EXHIBIT 40

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1	UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
2	
	AMERICAN SOCIETY FOR : Case No.
3	TESTING AND MATERIALS d/b/a: 1:13-cv-01215-PSC-DAR
	ASTM INTERNATIONAL; :
4	:
	NATIONAL FIRE PROTECTION :
5	ASSOCIATION, INC.; and :
	:
6	AMERICAN SOCIETY OF :
	HEATING, REFRIGERATING, :
7	AND AIR-CONDITIONING :
	ENGINEERS, INC. :
8	Plaintiffs, :
	:
9	VS. :
10	: PUBLIC.RESOURCE.ORG, INC., :
TO	Defendant. :
11	Derendance .
± ±	AND RELATED COUNTERCLAIMS. :
12	:
13	
14	Videotaped 30(b)(6) deposition
15	of American Society for Testing & Materials,
16	through DANIEL SMITH, held in the offices of
17	Veritext Philadelphia, 1801 Market Street,
18	Ten Penn Center, Suite 1800, Philadelphia,
19	Pennsylvania 19103, commencing at 10:43 a.m.,
20	July 24, 2015, before Linda Rossi Rios, a
21	Federally Approved RPR, CCR and Notary
22	Public.
23	
24	
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6 (202) 739-5353	Directory
jkfee@morganlewis com	7
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10 FENWICK & WEST LLP	Exhibit 1296 Membership application, 195
BY: MATTHEW BECKER, ESQUIRE	10 ASTM068894
11 and	11 Exhibit 1297 2010 ASTM International 201 Committee Membership
ANDREW P BRIDGES, ESQUIRE	12 Application,
12 555 California Street	ASTM079420
12th Floor 13 San Francisco, California 94104	13 Exhibit 1298 ASTM Application, 204
(415) 875-2389	14 ASTM073844
14 mbecker@fenwick.com	15 Exhibit 1299 ASTM Applications, 205
abridges@fenwick com	ASTM066848 - ASTM066853
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ALSO PRESENT:	18 Exhibit 1301 Membership applications, 210
17 THOMAS B O'BRIEN, JR, Vice President	ASTM066871, ASTM069213,
18 and General Counsel, ASTM International	19 ASTM069058, ASTM080176, ASTM061450, ASTM063146,
19 CARL MALAMUD, Public Resource Org	20 ASTM063147, ASTM065682 &
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	1	
Exhibit 1317 Participating Membership 277 2 Applications,	2 VIDEOGRAPHER: We ar	e now on is
ASTM064686 - ASTM064692	3 record.	
3 Exhibit 1318 E-mail chain with 277	4 Please note that the micropl	nones
4 attachment,	5 are sensitive and may pick up	
ASTM087493 - ASTM087497	6 whispering and private conversa	ations.
5 Exhibit 1319 2011 ASTM International 278	7 Please turn off all cell phones of	r
6 Committee Membership	8 place them away from the micro	phones
Application, 7 ASTM061183	9 as they can interfere with the	
8 Exhibit 1320 How To Standards Writing 279	10 deposition audio. Recording wi	11
101 New Standards	11 continue until all parties agree to	o go
9 Exhibit 1321 How Standards are 280	12 off the record.	-
10 Developed article	13 My name is Ryan Armstron	ıg
11 Exhibit 1322 8/13/08 E-mail, 281 ASTM073852	14 representing Veritext Legal Solu	
ASTM073832	15 The date today is July 24, 2	
Exhibit 1323 Bates Numbers of 284	and the time is approximately 10	
13 Assignment Documents 14	17 a.m.	
15	18 This deposition is being hel	d at
16 17	19 Veritext located at 1801 Market	
17 18	20 Street, Suite 1800, Philadelphia,	,
19	21 Pennsylvania, and is being taken	
20 21	22 counsel for the defense.	2
22	The caption of this case is	
23	24 American Society for Testing an	nd
24 25	25 Materials International, et al. V	
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	1 Public Resource Org Incorpora	
1 DEPOSITION SUPPORT INDEX	1 Public.Resource.Org, Incorpora 2 This case is being held in th	ted.
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1DEPOSITION SUPPORT INDEX2334Page Line Page Line5161212861072862289Request For Production of Documents10Page Line Page Line11(None)1213514151031617Questions Marked	2This case is being held in the United States District Court for District of Columbia, Case Num 54District of Columbia, Case Num 551:13-cv-01215-EGS. The name witness is Dan Smith.7At this time the attorneys present in the room and everyon attending remotely will identify themselves and the parties they represent. Our court reporter Li Rossi, representing Veritext Leg Solutions, will swear in the with and we can proceed.15MR. BECKER: This is Ma Becker and Andrew Bridges of West for the defendant	ted. the the ber of the ne nda gal tess tthew
1DEPOSITION SUPPORT INDEX233916121224172862062421224352862871072862872899101011101213131415103161718181819191111111211311411511013161171818181919101011 <td>2This case is being held in the United States District Court for District of Columbia, Case Num 1:13-cv-01215-EGS. The name witness is Dan Smith.7At this time the attorneys present in the room and everyon attending remotely will identify themselves and the parties they represent. Our court reporter Li Rossi, representing Veritext Leg Solutions, will swear in the with and we can proceed.15MR. BECKER: This is Ma Becker and Andrew Bridges of J Public.Resource.Org.</td> <td>ted. tee the ober of the ne nda gal tess tthew Fenwick &</td>	2This case is being held in the United States District Court for District of Columbia, Case Num 1:13-cv-01215-EGS. The name witness is Dan Smith.7At this time the attorneys present in the room and everyon attending remotely will identify themselves and the parties they represent. Our court reporter Li Rossi, representing Veritext Leg Solutions, will swear in the with and we can proceed.15MR. BECKER: This is Ma Becker and Andrew Bridges of J Public.Resource.Org.	ted. tee the ober of the ne nda gal tess tthew Fenwick &
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3 (Pages 6 - 9)

1 2			
2	phone is Carl Malamud of	1	A. Yes.
	Public.Resource.Org.	2	Q. If at any point you do not
3	MR. FEE: I'm sorry. I did hear	3	understand a question, will you, please, let
4	the caption had EGS at the end.	4	me know and I'll try to clarify the question?
5	That's the wrong caption now. It's	5	A. Yes.
6	re-assigned ending with PSC-DAR.	6	Q. And if you answer my question,
7	Before we get started, I want to	7	I'll assume that you understood. Does that
8	reserve reading and signing for the	8	make sense?
9	witness.	9	A. Yes.
10		10	VIDEOGRAPHER: The time is now
11	DANIEL SMITH, after having been	11	10:46. We're going off the video
12	duly sworn, was examined and testified	12	record.
13	as follows:	13	
14		14	(A recess was taken.)
15	EXAMINATION	15	
16	LAAMINATION	16	VIDEOGRAPHER: The time is now
17	BY MR. BECKER:	17	10:46. We're back on the video
18			record.
	Q. My name is Matthew Becker of	18	
19	Fenwick & West for the defendant	19	BY MR. BECKER:
20	Public.Resource.Org, and I'll be taking your	20	Q. Mr. Smith, if you ever need a
21	deposition today.	21	break for any reason, please let me know and
22	Could you, please, state your	22	we'll take a break as long as I'm not in the
23	full name for the record?	23	middle of a line of questioning. If I am in
24	A. Daniel Gerald Smith.	24	the middle of a line of questioning, then
25	Q. Mr. Smith, have you ever had	25	I'll ask that we can finish that line of
	Page 10		Page 12
1	your deposition taken before?	1	questioning and then you can take a break.
2	A. No.	2	Does that sound good?
3	Q. Mr. Smith, have you ever been	3	A. Yes.
4	involved in any lawsuits before?	4	MR. FEE: That's fine. We'll
5	A. No.	5	let you at least finish your question
			for you at least minish your question
6	MR. FEE: Objection. Vague.	6	
6	MR. FEE: Objection. Vague. Remember give me a second to object	6 7	and get an answer. BY MR. BECKER:
	Remember give me a second to object		and get an answer. BY MR. BECKER:
6 7 8	Remember give me a second to object first.	7	and get an answer. BY MR. BECKER: Q. And if you come to realize at
6 7 8 9	Remember give me a second to object first. BY MR. BECKER:	7 8 9	and get an answer. BY MR. BECKER: Q. And if you come to realize at any point that one of your answers is not
6 7 8 9 10	Remember give me a second to object first. BY MR. BECKER: Q. Mr. Smith, let's just go over	7 8 9 10	and get an answer. BY MR. BECKER: Q. And if you come to realize at any point that one of your answers is not completely correct, will you, please, let me
6 7 8 9 10 11	Remember give me a second to object first. BY MR. BECKER: Q. Mr. Smith, let's just go over the rules so that you're familiar with them.	7 8 9 10 11	and get an answer. BY MR. BECKER: Q. And if you come to realize at any point that one of your answers is not completely correct, will you, please, let me know and we can address it?
6 7 8 9 10 11 12	Remember give me a second to object first. BY MR. BECKER: Q. Mr. Smith, let's just go over the rules so that you're familiar with them. In a deposition I'll be asking the questions	7 8 9 10 11 12	and get an answer. BY MR. BECKER: Q. And if you come to realize at any point that one of your answers is not completely correct, will you, please, let me know and we can address it? A. Yes.
6 7 8 9 10 11 12 13	Remember give me a second to object first. BY MR. BECKER: Q. Mr. Smith, let's just go over the rules so that you're familiar with them. In a deposition I'll be asking the questions and you'll be providing answers to those	7 8 9 10 11 12 13	and get an answer. BY MR. BECKER: Q. And if you come to realize at any point that one of your answers is not completely correct, will you, please, let me know and we can address it? A. Yes. Q. And after the deposition, the
6 7 8 9 10 11 12 13 14	Remember give me a second to object first. BY MR. BECKER: Q. Mr. Smith, let's just go over the rules so that you're familiar with them. In a deposition I'll be asking the questions and you'll be providing answers to those questions. Do you understand that you're	7 8 9 10 11 12 13 14	and get an answer. BY MR. BECKER: Q. And if you come to realize at any point that one of your answers is not completely correct, will you, please, let me know and we can address it? A. Yes. Q. And after the deposition, the transcript is prepared, you'll have a chance
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	· · · · · · · · · · · ·		
1	giving your best testimony today?	1	technical committee?
2	A. No.	2	A. A group of experts that develop
3	Q. Mr. Smith, what do you do for a	3	standards.
4	living?	4	Q. And who are those experts?
5	A. I work for ASTM International.	5	A. Volunteers.
6	Q. And when you say you work for	6	Q. And are they only volunteers?
7	ASTM International, what do you mean?	7	MR. FEE: Objection. Vague.
8	A. I'm the vice	8	THE WITNESS: For the most part
9	MR. FEE: Objection. Vague.	9	from my knowledge, they're all
10	You can answer.	10	volunteers.
11	THE WITNESS: I'm the vice	11	BY MR. BECKER:
12	president of technical committee	12	Q. How does a technical committee
13	operations.	13	go about developing standards as you say?
14	BY MR. BECKER:	14	A. They use our consensus process.
15	Q. And what is technical committee	15	Q. What is the consensus process?
16	operations?	16	A. It's two levels of voting
17	A. It's a division within ASTM.	17	starting with the subcommittee and then the
18	Q. What does technical committee	18	main committee.
19	mean?	19	Q. What's the difference between a
20	A. Technical committees develop	20	subcommittee and a main committee?
21	standards.	21	A. A subcommittee is typically
22	Q. When you say "standards," what	22	smaller with a more narrow interest. A main
23	do you mean by that?	23	committee has broader interest.
24	A. Consensus standards.	24	Q. So within a technical
25	Q. By "consensus standards," what	25	committee, then, there is is there just
	Page 14		Page 16
1	do you mean by that?	1	one main committee?
2	A. Documents.	2	A. A main committee is a technical
3	Q. Any documents?	3	committee.
4	A. Specifications, test methods,	4	Q. And are there numerous
5	practices, guides, classifications and	5	subcommittees?
6	· ·	6	A. Yes.
6	terminology.	0	
7	Q. Does the term "standards" have	7	Q. And how many subcommittees on
	Q. Does the term "standards" have	-	Q. And how many subcommittees on
7 8	Q. Does the term "standards" have any specific meaning to you?	7	Q. And how many subcommittees on average?
7	Q. Does the term "standards" have	7 8	Q. And how many subcommittees on average? A. It varies.
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1	Q. Is that agree or don't agree on	1	average?
2	the content of a draft standard or the	2	A. It varies, but it could be
3	finalized standard?	3	anywhere from 3 to 30 approximately.
4	A. A draft standard.	4	Q. And you said that the task
5	Q. Could we just back up a little	5	group develops the content or the original
6	bit and could you walk me through how a	6	draft of a standard. Is that correct?
7	standard is developed at ASTM?	7	MR. FEE: Objection. Lack of
8	A. It varies, but it could be	8	foundation.
9	by it starts typically with a task group.	9	THE WITNESS: From my
10	Q. And what does the task group	10	experience, that's what a task group
11	do?	11	does.
12	A. They'll develop the content of	12	BY MR. BECKER:
13	the draft.	13	Q. How is a task group initially
14	Q. And who composes the task	14	formed?
15	group?	15	A. It's formed by a group of
16	MR. FEE: Objection. Vague.	16	volunteers who want to develop a standard or
17	THE WITNESS: The task group is	17	a revision to a standard.
18	typically made up of volunteers who	18	Q. Do the members and excuse
19	wish to serve on the task group.	19	me.
20	BY MR. BECKER:	20	Do the ASTM members and
21	Q. Are is everyone in a task	21	nonmembers of ASTM who compose task groups
22	group an ASTM member?	22	generally have the same or similar interests?
23	A. No, not necessarily.	23	MR. FEE: Objection. Calls for
24	Q. In what situations would	24	speculation.
25	individuals who are not members of ASTM	25	THE WITNESS: I don't know. I
	Page 18		Page 20
1	compose members of the task group?	1	
1	compose memoers of the task group.	1	would think they would have a variety
2	MR. FEE: Objection to form.	2	of different interests.
2	MR. FEE: Objection to form.	2	of different interests.
2 3	MR. FEE: Objection to form. THE WITNESS: I'm not sure what	2 3	of different interests. BY MR. BECKER:
2 3 4	MR. FEE: Objection to form. THE WITNESS: I'm not sure what you mean by that. Could you repeat	2 3 4	of different interests. BY MR. BECKER: Q. Are there any characteristics
2 3 4 5	MR. FEE: Objection to form. THE WITNESS: I'm not sure what you mean by that. Could you repeat that or say that differently?	2 3 4 5	of different interests. BY MR. BECKER: Q. Are there any characteristics other than ASTM membership that would
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2 3 4 5 6 7	MR. FEE: Objection to form. THE WITNESS: I'm not sure what you mean by that. Could you repeat that or say that differently? BY MR. BECKER: Q. Let's see. Are let me back	2 3 4 5 6 7	of different interests. BY MR. BECKER: Q. Are there any characteristics other than ASTM membership that would distinguish ASTM members who are members of task groups and those members of task groups
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6 (Pages 18 - 21)

1	Q. And in what other ways?	1	outside of ASTM.
2	A. Through a meeting.	2	BY MR. BECKER:
3	Q. And in what other ways?	3	Q. Do you know how drafts of
4	A. None other come to mind at this	4	the of ASTM standards were exchanged
5	point.	5	between task group members prior to the
6	Q. Are there any differences in	6	introduction of the online collaboration area
7	how a task group would develop a draft of a	7	by ASTM?
8	standard today versus how they might have	8	A. My guess would be through mail
9	developed a draft of a standard in the 1970s	9	and fax.
10	or 1980s?	10	Q. Do you know if that mail and
11	MR. FEE: Objection. Lack of	11	fax of drafts was facilitated by ASTM?
12	foundation. Calls for speculation.	12	MR. FEE: Objection. Vague.
12	You can answer.	12	THE WITNESS: I would imagine
	THE WITNESS: Just from common		e
14		14	that some of them would have been
15	sense, we wouldn't have had our Web	15	facilitated by ASTM and others would
16	tools, they wouldn't have been able to	16	not have been.
17	use our Web tools or our virtual	17	BY MR. BECKER:
18	meeting technology in the '70s.	18	Q. Prior to the introduction of
19	BY MR. BECKER:	19	the online collaboration area, were there
20	Q. Do you know how task groups	20	specific forms that task group members were
21	developed drafts in the 1970s and 1980s?	21	made to fill out when drafting drafts of ASTM
22	A. I don't know firsthand, but my	22	standards?
23	guess is they would have done it at meetings.	23	MR. FEE: Objection to form.
24	Q. When did ASTM first provide the	24	THE WITNESS: I believe we had
25	online collaboration areas for the use by	25	forms starting in about 2003 on our
	Page 22		Page 24
1	task groups?	1	membership applications that required
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2	A. Guessing, it was sometime	2	members to assign all rights to ASTM.
2 3	A. Guessing, it was sometime probably in the early 2000s roughly.	2 3	members to assign all rights to ASTM. BY MR. BECKER:
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. Guessing, it was sometime probably in the early 2000s roughly. Q. How long have you been at ASTM for? A. About 23 years. Q. So you were at ASTM for roughly a decade, at least a decade prior to when the online collaboration area was first rolled out. Is that correct? A. Approximately. Q. So prior to when the online collaboration area was rolled out, how did task groups develop draft standards at ASTM? A. To my knowledge, it would have been at meetings. Q. Were these meetings organized by ASTM? A. Some of them. Q. But other meetings might not have been organized by ASTM, is that what 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	members to assign all rights to ASTM. BY MR. BECKER: Q. So the membership, the forms on the membership applications for ASTM that asked individuals to assign all rights to ASTM, as you said, started in 2003 and didn't exist prior to that date? A. I believe that's correct. Q. And this just concerned the membership applications. Correct? MR. FEE: Objection. Vague. THE WITNESS: We also had them on our renewal forms, membership renewal forms. And then we also had them on our work item registration, and then our collaboration. BY MR. BECKER: Q. What is a work item registration form? A. It's for essentially opening up
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$\begin{array}{c} 2\\ 3\\ 4\\ 5\\ 6\\ 7\\ 8\\ 9\\ 10\\ 11\\ 12\\ 13\\ 14\\ 15\\ 16\\ 17\\ 18\\ 19\\ 20\\ 21\\ 22\\ 23\\ 24\\ \end{array}$	 A. Guessing, it was sometime probably in the early 2000s roughly. Q. How long have you been at ASTM for? A. About 23 years. Q. So you were at ASTM for roughly a decade, at least a decade prior to when the online collaboration area was first rolled out. Is that correct? A. Approximately. Q. So prior to when the online collaboration area was rolled out, how did task groups develop draft standards at ASTM? A. To my knowledge, it would have been at meetings. Q. Were these meetings organized by ASTM? A. Some of them. Q. But other meetings might not have been organized by ASTM, is that what you're saying? MR. FEE: Objection. Vague. THE WITNESS: They could. They 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 members to assign all rights to ASTM. BY MR. BECKER: Q. So the membership, the forms on the membership applications for ASTM that asked individuals to assign all rights to ASTM, as you said, started in 2003 and didn't exist prior to that date? A. I believe that's correct. Q. And this just concerned the membership applications. Correct? MR. FEE: Objection. Vague. THE WITNESS: We also had them on our renewal forms, membership renewal forms, membership renewal forms. And then we also had them on our work item registration, and then our collaboration. BY MR. BECKER: Q. What is a work item registration form? A. It's for essentially opening up a new work item. Q. What is a work item? A. Either a revision to a standard
$\begin{array}{c} 2\\ 3\\ 4\\ 5\\ 6\\ 7\\ 8\\ 9\\ 10\\ 11\\ 12\\ 13\\ 14\\ 15\\ 16\\ 17\\ 18\\ 19\\ 20\\ 21\\ 22\\ 23\\ \end{array}$	 A. Guessing, it was sometime probably in the early 2000s roughly. Q. How long have you been at ASTM for? A. About 23 years. Q. So you were at ASTM for roughly a decade, at least a decade prior to when the online collaboration area was first rolled out. Is that correct? A. Approximately. Q. So prior to when the online collaboration area was rolled out, how did task groups develop draft standards at ASTM? A. To my knowledge, it would have been at meetings. Q. Were these meetings organized by ASTM? A. Some of them. Q. But other meetings might not have been organized by ASTM, is that what you're saying? MR. FEE: Objection. Vague. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 members to assign all rights to ASTM. BY MR. BECKER: Q. So the membership, the forms on the membership applications for ASTM that asked individuals to assign all rights to ASTM, as you said, started in 2003 and didn't exist prior to that date? A. I believe that's correct. Q. And this just concerned the membership applications. Correct? MR. FEE: Objection. Vague. THE WITNESS: We also had them on our renewal forms, membership renewal forms. And then we also had them on our work item registration, and then our collaboration. BY MR. BECKER: Q. What is a work item registration form? A. It's for essentially opening up a new work item. Q. What is a work item?

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1	Q. And when was the language that	1	work item registration forms for ASTM?
2	you say concerns assignments of rights	2	A. No.
3	introduced to the work item form?	3	Q. And those individuals I
4	A. I think it was in about 2003,	4	described a moment ago, do they fill out
5	'04, '05, somewhere in there.	5	collaboration forms for ASTM?
6	Q. So somewhere in the 2003 to	6	A. Yes.
7	2005 period, you're not certain precisely	7	Q. They do. Are they required to
8	when?	8	fill out collaboration forms for ASTM in
9	A. I believe so.	9	order to participate in the development of a
10	Q. But it didn't exist on those	10	draft of a standard?
11	forms prior to at earliest 2003?	11	MR. FEE: Objection. Vague.
12	A. That's correct.	12	THE WITNESS: Yes.
13	Q. Who fills out a work item form?	13	BY MR. BECKER:
14	A. A member.	14	Q. From approximately what year
15	Q. Is it only ASTM members who	15	forward have individuals who are members of
16	fill out work item forms?	16	ASTM task groups but not themselves members
17	A. If a member would ask a staff	17	
			of ASTM been required to fill out
18	person to help facilitate filling out a form,	18	collaboration forms in order to participate
19	they may do that.	19	in the drafting of an ASTM standard?
20	Q. What is a collaboration form?	20	A. To my knowledge, since the
21	A. The collaboration, if a member	21	beginning.
22	wants to initiate a collaboration area, they	22	Q. When you say "since the
23	have to go through an online process to	23	beginning," what do you mean?
24	initiate it.	24	A. When we had when we created
25	Q. Just so I understand, is that	25	the form.
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1	to create the online collaboration area that	1	Q. So that would be approximately
2	you had described earlier as being a location	2	2003, you're saying?
3	online provided by ASTM where members of a	3	A. Yes.
4	task group could go to help develop the draft	4	Q. Were individuals who were
5	for a standard?	5	members of task groups but not themselves
6	A. Yes.	6	members of ASTM required to fill out any
7	Q. And so the collaboration form	7	forms in order to participate in the drafting
8	was only introduced after the collaboration	8	of an ASTM standard prior to 2003?
9	areas had been provided by ASTM to its	9	A. Not to my knowledge.
10	members?	10	Q. Is there any means by which
11	A. Yes.	11	ASTM claims that individuals who are who
12	Q. And when, again, did you say	12	were members of task groups but not
12	that that was?	12	themselves members of ASTM have assigned any
13	A. I think it was about 2003.	13	с · ·
14		14	copyrights that they might have in the drafts of the standards that were created and
	Q. People who are members of task		
16	groups for developing standards but are not	16	eventually published through ASTM to ASTM?
17	themselves ASTM members, do they fill out	17	MR. FEE: Objection. Calls for
18	membership applications for ASTM?	18	a legal conclusion. Instruct you not
19	A. No.	19	to disclose any communications you
20	Q. And those individuals who I	20	might have had with counsel regarding
21	just described a moment ago, do they fill out	21	that subject. If you have an
22	renewal forms for ASTM?	22	independent knowledge that is
23	A. No.	23	responsive, you can answer that.
24	Q. And those individuals who I	24	THE WITNESS: I don't know. Not
25	just described a moment ago, do they fill out	25	to my knowledge.
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1	BY MR. BECKER:	1	interest to ASTM.
2	Q. Today when individuals who are	2	Q. And who is given this form?
3	members of ASTM task groups but not members	3	A. A task group or an individual
4	of ASTM fill out collaboration forms, does	4	who might be bringing something forward to
5	ASTM believe that by doing so those	5	contribute to ASTM.
6	individuals are assigning their copyright	6	Q. Were all members of ASTM task
7	interest to ASTM in the draft of the standard	7	groups given this form that you're
8	that they have created?	8	describing?
9	MR. FEE: Objection. Calls for	9	A. No.
10	a legal conclusion. Again, I instruct	10	Q. What members of ASTM task
11	you not to disclose your	11	groups were given this form that you're
12	communications with counsel. But if	12	assigning?
13	you have an understanding otherwise,	13	A. If an individual is bringing a
14	you can answer.	14	significant like a document to ASTM that
15	THE WITNESS: I believe it does.	15	they wanted to convert into an ASTM standard.
16	BY MR. BECKER:	16	Q. When you say "a document," what
17	Q. Does ASTM believe that it does?	17	do you mean by that?
18	MR. FEE: Same objection and	18	A. A piece of paper.
19	instruction.	19	Q. In what instances would
20	THE WITNESS: I would think so,	20	individuals have brought documents such as
21	yes.	21	you're describing to be converted into an
22	BY MR. BECKER:	22	ASTM standard?
23	Q. What are all the forms that	23	A. If an individual wanted to take
24	nonmembers may provide to ASTM in the course	24	a document that they had and make it into an
25	of their activities with the technical	25	ASTM standard, they brought it forward to
	Page 30		Page 32
1	committees?	1	ASTM.
2	MR. FEE: Objection to form.	2	Q. Could you give me some examples
3	Vague as to time. You may answer.	3	of why somebody might do that?
4	THE WITNESS: The collaboration	4	A. Because they want to make it
5	form. No other forms come to mind	5	into an ASTM standard.
6	that a nonmember would submit to ASTM,	6	Q. Would this be individuals or
7	but there could be some.	7	companies that had previously drafted
8	BY MR. BECKER:	8	standards that they would then like to see
9	Q. Are there any other means by	9	turned into ASTM standards?
10	which nonmembers of ASTM who are themselves	10	MR. FEE: Objection. Calls for
11	members of an ASTM task group may assign	11	speculation.
12	their copyright interest to ASTM other than	12	THE WITNESS: Could be.
13	the collaboration form?	13	BY MR. BECKER:
14	MR. FEE: Objection. Calls for	14	Q. What years from between
15	a legal conclusion. I instruct you	15	which years were was this form that you're
16	not to disclose your communications	16	describing used?
17	with counsel. If you have any other	17	A. I think it was created in
18	responsive information, you can	18	approximately 2002 or somewhere in that area.
19	provide that.	19	Q. Is this document still used?
20	THE WITNESS: We had a form that	20	A. I'm not aware of any recent
21	we did use for assigning rights to	21	use, but it may have.
22	ASTM.	22	Q. Do you know if this document
23	BY MR. BECKER:	23	was produced to Public.Resource?
23 24	BY MR. BECKER: Q. What form is this?	23 24	was produced to Public.Resource? MR. FEE: Objection. Calls for
			MR. FEE: Objection. Calls for speculation.
24	Q. What form is this?	24	MR. FEE: Objection. Calls for

9 (Pages 30 - 33)

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1	THE WITNESS: I don't know.	1	A. Yes.
2	MR. BECKER: Counsel, do you	2	Q. Could you tell me what this
3	know if this document was produced to	3	document is?
4	Public.Resource?	4	A. I believe it's a document that
5	MR. FEE: I'm not here to answer	5	we would give an individual who is interested
6	your questions. You might want to	6	in bringing forward a document to have it
7	look at the documents that we sent you	7	become an ASTM standard.
8	today or yesterday. I think that	8	Q. And is this document the
9	would be what he's talking about.	9	document that you had described just earlier
10	THE WITNESS: It was in the	10	being a form for assigning rights to ASTM?
11	packet.	11	A. Yes.
12	BY MR. BECKER:	12	Q. And you said that you believe
13	Q. Do you know what the title of	13	this document was first used in 2002. Is
14	the document that you're describing is?	14	that correct?
15	A. No, I'm not sure. It's just	15	A. I believe that's about right.
16	one page.	16	Q. Is this form required for all
17	Q. Is it the ASTM International	17	members of a task group to fill out?
18	Participation and Acknowledgement Form?	18	MR. FEE: Objection. Vague.
19	A. I'm not sure. If I could see	19	THE WITNESS: No, not to my
20	it, I could tell you.	20	knowledge, it's not.
21		21	BY MR. BECKER:
22	(Exhibit 1284, ASTM	22	Q. Is this form required for all
23	International Participation and	23	members of a task group who are contributing
24	Acknowledgement Form, Bates	24	to the drafting of a standard under ASTM?
25	ASTM103273, was marked for	25	MR. FEE: Objection. Are you
	Page 34		Page 36
1	identification.)	1	done? Objection to the extent it
1 2	identification.)	1 2	done? Objection to the extent it calls for a legal conclusion. Also
	identification.) BY MR. BECKER:		-
2		2	calls for a legal conclusion. Also
2 3	BY MR. BECKER:	2 3	calls for a legal conclusion. Also vague.
2 3 4	BY MR. BECKER: Q. I'm handing you what's been	2 3 4	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my
2 3 4 5	BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1284.	2 3 4 5	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my knowledge.
2 3 4 5 6	BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1284. A. Yes.	2 3 4 5 6	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my knowledge. BY MR. BECKER:
2 3 4 5 6 7	BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1284. A. Yes. Q. This document was produced by	2 3 4 5 6 7	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my knowledge. BY MR. BECKER: Q. What individuals does ASTM
2 3 4 5 6 7 8	BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1284. A. Yes. Q. This document was produced by ASTM last night at approximately 9:00 p m.,	2 3 4 5 6 7 8	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my knowledge. BY MR. BECKER: Q. What individuals does ASTM require to fill out this form?
2 3 4 5 6 7 8 9	BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1284. A. Yes. Q. This document was produced by ASTM last night at approximately 9:00 p m., and the document is Bates labeled ASTM103273.	2 3 4 5 6 7 8 9	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my knowledge. BY MR. BECKER: Q. What individuals does ASTM require to fill out this form? MR. FEE: Objection. Asked and
2 3 4 5 6 7 8 9 10	BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1284. A. Yes. Q. This document was produced by ASTM last night at approximately 9:00 p m., and the document is Bates labeled ASTM103273. And the document is titled: "ASTM International Participation and	2 3 4 5 6 7 8 9 10	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my knowledge. BY MR. BECKER: Q. What individuals does ASTM require to fill out this form? MR. FEE: Objection. Asked and answered. You can answer again.
2 3 4 5 6 7 8 9 10 11	BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1284. A. Yes. Q. This document was produced by ASTM last night at approximately 9:00 p m., and the document is Bates labeled ASTM103273. And the document is titled: "ASTM	2 3 4 5 6 7 8 9 10 11	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my knowledge. BY MR. BECKER: Q. What individuals does ASTM require to fill out this form? MR. FEE: Objection. Asked and answered. You can answer again. THE WITNESS: We would give this
2 3 4 5 6 7 8 9 10 11 12	BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1284. A. Yes. Q. This document was produced by ASTM last night at approximately 9:00 p m., and the document is Bates labeled ASTM103273. And the document is titled: "ASTM International Participation and Acknowledgement Form." Is this the document	2 3 4 5 6 7 8 9 10 11 12	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my knowledge. BY MR. BECKER: Q. What individuals does ASTM require to fill out this form? MR. FEE: Objection. Asked and answered. You can answer again. THE WITNESS: We would give this form to an individual who is
2 3 4 5 6 7 8 9 10 11 12 13	BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1284. A. Yes. Q. This document was produced by ASTM last night at approximately 9:00 p m., and the document is Bates labeled ASTM103273. And the document is titled: "ASTM International Participation and Acknowledgement Form." Is this the document that you were just describing when you said	2 3 4 5 6 7 8 9 10 11 12 13	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my knowledge. BY MR. BECKER: Q. What individuals does ASTM require to fill out this form? MR. FEE: Objection. Asked and answered. You can answer again. THE WITNESS: We would give this form to an individual who is interested in providing a document to
2 3 4 5 6 7 8 9 10 11 12 13 14	BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1284. A. Yes. Q. This document was produced by ASTM last night at approximately 9:00 p m., and the document is Bates labeled ASTM103273. And the document is titled: "ASTM International Participation and Acknowledgement Form." Is this the document that you were just describing when you said there was a form for assigning rights to	2 3 4 5 6 7 8 9 10 11 12 13 14	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my knowledge. BY MR. BECKER: Q. What individuals does ASTM require to fill out this form? MR. FEE: Objection. Asked and answered. You can answer again. THE WITNESS: We would give this form to an individual who is interested in providing a document to ASTM to make it into an ASTM standard.
2 3 4 5 6 7 8 9 10 11 12 13 14 15	BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1284. A. Yes. Q. This document was produced by ASTM last night at approximately 9:00 p m., and the document is Bates labeled ASTM103273. And the document is titled: "ASTM International Participation and Acknowledgement Form." Is this the document that you were just describing when you said there was a form for assigning rights to ASTM? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my knowledge. BY MR. BECKER: Q. What individuals does ASTM require to fill out this form? MR. FEE: Objection. Asked and answered. You can answer again. THE WITNESS: We would give this form to an individual who is interested in providing a document to ASTM to make it into an ASTM standard. BY MR. BECKER: Q. And so on this form where it
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1284. A. Yes. Q. This document was produced by ASTM last night at approximately 9:00 p m., and the document is Bates labeled ASTM103273. And the document is titled: "ASTM International Participation and Acknowledgement Form." Is this the document that you were just describing when you said there was a form for assigning rights to ASTM? A. Yes. MR. FEE: Objection to the	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my knowledge. BY MR. BECKER: Q. What individuals does ASTM require to fill out this form? MR. FEE: Objection. Asked and answered. You can answer again. THE WITNESS: We would give this form to an individual who is interested in providing a document to ASTM to make it into an ASTM standard. BY MR. BECKER: Q. And so on this form where it says number 1, "I am submitting my original
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1284. A. Yes. Q. This document was produced by ASTM last night at approximately 9:00 p m., and the document is Bates labeled ASTM103273. And the document is titled: "ASTM International Participation and Acknowledgement Form." Is this the document that you were just describing when you said there was a form for assigning rights to ASTM? A. Yes. MR. FEE: Objection to the extent that your preamble is you're	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	calls for a legal conclusion. Also vague. THE WITNESS: No, not to my knowledge. BY MR. BECKER: Q. What individuals does ASTM require to fill out this form? MR. FEE: Objection. Asked and answered. You can answer again. THE WITNESS: We would give this form to an individual who is interested in providing a document to ASTM to make it into an ASTM standard. BY MR. BECKER: Q. And so on this form where it says number 1, "I am submitting my original material," regardless of that statement, this
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10 (Pages 34 - 37)

1	a legal conclusion. Vague.	1	Participation and Acknowledgement Form has
2	Confusing. You can answer if you can.	2	ever been signed and returned to ASTM?
3	THE WITNESS: I think I'll	3	A. I don't know for sure, but I
4	answer it by just saying the purpose	4	would guess it has been.
5	of this form is for when an individual	5	Q. And what's your basis for
6	wants to bring a document into ASTM to	6	guessing that it has been?
7	make it into an ASTM standard.	7	A. I vaguely remember instances
8	BY MR. BECKER:	8	where we would have to use this.
9	Q. So this document is not	9	Q. And what instances were those?
10	required of every member of a task group who	10	A. I can't remember.
11	contributes original material to an ASTM	11	Q. What other information do you
12	standard draft?	12	recollect in conjunction with those instances
13	MR. FEE: Objection. Vague. To	13	where you believe that you had to use this
14	the extent it calls for a legal	14	form as you describe it?
15	conclusion.	15	MR. FEE: Objection. Vague.
16	THE WITNESS: This form would	16	THE WITNESS: The only thing I
17	not be.	17	can remember is members interested in
18	BY MR. BECKER:	18	bringing forward documents that they
19	Q. When is the last time, to your	19	were interested in having become ASTM
20	knowledge, that this form, Exhibit 1284, was	20	standard.
20	used by ASTM?	20	BY MR. BECKER:
$\frac{21}{22}$	A. I don't know.	21	
22			Q. Prior to the introduction of
23	Q. Do you have any guess as to	23	the Participation and Acknowledgement Form in
	what year this form was last used by ASTM?	24	approximately 2002, was there any means by
25	MR. FEE: Objection. Lack of Page 38	25	which ASTM had members of task groups who Page 40
1	foundation. Calls for speculation.	1	contributed original contents to the drafts
2	THE WITNESS: I don't know.	2	of ASTM standards but were not themselves
2 3	BY MR. BECKER:	2 3	of ASTM standards but were not themselves members of ASTM thereby transferred their
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 BY MR. BECKER: Q. Do you know any specific standards that this form was used in conjunction with? A. I don't know offhand, no. No specifics. Q. Does ASTM retain the signed copies that it receives of this Participation and Acknowledgement Form? A. I'm not sure. Q. Do you know how many of these Participation and Acknowledgement Forms have been signed and returned to ASTM? A. No. Q. Do you have any approximate guess as to how many of these Participation and Acknowledgement Forms have been signed and returned to ASTM? MR. FEE: Objection. Calls for speculation. THE WITNESS: No. 	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	of ASTM standards but were not themselves members of ASTM thereby transferred their copyrights to ASTM? MR. FEE: Objection. Calls for a legal conclusion. To the extent you shouldn't disclose any communications you had with counsel regarding the subject matter. If you have independent information that you can share, go ahead and answer with respect to that. THE WITNESS: I'm not aware of any formal forms that we used prior to 2003. BY MR. BECKER: Q. Are you aware of any informal means by which individuals such as those that I just described in my previous question might have transferred their copyright to ASTM? MR. FEE: Same objection and instruction.

