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BEFORE THE

ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:	)	
	)	No. 92 RTV-R
PROTECTIVE PARKING SERVICE	)	Sub 17
CORPORATION d/b/a LINCOLN	)	
TOWING SERVICE	)	
	)	
Respondent	)	
	)	
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

September 14, 2017

Met, pursuant to adjournment, at

10:00 a.m.

BEFORE:

MS. LATRICE KIRKLAND-MONTAQUE,  
Administrative Law Judge

APPEARANCES:

MR. BENJAMIN J. BARR  
 MR. MARTIN BURZAWA  
 160 North LaSalle Street, Suite 800  
 Chicago, Illinois 60601  
 appearing for staff of the Illinois  
 Commerce Commission

1 APPEARANCES (continued):

2 PERL & GOODSNYDER, LTD.  
3 BY: MR. ALLEN R. PERL  
4 MR. VLAD V. CHIRICA  
5 14 North Peoria Street, Suite 2-C  
6 Chicago, Illinois 60607  
7 appearing for Protective Parking  
8 Service Corporation  
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20 SULLIVAN REPORTING COMPANY, by  
21 HOWARD N. REISMAN, CSR,  
22 License No. 084-000411

1           JUDGE KIRKLAND-MONTAQUE: By the power vested  
2 in me by the State of Illinois and Illinois Commerce  
3 Commission, I now call Docket No. 92 RTV-R Sub 17 for  
4 a status hearing. This is in the matter of  
5 Protective Parking Service Corporation d/b/a as  
6 Lincoln Towing Service and this is a hearing on  
7 fitness to hold the commercial vehicle relocater's  
8 license. May I have appearances please? Let's start  
9 with the staff of the Commission?

10           MR. BARR: Good morning, your Honor. My name's  
11 Benjamin Barr. I appear on behalf of the staff of  
12 the Illinois Commerce Commission. My office is  
13 located at 160 North LaSalle Street, Suite 800,  
14 Chicago, Illinois 60601. And my office telephone  
15 number is (312) 814-2859.

16           MR. BURZAWA: Good morning, your Honor. My  
17 name is Martin Burzawa and I am also appearing for  
18 the staff of the Illinois Commerce Commission. My  
19 address is 160 North LaSalle Street, Suite 800,  
20 Chicago, Illinois 60601. My telephone number is  
21 (312) 814-1934.

22           JUDGE KIRKLAND-MONTAQUE: Mr. Perl?

1           MR. PERL: Good morning, your Honor. For the  
2 record, my name is Allen Perl, P-e-r-l, on behalf of  
3 Protective Parking Service Corporation, d/b/a Lincoln  
4 Towing. My address is 14 North Peoria Street, Suite  
5 2-C, Chicago, Illinois 60607. My telephone number is  
6 (312) 243-4500.

7           MR. CHIRICA: Good morning, your Honor. My  
8 name is Vlad Chirica here on behalf of Protective  
9 Parking Service Corporation d/b/a Lincoln Towing  
10 Service. My address is 14 North Peoria Street, Suite  
11 2-C, Chicago, Illinois 60607. My phone number is  
12 (312) 243-4500. Thank you.

13           JUDGE KIRKLAND-MONTAQUE: All right, now this  
14 has been changed to a status hearing because of  
15 filings made by Protective over in Circuit Court, so  
16 I'm going to give you the floor, Mr. Perl, to give us  
17 an update.

18           MR. PERL: Thank you, your Honor. When we here  
19 last time we had filed a Motion to Stay in front of  
20 your Honor as well. We filed a motion regarding the  
21 FOIA request. If you recall, we had submitted a FOIA  
22 request to the Commerce Commission and the Commerce

1 Commission wouldn't give us any documents and still  
2 hasn't. The Commerce Commission claims and alleges  
3 that they're voluminous and overly broad.

4 Basically, in the response, they've admitted  
5 that some of the documents are 38 pages long. They  
6 still haven't given us those. We asked for  
7 transcripts of the hearings. They say they're too  
8 voluminous; they won't give us those. Those are  
9 common things that are given to everybody and my  
10 guess is that even individuals in a -- here today  
11 probably have FOIA'd those and gotten our hearing  
12 transcripts because everyone does it. It's a common  
13 FOIA request.

14 So, where we are in all that is we filed our  
15 verified complaint for declaratory and injunctive  
16 relief which is Case No. 2017-CH-10152 in State  
17 Court. Although the Attorney General for the  
18 Commerce Commission stated they wanted to do it in  
19 expedited fashion, they asked for 30 days to respond.  
20 Which, really isn't expedited, it's about what you  
21 would get in a normal hearing. And instead of  
22 responding, they filed a Motion to Dismiss. So, we

1 were back in, yesterday for status. They filed a  
2 Motion to Dismiss, Count 2, which asks for the  
3 injunctions to stay this hearing. They filed a  
4 Motion to Dismiss most of Count 1 and then an answer  
5 in affirmative defenses for the rest of Count 1.

6 So now, instead of having a hearing on it, we  
7 have a briefing schedule. So, we have 28 days to  
8 respond to their Motion to Dismiss. They asked for  
9 14 days to reply. We're back in Court on November  
10 8th, 2017, just for a clerk's status. To then set a  
11 hearing on the matter.

12 In the interim, I haven't received one piece of  
13 paper from my FOIA request and as you're aware the  
14 whole reason I need some of these things are, for the  
15 first time ever on June 9th, 2017, Sargeant  
16 Sulikowski made representation to this Court by  
17 reading documents regarding some tows. As you're  
18 also abundantly aware, we objected to staff  
19 submitting new documents on April 24th, 2017 because  
20 it was over two months beyond, that we believe,  
21 discovery closure date was in February of 2017.

22 When we then, over our objections, the

1 documents were allowed to get tendered in the trial  
2 binder, we were then given the opportunity to dispose  
3 Sargeant Sulikowski just for that purpose; which we  
4 did. We gave the Court copies of Sargeant  
5 Sulikowski's deposition transcript when he stated he  
6 did not intend to use those documents and testify.  
7 He said it twice.

8 He also said, basically, that other than one of  
9 them had never seen the documents before they showed  
10 it to them. He didn't create them and couldn't  
11 actually verify if they were accurate. And actually  
12 said they weren't accurate at his deposition. When  
13 we pointed out inconsistencies between the  
14 information in the documents and the fact they  
15 literally say they some of the documents and some of  
16 the relocators got their licenses in 1899. Which we  
17 know isn't accurate and there's about 16 times where  
18 that appears.

19 So, the documents aren't accurate. He can't  
20 testify to them. We need to actually go into the 600  
21 plus tows that they brought to this court's  
22 attention. There were no citations were ever

1 written. We knew nothing about those for the year we  
2 were in front of your Honor. And if your Honor  
3 recalls, I probably used the term -- 20 times or  
4 more. Because that's what the Commerce Commission is  
5 doing.

6 So, they now have these documents, which we  
7 have given them in or about June of 2016, we tendered  
8 our 24-hour tow sheets to the ICC. They did nothing  
9 with them for a year. Maybe it was May, nothing.  
10 They want this Court to believe they've never seen a  
11 24-hour tow sheet before. So, when they deposed the  
12 general manager, Mr. Munyon, for the first time ever,  
13 the Commerce Commission said, Oh, this is a 24-hour  
14 tow sheet. What is it?

15 So, they literally asked Mr. Munyon, again,  
16 what does it mean, relocator number? Well, that's  
17 the relocator number. What does it mean, where it's  
18 towed from? Well, that means where it's towed from.  
19 They never asked him questions about any particular  
20 tows, just what a 24-hour tow sheet is. And he told  
21 them. They want you to believe, though, when he gave  
22 that testimony they now became aware of



1 inconsistencies; may have to look at the sheets we  
2 gave them an year earlier, which they never looked  
3 at.

4           Because in February of 2017, your Honor stated,  
5 and we quoted for the record, that everything that's  
6 not given over by then is done. Discovery's closed,  
7 or so we thought. So, when we got these new  
8 documents and took Mr., Sargeant Sulikowski's  
9 deposition, we still thought we were okay because  
10 Sargeant Sulikowski said he wasn't use the document,  
11 so he's testifying.

12           So, I presumed and I thought I was able to  
13 presume, he was under oath at the time, that these  
14 documents weren't going to present themselves at the  
15 hearing because he said he wasn't using them. And he  
16 was the only individual that they presented to you  
17 because you made them do -- in the response, when you  
18 said, who are you using to testify with these  
19 documents? And they only said Sargeant Sulikowski  
20 and nobody else.

21           So, if Sulikowski wasn't going to use them, I  
22 think I could, as an attorney, I could take him at

1 his word. Counsel sat next him when he said it.  
2 Counsel didn't say, Ah, excuse me, just for the  
3 record, we actually are going to use those documents.  
4 If Mr. Barr was was there as well as Gabrielle, the  
5 prior attorney, sat next to Sargeant Sulikowski when  
6 he stated under oath, on the record, I don't plan I  
7 using those documents when I testify.

8 Now, Sargeant Sulikowski was represented by  
9 counsel, here was there. Counsel could have said,  
10 just to clarify the record, we do intend to use those  
11 documents. Sargeant Sulikowski might not know it,  
12 maybe he's wrong, but we are. They didn't say that.  
13 They let him say it two different times in his  
14 deposition to lure me into thinking that I don't need  
15 to worry about these documents; so I don't.

16 Low and behold we come to the hearing here and  
17 they're asking Sargeant Sulikowski to testify each  
18 and every one of the alleged, they're not even  
19 calling them violations, because as this court's  
20 aware, Sargeant Sulikowski's not allowed to give an  
21 opinion. So, they're pointing to this Court to about  
22 600 different tows. Where we never got citations on

1 and these were tows that were -- I'm not even sure  
2 what the basis is for it because we weren't told  
3 during the year we were litigating this case and I  
4 kept saying, why are we having this hearing.

5 They never once said, it's because there's  
6 inconsistencies. They always said, we're having a  
7 hearing because we're allowed to do it under the  
8 code. That's all. And your Honor even pressed him  
9 on it saying, I know, but why are we having this  
10 hearing? And they would never tell you here's why.  
11 They would just say because the code says we're  
12 allowed to do it, we can do it.

13 So, for the first time we're finding about  
14 these potential inconsistencies they call them.  
15 Whatever they are. So, I said to your Honor, we  
16 don't want them to use it. Now, I do want to remind  
17 the Court that we're in the middle right now of one  
18 of our motions where we -- they sought to have  
19 admitted into evidence some documents that your Honor  
20 hasn't ruled on yet. Because we said, we've never  
21 seen these before, he can't -- really can't  
22 substantiate.

1           The one thing we found from Sargeant  
2       Sulikowski's testimony, he cannot lay a foundation  
3       for any of these documents. That's -- I don't think  
4       Mr. Barr can argue to that he can't. They had a  
5       Scott Morris who has some kind of certification on  
6       them, but Sargeant Sulikowski himself, doesn't know  
7       who created the documents. Doesn't know when they  
8       were created. He didn't create them and doesn't even  
9       know if they're accurate. So, he can't lay a  
10      foundation for these documents and he hasn't. And  
11      the other witnesses aren't trying to do it because  
12      they didn't see the documents.

