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APPEARANCES:

OFFICE OF GENERAL COUNSEL

BY: MR. MARTIN BURZAWA

Suite C-800

160 North LaSalle Street

Chicago, Illinois 60601

Appearing on behalf of the Staff of the
Illinois Commerce Commission;

DONALD S. ROTHSCHILD, LTD.

BY: MR. DONALD S. ROTHSCHILD

835 McClintock Drive

Burr Ridge, Illinois 60527

630-655-6000

Appeared on behalf the Respondent.

ALSO PRESENT:

PERL & GOODSNYDER, LTD.

BY: MR. ALLEN PERL and

MR. VLAD V. CHIRICA

Suite 2-C

14 North Peoria Street

Chicago, Illinois 60607

312-243-4500

MR. JAMES DAMION

MR. WILLIAM NESTOS

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>
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NONE

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
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NONE

1 JUDGE KIRKLAND-MONTAQUE: By the power
2 vested in me by the State of Illinois and the
3 Illinois Commerce Commission, this is a status
4 hearing in Docket Number 74 RTV-R Sub 15. This is
5 Rendered Services, Inc., and the hearing on
6 fitness to hold a Commercial Vehicle Relocator's
7 License.

8 Let's get appearances. Let's start
9 with Rendered.

10 MR. ROTHSCHILD: Good afternoon, your
11 Honor. My name is Donald S. Rothschild. My business
12 address is 835 McClintock Drive, Burr Ridge,
13 Illinois, 60527. I'm an attorney licensed by the
14 Supreme Court, and I represent Rendered Services,
15 Inc.

16 JUDGE KIRKLAND-MONTAQUE: Staff?

17 MR. BURZAWA: Good afternoon, Judge.
18 Martin Burzawa for the Staff of the Illinois Commerce
19 Commission. My address is 160 North LaSalle Street,
20 Suite 800, Chicago, Illinois, 60601. My phone number
21 is 312-814-1934.

22 JUDGE KIRKLAND-MONTAQUE: Okay. And just

1 for the record, because this matter is pending, I
2 will allow Mr. Perl to state your name on the record.
3 You had filed a Petition For Leave to Intervene.

4 MR. PERL: Thank you, your Honor. For the
5 record, my name is Allen Perl, P-e-r-l, from the law
6 firm of Perl & Goodsnyder. Our address is 14 North
7 Peoria Street, Suite 2-C, Chicago, Illinois, 60607.
8 Telephone is 312-243-4500, and I represent Protective
9 Parking Service Corporation doing business as Lincoln
10 Towing Service.

11 JUDGE KIRKLAND-MONTAQUE: Okay. Well --

12 MR. PERL: Also with me my is my associate,
13 Vlad Chirica, C-h-i-r-i-c-a.

14 JUDGE KIRKLAND-MONTAQUE: Thank you.

15 The developments today in this
16 proceeding, the parties have reached an agreement,
17 executed -- two agreements, a consent order and civil
18 penalty agreement as well as a settlement agreement
19 and release, and because of that, Mr. Perl, I believe
20 that kind of renders your Petition For Leave to
21 Intervene moot at this point, because this
22 effectively will end this proceeding.

1 MR. PERL: I actually don't think it does
2 pursuant to the statute.

3 JUDGE KIRKLAND-MONTAQUE: Which statute?

4 MR. PERL: So if you look at the code, it
5 says that we take the procedures as we find them with
6 certain exceptions. So I will read that for you,
7 your Honor.

8 JUDGE KIRKLAND-MONTAQUE: Are those the
9 Commission's Administrative Rules?

10 MR. PERL: Yes.

11 JUDGE KIRKLAND-MONTAQUE: Okay. You
12 mentioned code.

13 MR. PERL: So I will say that in 200.200 --
14 give me one second.

15 In 200.200, it provides: "Except for
16 good cause shown, an intervenor accepts the status of
17 the record as the same as it exists at the time of
18 the beginning of the first intervention."

19 Now, we filed our Petition to
20 Intervene prior to this evidence being entered into.
21 That I can say for certain. There was no agreement
22 when we filed our petition. When the responses were

1 filed, there was no agreement. The record is from
2 that date. I think it's retroactive.

3 However, even if it isn't, the
4 section says that for good cause shown, we can go
5 forward, and I think we have good cause today,
6 and I can present to the Court what that good cause
7 is.

8 That's what the statute says. And
9 even the Commerce Commission in their response says
10 we can go forward with good cause shown, and that's
11 what we're doing today.

12 MR. BURZAWA: If you read the Commerce
13 Commission cite in the rule --

14 MR. PERL: Let me just read what they cited
15 in the rule. This is Paragraph 5 of the Commerce
16 Commission's response.

17 "Additionally, Rule 200.200E provides
18 that except for good cause shown, an intervener shall
19 accept the status of the record as the same exists at
20 the time of the beginning of that person's
21 intervention."

22 Well, we have good cause shown.

1 That's what we're going to do today is show you good
2 cause as to why we don't need to accept the status of
3 the record as it exists today, because we're going to
4 show you good cause why you shouldn't do that.

