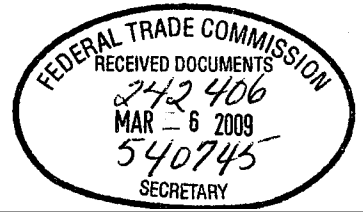


ORIGINAL



UNITED STATES OF AMERICA

\_\_\_\_\_  
In the Matter of )

CCC HOLDINGS INC., )

and )

AURORA EQUITY PARTNERS III P. )

PUBLIC VERSION

Docket No. 9334

\_\_\_\_\_  
Respondents. )

**COMPLAINT COUNSEL'S RESPONSE TO RESPONDENTS' AND DR. CHRISTOPHER VELLTURO'S MOTION TO QUASH SUBPOENA AD TESTIFICANDUM AND SUBPOENA DUCES TECUM ISSUED TO DR. CHRISTOPHER VELLTURO**

**I. INTRODUCTION**

On February 23, 2009, Respondents and Dr. Christopher Velltuoro filed two separate motions to quash the subpoena *ad testificandum* and subpoena *duces tecum* issued by the Secretary of the Commission on January 29, 2009 and served on Dr. Velltuoro on February 6, 2009. As discussed more fully below, Respondents and Dr. Velltuoro have failed to carry their

markets, thus creating a duopoly in each market, leading to coordinated interaction among the remaining competitors. Moreover, the \$1.4 billion transaction would create a company with huge market shares, reflective of monopoly or near-monopoly market power. The Commission issued an administrative complaint challenging this merger on November 25, 2008, and a hearing on the merits before this Court is scheduled to begin on March 31, 2009. Part and parcel to the case before this Court is the head-to-head competition between CCC and Mitchell that will be lost if the transaction is consummated.

REDACTED

Respondents, in their motion, made three separate arguments. First, Respondents argued that Dr. Velturo's expert report is irrelevant.

REDACTED

These facts are admissions in this case that can be verified by

Dr. Velturo's expert report.

REDACTED

Second, Respondents argued that the discovery sought from Dr. Velturo is irrelevant. In its subpoena *duces tecum*, Complaint Counsel asks for “a copy of all documents and/or data cited in Dr. Christopher Velturo’s Expert Report . . . or otherwise relied on by Dr. Velturo in the preparation and drafting of the aforementioned report.”

