

Page 1

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)
4
5 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
6 COUNTY DEPARTMENT - CHANCERY DIVISION
7 GREG BURKE, KRISTIN CASPER, AND)
8 LMP SERVICES, INC.,)
9 Plaintiffs,) Case No.
10 -vs-) 12 CH 41235
11 THE CITY OF CHICAGO, ILLINOIS,)
12 Defendant.)
13
14 The deposition of GERRIN CHEEK BUTLER,
15 called for examination, taken pursuant to the
16 provisions of the Code of Civil Procedure and the
17 Rules of the Supreme Court of the State of Illinois
18 pertaining to the taking of depositions for the
19 purpose of discovery, taken before V. LINDA BOESCH, a
20 Notary Public within and for the County of DuPage,
21 State of Illinois, and a Certified Shorthand
22 Reporter, CSR No. 84-3108, of said state, at Suite
23 1200, 224 South Michigan Avenue, Chicago, Illinois,
24 on October 9, 2014, at 2:20 p.m.

Page 2

1 PRESENT:
2 INSTITUTE FOR JUSTICE,
3 (901 North Glebe Road, Suite 900,
4 Arlington, Virginia 22203,
5 703-682-9320), by:
6 MR. ROBERT FROMMER,
7 rfrommer@ij.org,
8 MR. ROBERT GALL,
9 rgall@ij.org, and
10 MS. ERICA SMITH,
11 esmith@ij.org,
12 appeared pro hac vice on behalf
13 of the Plaintiffs;
14 OFFICE OF CORPORATION COUNSEL,
15 CITY OF CHICAGO,
16 (30 North LaSalle Street, Suite 1230,
17 Chicago, Illinois 60602,
18 312-744-7150), by:
19 MR. ANDREW WORSECK,
20 aworseck@cityofchicago.org, and
21 MR. DAVID BARON,
22 appeared on behalf of the Defendant
23 and the Deponent.
24 REPORTED BY: V. LINDA BOESCH, CSR No. 84-3108.

Page 3

1 MR. FROMMER: Could you swear the witness,
2 please?
3 (WHEREUPON, the witness was duly
4 sworn.)
5 GERRIN CHEEK BUTLER,
6 called as a witness herein, having been first duly
7 sworn, was examined and testified as follows:
8 EXAMINATION
9 BY MR. FROMMER:
10 Q. Could you please state your full name,
11 title, and work address for the record, please?
12 A. Sure. Gerrin Cheek Butler. I'm the
13 Director of Food Protection for the City of Chicago,
14 and my work address is 2133 West Lexington and that's
15 in Chicago, of course, 60612.
16 MR. WORSECK: And, Rob, again, I just want to
17 make my standard statement for the record, that we
18 are producing Ms. Butler pursuant to the topics
19 designated in our September 30th letter and pursuant
20 to the objections raised in our August 27th and
21 September 18th letters.
22 MR. FROMMER: All right.
23 BY MR. FROMMER:
24 Q. Hi. My name is Robert Frommer. I'm an

Page 4

1 attorney at the Institute For Justice. We're a
2 nonprofit public interest law firm.
3 We are based in Arlington, Virginia, and
4 we are representing the Plaintiffs in this
5 constitutional challenge to two aspects of the City's
6 mobile food vehicle law.
7 One is a requirement that food vehicles
8 not park or operate within 200 feet of a restaurant.
9 The other one is that mobile food vehicles be
10 equipped with and use GPS tracking devices when
11 they're in operation.
12 Now, I understand that you've been
13 designated by the City as its representative to
14 discuss certain topics that are at issue in this
15 lawsuit. Is that your understanding?
16 A. Yes.
17 Q. Okay. Now, we have asked the court to
18 rule on the constitutionality of the 200-foot rule
19 and the GPS tracker requirement. We are just seeking
20 declaratory relief and injunctive relief. We are not
21 seeking damages or anything like that.
22 Do you have any questions?
23 A. No.
24 Q. Okay. As you notice, just a second ago,

Page 117

1 information or get it faster. I can't say.
2 BY MR. FROMMER:
3 Q. How long would that entire process that I
4 just described take?
5 A. Hour.
6 Q. How long can a truck operate in one
7 location?
8 A. Two hours.
9 Q. And so you said with the Patty Wagon,
10 that it had tweeted a location but by the time the
11 sanitarian got there, the truck was gone.
12 Could it be possible that Patty Wagon
13 wasn't there because it reached the end of its
14 two-hour window and it left before your sanitarian
15 arrived?
16 MR. WORSECK: Objection, calls for speculation
17 and mischaracterizes testimony.
18 BY THE WITNESS:
19 A. I can't say how long the truck had been
20 there prior to or if they had reached their two-hour
21 limit.
22 BY MR. FROMMER:
23 Q. Isn't it possible that they were there
24 but your guys just missed them?

Page 118

1 MR. WORSECK: Same objection.
2 BY THE WITNESS:
3 A. Sure.
4 BY MR. FROMMER:
5 Q. You just said a second ago that you felt
6 that the entire process I mentioned where the Health
7 Department official would call BACP, BACP would call
8 the GPS service provider, and the information comes
9 back to BACP and Health, it could take an hour.
10 So wouldn't you have the exact same
11 problem with GPS where you call -- you call BACP,
12 BACP calls the provider, the provider provides the
13 information back to BACP, it goes to the chief
14 sanitarian, it goes to the sanitarian, and then by
15 the time the sanitarian actually gets to that
16 location, the truck is gone?
17 A. Yes.
18 MR. WORSECK: Objection, calls for speculation.
19 THE WITNESS: I'm sorry.
20 BY MR. FROMMER:
21 Q. You said "yes"?
22 A. Yes. However, if we are trying to
23 investigate foodborne illness and we want to know
24 where the truck has been, then it would give us

