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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
RENDERED SERVICES, INC.,)
an Illinois corporation,)
) Docket No.
Respondent,) 74 RTV-R Sub 15
)
)
HEARING ON FITNESS TO HOLD A)
COMMERCIAL VEHICLE RELOCATOR'S)
LICENSE PURSUANT TO SECTION)
401 OF THE ILLINOIS COMMERCIAL)
RELOCATION OF TRESPASSING)
VEHICLES LAW, 625 ILCS)
5/18A-401,

Chicago, Illinois
February 1st, 2017

Met, pursuant to notice, at 3:00 p.m.

BEFORE:

MS. LATRICE KIRKLAND-MONTAQUE, Administrative Law
Judge

SULLIVAN REPORTING COMPANY, by
Devan J. Moore, CSR
License No. 084-004589

1 APPEARANCES:

2 ILLINOIS COMMERCE COMMISSION, by
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6 Chicago, IL 60601
7 (312) 814-3859
8 on behalf of ICC Staff;

9 THE LAW OFFICE OF
10 DONALD S. ROTHSCHILD, by,
11 MR. DONALD S. ROTHSCHILD
12 835 McClintock Drive
13 Burr Ridge, Illinois 60527
14 on behalf of Rendered Services, Inc.

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1 JUDGE KIRKLAND-MONTAQUE: By the power vested
2 in me by the State of Illinois and the Illinois
3 Commerce Commission, I now call Docket No. 74 RTV-R
4 Sub 15 for hearing. This is in the matter of
5 Rendered Services, Inc. And this is a status hearing
6 on a hearing on fitness to hold a commercial
7 vehicle's relocater's license.

8 May I have appearances, please? Let's
9 start with Staff.

10 MR. BARR: Good afternoon, your Honor. My name
11 is Benjamin Barr. I appear on behalf of Staff of the
12 Illinois Commerce Commission. My office is located
13 at 160 North LaSalle Street, Suite C-800, Chicago,
14 Illinois 60601. And my phone number is
15 (312) 814-3859.

16 MR. ROTHSCHILD: Good afternoon, your Honor.
17 Donald Rothschild. My business address is 835
18 McClintock Drive, Burr Ridge, Illinois 60527. I'm an
19 attorney licensed by the Supreme Court, and I
20 represent the respondent, Rendered Services, Inc.

21 MR. BRIAN DOUGHERTY: Brian Dougherty, the same
22 office, the same address, also an attorney licensed

1 by the Illinois Supreme Court, and I also represent
2 Rendered Services, Inc.

3 JUDGE KIRKLAND-MONTAQUE: Okay. Thanks.

4 Today we're here on a status on the
5 motion to compel discovery filed by Rendered. I've
6 reviewed the filing, and what I'd like to do today is
7 just kind of flush out some issues. I'm going to
8 issue a written ruling probably about early next
9 week, and that might give you some indication on
10 which way I'm leaning on the various issues. And
11 that's, I think, all that I intend to do today unless
12 there are more issues regarding discovery that either
13 party would like to raise.

14 MR. ROTHSCHILD: May I just raise generally
15 that we have a number of matters that we're
16 attempting to resolve without your good offices. So
17 if we're able to, that's great. If not, you'll hear
18 from either Mr. Barr or myself.

19 MR. BARR: That's correct, your Honor.

20 JUDGE KIRKLAND-MONTAQUE: Okay. Well, at least
21 communications are ongoing. I hope you're able to
22 resolve any differences that you have.

1 All right. With respect to the motion
2 to compel, the first request -- I'm going to go back
3 to the Answer Rule 213 Request No. 4 regarding any
4 particular listing of any remedial or disciplinary
5 action by the Commission from August 9th, 2012 to
6 present as a result of any investigator's conduct in
7 the course of performing his or her duties with names
8 and dates and issues involved described and provided.

9 Mr. Barr raises the objection
10 regarding relevance. And I actually am having a
11 difficult time seeing the relevance that any of this
12 information would provide to the hearing on fitness.
13 So if you want to expound on that...