5 And furthermore, unless this
6 settlement agreement -- maybe it has been signed by
7 the Board. I'm not sure if you have approved it and
8 it's gone to the Board for approval as well, because
9 I haven't seen it. So until I see a copy of that,
10 which I think I'm entitled to see, if you're going to
11 deny my petition based on something you're looking at
12 that I haven't seen yet, I'd like to see it to see
13 that it actually does do that, because I think I can
14 go forward today with this exception.

15 Now, after I tell you what my
16 exception is, if you determine it's not an exception,
17 that's up to you, but I think I'm allowed to at least
18 show you why my exception is to the rule, because
19 it's cited in their own response.

20 Now, I don't know why the Commerce
21 Commission saw fit to file a response to this at all
22 since it's public safety that's at risk, but they

1 did. So I'd like to go forward, Judge, and if you
2 determine that we can't go forward based upon the
3 exception, then we don't.

4 But I don't think it's a blanket
5 there's something that they did that we don't get to
6 go forward. That's not what the rule says. The rule
7 says that we get to go forward because it's an
8 exception, and you have to determine as the trier of
9 fact if that is a good exception. That's what it
10 says.

11 JUDGE KIRKLAND-MONTAQUE: All right.

12 MR. ROTHSCHILD: Well, first of all, he
13 stated that the statute provides something that
14 entitles his client to go forward. We disagree with
15 that.

16 Petitions to Intervene are granted or
17 denied upon your good judgment and discretion. Here,
18 though, there's a suggestion that, perhaps, the
19 settlement is somehow tied to the Petition to
20 Intervene. It absolutely isn't.

21 We apprised your Honor months ago
22 that we were in settlement negotiations and that we

1 were making progress towards settling the case and
2 that there were a lot of details to be worked out,
3 and ironically, it likely would have been concluded
4 much earlier except for the fact that Mr. Burzawa was
5 tied up in the Lincoln Towing matter, your Honor was
6 tied up, and there wasn't the availability of time to
7 allow the parties to get together to iron everything
8 out.

9 We have now completed that process
10 and have concluded a lengthy two-and-a-half-year
11 process with discovery, many meetings, discussions.
12 I have been before your Honor. You're probably tired
13 of seeing me by this point in time.

14 There's no reason that the settlement
15 that we worked hard on achieving that we believe is
16 fair to both sides cannot be consummated, and if --
17 if, because we disagree with just about everything
18 stated in the Petition to Intervene, but if there
19 were valid concerns, there are other avenues and
20 vehicles by which Lincoln Towing can raise these
21 alleged public safety concerns about Rendered,
22 including filing a formal complaint.

1 But to now start this case when
2 Lincoln certainly has been aware of it for two and a
3 half years, to open it up to whatever they want to
4 complain about, their signs being taken down
5 improperly, whatever it is, would be very
6 uneconomical and unfair to both the Staff and to my
7 client.

8 MR. PERL: Well, Judge, our signs just got
9 taken down a couple of weeks ago, so I couldn't have
10 brought it over the last two-and-a-half years.

11 Literally, if you read our Petition
12 to Intervene -- and we've been told already that
13 there are going to be citations written for those
14 events. So a couple, three, four weeks ago, on
15 video, one of Rendered's employees went to one of our
16 lots and took our signs down and threw them in the
17 garbage and put their signs up.

18 Clearly, they didn't have a ten-day
19 notice to cancel. I have spoken with the officer.
20 They were writing them citations.

21 MR. ROTHSCHILD: I'm going to object. This
22 isn't an evidentiary hearing.

1 MR. PERL: Counsel can object, but he can't
2 interrupt me. So let me finish speaking. I didn't
3 interrupt him, and I won't.

4 JUDGE KIRKLAND-MONTAQUE: Let me interrupt
5 you just briefly, because when I saw this -- and I'm
6 getting it now, if you can just cut to it. What's
7 the purpose of your intervention?

8 MR. PERL: Okay. Here's the purpose of my
9 intervention.

10 Mr. Rothschild said the reason they
11 didn't get their settlement agreement done was
12 because everyone else was busy with the Lincoln case.
13 Now, I know he wasn't, because he wasn't in our case.
14 So for two-and-a-half years, he's been getting
15 continuances.

16 It's disingenuous to say that we
17 should have brought this case earlier. We were the
18 ones involved in this two-and-a-half years of
19 litigation, so we didn't have time to do things.
20 They did, and they didn't get a settlement agreement
21 done.

22 It's a little suspicious, Judge, that

1 within days of our filing our Petition to Intervene,
2 they all of a sudden have a written settlement
3 agreement out of nowhere, which they talked about for
4 years, as Mr. Rothschild said. Because what they
5 were doing was this. They were waiting to see what
6 happened to our case before they did anything to
7 settle with them.

8 I have said the word, conspiracy
9 theory, those two words, probably 100 times in front
10 of you, and that's exactly what this is.

11 The Commerce Commission literally
12 filed a response objecting to our Petition to
13 Intervene. I'm wondering if you have read our
14 Petition to Intervene. It's not very long.

15 We have allegations in there that
16 Rendered Services -- and we have exhibits today to
17 show you proof of it. They have towed cars off of
18 the public street into a private lot and then towed
19 the car away and taken that car literally -- Channel
20 2 had it. Channel 5 had it. It's on record.