13           So, what brings us to this table today is, I  
14      said, if they're going to be allowed to use these  
15      documents, I need to be able to cross-examine  
16      witnesses properly and I don't have documentation to  
17      do that. Because this is the first time I'm hearing  
18      about these things. And your Honor --

19           JUDGE KIRKLAND-MONTAQUE: And you requested the  
20      transcripts for Sargeant Sulikowski's --

21           MR. PERL: I have.

22           JUDGE KIRKLAND-MONTAQUE: Have you received it?

1           MR. PERL:  No, they won't give them to me.  
2           They say, that's voluminous.  I don't -- Judge, I'll  
3           get to that in a bit and you're going to be more  
4           puzzled.  So, along the way we didn't have these  
5           documents.  So, what we did was, we filed a Motion to  
6           Stay and we sent a FOIA request, because I figured,  
7           FOIA requests have to be responded to quickly, right?  
8           And I'll get these documents quickly and we can move  
9           on with the hearing.  And I requested certain  
10          documents that I need to go forward.

11          JUDGE KIRKLAND-MONTAQUE:  Okay, thank you.  I  
12          just wondered.  There's certain points that I want to  
13          stay on.

14          MR. PERL:  Okay.

15          JUDGE KIRKLAND-MONTAQUE:  So, I need to ask  
16          staff, do you know why they haven't received  
17          transcript from the hearings that have already been  
18          held?

19          MR. BARR:  If they were FOIA, they would of --  
20          all the transcripts have to a FOIA because they have  
21          to through the proper channels and they have to be  
22          able to be reviewed for any personal identifying

1 information that might be in those transcripts. If a  
2 FOIA request was filed and obviously be responded  
3 too, I think the only FOIA that counsel's arguing  
4 about is, was No. T84, which was denied for being  
5 voluminous and that's the subject of the pending  
6 matter in Circuit Court.

7 JUDGE KIRKLAND-MONTAQUE: What's T84?

8 MR. BARR: That's just the document number for  
9 the FOIA internal --

10 COURT REPORTER: I can't hear you. What --

11 MR. BARR: That's just the internal, kind of  
12 document number for a FOIA, just a number to request  
13 to be organized. At the very least, even if there's  
14 an ongoing dispute with the FOIA, there's no reason  
15 why counsel can't reach out to the court reporting  
16 agency to get those documents. That's always been an  
17 option. He could -- if he would of taken that  
18 opportunity to get them, he would of had them by now.

19 JUDGE KIRKLAND-MONTAQUE: What's the normal  
20 course of business around here. Do we -- when we  
21 have hearings because I don't know what kind you guys  
22 operate between different parties?

1 MR. BARR: In terms of transcripts?

2 JUDGE KIRKLAND-MONTAQUE: Yes.

3 MR. BARR: I -- I mean, it's the policy of the  
4 Commission to require them to be FOIA.

5 JUDGE KIRKLAND-MONTAQUE: They need a FOIA?

6 MR. PERL: Well, not only they being FOIA'ing  
7 them, it goes a little bit further than that. And I  
8 don't like using the would disingenuous, but I'm  
9 going to use it today, specially with Mr. Barr. Mr.  
10 Barr verified, we requested in our -- he said, you're  
11 suppose to FOIA those things. Actually, here's our  
12 FOIA request right here from June 9th.

13 MR. BARR: I'm not disputing it wasn't FOIA.

14 MR. PERL: The very day, the very day -- well,  
15 counsel asked him, did they FOIA this? So, here's my  
16 FOIA request. I will read you them. There's only  
17 six of them. One of them is electronic copies in pdf  
18 form of -- I'll go back to that one. Let me just see  
19 if it got to the transcripts. Okay, No. 5,  
20 electronic spreadsheet in Microsoft -- of all  
21 contracts for MCIS Protective Parking Service d/b/a  
22 Lincoln Towing, that were cancelled by the Commerce

1 Commission. So, what that is is you heard testimony  
2 regarding potential tows where the lots might have  
3 been electronically filed. Not that there weren't  
4 contracts.

5 So, our position is that potential, some of  
6 these things were cancelled by the Commerce  
7 Commission without our knowledge. Because we didn't  
8 cancel them and we know they weren't cancelled. How  
9 do we know? We're still towing for them and the  
10 signs are still up and no one else is complaining  
11 about it. Not the lot owner and not Rendered  
12 Services because there's no other -- no one else  
13 there.

14 So, we ask ed them, can't be that many. We  
15 said to them, give a copy of all the contracts that  
16 you cancelled without any cancellation requests from  
17 the owner of the lots. Because as you know, you got  
18 to give a -- I shouldn't say as you know. In order  
19 for a lot to be cancelled the lot owner must send in  
20 a request to cancel. It's a 10-day cancellation  
21 form. There can't be that many of those. I mean, I  
22 can't imagine there are.



1           They say, to voluminous, we can't do that for  
2 you. How can it be voluminous? We asked them for  
3 any and all correspondence with whom the Commerce  
4 Commission and Protective Parking of e-filing of  
5 contracts from the -- system. It can't be  
6 voluminous. They have the records. And by the way,  
7 the worst part about it is, in today's modern  
8 technology, you don't even have to print a document.  
9 You press a button and they send it to us. That's  
10 how they give it to us anyway.

11           Not to mention, they -- requested that -- they  
12 say they have no money for postage. This is  
13 literally from the Commerce Commission to my office.  
14 We are broke. We have no money for postage. Is it  
15 okay if we e-mail you everything? So, I said okay,  
16 e-mail me. Cost of nothing, right? They press a  
17 button.

18           So how or some reason, the Commerce Commission  
19 can't do that. But here's what they can do, within  
20 10 days of Mr. Munyon's deposition, they can prepare  
21 spreadsheets on 700 or 800 tows. That they can do in  
22 about a weeks time. If you actually believe -- if

1 you actually believe that they sat on our documents  
2 for one year and didn't do anything to Mr. Munyon's  
3 dep, then you have to believe that they created this  
4 trial binder with over a 1,000 pages in it in 10  
5 days, but they can't give me documents from the FOIA.

6 So, let me go back to now, the hearings.

7 JUDGE KIRKLAND-MONTAQUE: What about the  
8 transcripts?

9 MR. PERL: So, let me go back to the  
10 transcripts. Here, okay. Electronic copies, pdf  
11 form, needs to be filing, including the amount of  
12 each transcript of every hearing, in any docket, in  
13 the past 24 months. That's all we asked for, one  
14 year, 24 months.

15 JUDGE KIRKLAND-MONTAQUE: Any documents, what  
16 do you mean?

17 MR. PERL: I'm sorry, each application for  
18 relocator license --

19 MR. BARR: Basically, he wants everything for  
20 every relocator that's been filed in the last two  
21 years --

22 MR. PERL: Okay, sorry Judge.

1 MR. BARR: -- criminally no relevance --

2 MR. PERL: I'm sorry, it's No. 4. Electronic  
3 copies of portable document format, pdf, of each and  
4 every filing, including the transcripts that were at  
5 a hearing, since March 27th, 2017. That's all we  
6 asked for. So, since March 27th, 2017 we want the  
7 copies of the transcripts of the hearings. You know  
8 what that  
9 is --

10 JUDGE KIRKLAND-MONTAQUE: Of this hearing -- of  
11 these --

12 MR. PERL: Just this.

13 JUDGE KIRKLAND-MONTAQUE: -- proceedings.

14 MR. PERL: From March 27th, and here's why. We  
15 FOIA the other ones and they gave them to us before.  
16 So, here's what we said. Because we took these --

17 JUDGE KIRKLAND-MONTAQUE: Is that a separate  
18 item?

19 MR. PERL: Yes, No. 4.

20 JUDGE KIRKLAND-MONTAQUE: And it says -- read  
21 it to me.

22 MR. PERL: Okay. Electronic copies in portable

1 document format (pdf) of each and every filing  
2 including, but not limited to, each transcript of  
3 every hearing in Docket No. 92-RTV-R Sub 17, since  
4 March 27th, 2017. Well, we don't have any other  
5 hearings other than what we're doing here.

6 JUDGE KIRKLAND-MONTAQUE: Yes, so let's --  
7 okay, thank you.

8 So what's going with that?

9 MR. BARR: That's what the subject of the  
10 Circuit Court case. I think that's the only issue  
11 here --

12 JUDGE KIRKLAND-MONTAQUE: It sounds like  
13 they're asking for only the transcript from this  
14 proceeding since March.

15 MR. BARR: Well, they're asking for a lot of  
16 transcripts. They're asking for every transcript in  
17 the Rendered case. They're asking for a number of  
18 documents that have no relevance to this proceeding  
19 at all.

20 JUDGE KIRKLAND-MONTAQUE: Okay, well let's just  
21 stick with this because in my -- I mean, in order to  
22 cross-examine they've got to have transcripts from

1 this proceeding.

2 MR. BARR: Yes and no, I mean, in a typical --

3 JUDGE KIRKLAND-MONTAQUE: Yes or no?

4 MR. BARR: I mean, in a typical, you know,  
5 trial case where, you know, the case runs from day  
6 one to day, you know, five or however long it takes.  
7 There's no transcripts available. Counsel FOIA he  
8 transcripts. They were denied and that's the subject  
9 of the Circuit Court case. I mean, I think that's  
10 the only issue of whether, you know, we proceed at  
11 this point based on him getting his transcripts like  
12 I -- which I said --

13 JUDGE KIRKLAND-MONTAQUE: Well, is there an  
14 alternative way -- first of all, this is --  
15 unfortunately this hasn't been a five day or a six  
16 day trial where you needed to go one day to the next.  
17 I mean, it's been a month or so since we had our last  
18 hearing. So, I mean --

19 MR. PERL: Well, Nos. 5 and 6, Judge, are even  
20 more germane. No. 5, I'll read it to the court.  
21 Electronic spreadsheet in Microsoft Excel of all  
22 contracts in MCIS, for Protective Parking Service

1 Corporation d/b/a Lincoln Towing Service, that were  
2 cancelled by the Illinois Commerce Commission without  
3 any cancellation request from the lot owner. Here's  
4 why that's important.

5 Because Sargeant Sulikowski's up there  
6 testifying that -- he's actually not testifying, he's  
7 just reading documents from it, but that there were  
8 tows made from lots that weren't e-filed with the  
9 Commerce Commission. That's directly on point. I  
10 need those documentation to cross-exam because I  
11 don't have that. And I just found our about it in  
12 June.

13 No. 6, any and all correspondences between the  
14 Illinois Commerce Commission and Protective Parking  
15 Service Corporation d/b/a Lincoln Towing Service  
16 regarding e-filing of contracts through eRelocator  
17 and/or into MSIS database. Here's what I'm asking  
18 for. For this hearing they filed in February of  
19 2016, correct? They filed a notice we're going to  
20 have a hearing. That's a year-and-a-half -- more  
21 than a year-and-a-half ago. Every time I came in  
22 front of, your Honor, every status or hearing, I

1 said, why are we here?

2 They never once mentioned, well, you're hear  
3 because we think you towed from lots that weren't  
4 e-filed. That's No. 6. We're hear because we think  
5 you towed from lots after they were cancelled.  
6 That's No. 5. I never heard that in a year. On June  
7 9th, I still didn't hear it, but they're integrating  
8 through Sargeant Sulikowski, so what I said was, here  
9 we go.

10 Since they won't give me the documents --  
11 because everyone of my document requests from the  
12 beginning of time until now, they've always said, it  
13 will take us four months with four people working  
14 non-stop. Which is the most ludicrous thing I've  
15 ever heard in my life, in the modern technology that  
16 were in. I just told your Honor about this case  
17 where I have in the Circuit Court in front of Judge  
18 John Carr in room 1605 at the Daley Center. You can  
19 confirm this with him. He asked me to give him every  
20 e-mail I had with my expert in the case because the  
21 other side was trying to get and prove that it's not  
22 privileged and I said it was.

