

EXHIBIT A

<p style="text-align: center;">Page 1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA</p> <p style="text-align: center;">-----</p> <p>DAVID RUDOVSKY and LEONARD SOSNOV, Plaintiffs, No. 09-CV-727</p> <p style="text-align: center;">v.</p> <p>WEST PUBLISHING CORPORATION, WEST SERVICES INC., AND THOMSON LEGAL AND REGULATORY INC., t/a THOMSON WEST, Defendants.</p> <p style="text-align: center;">-----</p> <p>Video-recorded Deposition Upon Oral Examination of: Catherine J. Smith</p> <p>Location: Thomson West .50 Broad Street East Rochester, New York 14614</p> <p>Date: March 3, 2010 Time: 11:44 a.m. Reported By: LYNN A. MULLEN, RPR</p>	<p style="text-align: center;">Page 3</p> <p>1 EXHIBITS 2 Smith 3 No. 1 Rochester Content Center 4 organizational chart, Bates West-R 05934 5 through 05941 (PAGE-9) 6 . 7 No. 2 E-mail string ending with an 8 e-mail dated 1/18/08 to John Wierzbicki 9 from Karen Earley, Bates West-R 00204 10 through 00205 (PAGE-31) 11 . 12 No. 3 E-mail string ending with an 13 e-mail dated 2/11/08 to Catherine Smith 14 from Teri Kruk, Bates West-R 04728 15 through 04730 (PAGE-32) 16 . 17 No. 4 E-mail string ending with an 18 e-mail dated 5/21/07 to Teri Kruk from 19 Catherine Smith, Bates West-R 00004 20 through 00006 (PAGE-55) 21 . 22 . 23 . 24 .</p>
<p style="text-align: center;">Page 2</p> <p>1 APPEARANCES 2 Appearing on Behalf of Plaintiffs: 3 Noah H. Charlson, Esq. 4 Bazelon, Less & Feldman, P.C. 5 .1515 Market Street, Suite 700 6 Philadelphia, Pennsylvania 19102-1907 7 ncharlson@bazless.com 8 . 9 Appearing on Behalf of Defendants: 10 Aaron M. Zeisler, Esq. 11 Satterlee, Stephens, Burke & Burke, LLP 12 .230 Park Avenue 13 New York, New York 10169 14 azeisler@ssbb.com 15 . 16 Also Present: 17 John Wierzbicki 18 Appearing as Videographer: 19 David Parrotta 20 . 21 WITNESS 22 Name Page 23 Catherine J. Smith 24 By Mr. Charlson 7</p>	<p style="text-align: center;">Page 4</p> <p>1 EXHIBIT INDEX CONTINUED 2 No. 5 E-mail string ending with an 3 e-mail dated 2/13/09 to Betty Walker and 4 others from Amber Becker, Bates West-R 5 .00216 through 00217 (PAGE-62) 6 . 7 No. 6 E-mail string, 2/11/09, between 8 Sarah Redzic and Catherine Smith, Bates 9 West-R 00214 (PAGE-64) 10 . 11 EXHIBITS PREVIOUSLY MARKED 12 Redzic 13 Exhibit Description 14 No. 4 Time Data Report, 1/1/07 15 through 12/31/09, Bates West-R 05866 16 through 05869 (PAGE-28) 17 . 18 DOCUMENT REQUESTS 19 Request 20 Copy of contract with Ms. Gimeno 21 (By Mr. Charlson) (PAGE-60) 22 E-mail communications with Ms. Gimeno that 23 Ms. Smith was copied in on 24 (By Mr. Charlson) (PAGE-61)</p>

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<p>1 IT IS HEREBY STIPULATED by and 2 between the attorneys for the respective 3 parties that this deposition may be taken 4 by the Plaintiffs at this time pursuant 5 to notice; 6 IT IS FURTHER STIPULATED, that 7 all objections except as to the form of 8 the questions and responsiveness of the 9 answers, be reserved until the time of 10 the trial; 11 IT IS FURTHER STIPULATED, that 12 the witness may read and sign the 13 deposition and make any corrections to 14 same before any Notary Public within 30 15 days of receipt of the transcript; 16 IT IS FURTHER STIPULATED, that 17 the attorneys for the parties are 18 individually responsible for their 19 certified transcript charge, including any 20 expedite or other related production 21 charges in accordance with Rochester 22 Rules. 23 AND IT IS FURTHER STIPULATED, 24 that the Notary Public, LYNN A. MULLEN,</p>	<p>1 and all others present will identify 2 themselves and the parties they represent, 3 after which our court reporter will swear 4 in the witness and we may proceed. 5 MR. CHARLSON: Noah Charlson; 6 Bazelon, Less & Feldman, Philadelphia, for 7 the Plaintiffs. 8 MR. ZEISLER: Aaron Zeisler; 9 Satterlee, Stephens, Burke & Burke, New 10 York City, for the Defendants. With me 11 is John Wierzbicki of West. 12 CATHERINE J. SMITH, called 13 herein as a witness, first being sworn, 14 testified as follows: 15 EXAMINATION BY MR. CHARLSON: 16 Q. Good morning, Ms. Smith. My 17 name is Noah Charlson. I represent 18 Plaintiffs in this action. I'm going to 19 be asking you some questions about matters 20 that are pertinent to that lawsuit. I'll 21 ask that if you don't understand or can't 22 hear my question, you ask me to repeat it 23 or rephrase it, otherwise I'll assume that 24 you've heard and understood all my</p>
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<p>1 RPR, may administer the oath to the 2 witness. 3 THE VIDEOGRAPHER: We are about 4 to begin the video-recorded deposition of 5 Catherine J. Smith. I'm David Parrotta for 6 Alliance Court Reporting with an address 7 of 183 East Main Street, Rochester, New 8 York. 9 Today is Wednesday, March 3rd, 10 .2010, and the time is 11:44 a.m. We are 11 at the offices of Thomson West with an 12 address of 50 Broad Street East, 13 Rochester, New York. 14 The party the deposition is 15 being taken by is the Plaintiff in the 16 action entitled David Rudovsky and Leonard 17 Sosnov, Plaintiffs, versus West Publishing 18 Corporation, West Services, Incorporated, 19 and Thomson Legal and Regulatory, 20 Incorporated, trading as Thomson West, 21 Defendants. 22 In attendance is the court 23 reporter, Lynn Mullen of Alliance Court 24 Reporting. At this time the attorneys</p>	<p>1 questions and all of your answers are 2 truthful. 3 And I will also remind you that 4 for the purposes of the court reporter, 5 your answers must all be verbal. 6 A. (The witness answered 7 inaudibly.) 8 Q. And audible. 9 MR. ZEISLER: You have to say 10 "okay." 11 Q. Both verbal and audible. 12 A. All right. 13 MR. ZEISLER: So we can hear 14 it. Try to keep your voice up, if you 15 can. 16 Q. Ms. Smith, have you ever been 17 deposed before? 18 A. No, I have not. 19 Q. Are you an attorney? 20 A. No, I'm not. 21 Q. Were you at any time an 22 attorney? 23 A. No. 24 Q. Did you go to law school?</p>

