1	IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
2	
3	AMERICAN EDUCATIONAL) Case No.
	RESEARCH ASSOCIATION, INC.) 1:14-cv-00857
4) TSC-DAR
	AMERICAN PSYCHOLOGICAL)
5	ASSOCIATION, INC.; and)
)
6	NATIONAL COUNCIL ON)
	MEASUREMENT IN EDUCATION,)
7	INC.;
)
8	Plaintiffs-Counterdefendants)
)
9	vs.
)
10	PUBLIC.RESOURCE.ORG, INC.,)
	Defendant-Counterclaimant)
11	
12	
13	Videotaped 30(b)(6) Deposition of
14	AERA, APA and NCME
	through the testimony of
15	Felice J. Levine, Ph.D.
	Washington, D.C.
16	August 16, 2019
17	9:51 a.m.
18	
19	Reported by:
20	Bonnie L. Russo
21	Job No. 3475330
22	PAGES 1 - 87
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Inc.'s Rule 30(b)(6) Peposition Notice of American Educational Research Association, Inc. Saule 30(b)(6) Peposition Notice of American Educational Research Association, Inc. Saule 30(b)(6) Ph.D. held at: Ph.D. held at: 12 Exhibit 1301 Public. Resource. Org. Inc.'s Rule 30(b)(6) Peposition Notice of American Psychological Association Inc. 12 Exhibit 1302 Public. Resource. Org. Inc.'s Rule 30(b)(6) Peposition Notice of American Psychological Association Inc. 12 Exhibit 1302 Public. Resource. Org. Inc.'s Rule 30(b)(6) Peposition Notice of American Psychological Association Inc. 12 Exhibit 1303 Public. Resource. Org. Inc.'s Rule 30(b)(6) Peposition Notice of American Psychological Association Inc. 13 Exhibit 1303 Plaintiffs 15 Peposition Notice of National Council on Measurement in Education, Inc. 15 Exhibit 1303 Plaintiffs 15 Public. Resource. Org's Second Set of Requests 16 Response and Objections 17 to Public. Resource. Org's Second Set of Requests 17 to Public. Resource. Org's Second Set of Requests 18 for Production 19 Exhibit 1304 Plaintiffs 19 Public. Resource. Org's 10 Exhibit 1305 Plaintiffs 19 Public. Resource. Org's 10 Exhibit 1305 Plaintiffs 19 Public. Resource. Org's 10 Public. Res	E, Ph.D. PAGE
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5 EXHIBITS 6 Exhibit 1300 Public.Resource.Org, 1 Inc.'s Rula 30(b)(6) 7 Deposition Notice of American Educational Research Association, Inc. 8 Videotaped 30(b)(6) Deposition of AERA, APA and 9 NCME through the testimony of Felice J. Levine, 10 Ph.D. held at: 11 Spaces 12 Spaces 13 1441 L Street, N.W. 14 Washington, D.C. 15 Pursuant to Notice, when were present on behalf of the respective parties: 16 Pursuant to Notice, when were present on behalf of the respective parties: 17 of the respective parties: 18 Inc.'s Rula 30(b)(6) Deposition Notice of American Psychological Association Inc. 19 Exhibit 1302 Public.Resource.Org, 1 Inc.'s Rula 30(b)(6) Deposition Notice of National Council on Measurement in Education, Inc. Stability 1303 Plaintiffs	
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14 FENWICK & WEST, LLP	
15 555 California Street 15 and Psychological Testi	ng
12th Floor 16 (2014 Edition)	
16 San Francisco, California 94104 17 2014 Sales Reports	
650-335-/930	C C - 1
17 mbecker@fenwick.com 18 Showing the Number of	. Sales
18 19 of Specific Units Sold	
19 Also Present: 20 AERA APA NCME R	RFP2 0000001-26
20 Deanne M. Offaviano, Esq., General Counsel.	
21 American Psychological Association 21	
22 Daniel Russo, Videographer 22	
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1	EXHIBITS (CONTINUED):	1	Public.Resource.Org, Incorporated,
2	Exhibit 1308 Standards for Educational 56	2	defendant-counterplaintiff, filed in the United
3	& Psychological Testing	3	States District Court for the District of
4	(2014 Edition)	4	Columbia, Civil Action No.
5	Exhibit 1309 1999 Standards 59	5	1:14-cv-00857-TSC-DAR.
6	Exhibit 1310 AERA Book Order Form 65	6	This deposition is being held at
7		7	Spaces, located at 1441 L Street, Northwest,
8		8	Washington, D.C.
9		9	My name is Daniel Russo from the
10	PREVIOUSLY MARKED EXHIBITS:	10	firm Veritext Legal Solutions and I'm your
11	Exhibit 1207 Standards for Educational	11	videographer today. The court reporter is
12	and Psychological Testing	12	Bonnie Russo from the firm Veritext Legal
13	Sales Report, 1999 Edition	13	Solutions.
14	Exhibit 1208 Standards for Educational	14	Counsel and all present in the room
15	and Psychological Testing	15	and everyone attending remotely will now state
16	Sales Report	16	their appearances and affiliations for the
17		17	record, please.
18		18	MS. TURNER: Shannon Turner from
19		19	Fenwick & West on behalf of
20		20	Public.Resource.org. With me today is also
21		21	Matthew Becker from Fenwick & West.
22		22	MR. ELGARTEN: Cliff Elgarten,
	Page 6		Page 8
1	PROCEEDINGS	1	Crowell & Moring.
2		2	MS. OTTAVIANO: Deanne Ottaviano,
3	THE VIDEOGRAPHER: Good morning. We	3	APA.
4	are going on the record at 9:51 a.m. on August	4	THE WITNESS: Felice Levine on
5	16, 2019.	5	behalf of the American Educational Research
6	Please note that the microphones are	6	Association, the American Psychological
7	sensitive and may pick up whispering, private	7	Association and the National Council of
8	conversations and cellular interference.	8	Measurement and Education.
9	Please turn off all cell phones or place them	9	THE VIDEOGRAPHER: Will the court
10	away from the microphones as they can interfere	10	reporter please swear in the witness.
11	with the deposition audio. Audio and video	11	
12	recording will continue to take place unless	12	FELICE LEVINE,
13	all parties agree to go off the record.	13	being first duly sworn, to tell the truth, the
14	This is Media Unit 1 of the 30(b)(6)	14	whole truth and nothing but the truth,
15	video-recorded deposition of APA, NCME, AERA,	15	testified as follows:
16	through the testimony of Felice Levine taken by	16	EXAMINATION BY COUNSEL FOR DEFENDANT
17	counsel for defendant in the matter of American	17	BY MS. TURNER:
18	Educational Research Association, Incorporated,	18	Q. Good morning.
19	American Psychological Association,	19	A. Hi.
20	Incorporated, and National Council on	20	Q. Will you please state your name and
21	Measurement and Education, Incorporated,	21	spell it for the record.
22	plaintiffs-counterdefendants versus	22	A. Sure. Felice, F-E-L-I-C-E, middle
	Page 7		Page 9

1	1		
1	initial is J, Levine, L-E-V-I-N-E.	1	A. Okay.
2	Q. My name is Shannon Turner and I will		Q. So, you know, no head nods, uh-uhs,
3	be taking your deposition today.	3	uh-huhs, because that can be hard for the court
4	Have you ever been deposed before?	4	reporter to write down.
5	A. Yes.	5	Is there any reason you cannot
6	Q. And how many times?	6	provide truthful and accurate testimony today?
7	A. Once.	7	A. No reason at all.
8	Q. What case was that?	8	Q. Are you taking any medication that
9	A. This case.	9	would affect your ability to give truthful
10	Q. Great. So are you the same Felice	10	answers?
11	Levine who has given testimony in this case?	11	A. No.
12	A. To the best of my knowledge.	12	Q. Great. Are you employed?
13	Q. Great. And have you ever testified	13	A. Yes.
14	at trial?	14	Q. By whom?
15	A. No.	15	A. American Educational Research
16	Q. And have you ever testified for	16	Association.
17	anyone other than AERA?	17	Q. Great. And what is your title
18	A. No.	18	there?
19	Q. I'm going to ask you a series of	19	A. Executive director.
20	questions today and the court reporter is going	20	Q. Can you please state your work
21	to record your answer.	21	address for the record.
22	Do you understand?	22	A. Yes. 1430 K Street, Northwest,
	Page 10		Page 12
1	A. Yes.	1	Washington, D.C. 20005, Suite 1200.
2	Q. And your answers are under oath and	2	Q. Thank you. What did you do to
3	under penalty of perjury so it's the same as	3	prepare for today's deposition?
4	though you're in front of a court and a judge	4	A. I essentially reread my filings. I
5	and a jury.	5	thought I might read my prior deposition.
6	Do you understand?	6	Q. Did you review your prior deposition
7	A. Uh-huh.	7	testimony?
8	Q. If I ask a question and anything is	8	A. Really only a few pages. A little
9	unclear or ambiguous, please ask me to rephrase	9	discussion that Mark and I had, it was a little
10	the question.	10	joke I made. You laughed. You just laughed.
11	A. Okay.	11	That's good.
12	Q. If you don't ask me to clarify, then	12	Q. Did you review any documents to help
13	I'm going to assume that you understand the	13	refresh your recollection?
14	question.	14	A. Just the fillings that I submitted.
15	If you need a break at any time,	15	MS. TURNER: I'll ask the court
16	please let me know and as long as a question is	16	reporter to mark this as Exhibit 1300.
17	not pending, we can break.	17	(Deposition Exhibit 1300 was marked
18	A. Okay.	18	for identification.)
19	Q. And please verbalize your answer so	19	BY MS. TURNER:
20	that the court reporter can write them down.	20	Q. Do you recognize this document?
21	Let me finish a question before you answer,	21	A. I do.
22	that way we are not talking over each other.	22	Q. And what is it?
	Page 11		Page 13

	A TILL of City of a control of		
1	A. This was the filing that set forth,	1	Q. Great. And you understand that
2	I suppose, primarily focused on the topics of	2	these are plaintiff's written responses to
3	examination but the issues that we might	3	Public.Resource.Org's request for documents?
4	discuss today.	4	A. Correct.
5	Q. Is this a 30(b)6) notice to American	5	Q. Did AERA search for documents in
6	Educational Research, Inc.?	6	response to these requests?
7	MR. ELGARTEN: We agree it is.	7	A. I did.
8	THE WITNESS: Yes.	8	Q. And how did AERA go about searching
9	BY MS. TURNER:	9	for documents?
10	Q. And you understand you are produced	10	A. I looked through our files that were
11	as a witness designated to answer questions on	11	saved information in our share drive where we
12	behalf of AERA today?	12	have information on this and through e-mails,
13	A. Correct, yes.	13	as did two other colleagues.
14	MS. TURNER: If I could have the	14	Q. Did you look for any hard copy
15	court reporter mark as Exhibit 1301.	15	documents?
16	(Deposition Exhibit 1301 was marked	16	A. I suppose I did. I mean, I went
17	for identification.)	17	through the stack of our material.
18	BY MS. TURNER:	18	Q. And did AERA produce documents in
19	Q. Do you recognize this document?	19	response to these requests?
20	MR. ELGARTEN: You can put the other	20	A. Yes.
21	one in front of her and we will agree that she	21	Q. And did AERA withhold any documents
22	is testifying on behalf of all three	22	it otherwise found in its search?
	Page 14		Page 16
1	organizations.	1	A. No.
2	THE WITNESS: I see.	2	Q. And did APA search for documents in
3	MR. ELGARTEN: We will agree that	3	response to these requests?
4	she's testifying on behalf of all three	4	A. To the best of my knowledge, they
5	organizations and this was per agreement with	5	did.
6	Mr. Becker.	6	Q. And how did APA go about searching
7	MS. TURNER: Great. So if you could	7	for documents?
8	mark this as Exhibit 1302.	8	A. I am assuming a similar mechanism,
9	(Deposition Exhibit 1302 was marked	9	hard copy files, to the extent to the extent
10	for identification.)	10	we have them and electronic.
11	MR. ELGARTEN: The deposition is	11	Q. Okay. And did APA produce documents
12	half over already.	12	in response to these requests?
13	MS. TURNER: If we can have the	13	MR. ELGARTEN: I will tell you all
14	court reporter mark this as 1303.	14	documents were produced by all three parties.
15	(Deposition Exhibit 1303 was marked	15	THE WITNESS: Although I think the
16	for identification.)	16	ones I had are the ones that were responsive.
17	BY MS. TURNER:	17	Everybody responded.
18	Q. Are you familiar with this document?	18	BY MS. TURNER:
19	A. Yes.	19	Q. Do you know if the APA withheld any
20	Q. What is this document?	20	documents it otherwise found in its search?
21	A. These were the questions that you	21	A. I am sure as a long-standing member
22	all posed and that I responded to.	22	of APA, they withheld nothing.
	Page 15		Page 17