1           So, Judge Carr said to me, I want everyone and  
2 I'll look at them. I said, Judge, there's tons of  
3 them. He said, I don't care. My associate, Mr.  
4 Chirica, who is a technology expert, went through  
5 about 2,000 of my e-mails, 2,000. Picked out the 950  
6 or so that were with my expert and we put them on a  
7 flash drive and I gave those to Judge Carr. It took  
8 Vlad about -- he says 10 minutes, I'll say a  
9 half-an-hour. Let's give it an hour to go through  
10 2,000 e-mails. Because you don't have to read them,  
11 you just look through the names on them and give them  
12 to me.

13           Judge Carr said, on the record, he looked  
14 through 950 e-mails, it took him eight hours. And he  
15 read them all. And here's why he had to read them.  
16 He had to make sure they all were confidential and  
17 they all ended up being confidential. I didn't turn  
18 any of them over, but if you look at their responses  
19 they say, we have a 1,000 e-mails to look through, it  
20 will take us four months, six months. It's not  
21 possible because here's the thing.

22           Mr. Barr said to you, here's why we didn't give



1 him the transcripts, we're going to have to redact  
2 them. Judge, right now, look around you in the  
3 courtroom, there's a member of the press, from the  
4 Chicago Tribune here. An attorney from Rendered  
5 Services and someone else with him. This is a public  
6 forum. You cannot redact anything from this record.  
7 Why would you? It's already out in the public.  
8 There'd be no basis to redact anything from the  
9 transcripts because they're out in the public.

10 So, when Mr. Barr says to you, we have to  
11 review them, that that is absolutely ludicrous. All  
12 you do is you press a button and you give me the  
13 hearing. You cannot redact from it.

14 MR. BARR: Yes, you can.

15 MR. PERL: It would be it -- it would be  
16 absolutely ridiculous because there's members of the  
17 public listening right now. This guy from the  
18 Tribune, Mr. Bob, from Chicago Tribune is writing  
19 notes.

20 JUDGE KIRKLAND-MONTAQUE: Okay, listen -- all  
21 right. I want to get to the heart of the matter.  
22 You had a hearing yesterday and you said November 8th

1 --

2 MR. PERL: November 8th. And by the way,  
3 Judge, this is not my delay. This is their delay.

4 JUDGE KIRKLAND-MONTAQUE: I know, I just -- I'm  
5 --

6 MR. PERL: They won't even -- they won't even  
7 go to hearing on that. They filed a Motion to  
8 Dismiss.

9 JUDGE KIRKLAND-MONTAQUE: Okay. I just want to  
10 --

11 MR. PERL: So, November 8th is status.

12 JUDGE KIRKLAND-MONTAQUE: I want to know where  
13 things stand.

14 MR. PERL: November 8th is status. It's called  
15 a clerk's status to set a hearing date.

16 JUDGE KIRKLAND-MONTAQUE: On?

17 MR. PERL: On our -- on the --

18 MR. BARR: I believe it's on the Motion to  
19 Dismiss, but I --

20 MR. PERL: Motion -- on our -- that's two  
21 things. We filed a Dec, actually, we wanted  
22 injunctive release. So, we're going to have an

1 hearing on their Motion to Dismiss. If their Motion  
2 to Dismiss is granted, we don't go forward. If it's  
3 denied, then we go forward. So --

4 JUDGE KIRKLAND-MONTAQUE: Okay, the motion on  
5 November 8th there is a hearing --

6 MR. PERL: No, just a status date to set a  
7 hearing.

8 JUDGE KIRKLAND-MONTAQUE: Okay.

9 MR. PERL: Here's why, because the Judge  
10 doesn't, maybe at that point in time, they file  
11 another motion. Then I'm going to need time to  
12 respond to that. The delay in this case is all  
13 because -- Nos. 4, 5 and 6 that I asked for here that  
14 are directly germane to what we're doing here,  
15 literally Judge, it's -- the transcripts from March  
16 27th to today takes them about 30 seconds to do.

17 So -- and the rules say, because I numbered  
18 them separately. So, if I would to say to you,  
19 Judge, that I showed Mr. Chirica this example. I'm  
20 going to borrow this pad of paper from the court  
21 reporter if he doesn't mind.

22 Say this pad of paper weighs 9,000 pounds and

1 this piece paper weighs one pound. They go Judge, if  
2 9,001 pounds we can't lift it, but this one's only  
3 one pound they could. So, even if the other ones are  
4 voluminous -- see I can't lift his one, but I can  
5 lift this one, so they're disingenuous by saying  
6 these are so voluminous, but some of them aren't.  
7 Even in their response to me they say, additional  
8 documents, 38 pages. Why don't you just give me the  
9 38 pages? That's not voluminous.

10 JUDGE KIRKLAND-MONTAQUE: Okay. All right, so  
11 I'm going to let staff respond.

12 MR. BARR: Thank you, your Honor. I think the  
13 issue here is, you know, not -- what's contained in  
14 the actual FOIA request because I think there's  
15 opportunity for counsel for other means to get this  
16 documents in the FOIA request and speed up this  
17 process. In any event, this FOIA request is not  
18 properly before the Court, so I don't think we should  
19 spend any more time arguing on the FOIA request, but  
20 the argument initially that should be resolved is  
21 what the Court agrees or disagrees that the pending  
22 Circuit Court matter should delay the proceedings

1 over here. Which staff's position has always been  
2 that's it not.

3 A FOIA request is non-discovery tool. It's not  
4 -- if counsel or any -- not even counsel, the  
5 respondent, or defendant or anybody litigate in that  
6 matter was allowed to file a FOIA request that may --  
7 not be voluminous, you would delay any -- you would  
8 chill litigation. You would prevent people from  
9 having access to the Court and I think that's the  
10 issue here.

11 That -- I think the other issue is that  
12 counsel, if he's denied a license, if he's client is  
13 denied a license he has other means of review.  
14 There's administrative review in Circuit Court.  
15 There's no reason why this Court can't proceed.

16 MR. PERL: Judge, I'll say briefly, but it's  
17 not. We sent this FOIA on June 9th of 2017. I  
18 believe we're now June, July, August, September,  
19 three-and-a-half months later. All they had to do  
20 was give me these documents and they would cut my  
21 legs off from under me, but they won't do it. It's  
22 just -- Mr. Barr is talking about delay. I asked

1 him for this in June. If they just gave me 4, 5 and  
2 6, which are the ones that are germane to this, I  
3 wouldn't be able to argue with you right now. We  
4 could have had a hearing in July, couldn't we? But  
5 they won't give me anything.

6 Just because -- here's what there are saying to  
7 you. Judge, just take their license away, they can  
8 always go to Circuit Court. Is he serious about  
9 that? When he makes a comment to this Court, I don't  
10 know any other Court in the world -- first of all,  
11 that they wouldn't let these documents in.

12 Here's my next question, is discovery still  
13 open?

14 JUDGE KIRKLAND-MONTAQUE: No.

15 MR. PERL: No? Well, when was it closed?

16 MR. BARR: I'd argue, your Honor, that  
17 discovery, you know, was closed based on when, you  
18 know, that April 24th, or around April 24th. I don't  
19 have the exact month --

20 MR. PERL: So, discovery was closed --

21 JUDGE KIRKLAND-MONTAQUE: Discovery was closed

22 --

1           MR. PERL:  -- the day after they gave me the  
2 documents.  When?

3           JUDGE KIRKLAND-MONTAQUE:  -- after the  
4 depositions -- the last of the depositions.

5           MR. PERL:  Well, here's the thing.  Discovery  
6 was actually closed in February, we just didn't  
7 adhere to it.

8           MR. BARR:  I shout that argument numerous  
9 times.

10          JUDGE KIRKLAND-MONTAQUE:  No, that's not --

11          MR. PERL:  Because that's my argument and  
12 actually --

13          JUDGE KIRKLAND-MONTAQUE:  Okay, I get it.  You  
14 guys -- and I know we -- I've heard this before.  The  
15 question here is whether this proceeding should be  
16 delayed because of the pending Circuit Court  
17 decision.

18          MR. PERL:  Here's what they argue in Circuit  
19 Court.  Here's why they're more disingenuous.  You  
20 know what they're telling the Circuit Court, Judge?

21          JUDGE KIRKLAND-MONTAQUE:  What?

22          THE PERL:  You can't say anything because they

1 haven't exhausted their administrative remedies  
2 because they want you to rule first. They literally  
3 said in their pleadings the reason they filed a  
4 Motion to Dismiss by Count 2 is because it's more  
5 appropriate for you to decide and you haven't decided  
6 yet, and once you deny or don't, then it goes back to  
7 Circuit.

8 So, here's -- they play a game --

9 MR. BARR: That was the Court's ruling.

10 MR. PERL: -- they play a game with you and  
11 they play a game with Judge Gambrath because they are  
12 playing one over the other. Judge Gambrath doesn't  
13 know what to do because the hearings in front of you.  
14 You said last time, you literally said last time,  
15 we're not going to go forward until we resolve the  
16 Circuit Court case. That's what you said. And we  
17 haven't resolved the Circuit Court case because  
18 they're playing games.

19 Here's what they're doing. They know what  
20 they're doing, Judge. And they're counting on you --

21 JUDGE KIRKLAND-MONTAQUE: Well, let me --

22 MR. PERL: -- they're counting on you --



1           JUDGE KIRKLAND-MONTAQUE: I don't recall saying  
2 that, you know, I think I was going to get more  
3 information about what was going on in Circuit Court  
4 before I decided to, you know, whether or not we  
5 should move forward. And interestingly I think my  
6 objective is to continue and move this hearing  
7 forward. And we haven't gotten anything from the  
8 Circuit Court to stay this proceeding. So, that  
9 gives me reason to think that I need to move forward  
10 with it.

11           MR. PERL: Judge, this is -- see here's the  
12 problem. I can't FOIA what happen last week because  
13 they won't give it to me anyway. So, I can't --

14           JUDGE KIRKLAND-MONTAQUE: They can't --

15           MR. PERL: -- if you said you don't know what  
16 you said the last hearing -- I don't know either.  
17 Guess what? If I FOIA it, they won't give it to me  
18 anyway. So, how am I going to find out?

19           JUDGE KIRKLAND-MONTAQUE: Well, regardless, if  
20 I said that I'm amending it. I think what I was  
21 trying to do is get myself room to see if there's  
22 anything coming out of the Circuit Court that would

1 stay this proceeding and I've not had anything to  
2 that effect.

3 MR. PERL: Because -- no, it wasn't for staying  
4 it. We were -- you said to me, let's set out status  
5 date for the day after -- you call it State Court.  
6 So, we can figure out what's going on there because  
7 we're going to hold off because you said I'm entitled  
8 to these documents before I cross-examine. The whole  
9 reason --

10 JUDGE KIRKLAND-MONTAQUE: I just said that  
11 today.

12 MR. PERL: No, no, back then. If you recall, I  
13 haven't cross-examine their witnesses yet. You want  
14 to know why? Because you said I'm entitled to the  
15 documents before I do that. That's what you said.  
16 And I will get that record and I would hope that you  
17 would, before making any hearings today, let me FOIA  
18 that record, what you said to me, I don't have to go  
19 forward with cross-examination because I need the  
20 documents to do so.

21 I don't have the documents to do so because  
22 they won't give them to me and they know darn well

1 what you're going to do and that's why they're doing  
2 this because they know you'll going to flip on this  
3 thing and you then are going to make me go to hearing  
4 and I won't have any of the documents for  
5 cross-examination. Which is exactly what they want.

6 JUDGE KIRKLAND-MONTAQUE: Let me ask that.

7 MR. BARR: Yes, your Honor?

8 JUDGE KIRKLAND-MONTAQUE: He makes a valid  
9 point about -- we could of been done with all  
10 hearings had they had the information requested. It  
11 just seems, you know, you're making conflicting  
12 argument. You want them to FOIA, but yet, there's no  
13 information. Why can't you just give them, I mean --

14 MR. BARR: The FOIA request is not a game. I  
15 mean, we treat everyone who sends a FOIA request the  
16 same. It's not, you know, Lincoln Towing sends a  
17 FOIA request and we get that in our hand and we say  
18 we're going to deny it out right. Everything is  
19 treated procedurally the same and this one was denied  
20 for procedural reasons and that's counsel's right to  
21 file in Circuit Court which he did.

