) 11:04:34 11 VIDEOGRAPHER: The time is 11:14. 11:14:13 12 We are now back on the record. 11:14:26 13 (Exhibit 1227 marked for 11:14:32 14 identification.) 11:14:32 15 BY MR. BRIDGES: 11:14:36 16 Q. Mr. Dubay, I've handed you Exhibit 1227, I 11:14:36 17 believe that is. What is that document? 11:14:42 18 A. To me it appears to be a portion of our 11:14:45 19 regulations governing committee projects, our 11:14:51 20 actual standards directory. 11:14:55 21 Q. You say it's a portion of the regulations? 11:14:57 22 A. I'll correct that slightly, that I believe 11:14:59 23 it's a portion of our directory which 11:15:02 24 includes our regulations. And it appears to 11:15:04 25 be, to the best of my quick review, a set of 11:15:09 Page 48</p>
<p>1 Q. Please proceed. 11:03:36 2 MR. REHN: Please proceed? Is there 11:03:38 3 a question pending? Can you please ask a 11:03:40 4 question. 11:03:42 5 MR. BRIDGES: The question is 11:03:42 6 pending. 11:03:43 7 MR. REHN: Can you repeat the 11:03:45 8 question. 11:03:46 9 MR. BRIDGES: We'll go off the 11:03:46 10 record and then I can repeat it to him and 11:03:48 11 let him soak it in as long as he wants, but 11:03:51 12 he's wasted so much time in this fashion 11:03:55 13 and you've wasted time with the objections. 11:03:56 14 I'm trying to get a straightforward answer 11:03:58 15 about the process. Let's go off the record 11:04:01 16 and he can -- 11:04:02 17 MR. REHN: Andrew, we're not going 11:04:02 18 off the record quite yet. Your points are 11:04:03 19 poorly taken. Your question is improper, and 11:04:06 20 you're the one wasting time by not asking 11:04:08 21 specific questions to invoke specific answers 11:04:11 22 rather than improper, general, compound and 11:04:14 23 vague questions. 11:04:16 24 MR. BRIDGES: They're not 11:04:16 25 objectionable. You can make your objections 11:04:17 Page 47</p>	<p>1 our current regulations. 11:15:11 2 Q. This is a complete set of the current 11:15:13 3 regulations, correct? 11:15:15 4 A. The best I can tell just flipping through, it 11:15:17 5 looks complete. 11:15:20 6 Q. These are the regulations that set forth 11:15:21 7 the process that we were discussing before 11:15:23 8 the break in the deposition; is that correct? 11:15:24 9 A. Yes. 11:15:27 10 MR. REHN: Objection as to form. 11:15:28 11 Q. Do they contain a complete set of the 11:15:29 12 procedures used in the development of NFPA 11:15:35 13 standards? 11:15:41 14 A. Yes, these are our regulations which define 11:15:43 15 how our standards process works. 11:15:46 16 Q. And it defines the various entities such as 11:15:48 17 committees and councils that participate in 11:15:54 18 that process; is that correct? 11:15:57 19 MR. REHN: Objection as to form. 11:16:01 20 A. The regulations actually cover our operations 11:16:03 21 from our standards council through the 11:16:08 22 committees, through the development of the 11:16:10 23 standards as well as through such things as 11:16:12 24 tentative interim amendments and formal 11:16:16 25 interpretations. 11:16:18 Page 49</p>

1 Q. Is there anything about the development of 11:16:19
 2 standards that the regulations do not cover? 11:16:21
 3 A. Our regulations cover the specific accredited 11:16:27
 4 rules and hence, its regulations. We also 11:16:33
 5 have our committee officers guide which 11:16:35
 6 provides guidance to our technical committee 11:16:37
 7 members as well as our chairs and our manual 11:16:41
 8 style. 11:16:46
 9 Q. What other documents govern or regulate the 11:16:46
 10 development of standards within NFPA? 11:17:44
 11 A. Off the top of my head I can't think of 11:17:56
 12 anything else. 11:17:59
 13 Q. Who participates in -- strike that. 11:18:09
 14 Who are the members, generally 11:18:17
 15 speaking, the category of NFPA's technical 11:18:20
 16 committees? 11:18:26
 17 A. Just for clarification, the representation or 11:18:29
 18 are they members of NFPA? We have 11:18:36
 19 categories -- we have interest categories of 11:18:39
 20 our committee members. 11:18:43
 21 Q. Who -- what persons are entitled to be 11:18:43
 22 members of NFPA's technical committees? 11:18:48
 23 MR. REHN: Objection as to form. 11:18:51
 24 A. Anyone can apply to be a member of an NFPA 11:18:55
 25 technical committee, and based upon their 11:18:59
 Page 50