1	O Thank you And for NCME as wall?	1	I went through the hard copies, but most things
2	Q. Thank you. And for NCME as well?A. I'm less of a long-standing I'm	2	I know I have electronically even if a hard
3	sure they withheld nothing.	3	copy doesn't exist.
4	MR. ELGARTEN: The nature of the	4	Q. Did AERA produce documents
5	NCME	5	A. Yes.
6		6	
	THE WITNESS: I was going to say, NCME is a smaller organization of the three of		*
7	us and they don't really they have a	7	
8		8	Q. Did AERA withhold any documents in
9	management company managing the association so		response?
10	there is nothing really they would have that I	10	A. No.
11	wouldn't have.	11	Q. What about APA? Did APA search for
12	BY MS. TURNER:	12	documents in response to these requests?
13	Q. Do you know if NCME searched for	13	A. Yes.
14	documents?	14	Q. And how did they go about searching?
15	A. Yeah, I'm sure they did across	15	A. I am assuming the same way.
16	e-mails, but they are more likely to have	16	Q. Okay. Did APA produce documents in
17	things that I sent them as attachments by	17	response to these requests?
18	virtue of being part of the management	18	A. Yeah.
19	committee of the testing standards project.	19	Q. Did APA withhold any documents?
20	Q. And do you know if NCME withheld any	20	A. Not to my knowledge. Same response.
21	documents?	21	Q. Great. And for NCME, did NCME
22	A. I am I'm sure they didn't. Page 18	22	search for any documents responsive to these Page 20
	Tage 10		1 uge 20
1	Q. Okay.	1	requests?
2	A. As sure as one could be who is not	2	A. Yes. They all we all received
2 3	A. As sure as one could be who is not the executive director of NCME.	2 3	A. Yes. They all we all received this and searched and provided anything we had.
2 3 4	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit	2 3 4	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about
2 3 4 5	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please.	2 3 4 5	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching?
2 3 4 5 6	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked	2 3 4 5 6	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack
2 3 4 5 6 7	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.)	2 3 4 5 6 7	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is
2 3 4 5 6 7 8	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER:	2 3 4 5 6 7 8	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails
2 3 4 5 6 7 8 9	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this	2 3 4 5 6 7 8	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print.
2 3 4 5 6 7 8 9	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this document?	2 3 4 5 6 7 8 9	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print. Q. Did NCME withhold any documents in
2 3 4 5 6 7 8 9 10 11	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this document? A. Yes.	2 3 4 5 6 7 8 9 10 11	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print. Q. Did NCME withhold any documents in response to these requests?
2 3 4 5 6 7 8 9 10 11 12	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this document? A. Yes. Q. And you understand that these are	2 3 4 5 6 7 8 9 10 11	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print. Q. Did NCME withhold any documents in response to these requests? A. No, not to my knowledge.
2 3 4 5 6 7 8 9 10 11 12 13	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this document? A. Yes. Q. And you understand that these are plaintiff's written responses to	2 3 4 5 6 7 8 9 10 11 12 13	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print. Q. Did NCME withhold any documents in response to these requests? A. No, not to my knowledge. Q. If you could turn to Page 2, please.
2 3 4 5 6 7 8 9 10 11 12 13 14	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this document? A. Yes. Q. And you understand that these are plaintiff's written responses to Public.Resource.Org's third request for	2 3 4 5 6 7 8 9 10 11 12 13 14	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print. Q. Did NCME withhold any documents in response to these requests? A. No, not to my knowledge. Q. If you could turn to Page 2, please. A. Of the last one?
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this document? A. Yes. Q. And you understand that these are plaintiff's written responses to Public.Resource.Org's third request for documents?	2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print. Q. Did NCME withhold any documents in response to these requests? A. No, not to my knowledge. Q. If you could turn to Page 2, please. A. Of the last one? Q. Yes, of the last one.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this document? A. Yes. Q. And you understand that these are plaintiff's written responses to Public.Resource.Org's third request for documents? A. Uh-huh.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print. Q. Did NCME withhold any documents in response to these requests? A. No, not to my knowledge. Q. If you could turn to Page 2, please. A. Of the last one? Q. Yes, of the last one. A. Okay.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this document? A. Yes. Q. And you understand that these are plaintiff's written responses to Public.Resource.Org's third request for documents? A. Uh-huh. Q. Did AERA search for documents in	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print. Q. Did NCME withhold any documents in response to these requests? A. No, not to my knowledge. Q. If you could turn to Page 2, please. A. Of the last one? Q. Yes, of the last one. A. Okay. Q. If you look at the bottom of the
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this document? A. Yes. Q. And you understand that these are plaintiff's written responses to Public.Resource.Org's third request for documents? A. Uh-huh. Q. Did AERA search for documents in response to these requests?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print. Q. Did NCME withhold any documents in response to these requests? A. No, not to my knowledge. Q. If you could turn to Page 2, please. A. Of the last one? Q. Yes, of the last one. A. Okay. Q. If you look at the bottom of the page, you see Request for Production No. 44?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this document? A. Yes. Q. And you understand that these are plaintiff's written responses to Public.Resource.Org's third request for documents? A. Uh-huh. Q. Did AERA search for documents in response to these requests? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print. Q. Did NCME withhold any documents in response to these requests? A. No, not to my knowledge. Q. If you could turn to Page 2, please. A. Of the last one? Q. Yes, of the last one. A. Okay. Q. If you look at the bottom of the page, you see Request for Production No. 44? A. Uh-huh.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this document? A. Yes. Q. And you understand that these are plaintiff's written responses to Public.Resource.Org's third request for documents? A. Uh-huh. Q. Did AERA search for documents in response to these requests? A. Yes. Q. How did AERA go about searching?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print. Q. Did NCME withhold any documents in response to these requests? A. No, not to my knowledge. Q. If you could turn to Page 2, please. A. Of the last one? Q. Yes, of the last one. A. Okay. Q. If you look at the bottom of the page, you see Request for Production No. 44? A. Uh-huh. Q. The requests asks for all documents
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this document? A. Yes. Q. And you understand that these are plaintiff's written responses to Public.Resource.Org's third request for documents? A. Uh-huh. Q. Did AERA search for documents in response to these requests? A. Yes. Q. How did AERA go about searching? A. Essentially have testing standards	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print. Q. Did NCME withhold any documents in response to these requests? A. No, not to my knowledge. Q. If you could turn to Page 2, please. A. Of the last one? Q. Yes, of the last one. A. Okay. Q. If you look at the bottom of the page, you see Request for Production No. 44? A. Uh-huh. Q. The requests asks for all documents not previously produced on which you intend to
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. As sure as one could be who is not the executive director of NCME. MS. TURNER: We will mark as Exhibit 1304, please. (Deposition Exhibit 1304 was marked for identification.) BY MS. TURNER: Q. And are you familiar with this document? A. Yes. Q. And you understand that these are plaintiff's written responses to Public.Resource.Org's third request for documents? A. Uh-huh. Q. Did AERA search for documents in response to these requests? A. Yes. Q. How did AERA go about searching?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Yes. They all we all received this and searched and provided anything we had. Q. Okay. And how did NCME go about searching? A. There's probably less of a stack anywhere because there isn't someone who is staffing NCME on this, but went through e-mails and whatever someone might have had in print. Q. Did NCME withhold any documents in response to these requests? A. No, not to my knowledge. Q. If you could turn to Page 2, please. A. Of the last one? Q. Yes, of the last one. A. Okay. Q. If you look at the bottom of the page, you see Request for Production No. 44? A. Uh-huh. Q. The requests asks for all documents

1	Do you see that request?	1	which we gave you, but unless you asked for new
2	A. Uh-huh.	2	forms of information.
3	Q. Okay. If you turn the page, the	3	MS. TURNER: If the court reporter
4	plaintiffs' response, it states that:	4	could please mark this as Exhibit 1305.
5	"Plaintiffs have already produced or are	5	(Deposition Exhibit 1305 was marked
6	producing all documents on which they intend to	6	for identification.)
7	rely on this litigation, but note they have not	7	BY MS. TURNER:
8	made any final determination."	8	Q. Are you familiar with this document?
9	Do you see that response?	9	A. Yes.
10	A. Yes.	10	Q. What is this document?
11	Q. When the plaintiffs respond "or are	11	A. These were additional sets of
12	producing," what does that mean?	12	requests or questions that you asked and our
13	MR. ELGARTEN: This is my language	13	responses.
14	because this asked what we're going to rely on	14	Q. So you understand these are
15	as a legal matter in the case, so you could ask	15	plaintiffs' written responses to
16	that question of me.	16	Public.Resource.Org's interrogatories?
17	MS. TURNER: Well, these are also	17	A. Yes.
18	plaintiffs' responses to the document request.	18	Q. If you could just let me finish the
19	MR. ELGARTEN: That's right, and I	19	question.
20	answered this question because I make the	20	A. Sorry.
21	determination of what we're going to rely on	21	Q. It's a little tough for the court
22	ultimately in the case, and I do this in	22	reporter to get it when we are talking over
	Page 22		Page 24
1	consultation with Ms. Levine in connection with	1	each other.
2	this, and so if you want to pose this question	2	A. Okay.
3	to me, you can, but you can't make the judgment	3	Q. If you could turn to Page 10,
4	about what we legally the documents to rely	4	please, which is the last page of the document
5	on.	5	A. Uh-huh.
6	MS. TURNER: I understand that's a	6	Q. Is this your signature?
7	legal question but what I wanted to ask Dr.	7	A. Yes.
8	Levine is the language "or are producing."	8	Q. And it's verifying that the
9	BY MS. TURNER:	9	statements in plaintiffs' responses are true
10	Q. So are plaintiffs withholding any	10	and correct?
11	documents?	11	A. Correct.
12	A. No. No.	12	Q. Do you have any reason to believe
13	Q. Okay.	13	that any of the statements in here are
14	MR. ELGARTEN: Sorry.	14	incomplete or incorrect?
15	THE WITNESS: Really, you got	15	A. No, I have no reason to believe
16	everything the first time around, folks. It	16	that.
17	was this was a no-brainer to give you	17	Q. Okay. Did plaintiffs withhold any
18	whatever was left because there was nothing	18	information responsive to these
19	left.	19	interrogatories?
20	BY MS. TURNER:	20	A. No.
21	Q. Great. Thank you.	21	Q. Thank you.
41	A. I mean, there were some things left	22	MS. TURNER: The court reporter can

1	please mark this as Exhibit 1306.	1	A. Yes.
2	(Deposition Exhibit 1306 was marked	2	Q. What is this document?
3	for identification.)	3	A. This document is a sales report of
4	MS. TURNER: For the record, this is	4	the 1999 edition of the testing standards and
5	a document produced by plaintiffs that is	5	the preceding edition before the 1999 edition.
6	identified as Bates No.	6	Q. Okay. What was the preceding
7	AERA_APA_NCME_RFP2_0000027.	7	edition?
8	BY MS. TURNER:	8	A. I think it was '85. I don't
9	Q. Dr. Levine, do you recognize this	9	remember exactly the year without looking at
10	document?	10	the I think it was '85.
11	MR. ELGARTEN: Well, we have two	11	Q. Is this a document that is kept in
12	different questions here. I produced this	12	the ordinary course of business?
13	document from my files because I felt I had	13	A. This or something equivalent.
14	told Mr. Becker I think it was Mr. Becker	14	Q. How is this document created?
15	that we looked for certain documents. This	15	A. I'm going to not exactly guess, but
16	document was not present in the files of the	16	I'm going to extrapolate from my knowledge,
17	client, but it was present in my law firm files	17	how's that, because I did not I didn't
18	and since I had said something to Mr. Becker	18	become executive director until 2002.
19	that I would try to find something, and he	19	Q. Okay.
20	asked, I said, I didn't think I could find real	20	A. And I had no contact with the prior
21	old information but he asked and I really	21	edition, so when I came in 19 2002, the 1999
22	didn't object to it. I decided to produce this	22	edition was already published.
	Page 26		Page 28
1	to him.	1	Q. Okay.
1 2	to him. So Ms. Levine had no role in this	1 2	Q. Okay.A. The prior edition was published by
2 3	So Ms. Levine had no role in this because it followed the prior production, it		A. The prior edition was published by on behalf of the three organizations by the
2	So Ms. Levine had no role in this because it followed the prior production, it was pursuant to a discussion I had with Mr.	2	A. The prior edition was published by
2 3	So Ms. Levine had no role in this because it followed the prior production, it	2 3	A. The prior edition was published by on behalf of the three organizations by the
2 3 4	So Ms. Levine had no role in this because it followed the prior production, it was pursuant to a discussion I had with Mr. Becker. I think it was you, Matt. MS. TURNER: Was this document	2 3 4	A. The prior edition was published by on behalf of the three organizations by the American Psychological Association. So this
2 3 4 5 6 7	So Ms. Levine had no role in this because it followed the prior production, it was pursuant to a discussion I had with Mr. Becker. I think it was you, Matt. MS. TURNER: Was this document produced by plaintiffs on behalf of plaintiffs?	2 3 4 5	A. The prior edition was published by on behalf of the three organizations by the American Psychological Association. So this was I'm going to assume a running tab, as it were, of each year's sales for the years preceding the 1999 edition.
2 3 4 5 6 7 8	So Ms. Levine had no role in this because it followed the prior production, it was pursuant to a discussion I had with Mr. Becker. I think it was you, Matt. MS. TURNER: Was this document produced by plaintiffs on behalf of plaintiffs? MR. ELGARTEN: It is produced on	2 3 4 5 6 7 8	A. The prior edition was published by on behalf of the three organizations by the American Psychological Association. So this was I'm going to assume a running tab, as it were, of each year's sales for the years
2 3 4 5 6 7 8 9	So Ms. Levine had no role in this because it followed the prior production, it was pursuant to a discussion I had with Mr. Becker. I think it was you, Matt. MS. TURNER: Was this document produced by plaintiffs on behalf of plaintiffs? MR. ELGARTEN: It is produced on behalf of all plaintiffs, yes, and she may know	2 3 4 5 6 7 8	A. The prior edition was published by on behalf of the three organizations by the American Psychological Association. So this was I'm going to assume a running tab, as it were, of each year's sales for the years preceding the 1999 edition.
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1	can you tell what the time period is there?	1	November 1999. I just don't know.
2	A. I'm going to allow again, infer	2	It may have been so de minimis at
3	that this is the sales from from January	3	that point that it was really a 2000 the
4	through January through August 1999, and	4	beginning of the reported sales might have been
5	depending upon when it was literally published,	5	in 2000 depending upon when the release of that
6	I suspect it might be the old edition. I don't	6	edition happened.
7	there is usually kind of a crossover.	7	I could go a step further. It could
8	Q. Okay. Were there any sales between	8	also be there is a little hiatus that they were
9	August and December of 1999?	9	taking orders but then not selling because
10	A. I literally don't know but I can	10	maybe it didn't come out until November.
11	only assume so.	11	BY MS. TURNER:
12	Q. Okay. Is that	12	Q. Dr. Levine, do you want to take a
13	A. Although it may be crumped in the	13	quick break?
14	2000 in other words, it might have been	14	A. No, I'm fine.
15	the new edition I don't know when the new	15	Q. I think we will take a quick break
16	edition literally came out, so let's say it	16	right now if that's okay with you.
17	came out in September, so it might have been	17	A. Sure.
18	incorporated in to what you are seeing as 2000.	18	THE VIDEOGRAPHER: We are going off
19	I don't believe there is a gap. It's just a	19	the record. The time is 10:14.
20	matter of when the cutoff of one edition	20	(A short recess was taken.)
21	happened and when the new edition happened.	21	THE VIDEOGRAPHER: We are going back
22	Q. So when calculating a sales number,	22	on the record. The time is 10:20.
	Page 30		Page 32
1	if a new edition comes out mid-year, let's say,	1	MS. TURNER: Thank you.
2	would that those numbers for the new	2	BY MS. TURNER:
3	edition, the sales numbers be encompassed in	3	Q. Dr. Levine, during the break, did
4	the following year's sales?	4	you have an opportunity to review your prior
5	A. Well, I can tell you about 2014.	5	testimony in this case?
6	You have that report. 2014, we continued to	6	A. I did.
7	monitor 1999 in 2014, and you will see	7	Q. Okay. And I will introduce to you
8	something that looks like July or August 2014	8	previously marked Exhibit 1207.
9	to the end of the year. That is under my	9	A. Thank you.
10	watch. I don't know exactly what happened	10	Q. And I will represent that this was
11	under somebody else's watch.	11	marked during your previous deposition in this
12	MR. ELGARTEN: I believe Ms. Levine	12	matter.
13	is referring to the additional documents	13	And, Dr. Levine, if you could state
14	showing sales figures that were provided to	14	whether or not the Exhibit 1207 and Exhibit
15	you.	15	1306, the numbers between 1999 and 2013 are the
16	THE WITNESS: Yeah. Exactly. So	16	same?
17	that's how we do it now. That's why I	17	A. Well, 1207 and 1306 are not
18	extrapolated but logically, there is a little	18	identical insofar as 1207 is reporting on the
19	bit of a hiatus so that side of the and I	19	1999 edition and 12 1306 has information
20	don't know when it came out, so I suppose it	20	about the prior edition which I believe is '85
21	was either incorporated in or maybe it came out	21	but I would need to verify that by looking.
22	at the end of the year. Maybe it came out in	22	Q. Thank you. And if you can clear up Page 33
	Page 31		rage 33