11 (Pages 38 - 41)

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1	a company or an individual would be	1	you might think are responsive to
2	interested in having an ASTM standard	2	that. If you have other information,
3	that they could say their product or	3	you can go ahead and answer.
4	service is in compliance with.	4	THE WITNESS: My understanding
5	BY MR. BECKER:	5	is that the members join as
6	Q. Are there any other reasons?	6	individuals, and that when they come
7	MR. FEE: Objection.	7	to an ASTM meeting, they're
8	THE WITNESS: I'm sure there are	8	contributing their own knowledge to
9	other reasons, I just can't think of	9	the ASTM standard.
10	any right now.	10	BY MR. BECKER:
11	BY MR. BECKER:	11	Q. When you say that's your
12	Q. Does ASTM have any forms by	12	understanding, is that also ASTM's
13	which companies have assigned any copyrights		understanding?
14	that they may have in the draft standards to	14	A. Yes.
15	ASTM?	15	MR. FEE: Same objections.
16	MR. FEE: Objection. To the	16	THE WITNESS: Yes.
17	extent it calls for a legal	17	MR. FEE: And instructions.
18	conclusion, I instruct you not to	18	BY MR. BECKER:
19	disclose communications with counsel	19	Q. When you say "members join as
20	on this subject, but if you have any	20	individuals," does this also include
21	documents to identify, go ahead.	21	individuals who are government employees?
22	THE WITNESS: I'm not aware of	22	A. Yes.
23	any.	23	Q. Does ASTM believe that
24	BY MR. BECKER:	24	government employees who are acting within
25	Q. Does ASTM distinguish between	25	the scope of their employment by the federal
	Page 46		Page 48
1	companies and individuals in the in its	1	government join as individuals when they join
1 2	companies and individuals in the in its understanding of the granting of copyright	1 2	government join as individuals when they join ASTM?
	companies and individuals in the in its understanding of the granting of copyright rights to ASTM?		ASTM?
2	understanding of the granting of copyright	2	
2 3	understanding of the granting of copyright rights to ASTM?	2 3	ASTM? MR. FEE: Objection. Calls for
2 3 4	understanding of the granting of copyright rights to ASTM? MR. FEE: Objection. Vague. To the extent I understand it, I think it	2 3 4	ASTM? MR. FEE: Objection. Calls for a legal conclusion. Calls for
2 3 4 5	understanding of the granting of copyright rights to ASTM? MR. FEE: Objection. Vague. To	2 3 4 5	ASTM? MR. FEE: Objection. Calls for a legal conclusion. Calls for speculation. Instruct you not to disclose communications with counsel
2 3 4 5 6	understanding of the granting of copyright rights to ASTM? MR. FEE: Objection. Vague. To the extent I understand it, I think it calls for a legal conclusion. To the	2 3 4 5 6	ASTM? MR. FEE: Objection. Calls for a legal conclusion. Calls for speculation. Instruct you not to
2 3 4 5 6 7	understanding of the granting of copyright rights to ASTM? MR. FEE: Objection. Vague. To the extent I understand it, I think it calls for a legal conclusion. To the extent you think that requires you to disclose any communication from	2 3 4 5 6 7	ASTM? MR. FEE: Objection. Calls for a legal conclusion. Calls for speculation. Instruct you not to disclose communications with counsel on this subject, but you can answer if
2 3 4 5 6 7 8	understanding of the granting of copyright rights to ASTM? MR. FEE: Objection. Vague. To the extent I understand it, I think it calls for a legal conclusion. To the extent you think that requires you to disclose any communication from counsel, you shouldn't do so. If you	2 3 4 5 6 7 8	ASTM? MR. FEE: Objection. Calls for a legal conclusion. Calls for speculation. Instruct you not to disclose communications with counsel on this subject, but you can answer if you have other information.
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1	Q. Can you provide any specific	1	relate to?
2	examples?	2	MR. BECKER: This relates to the
3	MR. FEE: Objection. Vague.	3	issue of ownership and copyright.
4	THE WITNESS: I've managed	4	The forms that were provided to
5	probably 20 maybe different committees	5	us include
6	during my time. A specific example	6	MR. FEE: I'll let you answer
7	would be D04 road and paving	7	his question.
8	committee.	8	THE WITNESS: I don't know.
9	BY MR. BECKER:	9	MR. FEE: We've been going about
10	Q. And could you, please, describe	10	an hour, could we take a short break
11	what instances you're referring to?	11	now?
12	MR. FEE: Objection. Vague.	12	MR. BECKER: In just a couple of
13	THE WITNESS: Instances of what?	13	minutes or so.
14	BY MR. BECKER:	14	MR. FEE: I'll give you a couple
15	Q. Instances where you believe	15	more questions. I'm ready to take a
16	that the participation of government, federal	16	break. Go ahead.
17	government employees constituted their	17	BY MR. BECKER:
18	participation in an individual capacity and	18	Q. What communications do you have
19	not in their capacity as employees of the	19	with individuals who were employed by the
20	federal government?	20	federal government and participated in at
21	A. Just like I said, my	21	least one of those 20 different committees
22	experience. I'm not sure how I would be able	22	that you managed that reflected their
23	to characterize a specific example.	23	participation in an individual capacity and
24	Q. Could you refer to particular	24	not as federal government employees?
25	individuals who you who were members, who	25	MR. FEE: Objection. Calls for
	Page 50		Page 52
1	are employed by the federal government that	1	a legal conclusion. Compound.
2	you interacted with in your management of	2	THE WITNESS: I'm not sure what
3	these 20 different committees that you	3	you're asking.
4	believe were participating in their	4	BY MR. BECKER:
5	individual capacity and not as employees of	5	Q. Do you have any specific
6	the federal government?	6	communications that reflect your belief that
7	MR. FEE: Objection. Calls for	7	individuals who you interacted with on one of
8	a legal conclusion.	8	these 20 different committees that you manage
9	THE WITNESS: No, I don't know.	9	were participating as in their individual
10	I don't know for sure.	10	capacity and not as federal government
11	BY MR. BECKER:	11	employees?
12	Q. The membership fees for federal	12	MR. FEE: Objection. Calls for
13	government employees, are these typically	13	a legal conclusion. Compound.
14	paid by the individuals or paid by the	14	THE WITNESS: I don't have any
15	federal government?	15	concrete examples that I can think of.
16	MR. FEE: Objection. This is	16	BY MR. BECKER:
17	beyond the scope, I think, of any of	17	Q. And do you have any specific
18	the topics we're here to have	18	observations that you can think of that would
19	testimony today. Does this have	19	show that individuals who participated in one
20	something to do with one of the three	20	of these 20 different committees were acting
21	topics?	21	in their individual capacity and not as
22	MR. BECKER: I don't believe	22	employees of the federal government?
23	this is beyond the scope. This has to	23	MR. FEE: Objection. Calls for
	do with	24	a legal conclusion and compound.
24			-
24 25	MR. FEE: Which topic does it Page 51	25	THE WITNESS: Again, just my Page 53

14 (Pages 50 - 53)

1	experience in sitting in the meetings	1	you mean by "differently."
2	and observing the individual members	2	BY MR. BECKER:
3	contribute to the development of the	3	Q. Is there a specific
4	standards.	4	classification that's given to government
5	BY MR. BECKER:	5	employees who participate in the development
6	Q. What about those contributions	6	of standards under ASTM?
7	of those members gave you that impression?	7	A. They're given a classification
8	MR. FEE: Objection. Calls for	8	just as all other members are.
9	a legal conclusion. Compound.	9	Q. And what is that classification?
10	THE WITNESS: I'm not thinking	10	A. It could either be a producer,
11	of any one example. I'm just thinking	11	user, general interest, depending upon the
12	over time in all of my different	12	scope of the committee.
13	committees and all the different	13	Q. Would a federal government
14	meetings that I've attended, to me it	14	employee count as a producer?
15	appears that people are contributing	15	A. I can't think of a situation
16	off the cuff spontaneously in the	16	where they would be.
17	development of the standard.	17	Q. Would a federal government
18	BY MR. BECKER:	18	employee count as a user?
19	Q. When they participate, do	19	A. They may.
20	members of the federal government use their	20	Q. Would a federal government
21	federal government issued e-mail addresses?	21	employee count as a general interest member?
22	MR. FEE: Objection. Compound.	22	A. They may.
23	Calls for speculation.	23	Q. In what circumstances might a
24	THE WITNESS: They may or they	24	federal government employee count as a user
25	may not.	25	versus a general interest member?
	Page 54		Page 56
1	BY MR. BECKER:	1	A. It depends on the scope of the
1 2	BY MR. BECKER:Q. What is it about off-the-cuff	$\begin{vmatrix} 1\\2 \end{vmatrix}$	A. It depends on the scope of the committee.
2	Q. What is it about off-the-cuff	2	committee. Q. Could you give some examples? A. On my road and paving
2 3	Q. What is it about off-the-cuff or spontaneous contributions that you think	2 3	committee.Q. Could you give some examples?A. On my road and pavingcommittee, federal highway would be
2 3 4	Q. What is it about off-the-cuff or spontaneous contributions that you think means that these individuals are	2 3 4	committee. Q. Could you give some examples? A. On my road and paving
2 3 4 5	Q. What is it about off-the-cuff or spontaneous contributions that you think means that these individuals are participating in their individual capacity	2 3 4 5	committee.Q. Could you give some examples?A. On my road and pavingcommittee, federal highway would be
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 Q. What is it about off-the-cuff or spontaneous contributions that you think means that these individuals are participating in their individual capacity and not as federal government employees? MR. FEE: Objection. Calls for a legal conclusion. THE WITNESS: Just my belief based on what I'm observing that I think it's a very spontaneous conversation, people providing contributions based on what they believe, not necessarily what their company believes. BY MR. BECKER: Q. Are individuals who participate excuse me. Are federal government employees who participate in ASTM committees or task groups classified differently than other individuals who participate in those committees or task groups? MR. FEE: Objection. Vague. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	committee. Q. Could you give some examples? A. On my road and paving committee, federal highway would be considered a user. MR. FEE: We've been going quite some time. I asked to have a short break. We're going to take a break now, no question pending. MR. BECKER: We can take a break. VIDEOGRAPHER: Time is now 11:48. We're going off the video record. VIDEOGRAPHER: The time is now 12:02. We're back on the video record. BY MR. BECKER: Q. Mr. Smith, do you have any additional recollections or other information

15 (Pages 54 - 57)

1		-	
1	of the questions we've discussed so far	1	
2	today?	2	(Exhibit 1285, Intellectual
3	A. Relative to our members'	3	Property Policy of ASTM, Bates
4	awareness that they're assigning copyrights	4	ASTM103277 - ASTM103284, was marked
5	to ASTM, I believe you had asked that	5	for identification.)
6	question prior to 2003.	6	
7	Q. Yes.	7	BY MR. BECKER:
8	A. ASTM also has an Intellectual	8	Q. I'm handing you what's been
9	Property Policy that makes our members aware	9	marked as Exhibit 1285. Is this the
10	of that as well.	10	Intellectual Property Policy of ASTM that you
11	Q. And when was ASTM's	11	had just mentioned?
12	Intellectual Property Policy first	12	A. Yes, I believe this is a
13	instituted?	13	version of it.
14	A. I'm not sure, but I believe it	14	Q. Are there multiple versions of
15	was in the '90s.	15	the ASTM intellectual property policy?
16	Q. Is there anything else other	16	A. I believe there were at least
	than ASTM's Intellectual Property Policy that	17	two or three.
17			
18	you believe contributes to ASTM's belief that	18	Q. This says it was approved on
19	there was an understanding that the copyright	19	April 28, 1999. Correct?
20	of individuals who participated in the	20	A. It does say that.
21	drafting of ASTM standards was owned by ASTM?	21	Q. It says that at the top of the
22	MR. FEE: Objection. Asked and	22	first page and at the bottom of the last
23	answered. Are you asking him to	23	page. Is that correct?
24	repeat all the other things he	24	A. That's correct.
25	mentioned before or are you excluding	25	MR. FEE: Objection. It says
	Page 58		Page 60
1	those?	1	adopted on the last page, not
2	MR. BECKER: Were there other	2	approved.
3	things that he mentioned before?	3	BY MR. BECKER:
4	MR. FEE: Oh, yeah. I'll be	4	Q. And for the record, this is the
5		5	
56	honest. Actually I shouldn't say	5	document Bates number ASTM 103277 to
6	honest. Actually I shouldn't say that. But you're asking him to list	6	document Bates number ASTM 103277 to ASTM 103284 titled: "INTELLECTUAL PROPERTY
6 7	honest. Actually I shouldn't say that. But you're asking him to list everything he can think of now again?	6 7	document Bates number ASTM 103277 to ASTM 103284 titled: "INTELLECTUAL PROPERTY POLICY OF ASTM." It says at the top of page
6 7 8	honest. Actually I shouldn't say that. But you're asking him to list everything he can think of now again? MR. BECKER: In terms of	6 7 8	document Bates number ASTM 103277 to ASTM 103284 titled: "INTELLECTUAL PROPERTY POLICY OF ASTM." It says at the top of page Bates number ASTM103277 "Approved 28
6 7 8 9	honest. Actually I shouldn't say that. But you're asking him to list everything he can think of now again? MR. BECKER: In terms of documents.	6 7 8 9	document Bates number ASTM 103277 to ASTM 103284 titled: "INTELLECTUAL PROPERTY POLICY OF ASTM." It says at the top of page Bates number ASTM103277 "Approved 28 April 1999." Is that correct?
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$ \begin{array}{c} 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ 21 \\ \end{array} $	 honest. Actually I shouldn't say that. But you're asking him to list everything he can think of now again? MR. BECKER: In terms of documents. MR. FEE: Oh, documents. MR. BECKER: I don't think there was anything else, was there? MR. FEE: Your prior question wasn't limited to documents, that's why I said that. THE WITNESS: Is it before 2003? BY MR. BECKER: Q. Yes. A. I'm not aware of any other documents. Q. Is there anything else that you 	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	document Bates number ASTM 103277 to ASTM 103284 titled: "INTELLECTUAL PROPERTY POLICY OF ASTM." It says at the top of page Bates number ASTM103277 "Approved 28 April 1999." Is that correct? A. Yes. Q. Was this the first edition of the Intellectual Property Policy of ASTM? A. I believe there was one prior to this. Q. Do you know when the Intellectual Property Policy of ASTM that existed prior to this was created? A. No. Q. Do you have any idea? A. I think it was at some point in the '90s. Maybe mid '90s, but I'm not sure.
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6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 honest. Actually I shouldn't say that. But you're asking him to list everything he can think of now again? MR. BECKER: In terms of documents. MR. FEE: Oh, documents. MR. BECKER: I don't think there was anything else, was there? MR. FEE: Your prior question wasn't limited to documents, that's why I said that. THE WITNESS: Is it before 2003? BY MR. BECKER: Q. Yes. A. I'm not aware of any other documents. Q. Is there anything else that you have to add to your earlier testimony other than your mention of the IP Policy? 	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	document Bates number ASTM 103277 to ASTM 103284 titled: "INTELLECTUAL PROPERTY POLICY OF ASTM." It says at the top of page Bates number ASTM103277 "Approved 28 April 1999." Is that correct? A. Yes. Q. Was this the first edition of the Intellectual Property Policy of ASTM? A. I believe there was one prior to this. Q. Do you know when the Intellectual Property Policy of ASTM that existed prior to this was created? A. No. Q. Do you have any idea? A. I think it was at some point in the '90s. Maybe mid '90s, but I'm not sure. Q. Does ASTM have any record of an Intellectual Property Policy prior to this
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 honest. Actually I shouldn't say that. But you're asking him to list everything he can think of now again? MR. BECKER: In terms of documents. MR. FEE: Oh, documents. MR. FEE: Oh, documents. MR. BECKER: I don't think there was anything else, was there? MR. FEE: Your prior question wasn't limited to documents, that's why I said that. THE WITNESS: Is it before 2003? BY MR. BECKER: Q. Yes. A. I'm not aware of any other documents. Q. Is there anything else that you have to add to your earlier testimony other than your mention of the IP Policy? A. I can't think of anything at 	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 document Bates number ASTM 103277 to ASTM 103284 titled: "INTELLECTUAL PROPERTY POLICY OF ASTM." It says at the top of page Bates number ASTM103277 "Approved 28 April 1999." Is that correct? A. Yes. Q. Was this the first edition of the Intellectual Property Policy of ASTM? A. I believe there was one prior to this. Q. Do you know when the Intellectual Property Policy of ASTM that existed prior to this was created? A. No. Q. Do you have any idea? A. I think it was at some point in the '90s. Maybe mid '90s, but I'm not sure. Q. Does ASTM have any record of an Intellectual Property Policy prior to this one, Exhibit 1285?

16 (Pages 58 - 61)

1	Q. Do you know how many versions	1	counsel and when Tom O'Brien took over as
2	of ASTM's Intellectual Property Policy have	2	general counsel?
3	been formally adopted by ASTM over the years?	3	A. I'm not certain.
4	MR. FEE: Objection. Vague.	4	
5	THE WITNESS: I'm not sure.	5	(Exhibit 1286, Intellectual
6	BY MR. BECKER:	6	Property Policy of ASTM International
7	Q. Do you know who drafted the	7	("Policy"), Bates ASTM103285 -
8	ASTM Intellectual Property Policy?	8	ASTM103290, was marked for
9	MR. FEE: Objection. Vague.	9	identification.)
10	You're asking about 1285?	10	
11	BY MR. BECKER:	11	BY MR. BECKER:
12	Q. Exhibit 1285.	12	Q. I'm handing you what's been
13	A. I'm not certain.	13	marked as Exhibit 1286. This is the document
14	Q. Do you know who might have	14	produced by ASTM last night as Bates number
15	drafted Exhibit 1285?	15	ASTM103285 to ASTM103290, titled:
16	MR. FEE: Objection. Calls for	16	"INTELLECTUAL PROPERTY POLICY OF ASTM
17	speculation.	17	INTERNATIONAL ('POLICY')."
18	THE WITNESS: I'm not certain.	18	Do you recognize this document?
19	BY MR. BECKER:	19	A. It's our Intellectual Property
20	Q. When you say you're not	20	Policy.
21	certain, you mean you have no idea?	21	Q. What is the relationship of
22	A. I would assume it would have	22	this Exhibit 1286 to the document 1285 that
23	been under general counsel.	23	we were just discussing?
24	Q. And who would that have been on	24	MR. FEE: Objection. Vague.
25	April 28, 1999?	25	THE WITNESS: It appears to be a
	Page 62		Page 64
1	A. It would have been Moe Brooke.	1	revision.
1 2	A. It would have been Moe Brooke.Q. Can you spell that for me,	1 2	revision. BY MR. BECKER:
			BY MR. BECKER:
2	Q. Can you spell that for me,	2	BY MR. BECKER:
2 3	Q. Can you spell that for me, please?	2 3	BY MR. BECKER: Q. Can you tell me what the date
2 3 4	Q. Can you spell that for me, please? A. B-R-O-O-K-E.	2 3 4	BY MR. BECKER: Q. Can you tell me what the date is that's in the top right-hand corner of this document?
2 3 4 5	 Q. Can you spell that for me, please? A. B-R-O-O-K-E. Q. Do you know approximately what 	2 3 4 5	BY MR. BECKER: Q. Can you tell me what the date is that's in the top right-hand corner of this document?
2 3 4 5 6	 Q. Can you spell that for me, please? A. B-R-O-O-K-E. Q. Do you know approximately what years Moe Brooke was the general counsel of ASTM from? 	2 3 4 5 6	BY MR. BECKER: Q. Can you tell me what the date is that's in the top right-hand corner of this document? A. It appears to be 3/17/10 maybe. I assume.
2 3 4 5 6 7	 Q. Can you spell that for me, please? A. B-R-O-O-K-E. Q. Do you know approximately what years Moe Brooke was the general counsel of ASTM from? A. Roughly from maybe 1980 to late 	2 3 4 5 6 7	 BY MR. BECKER: Q. Can you tell me what the date is that's in the top right-hand corner of this document? A. It appears to be 3/17/10 maybe. I assume. Q. At the bottom of the last page
2 3 4 5 6 7 8	Q.Can you spell that for me,please?A.B-R-O-O-K-E.Q.Do you know approximately whatyears Moe Brooke was the general counsel ofASTM from?A.Roughly from maybe 1980 to late'90s.	2 3 4 5 6 7 8	BY MR. BECKER:Q. Can you tell me what the dateis that's in the top right-hand corner ofthis document?A. It appears to be 3/17/10 maybe.I assume.Q. At the bottom of the last pageit says, "As amended by the ASTM
2 3 4 5 6 7 8 9	 Q. Can you spell that for me, please? A. B-R-O-O-K-E. Q. Do you know approximately what years Moe Brooke was the general counsel of ASTM from? A. Roughly from maybe 1980 to late 	2 3 4 5 6 7 8 9	 BY MR. BECKER: Q. Can you tell me what the date is that's in the top right-hand corner of this document? A. It appears to be 3/17/10 maybe. I assume. Q. At the bottom of the last page it says, "As amended by the ASTM International Board of Directors, October 28,
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2 3 4 5 6 7 8 9 10 11	Q.Can you spell that for me,please?A.B-R-O-O-K-E.Q.Do you know approximately whatyears Moe Brooke was the general counsel ofASTM from?A.Roughly from maybe 1980 to late'90s.Q.And who took over as generalcounsel after Moe Brooke?A.Tom O'Brien.	2 3 4 5 6 7 8 9 10 11	 BY MR. BECKER: Q. Can you tell me what the date is that's in the top right-hand corner of this document? A. It appears to be 3/17/10 maybe. I assume. Q. At the bottom of the last page it says, "As amended by the ASTM International Board of Directors, October 28, 2003 and April 13, 2010." Is that correct? A. It does say that.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Q. Can you spell that for me, please? A. B-R-O-O-K-E. Q. Do you know approximately what years Moe Brooke was the general counsel of ASTM from? A. Roughly from maybe 1980 to late '90s. Q. And who took over as general counsel after Moe Brooke? A. Tom O'Brien. Q. And Tom O'Brien is the current general counsel. Is that correct? A. Correct. Q. Do you know when Tom O'Brien took over as general counsel of ASTM? A. I think it was in about 2004. Q. So was there anybody who was 	$ \begin{array}{c} 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ \end{array} $	BY MR. BECKER: Q. Can you tell me what the date is that's in the top right-hand corner of this document? A. It appears to be 3/17/10 maybe. I assume. Q. At the bottom of the last page it says, "As amended by the ASTM International Board of Directors, October 28, 2003 and April 13, 2010." Is that correct? A. It does say that. Q. Does this appear to be a redline showing the changes to the Intellectual Property Policy of ASTM that were instituted in 2010? A. That's what it appears to be. (Exhibit 1287, Intellectual Property Policy of ASTM International
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Q. Can you spell that for me, please? A. B-R-O-O-K-E. Q. Do you know approximately what years Moe Brooke was the general counsel of ASTM from? A. Roughly from maybe 1980 to late '90s. Q. And who took over as general counsel after Moe Brooke? A. Tom O'Brien. Q. And Tom O'Brien is the current general counsel. Is that correct? A. Correct. Q. Do you know when Tom O'Brien took over as general counsel of ASTM? A. I think it was in about 2004. Q. So was there anybody who was the general counsel of ASTM between Moe Brooke and Tom O'Brien? 	$\begin{array}{c} 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ 21 \end{array}$	BY MR. BECKER: Q. Can you tell me what the date is that's in the top right-hand corner of this document? A. It appears to be 3/17/10 maybe. I assume. Q. At the bottom of the last page it says, "As amended by the ASTM International Board of Directors, October 28, 2003 and April 13, 2010." Is that correct? A. It does say that. Q. Does this appear to be a redline showing the changes to the Intellectual Property Policy of ASTM that were instituted in 2010? A. That's what it appears to be. (Exhibit 1287, Intellectual Property Policy of ASTM International ("Policy"), Bates ASTM003445 -
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. Can you spell that for me, please? A. B-R-O-O-K-E. Q. Do you know approximately what years Moe Brooke was the general counsel of ASTM from? A. Roughly from maybe 1980 to late '90s. Q. And who took over as general counsel after Moe Brooke? A. Tom O'Brien. Q. And Tom O'Brien is the current general counsel. Is that correct? A. Correct. Q. Do you know when Tom O'Brien took over as general counsel of ASTM? A. I think it was in about 2004. Q. So was there anybody who was the general counsel of ASTM between Moe Brooke and Tom O'Brien? A. I don't believe on staff we had 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	BY MR. BECKER: Q. Can you tell me what the date is that's in the top right-hand corner of this document? A. It appears to be 3/17/10 maybe. I assume. Q. At the bottom of the last page it says, "As amended by the ASTM International Board of Directors, October 28, 2003 and April 13, 2010." Is that correct? A. It does say that. Q. Does this appear to be a redline showing the changes to the Intellectual Property Policy of ASTM that were instituted in 2010? A. That's what it appears to be. (Exhibit 1287, Intellectual Property Policy of ASTM International ("Policy"), Bates ASTM003445 - ASTM003448, was marked for
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Can you spell that for me, please? A. B-R-O-O-K-E. Q. Do you know approximately what years Moe Brooke was the general counsel of ASTM from? A. Roughly from maybe 1980 to late '90s. Q. And who took over as general counsel after Moe Brooke? A. Tom O'Brien. Q. And Tom O'Brien is the current general counsel. Is that correct? A. Correct. Q. Do you know when Tom O'Brien took over as general counsel of ASTM? A. I think it was in about 2004. Q. So was there anybody who was the general counsel of ASTM between Moe Brooke and Tom O'Brien? A. I don't believe on staff we had anybody between Moe Brooke and Tom O'Brien. 	$\begin{array}{c} 2\\ 3\\ 4\\ 5\\ 6\\ 7\\ 8\\ 9\\ 10\\ 11\\ 12\\ 13\\ 14\\ 15\\ 16\\ 17\\ 18\\ 19\\ 20\\ 21\\ 22\\ 23\\ \end{array}$	BY MR. BECKER: Q. Can you tell me what the date is that's in the top right-hand corner of this document? A. It appears to be 3/17/10 maybe. I assume. Q. At the bottom of the last page it says, "As amended by the ASTM International Board of Directors, October 28, 2003 and April 13, 2010." Is that correct? A. It does say that. Q. Does this appear to be a redline showing the changes to the Intellectual Property Policy of ASTM that were instituted in 2010? A. That's what it appears to be. (Exhibit 1287, Intellectual Property Policy of ASTM International ("Policy"), Bates ASTM003445 -
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. Can you spell that for me, please? A. B-R-O-O-K-E. Q. Do you know approximately what years Moe Brooke was the general counsel of ASTM from? A. Roughly from maybe 1980 to late '90s. Q. And who took over as general counsel after Moe Brooke? A. Tom O'Brien. Q. And Tom O'Brien is the current general counsel. Is that correct? A. Correct. Q. Do you know when Tom O'Brien took over as general counsel of ASTM? A. I think it was in about 2004. Q. So was there anybody who was the general counsel of ASTM between Moe Brooke and Tom O'Brien? A. I don't believe on staff we had 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	BY MR. BECKER: Q. Can you tell me what the date is that's in the top right-hand corner of this document? A. It appears to be 3/17/10 maybe. I assume. Q. At the bottom of the last page it says, "As amended by the ASTM International Board of Directors, October 28, 2003 and April 13, 2010." Is that correct? A. It does say that. Q. Does this appear to be a redline showing the changes to the Intellectual Property Policy of ASTM that were instituted in 2010? A. That's what it appears to be. (Exhibit 1287, Intellectual Property Policy of ASTM International ("Policy"), Bates ASTM003445 - ASTM003448, was marked for

17 (Pages 62 - 65)

1	Q. I'm handing you what's been	1	preparation for your deposition today?
2	marked as Exhibit 1287. This is a document	2	A. I believe it was one.
3	produced by ASTM as Bates number ASTM003445	3	Q. Do you know which version that
4	to ASTM003448. Do you recognize this	4	was that you reviewed in preparation for your
5	document?	5	deposition today?
6	A. It appears to be a draft of the	6	A. The current 2013 or 2010
7	Intellectual Property Policy.	7	rather. The one that was adopted in 2010.
8	Q. Why do you say that it is a	8	Q. Is the one adopted in 2010 the
9	draft of the Intellectual Property Policy?	9	most recent version of the ASTM Intellectual
10	A. Or perhaps a version, I should	10	Property Policy?
11	say.	11	A. To my knowledge, yes.
12	Q. Do you know what the date of	12	
13	this version is?	13	(Exhibit 1288, Intellectual
14	A. At the top it says, Originally	14	Property Policy of ASTM International
15	approved April 1999 [as read], and then on	15	("Policy"), Bates ASTM003437 -
16	the back it says, "As Amended by the Board of	16	ASTM003441, was marked for
17	Directors,2003."	17	identification.)
18	Q. Do you know if this version of	18	
19	the ASTM Intellectual Property Policy went	19	BY MR. BECKER:
20	into effect?	20	Q. I'm handing you what's been
21	A. I don't know for sure, this	21	marked as Exhibit 1288. This is the document
22	particular version.	22	produced by plaintiffs as Bates number
23	Q. Who would know?	23	ASTM003437 to ASTM003441. Do you recognize
24	MR. FEE: Objection. Calls for	24	this document?
25	speculation.	25	A. Yes.
	Page 66		Page 68
1	THE WITNESS: I don't know. Our	1	Q. What is this document?
2	general counsel could probably figure	2	A. It's the ASTM Intellectual
3	it out, I think. I don't know if this	3	Property Policy.
4	is the I just don't know if this is	4	Q. What is the date of this
5	the exact version that was approved	5	version of the ASTM Intellectual Property
6	BY MR. BECKER:	6	Policy?
7	Q. Did you review the	7	A. It was originally approved in
8	A by the board.	8	April of 1999. This particular version was
9	Q. Excuse me. I'm sorry, go	9	amended by the ASTM International Board of
10	ahead.	10	Directors on October 28, 2003, and April 13,
11	A. I don't know if this is the	11	2010.
12	exact version that was adopted by our board	12	Q. So this is the most current
13	in 2003 since the exact date is not at the	13	version of the ASTM Intellectual Property
14	end.	14	Policy then?
15	Q. Did you review this document in	15	A. I would think.
16	preparation for your deposition today?	16	Q. Is this the version that you
17	A. I don't know if I reviewed this	17	reviewed in preparation for the deposition
18	exact document.	18	today?
19	Q. Did you review any versions of	19	A. Yes.
20	the ASTM Intellectual Property Policy in	20	Q. And on the final page of
21	preparation for your deposition today?	21	Exhibit 1288 it says at the bottom, "As
22	A. Yes.	22	amended by the ASTM International Board of
23	Q. Do you know approximately how	23	Directors October 28, 2003 and April 13,
24	many versions of the ASTM Intellectual	24	2010," whereas on the front it says at the
25	Property Policy that you reviewed in	25	top of the front page it says, "Originally
1	Page 67		Page 69

18 (Pages 66 - 69)

1	Approved 28 April 1999."	1	a legal conclusion. You shouldn't
2	So this document appears to	2	disclose any communications you've had
3	list three different versions of the ASTM	3	with counsel regarding that subject.
4	Intellectual Property Policy. Is that	4	If you otherwise can respond, go
5	correct?	5	ahead.
6	A. Yes.	6	THE WITNESS: I'm not a lawyer,
7	Q. What is your basis for	7	but in reading page 4 of the policy
8	believing excuse me, let me rephrase.	8	part D, I believe that that does do
9	After reviewing these dates, do	9	what you asked.
10	you still believe there was a version of the	10	BY MR. BECKER:
11	ASTM Intellectual Property Policy that	11	Q. That is the section V policy
12	existed prior to April 28, 1999?	12	part D?
13	A. I believe we did.	13	A. Yes.
14	Q. What is your basis for	14	Q. Would you, please, compare that
15	believing that there was a prior version of	15	section V part D for Exhibits 1285 and
16	the ASTM Intellectual Property Policy?	16	Exhibit 1288?
17	A. I just seem to recall, but I	17	MR. FEE: Objection. Vague if
18	could be wrong. I thought there was.	18	that's the question.
19	Q. If there was a prior version of	19	BY MR. BECKER:
20	the ASTM Intellectual Property Policy prior	20	Q. Do you see any differences
21	to April 28, 1999, that was formally adopted	21	between section V part D in the Exhibit 1288
22	by ASTM, who would know that?	22	versus Exhibit 1285?
23	MR. FEE: Objection. Calls for	23	A. I'd have to go through it word
24	speculation.	24	by word. Is there anything particular
25	THE WITNESS: I don't know.	25	that
	Page 70		Page 72
1	BY MR. BECKER:	1	O De yest and that in the 2012
$\begin{vmatrix} 1\\2 \end{vmatrix}$	Q. Did you discuss the existence	1 2	Q. Do you see that in the 2013 excuse me, 2010 edition, Exhibit 1288, it
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	of a version of the ASTM Intellectual	$\frac{2}{3}$	adds the line, "Each member agrees by such
4	Property Policy that existed prior to	4	participation and enjoyment of his/her annual
	April 28, 1999, with anyone in preparation		
5	for your deposition today?	5	membership benefits, to have transferred any
6		6	and all ownership interests, including
7		7	copyright, they possess or may possess in the
8	Q. Do you know why the ASTM	8	ASTM IP to ASTM"?
9	Intellectual Property Policy was revised on	9	A. I do see that.
10	at least two occasions?	10	Q. Why did ASTM insert this
11	MR. FEE: Objection. To the	11	sentence into the ASTM Intellectual Property
12	extent that that calls for you to	12	Policy?
13	disclose communications with counsel,	13	MR. FEE: Objection. Calls for
14	you shouldn't disclose those, but if	14	a legal conclusion. I instruct you
15	you know otherwise, you can answer.	15	not to disclose any communications you
16	THE WITNESS: No, I don't.	16	had with counsel regarding that
17	BY MR. BECKER:	17	subject.
18	Q. Looking at Exhibit 1285, the	18	THE WITNESS: I don't know.
19	April 28, 1999, version of the ASTM	19	BY MR. BECKER:
20	Intellectual Property Policy, does ASTM	20	Q. Do you have any knowledge about
21	believe that this Intellectual Property	21	the revisions that were made to the ASTM
22	Policy grants it any copyrights in the drafts	22	Intellectual Property Policy subsequent to
23	of standards created by individuals who are	23	the 1999 version?
24	not employed by ASTM?	24	MR. FEE: Objection. Vague.
25	MR. FEE: Objection. Calls for Page 71	25	Compound. You can answer yes or no. Page 73

19 (Pages 70 - 73)

