

Circuit Court for Baltimore County  
Case No. C-03-CV-22-003258

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 1564

September Term, 2024

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IN THE MATTER OF CONSUMER  
PROTECTION DIVISION

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Graeff,  
Zic,  
Wright, Alexander, Jr.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Graeff, J.

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Filed: April 29, 2026

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Md. Rule 1-104(a)(2)(B).

This appeal arises out of a petition to enforce an administrative subpoena issued by the Consumer Protection Division of the Office of the Maryland Attorney General (the “Division”) to Antwerpen Nissan, Inc. (“Antwerpen”). Antwerpen is a car dealership that offers and sells automobiles to Maryland consumers.

After receiving the subpoena from the Division, Antwerpen produced large quantities of documents and offered to give the Division physical and electronic access to its files. The Division, however, believed that Antwerpen’s production was deficient and filed a petition to enforce the subpoena in the Circuit Court for Baltimore County. After a hearing, the court found that Antwerpen had satisfied and complied with the subpoena. It denied the Division’s petition to enforce the subpoena.

On appeal, the Division presents the following question for this Court’s review, which we rephrase slightly as follows:<sup>1</sup>

1. Did the circuit court err in finding that the requested documents had been produced?
2. Did the circuit court abuse its discretion in failing to enforce the Division’s subpoena?

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<sup>1</sup> The Division posed the following questions:

1. Did the circuit court commit clear factual error when it found that the requested documents had been produced when, in fact, they had not?
2. Did the circuit court abuse its discretion in failing to enforce the Division’s subpoena when the undisputed evidence reflected that any burden in producing the requested documents was of Antwerpen’s own making?

For the reasons set forth below, we shall affirm the judgment of the circuit court.

## **FACTUAL AND PROCEDURAL BACKGROUND**

### **I.**

#### **Subpoena**

The Division believed that Antwerpen was violating the Consumer Protection Act by advertising vehicles using the manufacturer suggested retail price (“MSRP”), and then charging consumers additional fees when they arrived at the dealership. On February 17, 2022, the Division issued an administrative subpoena on Antwerpen, requesting 18 categories of items.<sup>2</sup> The subpoena was broad, but on appeal, the Division has narrowed

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<sup>2</sup> The subpoena requested the following items: (1) documents related to legal identity and organization; (2) documents related to prior trade names; (3) documents showing other businesses that Antwerpen had an ownership interest in; (4) documents showing each person or entity that held an ownership interest in Antwerpen; (5) documents related to current and former owners, directors, and officers; (6) documents related to the employment of individuals who managed or participated in the sale and pricing of vehicles; (7) documents sufficient to identify every charge or fee consumers paid to purchase a vehicle since January 1, 2019; (8) all window stickers, price listings, web pages, and other documents that itemized the purchase price, accompanying fees, and other costs contained in any offer for sale of a vehicle purchased since January 1, 2019; (9) all advertisements, web pages, marketing materials and other documents used to offer or describe vehicles sold since January 1, 2019; (10) sales information for all vehicles sold to a consumer since January 1, 2019; (11) for each vehicle identified in response to Request No. 10, documents that identified and itemized every price, fee, tax, and other charge the consumer paid; (12) documents related to Antwerpen’s purchase and sale of inventory since January 2019; (13) all contracts Antwerpen required consumers to sign when purchasing a vehicle; (14) manuals, training materials, guidelines, policies, memoranda, and other documents that relate to Antwerpen’s policies, practices, or procedures regarding the pricing of vehicles; (15) all email correspondence concerning imposition of fees collected from consumers who

the scope of documents it seeks to enforce to advertising and pricing documents. These documents were sought under request numbers 8 and 9 of the subpoena, which requested:

8. All window stickers, price listings, web pages, and other documents that itemized the purchase price, accompanying fees, and/or other costs contained in any offer for sale of a vehicle purchased by a consumer since January 1, 2019. If the responsive documents include any vehicle identification number (VIN) and/or product, stock or other number used by you to identify the vehicle, please include this information with the produced documents.
9. All advertisements, web pages, marketing materials and other documents used to offer and/or describe each [vehicle] you have sold since January 1, 2019, including for every vehicle all charges, fees and/or other pricing elements for the vehicle. If responsive documents include any vehicle identification number (VIN) and/or product, stock or other number used by you to identify the vehicle, please include this information with the produced documents.

