

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

CODE REVISION COMMISSION on  
behalf of and for the benefit of THE  
GENERAL ASSEMBLY OF  
GEORGIA, and THE STATE OF  
GEORGIA,

Plaintiff,

v.

PUBLIC.RESOURCE.ORG, INC.

Defendant.

CIVIL ACTION NO.

1:15-CV-02594-MHC

**PLAINTIFF COMMISSION'S  
FIRST SET OF INTERROGATORIES (Nos. 1-6)**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Northern District of Georgia, and in accordance with this Court's Scheduling Order (*see* Dkt. No. 013), Plaintiff Code Revision Commission on Behalf of and For the Benefit of the General Assembly of Georgia and the State of Georgia ("Commission"), by and through its attorneys, hereby requests that Defendant Public.Resource.Org, Inc. ("Public.Resource") answer the following First Set of Interrogatories ("Interrogatories") fully in writing, under oath, unless the interrogatory is objected to, in which event Public.Resource shall state the reason for objection and shall

answer to the extent the interrogatory is not objectionable. The answers shall be served within thirty (30) days after service.

Each interrogatory set forth below is addressed to the knowledge of Public.Resource, as well as to the knowledge, information, and documents in the possession, custody, or control of Public.Resource's attorneys, accountants, agents, employees, officers, directors, investigators, consultants, and other representatives. Thus, when an interrogatory is directed to Public.Resource, it is also directed to Carl Malamud as an officer of Public.Resource and to each of the other above-described persons.

### **DEFINITIONS**

The following definitions shall apply with respect to each of the following interrogatories and each of the terms defined below, when used in any interrogatory, shall have the meaning given herein:

1. The terms "Public.Resource, Inc.," "Public.Resource," "Defendant," "You," and "Your" mean and include Public.Resource, Inc., any parent, subsidiary, affiliate or related company thereof, any predecessor-in-interest, and each of Public.Resource's present and former officers, including Carl Malamud, directors, agents, employees, attorneys, accountants, investigators, consultants, or other person acting or purporting to act for Public.Resource or on its behalf.
2. The terms "Plaintiff" and "Commission" mean and include the

Georgia Code Revision Commission.

3. The term “Complaint” as used herein means Commission’s Complaint, filed on July 21, 2015 (Dkt. No. 001), and all amended versions thereof.

4. The terms “Case” and “Action” mean and include the cause numbered and styled as shown in the caption of the document.

5. The term “entity” means corporations, companies, businesses, partnerships, proprietorships, or fictitious or trade names.

6. The terms “communication,” “communicated,” “contact,” and “contacted” include any transmission of information in the form of facts, ideas, inquiries, or otherwise, in any form, between or among two or more persons, by written, oral, or any other means, including, but not limited to, discussions, conversations, negotiations, agreements, understandings, meetings, conferences, interviews, telephonic conversations, correspondence, notes, minutes, memoranda, telegrams, telexes, electronic mail messages, facsimiles, advertisements, or other forms of oral or written intercourse, however transmitted.

7. The term “date” means the exact day, month, and year, if ascertainable, or, if not, the best available approximation.

8. The terms “document” and “documents” shall have the broadest meaning accorded by Rule 34(a) of the Federal Rules and shall include, without

limitation, all of the matters defined in Rule 1001 of the Federal Rules of Evidence, communications (as defined herein), memoranda, stenographic or handwritten notes, drafts, studies, publications, invoices, ledgers, journals, books, records, accounts, pamphlets, voice recordings, photographs, reports, surveys, statistical compilations, work papers, data processing cards, computer tapes or printouts, microfiche or microfilm, and writings of every other kind and character, whether originals or reproductions. The terms “document” and “documents” also include every copy where such copy is not an identical reproduction of the original or where such copy contains any commentary, marginal comment, or notation whatsoever that does not appear in the original. The terms “document” and “documents” also mean and include any printed, typewritten, or handwritten matter of reproduction thereof of whatever character, or means or electronic storage of information, such as e-mail, that is within your possession, control, or custody. The terms “document” and “documents” also include all drafts. Without limitation of the term “control,” a document is deemed to be within your control if you have ownership, possession, or custody of the document or a copy thereof, or the right to secure the document or a copy thereof, from any other person or public or private entity having physical possession thereof. If any document requested herein was, but is no longer, subjected to your control, please state what disposition was made of it, and the date or dates, or the approximate date or dates, of such disposition

without limitation, any electronic or computerized compilation. A non-identical copy is a separate document within the meaning of this term. “Document” and “documents” shall also include any and all data compilations from which information can be obtained.

