EXHIBIT 40

1	UNITED STATES DISTRICT COURT
	FOR THE DISTRICT OF COLUMBIA
2	
	AMERICAN SOCIETY FOR : Case No.
3	TESTING AND MATERIALS d/b/a: 1:13-cv-01215-PSC-DAR
	ASTM INTERNATIONAL; :
4	:
	NATIONAL FIRE PROTECTION :
5	ASSOCIATION, INC.; and :
_	:
6	AMERICAN SOCIETY OF :
_	HEATING, REFRIGERATING, :
7	AND AIR-CONDITIONING :
-	ENGINEERS, INC. :
8	Plaintiffs, :
0	:
9	vs. :
10	
10	PUBLIC.RESOURCE.ORG, INC., : Defendant. :
11	Derendant.
<u>⊥</u> ⊥	AND RELATED COUNTERCLAIMS. :
12	AND RELATED COUNTERCLATING
13	· · ·
14	Videotaped 30(b)(6) deposition
15	of American Society for Testing & Materials,
16	through DANIEL SMITH, held in the offices of
17	Veritext Philadelphia, 1801 Market Street,
18	Ten Penn Center, Suite 1800, Philadelphia,
19	Pennsylvania 19103, commencing at 10:43 a.m.,
20	July 24, 2015, before Linda Rossi Rios, a
21	Federally Approved RPR, CCR and Notary
22	Public.
23	
24	
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3 On behalf of the Plaintiffs	2 ASTM000001 - ASTM000168 3 Exhibit 1292 Check, ASTM049368 171
4 MORGAN LEWIS & BOCKIUS LLP	4 Exhibit 1293 2011 Membership renewal 173
BY: J KEVIN FEE, ESQUIRE 5 1111 Pennsylvania Avenue NW	invoices,
5 1111 Pennsylvania Avenue NW Washington, D C 20004	5 ASTM086030 - ASTM086031
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12 555 California Street 12th Floor	ASTM079420
13 San Francisco, California 94104	13 Exhibit 1298 ASTM Application, 204
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18 and General Counsel, ASTM International	ASTM061450, ASTM063146,
19 CARL MALAMUD, Public Resource Org	20 ASTM063147, ASTM065682 & ASTM066345
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8 Exhibit 1320 How To Standards Writing 279	10 deposition audio. Recording will
101 New Standards	11 continue until all parties agree to go
Exhibit 1321 How Standards are 280	12 off the record.
10 Developed article	13My name is Ryan Armstrong
11 Exhibit 1322 8/13/08 E-mail, 281 ASTM073852	14 representing Veritext Legal Solutions.
12	15 The date today is July 24, 2015,
Exhibit 1323 Bates Numbers of 284 13 Assignment Documents	16 and the time is approximately 10:43
14 Assignment Documents	17 a.m.
15	18 This deposition is being held at
16 17	19 Veritext located at 1801 Market
18	20 Street, Suite 1800, Philadelphia,
19 20	21 Pennsylvania, and is being taken by
20 21	22 counsel for the defense.
22	23 The caption of this case is
23 24	24 American Society for Testing and
25	25 Materials International, et al. V
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1 DEPOSITION SUPPORT INDEX	1 Public.Resource.Org, Incorporated.
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3 (Pages 6 - 9)

1			
	phone is Carl Malamud of	1	A. Yes.
2	Public.Resource.Org.	2	Q. If at any point you do not
3	MR. FEE: I'm sorry. I did hear	3	understand a question, will you, please, let
4	the caption had EGS at the end.	4	me know and I'll try to clarify the question?
5	That's the wrong caption now. It's	5	A. Yes.
6	re-assigned ending with PSC-DAR.	6	Q. And if you answer my question,
7	Before we get started, I want to	7	I'll assume that you understood. Does that
	÷	8	-
8	reserve reading and signing for the		make sense?
9	witness.	9	A. Yes.
10		10	VIDEOGRAPHER: The time is now
11	DANIEL SMITH, after having been	11	10:46. We're going off the video
12	duly sworn, was examined and testified	12	record.
13	as follows:	13	
14		14	(A recess was taken.)
15	EXAMINATION	15	
16		16	VIDEOGRAPHER: The time is now
17	BY MR. BECKER:	17	10:46. We're back on the video
18	Q. My name is Matthew Becker of	18	record.
19	Fenwick & West for the defendant	19	BY MR. BECKER:
20	Public.Resource.Org, and I'll be taking your	20	Q. Mr. Smith, if you ever need a
20	deposition today.	20	break for any reason, please let me know and
$21 \\ 22$	· ·		
	Could you, please, state your	22	we'll take a break as long as I'm not in the
23	full name for the record?	23	middle of a line of questioning. If I am in
24	A. Daniel Gerald Smith.	24	the middle of a line of questioning, then
25	Q. Mr. Smith, have you ever had	25	I'll ask that we can finish that line of
	Page 10		Page 12
1	your deposition taken before?	1	questioning and then you can take a break.
2	A. No.	2	Does that sound good?
3	Q. Mr. Smith, have you ever been	3	A. Yes.
4	involved in any lawsuits before?	4	MR. FEE: That's fine. We'll
5	A. No.	5	let you at least finish your question
6	MR. FEE: Objection. Vague.	6	and get an answer.
1 0		-	
	Remember give me a second to object	7	BY MR BECKER
7	Remember give me a second to object	7	BY MR. BECKER:
7 8	first.	8	Q. And if you come to realize at
7 8 9	first. BY MR. BECKER:	8 9	Q. And if you come to realize at any point that one of your answers is not
7 8 9 10	first. BY MR. BECKER: Q. Mr. Smith, let's just go over	8 9 10	Q. And if you come to realize at any point that one of your answers is not completely correct, will you, please, let me
7 8 9 10 11	first. BY MR. BECKER: Q. Mr. Smith, let's just go over the rules so that you're familiar with them.	8 9 10 11	Q. And if you come to realize at any point that one of your answers is not completely correct, will you, please, let me know and we can address it?
7 8 9 10 11 12	first. BY MR. BECKER: Q. Mr. Smith, let's just go over the rules so that you're familiar with them. In a deposition I'll be asking the questions	8 9 10 11 12	Q. And if you come to realize at any point that one of your answers is not completely correct, will you, please, let me know and we can address it? A. Yes.
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7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	first. BY MR. BECKER: Q. Mr. Smith, let's just go over the rules so that you're familiar with them. In a deposition I'll be asking the questions and you'll be providing answers to those questions. Do you understand that you're giving testimony under oath today as though today as you would in a court of law? A. Yes. Q. And do you understand that the court reporter is taking down everything that you say? A. Yes. Q. And that means that we need	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. And if you come to realize at any point that one of your answers is not completely correct, will you, please, let me know and we can address it? A. Yes. Q. And after the deposition, the transcript is prepared, you'll have a chance to review it and make changes to it. However, if you make any changes, I will be able to comment on those changes. Do you understand? A. Yes. Q. Mr. Smith, is there any medication or other reason that might prevent you from giving your best testimony today? A. No.
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4 (Pages 10 - 13)

1	giving your best testimony today?	1	technical committee?
2	A. No.	2	A. A group of experts that develop
3	Q. Mr. Smith, what do you do for a	3	standards.
4	living?	4	Q. And who are those experts?
5	A. I work for ASTM International.	5	A. Volunteers.
6	Q. And when you say you work for	6	Q. And are they only volunteers?
7	ASTM International, what do you mean?	7	MR. FEE: Objection. Vague.
8	A. I'm the vice	8	THE WITNESS: For the most part
9	MR. FEE: Objection. Vague.	9	from my knowledge, they're all
10	You can answer.	10	volunteers.
11	THE WITNESS: I'm the vice	11	BY MR. BECKER:
12	president of technical committee	12	Q. How does a technical committee
13	operations.	13	go about developing standards as you say?
14	BY MR. BECKER:	14	A. They use our consensus process.
15	Q. And what is technical committee	15	Q. What is the consensus process?
16	operations?	16	A. It's two levels of voting
17	A. It's a division within ASTM.	17	starting with the subcommittee and then the
18	Q. What does technical committee	18	main committee.
19	mean?	19	Q. What's the difference between a
20	A. Technical committees develop	20	subcommittee and a main committee?
21	standards.	21	A. A subcommittee is typically
22	Q. When you say "standards," what	22	smaller with a more narrow interest. A main
23	do you mean by that?	23	committee has broader interest.
24	A. Consensus standards.	24	Q. So within a technical
25	Q. By "consensus standards," what	25	committee, then, there is is there just
	Page 14		Page 16
1	do you mean by that?	1	one main committee?
1 2	do you mean by that? A. Documents.	1 2	one main committee? A. A main committee is a technical
	· ·		
2	A. Documents.	2	A. A main committee is a technical committee.Q. And are there numerous
2 3	A. Documents.Q. Any documents?	2 3	A. A main committee is a technical committee.
2 3 4	A. Documents.Q. Any documents?A. Specifications, test methods,	2 3 4 5 6	A. A main committee is a technical committee.Q. And are there numerous subcommittees?A. Yes.
2 3 4 5	A. Documents.Q. Any documents?A. Specifications, test methods,practices, guides, classifications and	2 3 4 5	A. A main committee is a technical committee.Q. And are there numerous subcommittees?
2 3 4 5 6 7 8	 A. Documents. Q. Any documents? A. Specifications, test methods, practices, guides, classifications and terminology. Q. Does the term "standards" have any specific meaning to you? 	2 3 4 5 6 7 8	 A. A main committee is a technical committee. Q. And are there numerous subcommittees? A. Yes. Q. And how many subcommittees on average?
2 3 4 5 6 7 8 9	 A. Documents. Q. Any documents? A. Specifications, test methods, practices, guides, classifications and terminology. Q. Does the term "standards" have any specific meaning to you? MR. FEE: Objection. Vague. 	2 3 4 5 6 7 8 9	 A. A main committee is a technical committee. Q. And are there numerous subcommittees? A. Yes. Q. And how many subcommittees on average? A. It varies.
2 3 4 5 6 7 8 9 10	 A. Documents. Q. Any documents? A. Specifications, test methods, practices, guides, classifications and terminology. Q. Does the term "standards" have any specific meaning to you? 	2 3 4 5 6 7 8 9 10	 A. A main committee is a technical committee. Q. And are there numerous subcommittees? A. Yes. Q. And how many subcommittees on average? A. It varies. Q. Could you give me a range by
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2 3 4 5 6 7 8 9 10 11 12	 A. Documents. Q. Any documents? A. Specifications, test methods, practices, guides, classifications and terminology. Q. Does the term "standards" have any specific meaning to you? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure what you mean by that. BY MR. BECKER: 	2 3 4 5 6 7 8 9 10 11 12	 A. A main committee is a technical committee. Q. And are there numerous subcommittees? A. Yes. Q. And how many subcommittees on average? A. It varies. Q. Could you give me a range by which it might vary? A. The best of my knowledge, maybe
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5 (Pages 14 - 17)

1			
1	Q. Is that agree or don't agree on	1	average?
2	the content of a draft standard or the	2	A. It varies, but it could be
3	finalized standard?	3	anywhere from 3 to 30 approximately.
4	A. A draft standard.	4	Q. And you said that the task
5	Q. Could we just back up a little	5	group develops the content or the original
6	bit and could you walk me through how a	6	draft of a standard. Is that correct?
7	standard is developed at ASTM?	7	MR. FEE: Objection. Lack of
8	A. It varies, but it could be	8	foundation.
9	by it starts typically with a task group.	9	THE WITNESS: From my
10	Q. And what does the task group	10	experience, that's what a task group
11	do?	11	does.
12	A. They'll develop the content of	12	BY MR. BECKER:
13	the draft.	13	Q. How is a task group initially
14	Q. And who composes the task	14	formed?
15	group?	15	A. It's formed by a group of
16	MR. FEE: Objection. Vague.	16	volunteers who want to develop a standard or
17	THE WITNESS: The task group is	17	a revision to a standard.
18	typically made up of volunteers who	18	Q. Do the members and excuse
19	wish to serve on the task group.	19	me.
20	BY MR. BECKER:	20	Do the ASTM members and
21	Q. Are is everyone in a task	21	nonmembers of ASTM who compose task groups
22	group an ASTM member?	22	generally have the same or similar interests?
23	A. No, not necessarily.	23	MR. FEE: Objection. Calls for
24	Q. In what situations would	24	speculation.
25	individuals who are not members of ASTM	25	THE WITNESS: I don't know. I
	Page 18		Page 20
1	compose members of the task group?	1	would think they would have a variety
2	MR. FEE: Objection to form.	2	of different interests.
3	THE WITNESS: I'm not sure what	3	BY MR. BECKER:
4	you mean by that. Could you repeat	4	Q. Are there any characteristics
5	that or say that differently?	5	other than ASTM membership that would
6	BY MR. BECKER:	6	distinguish AS I will members who are members of
6 7	BY MR. BECKER: Q. Let's see. Are let me back	6 7	distinguish ASTM members who are members of task groups and those members of task groups
	Q. Let's see. Are let me back	6 7 8	task groups and those members of task groups who are not ASTM members?
7		7	task groups and those members of task groups who are not ASTM members?
7 8	Q. Let's see. Are let me back up just a moment. Are any members of the task	7 8	task groups and those members of task groups
7 8 9	Q. Let's see. Are let me back up just a moment.	7 8 9	task groups and those members of task groups who are not ASTM members? MR. FEE: Objection to form.
7 8 9 10	Q. Let's see. Are let me back up just a moment. Are any members of the task group also members of ASTM?	7 8 9 10	task groups and those members of task groups who are not ASTM members? MR. FEE: Objection to form. THE WITNESS: The members pay
7 8 9 10 11	Q. Let's see. Are let me back up just a moment. Are any members of the task group also members of ASTM? A. Yes.	7 8 9 10 11	task groups and those members of task groups who are not ASTM members? MR. FEE: Objection to form. THE WITNESS: The members pay the \$75 membership fee. Nonmembers
7 8 9 10 11 12	 Q. Let's see. Are let me back up just a moment. Are any members of the task group also members of ASTM? A. Yes. Q. But some members of the task 	7 8 9 10 11 12	task groups and those members of task groups who are not ASTM members? MR. FEE: Objection to form. THE WITNESS: The members pay the \$75 membership fee. Nonmembers don't pay the membership. That's the
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1	Q. And in what other ways?	1	outside of ASTM.
2	A. Through a meeting.	2	BY MR. BECKER:
3	Q. And in what other ways?	3	Q. Do you know how drafts of
4	A. None other come to mind at this	4	the of ASTM standards were exchanged
5	point.	5	between task group members prior to the
6	Q. Are there any differences in	6	introduction of the online collaboration area
7	how a task group would develop a draft of a	7	by ASTM?
8	standard today versus how they might have	8	A. My guess would be through mail
9	developed a draft of a standard in the 1970s	9	and fax.
10	or 1980s?	10	Q. Do you know if that mail and
11	MR. FEE: Objection. Lack of	11	fax of drafts was facilitated by ASTM?
12	foundation. Calls for speculation.	12	MR. FEE: Objection. Vague.
13	You can answer.	13	THE WITNESS: I would imagine
14	THE WITNESS: Just from common	14	that some of them would have been
15	sense, we wouldn't have had our Web	15	facilitated by ASTM and others would
16	tools, they wouldn't have been able to	16	not have been.
17	use our Web tools or our virtual	17	BY MR. BECKER:
18	meeting technology in the '70s.	18	Q. Prior to the introduction of
19	BY MR. BECKER:	19	the online collaboration area, were there
20	Q. Do you know how task groups	20	specific forms that task group members were
21	developed drafts in the 1970s and 1980s?	21	made to fill out when drafting drafts of ASTM
22	A. I don't know firsthand, but my	22	standards?
23	guess is they would have done it at meetings.	23	MR. FEE: Objection to form.
24	Q. When did ASTM first provide the	24	THE WITNESS: I believe we had
25	online collaboration areas for the use by	25	forms starting in about 2003 on our
	Page 22		Page 24
1	task groups?	1	membership applications that required
2	A. Guessing, it was sometime	2	members to assign all rights to ASTM.
3	probably in the early 2000s roughly.	3	BY MR. BECKER:
4	Q. How long have you been at ASTM	4	Q. So the membership, the forms on
5	for?	5	the membership applications for ASTM that
6	A. About 23 years.	6	asked individuals to assign all rights to
7	Q. So you were at ASTM for roughly	7	ASTM, as you said, started in 2003 and didn't
8	a decade, at least a decade prior to when the	8	exist prior to that date?
9	online collaboration area was first rolled	9	A. I believe that's correct.
10	out. Is that correct?	10	Q. And this just concerned the
11	A. Approximately.	11	membership applications. Correct?
12	Q. So prior to when the online	12	MR. FEE: Objection. Vague.
13	collaboration area was rolled out, how did	13	THE WITNESS: We also had them
14	task groups develop draft standards at ASTM?	14	on our renewal forms, membership
15	A. To my knowledge, it would have	15	renewal forms. And then we also had
16	been at meetings.	16	them on our work item registration,
17	Q. Were these meetings organized	17	and then our collaboration.
18	by ASTM?	18	BY MR. BECKER:
19	A. Some of them.	19	Q. What is a work item registration
20	Q. But other meetings might not	20	form?
21	have been organized by ASTM, is that what	21	A. It's for essentially opening up
22	you're saying?	22	a new work item.
23	MR. FEE: Objection. Vague.	23	Q. What is a work item?
24	THE WITNESS: They could. They	24	A. Either a revision to a standard
10-	could organize their own meetings	25	or development of a new standard.
25	Page 23		Page 25

7 (Pages 22 - 25)

1			
1	Q. And when was the language that	1	work item registration forms for ASTM?
2	you say concerns assignments of rights	2	A. No.
3	introduced to the work item form?	3	Q. And those individuals I
4	A. I think it was in about 2003,	4	described a moment ago, do they fill out
5	'04, '05, somewhere in there.	5	collaboration forms for ASTM?
6	Q. So somewhere in the 2003 to	6	A. Yes.
7	2005 period, you're not certain precisely	7	Q. They do. Are they required to
8	when?	8	fill out collaboration forms for ASTM in
9	A. I believe so.	9	order to participate in the development of a
10	Q. But it didn't exist on those	10	draft of a standard?
11	forms prior to at earliest 2003?	11	MR. FEE: Objection. Vague.
12	A. That's correct.	12	THE WITNESS: Yes.
13	Q. Who fills out a work item form?	13	BY MR. BECKER:
14	A. A member.	14	Q. From approximately what year
15	Q. Is it only ASTM members who	15	forward have individuals who are members of
16	fill out work item forms?	16	ASTM task groups but not themselves members
17	A. If a member would ask a staff	17	of ASTM been required to fill out
18	person to help facilitate filling out a form,	18	collaboration forms in order to participate
19	they may do that.	19	in the drafting of an ASTM standard?
20	Q. What is a collaboration form?	20	A. To my knowledge, since the
20	A. The collaboration, if a member	21	beginning.
21^{21}	wants to initiate a collaboration area, they	21	Q. When you say "since the
22	have to go through an online process to	22	beginning," what do you mean?
24	initiate it.	23	A. When we had when we created
25	Q. Just so I understand, is that	24	the form.
25	Q. Just so I understand, is that Page 26	25	Page 28
1	· · · · · · · · · · · · · · · · · · ·		
1	to create the online collaboration area that	1	Q. So that would be approximately
2	you had described earlier as being a location	2	2003, you're saying?
3	online provided by ASTM where members of a		A. Yes.
4	task group could go to help develop the draft	4	Q. Were individuals who were
5	for a standard?	5	members of task groups but not themselves
6	A. Yes.	6	members of ASTM required to fill out any
7	Q. And so the collaboration form	7	members of ASTM required to fill out any forms in order to participate in the drafting
7 8	Q. And so the collaboration form was only introduced after the collaboration	7 8	members of ASTM required to fill out any forms in order to participate in the drafting of an ASTM standard prior to 2003?
7 8 9	Q. And so the collaboration form was only introduced after the collaboration areas had been provided by ASTM to its	7 8 9	members of ASTM required to fill out any forms in order to participate in the drafting of an ASTM standard prior to 2003? A. Not to my knowledge.
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7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. And so the collaboration form was only introduced after the collaboration areas had been provided by ASTM to its members? A. Yes. Q. And when, again, did you say that that was? A. I think it was about 2003. Q. People who are members of task groups for developing standards but are not themselves ASTM members, do they fill out membership applications for ASTM? A. No. Q. And those individuals who I just described a moment ago, do they fill out renewal forms for ASTM? 	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	members of ASTM required to fill out any forms in order to participate in the drafting of an ASTM standard prior to 2003? A. Not to my knowledge. Q. Is there any means by which ASTM claims that individuals who are who were members of task groups but not themselves members of ASTM have assigned any copyrights that they might have in the drafts of the standards that were created and eventually published through ASTM to ASTM? MR. FEE: Objection. Calls for a legal conclusion. Instruct you not to disclose any communications you might have had with counsel regarding that subject. If you have an independent knowledge that is
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7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 Q. And so the collaboration form was only introduced after the collaboration areas had been provided by ASTM to its members? A. Yes. Q. And when, again, did you say that that was? A. I think it was about 2003. Q. People who are members of task groups for developing standards but are not themselves ASTM members, do they fill out membership applications for ASTM? A. No. Q. And those individuals who I just described a moment ago, do they fill out renewal forms for ASTM? A. No. Q. And those individuals who I 	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	members of ASTM required to fill out any forms in order to participate in the drafting of an ASTM standard prior to 2003? A. Not to my knowledge. Q. Is there any means by which ASTM claims that individuals who are who were members of task groups but not themselves members of ASTM have assigned any copyrights that they might have in the drafts of the standards that were created and eventually published through ASTM to ASTM? MR. FEE: Objection. Calls for a legal conclusion. Instruct you not to disclose any communications you might have had with counsel regarding that subject. If you have an independent knowledge that is responsive, you can answer that. THE WITNESS: I don't know. Not

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1	BY MR. BECKER:	1	interest to ASTM.
2	Q. Today when individuals who are	2	Q. And who is given this form?
3	members of ASTM task groups but not members	3	A. A task group or an individual
4	of ASTM fill out collaboration forms, does	4	who might be bringing something forward to
5	ASTM believe that by doing so those	5	contribute to ASTM.
6	individuals are assigning their copyright	6	Q. Were all members of ASTM task
7	interest to ASTM in the draft of the standard	7	groups given this form that you're
8	that they have created?	8	describing?
9	MR. FEE: Objection. Calls for	9	A. No.
10	a legal conclusion. Again, I instruct	10	Q. What members of ASTM task
11	you not to disclose your	11	groups were given this form that you're
12	communications with counsel. But if	12	assigning?
13	you have an understanding otherwise,	13	A. If an individual is bringing a
14	you can answer.	14	significant like a document to ASTM that
15	THE WITNESS: I believe it does.	15	they wanted to convert into an ASTM standard.
16	BY MR. BECKER:	16	Q. When you say "a document," what
17	Q. Does ASTM believe that it does?	17	do you mean by that?
18	MR. FEE: Same objection and	18	A. A piece of paper.
19	instruction.	19	Q. In what instances would
20	THE WITNESS: I would think so,	20	individuals have brought documents such as
21	yes.	21	you're describing to be converted into an
22	BY MR. BECKER:	22	ASTM standard?
23	Q. What are all the forms that	23	A. If an individual wanted to take
24	nonmembers may provide to ASTM in the course	24	a document that they had and make it into an
25	of their activities with the technical	25	ASTM standard, they brought it forward to
	Page 30		Page 32
1	committees?	1	ASTM.
	committees? MR. FEE: Objection to form.	1 2	
1 2 3	MR. FEE: Objection to form.		Q. Could you give me some examples
2		2	Q. Could you give me some examples of why somebody might do that?
2 3	MR. FEE: Objection to form. Vague as to time. You may answer.	2 3	Q. Could you give me some examples of why somebody might do that?
2 3 4	MR. FEE: Objection to form. Vague as to time. You may answer. THE WITNESS: The collaboration form. No other forms come to mind	2 3 4	Q. Could you give me some examples of why somebody might do that?A. Because they want to make it
2 3 4 5	MR. FEE: Objection to form. Vague as to time. You may answer. THE WITNESS: The collaboration	2 3 4 5	Q. Could you give me some examples of why somebody might do that?A. Because they want to make it into an ASTM standard.Q. Would this be individuals or
2 3 4 5 6	MR. FEE: Objection to form. Vague as to time. You may answer. THE WITNESS: The collaboration form. No other forms come to mind that a nonmember would submit to ASTM,	2 3 4 5 6	 Q. Could you give me some examples of why somebody might do that? A. Because they want to make it into an ASTM standard. Q. Would this be individuals or companies that had previously drafted
2 3 4 5 6 7	MR. FEE: Objection to form. Vague as to time. You may answer. THE WITNESS: The collaboration form. No other forms come to mind that a nonmember would submit to ASTM, but there could be some. BY MR. BECKER:	2 3 4 5 6 7	Q. Could you give me some examples of why somebody might do that?A. Because they want to make it into an ASTM standard.Q. Would this be individuals or
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9 (Pages 30 - 33)