The Division asserts, and Antwerpen does not dispute, that the advertising and pricing documents sought under requests number 8 and 9 can be broken down into three types of documents that Antwerpen used to advertise the price of its vehicles. These documents include: (1) scanned copies of advertisements for individual vehicles which appeared on Antwerpen's website;<sup>3</sup> (2) scanned copies of the Monroney stickers applied

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purchased vehicles since January 1, 2019; (16) all documents relating to consumer complaints against Antwerpen; (17) all documents that relate to any lawsuits filed against Antwerpen; (18) all documents relating to any investigation of Antwerpen by a judicial, administrative, government, or law enforcement agency.

<sup>3</sup> Antwerpen did not save copies of its advertisements before being served with the subpoena. After it received the subpoena, it began to save digital copies of the advertisements as they appeared on Antwerpen's website.

to the window of each vehicle that showed its advertised price;<sup>4</sup> and (3) addendum stickers that Antwerpen applied to vehicles on the lot, which show the full price that the dealership was charging for the vehicle, along with an itemization of each additional charge over the MSRP.

In a letter dated April 15, 2022, counsel for Antwerpen responded to the subpoena. Counsel provided some information and documents, objected to some requests as not relevant, and stated that it had no documents responsive to some requests. With respect to Request No. 8, counsel responded as follows: “Antwerpen knows of no documents either in its possession or accessible from other sources other than the historical data attached.”<sup>5</sup> With respect to Request No 9. Counsel stated: “Antwerpen has no web pages, marketing materials, etc... for vehicles that have been sold or in any other way removed from active inventory. Antwerpen is told by its third-party vendors and advertising director that when a vehicle is sold and removed from inventory all history is deleted from the website.”

The record indicates that, after Antwerpen’s initial response, it provided several supplemental responses in 2022. The record, however, does not reflect what Antwerpen produced in each of those supplements.

On August 3, 2022, the Division wrote a letter to Antwerpen identifying several deficiencies with its supplemental responses. With respect to Request Nos. 8 and 9, which

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<sup>4</sup> Federal law requires that the vehicle manufacturer affix a window sticker to each new vehicle before it arrives at the dealership. 15 U.S.C.A. § 1232. Among other things, the Monroney label must list the MSRP.

<sup>5</sup> It is not clear from the record what documents were provided.

sought documents itemizing the purchase price and fees, as well as vehicle advertisements, the Division stated:

Request Nos. 8 and 9 of the Subpoena sought all advertising, window stickers, and price listing documents from January 1, 2019 onwards. Antwerpen's response to these Requests was generally that there are no responsive documents held by Antwerpen, other than the historical price list data provided, and any "advertising website pricing information" or "marketing materials" are the responsibility of third-party vendors and were deleted following the sale of advertised vehicles. Thus far, Antwerpen has provided historical price data for transactions since January 15, 2021 and some copies of vehicle stickers and website printouts from May 2022 onward. Please be advised we have never agreed to limit either of these requests beyond the January 1, 2019 date provided in the Subpoena. Accordingly, please update the data previously produced so that it includes the entire time frame required by the Subpoena.

Additionally, during our June 9th meeting, after Antwerpen stated that it does not have access to advertisements and website pricing once a vehicle is sold and no longer in its inventory, we requested it produce data reflecting and itemizing the manufacturer's suggested retail prices ("MSRP") that it advertised for its vehicles. To date, Antwerpen has not produced its itemized MSRP data. Please provide itemized MSRP data.

Finally, please provide us with the names and contact information of the third-party vendors that Antwerpen has stated are responsible for its "advertising website pricing information" and "marketing materials."

On August 15, 2022, Antwerpen provided another supplemental response. The record does not include this response, but Antwerpen stated in its November 13, 2022 pleading, that in addition to providing the Division with requested documents, it invited the Division to come to its premises to review and copy any files it deemed appropriate,

and offered to have its IT Specialist meet with the Division to discuss electronic document production.

## II.

### **Petition to Enforce Subpoena**

On August 17, 2022, the Division filed a petition to enforce the administrative subpoena, arguing that Antwerpen had “produced some documents in response to the Division’s Subpoena,” but there were deficiencies in its production. The Division argued that Antwerpen had “refused to produce even a small sampling of its sales documents.”