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1 A. No.	1 break I'll talk to him.
2 Q. What is your title at West?	2 Q. Well, Ms. Smith, at page .05940,
3 A. Team Coordinator.	3 the second-to-last page of this Smith
4 Q. And what team do you	4 Exhibit 1, I see your name on the
5 coordinate?	5 right-hand side as -- listed as State
6 A. I currently coordinate the	6 Practice Team Coordinator. Do you see
7 Litigation Team.	7 that?
8 MR. CHARLSON: I'm going to ask	8 A. Yes.
9 the court reporter to mark as Smith	9 Q. Is that your current position?
10 Exhibit 1 a document bearing Bates numbers	10 A. Yes, it's my current position.
11 West-R 05934 through 5941.	11 It's not in this organization, though, not
12 (The following exhibit was	12 in this -- I'm not reporting to this
13 marked for identification: Smith 1.)	13 Director anymore.
14 Q. Ms. Smith, do you recognize	14 Q. Okay. So what you're looking
15 Smith Exhibit 1?	15 at here is not the status -- the current
16 A. Yes, it's part of an org chart.	16 reporting -- let me try again. This is
17 Q. And that's a chart that shows	17 not accurate as of today?
18 the organizational hierarchy for at least	18 A. As of today, no.
19 part of the West Group?	19 Q. Okay. And when did it -- when
20 MR. ZEISLER: Objection as to	20 did your reporting change?
21 time frame, whether you're speaking	21 A. In June -- let me think. I'm
22 currently or at the time it was printed.	22 sorry, in November of 2009.
23 Q. Well, this document was produced	23 Q. Okay. And I'm really going to
24 to us by West, so can you tell me what	24 have to ask you to speak up for the
Page 10	Page 12
1 time frame it reflects?	1 benefit of both the court reporter and
2 A. The date on it is September 21,	2 the video.
3 .2009.	3 What is your role as a Team
4 Q. Do you know if that's just a	4 Coordinator?
5 print date or if that actually reflects	5 A. My role as a Team Coordinator
6 the organization at that date?	6 is to oversee the production, the
7 A. I don't know.	7 publication of the -- the books and legal
8 MR. CHARLSON: Does counsel	8 information assigned to our unit, and to
9 know?	9 manage the people who report to me and
10 MR. ZEISLER: I don't know. I	10 who produce those publications.
11 believe it's a print date, I believe, but	11 Q. Okay. So is Sarah Redzic a
12 I don't know.	12 member of your team?
13 MR. CHARLSON: Well --	13 A. Not currently.
14 MR. ZEISLER: It was the one	14 Q. Was she at some point a member
15 that was given to me by the client that	15 of your team?
16 I produced to you as an org chart	16 A. Yes, she was.
17 responsive to your requests.	17 Q. And when did that change?
18 MR. CHARLSON: Sure. Well, I	18 A. That changed in November of
19 don't want to put your client, Mr.	19 .2009.
20 Wierzbicki, under oath, but if you could	20 Q. Okay. And was she moved to a
21 clarify if Mr. Wierzbicki knows, I'd	21 different team?
22 certainly appreciate the guidance.	22 A. No, she was not.
23 MR. ZEISLER: At a break --	23 Q. Were you moved to a different
24 I'll take it under advisement. At a	24 team?

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<p>1 A. Yes, I was. 2 Q. Okay. So you were no -- 3 you're now the Team Coordinator for 4 Litigation, not for State Practice? 5 A. That's correct. 6 Q. I gotcha. So prior to November 7 of '09, Sarah Redzic reported to you? 8 A. That's correct. 9 Q. And so did Karen Earley? 10 A. Yes. 11 Q. And prior to 2009 -- prior to 12 November 2009, you reported directly to 13 Polly Gang? 14 A. That's correct. 15 MR. CHARLSON: G-A-N-G. 16 Q. And how long have you been an 17 employee of the West organization? 18 A. Approximately 17 years. 19 Q. And it's gone through some 20 various iterations during that time, 21 right? 22 A. Yes. 23 Q. And what were you doing before 24 that?</p>	<p>1 reflected in Smith 1, to your knowledge 2 was this accurate as of approximately 2008 3 -- let's just -- I'll make it more 4 specific for you -- for the time period 5 beginning in February of 2008 through the 6 end of that year? 7 MR. ZEISLER: And just for 8 clarification -- 9 MR. CHARLSON: Let me rephrase 10 it. I can anticipate your objection. 11 MR. ZEISLER: Yeah. 12 Q. Ms. Smith, from -- in the 13 period beginning February 2008 through the 14 end of that year, were you the State 15 Practice Team Coordinator? 16 A. Yes. 17 Q. And at that time were you 18 reporting to Polly Gang? 19 A. No, not all year. 20 Q. All right. Who else did you 21 report to that year? 22 A. Teri Kruk. 23 Q. And was that before or after 24 Ms. Gang?</p>
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<p>1 A. I worked in the PC Support 2 Group at Eastman Kodak. 3 Q. What job were you hired -- in 4 what position were you hired by West 17 5 years ago? 6 A. Administrative Assistant. 7 Q. And I take it that you've had 8 different roles since that time? 9 A. Yes. 10 Q. Could you just list them? 11 A. Publishing Specialist, Manuscript 12 Editor, Senior Manuscript Editor, Principal 13 Manuscript Editor, Senior Principal 14 Manuscript Editor, and then Team 15 Coordinator. 16 Q. Can you just briefly state your 17 educational background? 18 A. I have a Bachelor's of Arts in 19 political science from Barnard College. 20 Q. Sorry, from which college? 21 A. Barnard College. 22 Q. Any other degree? 23 A. No. 24 Q. The organizational chart that is</p>	<p>1 A. That was before. 2 Q. Okay. And did Ms. Kruk take a 3 different position at some point? 4 A. No, they just reorganized. 5 Q. Okay. It was a reorganization. 6 Gotcha. 7 And during that time -- I 8 apologize if I already said this -- was 9 Sarah Redzic and Karen Earley were part 10 of your team? 11 A. Yes. 12 Q. I may have already asked you 13 that. 14 Okay. And during that time did 15 -- was it your understanding that both 16 Teri Kruk and Polly Gang reported to Jean 17 Maess? 18 A. Yes. 19 Q. How does Ms. Maess -- 20 A. That's correct, "Maess." 21 Q. Good. Prior to -- well, 22 actually, how long had you been -- as of 23 February 2008, how long had you been in 24 the role of Team Coordinator for the</p>

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<p>1 State Practice Group? 2 A. For the State Practice Group, 3 just a few months. 4 Q. And roughly -- generally 5 speaking, what products are contained 6 within the State Practice Group? 7 A. State Practice series, 8 analytical publications for -- well, state 9 by state for each jurisdiction. 10 Q. Are all states covered in that 11 Practice Group? 12 A. At that time, no. 13 Q. That's changed? 14 A. (The witness indicated 15 nonverbally.) 16 COURT REPORTER: Your answer? 17 THE WITNESS: Yes. 18 MR. ZEISLER: You have to say 19 it audibly. 20 THE WITNESS: Sorry. 21 Q. So, in February 2008, was 22 Pennsylvania Criminal Procedure one of the 23 titles that was part of your group? 24 A. Yes, it was.</p>	<p>1 Q. Do you remember what the 2 outcome of that meeting was? 3 A. We made a counteroffer to the 4 authors for a sum approximately half of 5 what they had requested, and they did not 6 accept the offer. 7 Q. Was there discussion at that 8 time of what steps were going to be taken 9 with respect to that title? Other than 10 what you've already testified to. 11 MR. ZEISLER: Objection. 12 A. Not specifically. 13 Q. Do you recall discussing whether 14 the title should be terminated? 15 A. Yes. 16 Q. And what is -- what does it 17 mean to terminate a title? 18 A. To stop publishing it, 19 essentially. 20 Q. And what do you recall about 21 that discussion? 22 A. My recollection is that that 23 discussion took place in the fall of the 24 year at a jurisdictional meeting to review</p>
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<p>1 Q. And what was the first 2 experience you had with that title? 3 A. It was a meeting that Attorney 4 Editor Karen Earley called about the 5 authors' contract, the authors' 6 arrangements. 7 Q. And what do you remember about 8 that meeting? 9 A. I remember that we talked about 10 the 2008-2009 pocket part, and the authors 11 requested a certain flat fee to do their 12 work on that publication, and we rejected 13 it. 14 Q. What was the reason for 15 rejecting it? 16 A. We thought it was too high. 17 Q. And were you aware at the time 18 that it was the fee that they had been 19 paid for this -- the same fee that they 20 had been paid for their prior updates? 21 MR. ZEISLER: Objection. Lacks 22 foundation. 23 Q. You can answer the question. 24 A. I can't remember.</p>	<p>1 a number of our Pennsylvania titles. 2 Q. Well, let's talk about that 3 fall jurisdictional meeting. Who was 4 present? 5 A. The people I remember by name 6 would be John Levine, who was a Director 7 of Print Strategy; Sarah Redzic, the 8 Attorney Editor in charge of the 9 Pennsylvania Practice line; and myself, 10 the State Practice Team Coordinator. 11 There were representatives of New Product 12 Development, Sales, Marketing and other 13 organizations. 14 Q. Were Ms. Kruk or Ms. Gang at 15 that meeting? 16 A. No, they were not. 17 Q. How about Ms. Earley? 18 A. No, she was not. 19 Q. And what was the substance of 20 the discussion at the fall jurisdictional 21 meeting? And this was 2008, correct? 22 A. Correct. 23 Q. About the future of the 24 Pennsylvania Criminal Procedure title?</p>

