

# ALSTON & BIRD

The Atlantic Building  
950 F Street, NW  
Washington, DC 20004-1404  
202-239-3300 | Fax: 202-239-3333

Elizabeth H. Rader

Direct Dial: 202-239-3008

Email: [elizabeth.rader@alston.com](mailto:elizabeth.rader@alston.com)

July 20, 2018

*SUBMITTED VIA CM/ECF*

David J. Smith  
Clerk of Court  
U.S. Court of Appeals for the Eleventh Circuit  
56 Forsyth Street NW  
Atlanta, GA 30303

**Re: *Code Revision Commission et al. v. Public Resource.Org, Inc.,  
Case No. 17-11589-W***

Dear Clerk of Court,

Public.Resource.Org, Inc. (“Public Resource”) wishes to bring to the Court’s and opposing counsel’s attention, as provided for in Federal Rule of Appellate Procedure 28(j), a pertinent and significant (though non-controlling) authority. On July 17, 2018, the U.S. Court of Appeals for the District of Columbia Circuit issued the panel’s decision in *American Society for Testing and Materials v. Public.Resource.Org, Inc.*, Case No. 17-7035, consolidated with Case. No. 17-7039, \_\_\_F.3d. \_\_\_, 2018 WL 3431738 (ASTM). Public Resource is the appellant in both cases. Appellee cited the district court decision the D.C. Circuit reversed and remanded, at p. 10 of its brief. The ASTM opinion discusses at \*8 the issue discussed in Public Resource’s opening brief at 34-38, in Appellee’s brief at 41-42, and in Public Resource’s reply brief at 21-22. It discusses at \*9 the issue discussed in Public Resource’s opening brief at 31-33, in Appellee’s brief at 43-46, and in Public Resource’s reply brief at 20-21. It discusses at \*10 the issues discussed in Public Resource’s opening brief at 40-41, in Appellee’s brief at 47-48, and Public Resource’s reply brief at 22-23. Finally, it discusses at \*11 the issues discussed in Public Resource’s opening brief at 42-47, in Appellee’s brief at 48-51, and in Public Resource’s reply brief at 23-24.

Respectfully,

/s/ Elizabeth H. Rader  
Elizabeth H. Rader, Esq.  
Alston & Bird LLP

Cc: counsel for Appellee via CM/ECF