With respect to the advertising and MSRP data, the Division argued that Antwerpen had indicated that it was unable to provide “all but its most recent advertisements that reflected the advertised prices of its vehicles.” In light of Antwerpen’s practice of advertising the price of its vehicles by MSRP, the Division indicated that it was willing to accept data reflecting the MSRP that was advertised and any data itemizing the MSRP’s price components in lieu of the requested advertisements. The Division argued that this data would help it determine if Antwerpen failed to properly advertise fees it ultimately charged to consumers, or if it charged excessive “Destination Charges.”

The Division stated that Antwerpen had refused to produce electronic data or documents reflecting the MSRP it advertised, and the price components included in the MSRP. Instead, the Division argued, Antwerpen produced “20 examples of window stickers,” which represent a small number of Antwerpen’s total sales, and did not itemize the price components of the MSRP. The Division noted that Antwerpen produced a table

of data created by its attorneys, but that table did not break down the price components of what was included by the MSRP.

Regarding Antwerpen's sales records, the Division argued that it needed Antwerpen's sales contracts because they would reflect the fees that Antwerpen charged consumers. To reduce Antwerpen's burden, the Division limited its production request to the records Antwerpen was maintaining in its three dealerships for a total of 21 transactions identified by the Division. The Division stated that Antwerpen "refused to produce these records." The Division requested that the court order Antwerpen to "provide a prompt and complete response to the Division's Administrative Subpoena."

On September 12, 2022, the Division requested that Antwerpen produce emails using the following terms: "advert\*" w/ 5 of "fee" or price"; "pandemic" w/ 5 "fee" or price"; "covid" w/5 "fee" or price"; "premium" w/ 5 "fee" or price"; "inventory" w/5 "fee" or price"; "ma\* adjustment" w/5 "fee" or price." On November 11, 2022, Antwerpen's counsel sent the Division the results of the email searches. Counsel informed the Division that it had requested its third-party email server provider to perform the search, which produced more than 53,000 emails. Counsel stated that the terms "seem to be over broad and unduly burdensome," and he renewed his invitation to the Division to come to Antwerpen's premises to inspect deal files if it wished. Counsel stated that he believed Antwerpen had fully answered the subpoena and requested that the Division specify any items it believed that Antwerpen had not produced.

On November 13, 2022, Antwerpen filed a response in opposition to the Division's petition to enforce the subpoena. Antwerpen argued that it had filed multiple responses to the subpoena based on its desire to cooperate in the Division's investigation. It had provided all information requested by the subpoena and the Division had refused to specifically identify what, if any, deficiencies were alleged. Antwerpen asked that the petition to enforce be dismissed.

On February 9, 2023, Antwerpen's counsel emailed the Division a list of websites that could be used to find Maroney labels. Counsel for the Division responded that one of the websites did not cover Nissans and the other websites required each sticker to be purchased individually or in bulk. The Division stated that this was not acceptable and Antwerpen needed to provide the Division with information concerning how it priced its vehicles.

In a letter dated September 20, 2023, Antwerpen's counsel responded to a letter the Division sent on September 6, 2023, which counsel believed contained inaccurate statements. Counsel noted that Antwerpen's IT Director, Ronald Doherty, had been deposed, and after that, Antwerpen voluntarily produced Mr. Doherty again to help the Division understand "the manner in which [Antwerpen's] document management system ("DMS") records and organizes data." At some point during the call with Mr. Doherty, counsel for the Division dropped off, "presumably for technical reasons, and never bothered to rejoin." Counsel noted that Antwerpen had continuously offered the Division the opportunity to examine any record, including electronic records, kept in the normal

course of business at its facility. The Division had refused to do so until that month, when it stated that Antwerpen could produce the records to the Division, for the Division to “copy the buyer’s orders and return the files.” Because those “files [were] numbered in the thousands and [were] stored in many boxes,” counsel could not understand the demand to ship the boxes to the Division rather than the Division investigators going to the storage facility to “tag the documents requested for copying.” Counsel stated that Antwerpen again offered “full access to the files [the Division] . . . requested in a cost and time effective manner.” He stated that all data requested in the subpoena had been supplied and counsel’s objections to the contrary indicated the “failure to understand excel spreadsheets and documents already provided, and the practical workings of a car dealership and its DMS.”