1			
	THE WITNESS: I don't know.	1	A. Yes.
2	MR. BECKER: Counsel, do you	2	Q. Could you tell me what this
3	know if this document was produced to	3	document is?
4	Public.Resource?	4	A. I believe it's a document that
5	MR. FEE: I'm not here to answer	5	we would give an individual who is interested
6	your questions. You might want to	6	in bringing forward a document to have it
7	look at the documents that we sent you	7	become an ASTM standard.
8	today or yesterday. I think that	8	Q. And is this document the
9	would be what he's talking about.	9	document that you had described just earlier
10	THE WITNESS: It was in the	10	being a form for assigning rights to ASTM?
11	packet.	11	A. Yes.
12	BY MR. BECKER:	12	Q. And you said that you believe
13	Q. Do you know what the title of	13	this document was first used in 2002. Is
14	the document that you're describing is?	14	that correct?
15	A. No, I'm not sure. It's just	15	A. I believe that's about right.
16	one page.	16	Q. Is this form required for all
17	Q. Is it the ASTM International	17	members of a task group to fill out?
18	Participation and Acknowledgement Form?	18	MR. FEE: Objection. Vague.
19	A. I'm not sure. If I could see	19	THE WITNESS: No, not to my
20	it, I could tell you.	20	knowledge, it's not.
21		21	BY MR. BECKER:
22	(Exhibit 1284, ASTM	22	Q. Is this form required for all
23	International Participation and	23	members of a task group who are contributing
24	Acknowledgement Form, Bates	24	to the drafting of a standard under ASTM?
25	ASTM103273, was marked for	25	MR. FEE: Objection. Are you
	Page 34		Page 36
1	identification.)	1	done? Objection to the extent it
2	[′]	2	calls for a legal conclusion. Also
3	BY MR. BECKER:	3	vague.
4	Q. I'm handing you what's been		-
1 T	Q. I in handling you what's been	4	THE WITNESS: No, not to my
5	marked as Exhibit 1284.	45	knowledge.
5	marked as Exhibit 1284.	5	knowledge.
5 6	marked as Exhibit 1284. A. Yes.	5 6	knowledge. BY MR. BECKER:
5 6 7	marked as Exhibit 1284.A. Yes.Q. This document was produced by	5 6 7	knowledge. BY MR. BECKER: Q. What individuals does ASTM
5 6 7 8	marked as Exhibit 1284.A. Yes.Q. This document was produced byASTM last night at approximately 9:00 p m.,	5 6 7 8	knowledge. BY MR. BECKER: Q. What individuals does ASTM require to fill out this form?
5 6 7 8 9	marked as Exhibit 1284.A. Yes.Q. This document was produced byASTM last night at approximately 9:00 p m.,and the document is Bates labeled ASTM103273.	5 6 7 8 9	knowledge. BY MR. BECKER: Q. What individuals does ASTM require to fill out this form? MR. FEE: Objection. Asked and
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5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 marked as Exhibit 1284. A. Yes. Q. This document was produced by ASTM last night at approximately 9:00 p m., and the document is Bates labeled ASTM103273. And the document is titled: "ASTM International Participation and Acknowledgement Form." Is this the document that you were just describing when you said there was a form for assigning rights to ASTM? A. Yes. MR. FEE: Objection to the extent that your preamble is you're asking him to respond to any of that, you should ask him that separately. If you're asking him to respond to your question is this the document, I don't have an objection. 	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	knowledge. BY MR. BECKER: Q. What individuals does ASTM require to fill out this form? MR. FEE: Objection. Asked and answered. You can answer again. THE WITNESS: We would give this form to an individual who is interested in providing a document to ASTM to make it into an ASTM standard. BY MR. BECKER: Q. And so on this form where it says number 1, "I am submitting my original material," regardless of that statement, this document is not required if a member of a task group were to be drafting original material for the use in the ASTM standard draft so long as he was doing so directly with the task group itself and not bringing

10 (Pages 34 - 37)

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

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1	BY MR. BECKER:	1	THE WITNESS: Not at this time.
2	Q. I'm simply asking because you	2	BY MR. BECKER:
3	say you're not aware any formal forms that	3	Q. The basic understanding that
4	are used prior to 2003. So I'm asking if	4	you just described, how is that basic
5	there were any informal means by which ASTM	5	understanding documented?
6	believes that individuals transferred their	6	MR. FEE: Objection. Again,
7	copyright to ASTM prior to 2003?	7	instruct you not to disclose
8	MR. FEE: Objection. Calls for	8	communications with counsel on that
9	a legal conclusion. You shouldn't	9	subject, but if you have other
10	disclose your communications with	10	information, you can go ahead and
11	counsel on this subject, but if you	11	disclose that.
12	have other information, you can answer	12	THE WITNESS: I'm not sure what
13	about that.	13	you mean by "documented."
14	THE WITNESS: I don't believe	14	BY MR. BECKER:
15	we didn't feel like we needed any	15	Q. Are there any documents that
16	formal, any formal assignment paper.	16	reflect the basic understanding that you just
17	BY MR. BECKER:	17	described concerning the reasons for
18	Q. Why didn't ASTM feel like it	18	individuals contributing in the drafting of
19	needed any formal assignment paper?	19	ASTM standards?
20	MR. FEE: Objection. Calls for	20	A. No, we didn't feel like
21	a legal conclusion. You shouldn't	21	documentation was needed.
22	disclose any communication you had	22	Q. Does ASTM have any documents to
23	with counsel regarding the subject,	23	support its position that there was a basic
24	but if you have any other information	24	understanding between the members who
25	that's responsive, you can answer	25	excuse me, let me rephrase that.
	Page 42		Page 44
1	about that.	1	Does ASTM have any documents to
2	THE WITNESS: Because we felt	2	support its position that there was a basic
3	that there was a basic understanding,	3	understanding between the individuals who
4	there is a basic understanding today	4	drafted ASTM standards and ASTM that the
5	and there's been a basic understanding	5	copyright in those standards were to belong
6	for as long as ASTM has been around	6	to ASTM?
7	that the reason they come to the table	7	MR. FEE: Objection. Instruct
8	is for the sole purpose of developing	8	you not to disclose communications
9	an ASTM standard that will receive a	9	with counsel on that subject. If
10	logo, and that will be copyrighted and	10	you're aware of other documents, you
11	be distributed. Our members buy the	11	can go ahead and respond with respect
12	resulting standards from ASTM. We've	12	to them.
13	never, that I can recall, have had a	13	THE WITNESS: I'm not aware of
14	member or a nonmember take issue with	14	any documents.
15	ASTM selling the resulting copyrighted	15	BY MR. BECKER:
16	standard to them and to others. I	16	Q. Just a moment ago you were
17	believe that the reason they come to	17	describing the reasons why people participate
18	the table is because they want	18	in the drafting of ASTM standards. Could you
19	they're there for the sole purpose of	19	describe some of the incentives for
20	having a standard that will have an	20	individuals to participate in the drafting of
21	ASTM logo on it.	21	ASTM standards?
22	BY MR. BECKER:	22	MR. FEE: Objection. Lack of
23	Q. Anything else?	23	foundation. You can answer.
24	MR. FEE: Same objections and	24	THE WITNESS: In general, you
1 ~ '			
25	instructions.	25	can say that an individual would or

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1	a company or an individual would be	1	you might think are responsive to
2	interested in having an ASTM standard	2	that. If you have other information,
3	that they could say their product or	3	you can go ahead and answer.
4	service is in compliance with.	4	THE WITNESS: My understanding
5	BY MR. BECKER:	5	is that the members join as
6	Q. Are there any other reasons?	6	individuals, and that when they come
7	MR. FEE: Objection.	7	to an ASTM meeting, they're
8	THE WITNESS: I'm sure there are	8	contributing their own knowledge to
9	other reasons, I just can't think of	9	the ASTM standard.
10	any right now.	10	BY MR. BECKER:
11	BY MR. BECKER:	11	Q. When you say that's your
12	Q. Does ASTM have any forms by	12	understanding, is that also ASTM's
13	which companies have assigned any copyrights		understanding?
14	that they may have in the draft standards to	14	A. Yes.
15	ASTM?	15	MR. FEE: Same objections.
16	MR. FEE: Objection. To the	16	THE WITNESS: Yes.
17	extent it calls for a legal	17	MR. FEE: And instructions.
18	conclusion, I instruct you not to	18	BY MR. BECKER:
19	disclose communications with counsel	19	Q. When you say "members join as
20	on this subject, but if you have any	20	individuals," does this also include
21	documents to identify, go ahead.	21	individuals, does this use include individuals who are government employees?
22	THE WITNESS: I'm not aware of	22	A. Yes.
23	any.	23	Q. Does ASTM believe that
24	BY MR. BECKER:	24	government employees who are acting within
25	Q. Does ASTM distinguish between	25	the scope of their employees who are deting within
	Page 46	20	Page 48
1		1	
$\begin{vmatrix} 1\\2 \end{vmatrix}$	companies and individuals in the in its understanding of the granting of copyright	1 2	government join as individuals when they join ASTM?
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	rights to ASTM?	$\frac{2}{3}$	MR. FEE: Objection. Calls for
4	MR. FEE: Objection. Vague. To	4	a legal conclusion. Calls for
5	the extent I understand it, I think it	5	speculation. Instruct you not to
6	calls for a legal conclusion. To the	6	disclose communications with counsel
7	extent you think that requires you to	7	on this subject, but you can answer if
8	disclose any communication from	8	you have other information.
9	counsel, you shouldn't do so. If you	9	THE WITNESS: I'm not sure what
10	understand you have non-privileged	10	the individual members believe. I
11	information that is responsive, go	10	believe our committees believe that
11		11	
12	ahead and provide it. THE WITNESS: I'm not sure what	12	the input they get on the standards are from that individual, the
13		13 14	·
14	you mean by that question. BY MR. BECKER:	14	individual knowledge that they're providing, not necessarily a company
15		15 16	or a government position.
17	Q. Let me rephrase. If an individual fills out a form that ASTM	17	BY MR. BECKER:
18		17	
18	believes assigns a copyright to ASTM but that	18 19	Q. And what's your basis for
20	individual is employed by a company and is		believing that that is what the members of the committee believe?
20	acting in the scope of employment, does ASTM		
21	believe that a copyright is granted to it?	21 22	A. Just my experience.
22	MR. FEE: Objection. Calls for a legal conclusion. Calls for	22	Q. What experience are you referring to?
23	speculation. You shouldn't disclose	23 24	A. My experience with working with
24	any communications with counsel that	24	technical committees.
23	Page 47	25	Page 49
			1 uBe 12

13 (Pages 46 - 49)

1	Q. Can you provide any specific	1	relate to?
2	examples?	2	MR. BECKER: This relates to the
3	MR. FEE: Objection. Vague.	3	issue of ownership and copyright.
4	THE WITNESS: I've managed	4	The forms that were provided to
5	probably 20 maybe different committees	5	us include
6	during my time. A specific example	6	MR. FEE: I'll let you answer
7	would be D04 road and paving	7	his question.
8	committee.	8	THE WITNESS: I don't know.
9	BY MR. BECKER:	9	MR. FEE: We've been going about
10	Q. And could you, please, describe	10	an hour, could we take a short break
11	what instances you're referring to?	11	now?
12	MR. FEE: Objection. Vague.	12	MR. BECKER: In just a couple of
13	THE WITNESS: Instances of what?	13	minutes or so.
14	BY MR. BECKER:	14	MR. FEE: I'll give you a couple
15	Q. Instances where you believe	15	more questions. I'm ready to take a
16	that the participation of government, federal	16	break. Go ahead.
17	government employees constituted their	17	BY MR. BECKER:
18	participation in an individual capacity and	18	Q. What communications do you have
19	not in their capacity as employees of the	19	with individuals who were employed by the
20	federal government?	20	federal government and participated in at
21	A. Just like I said, my	21	least one of those 20 different committees
22	experience. I'm not sure how I would be able	22	that you managed that reflected their
23	to characterize a specific example.	23	participation in an individual capacity and
24	Q. Could you refer to particular	24	not as federal government employees?
25	individuals who you who were members, who	25	MR. FEE: Objection. Calls for
	Page 50		Page 52
	8- + +		
1	are employed by the federal government that	1	a legal conclusion. Compound.
1 2		1 2	a legal conclusion. Compound. THE WITNESS: I'm not sure what
	are employed by the federal government that you interacted with in your management of these 20 different committees that you		THE WITNESS: I'm not sure what you're asking.
2	are employed by the federal government that you interacted with in your management of these 20 different committees that you believe were participating in their	2	THE WITNESS: I'm not sure what you're asking. BY MR. BECKER:
2 3	are employed by the federal government that you interacted with in your management of these 20 different committees that you believe were participating in their individual capacity and not as employees of	2 3	THE WITNESS: I'm not sure what you're asking. BY MR. BECKER: Q. Do you have any specific
2 3 4 5 6	are employed by the federal government that you interacted with in your management of these 20 different committees that you believe were participating in their individual capacity and not as employees of the federal government?	2 3 4	THE WITNESS: I'm not sure what you're asking. BY MR. BECKER: Q. Do you have any specific communications that reflect your belief that
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$2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ 21 \\ 10 \\ 10 \\ 10 \\ 10 \\ 10 \\ 10$	are employed by the federal government that you interacted with in your management of these 20 different committees that you believe were participating in their individual capacity and not as employees of the federal government? MR. FEE: Objection. Calls for a legal conclusion. THE WITNESS: No, I don't know. I don't know for sure. BY MR. BECKER: Q. The membership fees for federal government employees, are these typically paid by the individuals or paid by the federal government? MR. FEE: Objection. This is beyond the scope, I think, of any of the topics we're here to have testimony today. Does this have something to do with one of the three topics?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	THE WITNESS: I'm not sure what you're asking. BY MR. BECKER: Q. Do you have any specific communications that reflect your belief that individuals who you interacted with on one of these 20 different committees that you manage were participating as in their individual capacity and not as federal government employees? MR. FEE: Objection. Calls for a legal conclusion. Compound. THE WITNESS: I don't have any concrete examples that I can think of. BY MR. BECKER: Q. And do you have any specific observations that you can think of that would show that individuals who participated in one of these 20 different committees were acting in their individual capacity and not as
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14 (Pages 50 - 53)

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

15 (Pages 54 - 57)

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2today?(Exhibit 1285, Intellectual3A. Relative to our members'3Property Policy of ASTM, Bates4awareness that they're assigning copyrights5to ASTM, Ibelieve you had asked that56question prior to 2003.67Q. Yes.7BY MR. BECKER:88A. ASTM also has an Intellectual8Q. Pm handing you what's been9Property Policy that makes our members aware10Intellectual Property Policy of ASTM that you11Q. And when was ASTM's11had just mentioned?12Intellectual Property Policy first12A. Yes, I believe this is a13instituted?11had just mentioned?14A. Tm not sure, but I believe it14Q. Are there multiple versions of15was inte '90s.16A. T believe there were at least17than ASTM's Intellectual Property Policy?16A. I believe there were at least17than ASTM's intellectual Property Policy and the copyright20A. It believe there were at least18you believe contributes to ASTM's belief that19A. It believe there were at least19there was an understanding that the copyright20A. It adopted on the last23answered. Are you asking him to23page. Is that correct?24mentioned before or are you excluding22first page and at the bottom of the last25mentioned before?3BY MR. BECKER:26MR. F				
3 A. Relative to our members' 3 Property Policy of ASTM, Bates 4 awareness that they're assigning copyrights 5 ASTM 103277 - ASTM103284, was marked 6 question prior to 2003. 6 7 Q. Yes. 6 8 A. ASTM also has an Intellectual 9 Property Policy that makes our members aware 6 0 of that aw well. 1		of the questions we've discussed so far		
4 awareness that they're assigning copyrights 4 ASTM103277 - ASTM103284, was marked 5 to ASTM, I belive you had asked that 5 for identification.) 6 question prior to 2003. 7 BY MR. BECKER: 8 A. ASTM also has an Intellectual 8 Q. I'm handing you what's been 9 Property Policy that makes our members aware 0 Intellectual Property Policy of ASTM that you 11 Q. And when was ASTM's 11 had just mentioned? 11 11 had just mentioned? 2 A. That is cerver. 11 13 instituted? 14 Q. Are there multiple versions of 15 14 A. Tim not sure, but I believe it 14 Q. This says it was approved on 16 19 there was an understanding that the copyright 19 April 28, 1999. Correct? 2 20 of individuals who participated in the 21 Q. It says that at the top of the 21 21 dusted on the last gage, not 2 3 page. 18 that correct? 2 24 repeat all the other things he 2 3 3 30 30 31	2	today?		
5to ASTM, I believe you had asked that 65for identification.)6question prior to 2003.7Q. Yes.7Q. Yes.BYMR. BECKER:88A. ASTM also has an Intellectual9marked as Exhibit 1285. Is this the9of that as well.9marked as Exhibit 1285. Is this the10Q. And when was ASTM's11Intellectual Property Policy of ASTM that you11Q. And when was ASTM's12Intellectual Property Policy of ASTM that you11A. Tm not sure, but I believe it14Q. Are there multiple versions of14A. Tm not sure, but I believe it14Q. Are there multiple versions of15was in the '90s.15the ASTM intellectual property policy?16Q. Is there anything else other15the ASTM intellectual property policy?17than ASTM's Intellectual Property Policy that18Q. This says it was approved on19there was an understanding that the copyright10A. It does say that.20of individuals who participated in the21ftst gase and at the botm of the last23answered. Are you asking him to23page. Is that correct?24those?1adopted on the last page, not25MR. BECKER: Were there other3BY MR. BECKER:4MR. FEE: Oh, occuments.10A. Fte: Objection. It says7everything he can think of now again?9April 1099." Is that correct?8MR. BECKER: I don't thin	3		3	
6 question prior to 2003. 6 7 Q. Yes. 7 BY MR. BECKER: 8 Q. Tim handing you what's been 9 Property Policy that makes our members aware 9 marked as Exhibit 1285. Is this the 10 of that as well. 10 Intellectual Property Policy of ASTM that you 11 Q. And when was ASTM's 11 had just mentioned? 12 Intellectual Property Policy first 12 A. Yes, I believe this is a 13 institute? 13 version of it. 14 A. I'm not sure, but I believe it 14 Q. Are there multiple versions of 15 was in the '90s. 16 A. I believe this is a 16 Q. Is there anything else other 16 A. I believe this was approved on 19 there was an understanding that the copyright 18 Q. This says it was approved on 10 of individuals who participated in the 2 first page and at the bottom of the last 21 answered. Are you asking him to 2 2 first page, not 22 MR. BECKER: Were there other 3 approved. 3 3	4		4	ASTM103277 - ASTM103284, was marked
7 Q. Yes. 7 BY MR. BECKER: 8 A. ASTM also has an Intellectual 9 Property Policy that makes our members aware 10 of that as well. 9 marked as Exhibit 1285. Is this the 11 Q. And when was ASTM's 11 had just mentioned? 12 Intellectual Property Policy of ASTM that you 13 instituted? 12 A. Yes, I believe this is a 13 instituted? 12 A. Yes, I believe this is a 14 A. Tm not sure, but I believe it 14 Q. Ard when was ASTM's 14 A. Tm not sure, but I believe it 14 Q. Are there multiple versions of 14 A. Tm not sure, but I believe thit 14 Q. Are there multiple versions of 15 the ASTM's Intellectual property Policy? 16 A. I believe there were at least 17 than ASTM's Intellectual property Policy? 16 A. It does say that. 20 of individuals who participated in the 20 A. It does say that. 21 drafting of ASTM standards was owned by ASTM? 21 Q. It says that at the too of the 23 mentioned before or are you excluding	5		5	for identification.)
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21 Q. Is there anything else that you 21 the '90s. Maybe mid '90s, but I'm not sure.		· · · · ·		
				_
	22	have to add to your earlier testimony other	22	Q. Does ASTM have any record of an
 23 than your mention of the IP Policy? 23 Intellectual Property Policy prior to this 		•		· ·
24 A. I can't think of anything at 24 A.		•		
25 this time. 25 A. I'm not sure.				
Page 59 Page 61				

16 (Pages 58 - 61)

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

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

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

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1	THE WITNESS: Maybe.	1	question, go ahead and answer.
2	MR. FEE: Or maybe.	2	THE WITNESS: I would imagine
3	BY MR. BECKER:	3	our general counsel would know.
4	Q. When you say "maybe," what do	4	BY MR. BECKER:
5	you mean?	5	Q. If you look at Exhibit 1285,
6	A. I'm not sure exactly what you	6	does clause IV C exist in that document?
7	mean. I know I can see right here there were	7	A. I don't see it.
8	revisions, I could read these. 1286, like	8	MR. FEE: Objection. The
9	the difference, the differences, but	9	document speaks for itself.
10	Q. Could you tell me what is the	10	BY MR. BECKER:
11	purpose of the clause at part IV C in	11	Q. Do you know why ASTM introduced
12	Exhibit 1286?	12	that clause at section IV C subsequent to the
13	MR. FEE: Objection to the	13	April 28, 1999, version of the ASTM
14	extent it calls for a legal	14	Intellectual Property Policy?
15	conclusion. To the extent your	15	MR. FEE: Objection. Calls for
16	understanding of the purpose of any	16	a legal conclusion. You shouldn't
17	MR. BECKER: Excuse me.	17	disclose any communications with
18	MR. FEE: changes in clauses	18	counsel regarding that subject matter.
19	is based upon communications with	19	If you otherwise know why that was
20	counsel, I instruct you not to answer.	20	done, you can answer it.
21	MR. BECKER: Let me say let	21	THE WITNESS: No.
22	me rephrase.	22	BY MR. BECKER:
23	BY MR. BECKER:	23	Q. Is ASTM aware of any ASTM
24	Q. I meant Exhibit 1288.	24	members seeking legal advice to explain any
25	MR. FEE: Same objections and	25	of the language in the ASTM Intellectual
	Page 74		Page 76
1	instructions.	1	Property Policy?
2	BY MR. BECKER:	2	MR. FEE: Hold on a second. You
3	Q. Let me restate for the record.	3	can answer it yes or no or maybe.
4	In Exhibit 1288, what is the purpose of the	4	THE WITNESS: I'm not aware of
5	clause at part IV C?	5	any.
6	MR. FEE: Objection. Calls for	6	BY MR. BECKER:
7	a legal conclusion. To the extent of	7	Q. If you don't know what the
8	your understanding of the purpose of	8	clause at section IV C means, why would you
9	that clause is based on communications	9	expect an ASTM member to know what that
10	with counsel, you shouldn't disclose	10	clause means?
11	that. If you have another basis for	11	MR. FEE: Objection. Calls for
12	understanding the purpose of that	12	speculation. Mischaracterizes his
13	clause, go ahead and answer.	13	testimony. You can answer.
14	THE WITNESS: I don't know what	14	THE WITNESS: I don't know.
15	that means. It seems like it's very	15	BY MR. BECKER:
16	legal speak.	16	Q. Does ASTM know whether any ASTM
17	BY MR. BECKER:	17	member actually understands this language
18	Q. Who would know?	18	MR. FEE: Objection. Calls
19	MR. FEE: Objection. Calls for	19	for
20	speculation. To the extent that your	20	BY MR. BECKER:
21	answering that question would require	21	Q in the IP Policy?
22	you to disclose communications that	22	MR. FEE: Vague. Calls for
23	you've had with counsel, you shouldn't	23	speculation.
24	disclose those. If you otherwise know	24	THE WITNESS: I don't know
27			
25	who would know the answer to that Page 75	25	either way. Page 77

20 (Pages 74 - 77)

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1	BY MR. BECKER:	1	in that draft standard to ASTM?
2	Q. Does ASTM know one way or	2	MR. FEE: Objection. Calls for
3	another whether any members actually	3	a legal conclusion.
4	understand the language in its Intellectual	4	THE WITNESS: I'm not sure I
5	Property Policy?	5	understand that question.
6	MR. FEE: Objection. Calls for	6	BY MR. BECKER:
7	speculation.	7	Q. Just to back up a moment.
8	THE WITNESS: I can't think of	8	When in your previous answer when you said
9	any evidence either way.	9	that the only situations you can recall are
10	BY MR. BECKER:	10	the ones we talked about earlier using that
11	Q. Returning to Exhibit 1288,	11	form, were you referring to Exhibit 1284, the
12	section V D, it says, "If requested by ASTM	12	ASTM International Participation and
13	International, such Participants and	13	Acknowledgement Form?
14	committee members agree to execute any and	14	A. Yes.
15	all documents deemed necessary or appropriate	15	Q. Returning to my question, let's
16	by ASTM International to transfer and	16	see if I can clarify. Section V D says, "If
17	effectuate ownership of all such rights,	17	requested by ASTM International, such
18	including but not limited to copyrights, they	18	Participants and committee members agree to
19	may possibly have in ASTM IP." And the first		execute any and all documents deemed
20	page, first paragraph says, "Standards,	20	necessary, or appropriate by ASTM
21	Draft Standards, Adjuncts, Certification	21	International to transfer and effectuate
22	Programs and related materials, Technical	22	ownership of all such rights, including but
23	Papers, Research Reports, Manuals, Software,	23	not limited to copyrights, they may possibly
24	Training Course Materials and Logos	24	have in ASTM IP."
25	collectively referred to as 'ASTM IP'''?	25	Once a once an individual
	Page 78		Page 80
1	A. Where were you reading that	1	has contributed to the drafting of an ASTM
2	first sentence?	2	standard, has ASTM ever asked an individual
3	Q. That was from the first	3	to assign the copyright in a draft document
4	paragraph on the front page under	4	that he or she has already created to ASTM?
5	"INTRODUCTION," it defines ASTM IP as those	5	MR. FEE: Objection. Calls for
6	items that I just listed.	6	a legal conclusion.
7	A. Okay.	7	THE WITNESS: I really don't
8	Q. So returning to section V D,	8	know either way. It's possible.
9	are you aware of excuse me, is ASTM aware	9	BY MR. BECKER:
10	of any instances where it has requested	10	Q. Other than your reference to
11	individuals to agree to execute any documents	11	Exhibit 1284, are there other instances in
12	necessary to transfer copyright ownership to	12	which ASTM has asked an individual to execute
13	ASTM?	13	an assignment of copyright to ASTM?
14	MR. FEE: Objection. Vague.	14	A. Yes.
15	THE WITNESS: The only	15	Q. What instances are those?
16	situations that I can recall are the	16	A. On our work item registration
17	ones that we talked about earlier	17	process, there is a click through that
18	using that form. I seem to remember	18	requests that that individual assign all
19	that there were instances where we	19	rights to their contributions both past and
20	used that form, but I don't know the	20	present as well as on our membership
21	specifics about them.	21	application and also on our renewal
21	BY MR. BECKER:	22	application and also on our collaboration
23	Q. Subsequent to the drafting of	23	area.
24	any standards, has ASTM ever retroactively	23	Q. And those are the online forms
25	asked an individual to assign their copyright	25	that you referred to earlier today as having
125	usives an marriadar to assign their copyright	20	that you referred to earlier today as having
	Page 79		Page 81