21 I have shown this to the Commerce
22 Commission. You would think they would call me and

1 say, oh, my gosh, Allen, what's going on? Not one
2 call. Instead, they literally are objecting to our
3 intervening where they're supposed to be looking out
4 for the safety of the public, not helping Rendered
5 Services keep their license.

6 Literally, we had a two-and-a-half
7 year hearing. You know that because you were there.
8 They don't have to have a hearing now, because once
9 the Commerce Commission decided, even going against
10 your ruling, that we should lose our license, here's
11 what happened. Rendered went out immediately, went
12 to all of our accounts, trying to take away our
13 accounts.

14 Here we are again now, so they are
15 doing a deal. I guarantee you, without seeing it,
16 they're not closing even for one day. So now they're
17 going to go along and take all of our business like
18 they have been trying to do all along. This whole
19 game has been Rendered getting our business. And the
20 Commerce Commission is involved with it. They're
21 fine with it.

22 So if you just read -- I don't know

1 where -- by the way, Mr. Rothschild said he disagrees
2 with everything we wrote. I have his response right
3 here. That's not true. All Mr. Rothschild said was
4 we can't intervene because they have settled. He
5 doesn't disagree with anything I've said.

6 The funny thing about it is I have
7 literally made these horrible accusations about them
8 in Paragraph 6. They haven't denied them. The
9 Commerce Commission hasn't denied them. All they're
10 saying is we've settled the case, you can't go
11 forward.

12 Don't you think it's important for
13 you as the judge in this case to know whether or not
14 these things are true or not? By the way, one of
15 them just happened recently. I couldn't have brought
16 it any earlier.

17 JUDGE KIRKLAND-MONTAQUE: Mr. Perl, I hear
18 what you're saying. However, the timing -- I
19 understand you filed this in October, and regarding
20 the settlement, I don't -- I wasn't privy to the
21 discussions between the two parties here, but I was
22 always apprised of the fact that they were working on

1 matters, and there appeared to me to be a continual
2 conversation between the two parties in working out
3 an agreement.

4 So this is -- the agreement today
5 is -- you know, frankly, it's been a long time coming
6 as far as I'm concerned.

7 These allegations that you present in
8 your Petition to Intervene, there are other
9 mechanisms by which you can pursue these allegations
10 against Rendered if you choose to. I mean, at this
11 point in time to try to bring this into this
12 proceeding, I don't think is a good use of the
13 Commission's resources.

14 And, again, I'm not denying or making
15 any judgment on the validity of your allegations. I
16 just don't think that this proceeding at this time is
17 the right way to do it.

18 MR. PERL: Judge, there is no record that
19 shows they have a settlement agreement yet. This is
20 the first time we're going on record. There's no
21 record in this case that they have settled ever,
22 period. Where is the record?

1 JUDGE KIRKLAND-MONTAQUE: Hold on a second.
2 The parties did send me an email of executed
3 agreements.

4 Is your intent to present this as --
5 in the record as --

6 MR. ROTHSCHILD: Well, my understanding of
7 how it would work is that right now it's a
8 confidential settlement agreement for your review to
9 then submit to the Commission to approve. Like any
10 other settlement of any other business and a
11 regulatory agency, the settlement terms are
12 confidential settlement terms that are worked out
13 between the parties, and once it becomes public, it's
14 subject to the Freedom of Information Act and public
15 disclosure.

16 So we've been working on this for
17 many months. One of the further reasons that delayed
18 it is we started the discussions with Ben Barr
19 (phonetic), and then he suddenly left the Commission,
20 and there were all kinds of delays even apart from
21 the Lincoln proceeding.

22 But it is a legitimate negotiated

1 agreement for you to review and submit to the
2 Commission for its approval. But it does not mean
3 that this is a new case and they get to present their
4 evidence. If they have a case, let them start from
5 scratch and present a case to us.

6 Their allegations are directly
7 related to a strategy, whatever it might be, to
8 what's going on with their own license. And they're
9 unhappy that many, many of their customers have
10 contacted Rendered to say that based on what is
11 happening in the newspaper and elsewhere, they would
12 like to switch companies, and we've taken those calls
13 and serviced those customers.

14 MR. PERL: Judge, I have to now state that
15 they have now admitted that there is no record of a
16 settlement agreement. So how in the world can you
17 say to me that it's moot when there is no settlement
18 agreement yet?

19 You haven't even looked at it yet.
20 No one has approved it, so it's not of record yet.
21 The rule -- now it's even worse. The rule says I
22 have to take the record as it is up today. There is

1 no record of a settlement agreement today. It hasn't
2 been entered yet. What if you don't agree with it?
3 What if the Commerce Commission doesn't agree with
4 it? There's no settlement yet, Judge.

5 By the way, Judge, before we move one
6 step further, now that Mr. Rothschild brings it up, I
7 have to let you know that there's a conflict of
8 interest here right now. I have spoken to my client.
9 Mr. Rothschild represented Lincoln Towing for over 20
10 years in this very room of the Illinois Commerce
11 Commission. Not just mainly represented them.

12 Rule 1.9 is very clear. I don't
13 think we should go forward one more step. He's
14 Lincoln Towing's former attorney for 20 years in the
15 Commerce Commission.

