

ORIGINAL

OFFICIAL TRANSCRIPT OF PROCEEDINGS

**Agency:** Nuclear Regulatory Commission  
Atomic Safety and Licensing Board

**Title:** Cameo Diagnostic Centre, Inc.  
(Byproduct Material License  
No. 20-29708-01)

**Docket No.** 30-29567-CivP

**LOCATION:** Bethesda, Maryland

**DATE:** Tuesday, February 1, 1994

**PAGES:** 1 - 23

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1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

3  
4 ATOMIC SAFETY AND LICENSING BOARD

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6 - - - - - x

7 In the matter of: :

8 CAMEO DIAGNOSTIC CENTRE, INC. : DOCKET NO. 30-29567-CivP

9 (Byproduct Material License :  
10 No. 20-27908-01 :

11 - - - - - x

12  
13 Nuclear Regulatory Commission  
14 4350 East West Highway  
15 Bethesda, Maryland  
16 Tuesday, February 1, 1994

17 A PREHEARING TELEPHONE CONFERENCE in the above  
18 entitled matter commenced at 2:05 p.m., pursuant to  
19 notice.

20  
21 Before Administrative Law Judges:

- 22 Ivan W. Smith, Chairman
- 23 Dr. Richard F. Cole
- 24 Dr. Charles N. Kelber

25  
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1 APPEARANCES: FOR THE LICENSEE:  
2 CAMEO DIAGNOSTIC CENTRE, INC.  
3 MR. PAUL J. ROSENBAUM, PRESIDENT  
4 155 Maple Street  
5 Springfield, MA 01105  
6 (413) 788-7000

7  
8 FOR THE NUCLEAR REGULATORY COMMISSION:  
9 BERNARD M. BORDENICK, ESQUIRE  
10 CATHERINE L. MARCO, ESQUIRE  
11 Office of the General Counsel  
12 U.S. Nuclear Regulatory Commission  
13 Washington D.C. 20555  
14 (301) 504-1588 (Tel. Conf. No)

15  
16 ALSO PRESENT:  
17  
18 JOSEPH DEL MEDICO  
19 PAT SANTIAGO  
20 Office of Enforcement  
21 U.S. Nuclear Regulatory Commission  
22  
23  
24  
25

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## P R O C E E D I N G S

1  
2 JUDGE SMITH: Judge Cole has been delayed. He'll  
3 join us later. Judge Kelber is present. We will proceed.  
4 This being transcribed. The reporter is here in the office  
5 making a verbatim transcription of the prehearing  
6 conference.

7 First, I want to review what we did on January  
8 18th. The parties agreed in advance that we could hold an  
9 informal telephone conference, not transcribed, to discuss  
10 various preliminary matters. And, in fact, on January 18th  
11 we did do that. And at that conference everyone agreed to  
12 today's conference, which it was understood would be formal  
13 and transcribed.

14 I recommended to Mr. Rosenbaum that he study the  
15 discovery rules. Mr. Rosenbaum, I see today that you had  
16 already been familiar with Section 7 2.7, you cited it  
17 within your letter requesting a hearing.

18 And the staff and Mr. Rosenbaum agreed to submit a  
19 schedule, a proposed schedule. Is that essentially  
20 complete, Ms. Marco and Mr. Rosenbaum?

21 MS. MARCO: We filed, your Honor.

22 JUDGE SMITH: Yes. I mean, is my recitation of  
23 what happened on January 18th --

24 MS. MARCO: Yes.

25 JUDGE SMITH: -- consistent with your memory, Mr.

1 Rosenbaum?

2 MR. ROSENBAUM: Yes.

3 JUDGE SMITH: And Ms. Marco?

4 MS. MARCO: Yes, that's correct.

5 JUDGE SMITH: All right. As Ms. Marco indicated,  
6 we did, yesterday, receive a proposed schedule. And we  
7 noted that there still is a void however, because we still  
8 need an agreed upon statement or an ordered statement of the  
9 issue or issues that have to be approved for discovery.