With respect to the Monroney stickers prior to June 2022, counsel stated:

For at least the 4th or 5th time, Antwerpen did not keep Monroney stickers prior to June of 2022. As you know, federal law requires that the vehicle be delivered **with** the Monroney. We have supplied you with 3rd party websites where we have been successful, in the past, to find certain Monroney stickers. You have indicated that that does not work for you. We cannot produce that which we do not have. Your allegation that my client “also has the ability to download the Monroney labels for the vehicles it has sold through subscription services that it has already paid for” is simply wrong.

On November 15, 2023, the Division conducted an examination under oath of Timothy Roussell, Antwerpen’s former Chief Operating Officer. Mr. Roussell testified that the sales price of a car can fluctuate for many reasons, including equipment add-ons requested by the customer, or additional taxes or titling fees if the customer lives in a

different state. He explained that the buyer's order, which Antwerpen electronically filed, would contain everything that the customer added to the deal.

On January 18, 2024, the Division conducted an examination under oath of Mr. Doherty. Mr. Doherty explained that, if the Division wanted to see premiums or discounts charged on an individual sale, it would need to review the buyer's order for that particular deal.

On March 14, 2024, the Division filed a motion for summary judgment, arguing that Antwerpen was refusing to produce (1) the Monroney labels, addendum, and the advertisements where it listed the prices of its vehicles; (2) Buyers Orders, which by law are required to fully and accurately itemize the prices consumers ultimately paid for their vehicles; and (3) its internal email discussions concerning Antwerpen's price advertising policies and practices.

In a March 14, 2024, supplemental response to the subpoena, Antwerpen stated that its third-party vendors informed them that "advertising website pricing information that is directly associated with Antwerpen is removed and not accessible once the vehicle is sold and no longer in inventory." Antwerpen further stated that they had established a procedure aimed at capturing the last information posted on the dealership website before a sale is finalized.

On April 8, 2024, Antwerpen filed an opposition to the Division's motion for summary judgment. Antwerpen argued that there were genuine disputes of material fact on the issue of whether Antwerpen had fully complied with the subpoena. As for the

Monroney labels, Antwerpen argued that it did not preserve any Monroney labels, nor was it required to do so, before the Division served the subpoena. Those stickers left with the purchaser of the vehicle. Antwerpen also argued that it had told the Division on numerous occasions that it did not maintain copies of advertisements or addendum stickers after the sale of a vehicle. It stated that it began electronically capturing those documents after the subpoena was served and that it had provided those documents to the Division. Antwerpen stated that it had invited the Division to come to its record room and search, review, and copy any document it deemed relevant to the investigation. It noted that the Division had refused to do so.

In regard to the Buyers Orders, Antwerpen argued that it never refused to produce the Buyers Orders or any other document in the deal file that the Division had requested. Antwerpen also noted that Mr. Doherty had been produced under subpoena for two separate Examinations Under Oath, and he voluntarily spoke to the Division on several occasions in an effort to explain to the Division how Antwerpen's electronic records were stored.

On May 29, 2024, the circuit court held a hearing on the Division's Motion for Summary Judgment. It denied the motion.

### **III.**

#### **Evidentiary Hearing**

On August 27, 2024, the court held an evidentiary hearing. Both attorneys gave opening statements.

Counsel for the Division stated that, “at one point Antwerpen was willing to give [the Division] all the information but they wanted the agency to download electronic data and we just weren’t able to do that.” At the time of the hearing, the Division had limited the documents it was requesting to be produced.

Counsel for Antwerpen stated that Antwerpen had not refused to give the information requested; it had given the Division an open invitation to come to its filing room, look at whatever they wanted in the almost 9,000 files, and get documents copied. When the Division refused multiple times, Antwerpen had Mr. Doherty give the Division a virtual private network (“VPN”) to review their files electronically. The Division had taken the position that, regardless of the number of files and work required, Antwerpen had to copy each document the Division wanted and give a physical copy to the Division. Antwerpen’s position was that it did not need to copy each document it produced, and that it had “produced every single thing the Division [had] asked for.” It was producing the records in the manner that they were kept.