16 I was waiting until he spoke against
17 my client. Now he's speaking against his former
18 client in derogation of Rule 1.9. Judge, do you want
19 me to show you the rule? I know you're looking at me
20 like I've got two heads. That's the rule. I didn't
21 make it up.

22 You cannot -- this is a substantially

1 related matter. Always, for 20 years -- ask him
2 how long he represented Lincoln Towing in front of
3 you and the Commerce Commission. Over 20-to-25
4 years.

5 MR. ROTHSCHILD: That's not true.

6 MR. PERL: It is true.

7 MR. ROTHSCHILD: Your Honor, I haven't
8 spoken to Lincoln Towing or represented them in any
9 matter for over ten years. They are a former client.
10 I represent many people in the towing industry. I
11 handle their rate increases.

12 What I handled had nothing whatsoever
13 to do with my representation of Lincoln in this case,
14 and I'm merely responding, at the 11th hour, Mr. Perl
15 stepping in on behalf of Lincoln to try to disrupt a
16 hard, negotiated, arduous proceeding that we've all
17 been through, including yourself.

18 MR. PERL: Judge, here's what I find
19 interesting. First of all, it is a conflict of
20 interest, and I think counsel knows that, and if he
21 doesn't, he should know that.

22 The fact that he hasn't represented

1 them in ten years is meaningless. The code doesn't
2 say after 10 years you can then be materially
3 adverse to your former client. It doesn't say that
4 at all. It says you can't be materially adverse to
5 your client, and he is.

6 And second of all, Judge, show me in
7 the record where they have a settlement agreement.
8 They don't. As of right now, I can go forward
9 because there is no settlement agreement, and you
10 know it, and I know it. You may think there might
11 be, but there isn't one.

12 I would ask you, Judge, prior to --
13 when they were negotiating, were you made aware of
14 the settlement terms? Did you know whether you're
15 going to agree to it or not? Do you even know you're
16 going to agree to it now? Do you know if the
17 Commerce Commission is going to agree it?

18 JUDGE KIRKLAND-MONTAQUE: Hold on one
19 second.

20 Let's go off the record.

21 (WHEREUPON, a discussion was
22 had off the record.)

1 JUDGE KIRKLAND-MONTAQUE: Let's go back on
2 the record.

3 So the issue we're discussing right
4 now is this Petition For Leave to Intervene filed by
5 Protective Parking Services.

6 Mr. Perl, you have made your argument
7 on why you think your position should be granted.

8 MR. PERL: Well, I actually haven't made my
9 argument why it should be granted yet. I was cut
10 off. I would like to make my full argument why I
11 think it should be granted.

12 JUDGE KIRKLAND-MONTAQUE: How long do you
13 think -- only because I have a hearing.

14 MR. PERL: Ten minutes.

15 JUDGE KIRKLAND-MONTAQUE: Ten minutes.

16 MR. PERL: I'm willing to wait until after
17 your hearing. That's fine with me. I don't have to
18 be anywhere anytime soon.

19 JUDGE KIRKLAND-MONTAQUE: No, I'd rather
20 wrap this up and then move on to the next thing. Do
21 you think you can make it less?

22 MR. PERL: I'm going to go very quickly,

1 but not that quickly.

2 MR. ROTHSCHILD: Well, we would object to
3 that, because he filed his petition. Their response
4 is on file, and this is a matter of your discretion,
5 and I believe your Honor can see how all these pieces
6 are fitting together and make a decision.

7 MR. PERL: I'll go quickly, your Honor.

8 JUDGE KIRKLAND-MONTAQUE: Well --

9 MR. PERL: I don't think that counsel gets
10 to decide whether I have an oral argument. You
11 already said I can make my argument, and I'd like to.

12 JUDGE KIRKLAND-MONTAQUE: I don't want an
13 extended oral argument. I just want to know why you
14 want to intervene.

15 MR. PERL: That's what I was about to tell
16 you.

17 JUDGE KIRKLAND-MONTAQUE: All right. I'll
18 give you that, and then we'll move forward.

19 MR. PERL: Okay. In our Petition to
20 Intervene, which is properly brought pursuant to
21 Title 83, Section 200.200, we set forth the elements
22 we need to set forth. We've given you our name,

1 address, telephone number, email address. We set
2 forth a plain and concise statement of the nature of
3 our interests as contained in Paragraphs 5 and 6 of
4 our petition. Our petition isn't that long.

5 Paragraph 5 states that Intervenor
6 has a vital interest in the fitness of individuals
7 that the Commission licenses to perform relocation
8 towing services as this industry is highly visible
9 and the risk of an unfit operator being licensed
10 could adversely impact Intervenor.

11 6, upon information and belief,
12 Intervenor contends the applicant is unfit to receive
13 a relocater's license; to wit:

14 A, upon information and belief,
15 Applicant is unlawfully removing Intervenor's signage
16 and replacing that with Applicant's own signage
17 despite Applicant not having a valid contract to
18 relocate vehicles from such lots as recently as in
19 the past two months.

20 B, Applicant's unlawful removal of
21 Intervenor's signage has been brought to the Illinois
22 Commerce Commission's attention, including the

1 submission of video surveillance footage evidencing
2 depicting such actions.