22 JUDGE KIRKLAND-MONTAQUE: All of it?

1 MR. BARR: Well --

2 JUDGE KIRKLAND-MONTAQUE: Some of their  
3 requests are minor  
4 -- like, not minor. I mean, the amount of  
5 information doesn't seem to be --

6 MR. BARR: Well, the amount of information, even  
7 though minor, might seem minor in relevance, it's  
8 voluminous and that's why it was denied, but this --

9 JUDGE KIRKLAND-MONTAQUE: Voluminous?

10 MR. PERL: Voluminous? The transcripts in the  
11 hearing are voluminous? Come on. You can't allow  
12 them to say that and not call him on it. Judge, I'm  
13 sorry, you cannot allow him to say that and not call  
14 him on it. How is it voluminous to get the  
15 transcripts? How can that possible be?

16 JUDGE KIRKLAND-MONTAQUE: Calm, please.

17 MR. PERL: I can't, because --

18 JUDGE KIRKLAND-MONTAQUE: They has to be some  
19 --

20 MR. BARR: There's no pending FOIA request,  
21 though, at this time. It was denied --

22 MR. PERL: Yes there is.

1 MR. BARR: It was denied. It was denied --

2 MR. PERL: Oh, my God.

3 MR. BARR: In Circuit Court. There's no  
4 pending FOIA request No. T1784, before the Commerce  
5 Commission because it was denied by the Commerce  
6 Commission. And that's -- it's not even properly  
7 before this Court.

8 MR. PERL: So, the way to get out of giving  
9 anyone anything is just deny it, but the channels  
10 that we're going through which is -- we literally  
11 filed in -- by the way, you know why were in the  
12 State Court? Because the Commerce Commission told us  
13 to go there.

14 They said if you don't like the ruling, the  
15 rules say you can go to State Court and file an  
16 action, which is what we did. I cannot believe,  
17 Judge, honestly, I don't know. I guess after doing  
18 this for 32 years I should just retire because if  
19 this is the way the Judicial system goes, I'm done  
20 practicing law. I got to be honest with you. I'm  
21 finished. I'm going to do something else. I'll go  
22 drive Uber because I'm done with this already.

1           When counsel's allowed to make these ridiculous  
2 statements like, there's no FOIA request pending  
3 because we denied them, so it's not properly before  
4 them. And then counsel says to you and you let him  
5 get away with saying that it's voluminous to give me  
6 the transcripts from the hearings. How can it be  
7 voluminous? It's a press of a button to give me the  
8 document.

9           MR. BARR: But it was denied. It --

10          MR. PERL: Why?

11          MR. BARR: Because it was -- it's a voluminous  
12 request that is now in front of the Circuit Court.  
13 This FOIA request is not before this Court. The  
14 Court had no jurisdiction to hear this.

15          JUDGE KIRKLAND-MONTAQUE: What --

16          MR. PERL: Oh, my God.

17          JUDGE KIRKLAND-MONTAQUE: -- this is a  
18 practical matter. It's a practical matter because I  
19 have to review the transcripts you brought. Can you  
20 --

21          MR. PERL: Well, maybe you should ask for them.  
22 Maybe they're give them to you. Maybe they won't.

1           JUDGE KIRKLAND-MONTAQUE:  Here's -- here's in  
2 my mind the only thing that's holding me -- stopping  
3 me from setting the date is that they don't have the  
4 transcripts because I think, in all fairness, they  
5 are going to need that and in that --

6           MR. PERL:  But what about the other documents?

7           JUDGE KIRKLAND-MONTAQUE:  -- you know, we can  
8 argue this --

9           MR. PERL:  But Judge, what about the other  
10 documents that aren't voluminous?  They aren't.

11          JUDGE KIRKLAND-MONTAQUE:  Listen, listen, I'm  
12 not -- as far as I've seen regarding the evidence  
13 presented, the testimony from the officer -- I think  
14 you need the transcripts to cross-examine --

15          MR. PERL:  But Judge, don't I need --

16          MR. BARR:  If this was about the transcripts,  
17 though, your Honor, counsel could of could of gotten  
18 them a long time ago from the court reporting agency.

19          MR. PERL:  But Judge, don't I need -- hold on a  
20 second.  Not just the transcripts, the other ones, 5  
21 and 6.  You've said yourself I don't have to  
22 cross-examine the witnesses until I get 5 and 6.

1           JUDGE KIRKLAND-MONTAQUE:  What are 5 and 6  
2   again?

3           MR. PERL:  Five and 6 are the questions  
4   regarding the e-filing.  Electronic spreadsheets,  
5   literally, the electronic spreadsheet, once  
6   spreadsheet of all contracts in the MCIS -- by the  
7   way, the MCIS is the whole thing here because they're  
8   now presenting documents that they alleged it's from  
9   the MCIS, Motor Carrier Information System.  Sargeant  
10  Sulikowski showing the Court documents from MCIS, so  
11  what we requested are electronic spreadsheet of all  
12  the contracts in MCIS for Protective Parking Service  
13  Corporation d/b/a Lincoln Towing Service that were  
14  cancelled by the Illinois Commerce Commission without  
15  any cancellation request from the lot owner.

16           How many do you think that could possibly be?  
17  Now, if there's a lot of them --

18           COURT REPORTER:  Let me just turn this.

19           MR. PERL:  Sorry.

20           COURT REPORTER:  They said it was going to be a  
21  short hearing.  That's what they told me.

22           MR. PERL:  I didn't say that.



1 COURT REPORTER: They said that.

2 Okay, counsel.

3 MR. PERL: So, when all this stuff is coming  
4 down with this new information from June 9th. We  
5 haven't seen any of these things. So, what we said  
6 was we believe and I shouldn't have to give him my  
7 theory of the case, but I'm going to. Since we  
8 actually e-filed those contracts. We believe the  
9 Commerce Commission wither initially or accidentally  
10 got rid of them and that's our theory of the case.  
11 So, one of our theories.

12 So, we said can you give us copies of all the  
13 contracts -- spreadsheet, it's a spreadsheet, but  
14 they need to get the copies first. Give us a  
15 spreadsheet of all the lots where the Commerce  
16 Commission cancelled a contract and didn't have a  
17 cancellation from the lot owner. Now, If there's a  
18 lot of those then they're in trouble because they're  
19 not suppose to cancel even one lot without a  
20 cancellation from the owner. You're not allowed to  
21 do that.

22 So, we think they did that. And we think what

1 might have happened was -- I'll give you some more of  
2 my theory of my case, just why not. When e-filing  
3 came into existence 15, 20 years ago -- obviously  
4 there was no e-filing 30 years ago. There weren't --  
5 there's no computers that do this stuff.

6           When e-filing came into existence, company's  
7 like Rendered and Lincoln Towing that had 1000 of  
8 contracts that were never e-filed before had to  
9 e-file all their contracts. Maybe 10,000 of them.  
10 So, obviously computers weren't the way they are  
11 today. They were very difficult. You have to go and  
12 actually  
13 -- the theory behind it is you don't actually take a  
14 copy of the contract and scan it. You actually have  
15 to input the documents -- the information by hand.  
16 Mistakes were made. Everyone made them.

17           So, the Commerce Commission gave grace periods  
18 and everything else. Some of the contracts were 20  
19 years old and 25 years old. Why? Because contracts  
20 for the reallocation go forever until they're  
21 cancelled. They don't -- it's not five years or  
22 three years or 20 years, it's forever. They run with

1 the land and unless you cancel them they'll go until  
2 we're all dead. So, I believe and we believe, that  
3 some of these contracts were so old the Commerce  
4 Commission on their own cancelled them. Maybe they  
5 didn't believe they should be in the system. I don't  
6 know what it is, but they weren't cancelled. We know  
7 they weren't cancelled because we never got a  
8 cancellation notice.

9           And how do we know that? We know that because  
10 you take a particular lot where they're saying  
11 nothing is e-filed. And then they show Rendered has  
12 a lot. Now, Rendered's sitting right there. If  
13 Rendered had the lot and we were still towing, they'd  
14 be jumping up and down, but their not because they  
15 don't have the lot. It's still our lot and always  
16 has been. How, if not showing up in e-Relocator, I  
17 don't know, but we have a feeling we do know.

18           So, we asked No. 5, because we're perplexed.  
19 How am I going to cross-examine this witness if I  
20 don't have those document. No. 6, any and all  
21 correspondence between the Illinois Commerce  
22 Commission and Protective Parking Service Corporation

1 d/b/a Lincoln Towing regarding e-filing of contracts  
2 through e-Relocator and MCIS database. That's  
3 exactly the crux of what he's testifying to. How can  
4 that be voluminous? Even if there's a 1,000 of them  
5 Judge, you press a button and we get them.

6 And here's the thing. If it's documents  
7 between my client and the Commerce Commission they  
8 can't redact anything because there's nothing in  
9 there that we don't have already because they're our  
10 documents. So, when Mr. Barr says to you, we have to  
11 look through it to see if we can redact them -- for  
12 an order to redact a document there has to be private  
13 information. It can't -- you can't redact something  
14 I already gave you because it's my information.

15 So, whenever we get the invoices back from --  
16 this is what I find interesting. Whenever the  
17 Commerce Commission gives us back an invoice that's  
18 our invoice, they redact the consumer's information.  
19 Well, I gave it to them. Of course I have the  
20 information. So, I guess, they're just being a  
21 little bit overly careful to redact it, but don't you  
22 think I have the information if they got it from me.

1 So, they redact that; I get it.

2 These hearings we're having -- like today's  
3 hearing right now, if I FOIA request from Mr. Barr,  
4 how can he redact anything from that, Judge. You're  
5 any attorney. You are a member of the bar. You're a  
6 Judge, for goodness sake. Can you think of a reason  
7 why they would have the ability to redact something  
8 from today's hearing that's a public hearing? I  
9 can't think of one.

10 So, when Mr. Barr says to you it's voluminous,  
11 I can't do it; I say this to the Commerce Commission  
12 and I'll tell right now. I will hire an IT person  
13 and I will have them go through these documents at my  
14 cost, at my cost, and I will have them send me these  
15 documents from request 4, 5 and 6. I'll pay for it  
16 out of my pocket.

17 Now, what's the response going to be? You  
18 still can't -- and it won't take me four months,  
19 it'll take me maybe one day. So, they're still going  
20 to tell you, but Judge, it's not in front of you --  
21 because they never want you -- you ask them what say  
22 it is they give you the weather. They never actually

1 answer one of your questions. When you say to him,  
2 Mr. Barr, is it voluminous to give him a transcript?  
3 He doesn't say yes or no, never. Read the  
4 transcript. He says that's not in front of you right  
5 now, Judge. It's in State Court right now, Judge.

6 Actually, I would love for this Court to say,  
7 Mr. Barr, how long would it take to actually send  
8 them a transcript that the asked you for on June 9th?  
9 How long would it actually take to give it? I think  
10 you've asked for them before, haven't you Judge?  
11 Haven't you asked them to give you copies of hearing  
12 before because we had issues in this case? I know  
13 I've FOIA'd stuff and I got them.