1	THE WITNESS: Maybe.	1	question, go ahead and answer.
2	MR. FEE: Or maybe.	2	THE WITNESS: I would imagine
3	BY MR. BECKER:	3	our general counsel would know.
4	Q. When you say "maybe," what do	4	BY MR. BECKER:
5	you mean?	5	Q. If you look at Exhibit 1285,
6	A. I'm not sure exactly what you	6	does clause IV C exist in that document?
7	mean. I know I can see right here there were	7	A. I don't see it.
8	revisions, I could read these. 1286, like	8	MR. FEE: Objection. The
9	the difference, the differences, but	9	document speaks for itself.
10	Q. Could you tell me what is the	10	BY MR. BECKER:
11	purpose of the clause at part IV C in	11	Q. Do you know why ASTM introduced
12	Exhibit 1286?	12	that clause at section IV C subsequent to the
13	MR. FEE: Objection to the	13	April 28, 1999, version of the ASTM
14	extent it calls for a legal	14	Intellectual Property Policy?
15	conclusion. To the extent your	15	MR. FEE: Objection. Calls for
16	understanding of the purpose of any	16	a legal conclusion. You shouldn't
17	MR. BECKER: Excuse me.	17	-
			disclose any communications with
18	MR. FEE: changes in clauses	18	counsel regarding that subject matter.
19	is based upon communications with	19	If you otherwise know why that was
20	counsel, I instruct you not to answer.	20	done, you can answer it.
21	MR. BECKER: Let me say let	21	THE WITNESS: No.
22	me rephrase.	22	BY MR. BECKER:
23	BY MR. BECKER:	23	Q. Is ASTM aware of any ASTM
24	Q. I meant Exhibit 1288.	24	members seeking legal advice to explain any
25	MR. FEE: Same objections and	25	of the language in the ASTM Intellectual
	Page 74		Page 76
1	instructions.	1	Property Policy?
1 2	instructions. BY MR. BECKER:	1 2	Property Policy? MR. FEE: Hold on a second. You
2	BY MR. BECKER:		MR. FEE: Hold on a second. You
2 3	BY MR. BECKER: Q. Let me restate for the record.	2 3	MR. FEE: Hold on a second. You can answer it yes or no or maybe.
2 3 4	BY MR. BECKER: Q. Let me restate for the record. In Exhibit 1288, what is the purpose of the	2 3 4	MR. FEE: Hold on a second. You can answer it yes or no or maybe. THE WITNESS: I'm not aware of
2 3 4 5	BY MR. BECKER: Q. Let me restate for the record. In Exhibit 1288, what is the purpose of the clause at part IV C?	2 3 4 5	MR. FEE: Hold on a second. You can answer it yes or no or maybe. THE WITNESS: I'm not aware of any.
2 3 4 5 6	BY MR. BECKER: Q. Let me restate for the record. In Exhibit 1288, what is the purpose of the clause at part IV C? MR. FEE: Objection. Calls for	2 3 4 5 6	MR. FEE: Hold on a second. You can answer it yes or no or maybe. THE WITNESS: I'm not aware of any. BY MR. BECKER:
2 3 4 5 6 7	BY MR. BECKER: Q. Let me restate for the record. In Exhibit 1288, what is the purpose of the clause at part IV C? MR. FEE: Objection. Calls for a legal conclusion. To the extent of	2 3 4 5 6 7	MR. FEE: Hold on a second. You can answer it yes or no or maybe. THE WITNESS: I'm not aware of any. BY MR. BECKER: Q. If you don't know what the
2 3 4 5 6 7 8	BY MR. BECKER: Q. Let me restate for the record. In Exhibit 1288, what is the purpose of the clause at part IV C? MR. FEE: Objection. Calls for a legal conclusion. To the extent of your understanding of the purpose of	2 3 4 5 6 7 8	MR. FEE: Hold on a second. You can answer it yes or no or maybe. THE WITNESS: I'm not aware of any. BY MR. BECKER: Q. If you don't know what the clause at section IV C means, why would you
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20 (Pages 74 - 77)

1	BY MR. BECKER:	1	in that draft standard to ASTM?
2	Q. Does ASTM know one way or	2	MR. FEE: Objection. Calls for
3	another whether any members actually	3	a legal conclusion.
4	understand the language in its Intellectual	4	THE WITNESS: I'm not sure I
5	Property Policy?	5	understand that question.
6	MR. FEE: Objection. Calls for	6	BY MR. BECKER:
7	speculation.	7	Q. Just to back up a moment.
8	THE WITNESS: I can't think of	8	When in your previous answer when you said
9	any evidence either way.	9	that the only situations you can recall are
10	BY MR. BECKER:	10	the ones we talked about earlier using that
11	Q. Returning to Exhibit 1288,	11	form, were you referring to Exhibit 1284, the
12	section V D, it says, "If requested by ASTM	12	ASTM International Participation and
13	International, such Participants and	13	Acknowledgement Form?
14	committee members agree to execute any and	14	A. Yes.
15	all documents deemed necessary or appropriate	15	Q. Returning to my question, let's
16	by ASTM International to transfer and	16	see if I can clarify. Section V D says, "If
17	effectuate ownership of all such rights,	17	requested by ASTM International, such
18	including but not limited to copyrights, they	18	Participants and committee members agree to
19	may possibly have in ASTM IP." And the first		execute any and all documents deemed
20	page, first paragraph says, "Standards,	20	necessary, or appropriate by ASTM
21	Draft Standards, Adjuncts, Certification	21	International to transfer and effectuate
22	Programs and related materials, Technical	22	ownership of all such rights, including but
23	Papers, Research Reports, Manuals, Software,	23	not limited to copyrights, they may possibly
24	Training Course Materials and Logos	23	have in ASTM IP."
25	collectively referred to as 'ASTM IP'''?	25	Once a once an individual
25	Page 78	23	Page 80
1	A. Where were you reading that	1	has contributed to the drafting of an ASTM
2	first sentence?	2	standard, has ASTM ever asked an individual
3	Q. That was from the first	3	to assign the copyright in a draft document
4	paragraph on the front page under	4	that he or she has already created to ASTM?
5	"INTRODUCTION," it defines ASTM IP as those	5	MR. FEE: Objection. Calls for
6	items that I just listed.	6	a legal conclusion.
	-		•
7	A. Okay.	7	THE WITNESS: I really don't
8			1
0	Q. So returning to section V D,	8	know either way. It's possible.
9	are you aware of excuse me, is ASTM aware	9	BY MR. BECKER:
10	are you aware of excuse me, is ASTM aware of any instances where it has requested	9 10	BY MR. BECKER: Q. Other than your reference to
10 11	are you aware of excuse me, is ASTM aware of any instances where it has requested individuals to agree to execute any documents	9 10 11	BY MR. BECKER: Q. Other than your reference to Exhibit 1284, are there other instances in
10 11 12	are you aware of excuse me, is ASTM aware of any instances where it has requested individuals to agree to execute any documents necessary to transfer copyright ownership to	9 10 11 12	BY MR. BECKER: Q. Other than your reference to Exhibit 1284, are there other instances in which ASTM has asked an individual to execute
10 11 12 13	are you aware of excuse me, is ASTM aware of any instances where it has requested individuals to agree to execute any documents necessary to transfer copyright ownership to ASTM?	9 10 11 12 13	BY MR. BECKER: Q. Other than your reference to Exhibit 1284, are there other instances in which ASTM has asked an individual to execute an assignment of copyright to ASTM?
10 11 12 13 14	are you aware of excuse me, is ASTM aware of any instances where it has requested individuals to agree to execute any documents necessary to transfer copyright ownership to ASTM? MR. FEE: Objection. Vague.	9 10 11 12 13 14	BY MR. BECKER: Q. Other than your reference to Exhibit 1284, are there other instances in which ASTM has asked an individual to execute an assignment of copyright to ASTM? A. Yes.
10 11 12 13 14 15	are you aware of excuse me, is ASTM aware of any instances where it has requested individuals to agree to execute any documents necessary to transfer copyright ownership to ASTM? MR. FEE: Objection. Vague. THE WITNESS: The only	9 10 11 12 13 14 15	BY MR. BECKER: Q. Other than your reference to Exhibit 1284, are there other instances in which ASTM has asked an individual to execute an assignment of copyright to ASTM? A. Yes. Q. What instances are those?
10 11 12 13 14 15 16	are you aware of excuse me, is ASTM aware of any instances where it has requested individuals to agree to execute any documents necessary to transfer copyright ownership to ASTM? MR. FEE: Objection. Vague. THE WITNESS: The only situations that I can recall are the	9 10 11 12 13 14 15 16	BY MR. BECKER: Q. Other than your reference to Exhibit 1284, are there other instances in which ASTM has asked an individual to execute an assignment of copyright to ASTM? A. Yes. Q. What instances are those? A. On our work item registration
10 11 12 13 14 15 16 17	are you aware of excuse me, is ASTM aware of any instances where it has requested individuals to agree to execute any documents necessary to transfer copyright ownership to ASTM? MR. FEE: Objection. Vague. THE WITNESS: The only situations that I can recall are the ones that we talked about earlier	9 10 11 12 13 14 15 16 17	BY MR. BECKER: Q. Other than your reference to Exhibit 1284, are there other instances in which ASTM has asked an individual to execute an assignment of copyright to ASTM? A. Yes. Q. What instances are those? A. On our work item registration process, there is a click through that
10 11 12 13 14 15 16 17 18	are you aware of excuse me, is ASTM aware of any instances where it has requested individuals to agree to execute any documents necessary to transfer copyright ownership to ASTM? MR. FEE: Objection. Vague. THE WITNESS: The only situations that I can recall are the ones that we talked about earlier using that form. I seem to remember	9 10 11 12 13 14 15 16 17 18	BY MR. BECKER: Q. Other than your reference to Exhibit 1284, are there other instances in which ASTM has asked an individual to execute an assignment of copyright to ASTM? A. Yes. Q. What instances are those? A. On our work item registration process, there is a click through that requests that that individual assign all
10 11 12 13 14 15 16 17 18 19	are you aware of excuse me, is ASTM aware of any instances where it has requested individuals to agree to execute any documents necessary to transfer copyright ownership to ASTM? MR. FEE: Objection. Vague. THE WITNESS: The only situations that I can recall are the ones that we talked about earlier using that form. I seem to remember that there were instances where we	9 10 11 12 13 14 15 16 17	BY MR. BECKER: Q. Other than your reference to Exhibit 1284, are there other instances in which ASTM has asked an individual to execute an assignment of copyright to ASTM? A. Yes. Q. What instances are those? A. On our work item registration process, there is a click through that
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10 11 12 13 14 15 16 17 18 19 20	are you aware of excuse me, is ASTM aware of any instances where it has requested individuals to agree to execute any documents necessary to transfer copyright ownership to ASTM? MR. FEE: Objection. Vague. THE WITNESS: The only situations that I can recall are the ones that we talked about earlier using that form. I seem to remember that there were instances where we used that form, but I don't know the	9 10 11 12 13 14 15 16 17 18 19 20	 BY MR. BECKER: Q. Other than your reference to Exhibit 1284, are there other instances in which ASTM has asked an individual to execute an assignment of copyright to ASTM? A. Yes. Q. What instances are those? A. On our work item registration process, there is a click through that requests that that individual assign all rights to their contributions both past and present as well as on our membership
10 11 12 13 14 15 16 17 18 19 20 21	are you aware of excuse me, is ASTM aware of any instances where it has requested individuals to agree to execute any documents necessary to transfer copyright ownership to ASTM? MR. FEE: Objection. Vague. THE WITNESS: The only situations that I can recall are the ones that we talked about earlier using that form. I seem to remember that there were instances where we used that form, but I don't know the specifics about them.	9 10 11 12 13 14 15 16 17 18 19 20 21	 BY MR. BECKER: Q. Other than your reference to Exhibit 1284, are there other instances in which ASTM has asked an individual to execute an assignment of copyright to ASTM? A. Yes. Q. What instances are those? A. On our work item registration process, there is a click through that requests that that individual assign all rights to their contributions both past and present as well as on our membership application and also on our renewal
10 11 12 13 14 15 16 17 18 19 20 21 22	are you aware of excuse me, is ASTM aware of any instances where it has requested individuals to agree to execute any documents necessary to transfer copyright ownership to ASTM? MR. FEE: Objection. Vague. THE WITNESS: The only situations that I can recall are the ones that we talked about earlier using that form. I seem to remember that there were instances where we used that form, but I don't know the specifics about them. BY MR. BECKER:	9 10 11 12 13 14 15 16 17 18 19 20 21 22	BY MR. BECKER: Q. Other than your reference to Exhibit 1284, are there other instances in which ASTM has asked an individual to execute an assignment of copyright to ASTM? A. Yes. Q. What instances are those? A. On our work item registration process, there is a click through that requests that that individual assign all rights to their contributions both past and present as well as on our membership application and also on our collaboration
10 11 12 13 14 15 16 17 18 19 20 21 22 23	are you aware of excuse me, is ASTM aware of any instances where it has requested individuals to agree to execute any documents necessary to transfer copyright ownership to ASTM? MR. FEE: Objection. Vague. THE WITNESS: The only situations that I can recall are the ones that we talked about earlier using that form. I seem to remember that there were instances where we used that form, but I don't know the specifics about them. BY MR. BECKER: Q. Subsequent to the drafting of	9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 BY MR. BECKER: Q. Other than your reference to Exhibit 1284, are there other instances in which ASTM has asked an individual to execute an assignment of copyright to ASTM? A. Yes. Q. What instances are those? A. On our work item registration process, there is a click through that requests that that individual assign all rights to their contributions both past and present as well as on our membership application and also on our collaboration area.

21 (Pages 78 - 81)

1	first been instituted in approximately 2003.	1	BY MR. BECKER:
2	Correct?	2	Q. Yes.
3	A. Correct.	3	A. No.
4	Q. Who would know if ASTM has ever	4	Q. Did you speak with any ASTM
5	asked an individual to assign the copyright	5	staff members about documents that ASTM
6	in a draft document that that individual has	6	believes generally assign copyright to
7	already previously created to ASTM?	7	ASTM
8	MR. FEE: Objection. Assumes	8	MR. FEE: Objection. Vague.
9	facts not in evidence. You can	9	BY MR. BECKER:
10	answer.	10	Q in preparation for your
11	THE WITNESS: Yeah, I don't know	11	deposition today?
12	who it would be because it would	12	A. In general, yes. And then
12	depend on which committee it involved.	12	there were also a few specific forms, forms
13	BY MR. BECKER:	13 14	-
			that had actual members renewing or applying
15	Q. Would a staff member be	15	for membership.
16	involved in that or would it simply be a	16	Q. And who did you speak with,
17	volunteer committee member?	17	excluding counsel, regarding the subjects of
18	MR. FEE: Objection. Vague.	18	copyright assignments to ASTM in preparation
19	THE WITNESS: Involved in what	19	for your deposition today?
20	exactly?	20	A. Specific examples of?
21	BY MR. BECKER:	21	Q. Both specific and general
22	Q. In the request for an	22	examples.
23	assignment of copyright for a work that had	23	A. In general I talked to Marge
24	already previously been created by an	24	Cassidy, our treasurer.
25	individual to ASTM?	25	Q. Anybody else?
	Page 82		Page 84
1	A. And that they would bring it in	1	A. Jim Thomas, our president.
2	to ASTM for the develop as developing as	2	Q. Anybody else?
$\frac{2}{3}$	an ASTM standard?	3	A. John Pace, our vice president
4	Q. They or that they had	4	of our vice president of publications.
5	developed as part of an ASTM committee but	5	Q. Anybody else?
6	· ·		A. Phil Lively, our vice president
	had not executed any assignments to ASTM for that document.		
7		7	of technology.
8	A. I'm sorry, is your question who	8	Q. Anybody else?
9	would know that?	9	A. Kathie Morgan, our executive
10	Q. Yeah, who would know that?	10	vice president.
11	A. The staff person, whoever the	11	Q. Anybody else?
12	staff manager for that particular committee	12	A. I believe that's everybody.
13	would be would have knowledge of that.	13	Q. What did you speak with Marge
14	Q. Would the ASTM general counsel	14	Cassidy about in preparation for your
15	have knowledge of whether an assignment was	15	deposition today?
16	made concerning a particular work to ASTM	16	A. Just any information that she
17	subsequent to the creation of that work?	17	would have relative to assignment of
18	A. Maybe.	18	copyright by our members.
19	Q. Did you speak with any ASTM	19	Q. And what did you learn from
20	staff members about any assignments of	20	Marge Cassidy?
21	copyright to ASTM in preparation for your	20	A. Nothing.
$21 \\ 22$	deposition today?	21	Q. What did Marge Cassidy say
144	MR. FEE: Objection. Vague.	22	about assignment of copyright from ASTM
1		23	about assignment of copyright from ASTM
23	• •		
23 24	THE WITNESS: Particular	24	members?
23	• •		

22 (Pages 82 - 85)

1	knowledge.	1	(A recess was taken.)
2	Q. Did you approach Marge Cassidy	2	
3	or did she approach you in preparation for	3	VIDEOGRAPHER: The time is now
4	your deposition today?	4	1:58. We're back on the video record.
5	MR. FEE: Objection. Lack of	5	This begins disc two.
6	foundation.	6	
7	THE WITNESS: I didn't initiate	7	(Exhibit 1289, Defendant
8	it and she didn't initiate it. We	8	Public.Resource.Org, Inc.'s Amended
9	called a meeting. Our general counsel	9	Notice of Rule 30(b)(6) Deposition of
10	called a meeting.	10	American Society for Testing and
11	BY MR. BECKER:	11	Materials, was marked for
12	Q. Who was in attendance at that	12	identification.)
13	meeting?	13	
14	A. Our legal team and Marge.	14	BY MR. BECKER:
15	Q. Do you know the date of that	15	Q. Mr. Smith, I'm handing you
16	meeting?	16	what's been marked as Exhibit 1289. This is
17	A. It was yesterday.	17	the "PUBLIC.RESOURCE.ORG AMENDED NOTICE OF
18	Q. How long did you meet for?	18	RULE 30(B)(6) DEPOSITION OF AMERICAN SOCIETY
19	A. Maybe 10, 15 minutes.	19	FOR TESTING AND MATERIALS." Do you recognize
20	Q. What did you speak with Marge	20	this document?
21	about at that meeting?	21	A. I do.
22	A. Just wanted to get her	22	Q. Have you seen this document
23	perspective on anything that has to do with	23	before?
24	assigning copyright.	24	A. I believe I have.
25	Q. And what was Marge's	25	Q. And do you understand that you
	Page 86		Page 88
1	perspective?	1	are testifying on behalf of ASTM today?
1 2	perspective? A. She didn't have much of a	1 2	are testifying on behalf of ASTM today? A. I do.
	A. She didn't have much of a		
2		2	A. I do. MR. FEE: Just so the record is
2 3	A. She didn't have much of a perspective as someone who works in accounting. But she's a senior staff person	2 3	A. I do.MR. FEE: Just so the record is clear, he's testifying on behalf of
2 3 4	A. She didn't have much of a perspective as someone who works in	2 3 4	 A. I do. MR. FEE: Just so the record is clear, he's testifying on behalf of ASTM with respects to Topics 2, 3 and
2 3 4 5	A. She didn't have much of a perspective as someone who works in accounting. But she's a senior staff person who has been at ASTM for a long time, so I was interested in that.	2 3 4 5	 A. I do. MR. FEE: Just so the record is clear, he's testifying on behalf of ASTM with respects to Topics 2, 3 and 24 only.
2 3 4 5 6 7	 A. She didn't have much of a perspective as someone who works in accounting. But she's a senior staff person who has been at ASTM for a long time, so I was interested in that. Q. How long has Marge Cassidy been 	2 3 4 5 6 7	 A. I do. MR. FEE: Just so the record is clear, he's testifying on behalf of ASTM with respects to Topics 2, 3 and 24 only. MR. BECKER: And for the record,
2 3 4 5 6 7 8	 A. She didn't have much of a perspective as someone who works in accounting. But she's a senior staff person who has been at ASTM for a long time, so I was interested in that. Q. How long has Marge Cassidy been at ASTM for? 	2 3 4 5 6	 A. I do. MR. FEE: Just so the record is clear, he's testifying on behalf of ASTM with respects to Topics 2, 3 and 24 only. MR. BECKER: And for the record, Public.Resource.Org had requested that
2 3 4 5 6 7 8 9	 A. She didn't have much of a perspective as someone who works in accounting. But she's a senior staff person who has been at ASTM for a long time, so I was interested in that. Q. How long has Marge Cassidy been at ASTM for? A. 50 years. 	2 3 4 5 6 7 8	 A. I do. MR. FEE: Just so the record is clear, he's testifying on behalf of ASTM with respects to Topics 2, 3 and 24 only. MR. BECKER: And for the record, Public.Resource.Org had requested that ASTM provide a witness on additional
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24 (Pages 90 - 93)

1	Q. What did you discuss with Jim	1	Q. Did Jim Thomas say all of that
2	Thomas when you met with him then?	2	to you? When I say "all of that," I'm
3	A. I asked Jim about any memory	3	referring to your previous statement that you
4	that he has relative to assignments of	4	attributed to Jim Thomas, were all of those
5	copyright.	5	statements from Jim Thomas?
6	Q. And what did he say?	6	MR. FEE: Objection. Compound.
7	A. Pretty much what I've explained	7	THE WITNESS: Jim has told me
8	to you relative to formally getting	8	and I have seen Jim do these
9	documentation from our members on assignment	9	presentations.
10	from 2003 to the present relative to our	10	BY MR. BECKER:
11	renewal forms, membership application forms,	11	Q. When you spoke with Jim Thomas
12	collaboration area. And then prior to that,	12	on Tuesday, did he say that a member has
13	Jim's recollection and feelings were that	13	never challenged the copyright assertions by
14	copyright assignment from our members was a	14	ASTM?
15	very basic understanding that our members had	15	A. Yes.
16	and our staff have had, the sole purpose they	16	Q. And when you met with Jim
17	come to an ASTM meeting is to develop a	17	Thomas on Tuesday, did he say that the fact
18	standard that's going to result in an ASTM	18	that ASTM sells standards to its members is a
19	approved standard with a logo on it that's	19	basis for why there may be an understanding
20	copyrighted.	20	that by ASTM members, that their
21	Q. Did Mr. Thomas identify any	21	contributions would be copyrighted by ASTM?
22	basis for his belief that copyright	22	A. He had indicated that the fact
23	assignment from ASTM members was a very basic	23	that we sell the standards back to our
24	understanding, as you described it, that ASTM	24	members is probably a real good indication
25	members had with the purpose of developing an	25	that there's a basic understanding from our
	Page 94	20	Page 96
1	ASTM standard?	1	members that we are copyrighting the material
1			
2	A. Can you explain?	2	that they contribute.
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	5 1	2 3	•
			-
3	Q. Let me rephrase that. Did Mr. Thomas identify any basis for his belief	3 4	Q. Did Jim Thomas say anything else to you when you met with him on Tuesday?
3 4	Q. Let me rephrase that. Did Mr. Thomas identify any basis for his belief that ASTM members had an understanding that	3 4	Q. Did Jim Thomas say anything
3 4 5 6	Q. Let me rephrase that. Did Mr. Thomas identify any basis for his belief that ASTM members had an understanding that their drafts would be that the copyright	3 4 5	Q. Did Jim Thomas say anything else to you when you met with him on Tuesday? MR. FEE: Objection. Vague. THE WITNESS: I can't think of
3 4 5	Q. Let me rephrase that. Did Mr. Thomas identify any basis for his belief that ASTM members had an understanding that their drafts would be that the copyright for their drafts would be held by ASTM?	3 4 5 6	Q. Did Jim Thomas say anything else to you when you met with him on Tuesday? MR. FEE: Objection. Vague. THE WITNESS: I can't think of anything else specific that he said.
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3 4 5 6 7 8 9	 Q. Let me rephrase that. Did Mr. Thomas identify any basis for his belief that ASTM members had an understanding that their drafts would be that the copyright for their drafts would be held by ASTM? A. I think his basis was on the fact that we've never had a member that has 	3 4 5 6 7 8	 Q. Did Jim Thomas say anything else to you when you met with him on Tuesday? MR. FEE: Objection. Vague. THE WITNESS: I can't think of anything else specific that he said. BY MR. BECKER: Q. Did you ask Jim Thomas any
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. Let me rephrase that. Did Mr. Thomas identify any basis for his belief that ASTM members had an understanding that their drafts would be that the copyright for their drafts would be held by ASTM? A. I think his basis was on the fact that we've never had a member that has really questioned, that we can recall, or challenged ASTM copyrighting something. Another basis being that we sell our standards and our members are some of our biggest customers, so they're buying the standards from us. Jim Thomas has provided numerous presentations at different committee meetings announcing about this lawsuit and what the ramifications potentially could be. How it could affect our business model and how we want to maintain our low entry for participation, \$75 membership, no meeting fees, and we sell our resulting standards so that we can support our operations. And the	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Did Jim Thomas say anything else to you when you met with him on Tuesday? MR. FEE: Objection. Vague. THE WITNESS: I can't think of anything else specific that he said. BY MR. BECKER: Q. Did you ask Jim Thomas any questions when you met with him on Tuesday? A. No, I don't think I asked him any questions. I think the meeting was basically to discuss copyright assignment. And I don't know if it was more of a discussion, I don't think we had I had questions. I twas a discussion. Q. A moment ago you referred to the \$75 fee. Do ASTM members excuse me, let me rephrase. Do individuals have to pay ASTM a fee to participate in the standard drafting process?

25 (Pages 94 - 97)

			1
1	THE WITNESS: They have to pay	1	A. No.
2	\$75 to be a member, but they don't	2	Q. When was that meeting?
3	have to pay \$75 to participate. So an	3	A. That meeting was yesterday.
4	individual can participate without	4	Q. So Mr. Pace provided no
5	paying ASTM.	5	information to you on the subject of
6	BY MR. BECKER:	6	copyright by individuals to ASTM?
7	Q. What are the differences that	7	A. No.
8	individuals who are members of ASTM enjoy in	8	MR. FEE: Objection. Vague.
9	their participation in the standard drafting	9	BY MR. BECKER:
10	process versus individuals who are not	10	Q. A moment ago you referred to
11	members?	11	presentations by Jim Thomas. Can you give
12	MR. FEE: Objection. Vague.	12	any specific can you tell me about any
13	THE WITNESS: They get to	13	specific presentations by Jim Thomas that you
14	free volume of standards and they get	14	think address issues of copyright ownership
15	to vote. When it's on the ballots,	15	by ASTM?
16	they get to cast votes. Nonmembers do	16	A. I can't recall any
17		17	presentations that he did specific on that
	not.		· ·
18	BY MR. BECKER:	18 19	subject.
19	Q. When you say "on the ballots,"		Q. What presentations were you
20	what ballots are you referring to?	20	referring to?
21	A. On the technical standards.	21	A. At ASTM conferences where we
22	Q. Are those ballots for voting up	22	have breakfast meetings with all of the
23	or down on the revision or creation of	23	individuals attending that meeting, are
24	particular standards?	24	invited to a breakfast meeting. And we hold
25	A. Correct.	25	them in four different committee weeks; in
	Page 98		Page 100
1	Q. Have you had any other	1	January, April, May and June of every year.
2	communications with Jim Thomas about your	2	I've heard Jim Thomas talk about what I said
23		2 3	
	communications with Jim Thomas about your deposition today other than the meeting you		I've heard Jim Thomas talk about what I said at those breakfast meetings.
3 4	communications with Jim Thomas about your	3	I've heard Jim Thomas talk about what I said at those breakfast meetings. Q. Do you recall on what dates
3 4 5	communications with Jim Thomas about your deposition today other than the meeting you had with him on Tuesday? A. No.	3 4	I've heard Jim Thomas talk about what I said at those breakfast meetings. Q. Do you recall on what dates Mr. Thomas spoke about those issues at
3 4 5 6	communications with Jim Thomas about your deposition today other than the meeting you had with him on Tuesday? A. No. Q. And have you had any	3 4 5 6	I've heard Jim Thomas talk about what I said at those breakfast meetings. Q. Do you recall on what dates Mr. Thomas spoke about those issues at breakfast meetings?
3 4 5 6 7	communications with Jim Thomas about your deposition today other than the meeting you had with him on Tuesday? A. No. Q. And have you had any communications with Marge Cassidy in	3 4 5 6 7	I've heard Jim Thomas talk about what I said at those breakfast meetings. Q. Do you recall on what dates Mr. Thomas spoke about those issues at breakfast meetings? A. I can't provide specific dates.
3 4 5 6 7 8	communications with Jim Thomas about your deposition today other than the meeting you had with him on Tuesday? A. No. Q. And have you had any communications with Marge Cassidy in preparation for your deposition today other	3 4 5 6 7 8	 I've heard Jim Thomas talk about what I said at those breakfast meetings. Q. Do you recall on what dates Mr. Thomas spoke about those issues at breakfast meetings? A. I can't provide specific dates. Q. Do you have general dates as in
3 4 5 6 7 8 9	communications with Jim Thomas about your deposition today other than the meeting you had with him on Tuesday? A. No. Q. And have you had any communications with Marge Cassidy in preparation for your deposition today other than the meeting that you had with her?	3 4 5 6 7 8 9	 I've heard Jim Thomas talk about what I said at those breakfast meetings. Q. Do you recall on what dates Mr. Thomas spoke about those issues at breakfast meetings? A. I can't provide specific dates. Q. Do you have general dates as in this year, last year or the year prior?
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3 4 5 6 7 8 9 10 11 12	communications with Jim Thomas about your deposition today other than the meeting you had with him on Tuesday? A. No. Q. And have you had any communications with Marge Cassidy in preparation for your deposition today other than the meeting that you had with her? A. No. Q. You said you met with John Pace, the vice president of publications, as	3 4 5 6 7 8 9 10 11 12	 I've heard Jim Thomas talk about what I said at those breakfast meetings. Q. Do you recall on what dates Mr. Thomas spoke about those issues at breakfast meetings? A. I can't provide specific dates. Q. Do you have general dates as in this year, last year or the year prior? A. I believe it was this year was mentioned. And it was probably last year as well.
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26 (Pages 98 - 101)

1	presentation slides that are available for	1	helped create the electronic version of the
2	our annual meetings.	2	forms that appear on the ASTM Web site. Is
3	Q. You said you also meet with	3	that what you're saying?
4	Phil Lively, the vice president of	4	MR. FEE: Objection. Compound.
5	technology. Is that correct?	5	THE WITNESS: I'm not sure what
6	A. Yes.	6	exactly you mean by that, but
7	Q. When did you meet with him?	7	essentially he was able to accomplish
8	A. I met with Phil yesterday.	8	getting the language up onto the
9	Q. What did you speak with Phil	9	screens so that the members can
10	Lively about yesterday?	10	acknowledge the statement during the
11	A. About copyright assignments for	11	process.
12	members to ASTM.	12	BY MR. BECKER:
13	Q. And what did Phil Lively tell	13	Q. Did Mr. Lively draft any of the
14	you?	14	language on the membership application or
15	A. About his involvement and help	15	renewal forms or any of the other forms that
16	with having the language that we talked about	16	you're describing?
17	earlier on the membership application screens	17	MR. FEE: Objection. Compound.
18	and the membership renewal screens and the	18	THE WITNESS: I don't believe
19	collaboration area screen and the work item	19	
20	registration screens.	20	so. BY MR. BECKER:
$\frac{20}{21}$		20	Q. What did Mr. Lively tell you
21		21	about the work that he did related to
	that we talked about earlier," are you		
23	referring to language that ASTM believes	23	copyright assignments?
24	assigns copyright from individuals to ASTM?	24	A. Just that he could remember
25	MR. FEE: Objection. Calls for Page 102	25	helping with putting the information up on Page 104
	rage 102		rage 104
1	a legal conclusion.	1	the Web screens, and he could remember when
2	THE WITNESS: The language that	2	he was a staff manager back in the very
	THE WITNESS: The language that we talked about that is on the		he was a staff manager back in the very beginning time, I think it was early '80s
2	THE WITNESS: The language that	2	he was a staff manager back in the very
2 3	THE WITNESS: The language that we talked about that is on the membership applications, yes. That the members acknowledge when they're	2 3	he was a staff manager back in the very beginning time, I think it was early '80s
2 3 4	THE WITNESS: The language that we talked about that is on the membership applications, yes. That	2 3 4	he was a staff manager back in the very beginning time, I think it was early '80s when he was a staff manager, and kind of
2 3 4 5	THE WITNESS: The language that we talked about that is on the membership applications, yes. That the members acknowledge when they're	2 3 4 5	he was a staff manager back in the very beginning time, I think it was early '80s when he was a staff manager, and kind of reiterating what I had previously said about
2 3 4 5 6	THE WITNESS: The language that we talked about that is on the membership applications, yes. That the members acknowledge when they're either registering a work item or	2 3 4 5 6	he was a staff manager back in the very beginning time, I think it was early '80s when he was a staff manager, and kind of reiterating what I had previously said about there being an understanding that our members
2 3 4 5 6 7	THE WITNESS: The language that we talked about that is on the membership applications, yes. That the members acknowledge when they're either registering a work item or joining as a new member or renewing	2 3 4 5 6 7	he was a staff manager back in the very beginning time, I think it was early '80s when he was a staff manager, and kind of reiterating what I had previously said about there being an understanding that our members understand that their contributions to ASTM,
2 3 4 5 6 7 8	THE WITNESS: The language that we talked about that is on the membership applications, yes. That the members acknowledge when they're either registering a work item or joining as a new member or renewing their membership or opening up a	2 3 4 5 6 7 8	he was a staff manager back in the very beginning time, I think it was early '80s when he was a staff manager, and kind of reiterating what I had previously said about there being an understanding that our members understand that their contributions to ASTM, is well understood that we're going to
2 3 4 5 6 7 8 9	THE WITNESS: The language that we talked about that is on the membership applications, yes. That the members acknowledge when they're either registering a work item or joining as a new member or renewing their membership or opening up a collaboration area that assigns all of	2 3 4 5 6 7 8 9	he was a staff manager back in the very beginning time, I think it was early '80s when he was a staff manager, and kind of reiterating what I had previously said about there being an understanding that our members understand that their contributions to ASTM, is well understood that we're going to copyright that material.
2 3 4 5 6 7 8 9 10	THE WITNESS: The language that we talked about that is on the membership applications, yes. That the members acknowledge when they're either registering a work item or joining as a new member or renewing their membership or opening up a collaboration area that assigns all of their past, present and future	2 3 4 5 6 7 8 9 10	he was a staff manager back in the very beginning time, I think it was early '80s when he was a staff manager, and kind of reiterating what I had previously said about there being an understanding that our members understand that their contributions to ASTM, is well understood that we're going to copyright that material. Q. Did Mr. Lively provide any basis for his statement that there was an
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$ \begin{array}{c} 2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\end{array} $	THE WITNESS: The language that we talked about that is on the membership applications, yes. That the members acknowledge when they're either registering a work item or joining as a new member or renewing their membership or opening up a collaboration area that assigns all of their past, present and future contributions to ASTM standards into ASTM standards to ASTM. BY MR. BECKER: Q. What was Mr. Lively's involvement in the language that you are referring to? MR. FEE: Objection. Vague. THE WITNESS: He helped us with, from a technology standpoint, getting that language up onto our Web site,	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	he was a staff manager back in the very beginning time, I think it was early '80s when he was a staff manager, and kind of reiterating what I had previously said about there being an understanding that our members understand that their contributions to ASTM, is well understood that we're going to copyright that material. Q. Did Mr. Lively provide any basis for his statement that there was an understanding in the early '80s that ASTM would copyright the material provided by individuals that was incorporated into the standard drafts? A. Can you repeat that question? Q. Yes. Did Mr. Lively provide any basis for his statement that there was an understanding in the early '80s that ASTM would copyright the material provide
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	THE WITNESS: The language that we talked about that is on the membership applications, yes. That the members acknowledge when they're either registering a work item or joining as a new member or renewing their membership or opening up a collaboration area that assigns all of their past, present and future contributions to ASTM standards into ASTM standards to ASTM. BY MR. BECKER: Q. What was Mr. Lively's involvement in the language that you are referring to? MR. FEE: Objection. Vague. THE WITNESS: He helped us with, from a technology standpoint, getting that language up onto our Web site, onto the screens. BY MR. BECKER:	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	he was a staff manager back in the very beginning time, I think it was early '80s when he was a staff manager, and kind of reiterating what I had previously said about there being an understanding that our members understand that their contributions to ASTM, is well understood that we're going to copyright that material. Q. Did Mr. Lively provide any basis for his statement that there was an understanding in the early '80s that ASTM would copyright the material provided by individuals that was incorporated into the standard drafts? A. Can you repeat that question? Q. Yes. Did Mr. Lively provide any basis for his statement that there was an understanding in the early '80s that ASTM would copyright the material provide any basis for his statement that there was an understanding in the early '80s that ASTM would copyright the material provide by individuals that was incorporated into the standard drafts?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	THE WITNESS: The language that we talked about that is on the membership applications, yes. That the members acknowledge when they're either registering a work item or joining as a new member or renewing their membership or opening up a collaboration area that assigns all of their past, present and future contributions to ASTM standards into ASTM standards to ASTM. BY MR. BECKER: Q. What was Mr. Lively's involvement in the language that you are referring to? MR. FEE: Objection. Vague. THE WITNESS: He helped us with, from a technology standpoint, getting that language up onto our Web site, onto the screens. BY MR. BECKER: Q. So you're saying that	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	he was a staff manager back in the very beginning time, I think it was early '80s when he was a staff manager, and kind of reiterating what I had previously said about there being an understanding that our members understand that their contributions to ASTM, is well understood that we're going to copyright that material. Q. Did Mr. Lively provide any basis for his statement that there was an understanding in the early '80s that ASTM would copyright the material provided by individuals that was incorporated into the standard drafts? A. Can you repeat that question? Q. Yes. Did Mr. Lively provide any basis for his statement that there was an understanding in the early '80s that ASTM would copyright the material provided by individuals that was incorporated into the standard drafts? A. No. I think it was just his
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	THE WITNESS: The language that we talked about that is on the membership applications, yes. That the members acknowledge when they're either registering a work item or joining as a new member or renewing their membership or opening up a collaboration area that assigns all of their past, present and future contributions to ASTM standards into ASTM standards to ASTM. BY MR. BECKER: Q. What was Mr. Lively's involvement in the language that you are referring to? MR. FEE: Objection. Vague. THE WITNESS: He helped us with, from a technology standpoint, getting that language up onto our Web site, onto the screens. BY MR. BECKER: Q. So you're saying that Mr. Lively was involved in the Mr. Lively	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	he was a staff manager back in the very beginning time, I think it was early '80s when he was a staff manager, and kind of reiterating what I had previously said about there being an understanding that our members understand that their contributions to ASTM, is well understood that we're going to copyright that material. Q. Did Mr. Lively provide any basis for his statement that there was an understanding in the early '80s that ASTM would copyright the material provided by individuals that was incorporated into the standard drafts? A. Can you repeat that question? Q. Yes. Did Mr. Lively provide any basis for his statement that there was an understanding in the early '80s that ASTM would copyright the material provided by individuals that was incorporated into the standard drafts? A. No. I think it was just his belief just as it was my belief.
$\begin{array}{c} 2\\ 3\\ 4\\ 5\\ 6\\ 7\\ 8\\ 9\\ 10\\ 11\\ 12\\ 13\\ 14\\ 15\\ 16\\ 17\\ 18\\ 19\\ 20\\ 21\\ 22\\ 23\\ \end{array}$	THE WITNESS: The language that we talked about that is on the membership applications, yes. That the members acknowledge when they're either registering a work item or joining as a new member or renewing their membership or opening up a collaboration area that assigns all of their past, present and future contributions to ASTM standards into ASTM standards to ASTM. BY MR. BECKER: Q. What was Mr. Lively's involvement in the language that you are referring to? MR. FEE: Objection. Vague. THE WITNESS: He helped us with, from a technology standpoint, getting that language up onto our Web site, onto the screens. BY MR. BECKER: Q. So you're saying that	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	he was a staff manager back in the very beginning time, I think it was early '80s when he was a staff manager, and kind of reiterating what I had previously said about there being an understanding that our members understand that their contributions to ASTM, is well understood that we're going to copyright that material. Q. Did Mr. Lively provide any basis for his statement that there was an understanding in the early '80s that ASTM would copyright the material provided by individuals that was incorporated into the standard drafts? A. Can you repeat that question? Q. Yes. Did Mr. Lively provide any basis for his statement that there was an understanding in the early '80s that ASTM would copyright the material provided by individuals that was incorporated into the standard drafts? A. No. I think it was just his