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<p>1 A. We suggested terminating it 2 because we had duplicate coverage in that 3 area of the law. 4 Q. And who suggested terminating 5 the title? 6 A. Sarah Redzic. 7 Q. And yourself? 8 A. I supported it. 9 Q. And who was that suggestion 10 made to? 11 A. To Director of Print Strategy 12 John Levine. 13 Q. And did Mr. Levine have a 14 reaction that he expressed to you at that 15 meeting? 16 A. He agreed with us. 17 Q. Okay. And was that decision 18 executed? 19 A. No, it was not. 20 Q. Why not? 21 MR. ZEISLER: Objection. 22 Q. You can answer. 23 A. It was close to the end of the 24 year.</p>	<p>1 title? 2 A. Yes, it's a department. 3 Q. Anybody else? Is that because 4 Mr. Rudovsky was considered a Key Author? 5 MR. ZEISLER: Objection. Calls 6 for speculation. 7 Q. Well, what is a West Key 8 Author? 9 A. It's -- it's a group that 10 oversees author relations and management 11 of titles. 12 Q. Is it -- do they oversee all 13 authors or particular authors who have -- 14 A. All authors. 15 Q. Okay. So does the "key" in 16 that title, to your understanding, refer 17 to the West key system rather than the 18 particular authors? 19 MR. ZEISLER: Objection. 20 A. No. 21 Q. Okay. But somebody from that 22 department had to approve the decision? 23 A. Correct. 24 Q. Anybody else whose approval was</p>
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<p>1 Q. Can you elaborate? 2 A. Generally, to terminate a 3 product takes research and an investment 4 of time, and we had to make a publishing 5 decision as to whether or not to -- to 6 publish a supplement to this title by the 7 end of the year. 8 Q. And just so I'm clear -- and 9 please correct me if I misstate something 10 -- although the team decided that 11 termination was the plan, there simply 12 wasn't enough time to go through all the 13 work that was necessary to do that before 14 the end of the year? 15 MR. ZEISLER: Objection. 16 A. That was not the only reason. 17 There was also not approval to terminate 18 by the end of the year. 19 Q. Whose approval was required? 20 A. Polly Gang and others in the 21 organization. 22 Q. Who besides Polly Gang? 23 A. West Key Author. 24 Q. Is that a department or a</p>	<p>1 required? 2 A. New Product Development, Print 3 Strategy, probably -- there may have been 4 other people. I'm sorry. 5 Q. No, no. Please finish. 6 A. People at higher levels may 7 have needed to approve that. 8 Q. But you don't know specifically? 9 A. I don't know specifically. 10 Q. New Product Development and 11 Print Strategy were both at the 12 jurisdictional meeting, correct? 13 A. That's correct. 14 Q. Were the representatives there, 15 did they have the authority to make -- to 16 make that decision? 17 A. No. 18 Q. Now, you say that approval from 19 all these various people or departments 20 was required. Was it the case that any 21 of them disagreed with the decision, or 22 was it that there simply wasn't enough 23 time to get the approval before the 24 publishing decision had to be made?</p>

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<p>1 MR. ZEISLER: Objection. Lacks 2 foundation. Ambiguous. 3 Q. You can answer the question. 4 A. To my knowledge, no one 5 disagreed with the decision. 6 Q. Was the termination decision -- 7 was the termination recommendation 8 presented to any of these people: Polly 9 Gang, the West Key Author Group, New 10 Product Development, et cetera? 11 A. Not formally. 12 Q. Was it discussed informally? 13 A. Yes. 14 Q. And did anybody register any 15 disagreement? 16 MR. ZEISLER: Objection. 17 A. No. 18 Q. So at about that time in the 19 fall of 2008, was it your understanding 20 that the product was going -- the title, 21 Pennsylvania Criminal Procedure, was going 22 to be terminated? 23 A. Yes. 24 Q. And was that something that you</p>	<p>1 been prepared at that point? 2 MR. ZEISLER: Objection. It's 3 vague. Ambiguous with respect to 4 "prepared." 5 Q. I'll rephrase. Ms. Smith, 6 you're aware that a fall 2008 supplement 7 was prepared by Sarah Redzic, correct? 8 A. I am aware. 9 Q. And you understand what I mean 10 when I say "prepared," right? 11 MR. ZEISLER: Objection. 12 A. Yes. 13 Q. At the time of the fall 14 jurisdictional meeting, had Sarah done 15 that work? 16 A. I do not know. 17 Q. Well, was the decision to 18 terminate -- the informal decision to 19 terminate made before or after the fall 20 .2008 supplement was prepared? 21 MR. ZEISLER: Objection. 22 Misstates prior testimony. 23 A. I don't quite understand. 24 (The following exhibit was</p>
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<p>1 anticipated happening in calendar year 2 2009? 3 A. Yes. 4 Q. But it wasn't terminated, 5 correct? 6 MR. ZEISLER: Objection. 7 A. Right. 8 Q. Because there was a publishing 9 deadline, you and Sarah Redzic decided to 10 publish -- prepare a supplement, correct? 11 MR. ZEISLER: Objection. 12 Misstates prior testimony. 13 But you can answer. 14 A. We had a commitment to publish 15 a supplement that year. It was in our 16 publishing plan, so, yes. 17 Q. Approximately -- approximately 18 when was the fall jurisdictional meeting? 19 A. Early November. 20 Q. At the time of the fall 21 jurisdictional meeting, had anybody 22 prepared the fall 2008 supplement? 23 MR. ZEISLER: Objection. 24 Q. Had the fall 2008 supplement</p>	<p>1 marked at a previous deposition Redzic 4.) 2 Q. Can you take a look at what we 3 previously marked as Redzic Exhibit 4 at 4 the deposition of Sarah Redzic? And do 5 you recognize this document or documents 6 like it? 7 A. Documents like it, yes. 8 Q. And you understand it to be a 9 printout of West employee time records 10 with respect to Pennsylvania Criminal 11 Procedure? 12 A. Yes. 13 Q. If you look at the second page, 14 Ms. Smith, you'll see that Sarah Redzic 15 has entries for "Other Production" for 16 about ten and a half hours on October 17 .29th and November 3rd. Do you see that? 18 A. Yes. 19 Q. And do you know, Ms. Smith, 20 whether that was -- that work that Sarah 21 did was before or after the fall 22 jurisdictional meeting? 23 MR. ZEISLER: Can you read back 24 the question, please? (The</p>