REDACTED

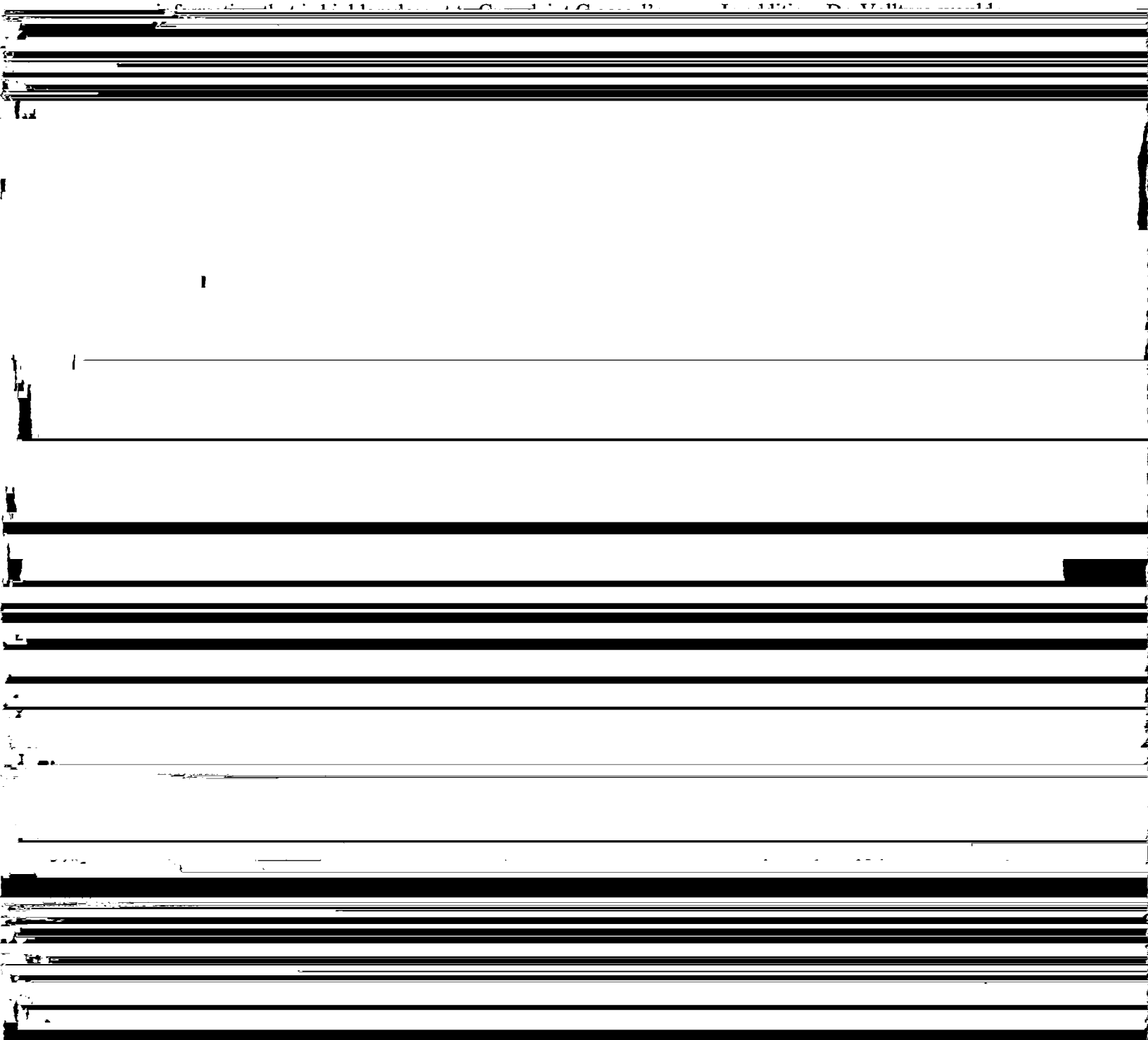
These types of documents are exactly the types of documents that are used to investigate, prosecute, and defend an antitrust case, especially one in which the parties referenced in the documents are merging. Third

Respondents argued that complying with the subpoenas would cause an undue hardship to Dr.

likely benefit.

REDACTED

Those documents and information may reveal





REDACTED

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<sup>5</sup> Vellturo Report, PX0837-019.

<sup>6</sup> Vellturo Report, PX0837-003.

<sup>7</sup> Vellturo Report, PX0837-015.

<sup>8</sup> Vellturo Report, PX0837-016.

REDACTED

These issues go to the very heart of Complaint Counsel's case. As noted above, this case

is a matter of public concern. The Commission is not a court of law and its decisions are not binding on the public.

Thus, it would be a “reasonable” expectation that the documents and information sought by Complaint Counsel’s subpoena’s would “yield information relevant to the allegations of the complaint.”

REDACTED

**Respondents And Dr. Velturo Have Failed To Support Their Claim Of**

**Undue Burden.**

Respondents and Dr. Velturo argue in their motions that Complaint Counsel’s subpoena would cause an undue hardship to Dr. Velturo and would impose a burden that would far outweigh any likely benefit. In re General Motors Corp., No 9077, 1977 FTC LEXIS 18, at \*1



“general, unsupported claim [of burden].” Kaiser Alum., 1976 FTC LEXIS 68, at \*18.

w hic [redacted] h were used by Dr. Velturo in December 2006, only 26 months ago. In addition,

**D. Respondents Fail To Meet Their Burden In Establishing That The**

**Subpoenas Infringe On Dr. Velturo's Proprietary Interests**

In Dr. Velturo's motion, counsel argues that the subpoenas infringe on Dr. Velturo's proprietary interests, and argue that he is an unretained expert whose "opinion and information

do not encompass the information sought by the subpoenas.

# ANNEX A

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

CCC Information Services Inc.,

Plaintiff,

v.

Mitchell International, Inc.,

Defendants.

Case No. 03 C 2695

By: J. Robert Robertson  
by JM  
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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2009, I served the foregoing via electronic mail on the following counsel:

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