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1	with Mr. Lively at that meeting?	1	THE WITNESS: Yeah, I'm not
2	A. Not that I can recall.	2	sure. I think it it was I think
3	Q. Did you have any other	3	it was in the early 2000s.
4	communications with Mr. Lively in preparation		BY MR. BECKER:
5	for your deposition today other than that	5	Q. Taking a step back, when you
6	meeting yesterday?	6	spoke with Phil Lively yesterday in
7	A. No.	7	preparation for your deposition today, did
8	Q. And did you have any other	8	you ask him when the Web forms were first set
9	communications with John Pace in preparation	9	up that included language concerning
10	for your deposition today other than your	10	copyright assignments on the ASTM Web site?
11	meeting with him yesterday?	11	MR. FEE: Objection to form.
12	A. No.	12	Compound.
13	Q. You said that you also met with	13	THE WITNESS: I don't believe I
14	Kathie Morgan, the executive vice president,	14	asked him.
15	in preparation for your deposition today. Is	15	BY MR. BECKER:
16	that true?	16	Q. Did Mr. Lively tell you
17	A. Yes.	17	yesterday when the Web forms that include
18	Q. And when did you meet with	18	language concerning copyright assignments on
19	Kathie?	19	the ASTM Web site were first set up?
20	A. Yesterday.	20	MR. FEE: Objection to form.
21	Q. What did you discuss with	21	Compound.
22	Kathie at your meeting yesterday?	22	THE WITNESS: I don't believe
23	A. We discussed the form that we	23	he I don't believe he said.
24	had here, 1284, and her recollection of what	24	BY MR. BECKER:
25	that form was used for.	25	Q. Other than Marge Cassidy, Jim
	Page 106		Page 108
1	Q. That's Exhibit 1284 you were	1	Thomas, John Pace, Phil Lively and Kathie
2	referencing?	2	Morgan, was there anybody else that you met
2 3	A. Yes.	2 3	
	-		Morgan, was there anybody else that you met with in preparation for your deposition today?
3	A. Yes.	3	with in preparation for your deposition
3 4	A. Yes.Q. What did Kathie Morgan say	3 4	with in preparation for your deposition today?
3 4 5	A. Yes.Q. What did Kathie Morgan sayabout Exhibit 1284?	3 4 5	with in preparation for your depositiontoday?A. Besides our legal team?
3 4 5 6	A. Yes.Q. What did Kathie Morgan sayabout Exhibit 1284?A. She thought that form was	3 4 5 6	with in preparation for your deposition today?A. Besides our legal team?Q. Yes.
3 4 5 6 7	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was 	3 4 5 6 7	with in preparation for your deposition today?A. Besides our legal team?Q. Yes.A. No.
3 4 5 6 7 8	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled 	3 4 5 6 7 8	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you
3 4 5 6 7 8 9	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, 	3 4 5 6 7 8 9	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your
3 4 5 6 7 8 9 10	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. 	3 4 5 6 7 8 9 10	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you
3 4 5 6 7 8 9 10 11	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. 	3 4 5 6 7 8 9 10 11	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No.
3 4 5 6 7 8 9 10 11 12 13	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. Q. Did Kathie Morgan tell you 	3 4 5 6 7 8 9 10 11 12 13	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No. Q. Collectively about how much
3 4 5 6 7 8 9 10 11 12 13 14	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. Q. Did Kathie Morgan tell you anything else about Exhibit 1284? A. Not that I can recall. 	3 4 5 6 7 8 9 10 11 12 13 14	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No. Q. Collectively about how much time would you say that you spent in
3 4 5 6 7 8 9 10 11 12 13 14 15	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. Q. Did Kathie Morgan tell you anything else about Exhibit 1284? A. Not that I can recall. Q. Did Kathie Morgan tell you when 	3 4 5 6 7 8 9 10 11 12 13 14 15	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No. Q. Collectively about how much time would you say that you spent in preparation for your deposition today?
3 4 5 6 7 8 9 10 11 12 13 14 15 16	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. Q. Did Kathie Morgan tell you anything else about Exhibit 1284? A. Not that I can recall. Q. Did Kathie Morgan tell you when Exhibit 1284 was first used by ASTM? 	3 4 5 6 7 8 9 10 11 12 13 14 15 16	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No. Q. Collectively about how much time would you say that you spent in preparation for your deposition today? A. Maybe 15 hours.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. Q. Did Kathie Morgan tell you anything else about Exhibit 1284? A. Not that I can recall. Q. Did Kathie Morgan tell you when Exhibit 1284 was first used by ASTM? A. I think I don't know for 	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No. Q. Collectively about how much time would you say that you spent in preparation for your deposition today? A. Maybe 15 hours. Q. Returning to Exhibit 1288, the
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. Q. Did Kathie Morgan tell you anything else about Exhibit 1284? A. Not that I can recall. Q. Did Kathie Morgan tell you when Exhibit 1284 was first used by ASTM? A. I think I don't know for sure. I think our recollection was the same 	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No. Q. Collectively about how much time would you say that you spent in preparation for your deposition today? A. Maybe 15 hours. Q. Returning to Exhibit 1288, the ASTM Intellectual Property Policy from 2010,
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. Q. Did Kathie Morgan tell you anything else about Exhibit 1284? A. Not that I can recall. Q. Did Kathie Morgan tell you when Exhibit 1284 was first used by ASTM? A. I think I don't know for sure. I think our recollection was the same as mine earlier, that it was about, you know, 	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No. Q. Collectively about how much time would you say that you spent in preparation for your deposition today? A. Maybe 15 hours. Q. Returning to Exhibit 1288, the ASTM Intellectual Property Policy from 2010, please turn to section VI B, "Intellectual
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. Q. Did Kathie Morgan tell you anything else about Exhibit 1284? A. Not that I can recall. Q. Did Kathie Morgan tell you when Exhibit 1284 was first used by ASTM? A. I think I don't know for sure. I think our recollection was the same as mine earlier, that it was about, you know, maybe prior to 2003. 	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No. Q. Collectively about how much time would you say that you spent in preparation for your deposition today? A. Maybe 15 hours. Q. Returning to Exhibit 1288, the ASTM Intellectual Property Policy from 2010, please turn to section VI B, "Intellectual Property Other Than Standards." That's Bates
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. Q. Did Kathie Morgan tell you anything else about Exhibit 1284? A. Not that I can recall. Q. Did Kathie Morgan tell you when Exhibit 1284 was first used by ASTM? A. I think I don't know for sure. I think our recollection was the same as mine earlier, that it was about, you know, maybe prior to 2003. Q. When you say "prior to 2003," 	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No. Q. Collectively about how much time would you say that you spent in preparation for your deposition today? A. Maybe 15 hours. Q. Returning to Exhibit 1288, the ASTM Intellectual Property Policy from 2010, please turn to section VI B, "Intellectual Property Other Than Standards." That's Bates numbered ASTM003440. Can you, please, review
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. Q. Did Kathie Morgan tell you anything else about Exhibit 1284? A. Not that I can recall. Q. Did Kathie Morgan tell you when Exhibit 1284 was first used by ASTM? A. I think I don't know for sure. I think our recollection was the same as mine earlier, that it was about, you know, maybe prior to 2003. Q. When you say "prior to 2003," approximately what year do you believe that 	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No. Q. Collectively about how much time would you say that you spent in preparation for your deposition today? A. Maybe 15 hours. Q. Returning to Exhibit 1288, the ASTM Intellectual Property Policy from 2010, please turn to section VI B, "Intellectual Property Other Than Standards." That's Bates numbered ASTM003440. Can you, please, review subsections 1a and b from this document. For
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. Q. Did Kathie Morgan tell you anything else about Exhibit 1284? A. Not that I can recall. Q. Did Kathie Morgan tell you when Exhibit 1284 was first used by ASTM? A. I think I don't know for sure. I think our recollection was the same as mine earlier, that it was about, you know, maybe prior to 2003. Q. When you say "prior to 2003," approximately what year do you believe that this form, Document 1284, was first used? 	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No. Q. Collectively about how much time would you say that you spent in preparation for your deposition today? A. Maybe 15 hours. Q. Returning to Exhibit 1288, the ASTM Intellectual Property Policy from 2010, please turn to section VI B, "Intellectual Property Other Than Standards." That's Bates numbered ASTM003440. Can you, please, review subsections 1a and b from this document. For the record, that's section VI B1a and VI B1b.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. Q. Did Kathie Morgan tell you anything else about Exhibit 1284? A. Not that I can recall. Q. Did Kathie Morgan tell you when Exhibit 1284 was first used by ASTM? A. I think I don't know for sure. I think our recollection was the same as mine earlier, that it was about, you know, maybe prior to 2003. Q. When you say "prior to 2003," approximately what year do you believe that this form, Document 1284, was first used? MR. FEE: Objection. Asked and 	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No. Q. Collectively about how much time would you say that you spent in preparation for your deposition today? A. Maybe 15 hours. Q. Returning to Exhibit 1288, the ASTM Intellectual Property Policy from 2010, please turn to section VI B, "Intellectual Property Other Than Standards." That's Bates numbered ASTM003440. Can you, please, review subsections 1a and b from this document. For the record, that's section VI B1a and VI B1b. Please tell me when you're done reviewing it.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Yes. Q. What did Kathie Morgan say about Exhibit 1284? A. She thought that that form was used by ASTM whenever an individual who was bringing forward a full document into ASTM, that we would want to have that form filled out which would assign the copyright of that information to ASTM. Q. Did Kathie Morgan tell you anything else about Exhibit 1284? A. Not that I can recall. Q. Did Kathie Morgan tell you when Exhibit 1284 was first used by ASTM? A. I think I don't know for sure. I think our recollection was the same as mine earlier, that it was about, you know, maybe prior to 2003. Q. When you say "prior to 2003," approximately what year do you believe that this form, Document 1284, was first used? 	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 with in preparation for your deposition today? A. Besides our legal team? Q. Yes. A. No. Q. And other than those individuals, was there anybody else that you communicated with in preparation for your deposition today? A. No. Q. Collectively about how much time would you say that you spent in preparation for your deposition today? A. Maybe 15 hours. Q. Returning to Exhibit 1288, the ASTM Intellectual Property Policy from 2010, please turn to section VI B, "Intellectual Property Other Than Standards." That's Bates numbered ASTM003440. Can you, please, review subsections 1a and b from this document. For the record, that's section VI B1a and VI B1b.

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1	Q. This section says it relates to	1	BY MR. BECKER:
2	"Intellectual Property Other Than Standards,"	2	Q. Does ASTM believe that if a
3	and it says, "ASTM International recognizes	3	standard was prepared in the course of the
4	different ways to assign intellectual	4	author's employment by the U.S., Canadian or
5	property rights:When individual authors	5	British governments, that a copyright exists
6	submit manuscripts of technical papers for	6	in that standard?
7	publication by ASTM International, the author	7	MR. FEE: Objection. Calls for
8	must sign an agreement (Author Agreement)	8	a legal conclusion. Instruct you not
9	whereby ownership of the material is assigned	9	to disclose any communications with
10	to ASTM International"	10	counsel regarding that matter. If you
11	Why does ASTM have a special	11	can answer it without disclosing those
12	agreement for authors of intellectual	12	communications, go ahead.
13	property other than standards?	13	THE WITNESS: I don't know.
14	MR. FEE: Objection. Calls for	14	BY MR. BECKER:
15	a legal conclusion. To the extent you	15	Q. Who would know?
16	can answer that question without	16	MR. FEE: Objection. Calls for
17	disclosing communications with	17	speculation.
18	counsel, you may go ahead and do so.	18	THE WITNESS: I would
19	THE WITNESS: I don't know.	19	potentially think that our ASTM
20	BY MR. BECKER:	20	general counsel would know.
21	Q. Do you know who would know?	21	BY MR. BECKER:
22	MR. FEE: Objection. Calls for	22	Q. Is there anybody else who would
23	speculation.	23	know?
24	THE WITNESS: I would	24	MR. FEE: Same objection.
25	potentially in part the ASTM general	25	THE WITNESS: I don't know.
	Page 110		Page 112
1	counsel.	1	BY MR. BECKER:
1 2	counsel. BY MR. BECKER:	2	Q. Does ASTM recognize a
		2 3	Q. Does ASTM recognize a distinction between standards and
2 3 4	BY MR. BECKER: Q. Is there anybody else who would know?	2 3 4	Q. Does ASTM recognize a distinction between standards and intellectual property other than standards in
2 3	BY MR. BECKER: Q. Is there anybody else who would know? MR. FEE: Same objection.	2 3 4 5	Q. Does ASTM recognize a distinction between standards and intellectual property other than standards in terms of its copyrightability when created by
2 3 4	BY MR. BECKER: Q. Is there anybody else who would know? MR. FEE: Same objection. THE WITNESS: I don't know.	2 3 4	Q. Does ASTM recognize a distinction between standards and intellectual property other than standards in terms of its copyrightability when created by someone who is acting in the course of their
2 3 4 5	BY MR. BECKER: Q. Is there anybody else who would know? MR. FEE: Same objection. THE WITNESS: I don't know. BY MR. BECKER:	2 3 4 5 6 7	Q. Does ASTM recognize a distinction between standards and intellectual property other than standards in terms of its copyrightability when created by someone who is acting in the course of their employment by the U.S., Canadian or British
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^{29 (}Pages 110 - 113)

1	MR. FEE: Objection. Vague.	1	recent version, so let me read that again.
2	Compound. Calls for a legal	2	Section VI B1b states, "When
3	conclusion. Instruct you not to	3	ASTM International contracts, subsidizes, or
4	disclose communications with counsel	4	agrees with writers, authors, editors, or
5	regarding the subject. If you have	5	others to prepare or otherwise help create
6	other information you can share, go	6	ASTM IP other than technical papers as given
7	ahead.	7	in 1a above, a 'Work for Hire' Agreement must
8	THE WITNESS: I don't know.	8	be signed in which copyright is acknowledged
9	BY MR. BECKER:	9	to reside in ASTM International or will be
10	Q. Who would know?	10	assigned to ASTM International."
11	MR. FEE: Calls for speculation.	11	Have you ever seen one of these
12	Objection.	12	"Work for Hire" Agreements that's referenced
13	THE WITNESS: Potentially our	13	in this clause?
14	general counsel.	14	A. Not that I can recall.
15	BY MR. BECKER:	15	Q. Do you know of any situations
16	Q. Did you discuss this issue in	16	in which a "Work for Hire" Agreement as
17	preparation for your deposition today?	17	described in clause VI B1b has been executed?
18	A. No.	18	A. I don't know of any specific
19	Q. Did you inquire about the	19	ones that have been executed.
$\begin{vmatrix} 1 \\ 20 \end{vmatrix}$	copyrightability of material created by	20	Q. Did you discuss the existence
21	employees of the federal government in the	21	of any "Work for Hire" Agreements in
22	course of their employment with the federal	22	preparation for your deposition today?
23	government in preparation for your deposition	23	A. No.
24	today?	23	Q. Do you know of any "Work for
25	MR. FEE: Hold on one second.	25	Hire" Agreements that have been executed with
25	Page 114	25	Page 116
1			
	You can answer it yes or no.	1	respect to any ASTM standards?
$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$			respect to any ASTM standards?
2	THE WITNESS: I don't think we	2	A. No.
2 3	THE WITNESS: I don't think we did. Not that I I can't recall	2 3	A. No.Q. Have any "Work for Hire"
2 3 4	THE WITNESS: I don't think we did. Not that I I can't recall that we talked about that	2 3 4	A. No.Q. Have any "Work for Hire"Agreements been executed with respect to any
2 3 4 5	THE WITNESS: I don't think we did. Not that I I can't recall that we talked about that specifically.	2 3 4 5	A. No.Q. Have any "Work for Hire"Agreements been executed with respect to anyASTM standards?
2 3 4 5 6	THE WITNESS: I don't think we did. Not that I I can't recall that we talked about that specifically. BY MR. BECKER:	2 3 4 5 6	 A. No. Q. Have any "Work for Hire" Agreements been executed with respect to any ASTM standards? A. I'm not aware of any, but there
2 3 4 5 6 7	THE WITNESS: I don't think we did. Not that I I can't recall that we talked about that specifically. BY MR. BECKER: Q. The next clause of the	2 3 4 5 6 7	A. No.Q. Have any "Work for Hire"Agreements been executed with respect to anyASTM standards?A. I'm not aware of any, but therecould have been.
2 3 4 5 6 7 8	THE WITNESS: I don't think we did. Not that I I can't recall that we talked about that specifically. BY MR. BECKER: Q. The next clause of the Intellectual Property Policy states, When	2 3 4 5 6 7 8	 A. No. Q. Have any "Work for Hire" Agreements been executed with respect to any ASTM standards? A. I'm not aware of any, but there could have been. Q. Who would know?
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30 (Pages 114 - 117)

1	well.	1	Q. Do you know who would know if
2	BY MR. BECKER:	2	an Intellectual Property Policy existed prior
3	Q. How long have you been the vice	3	to April 28, 1999?
4	president of technical committee operations?	4	A. Yeah, I would like to go back,
5	A. Six months.	5	if I could, to a previous answer that I
6	Q. Who was the vice president of	6	provided.
7	technical committee operations prior to you?	7	Q. Please do.
8	A. Kathie Morgan.	8	A. With respect to my meeting with
9	Q. How long was she the VP of	9	Jim Thomas, Jim Thomas also had discussion
10	technical committee operations at ASTM?	10	during that meeting relative to his belief
11	MR. FEE: Objection. Calls for	11	that there was an Intellectual Property
12	speculation. Lack of foundation.	12	Policy prior to 1999.
13	THE WITNESS: Roughly seven	13	Q. And did Jim Thomas state what
14	years, eight years.	14	his basis was for thinking that there was an
15	BY MR. BECKER:	15	Intellectual Property Policy prior to 1999?
16	Q. And who was the vice president	16	MR. FEE: Objection.
17	of technical committee operations prior to	17	THE WITNESS: I believe he was
18	Kathie Morgan?	18	just saying he remembered one, he
19	A. Ken Pearson.	19	recalled that there was one.
$\frac{1}{20}$	Q. How long was he the vice	20	BY MR. BECKER:
21	president of technical committee operations?	20	Q. Did you do anything to try to
$\frac{21}{22}$	A. Probably 25 years. 20 to 25	21	get a copy of any Intellectual Property
22		22	
23	years.	23	Policy that may have existed prior to 1999? A. No.
24	Q. Do you know who the vice	24	
23	president of technical committee operations Page 118	23	Q. Is there anyone other than Jim Page 120
1	was before Ken Pearson?	1	Thomas who would know whether an Intellectual
1 2	was before Ken Pearson? A. I think it was Jim Thomas.	1 2	Thomas who would know whether an Intellectual Property Policy existed prior to 1999?
2	A. I think it was Jim Thomas.	2	Property Policy existed prior to 1999?
2 3	A. I think it was Jim Thomas.Q. Do you know how long Jim Thomas	2 3	Property Policy existed prior to 1999? A. I don't think so. MR. BECKER: Counsel, given
2 3 4	A. I think it was Jim Thomas.Q. Do you know how long Jim Thomas was the vice president of technical committee	2 3 4	Property Policy existed prior to 1999? A. I don't think so. MR. BECKER: Counsel, given Topic Number 2 in the Notice of
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 A. I think it was Jim Thomas. Q. Do you know how long Jim Thomas was the vice president of technical committee operations? A. No. Q. When you spoke with Kathie Morgan in preparation for your deposition today, did you discuss "Work for Hire" Agreements with her? A. No. Q. You stated earlier that you're not certain if an Intellectual Property Policy existed prior to April 28, 1999. Is that correct? MR. FEE: Objection. Mischaracterizes his testimony. THE WITNESS: You're saying that I wasn't sure BY MR. BECKER: Q. Yes. A whether there was? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Property Policy existed prior to 1999? A. I don't think so. MR. BECKER: Counsel, given Topic Number 2 in the Notice of Deposition, we need somebody who is able to say definitively whether an Intellectual Property Policy existed prior to 1999. MR. FEE: Do you have any other questions for him or are you done? MR. BECKER: No, we're continuing. MR. FEE: Okay. Go ahead. (Exhibit 1290, Exhibit A from Complaint, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1290. This is Exhibit A
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. I think it was Jim Thomas. Q. Do you know how long Jim Thomas was the vice president of technical committee operations? A. No. Q. When you spoke with Kathie Morgan in preparation for your deposition today, did you discuss "Work for Hire" Agreements with her? A. No. Q. You stated earlier that you're not certain if an Intellectual Property Policy existed prior to April 28, 1999. Is that correct? MR. FEE: Objection. Mischaracterizes his testimony. THE WITNESS: You're saying that I wasn't sure BY MR. BECKER: Q. Yes. A whether there was? Q. Yes. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Property Policy existed prior to 1999? A. I don't think so. MR. BECKER: Counsel, given Topic Number 2 in the Notice of Deposition, we need somebody who is able to say definitively whether an Intellectual Property Policy existed prior to 1999. MR. FEE: Do you have any other questions for him or are you done? MR. BECKER: No, we're continuing. MR. FEE: Okay. Go ahead. (Exhibit 1290, Exhibit A from Complaint, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1290. This is Exhibit A from the Complaint filed by plaintiffs. Do
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 A. I think it was Jim Thomas. Q. Do you know how long Jim Thomas was the vice president of technical committee operations? A. No. Q. When you spoke with Kathie Morgan in preparation for your deposition today, did you discuss "Work for Hire" Agreements with her? A. No. Q. You stated earlier that you're not certain if an Intellectual Property Policy existed prior to April 28, 1999. Is that correct? MR. FEE: Objection. Mischaracterizes his testimony. THE WITNESS: You're saying that I wasn't sure BY MR. BECKER: Q. Yes. A whether there was? Q. Yes. A. Yeah. I thought I recalled 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Property Policy existed prior to 1999? A. I don't think so. MR. BECKER: Counsel, given Topic Number 2 in the Notice of Deposition, we need somebody who is able to say definitively whether an Intellectual Property Policy existed prior to 1999. MR. FEE: Do you have any other questions for him or are you done? MR. BECKER: No, we're continuing. MR. FEE: Okay. Go ahead. (Exhibit 1290, Exhibit A from Complaint, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1290. This is Exhibit A from the Complaint filed by plaintiffs. Do you recognize this document?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. I think it was Jim Thomas. Q. Do you know how long Jim Thomas was the vice president of technical committee operations? A. No. Q. When you spoke with Kathie Morgan in preparation for your deposition today, did you discuss "Work for Hire" Agreements with her? A. No. Q. You stated earlier that you're not certain if an Intellectual Property Policy existed prior to April 28, 1999. Is that correct? MR. FEE: Objection. Mischaracterizes his testimony. THE WITNESS: You're saying that I wasn't sure BY MR. BECKER: Q. Yes. A whether there was? Q. Yes. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Property Policy existed prior to 1999? A. I don't think so. MR. BECKER: Counsel, given Topic Number 2 in the Notice of Deposition, we need somebody who is able to say definitively whether an Intellectual Property Policy existed prior to 1999. MR. FEE: Do you have any other questions for him or are you done? MR. BECKER: No, we're continuing. MR. FEE: Okay. Go ahead. (Exhibit 1290, Exhibit A from Complaint, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1290. This is Exhibit A from the Complaint filed by plaintiffs. Do

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	_		· · · · · · · ·
1	document.	1	A. It was just in the materials
2	Q. Well, this is the listing of	2	along with other Bates numbered documents.
3	standards that ASTM is asserting are	3	Q. Do you recall which Certificate
4	infringed by Public.Resource.Org.	4	of Copyright Registration you viewed
5		5	yesterday?
6	(Exhibit 1291, Certificates of	6	A. No.
7	Copyright Registration, Bates	7	Q. Was it only one Certificate of
8	ASTM000001 - ASTM000168, was marked	8	Copyright Registration that you looked at?
9	for identification.)	9	A. I believe so.
10		10	Q. Did you have any discussions
11	BY MR. BECKER:	11	with anyone in preparation for your
12	Q. I'm handing you what has been	12	deposition today concerning Certificates of
13	marked as Exhibit 1291. These are the	13	Copyright Registration by ASTM?
14	documents produced as Bates number ASTM000001	14	MR. FEE: You can answer it yes
15	to ASTM000168. Do you recognize this	15	or no.
16	document?	16	THE WITNESS: Yes.
17	MR. FEE: Objection.	17	BY MR. BECKER:
18	Mischaracterizes what has been marked	18	Q. And who did you have these
19	as 1291 as one document.	19	discussions with?
20	THE WITNESS: I think I saw an	20	A. I had a discussion with Kathe
21	example of one yesterday.	21	Hooper.
22	BY MR. BECKER:	22	Q. Anybody else?
23	Q. What is Exhibit 1291?	23	A. Other than the legal team, I
24	MR. FEE: Objection. Lack of	24	don't think so.
25	foundation.	25	Q. I don't believe that Kathe
	Page 122		Page 124
1	THE WITNESS: They look like	1	Hooper was one of the people that you listed
$\begin{vmatrix} 1\\2 \end{vmatrix}$	THE WITNESS: They look like they're examples of Certificates of	1 2	Hooper was one of the people that you listed as an individual that you spoke with in
2	they're examples of Certificates of	2	as an individual that you spoke with in
2 3	they're examples of Certificates of Copyright Registration.	2 3	as an individual that you spoke with in preparation for your deposition?
2 3 4	they're examples of Certificates of Copyright Registration. BY MR. BECKER:	2 3 4	as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did
2 3 4 5	they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that	2 3 4 5	as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her.
2 3 4 5 6	they're examples of Certificates of Copyright Registration.BY MR. BECKER:Q. I will represent to you thatExhibit 1291 is all of the Certificates of	2 3 4 5 6	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you
2 3 4 5 6 7	 they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced 	2 3 4 5 6 7	as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for
2 3 4 5 6 7 8	 they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. 	2 3 4 5 6 7 8	as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today?
2 3 4 5 6 7 8 9	they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of	2 3 4 5 6 7 8 9	as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this
2 3 4 5 6 7 8 9 10	they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright	2 3 4 5 6 7 8 9 10	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off
2 3 4 5 6 7 8 9 10 11	they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday?	2 3 4 5 6 7 8 9 10 11	as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this
2 3 4 5 6 7 8 9 10 11 12	they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes.	2 3 4 5 6 7 8 9 10 11 12	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for
2 3 4 5 6 7 8 9 10 11 12 13	they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes. Q. Was that in preparation for	2 3 4 5 6 7 8 9 10 11 12 13	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for hire."
2 3 4 5 6 7 8 9 10 11 12 13 14	 they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes. Q. Was that in preparation for your deposition? 	2 3 4 5 6 7 8 9 10 11 12 13 14	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for hire." Q. And why is that, that box 2a
2 3 4 5 6 7 8 9 10 11 12 13 14 15	 they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes. Q. Was that in preparation for your deposition? A. Yes. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for hire." Q. And why is that, that box 2a was checked off on the copyright
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes. Q. Was that in preparation for your deposition? A. Yes. Q. And in what context did you see 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for hire." Q. And why is that, that box 2a was checked off on the copyright registrations?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes. Q. Was that in preparation for your deposition? A. Yes. Q. And in what context did you see an example of the Certificate of Copyright	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for hire." Q. And why is that, that box 2a was checked off on the copyright registrations? A. She said that the copyright
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes. Q. Was that in preparation for your deposition? A. Yes. Q. And in what context did you see an example of the Certificate of Copyright 	$\begin{array}{c} 2\\ 3\\ 4\\ 5\\ 6\\ 7\\ 8\\ 9\\ 10\\ 11\\ 12\\ 13\\ 14\\ 15\\ 16\\ 17\\ 18 \end{array}$	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for hire." Q. And why is that, that box 2a was checked off on the copyright registrations? A. She said that the copyright office had told her to fill out the form that
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes. Q. Was that in preparation for your deposition? A. Yes. Q. And in what context did you see an example of the Certificate of Copyright Registration? MR. FEE: Objection. Vague. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for hire." Q. And why is that, that box 2a was checked off on the copyright registrations? A. She said that the copyright office had told her to fill out the form that way.
$ \begin{array}{c} 2\\ 3\\ 4\\ 5\\ 6\\ 7\\ 8\\ 9\\ 10\\ 11\\ 12\\ 13\\ 14\\ 15\\ 16\\ 17\\ 18\\ 19\\ 20\\ \end{array} $	 they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes. Q. Was that in preparation for your deposition? A. Yes. Q. And in what context did you see an example of the Certificate of Copyright Registration? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure what 	$\begin{array}{c} 2\\ 3\\ 4\\ 5\\ 6\\ 7\\ 8\\ 9\\ 10\\ 11\\ 12\\ 13\\ 14\\ 15\\ 16\\ 17\\ 18\\ 19\\ 20\\ \end{array}$	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for hire." Q. And why is that, that box 2a was checked off on the copyright registrations? A. She said that the copyright office had told her to fill out the form that way. Q. Did she say why the copyright
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes. Q. Was that in preparation for your deposition? A. Yes. Q. And in what context did you see an example of the Certificate of Copyright Registration? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure what you mean by "context." 	$\begin{array}{c} 2\\ 3\\ 4\\ 5\\ 6\\ 7\\ 8\\ 9\\ 10\\ 11\\ 12\\ 13\\ 14\\ 15\\ 16\\ 17\\ 18\\ 19\\ 20\\ 21\\ \end{array}$	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for hire." Q. And why is that, that box 2a was checked off on the copyright registrations? A. She said that the copyright office had told her to fill out the form that way. Q. Did she say why the copyright office told her to fill out the form that
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes. Q. Was that in preparation for your deposition? A. Yes. Q. And in what context did you see an example of the Certificate of Copyright Registration? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure what you mean by "context." 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for hire." Q. And why is that, that box 2a was checked off on the copyright registrations? A. She said that the copyright office had told her to fill out the form that way. Q. Did she say why the copyright office told her to fill out the form that way?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes. Q. Was that in preparation for your deposition? A. Yes. Q. And in what context did you see an example of the Certificate of Copyright Registration? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure what you mean by "context." BY MR. BECKER: Q. Were you shown an example of 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for hire." Q. And why is that, that box 2a was checked off on the copyright registrations? A. She said that the copyright office had told her to fill out the form that way? A. I don't believe so.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes. Q. Was that in preparation for your deposition? A. Yes. Q. And in what context did you see an example of the Certificate of Copyright Registration? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure what you mean by "context." BY MR. BECKER: Q. Were you shown an example of 	$\begin{array}{c} 2\\ 3\\ 4\\ 5\\ 6\\ 7\\ 8\\ 9\\ 10\\ 11\\ 12\\ 13\\ 14\\ 15\\ 16\\ 17\\ 18\\ 19\\ 20\\ 21\\ 22\\ 23\\ 24\\ \end{array}$	as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for hire." Q. And why is that, that box 2a was checked off on the copyright registrations? A. She said that the copyright office had told her to fill out the form that way. Q. Did she say why the copyright office told her to fill out the form that way? A. I don't believe so. Q. Was she the one who prepared
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 they're examples of Certificates of Copyright Registration. BY MR. BECKER: Q. I will represent to you that Exhibit 1291 is all of the Certificates of Copyright Registration that ASTM has produced to Public.Resource in this action. You said you saw an example of one of these Certificates of Copyright Registration yesterday? A. Yes. Q. Was that in preparation for your deposition? A. Yes. Q. And in what context did you see an example of the Certificate of Copyright Registration? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure what you mean by "context." BY MR. BECKER: Q. Were you shown an example of 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 as an individual that you spoke with in preparation for your deposition? A. Yeah, we I didn't we did not have a special meeting with her. Q. What did you discuss when you spoke with Kathe Hooper in preparation for your deposition today? A. We discussed why, when this form was filled out, why we had checked off the box yes to question 2a about "Was this contribution to the work a work made for hire." Q. And why is that, that box 2a was checked off on the copyright registrations? A. She said that the copyright office had told her to fill out the form that way? A. I don't believe so.

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1	A. I think she started back in	1	Q. Do you know what had been the
2	1984, I think she may have said.	2	discussion with the copyright office by Kathe
3	Q. Do you know who was filling out	3	Hooper's predecessor concerning checking box
4	ASTM Certificate of Copyright Registration	4	2a?
5	forms prior to Kathe Hooper?	5	A. Do I know?
6	A. A name was mentioned yesterday,	6	MR. FEE: Objection.
7	but I don't recall the name.	7	BY MR. BECKER:
8	Q. Was that individual Robert L.	8	Q. Yeah.
9	Meltzer?	9	MR. FEE: Vague.
10	A. I recognize that name, but I	10	THE WITNESS: I only know what
11	don't know if Robert Meltzer was the one that	11	Kathe Hooper told me.
12	was filling out this form.	12	BY MR. BECKER:
13	Q. Do you know who Robert Meltzer	13	Q. And what precisely did Kathe
14	is?	14	Hooper tell you about that?
15	A. He was a former vice president	15	MR. FEE: Objection. Asked and
16		16	answered.
	of publications.		
17	Q. Did Kathe Hooper say what	17	THE WITNESS: That the copyright
18	communications with the copyright office led	18	office had informed Kathe Hooper's
19	to her decision to check box 2a of the	19	predecessor to check box yes to the
20	copyright registrations?	20	answer to the question on 2a.
21	A. What led her to fill out this	21	BY MR. BECKER:
22	form that way?	22	Q. Did Kathe Hooper tell you any
23	Q. Did she say what communications	23	information about what her predecessor had
24	she had with the copyright office that led	24	said to the copyright office that led to the
25	her to fill out the forms to check box 2a?	25	copyright office telling her to check box 2a?
	Page 126		Page 128
1	A. She had said that her	1	A. No. My understanding is it was
$\begin{vmatrix} 1\\2 \end{vmatrix}$			5 8
2	predecessor had a conversation with the	2	just a question on how to fill out the form.
2 3	predecessor had a conversation with the copyright office, and they had informed her	2 3	just a question on how to fill out the form. Q. Did ASTM ever have a lawyer
2 3 4	predecessor had a conversation with the copyright office, and they had informed her that it should be filled out that way.	2 3 4	just a question on how to fill out the form. Q. Did ASTM ever have a lawyer review the applications for copyright
2 3 4 5	predecessor had a conversation with the copyright office, and they had informed her that it should be filled out that way. Q. Do you know if Kathe Hooper had	2 3 4 5	just a question on how to fill out the form. Q. Did ASTM ever have a lawyer review the applications for copyright registration?
2 3 4 5 6	predecessor had a conversation with the copyright office, and they had informed her that it should be filled out that way. Q. Do you know if Kathe Hooper had any interactions with the copyright office in	2 3 4 5 6	just a question on how to fill out the form.Q. Did ASTM ever have a lawyerreview the applications for copyrightregistration?A. I don't know.
2 3 4 5 6 7	predecessor had a conversation with the copyright office, and they had informed her that it should be filled out that way. Q. Do you know if Kathe Hooper had any interactions with the copyright office in which the copyright office told her to fill	2 3 4 5 6 7	just a question on how to fill out the form.Q. Did ASTM ever have a lawyerreview the applications for copyrightregistration?A. I don't know.Q. Do you have any knowledge about
2 3 4 5 6 7 8	predecessor had a conversation with the copyright office, and they had informed her that it should be filled out that way. Q. Do you know if Kathe Hooper had any interactions with the copyright office in which the copyright office told her to fill out the registrations by checking box 2a?	2 3 4 5 6 7 8	 just a question on how to fill out the form. Q. Did ASTM ever have a lawyer review the applications for copyright registration? A. I don't know. Q. Do you have any knowledge about what information the copyright office had
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^{33 (}Pages 126 - 129)

1	A. I think the copyright office	1	concerning how to fill out section 2a of the
2	told us to fill out the form in that manner.	2	forms for copyright registration?
3	Q. Did Kathe Hooper tell you that	3	MR. FEE: Objection. Calls for
4	the copyright office said to fill out the	4	speculation. Beyond the scope of his
5	copyright registration form by putting	5	designation. You can answer.
6	American Society for Testing and Materials	6	THE WITNESS: I don't know.
7	under name of author, section 2a?	7	Maybe the people that worked in our
8	A. Yes.	8	publications department at the time
9	Q. Did Kathe Hooper tell you	9	that that question was at the time
10	anything else about listing ASTM under the	10	that the copyright office had informed
11	name of author field in section 2a?	11	us.
12	A. No.	12	BY MR. BECKER:
13	Q. Are there any documents that	13	Q. Do you know who was the
14	reflect ASTM's communication with the	14	president of publications as of the time that
15	copyright office concerning how to fill out	15	ASTM communicated with the copyright office
16	section 2a of the forms for copyright	16	regarding how to fill out section 2a of the
17	registration?	17	copyright registration forms?
18	MR. FEE: Objection. Calls for	18	A. I believe it was Bob Meltzer,
19	speculation. This is beyond the	19	Robert Meltzer.
20	scope. You can answer.	20	Q. Do you know if Robert Meltzer
$\frac{20}{21}$	THE WITNESS: Not that I'm aware	20	is still alive?
$\frac{21}{22}$	of.	22	A. I don't know for sure.
23	BY MR. BECKER:	23	MR. FEE: Matt, is now a good
23	Q. Are there any letters that	23	time to take a break?
24	reflect ASTM's communication with the	24	MR. BECKER: We can in just a
25	Page 130	23	Page 132
	6		
1	copyright office concerning how to fill out	1	moment.
2	section 2a of the forms for copyright	2	BY MR. BECKER:
2 3	section 2a of the forms for copyright registration?	2 3	BY MR. BECKER: Q. Please turn to page ASTM000107
2 3 4	section 2a of the forms for copyright registration? MR. FEE: Objection. Same	2 3 4	BY MR. BECKER: Q. Please turn to page ASTM000107 of Exhibit 1291. I will represent to you
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$ \begin{array}{c} 2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\end{array} $	 section 2a of the forms for copyright registration? MR. FEE: Objection. Same objections as before, plus you just answered that question. You can answer it again. THE WITNESS: Not that I'm aware of. BY MR. BECKER: Q. Are there any internal memos that reflect ASTM's communication with the copyright office concerning how to fill out section 2a of the forms for copyright registration? MR. FEE: Objection. Calls for speculation. It's beyond the scope of his designation. You can answer if you know. THE WITNESS: Not that I'm aware of. BY MR. BECKER: Q. Who would know whether any 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 BY MR. BECKER: Q. Please turn to page ASTM000107 of Exhibit 1291. I will represent to you that this is the earliest copyright registration that ASTM has provided to Public.Resource in this action. Under section 2-1, in the section that says, "NAME OF AUTHOR," do you see that it lists "American Society for Testing and Materials," and then says, "Was this author's contribution to the work a 'work made for hire," and then checks the box yes? A. Yes. Q. And then on the next page, do you see that under the "CERTIFICATION" near the bottom of the page, it lists "Robert L. Meltzer," and then has his what appears to be his signature A. Yes. Q with a date of January 31, 1980? A. Yes.