14 MR. ROTHSCHILD: Well, I've always scolded
15 opposing lawyers who raise relevancy objections to
16 discovery disputes because I don't believe that
17 relevancy is the standard in determining whether
18 something is discoverable or not. It certainly is,
19 in terms of admitting it at the ultimate hearing of
20 the case.

21 But, for instance, with regard to this
22 request, we obtained through other channels, just

1 coincidentally, some information about one of the
2 officers who was an active investigator of Rendered
3 and wrote many of the tickets -- who, unfortunately,
4 has passed away -- and discovered, in reviewing that
5 material, that he was the subject of numerous
6 disciplinary actions by the Commission with regard to
7 his carrying out his duties. And I'd like to delve
8 into that a little more to see how, if at all, it may
9 have impacted his decision-making and his
10 recommendations.

11 Because, you know, on these
12 investigation reports, which you've seen kind of what
13 they -- it has to be signed off on by a sergeant or a
14 chief; but, basically, what they say goes. And I
15 have some information to indicate that there were
16 periods of time where he wasn't even showing up for
17 work or was AWOL, et cetera. I want to see if I can
18 tie any of that into the dates and times in question.

19 So if, basically, what we're
20 suspecting proves out to be the case, it may
21 invalidate some of the charges, and tickets, and
22 other information that the Staff intends to use to

1 reflect on Rendered's fitness.

2 Look, I'm not asking for him to
3 produce a truck load. We want just, basically, the
4 disciplinary information, and write-ups, and any
5 other negative information that occurred with respect
6 to these investigators that had a lot to say about
7 what would happen to Rendered.

8 MR. DOUGHERTY: Yeah. We're not seeking the
9 entire personnel file, just specifically the remedial
10 disciplinary records in those files, which is going
11 to be a lot less. For some files there may not be
12 anything there at all, but we're at least entitled to
13 look at it to see if it bears some relevance to their
14 issuing citations, whether the citations issued were
15 not in conformance with the regulations or the law,
16 or if there was some motive to issue citations for
17 whatever reason. Maybe there was a quota they had to
18 reach. Maybe there was some ill will toward
19 Rendered, which is why these citations were issued.

20 So to say that it's not relevant is
21 putting the cart before the horse because we don't
22 know what those disciplinary files are going to say.

1 We have to look at it. And, as Mr. Rothschild said,
2 it might not even be relevant at the hearing.
3 Certain things may be in the file that have no
4 bearing on Rendered at all; and so that would be a
5 proper relevance objection. But right now I think
6 it's premature to say that it's not relevant.

7 I mean, specifically, I've laid out
8 what we're seeking, which is the disciplinary records
9 of these officers.

10 MR. ROTHSCHILD: And, finally, there's only how
11 many?

12 MR. BARR: 5 officers.

13 MR. ROTHSCHILD: So it's not like we're turning
14 this place upside down with all of their personnel
15 records.

16 MR. BARR: In response, your Honor, you know,
17 the disciplinary files of all of the -- you know, the
18 information that they may or may not have regarding
19 one investigator, I don't think that leads to the
20 discoverability of all of the other officers or
21 investigators who have nothing to do with that
22 officer's conduct -- or former investigator's

1 conduct.

2 And, also, you know, the purpose of
3 this hearing is to discuss how Rendered Services is
4 fit -- if they're fit to hold a commercial vehicle
5 relocator's license. I think by doing that we're
6 turning the attention back on the Commission and
7 saying that it's the Commission's fault that we're
8 getting all of these investigations -- or all of
9 these citations and not actually Rendered's issue.

10 JUDGE KIRKLAND-MONTAQUE: What about the
11 first statement he made? What if you were to narrow
12 it down to one, would you be willing to?

13 MR. ROTHSCHILD: To one what?

14 JUDGE KIRKLAND-MONTAQUE: One investigator, or
15 one person.

16 MR. ROTHSCHILD: Well, no. No, because, I
17 mean, look, we have fumbled across that. And I may
18 have said this before, and it may not be the very
19 best example, but it's an example that comes to mind.