1 expertise and their background, they're 11:19:01
 2 evaluated through a process that ultimately 11:19:04
 3 involves standards council appointing them 11:19:07
 4 to, or not appointing, depending on their 11:19:10
 5 credentials, to the various technical 11:19:12
 6 committees. 11:19:14
 7 Q. So the standards council determines who gains 11:19:17
 8 admission to membership in the technical 11:19:21
 9 committees? 11:19:23
 10 A. That's correct. 11:19:24
 11 Q. What criteria does the standards council 11:19:27
 12 apply in determining who should gain 11:19:35
 13 membership to the technical committees? 11:19:39
 14 MR. REHN: Objection as to form. 11:19:42
 15 A. It's a multipart criteria. First is 11:19:46
 16 technical expertise within that subject 11:19:51
 17 matter. Second is balance; is the committee 11:19:54
 18 an appropriate balance. And third is the 11:20:01
 19 ability to participate. 11:20:02
 20 Q. What do you mean by balance? 11:20:06
 21 A. By our regulations, NFPA technical committees 11:20:12
 22 are required to have a balance of interest 11:20:16
 23 categories to ensure that no one party or one 11:20:18
 24 interest category can dominate the process. 11:20:21
 25 Q. What are the interest categories? 11:20:24
 Page 51

1 A. There are, I believe, nine interest 11:20:27
 2 categories, including -- one example is 11:20:31
 3 research and testing is an example. Another 11:20:37
 4 example is enforcer, which includes 11:20:40
 5 government officials, both, sometimes federal 11:20:44
 6 but state and local jurisdictions, as well as 11:20:48
 7 special expert, which is consultants as an 11:20:52
 8 example. 11:20:56
 9 Users, installer maintainers which 11:20:56
 10 are those who install the systems, consumers, 11:21:02
 11 and that's all I can think of. I'm not sure 11:21:13
 12 if I said it, but consumer is another one 11:21:30
 13 that can represent a special -- have a 11:21:34
 14 specific slot. Oh, I'm sorry, one other slot 11:21:35
 15 is labor, is another slot. 11:21:38
 16 Q. Thank you. Are all NFPA employees members of 11:21:51
 17 the technical committees? 11:22:16
 18 MR. REHN: Objection as to form. 11:22:20
 19 A. NFPA employees are not -- cannot be members 11:22:23
 20 of our technical committees. However, as I 11:22:27
 21 stated previously, it's important -- there's 11:22:30
 22 an important role that NFPA staff plays in 11:22:32
 23 guiding, advising the committee, coordinating 11:22:35
 24 the activities and providing their technical 11:22:37
 25 expertise, especially technical staff liaison 11:22:40
 Page 52

1 into this committee process. But they do not 11:22:43
 2 have -- they're not members of the committee, 11:22:46
 3 and they do not carry a vote in the decisions 11:22:48
 4 of the committees. 11:22:51
 5 Q. Who constitutes by category of employment 11:23:01
 6 is -- strike that. 11:23:08
 7 By category of employment, who 11:23:09
 8 constitutes the members of the standards 11:23:11
 9 council? 11:23:15
 10 MR. REHN: Objection as to form. 11:23:15
 11 It's vague. 11:23:17
 12 A. I'd like to provide just a quick comment to 11:23:19
 13 help you clarify the question from my 11:23:26
 14 understanding. Oftentimes our council 11:23:27
 15 members and our committee members are not 11:23:29
 16 appointed based upon employment. It's based 11:23:31
 17 upon the interest category they represent. 11:23:33
 18 Q. Thank you, yes. By interest category -- 11:23:37
 19 strike that. 11:23:43
 20 You mentioned interest categories 11:23:44
 21 for technical committee membership, correct? 11:23:47
 22 A. Yes. 11:23:49
 23 Q. Do the same interest categories apply for 11:23:49
 24 appointments or election to -- strike that. 11:23:53
 25 How is the standards council -- strike that. 11:23:58
 Page 53