34 (Pages 130 - 133)

1	predecessor had had a conversation with the	1	Q. Mr. Smith, do you know which
2	copyright office in which they instructed her	2	standards at issue in this litigation each
3	to check the box saying that the scratch	3	copyright registration that ASTM has provided
4	that.	4	corresponds to?
5	Is it your understanding that	5	A. I'm not sure I get the
6	as of at least January 31, 1980, someone at	6	question.
7	ASTM had had a conversation with someone from	7	Q. If you look at, we were just
8	the copyright office in which that person	8	discussing ASTM000107 in Exhibit 1291, that's
9	from ASTM was instructed to check the box	9	a standard, the title of the work is "1980
10	saying that the work was a "work made for	10	ANNUAL BOOK OF ASTM STANDARDS, Part
11	hire," and listing the name "American Society	11	1:Steel-Piping, Tubing, Fittings." Is that
12 13	for Testing and Materials" under the "NAME OF AUTHOR" field?	12	correct?
		13	A. Correct.
14 15	MR. FEE: Objection to form. THE WITNESS: I'm not sure I	14	Q. Do you know how many standards are in the 1980 Annual Book of ASTM
		15	
16	understand the question. If you could	16	Standards, Part 1:Steel-Piping, Tubing,
17	rephrase it, I'm a little lost. BY MR. BECKER:	17 18	Fittings? A. No.
18 19			
20	Q. Sure. Is it your after looking at this document, page ASTM000107 to	19 20	MR. FEE: Objection. Beyond the scope of his designation.
20	108, is it your understanding that as of at	20	THE WITNESS: No, I don't.
$ ^{21}_{22}$	least January 31, 1980, someone at ASTM had a	21	MR. BECKER: I would disagree, I
$\begin{vmatrix} 22\\23 \end{vmatrix}$		22	don't think this is beyond the scope
23	conversation with someone from the copyright office in which that person from ASTM was	23	of his designation. This has to do
24	instructed to check the box saying that the	24	with the with copyright ownership
25	Page 134	25	Page 136
1	work was a "work made for hire," and listing	1	and the chain of title. This is
2	the names "American Society for Testing and	2	MR. FEE: You just asked him how
3	Materials" under the "NAME OF AUTHOR" field?	3	many chapters essentially there were
4	MR. FEE: Objection. Form. Go	4	in a book.
5	ahead.	5	MR. BECKER: Well, that's one of
6	THE WITNESS: Yeah, I believe	6	the questions I have, is related to
7	that's right, I just don't know	7	this particular registration. It's a
8	when that con I don't know when	8	registration for a work.
9	that conversation exactly was made.	9	MR. FEE: We disagree for the
10	BY MR. BECKER:	10	record.
11	Q. But you believe it was as of at	11	BY MR. BECKER:
12	least January 31, 1980?	12	Q. Are there multiple standards
13	A. I don't know. It could have	13	listed in the 1980 Annual Book of ASTM
14	been before that. I really don't know.	14	Standards, Part 1:Steel-Piping, Tubing,
1	been before that. I really don't know.		1 6 6
15	MR. BECKER: All right. We can	15	Fittings?
	-	15 16	· · ·
15	MR. BECKER: All right. We can	15 16 17	Fittings? MR. FEE: Same objection. THE WITNESS: Yes.
15 16 17 18	MR. BECKER: All right. We can go off the record.	15 16 17 18	Fittings? MR. FEE: Same objection. THE WITNESS: Yes. BY MR. BECKER:
15 16 17	MR. BECKER: All right. We can go off the record. VIDEOGRAPHER: The time is now	15 16 17 18 19	Fittings? MR. FEE: Same objection. THE WITNESS: Yes. BY MR. BECKER: Q. How do you know that?
15 16 17 18	MR. BECKER: All right. We can go off the record. VIDEOGRAPHER: The time is now 3:08. We're going off the video	15 16 17 18 19 20	Fittings? MR. FEE: Same objection. THE WITNESS: Yes. BY MR. BECKER: Q. How do you know that? A. Because it's our volume of
15 16 17 18 19 20 21	MR. BECKER: All right. We can go off the record. VIDEOGRAPHER: The time is now 3:08. We're going off the video	15 16 17 18 19 20 21	Fittings? MR. FEE: Same objection. THE WITNESS: Yes. BY MR. BECKER: Q. How do you know that? A. Because it's our volume of standards and volumes contain more than one
15 16 17 18 19 20 21 22	MR. BECKER: All right. We can go off the record. VIDEOGRAPHER: The time is now 3:08. We're going off the video record.	15 16 17 18 19 20 21 22	Fittings? MR. FEE: Same objection. THE WITNESS: Yes. BY MR. BECKER: Q. How do you know that? A. Because it's our volume of standards and volumes contain more than one standard.
15 16 17 18 19 20 21 22 23	MR. BECKER: All right. We can go off the record. VIDEOGRAPHER: The time is now 3:08. We're going off the video record. (A recess was taken.)	15 16 17 18 19 20 21 22 23	Fittings? MR. FEE: Same objection. THE WITNESS: Yes. BY MR. BECKER: Q. How do you know that? A. Because it's our volume of standards and volumes contain more than one standard. Q. Is there a way to confirm
15 16 17 18 19 20 21 22 23 24	MR. BECKER: All right. We can go off the record. VIDEOGRAPHER: The time is now 3:08. We're going off the video record. (A recess was taken.) VIDEOGRAPHER: The time is now 3:20. We're back on the video record.	15 16 17 18 19 20 21 22 23 24	Fittings? MR. FEE: Same objection. THE WITNESS: Yes. BY MR. BECKER: Q. How do you know that? A. Because it's our volume of standards and volumes contain more than one standard. Q. Is there a way to confirm excuse me, scratch that.
15 16 17 18 19 20 21 22 23	MR. BECKER: All right. We can go off the record. VIDEOGRAPHER: The time is now 3:08. We're going off the video record. (A recess was taken.)	15 16 17 18 19 20 21 22 23	Fittings? MR. FEE: Same objection. THE WITNESS: Yes. BY MR. BECKER: Q. How do you know that? A. Because it's our volume of standards and volumes contain more than one standard. Q. Is there a way to confirm

^{35 (}Pages 134 - 137)

1	how many standards are in the 1980 Annual	1	MR. FEE: Same objections.
2	Book of ASTM Standards, Part 1:Steel-Piping,	2	THE WITNESS: He might.
3	Tubing, Fittings?	3	BY MR. BECKER:
4	MR. FEE: Same objection.	4	Q. Who else is in the publications
5	THE WITNESS: I don't know if	5	department other than Kathe Hooper and John
6	there would be a way to find that out	6	Pace?
7	today.	7	MR. FEE: Objection. Beyond the
8	BY MR. BECKER:	8	scope of his designation.
9	Q. Why not?	9	BY MR. BECKER:
10	MR. FEE: Same objection.	10	Q. Let me rephrase. Who else
11	Beyond the scope.	11	other than
12	THE WITNESS: I just don't know	12	A. 50-some people. I don't know.
12	if we still have that information from	12	
13		13	
	35 years ago. BY MR. BECKER:	14	John Pace and Kathe Hooper, who else might
15			know whether the whether copies of all of
16	Q. How would you go about trying	16	ASTM's publications are kept?
17	to determine how many standards were in the	17	A. I don't know.
18	1980 Annual Book of ASTM Standards, Part	18	MR. FEE: Objection. Beyond the
19	1:Steel-Piping, Tubing, Fittings?	19	scope of his designation.
20	MR. FEE: Same objection.	20	THE WITNESS: I don't know.
21	THE WITNESS: I would probably	21	MR. FEE: Calls for speculation.
22	ask our publications department if we	22	BY MR. BECKER:
23	had any record of the index for that	23	Q. If you look at Exhibit 1290 and
24	book. And if we did, you can count	24	compare it with compare the second page of
25	them.	25	1290 with ASTM0000107, the copyright
	Page 138		Page 140
1	BY MR. BECKER:	1	registration page that we've been discussing.
$\begin{vmatrix} 1\\2 \end{vmatrix}$	BY MR. BECKER: O. Would you be able to determine	12	registration page that we've been discussing, you will see that in the middle of the page.
2	Q. Would you be able to determine	2	you will see that in the middle of the page,
2 3	Q. Would you be able to determine this from anything else other than the book	2 3	you will see that in the middle of the page, page 2 of Exhibit 1290 it lists ASTM A370 as
2 3 4	Q. Would you be able to determine this from anything else other than the book itself or an index for that book?	2 3 4	you will see that in the middle of the page, page 2 of Exhibit 1290 it lists ASTM A370 as a designation, the edition 1997e2, "Standard
2 3 4 5	Q. Would you be able to determine this from anything else other than the book itself or an index for that book? MR. FEE: Same objection.	2 3 4 5	you will see that in the middle of the page, page 2 of Exhibit 1290 it lists ASTM A370 as a designation, the edition 1997e2, "Standard Methods and Definition for Mechanical Testing
2 3 4 5 6	Q. Would you be able to determine this from anything else other than the book itself or an index for that book? MR. FEE: Same objection. THE WITNESS: I don't know.	2 3 4 5 6	you will see that in the middle of the page, page 2 of Exhibit 1290 it lists ASTM A370 as a designation, the edition 1997e2, "Standard Methods and Definition for Mechanical Testing of Steel Products" with a registration
2 3 4 5 6 7	Q. Would you be able to determine this from anything else other than the book itself or an index for that book? MR. FEE: Same objection. THE WITNESS: I don't know. BY MR. BECKER:	2 3 4 5 6 7	you will see that in the middle of the page, page 2 of Exhibit 1290 it lists ASTM A370 as a designation, the edition 1997e2, "Standard Methods and Definition for Mechanical Testing of Steel Products" with a registration certificate number TX 434-207. Do you see
2 3 4 5 6 7 8	 Q. Would you be able to determine this from anything else other than the book itself or an index for that book? MR. FEE: Same objection. THE WITNESS: I don't know. BY MR. BECKER: Q. Does ASTM keep complete copies 	2 3 4 5 6 7 8	you will see that in the middle of the page, page 2 of Exhibit 1290 it lists ASTM A370 as a designation, the edition 1997e2, "Standard Methods and Definition for Mechanical Testing of Steel Products" with a registration certificate number TX 434-207. Do you see that?
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2 3 4 5 6 7 8 9 10	 Q. Would you be able to determine this from anything else other than the book itself or an index for that book? MR. FEE: Same objection. THE WITNESS: I don't know. BY MR. BECKER: Q. Does ASTM keep complete copies of every book it has published? MR. FEE: Same objection. 	2 3 4 5 6 7 8 9 10	you will see that in the middle of the page, page 2 of Exhibit 1290 it lists ASTM A370 as a designation, the edition 1997e2, "Standard Methods and Definition for Mechanical Testing of Steel Products" with a registration certificate number TX 434-207. Do you see that? A. Yes. Q. Do you see that the
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2 3 4 5 6 7 8 9 10 11 12	 Q. Would you be able to determine this from anything else other than the book itself or an index for that book? MR. FEE: Same objection. THE WITNESS: I don't know. BY MR. BECKER: Q. Does ASTM keep complete copies of every book it has published? MR. FEE: Same objection. THE WITNESS: I don't know. I don't think so. 	2 3 4 5 6 7 8 9 10 11 12	you will see that in the middle of the page, page 2 of Exhibit 1290 it lists ASTM A370 as a designation, the edition 1997e2, "Standard Methods and Definition for Mechanical Testing of Steel Products" with a registration certificate number TX 434-207. Do you see that? A. Yes. Q. Do you see that the registration number TX 434-207 corresponds with the registration number in the top
2 3 4 5 6 7 8 9 10 11 12 13	 Q. Would you be able to determine this from anything else other than the book itself or an index for that book? MR. FEE: Same objection. THE WITNESS: I don't know. BY MR. BECKER: Q. Does ASTM keep complete copies of every book it has published? MR. FEE: Same objection. THE WITNESS: I don't know. I don't think so. BY MR. BECKER: 	2 3 4 5 6 7 8 9 10 11 12 13	you will see that in the middle of the page, page 2 of Exhibit 1290 it lists ASTM A370 as a designation, the edition 1997e2, "Standard Methods and Definition for Mechanical Testing of Steel Products" with a registration certificate number TX 434-207. Do you see that? A. Yes. Q. Do you see that the registration number TX 434-207 corresponds with the registration number in the top right-hand corner of the page ASTM000107 from
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37 (Pages 142 - 145)

1	Office?" And then it says, "give: Previous	1	than 1977?
2	Registration Number," and the registration	2	A. Yes.
3	number "TX 226-040 Year of Registration 1979"	3	Q. And in what case would there be
4	is provided. Is that correct?	4	more recent versions?
5	MR. FEE: Objection.	5	A. If the committee successfully
6	Mischaracterizes, eliminates portions	6	balloted a revision to the standard.
7	of that section.	7	Q. In what circumstances would a
8	THE WITNESS: That reads as you	8	revision result in a change of the year
9	said.	9	that's listed from 1977 to a different year?
10	BY MR. BECKER:	10	A. If it was approved, if a
11	Q. Do you know if the standard	11	revision was approved in a different year, it
12	ASTM A370 1997e2 was featured in this other	12	would be provided that year date.
13	work that's registered as TX 226-040 with the	13	Q. But for the version that is
14	year of registration 1979?	14	marked as 1977e2, was that version first
15	MR. FEE: Objection. Beyond the	15	released in 1977?
16	scope of his designation.	16	A. It depends when it was it
17	THE WITNESS: I don't know for	17	depends. If it was approved at the end of
18	sure. I don't know.	18	1977, it could have been published in 1978.
19	BY MR. BECKER:	19	Q. Would it have been published
20	Q. Do you know how somebody would	20	any later than 1978? Excuse me, would it
21	determine what work is referenced by this	21	have been first published any later than
22	registration number that's provided?	22	1978?
23	MR. FEE: Objection. Vague.	23	A. This particular 1977 version, I
24	Calls for speculation. Beyond the	24	wouldn't have
25	scope of his designation.	25	Q. Yes.
	Page 146		Page 148
1	THE WITNESS: I think it's this,		
1	THE WITNESS: TUIINK It'S UNS,	1	A. I wouldn't have thought that it
$\begin{vmatrix} 1\\2 \end{vmatrix}$	the 1980 Annual Book of ASTM Standards		Ũ
			A. I wouldn't have thought that itwould be published any later than 1978.Q. Does ASTM release a new version
2	the 1980 Annual Book of ASTM Standards or the 1979 book correlates with this	2	would be published any later than 1978.
2 3	the 1980 Annual Book of ASTM Standards	2 3	would be published any later than 1978. Q. Does ASTM release a new version
2 3 4	the 1980 Annual Book of ASTM Standards or the 1979 book correlates with this registration.	2 3 4	would be published any later than 1978.Q. Does ASTM release a new versionof the Annual Book of ASTM Standards every
2 3 4 5	the 1980 Annual Book of ASTM Standards or the 1979 book correlates with this registration.BY MR. BECKER:Q. For ASTM A370 1997e2, what does	2 3 4 5	would be published any later than 1978. Q. Does ASTM release a new version of the Annual Book of ASTM Standards every year?
2 3 4 5 6 7	 the 1980 Annual Book of ASTM Standards or the 1979 book correlates with this registration. BY MR. BECKER: Q. For ASTM A370 1997e2, what does the 19 excuse me, did I say let me 	2 3 4 5 6 7	 would be published any later than 1978. Q. Does ASTM release a new version of the Annual Book of ASTM Standards every year? A. Yes. Q. What is contained in the Annual
2 3 4 5 6 7 8	 the 1980 Annual Book of ASTM Standards or the 1979 book correlates with this registration. BY MR. BECKER: Q. For ASTM A370 1997e2, what does the 19 excuse me, did I say let me rephrase that. 	2 3 4 5 6	 would be published any later than 1978. Q. Does ASTM release a new version of the Annual Book of ASTM Standards every year? A. Yes. Q. What is contained in the Annual Book of ASTM Standards? Is that every
2 3 4 5 6 7	 the 1980 Annual Book of ASTM Standards or the 1979 book correlates with this registration. BY MR. BECKER: Q. For ASTM A370 1997e2, what does the 19 excuse me, did I say let me rephrase that. For ASTM A370 1977e2, what does 	2 3 4 5 6 7 8	 would be published any later than 1978. Q. Does ASTM release a new version of the Annual Book of ASTM Standards every year? A. Yes. Q. What is contained in the Annual Book of ASTM Standards? Is that every standard that ASTM excuse me. Is that
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1			
1	Annual Book of ASTM Standards, Part	1	A. Yes. Nothing is technically
2	1:Steel-Piping, Tubing, Fittings?	2	significant.
3	A. I don't know specifically if	3	Q. Returning to ASTM000108, just
4	there would be you know, if it was called	4	below where it lists the information under
5	the same thing, a Part 1 or because	5	"PREVIOUS REGISTRATION," it has a section
6	sometimes we have to reshuffle our volumes	6	that says, "COMPILATION OR DERIVATIVE WORK"
7	depending as they get bigger, we have to	7	which says, "PREEXISTING MATERIAL." And then
8	manage the size of each volume. So I don't	8	below that it says, "1979 Annual Book of ASTM
9	know if it was would have been called Part	9	Standards, Part 1." And then below that,
10	1 or something else, but I also don't know if	10	"MATERIAL ADDED TO THIS WORK," it says,
11	the same exact standards that were in there	11	"Compilation of previously published text
12	in 1979 are not necessarily in there in 1980.	12	plus additional text."
12			
13	Q. Would ASTM A370 1977e2 have been published in an Annual Book of ASTM	13	Do you know what that
14	<u> </u>	14	additional text is that was added to the 1979
	Standards prior to 1980?	15	Annual Book of ASTM Standards, Part 1 to
16	A. Most yeah, most likely, yep.	16	create the 1980 Annual Book of ASTM
17	Q. Do you know why ASTM has not	17	Standards, Part 1?
18	provided Public.Resource with the copyright	18	A. I don't know exactly what that
19	registrations for any such volumes prior to	19	text was, but it's my guess is that it
20	1980?	20	means revisions to the standards that were
21	MR. FEE: Objection. Calls for	21	included in the 1979 book that are also
22	speculation. Beyond the scope of his	22	included in the 1980 book, but there are also
23	designation.	23	revisions, and any new standards that were
24	THE WITNESS: I don't know.	24	approved that were not in the 1979 book but
25	BY MR. BECKER:	25	made it to the 1980 book.
	Page 150		Page 152
1	Q. Why are some standards	1	Q. Is the basis of your previous
2	re-approved?	2	statement that typically the next years'
3	MR. FEE: Objection. Beyond the	3	Annual Book of Standards includes standards
4	scope of his designations.	4	that had been recently approved or changed in
5	THE WITNESS: The technical	5	that past year?
6	committees make the decision as to	6	MR. FEE: Objection.
7	whether or not they want to re-approve	7	Mischaracterizes his testimony. Vague
8	the standard through the consensus	8	and confusing.
9	process.	9	C
10	BY MR. BECKER:		
		10	THE WITNESS: Can you restate
		10	that?
11	Q. And in what situations are	11	that? BY MR. BECKER:
11 12	Q. And in what situations are standards re-approved?	11 12	that? BY MR. BECKER: Q. Yeah. Maybe I'll just ask you,
11 12 13	Q. And in what situations are standards re-approved? MR. FEE: Same objection.	11 12 13	that? BY MR. BECKER: Q. Yeah. Maybe I'll just ask you, what's the basis for your guess that the
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^{39 (}Pages 150 - 153)

1	question means, but I'll just explain	1	compound.
2	it that if there let's just say,	2	THE WITNESS: It's internal to
3	for example, that there's a standard	3	ASTM, but we do make historical
4	that is in the 1979 book. If that	4	versions of standards available from
5	standard is revised, then the revision	5	our Web site. I believe we started
6	is included in the 1980 book. Does	6	that from 19 it might have been
7	that kind of answer your question?	7	like 2000.
8	MR. BECKER: Yes.	8	BY MR. BECKER:
9	BY MR. BECKER:	9	Q. And who maintains these logs?
10	Q. And generally that's the case	10	MR. FEE: Objection. Vague.
11	for any successive Annual Book of Standards.	11	THE WITNESS: It's part of our
12	Is that correct?	12	automated system.
13	MR. FEE: Objection. Vague.	13	BY MR. BECKER:
14	Compound.	14	Q. Who is in charge of that
15	THE WITNESS: Yeah, that's the	15	automated system?
16	way it works.	16	A. I guess the system itself, our
17	BY MR. BECKER:	17	technology area.
18	Q. Is there a log of every	18	Q. Would that be the VP of
19	revision over time to any particular standard	19	technology who is in charge of that?
20	from its first creation?	20	A. Uh-huh. Yes. I'm sorry.
21	MR. FEE: Objection. Vague.	21	Q. On Exhibit 1291, please turn to
22	THE WITNESS: ASTM is 115 years	22	ASTM000149. And when you have that open,
23	old, so I don't think there is a log	23	please also flip to ASTM000155. If you look
24	that exists for standards that were	24	at ASTM000149 under the section 2-1, it says,
25	approved in our early stages.	25	"AUTHOR OF (Briefly describe nature of this
	Page 154		Page 156
1	BY MR. BECKER:	1	author's contribution)," and it says, "Entire
1 2	BY MR. BECKER: Q. Does ASTM keep a log of every	1 2	author's contribution)," and it says, "Entire Text." In contrast, if you look at
2	Q. Does ASTM keep a log of every	2	Text." In contrast, if you look at
2 3 4 5	Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards that have been created in the past ten years?	2 3	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF
2 3 4	Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards	2 3 4	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF (Briefly describe nature of this author's
2 3 4 5 6 7	Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards that have been created in the past ten years? MR. FEE: Objection. Vague. THE WITNESS: We might. It's	2 3 4 5	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF (Briefly describe nature of this author's contribution)," it says, "Collective Work." Do you know why ASTM has said that under one registration, that they are
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1	MR. FEE: Objection. Asked and	1	copies were available prior to them
2	answered.	2	being available in the volume, we
3	THE WITNESS: I don't know. Bob	3	began filing separate registrations.
4	Meltzer maybe since it was from 1980.	4	BY MR. BECKER:
5	BY MR. BECKER:	5	Q. At approximately what time did
6	Q. Please turn to ASTM000167 of	6	ASTM begin filing for separate registrations?
7	Exhibit 1291. This is a copyright	7	MR. FEE: Objection. Vague.
8	registration for "F1193-06 Standard Practice	8	THE WITNESS: I'm not exactly
9	for Quality, Manufacture, and Construction of	9	sure.
10	Amusement Rides and Devices." Is this a	10	BY MR. BECKER:
11	registration for a single standard by ASTM?	11	Q. Was it prior to 2013 when ASTM
12	MR. FEE: Objection. Calls for	12	first started filing for individual
13	a legal conclusion.	13	registrations of individual standards?
14	THE WITNESS: It appears to be.	14	A. Yes.
15	BY MR. BECKER:	15	Q. The standard listed in
16	Q. Is F1193-06 just one standard?	16	ASTM000167 that we're discussing says its
17	A. Yes.	17	year of completion was 2006 and date of first
18	Q. Why has ASTM here registered a	18	publication was March 3, 2006. But the
19	single standard whereas for the bulk of the	19	effective date of the registration as stated
20	registrations that are provided by ASTM to	20	in the top right-hand corner is April 10,
21	Public.Resource they have registered entire	21	2013. Was this standard first registered in
22	volumes of standards?	22	2013?
23	MR. FEE: Objection. I think I	23	MR. FEE: Objection. Calls for
24	need to talk about a privilege issue	24	speculation. Calls for a legal
25	before he can respond to that	25	conclusion. You can answer.
25	Page 158	25	Page 160
1	mustice. Constraints for any second	1	
$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	question. Go outside for one second. VIDEOGRAPHER: The time is now	1	THE WITNESS: Yeah. I really don't know.
$\begin{vmatrix} 2\\ 2 \end{vmatrix}$		$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	BY MR. BECKER:
3	3:56. We're going off the video record. This concludes disc two.	-	
4	record. This concludes disc two.	4	Q. If you look in Exhibit 1291 at
5	$ (\Lambda$ mapping taken)	5	the four registrations immediately preceding
6	(A recess was taken.)	6	this registration we're discussing as
7		7	ASTM 00167, so that's the pages ASTM 00159 to
8	VIDEOGRAPHER: The time is now	8	166. These are all copyright registrations
9	4:02. We're back on the video record.	9	from 2013 excuse me, March 5, 2013, but
10	This begins disc three.	10	they concern standards that were first
11	MR. FEE: If you could just read	11	published many years prior to 2013. Is that
12	back the question so he can respond.	12	correct?
		13	MR. FEE: Objection. Compound.
13			
14	(The court reporter read the	14	Calls for speculation.
14 15	(The court reporter read the pertinent part of the record.)	14 15	Calls for speculation. THE WITNESS: I don't know for
14 15 16	pertinent part of the record.)	14 15 16	Calls for speculation. THE WITNESS: I don't know for sure.
14 15 16 17	pertinent part of the record.) THE WITNESS: My understanding	14 15 16 17	Calls for speculation. THE WITNESS: I don't know for sure. BY MR. BECKER:
14 15 16 17 18	pertinent part of the record.) THE WITNESS: My understanding was that back when we only published	14 15 16 17 18	Calls for speculation. THE WITNESS: I don't know for sure. BY MR. BECKER: Q. Do you know if ASTM filed for
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14 15 16 17 18 19 20	pertinent part of the record.) THE WITNESS: My understanding was that back when we only published books and we didn't make our standards available as separates, we would	14 15 16 17 18 19 20	Calls for speculation. THE WITNESS: I don't know for sure. BY MR. BECKER: Q. Do you know if ASTM filed for these registrations in preparation for litigation with Public.Resource?
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1		1	4
1	MR. BECKER: Counsel, why is it	1	those.
$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	that you're instructing him not to	2	THE WITNESS: I'm not aware of
3	answer that question?	3	any other business reasons for why we
4	MR. FEE: If it's done in	4	filed these as we would for any other
5	anticipation of litigation, it's work	5	standard that we produced.
6	product. You're asking him for work	6	BY MR. BECKER:
7 8	product.	7	Q. What are the business reasons
9	MR. BECKER: Counsel, I'm not certain if I agree with that. This is	8 9	for filing for Certificates of Registration
10	a public filing.	10	for any of these standards under ASTM's name? MR. FEE: Objection. To the
11	MR. FEE: It doesn't matter if	11	extent that requires you to disclose
12	you agree with it. I'm not you can	12	attorney-client communications, you
12	say whatever you want, but his	12	shouldn't do so. If you're aware of
14	instruction is what it is, he's going	14	business reasons separate and apart
15	to follow it.	15	from legal communications, you can go
16	MR. BECKER: Counsel, I'll state	16	ahead and answer.
17	for the record that I believe that	17	THE WITNESS: My understanding
18	this concerns a public filing and it's	18	is that we copyright these standards
19	not work product.	19	so that we can sell them and support
20	MR. FEE: The reason why	20	the operations of the organization.
21	something was done is not contained in	21	BY MR. BECKER:
22	these public filings. That's what	22	Q. What are ASTM organizational
23	you're asking him. If you want to ask	23	members?
24	him questions about what appears in	24	A. Organizational members are
25	the case of public filings, feel free.	25	essentially members that wish to support ASTM
	Page 162		Page 164
1	MR. BECKER: Counsel, I'm not	1	through a larger membership fee of \$400.
1 2	MR. BECKER: Counsel, I'm not interested in any attorney-client	1 2	through a larger membership fee of \$400. Q. Is there any distinction other
2	interested in any attorney-client	2	Q. Is there any distinction other
2 3	interested in any attorney-client communications here. I'm simply asking about the reasons why ASTM took a particular action here.	2 3	Q. Is there any distinction other than the payment of \$400 that separates
2 3 4 5 6	interested in any attorney-client communications here. I'm simply asking about the reasons why ASTM took	2 3 4	Q. Is there any distinction other than the payment of \$400 that separates organizational members from individual members? MR. FEE: Objection. Vague.
2 3 4 5 6 7	interested in any attorney-client communications here. I'm simply asking about the reasons why ASTM took a particular action here.	2 3 4 5 6 7	Q. Is there any distinction other than the payment of \$400 that separates organizational members from individual members? MR. FEE: Objection. Vague. Beyond the scope of his designation.
2 3 4 5 6 7 8	interested in any attorney-client communications here. I'm simply asking about the reasons why ASTM took a particular action here. MR. FEE: I've instructed him not to answer. He said he's not answering the question.	2 3 4 5 6 7 8	Q. Is there any distinction other than the payment of \$400 that separates organizational members from individual members? MR. FEE: Objection. Vague. Beyond the scope of his designation. THE WITNESS: Organizational
2 3 4 5 6 7 8 9	interested in any attorney-client communications here. I'm simply asking about the reasons why ASTM took a particular action here. MR. FEE: I've instructed him not to answer. He said he's not answering the question. BY MR. BECKER:	2 3 4 5 6 7 8 9	Q. Is there any distinction other than the payment of \$400 that separates organizational members from individual members? MR. FEE: Objection. Vague. Beyond the scope of his designation. THE WITNESS: Organizational members may get some other fringe
2 3 4 5 6 7 8 9 10	 interested in any attorney-client communications here. I'm simply asking about the reasons why ASTM took a particular action here. MR. FEE: I've instructed him not to answer. He said he's not answering the question. BY MR. BECKER: Q. Do you still refuse to answer 	2 3 4 5 6 7 8 9 10	 Q. Is there any distinction other than the payment of \$400 that separates organizational members from individual members? MR. FEE: Objection. Vague. Beyond the scope of his designation. THE WITNESS: Organizational members may get some other fringe benefits that the individual members
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1	of any organizations typically sign up for	1	answered.
2	organizational memberships?	2	THE WITNESS: No. Organizations
3	MR. FEE: Objection. Vague.	3	designate a member, an employee to
4	Beyond the scope of his designation.	4	participate on technical committees.
5	THE WITNESS: I don't know.	5	BY MR. BECKER:
6	BY MR. BECKER:	6	Q. What's the difference between
7	Q. Can organizational members be	7	what you just said and an organizational
8	members of technical committees?	8	member designating an individual to
9	A. Yes. As a matter	9	participate on technical committees on its
10	MR. FEE: There's no question	10	behalf?
11	pending.	11	MR. FEE: Objection.
12	BY MR. BECKER:	12	Mischaracterizes his testimony to the
13	Q. I'm sorry, what were you about	13	extent it purports to summarize it.
14	to say?	14	You can answer.
15	A. I believe all organizational	15	THE WITNESS: An organizational
16	members are members of technical committees	16	member is an individual, it's not the
17	Q. Have any organizational members	17	organization. So the organization
18	executed copyright assignments for ASTM?	17	designates a member, an employee to be
19	A. Not to my knowledge. I'm	19	a member to represent it on a
20	sorry, can you repeat that question?	20	technical committee.
20		20	BY MR. BECKER:
$21 \\ 22$		21	
1	members executed copyright assignments for		
23	ASTM?	23	designates an employee to be a member to be a
24	A. Through the membership	24	representative on a technical committee, when
25	applications that we talked about earlier, Page 166	25	you say representative, do you mean a Page 168
	rage 100		rage 100
1	through the renewal applications that we	1	representative of that organization?
2	talked about earlier, if they're involved in	2	A. Maybe.
3	a collaboration area, they would make an	3	Q. Does ASTM have any knowledge as
4	assignment, and if they registered a work	4	to whether organizational members, when they
5	item, they would make an assignment.	5	designate an individual to participate in a
6	Q. So those are the same the	6	technical committee, whether those
7	same assignment language that would relate to	7	organizations are designating that individual
8	individual members you're saying would also	8	on the organization's behalf?
9	relate to organizational members when	9	MR. FEE: Objection. Vague.
10	organizational members sign up for	10	May call for a legal conclusion.
11	membership?	11	THE WITNESS: I think it varies.
12	A. Correct.	12	I think organizational again,
13	Q. How do organizational members	13	organizations that choose to support
14	participate in technical committees?	14	ASTM through an organizational
15	A. The same way as participating	15	membership designate an individual to
16	members, individual members.	16	participate on a technical committee.
17	Q. Can you elaborate on that?	17	That individual may be contributing to
18	MR. FEE: Objection. Vague.	18	the content of ASTM standards as an
19	THE WITNESS: I don't think I	19	individual even as an organizational
20	can. There's no difference.	20	member, not necessarily representing
140		20	• • •
		∠ 1	the organization's the
21	BY MR. BECKER:		organizational views
21 22	Q. Do organizational members	22	organizational views.
21 22 23	Q. Do organizational members designate an individual to participate on	22 23	BY MR. BECKER:
21 22 23 24	Q. Do organizational members designate an individual to participate on their behalf?	22 23 24	BY MR. BECKER: Q. For organizational memberships,
21 22 23	Q. Do organizational members designate an individual to participate on	22 23	BY MR. BECKER:

