

EXHIBIT 50

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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-----:
AMERICAN SOCIETY FOR TESTING :
AND MATERIALS dba ASTM      :
INTERNATIONAL,              :
NATIONAL FIRE PROTECTION    :
ASSOCIATION, INC., and      :
AMERICAN SOCIETY OF HEATING, :
REFRIGERATING AND AIR      :
CONDITIONING ENGINEERS,     :
                             :
    Plaintiffs/              :
    Counter-Defendants,       :
                             :
    v.                        :   No. 1:13-cv-01215-EGS
                             :
PUBLIC.RESOURCE.ORG,        :
                             :
    Defendant/               :
    Counter-Plaintiff.      :
-----:

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Coos Bay, Oregon

Thursday, November 13, 2014

39(b)(6) DEPOSITION OF:

REBECCA MALAMUD,
PUBLIC.RESOURCE.ORG,

taken pursuant to notice, by counsel for Plaintiffs/
Counter-Defendants at Red Lion Inn, 1313 North
Bayshore Drive, Coos Bay, Oregon, before Jan R.
Duiven, CSR, FCRR, CCP, Certified Shorthand Reporter
in and for the State of Oregon, beginning at 9:00
a.m., when were present on behalf of the respective
parties:

2

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3

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 25 (Exhibits attached to transcript.)

6	<p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: We're going on</p> <p>3 the record. The time is nine a.m. Pacific Coast</p> <p>4 Time. This is disc 1 of the deposition of Rebecca</p> <p>5 Malamud in the matter of ASTM International, et</p> <p>6 al. versus Public Resources --</p> <p>7 Public.Resources.org. Case No. 1:13-CV-01215-EGS.</p> <p>8 Today is November 13th, 2014. The</p> <p>9 deposition is taking place at 1313 North Bayshore</p> <p>10 Drive, Coos Bay, Oregon. I'd like to ask the</p> <p>11 attorneys to please introduce yourselves for the</p> <p>12 record starting in the room.</p> <p>13 MR. FEE: Kevin Fee from Morgan</p> <p>14 Lewis on behalf of ASTM.</p> <p>15 MR. CHILDS: Ned Childs from Morgan</p> <p>16 Lewis on behalf of ASTM.</p> <p>17 MR. REHN: Thane Rehn, from Munger,</p> <p>18 Tolles & Olson on behalf of NFPA.</p> <p>19 MR. STOLTZ: Mitchell Stoltz from</p> <p>20 the Electronic Frontier Foundation on behalf of</p> <p>21 Public.Resource.org and Point B Studio.</p> <p>22 THE VIDEOGRAPHER: And on the phone,</p> <p>23 please?</p> <p>24 MR. ZEE: Andrew Zee from King &</p> <p>25 Spaulding on behalf of the American Society of</p>	8
7	<p>1 Heating, Refrigerating and Air Conditioning</p> <p>2 Engineers.</p> <p>3 THE VIDEOGRAPHER: Thank you. My</p> <p>4 name's Charles Wright. I'm the videographer. The</p> <p>5 court reporter is Jan Duiven. We're both</p> <p>6 representing C&C Reporting from Eugene, Oregon.</p> <p>7 Madam Court Reporter, would you now</p> <p>8 swear in the witness.</p> <p>9</p> <p>10 REBECCA MALAMUD,</p> <p>11 having been first duly sworn to testify the truth, the</p> <p>12 whole truth, and nothing but the truth, was examined</p> <p>13 and testified as follows:</p> <p>14 EXAMINATION</p> <p>15 BY MR. FEE:</p> <p>16 Q. Good morning.</p> <p>17 A. Good morning.</p> <p>18 Q. Would you please state your name for</p> <p>19 the record?</p> <p>20 A. My name is Rebecca Malamud.</p> <p>21 Q. Ms. Malamud, have you ever been</p> <p>22 deposed before?</p> <p>23 A. No.</p> <p>24 Q. Okay. Well, then I'll explain a</p> <p>25 little bit about what's going to happen here</p>	9

1 today. I'm going to ask you a series of

2 questions, as well as the other counsel on behalf

3 of the plaintiffs, and perhaps your counsel as

4 well. All of our questions and your answers will

5 be recorded by the court reporter, and of course

6 you know you're being videotaped as well.

7 In order to make the court reporter's

8 job easy I'd ask that you respond to all of our

9 questions verbally as opposed to nodding, if

10 that's all right.

11 A. Okay.

12 Q. All right. If I ask you any questions

13 that you don't understand, would you please let me

14 know that?

15 A. Yes.

16 Q. And then if you respond to my

17 questions, that would mean that your answer is

18 responsive to my question and you understood it.

19 Is that fair?

20 A. Okay.

21 Q. Is there any reason you can't testify

22 fully and truthfully today?

23 A. No.

24 Q. Okay. Do you have an attorney

25 representing you today?

1 A. Yes.

2 Q. Who is your attorney?

3 A. Mitch Stoltz.

4 Q. How long have you had Mr. Stoltz as

5 your attorney?

6 A. Since -- I don't know the exact date.

7 In mid-summer.

8 Q. Have you met with Mr. Stoltz in

9 connection with your deposition here today?

10 A. Yes.

11 Q. On how many occasions did you meet

12 with him?

13 A. We talked on the phone a couple of

14 times, email correspondence, and we met yesterday.

15 Q. How long was your meeting yesterday?

16 A. A couple of hours.

17 Q. Was anybody present at that meeting

18 other than yourself and Mr. Stoltz?

19 A. My son was downstairs in another room.

20 Q. Okay. Is that it?

21 A. That's it.

22 Q. You mentioned you had at least one

23 phone call with Mr. Stoltz, too.

24 A. Yes.

25 Q. Do you recall how many phone calls you

10	<p>1 had with him regarding this deposition? 2 A. Two. 3 Q. Do you recall the length of those 4 phone calls? 5 A. No. 6 Q. Did you speak with Carl Malamud in 7 connection with your deposition today? 8 A. No. 9 Q. Is Mr. Malamud your husband? 10 A. Yes. 11 Q. Okay. How long have the two of you 12 been married? 13 A. Since 1990. Wait. Yeah. No. 14 God, 2000. Sorry. Internet time. 15 I've known him -- well, it's okay. 16 Q. Where do you reside? 17 A. I reside in Sixes, Oregon. 18 Q. And does Mr. Malamud reside in Sixes, 19 Oregon? 20 A. No, he does not. 21 Q. Okay. Are the two of you separated? 22 A. Yes. 23 Q. And how long have the two of you been 24 separated? 25 A. We haven't lived in the same residence</p>	12
11	<p>1 Q. Have you seen that document before? 2 A. I have. 3 Q. Turn towards the back of that 4 document. It's the third page from the back. Do 5 you see there's a page with the heading that says, 6 "Topics on Which Examination is Required"? Do you 7 see that page? 8 A. Yes. 9 Q. Have you reviewed the topics on which 10 examination is required in that document? 11 A. Yes. 12 Q. Have you reviewed those topics prior 13 to just now? 14 A. Yes. 15 Q. Okay. Are you prepared to testify on 16 behalf of Point B Studios on all of those topics? 17 A. Yes. 18 Q. Towards the bottom of that page you'll 19 also see there's some requests for production that 20 carry over to the next two pages. Do you see 21 that? 22 A. Yes. 23 Q. Have you reviewed those requests for 24 production prior to today? 25 A. Yes.</p>	13
11	<p>1 for ten years. 2 Q. But you're still married? 3 A. Yes. 4 Q. You haven't been divorced? Okay. 5 Now, you understand that you're here 6 to testify on behalf of Point B Studios today? 7 A. Yes. 8 Q. What is Point B studios? 9 A. Point B Studio is an Internet design 10 studio and art gallery. 11 Q. Is Point B Studios a separate 12 incorporated entity? 13 A. No. I'm -- I'm a dba. 14 Q. Okay. Are you the sole owner of 15 Point B Studios? 16 A. Yes. 17 (Deposition Exhibit No. 16 18 marked for identification.) 19 BY MR. FEE: 20 Q. I'm going to hand you what's been 21 marked as Exhibit 16. It's a subpoena directed to 22 Point B Studios. 23 First of all, do you recognize that as 24 a subpoena that was directed to Point B Studios? 25 A. Yes.</p>	13

<p style="text-align: right;">14</p> <p>1 computer? 2 Q. Well, why don't you tell me what you 3 did to try to get all the files off of each 4 computer and send them to your counsel. 5 A. I -- I replicated the files relating 6 to the subpoena. 7 Q. Okay. 8 A. And on one computer I gave -- I sent 9 the entire backup because I had a crash so -- 10 Q. So how did you go about identifying 11 the files that you thought were related to this 12 subpoena that you put on a hard drive to send to 13 your counsel? 14 A. All files were labeled. They all have 15 an identifier. So it was easy to identify which 16 ones were related to the subpoena. 17 Q. So you searched by file name? 18 A. Yes. 19 Q. Okay. Were there any other mechanisms 20 that you used or search techniques that you used? 21 A. The folders are -- there are folders 22 labeled for each document set and I just copied 23 those onto the hard drive. 24 Q. Okay. And were those folders -- would 25 they contain things like images from an ASTM</p>	<p style="text-align: right;">16</p> <p>1 Q. Can you tell me whose computers they 2 were? Were they all your computers? 3 A. They're all property of Point B. 4 Q. Okay. Were they all computers that 5 you ordinarily use? 6 A. Yes, and an employee. 7 Q. I'm sorry. Yes and -- 8 A. Yes. 9 Q. Okay. And do you also have employees 10 or consultants that use any of these computers? 11 A. I have -- I have one full-time 12 employee. 13 Q. What's his or her name? 14 A. Levi Thompson. 15 Q. Does Mr. Thompson have a Point B 16 computer that he works on? 17 A. Yes. 18 Q. Or is that one of the four computers 19 that was searched? 20 A. That -- all of those files were turned 21 in. 22 Q. So there was one computer that 23 Mr. Thompson used primarily. Is that correct? 24 A. Yes. 25 Q. And is there one computer that you use</p>
<p style="text-align: right;">15</p> <p>1 standard that you had done some work on? 2 A. Yes. 3 Q. Was that primarily what the types of 4 files were that you sent to your counsel? 5 A. Yes. 6 Q. Okay. Did you search any emails to 7 see if you had any responsive emails? 8 A. Yes. 9 Q. How did you go about doing that? 10 A. I was given a list of terms to search 11 on and I conducted the searches in -- in my email 12 program. And the one computer that was backed up 13 I sent to my counsel and they conducted the 14 search. 15 Q. Do you recall what any of the search 16 terms were that you searched for? 17 A. "ASTM," "National Electric Code," 18 "National Electrical Code," "NFPA," "National Fire 19 Protection" -- whatever the A stands for, and 20 there was a list of about 12. 21 Q. Now, you mentioned that you had 22 searched more than one computer. Correct? 23 A. Correct. 24 Q. How many computers were searched? 25 A. Four.</p>	<p style="text-align: right;">17</p> <p>1 primarily? 2 A. Yes. 3 Q. And then there was a crash computer? 4 A. My laptop. I have -- I have a 5 desktop, I have a laptop, and then we had Levi's 6 computer, and we had a web server. 7 Q. And those are the four computers you 8 searched? 9 A. Uh-huh. 10 Q. Do you still have in your possession 11 copies of all the files related to the work you 12 did on ASTM standards in your possession? 13 A. Yes. 14 Q. Okay. And is the same true for NFPA 15 standards? 16 A. Yes. 17 Q. And for ASHRAE standards? 18 A. We did not work on that. 19 Q. Okay. So you never did any work on 20 ASHRAE -- on ASHRAE works? 21 A. Huh-uh. 22 Q. Okay. 23 A. No. 24 Q. Do you know why you did no work for 25 ASHRAE standards?</p>

18	<p>1 A. It just didn't come -- it didn't 2 happen, so -- 3 Q. Do you know how many ASTM standards 4 you did work on? 5 A. No. 6 Q. Do you know if it was more or less 7 than 100 standards? 8 A. No. 9 Q. Do you know if it was more or less 10 than 25 standards? 11 A. No. 12 Q. Do you know if it was more or less 13 than 10 standards? 14 A. I -- I'm not sure. 15 Q. Okay. Do you know if it was more than 16 five standards? 17 A. Yes. 18 Q. Okay. Do you know how many NFPA 19 standards or codes you worked on? 20 A. No. 21 Q. Was it more than five? 22 A. Yes. 23 Q. Okay. Do you know if it was more than 24 ten? 25 A. I don't know.</p>	20
19	<p>1 Q. Okay. I want to turn back for a 2 second to the subpoena to the topics on which 3 examination is required. Do you remember that 4 list of six topics? 5 A. Yes. 6 Q. Can you describe to me what you did to 7 prepare yourself to testify on behalf of Point B 8 on each of these topics? 9 A. I talked to my counsel and I did 10 some -- let's see. I talked to my counsel and I 11 produced everything that was required of me that I 12 was capable of. 13 Q. Did you review any of those documents 14 that were produced? 15 A. What do you mean? 16 Q. In preparing for your deposition 17 today, did you review any documents that you 18 believed to have been produced in response to the 19 subpoena? 20 A. I spent time reviewing my email when I 21 was doing the searches. 22 Q. Okay. 23 A. Which is the bulk of the communication 24 took place in email. 25 Q. Okay. Any other documents that you</p>	21

22	<p>1 Q. Do you know if Adobe Illustrator was 2 used to vectorize any images from ASTM or NFPA 3 publications? 4 A. I don't know. 5 Q. Do you know if Inkscape was used for 6 that purpose? 7 A. Most likely. 8 Q. Why do you say, "most likely"? 9 A. It's our -- the predominant tool in my 10 studio. 11 Q. I just want to talk to you for a 12 minute or two about your background. Can you tell 13 us what your educational background is? 14 A. I went to fine arts school at Florida 15 School of the Arts, technical college at Nashville 16 Tech, Nashville State Technical Institute. 17 Q. Did you receive degrees from either of 18 those programs? 19 A. Associate's degrees. And I'm 20 primarily self-taught beyond that. 21 Q. So you received associate's degrees 22 both from the fine arts school and the technical 23 school? 24 A. Uh-huh. 25 Q. And you said but beyond that you're</p>	24
23	<p>1 self-taught? 2 A. Uh-huh. 3 Q. Can you describe to me what skills you 4 believe you taught yourself? 5 A. Everything germane to working on the 6 Internet, because it didn't exist when I went to 7 school. 8 Q. Okay. Do you have any certifications 9 for either technology or other areas? 10 A. No. 11 Q. In what years did you receive those 12 associate's degrees? 13 A. '87, '89. 14 Q. Did you receive the arts degree in 15 1987 and -- 16 A. Yes. 17 Q. -- and then you received a degree from 18 the technical college in '89? 19 A. Yes. 20 Q. Is there any particular major area of 21 expertise that you studied? 22 A. Graphic design. 23 Q. And is that true for both those 24 programs? 25 A. Printmaking when I was in art school.</p>	25

26	<p>1 ISP was again? 2 A. Productivity Online. 3 Q. Okay. After you were employed by 4 Productivity Online, did you take another job? 5 A. I've always been self-employed. I 6 have my own -- it morphed into my own web 7 business. 8 Q. That web business have a name? 9 A. The Lab Design. 10 Q. Is that a separate corporate entity or 11 just a dba? 12 A. DbA. 13 Q. And you started working using the dba 14 of the Lab Design approximately 1991? 15 A. Yes. 16 Q. Are you continuing to use that dba 17 today? 18 A. No. 19 Q. When did you stop using that name? 20 A. 1995. 21 Q. Did you start to use a different name 22 for your self-employed business at that point in 23 time? 24 A. EnviroMedia. 25 Q. What was the business of the Lab</p>
27	<p>1 Design? 2 A. Print design and web design. 3 Q. What was the business of EnviroMedia? 4 A. Web design primarily. 5 Q. Why did you adopt a new name around 6 1995? 7 A. To show that -- to emphasize the 8 website of the studio. 9 Q. Do you still use the EnviroMedia dba? 10 A. Nope. 11 Q. When did you stop using that dba? 12 A. 2000. 13 Q. Did you adopt a new dba then? 14 A. Nope. I had a kid. 15 Q. So you're not working outside of the 16 house from 2000? 17 A. I did not work for a while. 18 Q. From 2000 until when? 19 A. Two-thousand -- 2004. I was doing 20 some work out of my house but that's when I -- you 21 know, began being a business entity again. 22 Q. In 2004 did you adopt a new dba? 23 A. Point B Studios. 24 Q. Why did you use the Point B Studios 25 name instead of EnviroMedia at that point?</p>
28	<p>1 A. Just a new business, new location. 2 Q. Where was EnviroMedia located? 3 A. Cincinnati, Ohio. 4 Q. And Point B Studio is located in 5 Oregon? 6 A. Yes. 7 Q. Where in Oregon is it? 8 A. Port Orford, Oregon. 9 Q. Has Point B Studio always been located 10 there? 11 A. Yes. 12 Q. And you've been using the Point B 13 Studio name since 2004? 14 A. Yes. 15 Q. Do you have any other dba's? 16 A. No. 17 Q. Do you have any other employment? 18 A. What do you mean? 19 Q. Do you work for any entity other than 20 Point B Studio at this time? 21 A. No. 22 Q. You're the sole owner of Point B 23 Studios? 24 A. Yes. 25 Q. Do you have a title at Point B</p>
29	<p>1 Studios? 2 A. Owner. 3 Q. What are your responsibilities as 4 owner of Point B Studios? 5 A. Everything. 6 Q. What is the business of Point B 7 Studios? 8 A. I'm an art gallery and Internet design 9 studio. 10 Q. What portion of your business is 11 focused on art gallery? 12 A. It's 50-50. 13 Q. Is it approximately 50-50 revenue 14 split as well? 15 A. It depends. It's -- some years are 16 better than others. 17 Q. Well, since 2004, were most of your 18 years better years in the art gallery side of the 19 business or the Internet design side? 20 A. I haven't really mapped that out, but 21 when I moved to Oregon my intention was to open an 22 art gallery, so I was very focused on that. 23 Q. Do you know what the split in revenue 24 was in 2013? 25 A. No.</p>

<p style="text-align: right;">30</p> <p>1 Q. Do you know if the Internet design 2 studio business made up more than 25 percent of 3 the revenue? 4 A. Yes. 5 Q. It did make up more than 25 percent? 6 A. Yes. 7 Q. Do you know if the Internet design 8 studio made up more than 50 percent of the revenue 9 in 2013? 10 A. I don't know. 11 Q. Can you describe to me what you 12 consider to be Internet design studio services? 13 A. Web print. Nowadays just about 14 anything relates to the Internet. iPad. You 15 know, I do mobile design. 16 Q. Who are -- 17 A. And I do print -- print publishing 18 solutions, automated. 19 Q. Who are Point B's largest Internet 20 design customers? 21 A. I've had many over the years. 22 Q. All right. Well, why don't we focus 23 on since January 1, 2013. 24 A. Since 2013? 25 Q. Yes.</p>	<p style="text-align: right;">32</p> <p>1 A. I don't -- Avaaz and the Thing System. 2 There you go. 3 Q. Those are the two largest Internet 4 designs? 5 A. Yes. 6 Q. Okay. So they're both larger than 7 Public.Resource as a source of revenue since 2013? 8 A. I believe so. It would be nice to be 9 able to review things. I mean -- 10 Q. Did you produce a document that you 11 think would be helpful for you to answer those 12 questions? 13 A. Say that again. 14 Q. Did you produce a document in response 15 to the subpoena -- 16 A. Yes. 17 Q. -- that you think would be helpful in 18 answering those questions. What was the document? 19 A. 2012 profit and loss. 20 Q. Does that identify customers? 21 A. I don't know if it had customers on 22 there. 23 Q. What portion of Point B's business is 24 converting or digitizing images into code that you 25 can put it on the internet?</p>
<p style="text-align: right;">31</p> <p>1 A. I've done work for -- I do work for 2 Public.Resource. I've done work for the Internet 3 archive, Avaaz. 4 Q. Can you spell that, please? 5 A. A-V-A-A-Z. The Melkite Eparchy of 6 Newton. 7 Q. Can you spell that one? 8 A. It's the Greek Melkite Church. 9 Q. Okay. 10 A. I'm still thinking. 11 Q. Take your time. 12 A. I work with various Internet startups. 13 I recently worked on the Thing System, which is in 14 the Internet of things space. 15 Q. Those are the largest customers since 16 2013 in the Internet design space? 17 A. I'm thinking. Yes. 18 Q. Is Public.Resource the largest of 19 those customers? 20 A. No. 21 Q. Who's the largest of those customers? 22 And just to be clear, when I say largest, I mean 23 who provides the most revenue to Point B Studios. 24 A. It's -- it's a tie in there, so -- 25 Q. Okay. Tie between which entities?</p>	<p style="text-align: right;">33</p> <p>1 A. What portion of my business? 2 Q. Yes. 3 A. I -- 25 percent. 4 Q. For which customers -- well, first of 5 all, do you do that work for Public.Resource? 6 A. Could you repeat the question? 7 Q. Do you convert or digitize images for 8 Public.Resource? 9 A. Yes. 10 Q. Do you do that service for any other 11 entity other than Public.Resource? 12 A. No. 13 Q. Have you ever done that work for any 14 entity other than Public.Resource? 15 A. No. 16 Q. When did you start doing that work for 17 Public.Resource? 18 A. 2011. 19 Q. Can you describe how it came to be 20 that you started converting images for 21 Public.Resource? 22 A. I was -- I was asked to look at the 23 standards documents. 24 Q. Who asked you to do that? 25 A. Public.Resource.</p>

<p style="text-align: right;">34</p> <p>1 Q. Who at Public.Resource? 2 A. Carl Malamud. 3 Q. Okay. So Mr. Malamud asked you to 4 look at the standards documents. What happened 5 next? 6 A. And in my capacity as an Internet 7 consultant, I suggested ways that it could be 8 improved. 9 Q. At the time had you already been 10 retained by Public.Resource to provide some sort 11 of Internet consulting services? 12 A. Yes. 13 Q. What type of Internet consulting 14 services were you providing to Public.Resource 15 prior to doing any conversion of images? 16 A. Web design, I don't know. I'd have 17 to -- primarily web-related and design 18 consultation. 19 Q. When did you start doing that type of 20 work for Public.Resource? 21 A. 2006. 22 Q. Did you provide web design consulting 23 services to Public.Resource in every year from 24 2006 to 2011? 25 A. I'm not sure. I don't know.</p>	<p style="text-align: right;">36</p> <p>1 A. Yes. 2 Q. -- consulting services? 3 A. Yes. 4 Q. Is Point B's website -- does Point B 5 have a website? 6 A. Yes. 7 Q. What is the address for that website? 8 A. PointBStudio.net. 9 Q. Do you -- does Point B have any other 10 websites that it operates? 11 A. The Rural Design Collective, my summer 12 mentoring program. 13 Q. What's the address for that? 14 A. RuralDesignCollective.org. 15 Q. Are there any other websites that 16 Point B runs? 17 A. No. 18 Q. Are there any other domain names that 19 Point B Studios owns? 20 A. Yes. 21 Q. What other domain names? 22 A. I own about 30. I'm not -- I don't 23 know if I'm going to remember them all. 24 Q. All right. 25 A. So Rare Bird Arts. That's a</p>
<p style="text-align: right;">35</p> <p>1 Q. Do you know how much Public.Resource 2 paid Point B Studios for web design consulting 3 services prior to 2011? 4 A. I don't know. 5 Q. Do you know if it was more than 6 \$25,000? 7 A. I don't know. 8 Q. Do you know if it was more than 9 \$10,000? 10 A. I don't know. 11 Q. Do you know if it was more than 12 \$1,000? 13 A. Yes. 14 Q. It was more than \$1,000? 15 A. I don't know, so -- 16 Q. Do you or do you not know whether or 17 not Public.Resource paid Point B more than \$1,000 18 for web design consulting services from 2006 to 19 2011? 20 A. Yes. 21 Q. You do know how much you were paid? 22 A. No. 23 Q. Okay. But you know that 24 Public.Resource paid you more than \$1,000 for web 25 design --</p>	<p style="text-align: right;">37</p> <p>1 photographer that my gallery represents. 2 BillGaetjens.com. That's an artist that my 3 gallery represents. 4 (Reporter inquiry.) 5 THE WITNESS: Bill Gaetjens, 6 G-A-E-T-J-E-N-S. 7 Every instantiation of Point B 8 Studio available. And Webchickbot, every 9 instantiation of that available. 10 BY MR. FEE: 11 Q. What is Webchickbot? 12 A. It's my moniker online. 13 Q. What type of information do you put on 14 that website? 15 A. Mostly talking about art in my 16 gallery. 17 Q. All right. I didn't mean to cut off 18 your list of domain names. If you have others, go 19 ahead. 20 A. Heida Photography and the artist 21 represented by my gallery. 22 Q. Are all the other domain names that 23 you own associated with artists that you 24 represent? 25 A. Mostly, yeah.</p>

