Judicial Watch vs Office of Mayor 16 CH 462

Report of Proceeding

Taken on: November 08, 2017

JENSEN LITIGATION SOLUTIONS

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STATE OF ILLINOIS
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                            SS.
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     COUNTY OF COOK
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           IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
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               COUNTY DEPARTMENT, CHANCERY DIVISION
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      JUDICIAL WATCH, INC.,
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                       Plaintiff,
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               vs.
      THE OFFICE OF THE MAYOR OF THE
                                           No. 2016 CH 000462
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      CITY OF CHICAGO,
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               and,
      RAHM EMANUEL, in his official
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      capacity as Mayor of the City
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      of Chicago,
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                       Defendant.
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               Report of proceedings had at the hearing in
     the above-entitled cause before the HONORABLE ANNA HELEN
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     DEMACOPOULOUS, Judge of said Court, commencing at
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     2:11 p.m. on November 8, 2017.
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     APPEARANCES:
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          SVENSON LAW OFFICE, by
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          MS. CHRISTINE SVENSON,
               On behalf of the Plaintiff;
21
          CITY OF CHICAGO, LEGAL by
22
          MS. AMBER RITTER and
          MR. PHILLIP SANTELL
23
               On behalf of the Defendant.
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Good afternoon, your Honor.
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          MS. SVENSON:
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                      Good afternoon.
          THE COURT:
                        Hi. Christine Svenson. I'm sorry.
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          MS. SVENSON:
          THE COURT: Go ahead. Did Ms. Ritter step out?
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                        She did, your Honor. She'll be back
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          MR. SANTELL:
     in just two seconds. If you would just wait --
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          THE COURT:
                      No problem. Go ahead. We're going to
                I'm not going to start without her.
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     the wait.
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                        Sure, of course.
          MS. SVENSON:
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          MR. SANTELL:
                        Thank you, Judge.
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                         (Brief pause. )
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          MS. RITTER:
                       Good afternoon, your Honor. Amber
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     Ritter for the City.
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          THE COURT: Good afternoon.
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          MS. SVENSON: Good afternoon, Christine Svenson on
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     behalf of plaintiff, Judicial Watch, Inc.
          THE COURT: Come on up, counsel. If you guys will
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     just move over a little bit.
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          MR. SANTELL: Yes, thank you.
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                      I just saw your objection to the
          THE COURT:
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     extension of time so give me one minute --
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          MS. SVENSON:
                        Sure.
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          THE COURT: -- to read it.
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                         (Judge viewing document.)
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All right. So if the parties can 1 THE COURT: 2 identify themselves for the record. MS. RITTER: Amber Ritter for the Mayor's office 3 and City of Chicago. 4 MR. SANTELL: Phillip Santell, S A N T E L L, 5 Assistant Corporation Counsel on behalf of the named 6 defendant. Christine Svenson, S as in Sam, V as 8 MS. SVENSON: 9 in Victor, E N S O N; on behalf of the plaintiff 10 Judicial Watch, Inc. 11 THE COURT: All right. So we're up today on 12 plaintiff's second rule to show cause against the City, 13 the Mayor's office -- It's actually just the Mayor, 14 correct? 15 MS. RITTER: And the Mayor's office. 16 THE COURT: The Mayor's office. And I do have a 17 motion for an extension of time to file the response to 18 the petition for rule to show cause, a reply that was 19 filed today on the response, and then an objection to 20 the rule to the extension of time. 21 My apologies. MS. SVENSON: Yes. It was actually 22 filed on Monday, but I did not get it to chambers until 23 today. 24 THE COURT: Yes.



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MS. SVENSON: Right.

THE COURT: I've received everything as of this moment so let's just start with that proposition. So I guess the first thing that we should be dealing with is the Mayor's response or motion for an extension of time.

MS. RITTER: Your Honor, our response to the petition for rule to show cause was -- you know, was set -- the previous schedule was set by your order of September 11th and I am deeply sorry that we did not get the response filed on time. It was my fault and with my caseload being very unpredictable, and I apologize very much. I have attached the proposed, you know, response to the motion for an extension of time. I would just ask to be allowed to file it, you know, now. And I believe counsel in her reply brief did address the arguments of the response. So it seems that the briefing takes into account arguments on the response, not just the motion for the extension of time.

THE COURT: Ms. Svenson, go ahead.

MS. SVENSON: So if I may.

So defendant's request or petition for additional time to me is a microcosmic of how they've handled this entire case. So they -- Their response was due on October 10th. I e-mailed counsel -- This is



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actually not in my reply. But I e-mailed counsel sometime in mid October asking them if they were intending to file a reply, and they told me they were going to seek an extension. They didn't seek that extension, of course, until November 5th, a couple days ago because, of course, this hearing was coming up. we don't believe that they have shown good cause. Because typically when good cause is shown, you know, there's an affidavit attached explaining the reasons why the deadline couldn't be met, you know -- with, you know, cases that were up, summary judgment motions, jury trials, whatever it may be. And instead they just attached an affidavit of an IT person, which it is also interesting about that because that IT person evidently didn't begin her search until October 12th, which was two days after their response was due.

So in no way have they shown good cause to be able to even be granted, in our opinion, leave to file the response.

MS. RITTER: Just on that last point, that's actually not -- The October 12th date of the search is actually not accurate and not what's reflected in the motion. We had the IT person, you know, conduct the search again so that she could print out that piece of



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paper so that that was attached to our exhibit as an exhibit to show the number of hits that were called from the search. So that's not when she originally did the search, that's just when she printed the sheet that would show, you know, the hits.

THE COURT: I guess my biggest concern though,

Ms. Ritter, is that your response was due October 12th.

So it doesn't strike you like oh, my, it's October 12th.

It's October 15th. It's October 24th. Oh, my, it's now

November 5th. I better let Judge Demacopoulos know that

I've blown her deadline.

