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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
PROTECTIVE PARKING SERVICE)
CORPORATION d/b/a LINCOLN)
TOWING SERVICE,)
Respondent.) Docket No.
HEARING ON FITNESS TO HOLD A) 92 RTV-R Sub 17
COMMERCIAL VEHICLE RELOCATOR'S)
LICENSE PURSUANT TO SECTION)
401 OF THE ILLINOIS COMMERCIAL)
RELOCATION OF TRESPASSING)
VEHICLES LAW, 625 ILCS)
5/18A-401.)

Chicago, Illinois
January 16, 2018

Met, pursuant to notice, at 11:00 a.m.

BEFORE:
MS. LATRICE KIRKLAND-MONTAQUE,
Administrative Law Judge

SULLIVAN REPORTING COMPANY, by
Kristin C. Brajkovich, CSR
License No. 084-003810.

1 APPEARANCES:

2

3 ILLINOIS COMMERCE COMMISSION, by

4 MR. MARTIN BURZAWA

5 160 North LaSalle Street

6 Suite C-800

7 Chicago, IL 60601

8 (312) 814-1934

9 on behalf of ICC Staff;

10

11 PERL & GOODSYNDER, LTD., by

12 MR. ALLEN R. PERL

13 MR. VLAD V. CHIRICA

14 14 North Peoria Street

15 Chicago, IL 60607

16 (312) 243-4500

17 for Protective Parking.

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I N D E X

WITNESS	DX	CX	RDX	RCX
BRYAN STRAND				
By Mr. Perl		677		

E X H I B I T S

NUMBER	MARKED FOR ID	RECEIVED
Protective Parking Exhibit No. 3		726

1 JUDGE KIRKLAND-MONTAQUE: Okay. By the power
2 vested in me by the State of Illinois and the
3 Illinois Commerce Commission, I now call
4 Docket No. 92-RTV-R for hearing. This is in the
5 matter of Protective Parking Service Corporation
6 doing business as Lincoln Towing Service -- I'm
7 sorry. I have the wrong caption in front of me.
8 That is correct.

9 The correct name is Protective Parking
10 Service, and we are here on the hearing on fitness to
11 hold a commercial vehicle relocator's license
12 pursuant to Section 401 of the Illinois Commercial
13 Relocation of Trespassing Vehicles Law.

14 May I have appearances, please. Let's
15 start with Protective Parking.

16 MR. PERL: Thank you, your Honor. For the
17 record, my name is Allen Perl, P-e-r-l, from Perl &
18 Goodsnyder. Our address is 14 North Peoria Street,
19 Suite 2C, Chicago, Illinois 60607, telephone number
20 312-243-4500. I represent Protective Parking Service
21 Corporation doing business as Lincoln Towing Service.

22 MR. CHIRICA: Good morning, your Honor. My
23 name is Vlad Chirica. I'm also here from Perl &
24 Goodsnyder, and I represent Protective Parking

1 Corporation doing business as Lincoln Towing Service,
2 the respondent in this matter. Our address is
3 14 North Peoria Street, Suite 2C in Chicago, Illinois
4 60607, and our phone number is 312-243-4500.

5 JUDGE KIRKLAND-MONTAQUE: Thank you. Staff?

6 MR. BURZAWA: Good morning, your Honor. My
7 name is Martin Burzawa appearing on behalf of Staff
8 of the Illinois Commerce Commission. My address is
9 160 North LaSalle Street, Suite 800, Chicago,
10 Illinois 60601. My telephone number is 312-814-1934.

11 JUDGE KIRKLAND-MONTAQUE: Thank you. And I see
12 we have -- is the witness Officer Strand? So I'm
13 assuming you are going to cross-examine Officer
14 Strand at this time?

15 MR. PERL: Yes, your Honor.

16 JUDGE KIRKLAND-MONTAQUE: Why don't you take
17 the stand over here, Mr. Strand. For the record,
18 Mr. Strand, you were previously sworn in so remember
19 you are still under oath. Mr. Perl, I give you the
20 floor.

21 MR. PERL: Thank you, your Honor.

22 BRYAN STRAND,
23 called as a witness herein, having been first duly
24 sworn, was examined and testified as follows:

1 CROSS-EXAMINATION

2 BY MR. PERL:

3 Q For the record, Officer Strand, could you
4 state your name and spell your last name for the
5 court reporter?

6 A Yes. It's Bryan, with a Y, last name
7 Strand, S-t-r-a-n-d.

8 Q And you previously gave testimony in this
9 matter. Do you recall that?

10 A I do.

11 Q Did you do anything between then and now to
12 prepare for the cross-examination today?

13 A The only thing I did was look over
14 transcripts from the direct examination.

15 Q Other than your attorney -- Mr. Burzawa is
16 your attorney, correct?

17 A Correct.

18 Q Other than your attorney, did you speak to
19 anybody about your testimony today?

20 A No.

21 Q Did you review any documents before this
22 morning?

23 A No.

24 Q Where did you work prior to the Commerce

1 Commission, if you did?

2 A Sequentially from the beginning?

3 Q No. I mean after college.

4 A I worked for LaGrange Police Department.

5 Q As a police officer?

6 A Correct.

7 Q And how long did you hold that job?

8 A Approximately three years.

9 Q And how about after that?

10 A Then I went to law school.

11 Q And where did you go to law school?

12 A First I went to Gonzaga and then I

13 transferred to Marquette.

14 Q And you have got a law degree?

15 A I do.

16 Q And what did you do after that?

17 A I took a position with the Illinois

18 Commerce Commission Police Department.

19 Q When did you take that position?

20 A That was July of 2009.

21 Q And you have held that continuously until

22 today's date?

23 A I'm sorry. 2012. Yeah, July of 2012.

24 Q And you have been a police officer for the

1 Commerce Commission continuously since that date,
2 correct?

3 A Yes.

4 Q And what is your job title now?

5 A Police Officer II.

6 Q What was your job title -- we'll call it
7 the relevant time period. You understand the
8 relevant time period in this case is going to be
9 July 24, 2015, to March 23, 2016. You understand,
10 correct?

11 A Yes.

12 Q That is the time period -- when I ask you
13 questions, unless I specifically say otherwise, that
14 is the relevant time period that we are talking
15 about. Okay?