Counsel for the Division stated that the VPN did not work because there was a problem with security. Counsel stated that Antwerpen did not give any advertisements prior to April of 2022 because they did not save advertisements prior to receiving the subpoena. Antwerpen did begin saving advertisements after it received the subpoena. If the records showed the fees added, Antwerpen could calculate it and give it to the Division.

Counsel for Antwerpen then stated again that it had produced what the Division had requested. With respect to the deal files, it had told the Division that there had to be an

easier way than sending all the boxes. The Division requested a sampling based on VIN numbers, which Antwerpen supplied. The Division then requested other files, and Antwerpen complied with that request. There was no refusal to produce everything, and they repeatedly invited the Division to come look at the files as they were kept in the ordinary course of business, but the Division declined. Antwerpen then gave the Division the information electronically through 8,000 pages of Excel spreadsheets, which, included all numbers from the buyers order. Antwerpen then set up a VPN for the Division to search the files electronically. The Division said that it did not work due to security protocols, and Antwerpen said that it was willing to find a workaround. Counsel then reached out to the Division to try to resolve things, but the Division did not respond. Counsel stated that there were reasonable ways to get the documents, but the Division rejected those reasonable ways and would not cooperate. The Division would not accept electronic production. Antwerpen never refused to give the Division anything, but the Division do not get to pick the most burdensome way to produce the documents.

Counsel for the Division then said that, if Antwerpen would deliver the physical files, they would take them. Counsel for Antwerpen said the physical files did not have all the documents, but he would send hard drives with all the web scans. Counsel for the Division said that it would accept the buyer's orders and scanned ads electronically. Counsel for Antwerpen said he would give the Division the entire file in electronic format. The Division, however, stated that it wanted an order saying that it was entitled to the buyer's orders, the window stickers, and the scanned advertisements, and it was

Antwerpen's obligation to produce the documents; it was not the Division's obligation to find the information.

**A.**

**Kimoya Henry**

Kimoya Henry, an investigator with the Division, worked on the investigation into Antwerpen.<sup>6</sup> Ms. Henry reviewed 138 pages of documents, which included web captures, Monroney labels, and addendum stickers for vehicle sales. Antwerpen had provided a "complete set" of documents, which included the web captures, Monroney labels, and addendum stickers for a total of 31 vehicle sales. Ms. Henry testified that she was never asked to go to Antwerpen to look at any files. The Division stipulated that it had refused to go to Antwerpen's office to review documents in person.

Ms. Henry testified that she was present for a meeting between Antwerpen's IT staff and the Division, during which Antwerpen created a virtual private network ("VPN") and trained the Division on how to use it to remotely access Antwerpen's electronic files. The Division was not able to access Antwerpen's files electronically at that time, however, because the VPN link did not work during the meeting. Ms. Henry did not know if the Division subsequently was able to log in to the VPN.

During the VPN meeting using Antwerpen's computers, Antwerpen showed the Division that each of the documents that the Division wanted, the buyer's order, the web capture, the addendum sticker, and the car sticker, were all scanned and separately

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<sup>6</sup> The transcripts incorrectly list Ms. Henry's first name as "Kamayla."

maintained. These files could be searched using the customer's last name and the deal number. Each of Antwerpen's dealerships, however, labeled the individual documents differently, so there was no uniform system for how the documents were labeled.

**B.**

**Ronald Doherty**

Mr. Doherty testified that he was employed by Antwerpen as its Director of IT, and he participated in producing documents in response to the Division's subpoena. To help respond to the subpoena, Mr. Doherty used the dealership's document management system, Reynolds and Reynolds, to begin pulling any information related to a vehicle sale and inputting it into a spreadsheet. Initially, he pulled one year's worth of data from one of Antwerpen's dealerships to ensure that it was the type of data that the Division wanted. Mr. Doherty used the search terms provided by the Division and set the spreadsheet up so that it broke down all the individual fields from the document management system into columns. The Division, however, requested additional fields, as well as calculations. Mr. Doherty explained that the calculations were information that Antwerpen did not track on their own but could derive by using the data from two or more fields. He subsequently added the additional fields and calculations that the Division requested and provided the Division with an electronic copy of the spreadsheet.

In July 2023, Mr. Doherty participated in another supplemental production. At the Division's direction, Mr. Doherty deleted the spreadsheet columns concerning data that the

Division did not need, and he added a legend instructing the Division how to use the spreadsheet and the data that it contained.

