

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

AMERICAN EDUCATIONAL RESEARCH )  
ASSOCIATION, INC., AMERICAN )  
PSYCHOLOGICAL ASSOCIATION, INC., )  
and NATIONAL COUNCIL ON )  
MEASUREMENT IN EDUCATION, INC., )

Civil Action No. 1:14-cv-00857-TSC-DAR

**DECLARATION OF JONATHAN HUDIS IN OPPOSITION TO DEFENDANT-COUNTERCLAIMANT PUBLIC.RESOURCE.ORG, INC.’S MOTION TO CONSOLIDATE FOR DISCOVERY PURPOSES**

Plaintiffs/Counterclaim Defendants, )

v. )

PUBLIC.RESOURCE.ORG, INC., )

Defendant/Counterclaimant. )

I, JONATHAN HUDIS, declare:

1. I am a partner with Oblon, McClelland, Maier & Neustadt, LLP, and lead counsel to Plaintiffs, AMERICAN EDUCATIONAL RESEARCH ASSOCIATION, INC. (“AERA”), AMERICAN PSYCHOLOGICAL ASSOCIATION, INC. (“APA”) and NATIONAL COUNCIL ON MEASUREMENT IN EDUCATION, INC. (“NCME”) (collectively, the “AERA Plaintiffs”) in the captioned action. I submit this Declaration in support of the AERA Plaintiffs’ Opposition to Defendant-Counterclaimant Public.Resource.Org, Inc.’s (“Public Resource”) Motion to Consolidate for discovery purposes.

2. The parties’ counsel in the captioned action (the “AERA Case”) had their meet-and-confer telephone conference pursuant to Fed. R. Civ. P. 26(f) on September 25, 2014, thus triggering the opening of discovery.

3. The Court’s scheduling Order in the AERA Case [Dkt. No. 22] set the close of fact discovery for March 16, 2015.

4. Public Resource first expressed possible interest in consolidating the captioned action with *American Society for Testing Materials, et al. v. Public.Resource.Org, Inc.*, No. 13-cv-1215 (the “ASTM Case”), for discovery purposes, at the January 22, 2015 hearing on Plaintiffs’ Motion to Compel Discovery. At no time after the January 22<sup>nd</sup> hearing did Public Resource’s counsel inform the AERA Plaintiffs’ counsel of Public Resource’s intent to file a motion to consolidate the captioned action with the ASTM Case for discovery prior to filing its motion.

5. Accompanying this Declaration as Exhibit A is a true copy of the cover page and pages 35–39 from the transcript of the January 22, 2015 hearing on the AERA Plaintiffs’ motion to compel discovery in the captioned action.

6. Accompanying this Declaration as Exhibit B is a true copy of the cover page and pages 4–5 of the transcript from the December 4, 2014 hearing on the Plaintiffs’ motion to strike Public Resource’s Jury Demand in *American Society for Testing Materials, et al. v. Public.Resource.Org, Inc.*, No. 13-cv-1215 and *American Educational Research Association, Inc., et al. v. Public.Resource.Org, Inc.*, No. 14-cv-857.

7. Attached as Exhibit C is a true copy of the Joint LCvR 16.3 Report [Dkt. No. 20] filed in the AERA Case on October 9, 2014.

8. In the AERA Case Public Resource is being represented by five attorneys of record—Andrew P. Bridges, Mitchell L. Stoltz, Corynne McSherry, David E. Halperin, and Matthew B. Becker. In the ASTM Case the same five attorneys are also of record—as well as a sixth attorney, Kathleen Lu. Although not of record in the AERA Case, Ms. Lu has participated in the AERA case on Public Resource’s behalf.

9. David E. Halperin has an office at 1530 P Street, NW, Washington, DC 20005.

10. Accompanying this Declaration as Exhibit D is a true copy of the “About Us” page of Public Resource’s website located at <https://public.resource.org/about/index.html>.

11. AERA, APA, and NCME are all non-profit organizations that collaborated in the development of the 1999 edition of the Standards for Educational and Psychological Testing (the “1999 Standards”) at issue in this case (Complaint, AERA Case, Dkt. No. 1, ¶ 1).

12. Accompanying this Declaration as Exhibit E is a true copy of Plaintiffs’ Initial Disclosures in the AERA Case pursuant to Fed. R. Civ. P. 26(a)(1).

13. The AERA Plaintiffs served their Second Set of Interrogatories and Second Production Requests by e-mail on Defendant’s counsel on January 26, 2015. Public Resource’s answers and responses are due on March 2, 2015.

I DECLARE, under penalty of perjury, that the foregoing is true and correct.

Dated: February 18, 2015

/s/ Jonathan Hudis  
Jonathan Hudis

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