3 C, upon information and belief,
4 Applicant has relocated vehicles lawfully parked with
5 authority from, one, spots that Applicant has no
6 authority to tow vehicles from to spots on the public
7 way and towed them to parking spaces which Applicant
8 had authority to tow -- relocate vehicles from, and
9 further information and belief, Applicant would
10 document the relocation of the motor vehicle from
11 those spaces and not where the vehicles are actually
12 parked.

13 D, upon information and belief
14 according to a FOI request by NBC news investigative
15 reporters, motorists have lodged 963 complaints in a
16 two-year period against the applicant.

17 And, E, the Staff of the Illinois
18 Commerce Commission confirmed through the Cook County
19 State's Attorney's Office that there's an ongoing
20 Chicago Police Department investigation into the
21 Applicant's towing practices.

22 We further have requested, pursuant

1 to 200.200, to be allowed to directly participate as
2 an active party in this proceeding pursuant to the
3 Administrative Rules of Procedure.

4 We did receive a response from
5 Mr. Rothschild on behalf of Rendered Services.
6 Although I believe it's improper for him to do
7 so because of his conflict, I will address the
8 response.

9 The only thing that Rendered raises
10 in its entire response is that they settled or
11 they're going to settle the case and we can't go
12 forward. They didn't dispute anything in our
13 Petition to Intervene. They didn't deny anything.
14 They didn't dispute it. They didn't say it didn't
15 happen. So they're basically virtually admitting the
16 facts as alleged in our Petition to Intervene other
17 than they say they can't go forward because they have
18 a settlement.

19 Actually, they don't say that anyway.
20 They say that your Honor is kind of aware of what's
21 going on, but we know you're not because you weren't
22 privileged to any of the settlement negotiations.

1 They claim that the Illinois Commerce
2 Commission -- we claimed that the Commerce Commission
3 denied their license renewal. They said, that's not
4 true. I can show you Exhibit 1, and I'll give copies
5 to counsel. Exhibit 1 reads as follows:

6 "State of Illinois, Illinois Commerce
7 Commission, March 28, 2016, 74 RTV-R Sub 15, Rendered
8 Services, Incorporated, Applicant. Application for
9 a renewal of a commercial relocater's license
10 pursuant to the provisions of Section 18a-401 of the
11 Illinois Commercial Relocation of Trespassing
12 Vehicles Law. Then it says clearly, bolded and
13 capitalized, Denied.

14 Below that it says, Notice is hereby
15 given that the Illinois Commerce Commission in
16 session this date denied the renewal application in
17 the above-referenced case.

18 Clearly, it was denied. They say in
19 their response, it wasn't denied. So right there,
20 the Court should kind of look upon this a little bit
21 sideways that counsel for whatever reason doesn't
22 want to admit the Commerce Commission's own records.

1 So they were denied their renewal. They haven't been
2 renewed since 2012 literally. Exhibit 1 shows that
3 clearly.

4 Further, the notice section shows
5 that they were denied as well.

6 Rendered goes on to claim that they
7 have reached a tentative agreement, tentative
8 agreement, fully resolving the ICC's fitness inquiry.
9 Tentative doesn't mean an agreement. In contract
10 law, it means nothing. You can't enforce a tentative
11 agreement.

12 If you look at Paragraph 3, they talk
13 about litigating and doing discovery, but all it says
14 is that they have made you generally apprised. You
15 don't know whether you're going to approve the
16 agreement or not. And as of today, we know it
17 hasn't been approved. So we should be able to go
18 forward.

19 Lincoln never -- they said that we
20 have to accept the status of the record at the time
21 of the intervention. We agree. We do have to accept
22 the record with exceptions. There are exceptions to

1 it. But even so, there is no record of a settlement
2 agreement. Not yet.

3 So we're allowed to go forward at
4 this point in time, and even if there were a
5 settlement agreement, the exceptions pointed out by
6 the Commerce Commission state we're allowed to go
7 forward.

8 Rendered claims that -- I'm trying to
9 go quickly. Rendered states that you have been
10 generally apprised, your Honor, of the process, but
11 not the terms of the agreement or even the actual
12 agreement, because one didn't exist prior to today.

13 Even if a settlement agreement were
14 reached, it wouldn't be binding on the State of
15 Illinois or the Commerce Commission or Rendered until
16 it's approved by you and the Commerce Commission at a
17 hearing where notice is given to the public. We know
18 that hasn't happened yet. Positively that hasn't
19 happened yet.

20 I haven't seen any notice going out
21 to the public about this. I don't think you even --
22 first you've got to agree with it, and then you have

1 to send it on to the Board.

2 One would think -- let me move on to
3 the ICC's response.

4 What's really more surprising to me
5 and more disturbing is that the Commerce Commission
6 filed an answer to our petition opposing it, your
7 Honor. Can you possibly think of a reason why the
8 People of the State of Illinois -- the question that
9 we're asking ourselves is, why would the governmental
10 entity that's charged with protecting the public --
11 why would the governmental entity that's charged with
12 protecting the public from private tow companies
13 ignore the alarming issues raised in our Petition to
14 Intervene and instead try to protect the very entity
15 they're supposed to be protecting the public from?
16 More simply put, why is the Illinois Commerce
17 Commission trying to protect Rendered Services and
18 not the public interest here?