20 The O.J. case, one of the big issues
21 there was that his case was being investigated by
22 Mark Fuhrman, who they discovered had, you know,

1 racial bias and all kinds of other things that came
2 out at the trial; and that all came into play. You
3 know, how it played out is really irrelevant; but
4 they certainly were able to get to that information
5 and, in defending O.J., use it because maybe he
6 wasn't doing his job correctly. Maybe he was
7 motivated by some impermissible consideration.

8 And that could be true for any of
9 these other people, that they were motivated or had
10 some other agenda or were written up repeatedly for
11 some type of behavior or practice that could be a
12 part of what we can use to defend our client.

13 We're looking for things. We don't
14 have to have the answer because if we had the answer
15 we wouldn't be looking for it.

16 MR. BARR: Your Honor, I think Counsel's
17 argument is better suited --

18 You know, these citations were dealt
19 with already. If there was an issue of whether these
20 citations should have been dismissed or should have
21 been paid for whatever reason, I think the issue of
22 officer conduct should have come up when the actual

1 citation was written. That's when it could have been
2 dealt with.

3 I also think that the case that we
4 outlined in our motion to compel for Vino (phonetic)
5 is pretty much on point. I think what Counsel
6 alludes to is just speculation that because there
7 might be something in one investigator's file that
8 there may be something in another investigator's or
9 officer's file.

10 And I think, you know, allowing
11 Counsel access to the personnel files that contain
12 private information just on mere speculation, or on a
13 whim, I don't think is warranted in this case.

14 MR. DOUGHERTY: In the Vino (phonetic) case
15 they were criticized for just one personnel file
16 without an explanation. And in other cases we cited
17 it was the opposite conclusion because they specified
18 why they wanted the file, which was disciplinary
19 issues, which is the same reason that we want it
20 here.

21 It's not a fishing expedition. We're
22 not asking for the entire file. We don't care about

1 his job application, days off of work, absences, his
2 medical history. It's narrowly tailored towards
3 discipline. And if it turns out that it's related to
4 Rendered, fine. If it's not, then at the hearing
5 they could raise their objection on relevance and
6 prevent it from being introduced.

7 MR. ROTHSCHILD: But we won't even try to
8 introduce it if it ends up not being relevant, but we
9 don't know that now. It's discovery.

10 MR. BARR: If the citation was dismissed,
11 though, whether this officer was disciplined for
12 writing it or not isn't going to make a difference.
13 I mean, whether they paid or whether they were
14 disciplined during that time period, they still paid
15 the citation, or they still settled the citation, or
16 we still issued a refund.

17 I mean, it's much better suited, you
18 know, to just resolve the actual underlying citation
19 when we resolve the actual fitness hearing.

20 MR. ROTHSCHILD: I don't agree, and this is
21 why:

22 In this order, which ended up

1 subsequently being part of a press release where they
2 announced to the world that Rendered's license was
3 not renewed and their fitness was at issue, the way
4 the Commission approached it is that Rendered has
5 been issued 373 administrative citations in a period
6 of time. They are taking these broad strokes to make
7 arguments against my client; and I have a right to
8 defend my client.

9 You know, we're not going to have you,
10 thank God, hear 373 cases. But I'm concerned -- and
11 I don't know exactly what Mr. Barr's instructions
12 are or trial strategy is -- that they are going to be
13 bean-counting -- using bean-counting to try to allege
14 that, perhaps, we are unfit because we got so many
15 tickets.

16 And if the reason that we got so many
17 tickets relates to things that are explainable
18 vis-a-vis any number of factors -- somebody has it in
19 for Rendered, somebody issued a whole cadre of
20 tickets for an impermissible reason -- we're allowed
21 to bring that out and find out about it.

22 MR. BARR: But that goes back to my point, your

1 Honor, that it should have been dealt with when the
2 underlying citation was dealt with. If you end up
3 paying a citation, whether you settled it or you paid
4 it outright, it's kind of hard now to argue that it
5 was written improperly and shouldn't have been
6 written.

7 MR. ROTHSCHILD: Well, I'm not going to argue
8 that. But if Mr. Barr gets up there and says, "Oh,
9 you know, this is an outrageous number of citations,
10 and they're not fit; They got 373 citations", then
11 it'll be incumbent upon me to say, "Yeah, well, about
12 3 quarters of them were disposed of without
13 adjudication of guilt, so you can't consider that".