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

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1	knowledge.	1	(A recess was taken.)
2	Q. Did you approach Marge Cassidy	2	
3	or did she approach you in preparation for	3	VIDEOGRAPHER: The time is now
4	your deposition today?	4	1:58. We're back on the video record.
5	MR. FEE: Objection. Lack of	5	This begins disc two.
6	foundation.	6	
7	THE WITNESS: I didn't initiate	7	(Exhibit 1289, Defendant
8	it and she didn't initiate it. We	8	Public.Resource.Org, Inc.'s Amended
9	called a meeting. Our general counsel	9	Notice of Rule 30(b)(6) Deposition of
10	called a meeting.	10	American Society for Testing and
11	BY MR. BECKER:	11	Materials, was marked for
12	Q. Who was in attendance at that	12	identification.)
13	meeting?	13	
14	A. Our legal team and Marge.	14	BY MR. BECKER:
15	Q. Do you know the date of that	15	Q. Mr. Smith, I'm handing you
16	meeting?	16	what's been marked as Exhibit 1289. This is
17	A. It was yesterday.	17	the "PUBLIC.RESOURCE.ORG AMENDED NOTICE OF
18	Q. How long did you meet for?	18	RULE 30(B)(6) DEPOSITION OF AMERICAN SOCIETY
19	A. Maybe 10, 15 minutes.	19	FOR TESTING AND MATERIALS." Do you recognize
20	Q. What did you speak with Marge	20	this document?
21	about at that meeting?	21	A. I do.
22	A. Just wanted to get her	22	Q. Have you seen this document
23	perspective on anything that has to do with	23	before?
24	assigning copyright.	24	A. I believe I have.
25	Q. And what was Marge's	25	Q. And do you understand that you
	Page 86		Page 88
1	perspective?	1	
		1	are testifying on behalf of ASIM today?
	A. She didn't have much of a		are testifying on behalf of ASTM today? A. I do.
2	A. She didn't have much of a	2	
2 3	A. She didn't have much of a perspective as someone who works in	2 3	A. I do. MR. FEE: Just so the record is
2 3 4	A. She didn't have much of a perspective as someone who works in accounting. But she's a senior staff person	2 3 4	 A. I do. MR. FEE: Just so the record is clear, he's testifying on behalf of
2 3 4 5	A. She didn't have much of a perspective as someone who works in accounting. But she's a senior staff person who has been at ASTM for a long time, so I	2 3 4 5	 A. I do. MR. FEE: Just so the record is clear, he's testifying on behalf of ASTM with respects to Topics 2, 3 and
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1 BY MR. BECKER: 1 A. Ireviewed our current ASTM 2 Q. Mr. Smith, you understand that 3 Q. Did you do anything else to 4 questions on the topics on which you've been 9 Did you do anything else to 6 of ASTM. Correct? Q. Did you or eview any other 7 A. Yes, I believe it's 2, 3 and 2 9 Q. And have you prepared to answer 7 Q. Did you review any other 1 A. Yes, I 0. Did you review any other 12 Q. And have you prepared to answer 6 13 answering these questions on those topics on 11 14 behalf of ASTM? 12 15 A. Yes. 13 that have Bates numbers associated with them. 16 Q. Mr. Smith, when did you prepare 16 somewhere, the ones that we produced? 16 to answer topics at deposition today? 18 MR. FEE: You have to answer his 18 MR. FEE: Objection. Vague. 19 THE WITNESS: Yesterday and on 10 Tuesday. 20 THE WITNESS: I's or the deposition today? 2 Q. Tuesday of this weck? 20 Do you re				
3you are responsible for preparing to answer3Q. Did you do anything else to4questions on the topics on which you've been4prepare for the deposition today?7A. Yes, I believe it's 2, 3 and7Q. Did you review any other824.7Q. Did you review any other9Q. And have you prepared to answer7Q. Did you review any other10questions on Topics 2, 3 and 24?7Q. Did you which documents that had11A. Yes.10A. Treviewed documents associated with them.12Q. And you understand that you are12Q. Do you know which documents13answering these questions on those topics on14the Bates numbers associated with them.14behalf of ASTM?12Q. Do you know which documents15A. Yes.16Somewhere, the ones that ye produced?16O. Mr. Smith, when did you prepare16somewhere, the ones that ye produced?17to answer topics at deposition today?18questions, I cart give you the19THE WITNESS: Yesterday and on19answers.20Tuesday, of this week?21BY MR. BECKER:21BY MR. BECKER:22Q. Do you recall the titles of any23A. Correct.24Bates numbers on them?24Q. And when were you first26A. There were specific examples of reger 9025A. UrissFigure 9A. There were specific examples of reger 913the date was sometim				
4questions on the topics on which you've been 54prepare for the deposition today?5noticed and which you are appearing on behalf 6 of ASTM. Correct?7A. Yes, I believe it's 2, 3 and 87Q. Did you review any other7A. Yes, I believe it's 2, 3 and 907Q. Did you review any other824.7Q. Did you review any other9Q. And have you prepared to answer 101A. Yes.10A. I reviewed documents that had 1111A. Yes.10A. I reviewed documents 910A. I reviewed documents 1212Q. And you understand that you are 13answering these questions on those topics on 1413that base sumbers associated with them.12Q. And you understand that you are 14that you reviewed?13that have Bates numbers associated with them.15A. Yes.15THE WITNESS: Do we have them 1616that you reviewed?16normetry10RE FE: You have to answer 1518questions, I can't give you the 1917Tuesday.11MR. FEE: You have to answer 1618questions, I can't give you the 1918MR. FEE: Objection. Vague.18guestions, I can't give you the 191920Tuesday.2119answers.21Not thinking of right now, but yes.101022Q. And when were you first 150. The deposition today?13the date was sometime in maybe the fi		Q. Mr. Smith, you understand that	2	
5noticed and which you are appearing on behalf 6 of ASTM. Correct?5A. I met with the people that I6of ASTM. Correct?0.Did you review any other7A. Yes, I believe it's 2, 3 and24.0.9Q. And have you prepared to answer9just listed a moment ago?1A. Yes.10A. Treviewed documents that had11A. Yes.12Q. Do you know which documents12Q. And you understand that you are13that have Bates numbers associated with them.12Q. And you understand that you are13that have Bates numbers associated with them.14behalf of ASTM?14that you reviewed?15A. Yes.15THE WITNESS: Yesterday and on10Tuesday.10THE WITNESS: Yesterday and on10Tuesday.20THE WITNESS: Yesterday and on12Q. Tuesday of this week?21BY MR BECKEI:22Q. Tuesday of this week?22Q. Do you recall the titles of any23A. Correct.23of the documents that you reviewed that had24O. And when were you first1memberships that were specific examples of Page 902N. Itak we found out, exactly313A. Teriewed the membership224out and you do to prepare15Q. Have you done any preparation66for your deposition today?17Q. Mat didy ou do to prepare9				
6 of ASTM. Correct? 6 mentioned previously. 7 A. Yes, I believe it's 2, 3 and 7 Q. Did you review any other 8 24. 7 Q. Did you review any other 9 Q. And have you prepared to answer 9 just listed a moment ago? 10 questions on Topics 2, 3 and 24? 10 A. I reviewed documents that had 11 A. Yes. 10 Q. Do you know which documents 13 answering these questions on those topics on 13 that have Bates numbers associated with them. 12 Q. And you understand that you are 13 that have Bates numbers associated with them. 16 Q. Mr. Smith, when did you prepare 15 THE WITNESS: Do we have them 16 mestioned, reviewed? 15 THE WITNESS: I'm sorry. 18 MR. FEE: Objection. Vague. 19 answers. 20 Tuesday. 21 BY MR. BECKER: 21 21 BY MR. BECKER: 21 BY MR. BECKER: 22 Q. Do you recall the titles of any 23 A. Correct. 23 A fushik we found out, exactly a methored fright wow withet had <t< td=""><td> 4</td><td></td><td>4</td><td>· · ·</td></t<>	4		4	· · ·
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9Q. What did you do to prepare9A. Yes.10during that time period?10Q. So were there any other11A. I reviewed the membership11documents other than the ones that you12screens, the renewal screens, the work item12described just a moment ago specifically that13registration pages and12described just a moment ago specifically that14Q. Did you do I'm sorry.14deposition today that did not have Bates15A any ASTM intellectual15numbers on them?16property files.16MR. FEE: Objection. Asked and17Q. And when you say the membership17answered. Go ahead.18screens, the renewal screens, and the work18THE WITNESS: I don't believe19item registration pages, are you referring to20BY MR. BECKER:20the start of our deposition today?21Q. When did you meet with Jim22A. Yes.22Thomas in preparation for your deposition	7	week of July and Tuesday of this week?	7	reviewed, did they all have Bates numbers on
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20the same pages that you had discussed near20BY MR. BECKER:21the start of our deposition today?21Q. When did you meet with Jim22A. Yes.22Thomas in preparation for your deposition	18		18	THE WITNESS: I don't believe
20the same pages that you had discussed near20BY MR. BECKER:21the start of our deposition today?21Q. When did you meet with Jim22A. Yes.22Thomas in preparation for your deposition				
21the start of our deposition today?21Q.When did you meet with Jim22A.Yes.22Thomas in preparation for your deposition	20		20	BY MR. BECKER:
22A. Yes.22Thomas in preparation for your deposition	21	·	21	Q. When did you meet with Jim
	22	· ·	22	•
	23	Q. And when you say that you	23	today?
24 reviewed any ASTM intellectual property 24 A. On Tuesday, whatever day that				•
25 files, what do you mean by that? 25 was. On Tuesday, last Tuesday.	25		25	
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24 (Pages 90 - 93)

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1	Q. What did you discuss with Jim	1	Q. Did Jim Thomas say all of that
2	Thomas when you met with him then?	2	to you? When I say "all of that," I'm
3	A. I asked Jim about any memory	3	referring to your previous statement that you
4	that he has relative to assignments of	4	attributed to Jim Thomas, were all of those
5	copyright.	5	statements from Jim Thomas?
6	Q. And what did he say?	6	MR. FEE: Objection. Compound.
7	A. Pretty much what I've explained	7	THE WITNESS: Jim has told me
8	to you relative to formally getting	8	and I have seen Jim do these
9	documentation from our members on assignment	9	presentations.
10	from 2003 to the present relative to our	10	BY MR. BECKER:
11	renewal forms, membership application forms,	11	Q. When you spoke with Jim Thomas
12	collaboration area. And then prior to that,	12	on Tuesday, did he say that a member has
13	Jim's recollection and feelings were that	13	never challenged the copyright assertions by
14	copyright assignment from our members was a	14	ASTM?
15	very basic understanding that our members had	15	A. Yes.
16	and our staff have had, the sole purpose they	16	Q. And when you met with Jim
17	come to an ASTM meeting is to develop a	17	Thomas on Tuesday, did he say that the fact
18	standard that's going to result in an ASTM	18	that ASTM sells standards to its members is a
19	approved standard with a logo on it that's	19	basis for why there may be an understanding
20	copyrighted.	20	that by ASTM members, that their
20	Q. Did Mr. Thomas identify any	20	contributions would be copyrighted by ASTM?
$ ^{21}_{22}$	basis for his belief that copyright	22	A. He had indicated that the fact
22	assignment from ASTM members was a very basic	23	that we sell the standards back to our
23	understanding, as you described it, that ASTM	23	members is probably a real good indication
25	members had with the purpose of developing an	25	that there's a basic understanding from our
23	Page 94	23	Page 96
1	ASTM standard?	1	members that we are copyrighting the material
2	A. Can you explain?	2	that they contribute.
3	Q. Let me rephrase that. Did	3	Q. Did Jim Thomas say anything
4	Mr. Thomas identify any basis for his belief	4	else to you when you met with him on Tuesday?
5	that ASTM members had an understanding that		MR. FEE: Objection. Vague.
6	their drafts would be that the copyright	6	THE WITNESS: I can't think of
7	for their drafts would be held by ASTM?	7	anything else specific that he said.
8	A. I think his basis was on the	8	BY MR. BECKER:
9	fact that we've never had a member that has	9	Q. Did you ask Jim Thomas any
10	really questioned, that we can recall, or	10	questions when you met with him on Tuesday?
11	challenged ASTM copyrighting something.	11	A. No, I don't think I asked him
12	Another basis being that we sell our	12	any questions. I think the meeting was
13	standards and our members are some of our	13	basically to discuss copyright assignment.
14	biggest customers, so they're buying the	14	And I don't know if it was more of a
15	standards from us. Jim Thomas has provided	15	discussion, I don't think we had I had
16	numerous presentations at different committee	16	questions. I mean, I didn't need to ask
17	meetings announcing about this lawsuit and	17	questions. It was a discussion.
18	what the ramifications potentially could be.	18	Q. A moment ago you referred to
19	How it could affect our business model and	19	the \$75 fee. Do ASTM members excuse me,
20	how we want to maintain our low entry for	20	let me rephrase.
21	participation, \$75 membership, no meeting	21	Do individuals have to pay ASTM
22	fees, and we sell our resulting standards so	22	a fee to participate in the standard drafting
23	that we can support our operations. And the	23	process?
24	members, based on the presentations that I've	24	MR. FEE: Objection. Asked and
25	seen, have embraced that concept.	25	answered.
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25 (Pages 94 - 97)

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

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1	presentation slides that are available for	1	helped create the electronic version of the
2	our annual meetings.	2	forms that appear on the ASTM Web site. Is
3	Q. You said you also meet with	3	that what you're saying?
4	Phil Lively, the vice president of	4	MR. FEE: Objection. Compound.
5	technology. Is that correct?	5	THE WITNESS: I'm not sure what
6		6	exactly you mean by that, but
7		7	essentially he was able to accomplish
8		8	getting the language up onto the
9	5 5	9	screens so that the members can
10	Lively about yesterday?	10	acknowledge the statement during the
11	A. About copyright assignments for	11	process.
11	members to ASTM.	12	BY MR. BECKER:
12		12	
	Q. And what did Phil Lively tell		Q. Did Mr. Lively draft any of the
14	5	14	language on the membership application or
15	1	15	renewal forms or any of the other forms that
16	0 0 0	16	you're describing?
17	earlier on the membership application screens	17	MR. FEE: Objection. Compound.
18	and the membership renewal screens and the	18	THE WITNESS: I don't believe
19		19	SO.
20	0	20	BY MR. BECKER:
21	Q. When you say, "the language	21	Q. What did Mr. Lively tell you
22	that we talked about earlier," are you	22	about the work that he did related to
23	referring to language that ASTM believes	23	copyright assignments?
24	assigns copyright from individuals to ASTM?	24	A. Just that he could remember
25		25	helping with putting the information up on
	Page 102		Page 104
1	a legal conclusion.	1	the Web screens, and he could remember when
2	THE WITNESS: The language that	2	he was a staff manager back in the very
3	we talked about that is on the	3	beginning time, I think it was early '80s
4	membership applications, yes. That	4	when he was a staff manager, and kind of
5		5	reiterating what I had previously said about
6	6	6	there being an understanding that our members
7	joining as a new member or renewing	7	understand that their contributions to ASTM,
8	their membership or opening up a	8	is well understood that we're going to
9		9	copyright that material.
10	-	10	Q. Did Mr. Lively provide any
11		11	basis for his statement that there was an
11		11	
			understanding in the early '80s that ASTM
13	BY MR. BECKER:	13	would copyright the material provided by
14		14	individuals that was incorporated into the
15		15	standard drafts?
16	e	16	A. Can you repeat that question?
17	3 6	17	Q. Yes. Did Mr. Lively provide
18		18	any basis for his statement that there was an
19		19	understanding in the early '80s that ASTM
1			
20	that language up onto our Web site,	20	would copyright the material provided by
21	that language up onto our Web site, onto the screens.	21	would copyright the material provided by individuals that was incorporated into the
21 22	that language up onto our Web site, onto the screens.		
21	that language up onto our Web site, onto the screens.	21	individuals that was incorporated into the
21 22	that language up onto our Web site, onto the screens.BY MR. BECKER:Q. So you're saying that	21 22	individuals that was incorporated into the standard drafts?
21 22 23	that language up onto our Web site, onto the screens.BY MR. BECKER: Q. So you're saying thatMr. Lively was involved in the Mr. Lively	21 22 23	individuals that was incorporated into the standard drafts? A. No. I think it was just his

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1 THE WITNESS: Yeah, I'm not 2 A. Not that I can recall. 3 sure. I think it. i - it was I think 3 Q. Did you have any other 3 it was in the early 2000s. 4 communications with Mr. Lively in preparation 6 spoke with Phil Lively yesterday in 6 A. No. 7 preparation for your deposition today, did 8 9 communications with John Pace in preparation 9 you ask him when the Web forms were first set 9 opy our deposition today other than with 13 THE WITNESS: I don't believe 1 16 necting with him yesterday? 11 WR. FIEE: Objection to form. 17 A. No. 12 Compound. 18 Q. You said that you also met with 13 THE WITNESS: I don't believe 1 14 Kathie? 16 Q. Did Mr. Lively tell you 17 A. Yes. 17 yesterday when the Web forms that include 18 M. Yesterday. 10 MR. FIEE: Objection to form. 19 that true? Q. Did Mr. Lively tell you 18 14 Kathie? Web site were first set up? 20				
3Q.Did you have any other 43it was in the carly 2000s.4communications with Mr. Lively in preparation for your deposition today other than that meeting yesterday?4BY MR. BECKER: 97A. No.7preparation for your deposition today other than your 106spoke with Phil Lively yesterday in 97A. No.7preparation for your deposition today other than your 10for your deposition today other than your 11910for your deposition today other than your 11neeting with him yesterday?111112A. No.12Compound.13Q. You said that you also met with 14Kathie Morgan, the executive vice president, 1514asked him.15in preparation for your deposition today. Is 1615BY MR. BECKER: 101614Kathie?16Q. Did Mr. Lively tell you yesterday when the Web forms that include 1815in preparation for your deposition today. Is 1816Q. Did Mr. Lively tell you yesterday when the Web forms that include 1814Kathie?10MR. FEE: Objection to form.15Q. What did you discuss with 2121Compound.22Kathie at your meeting yesterday?2223A. Yesterday.20MR. FEE: Objection to form.24had here, 1284, and her recollection of what 24had here, 1284, and her recollection of what 2424had here, 1284, and her recollection of what 24had here, 1284, and her recol		with Mr. Lively at that meeting?	1	THE WITNESS: Yeah, I'm not
4communications with Mr. Lively in preparation for your deposition today other than that meeting yesterday?4BY MR. BECKER: 0 77A. No.7preparation for your deposition today, did you ask him when the Web forms were first set up that included language concerning to ryour deposition today other than your in meeting with him yesterday?7710for your deposition today other than your in meeting with him yesterday?107711A. No.12Compound.13Compound.12A. No.12Compound.14813Q. You said that you also met with it hat here?13THE WITNESS: I don't believe I asked him.14Kathie Morgan, the executive vice president, it in preparation for your deposition today. Is to that true?15BY MR. BECKER:14Kathie?Q. And when did you meet with the ASTM Web site were first set up?16Q. Did Mr. Lively tell you the ASTM Web site were first set up?20A. Yest20MR. FEE: Objection to form.2121Q. Mhat did you discuss with that form was used for.21Compound.22THE WITNESS: I don't believe that form was used for.22THE WITNESS: I don't believe to form.23A. Yes.20Other than Marge Cassidy, Jim Page 10824Q. That's Exhibit 1284 you were treferencing?1Thomas, John Pace, Phil Lively and Kathie25dout this him preparation for your deposition to day?30A. No.		A. Not that I can recall.	2	sure. I think it it was I think
5 for your deposition today other than that 5 Q. Taking a step back, when you 6 meeting yesterday? 6 spoke with Phil Lively yesterday in 7 A. No. 7 preparation for your deposition today, did 9 communications with John Pace in preparation 9 up that included language concerning 10 neeting with him yesterday? 10 copyright assignments on the ASTM Web site? 11 meeting with him yesterday? 11 MR. FEE: Objection to form. 12 A. No. 12 Compound. 13 Q. You said that you also met with 13 THE WITNESS: 1 don't believe 1 14 Kathie Morgan, the executive vice president, 14 asked him. 19 Kathie? 17 yesterday. 16 20 A. Yes. 17 yesterday. 10 21 Q. What did you discuss with 21 Compound. 22 22 A. Weesterday. 20 MR. FEE: Objection to form. 21 22 Mathie? 10 the I don't believe he said. 24 24 had here, 1284, and her recollection of	3	Q. Did you have any other	3	it was in the early 2000s.
6meeting yesterday?6spoke with Phil Lively vesterday in7A. No.7preparation for your deposition today, did8Q. And did you have any other9you ask him when the Web forms were first set9communications with John Pace in preparation9up that included language concerning10for your deposition today other than your10copyright assignments on the ASTM Web site?11meeting with him yesterday?11MR. FEE: Objection to form.12A. No.12Compound.13Q. You said that you also met with13THE WITNESS: I don't believe I14kathie Morgan, the executive vice president,15BY MR. BECKER:15in preparation for your deposition today. Is15BY MR. BECKER:16(A. Yes.17yesterday when the Web forms that include18aguage concerning copyright assignments on19Kathie?10MR. FEE: Objection to form.20A. Yesterday.20MR. FEE: Objection to form.21Q. What did you discuss with21Compound.22THE WITNESS: I don't believe23A. We discussed the form that we2324had here, 1284, and her recollection of what2425Q. Other than Marge Cassidy, Jim26referencing?23A. Yes.33with in preparation for your deposition4Q. What did Kathie Morgan say45A. Besides our leg	4	communications with Mr. Lively in preparation	4	BY MR. BECKER:
7A. No.7preparation for your deposition today, did8Q. And did you have any other8you ask him when the Web forms were first set9up that included language concerning10for your deposition today other than your11meeting with him yesterday?10copyright assignments on the ASTM Web site?12A. No.12Compound.13Q. You said that you also met with13THE WITNESS: I don't believe I14Kathie Morgan, the executive vice president,15BY MR. BECKER:16that true?16Q. Did Mr. Lively tell you17A. Yes.16Q. Did Mr. Lively tell you18kathie?20MR. FEE: Objection to form.20A. Yesterday.20MR. FEE: Objection to form.21Q. What did you discuss with21Compound.22THE WITNESS: I don't believe1324had here, 1284, and her recollection of what2425a. Yes.20Other than Marge Cassidy, Jim26A. Yes.1Thomas, John Pace, Phil Lively and Kathie27referencing?2Morgan, was there anybody else that you met3A. Yes.1Thomas, John Pace, Phil Lively and Kathie27Q. What did Kathie Morgan say5A. Besides our legal team?4Q. What did kathie Morgan say5A. Besides our legal team?5A. She thought that that form filled10communicated who was7A. Nothat	5	for your deposition today other than that	5	Q. Taking a step back, when you
8 Q. And did you have any other 9 you ask him when the Web forms were first set 9 communications with John Pace in preparation 9 up that included language concerning 11 meeting with him yesterday? 11 MR. FEE: Objection to form. 12 A. No. 12 Compound. 13 Q. You said that you also met with 13 THE WITNESS: I don't believe I 14 asked him. 15 BY MR. BECKER: 16 16 that true? 15 BY MR. BECKER: 16 Q. Did Mr. Lively tell you 17 A. Yes. 19 the ASTM Web site were first set up? 20 20 A. Yesterday. 20 MR. FEE: Objection to form. 21 21 Q. What did you discuss with 21 Compound. 23 22 Kathie at your meeting yesterday? 22 THE WITNESS: I don't believe he said. 22 Kathie at your meeting yesterday? 22 THE WITNESS: I don't believe he said. 23 A. We discussed the form that we 23 More anybody else that you met 23 A. Yes. 9 Morgan, was there anybody else that you m	6	meeting yesterday?	6	spoke with Phil Lively yesterday in
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1	Q. This section says it relates to	1	BY MR. BECKER:
2	"Intellectual Property Other Than Standards,"	2	Q. Does ASTM believe that if a
3	and it says, "ASTM International recognizes	3	standard was prepared in the course of the
4	different ways to assign intellectual	4	author's employment by the U.S., Canadian or
5	property rights:When individual authors	5	British governments, that a copyright exists
6	submit manuscripts of technical papers for	6	in that standard?
7	publication by ASTM International, the author	7	MR. FEE: Objection. Calls for
8	must sign an agreement (Author Agreement)	8	a legal conclusion. Instruct you not
9	whereby ownership of the material is assigned	9	to disclose any communications with
10	to ASTM International"	10	counsel regarding that matter. If you
11	Why does ASTM have a special	11	can answer it without disclosing those
12	agreement for authors of intellectual	12	communications, go ahead.
13	property other than standards?	13	THE WITNESS: I don't know.
14	MR. FEE: Objection. Calls for	14	BY MR. BECKER:
15	a legal conclusion. To the extent you	15	Q. Who would know?
16	can answer that question without	16	MR. FEE: Objection. Calls for
17	disclosing communications with	17	speculation.
18	counsel, you may go ahead and do so.	18	THE WITNESS: I would
19	THE WITNESS: I don't know.	19	potentially think that our ASTM
20	BY MR. BECKER:	20	general counsel would know.
21	Q. Do you know who would know?	21	BY MR. BECKER:
22	MR. FEE: Objection. Calls for	22	Q. Is there anybody else who would
23	speculation.	23	know?
24	THE WITNESS: I would	24	MR. FEE: Same objection.
25	potentially in part the ASTM general	25	THE WITNESS: I don't know.
	Page 110		Page 112
	-		
1	counsel.	1	BY MR. BECKER:
1 2	counsel. BY MR. BECKER:	1 2	BY MR. BECKER: Q. Does ASTM recognize a
2	BY MR. BECKER:	2	Q. Does ASTM recognize a
2 3	BY MR. BECKER: Q. Is there anybody else who would	2 3	Q. Does ASTM recognize a distinction between standards and
2 3 4	BY MR. BECKER: Q. Is there anybody else who would know?	2 3 4	Q. Does ASTM recognize a distinction between standards and intellectual property other than standards in terms of its copyrightability when created by someone who is acting in the course of their
2 3 4 5	BY MR. BECKER: Q. Is there anybody else who would know? MR. FEE: Same objection.	2 3 4 5 6 7	Q. Does ASTM recognize a distinction between standards and intellectual property other than standards in terms of its copyrightability when created by someone who is acting in the course of their employment by the U.S., Canadian or British
2 3 4 5 6 7 8	BY MR. BECKER: Q. Is there anybody else who would know? MR. FEE: Same objection. THE WITNESS: I don't know. BY MR. BECKER: Q. This document again goes on to	2 3 4 5 6 7 8	Q. Does ASTM recognize a distinction between standards and intellectual property other than standards in terms of its copyrightability when created by someone who is acting in the course of their employment by the U.S., Canadian or British governments?
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29 (Pages 110 - 113)