Mr. Doherty testified that he participated in two examinations under oath, and he also appeared at the request of Antwerpen's counsel voluntarily via the phone "on a number of other occasions" to help the Division navigate the spreadsheet and other data Antwerpen had produced. He testified that he did not at any time hold any information back from the Division. He explained that every field that showed up on the buyer's order was represented in the spreadsheet and was provided to the Division. This included taxes, tags, costs, vehicle trade-in value or cost, and aftermarket additions.

Mr. Doherty testified that Antwerpen had fully complied with Requests 6, 7, 8, and 10 from the subpoena, which related to the sale and pricing of vehicles. He testified that a Monroney sticker, "the birth certificate" of the car, is attached to each vehicle as it leaves the factory. Prior to April 2022, Antwerpen did not save the Monroney stickers because the vehicles arrived at the dealership with the sticker already attached, and that same sticker left with the purchaser on the date of purchase. The dealer was not allowed to take the sticker off the window.

Mr. Doherty acknowledged that Antwerpen had not completed Request 9, which dealt with advertisements, noting that, prior to the receipt of the subpoena, Antwerpen did not keep a record of its advertisements. After Antwerpen received the subpoena, they began to take web captures of their advertisements, supplemental stickers, and Monroney labels, and they added them to the electronic deal jacket for each deal.

Mr. Doherty testified that Antwerpen offered the Division access to their facilities and computer systems so that the Division could physically come to the Antwerpen's offices and access all the information it needed. The Division did not agree to this, so Antwerpen instead offered to provide the Division with a VPN so that they could search Antwerpen's files remotely "at their own leisure."

Mr. Doherty and David Neil Phillips, another IT professional employed by Antwerpen, created a VPN that would give the Division remote access to all Antwerpen's files. Mr. Phillips created user credentials for the Division and tested them before providing them to the Division. Antwerpen experienced no technical difficulties in logging in and accessing stored files during the test, but during the meeting, the Division was not able to connect to the VPN. The Division made no subsequent requests or attempts to solve the VPN network issue.

Mr. Doherty testified that the web captures, the Monronev stickers, the supplemental window stickers, the advertisements, and all the content of the deal files were available electronically, and it was possible for the Division to obtain and download any information they needed. Accessing the documents through the VPN was the most efficient method to obtain the documents because it would allow the Division to download the individual documents it needed instead of the entire deal file, which would reduce production of unnecessary documents. A bulk download, i.e., a download of all the files from a specific time period, would have been more efficient than a physical transfer of documents, although the electronic download would still be cumbersome and inefficient

because Antwerpen could not download all the files at once and would have to conduct many smaller downloads. A bulk download also would not allow for filtering out unwanted information, but it would capture documents from every transaction, and the system would automatically name each document using the customer number.

Mr. Doherty testified that, the Division could have obtained all the information it was seeking by reviewing the buyer's order, supplemental stickers, Monroney labels, and web capture advertisements for each deal. Finding these documents in Antwerpen's physical files would have been extremely time consuming. Although the Division needed only four documents from each deal, each deal file contained approximately 80 documents. A further complication to a physical document search was that Antwerpen organized all its deal files from all of its stores in alphabetical order by customer name. Therefore, it would be difficult to identify deals that took place during the time frame at the two locations that the Division was investigating. Once those deals were identified, there would be additional issues because Antwerpen often stapled many documents together. Finding the four needed documents in each deal file would require Antwerpen to first find the correct deals, then sift through each file, remove staples from the documents, and make copies.

The electronic versions of the deal files, however, are searchable by deal number. A user could download any of the individual documents in the electronic deal file and save them as a PDF. Downloading the needed documents from a deal file would take approximately four minutes per deal, which would still be burdensome to Antwerpen because the Department's investigation covered approximately 9,000 deals. For

Antwerpen to download everything requested by the Division, it would take approximately 600 hours of labor to produce. Antwerpen did not have the staff needed to handle this workload.<sup>7</sup>

In closing argument, counsel for the Division stated that he was willing to work with Antwerpen on getting data electronically for the 9,000 cars sold, with calculations. The Division stated that, if Antwerpen could produce the data electronically, along with calculations, it would accept that production. The Division wanted “a spreadsheet that just shows the premiums that were charged, and we want the scans of the car stickers and the website.”