16 A Okay.

17 Q What was your job title during the relevant
18 time period?

19 A Police Officer I and maybe Police
20 Officer II in the end of that period, but I'm not
21 sure.

22 Q Okay. Describe for me your job duties
23 during the relevant time period.

24 A During the relevant time period, I did

1 various things. I enforced commercial
2 transportation, whether it was intrastate or
3 interstate. I investigated relocation towing
4 complaints, collateral recovery complaints. I
5 inspected warehouses, did general traffic patrol on
6 occasion.

7 Q So it's safe to say that during the
8 relevant time period you did more things other than
9 just policing relocation towing, correct?

10 A That's correct.

11 Q Do you know what percentage of your time
12 during the relevant time period you spent on
13 relocation versus anything else?

14 A It was about 50/50.

15 Q Was there any special training that was
16 required before you received your employment with the
17 Commerce Commission?

18 A Well, we all -- the three of us that I got
19 hired with, we all had a law enforcement certificate,
20 so that was the basic academy certificate. Then
21 there was five or six weeks of Commerce Commission
22 onboard training in Springfield.

23 Q And how many other police officers did the
24 Commerce Commission have during the relevant time

1 period?

2 A There has been a lot of retirements, so let
3 me see. I believe there was seven officers in the
4 north division and approximately two out of
5 Springfield so the south.

6 Q How many of those were involved in
7 relocation towing?

8 A When we started, there was two officers who
9 were doing relocation complaints, but we kind of took
10 over the responsibilities. So really there was two
11 of us because one of the officers got temporarily
12 assigned to be a boss at that time period. So it was
13 really only two, myself and Officer Geisbush, I
14 believe at the time.

15 Q And Officer Geisbush is still employed as a
16 police officer with the Commerce Commission, correct?

17 A Correct.

18 Q Who do you report to directly?

19 A Tim Sulikowski.

20 Q Is that Sergeant Sulikowski?

21 A Yes.

22 Q During the relevant time period how often
23 would you report to Sergeant Sulikowski? Was it
24 daily, weekly, just as needed?

1 A As needed.

2 Q There was not a set schedule that you
3 reported in at 9:00 o'clock or 10:30 or something
4 like that?

5 A No.

6 Q Has Sergeant Sulikowski always been your
7 superior?

8 A At first we had Chief Baner, and then when
9 he announced his retirement, it might have been 2013
10 or 2014, he was only there for a short time when I
11 was there, he appointed Sulikowski and Ryan Nance
12 down south to supervise during whatever period we
13 would be without a boss, and it has continued ever
14 since.

15 Q So during what we have called or defined as
16 the relevant time period, July 24, 2015, through
17 March 23, 2016, you reported to Sergeant Sulikowski,
18 correct?

19 A Correct.

20 Q You are a police officer with the Illinois
21 Commerce Commission, correct?

22 A Correct.

23 Q Tell me briefly what your duties are or
24 responsibilities as a police officer with the

1 Illinois Commerce Commission.

2 A Generally, we are enforcing relocation
3 towing. That is Chapter 18A. We do Chapter 18C,
4 which is your motor carrier enforcement. 18D, which
5 is safety towing, the Collateral Recovery Act, which
6 I can't remember offhand because it's 225 something,
7 and then warehousing.

8 Q During your course of policing paragraph or
9 Section 18A, do you ever issue citations or tickets?

10 A I do.

11 Q Do you ever open up investigations?

12 A During the relevant time period?

13 Q Yes.

14 A I don't believe that I opened up -- maybe
15 one or two during that time period.

16 Q And let's, for the Court, define what we
17 mean by that. Who is allowed or permitted to open up
18 an investigation within the Illinois Commerce
19 Commission?

20 A I mean, an officer can open it on their own
21 by requesting, I want to investigate this, but
22 generally most of the investigations come from
23 complainants.

24 Q And when you say it comes from the

1 complainant, you mean somebody who was relocated or
2 towed?

3 A Correct.

4 Q And then how would they get their complaint
5 to the Illinois Commerce Commission generally?

6 A Generally, they will fill out the complaint
7 form on the back of the invoice and mail it to our
8 office.

9 Q So the complaint form that the motorist or
10 consumer needs to fill out is right there on the back
11 of the invoice that they receive when they get their
12 car, correct?

13 A That's correct.

14 Q They don't have to go get a new form,
15 correct?

16 A No, unless they are not going to pick up
17 their car, which does occasionally happen.

18 Q Generally speaking, there's a complaint
19 form right on the back. It's pretty easy for
20 somebody who wants to complain to complain, correct?

21 A Correct.

22 Q There's no road blocks to it?

23 A No.

24 Q Is it more common for a complaint to come

1 through and be investigated with the Commerce
2 Commission that way than an officer deciding on their
3 own to investigate something?

4 A That would be more common.

5 Q During the relevant time period, do you
6 recall at any point in time ever opening an
7 investigation regarding Lincoln Towing without
8 something coming to you from the public or a
9 complaint?

10 A I believe we did a joint mission with CPD
11 during that time. I don't know if it was assigned a
12 specific case file number, like a number that we get
13 for complaints, but it was just an activity. We
14 don't really -- we don't have, like, a CAD system, so
15 if we are going out there to do something, we are not
16 going to be able to log it and say 17-000 is an event
17 number. But as far as opening up a case file number,
18 I don't believe that I did during that time period.

19 Q Just to clear up for the record. You did
20 not open up any investigations regarding Lincoln
21 Towing Services during the relevant time period?

22 A Yeah, in the more formal sense.

23 Q You didn't?

24 A That's correct.

1 Q Who decides what claims to investigate?
2 How does that -- take me through how somebody files a
3 complaint or sends that piece of paper in. Who
4 determines who to investigate it, how to investigate
5 it, and what is going to happen?

6 A Who it is going to get assigned to is
7 usually by one of our office administrative personnel
8 that will look for a general area that we are
9 familiar with and just kind of send it our way.