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<p>1 reporter read the requested material.) 2 MR. ZEISLER: Okay. Thank you. 3 A. I don't remember the exact date 4 of the jurisdictional meeting. It looks 5 like before. 6 Q. Prior to the jurisdictional 7 meeting, had you and Sarah discussed 8 whether or not Pennsylvania Criminal 9 Procedure should be terminated? 10 A. I really don't remember it very 11 clearly. 12 Q. Do you remember that -- 13 discussing that question in February in 14 connection with Ms. Earley and Ms. Redzic? 15 MR. ZEISLER: Objection. 16 Vague. February what? 17 MR. CHARLSON: February 2008. 18 MR. ZEISLER: Okay. Thank you. 19 A. I don't remember it. 20 Q. Since we're looking at 21 Redzic 4, if you look at the first page, 22 Ms. Smith, there's some time entries for 23 yourself, only one of which is in 24 November 2008. Do you see that? I'm</p>	<p>1 West-R 00204 and 205. 2 (The following exhibit was 3 marked for identification: Smith 2.) 4 Q. Ms. Smith, do you recall this 5 e-mail? 6 A. Yes, now that I see it. 7 Q. And so does this refresh your 8 recollection that the topic of whether or 9 not to terminate Pennsylvania Criminal 10 Procedure was discussed in February -- or 11 as early as January of 2008? 12 A. Yes. 13 Q. And was it the recommendation 14 in January 2008 of Karen Earley that the 15 title be terminated? Was it Karen 16 Earley's recommendation that the title be 17 terminated? 18 MR. ZEISLER: Objection. Are 19 you asking for her recollection? You're 20 pointing her to the document. I was just 21 confused. 22 MR. CHARLSON: I'm asking for 23 her knowledge. 24 MR. ZEISLER: Okay. Thank you.</p>
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<p>1 sorry, only one of which is in 2008 at 2 all. On November 12th, 2008, you have a 3 "Business Planning Meeting" which you 4 coded an hour of time to. Do you have a 5 recollection of what that was for? 6 A. I'm not sure. 7 Q. Could it have been the fall 8 jurisdictional meeting? 9 A. No. 10 Q. Now, as a Team Coordinator, are 11 you required to record your time? 12 A. Yes. 13 Q. So any time that you spent 14 devoted to Pennsylvania Criminal Procedure 15 you would have accurately recorded, 16 correct? 17 MR. ZEISLER: Objection. 18 Q. I'm sorry, I didn't hear your 19 answer. 20 A. Yes. 21 Q. Thank you. 22 MR. CHARLSON: I'm going to 23 ask the court reporter to mark as Smith 24 Exhibit 2 document Bates- numbered</p>	<p>1 A. Seems to be her recommendation, 2 based on this. 3 Q. And do you recall specific 4 discussions now with Ms. Earley or anybody 5 else in the period of time January or 6 February of 2008 about whether to 7 terminate the title? 8 A. I don't specifically recall. 9 Q. Do you know if a decision was 10 made at that time whether to terminate? 11 A. No. 12 (The following exhibit was 13 marked for identification: Smith 3.) 14 Q. Showing you what's marked as 15 Smith Exhibit 3 bearing Bates numbers 16 West-R 4728 through 4730, it's an e-mail 17 string that begins at the very end 18 earliest in time with a January 18th 19 e-mail from Karen Earley, and it goes up 20 through February 11th, 2008, with an 21 e-mail exchange between yourself and Teri 22 Kruk. Do you see that? 23 A. Yes. 24 Q. Do you recall these e-mails?</p>

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<p>1 A. Yes.</p> <p>2 Q. In the February -- your</p> <p>3 February 11th, 12:07 e-mail, you are</p> <p>4 e-mailing -- you e-mail to Teri Kruk,</p> <p>5 "Basically, we would like to terminate</p> <p>6 this title." And then you go through</p> <p>7 three points explaining why, and then you</p> <p>8 describe, "One of the authors is Mr.</p> <p>9 Rudovsky, who is a coauthor of 'Police</p> <p>10 Misconduct Law and Litigation' (our</p> <p>11 competing product to the Yagman title), so</p> <p>12 it's a bit delicate."</p> <p>13 Do you recall having</p> <p>14 discussions, after you sent this e-mail,</p> <p>15 with Ms. Kruk?</p> <p>16 A. I recall one discussion.</p> <p>17 Q. And what do you recall about</p> <p>18 that discussion? Well, let's -- let's --</p> <p>19 let's take it piece by piece. When did</p> <p>20 you discuss it with Ms. Kruk?</p> <p>21 A. We set up a meeting to discuss</p> <p>22 several Pennsylvania titles. I'm not sure</p> <p>23 of the exact date.</p> <p>24 Q. Was it shortly thereafter?</p>	<p>1 Q. And to your recollection,</p> <p>2 whether to terminate was not discussed?</p> <p>3 A. I have no recollection of</p> <p>4 discussing it on that date, no.</p> <p>5 Q. Was there a follow-up discussion</p> <p>6 about this title that you participated in</p> <p>7 after Mr. Rudovsky and Mr. Sosnov rejected</p> <p>8 your reduced offer?</p> <p>9 A. Probably, but I don't remember.</p> <p>10 Q. Is there a particular set of</p> <p>11 documents that needs to be created, filled</p> <p>12 out, prepared when a title is being</p> <p>13 terminated?</p> <p>14 A. Yes.</p> <p>15 Q. And what are those documents?</p> <p>16 A. I don't know the names of them.</p> <p>17 There is a termination procedure. It may</p> <p>18 or may not be the same today as it was</p> <p>19 at that time. It has to be proposed</p> <p>20 first.</p> <p>21 Q. And who needs -- who is the</p> <p>22 party within West that would propose it?</p> <p>23 A. It would begin with the</p> <p>24 Attorney Editor.</p>
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<p>1 A. Yes.</p> <p>2 Q. And who participated in that</p> <p>3 meeting?</p> <p>4 A. Karen Earley, Theresa Kruk and</p> <p>5 myself.</p> <p>6 Q. Was Sarah Redzic part of it?</p> <p>7 A. No.</p> <p>8 Q. And did you and Karen Earley</p> <p>9 recommend termination?</p> <p>10 A. I don't recall termination</p> <p>11 coming up at the meeting.</p> <p>12 Q. When you met with Ms. Kruk, was</p> <p>13 this after Mr. Rudovsky and Mr. Sosnov</p> <p>14 had been offered \$2,500 to do the</p> <p>15 supplement?</p> <p>16 MR. ZEISLER: Objection.</p> <p>17 Q. \$2,500 each to do the</p> <p>18 supplement?</p> <p>19 A. No, it was before.</p> <p>20 Q. Okay. And what was the</p> <p>21 substance of the discussion?</p> <p>22 A. The substance of the discussion,</p> <p>23 as I recall it, was to make a decision</p> <p>24 about the flat fee to be paid.</p>	<p>1 Q. Did you consider Ms. Earley's</p> <p>2 recommendation and the e-mail that you</p> <p>3 sent to Teri Kruk in this Smith Exhibit 3</p> <p>4 to be the commencement of termination</p> <p>5 proceedings?</p> <p>6 A. No.</p> <p>7 Q. So it would be something more</p> <p>8 formal?</p> <p>9 A. Yes.</p> <p>10 Q. And do you know whether that</p> <p>11 more formal document was ever prepared</p> <p>12 with respect to this title?</p> <p>13 A. I do not believe so.</p> <p>14 Q. Do you recall Teri Kruk ever</p> <p>15 disagreeing with the recommendation to</p> <p>16 terminate?</p> <p>17 A. No, I do not.</p> <p>18 Q. Do you recall anybody that you</p> <p>19 spoke with ever disagreeing with the</p> <p>20 decision or the recommendation to</p> <p>21 terminate Pennsylvania Criminal Procedure?</p> <p>22 A. No, I do not.</p> <p>23 MR. ZEISLER: I'm sorry, could</p> <p>24 you read back the last question and</p>