1 MR. FEE: Objection. Vague. 1 recent version, so let me read that again. 2 Compound. Calls for a legal 2 Section VI B1 bit states, "When 3 conclusion. Instruct you not to 3 ASTM International contracts, subsidizes, or 4 disclose communications with counsel 6 ASTM International contracts, subsidizes, or 6 others to prepare or otherwise help create 6 ASTM IP other than technical papers as given 7 in la above, a "Work for Hire" Agreement must 8 be signed in which copyright is acknowledged 9 BY MR. BECKER: 10 Q. Who would know? 10 assigned to ASTM International." 11 MR. FEE: Calls for speculation. 11 Have you ever seen one of these 12 Objection. 12 "Work for Hire" Agreements that's referenced 13 int his clause? 14 A. No that I can recall. 14 Q. Did you discuss this issue in 16 in which a'Work for Hire" Agreement as 16 ores that have been executed. 20 Q. Did you discuss the existence 12 convert the federal government in the 21 ofan' Work for Hire" Agreements in <				
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30 (Pages 114 - 117)

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

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

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]
1	A. I think she started back in	1	Q. Do you know what had been the
2	1984, I think she may have said.	2	discussion with the copyright office by Kathe
3	Q. Do you know who was filling out	3	Hooper's predecessor concerning checking box
4	ASTM Certificate of Copyright Registration	4	2a?
5	forms prior to Kathe Hooper?	5	A. Do I know?
6	A. A name was mentioned yesterday,	6	MR. FEE: Objection.
7	but I don't recall the name.	7	BY MR. BECKER:
8	Q. Was that individual Robert L.	8	Q. Yeah.
9	Meltzer?	9	MR. FEE: Vague.
10	A. I recognize that name, but I	10	THE WITNESS: I only know what
11	don't know if Robert Meltzer was the one that	11	Kathe Hooper told me.
12	was filling out this form.	12	BY MR. BECKER:
13	Q. Do you know who Robert Meltzer	13	Q. And what precisely did Kathe
14	is?	14	Hooper tell you about that?
15	A. He was a former vice president	15	MR. FEE: Objection. Asked and
16	of publications.	16	answered.
17	Q. Did Kathe Hooper say what	17	THE WITNESS: That the copyright
18	communications with the copyright office led	18	office had informed Kathe Hooper's
19	to her decision to check box 2a of the	19	predecessor to check box yes to the
20	copyright registrations?	20	answer to the question on 2a.
21	A. What led her to fill out this	21	BY MR. BECKER:
22	form that way?	22	Q. Did Kathe Hooper tell you any
23	Q. Did she say what communications	23	information about what her predecessor had
24	she had with the copyright office that led	24	said to the copyright office that led to the
25	her to fill out the forms to check box 2a?	25	copyright office telling her to check box 2a?
	Page 126		Page 128
1	A. She had said that her	1	A. No. My understanding is it was
2	predecessor had a conversation with the	2	just a question on how to fill out the form.
3	copyright office, and they had informed her	3	Q. Did ASTM ever have a lawyer
4	that it should be filled out that way.	4	review the applications for copyright
5	Q. Do you know if Kathe Hooper had	5	registration?
6	any interactions with the copyright office in	6	A. I don't know.
7	which the copyright office told her to fill	7	Q. Do you have any knowledge about
8	out the registrations by checking box 2a?	8	what information the copyright office had
9	A. I don't believe she did.	9	obtained from ASTM when it said to check box
10	Q. What is Kathe Hooper's role at	10	2a?
11	ASTM?	11	A. No.
12	A. She assists the vice president	12	Q. If ASTM had provided different
13	of publications.	13	facts concerning the material that was being
14	Q. How long has Kathe Hooper held	14	copyrighted, that might call for a different
15	that role for at ASTM?	15	answer to whether box 2a should be checked on
16	A. I can't say for certain, but I	16	the copyright registration form. Correct?
17	think she said yesterday, since about 1984	17	MR. FEE: Objection. Calls for
18	she was in that role.	18	speculation. Calls for a legal
19	Q. And currently the vice	19	conclusion. Calls for expert
100	president of publications is John Pace.	20	testimony. You can answer if you
20	· · ·	21	know.
20 21	Correct?	41	
	Correct? A. Correct.	22	THE WITNESS: I don't know.
21			
21 22	A. Correct.	22	THE WITNESS: I don't know.
21 22 23	A. Correct.Q. Do you know how long John Pace	22 23	THE WITNESS: I don't know. BY MR. BECKER:

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

34 (Pages 130 - 133)

1predecessor had had a conversation with the copyright office in which they instructed her to check the box saying that the scratch that.1Q. Mr. Smith, do you know which 2 standards at issue in this litigation each a copyright registration that ASTM has provided that.4that.2 correct, and a conversation with someone at the copyright office in which that person the copyright office in which that person is saying that the work was a "work made for the saying that the work was a "work made for the saying that the work was a "work made for the saying that the work was a "work made for the saying that the work was a for to looking at this document, page ASTM00107 to to look ing at this document from ASTM was to order and work made for hire," and listing the mames "American Society for Testing and to understanding that as of at conversation with someone from the Copyright to your understanding that as of at conversation with someone from the Copyright to your understanding that as of at conversation with someone from the Copyright ta wher that con -1 down know that to so -1 dow theow that sight, I just don't know that conversation exactly was made.11Q. Mr. Standards, Part 1:Steel-Piping, Tubing, traiting the target as the sole and the sone copyright come from the Copyright ta work was a "work made for hire," and listing the that sight, I just don't know that conversation exactly was made.11Q. Mr. Standards, Part 1:Steel-Piping, Tubing, trait mask to do the sone of the question. It is bow				
3 to check the box saying that the scratch 3 copyright registration that ASTM has provided 4 that. 5 L sit your understanding that 5 A. TM not sure I get the 6 as of at least January 31, 1980, someone at 7 Q. If you look at, we were just 8 the copyright office in which that person 7 Q. If you look at, we were just 9 from ASTM was instructed to check the box 9 a standard, the tile of the work is "1980 10 saying that the work was a "work made for 11 ISteel-Piping, Tubing, Fittings." Is that 12 for Testing and Materials" under the "NAME OF 13 ACTHOR "field? 14 MR. FEE: Objection to form. 14 Q. Do you know how many standards 15 THE WTINESS: I'm not sure I 15 are in the 1980 Annual Book of ASTM 10 understand the question. If you could 16 Standards, Part I:Steel-Piping, Tubing, 11 BY MR. BUCKLR: 18 A. No. 10 20 20 looking at this document, page ASTM 000107 to 20 scope of his designation. 11	1	*		-
4 that. 4 corresponds to? 5 Is it your understanding that 6 as of at least January 31, 1980, someone at 7 ASTM had had a conversation with someone from 7 Q. If you look at, we were just 8 from ASTM was instructed to check the box 9 a standard, the title of the work is "1980 10 asying that the work was a "work made for 11 I:Steel-Piping, Tubing, Fittings." Is that 12 for Testing and Materials" under the "NAME OF 13 A. Correct. 14 MR. FEE: Objection to form. 14 Q. Do you know how many standards 15 THE WITNESS: Trn not sure I 16 Standards, Part 1:Steel-Piping, Tubing, 16 understand the question If you could 16 Standards, Part 1:Steel-Piping, Tubing, 17 rephrase it, Fm a little lost. 18 A. No. 18 BY MR. BECKER: 19 MR. FEE: Objection. Beyond the scope of his designation. 20 looking at this document, page ASTM000107 to 20 scope of his designation. 22 21 losking at this document from ASTM was as of at 10 21 MR. FEE: Objection. Form. Go 4 21 23 work	2			-
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7 ASTM had had a conversation with someone from 8 the copyright office in which that person 9 from ASTM was instructed to check the box 9 from ASTM was instructed to the the box 9 from ASTM was instructed to the the box 9 a standard, the tile of the work is "1980 10 saying that the work was a "work made for 11 hire," and listing the name "American Society 12 for Testing and Materials" under the "NAME OF 13 AUTHOR" field? 10 ANNUAL BOOK OF ASTM STANDARDS, Part 11 11 ISEed-Piping, Tubing, Fittings." Is that 12 correct. 10 ANNUAL BOOK OF ASTM STANDARDS, Part 13 13 AUTHOR" field? 10 ANNUAL BOOK OF ASTM STANDARDS, Part 14 14 MR. FEE: Objection to form. 15 11 ISEed-Piping, Tubing, Fittings." Is that 12 15 THE WITNESS: I'm not sure I 13 11 A. Correct. 14 Q. Do you know how many standards 15 16 Understand the question. If you could 16 16 Standards, Part I:Steel-Piping, Tubing, 17 18 BY MR. BECKER: 19 Q. Sure. Is it your - after 10 19 MR. FEE: Objection. Boyon the 20 21 losk it your understanding that as of at 21 22 MR. BECKER: I would disagree, I 23 23 24 orrevastion with someone from the copyright 24 24 MR. FEE: Objection. Form. Go 3 and the chain of title. This is 2 26			5	-
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25 BY MR. BECKER: 25 Do you know how to determine	23	VIDEOGRAPHER: The time is now	23	Q. Is there a way to confirm
	24	3:20. We're back on the video record.	24	excuse me, scratch that.
Page 135 Page 137	25	BY MR. BECKER:	25	Do you know how to determine

35 (Pages 134 - 137)

1	how many standards are in the 1980 Annual	1	MR. FEE: Same objections.
2	Book of ASTM Standards, Part 1:Steel-Piping,	2	THE WITNESS: He might.
3	Tubing, Fittings?	3	BY MR. BECKER:
4	MR. FEE: Same objection.	4	Q. Who else is in the publications
5	THE WITNESS: I don't know if	5	department other than Kathe Hooper and John
6	there would be a way to find that out	6	Pace?
7	today.	7	MR. FEE: Objection. Beyond the
8	BY MR. BECKER:	8	scope of his designation.
9	Q. Why not?	9	BY MR. BECKER:
10	MR. FEE: Same objection.	10	Q. Let me rephrase. Who else
11	Beyond the scope.	11	other than
12	THE WITNESS: I just don't know	12	A. 50-some people. I don't know.
13	if we still have that information from	13	Q. Let me rephrase. Other than
14	35 years ago.	14	John Pace and Kathe Hooper, who else might
15	BY MR. BECKER:	15	know whether the whether copies of all of
16	Q. How would you go about trying	16	ASTM's publications are kept?
17	to determine how many standards were in the	17	A. I don't know.
18	1980 Annual Book of ASTM Standards, Part	18	MR. FEE: Objection. Beyond the
19	1:Steel-Piping, Tubing, Fittings?	19	scope of his designation.
20	MR. FEE: Same objection.	20	THE WITNESS: I don't know.
21	THE WITNESS: I would probably	21	MR. FEE: Calls for speculation.
22	ask our publications department if we	22	BY MR. BECKER:
23	had any record of the index for that	23	Q. If you look at Exhibit 1290 and
24	book. And if we did, you can count	24	compare it with compare the second page of
25	them.	25	1290 with ASTM0000107, the copyright
	Page 138		Page 140
1	BY MR. BECKER:	1	registration page that we've been discussing,
1 2	BY MR. BECKER: Q. Would you be able to determine	1 2	registration page that we've been discussing, you will see that in the middle of the page,
2	Q. Would you be able to determine	2	you will see that in the middle of the page,
2 3	Q. Would you be able to determine this from anything else other than the book	2 3	you will see that in the middle of the page, page 2 of Exhibit 1290 it lists ASTM A370 as
2 3 4	Q. Would you be able to determine this from anything else other than the book itself or an index for that book?	2 3 4	you will see that in the middle of the page, page 2 of Exhibit 1290 it lists ASTM A370 as a designation, the edition 1997e2, "Standard
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2 3 4 5 6	Q. Would you be able to determine this from anything else other than the book itself or an index for that book? MR. FEE: Same objection. THE WITNESS: I don't know.	2 3 4 5 6	you will see that in the middle of the page, page 2 of Exhibit 1290 it lists ASTM A370 as a designation, the edition 1997e2, "Standard Methods and Definition for Mechanical Testing of Steel Products" with a registration
2 3 4 5 6 7	Q. Would you be able to determine this from anything else other than the book itself or an index for that book? MR. FEE: Same objection. THE WITNESS: I don't know. BY MR. BECKER:	2 3 4 5 6 7	you will see that in the middle of the page, page 2 of Exhibit 1290 it lists ASTM A370 as a designation, the edition 1997e2, "Standard Methods and Definition for Mechanical Testing of Steel Products" with a registration certificate number TX 434-207. Do you see
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1	Exhibit 1291 and A370 in Exhibit 1292,	1	is suing Public.Resource over in this
2	if you are suggesting because they are	2	litigation?
3	the same certificate numbers, that	3	MR. FEE: Objection. Beyond the
4	that confirms that this standard is in	4	scope of his designation. You can
5	this volume? Is that what you're	5	answer.
6	asking me?	6	THE WITNESS: No.
7	BY MR. BECKER:	7	BY MR. BECKER:
8	Q. Well, I'm wondering if that	8	Q. Do you know if the 1980 Annual
9	does confirm that.	9	Book of ASTM Standards, Part 1:Steel-Piping,
10	A. I don't know because I'm not	10	Tubing, and Fittings is available in ASTM's
11	sure how the registration number process	11	digital library?
12	really works. I don't know for sure.	12	MR. FEE: Objection. Beyond the
13	Q. So do you have any way of	13	scope of his designation.
14	telling us which standard that is at issue in	14	THE WITNESS: I don't know.
15	this litigation corresponds to which of the	15	BY MR. BECKER:
16	copyright registrations that ASTM has	16	Q. Do you know how to determine
17	provided to Public.Resource?	17	what works are available in ASTM's digital
18	MR. FEE: Objection. Beyond the	18	library?
19	scope of his designation. You can	19	MR. FEE: Objection. Beyond the
20	answer.	20	scope of his designation.
21	THE WITNESS: I don't know. I	21	THE WITNESS: I think it's
22	don't know.	22	searchable.
23	MR. BECKER: I just want to	23	BY MR. BECKER:
24	state for the record I strongly	24	Q. Searchable by whom?
25	disagree that this is beyond the scope	25	MR. FEE: Same objection.
	Page 142		Page 144
1	of his designation. Topic 2 says,	1	THE WITNESS: By standard.
2	"All elements of the Chain of Title of	2	BY MR. BECKER:
	copyright ownership, including	3	Q. Can members of the public
3			
3		-	-
4	copyright authorship and ownership of	4	search ASTM's digital library?
4 5	copyright authorship and ownership of component parts of the Works-At-Issue	4 5	search ASTM's digital library? MR. FEE: Same objection.
4 5 6	copyright authorship and ownership of component parts of the Works-At-Issue in this case." The issue of what	4 5 6	search ASTM's digital library? MR. FEE: Same objection. Objection. Vague also.
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4 5 6 7 8	copyright authorship and ownership of component parts of the Works-At-Issue in this case." The issue of what standards are covered by which registrations seems very relevant to	4 5 6 7 8	search ASTM's digital library? MR. FEE: Same objection. Objection. Vague also. THE WITNESS: If you pay for it in a subscription.
4 5 6 7 8 9	copyright authorship and ownership of component parts of the Works-At-Issue in this case." The issue of what standards are covered by which registrations seems very relevant to the question of copyright ownership,	4 5 6 7 8 9	search ASTM's digital library? MR. FEE: Same objection. Objection. Vague also. THE WITNESS: If you pay for it in a subscription. BY MR. BECKER:
4 5 6 7 8 9 10	copyright authorship and ownership of component parts of the Works-At-Issue in this case." The issue of what standards are covered by which registrations seems very relevant to the question of copyright ownership, at least to the extent that ASTM is	4 5 6 7 8 9 10	search ASTM's digital library? MR. FEE: Same objection. Objection. Vague also. THE WITNESS: If you pay for it in a subscription. BY MR. BECKER: Q. So members of the public cannot
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1	Office?" And then it says, "give: Previous	1	than 1977?
2	Registration Number," and the registration	2	A. Yes.
3	number "TX 226-040 Year of Registration 1979"	3	Q. And in what case would there be
4	is provided. Is that correct?	4	more recent versions?
5	MR. FEE: Objection.	5	A. If the committee successfully
6	Mischaracterizes, eliminates portions	6	balloted a revision to the standard.
7	of that section.	7	Q. In what circumstances would a
8	THE WITNESS: That reads as you	8	revision result in a change of the year
9	said.	9	that's listed from 1977 to a different year?
10	BY MR. BECKER:	10	A. If it was approved, if a
11	Q. Do you know if the standard	11	revision was approved in a different year, it
12	ASTM A370 1997e2 was featured in this other	12	would be provided that year date.
13	work that's registered as TX 226-040 with the	13	Q. But for the version that is
14	year of registration 1979?	14	marked as 1977e2, was that version first
15	MR. FEE: Objection. Beyond the	15	released in 1977?
16	scope of his designation.	16	A. It depends when it was it
17	THE WITNESS: I don't know for	17	depends. If it was approved at the end of
18	sure. I don't know.	18	1977, it could have been published in 1978.
19	BY MR. BECKER:	19	Q. Would it have been published
20	Q. Do you know how somebody would	20	any later than 1978? Excuse me, would it
21	determine what work is referenced by this	21	have been first published any later than
22	registration number that's provided?	22	1978?
23	MR. FEE: Objection. Vague.	23	A. This particular 1977 version, I
24	Calls for speculation. Beyond the	24	wouldn't have
25	scope of his designation.	25	Q. Yes.
	Page 146		Page 148
1	THE WITNESS: I think it's this,	1	A. I wouldn't have thought that it
2	the 1980 Annual Book of ASTM Standards		would be published any later than 1978.
3	or the 1979 book correlates with this	3	Q. Does ASTM release a new version
4	registration.	4	of the Annual Book of ASTM Standards every
5	BY MR. BECKER:	5	year?
6	Q. For ASTM A370 1997e2, what does	6	A. Yes.
7	the 19 excuse me, did I say let me	7	Q. What is contained in the Annual
8	rephrase that.	8	Book of ASTM Standards? Is that every
9	For ASTM A370 1977e2, what does	9	standard that ASTM excuse me. Is that
10	1977 designate?	10	every ASTM standard that is current as of
11	A. It means that's the year that	11	that year?
12	that version was approved. So A370 may have		MR. FEE: Objection. Compound.
13	been a new standard that was first approved	13	THE WITNESS: The Annual Book of
14	in 1977, or it could have been revised and	14	ASTM Standards comprises a collection
15	that version was approved in 1977.	15	of volumes, so there are specific
16	Q. So 1977 is the year of most	16	volumes of ASTM standards. This Part
17	recent either approval or revision?	17	1:Steel-Piping, Tubing, Fittings is a
18	MR. FEE: Objection. Compound.	18	volume.
19	Vague. Mischaracterizes his testimony.	19	BY MR. BECKER:
20	THE WITNESS: Not necessarily.	20	Q. Would volume have been would
21	There could be there could be more	21	there have been a 1979 Annual Book of ASTM
22	recent versions.	22	Standards, Part 1:Steel-Piping, Tubing,
23	BY MR. BECKER:	23	Fittings?
24	Q. For ASTM A370 1977e2, could	24	A. Yes.
25	there have been more recent versions of it	25	Q. Would there have been a 1978
	Page 147		Page 149

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1	question means, but I'll just explain	1	compound.
2	it that if there let's just say,	2	THE WITNESS: It's internal to
3	for example, that there's a standard	3	ASTM, but we do make historical
4	that is in the 1979 book. If that	4	versions of standards available from
5	standard is revised, then the revision	5	our Web site. I believe we started
6	is included in the 1980 book. Does	6	that from 19 it might have been
7	that kind of answer your question?	7	like 2000.
8	MR. BECKER: Yes.	8	BY MR. BECKER:
9	BY MR. BECKER:	9	Q. And who maintains these logs?
10	Q. And generally that's the case	10	MR. FEE: Objection. Vague.
11	for any successive Annual Book of Standards.	11	THE WITNESS: It's part of our
12	Is that correct?	12	automated system.
13	MR. FEE: Objection. Vague.	13	BY MR. BECKER:
14	Compound.	14	Q. Who is in charge of that
15	THE WITNESS: Yeah, that's the	15	automated system?
16	way it works.	16	A. I guess the system itself, our
17	BY MR. BECKER:	17	technology area.
18	Q. Is there a log of every	18	Q. Would that be the VP of
19	revision over time to any particular standard	19	technology who is in charge of that?
20	from its first creation?	20	A. Uh-huh. Yes. I'm sorry.
21	MR. FEE: Objection. Vague.	21	Q. On Exhibit 1291, please turn to
22	THE WITNESS: ASTM is 115 years	22	ASTM000149. And when you have that open,
23	old, so I don't think there is a log	23	please also flip to ASTM000155. If you look
24	that exists for standards that were	24	at ASTM000149 under the section 2-1, it says,
25	approved in our early stages.	25	"AUTHOR OF (Briefly describe nature of this
-	Page 154		Page 156
1	BY MR. BECKER:	1	author's contribution)," and it says, "Entire
1 2	BY MR. BECKER: Q. Does ASTM keep a log of every	1 2	author's contribution)," and it says, "Entire Text." In contrast, if you look at
			· · · · ·
2	Q. Does ASTM keep a log of every	2	Text." In contrast, if you look at
2 3	Q. Does ASTM keep a log of every revision over time to any particular standard	2 3	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF
2 3 4	Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards	2 3 4	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF (Briefly describe nature of this author's
2 3 4 5	Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards that have been created in the past ten years?	2 3 4 5	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF (Briefly describe nature of this author's contribution)," it says, "Collective Work."
2 3 4 5 6	Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards that have been created in the past ten years? MR. FEE: Objection. Vague.	2 3 4 5 6	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF (Briefly describe nature of this author's contribution)," it says, "Collective Work." Do you know why ASTM has said
2 3 4 5 6 7	Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards that have been created in the past ten years? MR. FEE: Objection. Vague. THE WITNESS: We might. It's	2 3 4 5 6 7	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF (Briefly describe nature of this author's contribution)," it says, "Collective Work." Do you know why ASTM has said that under one registration, that they are
2 3 4 5 6 7 8	Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards that have been created in the past ten years? MR. FEE: Objection. Vague. THE WITNESS: We might. It's possible.	2 3 4 5 6 7 8	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF (Briefly describe nature of this author's contribution)," it says, "Collective Work." Do you know why ASTM has said that under one registration, that they are the author of the entire text, but under a
2 3 4 5 6 7 8 9	Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards that have been created in the past ten years? MR. FEE: Objection. Vague. THE WITNESS: We might. It's possible. BY MR. BECKER:	2 3 4 5 6 7 8 9	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF (Briefly describe nature of this author's contribution)," it says, "Collective Work." Do you know why ASTM has said that under one registration, that they are the author of the entire text, but under a this other registration, ASTM000155, ASTM
2 3 4 5 6 7 8 9 10	 Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards that have been created in the past ten years? MR. FEE: Objection. Vague. THE WITNESS: We might. It's possible. BY MR. BECKER: Q. Do you know who would know 	2 3 4 5 6 7 8 9 10	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF (Briefly describe nature of this author's contribution)," it says, "Collective Work." Do you know why ASTM has said that under one registration, that they are the author of the entire text, but under a this other registration, ASTM000155, ASTM says that it is a collective work?
2 3 4 5 6 7 8 9 10 11	 Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards that have been created in the past ten years? MR. FEE: Objection. Vague. THE WITNESS: We might. It's possible. BY MR. BECKER: Q. Do you know who would know whether this is the case or not? 	2 3 4 5 6 7 8 9 10 11	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF (Briefly describe nature of this author's contribution)," it says, "Collective Work." Do you know why ASTM has said that under one registration, that they are the author of the entire text, but under a this other registration, ASTM000155, ASTM says that it is a collective work? A. I don't know why.
2 3 4 5 6 7 8 9 10 11 12	 Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards that have been created in the past ten years? MR. FEE: Objection. Vague. THE WITNESS: We might. It's possible. BY MR. BECKER: Q. Do you know who would know whether this is the case or not? A. I just don't know the 	2 3 4 5 6 7 8 9 10 11 12	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF (Briefly describe nature of this author's contribution)," it says, "Collective Work." Do you know why ASTM has said that under one registration, that they are the author of the entire text, but under a this other registration, ASTM000155, ASTM says that it is a collective work? A. I don't know why. MR. FEE: Objection.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards that have been created in the past ten years? MR. FEE: Objection. Vague. THE WITNESS: We might. It's possible. BY MR. BECKER: Q. Do you know who would know whether this is the case or not? A. I just don't know the particular time frame. You say ten years, I don't know if it's ten years or what the time frame is that we have it in our system. Q. So are you saying that a log exists but you're not certain how far back it goes? A. Correct. MR. FEE: Objection. Vague. THE WITNESS: Correct. BY MR. BECKER: 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF (Briefly describe nature of this author's contribution)," it says, "Collective Work." Do you know why ASTM has said that under one registration, that they are the author of the entire text, but under a this other registration, ASTM000155, ASTM says that it is a collective work? A. I don't know why. MR. FEE: Objection. Mischaracterizes the document. Did you answer? Sorry. THE WITNESS: I'm sorry, too. BY MR. BECKER: Q. Who would know why there is this difference between these two copyright registrations? MR. FEE: Objection. Calls for speculation. THE WITNESS: I don't know.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Q. Does ASTM keep a log of every revision over time to any particular standard from its first creation for those standards that have been created in the past ten years? MR. FEE: Objection. Vague. THE WITNESS: We might. It's possible. BY MR. BECKER: Q. Do you know who would know whether this is the case or not? A. I just don't know the particular time frame. You say ten years, I don't know if it's ten years or what the time frame is that we have it in our system. Q. So are you saying that a log exists but you're not certain how far back it goes? A. Correct. MR. FEE: Objection. Vague. THE WITNESS: Correct. BY MR. BECKER: Q. And is that log publicly 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Text." In contrast, if you look at ASTM000155 under section 2-1 "AUTHOR OF (Briefly describe nature of this author's contribution)," it says, "Collective Work." Do you know why ASTM has said that under one registration, that they are the author of the entire text, but under a this other registration, ASTM000155, ASTM says that it is a collective work? A. I don't know why. MR. FEE: Objection. Mischaracterizes the document. Did you answer? Sorry. THE WITNESS: I'm sorry, too. BY MR. BECKER: Q. Who would know why there is this difference between these two copyright registrations? MR. FEE: Objection. Calls for speculation. THE WITNESS: I don't know. BY MR. BECKER:

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1	MR. FEE: Objection. Asked and	1	copies were available prior to them
2	answered.	2	being available in the volume, we
3	THE WITNESS: I don't know. Bob	3	began filing separate registrations.
4	Meltzer maybe since it was from 1980.	4	BY MR. BECKER:
5	BY MR. BECKER:	5	Q. At approximately what time did
6	Q. Please turn to ASTM000167 of	6	ASTM begin filing for separate registrations?
7	Exhibit 1291. This is a copyright	7	MR. FEE: Objection. Vague.
8	registration for "F1193-06 Standard Practice	8	THE WITNESS: I'm not exactly
9	for Quality, Manufacture, and Construction of	9	sure.
10	Amusement Rides and Devices." Is this a	10	BY MR. BECKER:
11	registration for a single standard by ASTM?	11	Q. Was it prior to 2013 when ASTM
12	MR. FEE: Objection. Calls for	12	first started filing for individual
13	a legal conclusion.	13	registrations of individual standards?
14	THE WITNESS: It appears to be.	14	A. Yes.
15	BY MR. BECKER:	15	Q. The standard listed in
16	Q. Is F1193-06 just one standard?	16	ASTM000167 that we're discussing says its
17	A. Yes.	17	year of completion was 2006 and date of first
18	Q. Why has ASTM here registered a	18	publication was March 3, 2006. But the
19	single standard whereas for the bulk of the	19	effective date of the registration as stated
20	registrations that are provided by ASTM to	20	in the top right-hand corner is April 10,
21	Public.Resource they have registered entire	21	2013. Was this standard first registered in
22	volumes of standards?	22	2013?
23	MR. FEE: Objection. I think I	23	MR. FEE: Objection. Calls for
24	need to talk about a privilege issue	24	speculation. Calls for a legal
25	before he can respond to that	25	conclusion. You can answer.
	Page 158		Page 160
1	question. Go outside for one second.	1	THE WITNESS: Yeah. I really
2	VIDEOGRAPHER: The time is now	2	don't know.
3	3:56. We're going off the video	3	BY MR. BECKER:
4	record. This concludes disc two.	4	Q. If you look in Exhibit 1291 at
5		5	the four registrations immediately preceding
6	(A recess was taken.)	6	this registration we're discussing as
7		7	ASTM 00167, so that's the pages ASTM 00159 to
8	VIDEOGRAPHER: The time is now	8	166. These are all copyright registrations
9	4:02. We're back on the video record.	9	from 2013 excuse me, March 5, 2013, but
10	This begins disc three.	10	they concern standards that were first
11	MR. FEE: If you could just read	11	published many years prior to 2013. Is that
12	back the question so he can respond.	12	correct?
13		13	MR. FEE: Objection. Compound.
14	(The court reporter read the	14	Calls for speculation.
15	pertinent part of the record.)	15	THE WITNESS: I don't know for
16		16	sure.
17	THE WITNESS: My understanding	17	BY MR. BECKER:
18	was that back when we only published	18	Q. Do you know if ASTM filed for
19	books and we didn't make our standards	19	these registrations in preparation for
20	available as separates, we would	20	litigation with Public.Resource?
21	copyright, we would submit copyright	21	MR. FEE: Objection. I'm going
22	registrations for the entire volume.	22	to instruct him not to answer that
23	As we began making standards available	23	question.
24	as single standards available for	24	THE WITNESS: I won't answer
25	purchase, we began and those single	25	that question.
1	Page 159		Page 161

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4		_	
1	MR. BECKER: Counsel, why is it	1	those.
2	that you're instructing him not to	2	THE WITNESS: I'm not aware of
3	answer that question?	3	any other business reasons for why we
4	MR. FEE: If it's done in	4	filed these as we would for any other
5	anticipation of litigation, it's work	5	standard that we produced.
6	product. You're asking him for work	6	BY MR. BECKER:
7	product.	7	Q. What are the business reasons
8	MR. BECKER: Counsel, I'm not	8	for filing for Certificates of Registration
9	certain if I agree with that. This is	9	for any of these standards under ASTM's name?
10	a public filing.	10	MR. FEE: Objection. To the
11	MR. FEE: It doesn't matter if	11	extent that requires you to disclose
12	you agree with it. I'm not you can	12	attorney-client communications, you
13	say whatever you want, but his	13	shouldn't do so. If you're aware of
14	instruction is what it is, he's going	14	business reasons separate and apart
15	to follow it.	15	from legal communications, you can go
16	MR. BECKER: Counsel, I'll state	16	ahead and answer.
17	for the record that I believe that	17	THE WITNESS: My understanding
18	this concerns a public filing and it's	18	is that we copyright these standards
19	not work product.	19	so that we can sell them and support
20	MR. FEE: The reason why	20	the operations of the organization.
21	something was done is not contained in	21	BY MR. BECKER:
22	these public filings. That's what	22	Q. What are ASTM organizational
23	you're asking him. If you want to ask	23	members?
24	him questions about what appears in	24	A. Organizational members are
25	the case of public filings, feel free.	25	essentially members that wish to support ASTM
	Page 162		Page 164
1	MR. BECKER: Counsel, I'm not	1	through a larger membership fee of \$400.
2	interested in any attorney-client	2	Q. Is there any distinction other
3	communications here. I'm simply	3	than the payment of \$400 that separates
4	asking about the reasons why ASTM took	4	organizational members from individual
5	a particular action here.	5	members?
6	MR. FEE: I've instructed him	6	MR. FEE: Objection. Vague.
7	not to answer. He said he's not	7	Beyond the scope of his designation.
8	answering the question.	8	THE WITNESS: Organizational
9	BY MR. BECKER:	9	members may get some other fringe
10	Q. Do you still refuse to answer	10	benefits that the individual members
11	this question?	11	don't receive.
12	A. Yes.	12	BY MR. BECKER:
13	Q. What was the business reason	13	Q. Do organizational members
14	for filing any of these five registrations	14	constitute organizations as apart from
15	that I just discussed that were filed in	15	individuals?
16	2013?	16	MR. FEE: Objection. Vague.
17	MR. FEE: Objection. Calls for	17	Beyond the scope of his designation.
18	a legal strike that.	18	THE WITNESS: Organizational
19	Objection. To the extent that	19	members get to designate a particular
20	that requires you to disclose	20	individual on the committee. Others
21	attorney-client communications, I	21	that would join ASTM from that
22	would direct you not to do so. If you	22	organization would be considered
	are aware of business reasons	23	individual members.
23		a /	DULO DEQUES
23 24	unrelated to attorney-client	24	BY MR. BECKER:
23		24 25	BY MR. BECKER: Q. Do individuals who are not part Page 165

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1	of any organizations typically sign up for	1	answered.
2	organizational memberships?	2	THE WITNESS: No. Organizations
3	MR. FEE: Objection. Vague.	3	designate a member, an employee to
4	Beyond the scope of his designation.	4	participate on technical committees.
5	THE WITNESS: I don't know.	5	BY MR. BECKER:
6	BY MR. BECKER:	6	Q. What's the difference between
7	Q. Can organizational members be	7	what you just said and an organizational
8	members of technical committees?	8	member designating an individual to
9	A. Yes. As a matter	9	participate on technical committees on its
10	MR. FEE: There's no question	10	behalf?
11	pending.	11	MR. FEE: Objection.
12	BY MR. BECKER:	12	Mischaracterizes his testimony to the
13	Q. I'm sorry, what were you about	13	extent it purports to summarize it.
14	to say?	14	You can answer.
15	A. I believe all organizational	15	THE WITNESS: An organizational
16	members are members of technical committees	16	member is an individual, it's not the
17	Q. Have any organizational members	17	organization. So the organization
18	executed copyright assignments for ASTM?	18	designates a member, an employee to be
19	A. Not to my knowledge. I'm	19	a member to represent it on a
20	sorry, can you repeat that question?	20	technical committee.
21	Q. Yes. Have any organizational	21	BY MR. BECKER:
22	members executed copyright assignments for	22	Q. When you say the organization
23	ASTM?	23	designates an employee to be a member to be a
24	A. Through the membership	24	representative on a technical committee, when
25	applications that we talked about earlier,	25	you say representative, do you mean a
	Page 166		Page 168
1	through the renewal applications that we	1	representative of that organization?
2	talked about earlier, if they're involved in	2	A. Maybe.
3	a collaboration area, they would make an	3	Q. Does ASTM have any knowledge as
4	assignment, and if they registered a work	4	to whether organizational members, when they
5	item, they would make an assignment.	5	designate an individual to participate in a
6	Q. So those are the same the	6	technical committee, whether those
7	same assignment language that would relate to	7	organizations are designating that individual
8	individual members you're saying would also	8	on the organization's behalf?
9	relate to organizational members when	9	MR. FEE: Objection. Vague.
10	organizational members sign up for	10	May call for a legal conclusion.
11	membership?	11	THE WITNESS: I think it varies.
12	A. Correct.	12	I think organizational again,
13	Q. How do organizational members	13	organizations that choose to support
14	participate in technical committees?	14	ASTM through an organizational
15	A. The same way as participating	15	membership designate an individual to
16	members, individual members.	16	participate on a technical committee.
17	Q. Can you elaborate on that?	17	That individual may be contributing to
18	MR. FEE: Objection. Vague.	18	the content of ASTM standards as an
19	THE WITNESS: I don't think I	19	individual even as an organizational
20	can. There's no difference.	20	member, not necessarily representing
21	BY MR. BECKER:	21	the organization's the
22	Q. Do organizational members	22	organizational views.
23	designate an individual to participate on	23	BY MR. BECKER:
24	their behalf?	24	Q. For organizational memberships,
25	MR. FEE: Objection. Asked and Page 167	25	does the organization itself typically pay Page 169

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		-	
1	the \$400 fee?	1	MR. FEE: Objection. This is
2	MR. FEE: Objection. Calls for	2	beyond the scope of his designation.
3	speculation.	3	THE WITNESS: No.
4	THE WITNESS: I don't know for	4	MR. BECKER: For the record, I
5	sure. Not necessarily. But probably	5	don't believe that this is beyond his
6	in most cases, probably.	6	designation as this concerns an
7	BY MR. BECKER:	7	organizational membership renewal.
8	Q. Do you know of any instance	8	MR. FEE: I don't think he was
9	when a person indicated that he or she	9	designated to authenticate checks from
10	disagreed with his or her organization's	10	2013, but we'll agree to disagree.
11	position with respect to an action on a	11	BY MR. BECKER:
12	technical committee?	12	Q. Does this document indicate to
12	A. No.	12	you that the Department of Consumer Affairs
13	Q. Do you know of any instance	14	from the State of California had paid for an
15	when an individual indicated that he or she	15	organizational membership renewal with ASTM?
16		16	MR. FEE: Objection. Calls for
	was specifically speaking on his or her own	17	
17	behalf as apart from the organization that he		speculation. Beyond the scope of his
18	or she is part of? A. No.	18	designation.
19 20		19	THE WITNESS: I guess you could assume that. I don't know for sure.
20	Q. Are any U.S. federal agencies	20 21	
21	organizational members of ASTM?		BY MR. BECKER:
22	A. I don't know.	22	Q. Do you have any reason for
23	Q. Who would know if any federal	23	thinking this that's not what this
24	agencies are organizational members of ASTM?	24	document shows?
25	MR. FEE: Objection. Calls for	25	MR. FEE: Same objections.
	Page 170		Page 172
	6		
1	speculation. Also beyond the scope of	1	THE WITNESS: No, no reason not
2	speculation. Also beyond the scope of his designation.	2	
	speculation. Also beyond the scope of his designation. THE WITNESS: We have an		THE WITNESS: No, no reason not to believe.
2 3 4	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the	2 3 4	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership
2 3	speculation. Also beyond the scope of his designation. THE WITNESS: We have an	2 3	THE WITNESS: No, no reason not to believe.
2 3 4	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the	2 3 4	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership
2 3 4 5	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site.	2 3 4 5	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 -
2 3 4 5 6	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER:	2 3 4 5 6	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for
2 3 4 5 6 7	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is	2 3 4 5 6 7	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for
2 3 4 5 6 7 8	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located?	2 3 4 5 6 7 8	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.)
2 3 4 5 6 7 8 9	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership	2 3 4 5 6 7 8 9	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.)
2 3 4 5 6 7 8 9 10	 speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership page. 	2 3 4 5 6 7 8 9 10	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been
2 3 4 5 6 7 8 9 10 11	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership	2 3 4 5 6 7 8 9 10 11	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1293. This is the document
2 3 4 5 6 7 8 9 10 11 12	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership page.	2 3 4 5 6 7 8 9 10 11 12	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1293. This is the document produced by plaintiffs as ASTM086030 to
2 3 4 5 6 7 8 9 10 11 12 13	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership page. (Exhibit 1292, Check, Bates ASTM049368, was marked for	2 3 4 5 6 7 8 9 10 11 12 13	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1293. This is the document produced by plaintiffs as ASTM086030 to 086031. Can you tell me what this document is?
2 3 4 5 6 7 8 9 10 11 12 13 14	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership page. (Exhibit 1292, Check, Bates ASTM049368, was marked for	2 3 4 5 6 7 8 9 10 11 12 13 14	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1293. This is the document produced by plaintiffs as ASTM086030 to 086031. Can you tell me what this document is?
2 3 4 5 6 7 8 9 10 11 12 13 14 15	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership page. (Exhibit 1292, Check, Bates ASTM049368, was marked for identification.)	2 3 4 5 6 7 8 9 10 11 12 13 14 15	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1293. This is the document produced by plaintiffs as ASTM086030 to 086031. Can you tell me what this document is? A. It is a 2011 membership renewal
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership page. (Exhibit 1292, Check, Bates ASTM049368, was marked for identification.)	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1293. This is the document produced by plaintiffs as ASTM086030 to 086031. Can you tell me what this document is? A. It is a 2011 membership renewal invoice. Q. It is a different 2011
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership page. (Exhibit 1292, Check, Bates ASTM049368, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as 1292. This is the document	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1293. This is the document produced by plaintiffs as ASTM086030 to 086031. Can you tell me what this document is? A. It is a 2011 membership renewal invoice.
$ \begin{array}{c} 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ \end{array} $	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership page. (Exhibit 1292, Check, Bates ASTM049368, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1293. This is the document produced by plaintiffs as ASTM086030 to 086031. Can you tell me what this document is? A. It is a 2011 membership renewal invoice. Q. It is a different 2011 membership renewal invoice on each side. Correct?
$ \begin{array}{c} 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ \end{array} $	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership page. (Exhibit 1292, Check, Bates ASTM049368, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as 1292. This is the document produced by plaintiffs as Bates number ASTM049368.	$\begin{array}{c} 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \end{array}$	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1293. This is the document produced by plaintiffs as ASTM086030 to 086031. Can you tell me what this document is? A. It is a 2011 membership renewal invoice. Q. It is a different 2011 membership renewal invoice on each side. Correct? A. Yeah. For different persons,
$ \begin{array}{c} 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ \end{array} $	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership page. (Exhibit 1292, Check, Bates ASTM049368, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as 1292. This is the document produced by plaintiffs as Bates number	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1293. This is the document produced by plaintiffs as ASTM086030 to 086031. Can you tell me what this document is? A. It is a 2011 membership renewal invoice. Q. It is a different 2011 membership renewal invoice on each side. Correct? A. Yeah. For different persons, yeah.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership page. (Exhibit 1292, Check, Bates ASTM049368, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as 1292. This is the document produced by plaintiffs as Bates number ASTM049368. Do you recognize this document? A. No.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1293. This is the document produced by plaintiffs as ASTM086030 to 086031. Can you tell me what this document is? A. It is a 2011 membership renewal invoice. Q. It is a different 2011 membership renewal invoice on each side. Correct? A. Yeah. For different persons, yeah. Q. And these persons are employees
$ \begin{array}{c} 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ 21 \\ 22 \\ 23 \\ \end{array} $	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership page. (Exhibit 1292, Check, Bates ASTM049368, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as 1292. This is the document produced by plaintiffs as Bates number ASTM049368. Do you recognize this document? A. No. Q. Do you have any reason to	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1293. This is the document produced by plaintiffs as ASTM086030 to 086031. Can you tell me what this document is? A. It is a 2011 membership renewal invoice. Q. It is a different 2011 membership renewal invoice on each side. Correct? A. Yeah. For different persons, yeah. Q. And these persons are employees of NIST. Is that correct?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	speculation. Also beyond the scope of his designation. THE WITNESS: We have an organizational member directory on the Web site. BY MR. BECKER: Q. And where on the Web site is that organizational member directory located? A. I think it's on the membership page. (Exhibit 1292, Check, Bates ASTM049368, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as 1292. This is the document produced by plaintiffs as Bates number ASTM049368. Do you recognize this document? A. No.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	THE WITNESS: No, no reason not to believe. (Exhibit 1293, 2011 Membership renewal invoices, Bates ASTM086030 - ASTM086031, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1293. This is the document produced by plaintiffs as ASTM086030 to 086031. Can you tell me what this document is? A. It is a 2011 membership renewal invoice. Q. It is a different 2011 membership renewal invoice on each side. Correct? A. Yeah. For different persons, yeah. Q. And these persons are employees

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1	designation.	1	where on these renewal invoices, if anywhere,
2	THE WITNESS: It says here	2	language exists that would assign any
3	they're from NIST.	3	copyright that Charles E. Gibson or Benjamin
4	BY MR. BECKER:	4	K. Tsai, the individuals listed on these
5	Q. NIST is a federal agency.	5	membership renewal invoices, might have
6	Correct?	6	granted to ASTM?
7	MR. FEE: Same objections.	7	MR. FEE: Objection. Calls for
8	THE WITNESS: I believe. Sorry.	8	a legal conclusion. Compound. You
9	I believe so.	9	can answer if you know.
10	BY MR. BECKER:	10	THE WITNESS: No, there's
11	Q. And they both give their NIST	11	language in the middle of both pages
12	e-mail addresses. Is that correct?	12	beginning with "You agree"
13	MR. FEE: Objection. Calls for	13	BY MR. BECKER:
14	speculation. Beyond the scope of his	14	Q. Is that where it says, "You
15	designation. You can answer.	15	agree, by your participation in ASTM and
16	THE WITNESS: The e-mail	16	enjoyment of the benefits of your annual
17	addresses are on this piece of paper.	17	membership, to have transferred and assigned
18	BY MR. BECKER:	18	any and all interest you possess or may
19	Q. And the e-mail addresses say	19	possess, including copyright, in the
20	@nist.gov. Correct?	$\frac{1}{20}$	development or creation of ASTM standards or
$\frac{20}{21}$	A. Yes.	20	ASTM IP to ASTM. For additional information,
$\frac{21}{22}$	Q. And the addresses that they	21	please see the ASTM IP Policy, available at
22	provide are for NIST. Correct?	22	www.astm.org"?
23	MR. FEE: Objection. Calls for	23	A. Yes.
24	speculation. Beyond the scope of his	24	Q. For these membership renewal
23	Page 174	23	Q. For these memoership renewal Page 176
	č		8
1	designation.	1	invoices, are individuals required to check
2	THE WITNESS: Yes, the NIST	2	any box showing that they have read and
2 3	THE WITNESS: Yes, the NIST address is on these pieces of paper.	2 3	any box showing that they have read and understand the provision that I just read out
2 3 4	THE WITNESS: Yes, the NIST address is on these pieces of paper. BY MR. BECKER:	2 3 4	any box showing that they have read and understand the provision that I just read out loud?
2 3 4 5	THE WITNESS: Yes, the NIST address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card	2 3 4 5	any box showing that they have read and understand the provision that I just read out loud? MR. FEE: Objection. Vague.
2 3 4 5 6	THE WITNESS: Yes, the NIST address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card information and payer is the same for both	2 3 4 5 6	any box showing that they have read and understand the provision that I just read out loud? MR. FEE: Objection. Vague. Compound.
2 3 4 5	THE WITNESS: Yes, the NIST address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card	2 3 4 5 6 7	any box showing that they have read and understand the provision that I just read out loud? MR. FEE: Objection. Vague.
2 3 4 5 6	THE WITNESS: Yes, the NIST address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card information and payer is the same for both	2 3 4 5 6	any box showing that they have read and understand the provision that I just read out loud? MR. FEE: Objection. Vague. Compound.
2 3 4 5 6 7	THE WITNESS: Yes, the NIST address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card information and payer is the same for both renewal invoices. Correct?	2 3 4 5 6 7	any box showing that they have read and understand the provision that I just read out loud? MR. FEE: Objection. Vague. Compound. THE WITNESS: I don't see here
2 3 4 5 6 7 8	THE WITNESS: Yes, the NIST address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card information and payer is the same for both renewal invoices. Correct? MR. FEE: Objection. Beyond the	2 3 4 5 6 7 8	any box showing that they have read and understand the provision that I just read out loud? MR. FEE: Objection. Vague. Compound. THE WITNESS: I don't see here where there's a box to check off.
2 3 4 5 6 7 8 9	THE WITNESS: Yes, the NIST address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card information and payer is the same for both renewal invoices. Correct? MR. FEE: Objection. Beyond the scope of his designation. THE WITNESS: It appears that the names are the same.	2 3 4 5 6 7 8 9	any box showing that they have read and understand the provision that I just read out loud? MR. FEE: Objection. Vague. Compound. THE WITNESS: I don't see here where there's a box to check off. BY MR. BECKER:
2 3 4 5 6 7 8 9 10	THE WITNESS: Yes, the NIST address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card information and payer is the same for both renewal invoices. Correct? MR. FEE: Objection. Beyond the scope of his designation. THE WITNESS: It appears that	2 3 4 5 6 7 8 9 10	any box showing that they have read and understand the provision that I just read out loud? MR. FEE: Objection. Vague. Compound. THE WITNESS: I don't see here where there's a box to check off. BY MR. BECKER: Q. For the membership renewal
2 3 4 5 6 7 8 9 10 11	THE WITNESS: Yes, the NIST address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card information and payer is the same for both renewal invoices. Correct? MR. FEE: Objection. Beyond the scope of his designation. THE WITNESS: It appears that the names are the same.	2 3 4 5 6 7 8 9 10 11	any box showing that they have read and understand the provision that I just read out loud? MR. FEE: Objection. Vague. Compound. THE WITNESS: I don't see here where there's a box to check off. BY MR. BECKER: Q. For the membership renewal invoices, are the members required to sign
2 3 4 5 6 7 8 9 10 11 12	THE WITNESS: Yes, the NIST address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card information and payer is the same for both renewal invoices. Correct? MR. FEE: Objection. Beyond the scope of his designation. THE WITNESS: It appears that the names are the same. BY MR. BECKER:	2 3 4 5 6 7 8 9 10 11 12	any box showing that they have read and understand the provision that I just read out loud? MR. FEE: Objection. Vague. Compound. THE WITNESS: I don't see here where there's a box to check off. BY MR. BECKER: Q. For the membership renewal invoices, are the members required to sign anywhere on the renewal invoice?
2 3 4 5 6 7 8 9 10 11 12 13	THE WITNESS: Yes, the NIST address is on these pieces of paper. BY MR. BECKER: Q. And did the credit card information and payer is the same for both renewal invoices. Correct? MR. FEE: Objection. Beyond the scope of his designation. THE WITNESS: It appears that the names are the same. BY MR. BECKER: Q. And that name appears to be	2 3 4 5 6 7 8 9 10 11 12 13	any box showing that they have read and understand the provision that I just read out loud? MR. FEE: Objection. Vague. Compound. THE WITNESS: I don't see here where there's a box to check off. BY MR. BECKER: Q. For the membership renewal invoices, are the members required to sign anywhere on the renewal invoice? MR. FEE: Same objections.
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1 THE WITNESS: I don't know. I 1 that we read. 2 guess you could sign a check. The 2 BY MR. BECKER: 3 only other way you could pay is 3 Q. And my question is, is there 4 through a check, so you could sign a 3 Q. And my question is, is there 5 check. 5 invoice that ASTM ensures that it has the 6 BY MR. BECKER: 6 understanding and assent of the individual 7 Q. It also list electronic 7 who is renewing his or her membership that 8 payments. Correct? 9 development or creation of ASTM standard 10 Q. So if somebody were to provide 10 to be assigned to ASTM? 11 an electronic payment, then they would not 11 MR. FEE: Same objections. Plus 12 need to sign anywhere on this form. Is that 12 asked and answered. 13 speculation. 15 THE WITNESS: Suppose. 16 16 THE WITNESS: I suppose. 16 BY MR. BECKER: 17 Q. It's a yes or no answer. 18 Q. Is there any means through the 18 MR. FEE: No. Answer it howeve<
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20that it has the understanding and assent of 2120THE WITNESS: Within the 2011 membership renewal invoice, there is 2221the individual renewing his or her membership 2221membership renewal invoice, there is 2222that any copyright he or she has in the 2322this clause that we feel is informs 2323to be assigned to ASTM? 2523the members that they're assigning 2424to be assigned to ASTM? 2524their copyright to us within their 2525MR. FEE: Objection. Vague and Page 17825participation at ASTM.2Calls for speculation. 31BY MR. BECKER: 22Calls for a legal conclusion. 32Q. How does ASTM know that a 33THE WITNESS: Through the 43member has read that clause? 44original membership application, 55Q. How does ASTM know that a
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Page 178Page 178Page 178Page1confusing. Calls for speculation.1BY MR. BECKER:2Calls for a legal conclusion.2Q.How does ASTM know that a3THE WITNESS: Through the3member has read that clause?4original membership application,4A.We don't.5through the work item registration5Q.How does ASTM know that a
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3THE WITNESS: Through the 4 53member has read that clause?4original membership application, through the work item registration3member has read that clause?5Use the work item registration4A.We don't.5Q.How does ASTM know that a
4original membership application,4A.We don't.5through the work item registration5Q.How does ASTM know that a
5 through the work item registration 5 Q. How does ASTM know that a
6 process and through the collaboration 6 member agrees with that clause?
• process, and anough the condition
7 registration process. 7 MR. FEE: Objection to the
8 BY MR. BECKER: 8 extent it calls for a legal
9 Q. My question was with regards to 9 conclusion. Also calls for
10 the 2011 membership renewal invoice. I'll 10 speculation. You can answer.
11read it again.11THE WITNESS: We don't know f
12 Is there any means through the 12 sure.
13 membership renewal invoice that ASTM ensures 13
14 that it has the understanding and assent of 14 (Exhibit 1294, Organizational
15 the individual renewing his or her membership 15 Membership Directory, was marked for
16that any copyright he or she has in the16identification.)
17 development or creation of ASTM standards is 17
18 to be assigned to ASTM? 18 BY MR. BECKER:
19MR. FEE: Objection to form.19Q.I'm handing you what's been
20 Vague and confusing. Compound. Calls 20 marked as Exhibit 1294. It's a document
21for speculation and calls for a legal21titled: "Organizational Membership
22 conclusion. 22 Directory." This is two separate printouts
23THE WITNESS: Within the 201123combined. It is the A to K listing and the L
24 membership renewal invoice, the only 24 to Z listing. It's something it's over
25 thing that is there is this language 25 100 pages long.
Page 179 Page