<p>1 How are persons chosen to serve on 11:24:06 2 the standards council? 11:24:08 3 MR. REHN: Object to the form. 11:24:12 4 A. Because the standards council is the 11:24:15 5 overarching body over our entire standards 11:24:18 6 development process, they are appointed 11:24:21 7 through a process that involves the NFPA 11:24:24 8 president making recommendations to the NFPA 11:24:27 9 board of directors. Ultimately the standards 11:24:29 10 council members are appointed by our board of 11:24:33 11 directors. 11:24:35 12 Q. Are any NFPA employees members of the 11:24:40 13 standards council? 11:24:43 14 MR. REHN: Objection as to form. 11:24:45 15 A. Specifically, no. However, similar to the 11:24:49 16 technical committees, there is staff assigned 11:24:51 17 to support the standards council, their 11:24:55 18 activities and their decisions. 11:24:58 19 Q. I'd like to go back for a moment to the 11:25:11 20 process after the technical committee has 11:25:19 21 decided on changes to a standard. 11:25:26 22 And you say that a staff 11:25:31 23 representative, NFPA staff representative 11:25:38 24 will capture those changes from the technical 11:25:41 25 committee, correct? 11:25:44</p> <p style="text-align: right;">Page 54</p>	<p>1 It's ambiguous. 11:26:54 2 A. The final decision is accomplished through 11:26:56 3 that ballot of the technical committee, but 11:26:58 4 the wording itself is that combination of the 11:27:01 5 technical staff and the committee working to 11:27:05 6 capture the requirement and get it worded 11:27:07 7 properly in the right context, in the right 11:27:09 8 order within a document so that when the 11:27:12 9 final specific words are balloted, the 11:27:14 10 committee has it in context of the whole 11:27:18 11 standards and they can make that decision, 11:27:20 12 seeing it within the body of the standard. 11:27:22 13 Q. When the text is balloted, is there any 11:27:24 14 indication to the members of the committee 11:27:27 15 what variations have occurred as a 11:27:32 16 consequence of staff input from the text that 11:27:38 17 the committee itself was proposing? 11:27:43 18 MR. REHN: Objection as to form. 11:27:47 19 Vague. Lacks foundation. Assumes facts not 11:27:48 20 in evidence. 11:27:51 21 A. There are really two types of changes the 11:27:53 22 committee is balloted on. One is the -- a 11:27:57 23 plain first revision or second revision, 11:28:01 24 which may have been edited to comply with our 11:28:04 25 manual style, get the wording right. That is 11:28:07</p> <p style="text-align: right;">Page 56</p>
<p>1 MR. REHN: Object to the form. 11:25:48 2 A. The NFPA technical staff that serves as, the 11:25:50 3 term we use is a staff liaison to a technical 11:25:54 4 committee, they do more than just capture the 11:25:56 5 specific wordings. 11:26:00 6 What they do is they are each 11:26:01 7 technical experts in their field and they not 11:26:03 8 only capture or record those changes, but 11:26:06 9 they provide their expertise to the 11:26:09 10 committee, their field experience, what they 11:26:11 11 have, the information that they're bringing 11:26:14 12 in through questions on the standards and 11:26:16 13 such. 11:26:18 14 And they provide that technical 11:26:19 15 expertise to the committee so the committee 11:26:21 16 can utilize that, a complete combination with 11:26:24 17 all the public input or comments, to land on 11:26:27 18 a final set of proposed language. In 11:26:32 19 summary, it's more than just recording. 11:26:37 20 They're not really recording secretaries, per 11:26:39 21 se. 11:26:43 22 Q. But who ultimately determines the language of 11:26:43 23 the technical committee's proposed changes to 11:26:47 24 a code or standard? 11:26:51 25 MR. REHN: Objection as to form. 11:26:53</p> <p style="text-align: right;">Page 55</p>	<p>1 connected directly to the work of the 11:28:09 2 committee. The second is a revision that's 11:28:11 3 tied to a pure editorial change. 11:28:15 4 Q. Do either of these sets of revisions get 11:28:19 5 identified to technical committee members so 11:28:24 6 that they can understand what input or 11:28:28 7 changes, if any, the technical committee 11:28:31 8 staff contributed? 11:28:35 9 MR. REHN: Objection as to form. 11:28:41 10 A. Yes, they all do. All changes are indicated 11:28:44 11 to the technical committees for balloting. 11:28:48 12 And if there is, in the sense of an editorial 11:28:50 13 revision, it's indicated that this was 11:28:54 14 identified by staff as a potential editorial 11:28:57 15 revision. The committee can then, in their 11:29:01 16 voting, decide whether that change moves 11:29:05 17 forward or not. 11:29:10 18 Q. Where in the records of the development of 11:29:10 19 each standard does one find the indications 11:29:12 20 of those changes? 11:29:17 21 MR. REHN: Objection to the form. 11:29:21 22 A. They are part of the first draft report or, 11:29:25 23 and/or, depending, the second draft report. 11:29:29 24 Both those reports consolidate the whole 11:29:33 25 record. 11:29:35</p> <p style="text-align: right;">Page 57</p>

