







unduly disrupt the normal operations of the recipient's business.<sup>14</sup> This same standard applies to nonparties.<sup>15</sup> The recipient bears the responsibility of showing that the burden of compliance is undue.<sup>16</sup> The recipient of agency process must show the "measure of [its] grievance rather than [asking the court] to assume it,"<sup>17</sup> with the recognition that "[s]ome burden on subpoenaed parties is to be expected and is necessary in furtherance of the agency's legitimate inquiry and the public interest."<sup>18</sup>

Petitioner

imposed significant expenses, was not unduly burdensome.<sup>23</sup> Moreover, several CID requests have particular limitations on the scope of the response that lessen burden.<sup>24</sup>

Petitioner argues further that the burden of compliance is far outweighed by the “negligible value” of some of the information requested.<sup>25</sup> In particular, Petitioner contends that information about the amount of diesel exhaust fluid (“DEF”) put in cars during servicing “adds nothing” to “admissions already made by Volkswagen.”<sup>26</sup> In fact, the amount of DEF that vehicles consumed could reflect important information about the functioning of the defeat device and who would have known about its existence. Regardless, “[t]he Commission has no obligation to establish precisely the relevance of the material it seeks in an investigative subpoena by tying that material to a particular theory of violation.”<sup>27</sup> The material “need only be relevant to the *investigation* [into a possible law violation] – the boundary of which may be defined quite generally.”<sup>28</sup> Indeed, the FTC’s “own appraisal of relevancy must be accepted so long as it is not ‘obviously wrong,’”<sup>29</sup> a showing Petitioner does not make here.<sup>30</sup>

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<sup>23</sup> See, e.g., *FDIC v. Garner*, 126 F.3d 1138, 1145-46 (9th Cir. 1997) (affirming enforcement of agency subpoena that recipient alleged demanded “over one million” documents from hospital.510.00.510.0gT2I33.8 9.4(p-0 0 8.04 246.12n -0 0 9.96 72





way by what is at most a technical flaw.<sup>46</sup> Indeed, the registered agent responsible under Washington state law for receiving service of process for Larson Motors is located at the same address in Tacoma, Washington as RLAG's business address. Further, Petitioner's counsel contacted FTC staff on December 15, 2015 – the day after the CID was delivered by FedEx at that Tacoma address – to discuss Petitioner's compliance.

In sum, we conclude that Petitioner's challenges to the CID are unfounded and deny its Petition.

### **III. MODIFICATION OF THE CID**