

## MUNGER, TOLLES &amp; OLSON LLP

RONALD L. OLSON  
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 JEFFREY I. WEINBERGER  
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 VICTORIA A. DEGTYAREVA  
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 DANE P. SHIKMAN  
 MAGGIE THOMPSON  
 ALLISON M. DAY  
 GIOVANNI S. SAARMAN GONZÁLEZ  
 STEPHANIE G. HERRERA

601 MASSACHUSETTS AVENUE NW  
 SUITE 500E  
 WASHINGTON, D.C. 20001-5369  
 TELEPHONE (202) 220-1100  
 FACSIMILE (202) 220-2300

350 SOUTH GRAND AVENUE  
 FIFTIETH FLOOR  
 LOS ANGELES, CALIFORNIA 90071-3426  
 TELEPHONE (213) 683-9100  
 FACSIMILE (213) 683-3702

560 MISSION STREET  
 TWENTY-SEVENTH FLOOR  
 SAN FRANCISCO, CALIFORNIA 94105-3089  
 TELEPHONE (415) 512-4000  
 FACSIMILE (415) 512-4077

September 23, 2022

TERESA REED DIPPO  
 DANIEL BENYAMIN  
 SARA A. MCDERMOTT  
 J. MAX ROSEN  
 RACHEL G. MILLER-ZIEGLER\*  
 ANNE K. CONLEY  
 DAVID W. MORGESHEAD  
 ANDRE W. BREWSTER III  
 ROWLEY J. RICE  
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 USHA CHILUKURI VANCE  
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 ZARA BARI  
 BRENDAN B. GANTS\*  
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 BENJAMIN G. BAROKH  
 ABE DYK  
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 MEGAN MCCREADIE  
 STEPHEN HYLAS  
 ARIEL TESHUVA  
 SHANNON GALVIN AMINIRAD  
 XIAONAN APRIL HU\*  
 NATALIE KARL  
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 ERINMA E. MAN  
 CARRIE C. LITTEEN  
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 HUNTER V. ARMOUR  
 NATHANIEL F. SUSSMAN  
 PAUL E. MARTIN  
 REBECCA L. SCIARRINO  
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 BRIAN R. BOESSENECKER  
 AVI REJWAN OVED  
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 LAUREN N. BECK  
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 ANDRÉS CANTERO, JR.  
 GREGORY T. S. BISCHOPING\*  
 JAMIE B. LUGURI

STEVEN B. R. LEVICK  
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 ALEX C. WERNER  
 ROSIO FLORES  
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 ERICA C. TOUCH  
 EVELYN DANFORTH-SCOTT  
 EVAN MANN  
 ANDREW T. NGUYEN  
 RACHEL M. SCHIFF  
 MIRANDA E. REHAUT  
 TIANA S. BAHERI  
 STEPHANY REAVES\*  
 LAUREN E. KUHN  
 MINKEE K. SOHN  
 GARRETT SOLBERG

OF COUNSEL  
 ROBERT K. JOHNSON  
 PATRICK J. CAFFERTY, JR.  
 PETER A. DETRE  
 PETER E. GRATZINGER  
 JENNY H. HONG  
 KIMBERLY A. CHI  
 ADAM R. LAWTON  
 MICHAEL E. GREANEY  
 SARAH J. COLE  
 FAYE PAUL TELLER  
 BOBBY MALHOTRA

E. LEROY TOLLES  
 (1922-2008)

\*ADMITTED IN DC.  
 ALL OTHERS ADMITTED IN CA

Writer's Direct Contact  
 (202) 220-1101  
 (213) 683-4007 FAX  
 Donald.Verrilli@mto.com

Mark J. Langer  
 Clerk of Court  
 United States Court of Appeals for the  
 District of Columbia Circuit  
 333 Constitution Avenue NW  
 Washington, DC 20001

Re: *American Society for Testing and Materials, et al. v. Public.Resource.Org, Inc.,*  
 No. 22-7063

Dear Mr. Langer:

I write to address Plaintiff-Appellants ("Plaintiffs") use of acronyms and abbreviations in their opening brief filed in the above-referenced appeal. Following the Court's letter dated September 19, Plaintiffs have filed a revised brief to eliminate certain acronyms and abbreviations. The revised brief retains three categories of acronyms and abbreviations.

First, the brief uses acronyms to refer to the three Plaintiffs: American Society for Testing and Materials ("ASTM"), National Fire Protection Association ("NFPA"), and American Society of Heating, Refrigerating, and Air Conditioning Engineers ("ASHRAE"). These organizations are widely referred to by their acronyms within the industry, and the parties and previous decisions in this litigation have used those acronyms rather than Plaintiffs' full names. Additionally, Plaintiffs' copyrighted standards at issue in this litigation are named using those acronyms and a number or combination of letters and numbers, rather than Plaintiffs' full names (e.g., ASTM B85, NFPA 70, and ASHRAE 90.1).

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Second, the brief uses the term “IBR” to refer to the process of “incorporation by reference.” This appeal centers on the effects of that process and the term IBR has been widely used by the parties during previous briefing, including previous briefing in this Court. *See, e.g.*, Final Brief of Appellees xviii, *American Society for Testing and Materials et al. v. Public.Resource.Org*, No. 17-7035 (Feb. 14, 2018).

Third, the brief uses “SMF,” “2d. Supp. SMF,” and “3d. Supp. SMF” to refer to three statements of material facts that Plaintiffs filed in the district court. Plaintiffs used those abbreviations in their filings below, and the district court’s opinion adopted very similar abbreviations. *See* Memorandum Opinion 2, 8-9 (using “Pls.’ SMF,” Pls.’ 2d SMF,” and “Pls.’ 3d SMF”). While Plaintiffs could have referred to those filings by their docket numbers instead of those abbreviations, Plaintiffs’ view was that using abbreviations would more clearly communicate the documents being cited than using docket numbers.

Plaintiffs believe that their use of these acronyms and abbreviations is consistent with the Court’s directive dated January 26, 2010 and the D.C. Circuit Handbook. Most significantly, because these acronyms and abbreviations have been extensively used throughout this litigation, Plaintiffs use of them on appeal provides consistency with the record. Moreover, because alternative options available to Plaintiffs (*e.g.*, using “Dkt. 201” rather than “2d. Supp. SMF” to refer to Plaintiffs’ Second Supplemental Statement of Material Facts in Support of Their Second Motion for Summary Judgment) would have, in Plaintiffs’ view, been more cumbersome and difficult for the Court to follow, Plaintiffs’ view is that their use of acronyms and abbreviations is most consistent with the Court’s goal of “enhanc[ing] the clarity of... brief[s].” Notice Regarding Acronyms (Jan. 26, 2010).

I appreciate your courtesy in providing this letter to the Panel. Please do not hesitate to contact me if there is any additional information I can provide.

Very truly yours,

*/s/ Donald B. Verrilli, Jr.*

Donald B. Verrilli, Jr.