10 Q Who are those individuals, if you know?

11 A That is Kathy Wozniak.

12 Q Do you know how to spell Kathy's last name?

13 A W-o-z-n-i-a-k.

14 Q Is there anyone else?

15 A I don't think so.

16 Q How about Blanche?

17 A I don't believe that Blanche assigns any
18 cases.

19 Q Is that Blanche Weigand?

20 A Weigand.

21 Q And not that it's that important, but have
22 you ever received any complaints or investigative
23 files from Blanche?

24 A No. No, generally Kathy will log them in

1 and then they will just get divvied out.

2 Q And then what happens?

3 A Then we go through them.

4 Q Other than police officers with the
5 Commerce Commission, are there any other individuals
6 charged with investigating Commerce Commission
7 relocation towing?

8 A Yes.

9 Q Who are those individuals? What are they
10 called?

11 A During the --

12 Q During the relevant time period.

13 A Their title is investigator. We had three
14 of them at one point. I believe during the relevant
15 time period all three of them were probably there,
16 which is Kassal, Uti, and Carlson.

17 Q And Kassal is Scott Kassal?

18 A Scott Kassal, Jimmy Carlson, and Felix Uti.

19 Q And do you know whether or not there's a
20 distinction between the officers and the
21 investigators regarding if they are specifically
22 assigned to a certain relocater?

23 A The investigators were at one point when
24 there was multiple. Felix Uti, I believe, just did

1 Rendered cases, Jimmy Carlson did Lincoln cases, and
2 Scott Kassal did a bunch of smaller relocators. It
3 has changed, but that was during the time period.

4 Q And just for the record, when you say
5 "Rendered," you mean Rendered Services?

6 A Rendered Services Incorporated.

7 Q And they are also another relocator that is
8 governed by the Illinois Commerce Commission,
9 correct?

10 A That is correct.

11 Q At some point in time did Investigator
12 Carlson go on leave?

13 A Yes.

14 Q And do you know at that point in time what
15 happened with his cases or case files?

16 A They got reassigned to officers.

17 Q Did you get some of them?

18 A I got a bunch of them.

19 Q At that point in time, prior to
20 Investigator Carlson going on leave, were you
21 receiving any investigations for Lincoln Towing or
22 was it pretty much just Investigator Carlson?

23 A Just here and there, and the ones that I
24 received, it was an accusation that it was from a

1 public street or an administrative citation would not
2 be issued and it would be a traffic citation, a
3 Class C misdemeanor to the operator, and the
4 investigators were not sworn to investigate those or
5 enforce those.

6 Q Do you recall when Investigator Carlson
7 went on leave?

8 A Not permanently because he was in and out
9 several times during my tenure here. I can't recall
10 dates offhand.

11 Q But it is safe to say that while
12 Investigator Carlson was working full-time, he was
13 pretty much the only investigator or officer assigned
14 to Lincoln Towing, correct?

15 A Correct.

16 Q So it was not like the Commerce Commission
17 needed four or five different officers or
18 investigators to investigate Lincoln Towing
19 complaints, correct?

20 A That's correct.

21 Q It was just the one investigator?

22 A Correct.

23 Q Describe for me the scope of an
24 investigation. What do you do when you receive a

1 file from Kathy?

2 A Well, I read the complaint to see what
3 their issues are, and then I will go through the
4 inverse side and look at all of the information that
5 Lincoln wrote down or typed out. Then I'll generally
6 follow up with the complainant to have them walk me
7 back through it and see if they have any additional
8 information. Then, depending on the nature of the
9 complaint, I'll go out and do site inspections, get
10 video, if necessary, follow-up with witnesses. It
11 really varies by investigation.

12 Q Okay. Jumping a little bit ahead. You
13 have three options when you are doing an
14 investigation, correct? Let's start with these
15 three. One, you can find nothing occurred and do
16 nothing, correct?

17 A Correct.

18 Q Two, you could write a citation?

19 A Correct.

20 Q Three, you could write a ticket?

21 A That's correct.

22 Q Could you describe for us what the
23 difference between a citation and a ticket is?

24 A A citation would go to Circuit Court. We

1 don't come across them that often in relocation.

2 Q Maybe I misspoke.

3 A Oh, a ticket. Let's say ticket, the Cook
4 County ticket issued by the Circuit Court of Cook
5 County, and then there's administrative citations
6 which we deal with in administrative court. And then
7 I lost my train of thought.

8 Q You were saying that a ticket is something
9 that you would -- an officer can write, correct?

10 A Correct.

11 Q An investigator can't?

12 A Correct.

13 Q Because they need police authority to do
14 that?

15 A Correct.

16 Q And the ticket would go to the Circuit
17 Court of Cook County?

18 A That's correct.

19 Q And a citation is something that is written
20 on an administrative level that goes through the
21 Commerce Commission, correct?

22 A Correct.

23 Q And that is kind of where you left off?

24 A Yes. Thank you.

1 Q The difference being one of them, a ticket,
2 is something that could be a little more serious in
3 nature?

4 A Well, I guess, yes, because any violation
5 of the relocation towing if written to an individual
6 is a Class C misdemeanor. Then the administrative
7 citation -- and that would go to an individual,
8 whereas the admin citations would go to Lincoln
9 Towing.

10 Q During the relevant time period, you did
11 not write any tickets to Lincoln Towing?

12 A No. I have never written a ticket to
13 Lincoln Towing.

14 Q And you did not write any tickets to
15 Lincoln Towing employees during the relevant time
16 period, did you?

17 A I don't believe so. I would have to
18 double-check because I may have written one to
19 Gregory Alvarado. Again, the time period, I'm not
20 sure.

21 Q You don't have any documentation with you
22 here today?

23 A No.

24 Q And there's been no evidence presented that

1 you know that Lincoln Towing or any employees ever
2 received a ticket during the relevant time period?

3 A I don't have any documentation today, no.

4 Q Okay. Why is it that you do an
5 investigation once you receive the complaint as
6 opposed to just writing a citation immediately?

7 A Well, obviously you have to have some
8 validity behind the citation that you issue. That
9 would not be a good ticket if you are just writing
10 them without looking into them at all. There's a
11 burden that you have to meet.

12 Q That is what I'm getting at.

13 A Sure.

14 Q So when somebody writes on a piece of paper
15 that Lincoln Towing or Rendered Services did
16 something, you don't take it as the gospel and just
17 write a citation?