MS. RITTER: I apologize. I agree with -obviously with the Court that that would be the proper
avenue. If the Court isn't willing to give us the
extension of time to file the response, I'm happy to
just argue, you know, the merits of our response here
today having -- with plaintiff having refiled her motion
and then her reply. I mean, without, you know, being
allowed to file the actual written response, we can talk
about the merits of it.

Because the -- This motion comes down to the fact that -- that plaintiff since March -- and we've been telling them since March that's it's not possible has been asking us to produce over a hundred thousand



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e-mails on their very broad search terms. And we've gone back and forth of telling them that this is going to be over a hundred thousand hits and it's all encapsulated in the reply motion that she filed with e-mails back and forth that she attached as exhibits.

THE COURT: Ms. Ritter, you know, I'm going to stop you there because I really think that you need to take a deep breath and look at some of the e-mails that you have authored. So let's not get into the substance of the argument quite yet.

MS. RITTER: Okay.

THE COURT: Let's stick to -- Although I respect your position, Ms. Svenson, I want to get to the substance here. All right. Let's get to the merits. And I'm not happy.

MS. RITTER: I know.

THE COURT: It's very disrespectful to your opponents. It's disrespectful to the Court. It's disrespectful to the entire judicial process that you think that, you know what, Judge, fine. If you don't want me to file my response in time, you don't want to give me my extension, that's fine. You know what, just let me argue it.

The entire purpose of setting the briefing



schedule is so that I can be prepared. So that I can be 1 2. prepared to hear your arguments so that I can make informed decisions and so that we don't fly by the seat. 3 MS. RITTER: I understand that. I didn't mean to 4 5 sound flippant. Well, you did. 6 THE COURT: MS. RITTER: And I apologize. That's the entire purpose of the 8 THE COURT: 9 briefing schedule is so that we are prepared as well so make the best decisions that we can. 10 11 So over the plaintiff's objection, I'm going 12 to allow them to file their response so that we can get 13 to the merits so that we can get to what is important in 14 this case. All right. So the response will be filed. 15 Has it been filed with the Clerk's office? 16 MS. RITTER: No. I was asking leave to file it so we can file it, you know, right directly after this with 17 the Clerk's office. 18 19 It will be filed instanter. So as soon THE COURT: 20 as we're done with the hearing today, down on the 8th 21 floor file it instanter. 22 MS. RITTER: Okay. 23 Have you received a copy of it though? THE COURT: 24 MS. SVENSON: We have.



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THE COURT: All right. So let's get to the merits here. All right. I just have a couple of questions and I want to make sure that I'm reading the filings correctly. Back in -- Just give me a minute. Sorry.

(A brief pause.)

THE COURT: September 23rd of 2016, the Court ordered on a motion to dismiss that the parties should get together and determine search terms that should be done on a new search because the Court felt that the searches -- the terms that were originally used were not sufficient to satisfy the FOIA request that was actually sent. And there are certain e-mails that were attached to both the rule to show cause and to the response from both parties. Subsequent to those e-mails, something was turned over in June in court. I don't know what was turned over in June. So can somebody inform me what was turned over in June?

MS. RITTER: I can.

THE COURT: Okay.

MS. RITTER: So in June following correspondence, of course, between us we had up to that point identified with -- worked with plaintiff to identify custodians from the Mayor's office that they wanted us to search their in-boxes. Because originally I think they asked



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for everyone and that's over to a hundred employees. So we worked with them and got it down to 21 that are people that they thought might be involved with this scenario. So then in June what we produced to them in court was a disk that had all 21 of these people for the time period at issue, which is October 20th, 2014 through December 7, 2015, with the search terms Laquan, Van Dyke, which is the shooting officer, of course, spelled both Van Dyke, one word and Van Dyke with a space and that's just in case to catch any, you know, missed -- typos of the name. And L M, which is often what we saw that -- how people refer to the incident. They weren't calling it the Laguan incident. They were calling it the L M incident. So those are the three search terms that we produced. So all 21 of these custodians were searched and those were produced to counsel in June with I think it was six e-mails that were redacted or withheld, which I think your clerk had asked for that and so that's what we prepared and gave to counsel.

THE COURT: All right. Is that correct?

MS. SVENSON: No. Well, partially. I guess I should clarify. So on that date in court, I was handed a CD. I didn't know what it represented because there



was no cover letter attached. 1 2. THE COURT: Correct. MS. SVENSON: So then we had to follow up with 3 e-mails on numerous occasions to find out whether there 4 were any exemptions, what the CD even represented. 5 yes, I did receive the CD back in June, but we didn't 6 know until many months later what it even represented. Probably maybe even two months ago is when I found out. 8 9 Okay. But the CD still did not have THE COURT: the additional search terms that were ordered in 10 11 September --12 MS. RITTER: Correct. 13 THE COURT: -- of 2016. 14 MS. RITTER: But there were no additional specific 15 search terms that were ordered in September of 2016. 16 THE COURT: Correct. 17 MS. SVENSON: But we agreed --18 THE COURT: Hold on. Hold on, Counsel. 19 MS. SVENSON: I'm sorry. Hold on. 20 THE COURT: 21 So the first response, the first FOIA response 22 the search terms that were used were Laquan, Van Dyke 23 one word, Van space Dyke, and L M, but were limited to a 24 certain amount of custodian searches?