Counsel for Antwerpen reiterated that it had not refused to produce the documents and offered to let the Division copy anything it wanted. Antwerpen had produced the information requested, but it was not required to “do the math.” The Division only had the right to ask Antwerpen to produce documents the way it kept them “normally in business.” Antwerpen had been willing, but the Division always said no, so counsel asked the court to find that Antwerpen did supply the information requested.

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<sup>7</sup> The Division stated that it was not asking Antwerpen to spend hundreds of hours “going through a room full of paper,” rather it was asking what it would take for Antwerpen to provide the Division with electronically scanned copies.

#### IV.

#### **The Court's Ruling**

On August 28, 2024, the court issued a ruling finding that Antwerpen had “satisfied and complied with the subpoena,” and therefore, it denied the Division’s petition to enforce the subpoena. The court stated that it found the witnesses credible and had no reason to question their testimony. It noted that Mr. Doherty testified that “all requested documents and information requested within the subpoena were previously provided to the [Division],” and Antwerpen had made multiple offers to have the Division come to Antwerpen to “view, download and otherwise retrieve the requested information.” The court found that Antwerpen provided thousands of documents, records, and spreadsheets. Antwerpen had “offered and/or performed” other methods of document exchange, including setting up a VPN, but these were “not to the satisfaction of the [Division].”

On September 5, 2024, the Division filed a motion for reconsideration, arguing that Antwerpen had “not produced one category of information sought by the Division that [was] essential to its investigation,” i.e., “the scanned web advertisements offering vehicles for sale and stickers that it placed on its cars for sale.” It argued that, if the court found that the Division’s requested production was too burdensome, the remedy was “not to strike the request, but rather to narrow the request to address the alleged burden of production while ensuring that the agency can receive information important to its investigation.” The Division asserted that requiring Antwerpen to produce the web advertising and car window

stickers that it scanned in response to the subpoena “is essential to the Division’s investigation” and could be produced by Antwerpen without undue burden.

In response, Antwerpen stated that it had complied with the subpoena in a number of ways, including “affording the Division total and unrestricted access, both electronically and in hardcopy to all documents which referred or related to the Subpoena in their native state as kept in the ordinary course of business.” Antwerpen stated that, “[b]ecause the Division has raised no new argument and because this Court thoroughly examined and considered the testimony, documents, and all arguments of the Parties, both written and oral, there exists no basis or reason for the Court to change its ruling.”

On September 30, 2024, the court denied the motion for reconsideration. This appeal followed.

## DISCUSSION

### I.

#### Standard of Review

This Court reviews a circuit court’s decision on a petition to enforce an administrative agency subpoena for an abuse of discretion. *Morrill v. Md. Bd. of Physicians*, 243 Md. App. 640, 648 (2019), *cert. denied*, 467 Md. 705 (2020). The court “abuses its discretion when ‘no reasonable person would take the view adopted by the trial court,’ or when the ruling is ‘clearly against the logic and effect of facts and inferences before the court.’” *Lewis v. State*, 263 Md. App. 631, 664 (2024) (quoting *Prince v. State*, 255 Md. App. 640, 652 (2022)).

With respect to a circuit court’s findings of fact, we defer to such findings unless they are clearly erroneous. *City of Brunswick v. Handler*, 269 Md. App. 65, 68 (2026). “[U]nder the clearly erroneous standard, this Court does not sit as a second trial court, reviewing all the facts to determine whether an appellant has proven his case.” *Thomas v. Capital Med. Mgmt. Assocs., LLC*, 189 Md. App. 439, 453 (2009) (quoting *Goss v. C.A.N. Wildlife Trust, Inc.*, 157 Md. App. 447, 453 (2004)). Rather, we are limited to deciding “whether the circuit court’s factual findings were supported by ‘substantial evidence’ in the record.” *Id.* (quoting *Liberty Mut. Ins. Co. v. Md. Auto Ins. Found.*, 154 Md. App. 604, 609 (2004)). A circuit court’s findings are generally not clearly erroneous “if there is competent or material evidence in the record to support the court’s conclusion.” *Gizzo v. Gerstman*, 245 Md. App. 168, 200 (2020) (quoting *Azizova v. Suleymanov*, 243 Md. App. 340, 372 (2019)).