14 But they've already thrown down the
15 gauntlet on that issue by stating to the public and
16 stating to the press that we have had an excessive
17 number of tickets.

18 JUDGE KIRKLAND-MONTAQUE: I understand. And,
19 ultimately, you know, there is a difference --
20 regardless of whether it's in this order or it's been
21 made public to the press, there's a difference
22 obviously of being issued a citation and being found

1 guilty of such.

2 MR. ROTHSCHILD: Well, I'm hoping to God that
3 you acknowledge that like you just did.

4 JUDGE KIRKLAND-MONTAQUE: Well, that's what I'm
5 looking at. I'm not looking at the number of
6 citations written.

7 MR. ROTHSCHILD: But somebody is over there.

8 JUDGE KIRKLAND-MONTAQUE: Well, I mean, yeah,
9 this isn't determinative of how I'm going to look at
10 the fitness in this case. So I think, while you're
11 right, that is broad language used there,
12 ultimately --

13 And, again, even following your
14 argument, let's say that there were some issues with
15 an individual officer, ultimately, if those have not
16 been decided, if any citations have not been decided,
17 if they're open, if you're going to take those to
18 hearing, certainly you'd have the opportunity to
19 challenge any citation.

20 MR. ROTHSCHILD: We've gotten rid of all of
21 those citations. Again, it's discovery. It's not
22 breaking anybody's back to turn this information

1 over; and it may lead to something that's very
2 pertinent to why some of this is going on.

3 You may, in your wisdom, decide not to
4 let any of it into evidence at the hearing. But that
5 does not address the issue that we have, I submit to
6 you, a firm right to discover information that could
7 lead to relevant information.

8 And, certainly, we only have 5
9 investigators. Certainly, if they did something
10 wrong that relates somehow to their job performance
11 vis-a-vis Rendered Services, we have a right to know
12 about it.

13 MR. BARR: I think, your Honor, personnel files
14 of investigating officers are kept out of the public.
15 And Illinois law goes so far as to keep them away
16 from FOIA requests. You can't just FOIA request a
17 personnel file.

18 MR. ROTHSCHILD: You're wrong. But go ahead.
19 That's how I got Officer Ruiz's (phonetic) file.

20 MR. BARR: Ruiz is no longer with the
21 Commission; so there might be a different standard
22 when someone has now left the Commission.

1 But personnel files are meant to be
2 kept out of the public. By the very name they are
3 personal between the Commission and the employer,
4 between whoever holds the file. I think allowing
5 access without even -- you know, just as speculation
6 based on one other investigator, I think would be
7 more damaging to the investigators and would just
8 amount to -- I don't want to say a fishing
9 expedition; but just a whim, a search, to see what
10 they can find and see what sticks.

11 MR. ROTHSCHILD: He's wrong about the law on
12 whether personnel files are exempt from FOIA
13 disclosure or not. They are not exempt from FOIA
14 disclosure. What's exempt is their home address,
15 their Social Security number, their driver's license
16 number, et cetera. But things like reviews,
17 salaries, information of that nature are public
18 record.

19 I've used the FOIA on numerous
20 occasions, when appropriate, to find that kind of
21 information; but I don't want to have to rely on that
22 when we're in a direct dispute that involves the

1 performance of officers of this Commission.

2 MR. BARR: I mean, I still feel that they're
3 not relevant. You know, they wouldn't go to
4 evaluating Rendered's fitness at all. They wouldn't
5 lead to a determination of whether -- you know, be
6 used as to whether someone's -- you know, if they're
7 fit to hold a license.

8 MR. ROTHSCHILD: He may be right, but he also
9 may be wrong; and that doesn't come up until the
10 hearing.

11 JUDGE KIRKLAND-MONTAQUE: All right. Well, I
12 think you've covered that one.

13 MR. ROTHSCHILD: Sorry.

14 JUDGE KIRKLAND-MONTAQUE: No, that's okay.

15 And I'm looking here, and you're
16 requesting that Staff amend its Answers to Request
17 Nos. 1 and 3 contained in the Supplemental
18 Interrogatory Answers. And this is the witness list,
19 if I'm not mistaken?