<p style="text-align: right;">38</p> <p>1 Q. Can you identify any others that are 2 not associated with photographers you represent? 3 A. Can't think of any. 4 Q. Now, you had mentioned that Point B 5 Studios had one employee currently other than 6 yourself. Right? 7 A. Correct. 8 Q. Has Point B Studios ever had another 9 employee? 10 A. I had a part-time contractor. 11 Q. What was that person's name? 12 A. Jasper Shoemaker Pruitt (phonetic). 13 Q. And is Jasper a man or a woman? 14 A. It's a man. 15 Q. Okay. What was his position at 16 Point B Studios? 17 A. A programmer. He went through my 18 mentoring program, but I hired him for services 19 outside of that, because he was good. 20 Q. How old is he? 21 A. Thirty-five. 22 Q. How old is Levi Thompson? 23 A. Thirty-five. 24 Q. Okay. So other than Mr. Thompson and 25 Mr. Pruitt, Point B has never had any other</p>	<p style="text-align: right;">40</p> <p>1 he didn't complete it, because the math is a lot 2 of -- it's a lot of work, so -- 3 Q. Was that app ever used for any of your 4 work at Point B Studios? 5 A. No. It wasn't completed. 6 Q. All right. I want to talk to you 7 briefly about your mentees as you described them. 8 A. Okay. 9 Q. That's -- you said was part of your 10 rural design initiative? 11 A. Uh-huh. Collective. 12 Q. Collective? 13 A. Yeah. 14 Q. And can you describe who the 15 participants are in that program generally? 16 MR. STOLTZ: Objection. Vague. 17 BY MR. FEE: 18 Q. For example, do they tend to be 7 to 19 14 years old? 20 A. Not always. This year I had a youth 21 group. 22 Q. Maybe you should start with the oldest 23 of the persons who were in your program. Who 24 is -- what is the oldest person that ever 25 participated in the Rural Design Collective</p>
<p style="text-align: right;">39</p> <p>1 employees? 2 A. Nope. And I need a raise. No. I'm 3 just kidding. 4 Q. Does Point B Studios use independent 5 contractors to do some of its work? 6 A. No. 7 Q. Does Point B Studios use volunteers to 8 do any of this work? 9 A. I've had mentees in my mentoring 10 program. 11 Q. How many? 12 A. It's all on my website, most of them, 13 but I would say I've had 20. 14 Q. Did Mr. Pruitt work on any ASTM or 15 NFPA standards while he was a part-time employee 16 or consultant? 17 A. Yes. 18 Q. What type of work did Mr. Pruitt do on 19 ASTM and/or NFPA standards? 20 A. Coded MathML equations. 21 Q. Anything else? 22 A. He -- he worked on an independent 23 project. He wanted very much to make the coding 24 of MathML equations and the conversion process 25 easier. So he was working on an app for that, but</p>	<p style="text-align: right;">41</p> <p>1 program? 2 A. Thirty-five is the cap. 3 Q. What portion of the participants in 4 this program are over the age of 18? 5 A. Let's see. 15 percent. 6 Q. So the vast majority of the 7 participants are under 18? 8 A. Or -- I've had high -- had 9 high-school-age and kids entering college. 10 Q. Okay. So at least the vast majority 11 of them are under 21? 12 A. At this present time. 13 Q. Have there been persons who have 14 dropped out of this Rural Design Collective 15 program? 16 A. Yes. The work is -- the work is 17 difficult. I mean, if they can't do the work, 18 usually I have another project to put people on. 19 So -- but sometimes it doesn't work out. 20 Q. Is the target for this initiative high 21 school children or younger? 22 A. No. 23 Q. All right. Well, is the core group of 24 the Rural Design Collective 7 to 14 years of age? 25 A. This year.</p>

<p style="text-align: right;">42</p> <p>1 MR. STOLTZ: Objection to form. 2 "Core group." 3 BY MR. FEE: 4 Q. Have you ever used the phrase "core 5 group" in connection with Rural Design Collective 6 before? 7 A. This year. 8 Q. Have you used the phrase "core group"? 9 A. Yes. 10 Q. Okay. What does that mean? 11 A. It just -- most of the people working 12 this summer were that age. 13 Q. Okay. You're comfortable using the 14 word "core group" in connection with this business 15 of yours? Your counsel objected. He didn't think 16 you could understand "core group." I just want to 17 make sure you understand the phrase. 18 A. I'm just using it as a phrase. 19 Q. Okay. And just tell me what you meant 20 by "core group." I want to make sure we're all 21 clear here. What did core group mean? 22 A. Most of the mentees this year were in 23 that age group. 24 Q. Okay. So the core group as of 2014 at 25 Rural Design Collective was children ages 7 to 14?</p>	<p style="text-align: right;">44</p> <p>1 Q. Are you telling me that only Jasper 2 and Levi out of the persons in the Rural Design 3 Collective organization worked on ASTM or NFPA 4 standards? 5 A. Yes. 6 Q. You're sure? 7 A. Yes. 8 Q. How do you know that? 9 A. I've -- the way that the timelines 10 are, it makes sense. And I had a couple of 11 mentees that wanted to do the work on the 12 standards, but they -- they could not master the 13 skills. 14 Q. Can you explain to me how the timeline 15 leads you to believe that only Jasper and Levi 16 worked on the NFPA and ASTM standards? 17 A. No, because I'm trying to re -- 18 reconstruct things in my mind. So that's where 19 that comment came from. I asked if I could have 20 notes, but I couldn't have notes today. 21 Q. Well, you could have brought notes. 22 A. Okay. 23 Q. Maybe your counsel didn't want you to, 24 but you're welcome to bring notes or get notes at 25 lunch if you want.</p>
<p style="text-align: right;">43</p> <p>1 A. Yes. 2 Q. What was the age range of the core 3 group in 2013? 4 A. Well, we -- like 7 to 35. 5 Q. Okay. Was there one 35-year-old? 6 A. Yes. 7 Q. Okay. Who was the next oldest person 8 in 2013? 9 A. 2013? Probably 14. I don't think I 10 had high school in 2013 -- last year, '14. 11 Q. Who was the 35-year-old mentee of 12 yours that participated in the Rural Design 13 Collective? 14 A. That was Jasper. 15 Q. Did persons in the Rural Design 16 Collective program work on any ASTM or NFPA 17 standards? 18 A. Yes. 19 Q. Do you know which persons in the 20 program worked on the ASTM or NFPA standards? 21 A. Jasper and Levi. 22 Q. So Levi's also part of the Rural 23 Design Collective? 24 A. Yes, but he has graduated. He's -- 25 he's a mentor.</p>	<p style="text-align: right;">45</p> <p>1 A. Okay. I didn't bring any but -- 2 Q. Okay. So you don't base the answer 3 that only Jasper and Levi were working on the ASTM 4 or NFPA standards based on the timeline at this 5 point? 6 A. Yeah. I just mean -- 7 MR. STOLTZ: Objection. 8 Mischaracterizes her testimony. 9 MR. FEE: She just said yeah, but 10 you can finish. 11 A. I just -- it was just -- I just -- can 12 you ask it again? 13 BY MR. FEE: 14 Q. Sure. First of all, let me make sure 15 I understood this correctly. It's your testimony 16 that only Jasper and Levi out of all the persons 17 at Rural Design Collective worked on ASTM and -- 18 and NFPA standards. Is that right? 19 A. Yes, because the level of the work -- 20 yes. 21 Q. Okay. And the reason that you believe 22 only Jasper and Levi worked on the NFPA and ASTM 23 standards is because of the level of the work, you 24 said? 25 MR. STOLTZ: Objection.</p>

<p style="text-align: right;">46</p> <p>1 Mischaracterizes the testimony. You can answer if 2 you can. 3 A. I don't know. 4 BY MR. FEE: 5 Q. Well, why don't you tell me every 6 reason that you think only Jasper and Levi worked 7 on the NFPA and ASTM standards. 8 A. The skill level involved. 9 Q. Anything else? 10 A. No. 11 Q. Did Jasper or Levi ever delegate any 12 of their work to persons in the Rural Design 13 Collective other than themselves? 14 A. No. 15 Q. Did you instruct them never to 16 delegate any work? 17 A. No. 18 Q. But you're not aware of them 19 delegating any work? 20 A. Correct. 21 Q. Is part of the Rural Design Collective 22 program something akin to a summer camp or clinic? 23 A. I've -- I've had people make that 24 comparison, but -- 25 Q. Okay. Well, there's a summer program</p>	<p style="text-align: right;">48</p> <p>1 that was ever held by Point B? 2 A. It was the focus of the -- 2013. 3 Q. Besides 2013's standard sprint, were 4 there any others? 5 A. No. 6 Q. And you said that the standard sprint 7 involved standards related to a theater? 8 A. Theater accessibility was a big topic, 9 handicapped. 10 Q. Were there other standards? 11 A. No. 12 Q. Do you know who authored those 13 standards? 14 A. Is it the British standard? 15 Q. What did you do with the end product 16 once those graphics were converted? 17 A. Released them in the public domain on 18 Public.Resource.org's web server. 19 Q. Was Point B Studios paid for that? 20 A. I sponsored the mentoring program. 21 Q. Was Point B Studios paid by 22 Public.Resource for this 2013 release of British 23 standards regarding theater accessibility? 24 A. As part of my consulting fee, yes. 25 Q. Were any of the mentees of this Rural</p>
<p style="text-align: right;">47</p> <p>1 of some sort. Correct? 2 A. Right. 3 Q. Do the participants pay Point B 4 anything to be in this program? 5 A. No. But I -- we have stipends based 6 on performance. 7 Q. Point B pays stipends to the 8 participants? 9 A. Awards, scholarship funds. 10 Q. Did any participants in the Rural 11 Design Collective earn awards or stipends for 12 their work on NFPA or ASTM standards? 13 A. No. 14 Q. What is a standard sprint? 15 A. We pick an area of public concern that 16 we were enthusiastic about and convert the 17 graphics for that topic. 18 Q. You -- 19 A. It was intended to be motivational. 20 It is. 21 Q. What graphics are you converting with 22 standard sprint? 23 A. At the time it was public safety 24 related to theater accessibility. 25 Q. Was there only one standard sprint</p>	<p style="text-align: right;">49</p> <p>1 Design Collective that participated in the 2 standard sprint reimbursed for their work or paid 3 for their work in any way? 4 A. That year we didn't have awards. 5 Q. So none of the persons who did the 6 conversions of the graphics for the theater safety 7 standards in 2013 were paid by Public.Resource or 8 Point B? 9 A. Correct. 10 Q. Is that the only instance that you're 11 aware of where participants in the Rural Design 12 Collective converted any graphics for which 13 Point B was paid by Public Resource? 14 A. I don't understand the question 15 exactly. 16 Q. Are there any other circumstances that 17 you're aware of in which participants in the Rural 18 Design Collective program converted graphics for 19 which Public Resource paid Point B Studios? 20 A. Say it again. 21 MR. FEE: Can you read that back, 22 please? 23 THE WITNESS: I don't know why. I 24 might be getting tired. 25 MR. FEE: Actually --</p>

<p style="text-align: right;">50</p> <p>1 THE WITNESS: So -- 2 MR. FEE: Go ahead. Read it back, 3 please. 4 (The question was read back 5 as follows:) 6 "QUESTION: Are there any other 7 circumstances that you're aware of in 8 which participants in the Rural Design 9 Collective program converted graphics 10 for which Public Resource paid Point B 11 Studios?" 12 THE WITNESS: There -- there are 13 more circumstances. 14 BY MR. FEE: 15 Q. Can you identify those circumstances? 16 A. In relation to the mentoring program, 17 California Code of Regulations, and Title 24. 18 That was 2011 and 2012. 19 We also worked on the Eur code, 20 European safety standards. 21 You want me to continue? 22 Q. Yes. Please tell me as many as you 23 recall. 24 A. India, Bulgaria. I mentioned the 25 British standard. That seems about right.</p>	<p style="text-align: right;">52</p> <p>1 A. That we came to that work through our 2 work on -- I believe the CCR. That there was 3 similar graphics. It was a Title 24. One of 4 those. 5 Q. And the CCR you're referring to is the 6 California Code of Regulations? 7 A. Correct. 8 Q. If you needed to figure out which 9 person or persons that were participating in the 10 Rural Design Collective were working on images 11 from ASTM or NFPA standards, how would you go 12 about figuring that out? 13 A. Search on the computer files, as I 14 mentioned before. 15 Q. Okay. And so let's say, for example, 16 we did a search for ASTM and we found a 17 hypothetical ASTM standard called ASTM Standard 1. 18 What information in these computer files would 19 help us figure out which persons in this Rural 20 Design Collective program worked on that image or 21 images? 22 A. You would not know the person. 23 Q. Okay. That's what I'm trying to get 24 the answer to. Is there a way that you're aware 25 of that you could figure out which person or</p>
<p style="text-align: right;">51</p> <p>1 Q. You can't recall any more at this 2 time? 3 A. No. The -- the ASTM and NFPA. 4 Q. Any others? 5 A. I can't recall any more at this time. 6 Q. Do you recall which of the ASTM 7 standards you had participants in the Rural Design 8 Collective convert graphics for? 9 A. No. When I'm reviewing the work 10 for -- I'm focusing at a graphic -- at the graphic 11 level, so, you know, which standards they are is 12 kind of -- I don't know. 13 Q. Okay. Is the same true for NFPA, you 14 can't identify the specific NFPA standards? 15 A. No. 16 Q. I'm sorry. I asked a bad question 17 there. Can you identify any specific NFPA 18 standards for which participants in the Rural 19 Design Collective assisted in converting to 20 graphics? 21 A. I remember lots of ladders and fire 22 extinguishers. 23 Q. Anything else that you remember about 24 NFPA codes in particular that were converted by 25 Rural Design Collective personnel?</p>	<p style="text-align: right;">53</p> <p>1 persons worked on the conversion of particular 2 ASTM or NFPA graphics? 3 A. We didn't put our -- no. There's no 4 way. 5 Q. So you have no way of knowing which of 6 the participants did any of those conversions? 7 A. Right. 8 Q. You know, I should have mentioned this 9 before, but if you want to take a break at any 10 time -- you mentioned you were tired. Just speak 11 up. You'll have to answer whatever question's 12 pending but -- 13 A. Well, I could probably take a break -- 14 Q. Okay. Why don't we take a break now, 15 then? 16 A. -- because I get tired. 17 THE VIDEOGRAPHER: Everyone agrees. 18 We're going off the record. 10:06 a.m. 19 (Recess: 10:06 a.m. to 10:16 a.m.) 20 THE VIDEOGRAPHER: We're going back 21 on the record. The time is 10:16 a.m. Beginning 22 disc No. 2. 23 BY MR. FEE: 24 Q. Ms. Malamud, can you tell me who 25 Christopher Garcia is?</p>

54	<p>1 A. He is a mentee -- he was a mentee in 2 my program, I believe, in 2011 and 2012. 3 Q. Do you know how old he was 4 approximately at that time? 5 A. Twenty-six. 6 Q. Do you know what the educational 7 background of Levi Johnson is? 8 A. High school. I don't think he went to 9 college. 10 Q. Wait. Is it Johnson or Thompson? 11 A. Thompson. 12 Q. I'm sorry. So Levi Thompson went to 13 high school. You're not sure about college. Is 14 that what you said? 15 A. Correct. 16 Q. Do you know if he has any other 17 certifications in technical areas? 18 A. He's an artist. 19 Q. Are you aware of him having any 20 computer-related training? 21 A. It all -- it occurred -- he was 22 completely traditional, drew everything by hand. 23 And when he entered my mentoring program, he 24 became a digital artist. 25 Q. When did he enter the mentoring</p>	56	<p>1 background Jasper Pruitt has? 2 A. He went to the University of Oregon. 3 Q. Do you know -- 4 A. Where he majored in mathematics. 5 Q. Do you know if he received a degree? 6 A. I'm not sure. I think he got a 7 bachelor's, but I'm not sure. 8 Q. Do you know what type of 9 computer-related training he has had? 10 A. He is self-taught and through -- and 11 through my program, and he said he also took a -- 12 online courses, MOOCs, multi-online courses. I 13 don't know what the O stands for. 14 MR. STOLTZ: Is that M-O-O-C? 15 THE WITNESS: Yeah. Some -- 16 Coursera. That was another one. 17 BY MR. FEE: 18 Q. Are you aware of any other 19 computer-related training that he has? 20 A. No. That's it. 21 Q. Do you know if he has any scientific 22 background? 23 A. No. He's -- he's -- not to my 24 knowledge. 25 Q. Do you know if Mr. Thompson has any</p>
55	<p>1 program? 2 A. He was the first mentee. I think 3 2006. He was working graveyard shift at the local 4 convenience store and wanted out. 5 Q. Can you describe what sort of 6 technical training he went through during this 7 mentee program? 8 A. He learned how to use Photoshop. He 9 learned how to use Adobe Photoshop, Wacom Drawing 10 Tablet, Inkscape. 11 Q. Did you teach him how to use all those 12 tools? 13 A. Yes, I did. 14 Q. Was anyone else involved in that 15 teaching? 16 A. No. 17 Q. Besides being in your mentor program, 18 are you aware of any other computer-related 19 training that Mr. Johnson has had -- or 20 Mr. Thompson has had? 21 A. He has a father who was a digital 22 photographer, so he's been around computers. 23 Q. Is that it? 24 A. Yeah. 25 Q. Do you know what educational</p>	57	<p>1 scientific background? 2 A. Not to my knowledge. 3 Q. Okay. Do you know the educational 4 background of Christopher Garcia? 5 A. He went to the Fine Art Academy in San 6 Francisco. 7 Q. Do you know if he received a degree 8 there? 9 A. I think he got an associate's degree. 10 Q. Are you aware of any computer-related 11 training that Mr. Garcia's had? 12 A. Through -- just through my program. 13 Q. How often are you in communication 14 with Carl Malamud? 15 A. It varies. 16 Q. Do you typically communicate with him 17 one way or another every day? 18 A. No. 19 Q. All right. Is the majority of your 20 communications via email? 21 A. Yes. 22 Q. When you send emails to Mr. Malamud, 23 do you typically send them to an email address 24 that is a Public.Resource domain? 25 A. No.</p>

58	<p>1 Q. Do you know what email address you 2 typically use? 3 A. Carl@media.org. 4 Q. Are there any other email addresses 5 you use for him? 6 A. No. 7 Q. Do you know who Carl Malamud works 8 for? 9 A. Public.Resource. 10 Q. Any other entities? 11 A. None. 12 Q. Do you know what his role is at 13 Public.Resource? 14 A. President. 15 Q. Do you know -- has Public.Resource 16 made any payments to Point B Studios in 2014? 17 A. Yes. 18 Q. Do you know how much those payments 19 totalled to? 20 A. I have a consulting fee, a monthly 21 consulting fee, of 5K. 22 Q. And that's been in place for all of 23 2014? 24 A. Yes. 25 Q. In addition to the monthly consulting</p>	60
59	<p>1 fee, have you received any other payments from 2 Public.Resource in 2014? 3 A. Often I've got support for my summer 4 mentoring program. 5 Q. What sort of support did you receive 6 from Public.Resource? 7 A. An additional 2.5K. 8 Q. Per month or total? 9 A. For three months. 10 Q. Besides the \$5,000 consulting fee and 11 the \$2,500 support for the summer program, has 12 Point B received any other monies from 13 Public.Resource in 2014? 14 A. No. 15 Q. I just want to go back to the support 16 of the summer program for a second. In 2014, you 17 were paid \$2,500 three times, one per month, 18 during the summer months? 19 A. Right. 20 (Deposition Exhibit No. 17 21 marked for identification.) 22 BY MR. FEE: 23 Q. I'm going to hand you what's been 24 marked as Exhibit 17. It's Public.Resource.org's, 25 Inc.'s, financial statement and supplemental --</p>	61

<p style="text-align: right;">62</p> <p>1 of any other entities that employ Carl Malamud? 2 A. No. 3 Q. Besides Public.Resource, are you aware 4 of any entities on which Mr. Malamud sits on the 5 board? 6 A. No. 7 Q. Besides Public.Resource, are you aware 8 of any other entities from whom Mr. Malamud has 9 received any compensation in the last three years? 10 A. No. 11 Q. Are you on the board of directors of 12 Public.Resource? 13 A. No. 14 Q. Are you on the board of directors of 15 any entity? 16 A. I don't want to be. No. 17 Q. All right. So I want to talk to you 18 now a little bit about the instructions that you 19 received from Mr. Malamud regarding the work that 20 was done for Public.Resource. Okay? 21 A. (Nods.) 22 Q. With respect to the work you did for 23 Public.Resource, you knew that Public.Resource 24 wanted Point B to make exact copies of everything 25 that it provided to Point B Studios. Correct?</p>	<p style="text-align: right;">64</p> <p>1 images for Public Resources. Correct? 2 A. Yes. 3 Q. Now, in your answer with regard to the 4 ASTM images, you said you made exact copies to the 5 best of your ability. What do you mean by "to the 6 best of your ability"? 7 A. When -- as we create the diagrams, we 8 have a proofreading -- you know, quality control 9 work flow, and I try to catch every mistake, so -- 10 Q. Would you describe to me how the 11 process actually worked starting with how you 12 received any images from Public.Resource and then 13 ending with how you delivered your work product to 14 Public.Resource? 15 A. Well, the standards documents are 16 posted on Public.Resource.org as triple-keyed HTML 17 and CSS with low-resolution JPEGs. 18 And once it's decided what document is 19 set to work on, it's -- I download those to my 20 computer. And then I separate them into MathML 21 and -- images that need to be coded in MathML and 22 images that need to be vectorized we call it. 23 And also on the diagram side, 24 especially for purposes of learning, I sort them 25 another level as to areas of difficulty, or if</p>
<p style="text-align: right;">63</p> <p>1 A. Correct. 2 Q. And Mr. Malamud himself asked you to 3 make exact copies of all the images that he 4 provided to you. Right? 5 A. Yes. 6 Q. Did Mr. Malamud ever explain to you 7 why he wanted exact copies made of all the images 8 that were provided to you? 9 A. To release it in the public domain. 10 Q. Did he ever tell you anything else 11 about the importance of making the exact copies? 12 A. He emphasized to be accurate. 13 Q. And he told you to make exact copies 14 of every image that was provided to you. Correct? 15 A. Correct. 16 Q. And that includes making exact copies 17 of ASTM images. Correct? 18 A. Yes. 19 Q. And Mr. Malamud also instructed you to 20 make exact copies of NFPA images. Right? 21 A. Yes. 22 Q. And you did in fact make exact copies 23 of ASTM images for Public.Resource? 24 A. To the best of my ability. 25 Q. And you also made exact copies of NFPA</p>	<p style="text-align: right;">65</p> <p>1 there's a lot of repetition in an image that would 2 facilitate creating another graphic quickly, I do 3 that so it -- you know, it helps with the 4 production of the work flow. 5 And then the MathML images are coded 6 in MathML, mathematical markup language, and at 7 that point -- do you want me to go on? 8 Q. Yes, please. 9 A. It gets pretty technical. Okay. At 10 that point we use an open source tool called 11 Amaya. 12 Q. Can you spell that, please? 13 A. A-M-A-Y-A. And so the image -- 14 they're coded. And then we have -- we have to 15 convert them using an open-source tool called 16 SVG/Math. This is how we get it into the graphic 17 form. And it was a program by Jacques Distler out 18 of University of Texas. And we use that program. 19 It can interpret the MathML and produce a 20 scaleable vector graphic. 21 And then once we have that scaleable 22 vector graphic we open it up in Inkscape and we 23 convert it to outlines and save it as SVG1.1 to 24 make sure that it is compatible with the broadest 25 range of platforms. And that's the math. And</p>

<p style="text-align: right;">66</p> <p>1 that -- all that is what we wanted to have an app 2 for, to cut out a few steps. 3 Oh -- well, hold on. One second. 4 Before -- back up. Before we convert it to 5 outlines there's the proofreading step. I left 6 that out. Because you don't -- you want to be 7 able to correct any mistakes before you convert it 8 to outlines. And when I -- the proofreading 9 process involves bringing up the original JPEG on 10 one side of the screen and the original on the 11 other. 12 Okay. So that's the work flow for the 13 math. 14 Then with the diagrams and -- as I 15 said, they're sorted by difficulty, usually start 16 with the easiest and move up to the hardest, 17 especially when it's in the context of the 18 mentoring program. 19 The low-resolution JPEG is imported 20 into Inkscape on the root layer and meticulously 21 traced using a Wacom Drawing Tablet at, you know, 22 400 times magnification to ensure that the lines 23 are matched perfectly. 24 And at that point, once the entire 25 diagram is drawn, we use a function in Inkscape</p>	<p style="text-align: right;">68</p> <p>1 point? 2 A. They are -- once a document set is 3 completed, they are sent to Public.Resource either 4 by Dropbox or email. 5 Q. And that's the last that Point B 6 Studios does -- 7 A. Right. 8 Q. -- anything with that file? 9 A. Right. 10 Q. So I have some follow-ups on that. 11 First of all, you said that you started with a 12 triple-keyed file that you received from 13 Public.Resource. 14 A. Uh-huh. 15 BY MR. FEE: 16 Q. What leads you to believe that the 17 files are triple keyed? 18 (Reporter inquiry.) 19 BY MR. FEE: 20 Q. What leads you to believe that the 21 files are triple keyed? 22 A. Because that's what I am -- I 23 understood that they are to be. I don't have any 24 involvement in that process. 25 Q. Can you describe briefly what triple</p>
<p style="text-align: right;">67</p> <p>1 called Union that makes the entire graphic one -- 2 one piece with outline paths just like the Mac, 3 because there is some varying in line weight in 4 some browser displays if you don't do that, and we 5 wanted to be true to the original graphic. 6 Then we add the text. And once the 7 text is added, then the graphics are proofread in 8 the same manner as the MathML. 9 Q. Okay. 10 A. Right. 11 Q. And at that point is it ready to be 12 delivered to Mr. Malamud? 13 A. Once we complete all of the graphics 14 that we possibly can in a document set -- and if 15 we can't read it for some reason, you know, if the 16 original scan is poor quality, we don't reproduce 17 it -- then all of the SVGs that can be replaced in 18 the standard are replaced using a batch search and 19 replace. 20 And ultimately we wanted to use the 21 object attribute for SVG, graceful degradation, 22 but we had some problems with some of the browsers 23 because it was our goal to make it as accessible 24 as possible. 25 Q. What happens with the files at that</p>	<p style="text-align: right;">69</p> <p>1 keying is? 2 A. It's going over the document three 3 times in order to make sure that there's no typos. 4 Q. Are you familiar with a process called 5 double key? 6 A. Yes. 7 Q. What is that? 8 A. That would be that the documents are 9 keyed twice. 10 Q. Is it your understanding that 11 triple-keyed documents will be more accurately 12 reproducing of the documents than double-keyed 13 documents? 14 A. That's my understanding. 15 Q. So if Public.Resource wanted to take 16 every possible step to ensure accuracy, it would 17 triple key rather than double key? 18 MR. STOLTZ: Objection. Question 19 lacks foundation. You can answer if you know. 20 A. I don't know. 21 BY MR. FEE: 22 Q. Well, you know that triple key is more 23 accurate. Right? 24 A. It's my understanding. 25 Q. Okay. So wouldn't it be your</p>