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<p>1 answer? (The reporter read the 2 requested material.) 3 Q. Did you personally ever have 4 any interaction with Mr. Rudovsky or Mr. 5 Sosnov? 6 A. No, I did not. 7 Q. Now, before you came into this 8 room, Ms. Smith, Sarah Redzic was here 9 testifying, and she testified that she had 10 a meeting with you sometime towards the 11 end of 2008 about the status of 12 Pennsylvania Criminal Procedure. Do you 13 recall that meeting? 14 MR. ZEISLER: Objection. I'm 15 going to object to counsel's 16 characterization of her testimony. 17 What he's saying to you is his 18 interpretation of her testimony. But you 19 can answer his question. 20 A. I don't recall a one-on-one 21 meeting, but I do recall an Attorney 22 Editor meeting where it came up. 23 Q. Do you recall when that meeting 24 was held?</p>	<p>1 Q. After those meetings, do you 2 prepare any sort of report or memo to 3 file about what's discussed? 4 A. No. 5 Q. Do you keep handwritten notes 6 of your meetings? 7 A. Sometimes. 8 Q. Any kind of -- do you make any 9 kind of recording of those meetings as -- 10 on a regular basis? 11 A. No. 12 Q. Have you searched your files to 13 see if you have notes of that particular 14 meeting? 15 A. Yes, I have searched. No, I 16 could find no notes on that particular 17 meeting. 18 Q. Did you find notes about any 19 meeting regarding Pennsylvania Criminal 20 Procedure? 21 A. I don't think so. 22 Q. What's your recollection of what 23 discussion you had with Sarah Redzic at 24 that Attorney Editor meeting that you</p>
Page 38	Page 40
<p>1 A. No, I don't. 2 Q. So you're talking about a 3 meeting with multiple Attorney Editors? 4 A. Correct. 5 Q. And do you have regular 6 meetings with the Attorney Editors who 7 report to you? 8 A. Absolutely. 9 Q. And during those meetings, do 10 you talk about the status of various 11 titles? 12 A. Yes, we do. 13 Q. And what needs to be done with 14 some of them? 15 A. Sometimes, yes. 16 Q. Are those held monthly? 17 A. Or more frequently. I believe 18 we were meeting weekly at that time. 19 Q. Is that because it was getting 20 to the end of the year? 21 A. Yes. 22 Q. And is the end of the year 23 crunch time at West? 24 A. Yes, it is.</p>	<p>1 referred to? 2 A. I told the Attorney Editors as 3 a group that we needed to make all our 4 shipments for the rest of the year; that 5 we needed to deliver everything that we 6 had committed to. 7 Q. And am I correct that the 8 .2008-2009 supplement was part of your 9 publication schedule for that year? 10 A. Yes. 11 Q. And so you felt that that was 12 something that was an obligation that your 13 team had to meet? 14 A. Yes. 15 Q. At the time that you had this 16 meeting, was the -- was the supplement 17 for Pennsylvania Criminal Procedure already 18 overdue? 19 MR. ZEISLER: Objection. Vague 20 with respect to "overdue." 21 A. I really don't know. 22 Q. Would you be surprised if Sarah 23 Redzic had testified that it was overdue? 24 MR. ZEISLER: Objection.</p>

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<p>1 Mischaracterizes prior testimony. 2 A. No. 3 Q. "No," you wouldn't be surprised? 4 A. No. 5 Q. With respect to Pennsylvania 6 Criminal Procedure, what specifically did 7 you discuss with Sarah Redzic at that 8 meeting? 9 A. My recollection is that Sarah 10 identified that supplement as a supplement 11 that we had no manuscript for, and she 12 volunteered to produce a supplement. 13 Q. And what was your reaction to 14 that? 15 MR. ZEISLER: Objection. Lacks 16 foundation. 17 Q. Did you have a reaction to 18 that? 19 A. Yes. 20 Q. And what was your reaction? 21 A. That we should do it if we 22 could. 23 Q. At that time, how long had 24 Sarah Redzic been a member of the West --</p>	<p>1 A. That's correct. 2 Q. Did you give Sarah any specific 3 direction as to what she should do or how 4 she should go about preparing a supplement 5 on her own, given that she had never done 6 it before? 7 MR. ZEISLER: Objection. Vague 8 as to time frame. 9 A. No, I personally did not. 10 Q. Did you make any suggestions to 11 her about talking with other Attorney 12 Editors or getting some guidance from 13 anybody who had done one? 14 A. I do not recall. 15 Q. Did you make any suggestions 16 for what source material she should 17 review? 18 A. No, I did not. 19 Q. Did you provide her with 20 anything? 21 A. At that time, no. 22 Q. At any time? 23 MR. ZEISLER: Objection. 24 A. Personally, no.</p>
Page 42	Page 44
<p>1 how long had she been a member of your 2 team? 3 A. Approximately one year. 4 Q. Did you have any concerns about 5 Sarah Redzic's ability to produce a 6 supplement to Pennsylvania Criminal 7 Procedure? 8 A. No, I did not. 9 Q. Were you aware of whether she 10 had ever prepared a supplement on her own 11 before? 12 MR. ZEISLER: Objection with 13 respect to -- vague with respect to 14 "prepared." 15 A. I don't think she had. 16 Q. What kind of time frame did 17 Sarah have to prepare this update from 18 the time of your meeting to the date that 19 a manuscript was required? 20 A. Exactly, I don't know. Less 21 than a month, I would expect. 22 Q. And am I correct that this 23 would not have been Sarah's only task 24 during that period; is that correct?</p>	<p>1 Q. Did you do it through somebody 2 else indirectly? 3 MR. ZEISLER: Just for clarity, 4 you mean her personally? Not West; her? 5 Q. Ms. Smith, you answered that 6 you did not personally provide her with 7 any information. My question is whether 8 you're aware that anybody else provided 9 her information at your direction 10 indirectly, but that you did not provide 11 to her personally. 12 A. Are you asking specifically 13 about this supplement? 14 Q. Yes. 15 A. No. 16 Q. Do you recall a discussion with 17 Ms. Redzic about an attempt to locate 18 contractors to prepare the supplement? 19 A. Yes. 20 Q. Do you recall when that 21 conversation took place? 22 A. No. 23 Q. Do you have a recollection of 24 whether it was at the same meeting with</p>