1			
	for the record, 1999 in 1306, what standard is	1	go back and review that detail.
2	that are those sales for?	2	BY MS. TURNER:
3	A. In 1306, I believe they are the 1999	3	Q. Thank you. And then for the 1989
4	edition.	4	through 1998, those numbers there
5	Q. Okay. Thank you. And, Dr. Levine,	5	A. Uh-huh.
6	if you could turn back to 1306, Exhibit 1306.	6	Q which standard is that for?
7	A. Uh-huh.	7	A. '99.
8	Q. For the 19 if you see 1989 there	8	Q. So 1989
9	at the top through 1998.	9	A. I'm sorry. '85 that continues
10	A. Uh-huh.	10	with the '85 through, let's say, the
11	Q. What versions of the standard are	11	presumptive '85 through 1998, so and not
12	encompassed in these sales units?	12	atypically as the scientific and research and
13	A. I am going to I am going to	13	practice community are anticipating a new an
14	1989 shows a number of 21,920, so therefore, in	14	updated revision like all of us, you know, want
15	my I am inferring therefore that that	15	the I10 and not the I8 so people are waiting
16	encompasses it could encompass a prior	16	for the new edition of the the sales
17	edition, four years of sales at 21,000, seems	17	declines not because of the lack of value of
18	to me like that 21,000 might aggregate a prior	18	the product but because the communities are
19	edition.	19	aware that a new edition is under preparation.
20	Q. Thank you, Dr. Levine. Let's	20	Q. Thank you.
21	A. But I don't know. I mean, you know,	21	A. Or new standards that will be
22	it's roughly you could see roughly 5,000 a	22	published in the new edition are under
	Page 34		Page 36
1	year times four years, it could be it could	1	preparation.
2	be just '85 to '89. That's what I guess I'd	2	MS. TURNER: And if the court
3	estimate, within our set of typical rate of	3	reporter can please mark as Exhibit 1307.
4	production of sales in the early in the		
	r	4	(Deposition Exhibit 1307 was marked
5	early years of publication.	5	(Deposition Exhibit 1307 was marked for identification.)
5			-
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1	A. What I mean by that is, doesn't	1	Do you see that?
2	it wasn't prepared initially as one document.	2	A. Yes, I do, uh-huh.
3	It's several different pieces of documents for	3	Q. And what does that mean?
4	different purposes, so as you see, additive	4	A. I would say I believe it's the
5	documents so they were not all produced at	5	sales of the 1999 edition.
6	once.	6	Q. And if you look under "Actuals," the
7	Q. Thank you. And as the aggregate,	7	column "Actuals, December 31, 2014," do you see
8	this is authentic?	8	that 42,219.40?
9	A. Correct.	9	A. Isn't that what you were asking me
10	Q. And is this	10	about?
11	A. And it's everything we have.	11	Q. Yes.
12	Q. Thank you. And are these documents	12	A before, previously. Did I
13	that are in the aggregate, this document, is it	13	misinterpret your prior question?
14	something that's kept in the ordinary course of	14	Q. No. I was asking about what the
15	business?	15	publication income was. We will walk through
16	A. Yes.	16	the numbers.
17	Q. And how was it created?	17	A. Okay. Fine.
18	A. It's created through our inventory	18	Q. Do you see the numbers in
19	sales report, through our association	19	December
20	management system and through our financial	20	A. Yes.
21	accounting system.	21	Q are those for sales of the 1999
22	Q. And do you know what association	22	standards?
	Page 38		Page 40
1	management system that is? Is that	1	A. Yes. It could have something else
2	proprietary?	2	in it, but I don't think so. I mean, I can't
3	A. It's NOAH and I believe it's through	3	think of what it would be.
4	NOAH although we may keep the standards on a	4	Q. Okay. And if we turn to the next
5	separate spreadsheet, that are but it is	5	column, which is December 31, 2015.
6	definitely through our own financial reporting	6	Do you see that 6995?
7	system.	7	A. Uh-huh.
8	Q. Okay. Thank you. And if you could	8	Q. How many sales again, is this for
9	please turn to what is identified as Page 7,	9	sales of the 1999 standard?
10	and can you tell me what this page is?	10	A. It yes, it should be. Net of
11	A. Are these numbered?	11	expenses.
12	Q. If you look at the bottom, there is	12	Q. Okay.
13	a number.	13	A. And that's true of 42,219.40, net of
14	A. There are numbers. Okay.	14	expenses.
15	So this is our reporting of the	15	Q. And how many sales would that be for
16	standards development fund from the end of	16	6995?
17	for fiscal years 2014, '15, '16, '17, '18, at	17	A. Depending upon who purchased it, it
18	that point unaudited and projected through	18	could be two.
19	April 30, 2019.	19	Q. If we go to the next column under
20	Q. And if you look under "Profit and	20	December 31, 2016, you see it says: "Zero
21	Loss," there is an entry for "Publication	21	Dollars?"
22	Income."	22	A. Uh-huh.
	Page 39	I	Page 41

		1	1 . 1 . 1 . 1 . 1 . 1 . 1 . 1 . 1 . 1
1	Q. Is it accurate to say that there	1	that sales declined of the 1999 standard
2	were no sales of the 1999 standard in 2015	2	between 2014 and 2019?
3	I'm sorry, in 2016?	3	A. Uh-huh.
4	A. Yes.	4	Q. And why is that?
5	Q. And the next column under December	5	A. Because the 2014 edition was
6	31, 2017, it says: "Zero dollars."	6	released in mid-year.
7	A. Uh-huh.	7	Q. And why would the release of the
8	Q. Is it accurate to say that there	8	2014 standard affect the sales?
9	were no sales of the 1999 standard in 2017?	9	A. It's updated and expanded guidance
10	A. Correct.	10	about best practices and testing, and our user
11	Q. And moving to the next column for	11	community of scientists and students and
12	December 31, 2018, it says: "137.85."	12	faculty and teachers and test administrators
13	A. Uh-huh.	13	and test developers would turn to the new
14	Q. And about how many sales is this of	14	standard.
15	the 1999 standard?	15	Q. Thank you. If we could turn to the
16	A. Could be depending upon who	16	next item, it says: "Book royalty revenues,"
17	purchased it, it could be four or five I	17	that's right below the publication income.
18	suppose.	18	A. Correct.
19	Q. And when you say, "depending on who	19	Q. What does that mean?
20	purchased it," what do you mean?	20	A. That's the that's income from the
21	A. Whether it was a member or nonmember	21	new from the 2014 edition.
22	of one of our associations. I don't quite Page 42	22	Q. And if you look under "actual," the Page 44
1	remember the selling price at that point or if	1	next column "actuals as of December 31, 2014,"
2	it was an institutional sale, a library sale.	2	it is "119,113.49."
3	Q. Are there different prices?	3	Do you see that?
4	A. Yeah, for members and members ge		A. Yes.
5	a discount in all three organizations. It's	5	Q. And what does that represent?
6	the same amount, whatever that might be.	6	A. That represents the standard
7	Q. And you mentioned institutions, do	7	development fund's royalty from the sales of X
8	they get any kind of discount?	8	number which we can see from the sales report
9	A. Only for book sales, because it	9	edition.
10	would be much higher than 137. I think it's	10	Q. When you say, "edition," do you
11	more than ten but it's bulk.	11	mean
12	Q. And moving to the next column, it	12	A. 2014.
13	says: "Projection as of April 30, 2019."	13	Q. Okay. And moving to the next column
14	You see it says: "Zero dollars"	14	where it has "actuals as of December 31, 2015,"
15	there?	15	do you see the number "130,425.40?"
16	A. Yes.	16	A. Uh-huh.
17	Q. Is it accurate to say that there are	17	Q. Is that for sales of the 2014
18	no projected sales numbers for the 1999	18	standard as well?
19	standards in 2019?	19	A. Correct. The royalty.
20	A. Up through that point, yeah.	20	Q. Royalty. Thank you.
21	Q. Looking at these numbers across the	21	And moving to the next column for
	-	22	-
22	board from 2014 to 2019, is it accurate to say	22	"actuals as of December 31, 2016," do you see

1	that number, "110,046.35?"	1	Q. And what does royalty mean here?
2	A. Uh-huh.	2	A. Royalty is a percent of the gross
3	Q. Is that for sales of the 2014	3	sales.
4	standard during 2016?	4	Q. Do you know what that percent is?
5	A. It's the fund's royalty from that	5	A. I would need to I would need to
6	period.	6	refresh my memory. I think it is now 50/50.
7	Q. And moving to the next column where		Q. And are you certain that the numbers
8	it says: "Actuals as of December 31, 2017,"	8	here under book royalty revenues are royalties
9	the number "97,407.50."	9	according to that split rather than gross
10	Accurate to say that is also for the	10	revenues?
11	royalty for the sale of the 2014 standard?	11	A. Under book royalty revenue?
12	A. Correct.	12	Q. Yes.
13	Q. And moving to the next column,	13	A. Yes, I am. That's why it is called
14	"unaudited as of December 31, 2018," see that	14	something different.
15	number, "\$98,994.98?"	15	Q. Thank you. If you could please turn
16	A. Uh-huh.	16	to Page 19 of the document in front of you.
17	Q. Accurate to say that that's for	17	A. Yes.
18	royalties from the sale of the 2014 standard?	18	Q. Do you recognize this chart?
19	A. Correct.	19	A. Yes, I do.
20	Q. And then the last column there is	20	Q. What is it?
21	"projection of April 30, 2019," it says: "Zero	21	A. This is the sales report of the 2014
22	dollars."	22	edition starting in July when it was released
	Page 46		Page 48
1	A. It didn't tank.	1	through at that point, it was the report
2	Q. So is it accurate to say that there	2	through end of September or almost the end of
3	were no sales projected of the 2014 standard in	3	September 2016.
4	2019?	4	Q. Okay. And looking at the total sold
5	A. It this reflects when the royalty	5	number, is it accurate to say that the total
6	payments are made. It's a different it's a	6	number of units sold had declined between 2014
7	different process for the 2014 edition than for	7	and 2016?
8	the 1999 edition.	8	A. Between 2014 and 2016?
9	Q. Can you tell me a little bit about	9	Q. Yes.
10	that process?	10	A. Without looking at the end of the
11	A. In 2019 the 1999 edition, AERA as	11	year report, I'm not sure it is accurate to say
12	publisher underwrote AERA as publisher was	12	that.
13	reimbursed for all expenses, so this is the	13	Q. I'm sorry, you
14	you will see you will see printing and other	14	A. Because you are comparingwell,
15	items well, you would see if you looked at	15	you are clearly comparing the 3242 and asking
16	your prior report, printing and other items.	16	that question to the 2474, but sales come in,
17	If you went through those documents	17	I'm going to say unanticipated ways, so there
18	that you got, so this is the with the 2014	18	could be a bookstore ordering X number of
19	edition, the AERA underwrites all costs and so	19	copies for a university bookstore or a college
20	this is the royalty. We have a royalty	20	bookstore for costs for January, February,
21	arrangement to reimburse us for costs.	21	March and sometimes we get very large sales
22	Functionally, it's the same.	22	orders in November preparing for the next
	Page 47		Page 49