70	<p>1 understanding that if you wanted the most accurate 2 reproduction you would triple key instead of 3 double key? 4 A. It's logical. 5 Q. Now, you said that the files that you 6 received were triple keyed and included 7 low-resolution JPEGs? 8 A. Right. 9 Q. Why are they low resolution? 10 A. Well, some of them are 300 dpi, but 11 they were small. I mean, anything's low 12 resolution compared to a scaleable vector graphic, 13 because JPEGs -- you can only enlarge them so much 14 before they start getting the jaggies. 15 Q. Then you said the next step was that 16 you would decide what document set to work on. 17 A. Yes. 18 Q. How is that decision made? 19 A. It varies. 20 Q. Would you be the decisionmaker or 21 would Carl be the decisionmaker? 22 A. It varies. 23 Q. What did it vary based upon? 24 A. Schedules. In the case of -- as I 25 mentioned before, if I saw that there was a lot of</p>	72
71	<p>1 the same graphics, I would suggest that it might 2 be a good idea to work on a set because they'd 3 be -- you know, there'd be a lot of art that we 4 could repurpose. 5 Q. Did Mr. Malamud ever explain to you 6 why he wanted to do one set before another? 7 A. Sometimes. 8 Q. Do you recall explanations for why he 9 decided to pick one set instead of another? 10 A. I don't recall. 11 Q. Not a single one? 12 A. It -- it varies. 13 Q. Did he ever tell you that he wanted to 14 get a particular set of documents done sooner 15 rather than later to help him in this lawsuit? 16 A. Yes. 17 Q. Okay. On how many occasions did 18 Mr. Malamud tell you that he wanted to work on 19 particular files to help this lawsuit? 20 A. I don't know. 21 Q. Was it more than one time? 22 A. I don't know. 23 Q. Did he explain to you why he thought 24 working on a particular set of documents would be 25 helpful for this lawsuit?</p>	73

<p style="text-align: right;">74</p> <p>1 program on the easy ones and build their skill 2 level over time? 3 A. That is correct. 4 Q. Why was it important -- or strike 5 that. 6 Why was it useful to start with the 7 easier images and then work the people in your 8 mentoring program up through the more difficult 9 images? 10 A. Because, as with any technical skill, 11 the only way you can gain proficiency is through 12 repetition, practice. 13 Q. So the idea was to have these 14 participants in the Rural Design Collective first 15 practice on the easier images and then over time 16 work on more difficult ones? 17 A. Correct. 18 Q. Did you do that sorting both for 19 MathML conversions and for images? 20 A. Math is different. It doesn't -- it 21 didn't work like that. I tried that, but it 22 didn't work like that. 23 Q. Now, correct me if I'm wrong on this 24 stuff-- 25 A. Uh-huh.</p>	<p style="text-align: right;">76</p> <p>1 A. Yes. 2 Q. Do you have any mathematics 3 background? 4 A. No. But we -- and to clarify, too, 5 the MathML that we mark up -- there's two 6 different kinds of MathML. There's content and 7 presentation, and we only worked in presentation 8 MathML, which is more to do with aesthetics and 9 typography than math. So we're just making a 10 copy. 11 MR. STOLTZ: I'm going to move to 12 strike that answer as nonresponsive. 13 It's okay. Let's go on. 14 A. Okay. 15 BY MR. FEE: 16 Q. So you were -- you had indicated you 17 use one type of MathML for the conversion. 18 Correct? 19 A. Correct. 20 Q. And what was the name of that MathML 21 that you were using? 22 A. Presentation. 23 Q. Okay. And you used that MathML 24 Presentation language -- is it a language? 25 A. It's -- it's a flavor of the MathML</p>
<p style="text-align: right;">75</p> <p>1 Q. -- because I'm working off my notes 2 here, but I think you said with respect to the 3 math equations the next step would be to convert 4 them to SVG format. 5 A. Right. 6 Q. Okay. 7 A. Correct. 8 Q. And you used the product by a 9 professor from the University of Texas to do that? 10 A. Uh-huh. 11 Q. Yes or no? 12 A. Yes. Sorry. 13 Q. No problem. 14 A. I just found it on the Internet. 15 Q. And after that conversion was done you 16 would proofread the math equations? 17 A. Correct. 18 Q. Now, who did the proofreading of the 19 equations? 20 A. I did. 21 Q. Always it was you? 22 A. Yes. 23 Q. That's true for every ASTM standard? 24 A. Yes. 25 Q. And it's true for every NFPA standard?</p>	<p style="text-align: right;">77</p> <p>1 markup language. 2 Q. All right. And you used that flavor 3 of the MathML markup language to copy the 4 equations that were in the ASTM or NFPA standards? 5 A. Yes. 6 MR. STOLTZ: Objection to form 7 regarding the word "copy." 8 BY MR. FEE: 9 Q. Your answer was yes. Correct? 10 (Reporter inquiry.) 11 MR. FEE: Okay. Would you read that 12 question back, then? 13 (The question was read back 14 as follows:) 15 "QUESTION: All right. And you 16 used that flavor of the MathML markup 17 language to copy the equations that were 18 in the ASTM or NFPA standards?" 19 A. Yes. 20 BY MR. FEE: 21 Q. After that conversion was done, you 22 said you proofread the standard -- or the 23 equations, and it was always you. Correct? 24 A. Yes. 25 Q. And you said you compared the original</p>

78	80
<p>1 equation and the output of that MathML code on two 2 separate screens. Is that how you did it? 3 A. Same screen split. 4 Q. Is that a quality assurance technique 5 that you had learned from somewhere in your past 6 dealings? 7 A. Yes. 8 Q. Where'd you learn that? 9 A. I used to work in a digital design 10 photo-type setting environment, so -- 11 Q. Where did you do that work? 12 A. That was in Cincinnati before I 13 started -- when I was -- before the ISP, so -- 14 Q. So that was 20 years ago or so? 15 A. Yeah. Yes. 16 Q. Do you have any training in quality 17 assurance? 18 A. I've worked in that environment. 19 Q. Have you ever taken any courses that 20 touched on quality assurance? 21 A. It was through learned -- on-site 22 learning. 23 Q. Okay. So no courses in quality 24 assurance, though, for you? 25 A. No official courses.</p>	<p>1 outlined shapes, described polygons, instead of a 2 stroke with a line weight applied or a character 3 in a font set, everything is art, line art. 4 Q. And that is the last step of your 5 conversion process for math equations. Correct? 6 A. Correct. 7 Q. What is the benefit, if any, from 8 taking a math equation in a JPEG and converting it 9 to an SVG1.1 file using MathML? 10 A. Well, the -- it -- you can scale it to 11 any resolution. You can reuse parts of it, 12 especially because we -- we include the MathML 13 code. Everything can be repurposed. 14 Q. What do you mean by "repurposed"? 15 A. Just as -- as I described when I look 16 for -- when we're doing graphics and I look for 17 repeating elements, I mean, if you had an equation 18 that was similar, you could work from existing 19 code, save time. 20 Q. Are there any other examples that you 21 can think of where the equation from one of these 22 standards might be repurposed for some other 23 standard or some other use? 24 A. Well, like I said, I believe it was 25 the California Code of Regulations had a lot of</p>
79	81
<p>1 Q. Did you attend any seminars regarding 2 quality assurance during the past 25 years? 3 A. No. 4 Q. Do you have written quality assurance 5 procedures that you follow at Point B Studios? 6 A. Not written. 7 Q. After the proofreading was done, I 8 think you said you then opened the SVG file in 9 Inkscape? 10 A. Correct. 11 Q. And what did Inkscape do at that 12 point? 13 A. This is the math. Right? 14 Q. Yes. 15 A. Okay. Opened the math -- opened the 16 converted math equation that was the product of 17 the SVG/Math conversion. We would open it in 18 Inkscape and select all and create outlines. 19 There's -- this is after the proofreading's 20 done -- create outlines on the text, as well as 21 the -- any line art. That's what Inkscape would 22 do. And save it as SVG1.1. 23 Q. And what do you mean when you say, 24 "create outlines"? 25 A. Any paths and text are turned into</p>	<p>1 graphics from -- I believe it's the NFPA, so -- 2 Q. Any other benefits that you're aware 3 of of this conversion process through an SVG1.1 4 file? 5 A. They're lightweight. Conserves 6 bandwidth. 7 Q. Anything else? 8 A. They're forward thinking. I mean, 9 it's the future. 10 Q. What do you mean by that? 11 A. Scalable vector graphics are 12 specifically targeting mobile devices. JPEGs look 13 horrible on your iPhone. 14 Q. Any other benefits to this conversion 15 process that you're aware of? 16 A. No. It also supports the scalable 17 vector graphic web standard, which the inventor of 18 the World Wide Web thinks very highly of, so -- 19 because it's a good thing. 20 Q. All right. Any other benefits? 21 A. I think that about covers it. 22 Q. Let's talk a little bit about the 23 conversion process you described with respect to 24 illustrations or diagrams. Now, you did say you 25 sorted those from easiest to hardest. Correct?</p>

82	<p>1 A. Uh-huh. 2 Q. Yes? 3 A. Correct. 4 Q. Then you imported the files into 5 Inkscape? 6 A. Yes. 7 Q. Then I believe you said that you 8 traced the illustrations or images using a tablet. 9 Is that correct? 10 A. Correct. 11 Q. You would just trace those by hand on 12 the tablet? 13 A. Yes. 14 Q. Who would be the person or persons at 15 Point B Studios that would do the tracing? 16 A. Myself, Levi Thompson, and I have had 17 other mentees work, but not get very high in the 18 level of difficulty. 19 Q. After these images were hand-traced on 20 a tablet what did you do next again? 21 A. After they're traced on the tablet, we 22 perform a function in Inkscape called Union that 23 makes the entire -- it's like what I said on the 24 math how everything's a described polygon. So it 25 converts everything to -- to paths. So line</p>	84	<p>1 A. Yes. 2 Q. Does Inkscape have a spell checker? 3 A. No. 4 Q. Did you double key the text in the 5 Inkscape program in order to make sure there were 6 no errors? 7 A. Yes. With -- I would proofread it. I 8 would correct any mistakes. Then I would 9 proofread it again. 10 Q. But the text was only actually typed 11 in once. Correct? 12 A. On the graphics, yes. 13 Q. Would the same person that typed the 14 graphics sometimes proofread the graphics? 15 A. No. 16 Q. Would the same person who typed in the 17 text on the graphics be the person who proofread 18 it? 19 A. Say that one again? 20 Q. Would the person who typed in the text 21 on graphics be the same person who would 22 proofread, if ever? 23 A. I guess sometimes it would be me. 24 Q. After the text was typed into the -- 25 into the graphic, that's when the proofreading</p>
83	<p>1 weights don't change. 2 Q. Then you would add text to these 3 illustrations? 4 A. Correct. 5 Q. Where did the text come from? 6 A. They were in the JPEG, represented in 7 the JPEG. 8 Q. The text that you believe to be triple 9 keyed? 10 MR. STOLTZ: Objection. 11 Mischaracterizes testimony. 12 BY MR. FEE: 13 Q. You can answer. 14 A. It was in a JPEG, so nobody keyed it. 15 Q. So did you retype the text from the 16 JPEG into this Union program? 17 A. Yes, we did, because there's no other 18 way to extract it from a JPEG. It's just pixels. 19 Q. Who would be the person or persons 20 that would be retyping text that was in the JPEG 21 into what would become the SVG for diagrams? 22 A. Some -- sometimes mentees, Levi, 23 myself. 24 Q. And the retyping would take place in 25 Inkscape. Is that the program that was used?</p>	85	<p>1 took place for both the graphic and the text? 2 A. Yes. 3 MR. STOLTZ: Objection. 4 Mischaracterizes testimony. You can answer. 5 A. Say it again. 6 BY MR. FEE: 7 Q. Sure. I just want to understand when 8 the proofreading took place for two different 9 elements. Right? You did basically a drawing 10 element. Correct? 11 A. Uh-huh. 12 Q. And then there's a text element also? 13 A. Uh-huh. 14 Q. Would you proofread both the drawing 15 and the text at the same time? 16 A. Yes. 17 Q. And that would all happen after the 18 text was typed in obviously? 19 A. Right. 20 Q. And after that file was proofread, you 21 would save that as an SVG file as well? 22 A. Correct. 23 Q. And I believe you said that all SVGs 24 were replaced using a batch search and replace 25 methodology. Correct?</p>

<p style="text-align: right;">86</p> <p>1 A. Correct.</p> <p>2 Q. What is a batch search and replace</p> <p>3 methodology?</p> <p>4 A. We'd open -- there's a directory</p> <p>5 filled with HTML files and all JPEG extensions are</p> <p>6 replaced with SVG. And then the document is</p> <p>7 opened in a web browser and any SVGs that were not</p> <p>8 completed because the text was illegible or it was</p> <p>9 bad art, we put the JPEG back in. So if we</p> <p>10 couldn't do the art, we didn't include it in the</p> <p>11 document.</p> <p>12 Q. Was this batch process something that</p> <p>13 was written or compiled by Point B Studios?</p> <p>14 A. It's just a search and replace with a</p> <p>15 text editor.</p> <p>16 (Reporter inquiry.)</p> <p>17 THE WITNESS: It's a search and</p> <p>18 replace with a text editor targeting a directory.</p> <p>19 BY MR. FEE:</p> <p>20 Q. Who at Point B Studios would do the</p> <p>21 search and replace?</p> <p>22 A. I would.</p> <p>23 Q. Anyone else?</p> <p>24 A. No.</p> <p>25 (Off-the-record discussion.)</p>	<p style="text-align: right;">88</p> <p>1 stylizing any equations or illustrations?</p> <p>2 A. Yes.</p> <p>3 Q. How did that discussion or</p> <p>4 conversation come about?</p> <p>5 A. I believe that the particular one</p> <p>6 you're referring to -- and there was</p> <p>7 hand-lettering in the graphics, and I wanted to</p> <p>8 know if we should reproduce it completely, the</p> <p>9 flourishes in the lettering. I wanted to know if</p> <p>10 we should do that.</p> <p>11 Q. Do you recall what standard that was?</p> <p>12 A. I don't recall what standard.</p> <p>13 Q. Did you ask Carl Malamud whether or</p> <p>14 not you should reproduce all those flourishes?</p> <p>15 A. Yes.</p> <p>16 Q. What did he say?</p> <p>17 A. I don't remember exactly.</p> <p>18 Q. Do you recall if the general message</p> <p>19 was to reproduce all the flourishes or not?</p> <p>20 A. I don't -- I don't remember.</p> <p>21 Q. Are you aware of any other instances</p> <p>22 where there was discussion between you and Carl</p> <p>23 Malamud related to whether or not you should use</p> <p>24 sort of house-style for any conversions that you</p> <p>25 were working on?</p>
<p style="text-align: right;">87</p> <p>1 (Deposition Exhibit No. 18</p> <p>2 marked for identification.)</p> <p>3 BY MR. FEE:</p> <p>4 Q. Ms. Malamud, I'm going to hand you</p> <p>5 Exhibit 18, which is a printout of the Rural</p> <p>6 Design Collective Headquarters Codes of the World</p> <p>7 Overview and Roadmap. It's six pages.</p> <p>8 A. Okay.</p> <p>9 Q. Are you familiar with Exhibit 18?</p> <p>10 A. Yes.</p> <p>11 Q. Is this a page from the Rural Design</p> <p>12 Collective website?</p> <p>13 A. Yes.</p> <p>14 Q. Did you author this page?</p> <p>15 A. Yes, I did.</p> <p>16 Q. Is everything that's included in this</p> <p>17 page accurate to the best of your knowledge?</p> <p>18 A. Yes.</p> <p>19 Q. I have no other questions about that.</p> <p>20 MR. STOLTZ: You can put it aside.</p> <p>21 THE WITNESS: Okay.</p> <p>22 BY MR. FEE:</p> <p>23 Q. At some point in time do you recall</p> <p>24 having a series of communications with Carl</p> <p>25 Malamud regarding whether or not you were</p>	<p style="text-align: right;">89</p> <p>1 A. Yes.</p> <p>2 Q. Describe how those discussions came</p> <p>3 about.</p> <p>4 A. Is -- if you look at some of the</p> <p>5 art -- and we began to file the art as just bad</p> <p>6 art, because we -- it -- it -- we would have to</p> <p>7 make assumptions because the scans are so poor,</p> <p>8 and they were hand-drawn, like in the '50s or</p> <p>9 something. I mean, it was ridiculous.</p> <p>10 And so we would have to make creative</p> <p>11 decisions. So we were trying to avoid that.</p> <p>12 Q. How did you go about trying to avoid</p> <p>13 making creative decisions?</p> <p>14 A. Oh, I would -- I would ask if -- you</p> <p>15 know, "Should we do this one?" And eventually I</p> <p>16 would just file it away as bad art and we just</p> <p>17 wouldn't do it.</p> <p>18 Q. So what was Point B's house style?</p> <p>19 A. Just the line art of the SVG.</p> <p>20 Q. Was it more modern than what you were</p> <p>21 seeing in some of the standards?</p> <p>22 A. It's just a cleaner line.</p> <p>23 Q. At some point in time, did you tell</p> <p>24 Mr. Malamud that you were using a house style on</p> <p>25 some of the standards that you were --</p>

<p style="text-align: right;">90</p> <p>1 A. I probably -- I used colorful terms of 2 phrase, so I probably did. 3 Q. Okay. What did you mean when you were 4 saying that you were using house styles for some 5 of the conversions you were doing on NFPA or ASTM 6 standards? 7 A. Probably the line art in the -- the 8 crisp line art and the font. 9 Q. What font in particular would you use 10 as your house style at Point B Studios? 11 A. Arial. 12 Q. What font would you typically find in 13 the ASTM or NFPA standards that you were 14 converting? 15 A. It varied. 16 Q. Do you recall any of the fonts? 17 A. No, I don't. Times Roman. Sometimes 18 Arial. Sometimes hand-drawn. Sometimes monospace 19 computerized font. I mean, I'm just going through 20 what I've seen. 21 Q. Sure. Was there a house style for 22 illustrations as well for Point B Studio? 23 A. We'd just have -- no. Just what we'd 24 reproduce, the clean line art of the SVG. 25 Q. So Point B Studios was trying to</p>	<p style="text-align: right;">92</p> <p>1 you explain what improvements there were, if any, 2 other than the file format that it was converted 3 to? 4 MR. STOLTZ: Objection. Asked and 5 answered, but you can answer again. 6 A. The scaleable vector graphic can be 7 scaled to any size, and it's mathematically 8 described vector lines as opposed to 9 pixel-by-pixel representation of the art. It's 10 just cleaner. 11 BY MR. FEE: 12 Q. Okay. I get that part. What I'm 13 trying to figure out is if there's anything that 14 constitutes the house style of Point B Studios for 15 drawings that isn't the result of an improved file 16 format. 17 A. There's -- there's no -- I mean, house 18 style is just a phrase I used. 19 Q. Well, I'm trying to figure out what 20 you meant by that. What did you mean by house 21 style? 22 A. Just -- 23 MR. STOLTZ: Objection. Asked and 24 answered. 25 BY MR. FEE:</p>
<p style="text-align: right;">91</p> <p>1 reproduce or -- strike that. 2 Point B Studios was trying to produce 3 images with clean lines even if the standard was 4 not a particularly clean line? 5 A. We were improving the art. 6 Q. Do you recall which standard or 7 standards you improved the art on? 8 A. Every -- everything that we complete, 9 we've left it in a better form. 10 Q. Now, when you say you left it in a 11 better form, what exactly do you mean by that? 12 A. The scaleable vector graphics, all the 13 source code available, editable type. 14 Q. Did you approve the appearance as it 15 would appear on a printed page? 16 A. Well, the graphics and the math would 17 print much cleaner, what I'm -- what we did. 18 Q. Is that because it's in MathML instead 19 of a JPEG file? 20 A. Scaleable vector graphic. Correct. 21 Q. Okay. Okay. I think I'm confused 22 about what improvements or what differences there 23 were between the Point B house style for images as 24 opposed to text and the standards that were 25 originally delivered to you by Mr. Malamud. Can</p>	<p style="text-align: right;">93</p> <p>1 Q. You can answer again. 2 A. I feel like I've answered it. 3 Q. You can just still answer again. It's 4 fine. 5 A. We just improved the art is -- 6 Q. And is the only improvement that you 7 made the file format related to improvements? 8 A. But that's -- 9 MR. STOLTZ: Objection. Asked and 10 answered. 11 BY MR. FEE: 12 Q. What was your answer? 13 A. That's a gigantic improvement. 14 Q. I understand that. 15 A. Okay. 16 Q. I just want to understand if you think 17 there's anything else other than improvements 18 associated with -- 19 A. Legibility and, as I said, it's 20 forward thinking. It's in a public domain. 21 Anyone can reuse the work that we did for their 22 purposes. 23 Q. Anything else? 24 A. I -- 25 MR. STOLTZ: Okay. I'm going to</p>

<p style="text-align: right;">94</p> <p>1 object. Asked and answered. Counsel, can we move 2 on? 3 BY MR. FEE: 4 Q. No. Answer the question. Do you have 5 anything else? 6 A. No. 7 Q. Okay. So it was your intention to 8 make sure that this file conversion process led to 9 files that the general public could use and make 10 copies of at their leisure. Correct? 11 A. Correct. 12 Q. And did Mr. Malamud tell you that he 13 intended to make these files available so anybody 14 could copy them whenever they wanted to? 15 A. He published them on the Internet. 16 Q. In a way that was easily copyable. 17 Correct? 18 A. Yes. 19 Q. And his intention was to make it 20 available for free so people wouldn't have to 21 purchase them? 22 MR. STOLTZ: Objection. The 23 question lacks foundation. You can answer if you 24 know. 25 BY MR. FEE:</p>	<p style="text-align: right;">96</p> <p>1 A. Yes. 2 Q. -- without purchasing them from the 3 authors. Correct? 4 A. Correct. 5 Q. Have you ever had any discussions with 6 Mr. Malamud regarding this lawsuit? 7 A. Not -- no. 8 Q. Have you ever had any written 9 communications with Mr. Malamud regarding this 10 lawsuit? 11 A. Quite possible. 12 Q. Do you recall any written 13 communications with Mr. Malamud regarding this 14 lawsuit? 15 A. I don't recall any particular 16 conversation. 17 MR. FEE: Would it be all right if 18 we take a quick break? 19 MR. STOLTZ: It would. 20 THE VIDEOGRAPHER: Okay. Going off 21 the record 11:18 a m. 22 (Recess: 11:18 a m. to 11:26 a.m.) 23 THE VIDEOGRAPHER: We're going back 24 on the record. The time is 11:26 a.m. Beginning 25 disc 3.</p>
<p style="text-align: right;">95</p> <p>1 Q. Let me re-ask that question. Did he 2 ever tell you that one of the benefits of his 3 project was that people will be able to get copies 4 of these standards for free and not have to 5 purchase them? 6 A. That wouldn't be exactly what he would 7 say, so -- 8 Q. Well, what exactly do you recall? 9 A. I wouldn't want to surmise what he 10 would say or think. 11 Q. Did you ever have a discussion with 12 him about the benefits of making things such as 13 ASTM and NFPA standards available for free? 14 A. Publicly accessible. Right. 15 Q. Publicly accessible and freely 16 copyable? 17 A. To increase knowledge. 18 Q. Did you ever have any discussions with 19 him about persons being able to access and copy 20 these files without having to buy them from the 21 authors? 22 A. No. Never had that. 23 Q. But you knew that the work you were 24 doing was going to be posted in a way that persons 25 could make copies of the files --</p>	<p style="text-align: right;">97</p> <p>1 (Deposition Exhibit No. 19 2 marked for identification.) 3 BY MR. FEE: 4 Q. Ms. Malamud, I'm going to hand you 5 what's been marked as Exhibit 19. It's an email 6 from Carl Malamud to Rebecca Malamud dated 7 January 28th, 2014, at 2:30 p m., and Bates 8 labeled PRO4234 -- hmm. 9 (Off-the-record discussion.) 10 MR. REHN: It's 04234. 11 MR. FEE: Oh, okay. 42340 through 12 41. 13 BY MR. FEE: 14 Q. Do you recognize that as a series of 15 emails between you and Mr. Malamud? 16 A. Yes. 17 Q. We'll just start towards the bottom of 18 that email chain on the second page. Do you see 19 it appears to be an email from you at 1:07 p m. on 20 the 28th, just a couple lines? You see, it says, 21 "Do you want us to redraw illustrations that look 22 like this?" And there's a file name underneath it 23 that includes ASTM among other things. 24 A. Right. 25 Q. First of all, that file reference that</p>

