

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

AMERICAN SOCIETY FOR TESTING AND  
MATERIALS d/b/a/ ASTM INTERNATIONAL;

NATIONAL FIRE PROTECTION  
ASSOCIATION, INC.; and

AMERICAN SOCIETY OF HEATING,  
REFRIGERATING, AND AIR-CONDITIONING  
ENGINEERS, INC.

Plaintiffs,

v.

PUBLIC.RESOURCE.ORG, INC.,

Defendant.

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PUBLIC.RESOURCE.ORG, INC.,

Counterclaimant,

v.

AMERICAN SOCIETY FOR TESTING AND  
MATERIALS d/b/a/ ASTM INTERNATIONAL;

NATIONAL FIRE PROTECTION ASSOCIATION,  
INC.; and

AMERICAN SOCIETY OF HEATING,  
REFRIGERATING, AND AIR-CONDITIONING  
ENGINEERS, INC.

Counterdefendants.

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Case No. 1:13-cv-01215-TSC-DAR

**STATUS REPORT AND PROPOSED  
ORDER ON OUTSTANDING  
DISCOVERY ISSUES**

Filed: August 6, 2013

## **STATUS REPORT AND [PROPOSED] ORDER**

Plaintiffs American Society for Testing and Materials d/b/a ASTM International (“ASTM”), National Fire Protection Association, Inc. (“NFPA”) and American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc. (“ASHRAE”) and Defendant Public.Resource.Org, Inc. (“Public Resource”), jointly submit this status report and proposed order in response to the Court’s minute order entered on January 14, 2015. Counsel for Defendant has authorized counsel for Plaintiffs to file this with their express permission.

### **DISCOVERY ISSUES PENDING FROM DECEMBER 1 HEARING**

#### **ASHRAE**

At the last hearing, the Court ordered ASHRAE to produce assignment forms and lists of persons who signed those forms. For pre-2010 forms, ASHRAE was ordered to produce lists of project committee members because ASHRAE did not have other lists of signees readily available. ASHRAE represents it has completed its production of all lists of all persons who signed forms for its 2010 version of Standard 90.1, lists of project committee members for pre-2010 versions of Standard 90.1, and ASHRAE’s assignment forms.

With that representation, Public Resource agrees the motion is now moot as to ASHRAE.

#### **NFPA**

At the last hearing, the Court ordered NFPA to make its standards development records for the standards at issue available for Public Resource to inspect and locate the assignment forms contained therein. In lieu of Public Resource inspecting the records, the parties have agreed that NFPA will identify the folders from its standards development records that contain documents underlying the reports on comments and reports on proposals. These folders contain assignment forms for the public input into the standards at issue. NFPA will reproduce these folders in pdf format, at Public Resource’s cost. NFPA and Public Resource have also agreed that NFPA will identify the microfilm rolls from its standards development records that contain assignment forms, and furnish these rolls to a vendor who will, at Public Resource’s cost, scan the contents of the rolls and deliver the scans to Public Resource and NFPA. NFPA represents

that these productions will complete its production of assignment forms.

With this representation, Public Resource agrees the motion is now moot as to NFPA.

### **PLAINTIFFS' MOTION TO COMPEL**

Public Resource has agreed to produce nonprivileged communications with donors that discuss Public Resource's posting of standards. Public Resource will run the search "(standard or standards) and (donat\* or contribut\* or giv\* w/5 money or rais\* w/5 money or rais\* w/5 fund\* or fundrais\*)", and use the metadata fields "to", "from", "cc", and "bcc" to identify any communications with donors.

The parties are continuing to discuss whether Public Resource will redact any identifying information from the documents it produces.

January 20, 2015

Respectfully submitted,

*/s/ Thane Rehn*

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Nathan Rehn

Counsel for NFPA (with permission from counsel for ASTM, ASHRAE, and Public Resource)

**[PROPOSED] ORDER**

In light of the representations and agreements of the parties, the Court hereby orders that Defendant Public.Resource.Org, Inc.'s motion to compel is dismissed as moot.

IT IS SO ORDERED, this \_\_\_\_ day of January, 2015.

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Hon. Deborah A. Robinson  
United States Magistrate Judge