

# **EXHIBIT 36**

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR  
TESTING AND MATERIALS  
d/b/a ASTM INTERNATIONAL;  
NATIONAL FIRE PROTECTION  
ASSOCIATION, INC. and CASE NO.  
AMERICAN SOCIETY OF 1:13-cv-01215-TSC-DAR  
HEATING, REFRIGERATING,  
AND AIR CONDITIONING  
ENGINEERS,  
Plaintiffs-  
Counterdefendants,  
vs.  
PUBLIC.RESOURCE.ORG, INC.,  
Defendant-Counterclaimant.

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VIDEOTAPED DEPOSITION OF MIA D. MARVELLI  
Sacramento, California  
Monday, August 19, 2019  
Volume I

Reported by:  
Carrie Pederson  
CSR No. 4373, RMR, CRR  
Job No. 3465980  
Pages 1 - 202

1 UNITED STATES DISTRICT COURT  
 2 FOR THE DISTRICT OF COLUMBIA  
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 4 AMERICAN SOCIETY FOR  
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 7 AMERICAN SOCIETY OF 1:13-cv-01215-TSC-DAR  
 8 HEATING, REFRIGERATING,  
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 10 Plaintiffs-  
 11 Counterdefendants,  
 12 vs.  
 13 PUBLIC.RESOURCE.ORG, INC.,  
 14 Defendant-Counterclaimant.  
 15 \_\_\_\_\_  
 16  
 17  
 18  
 19 Videotaped Deposition of MIA D. MARVELLI,  
 20 Volume I, taken on behalf of the defendants, at One  
 21 Capitol Mall, Suite 240, Sacramento, California,  
 22 beginning at 10:04 a.m. and ending at 4:22 p.m. on  
 23 Monday, August 19, 2019, before Carrie Pederson,  
 24 Certified Shorthand Reporter No. 4373.  
 25

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 22  
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<p>1 INDEX</p> <p>2 WITNESS:</p> <p>3 MIA D. MARVELLI</p> <p>4 Volume I</p> <p>5</p> <p>6 PAGE</p> <p>7 Examination By Mr. Nercessian 8</p> <p>8 Examination By Ms. Miller-Ziegler 160</p> <p>9 Examination By Mr. Nercessian 186</p> <p>10 Examination By Ms. Miller-Ziegler 197</p> <p>11 Examination By Mr. Nercessian 199</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 6</p>	<p>1 Sacramento, California, Monday, August 19, 2019</p> <p>2 10:04 a.m. - 4:22 p.m.</p> <p>3</p> <p>4 MIA D. MARVELLI,</p> <p>5 having been administered an oath, was examined and</p> <p>6 testified as follows:</p> <p>7 EXAMINATION</p> <p>8 THE REPORTER: Good morning, counsel. Do</p> <p>9 you want realtime also?</p> <p>10 MS. EHLER: Yes.</p> <p>11 MR. FEE: No. 10:01</p> <p>12 VIDEO OPERATOR: Okay. We're on the 10:01</p> <p>13 record. It's 10:04 a.m. on August 19th, 2019. 10:04</p> <p>14 This is the deposition of Mia Marvelli. 10:04</p> <p>15 We're here in the matter of American Society 10:04</p> <p>16 for Testing and Materials, et al. versus 10:04</p> <p>17 Public.Resource.Org. 10:04</p> <p>18 We're located at One Capitol Mall in 10:04</p> <p>19 Sacramento, California. 10:04</p> <p>20 I'm John Macdonell, the videographer, with 10:04</p> <p>21 Veritext. I'm not related to any party in this 10:04</p> <p>22 action, nor am I a notary public or financially 10:04</p> <p>23 interested. 10:04</p> <p>24 Before the reporter swears the witness, 10:04</p> <p>25 would counsel please identify themselves. 10:04</p> <p style="text-align: right;">Page 8</p>
<p>1 EXHIBITS</p> <p>2 DEFENDANT'S</p> <p>3 DESCRIPTION PAGE</p> <p>4 Exhibit 1 July 19, 2019 letter to Mia 24</p> <p>5 Marvelli from Fenwick &amp; West LLP</p> <p>6 Exhibit 2 Marvelli Depo Prep 33</p> <p>7 Exhibit 3 Codes 34</p> <p>8 Exhibit 4 2019 California Electrical Code 57</p> <p>9 Exhibit 5 Subpoena to Testify at a 83</p> <p>10 Deposition in a Civil Action</p> <p>11 Exhibit 6 March 10, 2016 email to Michael 85</p> <p>12 Nearman from Pamela Maeda</p> <p>13 Exhibit 7 State of California Standard 107</p> <p>14 Agreement</p> <p>15 Exhibit 8 August 1, 2016 email to DGS 132</p> <p>16 CBSC-Sacramento Staff from Alexander Hunter</p> <p>17 Exhibit 9 NCB Coordination Sheet, 141</p> <p>18 Department of General Services</p> <p>19 Exhibit 10 California Electrical Code 150</p> <p>20 Agreement Between and Among BNi</p> <p>21 Publications, Inc., Department</p> <p>22 of General Services Procurement</p> <p>23 Division For California Building</p> <p>24 Standards Commission And The</p> <p>25 Association, Inc.</p> <p style="text-align: right;">Page 7</p>	<p>1 MR. NERCESSIAN: Yes. I'm Armen Nercessian 10:04</p> <p>2 of Fenwick &amp; West representing Defendant 10:04</p> <p>3 Public.Resource.Org. 10:04</p> <p>4 MR. BRIDGES: Andrew Bridges of 10:04</p> <p>5 Fenwick &amp; West also representing Public.Resource.Org. 10:04</p> <p>6 MR. YEN: Jerry Yen with the California 10:05</p> <p>7 Attorney General's Office representing the witness 10:05</p> <p>8 and the California Building Standards Commission. 10:05</p> <p>9 MS. BARBU: Viana Barbu with the Department 10:05</p> <p>10 of General Services Legal Division representing Mia 10:05</p> <p>11 Marvelli as Executive Director of Building Standards 10:05</p> <p>12 Commission. 10:05</p> <p>13 MS. MILLER-ZIEGLER: Rachel Miller-Ziegler 10:05</p> <p>14 with Munger, Tolles &amp; Olson here on behalf of the 10:05</p> <p>15 National Fire Protection Association. 10:05</p> <p>16 MS. EHLER: And Rose Ehler, also from 10:05</p> <p>17 Munger, Tolles &amp; Olson, and on behalf of the National 10:05</p> <p>18 Fire Protection Association. 10:05</p> <p>19 MR. FEE: Kevin Fee from Morgan Lewis on 10:05</p> <p>20 behalf of ASTM. 10:05</p> <p>21 (Witness sworn) 10:05</p> <p>22 BY MR. NERCESSIAN: 10:05</p> <p>23 Q. Good morning. 10:05</p> <p>24 A. Good morning. 10:05</p> <p>25 Q. Please state your name for the record. 10:05</p> <p style="text-align: right;">Page 9</p>

<p>1 A. Mia Marvelli. 10:05</p> <p>2 Q. Good morning, Ms. Marvelli. Have you ever 10:05</p> <p>3 had your deposition taken before? 10:05</p> <p>4 A. No. 10:05</p> <p>5 Q. Have you ever been involved in any lawsuits 10:05</p> <p>6 before? 10:06</p> <p>7 A. Yes. 10:06</p> <p>8 Q. What was your involvement in previous 10:06</p> <p>9 lawsuits? 10:06</p> <p>10 A. Respondent. 10:06</p> <p>11 Q. In your capacity as a representative of the 10:06</p> <p>12 State? 10:06</p> <p>13 A. Yes. 10:06</p> <p>14 Q. Did you furnish any testimony in any of 10:06</p> <p>15 those matters? 10:06</p> <p>16 A. A declaration. 10:06</p> <p>17 Q. Did you furnish any live testimony? 10:06</p> <p>18 A. No. 10:06</p> <p>19 Q. So I'll lay out a few preliminaries of how 10:06</p> <p>20 today is going to go: I will ask you a series of 10:06</p> <p>21 questions. Do you understand that you are giving 10:06</p> <p>22 testimony under oath today? 10:06</p> <p>23 A. Yes. 10:06</p> <p>24 Q. Just as you would in a court of law? 10:06</p> <p>25 A. Yes. 10:06</p> <p style="text-align: right;">Page 10</p>	<p>1 take it to mean you were finished. Do you understand 10:07</p> <p>2 that? 10:07</p> <p>3 A. Yes. 10:07</p> <p>4 Q. If you come to realize that any of your 10:07</p> <p>5 answers that you previously provided is not 10:07</p> <p>6 completely correct, just let me know, and we'll 10:07</p> <p>7 address it; okay? 10:07</p> <p>8 A. Yes. 10:07</p> <p>9 Q. And if you need a break at any time over the 10:07</p> <p>10 course of the day, just let me know, and if there is 10:08</p> <p>11 a question pending, we can give you the break. Does 10:08</p> <p>12 that make sense? 10:08</p> <p>13 A. Yes. 10:08</p> <p>14 Q. Have you spoken with anyone about your 10:08</p> <p>15 testimony today? 10:08</p> <p>16 A. No. Just my representation. 10:08</p> <p>17 Q. Have you been asked to limit your testimony 10:08</p> <p>18 today in any way? 10:08</p> <p>19 A. No. 10:08</p> <p>20 Q. Is there any reason you would not be able to 10:08</p> <p>21 give complete and accurate answers to my questions 10:08</p> <p>22 today? 10:08</p> <p>23 A. No. 10:08</p> <p>24 Q. What did you do to prepare for today's 10:08</p> <p>25 deposition? 10:08</p> <p style="text-align: right;">Page 12</p>
<p>1 Q. Do you understand that the court reporter is 10:06</p> <p>2 taking down everything you say? 10:06</p> <p>3 A. Yes. 10:06</p> <p>4 Q. Because to establish a record, do you 10:06</p> <p>5 understand that we need only audible responses such 10:06</p> <p>6 as a verbal "yes" or "no"? 10:06</p> <p>7 A. Yes. 10:07</p> <p>8 Q. If at any point you don't understand a 10:07</p> <p>9 question, will you please let me know? And I will 10:07</p> <p>10 try to rephrase. 10:07</p> <p>11 A. Yes. 10:07</p> <p>12 Q. If you answer my question without asking for 10:07</p> <p>13 clarification, I'm going to take it to mean that you 10:07</p> <p>14 understood it. Is that understood? 10:07</p> <p>15 A. Yes. 10:07</p> <p>16 Q. Because the court reporter's taking down 10:07</p> <p>17 what everyone says, let's not try to talk -- let's 10:07</p> <p>18 try not to talk over one another. So if I'm asking a 10:07</p> <p>19 question, please wait for me to finish before you 10:07</p> <p>20 answer. Do you understand? 10:07</p> <p>21 A. Yes. 10:07</p> <p>22 Q. Likewise, if I start to ask you a question 10:07</p> <p>23 and you weren't allowed to finish, please tell me, 10:07</p> <p>24 and I'll allow you to finish. If I go on to another 10:07</p> <p>25 question and you don't say you need more time, I'll 10:07</p> <p style="text-align: right;">Page 11</p>	<p>1 A. Read the documents that were provided me. 10:08</p> <p>2 Q. Did you review any other documents? 10:08</p> <p>3 A. No. 10:08</p> <p>4 Q. Did you conduct any research on your own 10:08</p> <p>5 into the case? 10:08</p> <p>6 A. No. 10:08</p> <p>7 Q. Did you conduct any research on your own 10:08</p> <p>8 into the subject matter of the documents? 10:08</p> <p>9 A. No. 10:08</p> <p>10 Q. Did you have any conversations to prepare 10:08</p> <p>11 your testimony other than those with your 10:09</p> <p>12 representation? 10:09</p> <p>13 A. No. 10:09</p> <p>14 Q. Are you currently employed? 10:09</p> <p>15 A. Yes. 10:09</p> <p>16 Q. What's your current employment? 10:09</p> <p>17 A. Executive Director of the Building Standards 10:09</p> <p>18 Commission. 10:09</p> <p>19 Q. And what is the Building Standards 10:09</p> <p>20 Commission? 10:09</p> <p>21 A. It's a state commission that administers the 10:09</p> <p>22 California Building Standards process, and there's 14 10:09</p> <p>23 staff, and there's ten commissioners that we support. 10:09</p> <p>24 Q. Okay. And when you say you administer the 10:09</p> <p>25 process, what does that process entail? 10:09</p> <p style="text-align: right;">Page 13</p>

<p>1 A. We utilize the California Building Standards 10:09                  2 law, which is found in the Health and Safety Code, 10:09                  3 and we also use the Administrative Procedures Act, 10:09                  4 which is in the Government Code, to administer the 10:09                  5 rulemaking process for -- it's also known as 10:09                  6 Title 24. 10:10                  7 Q. Title 24. Does Title 24 go by any other 10:10                  8 names? 10:10                  9 A. California Building Standards Code. 10:10                  10 Q. And it's Title 24. What law is the Title 24 10:10                  11 of? 10:10                  12 A. It's the 24th title in 28 regulations for 10:10                  13 California known as the California Code of 10:10                  14 Regulations, is the whole 28 titles. 10:10                  15 Q. And when you say you're responsible for 10:10                  16 administering the process, what stages does that 10:10                  17 process entail? 10:10                  18 A. We receive rulemaking documents from various 10:10                  19 State agencies, and we conduct public hearings and 10:10                  20 meetings, public comment periods, and then ultimately 10:10                  21 commission reviews and approves -- I shouldn't say 10:10                  22 approve. Takes action on those rulemakings. 10:10                  23 Q. How does it take action on those 10:10                  24 rulemakings? 10:11                  25 A. They either approve, disapprove, further 10:11</p> <p style="text-align: right;">Page 14</p>	<p>1 MS. MILLER-ZIEGLER: Objection to form. 10:12                  2 THE WITNESS: So they're appointed by the 10:12                  3 governor. 10:12                  4 (Discussion off the record) 10:12                  5 MS. MILLER-ZIEGLER: Objection to form. 10:12                  6 I'll be objecting sometimes throughout the 10:12                  7 questioning. If you could just pause before 10:12                  8 answering so that I can have a chance to object. 10:12                  9 THE WITNESS: Certainly. 10:12                  10 MS. MILLER-ZIEGLER: Thank you. 10:12                  11 MR. NERCESSIAN: I can rephrase. 10:12                  12 BY MR. NERCESSIAN: 10:12                  13 Q. So what role do these commissioners play? 10:12                  14 A. They're appointed by the governor, and they 10:12                  15 make up the different requirements that is in 10:12                  16 building standards law. There's ten different types 10:12                  17 of commissioners that are required to be appointed by 10:12                  18 the governor. For example, one represents building 10:13                  19 officials. 10:13                  20 Q. Are there any that represent officials that 10:13                  21 administer electrical systems? 10:13                  22 A. I'm not sure what you mean. 10:13                  23 Q. I can strike that. 10:13                  24 Can you provide another example of a type of 10:13                  25 commissioner that is appointed by the governor that 10:13</p> <p style="text-align: right;">Page 16</p>
<p>1 study or -- sorry. There's four actions they can 10:11                  2 take. 10:11                  3 Q. And it's approve, disapprove, further study 10:11                  4 and -- 10:11                  5 A. Or approve as amend. Sorry. I apologize 10:11                  6 for talking over you. 10:11                  7 Q. Oh. No worries. So the four actions are 10:11                  8 approve, amend, disapprove, further action? 10:11                  9 A. Approve, approve as amend, further study or 10:11                  10 disapprove. 10:11                  11 Q. Okay. Oh. I understand. Thank you. 10:11                  12 A. Uh-huh. 10:11                  13 Q. And you say you interface with ten 10:11                  14 commissioners? 10:11                  15 A. Uh-huh. 10:11                  16 Q. What's the nature of those interactions? 10:11                  17 A. Our office supplies them the rulemaking 10:11                  18 materials so they can make a determination on the 10:12                  19 rulemakings that they're provided. 10:12                  20 Q. And who are these commissioners? 10:12                  21 A. Do I need to name them all, or how -- 10:12                  22 Q. Functionally, who are they? Are they 10:12                  23 commissioners of different State agencies, or are 10:12                  24 they all commissioners of one agency and an agency 10:12                  25 that has multiple commissioners? 10:12</p> <p style="text-align: right;">Page 15</p>	<p>1 you interface with? 10:13                  2 A. Sure. Another representative is from the 10:13                  3 construction industry, so they're a licensed 10:13                  4 contractor. 10:13                  5 Q. Okay. So -- and that's still a role 10:13                  6 appointed by the governor? 10:13                  7 A. Correct. 10:13                  8 Q. What authority does the governor make these 10:13                  9 appointments under? 10:14                  10 A. California Building Standards law, which is 10:14                  11 found in Health and Safety Code, and I don't know the 10:14                  12 exact section number. 10:14                  13 Q. Okay. You referred earlier to rulemaking 10:14                  14 materials that you provide to these commissioners. 10:14                  15 What do those rulemaking materials consist of? 10:14                  16 A. Express Terms, Initial Statement of Reasons. 10:14                  17 That's all I can think of right now. 10:14                  18 Q. Okay. So what are Express Terms? 10:14                  19 A. They're the code language and strikeout and 10:14                  20 underline format so that the people can see and the 10:14                  21 commissioners can see what is being proposed by a 10:14                  22 State agency. 10:14                  23 Q. And what do the commissioners do with those 10:14                  24 Express Terms? 10:15                  25 A. Review them for their technical merit. 10:15</p> <p style="text-align: right;">Page 17</p>

<p>1 Q. And what action do they take with respect to 10:15                  2 those Express Terms? 10:15                  3 A. The four that I spoke of earlier. 10:15                  4 Q. Okay. Do they open up those Express Terms 10:15                  5 for notice and comment with the public? 10:15                  6 A. They're presented at a public meeting, so 10:15                  7 there's an opportunity at that time for the public to 10:15                  8 comment. 10:15                  9 Q. And do each of these ten commissioners 10:15                  10 conduct separate hearings on the Express Terms that 10:15                  11 they've been provided with? 10:15                  12 A. No. 10:15                  13 Q. Is it just one public hearing that all the 10:15                  14 commissioners participate in? 10:15                  15 A. Yes. 10:15                  16 Q. You also referred to Initial Statement of 10:15                  17 Reasons. 10:15                  18 A. Uh-huh. 10:15                  19 Q. And what is that? 10:16                  20 A. It's several statements that are from the 10:16                  21 Government Code specific to the Administrative 10:16                  22 Procedures Act that discuss the rationale, the 10:16                  23 purpose and the reason for a code change, and then 10:16                  24 there's a variety of other statements that talk about 10:16                  25 the benefit to the State, cost to the State, and 10:16                  Page 18</p>	<p>1 Code. We conduct the public merit meetings, and the 10:18                  2 staff reviews the materials and assembles them for 10:18                  3 the public meetings that we conduct. 10:18                  4 Q. All right. How long have you served in that 10:18                  5 role as executive director? 10:18                  6 A. Approximately three and a half years. 10:18                  7 Q. Since roughly February 2016? 10:18                  8 A. Correct. 10:18                  9 Q. Have you performed any other roles at the 10:18                  10 BSC? 10:18                  11 A. Yes. 10:18                  12 Q. What were those roles? 10:18                  13 A. I was an architectural associate and an 10:18                  14 associate architect, and I was employed with them 10:18                  15 since spring of 2012. 10:18                  16 Q. And what did you do as an architectural 10:18                  17 associate? 10:18                  18 A. Reviewed rulemaking documents, prepared them 10:18                  19 for meetings and the public comment phase. 10:19                  20 Q. And when did you serve in that role? Was 10:19                  21 that earlier or after you were an associate 10:19                  22 architect? 10:19                  23 A. I did that while I was an associate 10:19                  24 architect and an architectural associate. 10:19                  25 Q. Oh. You held those positions 10:19                  Page 20</p>
<p>1 that's all I can remember specifically right now 10:16                  2 without looking at the document. 10:16                  3 Q. Okay. So the Building Standards Commission 10:16                  4 is also known as the CBSC; correct? 10:16                  5 A. Yes. 10:16                  6 Q. Or the BSC? 10:16                  7 A. Correct. 10:16                  8 Q. What's the relationship between the Building 10:16                  9 Standards Commission and the California Department of 10:16                  10 General Services? 10:16                  11 A. We are a commission within DGS. 10:16                  12 Q. Does DGS play any independent role in this 10:16                  13 rulemaking process? 10:16                  14 A. No. 10:17                  15 Q. Do any other State agencies play a role? 10:17                  16 MS. MILLER-ZIEGLER: Objection as vague. 10:17                  17 BY MR. NERCESSIAN: 10:17                  18 Q. Do any State agencies play a role in the 10:17                  19 process of administering Title 24? 10:17                  20 A. No. 10:17                  21 Q. What are your responsibilities as executive 10:17                  22 director of BCS -- BSC? 10:17                  23 A. Oversee staff and the budget, ensure that 10:17                  24 the process is followed, specifically that meeting 10:17                  25 notices are supplied according to the Government 10:17                  Page 19</p>	<p>1 simultaneously? 10:19                  2 A. Well, I can't remember the exact time I 10:19                  3 got -- I received a promotion during that time. 10:19                  4 Q. Did your role change at all after the 10:19                  5 promotion? 10:19                  6 A. No. 10:19                  7 Q. Did your responsibilities change at all 10:19                  8 after the promotion? 10:19                  9 A. No. 10:19                  10 Q. In that associate role, what role did you 10:19                  11 play, if any, in administering the processes related 10:19                  12 to the adoption, approval, publication and/or 10:20                  13 implementation of the California Building Codes? 10:20                  14 MS. MILLER-ZIEGLER: Objection to form. 10:20                  15 MR. NERCESSIAN: I can rephrase. 10:20                  16 BY MR. NERCESSIAN: 10:20                  17 Q. In that role as an architectural associate 10:20                  18 and associate architect, did you play any role in 10:20                  19 administering the processes related to the adoption 10:20                  20 of the California Building Codes? 10:20                  21 A. Yes. 10:20                  22 Q. What was that involvement? 10:20                  23 A. Reviewed documents from State agencies, 10:20                  24 prepared meeting materials so that they could be 10:20                  25 publicly viewed. 10:20                  Page 21</p>



<p>1 Q. And did you play any role in the processes 10:20                  2 related to the approval of California's Building 10:20                  3 Codes? 10:20                  4 A. I'm not sure I understand that question. 10:20                  5 Q. Do you understand there to be any difference 10:20                  6 between the processes related to the adoption of 10:21                  7 California's Building Codes and their approval? 10:21                  8 A. I would just say that the process sets up 10:21                  9 the end game, if you will, for the commission to take 10:21                  10 action. 10:21                  11 Q. Okay. And when the building commission 10:21                  12 takes action, what is the output of this process? 10:21                  13 A. If the standard -- 10:21                  14 MS. MILLER-ZIEGLER: Objection to form. 10:21                  15 BY MR. NERCESSIAN: 10:21                  16 Q. You can answer the question. 10:21                  17 A. Okay. Thanks. If the regulations are 10:21                  18 approved by the commission, they're assembled for the 10:21                  19 publisher so the publisher can develop the next 10:21                  20 edition of the code. 10:22                  21 Q. And what's the latest edition of the code? 10:22                  22 A. The current effective code is a 2016 10:22                  23 edition. 10:22                  24 Q. And have the rulemaking processes for 10:22                  25 revision after the 2016 edition taken place? 10:22</p> <p style="text-align: right;">Page 22</p>	<p>1 buildings. 10:23                  2 Q. And by that, do you mean you developed 10:23                  3 construction drawings so that they complied with the 10:23                  4 California Building Standards Code? 10:23                  5 A. Yes. 10:23                  6 MS. MILLER-ZIEGLER: Objection to form. 10:23                  7 BY MR. NERCESSIAN: 10:24                  8 Q. Show me a document. We can mark this as 10:24                  9 Exhibit 1. 10:24                  10 (Exhibit 1 marked) 10:24                  11 BY MR. NERCESSIAN: 10:24                  12 Q. All right. You've been handed a document 10:24                  13 marked as Exhibit 1. Ms. Marvelli, do you recognize 10:24                  14 this document? 10:25                  15 A. Yes. 10:25                  16 Q. And what is this document? 10:25                  17 A. It's what I was sent a couple weeks ago to 10:25                  18 the office. 10:25                  19 Q. And this is a letter with respect to the 10:25                  20 subpoena for this deposition; correct? 10:25                  21 A. Yes. 10:25                  22 Q. The letter includes as Exhibit A the opinion 10:25                  23 of the U.S. Court of Appeals for the District of 10:25                  24 Columbia with respect to this dispute. 10:25                  25 MS. MILLER-ZIEGLER: Objection. This hasn't 10:25</p> <p style="text-align: right;">Page 24</p>
<p>1 A. Yes. 10:22                  2 Q. And what edition of the code do those 10:22                  3 processes relate to? 10:22                  4 A. The 2019 edition. 10:22                  5 Q. And when does that become effective? 10:22                  6 A. January 1st of 2020. 10:22                  7 Q. Before you were employed by the California 10:22                  8 Building Standards Commission, did you have any 10:22                  9 experience with the California Building Codes in 10:22                  10 previous roles? 10:23                  11 A. Yes. 10:23                  12 Q. What was that involvement? 10:23                  13 A. Utilizing them for the design of state 10:23                  14 buildings. 10:23                  15 Q. And what position did you utilize them in? 10:23                  16 A. I was an architectural associate for the 10:23                  17 Department of General Services. 10:23                  18 Q. And as an architectural associate at the 10:23                  19 Department of General Services, how did you utilize 10:23                  20 the California Building Codes? 10:23                  21 MS. MILLER-ZIEGLER: Objection as outside 10:23                  22 the scope of the subpoena. 10:23                  23 BY MR. NERCESSIAN: 10:23                  24 Q. You can answer the question. 10:23                  25 A. For the design and construction of state 10:23</p> <p style="text-align: right;">Page 23</p>	<p>1 been provided to us in the past. 10:25                  2 MR. NERCESSIAN: Okay. Your objection is 10:25                  3 noted. 10:25                  4 BY MR. NERCESSIAN: 10:25                  5 Q. Have you read this opinion? 10:25                  6 A. Not the whole thing. 10:25                  7 Q. When did you read this opinion? 10:25                  8 A. I read part of it when I first received it. 10:26                  9 Q. Were you aware of this opinion at any point 10:26                  10 before you received this letter? 10:26                  11 A. No. 10:26                  12 Q. Do you have any knowledge of the dispute 10:26                  13 between Public.Resource and the plaintiffs in this 10:26                  14 lawsuit? 10:26                  15 A. I have some knowledge. 10:26                  16 Q. And what is that knowledge? 10:26                  17 A. Just information that is on the Internet 10:26                  18 about this particular -- 10:26                  19 Q. And so what do you know about the case? 10:26                  20 A. Just that there's a dispute between the two 10:26                  21 groups. 10:26                  22 Q. Have you had any discussions about this case 10:26                  23 at any point? 10:26                  24 A. No. 10:26                  25 Q. One of the issues in this case is what 10:26</p> <p style="text-align: right;">Page 25</p>



1 copyright protection there is and standards that are 10:26  
 2 incorporated into other law. Are you familiar with 10:26  
 3 standards that standard development organizations put 10:26  
 4 out? 10:27  
 5 MR. FEE: Objection to form. 10:27  
 6 BY MR. NERCESSIAN: 10:27  
 7 Q. Have you had any involvement with standards 10:27  
 8 in -- over the course of your employment at the 10:27  
 9 Building Standards Commission? 10:27  
 10 A. I'm sorry, I'm not following that question. 10:27  
 11 Q. In your role at the Building Standards 10:27  
 12 Commission, have you interacted with any industry 10:27  
 13 standards? 10:27  
 14 MS. MILLER-ZIEGLER: Objection to form. 10:27  
 15 BY MR. NERCESSIAN: 10:27  
 16 Q. You can answer the question. 10:27  
 17 A. I don't know what you mean by "interacted." 10:27  
 18 Q. Have you taken any actions with -- have you 10:27  
 19 reviewed any industry standards in your role? 10:27  
 20 MR. FEE: Objection to form. 10:27  
 21 THE WITNESS: I guess I don't know what you 10:27  
 22 mean by "reviewed." 10:27  
 23 BY MR. NERCESSIAN: 10:27  
 24 Q. Have you read any industry standards in your 10:27  
 25 role at the Building Standards Commission? 10:28  
 Page 26

1 MR. FEE: Objection to form. 10:28  
 2 BY MR. NERCESSIAN: 10:28  
 3 Q. You can answer. 10:28  
 4 A. I'm not following that. 10:28  
 5 Q. So what is it about my question that you 10:28  
 6 don't understand? I can rephrase. 10:28  
 7 A. I guess I'm trying to understand if it's 10:28  
 8 specific about a certain standard or just the 10:28  
 9 standards in general. 10:28  
 10 Q. Just standards in general. Have you ever 10:28  
 11 reviewed any industry standards over the course of 10:28  
 12 your employment at the Building Standards Commission? 10:28  
 13 MR. FEE: Objection to form. 10:28  
 14 THE WITNESS: I suppose I have, but I 10:28  
 15 couldn't tell you specifics on what that would be. 10:28  
 16 BY MR. NERCESSIAN: 10:28  
 17 Q. Have you had any interactions with standard 10:29  
 18 development organizations over the course of your 10:29  
 19 employment at the Building Standards Commission? 10:29  
 20 A. Can you repeat the question? I'm sorry. 10:29  
 21 Q. Have you had any interactions with standard 10:29  
 22 development organizations over the course of your 10:29  
 23 employment at the Building Standards Commission? 10:29  
 24 A. I think I'm trying to understand the 10:29  
 25 difference between standards and the code developers. 10:29  
 Page 27

1 Q. What do you understand the difference to be? 10:29  
 2 A. Well, there's the reference standards, which 10:29  
 3 are very detail-oriented, and then there is the code 10:30  
 4 developers where the reference standards are referred 10:30  
 5 to. 10:30  
 6 Q. So do you have any familiarity with 10:30  
 7 reference standards from your employment at the 10:30  
 8 Building Standards Commission? 10:30  
 9 A. I have familiarity. 10:30  
 10 Q. And what's that experience with the 10:30  
 11 reference standards that you have? 10:30  
 12 A. That they're referenced in the model codes 10:30  
 13 that California is required to adopt. 10:30  
 14 Q. And why is California required to adopt 10:30  
 15 those model codes? 10:30  
 16 A. That's part of our building standards law. 10:30  
 17 Q. What does the Building Standards Commission 10:30  
 18 do with those reference codes? 10:30  
 19 MS. MILLER-ZIEGLER: Objection to form. 10:30  
 20 BY MR. NERCESSIAN: 10:31  
 21 Q. What -- I can rephrase. 10:31  
 22 A. Okay. 10:31  
 23 Q. What actions does the Building Standards 10:31  
 24 Commission take, if any, with respect to those 10:31  
 25 reference codes? 10:31  
 Page 28

1 A. They take the same action that they do with 10:31  
 2 the model codes, the four we spoke of earlier. 10:31  
 3 Q. Okay. So then I'd like to discuss one of 10:31  
 4 those four actions, approve as amended. 10:31  
 5 A. Okay. 10:31  
 6 Q. When the Building Standards Commission 10:31  
 7 approves as amend a reference code, what does that 10:31  
 8 mean? 10:31  
 9 A. They may be approving a change from what was 10:31  
 10 proposed. 10:32  
 11 Q. And why might it take those actions? 10:32  
 12 A. There could be a reason based on the 10:32  
 13 nine-point criteria that they need to take a 10:32  
 14 different action, then approve. 10:32  
 15 Q. What is this nine-point criteria you're 10:32  
 16 referring to? 10:32  
 17 A. It's the basis in which the State agencies 10:32  
 18 state that they're -- the building standards may be 10:32  
 19 approved, and it's in 18930, I believe, of the Health 10:32  
 20 and Safety Code. 10:32  
 21 Q. And what are those nine criteria? 10:32  
 22 A. I'll do my best. There's -- one of them is 10:32  
 23 they cannot conflict, overlap or duplicate another 10:33  
 24 code, arbitrary and capricious, they have to meet -- 10:33  
 25 they can't violate fire life safety as prescribed -- 10:33  
 Page 29

1 or as determined by the State Fire Marshal. I can't 10:33  
 2 think of them all at the moment. 10:33  
 3 Q. And if one of these criteria is met, then 10:33  
 4 the California Building Standards Commission may 10:33  
 5 recommend amending a reference standard in its 10:33  
 6 adoption; is that correct? 10:33  
 7 A. If one of the criteria is not met, yes. 10:33  
 8 Q. If one of the criteria is not met? 10:33  
 9 A. Yeah. 10:33  
 10 Q. What happens if all of the criteria are met? 10:33  
 11 A. I didn't hear you. 10:33  
 12 Q. What happens if all of the criteria are met? 10:33  
 13 A. Generally the commission approves the 10:34  
 14 package. 10:34  
 15 Q. And where the commission chooses to amend a 10:34  
 16 reference standard in its adoption, how does the 10:34  
 17 commission accomplish that incorporation? 10:34  
 18 MR. FEE: Objection. Form. 10:34  
 19 MS. MILLER-ZIEGLER: Objection to form. 10:34  
 20 BY MR. NERCESSIAN: 10:34  
 21 Q. Do you understand the question? 10:34  
 22 A. No. 10:34  
 23 Q. Does the commission incorporate by reference 10:34  
 24 any reference standards? 10:34  
 25 A. Yes. 10:34

Page 30

1 Q. What does that mean? What -- strike that. 10:34  
 2 So the way you're using "incorporate by 10:35  
 3 reference," what does it mean to you? 10:35  
 4 A. It would be part of the model code. 10:35  
 5 Q. So that's the incorporation. 10:35  
 6 A. Uh-huh. 10:35  
 7 Q. But does the code incorporate the standard 10:35  
 8 by referencing a reference standard? 10:35  
 9 MS. MILLER-ZIEGLER: Objection to form. 10:35  
 10 THE WITNESS: Can you repeat the question? 10:35  
 11 BY MR. NERCESSIAN: 10:35  
 12 Q. Yes. Does the code incorporate a reference 10:35  
 13 standard by referencing that standard? 10:35  
 14 A. Yes. 10:35  
 15 Q. How does it reference it? 10:35  
 16 MR. FEE: Object to the form. 10:36  
 17 BY MR. NERCESSIAN: 10:36  
 18 Q. You can answer. 10:36  
 19 A. There's a number that is referenced in the 10:36  
 20 model code to the reference standard. 10:36  
 21 Q. So if somebody is reading the California 10:36  
 22 Building Standards Code, do they have to refer to 10:36  
 23 another reference code to understand it? 10:36  
 24 MR. FEE: Objection to form. 10:36  
 25 THE WITNESS: In some cases, yes. 10:36

Page 31

1 BY MR. NERCESSIAN: 10:36  
 2 Q. In what cases? 10:36  
 3 MR. FEE: Objection to form. 10:36  
 4 THE WITNESS: That's too broad of a 10:36  
 5 question. I don't -- 10:36  
 6 BY MR. NERCESSIAN: 10:36  
 7 Q. In what cases would a person not have to 10:36  
 8 refer to separate reference standard? 10:36  
 9 MR. FEE: Objection to form. 10:36  
 10 MR. YEN: You can answer -- 10:36  
 11 THE WITNESS: Okay. 10:36  
 12 MR. YEN: -- if you understand the question. 10:36  
 13 THE WITNESS: There's instances where part 10:36  
 14 of the reference standard is in -- reprinted or in 10:37  
 15 the code, but I couldn't give you specifics. 10:37  
 16 BY MR. NERCESSIAN: 10:37  
 17 Q. When you say that there are instances that 10:37  
 18 parts of a reference standard are reprinted within 10:37  
 19 the code, do you mean that they appear within the 10:37  
 20 body of the California code as printed? 10:37  
 21 MS. MILLER-ZIEGLER: Objection as leading. 10:37  
 22 BY MR. NERCESSIAN: 10:37  
 23 Q. You can answer. 10:37  
 24 A. Again, I don't have the code in front of me 10:37  
 25 to be able to give you that answer. 10:37

Page 32

1 Q. Okay. In that case, we can mark this next 10:37  
 2 in order. 10:38  
 3 (Exhibit 2 marked) 10:38  
 4 MS. MILLER-ZIEGLER: Where is this from? 10:38  
 5 MR. NERCESSIAN: This is from the Internet 10:39  
 6 archive. 10:39  
 7 MS. MILLER-ZIEGLER: Generally the Internet 10:39  
 8 archive versions have some annotation indicating that 10:39  
 9 they're from the Internet archive which this doesn't 10:39  
 10 have. Has this been modified? 10:39  
 11 MR. NERCESSIAN: It's just the PDF that's 10:39  
 12 available on the Internet archive. 10:39  
 13 MS. MILLER-ZIEGLER: There's no other front 10:39  
 14 matter that's associated with it? 10:39  
 15 MR. NERCESSIAN: No. There was a PDF linked 10:39  
 16 directly there. There is the notation that appears 10:39  
 17 on the front that you see. 10:39  
 18 MS. MILLER-ZIEGLER: We'll object to the 10:39  
 19 unauthorized copy then. 10:39  
 20 MR. FEE: You obviously put cover sheets on 10:39  
 21 this, too? You're not claiming that this cover sheet 10:39  
 22 was part of the archive? 10:39  
 23 MR. NERCESSIAN: No, not claiming the cover 10:39  
 24 sheet was part of it. That's just to break it up. 10:39  
 25 MR. FEE: I object to that as well. 10:39

Page 33

<p>1 MS. MILLER-ZIEGLER: We'll also object to 10:40                  2 the authenticity of this. 10:40                  3 BY MR. NERCESSIAN: 10:40                  4 Q. All right. Ms. Marvelli, are you familiar 10:40                  5 with this document? 10:40                  6 MR. FEE: Objection to form. 10:40                  7 THE WITNESS: Nope. 10:40                  8 BY MR. NERCESSIAN: 10:40                  9 Q. Does it appear to -- well, what makes you 10:40                  10 say that? 10:40                  11 A. Well, there's information that is not part 10:40                  12 of what we publish as a California Electrical Code on 10:40                  13 the cover. 10:40                  14 Q. I represent -- okay. So this is deposition 10:40                  15 Exhibit Number 2, and what's the information on the 10:40                  16 cover that you -- the annotations -- strike that. 10:42                  17 We can mark this next in order. 10:42                  18 (Exhibit 3 marked) 10:42                  19 BY MR. NERCESSIAN: 10:42                  20 Q. All right. You have been handed an exhibit 10:42                  21 marked for identification as Deposition Exhibit 3. 10:43                  22 Do you recognize this document? 10:43                  23 A. It appears as though it's a print of our web 10:43                  24 page -- or code's web page. 10:43                  25 Q. And what does the California Building 10:43                  Page 34</p>	<p>1 Q. And previously, you testified that it goes 10:45                  2 into effect January 1st, 2020? 10:45                  3 A. Correct. 10:45                  4 Q. Until the 2019 edition goes into effect, the 10:45                  5 2016 California Building Standards Code will be the 10:45                  6 law; correct? 10:45                  7 MR. FEE: Objection to form. 10:45                  8 THE WITNESS: Yes. 10:45                  9 BY MR. NERCESSIAN: 10:45                  10 Q. And the 2016 California Building Code will 10:45                  11 be effective until the 2019 edition goes into effect; 10:45                  12 correct?                  13 A. Yes. 10:46                  14 Q. How many parts does the 2019 triennial 10:46                  15 edition of Title 24 have? 10:46                  16 A. Thirteen. 10:46                  17 Q. Does each part pertain to a different 10:46                  18 subject matter? 10:46                  19 A. Yes. 10:46                  20 Q. So, for instance, Part 1 is the California 10:46                  21 Administrative Code; correct? 10:46                  22 A. Yes. 10:46                  23 Q. And Part 3 is the California Electrical 10:46                  24 Code; correct? 10:46                  25 A. Correct. 10:46                  Page 36</p>
<p>1 Commission display on the code's web page on its 10:43                  2 site? 10:43                  3 MS. MILLER-ZIEGLER: Objection to form. 10:43                  4 THE WITNESS: The 12 parts of Title 24. 10:43                  5 BY MR. NERCESSIAN: 10:43                  6 Q. How often does CBSC issue a new Title 24? 10:43                  7 A. Triennially, every three years, but we also 10:43                  8 could have emergencies change without regulatory 10:43                  9 effect or an intervening supplement which would amend 10:44                  10 any edition of the code. 10:44                  11 Q. And you'll note, if you look at the bottom 10:44                  12 of the page, there's a URL there. Can you read that 10:44                  13 URL, please? 10:44                  14 A. Sure. <a href="https://www.dgs.ca.gov/BSC/Codes">https://www.dgs.ca.gov/BSC/Codes</a>. 10:44                  15 Q. Thank you. And that's a website that's 10:44                  16 administered by the State; is that correct? 10:45                  17 A. Yes. 10:45                  18 Q. And the "DGS" in that subdomain stands for 10:45                  19 the Department of General Services; correct? 10:45                  20 A. Yes. 10:45                  21 Q. And what does the "BSC" stand for? 10:45                  22 A. Building Standards Commission. 10:45                  23 Q. When was the 2019 edition of Title 24 10:45                  24 published? 10:45                  25 A. On or around July 1st of this year. 10:45                  Page 35</p>	<p>1 Q. Does CBSC currently host any parts of the 10:46                  2 2016 triennial edition of the California Building 10:46                  3 Standards Code on the BSC website? 10:46                  4 A. I don't know what you mean by "host." 10:46                  5 Q. By "host," I mean does it store an 10:46                  6 accessible version of the code on the BSC website? 10:47                  7 A. No. I believe it's all -- points to the 10:47                  8 model code publisher. 10:47                  9 Q. And CBSC does not currently host any parts 10:47                  10 for any edition of the California Building Standards 10:47                  11 Code on the BSC website; correct? 10:47                  12 A. I'm not certain of that. 10:47                  13 Q. On the second page of this exhibit, there's 10:47                  14 a heading that reads "2016 Triennial Edition of 10:47                  15 Title 24." 10:47                  16 A. Uh-huh. 10:47                  17 Q. Does CBSC currently host a complete edition 10:47                  18 of the 2016 version of Title 24 on the BSC website? 10:47                  19 A. It points to the model code developers much 10:48                  20 like the '19 code. 10:48                  21 Q. And that's the same for the 2013 edition; 10:48                  22 correct?                  23 A. Correct. 10:48                  24 Q. This web page also, in a section marked 10:48                  25 "Purchase the Codes," directs the user to public 10:48                  Page 37</p>

<p>1 code -- strike that. 10:48                  2 In a section called "Purchase the Codes," 10:48                  3 similarly, the website directs the user to the 10:48                  4 publisher's websites; correct? 10:48                  5 MS. MILLER-ZIEGLER: Objection as leading. 10:48                  6 THE WITNESS: Yes. 10:48                  7 BY MR. NERCESSIAN: 10:48                  8 Q. One of those publishers is the International 10:48                  9 Code Council? 10:48                  10 A. Yes. 10:49                  11 Q. And what parts is the International Code 10:49                  12 Council responsible for publishing? 10:49                  13 A. It's listed here on the web page. Would you 10:49                  14 like me to read them all or -- 10:49                  15 Q. No. 10:49                  16 A. Okay. 10:49                  17 Q. And the web page lists the parts that are 10:49                  18 available through each publisher; correct? 10:49                  19 A. Yes. 10:49                  20 Q. Does the State of California, to your 10:49                  21 knowledge, make the full text of the California 10:49                  22 Building Standards Code available to the public? 10:49                  23 MR. FEE: Objection to form. 10:49                  24 THE WITNESS: Yes. 10:49                  25 BY MR. NERCESSIAN: 10:49</p> <p style="text-align: right;">Page 38</p>	<p>1 MR. YEN: I just wanted to clarify that you 10:50                  2 weren't just referring to the commission. 10:50                  3 MR. NERCESSIAN: No. 10:50                  4 MR. YEN: Okay. 10:50                  5 BY MR. NERCESSIAN: 10:50                  6 Q. All right. On the third page of the 10:50                  7 exhibit, there's a -- under a heading that says 10:50                  8 "California Building Standards Code," there's a 10:50                  9 description that reads "The California Building 10:50                  10 Standards Code is a compilation of three types of 10:50                  11 building standards from different origins." 10:50                  12 What are the sources of the California 10:51                  13 Building Standards Code? 10:51                  14 A. California amendments which are proposed by 10:51                  15 State agencies, the model codes that California is 10:51                  16 required by law to adopt. That's two kinds. It's a 10:51                  17 blend. 10:52                  18 Q. So this statement identifies three. 10:52                  19 A. Uh-huh. 10:52                  20 Q. What makes you -- so -- and we discussed two 10:52                  21 kinds. Is there not a third? 10:52                  22 A. I'd have to read this because I'm not 10:52                  23 understanding what -- that have been adopted by State 10:52                  24 without change. Okay, I get it. We recently went 10:52                  25 through a web page change, so I needed to read this 10:52</p> <p style="text-align: right;">Page 40</p>
<p>1 Q. How? 10:49                  2 MR. FEE: Same objection. 10:49                  3 THE WITNESS: It's viewable on our website 10:49                  4 through the publisher. 10:49                  5 BY MR. NERCESSIAN: 10:49                  6 Q. Linked at pages hosted by the publisher -- 10:49                  7 MS. MILLER-ZIEGLER: Objection. 10:50                  8 BY MR. NERCESSIAN: 10:50                  9 Q. -- correct? 10:50                  10 MS. MILLER-ZIEGLER: Objection as leading. 10:50                  11 THE WITNESS: Correct. 10:50                  12 MR. YEN: Armen, I just want to clarify 10:50                  13 something. When you're referring to the State of 10:50                  14 California, are you referring to the entire State of 10:50                  15 California government, or are you just referring to 10:50                  16 the Building Standards Commission? Because -- 10:50                  17 MR. NERCESSIAN: I was asking to her 10:50                  18 knowledge, is she aware that the State of California 10:50                  19 publishes. 10:50                  20 MR. YEN: So the entire State of California, 10:50                  21 not just the Building Standards Commission? So -- 10:50                  22 MR. NERCESSIAN: Not just the Building 10:50                  23 Standards Commission. 10:50                  24 MR. YEN: All right. 10:50                  25 MR. NERCESSIAN: But just to her knowledge. 10:50</p> <p style="text-align: right;">Page 39</p>	<p>1 because I haven't read this yet. 10:52                  2 Q. Okay. 10:53                  3 A. So I guess I understand why they're saying 10:53                  4 three. So there's building standards that have been 10:53                  5 adopted by the State without change, and they contain 10:53                  6 model codes, and then there's building standards -- 10:53                  7 standard, excuse me, that have been adopted and 10:53                  8 adapted from national model codes to address 10:53                  9 California's needs, which is what I talked about, 10:53                  10 California amendments, and then there's building 10:53                  11 standards authorized by California legislature that 10:53                  12 constitutes amendments not covered by national model 10:53                  13 codes. 10:53                  14 Q. Got it. So you think these three categories 10:53                  15 referred to here in this blurb are accurate? 10:53                  16 A. Yes. 10:53                  17 Q. It goes on to read that "All occupancies in 10:53                  18 California are subject to national model codes 10:54                  19 adopted into Title 24." Do you see that language? 10:54                  20 A. Yes. 10:54                  21 Q. When the website says that Title -- the 10:54                  22 national model codes adopted into Title 24 adopt -- 10:54                  23 strike that. 10:54                  24 When the website says that the national 10:54                  25 model codes adopted into Title 24 apply to all 10:54</p> <p style="text-align: right;">Page 41</p>

<p>1 occupancies in California, do they apply to 10:54                  2 residences? 10:54                  3 MS. MILLER-ZIEGLER: Objection to form. 10:54                  4 THE WITNESS: Yes. 10:54                  5 BY MR. NERCESSIAN: 10:54                  6 Q. Do they apply to office buildings? 10:54                  7 A. Yes. 10:54                  8 Q. Do they apply to schools? 10:54                  9 A. Yes. 10:54                  10 Q. Do the national model codes adopted into 10:54                  11 Title 24 apply to hospitals? 10:54                  12 A. Yes. 10:54                  13 MS. MILLER-ZIEGLER: Objection to form. 10:54                  14 BY MR. NERCESSIAN: 10:55                  15 Q. Do they apply to government buildings? 10:55                  16 A. Yes. 10:55                  17 Q. Are there any occupancies in California that 10:55                  18 the national model codes adopted into Title 24 do not 10:55                  19 apply to? 10:55                  20 MS. MILLER-ZIEGLER: Objection to form. 10:55                  21 THE WITNESS: I don't have an answer for 10:55                  22 that. 10:55                  23 BY MR. NERCESSIAN: 10:55                  24 Q. Because it applies to all occupancies in 10:55                  25 California; correct? 10:55</p> <p style="text-align: right;">Page 42</p>	<p>1 Code was the 2016 version of the California 10:56                  2 Electrical Code based on? 10:56                  3 MS. MILLER-ZIEGLER: Objection to form. 10:56                  4 THE WITNESS: The 2014 electrical code. 10:56                  5 BY MR. NERCESSIAN: 10:56                  6 Q. So you described that standard as NFPA 70. 10:57                  7 What does "NFPA" stand for? 10:57                  8 A. National Fire Protection Association. 10:57                  9 Q. Is that the same National Fire Protection 10:57                  10 Association that is a named plaintiff in this case? 10:57                  11 MR. FEE: Objection to form. 10:57                  12 THE WITNESS: Yes. 10:57                  13 BY MR. NERCESSIAN: 10:57                  14 Q. Can you describe how the CBSC developed the 10:57                  15 2019 edition of the California Electrical Code? 10:57                  16 A. Yes. 10:57                  17 Q. Please do. 10:57                  18 A. Okay. Again, state law requires the State 10:57                  19 agencies to adopt the most recent edition of model 10:57                  20 codes, and in the case of the electrical code, it 10:57                  21 would be the 2017 National Electrical Code. The 10:57                  22 State agencies carry forward existing amendments in 10:58                  23 some cases from the previous edition. 10:58                  24 They may make amendments to the new edition 10:58                  25 that they're looking at. They may have pre-cycle 10:58</p> <p style="text-align: right;">Page 44</p>
<p>1 MS. MILLER-ZIEGLER: Objection to form. 10:55                  2 THE WITNESS: Yes. 10:55                  3 BY MR. NERCESSIAN: 10:55                  4 Q. So we established earlier that Part 3 of 10:55                  5 Title 24 is the California Electrical Code. What 10:55                  6 sources is the California Electrical Code based on? 10:55                  7 A. NFPA 70 -- 10:55                  8 Q. NFPA 70. 10:55                  9 A. -- and California amendments. 10:56                  10 Q. And NFPA 70 is also known as the National 10:56                  11 Electrical Code? 10:56                  12 A. Yes. 10:56                  13 Q. What version of the National Electrical Code 10:56                  14 are the 2019 -- strike that. 10:56                  15 What version of the National Electrical Code 10:56                  16 is the 2019 version of the California Electrical Code 10:56                  17 based on? 10:56                  18 MS. MILLER-ZIEGLER: Objection to form. 10:56                  19 MR. YEN: You can answer if you know. 10:56                  20 THE WITNESS: Okay. Sorry. 10:56                  21 MR. YEN: If you understand. 10:56                  22 THE WITNESS: The 2017 National Electrical 10:56                  23 Code. 10:56                  24 BY MR. NERCESSIAN: 10:56                  25 Q. And what version of the National Electrical 10:56</p> <p style="text-align: right;">Page 43</p>	<p>1 workshops to vet any changes that are necessary. 10:58                  2 Then their rulemaking documents are submitted to the 10:58                  3 Building Standards Commission staff, and they are -- 10:58                  4 those files are reviewed for compliance with the 10:58                  5 Administrative Procedures Act and the building 10:58                  6 standards law. 10:58                  7 They're then assembled for what's called a 10:58                  8 code advisory committee, and that committee is made 10:58                  9 up of technical experts in the field. They're not 10:59                  10 paid by the State other than their per diem to 10:59                  11 participate in the technical review of the proposed 10:59                  12 changes and adoption of the code. 10:59                  13 They provide a recommendation at a public 10:59                  14 meeting to the State agency and also the public, and 10:59                  15 that recommendation is considered by the State 10:59                  16 agency, and the State agency may make additional 10:59                  17 changes to their proposed code changes. 10:59                  18 The Building Standards Commission then 10:59                  19 assembles that material and puts it out for a 45-day 10:59                  20 comment period which is noticed in the Office of 10:59                  21 Administrative Law's notice registry. There may be 10:59                  22 additional comments if necessary. 10:59                  23 The State agencies respond to any comments 10:59                  24 in their Final Statement of Reasons, and the Final 11:00                  25 Statement of Reason and the Final Express Terms and 11:00</p> <p style="text-align: right;">Page 45</p>