<p>1 Q. Where does one find the first draft report 11:29:36 2 and the second draft report? 11:29:38 3 A. On our document information pages. We call 11:29:40 4 them doc info pages. It's our website. 11:29:46 5 Q. Are any of the -- those changes identified in 11:29:52 6 any publicly available document? 11:30:05 7 A. Our process is completely open to the public. 11:30:14 8 All of those changes, documents, reports are 11:30:18 9 publicly available to anyone on our website. 11:30:21 10 Q. So I can go find the first draft report and 11:30:25 11 the second draft of any code or standard on 11:30:27 12 an NFPA's website? 11:30:30 13 MR. REHN: Object to the form. It's 11:30:34 14 vague as to time. 11:30:37 15 A. I would say provided there is a first or 11:30:40 16 second draft report. Some documents at the 11:30:43 17 stage may not have one. So if there's a 11:30:46 18 document in a revision cycle or there is a 11:30:49 19 first or second report, it would be 11:30:51 20 available, absolutely. 11:30:53 21 Q. Are the first or second draft reports 11:30:54 22 publicly available of the 2008 NEC? 11:30:57 23 MR. REHN: Objection as to form. 11:31:04 24 A. The 2008 NEC was published under our old, 11:31:07 25 excuse me, our old standards development 11:31:14 Page 58</p>	<p>1 MR. REHN: Same objection. 11:32:34 2 A. What I can say about when you look at the 11:32:36 3 wording of a standard, what's been added or 11:32:39 4 worked on by technical staff is, any changes, 11:32:42 5 any text that has been modified in the 11:32:45 6 document has been worked on by technical 11:32:47 7 staff, has been modified, been adjusted to 11:32:49 8 fit the form of our manual style as well as 11:32:54 9 to be consistently worded with the technical 11:32:57 10 body of the standard. 11:32:59 11 So each and every change has been 11:33:01 12 clarified or worked on by technical staff to 11:33:06 13 get it ready for committee ballot. So 11:33:09 14 there's an extensive amount of time. The NEC 11:33:11 15 is an excellent example of the NFPA staff get 11:33:15 16 it worded correctly and in proper format, 11:33:18 17 style and technical comments to be balloted 11:33:23 18 by the technical committee. 11:33:28 19 Q. Where can one detect what changes -- you used 11:33:28 20 the word "worked on," for example. That's a 11:33:33 21 little vague in this context. I would like 11:33:36 22 to know how one can identify any text 11:33:38 23 contributed by technical committee staff 11:33:42 24 liaison in any NFPA code or standard. 11:33:48 25 MR. REHN: Objection as to form. 11:33:54 Page 60</p>
<p>1 system, so there would not be a first or 11:31:14 2 second draft report. There would be a report 11:31:17 3 on proposals and a report on comments. 11:31:23 4 Q. Does either of those reports show what 11:31:26 5 changes in text may have been contributed by 11:31:30 6 technical staff, technical committee 11:31:33 7 liaisons? 11:31:38 8 A. All of the changes in our old system were 11:31:41 9 contained within the proposals and action on 11:31:45 10 proposals and comment and actions on 11:31:48 11 comments, so, in some cases, they may have 11:31:50 12 been called out on the report and in some 11:31:53 13 cases not. 11:31:56 14 Ultimately, all of them had been 11:31:57 15 balloted through the technical committees. 11:31:58 16 Whatever you see in the report on proposals 11:32:01 17 are comments that had gone through the 11:32:03 18 committee process. 11:32:05 19 Q. I'm trying to understand how one can 11:32:05 20 ascertain what, if any, text in any code or 11:32:08 21 standard has been contributed by NFPA 11:32:17 22 technical staff. 11:32:21 23 MR. REHN: Objection as to form, and 11:32:26 24 the compound nature of the question. 11:32:29 25 Q. Please tell me how one can ascertain that. 11:32:31 Page 59</p>	<p>1 It's ambiguous. It's compound. 11:33:55 2 A. Because -- how can I explain. Because 11:34:03 3 ultimately the final text, the changes are 11:34:06 4 balloted by the technical committee, 11:34:10 5 oftentimes the staff's work on that text is 11:34:12 6 contained within the same wording that's 11:34:15 7 being balloted, the ultimate wording that's 11:34:17 8 balloted by the committee. 11:34:20 9 So in our old system, that was 11:34:21 10 all -- when you see a change in the document, 11:34:22 11 you can know, and that's why I had my 11:34:24 12 previous answer, that staff was involved in 11:34:26 13 that process. 11:34:28 14 In the new process that happens with 11:34:30 15 every revision, every revision staff is 11:34:31 16 involved in and worked on and more or less 11:34:35 17 touched, modified, cleaned up to get it ready 11:34:37 18 for balloting. 11:34:40 19 There's also an additional level in 11:34:41 20 our new process of editorial revisions so 11:34:42 21 that it's clear to the committee that this is 11:34:47 22 something that is not directly tied but it is 11:34:48 23 because of another technical change. So it's 11:34:52 24 just slightly different. 11:34:54 25 But I can say clearly, if you see a 11:34:56 Page 61</p>

1 revision to the document or a change, for 11:34:57
 2 example, to the 2008 NEC, that text has been 11:35:00
 3 worked on by editorial production, technical 11:35:05
 4 expertise of the staff liaisons on that 11:35:07
 5 project. That's their job. 11:35:11
 6 Q. But I'm not asking about what the technical 11:35:14
 7 staff have worked on because they may have 11:35:16
 8 worked on language that may have come from 11:35:20
 9 the 2005 NEC that has survived into the 2008, 11:35:22
 10 2011, 2014. I'm asking how does one identify 11:35:29
 11 any text contributed by a technical committee 11:35:34
 12 staff liaison in any code or standard of NEC? 11:35:41
 13 MR. REHN: Objection as to form. 11:35:45
 14 That's ambiguous. It's compound. 11:35:48
 15 A. Again, to further try to clarify this is if 11:35:52
 16 the text was in a previous edition of the 11:35:57
 17 document and moved forward, it would not 11:36:00
 18 show an indication of being modified. But 11:36:03
 19 wherever there is new text added, deleted 11:36:06
 20 or modified, there's an indication in the 11:36:09
 21 margin or shading, in the case of NEC, that 11:36:11
 22 shows that text has been modified, worked 11:36:15
 23 on, whatever. 11:36:18
 24 And those words can come from lots 11:36:18
 25 of places. And the technical staff is 11:36:20