19 I can't imagine that the public would
20 want the Commerce Commission to protect Rendered
21 Services over their best interests.

22 They raise an objection. It's

1 unheared of, your Honor. All they say is, again,
2 their only reason that we can't go forward is they
3 have a settlement. Nobody is actually contesting the
4 petition, itself.

5 So if they don't have a settlement,
6 which they didn't have and they still don't have,
7 then we have to go forward. There's nothing in their
8 petitions denying our petition to go forward other
9 than saying there's a settlement agreement. They
10 don't say we don't have a vested interest. They
11 don't say we haven't complied with 200.200. None of
12 that. Just that there's a settlement agreement.

13 We filed this on October 22, 2018.
14 There's some pretty serious stuff I read to you in
15 there, Judge. We'd all agree. I didn't get one
16 phone call from the Commerce Commission saying, hey,
17 Mr. Perl, where did you hear about this stuff?
18 Mr. Perl, send us another copy -- because I sent them
19 already, copies -- of the literally Phil Rogers, NBC
20 5, did a report on Rendered Services.

21 They interviewed no less than four
22 people, I think it said, that Rendered had literally

1 towed their vehicles from the public way onto a
2 private lot and then illegally towed their car and
3 charged them for it. If that's not alarming to you,
4 Judge, I don't know. Lincoln Towing gets in trouble
5 for juxtaposing a license plate number. We get a
6 citation.

7 I guess if you're Rendered Services,
8 you're allowed to literally take a car off the
9 street -- by the way, Judge, you don't have to
10 believe me for any of this. There's video of it on
11 the news. There's videotape of a Rendered truck
12 taking a car off a public street. He looks around,
13 tows the car, dumps it in a lot. He gets out. He
14 leaves. He comes back around, tows the car back to
15 Rendered Services.

16 That's on television. I'm not making
17 this stuff up. The four people, I wonder if
18 Mr. Burzawa called anyone to say, sir, did Rendered
19 Services really steal your car off the street?
20 Because I'm guessing he didn't do that, because he
21 was in such a rush to get this settlement agreement
22 done that he didn't do anything. I know he didn't

1 call me. I'm still waiting for my phone to ring.

2 And nothing.

3 You would think literally --

4 MR. BURZAWA: Judge, I don't want to
5 interrupt Mr. Perl, but I think the personal attacks
6 are unwarranted. It's not as if I were made aware of
7 any of these allegations, Judge.

8 JUDGE KIRKLAND-MONTAQUE: That's okay. I
9 get it.

10 MR. PERL: Hold on, Judge.

11 JUDGE KIRKLAND-MONTAQUE: Wait a minute.
12 We're not going to talk over one another.

13 MR. PERL: Well, that's what he's doing to
14 me. He always says, I don't want to interrupt you,
15 but then he interrupts me.

16 MR. BURZAWA: All right. You're getting a
17 little off track, Mr. Perl. You're making personal
18 attacks.

19 JUDGE KIRKLAND-MONTAQUE: Wait a minute.

20 MR. PERL: Judge, how is he allowed to tell
21 me I'm getting off track?

22 JUDGE KIRKLAND-MONTAQUE: Let's get back to

1 your argument.

2 MR. PERL: Here's my argument. Mr. Burzawa
3 said he wasn't made aware of these things. It's in
4 my Petition to Intervene. Unless he didn't read it.
5 I know he read it, because he filed a response.

6 MR. BURZAWA: Judge, it's an unverified
7 petition. First of all, I wasn't going to raise this
8 before --

9 MR. PERL: Well, I'm not done yet.

10 MR. BURZAWA: Judge, you're the judge.

11 MR. PERL: He waived it.

12 JUDGE KIRKLAND-MONTAQUE: Wait a minute.
13 Wait a minute. Wait a minute.

14 MR. BURZAWA: You're allowing Mr. Perl to
15 go forward on his Petition to Intervene and make a
16 case for it, but he's making unverified allegations
17 to begin with --

18 MR. PERL: No, I'm not.

19 MR. BURZAWA: -- and you're allowing him to
20 do that.

21 MR. ROTHSCHILD: And presenting evidence.

22 JUDGE KIRKLAND-MONTAQUE: All right.

1 MR. PERL: So we have three judges in he
2 room now, not one.

3 JUDGE KIRKLAND-MONTAQUE: No, we have one,
4 and she wants you to finish up right now.

5 MR. PERL: I'm trying. This is what
6 happens every time I open my mouth.

7 JUDGE KIRKLAND-MONTAQUE: Let me just say
8 something now since you have mentioned the video or
9 the news. And we all, either in this proceeding or
10 in other proceedings, know that unless something is
11 presented to either me or the other ALJ in an
12 evidentiary hearing, you know, that really doesn't
13 mean anything. So --

14 MR. PERL: That's what I want to get to in
15 my Petition to Intervene. That's why I want to
16 intervene so I can do it.