1 other rulemaking documents are presented to the 11:00  
 2 commission at a public meeting where the commission 11:00  
 3 takes action on the rulemaking package. 11:00  
 4 Q. Got it. And it is the commission that has 11:00  
 5 the final say on what language ultimately makes it 11:00  
 6 into the version of the California Electrical Code? 11:00  
 7 MS. MILLER-ZIEGLER: Objection. Form. 11:00  
 8 THE WITNESS: The commission looks at all of 11:00  
 9 the public comments that were considered, the 11:00  
 10 Statement of Reasons, and they rely on the 11:00  
 11 determination of the State agency as well, and that 11:00  
 12 is all weighed, and as long as it meets the 11:00  
 13 nine-point criteria, the commission may take action 11:00  
 14 on the package to approve it. 11:00  
 15 BY MR. NERCESSIAN: 11:01  
 16 Q. And that's the nine-point criteria you 11:01  
 17 referred to earlier where if one of the criteria is 11:01  
 18 not met, there might be reason for an amendment; 11:01  
 19 correct? 11:01  
 20 A. Possibly, yes. 11:01  
 21 Q. You referred to -- in this to there being a 11:01  
 22 code advisory committee. 11:01  
 23 A. Uh-huh. Yes. Sorry. 11:01  
 24 Q. Where does that advisory committee reside? 11:01  
 25 A. It's assembled every two years for each 11:01  
 Page 46

1 triennial coded option, and a call for application 11:01  
 2 goes out by the Building Standards Commission staff, 11:01  
 3 and it's very specific in the member makeup of each 11:01  
 4 code advisory committee, and that's laid out in the 11:01  
 5 California Administrative Code, which is Part 1 of 11:01  
 6 Title 24, and each of -- each committee has 11:01  
 7 approximately nine members, and they are selected by 11:01  
 8 the commission every two years, and then those code 11:02  
 9 advisory committees serve for the three-year term, 11:02  
 10 and so they're a mix of technical experts in the 11:02  
 11 field. 11:02  
 12 Q. Okay. And Part 1 of Title 24 which 11:02  
 13 constitutes the California Administrative Code then 11:02  
 14 lays out the rules that the agencies must follow for 11:02  
 15 the rulemaking process? 11:02  
 16 MS. MILLER-ZIEGLER: Objection. Leading. 11:02  
 17 MR. FEE: Objection to form. 11:02  
 18 BY MR. NERCESSIAN: 11:02  
 19 Q. So you testified earlier that Part 1 of 11:02  
 20 Title 24 constitutes the California Administrative 11:02  
 21 Code; correct? 11:02  
 22 A. Uh-huh. 11:02  
 23 Q. What procedures does the California 11:02  
 24 Administrative Code govern? 11:03  
 25 A. Appeals and petitions, pre-cycle activities 11:03  
 Page 47

1 by State agencies, the timing -- strike that. Not 11:03  
 2 the timing. The initial submittal rulemaking 11:03  
 3 documents that are required to be submitted, the 11:03  
 4 actions that can be taken by the commission. That's 11:03  
 5 what I can remember off the top of my head. 11:03  
 6 Q. And all those rules are directed at 11:03  
 7 governing California state administrative processes; 11:03  
 8 correct? 11:03  
 9 MS. MILLER-ZIEGLER: Objection to form. 11:03  
 10 MR. FEE: Object to form. 11:03  
 11 THE WITNESS: Not sure I follow that 11:03  
 12 question. 11:03  
 13 BY MR. NERCESSIAN: 11:03  
 14 Q. I can rephrase. Who is the audience for 11:03  
 15 Part 1 of Title 24? 11:04  
 16 MR. FEE: Objection to form. 11:04  
 17 THE WITNESS: That code, administrative code 11:04  
 18 is available for anybody, so it's the public, it 11:04  
 19 could be State agencies, it could be code advisory 11:04  
 20 committee members, it could be the commission. 11:04  
 21 BY MR. NERCESSIAN: 11:04  
 22 Q. Got it. 11:04  
 23 A. Uh-huh. Could we take a break for a couple 11:04  
 24 minutes? Would that be okay? 11:04  
 25 Q. There's no question pending, so okay. 11:04  
 Page 48

1 1 A. Okay. Pause for a minute. 11:04  
 2 VIDEO OPERATOR: We're off the record. It's 11:04  
 2 11:04 3 .  
 3 11:04  
 4 4 (Recess) 11:04  
 5 5 VIDEO OPERATOR: Okay. We're back on the 11:21  
 6 6 record. It's 11:22. 11:21  
 7 7 BY MR. NERCESSIAN: 11:21  
 8 8 Q. Ms. Marvelli, have you heard of the term 11:22  
 9 9 "incorporation by adoption"? 11:22  
 10 10 A. Yes. 11:22  
 11 11 Q. And what does that term mean? 11:22  
 12 12 A. I don't know. 11:22  
 13 13 Q. In what context have you heard the term, 11:22  
 14 14 "incorporation by adoption"? 11:22  
 15 15 A. Through local ordinances and through the 11:22  
 16 16 codes. 11:22  
 17 17 Q. How were they used through the codes when 11:22  
 18 18 you heard the term "incorporation by adoption"? 11:22  
 19 19 MS. MILLER-ZIEGLER: Objection to form. 11:22  
 20 20 THE WITNESS: Just referenced in the code. 11:22  
 21 21 BY MR. NERCESSIAN: 11:22  
 22 22 Q. Do you have any understanding of what the 11:22  
 23 23 term "incorporation by adoption," as used in the 11:22  
 24 24 codes, means? 11:22  
 25 25 MR. FEE: Objection to form. 11:23  
 Page 49

<p>1 THE WITNESS: Just referenced in the code 11:23                  2 that's adopted by California. That's all. 11:23                  3 BY MR. NERCESSIAN: 11:23                  4 Q. In what context does the code use it? 11:23                  5 A. I don't know. 11:23                  6 Q. Are you familiar with the term 11:23                  7 "incorporation by reference"? 11:23                  8 A. Yes. 11:23                  9 Q. And what's your understanding of that term? 11:23                  10 A. Referenced in the code. 11:23                  11 Q. So do you understand that "incorporation by 11:23                  12 adoption" and "incorporation by reference" have the 11:23                  13 same meaning? 11:23                  14 MS. MILLER-ZIEGLER: Objection. Leading. 11:23                  15 THE WITNESS: I don't know. 11:23                  16 BY MR. NERCESSIAN: 11:24                  17 Q. Do you understand -- do you have any 11:24                  18 understanding of how the meaning of "incorporation by 11:24                  19 reference" may differ from "incorporation by 11:24                  20 adoption"? 11:24                  21 MS. MILLER-ZIEGLER: Objection. This calls 11:24                  22 for a legal conclusion. It's also outside the scope 11:24                  23 of the subpoena. 11:24                  24 THE WITNESS: Yeah. I don't have an answer 11:24                  25 for you. I don't know. 11:24                  Page 50</p>	<p>1 MR. FEE: Objection to form. 11:25                  2 THE WITNESS: Yes. 11:25                  3 BY MR. NERCESSIAN: 11:25                  4 Q. Does the State make, to your knowledge -- 11:25                  5 strike that. 11:25                  6 To your knowledge, does the State of 11:25                  7 California make the text of the California Electrical 11:25                  8 Code available to the public in any way other than by 11:26                  9 referring it to the publisher? 11:26                  10 MS. MILLER-ZIEGLER: Object to form. 11:26                  11 MR. YEN: Again, you keep using the "State 11:26                  12 of California," so you're saying the entire State of 11:26                  13 California, not just the commission; right? I just 11:26                  14 want to be clear when you -- 11:26                  15 MR. NERCESSIAN: I'm asking to her 11:26                  16 knowledge. 11:26                  17 MR. YEN: Okay. For the entire state? 11:26                  18 MR. NERCESSIAN: For the entire state. 11:26                  19 MR. YEN: Okay. 11:26                  20 THE WITNESS: The Building Standards 11:26                  21 Commission makes available on its website a link to 11:26                  22 the model code. The State of California, there's a 11:26                  23 reference in building standards law that says local 11:26                  24 jurisdictions need to make available the building 11:26                  25 codes, all of the building codes publicly at their 11:26                  Page 52</p>
<p>1 BY MR. NERCESSIAN: 11:24                  2 Q. But your understanding is that incorporation 11:24                  3 by reference has been used in the codes in -- strike 11:24                  4 that. 11:24                  5 Is it your understanding that incorporation 11:24                  6 by reference applies when California law references 11:24                  7 reference standards such as the National Electrical 11:24                  8 Code? 11:25                  9 MR. FEE: Objection to form. 11:25                  10 MS. MILLER-ZIEGLER: Objection. Calls for a 11:25                  11 legal conclusion. 11:25                  12 THE WITNESS: Yeah. I don't know. 11:25                  13 BY MR. NERCESSIAN: 11:25                  14 Q. You said that the State of California makes 11:25                  15 California build the -- strike that. 11:25                  16 You testified earlier that the Building 11:25                  17 Standards Commission makes the California Building 11:25                  18 Standards Code available to the public by referring 11:25                  19 the public to the publisher; is that correct? Do you 11:25                  20 recall that testimony? 11:25                  21 A. Yes. 11:25                  22 MR. FEE: Objection. Form. 11:25                  23 BY MR. NERCESSIAN: 11:25                  24 Q. Is the same true for the California 11:25                  25 Electrical Code? 11:25                  Page 51</p>	<p>1 office as well, a printed version if you will. 11:26                  2 BY MR. NERCESSIAN: 11:26                  3 Q. And who is the publisher in the case of the 11:26                  4 California Electrical Code? 11:27                  5 A. The 2016 edition, the publisher was BNi, and 11:27                  6 for the 2019 edition, the publisher was NFPA. 11:27                  7 Q. With respect to the 2016 edition, was -- 11:27                  8 strike that. 11:27                  9 Did the NFPA serve any role with respect to 11:27                  10 the 2016 edition of the California Electrical Code? 11:27                  11 MR. FEE: Objection. Form. 11:27                  12 MS. MILLER-ZIEGLER: Objection. It's vague. 11:27                  13 THE WITNESS: I don't know. 11:27                  14 BY MR. NERCESSIAN: 11:27                  15 Q. What is BNi? 11:27                  16 A. I don't know the full name. I know them as 11:27                  17 BNi, is the publisher for the 2016 electrical code. 11:27                  18 Q. Do you know anything about the entity BNi if 11:28                  19 not the full name? 11:28                  20 A. No, I don't. 11:28                  21 Q. You understand that they publish the 2016 11:28                  22 California Electrical Code? 11:28                  23 A. Yes. 11:28                  24 Q. Did anybody else, any other entity publish 11:28                  25 the 2016 electrical code, California Electrical Code? 11:28                  Page 53</p>



1 A. Not that I -- I don't know. 11:28  
 2 Q. To your knowledge, there is no other 11:28  
 3 publisher of the California Electrical Code, the 2016 11:28  
 4 edition, other than BNi? 11:28  
 5 MS. MILLER-ZIEGLER: Objection. That 11:28  
 6 misstates her testimony. 11:28  
 7 THE WITNESS: I don't know. 11:28  
 8 BY MR. NERCESSIAN:  
 9 Q. Okay. So you're not aware of any other 11:28  
 10 publisher of the 2016 California Electrical Code 11:28  
 11 other than BNi? 11:28  
 12 A. Correct. 11:29  
 13 Q. Do you know how BNi makes the 2016 11:29  
 14 electrical code available to the public? 11:29  
 15 A. Via the website or by purchasing. 11:29  
 16 Q. When you say it makes it available via the 11:29  
 17 website, what website is that? 11:29  
 18 A. The one I'm aware of is the California 11:29  
 19 Building Standards Commission's link on their website 11:29  
 20 to their website. 11:29  
 21 Q. And for the 2016 edition that we're 11:29  
 22 discussing, that links to a BNi website? 11:29  
 23 A. I don't know. 11:29  
 24 Q. Do you know of any restrictions that appear 11:29  
 25 on the website access through the link for the 2016 11:30  
 Page 54

1 California Electrical Code? 11:30  
 2 MR. FEE: Objection to form. 11:30  
 3 THE WITNESS: Can you repeat the question? 11:30  
 4 BY MR. NERCESSIAN: 11:30  
 5 Q. Are you aware of any restrictions on the 11:30  
 6 website accessible through the link for the 2016 11:30  
 7 electrical code as it appears on the BSC website? 11:30  
 8 MR. FEE: Objection to form. 11:30  
 9 THE WITNESS: No. 11:30  
 10 BY MR. NERCESSIAN: 11:30  
 11 Q. Is it possible that there are restrictions 11:30  
 12 on the website access through the link that appears 11:30  
 13 on the BSC website for the 2016 electrical code? 11:30  
 14 MR. YEN: Objection. Calls for speculation. 11:30  
 15 MS. MILLER-ZIEGLER: Objection. Lacks 11:30  
 16 foundation as well. 11:30  
 17 BY MR. NERCESSIAN: 11:31  
 18 Q. Do you know whether the public has full 11:31  
 19 access to the text of the 2016 California Electrical 11:31  
 20 Code without payment? 11:31  
 21 MR. FEE: Objection to form. 11:31  
 22 MS. MILLER-ZIEGLER: Objection. Vague. 11:31  
 23 THE WITNESS: I'm sorry. Repeat the 11:31  
 24 question again. 11:31  
 25 BY MR. NERCESSIAN: 11:31  
 Page 55

1 Q. Do you know whether the public has full 11:31  
 2 access to the text of the 2016 California Electrical 11:31  
 3 Code without payment? 11:31  
 4 MR. FEE: Objection to form. 11:31  
 5 MS. MILLER-ZIEGLER: Objection. Vague. 11:31  
 6 BY MR. NERCESSIAN: 11:31  
 7 Q. I can rephrase. Do you know whether BNi 11:31  
 8 provides the public with full access to the text of 11:31  
 9 the 2016 California Electrical Code without payment? 11:32  
 10 MR. FEE: Objection to form. 11:32  
 11 MS. MILLER-ZIEGLER: Objection. Vague. 11:32  
 12 THE WITNESS: I don't know that. 11:32  
 13 BY MR. NERCESSIAN: 11:32  
 14 Q. You don't know one way or the other? 11:32  
 15 A. Huh-uh. 11:32  
 16 MR. YEN: So just when you're answering 11:32  
 17 questions, verbal, not -- 11:32  
 18 THE WITNESS: Okay. Sorry. 11:32  
 19 MR. YEN: -- not just nodding the head. 11:32  
 20 THE WITNESS: Sorry. 11:32  
 21 BY MR. NERCESSIAN: 11:32  
 22 Q. All right. So when I asked, "You don't know 11:32  
 23 one way or another?" your answer was confirming that 11:32  
 24 you don't know one way or another; correct? 11:32  
 25 A. I don't know what BNi offers. 11:32  
 Page 56

1 Q. Does anybody in your office know what BNi 11:32  
 2 offers? 11:32  
 3 MR. FEE: Objection to form, calls for 11:32  
 4 speculation. 11:32  
 5 THE WITNESS: I don't know that. I wouldn't 11:32  
 6 know that. 11:32  
 7 BY MR. NERCESSIAN: 11:32  
 8 Q. Do you know whether BNi is a commercial for 11:33  
 9 profit publisher? 11:33  
 10 MR. FEE: Objection to form. 11:33  
 11 THE WITNESS: I don't know that. 11:33  
 12 BY MR. NERCESSIAN: 11:33  
 13 Q. Do you know one way or another? 11:33  
 14 MR. FEE: Same objection. 11:33  
 15 MS. MILLER-ZIEGLER: Object to form. 11:33  
 16 THE WITNESS: I'll change my answer to no. 11:33  
 17 BY MR. NERCESSIAN: 11:33  
 18 Q. So you don't know whether BNi is a 11:33  
 19 commercial for profit publisher? 11:33  
 20 A. I don't know that. 11:33  
 21 Q. We can mark this next in order. 11:34  
 22 (Exhibit 4 marked) 11:34  
 23 BY MR. NERCESSIAN: 11:34  
 24 Q. Ms. Marvelli, I've handed you a document 11:34  
 25 that's been marked for identification as Exhibit 4. 11:34  
 Page 57

<p>1 Do you recognize this document? 11:34                  2 A. I've not seen this print before, but it 11:34                  3 appears to be the California Electrical Code, the '19 11:35                  4 edition. 11:35                  5 Q. And the URL for this link has the domain 11:35                  6 nfpa.org; correct? 11:35                  7 A. Yes. 11:35                  8 Q. Is that NFPA the same as the named 11:35                  9 plaintiffs in this lawsuit, the named plaintiff? 11:35                  10 MR. FEE: Object to form. 11:35                  11 MR. YEN: Hold on a second. 11:35                  12 If you need clarification, you can ask him 11:35                  13 for clarification. 11:35                  14 THE WITNESS: Okay. Sorry. Yeah. Yeah, I 11:35                  15 guess I need clarification. 11:35                  16 BY MR. NERCESSIAN: 11:35                  17 Q. Do you know what the domain nfpa.org -- who 11:35                  18 owns it, who runs it? 11:35                  19 MR. FEE: Objection to form. 11:35                  20 THE WITNESS: NFPA, so -- 11:35                  21 MR. YEN: Objection. Calls for speculation. 11:36                  22 THE WITNESS: Yeah, it does, yeah. 11:36                  23 BY MR. NERCESSIAN: 11:36                  24 Q. Do you have any experience with accessing 11:36                  25 any web pages at nfpa.org? 11:36</p> <p style="text-align: right;">Page 58</p>	<p>1 other? 11:37                  2 A. No, I'm not aware. I'm not aware. I don't 11:37                  3 know. 11:37                  4 Q. Have you ever attempted to print the 11:37                  5 California Electrical Code from the NFPA viewer? 11:37                  6 A. I have not attempted to print the '19 11:37                  7 electrical code from the viewer. 11:37                  8 Q. Are you aware whether anyone can copy text 11:37                  9 from the NFPA viewer for the 2019 California 11:37                  10 Electrical Code? 11:37                  11 MR. FEE: Objection to form. 11:37                  12 THE WITNESS: I don't know. 11:37                  13 BY MR. NERCESSIAN: 11:37                  14 Q. Do you know whether someone can search the 11:38                  15 text of the 2019 California Electrical Code on the 11:38                  16 NFPA viewer? 11:38                  17 MR. FEE: Objection to form. 11:38                  18 THE WITNESS: I don't know actually. I 11:38                  19 don't know. 11:38                  20 BY MR. NERCESSIAN: 11:38                  21 Q. And the BSC website links to a version of 11:38                  22 the California Electrical Code for the year 2019 on 11:38                  23 the NFPA viewer; correct? 11:38                  24 A. Yes. 11:38                  25 Q. It links to this, the website reflected in 11:38</p> <p style="text-align: right;">Page 60</p>
<p>1 A. Yes. 11:36                  2 Q. Have you accessed the 2019 California 11:36                  3 Electrical Code through nfpa.org? 11:36                  4 A. Yes. 11:36                  5 Q. Do you have any familiarity with the NFPA 11:36                  6 viewer that the NFPA supplies for viewing the 2019 11:36                  7 electrical code? 11:36                  8 MS. MILLER-ZIEGLER: Objection to form. 11:36                  9 THE WITNESS: I have familiarity, yes. 11:36                  10 BY MR. NERCESSIAN: 11:36                  11 Q. In light of that experience, are the 11:36                  12 screenshots you see reflected in this exhibit 11:36                  13 familiar to you? 11:36                  14 MR. FEE: Objection to form. 11:36                  15 THE WITNESS: No. 11:36                  16 BY MR. NERCESSIAN: 11:36                  17 Q. Have you yourself accessed the 2019 11:36                  18 California Electrical Code on the NFPA viewer? 11:37                  19 A. Yes. 11:37                  20 Q. Are you aware whether you can print the code 11:37                  21 from the NFPA viewer? 11:37                  22 MR. FEE: Objection to form. 11:37                  23 THE WITNESS: I'm not aware, no. 11:37                  24 BY MR. NERCESSIAN: 11:37                  25 Q. Can you? Are you aware one way or the 11:37</p> <p style="text-align: right;">Page 59</p>	<p>1 this document; correct? 11:38                  2 MS. MILLER-ZIEGLER: Objection. Lack of 11:38                  3 foundation. 11:38                  4 MR. FEE: Object to form. Mischaracterizes 11:38                  5 her testimony. 11:38                  6 THE WITNESS: I don't know if it links 11:38                  7 directly to what I'm looking at today. 11:38                  8 BY MR. NERCESSIAN: 11:38                  9 Q. Do you have any reason to believe it doesn't 11:38                  10 link to this web page in the NFPA viewer reflected 11:38                  11 here? 11:38                  12 MS. MILLER-ZIEGLER: Objection. Lack of 11:38                  13 foundation. 11:39                  14 THE WITNESS: I don't have a way to confirm 11:39                  15 that. 11:39                  16 BY MR. NERCESSIAN: 11:39                  17 Q. Have you ever tried copying text from the 11:39                  18 California Electrical Code on the NFPA viewer? 11:39                  19 A. No. 11:39                  20 Q. I'd like to refer you to the second page, 11:39                  21 and here on the second page, there's language stating 11:39                  22 that "Portions of this publication are reproduced 11:39                  23 with permission from the National Electrical Code." 11:39                  24 Do you see that here? 11:39                  25 A. Yes. 11:39</p> <p style="text-align: right;">Page 61</p>

1 Q. And this also identifies that no portions of 11:39  
 2 NEC material may be reproduced except with permission 11:40  
 3 of the National Fire Protection Association." Do you 11:40  
 4 see that text? 11:40  
 5 A. Yes. 11:40  
 6 Q. What portions of the publication here did 11:40  
 7 NFPA contribute? 11:40  
 8 MR. YEN: Objection. Calls for speculation. 11:40  
 9 MS. MILLER-ZIEGLER: Object to form. 11:40  
 10 MR. NERCESSIAN: I can rephrase. 11:40  
 11 BY MR. NERCESSIAN: 11:40  
 12 Q. How can a reader of the California 11:40  
 13 Electrical Code distinguish which portions of the 11:40  
 14 California Electrical Code NFPA contributed? 11:40  
 15 MR. YEN: Same objection. 11:40  
 16 THE WITNESS: So on page -- and I don't 11:40  
 17 know -- the pages aren't numbered, so on the top 11:41  
 18 right corner, it says 11 of 1034. There's a legend 11:41  
 19 that tells the reader how to distinguish between 11:41  
 20 model code and California amendments. 11:41  
 21 BY MR. NERCESSIAN: 11:41  
 22 Q. And that legend indicates that if in the 11:41  
 23 margin there is this "CA" notation vertically, that 11:41  
 24 indicates that a California amendment has been made 11:41  
 25 to the model code; correct? 11:41

Page 62

1 page which the public can access. 11:43  
 2 Q. I'd like to refer you -- call your attention 11:43  
 3 to this next page as well. It's noted as page 49 of 11:43  
 4 1034. Have you -- at the top of the -- strike that. 11:43  
 5 At the top of the page, it reads "Chapter 1 11:44  
 6 California Matrix Adoption Tables." Do you see that? 11:44  
 7 A. Yes. 11:44  
 8 Q. What is a Matrix Adoption Table? 11:44  
 9 A. It's a guide for the code reader to see 11:44  
 10 which State agencies amend or adopt an entire article 11:44  
 11 of the electrical code or only specific sections from 11:44  
 12 the articles. 11:44  
 13 Q. And what information do these tables reflect 11:44  
 14 that allows a reader to distinguish whether a code is 11:44  
 15 accepted as amended or adopted in its entirety? 11:44  
 16 MR. FEE: Objection. Form. 11:44  
 17 MS. MILLER-ZIEGLER: Objection. Misstates 11:44  
 18 her testimony. 11:44  
 19 MR. FEE: Also object, you're asking these 11:44  
 20 questions without the full California Electrical Code 11:45  
 21 in front of her, so she can't answer the question in 11:45  
 22 the context of the entire document. 11:45  
 23 BY MR. NERCESSIAN: 11:45  
 24 Q. You may answer if you understand the 11:45  
 25 question. 11:45

Page 64

1 A. Yes. 11:41  
 2 MR. FEE: I'm going to object to the use of 11:41  
 3 this exhibit in its entirety. Have you excerpted 11:41  
 4 pages of this? 11:41  
 5 MR. NERCESSIAN: Yes. These are screenshots 11:41  
 6 of what's available in the NFPA viewer. 11:41  
 7 MR. FEE: Selected by you? 11:41  
 8 MR. NERCESSIAN: Selected by me, yes. 11:41  
 9 MR. FEE: Okay. I object to that. 11:41  
 10 MS. MILLER-ZIEGLER: Objection as 11:42  
 11 incomplete. 11:42  
 12 BY MR. NERCESSIAN: 11:42  
 13 Q. All right. Does the Building Standards 11:42  
 14 Commission make any of these California amendments 11:42  
 15 available to the public separately from the 11:42  
 16 publication of the California Electrical Code? 11:42  
 17 MS. MILLER-ZIEGLER: Objection. Form. 11:42  
 18 THE WITNESS: Yes. The Final Statement of 11:42  
 19 Reasons may contain those amendments. 11:42  
 20 BY MR. NERCESSIAN: 11:42  
 21 Q. After the rulemaking process is over, does, 11:42  
 22 to your knowledge, the State of California publish 11:42  
 23 any California amendments separately? 11:42  
 24 A. The Building Standards Commission makes 11:43  
 25 available the Final Statement of Reasons on its web 11:43

Page 63

1 A. This table represents what was approved by 11:45  
 2 the commission for publication in this edition of the 11:45  
 3 code. 11:45  
 4 Q. So, for instance, it reflects on the top 11:45  
 5 line those portions that were adopted in their 11:45  
 6 entirety? 11:45  
 7 MS. MILLER-ZIEGLER: Objection. It's vague. 11:45  
 8 THE WITNESS: Yeah. 11:45  
 9 BY MR. NERCESSIAN: 11:45  
 10 Q. So how would code reader understand whether 11:45  
 11 portion of the reference code, reference standard was 11:45  
 12 adopted in its entirety? 11:45  
 13 MR. FEE: Object as to form. Object to the 11:45  
 14 exhibit again. 11:45  
 15 THE WITNESS: Yeah. I'm not sure I'm 11:45  
 16 understanding the question. 11:46  
 17 BY MR. NERCESSIAN: 11:46  
 18 Q. So let's look at this table that -- just for 11:46  
 19 "Article 110 - Requirements of Electrical 11:46  
 20 Installations." How would a code reader interpret 11:46  
 21 this table? 11:46  
 22 MR. FEE: Objection. 11:46  
 23 MS. MILLER-ZIEGLER: Objection. 11:46  
 24 Speculation. 11:46  
 25 THE WITNESS: I can't answer how a code 11:46

Page 65

<p>1 reader would interpret it. 11:46                  2 BY MR. NERCESSIAN: 11:46                  3 Q. What information is this table intend -- 11:46                  4 strike that. 11:46                  5 What information does this table for Article 11:46                  6 110 provide that may be helpful to a code reader in 11:46                  7 interpreting the relevant portion of the California 11:47                  8 Electrical Code? 11:47                  9 MS. MILLER-ZIEGLER: Objection to form. 11:47                  10 THE WITNESS: This table, for example, 11:47                  11 represents that DSA, the acronym SS adopts the entire 11:47                  12 Article 110. 11:47                  13 BY MR. NERCESSIAN: 11:47                  14 Q. And what is DSA? 11:47                  15 A. The Division of the State Architect. And 11:47                  16 the SS is -- represents further structural safety 11:47                  17 program. 11:47                  18 Q. And then we have -- two columns over, do you 11:47                  19 see there's this column that reads "HCD"? 11:47                  20 A. Yes. 11:47                  21 Q. What does that acronym refer to? 11:47                  22 A. That's Department of Housing and Community 11:47                  23 Development. 11:47                  24 Q. And if you go down just to the second row 11:47                  25 within that column, there are X's here under sub 11:48</p> <p style="text-align: right;">Page 66</p>	<p>1 Q. And if that was the case, how would a person 11:49                  2 access -- strike that. 11:49                  3 If it was the case that they were carried 11:49                  4 forward from a previous code cycle, how would a 11:49                  5 person seeking to access those provisions know? 11:50                  6 A. I'm not following the question. Sorry. 11:50                  7 Q. So earlier we established that -- strike 11:50                  8 that. 11:50                  9 It's possible that a State agency such as 11:50                  10 HCD may adopt an entire article as amended into its 11:50                  11 rules while -- strike that. 11:50                  12 It's possible that a State agency such as 11:50                  13 HCD may adopt an entire article as amended into its 11:50                  14 rules; correct? 11:50                  15 A. I'm sorry. Repeat the question. 11:50                  16 Q. Is it possible that a State agency such as 11:50                  17 HCD can adopt an entire article as amended into its 11:51                  18 rules? 11:51                  19 A. Yes. 11:51                  20 Q. And in the case that it does that, is it 11:51                  21 possible that that provision does not appear in their 11:51                  22 Final Statement of Reasons? 11:51                  23 A. It's possible. 11:51                  24 Q. One reason it might not appear is in -- 11:51                  25 strike that. 11:51</p> <p style="text-align: right;">Page 68</p>
<p>1 column one and a sub column two. 11:48                  2 A. Uh-huh. 11:48                  3 Q. What do those X's reflect? 11:48                  4 A. That HCD's authority for one and two is 11:48                  5 adopt the entire article as amended and that the 11:48                  6 amended sections are listed below. 11:48                  7 Q. And to access those articles that are 11:48                  8 adopted in their entirety as amended -- strike that. 11:48                  9 How would a code reader access those 11:48                  10 articles that had been adopted in their entirety as 11:48                  11 amended by HCD? 11:48                  12 MR. FEE: Objection. Calls for speculation. 11:48                  13 MR. NERCESSIAN: I can rephrase. 11:49                  14 BY MR. NERCESSIAN: 11:49                  15 Q. What means of access does the Building 11:49                  16 Standards Commission provide to a code reader seeking 11:49                  17 to access those articles adopted in their entirety as 11:49                  18 amended by HCD? 11:49                  19 A. They are made available on the link to the 11:49                  20 website, and those may or may not be in the Final 11:49                  21 Statement of Reasons that were amended by HCD. 11:49                  22 Q. Why may they not be present in the Final 11:49                  23 Statement of Reasons that were amended by HCD? 11:49                  24 A. They could have been carried forward from a 11:49                  25 previous code cycle. 11:49</p> <p style="text-align: right;">Page 67</p>	<p>1 One reason such a provision might not appear 11:51                  2 in the Final Statement of Rules is if it was carried 11:51                  3 forward from a previous cycle; correct? 11:51                  4 A. Yes. 11:51                  5 Q. In such a case, how would a person know 11:51                  6 where to look to find the relevant code provision? 11:51                  7 MR. FEE: Objection. Calls for speculation. 11:52                  8 THE WITNESS: Yeah. I don't know. 11:52                  9 BY MR. NERCESSIAN: 11:52                  10 Q. All right. In such a case, does, to your 11:52                  11 knowledge, the State of California -- strike that. 11:52                  12 In such a case, would -- strike that. 11:53                  13 In such a case, is it possible that the 11:53                  14 entire code provision as amended appears in a Final 11:53                  15 Statement of Reasons from the State agency from an 11:53                  16 earlier cycle? 11:53                  17 A. It's possible. 11:53                  18 Q. Is there any way a person seeking to find 11:53                  19 the relevant provision that was adopted in its 11:53                  20 entirety as amended would know where to look to 11:53                  21 access that provision? 11:53                  22 MR. FEE: Objection to form, calls for 11:53                  23 speculation. 11:53                  24 THE WITNESS: Yeah. Yeah. I can't -- I 11:53                  25 don't know how to answer that question. I don't have 11:54</p> <p style="text-align: right;">Page 69</p>

1 an answer for that question actually. 11:54  
 2 BY MR. NERCESSIAN: 11:54  
 3 Q. And why don't you have an answer for that 11:54  
 4 question? 11:54  
 5 A. I don't think I'm fully understanding what 11:54  
 6 you're trying to ask. I apologize. 11:54  
 7 Q. All right. I can rephrase. 11:54  
 8 A. Okay. 11:54  
 9 Q. I'm trying to ask with respect to these code 11:54  
 10 provisions that are part of the California 11:54  
 11 amendments, how can a person seeking to find them 11:54  
 12 access them? 11:54  
 13 MR. FEE: Objection. Calls for speculation. 11:54  
 14 THE WITNESS: They're made available on the 11:54  
 15 website in previous editions of the code. 11:54  
 16 BY MR. NERCESSIAN: 11:54  
 17 Q. And to access those -- strike that. 11:54  
 18 To access those previous editions, would the 11:54  
 19 person have to go through the publisher such as BNi? 11:55  
 20 MR. FEE: Objection. Calls for speculation. 11:55  
 21 THE WITNESS: I don't know. 11:55  
 22 BY MR. NERCESSIAN: 11:55  
 23 Q. And when -- you testified earlier that 11:55  
 24 they're available on the website in previous editions 11:55  
 25 of the code; correct? Do you recall that testimony? 11:55  
 Page 70

1 A. Yes. 11:55  
 2 Q. On whose website? 11:55  
 3 A. The link provided on our website. 11:55  
 4 Q. The link is provided on the BSC website? 11:55  
 5 A. Yes. 11:56  
 6 MS. MILLER-ZIEGLER: Objection. Asked and 11:56  
 7 answered. 11:56  
 8 BY MR. NERCESSIAN: 11:56  
 9 Q. Where is the code provided? 11:56  
 10 MR. FEE: Objection. Form. 11:56  
 11 THE WITNESS: I'm having -- I can't -- I 11:56  
 12 don't know -- I don't understand the question that 11:56  
 13 you're asking. 11:56  
 14 BY MR. NERCESSIAN: 11:56  
 15 Q. The link that's available on the BSC website 11:56  
 16 is to text elsewhere; correct? 11:56  
 17 A. Yes. 11:56  
 18 Q. Text on, for instance, with respect to the 11:56  
 19 2016 version of the code, to a website service by 11:56  
 20 BNi; correct? 11:57  
 21 MR. FEE: Objection. Calls for speculation. 11:57  
 22 THE WITNESS: The 2016 from our website does 11:57  
 23 reference the model code publisher. 11:57  
 24 BY MR. NERCESSIAN: 11:57  
 25 Q. Which you testified previously for 2016 was 11:57  
 Page 71

1 BNi; correct? 11:57  
 2 A. That was the publisher, yes. I don't know 11:57  
 3 the exact website link. 11:57  
 4 Q. That text is not on the BSC site; correct? 11:57  
 5 MR. FEE: Objection. Mischaracterizes her 11:57  
 6 testimony. 11:57  
 7 THE WITNESS: That text is not on our 11:57  
 8 website. It links to the publisher's website. 11:57  
 9 BY MR. NERCESSIAN: 11:57  
 10 Q. And you're not aware of what restrictions 11:57  
 11 the publisher places on access to that text? 11:57  
 12 MS. MILLER-ZIEGLER: Objection. Asked and 11:57  
 13 answered. 11:57  
 14 THE WITNESS: No. 11:57  
 15 BY MR. NERCESSIAN: 11:58  
 16 Q. Do you have to register with NFPA to see the 11:58  
 17 California Electrical Code at its site? 11:58  
 18 MS. MILLER-ZIEGLER: Objection. Calls for 11:58  
 19 speculation. 11:58  
 20 THE WITNESS: I don't know. 11:58  
 21 BY MR. NERCESSIAN: 11:58  
 22 Q. So you have no awareness whether one has to 11:58  
 23 register within NFPA to see the California Electrical 11:58  
 24 Code on their site? 11:58  
 25 A. I only am familiar with how it's accessed 11:58  
 Page 72

1 through the BSC website to the NFPA website. 11:58  
 2 Q. And that, as we established earlier, is by a 11:58  
 3 link on the BSC website? 11:58  
 4 A. Correct. 11:58  
 5 MS. MILLER-ZIEGLER: Objection. Asked and 11:58  
 6 answered. 11:58  
 7 BY MR. NERCESSIAN: 11:58  
 8 Q. Do you know whether a person needs to agree 11:58  
 9 to terms and conditions to access the California 11:58  
 10 Electrical Code on a publisher's website? 11:58  
 11 MS. MILLER-ZIEGLER: Objection. Lacks 11:58  
 12 foundation. 11:58  
 13 THE WITNESS: I don't know. 11:59  
 14 BY MR. NERCESSIAN: 11:59  
 15 Q. Do you know with -- strike that. 11:59  
 16 With respect to the 2016 code, do you know 11:59  
 17 whether BNi had to obtain permission from any other 11:59  
 18 entity to publish the California Electrical Code? 11:59  
 19 MR. FEE: Objection to form. 11:59  
 20 THE WITNESS: I don't know. 11:59  
 21 BY MR. NERCESSIAN: 11:59  
 22 Q. Do you know whether the State of California 11:59  
 23 receives any revenue from BNi with respect to its 11:59  
 24 application of the California Electrical Code? 11:59  
 25 A. The Building Standards Commission does not 11:59  
 Page 73



<p>1 receive revenue from BNi. 11:59                  2 Q. Do you know whether any other agency of the 11:59                  3 State of California does? 11:59                  4 A. I have -- I do not know, no. 11:59                  5 Q. I'd like to refer your attention to the 12:00                  6 page marked 7 of 1034 of this same document. That 12:00                  7 starts with the heading "Acknowledgments." 12:00                  8 A. ? 12:00                  9 Q. 7, correct. 12:00                  10 A. Okay. 12:00                  11 Q. And so you see in this first paragraph that 12:00                  12 it states "The California Electrical Code was 12:00                  13 developed through the outstanding collaborative 12:00                  14 efforts of," a number of State agencies here? Do you 12:01                  15 see that paragraph? 12:01                  16 A. Yes. 12:01                  17 Q. Going down the list, what contributions -- 12:01                  18 strike that. 12:01                  19 Are you aware of -- strike that. 12:01                  20 So each of these State agencies contributed 12:01                  21 to the development of the California Electrical Code; 12:01                  22 correct? 12:01                  23 MR. FEE: Objection to form. 12:01                  24 MS. MILLER-ZIEGLER: Objection. Misstates 12:01                  25 what the document says. 12:01</p> <p style="text-align: right;">Page 74</p>	<p>1 any contributions? 12:02                  2 A. I do believe they amend the California 12:02                  3 Electrical Code, yes. 12:03                  4 Q. So you're defining -- just to I understand 12:03                  5 the terminology you're using, you're defining 12:03                  6 "contribution" as whether they propose an amendment? 12:03                  7 A. A California amendment. 12:03                  8 Q. That's understood. Did the Department of 12:03                  9 Housing and Community Development seek to copyright 12:03                  10 any of their contributions to the California 12:03                  11 Electrical Code? 12:03                  12 A. I don't know. 12:03                  13 MR. FEE: Objection. Calls for speculation. 12:03                  14 BY MR. NERCESSIAN: 12:03                  15 Q. Are you aware of whether any of these 12:03                  16 agencies -- strike that. 12:03                  17 Are you aware of whether any of these State 12:03                  18 agencies that made contributions to the 2019 12:03                  19 California Electrical Code sought a copyright in 12:03                  20 their contributions? 12:03                  21 MS. MILLER-ZIEGLER: Objection. Calls for 12:03                  22 speculation. 12:03                  23 THE WITNESS: I don't know. 12:03                  24 BY MR. NERCESSIAN: 12:03                  25 Q. The only organization you're aware of that 12:04</p> <p style="text-align: right;">Page 76</p>
<p>1 THE WITNESS: I don't know that every State 12:01                  2 agency contributed to the -- contributed to 12:01                  3 amendments to the California Electrical Code that's 12:01                  4 listed here. 12:01                  5 BY MR. NERCESSIAN: 12:01                  6 Q. Each of these State agencies collaborated in 12:01                  7 the process of developing the California Electrical 12:02                  8 Code, however, did they not? 12:02                  9 MR. FEE: Objection. Calls for speculation. 12:02                  10 THE WITNESS: I don't know that every one 12:02                  11 collaborated for the electrical code. 12:02                  12 BY MR. NERCESSIAN: 12:02                  13 Q. And what definition of "collaborated" are 12:02                  14 you using? 12:02                  15 A. I know that these State agencies contributed 12:02                  16 to amendments, but not all of them did. These are a 12:02                  17 list of common State agencies that contribute to all 12:02                  18 of the California Building Standards Code. 12:02                  19 Q. All right. 12:02                  20 A. So, for example, the Department of Public 12:02                  21 Health, I wouldn't know unless I researched to see if 12:02                  22 they actually specifically amended something in the 12:02                  23 California Electrical Code. 12:02                  24 Q. All right. Are you aware whether the 12:02                  25 Department of Housing and Community Development made 12:02</p> <p style="text-align: right;">Page 75</p>	<p>1 has asserted a copyright in the California Electrical 12:04                  2 Code is the -- strike that. 12:04                  3 What organizations are you aware of that 12:04                  4 have asserted a copyright in the 2019 California 12:04                  5 Electrical Code? 12:04                  6 A. The model code publisher. 12:04                  7 Q. And who is that? 12:04                  8 A. In the case of the '19, it's NFPA. 12:04                  9 Q. And what about the 2016 California 12:04                  10 Electrical Code? I can elaborate. 12:04                  11 With respect to the 2016 California 12:04                  12 Electrical Code, are you aware of any organizations 12:05                  13 that have asserted a copyright in that version? 12:05                  14 MS. MILLER-ZIEGLER: Objection. Calls for a 12:05                  15 legal conclusion. 12:05                  16 THE WITNESS: Yeah. I'd have to research 12:05                  17 that. I don't know. 12:05                  18 BY MR. NERCESSIAN: 12:05                  19 Q. I'm asking for your awareness. 12:05                  20 A. That would be BNi. 12:05                  21 Q. And anybody else you're aware of? 12:05                  22 A. It could possibly be NFPA, but that's -- 12:05                  23 yeah. I'd have to research that. 12:05                  24 Q. Are you aware of whether any of the State 12:05                  25 agencies that made contributions to the 2016 12:05</p> <p style="text-align: right;">Page 77</p>

<p>1 California Electrical Code have sought a copyright 12:05                  2 interest in those contributions? 12:05                  3 A. No. 12:05                  4 Q. So you have no awareness of State agencies 12:05                  5 seeking a copyright in their contributions to the 12:05                  6 2016 California Electrical Code? 12:06                  7 A. No. 12:06                  8 Q. Do you have -- strike that. 12:06                  9 Do you have any awareness of -- strike that. 12:06                  10 Did you have any involvement in the 12:06                  11 development of the 2013 version of the California 12:06                  12 Electrical Code? 12:06                  13 A. No. Can you repeat the question? I'm 12:06                  14 sorry. 12:06                  15 Q. Yes. Did you have any involvement in the 12:06                  16 development of the 2013 version of the California 12:06                  17 Electrical Code? 12:06                  18 A. Yes. 12:06                  19 Q. What was your involvement? 12:06                  20 A. When I worked as an architectural associate, 12:07                  21 like I spoke to earlier, I would have been involved 12:07                  22 in receiving documents from State agencies that 12:07                  23 possibly amend the California Electrical Code and 12:07                  24 review those documents for the public process. 12:07                  25 Q. And what sources was the 2013 version of the 12:07                  Page 78</p>	<p>1 Q. What organizations are you aware of that 12:08                  2 have asserted a copyright interest in any version of 12:08                  3 the California Electrical Code? 12:09                  4 MS. MILLER-ZIEGLER: Objection. That's 12:09                  5 vague. 12:09                  6 THE WITNESS: I think I already answered 12:09                  7 that question. 12:09                  8 BY MR. NERCESSIAN: 12:09                  9 Q. That was specific to a particular triennial 12:09                  10 version. I'm asking more broadly. So I can restate 12:09                  11 the question. 12:09                  12 A. Okay. 12:09                  13 Q. What organizations are you aware of that 12:09                  14 have asserted a copyright interest in any version of 12:09                  15 the California Electrical Code? 12:09                  16 A. That's too broad of a question. 12:09                  17 MS. MILLER-ZIEGLER: Objection. Vague. Not 12:09                  18 clear what you're talking about, the California -- 12:09                  19 MR. NERCESSIAN: I said California 12:09                  20 Electrical Code. 12:09                  21 MS. MILLER-ZIEGLER: Okay. And the 12:09                  22 California amendments -- 12:09                  23 (Discussion off the record) 12:09                  24 MS. MILLER-ZIEGLER: Just wanting to clarify 12:09                  25 what exactly it is that you're talking about that's 12:09                  Page 80</p>
<p>1 California Electrical Code based on? 12:07                  2 A. I believe it was the 2011 edition of the 12:07                  3 NEC. 12:07                  4 Q. That's the National Electrical Code? 12:07                  5 A. Yes. 12:07                  6 Q. Are you aware of any organization that has 12:07                  7 asserted a copyright interest in the 2013 version of 12:07                  8 the California Electrical Code? 12:07                  9 A. No. 12:07                  10 Q. Is it your understanding that no 12:07                  11 organization has asserted a copyright interest in the 12:08                  12 2013 version of the California Electrical Code? 12:08                  13 A. No. 12:08                  14 Q. You just have no understanding one way or 12:08                  15 another? 12:08                  16 A. Correct. 12:08                  17 Q. Are you aware of any State agencies that 12:08                  18 have asserted a copyright interest in the 2013 12:08                  19 version of the California Electrical Code? 12:08                  20 A. No. 12:08                  21 Q. Are you aware of any State agencies that 12:08                  22 have asserted a copyright interest in their 12:08                  23 contributions for any version of the California 12:08                  24 Electrical Code? 12:08                  25 A. No. 12:08                  Page 79</p>	<p>1 being copyrighted. 12:09                  2 BY MR. NERCESSIAN: 12:10                  3 Q. The question is are you aware of any 12:10                  4 organizations that have asserted a copyright interest 12:10                  5 in any version, that's any triennial version of the 12:10                  6 California Electrical Code including the California 12:10                  7 amendments? 12:10                  8 MS. MILLER-ZIEGLER: We'll keep the 12:10                  9 objection as vague. 12:10                  10 THE WITNESS: No. 12:10                  11 BY MR. NERCESSIAN: 12:10                  12 Q. Other than BNi and NFPA -- 12:10                  13 MR. YEN: Objection. Vague. 12:10                  14 MS. MILLER-ZIEGLER: We think this is an 12:10                  15 unfair question. You're being pretty vague about 12:11                  16 what you're talking about being copyrighted or not. 12:11                  17 MR. NERCESSIAN: I'm simply asking about 12:11                  18 whether Ms. Marvelli has any awareness of any 12:11                  19 organizations that have asserted an interest. 12:11                  20 MS. MILLER-ZIEGLER: In the California 12:11                  21 amendments or in the NEC? 12:11                  22 MR. NERCESSIAN: In the California 12:11                  23 Electrical Code. The objection is noted. 12:11                  24 BY MR. NERCESSIAN: 12:11                  25 Q. All right. I can move on. Before we move 12:11                  Page 81</p>



1 on from this exhibit, just a few more questions. 12:11  
 2 You heard NFPA's counsel's objection to 12:11  
 3 Exhibit Number 4 containing screenshots from the 12:12  
 4 NFPA's website. Does page one of the exhibit fairly 12:12  
 5 represent what a user would see on the screen in 12:12  
 6 reviewing the California Electrical Code on the NFPA 12:12  
 7 website? 12:12  
 8 MR. FEE: Objection. Calls for speculation. 12:12  
 9 THE WITNESS: I would say yes. 12:12  
 10 BY MR. NERCESSIAN: 12:12  
 11 Q. How many screenshots would be necessary to 12:12  
 12 reproduce the entire California Electrical Code? 12:12  
 13 A. I don't know. 12:12  
 14 Q. Are you aware whether one can reproduce the 12:12  
 15 whole California Electrical Code from the NFPA 12:12  
 16 website without printing over a thousand screenshots? 12:12  
 17 A. I don't know. 12:13  
 18 MR. YEN: Are you doing okay? 12:13  
 19 THE WITNESS: Yeah. Little while longer, 12:13  
 20 and then we'll take a break? 12:13  
 21 MR. YEN: Yeah. 12:13  
 22 MR. NERCESSIAN: Can we go off the record a 12:13  
 23 sec? 12:13  
 24 VIDEO OPERATOR: Sure. We're off the 12:13  
 12:13 25 record. It's .  
 12:13

Page 82

1 1 (Recess) 12:13  
 2 VIDEO OPERATOR: We're back on the record. 12:14  
 2 12:14 3 It's .  
 3 12:14  
 4 4 MR. NERCESSIAN: Can we please mark this 12:14  
 5 5 next in order? 12:14  
 6 6 (Exhibit 5 marked) 12:14  
 7 7 BY MR. NERCESSIAN: 12:14  
 8 8 Q. Please take a moment to look at the 12:15  
 9 9 document, and, Ms. Marvelli, do you recognize this 12:15  
 10 10 document? 12:15  
 11 11 A. Yes. 12:15  
 12 12 Q. What is it? 12:15  
 13 13 A. It was what was served to me a couple weeks 12:15  
 14 14 ago. 12:15  
 15 15 Q. And it's the subpoena to testify at today's 12:15  
 16 16 deposition; is that correct? 12:15  
 17 17 A. Yes. 12:15  
 18 18 Q. The document contains a number of 12:15  
 19 19 attachments, and I'd like to ask you some questions 12:15  
 20 20 about some of them. 12:15  
 21 21 A. Okay. 12:15  
 22 22 Q. So if we could go to Attachment A. Do you 12:15  
 23 23 recognize this document? 12:16  
 24 24 A. Yes. 12:16  
 25 25 Q. What is this document? 12:16