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<p>1 -- same Attorney Editor meeting that we've 2 been discussing? (Mr. 3 Wierzbicki left the deposition room.) 4 A. I don't remember. 5 Q. And did Sarah -- did you follow 6 up with Sarah or did Sarah follow up with 7 you about her effort to identify a 8 contractor? 9 A. I do not recollect. 10 Q. In fact, no contractor was 11 located, correct? 12 MR. ZEISLER: Objection. 13 Q. You can answer. 14 A. I don't think so. 15 Q. Well, in fact, Sarah is the one 16 who prepared the supplement, right? 17 A. That's correct. 18 Q. Did you give her any -- did 19 you or anyone at West give her any 20 guidance as to how much material -- new 21 material should go into the 2008 22 supplement? 23 MR. ZEISLER: Objection. Calls 24 for speculation.</p>	<p>1 Q. Now, you said that at this 2 attorney meeting -- Attorney Editor 3 meeting -- and this was in the fall, 4 correct? 5 A. Yes. 6 Q. You told your team that all of 7 your commitments had to be met, right? 8 A. Correct. 9 (Mr. Wierzbicki returned to the 10 deposition room.) 11 Q. And the commitments that are in 12 your publishing schedule -- publishing 13 plan; is that the phrase? 14 A. Yes. 15 Q. The commitments that are in 16 your publishing plan, I assume that that 17 is factored into revenue projections for 18 your unit? 19 MR. ZEISLER: Objection. 20 A. Yes. 21 Q. Okay. And meeting those 22 revenue projections required that you meet 23 your publishing commitments, correct? 24 MR. ZEISLER: Objection. Lacks</p>
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<p>1 Q. I'm only asking for what you 2 know. 3 MR. ZEISLER: Okay. But my 4 objection is your question as phrased is 5 "you or anyone at West." 6 Q. Let me rephrase the question. 7 Did you or, to your knowledge, anyone 8 else at West -- just so it's clear -- 9 ever make such a requirement? 10 And just so it's clear, I'm 11 always asking for your knowledge, what you 12 know. If I'm asking about what somebody 13 else at West may have done, I'm asking 14 what you know. I certainly don't want 15 you to guess unless you can tell me, 16 based on your own experience, with some 17 degree of accuracy, how you think 18 something -- what you think happened. 19 MR. ZEISLER: And I'm going to 20 instruct the witness that I do not want 21 her to guess or speculate. 22 Q. You can answer the question. 23 A. Regarding this specific 24 supplement, I don't know.</p>	<p>1 foundation. 2 A. Yes. 3 Q. And that was part of the reason 4 that it was important that you meet your 5 publishing commitments, right, to generate 6 the revenue that your unit was projected 7 to generate, correct? 8 MR. ZEISLER: Objection. 9 A. Correct. 10 Q. Because these pocket parts don't 11 go out for free, right? The subscribers 12 actually pay for them, correct? 13 MR. ZEISLER: Objection. 14 Q. That's a question. You can 15 answer it. 16 A. Correct. 17 Q. And needless to say, if it 18 doesn't get sent out, the customers don't 19 pay for anything, correct? 20 MR. ZEISLER: Objection. Can 21 you read back the question, please? 22 (The reporter read the requested 23 material.) 24 A. Correct.</p>

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<p>1 MR. ZEISLER: I repeat my 2 objection to the question.</p>	<p>1 Q. -- regardless of how experienced 2 that Attorney Editor is?</p>
<p>3 Q. Did you review Sarah Redzic's 4 -- well, let me withdraw that question.</p>	<p>3 MR. ZEISLER: Objection. 4 A. Yes.</p>
<p>5 I want to make sure I have the 6 right terminology here, Ms. Smith. The 7 document that Sarah prepared, you consider 8 that a manuscript? What terminology would 9 you use to reflect that?</p>	<p>5 Q. Are you familiar with the term 6 "certified Attorney Editor"?</p>
<p>10 MR. ZEISLER: Just for clarity, 11 we're talking about the December '08 12 pocket part?</p>	<p>7 A. No. 8 Q. Are you involved at all in 9 training Attorney Editors?</p>
<p>13 MR. CHARLSON: Yep. 14 MR. ZEISLER: Okay.</p>	<p>10 A. No. 11 Q. Are you familiar with the 12 concept of a publishability review?</p>
<p>15 A. "Manuscript" is... 16 Q. So did you personally review 17 Sarah Redzic's manuscript for the 2008 18 supplement?</p>	<p>13 A. Yes. 14 Q. Is that something that you 15 perform?</p>
<p>19 A. No, I did not. 20 Q. Did you approve it?</p>	<p>16 A. No. 17 Q. What is a publishability review? 18 A. A publishability review is a 19 review of the portion of the manuscript 20 to ensure that it is accurate, complete, 21 up-to-date.</p>
<p>21 MR. ZEISLER: Objection. 22 A. Yes.</p>	<p>22 Q. And who conducts the 23 publishability reviews? 24 MR. ZEISLER: Objection.</p>
<p>23 Q. And how did you -- how did you 24 approve it?</p>	
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<p>1 A. By directing her to submit the 2 manuscript for publication.</p>	<p>1 A. Attorney Editors. 2 Q. Are they typically performed on 3 work authored by an outside author?</p>
<p>3 Q. So I'm clear, when you say 4 "approval," that was the approval given to 5 proceed with the project?</p>	<p>4 A. Yes. 5 Q. What about when a work is 6 authored by an internal author?</p>
<p>6 MR. ZEISLER: Objection. 7 A. Yes.</p>	<p>6 A. No. 7 Q. So West performs a 8 publishability review for work submitted 9 by experienced outside Attorney Authors 10 but not for work performed by its own 11 internal authors, regardless of their 12 experience level?</p>
<p>8 Q. Did anybody review Sarah 9 Redzic's manuscript for the 2008 10 supplement?</p>	<p>11 MR. ZEISLER: Objection. Vague 12 with respect to the term "experienced 13 outside Attorney Authors." 14 Q. Are you familiar with David 15 Rudovsky?</p>
<p>11 MR. ZEISLER: Objection. Calls 12 for speculation.</p>	<p>16 A. We would, yes. 17 Q. When Mr. Rudovsky or Mr. Sosnov 18 had submitted earlier drafts or if Mr.</p>
<p>13 A. I don't know. 14 Q. Well, in the normal course, 15 would you expect that anybody else at 16 West would provide -- would conduct a 17 substantive review of Sarah Redzic's 18 manuscript?</p>	
<p>19 A. No. 20 Q. So the Attorney Editor, after 21 being tasked with preparing a supplement 22 on their own, was the final -- had the 23 final say in what went into it -- 24 A. Yes.</p>	

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<p>1 Rudovsky submits "Police Mis" -- an update 2 to "Police Misconduct and the Law," is 3 that subject to a publishability review? 4 A. Yes. 5 Q. Okay. And Mr. Rudovsky is an 6 experienced lawyer and lecturer, to your 7 knowledge, correct? 8 MR. ZEISLER: Objection. 9 Q. That's what it says in the West 10 marketing materials. You've seen that, 11 right? 12 MR. ZEISLER: Objection. Lacks 13 foundation. 14 A. Yes. 15 Q. Nevertheless, his work is 16 submitted to a publishability review? 17 A. That's correct. 18 Q. At the time that Sarah Redzic 19 had performed this -- prepared this 20 manuscript, do you know how long she had 21 been working at West? 22 MR. ZEISLER: Objection. Asked 23 and answered. 24 Q. It was a year, right?</p>	<p>1 A. No. 2 Q. Do you know who did? 3 A. I believe Karen Earley was 4 involved. 5 Q. All right. Do you recall 6 discussions regarding the 2007 pocket part 7 about the fee that was going to be paid 8 to David Rudovsky and Leonard Sosnov? 9 A. No. 10 MR. CHARLSON: I'll ask the 11 court reporter to mark the next document 12 as Smith Exhibit 4. 13 (The following exhibit was 14 marked for identification: Smith 4.) 15 Q. I've handed the witness what's 16 marked as Smith Exhibit 4 bearing Bates 17 numbers West-R 0004 through 0006. The 18 top e-mail is from Catherine Smith to 19 Teri Kruk, Monday, May 21, 2007. 20 Do you recall this e-mail? 21 MR. ZEISLER: Take a moment to 22 look at it. 23 A. (Reviewing the document.) 24 I recall it now.</p>
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<p>1 A. Yes. 2 Q. And she had graduated law 3 school shortly before she joined West? 4 A. Yes. 5 Q. Did it occur to you that a 6 publishability review might be a good 7 idea? 8 MR. ZEISLER: Objection. 9 Argumentative. 10 A. No. 11 MR. CHARLSON: Let's go off the 12 record. 13 THE VIDEOGRAPHER: 12:48 p.m. 14 We're going off the record. 15 (There was a pause in the 16 proceeding.) 17 THE VIDEOGRAPHER: 12:48 p.m. 18 We're back on the record. 19 Q. Ms. Smith, did you have any 20 involvement in preparing or -- did you 21 have any involvement with a contract 22 with David Rudovsky and Leonard Sosnov for 23 the 2007 pocket part? 24 MR. ZEISLER: Objection.</p>	<p>1 Q. Do decisions about compensation 2 to authors have to go through you for 3 authors within -- of titles that are in 4 your group? 5 A. Yes. 6 Q. And what about contracts, do 7 those have to be approved by you? 8 A. No. 9 Q. Who's in charge of that? 10 A. Director. At this time I 11 believe it would be Teri Kruk. 12 Q. So would the Attorney Editor 13 deal directly with Teri Kruk on the 14 contract? 15 A. On the contract, yes. 16 Q. In this e-mail you state to 17 Teri Kruk that "\$10,000 in flat fees is 18 pretty high for a volume that only 19 makes \$17,000." 20 A. Yes. 21 Q. And that referred to the 22 revenue -- the \$17,000 referred to the 23 revenue that West generates on that title? 24 A. Yes.</p>