17 JUDGE KIRKLAND-MONTAQUE: Well, you know,
18 I'm going to cut this short.

19 MR. PERL: Judge, neither of the two
20 parties actually had a substantive objection to my
21 Petition to Intervene other than there's a
22 settlement. We know now there's not a settlement

1 yet. I don't know why anyone is even looking --
2 there's no settlement yet. There's no record of it.
3 More importantly, there's no record of it.

4 So clearly, the intervention statute
5 says -- the code says, I have to take the record as
6 it is today. As of today, there is no settlement, so
7 I'm allowed to go forward.

8 JUDGE KIRKLAND-MONTAQUE: All right. Are
9 you done?

10 MR. PERL: Yes.

11 MR. BURZAWA: I want to point out and
12 correct Mr. Perl, the only basis for Staff's
13 objection to the Petition to Intervene was not solely
14 based on the settlement. The primary reason was that
15 there is no substantive right to intervene in a
16 renewal application.

17 Section 18a.400 applies to original
18 determinations of applications for relocators'
19 licenses. So that was the primary basis, and that's
20 how our response began.

21 It was in addition to, I pointed out,
22 that according to the rules of practice, essentially

1 a Petition For Intervention is moot, because the case
2 has been settled. I just wanted to make that clear,
3 that there's actually two bases provided for in
4 Staff's response.

5 MR. PERL: Well, I didn't address the first
6 one, because it's not just accurate. There's nothing
7 in 401 that says I can't proceed with a Petition to
8 Intervene. I'd like to see that. I'm not
9 disagreeing that 400 says you can do it, but 401
10 doesn't say you can't do it, and they know that. And
11 I'm not even going on that. I'm going on 200.200
12 anyway.

13 JUDGE KIRKLAND-MONTAQUE: All right.
14 According to 200.200 on intervention -- and this is
15 83 Illinois Administrative Code, Section 200.200. It
16 governs intervention here at the Commission. And
17 Section AC specifically says: "Petitions to
18 intervene shall be granted or denied by the hearing
19 examiner subject to Section 200.520, which is the
20 section on interlocutory review."

21 I have heard the arguments. I have
22 seen the petitions and responses, and I am going to

1 deny the Petition For Leave to Intervene. I believe
2 that the petitioner has other means by which to seek
3 relief under the allegations that they make, and I am
4 not at this juncture going to allow this Petition to
5 Intervene to move forward.

6 And regarding the matters that were
7 presented, the executed agreements, I'm going to
8 continue to review these, and one requires my
9 signature, and I do believe this matter would need
10 to -- because this is a Commission matter. This is
11 not an administrative citation hearing. This
12 particular hearing would need to be resolved by final
13 approval of the Commission. So these matters would
14 have to be considered by them.

15 MR. ROTHSCHILD: That is our understanding.

16 JUDGE KIRKLAND-MONTAQUE: Right.

17 MR. ROTHSCHILD: But it first would go to
18 you for your review, and there's dispositions
19 involved that you would act on for the pending
20 citations, which are part of the resolution, and then
21 the Commission acts on the whole package and approves
22 it or disapproves it.

1 JUDGE KIRKLAND-MONTAQUE: The only thing I
2 question -- I did have a question. There was a
3 referral to a withdrawal of the order, the initial
4 order in this matter.

5 And you know what? I'm thinking
6 maybe if we have another hearing to finalize
7 everything and in which, after I review it, we
8 all know what the -- what my ultimate decisions
9 are.

10 MR. ROTHSCHILD: Okay.

11 MR. PERL: Just so I know, because I'm
12 going to be moving forward, you're not denying this
13 because it's a settlement agreement; correct? What's
14 the basis for our not being allowed the Petition to
15 Intervene? Just because you think we have other
16 avenues?

17 JUDGE KIRKLAND-MONTAQUE: I believe this
18 matter is primarily resolved. There's been no
19 evidence presented in this hearing. The parties
20 have been working on an agreement -- settlement
21 agreement for a very long time, and I have reached
22 that point.

1 You come in now -- and you were
2 well-aware of this proceeding just as they were aware
3 of your proceeding well before now, and at the 11th
4 hour, we get this Petition to Intervene. And even if
5 I were to allow it, I would, you know --

6 MR. PERL: How is it relevant that it's the
7 11th hour? Where does it say in the code -- the code
8 clearly says, I accept the record as it is. There's
9 no record of a settlement. Where does it say -- by
10 the way, some of the allegations just happened a
11 month ago. So I couldn't have brought those until
12 now.

13 Clearly, in my complaint, one of the
14 main ones for us was they ripped our signs down and
15 violated the rules, and I'm pretty sure they're
16 getting a citation for it. That's recent. That's
17 not the 11th hour. It just happened.

18 Second of all, where does it say in
19 the rules that any time up until the 11th hour you
20 can intervene? I can intervene now because there is
21 no record saying there's a settlement.

22 So I need to be clear, because I'm

1 fighting so many fronts, and this will be another one
2 I'm fighting. So I just want to set the record
3 straight for the circuit court. What is the basis
4 for denying my Petition to Intervene? Other than
5 that they almost have a settlement agreement or it's
6 the 11th hour? Which doesn't matter.

7 JUDGE KIRKLAND-MONTAQUE: Well, a Petition
8 to Intervene, you're not guaranteed approval or
9 granting. It's within the ALJ's discretion.