14 JUDGE KIRKLAND-MONTAQUE: I mean, I have access  
15 to them,  
16 but --

17 MR. PERL: But I filed -- but I FOIA'd  
18 transcripts before form this hearing and they've  
19 given them to me and they never said it's voluminous.  
20 The reason they won't do it now is because there's a  
21 smoking gun there and I've said this all along, now  
22 that they know that Sargeant Sulikowski testified and

1 I'm looking for documents that might hurt them; all  
2 of a sudden they can't give them to me.

3 In the past I've gotten these FOIA requests  
4 answered. They've given me transcripts. So, why  
5 can't I get it now. And it doesn't matter, you can  
6 ask them 100 times, he's not going to answer you  
7 because he never thinks he has to because the Court  
8 never says to him, you actually have to answer my  
9 question.

10 He's allowed his courtroom to dance around the  
11 questions and never actually respond. I asked him in  
12 -- here's one of my requests. Electronic copies is  
13 No. 1. This is the one I can't even believe. And  
14 actually it is relevant to this case and I'll tell  
15 you how. Electronic copies in plurable document  
16 format of each and every application for a commercial  
17 relocater license submitted to ICC within the past 24  
18 months. Okay, so let me explain why I question this.

19 My question is, can you give me a copy of any  
20 and all applications within the last 24 months for  
21 anyone that applied for a relocater license. First  
22 of all, how many relocater licenses are there in the

1 whole state of Illinois right now? Not that many. I  
2 don't know how many there are. In 24 month period,  
3 there maybe could be six. At the most eight and  
4 probably four. Here's what I want to know and I'm  
5 just going to tell you straight up. I'll lay my  
6 cards on the table.

7 I think we're being treated differently than  
8 someone else in this room right now. I think we're  
9 being treated unfairly, prejudicial, and I do believe  
10 it's a conspiracy to close us down by the Illinois  
11 Commerce Commission. That's my belief. I can only  
12 believe it because the way they act, including Mr.  
13 Barr.

14 MR. BARR: Your Honor, this is far fetch more  
15 than what's going on in this hearing.

16 MR. PERL: Far fetched? Far fetched?

17 MR. BARR: Yes.

18 MR. PERL: Really? Then why not give me the  
19 transcripts --

20 JUDGE KIRKLAND-MONTAQUE: Okay.

21 MR. PERL: Okay, so here. So, hold on. So,  
22 that's No. 1. That likely six pages of -- six pages,



1 so how can it be voluminous?

2 JUDGE KIRKLAND-MONTAQUE: Right. I don't --

3 MR. BARR: Your Honor, can I just interject on  
4 this point?

5 JUDGE KIRKLAND-MONTAQUE: Sure.

6 MR. BARR: Under FOIA, voluminous request is  
7 defined as five or more individual requests. And  
8 this is text book version of voluminous request.  
9 Counsel is improperly dissecting these requests by  
10 isolating one from the other. Under FOIA, is there  
11 five or more individual requests for a different  
12 category of documents which treated as a voluminous  
13 request and that's a -- this black letter law under  
14 -- in the statute. So, counsel doesn't allow it to  
15 dissect each one of these requests and treat it as an  
16 individual request.

17 All of this put together is a voluminous  
18 request. If he were to submit a single request for  
19 each one of these than it wouldn't be voluminous, but  
20 that's not what he did and that's the reason that the  
21 FOIA request was denied and that question is before  
22 the Circuit Court.

1           MR. PERL: Solved my problem. I'm glad he's  
2 here today. He just solved my problem. So, here's  
3 what we're going to do. I'm going to send, but --  
4 because counsel is incorrect about is, that's not --  
5 they've never raised that once in a pleading, not one  
6 time had they said that. But here's the response to  
7 that. If it's a voluminous request guess what we  
8 have to do? Give him a 100 bucks, which we said we  
9 would. So, we said to them if a voluminous request  
10 is for records --

11           MR. BARR: Act.

12           MR. PERL: -- this is the Act. I'll read you  
13 the Act, just so we have it clear. If a voluminous  
14 request is for electronic records and those records  
15 are not in pdf form, which they actually are, a  
16 public body may charge up to \$20.00 for not more than  
17 two megabytes of data. Up to \$40.00 for more than  
18 two, but not more than four megabytes of data, and up  
19 to \$100.00 for more than four megabytes of data. If  
20 a voluminous request is for electronic records and  
21 those records are in pdf form, the public body may  
22 charge up to \$20.00 for not more than 80 megabytes of

1 data. Up to \$40.00 for more than 80 bytes, but less  
2 than 160 megabytes, and so on, and so on, and so on.

3 So, if counsel really wants to cite it for you,  
4 that's what it says. And guess what we told him?  
5 We'll pay the fee. We'll give you the 100 bucks.  
6 Because the most you can charge is \$100.00. So, we  
7 responded to them, we'll pay the fee. And they never  
8 once said, it's because there's six not five. So,  
9 I'll tell you what I'll do right now, Judge, I'll  
10 remove one of them right now and then they'll just  
11 answer them, right? Right, counsel?

12 MR. BARR: That question is before the Circuit  
13 Court.

14 MR. PERL: No, it's not.

15 JUDGE KIRKLAND-MONTAQUE: What --

16 MR. BARR: Whether or not --

17 MR. PERL: See, there you go.

18 MR. BARR: -- it was a proper -- whether or not  
19 it was a proper --

20 MR. PERL: Now, it's the Circuit Court.

21 MR. BARR: -- denial as a voluminous request,  
22 that question is before the Circuit Court, and we're

1 not arguing that question here.

2 JUDGE KIRKLAND-MONTAQUE: Thank you.

3 MR. PERL: But counsel, here's the thing. They  
4 get to make statements like that and then when I  
5 refute them they go that's the Circuit Court.  
6 Counsel made a statement to you in this courtroom  
7 with a court reporter transcribing. Counsel said to  
8 you the reason they didn't give it to us is because  
9 there's six of them. So, I'll tell you what I'll do.  
10 I'll make it four of them. Then will they answer?  
11 Now they say, well, I'm not answering that question,  
12 it's in the Circuit Court.

13 JUDGE KIRKLAND-MONTAQUE: Well, let's -- I get  
14 it. I currently --

15 MR. PERL: And I never actually raised that.

16 JUDGE KIRKLAND-MONTAQUE: -- Mr. Perl, I'm not  
17 in the position to answer any of the issues regarding  
18 the FOIA request. That's not what's presented before  
19 me.

20 MR. PERL: I know, but Judge, common sense  
21 dictates in every courtroom. In every courtroom you  
22 have to have common sense --

1 JUDGE KIRKLAND-MONTAQUE: I understand --

2 MR. PERL: You don't -- we don't leave it at  
3 the doorway.

4 JUDGE KIRKLAND-MONTAQUE: I understand that.  
5 Thank you.

6 MR. PERL: Listen to what they're saying to  
7 you.

8 JUDGE KIRKLAND-MONTAQUE: Listen.

9 MR. PERL: Does any of it makes sense.

10 JUDGE KIRKLAND-MONTAQUE: Listen. Here's -- my  
11 objective is we have this hearing on fitness. Staff  
12 has presented its evidence. You've not gotten copies  
13 of the things that you requested. Now, if you can  
14 amend that or make some adjustments in -- I'm not --  
15 I don't know if there's somehow for you to remedy  
16 that. Either with the Commission staff or before you  
17 get to Circuit Court, then that would -- you would --  
18 work out, but as far as this hearing is concerned the  
19 next steps are the cross-examination of the witnesses  
20 who already testified and your presentation of your  
21 witnesses.

22 MR. PERL: Is it --

1           JUDGE KIRKLAND-MONTAQUE: Cross-examination of  
2 your witnesses.

3           MR. PERL: Didn't you say to me -- I know I'm  
4 not losing my mind, I won't have to do that until I  
5 get the documents. Didn't you say that --

6           JUDGE KIRKLAND-MONTAQUE: I -- no, I said I  
7 think the transcripts are key because we've been out  
8 for over a month.

9           MR. PERL: No, no, no, no. It wasn't the  
10 transcripts at the time. This was before I even  
11 filed my motion, my motion in State Court. The  
12 reason -- I had said to you straight up, Judge, I  
13 can't cross-examine these witnesses because I don't  
14 have the documents. And you said, you're right. So,  
15 what we did was, which was really unorthodox, they  
16 directed their four witnesses and I didn't  
17 cross-examine anyone. The reason I didn't  
18 cross-examine them yet because you recognized that I  
19 can't cross-examine them without the documents to do  
20 that.

21           How can I cross-examine their witness when the  
22 first time I learn about something is June 9th, when

1 he's testifying. When in his deposition he said he's  
2 not using those documents. I just -- and I know  
3 where this is going, Judge, and I have a feeling,  
4 again, I'm not going to stop talking until you tell  
5 me to, but I know what's going to happen because this  
6 Court's -- this Court's objective is to get the  
7 hearing done quickly. My courts -- my objective is  
8 to get it done fairly. And if they don't jive  
9 because they might not because maybe we're more  
10 interested in speeding to justice than speeding to --  
11 it wouldn't be justice. Speeding to a resolution  
12 because I know there's pressure from the Illinois  
13 Commerce Commission on everybody in this courtroom.  
14 Especially you to get this done quickly.

15 And I know that for a fact because I've been  
16 told that by an individual who runs the Commerce  
17 Commission that they want to get this done quickly.  
18 So, I know that's the case. And I know that's where  
19 this is coming from. And what unnerves me is that  
20 right about the time when we're about to do the right  
21 thing and I think we're going to do the right thing,  
22 it goes out the door. It's not a courtroom anymore

1 and it's just we got to get this done quickly because  
2 and I'll tell you why.

3           Rendered Services has submitted their settle  
4 agreement to the Commerce Commission and they want us  
5 to get done before they have to make public what  
6 their terms are. I'm going to tell you straight out,  
7 the last time we were in Court, Rendered's first time  
8 up for hearing all of a sudden out of nowhere they  
9 present a settle agreement. Okay, and they told your  
10 Honor we're settling the case, did they not?

11           So, now they're negotiating --

12           MR. BARR: We have never said anything about a  
13 settlement. I --

14           MR. PERL: Really? They didn't. He's here  
15 right now. Let's ask him. He's the counsel for  
16 Rendered. Let's ask him if they request a  
17 settlement?

18           MR. BARR: Your Honor, this is outrageous.

19           JUDGE KIRKLAND-MONTAQUE: All right, let's do  
20 this --

21           MR. PERL: It is getting ridiculous because  
22 here's the attorney for Rendered sitting right back



1 there. He's an attorney of -- ask him right now, is  
2 there a negotiation of a settlement agreement with  
3 the Commerce Commission in your case. Actually, you  
4 know there is because that's why you didn't go  
5 forward with the hearing.

6 And Mr. Chirica was right here and the hearing  
7 didn't go forward because they're negotiating a  
8 settlement. The reason they don't want this case to  
9 go longer because they want us to get resolved before  
10 the Tribune or anyone else actually knows the result  
11 of the settlement agreement because my guess is  
12 they're giving them different terms than they were  
13 going to give to us because that's what I said all  
14 along.

15 JUDGE KIRKLAND-MONTAQUE: Okay, let's --

16 MR. PERL: So, if we go forward with this  
17 hearing --

18 MR. BARR: The -- in the Lincoln case are not  
19 related in any matter and they shouldn't -- the  
20 Rendered case should not be --

21 MR. PERL: Oh, but they are related. But they  
22 are related because --

1 JUDGE KIRKLAND-MONTAQUE: Okay.

2 MR. PERL: -- but here's the thing, Judge. Do  
3 we want to get this thing quickly or fairly. So, you  
4 can decide that right --

5 COURT REPORTER: Counsel, let me change my tape  
6 over.

7 JUDGE KIRKLAND-MONTAQUE: Let's go off the  
8 record for a second.

9 (Off the record.)