1 MS. RITTER: Right. 2. THE COURT: The second response, the June response, 3 June 2017 response now has 21 custodians, correct? MS. RITTER: 4 Correct. 5 THE COURT: But using those same search terms? 6 MS. RITTER: Correct. THE COURT: So my question is how has the City conformed to this Court's order about additional search 8 9 terms that I ordered you to agree to with plaintiff? 10 So the way that we've conformed to MS. RITTER: this Court about that is that we have entertained these 11 12 additional search terms. I mean, of course, your 13 court -- your order provided that we need to come -- you 14 know, come to some agreement or work out some search 15 terms of what it is -- as your Honor has very specific 16 search terms --Slow down, Ms. Ritter, because that 17 THE COURT: 18 record is a mess right now. 19 MS. RITTER: I apologize. 20 THE COURT: So repeat that. 21 Your order -- Your Honor's MS. RITTER: Okay. 22 order didn't suggest any specific search terms to 23 search, but instead suggested that we conferred with 24 plaintiff's counsel and come up with terms that, you



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know, would be agreeable to -- or and reasonable to be produced. So counsel for plaintiff and plaintiff came up with -- And I can read them for the record, if you're interested.

THE COURT: Yes.

MS. RITTER: These -- these search terms in addition to the four that I just mentioned, Laquan, Van Dyke, Van Dyke with a space, and L M, that they would like the City to search these 21 custodians and these terms. And these terms are release without an E, so R E L E A S, exclamation point, which as we say in -- because there's a boolean search function that our system has. So that would allow for release.

THE COURT: So boolean is spelled?

MS. RITTER: B O O L E A N. And what that means is when there's a wild card character, in this case

R E L E A S exclamation point, that exclamation point is substituted for any letters that could appear in -
after that -- the last letter. So in other words, this would encompass the word release because that would be an E would be replacing that exclamation point or released or releasing or releases or from the other words that I'm not thinking about, releasing I think I said that. So the first term they wanted was release,



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R E L E A S exclamation point and the recording. So what that means is any e-mail that has both the word release with the exclamation point and the word recording anywhere in the e-mail or attachment at any point, those two words are in the e-mail then would be called. That's the first option. The second option is release, R E L E A S exclamation point and video. The third is the same spelling of release and dash. The fourth is same spelling of release and camera. And then we get to recording, the normal spelling and video recording and dash recording and camera. And then dash and camera. And then one word, dash cam.

So having -- Yeah, so having taken those search terms and giving them to our IT department, who runs the department at the City that runs searches on e-mails, they informed us that the magnitude of the search is going to be such that it would be difficult to even perform the search because it shuts down their systems for days.

THE COURT: Where is that?

MS. RITTER: That is the in the affidavit of Melissa Clark (phonetic), attached to our response as Exhibit B and it's at par- -- I can give it to your Honor.



1 THE COURT: Please. 2. MS. RITTER: And it's at -- Let me just look at the paragraph. 3 I'll hand it to you. Paragraph 6 and 7. This is the second page of her affidavit. 4 I don't have it. It's not linked. THE COURT: MS. RITTER: 6 She is as the affidavit explains, Melissa Clark is the person in the City's department of innovation and technology who runs e-mail searches. 8 9 There's only one person citywide that does this. So she is well-versed in how e-mail searches work. 10 This is all 11 she really does all day long. She input these search 12 terms -- Or I gave her these search terms to search. 13 And as you can see -- and I believe it's paragraph 6, 14 the next page, she says that, Due to -- And I don't have 15 her exact wording of the top of my head. But due to the 16 extent of the large size of the search, she wanted us to 17 identify just a few of the 21 custodians to start with 18 just so she could give us a flavor of how big -- how a 19 magnitude of a search this was going to be. 20 knows --21 But what's missing from her affidavit, THE COURT: 22 Ms. Ritter, and what my concern is for purposes of 23 today --24 MS. RITTER: Mm-hmm.



THE COURT: -- which is the rule to show cause is 1 2. when did you give Ms. Clark this request? It would have been back in the spring 3 MS. RITTER: when we were talking about these search terms or maybe 4 5 it was early summer. THE COURT: So then is this not reflected in any of 6 7 your e-mails and/or her affidavit? I believe it -- Her affidavit is what MS. RITTER: 8 9 she did, not what our interpretation, you know, what's burdensome. But I believe it is --10 11 THE COURT: No. No. No. You're missing my 12 question here. Listen carefully. 13 MS. RITTER: Mm-hmm. 14 What's missing from her affidavit is THE COURT: 15 when did you give her this request? MS. RITTER: Well, I think I can answer that 16 question if I look through these e-mails, it would have 17 18 been referred to. So looking through the e-mails that 19 counsel attached to her reply -- I believe she also 20 attached them to her initial petition -- you see that --21 Let me just -- Give me a moment, your Honor. 22 THE COURT: Sure. 23 I can find them. MS. RITTER: 24 (Brief pause.)



So in the -- On page 3 of 5, it 1 MS. RITTER: Okay. 2. looks like counsel's reply, which is the -- part of the e-mails that she attaches. 3 I'm sorry. Say that again. 4 THE COURT: Page -- it's stamped on the 5 MS. RITTER: Sure. side from the e-filing page 3 of 5, that's the page that 6 7 I'm looking at from counsel's reply or plaintiff's reply. On that the e-mail from me to Ms. Svenson dated 8 August 22nd, 3:19 p.m. -- And I'm not sure if this is 9 10 actually an answer of when she first did the search, but 11 we're a biq --12 THE COURT: August 22nd of 2017? 13 That's what I'm -- And I -- I believe MS. RITTER: 14 I told her this earlier and it references that in this 15 e-mail. I said I apologize if that was a 16 (indecipherable), but I think it was. 17 THE COURT: I'm sorry. Say that again. MS. RITTER: 18 I said in the e-mail I apologize if 19 that wasn't communicated to you earlier, that it would 20 yield -- that the search that I just described yields 21 over hundred thousand hits. But I believe it was 22 communicated to her earlier. 23 THE COURT: And so I'm going to ask you again,



Ms. Ritter.