Page 62

1 involved through the committee meeting as 11:36:24
 2 well as the public, in the case of the ROP 11:36:27
 3 proposals, comments or public input or 11:36:32
 4 public comments, which is all developed 11:36:33
 5 ultimately to be balloted by the technical 11:36:35
 6 committee. 11:36:37
 7 Q. So my question is, when all of these changes 11:36:38
 8 are highlighted, how do we know which changes 11:36:41
 9 came from the technical committee staff 11:36:45
 10 liaison or other NFPA staff as opposed to 11:36:49
 11 from the technical committee members or the 11:36:55
 12 public? 11:36:58
 13 MR. REHN: Same objections as to 11:36:59
 14 the form. It's ambiguous. It's compound. 11:37:01
 15 A. One way to determine that is you could review 11:37:07
 16 each and every of our proposal and comment 11:37:13
 17 forms where the material is submitted and 11:37:17
 18 copyright is signed over to us as NFPA and 11:37:19
 19 our committees act from that. 11:37:22
 20 So you could review each and every 11:37:24
 21 one of those, see what words were submitted, 11:37:26
 22 what words were developed by the committee, 11:37:28
 23 ultimately compare that to the final balloted 11:37:31
 24 text. 11:37:34
 25 But ultimately in the end, the 11:37:34

Page 63

1 understanding in the process all goes around 11:37:37
 2 NFPA's intellectual property, around working 11:37:40
 3 through developing a standard that ultimately 11:37:43
 4 is an NFPA document. 11:37:46
 5 MR. BRIDGES: Move to strike to the 11:37:49
 6 extent he lacks competence and draws legal 11:37:50
 7 conclusions. 11:37:55
 8 Q. My question is what -- you've mentioned that 11:37:58
 9 comments and proposals may show proposed 11:38:07
 10 language, correct? 11:38:12
 11 MR. REHN: Objection as to form. 11:38:16
 12 A. You mentioned comments and proposals, which 11:38:20
 13 again, is our old system, and in that case, 11:38:22
 14 based upon your previous question, one method 11:38:24
 15 to understand where the text came from would 11:38:28
 16 be to review each and every proposal and 11:38:31
 17 comments that is submitted into our standard 11:38:33
 18 development system to see what language was 11:38:36
 19 submitted by the person or persons or 11:38:38
 20 organizations submitting public comments or 11:38:40
 21 proposals, which is part of our copyright and 11:38:42
 22 transfer to the committee. 11:38:46
 23 MR. BRIDGES: Move to strike the 11:38:50
 24 self-serving legal statement. 11:38:51
 25 Q. So that tells us what suggestions and text 11:38:55

Page 64

1 came from non-NFPA staff members, correct? 11:39:01
 2 MR. REHN: Objection as to form. 11:39:08
 3 Mischaracterizes. Ambiguous. 11:39:10
 4 Q. Let me ask you this: Do NFPA staff members 11:39:15
 5 submit forms with their proposed changes 11:39:19
 6 apart from the proposed changes that come 11:39:23
 7 through the technical committee process? 11:39:28
 8 MR. REHN: Objection as to form. 11:39:36
 9 Ambiguous. May call for speculation. 11:39:38
 10 A. NFPA staff are prohibited from submitting 11:39:43
 11 forms, public proposals, comments in the old 11:39:48
 12 system, public input, public comments into 11:39:53
 13 the new system. 11:39:54
 14 Q. Why are they prohibited from doing so? 11:39:57
 15 MR. REHN: Objection as to form. 11:40:01
 16 A. Because the reason NFPA staff are prohibited 11:40:06
 17 from participation at that level of our 11:40:10
 18 process is to ensure that they are acting as 11:40:12
 19 neutral facilitators as well as focusing on 11:40:16
 20 capturing and working with the committee and 11:40:19
 21 using their expertise to accomplish the goals 11:40:21
 22 of the technical committee. 11:40:23
 23 Q. So if you need to identify language that NFPA 11:40:28
 24 staff members on their own contributed to any 11:40:39
 25 NFPA codes or standards, where would you 11:40:48

Page 65

1 go -- strike that. 11:40:50
 2 If you needed to identify the 11:40:53
 3 language that NFPA employees contributed to 11:40:55
 4 NFPA codes and standards, how would you 11:41:05
 5 determine that language? 11:41:07
 6 MR. REHN: Objection as to form. 11:41:10
 7 It's vague and compound. 11:41:11
 8 A. What we could determine is the language the 11:41:15
 9 technical committee at the end of the day 11:41:19
 10 approved. Into -- each individual word and 11:41:21
 11 such would be difficult, if not impossible, 11:41:25
 12 because of ultimately the technical staff 11:41:30
 13 provides that content to the committee which 11:41:33
 14 then approves those words. 11:41:35
 15 Q. You said the technical staff provides the 11:41:37
 16 content to the committee? The technical 11:41:44
 17 staff doesn't draft the standards, correct? 11:41:47
 18 MR. REHN: Objection as to form. 11:41:51
 19 Mischaracterizes. 11:41:53
 20 A. In many cases the technical staff in the room 11:41:59
 21 is drafting the text. 11:42:02
 22 Q. Is proposing new text? 11:42:04
 23 A. In some cases yes, to accomplish what the 11:42:10
 24 committee is trying to accomplish. The 11:42:13
 25 technical staff of NFPA are experts in their 11:42:15
 Page 66