46 (Pages 178 - 181)

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

1	THE WITNESS: They make	1	A. Yes.
2	contributions at the meetings.	2	Q. Did you ever receive this
3	BY MR. BECKER:	3	e-mail that's Exhibit 1295?
4	Q. And do those contributions end	4	A. I may have.
5	up in the final approved standards?	5	Q. Do you have any reason to think
6	MR. FEE: Objection. Vague.	6	that if you had that you did not receive
7	THE WITNESS: I don't I can't	7	this e-mail produced by ASTM that has your
8	say specifically.	8	name listed under the cc line?
9	BY MR. BECKER:	9	A. No.
10	Q. What kind of contributions do	10	Q. Do you have any reason to
11	they provide at these meetings?	11	believe that this document provided by ASTM
12	MR. FEE: Objection. Vague.	12	is not authentic?
13	THE WITNESS: Oral contributions.	13	MR. FEE: Objection. Calls for
14	BY MR. BECKER:	14	a legal conclusion.
15	Q. Do they provide any written	15	THE WITNESS: I have no idea.
16	contributions?	16	BY MR. BECKER:
17	MR. FEE: Objection. Vague.	17	Q. Is that a yes or a no?
18	THE WITNESS: They may through	18	A. I don't know. I don't see any
19	the balloting process.	19	reason why it wouldn't be.
$\frac{1}{20}$	BY MR. BECKER:	20	Q. If you turn to the second page,
21	Q. Do they vote on standard drafts	21	it says this is an e-mail from Sarah
22	or revisions?	22	Petre, P-E-T-R-E, to Jeff Grove that says
23	MR. FEE: Objection. Form.	23	in which you are cc'd at dsmith@astm.org. Is
23	THE WITNESS: They may. They	24	that correct?
24	have the opportunity to.	25	A. Yes.
23	Page 186	25	A. 105. Page 188
	6		0
1		1	Q. And it says, "Jeff: Attached
2	(Exhibit 1295, E-mail chain with	2	is a summary of all the potentially relevant
2 3	attachment, Bates ASTM025633 -	2 3	is a summary of all the potentially relevant standards related to the UE's efforts that
2 3 4	attachment, Bates ASTM025633 - ASTM025640, was marked for	2 3 4	is a summary of all the potentially relevant standards related to the UE's efforts that focus on the environmental footprint of
2 3 4 5	attachment, Bates ASTM025633 -	2 3	is a summary of all the potentially relevant standards related to the UE's efforts that focus on the environmental footprint of products and services. This list is more
2 3 4 5 6	attachment, Bates ASTM025633 - ASTM025640, was marked for identification.)	2 3 4	is a summary of all the potentially relevant standards related to the UE's efforts that focus on the environmental footprint of products and services. This list is more over inclusive. I also included a list of
2 3 4 5	attachment, Bates ASTM025633 - ASTM025640, was marked for	2 3 4 5	is a summary of all the potentially relevant standards related to the UE's efforts that focus on the environmental footprint of products and services. This list is more
2 3 4 5 6 7 8	attachment, Bates ASTM025633 - ASTM025640, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been	2 3 4 5 6 7 8	is a summary of all the potentially relevant standards related to the UE's efforts that focus on the environmental footprint of products and services. This list is more over inclusive. I also included a list of the EPA members that participate in E50 or E60." Is that correct?
2 3 4 5 6 7 8 9	attachment, Bates ASTM025633 - ASTM025640, was marked for identification.) BY MR. BECKER:	2 3 4 5 6 7	is a summary of all the potentially relevant standards related to the UE's efforts that focus on the environmental footprint of products and services. This list is more over inclusive. I also included a list of the EPA members that participate in E50 or E60." Is that correct? A. That's what it says.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	attachment, Bates ASTM025633 - ASTM025640, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1295. Could you, please, take a moment to try to put the pages for the previous exhibit back in the same order that they were provided to you, if possible? MR. BRIDGES: I'll do that. Hand them to me, I'll do that. Hand them to me, I'll do that. THE WITNESS: I think that's the order. BY MR. BECKER: Q. Do you recognize this document that has been provided to you as Exhibit 1295? It is Bates number ASTM025633 to 025640. A. No.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 is a summary of all the potentially relevant standards related to the UE's efforts that focus on the environmental footprint of products and services. This list is more over inclusive. I also included a list of the EPA members that participate in E50 or E60." Is that correct? A. That's what it says. Q. Then if you turn to Bates number ASTM025637, the second paragraph from the top says, "The following representatives from EPA participate on the relevant ASTM committees," and then lists a number of individuals. Is that correct? A. Yes. Q. Do you know any of these individuals that are listed? A. Yes. Q. Which individuals do you know? A. I know Deb Goldblum. I know Sven-Erik Kaiser. And I know Patricia Overmeyer.

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1	I'm not sure what region it is, but it's in	1	A. Just roughly maybe 2009. 2008,
2	Philadelphia, office in Philadelphia.	2	2010, in that time frame.
3	Q. Do you know what her position	3	Q. What happened after Deborah
4	is?	4	Goldblum brought forward her idea in that
5	A. I don't.	5	committee?
6	Q. Do you know what Sven-Erik	6	MR. FEE: Objection. Vague.
7	Kaiser's position is?	7	It's also beyond the scope of his
8	A. No.	8	designation.
9	Q. Do you know what Patricia	9	THE WITNESS: I believe the
10	Overmeyer's position is?	10	committee formed a task group to
11	A. No.	11	develop the standard.
12	Q. How do you know Deborah	12	BY MR. BECKER:
13	Goldblum?	13	Q. And what happened at the task
14	A. Through my work on Committee	14	group to develop that standard?
15	E50 on environmental assessment.	15	MR. FEE: Same objection.
16	Q. And how do you know Sven-Erik	16	Beyond the scope and calls for
17	Kaiser?	17	speculation.
18	A. The same.	18	THE WITNESS: I mean, there were
19	Q. And how do you know Patricia	19	many task group meetings, they had
20	Overmeyer?	20	discussions about developing content.
21	A. The same.	21	BY MR. BECKER:
22	Q. How has Deborah Goldblum	22	Q. What was Deborah Goldblum's
23	participated on the Committee E50?	23	idea for a standard concerning green cleanup,
24	MR. FEE: Objection. Vague.	24	to the best of your knowledge?
25	THE WITNESS: She brought	25	MR. FEE: Objection. Beyond the
	Page 190		Page 192
1	forward an idea for standards.	1	scope of his designation.
$\begin{vmatrix} 1\\2 \end{vmatrix}$	forward an idea for standards. BY MR. BECKER:		scope of his designation. THE WITNESS: It was, I think,
$\begin{vmatrix} 1\\ 2\\ 3 \end{vmatrix}$		$\begin{vmatrix} 1 \\ 2 \\ 3 \end{vmatrix}$	scope of his designation. THE WITNESS: It was, I think, for remediation at a construction
2	BY MR. BECKER:	2	THE WITNESS: It was, I think,
2 3	BY MR. BECKER: Q. What idea was that?	2 3	THE WITNESS: It was, I think, for remediation at a construction
2 3 4	BY MR. BECKER: Q. What idea was that? A. It was there were standards for	2 3 4	THE WITNESS: It was, I think, for remediation at a construction site.
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1 2 3 4 5	any contributions for standards or standard revisions for Committee E50? MR. FEE: Objection. Compound. Form. You can answer. THE WITNESS: I don't know.	1 2 3 4 5	marked as Exhibit 1296. This is the document produced by plaintiffs as Bates number ASTM068894. Can you tell me what this document is? A. It appears to be a membership
6	BY MR. BECKER:	6	application, but I an older version of a
7	Q. Did Patricia Overmeyer provide	7	membership application.
8	any contributions for standards for Committee	8	Q. And what does the there's
9	E50?	9	a it looks like a stamp with some
10	MR. FEE: Objection. Vague.	10	handwriting in the bottom right-hand corner.
11	THE WITNESS: I don't know other	11	It says, "ACCT #," "ORD #," "DEC 02 2008,"
12	than they Patricia participated at	12	"PROCESSED BY: DG." And then it has some
13	the meetings and attended meetings.	13	other numbers associated with it. Do you
14	MR. FEE: Matt, why don't we	14	know what that is?
15	take a break, we've been going an hour	15	A. The account number is the is
16	and a half.	16	that individual's membership number. So when
17	MR. BECKER: Just a moment.	17	you join, you get assigned a membership
18	BY MR. BECKER:	18	number. I don't know what the order number
19	Q. Did Patricia vote in the	19	is. Dec 02, 2008, is, I guess, the date that
20	Committee E50?	20	was processed by ASTM, but I don't know for
21	A. I don't know.	21	sure.
22	MR. FEE: Objection. Beyond the	22	Q. And do you know who DG is when
23	scope of his designation.	23	it says, "PROCESSED BY: DG"?
24	BY MR. BECKER:	24	A. No.
25	Q. Do you know if Deborah Goldblum	25	Q. Does that designate an
	Page 194		Page 196
1	voted in Committee E50?	1	individual or a department?
2	voted in Committee E50? MR. FEE: Same objection.	1 2	individual or a department? A. I don't know.
			-
2	MR. FEE: Same objection. THE WITNESS: No, I don't know. BY MR. BECKER:	2	A. I don't know.Q. Does this stamp indicate thatthis form has been processed and entered into
2 3	MR. FEE: Same objection. THE WITNESS: No, I don't know. BY MR. BECKER: Q. Do you know if Sven-Erik Kaiser	2 3	A. I don't know.Q. Does this stamp indicate that
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1			
1	MR. BECKER: Yeah. It's a	1	A. Could have been. I don't know
2	membership application. That's one of	2	for sure, though.
3	the ways that ASTM claims that it gets	3	Q. Do you know who else might have
4	assignment of rights.	4	been the head of internal sales in 2008?
5	MR. FEE: And the identity of	5	A. I'm not exactly sure.
6	who DG is is relevant to all this	6	Q. Could you show me where, if
7	because of what?	7	anywhere, on this document Exhibit 1296 there
8	MR. BECKER: Because this is	8	is language that ASTM believes it is assigned
9	this is a feature on the membership	9	copyright through?
10	application and I need to understand	10	MR. FEE: Objection. Calls for
11	what it means.	11	a legal conclusion. To the extent
12	MR. FEE: I'll let you ask that	12	that question calls for you to
13	question, but I'm not going to allow	13	disclose attorney-client
14	too many more questions along these	14	communications, I'd instruct you not
15	lines, but go ahead.	15	to do that. If you have an answer
16	MR. BECKER: I think this is	16	otherwise, you can go ahead and
17	perfectly relevant right here. My	17	answer.
18	question goes to whether this was	18	THE WITNESS: I don't see the
19	entered into the system and whether	19	language on this form that was on the
20	this person is, therefore, a member of	20	other forms.
20	ASTM.	20	BY MR. BECKER:
$ ^{21}_{22}$	MR. FEE: Do you want to read	22	Q. Is there any language on this
22	back the question? Or do you know	23	page that would transfer copyright from the
23	what it is?	23	individual who is listed on this form, Diana,
24	THE WITNESS: I'm not I'm a	24	I believe it's M-E-N-A-G-E-D to ASTM?
23	Page 198	23	Page 200
1		1	
1 2	little MR. FEE: You can answer.	$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	MR. FEE: Objection. Calls for a legal conclusion. To the extent the
	THE WITNESS: No. Just for		-
3		3	answer would disclose attorney-client
4	clarity, I'd like it repeated, if	4	communications, I instruct you not to
4 5	clarity, I'd like it repeated, if possible.	4 5	communications, I instruct you not to disclose that. You can answer if you
4 5 6	clarity, I'd like it repeated, if possible. BY MR. BECKER:	4 5 6	communications, I instruct you not to disclose that. You can answer if you have knowledge of it otherwise.
4 5 6 7	clarity, I'd like it repeated, if possible. BY MR. BECKER: Q. Who would know whether this	4 5 6 7	communications, I instruct you not to disclose that. You can answer if you have knowledge of it otherwise. THE WITNESS: I don't see any
4 5 6 7 8	clarity, I'd like it repeated, if possible. BY MR. BECKER: Q. Who would know whether this stamp in the bottom right-hand corner of this	4 5 6 7 8	communications, I instruct you not to disclose that. You can answer if you have knowledge of it otherwise. THE WITNESS: I don't see any language on this particular form that
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1	MR. FEE: Objection. Calls for	1	that is on the form.
2	a legal conclusion. To the extent	2	
3	that question would require you to	3	(Exhibit 1298, ASTM Application,
4	disclose attorney-client	4	Bates ASTM073844, was marked for
5	communications, I instruct you not to	5	identification.)
6	do so. If you can answer otherwise,	6	
7	go ahead.	7	BY MR. BECKER:
8	THE WITNESS: I don't see any	8	Q. I'm handing you what's been
9	language on here similar to the	9	marked as Exhibit 1298. This is a document
10	language that we had talked about	10	produced by ASTM as ASTM073844. Can you tell
11	earlier.	11	me what this document is?
12	BY MR. BECKER:	12	A. It looks like it's an ASTM
13	Q. The applicant here, Raymond	13	application.
14	Ortiz, is an organization member of the	14	Q. Is there any language on this
15	Defense Energy Support Center. Is that	15	document that Exhibit 1298, that ASTM
16	correct?	16	believes assigns copyright from the applicant
17	MR. FEE: Objection.	17	to ASTM?
18	Mischaracterizes the document.	18	MR. FEE: Objection. Calls for
19	THE WITNESS: I don't see how	19	a legal conclusion. To the extent
20	you're figuring out he's an	20	that question would require you to
21	organizational member.	21	disclose attorney-client
21 22	BY MR. BECKER:	22	communication, I instruct you not to
23	Q. Excuse me, let me rephrase	23	do so. If you have other responsive
23	that.	23	information, go ahead and do so.
25	Raymond Ortiz says lists his	25	THE WITNESS: I don't see the
25	Page 202	23	Page 204
1	organization name as "Defense Energy Support		language on this form that was on the
$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	Center." Is that correct?	2	previous forms.
3	A. That would appear to be right.	3	BY MR. BECKER:
4	Q. And he lists a, looks like a	4	Q. When you say "the previous
5	military e-mail address. Is that correct?	5	forms," are you referring to Exhibit 1293?
6	MR. FEE: Objection. Calls for	6	A. Correct.
7	speculation. Beyond the scope of his	7	Q. But you're not referring to
8	designation.	8	Exhibit 1297 or Exhibit 1296. Correct?
9	THE WITNESS: That's what would	9	A. Correct.
10	appear from this form.	10	
11	BY MR. BECKER:	11	(Exhibit 1299, ASTM
12	Q. It would appear that Raymond	12	Applications, Bates ASTM066848 -
13	Ortiz is a member of the military. Is that	13	ASTM066853, was marked for
14	correct?	14	identification.)
15	MR. FEE: Objection. Calls for	15	
16	speculation. Beyond the scope of his	16	BY MR. BECKER:
17	designation.	17	Q. I'm handing you what's been
18	THE WITNESS: I suppose that	18	marked as Exhibit 1299. These are the
19	looks like that's the case.	19	documents produced by ASTM as ASTM066848 to
20	BY MR. BECKER:	20	ASTM066853. Could you tell me what these
21	Q. And it appears that someone	21	documents are?
22	else, Zoe Fitzsimmonds is paying by credit	22	A. Looks like they're ASTM
23	card, Visa, for Mr. Ortiz's committee	23	applications.
24	membership application. Is that correct?	24	Q. These are ASTM applications
25	A. That's the name that appears,	25	that are in Spanish. Correct?
1	Page 203		Page 205
	1 426 205		8

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1	A. Would appear to be that.	1	reports on the use of ASTM standards.
2	Q. Are they membership applications?	2	Q. Are those national standards
3	A. I believe they are.	3	bodies that you're describing government
4	Q. Is there any language on these	4	bodies or private bodies?
5	membership applications that ASTM believes	5	MR. FEE: Objection. Beyond the
6	assigns ASTM any copyright by the applicants	6	scope of his designation.
7	MR. FEE: Objection. Calls for	7	THE WITNESS: I'm not exactly
8	expert testimony to the extent it	8	sure.
9	requires a translation, to the extent	9	BY MR. BECKER:
10	it is in Spanish. Calls for a legal	10	Q. What uses of ASTM standards do
11	conclusion. To the extent that that	11	these national standards bodies report to
12	question requires the disclosure of	12	ASTM?
13	any attorney-client communication, you	13	MR. FEE: Same objection.
14	shouldn't disclose it. You can answer	14	THE WITNESS: I'm not exactly
15	it otherwise.	15	sure. I just think in general use,
16	THE WITNESS: I don't know.	16	but I've never seen one of the
17	BY MR. BECKER:	17	reports.
18	Q. Do you speak Spanish?	18	BY MR. BECKER:
19	A. No.	19	Q. When you say "general use,"
20	Q. Have you seen this document	20	what do you mean by that?
21	previously?	21	MR. FEE: Same objection.
22	A. No.	22	THE WITNESS: How they may be
23	Q. In preparation for your	23	utilizing ASTM standards within their
24	deposition today, had you spoken with	24	country.
25	anybody excuse me, let me rephrase.	25	BY MR. BECKER:
	Page 206		Page 208
1	In preparation for your	1	Q. When you say how they are
2	deposition today, have had you	2	utilizing ASTM standards within their
3	communicated with anyone at ASTM about	3	country, when you say "they," are you
4	membership applications that were not in	4	referring to these standards bodies?
5	English?	5	MR. FEE: Same objection.
6	A. No.	6	Vague.
7	Q. I will submit to you that there	7	THE WITNESS: I believe it's how
8	is no assignment language on this document.	8	they're the people are utilizing
9	MR. FEE: Move to strike that to	9	them. If they're referenced in
10	the extent you're ever going to try to	10	regulation or if they're being used.
11	use it for something.	11	BY MR. BECKER:
12	BY MR. BECKER:	12	Q. When you say "the people," are
13	Q. Do you know what an MOU	13	you referring to the actual citizens of
14	affiliation is?	14	that those countries?
15	A. It stands for Memorandum of	15	MR. FEE: Objection. Beyond the
16	Understanding.	16	scope. Matt, I'm going to let him
17	Q. What is a Memorandum of	17	answer this question, but you are so
18	Understanding?	18	far off of the topics now, that this
19	A. It's part of our MOU program	19	is going to be the last question on
20	that we have with developing countries.	20	this topic. You can answer it. Go
21	Q. What is the MOU program?	21	ahead.
22	A. It's roughly that we will	22	THE WITNESS: I'm not sure.
23	provide on a gratuitous basis standards to	23	
24	national standards bodies of developing	24	(Exhibit 1300, Membership
	national standards bodies of developing	24 25	(Exhibit 1300, Membership application, Bates ASTM067024, was
24	· ·		

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

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

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1	between a committee membership	1	BY MR. BECKER:
2	application and a membership	2	Q. And what's that answer?
3	application.	3	MR. FEE: Same objection again.
4	BY MR. BECKER:	4	Asked and answered.
5	Q. If you look in this	5	THE WITNESS: At the top of the
6	Exhibit 1301 at page Bates number ASTM063146	6	page it says, "YOU ACKNOWLEDGE YOU
7	and compare that with ASTM063147 following	7	HAVE READ AND AGREE TO ABIDE BY ASTM'S
8	it, do you see that ASTM063146 is a 2012	8	INTELLECTUAL PROPERTY POLICY."
9	membership application whereas ASTM063147 is	9	BY MR. BECKER:
10	an ASTM committee membership application?	10	Q. But does it include the text
11	A. Yes.	11	from the Intellectual Property Policy that it
12	Q. Can you, please, indicate	12	says that the membership applicant must abide
13	where, if anywhere on ASTM063146, the 2012	13	by?
14	membership application, there is any language	14	MR. FEE: Objection. Asked and
15	that ASTM believes assigns it copyright from	15	answered.
16	the applicant?	16	BY MR. BECKER:
17	MR. FEE: Objection. Calls for	17	Q. It's a yes or no question.
18	a legal conclusion. To the extent	18	MR. FEE: He can answer the
19	that requires you to disclose	19	question however he feels appropriate.
20	attorney-client communications, you	20	THE WITNESS: If you're asking
21	shouldn't do so, but you can answer	21	me if the actual text of the
22	otherwise.	22	Intellectual Property Policy is on
23	THE WITNESS: At the top it	23	this membership application, the
24	mentions that by applying or renewing	24	answer is no.
25	your ASTM membership, you acknowledge	25	BY MR. BECKER:
	Page 218		Page 220
1	you have read and agree and abide by	1	Q. This application is filled in
2	ASTM's Intellectual Property Policy.	2	by hand. Correct?
3	The policy is available in the ASTM	3	MR. FEE: Objection. Calls for
4	Web site (www.astm.org) and/or by	4	speculation.
5	request to ASTM International	5	THE WITNESS: It appears to be.
6	headquarters [as read].	6	BY MR. BECKER:
7	BY MR. BECKER:	7	Q. Does ASTM ever receive requests
8	Q. Does this document, ASTM063146,	8	for its Intellectual Property Policy by
9	include any of the text from the ASTM	9	anybody other than Public.Resource.Org?
10	Intellectual Property Policy?	10	A. Possibly.
11	MR. FEE: Objection. The	11	Q. Do you know one way or the
12	document speaks for itself. You can	12	other?
13	answer.	13	A. No.
14	THE WITNESS: The document	14	Q. Who would know?
15	speaks for itself. It references the	15	MR. FEE: Objection. Calls for
16	intellectual recognizes and says,	16	speculation. It's also beyond the
17	"YOU ACKNOWLEDGE YOU HAVE READ AND	17	scope of the designation.
18	AGREE TO ABIDE BY ASTM'S INTELLECTUAL	18 19	THE WITNESS: Anyone who has
19	PROPERTY POLICY."	20	ever received a request would know. BY MR. BECKER:
20	BY MR. BECKER:	20	
21	Q. But does it include the text	21	Q. Are you personally aware of any requests?
22 23	from the ASTM Intellectual Property Policy	22	MR. FEE: Same objection.
	that it requires members to abide by?		-
		24	I H H W I I N H S S · Not that I can
24	MR. FEE: Same objection.	24	THE WITNESS: Not that I can think of
		24 25	THE WITNESS: Not that I can think of. Page 221

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1	BY MR. BECKER:	1	MR. FEE: Objection to form. I
2	Q. On the next page, ASTM063147,	2	also object to the extent it calls for
3	it has different language concerning the ASTM	3	attorney-client communications. You
4	Intellectual Property Policy than the 2012	4	shouldn't disclose any communications
5	membership application that we were just	5	between you and counsel, but you can
6	discussing. Is that correct?	6	answer otherwise.
7	MR. FEE: Hold on one second.	7	THE WITNESS: I believe the
8	You can answer.	8	language that is at the top of
9	THE WITNESS: Yes, that language	9	ASTM063146 was language that we used
10	is different.	10	prior to the language that we used
11	BY MR. BECKER:	11	that's contained on ASTM063147.
12	Q. The language that's on	12	BY MR. BECKER:
13	ASTM063147 is similar to the language that's	13	Q. But if you then turn the page
14	on Exhibit 1293, the 2011 membership renewal	14	to ASTM065682, that's a 2013 membership
15	invoice. Is that correct?	15	application, and it has the same language
16	MR. FEE: Objection. Vague.	16	concerning the ASTM Intellectual Property
17	THE WITNESS: Yep, that looks	17	Policy as on ASTM063146. Correct?
18	correct. Slightly different.	18	A. That's what it looks like.
19	BY MR. BECKER:	19	Q. If you turn the page to the
20	Q. Why is this language different	20	following page, the 2014 membership
21	for the 2012 committee membership application	21	application also has that same language.
22	than for the 2012 membership application?	22	Correct?
23	MR. FEE: Objection. To the	23	A. Yes.
24	extent that would require you to	24	Q. So ASTM has continued to use
25	disclose attorney-client	25	this language into 2014?
	Page 222		Page 224
1	communications, you shouldn't do so.	1	MR. FEE: Objection. Vague.
2	If you can answer otherwise, go ahead.	2	THE WITNESS: That's what it
3	THE WITNESS: My perspective is	3	would appear to me.
4	that they're the same thing. They're	4	BY MR. BECKER:
5	both intended for an individual to	5	Q. Who knows how many different
6	join a particular committee.	6	versions exist for the membership
7	BY MR. BECKER:	7	applications during each year from 2007 to
8	Q. Why is the copyright you say	8	2014?
9	they're the same thing, the copyright	9	A. I don't know if anybody knows.
10	assignment language?	10	Q. Why is that?
11	MR. FEE: Same objection and	11	MR. FEE: Objection. Calls for
12	instruction.	12	speculation.
13	THE WITNESS: No, I believe the	13	THE WITNESS: My experience as
14	form is the same thing. It serves the	14	being a staff manager is I don't think
15	same purpose. It's an application so	15	people think about the version of an
16	an individual can join the technical	16	application that's being used. I
17	committee.	17	think it's viewed as a tool that
18	BY MR. BECKER:	18	enables an individual to join a
19	Q. And my question was about the	19	technical committee.
20	actual language that ASTM believes concerns	20	BY MR. BECKER:
21	copyright assignment. Why is there a	21	Q. Who creates the membership
22	difference in the language concerning ASTM's	22	applications such as the 2014 membership
23	IP Policy on ASTM063146 as opposed to the	23	application ASTM066345?
24	language concerning ASTM's IP Policy on	24	A. I'm not sure who creates it.
25	ASTM063147?	25	Maybe our customer relations. Maybe it's our
1	Page 223		Page 225