1	semester, and so it might have bumped up, so	1	Q. And can you tell me what the dates
2	this could have been 3242 for a fall semester	2	are, the sales comparison is for?
3	cost, so I can't infer that without looking at	3	A. This is comparing 2015 through it
4	the final, you know, set of the final end of	4	was prepared undoubtedly for the same
5	year because in particular, because for	5	management committee meeting and it's comparing
6	training and academic purposes, sales don't	6	January through September 28, 2015, to '16 in
7	just come linearly by month and it really	7	the same period.
8	depends upon kind of in the aggregate, who	8	Q. Okay. And why is it comparing on a
9	is teaching what, when, or who is having a	9	ten-month basis here between 2015 and 2016?
10	workshop when, and I know it seems sort of	10	A. The same reason, because of it being
11	weird, but we have been getting a lot of orders	11	an interim report before this committee met, or
12	in the past couple of years in that November	12	I had a conference call or something, but there
13	and even December period for the new semester,	13	is always an end of year report and you could
14	and it seemed like in the beginning, it was	14	see, this report gives more nuanced information
15	happening in the summer for the fall semester	15	as I was saying in my earlier statement about
16	and who's to explain what the academic	16	member and nonmember purchases and about E-book
17	workplace is like, so the best way of looking	17	purchases and print purchases and bundled
18	at it is the, you know, the stable end of 12	18	purchases.
19	months particularly because because this is	19	Q. What is a bundle?
20	used for training and workshop and course	20	A. Bundle is, you could buy and a
21	purposes.	21	further discount, the E-book edition and get a
22	Q. And is there any reason why, for	22	hard copy.
	Page 50		Page 52
1	this chart, there are cutoffs through September	1	O. And looking at these numbers for the
1 2	this chart, there are cutoffs through September of 20	1 2	Q. And looking at these numbers for the ten-month period of January 1, 2015 through
2	of 20	2	ten-month period of January 1, 2015 through
2 3	of 20 A. Yes, because we tend to prepare this	2 3	ten-month period of January 1, 2015 through September 28, 2015, and the same period for
2 3 4	of 20 A. Yes, because we tend to prepare this report that you are looking at for a meeting of	2 3 4	ten-month period of January 1, 2015 through September 28, 2015, and the same period for 2016, is it accurate to say that sales
2 3 4 5	of 20 A. Yes, because we tend to prepare this report that you are looking at for a meeting of our management committee. Management committee	2 3 4 5	ten-month period of January 1, 2015 through September 28, 2015, and the same period for 2016, is it accurate to say that sales declined?
2 3 4 5 6	of 20 A. Yes, because we tend to prepare this report that you are looking at for a meeting of our management committee. Management committee is a joint committee of the three organizations	2 3 4 5 6	ten-month period of January 1, 2015 through September 28, 2015, and the same period for 2016, is it accurate to say that sales declined? A. It is only accurate to say it
2 3 4 5 6 7	of 20 A. Yes, because we tend to prepare this report that you are looking at for a meeting of our management committee. Management committee is a joint committee of the three organizations and so whenever the management committee has	2 3 4 5 6 7	ten-month period of January 1, 2015 through September 28, 2015, and the same period for 2016, is it accurate to say that sales declined? A. It is only accurate to say it declined in comparing the same ten-month period
2 3 4 5 6 7 8	of 20 A. Yes, because we tend to prepare this report that you are looking at for a meeting of our management committee. Management committee is a joint committee of the three organizations and so whenever the management committee has its meetings typically twice a year, we will	2 3 4 5 6 7 8	ten-month period of January 1, 2015 through September 28, 2015, and the same period for 2016, is it accurate to say that sales declined? A. It is only accurate to say it declined in comparing the same ten-month period which could have the same distortion I
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2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. Yes, because we tend to prepare this report that you are looking at for a meeting of our management committee. Management committee is a joint committee of the three organizations and so whenever the management committee has its meetings typically twice a year, we will produce them, and since you asked us to produce anything we had, you'll see some unusual reports, like, we are going to have a meeting in November and so there will be the equivalent one in November and we had one in we had a phone call this past July. We probably have an equivalent one up through July just to kind of	2 3 4 5 6 7 8 9 10 11 12 13 14 15	ten-month period of January 1, 2015 through September 28, 2015, and the same period for 2016, is it accurate to say that sales declined? A. It is only accurate to say it declined in comparing the same ten-month period which could have the same distortion I previously spoke to. Q. And turning back, you had mentioned the print E-book bundle? A. Uh-huh. Q. Why would someone want both an E-book and a print copy? A. Well, I can tell you why I would
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. Yes, because we tend to prepare this report that you are looking at for a meeting of our management committee. Management committee is a joint committee of the three organizations and so whenever the management committee has its meetings typically twice a year, we will produce them, and since you asked us to produce anything we had, you'll see some unusual reports, like, we are going to have a meeting in November and so there will be the equivalent one in November and we had one in we had a phone call this past July. We probably have an equivalent one up through July just to kind of keep everybody updated. Q. Okay. If you could please turn to the next page, Page 20. So I think it's the one right there.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	ten-month period of January 1, 2015 through September 28, 2015, and the same period for 2016, is it accurate to say that sales declined? A. It is only accurate to say it declined in comparing the same ten-month period which could have the same distortion I previously spoke to. Q. And turning back, you had mentioned the print E-book bundle? A. Uh-huh. Q. Why would someone want both an E-book and a print copy? A. Well, I can tell you why I would want it and then we could you could deduce why others would want it. I suppose those of us trained and reared in the nonelectronic world, like to touch print, but yet most of us
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Yes, because we tend to prepare this report that you are looking at for a meeting of our management committee. Management committee is a joint committee of the three organizations and so whenever the management committee has its meetings typically twice a year, we will produce them, and since you asked us to produce anything we had, you'll see some unusual reports, like, we are going to have a meeting in November and so there will be the equivalent one in November and we had one in we had a phone call this past July. We probably have an equivalent one up through July just to kind of keep everybody updated. Q. Okay. If you could please turn to the next page, Page 20. So I think it's the one right there. A. Yes. This one.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	ten-month period of January 1, 2015 through September 28, 2015, and the same period for 2016, is it accurate to say that sales declined? A. It is only accurate to say it declined in comparing the same ten-month period which could have the same distortion I previously spoke to. Q. And turning back, you had mentioned the print E-book bundle? A. Uh-huh. Q. Why would someone want both an E-book and a print copy? A. Well, I can tell you why I would want it and then we could you could deduce why others would want it. I suppose those of us trained and reared in the nonelectronic world, like to touch print, but yet most of us are also technologically savvy as around this
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. Yes, because we tend to prepare this report that you are looking at for a meeting of our management committee. Management committee is a joint committee of the three organizations and so whenever the management committee has its meetings typically twice a year, we will produce them, and since you asked us to produce anything we had, you'll see some unusual reports, like, we are going to have a meeting in November and so there will be the equivalent one in November and we had one in we had a phone call this past July. We probably have an equivalent one up through July just to kind of keep everybody updated. Q. Okay. If you could please turn to the next page, Page 20. So I think it's the one right there.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	ten-month period of January 1, 2015 through September 28, 2015, and the same period for 2016, is it accurate to say that sales declined? A. It is only accurate to say it declined in comparing the same ten-month period which could have the same distortion I previously spoke to. Q. And turning back, you had mentioned the print E-book bundle? A. Uh-huh. Q. Why would someone want both an E-book and a print copy? A. Well, I can tell you why I would want it and then we could you could deduce why others would want it. I suppose those of us trained and reared in the nonelectronic world, like to touch print, but yet most of us are also technologically savvy as around this room so you might want for reading purposes the
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Yes, because we tend to prepare this report that you are looking at for a meeting of our management committee. Management committee is a joint committee of the three organizations and so whenever the management committee has its meetings typically twice a year, we will produce them, and since you asked us to produce anything we had, you'll see some unusual reports, like, we are going to have a meeting in November and so there will be the equivalent one in November and we had one in we had a phone call this past July. We probably have an equivalent one up through July just to kind of keep everybody updated. Q. Okay. If you could please turn to the next page, Page 20. So I think it's the one right there. A. Yes. This one.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	ten-month period of January 1, 2015 through September 28, 2015, and the same period for 2016, is it accurate to say that sales declined? A. It is only accurate to say it declined in comparing the same ten-month period which could have the same distortion I previously spoke to. Q. And turning back, you had mentioned the print E-book bundle? A. Uh-huh. Q. Why would someone want both an E-book and a print copy? A. Well, I can tell you why I would want it and then we could you could deduce why others would want it. I suppose those of us trained and reared in the nonelectronic world, like to touch print, but yet most of us are also technologically savvy as around this

1			
1	yourself of what you are doing, you might want	1	it, but that's what I'd recommend somebody do.
2	it for a lecture, like, I would bring an iPad	2	MS. TURNER: If the court reporter
3	into a lecture or seminar or discussion or	3	can please mark this as Exhibit 1308.
4	workshop, but when I am really planning what I	4	(Deposition Exhibit 1308 was marked
5	am going to say, I might want to be able to	5	for identification.)
6	have hard copy to line and take notes or, you	6	THE WITNESS: Meaning we do have
7	know, to do a deeper reading.	7	some distributor sales.
8	And I think that's an extrapolatable	8	BY MS. TURNER:
9	experience, though I can't speak for every user	9	Q. Do you recognize this document?
10	that if for a modest amount extra, you can get	10	A. Yes. And would this represent, if I
11	the print, I suppose 50 years from now, nobody	11	can ask, would this 8-14 be when you downloaded
12	will know what the word print means, but if you	12	this?
13	can have both, you know, for a modest amount,	13	Q. Correct, yes.
14	then you could have your cake and eat it.	14	A. Okay. Okay.
15	Q. Any other reasons?	15	Q. So what is this document then?
16	A. It's good enough that I can think	16	A. This is from AERA website and it is
17	of. And other forms of users similarly. I	17	the publications part of our portal, and this
18	suppose having one on their shelf if you if	18	is the the access to ordering the 2014
19	your briefing staff, let's say, you are	19	edition.
20	developing new tests and you run a test company	20	Q. Does this appear to be an accurate
21	or revising tests and you can project it on a	21	capture of the AERA website?
22	screen, but if you had a print edition, you	22	A. Yes.
	Page 54		Page 56
1	know, you could say, hey, look, look, look.	1	Q. Great. So you had spoken about
2	Similar. I'm not saying it's only used for,	2	ordering the 2014 standard.
3	you know, courses, lectures and workshops.	3	A. I suppose we could update our
4	It's for the deeper, I suppose the deeper	4	website and take the word "now" out, since it
5	reader and maybe more particularly for those of	5	has been available for a while. Got to get
6	us who have at least had more print experience.		8
	1 1	6	that staff to it.
7	Though there is some I think	6 7	_
7 8			that staff to it.
	Though there is some I think	7	that staff to it. Q. You had said that one way that
8	Though there is some I think there is some degree of research that you might	7 8	that staff to it. Q. You had said that one way that someone can order a copy of the 2014 standard
8 9	Though there is some I think there is some degree of research that you might find it even with your own e-mailing, you know,	7 8 9	that staff to it. Q. You had said that one way that someone can order a copy of the 2014 standard is through the online store, and would they
8 9 10	Though there is some I think there is some degree of research that you might find it even with your own e-mailing, you know, kind of out of sight, out of mind a bit, so	7 8 9 10	that staff to it. Q. You had said that one way that someone can order a copy of the 2014 standard is through the online store, and would they on this website, how would they go about doing
8 9 10 11	Though there is some I think there is some degree of research that you might find it even with your own e-mailing, you know, kind of out of sight, out of mind a bit, so that if you only have it electronically, you	7 8 9 10 11	that staff to it. Q. You had said that one way that someone can order a copy of the 2014 standard is through the online store, and would they on this website, how would they go about doing that?
8 9 10 11 12	Though there is some I think there is some degree of research that you might find it even with your own e-mailing, you know, kind of out of sight, out of mind a bit, so that if you only have it electronically, you might not recall things as easily as being able	7 8 9 10 11 12	that staff to it. Q. You had said that one way that someone can order a copy of the 2014 standard is through the online store, and would they on this website, how would they go about doing that? A. Well, there is a hypertext link
8 9 10 11 12 13	Though there is some I think there is some degree of research that you might find it even with your own e-mailing, you know, kind of out of sight, out of mind a bit, so that if you only have it electronically, you might not recall things as easily as being able to just pull it off a shelf and remind	7 8 9 10 11 12 13	that staff to it. Q. You had said that one way that someone can order a copy of the 2014 standard is through the online store, and would they on this website, how would they go about doing that? A. Well, there is a hypertext link well, including ordering the 1999 edition.
8 9 10 11 12 13 14	Though there is some I think there is some degree of research that you might find it even with your own e-mailing, you know, kind of out of sight, out of mind a bit, so that if you only have it electronically, you might not recall things as easily as being able to just pull it off a shelf and remind yourself, get up to speed quickly, even for	7 8 9 10 11 12 13 14	that staff to it. Q. You had said that one way that someone can order a copy of the 2014 standard is through the online store, and would they on this website, how would they go about doing that? A. Well, there is a hypertext link well, including ordering the 1999 edition. Read more. I would have to scroll down and
8 9 10 11 12 13 14 15	Though there is some I think there is some degree of research that you might find it even with your own e-mailing, you know, kind of out of sight, out of mind a bit, so that if you only have it electronically, you might not recall things as easily as being able to just pull it off a shelf and remind yourself, get up to speed quickly, even for those who read electronically.	7 8 9 10 11 12 13 14 15	that staff to it. Q. You had said that one way that someone can order a copy of the 2014 standard is through the online store, and would they on this website, how would they go about doing that? A. Well, there is a hypertext link well, including ordering the 1999 edition. Read more. I would have to scroll down and remind myself since I don't order it but there
8 9 10 11 12 13 14 15 16	Though there is some I think there is some degree of research that you might find it even with your own e-mailing, you know, kind of out of sight, out of mind a bit, so that if you only have it electronically, you might not recall things as easily as being able to just pull it off a shelf and remind yourself, get up to speed quickly, even for those who read electronically. Q. So for someone to purchase the 2014	7 8 9 10 11 12 13 14 15 16	that staff to it. Q. You had said that one way that someone can order a copy of the 2014 standard is through the online store, and would they on this website, how would they go about doing that? A. Well, there is a hypertext link well, including ordering the 1999 edition. Read more. I would have to scroll down and remind myself since I don't order it but there is a hypertext link to the online book store.
8 9 10 11 12 13 14 15 16 17	Though there is some I think there is some degree of research that you might find it even with your own e-mailing, you know, kind of out of sight, out of mind a bit, so that if you only have it electronically, you might not recall things as easily as being able to just pull it off a shelf and remind yourself, get up to speed quickly, even for those who read electronically. Q. So for someone to purchase the 2014 standard, how do they go about doing that?	7 8 9 10 11 12 13 14 15 16 17	that staff to it. Q. You had said that one way that someone can order a copy of the 2014 standard is through the online store, and would they on this website, how would they go about doing that? A. Well, there is a hypertext link well, including ordering the 1999 edition. Read more. I would have to scroll down and remind myself since I don't order it but there is a hypertext link to the online book store. Q. I can represent, I think it's at the
8 9 10 11 12 13 14 15 16 17 18	Though there is some I think there is some degree of research that you might find it even with your own e-mailing, you know, kind of out of sight, out of mind a bit, so that if you only have it electronically, you might not recall things as easily as being able to just pull it off a shelf and remind yourself, get up to speed quickly, even for those who read electronically. Q. So for someone to purchase the 2014 standard, how do they go about doing that? A. They can do it in a range of ways.	7 8 9 10 11 12 13 14 15 16 17 18	that staff to it. Q. You had said that one way that someone can order a copy of the 2014 standard is through the online store, and would they on this website, how would they go about doing that? A. Well, there is a hypertext link well, including ordering the 1999 edition. Read more. I would have to scroll down and remind myself since I don't order it but there is a hypertext link to the online book store. Q. I can represent, I think it's at the top, right above the
8 9 10 11 12 13 14 15 16 17 18 19	Though there is some I think there is some degree of research that you might find it even with your own e-mailing, you know, kind of out of sight, out of mind a bit, so that if you only have it electronically, you might not recall things as easily as being able to just pull it off a shelf and remind yourself, get up to speed quickly, even for those who read electronically. Q. So for someone to purchase the 2014 standard, how do they go about doing that? A. They can do it in a range of ways. The most immediate, I suppose, would be through	7 8 9 10 11 12 13 14 15 16 17 18	that staff to it. Q. You had said that one way that someone can order a copy of the 2014 standard is through the online store, and would they on this website, how would they go about doing that? A. Well, there is a hypertext link well, including ordering the 1999 edition. Read more. I would have to scroll down and remind myself since I don't order it but there is a hypertext link to the online book store. Q. I can represent, I think it's at the top, right above the A. You are right. Order now. Right.
8 9 10 11 12 13 14 15 16 17 18 19 20	Though there is some I think there is some degree of research that you might find it even with your own e-mailing, you know, kind of out of sight, out of mind a bit, so that if you only have it electronically, you might not recall things as easily as being able to just pull it off a shelf and remind yourself, get up to speed quickly, even for those who read electronically. Q. So for someone to purchase the 2014 standard, how do they go about doing that? A. They can do it in a range of ways. The most immediate, I suppose, would be through the AERA website because we are the publisher.	7 8 9 10 11 12 13 14 15 16 17 18 19 20	that staff to it. Q. You had said that one way that someone can order a copy of the 2014 standard is through the online store, and would they on this website, how would they go about doing that? A. Well, there is a hypertext link well, including ordering the 1999 edition. Read more. I would have to scroll down and remind myself since I don't order it but there is a hypertext link to the online book store. Q. I can represent, I think it's at the top, right above the A. You are right. Order now. Right. Q. Great. So do you offer electronic