Page 83

1 A. It's a PRA request. 12:16  
 2 Q. And had you seen this document prior to 12:16  
 3 receiving the subpoena? 12:16  
 4 A. Yes, back in 2016 when it was received at 12:16  
 5 our office. 12:16  
 6 Q. And it's a public records request of 12:16  
 7 October 28th, 2016; correct? 12:16  
 8 A. Yes. 12:16  
 9 Q. What documents does this request seek? 12:16  
 10 MR. FEE: Objection to form. 12:16  
 11 MR. YEN: Also object to calls for 12:16  
 12 speculation. 12:16  
 13 THE WITNESS: Yeah. I'd have to review the 12:16  
 14 whole document again. 12:16  
 15 BY MR. NERCESSIAN: 12:16  
 16 Q. Well, you can -- strike that. 12:16  
 17 This letter was addressed to you; correct? 12:17  
 18 A. Yes. 12:17  
 19 Q. And did you review this document in 2016? 12:17  
 20 A. Yes. 12:17  
 21 Q. What action did you or the Building 12:17  
 22 Standards Commission take in response to this 12:17  
 23 document? 12:17  
 24 MR. YEN: I would just caution you not to 12:17  
 25 reveal any attorney-client communications you had 12:17

Page 84

1 with respect to this. 12:17  
 2 THE WITNESS: Okay. We responded to the PRA 12:17  
 3 and provided any responsive documents. 12:17  
 4 BY MR. NERCESSIAN: 12:17  
 5 Q. Did you review the documents that were 12:17  
 6 provided pursuant to this request? 12:17  
 7 A. Yes. 12:17  
 8 Q. I have a document I'd like to show you now 12:17  
 9 that I understand was part of that production. 12:18  
 10 (Exhibit 6 marked) 12:19  
 11 BY MR. NERCESSIAN: 12:19  
 12 Q. You've been passed a document marked for 12:19  
 13 identification as Exhibit 6. You can take a moment 12:19  
 14 to review this document. Have you seen this document 12:19  
 15 before? 12:19  
 16 A. I've not seen this document before. 12:19  
 17 Q. Do you see the date at the bottom of the 12:19  
 18 page that reads 12-16-2016? 12:19  
 19 A. Yes. 12:19  
 20 Q. What does the document appear to be? 12:19  
 21 A. A series of emails. 12:19  
 22 Q. Emails from who? 12:20  
 23 A. Looks like some of them are CBSC staff. 12:20  
 24 Q. Which CBSC staff? 12:20  
 25 A. So there's Pam Maeda, Mike Nearman. 12:20

Page 85

<p>1 Q. And before we move on, what role does Pam 12:20                  2 Maeda have at CBSC? 12:20                  3 A. At the time, in 2016, she was either an 12:20                  4 issue -- I believe she was an office technician. 12:20                  5 Q. And Michael Nearman? 12:20                  6 A. Deputy executive director. 12:20                  7 Q. Do you have any reason to believe that these 12:20                  8 documents were not produced by CBSC in response to 12:21                  9 the public records request, Public.Resource? 12:21                  10 MR. FEE: Objection. Calls for speculation. 12:21                  11 THE WITNESS: I don't know because I don't 12:21                  12 have a copy of what we responded to in our PRA. Are 12:21                  13 you stating that this is the PRA request that we sent 12:21                  14 back to them? I have no way to know that. 12:21                  15 BY MR. NERCESSIAN: 12:21                  16 Q. What information would you need to know 12:21                  17 that? 12:21                  18 A. Well, I would want to look at what we 12:21                  19 responded to the PRA from our office. That wasn't 12:21                  20 included in the documents that you provided me in the 12:21                  21 subpoena. 12:21                  22 Q. Yes. These were other -- well, strike that. 12:21                  23 The subpoena did not include the full 12:22                  24 universe of documents that -- strike that. 12:22                  25 Did the subpoena attach the full universe of 12:22</p> <p style="text-align: right;">Page 86</p>	<p>1 Q. I want to call your attention to the first 12:23                  2 sentence within the body. 12:23                  3 A. Okay. 12:23                  4 Q. That says "In our future response to 12:23                  5 Mr. Malamud, please keep this info. It may be 12:23                  6 useful." Do you see that? 12:23                  7 A. Yes. 12:23                  8 Q. Do you recall why the information reflected 12:23                  9 in this document may be useful? 12:23                  10 A. No. I haven't read this in two years, so, 12:24                  11 no, I don't recall. 12:24                  12 Q. I want to call your attention to this -- 12:24                  13 further down on the document, there's a heading that 12:24                  14 reads "Caution Regarding Official Code." Do you see 12:24                  15 that? 12:24                  16 A. Yes. 12:24                  17 Q. And that caution includes information about 12:24                  18 a Government Code section. 12:24                  19 A. Uh-huh. 12:24                  20 Q. Do you see that? 12:24                  21 A. Uh-huh. Yes. Sorry. 12:24                  22 Q. What does the relevant section of the code 12:24                  23 cited here require? 12:24                  24 MR. FEE: Objection. Calls for a legal 12:24                  25 conclusion. 12:24</p> <p style="text-align: right;">Page 88</p>
<p>1 documents that CBSC provided in response to the 12:22                  2 public records request from Public.Resource? 12:22                  3 A. No. 12:22                  4 Q. Did CBSC produce documents in response to 12:22                  5 the public records request from Public.Resource? 12:22                  6 A. Yes. 12:22                  7 Q. Did those documents include internal emails 12:22                  8 from CBSC staff? 12:22                  9 A. I don't know. 12:22                  10 Q. Did you review the documents that CBSC 12:22                  11 produced in response to this public records request? 12:22                  12 A. No. 12:22                  13 Q. I'd like to call your attention to the last 12:22                  14 page of this compilation document. 12:23                  15 MR. YEN: Exhibit 6? 12:23                  16 MR. NERCESSIAN: Exhibit 6, correct. 12:23                  17 BY MR. NERCESSIAN: 12:23                  18 Q. Do you recognize this document? 12:23                  19 A. Yes. 12:23                  20 Q. And what is this document? 12:23                  21 A. It's an email from me to Alex and Michael 12:23                  22 Nearman back in 2016. 12:23                  23 Q. And what prompted you to write this 12:23                  24 document? 12:23                  25 A. I don't recall. 12:23</p> <p style="text-align: right;">Page 87</p>	<p>1 THE WITNESS: Yeah. I would just offer what 12:24                  2 it states here. 12:24                  3 BY MR. NERCESSIAN: 12:25                  4 Q. And what is that? 12:25                  5 A. It appears to state "Government Code 12:25                  6 Section 11344 requires the" -- "OLA" is the 12:25                  7 abbreviation for the Office of Administrative Law -- 12:25                  8 "to provide for the official compilation, printing 12:25                  9 and publication of State regulations in the 12:25                  10 California Code of Regulations." 12:25                  11 Q. Now we've been discussing Title 24. 12:25                  12 A. Uh-huh. 12:25                  13 Q. And is Title 24 part of the Code of 12:25                  14 Regulations? 12:25                  15 A. It's the 24th title in the California Code 12:25                  16 of Regulations, yes. 12:25                  17 Q. Is it your understanding that the Office of 12:25                  18 Administrative Law provides a compilation of the 12:25                  19 entire California Code of Regulations including 12:25                  20 Title 24? 12:25                  21 A. The Office of Administrative Law links to 12:25                  22 our website for Title 24. 12:25                  23 Q. Does the Office of Administrative Law 12:25                  24 provide access to the other titles within the 12:26                  25 California Code of Regulations? 12:26</p> <p style="text-align: right;">Page 89</p>

<p>1 MR. FEE: Objection to form. 12:26</p> <p>2 THE WITNESS: I don't know. 12:26</p> <p>3 BY MR. NERCESSIAN: 12:26</p> <p>4 Q. Are you aware of whether Title 24 of the 12:26</p> <p>5 California Code of Regulations is treated any 12:26</p> <p>6 differently than other titles within the California 12:26</p> <p>7 Code of Regulations? 12:26</p> <p>8 MS. MILLER-ZIEGLER: Objection to form. 12:26</p> <p>9 THE WITNESS: I just know that it points to 12:26</p> <p>10 our website, the CBSC website. 12:26</p> <p>11 BY MR. NERCESSIAN: 12:26</p> <p>12 Q. Do any of the other titles of the California 12:26</p> <p>13 Code of Regulations point to the CBSC website? 12:26</p> <p>14 MR. YEN: Objection. Calls for speculation. 12:26</p> <p>15 THE WITNESS: Yeah. I don't know. 12:26</p> <p>16 BY MR. NERCESSIAN: 12:26</p> <p>17 Q. Are you aware of any other titles that point 12:26</p> <p>18 to the CBSC website? 12:26</p> <p>19 A. I don't know. 12:27</p> <p>20 Q. So you're not aware of any other titles of 12:27</p> <p>21 the California Code of Regulations that point to the 12:27</p> <p>22 CBSC website? 12:27</p> <p>23 A. I don't have any knowledge of that. I don't 12:27</p> <p>24 know. 12:27</p> <p>25 Q. Are you aware of any issues persons seeking 12:27</p> <p style="text-align: right;">Page 90</p>	<p>1 publisher and let them know that the link is broken, 12:29</p> <p>2 and then we have it fixed. 12:29</p> <p>3 BY MR. NERCESSIAN: 12:29</p> <p>4 Q. Because it's the publisher that furnishes 12:29</p> <p>5 the text of the California Electrical Code to people 12:29</p> <p>6 seeking to access it online; correct? 12:29</p> <p>7 A. The link is provided through our website to 12:29</p> <p>8 the publisher. 12:29</p> <p>9 Q. Any other difficulties that you have been 12:29</p> <p>10 aware of at the CBSC in gaining access to the 12:29</p> <p>11 California Electrical Code? 12:29</p> <p>12 MS. MILLER-ZIEGLER: Objection. 12:29</p> <p>13 Mischaracterizes her testimony. 12:29</p> <p>14 THE WITNESS: No. 12:29</p> <p>15 BY MR. NERCESSIAN: 12:29</p> <p>16 Q. In situations where -- in the cases -- 12:30</p> <p>17 strike that. 12:30</p> <p>18 In those cases where you've received calls 12:30</p> <p>19 with problems accessing the code, who was it that had 12:30</p> <p>20 the issue? 12:30</p> <p>21 A. I don't know. I don't recall. 12:30</p> <p>22 Q. Was it BSC staff? 12:30</p> <p>23 A. I don't recall. 12:30</p> <p>24 Q. Would it have been members of the public? 12:30</p> <p>25 A. I don't recall. 12:30</p> <p style="text-align: right;">Page 92</p>
<p>1 to read the code have encountered in accessing the 12:27</p> <p>2 California Electrical Code? 12:27</p> <p>3 MR. FEE: Objection. Calls for speculation. 12:27</p> <p>4 MS. MILLER-ZIEGLER: Vague. 12:27</p> <p>5 THE WITNESS: You'll have to repeat the 12:28</p> <p>6 question. I'm sorry. 12:28</p> <p>7 BY MR. NERCESSIAN: 12:28</p> <p>8 Q. Okay. I can rephrase. 12:28</p> <p>9 A. Uh-huh. 12:28</p> <p>10 Q. Has the CBSC ever been informed of issues 12:28</p> <p>11 persons seeking to read the California Electrical 12:28</p> <p>12 Code have encountered in accessing the code? 12:28</p> <p>13 MS. MILLER-ZIEGLER: Objection. Calls for 12:28</p> <p>14 speculation. 12:28</p> <p>15 MR. FEE: Objection to form. 12:28</p> <p>16 THE WITNESS: We've received calls where the 12:28</p> <p>17 code might not be online, and we notify the publisher 12:28</p> <p>18 to put it online if there's a link that's broken. 12:28</p> <p>19 BY MR. NERCESSIAN: 12:28</p> <p>20 Q. And in those situations, does the CBSC have 12:29</p> <p>21 any ability to itself fix the access issue with the 12:29</p> <p>22 broken link? 12:29</p> <p>23 A. No. 12:29</p> <p>24 MR. FEE: Objection to form. 12:29</p> <p>25 THE WITNESS: We -- sorry. We contact the 12:29</p> <p style="text-align: right;">Page 91</p>	<p>1 Q. So is it your testimony there -- strike 12:30</p> <p>2 that. 12:30</p> <p>3 So is it your testimony that -- strike that. 12:30</p> <p>4 Like to refer you to the first page of this 12:30</p> <p>5 compilation document. So we discussed previously 12:31</p> <p>6 this exchange between Pam Maeda and Mike Nearman. Do 12:31</p> <p>7 you recall that? 12:31</p> <p>8 A. Yes. 12:31</p> <p>9 Q. And do you see there's this first paragraph 12:31</p> <p>10 that reads "Just received a phone call from Suren 12:31</p> <p>11 at," and it provides a phone number, "and he tried to 12:31</p> <p>12 view the code on the BSC website, and it came up with 12:31</p> <p>13 the ICC page wanting him to pay for the premium 12:31</p> <p>14 access in order to view the code"? Do you see that 12:31</p> <p>15 paragraph? 12:32</p> <p>16 A. Uh-huh. 12:32</p> <p>17 Q. Here, the reference it makes to Part 2.5, do 12:32</p> <p>18 you understand that to mean Part 2.5 of Title 24? 12:32</p> <p>19 A. Yes. 12:32</p> <p>20 Q. And Part 2.5 is the residential code? 12:32</p> <p>21 A. That's the California Residential Code, yes. 12:32</p> <p>22 Q. And who is the publisher for the California 12:32</p> <p>23 Residential Code? 12:32</p> <p>24 A. The International Code Council. 12:32</p> <p>25 Q. And that's the ICC you referred to in this 12:32</p> <p style="text-align: right;">Page 93</p>

<p>1 sentence? 12:32</p> <p>2 A. Yes. 12:32</p> <p>3 Q. Have you been aware of any instances -- 12:32</p> <p>4 strike that. 12:32</p> <p>5 Are you aware of any instances where CBSC 12:32</p> <p>6 has received word from a member of the public that a 12:32</p> <p>7 publisher required that person to pay for premium 12:32</p> <p>8 access to view the code? 12:33</p> <p>9 MR. FEE: Objection. To the extent it 12:33</p> <p>10 purports to characterize this document, 12:33</p> <p>11 mischaracterizes it. 12:33</p> <p>12 THE WITNESS: I think it's taken out of 12:33</p> <p>13 context. This is one instance, but this isn't 12:33</p> <p>14 accurate. 12:33</p> <p>15 BY MR. NERCESSIAN: 12:33</p> <p>16 Q. Oh. You don't believe that -- strike that. 12:33</p> <p>17 When this report came in March of 2016, were 12:33</p> <p>18 you made aware of it? 12:33</p> <p>19 A. This, I don't know. I don't recall. 12:33</p> <p>20 Q. Have you ever heard of -- strike that. 12:33</p> <p>21 Has CBSC, in the past, ever received reports 12:33</p> <p>22 of people seeking to access the code and being made 12:33</p> <p>23 to pay for a premium access? 12:34</p> <p>24 MR. FEE: Objection to form. 12:34</p> <p>25 THE WITNESS: No. 12:34</p> <p style="text-align: right;">Page 94</p>	<p>1 California Residential Code from the ICC website? 12:35</p> <p>2 MR. FEE: Objection. Calls for speculation. 12:35</p> <p>3 THE WITNESS: I don't -- I can't answer the 12:35</p> <p>4 question the way you're asking it. That's the 12:35</p> <p>5 difficulty. 12:36</p> <p>6 BY MR. NERCESSIAN: 12:36</p> <p>7 Q. So what's the nature of the difficulty? 12:36</p> <p>8 Maybe I can clarify. 12:36</p> <p>9 A. Well, to view the California codes, you can 12:36</p> <p>10 access the codes via our website, which points to ICC 12:36</p> <p>11 similarly to how we just discussed the BNi or the 12:36</p> <p>12 NFPA, so that's how you can view the codes online. 12:36</p> <p>13 If you want to purchase the codes, you have other 12:36</p> <p>14 access to the codes. 12:36</p> <p>15 Q. But if you want to view the codes, do you 12:36</p> <p>16 know whether they're -- strike that. 12:36</p> <p>17 Short of purchasing the codes, do you know 12:36</p> <p>18 whether a person can receive -- strike that. 12:36</p> <p>19 Short of purchasing the codes, do you know 12:36</p> <p>20 whether a person can search the California 12:36</p> <p>21 Residential Code on the ICC website? 12:37</p> <p>22 MR. FEE: Objection. Calls for speculation. 12:37</p> <p>23 THE WITNESS: I don't know. 12:37</p> <p>24 BY MR. NERCESSIAN: 12:37</p> <p>25 Q. Have you viewed the California Residential 12:37</p> <p style="text-align: right;">Page 96</p>
<p>1 BY MR. NERCESSIAN: 12:34</p> <p>2 Q. Are you aware of anybody in -- strike that. 12:34</p> <p>3 Are you aware of any other members of your 12:34</p> <p>4 team at CBSC receiving reports from people seeking to 12:34</p> <p>5 access the code that they met a demand to pay for 12:34</p> <p>6 premium access to view the code? 12:34</p> <p>7 MR. FEE: Objection to form. 12:34</p> <p>8 THE WITNESS: I don't know. 12:34</p> <p>9 BY MR. NERCESSIAN: 12:34</p> <p>10 Q. Are you aware of whether the ICC web 12:34</p> <p>11 page requires premium access in order to view the 12:34</p> <p>12 California Residential Code? 12:35</p> <p>13 A. It does not. 12:35</p> <p>14 Q. Are you aware of whether the ICC website 12:35</p> <p>15 places any restrictions on a person's access to the 12:35</p> <p>16 California Residential Code? 12:35</p> <p>17 A. I don't know what you mean by "restriction." 12:35</p> <p>18 Q. Do you know whether a person can print the 12:35</p> <p>19 California Residential Code from the ICC website? 12:35</p> <p>20 MR. FEE: Objection. Calls for speculation. 12:35</p> <p>21 THE WITNESS: Not aware. 12:35</p> <p>22 BY MR. NERCESSIAN: 12:35</p> <p>23 Q. One way or another? 12:35</p> <p>24 A. No. 12:35</p> <p>25 Q. Do you know whether a person can search the 12:35</p> <p style="text-align: right;">Page 95</p>	<p>1 Code on the ICC website? 12:37</p> <p>2 A. Yes. 12:37</p> <p>3 Q. Have you tried to print the California 12:37</p> <p>4 Residential Code from the ICC website? 12:37</p> <p>5 A. No. 12:37</p> <p>6 Q. Do you know whether one can print the 12:37</p> <p>7 California Residential Code from the ICC website? 12:37</p> <p>8 MR. FEE: Objection. Calls for speculation. 12:37</p> <p>9 THE WITNESS: I don't know. 12:37</p> <p>10 BY MR. NERCESSIAN: 12:37</p> <p>11 Q. Have you tried to search the California 12:37</p> <p>12 Residential Code from the ICC website? 12:37</p> <p>13 A. No. 12:37</p> <p>14 Q. Do you know whether one can search the 12:37</p> <p>15 California Residential Code from the ICC website? 12:37</p> <p>16 MR. FEE: Objection. Calls for speculation. 12:37</p> <p>17 THE WITNESS: I don't know. 12:37</p> <p>18 BY MR. NERCESSIAN: 12:37</p> <p>19 Q. Have you tried to extract tests from the 12:37</p> <p>20 California Residential Code from the ICC website? 12:37</p> <p>21 A. No. 12:37</p> <p>22 Q. Do you know whether one can extract text 12:38</p> <p>23 from the California Residential Code from the ICC 12:38</p> <p>24 website? 12:38</p> <p>25 MR. FEE: Objection. Calls for speculation. 12:38</p> <p style="text-align: right;">Page 97</p>

1 THE WITNESS: I don't know. 12:38  
 2 BY MR. NERCESSIAN: 12:38  
 3 Q. Other than viewing the California 12:38  
 4 Residential Code from the ICC website, have you taken 12:38  
 5 any other actions with respect to the California 12:38  
 6 Residential Code on the ICC website? 12:38  
 7 MS. MILLER-ZIEGLER: Objection. Vague. 12:38  
 8 THE WITNESS: Yeah. I'm not sure what 12:38  
 9 you're asking. 12:38  
 10 BY MR. NERCESSIAN: 12:38  
 11 Q. Have you done anything other than view the 12:38  
 12 code -- strike that. 12:38  
 13 With respect to the California Residential 12:38  
 14 Code on the ICC website -- okay. Strike that. 12:38  
 15 A. Which one? 12:39  
 16 Q. We're just starting with a blank slate. 12:39  
 17 A. Great. 12:39  
 18 Q. All right. With respect to the California 12:39  
 19 Residential Code that appears on the ICC website, 12:39  
 20 have you done anything other than view that code? 12:39  
 21 A. No. 12:39  
 22 MS. MILLER-ZIEGLER: Objection. Vague. 12:39  
 23 BY MR. NERCESSIAN: 12:39  
 24 Q. I'd like to go back to another attachment of 12:39  
 25 Exhibit 5, and this is Attachment B, and I just have 12:39  
 Page 98

1 a few preliminary questions, and then we can go on 12:39  
 2 our lunch break. 12:40  
 3 All right. So do you recognize this 12:40  
 4 document, Attachment B? 12:40  
 5 A. Yes. 12:40  
 6 Q. And what is this document? 12:40  
 7 A. It appears to be another PRA request dated 12:40  
 8 December 9th, 2016. 12:40  
 9 Q. And do you see that the second to last 12:40  
 10 sentence of the first paragraph reads "On or around 12:40  
 11 October 27th and until on or around November 7th, the 12:40  
 12 Building Standards Commission displayed on its 12:40  
 13 website a searchable PDF file of the California 12:40  
 14 Electric Code 2016 triennial edition"? Do you see 12:41  
 15 that sentence? 12:41  
 16 A. Yes. 12:41  
 17 Q. Is that sentence accurate? 12:41  
 18 MR. FEE: Objection. Calls for speculation. 12:41  
 19 THE WITNESS: It was a long time ago, so I 12:41  
 20 don't recall the specifics. 12:41  
 21 BY MR. NERCESSIAN: 12:41  
 22 Q. Are you aware whether the Building Standards 12:41  
 23 Commission has ever displayed a searchable PDF file 12:41  
 24 of the California Electrical Code on its website? 12:41  
 25 A. Yes. 12:41  
 Page 99

1 Q. When did it do so? 12:41  
 2 A. I don't have the specific dates. 12:41  
 3 Q. What do you recall of that instance? 12:41  
 4 MR. FEE: Objection to form. 12:41  
 5 THE WITNESS: It was a -- sorry. Okay? 12:41  
 6 BY MR. NERCESSIAN: 12:41  
 7 Q. Okay. 12:41  
 8 A. It was displayed on our website, and when 12:41  
 9 staff realized that that version was displayed on our 12:41  
 10 website, we removed it and posted the appropriate 12:41  
 11 link to the California Electrical Code, the 2016 12:41  
 12 edition. 12:42  
 13 Q. And the link it was replaced with was this 12:42  
 14 nfpa.org URL; is that correct? 12:42  
 15 MS. MILLER-ZIEGLER: Objection to form. 12:42  
 16 THE WITNESS: I -- 12:42  
 17 BY MR. NERCESSIAN: 12:42  
 18 Q. You don't know one way or -- 12:42  
 19 A. I don't know. Yeah. Was a long time ago. 12:42  
 20 Q. Why did the Building Standards Commission 12:42  
 21 make the decision to place a searchable PDF file of 12:42  
 22 the California Electrical Code 2016 edition on its 12:42  
 23 website? 12:42  
 24 MS. MILLER-ZIEGLER: Objection. Calls for 12:42  
 25 speculation. 12:42  
 Page 100

1 THE WITNESS: It was a mistake by staff. 12:42  
 2 BY MR. NERCESSIAN: 12:42  
 3 Q. How did the Building Standards Commission 12:42  
 4 obtain a searchable PDF file of the California 12:42  
 5 Electrical Code? 12:43  
 6 MS. MILLER-ZIEGLER: Objection to form. 12:43  
 7 THE WITNESS: We have a contract with NFPA 12:43  
 8 and BNi, and we receive a searchable version for 12:43  
 9 staff only for the production of the next edition of 12:43  
 10 the code. 12:43  
 11 BY MR. NERCESSIAN: 12:43  
 12 Q. Do you know why the BSC does not keep the 12:43  
 13 text of the California Electrical Code on its own 12:43  
 14 website? 12:43  
 15 MR. YEN: Objection. Calls for speculation. 12:43  
 16 THE WITNESS: I don't know. 12:43  
 17 BY MR. NERCESSIAN: 12:43  
 18 Q. So you have no idea why the Building 12:43  
 19 Standards Commission does not itself keep the text of 12:43  
 20 the California Electrical Code on its website? 12:43  
 21 MS. MILLER-ZIEGLER: Objection. Form. 12:43  
 22 THE WITNESS: It's in our contract that we 12:43  
 23 are provided a link to the publisher's website to put 12:44  
 24 on our website. 12:44  
 25 BY MR. NERCESSIAN: 12:44  
 Page 101



1 Q. But the BSC itself has a text searchable 12:44  
 2 version in the form of a PDF file of the California 12:44  
 3 Electrical Code; correct? 12:44  
 4 A. Yes. 12:44  
 5 Q. How does the BSC use that file? 12:44  
 6 A. Internally for code development. 12:44  
 7 Q. And what does that mean? 12:44  
 8 A. We are able to clip copy information out if 12:44  
 9 we need to make amendments to the code during the 12:44  
 10 code development process. 12:44  
 11 Q. And what is clip copy information? 12:44  
 12 A. If there's a specific section that 12:44  
 13 California wants to amend -- or not California -- I 12:44  
 14 should say the Building Standards Commission, we can 12:44  
 15 copy that information and make our amendments to it. 12:45  
 16 Q. And just one more question, and then we can 12:45  
 17 take our lunch break. 12:45  
 18 A. Uh-huh. 12:45  
 19 Q. You stated earlier that it's in BSC's 12:45  
 20 contract that BSC are provided a link to the 12:45  
 21 publisher's website. What contract does that refer 12:45  
 22 to? 12:45  
 23 A. That's the contract that the Building 12:45  
 24 Standards Commission has with the publisher for the 12:45  
 25 code development. 12:45

Page 102

1 1 Q. And is there a separate contract for each 12:45  
 2 edition of the California Electrical Code that the 12:45  
 2 3 BSC develops? 12:45  
 3 4 A. Yes. Every two years or four years, we 12:45  
 4 5 enter into a new contract with the publishers. 12:45  
 5 6 Q. So does that contract prohibit California or 12:45  
 6 7 the BSC from providing the text of the California 12:46  
 7 8 Electrical Code to the public on its website? 12:46  
 8 9 MS. MILLER-ZIEGLER: Objection. Calls for a 12:46  
 9 10 legal conclusion. 12:46  
 10 11 THE WITNESS: That, I don't know. 12:46  
 11 12 MR. YEN: Same objection. 12:46  
 12 13 MR. NERCESSIAN: All right. We can call it 12:46  
 13 14 lunch. 12:46  
 14 15 THE WITNESS: Okay. 12:46  
 15 16 VIDEO OPERATOR: Okay. We're off the 12:46  
 16 12:46 17 record. It's  
 17 12:46  
 18 18 (Noon recess taken) 12:46  
 19 19 VIDEO OPERATOR: We're back on the record. 01:47  
 20 20 It's 1:47. 01:47  
 21 21 BY MR. NERCESSIAN: 01:47  
 22 22 Q. So earlier in the day, we were discussing 01:47  
 23 23 the nine-point criteria analysis that CBSC and State 01:47  
 24 24 agencies used to determine whether to adopt the 01:47  
 25 25 language of a model code provision. Do you recall 01:47

Page 103

1 that? 01:47  
 2 MR. YEN: Objection. Mischaracterizes 01:47  
 3 testimony. 01:47  
 4 THE WITNESS: I recall a conversation about 01:47  
 5 the nine-point criteria, yes. 01:47  
 6 BY MR. NERCESSIAN: 01:47  
 7 Q. I think that we have come across -- and what 01:47  
 8 are the criteria for? 01:47  
 9 A. It's the criteria that the State agencies 01:48  
 10 develop the building standards on -- they must be met 01:48  
 11 in order for them -- well, I'm not articulating well. 01:48  
 12 Sorry. It's in building standards law, and it must 01:48  
 13 be met prior to the commission, bringing it to the 01:48  
 14 commission for the commission to take action on. 01:48  
 15 Q. And do each of the State agencies apply the 01:48  
 16 same nine-point criteria? 01:48  
 17 A. Yes. 01:48  
 18 Q. I believe that we came across the nine-point 01:48  
 19 criteria over the break, and I'd just like to talk 01:48  
 20 through them and see if you could confirm the 01:48  
 21 accuracy of the findings. Is one of the criteria 01:48  
 22 whether the proposed building standards do not 01:48  
 23 conflict with, overlap or duplicate other building 01:48  
 24 standards? 01:48  
 25 A. That sounds accurate, yes. 01:48

Page 104

1 Q. Is another one of the nine-point criteria 01:49  
 2 whether the proposed building standards are within 01:49  
 3 the parameters established by enabling legislation 01:49  
 4 and are not expressly within the exclusive 01:49  
 5 jurisdiction of another agency? 01:49  
 6 A. Yes. 01:49  
 7 Q. Is another one of the criteria whether the 01:49  
 8 public interest requires the adoption of the building 01:49  
 9 standards? 01:49  
 10 A. I'm sorry, you'd have to repeat that one. 01:49  
 11 Q. Yes. 01:49  
 12 A. I didn't hear it. I'm sorry. 01:49  
 13 Q. Is another of the nine-point criteria 01:49  
 14 whether the public interest requires the adoption of 01:49  
 15 the building standards? 01:49  
 16 A. It's in the best public interest, yes. 01:49  
 17 Q. Is another one of the criteria whether the 01:49  
 18 proposed building standards are not unreasonable, 01:49  
 19 arbitrary, unfair or capricious in whole or in part? 01:49  
 20 A. Yes. 01:49  
 21 Q. Is another of the nine-point criteria 01:49  
 22 whether the cost to the public is reasonable based on 01:50  
 23 the overall benefit to be derived from the building 01:50  
 24 standards? 01:50  
 25 A. Yes. 01:50

Page 105

<p>1 Q. Is one of the criteria whether the proposed 01:50                  2 building standards are not unnecessarily vague or 01:50                  3 ambiguous in whole or in part? 01:50                  4 A. Yes. 01:50                  5 Q. Is another of the criteria whether the 01:50                  6 applicable national specifications, public standards 01:50                  7 and model codes have been incorporated therein as 01:50                  8 provided in this part where appropriate? 01:50                  9 A. Yes. 01:50                  10 Q. Is another of the criteria whether the 01:50                  11 format of the proposed building standards is 01:50                  12 consistent with that adopted by the commission? 01:50                  13 A. Yes. 01:50                  14 Q. Is another of the criteria whether the 01:50                  15 proposed building standards, if they promote fire and 01:50                  16 panic safety as determined by the State Fire Marshal, 01:51                  17 have the written approval of the State Fire Marshal? 01:51                  18 A. Yes. 01:51                  19 Q. Can you think of any criteria other than 01:51                  20 these that I went through that comprise the 01:51                  21 nine-point criteria we were discussing previously? 01:51                  22 A. I can't think of any others, no. 01:51                  23 Q. Do you recognize -- do any of the criteria 01:51                  24 apply to the adoption of the NEC into the CEC? 01:51                  25 MS. MILLER-ZIEGLER: Objection. Calls for a 01:51                  Page 106</p>	<p>1 A. That's kind of a broad question. 01:53                  2 Q. I can rephrase it. What was your role in 01:53                  3 negotiating this agreement? 01:53                  4 A. Reviewing the document. 01:53                  5 Q. Did you participate in the negotiations of 01:53                  6 this agreement in any other way? 01:53                  7 A. I don't know what you mean by "negotiation." 01:53                  8 I reviewed the document. 01:53                  9 Q. Did you propose edits to the document? 01:53                  10 A. Yes, some. 01:54                  11 Q. Which ones? Strike that. 01:54                  12 Which edits did you propose to the document? 01:54                  13 MR. YEN: Caution you not to reveal any 01:54                  14 communications you had with your attorney. 01:54                  15 THE WITNESS: Yeah. And, well, I can't 01:54                  16 recall because it was quite some time ago. 01:54                  17 BY MR. NERCESSIAN: 01:54                  18 Q. What is the maximum amount of this 01:54                  19 agreement? 01:54                  20 A. I don't know off the top of my head. It's a 01:54                  21 zero dollar contract as far as I know. 01:54                  22 Q. And why is it a zero dollar contract? 01:54                  23 A. It's how we enter into a contract with the 01:54                  24 publishers. 01:54                  25 Q. What does it mean that it's a zero dollar 01:54                  Page 108</p>
<p>1 legal conclusion. 01:51                  2 THE WITNESS: I don't know. 01:51                  3 BY MR. NERCESSIAN: 01:51                  4 Q. All right. So we were previously discussing 01:51                  5 contracts that the California Building Standards 01:52                  6 Commission has with various publishers; do you recall 01:52                  7 that? 01:52                  8 A. Yes. 01:52                  9 Q. Let's mark this exhibit next in order. I 01:52                  10 believe we're at 7. 01:52                  11 (Exhibit 7 marked) 01:52                  12 BY MR. NERCESSIAN: 01:52                  13 Q. You have been handed Exhibit 7. Do you 01:52                  14 recognize this document? 01:52                  15 A. Yes. 01:52                  16 Q. And what is this document? 01:52                  17 A. Appears to be a Standard Agreement between 01:52                  18 the Division of -- excuse me -- Department of General 01:53                  19 Services, California Building Standards Commission, 01:53                  20 and NFPA, National Fire Protection Association. 01:53                  21 Q. And here at the bottom of the page, there's 01:53                  22 a signature. Is that yours? 01:53                  23 A. Yes. 01:53                  24 Q. What do you recall about the negotiation of 01:53                  25 this document? 01:53                  Page 107</p>	<p>1 contract? 01:54                  2 MR. YEN: Objection. Calls for a legal 01:54                  3 conclusion. 01:54                  4 THE WITNESS: Thank you. 01:54                  5 I'm sorry, I can't answer that. I don't 01:54                  6 know. 01:54                  7 BY MR. NERCESSIAN: 01:55                  8 Q. Does the contract itself state anywhere that 01:55                  9 it's a zero dollar contract? 01:55                  10 A. I don't know. The front page does. 01:55                  11 Q. And where is that? 01:55                  12 A. On item three. 01:55                  13 Q. Like to call your attention to Section 4-A 01:55                  14 of the contract. 4-A of Exhibit A. My apologies. 01:55                  15 Do you see that section? 01:55                  16 A. Is that about the third page in? 01:55                  17 Q. Yes. 01:55                  18 A. Okay. 01:55                  19 Q. This provision reflects a license grant from 01:55                  20 NFPA to CBSC; is that correct? 01:55                  21 MR. YEN: Objection. Calls for a legal 01:56                  22 conclusion. 01:56                  23 THE WITNESS: I'd have to read the whole 01:56                  24 thing. 01:56                  25 BY MR. NERCESSIAN: 01:56                  Page 109</p>



1 Q. I'd like to just focus on the language that 01:56  
 2 states "NFPA hereby grants CBSC a nonexclusive, 01:56  
 3 nontransferrable sublicense to use and copy all or 01:56  
 4 any portion of the 2014 NEC, NFPA supplements and 01:56  
 5 revisions to the 2014 NEC (hereinafter referred to as 01:56  
 6 'licensed property'), solely to create and publish 01:56  
 7 the 2016 CEC." Do you see that language? 01:56  
 8 A. I see it. 01:56  
 9 Q. What do you understand that language to 01:56  
 10 allow CBSC to do? 01:56  
 11 MR. YEN: Objection. Calls for a legal 01:56  
 12 conclusion. 01:56  
 13 MS. MILLER-ZIEGLER: Objection. It's also 01:56  
 14 incomplete. You left out the rest of the sentence. 01:56  
 15 BY MR. NERCESSIAN: 01:57  
 16 Q. "Hereinafter" -- do you have any 01:57  
 17 understanding of what this language in the contract 01:57  
 18 means? 01:57  
 19 MR. YEN: Same objection. 01:57  
 20 MS. MILLER-ZIEGLER: Same objection as well. 01:57  
 21 THE WITNESS: Yeah. It was a long time ago, 01:57  
 22 so I don't recall. 01:57  
 23 BY MR. NERCESSIAN: 01:57  
 24 Q. Do you have any understanding of what CBSC 01:57  
 25 does to effectuate the commitments of this contract? 01:57  
 Page 110

1 MR. YEN: Objection. Vague. 01:57  
 2 MS. MILLER-ZIEGLER: Calls for a legal 01:57  
 3 conclusion. 01:57  
 4 THE WITNESS: Yeah. I'd have to review it. 01:57  
 5 I don't know off the top of my head. 01:57  
 6 BY MR. NERCESSIAN: 01:57  
 7 Q. Why does CBSC negotiate these contracts for 01:57  
 8 each triennial edition of the code? 01:57  
 9 MS. MILLER-ZIEGLER: Objection. Calls for a 01:57  
 10 legal conclusion. 01:57  
 11 THE WITNESS: In order to use the model code 01:57  
 12 every two years. 01:57  
 13 BY MR. NERCESSIAN: 01:58  
 14 Q. And how does CBSC use the code every two 01:58  
 15 years pursuant to a contract like this? 01:58  
 16 A. We use it per the building standards law to 01:58  
 17 adopt -- for the State agencies to review and adopt 01:58  
 18 the most recent model code on a triennial basis. 01:58  
 19 Q. What is your understanding of what NFPA 01:58  
 20 receives in return to allowing CBSC to use the model 01:58  
 21 code to create a triennial version of its code? 01:58  
 22 MR. YEN: Objection. Calls for a legal 01:58  
 23 conclusion. 01:58  
 24 THE WITNESS: Yeah. I don't have an answer 01:58  
 25 for you on that one. 01:59  
 Page 111

1 BY MR. NERCESSIAN: 01:59  
 2 Q. Do you have any understanding of what this 01:59  
 3 contract allows the NFPA to do? 01:59  
 4 MR. YEN: Same objection. 01:59  
 5 THE WITNESS: It's just a broad 01:59  
 6 understanding that we are allowed to utilize the most 01:59  
 7 recent edition of the model code to level the next 01:59  
 8 edition of the California codes. 01:59  
 9 BY MR. NERCESSIAN: 01:59  
 10 Q. And do you have any understanding of what 01:59  
 11 the contract allows the NFPA to do with respect to 01:59  
 12 the 2016 California Electrical Code? 01:59  
 13 MR. YEN: Objection. Calls for a legal 01:59  
 14 conclusion. 01:59  
 15 THE WITNESS: Yeah. I'm not sure I follow 01:59  
 16 your question. 01:59  
 17 BY MR. NERCESSIAN: 02:00  
 18 Q. So you have no understanding of what the 02:00  
 19 contract allows the NFPA to do concerning the 2016 02:00  
 20 California Electrical Code? 02:00  
 21 MS. MILLER-ZIEGLER: Objection. That 02:00  
 22 mischaracterizes her testimony. 02:00  
 23 MR. YEN: Same objection and calls for a 02:00  
 24 legal conclusion. 02:00  
 25 THE WITNESS: Yeah. I don't know. 02:00  
 Page 112

1 BY MR. NERCESSIAN: 02:00  
 2 Q. Here on Section 5, paragraph two, I want to 02:00  
 3 call your attention to this sentence that reads 02:00  
 4 "Special supplements for minor or inconsequential 02:00  
 5 errors and/or changes shall be posted to the NFPA 02:00  
 6 website and shall be provided to CBSC for posting on 02:00  
 7 CBSC's website in a read-only format." Do you see 02:00  
 8 that language? 02:00  
 9 A. I actually didn't follow where you're 02:00  
 10 pointing to. 02:00  
 11 Q. Section 5-A-2. And I can read the language 02:00  
 12 again if it will help. 02:01  
 13 A. I see the language, yes. 02:01  
 14 Q. To your knowledge, has the NFPA ever 02:01  
 15 provided to CBSC a special supplement for minor or 02:01  
 16 inconsequential errors? 02:01  
 17 A. I don't recall. 02:01  
 18 Q. To your knowledge, has CBSC ever posted in 02:01  
 19 read-only format on its website a special supplement 02:01  
 20 for minor or inconsequential errors? 02:01  
 21 A. Yes. 02:01  
 22 Q. Under what circumstances? 02:01  
 23 A. There are what's called an errata so if 02:02  
 24 there are minor or inconsequential changes to the 02:02  
 25 code that are nonregulatory, there are supplement 02:02  
 Page 113

<p>1 pages -- I'm sorry -- there are errata pages 02:02                  2 provided, and those help the code user know that this 02:02                  3 is a minor error in the code, and it's published on a 02:02                  4 different piece of paper, a color buff paper, and 02:02                  5 that tells the code user there's, you know, like a 02:02                  6 numbering error or grammatical error. 02:02                  7 Q. What are other examples of minor or 02:02                  8 inconsequential errors that CBSC has corrected in the 02:02                  9 past? 02:02                  10 MS. MILLER-ZIEGLER: Objection to form. 02:02                  11 THE WITNESS: That it might not be a CBSC 02:02                  12 error, it might be -- it could be a model code error, 02:02                  13 it could be a printing error, it could be -- yeah. 02:02                  14 BY MR. NERCESSIAN: 02:03                  15 Q. Any other examples? 02:03                  16 A. Not that I can think of. 02:03                  17 Q. And these errata are posted to the CBSC 02:03                  18 website itself? 02:03                  19 A. I couldn't tell you. I don't know if it's 02:03                  20 from the NFPA website or the BNi website or our 02:03                  21 website. I don't know off the top of my head. 02:03                  22 Q. Where on the CBSC website does CBSC provide 02:03                  23 information about this errata? 02:03                  24 MS. MILLER-ZIEGLER: Objection to form. 02:03                  25 THE WITNESS: On the codes page that you 02:03                  Page 114</p>	<p>1 A. No. 02:05                  2 Q. And how does CBSC effectuate that agreement? 02:05                  3 A. I'm not following the question. 02:05                  4 Q. I can rephrase it. What steps does CBSC 02:06                  5 take, when developing the California Electrical Code, 02:06                  6 to track whether language is adopted or not? 02:06                  7 MS. MILLER-ZIEGLER: Objection to form. 02:06                  8 THE WITNESS: Well, we spoke to the code 02:06                  9 adoption process earlier. So if a State agency 02:06                  10 doesn't adopt a specific section, it's shown in 02:06                  11 strikeout, and that information is forwarded to the 02:06                  12 publisher, and then the publisher publishes it based 02:06                  13 on the agreement that we have with them in the 02:06                  14 contract. 02:06                  15 BY MR. NERCESSIAN: 02:06                  16 Q. When a State agency is considering whether 02:06                  17 to adopt a specific section of the model code, does 02:06                  18 it always start with the model code itself? 02:06                  19 MR. YEN: Objection. Calls for speculation. 02:07                  20 THE WITNESS: I can't -- I don't have an 02:07                  21 answer for you on that one. 02:07                  22 BY MR. NERCESSIAN: 02:07                  23 Q. I want to call your attention to Section 6-G 02:07                  24 at the bottom of the page, and I just want to 02:07                  25 highlight this language that states "NFPA and/or 02:07                  Page 116</p>
<p>1 referred to. 02:03                  2 BY MR. NERCESSIAN: 02:03                  3 Q. The codes page that we previously 02:03                  4 reviewed -- 02:03                  5 A. Yes. 02:03                  6 Q. -- in this case? I want to call your 02:03                  7 attention to Section 6-B of this contract, and do you 02:04                  8 see this language which states "All those portions of 02:04                  9 the licensed property, be it chapters, sections, 02:04                  10 provisions, tables, appendices, reference, etc., 02:04                  11 which CBSC or any authorized agency does not adopt as 02:04                  12 part of Title 24, shall be shown with a strike 02:04                  13 through the language in the code. NFPA will show 02:04                  14 non-adoptive language in legislated (strike through) 02:04                  15 text and will note as not adopted by the State on 02:05                  16 each page." Do you see that language? 02:05                  17 A. Uh-huh. Yes. Sorry. 02:05                  18 Q. Why not just omit deleted language -- 02:05                  19 MS. MILLER-ZIEGLER: Objection to form. 02:05                  20 BY MR. NERCESSIAN: 02:05                  21 Q. -- from a model code? 02:05                  22 A. That's just the agreement that we have with 02:05                  23 NFPA. 02:05                  24 Q. Do you understand any reason for that 02:05                  25 agreement? 02:05                  Page 115</p>	<p>1 authorized agency and licensee shall thereafter 02:07                  2 publish and make available for sale to the State of 02:07                  3 California." Do you see that language? 02:07                  4 A. Yes. 02:07                  5 Q. Is it accurate that the NFPA makes available 02:07                  6 copies of the code for sale to the State of 02:07                  7 California? 02:08                  8 MS. MILLER-ZIEGLER: Objection. Form. 02:08                  9 THE WITNESS: The Building Standards 02:08                  10 Commission can also purchase the code, if they so 02:08                  11 choose, as can other State agencies that need to use 02:08                  12 the electrical code if they so choose. 02:08                  13 BY MR. NERCESSIAN: 02:08                  14 Q. So if a State agency needs to use the 02:08                  15 California Electrical Code, they need to purchase the 02:08                  16 California Electrical Code from the NFPA? 02:08                  17 MS. MILLER-ZIEGLER: Objection to form. 02:08                  18 THE WITNESS: It's a choice. 02:08                  19 BY MR. NERCESSIAN: 02:08                  20 Q. What other choices are available to a State 02:08                  21 agency that needs to use the code? 02:08                  22 A. It's available online through our website to 02:08                  23 the publisher's website for free. There are local 02:08                  24 law libraries that have copies of the code, and local 02:08                  25 jurisdictions also make available the code for free. 02:09                  Page 117</p>

1 Q. Why might a State agency need to use a code 02:09  
 2 such as the California Electrical Code? 02:09  
 3 MR. YEN: Objection. Calls for speculation. 02:09  
 4 MR. NERCESSIAN: I can rephrase. 02:09  
 5 BY MR. NERCESSIAN: 02:09  
 6 Q. Are you aware of any reason why a State 02:09  
 7 agency might need to use a code such as the 02:09  
 8 California Electrical Code? 02:09  
 9 MS. MILLER-ZIEGLER: Objection. It's vague. 02:09  
 10 THE WITNESS: When I worked at the 02:09  
 11 Department of General Services, in my architectural 02:09  
 12 associate capacity, we had to use the codes to design 02:09  
 13 and construct state buildings or leased facilities, 02:09  
 14 and we would use the codes, and the Department of 02:09  
 15 General Services would purchase the codes for the 02:09  
 16 staff members to use. 02:09  
 17 BY MR. NERCESSIAN: 02:09  
 18 Q. And is it possible to design and construct 02:09  
 19 those State buildings or leased facilities without 02:09  
 20 reviewing the code? 02:10  
 21 MS. MILLER-ZIEGLER: Objection. Calls for 02:10  
 22 speculation. 02:10  
 23 THE WITNESS: Well, a licensed professional 02:10  
 24 would not do that because you have to follow the 02:10  
 25 code. It's possible not to purchase it. It's 02:10  
 Page 118

1 possible to go online and use the code. 02:10  
 2 BY MR. NERCESSIAN: 02:10  
 3 Q. But a licensed professional working in an 02:10  
 4 architectural capacity needs to consult the code 02:10  
 5 before they can design and construct a building? 02:10  
 6 MS. MILLER-ZIEGLER: Objection. Calls for 02:10  
 7 speculation. 02:10  
 8 BY MR. NERCESSIAN: 02:10  
 9 Q. Is that true? 02:10  
 10 A. I can't speak for all licensed 02:10  
 11 professionals. I can only speak for myself. 02:10  
 12 Q. In your experience as a licensed 02:10  
 13 professional, you reviewed the code in designing and 02:10  
 14 constructing the buildings you built? 02:10  
 15 A. Yes. 02:10  
 16 Q. Why did General Services purchase the code 02:10  
 17 instead of seeing it online? 02:11  
 18 MS. MILLER-ZIEGLER: Objection. Calls for 02:11  
 19 speculation. 02:11  
 20 THE WITNESS: I can't answer that. I don't 02:11  
 21 know. 02:11  
 22 BY MR. NERCESSIAN: 02:11  
 23 Q. In your past experience reviewing the code, 02:11  
 24 did you purchase a copy, or did you review it online? 02:11  
 25 MS. MILLER-ZIEGLER: Objection to form. 02:11  
 Page 119

1 THE WITNESS: I did both. 02:11  
 2 BY MR. NERCESSIAN: 02:11  
 3 Q. And when accessing it online -- strike that. 02:11  
 4 A. Can I correct my last statement? 02:12  
 5 Q. Sure. 02:12  
 6 A. I personally did not purchase the code. 02:12  
 7 Q. When you purchased the code, did you receive 02:12  
 8 any additional access privileges online? 02:12  
 9 MS. MILLER-ZIEGLER: Objection. 02:12  
 10 Mischaracterizes. 02:12  
 11 THE WITNESS: I personally didn't access the 02:12  
 12 code. I mean -- I'm sorry. 02:12  
 13 And I apologize. 02:12  
 14 MS. MILLER-ZIEGLER: Oh, no. That's all 02:12  
 15 right. 02:12  
 16 THE WITNESS: I personally didn't purchase 02:12  
 17 the code. That's what I corrected in my earlier 02:12  
 18 statement. I apologize. 02:12  
 19 BY MR. NERCESSIAN: 02:12  
 20 Q. Yes. Who did purchase the code? 02:12  
 21 A. The company that I worked for. 02:12  
 22 Q. And what was that? 02:12  
 23 A. It was Department of General Services. 02:12  
 24 Q. And with the department's purchase of the 02:12  
 25 code, were there any additional online access 02:12  
 Page 120