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

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

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1	Q. How so?	1	Renewal Invoice, Bates ASTM075697, was
2	MR. FEE: Same objections.	2	marked for identification.)
3	THE WITNESS: I just don't know	3	
4	that.	4	BY MR. BECKER:
5	BY MR. BECKER:	5	Q. I'm handing you what's been
6	Q. Who would know that?	6	marked as Exhibit 1304. This has been
7	MR. FEE: Same objections.	7	produced by ASTM as ASTM075697. Can you tell
8	THE WITNESS: I guess if the	8	me what this document is?
9	person who processed this back in 2008	9	A. It says it's the "2010
10	would remember, maybe that person.	10	Membership Renewal Invoice."
11	BY MR. BECKER:	11	Q. It would appear that somebody
12	Q. Is there any way to find out	12	has crossed out language on this renewal
13	whether, when these renewal invoices were	13	invoice and it includes the language that
14	sent in to ASTM, if they included just this	14	references the ASTM IP Policy. Is that
15	single third section of the ASTM renewal	15	correct?
16	invoice?	16	MR. FEE: Objection.
17	MR. FEE: Same objections.	17	Mischaracterizes the document.
18	THE WITNESS: No, other than by	18	THE WITNESS: Yes. It looks
19	asking people that processed these.	19	like that information and other
20	BY MR. BECKER:	20	information is crossed out.
21	Q. Does ASTM keep the original	21	BY MR. BECKER:
22	copies of renewal invoices that it receives	22	Q. Does somebody review the
23	from members?	23	membership renewal invoices when they are
24	MR. FEE: Same objections.	24	delivered to ASTM?
25	THE WITNESS: I don't know.	25	A. We have someone that processes
	Page 234		Page 236
1	Probably for a certain period of time.	1	that.
	J 1		
2	BY MR. BECKER:	2	Q. Is a membership renewal ever
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	BY MR. BECKER: Q. Who would know?	2 3	Q. Is a membership renewal ever refused for crossing out the language
2 3 4	Q. Who would know?	2 3 4	refused for crossing out the language
3 4	Q. Who would know? MR. FEE: Same objections.	3	refused for crossing out the language referencing the ASTM IP Policy?
3	Q. Who would know?	3 4	refused for crossing out the language referencing the ASTM IP Policy? MR. FEE: Objection. Beyond the
3 4 5 6	Q. Who would know?MR. FEE: Same objections.THE WITNESS: People on our internal sales.	3 4 5 6	refused for crossing out the language referencing the ASTM IP Policy? MR. FEE: Objection. Beyond the scope of his designation. Calls for
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3 4 5 6 7	Q. Who would know? MR. FEE: Same objections. THE WITNESS: People on our internal sales. BY MR. BECKER:	3 4 5 6 7 8	refused for crossing out the language referencing the ASTM IP Policy? MR. FEE: Objection. Beyond the scope of his designation. Calls for speculation.
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60 (Pages 234 - 237)

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3Q. ASTM continues to this day to 4 accept mail-in membership renewal forms.3Dan at dsmith@astm.org [as read]?4A. Yes.Q. Do you recognize this document?6A. Yes.Q. Do you have any reason to8(Exhibit 1305, 2011 MembershipBelieve that you did not receive this9Renewal Invoice, Bates ASTM082973, wasDo you have any reason to10marked for identification.)10A. No.1111Q. Do you have any reason to12BY MR. BECKER:12believe that this document is not authentic?13Q. Tm handing you what's been13A. No.14marked as Exhibit 1305. Can you tell me what14Q. Do you have any reason to15this document is?16of the e-mail it says, "One more talking17Membership Renewal Invoice."18A. It was most likely for our18Q. And this document.21spring 2012 retreat.20MR. HEL: Objection.23beyond the scope. Lixplain to me how21THE WITNESS: There's a line22MR. FEE: Objection. This is23through the section 2.24beyond the scope. Lixplain to me how24AS the language referencing the ASTM IP2a document fast in?24AS the language referencing the ASTM IP1MR. BECKER: This has to do with25Q. For the record, this is5designee and we can ask him documents26Q. For the record, this is5designee and we can ask him	1		1	
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		Q. I've handed you what's been	24	ASTM.
	24			

61 (Pages 238 - 241)

1	background. I'm instructing him not	1	A. Yes.
2	to answer this question.	2	Q. Do you recognize this document?
3	MR. BECKER: We are entitled to	3	A. No.
4	ask the witness what we want. As a	4	Q. Do you have any reason to
5	30(b)(6) witness, we can ask him in	5	believe that this document is not authentic?
6	his individual capacity, and this	6	A. No.
7	e-mail is fair game under that.	7	Q. Do you have any reason to
8	BY MR. BECKER:	8	believe that you did not receive this
9	Q. Mr. Smith, are you going to	9	document at the time it was sent?
10	answer the questions that we ask regarding	10	A. No.
11	this document?	11	Q. Do you have any reason to
12	MR. FEE: No, he's not.	12	believe that you didn't review this document
13	THE WITNESS: No, I'm not.	13	at the time that it was sent to you?
14	MR. BECKER: Counsel, I believe	14	A. I'm not sure.
15	that's in violation of the $30(b)(6)$	15	
16	requirements.	16	(Exhibit 1308, 8/20/14 E-mail
17	MR. FEE: The court's order said	17	with attachment, Bates ASTM003314 &
18	that this was supposed to be on the	18	ASTM003315, was marked for
19	three topics that we've been talking	19	identification.)
20	about all day. That's what the basis	20	
21	for this deposition is.	21	BY MR. BECKER:
22	MR. BECKER: The 30(b)(6) rules	22	Q. I'm handing you what's been
23	allow us to ask questions of the	23	marked as Exhibit 1308. This is a document
24	30(b)(6) designee. They don't have to	24	produced by ASTM as Bates number ASTM003314
25	be focused purely on those topics, but	25	to 15.
	Page 242		Page 244
1	if they are outside of those topics,	1	MR. BECKER: I'll note simply to
$\begin{vmatrix} 1\\2 \end{vmatrix}$	if they are outside of those topics, you can always object to them, but you	1 2	MR. BECKER: I'll note simply to counsel that in the court's order
2	you can always object to them, but you	2	counsel that in the court's order
2 3	you can always object to them, but you cannot instruct your client not to	2 3	counsel that in the court's order concerning the deposition for today,
2 3 4	you can always object to them, but you cannot instruct your client not to answer the question.	2 3 4	counsel that in the court's order concerning the deposition for today, the court did not limit the deposition
2 3 4 5	you can always object to them, but you cannot instruct your client not to answer the question. MR. FEE: The court has	2 3 4 5	counsel that in the court's order concerning the deposition for today, the court did not limit the deposition to any topics. The court simply
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	you can always object to them, but you cannot instruct your client not to answer the question. MR. FEE: The court has specifically ordered what the subject matter of this deposition is going to be. It did not include anything other than those three topics, so I'm instructing him not to answer. MR. BECKER: I disagree. MR. FEE: Disagree. MR. BECKER: The court instructed (Exhibit 1307, E-mail chain, Bates ASTM099502 - ASTM099506, was marked for identification.) BY MR. BECKER: Q. Mr. Smith, I'm handing you the document that's been marked as Exhibit 1307. This is the document produced by ASTM as	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 counsel that in the court's order concerning the deposition for today, the court did not limit the deposition to any topics. The court simply denied the plaintiff's motion for a protective order and ordered that a deposition was to commence. BY MR. BECKER: Q. Mr. Smith, do you see your name listed under the "To" line for Exhibit 1308? A. Yes. Q. Did you receive this e-mail? A. I'm sure I did. Q. Mr. Smith, do you is this document as produced by ASTM authentic? MR. FEE: Objection. Calls for a legal conclusion. Beyond the scope of his designation. MR. FEE: Subject to the federal rules of evidence.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	you can always object to them, but you cannot instruct your client not to answer the question. MR. FEE: The court has specifically ordered what the subject matter of this deposition is going to be. It did not include anything other than those three topics, so I'm instructing him not to answer. MR. BECKER: I disagree. MR. FEE: Disagree. MR. BECKER: The court instructed (Exhibit 1307, E-mail chain, Bates ASTM099502 - ASTM099506, was marked for identification.) BY MR. BECKER: Q. Mr. Smith, I'm handing you the document that's been marked as Exhibit 1307. This is the document produced by ASTM as ASTM099502 to ASTM099506. Do you see that	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 counsel that in the court's order concerning the deposition for today, the court did not limit the deposition to any topics. The court simply denied the plaintiff's motion for a protective order and ordered that a deposition was to commence. BY MR. BECKER: Q. Mr. Smith, do you see your name listed under the "To" line for Exhibit 1308? A. Yes. Q. Did you receive this e-mail? A. I'm sure I did. Q. Mr. Smith, do you is this document as produced by ASTM authentic? MR. FEE: Objection. Calls for a legal conclusion. Beyond the scope of his designation. MR. FEE: Subject to the federal rules of evidence. MR. BECKER: Authentication?
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Case 1:13-cv-01215-TSC Document 204-46 Filed 11/13/19 Page 64 of 114

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

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1	We have another metric that is	1	would know?
2	piloting new technology for	2	MR. FEE: Same objections.
3	collaborating in development of	3	THE WITNESS: Not for sure.
4	documents. We have another metric	4	BY MR. BECKER:
5	that is evaluating a technology	5	Q. Was Jim Thomas in charge of
6	options for consolidating or having a	6	this metric?
7	content management system, a unified	7	MR. FEE: Objection. Vague.
8	content management system. And	8	THE WITNESS: No.
9	there's another one that I'm not	9	MR. FEE: Calls for speculation.
10	thinking of right now.	10	Beyond the scope of his designation.
11	BY MR. BECKER:	11	THE WITNESS: No.
12	Q. What is what metric does	12	BY MR. BECKER:
13	this document concern?	13	Q. The top bullet point statement
14	MR. FEE: Objection. Vague.	14	on the second page says, "Take inventory of
15	THE WITNESS: It deals with	15	the existing 1,500 Federal agency
16	coordinating, it says it right at the	16	participants in ASTM technical committees to
17	top. Addresses government interaction	17	identify areas of under-representation and
18	issues and creates an ASTM Government	18	participation."
19	Member Advisory Committee to advance	19	Do you know if that figure of
20	the following objectives.	20	1,500 federal agency participants in ASTM
21	BY MR. BECKER:	21	technical committees is correct?
22	Q. What is the ASTM Government	22	MR. FEE: Objection. Vague.
23	Member Advisory Committee?	23	THE WITNESS: It's probably
24	A. There is not one.	24	ballpark.
25	Q. So the ASTM Government Member	25	BY MR. BECKER:
	Page 250		Page 252
1	Advisory Committee was never created?	1	Q. Who would know what the exact
2	Advisory Committee was never created? A. No.	1 2	number of federal agency participants in ASTM
2 3	A. No.Q. Does ASTM plan to is ASTM		
2 3 4	A. No.Q. Does ASTM plan to is ASTMstill considering creating a Government	2	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for
2 3 4 5	A. No.Q. Does ASTM plan to is ASTMstill considering creating a GovernmentMember Advisory Committee?	2 3	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his
2 3 4	A. No.Q. Does ASTM plan to is ASTMstill considering creating a Government	2 3 4	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for
2 3 4 5 6 7	A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope.	2 3 4 5 6 7	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his
2 3 4 5 6 7 8	A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering	2 3 4 5 6 7 8	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody in our membership department. It's a
2 3 4 5 6 7 8 9	 A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering it. 	2 3 4 5 6 7 8 9	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody
2 3 4 5 6 7 8 9 10	A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering it. BY MR. BECKER:	2 3 4 5 6 7 8 9 10	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody in our membership department. It's a figure that changes on a daily basis.
2 3 4 5 6 7 8 9 10 11	 A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering it. BY MR. BECKER: Q. Who prepared this metric? 	2 3 4 5 6 7 8 9 10 11	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody in our membership department. It's a figure that changes on a daily basis.
2 3 4 5 6 7 8 9 10 11 12	 A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering it. BY MR. BECKER: Q. Who prepared this metric? MR. FEE: Objection. Vague. 	2 3 4 5 6 7 8 9 10 11 12	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody in our membership department. It's a figure that changes on a daily basis. (Exhibit 1309, ASTM Collaboration Area, Bates ASTM103272,
2 3 4 5 6 7 8 9 10 11 12 13	 A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering it. BY MR. BECKER: Q. Who prepared this metric? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure. 	2 3 4 5 6 7 8 9 10 11 12 13	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody in our membership department. It's a figure that changes on a daily basis.
2 3 4 5 6 7 8 9 10 11 12 13 14	 A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering it. BY MR. BECKER: Q. Who prepared this metric? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure. BY MR. BECKER: 	2 3 4 5 6 7 8 9 10 11 12 13 14	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody in our membership department. It's a figure that changes on a daily basis. (Exhibit 1309, ASTM Collaboration Area, Bates ASTM103272, was marked for identification.)
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering it. BY MR. BECKER: Q. Who prepared this metric? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure. BY MR. BECKER: Q. Who would know? MR. FEE: Objection. Beyond the scope. Calls for speculation. THE WITNESS: Jim Thomas. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody in our membership department. It's a figure that changes on a daily basis. (Exhibit 1309, ASTM Collaboration Area, Bates ASTM103272, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1309. This is the document that was produced by ASTM last night as Bates
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering it. BY MR. BECKER: Q. Who prepared this metric? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure. BY MR. BECKER: Q. Who would know? MR. FEE: Objection. Beyond the scope. Calls for speculation. THE WITNESS: Jim Thomas. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody in our membership department. It's a figure that changes on a daily basis. (Exhibit 1309, ASTM Collaboration Area, Bates ASTM103272, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1309. This is the document that was produced by ASTM last night as Bates number ASTM103272. It's titled "ASTM
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering it. BY MR. BECKER: Q. Who prepared this metric? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure. BY MR. BECKER: Q. Who would know? MR. FEE: Objection. Beyond the scope. Calls for speculation. THE WITNESS: Jim Thomas. BY MR. BECKER: Q. Would anybody else besides Jim 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody in our membership department. It's a figure that changes on a daily basis. (Exhibit 1309, ASTM Collaboration Area, Bates ASTM103272, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1309. This is the document that was produced by ASTM last night as Bates number ASTM103272. It's titled "ASTM Collaboration Area." And it appears that it
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering it. BY MR. BECKER: Q. Who prepared this metric? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure. BY MR. BECKER: Q. Who would know? MR. FEE: Objection. Beyond the scope. Calls for speculation. THE WITNESS: Jim Thomas. BY MR. BECKER: Q. Would anybody else besides Jim 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody in our membership department. It's a figure that changes on a daily basis. (Exhibit 1309, ASTM Collaboration Area, Bates ASTM103272, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1309. This is the document that was produced by ASTM last night as Bates number ASTM103272. It's titled "ASTM Collaboration Area." And it appears that it was printed on it was printed yesterday.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering it. BY MR. BECKER: Q. Who prepared this metric? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure. BY MR. BECKER: Q. Who would know? MR. FEE: Objection. Beyond the scope. Calls for speculation. THE WITNESS: Jim Thomas. BY MR. BECKER: Q. Would anybody else besides Jim Thomas know who prepared this? MR. FEE: Same objections. THE WITNESS: Possibly. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody in our membership department. It's a figure that changes on a daily basis. (Exhibit 1309, ASTM Collaboration Area, Bates ASTM103272, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1309. This is the document that was produced by ASTM last night as Bates number ASTM103272. It's titled "ASTM Collaboration Area." And it appears that it was printed on it was printed yesterday. Could you tell me what this document is? A. I believe it is a picture of an image on our Web site that indicates a member
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 A. No. Q. Does ASTM plan to is ASTM still considering creating a Government Member Advisory Committee? MR. FEE: Objection. Beyond the scope. THE WITNESS: We're considering it. BY MR. BECKER: Q. Who prepared this metric? MR. FEE: Objection. Vague. THE WITNESS: I'm not sure. BY MR. BECKER: Q. Who would know? MR. FEE: Objection. Beyond the scope. Calls for speculation. THE WITNESS: Jim Thomas. BY MR. BECKER: Q. Would anybody else besides Jim Thomas know who prepared this? MR. FEE: Same objections. THE WITNESS: Possibly. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	number of federal agency participants in ASTM technical committees is? MR. FEE: Objection. Calls for speculation. Beyond the scope of his designation. THE WITNESS: Perhaps somebody in our membership department. It's a figure that changes on a daily basis. (Exhibit 1309, ASTM Collaboration Area, Bates ASTM103272, was marked for identification.) BY MR. BECKER: Q. I'm handing you what's been marked as Exhibit 1309. This is the document that was produced by ASTM last night as Bates number ASTM103272. It's titled "ASTM Collaboration Area." And it appears that it was printed on it was printed yesterday. Could you tell me what this document is? A. I believe it is a picture of an