10 MR. PERL: That's what I want to know. I
11 want to know why it is I'm not being granted my
12 Petition to Intervene. I set forth for you some
13 pretty alarming facts about this entity that you're
14 about to do a consent decree for.

15 I'm just wondering why the Commerce
16 Commission and ALJ isn't at least a little bit
17 concerned or apprehensive about entering into an
18 agreement with the entity without looking at the full
19 facts. Whether it's the 11th hour or not, I mean,
20 the trial hasn't happened yet. There is no discovery
21 closure, because they haven't even had a hearing.

22 So without any of that, I'm not late

1 to the game. I'm on time to the game. The game is
2 not over yet. When there's nine innings of baseball,
3 you don't say, well, you're losing after 8, the game
4 is over. You play the 9th inning, and I want to play
5 the 9th inning.

6 I don't see anywhere in the code
7 where it says you're not allowed to, or because it's
8 almost over, you can't bring this, or because you
9 might have other avenues, you can't bring this. I
10 can bring this, and I brought it, and I think I
11 brought it properly.

12 They didn't even object. They
13 haven't raised the objections that you have raised.
14 All their objections were is we have a settlement
15 agreement, which they don't yet. I mean, I want
16 someone to say on the record they actually have a
17 settlement agreement when they don't, because they
18 don't.

19 And the other allegation that Section
20 400 is for new licenses, yes, but I didn't bring it
21 under that. I brought it under 200.200, and clearly,
22 it's in your discretion to do it.

1 MS. AKRAM: Your Honor, we have our parties
2 for the next hearing.

3 JUDGE KIRKLAND-MONTAQUE: Yes, I'm sorry.
4 We have --

5 MR. PERL: For the record, can you just
6 make for me for the record so I can do what I've got
7 to do, why it is our petition is denied.

8 JUDGE KIRKLAND-MONTAQUE: Well, although
9 the -- the agreements haven't yet been approved by
10 the Commission and that's the next step, the fact
11 that the parties have reached agreement weighs
12 heavily at this point, because, you know, they worked
13 out a settlement agreement on whatever issues, and I
14 can't even tell you exactly what all of the issues
15 were because I haven't even reviewed the settlement
16 agreement, but whatever issues that were in dispute,
17 the parties have worked those out.

18 MR. PERL: Don't you have to approve it?
19 Or is it just automatic? Is this settlement
20 agreement done? You don't have to approve it, and
21 the Commerce Commission doesn't have to approve it?
22 It's done?

1 JUDGE KIRKLAND-MONTAQUE: That's correct.

2 I do have to approve it. They have to approve it.

3 MR. PERL: Then there is no settlement yet.

4 JUDGE KIRKLAND-MONTAQUE: Well, Mr. Perl,
5 I'm not going to go back and forth. The Petition to
6 Intervene is denied, and you may take whatever next
7 steps you need to take, and we will move forward.
8 We'll set another short date.

9 MR. PERL: Can we at least get notice of
10 these things now since we filed our Petition to
11 Intervene so we don't have to guess when they're
12 coming or not coming? So I can be present when they
13 do whatever they're going to do.

14 JUDGE KIRKLAND-MONTAQUE: Does anyone have
15 an objection?

16 MR. ROTHSCHILD: I would object because if
17 it's denied, he's not a party to the proceeding. He
18 can come to the room. It's a public proceeding,
19 but --

20 MR. PERL: I appreciate that.

21 JUDGE KIRKLAND-MONTAQUE: What date are you
22 guys looking at here?

1 MR. ROTHSCHILD: How far out are you
2 thinking, Judge?

3 JUDGE KIRKLAND-MONTAQUE: How about the
4 week after -- the first week of December, December
5 5th?

6 MR. ROTHSCHILD: December 4th and 5th are
7 bad for me. December --

8 JUDGE KIRKLAND-MONTAQUE: November 29th?

9 MR. ROTHSCHILD: I can do it then.

10 JUDGE KIRKLAND-MONTAQUE: 10:00 a.m.
11 November 29th.

12 MR. ROTHSCHILD: That's fine.

13 JUDGE KIRKLAND-MONTAQUE: All right. We'll
14 reconvene at that time and --

15 MR. PERL: Judge, one final thing. If
16 there's no settlement agreement entered on that date,
17 can we enter and continue my Petition to Intervene
18 until then? What if they don't have a settlement
19 agreement, would that change your mind? What if the
20 settlement agreement falls apart, and there is no
21 settlement?

22 JUDGE KIRKLAND-MONTAQUE: I can't imagine

1 that. It's already executed by the parties.

2 MR. PERL: I can't imagine that the Board
3 would go against a 22-page order that you drafted,
4 but they did.

5 JUDGE KIRKLAND-MONTAQUE: It's a different
6 process. We're at a different point in the process.

7 MR. ROTHSCHILD: And different parties,
8 too.

9 JUDGE KIRKLAND-MONTAQUE: I have another
10 party waiting for me. I apologize for this taking so
11 long. That's it. We're done for today. We're
12 continued to November 29th at 10:00 a.m.

13 (WHEREUPON, the above matter
14 was continued to
15 November 29, 2018.)

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