<p style="text-align: right;">98</p> <p>1 has ASTM in the title, does that mean that, to the 2 best of your knowledge, it was an image that was 3 featured in an ASTM standard? 4 A. Correct. 5 Q. Do you know is there a particular 6 naming methodology or convention that was used? 7 A. This is done by another group. I 8 don't -- it comes to me like this. But I believe 9 it's -- it would be, you know, the document number 10 and the page and whether or not it's the -- the 11 graphic order on the page. 12 Q. Okay. So in this particular instance, 13 ASTM refers to the author? 14 First of all, do you know who comes up 15 with this naming convention? 16 A. I don't. 17 Q. Okay. So ASTM refers to the author of 18 the document. Is that right? 19 MR. STOLTZ: Objection. That 20 assumes facts not in evidence. 21 A. I don't -- I just know that's the 22 document collection. 23 BY MR. FEE: 24 Q. Okay. What's C150 refer to? 25 A. Document number. C150.1917. Is that</p>	<p style="text-align: right;">100</p> <p>1 Do you see that? 2 A. Yes. 3 Q. Do you know why he said that? 4 A. They're all a lot of work, so -- I 5 mean, I don't really know why he said that, so -- 6 Q. Okay. And then if you'd turn to the 7 first page of Exhibit -- to the exhibit, I'm 8 looking now towards the bottom of the page, 9 there's an email that appears to be from you at 10 2:04 p m. Do you see that? 11 A. I'm looking. 2:04. Yes. 12 Q. You say, "However, I concede that 13 image reinterpreted in our 'house style,'" and you 14 have parentheses, "i.e., more modern"? 15 A. Yep. I'm sure I'm talking about a 16 graphic that looks like it was drawn by hand in 17 the '50s. I mean, it's just -- it wasn't 18 really -- 19 MR. STOLTZ: For the record, read 20 the entire cut off -- the body of that email 21 there. It says, "However, I concede that image I 22 sent you" -- 23 MR. FEE: Mitch, Mitch, Mitch, you 24 don't get to ask questions now. You can instruct 25 her --</p>
<p style="text-align: right;">99</p> <p>1 the document number? 2 Q. I'm asking you if you know what they 3 are. If you don't know -- 4 A. I'm fairly -- fairly certain that the 5 30 is page 30 and 01 is the -- is the graphic 6 order on the page, but I'm only concerned -- I 7 mean, I wish I could see what that graphic is 8 right now because that's what I do. So -- 9 Q. Okay. So you asked Carl whether or 10 not he wanted you to redraw illustrations that 11 looked like this ASTM file. Correct? 12 A. Correct. 13 Q. Do you know why you would be asking 14 whether you should redraw an illustration that he 15 sent to you? 16 A. For the reasons that I mentioned 17 before, because sometimes a graphic -- it's almost 18 like it doesn't have anything to do -- it's just 19 there. As I said, it's -- it's -- we would have 20 to do a lot of creative interpretation because the 21 lines are not very well described. I wish I could 22 show you the graphic. So -- and sometimes the 23 graphics are just there for decoration so -- 24 Q. Okay. And he responded by saying, 25 "That looks like an awful lot of work."</p>	<p style="text-align: right;">101</p> <p>1 MR. STOLTZ: I'm not asking 2 questions. 3 MR. FEE: You can instruct her what 4 you want to do. You're not reading anything into 5 the record. You're objecting. No. 6 MR. STOLTZ: All right. Rebecca, if 7 you wouldn't mind, would you read that entire 8 email that starts with "however"? 9 A. (Reading): "It starts with plus 1, 10 however, I concede that image I sent you 11 reinterpreted in our house style, i.e., 12 more modern, but I know our goal is to 13 make an exact copy, hence the one-off 14 question. Becky." 15 BY MR. FEE: 16 Q. So what did you wind up doing with 17 images that were old-fashioned? 18 A. I put them in a folder called "bad 19 art," and we did not redraw them because we 20 couldn't reach a conclusion. So -- 21 Q. Were any -- did you do that with the 22 first hand-drawn image you encountered? 23 A. I think we did reproduce some, and -- 24 and that would -- that's what begged the question, 25 should we be wasting -- you know, bothering with</p>

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1 this, because -- you know, that's why.
2 Q. When you reproduced some hand-drawn
3 images, did you reproduce them as a hand-drawn
4 image or did you make them more modern?
5 A. It would be line art.
6 Q. Is that what you're describing as more
7 modern here?
8 A. That's more modern.
9 Q. Okay.
10 A. But it seems silly to recreate -- you
11 know, to modernize some of them.
12 Q. Sure. So you said that there were
13 some that you modernized when there were hand
14 drawings. Do you recall if those standards were
15 ASTM or NFPA standards?
16 A. According to this message, I guess
17 there was some in ASTM, so -- but I wouldn't
18 remember.
19 Q. Then you also say at the end of that
20 sentence, "I know our goal was to make, 'an exact
21 copy.'" Do you see that?
22 A. Uh-huh.
23 Q. How did you come to the understanding
24 that the goal was to make an exact copy?
25 A. Because that's what Public.Resource

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1 requested.
2 Q. Then moving up to the next email in
3 the chain, you see there's an email from
4 Mr. Malamud at 2:17 p m.?
5 A. Uh-huh.
6 Q. The second sentence there, or second
7 paragraph, says -- maybe we need to read the whole
8 thing for context. You say -- he says, "Have you
9 done any diagrams of house style or modern style
10 as opposed to replica?"
11 Then he says, "This is particularly
12 important for any U.S. standards, especially
13 ASHRAE, ASTM, and NFPA, but also any others in the
14 Pub/US tree, (e.g., building codes, ANSI
15 standards.)"
16 Do you see that?
17 A. Uh-huh.
18 Q. Do you have an understanding based on
19 any communications with Mr. Malamud why it was
20 particularly important to not use a house style or
21 modern style for U.S. standards?
22 A. Not beyond this -- the context of this
23 message.
24 Q. Okay. So he never told you why it was
25 important. He just told you it was important?

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1 A. Right.
2 Q. And the top email in the chain --
3 actually, there's one more, your email right
4 before the last one, at 2:20 p m. Do you see that
5 one?
6 A. Yes.
7 Q. You say, "No, we make exact copies of
8 everything."
9 A. Correct.
10 Q. Was that accurate at the time?
11 A. Yes.
12 Q. Then you say, "Somehow I thought the
13 hearing before the House Judiciary was a victory
14 of sorts."
15 Do you see that?
16 A. Yes.
17 Q. What are you referring to there?
18 A. This was after he had had a -- his day
19 before the House Judiciary, and I'm just reacting
20 because he's in a bad mood.
21 Q. Well, how did you come to an
22 understanding that the House hearing was a victory
23 of sorts?
24 A. It's just conversation.
25 Q. Was that your understanding at the

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1 time?
2 A. Yes.
3 Q. Was that understanding based on any
4 communications you had with Mr. Malamud?
5 A. Not -- just -- just in this thread.
6 Q. All right. Then his email at the top,
7 after saying, "Thank you," he says, "No victory in
8 the hearing. Just a nice platform to talk about
9 the issues, but that didn't change anything as far
10 as the ongoing threats to me and my -- and the
11 nonprofit I run."
12 Do you see that?
13 A. Uh-huh.
14 Q. Do you know what he's referring to as
15 the ongoing threats to him?
16 A. No.
17 Q. Do you know what he's referring to as
18 the ongoing threats to the nonprofit he runs?
19 A. No.
20 Q. Have you ever had any discussions with
21 Mr. Malamud regarding any lawsuit brought on by a
22 person other than ASTM, ASHRAE or NFPA?
23 A. It's possible. It -- most likely it
24 comes up in a thread like this so --
25 Q. Do you recall any discussions with

106	<p>1 Mr. Malamud regarding a lawsuit involving an 2 entity called SMACNA? 3 A. Yes. 4 Q. What do you recall about those 5 discussions? 6 A. Yes. I remember the name SMACNA. 7 Q. Okay. Besides remembering the name, 8 do you have any other recollection in your 9 communications -- 10 A. No. 11 Q. -- regarding that lawsuit? 12 A. No. 13 Q. Are you aware of any litigation 14 regarding the American Psychiatric Association and 15 Mr. Malamud? 16 A. No. 17 Q. Are you aware of any other litigation 18 involving Mr. Malamud other than the SMACNA 19 lawsuit and the lawsuit that brings us here today? 20 A. We don't discuss it in depth. 21 Q. Are you aware of any other 22 litigations? 23 A. No. 24 Q. Did you receive any written 25 instructions from Public.Resource regarding what</p>
107	<p>1 you were to do with the files they provided to 2 you? 3 A. Not outside of the context of email 4 conversations. 5 Q. So at the beginning of the process of 6 converting standards, there wasn't a written 7 statement of work or something like that? 8 A. No. 9 Q. Do you have any written procedures for 10 the persons who are involved in the Rural Design 11 Collective as to how they should go about doing 12 any of the conversion work for Public.Resource? 13 A. It's all on my website. 14 Q. Is that it? 15 A. Yes. 16 Q. So there's no internal, nonpublic 17 instructions? 18 A. No. 19 Q. Now, at the time that you were doing 20 this conversion work for Public.Resource, you knew 21 that the documents and the images that you were 22 converting were not Mr. Malamud's images and 23 documents. Correct? 24 A. I knew that he would obtain them. 25 Q. Okay. Well, you knew he wasn't the</p>
108	<p>1 owner of any copyright interest in these works? 2 A. Yes. 3 Q. And you also knew that those works 4 were authored by persons other than Mr. Malamud? 5 A. Yes. 6 Q. And you realized that many of those 7 documents had copyright notices on them, didn't 8 you? 9 A. Yes. 10 Q. Did you ever ask Mr. Malamud why he 11 thought it was okay for you to make copies of 12 documents that were authored by other persons that 13 bore copyright notices? 14 A. I -- I understood his position. 15 Q. How did you understand his position? 16 A. Working with him for 20 years. 17 Q. Okay. So you understood his position 18 from communications with Mr. Malamud himself? 19 A. Yes. And his historic work. 20 Q. What did Mr. Malamud tell you about 21 why he thought you were allowed to make these 22 copies? 23 A. Because it's important, important 24 work. 25 Q. Did he tell you anything else?</p>
109	<p>1 A. To increase knowledge, to improve 2 access, to -- important laws that can lead to 3 innovation and safer buildings and public safety. 4 Q. Anything else? 5 A. Nothing else. 6 Q. Did you ever ask ASTM for permission 7 to make copies of their images? 8 A. No. 9 Q. Did you ever receive permission from 10 ASTM to make copies of their images? 11 A. No. 12 Q. Did Mr. Malamud ever tell you that he 13 received permission to have the copies made? 14 A. I would not know. 15 Q. My question was just if he had ever 16 told you that. Did he ever -- let me ask it 17 again. 18 Did Mr. Malamud ever tell you that he 19 had received permission to make the copies of any 20 of these images? 21 A. No. 22 Q. Did Mr. Malamud ever discuss with you 23 whether or not he had sought permission to make 24 copies of any of the images? 25 A. He never discussed it.</p>

<p style="text-align: right;">110</p> <p>1 Q. What mechanisms, if any, does Point B 2 have in place to ensure that it doesn't make 3 unauthorized copies of copyrighted works? 4 A. What do you mean by mechanism? 5 Q. Is there any procedure or protocol in 6 place at Point B to make sure that Point B doesn't 7 engage in unauthorized copying of copyrighted 8 works? 9 A. There's no procedure. 10 Q. Do you have anything in place to 11 ensure that you don't engage in copyright 12 infringement at Point B? 13 MR. STOLTZ: Objection to form. 14 Ms. Malamud's not a lawyer. 15 BY MR. FEE: 16 Q. You can answer. 17 A. Well, I'm not a lawyer. 18 Q. Okay. Do you have anything in place 19 to make sure that you don't engage in copyright 20 infringement? 21 A. No. 22 Q. And you were paid to make these 23 copies. Correct? 24 A. Yes. 25 MR. STOLTZ: Objection to form</p>	<p style="text-align: right;">112</p> <p>1 A. In this email thread I use "copy" a 2 lot. 3 BY MR. FEE: 4 Q. Yeah. Is Public.Resource paying for 5 any of the costs associated with your appearance 6 at this deposition today? 7 A. No. 8 Q. Is Public.Resource paying for any 9 counsel for you in connection with this matter? 10 A. No. 11 Q. Have you asked Public.Resource to 12 indemnify Point B for any losses it incurs as a 13 result of this copying? 14 A. We haven't had that discussion. 15 Q. Do you have any written agreements 16 with Public.Resource regarding indemnification for 17 intellectual property claims? 18 A. No. 19 Q. Do you make copies of any of the 20 artists' work that you work with at Point B 21 Studios without their permission? 22 A. No. 23 Q. Why not? 24 A. (Pause.) Well, actually, I know for a 25 fact that any of them would let me use any of --</p>
<p style="text-align: right;">111</p> <p>1 regarding the word "copy." 2 (Reporter inquiry.) 3 MR. STOLTZ: Regarding the word 4 "copy." 5 BY MR. FEE: 6 Q. You make exact copies actually, don't 7 you? 8 A. According to the email. 9 Q. And you told me that that was true, 10 didn't you? 11 A. We make -- replicated, yes. 12 Q. But you use the word "copy" all the 13 time, don't you? You don't say "replicate." 14 A. Well, I -- I don't know that, but -- 15 Q. All right. Well you say "copy" a lot. 16 You know that. Right? 17 MR. STOLTZ: Objection to form. 18 BY MR. FEE: 19 Q. Look at the exhibit in front of you. 20 You say "copy" in that exhibit several times, 21 don't you? 22 MR. STOLTZ: Counsel, is there a 23 question? 24 MR. FEE: Yeah. That is the 25 question.</p>	<p style="text-align: right;">113</p> <p>1 anything, so -- but I would just ask. 2 Q. But you've never made a copy of any of 3 their works without their permission before? 4 A. It's funny you should ask, because 5 when we first started the gallery, a lot of 6 photographers were concerned about copies on the 7 Internet, you know, because you can't really 8 control when people view a photograph or work of 9 art. They're making a copy when they download it 10 in a web browser. So -- 11 Q. Do you understand why they had those 12 concerns? 13 A. Yes. 14 Q. Do you think those concerns were 15 reasonable? 16 A. I think that they're reasonable, but 17 it's also a new age, so -- 18 Q. What does that have to do with 19 anything, that it's a new age? 20 MR. STOLTZ: Objection to form. You 21 can answer if you understand. 22 A. I don't understand. 23 BY MR. FEE: 24 Q. Okay. Well, you just testified that 25 you thought that their concern about putting their</p>

114	<p>1 photographs on the Internet was reasonable, but 2 this is a new age. And I'm trying to understand 3 what you meant when you said, "But this is a new 4 age." Can you explain that to me? 5 A. Well, you're also talking about art as 6 opposed to public safety standards, knowledge that 7 is of benefit to a very broad segment of people. 8 Q. Is that your answer to the question as 9 to -- 10 A. Yes. 11 Q. -- what "this is a new age" refers to? 12 A. Yes. 13 Q. Are you an artist yourself? 14 A. I am an artist. 15 Q. Would it be okay with you if somebody 16 took copies of your works and posted them on the 17 Internet so everyone could copy them for free 18 without your permission? 19 A. People have. 20 Q. And that was fine with you? 21 A. It depends on the situation. 22 Q. Under what circumstances would that 23 not be okay with you? 24 A. A line of people -- a line of 25 attribution would be ideal so people know who</p>	116	<p>1 idea. 2 Q. Okay. On the work that you did for 3 Public.Resource related to the standards for NFPA 4 and ASTM, did you make copies of any logos? 5 A. It's possible in the beginning. 6 Q. Why would you have only done that in 7 the beginning? 8 A. Because we were replicating everything 9 that -- in the document that we could reproduce. 10 Q. Did you stop doing that at some point 11 in time? 12 A. Yes. 13 Q. At what point in time did you stop 14 replicating everything in the document? 15 A. When Public.Resource said, "Don't make 16 a copy of the logo." But, again, there's copies 17 of logos all over the Internet. 18 Q. So at some point in time was it 19 Mr. Malamud that told you to stop making copies of 20 the logos? 21 A. Yes. 22 Q. Do you recall when he told you that? 23 A. I won't -- I don't know. 24 Q. Did he tell you why he wanted you to 25 stop making copies of the logos?</p>
115	<p>1 originally created the art. 2 Q. Okay. So if somebody were to make a 3 print of something you've done, put your name at 4 the bottom of it and sell it, that would be all 5 right with you? 6 A. It depends. It depends. 7 Q. Even if they gave you none of the 8 money and didn't get your permission? 9 A. If I was helping somebody it would 10 probably be all right. 11 Q. Okay. What if I wanted to do it? Can 12 I do it? 13 A. Which one? 14 Q. Any of them. All of them. Can I sell 15 your artwork without your permission? 16 A. Yeah. But you're -- you're not me, 17 so -- and, I mean, an artist can't be separated 18 from their artwork and their quality. 19 Q. Does that mean it's okay if I sell 20 your artwork? 21 A. Artists steal ideas from people all 22 the time. 23 Q. Is that okay with you? 24 A. It's the struggle of artists 25 everywhere. You have to come up with a better</p>	117	<p>1 A. I don't even know if I know that. 2 Q. Do you know why he told you to stop 3 making copies of the logos? 4 A. Probably so he wouldn't hear from 5 trademark lawyers. 6 Q. Had he told you that he had heard from 7 trademark lawyers regarding the copying of logos? 8 A. Possibly. 9 Q. What do you recall about any 10 communications with Mr. Malamud on that subject? 11 A. I don't recall. 12 Q. You don't recall anything about those 13 conversations? 14 A. No. 15 Q. You just think that you might have had 16 a discussion with him about trademark lawyers? 17 MR. STOLTZ: Objection. Asked and 18 answered. 19 BY MR. FEE: 20 Q. Correct? 21 A. It's possible. 22 Q. And you know that he told you to stop 23 making copies of logos? 24 A. Yes. 25 Q. Do you know what's happened with all</p>

118	<p>1 the logos that you copied in the past?</p> <p>2 A. They're probably on computers at</p> <p>3 Point B.</p> <p>4 Q. Do you know if they're still available</p> <p>5 on the web?</p> <p>6 A. If they are, that would not be -- I</p> <p>7 wouldn't have -- they're on a different server.</p> <p>8 It would be an oversight if it wasn't deleted.</p> <p>9 Q. Did you obtain permission from ASTM or</p> <p>10 NFPA to make copies of their logos?</p> <p>11 A. No.</p> <p>12 Q. Did you seek permission to make copies</p> <p>13 of their logos?</p> <p>14 A. No.</p> <p>15 Q. To the best of your knowledge, did</p> <p>16 Public.Resource ever request permission to make</p> <p>17 copies of ASTM or NFPA's logos?</p> <p>18 A. I do not know.</p> <p>19 Q. Mr. Malamud certainly never told you</p> <p>20 that he had permission to do that, did he?</p> <p>21 A. No.</p> <p>22 Q. Does Point B Studios have any</p> <p>23 procedures or policies in place to ensure that it</p> <p>24 doesn't engage in any unauthorized copies of logos</p> <p>25 of third parties?</p>	120	
119	<p>1 A. No.</p> <p>2 Q. Point B Studios was paid by</p> <p>3 Public.Resource to make copies of ASTM's logo.</p> <p>4 Right?</p> <p>5 A. Not specifically.</p> <p>6 Q. It was part of the work for which</p> <p>7 Public.Resource paid Point B. Correct?</p> <p>8 A. Yes.</p> <p>9 Q. And Public.Resource also paid Point B</p> <p>10 Studios for work that included making copies of</p> <p>11 the NFPA logo?</p> <p>12 A. Yes. But it was not a specific</p> <p>13 request.</p> <p>14 Q. Are you aware of there being any</p> <p>15 employees of Public.Resource other than</p> <p>16 Mr. Malamud?</p> <p>17 A. To my knowledge, he's the sole</p> <p>18 employee.</p> <p>19 Q. Have you -- has Point B ever had</p> <p>20 communications with any persons on behalf of</p> <p>21 Public.Resource other than Mr. Malamud?</p> <p>22 A. No.</p> <p>23 Q. Has Public.Resource -- no. Strike</p> <p>24 that.</p> <p>25 Has Point B had any communications</p>	<p>1 with HTC Global Services?</p> <p>2 A. No.</p> <p>3 Q. Do you know who HTC Global Services</p> <p>4 is?</p> <p>5 A. Yes.</p> <p>6 Q. How do you know that?</p> <p>7 A. I -- I actually was not sure what the</p> <p>8 name was until just recently, but yes.</p> <p>9 Q. How'd you become aware of that name?</p> <p>10 A. When all this started happening.</p> <p>11 Q. Okay. And what is your understanding</p> <p>12 as to HTC Global's involvement in any of this</p> <p>13 matters -- these matters?</p> <p>14 A. I -- they're the -- don't want to get</p> <p>15 into double and triple, but they're the triple-key</p> <p>16 team.</p> <p>17 Q. How did you come to learn that?</p> <p>18 A. I -- I knew there was a team that</p> <p>19 worked on that, but I didn't know the company</p> <p>20 name.</p> <p>21 Q. Who told you the company name</p> <p>22 eventually?</p> <p>23 A. Well, it was probably in my document,</p> <p>24 but I overlooked it, but Mitch mentioned it. And</p> <p>25 it could be --</p>	121

<p style="text-align: right;">122</p> <p>1 have a visual unless you open the file. So it was 2 just a means to communicate with one another. 3 Q. So this to-do list relates to the 4 Rural Design Collective project? 5 A. Correct. 6 Q. For what time period is this to-do 7 list? 8 A. Gosh. 2012, I think. 9 Q. Would you have a similar to-do list 10 for other years? 11 A. Well, one year we had -- when we -- we 12 had a Sandbox and we had it organized in level of 13 difficulty. A lot of this is as we are forming 14 our methodology how to do this stuff. 15 So another year we had a web interface 16 instead of a list trying to figure out how to make 17 it easier to work together, so -- just so -- this 18 is just so we can mark them off as done so -- 19 Q. Do you know if you produced the 20 equivalent of this "mother of all to-do lists" for 21 other years in whatever -- 22 A. No. 23 Q. -- format it was? 24 A. This was the only year I did it in 25 this manner so --</p>	<p style="text-align: right;">124</p> <p>1 left-hand side of each of these file names. 2 Correct? 3 A. Correct. 4 Q. And this page, it appears to be 5 mostly -- or many of them appear to be errors of 6 some sort. Is that right? 7 A. Yes. Looks like they did not load. 8 Q. Okay. 9 A. It's difficult to tell. And the 10 images are actually on Public.Resource's server, 11 not my server. 12 Q. So you would just have a link in this 13 list? 14 A. Right. So it's possible that a 15 directory was renamed or -- I don't know what 16 happened. 17 Q. And any file in here that has as part 18 of its file name ASTM would be a file that came 19 from an ASTM publication that was converted by the 20 Rural Design Collective for Public.Resource. Is 21 that right? 22 A. Now, if -- if I was on -- this page is 23 actually highlighted, which ones were completed. 24 So there may be some that weren't completed so -- 25 Q. Can you tell --</p>
<p style="text-align: right;">123</p> <p>1 Q. Okay. 2 A. -- I was -- 3 Q. And you said something you had 4 referred to as a Sandbox, I think you said. 5 A. Uh-huh. 6 Q. Was that Sandbox produced in this 7 litigation? 8 A. I provided it to my counsel. 9 Q. But you don't know if it was produced? 10 A. I don't know. 11 Q. Could you turn to the Bates label, 12 which is this number in the bottom corner here, 13 ending with 0029? 14 A. Okay. 15 Q. Slightly below the middle of the page 16 you see that there's references to several files 17 that have ASTM in their name. 18 A. Okay. 19 Q. Does this mean that these ASTM 20 graphics or files were converted as part of the 21 Rural Design Collective program in 2012? 22 A. Yes. This is probably when we were 23 working on California Code Regulations, so it was 24 as part of that. 25 Q. The -- there's a small image on the</p>	<p style="text-align: right;">125</p> <p>1 A. I don't know. 2 Q. -- looking at the hard copy which ones 3 are highlighted or not? 4 A. No. You can't tell. There's no 5 indication. 6 Q. But your original electronic file 7 would show that? 8 A. Yeah. 9 Q. Do you still have that file in your 10 possession? 11 A. Uh-huh. It's online. 12 Q. It's online where? 13 A. At -- I think it is. It doesn't have 14 the URL on it. 15 Q. Do you know? 16 A. It would be at the Rural Design 17 Collective website. 18 Q. Okay. Would the Sandbox, as you 19 described it earlier, also be online at the 20 Rural -- 21 A. Yes. 22 Q. -- Rural Design website? 23 A. But it's really old software. 24 MR. STOLTZ: Are we done with 20? 25 MR. FEE: Yes.</p>

<p style="text-align: right;">126</p> <p>1 (Deposition Exhibit No. 21 2 marked for identification.) 3 BY MR. FEE: 4 Q. Ms. Malamud, I'm going to hand you 5 what's been marked as Exhibit 21. It appears to 6 be a series of emails. The top one is from 7 Mr. Malamud to you, dated January 4th, 2014, at 8 12:01 p m. Bates labeled PRO42289-01. Take your 9 time and look at it, but once you've read it, if 10 you can identify this as a series of emails 11 between you and Mr. Malamud. 12 A. (Pause.) Okay. 13 Q. First of all, can you recognize -- do 14 you recognize this as a series of emails between 15 you and Mr. Malamud? 16 A. Yes. 17 Q. Why don't we start at the beginning of 18 the email chain, which would be on the last page. 19 There's an email on December 31, 2013, at 20 3:02 p m. from you. Can you see? It starts off 21 saying, "All art completed, both diagrams and 22 MathML, with the exception of NFPA.NEC.2011. We 23 have about 12 more diagrams to complete on that. 24 And we should have that completed by Friday." 25 Do you see that?</p>	<p style="text-align: right;">128</p> <p>1 Q. Correct me if I'm wrong, but it looks 2 like you have some of Mr. Malamud's questions in 3 here and then you type responses below them. Is 4 that right? 5 A. Yes. 6 Q. And it looks like Mr. Malamud asks you 7 what appears to be in the third paragraph, or 8 says, "You didn't answer my previous question, 9 which was how much of the 5K a month that I'm 10 sending you is being turned around as salary for 11 your contractor." 12 First of all, do I understand that 13 correctly to be Mr. Malamud's email to you? 14 A. Yes. 15 Q. And he continues by saying, "I'm 16 digging really deep to find money for you 17 post-February. I need to understand where my 18 money is going if I'm going to keep digging for 19 you." 20 Do you see that? 21 A. Yes. 22 Q. Can you -- prior to this email, had 23 you had any discussions with Mr. Malamud about his 24 concerns about finances? 25 A. No.</p>
<p style="text-align: right;">127</p> <p>1 A. Yes. 2 Q. Does that mean that you had made 3 copies of many diagrams in the NFPA NEC code for 4 2011? 5 MR. STOLTZ: Objection. Form. 6 Misstates testimony. You can answer. 7 A. Okay. Say it again? Say what you 8 said. 9 BY MR. FEE: 10 Q. Does that sentence indicate that you 11 made copies of diagrams and math equations that 12 were contained in the 2011 version of the NFPA 13 NEC? 14 A. We improved the art as I described 15 earlier. 16 Q. By "improved the art," you mean you 17 made exact copies but in SVG format? 18 A. Correct. 19 Q. Would you turn to the second page of 20 the document. Or, actually, why don't you turn to 21 the first page of the document. Towards the 22 bottom of the first page, you see there's an email 23 dated January 4th, 2014, at 11:48 a.m. Towards 24 the bottom of the first page. 25 A. Okay. Yeah. I see it.</p>	<p style="text-align: right;">129</p> <p>1 Q. For -- let me finish. 2 A. This is usually how I find out about 3 things. 4 Q. Okay. So this was the first time 5 you've heard that he had any funding problems or 6 concerns related to your contract going forward? 7 A. Correct. 8 MR. STOLTZ: Be sure to let him 9 finish the question. 10 A. Okay. 11 BY MR. FEE: 12 Q. Turn to the next page, please. The 13 first paragraph starts, "I also mentioned that my 14 MathML coder is working on an app." 15 Do you see that? 16 A. On the other page? 17 Q. Top of page 2. 18 A. Yes. 19 Q. And that's your writing. Correct? 20 A. Yes. 21 Q. At the end of that paragraph, you 22 said, "I found a couple of mistakes that appear to 23 be OCR related like the one below." 24 Do you see that? 25 A. Uh-huh.</p>