1	A. I believe there is yes, I believe	1	MR. ELGARTEN: I think this is
2	there is a hypertext link to the provider who	2	actually beyond the scope of your deposition
3	whose platform doesn't sit on our own	3	notice, but I am not trying to overly restrict
4	platform. It needs a particular kind of	4	you but just keep that in mind.
5	platform and protection of the PDF in such a	5	MR. BECKER: We just want to
6	way that it is only purchasable.	6	MR. ELGARTEN: I am trying not to
7	Q. So is it accurate to say that to	7	I am just noting that I believe it is, but you
8	order online a copy of the an electronic	8	want to ask a few questions, that's fine. I
9	copy of the 2014 standard, it's done through	9	just don't want to spend a lot of time.
10	some kind of third-party platform?	10	MR. BECKER: We are not. We are
11	A. Correct. I am blocking on the name	11	just considering it on your sales, but just
12	of the company we use. I should have refreshed	12	want to make sure that the method of sales is
13	my memory, but it's a platform that both does	13	updated to the present.
14	its own publishing, it's own E-publishing, it's	14	MR. ELGARTEN: Okay.
15	storage and works for any number of publishers.	15	MS. TURNER: Thank you.
16	Q. Thank you. If someone wanted to go	16	MR. ELGARTEN: That's fair, or I
17	about purchasing a copy of the 1999 standard,	17	think it's fair for the moment.
18	how would they do that?	18	MS. TURNER: The questioning will
19	A. Right here. I think it's that	19	not be long.
20	hypertext link to order previous edition of the	20	BY MS. TURNER:
21	standard. It's in the store.	21	Q. Dr. Levine, do you recognize this
22	Q. Can someone order it online?	22	document?
	Page 58		Page 60
1	A. Yes.	1	A. Yes.
2	Q. Okay. So	2	Q. What is it?
3	A. I believe.	3	A. This is the the website specimen
4	Q. So if I could	4	information on the 1999 edition informing
5	A. Yeah.	5	potential users that there is also a 2014
6	Q. If I could turn your attention to	6	edition.
7	order to order a previous edition of the	7	Q. Does this appear to be an accurate
8	standard, 1999, there's a hypertext link, and	8	capture of the AERA website?
9	it says: "Please use the mail fax order form	9	A. Yes.
10	available on the left-hand side of the page	10	Q. And can you purchase if you are
11	under the books tab."	11	looking on this website, can you purchase the
12	A. Then I may be wrong. Good reading.	12	1999 standards in the online store for AERA?
13	Q. Thank you. What I went to law	13	A. Well, you've just updated me on the
14	school for.	14	fact that it looks like we did not include
15	A. Sure. I almost went.	15	that, I suppose as can happen with prior
16	MS. TURNER: If you could please	16	editions of works, that it looks like a mail
17	mark this as Exhibit 1309.	17	and fax order.
18	(Deposition Exhibit 1309 was marked	18	Q. Can a person e-mail the form to AERA
19	for identification.)	19	to purchase the 1999 standard?
20	THE WITNESS: I hope you don't think		A. E-mail it with an attachment?
21	AERA is old style. I don't even have a fax	21	Q. Correct.
	•	22	
22	machine.	22	A. Sure.

1	Q. Do you know how to do that from	1	look on our website, many publishers are eager
2	here?	2	to sell the print edition and then delay E-book
3	A. Let's see. From this particular	3	editions, so we are trying to reach everyone in
4	page, from this particular page, no, but there	4	the modality that they work in and which
5	is any number of pages that have a pubs e-mail	5	includes with some of our major volumes being
6	and or in this case, one could, I suppose,	6	able to purchase pieces.
7	call and learn how they could e-mail the the	7	Q. Any plans to make it available in an
8	form completed without faxing it.	8	electronic format?
9	Q. Okay. Are you certain that you can	9	A. Which?
10	e-mail the form to order a copy of the 1999	10	Q. The 1999 standard.
11	standard?	11	A. It hasn't come up, I suppose. I
12	A. Am I certain? I am certain that we	12	mean, it hasn't come up with any of our
13	would take a sale for anything any way it came,	13	classics, and I think it is not likely, and we
14	we are pretty small. You might think of old	14	have many other classics that were Complete
15	AERA, 25,000 members, an annual meeting of 15	15	Research on Teaching, something that is a major
16	or 16,000, but our staff is under 30 people,	16	classic methodology book called Methods, and we
17	you know, so anything that comes in, we are	17	have 2005 editions and we are not even thinking
18	really pretty user friendly. If somebody	18	that there would be enough of an interest in
19	answers the phone, it won't be me, but it even	19	getting old pieces that way. People can buy
20	could be me and everybody helps everybody out,	20	it, you know, or use it from the university
21	so if anybody calls and wants to get something	21	libraries.
22	done, they'll get to somebody on the	22	MS. TURNER: If the court reporter
	Page 62		Page 64
1	publication staff or they'll get to our	1	can please mark this as Exhibit 1310.
2	customer service or a membership director, if	2	(Deposition Exhibit 1310 was marked
3	not, a publications director and somebody will	3	for identification.)
4	say might even say fax it to me and I'll get	4	MR. ELGARTEN: Same question. We
5	it done.	5	are wandering from your list of subjects.
6	Q. Are there any instances that you	6	MS. TURNER: Almost done. Just a
7	know of where someone had e-mailed an order	7	few more questions.
8	form for the 1999 standard?	8	THE WITNESS: As long as you fill
9	A. Any instances where they e-mailed	9	out one of each, I'm okay, when you are done
10	it?	10	really. I think your law firm should have one
11	Q. Correct.	11	of each of these.
12	A. Not without my checking with our	12	BY MS. TURNER:
13	publications director or membership, customer	13	Q. Do you recognize this document?
14	service person.	14	A. Definitely. I mean more or less.
15	Q. Is the 1999 standard available in an	15	Q. And what is this document?
16			A T1::::
	E-book format?	16	A. This is an order form for
17	A. No.	16 17	depending upon when you downloaded it, for our
18	A. No.Q. Is it available in any electronic		
18 19	A. No.Q. Is it available in any electronic format?	17	depending upon when you downloaded it, for our various books, AERA's books that are available. Q. Okay.
18 19 20	A. No.Q. Is it available in any electronic format?A. No. We think of ourselves as quite	17 18 19 20	depending upon when you downloaded it, for our various books, AERA's books that are available. Q. Okay. A. Do you know when you downloaded
18 19 20 21	A. No.Q. Is it available in any electronic format?A. No. We think of ourselves as quite a progressive, however, publisher, insofar as	17 18 19 20 21	depending upon when you downloaded it, for our various books, AERA's books that are available. Q. Okay. A. Do you know when you downloaded this?
18 19 20	A. No.Q. Is it available in any electronic format?A. No. We think of ourselves as quite	17 18 19 20	depending upon when you downloaded it, for our various books, AERA's books that are available. Q. Okay. A. Do you know when you downloaded

1	that would be August 14.	1	Q. And what is it?
2	A. Okay. So then it is current.	2	A. That's the I suppose, of course,
3	Q. Can someone order the 1999 edition	3	having seen the other two, it looks like it's
4	through this order form?	4	the 1999 edition without that 1999 sales
5	MR. ELGARTEN: Want to call her	5	estimate.
6	attention to this?	6	Q. And if you could turn back, please,
7	BY MS. TURNER:	7	to what was marked as Exhibit 1306.
8	Q. Sure. Yes. If you look down where	8	A. Yes.
9	it says: "Standard for educational and	9	Q. Is this the same document?
10	psychological testing," it is the sixth gray	10	MR. ELGARTEN: As I said, I produced
11	bar and at the bottom of that, it says: "1999	11	this document, the additional document I
12	edition."	12	believe it's the same document.
13	So if someone wanted to order the	13	THE WITNESS: Well, I'm assuming.
14	1999 edition, would they put in the quantity?	14	BY MS. TURNER:
15	A. Yes.	15	Q. So is the answer yes then?
16	Q. The note?	16	A. Yes.
17	A. Yes. Uh-huh.	17	Q. Okay.
18	Q. Can you PDF this order form and then	18	MS. TURNER: Why don't we take a
19	send it via e-mail?	19	quick break.
20	A. There it is. The answer to your	20	MR. ELGARTEN: Okay. Are we almost
21	question. Members@AERA.net on the other side.	21	done?
22	Q. Perfect.	22	MS. TURNER: We are.
	Page 66		Page 68
1	A. No heads will roll this afternoon.	1	THE VIDEOGRAPHER: We are going off
2	And just so you know, our that	2	the record. This is the end of Media Unit No.
3	e-mail is customer service and membership.	3	1. The time is 11:04.
4	It's not membership questions. It's just it	4	(A short recess was taken.)
5	is we see our membership team as customer	5	THE VIDEOGRAPHER: We are going bac
6	service.	6	on the record. This is the start of Media Unit
7	Q. So if someone e-mailed that with the	7	No. 2. The time is 11:26.
8	order form, would they be able to place an	8	MS. TURNER: Thank you.
9	order through that e-mail address?	9	BY MS. TURNER:
10	A. Absolutely, yeah. That's where you	10	Q. Dr. Levine, if you could please turn
11	put the PDF. We don't the order for film,	11	back to what has been marked as Exhibit 1307.
12	it comes through customer service, the label on	12	A. Yes.
13	the e-mail is membership, but it's really	13	Q. And if you could please turn to the
14	membership customer service department or team.	14	bottom of the page, No. 7.
15	Q. Okay. I'm going to hand you a	15	A. Yes.
16	document that was previously marked 1208,	16	Q. And you testified earlier that the
17	Exhibit 1208.	17	publication income entry under profit and loss
18	I'll represent this was previously	18	is for sales of the 1999 standard?
19	marked in your prior deposition in this matter.	19	A. Yes, publication income.
20	A. Uh-huh.	20	Q. And can you let us know if that is
21	Q. Do you recognize this document?	21	net of expenses or is that a gross number?
22	A. Yes.	22	A. I think that's a in that context,
144			11. I think that 5 a in that content,