10 It seems that the issues, as far as I can see, as  
11 far as the facts are concerned, it may be rather simple.  
12 Mr. Marco wishes to enlarge them, or as he says, enlarge  
13 them. I'm reading his letter of December 17th, 1993.

14 JUDGE KELBER: Is that Mr. Rosenbaum's letter?

15 JUDGE SMITH: Yes, Mr. Rosenbaum's letter  
16 requesting a hearing. He says he demands the right to  
17 broaden the scope of the issues to be considered at the  
18 hearing. And to include distorted or omitted scope of  
19 facts, thereby inducing the Commission to charge him with  
20 the violations.

21 I don't know if you talked to Ms. Marco about that  
22 or not, but my first offhand impression is that you are not  
23 really seeking to enlarge the scope of the issues, these are  
24 what you regard as being sub-issues within the broader issue  
25 of violation I.A. and I.B. Would that be essentially

1 correct?

2 MR. ROSENBAUM: I apologize for having to ask you  
3 to repeat that, Judge.

4 JUDGE SMITH: Okay. I'm pointing out the fact  
5 that you said that you demand the right to broaden the scope  
6 of the issues to be considered at the hearing.

7 MR. ROSENBAUM: Yes.

8 JUDGE SMITH: And, specifically, you stated that  
9 you wished to include distorted or omitted facts, thereby  
10 inducing the Commission to charge Licensee with violation  
11 I.A. and I.B. of the Notice of Violation.

12 MR. ROSENBAUM: Yes.

13 JUDGE SMITH: And you also wished the issues to  
14 include whether malice toward Licensee was a factor  
15 influencing the Commission's decision to declare Licensee as  
16 having been in violation of its requirements. Now my  
17 observation is this.

18 First, I have no authority to broaden issues in a  
19 proceeding. The Board is limited to the issues that were  
20 announced in the Notice of Violation. We cannot broaden  
21 them. However, as I understand your point, you are not  
22 seeking to broaden the overall issue, you believe that these  
23 other items are sub-issues within the major issue, and that  
24 is, were you in violation and what should be the penalty?

25 MR. ROSENBAUM: That is correct, your Honor.

1 JUDGE SMITH: All right. Would the parties agree  
2 that his statement of the sub-issues is appropriate for the  
3 proceeding?

4 MS. MARCO: Well, I would object, on behalf of the  
5 staff, to the inclusion of any issues that relate to motive  
6 of the staff, or any broadening that would induce the  
7 Commission to, as he says, change the charge to the Licensee  
8 with those violations in any way, as far as that's  
9 concerned, as it is an issue.

10 The staff would just want whether it's the facts  
11 in the order as it's stated are true and whether the remedy  
12 is supported by the facts.

13 MR. ROSENBAUM: Well, the decision is not made in  
14 a vacuum. Your decision was predicated upon various inputs  
15 by various people. You cannot say that there is just a  
16 single defined issue and leave it at that. That's not black  
17 and white.

18 JUDGE SMITH: Well, we'll have to take that under  
19 advisement. There are two aspects, Ms. Marco. One is did  
20 the events unfold as you allege? And two is, should the  
21 penalty be sustained as you have charged? And the Board  
22 will have to take this up to determine whether under the  
23 later issue, the penalty should be sustained or enforced, or  
24 reduced. We can take into account distorted or omitted  
25 facts.

1           It seems to me that if the facts in the Notice of  
2 Violation are not as stated, or distorted, he will have a  
3 right to produce that. If he could prove there is malice  
4 toward the Licensee as a factor influencing the violation, I  
5 can't see why that isn't relevant either. But the Board  
6 will have to take that up. I take it that this has not been  
7 discussed before?

8           MR. ROSENBAUM: It has not, your Honor. As a  
9 matter of fact, your Honor, there has been no discussions at  
10 all.

11           JUDGE SMITH: Except for the scheduling?

12           MR. ROSENBAUM: Yes.

13           MS. MARCO: Your Honor, we did have a discussion  
14 as it relates to settlement, but I don't want to get into  
15 that because I don't feel that the contents of that  
16 discussion is appropriate here.