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1	the \$400 fee?	1	MR. FEE: Objection. This is
2	MR. FEE: Objection. Calls for	2	beyond the scope of his designation.
3	speculation.	3	THE WITNESS: No.
4	THE WITNESS: I don't know for	4	MR. BECKER: For the record, I
5	sure. Not necessarily. But probably	5	don't believe that this is beyond his
6	in most cases, probably.	6	designation as this concerns an
7	BY MR. BECKER:	7	organizational membership renewal.
8	Q. Do you know of any instance	8	MR. FEE: I don't think he was
9	when a person indicated that he or she	9	designated to authenticate checks from
10	disagreed with his or her organization's	10	2013, but we'll agree to disagree.
11	position with respect to an action on a	11	BY MR. BECKER:
12	technical committee?	12	Q. Does this document indicate to
13	A. No.	13	you that the Department of Consumer Affairs
14	Q. Do you know of any instance	14	from the State of California had paid for an
15	when an individual indicated that he or she	15	organizational membership renewal with ASTM?
16	was specifically speaking on his or her own	16	MR. FEE: Objection. Calls for
17	behalf as apart from the organization that he	17	speculation. Beyond the scope of his
18	or she is part of?	18	designation.
19	A. No.	19	THE WITNESS: I guess you could
20	Q. Are any U.S. federal agencies	20	assume that. I don't know for sure.
21	organizational members of ASTM?	21	BY MR. BECKER:
22	A. I don't know.	22	Q. Do you have any reason for
23	Q. Who would know if any federal	23	thinking this that's not what this
24	agencies are organizational members of ASTM?	24	document shows?
25	MR. FEE: Objection. Calls for	25	MR. FEE: Same objections.
	Page 170		Page 172
1	speculation. Also beyond the scope of	1	THE WITNESS: No, no reason not
	· · ·		
2	his designation.	2	to believe.
2 3	his designation. THE WITNESS: We have an	2 3	to believe.
	THE WITNESS: We have an		
3		3	(Exhibit 1293, 2011 Membership
3 4	THE WITNESS: We have an organizational member directory on the	3 4	
3 4 5	THE WITNESS: We have an organizational member directory on the Web site.	3 4 5	(Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 -
3 4 5 6	THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER:	3 4 5 6	(Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for
3 4 5 6 7	THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is	3 4 5 6 7	(Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.)
3 4 5 6 7 8	THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership	3 4 5 6 7 8	(Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.)
3 4 5 6 7 8 9	THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located?	3 4 5 6 7 8 9	(Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.)
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3 4 5 6 7 8 9 10 11	THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership	3 4 5 6 7 8 9 10 11	(Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been
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44 (Pages 170 - 173)

1	designation.	1	where on these renewal invoices, if anywhere,
2	THE WITNESS: It says here	2	language exists that would assign any
3	they're from NIST.	3	copyright that Charles E. Gibson or Benjamin
4	BY MR. BECKER:	4	K. Tsai, the individuals listed on these
5	Q. NIST is a federal agency.	5	membership renewal invoices, might have
6	Correct?	6	granted to ASTM?
7	MR. FEE: Same objections.	7	MR. FEE: Objection. Calls for
8	THE WITNESS: I believe. Sorry.	8	a legal conclusion. Compound. You
9	I believe so.	9	can answer if you know.
10	BY MR. BECKER:	10	THE WITNESS: No, there's
11	Q. And they both give their NIST	11	language in the middle of both pages
12	e-mail addresses. Is that correct?	12	beginning with "You agree "
13	MR. FEE: Objection. Calls for	13	BY MR. BECKER:
14	speculation. Beyond the scope of his	14	Q. Is that where it says, "You
15	designation. You can answer.	15	agree, by your participation in ASTM and
16	THE WITNESS: The e-mail	16	enjoyment of the benefits of your annual
17	addresses are on this piece of paper.	17	membership, to have transferred and assigned
18	BY MR. BECKER:	18	any and all interest you possess or may
19	Q. And the e-mail addresses say	19	possess, including copyright, in the
20	@nist.gov. Correct?	20	development or creation of ASTM standards or
21	A. Yes.	21	ASTM IP to ASTM. For additional information,
22	Q. And the addresses that they	22	please see the ASTM IP Policy, available at
23	provide are for NIST. Correct?	23	www.astm.org"?
24	MR. FEE: Objection. Calls for	24	A. Yes.
25	speculation. Beyond the scope of his	25	Q. For these membership renewal
	Page 174		Page 176
1	designation.	1	invoices, are individuals required to check
	-		
2	THE WITNESS: Yes, the NIST	2	any box showing that they have read and
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	THE WITNESS: Yes, the NIST address is on these pieces of paper.	2 3	any box showing that they have read and understand the provision that I just read out
1	address is on these pieces of paper. BY MR. BECKER:		any box showing that they have read and understand the provision that I just read out loud?
3 4	address is on these pieces of paper. BY MR. BECKER:	3	understand the provision that I just read out loud?
3 4 5	address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card	3 4	understand the provision that I just read out loud? MR. FEE: Objection. Vague.
3 4 5 6	address is on these pieces of paper. BY MR. BECKER:	3 4 5	understand the provision that I just read out loud?
3 4 5	address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card information and payer is the same for both renewal invoices. Correct?	3 4 5 6	understand the provision that I just read out loud? MR. FEE: Objection. Vague. Compound.
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card information and payer is the same for both renewal invoices. Correct? MR. FEE: Objection. Beyond the scope of his designation. THE WITNESS: It appears that the names are the same. BY MR. BECKER: Q. And that name appears to be Aruella Kuehl, K-U-E-H-L. Aruella is spelled A-R-U-E-L-L-A excuse me, that's Arvella, A-R-V-E-L-L-A. MR. FEE: Objection. Beyond the scope of his designation. BY MR. BECKER: Q. Is that correct? MR. FEE: Same objection. THE WITNESS: If that's yeah, that's the way you want to spell it. BY MR. BECKER:	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	understand the provision that I just read out loud? MR. FEE: Objection. Vague. Compound. THE WITNESS: I don't see here where there's a box to check off. BY MR. BECKER: Q. For the membership renewal invoices, are the members required to sign anywhere on the renewal invoice? MR. FEE: Same objections. THE WITNESS: I don't see anywhere else other than the signature for where the credit card information is. BY MR. BECKER: Q. And if an individual pays by some other means that doesn't require a credit card, would it not be necessary to sign this membership renewal invoice at all
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45 (Pages 174 - 177)

1	THE WITNESS: I don't know. I	1	that we read.
2	guess you could sign a check. The	2	BY MR. BECKER:
3	only other way you could pay is	3	Q. And my question is, is there
4	through a check, so you could sign a	4	any means through the membership renewal
5	check.	5	invoice that ASTM ensures that it has the
6	BY MR. BECKER:	6	understanding and assent of the individual
7	Q. It also lists electronic	7	who is renewing his or her membership that
8	payments. Correct?	8	any copyright he or she has in the
9	A. Yes.	9	development or creation of ASTM standards is
10	Q. So if somebody were to provide	10	to be assigned to ASTM?
11	an electronic payment, then they would not	11	MR. FEE: Same objections. Plus
12	need to sign anywhere on this form. Is that	12	asked and answered.
13	correct?	13	THE WITNESS: Plus what?
14	MR. FEE: Objection. Calls for	14	MR. FEE: Asked and answered.
15	speculation.	15	THE WITNESS: Same answer.
16	THE WITNESS: I suppose.	16	BY MR. BECKER:
17	BY MR. BECKER:	17	Q. It's a yes or no answer.
18	Q. Is there any means through the	18	MR. FEE: No. Answer it however
19	membership renewal invoice that ASTM ensures	19	you want to answer it.
20	that it has the understanding and assent of	20	THE WITNESS: Within the 2011
21	the individual renewing his or her membership	21	membership renewal invoice, there is
22	that any copyright he or she has in the	22	this clause that we feel is informs
23	development or creation of ASTM standards is	23	the members that they're assigning
24	to be assigned to ASTM?	24	their copyright to us within their
25	MR. FEE: Objection. Vague and	25	participation at ASTM.
	Page 178		Page 180
1	confusing. Calls for speculation.	1	BY MR. BECKER:
2	Calls for a legal conclusion.	2	Q. How does ASTM know that a
3	THE WITNESS: Through the	3	member has read that clause?
4	original membership application,	4	A. We don't.
5	through the work item registration	5	Q. How does ASTM know that a
6	process, and through the collaboration	6	member agrees with that clause?
7	registration process.	7	MR. FEE: Objection to the
8	BY MR. BECKER:	8	extent it calls for a legal
9	Q. My question was with regards to	9	conclusion. Also calls for
10	the 2011 membership renewal invoice. I'll	10	speculation. You can answer.
11	read it again.	11	THE WITNESS: We don't know for
12	Is there any means through the	12	sure.
13	membership renewal invoice that ASTM ensures	13	
14	that it has the understanding and assent of	14	(Exhibit 1294, Organizational
15	the individual renewing his or her membership	15	Membership Directory, was marked for
16	that any copyright he or she has in the	16	identification.)
17	development or creation of ASTM standards is	17	
18	to be assigned to ASTM?	18	BY MR. BECKER:
19	MR. FEE: Objection to form.	19	Q. I'm handing you what's been
20	Vague and confusing. Compound. Calls	20	marked as Exhibit 1294. It's a document
21	for speculation and calls for a legal	21	titled: "Organizational Membership
22	conclusion.	22	Directory." This is two separate printouts
1		23	combined. It is the A to K listing and the L
23	THE WITNESS: Within the 2011	45	Complete. It is the A to K institute and the 1
23 24	THE WITNESS: Within the 2011 membership renewal invoice, the only		+
24	membership renewal invoice, the only	24	to Z listing. It's something it's over
			+

46 (Pages 178 - 181)

1	Do you recognize this document?	1	Q. Okay.
2	A. Yes.	2	A. Unless I'm on the wrong page.
3	MR. FEE: Objection. You should	3	MR. FEE: Let me see your page.
4	really look at the document before you	4	THE WITNESS: Maybe you meant
5	answer that question.	5	the 12th page in?
6	THE WITNESS: The first page I	6	BY MR. BECKER:
7	do. I mean, if this is just the	7	Q. Yes, I meant the next page. Do
8	organizational directory, I'm aware	8	you see the U.S. Air Force now?
9	that it exists and I recognize it.	9	A. Yes.
10	BY MR. BECKER:	10	Q. Okay. So does this indicate to
11	Q. Is this the organizational	11	you that the U.S. Air Force is an
12	directory?	12	organizational member of ASTM?
12	•	12	MR. FEE: Objection. Beyond the
13	A. It appears to be.		· ·
	Q. Is this the organizational	14	scope of his designation.
15	directory that you were discussing earlier	15	THE WITNESS: It would appear to
16	today that lists the organizational members	16	be.
17	of ASTM?	17	BY MR. BECKER:
18	A. Yes.	18	Q. Looking at this page and the
19	Q. This is the just to be	19	following two pages, which lists a number of
20	clear, this is the organizational membership	20	U.S. federal agencies, please tell me if any
21	directory of ASTM. Correct?	21	of them participate in standards development
22	A. Yes.	22	at ASTM?
23	Q. Unfortunately I don't think	23	MR. FEE: Objection. Vague.
24	that this document has page numbers on it,	24	Beyond the scope of his designation.
25	but if you look, let's see, at the 11th from	25	Compound.
	Page 182		Page 184
1	last page, please. This page, in about the	1	THE WITNESS: I'm not sure how
1 2	last page, please. This page, in about the middle of the page you'll see the U.S. AIR	$\begin{vmatrix} 1\\2 \end{vmatrix}$	THE WITNESS: I'm not sure how to answer that other than if you had
2	middle of the page you'll see the U.S. AIR	2	to answer that other than if you had
2 3	middle of the page you'll see the U.S. AIR FORCE, U.S. AIR FORCE NONDESTRUCTIVE	2 3	to answer that other than if you had asked me a specific question. I might
2 3 4	middle of the page you'll see the U.S. AIR FORCE, U.S. AIR FORCE NONDESTRUCTIVE INSPECTION OFFICE, U.S. AMC LOGSA PSCC, the	2 3 4	to answer that other than if you had asked me a specific question. I might know some of them, but I mean, they're
2 3 4 5	middle of the page you'll see the U.S. AIR FORCE, U.S. AIR FORCE NONDESTRUCTIVE INSPECTION OFFICE, U.S. AMC LOGSA PSCC, the U.S. Army Engineering Research & Development	2 3 4 5	to answer that other than if you had asked me a specific question. I might know some of them, but I mean, they're members, but also I'm not sure how you
2 3 4 5 6	middle of the page you'll see the U.S. AIR FORCE, U.S. AIR FORCE NONDESTRUCTIVE INSPECTION OFFICE, U.S. AMC LOGSA PSCC, the U.S. Army Engineering Research & Development Center and the U.S. Army Natick Soldier RD&E	2 3 4 5 6	to answer that other than if you had asked me a specific question. I might know some of them, but I mean, they're members, but also I'm not sure how you define "participation."
2 3 4 5 6 7	middle of the page you'll see the U.S. AIR FORCE, U.S. AIR FORCE NONDESTRUCTIVE INSPECTION OFFICE, U.S. AMC LOGSA PSCC, the U.S. Army Engineering Research & Development Center and the U.S. Army Natick Soldier RD&E Center. Let me know when you see that.	2 3 4 5 6 7	to answer that other than if you had asked me a specific question. I might know some of them, but I mean, they're members, but also I'm not sure how you define "participation." BY MR. BECKER:
2 3 4 5 6 7 8	middle of the page you'll see the U.S. AIR FORCE, U.S. AIR FORCE NONDESTRUCTIVE INSPECTION OFFICE, U.S. AMC LOGSA PSCC, the U.S. Army Engineering Research & Development Center and the U.S. Army Natick Soldier RD&E Center. Let me know when you see that. A. Yes.	2 3 4 5 6 7 8	to answer that other than if you had asked me a specific question. I might know some of them, but I mean, they're members, but also I'm not sure how you define "participation." BY MR. BECKER: Q. Do any of these U.S. government
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^{47 (}Pages 182 - 185)

1	THE WITNESS: They make	1	A. Yes.
2	contributions at the meetings.	2	Q. Did you ever receive this
3	BY MR. BECKER:	3	e-mail that's Exhibit 1295?
4	Q. And do those contributions end	4	A. I may have.
5	up in the final approved standards?	5	Q. Do you have any reason to think
6	MR. FEE: Objection. Vague.	6	that if you had that you did not receive
7	THE WITNESS: I don't I can't	7	this e-mail produced by ASTM that has your
8	say specifically.	8	name listed under the cc line?
9	BY MR. BECKER:	9	A. No.
10	Q. What kind of contributions do	10	Q. Do you have any reason to
11	they provide at these meetings?	11	believe that this document provided by ASTM
12	MR. FEE: Objection. Vague.	12	is not authentic?
13	THE WITNESS: Oral contributions.	13	MR. FEE: Objection. Calls for
14	BY MR. BECKER:	14	a legal conclusion.
15	Q. Do they provide any written	15	THE WITNESS: I have no idea.
16	contributions?	16	BY MR. BECKER:
17	MR. FEE: Objection. Vague.	17	Q. Is that a yes or a no?
18	THE WITNESS: They may through	18	A. I don't know. I don't see any
19	the balloting process.	19	reason why it wouldn't be.
20	BY MR. BECKER:	20	Q. If you turn to the second page,
21	Q. Do they vote on standard drafts	21	it says this is an e-mail from Sarah
22	or revisions?	22	Petre, P-E-T-R-E, to Jeff Grove that says
23	MR. FEE: Objection. Form.	23	in which you are cc'd at dsmith@astm.org. Is
24	THE WITNESS: They may. They	24	that correct?
25	have the opportunity to. Page 186	25	A. Yes. Page 188
	1 420 100		1 uge 100
1		1	Q. And it says, "Jeff: Attached
2	(Exhibit 1295, E-mail chain with	2	is a summary of all the potentially relevant
2 3	attachment, Bates ASTM025633 -	2 3	is a summary of all the potentially relevant standards related to the UE's efforts that
2 3 4	attachment, Bates ASTM025633 - ASTM025640, was marked for	2 3 4	is a summary of all the potentially relevant standards related to the UE's efforts that focus on the environmental footprint of
2 3 4 5	attachment, Bates ASTM025633 -	2 3 4 5	is a summary of all the potentially relevant standards related to the UE's efforts that focus on the environmental footprint of products and services. This list is more
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1Im 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?1A. Just roughly maybe 2009. 2008, 2 2010, in that time frame. 3 Q. Do you know what her position 4 Goldblum brought forward her idea in that 4 Goldblum? 1 A. No. 1 A. No. 1 Goldblum? 1 A. No. 1 A. No. 1 Goldblum? 1 A. Through my work on Committee 1 E 50 on environmental assessment. 1 BY MR. BECKER: 2 Q. How has Deborah Goldblum 2 may tak group meetings, they had discussions about developing content. 2 MR. FEE: Objection. Vague. 2 MR. FEE: Objection. Vague. 2 MR. FEE: Objection. Vague. 2 THE WITNESS: She presented - 1 traw three were standards for 5 green cleanup. 2 A. Ard what happened with her 10 idea?1A. It was there were standards for 3 acoust cover in the subcommittee in f50. 2 MR. FEE: Objection. Vague. 2 MR. FEE: Objection. Vague. 3 Goldb				
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24BY MR. BECKER:24three topics you are supposed to be		marked for identification.)		· *
1 5 11				
25 O. I'm handing you what's been 25 talking about today?	24	BY MR. BECKER:	24	
	25	Q. I'm handing you what's been	25	talking about today?
Page 195 Page 1		Page 195		Page 197

50 (Pages 194 - 197)

1	MR. BECKER: Yeah. It's a	1	A. Could have been. I don't know
2	membership application. That's one of	2	for sure, though.
3	the ways that ASTM claims that it gets	3	Q. Do you know who else might have
4	assignment of rights.	4	been the head of internal sales in 2008?
5	MR. FEE: And the identity of	5	A. I'm not exactly sure.
6	who DG is is relevant to all this	6	Q. Could you show me where, if
7	because of what?	7	anywhere, on this document Exhibit 1296 there
8	MR. BECKER: Because this is	8	is language that ASTM believes it is assigned
9	this is a feature on the membership	9	copyright through?
10	application and I need to understand	10	MR. FEE: Objection. Calls for
11	what it means.	11	a legal conclusion. To the extent
12	MR. FEE: I'll let you ask that	12	that question calls for you to
13	question, but I'm not going to allow	13	disclose attorney-client
13	too many more questions along these	14	communications, I'd instruct you not
15	lines, but go ahead.	15	to do that. If you have an answer
16	MR. BECKER: I think this is	16	otherwise, you can go ahead and
17		17	-
	perfectly relevant right here. My		answer. THE WITNESS: I don't see the
18	question goes to whether this was	18	
19	entered into the system and whether	19	language on this form that was on the
20	this person is, therefore, a member of	20	other forms.
21	ASTM.	21	BY MR. BECKER:
22	MR. FEE: Do you want to read	22	Q. Is there any language on this
23	back the question? Or do you know	23	page that would transfer copyright from the
24	what it is?	24	individual who is listed on this form, Diana,
25	THE WITNESS: I'm not I'm a	25	I believe it's M-E-N-A-G-E-D to ASTM?
	Page 198		Page 200
1	little	1	MR. FEE: Objection. Calls for
2	MR. FEE: You can answer.	2	a legal conclusion. To the extent the
3	THE WITNESS: No. Just for	3	answer would disclose attorney-client
4	clarity, I'd like it repeated, if	4	communications, I instruct you not to
5	possible.	5	disclose that. You can answer if you
6	BY MR. BECKER:	6	have knowledge of it otherwise.
7	Q. Who would know whether this	7	THE WITNESS: I don't see any
8	stamp in the bottom right-hand corner of this	8	language on this particular form that
9	page designates that this application has	9	would indicate that.
10	been processed into ASTM's system?	10	
11	MR. FEE: Objection. Vague.	11	(Exhibit 1297, 2010 ASTM
12	Beyond the scope of his designation.	12	International Committee Membership
13	THE WITNESS: Possibly somebody	13	Application, Bates ASTM079420, was
14	who works in our customer service	14	marked for identification.)
15	department back in 2008.	15	
16	BY MR. BECKER:	16	BY MR. BECKER:
17	Q. Who heads the customer service	17	Q. I'm handing you what's been
18			marked as Exhibit 1297. This is the document
10	department at ASTM?	18	
	MR. FEE: Objection. Vague. THE WITNESS: Derek Franco is	19	produced by ASTM as ASTM079420. Do you know what this document is?
20		20	what this document is?
21	the director of our, I believe it's	21	A. It says, "2010 ASTM International
22	called internal sales.	22	Committee Membership Application."
23	BY MR. BECKER:	23	Q. Is there any language on this
24	Q. Was Derek Franco the head of	24	document, Exhibit 1297, that would assign
25	internal sales in 2008?	25	copyright from the applicant to ASTM?
	Page 199		Page 201

51 (Pages 198 - 201)

1	MR. FEE: Objection. Calls for	1	that is on the form.
2	a legal conclusion. To the extent	2	
3	that question would require you to	3	(Exhibit 1298, ASTM Application,
4	disclose attorney-client	4	Bates ASTM073844, was marked for
5	communications, I instruct you not to	5	identification.)
6	do so. If you can answer otherwise,	6	
7	go ahead.	7	BY MR. BECKER:
8	THE WITNESS: I don't see any	8	Q. I'm handing you what's been
9	language on here similar to the	9	marked as Exhibit 1298. This is a document
10	language that we had talked about	10	produced by ASTM as ASTM073844. Can you tell
11	earlier.	11	me what this document is?
12	BY MR. BECKER:	12	A. It looks like it's an ASTM
12			
	Q. The applicant here, Raymond	13	application.
14	Ortiz, is an organization member of the	14	Q. Is there any language on this
15	Defense Energy Support Center. Is that	15	document that Exhibit 1298, that ASTM
16	correct?	16	believes assigns copyright from the applicant
17	MR. FEE: Objection.	17	to ASTM?
18	Mischaracterizes the document.	18	MR. FEE: Objection. Calls for
19	THE WITNESS: I don't see how	19	a legal conclusion. To the extent
20	you're figuring out he's an	20	that question would require you to
21	organizational member.	21	disclose attorney-client
22	BY MR. BECKER:	22	communication, I instruct you not to
23	Q. Excuse me, let me rephrase	23	do so. If you have other responsive
24	that.	24	information, go ahead and do so.
25	Raymond Ortiz says lists his	25	THE WITNESS: I don't see the
	Page 202		Page 204
-			
1	ananiation name of "Defense Energy Summer	1	1
1	organization name as "Defense Energy Support		language on this form that was on the
2	Center." Is that correct?	2	previous forms.
2 3	Center." Is that correct? A. That would appear to be right.	2 3	previous forms. BY MR. BECKER:
2 3 4	Center." Is that correct? A. That would appear to be right. Q. And he lists a, looks like a	2 3 4	previous forms. BY MR. BECKER: Q. When you say "the previous
2 3 4 5	Center." Is that correct? A. That would appear to be right. Q. And he lists a, looks like a military e-mail address. Is that correct?	2 3	previous forms. BY MR. BECKER:
2 3 4 5 6	Center." Is that correct? A. That would appear to be right. Q. And he lists a, looks like a military e-mail address. Is that correct? MR. FEE: Objection. Calls for	2 3 4	previous forms. BY MR. BECKER: Q. When you say "the previous
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1 A. Would appear to be that. 1 reports on the use of ASTM standards. 2 Q. Are they membership applications? 2 Q. Are those national standards 4 Q. Is there any language on these bodies or private bodies? 6 assigns ASTM any copyright by the application? FBE: Objection. Calls for 7 MR. FEE: Objection. Calls for 7 8 requires a translation, to the extent 9 9 requires at translation, to the extent 9 11 conclusion. To the extent that that 11 12 question requires the disclosure of 12 13 any attorney-client communication, you 13 14 shouldn't disclose it. You can answer 14 THE WITNESS: I don't know. 16 THE WITNESS: I don't know. 16 but I've never seen one of the 17 previously? 21 MR. FEE: Same objection. 22 A. No. 22 MR. FEE: Same objection. 23 Q. In preparation for your 23 Utilizing ASTM standards within their 24 deposition today, had you spoken with 2 STHE WITNESS: How they may be				
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25 countries. And in return, they provide us 25 application, Bates ASTM067024, was	172		123	
			21	(Exhibit 1200 Mambarshin
rage 207	24	national standards bodies of developing		· · · · · ·
	24	national standards bodies of developing countries. And in return, they provide us		application, Bates ASTM067024, was

53 (Pages 206 - 209)

1	marked for identification.)	1	respective years, 2007 through 2014?
2		2	MR. FEE: Objection to form.
3	BY MR. BECKER:	3	THE WITNESS: There probably
4	Q. I'm handing you what's been	4	was, yes.
5	marked as Exhibit 1300. Could you, please,	5	BY MR. BECKER:
6	identify this document?	6	Q. How do you know that?
7	A. It says at the top "Laboratory	7	A. Well, because I know our
8	Inspection Program," but it would appear to	8	applications, we have applications that have
9	be a membership application.	9	the language that we spoke about earlier that
10	Q. I'll note that this document is	10	was on, was it 1293, Exhibit 1293? We have
11	produced by ASTM as ASTM067024. Is there any	11	copies of membership applications that have
12	mention of copyright assignment or ASTM's IP	12	that language on there.
13	Policy on this document?	13	Q. Exhibit 1293 is a membership
14	MR. FEE: Objection to form.	14	renewal invoice. Correct?
15	THE WITNESS: I don't see that	15	A. Yes.
16	language on here, no.	16	Q. And a membership renewal
17		17	invoice is different from a membership
18	(Exhibit 1301, Membership	18	application. Correct?
19	applications, Bates ASTM066871,	19	A. Yes.
20	ASTM069213, ASTM069058, ASTM080176,	20	Q. So when you say that there are
21	ASTM061450, ASTM063146, ASTM063147,	21	different versions, do you mean that there is
22	ASTM065682 & ASTM066345, was marked	22	different versions of the membership
23	for identification.)	23	applications for each year or that there is a
24		24	membership application and there also is a
25	BY MR. BECKER:	25	membership renewal invoice
	Page 210		Page 212
1	Q. I'm handing you what's been	1	MR. FEE: Objection. Form.
2	marked as Exhibit 1301. This is a	2	BY MR. BECKER:
	marked as Exhibit 1301. This is a compilation of documents that were provided		BY MR. BECKER: Q for each year?
2 3 4	marked as Exhibit 1301. This is a compilation of documents that were provided by ASTM as single pages. It is one example	2	BY MR. BECKER:Q for each year?A. We have membership applications
2 3	marked as Exhibit 1301. This is a compilation of documents that were provided by ASTM as single pages. It is one example from each year from which ASTM has provided a	2 3	BY MR. BECKER:Q for each year?A. We have membership applicationsfor these years that have that language from
2 3 4 5 6	marked as Exhibit 1301. This is a compilation of documents that were provided by ASTM as single pages. It is one example from each year from which ASTM has provided a membership application starting with the 2007	2 3 4	BY MR. BECKER:Q for each year?A. We have membership applicationsfor these years that have that language fromExhibit 1293 on them.
2 3 4 5 6 7	marked as Exhibit 1301. This is a compilation of documents that were provided by ASTM as single pages. It is one example from each year from which ASTM has provided a membership application starting with the 2007 membership application and ending with the	2 3 4 5 6 7	BY MR. BECKER:Q for each year?A. We have membership applicationsfor these years that have that language fromExhibit 1293 on them.Q. How do you know that there are
2 3 4 5 6	marked as Exhibit 1301. This is a compilation of documents that were provided by ASTM as single pages. It is one example from each year from which ASTM has provided a membership application starting with the 2007 membership application and ending with the 2014 membership application. And the Bates	2 3 4 5 6	 BY MR. BECKER: Q for each year? A. We have membership applications for these years that have that language from Exhibit 1293 on them. Q. How do you know that there are membership applications for all of the years
2 3 4 5 6 7	marked as Exhibit 1301. This is a compilation of documents that were provided by ASTM as single pages. It is one example from each year from which ASTM has provided a membership application starting with the 2007 membership application and ending with the 2014 membership application. And the Bates numbers are ASTM066871, ASTM069213,	2 3 4 5 6 7	 BY MR. BECKER: Q for each year? A. We have membership applications for these years that have that language from Exhibit 1293 on them. Q. How do you know that there are membership applications for all of the years 2007 through 2014 that have the same language
2 3 4 5 6 7 8 9 10	marked as Exhibit 1301. This is a compilation of documents that were provided by ASTM as single pages. It is one example from each year from which ASTM has provided a membership application starting with the 2007 membership application and ending with the 2014 membership application. And the Bates numbers are ASTM066871, ASTM069213, ASTM069058, ASTM080176, ASTM061450,	2 3 4 5 6 7 8 9 10	 BY MR. BECKER: Q for each year? A. We have membership applications for these years that have that language from Exhibit 1293 on them. Q. How do you know that there are membership applications for all of the years 2007 through 2014 that have the same language that is from the 2011 membership renewal
2 3 4 5 6 7 8 9 10 11	marked as Exhibit 1301. This is a compilation of documents that were provided by ASTM as single pages. It is one example from each year from which ASTM has provided a membership application starting with the 2007 membership application and ending with the 2014 membership application. And the Bates numbers are ASTM066871, ASTM069213, ASTM069058, ASTM080176, ASTM061450, ASTM063146, ASTM063147, ASTM065682 and	2 3 4 5 6 7 8 9 10 11	 BY MR. BECKER: Q for each year? A. We have membership applications for these years that have that language from Exhibit 1293 on them. Q. How do you know that there are membership applications for all of the years 2007 through 2014 that have the same language that is from the 2011 membership renewal invoice Exhibit 1293?
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^{54 (}Pages 210 - 213)

1	agree. By your participation in ASTM "	1	Q. How many different forms of
2	Correct?	2	membership application existed in 2007?
3	A. Yes.	3	A. I don't know.
4	MR. FEE: Hold on. Objection to	4	Q. Do you know how many different
5	form.	5	forms of membership application ASTM had for
6	THE WITNESS: Sorry.	6	the year 2008?
7	MR. FEE: It's compound. Calls	7	A. No.
8	for a legal conclusion.	8	Q. Do you know how many forms of
9	THE WITNESS: The language that	9	membership application ASTM had for the year
10	I'm talking about is on Exhibit 1293	10	2009?
11	that begins with "You agree, by your	11	A. No.
12	participation"	12	Q. Do you know how many forms of
13	BY MR. BECKER:	13	membership application ASTM had for 2010?
14	Q. Why do you believe that ASTM	14	A. No.
15	put the language that you're referring to on	15	Q. How about for 2011?
16	the renewal forms and the application forms	16	A. No.
17	at the same time?	17	Q. Or 2012?
18	A. That's what I recall.	18	A. No.
19	Q. Recall from what?	19	Q. Or 2013?
20	MR. FEE: Objection. Vague.	20	A. No.
21	THE WITNESS: Just what I	21	Q. Or 2014?
22	remember.	22	A. No.
23	BY MR. BECKER:	23	Q. Do you know why ASTM has
24	Q. Do you know when ASTM first	24	different membership application forms?
25	used the language that you're referring to	25	MR. FEE: Objection. To the
20	Page 214		Page 216
1	from Exhibit 1293?	1	extent that your answering that
1 2	from Exhibit 1293? A. Not exactly sure.	1	extent that your answering that question would disclose
2	A. Not exactly sure.	2	question would disclose
2 3	A. Not exactly sure.Q. Do you have any idea as to what	2 3	question would disclose attorney-client communications, you
2 3 4	A. Not exactly sure.Q. Do you have any idea as to what year ASTM first started using that language	2 3 4	question would disclose attorney-client communications, you shouldn't disclose that. You can
2 3 4 5	A. Not exactly sure.Q. Do you have any idea as to what year ASTM first started using that language that appears on Exhibit 1293?	2 3 4 5	question would disclose attorney-client communications, you shouldn't disclose that. You can answer otherwise.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. Not exactly sure. Q. Do you have any idea as to what year ASTM first started using that language that appears on Exhibit 1293? A. I thought it was in about 2005. Q. Do you have any way to confirm when ASTM began using that language that was featured on Exhibit 1293? MR. FEE: Objection. Vague. THE WITNESS: Not right here, now. BY MR. BECKER: Q. How would you go about confirming that? A. I would ask our general counsel. Q. Is there any other way that you would confirm that? A. Not right now. Q. Is there anyone who would know other than ASTM's general counsel when the 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 question would disclose attorney-client communications, you shouldn't disclose that. You can answer otherwise. THE WITNESS: No. My experience has been that if we go to a very focused individual conference, there may be a it could be the staff manager prepares an application for that particular committee and did not use the most current application. BY MR. BECKER: Q. Is there a difference between ASTM membership application forms and ASTM committee membership application forms? MR. FEE: Objection. Vague. THE WITNESS: We have a type of membership that's called a participating membership where you join technical committees. And then
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Not exactly sure. Q. Do you have any idea as to what year ASTM first started using that language that appears on Exhibit 1293? A. I thought it was in about 2005. Q. Do you have any way to confirm when ASTM began using that language that was featured on Exhibit 1293? MR. FEE: Objection. Vague. THE WITNESS: Not right here, now. BY MR. BECKER: Q. How would you go about confirming that? A. I would ask our general counsel. Q. Is there any other way that you would confirm that? A. Not right now. Q. Is there anyone who would know other than ASTM's general counsel when the copyright assignment language that you're referring to from 1293 was first used by ASTM 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 question would disclose attorney-client communications, you shouldn't disclose that. You can answer otherwise. THE WITNESS: No. My experience has been that if we go to a very focused individual conference, there may be a it could be the staff manager prepares an application for that particular committee and did not use the most current application. BY MR. BECKER: Q. Is there a difference between ASTM membership application forms? MR. FEE: Objection. Vague. THE WITNESS: We have a type of membership that's called a participating membership where you join technical committees. And then we also have informational members that just joined ASTM but they do not
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 A. Not exactly sure. Q. Do you have any idea as to what year ASTM first started using that language that appears on Exhibit 1293? A. I thought it was in about 2005. Q. Do you have any way to confirm when ASTM began using that language that was featured on Exhibit 1293? MR. FEE: Objection. Vague. THE WITNESS: Not right here, now. BY MR. BECKER: Q. How would you go about confirming that? A. I would ask our general counsel. Q. Is there any other way that you would confirm that? A. Not right now. Q. Is there anyone who would know other than ASTM's general counsel when the copyright assignment language that you're referring to from 1293 was first used by ASTM on membership forms? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 question would disclose attorney-client communications, you shouldn't disclose that. You can answer otherwise. THE WITNESS: No. My experience has been that if we go to a very focused individual conference, there may be a it could be the staff manager prepares an application for that particular committee and did not use the most current application. BY MR. BECKER: Q. Is there a difference between ASTM membership application forms and ASTM committee membership application forms? MR. FEE: Objection. Vague. THE WITNESS: We have a type of membership that's called a participating membership where you join technical committees. And then we also have informational members that just joined ASTM but they do not join a particular technical committee.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. Not exactly sure. Q. Do you have any idea as to what year ASTM first started using that language that appears on Exhibit 1293? A. I thought it was in about 2005. Q. Do you have any way to confirm when ASTM began using that language that was featured on Exhibit 1293? MR. FEE: Objection. Vague. THE WITNESS: Not right here, now. BY MR. BECKER: Q. How would you go about confirming that? A. I would ask our general counsel. Q. Is there any other way that you would confirm that? A. Not right now. Q. Is there anyone who would know other than ASTM's general counsel when the copyright assignment language that you're referring to from 1293 was first used by ASTM 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 question would disclose attorney-client communications, you shouldn't disclose that. You can answer otherwise. THE WITNESS: No. My experience has been that if we go to a very focused individual conference, there may be a it could be the staff manager prepares an application for that particular committee and did not use the most current application. BY MR. BECKER: Q. Is there a difference between ASTM membership application forms? MR. FEE: Objection. Vague. THE WITNESS: We have a type of membership that's called a participating membership where you join technical committees. And then we also have informational members that just joined ASTM but they do not

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1	between a committee membership	1	BY MR. BECKER:
2	application and a membership	2	Q. And what's that answer?
3	application.	3	MR. FEE: Same objection again.
4	BY MR. BECKER:	4	Asked and answered.
5	Q. If you look in this	5	THE WITNESS: At the top of the
6	Exhibit 1301 at page Bates number ASTM063146	6	page it says, "YOU ACKNOWLEDGE YOU
7	and compare that with ASTM063147 following	7	HAVE READ AND AGREE TO ABIDE BY ASTM'S
8	it, do you see that ASTM063146 is a 2012	8	INTELLECTUAL PROPERTY POLICY."
9	membership application whereas ASTM063147 is	9	BY MR. BECKER:
10	an ASTM committee membership application?	10	Q. But does it include the text
11	A. Yes.	11	from the Intellectual Property Policy that it
12	Q. Can you, please, indicate	12	says that the membership applicant must abide
13	where, if anywhere on ASTM063146, the 2012	13	by?
14	membership application, there is any language	14	MR. FEE: Objection. Asked and
15	that ASTM believes assigns it copyright from	15	answered.
16	the applicant?	16	BY MR. BECKER:
17	MR. FEE: Objection. Calls for	17	Q. It's a yes or no question.
18	a legal conclusion. To the extent	18	MR. FEE: He can answer the
19	that requires you to disclose	19	question however he feels appropriate.
20	attorney-client communications, you	20	THE WITNESS: If you're asking
21	shouldn't do so, but you can answer	21	me if the actual text of the
22	otherwise.	22	Intellectual Property Policy is on
23	THE WITNESS: At the top it	23	this membership application, the
24	mentions that by applying or renewing	24	answer is no.
25	your ASTM membership, you acknowledge	25	BY MR. BECKER:
	Page 218		Page 220
1	you have read and agree and abide by	1	Q. This application is filled in
2	ASTM's Intellectual Property Policy.	2	by hand. Correct?
3	The policy is available in the ASTM	3	MR. FEE: Objection. Calls for
4	Web site (www.astm.org) and/or by	4	speculation.
5	request to ASTM International	5	THE WITNESS: It appears to be.
6	headquarters [as read].	6	BY MR. BECKER:
7	BY MR. BECKER:	7	Q. Does ASTM ever receive requests
8	Q. Does this document, ASTM063146,	8	for its Intellectual Property Policy by
9	include any of the text from the ASTM	9	anybody other than Public.Resource.Org?
10	Intellectual Property Policy?	10	A. Possibly.
11	MR. FEE: Objection. The	11	Q. Do you know one way or the
12	document speaks for itself. You can	12	other?
13	answer.	13	A. No.
14	THE WITNESS: The document	14	Q. Who would know?
15	speaks for itself. It references the	15	MR. FEE: Objection. Calls for
16	intellectual recognizes and says,	16	speculation. It's also beyond the
17	"YOU ACKNOWLEDGE YOU HAVE READ AND	17	scope of the designation.
18	AGREE TO ABIDE BY ASTM'S INTELLECTUAL	18	THE WITNESS: Anyone who has
19	PROPERTY POLICY."	19	ever received a request would know.
20	BY MR. BECKER:	20	BY MR. BECKER:
21	Q. But does it include the text	$\frac{2}{21}$	Q. Are you personally aware of any
$\begin{vmatrix} 21\\22 \end{vmatrix}$	from the ASTM Intellectual Property Policy	22	requests?
23	that it requires members to abide by?	23	MR. FEE: Same objection.
24	MR. FEE: Same objection.	24	THE WITNESS: Not that I can
25	THE WITNESS: Same answer.	25	think of.
	Page 219		Page 221
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1	BY MR. BECKER:	1	MR. FEE: Objection to form. I
2	Q. On the next page, ASTM063147,	2	also object to the extent it calls for
3	it has different language concerning the ASTM	3	attorney-client communications. You
4	Intellectual Property Policy than the 2012	4	shouldn't disclose any communications
5	membership application that we were just	5	between you and counsel, but you can
6	discussing. Is that correct?	6	answer otherwise.
7	MR. FEE: Hold on one second.	7	THE WITNESS: I believe the
8	You can answer.	8	language that is at the top of
9	THE WITNESS: Yes, that language	9	ASTM063146 was language that we used
10	is different.	10	prior to the language that we used
11	BY MR. BECKER:	11	that's contained on ASTM063147.
12	Q. The language that's on	12	BY MR. BECKER:
13	ASTM063147 is similar to the language that's	13	Q. But if you then turn the page
14	on Exhibit 1293, the 2011 membership renewal	14	to ASTM065682, that's a 2013 membership
15	invoice. Is that correct?	15	application, and it has the same language
16	MR. FEE: Objection. Vague.	16	concerning the ASTM Intellectual Property
17	THE WITNESS: Yep, that looks	17	Policy as on ASTM063146. Correct?
18	correct. Slightly different.	18	A. That's what it looks like.
19	BY MR. BECKER:	19	Q. If you turn the page to the
20	Q. Why is this language different	20	following page, the 2014 membership
21	for the 2012 committee membership application	21	application also has that same language.
22	than for the 2012 membership application?	22	Correct?
23	MR. FEE: Objection. To the	23	A. Yes.
24	extent that would require you to	24	Q. So ASTM has continued to use
25	disclose attorney-client	25	this language into 2014?
25	Page 222	25	Page 224
1		1	
1	communications, you shouldn't do so.	1	MR. FEE: Objection. Vague.
2	If you can answer otherwise, go ahead.	2	THE WITNESS: That's what it
3	THE WITNESS: My perspective is	3	would appear to me.
4	that they're the same thing. They're	4	BY MR. BECKER:
5	both intended for an individual to	5	Q. Who knows how many different
6	join a particular committee.	6	versions exist for the membership
7	BY MR. BECKER:	7	applications during each year from 2007 to
8	Q. Why is the copyright you say	8	2014?
9	they're the same thing, the copyright	9	A. I don't know if anybody knows.
10	assignment language?	10	Q. Why is that?
11	MR. FEE: Same objection and	11	MR. FEE: Objection. Calls for
12	instruction.	12	speculation.
13	THE WITNESS: No, I believe the	13	THE WITNESS: My experience as
14	form is the same thing. It serves the	14	being a staff manager is I don't think
15	same purpose. It's an application so	15	people think about the version of an
16	an individual can join the technical	16	application that's being used. I
17	committee.	17	think it's viewed as a tool that
18	BY MR. BECKER:	18	enables an individual to join a
19	Q. And my question was about the	19	technical committee.
		20	BY MR. BECKER:
20	actual language that ASTM believes concerns	20	
20 21	copyright assignment. Why is there a	21	Q. Who creates the membership
			Q. Who creates the membership applications such as the 2014 membership
21	copyright assignment. Why is there a	21	
21 22	copyright assignment. Why is there a difference in the language concerning ASTM's	21 22	applications such as the 2014 membership
21 22 23	copyright assignment. Why is there a difference in the language concerning ASTM's IP Policy on ASTM063146 as opposed to the	21 22 23	applications such as the 2014 membership application ASTM066345? A. I'm not sure who creates it.
21 22 23 24	copyright assignment. Why is there a difference in the language concerning ASTM's IP Policy on ASTM063146 as opposed to the language concerning ASTM's IP Policy on	21 22 23 24	applications such as the 2014 membership application ASTM066345?