20 MR. DOUGHERTY: Yes. That's correct.

21 JUDGE KIRKLAND-MONTAQUE: I agree. I think you
22 should have access to that sooner than later.

1 So, Staff, I know you're doing a lot;
2 but you need to set a date for you to provide that
3 information.

4 MR. BARR: That's not a problem.

5 MR. ROTHSCHILD: So that's granted, B?

6 Are you looking at this list that I
7 made at the very end?

8 JUDGE KIRKLAND-MONTAQUE: Yes.

9 MR. BARR: Your Honor, just for ease of keeping
10 everything on track, when you issue a ruling, can we
11 have a date for everything?

12 JUDGE KIRKLAND-MONTAQUE: Everything, yeah,
13 definitely; everything that I require to be produced.

14 Okay. You're also requesting that
15 Staff produce the first and fifth items contained on
16 the privilege log, provided that Item 1 be produced
17 to the ALJ in camera for an in camera inspection.

18 I think that's reasonable for -- what
19 is it? -- the first item. Now, the fifth item -- the
20 first item to be produced in camera for me to take a
21 look at it to determine whether...

22 MR. BARR: I'm sorry?

1 JUDGE KIRKLAND-MONTAQUE: I think I'm going to
2 grant the request to have the first item on the
3 privilege list released to me in camera so that I can
4 take a look at it and determine whether or not...

5 MR. ROTHSCHILD: We'll find that list.

6 JUDGE KIRKLAND-MONTAQUE: It's at the last page
7 of your motion to compel. Do you see it?

8 MR. ROTHSCHILD: Yeah.

9 JUDGE KIRKLAND-MONTAQUE: And then the fifth
10 item, under "Document Description" what exactly is --
11 oh, so it's an e-mail. Can you explain or give me
12 more information on it? What is this?

13 MR. BARR: Yeah. So, your Honor, for ease of
14 just taking care of that, Staff will provide that
15 e-mail to you just to make things easier.

16 JUDGE KIRKLAND-MONTAQUE: Okay.

17 And then, D, you're requesting Staff
18 to produce affidavits from employees identified in
19 Items 2 through 11 of the privilege log. So I guess
20 the question is, Why wouldn't the attorney-client
21 privilege apply within this agency situation we have
22 here, Mr. Rothschild? Why would that be necessary,

1 to provide the affidavits?

2 MR. DOUGHERTY: I think, because it's the
3 control group, we're not sure which individuals fall
4 within the control group, as set out by the Supreme
5 Court. So if those individuals are not part of the
6 control group, then that information would be freely
7 discoverable as opposed to being part of privilege.

8 So we just didn't have enough
9 information on what their duties are in order to make
10 that determination, and we just need a little bit
11 more information.

12 JUDGE KIRKLAND-MONTAQUE: Mr. Barr?

13 MR. BARR: Your Honor, most of those
14 employees -- not all of them -- one is a police
15 sergeant, and one is the former chief of police for
16 the Commerce Commission. Those who would obviously
17 be at the head of the police department would
18 obviously fall within the control group.

19 MR. ROTHSCHILD: Who would that be?

20 MR. BARR: Kim Castro.

21 The other individual, Blanche Weigand,
22 you know, I believe she falls within the control

1 group. She's a person who deals mostly with
2 Relocation Towing, whose decision was relied upon by
3 then the chief of police, for a while Sergeant
4 Sulikowski, as he was heading up the Des Plaines
5 office, and now by the new chief of police and
6 assistant chief of police. So I believe that Blanche
7 would fall within the control group as well.

8 MR. ROTHSCHILD: We believe that if you deem
9 them to be properly within the control group, then
10 the matters would be privileged.

11 But, you know, Mr. Barr hasn't been
12 here that long. I've known Blanche for 30 years.
13 She answers the phone.

14 JUDGE KIRKLAND-MONTAQUE: I'm sure she does
15 more than that.

16 MR. ROTHSCHILD: And does more than that. But
17 does that mean that she's in the control group for an
18 attorney-client privilege? And I don't mean it in
19 any negative sense that she does that.