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<p>1 Q. And at this time were you aware 2 that \$10,000 was the fee that Rudovsky 3 and Sosnov had been paid by West for 4 previous years? 5 MR. ZEISLER: Objection. Lacks 6 foundation. 7 A. I was aware of what Karen says 8 in her e-mail. 9 Q. And do you recall discussions 10 around that time about -- in that time in 11 May 2007 about whether the Pennsylvania 12 Criminal Procedure title should be revised 13 and a new edition published? 14 A. I remember it being mentioned, 15 yes. 16 Q. And what decision did West make 17 with respect to preparing a new edition 18 of that treatise? 19 A. Our decision was not to pursue 20 it. 21 Q. And was that because the cost 22 did not -- the cost of paying the authors 23 did not -- wasn't justified by the 24 revenue?</p>	<p>1 contractors? 2 MR. ZEISLER: Objection. Lacks 3 foundation. 4 A. I personally did not. 5 Q. Do you know whether others did? 6 A. I believe one other contractor 7 may have been approached. 8 Q. Do you know who that was? 9 A. No, I don't. 10 Q. Was Ms. Gimeno paid for the 11 supplement? 12 A. Yes, she was. 13 Q. What was her fee? 14 A. I don't recall. 15 Q. Do you know whether it was 16 greater than \$5,000? 17 A. That sounds correct. 18 Q. Correct that it was greater 19 than 5,000? 20 A. Oh, I'm sorry. I misunderstood 21 what you said. No, I thought it was 22 around 5,000. 23 Q. And was there a contract 24 executed with Ms. Gimeno?</p>
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<p>1 A. Yes, it was. 2 Q. Ms. Smith, did you have any 3 involvement in the preparation of the 4 April -- the 2009 supplement to 5 Pennsylvania Criminal Procedure that was 6 mailed out in April 2009? 7 A. Yes. 8 Q. What was your involvement? 9 A. Suggesting a contractor. 10 Q. And did you suggest a 11 contractor? 12 A. Yes, I did. 13 Q. And did that contractor prepare 14 the supplement? 15 A. Yes, she did. 16 Q. And who was that? 17 A. Chris Gimeno. 18 Q. Could you spell that? 19 A. G-I-M-E-N-O. 20 Q. And who is Chris Gimeno? 21 A. Chris Gimeno is a contract 22 writer, former employee of West, licensed 23 to practice in Pennsylvania. 24 Q. Did you contact any other</p>	<p>1 A. Yes, there was. 2 Q. And who was involved in 3 executing that contract? 4 A. The Attorney Editor who drew up 5 the contract was Jerome Conkey. I do not 6 know who signed it. It would have been 7 a Director or higher. 8 MR. CHARLSON: Well, Aaron, 9 we'd request a copy of that contract with 10 Ms. Gimeno. 11 MR. ZEISLER: I'll take it 12 under advisement. 13 Q. And did you deal directly with 14 Ms. Gimeno with respect to preparing the 15 April version of the 2009 supplement? 16 A. Only insofar as she was willing 17 to be involved. 18 Q. You mean in hiring her? 19 A. Yes. 20 Q. And after she was hired, did 21 you remain part of the process? 22 A. I was copied in on some of the 23 communications with her. 24 Q. "Some of the communications"</p>

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<p>1 meaning e-mail communications? 2 A. Yes. 3 Q. Was -- to your knowledge, was 4 West's counsel part of those discussions? 5 A. I do not know. 6 MR. CHARLSON: I think that any 7 communications with Ms. Gimeno are 8 responsive to requests that we've already 9 served, and so I request production of 10 all such e-mails. 11 MR. ZEISLER: I'll take it 12 under advisement. 13 Q. Had you worked with Ms. Gimeno 14 before? 15 A. Yes. 16 Q. While she was an employee of 17 West? 18 A. Yes. 19 Q. Did you work with her as a 20 contractor after she left West? 21 A. No. 22 Q. Had she worked as a contractor 23 for West? 24 A. Yes.</p>	<p>1 Pennsylvania Criminal Procedure, the order 2 couldn't be fulfilled? 3 A. That's correct. 4 MR. ZEISLER: Objection. 5 Q. Is that hold still on the 6 title? 7 A. I do not know. 8 Q. Who would you expect to know 9 that? 10 A. Probably Sarah Redzic. 11 Q. Is Pennsylvania Criminal 12 Procedure still under your team? 13 A. No. 14 Q. Who's the coordinator of that 15 team now? 16 A. For the Attorney Editors it 17 would be Glenn Guarino. 18 Q. And do you know whether any -- 19 do you know whether any orders for 20 Pennsylvania Criminal Procedure have been 21 fulfilled since February of 2009? 22 A. I do not know. 23 MR. CHARLSON: A one-page 24 e-mail marked West-R 00214 will be Smith</p>
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<p>1 Q. But not with your involvement? 2 A. Correct. 3 MR. CHARLSON: I'll ask the 4 court reporter to mark as the next in 5 order. Redzic Exhibit 5? I'm sorry, 6 Smith Exhibit 5. 7 (The following exhibit was 8 marked for identification: Smith 5.) 9 Q. I've handed you what's marked 10 West-R 216 to 217. It's a string of 11 e-mails that refers to something called a 12 -- that refers to a hold being put on 13 Criminal Procedure in February 2009. Do 14 you recall that happening? 15 A. Yes. 16 Q. And what is a hold? 17 A. Discontinuance of sale of the 18 publication. 19 Q. And why was West putting a hold 20 on Pennsylvania Criminal Procedure? 21 MR. ZEISLER: Objection. 22 A. Because of this lawsuit. 23 Q. So does that mean that if 24 anybody -- anybody who requested to order</p>	<p>1 Exhibit 6. 2 (The following exhibit was 3 marked for identification: Smith 6.) 4 Q. Ms. Smith, I'm showing you an 5 e-mail you sent to Sarah Redzic on 6 February 11, 2009, in response to an 7 e-mail from her to you. The e-mails 8 refer to a marketing piece that's 9 scheduled to mail in March that contains 10 PA PR Volumes 2 and 2A. Does that refer 11 to Pennsylvania Criminal Procedure? 12 A. Yes, it does. 13 Q. And what -- what was your 14 understanding of what Ms. Redzic was 15 saying about letting the marketer know to 16 take the title off the mailer? 17 MR. ZEISLER: I'm sorry, could 18 you repeat that question, please? 19 (The reporter read the requested 20 material.) 21 MR. ZEISLER: Thank you. 22 A. My understanding was that we 23 would not be sending out any marketing 24 pieces concerning this volume of</p>