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1	membership department. But ASTM knows.	1	what the question means, collection
2	Q. How can you find out how many	2	"collected for production."
3	versions of the membership application exists	3	BY MR. BECKER:
4	for each year from 2007 to 2014?	4	Q. Has ASTM looked for and located
5	A. I don't know if you can figure	5	in order to comply with its discovery
6	it out. I don't know if there's a way.	6	obligations in this case all applications and
7	Q. Who knows how many different	7	renewals of all participants in all standards
8	versions exist for ASTM committee	8	that ASTM is seeking to enforce in this
9	applications during each year from 2007 to	9	lawsuit going back to the first creation of
10	2014?	10	the standards at issue in this litigation?
11	A. Did you say who would know how	11	MR. FEE: Objection. It's
12	many versions?	12	beyond the scope of his designation.
13	Q. I said yes.	13	Calls for speculation. Legal
14	A. I don't know who would know. I	14	conclusion.
15	don't know if anyone would know.	15	THE WITNESS: I don't know.
16	Q. Has Public.Resource received	16	BY MR. BECKER:
17	all applications and renewals of all	17	Q. Who would know?
18	participants in all standards that ASTM is	18	MR. FEE: Same objections.
19	seeking to enforce in this lawsuit going back	19	THE WITNESS: Possibly our
20	to the first creation of the standards at	20	general counsel.
21	issue in this litigation?	21	BY MR. BECKER:
22	MR. FEE: Hold on one second.	22	Q. Would anybody other than ASTM's
23	Objection. Calls for	23	general counsel know?
24	speculation. Calls for a legal	24	MR. FEE: Same objections.
25	conclusion. It's beyond the scope of	25	THE WITNESS: I don't know.
	Page 226		Page 228
1	his designation. You can answer if	1	
2	you know.	2	(Exhibit 1302, Compilation of
3	THE WITNESS: I have no idea.	3	documents, Bates ASTM066829,
4	BY MR. BECKER:	4	ASTM067015, ASTM067321, ASTM067813,
5	Q. Who would know?	5	ASTM070124, ASTM071068, ASTM074751,
6	MR. FEE: Same objections.	6	ASTM075283, ASTM060533, ASTM051140,
7	THE WITNESS: I don't know.	7	ASTM081145, was marked for
8	Maybe possibly our general counsel.	8	identification.)
9	BY MR. BECKER:	9	
10	Q. Would anyone other than ASTM's	10	BY MR. BECKER:
11	general counsel know?	11	Q. I'm handing you what's been
12	MR. FEE: Same objections.	12	marked as Exhibit 1302. This is a
13	THE WITNESS: I don't think so.	13	compilation of documents produced by ASTM as
14	BY MR. BECKER:	14	ASTM066829, ASTM067015, ASTM067321, 067813,
15	Q. Has ASTM collected for	15	070124, 071068, 074751, 075283, 060533,
16	production all applications and renewals of	16	051140, 081145.
17	all participants in all standards that ASTM	17	MR. FEE: I object to the use of
18	is seeking to enforce in this lawsuit going	18	cherry picked documents assembled in
1	back to the first creation of the standards	19	this manner
19		20	MR. BECKER: That's fine.
19 20	at issue in this litigation?	20	
20 21	MR. FEE: Objection. Calls for	20	MR. FEE: used as an exhibit.
20 21 22	MR. FEE: Objection. Calls for speculation. Beyond the scope of his		MR. FEE: used as an exhibit. MR. BECKER: That's fine. There
20 21 22 23	MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. Calls for a legal	21	
20 21 22 23 24	MR. FEE: Objection. Calls for speculation. Beyond the scope of his	21 22	MR. BECKER: That's fine. There
20 21 22 23	MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. Calls for a legal	21 22 23	MR. BECKER: That's fine. There are many more like this.

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1	look at them, can you tell me what these	1	The only possible thing I can think of
2	documents are?	2	is that they're only including a
3	A. I believe these are portions of	3	portion of the renewal notice that
4	our renewal notice that we send each year.	4	pertains to the payment. I believe
5	Q. When ASTM members return the	5	it's about a four-page form or
6	renewal letters that ASTM sends them, do they	6	five-page form that has other
7	sometimes return only portions of the renewal	7	information on there.
8	letters?	8	
9	MR. FEE: Objection. Beyond the	9	(Exhibit 1303, Compilation of
10	scope of his designation. Calls for	10	documents, various Bates from
11	speculation.	11	ASTM069093 to ASTM057841, was marked
12	THE WITNESS: Possibly.	12	for identification.)
13	BY MR. BECKER:	13	
14	Q. Do you know one way or the	14	BY MR. BECKER:
15	other?	15	Q. I'm handing you what's been
16	MR. FEE: Same objections.	16	marked as Exhibit 1303. This, again, is a
17	THE WITNESS: No.	17	compilation of documents produced by ASTM.
18	BY MR. BECKER:	18	It starts with ASTM069093, and I won't read
19	Q. Who would know?	19	all of the page numbers in between, but I'll
20	MR. FEE: Same objections.	20	simply say that the last page is Bates number
21	THE WITNESS: I don't know. I	21	ASTM057841.
22	suppose the people at our customer	22	MR. FEE: Object to this exhibit
23	relations department that receives the	23	as well as being cherry picked
24	invoices to process.	24	portions of documents or document
25	BY MR. BECKER:	25	production.
	Page 230		Page 232
1	Q. Did you speak with anyone in	1	MR. BECKER: And as I noted
2	preparation for the deposition today about	2	before, there are many more documents
3	individuals who had returned partial	3	that ASTM has produced that look just
4	membership invoices that did not include any	4	like these.
5	discussion of ASTM copyright or ASTM IP	5	BY MR. BECKER:
6	Policy?	6	Q. Could you tell me what these
7	A. I believe you asked if I talked	7	documents appear to be?
8	to any of the people who returned partial and	8	A. The same as the previous
9	the answer to that is no.	9	exhibit.
10	Q. I'll read back my question.	10	Q. When you say "the same as the
11	Did you speak with anyone in preparation for	11	previous exhibit," do you mean it is a
12	the deposition today about individuals who	12	partial membership application or partial
13	had returned partial membership invoices that	13	membership renewal form?
14	did not include any discussion of ASTM	14	A. Looks like it's the payment
15	copyright or ASTM IP Policy?	15	information from the renewal form.
16	A. No.	16	Q. It appears for some of them
17	Q. Is there any reason why ASTM	17	such as the second page ASTM069635, that this
18	would remove any mention of ASTM copyright or	18	payment section of the renewal form has been
19		19	torn off from the rest of the renewal form.
1.7	ASTM's IP Policy from membership renewal		
20	ASTM's IP Policy from membership renewal invoices once they had received them from	20	Correct?
		20 21	
20	invoices once they had received them from members?		MR. FEE: Objection. Beyond the
20 21	invoices once they had received them from members? MR. FEE: Objection. Beyond the	21	MR. FEE: Objection. Beyond the scope of his designation. Calls for
20 21 22	invoices once they had received them from members? MR. FEE: Objection. Beyond the scope of his designation. Calls for	21 22	MR. FEE: Objection. Beyond the
20 21 22 23	invoices once they had received them from members? MR. FEE: Objection. Beyond the	21 22 23	MR. FEE: Objection. Beyond the scope of his designation. Calls for speculation.
20 21 22 23 24	invoices once they had received them from members? MR. FEE: Objection. Beyond the scope of his designation. Calls for speculation.	21 22 23 24	MR. FEE: Objection. Beyond the scope of his designation. Calls for speculation. THE WITNESS: I don't know that.

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1	Q. How so?	1	Renewal Invoice, Bates ASTM075697, was
2	MR. FEE: Same objections.	2	marked for identification.)
3	THE WITNESS: I just don't know	3	
4	that.	4	BY MR. BECKER:
5	BY MR. BECKER:	5	Q. I'm handing you what's been
6	Q. Who would know that?	6	marked as Exhibit 1304. This has been
7	MR. FEE: Same objections.	7	produced by ASTM as ASTM075697. Can you tell
8	THE WITNESS: I guess if the	8	me what this document is?
9	person who processed this back in 2008	9	A. It says it's the "2010
10	would remember, maybe that person.	10	Membership Renewal Invoice."
11	BY MR. BECKER:	11	Q. It would appear that somebody
12	Q. Is there any way to find out	12	has crossed out language on this renewal
13	whether, when these renewal invoices were	13	invoice and it includes the language that
14	sent in to ASTM, if they included just this	14	references the ASTM IP Policy. Is that
15	single third section of the ASTM renewal	15	correct?
16	invoice?	16	MR. FEE: Objection.
17	MR. FEE: Same objections.	17	Mischaracterizes the document.
18	THE WITNESS: No, other than by	18	THE WITNESS: Yes. It looks
19	asking people that processed these.	19	like that information and other
20	BY MR. BECKER:	20	information is crossed out.
20	Q. Does ASTM keep the original	20	BY MR. BECKER:
22	copies of renewal invoices that it receives	21	
23	from members?	22	Q. Does somebody review the
23	MR. FEE: Same objections.	23	membership renewal invoices when they are delivered to ASTM?
24	THE WITNESS: I don't know.	24	
23	Page 234	23	A. We have someone that processes Page 236
	8		
1	Probably for a certain period of time.	1	that.
2	BY MR. BECKER:	2	Q. Is a membership renewal ever
2 3	BY MR. BECKER: Q. Who would know?	2 3	Q. Is a membership renewal ever refused for crossing out the language
2 3 4	BY MR. BECKER: Q. Who would know? MR. FEE: Same objections.	2 3 4	Q. Is a membership renewal ever refused for crossing out the language referencing the ASTM IP Policy?
2 3 4 5	BY MR. BECKER: Q. Who would know? MR. FEE: Same objections. THE WITNESS: People on our	2 3 4 5	Q. Is a membership renewal ever refused for crossing out the language referencing the ASTM IP Policy? MR. FEE: Objection. Beyond the
2 3 4 5 6	BY MR. BECKER: Q. Who would know? MR. FEE: Same objections. THE WITNESS: People on our internal sales.	2 3 4 5 6	Q. Is a membership renewal ever refused for crossing out the language referencing the ASTM IP Policy? MR. FEE: Objection. Beyond the scope of his designation. Calls for
2 3 4 5 6 7	BY MR. BECKER: Q. Who would know? MR. FEE: Same objections. THE WITNESS: People on our internal sales. BY MR. BECKER:	2 3 4 5 6 7	Q. Is a membership renewal ever refused for crossing out the language referencing the ASTM IP Policy? MR. FEE: Objection. Beyond the scope of his designation. Calls for speculation.
2 3 4 5 6 7 8	BY MR. BECKER: Q. Who would know? MR. FEE: Same objections. THE WITNESS: People on our internal sales. BY MR. BECKER: Q. Anybody else?	2 3 4 5 6	Q. Is a membership renewal ever refused for crossing out the language referencing the ASTM IP Policy? MR. FEE: Objection. Beyond the scope of his designation. Calls for speculation. THE WITNESS: I have no idea.
2 3 4 5 6 7	BY MR. BECKER: Q. Who would know? MR. FEE: Same objections. THE WITNESS: People on our internal sales. BY MR. BECKER: Q. Anybody else? MR. FEE: Same objections.	2 3 4 5 6 7	Q. Is a membership renewal ever refused for crossing out the language referencing the ASTM IP Policy? MR. FEE: Objection. Beyond the scope of his designation. Calls for speculation. THE WITNESS: I have no idea. BY MR. BECKER:
2 3 4 5 6 7 8	BY MR. BECKER: Q. Who would know? MR. FEE: Same objections. THE WITNESS: People on our internal sales. BY MR. BECKER: Q. Anybody else?	2 3 4 5 6 7 8	Q. Is a membership renewal ever refused for crossing out the language referencing the ASTM IP Policy? MR. FEE: Objection. Beyond the scope of his designation. Calls for speculation. THE WITNESS: I have no idea.
2 3 4 5 6 7 8 9	BY MR. BECKER: Q. Who would know? MR. FEE: Same objections. THE WITNESS: People on our internal sales. BY MR. BECKER: Q. Anybody else? MR. FEE: Same objections.	2 3 4 5 6 7 8 9	 Q. Is a membership renewal ever refused for crossing out the language referencing the ASTM IP Policy? MR. FEE: Objection. Beyond the scope of his designation. Calls for speculation. THE WITNESS: I have no idea. BY MR. BECKER: Q. Who would know? MR. FEE: Same objections.
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1	allow you to not acknowledge it.	1	produced by ASTM as ASTM101777 to 101779. Is
2	BY MR. BECKER:	2	that you addressed on this e-mail as Smith,
3	Q. ASTM continues to this day to	3	Dan at dsmith@astm.org [as read]?
4	accept mail-in membership renewal forms.	4	A. Yes.
5	Correct?	5	Q. Do you recognize this document?
6	A. Yes.	6	A. No.
7		7	Q. Do you have any reason to
8	(Exhibit 1305, 2011 Membership	8	believe that you did not receive this
9	Renewal Invoice, Bates ASTM082973, was	9	document?
10	marked for identification.)	10	A. No.
11		11	Q. Do you have any reason to
12	BY MR. BECKER:	12	believe that this document is not authentic?
13	Q. I'm handing you what's been	13	A. No.
14	marked as Exhibit 1305. Can you tell me what	14	Q. Do you know which retreat this
15	this document is?	15	document is referring to when at the top line
16	A. It says it's the "2011	16	of the e-mail it says, "One more 'talking
17	Membership Renewal Invoice."	17	points' document for the retreat"?
18	Q. And this document has the ASTM	18	A. It was most likely for our
19	IP Policy crossed out as well. Correct?	19	spring 2012 retreat.
20	MR. FEE: Objection.	20	Q. What was the purpose of the
21	Mischaracterizes the document.	21	spring 2012 retreat?
22	THE WITNESS: There's a line	22	MR. FEE: Objection. This is
23	through the section 2.	23	beyond the scope. Explain to me how
24	BY MR. BECKER:	24	this has had anything to do with the
25	Q. And section 2 includes the	25	three topics.
	Page 238		Page 240
1			
1	AS the language referencing the ASTM IP	1	MR. BECKER: This has to do with
$\begin{vmatrix} 1\\2 \end{vmatrix}$	AS the language referencing the ASTM IP Policy. Correct?	$\begin{vmatrix} 1\\2 \end{vmatrix}$	MR. BECKER: This has to do with a document that he is included on.
2	Policy. Correct?	2	a document that he is included on.
2 3	Policy. Correct? A. Yes, the statement is in there,	2 3	a document that he is included on. MR. FEE: That's it?
2 3 4	Policy. Correct? A. Yes, the statement is in there, "You agree, by your participation"	2 3 4	a document that he is included on. MR. FEE: That's it? MR. BECKER: We have a 30(b)(6)
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2 3 4 5 6	Policy. Correct? A. Yes, the statement is in there, "You agree, by your participation" Q. For the record, this is document Bates number ASTM082973.	2 3 4 5 6	a document that he is included on. MR. FEE: That's it? MR. BECKER: We have a 30(b)(6) designee and we can ask him documents that relate to his work with ASTM. MR. FEE: I'm going to instruct
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61 (Pages 238 - 241)

1	background. I'm instructing him not	1	A. Yes.
2	to answer this question.	2	Q. Do you recognize this document?
3	MR. BECKER: We are entitled to	3	A. No.
4	ask the witness what we want. As a	4	Q. Do you have any reason to
5	30(b)(6) witness, we can ask him in	5	believe that this document is not authentic?
6	his individual capacity, and this	6	A. No.
7	e-mail is fair game under that.	7	Q. Do you have any reason to
8	BY MR. BECKER:	8	believe that you did not receive this
9	Q. Mr. Smith, are you going to	9	document at the time it was sent?
10	answer the questions that we ask regarding	10	A. No.
11	this document?	11	Q. Do you have any reason to
12	MR. FEE: No, he's not.	12	believe that you didn't review this document
13	THE WITNESS: No, I'm not.	13	at the time that it was sent to you?
14	MR. BECKER: Counsel, I believe	14	A. I'm not sure.
15	that's in violation of the $30(b)(6)$	15	
16	requirements.	16	(Exhibit 1308, 8/20/14 E-mail
17	MR. FEE: The court's order said	17	with attachment, Bates ASTM003314 &
18	that this was supposed to be on the	18	ASTM003315, was marked for
19	three topics that we've been talking	19	identification.)
20	about all day. That's what the basis	20	
21	for this deposition is.	21	BY MR. BECKER:
22	MR. BECKER: The 30(b)(6) rules	22	Q. I'm handing you what's been
23	allow us to ask questions of the	23	marked as Exhibit 1308. This is a document
24	30(b)(6) designee. They don't have to	24	produced by ASTM as Bates number ASTM003314
25	be focused purely on those topics, but	25	to 15.
	Page 242	25	Page 244
1		1	MD DECKED, I'll note simply to
1	if they are outside of those topics,	$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	MR. BECKER: I'll note simply to
2	you can always object to them, but you	2	counsel that in the court's order
2 3	you can always object to them, but you cannot instruct your client not to	2 3	counsel that in the court's order concerning the deposition for today,
2 3 4	you can always object to them, but you cannot instruct your client not to answer the question.	2 3 4	counsel that in the court's order concerning the deposition for today, the court did not limit the deposition
2 3 4 5	you can always object to them, but you cannot instruct your client not to answer the question. MR. FEE: The court has	2 3 4 5	counsel that in the court's order concerning the deposition for today, the court did not limit the deposition to any topics. The court simply
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2 3 4 5 6 7	you can always object to them, but you cannot instruct your client not to answer the question. MR. FEE: The court has specifically ordered what the subject matter of this deposition is going to	2 3 4 5 6 7	counsel that in the court's order concerning the deposition for today, the court did not limit the deposition to any topics. The court simply denied the plaintiff's motion for a protective order and ordered that a
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62 (Pages 242 - 245)

1	Q. Mr. Smith, is this a correct	1	Q. And when you say "we," are
2	copy of the this e-mail that you received?	2	you do you mean ASTM?
3	A. It could be. There's only	3	A. Correct.
4	one looks like there's only one metric	4	Q. And who specifically at ASTM is
5	attached here.	5	focusing on these five projects?
6	Q. And is that the document	6	A. Our organization.
7	titled: "GMAC.DOCX," that's the first	7	Q. And what are the five different
8	attachment listed in the e-mail?	8	metrics?
9	MR. FEE: Objection. Calls for	9	MR. FEE: Objection. This is
10	speculation.	10	beyond the scope. Did any of the five
11	THE WITNESS: There's only one	11	metrics have to do with ownership of
12	attachment here, GMAC.	12	copyrights?
13	BY MR. BECKER:	13	THE WITNESS: No.
14	Q. What is page 2 of this document?	14	MR. BECKER: I'd like to know
15	A. It's one of the five metrics	15	what the background of this document
16	that we have in 2015.	16	is.
17	Q. What do you mean "one of the	17	MR. FEE: Is there any link to
18	five metrics"?	18	the topics that are at issue in this?
19	MR. FEE: Objection. This is	19	MR. BRIDGES: He's explained
20	beyond the scope of his designations.	20	that, Counsel.
21	Does this have something to do with	21	MR. FEE: It's turned out that
22	respect to three topics that are the	22	it has nothing do with copyright
23	subject of today's deposition?	23	issues.
24	MR. BRIDGES: Absolutely.	24	MR. BRIDGES: You don't get to
25	MR. FEE: How?	25	ask him the questions.
20	Page 246	20	Page 248
1	MR. BECKER: This concerns the	1	MR. FEE: He's already said it.
$\begin{vmatrix} 1\\2 \end{vmatrix}$	federal government participation in	2	If you can link this to one of your
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	the creation of standards.	$\frac{2}{3}$	three topics, go ahead, but he's not
4	MR. FEE: And that is relevant	4	going to spend the next ten minutes
5	to which of your three topics?	5	talking about a topic that's beyond
6	MR. BECKER: Copyright ownership	6	the scope of his designation.
7	and assignments and chain of title.	7	MR. BECKER: The document
8	MR. FEE: This is respective	8	
9	-	0 9	concerns the 1,500 federal agency participants in ASTM technical
10	works at issue. Do you contend that this document has something to do with	10	committees. I would like to know what
10	-	10	
11	the work at issue? It's seven years after the most recent work of issue.	11	the background of this document is and why it was created.
12	MR. BECKER: But it still	12	-
			MR. FEE: If you want to ask him
14 15	concerns the, potentially the works	14 15	about the 1,500 federal government
	that are at issue given some of the		participants, go ahead.
16	discussions that are on this document.	16	BY MR. BECKER:
17	MR. FEE: I'll give you a little	17	Q. What are the five metrics?
18	bit of leeway on this, but frankly I	18	MR. FEE: Objection. Beyond the
19	don't see that that's going to be the	19	scope. Go ahead. Let him ask a
20	case. Go ahead.	20	couple more questions.
21	BY MR. BECKER:	21	THE WITNESS: That's fine. This
22	Q. What are the five metrics that	22	is one metric. We have another metric
23	you were mentioning?	23	that is investigating whether or not
24	A. We have five different metric	24	there would be a value to hire
25	projects that we have focused on in 2015.	25	technical expertise within ASTM staff.
	Page 247		Page 249

63 (Pages 246 - 249)

1	We have another metric that is	1	would know?
2	piloting new technology for	2	MR. FEE: Same objections.
3	collaborating in development of	3	THE WITNESS: Not for sure.
4	documents. We have another metric	4	BY MR. BECKER:
5	that is evaluating a technology	5	Q. Was Jim Thomas in charge of
6	options for consolidating or having a	6	this metric?
7	content management system, a unified	7	MR. FEE: Objection. Vague.
8	content management system. And	8	THE WITNESS: No.
9	there's another one that I'm not	9	MR. FEE: Calls for speculation.
10	thinking of right now.	10	Beyond the scope of his designation.
11	BY MR. BECKER:	11	THE WITNESS: No.
12	Q. What is what metric does	12	BY MR. BECKER:
13	this document concern?	13	Q. The top bullet point statement
14	MR. FEE: Objection. Vague.	14	on the second page says, "Take inventory of
15	THE WITNESS: It deals with	15	the existing 1,500 Federal agency
16	coordinating, it says it right at the	16	participants in ASTM technical committees to
17	top. Addresses government interaction	17	identify areas of under-representation and
18	issues and creates an ASTM Government	18	participation."
19	Member Advisory Committee to advance	19	Do you know if that figure of
20	the following objectives.	20	1,500 federal agency participants in ASTM
21	BY MR. BECKER:	21	technical committees is correct?
22	Q. What is the ASTM Government	22	MR. FEE: Objection. Vague.
23	Member Advisory Committee?	23	THE WITNESS: It's probably
24	A. There is not one.	24	ballpark.
25	Q. So the ASTM Government Member	25	BY MR. BECKER:
	Page 250	20	Page 252
$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	Advisory Committee was never created?	1	Q. Who would know what the exact
2	A. No.	2	number of federal agency participants in ASTM
2 3	A. No.Q. Does ASTM plan to is ASTM	2 3	number of federal agency participants in ASTM technical committees is?
2 3 4	A. No.Q. Does ASTM plan to is ASTMstill considering creating a Government	2 3 4	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for
2 3 4 5	A. No.Q. Does ASTM plan to is ASTMstill considering creating a GovernmentMember Advisory Committee?	2 3 4 5	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his
2 3 4 5 6	A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the	2 3 4 5 6	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation.
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2 3 4 5 6 7 8	 A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering 	2 3 4 5 6 7 8	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody in our membership department. It's a
2 3 4 5 6 7 8 9	A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering it.	2 3 4 5 6 7 8 9	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody
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1	there before joining a collaboration area.	1	the membership application as it currently
2	Q. Is this the ASTM collaboration	2	exists on the Web?
3	area language concerning the ASTM IP Policy	3	A. It might be, or it might be
4	and copyright that you had discussed earlier	4	part of it.
5	today in the deposition?	5	Q. What is missing, if anything,
6	A. Looks like it's very similar,	6	from this document if it is the membership
7	yeah.	7	application on the Web?
8	Q. When you say it's "very	8	A. This appears to be the 2003
9	similar," is there any differences that you	9	version, so I don't think this is the most
10	see between this and the version that is on	10	recent version. It appears that there is
11	the ASTM Web site that you were describing	11	language at the very bottom of page
12	earlier today?	12	ASTM013275, it asks for acknowledgment about
13	MR. FEE: Objection. Vague.	13	reading and understanding ASTM's Intellectual
14	THE WITNESS: I meant that this	14	Property Policy, and agree to abide by its
15	is very similar to the language that	15	terms, [check off box].
16	we talked about earlier that was on	16	Q. It says, "put in weblink"
17	the renewal form.	17	there. Do you know why it says that?
18	BY MR. BECKER:	18	A. No, I don't know why.
19	Q. When you described earlier that	19	Q. Does this appear to be a draft
20	participants in technical committees who set	20	of the ASTM membership application as of
21	up an ASTM collaboration area would have to	21	approximately 2003?
22	agree to language concerning copyright and	22	A. I would I can't say for sure
23	the ASTM IP Policy, were you describing this	23	but since it says, "Costs for 2003" up top, I
24	document 1309?	24	would say that's probably correct.
25	MR. FEE: Objection to form.	25	Q. Do you know if this precise
	Page 254		Page 256
1	THE WITNESS: When earlier was	1	version of the ASTM member application was
2	that?	2	ever implemented online on the ASTM Web site?
3	BY MR. BECKER:	3	A. I don't know for sure, but I'm
4	Q. At the start of the deposition.	4	guessing it was since this looks like a
5	MR. FEE: Same objection.	5	picture from the ASTM Web site.
6	THE WITNESS: I may have been.	6	Q. Who would know for certain?
7	I'm not sure I recall the beginning of	7	A. I don't know if anybody would
8	the deposition, but I think that's	8	at this point since it was an online
9	right.	9	application.
10		10	MR. BECKER: Let's go off the
11	(Exhibit 1310, ASTM Membership	11	record.
12	Application, Bates ASTM103274 -	12	VIDEOGRAPHER: The time is now
12	ASTM103276, was marked for	12	6:40. We're going off the video
13	identification.)	13	record.
14		14	100010.
15	BY MR. BECKER:	15	(A recess was taken)
17			(A recess was taken.)
17	Q. I'm handing you what's been marked as Exhibit 1310. This is the document	17	VIDEOCDADUED, The first is seen
		18	VIDEOGRAPHER: The time is now
19 20	produced by ASTM last night as Bates number ASTM103274 to ASTM103276.		7:01. We're back on the video record.
		20	(Exhibit 1211 Decend Determine
21	Do you recognize this document?	21	(Exhibit 1311, Record Retention
22	A. It looks like it's our membership application that we have on our	22	Policy, Bates ASTM003501 - ASTM003522,
100	memoership application that we have on oilr	23	was marked for identification.)
23		24	
24	on the Web.	24	
		24 25	MR. FEE: Before we get started, Page 257

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			1
1	I just want to say that Mr. Smith has	1	of Records," section III.
2	been available to be deposed since	2	
3	10:00 a.m. this morning. It's now	3	(Exhibit 1312, 11/21/08 E-mail
4	7:00. We have about 55 minutes left.	4	with attachment, Bates ASTM088320 -
5	We're not staying past 8:00. So if	5	ASTM088325, was marked for
6	you're going to take any other breaks,	6	identification.)
7	it better be short. That was a	7	
8	20-minute break and I think a complete	8	BY MR. BECKER:
9	waste of time. Go ahead.	9	Q. I'm handing you what's been
10	BY MR. BECKER:	10	marked as Exhibit 1312. This is the document
11	Q. Mr. Smith, I've handed you	11	produced by ASTM as ASTM088320 to ASTM088325.
12	what's marked as Exhibit 1311. This is a	12	It is an e-mail with an attachment that says,
13	document produced by ASTM as 003501 to 3522.	13	"ASTM International Author/Copyright Owner
14	Could you, please, identify it?	14	Agreement." Is this attachment a correct
15	A. It says, "RECORD RETENTION	15	copy of the ASTM International
16	POLICY."	16	Author/Copyright Ownership Agreement?
17	Q. Is this ASTM's record retention	17	MR. FEE: Objection. Vague as
18	policy?	18	to time. Beyond the scope of the
19	A. Yes, I believe it is.	19	designation as well.
20	Q. Have you did you review	20	THE WITNESS: I'm not sure.
21	ASTM's record retention policy in preparation	21	BY MR. BECKER:
22	for the deposition today?	22	Q. Who would know whether this
23	A. I reviewed it very briefly.	23	attachment is a correct copy of the ASTM
24	Q. Do you know what category under	24	International Author/Copyright Ownership
25	the record retention policy that membership	25	Agreement?
	Page 258		Page 260
1	application forms would qualify as?	1	MR. FEE: Objection. Beyond the
2	MR. FEE: Objection. It's	2	scope.
3	beyond the scope of his designation.	3	THE WITNESS: I would have to
4	THE WITNESS: Are you referring	4	read it first to possibly give you an
5	to any particular pages?	5	answer.
6	BY MR. BECKER:	6	Our publications department
7	Q. Yes. If you look at ASTM 3502	7	might be able to tell you whether or
8	and 3503, it says, "Types of Records." That	8	not this is the correct
9	includes "Temporary Records," "Final Records"	9	Author/Copyright Owner Agreement since
10	and "Permanent Records." And then it also	10	it's a journal paper, relevant to a
11	has B is section B, "Types of Records That	11	journal paper.
12	have Legal or Regulatory Periods of	12	
13	Retention," "Accounting and Corporate Tax	13	(Exhibit 1313, Web site
14	Records," "Corporate Records," "Employment	14	screenshots, Bates ASTM001792 -
15	and Employee Records," "Bank Records," and	15	ASTM001800, was marked for
16	"Legal Records."	16	identification.)
17	A. I don't know what category	17	
18	membership application would fall under,	18	BY MR. BECKER:
19	would just I'm not sure.	19	Q. I'm handing you what's been
20	Q. Do you know what category the	20	marked as Exhibit 1313. This document was
21	ASTM IP Policy would fall under?	21	produced by ASTM with Bates number ASTM001792
22	MR. FEE: Objection. Beyond the	22	to 1800. What is this document?
23	scope.	23	A. This looks like it is
24	THE WITNESS: No, I don't know.	24	screenshots from our Web site for how an
25	I'm not very familiar with the "Types	25	individual would renew their membership.
	Page 259		Page 261
	č		