1 privileges that you received? 02:12  
 2 MS. MILLER-ZIEGLER: Objection. It's vague. 02:12  
 3 THE WITNESS: I'm not aware that they 02:12  
 4 purchased an online access version. I review it 02:12  
 5 online through what was available online. 02:12  
 6 BY MR. NERCESSIAN: 02:13  
 7 Q. To your knowledge, what local jurisdictions 02:13  
 8 make the California Electrical Code available for 02:13  
 9 free? 02:13  
 10 MR. YEN: Objection. Calls for speculation. 02:13  
 11 THE WITNESS: I don't know. 02:13  
 12 BY MR. NERCESSIAN: 02:13  
 13 Q. Your previous testimony stated that local 02:13  
 14 jurisdictions also make available the code for free. 02:13  
 15 Do you know of any? 02:13  
 16 A. I can't speak to any off the top of my head, 02:13  
 17 but that is part of building standards law. 02:13  
 18 Q. Can you identify one? 02:13  
 19 A. I've personally not gone to a local 02:13  
 20 jurisdiction and asked for it, so I can't verify 02:14  
 21 that. 02:14  
 22 Q. Have you ever gone to a law library that 02:14  
 23 maintains the code? 02:14  
 24 A. I have not. 02:14  
 25 Q. Are you aware, off the top of your head, of 02:14  
 Page 121

<p>1 the closest law library that would maintain a version 02:14                  2 of the code? 02:14                  3 A. I don't know. 02:14                  4 Q. When you say that local jurisdictions may 02:14                  5 make available versions of the code for free, what 02:14                  6 types of jurisdictions are you referring to? 02:14                  7 MR. YEN: Objection. Mischaracterizes 02:14                  8 previous testimony. 02:14                  9 BY MR. NERCESSIAN: 02:14                  10 Q. Do local -- I can rephrase it. 02:14                  11 Do local jurisdictions include cities? 02:14                  12 A. My reference was to -- and this is a broad 02:15                  13 statement because they're called different things in 02:15                  14 different local jurisdictions, would be a local 02:15                  15 building department, if you will, but that could be a 02:15                  16 broad statement. 02:15                  17 Q. Is that because a local building department 02:15                  18 might be for a county or a city or subdivision, and 02:15                  19 it just depends? 02:15                  20 A. That's correct. 02:15                  21 Q. Are you aware whether any of those local 02:15                  22 building departments get the code for free? 02:15                  23 A. Not aware. I don't know. 02:15                  24 Q. Don't know one way or another? 02:15                  25 A. I do not know. 02:15                  Page 122</p>	<p>1 broad of a question for me to be able to answer. 02:17                  2 BY MR. NERCESSIAN: 02:17                  3 Q. Can you name one significant effect that the 02:17                  4 code has on the state's built environment and its 02:17                  5 citizens? 02:17                  6 A. I would say fire issues. 02:17                  7 Q. Because the code addresses fire issues? 02:17                  8 A. Correct. 02:18                  9 Q. Does the code address any other safety 02:18                  10 issues? 02:18                  11 A. Yes. 02:18                  12 Q. What's another safety issue that the code 02:18                  13 addresses? 02:18                  14 A. Structural, mechanical performance, 02:18                  15 accessibility, concrete strength. 02:18                  16 Q. Anything else? 02:18                  17 A. There's probably too many for -- I mean 02:18                  18 that's all I can think of at the time. 02:18                  19 Q. What do you mean by "fire issues"? 02:18                  20 A. So fire safety issues, so egress of 02:18                  21 buildings, combustibility of products. 02:18                  22 Q. With respect to egress of buildings, does 02:19                  23 the code require that certain types of buildings be 02:19                  24 built in certain ways with respect to means of exit? 02:19                  25 MS. MILLER-ZIEGLER: Objection to form. 02:19                  Page 124</p>
<p>1 Q. Does CBSC take any steps to give those local 02:15                  2 building departments access to the code? 02:16                  3 A. I don't know what you mean by "access." We 02:16                  4 have the viewable format on our website. They can 02:16                  5 view it like anyone else. 02:16                  6 Q. By clicking through on the links to the 02:16                  7 publishers' websites? 02:16                  8 A. Correct. Uh-huh. 02:16                  9 Q. I want to call your attention to Section 02:16                  10 H-1, and this one contains the heading "Time is of 02:16                  11 the Essence" and contains the statement "Because the 02:16                  12 code may have significant effects on the safety of 02:16                  13 the state's built environment and its citizens, time 02:16                  14 is of the essence in performing the herein duties." 02:16                  15 Would you agree with that statement? 02:16                  16 MS. MILLER-ZIEGLER: Objection. Vague. 02:17                  17 THE WITNESS: Yeah. I mean I agree with it, 02:17                  18 yes. 02:17                  19 BY MR. NERCESSIAN: 02:17                  20 Q. What significant effects does the code have 02:17                  21 on the safety of the state's built environment and 02:17                  22 its citizens? 02:17                  23 MS. MILLER-ZIEGLER: Objection. Lack of 02:17                  24 foundation. 02:17                  25 THE WITNESS: I'm sorry. I think it's too 02:17                  Page 123</p>	<p>1 THE WITNESS: That's a very broad question. 02:19                  2 BY MR. NERCESSIAN: 02:19                  3 Q. Does the code contain any requirements with 02:19                  4 respect to egress of buildings? 02:19                  5 A. Yes. 02:19                  6 Q. What might be one example of such a 02:19                  7 requirement? 02:19                  8 A. The width of exit corridors. 02:19                  9 Q. Any others? 02:19                  10 A. Fire sprinkler issues, installation of fire 02:19                  11 sprinklers. 02:20                  12 Q. Are you aware of any consequences that might 02:20                  13 flow from not having an exit corridor that is as wide 02:20                  14 as the code prescribes? 02:20                  15 MS. MILLER-ZIEGLER: Objection to form. 02:20                  16 THE WITNESS: That's a broad question. 02:20                  17 Sorry. 02:20                  18 BY MR. NERCESSIAN: 02:20                  19 Q. What might happen if -- strike that. 02:20                  20 What might happen if an exit corridor is not 02:20                  21 as -- strike that. 02:20                  22 What consequences might a builder see if the 02:20                  23 width of an exit corridor is not compliant with what 02:21                  24 the code prescribes? 02:21                  25 MR. YEN: Objection. Calls for speculation. 02:21                  Page 125</p>

1 MS. MILLER-ZIEGLER: Objection. Form. 02:21  
 2 THE WITNESS: Yeah. That's too broad of a 02:21  
 3 question for me. Sorry. 02:21  
 4 BY MR. NERCESSIAN: 02:21  
 5 Q. You can still answer the question, though. 02:21  
 6 A. I don't have an answer for you, though. I 02:21  
 7 don't -- I don't know. 02:21  
 8 Q. Are you aware of what any consequences might 02:21  
 9 be if the width of an exit corridor is not compliant 02:21  
 10 with what the code prescribes? 02:21  
 11 MR. FEE: Objection. Calls for speculation. 02:21  
 12 MS. MILLER-ZIEGLER: Calls for a legal 02:21  
 13 conclusion. Objection. 02:21  
 14 THE WITNESS: All I'm familiar with is that 02:21  
 15 you have to have a certain amount of distance in a 02:21  
 16 corridor for a certain amount of occupant load. I 02:21  
 17 can't speculate on what would happen if it wasn't 02:22  
 18 there, if it wasn't available. 02:22  
 19 BY MR. NERCESSIAN: 02:22  
 20 Q. So you have no knowledge or awareness of 02:22  
 21 what might happen if a building design didn't comply? 02:22  
 22 MR. FEE: Objection. Calls for speculation 02:22  
 23 and form. 02:22  
 24 MS. MILLER-ZIEGLER: And calls for a legal 02:22  
 25 conclusion. 02:22

Page 126

1 THE WITNESS: It's a broad question that I 02:22  
 2 don't have an answer for. 02:22  
 3 BY MR. NERCESSIAN: 02:22  
 4 Q. What consequences could happen to a 02:22  
 5 contractor for failure to meet the California 02:22  
 6 Electrical Code requirements? 02:22  
 7 MS. MILLER-ZIEGLER: Objection. Calls for a 02:22  
 8 speculation and a legal conclusion. 02:22  
 9 THE WITNESS: Yeah. I don't work for the 02:22  
 10 California license bureau, so I don't know the 02:22  
 11 consequences of that. 02:23  
 12 BY MR. NERCESSIAN: 02:23  
 13 Q. You can't name one possible consequence? 02:23  
 14 A. No. 02:23  
 15 Q. Does the California Building Standards 02:23  
 16 Commission play any role in monitoring compliance 02:23  
 17 with the California Building Codes? 02:23  
 18 A. No. We are not an enforcement agency. 02:23  
 19 Q. What enforcement agencies are you aware of 02:23  
 20 that monitor compliance with the California Building 02:23  
 21 Codes? 02:23  
 22 MS. MILLER-ZIEGLER: Objection to form. 02:23  
 23 THE WITNESS: There's various State agencies 02:23  
 24 that have authority to enforce the codes, and then 02:23  
 25 there are the local jurisdictions that enforce the 02:23

Page 127

1 codes. 02:23  
 2 BY MR. NERCESSIAN: 02:23  
 3 Q. Do those agencies include, for instance, the 02:23  
 4 Department of Housing and Community Development? 02:24  
 5 A. They may have for some, but as far as I 02:24  
 6 know, they delegate that to the local jurisdictions 02:24  
 7 for enforcement of housing. 02:24  
 8 Q. And when you say "local jurisdictions," you 02:24  
 9 mean local building departments as we previously 02:24  
 10 discussed? 02:24  
 11 A. Yes, the broad definition of a local 02:24  
 12 building department, yes. 02:24  
 13 Q. Do you know whether the Division of the 02:24  
 14 State Architect plays any role in enforcing 02:24  
 15 compliance with the California Building Codes? 02:24  
 16 A. For State buildings, they do. 02:24  
 17 Q. Do you know what kind of enforcement actions 02:24  
 18 they might take? 02:24  
 19 A. I do not. 02:24  
 20 Q. Do you know whether the office of the State 02:24  
 21 Fire Marshal takes any actions to enforce compliance 02:24  
 22 with the California Building Codes? 02:25  
 23 A. I apologize. What was the last State agency 02:25  
 24 you requested? I thought that was what we were 02:25  
 25 talking about. 02:25

Page 128

1 Q. It was the Division of State Architect. 02:25  
 2 A. Oh. Yes. I'm sorry, I misspoke. The 02:25  
 3 Division of the State Architect does for school 02:25  
 4 construction and essential service buildings. 02:25  
 5 Q. So it's your testimony that the Division of 02:25  
 6 the State Architect enforces compliance with the 02:25  
 7 California Building Codes for school constructions 02:25  
 8 and essential service buildings? 02:25  
 9 A. Yes. 02:25  
 10 Q. And are you aware of what actions the 02:25  
 11 Division of the State Architect takes when enforcing 02:25  
 12 with respect to school construction and essential 02:25  
 13 service buildings? 02:25  
 14 A. No. 02:25  
 15 Q. Do you know whether the Office of the State 02:25  
 16 Fire Marshal takes any actions to enforce compliance 02:25  
 17 with the California Building Codes? 02:26  
 18 A. I don't know what they do. I don't know 02:26  
 19 what they do in terms of enforcement, but they do -- 02:26  
 20 Q. Do you know whether they enforce? 02:26  
 21 A. Yes, for State building. 02:26  
 22 Q. For State buildings? 02:26  
 23 A. Yes. 02:26  
 24 Q. Do you know whether the Office of Statewide 02:26  
 25 Health Planning and Development takes any actions to 02:26

Page 129



<p>1 enforce compliance with the California Building 02:26                  2 Codes? 02:26                  3 A. Yes. For hospital safety, yes. 02:26                  4 Q. Do you know what actions they take? 02:26                  5 A. I do not. 02:26                  6 Q. Do you know whether the California Energy 02:26                  7 Commission takes any actions to enforce compliance 02:26                  8 with the California Building Codes? 02:26                  9 A. I do not know. 02:26                  10 Q. Do you know whether the California 02:26                  11 Department of Public Health takes any actions to 02:26                  12 enforce compliance with the California Building 02:26                  13 Codes? 02:26                  14 A. I do not know that. 02:26                  15 Q. Do you know whether the California State 02:26                  16 Lands Commission takes any action to enforce with 02:26                  17 respect to California Building Codes? 02:27                  18 A. I do not know. 02:27                  19 Q. Do you know whether the Board of State and 02:27                  20 Community Corrections takes any actions to enforce 02:27                  21 compliance with California Building Codes? 02:27                  22 A. I do not. 02:27                  23 Q. How about -- the last one is the Building 02:27                  24 Standards Commission, so strike that. 02:27                  25 Want to call your attention back to 02:27</p> <p style="text-align: right;">Page 130</p>	<p>1 strike that. 02:29                  2 Do you know whether any free public access 02:29                  3 to the 2016 California Electrical Code was available 02:29                  4 as of July 1st, 2016? 02:29                  5 MR. FEE: Objection to form, calls for 02:29                  6 speculation. 02:29                  7 THE WITNESS: Yeah. I don't know. 02:29                  8 BY MR. NERCESSIAN: 02:29                  9 Q. Pass you a document I'd like marked next in 02:30                  10 order. Should be 8. 02:30                  11 (Exhibit 8 marked) 02:30                  12 BY MR. NERCESSIAN: 02:30                  13 Q. You've been passed a document marked for 02:30                  14 identification as Exhibit 8. Do you recognize this 02:30                  15 document? 02:30                  16 A. Uh-huh. Yes. 02:30                  17 Q. And would you have received this document? 02:30                  18 A. I am a member of the DGS Sacramento staff 02:30                  19 email, so it's possible that I received this, yes. 02:30                  20 Q. What is this document? 02:30                  21 A. That's an email from Alex Hunter who was our 02:30                  22 web person at the time. 02:31                  23 Q. And when is this document dated? 02:31                  24 A. 8-1-2016. 02:31                  25 Q. I want to call your attention to the first 02:31</p> <p style="text-align: right;">Page 132</p>
<p>1 Section H of Exhibit 7. 02:27                  2 A. Uh-huh. 02:27                  3 Q. Looking at sentence two now that says "The 02:27                  4 July 1st, 2016, date to publish the code is of 02:27                  5 critical importance." Do you see that language? 02:27                  6 A. Yes. 02:27                  7 Q. Why is it important that the code gets 02:27                  8 published at that date? 02:27                  9 A. The commission sets the effective date, 02:27                  10 which is 180 days beyond that date, and so the 02:28                  11 publication must occur 180 days prior to the 02:28                  12 effective date. That's part of building standards 02:28                  13 law. 02:28                  14 Q. So that's a legal mandate? 02:28                  15 A. Yes. 02:28                  16 Q. Are you aware whether that -- strike that. 02:28                  17 Do you know whether the 2016 California 02:28                  18 Electrical Code met that July 1st, 2016, publication 02:28                  19 date? 02:28                  20 A. Yes. 02:28                  21 Q. Do you know whether the California 02:28                  22 Electrical Code was available on the NFPA reading 02:28                  23 room as of that date? 02:28                  24 A. I do not know. 02:28                  25 Q. Do you know whether any free access was -- 02:28</p> <p style="text-align: right;">Page 131</p>	<p>1 sentence of this document which says "Online portions 02:31                  2 of the 2016 Building Standards Code published/printed 02:31                  3 by ICC are now linked on our code's web page." Do 02:31                  4 you see that? 02:31                  5 A. I do. 02:31                  6 Q. Are you aware whether the links were in 02:31                  7 working order at any point before August 1st, 2016? 02:31                  8 A. I don't recall. 02:31                  9 Q. And according to this email, the California 02:31                  10 Electrical Code, as of August 1st, 2016 -- strike 02:31                  11 that. 02:31                  12 Was the California Electrical Code published 02:32                  13 by the NFPA available for online access at that time? 02:32                  14 A. I don't recall. 02:32                  15 Q. According to the email, does it appear that 02:32                  16 there was online access available at that time? 02:32                  17 MR. YEN: Objection. Calls for speculation. 02:32                  18 THE WITNESS: I don't recall. 02:32                  19 BY MR. NERCESSIAN: 02:32                  20 Q. Do you have any reason to doubt the 02:32                  21 statement in this email that says "the California 02:32                  22 Electrical Code published by NFPA and the California 02:32                  23 Mechanical and Plumbing Codes published by IAPMO are 02:32                  24 not yet available for online access"? 02:32                  25 A. That would be online access from our 02:32</p> <p style="text-align: right;">Page 133</p>

1 website. I can't state whether or not the model code 02:32  
 2 developers had it on their website yet. 02:32  
 3 Q. So you read this to say just the link wasn't 02:32  
 4 up? 02:32  
 5 A. Correct. 02:32  
 6 Q. And you don't know whether the electrical 02:32  
 7 code was accessible on the NFPA website? 02:33  
 8 A. I don't know that. 02:33  
 9 Q. And what is IAPMO? 02:33  
 10 A. IAPMO. 02:33  
 11 Q. IAPMO. 02:33  
 12 A. Is the International Association of Plumbing 02:33  
 13 Mechanical Officials. It's another publisher that we 02:33  
 14 use. 02:33  
 15 Q. And what part of Title 24 does IAPMO deliver 02:33  
 16 model codes with respect to? 02:33  
 17 A. The Uniform Mechanical Code and the Uniform 02:33  
 18 Plumbing Code which are adopted by State agencies. 02:33  
 19 Q. Want to call your attention back to 02:34  
 20 Exhibit 7 and want to call your attention to Section 02:34  
 21 K-1 of the agreement. K-1, it's on page seven of 02:34  
 22 seven of Exhibit A. 02:34  
 23 A. Seven of seven. Okay. 02:34  
 24 Q. All right. Section K-1 states "NFPA shall 02:34  
 25 establish a distribution method in consultation with 02:34  
 Page 134

1 the CBSC." Do you see that language? 02:34  
 2 A. Yes. 02:35  
 3 Q. What distribution method has NFPA 02:35  
 4 established in consulting with the CBSC? 02:35  
 5 A. I don't recall. 02:35  
 6 Q. Are you aware of any distribution method? 02:35  
 7 A. In context with this item? I don't know in 02:35  
 8 what context this is referring, so -- 02:36  
 9 Q. Do you recall any discussions you have had 02:36  
 10 with NFPA regarding any distribution method for the 02:36  
 11 2016 California Electrical Code? 02:36  
 12 A. Well, it would be how it applies with the 02:36  
 13 rest of the contract statement. So, for example, one 02:36  
 14 distribution method would be linked to our website. 02:36  
 15 Q. And you're not aware of any distribution 02:36  
 16 method aside from that? 02:36  
 17 A. No, not right now, no. 02:36  
 18 Q. The next line down says "The NFPA shall 02:36  
 19 distribute a minimum of 200 complimentary copies of 02:36  
 20 the code as per list provided by CBSC on or before 02:37  
 21 July 1st, 2016." Do you see that? 02:37  
 22 A. I do. 02:37  
 23 Q. For whom are those 200 complimentary copies? 02:37  
 24 A. The depository libraries that are listed in 02:37  
 25 the contract. 02:37  
 Page 135

1 Q. So those are the depository libraries 02:37  
 2 identified as Exhibit A, Attachment A, and Exhibit A, 02:37  
 3 Attachment B, of this document? 02:37  
 4 A. Yes. 02:37  
 5 Q. Do those complimentary copies go to any 02:37  
 6 organization or person not identified on these 02:37  
 7 attachments? 02:37  
 8 A. I don't know. 02:37  
 9 Q. I see on these attachments there are some 02:37  
 10 libraries that are called Complete Depository 02:38  
 11 Libraries and other libraries called Selective 02:38  
 12 Depository Libraries. Do you see that? 02:38  
 13 A. I do. 02:38  
 14 Q. What's the difference between those 02:38  
 15 designations? 02:38  
 16 A. I don't know. 02:38  
 17 Q. Another line down in Section K, it says 02:38  
 18 "NFPA may wholesale the code to other resellers in 02:38  
 19 California." Do you see that? 02:38  
 20 A. I do see that. 02:38  
 21 Q. Do you know whether NFPA has? 02:38  
 22 A. I do not know. 02:38  
 23 Q. Do you know whether NFPA has made any 02:38  
 24 efforts to deliver the code to print disabled 02:38  
 25 individuals? 02:38  
 Page 136

1 MS. MILLER-ZIEGLER: Objection. Lacks 02:38  
 2 foundation and calls for speculation. 02:38  
 3 THE WITNESS: I don't know that. 02:38  
 4 BY MR. NERCESSIAN: 02:39  
 5 Q. Do you know whether NFPA has made any 02:39  
 6 efforts to deliver the code to mobility impaired 02:39  
 7 individuals? 02:39  
 8 MS. MILLER-ZIEGLER: Objection. Lack of 02:39  
 9 foundation. 02:39  
 10 THE WITNESS: I don't know that. 02:39  
 11 BY MR. NERCESSIAN: 02:39  
 12 Q. Do you know whether NFPA has made any 02:39  
 13 efforts to deliver the code to individuals that lack 02:39  
 14 sight? 02:39  
 15 MS. MILLER-ZIEGLER: Objection. Lack of 02:39  
 16 foundation. 02:39  
 17 THE WITNESS: I do not know that. 02:39  
 18 BY MR. NERCESSIAN: 02:39  
 19 Q. Has the CBSC taken any steps to deliver the 02:39  
 20 code to those who are print disabled? 02:39  
 21 A. We've not received a request for that, no. 02:39  
 22 Q. Has CBSC taken any steps to deliver the code 02:39  
 23 to individuals who are mobility impaired? 02:40  
 24 A. No. 02:40  
 25 Q. Has the CBSC made any effort to make 02:40  
 Page 137



<p>1 available the code to those who lack sight? 02:40                  2 A. We've not been requested that, no. 02:40                  3 Q. To your knowledge, has the State of 02:40                  4 California taken any efforts to make the code 02:40                  5 available to those who have accessibility issues? 02:40                  6 MS. MILLER-ZIEGLER: Objection. Lack of 02:40                  7 foundation. 02:40                  8 THE WITNESS: Yeah. I can't answer for the 02:40                  9 State of California. 02:40                  10 BY MR. NERCESSIAN: 02:40                  11 Q. But you're not aware of any efforts that the 02:40                  12 State has taken to make the code available to those 02:40                  13 who do have accessibility issues? 02:40                  14 A. I don't know. 02:40                  15 MS. MILLER-ZIEGLER: Mischaracterizes her 02:40                  16 testimony. 02:40                  17 THE WITNESS: I don't know. 02:40                  18 BY MR. NERCESSIAN: 02:40                  19 Q. Just have a few more questions about this 02:41                  20 document. Like to call your attention to Exhibit A, 02:41                  21 Attachment C, and this page, you'll see, has the 02:41                  22 heading -- the heading reads "2016 Intervening Code 02:41                  23 Adoption Cycle Timeline." Do you see that? 02:41                  24 A. I do. 02:41                  25 Q. What is depicted in this chart? 02:41</p> <p style="text-align: right;">Page 138</p>	<p>1 Q. And that's -- 1-1-17 is the effective date 02:43                  2 of the 2016 edition of the California Electrical 02:43                  3 Code? 02:43                  4 A. It's the effective date of all of the codes, 02:43                  5 yes, that's correct. 02:43                  6 Q. Want to call your attention to Exhibit B of 02:43                  7 this agreement. It's almost at the end. 02:44                  8 A. Okay. Before C? 02:44                  9 Q. No. It's the second to last and the last 02:44                  10 page. 02:44                  11 A. Oh, sorry. Okay. Got it. I was going in 02:44                  12 alphabetical order there. All right. 02:44                  13 Q. Yeah. So I want to call your attention to 02:44                  14 Section B-1 -- 02:44                  15 A. Uh-huh. 02:44                  16 Q. -- which states that "NFPA shall make the 02:44                  17 code," and I'm excerpting language here, "available 02:44                  18 to the State, local governmental agencies and the 02:44                  19 general public at a price established by NFPA." Do 02:44                  20 you see that language? 02:45                  21 A. I see the language. 02:45                  22 Q. Is there any statement anywhere in this 02:45                  23 agreement that specifies what that price is? 02:45                  24 A. I don't know without reading the whole 02:45                  25 agreement. 02:45</p> <p style="text-align: right;">Page 140</p>
<p>1 A. Actually, what's depicted is the 2015 02:42                  2 Triennial Code Adoption Cycle Timeline that we make 02:42                  3 available -- that the BSC makes available on its 02:42                  4 website for interested parties, and it talks about 02:42                  5 the timing, that's a rough outline of the timing of 02:42                  6 the cycle, from pre-cycle all the way to publication 02:42                  7 and effective date. It's pretty blurry, so I can't 02:42                  8 tell you the details. 02:42                  9 Q. So what occurs after the publication has 02:42                  10 been placed of the 2016? 02:42                  11 MS. MILLER-ZIEGLER: Objection. Vague. 02:42                  12 THE WITNESS: What occurs? 02:42                  13 BY MR. NERCESSIAN: 02:42                  14 Q. It looks like -- if I'm reading this 02:42                  15 correctly, it looks like there is a timeline leading 02:42                  16 up to July 1st, 2016. Do you see that? 02:43                  17 A. Uh-huh. 02:43                  18 Q. And then there's activity afterwards leading 02:43                  19 up through January 1st, 2017. What occurs during 02:43                  20 that intervening period? 02:43                  21 A. I can't read what the graphic says, and it's 02:43                  22 not what occurs in the intervening period. It is the 02:43                  23 wait period from the publication date to the 02:43                  24 effective date, which is, as I can barely read, 1-1 02:43                  25 of '17 on the far right side. 02:43</p> <p style="text-align: right;">Page 139</p>	<p>1 Q. Are you aware of the price that NFPA makes 02:45                  2 the quote available for? 02:45                  3 A. I am not. 02:45                  4 Q. Do you know whether the code -- strike that. 02:45                  5 Do you know whether the NFPA makes the code 02:45                  6 available to the State for the same price that it 02:45                  7 makes it available to the general public? 02:45                  8 A. I don't know. 02:45                  9 Q. Do you know whether the NFPA charges local 02:45                  10 government agencies the same price as it charges to 02:45                  11 the general public for access to the code? 02:46                  12 A. I do not know. 02:46                  13 MS. MILLER-ZIEGLER: I'm going to object to 02:46                  14 that as vague. 02:46                  15 MR. NERCESSIAN: What was that? 02:46                  16 MS. MILLER-ZIEGLER: Just preserving 02:46                  17 objection that that was vague. 02:46                  18 BY MR. NERCESSIAN:                  19 Q. Going to hand you one document. We can mark 02:46                  20 this next in order. I believe it's 9. 02:46                  21 (Exhibit 9 marked) 02:46                  22 BY MR. NERCESSIAN: 02:46                  23 Q. You've been handed a document marked for 02:46                  24 identification as Exhibit 9. Do you recognize this 02:46                  25 document? 02:46</p> <p style="text-align: right;">Page 141</p>

<p>1 A. No. 02:46</p> <p>2 Q. Do you know what the NCB coordination 02:47</p> <p>3 process is? 02:47</p> <p>4 A. Vaguely. 02:47</p> <p>5 Q. What do you know of the NCB coordination 02:47</p> <p>6 process? 02:47</p> <p>7 A. It's conducted by DGS prior to entering a 02:47</p> <p>8 contract for a noncompetitive bid with a outside 02:47</p> <p>9 entity. 02:47</p> <p>10 Q. And so "NCB" stands for noncompetitive bid? 02:47</p> <p>11 A. Yes. 02:47</p> <p>12 Q. Why is there a specific process for 02:47</p> <p>13 noncompetitive bids with outside entities? 02:47</p> <p>14 MR. FEE: Objection. Calls for speculation. 02:47</p> <p>15 THE WITNESS: Yeah. I don't know. 02:47</p> <p>16 BY MR. NERCESSIAN: 02:47</p> <p>17 Q. Do you know what the process entails? 02:47</p> <p>18 A. No. 02:47</p> <p>19 MR. FEE: Same objection. 02:47</p> <p>20 THE WITNESS: No. 02:47</p> <p>21 BY MR. NERCESSIAN: 02:47</p> <p>22 Q. Have you had to go through a noncompetitive 02:47</p> <p>23 bid process with respect to your work on the 2019 02:47</p> <p>24 triennial edition of the California Building 02:48</p> <p>25 Standards Codes? 02:48</p> <p style="text-align: right;">Page 142</p>	<p>1 Q. How long ago was it? 02:49</p> <p>2 A. At least a couple years. 02:49</p> <p>3 Q. Would it have been before 2018? 02:49</p> <p>4 A. I don't know. 02:49</p> <p>5 Q. And did you go through the noncompetitive 02:49</p> <p>6 bid process successfully for the 2019 cycle? 02:50</p> <p>7 A. Yes. 02:50</p> <p>8 Q. Did the California Building Standards 02:50</p> <p>9 Commission always go through a process by -- strike 02:51</p> <p>10 that. 02:51</p> <p>11 To your knowledge, did the State of 02:51</p> <p>12 California always rely on model codes in developing 02:51</p> <p>13 its building standards? 02:51</p> <p>14 MS. MILLER-ZIEGLER: Objection. Form. 02:51</p> <p>15 MR. FEE: Objection. Calls for speculation. 02:51</p> <p>16 THE WITNESS: That's a very broad question. 02:51</p> <p>17 BY MR. NERCESSIAN: 02:51</p> <p>18 Q. Is it one that you have any knowledge of? 02:51</p> <p>19 MR. FEE: Objection. Calls for speculation. 02:51</p> <p>20 THE WITNESS: Only in the recent history, 02:51</p> <p>21 we've used model codes. I couldn't go back years and 02:51</p> <p>22 years and years. 02:51</p> <p>23 BY MR. NERCESSIAN: 02:51</p> <p>24 Q. Are you aware of any time when California 02:51</p> <p>25 would separately publish California amendments from 02:51</p> <p style="text-align: right;">Page 144</p>
<p>1 A. Yes. 02:48</p> <p>2 Q. Did you fill out forms similar to this as a 02:48</p> <p>3 part of that process? 02:48</p> <p>4 A. Yes. 02:48</p> <p>5 Q. Did you fill out the same forms that you're 02:48</p> <p>6 seeing here? 02:48</p> <p>7 A. I don't know if they're the exact same 02:48</p> <p>8 forms. I don't know. 02:48</p> <p>9 Q. When going through this process in the 2019 02:48</p> <p>10 cycle, what disclosures needed to be made as part of 02:48</p> <p>11 the process? 02:48</p> <p>12 MS. MILLER-ZIEGLER: Objection. Lack of 02:48</p> <p>13 foundation. 02:48</p> <p>14 THE WITNESS: I don't recall. 02:48</p> <p>15 BY MR. NERCESSIAN: 02:48</p> <p>16 Q. What did you need to show in going through 02:48</p> <p>17 the noncompetitive bid process during the 2019 cycle? 02:49</p> <p>18 MS. MILLER-ZIEGLER: Objection. Lack of 02:49</p> <p>19 foundation. 02:49</p> <p>20 THE WITNESS: I don't recall. 02:49</p> <p>21 BY MR. NERCESSIAN: 02:49</p> <p>22 Q. Did you have to provide any information to 02:49</p> <p>23 the Department of General Services in going through 02:49</p> <p>24 the noncompetitive bid process during the 2019 cycle? 02:49</p> <p>25 A. I don't recall. It was quite awhile ago. 02:49</p> <p style="text-align: right;">Page 143</p>	<p>1 model codes? 02:51</p> <p>2 A. Yeah. It was a number of years ago. 02:51</p> <p>3 Q. Do you recall when that was? 02:51</p> <p>4 A. No. 02:51</p> <p>5 Q. Do you have any knowledge of why a switch 02:51</p> <p>6 was made to create single incorporated volumes? 02:51</p> <p>7 MR. FEE: Objection. 02:52</p> <p>8 MS. MILLER-ZIEGLER: Objection to form. 02:52</p> <p>9 THE WITNESS: No. 02:52</p> <p>10 Quick question. If we're going to go on for 02:52</p> <p>11 another 10, 15 minutes, can we take a quick break? 02:52</p> <p>12 MR. NERCESSIAN: Yeah. There's no question 02:52</p> <p>13 pending, so -- 02:52</p> <p>14 THE WITNESS: Okay. 02:52</p> <p>15 VIDEO OPERATOR: Off the record. It's 2:52. 02:52</p> <p>16 (Recess) 02:52</p> <p>17 VIDEO OPERATOR: Okay. We're back on the 03:07</p> <p>18 record. It's 3:08. 03:07</p> <p>19 BY MR. NERCESSIAN: 03:08</p> <p>20 Q. Ms. Marvelli, I'd like to return back to 03:08</p> <p>21 Exhibit 7 a moment. Who at CBSC had principal roles 03:08</p> <p>22 in approving the terms of this contract? 03:08</p> <p>23 A. Well, I signed off on it, and then also, I 03:08</p> <p>24 believe DGS Executive Office saw the contract. 03:08</p> <p>25 Q. Did anybody else have a role in reviewing 03:08</p> <p style="text-align: right;">Page 145</p>

<p>1 the terms? 03:08</p> <p>2 MS. MILLER-ZIEGLER: Objection. Calls for 03:08</p> <p>3 speculation. 03:08</p> <p>4 THE WITNESS: The only other staff member at 03:08</p> <p>5 CBSC was our staff services manager. 03:08</p> <p>6 BY MR. NERCESSIAN: 03:08</p> <p>7 Q. And who was that? 03:08</p> <p>8 A. Katrina Benny. 03:09</p> <p>9 Q. What role did she play? 03:09</p> <p>10 A. Drafting the information. 03:09</p> <p>11 Q. Drafting what information? 03:09</p> <p>12 A. The 2000 -- the information that you see in 03:09</p> <p>13 the exhibit. 03:09</p> <p>14 Q. Did the information in this exhibit 03:09</p> <p>15 originate from CBSC? 03:09</p> <p>16 A. I don't know. It was similar to what was in 03:09</p> <p>17 the last edition of the contract, so it wasn't 03:09</p> <p>18 originated. Not sure where it was originated from. 03:09</p> <p>19 Q. Did Katrina Benny do the first draft of this 03:09</p> <p>20 contract? 03:10</p> <p>21 A. I don't recall. 03:10</p> <p>22 Q. Was this the first contract you had worked 03:10</p> <p>23 on? 03:10</p> <p>24 A. Yes. 03:10</p> <p>25 Q. Who at DGS played a role in approving the 03:10</p> <p style="text-align: right;">Page 146</p>	<p>1 question. It would be just clarity. 03:11</p> <p>2 BY MR. NERCESSIAN: 03:11</p> <p>3 Q. I know. 03:11</p> <p>4 A. Yeah. 03:11</p> <p>5 Q. But you can still answer it. 03:11</p> <p>6 A. I don't know the specifics. It was just 03:11</p> <p>7 clarity for how the contract read and certain wording 03:11</p> <p>8 of the codes and -- yeah. That's about it. 03:12</p> <p>9 Q. Did you instruct Ms. Benny to make any 03:12</p> <p>10 substantive changes to the contract terms? 03:12</p> <p>11 A. I don't recall. 03:12</p> <p>12 Q. Did anyone tell you that any particular 03:12</p> <p>13 terms of the contract were important to the State? 03:12</p> <p>14 A. That's -- 03:12</p> <p>15 MR. YEN: You can exclude communications 03:12</p> <p>16 with lawyers -- 03:12</p> <p>17 THE WITNESS: Okay. 03:12</p> <p>18 MR. YEN: -- in answering your question. 03:12</p> <p>19 THE WITNESS: Yeah. So it would just be the 03:12</p> <p>20 discussions we had with the contracts unit. 03:12</p> <p>21 BY MR. NERCESSIAN: 03:12</p> <p>22 Q. And what were the substance of those 03:12</p> <p>23 discussions? 03:12</p> <p>24 A. Just the contents of the contract and the 03:12</p> <p>25 way it's written. 03:13</p> <p style="text-align: right;">Page 148</p>
<p>1 terms of the contract? 03:10</p> <p>2 A. I don't have that. I don't know. 03:10</p> <p>3 Q. Did you have any conversations with anybody 03:10</p> <p>4 at DGS regarding the terms of this contract? 03:10</p> <p>5 MR. YEN: It's a "yes" or "no" question. 03:10</p> <p>6 THE WITNESS: Yes. 03:10</p> <p>7 BY MR. NERCESSIAN: 03:10</p> <p>8 Q. Who at DGS did you have conversations with 03:10</p> <p>9 regarding the terms of this contract? 03:10</p> <p>10 A. It would have been reviewed by Legal as 03:10</p> <p>11 well. 03:11</p> <p>12 Q. In addition to any other persons at DGS? 03:11</p> <p>13 A. The contract staff at DGS, but I don't know 03:11</p> <p>14 who by name. 03:11</p> <p>15 Q. Anybody else at DGS? 03:11</p> <p>16 A. Not that I'm aware of. 03:11</p> <p>17 Q. Did you have any discussions with Katrina 03:11</p> <p>18 Benny regarding the terms in this contract? 03:11</p> <p>19 A. Yes. 03:11</p> <p>20 Q. What were those conversations? 03:11</p> <p>21 A. Just edits to the contract. 03:11</p> <p>22 Q. What edits did you prescribe to Ms. Benny 03:11</p> <p>23 concerning the contract? 03:11</p> <p>24 MS. MILLER-ZIEGLER: Objection. Form. 03:11</p> <p>25 THE WITNESS: Just -- that's a broad 03:11</p> <p style="text-align: right;">Page 147</p>	<p>1 Q. Did they call out any particular terms of 03:13</p> <p>2 the contract that were important to the State? 03:13</p> <p>3 MR. YEN: Objection. Vague. 03:13</p> <p>4 THE WITNESS: Yeah. I don't know how to 03:13</p> <p>5 answer that. It's sort of a standard contract that 03:13</p> <p>6 is modified for a specific year. There isn't really 03:13</p> <p>7 a negotiation back and forth between BSC and the 03:13</p> <p>8 contracts unit on what is good or bad. It's more of 03:13</p> <p>9 just the contents of it for this particular cycle. 03:13</p> <p>10 BY MR. NERCESSIAN: 03:13</p> <p>11 Q. Do you recall how long the contract took to 03:13</p> <p>12 finalize? 03:13</p> <p>13 A. I do not recall that. 03:13</p> <p>14 Q. Was it more than a month? 03:13</p> <p>15 A. Yes, it was more than a month. 03:13</p> <p>16 Q. Was it more than two months? 03:13</p> <p>17 A. I don't recall. 03:13</p> <p>18 Q. Could it have been more than two months? 03:13</p> <p>19 MR. YEN: Objection. Calls for speculation. 03:14</p> <p>20 THE WITNESS: Yeah. 03:14</p> <p>21 BY MR. NERCESSIAN: 03:14</p> <p>22 Q. You can still answer. 03:14</p> <p>23 A. I don't recall. 03:14</p> <p>24 Q. Could it have been more than six months? 03:14</p> <p>25 MR. YEN: Objection. Calls for speculation. 03:14</p> <p style="text-align: right;">Page 149</p>

1 THE WITNESS: I honestly don't recall. 03:14  
 2 BY MR. NERCESSIAN: 03:14  
 3 Q. Were you aware of any flexibility in 03:14  
 4 particular terms of the contract? 03:14  
 5 MR. YEN: Objection. Vague. 03:14  
 6 THE WITNESS: I don't know. 03:14  
 7 BY MR. NERCESSIAN: 03:14  
 8 Q. Does that mean you weren't aware of any 03:14  
 9 flexibility that existed in the terms of the 03:15  
 10 contract? 03:15  
 11 MR. YEN: Objection. Vague. 03:15  
 12 THE WITNESS: I don't know. I'm not aware. 03:15  
 13 BY MR. NERCESSIAN: 03:15  
 14 Q. And it's your testimony that you modelled 03:15  
 15 this contract for the 2016 edition on past contracts? 03:15  
 16 A. Yes. 03:15  
 17 Q. Past contracts with NFPA? 03:15  
 18 A. With other model code developers as well. 03:15  
 19 Q. Like this document marked next in order. 03:15  
 20 (Exhibit 10 marked) 03:16  
 21 BY MR. NERCESSIAN: 03:16  
 22 Q. You have been handed a document marked for 03:16  
 23 identification as Exhibit 10. What is this document? 03:16  
 24 A. I don't know. 03:16  
 25 Q. Have you seen this document? 03:16  
 Page 150

1 A. Not prior to today, no. 03:16  
 2 Q. Do you recall consulting this document or 03:16  
 3 any other similar documents in developing the terms 03:16  
 4 of the 2016 contract? 03:17  
 5 MR. YEN: Objection. Vague. 03:17  
 6 THE WITNESS: I have not seen this document 03:17  
 7 before. 03:17  
 8 BY MR. NERCESSIAN: 03:17  
 9 Q. This document identifies an agreement 03:17  
 10 between BNi, NFPA and CBSC, does it not? 03:17  
 11 A. That's what the top reads, yes. 03:17  
 12 Q. Want to call your attention to page 10 of 03:17  
 13 the document, to the signature page. 03:17  
 14 A. Uh-huh. 03:17  
 15 Q. And underneath "Department of General 03:17  
 16 Services Procurement Division for the California  
 17 Building Standards Commission," there's a signature. 03:17  
 18 Can you read the name of the individual signing? 03:18  
 19 A. It says "Marnell Voss, Manager of the 03:18  
 20 Contracts and Acquisitions." 03:18  
 21 Q. Do you know Marnell Voss? 03:18  
 22 A. No. 03:18  
 23 Q. Do you know of Marnell Voss? 03:18  
 24 A. No. 03:18  
 25 Q. How do you know that the 2016 NFPA contract 03:18  
 Page 151

1 was consistent with contracts with other model code 03:18  
 2 providers? 03:18  
 3 MS. MILLER-ZIEGLER: Objection. That 03:18  
 4 mischaracterizes her testimony. 03:18  
 5 THE WITNESS: When we develop the contracts 03:18  
 6 with the other model, the contracts are generally 03:18  
 7 developed in the same amount of -- same timeframe 03:18  
 8 because we're adopting the codes at the same cycle, 03:18  
 9 so the contract with IAPMO and the contract with ICC 03:19  
 10 are developed the similar time, and so they're 03:19  
 11 similar in nature. When I review them, I can see 03:19  
 12 that they're similar in nature. 03:19  
 13 BY MR. NERCESSIAN: 03:19  
 14 Q. What do you understand that this lawsuit is 03:19  
 15 about? 03:19  
 16 MS. MILLER-ZIEGLER: Objection. It's 03:19  
 17 outside the scope of the subpoena. 03:19  
 18 THE WITNESS: I wish I knew. 03:19  
 19 BY MR. NERCESSIAN: 03:19  
 20 Q. Well, what do you know about 03:19  
 21 Public.Resource? 03:19  
 22 A. They're a company that has codes online. 03:19  
 23 That's all I know. 03:19  
 24 Q. What do you know about Carl Malamud? 03:19  
 25 A. They submitted -- he submitted a PRA request 03:19  
 Page 152

1 through Public.Resource. 03:19  
 2 Q. Have you had any communications regarding 03:19  
 3 Public.Resource with anyone? 03:19  
 4 A. No. Just in regards to answering the PRAs 03:20  
 5 and just staff and coordinating the PRA requests. 03:20  
 6 Q. No communications outside of the context of 03:20  
 7 the PRA requests? 03:20  
 8 A. No, not that I'm aware of, no. 03:20  
 9 Q. Have you had any communications about Carl 03:20  
 10 Malamud? 03:20  
 11 A. No. 03:20  
 12 Q. Have you spoken to anyone at DGS about this 03:20  
 13 lawsuit? 03:20  
 14 MR. YEN: Again, excluding communications 03:20  
 15 with any lawyers. 03:20  
 16 THE WITNESS: No. 03:20  
 17 BY MR. NERCESSIAN: 03:20  
 18 Q. Like to return back to Exhibit 2 a moment, 03:21  
 19 and I'd like to call your attention again to the 03:21  
 20 front page of the exhibit. Aside from those 03:21  
 21 notations on the cover page of the exhibit, do you 03:21  
 22 recognize this document? 03:21  
 23 MS. MILLER-ZIEGLER: Objection. 03:21  
 24 Authenticity. 03:21  
 25 MR. FEE: What are you calling the cover 03:21  
 Page 153

<p>1 page? 03:21</p> <p>2 MR. NERCESSIAN: Aside -- okay. Strike 03:21</p> <p>3 that. 03:21</p> <p>4 BY MR. NERCESSIAN: 03:21</p> <p>5 Q. I want to direct your attention to the 03:21</p> <p>6 page that reads "2016 California Electrical Code, 03:22</p> <p>7 California Code of Regulations, Title 24, Part 3." 03:22</p> <p>8 Do you see that? 03:22</p> <p>9 A. I see that. 03:22</p> <p>10 Q. Aside from the notations on this page, do 03:22</p> <p>11 you recognize this document? 03:22</p> <p>12 MR. FEE: Objection to form. 03:22</p> <p>13 MS. MILLER-ZIEGLER: Objection. 03:22</p> <p>14 MR. FEE: You're asking him to review every 03:22</p> <p>15 page of both of these binders and tell you if she 03:22</p> <p>16 recognizes it? What's the question? 03:22</p> <p>17 MR. NERCESSIAN: That's the question, does 03:22</p> <p>18 she recognize this document. 03:22</p> <p>19 MS. MILLER-ZIEGLER: Objection. 03:22</p> <p>20 Authenticity. 03:22</p> <p>21 THE WITNESS: Yeah. It appears that it's 03:22</p> <p>22 the California Electrical Code, but, again, it's a 03:22</p> <p>23 huge document to take a look at. 03:22</p> <p>24 BY MR. NERCESSIAN: 03:22</p> <p>25 Q. Any reason why, leaving aside the notations 03:22</p> <p style="text-align: right;">Page 154</p>	<p>1 Q. So is there anything you can point to apart 03:24</p> <p>2 from the cover that makes you doubt that this is the 03:24</p> <p>3 California Electrical Code? 03:24</p> <p>4 MS. MILLER-ZIEGLER: Same objection. 03:24</p> <p>5 BY MR. NERCESSIAN: 03:24</p> <p>6 Q. You can take time to skim it. 03:24</p> <p>7 MS. MILLER-ZIEGLER: The document's a 03:24</p> <p>8 thousand pages. 03:24</p> <p>9 THE WITNESS: I understand that you want me 03:24</p> <p>10 to say that it's consistent, but I can't tell you 03:24</p> <p>11 exactly if it's the code. It's similar in nature, 03:24</p> <p>12 but I can't say that it is exactly the code. 03:24</p> <p>13 BY MR. NERCESSIAN: 03:25</p> <p>14 Q. Do you recognize anything that suggests it 03:25</p> <p>15 isn't? And you can take five to ten minutes to skim 03:25</p> <p>16 through and look for something. 03:25</p> <p>17 A. Well, I'm not -- 03:25</p> <p>18 MS. MILLER-ZIEGLER: Same objection. 03:25</p> <p>19 THE WITNESS: Yeah. I'm not an expert on 03:25</p> <p>20 everything that's in the California Electrical Code, 03:25</p> <p>21 so for me to see something that is inconsistent, I 03:25</p> <p>22 couldn't -- I'd have to look at every page, and I'm 03:25</p> <p>23 not an expert on the California Electrical Code. 03:25</p> <p>24 BY MR. NERCESSIAN: 03:26</p> <p>25 Q. I'm just looking for something, one thing 03:26</p> <p style="text-align: right;">Page 156</p>
<p>1 on the cover page, that includes the title -- strike 03:22</p> <p>2 that. 03:23</p> <p>3 Leaving aside the notations on the title 03:23</p> <p>4 page, anything apart from the cover that does not 03:23</p> <p>5 look consistent with the 2016 California Electrical 03:23</p> <p>6 Code? 03:23</p> <p>7 MR. YEN: And if you need to look through it 03:23</p> <p>8 to make sure that you can answer his question, 03:23</p> <p>9 then -- 03:23</p> <p>10 THE WITNESS: Okay. And -- 03:23</p> <p>11 MR. YEN: -- go ahead. 03:23</p> <p>12 THE WITNESS: -- what do you mean by 03:23</p> <p>13 "consistent"? 03:23</p> <p>14 BY MR. NERCESSIAN: 03:23</p> <p>15 Q. By "consistent," I mean is there anything 03:23</p> <p>16 that looks out of -- strike that. 03:23</p> <p>17 Is there anything apart from those notations 03:23</p> <p>18 on the cover page that cause you to believe this 03:24</p> <p>19 isn't the California Electrical Code? 03:24</p> <p>20 MS. MILLER-ZIEGLER: Objection. She can't 03:24</p> <p>21 possibly look through all thousand pages of this 03:24</p> <p>22 right now. 03:24</p> <p>23 THE WITNESS: I can't verify that. It 03:24</p> <p>24 appears to be an enormous amount of material. 03:24</p> <p>25 BY MR. NERCESSIAN: 03:24</p> <p style="text-align: right;">Page 155</p>	<p>1 other than those notations that makes you doubt that 03:26</p> <p>2 this is the 2016 California Electrical Code. Can you 03:26</p> <p>3 do that? 03:26</p> <p>4 MS. MILLER-ZIEGLER: Objection. You haven't 03:26</p> <p>5 given her a copy of the California Electrical Code. 03:26</p> <p>6 I'm not sure how she's supposed to make that 03:26</p> <p>7 determination right now. 03:26</p> <p>8 THE WITNESS: I don't -- sorry. Repeat the 03:26</p> <p>9 question again. 03:26</p> <p>10 BY MR. NERCESSIAN: 03:26</p> <p>11 Q. Is there anything, one thing other than the 03:26</p> <p>12 notations on the cover page that reads "2016 03:27</p> <p>13 California Electrical Code" that makes you doubt that 03:27</p> <p>14 this is the 2016 California Electrical Code? 03:27</p> <p>15 MS. MILLER-ZIEGLER: Objection. You're 03:27</p> <p>16 asking her to authenticate a document, and you 03:27</p> <p>17 haven't given her an actual copy of that document to 03:27</p> <p>18 do so. 03:27</p> <p>19 THE WITNESS: Yeah. Again, I'm not an 03:27</p> <p>20 expert on the California Electrical Code, so I 03:27</p> <p>21 wouldn't know where to look to authenticate or not 03:27</p> <p>22 authenticate. 03:27</p> <p>23 BY MR. NERCESSIAN: 03:27</p> <p>24 Q. Yeah. And I'm not asking for you to 03:27</p> <p>25 authenticate it. I'm asking whether you see 03:27</p> <p style="text-align: right;">Page 157</p>