9. The term “describe” means to set forth a complete and detailed statement of all information, circumstances, and facts that refer to, relate to, reflect, comprise, or bear upon the matter concerning which information is requested.

10. The term “identify” means:

- a. in connection with natural persons, to state their full names, titles and job descriptions, if applicable, and their present or last known business or home addresses;
- b. in connection with firms, partnerships, corporations, proprietorships, associations or other entities, to state their name, and each of their present or last known addresses;
- c. in connection with documents, to describe the documents, setting forth their dates, titles, authors, addressees, parties thereto and the substance thereof, with such reasonable particularity as would be sufficient to permit them to be sought by subpoenas *duces tecum* or under the provisions of Rule 34 of the Federal Rules. Documents to be identified shall include both documents in your possession, custody

and control and all other documents of which you have knowledge;  
and

- d. in connection with oral statements and communications, to (i) state when and where they were made; (ii) identify each of the makers and recipients thereof, in addition to all others present; (iii) indicate the medium of communication; and (iv) state their substance.

11. The term “O.C.G.A.” means a publication containing the official code of Georgia and annotations of the official code.

12. The terms “person” and “people” include natural persons, firms, partnerships, associations, trusts, corporations, or any entities of any kind or description.

13. The terms “post” and “posted” means to make able, or to assist in making able, to be viewed, downloaded and/or accessed as, for example, on a website.

14. The terms “reflecting,” “referring,” “relating/related,” and “concerning” shall be used in the broadest sense and shall mean and include, without limitation, referring to, mentioning, discussing, containing, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing, showing, analyzing, constituting, setting forth and/or evidencing, in any manner whether directly or indirectly, the subject matter of the interrogatory.

15. The term “re-keying” refers to a process by which the text of a document is reentered by hand into a work for republication or reproduction purposes.

16. The term “role” means function, duty, or capacity.

17. Unless stated otherwise, these interrogatories are not limited to any particular time frame.

### **INSTRUCTIONS**

In addition to the Federal Rules, governing law, and the applicable Local Rules, please respond in accordance with the following instructions:

1. The definitions set forth above and the interrogatories set forth below shall have the broadest possible meaning under Rule 26 of the Federal Rules.

2. Separate and complete responses are required for each interrogatory.

3. Each interrogatory is continuing in nature. You are reminded of your obligation to timely supplement your responses pursuant to Rule 26(e) of the Federal Rules.

4. You must expressly identify the interrogatory to which any documents pertain if produced in lieu of answering pursuant to Rule 33 of the Federal Rules.

5. If these interrogatories seek identification of documents, electronic records and electronic communications are specifically included in such interrogatories.

6. All documents produced in response to these interrogatories pursuant to Rule 33 of the Federal Rules shall be produced in the same file or other organizational environment in which they are maintained. For example, if the document is part of a file, docket, study, or other grouping, it should be physically produced together with all other responsive documents from the same file, docket, study, or grouping in the same order or arrangement as the original.

7. Each document produced in response to these interrogatories pursuant to Rule 33 of the Federal Rules is to be produced, along with all drafts thereof, in its entirety, without abbreviation or redaction.

8. Copies of any document responsive to any interrogatory produced in response to these interrogatories pursuant to Rule 33 of the Federal Rules that is not an identical duplicate of the original document because of markings, handwritten notations, or any other difference, should be considered separate documents and should be produced. English translations or partial translations of foreign language documents should also be considered separate documents.

9. In any instance in which an interrogatory is objected to for any reason, including privilege, it is requested that all of the grounds for such objection be stated in detail and that the following information be provided:

- a. for documents, state: (i) the type of document; (ii) general subject matter of the document; (iii) the date of the document; and (iv) such



other information as is sufficient to identify the document for a subpoena *duces tecum*, including, where appropriate, the author of the document, the addressee of the document, and, where not apparent, the relationship of the author and addressee to each other; and

- b. for oral communications; state (i) the name of the person making the communication and the names of persons present while the communication was made and, where not apparent, the relationship of the persons present to the person making the communication; (ii) the date and place of communications; and (iii) the general subject matter of the communication.