1 field, and the committee may want to 11:42:20
 2 establish a requirement for X and the 11:42:23
 3 technical staff is there saying, well, we can 11:42:24
 4 word it this way and that way, does this meet 11:42:27
 5 your intent, how about we do this, I can 11:42:29
 6 research some information, get back to you at 11:42:30
 7 the next meeting. 11:42:32
 8 The technical staff provides a vital 11:42:33
 9 role in helping the technical committee 11:42:35
 10 accomplish their mission of developing those 11:42:38
 11 words that become ultimately the final words 11:42:40
 12 of the standard. 11:42:43
 13 Q. Who makes the decision about the words in a 11:42:44
 14 standard? 11:42:46
 15 MR. REHN: Objection as to form. 11:42:46
 16 Ambiguous. 11:42:48
 17 A. The final decision is -- and to summarize, 11:42:49
 18 it's a two-part decision. A committee 11:42:54
 19 ballots on it, the ballot's on the final 11:42:55
 20 word, the committee approves it. At the 11:42:58
 21 end of the day our standards council issues 11:43:00
 22 that document, but the committee ballot 11:43:03
 23 establishes the position of the type of 11:43:03
 24 committee at that time. 11:43:07
 25 Q. And how does the text evolve up to the point 11:43:07
 Page 67

1 that the text of the technical committee is 11:43:16
 2 balloted? 11:43:19
 3 MR. REHN: Objection as to form. 11:43:20
 4 Ambiguous. Compound. 11:43:22
 5 A. The text can evolve and by evolve, you mean 11:43:25
 6 created and included? Is that what you're 11:43:28
 7 saying? 11:43:31
 8 Q. I think so. 11:43:32
 9 A. So in a few ways. One is it can be submitted 11:43:33
 10 through a proposal form or public input form 11:43:37
 11 or a public comment form. The language can 11:43:45
 12 come from that. It can come from the 11:43:49
 13 expertise of the technical committee members 11:43:53
 14 who are sitting on the committee, or it can 11:43:55
 15 come from technical staff providing that to 11:43:58
 16 the committee as their work progresses along. 11:44:01
 17 Ultimately that evolution is the 11:44:06
 18 staff liaison synthesizes all that with the 11:44:08
 19 direction of the committee to land on the 11:44:13
 20 final technical language that is balloted. 11:44:15
 21 Q. With the direction of the committee, meaning 11:44:18
 22 with the approval of the committee members? 11:44:29
 23 MR. REHN: Objection as to form. 11:44:31
 24 Mischaracterizes the testimony. 11:44:34
 25 Q. What do you mean by with the direction of the 11:44:36
 Page 68

1 committee? 11:44:38
 2 A. So a committee could want to establish a 11:44:40
 3 requirement again for X for something and 11:44:45
 4 they may say, we want the requirement to read 11:44:48
 5 12 and the staff liaison would have to put 11:44:51
 6 text around that to get it to read in context 11:44:55
 7 of the document. Or they may say we want to 11:44:57
 8 have a draft chapter on something, technical 11:45:00
 9 staff can you do research, pull together 11:45:03
 10 drafting of documents to present to the 11:45:12
 11 committee to consider. 11:45:14
 12 In the end the committee will agree 11:45:16
 13 through a meeting vote what text is going to 11:45:19
 14 move forward towards ballot. Then the 11:45:21
 15 staff's job is to turn that into a ballot and 11:45:24
 16 make sure it fits to our manual style and 11:45:28
 17 ballot with the technical committee on the 11:45:28
 18 final language. 11:45:31
 19 Q. What criteria do technical committees use 11:45:31
 20 to determine what text moves forward to a 11:45:34
 21 ballot? 11:45:37
 22 MR. REHN: Objection as to form. 11:45:38
 23 A. It's their expertise. It's their 11:45:42
 24 professional opinion in a balanced way 11:45:46
 25 through a meeting vote of what they believe 11:45:48
 Page 69

1 will move forward. There's motions we 11:45:50
 2 follow, Robert's Rules of Order, and when 11:45:53
 3 there's a motion and it carries by a meeting 11:45:55
 4 vote, which is 50 percent plus one, that 11:45:57
 5 proposed change is then approved to move 11:46:00
 6 forward to ballot, to letter ballot, excuse 11:46:02
 7 me. 11:46:08
 8 Q. Your answer focused on the process. I'm 11:46:08
 9 asking what criteria the technical committee 11:46:10
 10 members use to decide what text to move 11:46:15
 11 forward to a ballot. 11:46:18
 12 MR. REHN: Objection as to form. 11:46:20
 13 A. I would think the criteria would depend on 11:46:24
 14 each individual member of the technical 11:46:26
 15 committee and their expertise and what bar 11:46:28
 16 they believe needs to be crossed or what 11:46:31
 17 things they need to have answered 11:46:32
 18 professionally to make a decision to modify 11:46:34
 19 the standard. 11:46:36
 20 Q. What criteria in your role as the person in 11:46:36
 21 charge of standards development at NFPA -- 11:46:42
 22 strike that. 11:46:46
 23 In your role as the person in charge 11:46:46
 24 of standards development at NFPA, what do you 11:46:49
 25 understand the most typical criteria to be by 11:46:52
 Page 70