## II.

### Analysis

The Division contends that the circuit court erred “and abused its discretion in refusing to order Antwerpen to produce its advertising and pricing documents.” It asserts that the court erred in finding as a factual matter that Antwerpen had provided all

documents and information requested, stating that “the Division has *not* been provided these documents.”<sup>8</sup>

In support of its factual findings that Antwerpen had “satisfied and complied with the subpoena,” the court noted that it found Mr. Doherty’s testimony credible. With respect to his testimony, the court stated:

“[Mr. Doherty] testified that all requested documents and information requested within the subpoena were previously provided to the [Division]. Multiple offers to have members of the [Division] come to Antwerpen, view, download and otherwise retrieve the requested information have been made. Thousands of documents, records, and spreadsheets have been provided. Other methods of document exchange, including setting up VPN’s . . . were offered and/or performed, however, not to the satisfaction of the [Division].

Based on the factual record here, we cannot conclude that the circuit court was clearly erroneous in its factual finding that Antwerpen had satisfied and complied with the subpoena. *See Patriot Constr., LLC v. VK Elec. Servs., LLC*, 257 Md. App. 245, 260 (2023) (“When a case has been tried without a jury, we . . . ‘give due regard to the trial court’s role as fact-finder and will not set aside factual findings unless they are clearly erroneous.’”) (quoting *Clickner v. Magothy River Ass’n*, 424 Md. 253, 266 (2012)). Mr.

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<sup>8</sup> The Division also contends that the circuit court erred in concluding that Antwerpen faced a substantial burden in complying with the subpoena. It argues that Antwerpen “made the deliberate choice to save [the advertising and pricing documents] in a manner that would be difficult to access.” The Division argues that, even if Antwerpen’s burden were a valid one, the circuit court was obligated to find a viable, less burdensome means for the Division to access the documents. The circuit court, however, did not deny the petition because the request was too burdensome. Rather, as explained, the court found that Antwerpen had “satisfied and complied with the subpoena.”

Doherty testified that Antwerpen created a spreadsheet using the dealership’s document management system to produce documents relating to fees and charges that Antwerpen had charged to consumers. Mr. Doherty testified that Antwerpen produced everything that the Division had requested and made two separate spreadsheets totaling approximately 8,700 pages worth of information. To help the Division understand and interpret the spreadsheets, Mr. Doherty created a legend for the spreadsheets and participated in informal phone calls with the division.

Moreover, Mr. Doherty created a VPN to allow the Division to remotely access all Antwerpen’s files. Antwerpen’s IT staff instructed the Division on how to access the VPN, and how it could be used to view and download the advertisement web captures, addendum stickers, and the Monroneys stickers, which Antwerpen had begun to save after receiving the subpoena.

In its reply brief on appeal, the Division stated that, had the VPN worked on the Division’s network, “the parties likely would not be here . . . before this [C]ourt.” The record, however, shows that when the Division was unable to access Antwerpen’s files through the VPN, it made no attempts to follow up with Antwerpen to see if there was a way to resolve the problem.

Based on this record, we cannot find clear error by the circuit court in its finding

that Antwerpen had satisfied and complied with the subpoena.<sup>9</sup> Accordingly, we conclude that the circuit court did not abuse its discretion in denying the petition to enforce the subpoena.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE COUNTY AFFIRMED.  
COSTS TO BE PAID BY APPELLANT.**

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<sup>9</sup> The Division states that Antwerpen’s offer to allow the Division to inspect its files either onsite or remotely through the VPN, which it characterizes as a “come-and-get-it-yourself” offer, did not equal legal compliance. The Division, however, provided no authority that supports this assertion. Accordingly, we will not address whether, in a properly presented case, that might be true. *See HNS Dev., LLC v. People’s Couns. for Balt. Cnty.*, 425 Md. 436, 458-59 (2012) (appellate courts may refuse to address issues that a party fails to support with case law, statutes, or constitutional authorities). We do note, however, that Maryland Rule 2-510(g)(1)(a) provides that, generally a person responding to a subpoena to produce documents, shall produce the documents as they are kept in the usual course of business or organize the documents to correspond with the categories in the subpoena. Electronically stored information shall be produced “in the form specified in the subpoena or, if a form is not specified, in the form in which the person ordinarily maintains it or in a form that is reasonably usable.” Rule 2-510(g)(1)(B).