10. If you object to any portion of any interrogatory, respond fully to the portions to which your objection does not apply. In addition:

- a. If you object to an interrogatory on the ground that it is too broad, you should respond to the interrogatory by providing all information that is relevant and proportional to the needs of the case and identify all categories of information being withheld on the ground of not being relevant and proportional;
- b. If you object to an interrogatory on the ground that to respond would constitute an undue burden, respond as fully as possible without undertaking an undue burden; and

- c. If you object to any portion of an interrogatory on the ground that it is vague or indefinite, then set forth your understanding of the allegedly vague or indefinite term and answer the interrogatory based upon that stated understanding.

11. If you are unable to answer any of the following interrogatories fully and completely, after exercising due diligence to secure the information necessary to make full and complete answers, so state. In addition, answer each such interrogatory to the fullest extent possible, specifying your knowledge and your inability to answer the remainder, and provide any information you may have related to the unanswered portions of the interrogatory.

12. For purposes of these interrogatories, terms not specifically defined shall be given their ordinary meaning as you understand them to be used in the trade.

13. The singular form of a word shall be interpreted as plural, and the plural form of a word shall be interpreted as singular, whichever makes any interrogatory most broad. “Any” and “all” shall each be construed to mean “any and all,” so as to give each interrogatory the broadest meaning possible. As used in the interrogatories, the present tense shall also include the past tense, so as to give each interrogatory the broadest meaning possible. “And” and “or” shall be construed conjunctively or disjunctively as necessary to make the interrogatory

inclusive rather than exclusive. “Each” shall be construed to include and encompass “every” and “all.” “Including” shall be construed to mean including without limitation. Any pronoun shall be construed to refer to the masculine, feminine, or neutral gender, in singular or plural, as in each case is most appropriate to make each interrogatory inclusive rather than exclusive. All other words and phrases are to be given their ordinary meaning consistent with the Federal Rules and shall not be unduly or restrictively construed so as to avoid responding to the fair scope of the interrogatories.

14. None of these instructions, the definitions set forth above, or the interrogatories set forth below shall be construed as an admission relating to the existence of any evidence, to the relevance or admissibility of any evidence, or to the truth or accuracy of any statement or characterization in the definition or interrogatory.

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** Explain the legal and factual bases of Public.Resource’s Second, Third, Fourth, Fifth, Sixth, and Eighth Affirmative Defenses as set forth in Public.Resource’s Answer to the Amended Complaint and Counterclaim, including an identification of all facts, evidence, documents, and witnesses upon which you intend to rely.

**INTERROGATORY NO. 2:** Describe the factual basis and identify all websites onto which copies of O.C.G.A. volumes and supplements were or are posted by Public.Resource including

- i. the date of said posting;
- ii. an identification of the number and type (e.g., a PDF access, a .xml access) of downloads and/or accesses of said copied volumes and supplements from said websites from the date of said to posting to the present; and
- iii. Public.Resource's control over or ability to remove said posting.

**INTERROGATORY NO. 3:** Describe the factual basis and identify all documents and things reflecting or relating to Public.Resource's knowledge of copies of O.C.G.A. volumes and supplements posted on a website by a Third Party including

- i. an identification of the website and Third Party;
- ii. Public.Resource's knowledge of its ability to remove said posting; and
- iii. Public.Resource's knowledge of the number and type (e.g., a PDF access, an .xml access) of downloads or accesses of said copied volumes and supplements from said websites.

**INTERROGATORY NO. 4:** Describe the factual basis and identify all documents and things reflecting or relating to why Public.Resource purchased the O.C.G.A. in paper or a physical book format instead of a compact disc format.

**INTERROGATORY NO. 5:** Describe the factual basis and identify all documents and things reflecting or relating to Public.Resource's contact with a state or territory regarding that state or territory's publication or dissemination of its statutes.

**INTERROGATORY NO. 6:** Identify each Person, including any Third Party, with knowledge of any facts or assertions set forth in response to any Interrogatory in Commission's First Set of Interrogatories.

January 15, 2016

/s/Anthony B. Askew

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benefit of the General Assembly of  
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**CERTIFICATE OF SERVICE**

I certify that on Friday, January 15, 2016, the foregoing **Plaintiff Commission's First Set of Interrogatories (Nos. 1-6)** was served upon counsel for Defendant Public.Resource.Org by electronic mail at the addresses listed below.

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