1 which technical committees determine what 11:46:59
 2 text to move forward to a ballot? 11:47:02
 3 MR. REHN: Objection as to form. 11:47:04
 4 It's vague. 11:47:06
 5 A. I don't think there's a single answer to 11:47:09
 6 that, and that's why we rely on a consensus 11:47:11
 7 ballot that requires two-thirds of our 11:47:15
 8 technical committee to move anything forward. 11:47:16
 9 That's part of the open consensus process in 11:47:20
 10 that you need two-thirds of a balanced 11:47:22
 11 committee to agree on a technical change to 11:47:26
 12 move it forward. 11:47:28
 13 Each party is going to have a 11:47:29
 14 different motivation for how they want to 11:47:31
 15 vote or how they want things to go forward or 11:47:32
 16 not. 11:47:35
 17 Q. Tell me and enumerate for me some of the 11:47:35
 18 criteria that you understand them to apply in 11:47:38
 19 determining what text to move forward to a 11:47:42
 20 ballot. 11:47:44
 21 MR. REHN: Same objection. 11:47:44
 22 A. Some criteria could include what's the loss 11:47:49
 23 data associated with this issue that we're 11:47:54
 24 facing, fire loss data, injuries, deaths and 11:47:57
 25 such. Some can include economic gain. It's 11:48:00
 Page 71

1 cheaper, easier to accomplish things, 11:48:04
 2 accomplishes a higher level of safety. Those 11:48:07
 3 are a few examples. 11:48:10
 4 Q. Please give me more examples of criteria that 11:48:12
 5 technical committee members would use in 11:48:16
 6 deciding what text to move forward to ballot. 11:48:18
 7 MR. REHN: Same objection. 11:48:20
 8 A. Other the examples could include research, 11:48:23
 9 data. Such things -- another example could 11:48:30
 10 be loss reports. For example, there's been a 11:48:37
 11 large fire somewhere, a large chemical hazard 11:48:41
 12 or something. There's often an investigative 11:48:43
 13 report that NTSB or CSB or local fire marshal 11:48:45
 14 has done. And the committee would look at 11:48:50
 15 that and say we may have a safety issue that 11:48:52
 16 needs to be addressed. 11:48:54
 17 Q. So you've mentioned information that they 11:48:56
 18 may -- that may motivate them, but I think 11:48:59
 19 your answers are focusing less on what 11:49:06
 20 criteria they apply to determining what text 11:49:09
 21 would move forward. 11:49:11
 22 I'd like for you to tell me the 11:49:12
 23 different criteria that technical committee 11:49:14
 24 members apply, to your knowledge, in deciding 11:49:17
 25 what text to move forward to a ballot. 11:49:20
 Page 72

1 MR. REHN: Same objection. 11:49:23
 2 A. Again, I think it would be difficult, without 11:49:25
 3 speculating, I'm not sure what each person 11:49:29
 4 would use for criteria, and that's why my 11:49:31
 5 answer previously focused on having a 11:49:34
 6 balanced committee of different experts, 11:49:36
 7 topical experts in that area, will each bring 11:49:39
 8 a different set of personal criteria, 11:49:39
 9 personal decisionmaking that will decide 11:49:43
 10 what's going to move forward. 11:49:45
 11 Q. I'd like for you to tell me what some of 11:49:47
 12 those personal criteria are that you were 11:49:49
 13 aware of, based on your interactions with 11:49:52
 14 technical committee members at NFPA. 11:49:55
 15 MR. REHN: Objection as to form. 11:50:00
 16 A. I think many of those things I stated, like 11:50:01
 17 data, research reports, information combined 11:50:03
 18 is one of the main reasons, information is 11:50:09
 19 one of the main things, data, facts are 11:50:11
 20 important criteria for our committee members. 11:50:14
 21 I think the other thing that's very 11:50:17
 22 important to our committee members and to our 11:50:18
 23 process is their extensive experience in the 11:50:20
 24 field and seeing results of different 11:50:24
 25 approaches. 11:50:27
 Page 73