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1	there before joining a collaboration area.	1	the membership application as it currently
2	Q. Is this the ASTM collaboration	2	exists on the Web?
3	area language concerning the ASTM IP Policy	3	A. It might be, or it might be
4	and copyright that you had discussed earlier	4	part of it.
5	today in the deposition?	5	Q. What is missing, if anything,
6	A. Looks like it's very similar,	6	from this document if it is the membership
7	yeah.	7	application on the Web?
8	Q. When you say it's "very	8	A. This appears to be the 2003
9	similar," is there any differences that you	9	version, so I don't think this is the most
10	see between this and the version that is on	10	recent version. It appears that there is
11	the ASTM Web site that you were describing	11	language at the very bottom of page
12	earlier today?	12	ASTM013275, it asks for acknowledgment about
13	MR. FEE: Objection. Vague.	13	reading and understanding ASTM's Intellectual
14	THE WITNESS: I meant that this	14	Property Policy, and agree to abide by its
15	is very similar to the language that	15	terms, [check off box].
16	we talked about earlier that was on	16	Q. It says, "put in weblink"
17	the renewal form.	17	there. Do you know why it says that?
18	BY MR. BECKER:	18	A. No, I don't know why.
19	Q. When you described earlier that	19	Q. Does this appear to be a draft
20	participants in technical committees who set	20	of the ASTM membership application as of
21	up an ASTM collaboration area would have to	21	approximately 2003?
22	agree to language concerning copyright and	22	A. I would I can't say for sure
23	the ASTM IP Policy, were you describing this	23	but since it says, "Costs for 2003" up top, I
24	document 1309?	24	would say that's probably correct.
25	MR. FEE: Objection to form.	25	Q. Do you know if this precise
	Page 254		Page 256
1	THE WITNESS: When earlier was	1	version of the ASTM member application was
2	that?	2	ever implemented online on the ASTM Web site?
3	BY MR. BECKER:	3	A. I don't know for sure, but I'm
4	Q. At the start of the deposition.	4	guessing it was since this looks like a
5	MR. FEE: Same objection.	5	picture from the ASTM Web site.
6	THE WITNESS: I may have been.	6	Q. Who would know for certain?
7	I'm not sure I recall the beginning of	7	A. I don't know if anybody would
8	the deposition, but I think that's	8	at this point since it was an online
9	right.	9	application.
10		10	MR. BECKER: Let's go off the
11	(Exhibit 1310, ASTM Membership	11	record.
12	Application, Bates ASTM103274 -	12	VIDEOGRAPHER: The time is now
13	ASTM103276, was marked for	13	6:40. We're going off the video
14	identification.)	14	record.
15	[´]	15	
16	BY MR. BECKER:	16	(A recess was taken.)
			```
17	Q. I'm handing you what's been	17	
17 18	Q. I'm handing you what's been marked as Exhibit 1310. This is the document	17	VIDEOGRAPHER: The time is now
	· · · ·	18	VIDEOGRAPHER: The time is now 7:01. We're back on the video record.
18	marked as Exhibit 1310. This is the document	18	
18 19	marked as Exhibit 1310. This is the document produced by ASTM last night as Bates number ASTM103274 to ASTM103276.	18 19	7:01. We're back on the video record.
18 19 20	marked as Exhibit 1310. This is the document produced by ASTM last night as Bates number	18 19 20	7:01. We're back on the video record.  (Exhibit 1311, Record Retention
18 19 20 21	marked as Exhibit 1310. This is the document produced by ASTM last night as Bates number ASTM103274 to ASTM103276. Do you recognize this document? A. It looks like it's our	18 19 20 21	7:01. We're back on the video record.  (Exhibit 1311, Record Retention Policy, Bates ASTM003501 - ASTM003522,
18 19 20 21 22	marked as Exhibit 1310. This is the document produced by ASTM last night as Bates number ASTM103274 to ASTM103276. Do you recognize this document?	18 19 20 21 22	7:01. We're back on the video record.  (Exhibit 1311, Record Retention
18 19 20 21 22 23	marked as Exhibit 1310. This is the document produced by ASTM last night as Bates number ASTM103274 to ASTM103276. Do you recognize this document? A. It looks like it's our membership application that we have on our	18 19 20 21 22 23	7:01. We're back on the video record.  (Exhibit 1311, Record Retention Policy, Bates ASTM003501 - ASTM003522,
18 19 20 21 22 23 24	marked as Exhibit 1310. This is the document produced by ASTM last night as Bates number ASTM103274 to ASTM103276. Do you recognize this document? A. It looks like it's our membership application that we have on our on the Web.	18 19 20 21 22 23 24	7:01. We're back on the video record. (Exhibit 1311, Record Retention Policy, Bates ASTM003501 - ASTM003522, was marked for identification.)

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1	I just want to say that Mr. Smith has	1	of Records," section III.
2	been available to be deposed since	2	
3	10:00 a.m. this morning. It's now	3	(Exhibit 1312, 11/21/08 E-mail
4	7:00. We have about 55 minutes left.	4	with attachment, Bates ASTM088320 -
5	We're not staying past 8:00. So if	5	ASTM088325, was marked for
6	you're going to take any other breaks,	6	identification.)
7	it better be short. That was a	7	
8	20-minute break and I think a complete	8	BY MR. BECKER:
9	waste of time. Go ahead.	9	Q. I'm handing you what's been
10	BY MR. BECKER:	10	marked as Exhibit 1312. This is the document
11	Q. Mr. Smith, I've handed you	11	produced by ASTM as ASTM088320 to ASTM088325.
12	what's marked as Exhibit 1311. This is a	12	It is an e-mail with an attachment that says,
12	document produced by ASTM as 003501 to 3522.	12	
	- · ·		"ASTM International Author/Copyright Owner
14	Could you, please, identify it?	14	Agreement." Is this attachment a correct
15	A. It says, "RECORD RETENTION	15	copy of the ASTM International
16	POLICY."	16	Author/Copyright Ownership Agreement?
17	Q. Is this ASTM's record retention	17	MR. FEE: Objection. Vague as
18	policy?	18	to time. Beyond the scope of the
19	A. Yes, I believe it is.	19	designation as well.
20	Q. Have you did you review	20	THE WITNESS: I'm not sure.
21	ASTM's record retention policy in preparation	21	BY MR. BECKER:
22	for the deposition today?	22	Q. Who would know whether this
23	A. I reviewed it very briefly.	23	attachment is a correct copy of the ASTM
24	Q. Do you know what category under	24	International Author/Copyright Ownership
25	the record retention policy that membership	25	Agreement?
	Page 258		Page 260
1	application forms would qualify as?	1	MR. FEE: Objection. Beyond the
2	MR. FEE: Objection. It's	2	scope.
3	beyond the scope of his designation.	3	THE WITNESS: I would have to
4	THE WITNESS: Are you referring	4	read it first to possibly give you an
5	to any particular pages?	5	answer.
6	BY MR. BECKER:	6	Our publications department
7	Q. Yes. If you look at ASTM 3502	7	might be able to tell you whether or
8	and 3503, it says, "Types of Records." That	8	not this is the correct
9	includes "Temporary Records," "Final Records"	9	Author/Copyright Owner Agreement since
10	and "Permanent Records." And then it also	10	it's a journal paper, relevant to a
11	has B is section B, "Types of Records That	10	journal paper.
11	have Legal or Regulatory Periods of	11	journal paper.
12	Retention," "Accounting and Corporate Tax		 (Ekiki 1212 W-L -:
		13	(Exhibit 1313, Web site
14	Records," "Corporate Records," "Employment	14	screenshots, Bates ASTM001792 -
15	and Employee Records," "Bank Records," and	15	ASTM001800, was marked for
16	"Legal Records."	16	identification.)
17	A. I don't know what category	17	
18	membership application would fall under,	18	BY MR. BECKER:
19	would just I'm not sure.	19	Q. I'm handing you what's been
20	Q. Do you know what category the	20	marked as Exhibit 1313. This document was
21	ASTM IP Policy would fall under?	21	produced by ASTM with Bates number ASTM001792
22	MR. FEE: Objection. Beyond the	22	to 1800. What is this document?
23	scope.	23	A. This looks like it is
24	THE WITNESS: No, I don't know.	24	screenshots from our Web site for how an
25	I'm not very familiar with the "Types	25	individual would renew their membership.
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1	Q. Is this a correct copy of the	1	A. This is for joining a technical
2	current language for the renewal for the	2	committee. It's a participating membership
3	membership renewal process on the ASTM Web	3	application. So on page ASTM001802 you
4	site?	4	select the type of membership that you want
5	MR. FEE: Objection. Vague.	5	to purchase. And in this particular instance
6	THE WITNESS: These are Web	6	the screenshots show that they've selected
7	screenshots, so I'm not sure if this	7	the participating member. And then after
8	is the current version or not. It's	8	that it's an example of what one would see if
9	kind of hard to read, but it looks	9	they selected the organizational membership.
10	like it was I mean, it could be	10	And then the informational and then the
11	current.	11	student.
12	BY MR. BECKER:	12	
13	Q. Did you review the membership	13	(Exhibit 1315, ASTM Member
14	renewal online application in preparation for	14	Application Forms, Bates ASTM052816,
15 16	your deposition today? A. Yes.	15	ASTM052817, ASTM062194, ASTM062195, ASTM062198 & ASTM062199, was marked
10	Q. Is there any reason why you	16 17	for identification.)
17	think that this may not be an accurate copy	17	for identification.)
19	of the current membership renewal process on	10	BY MR. BECKER:
20	the ASTM Web site?	20	Q. I'm handing you what's been
20	A. No.	20	marked as Exhibit 1315. This is a
22	Q. Looking at Exhibit 1313, on the	22	document this is a number of documents
23	second page near the top of the page	23	Bates labeled ASTM052816 to 817, ASTM062194
24	ASTM001793, does that depict the membership	24	to 195, and ASTM062198 to 199. Would you,
25	renewal screen that discusses a copyright and	25	please, tell me what these documents are?
	Page 262		Page 264
1	the ASTM IP Policy?	1	MR. FEE: Object to the use of
1 2	the ASTM IP Policy? A. Yes.	1 2	MR. FEE: Object to the use of randomly selected documents stapled
2 3	A. Yes. MR. FEE: Objection. The		-
2 3 4	<ul><li>A. Yes.</li><li>MR. FEE: Objection. The document speaks for itself.</li></ul>	2	randomly selected documents stapled together as one exhibit. You can answer.
2 3 4 5	<ul> <li>A. Yes.</li> <li>MR. FEE: Objection. The document speaks for itself.</li> <li>THE WITNESS: It's a little</li> </ul>	2 3	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top
2 3 4 5 6	<ul> <li>A. Yes.</li> <li>MR. FEE: Objection. The document speaks for itself.</li> <li>THE WITNESS: It's a little tough to read, but it would appear</li> </ul>	2 3 4 5 6	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION
2 3 4 5 6 7	<ul> <li>A. Yes.</li> <li>MR. FEE: Objection. The document speaks for itself.</li> <li>THE WITNESS: It's a little</li> </ul>	2 3 4 5 6 7	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION FORM."
2 3 4 5 6 7 8	A. Yes. MR. FEE: Objection. The document speaks for itself. THE WITNESS: It's a little tough to read, but it would appear that way.	2 3 4 5 6 7 8	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION FORM." BY MR. BECKER:
2 3 4 5 6 7 8 9	A. Yes. MR. FEE: Objection. The document speaks for itself. THE WITNESS: It's a little tough to read, but it would appear that way. (Exhibit 1314, Screenshots,	2 3 4 5 6 7 8 9	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION FORM." BY MR. BECKER: Q. Is this an ASTM member
2 3 4 5 6 7 8 9 10	A. Yes. MR. FEE: Objection. The document speaks for itself. THE WITNESS: It's a little tough to read, but it would appear that way. (Exhibit 1314, Screenshots, Bates ASTM001801 - ASTM001813, was	2 3 4 5 6 7 8 9 10	randomly selected documents stapled together as one exhibit. You can answer. THE WITNESS: It says at the top in English "ASTM MEMBER APPLICATION FORM." BY MR. BECKER: Q. Is this an ASTM member application form that's in English and
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1	that I've provided here as Exhibit 1315?	1	Q. What do staff members do to
2	MR. FEE: Same objections, plus	2	assist the members of technical committees?
3	lack of formation or foundation.	3	MR. FEE: Objection. Vague.
4	Sorry.	4	THE WITNESS: General
5	THE WITNESS: I'm not aware of	5	assistance. Provide them with advice
6	whether there was or there was not.	6	on regulations, on our form and style
7		7	manual. We have interlaboratory study
8	(Exhibit 1316, Regulations	8	program that assists our members. A
9	Governing ASTM Technical Committees,	9	variety of things. I don't know if
10	was marked for identification.)	10	there's anything specific that you
11	[′]	11	want me to focus on.
12	BY MR. BECKER:	12	BY MR. BECKER:
13	Q. I'm handing you what's been	13	Q. Does how does ASTM staff
14	marked as Exhibit 1316. Could you, please,	14	members assist individual assist technical
15	tell me what this document is?	15	committee members in the drafting or revision
16	A. The front page says the	16	of standards?
17	"REGULATIONS GOVERNING ASTM TECHNICAL	17	MR. FEE: Objection. Vague.
18	COMMITTEES."	18	THE WITNESS: We have we
10	Q. What are the Regulations	19	provide them with editorial
20	Governing ASTM Technical Committees?	20	assistance, so we'll provide editorial
20	A. It's essentially this entire	20	help within the documents. Our
21	document if it's all included here.	22	interlaboratory study program is
		22	responsible for organizing round-robin
23	Q. Does it appear to be all	23	
24	included there?	24	studies for collecting the data and
25	A. I'd have to go through it, but Page 266	23	doing the number crunching in order to Page 268
1	it could. Looks like it.	1	produce precision statements. Our ILS
2	Q. What is the purpose of the	2	team will produce the research reports
3	Regulations Governing ASTM Technical	3	which are referenced in the standard.
4	Committees?	4	We will help we have a graphics
5	MR. FEE: Objection. Beyond the	5	department that will create graphics
6	scope. Vague.	6	for the standards, for committee
7	THE WITNESS: Technical	7	members. We have an up-front editor
8	committees follow the regulations and	8	that provides a great deal of
9	develop member standards.	9	assistance if we have a draft that
10	BY MR. BECKER:	10	needs to be put into proper ASTM form
11	Q. Do you use the Regulations	11	and style. We provide them with
12	Governing ASTM Technical Committees in the	12	assistance on language for caveats
13	course of your work with ASTM?	13	that are placed in the ASTM standards.
14	A. Yes.	14	BY MR. BECKER:
15	Q. How do you use them?	15	Q. Anything else?
16	A. As staff people, we advise our	16	A. We provide an awful lot of
17	technical committees on the regulations so	17	assistance, but nothing else that comes to
18	that they the regulations can be followed	18	mind at this particular time.
19	in the development of their standards.	19	Q. When you say editorial
20	Q. Do staff members do other	20	assistance, what do you mean by that?
21	things to assist the members of the technical	21	A. Grammatical things. We'll
22	committees?	22	inform members if they have mandatory
23	MR. FEE: Objection. Vague.	23	language in a non-mandatory section, that
23	THE WITNESS: Yes.	23	that's outside the form and style policy. Or
24	BY MR. BECKER:	24	vice versa, if they have non-mandatory
25	Page 267	25	
	Page 207		Page 269

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1	language in a mandatory section, we'll	1	BY MR. BECKER:
2	provide assistance in tweaking that language	2	Q. Is that the same grammatical
3	so that it's within the form and style	3	changes that you were referring to before?
4	guidelines.	4	MR. FEE: Objection.
5	Q. Anything else in terms of	5	Mischaracterizes his testimony.
6	editorial assistance other than grammatical	6	Vague.
7	assistance?	7	BY MR. BECKER:
8	A. We could take a document and	8	Q. I'm sorry, what did you say?
9	place it and organize it so that it has the	9	A. The editors could work with the
10	relevant sections as defined in the form and	10	technical contacts to incorporate editorial
11	style manual.	11	changes, grammatical or reorganization of
12	Q. Do you mean to reorganize a	12	content.
13	draft standard, is that what you're saying?	13	Q. Who are the technical contacts?
14	A. Yes.	14	A. Who are they?
15	Q. What are excuse me.	15	Q. Yeah.
16	Anything else in terms of	16	A. They are individuals that take
17	editorial assistance?	17	the lead in developing a new standard or in
18	A. Our editors will also take a	18	developing a revision to an existing
19	document that's been approved through our	19	standard.
20	balloting process, if it's a new standard,	20	Q. Are those volunteers or are
21	they'll put it into publication format and	21	those employees of ASTM?
22	work with the technical contacts to make sure	22	MR. FEE: Objection. Vague.
23	that everything looks good prior to	23	Calls for a legal conclusion.
24	publication.	24	THE WITNESS: They're
25	Q. When you say they put it into	25	volunteers.
	Page 270		Page 272
1	publication format, does that involve any	1	BY MR. BECKER:
1 2	publication format, does that involve any changes to the content of the draft standard?	1 2	BY MR. BECKER: Q. What did you mean when you said
		-	Q. What did you mean when you said precision statements?
2	changes to the content of the draft standard?	2	Q. What did you mean when you said
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2 3 4	changes to the content of the draft standard? MR. FEE: Objection. Vague. THE WITNESS: It involves taking	2 3 4	<ul><li>Q. What did you mean when you said precision statements?</li><li>A. Precision statements are</li></ul>
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2 3 4 5 6 7 8	changes to the content of the draft standard? MR. FEE: Objection. Vague. THE WITNESS: It involves taking what was balloted in the Word format and placing it into our XML format	2 3 4 5 6	<ul> <li>Q. What did you mean when you said precision statements?</li> <li>A. Precision statements are included in test methods.</li> <li>Q. What are precision statements?</li> <li>A. Precision statements include statements on repeatability and reproducibility.</li> </ul>
2 3 4 5 6 7 8 9	changes to the content of the draft standard? MR. FEE: Objection. Vague. THE WITNESS: It involves taking what was balloted in the Word format and placing it into our XML format that we use for producing PDFs. BY MR. BECKER: Q. Is that a no?	2 3 4 5 6 7	<ul> <li>Q. What did you mean when you said precision statements?</li> <li>A. Precision statements are included in test methods.</li> <li>Q. What are precision statements?</li> <li>A. Precision statements include</li> </ul>
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^{69 (}Pages 270 - 273)

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

^{70 (}Pages 274 - 277)

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

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1		1	A. I believe I can.
2	BY MR. BECKER:	2	MR. FEE: Do you want to mark
3	Q. I'm handing you what's been	3	that?
4	marked as Exhibit 1322 which has been	4	MR. BECKER: Yeah. Let's mark
5	produced by ASTM as ASTM073852. Can you tell	5	this as the next one.
6	me what this document is?	6	
7	A. It's an e-mail from Tom O'Toole	7	(Exhibit 1323, Bates Numbers of
8	to our customer service department.	8	Assignment Documents, was marked for
9	Q. Does this refresh your	9	identification.)
10	recollection at all as to what a US TAG ISO	10	
11	list is?	11	BY MR. BECKER:
12	A. I'm assuming it's the	12	Q. Is this your answer to my
13	membership list, because it says, "listed	13	question?
14	as members of the US TAG to ISO TC 160."	14	A. Yes.
15	Q. Is that an ASTM membership	15	Q. Is this correct to the best of
16	list?	16	your is this Exhibit 1323 your answer to
17	A. It appears that it's ASTM	17	my question concerning Topic 24?
18	subcommittee C14.92, holds the US TAG to the	18	A. Yes.
19	ISO technical committee 160.	19	Q. Is this Exhibit 1323 correct,
20	MR. BECKER: All right. Let's	20	to the best of your knowledge?
21	go off the record and take a short	21	A. Yes, to the best of my
22	break.	22	knowledge.
23	VIDEOGRAPHER: The time is now	23	Q. Who prepared this document,
24	7:44. We're going off the video	24	Exhibit 1323?
25	record. Page 282	25	A. I'm not sure. I think our Page 284
	1 age 202		1 age 284
1		1	counsel.
2	(A recess was taken.)	2	Q. Were you provided this
2 3		2 3	Q. Were you provided this document, Exhibit 1323, by counsel?
2 3 4	VIDEOGRAPHER: The time is now	2 3 4	Q. Were you provided this document, Exhibit 1323, by counsel? A. Yes.
2 3 4 5	VIDEOGRAPHER: The time is now 7:49. We're back on the video record.	2 3 4 5	<ul><li>Q. Were you provided this</li><li>document, Exhibit 1323, by counsel?</li><li>A. Yes.</li><li>Q. What did you do to confirm that</li></ul>
2 3 4 5 6	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER:	2 3 4 5 6	<ul><li>Q. Were you provided this document, Exhibit 1323, by counsel?</li><li>A. Yes.</li><li>Q. What did you do to confirm that Exhibit 1323 is accurate?</li></ul>
2 3 4 5 6 7	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which	2 3 4 5 6 7	<ul> <li>Q. Were you provided this document, Exhibit 1323, by counsel?</li> <li>A. Yes.</li> <li>Q. What did you do to confirm that Exhibit 1323 is accurate?</li> <li>A. I didn't go through number by</li> </ul>
2 3 4 5 6 7 8	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6)	2 3 4 5 6 7 8	<ul> <li>Q. Were you provided this</li> <li>document, Exhibit 1323, by counsel?</li> <li>A. Yes.</li> <li>Q. What did you do to confirm that</li> <li>Exhibit 1323 is accurate?</li> <li>A. I didn't go through number by</li> <li>number.</li> </ul>
2 3 4 5 6 7 8 9	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic	2 3 4 5 6 7 8 9	<ul> <li>Q. Were you provided this</li> <li>document, Exhibit 1323, by counsel?</li> <li>A. Yes.</li> <li>Q. What did you do to confirm that</li> <li>Exhibit 1323 is accurate?</li> <li>A. I didn't go through number by</li> <li>number.</li> <li>Q. Did you look at any of the</li> </ul>
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2 3 4 5 6 7 8 9 10 11	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic MR. FEE: Hold it. Let him grab it.	2 3 4 5 6 7 8 9 10 11	<ul> <li>Q. Were you provided this document, Exhibit 1323, by counsel?</li> <li>A. Yes.</li> <li>Q. What did you do to confirm that Exhibit 1323 is accurate?</li> <li>A. I didn't go through number by number.</li> <li>Q. Did you look at any of the Bates numbers that are listed on this Exhibit 1323 and confirm that they</li> </ul>
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2 3 4 5 6 7 8 9 10 11 12 13	VIDEOGRAPHER: The time is now 7:49. We're back on the video record. BY MR. BECKER: Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6) Deposition, topic MR. FEE: Hold it. Let him grab it. BY MR. BECKER: Q. Okay. Do you have it?	2 3 4 5 6 7 8 9 10 11 12 13	<ul> <li>Q. Were you provided this</li> <li>document, Exhibit 1323, by counsel?</li> <li>A. Yes.</li> <li>Q. What did you do to confirm that</li> <li>Exhibit 1323 is accurate?</li> <li>A. I didn't go through number by</li> <li>number.</li> <li>Q. Did you look at any of the</li> <li>Bates numbers that are listed on this</li> <li>Exhibit 1323 and confirm that they</li> <li>corresponded with any assignment language?</li> <li>A. We looked at them yesterday,</li> </ul>
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	<ul> <li>VIDEOGRAPHER: The time is now 7:49. We're back on the video record.</li> <li>BY MR. BECKER: <ul> <li>Q. Looking at Exhibit 1289 which is the Amended Notice of Rule 30(b)(6)</li> <li>Deposition, topic</li> <li>MR. FEE: Hold it. Let him grab it.</li> </ul> </li> <li>BY MR. BECKER: <ul> <li>Q. Okay. Do you have it?</li> <li>A. Yeah.</li> <li>Q. If you turn to page 7. Topic</li> </ul> </li> <li>24 is on which you've been designated is,</li> </ul>	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	<ul> <li>Q. Were you provided this</li> <li>document, Exhibit 1323, by counsel?</li> <li>A. Yes.</li> <li>Q. What did you do to confirm that</li> <li>Exhibit 1323 is accurate?</li> <li>A. I didn't go through number by</li> <li>number.</li> <li>Q. Did you look at any of the</li> <li>Bates numbers that are listed on this</li> <li>Exhibit 1323 and confirm that they</li> <li>corresponded with any assignment language?</li> <li>A. We looked at them yesterday,</li> <li>yes.</li> <li>Q. Did you look at all of them?</li> <li>A. I believe I did.</li> </ul>
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1	vice mail	1	O Are you refusing to anywar that
1	years?	$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	Q. Are you refusing to answer that
2	MR. FEE: Objection. Vague.	2	question?
3	Beyond the scope of his designation.	3	A. Yes.
4	What topic does this relate to? I'm	4	MR. BECKER: Then I'm going to
5	instructing him not to answer unless	5	end the deposition now and reserve my
6	there's a topic that this relates to.	6	right to follow up on those questions
7	BY MR. BECKER:	7	MR. FEE: Just so the record is
8	Q. In your work with the ASTM	8	clear
9	technical committees, are you familiar with	9	MR. BECKER: and the
10	of any difficulties that have arisen in the	10	questions that counsel instructed the
11	past five years that concern the operations	11	witness to refuse to answer.
12	of the ASTM technical committees?	12	MR. FEE: Okay. We're now at
13	MR. FEE: Can you identify any	13	six minutes and 50 six hours and
14	topic that that relates to? I take	14	55 minutes of testimony, just so the
15	your silence as refusal to do so.	15	record is clear. I have one or two
16	I'll instruct him not to answer.	16	questions for you.
17	BY MR. BECKER:	17	questions for you.
18		18	EXAMINATION
19		19	EXAMINATION
	to answer that question? MR. FEE: Yes, he is.		DV MD EEE.
20	· · · · · · · · · · · · · · · · · · ·	20	BY MR. FEE:
21	THE WITNESS: Yes.	21	Q. Would you turn back to 1323.
22	BY MR. BECKER:	22	A. Yes.
23	Q. Has there been any lack of	23	Q. I just want to make sure that
24	resources for the operations of the ASTM	24	we're clear about one question. You see in
25	technical committees in the past five years?	25	the middle, slightly above the middle of that
	Page 286		Page 288
1	MR. FEE: Can you identify a	1	page it says, "Bates Range of Paper
1 2	MR. FEE: Can you identify a topic to which that relates? I take	1 2	page it says, "Bates Range of Paper Membership Forms," and it says ASTM034596
2	topic to which that relates? I take	2	Membership Forms," and it says ASTM034596
2 3	topic to which that relates? I take that as a no. I'll instruct you not	2 3	Membership Forms," and it says ASTM034596 through ASTM0088302. Did you review
2 3 4	topic to which that relates? I take that as a no. I'll instruct you not to answer that question.	2 3 4	Membership Forms," and it says ASTM034596 through ASTM0088302. Did you review approximately 54,000 pages in connection with
2 3 4 5	topic to which that relates? I take that as a no. I'll instruct you not to answer that question. MR. BECKER: I don't have to	2 3 4 5	Membership Forms," and it says ASTM034596 through ASTM0088302. Did you review approximately 54,000 pages in connection with the creation of this document?
2 3 4 5 6	topic to which that relates? I take that as a no. I'll instruct you not to answer that question. MR. BECKER: I don't have to identify any topics to which that	2 3 4 5 6	Membership Forms," and it says ASTM034596 through ASTM0088302. Did you review approximately 54,000 pages in connection with the creation of this document? A. No.
2 3 4 5 6 7	topic to which that relates? I take that as a no. I'll instruct you not to answer that question. MR. BECKER: I don't have to identify any topics to which that relates.	2 3 4 5 6 7	Membership Forms," and it says ASTM034596 through ASTM0088302. Did you review approximately 54,000 pages in connection with the creation of this document? A. No. MR. BECKER: Object as to form.
2 3 4 5 6 7 8	topic to which that relates? I take that as a no. I'll instruct you not to answer that question. MR. BECKER: I don't have to identify any topics to which that relates. BY MR. BECKER:	2 3 4 5 6 7 8	Membership Forms," and it says ASTM034596 through ASTM0088302. Did you review approximately 54,000 pages in connection with the creation of this document? A. No. MR. BECKER: Object as to form. BY MR. FEE:
2 3 4 5 6 7 8 9	<ul> <li>topic to which that relates? I take</li> <li>that as a no. I'll instruct you not</li> <li>to answer that question.</li> <li>MR. BECKER: I don't have to</li> <li>identify any topics to which that</li> <li>relates.</li> <li>BY MR. BECKER:</li> <li>Q. Will you answer that question?</li> </ul>	2 3 4 5 6 7 8 9	Membership Forms," and it says ASTM034596 through ASTM0088302. Did you review approximately 54,000 pages in connection with the creation of this document? A. No. MR. BECKER: Object as to form. BY MR. FEE: Q. Would you turn to Exhibit 1313.
2 3 4 5 6 7 8 9 10	<ul> <li>topic to which that relates? I take that as a no. I'll instruct you not to answer that question.</li> <li>MR. BECKER: I don't have to identify any topics to which that relates.</li> <li>BY MR. BECKER:</li> <li>Q. Will you answer that question? MR. FEE: No, he won't.</li> </ul>	2 3 4 5 6 7 8 9 10	Membership Forms," and it says ASTM034596 through ASTM0088302. Did you review approximately 54,000 pages in connection with the creation of this document? A. No. MR. BECKER: Object as to form. BY MR. FEE: Q. Would you turn to Exhibit 1313. A. I'm afraid I
2 3 4 5 6 7 8 9 10 11	<ul> <li>topic to which that relates? I take that as a no. I'll instruct you not to answer that question.</li> <li>MR. BECKER: I don't have to identify any topics to which that relates.</li> <li>BY MR. BECKER:</li> <li>Q. Will you answer that question?</li> <li>MR. FEE: No, he won't. THE WITNESS: No.</li> </ul>	2 3 4 5 6 7 8 9 10 11	Membership Forms," and it says ASTM034596 through ASTM0088302. Did you review approximately 54,000 pages in connection with the creation of this document? A. No. MR. BECKER: Object as to form. BY MR. FEE: Q. Would you turn to Exhibit 1313. A. I'm afraid I Q. That is, I believe, the
2 3 4 5 6 7 8 9 10 11 12	topic to which that relates? I take that as a no. I'll instruct you not to answer that question. MR. BECKER: I don't have to identify any topics to which that relates. BY MR. BECKER: Q. Will you answer that question? MR. FEE: No, he won't. THE WITNESS: No. BY MR. BECKER:	2 3 4 5 6 7 8 9 10 11 12	Membership Forms," and it says ASTM034596 through ASTM0088302. Did you review approximately 54,000 pages in connection with the creation of this document? A. No. MR. BECKER: Object as to form. BY MR. FEE: Q. Would you turn to Exhibit 1313. A. I'm afraid I Q. That is, I believe, the membership renewal
2 3 4 5 6 7 8 9 10 11 12 13	topic to which that relates? I take that as a no. I'll instruct you not to answer that question. MR. BECKER: I don't have to identify any topics to which that relates. BY MR. BECKER: Q. Will you answer that question? MR. FEE: No, he won't. THE WITNESS: No. BY MR. BECKER: Q. In the scope of your work with	2 3 4 5 6 7 8 9 10 11 12 13	Membership Forms," and it says ASTM034596 through ASTM0088302. Did you review approximately 54,000 pages in connection with the creation of this document? A. No. MR. BECKER: Object as to form. BY MR. FEE: Q. Would you turn to Exhibit 1313. A. I'm afraid I Q. That is, I believe, the membership renewal A. Got it. Got it.
2 3 4 5 6 7 8 9 10 11 12 13 14	<ul> <li>topic to which that relates? I take that as a no. I'll instruct you not to answer that question.</li> <li>MR. BECKER: I don't have to identify any topics to which that relates.</li> <li>BY MR. BECKER:</li> <li>Q. Will you answer that question?</li> <li>MR. FEE: No, he won't.</li> <li>THE WITNESS: No.</li> <li>BY MR. BECKER:</li> <li>Q. In the scope of your work with ASTM, are you familiar with any lack of</li> </ul>	2 3 4 5 6 7 8 9 10 11 12 13 14	<ul> <li>Membership Forms," and it says ASTM034596</li> <li>through ASTM0088302. Did you review</li> <li>approximately 54,000 pages in connection with</li> <li>the creation of this document?</li> <li>A. No.</li> <li>MR. BECKER: Object as to form.</li> <li>BY MR. FEE:</li> <li>Q. Would you turn to Exhibit 1313.</li> <li>A. I'm afraid I</li> <li>Q. That is, I believe, the</li> <li>membership renewal</li> <li>A. Got it. Got it.</li> <li>Q pages of their screenshots.</li> </ul>
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1			
1	IP Policy or assignments?	1	1 7 1 5 7
2	MR. BECKER: Object as to form.	2	6 6
3	THE WITNESS: There is	3	3 true and correct.
4	additional language. This document	4	
5	identifies membership renewal Web	5	5 Executed on, 20,
6	screenshots for different types of	6	6 at
7	members. So I identified page 2, and	7	7
8	then there's also additional language	8	8
9	on page ASTM001796 as well as	9	9
10	ASTM001798. And I believe that's it.	10	0
11	MR. FEE: I have no other	11	1
12	questions.	12	
13	Do you have any other questions	13	
14	or is he done?	14	
15	MR. BECKER: No, no redirect.		
		15	
16	MR. FEE: Great. Thank you.	16	
17	THE WITNESS: Thanks.	17	
18	VIDEOGRAPHER: The time is now	18	
19	7:57. This concludes the videotape	19	9
20	deposition of Dan Smith.	20	
21		21	1
22	(Witness excused.)	22	2
23		23	3
24	(Deposition concluded at 7:57	24	4
25	p.m.)	25	5
	Page 290		Page 292
1	CERTIFICATE		
$\begin{vmatrix} 2\\ 2 \end{vmatrix}$			
3	I do hereby certify that I am a Notary		
4	Public in good standing, that the aforesaid		
5	testimony was taken before me, pursuant to		
5	notice, at the time and place indicated; that said deponent was by me duly sworn to tell		
6	the truth, the whole truth, and nothing but		
	the truth; that the testimony of said		
7	deponent was correctly recorded in machine shorthand by me and thereafter transcribed		
8	under my supervision with computer-aided		
9	transcription; that the deposition is a true		
9	and correct record of the testimony given by the witness; and that I am neither of counsel		
10	nor kin to any party in said action, nor interested in the outcome thereof.		
11			
12	WITNESS my hand and official seal this 7th day of August, 2015.		
12	, cuj 011145400, 2010.		
14			
15	Notary Public		
16	nomy ruone		
17			
18 19			
20			
21			
22 23			
23			
25			
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			74 (Data at 200 - 202

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Commonwealth of Pennsylvania Rules of Civil Procedure Title 231, Chapter 4000 Depositions and Discovery Rule 4017

(c) When the testimony is fully transcribed a copy of the deposition with the original signature page shall be submitted to the witness for inspection and signing and shall be read to or by the witness and shall be signed by the witness, unless the inspection, reading and signing are waived by the witness and by all parties who attended the taking of the deposition, or the witness is ill or cannot be found or refuses to sign. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the person before whom it was taken with a statement of the reasons given by the witness for making the changes. If the deposition is not signed by the witness within thirty days of its submission to the witness, the person before whom the deposition was taken shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the refusal to sign together with the reason, if

any, given therefor; and the deposition may then be used as fully as though signed, unless the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

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