1	I'm going to say it's the gross number.	1	1, 1, , 1	
2	Q. Okay. If you could please turn to	1	reupdated, to take account of new things that	
		2	didn't exist, so in 1985, for example, there	
3	Page No. 25 at the bottom.	3	was no real use of technology in the way that	
4	A. Yeah, well, I'm doing it. 25 are	4	there is in 2018. So this, you know, modest	
5	you saying?	5	increase is probably some number of courses and	
6	Q. Yes, please.	6	perhaps brought a worldwide distribution.	
7	A. Of the same document?	7	Q. And to clarify, these are for	
8	Q. Of the same document.	8	sales of the 2014 standard?	
9	A. Okay. Got it. Okay.	9	A. Correct.	
10	Q. Great. And the top chart here, can	10	Q. And the chart directly below that?	
11	you tell us what this is?	11	A. Uh-huh.	
12	A. Okay. So this is total sales by	12	Q. What does this chart represent?	
13	year.	13	A. This is total quantities sold	
14	Q. Okay.	14	through April 30 each year, so building upon my	
15	A. For 2014 to 2018.	15	prior point about September 28, this document	
16	Q. Okay. If I could turn your	16	was created before we had a mini the	
17	attention to 2018.	17	management committee had a mini-meeting in May,	
18	A. Uh-huh.	18	so it was April 30, so they could get a	
19	Q. Is it accurate to say that sales in	19	snapshot before their meeting which was	
20	2018 were higher than in 2017?	20	mid-May, so it is April 30, so then it compares	
21	A. Correct.	21	year-to-date, you know, as you'll see in	
22	Q. And why is that?	22	financial statements year-to-date and	
	Page 70		Page 72	
1	A. Why did it happen?	1	comparable period, so the we were very	
2	Q. Yes, if you know.	2	pleased with the fact that the 2019, you know,	
3	A. More purchases. Sorry. It seemed	3	performance suggests, you know, this the	
4	self-evident. Why it happened. I suppose	4	work is is considered, you know,	
5	really links to my prior point. You know, you	5	increasingly is increasingly penetrating new	
6	can't you couldn't really necessarily	6	users.	
7	abstract extrapolate from September 28th	7	Q. And to clarify, this is also for	
8	that even though with certain forms of	8	sales of the 2014 standard?	
9	quote-unquote publications in the world of	9	A. All, correct, yeah.	
10	publications, one might think of them as having	10	Q. And this chart shows through 2015	
11	a limited shelf life.	11	through 2019, the total sales just for January	
12	This publication is a publication	12	through April 30	
13	about guidance and wisdom and best practices in	13	A. Correct.	
14	the field, and as that is more wide of more	14	Q of each year?	
		15	A. Correct. It's sort of like a	
1.15	of wider interest, it unlike even an			
15		14		
16	academic publications, that might be superseded	16		
16 17	academic publications, that might be superseded by well, here, it might be superseded by a	17	when it might be audited, which you have no	
16 17 18	academic publications, that might be superseded by well, here, it might be superseded by a new edition, but superseded by next, you know,	17 18	when it might be audited, which you have no control over, it still gives sort of a	
16 17 18 19	academic publications, that might be superseded by well, here, it might be superseded by a new edition, but superseded by next, you know, next stages of a research program, that a work	17 18 19	when it might be audited, which you have no control over, it still gives sort of a comparable snapshot.	
16 17 18 19 20	academic publications, that might be superseded by well, here, it might be superseded by a new edition, but superseded by next, you know, next stages of a research program, that a work that has value can have expanded in during use.	17 18 19 20	when it might be audited, which you have no control over, it still gives sort of a comparable snapshot. Q. And is there any reason you spoke	
16 17 18 19	academic publications, that might be superseded by well, here, it might be superseded by a new edition, but superseded by next, you know, next stages of a research program, that a work	17 18 19	when it might be audited, which you have no control over, it still gives sort of a comparable snapshot.	

2 A. Without looking at who purchased, I might extrapolate that it was used in more courses or maybe more workshops, which could be a university or college sale anticipating a course, maybe even a summer course or courses. The 2015 high is reflecting the fact that this is really the first six months of publication or the availability of the standards, so there was a lot of pent up interest.	1	uptick in sales during that same time period?	1	total number of the total sales, it says:
might extrapolate that it was used in more courses or maybe more workshops, which could be a university or college sale anticipating a course, maybe even a summer courses or courses. The 2015 high is reflecting the fixet that this is really the first six months of publication or the availability of the standards, so there was a lot of pent up the standards, so there were just looking at, Page 25. A. Yep. MR. ELGARTEN: Oot the numbers and the standard was pure was pure was point to a lot was point to say that. Total sales, 4236. By MS. TURNER: There is a slight discrepancy so we just want to clear it up. MR. ELGARTEN: Ookay. THE WITNESS: I was going to say somebody on staff can't add a column. I don't want to say that. Total sales, 4236. By MS. TURNER: There is a stallight discrepancy so we just want to clear it up. MR. ELGARTEN: Ookay. THE WITNESS: I was going to say somebody on staff can't add a column. I don't want to say that. Total sales, 4236. By MS. TURNER: The roll sales, 4236. By MS. TURNER: There is a slight discrepancy				
4 courses or maybe more workshops, which could be a university or college sale anticipating a course, maybe even a summer course or courses. The 2015 high is reflecting the fact that this is really the first six months of standards, so there was a lot of pent up standards, so there was a lot of pent up interest. 2 Q. If you could please turn to Page 2 12 MR. ELGARTEN: Do the numbers match? MR. ELGARTEN: Do the numbers match? MR. ELGARTEN: Okay. 13 of the same document. 14 A. Uh-huh. 15 Q. If should look like this. 16 A. Yes. 17 Q. If should look like this. 18 A. Good. Because this one is not made 19 for my eyes. Okay. 20 Q. Can you tell me what this chart is? 21 A. This is new edition wow, this is ayou have to be quaintly interested in 20 copies sold by member group and nonmembers. 22 a You see the so, for example, work of siculy buying for courses but more 16 likely university book stores or agents, in 2014 the nine? 10 Q. Yes. So let me try to rephrase it 1 just to make sure I have it. 11 Just to make sure I have it. 12 Q. And diriestly below, there is a two under NCME members looght I suppose to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top, if you go to the number of copies at the top,				· ·
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The 2015 high is reflecting the fact 8 that this is really the first six months of 9 publication or the availability of the 9 standards, so there was a lot of pent up 10 MS. TURNER: There is a slight discrepancy so we just want to clear it up. 11 discrepancy so we just want to clear it up. 12 Q. If you could please turn to Page 2 12 MR. ELGARTEN: Okay. 13 THE WITNESS: I was going to say somebody on staff can't add a column. I don't want to say that. Total sales, 4236. 15 MB MS. TURNER: There is a slight discrepancy so we just want to clear it up. 16 MS. TURNESS: I was going to say somebody on staff can't add a column. I don't want to say that. Total sales, 4236. 16 MB MS. TURNER: 17 Q. If should look like this. 15 Want to say that. Total sales, 4236. 17 Q. Right. So if you see in the column of 2014, it says: "Total sales 4,236," and on 17 Q. Right. So if you see in the column of 2014, it says: "Total sales 4,236," and on 18 Q. Can you tell me what this chart is? 20 Any reason for that discrepancy? 21 A. This is new edition and the number of 21 A. It's human error, really, I suppose one was an effort to do a transfer from an 18 Q. You see the so, for example, 18 Q. Yes. 2014, there were, just as an illustration, six 19 purchases of 15 copies. Does that help? 19 Q. Yes. So let me try to rephrase it 19 just to make sure I have it. 10 Q. And directly below, there is a two 19 purchases of 15 copies at the top, if you go to 19 the number of copies at the top, if you go to 19 A. Correct. 19 A. Correct. 19 A. Correct. 20 Q. And this is for the 2014 standard? 20 Q. Thank you. And if we go over to the 22 Ebeause we were just starting. 23 Ebeause we were just starting. 24 D. Yes. At that point, we didn't have 25 Ebeause we were just starting. 25 Ebeaus				
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9 publication or the availability of the 10 standards, so there was a lot of pent up 11 interest. 12 Q. If you could please turn to Page 2 13 of the same document. 14 A. Uh-huh. 15 Q. It should look like this. 16 A. Yes. Yes. 17 Q. I think the other side. 18 A. Good. Because this one is not made 19 for my eyes. Okay. 20 Q. Can you tell me what this chart is? 21 A. This is new edition — wow, this is 22 a — you have to be quaintly interested in 22 a — you have to be quaintly interested in 23 You see the — so, for example, 24 NCME, two NCME members bought I suppose nine 25 copies, so nonmember sales which might be book 26 stores or faculty buying for courses but more 27 likely university book stores or agents, in 28 2014, there were, just as an illustration, six 29 purchases of 15 copies. Does that help? 20 Q. Yes. So let me try to rephrase it 21 Just to make sure I have it. 22 So, for example, in the column with 23 the number of copies at the top, if you go to the number of page 25 the 29 A. Correct. 20 Q. And this is for the 2014 standard? 20 Like A. When the work is a standard? 21 Lec's see. 25. That's the higher? 22 La Yes. 2014 standard? 23 Let's see. 25. That's the higher? 24 Let's see. 25. That's the higher? 25 Lecause we were just starting.			8	
10 standards, so there was a lot of pent up 11 interest. 12 Q. If you could please turn to Page 2 13 of the same document. 14 A. Uh-huh. 15 Q. It should look like this. 16 A. Yes. Yes. 16 BY MS. TURNER: There is a slight 17 Q. It should look like this. 18 A. Good. Because this one is not made 19 for my eyes. Okay. 20 Q. Can you tell me what this chart is? 21 A. This is new edition — wow, this is 22 a — you have to be quaintly interested in 22 a — you have to be quaintly interested in 25 copies sold by member group and nomembers. 26 copies, so nonmember sales which might be book 27 stores or faculty buying for courses but more 28 likely university book stores or agents, in 29 purchases of 15 copies. Does that help? 20 Q. Yes. So let me try to rephrase it 21 pust to make sure I have it. 22 So, for example, that means that two NCME members bought rime copies each? 28 members bought nime copies each? 29 Q. And this is for the 2014 standard? 20 Q. Can was an effort to do a transfer from an page 74 21 Distribution of the number of copies. The other one was a higher number, right? 22 in my view as a scientist, it should have been in my view a		•		-
11 discrepancy so we just want to clear it up. Q. If you could please turn to Page 2 13 of the same document. 14 A. Uh-huh. 15 Q. It should look like this. 16 A. Yes. Yes. 17 Q. I think the other side. 18 A. Good. Because this one is not made 19 for my eyes. Okay. 20 Q. Can you tell me what this chart is? 21 A. This is new edition — wow, this is 22 a — you have to be quaintly interested in 22 a — you have to be quaintly interested in 23 You see the — so, for example, 4 NCME, two NCME members bought I suppose nine 25 copies, so nonmember sales which might be book 26 stores or faculty buying for courses but more 27 likely university book stores or agents, in 28 20 Q. Yes. So let me try to rephrase it 29 purchases of 15 copies. Does that help? 20 Q. Yes. So, for example, in the column with 21 the number of copies at the top, if you go to 22 the number of copies at the top, if you go to 33 the distribution of the number of so, for example, in the column with 34 the number of copies at the top, if you go to 35 the number of copies at the top, if you go to 36 the same document. 37 If was missing data, but it should have been recorded as missing data, but it wasn't. So 38 just unknown. 39 purchases of 15 copies. Does that help? 40 Q. Yes. So, for example, in the column with 41 the number of copies at the top, if you go to 42 the number of copies at the top, if you go to 43 the number of copies at the top, if you go to 44 the number of copies at the top, if you go to 45 the number of copies at the top, if you go to 46 the nine? 47 Unknown purchases as to the 47 under NCME member, that means that two NCME 48 members bought nine copies each? 49 A. Correct. 40 Q. And directly below, there is a two 40 Under NCME member, that means that two NCME 41 the number of variety and the number of copies at the top, if you go to 41 the number of variety and variety and variety an			10	
12 Q. If you could please turn to Page 2 13 of the same document. 14 A. Uh-huh. 15 Q. It should look like this. 16 A. Yes. Yes. 17 Q. I think the other side. 18 A. Good. Because this one is not made 19 for my eyes. Okay. 20 Q. Can you tell me what this chart is? 21 A. This is new edition — wow, this is 22 a — you have to be quaintly interested in 22 a — you have to be quaintly interested in 23 You see the — so, for example, 24 NCME, two NCME members bought I suppose nine 25 copies, so nonmember sales which might be book 26 stores or faculty buying for courses but more 27 likely university book stores or agents, in 28 20 Q. Yes. So let me try to rephrase it 29 just to make sure I have it. 20 Q. Yes. So let me try to rephrase it 21 just to make sure I have it. 22 (a. It huh.h. 23 (b. Huh.h.) 24 (b. Huh.h.) 25 (c. It is human error, really, I suppose one was an effort to do a transfer from an Page 76 26 (c. It is human error, really, I suppose one was an effort to make a higher number, right? 27 (c. It is human error, really, I suppose one was an effort to do a transfer from an Page 76 26 (c. It is human error, really, I suppose one was an effort to do a transfer from an Page 76 27 (c. It is human error, really, I suppose one was an effort to do a transfer from an Page 76 28 (c. It is human error, really, I suppose one was an effort to do a transfer from an Page 76 29 (c. It is human error. 20 (c. It is human error, really, I suppose one was an effort to do a transfer from an Page 76 29 (c. It is human error, really, I suppose one was an effort to do a transfer from an Page 76 20 (c. It is human error, really, I suppose one was an effort to do a transfer from an Page 76 21 (a. It is human error, really, I suppose one was an effort to do a transfer from an Page 76 20 (c. It is human error, really, I suppose one was an effort to do a transfer from an Page 76 21 (a. It is human error, really, I suppose one was an effort to do a transfer from an reade from an error. 22 (c. It is human error, the other one was a higher			11	_
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14 A. Uh-huh. 15 Q. It should look like this. 16 A. Yes. Yes. 16 A. Yes. Yes. 16 BY MS. TURNER: 17 Q. I think the other side. 18 A. Good. Because this one is not made 19 for my eyes. Okay. 20 Q. Can you tell me what this chart is? 21 A. This is new edition wow, this is 22 a you have to be quaintly interested in 22 a you have to be quaintly interested in 23 You see the so, for example, 24 NCME, two NCME members bought I suppose nine 25 copies, so nonmember sales which might be book 26 stores or faculty buying for courses but more 27 likely university book stores or agents, in 28 2014, there were, just as an illustration, six 29 purchases of 15 copies. Does that help? 20 Q. Yes. So let me try to rephrase it 21 just to make sure I have it. 22 So, for example, in the column with 23 the number of copies at the top, if you go to 24 the nine? 25 Q. And this is for the 2014 standard? 26 Q. Thank you. And if we go over to the 27 Likely and this is for the 2014 standard? 28 A. Good. Because this one is not made 29 procedulate in page 74 29 A. Good. Because this one is not made 29 procedulate in page 74 20 A. Grorect. 21 A. Total sales, 4236. BY MS. TURNER: 21 Q. Right. So if you sey in the column of 2012 (14; it says: "Total sales 4,236," and on 29 Page 2, it says: 4,227." 20 Any reason for that discrepancy? 21 A. It's human error, really, I suppose one was an effort to do a transfer from an Page 76 22 copies an effort to do a transfer from an Page 76 24 Q. Yes. 25 A. So I am assuming something wasn't recorded. It might not have been human error. 26 I was missing data, but it should have been recorded as missing data, but it wasn't. So just unknown. 27 It was missing data, but it wasn't. So just unknown. 28 I may: 4,227." 29 Q. Yes. 30 I am assuming something wasn't recorded. It might not have been human error. 31 It was missing data, but it wasn't. So just unknown. 32 I may yiew as a scientist, it should have been recorded as missing data, but it wasn't. So just unknown. 33 I was missing data, but it wasn't	13		13	
15 Q. It should look like this. 16 A. Yes. Yes. Q. I think the other side. 17 Q. Right. So if you see in the column 18 A. Good. Because this one is not made 19 for my eyes. Okay. 20 Q. Can you tell me what this chart is? 21 A. This is new edition — wow, this is 22 a — you have to be quaintly interested in 22 a — you have to be quaintly interested in 23 You see the — so, for example, 4 NCME, two NCME members bought I suppose nine 5 copies, so nonmember sales which might be book 6 stores or faculty buying for courses but more 1 likely university book stores or agents, in 2 2014, there were, just as an illustration, six 2 purchases of 15 copies. Does that help? 2 Q. Yes. So let me try to rephrase it 3 just to make sure I have it. 2 So, for example, in the column with 4 the nime? 4 N. Uh-huh. 5 Q. And directly below, there is a two 10 Q. And this is for the 2014 standard? 21 A. Yes. 2014 standards in 2014. 22 Q. Thank you. And if we go over to the 2 By MS. TURNER: 2 Q. Right. So if you see in the column 18 of 2014, it says: "Total sales 4,236," and on 19 Page 2, it says: 4,227." 20 Any reason for that discrepancy? 21 A. It's human error, really, I suppose one was an effort to do a transfer from an Page 74 1 data, but this is new edition and the number of 2 copies sold by member group and nonmembers. 21 A. It's human error, really, I suppose one was an effort to do a transfer from an Page 74 1 Excel spreadsheet or something of the number of 2 copies. The other one was a higher number, 3 right? 4 Q. Yes. 4 Q. Yes. 4 Q. Yes. 5 A. So I am assuming something wasn't 6 recorded. It might not have been human error. 1 It was missing data, but it should have been 2 in my view as a scientist, it should have been 3 in my view as a scientist, it should have been 4 under Nome member, that means that two Nome 4 the dominant mode of — of us also, you know, 5 being interested in volume sales because that 6 members bought nine copies each? 7 A. Correct. 9 A. Correct. 9 A. Seo Is the number on Page 25, the 4 236 number, is that t	14	A. Uh-huh.	14	
17 Q. I think the other side. 18 A. Good. Because this one is not made 19 for my eyes. Okay. 20 Q. Can you tell me what this chart is? 21 A. This is new edition wow, this is 22 a you have to be quaintly interested in 22 a you have to be quaintly interested in 23 You see the so, for example, 4 NCME, two NCME members bought I suppose nine 5 copies, so nonmember sales which might be book 6 stores or faculty buying for courses but more 7 likely university book stores or agents, in 8 2014, there were, just as an illustration, six 9 purchases of 15 copies. Does that help? 10 Q. Yes. So let me try to rephrase it 11 just to make sure I have it. 12 So, for example, in the column with 13 the number of copies at the top, if you go to 14 the nine? 15 A. Uh-huh. 16 Q. And directly below, there is a two 17 under NCME member, that means that two NCME 18 members bought nine copies each? 19 A. Correct. 20 P. Thank you. And if we go over to the 21 D. Thank you. And if we go over to the 22 D. Thank you. And if we go over to the 24 D. Thank you. And if we go over to the 25 O. Can you tall me what this cont made of 2014, it says: "Total sales 4,236," and on Page 2, it says: 4,227." Any reason for that discrepancy? A. It's human error, really, I suppose one was an effort to do a transfer from an Page 2, it says: 4,227." Any reason for that discrepancy? A. It's human error, really, I suppose one was an effort to do a transfer from an Page 2, it says: 4,227." A. It's human error, really, I suppose one was an effort to do a transfer from an Page 2, it says: 4,227." A. It's human error, really, I suppose one was an effort to do a transfer from an Page 76 A. It's human error, really, I suppose one was an effort to do a transfer from an Page 76 A. So I am assuming something wasn't recorded. It might not have been human error. It was missing data, but it should have been recorded as missing data, but it should have been recorded as missing data, but it wasn't. So just unknown. 10 Unknown purchases as to the quantity, p	15	Q. It should look like this.	15	•
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22 Q. Thank you. And if we go over to the 22 E because we were just starting.				
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1	Q. So if you could please turn to Page	1	cut off for printing purposes.
2	3 of the same document.	2	A. Correct. Definitely.
3	And what's on this page of the	3	Q. Okay. Can you tell me what this
4	document?	4	document is or these pages represent?
5	A. Well, the what is the whole	5	A. These are at the most microlevel
6	document about? Is that what you want to know?	6	number of sales, it looks like somehow we did
7	Q. This particular page, yes.	7	intervals of five and then above 65, I suppose
8	A. Yeah. So it's so it's an effort	8	they are the literal numbers that someone put
9	to depict or report on net sales by number of	9	in, I mean that we were reporting. That's the
10	copies aggregating the copies less than ten and	10	way we counted, so it's the exact count so you
11	including the nonmembers, so that of the 2,356	11	can see it's it really isn't in intervals of
12	nonmember sales, less than a third probably	12	five. It's under 10. It's 10, 11, 12, so it's
13	somewhere in the neighborhood of 28 percent	13	the literal count and it jumps from 30 to 35 to
14	were individual, and you could see that if I	14	40, 47, 50, so it's the literal purchases.
15	am not I don't know that the 934 were all	15	With some of these categories, there
16	individual but once you get above ten, you are	16	appears to be more than one of those, but
17	talking about, you know, persons, merchants or	17	and then the revenue that it generated and then
18	book dealers or book stores.	18	when you see that discount is for that which
19	Q. And to clarify, this is for sales of	19	we saw on another sheet, it's the volume sales
20	the 2014 standards?	20	discount for above ten.
21	A. 2014, that first year, which is the	21	Q. To clarify, this is for the 2014
22	first six months and I hope those numbers tie.	22	A. 2014.
	Page 78		Page 80
1	The financial I have no doubt tie. And this	1	Q standard?
2	Sheridan Books I believe is our platform for	2	A. Correct.
3	the E-book. That wasn't reflecting E-book.	3	Q. 2014 standard
4	That was reflecting them serving as the	4	A. Yes.
5	printer. I think they were also the platform.	5	Q in the year 2014.
6	Q. When you say, "serving as the	6	A. Correct.
7	printer," is that for the physical copy?	7	Q. Okay.
8	A. Yeah, literal printer. We don't	8	A. And you didn't receive other copies
9	print in-house. So we printed 5,400 AERA	9	of this because we were really obsessing on
10	printed 5,436-ish, I suppose it was probably a	10	what was happening, you know, we wanted to know
11	run of 5500 initially and then needed to go	11	kind of what was happening as we were
12	into a second printing in November.	12	launching, so we were running all this stuff,
13	Q. If you could please turn to the next	13	like, you wouldn't want to see this every year
14	page, Page 4.	14	at that level.
15	A. Uh-huh. Yes.	15	Q. If you could turn to Page 15 of the
16	Q. And then also on Page 5 as well if	16	same document.
17	you want to take a look.	17	A. Uh-huh. Uh-huh.
18	A. You must think research is crazy	18	Q. At the top, it states that it's the
19	that we do all these little microlevel tables.	19	standards royalty calculation.
20	Okay. Let's see. Okay.	20	Do you see that?
21	Q. So I can represent to you, I believe	21	A. Yep.
22	these are the same documents but it was just	22	Q. And then just to clarify for the
	Page 79		Page 81