<p>1 anything, aside from those notations, that makes you 03:27                  2 doubt its authenticity. 03:27                  3 MS. MILLER-ZIEGLER: I'll renew my 03:28                  4 objection. 03:28                  5 THE WITNESS: Again, I don't know. I'd 03:28                  6 have -- I don't know the whole code. It's similar. 03:28                  7 BY MR. NERCESSIAN: 03:28                  8 Q. So there's nothing that you see aside from 03:28                  9 those two notations on the cover page that makes you 03:28                  10 doubt the authenticity of this document as the 2016 03:28                  11 California Electrical Code? 03:28                  12 MS. MILLER-ZIEGLER: Objection. That 03:28                  13 mischaracterizes what she said. 03:28                  14 THE WITNESS: Yeah. That's not what I said. 03:28                  15 There's nothing I can find either way, so I don't 03:28                  16 have an answer. 03:28                  17 BY MR. NERCESSIAN: 03:28                  18 Q. And do you recognize any part of this 03:28                  19 document as including a portion that you recognize to 03:28                  20 be the California Electrical Code? 03:28                  21 MS. MILLER-ZIEGLER: Objection. 03:28                  22 Authenticity. 03:28                  23 THE WITNESS: There's one section I 03:28                  24 recognize because the Building Standards Commission 03:29                  25 proposed regulations, so I do see one section that is 03:29                  Page 158</p>	<p>1 Q. Are you aware whether any other State 03:31                  2 agencies sell the California Electrical Code? 03:31                  3 A. I don't know that either. 03:31                  4 Q. No further questions. 03:31                  5 A. You're done-done? 03:31                  6 Q. I'm done-done. 03:31                  7 A. Okay. Sorry.                  8 No, I know, I know. I'm not done, he's 03:31                  9 done. 03:31                  10 MR. YEN: You want to go off the record? 03:31                  11 VIDEO OPERATOR: We're off the record. It's 03:31                  12 3:31. 03:31                  13 (Recess) 03:31                  14 VIDEO OPERATOR: Okay. We're back on the 03:35                  15 record. It's 3:35. 03:35                  16 EXAMINATION 03:35                  17 BY MS. MILLER-ZIEGLER: 03:35                  18 Q. Ms. Marvelli, my name is Rachel 03:35                  19 Miller-Ziegler. I represent National Fire Protection 03:35                  20 Association, and we just have few areas that we want 03:35                  21 to follow up on or ask additional questions on. 03:35                  22 So the first question is have the two of us 03:35                  23 ever met before today? 03:35                  24 A. No. 03:35                  25 Q. Have we ever spoken before today? 03:35                  Page 160</p>
<p>1 in the code. 03:29                  2 BY MR. NERCESSIAN: 03:29                  3 Q. And what section is that? 03:29                  4 A. It's Article 625. It's in the second 03:29                  5 volume. It's on page 70-567. It's Article 625, and 03:29                  6 it's Section 625.1.1, and where you see the "BSC-CG" 03:29                  7 banner, the Building Standards Commission proposed 03:29                  8 that amendment with HCD. 03:29                  9 Q. And this provision has, along the side, a 03:29                  10 notation that reads vertically "CACACAC." Is that to 03:30                  11 indicate that this is a California amendment? 03:30                  12 A. Yes. 03:30                  13 Q. Who handles the advertising for the 03:30                  14 California Electrical Code? 03:30                  15 MS. MILLER-ZIEGLER: Objection. Lacks 03:30                  16 foundation. 03:30                  17 THE WITNESS: Not the Building Standards 03:30                  18 Commission. 03:30                  19 BY MR. NERCESSIAN: 03:30                  20 Q. Are you aware what entity does the 03:30                  21 advertising for the California Electrical Code? 03:30                  22 A. I don't want to speculate. I don't know. 03:30                  23 Q. Are you aware of whether any other State 03:30                  24 agencies advertise the California Electrical Code? 03:31                  25 A. I don't know. 03:31                  Page 159</p>	<p>1 A. No. 03:35                  2 Q. Thanks. As we've talked some today about 03:35                  3 the standards that CBSC uses to develop the 03:35                  4 California Building Standards Code, I'd like to talk 03:35                  5 to you a little bit more about those to start. 03:36                  6 Earlier in your testimony, you described 03:36                  7 these standards as very detail-oriented. Do you 03:36                  8 remember saying that? 03:36                  9 A. No. 03:36                  10 MR. NERCESSIAN: Objection. 03:36                  11 Mischaracterizes testimony. 03:36                  12 BY MS. MILLER-ZIEGLER: 03:36                  13 Q. It's at minute 22:15. I think you said 03:36                  14 these are reference stats that are very detail 03:36                  15 oriented. Would you say that the standards that CBSC 03:36                  16 relies on are detailed? 03:36                  17 A. Yes. 03:36                  18 Q. They tend to be rather long documents? 03:36                  19 A. The reference standards in the various codes 03:36                  20 are detailed, yes. 03:36                  21 Q. And are you familiar with the process that 03:36                  22 goes into developing those standards? 03:36                  23 A. Not completely. 03:36                  24 Q. Do you have some vague level of familiarity 03:36                  25 with that? 03:36                  Page 161</p>

<p>1 A. Vague level, yes. 03:36                  2 Q. I want to talk -- wet, let's talk generally. 03:36                  3 Could you tell me what you know about that process? 03:36                  4 MR. NERCESSIAN: Objection. Calls for 03:37                  5 speculation. 03:37                  6 THE WITNESS: All I know is that it's -- the 03:37                  7 amendments, at a national level, to any model code, 03:37                  8 are done through a national vetting. The reference 03:37                  9 standards within those, I'm not familiar with that 03:37                  10 process. 03:37                  11 BY MS. MILLER-ZIEGLER: 03:37                  12 Q. When you say that -- the amendments at a 03:37                  13 national level, are you talking about, for example, 03:37                  14 amendments to the National Electrical Code? 03:37                  15 MR. NERCESSIAN: Objection. 03:37                  16 THE WITNESS: Yes. 03:37                  17 BY MS. MILLER-ZIEGLER: 03:37                  18 Q. Okay. Let's talk a little bit about the 03:37                  19 process to develop something like the electrical 03:37                  20 code. Are you familiar with what that process looks 03:37                  21 like? 03:37                  22 MR. NERCESSIAN: Objection. 03:37                  23 THE WITNESS: Less familiar with the 03:37                  24 electrical code and more familiar with the 03:37                  25 International Code Council's process for the various 03:37</p> <p style="text-align: right;">Page 162</p>	<p>1 allowed to participate in that process? 03:38                  2 A. I don't know. 03:38                  3 Q. Okay. Let's assume for a moment that the 03:38                  4 CBSC couldn't rely on something like the National 03:38                  5 Electrical Code to develop the California Electrical 03:38                  6 Code. How would the Building Standards Commission go 03:39                  7 about developing the CEC if it didn't have the NEC? 03:39                  8 MR. NERCESSIAN: Objection. 03:39                  9 THE WITNESS: I don't know how that would 03:39                  10 happen. 03:39                  11 BY MS. MILLER-ZIEGLER: 03:39                  12 Q. Would it be an incredibly resource-intensive 03:39                  13 process? 03:39                  14 MR. NERCESSIAN: Same objection. 03:39                  15 THE WITNESS: I don't know. I don't want to 03:39                  16 speculate. 03:39                  17 BY MS. MILLER-ZIEGLER: 03:39                  18 Q. Would you agree that it would be more 03:39                  19 difficult for the CBSC to make the California 03:39                  20 Electrical Code if it couldn't incorporate elements 03:39                  21 of the National Electrical Code? 03:39                  22 MR. NERCESSIAN: Same objection. 03:39                  23 THE WITNESS: I would agree that it would be 03:39                  24 more difficult, yes. 03:39                  25 BY MS. MILLER-ZIEGLER: 03:39</p> <p style="text-align: right;">Page 164</p>
<p>1 codes that they develop. 03:37                  2 BY MS. MILLER-ZIEGLER: 03:37                  3 Q. Could you tell me what your understanding of 03:37                  4 that process is? 03:37                  5 MR. NERCESSIAN: Objection. Vague, calls 03:37                  6 for speculation. 03:38                  7 THE WITNESS: The process for the 03:38                  8 International Building Code, for example, is there 03:38                  9 are entities out there that propose code changes, and 03:38                  10 they go through a code development process, they're 03:38                  11 voted on at a national level, and then they're 03:38                  12 correlated and published into the next edition of 03:38                  13 the -- for example, the International Building Code. 03:38                  14 BY MS. MILLER-ZIEGLER: 03:38                  15 Q. Is it your understanding that there's 03:38                  16 technical experts involved in that process? 03:38                  17 A. Yes. 03:38                  18 MR. NERCESSIAN: Objection. 03:38                  19 BY MS. MILLER-ZIEGLER: 03:38                  20 Q. Is it your understanding that there is some 03:38                  21 industry participation in that process? 03:38                  22 A. Yes. 03:38                  23 MR. NERCESSIAN: Objection. 03:38                  24 BY MS. MILLER-ZIEGLER: 03:38                  25 Q. Is it your understanding that the public is 03:38</p> <p style="text-align: right;">Page 163</p>	<p>1 Q. You said, I think, earlier that your office 03:39                  2 has 14 staff; is that correct? 03:39                  3 A. Yes. 03:39                  4 Q. Do you think it would be possible for that 03:39                  5 14 staff office to write the California Electrical 03:39                  6 Code from scratch? 03:40                  7 MR. NERCESSIAN: Objection. 03:40                  8 THE WITNESS: No, would not be possible. 03:40                  9 BY MS. MILLER-ZIEGLER: 03:40                  10 Q. Do you think it would be possible for your 03:40                  11 office and the commissioners to write the code from 03:40                  12 scratch? 03:40                  13 MR. NERCESSIAN: Same objection. 03:40                  14 THE WITNESS: No. 03:40                  15 BY MS. MILLER-ZIEGLER: 03:40                  16 Q. Would it be fair to say that the California 03:40                  17 Building Codes Commission relies a great deal on the 03:40                  18 National Electrical Code? 03:40                  19 MR. NERCESSIAN: Objection. 03:40                  20 THE WITNESS: We're required by law to adopt 03:40                  21 the National Electrical Code, so that's where we rely 03:40                  22 on, yeah. 03:40                  23 BY MS. MILLER-ZIEGLER: 03:40                  24 Q. Does your office view the codes that you -- 03:40                  25 excuse me -- the standards that you adopt as 03:40</p> <p style="text-align: right;">Page 165</p>

<p>1 high-quality standards? 03:41                  2 MR. NERCESSIAN: Objection. 03:41                  3 THE WITNESS: Well, they're the minimum 03:41                  4 building standards for the State of California to 03:41                  5 use. 03:41                  6 BY MS. MILLER-ZIEGLER: 03:41                  7 Q. I think earlier you talked about these 03:41                  8 standards, or at least some of these standards are 03:41                  9 important for health and safety in the State; is that 03:41                  10 correct? 03:41                  11 A. That is correct. 03:41                  12 Q. Would CBSC rely on codes that -- would CBSC 03:41                  13 rely on inferior or poor-quality codes to regulate 03:41                  14 health and safety in the State? 03:41                  15 A. I'm not sure ow to answer. I don't have an 03:41                  16 answer for that question. Sorry. It's vague. 03:41                  17 Q. Sure. Earlier, I think you said that one of 03:41                  18 the nine-point criteria is that California codes are 03:41                  19 supposed to protect public health and safety; is that 03:42                  20 right? 03:42                  21 A. Yes. 03:42                  22 Q. So something like the CEC, that incorporates 03:42                  23 parts of the NEC. In doing so, do you think that 03:42                  24 reflects a judgment that the NEC adequately protects 03:42                  25 health and safety? 03:42</p> <p style="text-align: right;">Page 166</p>	<p>1 final sentence, it reads "The National Fire 03:43                  2 Protection Association, Inc. (NFPA) owns a copyright 03:43                  3 to the National Electrical Code and the acronym 03:43                  4 (NEC)." Is that what it says? 03:43                  5 A. Yes. 03:43                  6 Q. And then if I could have you look at just a 03:43                  7 little farther down, section one, paragraph A. So 03:43                  8 that says "NFPA is the sole owner of the copyright to 03:44                  9 the NFPA 70 National Electrical Code 2014 Edition." 03:44                  10 Is that what that says? 03:44                  11 A. Yes. 03:44                  12 Q. So earlier today, you got asked some 03:44                  13 questions about whether publishers of the code 03:44                  14 claimed copyright in the California Electrical Code, 03:44                  15 and I just want to clarify for the record that based 03:44                  16 on these paragraphs, what NFPA is claiming copyright 03:44                  17 in is the National Electrical Code, not the 03:44                  18 California Electrical Code; is that right? 03:44                  19 MR. NERCESSIAN: Objection. 03:44                  20 THE WITNESS: That's what this contract 03:44                  21 says, yes. 03:44                  22 BY MS. MILLER-ZIEGLER: 03:44                  23 Q. Do you see any -- did anything I just read 03:44                  24 say anything about NFPA claiming copyright in the 03:44                  25 California Electrical Code? 03:44</p> <p style="text-align: right;">Page 168</p>
<p>1 MR. NERCESSIAN: Objection. 03:42                  2 THE WITNESS: That the nine-point criteria 03:42                  3 is met, then yes. 03:42                  4 BY MS. MILLER-ZIEGLER: 03:42                  5 Q. So in relying on the NEC as part of the CEC, 03:42                  6 the commissioners are making a judgment that those 03:42                  7 parts of the NEC that they incorporate are methods of 03:42                  8 protecting public health and safety in the State; is 03:42                  9 that right? 03:42                  10 MR. NERCESSIAN: Objection. 03:42                  11 THE WITNESS: That's the determination that 03:42                  12 the commissions have made if they so choose to adopt 03:42                  13 those codes. 03:42                  14 BY MS. MILLER-ZIEGLER: 03:42                  15 Q. I want to talk to you some about your 03:42                  16 agreements with NFPA in particular. If you could 03:43                  17 turn to Exhibit 7 in the stack. 03:43                  18 A. Uh-huh. Okay. 03:43                  19 Q. Do you remember talking about this earlier? 03:43                  20 A. Yes. 03:43                  21 Q. And this was the 2016 agreement for the 2016 03:43                  22 CEC; is that right? 03:43                  23 A. Yes. 03:43                  24 Q. If I could have you turn to the second 03:43                  25 page of the exhibit. So in that first paragraph, the 03:43</p> <p style="text-align: right;">Page 167</p>	<p>1 A. Not in these, no. 03:44                  2 Q. Did anything in what I just read say 03:44                  3 anything about the NFPA claiming copyright in the 03:44                  4 California amendments? 03:44                  5 A. No. 03:44                  6 Q. You also spoke some today about the process 03:44                  7 that goes into developing the California Electrical 03:45                  8 Code. I won't try to summarize the entire thing, but 03:45                  9 is it fair to say that at a high level, various State 03:45                  10 agencies and the commissioners, among others, are 03:45                  11 involved in developing the California Electrical 03:45                  12 Code? 03:45                  13 A. Yes. 03:45                  14 MR. NERCESSIAN: Objection. 03:45                  15 BY MS. MILLER-ZIEGLER: 03:45                  16 Q. State agencies sometimes draft amendments 03:45                  17 for the California Electrical Code; is that right? 03:45                  18 A. Yes. 03:45                  19 Q. And the commission is the one that's 03:45                  20 ultimately responsible for taking one of those four 03:45                  21 actions that you spoke about earlier with respect to 03:45                  22 the code; is that right? 03:45                  23 A. Yes. 03:45                  24 Q. If I could have you look back at Exhibit 7. 03:45                  25 Let's see. It looks like the fourth page of 03:45</p> <p style="text-align: right;">Page 169</p>

1 Exhibit A. It begins, paragraph six, "Work Details." 03:45  
 2 So if you look in the first few lines of paragraph A, 03:45  
 3 it says "NFPA shall, in accordance with the specific 03:46  
 4 formatting requirements and editorial and education 03:46  
 5 timetable set forth herein, print, publish and make 03:46  
 6 available for sale to the State of California, local 03:46  
 7 government agencies and to the general public, on or 03:46  
 8 before July 1st, 2016, or at a later date as set by 03:46  
 9 CBSC, copies of the 2016 CEC"; is that right? 03:46  
 10 A. Yes. 03:46  
 11 Q. So would it be correct to say that what I 03:46  
 12 just read indicates that NFPA is responsible for 03:46  
 13 printing and publishing the 2016 CEC? 03:46  
 14 MR. NERCESSIAN: Objection. 03:46  
 15 THE WITNESS: Yes, that's accurate. 03:46  
 16 BY MS. MILLER-ZIEGLER: 03:46  
 17 Q. Does the portion of the sentence I read say 03:46  
 18 anything about NFPA being responsible for determining 03:46  
 19 the content of the 2016 CEC? 03:46  
 20 A. No, not here, no, not what you just read. 03:46  
 21 Q. Did what I just read say anything about NFPA 03:46  
 22 drafting California amendment for the CEC? 03:46  
 23 A. No. 03:47  
 24 Q. Did what I just read say anything about NFPA 03:47  
 25 approving or taking any of those four actions that 03:47  
 Page 170

1 the commission takes with respect to the California 03:47  
 2 Electrical Code? 03:47  
 3 A. No. 03:47  
 4 Q. Are you aware of any way in which NFPA is 03:47  
 5 involved in dictating the content of the California 03:47  
 6 Electrical Code? 03:47  
 7 MR. NERCESSIAN: Objection. 03:47  
 8 THE WITNESS: I don't know what you mean by 03:47  
 9 "dictating the content." 03:47  
 10 BY MS. MILLER-ZIEGLER: 03:47  
 11 Q. Sure. So are you aware of any way in which 03:47  
 12 NFPA drafts amendments -- excuse me -- drafts 03:47  
 13 California amendments for the California Electrical 03:47  
 14 Code? 03:47  
 15 A. Not California amendments, no. 03:47  
 16 Q. Are you aware of any way in which NFPA 03:47  
 17 approves the California Electrical Code? 03:47  
 18 A. No. 03:47  
 19 MR. NERCESSIAN: Objection. 03:47  
 20 BY MS. MILLER-ZIEGLER: 03:47  
 21 Q. I want to talk to you about the other side 03:47  
 22 of things, California's role in determining the 03:47  
 23 content of the National Electrical Code. If you keep 03:47  
 24 looking at this 2016 agreement as an example, if you 03:47  
 25 could flip back to the first page. When was this 03:47  
 Page 171

1 agreement signed? When was your signature on this 03:47  
 2 agreement? 03:48  
 3 A. May 16th, 2016. 03:48  
 4 Q. And if you look at the second page, that top 03:48  
 5 paragraph under "Scope of Work," what version of the 03:48  
 6 NEC does the 2016 CEC incorporate? 03:48  
 7 A. The 2014 National Electrical Code. 03:48  
 8 Q. Is it your understanding that the 2014 NEC 03:48  
 9 was already completed in 2016? 03:48  
 10 A. Yes. 03:48  
 11 Q. In fact, wasn't the 2014 NEC already 03:48  
 12 copyrighted in 2016? 03:48  
 13 MR. NERCESSIAN: Objection. 03:48  
 14 THE WITNESS: Yeah. I don't know the answer 03:48  
 15 to that. 03:48  
 16 BY MS. MILLER-ZIEGLER: 03:48  
 17 Q. Sure. So if you look at that top 03:48  
 18 paragraph -- sorry. Actually, if you look at 03:48  
 19 paragraph 1-A where it says "NFPA is the sole owner 03:48  
 20 of the copyright to the NFPA 70 National Electrical 03:48  
 21 Code 2014 Edition," that sentence would seem to 03:48  
 22 suggest that at the time this agreement was signed, 03:49  
 23 the NFPA held copyright in the 2014 Edition of the 03:49  
 24 NEC. Does that sound right? 03:49  
 25 MR. NERCESSIAN: Objection. 03:49  
 Page 172

1 THE WITNESS: That's what this reads, yes. 03:49  
 2 BY MS. MILLER-ZIEGLER: 03:49  
 3 Q. So if the 2014 NEC was already completely 03:49  
 4 drafted at the time that you signed this agreement, 03:49  
 5 could this agreement have dictated the content of the 03:49  
 6 2014 NEC? 03:49  
 7 MR. NERCESSIAN: Objection. 03:49  
 8 THE WITNESS: I don't believe so. 03:49  
 9 BY MS. MILLER-ZIEGLER: 03:49  
 10 Q. I want to move to talking a little bit about 03:49  
 11 how people get access to the CEC. Are there ways 03:49  
 12 that somebody could view the CEC for free? 03:49  
 13 A. Yes. 03:49  
 14 Q. Could you tell me what those ways include? 03:49  
 15 A. Through our website, there's a link to the 03:49  
 16 publisher, and they could view the code, the CEC for 03:49  
 17 free there. 03:50  
 18 Q. So it doesn't cost any money to view the CEC 03:50  
 19 online in that method? 03:50  
 20 A. In that method, correct. 03:50  
 21 MR. NERCESSIAN: Objection. 03:50  
 22 BY MR. NERCESSIAN: 03:50  
 23 Q. Do you know if the NEC is available online? 03:50  
 24 A. I don't know. 03:50  
 25 Q. You got asked some questions today about 03:50  
 Page 173

<p>1 whether you had ever viewed the CEC online. Do you 03:50                  2 remember that? 03:50                  3 A. Yes. 03:50                  4 Q. You were asked whether you had tried to 03:50                  5 print or extract text from the CEC? 03:50                  6 A. Yes. 03:50                  7 Q. And you said you hadn't attempted to do 03:50                  8 that; right? 03:50                  9 A. Correct. 03:50                  10 Q. You were, however, able to view the CEC 03:50                  11 online; correct? 03:50                  12 A. Yes. 03:50                  13 MR. NERCESSIAN: Objection. 03:50                  14 BY MS. MILLER-ZIEGLER: 03:50                  15 Q. You were able to read the code online 03:50                  16 through free access; is that right? 03:50                  17 A. Yes. 03:50                  18 MR. NERCESSIAN: Objection. 03:50                  19 BY MS. MILLER-ZIEGLER: 03:50                  20 Q. So is there another way that somebody could 03:50                  21 read the CEC for free? Are there print copies 03:50                  22 available for free anywhere? 03:50                  23 A. Yes. 03:50                  24 Q. Where are those print copies available? 03:50                  25 A. I spoke earlier about local -- 03:50</p> <p style="text-align: right;">Page 174</p>	<p>1 to the deposit libraries in Attachment A, selected 03:52                  2 deposit libraries in Attachment B, and copies to 03:52                  3 State agencies? 03:52                  4 A. Yes. 03:52                  5 Q. Okay. If I could have you take a look at 03:52                  6 Attachment A. It's numbered 263332 in the bottom if 03:52                  7 that helps. 03:52                  8 A. I'm sorry. Which one? 03:52                  9 Q. Exhibit A, Attachment A. 03:52                  10 A. Attachment -- Exhibit A, Attachment A. 03:52                  11 Okay. Hold on here. Okay. Ending in 32? 03:53                  12 Q. Yes. Exactly. 03:53                  13 A. Okay. 03:53                  14 Q. So could you tell me what's listed on this 03:53                  15 page? 03:53                  16 A. It appears it's a complete depository 03:53                  17 library list that we provided NFPA. 03:53                  18 Q. So under the agreement with NFPA, NFPA is 03:53                  19 required to deliver copies of the CEC to each of 03:53                  20 these; is that right? 03:53                  21 A. That's requirement, yes. 03:53                  22 Q. And if you could flip two pages forward to 03:53                  23 Exhibit A, Attachment B. 03:53                  24 A. Yes. 03:53                  25 Q. Could you tell me what's on this page? 03:53</p> <p style="text-align: right;">Page 176</p>
<p>1 MR. NERCESSIAN: Objection. 03:50                  2 BY MS. MILLER-ZIEGLER: 03:51                  3 Q. Go ahead. 03:51                  4 A. Okay. I spoke earlier about local 03:51                  5 jurisdictions make available the code and also the 03:51                  6 repository libraries and law libraries that were in 03:51                  7 the back of the exhibit. They're made available 03:51                  8 there. 03:51                  9 Q. Great. And so if we could look at -- let's 03:51                  10 see. If you could look at the very last page of 03:51                  11 Exhibit 7. So on that top paragraph, the first full 03:51                  12 sentence, it reads "During the term of this 03:51                  13 agreement, NFPA shall deliver complimentary copies of 03:51                  14 the 2016 CEC and automatically any 2016 CEC 03:51                  15 supplements, supplements to the 2016 CEC in response 03:51                  16 to emergency regulations, and all related errata 03:51                  17 sheets, directly to the deposit libraries listed in 03:52                  18 Attachment A hereto in the quantities set forth 03:52                  19 therein, and one copy each to the Selective 03:52                  20 Depository Libraries listed in Attachment B hereto,                  21 and copies to the State agencies as directed by 03:52                  22 CBSC." Do you see that on that page? 03:52                  23 A. Yes. 03:52                  24 Q. So am I correct in saying that based on this 03:52                  25 sentence I read, NFPA is required to deliver copies 03:52</p> <p style="text-align: right;">Page 175</p>	<p>1 A. Selective Depository Libraries, a list. 03:53                  2 Q. And under the agreement with CBSC, NEC would 03:53                  3 be required to deliver copies to each of these 03:53                  4 libraries; is that right? 03:54                  5 A. Yes. 03:54                  6 Q. Not going to make you count all the 03:54                  7 libraries on this page or in this attachment, but 03:54                  8 could you just tell me how many pages the attachment 03:54                  9 is? 03:54                  10 A. Are you referring to Attachment B? 03:54                  11 Q. Yes. Exhibit A, Attachment B. 03:54                  12 A. Four pages. 03:54                  13 Q. Can you flip back to Exhibit A, 03:54                  14 Attachment A? 03:54                  15 A. Okay. 03:54                  16 Q. So you were asked earlier today whether you 03:54                  17 knew where the closest law library was that you could 03:54                  18 view a copy of the California Electrical Code. Do 03:54                  19 you remember that? 03:54                  20 A. Yes. 03:54                  21 Q. So if you can look at the complete 03:54                  22 depository list. What city is the first item in the 03:54                  23 list? 03:54                  24 A. Sacramento. 03:54                  25 Q. And what city is the second item in the 03:54</p> <p style="text-align: right;">Page 177</p>



1 list? 03:54	1 available to print disabled individuals? 03:56
2 A. Sacramento. 03:54	2 MR. NERCESSIAN: Objection. 03:56
3 Q. If I can have you turn to Exhibit A, 03:54	3 THE WITNESS: Not for the electrical code, 03:56
4 Attachment B, the first page. If you look at that 03:54	4 I'm not aware of any questions. 03:56
5 list, third from the bottom, what city is that 03:55	5 BY MS. MILLER-ZIEGLER: 03:56
6 library? 03:55	6 Q. Are you aware of any requests that CBSC has 03:56
7 A. Sacramento. 03:55	7 received about making the California Electrical Code 03:57
8 Q. If I can have you turn to the next page. 03:55	8 available to mobility impaired individuals? 03:57
9 Second library down, what city is that? 03:55	9 A. No. 03:57
10 A. Sacramento. 03:55	10 Q. Are you aware of any requests CBSC has 03:57
11 Q. If you look near the bottom, the McGeorge 03:55	11 received about making the California Electrical Code 03:57
12 School of Law, what city is that library? 03:55	12 available to those who lack sight? 03:57
13 A. Sacramento. 03:55	13 A. No. 03:57
14 Q. If I can have you flip to the next page. 03:55	14 Q. Are you aware of any requests CBSC has 03:57
15 Looks like sixth one down. Sixth one down, what city 03:55	15 received about making California Electrical Code 03:57
16 is that library? 03:55	16 available to those with accessibility issues? 03:57
17 A. Sacramento. 03:55	17 A. No. 03:57
18 Q. And the one underneath that, what city is 03:55	18 Q. If I could have you take a look at 03:57
19 that library there? 03:55	19 Exhibit 6. We talked some earlier today -- you 03:57
20 A. Sacramento. 03:55	20 talked some earlier today about this first email in 03:57
21 Q. So there would be at least seven different 03:55	21 this stack. 03:57
22 places within the Sacramento area that you could view 03:55	22 A. Uh-huh. 03:57
23 a copy of the California Electrical Code for free; is 03:55	23 Q. So I'll read that first sentence. "Just 03:57
24 that right? 03:55	24 received a phone call from Suren at (818) 506-6671, 03:57
25 MR. NERCESSIAN: Objection. 03:55	25 and he tried to review the code, Part 2.5, on the BSC 03:57
Page 178	Page 180
1 THE WITNESS: That's what this document 03:55	1 website, and it came up with screen print below the 03:58
2 states, yes. 03:55	2 ICC page and wanting him to pay for the premium 03:58
3 BY MS. MILLER-ZIEGLER: 03:55	3 access in order to view the code." Do you see that 03:58
4 Q. Would it be fair to say that there's a 03:55	4 written there? 03:58
5 number of places that somebody in this area could 03:56	5 A. I see that written there. 03:58
6 view the CEC for free then? 03:56	6 Q. So that refers to Part 2.5 of the code; is 03:58
7 A. Yes. 03:56	7 that right? 03:58
8 MR. NERCESSIAN: Objection. 03:56	8 A. Yes. 03:58
9 BY MS. MILLER-ZIEGLER: 03:56	9 Q. So that's not the California Electrical 03:58
10 Q. Are you aware of anyone who wanted to access 03:56	10 Code; right? 03:58
11 the California Electrical Code who was unable to do 03:56	11 A. That's correct. 03:58
12 so? 03:56	12 Q. And it refers to the ICC; is that right? 03:58
13 MR. NERCESSIAN: Objection. 03:56	13 A. That's correct. 03:58
14 THE WITNESS: I'm not aware of that. 03:56	14 Q. It's not the NFPA; is that correct? 03:58
15 BY MS. MILLER-ZIEGLER: 03:56	15 A. Correct. 03:58
16 Q. You said earlier that sometimes CBSC would 03:56	16 Q. So this email is not about any issues with 03:58
17 get calls about broken links. Do you recall if any 03:56	17 the California Electrical Code; is that correct? 03:58
18 of those calls were about the California Electrical 03:56	18 A. That is correct. 03:58
19 Code specifically? 03:56	19 Q. Sorry to make you go through all these 03:58
20 A. Yes. 03:56	20 exhibits, but if you can turn to Exhibit 3. So if 03:58
21 Q. And you got asked some questions about 03:56	21 you could turn to page three of this exhibit. This 03:58
22 whether CBSC has taken efforts to make the California 03:56	22 has some language from the CBSC website; is that 03:59
23 Electrical Code available to certain populations 03:56	23 right? 03:59
24 including the print disabled. Are you aware of any 03:56	24 A. Yes. 03:59
25 requests CBSC has received about making its codes 03:56	25 Q. You talked some about that final paragraph 03:59
Page 179	Page 181

1 on page three that begins "All occupancies." Do you 03:59  
 2 remember talking about that? 03:59  
 3 A. Yes. 03:59  
 4 Q. The first part of that sentence reads "All 03:59  
 5 occupancies in California are subject to national 03:59  
 6 model codes adopted into Title 24." Do you see that? 03:59  
 7 A. Yes. 03:59  
 8 Q. And you were asked whether this meant that 03:59  
 9 this applied to all office buildings and schools and 03:59  
 10 hospitals. Do you remember being asked those 03:59  
 11 questions? 03:59  
 12 A. Yes. 03:59  
 13 Q. So you weren't asked about the second part 03:59  
 14 of that sentence, though, which I'll read now: Says 03:59  
 15 "and occupancies are further subject to amendments 03:59  
 16 adopted by State agencies and ordinances implemented 03:59  
 17 by local jurisdictions' governing bodies." Do you 03:59  
 18 see that on the page? 03:59  
 19 A. Yes. 03:59  
 20 Q. So this means that something like a hospital 03:59  
 21 in California would be subject to whatever local 03:59  
 22 amendments State agencies or other local 04:00  
 23 jurisdictions made; is that right? 04:00  
 24 MR. NERCESSIAN: Objection. 04:00  
 25 THE WITNESS: I'm sorry. Could you repeat 04:00  
 Page 182

1 the question? Sorry. 04:00  
 2 BY MS. MILLER-ZIEGLER: 04:00  
 3 Q. Sure. So the second part of the sentence 04:00  
 4 indicates that, for example, a hospital in the State 04:00  
 5 would be subject to -- could be subject to amendments 04:00  
 6 adopted by State agencies and ordinances implemented 04:00  
 7 by local jurisdictions; is that right? 04:00  
 8 A. Hospitals. 04:00  
 9 MR. NERCESSIAN: Objection. 04:00  
 10 THE WITNESS: Hospitals would be subject to 04:00  
 11 State agency amendments. I can't speak to whether 04:00  
 12 they would be subject to local jurisdiction governing 04:00  
 13 bodies because OSHPD determines the building 04:00  
 14 standards for hospitals. 04:00  
 15 BY MS. MILLER-ZIEGLER:  
 16 Q. Okay. And so those State agencies that 04:00  
 17 might make amendments, they could make an amendment 04:00  
 18 that added language, added a requirement; is that 04:00  
 19 correct? 04:00  
 20 MR. NERCESSIAN: Objection. 04:01  
 21 THE WITNESS: They can make amendments to 04:01  
 22 the model codes that add a requirement or take away a 04:01  
 23 requirement from the model code, yes. 04:01  
 24 BY MS. MILLER-ZIEGLER: 04:01  
 25 Q. So when -- if I -- so a hospital in the 04:01  
 Page 183

1 State, it wouldn't be fully accurate to say that it's 04:01  
 2 just governed by the national model codes; is that 04:01  
 3 right? 04:01  
 4 A. That's correct. 04:01  
 5 MR. NERCESSIAN: Objection. 04:01  
 6 THE WITNESS: It's the California Electrical 04:01  
 7 Code. 04:01  
 8 BY MS. MILLER-ZIEGLER: 04:01  
 9 Q. The California Electrical Code and any other 04:01  
 10 local jurisdiction's amendments; right? 04:01  
 11 A. Well, if we're speaking specifically about 04:01  
 12 hospitals, I'm not the expert on that, so that would 04:01  
 13 be OSHPD. 04:01  
 14 Q. Let's say buildings generally within the 04:01  
 15 State might be regulated by local jurisdiction's 04:01  
 16 amendments that they would make? 04:01  
 17 A. Local jurisdictions can amend the code on 04:01  
 18 top of what California publishes as well. 04:01  
 19 Q. And that would really determine what rules a 04:01  
 20 building in California would have to follow; does 04:02  
 21 that sound right? 04:02  
 22 MR. NERCESSIAN: Objection. 04:02  
 23 THE WITNESS: That's a little vague. Sorry. 04:02  
 24 BY MS. MILLER-ZIEGLER: 04:02  
 25 Q. No problem. That set of 04:02  
 Page 184

1 jurisdiction-specific rules would determine what 04:02  
 2 governed a building in California; is that correct? 04:02  
 3 A. Not -- no. 04:02  
 4 Q. So let's -- any given building within the 04:02  
 5 State, what would it have to look to to determine how 04:02  
 6 to comply with governing regulations? 04:02  
 7 MR. NERCESSIAN: Objection. 04:02  
 8 THE WITNESS: That's kind of a broad 04:02  
 9 question. 04:02  
 10 BY MS. MILLER-ZIEGLER: 04:02  
 11 Q. Sure. I'll rephrase. 04:02  
 12 A. Okay. 04:02  
 13 Q. A building in the State would have to look 04:02  
 14 to both the California Electrical Code and any local 04:02  
 15 jurisdiction's rules to determine whether it was 04:02  
 16 complying with the law; is that right? 04:03  
 17 A. Potentially. 04:03  
 18 MR. NERCESSIAN: Same objection. 04:03  
 19 THE WITNESS: Potentially, yes. 04:03  
 20 BY MS. MILLER-ZIEGLER: 04:03  
 21 Q. No further questions from us. 04:03  
 22 MR. FEE: I don't have any questions. 04:03  
 23 MR. NERCESSIAN: I have a few. 04:03  
 24 MR. YEN: Do we want to go off the record 04:03  
 25 or -- 04:03  
 Page 185

<p>1 MR. NERCESSIAN: Yeah, we should go off the 04:03                  2 record while we're switching. 04:03                  3 VIDEO OPERATOR: Okay. We're off the record 04:03                  4 at 4:03. 04:03                  5 (Recess) 04:03                  6 VIDEO OPERATOR: Okay. We're back on the 04:04                  7 record. It's 4:05. 04:05                  8 EXAMINATION 04:05                  9 BY MR. NERCESSIAN: 04:05                  10 Q. All right. I have just a few more questions 04:05                  11 regarding this contract, so that's Exhibit 7, and if 04:05                  12 you could flip to the last page of that exhibit. 04:05                  13 During the past round of examination, you looked at 04:05                  14 language that said that the NFPA shall deliver copies 04:05                  15 to the State agencies as directed by CBSC. Do you 04:05                  16 see that language? 04:05                  17 A. Is that item one or item two or in the first 04:06                  18 paragraph? 04:06                  19 Q. It's in the first paragraph. 04:06                  20 A. Okay. 04:06                  21 Q. It lists that there's the deposit libraries 04:06                  22 in Attachment A -- 04:06                  23 A. Sorry. 04:06                  24 Q. -- and Attachment B and copies to the State 04:06                  25 agencies as directed by CBSC. Do you see that 04:06</p> <p style="text-align: right;">Page 186</p>	<p>1 A. I don't recall how many State agencies, no. 04:07                  2 Q. Was it more than one? 04:07                  3 A. Yes, it was more than one. 04:08                  4 Q. More than three? 04:08                  5 A. Yes. 04:08                  6 Q. More than six? 04:08                  7 A. Yes. 04:08                  8 Q. More than ten? 04:08                  9 A. I would say less than twenty, more than one. 04:08                  10 Q. On the last round of examination, you 04:08                  11 referred to -- again to local jurisdictions that make 04:08                  12 available copies of the California Electrical Code 04:08                  13 for free. To be clear, are you aware of any local 04:08                  14 jurisdictions that do so? 04:08                  15 A. I've not utilized that service, so I 04:08                  16 couldn't tell you which jurisdictions make it 04:08                  17 available. 04:08                  18 Q. So that's a no, you're not aware of any 04:08                  19 local jurisdictions that furnish freely available 04:08                  20 copies of the California Electrical Code? 04:09                  21 MS. MILLER-ZIEGLER: Objection. 04:09                  22 Mischaracterizes her testimony. 04:09                  23 THE WITNESS: I don't know of a 04:09                  24 jurisdiction. 04:09                  25 BY MR. NERCESSIAN: 04:09</p> <p style="text-align: right;">Page 188</p>
<p>1 language? 04:06                  2 A. Copies to the State agencies. I know it's 04:06                  3 here, but I'm looking. During the term of the 04:06                  4 agreement, deliver complimentary copies of the 2016 04:06                  5 and -- what line is it in the first paragraph? I'm 04:06                  6 sorry. 04:06                  7 Q. It is -- starts six lines down. 04:06                  8 A. One, two, three, four, five, six. "Selected 04:06                  9 depositories and copies to the State agencies as 04:06                  10 directed." Yes, I see that. I'm sorry. 04:06                  11 Q. No. No worries. Are you aware of any State 04:06                  12 agencies that CBSC has directed NFPA to deliver 04:06                  13 complimentary copies of the 2016 California 04:07                  14 Electrical Code to? 04:07                  15 A. I don't recall which State agencies. 04:07                  16 Q. Do you recall whether there were any State 04:07                  17 agencies that CBSC directed NFPA to deliver 04:07                  18 complimentary copies of the 2016 California 04:07                  19 Electrical Code to? 04:07                  20 A. Yes. Yes. And I would have thought that 04:07                  21 would have been one of the attachments in here that 04:07                  22 listed the State agencies, but maybe that comes 04:07                  23 later. 04:07                  24 Q. Do you recall how many State agencies CBSC 04:07                  25 directed NFPA to deliver complimentary copies to? 04:07</p> <p style="text-align: right;">Page 187</p>	<p>1 Q. Do you have any understanding whether a 04:09                  2 California citizen is free to make a copy of the 04:09                  3 California Electrical Code without seeking permission 04:09                  4 from the NFPA or paying a fee? 04:09                  5 MR. FEE: Objection. 04:09                  6 MS. MILLER-ZIEGLER: Objection. Calls for a 04:09                  7 legal conclusion. 04:09                  8 THE WITNESS: I don't know that. I don't 04:09                  9 have an answer for you. 04:09                  10 BY MR. NERCESSIAN: 04:09                  11 Q. Do you have any understanding? 04:09                  12 MS. MILLER-ZIEGLER: Objection. 04:09                  13 MR. FEE: Objection. 04:09                  14 MS. MILLER-ZIEGLER: Calls for a legal 04:09                  15 conclusion. 04:09                  16 THE WITNESS: No. 04:09                  17 BY MR. NERCESSIAN: 04:09                  18 Q. Are you aware of any request made to the 04:09                  19 CBSC to make another part of the California Building 04:09                  20 Standards Code, not the California Electrical Code, 04:10                  21 available to the print disabled? 04:10                  22 A. I know of one other occurrence. 04:10                  23 Q. What happened there? 04:10                  24 A. We referred that person to the model code 04:10                  25 developer, and they helped the person requesting. 04:10</p> <p style="text-align: right;">Page 189</p>

1 Q. And who was the model code developer in that 04:10  
 2 instance? 04:10  
 3 A. The International Code Council. 04:10  
 4 Q. And how did they help the person requesting 04:10  
 5 access? 04:10  
 6 A. I don't know. 04:10  
 7 Q. Do you know whether the International Code 04:10  
 8 Council required payment from the person requesting 04:10  
 9 print disabled access? 04:10  
 10 A. I do not know that. 04:10  
 11 Q. Are you aware of any request made to the 04:10  
 12 CBSC to make another part of the California Building 04:10  
 13 Standards Code, again, not the California Electrical 04:10  
 14 Code, available to the mobility impaired? 04:10  
 15 A. I'm not aware of that, no. 04:11  
 16 Q. Are you aware of a request -- strike that. 04:11  
 17 Are you aware of a similar request made to 04:11  
 18 the CBSC by any person requesting access who lacked 04:11  
 19 sight? 04:11  
 20 A. No, I'm not aware of that. 04:11  
 21 Q. Are you aware of a similar request made to 04:11  
 22 the CBSC by any person requesting access for any 04:11  
 23 other accessibility related issue? 04:11  
 24 A. No, I'm not aware of that. 04:11  
 25 Q. During the last round of examination, do you 04:11  
 Page 190

1 recall the distinctions raised between the National 04:11  
 2 Electrical Code and the California Electrical Code? 04:12  
 3 A. Yes, I remember the conversation, yes. 04:12  
 4 Q. The NFPA, however, publishes the California 04:12  
 5 Electrical Code only in an edition that contains the 04:12  
 6 National Electrical Code with additions and 04:12  
 7 strikeouts showing the California amendments; is that 04:12  
 8 correct? 04:12  
 9 MS. MILLER-ZIEGLER: Objection to form. 04:12  
 10 THE WITNESS: That's not entirely a correct 04:12  
 11 statement. 04:12  
 12 BY MR. NERCESSIAN: 04:12  
 13 Q. To what extent is it correct? 04:12  
 14 MS. MILLER-ZIEGLER: Objection. 04:12  
 15 THE WITNESS: The publisher publishes the 04:12  
 16 California Electrical Code with -- you stated that 04:12  
 17 with California amendments and knockout, and that's 04:12  
 18 not accurate. 04:12  
 19 BY MR. NERCESSIAN: 04:12  
 20 Q. Not "in knockout." "And strikeouts." 04:12  
 21 A. And knockout, yes. 04:12  
 22 Q. So I can rephrase. 04:12  
 23 A. Okay. 04:12  
 24 Q. I can restate the question. 04:12  
 25 A. Okay. 04:13  
 Page 191

1 Q. So the NFPA publishes the California 04:13  
 2 Electrical Code only in an edition that contains the 04:13  
 3 National Electrical Code with additions and 04:13  
 4 strikeouts showing the California amendments; is that 04:13  
 5 correct? 04:13  
 6 MS. MILLER-ZIEGLER: Objection. Calls for 04:13  
 7 speculation. 04:13  
 8 THE WITNESS: That's all I'm aware of. 04:13  
 9 BY MR. NERCESSIAN: 04:13  
 10 Q. The NFPA does not publish the text that 04:13  
 11 consists purely of the California Electrical Code; is 04:13  
 12 that right? 04:13  
 13 MS. MILLER-ZIEGLER: Objection. Form. 04:13  
 14 THE WITNESS: I don't know whether they do 04:13  
 15 or they don't. 04:13  
 16 BY MR. NERCESSIAN: 04:13  
 17 Q. Would you know if they did publish the 04:13  
 18 California supplement as a standalone? 04:13  
 19 MR. FEE: Objection. Calls for speculation. 04:13  
 20 THE WITNESS: I don't know that. I would 04:13  
 21 not know that. 04:13  
 22 BY MR. NERCESSIAN: 04:13  
 23 Q. Are you aware of any way someone can read 04:13  
 24 the entire California Electrical Code without the 04:14  
 25 strikeouts from the National Electrical Code that 04:14  
 Page 192

1 aren't in the California code? 04:14  
 2 MS. MILLER-ZIEGLER: Objection. 04:14  
 3 THE WITNESS: I don't know. I'm not aware. 04:14  
 4 BY MR. NERCESSIAN: 04:14  
 5 Q. So you don't know of any way you can just 04:14  
 6 see a clean copy of the California Electrical Code 04:14  
 7 without red lines? 04:14  
 8 A. I'm not aware of that. 04:14  
 9 Q. Have you had any discussions with any 04:14  
 10 representatives of NFPA? 04:14  
 11 A. It's a broad question. 04:14  
 12 Q. You can still answer it. 04:14  
 13 A. Okay. 04:14  
 14 Q. I'm asking for a broad answer. 04:14  
 15 A. Yes. 04:14  
 16 Q. And what types of discussions have you had 04:14  
 17 with the representatives of the NFPA? 04:14  
 18 A. One is about the periodical they mail out 04:15  
 19 monthly that is their NFPA magazine, and it has 04:15  
 20 articles in there that contain a variety of 04:15  
 21 information about the NFPA standards, and I've spoken 04:15  
 22 to the representative about specific articles that 04:15  
 23 are in there. 04:15  
 24 Q. What other conversations have you had with 04:15  
 25 NFPA? 04:15  
 Page 193

1 A. Just about the contract negotiations. 04:15  
 2 Q. And what was the substance of those 04:15  
 3 conversations? 04:15  
 4 A. Just the wording of the contract. 04:15  
 5 Q. Did you propose any edits to the NFPA that 04:15  
 6 they accepted to the contract? 04:15  
 7 A. Yes. 04:15  
 8 MS. MILLER-ZIEGLER: Objection. Asked and 04:15  
 9 answered. 04:15  
 10 THE WITNESS: But I don't know what they are 04:15  
 11 specifically. 04:15  
 12 BY MR. NERCESSIAN: 04:15  
 13 Q. Do you recall the subject matter areas you 04:15  
 14 proposed that as to the NFPA on? 04:15  
 15 MS. MILLER-ZIEGLER: Objection. Asked and 04:16  
 16 answered. 04:16  
 17 THE WITNESS: No, I don't recall. 04:16  
 18 BY MR. NERCESSIAN: 04:16  
 19 Q. Do you recall any other discussions with 04:16  
 20 representatives of the NFPA? 04:16  
 21 A. No. 04:16  
 22 Q. So other than discussions about the 04:16  
 23 newsletter and conversations consisting of contract 04:16  
 24 negotiations, you don't recall any other 04:16  
 25 conversations with the NFPA? 04:16  
 Page 194

1 A. Training. I have had conversations with 04:16  
 2 them about training that they make available 04:16  
 3 throughout the State. 04:16  
 4 Q. And what sort of training? 04:16  
 5 A. They make available training for the 04:16  
 6 California Electrical Code and also the NEC 04:16  
 7 throughout California. 04:16  
 8 Q. All right. What kind of trainings does the 04:16  
 9 NFPA hold with respect to the California Electrical 04:17  
 10 Code? 04:17  
 11 MR. FEE: Objection. This is beyond the 04:17  
 12 scope of cross. 04:17  
 13 THE WITNESS: Yeah. Just they offer 04:17  
 14 training, and they put a notice out there in local 04:17  
 15 jurisdictions, and people interested in the code 04:17  
 16 changes can attend that training, and they let our 04:17  
 17 office know about it. 04:17  
 18 BY MR. NERCESSIAN: 04:17  
 19 Q. Does CBSC provide any advice to the NFPA 04:17  
 20 with respect to the trainings regarding the 04:17  
 21 California Electrical Code? 04:17  
 22 A. No. 04:17  
 23 MR. FEE: Objection. Beyond the scope of 04:17  
 24 the cross. 04:17  
 25 BY MR. NERCESSIAN: 04:17  
 Page 195

1 Q. How do the -- are the trainings with respect 04:17  
 2 to the National Electrical Code -- strike that. 04:18  
 3 What kind of information does the NFPA 04:18  
 4 provide to the CBSC with respect to training 04:18  
 5 concerning the National Electrical Code? 04:18  
 6 MR. FEE: Objection. Beyond the scope of 04:18  
 7 the cross. 04:18  
 8 THE WITNESS: We're invited to the training. 04:18  
 9 BY MR. NERCESSIAN: 04:18  
 10 Q. Have you ever attended one of those 04:18  
 11 trainings? 04:18  
 12 MR. FEE: Same objection. 04:18  
 13 THE WITNESS: Years ago, I attended 04:18  
 14 training. 04:18  
 15 BY MR. NERCESSIAN: 04:18  
 16 Q. And for what purpose? 04:18  
 17 MR. FEE: Same objection. 04:18  
 18 THE WITNESS: Just to learn about the 04:18  
 19 National Electrical Code. 04:18  
 20 BY MR. NERCESSIAN: 04:19  
 21 Q. We discussed earlier about your knowledge or 04:19  
 22 awareness of the code development process among the 04:19  
 23 standards development organizations. Do you recall 04:19  
 24 that? 04:19  
 25 A. Yes. 04:19  
 Page 196

1 MS. MILLER-ZIEGLER: Outside the scope of 04:19  
 2 cross. Objection. 04:19  
 3 BY MR. NERCESSIAN: 04:19  
 4 Q. Are you aware that governments authorize 04:19  
 5 employees to participate in writing model codes? 04:19  
 6 MS. MILLER-ZIEGLER: Objection. That's 04:19  
 7 outside the scope of the cross. 04:19  
 8 THE WITNESS: I'm not aware of that. 04:19  
 9 BY MR. NERCESSIAN: 04:19  
 10 Q. Are you aware that government pays expenses 04:19  
 11 of those employees who participate in writing model 04:19  
 12 codes? 04:19  
 13 MS. MILLER-ZIEGLER: Objection. It's 04:19  
 14 outside the scope of the cross. 04:19  
 15 MR. FEE: Also calls for speculation. 04:19  
 16 THE WITNESS: I don't know. I'm not sure. 04:19  
 17 BY MR. NERCESSIAN: 04:19  
 18 Q. No further questions. 04:19  
 19 A. Okay. 04:20  
 20 MS. MILLER-ZIEGLER: We just have a few more 04:20  
 21 questions. We can probably just ask them from here. 04:20  
 22 MR. NERCESSIAN: Okay. 04:20  
 23 EXAMINATION 04:20  
 24 BY MS. MILLER-ZIEGLER: 04:20  
 25 Q. Just a couple more questions. 04:20  
 Page 197