18 A No.

19 Q You have to do some investigation first?

20 A Correct.

21 Q And you have to do some serious
22 investigation to make sure that the allegations that
23 they are alleging are truthful?

24 A Correct.

1 Q And you do that before you write a
2 citation?

3 A Correct.

4 Q Or before you decide not to write a
5 citation?

6 A Correct.

7 Q So just knowing that Lincoln Towing
8 received a citation does not really tell you
9 anything -- strike that.

10 Lincoln Towing receives a complaint,
11 it does not really tell you anything, does it?

12 A No.

13 Q I believe and I'll get to it later, I think
14 in your deposition that you said, pretty much
15 everybody complains about being towed?

16 A That is what I said.

17 Q If everybody complains about being towed
18 and you wrote tickets for every tow, Lincoln would
19 have like 13,000 citations every year, correct?

20 A If your numbers are correct. I don't know.

21 Q And they don't, correct?

22 A No.

23 Q So you receive the investigative file, you
24 do your investigation. Walk me through all three

1 different scenarios, where you don't write a
2 citation, you do write a citation, you don't write a
3 ticket, you do write a ticket. Tell me how that
4 works.

5 A Let's go to the no ticket or no citation.
6 When I tell motorists I'm writing them a ticket, I
7 tell them citation. It makes them feel better, so I
8 kind of interchange them.

9 For our purposes if I'm not writing an
10 administrative citation, I'll go through their
11 complaint, look at the merits of that, see what they
12 are complaining about, go through the invoice, make
13 sure that all of the -- you know, the address is
14 correct, they have a contract on file, it was the
15 correct type of tow, the vehicle they used was either
16 owned by them or leased to them, operators are
17 properly licensed, they filled out everything
18 correctly. And if all -- you know, so I follow up
19 with the complainant. You know, either they have
20 evidence to assist in the matter, whether it's just
21 completely unfounded or they are not willing to
22 testify if it's something that they need to be a
23 witness to. Then I'll close it with no citation.

24 So for a citation case, again, same

1 process. Let's say they had some merit to their
2 complaint or there was issues with operators or
3 contracts. I mean, you can get to a citation that
4 way. I mean, those are pretty much the only two
5 scenarios.

6 Then as far as a ticket goes, I
7 suppose you could -- let's say there was a complaint,
8 which would be the most part for a ticket case. They
9 were towed from a public street. They always take a
10 lot of work and they are very hard to prove. Hence
11 the reason we don't write many of them. That is
12 probably how we would end up at a ticket.

13 Q During the relevant time period, you did
14 initiate investigations regarding Lincoln Towing?

15 A Yes, correct.

16 Q And during the relevant time period, you
17 did issue citations to Lincoln Towing?

18 A Correct.

19 Q Based on those investigations, correct?

20 A Did you say that I opened my own?

21 Q No. Let's walk back.

22 So during the relevant time period,
23 you did issue citations to Lincoln Towing, correct?

24 A Correct.

1 Q And during the relevant time period, you
2 also investigated Lincoln Towing and found they were
3 unfounded and did not issue citations, correct?

4 A Correct.

5 Q Do you know how many investigations you
6 were given during the relevant time period where you
7 did not write Lincoln Towing a citation?

8 A I don't offhand.

9 Q Do you know how many times you were given
10 an investigation where you did write Lincoln Towing a
11 citation?

12 A I don't.

13 Q Is it your sole decision to determine
14 whether or not a citation will be written during an
15 investigation, or do you need to get approval or
16 authority from a supervisor?

17 A No, it's my sole decision.

18 Q During the relevant time period, do you
19 ever remember a time where you determined not to
20 write a citation but your supervisor overrode you and
21 wrote a citation?

22 A Never.

23 Q During the relevant time period, do you
24 remember a time where you wrote a citation and your

1 supervisor voided the citation?

2 A Never.

3 Q Pretty much what the officer determines is
4 going to be what happens, correct?

5 A Correct.

6 Q Now, I know you stated that you don't know
7 how many investigations you opened where you wrote a
8 citation or did not write a citation, correct?

9 A That's correct.

10 Q Do you have an idea percentage-wise during
11 the relevant time period -- and by the way, if you
12 don't know an answer to my question or you don't
13 understand or don't remember, it's okay.

14 A Sure.

15 Q By asking the question, I don't mean that
16 you do know. I'm just asking the question.

17 Do you have an idea of what percentage
18 of the investigations that you opened during the
19 relevant time period where you did not write a
20 ticket?

21 A I don't.

22 Q 50/50, 60/40?

23 A No clue.

24 Q And do you know how many investigations you

1 actually were assigned during the relevant time
2 period?

3 A I don't.

4 Q Is there anywhere where you could look,
5 where you could determine either how many
6 investigations you were assigned -- well, let's ask
7 that one first. How many you were assigned?

8 A Yes.

9 Q And where --

10 A I could look at MCIS to see how many I was
11 assigned during that time period or any time period.

12 Q And that has not been done until today,
13 correct, that you know of? Do you know or have you
14 done it?

15 A I have not.

16 Q Okay. Would that also tell you how many
17 times you were given an investigation and did not
18 write a citation to Lincoln?

19 A You might be able to -- there might be a
20 search option on that, but as far as I know, I think
21 I would have to go through each of them individually
22 to look.

23 Q Let's me ask you this. Let's say you
24 looked through the investigations and there were 93.

1 And then you looked through the citations that you
2 wrote and there were 12. Would that lead you to
3 believe, if my math is good, 81 times you did an
4 investigation and did not write a citation? If my
5 math -- let's see. 81.

6 A I'll defer to your math.

7 Q So would that lead you to the logical
8 conclusion that 81 times you did an investigation and
9 you found it to be unfounded and did not write a
10 citation?

11 A Yes, 81 times out of 93 cases, sure.

12 Q Because you would not -- tell me this.
13 Would you ever do an investigation, determine that
14 Lincoln violated something, and then just not write a
15 citation? You would not do that, would you?

16 A No, I don't think so.

17 Q So during the relevant time period, you
18 never did an investigation where you determined that
19 Lincoln Towing violated a rule but you did not write
20 them a citation?