10 COURT REPORTER: Are we are the record?

11 JUDGE KIRKLAND-MONTAQUE: Yes, we can go on the  
12 record.

13 Mr. Perl, can I see that FOIA -- the thing that  
14 you'd be reading?

15 MR. PERL: The FOIA request?

16 MR. BARR: Yes.

17 JUDGE KIRKLAND-MONTAQUE: Yes. All right, you  
18 can have it back.

19 COURT REPORTER: I'll give it to him.

20 MR. PERL: Thank you.

21 JUDGE KIRKLAND-MONTAQUE: Ready?

22 MR. PERL: Did you want to look at the response

1 too or just that?

2 This is their copy from a couple days later.

3 JUDGE KIRKLAND-MONTAQUE: What's the problem?

4 There's --

5 MR. PERL: Yes, there's --

6 JUDGE KIRKLAND-MONTAQUE: I don't bite.

7 MR. PERL: And then we narrowed it down for  
8 them, actually.

9 COURT REPORTER: You said --

10 MR. PERL: And then we actually narrowed down  
11 because they said the requests were too voluminous, so  
12 we said, just give us the documents between Bob  
13 Munyon and Blanche. So we, even agreed --

14 JUDGE KIRKLAND-MONTAQUE: Where's that?

15 MR. PERL: It's not in that -- in those. It's  
16 in further. I think it's in the other litigation,  
17 but we really didn't have to do that because there's  
18 only 1900 documents in their world.

19 JUDGE KIRKLAND-MONTAQUE: Okay, here's what's  
20 going to happen. This is what I'm going to do. I'm  
21 going to re-open discovery and I'm going to allow you  
22 to inspect these and I want them in the most

1 streamline form that you can request. And not all of  
2 them. Specifically, I'm going to look for -- allow  
3 you to request 4, 5 and 6 and make it as, you know,  
4 narrow the parameters, you know, to narrow as you  
5 can, you know, to prevent indirect this --

6 MR. BARR: Your Honor --

7 JUDGE KIRKLAND-MONTAQUE: -- yes?

8 MR. BARR: I'm sorry, I didn't mean to cut you  
9 off, but may I say something?

10 The issue with re-opening discovery is going to  
11 be is counsel's going to put them in writing. We're  
12 going, obviously, object if, you know --

13 MR. PERL: Obviously.

14 MR. BARR: -- if there's reason to object and  
15 then we're going to be down the same path with them.  
16 He's going to file a Motion to Compel. We're going  
17 to brief the motion --

18 JUDGE KIRKLAND-MONTAQUE: Why would you object?  
19 I mean, you said that it's not voluminous.

20 MR. BARR: It's -- no, it is voluminous. The  
21 number of e-mails and the number of --

22 JUDGE KIRKLAND-MONTAQUE: Four, 5, and 6?

1 MR. BARR: Are all voluminous. And that's --

2 MR. PERL: Ask him how many there are?

3 MR. BARR: -- 2,000 e-mails.

4 MR. PERL: Ask him how many there are for 4, 5

5 and 6?

6 MR. BARR: It was 2,000 e-mails.

7 MR. PERL: That's not what this says.

8 MR. BARR: And we're going to be running the

9 same course as the Circuit Court. So, I don't think

10 discovery should be re-open. If anything, And I

11 disagree with --

12 JUDGE KIRKLAND-MONTAQUE: But I think this cat

13 and mouse game with us and the Circuit Court --

14 there's, you

15 know --

16 MR. BARR: But that's how --

17 JUDGE KIRKLAND-MONTAQUE: -- I don't know how

18 -- I do not understand --

19 MR. BARR: -- It's held with motions that can

20 tell us.

21 MR. PERL: Look at -- just --

22 MR. BARR: We might as well wait for the

1 Circuit Court then.

2 MR. PERL: Maybe one time, counsel should  
3 actually get the facts before he speaks. It's not  
4 2,000 e-mails. It's 1, 3, 4 and 5 are 1900. Well,  
5 you're not giving me one or three, so it's just 4 and  
6 5. So, it's 2,000, it's 1900, and it's not 1900  
7 because that includes one and three. So, it --

8 JUDGE KIRKLAND-MONTAQUE: What are you looking  
9 at? Based  
10 on --

11 MR. PERL: I'm looking at their response.

12 JUDGE KIRKLAND-MONTAQUE: I'm just saying --

13 MR. PERL: Their response.

14 MR. BARR: Your Honor, I will vest you in  
15 Circuit Court on their jurisdiction over these  
16 documents. They have -- it's whether the documents  
17 should be turned over is up to the Circuit Court.

18 MR. PERL: Oh, now it's -- now you can't decide  
19 because you don't control this case, but let --

20 JUDGE KIRKLAND-MONTAQUE: This is discovery --

21 MR. PERL: But they're telling the Circuit  
22 Court that you -- you can do it. I --

1 JUDGE KIRKLAND-MONTAQUE: -- if I didn't have a  
2 discovery issue --

3 MR. PERL: -- love that.

4 JUDGE KIRKLAND-MONTAQUE: If I'm make it a  
5 discovery issue, I mean, they could of -- had they --

6 MR. BARR: Then the FOIA issue would be moot.  
7 If they get --

8 JUDGE KIRKLAND-MONTAQUE: -- when had they had  
9 your documents and they had known back when we were  
10 doing discovery that you were going to use those  
11 documents for the purpose that you were going to use.  
12 That the officer -- testified forced those -- in  
13 using those documents for three days on just  
14 inconsistencies. If they had more information they  
15 could of requested this before?

16 MR. PERL: Right.

17 JUDGE KIRKLAND-MONTAQUE: And then what?

18 MR. PERL: They would of -- like you said,  
19 because he's going to tell you right off the bat --

20 JUDGE KIRKLAND-MONTAQUE: I think we --

21 MR. PERL: -- they don't have to see it,  
22 they're going to object anyway.

1 JUDGE KIRKLAND-MONTAQUE: Okay.

2 MR. BARR: Your Honor, if there's -- if we go  
3 through that request and there's 1900 e-mails or  
4 however many documents; we will object. And then  
5 we'll be back here with a Motion to Compel and the  
6 Circuit Court case will be running. This case will  
7 be running. And we're nowhere closer to the  
8 evidentiary dates.

9 MR. PERL: How are you allowed to object --  
10 listen, this is litigation. Okay, I think this is  
11 litigation where they're trying to take my clients  
12 license away that they've had for 50 years.  
13 Twenty-three of my client, 27 before that. How can  
14 it possibly be voluminous to give me 1900 e-mails  
15 when my client's license is at stake and this is  
16 called litigation.

17 Show me a book where it says, in litigation, up  
18 to 1,000 documents isn't voluminous, but over --  
19 there are cases like when somebody gets killed, God  
20 forbid, in a car accident. There's 500,000 documents  
21 and they don't say you can't have them; you get them.  
22 And by the way, all of these documents that they're



1 claiming are voluminous, I will say on the record  
2 again, I will have my IT person, if not Mr. Chirica  
3 right here, I'll pay for the time to do it, and I'll  
4 bet you he's going to be back in my office within  
5 three hours, maybe two. It's not voluminous; it  
6 isn't.

7 MR. BARR: He's not looking at every e-mail in  
8 redact -- the attachments we have to redact. Any  
9 personal information -- every e-mail address that's  
10 contained within those e-mails would have to be  
11 redacted. It won't be an easy process.

12 MR. PERL: What?

13 MR. BARR: It will takes weeks if not a month  
14 or more to be redacted.

15 MR. PERL: Judge, these are e-mails between me  
16 and him. How can he redact an e-mail that my client  
17 sent to me -- how in the world can redact it.

18 MR. BARR: If he has the e-mails then why does  
19 he need them from us? That's the --

20 MR. PERL: We don't have them. I'm going to  
21 see when Blanche, or somebody -- I shouldn't say  
22 Blanche -- when -- strike that.

1           When anyone at the Commerce Commission does  
2 something, like in other words, these contracts were  
3 terminated, how could they redact anything? I mean,  
4 what's the basis for redacting. By the way, if it's  
5 a subpoena, they can't redact it. Only if it's a  
6 FOIA.

7           MR. BARR: We're not under subpoena.

8           MR. PERL: Well, but we're going to be doing  
9 some discovery. So, I'm going send it through the  
10 discovery. It's a different situation that a FOIA.  
11 And by the way, the fact that counsel would say to  
12 you, if I subpoena the documents I can't FOIA them is  
13 ridiculous.

14          MR. BARR: These issues --

15          MR. PERL: A FOIA is -- anyone in the public  
16 can do it. You can't limit me by FOIA. FOIA's by  
17 definition of -- for anyone in the public to do. So,  
18 I can do it on my --

19          MR. BARR: Then the Circuit Court should runs  
20 its course and whether the FOIA was correct.

21          MR. PERL: All of a sudden they want to do  
22 that. Now, they don't like that because, Judge,

1 here's what they've told Judge Gambrath.

2 JUDGE KIRKLAND-MONTAQUE: What do you want? Do  
3 you want Circuit Court and you want me to re-open  
4 discovery.

5 MR. BARR: If the choices are between those two  
6 and the Court's not going precede with the  
7 evidentiary hearing, then I think the proper channel  
8 is to wait for the Circuit Court case. I don't think  
9 it's a re-open discovery and then file Motions to  
10 Compel and you wind the same course while we have a  
11 Circuit Court case pending with Motions to Dismiss  
12 and then maybe they get the documents or whatever,  
13 maybe they don't and then it comes -- then we have  
14 the same issues running over here with Motions to  
15 Compel.

16 JUDGE KIRKLAND-MONTAQUE: Well, here's the  
17 thing --

18 MR. PERL: Judge, on June --

19 JUDGE KIRKLAND-MONTAQUE: Now, now you're  
20 arguing the other way. Because earlier this had  
21 nothing to do with Circuit Court. That wasn't my  
22 issue. So, now I'm trying to get Circuit Court out

1 of it and keep this within the Commission with all  
2 the authority that I can to make this --

3 MR. PERL: This is what they do.

4 JUDGE KIRKLAND-MONTAQUE: Hold on -- and now --

5 MR. PERL: They just -- they tell Judge  
6 Gambrath she can't do it. They tell you can't do it.

7 JUDGE KIRKLAND-MONTAQUE: Now, you want to --

8 MR. PERL: Judge, on June 14th, Mr. Chirica  
9 sent an e-mail to Katie Kowalski. Katie, please try  
10 e-mails by between Blanche Weigand, W-e-i-g-a-n-d, in  
11 the following e-mails. And we gave her four e-mail  
12 addresses. How can that be voluminous? He actually  
13 gave her the e-mail addresses to check on.

14 MR. BARR: And there's still thousand pages.  
15 We're still arguing the FOIA issue.

16 MR. PERL: But Judge, even if there were  
17 thousands of pages, I just got through telling you --

18 JUDGE KIRKLAND-MONTAQUE: How can they move --

19 MR. PERL: -- that takes a couple hours.

20 JUDGE KIRKLAND-MONTAQUE: All right, let's stop  
21 talking over one another. Again, let me see the 3,  
22 4, 5 and 6 of that FOIA request because I'm just

1 trying to make sure that, again, the process is fair.

2 MR. BARR: Because, your Honor, we objected in  
3 their discovery request when they asked for similar  
4 e-mails asking for -- which turned out to be  
5 thousands of e-mails and that it's going to require  
6 thousands --

7 MR. PERL: Just so we're clear on two things.

8 MR. BARR: -- they can't make an argument on  
9 this.

10 MR. BARR: Counsel just told you that the Court  
11 in the case should proceed in State Court, correct?  
12 I think I'm quoting correctly. Here is their  
13 pleading where they argue. It says, in their  
14 argument of Count 2, in their own motion remedy of  
15 law, they say, therefore, Protective's adequate  
16 remedy of law is to continually litigate the ongoing  
17 fitness hearing and if the results are unfavorable to  
18 Protective, seek administrative review. They're  
19 telling Judge Gambrath we should do this here.  
20 They're telling you we should do it there. Where do  
21 I do it? So, I don't know how counsel can tell you  
22 that you don't have the right to re-open discovery if

1 it was ever closed. So, you certainly can -- what I  
2 think should happen, since you asked Mr. Barr's  
3 opinion, I'll tell you what mine is.