<p style="text-align: right;">130</p> <p>1 Q. First of all, what are OCR-related 2 mistakes? 3 A. Optical character recognition. 4 Q. And how are there mistakes that are 5 OCR related? 6 MR. STOLTZ: Objection. Vague. 7 A. Again, I'm talking about something 8 that I really am not involved in, so -- 9 BY MR. FEE: 10 Q. But do you -- 11 A. I wish I could see the screen shot. 12 It was probably typos in the text that I have 13 nothing to do with. 14 Q. Would that happen from time to time 15 while you were working on Public.Resource files? 16 MR. STOLTZ: Objection. Foundation. 17 You can answer if you know. 18 A. If I came across anything, I would 19 mention it, just like I did here. 20 BY MR. FEE: 21 Q. Okay. So it happened at least once. 22 Right? 23 A. At least once. 24 Q. Okay. Do you know if it happened more 25 than one time?</p>	<p style="text-align: right;">132</p> <p>1 Exhibit 21? 2 MR. FEE: Yeah. For now at least. 3 (Deposition Exhibit No. 22 4 marked for identification.) 5 BY MR. FEE: 6 Q. Ms. Malamud, I'm going to hand you 7 what's been marked as Exhibit 22. It is a series 8 of emails. The one at the top of the page is an 9 email from you to Mr. Malamud dated May 7, 2012, 10 7:24 a.m. and Bates labeled PRO24876 through 80. 11 After you've had a chance to look at 12 it, let me know if you recognize this as a series 13 of emails between you and Mr. Malamud? 14 A. I recognize it. 15 Q. All right. Can you tell me generally 16 what's going on in this series of emails? 17 MR. STOLTZ: Objection. Vague. 18 A. Can you clarify? 19 BY MR. FEE: 20 Q. What is the general subject matter of 21 these emails? 22 MR. STOLTZ: Same objection. 23 A. Can you be more specific? 24 MR. FEE: What part -- Andrew? 25 (Phone cuts out.)</p>
<p style="text-align: right;">131</p> <p>1 A. I would not know. 2 MR. STOLTZ: How much longer do you 3 think you guys have? I'm just wondering if we 4 should break for lunch at some time soon. 5 MR. FEE: We could probably go on a 6 break for lunch would be my guess at some point. 7 MR. REHN: Yeah. I probably have a 8 half hour on top. 9 MR. FEE: Yeah. And I still have a 10 ways to go. So if you want to take a lunch break 11 now, that's fine for me. 12 MR. STOLTZ: Do you want to break 13 now? 14 THE WITNESS: What time is it? 15 MR. STOLTZ: It's 12:15. 16 THE WITNESS: Yeah. I should 17 probably eat. 18 MR. FEE: Okay. We can take a break 19 now then. 20 THE VIDEOGRAPHER: Okay. Going off 21 the record. The time is 12:14 p.m. 22 (Lunch: 12:14 p.m. to 1:22 p.m.) 23 THE VIDEOGRAPHER: We're going back 24 on the record. The time is 1:22 p.m. 25 MR. STOLTZ: Were we done with</p>	<p style="text-align: right;">133</p> <p>1 MR. FEE: Do you want to go off the 2 record for a second? 3 THE VIDEOGRAPHER: Going off the 4 record. 1:24 p.m. 5 (Recess for one minute.) 6 THE VIDEOGRAPHER: We're going back 7 on the record. The time is 1:25 p.m. 8 BY MR. FEE: 9 Q. Could you explain to me what you and 10 Mr. Malamud are discussing in Exhibit 22? 11 A. Discussing working on NFPA graphics 12 and how they related to Title 24. 13 Q. Can you show me that document for a 14 second? 15 A. Am I on the wrong page? 16 Q. No. I just wanted to make sure we had 17 the same thing. 18 A. Okay. 19 Q. All right. I want to draw your 20 attention towards the bottom of the first page of 21 Exhibit 22. 22 A. Okay. 23 Q. There's an email that appears to be 24 written by you at 6:40 a.m. Do you see that? 25 A. 6:46?</p>

<p style="text-align: right;">134</p> <p>1 Q. 6:46. I'm sorry. No. You're 6:40. 2 I think Mr. Malamud's 6:46. 3 A. Okay. I see 6:40. 4 Q. Okay. And this is you saying, "We 5 have -- now have 132" -- 6 A. Uh-huh. 7 Q. -- "SVGs completed in CFR 1," and it 8 continues on from there. Do you see that? 9 A. Yes. 10 Q. What is CFR 1? 11 A. It was a directory containing CFR 12 documents, so it's just the name of a folder. 13 Q. Do you know what CFR documents are? 14 A. It seems like it should be CCR, but -- 15 Q. You're not sure? 16 A. I'm not sure. 17 Q. Okay. And then after that -- 18 beginning of the sentence, is there a reference to 19 a series of documents, I assume, that have NFPA or 20 ASTM in them? Is that what those are? 21 A. Yes. 22 Q. Does that mean that you had completed 23 making exact copies of some ASTM standard or 24 standards? 25 A. Yes.</p>	<p style="text-align: right;">136</p> <p>1 with what's the trace bit map? 2 A. It's a -- it's a function of Inkscape 3 where if you have a high enough resolution scan -- 4 and I think I mentioned earlier that sometimes 5 they were 300 DPI -- if it was one of those 6 hand-drawn drawings that didn't make sense to, you 7 know, create this precision artwork, you can just 8 embed the graphic and use an auto-trace feature 9 and adjust the settings so that it would, you 10 know, follow the line and you'll actually have a 11 vector art without doing any drawing at all. But 12 it doesn't work in all circumstances so -- 13 Q. Okay. So as of the time you wrote 14 this email, it looked like it was going to be very 15 helpful for production? 16 A. It did. 17 Q. But it didn't turn out? 18 A. It didn't turn out that way. It was 19 just a particular batch we were working on. 20 Q. Okay. Would you look at the last page 21 of this exhibit? You see there are two sections 22 that have headers that begin with ASTM? 23 A. Yes. 24 Q. And then below that you have -- looks 25 like file names. Is that right?</p>
<p style="text-align: right;">135</p> <p>1 Q. Then next paragraph you say, 2 "Anomalies noted below." 3 Do you see that? 4 A. Yes. 5 Q. What are you referring to there? 6 A. Anywhere where -- this was a while 7 ago, but I'm point -- pointing out where the -- 8 sometimes it didn't make sense to vectorize the 9 art because it was poor art. 10 "Missing note." I am assuming based 11 on the message above that the notes under the 12 graphic change, because they often reference a 13 table or section in the document and they are 14 always different. This is where there was 15 replication in the images between Title 24 and 16 NFPA. So "missing note" probably -- that's what 17 that means. 18 Q. Okay. And then the last paragraph in 19 that -- your email says the, "'Trace bit map' is 20 definitely proving to be a boon for production." 21 A. And it wound up not to be as good as I 22 thought -- 23 Q. Okay. 24 A. -- but -- 25 Q. Well, first of all, why don't we start</p>	<p style="text-align: right;">137</p> <p>1 A. Yes. 2 Q. Are those file names for ASTM images 3 that were copied? 4 A. Those are the documents, document 5 names. Under the line would be the graphics. And 6 there's the logo. I guess I -- it was on 7 Wikimedia. So -- 8 Q. Okay. So that reference to the 9 Wikimedia Commons means that you pulled the 10 graphic of the ASTM logo from Wikimedia? 11 A. I did, because I saw it elsewhere. I 12 remember. So -- 13 Q. So did -- does the Wikimedia Commons 14 reference means that that's where the actual image 15 came from? 16 A. It was there. I believe I saw it 17 there. 18 Q. Okay. 19 A. But I don't know what this is. This 20 might be -- I don't know what this is. I'd need 21 to see the image. It might actually be a 22 pictograph. So, you know, a symbol. I don't know 23 for sure. I don't know. 24 Q. So you don't know why you wrote 25 "Wikimedia Commons" there?</p>

138	<p>1 A. Whatever that graphic is was in 2 Wikimedia. Yeah. 3 Q. Okay. 4 A. But it might be -- I probably -- I 5 mean, this is 2012. I noted it wondering if it 6 was a logo, and that it was -- because it was -- I 7 was being more careful not to reproduce logos. 8 But it could be a pictograph. That's, you know, a 9 symbol of communication in graphic arts people 10 use. So I don't know exactly, but -- 11 Q. So is it your belief that as of 12 May 2012, you already knew not to copy any logos 13 anymore? 14 A. I don't know. Yes. 15 Q. Okay. And is it your belief, then, 16 that after May of 2012, Point B no longer copied 17 any logos of ASTM or NFPA? 18 A. Yes. 19 Q. Now, at the top of Exhibit 22 there is 20 an email that appears to be from you to 21 Mr. Malamud. Do you see that? 22 A. Yes. 23 Q. And second paragraph down, it says, 24 "Yes, all these replace prior SVGs for CFR 1. I 25 went through and checked all the 90 SVGs that were</p>	140
139	<p>1 done previously to make sure that Levi did not go 2 astray." In parentheses you say, "He didn't. 3 Just on that one set." 4 Can you explain what you're referring 5 to when you say you were making sure Levi didn't 6 go astray? 7 A. Because as I've explained before, 8 sometimes the artwork is open to interpretation. 9 I mean, when it's really poor line art. And I 10 believe we had a discussion before this that, you 11 know -- so I'm just making sure that we're not 12 doing graphics that we shouldn't do. So -- 13 because when creative -- you know, when -- it's -- 14 just trying not to apply any creative -- 15 creativity to reinterpreting -- reinterpreting 16 poor art so -- 17 Q. Do you recall what led you to review 18 Levi's work to determine if he went astray? 19 A. I cannot recall. 20 (Reporter inquiry.) 21 MR. FEE: If he went astray. 22 BY MR. FEE: 23 Q. Then in that parentheses, set of 24 parentheses, you say, "He didn't. Just on that 25 one set."</p>	141

142	<p>1 (Deposition Exhibit No. 23 2 marked for identification.) 3 BY MR. FEE: 4 Q. I'm going to hand you what's been 5 marked as Exhibit 23. It's a single page Bates 6 labeled PT_EDD34456-00001. 7 A. Okay. 8 Q. Do you recognize Plaintiff's -- or 9 Exhibit 23 to be a series of communications 10 between you and Jasper? 11 A. Yes. 12 Q. I want to draw your attention towards 13 the bottom of that page. Do you see there's a 14 paragraph that starts with, "We're in alpha"? 15 A. Uh-huh. 16 Q. The second sentence from the end says, 17 "Reaction has been very positive, and I have a 18 couple of engineers lined up to review the 19 documentation when it's complete." 20 Do you see that? 21 A. It was never completed. 22 Q. Okay. Was this referring to NFPA or 23 ASTM illustrations that were converted by Point B? 24 A. EFC, Title 24, California building 25 codes. It would be California building codes.</p>	144	<p>1 Rose review -- 2 A. Well, he's one of the most 3 respected -- sorry. I interrupted you. Sorry. 4 Q. Why did you plan on having Marshall 5 Rose review the work that was being done by 6 Jasper? 7 A. He's well respected for his technical 8 documentation. 9 Q. Is Marshall Rose from Oregon? 10 A. No. 11 Q. Where is he located? 12 A. California. 13 Q. Do you know him? 14 A. Yes. He's a colleague. 15 Q. Had you ever discussed the possibility 16 of having him review documentation? 17 A. No. But we review -- we work 18 together. We -- you know, that's a very common 19 thing on the Internet. 20 Q. So all of the drawings or materials 21 that you have converted that were ASTM or 22 NFPA-sourced documents were not reviewed by any 23 engineers before they were posted on the Internet? 24 A. No. 25 Q. I asked a bad question. Let me try</p>
143	<p>1 Q. Do you know if any of the NFPA or ASTM 2 works were part of the California building code 3 project? 4 A. It's possible. 5 Q. But you never had any engineers review 6 any of the work that you was done? 7 A. No, because Jasper didn't complete his 8 documentation. 9 Q. Did you have engineers lined up to 10 review this documentation? 11 A. Some -- if it had been completed, yes. 12 Q. Who were the engineers? 13 A. Just technical people in the field. 14 Q. How did you identify these persons? 15 A. Just colleagues. 16 Q. What were their names? 17 A. Just -- I did not -- I would have them 18 do it if we completed it. But I didn't bother 19 them because I didn't have it completed. 20 Q. Who were the persons that you were 21 going to have review these materials? 22 A. I was going to ask Marshall Rose, but 23 I didn't ask him because I'm not going to bother 24 someone like that if -- 25 Q. Why were you going to have Marshall</p>	145	<p>1 that one more time. Is it true that none of the 2 materials that you had converted that were from 3 NFPA or ASTM were reviewed by any engineers before 4 they were posted on the Internet? 5 A. They were not. Am I misunderstanding? 6 MR. FEE: It's my fault if there's a 7 bad question. No. We're all set. 8 MR. STOLTZ: I'm sorry, counsel. 9 Can we take a short break? 10 MR. FEE: Sure. 11 THE VIDEOGRAPHER: Going off the 12 record. 1:44 p m. 13 (Recess: 1:44 p m. to 1:47 p m.) 14 THE VIDEOGRAPHER: We're going back 15 on the record. The time is 1:47 p.m. 16 BY MR. FEE: 17 Q. Are you aware of any entities other 18 than Point B and HTC Global that provided any 19 assistance to Public.Resources in digitizing any 20 files? 21 A. No. 22 Q. Do you know what the error rate was 23 for any of the work that Point B Studios did for 24 Public.Resource? 25 A. No.</p>

<p style="text-align: right;">146</p> <p>1 Q. Do you acknowledge that there were 2 errors in the work that was delivered to 3 Public.Resource? 4 A. There were what? 5 Q. Errors? 6 A. Hours? 7 Q. Errors, E-R-R-O-R-S. 8 A. Errors. Oh, I thought you said hours. 9 So could you back up a question? 10 Q. Do you acknowledge that there were 11 errors in any of the work that was delivered by 12 Point B to Public.Resource? 13 A. Do I deny? Is that what you said? 14 Q. I said do you acknowledge. 15 A. Do I acknowledge? I don't know. 16 Q. You're not ruling out the possibility 17 that there were errors in that work? 18 A. I'm a human being. 19 Q. So you're not ruling out that 20 possibility. Correct? 21 A. It's possible. 22 Q. Did you ever have a discussion with 23 Mr. Malamud regarding what would be an appropriate 24 error rate -- 25 A. No.</p>	<p style="text-align: right;">148</p> <p>1 Q. In the third paragraph, he says, "I've 2 got 200 more HTML docs for India coming up, but I 3 think you guys still have that electrical code to 4 mock up." 5 Do you see that? 6 A. Uh-huh. 7 Q. You understand the electrical code to 8 be -- oh. Sorry. You need to say yes to -- 9 A. Yes. 10 Q. -- these questions. 11 A. Yes. 12 Q. Do you recognize the electrical code 13 referenced in this document to be a reference to 14 NFPA's NEC code? 15 A. Yes, because we're talking about NFPA 16 above. Yes. 17 Q. Then the next paragraph says, "You can 18 find the new location of the National Electric 19 Code here at the bottom of the manifest." In 20 parentheses it says, "It is now called SP30, so 21 please make sure to fetch the thing." 22 (Reporter inquiry.) 23 MR. FEE: Fetch the thing. 24 BY MR. FEE: 25 Q. Do you see that?</p>
<p style="text-align: right;">147</p> <p>1 Q. -- for your work? 2 (Off-the-record discussion.) 3 (Deposition Exhibit No. 24 4 marked for identification.) 5 BY MR. FEE: 6 Q. I'm going to hand you Exhibit 24, 7 which is a series of emails between you and 8 Mr. Malamud. Top one is dated the 12 -- 26th of 9 December, 2013, at 9:30 p.m. It's Bates labeled 10 PRO26120 through 21. Do you recognize Exhibit 24 11 to be a series of emails between you and 12 Mr. Malamud? 13 A. Yes. 14 Q. I'm going to start on page 2 of the 15 document. It appears to be an email from you 16 dated September 30th, 2013. Do you see that? 17 A. Yes. 18 Q. In the second paragraph you make 19 reference to an SVG wizard. Do you know who you 20 were referencing there? 21 A. That would be Levi. 22 Q. Then on the front page there's an 23 email towards the bottom dated September 30th, 24 2013, at 4:30 from Mr. Malamud. Do you see that? 25 A. Uh-huh.</p>	<p style="text-align: right;">149</p> <p>1 A. Yes. 2 Q. Can you explain what he's telling you 3 here? 4 A. The identifiers were changed. 5 Q. Do you know why? 6 A. No. 7 Q. If we move up one email, there's an 8 email from you on the 26th of December at 9 9:05 p.m. Do you see that? 10 A. Yes. 11 Q. Where you say, "We completed the 12 National Electric Code." And then in parentheses 13 you say, "IS.SP.30.2011, 235 new images," end 14 parentheses. "And the rest is for NFPA, 15 145 images, 71 MathML across seven complete docs." 16 Do you see that? 17 A. Uh-huh. Yes. Sorry. 18 Q. Does that mean -- 19 A. Yes. 20 Q. So you converted all of the images in 21 the National Electric Code for Mr. Malamud? 22 MR. STOLTZ: Objection. Foundation. 23 BY MR. FEE: 24 Q. Is that right? 25 MR. STOLTZ: You can answer if you</p>

<p style="text-align: right;">150</p> <p>1 know. 2 A. By "completed," it would be whatever 3 we could do based on the quality of the original 4 JPEG. 5 BY MR. FEE: 6 Q. Okay. So you made exact copies of all 7 the NEC files that you were able to copy based on 8 the quality of the images provided to you? 9 A. We improved the art on that many 10 images. Yes. 11 Q. What you described as exact copies. 12 Correct? 13 A. Correct. 14 Q. Now, on the top page there's another 15 email from Carl Malamud. It says -- starts off by 16 saying what I think is an abbreviation of -- for 17 "by the way," right? "BTW"? 18 A. Yes. 19 Q. "By the way, it sounds like the 20 diagrams have been sitting in a queue and you 21 might be tempted to throw them over the wall in a 22 last-minute rush." 23 Do you see that? 24 A. Uh-huh. 25 Q. Yes?</p>	<p style="text-align: right;">152</p> <p>1 A. Yes. 2 Q. Did you do that? 3 A. Yes. 4 Q. For every file that you delivered to 5 Mr. Malamud? 6 A. Yes. 7 Q. And he says, "We're being sued by 8 these folks, and if the diagrams are different or 9 wrong, it will really hurt us. Make sure you've 10 done the QA." 11 Do you see that? 12 A. Yes. 13 Q. Do you have any idea why he was 14 reminding you to do the quality assurance? 15 A. Because he always does. 16 Q. Did he ever express any complaints or 17 concerns about the quality assurance that was done 18 for his work before? 19 A. No. 20 Q. Had you ever discussed with him the 21 importance of the diagrams being correct in 22 connection with this lawsuit? 23 A. Yes. This is 2013. 24 Q. What did he discuss with you along 25 those lines?</p>
<p style="text-align: right;">151</p> <p>1 A. Yes. 2 Q. Do you -- what do you understand that 3 to mean? 4 A. Well, it's presumptuous, but often 5 the -- we would wait until we have a certain 6 amount completed so we could do the Q and A [sic] 7 in one step. So that's what it means to me. 8 Q. Had Mr. Malamud ever accused you of 9 sending him a bunch of files in a last-minute 10 rush? 11 A. But it wasn't a last-minute rush for 12 my group. 13 Q. Had Mr. Malamud accused you of doing 14 that in the past? 15 A. It's possible. 16 Q. You don't recall whether or not he 17 said that you had sent him work that was done in a 18 last-minute rush prior to today? 19 A. It's possible. I don't really recall, 20 but -- 21 Q. Then the next sentence, he says, 22 "Please make sure you have personally checked 23 every single diagram to make sure it is the same 24 as the original before you send it to me." 25 Do you see that?</p>	<p style="text-align: right;">153</p> <p>1 A. Just to make sure it matched the 2 originals. 3 Q. Did you understand why it was 4 important or if it was important for the 5 originals -- 6 A. Not to -- I'm sorry. 7 Q. Did you understand whether or not it 8 was important to match the originals for the 9 purposes of this lawsuit? 10 A. Not to introduce errors into the 11 standard. 12 Q. Did he tell you why that was important 13 to him? 14 A. I mean, this is -- I can't -- I don't 15 know exactly what he said. 16 Q. What do you recall about those 17 discussions? 18 A. Just to be as precise as possible. 19 Q. Has Mr. Malamud ever identified a 20 mistake in any of the work that you had done for 21 Public.Resource? 22 A. No. 23 Q. Never? 24 A. I can't recall a specific incident. 25 Q. Do you recall that he identified at</p>

<p style="text-align: right;">154</p> <p>1 least one incident where there was a mistake? 2 A. It's possible. 3 Q. Is it possible that it's happened 4 multiple times? 5 A. No. 6 Q. So at most Mr. Malamud has identified 7 one mistake in all of the work that Point B 8 Studios has done for Public.Resource? 9 A. Yes. 10 Q. So whatever quality assurances that 11 Mr. Malamud goes through only identified one 12 mistake as far as you know? 13 A. As far as I know. 14 (Deposition Exhibit No. 25 15 marked for identification.) 16 BY MR. FEE: 17 Q. I'm going to hand you Exhibit 25, 18 which is a series of emails between you and 19 Mr. Malamud. The top one dated the 8th of 20 October, 2012, at 7:02 p m. Bates labeled 21 PRO25947. 22 Can you identify Exhibit 25 as a 23 series of emails between you and Mr. Malamud? 24 A. Yes. 25 Q. I want to start at the bottom of the</p>	<p style="text-align: right;">156</p> <p>1 progress at -- at the time and is India, CFR, and 2 Title 24. 3 Q. Okay. And the CFR art included art 4 from ASTM. Right? 5 A. Correct. 6 Q. So Mr. Malamud was asking you to 7 complete the work on ASTM files, among others, to 8 help lend credence to his story that he's adding 9 value. Is that right? 10 A. I can't presume that's what he meant. 11 Q. Is that how you understood this email? 12 A. I'm responding to the stuff that I 13 have that I -- that we're working on to get it in 14 the file tree, but I can't presume what he -- what 15 he meant. 16 Q. You have no idea what he meant by 17 that? 18 A. No. 19 MR. STOLTZ: Objection. Asked and 20 answered. 21 BY MR. FEE: 22 Q. At the top of this email, you see 23 there's a paragraph No. 2. It says, "The source 24 art for the CFR," in parentheses, "ANSI" -- that's 25 A-N-S-I -- "ASTM/ISO," end parentheses, "is not</p>
<p style="text-align: right;">155</p> <p>1 exhibit. You see there's what appear to be an 2 email from you, October 8th, 2012, at 4:16 p.m. 3 Do you see that? 4 A. Yes. 5 Q. Does a portion of that email have text 6 that was written by Mr. Malamud below it? 7 A. He's -- "Please. I'd like to get that 8 stuff into the file tree. It lends a lot of 9 credence to a story that we're adding value to the 10 materials by transforming them." 11 Q. Mr. Malamud wrote that? 12 A. Yes. 13 Q. Do you know what -- strike that. 14 Did Mr. Malamud ever explain to you 15 how he thought getting any files in a file tree 16 lended credence to a story -- 17 A. No. 18 Q. -- that he's adding value? 19 A. Sorry. No. 20 Q. Do you know what that meant? 21 A. No. 22 Q. Can you tell based on the rest of this 23 email or based on your experience what files he's 24 referencing there? 25 A. The art for -- the art that's in</p>	<p style="text-align: right;">157</p> <p>1 stored in their original directories, so I need to 2 sort that out." 3 Do you see that? 4 A. Uh-huh. 5 Q. Yes? 6 A. Yes. 7 Q. Did you write that? 8 A. Yes. 9 Q. Can you explain to me what that means? 10 A. When diagrams are created, there's a 11 three-step process I explained earlier, and -- 12 where we have the line art and the -- the Union 13 step in the editable type. And so I have them in 14 a holding directory on my laptop and I have to 15 sort everything to get them back into the original 16 directories. That's what I'm talking about. 17 (Reporter inquiry.) 18 THE WITNESS: Yeah. Union. Yeah. 19 Which is a function of Inkscape. 20 BY MR. FEE: 21 Q. Then you continue by saying, "The art 22 is all there. It just lost the link to the 23 original doc." 24 (Reporter inquiry.) 25 MR. FEE: D-O-C.</p>