20 MR. BARR: I think if you look at the control
21 group -- the Commission, yes, it's a 200-employee
22 agency; but when we're just speaking of the police,

1 we're only speaking of a handful of people who are
2 all actively involved in every aspect of a
3 decision-making process for a case; and whether that
4 be researching information or giving an opinion, I
5 think they would all fall, given the tight niche
6 nature and size of the police department, within the
7 control group.

8 MR. ROTHSCHILD: Cathy Wozniak?

9 MR. BARR: She's equivalent to what Blanche
10 does.

11 MR. ROTHSCHILD: I think Blanche would take
12 exception to that.

13 All right. Well, I still think
14 it's -- he went to the trouble of preparing a
15 response. He didn't address it in the response. And
16 now I think, for the record, it's really something
17 that's required.

18 MR. BARR: I think they were -- I don't know
19 what you mean by it wasn't prepared in the response.

20 MR. ROTHSCHILD: Well, in terms of making the
21 showing about whether or not they're in the control
22 group. I don't think that you can just, by an

1 attorney's writing --

2 MR. BARR: You mean I didn't provide an
3 affidavit? Is that what you're saying?

4 MR. ROTHSCHILD: Right.

5 JUDGE KIRKLAND-MONTAQUE: How hard is that?

6 MR. ROTHSCHILD: I don't think it's hard at
7 all.

8 JUDGE KIRKLAND-MONTAQUE: I mean, not that
9 that's a factor. But do you think that would be
10 best?

11 MR. BARR: I mean, it would be, I think, just
12 to get an affidavit, having her come down to the
13 Chicago office. I don't think there's a notary out
14 in Des Plaines that can notarize it.

15 MR. ROTHSCHILD: Well, under Supreme Court Rule
16 1-109 you don't need a notary on a certification made
17 under oath.

18 MR. BARR: So then it's just a matter of
19 preparing it. If that's true, it's just a matter of
20 preparing the affidavit.

21 JUDGE KIRKLAND-MONTAQUE: All right. Why don't
22 you do that?

1 MR. BARR: For which?

2 MR. ROTHSCHILD: D.

3 MR. BARR: For all of D?

4 MR. ROTHSCHILD: 2 of 11 -- 2 through 11.

5 MR. BARR: 2 through 11 are all going to be...?

6 JUDGE KIRKLAND-MONTAQUE: Let me see.

7 MR. ROTHSCHILD: Well, I would think that one

8 affidavit per person would be sufficient.

9 MR. BARR: Obviously, we're not going to have

10 an affidavit of Kim Castro, who's the chief of

11 police. I don't think we need one for him or for Tim

12 Sulikowski, who would be at the top of the control

13 group. I mean, the one with Tim Sulikowski that's at

14 issue is just 5 and 6. I've agreed to turn over 5.

15 MR. ROTHSCHILD: Well, yeah, that would nullify

16 it as to 5. So where's the other one?

17 MR. BARR: 6, because we're numbering down

18 the -- 5 and 6 actually wouldn't be an issue because

19 they're the same back and forth.

20 MR. ROTHSCHILD: Yeah, it looks that way.

21 MR. DOUGHERTY: It would be 7 through 11;

22 that's Blanche and Jennifer Anderson.

1 JUDGE KIRKLAND-MONTAQUE: Jennifer is no longer
2 here. Jennifer is not here. So you would need one
3 from Blanche? Is that the only person?

4 MR. ROTHSCHILD: So, yeah. It would, I guess,
5 on those just be Blanche, right, 7 through 11?

6 JUDGE KIRKLAND-MONTAQUE: Okay.

7 MR. ROTHSCHILD: Cathy Wozniak, I don't think
8 she's in the control group. I'd be shocked.

9 MR. BARR: So affidavits from Blanche and
10 Cathy.

11 JUDGE KIRKLAND-MONTAQUE: All right. Now,
12 going back up to B, which is the witness list, how
13 much time do you think you would need to prepare
14 that, Mr. Barr?

15 MR. BARR: At least a couple of weeks because I
16 would have to have the officers come down and go
17 through the files. It could just be a matter -- you
18 know, we might go through the files and not identify
19 anyone that we want to call.