17           JUDGE SMITH: So you have nothing to say about the  
18 sub-issues that I have described, other than you don't think  
19 they are appropriate, or do you?

20           MS. MARCO: No, your Honor, we feel that malice is  
21 not an appropriate issue here.

22           JUDGE SMITH: Malice alone? Is that the only sub-  
23 issue you think is not appropriate?

24           MS. MARCO: Well, if he is challenging directly  
25 the facts, if he means he would like to broaden those issues

1 as to whether the facts are correct, that is appropriate, as  
2 stated in the Order.

3 JUDGE SMITH: But you believe the issue of malice

4 --

5 MS. MARCO: That is correct.

6 JUDGE SMITH: -- is not appropriate?

7 MS. MARCO: Right.

8 JUDGE SMITH: We will have to take that up. I  
9 might say, Mr. Rosenbaum, if we find that malice is an  
10 appropriate sub-issue, you will have, in all likelihood, the  
11 burden of establishing it. I'm sure you realize now that  
12 the staff has the burden of proving that the civil penalty  
13 was imposed properly and should be sustained.

14 But for you to have a defense that it was issued  
15 as a matter of malice, that will be, in my curbstome opinicn  
16 right now, a burden that you would have to carry.

17 MR. ROSENBAUM: I appreciate your comments, your  
18 Honor. I would simply add that the one issue of malice is  
19 just one of several issues that come into play in the  
20 decision of the NRC to escalate the fine 250 percent.

21 Malice, in and of itself, is not the only factor  
22 that ruled in the decision to escalate 250 percent. I  
23 think, in and of itself, a 250 percent escalation is not at  
24 all commensurate with the allegations that staff has made.  
25 And I am prepared to provide a case of that. Malice is just

1 one of several.

2 JUDGE SMITH: Sometimes it's not easy to  
3 distinguish between what would be a sub-issue that should be  
4 stated up front at the very beginning, as compared to what  
5 is an evidentiary consideration on the issues that are  
6 involved in the proceeding to begin with. Do you understand  
7 my point?

8 MR. ROSENBAUM: No, I don't, your Honor.

9 JUDGE SMITH: Well, it could very well be that we  
10 would approve for discovery the simple issue as to whether  
11 the facts are as alleged, and whether the penalty is  
12 appropriate, and whether it should be sustained, and leave  
13 to evidence the rest of the consideration, including malice.

14 But as a matter of discretion, I think it is  
15 better up front for the Board here, and for the parties, to  
16 understand to the extent possible, just what is going to be  
17 happening during discovery. I think that it would probably  
18 be better for us to decide whether malice is appropriate or  
19 not. And, of course, we have to do that in a vacuum,  
20 because we have no idea what your facts are.

21 MR. ROSENBAUM: Of course.

22 JUDGE SMITH: We'll just have to decide how that  
23 fits in. Does anybody want to be heard further on the issue  
24 of malice?

25 MS. MARCO: No.

1 JUDGE SMITH: All right. I notice that one of the  
2 charges was that the information Cameo provided was not  
3 complete and accurate. But right now the Notice of  
4 Violation does not, as far as I could find, say what  
5 information was provided that failed to be complete and  
6 accurate. Could you help me on that, Ms. Marco?

7 MS. MARCO: Your Honor, I believe you are looking  
8 at Violation I.A?

9 JUDGE SMITH: I.B.

10 MS. MARCO: I.B.

11 JUDGE SMITH: Right.

12 MS. MARCO. That the information pertaining to the  
13 activities at the new address was not completely disclosed  
14 to the staff?

15 JUDGE SMITH: Right. The regulation and the  
16 Violation I.A. states that 10 C.F.R. 30.9 (a) requires in  
17 part that information provided to the Commission by a  
18 licensee be complete and accurate in all material respects.  
19 Now, with respect to the word, "information," in that  
20 regulation and in your charge, what information are you  
21 referring to?