Mm-hmm. 1 MS. RITTER: 2. THE COURT: Show me where when you requested Ms. Clark --3 I can go back and get that 4 MS. RITTER: 5 It would have been obviously much prior to information. 6 this August 22nd. THE COURT: Of 2017? MS. RITTER: 8 Yes. 9 THE COURT: My order was in March of 2000 -- I'm 10 sorry -- September of 2016. And if I'm looking at the these e-mail correctly, it appears in March of 2017, you 11 12 all had agreed on these terms. And the last e-mail --13 Let me make sure I'm reading it correctly. Friday, 14 March 3rd, 2017, at 12:49 p.m. from you to Ms. Svenson 15 and Michael Akesha (phonetic) that follows an e-mails 16 that's got all of these search terms that they have 17 created. And it's from you that says -- and I'm 18 quoting: It does make sense. I will have them start 19 that now. 20 MS. RITTER: Right. And the first time that there's any 21 THE COURT: 22 memorialization from you to plaintiff that this search 23 is going to yield more than 100,000 e-mails is your 24 e-mail in September of 2017.



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MS. RITTER: A couple points on that. First of all, that is when -- So in March of 2017, March 3rd, we had that communication which was memorialized in that e-mail and I said I would have -- You know, it does make sense. I will have them start that now, meaning they will run that search.

Now, we did phone calls and I recall speaking with plaintiff's counsel who was here and also Mr. Vicasia (phonetic) on the phone where we explained that those search terms are so broad that it's yielding just an unwelding number of hits, over a hundred thousand to be exact.

So I don't -- It isn't true that these e-mails reflect the only communications that we had or the only time that we expressed to plaintiff that those very broad search terms, you know, which are now specifically tailored to the Laquan McDonald shooting are going to yield or did yield based on Ms. Clark's search, which was started in March of 2017 --

THE COURT: So then there's follow-up e-mails from them. March 29th, Amber, anything on this. No response. Response on March 29th, Hi, Christine, I'm going to be receiving a lot of this tomorrow from my client. It will take a day to put into productable



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(phonetic) format so I plan to get it to you on Friday. So that's in March of 2017. But yet in June, you give them something that's completely different than what is in the e-mails that you're responding. Because in June what you're giving them is not searches that include those terms. It's searches that include the terms that you originally gave them.

MS. RITTER: I believe that they had also asked us to run the terms that we originally searched on all 21 of those custodians. It wasn't completely unrelated to what they were asking. It was part of what they asked for.

THE COURT: In April, Amber, any updates. No response.

MS. RITTER: We produced several thousand e-mails to -- or we reviewed several thousand e-mails to produce them to plaintiff. That does, your Honor, with all respect take a great amount of time.

THE COURT: Has anything been produced more than what is on the June CD?

MS. SVENSON: No.

MS. RITTER: No. Since the time that we produced those e-mails with those search terms that we noted.

THE COURT: So have you produced anything other



than the June CD?

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MS. RITTER: Correct. No. Well, except the original production in December of 2015, which was also several thousand e-mails.

THE COURT: Go ahead, Ms. Ritter.

MS. RITTER: One thing I would submit to the Court is as I mentioned in the e-mails and the dialogue that we had, the search terms the plaintiff -- these second set of search terms with the words like recording and camera, were -- are likely to elicit thousands and thousands if not dozens of tens of thousands of hits that are -- I mean, probably almost all of them are unrelated. I can give you two reasons why I believe that. The first is that, you know, we -- there are lots of other issues that come before the Mayor's office that has to do with cameras and recordings, and specifically red light --

THE COURT: I'm not -- I'm sure that that's true.

MS. RITTER: But this --

THE COURT: But why haven't you filed a formal response by saying that?

MS. RITTER: Well, because -- Because I don't know for a fact what's in those e-mails because we haven't started looking at them. The breathe of them is so



And they also -- As we've produced all of the 1 huge. 2. e-mails from those 21 custodians that have the words 3 Laquan or Van Dyke or L M in them, by definition these hundred thousand hits or more than a hundred thousand 4 5 hits are all e-mails that have these search terms that don't even say the word Laquan so they're very unlikely 6 to be connected to that incident. So because of that we have expressed to plaintiff on multiple occasions. 8 9 including on the phone that these search terms are simply significantly too broad to be constituting what 10 11 we consider to be a reasonable amount of searching that 12 we need to do to comply with the FOIA request. We have 13 asked them to come up to us with better search terms, 14 more narrow search terms. 15 THE COURT: Where is that? Where is that e-mail? 16 MS. RITTER: I believe it was on the phone. 17 THE COURT: Oh --18 MS. RITTER: No. I'm sorry. I apologize for 19 But I do think it is in the getting excited here. 20 e-mail and it's --21 Which e-mail? THE COURT: 22 MS. RITTER: Yes. The e-mail of August 22nd of 23 2017 that I referenced earlier from me to Ms. Svenson

and others is three paragraphs long. Actually, the



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second -- The whole e-mail. I say, In addition to the information that I supplied in yesterday's letter, the search you requested below, which is with what I'm discussing here, still yields over a hundred thousand And then moving on it says, So if you can propose terms that would significantly narrow your request, then we can try again and see how many hits it yields. then I say, By way of advice, to try to be helpful to get this completed, as I mentioned before -- So we have that conversation about that, terms like recording and camera is not sufficiently specific and is likely to yield thousands of hits of unrelated subjects of voluminous communication such as a red light camera program and lawsuits. So I'm asking them to give me the opportunity to try to give us words -- terms that would get it down to less than, you know, a hundred thousand e-mails.

THE COURT: Go head, Ms. Svenson.

MS. SVENSON: So plaintiff has been trying to get compliance with this Court's order since September of 2016. The parties conferred via e-mail in March of 2017 and we reached an agreement on the search terms that were to be used. As this is point -- As this Court pointed out, we were to be given records on



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March 29th -- or I'm sorry -- the day following

March 29th, pursuant to an e-mail from counsel. We

never received those records. We finally received a CD

as we already stated in June of 2017 without a cover

letter. We have, of course, then asked questions about

what that represented, meaning that CD and -- Because we

didn't know that there were exemptions, what part of the

search it represented. It was like pulling teeth to get

answers.