4 I think we should re-open discovery like that.  
5 Leave my State Court pending case because that  
6 returning a FOIA. They got to respond to all those.  
7 Let the State Courts say they don't have to because I  
8 have one, two, and three in a FOIA that I'm entitled  
9 to whether I have this case pending or not. I'm  
10 entitled to those things. Those are strict FOIA  
11 issues.

12 So, my FOIA case does goes through unless and  
13 until they give me the documents. Now, if they give  
14 me documents 4, 5 and 6, then -- well, here's the  
15 interesting part about it. It kind of makes moot 4,  
16 5 and 6 kind of, but not really because as counsel  
17 will tell you certain documents they redact, if it's  
18 a FOIA, certain documents they don't, if it's not.  
19 So --

20 MR. BARR: I never said that.

21 MR. PERL: Well, that's the law. You can't  
22 redact subpoena documents like that unless it's

1 attorney-client privilege and the documents you're  
2 redacting aren't attorney-client privilege.

3 MR. BARR: We'll redact -- we'll redact all  
4 personal identifying information from those documents  
5 and that's what's been previously denied in their  
6 discovery request.

7 MR. PERL: In a subpoena?

8 MR. BARR: We're hashing out the same issues  
9 that was in discovery and they lost on the Motion to  
10 Compel.

11 MR. PERL: You can't do it in a subpoena.

12 JUDGE KIRKLAND-MONTAQUE: Listen. No. 4 is the  
13 electronic copies of each and every filing, I mean,  
14 that's --

15 MR. PERL: Well, there aren't any --

16 JUDGE KIRKLAND-MONTAQUE: -- regarding this  
17 case. This fitness issue --

18 MR. PERL: This fitness hearing. If you keep  
19 reading it's disregarding --

20 MR. BARR: Does he have those documents? Does  
21 each and every file -- he would have served his  
22 documents on us --

1 MR. PERL: But we can't do anything.

2 MR. BARR: -- and we would have served our  
3 documents on him.

4 MR. PERL: Judge, Judge, keep reading that.  
5 Keep reading their request.

6 JUDGE KIRKLAND-MONTAQUE: That would include  
7 the transcripts.

8 MR. PERL: That's right.

9 MR. BARR: Right, I'm not disputing that this  
10 doesn't say anything about the transcripts.

11 JUDGE KIRKLAND-MONTAQUE: Okay, well, maybe Mr.  
12 Perl, you might want to address the transcripts.

13 MR. PERL: Judge, here's the thing. Why am I  
14 not entitled to -- first of all.

15 MR. BARR: It's a delayed tactic. It's a  
16 delayed tactic.

17 MR. PERL: A delayed tactic is them delaying.

18 MR. BARR: He wants us to take the time to find  
19 every document.

20 JUDGE KIRKLAND-MONTAQUE: Why was -- why would  
21 you need a copy of the e-mails between the two of  
22 you? You should have those, okay.



1           MR. PERL:  The e-mails between the two of us.  
2   Between him and I or my client?  Judge, I don't want  
3   to re-write the rules on discovery.  I'm not looking  
4   to do that.  And I've given more of my theory of the  
5   case than I'm suppose to anyway.  I asked them for a  
6   simple request of documents that they're admitting to  
7   -- by the way, they've admitted they have them and  
8   they know exactly what documents they are and they  
9   know where they are.  And there only is 1900 of them  
10  in the world.

11           So, how about this for delay.  I asked them for  
12  that in June.  It's now September.  You really think  
13  it takes three months to look at 1900 -- can anybody  
14  actually convince you, Judge, do you know how many  
15  e-mails I review everyday, probably 300.

16           MR. BARR:  We didn't review the e-mail --  
17  because the FOIA was denied.

18           MR. PERL:  Every single day.

19           MR. BARR:  Why would we --

20           MR. PERL:  Just me personally and I read them  
21  all because that's how many e-mails I get per day,  
22  myself.  While working 10 hours a day; I do that.

1 So, if you really want to believe from them, that it  
2 takes them a year to look at 1900 e-mails from an IT  
3 person who isn't working. And by the way, Judge, how  
4 in the world can you argue -- that 1900 documents  
5 include the transcripts by the way. So, probably  
6 it's only, I don't know how many there are, but how  
7 can you redact the transcripts in this hearing and  
8 how can you redact anything in an e-mail between  
9 myself and you when it's  
10 -- when the third-party is involved automatically you  
11 can't redact it because it's been out to the public.

12 MR. BARR: But it's not about redacting what's  
13 the content --

14 MR. PERL: So, what are you redacting?

15 MR. BARR: -- it's going to redact the e-mail  
16 addresses, the addresses, if there's an address of a  
17 motorist within that e-mail. A phone number of a  
18 motorist. Every document has to be reviewed. It's  
19 not a --

20 MR. PERL: Judge, it's an e-mail between us.  
21 How can you redact it. We already have it and you  
22 already have it. What are you talking about?

1 JUDGE KIRKLAND-MONTAQUE: If you have it --

2 MR. BARR: If you have it then why do we have  
3 to give it to you?

4 MR. PERL: Because I don't actually have  
5 knowledge --

6 JUDGE KIRKLAND-MONTAQUE: You just get it.

7 MR. PERL: Judge, I don't actually have  
8 knowledge of e-mails they've sent between Blanche and  
9 other people.

10 MR. BARR: His client would.

11 MR. PERL: First of all, this is -- again, I  
12 don't understand why we're actually going through  
13 this again when I sent a simple discovery request to  
14 them and I sent a FOIA to them. Now, what they're  
15 saying to -- now, because every time you're about to  
16 rule --

17 JUDGE KIRKLAND-MONTAQUE: Wait, hold up.

18 MR. PERL: -- they changed their mind. If the  
19 State Court can rule, if you can rule. Now, it's  
20 back to --

21 JUDGE KIRKLAND-MONTAQUE: I'm going to  
22 interrupt you. Were any -- were 4, 5 and 6 a subject

1 of any discovery request that you made previously?

2 MR. PERL: No. I couldn't of because I didn't  
3 know about this stuff. How would I know about -- the  
4 4, 5 and 6 I only learned on June 9th.

5 MR. BARR: There was a discovery request -- I  
6 don't have it specifically off the top of my head,  
7 your Honor, because I didn't think we would get into  
8 discovery, but about correspondence between, I  
9 believe, the Commission and Lincoln Towing, which was  
10 denied.

11 MR. PERL: No, it wasn't denied.

12 MR. BARR: Yes, it was denied. We never --

13 MR. PERL: Here's what happened. Here's what  
14 happened. That was in general. I said, give me  
15 copies of all the e-mails in the world that you ever  
16 had with Lincoln. They said, well, there's Lincoln  
17 Insurance, there's the State of Lincoln --

18 MR. BARR: And now he wants another crack at  
19 the whip because he didn't get it.

20 MR. PERL: Okay, here's the thing. I'll tell  
21 you what I'll do. I'll withdraw these two if you can  
22 find in anywhere I requested them before. And I'll

1 withdrawal them right now.

2 MR. BARR: Would it be included in any request  
3 that says, give me all the e-mails I have.

4 MR. PERL: No, it's not. Because I take -- it  
5 doesn't say that. It doesn't say that. It says  
6 e-mails between Lincoln -- e-mails where you  
7 terminated a Lincoln contract without -- how would we  
8 know those. We asked them in No. 5, give us a copy  
9 of all the e-mails  
10 -- or I'm sorry, all the -- a spreadsheet of all the  
11 contracts that you terminated without the owner  
12 telling. How would I know that. I don't have those  
13 things. They only have them.

14 And they said there's so many of them we can't  
15 do it. Oh, my God, Judge, they're telling -- they're  
16 admitting to this Court that there's so many of those  
17 times with -- I'll tell you this. I have a better  
18 idea. Stipulation, I have a good one for you.

19 They're going to stipulate that there's so many  
20 contracts that they cancelled without cause, without  
21 proper ability to do it, that they can't --

22 MR. BARR: We're not going to stipulate to

1 that.

2 MR. PERL: Well, why not? There's so many of  
3 them because they're voluminous.

4 JUDGE KIRKLAND-MONTAQUE: All right. All  
5 right, I'm not going to get into this. I'm going to  
6 go with my --

7 MR. PERL: Just open up discovery --

8 JUDGE KIRKLAND-MONTAQUE: My thought and it's  
9 going to be fast tracked discovery. It's going to be  
10 on very tight schedule. Okay, and we're going to  
11 move forward from that point. Because I think based  
12 on the fact that these documents were used by the  
13 officers to testify. They were presented late in the  
14 proceeding even though I allowed addition  
15 depositions.

16 I think in all fairness that discovery  
17 regarding these three issues -- the last four -- the  
18 last three --

19 MR. BARR: What if we stipulate to this, your  
20 Honor. I didn't mean to cut you off, but we'll give  
21 him the transcripts. I think it's contrary to FOIA,  
22 but 5 and 6 are out. I think that serves both

1 purposes. They get the transcripts they want. They  
2 can search their own records for 6 and we can  
3 continue proceeding on course.

4 MR. PERL: How about no. How about they just  
5 give us all the documents we requested and instead of  
6 try --

7 JUDGE KIRKLAND-MONTAQUE: How about -- wait.

8 MR. PERL: -- to trial by ambush again, which  
9 is all they want to do.

10 MR. BARR: Because we're going to object to 5  
11 and 6.

12 MR. PERL: Of course they are.

13 MR. BARR: Because they're burdensome and  
14 voluminous. That's going to be the same argument.  
15 We're going to have --

16 JUDGE KIRKLAND-MONTAQUE: Wait a minute. Hold  
17 on. Wait a minute. Are you telling -- there's to  
18 many --

19 MR. PERL: Read No. 5.

20 JUDGE KIRKLAND-MONTAQUE: -- it's burdensome,  
21 it's voluminous, there's to many contracts cancelled  
22 by the Commission?

1 MR. PERL: They're you go.

2 MR. BARR: I'm not admitting that there's  
3 anything admitted --

4 JUDGE KIRKLAND-MONTAQUE: All right.

5 MR. BARR: -- or cancelled by the Commission.  
6 The Commission doesn't cancel on any -- a relocator  
7 --

8 JUDGE KIRKLAND-MONTAQUE: Something like -- is  
9 that your -- that's your answer. That's your answer.

10 MR. BARR: Okay.

11 JUDGE KIRKLAND-MONTAQUE: Right?

12 MR. PERL: Well, but though --

13 JUDGE KIRKLAND-MONTAQUE: If there's not any,  
14 there not any.

15 MR. PERL: Judge, but here's the thing. I --  
16 so counsel doesn't know what to say back and forth.  
17 So, first there's too many of them, which I have under  
18 oath that he signed at a pleading because his  
19 affidavit sworn. They're voluminous. Now, he's  
20 going to tell me there aren't any. Well, isn't that  
21 a little contradictory. There voluminous, but  
22 there's none.



1           JUDGE KIRKLAND-MONTAQUE: I said there aren't,  
2 I'm just saying. I put --

3           MR. PERL: Let me just -- let me just see if I  
4 see where you're going. So, we do -- discovery.  
5 We'll get out our discovery requests. You give me  
6 the amount of days to do it. They'll have X amount  
7 days to respond. Here's where it's buyer beware.  
8 They can either actually just give me the documents  
9 which they've never done before, and just so you  
10 know, in a years worth of discovery prior to us  
11 getting the voluminous ones, do you know how many  
12 documents I have from them? About 18, maybe 20.