22 MS. MARCO: That would be the willful failure to  
23 inform the NRC of such use of licensed material at the new  
24 location even though he was repeatedly informed in telephone  
25 conversations or through letters that the location was

1 prohibited.

2 JUDGE SMITH: So, are you saying that there was no  
3 information?

4 MS. MARCO: Coming from him.

5 JUDGE SMITH: Right. Zero information?

6 MS. MARCO: That is correct.

7 JUDGE SMITH: Well, it may be that this issue may be  
8 one that would be suitable for a preliminary determination  
9 by the Board as to whether the regulation can be interpreted  
10 in the way that you have, Ms. Marco.

11 I don't know how you would discover this. I mean,  
12 you are alleging a total void of information, and I don't  
13 know how it could be discovered. Do you agree that you did  
14 not provide information, Mr. Rosenbaum?

15 MR. ROSENBAUM: No, Sir, your Honor. I provided  
16 information before I moved. The NRC staff was well aware  
17 that I was going to move. They, indeed, approved a diagram  
18 of the plans for the new office. They were well aware.

19 And, in fact, the only way NRC became aware that I  
20 had moved is when I told them. I volunteered the  
21 information. They didn't find out in a vacuum. They were  
22 told.

23 JUDGE SMITH: Right now I want to deal with Ms.  
24 Marco's theory of the case, that you, having failed I guess  
25 formally, to provide any information, that somehow the

1 information provided was incomplete. A conundrum is what we  
2 have here. It may be that this aspect of it can be decided  
3 as a matter of interpretation of the regulation at the  
4 beginning.

5 MS. MARCO: Your Honor, it is the use of the  
6 material. It's the use of the material at the location is  
7 the issue.

8 JUDGE SMITH: That's the issue in I.A.

9 MS. MARCO: He used and did not tell us, in I.B.

10 JUDGE SMITH: In I.B, I understand that. But I  
11 also understand what the regulation says. And it says that  
12 the information provided to the Commission must be complete  
13 and accurate. And you are alleging that no information was  
14 submitted, as contrasted with submitting information which  
15 was not complete and not accurate.

16 MS. MARCO: Well, as in information that was an  
17 omission? Is that what you are referring to?

18 JUDGE SMITH: I am trying to, for the purpose of  
19 identifying the issue for discovery, understand what you  
20 mean by the first paragraph in I.B. And you previously  
21 explained to me that the information referred to in that  
22 paragraph, which is paraphrased from the regulation, means  
23 that no information whatever was provided.

24 MS. MARCO: That is correct.

25 MS. MARCO: All right.

1 MS. MARCO: Regarding the use, yes.

2 JUDGE SMITH: Then I suggest that this aspect of  
3 the proceeding can be resolved at the threshold by us  
4 determining whether that is what the rule anticipates. I  
5 suggest that a normal reading of the rule suggests that he  
6 has to provide some information, which information is not  
7 complete and not accurate before that rule would apply. I  
8 don't know. I'm saying at the threshold we can think about  
9 that, decide or rule on it.

10 MS. MARCO: Okay.

11 JUDGE SMITH: We'll go off the record for a  
12 moment.

13 (Off the record.)

14 JUDGE SMITH: Is Mr. Rosenbaum there?

15 MR. ROSENBAUM: Yes, Sir.

16 JUDGE SMITH: And Ms. Marco?

17 MS. MARCO: Yes.

18 JUDGE SMITH: Judge Kelber and I, when we were off  
19 the record, decided that we think perhaps you do not  
20 understand my question about I.B., Ms. Marco.

21 MS. MARCO: Okay.

22 JUDGE SMITH: I read this, up front, without the  
23 benefit of argument, but I read it as saying that you are  
24 charging him with providing information. And that  
25 information is incomplete and inaccurate. But when I query

1 you about it, you say, "He did not give us any information."  
2 Now, as an aside, Mr. Rosenbaum says that he did give you  
3 information.

4 But right now I wish to establish the exact nature  
5 of the charge against him, and whether it is in violation of  
6 the regulation that you charge?