We followed up with them on June 28th,
July 10th, July 17th. Defendant did not respond -defendants did not respond to any of those e-mails. We
finally said, you know, look in July -- on July 17th in
an e-mail, we are force to file another petition for
rule if we didn't get compliance, didn't hear anything.
The only time we ever heard anything from them is right
before a court hearing.

With respect to what counsel indicated about the telephone conferences, I recall maybe two at the most in the last two years. And I don't remember exactly the representations that they made. But if there had been, I'm sure they would have been memorialized in e-mail.

With respect to, you know, they're claiming



the voluminous nature of the hundred thousand plus hits, 1 2. so we went over this in August with them. We responded 3 and said, okay, via e-mail can you tell us how many hits --4 5 THE COURT: Hold on a second. Hold on. (Discussion off the record.) 6 MS. SVENSON: So we notably every time they e-mailed us, we get back to them within a day or two. 8 9 On August 22nd, she did indicate -- Ms. Ritter indicated 10 that there were over a hundred thousand hits. 11 back to them on August 23rd, you know, still asking 12 about the exemptions issue, you know, two months after 13 we got the CD. And then secondly, how many hits does a 14 particular term generate. That could help a lot. Then 15 that's all we have to know. I mean, knowing that 16 there's over 75,000 hits from one custodian isn't that What's helpful is, you know, which search term 17 helpful. 18 generates 30,000 and which generates 5,000. Then you'd 19 be much -- And that's the purpose -- That's why I asked 20 these questions. 21 And I quess for my purposes right now, THE COURT: 22 Ms. Ritter, my concern is when did you ask Ms. Clark to 23 do this? 24 That would have been -- And I MS. RITTER:



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apologize for not having the exact date when we spoke about this earlier. But based on these e-mail exchanges, it would have been in March of 2017. To run the initial search on both those broad search terms that we discussed and the original search terms we discussed on the 21 custodians.

THE COURT: So then what you have attached as Exhibits 1, 2, and 3, are you telling me that Ms. Clark was going to have this document that's going to have a date on it?

MS. RITTER: I don't know that -- She'll only have the document with the date on it still if she printed it at the initial time we had her print the screen out so that we can attach it to the affidavit. So I can't relate whether she's still -- You know, if she ever prints it the first time as opposed to just advising us about the number of hits that was yielded. So I'm afraid I don't know the answer to that question.

THE COURT: And I guess, Ms. Svenson, I'm going to ask you this question. And if it's a question that you don't feel comfortable asking on behalf of your client, I will respect that.

Are you more interested in getting these e-mails or holding the Mayor's office in contempt?



I would say both. We need these 1 MS. SVENSON: 2. e-mails. But I also -- I mean, I don't know what else 3 to do. I understand that. And I don't know 4 THE COURT: what else to do either. So here's what I'm going to do. 5 6 MS. RITTER: I don't mean to interrupt, but I have an idea, if that would be helpful. THE COURT: Ms. Ritter, please. But you know what, 8 9 if you give me an idea, you better follow through with it. 10 11 MS. RITTER: Certainly. As we suggested, if we 12 could come up with more narrow search terms, we would 13 produce them. I know it took time --14 So, Ms. Ritter, if that was your THE COURT: Okay. 15 idea, why didn't you send an e-mail with that? 16 MS. RITTER: I did. 17 THE COURT: No, you -- I don't see a single e-mail 18 that says what your suggested terms are. 19 MS. RITTER: Well, if they would like us to suggest 20 terms, I'm happy to do that. But that wasn't what I 21 understood our communications to be about. And frankly 22 the search terms that we initially suggested were the 23 ones -- the four that your Honor has in front of her --24 (inaudible).



And I already ruled that those are 1 THE COURT: 2 insufficient. MS. RITTER: We have done since the time of your 3 Honor's hearing, a search on -- not on the Mayor's 4 office, but different departments on similar e-mails 5 with additional search terms that I think could be 6 useful here. Those terms are Laquan spelled with an E, because sometimes it's misspelled, we found. 8 The word 9 Burger King because the shooting occurred in front of a 10 Burger King. The word Pulaski because the shooting 11 occurred on Pulaski. So it's possible that someone 12 might have referred to it as the Pulaski shooting. 13 Beyond that my review of tens of thousands of these 14 e-mails from different departments over the course of 15 the past few years shows that they -- anything about 16 this incident does say Laquan or Laquan McDonald on it. 17 These other search terms don't -- you know, haven't 18 been -- We haven't been finding that these search terms 19 are yielding hits that are related to this incident. 20 However, that those search terms would be something I

MS. SVENSON: If I may --

THE COURT: Yes.

MS. SVENSON: -- your Honor.

would suggest might be a place to start.



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So we still -- They agreed on September 8th to 1 2. actually provide us with how many hits a particular search term generated. That's in her e-mail of 3 September 8th. That's when she says, Yes, I have asked 4 5 our tech department to pull that together and it will take a few more days. So we never got our answer to 6 that. And that was also not addressed in Ms. Clark's 8 affidavit. 9 All right. So I guess, Ms. Svenson, THE COURT: here's what I -- I'm willing to do. 10 Do you want to stick to those search terms? 11 12 MS. SVENSON: Yes. 13 THE COURT: And here's the reason why -- I 14 appreciate that the Mayor's office is interested in 15 suggesting those terms. I have no idea what Judicial

MS. RITTER: I don't know either.

THE COURT: I don't know. And it's their decision to make. It's their FOIA request, okay. So if they're more interested -- It seems that they're more interested in the word release, so it's their search terms.