<p style="text-align: right;">158</p> <p>1 BY MR. FEE: 2 Q. Do you see that? What does that mean? 3 A. Well, let's see. I don't know that 4 this -- I just need to put it back in the 5 directory so it's linked with the HTML. 6 Q. So what lost a link? 7 A. The final graphics were not linked to 8 the HTML until I put it in the proper directory. 9 Q. Would you turn back to Exhibit 21? I 10 want to draw your attention to the top of the 11 first page in an email from you -- or from 12 Mr. Malamud to you at January 4th, 2014, at 13 12:01 p m. 14 A. Uh-huh. Yes. 15 Q. In the fourth paragraph down, 16 Mr. Malamud says, "All the docs you see are, in 17 theory, double keyed. Of course they may cheat 18 and do OCR first and then do their -- their QA. 19 In any case, I won't be paying for double-key work 20 for the foreseeable future." 21 Do you see that? 22 A. Yes. 23 Q. First of all, does that refresh your 24 recollection as to whether or not the materials 25 you were receiving from HTC Global were double</p>	<p style="text-align: right;">160</p> <p>1 Q. The question is after you received 2 Exhibit 21, did you have an understanding that the 3 files that you received from Public.Resource with 4 text may in fact not have been double keyed? 5 MR. STOLTZ: Same objections. 6 A. It doesn't have anything to do with 7 the work that Point B produced. 8 BY MR. FEE: 9 Q. Was that your answer to whether or not 10 you understood that the files you were receiving 11 may not have been doubled keyed? 12 A. It gets -- I understand it was 13 communicated. 14 Q. What was communicated? 15 A. That it's double keyed. 16 Q. Well, he says that, "They may cheat 17 and do OCR first." 18 Do you see that? 19 A. I see that. 20 Q. Okay. And if you do OCR first, then 21 you're not double keying. Correct? 22 MR. STOLTZ: Objection. Lack of 23 foundation. The witness has already said that she 24 didn't do any of that work. 25 MR. FEE: Mitch, "Objection, lack of</p>
<p style="text-align: right;">159</p> <p>1 keyed or triple keyed? 2 A. It does. 3 Q. You know now it was supposed to be 4 double keyed. Right? 5 A. Correct. 6 Q. Secondly, it looks like Mr. Malamud's 7 telling you that those materials may not even be 8 double keyed. Right? 9 MR. STOLTZ: Objection. 10 Mischaracterizes. And the document speaks for 11 itself. You can answer if you can. 12 A. I don't have anything to do with that, 13 so -- 14 BY MR. FEE: 15 Q. Okay. Well, you received Exhibit 21 16 before. Right? 17 A. Yes. 18 Q. When you received Exhibit 21, did you 19 have an understanding that the materials that 20 Mr. Malamud was providing to you may not actually 21 be double keyed? 22 MR. STOLTZ: Objection. That 23 mischaracterizes the document and her testimony. 24 A. What's the question? 25 BY MR. FEE:</p>	<p style="text-align: right;">161</p> <p>1 foundation," is all you're permitted to say. 2 (Reporter inquiry.) 3 THE WITNESS: I see this, but I -- I 4 didn't have anything to do with that step. 5 BY MR. FEE: 6 Q. I understand that. Do you understand 7 OCR to be part of the double keying process? 8 MR. STOLTZ: Same objection. 9 A. Double keyed means double keyed. 10 Typed twice. 11 BY MR. FEE: 12 Q. And if you do OCR first you're not 13 typing first. Correct? 14 MR. STOLTZ: Same objection. 15 A. But these are not my words so -- 16 BY MR. FEE: 17 Q. I'm not asking you about this document 18 anymore. Is OCR part of the double-keyed process? 19 MR. STOLTZ: Same objection. 20 A. I don't know. 21 BY MR. FEE: 22 Q. So now you don't know what double 23 keying is? 24 MR. STOLTZ: Objection. That's 25 argumentative.</p>

162	<p>1 A. I believe I stated earlier that I</p> <p>2 thought, possibly incorrectly, that OCR was the</p> <p>3 first step in double and triple keying, but I</p> <p>4 don't do that kind of work so --</p> <p>5 BY MR. FEE:</p> <p>6 Q. Okay. That paragraph continues with</p> <p>7 Mr. Malamud saying, "In any case, I won't be</p> <p>8 paying for double-key work for the foreseeable</p> <p>9 future."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Do you know why Mr. Malamud was not</p> <p>13 going to be paying for double-key work in the</p> <p>14 foreseeable future?</p> <p>15 A. Not outside of the context that</p> <p>16 that -- sentence.</p> <p>17 Q. So you never had any discussion with</p> <p>18 Mr. Malamud regarding whether or not he would</p> <p>19 continue to pay for double-key work other than</p> <p>20 this email that's Exhibit 21?</p> <p>21 A. Correct.</p> <p>22 Q. Do you know if Mr. Malamud or</p> <p>23 Public.Resource is having any double-key work done</p> <p>24 currently?</p> <p>25 A. I don't know.</p>	164	
163	<p>1 Q. When's the last time you delivered any</p> <p>2 files to Mr. Malamud?</p> <p>3 A. Can you be clearer?</p> <p>4 Q. When was the last time you delivered</p> <p>5 any files that were conversions or translations of</p> <p>6 another document?</p> <p>7 A. After my summer mentoring program.</p> <p>8 Q. So Point B has not done any work for</p> <p>9 Public.Resource since September 5th of 2014?</p> <p>10 A. No. We are continuing work.</p> <p>11 Q. You just haven't delivered any files</p> <p>12 since September?</p> <p>13 A. Correct.</p> <p>14 Q. Do you know what types of files were</p> <p>15 delivered this summer?</p> <p>16 A. Primarily diagrams, SVG diagrams.</p> <p>17 Q. Were they SVG diagrams of works that</p> <p>18 were contained in ASTM or NFPA publications?</p> <p>19 A. No.</p> <p>20 Q. What -- where were those diagrams</p> <p>21 from, if you know?</p> <p>22 A. Bulgaria.</p> <p>23 Q. Anywhere else?</p> <p>24 A. Nowhere else.</p> <p>25 Q. Turning back to Exhibit 21, going down</p>	<p>1 three paragraphs from where we were just reading,</p> <p>2 Mr. Malamud says, "Let's also make sure we've done</p> <p>3 any NFPA docs that are in HTML but not in SVG.</p> <p>4 Also, we can do any ASTM or ASHRAE docs as well,</p> <p>5 as those are helpful to me in my suit." Do you</p> <p>6 see that?</p> <p>7 Does this refresh your recollection as</p> <p>8 to whether or not you had done any work on ASHRAE</p> <p>9 files?</p> <p>10 A. We've never done work on ASHRAE.</p> <p>11 Q. Has Mr. Malamud delivered ASHRAE files</p> <p>12 to you for conversion, they just haven't been done</p> <p>13 yet?</p> <p>14 A. No.</p> <p>15 Q. Do you have any idea why he's</p> <p>16 referencing work that you and he could be doing on</p> <p>17 ASHRAE docs?</p> <p>18 A. At the time that was what we were</p> <p>19 going to do, but it didn't materialize.</p> <p>20 Q. The next paragraph says, "Definitely</p> <p>21 keep plowing away on that stuff. That is the kind</p> <p>22 of output that makes it much easier for me to try</p> <p>23 and raise money to keep you going for the rest of</p> <p>24 the year."</p> <p>25 Do you see that?</p>	165

<p style="text-align: right;">166</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. First of all, do you know what the</p> <p>4 bookwork is?</p> <p>5 A. Had a couple of book concepts that we</p> <p>6 were working on.</p> <p>7 Q. You and Mr. Malamud were contemplating</p> <p>8 writing a book together?</p> <p>9 A. Not -- I was doing designs for a book</p> <p>10 that he was going to write, which he didn't do it.</p> <p>11 Q. Do you know what the subject matter of</p> <p>12 that book or that books -- those books were?</p> <p>13 A. Standards.</p> <p>14 Q. What in particular about standards?</p> <p>15 A. The words are -- I don't know the</p> <p>16 words.</p> <p>17 Q. What were the illustrations going to</p> <p>18 be?</p> <p>19 A. I had photographs of boxes with</p> <p>20 crinkle pack so --</p> <p>21 Q. Any other illustrations or graphics</p> <p>22 that you remember discussing?</p> <p>23 A. No. We didn't discuss that.</p> <p>24 Q. Why, if you know, was the bookwork not</p> <p>25 helpful for raising money?</p>	<p style="text-align: right;">168</p> <p>1 A. Yes.</p> <p>2 Q. Have you ever discussed that subject</p> <p>3 matter with him prior to this email?</p> <p>4 A. No.</p> <p>5 Q. Do you know how he was raising the</p> <p>6 money for his salary, his overhead, and your</p> <p>7 \$60,000?</p> <p>8 A. No.</p> <p>9 Q. Do you know -- can you identify any</p> <p>10 persons or entities that provided any funding to</p> <p>11 Public.Resource?</p> <p>12 MR. STOLTZ: Objection. Asked and</p> <p>13 answered. You can answer again.</p> <p>14 A. No.</p> <p>15 BY MR. FEE:</p> <p>16 Q. You have no idea whether or not any</p> <p>17 person, for example -- strike that.</p> <p>18 You can't identify a single company or</p> <p>19 person that provided a dollar to Public.Resource.</p> <p>20 Is that your testimony?</p> <p>21 A. Well, I mean, it's common knowledge --</p> <p>22 it's funded by Google, with the big awards they</p> <p>23 had a couple years ago. There you go. There's</p> <p>24 one.</p> <p>25 Q. Okay. Any others?</p>
<p style="text-align: right;">167</p> <p>1 A. I don't know for sure.</p> <p>2 Q. Did you have any discussions with</p> <p>3 Mr. Malamud on that subject?</p> <p>4 A. Not in detail.</p> <p>5 Q. What do you recall about those</p> <p>6 discussions?</p> <p>7 A. I don't recall.</p> <p>8 Q. So you know that a discussion</p> <p>9 regarding the subject of whether the bookwork</p> <p>10 would be helpful to raise money took place, but</p> <p>11 you have no recollection of any of the substance</p> <p>12 of that discussion?</p> <p>13 A. No.</p> <p>14 Q. The next paragraph, first, he says,</p> <p>15 "The summer thing may or may not happen. I</p> <p>16 wouldn't count on it, though."</p> <p>17 Does that refer to the Rural Design</p> <p>18 Collective project?</p> <p>19 A. Yes.</p> <p>20 Q. But that wound up happening. Right?</p> <p>21 A. Yes.</p> <p>22 Q. Then he says, "Right now just raising</p> <p>23 my salary, my overhead, and your 60K is a</p> <p>24 challenge."</p> <p>25 Do you see that?</p>	<p style="text-align: right;">169</p> <p>1 A. Usually he'll tell me when funding is</p> <p>2 secured, so I'm sure it's in the email.</p> <p>3 Q. Can you identify any other persons or</p> <p>4 entities that provided a single dollar in funding</p> <p>5 to Public.Resource other than Google?</p> <p>6 A. I'm sure it's in the email.</p> <p>7 Q. I'm asking you what you can recall</p> <p>8 right now.</p> <p>9 A. I do not recall.</p> <p>10 Q. You can't name a single other person</p> <p>11 or entity. Is that your story?</p> <p>12 MR. STOLTZ: Objection.</p> <p>13 Argumentative.</p> <p>14 A. (Pause.) I know he gets funds from</p> <p>15 foundations.</p> <p>16 BY MR. FEE:</p> <p>17 Q. Which foundations?</p> <p>18 A. I'm -- I'm really horrible with names.</p> <p>19 Q. Okay.</p> <p>20 A. So --</p> <p>21 Q. Give it your best recollection of the</p> <p>22 names.</p> <p>23 A. It's -- I'm sure it's in the email,</p> <p>24 but I'm not even going to get it right.</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">170</p> <p>1 A. Akora. 2 Q. Can you spell that to the best of your 3 knowledge? 4 A. A-K-O-R-A. 5 Q. Any others? 6 A. I -- I can't recall. 7 Q. Okay. 8 A. I don't work on funding proposals for 9 Public.Resource.org. 10 Q. So it's your testimony under oath that 11 you can identify only Google and Akora as funders 12 for Public.Resource? 13 MR. STOLTZ: Objection. 14 Argumentative. 15 A. I just don't want to presume, so I 16 don't want to say anything incorrect. 17 BY MR. FEE: 18 Q. Well, I'm asking to the best of your 19 knowledge. Can you identify any to the best of 20 your knowledge other than Google and Akora? 21 A. Yes. 22 Q. Who? 23 A. I mean, that's the best of my 24 knowledge. I don't want to say anything 25 incorrect.</p>	<p style="text-align: right;">172</p> <p>1 Q. How much money did Google give 2 Public.Resource? 3 A. I -- it was one of the major grants 4 that -- I forget -- the head of Khan Academy was 5 one. 6 Q. Sal Khan? 7 A. I can't -- 8 (Reporter inquiry.) 9 MR. FEE: Sal Khan, S-A-L K-H-A-N. 10 A. I can't -- yes. I can't. There was a 11 name for it. 10 by 100? It was a big competition 12 for ideas. 13 BY MR. FEE: 14 Q. Do you know how much money Akora 15 provided to Public.Resource? 16 A. No. I don't even know if I have the 17 name right without my computer. 18 Q. What would you look at in your 19 computer to get that name right? 20 A. I don't know. I'd look through my 21 email. 22 Q. Do you have a file in your file folder 23 in your emails regarding potential donors or 24 donors to Public.Resource? 25 A. Nope. No.</p>
<p style="text-align: right;">171</p> <p>1 Q. All right. Who else have you ever 2 heard Mr. Malamud identify as a potential funder 3 for Public.Resource? 4 A. I -- I don't know. 5 Q. So you can't identify anybody that 6 Mr. Malamud ever said was a potential source of 7 funds other than Google and Akora? 8 A. I don't remember. 9 Q. What emails are you referencing when 10 you said that the assurance information is in your 11 emails? 12 A. If he shares that information with me, 13 it's in -- it's in email. 14 Q. Has Mr. Malamud provided any funding 15 to Public.Resource? 16 A. I don't know. 17 Q. Have you provided any funding to 18 Public.Resource? 19 A. No. 20 Q. Have you ever been involved in any 21 discussions with any person or company regarding 22 funding for Public.Resource other than the 23 discussions with Mr. Malamud related to Google and 24 Akora? 25 A. No.</p>	<p style="text-align: right;">173</p> <p>1 Q. How would you go about searching your 2 email for that information? 3 A. Try different variances on Akora. So, 4 I mean, I'm -- just -- I don't know. 5 (Deposition Exhibit No. 26 6 marked for identification.) 7 BY MR. FEE: 8 Q. I'm going to hand you Exhibit 26, 9 which is a series of emails between -- at least at 10 the top it says it's between you at your Webchick 11 address to yourself at that same address, dated 12 October 16th, 2011, at 2:38 p m. Bates labeled 13 PT_EDD34422-00001 through 2. 14 Can you identify Exhibit 26 as a 15 series of emails involving you and Mr. Malamud? 16 A. Yes. 17 Q. I want to start about midway through 18 the first page. Do you see a paragraph that 19 starts with, "From a purely efficient production 20 standpoint"? 21 A. Yes. 22 Q. Okay. First of all, do you know who 23 wrote that language in that paragraph? 24 A. Me. 25 Q. It was you? It was you, you said?</p>

<p style="text-align: right;">174</p> <p>1 Sorry. 2 A. Yes. 3 Q. It says, "From a purely efficient 4 production standpoint, I think it is going to be 5 easier for you to do a batch search and replace on 6 the graphic file extension. I have gone through 7 both processes now and the SVG replacement is much 8 easier. There is a slight snafu where I have 9 glyph errors on about 8 percent of the SVGs and 10 the SVG/Math generates an invalid SVG in that 11 scenario." In parentheses you say, "It involves 12 the same three." 13 A. Yes. 14 Q. Can you explain to me what that means? 15 A. This is really early, because it's 16 2011, so we were just getting into everything, and 17 I'm suggesting that he do the batch search and 18 replace that I ultimately wound up doing at the 19 end of the work flow. SVG replaced. I mentioned 20 before that it was just easier to do it -- replace 21 all the SVGs and then review it in a web browser, 22 and if we didn't do the JPEG, put the JPEG back 23 in. 24 Talk about the percent of the SVGs 25 and -- and we went through quite -- some glyphs</p>	<p style="text-align: right;">176</p> <p>1 that we don't have the glyph errors. 2 Q. How did you discover this problem? 3 A. By just doing the work so -- 4 Q. When you would have a glyph error what 5 would appear on the screen when a glyph error 6 takes place if a -- 7 A. It would say, "Invalid." 8 Q. If it was rendered on a web page? You 9 can answer now. 10 A. It would say, "Invalid SVG," and 11 nothing would render. And if you opened the SVG 12 in Inkscape, you could easily see which symbol was 13 not rendering properly. 14 Q. Two paragraphs above that paragraph, 15 it says, "I missed that validator link. It's nice 16 to know that it works." 17 Do you see that? 18 A. Yes. 19 Q. Did you write that? 20 A. Yes. 21 Q. Can you explain what that means? 22 A. It's just patting each -- patting each 23 other on the back for figuring it out. So, yeah, 24 I was just pleased that we came up with the 25 solution.</p>
<p style="text-align: right;">175</p> <p>1 were not supported by SVG/Math, and when we had to 2 work -- there's a step between Amaya and SVG/Math 3 where I had to search and replace the unicode 4 hexadecimal equivalents of the glyphs. So that 5 SVG/Math would render a valid SVG. 6 Q. What is a glyph? 7 A. It's a -- it's a character in a 8 typeface or a symbol. 9 Q. And -- sorry. Were you done? 10 A. Yes. 11 Q. Okay. So a glyph error, then, is 12 what? 13 A. It just wouldn't render the character, 14 so -- 15 Q. And at this point in time that was 16 occurring approximately with 8 percent of the 17 SVGs? 18 A. Correct. 19 Q. Has that problem been resolved? 20 A. Yes. 21 Q. How so? 22 A. By mapping the unicode hexadecimal 23 equivalents to the symbol and replacing that in 24 the Amaya -- the equations coded in Amaya. So 25 there is an interstitial step where we do that so</p>	<p style="text-align: right;">177</p> <p>1 Q. What is the validator link that's 2 referenced there? 3 A. It's the World Wide Web validator that 4 all people who are concerned with web standards 5 use to make sure that they're writing code that 6 conforms to web standards. 7 (Off-the-record discussion.) 8 BY MR. FEE: 9 Q. Do you recall having any discussions 10 or communications with Mr. Malamud regarding 11 whether or not you should put a 12 Public.Resource.org seal on any ASTM standards? 13 A. I do not recall. 14 Q. Do you recall having any discussions 15 with him regarding whether he should put a 16 Public.Resource or you should put a 17 Public.Resource seal on any works that you were 18 converting? 19 MR. STOLTZ: Objection to form. 20 A. I don't remember. 21 BY MR. FEE: 22 Q. Did you ever have any discussions with 23 Mr. Malamud regarding -- or communications 24 regarding whether the use of a Public Resource 25 seal on a document would make it look like</p>

178	<p>1 Public.Resource was claiming authorship of work? 2 A. I don't remember. 3 Q. Have you ever had any communications 4 with any person other than Mr. Malamud regarding 5 whether or not Public.Resource was the author of 6 any of the works that you were converting or 7 copying? 8 A. No. 9 Q. Do you retain any evidence of your 10 comparisons of the original illustration in a code 11 or standard and your SVG of the same illustration? 12 A. No. 13 Q. Did you ever convert any copyright 14 notices for NFPA or ASTM standards or codes? 15 A. I don't know. 16 Q. Did you ever provide any of the copies 17 of the ASTM or NFPA graphics that you did to any 18 persons other than Public.Resource? 19 A. To my counsel. 20 Q. Anyone else? 21 A. No. 22 Q. Did Point B ever send any invoices to 23 Public.Resources for work that they did? 24 A. I invoiced monthly. 25 Q. Do you know if those invoices were</p>	180	<p>1 dollars? 2 A. No. 3 Q. So it was nothing like \$60,000 a year? 4 A. Probably not that much. 5 Q. What was the lowest revenue year from 6 Public.Resources for Point B? 7 A. I don't -- I don't know. 8 Q. Was there ever a year that 9 Public.Resources paid Point B less than \$25,000? 10 A. I would think so. 11 Q. Was there ever a year that 12 Public.Resources paid Point B more than \$100,000? 13 A. Never. 14 Q. What was Point B's total revenue in 15 2013? 16 A. I -- I don't know without it in front 17 of me. 18 Q. Was it more than \$100,000? 19 A. I don't think so. 20 Q. And I believe you told me that 21 Public.Resource paid Point B \$75,000 in 2013. 22 Does that sound correct? 23 A. Yes. 24 Q. So Public.Resources is by far the 25 largest customer of Point B, at least in 2013?</p>
179	<p>1 produced in this litigation? 2 A. It would be on my backup that I 3 provided counsel. 4 Q. But you don't know if they were 5 produced or not? 6 A. I didn't consciously make copies of 7 them so -- 8 Q. Do you know what was produced to us 9 and what was not produced to us? 10 A. Yes. 11 Q. So do you know if the invoices were 12 produced to us? 13 A. I don't think so. 14 Q. You still have them? 15 A. Yes. 16 Q. When was the first time that Point B 17 provided any services to Public.Resource? 18 A. I would imagine 2006. 19 Q. And I know we went through the revenue 20 that Point B has received from Public.Resources 21 from 2000 -- I think through 2012 to the present. 22 Do you know how much revenue Public.Resources paid 23 Point B from 2006 through 2011? 24 A. No. 25 Q. Is it hundreds of thousands of</p>	181	<p>1 MR. STOLTZ: Objection to form. 2 A. And by your question, I'm probably 3 confusing gross and net and income, and that's why 4 I have an accountant. By far, no. 5 BY MR. FEE: 6 Q. Okay. Well, let me be more specific. 7 You've said that you didn't think revenue exceeded 8 \$100,000 in 2013. Correct? 9 A. Correct. But -- I might be confusing 10 some things, but correct. 11 Q. Okay. And you told me that 12 Public.Resource paid \$75,000 to Point B in 2013. 13 Right? 14 A. Yes. 15 Q. So Public.Resources was at least 75 16 percent of the revenues for Point B in 2013? 17 A. Maybe 50. 18 Q. Okay. It's a simple math here. If 19 there's \$100,000 or less of revenue, \$75,000 of 20 which came from Public.Resource, mathematics tells 21 us that at least 75 percent of the revenue was 22 from Public.Resources, doesn't it? 23 A. Yes. But I -- if -- I'd want to have 24 my bottom line in front of me before I -- so I'm 25 not answering incorrectly.</p>

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1 Q. Well, based on what you recall sitting
2 here right now, you believe Public.Resources, in
3 2013, was the source of at least 75 percent of
4 your revenues?
5 A. No. It's 50 percent.
6 Q. Okay. So which number is wrong in our
7 equation, then? Were you paid \$75,000 by
8 Public.Resources in 2013?
9 A. Yes.
10 Q. Okay.
11 A. If it's in one of these documents,
12 so --
13 Q. Yeah. I believe -- I believe it said
14 \$75,000.
15 A. Okay.
16 Q. So you think, then, you had greater
17 than \$100,000 in revenue?
18 A. That's probably where I'm wrong.
19 Q. And it sounds like your estimate is
20 that it was \$150,000 in revenue. Is that right?
21 A. Yes.
22 Q. Okay. Now, in 2012, I think you
23 testified that you were paid \$60,000 by
24 Public.Resource. Correct?
25 A. Correct.

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1 Q. What was Point B's revenues for 2012?
2 A. I'm -- I'm still not going to know the
3 exact number.
4 Q. Was it more than \$100,000 in 2012?
5 A. I believe so.
6 Q. Would you expect Public.Resources to
7 make up approximately 50 percent of the revenue in
8 2012?
9 A. Yes.
10 Q. You estimate that Public.Resources has
11 been approximately 50 percent of the revenues for
12 Point B for every year from 2006 to 2013?
13 A. No. Not always.
14 Q. In 2011, was it approximately
15 50 percent?
16 A. No.
17 Q. Was it more or less?
18 A. Less.
19 Q. How much did Public.Resource pay
20 Point B Studios in 2011?
21 A. I'm not sure.
22 Q. Was it more than \$50,000?
23 A. Yes.
24 Q. Was it more than \$75,000?
25 A. No.

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1 Q. Was Point B's total revenues in 2011
2 approximately \$125,000?
3 A. Approximately.
4 Q. Since 2006, has there ever been a year
5 that Public.Resources has paid Point B less than
6 \$25,000?
7 A. I don't know.
8 Q. How much did Public.Resources pay
9 Point B Studios in 2010?
10 A. I don't know.
11 Q. Was it more than \$50,000?
12 A. I don't think so.
13 Q. Was it more than \$25,000?
14 A. I think so.
15 Q. Has there ever been a year since 2006
16 in which Public.Resource paid Point B Studios less
17 than \$25,000?
18 MR. STOLTZ: Objection. Asked and
19 answered.
20 A. I don't know.
21 BY MR. FEE:
22 Q. Has there ever been a year that
23 Public.Resource paid Point B Studios less than
24 \$15,000?
25 A. I don't know.

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1 Q. Has there ever been a year that
2 Public.Resources paid Point B Studios less than
3 \$5,000?
4 A. No.
5 MR. STOLTZ: Counsel, do you mean
6 since 2006?
7 (Reporter inquiry.)
8 MR. STOLTZ: Do you mean since 2006?
9 MR. FEE: Yes.
10 BY MR. FEE:
11 Q. Your -- I assume your answer was only
12 going back to 2006. Correct?
13 A. Correct.
14 MR. STOLTZ: Counsel, it's almost
15 three o'clock. Should we take a break or are you
16 close to --
17 MR. FEE: Sure. We can take a
18 break.
19 MR. STOLTZ: Or are you close to
20 done?
21 MR. FEE: I'm probably close to
22 done, but it might go quicker if we take a short
23 break.
24 THE VIDEOGRAPHER: Okay. Going off
25 the record. 2:54 p.m.