1 record, you testified earlier about the royalty 2 percentage. 3 A. Yeah. 4 Q. And you believed it was a 50/50 5 split? 6 A. It switched though at the beginning 7 of AERA having underwritten all these costs 8 had a little bit higher royalty. If you really 9 want to know, I have to double-check but I 10 think now it's 50/50. 11 Q. Okay. Do you know when that change 12 happened? 13 A. I believe, but I would want to 14 verify that it happened after the first full 15 year, meaning it was I would have to look. 16 I don't remember. I think it was the first six 17 months of sales and '15 and then it switched. 18 Q. And if I could just draw your 19 attention 20 A. But I would really have to look. If 21 that's important to you, I would need to verify 22 it. Page 82 1 Q. If I could draw your attention 2 where it says royalty percentage, it says: "55 3 percent." 4 A. Weah. Yeah. Yeah. 1 Q. And the publisher is 45 percent? A. Yeah. I will let our attorney know wif if I am recalling wrong. So it might have bee 50/50 at the beginning and then 45/55. Q. And then A. That's what happens when you are part of the same family, you forget how much you make. Q. And If you could just turn to Page 116 there. 10 A. 16? Q. Yes, the next page. A. Yeah. A. Yeah. Q. To clarify A. It says right here, "development fund," so that is prima facie as it were here. Q. And the royalty A. That's 55 percent of the joint project so that's 45 percent to AERA. Q. Okay. And then on the following Page 84 1 Page, Page 17. A. Same, yeah. Q. So you are saying 55 percent was the royalty So you are saying 55 percent was the royalty So you are saying 55 percent was the royalty So you are saying 55 percent was the royalty So you are saying 55 percent was the royalty So you are saying 55 percent was the royalty So you are saying 55 percent was the royalty So you are saying 55 percent was the royalty So you are saying 55 percent was the royalty So you are saying 55 percent was the royalty So you are sayi
3 A. Yeah. 4 Q. And you believed it was a 50/50 5 split? 6 A. It switched though at the beginning 7 of AERA having underwritten all these costs 8 had a little bit higher royalty. If you really 9 want to know, I have to double-check but I 10 think now it's 50/50. 11 Q. Okay. Do you know when that change 12 happened? 13 A. I believe, but I would want to 14 verify that it happened after the first full 15 year, meaning it was I would have to look. 16 I don't remember. I think it was the first six 17 months of sales and '15 and then it switched. 18 Q. And if I could just draw your 19 attention 20 A. But I would really have to look. If 21 that's important to you, I would need to verify 22 it. 22 Q. Yes, the next page. 34 A. It says right here, "development 45 fund," so that is prima facie as it were here. 46 A. That's what happens when you are 47 part of the same family, you forget how much 48 you make. 9 Q. And If you could just turn to Page 10 libere. 11 A. 16? 12 Q. Yes, the next page. 13 A. Yes. 14 A. Yes. 15 A. Yes. 16 Q. To clarify 17 A. It says right here, "development 18 fund," so that is prima facie as it were here. 19 Q. And the royalty 20 A. That's 55 percent of the joint 21 project so that's 45 percent to AERA. 22 Q. Okay. And then on the following 23 Page 84 24 Page 82 25 Page 82 26 Page 17. 27 A. Same, yeah. 28 Q. So you are saying 55 percent was the 29 Yes, the next page. 29 And If you could just turn to Page 10 there. 20 A. It says right here, "development 12 fund," so that is prima facie as it were here. 20 A. That's 55 percent of AERA. 21 Page, Page 17. 22 A. Same, yeah. 39 Q. So you are saying 55 percent was the 39 Q. So you are saying 55 percent was the 39 Yeah. 40 Q for the year ending December 31, 41 Yeah. 42 Page 82
4 Q. And you believed it was a 50/50 5 split? 6 A. It switched though at the beginning 7 of AERA having underwritten all these costs 8 had a little bit higher royalty. If you really 9 want to know, I have to double-check but I 10 think now it's 50/50. 11 Q. Okay. Do you know when that change 12 happened? 13 A. I believe, but I would want to 14 verify that it happened after the first full 15 year, meaning it was I would have to look. 16 I don't remember. I think it was the first six 17 months of sales and '15 and then it switched. 18 Q. And if I could just draw your 19 attention 20 A. But I would really have to look. If 21 that's important to you, I would need to verify 22 it. Page 82 1 Q. If I could draw your attention 2 where it says royalty percentage, it says: "55 3 percent." 4 A. Where are you here? 5 Q. If you look down, it says: "Royalty 6 percentage, total royalty," it's kind of 7 grouping of text right before the last one.
5 split? 6 A. It switched though at the beginning 7 of AERA having underwritten all these costs 8 had a little bit higher royalty. If you really 9 want to know, I have to double-check but I 10 think now it's 50/50. 11 Q. Okay. Do you know when that change 12 happened? 13 A. I believe, but I would want to 14 verify that it happened after the first full 15 year, meaning it was I would have to look. 16 I don't remember. I think it was the first six 17 months of sales and '15 and then it switched. 18 Q. And if I could just draw your 19 attention 20 A. But I would really have to look. If 21 that's important to you, I would need to verify 22 it. 24 Q. If I could draw your attention 2 where it says royalty percentage, it says: "55 3 percent." 4 A. Where are you here? 5 Q. If you look down, it says: "Royalty 6 percentage, total royalty," it's kind of 7 grouping of text right before the last one. 5 Q. And then 6 A. That's what happens when you are 7 part of the same family, you forget how much 8 you make. 9 Q. And If you could just turn to Page 10 16 there. 11 A. 16? 12 Q. Yes, the next page. 13 Again, this is the royalty for the 14 six months ending June 30, 2018? 15 A. Yes. 16 Q. To clarify 17 A. It says right here, "development 18 fund," so that is prima facie as it were here. 19 Q. And the royalty 20 A. That's 55 percent of the joint 21 project so that's 45 percent to AERA. 22 Q. Okay. And then on the following 24 Page 82 25 A. Same, yeah. 3 Q. So you are saying 55 percent was the 4 royalty 5 A. Yeah. 6 Q for the year ending December 31, 7 2018?
A. It switched though at the beginning of AERA having underwritten all these costs had a little bit higher royalty. If you really want to know, I have to double-check but I Okay. Do you know when that change happened? A. I believe, but I would want to verify that it happened after the first full year, meaning it was I would have to look. I I don't remember. I think it was the first six months of sales and '15 and then it switched. O. And if I could just draw your attention A. But I would really have to look. If that's important to you, I would need to verify it. Page 82 A. Thet's what happens when you are part of the same family, you forget how much you make. Q. And If you could just turn to Page 10 16 there. 11 A. 16? Q. Yes, the next page. Again, this is the royalty for the six months ending June 30, 2018? A. Yes. 16 Q. To clarify 17 A. It says right here, "development 18 fund," so that is prima facie as it were here. 19 Q. And the royalty 20 A. That's S5 percent of the joint 21 project so that's 45 percent to AERA. 22 Q. Okay. And then on the following Page 84 1 Q. If I could draw your attention where it says royalty percentage, it says: "55 percent." Q. If you look down, it says: "Royalty percentage, total royalty," it's kind of grouping of text right before the last one. A. Yeah. Q for the year ending December 31, 2018?
7 part of the same family, you forget how much had a little bit higher royalty. If you really want to know, I have to double-check but I think now it's 50/50. 11 Q. Okay. Do you know when that change happened? 12 happened? 13 A. I believe, but I would want to verify that it happened after the first full year, meaning it was I would have to look. If Think it was the first six months of sales and '15 and then it switched. 18 Q. And if I could just draw your attention where it says royalty percentage, it says: "55 Q. If you look down, it says: "Royalty for the six months family, you forget how much you make. 9 Q. And If you could just turn to Page 10 there. 10 there. 11 A. 16? 12 Q. Yes, the next page. 13 Again, this is the royalty for the six months ending June 30, 2018? 14 A. It says right here, "development fund," so that is prima facie as it were here. 19 Q. And the royalty A. It says right here, "development fund," so that is prima facie as it were here. 19 Q. And the royalty A. That's 55 percent of the joint project so that's 45 percent to AERA. 20 Q. Okay. And then on the following Page 84 1 Q. If I could draw your attention where it says royalty percentage, it says: "55 percent." 1 page, Page 17. 2 A. Same, yeah. 3 Q. So you are saying 55 percent was the royalty A. Yeah. 4 A. Where are you here? 5 Q. If you look down, it says: "Royalty for the six months ending June 30, 2018? 1 page, Page 17. 2 A. Same, yeah. 3 Q. So you are saying 55 percent was the royalty A. Yeah. 4 A. Yeah. 6 Q for the year ending December 31, 2018?
8 had a little bit higher royalty. If you really 9 want to know, I have to double-check but I 10 think now it's 50/50. 11 Q. Okay. Do you know when that change 12 happened? 13 A. I believe, but I would want to 14 verify that it happened after the first full 15 year, meaning it was I would have to look. 16 I don't remember. I think it was the first six 17 months of sales and '15 and then it switched. 18 Q. And if I could just draw your 19 attention 20 A. But I would really have to look. If 21 that's important to you, I would need to verify 22 it. Page 82 1 Q. If I could draw your attention 2 where it says royalty percentage, it says: "55 3 percent." Q. If I you look down, it says: "Royalty 6 percentage, total royalty," it's kind of 7 grouping of text right before the last one. 8 you make. 9 Q. And If you could just turn to Page 10 16 there. 11 A. 16? 12 Q. Yes, the next page. 14 A. 16? 12 Q. Yes, the next page. 14 A. 16? 15 A. Yes. 16 Q. To clarify 17 A. It says right here, "development fund," so that is prima facie as it were here. 19 Q. And the royalty 20 A. That's 55 percent of the joint project so that's 45 percent to AERA. 21 Page, Page 17. 22 A. Same, yeah. 3 Q. So you are saying 55 percent was the 4 royalty 5 A. Yeah. 6 Q for the year ending December 31, 7 2018?
9 want to know, I have to double-check but I 10 think now it's 50/50. 11 Q. Okay. Do you know when that change 12 happened? 13 A. I believe, but I would want to 14 verify that it happened after the first full 15 year, meaning it was I would have to look. 16 I don't remember. I think it was the first six 17 months of sales and '15 and then it switched. 18 Q. And if I could just draw your 19 attention 20 A. But I would really have to look. If 21 that's important to you, I would need to verify 22 it. Page 82 1 Q. If I could draw your attention 2 where it says royalty percentage, it says: "55 3 percent." Q. If I you look down, it says: "Royalty 6 percentage, total royalty," it's kind of 7 grouping of text right before the last one. 10 16 there. 11 A. 16? 12 Q. Yes, the next page. 13 A. 16? 14 A. 16? 15 A. Yes. 16 Q. To clarify 17 A. It says right here, "development fund," so that is prima facie as it were here. 19 Q. And the royalty 20 A. That's 55 percent of the joint project so that's 45 percent to AERA. 21 Page, Page 17. 22 A. Same, yeah. 3 Q. So you are saying 55 percent was the 4 royalty 5 A. Yeah. 6 Q for the year ending December 31, 7 2018?
think now it's 50/50. Q. Okay. Do you know when that change happened? A. I believe, but I would want to reify that it happened after the first full year, meaning it was I would have to look. If G. A. But I would really have to look. If that's important to you, I would need to verify it. Q. If I could draw your attention where it says royalty percentage, it says: "55 Q. If you look down, it says: "Royalty percentage, total royalty," it's kind of grouping of text right before the last one. 10 16 there. 11 A. 16? 12 Q. Yes, the next page. 13 Again, this is the royalty for the six months ending June 30, 2018? 14 A. Yes. 16 Q. To clarify 17 A. It says right here, "development fund," so that is prima facie as it were here. 18 Q. And the royalty 20 A. That's 55 percent of the joint project so that's 45 percent to AERA. 21 page, Page 17. 22 A. Same, yeah. 3 Q. So you are saying 55 percent was the royalty 4 A. Where are you here? 5 Q. If you look down, it says: "Royalty percentage, total royalty," it's kind of grouping of text right before the last one. 10 16 there. 11 A. 16? A Jerin J
11 Q. Okay. Do you know when that change 12 happened? 13 A. I believe, but I would want to 14 verify that it happened after the first full 15 year, meaning it was I would have to look. 16 I don't remember. I think it was the first six 17 months of sales and '15 and then it switched. 18 Q. And if I could just draw your 19 attention 20 A. But I would really have to look. If 21 that's important to you, I would need to verify 22 it. Page 82 1 Q. If I could draw your attention 2 where it says royalty percentage, it says: "55 3 percent." Q. If you look down, it says: "Royalty 6 percentage, total royalty," it's kind of 7 grouping of text right before the last one. 11 A. 16? 12 Q. Yes, the next page. Again, this is the royalty for the six months ending June 30, 2018? A. Yes. 10 Q. To clarify 14 A. It says right here, "development fund," so that is prima facie as it were here. 19 Q. And the royalty 20 A. That's 55 percent of the joint project so that's 45 percent to AERA. 21 prage, Page 17. 22 A. Same, yeah. 3 Q. So you are saying 55 percent was the 4 royalty 5 A. Yeah. 6 Q for the year ending December 31, 7 2018?
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A. I believe, but I would want to verify that it happened after the first full typear, meaning it was I would have to look. I don't remember. I think it was the first six months of sales and '15 and then it switched. Q. And if I could just draw your that's important to you, I would need to verify it. Q. If I could draw your attention where it says royalty percentage, it says: "55 percent." Q. If I you look down, it says: "Royalty percentage, total royalty," it's kind of grouping of text right before the last one. A gain, this is the royalty for the six months is the royalty for the six months ending June 30, 2018? A. Yes. Q. To clarify A. It says right here, "development fund," so that is prima facie as it were here. Q. And the royalty A. That's 55 percent of the joint project so that's 45 percent to AERA. Q. Okay. And then on the following Page 82 Page, Page 17. A. Same, yeah. Q. So you are saying 55 percent was the royalty A. Yeah. Q for the year ending December 31, 7 2018?
verify that it happened after the first full year, meaning it was I would have to look. Idon't remember. I think it was the first six months of sales and '15 and then it switched. Q. And if I could just draw your attention A. But I would really have to look. If that's important to you, I would need to verify it. Page 82 Q. If I could draw your attention where it says royalty percentage, it says: "55 percent." Q. If you look down, it says: "Royalty percentage, total royalty," it's kind of grouping of text right before the last one. Page 82 A. Yes. Q. To clarify A. It says right here, "development fund," so that is prima facie as it were here. Q. And the royalty A. That's 55 percent of the joint project so that's 45 percent to AERA. Q. Okay. And then on the following Page 84 1 page, Page 17. A. Same, yeah. Q. So you are saying 55 percent was the royalty 5 A. Yeah. Q for the year ending December 31, 7 2018?
15 year, meaning it was I would have to look. 16 I don't remember. I think it was the first six 17 months of sales and '15 and then it switched. 18 Q. And if I could just draw your 19 attention 20 A. But I would really have to look. If 21 that's important to you, I would need to verify 22 it. Page 82 1 Q. If I could draw your attention 2 where it says royalty percentage, it says: "55 3 percent." Q. If you look down, it says: "Royalty 6 percentage, total royalty," it's kind of 7 grouping of text right before the last one. 16 Q. To clarify 16 Q. To clarify 17 A. It says right here, "development 18 fund," so that is prima facie as it were here. 19 Q. And the royalty 20 A. That's 55 percent of the joint 21 project so that's 45 percent to AERA. 22 Q. Okay. And then on the following Page 84 1 page, Page 17. 2 A. Same, yeah. 3 Q. So you are saying 55 percent was the 4 royalty 5 A. Yeah. 6 Q for the year ending December 31, 7 2018?
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22 it. Page 82 Q. Okay. And then on the following Page 84 1 Q. If I could draw your attention where it says royalty percentage, it says: "55 percent." A. Where are you here? Q. If you look down, it says: "Royalty percentage, total royalty," it's kind of grouping of text right before the last one. 22 Q. Okay. And then on the following Page 84 23 A. Same, Page 17. 2 A. Same, yeah. 3 Q. So you are saying 55 percent was the 4 royalty 5 A. Yeah. 6 Q for the year ending December 31, 7 2018?
Page 82 Q. If I could draw your attention where it says royalty percentage, it says: "55 percent." A. Same, yeah. Q. So you are saying 55 percent was the A. Where are you here? Q. If you look down, it says: "Royalty percentage, total royalty," it's kind of grouping of text right before the last one. Page 82 Page 84 A. Same, Page 17. A. Same, yeah. Veah. Q. For the year ending December 31, 2018?
where it says royalty percentage, it says: "55 2 A. Same, yeah. Q. So you are saying 55 percent was the A. Where are you here? 4 royalty Q. If you look down, it says: "Royalty 5 A. Yeah. percentage, total royalty," it's kind of 7 grouping of text right before the last one. 7 2018?
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4 A. Where are you here? 5 Q. If you look down, it says: "Royalty 5 A. Yeah. 6 percentage, total royalty," it's kind of 6 Q for the year ending December 31, 7 grouping of text right before the last one. 7 2018?
5 Q. If you look down, it says: "Royalty 5 A. Yeah. 6 percentage, total royalty," it's kind of 6 Q for the year ending December 31, 7 grouping of text right before the last one. 7 2018?
6 percentage, total royalty," it's kind of 7 grouping of text right before the last one. 6 Q for the year ending December 31, 7 2018?
7 grouping of text right before the last one. 7 2018?
o in contest so that it was
9 originally I suppose, then 45/55 or something 9 MS. TURNER: Okay. Unless your
10 like that I suppose. 10 counsel has any questions, we are done.
Q. So for the six months ended in 2017, 11 MR. ELGARTEN: I have no questions.
does it refresh your recollection that it was 12 Thank you.
13 55 percent was the royalty percentage? 13 THE VIDEOGRAPHER: We are going off
14 A. So it may it might have ended 14 the record at 11:48 a.m. This concludes
15 with '17 I suppose, standards royalty 15 today's testimony given by Felice Levine on
16 calculation. 1, 2, 16. It could be it's leady's testimony given by Tence Zevine on leady set to the le
17 not 50/50, it might be 45/55. 17 media units used was two and will be retained
18 Q. And how is that split? 18 by Veritext Legal Solutions.
19 A. The testing standard is the larger 19 (Whereupon, the proceeding was
20 amount. 20 concluded at 11:48 a.m.)
21 Q. Testing standard is 55 percent?
22
Page 83 Page 85