Watch wants. I don't know if they're interested in just

the Laguan McDonald videos or if they're interested in

I don't know.

When can you get the information that they



dash-cam videos.

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have requested in their September e-mail about the 1 2. number of hits that are yielded on the combination of the terms release exclamation and then the other word? 3 Just I -- if, your Honor, you're 4 MS. RITTER: 5 referring simply to the first search term or all nine of 6 them? THE COURT: Which ones did you want? All of them. 8 MS. SVENSON: Because we agreed to --9 I think there are nine of them. THE COURT: All nine? 10 11 MS. SVENSON: Right. 12 I can -- I can have Ms. Clark run that MS. RITTER: 13 immediately on the Court's order. I -- One hitch is 14 that there's apparently two system -- I mean, it's just 15 a technical problem, which it will have to overcome. 16 So, yes, I can get her to do that. Today is Wednesday, I -- Unfortunately Friday is a holiday. So by Monday 17 18 she can get that hit term. 19 Now let me -- Let me just clarify as to what 20 we're all looking for. Are we looking for a number of 21 hits per custodian, per each of the nine terms? 22 that's going to take a lot of time. 23 MS. SVENSON: We could even probably work something

out where it would be, you know, half of them or just so



we have some idea where to go. 1 2. THE COURT: Let me ask you this, right. So the number of hits right now, is it limited to the 21 3 custodians? 4 5 In fact, it's limited to the three MS. RITTER: sample custodians that I -- as Ms. Clark mentions in her 6 affidavit. Because she said this is going to be 7 hundreds of thousands hits and it's going to shut our 8 9 system down. Unfortunately we don't have a great, 10 modern system. She asked --11 THE COURT: A great what? 12 MS. RITTER: Modern system. 13 THE COURT: Okay. I just want the record to be 14 clean. 15 MS. RITTER: Certainly. I apologize. 16 She asked me to identify a sampling of custodians so that she could run the search on those 17 So I --18 samples first. 19 THE COURT: Here's what we're going to do Ms. --20 We're going to do -- We're going to keep it at the three, three custodians for the nine combination. 21 22 Does the nine combination also include the 23 four original search terms? 24 MS. RITTER: No.



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1 THE COURT: Can it?

MS. RITTER: Let me make sure I understand what you're asking. Do you mean can we also add the four original as several more ...

THE COURT: Layers.

MS. RITTER: I guess I want to make sure I understand what you mean by layers. Do you mean that the terms would have to include those terms and these terms?

THE COURT: Yes.

So let me -- Again, I just want to MS. RITTER: make sure I'm understanding. When she runs the search for these nine search terms, if we're going to do a hit count as opposed to just a search for e-mails, the way a hit count works is, for example, No. 2, release and video, she'll able to determine, you know, how many e-mails Mr. Collins had for that; how many e-mails Ms. Mitchell had for that; and how many e-mails Ms. (Indecipherable) suggested had for that term. And then if she gets to the second one, release and dash, she'll Now, the difference between running all do the same. these of nine terms together versus doing a hit count, as I'm mentioning is that you're going to get duplicates. So --



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1 THE COURT: Sure.

MS. RITTER: -- the same e-mail, probably quite a few may have release and video and also release and dash in it, so it will look like there's two separate items. So the hit count is probably going to add up to significantly more than the actual number of e-mails; although I think she can figure that out too.

But this is my question for the Court. So then you want -- In other words, No. 10 would be Laquan and then how many hits that -- just that word alone has?

THE COURT: No. I'm saying this is an inquiry.

MS. RITTER: Okay.

THE COURT: Can this be done? Because I think this will limit the number of hits. Can you do release exclamation and video and Laquan?

MS. RITTER: Yes. But let me explain, your Honor, that we've already produced all of those e-mails that say Laquan or Van Dyke or L M. So those would be the e-mails we've already produced. If it say -- for this -- You know, this e-mail -- If this was an e-mail, this what I'm holding up and it said release the video about Laquan on it, we've already produced that e-mail because it says Laquan and we've already produced all of the e-mails from these 21 custodians that say Laquan.



1 If it says --2. And how many were originally produced? THE COURT: A few thousands. 3 MS. RITTER: What does that mean? 4 THE COURT: Well, the question is tough because 5 MS. RITTER: when you have chains of e-mails when we produce it we 6 dedup (phonetic) it, which means that you might get a hit of like 5,000 initially. But by the time -- It's 8 9 produced actually as a courtesy so that it's not just a 10 bazillion pages; we take out a chain as it just produces 11 the top of the chain. So I think it was --12 THE COURT: All right. I think I'm getting your 13 point now. 14 So, Ms. Svenson, here's my questions to you. 15 The FOIA request that was sent is limited to 16 October 14th of 2014 through December 7th of 2015, and 17 the language of the FOIA request is, Any and all records of communications sent to and from officials in the 18 19 Office of the Mayor, comma, including but not limited to 20 Mayor Rahm Emanuel, comma, regarding, comma, concerning 21 or relating to police dash-cam recording of the 22 October 20th, 2014 shooting of Laguan McDonald, comma, 23 including but not limited to the release of any such 24 video recordings to the public.