186	<p>1 (Recess: 2:54 p m. to 3:02 p m.) 2 THE VIDEOGRAPHER: We're going back 3 on the record. The time is 3:02 p m. 4 (Deposition Exhibit No. 27 5 marked for identification.) 6 (Mr. Childs not present.) 7 BY MR. FEE: 8 Q. I'm going to hand you Exhibit 27, 9 which is a single-page email from Carl to you, 10 dated January 16th, 2014, at 3:48 p m., and Bates 11 labeled PRO42317. Can you identify Exhibit 27 as 12 an email from Mr. Malamud to you? 13 A. Yes. 14 Q. And the subject is funding. Correct? 15 A. Yes. 16 Q. And it says, you're funded at the 17 5K-per-month level for at least six months from 18 p r.o., as long as you can keep pumping out 19 visible progress on the SVG/MathML front." 20 A. Yes. 21 Q. And in parentheses, it says, "Plus, of 22 course, your design health, which I need, but what 23 the funders are going to be looking for is walking 24 through the standards. They're funding my legal 25 fight so that's the piece they care about." Do</p>	188	<p>1 Q. Do you know why he thought the funders 2 cared about visible progress on the SVG/MathML 3 front? 4 A. No. 5 Q. Do you know what he meant when he 6 said, "They're funding my legal fight"? 7 A. No. 8 Q. Do you know who the "they" is in that? 9 A. No. 10 Q. But whoever is funding his legal fight 11 you understood to be -- to care about the 12 SVG/MathML front? 13 MR. STOLTZ: Objection to form and 14 foundation. 15 A. Restate the question. 16 BY MR. FEE: 17 Q. Whoever the funders are that he's 18 referencing in this email, is it true that you 19 understood them to care about the SVG/MathML work? 20 MR. STOLTZ: Same objections. 21 A. I understood that to continue the work 22 that I was doing. 23 BY MR. FEE: 24 Q. That wasn't my question. My question 25 is did you understand that the funders cared about</p>
187	<p>1 you see that? 2 A. Yes. 3 (Mr. Childs present.) 4 BY MR. FEE: 5 Q. Do you know what funders he's 6 referring to? 7 A. I don't know exactly who they are. 8 Q. Do you have any idea what funders he's 9 referring to? 10 A. No. 11 Q. Did you ever ask, "Who are these 12 funders?" 13 A. I -- I wait for him to supply the 14 information when he wants to. 15 Q. So you never asked him for 16 information? 17 MR. STOLTZ: Object to the form. It 18 mischaracterizes her testimony. 19 A. There is funders. 20 BY MR. FEE: 21 Q. You never asked him who they were? 22 A. No. 23 MR. STOLTZ: Objection. Asked and 24 answered. 25 BY MR. FEE:</p>	189	<p>1 the SVG and MathML work? 2 MR. STOLTZ: Same objections. 3 A. All I -- all I know is to keep doing 4 the work that I am doing. 5 BY MR. FEE: 6 Q. Miss, you have to answer my question. 7 My question has nothing to do with whether or not 8 you were to continue your work. My question is 9 what you understood to be important to the funders 10 of Public.Resource based on Exhibit 27. 11 MR. STOLTZ: Same objections. 12 A. I don't know. 13 BY MR. FEE: 14 Q. So you didn't know based on this email 15 that the funders considered the SVG and MathML 16 work to be important? 17 MR. STOLTZ: Objection. Foundation. 18 Argumentative. 19 A. I don't know by this message. 20 BY MR. FEE: 21 Q. Do you have any idea what that first 22 paragraph means? 23 MR. STOLTZ: Objection. 24 Argumentative. 25 A. Just to keep doing the work that we're</p>

190	<p>1 doing.</p> <p>2 BY MR. FEE:</p> <p>3 Q. That's the only information you can</p> <p>4 derive from that first paragraph?</p> <p>5 MR. STOLTZ: Same objection.</p> <p>6 A. That's how I read it.</p> <p>7 BY MR. FEE:</p> <p>8 Q. Is there any other information you can</p> <p>9 take away from that first paragraph other than you</p> <p>10 should continue your work or is that all you</p> <p>11 understood that to mean?</p> <p>12 MR. STOLTZ: Objection. Asked and</p> <p>13 answered.</p> <p>14 A. That's all I understood it to mean.</p> <p>15 BY MR. FEE:</p> <p>16 Q. So what did you think, "They're</p> <p>17 funding my legal fight, so that's the place they</p> <p>18 care about -- or piece they care about," what did</p> <p>19 you think that meant when you received this email?</p> <p>20 MR. STOLTZ: Objection. Asked and</p> <p>21 answered.</p> <p>22 A. My -- I don't know.</p> <p>23 BY MR. FEE:</p> <p>24 Q. Did you respond to this email by</p> <p>25 saying to Carl, "Hey, you said they're funding my</p>	192	<p>1 clarification regarding Exhibit 27 was a departure</p> <p>2 from your customary practice?</p> <p>3 A. It's based on --</p> <p>4 MR. STOLTZ: Objection.</p> <p>5 Argumentative. Lack of foundation. I'm sorry.</p> <p>6 You can answer.</p> <p>7 A. Based on the long working</p> <p>8 relationship, I'm -- I know that I will -- I mean,</p> <p>9 it's -- I don't need to have it clarified.</p> <p>10 BY MR. FEE:</p> <p>11 Q. So you didn't care?</p> <p>12 MR. STOLTZ: Objection.</p> <p>13 Argumentative. Lacks foundation.</p> <p>14 Mischaracterizes her testimony.</p> <p>15 A. It's not to say that I don't -- I</p> <p>16 didn't care, but I trusted the source.</p> <p>17 BY MR. FEE:</p> <p>18 Q. Is it correct to say that your SVG and</p> <p>19 MathML work included the work you were doing on</p> <p>20 graphics from ASTM and NFPA standards?</p> <p>21 A. Based on the next paragraph, yes, but</p> <p>22 we never did work on ASHRAE.</p> <p>23 Q. Okay. That was the next thing I was</p> <p>24 going to ask you. Again, Carl seems to believe</p> <p>25 that you're going to be working on ASHRAE stuff</p>
191	<p>1 legal fight, so that's the piece they care about.</p> <p>2 I have no idea what you're talking about. Would</p> <p>3 you please explain that to me?"</p> <p>4 A. No.</p> <p>5 Q. Do you typically just ignore emails</p> <p>6 that you receive that contain language that you</p> <p>7 don't understand?</p> <p>8 MR. STOLTZ: Objection.</p> <p>9 Argumentative.</p> <p>10 A. What he's -- I'm being paid to do my</p> <p>11 piece, so I'm working on my piece of -- so --</p> <p>12 BY MR. FEE:</p> <p>13 Q. Do you have a general practice with</p> <p>14 respect to how to handle emails directed to you</p> <p>15 from major sources of your income when you don't</p> <p>16 understand the email?</p> <p>17 A. No.</p> <p>18 Q. Is it customary for you to ignore</p> <p>19 portions of emails from major funders of your</p> <p>20 business when you don't understand them?</p> <p>21 MR. STOLTZ: Objection.</p> <p>22 Argumentative. Foundation.</p> <p>23 A. No.</p> <p>24 BY MR. FEE:</p> <p>25 Q. So your decision not to seek</p>	193	<p>1 next. Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. But he's wrong. You weren't going to</p> <p>4 be working on ASHRAE stuff in the time following</p> <p>5 January 16th, 2014?</p> <p>6 A. Correct.</p> <p>7 (Deposition Exhibit No. 28</p> <p>8 marked for identification.)</p> <p>9 BY MR. FEE:</p> <p>10 Q. I'm going to hand you Exhibit 28,</p> <p>11 which is a series of emails between you and</p> <p>12 Mr. Malamud. The first one is dated May 7th,</p> <p>13 2012, at 12:20 p m., Bates labeled PRO24979</p> <p>14 through 85. Can you identify Exhibit 28 as a</p> <p>15 series of emails between you and Mr. Malamud?</p> <p>16 A. Yes.</p> <p>17 Q. I want to ask you about the email at</p> <p>18 the top of the first page. In the second</p> <p>19 paragraph you say to Mr. Malamud, "I sent you</p> <p>20 links to what I was doing on CFR 1, and you said</p> <p>21 you liked the look header -- look headers but you</p> <p>22 didn't want the Public.Resource.org seal in</p> <p>23 position because it looked like claiming</p> <p>24 authorship."</p> <p>25 A. Okay.</p>

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1 Q. Can you describe to me what was going
2 on there?
3 A. This is a long time ago, and it's when
4 we're just still working out how we're going to do
5 things, and now we're getting into that other
6 message anomaly. (Pause.)
7 (Reporter inquiry.)
8 THE WITNESS: Yeah. Okay. All
9 right. What's your question?
10 BY MR. FEE:
11 Q. My question relates back to that
12 language I read regarding Mr. Malamud not wanting
13 the Public.Resource.org seal in position because
14 it looked like claiming authorship, and I want to
15 know what you understood it to mean when you wrote
16 it.
17 A. There must have been an early layout
18 that had the -- the seal, so --
19 Q. A layout that had the
20 Public.Resource.org seal on standards written by
21 ASTM and others?
22 MR. STOLTZ: Objection.
23 Mischaracterizes the document and assumes facts
24 not in evidence.
25 A. Now, sometimes we had multiple things

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1 going on at one time, and we did a navigational
2 interface with Title 24, which doesn't have
3 anything to do with the document standards itself.
4 It's just a web wrapper so you could navigate the
5 documents. And I'm -- I believe that might be
6 where the header is.
7 BY MR. FEE:
8 Q. So the header had nothing to do with
9 CFR that's mentioned in the sentence earlier?
10 A. Yeah.
11 Q. Is that your testimony?
12 MR. STOLTZ: Objection. That
13 mischaracterizes her testimony.
14 BY MR. FEE:
15 Q. I just asked her if it did. You can
16 answer.
17 A. It must have been the -- we didn't go
18 with the layout that -- in question, so --
19 Q. But there was a layout in question
20 that had a Public.Resource.org seal on it that
21 made it look like Public.Resource was claiming
22 authorship of the works?
23 A. Apparently.
24 Q. Do you recall any communications with
25 Mr. Malamud regarding that subject matter other

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1 than this email?
2 A. No.
3 Q. Do you recall where that
4 Public.Resource.org seal was located?
5 A. No. I would assume it was in the
6 header.
7 Q. Is the seal that's being referenced
8 here a seal that actually has a picture of a seal
9 inside of it?
10 A. Yes.
11 Q. Do you know where that seal came from,
12 that design?
13 A. I designed the line art seal. The
14 original color seal was designed by someone else.
15 Q. Do you know who?
16 A. No.
17 Q. Would you turn to the second page of
18 this document? Towards the bottom of that page,
19 you see there's an email from you on May 7th,
20 2012, at 7:44 a m.? Do you see that?
21 A. 7:44. Yes.
22 Q. And you wrote, "Okay. As a rule, I
23 haven't edited the body of the HTML files,
24 although I do add our custom headers -- header."
25 Do you see that?

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1 A. Yes.
2 Q. What was the custom header that you
3 were adding?
4 A. I -- what -- one that was mentioned
5 before that we decided not to use.
6 Q. The one with the seal?
7 A. Yes.
8 Q. For Public.Resource?
9 A. Yes.
10 Q. And you were adding that custom header
11 to the files that are at the back end of this
12 exhibit. Is that right?
13 A. Yes.
14 Q. What is the summer T24 project?
15 A. Title 24.
16 Q. What does Title 24 refer to?
17 A. California building codes.
18 Q. Would that project, then, include
19 making exact copies of NFPA codes?
20 A. If it was incorporated into the
21 building codes.
22 Q. Do you recall whether or not any NFPA
23 codes or standards were incorporated into the
24 building codes?
25 A. I would -- I would know it by the

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<p>1 identifier, and the identifier is page -- you have 2 some -- the document, the document names there. 3 So yes. 4 Q. Could you turn to the first page of 5 that just so the record's clear as to what exhibit 6 you're referencing? 7 A. 28. 8 MR. FEE: Still on 28. Okay. All 9 right. I have no other questions at this time. 10 THE WITNESS: Okay. 11 MR. FEE: Do you want to sit here 12 and take the microphone? 13 MR. REHN: Sure. 14 MR. STOLTZ: Are you okay to keep 15 going or do you need a break? 16 THE WITNESS: I'm okay. 17 MR. REHN: There's a microphone 18 here. I don't think I'll be all that long. 19 20 EXAMINATION 21 BY MR. REHN: 22 Q. Good afternoon, Ms. Malamud. 23 A. Good afternoon. 24 Q. You understand that the same basic 25 ground rules that we went over this morning to you</p>	<p>1 some of these illustrations? 2 A. We didn't do that very long, so -- 3 Q. And -- but you at least had to decide 4 which artworks were open to interpretation and 5 which ones were not open to interpretation? 6 A. I make that decision when I sort the 7 graphics. I take them out of the mix. 8 Q. When you were making that decision, 9 did you ever consult any fire safety professionals 10 to help you decide whether there was any 11 interpretation necessary? 12 A. No. 13 Q. Did you ever consult any engineers or 14 scientists? 15 A. No. 16 Q. Did you consult Mr. Malamud? 17 A. I would ask him questions on occasion, 18 like I did on the email produced earlier about 19 whether I should be creating. 20 Q. And did Mr. Malamud represent to you 21 that he had some expertise in let's say fire 22 safety so that he could decide what level of 23 interpretation was required for those pieces of 24 art? 25 A. No.</p>
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<p>1 apply when I'm asking the questions? 2 A. Yes. 3 Q. I'd like to start by going back to a 4 topic you spoke about earlier today where you said 5 that sometimes the artwork in the standards was, 6 to use your words, "open to interpretation." Do 7 you recall that testimony? 8 A. Yes. 9 Q. Now, when you say, "open to 10 interpretation," what exactly did you mean by 11 that? 12 A. Primarily that it was difficult to 13 make out the lines or how -- a lot of these 14 diagrams use techniques like cross-hatching and 15 fills and you couldn't tell because the art was 16 not -- the scan of the original art wasn't clear 17 enough. 18 Q. And when you say, "interpretation," 19 are you referring to your interpretation? 20 A. Or that of my mentees, so -- 21 Q. So that would be the participants in 22 the mentoring program that we discussed? 23 A. Correct. 24 Q. So either you or your mentees were 25 exercising some judgment about how to interpret</p>	<p>1 Q. And you also said some pieces were 2 merely for illustrative purposes and, again, that 3 was based on your own interpretation as to which 4 those were? 5 A. Yes. 6 Q. And you didn't consult any fire safety 7 professionals with respect to those artworks, did 8 you? 9 A. No. 10 Q. Or any engineers or scientists? 11 A. No. 12 Q. So you made your own determination 13 along with maybe some people in your mentoring 14 program about whether artwork was merely there for 15 illustrative purposes? 16 MR. STOLTZ: Objection to form. 17 Foundation. 18 A. The -- if the decision not to recreate 19 the art, the original scan was used. 20 BY MR. REHN: 21 Q. Did you ever have discussions with 22 Mr. Malamud about the importance of these 23 standards that you were converting? 24 A. Not discussions so much, so -- 25 Q. You mentioned that he had told you it</p>

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<p>1 was for the spreading of knowledge, I believe. 2 And did you have any discussion about what he 3 meant by that? 4 A. Much of it is available on the -- on 5 the Internet in the speeches that he gives and the 6 papers that he writes. 7 Q. And did you specifically have 8 conversations with him over the phone or in person 9 about some of those issues? 10 A. No. 11 Q. But you had an understanding based on 12 some of -- 13 A. Yes. 14 Q. -- his public statements? 15 Did you ever anticipate the 16 possibility of litigation over these standards at 17 the time that you were converting it? 18 MR. STOLTZ: Objection to form. 19 Foundation. 20 BY MR. REHN: 21 Q. I'm talking about your personal 22 anticipation when you were doing this work, did 23 you consider the possibility of a lawsuit? 24 A. I suppose it -- I knew it would be -- 25 could be possible.</p>	<p>1 into a format that could have been published on 2 the web? 3 MR. STOLTZ: Objection to form. 4 Vague. 5 (Reporter inquiry.) 6 MR. STOLTZ: Objection to form. 7 A. I suppose it -- it would depend. 8 BY MR. REHN: 9 Q. What would it depend upon? 10 A. It -- that -- in the history, the 11 context of our working together, it made sense. 12 MR. STOLTZ: I'm sorry. Could you 13 read back the question? 14 (The question was read back 15 as follows:) 16 "What would it depend upon?" 17 MR. STOLTZ: The question before it. 18 (The question was read back 19 as follows:) 20 "QUESTION: And if Mr. Malamud 21 had sent you other copyrighted works, 22 would you have converted those into a 23 format that could have been published on 24 the web?" 25 BY MR. REHN:</p>
203	205
<p>1 Q. And why did you know that? 2 A. Because -- just through discussions in 3 email. 4 Q. And that included discussions with 5 Mr. Malamud? 6 A. As it progressed. 7 Q. Did you raise concerns with him, aside 8 from the emails we've seen today, about the fact 9 that these were copyrighted works? 10 A. No. 11 MR. STOLTZ: Objection. Vague. 12 BY MR. REHN: 13 Q. You were aware that these works had 14 copyright registrations. Correct? 15 MR. STOLTZ: Objection. Vague. 16 Which works? 17 BY MR. REHN: 18 Q. You were aware that the standards had 19 copyright registrations? 20 MR. STOLTZ: Same objection. 21 (Reporter inquiry.) 22 A. Yes. 23 BY MR. REHN: 24 Q. And if Mr. Malamud had sent you other 25 copyrighted works, would you have converted those</p>	<p>1 Q. When you say, "the context of your 2 working relationship," what do you mean by that? 3 A. If -- if it made sense. 4 Q. Made sense in terms of what context? 5 A. If the work should be in the public 6 domain. 7 Q. And when you say, "if the work should 8 be in the public domain," whose -- in whose 9 opinion are you referring to as to whether a work 10 should be in the public domain? 11 MR. STOLTZ: Objection to form. 12 A. In -- in this case, Public.Resource, 13 but I -- I have -- I mean, I have a -- I supported 14 the idea. 15 BY MR. REHN: 16 Q. You supported the idea that these 17 works should be in the public domain? 18 A. They should be more broadly accessible 19 than they are. 20 Q. Did Mr. Malamud ever express to you 21 the view that Public.Resource had the right to 22 determine what works should be in the public 23 domain? 24 A. No. I mean -- 25 Q. Was it your understanding that it was</p>

206	<p>1 Mr. Malamud's view that they could decide what 2 works, in your words, "should be in the public 3 domain"?</p> <p>4 MR. STOLTZ: Objection. Foundation. 5 A. I supported -- I support the idea. 6 MR. REHN: I don't believe that was 7 responsive to my question. Could we read the 8 question back?</p> <p>9 (The question was read back 10 as follows:) 11 "QUESTION: Was it your 12 understanding that it was Mr. Malamud's 13 view that they could decide what works, 14 in your words, 'should be in the public 15 domain'?" 16 A. Could you say it again? 17 (The question was read back 18 as follows:) 19 "QUESTION: Was it your 20 understanding that it was Mr. Malamud's 21 view that they could decide what works, 22 in your words, 'should be in the public 23 domain'?" 24 A. Yes. 25 BY MR. REHN:</p>	208
207	<p>1 Q. Did you form that understanding based 2 on conversations with Mr. Malamud?</p> <p>3 A. No. 4 Q. Based on your -- the context of your 5 working relationship with Mr. Malamud?</p> <p>6 A. Yes. 7 Q. When you were working on the standards 8 project, did you come to an understanding of how 9 the standards are written?</p> <p>10 MR. STOLTZ: Objection. Vague. 11 "The standards"?</p> <p>12 BY MR. REHN: 13 Q. You can answer. 14 A. I do not -- I am not aware of how 15 ASTM, NFPA, how they conduct their work. 16 Q. Are you aware of the resources that 17 are required for them to create these standards?</p> <p>18 A. No. 19 Q. How did you first find out about this 20 lawsuit?</p> <p>21 A. I would not know the references in 22 email. I'm sure there are some. But when I was 23 deposed is when I knew it was real. 24 Q. You're saying that you first became 25 aware of the lawsuit at the time you received the</p>	209
208	<p>1 notice of the 30(b)(6) deposition? 2 MR. STOLTZ: Objection. That 3 mischaracterizes her testimony. 4 A. I -- I don't recall the earliest time. 5 BY MR. REHN: 6 Q. Did you become aware of the lawsuit 7 around the time it was filed? 8 A. I don't remember. 9 Q. Do you remember reading the complaint? 10 A. No. 11 MR. REHN: Could you mark that? 12 We're up to 29. Is that right? 13 THE REPORTER: Yes. 14 (Deposition Exhibit No. 29 15 marked for identification.) 16 BY MR. REHN: 17 Q. I've just handed you a document that's 18 been marked Exhibit 29. This is a document Bates 19 stamped PRO00026043. Do you recognize this as an 20 email chain between you and Mr. Malamud on 21 August 7th, 2013? 22 A. Yes, I do. 23 Q. And if you could read the text of the 24 email you sent, the one that's lower down on the 25 page.</p>	209

<p style="text-align: right;">210</p> <p>1 regularly? 2 MR. STOLTZ: Objection. Foundation. 3 Objection to form. 4 A. Yes. 5 BY MR. REHN: 6 Q. After reading the complaint, did you 7 have any concerns that Public.Resource's actions 8 would impede the ability of these standards to 9 support public safety? 10 MR. STOLTZ: Objection. Form. 11 A. No. But I would -- is there a copy of 12 the complaint that I can read? 13 BY MR. REHN: 14 Q. I don't have it with me here. 15 If we could go up to the email from 16 Carl responding to you, Mr. Malamud to you, and if 17 you could read the first two sentences of that 18 email. The first sentence is one word. 19 A. "Yeah. We'll be fine. Not totally 20 unexpected. David" -- 21 Q. That's -- that's all. You can read it 22 further if you would like. 23 A. Okay. 24 Q. I was focused on those first two 25 sentences.</p>	<p style="text-align: right;">212</p> <p>1 marked as Exhibit 30, and this is a document 2 that's Bates stamped PRO00005095, and it's emails 3 between you and Mr. Malamud dated June 7th, 2011. 4 Do you see that? 5 A. Yes. 6 Q. And if I could direct your attention 7 to the email on top from Carl Malamud -- from 8 Mr. Malamud to you, and the last paragraph of that 9 email, could you read that? 10 A. Which line do you want me to read? 11 Q. Beginning with, "I spent 90 minutes." 12 A. "I spent 90 minutes with the head of 13 NFPA and his general counsel. Our work apparently 14 very much on their radar. The HTML conversion of 15 Title 24 made them really wake up. They were very 16 impressed and scared." 17 Q. And when did you begin working on the 18 standards project? 19 A. 2011. 20 Q. Did you understand at that time that 21 this project was considered scary by NFPA? 22 A. I -- 23 MR. STOLTZ: Objection. That 24 mischaracterizes the document. You can answer. 25 A. No. I -- this is the first I had</p>
<p style="text-align: right;">211</p> <p>1 When he says, "not totally 2 unexpected," did you understand him to be saying 3 that it was not totally unexpected that he would 4 be sued? 5 A. He must have known that it was going 6 to happen. 7 Q. Was it unexpected for you? 8 A. Yes. 9 MR. REHN: (To Mr. Childs:) 10 Actually, hold off. 11 BY MR. REHN: 12 Q. When you were working on converting 13 the NFPA and ASTM standards, were you -- was it 14 your understanding that NFPA and ASTM were aware 15 of this project? 16 A. I -- I didn't know. 17 Q. Were you aware of any communications 18 between Mr. Malamud and ASTM or NFPA? 19 A. No. 20 MR. REHN: (To Mr. Childs:) Okay. 21 We're good. 22 (Deposition Exhibit No. 30 23 marked for identification.) 24 BY MR. REHN: 25 Q. I'm going to hand you what's been</p>	<p style="text-align: right;">213</p> <p>1 heard, but I couldn't even remember two lines in 2 an email 2011. 3 BY MR. REHN: 4 Q. So at this time you were aware that 5 you were working on standards that had been 6 developed by NFPA? 7 A. Yes. 8 Q. And when Mr. Malamud sent you an email 9 saying that he had met with the organization and 10 their general counsel, and they were scared by the 11 project, that -- did that make any impression on 12 you? 13 A. It's just the way he talks, so I 14 didn't think anything of it. 15 Q. You're saying this is the way 16 Mr. Malamud talks? 17 A. Yes. 18 Q. So Mr. Malamud regularly talks about 19 making organizations scared? 20 A. I don't know. 21 MR. STOLTZ: Objection to form. 22 Mischaracterizes the letter and her testimony. 23 You can answer. 24 A. I -- he has colorful speech. 25 BY MR. REHN:</p>

214	<p>1 Q. Did you have any hesitation about</p> <p>2 continuing to work on a project that was viewed as</p> <p>3 scary by the organization that --</p> <p>4 A. I didn't read it as kind of scary</p> <p>5 but --</p> <p>6 Q. Did you understand that the</p> <p>7 organization might feel threatened by the fact</p> <p>8 that their copyrighted works were being</p> <p>9 distributed in this way?</p> <p>10 MR. STOLTZ: Objection. Foundation.</p> <p>11 A. Repeat the question.</p> <p>12 BY MR. REHN:</p> <p>13 Q. Did you understand that the</p> <p>14 organization might feel threatened by the fact</p> <p>15 that their copyrighted works were being</p> <p>16 distributed in this way?</p> <p>17 A. I -- I didn't view it as -- that we</p> <p>18 were threatening.</p> <p>19 Q. So how did you understand this</p> <p>20 communication to you that the NFPA was scared by</p> <p>21 the project?</p> <p>22 A. Technological progress.</p> <p>23 Q. What do you mean by that?</p> <p>24 A. Well, it just -- I didn't view it as</p> <p>25 being scared in that way so --</p>	216
215	<p>1 Q. In what way did you view this -- this</p> <p>2 choice of words by Mr. Malamud?</p> <p>3 A. That it was -- that it was quality</p> <p>4 work.</p> <p>5 Q. You felt the NFPA was scared because</p> <p>6 your work was of high quality?</p> <p>7 A. Well, "scared" is prefaced by</p> <p>8 "impressed."</p> <p>9 Q. Did you understand that the project of</p> <p>10 putting these standards online posed threat to</p> <p>11 NFPA?</p> <p>12 A. I don't really understand why it would</p> <p>13 threaten them.</p> <p>14 Q. Can you think of any reasons?</p> <p>15 MR. STOLTZ: Objection. Asked and</p> <p>16 answered.</p> <p>17 A. (Pause.) No.</p> <p>18 BY MR. REHN:</p> <p>19 Q. Did Mr. Malamud ever explain to you</p> <p>20 that ASTM and NFPA sell these standards?</p> <p>21 A. Yes.</p> <p>22 Q. And did he explain to you that part of</p> <p>23 the purpose of his project was to enable people to</p> <p>24 access the standards without paying for them?</p> <p>25 A. Yes.</p>	217