13           MR. BARR: That's duly inaccurate, your Honor.  
14 We've turned over a 1,000 pages --

15           MR. PERL: Of this.

16           MR. BARR: -- of investigation files. So, for  
17 counsel --

18           MR. PERL: Well, the investigation files we've  
19 always had.

20           MR. BARR: -- to sit here and lie to this Court  
21 it is now becoming --

22           MR. PERL: Judge, the --

1           MR. BARR:  -- disingenuous and getting out of  
2 hand.

3           MR. PERL:  -- investigation files are the  
4 citations.  Those I'm not talking about.  We have  
5 those.

6           MR. BARR:  What are you talking about?

7           MR. PERL:  I'm talking about everything that  
8 they were planning on using at the hearing --

9           JUDGE KIRKLAND-MONTAQUE:  All right.

10          MR. PERL:  -- looks like 16 pages.

11          JUDGE KIRKLAND-MONTAQUE:  All right, I'm tired  
12 of the going back and forth on this.  I think my  
13 ruling is ruling in a secondary type schedule.  Are  
14 you willing to stipulate without the transcripts or  
15 not --

16          MR. BARR:  Only if 5 and 6 are out, I mean,  
17 we'll give him the transcripts for 4, under 4 and  
18 then we can proceed.

19          MR. PERL:  No.

20          MR. BARR:  We'll set a date when counsel's  
21 available.  I think that's fair to everybody.  He --

22          MR. PERL:  The answer is no.  So, let's decide

1 -- give us how much time we have to issue discovery.

2 MR. BARR: I mean, we might as well set a  
3 briefing schedule for Motions to Compel at this point  
4 because --

5 MR. PERL: What?

6 MR. BARR: -- because we're going to object to  
7 at least 6 --

8 MR. PERL: That's ridiculous, Judge. You can't  
9 do that. How can he just object without knowing  
10 -- I have to tailor my response.

11 MR. BARR: We know what document you're talking  
12 about.

13 MR. PERL: I'm going -- Judge, can I just have  
14 time and give them time to respond and then we'll  
15 come  
16 -- let's see if they do file a Motion to Compel.

17 JUDGE KIRKLAND-MONTAQUE: A very short  
18 timeframe.

19 MR. PERL: Tell me.

20 JUDGE KIRKLAND-MONTAQUE: Let's --

21 MR. PERL: I mean, I need sometime to do it.

22 Today's Thursday, so --

1 JUDGE KIRKLAND-MONTAQUE: Seven days.

2 MR. PERL: Can I have until a week from  
3 tomorrow? Eight days.

4 JUDGE KIRKLAND-MONTAQUE: Eight days, okay.

5 MR. PERL: Okay, so eight days for -- and by  
6 the way, for the record, we're only opening up  
7 discovery. We're not opening it up for the Commerce  
8 Commission. This is only re-opening discovery for  
9 the purpose of us getting documentation regarding the  
10 stuff that we learned on June 9th. This is not now  
11 that -- now the Commerce Commission gets to open  
12 discovery.

13 JUDGE KIRKLAND-MONTAQUE: I'm going, in fact,  
14 what I'm going to do is a written ruling and it's  
15 going to be very specific, but let's get the dates --

16 MR. BARR: Thank you.

17 JUDGE KIRKLAND-MONTAQUE: -- in terms of this  
18 re-opening of discovery and why I'm doing it.

19 MR. PERL: So, we'll issue our discovery by  
20 September 22nd; is that what that is?

21 JUDGE KIRKLAND-MONTAQUE: Correct.

22 MR. PERL: Okay.

1           MR. BARR: Is 4 limited to just transcripts or  
2 do we have to reproduce all the filings between  
3 counsel and back --

4           JUDGE KIRKLAND-MONTAQUE: I think that sure be  
5 limited.

6           MR. PERL: No, no. Here's the thing. I want  
7 to see the file. I don't even know what they're  
8 talking about through the filings. How many could  
9 there be?

10          JUDGE KIRKLAND-MONTAQUE: You should have them.

11          MR. PERL: But, but --

12          MR. BARR: Well --

13          MR. CHIRICA: Here's the thing with the  
14 filings, Judge. When we initially filed things we  
15 would file them by e-mail to them. Then one time we  
16 sent them an e-mail and they said, this is no good.  
17 It's not considered filed. So, we FedEx'd them the  
18 same document overnight. They got the documents and  
19 said, Oh, no, the signature is not an original. It  
20 has to be a pen ink original. Send it to us again.

21          MR. CHIRICA: So, we sent it to them again and  
22 each time I would pay for the postage for the entire

1 filing plus two copies with included pre-paid postage  
2 for return, so we get a file stamp copy back. They  
3 never once sent a return filed copy back with a file  
4 stamp. So, what we would is --

5 MR. BARR: So, we need to give them --

6 MR. CHIRICA: -- what we would do, Judge, is in  
7 a FOIA request ask for the filings and they would  
8 send back a pdf that had the file stamp on it with  
9 the time. That's really all we were looking for.

10 MR. BARR: Why is that relevant to the fitness  
11 hearing?

12 JUDGE KIRKLAND-MONTAQUE: Yes.

13 MR. PERL: Well, why is it voluminous?

14 MR. BARR: Now, we're getting beyond --

15 JUDGE KIRKLAND-MONTAQUE: You got to stay to  
16 the  
17 transcripts --

18 MR. BARR: -- this is -- we're getting beyond  
19 what the --

20 JUDGE KIRKLAND-MONTAQUE: All right. All  
21 right. I'm not -- I'm going now try and narrow this  
22 down to --

1 MR. PERL: So, -- transcript, okay. No. 4,  
2 we'll ask for the transcripts from the date we ask, I  
3 think it's March 2017, because we have the other  
4 ones.

5 JUDGE KIRKLAND-MONTAQUE: Okay.

6 MR. BARR: So, the transcripts from March --  
7 what was it?

8 MR. PERL: Okay, you know what I'll ask for.  
9 Any and all filings that we don't have in our  
10 possession.

11 MR. BARR: How do we know what you have  
12 possession.

13 MR. PERL: That they haven't sent to us.

14 MR. BARR: And any filing is irrelevant to them  
15 defending the case. They --

16 JUDGE KIRKLAND-MONTAQUE: All right. All  
17 right.

18 MR. PERL: Leave it alone. Just transcripts.

19 JUDGE KIRKLAND-MONTAQUE: Just transcripts.

20 MR. PERL: Okay.

21 MR. BARR: From March 27th forward, is that --

22 MR. PERL: Yes, that's all. We have the other

1 ones.

2 JUDGE KIRKLAND-MONTAQUE: So, that's going to  
3 be in your request.

4 MR. PERL: Yes, so I'll do that by --

5 JUDGE KIRKLAND-MONTAQUE: Yes.

6 MR. PERL: -- do they want time to respond?

7 JUDGE KIRKLAND-MONTAQUE: Yes, but we're --  
8 okay, so --

9 MR. BARR: I was going to say, your Honor, if  
10 we have to go and search for these e-mails and if  
11 counsel's reaching -- I mean, they already researched  
12 for No. 6 when the FOIA request was presented, but  
13 the use is going to be -- we have to go through them  
14 and redact them, it's not a seven day response. It's  
15 going to be a 30 day response by staff because it's  
16 going take us that much time to review every single  
17 document.

18 MR. PERL: Judge, here's my problem with that.  
19 They've already told us how many documents there are.  
20 There's 1921. That's if you add 2, 3, 4 and 5. So,  
21 you're taking out one and three. I don't even get  
22 those. So, there's obviously got to be less than



1 1900; it can't be more, right? And they already know  
2 -- they're not searching for them. They already know  
3 exactly where they are because they gave you an exact  
4 number of them --

5 MR. BARR: That's what I admitted, but I'm  
6 saying --

7 MR. PERL: -- so there searching for them. We  
8 know where they are.

9 MR. BARR: -- we still have to sort and review  
10 them and redact them.

11 MR PERL: Well, sort is different than search.

12 MR. BARR: We have to -- for more.

13 MR. PERL: Sort is different than search.

14 Again, I would make this to the Court --

15 MR. BARR: It will be at least a month for us  
16 to review and redact if we don't object.

17 MR. PERL: Maybe I should have done it back in  
18 June. It would be done already. I thought --  
19 because back in June they said it's going to be like  
20 six months, now it's only a month.

21 MR. BARR: Even worse, so I mean, that's still  
22 going to be our position when we go through and look

1 at the same documents. Our answer's not going to  
2 change between the FOIA and the -- his request.

3 MR. PERL: So, maybe --

4 MR. BARR: So, we're going to be back -- that's  
5 what I'm saying, we're going to be back at a Motion  
6 to Compel.

7 MR. PERL: Okay, so Judge, here's what I don't  
8 understand. Why does it take them 30 days to look at  
9 1900 e-mails, but Judge Carr does it in eight hours,  
10 900 e-mails, and he's just one person. I'm going to  
11 tell you why.

12 MR. BARR: He doesn't have to redact them,  
13 that's how.

14 MR. PERL: It doesn't -- yes, he did. He  
15 actually had to look through them to make sure they  
16 didn't have to be redacted.

17 MR. BARR: He had to redact them.

18 MR. PERL: That's why he was doing what he was  
19 doing to see if anything had to be redacted or turned  
20 over, both. And he said, neither one. He actually  
21 had to read every single one, not just to whom and  
22 from. And he did that in eight hours. And he's not

1 an IT expert. He's probably my age, which means he's  
2 not a computer expert.

3 JUDGE KIRKLAND-MONTAQUE: I'll give you three  
4 weeks.

5 MR. BARR: What's the date? From the 22nd  
6 then?

7 JUDGE KIRKLAND-MONTAQUE: Yes.

8 MR. BARR: Can we just put a specific just so  
9 it's on the record.

10 JUDGE KIRKLAND-MONTAQUE: Yes, I am.

11 COURT REPORTER: Can we just what? I'm sorry.

12 MR. BARR: Just put a specific date just so  
13 we're all --

14 JUDGE KIRKLAND-MONTAQUE: Let's go off the  
15 record while we figure this out to give the court  
16 reporter a break in terms of the schedule.

17 (Off the record.)

18 JUDGE KIRKLAND-MONTAQUE: We're back on the  
19 record. And I am going to re-open discovery for the  
20 very limited purpose of allowing Protective Parking  
21 to send a discovery request to staff for the three  
22 issues that we have discussed, items No. 4, 5 and 6

1 on -- from Protective Parking's FOIA request. I am  
2 giving Protective Parking until October -- I'm sorry,  
3 September --

4 MR. PERL: No, October -- September 22nd,  
5 Judge.

6 JUDGE KIRKLAND-MONTAQUE: September 22nd to  
7 make it's filing, discovery filing and staff shall 21  
8 days or until October --

9 MR. BARR: 13th, I believe.

10 MR. PERL: Yes, Judge, October 13th.

11 JUDGE KIRKLAND-MONTAQUE: October 13th to  
12 respond to the discovery request and we will  
13 reconvene on October 18th at 10:00 a.m. here in  
14 Chicago for a status on these limited discovery  
15 requests.

16 MR. PERL: Thank you, Judge.

17 JUDGE KIRKLAND-MONTAQUE: That's all for today.  
18 Thank you.

19 MR. PERL: Thank you.

20 MR. BARR: Thank you.

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(Whereupon, the above matter  
adjourned, to be continued  
to October 18, 2017 at 10a.m.)