1 Does the California Building Standards 04:20  
 2 Commission offer any education and outreach? 04:20  
 3 A. Yes, we do. 04:20  
 4 Q. Do you offer trainings related to the 04:20  
 5 Building Standards Code? 04:20  
 6 A. We offer trainings more specifically to the 04:20  
 7 process and then also for the California Green 04:20  
 8 Building Standards Code because we have authority to 04:20  
 9 amend that for nonresidential occupancies. 04:20  
 10 Q. You were asked about whether the NFPA holds 04:20  
 11 trainings related to the California Electrical Code. 04:20  
 12 Is there any reason -- are you aware of any other 04:20  
 13 organizations that hold trainings related to the 04:20  
 14 California Electrical Code? 04:20  
 15 MR. NERCESSIAN: Objection. 04:20  
 16 THE WITNESS: I don't know. 04:21  
 17 BY MS. MILLER-ZIEGLER: 04:21  
 18 Q. Can you think of any reason another 04:21  
 19 organization couldn't hold its own training about the 04:21  
 20 California Electrical Code? 04:21  
 21 MR. NERCESSIAN: Objection. 04:21  
 22 THE WITNESS: I'm not aware, no. 04:21  
 23 BY MS. MILLER-ZIEGLER: 04:21  
 24 Q. That's all we have. Thank you. 04:21  
 25 A. Okay. 04:21  
 Page 198

1 MR. FEE: I have no questions. 04:21  
 2 MR. NERCESSIAN: I have one followup 04:21  
 3 question within the scope of that. 04:21  
 4 EXAMINATION 04:21  
 5 BY MR. NERCESSIAN: 04:21  
 6 Q. What course materials, if any, does CBSC use 04:21  
 7 or provide in its trainings regarding the California 04:21  
 8 Electrical Code? 04:21  
 9 A. Well, we don't do training for the 04:21  
 10 California Electrical Code. It's just for the 04:21  
 11 process, the California Building Standards Code 04:21  
 12 process. 04:21  
 13 Q. So there are no course materials that CBSC 04:21  
 14 provides with respect to the California Electrical 04:21  
 15 Code? 04:21  
 16 A. No. 04:21  
 17 Q. Thank you. 04:21  
 18 A. Uh-huh. 04:21  
 19 MR. FEE: Done; right? 04:21  
 20 MS. MILLER-ZIEGLER: Yes. 04:21  
 21 MR. FEE: I have no other questions. 04:21  
 22 VIDEO OPERATOR: Off the record then. 04:22  
 23 THE REPORTER: What counsel want copies? 04:22  
 24 MR. FEE: Yes. 04:22  
 25 MS. MILLER-ZIEGLER: Yes. 04:22  
 Page 199

1 MR. YEN: No. 04:22  
 2 THE REPORTER: And do you want roughs? 04:22  
 3 MR. FEE: I don't need one. 04:22  
 4 MR. YEN: Actually, can you give me one 04:22  
 5 minute? 04:22  
 6 MS. EHLER: When would your rough be 04:22  
 7 available? 04:22  
 8 THE REPORTER: Tonight. 04:22  
 9 MS. EHLER: We'll take a rough. 04:22  
 10 MR. NERCESSIAN: We'll take a rough. 04:22  
 11 MR. YEN: We don't need it. 04:22  
 12 VIDEO OPERATOR: We're off the record. It's 04:22  
 13 4:22. 04:22  
 14 (Discussion off the record) 04:22  
 15 MR. YEN: We're fine. 04:23  
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 Page 200

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 9  
 10 I, MIA D. MARVELLI, do hereby declare under  
 11 penalty of perjury that I have read the foregoing  
 12 transcript; that I have made any corrections as  
 13 appear noted, in ink, initialed by me, or attached  
 14 hereto; that my testimony as contained herein, as  
 15 corrected, is true and correct.  
 16 EXECUTED this \_\_\_\_ day of \_\_\_\_\_,  
 17 20\_\_\_\_, at \_\_\_\_\_,  
 18 (City) (State)  
 19  
 20  
 21 \_\_\_\_\_  
 22 MIA D. MARVELLI  
 23  
 24  
 25  
 Page 201

<p>1 I, the undersigned, a Certified Shorthand 2 Reporter of the State of California, do hereby 3 certify: 4 That the foregoing proceedings were taken 5 before me at the time and place herein set forth; 6 that any witnesses in the foregoing proceedings, 7 prior to testifying, were duly sworn; that a record 8 of the proceedings was made by me using machine 9 shorthand which was thereafter transcribed under my 10 direction; that the foregoing transcript is a true 11 record of the testimony given. 12 Further, that if the foregoing pertains to 13 the original transcript of a deposition in a Federal 14 Case, before completion of the proceedings, review of 15 the transcript [ ] was [ ] was not requested. 16 I further certify I am neither financially 17 interested in the action nor a relative or employee 18 of any attorney or party to this action. 19 IN WITNESS WHEREOF, I have this date 20 subscribed my name. 21 Dated: August 24, 2019 22 23 24 <u>Carrie Pederson</u> 25 CARRIE PEDERSON, CSR No. 4373</p> <p style="text-align: right;">Page 202</p>	

[&amp; - 3]

<b>&amp;</b>	<b>141</b> 7:17	<b>2012</b> 20:15	77:4 142:23 143:9	
<b>&amp;</b> 3:4,13 4:5,14 7:5 9:2,5,14,17	<b>15</b> 49:15 83:15 103:14 145:11	<b>2013</b> 37:21 78:11 78:16,25 79:7,12 79:18	143:17,24 144:6 202:21	
<b>0</b>	<b>150</b> 7:19	<b>2014</b> 44:4 110:4,5 168:9 172:7,8,11 172:21,23 173:3,6	<b>202</b> 1:25	
<b>01215</b> 1:7 2:7	<b>16</b> 49:16 83:16 103:15	<b>2015</b> 139:1	<b>202-220-1115</b> 3:10	
<b>1</b>	<b>160</b> 6:8	<b>2016</b> 7:11,15 20:7 22:22,25 36:5,10 37:2,14,18 44:1 53:5,7,10,17,21,25 54:3,10,13,21,25 55:6,13,19 56:2,9 71:19,22,25 73:16 77:9,11,25 78:6 84:4,7,19 86:3 87:22 94:17 99:8 99:14 100:11,22 110:7 112:12,19 131:4,17,18 132:3 132:4 133:2,7,10 135:11,21 138:22 139:10,16 140:2 150:15 151:4,25 154:6 155:5 157:2 157:12,14 158:10 167:21,21 170:8,9 170:13,19 171:24 172:3,6,9,12 175:14,14,15 187:4,13,18	<b>2020</b> 23:6 36:2	<b>202-739-5353</b> 4:10
<b>1</b> 1:25 7:4,15 24:9 24:10,13 36:20 47:5,12,19 48:15 49:1 64:5 83:1 103:1 123:10 134:21,21,24 140:14 172:19	<b>16th</b> 172:3	<b>2017</b> 43:22 44:21 139:19	<b>2020</b> 23:6 36:2	
<b>1-1</b> 139:24	<b>17</b> 49:17 83:17 103:16 139:25	<b>2018</b> 144:3	<b>21</b> 49:21 83:21 103:21	
<b>1-1-17</b> 140:1	<b>18</b> 49:18 83:18 103:18	<b>2019</b> 1:19 2:23 7:4 7:8 8:1,13 23:4 35:23 36:4,11,14 43:14,16 44:15 53:6 59:2,6,17 60:9,15,22 76:18	<b>213-683-9240</b> 3:19	
<b>10</b> 7:11,19 49:10 83:10 103:9 145:11 150:20,23 151:12	<b>180</b> 131:10,11		<b>22</b> 49:22 83:22 103:22	
<b>1034</b> 62:18 64:4 74:6	<b>186</b> 6:9		<b>22:15</b> 161:13	
<b>107</b> 7:13	<b>18930</b> 29:19		<b>23</b> 49:23 83:23 103:23	
<b>11</b> 49:11 62:18 83:11 103:10	<b>19</b> 1:19 2:23 7:4 8:1 37:20 49:19 58:3 60:6 77:8 83:19 103:19		<b>24</b> 7:4 14:6,7,7,10 14:10 19:19 35:4 35:6,23 36:15 37:15,18 41:19,22 41:25 42:11,18 43:5 47:6,12,20 48:15 49:24 83:24 89:11,13,20,22 90:4 93:18 103:24 115:12 134:15 154:7 182:6 202:21	
<b>110</b> 65:19 66:6,12	<b>197</b> 6:10		<b>240</b> 2:21	
<b>1111</b> 4:8	<b>199</b> 6:11		<b>24th</b> 14:12 89:15	
<b>11344</b> 89:6	<b>19th</b> 8:13		<b>25</b> 49:25 82:24 83:25 103:25	
<b>1155</b> 3:7	<b>1:13</b> 1:7 2:7		<b>263332</b> 176:6	
<b>12</b> 35:4 49:12 83:12 103:11	<b>1st</b> 23:6 35:25 36:2 131:4,18 132:4 133:7,10 135:21 139:16,19 170:8		<b>27th</b> 99:11	
<b>12-16-2016</b> 85:18	<b>2</b>		<b>28</b> 14:12,14	
<b>12th</b> 4:19	<b>2</b> 7:6 33:3 34:15 49:1 83:1 103:1 113:11 153:18		<b>28th</b> 84:7	
<b>13</b> 49:13 83:13 103:12	<b>2.5</b> 93:17,18,20 180:25 181:6		<b>3</b>	
<b>1300</b> 5:10	<b>20</b> 49:20 83:20 103:20 201:17		<b>3</b> 7:7 34:18,21 36:23 43:4 49:2 83:2 103:2 154:7 181:20	
<b>132</b> 7:15	<b>200</b> 135:19,23			
<b>14</b> 13:22 49:14 83:14 103:13 165:2,5	<b>2000</b> 146:12			
	<b>20004-1361</b> 3:9			
	<b>20004-2541</b> 4:9			
	<b>2011</b> 79:2			

**[32 - adopt]**

<b>32</b> 176:11 <b>33</b> 7:6 <b>34</b> 7:7 <b>3465980</b> 1:24 <b>350</b> 3:16 <b>3:08</b> 145:18	<b>70</b> 43:7,8,10 44:6 168:9 172:20 <b>70-567</b> 159:5 <b>7th</b> 3:8 99:11	123:2,3 131:25 132:2 133:13,16 133:24,25 141:11 173:11 174:16 179:10 181:3 190:5,9,18,22	129:16,25 130:4,7 130:11,20 169:21 170:25 <b>activities</b> 47:25 <b>activity</b> 139:18 <b>actual</b> 157:17 <b>adapted</b> 41:8 <b>add</b> 183:22 <b>added</b> 183:18,18 <b>addition</b> 147:12 <b>additional</b> 45:16 45:22 120:8,25 160:21 <b>additions</b> 191:6 192:3 <b>address</b> 12:7 41:8 124:9 <b>addressed</b> 84:17 <b>addresses</b> 124:7 124:13 <b>adequately</b> 166:24 <b>administer</b> 13:24 14:4 16:21 <b>administered</b> 8:5 35:16 <b>administering</b> 14:16 19:19 21:11 21:19 <b>administers</b> 13:21 <b>administrative</b> 14:3 18:21 36:21 45:5,21 47:5,13,20 47:24 48:7,17 89:7,18,21,23 <b>adopt</b> 28:13,14 40:16 41:22 44:19 64:10 67:5 68:10 68:13,17 103:24 111:17,17 115:11 116:10,17 165:20 165:25 167:12
<b>4</b>	<b>8</b> 6:7 7:15 49:8 83:8 103:7 132:10 132:11,14 <b>8-1-2016</b> 132:24 <b>818</b> 180:24 <b>83</b> 7:9 <b>85</b> 7:11	<b>accessed</b> 59:2,17 72:25 <b>accessibility</b> 124:15 138:5,13 180:16 190:23 <b>accessible</b> 37:6 55:6 134:7 <b>accessing</b> 58:24 91:1,12 92:19 120:3 <b>accomplish</b> 30:17 <b>accuracy</b> 104:21 <b>accurate</b> 12:21 41:15 94:14 99:17 104:25 117:5 170:15 184:1 191:18 <b>acknowledgments</b> 74:7 <b>acquisitions</b> 151:20 <b>acronym</b> 66:11,21 168:3 <b>act</b> 14:3 18:22 45:5 <b>action</b> 7:10 8:22 14:22,23 15:8 18:1 22:10,12 29:1,14 46:3,13 84:21 104:14 130:16 202:17,18 <b>actions</b> 15:1,7 26:18 28:23 29:4 29:11 48:4 98:5 128:17,21 129:10	
<b>4</b> 7:8 49:4 57:22 57:25 82:3 83:4 103:3 109:13,14 <b>4373</b> 1:23 2:24 202:25 <b>45</b> 45:19 <b>49</b> 64:3	<b>9</b> 7:17 49:9 83:9 103:8 141:20,21 141:24 <b>90071-3426</b> 3:18 <b>916-210-7836</b> 5:12 <b>94104</b> 4:20 <b>95814</b> 5:11 <b>9th</b> 99:8		
<b>5</b>	<b>9</b> 7:17 49:9 83:9 103:8 141:20,21 141:24 <b>90071-3426</b> 3:18 <b>916-210-7836</b> 5:12 <b>94104</b> 4:20 <b>95814</b> 5:11 <b>9th</b> 99:8		
<b>5</b> 7:9 49:5 83:5,6 98:25 103:4 113:2 113:11 <b>506-6671</b> 180:24 <b>50th</b> 3:17 <b>555</b> 4:18 <b>57</b> 7:8	<b>a</b>		
<b>6</b>	<b>a.m.</b> 2:22 8:2,13 <b>abbreviation</b> 89:7 <b>ability</b> 91:21 <b>able</b> 12:20 32:25 102:8 124:1 174:10,15 <b>accepted</b> 64:15 194:6 <b>access</b> 54:25 55:12 55:19 56:2,8 64:1 67:7,9,15,17 68:2 68:5 69:21 70:12 70:17,18 72:11 73:9 89:24 91:21 92:6,10 93:14 94:8,22,23 95:5,6 95:11,15 96:10,14 120:8,11,25 121:4		
<b>6</b> 7:11 49:6 83:6 85:10,13 87:15,16 103:5 115:7 116:23 180:19 <b>625</b> 159:4,5 <b>625.1.1</b> 159:6 <b>650-335-7281</b> 4:21 <b>6995</b> 202:24			
<b>7</b>			
<b>7</b> 7:13 49:7 74:6,8 74:9 83:7 103:6 107:10,11,13 131:1 134:20 145:21 167:17 169:24 175:11 186:11			

**[adopted - appeals]**

<b>adopted</b> 40:23 41:5,7,19,22,25 42:10,18 50:2 64:15 65:5,12 67:8,10,17 69:19 106:12 115:15 116:6 134:18 182:6,16 183:6 <b>adopting</b> 152:8 <b>adoption</b> 21:12,19 22:6 30:6,16 45:12 49:9,14,18 49:23 50:12,20 64:6,8 105:8,14 106:24 116:9 138:23 139:2 <b>adoptive</b> 115:14 <b>adopts</b> 66:11 <b>advertise</b> 159:24 <b>advertising</b> 159:13 159:21 <b>advice</b> 195:19 <b>advisory</b> 45:8 46:22,24 47:4,9 48:19 <b>agencies</b> 14:19 15:23 19:15,18 21:23 29:17 40:15 44:19,22 45:23 47:14 48:1,19 64:10 74:14,20 75:6,15,17 76:16 76:18 77:25 78:4 78:22 79:17,21 103:24 104:9,15 111:17 117:11 127:19,23 128:3 134:18 140:18 141:10 159:24 160:2 169:10,16 170:7 175:21	176:3 182:16,22 183:6,16 186:15 186:25 187:2,9,12 187:15,17,22,24 188:1 <b>agency</b> 15:24,24 17:22 45:14,16,16 46:11 68:9,12,16 69:15 74:2 75:2 105:5 115:11 116:9,16 117:1,14 117:21 118:1,7 127:18 128:23 183:11 <b>ago</b> 24:17 83:14 99:19 100:19 108:16 110:21 143:25 144:1 145:2 196:13 <b>agree</b> 73:8 123:15 123:17 164:18,23 <b>agreement</b> 7:14,20 107:17 108:3,6,19 115:22,25 116:2 116:13 134:21 140:7,23,25 151:9 167:21 171:24 172:1,2,22 173:4,5 175:13 176:18 177:2 187:4 <b>agreements</b> 167:16 <b>ahead</b> 155:11 175:3 <b>air</b> 1:8 2:8 <b>al</b> 8:16 <b>alex</b> 87:21 132:21 <b>alexander</b> 7:16 <b>allow</b> 11:24 110:10	<b>allowed</b> 11:23 112:6 164:1 <b>allowing</b> 111:20 <b>allows</b> 64:14 112:3 112:11,19 <b>alphabetical</b> 140:12 <b>ambiguous</b> 106:3 <b>amend</b> 15:5,8,9 29:7 30:15 35:9 64:10 76:2 78:23 102:13 184:17 198:9 <b>amended</b> 29:4 64:15 67:5,6,8,11 67:18,21,23 68:10 68:13,17 69:14,20 75:22 <b>amending</b> 30:5 <b>amendment</b> 46:18 62:24 76:6,7 159:8,11 170:22 183:17 <b>amendments</b> 40:14 41:10,12 43:9 44:22,24 62:20 63:14,19,23 70:11 75:3,16 80:22 81:7,21 102:9,15 144:25 162:7,12,14 169:4 169:16 171:12,13 171:15 182:15,22 183:5,11,17,21 184:10,16 191:7 191:17 192:4 <b>american</b> 1:4,7 2:4 2:7 4:3 8:15 <b>amount</b> 108:18 126:15,16 152:7 155:24	<b>analysis</b> 103:23 <b>andrew</b> 4:16 9:4 <b>anercessian</b> 4:22 <b>angeles</b> 3:18 <b>annotation</b> 33:8 <b>annotations</b> 34:16 <b>answer</b> 11:12,20 22:16 23:24 26:16 27:3 31:18 32:10 32:23,25 42:21 43:19 50:24 56:23 57:16 64:21,24 65:25 69:25 70:1 70:3 96:3 109:5 111:24 116:21 119:20 124:1 126:5,6 127:2 138:8 148:5 149:5 149:22 155:8 158:16 166:15,16 172:14 189:9 193:12,14 <b>answered</b> 71:7 72:13 73:6 80:6 194:9,16 <b>answering</b> 16:8 56:16 148:18 153:4 <b>answers</b> 12:5,21 <b>anybody</b> 48:18 53:24 57:1 77:21 95:2 145:25 147:3 147:15 <b>apart</b> 155:4,17 156:1 <b>apologies</b> 109:14 <b>apologize</b> 15:5 70:6 120:13,18 128:23 <b>appeals</b> 24:23 47:25
--	---	--	--



[appear - available]

<b>appear</b> 32:19 34:9 54:24 68:21,24 69:1 85:20 133:15 201:13	<b>approximately</b> 20:6 47:7	71:13 77:19 80:10 81:17 96:4 98:9 154:14 157:16,24 157:25 193:14	<b>attention</b> 64:2 74:5 87:13 88:1 88:12 109:13 113:3 115:7 116:23 123:9 130:25 132:25 134:19,20 138:20 140:6,13 151:12 153:19 154:5
<b>appearances</b> 3:1 4:1 5:1	<b>arbitrary</b> 29:24 105:19	<b>assembled</b> 22:18 45:7 46:25	<b>attorney</b> 3:6,15 4:7 5:7,9,16 9:7 84:25 108:14 202:18
<b>appears</b> 33:16 34:23 55:7,12 58:3 69:14 89:5 98:19 99:7 107:17 154:21 155:24 176:16	<b>architect</b> 20:14,22 20:24 21:18 66:15 128:14 129:1,3,6 129:11	<b>assembles</b> 20:2 45:19	<b>attorneys</b> 4:17
<b>appendices</b> 115:10	<b>architectural</b> 20:13,16,24 21:17 23:16,18 78:20 118:11 119:4	<b>asserted</b> 77:1,4,13 79:7,11,18,22 80:2 80:14 81:4,19	<b>audible</b> 11:5
<b>applicable</b> 106:6	<b>archive</b> 33:6,8,9 33:12,22	<b>associate</b> 20:13,14 20:17,21,23,24 21:10,17,18 23:16 23:18 78:20 118:12	<b>audience</b> 48:14
<b>application</b> 47:1 73:24	<b>area</b> 178:22 179:5	<b>associated</b> 33:14	<b>august</b> 1:19 2:23 7:15 8:1,13 133:7 133:10 202:21
<b>applied</b> 182:9	<b>areas</b> 160:20 194:13	<b>association</b> 1:6 2:6 3:3 7:25 9:15,18 44:8,10 62:3 107:20 134:12 160:20 168:2	<b>authenticate</b> 157:16,21,22,25
<b>applies</b> 42:24 51:6 135:12	<b>armen</b> 4:15 9:1 39:12	<b>assume</b> 164:3	<b>authenticity</b> 34:2 153:24 154:20 158:2,10,22
<b>apply</b> 41:25 42:1,6 42:8,11,15,19 104:15 106:24	<b>article</b> 64:10 65:19 66:5,12 67:5 68:10,13,17 159:4 159:5	<b>astm</b> 1:5 2:5 4:4 9:20	<b>authority</b> 17:8 67:4 127:24 198:8
<b>appointed</b> 16:2,14 16:17,25 17:6	<b>articles</b> 64:12 67:7 67:10,17 193:20 193:22	<b>attach</b> 86:25	<b>authorize</b> 197:4
<b>appointments</b> 17:9	<b>articulating</b> 104:11	<b>attached</b> 201:13	<b>authorized</b> 41:11 115:11 117:1
<b>appropriate</b> 100:10 106:8	<b>aside</b> 135:16 153:20 154:2,10 154:25 155:3 158:1,8	<b>attachment</b> 83:22 98:24,25 99:4 136:2,3 138:21 175:18,20 176:1,2 176:6,9,10,10,23 177:7,8,10,11,14 178:4 186:22,24	<b>automatically</b> 175:14
<b>approval</b> 21:12 22:2,7 106:17	<b>asked</b> 12:17 56:22 71:6 72:12 73:5 121:20 168:12 173:25 174:4 177:16 179:21 182:8,10,13 194:8 194:15 198:10	<b>attachments</b> 83:19 136:7,9 187:21	<b>available</b> 33:12 38:18,22 48:18 51:18 52:8,21,24 54:14,16 63:6,15 63:25 67:19 70:14 70:24 71:15 117:2 117:5,20,22,25 121:5,8,14 122:5 126:18 131:22 132:3 133:13,16
<b>approve</b> 14:22,25 15:3,5,8,9,9 29:4 29:14 46:14	<b>asking</b> 11:12,18 39:17 52:15 64:19	<b>attempted</b> 60:4,6 174:7	
<b>approved</b> 22:18 29:19 65:1		<b>attend</b> 195:16	
<b>approves</b> 14:21 29:7 30:13 171:17		<b>attended</b> 196:10 196:13	
<b>approving</b> 29:9 145:22 146:25 170:25			

**[available - building]**

133:24 138:1,5,12 139:3,3 140:17 141:2,6,7 170:6 173:23 174:22,24 175:5,7 179:23 180:1,8,12,16 188:12,17,19 189:21 190:14 195:2,5 200:7 <b>avenue</b> 3:16 4:8 <b>aware</b> 25:9 39:18 54:9,18 55:5 59:20,23,25 60:2,2 60:8 72:10 74:19 75:24 76:15,17,25 77:3,12,21,24 79:6 79:17,21 80:1,13 81:3 82:14 90:4 90:17,20,25 92:10 94:3,5,18 95:2,3 95:10,14,21 99:22 118:6 121:3,25 122:21,23 125:12 126:8 127:19 129:10 131:16 133:6 135:6,15 138:11 141:1 144:24 147:16 150:3,8,12 153:8 159:20,23 160:1 171:4,11,16 179:10,14,24 180:4,6,10,14 187:11 188:13,18 189:18 190:11,15 190:16,17,20,21 190:24 192:8,23 193:3,8 197:4,8,10 198:12,22 <b>awareness</b> 72:22 77:19 78:4,9	81:18 126:20 196:22 <b>awhile</b> 143:25 <b>b</b> <b>b</b> 1:5 2:5 4:4 98:25 99:4 115:7 136:3 140:6,14 175:20 176:2,23 177:10 177:11 178:4 186:24 <b>back</b> 49:5 83:1 84:4 86:14 87:22 98:24 103:19 130:25 134:19 144:21 145:17,20 149:7 153:18 160:14 169:24 171:25 175:7 177:13 186:6 <b>bad</b> 149:8 <b>banner</b> 159:7 <b>barbu</b> 5:16 9:9,9 <b>barely</b> 139:24 <b>based</b> 29:12 43:6 43:17 44:2 79:1 105:22 116:12 168:15 175:24 <b>basis</b> 29:17 111:18 <b>bcs</b> 19:22 <b>beginning</b> 2:22 <b>begins</b> 170:1 182:1 <b>behalf</b> 2:20 9:14 9:17,20 <b>believe</b> 29:19 37:7 61:9 76:2 79:2 86:4,7 94:16 104:18 107:10 141:20 145:24 155:18 173:8 <b>benefit</b> 18:25 105:23	<b>benny</b> 146:8,19 147:18,22 148:9 <b>best</b> 29:22 105:16 <b>beyond</b> 131:10 195:11,23 196:6 <b>bid</b> 142:8,10,23 143:17,24 144:6 <b>bids</b> 142:13 <b>binders</b> 154:15 <b>bit</b> 161:5 162:18 173:10 <b>blank</b> 98:16 <b>blend</b> 40:17 <b>blurb</b> 41:15 <b>blurry</b> 139:7 <b>bni</b> 7:20 53:5,15 53:17,18 54:4,11 54:13,22 56:7,25 57:1,8,18 70:19 71:20 72:1 73:17 73:23 74:1 77:20 81:12 96:11 101:8 114:20 151:10 <b>board</b> 130:19 <b>bockius</b> 4:5 <b>bodies</b> 182:17 183:13 <b>body</b> 32:20 88:2 <b>bottom</b> 35:11 85:17 107:21 116:24 176:6 178:5,11 <b>break</b> 12:9,11 33:24 48:23 82:20 99:2 102:17 104:19 145:11 <b>bridges</b> 4:16 9:4,4 <b>bringing</b> 104:13 <b>broad</b> 32:4 80:16 108:1 112:5 122:12,16 124:1	125:1,16 126:2 127:1 128:11 144:16 147:25 185:8 193:11,14 <b>broadly</b> 80:10 <b>broken</b> 91:18,22 92:1 179:17 <b>bsc</b> 19:6,22 20:10 35:14,21 37:3,6,11 37:18 55:7,13 60:21 71:4,15 72:4 73:1,3 92:22 93:12 101:12 102:1,5,20 103:2,6 139:3 149:7 159:6 180:25 <b>bsc's</b> 102:19 <b>budget</b> 19:23 <b>buff</b> 114:4 <b>build</b> 51:15 <b>builder</b> 125:22 <b>building</b> 5:3 7:23 9:8,11 13:17,19,22 14:1,9 16:16,18 17:10 19:3,8 21:13,20 22:2,7,11 23:8,9,20 24:4 26:9,11,25 27:12 27:19,23 28:8,16 28:17,23 29:6,18 30:4 31:22 34:25 35:22 36:5,10 37:2,10 38:22 39:16,21,22 40:8,9 40:11,13 41:4,6,10 45:3,5,18 47:2 51:16,17 52:20,23 52:24,25 54:19 63:13,24 67:15 73:25 75:18 84:21 99:12,22 100:20
--	---	--	---

**[building - calls]**

101:3,18 102:14 102:23 104:10,12 104:22,23 105:2,8 105:15,18,23 106:2,11,15 107:5 107:19 111:16 117:9 119:5 121:17 122:15,17 122:22 123:2 126:21 127:15,17 127:20 128:9,12 128:15,22 129:7 129:17,21 130:1,8 130:12,17,21,23 131:12 133:2 142:24 144:8,13 151:17 158:24 159:7,17 161:4 163:8,13 164:6 165:17 166:4 183:13 184:20 185:2,4,13 189:19 190:12 198:1,5,8 199:11 <b>buildings</b> 23:14 24:1 42:6,15 118:13,19 119:14 124:21,22,23 125:4 128:16 129:4,8,13,22 182:9 184:14 <b>built</b> 119:14 123:13,21 124:4 124:24 <b>bureau</b> 127:10	5:3,5,11,17 7:8,13 7:19,23 8:1,19 9:6 9:8 13:22 14:1,9 14:13,13 17:10 19:9 21:13,20 23:7,9,20 24:4 28:13,14 30:4 31:21 32:20 34:12 34:25 36:5,10,20 36:23 37:2,10 38:20,21 39:14,15 39:18,20 40:8,9,12 40:14,15 41:10,11 41:18 42:1,17,25 43:5,6,9,16 44:1 44:15 46:6 47:5 47:13,20,23 48:7 50:2 51:6,14,15,17 51:24 52:7,7,12,13 52:22 53:4,10,22 53:25 54:3,10,18 55:1,19 56:2,9 58:3 59:2,18 60:5 60:9,15,22 61:18 62:12,14,20,24 63:14,16,22,23 64:6,20 66:7 69:11 70:10 72:17 72:23 73:9,18,22 73:24 74:3,12,21 75:3,7,18,23 76:2 76:7,10,19 77:1,4 77:9,11 78:1,6,11 78:16,23 79:1,8,12 79:19,23 80:3,15 80:18,19,22 81:6,6 81:20,22 82:6,12 82:15 89:10,15,19 89:25 90:5,6,12,21 91:2,11 92:5,11 93:21,22 95:12,16	95:19 96:1,9,20,25 97:3,7,11,15,20,23 98:3,5,13,18 99:13 99:24 100:11,22 101:4,13,20 102:2 102:13,13 103:1,5 103:6 107:5,19 112:8,12,20 116:5 117:3,7,15,16 118:2,8 121:8 127:5,10,15,17,20 128:15,22 129:7 129:17 130:1,6,8 130:10,12,15,17 130:21 131:17,21 132:3 133:9,12,21 133:22 135:11 136:19 138:4,9 140:2 142:24 144:8,12,24,25 151:16 154:6,7,22 155:5,19 156:3,20 156:23 157:2,5,13 157:14,20 158:11 158:20 159:11,14 159:21,24 160:2 161:4 164:5,19 165:5,16 166:4,18 168:14,18,25 169:4,7,11,17 170:6,22 171:1,5 171:13,13,15,17 177:18 178:23 179:11,18,22 180:7,11,15 181:9 181:17 182:5,21 184:6,9,18,20 185:2,14 187:13 187:18 188:12,20 189:2,3,19,20 190:12,13 191:2,4	191:7,16,17 192:1 192:4,11,18,24 193:1,6 195:6,7,9 195:21 198:1,7,11 198:14,20 199:7 199:10,11,14 202:2 <b>california's</b> 22:2,7 41:9 171:22 <b>call</b> 47:1 64:2 87:13 88:1,12 93:10 103:12 109:13 113:3 115:6 116:23 123:9 130:25 132:25 134:19,20 138:20 140:6,13 149:1 151:12 153:19 180:24 <b>called</b> 38:2 45:7 113:23 122:13 136:10,11 <b>calling</b> 153:25 <b>calls</b> 50:21 51:10 55:14 57:3 58:21 62:8 67:12 69:7 69:22 70:13,20 71:21 72:18 75:9 76:13,21 77:14 82:8 84:11 86:10 88:24 90:14 91:3 91:13,16 92:18 95:20 96:2,22 97:8,16,25 99:18 100:24 101:15 103:8 106:25 109:2,21 110:11 111:2,9,22 112:13 112:23 116:19 118:3,21 119:6,18 121:10 125:25
<b>c</b>			
<b>c</b> 138:21 140:8 <b>ca</b> 62:23 <b>cacacac</b> 159:10 <b>california</b> 1:18 2:21 3:18 4:18,20			

**[calls - code]**

126:11,12,22,24 127:7 132:5 133:17 137:2 142:14 144:15,19 146:2 149:19,25 162:4 163:5 179:17,18 189:6 189:14 192:6,19 197:15 <b>capacity</b> 10:11 118:12 119:4 <b>capitol</b> 2:21 8:18 <b>capricious</b> 29:24 105:19 <b>carl</b> 152:24 153:9 <b>carrie</b> 1:22 2:23 202:25 <b>carried</b> 67:24 68:3 69:2 <b>carry</b> 44:22 <b>case</b> 1:6 2:6 13:5 25:19,22,25 33:1 44:10,20 53:3 68:1,3,20 69:5,10 69:12,13 77:8 115:6 202:14 <b>cases</b> 31:25 32:2,7 44:23 92:16,18 <b>categories</b> 41:14 <b>cause</b> 155:18 <b>caution</b> 84:24 88:14,17 108:13 <b>cbsc</b> 7:16 19:4 35:6 37:1,9,17 44:14 85:23,24 86:2,8 87:1,4,8,10 90:10,13,18,22 91:10,20 92:10 94:5,21 95:4 103:23 109:20 110:2,10,24 111:7	111:14,20 113:6 113:15,18 114:8 114:11,17,22,22 115:11 116:2,4 123:1 135:1,4,20 137:19,22,25 145:21 146:5,15 151:10 161:3,15 164:4,19 166:12 166:12 170:9 175:22 177:2 179:16,22,25 180:6,10,14 181:22 186:15,25 187:12,17,24 189:19 190:12,18 190:22 195:19 196:4 199:6,13 <b>cbsc's</b> 113:7 <b>cec</b> 106:24 110:7 164:7 166:22 167:5,22 170:9,13 170:19,22 172:6 173:11,12,16,18 174:1,5,10,21 175:14,14,15 176:19 179:6 <b>certain</b> 27:8 37:12 124:23,24 126:15 126:16 148:7 179:23 <b>certainly</b> 16:9 <b>certified</b> 2:24 202:1 <b>certify</b> 202:3,16 <b>cg</b> 159:6 <b>chance</b> 16:8 <b>change</b> 18:23 21:4 21:7 29:9 35:8 40:24,25 41:5 57:16	<b>changes</b> 45:1,12 45:17,17 113:5,24 148:10 163:9 195:16 <b>chapter</b> 64:5 <b>chapters</b> 115:9 <b>characterize</b> 94:10 <b>charges</b> 141:9,10 <b>chart</b> 138:25 <b>choice</b> 117:18 <b>choices</b> 117:20 <b>choose</b> 117:11,12 167:12 <b>chooses</b> 30:15 <b>circumstances</b> 113:22 <b>cited</b> 88:23 <b>cities</b> 122:11 <b>citizen</b> 189:2 <b>citizens</b> 123:13,22 124:5 <b>city</b> 122:18 177:22 177:25 178:5,9,12 178:15,18 201:18 <b>civil</b> 7:10 <b>claimed</b> 168:14 <b>claiming</b> 33:21,23 168:16,24 169:3 <b>clarification</b> 11:13 58:12,13,15 <b>clarify</b> 39:12 40:1 80:24 96:8 168:15 <b>clarity</b> 148:1,7 <b>clean</b> 193:6 <b>clear</b> 52:14 80:18 188:13 <b>clicking</b> 123:6 <b>client</b> 84:25 <b>clip</b> 102:8,11 <b>closest</b> 122:1 177:17	<b>code</b> 7:8,19 14:2,4 14:9,13 17:11,19 18:21,23 20:1 22:20,21,22 23:2 24:4 27:25 28:3 29:7,20,24 31:4,7 31:12,20,22,23 32:15,19,20,24 34:12 35:10 36:5 36:10,21,24 37:3,6 37:8,11,19,20 38:1 38:9,11,22 40:8,10 40:13 43:5,6,11,13 43:15,16,23 44:1,2 44:4,15,20,21 45:8 45:12,17 46:6,22 47:4,5,8,13,21,24 48:17,17,19 49:20 50:1,4,10 51:8,18 51:25 52:8,22 53:4,10,17,22,25 53:25 54:3,10,14 55:1,7,13,20 56:3 56:9 58:3 59:3,7 59:18,20 60:5,7,10 60:15,22 61:18,23 62:13,14,20,25 63:16 64:9,11,14 64:20 65:3,10,11 65:20,25 66:6,8 67:9,16,25 68:4 69:6,14 70:9,15,25 71:9,19,23 72:17 72:24 73:10,16,18 73:24 74:12,21 75:3,8,11,18,23 76:3,11,19 77:2,5 77:6,10,12 78:1,6 78:12,17,23 79:1,4 79:8,12,19,24 80:3 80:15,20 81:6,23
--	--	--	--

**[code - commissions]**

82:6,12,15 88:14 88:18,22 89:5,10 89:13,15,19,25 90:5,7,13,21 91:1 91:2,12,12,17 92:5 92:11,19 93:12,14 93:20,21,23,24 94:8,22 95:5,6,12 95:16,19 96:1,21 97:1,4,7,12,15,20 97:23 98:4,6,12,14 98:19,20 99:14,24 100:11,22 101:5 101:10,13,20 102:3,6,9,10,25 103:1,7,25 111:8 111:11,14,18,21 111:21 112:7,12 112:20 113:25 114:2,3,5,12 115:13,21 116:5,8 116:17,18 117:6 117:10,12,15,16 117:21,24,25 118:1,2,7,8,20,25 119:1,4,13,16,23 120:6,7,12,17,20 120:25 121:8,14 121:23 122:2,5,22 123:2,12,20 124:4 124:7,9,12,23 125:3,14,24 126:10 127:6 131:4,7,18,22 132:3 133:2,10,12 133:22 134:1,7,17 134:18 135:11,20 136:18,24 137:6 137:13,20,22 138:1,4,12,22 139:2 140:3,17	141:4,5,11 150:18 152:1 154:6,7,22 155:6,19 156:3,11 156:12,20,23 157:2,5,13,14,20 158:6,11,20 159:1 159:14,21,24 160:2 161:4 162:7 162:14,20,24,25 163:8,9,10,13 164:5,6,20,21 165:6,11,18,21 168:3,9,13,14,17 168:18,25 169:8 169:12,17,22 171:2,6,14,17,23 172:7,21 173:16 174:15 175:5 177:18 178:23 179:11,19,23 180:3,7,11,15,25 181:3,6,10,17 183:23 184:7,9,17 185:14 187:14,19 188:12,20 189:3 189:20,20,24 190:1,3,7,13,14 191:2,2,5,6,16 192:2,3,11,24,25 193:1,6 195:6,10 195:15,21 196:2,5 196:19,22 198:5,8 198:11,14,20 199:8,10,11,15 <b>code's</b> 34:24 35:1 133:3 <b>coded</b> 47:1 <b>codes</b> 7:7 21:13,20 22:3,7 23:9,20 28:12,15,18,25 29:2 35:14 37:25	38:2 40:15 41:6,8 41:13,18,22,25 42:10,18 44:20 49:16,17,24 51:3 52:25,25 96:9,10 96:12,13,14,15,17 96:19 106:7 112:8 114:25 115:3 118:12,14,15 127:17,21,24 128:1,15,22 129:7 129:17 130:2,8,13 130:17,21 133:23 134:16 140:4 142:25 144:12,21 145:1 148:8 152:8 152:22 161:19 163:1 165:17,24 166:12,13,18 167:13 179:25 182:6 183:22 184:2 197:5,12 <b>collaborated</b> 75:6 75:11,13 <b>collaborative</b> 74:13 <b>color</b> 114:4 <b>columbia</b> 1:2 2:2 24:24 <b>column</b> 66:19,25 67:1,1 <b>columns</b> 66:18 <b>combustibility</b> 124:21 <b>come</b> 12:4 104:7 <b>comes</b> 187:22 <b>comment</b> 14:20 18:5,8 20:19 45:20 <b>comments</b> 45:22 45:23 46:9	<b>commercial</b> 57:8 57:19 <b>commission</b> 5:3 7:24 9:8,12 13:18 13:20,21 14:21 19:3,9,11 22:9,11 22:18 23:8 26:9 26:12,25 27:12,19 27:23 28:8,17,24 29:6 30:4,13,15,17 30:23 35:1,22 39:16,21,23 40:2 45:3,18 46:2,2,4,8 46:13 47:2,8 48:4 48:20 51:17 52:13 52:21 63:14,24 65:2 67:16 73:25 84:22 99:12,23 100:20 101:3,19 102:14,24 104:13 104:14,14 106:12 107:6,19 117:10 127:16 130:7,16 130:24 131:9 144:9 151:17 158:24 159:7,18 164:6 165:17 169:19 171:1 198:2 <b>commission's</b> 54:19 <b>commissioner</b> 16:25 <b>commissioners</b> 13:23 15:14,20,23 15:24,25 16:13,17 17:14,21,23 18:9 18:14 165:11 167:6 169:10 <b>commissions</b> 167:12
--	---	--	--



**[commitments - copies]**

<b>commitments</b> 110:25 <b>committee</b> 45:8,8 46:22,24 47:4,6 48:20 <b>committees</b> 47:9 <b>common</b> 75:17 <b>communications</b> 84:25 108:14 148:15 153:2,6,9 153:14 <b>community</b> 66:22 75:25 76:9 128:4 130:20 <b>company</b> 120:21 152:22 <b>compilation</b> 40:10 87:14 89:8,18 93:5 <b>complete</b> 12:21 37:17 136:10 176:16 177:21 <b>completed</b> 172:9 <b>completely</b> 12:6 161:23 173:3 <b>completion</b> 202:14 <b>compliance</b> 45:4 127:16,20 128:15 128:21 129:6,16 130:1,7,12,21 <b>compliant</b> 125:23 126:9 <b>complied</b> 24:3 <b>complimentary</b> 135:19,23 136:5 175:13 187:4,13 187:18,25 <b>comply</b> 126:21 185:6 <b>complying</b> 185:16	<b>comprise</b> 106:20 <b>concerning</b> 112:19 147:23 196:5 <b>conclusion</b> 50:22 51:11 77:15 88:25 103:9 107:1 109:3 109:22 110:12 111:3,10,23 112:14,24 126:13 126:25 127:8 189:7,15 <b>concrete</b> 124:15 <b>conditioning</b> 1:8 2:8 <b>conditions</b> 73:9 <b>conduct</b> 13:4,7 14:19 18:10 20:1 20:3 <b>conducted</b> 142:7 <b>confirm</b> 61:14 104:20 <b>confirming</b> 56:23 <b>conflict</b> 29:23 104:23 <b>consequence</b> 127:13 <b>consequences</b> 125:12,22 126:8 127:4,11 <b>considered</b> 45:15 46:9 <b>considering</b> 116:16 <b>consist</b> 17:15 <b>consistent</b> 106:12 152:1 155:5,13,15 156:10 <b>consisting</b> 194:23 <b>consists</b> 192:11 <b>constitutes</b> 41:12 47:13,20	<b>construct</b> 118:13 118:18 119:5 <b>constructing</b> 119:14 <b>construction</b> 17:3 23:25 24:3 129:4 129:12 <b>constructions</b> 129:7 <b>consult</b> 119:4 <b>consultation</b> 134:25 <b>consulting</b> 135:4 151:2 <b>contact</b> 91:25 <b>contain</b> 41:5 63:19 125:3 193:20 <b>contained</b> 201:14 <b>containing</b> 82:3 <b>contains</b> 83:18 123:10,11 191:5 192:2 <b>content</b> 170:19 171:5,9,23 173:5 <b>contents</b> 148:24 149:9 <b>context</b> 49:13 50:4 64:22 94:13 135:7 135:8 153:6 <b>continued</b> 4:1 5:1 <b>contract</b> 101:7,22 102:20,21,23 103:1,4,5 108:21 108:22,23 109:1,8 109:9,14 110:17 110:25 111:15 112:3,11,19 115:7 116:14 135:13,25 142:8 145:22,24 146:17,20,22 147:1,4,9,13,18,21	147:23 148:7,10 148:13,24 149:2,5 149:11 150:4,10 150:15 151:4,25 152:9,9 168:20 186:11 194:1,4,6 194:23 <b>contractor</b> 17:4 127:5 <b>contracts</b> 107:5 111:7 148:20 149:8 150:15,17 151:20 152:1,5,6 <b>contribute</b> 62:7 75:17 <b>contributed</b> 62:14 74:20 75:2,2,15 <b>contribution</b> 76:6 <b>contributions</b> 74:17 76:1,10,18 76:20 77:25 78:2 78:5 79:23 <b>conversation</b> 104:4 191:3 <b>conversations</b> 13:10 147:3,8,20 193:24 194:3,23 194:25 195:1 <b>coordinating</b> 153:5 <b>coordination</b> 7:17 142:2,5 <b>copies</b> 117:6,24 135:19,23 136:5 170:9 174:21,24 175:13,21,25 176:2,19 177:3 186:14,24 187:2,4 187:9,13,18,25 188:12,20 199:23
--	--	---	---

**[copy - depends]**

<b>copy</b> 33:19 60:8 86:12 102:8,11,15 110:3 119:24 157:5,17 175:19 177:18 178:23 189:2 193:6 <b>copying</b> 61:17 <b>copyright</b> 26:1 76:9,19 77:1,4,13 78:1,5 79:7,11,18 79:22 80:2,14 81:4 168:2,8,14,16 168:24 169:3 172:20,23 <b>copyrighted</b> 81:1 81:16 172:12 <b>corner</b> 62:18 <b>correct</b> 12:6 17:7 19:4,7 20:8 24:20 30:6 35:16,19 36:3,6,12,21,24,25 37:11,22,23 38:4 38:18 39:9,11 42:25 46:19 47:21 48:8 51:19 54:12 56:24 58:6 60:23 61:1 62:25 68:14 69:3 70:25 71:16 71:20 72:1,4 73:4 74:9,22 79:16 83:16 84:7,17 87:16 92:6 100:14 102:3 109:20 120:4 122:20 123:8 124:8 134:5 140:5 165:2 166:10,11 170:11 173:20 174:9,11 175:24 181:11,13 181:14,15,17,18 183:19 184:4	185:2 191:8,10,13 192:5 201:15 <b>corrected</b> 114:8 120:17 201:15 <b>corrections</b> 130:20 201:12 <b>correctly</b> 139:15 <b>correlated</b> 163:12 <b>corridor</b> 125:13 125:20,23 126:9 126:16 <b>corridors</b> 125:8 <b>cost</b> 18:25 105:22 173:18 <b>council</b> 38:9,12 93:24 190:3,8 <b>council's</b> 162:25 <b>counsel</b> 8:8,25 199:23 <b>counsel's</b> 82:2 <b>count</b> 177:6 <b>counterclaimant</b> 1:14 2:14 <b>counterdefendants</b> 1:11 2:11 <b>county</b> 122:18 <b>couple</b> 24:17 48:23 83:13 144:2 197:25 <b>course</b> 12:10 26:8 27:11,18,22 199:6 199:13 <b>court</b> 1:1 2:1 10:24 11:1,16 24:23 <b>cover</b> 33:20,21,23 34:13,16 153:21 153:25 155:1,4,18 156:2 157:12 158:9	<b>covered</b> 41:12 <b>create</b> 110:6 111:21 145:6 <b>criteria</b> 29:13,15 29:21 30:3,7,8,10 30:12 46:13,16,17 103:23 104:5,8,9 104:16,19,21 105:1,7,13,17,21 106:1,5,10,14,19 106:21,23 166:18 167:2 <b>critical</b> 131:5 <b>cross</b> 195:12,24 196:7 197:2,7,14 <b>crr</b> 1:23 <b>csr</b> 1:23 202:25 <b>current</b> 13:16 22:22 <b>currently</b> 13:14 37:1,9,17 <b>cv</b> 1:7 2:7 <b>cycle</b> 44:25 47:25 67:25 68:4 69:3 69:16 138:23 139:2,6,6 143:10 143:17,24 144:6 149:9 152:8	<b>dates</b> 100:2 <b>day</b> 12:10 45:19 103:22 201:16 <b>days</b> 131:10,11 <b>deal</b> 165:17 <b>december</b> 99:8 <b>decision</b> 100:21 <b>declaration</b> 10:16 <b>declare</b> 201:10 <b>defendant</b> 1:14 2:14 4:13 9:2 <b>defendant's</b> 7:2 <b>defendants</b> 2:20 <b>defining</b> 76:4,5 <b>definition</b> 75:13 128:11 <b>delegate</b> 128:6 <b>deleted</b> 115:18 <b>deliver</b> 134:15 136:24 137:6,13 137:19,22 175:13 175:25 176:19 177:3 186:14 187:4,12,17,25 <b>demand</b> 95:5 <b>department</b> 5:6,18 7:18,21 9:9 19:9 23:17,19 35:19 66:22 75:20,25 76:8 107:18 118:11,14 120:23 122:15,17 128:4 128:12 130:11 143:23 151:15 <b>department's</b> 120:24 <b>departments</b> 122:22 123:2 128:9 <b>depends</b> 122:19
			<b>d</b>
		<b>d</b> 1:5,17 2:5,19 4:4 6:3 8:4 201:10,22 <b>d.c.</b> 3:9 4:9 <b>dar</b> 1:7 2:7 <b>date</b> 85:17 131:4,8 131:9,10,12,19,23 139:7,23,24 140:1 140:4 170:8 202:19 <b>dated</b> 99:7 132:23 202:21	