21 A I might have missed something. I mean, you
22 could get super technical with everything, but I
23 don't know.

24 Q I'm saying we can all make mistakes. I'm

1 saying intentionally. Did you ever say, Look, here
2 there was no sign there that day, I know there
3 wasn't, but you just won't write them a citation?

4 A No.

5 Q Clearly, if you did an investigation and
6 there was no citations, it's because you determined
7 there was no violation, correct?

8 A Right. Or I did not have a complainant
9 that would be willing to testify because I do rely --
10 I do give some credibility to witnesses, but there's
11 things that I was not there, I can't be a witness to
12 it, and I can't testify for them.

13 Q But that would mean -- let's just say for
14 example. A plaintiff says there was no sign there.
15 The invoice is filled out properly, there's a
16 contract for the lot, everything is perfect that you
17 look up, but the witness says there's no sign. Okay?

18 A Uh-huh.

19 Q You have to say yes or no.

20 A Yes.

21 Q Sorry. But you don't really know if there
22 was a sign there that day or not, do you?

23 A I don't.

24 Q And you just know what the witness is

1 telling you?

2 A Correct.

3 Q I'm assuming there's no picture that is
4 dated and signed and witnessed and everything, just
5 the witness telling you there was no sign, correct?

6 A Correct.

7 Q If that witness says, Well, I'm not going
8 to come to court to testify, then it's unfounded
9 because you don't know whether there was a sign there
10 or not, do you?

11 A That would be true.

12 Q So that would fall under the category of
13 those 81 times, if you don't write a citation, it's
14 because it's unfounded, correct?

15 A Correct.

16 Q And, conversely, just because you write a
17 citation does not mean that a violation occurred,
18 does it?

19 A Correct.

20 Q Because you did not see whether the sign
21 was there or not on that day, did you?

22 A No.

23 Q But you believe to some degree there's a
24 possibility -- strike that. Let me ask you this.

1 Do you have to know for certain that
2 there was a violation in order to write a citation?

3 A No.

4 Q You don't have to know that, do you?

5 A No.

6 Q You have to believe that it might have
7 occurred, correct?

8 A Correct.

9 Q What standard do you use -- I know we talk
10 about, and you are an attorney, preponderance of the
11 evidence, beyond a reasonable doubt. What evidence
12 do you use when you are writing a citation?

13 A Preponderance.

14 Q And you have been at these hearings that we
15 have had, correct?

16 A Yes.

17 Q And you have been there when there were
18 citations that you wrote where we had a hearing and
19 it was determined that there was no violation,
20 correct?

21 A Correct.

22 Q So it's also possible that when you
23 write -- when you wrote citations during the relevant
24 time period, just by the virtue of writing them, it

1 does not mean that Lincoln Towing did anything wrong,
2 does it?

3 A No.

4 Q In fact, it's possible that they were found
5 not to be liable at a hearing after that, correct?

6 A Correct.

7 Q And do you know how many times during the
8 relevant time period that you wrote Lincoln a
9 citation and after a hearing it was determined that
10 there was no violation?

11 A No, I don't offhand.

12 Q Do you know how many times during the
13 relevant time period that you wrote Lincoln Towing a
14 citation and after the hearing it was determined that
15 there was a violation?

16 A No.

17 Q Do you know how many times during the
18 relevant time period that you wrote Lincoln Towing a
19 citation and the case was settled without a hearing?

20 A I don't know.

21 Q Safe to say that all of the citations that
22 you wrote, you don't know the outcome of any of them,
23 do you?

24 A No, not offhand.

1 Q I want to talk to you now a little bit
2 about the different types of citations that you can
3 write under -- is it 18A?

4 A Uh-huh.

5 Q Let's talk about maybe a difference between
6 an administrative citation and something having to do
7 with a tow? Do you understand, or do you want me to
8 go over it?

9 A I think I know where you are going.

10 Q Let me follow it up. If you are writing a
11 citation because Lincoln Towing and -- Lincoln Towing
12 has to issue an invoice, correct?

13 A Correct.

14 Q And the Commerce Commission rules, the
15 statute says you have to fill out the invoice
16 completely, correct?

17 A Correct.

18 Q To the best of your ability, correct?

19 A I don't think it says to the best of your
20 ability.

21 Q Let me ask you this. Does the invoice have
22 to be filled out exactly correct, every single box,
23 no matter what?

24 A If you don't know, you can also write the

1 reason why something is not correctly filled out. It
2 happens.

3 Q So it's possible that Lincoln can use their
4 best efforts and there could still be a mistake made
5 on an invoice, correct?

6 A Correct.

7 Q And administratively speaking, if Lincoln
8 Towing leaves off the license plate of the tow truck,
9 that is an administrative citation, correct?
10 Wouldn't you say?

11 A I mean, everything is an administrative
12 citation. I know where you are going, but --

13 Q Let me just follow up then. It does not
14 directly affect the public. When I park my car in a
15 lot and there's a sign there and the sign is perfect
16 in every way and I park there illegally anyway, I
17 don't know at that point in time if they will call
18 the patrol lot, do I?

19 A No.

20 Q And I don't know whether or not the person
21 that is going to tow it, the license place is going
22 to be on the invoice, do I?

23 A No.

24 Q And I don't know if Lincoln Towing is going

1 to put the correct date on the invoice at that point
2 in time, do I?

3 A No.

4 Q So I parked illegally, right?

5 A Sure.

6 Q So in that sense, if you don't write a
7 ticket for any of the improper signage, you just
8 write a citation for, let's say, I got -- I think
9 this happened once before. I juxtaposed the license
10 plate. It's supposed to be RX and it says XR. You
11 write a citation for it that did not affect the
12 public, did it?

13 A No.

14 Q So that is what I would call an
15 administrative ticket. Understand?

16 A Understand.

17 Q For an invoice being improperly filled out,
18 correct?

19 A Correct.

20 Q It did not have a direct impact on the
21 public?

22 A Correct.

23 Q In other words, the person who got towed
24 had no way of knowing whether the invoice is going to

1 be filled out correctly at the time that they got
2 towed?