<p style="text-align: right;">218</p> <p>1 ever considered what the effects of this project 2 might be on the organizations that create these 3 standards? 4 A. (Pause.) Yes, but -- I mean, yes. 5 Q. And what were your thoughts about 6 that? 7 A. I -- would think that it would lead to 8 a better overall product for all. 9 Q. Can we go back to Exhibit 21? And I 10 just wanted to ask a clarifying question about 11 something. On the bottom of the first page 12 there's an email from you dated January 4th, 2014, 13 at 11:48 a.m. Do you see that? 14 A. Yes. 15 Q. And then in that -- in the bottom 16 paragraph of -- that's on that page, and just the 17 last sentence of that paragraph, if you can go 18 ahead and read that sentence. 19 A. The last sentence in the last 20 paragraph? 21 Q. Yeah. 22 A. "You mentioned not having the 'Codes 23 of the World' summer program this year, and if 24 that is a strain for you, then let's not do the 25 SVG/MathML track."</p>	<p style="text-align: right;">220</p> <p>1 BY MR. REHN: 2 Q. Was there a Codes of the World summer 3 program this year, in 2014? 4 A. We did work on the standards, yes. 5 Q. With the students at the Codes of the 6 World -- or the mentees at the Codes of the World 7 program? 8 A. The -- it was -- it was primarily Levi 9 and I this summer. 10 Q. Was there any involvement from the 11 mentees that were in the program? 12 A. The core project this summer was an 13 animation -- an animated movie, so -- 14 Q. And did Public.Resource continue to 15 fund the summer programs? 16 A. Yes. And work was done. 17 Q. As they had in previous years as well? 18 A. Yes. 19 MR. REHN: I think I just have one 20 more document. This, I believe, will be 21 Exhibit 31. 22 THE REPORTER: Correct. 23 (Deposition Exhibit No. 31 24 marked for identification.) 25 (Off-the-record discussion.)</p>
<p style="text-align: right;">219</p> <p>1 Q. What was the SVG/MathML track? 2 A. The creation of the diagrams as 3 explained earlier and the coding of the MathML 4 equations. 5 Q. And this was a project being done 6 through the Codes of the World program in the 7 Rural Design Collective? 8 A. Correct. 9 Q. So was Mr. Malamud aware of the 10 involvement of the Rural Design Collective in this 11 project? 12 A. Yes. 13 Q. And was he regularly involved in the 14 planning for the Codes of the World summer 15 program? 16 A. No. 17 Q. But you would be in touch with him 18 about how the planning was going? 19 A. Yes. 20 Q. And he would know that you would be 21 relying to a certain degree on the work that was 22 being done at that summer program for these 23 projects? 24 MR. STOLTZ: Objection to form. 25 A. I would give progress reports.</p>	<p style="text-align: right;">221</p> <p>1 BY MR. REHN: 2 Q. So this is an email from Mr. Malamud 3 to you dated January 4th, 2014. And for the 4 record, I'll note that -- it's at the bottom. The 5 Bates stamp is PRO00042295. 6 A. Okay. 7 Q. And he begins by saying, "Think about 8 it. Why don't you focus on ASTM and ASHRAE 9 standards for your next big batch." 10 Do you see that? 11 MR. STOLTZ: Excuse me, counsel. I 12 think it says "thinking about it." 13 MR. REHN: Sorry. Did I not say 14 that? 15 MR. FEE: You said "think." 16 MR. REHN: Okay. I apologize. 17 BY MR. REHN: 18 Q. "Thinking about it, why don't you 19 focus on ASTM and ASHRAE standards for your next 20 big batch." 21 Do you see that? 22 A. Yes. 23 Q. But, again, you testified earlier that 24 you did not work on ASHRAE standards. 25 A. We did not work on ASHRAE standards.</p>

<p style="text-align: right;">222</p> <p>1 Q. Have you done a batch or standards for 2 Mr. Malamud since this email was written to you in 3 January 2014? 4 A. Yes. 5 Q. Did you ever correct his 6 misapprehension that you were going to be working 7 on ASHRAE standards? 8 A. ASHRAE was never double keyed, so -- 9 Q. It was your understanding that ASHRAE 10 was never double keyed? 11 A. I didn't -- it never -- there were no 12 files, no JPEGs, no. It was -- no. 13 Q. So you never saw any documents that 14 had ASHRAE standards in them or that were labeled 15 with the ASHRAE name? 16 A. It was in PDF format. 17 Q. So you said the original PDFs -- 18 A. Yes. But there was -- it didn't go 19 through the conversion process before it reaches 20 me. 21 Q. Right. So when Mr. Malamud sends you 22 several emails, I think we've seen today, asking 23 you to do ASHRAE standards, did you ever correct 24 his misunderstanding? 25 A. I don't think so.</p>	<p style="text-align: right;">224</p> <p>1 A. No. Not very often. And it's nice to 2 have a backup. 3 Q. So the backup here is just the JPEG 4 from the original PDF? 5 A. Right. Correct. 6 Q. As published by the standards 7 organization? 8 A. Correct. 9 Q. So if you don't do an SVG, then the 10 thing that gets posted to Public.Resource's 11 website is a JPEG just taken directly from the 12 standard received from that? 13 A. Correct. 14 Q. And here you had listed that you had 15 done some SVGs that you hadn't done? 16 MR. STOLTZ: Objection. Form. 17 A. I don't see that. 18 BY MR. REHN: 19 Q. Is that right? 20 MR. STOLTZ: Same objection. 21 A. In that second paragraph? 22 BY MR. REHN: 23 Q. What do you understand him to be 24 telling you in that paragraph? 25 A. A few that listed SVGs. I did the</p>
<p style="text-align: right;">223</p> <p>1 Q. When somebody who's paying you to do a 2 project asks you to do a particular thing, and you 3 don't think that's part of the project, is it your 4 common practice just to ignore that part of their 5 instructions? 6 MR. STOLTZ: Objection. 7 Argumentative. 8 A. It's taken out of context, but, I 9 mean, the -- the conversion before it gets to me 10 was never completed and moved on so -- 11 BY MR. REHN: 12 Q. If you go to the second paragraph of 13 this document, it says, "BTW." Do you understand 14 that to mean "by the way"? 15 A. Yes. 16 Q. And then Mr. Malamud writes to you, 17 "You had a couple bad links in the NFPA files. 18 Nothing huge. Just a few that listed SVGs that 19 weren't in the main directory. I just changed 20 those to JPEG and moved on." 21 Do you see that? 22 A. Correct. 23 Q. Had something like this happened 24 before where you'd failed to realize that you 25 didn't have some SVGs?</p>	<p style="text-align: right;">225</p> <p>1 batch search and replace, and I had the SVG and 2 the HTML document, and I must have missed it so -- 3 and there's also -- 4 Q. What do you mean you must have missed 5 it? 6 A. I must have missed -- when I checked 7 the HTML to make sure that I changed the SVG 8 extension back to JPEG, we didn't complete the 9 graphic. Or if there were questions -- because 10 sometimes we take a graphic so far and then there 11 will be a question, and we put an asterisk at the 12 end of the name, and that would make it not show 13 up in the HTML document and it would be flagged as 14 not completed, so -- 15 Q. So is it your understanding that's 16 what happened here? 17 A. Yes. 18 Q. So does that mean that there was a 19 draft SVG in the directory but -- 20 A. It's possible. 21 Q. -- it wasn't completed? 22 A. It's possible. 23 Q. And so in that case it would be the 24 normal practice just to use the JPEG instead? 25 A. Correct.</p>

<p style="text-align: right;">226</p> <p>1 Q. And are -- those would be flagged 2 because, as you mentioned earlier, there was some 3 interpretation required? 4 A. Correct. 5 Q. And it was your judgment that the 6 interpretation required -- couldn't be done by -- 7 by you or by your staff? 8 MR. STOLTZ: Objection to form. 9 Mischaracterizes her testimony. 10 A. Correct. It often involved illegible 11 text. Couldn't make out -- 12 BY MR. REHN: 13 Q. You couldn't make out what the diagram 14 or chart or illustration was trying to 15 communicate? 16 A. Yes. 17 Q. And that's -- you've been working on 18 these standards since 2011. Is that right? 19 A. Correct. 20 Q. So about three years plus? 21 A. Correct. 22 Q. And this problem has arisen from time 23 to time over the course of that period? 24 A. Correct. 25 Q. And you've never consulted a fire</p>	<p style="text-align: right;">228</p> <p>1 A. I didn't know for sure, but I'm -- I 2 knew it centered around standards. 3 MR. REHN: No further questions. 4 MR. FEE: I think Andrew is probably 5 up next. Right? Andrew, do you have any 6 questions? 7 MR. ZEE: I do just have a few 8 questions that hopefully won't take much time. 9 10 EXAMINATION 11 BY MR. ZEE: 12 Q. This is Andrew Zee on behalf of 13 plaintiff ASHRAE. Thank you for your time today, 14 Ms. Malamud. 15 A. Thank you. 16 Q. You testified earlier that Point B did 17 not do any work on any ASHRAE standards. Is that 18 correct? 19 A. To the best of my knowledge. 20 Q. Do you know whether Mr. Malamud is 21 aware that Point B never did any work on ASHRAE 22 standards? 23 A. If -- if -- it would -- we did not 24 have the discussion, but the files were not 25 delivered.</p>
<p style="text-align: right;">227</p> <p>1 safety professional to ascertain whether the 2 interpretation required of those illustrations is 3 something they can perform for you? 4 MR. STOLTZ: Objection. Asked and 5 answered. 6 A. No. 7 BY MR. REHN: 8 Q. Okay. One second. (Pause.) 9 Oh, just to follow up on something 10 that came up earlier. You had mentioned that 11 Mr. Malamud was planning to write a book about 12 standards. Is that right? 13 A. That's an idea he had, but it didn't 14 materialize. 15 Q. Does that mean -- when you say, "it 16 didn't materialize," do you know if he had made 17 any progress on a manuscript -- 18 A. I don't know. 19 Q. -- or any textbook? You never 20 discussed that with him? 21 A. I did not. 22 Q. Did you understand that was going to 23 be a book specifically about this standards 24 publication project that you and he were working 25 on over the last few --</p>	<p style="text-align: right;">229</p> <p>1 Q. When you refer to the files that were 2 not delivered, which files do you mean? 3 A. Any file -- SVG and MathML. 4 Q. Did Point B receive any ASHRAE 5 documents from Public.Resource? 6 A. No. 7 Q. Did you review the standards that you 8 did receive from Public.Resource to determine from 9 which of the -- which standards development 10 organization they were from? 11 A. They would -- they're organized in 12 directories on Public.Resource's server. 13 Q. And do those directories indicate 14 which organization standards those are? 15 A. Yes. 16 Q. Did any of those directories indicate 17 an ASHRAE standard? 18 A. I believe there's -- there's a PDF of 19 ASHRAE standards. 20 Q. But your testimony is that Point B did 21 not do any work on those ASHRAE -- that ASHRAE 22 PDF? 23 A. Correct. 24 Q. Do you know the contents of that 25 ASHRAE PDF?</p>

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1 A. No.
2 Q. Do you know who made the decision not
3 to do any work on ASHRAE standards?
4 A. I just -- it just didn't happen.
5 There was no formal decision.
6 Q. Was there ever any discussion between
7 yourself and Mr. Malamud regarding work on ASHRAE
8 standards?
9 A. References in email, but other than
10 that, no.
11 Q. Did Public.Resource ever provide any
12 instructions regarding ASHRAE PDF for standard?
13 A. No.
14 Q. If you could, Mrs. Malamud, take a
15 look at what's been marked as Exhibit 31.
16 A. Okay.
17 Q. This is an email from Carl Malamud to
18 yourself dated January 4th, 2014, 2:30 p.m. Do
19 you see that?
20 A. Correct.
21 Q. And the first line of that email says,
22 "Thinking about it, why don't you focus on ASTM
23 and ASHRAE standards for your next big batch."
24 Correct?
25 A. Correct.

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1 Q. Do you know why Mr. Malamud is asking
2 you to focus on ASHRAE standards if --
3 A. Because it was -- we were going to
4 work on it and we worked on ASTM, but did not get
5 into the ASHRAE standards.
6 Q. Why did you not get into the ASHRAE
7 standards?
8 A. For -- for me because the files
9 weren't there, the JPEG, the document hadn't been
10 converted to this point.
11 Q. What was that?
12 A. The document -- the PDF hadn't been
13 converted to the point where I -- I can begin
14 work.
15 Q. So was the decision not to work on the
16 ASHRAE PDF your decision?
17 MR. STOLTZ: Objection. Asked and
18 answered.
19 A. In the natural -- in the work flow, it
20 just didn't happen so --
21 BY MR. ZEE:
22 Q. Are you aware of Point B ever asking
23 for permission from ASHRAE to make copies of its
24 standards?
25 A. No.

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1 Q. Are you aware of Point B ever
2 receiving any permission from ASHRAE to make
3 copies of its standards?
4 A. No.
5 Q. And did Public.Resource ever inform
6 you that it had permission from ASHRAE to work on
7 its standards?
8 A. No.
9 MR. ZEE: Thank you. That's all I
10 have.
11 MR. STOLTZ: I have a few questions,
12 but, first, I think we need to take a break.
13 THE VIDEOGRAPHER: Okay. Going off
14 the record. 4:20 p.m.
15 (Recess: 4:20 p.m. to 4:33 p.m.)
16 THE VIDEOGRAPHER: We're going back
17 on the record. The time is 4:33 p.m.
18
19 EXAMINATION
20 BY MR. STOLTZ:
21 Q. Okay. Thanks, Ms. Malamud, for
22 your -- for coming today. I just have a few
23 questions. How often do you talk to Mr. Malamud
24 on the phone, say, in the past three years?
25 A. Never.

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1 Q. Would you say that most of your
2 communication is by email?
3 A. Yes.
4 Q. You've testified earlier about the
5 steps that you went through to do quality
6 assurance on SVG images.
7 A. Correct.
8 Q. If, in the process of reviewing an SVG
9 image you happened to find a mistake, what would
10 you do?
11 A. I would correct it.
12 Q. And is that true for every SU -- SVG
13 image that you reviewed as part of the codes
14 project?
15 A. Yes.
16 Q. Can text to speech software read
17 MathML files?
18 A. Yes.
19 Q. Can text to speech software read JPEG
20 files?
21 A. No. There -- there is an ALT tag in
22 every image in an HTML document and the text is
23 put into this ALT tag, it could read that. But
24 it's generally very minimal.
25 Q. So would you say that MathML files are

234	<p>1 easier to use than JPEG files for people with 2 disabilities? 3 MR. FEE: Objection. Lack of 4 foundation. Leading. 5 BY MR. STOLTZ: 6 Q. You can answer. 7 A. Yes. 8 Q. You testified about text that would 9 appear in diagrams in standards documents. 10 Typically how much text appeared in the diagrams 11 in the standards documents that Point B worked on? 12 MR. FEE: Objection. Vague. 13 A. Usually it would be numbers and 14 captions, call-outs on the graphic, but sometimes 15 there would be notes underneath the graphic. 16 BY MR. STOLTZ: 17 Q. What's the most number of characters 18 that were in those notes? 19 A. I would say it's anywhere from 100 to 20 500 characters. That's just a ballpark figure. 21 Q. You testified that some older diagrams 22 contained flourishes. In what part of the diagram 23 were those flourishes? 24 A. In the -- usually it has hand-lettered 25 text.</p>	236
235	<p>1 those. 2 Q. Other than at the very beginning of 3 the product, what did you do when you encountered 4 logos in the documents? 5 A. I would leave in the original JPEG 6 scan. 7 Q. If I could direct your attention to 8 the document marked Exhibit 28. It will be the 9 second-to-the-last page of that document. The 10 Bates number PRO24984. At the very bottom of that 11 page, do you see the line that says, page 00201, 12 SVG logo, Wikimedia Commons? 13 A. Yes. 14 Q. Do you know what the word logo refers 15 to? 16 A. I -- when I first saw it I thought it 17 might be a logo, but it could be a symbol. 18 Without seeing the picture, I don't know. 19 MR. STOLTZ: Thank you. I have no 20 more questions. 21 22 EXAMINATION 23 BY MR. FEE: 24 Q. That file that you were just 25 referencing, page 0020.SVG-logo, do you still have</p>	237
235	<p>1 Q. So was it your practice to where 2 hand-lettered text appeared in an original image, 3 that Point B would replace that text with text 4 rendered in a font? 5 MR. FEE: Objection. Form. 6 A. Correct. 7 BY MR. STOLTZ: 8 Q. You testified that some images would 9 have required interpretation. In those cases, 10 what did Point B do with the image? 11 A. I would file it in a folder called 12 "bad art" while we were working on the diagrams or 13 sometimes label them in red. That came later 14 because by filing them in a folder called bad art 15 I would have to remove them in order that they 16 were still in the standard document. 17 Q. So if you had placed a file in the 18 folder labeled bad art or you had marked that file 19 as red, would the file go into the final HTML 20 document that you gave to Public.Resource? 21 A. The original JPEG -- 22 Q. What -- 23 A. -- would be an HTML document. 24 Q. The SVG file would not? 25 A. Right. We didn't do an SVG file for</p>	<p>1 that file at Point B? 2 A. I may. 3 Q. Now, in response to the testimony you 4 gave to your counsel regarding your practice with 5 logos after some initial period, you, I think 6 testified that you would leave the original JPEG 7 scan in the HTML file. Is that right? 8 A. Correct. 9 Q. And the HTML file was not the original 10 file as it was distributed by the standards 11 provider. Correct? 12 MR. STOLTZ: Objection to form. 13 Foundation. 14 A. Correct. 15 BY MR. FEE: 16 Q. So the files that were created by 17 Public.Resource -- or the files that were created 18 by Point B bore logos of ASTM and NFPA even though 19 those files were not authored by Point B or -- 20 strike that question. 21 So the files that were created by 22 Point B bore the logos of ASTM or NFPA even though 23 ASTM and NFPA did not author those files? 24 MR. STOLTZ: Objection to form. 25 It's asking for a legal conclusion.</p>

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<p>1 A. The -- a JPEG representation of the 2 logo was in the HTML document. 3 BY MR. FEE: 4 Q. The HTML document was coded by you and 5 not by ASTM or NFPA. Correct? 6 A. Coded by Public.Resource. 7 Q. Okay. And then the images in the HTML 8 file that were SVG file -- file format were done 9 by you. Correct? 10 A. Correct. 11 Q. And those were in an HTML file that 12 bore an ASTM or NFPA logo. Correct? 13 A. Correct. 14 Q. And you hadn't obtained permission 15 from ASTM or NFPA to put a JPEG version of their 16 logo on any files that were created in part by 17 you? 18 MR. STOLTZ: Objection. Asked and 19 answered. 20 A. No. 21 BY MR. FEE: 22 Q. Let me ask that question again. I 23 think it was a bad question. 24 You didn't have permission from ASTM 25 or NFPA to place a JPEG file format of their logo</p>	<p>1 the diagram itself, is usually a brief -- either a 2 legend, you know, explaining the art or sometimes 3 it was text that it's -- it seemed like it should 4 be in the HTML. So sometimes there was a legend 5 at the bottom of the graphics. 6 Q. Okay. So for those files in which 7 Point B had to place some text, your estimate is 8 that they would typically have 100 to 500 9 characters. Is that right? 10 A. It's an estimate. 11 Q. Would you go back to Exhibit 29? And 12 this was the email that NFPA's counsel asked you 13 about when you said you had just read the NFPA 14 complaint and asked Mr. Malamud if he was okay. 15 Do you recall this? 16 A. Yes. 17 Q. And his response was, "Yeah. We'll be 18 fine." 19 Who do you understand the "we'll" to 20 be referring to or "we"? 21 MR. STOLTZ: Objection. This is 22 beyond the scope of the redirect. 23 MR. FEE: It's not beyond the scope 24 of his question. 25 BY MR. FEE:</p>
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<p>1 on any HTML code that contained SVG file created 2 by you? 3 A. I did not have permission. 4 Q. Now, your counsel also asked you about 5 the text that was on some of these images or 6 illustrations. Do you recall that? 7 A. Yes. 8 Q. And you testified that there was 9 somewhere between 100 and 500 characters in some 10 of the files that we were -- that you converted. 11 Correct? 12 A. Yes. 13 Q. Now, what I wasn't clear on is were 14 you saying that was the average file or was that 15 the most text that was ever in one of the files 16 that you converted? 17 A. It -- a ballpark figure. 18 Q. For an average file? 19 A. No. Usually there wasn't, but for -- 20 what -- define average file. I mean, so -- 21 Q. I just want to know what you were 22 referencing when you said it was approximately 100 23 to 500 characters. What were you describing? 24 A. Notes in the -- whenever there were -- 25 was text that was not a part of the image, part of</p>	<p>1 Q. You can answer. 2 A. Public.Resource.org. 3 Q. Okay. The "we" doesn't refer to both 4 Public.Resource.org and you and/or Point B? 5 A. Public.Resource.org. 6 Q. Okay. Now, during NFPA's questioning, 7 you, I think, said that you understood that a 8 benefit of the work that you and Public.Resource 9 was doing was that the standards would be more 10 easily available and freely available to persons 11 who needed access to that information. Is that 12 right? 13 MR. STOLTZ: Same objection. 14 Counsel, you don't get to tag team on each other. 15 BY MR. FEE: 16 Q. You can answer. 17 A. Say it again. 18 Q. Do you recall in response to 19 questioning from NFPA's counsel that you took the 20 position that the work that was being done by 21 Public.Resource and by Point B was beneficial 22 because persons would have access to that 23 information on the Internet for free? 24 MR. STOLTZ: Objection. 25 Mischaracterizes her testimony. And it's still</p>

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<p>1 beyond the scope of the redirect. 2 A. It's not exactly my words. 3 BY MR. FEE: 4 Q. Okay. What were your exact words, can 5 you say you remember? 6 MR. STOLTZ: Objection. Asked and 7 answered. 8 BY MR. FEE: 9 Q. How is my description wrong? 10 A. Broader access to public safety 11 standards. 12 Q. Are you aware that at least ASTM's 13 standards are available for free on the Internet 14 to the extent that they've been incorporated by 15 reference by any federal regulation? 16 MR. STOLTZ: Objection. Still 17 beyond the scope of the redirect. 18 A. I am not a lawyer and it's outside a 19 bit of the scope of my expertise, but eventually 20 it's -- it's not free. 21 BY MR. FEE: 22 Q. The ASTM standards in its reading room 23 are not free. Is that your testimony? 24 MR. STOLTZ: Same objection. 25 A. I'm not familiar with the reading</p>	<p>1 State of Oregon)) ss. 2 County of Lane) 3 4 I, Jan R. Duiven, CSR, FCRR, CCP, a 5 Certified Shorthand Reporter for the State of Oregon, 6 certify that the witness was sworn and the transcript 7 is a true record of the testimony given by the witness; 8 that at said time and place I reported all testimony and 9 other oral proceedings in the matter; that the foregoing 10 transcript consisting of 243 pages, contains a full, 11 true and correct transcript of the proceedings reported 12 by me to the best of my ability on said date. 13 If any of the parties or the witness 14 requested review of the transcript at the time of the 15 proceedings, correction pages have been inserted. 16 IN WITNESS WHEREOF, I have set my hand and 17 CSR seal this 24th day of November, 2014, in the City 18 of Eugene, County of Lane, State of Oregon. 19 20 21 _____ Jan R. Duiven, CSR, FCRR, CCP 22 23 CSR No. 96-0327 24 Expiration Date: September 14, 2017 25</p>
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<p>1 room. 2 MR. FEE: I have no other questions. 3 MR. REHN: Nothing for me. 4 THE VIDEOGRAPHER: Anything further? 5 Anything further on the phone? 6 MR. ZEE: Nothing further. 7 THE VIDEOGRAPHER: Okay. We're 8 going off the record. 9 (The deposition concluded at 10 4:50 p m.) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 A C K N O W L E D G E M E N T O F D E P O N E N T 2 3 I, REBECCA MALAMUD, do hereby acknowledge I 4 have read and examined the foregoing pages of 5 testimony, and the same is a true, correct and complete 6 transcription of the testimony given by me, and any 7 changes or corrections, if any, appear in the attached 8 errata sheet signed by me. 9 10 11 12 13 14 15 16 17 18 _____ Date REBECCA MALAMUD 19 20 21 22 23 24 25</p>

<p style="text-align: right;">246</p> <p>1 MR. MITCH STOLTZ ELECTRONIC FRONTIER FOUNDATION 2 815 Eddy Street San Francisco, California 94109 3 415/436-9333 4 In Re: ASTM International. v. Public.Resource.Org 5 Dear Mr. Stoltz, 6 Enclosed please find your copy of the 7 deposition of REBECCA MALAMUD, along with 8 the original signature page. As agreed, you 9 will be responsible for contacting the witness 10 regarding signature. 11 Within 30 days of December 1, 2014, 12 please forward errata sheet and original signed 13 signature page to counsel present. 14 If you have any questions, please do not 15 hesitate to call. Thank you. 16 17 Yours, 18 Jan R. Duiven, CSR, FCRR, CCP Reporter/Notary 19 20 cc: Original transcript All Counsel 21 22 23 24 25</p>	
<p style="text-align: right;">247</p> <p>1 Capital Reporting Company 1821 Jefferson Place, Northwest 2 Third Floor Washington, D.C. 20036 3 (202)857-3376 4 E R R A T A S H E E T 5 Case Name: ASTM International. v. Public.Resource.Org 6 Witness Name: REBECCA MALAMUD 7 Deposition Date: November 13, 2014 8 Page No. Line No. Change/Reason for Change 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 _____ Signature Date</p>	

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