1	
2	I declare under penalty of perjury
	under the laws that the foregoing is
	true and correct.
	irue and correct.
5	
6	Executed on, 20,
7 :	at
8	
9	
10	
11	FELICE J. LEVINE, PH.D.
	FELICE J. LEVINE, PH.D.
12	
13	
14	SUBSCRIBED AND SWORN TO BEFORE ME
15	
16	THISDAY OF, 2019.
	., 2017.
17	
18	
19	(NOTARY PUBLIC) MY COMMISSION EXPIRES:
20	
21	
22	
44	Page 86
1	
1	CERTIFICATE OF NOTARY PUBLIC
2	
3	I, Bonnie L. Russo, the officer before
4	whom the foregoing deposition was taken, do
	hereby certify that the witness whose testimony
5	appears in the foregoing deposition was duly
6	sworn by me; that the testimony of said witness
7	was taken by me in shorthand and thereafter
8	reduced to computerized transcription under my
9	direction; that said deposition is a true
10	record of the testimony given by said witness;
-	that I am neither counsel for, related to, nor
11	employed by any of the parties to the action in
12	which this deposition was taken; and further,
13	that I am not a relative or employee of any
14	attorney or counsel employed by the parties
15	hereto, nor financially or otherwise interested
	· · · · · · · · · · · · · · · · · · ·
16	in the outcome of the action.
17	
18	
19	1
20	prenie L Person
21	Notary Public in and for
1	1 7
	the District of Columbia
22	My Commission expires: June 30, 2020

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J F	

Federal Rules of Civil Procedure Rule 30

- (e) Review By the Witness; Changes.
- (1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:
- (A) to review the transcript or recording; and
- (B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.
- (2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES

OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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