20 You know, given that this stretches
21 back to 2014, it's going to be really hard to track
22 down some people. And people's willingness to come

1 in after 3 years might be different. So it could be
2 a matter of sitting down with the officers and saying
3 that, you know, we're not going to call everyone or
4 picking one or two.

5 JUDGE KIRKLAND-MONTAQUE: Okay. So 8 weeks,
6 you think?

7 MR. BARR: I think 8 weeks would be almost too
8 much time. Maybe 4 weeks.

9 JUDGE KIRKLAND-MONTAQUE: For you to come up
10 with a list?

11 MR. BARR: Correct.

12 JUDGE KIRKLAND-MONTAQUE: 4 weeks. Okay.

13 MR. BARR: I think that puts us right at the
14 end of February.

15 JUDGE KIRKLAND-MONTAQUE: Yeah, March 1st. How
16 about I give you to March 3rd?

17 MR. BARR: That's fine, your Honor.

18 MR. ROTHSCHILD: 4 weeks and 2 days.

19 JUDGE KIRKLAND-MONTAQUE: A little extra.

20 MR. ROTHSCHILD: And on A...?

21 JUDGE KIRKLAND-MONTAQUE: Well, I haven't
22 decided. I'm going to mull that over.

1 MR. ROTHSCHILD: Do you want us to argue it for
2 another half-hour?

3 JUDGE KIRKLAND-MONTAQUE: No, no need for that.

4 Okay. So I'm going to come up with a
5 written ruling probably Monday of next week. And is
6 there anything else that we need to discuss today?

7 MR. BARR: We need a new status.

8 MR. ROTHSCHILD: A status. And I've talked to
9 Mr. Barr about who -- you know, we're getting close
10 to completion on written discovery. Then I'd want
11 several depositions. And we're moving along.

12 JUDGE KIRKLAND-MONTAQUE: Just as a general
13 idea, how long do you think it will take for the
14 discovery process to be completed?

15 MR. BARR: I think most of this stuff is pretty
16 simple, in terms of execution. I think the only
17 thing that's kind of left outstanding is a
18 spreadsheet versus the citations. The request asks
19 for citations.

20 MR. ROTHSCHILD: And investigation reports.

21 MR. BARR: I don't know if the request goes to
22 investigation reports.

1 MR. ROTHSCHILD: I think I amended it to
2 include that; but if I didn't, I will. But I'm
3 willing to forego it, again, if the disposition -- if
4 the ruling that the cases that have been dismissed
5 and not tried were without adjudication of guilt.

6 MR. BARR: Basically, it predates the ruling or
7 the time frame of the ruling back in 2014.

8 MR. ROTHSCHILD: Right. Instead of -- the
9 motion, I believe, was from January of '15 to
10 whenever I brought that motion. So it kind of adds
11 another couple of years, actually.

12 MR. BARR: You have the spreadsheets. You
13 should also have all of the investigation files
14 because those all would have been turned over. I
15 know Jennifer routinely sent them. And when I picked
16 up the duty of sending over the investigation files,
17 those were all sent over to you via e-mail. So you
18 should have every investigation report.

19 MR. ROTHSCHILD: I mean, I'm not required to
20 maintain -- and I'm not being glib. You know, if
21 some 2012 ticket that you've sent me the
22 investigation report on that we paid, I very well, in

1 2017 may not have that anymore. We're trying to move
2 a little bit away from so much paper. So I have to
3 check that to see if I do, in fact, have it.

4 I'm not going to try to make you
5 produce something that I already have, but I may not
6 have them even though they could have very well been
7 sent to me 5 years ago.

8 MR. BARR: I mean, if you're just looking in
9 the spreadsheet or looking for these documents -- you
10 know, the investigation or citation number or when it
11 was issued, who they're written by, and what the
12 outcome was, and whether a fine was paid, or not
13 paid, or whatnot, reduced, that's all going to be in
14 the spreadsheet -- it was provided. I can provide it
15 again.