Page 119

1 historical data which may be useful in a trace back
2 when we are investigating foodborne illness.
3 Q. Would the delay between the time you
4 first realize that you need this data and the time
5 you actually receive it undermine your ability to
6 conduct inspections of trucks in the field?
7 MR. WORSECK: Objection, speculation.
8 BY THE WITNESS:
9 A. Can you ask the question again?
10 BY MR. FROMMER:
11 Q. You said it could take an hour for the
12 entire process by which the request begins until the
13 time the sanitarian actually has the GPS data.
14 Doesn't that delay undermine the ability
15 of Health Department officials to actually inspect
16 trucks in the field?
17 MR. WORSECK: Objection, speculation and
18 incomplete hypothetical.
19 BY THE WITNESS:
20 A. I think that any method is going to take
21 time, no matter if we're looking at social media or
22 if we're looking at GPS and going through a process
23 of getting GPS data. Any method is going to take
24 time.

Page 120

1 It is a -- it's not a brick and mortar.
2 We know where brick and mortars are. We can find
3 them. If it is a McDonald's, the McDonald's is
4 always there. There's going to be a delay in finding
5 any mobile moving vehicle at any point.
6 And I said an hour, not knowing exactly
7 how long it takes to get that information. But
8 there's going to be a delay.
9 BY MR. FROMMER:
10 Q. Doesn't the GPS requirement also require
11 that the truck turn on the GPS unit?
12 A. I believe so.
13 Q. So aren't you relying on a human there to
14 turn on that GPS unit?
15 A. Yes.
16 Q. So just as somebody could fail to tweet
17 their location or update their location once they
18 reached it, couldn't they similarly fail to turn on
19 their GPS unit?
20 A. Yes.
21 Q. And in that circumstance, doesn't that
22 undermine your entire ability to use the GPS data to
23 actually find that truck?
24 MR. WORSECK: Objection, speculation.

Page 121

1 argumentative.
2 BY THE WITNESS:
3 A. If the person doesn't turn on the GPS
4 data -- I mean, turn on the GPS unit, then it is
5 going to make it impossible for us to find them
6 unless we use social media.
7 So we will use all of our resources
8 available in order to find a truck when there is an
9 emergency and it requires us to do an investigation
10 in the field.
11 BY MR. FROMMER:
12 Q. So would you consider the outbreak of a
13 foodborne illness to constitute an emergency?
14 A. Yes.
15 Q. And in any of the service requests in
16 Exhibit 2 that we discussed, would you consider any
17 of those to constitute an emergency?
18 A. When we -- none of these I would consider
19 an emergency. We consider a foodborne illness
20 outbreak when there are two unrelated people that
21 have one food item in common.
22 With all of these, I would not say that
23 these are foodborne illness outbreaks. They are
24 suspect food poisonings, and we would not have

Page 122

1 considered any of these emergencies -- either of
2 these emergencies because the other one was about not
3 reporting back to a commissary.
4 MR. GALL: Why don't we take what will actually
5 be out a five-minute break this time. We have to be
6 out of here by 5:45 anyway, we've just been told, so
7 it will actually be a five-minute break.
8 MR. WORSECK: I think we have a 44-minute break
9 we need to go take right now.
10 MR. GALL: Sure. We'll just continue the
11 deposition down at The Gage.
12 (WHEREUPON, a recess was had.)
13 MR. FROMMER: Ready to go back on the record?
14 Okay. Actually, that was all the questions I had, so
15 we thank you very much for coming here and talking
16 with us today.
17 MR. WORSECK: Just a couple quickies.
18 EXAMINATION
19 BY MR. WORSECK:
20 Q. Ms. Butler, do you remember the line of
21 questioning that you were just recently asked about
22 establishing a line of communication between --
23 starting from Health, reaching out to BACP, then
24 getting information about the GPS provider, then

Page 123

1 reaching out to the provider to get information about
2 where the truck is?
3 A. Yes.
4 Q. And you talked about how that process
5 would operate. Do you recall that?
6 A. Yes.
7 Q. Isn't it fair to say that once that link
8 was established so that the GPS provider had been
9 identified and they were supplying data relating to
10 where the food truck was, that that line of
11 communication could be kept open until the sanitarian
12 was able to be find where the truck was?
13 MR. FROMMER: Objection. You're leading your
14 witness again.
15 BY MR. WORSECK:
16 Q. You can answer.
17 A. Yes.
18 Q. So even if the truck was moving around
19 during this period of time, if everything is
20 operating the way the regulations require, real time
21 data should be supplied by the truck to the provider
22 which then could be immediately passed along to the
23 City to locate that truck?
24 MR. FROMMER: Objection, leading.

Page 124

1 BY THE WITNESS:
2 A. Yes.
3 MR. WORSECK: Nothing further.
4 MR. FROMMER: Okay.
5 MR. WORSECK: We'll reserve signature.
6 MR. FROMMER: We are done. Thank you so much,
7 Ms. Butler. We greatly appreciate it.
8 THE COURT REPORTER: Can I ask, are you
9 ordering the transcript?
10 MR. FROMMER: Yes.
11 THE COURT REPORTER: Five days? I was told one
12 week.
13 MR. FROMMER: Five days will be good. That way
14 we'll have them all together.
15 THE COURT REPORTER: And you wanted the full
16 printed transcript?
17 MR. FROMMER: I always forget the one.
18 Electronic is best.
19 THE COURT REPORTER: E-Transcript?
20 MR. FROMMER: I think so, yes. Then you can do
21 like Minuscript with it and all that.
22 THE COURT REPORTER: Yes.
23 Sorry, gentlemen. Did you need a copy?
24 MR. WORSECK: Yes.