1	My inquiry is to you, are you interested in
2	any other e-mails that do not relate to the
3	October 20th, 2014 shooting of Laquan McDonald that have
4	the words release, video, dash cam?
5	MS. RITTER: Recording.
6	THE COURT: Recording or any of those nine search
7	terms?
8	MS. SVENSON: I guess I'm confused. Are you saying
9	are we not interested in those?
10	THE COURT: Are you interested in those?
11	MS. SVENSON: Yes.
12	THE COURT: Why? How does that fall into the FOIA
13	request?
	104000.
14	MS. SVENSON: I'll have you to look at the language
	_
14	MS. SVENSON: I'll have you to look at the language
14 15	MS. SVENSON: I'll have you to look at the language again. I'm sorry. I know you just read it to me.
14 15 16	MS. SVENSON: I'll have you to look at the language again. I'm sorry. I know you just read it to me. THE COURT: Here.
14 15 16 17	MS. SVENSON: I'll have you to look at the language again. I'm sorry. I know you just read it to me. THE COURT: Here. MS. SVENSON: Thank you.
14 15 16 17 18	MS. SVENSON: I'll have you to look at the language again. I'm sorry. I know you just read it to me. THE COURT: Here. MS. SVENSON: Thank you. THE COURT: Do you understand my question? In
14 15 16 17 18	MS. SVENSON: I'll have you to look at the language again. I'm sorry. I know you just read it to me. THE COURT: Here. MS. SVENSON: Thank you. THE COURT: Do you understand my question? In other words, the nine search terms are going to yield
14 15 16 17 18 19 20	MS. SVENSON: I'll have you to look at the language again. I'm sorry. I know you just read it to me. THE COURT: Here. MS. SVENSON: Thank you. THE COURT: Do you understand my question? In other words, the nine search terms are going to yield more they're going to reveal more communications that
14 15 16 17 18 19 20 21	MS. SVENSON: I'll have you to look at the language again. I'm sorry. I know you just read it to me. THE COURT: Here. MS. SVENSON: Thank you. THE COURT: Do you understand my question? In other words, the nine search terms are going to yield more — they're going to reveal more communications that are not related to the October 20th, 2014 shooting of



And its aftermath, yes, and the 1 MS. SVENSON: 2. dash-cam recording about it. 3 THE COURT: Fine. MS. SVENSON: 4 Right. 5 THE COURT: But if it's limited to that incident, then e-mails that are not related or any -- I'm sorry, 6 it's not just -- Any communication that includes those search terms that is not related to that incident is not 8 9 responsive to your FOIA request. MS. SVENSON: Related to the incident and its 10 11 aftermath. 12 THE COURT: Right. 13 MS. SVENSON: Correct. 14 THE COURT: And these search terms are so overbroad 15 that's why you're getting -- They've already produced 16 e-mails that are -- would include the words release, video, dash cam; all of those combinations if they 17 include the word Laquan, Van Dyke, Van, slash -- or 18 19 space Dyke and L M. 20 MS. SVENSON: But we don't know how many hits each 21 one of these ... 22 THE COURT: I understand that. I appreciate that. 23 MS. SVENSON: Right. 24 THE COURT: And you won't.



But if there is, for example, an e-mail 1 2. concerning the red light camera and release that is now 3 responsive to your FOIA request. Would you agree? 4 MS. SVENSON: I agree. 5 THE COURT: It's going to come up on the search terms for that because it falls into that parameter. 6 And so it's increasing the hits. And so if your FOIA request is targeted or limited to the October 20th 8 9 shooting of Laguan McDonald, why can't we limit that 10 search term to just Laquan McDonald and those -- Haven't 11 you already received that? 12 I think we have except for we have MS. SVENSON: 13 not searched these terms. And we agreed with them on 14 I mean, it's just nine more terms. these terms. 15 THE COURT: So are you saying there's a possibility 16 that -- Yeah, but you're going to get -- The terms are too -- It's too much. 17 MS. SVENSON: Well, that's what we don't -- I would 18 19 arque that we don't know. Because if we could just get 20 a number of hits related to each one, we would be in a 21 better position to respond. 22 THE COURT: Can Ms. Clark, based on what you've 23 already tendered cross-reference how many of these are

duplicative? Am I answering that -- Did I ask that



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question appropriately?

MS. RITTER: Yeah. I believe I understand. Let me see if I can rephrase that. I know this is confusing, your Honor.

You're right in everything you said that, you know, if it says Laquan in it, it's already been produced whether or not it talks about releasing a video. So what I think Ms. Clark can do is, for example, search term No. 2, release exclamation and video, and she can do a search also that includes and not Laquan and not L M and not Van Dyke because those terms have already been -- those e-mails that would have those words in it have already been produced.

So then what we have is a hit count of e-mails that have the words release and video in them that don't reference Laquan McDonald or Jason Van Dyke. This is why a few minutes ago I suggested -- And I'm sorry if it wasn't clear as to why sometimes in the -- the search terms it gets a little bit confusing. That if we're going to broaden the search terms, we do it to other references that people might have to Laquan McDonald. Sometimes they spelled his name wrong. In fact, I think even on some of the pleadings in the civil case his named is L E Q U A N instead of L A Q U A N. We since



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realized that. So that, I think, would be another appropriate search term. We already have all the e-mails that say L A Q U A N. We can add to that the e-mail that say L E Q U A N.

Another one as I mentioned is Pulaski because the shooting on was Pulaski. And if people are referring to it, especially in days just after the incident, they might not -- You know, the name of the victim unfortunately wasn't, you know, as known as it is They may have referred to it as that shooting on Pulaski. So I'm trying to suggest words that would encompass other ways people would refer to Laquan McDonald or even just McDonald. Although we've run that before on other departments and found that it's almost never responsive. People don't just call it McDonald as opposed to Laquan McDonald. Because as your Honor rightly points out, all you're getting would be these terms. And this is what I've been trying to tell counsel all this --

THE COURT: Well, quite frankly, Ms. Ritter, you -- the communication hasn't been that great.

MS. RITTER: I understand that. But we did have phone calls about this where I said this very thing.