## [depicted - documents]

<p><b>depicted</b> 138:25 139:1</p> <p><b>depo</b> 7:6</p> <p><b>deposit</b> 175:17 176:1,2 186:21</p> <p><b>deposition</b> 1:17 2:19 7:10 8:14 10:3 12:25 24:20 34:14,21 83:16 202:13</p> <p><b>depositories</b> 187:9</p> <p><b>depository</b> 135:24 136:1,10,12 175:20 176:16 177:1,22</p> <p><b>deputy</b> 86:6</p> <p><b>derived</b> 105:23</p> <p><b>describe</b> 44:14</p> <p><b>described</b> 44:6 161:6</p> <p><b>description</b> 7:3 40:9</p> <p><b>design</b> 23:13,25 118:12,18 119:5 126:21</p> <p><b>designations</b> 136:15</p> <p><b>designing</b> 119:13</p> <p><b>detail</b> 28:3 161:7 161:14</p> <p><b>detailed</b> 161:16,20</p> <p><b>details</b> 139:8 170:1</p> <p><b>determination</b> 15:18 46:11 157:7 167:11</p> <p><b>determine</b> 103:24 184:19 185:1,5,15</p> <p><b>determined</b> 30:1 106:16</p>	<p><b>determines</b> 183:13</p> <p><b>determining</b> 170:18 171:22</p> <p><b>develop</b> 22:19 104:10 152:5 161:3 162:19 163:1 164:5</p> <p><b>developed</b> 24:2 44:14 74:13 152:7 152:10</p> <p><b>developer</b> 189:25 190:1</p> <p><b>developers</b> 27:25 28:4 37:19 134:2 150:18</p> <p><b>developing</b> 75:7 116:5 144:12 151:3 161:22 164:7 169:7,11</p> <p><b>development</b> 26:3 27:18,22 66:23 74:21 75:25 76:9 78:11,16 102:6,10 102:25 128:4 129:25 163:10 196:22,23</p> <p><b>develops</b> 103:2</p> <p><b>dgs</b> 7:15 19:11,12 35:18 132:18 142:7 145:24 146:25 147:4,8,12 147:13,15 153:12</p> <p><b>dictated</b> 173:5</p> <p><b>dictating</b> 171:5,9</p> <p><b>diem</b> 45:10</p> <p><b>differ</b> 50:19</p> <p><b>difference</b> 22:5 27:25 28:1 136:14</p> <p><b>different</b> 15:23 16:15,16 29:14 36:17 40:11 114:4</p>	<p>122:13,14 178:21</p> <p><b>differently</b> 90:6</p> <p><b>difficult</b> 164:19,24</p> <p><b>difficulties</b> 92:9</p> <p><b>difficulty</b> 96:5,7</p> <p><b>direct</b> 154:5</p> <p><b>directed</b> 48:6 175:21 186:15,25 187:10,12,17,25</p> <p><b>direction</b> 202:10</p> <p><b>directly</b> 33:16 61:7 175:17</p> <p><b>director</b> 9:11 13:17 19:22 20:5 86:6</p> <p><b>directs</b> 37:25 38:3</p> <p><b>disabled</b> 136:24 137:20 179:24 180:1 189:21 190:9</p> <p><b>disapprove</b> 14:25 15:3,8,10</p> <p><b>disclosures</b> 143:10</p> <p><b>discuss</b> 18:22 29:3</p> <p><b>discussed</b> 40:20 93:5 96:11 128:10 196:21</p> <p><b>discussing</b> 54:22 89:11 103:22 106:21 107:4</p> <p><b>discussion</b> 16:4 80:23 200:14</p> <p><b>discussions</b> 25:22 135:9 147:17 148:20,23 193:9 193:16 194:19,22</p> <p><b>display</b> 35:1</p> <p><b>displayed</b> 99:12 99:23 100:8,9</p> <p><b>dispute</b> 24:24 25:12,20</p>	<p><b>distance</b> 126:15</p> <p><b>distinctions</b> 191:1</p> <p><b>distinguish</b> 62:13 62:19 64:14</p> <p><b>distribute</b> 135:19</p> <p><b>distribution</b> 134:25 135:3,6,10 135:14,15</p> <p><b>district</b> 1:1,2 2:1,2 24:23</p> <p><b>division</b> 5:19 7:23 9:10 66:15 107:18 128:13 129:1,3,5 129:11 151:16</p> <p><b>document</b> 19:2 24:8,12,14,16 34:5 34:22 57:24 58:1 61:1 64:22 74:6 74:25 83:9,10,18 83:23,25 84:2,14 84:19,23 85:8,12 85:14,14,16,20 87:14,18,20,24 88:9,13 93:5 94:10 99:4,6 107:14,16,25 108:4,8,9,12 132:9 132:13,15,17,20 132:23 133:1 136:3 138:20 141:19,23,25 150:19,22,23,25 151:2,6,9,13 153:22 154:11,18 154:23 157:16,17 158:10,19 179:1</p> <p><b>document's</b> 156:7</p> <p><b>documents</b> 13:1,2 13:8 14:18 20:18 21:23 45:2 46:1 48:3 78:22,24</p>
---	--	--	--

**[documents - enforce]**

84:9 85:3,5 86:8 86:20,24 87:1,4,7 87:10 151:3 161:18 <b>doing</b> 82:18 166:23 <b>doj.ca.gov</b> 5:13 <b>dollar</b> 108:21,22 108:25 109:9 <b>domain</b> 58:5,17 <b>doubt</b> 133:20 156:2 157:1,13 158:2,10 <b>draft</b> 146:19 169:16 <b>drafted</b> 173:4 <b>drafting</b> 146:10,11 170:22 <b>drafts</b> 171:12,12 <b>drawings</b> 24:3 <b>dsa</b> 66:11,14 <b>duly</b> 202:7 <b>duplicate</b> 29:23 104:23 <b>duties</b> 123:14	35:10,23 36:4,11 36:15 37:2,10,14 37:17,21 44:15,19 44:23,24 53:5,6,7 53:10 54:4,21 58:4 65:2 79:2 99:14 100:12,22 101:9 103:1 111:8 112:7,8 140:2 142:24 146:17 150:15 163:12 168:9 172:21,23 191:5 192:2 <b>editions</b> 70:15,18 70:24 <b>editorial</b> 170:4 <b>edits</b> 108:9,12 147:21,22 194:5 <b>education</b> 170:4 198:2 <b>effect</b> 35:9 36:2,4 36:11 124:3 <b>effective</b> 22:22 23:5 36:11 131:9 131:12 139:7,24 140:1,4 <b>effects</b> 123:12,20 <b>effectuate</b> 110:25 116:2 <b>effort</b> 137:25 <b>efforts</b> 74:14 136:24 137:6,13 138:4,11 179:22 <b>egress</b> 124:20,22 125:4 <b>ehler</b> 3:14 8:10 9:16,16 200:6,9 <b>either</b> 14:25 86:3 158:15 160:3 <b>elaborate</b> 77:10	<b>electric</b> 99:14 <b>electrical</b> 7:8,19 16:21 34:12 36:23 43:5,6,11,13,15,16 43:22,25 44:2,4,15 44:20,21 46:6 51:7,25 52:7 53:4 53:10,17,22,25,25 54:3,10,14 55:1,7 55:13,19 56:2,9 58:3 59:3,7,18 60:5,7,10,15,22 61:18,23 62:13,14 63:16 64:11,20 65:19 66:8 72:17 72:23 73:10,18,24 74:12,21 75:3,7,11 75:23 76:3,11,19 77:1,5,10,12 78:1 78:6,12,17,23 79:1 79:4,8,12,19,24 80:3,15,20 81:6,23 82:6,12,15 91:2,11 92:5,11 99:24 100:11,22 101:5 101:13,20 102:3 103:1,7 112:12,20 116:5 117:12,15 117:16 118:2,8 121:8 127:6 131:18,22 132:3 133:10,12,22 134:6 135:11 140:2 154:6,22 155:5,19 156:3,20 156:23 157:2,5,13 157:14,20 158:11 158:20 159:14,21 159:24 160:2 162:14,19,24 164:5,5,20,21	165:5,18,21 168:3 168:9,14,17,18,25 169:7,11,17 171:2 171:6,13,17,23 172:7,20 177:18 178:23 179:11,18 179:23 180:3,7,11 180:15 181:9,17 184:6,9 185:14 187:14,19 188:12 188:20 189:3,20 190:13 191:2,2,5,6 191:16 192:2,3,11 192:24,25 193:6 195:6,9,21 196:2,5 196:19 198:11,14 198:20 199:8,10 199:14 <b>elements</b> 164:20 <b>email</b> 7:11,15 87:21 132:19,21 133:9,15,21 180:20 181:16 <b>emails</b> 85:21,22 87:7 <b>emergencies</b> 35:8 <b>emergency</b> 175:16 <b>employed</b> 13:14 20:14 23:7 <b>employee</b> 202:17 <b>employees</b> 197:5 197:11 <b>employment</b> 13:16 26:8 27:12,19,23 28:7 <b>enabling</b> 105:3 <b>encountered</b> 91:1 91:12 <b>energy</b> 130:6 <b>enforce</b> 127:24,25 128:21 129:16,20
<b>e</b>			
<b>earlier</b> 17:13 18:3 20:21 29:2 43:4 46:17 47:19 51:16 68:7 69:16 70:23 73:2 78:21 102:19 103:22 116:9 120:17 161:6 165:1 166:7,17 167:19 168:12 169:21 174:25 175:4 177:16 179:16 180:19,20 196:21 <b>edition</b> 22:20,21 22:23,25 23:2,4			

**[enforce - fee]**

<p>130:1,7,12,16,20  <b>enforcement</b>  127:18,19 128:7  128:17 129:19  <b>enforces</b> 129:6  <b>enforcing</b> 128:14  129:11  <b>engineers</b> 1:9 2:9  <b>enormous</b> 155:24  <b>ensure</b> 19:23  <b>entail</b> 13:25 14:17  <b>entails</b> 142:17  <b>enter</b> 103:4 108:23  <b>entering</b> 142:7  <b>entire</b> 39:14,20  52:12,17,18 64:10  64:22 66:11 67:5  68:10,13,17 69:14  82:12 89:19 169:8  192:24  <b>entirely</b> 191:10  <b>entirety</b> 63:3  64:15 65:6,12  67:8,10,17 69:20  <b>entities</b> 142:13  163:9  <b>entity</b> 53:18,24  73:18 142:9  159:20  <b>environment</b>  123:13,21 124:4  <b>errata</b> 113:23  114:1,17,23  175:16  <b>error</b> 114:3,6,6,12  114:12,13  <b>errors</b> 113:5,16,20  114:8  <b>essence</b> 123:11,14  <b>essential</b> 129:4,8  129:12</p>	<p><b>establish</b> 11:4  134:25  <b>established</b> 43:4  68:7 73:2 105:3  135:4 140:19  <b>et</b> 8:16  <b>exact</b> 17:12 21:2  72:3 143:7  <b>exactly</b> 80:25  156:11,12 176:12  <b>examination</b> 6:7,8  6:9,10,11 8:7  160:16 186:8,13  188:10 190:25  197:23 199:4  <b>examined</b> 8:5  <b>example</b> 16:18,24  66:10 75:20 125:6  135:13 162:13  163:8,13 171:24  183:4  <b>examples</b> 114:7,15  <b>excerpted</b> 63:3  <b>excerpting</b> 140:17  <b>exchange</b> 93:6  <b>exclude</b> 148:15  <b>excluding</b> 153:14  <b>exclusive</b> 105:4  <b>excuse</b> 41:7  107:18 165:25  171:12  <b>executed</b> 201:16  <b>executive</b> 9:11  13:17 19:21 20:5  86:6 145:24  <b>exhibit</b> 7:4,6,7,8,9  7:11,13,15,17,19  24:9,10,13,22 33:3  34:15,18,20,21  37:13 40:7 57:22  57:25 59:12 63:3</p>	<p>65:14 82:1,3,4  83:6 85:10,13  87:15,16 98:25  107:9,11,13  109:14 131:1  132:11,14 134:20  134:22 136:2,2  138:20 140:6  141:21,24 145:21  146:13,14 150:20  150:23 153:18,20  153:21 167:17,25  169:24 170:1  175:7,11 176:9,10  176:23 177:11,13  178:3 180:19  181:20,21 186:11  186:12  <b>exhibits</b> 7:1  181:20  <b>existed</b> 150:9  <b>existing</b> 44:22  <b>exit</b> 124:24 125:8  125:13,20,23  126:9  <b>expenses</b> 197:10  <b>experience</b> 23:9  28:10 58:24 59:11  119:12,23  <b>expert</b> 156:19,23  157:20 184:12  <b>experts</b> 45:9 47:10  163:16  <b>express</b> 17:16,18  17:24 18:2,4,10  45:25  <b>expressly</b> 105:4  <b>extent</b> 94:9 191:13  <b>extract</b> 97:19,22  174:5</p>	<p><b>f</b>  <b>f</b> 3:7  <b>facilities</b> 118:13  118:19  <b>fact</b> 172:11  <b>failure</b> 127:5  <b>fair</b> 165:16 169:9  179:4  <b>fairly</b> 82:4  <b>familiar</b> 26:2 34:4  50:6 59:13 72:25  126:14 161:21  162:9,20,23,24  <b>familiarity</b> 28:6,9  59:5,9 161:24  <b>far</b> 108:21 128:5  139:25  <b>farther</b> 168:7  <b>february</b> 20:7  <b>federal</b> 202:13  <b>fee</b> 4:6 8:11 9:19  9:19 26:5,20 27:1  27:13 30:18 31:16  31:24 32:3,9  33:20,25 34:6  36:7 38:23 39:2  44:11 47:17 48:10  48:16 49:25 51:9  51:22 52:1 53:11  55:2,8,21 56:4,10  57:3,10,14 58:10  58:19 59:14,22  60:11,17 61:4  63:2,7,9 64:16,19  65:13,22 67:12  69:7,22 70:13,20  71:10,21 72:5  73:19 74:23 75:9  76:13 82:8 84:10  86:10 88:24 90:1  91:3,15,24 94:9,24</p>
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## [fee - general]

95:7,20 96:2,22 97:8,16,25 99:18 100:4 126:11,22 132:5 142:14,19 144:15,19 145:7 153:25 154:12,14 185:22 189:4,5,13 192:19 195:11,23 196:6,12,17 197:15 199:1,19 199:21,24 200:3 <b>fenwick</b> 4:14 7:5 9:2,5 <b>fenwick.com</b> 4:22 <b>field</b> 45:9 47:11 <b>file</b> 99:13,23 100:21 101:4 102:2,5 <b>files</b> 45:4 <b>fill</b> 143:2,5 <b>final</b> 45:24,24,25 46:5 63:18,25 67:20,22 68:22 69:2,14 168:1 181:25 <b>finalize</b> 149:12 <b>financially</b> 8:22 202:16 <b>find</b> 69:6,18 70:11 158:15 <b>findings</b> 104:21 <b>fine</b> 200:15 <b>finish</b> 11:19,23,24 <b>finished</b> 12:1 <b>fire</b> 1:6 2:6 3:3 7:24 9:15,18 29:25 30:1 44:8,9 62:3 106:15,16,17 107:20 124:6,7,19 124:20 125:10,10 128:21 129:16	160:19 168:1 <b>first</b> 25:8 74:11 88:1 93:4,9 99:10 132:25 146:19,22 160:22 167:25 170:2 171:25 175:11 177:22 178:4 180:20,23 182:4 186:17,19 187:5 <b>five</b> 156:15 187:8 <b>fix</b> 91:21 <b>fixed</b> 92:2 <b>flexibility</b> 150:3,9 <b>flip</b> 171:25 176:22 177:13 178:14 186:12 <b>floor</b> 3:8,17 4:19 <b>flow</b> 125:13 <b>focus</b> 110:1 <b>follow</b> 47:14 48:11 112:15 113:9 118:24 160:21 184:20 <b>followed</b> 19:24 <b>following</b> 26:10 27:4 68:6 116:3 <b>follows</b> 8:6 <b>followup</b> 199:2 <b>foregoing</b> 201:11 202:4,6,10,12 <b>form</b> 16:1,5 21:14 22:14 24:6 26:5 26:14,20 27:1,13 28:19 30:18,19 31:9,16,24 32:3,9 34:6 35:3 36:7 38:23 42:3,13,20 43:1,18 44:3,11 46:7 47:17 48:9 48:10,16 49:19,25	51:9,22 52:1,10 53:11 55:2,8,21 56:4,10 57:3,10,15 58:10,19 59:8,14 59:22 60:11,17 61:4 62:9 63:17 64:16 65:13 66:9 69:22 71:10 73:19 74:23 84:10 90:1 90:8 91:15,24 94:24 95:7 100:4 100:15 101:6,21 102:2 114:10,24 115:19 116:7 117:8,17 119:25 124:25 125:15 126:1,23 127:22 132:5 144:14 145:8 147:24 154:12 191:9 192:13 <b>format</b> 17:20 106:11 113:7,19 123:4 <b>formatting</b> 170:4 <b>forms</b> 143:2,5,8 <b>forth</b> 149:7 170:5 175:18 202:5 <b>forward</b> 44:22 67:24 68:4 69:3 176:22 <b>forwarded</b> 116:11 <b>found</b> 14:2 17:11 <b>foundation</b> 55:16 61:3,13 73:12 123:24 137:2,9,16 138:7 143:13,19 159:16 <b>four</b> 15:1,7 18:3 29:2,4 103:3 169:20 170:25	177:12 187:8 <b>fourth</b> 169:25 <b>francisco</b> 4:20 <b>free</b> 117:23,25 121:9,14 122:5,22 131:25 132:2 173:12,17 174:16 174:21,22 178:23 179:6 188:13 189:2 <b>freely</b> 188:19 <b>front</b> 32:24 33:13 33:17 64:21 109:10 153:20 <b>full</b> 38:21 53:16,19 55:18 56:1,8 64:20 86:23,25 175:11 <b>fully</b> 70:5 184:1 <b>functionally</b> 15:22 <b>furnish</b> 10:14,17 188:19 <b>furnishes</b> 92:4 <b>further</b> 14:25 15:3 15:8,9 66:16 88:13 160:4 182:15 185:21 197:18 202:12,16 <b>future</b> 88:4
<b>g</b>			
<b>g</b> 3:5 116:23 <b>gaining</b> 92:10 <b>game</b> 22:9 <b>general</b> 5:7,18 7:18,22 9:10 19:10 23:17,19 27:9,10 35:19 107:18 118:11,15 119:16 120:23 140:19 141:7,11 143:23 151:15			

**[general - implementation]**

<p>170:7  <b>general's</b> 9:7  <b>generally</b> 30:13  33:7 152:6 162:2  184:14  <b>give</b> 12:11,21  32:15,25 123:1  200:4  <b>given</b> 157:5,17  185:4 202:11  <b>giving</b> 10:21  <b>go</b> 10:20 11:24  14:7 66:24 70:19  82:22 83:22 98:24  99:1 119:1 136:5  142:22 144:5,9,21  145:10 155:11  160:10 163:10  164:6 175:3  181:19 185:24  186:1  <b>goes</b> 36:1,4,11  41:17 47:2 161:22  169:7  <b>going</b> 10:20 11:13  63:2 74:17 140:11  141:13,19 143:9  143:16,23 145:10  177:6  <b>good</b> 8:8 9:23,24  10:2 149:8  <b>govern</b> 47:24  <b>governed</b> 184:2  185:2  <b>governing</b> 48:7  182:17 183:12  185:6  <b>government</b> 14:4  18:21 19:25 39:15  42:15 88:18 89:5  141:10 170:7</p>	<p>197:10  <b>governmental</b>  140:18  <b>governments</b>  197:4  <b>governor</b> 16:3,14  16:18,25 17:6,8  <b>grammatical</b>  114:6  <b>grand</b> 3:16  <b>grant</b> 109:19  <b>grants</b> 110:2  <b>graphic</b> 139:21  <b>great</b> 98:17 165:17  175:9  <b>green</b> 198:7  <b>groups</b> 25:21  <b>guess</b> 26:21 27:7  41:3 58:15  <b>guide</b> 64:9</p>	<p><b>heading</b> 37:14  40:7 74:7 88:13  123:10 138:22,22  <b>health</b> 14:2 17:11  29:19 75:21  129:25 130:11  166:9,14,19,25  167:8  <b>hear</b> 30:11 105:12  <b>heard</b> 49:8,13,18  82:2 94:20  <b>hearing</b> 18:13  <b>hearings</b> 14:19  18:10  <b>heating</b> 1:8 2:8  <b>held</b> 20:25 172:23  <b>help</b> 113:12 114:2  190:4  <b>helped</b> 189:25  <b>helpful</b> 66:6  <b>helps</b> 176:7  <b>hereinafter</b> 110:5  110:16  <b>hereto</b> 175:18,20  201:14  <b>high</b> 166:1 169:9  <b>highlight</b> 116:25  <b>history</b> 144:20  <b>hold</b> 58:11 176:11  195:9 198:13,19  <b>holds</b> 198:10  <b>honestly</b> 150:1  <b>hospital</b> 130:3  182:20 183:4,25  <b>hospitals</b> 42:11  182:10 183:8,10  183:14 184:12  <b>host</b> 37:1,4,5,9,17  <b>hosted</b> 39:6  <b>housing</b> 66:22  75:25 76:9 128:4</p>	<p>128:7  <b>https</b> 35:14  <b>huge</b> 154:23  <b>huh</b> 15:12,15  18:18 31:6 37:16  40:19 46:23 47:22  48:23 56:15 67:2  88:19,21 89:12  91:9 93:16 102:18  115:17 123:8  131:2 132:16  139:17 140:15  151:14 167:18  180:22 199:18  <b>hunter</b> 7:16  132:21</p>
	<b>h</b>		<b>i</b>
	<p><b>h</b> 123:10 131:1  <b>half</b> 20:6  <b>hand</b> 141:19  <b>handed</b> 24:12  34:20 57:24  107:13 141:23  150:22  <b>handles</b> 159:13  <b>happen</b> 125:19,20  126:17,21 127:4  164:10  <b>happened</b> 189:23  <b>happens</b> 30:10,12  <b>hcd</b> 66:19 67:11  67:18,21,23 68:10  68:13,17 159:8  <b>hcd's</b> 67:4  <b>head</b> 48:5 56:19  108:20 111:5  114:21 121:16,25</p>		<p><b>iapmo</b> 133:23  134:9,10,11,15  152:9  <b>icc</b> 93:13,25 95:10  95:14,19 96:1,10  96:21 97:1,4,7,12  97:15,20,23 98:4,6  98:14,19 133:3  152:9 181:2,12  <b>idea</b> 101:18  <b>identification</b>  34:21 57:25 85:13  132:14 141:24  150:23  <b>identified</b> 136:2,6  <b>identifies</b> 40:18  62:1 151:9  <b>identify</b> 8:25  121:18  <b>impaired</b> 137:6,23  180:8 190:14  <b>implementation</b>  21:13</p>

**[implemented - know]**

<b>implemented</b> 182:16 183:6	<b>indicating</b> 33:8	<b>interested</b> 8:23 139:4 195:15 202:17	<b>jerry</b> 5:8 9:6
<b>importance</b> 131:5	<b>individual</b> 151:18	<b>interface</b> 15:13 17:1	<b>jerry.yen</b> 5:13
<b>important</b> 131:7 148:13 149:2 166:9	<b>individuals</b> 136:25 137:7,13,23 180:1 180:8	<b>internally</b> 102:6	<b>job</b> 1:24
<b>include</b> 86:23 87:7 122:11 128:3 173:14	<b>industry</b> 17:3 26:12,19,24 27:11 163:21	<b>international</b> 1:5 2:5 4:4 38:8,11 93:24 134:12 162:25 163:8,13 190:3,7	<b>john</b> 5:21 8:20
<b>included</b> 86:20	<b>inferior</b> 166:13	<b>internet</b> 25:17 33:5,7,9,12	<b>judgment</b> 166:24 167:6
<b>includes</b> 24:22 88:17 155:1	<b>info</b> 88:5	<b>interpret</b> 65:20 66:1	<b>july</b> 7:4 35:25 131:4,18 132:4 135:21 139:16 170:8
<b>including</b> 81:6 89:19 158:19 179:24	<b>information</b> 25:17 34:11,15 64:13 66:3,5 86:16 88:8 88:17 102:8,11,15 114:23 116:11 143:22 146:10,11 146:12,14 193:21 196:3	<b>interpreting</b> 66:7	<b>jurisdiction</b> 105:5 121:20 183:12 185:1 188:24
<b>incomplete</b> 63:11 110:14	<b>informed</b> 91:10	<b>intervening</b> 35:9 138:22 139:20,22	<b>jurisdiction's</b> 184:10,15 185:15
<b>inconsequential</b> 113:4,16,20,24 114:8	<b>initial</b> 17:16 18:16 48:2	<b>invited</b> 196:8	<b>jurisdictions</b> 52:24 117:25 121:7,14 122:4,6 122:11,14 127:25 128:6,8 175:5 182:17,23 183:7 184:17 188:11,14 188:16,19 195:15
<b>inconsistent</b> 156:21	<b>initialed</b> 201:13	<b>involved</b> 10:5 78:21 163:16 169:11 171:5	<b>justice</b> 5:6
<b>incorporate</b> 30:23 31:2,7,12 164:20 167:7 172:6	<b>ink</b> 201:13	<b>involvement</b> 10:8 21:22 23:12 26:7 78:10,15,19	<b>k</b>
<b>incorporated</b> 26:2 106:7 145:6	<b>installation</b> 125:10	<b>issue</b> 35:6 86:4 91:21 92:20 124:12 190:23	<b>k</b> 134:21,21,24 136:17
<b>incorporates</b> 166:22	<b>installations</b> 65:20	<b>issues</b> 25:25 90:25 91:10 124:6,7,10 124:19,20 125:10 138:5,13 180:16 181:16	<b>katrina</b> 146:8,19 147:17
<b>incorporation</b> 30:17 31:5 49:9 49:14,18,23 50:7 50:11,12,18,19 51:2,5	<b>instance</b> 36:20 65:4 71:18 94:13 100:3 128:3 190:2	<b>item</b> 109:12 135:7 177:22,25 186:17 186:17	<b>keep</b> 52:11 81:8 88:5 101:12,19 171:23
<b>incredibly</b> 164:12	<b>instances</b> 32:13,17 94:3,5	<b>j</b>	<b>kevin</b> 4:6 9:19
<b>independent</b> 19:12	<b>instruct</b> 148:9	<b>january</b> 23:6 36:2 139:19	<b>kevin.fee</b> 4:11
<b>index</b> 6:1	<b>intend</b> 66:3		<b>kind</b> 108:1 128:17 185:8 195:8 196:3
<b>indicate</b> 159:11	<b>intensive</b> 164:12		<b>kinds</b> 40:16,21
<b>indicates</b> 62:22,24 170:12 183:4	<b>interacted</b> 26:12 26:17		<b>knew</b> 152:18 177:17
	<b>interactions</b> 15:16 27:17,21		<b>know</b> 11:9 12:6,10 17:11 25:19 26:17
	<b>interest</b> 78:2 79:7 79:11,18,22 80:2 80:14 81:4,19 105:8,14,16		

**[know - licensee]**

26:21 37:4 43:19 49:12 50:5,15,25 51:12 53:13,16,16 53:18 54:1,7,13,23 54:24 55:18 56:1 56:7,12,14,22,24 56:25 57:1,5,6,8 57:11,13,18,20 58:17 60:3,12,14 60:18,19 61:6 62:17 68:5 69:5,8 69:20,25 70:21 71:12 72:2,20 73:8,13,15,16,20 73:22 74:2,4 75:1 75:10,15,21 76:12 76:23 77:17 82:13 82:17 86:11,14,16 87:9 90:2,9,15,19 90:24 92:1,21 94:19 95:8,17,18 95:25 96:16,17,19 96:23 97:6,9,14,17 97:22 98:1 100:18 100:19 101:12,16 103:10 107:2 108:7,20,21 109:6 109:10 111:5 112:25 114:2,5,19 114:21 119:21 121:11,15 122:3 122:23,24,25 123:3 126:7 127:10 128:6,13 128:17,20 129:15 129:18,18,20,24 130:4,6,9,10,14,15 130:18,19 131:17 131:21,24,25 132:2,7 134:6,8 135:7 136:8,16,21	136:22,23 137:3,5 137:10,12,17 138:14,17 140:24 141:4,5,8,9,12 142:2,5,15,17 143:7,8 144:4 146:16 147:2,13 148:3,6 149:4 150:6,12,24 151:21,23,25 152:20,23,24 157:21 158:5,6 159:22,25 160:3,8 160:8 162:3,6 164:2,9,15 171:8 172:14 173:23,24 187:2 188:23 189:8,22 190:6,7 190:10 192:14,17 192:20,21 193:3,5 194:10 195:17 197:16 198:16 <b>knowledge</b> 25:12 25:15,16 38:21 39:18,25 52:4,6,16 54:2 63:22 69:11 90:23 113:14,18 121:7 126:20 138:3 144:11,18 145:5 196:21 <b>known</b> 14:5,13 19:4 43:10	<b>laid</b> 47:4 <b>lands</b> 130:16 <b>language</b> 17:19 41:19 46:5 61:21 103:25 110:1,7,9 110:17 113:8,11 113:13 115:8,13 115:14,16,18 116:6,25 117:3 131:5 135:1 140:17,20,21 181:22 183:18 186:14,16 187:1 <b>latest</b> 22:21 <b>law</b> 3:6,15 4:7,17 5:9,16 10:24 14:2 14:10 16:16 17:10 26:2 28:16 36:6 40:16 44:18 45:6 51:6 52:23 89:7 89:18,21,23 104:12 111:16 117:24 121:17,22 122:1 131:13 165:20 175:6 177:17 178:12 185:16 <b>law's</b> 45:21 <b>lawsuit</b> 25:14 58:9 152:14 153:13 <b>lawsuits</b> 10:5,9 <b>lawyers</b> 148:16 153:15 <b>lay</b> 10:19 <b>lays</b> 47:14 <b>leading</b> 32:21 38:5 39:10 47:16 50:14 139:15,18 <b>learn</b> 196:18 <b>leased</b> 118:13,19	<b>leaving</b> 154:25 155:3 <b>leda</b> 3:14 <b>left</b> 110:14 <b>legal</b> 5:19 9:10 50:22 51:11 77:15 88:24 103:9 107:1 109:2,21 110:11 111:2,10,22 112:13,24 126:12 126:24 127:8 131:14 147:10 189:7,14 <b>legend</b> 62:18,22 <b>legislated</b> 115:14 <b>legislation</b> 105:3 <b>legislature</b> 41:11 <b>letter</b> 7:4 24:19,22 25:10 84:17 <b>level</b> 112:7 161:24 162:1,7,13 163:11 169:9 <b>lewis</b> 4:5 9:19 <b>libraries</b> 117:24 135:24 136:1,10 136:11,11,12 175:6,6,17,20 176:1,2 177:1,4,7 186:21 <b>library</b> 121:22 122:1 176:17 177:17 178:6,9,12 178:16,19 <b>license</b> 109:19 127:10 <b>licensed</b> 17:3 110:6 115:9 118:23 119:3,10 119:12 <b>licensee</b> 117:1
	<b>I</b>		
	<b>lack</b> 61:2,12 123:23 137:8,13 137:15 138:1,6 143:12,18 180:12 <b>lacked</b> 190:18 <b>lacks</b> 55:15 73:11 137:1 159:15		

**[life - meetings]**

<b>life</b> 29:25	122:10,11,14,14	<b>m</b>	34:4 49:8 57:24
<b>light</b> 59:11	122:17,21 123:1	<b>macdonell</b> 5:21	81:18 83:9 145:20
<b>likewise</b> 11:22	127:25 128:6,8,9	8:20	160:18 201:10,22
<b>limit</b> 12:17	128:11 140:18	<b>machine</b> 202:8	<b>material</b> 45:19
<b>line</b> 65:5 135:18	141:9 170:6	<b>maeda</b> 7:12 85:25	62:2 155:24
136:17 187:5	174:25 175:4	86:2 93:6	<b>materials</b> 1:4 2:4
<b>lines</b> 170:2 187:7	182:17,21,22	<b>magazine</b> 193:19	4:4 8:16 15:18
193:7	183:7,12 184:10	<b>mail</b> 193:18	17:14,15 20:2
<b>link</b> 52:21 54:19	184:15,17 185:14	<b>maintain</b> 122:1	21:24 199:6,13
54:25 55:6,12	188:11,13,19	<b>maintains</b> 121:23	<b>matrix</b> 64:6,8
58:5 61:10 67:19	195:14	<b>makeup</b> 47:3	<b>matter</b> 8:15 13:8
71:3,4,15 72:3	<b>located</b> 8:18	<b>making</b> 167:6	33:14 36:18
73:3 91:18,22	<b>long</b> 20:4 46:12	179:25 180:7,11	194:13
92:1,7 100:11,13	99:19 100:19	180:15	<b>matters</b> 10:15
101:23 102:20	110:21 144:1	<b>malamud</b> 88:5	<b>maximum</b> 108:18
134:3 173:15	149:11 161:18	152:24 153:10	<b>mcgeorge</b> 178:11
<b>linked</b> 33:15 39:6	<b>longer</b> 82:19	<b>mall</b> 2:21 8:18	<b>mean</b> 11:13 12:1
133:3 135:14	<b>look</b> 35:11 65:18	<b>manager</b> 146:5	16:22 24:2 26:17
<b>links</b> 54:22 60:21	69:6,20 83:8	151:19	26:22 29:8 31:1,3
60:25 61:6 72:8	86:18 154:23	<b>mandate</b> 131:14	32:19 37:4,5
89:21 123:6 133:6	155:5,7,21 156:16	<b>march</b> 7:11 94:17	49:11 93:18 95:17
179:17	156:22 157:21	<b>margin</b> 62:23	102:7 108:7,25
<b>list</b> 74:17 75:17	168:6 169:24	<b>mark</b> 24:8 33:1	120:12 123:3,17
135:20 176:17	170:2 172:4,17,18	34:17 57:21 83:4	124:17,19 128:9
177:1,22,23 178:1	175:9,10 176:5	107:9 141:19	150:8 155:12,15
178:5	177:21 178:4,11	<b>marked</b> 24:10,13	171:8
<b>listed</b> 38:13 67:6	180:18 185:5,13	33:3 34:18,21	<b>meaning</b> 50:13,18
75:4 135:24	<b>looked</b> 186:13	37:24 57:22,25	<b>means</b> 49:24 67:15
175:17,20 176:14	<b>looking</b> 19:2 44:25	74:6 83:6 85:10	110:18 124:24
187:22	61:7 131:3 156:25	85:12 107:11	182:20
<b>lists</b> 38:17 186:21	171:24 187:3	132:9,11,13	<b>meant</b> 182:8
<b>little</b> 82:19 161:5	<b>looks</b> 46:8 85:23	141:21,23 150:19	<b>mechanical</b>
162:18 168:7	139:14,15 155:16	150:20,22	124:14 133:23
173:10 184:23	162:20 169:25	<b>marnell</b> 151:19,21	134:13,17
<b>live</b> 10:17	178:15	151:23	<b>meet</b> 29:24 127:5
<b>llp</b> 3:4,13 4:5,14	<b>los</b> 3:18	<b>marshal</b> 30:1	<b>meeting</b> 18:6
7:5	<b>lunch</b> 99:2 102:17	106:16,17 128:21	19:24 21:24 45:14
<b>load</b> 126:16	103:13	129:16	46:2
<b>local</b> 49:15 52:23		<b>marvelli</b> 1:17 2:19	<b>meetings</b> 14:20
117:23,24 121:7		6:3 7:5,6 8:4,14	20:1,3,19
121:13,19 122:4		9:11 10:1,2 24:13	



**[meets - national]**

<b>meets</b> 46:12 <b>member</b> 47:3 94:6 132:18 146:4 <b>members</b> 47:7 48:20 92:24 95:3 118:16 <b>merit</b> 17:25 20:1 <b>met</b> 30:3,7,8,10,12 46:18 95:5 104:10 104:13 131:18 160:23 167:3 <b>method</b> 134:25 135:3,6,10,14,16 173:19,20 <b>methods</b> 167:7 <b>mia</b> 1:17 2:19 6:3 7:4 8:4,14 9:10 10:1 201:10,22 <b>michael</b> 7:11 86:5 87:21 <b>mike</b> 85:25 93:6 <b>miller</b> 3:5 6:8,10 9:13,13 16:1,5,10 19:16 21:14 22:14 23:21 24:6,25 26:14 28:19 30:19 31:9 32:21 33:4,7 33:13,18 34:1 35:3 38:5 39:7,10 42:3,13,20 43:1,18 44:3 46:7 47:16 48:9 49:19 50:14 50:21 51:10 52:10 53:12 54:5 55:15 55:22 56:5,11 57:15 59:8 61:2 61:12 62:9 63:10 63:17 64:17 65:7 65:23 66:9 71:6 72:12,18 73:5,11 74:24 76:21 77:14	80:4,17,21,24 81:8 81:14,20 90:8 91:4,13 92:12 98:7,22 100:15,24 101:6,21 103:8 106:25 110:13,20 111:2,9 112:21 114:10,24 115:19 116:7 117:8,17 118:9,21 119:6,18 119:25 120:9,14 121:2 123:16,23 124:25 125:15 126:1,12,24 127:7 127:22 137:1,8,15 138:6,15 139:11 141:13,16 143:12 143:18 144:14 145:8 146:2 147:24 152:3,16 153:23 154:13,19 155:20 156:4,7,18 157:4,15 158:3,12 158:21 159:15 160:17,19 161:12 162:11,17 163:2 163:14,19,24 164:11,17,25 165:9,15,23 166:6 167:4,14 168:22 169:15 170:16 171:10,20 172:16 173:2,9 174:14,19 175:2 179:3,9,15 180:5 183:2,15,24 184:8,24 185:10 185:20 188:21 189:6,12,14 191:9 191:14 192:6,13 193:2 194:8,15 197:1,6,13,20,24	198:17,23 199:20 199:25 <b>minimum</b> 135:19 166:3 <b>minor</b> 113:4,15,20 113:24 114:3,7 <b>minute</b> 49:1 161:13 200:5 <b>minutes</b> 48:24 145:11 156:15 <b>mischaracterizes</b> 61:4 72:5 92:13 94:11 104:2 112:22 120:10 122:7 138:15 152:4 158:13 161:11 188:22 <b>misspoke</b> 129:2 <b>misstates</b> 54:6 64:17 74:24 <b>mistake</b> 101:1 <b>mix</b> 47:10 <b>mobility</b> 137:6,23 180:8 190:14 <b>model</b> 28:12,15 29:2 31:4,20 37:8 37:19 40:15 41:6 41:8,12,18,22,25 42:10,18 44:19 52:22 62:20,25 71:23 77:6 103:25 106:7 111:11,18 111:20 112:7 114:12 115:21 116:17,18 134:1 134:16 144:12,21 145:1 150:18 152:1,6 162:7 182:6 183:22,23 184:2 189:24 190:1 197:5,11	<b>modelled</b> 150:14 <b>modified</b> 33:10 149:6 <b>moment</b> 30:2 83:8 85:13 145:21 153:18 164:3 <b>monday</b> 1:19 2:23 8:1 <b>money</b> 173:18 <b>monitor</b> 127:20 <b>monitoring</b> 127:16 <b>month</b> 149:14,15 <b>monthly</b> 193:19 <b>months</b> 149:16,18 149:24 <b>morgan</b> 4:5 9:19 <b>morganlewis.com</b> 4:11 <b>morning</b> 8:8 9:23 9:24 10:2 <b>move</b> 81:25,25 86:1 173:10 <b>mto.com</b> 3:11,20 <b>multiple</b> 15:25 <b>munger</b> 3:4,13 9:14,17
<b>n</b>			
<b>n.w.</b> 3:7 <b>name</b> 9:25 15:21 53:16,19 124:3 127:13 147:14 151:18 160:18 202:20 <b>named</b> 44:10 58:8 58:9 <b>names</b> 14:8 <b>national</b> 1:6 2:6 3:3 7:24 9:15,17 41:8,12,18,22,24 42:10,18 43:10,13 43:15,22,25 44:8,9			

**[national - nfpa]**

44:21 51:7 61:23 62:3 79:4 106:6 107:20 160:19 162:7,8,13,14 163:11 164:4,21 165:18,21 168:1,3 168:9,17 171:23 172:7,20 182:5 184:2 191:1,6 192:3,25 196:2,5 196:19 <b>nature</b> 15:16 96:7 152:11,12 156:11 <b>ncb</b> 7:17 142:2,5 142:10 <b>near</b> 178:11 <b>nearman</b> 7:12 85:25 86:5 87:22 93:6 <b>nec</b> 62:2 79:3 81:21 106:24 110:4,5 164:7 166:23,24 167:5,7 168:4 172:6,8,11 172:24 173:3,6,23 177:2 195:6 <b>necessary</b> 45:1,22 82:11 <b>need</b> 11:5,25 12:9 15:21 29:13 52:24 58:12,15 86:16 102:9 117:11,15 118:1,7 143:16 155:7 200:3,11 <b>needed</b> 40:25 143:10 <b>needs</b> 41:9 73:8 117:14,21 119:4 <b>negotiate</b> 111:7 <b>negotiating</b> 108:3	<b>negotiation</b> 107:24 108:7 149:7 <b>negotiations</b> 108:5 194:1,24 <b>neither</b> 202:16 <b>nercessian</b> 4:15 6:7,9,11 9:1,1,22 16:11,12 19:17 21:15,16 22:15 23:23 24:7,11 25:2,4 26:6,15,23 27:2,16 28:20 30:20 31:11,17 32:1,6,16,22 33:5 33:11,15,23 34:3,8 34:19 35:5 36:9 38:7,25 39:5,8,17 39:22,25 40:3,5 42:5,14,23 43:3,24 44:5,13 46:15 47:18 48:13,21 49:7,21 50:3,16 51:1,13,23 52:3,15 52:18 53:2,14 54:8 55:4,10,17,25 56:6,13,21 57:7,12 57:17,23 58:16,23 59:10,16,24 60:13 60:20 61:8,16 62:10,11,21 63:5,8 63:12,20 64:23 65:9,17 66:2,13 67:13,14 69:9 70:2,16,22 71:8,14 71:24 72:9,15,21 73:7,14,21 75:5,12 76:14,24 77:18 80:8,19 81:2,11,17 81:22,24 82:10,22 83:4,7 84:15 85:4 85:11 86:15 87:16	87:17 89:3 90:3 90:11,16 91:7,19 92:3,15 94:15 95:1,9,22 96:6,24 97:10,18 98:2,10 98:23 99:21 100:6 100:17 101:2,11 101:17,25 103:12 103:21 104:6 107:3,12 108:17 109:7,25 110:15 110:23 111:6,13 112:1,9,17 113:1 114:14 115:2,20 116:15,22 117:13 117:19 118:4,5,17 119:2,8,22 120:2 120:19 121:6,12 122:9 123:19 124:2 125:2,18 126:4,19 127:3,12 128:2 132:8,12 133:19 137:4,11 137:18 138:10,18 139:13 141:15,18 141:22 142:16,21 143:15,21 144:17 144:23 145:12,19 146:6 147:7 148:2 148:21 149:10,21 150:2,7,13,21 151:8 152:13,19 153:17 154:2,4,17 154:24 155:14,25 156:5,13,24 157:10,23 158:7 158:17 159:2,19 161:10 162:4,15 162:22 163:5,18 163:23 164:8,14 164:22 165:7,13	165:19 166:2 167:1,10 168:19 169:14 170:14 171:7,19 172:13 172:25 173:7,21 173:22 174:13,18 175:1 178:25 179:8,13 180:2 182:24 183:9,20 184:5,22 185:7,18 185:23 186:1,9 188:25 189:10,17 191:12,19 192:9 192:16,22 193:4 194:12,18 195:18 195:25 196:9,15 196:20 197:3,9,17 197:22 198:15,21 199:2,5 200:10 <b>new</b> 35:6 44:24 103:4 <b>newsletter</b> 194:23 <b>nfpa</b> 43:7,8,10 44:6,7 53:6,9 58:8 58:20 59:5,6,18,21 60:5,9,16,23 61:10 61:18 62:7,14 63:6 72:16,23 73:1 77:8,22 81:12 82:6,15 96:12 101:7 107:20 109:20 110:2,4 111:19 112:3,11,19 113:5 113:14 114:20 115:13,23 116:25 117:5,16 131:22 133:13,22 134:7 134:24 135:3,10 135:18 136:18,21 136:23 137:5,12
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**[nfpa - objection]**

140:16,19 141:1,5 141:9 150:17 151:10,25 167:16 168:2,8,9,16,24 169:3 170:3,12,18 170:21,24 171:4 171:12,16 172:19 172:20,23 175:13 175:25 176:17,18 176:18 181:14 186:14 187:12,17 187:25 189:4 191:4 192:1,10 193:10,17,19,21 193:25 194:5,14 194:20,25 195:9 195:19 196:3 198:10 <b>nfpa's</b> 82:2,4 <b>nfpa.org</b> 58:6,17 58:25 59:3 100:14 <b>nine</b> 29:13,15,21 46:13,16 47:7 103:23 104:5,16 104:18 105:1,13 105:21 106:21 166:18 167:2 <b>nodding</b> 56:19 <b>non</b> 115:14 <b>noncompetitive</b> 142:8,10,13,22 143:17,24 144:5 <b>nonexclusive</b> 110:2 <b>nonregulatory</b> 113:25 <b>nonresidential</b> 198:9 <b>nontransferrable</b> 110:3	<b>noon</b> 103:18 <b>nope</b> 34:7 <b>notary</b> 8:22 <b>notation</b> 33:16 62:23 159:10 <b>notations</b> 153:21 154:10,25 155:3 155:17 157:1,12 158:1,9 <b>note</b> 35:11 115:15 <b>noted</b> 25:3 64:3 81:23 201:13 <b>notice</b> 18:5 45:21 195:14 <b>noticed</b> 45:20 <b>notices</b> 19:25 <b>notify</b> 91:17 <b>november</b> 99:11 <b>number</b> 17:12 31:19 34:15 74:14 82:3 83:18 93:11 145:2 179:5 <b>numbered</b> 62:17 176:6 <b>numbering</b> 114:6 <b>nw</b> 4:8 <b>o</b> <b>oath</b> 8:5 10:22 <b>object</b> 16:8 31:16 33:18,25 34:1 48:10 52:10 57:15 58:10 61:4 62:9 63:2,9 64:19 65:13,13 84:11 141:13 <b>objecting</b> 16:6 <b>objection</b> 16:1,5 19:16 21:14 22:14 23:21 24:6,25 25:2 26:5,14,20 27:1,13 28:19	30:18,19 31:9,24 32:3,9,21 34:6 35:3 36:7 38:5,23 39:2,7,10 42:3,13 42:20 43:1,18 44:3,11 46:7 47:16,17 48:9,16 49:19,25 50:14,21 51:9,10,22 52:1 53:11,12 54:5 55:2,8,14,15,21,22 56:4,5,10,11 57:3 57:10,14 58:19,21 59:8,14,22 60:11 60:17 61:2,12 62:8,15 63:10,17 64:16,17 65:7,22 65:23 66:9 67:12 69:7,22 70:13,20 71:6,10,21 72:5,12 72:18 73:5,11,19 74:23,24 75:9 76:13,21 77:14 80:4,17 81:9,13,23 82:2,8 84:10 86:10 88:24 90:1 90:8,14 91:3,13,15 91:24 92:12 94:9 94:24 95:7,20 96:2,22 97:8,16,25 98:7,22 99:18 100:4,15,24 101:6 101:15,21 103:8 103:11 104:2 106:25 109:2,21 110:11,13,19,20 111:1,9,22 112:4 112:13,21,23 114:10,24 115:19 116:7,19 117:8,17 118:3,9,21 119:6	119:18,25 120:9 121:2,10 122:7 123:16,23 124:25 125:15,25 126:1 126:11,13,22 127:7,22 132:5 133:17 137:1,8,15 138:6 139:11 141:17 142:14,19 143:12,18 144:14 144:15,19 145:7,8 146:2 147:24 149:3,19,25 150:5 150:11 151:5 152:3,16 153:23 154:12,13,19 155:20 156:4,18 157:4,15 158:4,12 158:21 159:15 161:10 162:4,15 162:22 163:5,18 163:23 164:8,14 164:22 165:7,13 165:19 166:2 167:1,10 168:19 169:14 170:14 171:7,19 172:13 172:25 173:7,21 174:13,18 175:1 178:25 179:8,13 180:2 182:24 183:9,20 184:5,22 185:7,18 188:21 189:5,6,12,13 191:9,14 192:6,13 192:19 193:2 194:8,15 195:11 195:23 196:6,12 196:17 197:2,6,13 198:15,21
--	---	---	---

**[obtain - paragraph]**

<p><b>obtain</b> 73:17 101:4  <b>obviously</b> 33:20  <b>occupancies</b> 41:17  42:1,17,24 182:1,5  182:15 198:9  <b>occupant</b> 126:16  <b>occur</b> 131:11  <b>occurrence</b> 189:22  <b>occurs</b> 139:9,12,19  139:22  <b>october</b> 84:7 99:11  <b>offer</b> 89:1 195:13  198:2,4,6  <b>offers</b> 56:25 57:2  <b>office</b> 5:7 9:7  15:17 24:18 42:6  45:20 53:1 57:1  84:5 86:4,19 89:7  89:17,21,23  128:20 129:15,24  145:24 165:1,5,11  165:24 182:9  195:17  <b>official</b> 88:14 89:8  <b>officials</b> 16:19,20  134:13  <b>oh</b> 15:7,11 20:25  94:16 120:14  129:2 140:11  <b>okay</b> 8:12 12:7  13:24 15:11 17:5  17:13,18 18:4  19:3 22:11,17  25:2 28:22 29:3,5  32:11 33:1 34:14  38:16 40:4,24  41:2 43:20 44:18  47:12 48:24,25  49:1,5 52:17,19  54:9 56:18 58:14  63:9 70:8 74:10</p>	<p>80:12,21 82:18  83:21 85:2 88:3  91:8 98:14 100:5  100:7 103:14,15  109:18 134:23  140:8,11 145:14  145:17 148:17  154:2 155:10  160:7,14 162:18  164:3 167:18  175:4 176:5,11,11  176:13 177:15  183:16 185:12  186:3,6,20 191:23  191:25 193:13  197:19,22 198:25  <b>ola</b> 89:6  <b>olson</b> 3:4,13 9:14  9:17  <b>omit</b> 115:18  <b>ones</b> 108:11  <b>online</b> 91:17,18  92:6 96:12 117:22  119:1,17,24 120:3  120:8,25 121:4,5,5  133:1,13,16,24,25  152:22 173:19,23  174:1,11,15  <b>open</b> 18:4  <b>operator</b> 8:12 49:1  49:5 82:24 83:1  103:15,19 145:15  145:17 160:11,14  186:3,6 199:22  200:12  <b>opinion</b> 24:22 25:5  25:7,9  <b>opportunity</b> 18:7  <b>option</b> 47:1  <b>order</b> 33:2 34:17  57:21 83:5 93:14</p>	<p>95:11 104:11  107:9 111:11  132:10 133:7  140:12 141:20  150:19 181:3  <b>ordinances</b> 49:15  182:16 183:6  <b>organization</b>  76:25 79:6,11  136:6 198:19  <b>organizations</b> 26:3  27:18,22 77:3,12  80:1,13 81:4,19  196:23 198:13  <b>oriented</b> 28:3  161:7,15  <b>original</b> 202:13  <b>originate</b> 146:15  <b>originated</b> 146:18  146:18  <b>origins</b> 40:11  <b>oshpd</b> 183:13  184:13  <b>outline</b> 139:5  <b>output</b> 22:12  <b>outreach</b> 198:2  <b>outside</b> 23:21  50:22 142:8,13  152:17 153:6  197:1,7,14  <b>outstanding</b> 74:13  <b>overall</b> 105:23  <b>overlap</b> 29:23  104:23  <b>oversee</b> 19:23  <b>ow</b> 166:15  <b>owner</b> 168:8  172:19  <b>owns</b> 58:18 168:2</p>	<p style="text-align: center;"><b>p</b></p> <p><b>p.m.</b> 2:22 8:2  <b>package</b> 30:14  46:3,14  <b>page</b> 6:6 7:3 34:24  34:24 35:1,12  37:13,24 38:13,17  40:6,25 61:10,20  61:21 62:16 64:1  64:3,3,5 74:6 82:4  85:18 87:14 93:4  93:13 95:11  107:21 109:10,16  114:25 115:3,16  116:24 133:3  134:21 138:21  140:10 151:12,13  153:20,21 154:1,6  154:10,15 155:1,4  155:18 156:22  157:12 158:9  159:5 167:25  169:25 171:25  172:4 175:10,22  176:15,25 177:7  178:4,8,14 181:2  181:21 182:1,18  186:12  <b>pages</b> 1:25 39:6  58:25 62:17 63:4  114:1,1 155:21  156:8 176:22  177:8,12  <b>paid</b> 45:10  <b>pam</b> 85:25 86:1  93:6  <b>pamela</b> 7:12  <b>panic</b> 106:16  <b>paper</b> 114:4,4  <b>paragraph</b> 74:11  74:15 93:9,15</p>
--	--	--	---