7 MS. MARCO: Okay. I believe that issue would be  
8 whether the failure to provide material information can be a  
9 violation of 30.9.

10 JUDGE SMITH: That's right.

11 MS. MARCO: Right.

12 JUDGE SMITH: The failure to provide material  
13 information, can it be a violation of 30.9?

14 MS. MARCO: Right.

15 JUDGE SMITH: And you say that it can be?

16 MS. MARCO: Yes.

17 JUDGE SMITH: And I'm saying that there is some  
18 possibility, as I read the simple language that, that  
19 some information must preliminarily be produced, and that  
20 that information must be inaccurate or incomplete before you  
21 have a charge. And I think we can resolve that without  
22 facts or without discovery. That's my point right here.

23 MS. MARCO: I see.

24 JUDGE SMITH: How do you propose we go about  
25 resolving that?

1 MS. MARCO: Your Honor, I'd be willing to brief  
2 that issue.

3 JUDGE SMITH: All right. Let's do that. I don't  
4 believe that that requires discovery in any event, so we  
5 could proceed with discovery while that issue is being  
6 briefed. Could you have a brief on that within 10 days, Ms.  
7 Marco?

8 MS. MARCO: That would be fine.

9 JUDGE SMITH: And then we will allow Mr. Rosenbaum  
10 to answer it. Now, the issue here, Mr. Rosenbaum, is, I  
11 suppose, pretty much a lawyer's issue. You do have a right  
12 to be charged in accordance with the terms of the regulation  
13 that they are asserting. And now we want to know, we want  
14 to decide up front, whether that regulation applies in a  
15 situation, as they allege, that you didn't submit any  
16 information, apparently in the correct way. I don't know.  
17 But she is going to brief that, and you have a chance to  
18 respond to it.

19 MR. ROSENBAUM: What does that mean, that she is  
20 going to brief that?

21 JUDGE SMITH: She is going to submit a brief to us  
22 saying why she believes that Section 10 C.F.R.  
23 30.9 (a) includes a total failure to provide information, as  
24 compared with providing information which is incomplete and  
25 inaccurate.

1 MR. ROSENBAUM: Uh-huh.

2 JUDGE SMITH: Do you understand?

3 MR. ROSENBAUM: I think I do.

4 JUDGE SMITH: Okay.

5 JUDGE KELBER: Why don't you explain what a brief  
6 is?

7 JUDGE SMITH: A brief will simply be a legal  
8 argument on this point.

9 MR. ROSENBAUM: Okay. And I have to respond to  
10 that.

11 JUDGE SMITH: Yes. You can respond any way you  
12 want to. And one of your responses can be that it is moot  
13 because you did provide information. I don't know, it's up  
14 to you. I can't help you too much. But you have a right to  
15 determine that the facts alleged against you are in  
16 violation of the regulation as charged. And we're going to  
17 put that up front.

18 MS. MARCO: Actually, your Honor, can I ask for  
19 February 15th on that, instead of the 10th?

20 JUDGE SMITH: That's fine.

21 MS. MARCO: Okay.

22 JUDGE SMITH: So your answer will be due February  
23 15th.

24 MS. MARCO: That's a Tuesday.

25 JUDGE SMITH: And, Mr. Rosenbaum, we'll have yours

1 due two weeks after that?

2 MR. ROSENBAUM: Oh, sure. Make it a week after  
3 that.

4 JUDGE SMITH: Well, you better take the time that  
5 is offered you.

6 MR. ROSENBAUM: I take it. I take it.

7 JUDGE SMITH: Now, when we talk about time limits  
8 with respect to you, that means that it has to be mailed on  
9 the date that it was due.

10 MS. MARCO: That would be March 1st.

11 JUDGE SMITH: March 1st, yes.

12 MR. ROSENBAUM: Now, in my reply, do I include any  
13 evidence of any kind, or is it just strictly verbal?

14 JUDGE SMITH: I can't go so far as to tell you  
15 exactly how you should reply. I want you to understand that  
16 the first thing we're looking at is purely a legal issue.