16 MR. ROTHSCHILD: Okay. That isn't the issue.
17 I think what I'm looking for is if, in fact, a fine
18 was paid without a hearing, to the extent --

19 JUDGE KIRKLAND-MONTAQUE: I think the logic
20 that I made in my ruling was --

21 MR. ROTHSCHILD: Pretty broad.

22 JUDGE KIRKLAND-MONTAQUE: Well, my point is,

1 the ruling, I think, spoke to the fact --

2 Wasn't it an agreement without
3 adjudication? I don't know why that would not apply.

4 MR. ROTHSCHILD: Right. Because we've done it
5 the same way for years.

6 JUDGE KIRKLAND-MONTAQUE: As long as it wasn't
7 a hearing.

8 MR. ROTHSCHILD: Or a trial where we were
9 found -- absolutely right. You know, if were found
10 guilty after a hearing and we were fined, that's one
11 thing. But he's been with Rendered a number of years
12 (indicating); and he's been calling Jennifer and
13 working things out.

14 MR. BARR: But even the investigation -- our
15 reports aren't going to say -- you know, it's all in
16 MCIS, which is where the spreadsheet is pulled from.

17 JUDGE KIRKLAND-MONTAQUE: So you're saying that
18 you wouldn't know?

19 MR. BARR: Yeah. I would just go to the MCIS,
20 which is the spreadsheet that he would have gotten.

21 MR. ROTHSCHILD: Well, we've got to work that
22 out because I think we should be able to get there on

1 that issue. But if you're going to claim that
2 somehow, you know, these are violations but the other
3 ones aren't.

4 JUDGE KIRKLAND-MONTAQUE: There may be, like,
5 lists of citations that she sent. I don't know if
6 you can check on that or agree on something of that
7 nature.

8 MR. BARR: I'm trying just to think -- I'm
9 trying to think what they're called. It's basically
10 a memo to you, which I think was provided in one of
11 your discovery requests. They're in there. That
12 would be the ones that were agreed to reduce.
13 Anything that wasn't in a memo would be in MCIS,
14 depending on how far back I entered whether it was
15 fined or settled.

16 MR. ROTHSCHILD: Those words don't mean
17 anything to us. You know, the lingo that was the
18 lingo toujours. Why don't I work on this? And,
19 hopefully, if we have a dispute about it, we'll bring
20 it to you by the next time we're here on March 3rd.
21 But, hopefully, we won't have a dispute. My goal is
22 to not have a dispute about everything and anything.

1 But I just don't want to create an
2 impression that if we paid 35 fines, as you call
3 them, that somehow we've committed 35 violations,
4 when our decision for doing that was strictly to save
5 time and money.

6 JUDGE KIRKLAND-MONTAQUE: So then another
7 status date.

8 MR. ROTHSCHILD: March 3rd -- or that's when
9 he's got to produce that stuff. So we don't need to
10 be here on that date.

11 MR. BARR: We could do it the following week.
12 I mean, if you want more time...

13 MR. ROTHSCHILD: To react to that? Yeah.

14 JUDGE KIRKLAND-MONTAQUE: Maybe 2 weeks.

15 MR. ROTHSCHILD: March 17th. And we can have a
16 beer afterwards.

17 JUDGE KIRKLAND-MONTAQUE: Is that St. Patrick's
18 Day?

19 MR. ROTHSCHILD: Yeah.

20 JUDGE KIRKLAND-MONTAQUE: Are you available the
21 16th?

22 MR. BARR: I'm available the 16th. The 16th

1 works better, your Honor.

2 MR. ROTHSCHILD: Could we do it in the morning,
3 like at 10:00?

4 JUDGE KIRKLAND-MONTAQUE: Sure.

5 MR. ROTHSCHILD: Let me just double check.
6 Okay. Yes.

7 JUDGE KIRKLAND-MONTAQUE: All right. So I will
8 issue a written ruling on the motion to compel by
9 Monday, whatever that is.

10 MR. ROTHSCHILD: The 6th?

11 JUDGE KIRKLAND-MONTAQUE: Monday, February 6th.

12 MR. ROTHSCHILD: And we shall have a status
13 hearing on March 16th, at 10:00 a.m., here in
14 Chicago. Thank you.

15 (Whereupon, the above-entitled
16 matter was continued to March
17 16th, 2017, at 10:00 a.m.)

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