**[paragraph - premium]**

<p>99:10 113:2 167:25 168:7 170:1,2 172:5,18 172:19 175:11 181:25 186:18,19 187:5 <b>paragraphs</b> 168:16 <b>parameters</b> 105:3 <b>part</b> 25:8 28:16 31:4 32:13 33:22 33:24 34:11 36:17 36:20,23 43:4 47:5,12,19 48:15 70:10 85:9 89:13 93:17,18,20 105:19 106:3,8 115:12 121:17 131:12 134:15 143:3,10 154:7 158:18 167:5 180:25 181:6 182:4,13 183:3 189:19 190:12 <b>participate</b> 18:14 45:11 108:5 164:1 197:5,11 <b>participation</b> 163:21 <b>particular</b> 25:18 80:9 148:12 149:1 149:9 150:4 167:16 <b>parties</b> 139:4 <b>parts</b> 32:18 35:4 36:14 37:1,9 38:11,17 166:23 167:7 <b>party</b> 8:21 202:18 <b>pass</b> 132:9</p>	<p><b>passed</b> 85:12 132:13 <b>pause</b> 16:7 49:1 <b>pay</b> 93:13 94:7,23 95:5 181:2 <b>paying</b> 189:4 <b>payment</b> 55:20 56:3,9 190:8 <b>pays</b> 197:10 <b>pdf</b> 33:11,15 99:13 99:23 100:21 101:4 102:2 <b>pederson</b> 1:22 2:23 202:25 <b>penalty</b> 201:11 <b>pending</b> 12:11 48:25 145:13 <b>pennsylvania</b> 4:8 <b>people</b> 17:20 92:5 94:22 95:4 173:11 195:15 <b>performance</b> 124:14 <b>performed</b> 20:9 <b>performing</b> 123:14 <b>period</b> 45:20 139:20,22,23 <b>periodical</b> 193:18 <b>periods</b> 14:20 <b>perjury</b> 201:11 <b>permission</b> 61:23 62:2 73:17 189:3 <b>person</b> 32:7 68:1,5 69:5,18 70:11,19 73:8 94:7 95:18 95:25 96:18,20 132:22 136:6 189:24,25 190:4,8 190:18,22</p>	<p><b>person's</b> 95:15 <b>personally</b> 120:6 120:11,16 121:19 <b>persons</b> 90:25 91:11 147:12 <b>pertain</b> 36:17 <b>pertains</b> 202:12 <b>petitions</b> 47:25 <b>phase</b> 20:19 <b>phone</b> 93:10,11 180:24 <b>piece</b> 114:4 <b>place</b> 22:25 100:21 202:5 <b>placed</b> 139:10 <b>places</b> 72:11 95:15 178:22 179:5 <b>plaintiff</b> 3:3 4:3 44:10 58:9 <b>plaintiffs</b> 1:10 2:10 25:13 58:9 <b>planning</b> 129:25 <b>play</b> 16:13 19:12 19:15,18 21:11,18 22:1 127:16 146:9 <b>played</b> 146:25 <b>plays</b> 128:14 <b>please</b> 8:25 9:25 11:9,19,23 35:13 44:17 83:4,8 88:5 <b>plumbing</b> 133:23 134:12,18 <b>point</b> 11:8 25:9,23 29:13,15 46:13,16 90:13,17,21 103:23 104:5,16 104:18 105:1,13 105:21 106:21 133:7 156:1 166:18 167:2</p>	<p><b>pointing</b> 113:10 <b>points</b> 37:7,19 90:9 96:10 <b>poor</b> 166:13 <b>populations</b> 179:23 <b>portion</b> 65:11 66:7 110:4 158:19 170:17 <b>portions</b> 61:22 62:1,6,13 65:5 115:8 133:1 <b>position</b> 23:15 <b>positions</b> 20:25 <b>possible</b> 55:11 68:9,12,16,21,23 69:13,17 118:18 118:25 119:1 127:13 132:19 165:4,8,10 <b>possibly</b> 46:20 77:22 78:23 155:21 <b>posted</b> 100:10 113:5,18 114:17 <b>posting</b> 113:6 <b>potentially</b> 185:17 185:19 <b>pra</b> 84:1 85:2 86:12,13,19 99:7 152:25 153:5,7 <b>pras</b> 153:4 <b>pre</b> 44:25 47:25 139:6 <b>preliminaries</b> 10:19 <b>preliminary</b> 99:1 <b>premium</b> 93:13 94:7,23 95:6,11 181:2</p>
---	---	---	--



**[prep - publication]**

<p><b>prep</b> 7:6</p> <p><b>prepare</b> 12:24 13:10</p> <p><b>prepared</b> 20:18 21:24</p> <p><b>prescribe</b> 147:22</p> <p><b>prescribed</b> 29:25</p> <p><b>prescribes</b> 125:14 125:24 126:10</p> <p><b>present</b> 5:15 67:22</p> <p><b>presented</b> 18:6 46:1</p> <p><b>preserving</b> 141:16</p> <p><b>pretty</b> 81:15 139:7</p> <p><b>previous</b> 10:8 23:10 44:23 67:25 68:4 69:3 70:15 70:18,24 121:13 122:8</p> <p><b>previously</b> 12:5 36:1 71:25 93:5 106:21 107:4 115:3 128:9</p> <p><b>price</b> 140:19,23 141:1,6,10</p> <p><b>principal</b> 145:21</p> <p><b>print</b> 34:23 58:2 59:20 60:4,6 95:18 97:3,6 136:24 137:20 170:5 174:5,21,24 179:24 180:1 181:1 189:21 190:9</p> <p><b>printed</b> 32:20 53:1 133:2</p> <p><b>printing</b> 82:16 89:8 114:13 170:13</p> <p><b>prior</b> 84:2 104:13 131:11 142:7</p>	<p>151:1 202:7</p> <p><b>privileges</b> 120:8 121:1</p> <p><b>probably</b> 124:17 197:21</p> <p><b>problem</b> 184:25</p> <p><b>problems</b> 92:19</p> <p><b>procedures</b> 14:3 18:22 45:5 47:23</p> <p><b>proceedings</b> 202:4 202:6,8,14</p> <p><b>process</b> 13:22,25 13:25 14:5,16,17 19:13,19,24 22:8 22:12 47:15 63:21 75:7 78:24 102:10 116:9 142:3,6,12 142:17,23 143:3,9 143:11,17,24 144:6,9 161:21 162:3,10,19,20,25 163:4,7,10,16,21 164:1,13 169:6 196:22 198:7 199:11,12</p> <p><b>processes</b> 21:11,19 22:1,6,24 23:3 48:7</p> <p><b>procurement</b> 7:22 151:16</p> <p><b>produce</b> 87:4</p> <p><b>produced</b> 86:8 87:11</p> <p><b>production</b> 85:9 101:9</p> <p><b>products</b> 124:21</p> <p><b>professional</b> 118:23 119:3,13</p> <p><b>professionals</b> 119:11</p>	<p><b>profit</b> 57:9,19</p> <p><b>program</b> 66:17</p> <p><b>prohibit</b> 103:5</p> <p><b>promote</b> 106:15</p> <p><b>promotion</b> 21:3,5 21:8</p> <p><b>prompted</b> 87:23</p> <p><b>property</b> 110:6 115:9</p> <p><b>propose</b> 76:6 108:9,12 163:9 194:5</p> <p><b>proposed</b> 17:21 29:10 40:14 45:11 45:17 104:22 105:2,18 106:1,11 106:15 158:25 159:7 194:14</p> <p><b>protect</b> 166:19</p> <p><b>protecting</b> 167:8</p> <p><b>protection</b> 1:6 2:6 3:3 7:24 9:15,18 26:1 44:8,9 62:3 107:20 160:19 168:2</p> <p><b>protects</b> 166:24</p> <p><b>provide</b> 16:24 17:14 45:13 66:6 67:16 89:8,24 114:22 143:22 195:19 196:4 199:7</p> <p><b>provided</b> 12:5 13:1 15:19 18:11 25:1 71:3,4,9 85:3 85:6 86:20 87:1 92:7 101:23 102:20 106:8 113:6,15 114:2 135:20 176:17</p>	<p><b>providers</b> 152:2</p> <p><b>provides</b> 56:8 89:18 93:11 199:14</p> <p><b>providing</b> 103:6</p> <p><b>provision</b> 68:21 69:1,6,14,19,21 103:25 109:19 159:9</p> <p><b>provisions</b> 68:5 70:10 115:10</p> <p><b>public</b> 8:22 14:19 14:20 18:5,6,7,13 20:1,3,19 37:25 38:22 45:13,14 46:2,9 48:18 51:18,19 52:8 54:14 55:18 56:1 56:8 63:15 64:1 75:20 78:24 84:6 86:9 87:2,5,11 92:24 94:6 103:7 105:8,14,16,22 106:6 130:11 132:2 140:19 141:7,11 163:25 166:19 167:8 170:7</p> <p><b>public.resource</b> 25:13 86:9 87:2,5 152:21 153:3</p> <p><b>public.resource.</b> 153:1</p> <p><b>public.resource....</b> 1:13 2:13</p> <p><b>public.resource....</b> 8:17 9:3,5</p> <p><b>publication</b> 21:12 61:22 62:6 63:16 65:2 89:9 131:11 131:18 139:6,9,23</p>
---	---	--	--

## [publications - receive]

<p><b>publications</b> 7:21  <b>publicly</b> 21:25  52:25  <b>publish</b> 34:12  53:21,24 63:22  73:18 110:6 117:2  131:4 144:25  170:5 192:10,17  <b>published</b> 35:24  114:3 131:8 133:2  133:12,22,23  163:12  <b>publisher</b> 22:19  22:19 37:8 38:18  39:4,6 51:19 52:9  53:3,5,6,17 54:3  54:10 57:9,19  70:19 71:23 72:2  72:11 77:6 91:17  92:1,4,8 93:22  94:7 102:24  116:12,12 134:13  173:16 191:15  <b>publisher's</b> 38:4  72:8 73:10 101:23  102:21 117:23  <b>publishers</b> 38:8  103:4 107:6  108:24 123:7  168:13  <b>publishes</b> 39:19  116:12 184:18  191:4,15 192:1  <b>publishing</b> 38:12  170:13  <b>purchase</b> 37:25  38:2 96:13 117:10  117:15 118:15,25  119:16,24 120:6  120:16,20,24</p>	<p><b>purchased</b> 120:7  121:4  <b>purchasing</b> 54:15  96:17,19  <b>purely</b> 192:11  <b>purports</b> 94:10  <b>purpose</b> 18:23  196:16  <b>pursuant</b> 85:6  111:15  <b>put</b> 26:3 33:20  91:18 101:23  195:14  <b>puts</b> 45:19</p>	<p><b>questioning</b> 16:7  <b>questions</b> 10:21  12:21 56:17 64:20  82:1 83:19 99:1  138:19 160:4,21  168:13 173:25  179:21 180:4  182:11 185:21,22  186:10 197:18,21  197:25 199:1,21  <b>quick</b> 145:10,11  <b>quite</b> 108:16  143:25  <b>quote</b> 141:2</p>	<p>88:14 93:10 99:10  113:3 138:22  151:11 154:6  157:12 159:10  168:1 173:1  175:12 182:4  <b>realize</b> 12:4  <b>realized</b> 100:9  <b>really</b> 149:6  184:19  <b>realtime</b> 8:9  <b>reason</b> 12:20  18:23 29:12 45:25  46:18 61:9 68:24  69:1 86:7 115:24  118:6 133:20  154:25 198:12,18  <b>reasonable</b> 105:22  <b>reasons</b> 17:16  18:17 45:24 46:10  63:19,25 67:21,23  68:22 69:15  <b>recall</b> 51:20 70:25  87:25 88:8,11  92:21,23,25 93:7  94:19 99:20 100:3  103:25 104:4  107:6,24 108:16  110:22 113:17  133:8,14,18 135:5  135:9 143:14,20  143:25 145:3  146:21 148:11  149:11,13,17,23  150:1 151:2  179:17 187:15,16  187:24 188:1  191:1 194:13,17  194:19,24 196:23  <b>receive</b> 14:18 74:1  96:18 101:8 120:7</p>
	<b>q</b>	<b>r</b>	
	<p><b>quality</b> 166:1,13  <b>quantities</b> 175:18  <b>question</b> 11:9,12  11:19,22,25 12:11  22:4,16 23:24  26:10,16 27:5,20  30:21 31:10 32:5  32:12 48:12,25  55:3,24 64:21,25  65:16 68:6,15  69:25 70:1,4  71:12 78:13 80:7  80:11,16 81:3,15  91:6 96:4 102:16  108:1 112:16  116:3 124:1 125:1  125:16 126:3,5  127:1 144:16  145:10,12 147:5  148:1,18 154:16  154:17 155:8  157:9 160:22  166:16 183:1  185:9 191:24  193:11 199:3</p>	<p><b>rachel</b> 3:5 9:13  160:18  <b>rachel.miller</b> 3:11  <b>raised</b> 191:1  <b>rationale</b> 18:22  <b>read</b> 13:1 25:5,7,8  26:24 35:12 38:14  40:22,25 41:1,17  88:10 91:1,11  109:23 113:7,11  113:19 134:3  139:21,24 148:7  151:18 168:23  169:2 170:12,17  170:20,21,24  174:15,21 175:25  180:23 182:14  192:23 201:11  <b>reader</b> 62:12,19  64:9,14 65:10,20  66:1,6 67:9,16  <b>reading</b> 31:21  131:22 139:14  140:24  <b>reads</b> 37:14 40:9  64:5 66:19 85:18</p>	

**[received - requests]**

<b>received</b> 21:3 25:8 25:10 84:4 91:16 92:18 93:10 94:6 94:21 121:1 132:17,19 137:21 179:25 180:7,11 180:15,24 <b>receives</b> 73:23 111:20 <b>receiving</b> 78:22 84:3 95:4 <b>recess</b> 49:4 83:1 103:18 145:16 160:13 186:5 <b>recognize</b> 24:13 34:22 58:1 83:9 83:23 87:18 99:3 106:23 107:14 132:14 141:24 153:22 154:11,18 156:14 158:18,19 158:24 <b>recognizes</b> 154:16 <b>recommend</b> 30:5 <b>recommendation</b> 45:13,15 <b>record</b> 8:13 9:25 11:4 16:4 49:1,6 80:23 82:22,24 83:1 103:16,19 145:15,18 160:10 160:11,15 168:15 185:24 186:2,3,7 199:22 200:12,14 202:7,11 <b>records</b> 84:6 86:9 87:2,5,11 <b>red</b> 193:7 <b>refer</b> 31:22 32:8 61:20 64:2 66:21 74:5 93:4 102:21	<b>reference</b> 28:2,4,7 28:11,18,25 29:7 30:5,16,23,24 31:3 31:8,12,15,20,23 32:8,14,18 50:7,12 50:19 51:3,6,7 52:23 65:11,11 71:23 93:17 115:10 122:12 161:14,19 162:8 <b>referenced</b> 28:12 31:19 49:20 50:1 50:10 <b>references</b> 51:6 <b>referencing</b> 31:8 31:13 <b>referred</b> 17:13 18:16 28:4 41:15 46:17,21 93:25 110:5 115:1 188:11 189:24 <b>referring</b> 29:16 39:13,14,15 40:2 51:18 52:9 122:6 135:8 177:10 <b>refers</b> 181:6,12 <b>reflect</b> 64:13 67:3 <b>reflected</b> 59:12 60:25 61:10 88:8 <b>reflects</b> 65:4 109:19 166:24 <b>refrigerating</b> 1:8 2:8 <b>regarding</b> 88:14 135:10 147:4,9,18 153:2 186:11 195:20 199:7 <b>regards</b> 153:4 <b>register</b> 72:16,23 <b>registry</b> 45:21	<b>regulate</b> 166:13 <b>regulated</b> 184:15 <b>regulations</b> 14:12 14:14 22:17 89:9 89:10,14,16,19,25 90:5,7,13,21 154:7 158:25 175:16 185:6 <b>regulatory</b> 35:8 <b>relate</b> 23:3 <b>related</b> 8:21 21:11 21:19 22:2,6 175:16 190:23 198:4,11,13 <b>relationship</b> 19:8 <b>relative</b> 202:17 <b>relevant</b> 66:7 69:6 69:19 88:22 <b>relies</b> 161:16 165:17 <b>rely</b> 46:10 144:12 164:4 165:21 166:12,13 <b>relying</b> 167:5 <b>remember</b> 19:1 21:2 48:5 161:8 167:19 174:2 177:19 182:2,10 191:3 <b>removed</b> 100:10 <b>renew</b> 158:3 <b>repeat</b> 27:20 31:10 55:3,23 68:15 78:13 91:5 105:10 157:8 182:25 <b>rephrase</b> 11:10 16:11 21:15 27:6 28:21 48:14 56:7 62:10 67:13 70:7 91:8 108:2 116:4 118:4 122:10	185:11 191:22 <b>replaced</b> 100:13 <b>report</b> 94:17 <b>reported</b> 1:21 <b>reporter</b> 2:24 8:8 8:24 11:1 199:23 200:2,8 202:2 <b>reporter's</b> 11:16 <b>reports</b> 94:21 95:4 <b>repository</b> 175:6 <b>represent</b> 16:20 34:14 82:5 160:19 <b>representation</b> 12:16 13:12 <b>representative</b> 10:11 17:2 193:22 <b>representatives</b> 193:10,17 194:20 <b>representing</b> 9:2,5 9:7,10 <b>represents</b> 16:18 65:1 66:11,16 <b>reprinted</b> 32:14 32:18 <b>reproduce</b> 82:12 82:14 <b>reproduced</b> 61:22 62:2 <b>request</b> 84:1,6,9 85:6 86:9,13 87:2 87:5,11 99:7 137:21 152:25 189:18 190:11,16 190:17,21 <b>requested</b> 128:24 138:2 202:15 <b>requesting</b> 189:25 190:4,8,18,22 <b>requests</b> 153:5,7 179:25 180:6,10 180:14
--	--	--	---

## [require - says]

<b>require</b> 88:23 124:23 <b>required</b> 16:17 28:13,14 40:16 48:3 94:7 165:20 175:25 176:19 177:3 190:8 <b>requirement</b> 125:7 176:21 183:18,22,23 <b>requirements</b> 16:15 65:19 125:3 127:6 170:4 <b>requires</b> 44:18 89:6 95:11 105:8 105:14 <b>research</b> 13:4,7 77:16,23 <b>researched</b> 75:21 <b>resellers</b> 136:18 <b>reside</b> 46:24 <b>residences</b> 42:2 <b>residential</b> 93:20 93:21,23 95:12,16 95:19 96:1,21,25 97:4,7,12,15,20,23 98:4,6,13,19 <b>resource</b> 164:12 <b>respect</b> 18:1 24:19 24:24 28:24 53:7 53:9 70:9 71:18 73:16,23 77:11 85:1 98:5,13,18 112:11 124:22,24 125:4 129:12 130:17 134:16 142:23 169:21 171:1 195:9,20 196:1,4 199:14 <b>respond</b> 45:23	<b>responded</b> 85:2 86:12,19 <b>respondent</b> 10:10 <b>response</b> 84:22 86:8 87:1,4,11 88:4 175:15 <b>responses</b> 11:5 <b>responsibilities</b> 19:21 21:7 <b>responsible</b> 14:15 38:12 169:20 170:12,18 <b>responsive</b> 85:3 <b>rest</b> 110:14 135:13 <b>restate</b> 80:10 191:24 <b>restriction</b> 95:17 <b>restrictions</b> 54:24 55:5,11 72:10 95:15 <b>return</b> 111:20 145:20 153:18 <b>reveal</b> 84:25 108:13 <b>revenue</b> 73:23 74:1 <b>review</b> 13:2 17:25 45:11 78:24 84:13 84:19 85:5,14 87:10 111:4,17 119:24 121:4 152:11 154:14 180:25 202:14 <b>reviewed</b> 20:18 21:23 26:19,22 27:11 45:4 108:8 115:4 119:13 147:10 <b>reviewing</b> 82:6 108:4 118:20 119:23 145:25	<b>reviews</b> 14:21 20:2 <b>revision</b> 22:25 <b>revisions</b> 110:5 <b>right</b> 17:17 19:1 20:4 24:12 34:4 34:20 39:24 40:6 52:13 56:22 62:18 63:13 69:10 70:7 75:19,24 81:25 98:18 99:3 103:12 107:4 120:15 134:24 135:17 139:25 140:12 155:22 157:7 166:20 167:9,22 168:18 169:17,22 170:9 172:24 174:8,16 176:20 177:4 178:24 181:7,10,12,23 182:23 183:7 184:3,10,21 185:16 186:10 192:12 195:8 199:19 <b>rmr</b> 1:23 <b>role</b> 16:13 17:5 19:12,15,18 20:5 20:20 21:4,10,10 21:17,18 22:1 26:11,19,25 53:9 86:1 108:2 127:16 128:14 145:25 146:9,25 171:22 <b>roles</b> 20:9,12 23:10 145:21 <b>room</b> 131:23 <b>rose</b> 3:14 9:16 <b>rose.ehler</b> 3:20 <b>rough</b> 139:5 200:6 200:9,10	<b>roughly</b> 20:7 <b>roughs</b> 200:2 <b>round</b> 186:13 188:10 190:25 <b>row</b> 66:24 <b>rulemaking</b> 14:5 14:18 15:17 17:13 17:15 19:13 20:18 22:24 45:2 46:1,3 47:15 48:2 63:21 <b>rulemakings</b> 14:22,24 15:19 <b>rules</b> 47:14 48:6 68:11,14,18 69:2 184:19 185:1,15 <b>runs</b> 58:18
			<b>s</b>
			<b>s</b> 4:13 <b>sacramento</b> 1:18 2:21 5:11 7:16 8:1 8:19 132:18 177:24 178:2,7,10 178:13,17,20,22 <b>safety</b> 14:2 17:11 29:20,25 66:16 106:16 123:12,21 124:9,12,20 130:3 166:9,14,19,25 167:8 <b>sale</b> 117:2,6 170:6 <b>san</b> 4:20 <b>saw</b> 145:24 <b>saying</b> 41:3 52:12 161:8 175:24 <b>says</b> 11:17 40:7 41:21,24 52:23 62:18 74:25 88:4 131:3 133:1,21 135:18 136:17 139:21 151:19 168:4,8,10,21

[says - sorry]

170:3 172:19 182:14 <b>school</b> 129:3,7,12 178:12 <b>schools</b> 42:8 182:9 <b>scope</b> 23:22 50:22 152:17 172:5 195:12,23 196:6 197:1,7,14 199:3 <b>scratch</b> 165:6,12 <b>screen</b> 82:5 181:1 <b>screenshots</b> 59:12 63:5 82:3,11,16 <b>search</b> 60:14 95:25 96:20 97:11 97:14 <b>searchable</b> 99:13 99:23 100:21 101:4,8 102:1 <b>sec</b> 82:23 <b>second</b> 37:13 58:11 61:20,21 66:24 99:9 140:9 159:4 167:24 172:4 177:25 178:9 182:13 183:3 <b>section</b> 17:12 37:24 38:2 88:18 88:22 89:6 102:12 109:13,15 113:2 113:11 115:7 116:10,17,23 123:9 131:1 134:20,24 136:17 140:14 158:23,25 159:3,6 168:7 <b>sections</b> 64:11 67:6 115:9 <b>see</b> 17:20,21 33:17 41:19 59:12 61:24	62:4 64:6,9 66:19 72:16,23 74:11,15 75:21 82:5 85:17 88:6,14,20 93:9,14 99:9,14 104:20 109:15 110:7,8 113:7,13 115:8,16 117:3 125:22 131:5 133:4 135:1 135:21 136:9,12 136:19,20 138:21 138:23 139:16 140:20,21 146:12 152:11 154:8,9 156:21 157:25 158:8,25 159:6 168:23 169:25 175:10,22 181:3,5 182:6,18 186:16 186:25 187:10 193:6 <b>seeing</b> 119:17 143:6 <b>seek</b> 76:9 84:9 <b>seeking</b> 67:16 68:5 69:18 70:11 78:5 90:25 91:11 92:6 94:22 95:4 189:3 <b>seen</b> 58:2 84:2 85:14,16 150:25 151:6 <b>selected</b> 47:7 63:7 63:8 176:1 187:8 <b>selective</b> 136:11 175:19 177:1 <b>sell</b> 160:2 <b>sense</b> 12:12 <b>sent</b> 24:17 86:13 <b>sentence</b> 88:2 94:1 99:10,15,17 110:14 113:3	131:3 133:1 168:1 170:17 172:21 175:12,25 180:23 182:4,14 183:3 <b>separate</b> 18:10 32:8 103:1 <b>separately</b> 63:15 63:23 144:25 <b>series</b> 10:20 85:21 <b>serve</b> 20:20 47:9 53:9 <b>served</b> 20:4 83:13 <b>service</b> 71:19 129:4,8,13 188:15 <b>services</b> 5:18 7:18 7:22 9:10 19:10 23:17,19 35:19 107:19 118:11,15 119:16 120:23 143:23 146:5 151:16 <b>set</b> 170:5,8 175:18 184:25 202:5 <b>sets</b> 22:8 131:9 <b>seven</b> 134:21,22 134:23,23 178:21 <b>sheet</b> 7:17 33:21 33:24 <b>sheets</b> 33:20 175:17 <b>short</b> 96:17,19 <b>shorthand</b> 2:24 202:1,9 <b>show</b> 24:8 85:8 115:13 143:16 <b>showing</b> 191:7 192:4 <b>shown</b> 115:12 116:10 <b>side</b> 139:25 159:9 171:21	<b>sight</b> 137:14 138:1 180:12 190:19 <b>signature</b> 107:22 151:13,17 172:1 202:24 <b>signed</b> 145:23 172:1,22 173:4 <b>significant</b> 123:12 123:20 124:3 <b>signing</b> 151:18 <b>similar</b> 143:2 146:16 151:3 152:10,11,12 156:11 158:6 190:17,21 <b>similarly</b> 38:3 96:11 <b>simply</b> 81:17 <b>simultaneously</b> 21:1 <b>single</b> 145:6 <b>site</b> 35:2 72:4,17 72:24 <b>situations</b> 91:20 92:16 <b>six</b> 149:24 170:1 187:7,8 188:6 <b>sixth</b> 178:15,15 <b>skim</b> 156:6,15 <b>slate</b> 98:16 <b>society</b> 1:4,7 2:4,7 4:3 8:15 <b>sole</b> 168:8 172:19 <b>solely</b> 110:6 <b>somebody</b> 31:21 173:12 174:20 179:5 <b>sorry</b> 15:1,5 26:10 27:20 43:20 46:23 55:23 56:18,20 58:14 68:6,15
--	--	---	--



[sorry - state]

78:14 88:21 91:6 91:25 100:5 104:12 105:10,12 109:5 114:1 115:17 120:12 123:25 125:17 126:3 129:2 140:11 157:8 160:7 166:16 172:18 176:8 181:19 182:25 183:1 184:23 186:23 187:6,10 <b>sort</b> 149:5 195:4 <b>sought</b> 76:19 78:1 <b>sound</b> 172:24 184:21 <b>sounds</b> 104:25 <b>sources</b> 40:12 43:6 78:25 <b>south</b> 3:16 <b>speak</b> 119:10,11 121:16 183:11 <b>speaking</b> 184:11 <b>special</b> 113:4,15 113:19 <b>specific</b> 18:21 27:8 47:3 64:11 80:9 100:2 102:12 116:10,17 142:12 149:6 170:3 185:1 193:22 <b>specifically</b> 19:1 19:24 75:22 179:19 184:11 194:11 198:6 <b>specifications</b> 106:6 <b>specifics</b> 27:15 32:15 99:20 148:6	<b>specifies</b> 140:23 <b>speculate</b> 126:17 159:22 164:16 <b>speculation</b> 55:14 57:4 58:21 62:8 65:24 67:12 69:7 69:23 70:13,20 71:21 72:19 75:9 76:13,22 82:8 84:12 86:10 90:14 91:3,14 95:20 96:2,22 97:8,16,25 99:18 100:25 101:15 116:19 118:3,22 119:7,19 121:10 125:25 126:11,22 127:8 132:6 133:17 137:2 142:14 144:15,19 146:3 149:19,25 162:5 163:6 192:7,19 197:15 <b>spoke</b> 18:3 29:2 78:21 116:8 169:6 169:21 174:25 175:4 <b>spoken</b> 12:14 153:12 160:25 193:21 <b>spring</b> 20:15 <b>sprinkler</b> 125:10 <b>sprinklers</b> 125:11 <b>ss</b> 66:11,16 <b>stack</b> 167:17 180:21 <b>staff</b> 7:16 13:23 19:23 20:2 45:3 47:2 85:23,24 87:8 92:22 100:9 101:1,9 118:16	132:18 146:4,5 147:13 153:5 165:2,5 <b>stages</b> 14:16 <b>stand</b> 35:21 44:7 <b>standalone</b> 192:18 <b>standard</b> 7:13 22:13 26:3 27:8 27:17,21 30:5,16 31:7,8,13,13,20 32:8,14,18 41:7 44:6 65:11 107:17 149:5 <b>standards</b> 5:3 7:24 9:8,11 13:17,19,22 14:1,9 16:16 17:10 19:3,9 23:8 24:4 26:1,3,7,9,11 26:13,19,24,25 27:9,10,11,12,19 27:23,25 28:2,4,7 28:8,11,16,17,23 29:6,18 30:4,24 31:22 35:22 36:5 37:3,10 38:22 39:16,21,23 40:8 40:10,11,13 41:4,6 41:11 45:3,6,18 47:2 51:7,17,18 52:20,23 54:19 63:13,24 67:16 73:25 75:18 84:22 99:12,22 100:20 101:3,19 102:14 102:24 104:10,12 104:22,24 105:2,9 105:15,18,24 106:2,6,11,15 107:5,19 111:16 117:9 121:17 127:15 130:24	131:12 133:2 142:25 144:8,13 151:17 158:24 159:7,17 161:3,4,7 161:15,19,22 162:9 164:6 165:25 166:1,4,8,8 183:14 189:20 190:13 193:21 196:23 198:1,5,8 199:11 <b>stands</b> 35:18 142:10 <b>start</b> 11:22 116:18 161:5 <b>starting</b> 98:16 <b>starts</b> 74:7 187:7 <b>state</b> 5:5,17 7:13 9:25 10:12 13:21 14:19 15:23 17:22 18:25,25 19:15,18 21:23 23:13,25 29:17,18 30:1 35:16 38:20 39:13 39:14,18,20 40:15 40:23 41:5 44:18 44:18,22 45:10,14 45:15,16,23 46:11 48:1,7,19 51:14 52:4,6,11,12,17,18 52:22 63:22 64:10 66:15 68:9,12,16 69:11,15 73:22 74:3,14,20 75:1,6 75:15,17 76:17 77:24 78:4,22 79:17,21 89:5,9 103:23 104:9,15 106:16,17 109:8 111:17 115:15 116:9,16 117:2,6
---	--	--	--

**[state - takes]**

117:11,14,20 118:1,6,13,19 127:23 128:14,16 128:20,23 129:1,3 129:6,11,15,21,22 130:15,19 134:1 134:18 138:3,9,12 140:18 141:6 144:11 148:13 149:2 159:23 160:1 166:4,9,14 167:8 169:9,16 170:6 175:21 176:3 182:16,22 183:4,6,11,16 184:1,15 185:5,13 186:15,24 187:2,9 187:11,15,16,22 187:24 188:1 195:3 201:18 202:2 <b>state's</b> 123:13,21 124:4 <b>stated</b> 102:19 121:13 191:16 <b>statement</b> 17:16 18:16 40:18 45:24 45:25 46:10 63:18 63:25 67:21,23 68:22 69:2,15 120:4,18 122:13 122:16 123:11,15 133:21 135:13 140:22 191:11 <b>statements</b> 18:20 18:24 <b>states</b> 1:1 2:1 74:12 89:2 110:2 115:8 116:25 134:24 140:16 179:2	<b>statewide</b> 129:24 <b>stating</b> 61:21 86:13 <b>stats</b> 161:14 <b>steps</b> 116:4 123:1 137:19,22 <b>store</b> 37:5 <b>street</b> 3:7 4:18 5:10 <b>strength</b> 124:15 <b>strike</b> 16:23 31:1 34:16 38:1 41:23 43:14 48:1 51:3 51:15 52:5 53:8 64:4 66:4 67:8 68:2,7,11,25 69:11 69:12 70:17 73:15 74:18,19 76:16 77:2 78:8,9 84:16 86:22,24 92:17 93:1,3 94:4,16,20 95:2 96:16,18 98:12,14 108:11 115:12,14 120:3 125:19,21 130:24 131:16 132:1 133:10 141:4 144:9 154:2 155:1 155:16 190:16 196:2 <b>strikeout</b> 17:19 116:11 191:17,20 191:21 <b>strikeouts</b> 191:7 191:20 192:4,25 <b>structural</b> 66:16 124:14 <b>study</b> 15:1,3,9 <b>sub</b> 66:25 67:1 <b>subdivision</b> 122:18	<b>subdomain</b> 35:18 <b>subject</b> 13:8 36:18 41:18 182:5,15,21 183:5,5,10,12 194:13 <b>sublicense</b> 110:3 <b>submittal</b> 48:2 <b>submitted</b> 45:2 48:3 152:25,25 <b>subpoena</b> 7:9 23:22 24:20 50:23 83:15 84:3 86:21 86:23,25 152:17 <b>subscribed</b> 202:20 <b>substance</b> 148:22 194:2 <b>substantive</b> 148:10 <b>successfully</b> 144:6 <b>suggest</b> 172:22 <b>suggests</b> 156:14 <b>suite</b> 2:21 <b>summarize</b> 169:8 <b>supplement</b> 35:9 113:15,19,25 192:18 <b>supplements</b> 110:4 113:4 175:15,15 <b>supplied</b> 19:25 <b>supplies</b> 15:17 59:6 <b>support</b> 13:23 <b>suppose</b> 27:14 <b>supposed</b> 157:6 166:19 <b>sure</b> 16:22 17:2 22:4 35:14 48:11 65:15 82:24 98:8 112:15 120:5 146:18 155:8	157:6 166:15,17 171:11 172:17 183:3 185:11 197:16 <b>suren</b> 93:10 180:24 <b>swears</b> 8:24 <b>switch</b> 145:5 <b>switching</b> 186:2 <b>sworn</b> 9:21 202:7 <b>systems</b> 16:21  <b>t</b> <b>table</b> 64:8 65:1,18 65:21 66:3,5,10 <b>tables</b> 64:6,13 115:10 <b>take</b> 11:13 12:1 14:23 15:2 18:1 22:9 28:24 29:1 29:11,13 46:13 48:23 82:20 83:8 84:22 85:13 102:17 104:14 116:5 123:1 128:18 130:4 145:11 154:23 156:6,15 176:5 180:18 183:22 200:9,10 <b>taken</b> 2:20 10:3 22:25 26:18 48:4 94:12 98:4 103:18 137:19,22 138:4 138:12 179:22 202:4 <b>takes</b> 14:22 22:12 46:3 128:21 129:11,16,25 130:7,11,16,20 171:1
---	---	---	--

**[talk - triennial]**

<b>talk</b> 11:17,18 18:24 104:19 161:4 162:2,2,18 167:15 171:21 <b>talked</b> 41:9 161:2 166:7 180:19,20 181:25 <b>talking</b> 15:6 80:18 80:25 81:16 128:25 162:13 167:19 173:10 182:2 <b>talks</b> 139:4 <b>team</b> 95:4 <b>technical</b> 17:25 45:9,11 47:10 163:16 <b>technician</b> 86:4 <b>tell</b> 11:23 27:15 114:19 139:8 148:12 154:15 156:10 162:3 163:3 173:14 176:14,25 177:8 188:16 <b>tells</b> 62:19 114:5 <b>ten</b> 13:23 15:13 16:16 18:9 156:15 188:8 <b>tend</b> 161:18 <b>term</b> 47:9 49:8,11 49:13,18,23 50:6,9 175:12 187:3 <b>terminology</b> 76:5 <b>terms</b> 17:16,18,24 18:2,4,10 45:25 73:9 129:19 145:22 146:1 147:1,4,9,18 148:10,13 149:1 150:4,9 151:3	<b>testified</b> 8:6 36:1 47:19 51:16 70:23 71:25 <b>testify</b> 7:9 83:15 <b>testifying</b> 202:7 <b>testimony</b> 10:14 10:17,22 12:15,17 13:11 51:20 54:6 61:5 64:18 70:25 72:6 92:13 93:1,3 104:3 112:22 121:13 122:8 129:5 138:16 150:14 152:4 161:6,11 188:22 201:14 202:11 <b>testing</b> 1:4 2:4 4:3 8:16 <b>tests</b> 97:19 <b>text</b> 38:21 52:7 55:19 56:2,8 60:8 60:15 61:17 62:4 71:16,18 72:4,7,11 92:5 97:22 101:13 101:19 102:1 103:6 115:15 174:5 192:10 <b>thank</b> 15:11 16:10 35:15 109:4 198:24 199:17 <b>thanks</b> 22:17 161:2 <b>thing</b> 25:6 109:24 156:25 157:11 169:8 <b>things</b> 122:13 171:22 <b>think</b> 17:17 27:24 30:2 41:14 70:5 80:6 81:14 94:12 104:7 106:19,22	114:16 123:25 124:18 161:13 165:1,4,10 166:7 166:17,23 198:18 <b>third</b> 40:6,21 109:16 178:5 <b>thirteen</b> 36:16 <b>thought</b> 128:24 187:20 <b>thousand</b> 82:16 155:21 156:8 <b>three</b> 20:6 35:7 40:10,18 41:4,14 47:9 109:12 181:21 182:1 187:8 188:4 <b>time</b> 11:25 12:9 18:7 21:2,3 86:3 99:19 100:19 108:16 110:21 123:10,13 124:18 132:22 133:13,16 144:24 152:10 156:6 172:22 173:4 202:5 <b>timeframe</b> 152:7 <b>timeline</b> 138:23 139:2,15 <b>timetable</b> 170:5 <b>timing</b> 48:1,2 139:5,5 <b>title</b> 14:6,7,7,10,10 14:12 19:19 35:4 35:6,23 36:15 37:15,18 41:19,21 41:22,25 42:11,18 43:5 47:6,12,20 48:15 89:11,13,15 89:20,22 90:4 93:18 115:12 134:15 154:7	155:1,3 182:6 <b>titles</b> 14:14 89:24 90:6,12,17,20 <b>today</b> 10:20,22 12:15,18,22 61:7 151:1 160:23,25 161:2 168:12 169:6 173:25 177:16 180:19,20 <b>today's</b> 12:24 83:15 <b>tolles</b> 3:4,13 9:14 9:17 <b>tonight</b> 200:8 <b>top</b> 48:5 62:17 64:4,5 65:4 108:20 111:5 114:21 121:16,25 151:11 172:4,17 175:11 184:18 <b>track</b> 116:6 <b>training</b> 195:1,2,4 195:5,14,16 196:4 196:8,14 198:19 199:9 <b>trainings</b> 195:8,20 196:1,11 198:4,6 198:11,13 199:7 <b>transcribed</b> 202:9 <b>transcript</b> 201:12 202:10,13,15 <b>treated</b> 90:5 <b>tried</b> 61:17 93:11 97:3,11,19 174:4 180:25 <b>triennial</b> 36:14 37:2,14 47:1 80:9 81:5 99:14 111:8 111:18,21 139:2 142:24
--	--	--	--

**[triennially - viewing]**

<b>triennially</b> 35:7 <b>true</b> 51:24 119:9 201:15 202:10 <b>try</b> 11:10,17,18 169:8 <b>trying</b> 27:7,24 70:6,9 <b>tsc</b> 1:7 2:7 <b>turn</b> 167:17,24 178:3,8 181:20,21 <b>twenty</b> 188:9 <b>two</b> 25:20 40:16 40:20 46:25 47:8 66:18 67:1,4 88:10 103:3 111:12,14 113:2 131:3 149:16,18 158:9 160:22 176:22 186:17 187:8 <b>type</b> 16:24 <b>types</b> 16:16 40:10 122:6 124:23 193:16	<b>unauthorized</b> 33:19 <b>underline</b> 17:20 <b>underneath</b> 151:15 178:18 <b>undersigned</b> 202:1 <b>understand</b> 10:21 11:1,5,8,20 12:1 15:11 22:4,5 27:6 27:7,24 28:1 30:21 31:23 32:12 41:3 43:21 50:11 50:17 53:21 64:24 65:10 71:12 76:4 85:9 93:18 110:9 115:24 152:14 156:9 <b>understanding</b> 40:23 49:22 50:9 50:18 51:2,5 65:16 70:5 79:10 79:14 89:17 110:17,24 111:19 112:2,6,10,18 163:3,15,20,25 172:8 189:1,11 <b>understood</b> 11:14 11:14 76:8 <b>unfair</b> 81:15 105:19 <b>uniform</b> 134:17,17 <b>unit</b> 148:20 149:8 <b>united</b> 1:1 2:1 <b>universe</b> 86:24,25 <b>unnecessarily</b> 106:2 <b>unreasonable</b> 105:18 <b>url</b> 35:12,13 58:5 100:14	<b>use</b> 14:3 50:4 63:2 102:5 110:3 111:11,14,16,20 117:11,14,21 118:1,7,12,14,16 119:1 134:14 166:5 199:6 <b>useful</b> 88:6,9 <b>user</b> 37:25 38:3 82:5 114:2,5 <b>uses</b> 161:3 <b>utilize</b> 14:1 23:15 23:19 112:6 <b>utilized</b> 188:15 <b>utilizing</b> 23:13	44:1 46:6 53:1 60:21 71:19 77:13 78:11,16,25 79:7 79:12,19,23 80:2 80:10,14 81:5,5 100:9 101:8 102:2 111:21 121:4 122:1 172:5 <b>versions</b> 33:8 122:5 <b>versus</b> 8:16 <b>vertically</b> 62:23 159:10 <b>vet</b> 45:1 <b>vetting</b> 162:8 <b>viana</b> 5:16 9:9 <b>video</b> 8:12 49:1,5 82:24 83:1 103:15 103:19 145:15,17 160:11,14 186:3,6 199:22 200:12 <b>videographer</b> 5:21 8:20 <b>videotaped</b> 1:17 2:19 <b>view</b> 93:12,14 94:8 95:6,11 96:9,12,15 98:11,20 123:5 165:24 173:12,16 173:18 174:10 177:18 178:22 179:6 181:3 <b>viewable</b> 39:3 123:4 <b>viewed</b> 21:25 96:25 174:1 <b>viewer</b> 59:6,18,21 60:5,7,9,16,23 61:10,18 63:6 <b>viewing</b> 59:6 98:3
<b>u</b>		<b>v</b>	
<b>u.s.</b> 24:23 <b>uh</b> 15:12,15 18:18 31:6 37:16 40:19 46:23 47:22 48:23 56:15 67:2 88:19 88:21 89:12 91:9 93:16 102:18 115:17 123:8 131:2 132:16 139:17 140:15 151:14 167:18 180:22 199:18 <b>ultimately</b> 14:20 46:5 169:20 <b>unable</b> 179:11		<b>vague</b> 19:16 53:12 55:22 56:5,11 65:7 80:5,17 81:9 81:13,15 91:4 98:7,22 106:2 111:1 118:9 121:2 123:16 139:11 141:14,17 149:3 150:5,11 151:5 161:24 162:1 163:5 166:16 184:23 <b>vaguely</b> 142:4 <b>variety</b> 18:24 193:20 <b>various</b> 14:18 107:6 127:23 161:19 162:25 169:9 <b>verbal</b> 11:6 56:17 <b>verify</b> 121:20 155:23 <b>veritext</b> 8:21 <b>version</b> 37:6,18 43:13,15,16,25	

**[violate - witness]**

<b>violate</b> 29:25	<b>ways</b> 124:24	<b>west</b> 4:14 7:5 9:2,5	107:2 108:15
<b>volume</b> 1:20 2:20	173:11,14	<b>wet</b> 162:2	109:4,23 110:21
6:4 159:5	<b>we've</b> 89:11 91:16	<b>whereof</b> 202:19	111:4,11,24 112:5
<b>volumes</b> 145:6	137:21 138:2	<b>wholesale</b> 136:18	112:15,25 114:11
<b>voss</b> 151:19,21,23	144:21 161:2	<b>wide</b> 125:13	114:25 116:8,20
<b>voted</b> 163:11	<b>web</b> 34:23,24 35:1	<b>width</b> 125:8,23	117:9,18 118:10
<b>vs</b> 1:12 2:12	37:24 38:13,17	126:9	118:23 119:20
<b>w</b>	40:25 58:25 61:10	<b>wish</b> 152:18	120:1,11,16 121:3
<b>wait</b> 11:19 139:23	63:25 95:10	<b>witness</b> 5:4 6:2	121:11 123:17,25
<b>want</b> 8:9 39:12	132:22 133:3	8:24 9:7,21 16:2,9	125:1,16 126:2,14
52:14 86:18 88:1	<b>website</b> 35:15 37:3	26:21 27:14 31:10	127:1,9,23 132:7
88:12 96:13,15	37:6,11,18 38:3	31:25 32:4,11,13	133:18 137:3,10
113:2 115:6	39:3 41:21,24	34:7 35:4 36:8	137:17 138:8,17
116:23,24 123:9	52:21 54:15,17,17	38:6,24 39:3,11	139:12 142:15,20
130:25 132:25	54:19,20,22,25	42:4,21 43:2,20,22	143:14,20 144:16
134:19,20 140:6	55:6,7,12,13 60:21	44:4,12 46:8	144:20 145:9,14
140:13 151:12	60:25 67:20 70:15	48:11,17 49:20	146:4 147:6,25
154:5 156:9	70:24 71:2,3,4,15	50:1,15,24 51:12	148:17,19 149:4
159:22 160:10,20	71:19,22 72:3,8,8	52:2,20 53:13	149:20 150:1,6,12
162:2 164:15	73:1,1,3,10 82:4,7	54:7 55:3,9,23	151:6 152:5,18
167:15 168:15	82:16 89:22 90:10	56:12,18,20 57:5	153:16 154:21
171:21 173:10	90:10,13,18,22	57:11,16 58:14,20	155:10,12,23
185:24 199:23	92:7 93:12 95:14	58:22 59:9,15,23	156:9,19 157:8,19
200:2	95:19 96:1,10,21	60:12,18 61:6,14	158:5,14,23
<b>wanted</b> 40:1	97:1,4,7,12,15,20	62:16 63:18 65:8	159:17 162:6,16
179:10	97:24 98:4,6,14,19	65:15,25 66:10	162:23 163:7
<b>wanting</b> 80:24	99:13,24 100:8,10	69:8,24 70:14,21	164:9,15,23 165:8
93:13 181:2	100:23 101:14,20	71:11,22 72:7,14	165:14,20 166:3
<b>wants</b> 102:13	101:23,24 102:21	72:20 73:13,20	167:2,11 168:20
<b>washington</b> 3:9	103:7 113:6,7,19	75:1,10 76:23	170:15 171:8
4:9	114:18,20,20,21	77:16 80:6 81:10	172:14 173:1,8
<b>way</b> 12:18 31:2	114:22 117:22,23	82:9,19 84:13	179:1,14 180:3
52:8 56:14,23,24	123:4 134:1,2,7	85:2 86:11 89:1	182:25 183:10,21
57:13 59:25 61:14	135:14 139:4	90:2,9,15 91:5,16	184:6,23 185:8,19
69:18 79:14 86:14	173:15 181:1,22	91:25 92:14 94:12	188:23 189:8,16
95:23 96:4 100:18	<b>websites</b> 38:4	94:25 95:8,21	191:10,15 192:8
108:6 122:24	123:7	96:3,23 97:9,17	192:14,20 193:3
139:6 148:25	<b>weeks</b> 24:17 83:13	98:1,8 99:19	194:10,17 195:13
158:15 171:4,11	<b>weighed</b> 46:12	100:5,16 101:1,7	196:8,13,18 197:8
171:16 174:20	<b>went</b> 40:24 106:20	101:16,22 103:10	197:16 198:16,22
192:23 193:5		103:14 104:4	202:19



**[witnesses - ziegler]**

<b>witnesses</b> 202:6	157:19,24 158:14	
<b>word</b> 94:6	165:22 172:14	
<b>wording</b> 148:7	186:1 195:13	
194:4	<b>year</b> 35:25 47:9	
<b>work</b> 127:9 142:23	60:22 149:6	
170:1 172:5	<b>years</b> 20:6 35:7	
<b>worked</b> 78:20	46:25 47:8 88:10	
118:10 120:21	103:3,3 111:12,15	
146:22	144:2,21,22,22	
<b>working</b> 119:3	145:2 196:13	
133:7	<b>yen</b> 5:8 9:6,6	
<b>workshops</b> 45:1	32:10,12 39:12,20	
<b>worries</b> 15:7	39:24 40:1,4	
187:11	43:19,21 52:11,17	
<b>write</b> 87:23 165:5	52:19 55:14 56:16	
165:11	56:19 58:11,21	
<b>writing</b> 197:5,11	62:8,15 81:13	
<b>written</b> 106:17	82:18,21 84:11,24	
148:25 181:4,5	87:15 90:14	
<b>www.dgs.ca.gov</b>	101:15 103:11	
35:14	104:2 108:13	
<b>x</b>	109:2,21 110:11	
<b>x's</b> 66:25 67:3	110:19 111:1,22	
<b>y</b>	112:4,13,23	
<b>yeah</b> 30:9 50:24	116:19 118:3	
51:12 58:14,14,22	121:10 122:7	
58:22 65:8,15	125:25 133:17	
69:8,24,24 77:16	147:5 148:15,18	
77:23 82:19,21	149:3,19,25 150:5	
84:13 89:1 90:15	150:11 151:5	
98:8 100:19	153:14 155:7,11	
108:15 110:21	160:10 185:24	
111:4,24 112:15	200:1,4,11,15	
112:25 114:13	<b>z</b>	
123:17 126:2	<b>zero</b> 108:21,22,25	
127:9 132:7 138:8	109:9	
140:13 142:15	<b>ziegler</b> 3:5,11 6:8	
145:2,12 148:4,8	6:10 9:13,13 16:1	
148:19 149:4,20	16:5,10 19:16	
154:21 156:19	21:14 22:14 23:21	
	24:6,25 26:14	

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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