17 MR. ROSENBAUM: Okay.

18 JUDGE SMITH: But a legal issue can be resolved on  
19 the matter of mootness, right?

20 MR. ROSENBAUM: Okay.

21 JUDGE SMITH: Did you understand that point?

22 MR. ROSENBAUM: Oh, yeah.

23 JUDGE SMITH: And mootness could be a factual  
24 matter

25 MR. ROSENBAUM: Right you are. I got it.

1 JUDGE SMITH: All right. We'll move on now to the  
2 schedule itself. I see you have provided 90 days in the  
3 agreed upon schedule -- I'll put the schedule in the  
4 transcript of this conference -- but 90 days for discovery.  
5 It seems to me that the basic fact as to whether he moved  
6 down the street is not in dispute. Given that, I don't  
7 understand how you need 90 days to discover the sub-issues?

8 MS. MARCO: Your Honor, the staff doesn't really  
9 need all that much time, but this is what we agreed upon,  
10 and we were being accommodating to the Licensee on it.

11 JUDGE SMITH: Let's do it right now. At the  
12 conclusion of this conference, the parties are now directed  
13 to consult for the purpose of stipulating as many of the  
14 facts as you can. And you should only have discovery on  
15 matters of fact that are really in dispute.

16 So we'll leave the 90 days then, but you will, in  
17 a reasonably short period of time following this conference,  
18 get together and talk about the facts that can be  
19 stipulated.

20 MR. ROSENBAUM: Ms. Marco and myself, you mean?

21 JUDGE SMITH: Yes. And you are required to do  
22 that. You are required to make a good faith effort. You  
23 are not required to stipulate. You are required to make the  
24 effort. Similarly, you put 30 days in the Summary  
25 Disposition aspect of it rather than 20, and I do get the

1 impression that this is a rather leisurely schedule too.

2 MS. MARCO: That's for the same reason.

3 JUDGE SMITH: You wanted that. All right.

4 MS. MARCO: We could go faster but we decided on  
5 this jointly.

6 JUDGE SMITH: All right.

7 MR. ROSENBAUM: But I'd be pleased to accelerate  
8 it, your Honor. I am not very strong about maintaining the  
9 schedule that was submitted to you.

10 JUDGE SMITH: Normally we like to have proceedings  
11 move along at a pretty good pace. But in this case the  
12 staff is trying to get money from you, and if they are  
13 willing to allow you a relaxed period of time to make your  
14 case, and you want it, I don't see why we should interfere  
15 with it.

16 MR. ROSENBAUM: I do appreciate that.

17 JUDGE SMITH: I ask you, Mr. Rosenbaum, to be  
18 familiar with the discovery rules, and you had already  
19 indicated that you were aware of 2.720, the provisions for  
20 subpoena. As you begin discovery, it is the responsibility  
21 of the parties in discovery -- and this is for Mr.  
22 Rosenbaum's benefit -- to not only get information, gather  
23 information, but also to reveal information about the theory  
24 of your case.

25 So, for example, if the NRC staff should ask you a

1 question about your case, about what you believe or about  
2 what the facts are in your view, you should not respond,  
3 well, you already have that information, if the purpose of  
4 the inquiry is to find out what you believe the facts are.  
5 Do you understand that, Sir?

6 MR. ROSENBAUM: I'm afraid I don't, your Honor.

7 JUDGE SMITH: All right. Well, very often I see  
8 in NRC proceedings somebody representing themselves often  
9 who will respond to a staff interrogatory by saying, well,  
10 you already have this information, don't bother me. When  
11 the real purpose of the interrogatory is not to gather  
12 information but to find what the adversary's position on  
13 that issue is.

14 MR. ROSENBAUM: I see.

15 JUDGE SMITH: And you will be required to reveal  
16 your position on the issues, factual issues.

17 MR. ROSENBAUM: Okay.

18 JUDGE SMITH: So that response that they already  
19 know may be appropriate, if in fact they do already know a  
20 discrete fact. But you should read interrogatories or other  
21 inquiries in the light of the fact that they often want to  
22 know what your views of the facts and the circumstances are.