<p style="text-align: center;">Page 65</p> <p>1 Pennsylvania Practice. 2 Q. And why was that? 3 MR. ZEISLER: Objection. 4 Q. Was that -- let me ask it 5 differently. Was that because of the hold? 6 A. Yes. 7 Q. Ms. Smith, when you approved 8 Sarah Redzic preparing the 2009 supplement 9 that was published in December 2008, did 10 you have any expectation of how much time 11 was going to be devoted to it? 12 MR. ZEISLER: Objection. Just 13 for the record, I think you said 2009 and 14 2008 all in the same question. 15 MR. CHARLSON: So 2009 16 supplement, which was published in 17 December of 2008. Actually, so the 18 .2008-2009 supplement. 19 MR. ZEISLER: Thank you. Just 20 wanted to be clear. 21 MR. CHARLSON: Thank you. 22 Q. Did you have an expectation of 23 approximately how long you thought it 24 would take Sarah to do that?</p>	<p style="text-align: center;">Page 67</p> <p>1 A. No. 2 Q. There was no way to record that 3 at the time, beyond 40 hours? 4 A. Not at the time, no. 5 Q. Did you have an understanding, 6 Ms. Smith, of who the intended audience 7 of Pennsylvania Criminal Procedure was 8 in 2008? 9 A. The intended audience? 10 Q. The intended readership, yes. 11 A. Yes. Attorneys in Pennsylvania 12 and others who were interested in 13 Pennsylvania law. 14 Q. Judges? 15 A. Possibly. 16 Q. Law students? 17 A. Yes. 18 Q. Prisoners? 19 A. Possibly. 20 Q. Prison law libraries were on 21 the subscription list? 22 MR. ZEISLER: Objection. Is 23 that a question or a representation? 24 Q. Does the representation that</p>
<p style="text-align: center;">Page 66</p> <p>1 A. No, I did not. 2 Q. Did you expect -- well, would 3 it surprise you if she billed ten and a 4 half hours to "Other Production" time to 5 do that, to prepare the supplement, the 6 2008-2009 supplement? 7 MR. ZEISLER: Objection. 8 A. No. 9 Q. In your experience, is the 10 process of preparing an entire manuscript 11 of a supplement to a current legal topic, 12 is that approximately a ten-hour job? 13 MR. ZEISLER: Objection. Lacks 14 foundation. Misstates prior testimony 15 about time versus billed time. 16 A. No. But at that time, Attorney 17 Editors were only allowed to charge 40 18 hours a week for their time. My 19 expectation would be that she'd charge to 20 all the jobs she worked on during that 21 period. 22 Q. Do you have any way of knowing 23 how much time an Attorney Editor doesn't 24 record at that time?</p>	<p style="text-align: center;">Page 68</p> <p>1 prison law libraries were on the 2 subscription list refresh your recollection 3 that prisoners were among the intended 4 audience? 5 A. Yes, I guess so. 6 MR. ZEISLER: Well, I don't 7 want you to guess. This isn't a guessing 8 game. This is either you remember or 9 not. He was making a representation to 10 refresh your recollection, which I think 11 is actually objectionable and improper. 12 But the question is: Do you remember? 13 A. I don't remember. 14 Q. Was it your understanding that 15 West had an obligation to ensure that 16 the 2008 -- 2008-2009 supplement was 17 accurate and complete? 18 MR. ZEISLER: Objection. 19 A. Yes. 20 Q. And that it met West's 21 publishability guidelines and standards? 22 A. Yes. 23 Q. And that it update the relevant 24 law of criminal procedure from the time</p>

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<p>1 of the last update to the time of</p> <p>2 the 2008-2009 update?</p> <p>3 MR. ZEISLER: Objection. Could</p> <p>4 you read the question back, please?</p> <p>5 (The reporter read the requested</p> <p>6 material.)</p> <p>7 MR. ZEISLER: You're asking for</p> <p>8 her understanding, or what are you --</p> <p>9 Q. Yeah, I'm asking for what your</p> <p>10 understanding of West's obligation in</p> <p>11 publishing that 2008-2009 supplement was.</p> <p>12 MR. ZEISLER: Well, objection,</p> <p>13 then. If you're asking about West's</p> <p>14 obligation, it calls for a legal</p> <p>15 conclusion.</p> <p>16 Q. I'm asking for, Ms. Smith, your</p> <p>17 understanding of what West's obligations</p> <p>18 to its customers were; not in a legal</p> <p>19 sense, but in your own understanding as</p> <p>20 the Team Coordinator for this group, what</p> <p>21 you thought West was -- West standards</p> <p>22 require in the supplement, and that's a</p> <p>23 question you can answer.</p> <p>24 A. My understanding was that we</p>	<p>1 MR. CHARLSON: No further</p> <p>2 questions.</p> <p>3 THE VIDEOGRAPHER: It's 1:12</p> <p>4 p.m. The deposition is now completed.</p> <p>5 .</p> <p>6 .</p> <p>7 .</p> <p>8 .</p> <p>9 .</p> <p>10 .</p> <p>11 .</p> <p>12 .</p> <p>13 .</p> <p>14 .</p> <p>15 .</p> <p>16 .</p> <p>17 .</p> <p>18 .</p> <p>19 .</p> <p>20 .</p> <p>21 .</p> <p>22 .</p> <p>23 .</p> <p>24 .</p>
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<p>1 would update the law existing in the</p> <p>2 pocket part.</p> <p>3 Q. And did you understand that the</p> <p>4 readers of Pennsylvania Criminal Procedure</p> <p>5 used it as a guide to the most up-to-date</p> <p>6 -- or to the up-to-date status of</p> <p>7 criminal procedure law in Pennsylvania?</p> <p>8 MR. ZEISLER: Objection.</p> <p>9 Again, is this your representation or a</p> <p>10 question?</p> <p>11 MR. CHARLSON: I'm asking her</p> <p>12 her understanding.</p> <p>13 MR. ZEISLER: No, you were</p> <p>14 making a representation disguised as a</p> <p>15 question.</p> <p>16 MR. CHARLSON: I'll ask it</p> <p>17 again.</p> <p>18 Q. Did you have an understanding</p> <p>19 that the intended audience of Pennsylvania</p> <p>20 Criminal Procedure used the book for the</p> <p>21 purpose of educating themselves on the</p> <p>22 current status of Pennsylvania Criminal</p> <p>23 Procedure law?</p> <p>24 A. Yes.</p>	<p>1 WITNESS CERTIFICATION</p> <p>2 .</p> <p>3 .</p> <p>4 I hereby certify that I have</p> <p>5 read the foregoing transcript of my</p> <p>6 deposition testimony, and that my answers</p> <p>7 to the questions propounded, with the</p> <p>8 attached corrections or changes, if any,</p> <p>9 are true and correct.</p> <p>10 .</p> <p>11 .</p> <p>12 .</p> <p>13 _____</p> <p>14 DATE CATHERINE SMITH</p> <p>15 .</p> <p>16 .</p> <p>17 .</p> <p>18 _____</p> <p>19 PRINTED NAME</p> <p>20 .</p> <p>21 .</p> <p>22 .</p> <p>23 .</p> <p>24 .</p>

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