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1	Q. Is this a correct copy of the	1	A. This is for joining a technical
2	current language for the renewal for the	2	committee. It's a participating membership
3	membership renewal process on the ASTM Web	3	application. So on page ASTM001802 you
4	site?	4	select the type of membership that you want
5	MR. FEE: Objection. Vague.	5	to purchase. And in this particular instance
6	THE WITNESS: These are Web	6	the screenshots show that they've selected
7	screenshots, so I'm not sure if this	7	the participating member. And then after
8	is the current version or not. It's	8	that it's an example of what one would see if
9	kind of hard to read, but it looks	9	they selected the organizational membership.
10	like it was I mean, it could be	10	And then the informational and then the
11	current.	11	student.
12	BY MR. BECKER:	12	
13	Q. Did you review the membership	13	(Exhibit 1315, ASTM Member
14	renewal online application in preparation for	14	Application Forms, Bates ASTM052816,
15	your deposition today?	15	ASTM052817, ASTM062194, ASTM062195,
16	A. Yes.	16	ASTM062198 & ASTM062199, was marked
17	Q. Is there any reason why you	17	for identification.)
18	think that this may not be an accurate copy	18	[']
19	of the current membership renewal process on	19	BY MR. BECKER:
20	the ASTM Web site?	20	Q. I'm handing you what's been
21	A. No.	21	marked as Exhibit 1315. This is a
22	Q. Looking at Exhibit 1313, on the	22	document this is a number of documents
23	second page near the top of the page	23	Bates labeled ASTM052816 to 817, ASTM062194
24	ASTM001793, does that depict the membership	24	to 195, and ASTM062198 to 199. Would you,
25	renewal screen that discusses a copyright and	25	please, tell me what these documents are?
	Page 262		Page 264
1	the ASTM IP Policy?	1	MR. FEE: Object to the use of
$\begin{vmatrix} 1\\2 \end{vmatrix}$	the ASTM IP Policy? A. Yes.	1 2	MR. FEE: Object to the use of randomly selected documents stapled
2	A. Yes.	2	randomly selected documents stapled
2 3	A. Yes. MR. FEE: Objection. The	2 3	randomly selected documents stapled together as one exhibit. You can
2 3 4	A. Yes.MR. FEE: Objection. The document speaks for itself.	2 3 4	randomly selected documents stapled together as one exhibit. You can answer.
2 3 4 5	 A. Yes. MR. FEE: Objection. The document speaks for itself. THE WITNESS: It's a little 	2 3 4 5	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top
2 3 4 5 6	 A. Yes. MR. FEE: Objection. The document speaks for itself. THE WITNESS: It's a little tough to read, but it would appear 	2 3 4 5 6	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION
2 3 4 5 6 7	A. Yes. MR. FEE: Objection. The document speaks for itself. THE WITNESS: It's a little tough to read, but it would appear that way.	2 3 4 5	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION FORM."
2 3 4 5 6 7 8	A. Yes. MR. FEE: Objection. The document speaks for itself. THE WITNESS: It's a little tough to read, but it would appear that way.	2 3 4 5 6 7 8	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION FORM." BY MR. BECKER:
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2 3 4 5 6 7 8 9 10	A. Yes. MR. FEE: Objection. The document speaks for itself. THE WITNESS: It's a little tough to read, but it would appear that way. (Exhibit 1314, Screenshots, Bates ASTM001801 - ASTM001813, was	2 3 4 5 6 7 8 9 10	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION FORM." BY MR. BECKER: Q. Is this an ASTM member application form that's in English and
2 3 4 5 6 7 8 9 10 11	A. Yes. MR. FEE: Objection. The document speaks for itself. THE WITNESS: It's a little tough to read, but it would appear that way.	2 3 4 5 6 7 8 9 10 11	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION FORM." BY MR. BECKER: Q. Is this an ASTM member application form that's in English and Chinese?
2 3 4 5 6 7 8 9 10 11 12	A. Yes. MR. FEE: Objection. The document speaks for itself. THE WITNESS: It's a little tough to read, but it would appear that way. (Exhibit 1314, Screenshots, Bates ASTM001801 - ASTM001813, was marked for identification.)	2 3 4 5 6 7 8 9 10 11 12	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION FORM." BY MR. BECKER: Q. Is this an ASTM member application form that's in English and Chinese? MR. FEE: Objection. Calls for
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2 3 4 5 6 7 8 9 10 11 12 13 14 15	 A. Yes. MR. FEE: Objection. The document speaks for itself. THE WITNESS: It's a little tough to read, but it would appear that way. (Exhibit 1314, Screenshots, Bates ASTM001801 - ASTM001813, was marked for identification.) BY MR. BECKER: Q. I've handed you what's been marked as Exhibit 1314. This is the ASTM 	2 3 4 5 6 7 8 9 10 11 12 13 14 15	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION FORM." BY MR. BECKER: Q. Is this an ASTM member application form that's in English and Chinese? MR. FEE: Objection. Calls for expert testimony to the extent you're asking him to speak to what language this is.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. Yes. MR. FEE: Objection. The document speaks for itself. THE WITNESS: It's a little tough to read, but it would appear that way. (Exhibit 1314, Screenshots, Bates ASTM001801 - ASTM001813, was marked for identification.) BY MR. BECKER: Q. I've handed you what's been marked as Exhibit 1314. This is the ASTM document Bates labeled ASTM001801 to 1813 Could you, please, identify this document? A. This looks like screenshots of the path that an individual could take to access the membership application and complete it and submit it online so that they 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION FORM." BY MR. BECKER: Q. Is this an ASTM member application form that's in English and Chinese? MR. FEE: Objection. Calls for expert testimony to the extent you're asking him to speak to what language this is. THE WITNESS: I've never seen this application before, but it says ASTM member application form. It's perhaps something that we used as a service to have Chinese members or have Chinese individuals join ASTM.
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$\begin{array}{c} 2\\ 3\\ 4\\ 5\\ 6\\ 7\\ 8\\ 9\\ 10\\ 11\\ 12\\ 13\\ 14\\ 15\\ 16\\ 17\\ 18\\ 19\\ 20\\ 21\\ 22\\ 23\\ \end{array}$	 A. Yes. MR. FEE: Objection. The document speaks for itself. THE WITNESS: It's a little tough to read, but it would appear that way. (Exhibit 1314, Screenshots, Bates ASTM001801 - ASTM001813, was marked for identification.) BY MR. BECKER: Q. I've handed you what's been marked as Exhibit 1314. This is the ASTM document Bates labeled ASTM001801 to 1813 Could you, please, identify this document? A. This looks like screenshots of the path that an individual could take to access the membership application and complete it and submit it online so that they can join a technical committee. Q. Is this for joining a technical 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION FORM." BY MR. BECKER: Q. Is this an ASTM member application form that's in English and Chinese? MR. FEE: Objection. Calls for expert testimony to the extent you're asking him to speak to what language this is. THE WITNESS: I've never seen this application before, but it says ASTM member application form. It's perhaps something that we used as a service to have Chinese members or have Chinese individuals join ASTM. BY MR. BECKER: Q. Are you aware of any discussion

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		1	
1	that I've provided here as Exhibit 1315?	1	Q. What do staff members do to
2	MR. FEE: Same objections, plus	2	assist the members of technical committees?
3	lack of formation or foundation.	3	MR. FEE: Objection. Vague.
4	Sorry.	4	THE WITNESS: General
5	THE WITNESS: I'm not aware of	5	assistance. Provide them with advice
6	whether there was or there was not.	6	on regulations, on our form and style
7		7	manual. We have interlaboratory study
8	(Exhibit 1316, Regulations	8	program that assists our members. A
9	Governing ASTM Technical Committees,	9	variety of things. I don't know if
10	was marked for identification.)	10	there's anything specific that you
11		11	want me to focus on.
12	BY MR. BECKER:	12	BY MR. BECKER:
13	Q. I'm handing you what's been	13	Q. Does how does ASTM staff
14	marked as Exhibit 1316. Could you, please,	14	members assist individual assist technical
15	tell me what this document is?	15	committee members in the drafting or revision
16	A. The front page says the	16	of standards?
17	"REGULATIONS GOVERNING ASTM TECHNICAL	17	MR. FEE: Objection. Vague.
18	COMMITTEES."	18	THE WITNESS: We have we
19	Q. What are the Regulations	19	provide them with editorial
20	Governing ASTM Technical Committees?	20	assistance, so we'll provide editorial
21	A. It's essentially this entire	21	help within the documents. Our
22	document if it's all included here.	22	interlaboratory study program is
23	Q. Does it appear to be all	23	responsible for organizing round-robin
24	included there?	24	studies for collecting the data and
25	A. I'd have to go through it, but	25	doing the number crunching in order to
	Page 266		Page 268
1	it could. Looks like it.	1	produce precision statements. Our ILS
		1	produce precision statements. Our iES
2	Q. What is the purpose of the	2	team will produce the research reports
2	Q. What is the purpose of the	2	team will produce the research reports which are referenced in the standard.
2 3	Q. What is the purpose of the Regulations Governing ASTM Technical	2 3	team will produce the research reports
2 3 4	Q. What is the purpose of the Regulations Governing ASTM Technical Committees?	2 3 4	team will produce the research reports which are referenced in the standard. We will help we have a graphics
2 3 4 5	Q. What is the purpose of the Regulations Governing ASTM Technical Committees? MR. FEE: Objection. Beyond the	2 3 4 5	team will produce the research reports which are referenced in the standard. We will help we have a graphics department that will create graphics
2 3 4 5 6	Q. What is the purpose of the Regulations Governing ASTM Technical Committees? MR. FEE: Objection. Beyond the scope. Vague.	2 3 4 5 6	team will produce the research reports which are referenced in the standard. We will help we have a graphics department that will create graphics for the standards, for committee
2 3 4 5 6 7	Q. What is the purpose of the Regulations Governing ASTM Technical Committees? MR. FEE: Objection. Beyond the scope. Vague. THE WITNESS: Technical	2 3 4 5 6 7	team will produce the research reports which are referenced in the standard. We will help we have a graphics department that will create graphics for the standards, for committee members. We have an up-front editor
2 3 4 5 6 7 8	 Q. What is the purpose of the Regulations Governing ASTM Technical Committees? MR. FEE: Objection. Beyond the scope. Vague. THE WITNESS: Technical committees follow the regulations and 	2 3 4 5 6 7 8	team will produce the research reports which are referenced in the standard. We will help we have a graphics department that will create graphics for the standards, for committee members. We have an up-front editor that provides a great deal of
2 3 4 5 6 7 8 9	Q. What is the purpose of the Regulations Governing ASTM Technical Committees? MR. FEE: Objection. Beyond the scope. Vague. THE WITNESS: Technical committees follow the regulations and develop member standards.	2 3 4 5 6 7 8 9	team will produce the research reports which are referenced in the standard. We will help we have a graphics department that will create graphics for the standards, for committee members. We have an up-front editor that provides a great deal of assistance if we have a draft that
2 3 4 5 6 7 8 9 10	Q. What is the purpose of the Regulations Governing ASTM Technical Committees? MR. FEE: Objection. Beyond the scope. Vague. THE WITNESS: Technical committees follow the regulations and develop member standards. BY MR. BECKER:	2 3 4 5 6 7 8 9 10 11	team will produce the research reports which are referenced in the standard. We will help we have a graphics department that will create graphics for the standards, for committee members. We have an up-front editor that provides a great deal of assistance if we have a draft that needs to be put into proper ASTM form
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	· · · ·		
1	language in a mandatory section, we'll	1	BY MR. BECKER:
2	provide assistance in tweaking that language	2	Q. Is that the same grammatical
3	so that it's within the form and style	3	changes that you were referring to before?
4	guidelines.	4	MR. FEE: Objection.
5	Q. Anything else in terms of	5	Mischaracterizes his testimony.
6	editorial assistance other than grammatical	6	Vague.
7	assistance?	7	BY MR. BECKER:
8	A. We could take a document and	8	Q. I'm sorry, what did you say?
9	place it and organize it so that it has the	9	A. The editors could work with the
10	relevant sections as defined in the form and	10	technical contacts to incorporate editorial
11	style manual.	11	changes, grammatical or reorganization of
12	Q. Do you mean to reorganize a	12	content.
13	draft standard, is that what you're saying?	13	Q. Who are the technical contacts?
14	A. Yes.	14	A. Who are they?
15	Q. What are excuse me.	15	Q. Yeah.
16		16	
	Anything else in terms of editorial assistance?		5
17		17	the lead in developing a new standard or in
18	A. Our editors will also take a	18	developing a revision to an existing
19	document that's been approved through our	19	standard.
20	balloting process, if it's a new standard,	20	Q. Are those volunteers or are
21	they'll put it into publication format and	21	those employees of ASTM?
22	work with the technical contacts to make sure	22	MR. FEE: Objection. Vague.
23	that everything looks good prior to	23	Calls for a legal conclusion.
24	publication.	24	THE WITNESS: They're
25	Q. When you say they put it into	25	volunteers.
	Page 270		Page 272
1	publication format, does that involve any	1	BY MR. BECKER:
1 2	publication format, does that involve any changes to the content of the draft standard?		
2	changes to the content of the draft standard?	2	Q. What did you mean when you said
2 3	changes to the content of the draft standard? MR. FEE: Objection. Vague.	2 3	Q. What did you mean when you said precision statements?
2 3 4	changes to the content of the draft standard? MR. FEE: Objection. Vague. THE WITNESS: It involves taking	2 3 4	Q. What did you mean when you said precision statements?A. Precision statements are
2 3 4 5	changes to the content of the draft standard? MR. FEE: Objection. Vague. THE WITNESS: It involves taking what was balloted in the Word format	2 3 4 5	Q. What did you mean when you said precision statements?A. Precision statements are included in test methods.
2 3 4 5 6	changes to the content of the draft standard? MR. FEE: Objection. Vague. THE WITNESS: It involves taking what was balloted in the Word format and placing it into our XML format	2 3 4 5 6	Q. What did you mean when you said precision statements?A. Precision statements are included in test methods.Q. What are precision statements?
2 3 4 5 6 7	changes to the content of the draft standard? MR. FEE: Objection. Vague. THE WITNESS: It involves taking what was balloted in the Word format and placing it into our XML format that we use for producing PDFs.	2 3 4 5 6 7	 Q. What did you mean when you said precision statements? A. Precision statements are included in test methods. Q. What are precision statements? A. Precision statements include
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2 3 4 5 6 7 8 9	changes to the content of the draft standard? MR. FEE: Objection. Vague. THE WITNESS: It involves taking what was balloted in the Word format and placing it into our XML format that we use for producing PDFs. BY MR. BECKER: Q. Is that a no?	2 3 4 5 6 7 8 9	 Q. What did you mean when you said precision statements? A. Precision statements are included in test methods. Q. What are precision statements? A. Precision statements include statements on repeatability and reproducibility. Q. What do you mean by that?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15	 changes to the content of the draft standard? MR. FEE: Objection. Vague. THE WITNESS: It involves taking what was balloted in the Word format and placing it into our XML format that we use for producing PDFs. BY MR. BECKER: Q. Is that a no? MR. FEE: Objection. You can answer the question however you like. You don't have to answer it yes or no. THE WITNESS: Did you ask me is that a no? BY MR. BECKER: 	2 3 4 5 6 7 8 9 10 11 12 13 14 15	 Q. What did you mean when you said precision statements? A. Precision statements are included in test methods. Q. What are precision statements? A. Precision statements include statements on repeatability and reproducibility. Q. What do you mean by that? A. For a test method, a statement of repeatability would be a laboratory taking the ASTM test method and running the test in the laboratory several times. And they take the results of that test and they see how close each iteration is. And if the results
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 changes to the content of the draft standard? MR. FEE: Objection. Vague. THE WITNESS: It involves taking what was balloted in the Word format and placing it into our XML format that we use for producing PDFs. BY MR. BECKER: Q. Is that a no? MR. FEE: Objection. You can answer the question however you like. You don't have to answer it yes or no. THE WITNESS: Did you ask me is that a no? BY MR. BECKER: Q. Yeah. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 Q. What did you mean when you said precision statements? A. Precision statements are included in test methods. Q. What are precision statements? A. Precision statements include statements on repeatability and reproducibility. Q. What do you mean by that? A. For a test method, a statement of repeatability would be a laboratory taking the ASTM test method and running the test in the laboratory several times. And they take the results of that test and they see how close each iteration is. And if the results are very close, then that would indicate good
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$\begin{array}{c} 2\\ 3\\ 4\\ 5\\ 6\\ 7\\ 8\\ 9\\ 10\\ 11\\ 12\\ 13\\ 14\\ 15\\ 16\\ 17\\ 18\\ 19\\ 20\\ 21\\ 22\\ 23\\ \end{array}$	 changes to the content of the draft standard? MR. FEE: Objection. Vague. THE WITNESS: It involves taking what was balloted in the Word format and placing it into our XML format that we use for producing PDFs. BY MR. BECKER: Q. Is that a no? MR. FEE: Objection. You can answer the question however you like. You don't have to answer it yes or no. THE WITNESS: Did you ask me is that a no? BY MR. BECKER: Q. Yeah. A. What was can you repeat the original question? Q. The question was, when you say you put it into publication format, does that involve any changes to the content of the draft standards? MR. FEE: Objection. Vague. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. What did you mean when you said precision statements? A. Precision statements are included in test methods. Q. What are precision statements? A. Precision statements include statements on repeatability and reproducibility. Q. What do you mean by that? A. For a test method, a statement of repeatability would be a laboratory taking the ASTM test method and running the test in the laboratory several times. And they take the results of that test and they see how close each iteration is. And if the results are very close, then that would indicate good precision. If it's if the results are not close, then that would indicate poor precision. So that's what repeatability is. Then reproducibility is at least six labs doing the same thing as what I just described as that one lab. And then the reproducibility is a statement that analyzes

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1	statements appear in different standards?	$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	significantly when it's transformed
2	A. In test methods.	2	into the published version.
3	Q. For test methods they do?	3	BY MR. BECKER:
4	A. Yes.	4	Q. When you say it's not changed
5	Q. What is the work that the	5	significantly, what do you mean?
6	graphics department does?	6	A. There could be editorial
7	MR. FEE: Objection. Vague.	7	changes. So that's a service that our
8	THE WITNESS: Graphics, I don't	8	editors perform. When they're putting it
9	know exactly everything that they do,	9	into the published version, they will work
10	but they will take figures that are	10	with the technical contact to incorporate any
11	perhaps old from years ago and we will	11	editorial changes that may have been agreed
12	use them in our technology, update	12	upon by the committee.
13	them to make them more user friendly.	13	Q. You mentioned caveats in ASTM
14	BY MR. BECKER:	14	standards. What are those?
15	Q. Are these figures that were	15	A. There are caveats that are in
16	created by committee members or how are these	16	our form and style manual.
17	figures created that the graphics department	17	Q. Are those what exactly are
18	would update?	18	the caveats in the form and style manual?
19	MR. FEE: Objection to form.	19	MR. FEE: Objection. Vague.
20	THE WITNESS: I would assume by	20	THE WITNESS: I wouldn't be able
21	the committee members.	21	to name all of them for you, but there
22	BY MR. BECKER:	22	are caveats related to the use of
23	Q. Do members do committee	23 24	units, so the standard will the there will be a caveat that will
24	members vote on the changes that or	24	
25	additions that you just described? Page 274	23	identify the use of units within a Page 276
-			
1	MR. FEE: Objection.	1	particular standard. We have certain
2	Mischaracterizes his testimony. Vague	2	safety caveats and hazardous caveats.
3	and ambiguous.	3	I think we have a caveat that deals
4	THE WITNESS: Yes.	4	with mercury being used in the
5	BY MR. BECKER:	5	standard. I'm sure there are some
6	Q. Do committee members vote on	6	others.
7	the final versions of ASTM standards?	7	
8	A. I'm not sure what you mean by	8	(Exhibit 1317, Participating
9	"final versions."	9	Membership Applications, Bates
10	Q. Do committee members vote on	10	ASTM064686 - ASTM064692, was marked
11	ASTM standards, on the final appearance of	11	for identification.)
12	ASTM standards?	12	
13	MR. FEE: Objection. Vague.	13	BY MR. BECKER:
14	THE WITNESS: The final	14	Q. I'm handing you what's been
15	appearance, the published format?	15	marked as Exhibit 1317. This document has
16	BY MR. BECKER:	16	been produced by ASTM as ASTM064686 to 64692.
17	Q. Yes.	17	What is this document?
18	A. No.	18	A. This looks like a copy of an
19	Q. Do ASTM committee members vote	19	old application that was downloaded and saved
20	on the content that appears in the final form	20	from our Web site and that was filled out by
21	of ASTM standards?	21	hand. Best guess.
22	MR. FEE: Objection. Vague.	22	
23	THE WITNESS: The content that	23	(Exhibit 1318, E-mail chain with
24	is balloted and approved through our	24	attachment, Bates ASTM087493 -
105			
25	consensus process is not changed Page 275	25	ASTM087497, was marked for Page 277

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1	identification.)	1	Standards Writing 101 How To [as read]. It
2		2	looks like something that was written in
3	BY MR. BECKER:	3	Standardization News back in 2000.
4	Q. I'm handing you what's been	4	Q. Does this document accurately
5	marked as Exhibit 1318. Does this exhibit	5	reflect the way that standards were developed
6	appear to show an individual who was	6	at ASTM in approximately March of 2000?
7	attempting to renew his application,	7	MR. FEE: You're going to have
8	membership application with ASTM by phone	8	to read the whole document to answer
9	A. I'd have to read it.	9	that question.
10	Q and e-mail?	10	THE WITNESS: This was, I
11	A. [Reviewing document.] Looks	11	believe, a way that an individual
12	like, based on what I'm reading here, they	12	could request the development of a new
13	were trying to renew the membership by phone,	13	standard.
14	but it doesn't say that it actually happened.	14	BY MR. BECKER:
15	Q. Can ASTM members renew their	15	Q. So there were other ways that
16	membership by phone or e-mail?	16	an individual could request the development
17	A. They could. It's not I	17	of a new standard as of March 2000?
18	don't think it's very common, but they could.	18	A. Yeah, they could make a request
19		19	from the subcommittee or by the subcommittee
20	(Exhibit 1319, 2011 ASTM	20	chairman.
21	International Committee Membership	21	
22	Application, Bates ASTM061183, was	22	(Exhibit 1321, How Standards are
23	marked for identification.)	23	Developed article, was marked for
24		24	identification.)
25	BY MR. BECKER:	25	
	Page 278		Page 280
1	Q. I'm handing you what's been	1	BY MR. BECKER:
2	marked as Exhibit 1319, document produced by	2	Q. I'm handing you what's been
3	ASTM as Bates number ASTM061183. What is	3	marked as Exhibit 1321. This document was
4	this document?	4	printed from the ASTM Web site at
5	A. It says, "2011 ASTMCommittee	5	www.astm.org/MEMBERSHIP/standardsdevelop.HTML.
6	Membership Application."	6	What is this document?
7	Q. Does this document appear to	7	A. It looks like maybe an article.
8	have a line crossed through the language	8	MR. FEE: Objection. Lack of
9	concerning the ASTM IP Policy?	9	foundation.
10	MR. FEE: Objection. The	10	THE WITNESS: Maybe an article
11	document speaks for itself.	11	we have on our Web site that helps
12	THE WITNESS: I can't say that	12	provide guidance for our members.
13	that's a line or whether that's an	13	BY MR. BECKER:
14	indicator towards the individual's	14	Q. Do you know what a US TAG ISO
15	account number.	15	list is?
16		16	A. A US
17	(Exhibit 1320, How To Standards	17	Q. US TAG ISO list.
18	Writing 101 New Standards, was marked	18	A. United States Technical
19	for identification.)	19	Advisory Group ISO list, I don't know if that
20		20	refers to the list of members that are
21	BY MR. BECKER:	21	serving on the technical advisory group.
22	Q. I'm handing you what's been	22	
23	marked as Exhibit 1320. What is this	23	(Exhibit 1322, 8/13/08 E-mail,
24	document?	24	Bates ASTM073852, was marked for
25	A. I'm not sure. It says	25	identification.)
	Page 279		Page 281

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1		1	A. I believe I can.
2	BY MR. BECKER:	2	MR. FEE: Do you want to mark
3	Q. I'm handing you what's been	3	that?
4	marked as Exhibit 1322 which has been	4	MR. BECKER: Yeah. Let's mark
5	produced by ASTM as ASTM073852. Can you tell	5	this as the next one.
6	me what this document is?	6	
7	A. It's an e-mail from Tom O'Toole	7	(Exhibit 1323, Bates Numbers of
8	to our customer service department.	8	Assignment Documents, was marked for
9	Q. Does this refresh your	9	identification.)
10	recollection at all as to what a US TAG ISO	10	
11	list is?	11	BY MR. BECKER:
12	A. I'm assuming it's the	12	Q. Is this your answer to my
13	membership list, because it says, "listed	13	question?
14	as members of the US TAG to ISO TC 160."	14	A. Yes.
15	Q. Is that an ASTM membership	15	Q. Is this correct to the best of
16	list?	16	your is this Exhibit 1323 your answer to
17	A. It appears that it's ASTM	17	my question concerning Topic 24?
18	subcommittee C14.92, holds the US TAG to the	18	A. Yes.
19	ISO technical committee 160.	19	Q. Is this Exhibit 1323 correct,
20	MR. BECKER: All right. Let's	20	to the best of your knowledge?
21	go off the record and take a short	21	A. Yes, to the best of my
22	break.	22	knowledge.
23	VIDEOGRAPHER: The time is now	23	Q. Who prepared this document,
24	7:44. We're going off the video	24	Exhibit 1323?
25	record.	25	A. I'm not sure. I think our
	Page 282		Page 284
1		1	counsel.
2	(A recess was taken.)	2	Q. Were you provided this
2 3		2 3	Q. Were you provided this document, Exhibit 1323, by counsel?
2 3 4	VIDEOGRAPHER: The time is now	2 3 4	Q. Were you provided thisdocument, Exhibit 1323, by counsel?A. Yes.
2 3 4 5	VIDEOGRAPHER: The time is now 7:49. We're back on the video record.	2 3 4 5	Q. Were you provided thisdocument, Exhibit 1323, by counsel?A. Yes.Q. What did you do to confirm that
2 3 4 5 6	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER:	2 3 4 5 6	Q. Were you provided thisdocument, Exhibit 1323, by counsel?A. Yes.Q. What did you do to confirm thatExhibit 1323 is accurate?
2 3 4 5 6 7	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which	2 3 4 5 6 7	 Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes. Q. What did you do to confirm that Exhibit 1323 is accurate? A. I didn't go through number by
2 3 4 5 6 7 8	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6)	2 3 4 5 6 7 8	 Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes. Q. What did you do to confirm that Exhibit 1323 is accurate? A. I didn't go through number by number.
2 3 4 5 6 7 8 9	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic	2 3 4 5 6 7 8 9	 Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes. Q. What did you do to confirm that Exhibit 1323 is accurate? A. I didn't go through number by number. Q. Did you look at any of the
2 3 4 5 6 7 8 9 10	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic MR. FEE: Hold it. Let him grab	2 3 4 5 6 7 8 9 10	 Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes. Q. What did you do to confirm that Exhibit 1323 is accurate? A. I didn't go through number by number. Q. Did you look at any of the Bates numbers that are listed on this
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2 3 4 5 6 7 8 9 10 11 12	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic MR. FEE: Hold it. Let him grab it. BY MR. BECKER:	2 3 4 5 6 7 8 9 10 11 12	 Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes. Q. What did you do to confirm that Exhibit 1323 is accurate? A. I didn't go through number by number. Q. Did you look at any of the Bates numbers that are listed on this Exhibit 1323 and confirm that they corresponded with any assignment language?
2 3 4 5 6 7 8 9 10 11 12 13	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic MR. FEE: Hold it. Let him grab it. BY MR. BECKER: Q. Okay. Do you have it?	2 3 4 5 6 7 8 9 10 11 12 13	 Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes. Q. What did you do to confirm that Exhibit 1323 is accurate? A. I didn't go through number by number. Q. Did you look at any of the Bates numbers that are listed on this Exhibit 1323 and confirm that they corresponded with any assignment language? A. We looked at them yesterday,
2 3 4 5 6 7 8 9 10 11 12 13 14	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic MR. FEE: Hold it. Let him grab it. BY MR. BECKER: Q. Okay. Do you have it? A. Yeah.	2 3 4 5 6 7 8 9 10 11 12 13 14	 Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes. Q. What did you do to confirm that Exhibit 1323 is accurate? A. I didn't go through number by number. Q. Did you look at any of the Bates numbers that are listed on this Exhibit 1323 and confirm that they corresponded with any assignment language? A. We looked at them yesterday, yes.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic MR. FEE: Hold it. Let him grab it. BY MR. BECKER: Q. Okay. Do you have it? A. Yeah. Q. If you turn to page 7. Topic 24 is on which you've been designated is, 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes. Q. What did you do to confirm that Exhibit 1323 is accurate? A. I didn't go through number by number. Q. Did you look at any of the Bates numbers that are listed on this Exhibit 1323 and confirm that they corresponded with any assignment language? A. We looked at them yesterday, yes. Q. Did you look at all of them? A. I believe I did.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic MR. FEE: Hold it. Let him grab it. BY MR. BECKER: Q. Okay. Do you have it? A. Yeah. Q. If you turn to page 7. Topic 24 is on which you've been designated is, "The bates numbers of at least one instance of every form of assignment with which You claim a person assigned any copyright in the Works-At-Issue to You." 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes. Q. What did you do to confirm that Exhibit 1323 is accurate? A. I didn't go through number by number. Q. Did you look at any of the Bates numbers that are listed on this Exhibit 1323 and confirm that they corresponded with any assignment language? A. We looked at them yesterday, yes. Q. Did you look at all of them? A. I believe I did. Q. All of the Bates numbers that are listed? A. I don't know if I looked at the exact Bates numbers to correspond to
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic MR. FEE: Hold it. Let him grab it. BY MR. BECKER: Q. Okay. Do you have it? A. Yeah. Q. If you turn to page 7. Topic 24 is on which you've been designated is, "The bates numbers of at least one instance of every form of assignment with which You claim a person assigned any copyright in the Works-At-Issue to You." Could you, please, provide the Bates number of at least one instance of	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes. Q. What did you do to confirm that Exhibit 1323 is accurate? A. I didn't go through number by number. Q. Did you look at any of the Bates numbers that are listed on this Exhibit 1323 and confirm that they corresponded with any assignment language? A. We looked at them yesterday, yes. Q. Did you look at all of them? A. I believe I did. Q. All of the Bates numbers that are listed? A. I don't know if I looked at the exact Bates numbers to correspond to correspond with each individual document, but I believe I looked at all of the documents.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic MR. FEE: Hold it. Let him grab it. BY MR. BECKER: Q. Okay. Do you have it? A. Yeah. Q. If you turn to page 7. Topic 24 is on which you've been designated is, "The bates numbers of at least one instance of every form of assignment with which You claim a person assigned any copyright in the Works-At-Issue to You." Could you, please, provide the Bates number of at least one instance of every form of assignment with which ASTM	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes. Q. What did you do to confirm that Exhibit 1323 is accurate? A. I didn't go through number by number. Q. Did you look at any of the Bates numbers that are listed on this Exhibit 1323 and confirm that they corresponded with any assignment language? A. We looked at them yesterday, yes. Q. Did you look at all of them? A. I believe I did. Q. All of the Bates numbers that are listed? A. I don't know if I looked at the exact Bates numbers to correspond to correspond with each individual document, but I believe I looked at all of the documents. Q. Has there been any impairment
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic MR. FEE: Hold it. Let him grab it. BY MR. BECKER: Q. Okay. Do you have it? A. Yeah. Q. If you turn to page 7. Topic 24 is on which you've been designated is, "The bates numbers of at least one instance of every form of assignment with which You claim a person assigned any copyright in the Works-At-Issue to You." Could you, please, provide the Bates number of at least one instance of every form of assignment with which ASTM claims that a person assigned any copyright 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes. Q. What did you do to confirm that Exhibit 1323 is accurate? A. I didn't go through number by number. Q. Did you look at any of the Bates numbers that are listed on this Exhibit 1323 and confirm that they corresponded with any assignment language? A. We looked at them yesterday, yes. Q. Did you look at all of them? A. I believe I did. Q. All of the Bates numbers that are listed? A. I don't know if I looked at the exact Bates numbers to correspond to correspond with each individual document, but I believe I looked at all of the documents. Q. Has there been any impairment to the operations of the ASTM technical
$ \begin{array}{c} 2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\end{array} $	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic MR. FEE: Hold it. Let him grab it. BY MR. BECKER: Q. Okay. Do you have it? A. Yeah. Q. If you turn to page 7. Topic 24 is on which you've been designated is, "The bates numbers of at least one instance of every form of assignment with which You claim a person assigned any copyright in the Works-At-Issue to You." Could you, please, provide the Bates number of at least one instance of every form of assignment with which ASTM	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes. Q. What did you do to confirm that Exhibit 1323 is accurate? A. I didn't go through number by number. Q. Did you look at any of the Bates numbers that are listed on this Exhibit 1323 and confirm that they corresponded with any assignment language? A. We looked at them yesterday, yes. Q. Did you look at all of them? A. I believe I did. Q. All of the Bates numbers that are listed? A. I don't know if I looked at the exact Bates numbers to correspond to correspond with each individual document, but I believe I looked at all of the documents. Q. Has there been any impairment

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1	years?	1	Q. Are you refusing to answer that
2	MR. FEE: Objection. Vague.	2	question?
3	Beyond the scope of his designation.	3	A. Yes.
4	What topic does this relate to? I'm	4	MR. BECKER: Then I'm going to
5	instructing him not to answer unless	5	end the deposition now and reserve my
6	there's a topic that this relates to.	6	right to follow up on those questions
7	BY MR. BECKER:	7	MR. FEE: Just so the record is
8	Q. In your work with the ASTM	8	clear
9	technical committees, are you familiar with	9	MR. BECKER: and the
10	of any difficulties that have arisen in the	10	questions that counsel instructed the
11	past five years that concern the operations	11	witness to refuse to answer.
12	of the ASTM technical committees?	12	MR. FEE: Okay. We're now at
13	MR. FEE: Can you identify any	13	six minutes and 50 six hours and
14	topic that that relates to? I take	14	55 minutes of testimony, just so the
15	your silence as refusal to do so.	15	record is clear. I have one or two
16	I'll instruct him not to answer.	16	questions for you.
17	BY MR. BECKER:	17	
18	Q. Have are you going to refuse	18	EXAMINATION
19	to answer that question?	19	
20	MR. FEE: Yes, he is.	20	BY MR. FEE:
21	THE WITNESS: Yes.	21	Q. Would you turn back to 1323.
22	BY MR. BECKER:	22	A. Yes.
23	Q. Has there been any lack of	23	Q. I just want to make sure that
24	resources for the operations of the ASTM	24	we're clear about one question. You see in
25	technical committees in the past five years?	25	the middle, slightly above the middle of that
	Page 286		Page 288
1	MR. FEE: Can you identify a	1	page it says, "Bates Range of Paper
2	topic to which that relates? I take	2	Membership Forms," and it says ASTM034596
3	that as a no. I'll instruct you not	3	through ASTM0088302. Did you review
4	to answer that question.	4	approximately 54,000 pages in connection with
5	MR. BECKER: I don't have to	5	the creation of this document?
6	identify any topics to which that	6	A. No.
7	relates.	7	MR. BECKER: Object as to form.
8	BY MR. BECKER:	8	BY MR. FEE:
9	Q. Will you answer that question?	9	Q. Would you turn to Exhibit 1313.
10	MR. FEE: No, he won't.	10	A. I'm afraid I
11	THE WITNESS: No.	11	Q. That is, I believe, the
12	BY MR. BECKER:	12	membership renewal
13	Q. In the scope of your work with	13	A. Got it. Got it.
14	ASTM, are you familiar with any lack of	14	Q pages of their screenshots.
15	resources that members of ASTM technical	15	A. Yes.
16	committees have encountered in the past five	16	Q. Do you recall Mr. Becker
17	years?	17	pointed you to, I believe, language on the
18	MR. FEE: Can you identify any	18	second page of this document and asked
10	topic to which that relates?	10	whether or not that had any language related
20	MR. BECKER: I do not have to	20	• • •
			to the IP Policy or assignments?
21 22	identify a topic.	21	A. Yes.
22	MR. FEE: If you don't do so,	22 23	MR. BECKER: Object as to form.
23	I'm going to instruct him not to answer.	23 24	BY MR. FEE: Q. Are there any other portions of
		L 4	O. ALC LICIC AILY OLICE DOLLIOUS OF
24	BY MR. BECKER: Page 287	25	what's been marked as 1313 that relate to the Page 289

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1	IP Policy or assignments?	1	I declare under penalty of perjury		
2	MR. BECKER: Object as to form.	2	under the laws that the foregoing is		
3	THE WITNESS: There is	3	true and correct.		
4	additional language. This document	4			
5	identifies membership renewal Web	5	Executed on	, 20,	
6	screenshots for different types of	6	at,		
7	members. So I identified page 2, and	7			
8	then there's also additional language	8			
9	on page ASTM001796 as well as	9			
10	ASTM001798. And I believe that's it.	10			
11	MR. FEE: I have no other	11			
12	questions.	12	DANIEL SMITH		
13	Do you have any other questions	13			
14	or is he done?	14			
15	MR. BECKER: No, no redirect.	14			
16	MR. FEE: Great. Thank you.				
10	THE WITNESS: Thanks.	16			
17	VIDEOGRAPHER: The time is now	17			
		18			
19	7:57. This concludes the videotape	19			
20	deposition of Dan Smith.	20			
21		21			
22	(Witness excused.)	22			
23		23			
24	(Deposition concluded at 7:57	24			
25	p.m.)	25			
	Page 290				Page 292
1	CERTIFICATE				
23					
	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 notice, at the time and place indicated; that				
	said deponent was by me duly sworn to tell				
6	the truth, the whole truth, and nothing but				
7	the truth; that the testimony of said deponent was correctly recorded in machine				
	shorthand by me and thereafter transcribed				
8	under my supervision with computer-aided				
9	transcription; that the deposition is a true and correct record of the testimony given by				
	the witness; and that I am neither of counsel				
10	nor kin to any party in said action, nor interested in the outcome thereof.				
11	interested in the outcome thereof.				
	WITNESS my hand and official seal this				
12	7th day of August, 2015.				
14					
15					
16	Notary Public				
17					
18					
19 20					
20					
22					
23					
24					
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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.