23 MR. ROSENBAUM: I understand. Thank you very  
24 much.

25 JUDGE SMITH: I suppose by now you are aware that

1 2.720 makes it -- you have a special burden in justifying  
2 subpoenas for NRC staff witnesses?

3 MR. ROSENBAUM: Understood.

4 JUDGE SMITH: And it names commissioners there in  
5 particular. So if it is your intention to subpoena people  
6 by name, you will have to meet that requirement.

7 MR. ROSENBAUM: That's 2.720?

8 JUDGE SMITH: That's right. To be more  
9 particular, it's --

10 MR. ROSENBAUM: "H one?"

11 JUDGE SMITH: It's got a lot of "h's" and "ones"  
12 and so forth in it. It's 2.720 (h) (2) and lower roman  
13 numeral one. And it says, "Attendance and testimony of the  
14 commissioners and named NRC personnel at a hearing or on  
15 deposition may not be required by the presiding officer" --  
16 that's us -- "by subpoena or otherwise. Provided that the  
17 presiding officer may upon a showing of exceptional  
18 circumstances, such as a case in which a particular named  
19 NRC employee has direct personal knowledge of a material  
20 fact not known to the witnesses made available by the  
21 executive director for Operations, require the attendance  
22 and testimony of named NRC personnel." And so if you wish  
23 to subpoena named NRC people, you have to justify that.

24 MR. ROSENBAUM: That's reasonable.

25 JUDGE SMITH: Normally discovery against a staff

1 is on a somewhat different basis than discovery against  
2 other parties to an adjudication or a proceeding, because a  
3 staff is under a continuing responsibility to reveal their  
4 business and their information without it being demanded.

5 MR. ROSENBAUM: How is the information made  
6 available to me?

7 JUDGE SMITH: Well, I think that you should, right  
8 off the bat, just tell them what you want, and they will  
9 doubtlessly give it to you without going through formal  
10 discovery. They have in the past. And then if they don't  
11 give it to you voluntarily, you can ask the Board to enforce  
12 compulsory discovery measures.

13 MR. ROSENBAUM: That's reasonable.

14 JUDGE SMITH: The staff has traditionally, and  
15 these lawyers involved today, are not people who would try  
16 to sand bag you, or withhold information. I'm sure that  
17 they will be quite free in providing the information you  
18 need. I have nothing further. Do you have any questions,  
19 Mr. Rosenbaum?

20 MR. ROSENBAUM: My mind is going round, and round,  
21 and round. I don't have any clear thoughts or any clear  
22 questions to ask. Thank you.

23 JUDGE SMITH: Discovery is a complicated matter.  
24 And when you make formal discovery requests, I urge you to  
25 very, very carefully study those discovery rules. It will

1 save you a lot of effort and anguish, if you do that.

2 MR. ROSENBAUM: I appreciate your comments, Sir.

3 JUDGE SMITH: Do you have anything further, Ms.

4 Marco?

5 MS. MARCO: No, I don't.

6 JUDGE SMITH: All right. If there is nothing  
7 further, we'll adjourn. And thank you for joining us.

8 MR. ROSENBAUM: Thank you, your Honor.

9 MS. MARCO: Thank you.

10 (Whereupon, at 2:40 p.m., the prehearing  
11 conference was concluded.)

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REPORTER'S CERTIFICATE

This is to certify that the attached proceedings  
before the United States Nuclear Regulatory  
Commission  
in the matter of:

NAME OF PROCEEDING: Cameo Diagnostic Centre

DOCKET NUMBER: 30-29567-CivP

PLACE OF PROCEEDING: Bethesda, MD

were held as herein appears, and that this is the  
original transcript thereof for the file of the  
United States Nuclear Regulatory Commission taken  
by me and thereafter reduced to typewriting by me  
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accurate record of the foregoing proceedings.

*Marjorie Reese*  
\_\_\_\_\_  
Official Reporter  
Ann Riley & Associates, Ltd.