3 A No, that's correct.

4 Q Versus if there's not a sign there, that
5 directly impacts the public, correct?

6 A Correct.

7 Q Because that person couldn't have known
8 that they shouldn't have parked there?

9 A That's correct.

10 Q Have you ever received -- during the
11 relevant time period, did you receive any
12 investigations regarding whether or not Lincoln
13 Towing properly or improperly filled out an invoice
14 from the public?

15 A Honestly, I would have to look. I have
16 received those, but I don't know if they are during
17 that relevant time period.

18 Q Not too many, right?

19 A You would be surprised but --

20 Q If there were a lot, you might remember
21 that, correct?

22 A Yeah, I would.

23 Q During the relevant time period, do you
24 have any evidence with you here today or did you

1 produce any evidence that any individuals ever
2 complained to you or the ICC about an invoice not
3 being properly filled out?

4 A I don't know what evidence -- I did not
5 produce any evidence on anything so --

6 Q So that would mean that you don't have any
7 evidence --

8 A No.

9 Q -- regarding that particular situation?

10 A I don't know if our staff tendered
11 anything. I don't know.

12 Q Did you review what the staff tendered --
13 we sent you, by the way, interrogatories and requests
14 to produce. You recall that?

15 A No. I do recall you asking me about that,
16 but we were never given anything for production as
17 officers.

18 Q The staff -- I don't want to get into what
19 you spoke about with your attorneys. I don't think
20 it was Mr. Burzawa at the time.

21 A He was not here.

22 Q The staff never went over with you our
23 request to produce and interrogatories?

24 A No.

1 Q Did you ever receive a deposition notice in
2 the case?

3 A That I did.

4 Q Did you ever look at the rider to the
5 deposition notice?

6 A No, because all I got was the front.

7 Q So you never saw the rider where it asked
8 for certain documents to be produced?

9 A No.

10 Q And your attorneys never showed that to
11 you?

12 A No. I think we went over that during the
13 deposition, that we never received anything. When
14 you were asking or things, I am like, I have never
15 been asked.

16 Q By anybody?

17 A No.

18 Q And you have not produced any documents
19 since your deposition, correct?

20 A No.

21 Q Okay. Getting back to this kind of
22 distinction that we talked about at your deposition
23 between what I would call an administrative ticket
24 versus something that directly impacts the public,

1 did it ever happen during the relevant time period
2 that an investigation came to you regarding something
3 that the consumer complained about, like no sign or
4 something, you then determined that that was not a
5 proper violation, there was a sign, but then when you
6 looked further, you found that the invoice was not
7 filled out properly?

8 That is a long question, and I
9 apologize. Do you understand what I'm saying?

10 A Yes. So their complaint was unfounded, but
11 I found something when I went through the invoice?

12 Q Yes.

13 A Yes, that happened.

14 Q Did you then write a citation to Lincoln
15 Towing for that?

16 A Yes, I'm sure I did.

17 Q So we'll get to these later, but the
18 citations that you wrote during the relevant time
19 period, where it's just for what I call an
20 administrative ticket, like not filling out the
21 invoice properly, the contract not being e-filed or
22 whatever, it's safe to say that somewhere along the
23 way there was a consumer complaint attached to that,
24 correct?

1 A That's correct.

2 Q But you determined the consumer complaint
3 not to be valid because you did not write a citation
4 for that, you only wrote it for the improper invoice,
5 correct?

6 A That would be correct.

7 Q So when we get to the point where I show
8 you citations where it's just written for an improper
9 invoice, that means that you actually did an
10 investigation and determined the balance of it was
11 unfounded, correct?

12 A Correct.

13 Q Because you don't recall any times during
14 the relevant time period where a consumer actually
15 said, I'm complaining about Lincoln because they
16 got -- the contract was not e-filed?

17 A No.

18 Q Because they would not know that?

19 A They would not know that.

20 Q Okay. So generally give me an idea of what
21 you would consider what I'm calling an administrative
22 citation. One would be the invoice not being
23 completely filled out, correct?

24 A Yes, or inaccurately. I would like to look

1 at an invoice. Tow truck, if it's not leased
2 properly. An operator, if they were expired or
3 pending or whatever, they were not active. At the
4 time dispatchers, but we have gone over that one.

5 Q We have learned that dispatchers don't have
6 to be licensed?

7 A More or less. Let's see what else is on
8 there.

9 Notification to police. The contracts
10 themselves, call versus patrol versus on file versus
11 not. That is most of them, without looking at an
12 invoice to go down the box.

13 Q And if you were to -- from your memory.
14 Don't guess.

15 What percentage of the citations that
16 you wrote during the relevant time period do you
17 think were for administrative citations versus the
18 ones that directly impact the public?

19 A Over 50 percent.

20 Q Were administrative, correct?

21 A I mean, recalling from the direct, there
22 was a lot of administrative type citations on there.

23 Q Which don't directly have an impact on the
24 public, correct?

1 A For the most part, yes. I think there's a
2 few instances where they could, but not directly
3 after the fact.

4 Q Because what I mean is that the individual
5 who was complaining to the Commerce Commission, they
6 were complaining about something else, like, I was
7 illegally towed, I never left the lot, or there was
8 no sign, something like that, correct?

9 A Correct.

10 Q Versus, you know, there's no way they would
11 know if a contractor's -- if a driver's license had
12 expired?

13 A That's correct.

14 Q And it would not -- let me ask you this.

15 Is it okay or is it permissible for an
16 individual to park illegally on private property if
17 Lincoln Towing fills out the invoice improperly?

18 A Let me walk you back on that.

19 Q I'll go back. It doesn't make it okay to
20 park illegally on private property --

21 A No.

22 Q -- just because the invoice is filled out
23 improperly, does it?

24 A No, it does not.

1 Q The person still should not be parking
2 illegally?

3 A Correct.

4 Q Now, we have been talking about Lincoln
5 Towing for a little while, correct?

6 A Correct.

7 Q And Lincoln Towing is the corporate name
8 for Protective Parking Service Corporation doing
9 business as Lincoln Towing Service, correct?