THE COURT: The communication has not been that



1 great. 2 MS. RITTER: Okay. 3 THE COURT: Just accept that. I do. Thank you. 4 MS. RITTER: As your Honor stated, all you're getting with 5 running these terms is e-mails that don't reference 6 Laguan McDonald that have these terms, which our argument is it's not responsive to the FOIA request 8 9 which is why we discourage this search. It's too broad of a search and it needs to be narrowed. 10 It needs to be narrowed. 11 THE COURT: 12 So this is helpful. This is the MS. SVENSON: 13 first time I've heard anything about Pulaski or Laguan 14 spelled the wrong way. So this is really helpful and 15 I'm learning this today. It's November 8th so ... 16 THE COURT: Okay. I think those terms are much more likely to get us more -- better results than some 17 18 of the other terms. Because there were other issues 19 going on at the same time. 20 MS. SVENSON: Right. 21 All right. I'm going to give the City THE COURT: 22 an opportunity to come up with additional search terms 23 within one week. 24

I can do it today, your Honor.



MS. RITTER:

happy to confer with counsel directly after this today. 1 2 What I'd suggest, based on other searches again as I said that we run for City departments since we've made 3 the initial production that have yielded -- I can pull 4 up additional e-mails than just searching for Laguan. 5 6 MS. SVENSON: Can -- I'm sorry to interrupt. Can we find out how many hits these generate 8 or is that possible? 9 MS. RITTER: I don't know if we can answer that 10 question. Which hit? 11 THE COURT: 12 The nine that -- the search terms MS. SVENSON: that we had, you know, back and forth via e-mail. 13 14 THE COURT: It's going to be over a hundred 15 thousand. 16 MS. SVENSON: No. Well, I'm talking each 17 individual one though. THE COURT: What difference does it make? 18 19 MS. SVENSON: Well, because what if one of them 20 only has like 5,000? That's my question. That's my 21 point. 22 THE COURT: She if he can do that. 23 I can -- She can definitely do that. MS. RITTER: 24 Do that as well. THE COURT:



Ms. Ritter, you're not quite off the hook yet 1 2. either. 3 MS. RITTER: I hear you. I want to know when you first requested 4 THE COURT: 5 Ms. Clark to do the search. 6 MS. RITTER: Okay. THE COURT: And I'm not going to be happy if it wasn't shortly after March when you all came to this 8 9 agreement. 10 Yes, it was March. MS. RITTER: 11 Your Honor, how would you like me to --12 Anything that she can validate. THE COURT: 13 MS. RITTER: Okay. 14 I mean, it's a computer system. THE COURT: I know 15 that they're time stamped. There's validations. 16 There's all kinds of ways that the City can validate 17 when something was requested. I'm sure that there's 18 some e-mail from you to her. You know, you don't just 19 pick up the phone and say, hey, can you do this, 20 Ms. Clark. 21 I'm sure we can find some -- -MS. RITTER: 22 THE COURT: There's some request form that you used 23 to get her to get her to do this. Because I'm not going 24 to be happy if there was a long delay.



All right. So for purposes of today, I'm not 1 2. going to make a ruling on petitioner's -- on the plaintiff's second rule to show cause. I'm going to ask 3 the parties to again confer and try to come up with some 4 5 search terms that will yield a workable result. I did receive the index from the June CD, and 6 7 I guess we'll have to deal with that later if that's going to be something that plaintiff is going to be 8 9 contesting if those are appropriate exemptions or not; if whether or not I need to do an in-camera inspection 10 and we'll take it from there. 11 12 MS. SVENSON: Okay. 13 I don't know how much more I can THE COURT: 14 I've reached my limit. stress. 15 MS. RITTER: Your Honor, when would you like us 16 to -- Would you like -- I mean, if we --I'd like you guys to come in a week. 17 THE COURT: 18 How about next Thursday. Oh, no, that's not 19 good. Wait, let me see. 20 Thursday the 16th or Friday the 17th? 21 MS. SVENSON: So I'm out of town for a conference 22 on Thursday and Friday. 23 THE COURT: How about the following week on the



20th or 21st?

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And then I'm gone for Thanksgiving.
 1
          MS. SVENSON:
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                       That whole week?
          THE COURT:
                        Well, I leave Monday morning.
 3
          MS. SVENSON:
     It's -- Yeah, my parents are out of town.
 4
                                                  They're
     elderly so it's hard to --
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 6
          THE COURT:
                       I get it.
          MS. RITTER:
                       Is next Wednesday not available?
                       I'm good on the 15th.
 8
          THE COURT:
 9
                        Yeah, I would love if we could do
          MS. SVENSON:
10
     that.
                      The 15th is fine.
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          THE COURT:
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          MS. SVENSON: Oh, that would be great. Thank you.
13
          THE COURT:
                       Okay.
14
                        Thanks, Counsel.
          MS. SVENSON:
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               What time?
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          THE COURT:
                       9:30.
          MS. SVENSON: Okay. Thanks for accommodating.
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          THE COURT:
                       Any questions?
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          MS. RITTER:
                       No. It's clear.
                                          Thank you.
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          THE COURT:
                       Okay.
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                         Thanks, all.
          MS. SVENSON:
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                          (Which were all the proceedings had
23
                           in the above-entitled cause.)
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	1.00,100
1	STATE OF ILLINOIS)
2) SS. COUNTY OF COOK)
3	
4	Terry M. Barfield, being first duly sworn, on
5	oath says that she is a Certified Shorthand Reporter
6	doing business in the City of Chicago, County of Cook
7	and the State of Illinois;
8	That she reported in shorthand the proceedings
9	had at the foregoing hearing;
10	And that the foregoing is a true and correct
11	transcript of her shorthand notes so taken as aforesaid
12	and contains all the proceedings had at the said
13	hearing.
14	
15	Jan m Barriage
16	- David IV. In the Market
17	TERRÝ M. BARFIELD, CSR
18	CSR No. 084-004536
19	
20	SUBSCRIBED AND SWORN TO
21	before me this 14th day of November A.D., 2017.
22	OFFICIAL SEAL
23	DANIEL N. HERNANDEZ Notary Public - State of Illinois My Commission Expires 1/14/2020
24	NOTARY PUBLIC



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