1 Q. Let me rephrase it differently because I'm 11:50:27
 2 not sure you're responding to my question 11:50:29
 3 about criteria. What are the different 11:50:31
 4 reasons, not what background information are 11:50:34
 5 they acting on, but what are the different 11:50:38
 6 goals that, to your knowledge, technical 11:50:40
 7 committee members have in deciding whether to 11:50:45
 8 progress certain text to a ballot? 11:50:49
 9 MR. REHN: Objection as to form. 11:50:54
 10 A. I think the biggest overarching goal is the 11:50:55
 11 accomplishment of the NFPA mission. They 11:51:03
 12 want to ultimately reduce life loss, injury, 11:51:04
 13 property loss, economic loss due to fire and 11:51:09
 14 other related hazards. 11:51:11
 15 Q. How do decisions regarding progressing 11:51:13
 16 certain text to a ballot touch upon that 11:51:17
 17 mission? 11:51:24
 18 MR. REHN: Objection as to form. 11:51:26
 19 A. Fundamentally does it progress towards 11:51:30
 20 accomplishing that mission? Does the 11:51:33
 21 institution of a new technology or a new 11:51:37
 22 requirement or modifying an existing 11:51:39
 23 requirement lead to better life safety, 11:51:42
 24 better fire protection, better electrical 11:51:46
 25 safety, better protection of our nation's 11:51:48
 Page 74

1 first responders? Does it accomplish the 11:51:51
 2 mission? So that's the best way. 11:51:53
 3 Q. Does it -- would you say that a general 11:51:59
 4 question that technical committees address in 11:52:05
 5 deciding whether to progress certain text to 11:52:18
 6 a ballot is whether the proposed change will 11:52:22
 7 improve outcomes? 11:52:29
 8 MR. REHN: Object to the form of the 11:52:34
 9 question. 11:52:37
 10 A. I would speculate that each decision would be 11:52:41
 11 in guidance or in alignment with improving 11:52:47
 12 safety. And those would be the outcomes, 11:52:53
 13 improving safety, reducing loss, preventing 11:52:53
 14 incidents from happening again that resulted 11:52:57
 15 in life loss injuries, property loss, 11:52:59
 16 et cetera. 11:53:04
 17 Q. Who pays for members of the technical 11:53:11
 18 committees to participate in their work? 11:53:15
 19 A. Again, a lot of my answers are it depends. 11:53:23
 20 In this case, you have everything from 11:53:26
 21 companies to people's own time, people taking 11:53:30
 22 vacation time and in some cases, NFPA 11:53:34
 23 reimburses participation through our enforcer 11:53:37
 24 fund to get public safety officials like fire 11:53:41
 25 marshals, electrical inspectors, and other, 11:53:44
 Page 75

1 we call them enforcers, to attend our 11:53:46
 2 committee meetings. 11:53:48
 3 Q. Do any -- does NFPA pay any persons for their 11:53:50
 4 time in participation in the technical 11:53:57
 5 committee work? 11:54:02
 6 A. NFPA does not pay for time, but what we do 11:54:06
 7 for public sector officials who we classify 11:54:09
 8 as enforcers, we have an enforcer fund which 11:54:12
 9 we pay 80 percent of their associated travel 11:54:15
 10 to a committee meeting, including hotel, 11:54:15
 11 airfare, et cetera. 11:54:20
 12 Q. What is the motivation of persons, as you 11:54:20
 13 understand it, to participate in technical 11:54:23
 14 committees? 11:54:28
 15 MR. REHN: Object to the form. 11:54:29
 16 A. I think there's lots of motivations. I think 11:54:32
 17 overwhelmingly the number one motivation, in 11:54:35
 18 my opinion and my years of service, is the 11:54:37
 19 overarching mission of NFPA. Our mission of 11:54:40
 20 safety is very attractive to many people. 11:54:44
 21 Many of our volunteers not only 11:54:47
 22 volunteer to participate in the NFPA process 11:54:49
 23 but also volunteer their time to do so, and 11:54:51
 24 that's a strong indication to me that that's 11:54:54
 25 the primary motivation. 11:54:56
 Page 76

1 Q. Are you aware of any person whose primary 11:55:02
 2 motivation is to receive some financial 11:55:05
 3 reward for participation in the technical 11:55:10
 4 committee process? 11:55:13
 5 A. I'm not aware of an individual, per se, but I 11:55:21
 6 would speculate that these people are experts 11:55:26
 7 in their fields, and there's professional 11:55:28
 8 recognition and acknowledgment for being on 11:55:32
 9 an NFPA technical committee. 11:55:36
 10 MR. BRIDGES: Why don't we take a 11:55:46
 11 break. We've been going for a while. What 11:55:47
 12 time is it? 11:55:51
 13 VIDEOGRAPHER: 11:55. 11:55:51
 14 MR. BRIDGES: We'll keep going. 11:55:52
 15 VIDEOGRAPHER: There's another 11:55:54
 16 15 minutes on the tape. 11:55:55
 17 MR. BRIDGES: We'll keep going 11:55:56
 18 another 15 minutes. 11:55:58
 19 Q. How can the public gain access without 11:56:15
 20 payment to NFPA's codes and standards? 11:56:33
 21 A. NFPA provides free read-only access to all of 11:56:37
 22 our codes and standards to ensure that 11:56:42
 23 anyone, public or private sector or citizen 11:56:46
 24 consumer, has the ability to read and 11:56:49
 25 understand the requirements of any of our 11:56:52
 Page 77