10 A Correct.

11 Q And you are aware of who they are?

12 A I am.

13 Q And to your knowledge -- this could be
14 brief -- what does Lincoln Towing do for a living?

15 A They relocate trespassing vehicles from
16 private property.

17 Q In your opinion, if you have one, is that
18 something that is generally needed to the public
19 and/or the businesses in the communities where
20 Lincoln Towing tows?

21 A Yes. It balances the rights between
22 private property owners and motorists.

23 Q And I believe at your deposition you did
24 state something like, Everybody complains when they

1 get towed, correct?

2 A I mean, that I know of. The complaints
3 that I get. I obviously don't know of the ones who
4 don't.

5 Q Nobody is happy they got towed?

6 A No, nobody is happy they got towed.

7 Q Nobody calls Lincoln Towing that you know
8 of or the Commerce Commission and says, Hey, thanks
9 so much for towing me, I was wrong, I should not have
10 parked there?

11 A Not that I'm aware of.

12 Q Do you know how many unfounded complaints
13 Lincoln Towing got during the relevant time period?

14 A No, I don't.

15 Q Do you know how many they get in general on
16 a year-to-year basis?

17 A No.

18 Q What does it mean to request an
19 administrative closure pending outcome of the
20 administrative hearing on an issued citation? Do you
21 know what that is? Would it be helpful if I showed
22 you? I have a couple questions on this thing.

23 We seen on these forms where it says,
24 Four hours at \$12.50 hourly fee. Do you remember we

1 talked about that?

2 A I don't know why.

3 Q Do you know what this \$12.50 hourly fee is?

4 A No clue.

5 Q Have you ever been told what it is?

6 A No, but I know we have to fill it out or it
7 comes back.

8 Q So we talked about the fact that you don't
9 make \$12.50 an hour?

10 A No, I don't.

11 Q And do you keep track of how many hours you
12 work on each investigation?

13 A We ballpark it.

14 Q During the relevant time period, do you
15 know specifically how long you spent on each one of
16 these investigations for Lincoln Towing?

17 A Specifically, no.

18 Q And if I were to ask you to produce --
19 which I did. If I were to ask you to produce
20 documentation of that, could you?

21 A No.

22 Q When did you first become aware of Lincoln
23 Towing? I don't mean the exact date but generally.

24 A Let's see. I'm trying to think when I

1 lived in the city the first time. 2006, I believe.

2 Q And when did you first become aware of them
3 after July of 2012 when you became employed at the
4 Commerce Commission?

5 A Probably within the first six weeks when I
6 started doing field training.

7 Q But during your first couple years at the
8 Commerce Commission, you did not write any citations
9 to Lincoln Towing, did you?

10 A I probably did, but I'm not sure offhand.

11 Q Not many?

12 A Not many, no.

13 Q That did not start until Investigator
14 Carlson went on leave, correct?

15 A That's correct.

16 Q Are you aware that Lincoln Towing has to
17 purchase their invoices from the Commerce Commission
18 for each vehicle towed?

19 A I am.

20 Q And are you aware that they pay \$10 per
21 invoice to the Commerce Commission?

22 A I am.

23 Q So if we produced a document to you that
24 showed Lincoln Towing paid the Commerce Commission

1 \$130,000 --

2 A Divided by 10.

3 Q Which would be 13,000?

4 A Correct.

5 Q So does it make sense to you that during
6 the years of 2015 and '16, Lincoln Towing towed about
7 13,000 cars per year?

8 A Sounds reasonable.

9 Q Is that an important number to you?

10 A Not really.

11 Q Does it tell you anything about Lincoln
12 Towing?

13 A That they tow a fair amount of vehicles.

14 Q During the relevant time period, if we
15 extrapolated out those amount of months, it would be
16 something around 9,000 or 10,000 vehicles towed,
17 correct?

18 A That would make sense.

19 Q Assuming that there is no months that are
20 busier than others so it averages out?

21 A Sure. So let's say about 1,000 a month,
22 give or take.

23 Q So somewhere around 9,000 or 10,000
24 vehicles during the relevant time period?

1 A Okay.

2 Q Does that make sense to you?

3 A Sure.

4 Q Do you know how that compares to the other
5 relocators?

6 A I don't.

7 Q Do you know if Lincoln tows more vehicles
8 than any other relocator?

9 A I think Lincoln and Rendered are about on
10 the same page, but I don't know.

11 Q Okay. Good enough. Now, the reason that
12 I'm asking you -- and I'll tell you why. It's
13 important to know how many cars Lincoln Towing
14 relocates because at some point in time Lincoln
15 Towing also gets written some citations, correct?

16 A Correct.

17 Q If I told you that Lincoln Towing towed
18 10,000 vehicles during the relevant time period and
19 received 28 citations, would you think that is a high
20 number or a low number?

21 A Low.

22 Q 28 citations out of 10,000 tows, correct?

23 A That would be pretty low.

24 Q And every single one of those people that

1 got their vehicles towed, all they had to do to make
2 a complaint was turn their invoice over, correct?

3 A Correct.

4 Q And send it in to the Commerce Commission,
5 correct?

6 A That's correct.

7 Q And if I also told you that only
8 166 investigations occurred during those 10,000 tows,
9 that is pretty low as well, isn't it?

10 A That is pretty low.

11 Q That is just over 1.5 percent of the
12 vehicles that were relocated that even made a
13 complaint?

14 A Yeah. That is low.

15 Q But then you or Investigator Carlson or
16 Officer Geisbush or Investigator Kassal looked
17 through these 166 investigations, correct? Someone
18 looked at them?

19 A Someone looked at them.

20 Q And during that nine- or ten-month period,
21 only 28 citations were actually written, correct?

22 A I don't know the numbers offhand.

23 Q Let me show you what has been marked as
24 Exhibit 3. This is in Protective Parking's book.

1 Take a look at Exhibit 3, and let me know when you
2 have had a chance to look it over.

3 A So 28 were completed during that period.

4 Q And resulted --

5 A And resulted -- okay. I see.

6 Q Yeah.

7 A All right.

8 Q It's a ten-month period, correct?

9 A Sure.

10 Q I assume more than 28 investigations were
11 completed in ten months unless you guys are not doing
12 very much?

13 A Well, Carlson also had a lot of cases
14 backed up during this period, so that could be a
15 factor in this. Based on what Sheahan said, that is
16 what we did.

17 Q Based upon this document that you are
18 looking at right now, which for the record is an
19 order from the Illinois Commerce Commission, In Re
20 the matter of Protective Parking Service Corporation
21 d/b/a Lincoln Towing Service, Docket No. 92-RTV-R
22 Sub 17, 100139 MC. This order was entered on
23 February 24, 2016, correct?

24 A Correct.

1 Q And it's signed by Brien Sheahan, who is
2 the chairman of the Illinois Commerce Commission,
3 correct?

4 A Correct.

5 Q And you have no reason to believe that the
6 information on here is not accurate, do you?

7 A I don't.

8 Q Assuming that this is accurate, the order
9 states that on July 24, 2015, Protective Parking
10 Service Corporation d/b/a Lincoln Towing Service was
11 issued a renewal of its authority to operate as a
12 commercial vehicle relocater under the Illinois
13 Commercial Relocation and Trespassing Vehicles Law,
14 ICRTVL 625 ILCS, 5/18a-100, et seq.

15 So reading that first sentence, do you
16 believe that Lincoln Towing was issued a renewal
17 license for commercial relocation by the Illinois
18 Commerce Commission on July 24, 2015? That is what
19 it says, right?

20 A Yes. Sorry.

21 Q It goes on to state that -- in the second
22 paragraph, since the July 24, 2015, renewal, the
23 Commerce Police Department has opened 166
24 investigations into Lincoln's relocation towing

1 operations, correct?

2 A That is what it says, yes.

3 Q And that is what we talked about, if that
4 is out of 10,000, it's just a little bit over
5 1.5 percent of investigations, correct?

6 A Correct.

7 Q Now, you testified earlier investigations
8 does not mean that Lincoln Towing did anything wrong,
9 correct?

10 A That's correct.

11 Q Just looking into it, it could be
12 unfounded, right?

13 A That's true.

14 Q And there's still a presumption, even in
15 these cases, that you did not do anything, so it's
16 true?

17 A That could be true.

18 Q And, in fact, during that relevant time
19 period, it goes on to state, 28 of which have been
20 completed and resulted in administrative citations
21 against Lincoln, correct?

22 A Correct.

23 Q Now, stop for a second because we don't
24 know how many investigations were complete, correct?

1 A That's correct.

2 Q So it really would not be proper for the
3 Commerce Commission to consider Lincoln having done
4 anything wrong on the investigations that are not
5 complete yet, would it?

6 A That's correct.

7 Q So if they only finished 28 and filed
8 citations, that is still one-quarter -- if my math is
9 correct -- one-quarter of 1 percent of the tows that
10 they write a citation?

11 A I guess.

12 Q Correct?

13 A I don't know.

14 Q Well, based on what they are saying here?

15 A Sure.

16 Q By the way, I apologize for asking you
17 because you are the witness that they are putting
18 forward, but that is what this Commerce Commission
19 documents says, correct?

20 A That's correct.

21 Q So even if they were found liable on all
22 28, which I don't believe they were, but even if they
23 were, it would be one-quarter of 1 percent of the
24 vehicles towed during the relevant time period,

1 correct?

2 A Yes, correct.

3 Q But you and I both know, because we have
4 had the hearings, that many times we have had a
5 hearing and it's been determined through the Court
6 that they were not founded and they were dismissed,
7 correct?

8 A That's correct.

9 Q Could we agree that of these 28 citations
10 that were written, on not all of them was Lincoln
11 determined to be liable?

12 A Unlikely.

13 MR. PERL: At this point in time, Judge, I
14 would seek to admit Exhibit 3 into evidence.

15 JUDGE KIRKLAND-MONTAQUE: Any objection,
16 Mr. Burzawa?

17 MR. BURZAWA: No objection, Judge.

18 JUDGE KIRKLAND-MONTAQUE: Protective Parking
19 Exhibit 3 is admitted.

20 MR. PERL: Thank you, Judge.

21 (WHEREUPON, said document was
22 received in evidence as Protective
23 Parking Exhibit No. 3.)

24

1 BY MR. PERL:

2 Q Briefly, do you know how many citations
3 Lincoln Towing received in 2011?

4 A No.

5 Q Do you know how many citations Lincoln
6 Towing received in 2012?

7 A No.

8 Q Do you know how many citations Lincoln
9 Towing received in 2013?

10 A No.

11 Q Do you know how many citations Lincoln
12 Towing received in 2014?

13 A No.

14 Q Do you know how many citations Lincoln
15 Towing received in 2015?

16 A No.

17 Q Do you know how many citations Lincoln
18 Towing received in 2016?

19 A No.

20 Q Other than you do know now --

21 A Yes.

22 Q -- that for the relevant time period, which
23 is July 24, 2015, to March 23, 2016, they only
24 received 28 citations? That we know?

1 A That we know.

2 Q Do you know how many citations Lincoln
3 Towing received in 2017?

4 A No clue.

5 Q Of the 28 citations referenced in the order
6 of February 24, 2016, do you know how many of those
7 citations you wrote?

8 A No clue.

9 JUDGE KIRKLAND-MONTAQUE: Mr. Perl, I'm sorry,
10 if I could interrupt you for one second. I have a
11 question about the question that you asked about the
12 relevant time period and 28 citations being --

13 MR. PERL: Yes.

14 JUDGE KIRKLAND-MONTAQUE: How do we know, based
15 on this document, that it only applies to the
16 relevant time period?

17 MR. PERL: I'm going to tell you why. If you
18 look at the documents, they clearly state, Since
19 July 24th, this is how many they have had. It says
20 right here.

21 JUDGE KIRKLAND-MONTAQUE: But the end of the
22 period is when?

23 MR. PERL: Well, it actually goes for one more
24 month. Here is the relevancy of it. At the time the

1 Commerce Commission decided to do these
2 investigations, this is all they had. They based
3 their opening this investigation on 28 citations.
4 That is it. They did not know how many more were
5 going to be written in the next
6 30 days.

7 JUDGE KIRKLAND-MONTAQUE: I just want to make
8 sure.

9 MR. PERL: The relevancy for me is, we have
10 been arguing all about why we are here. What did we
11 do in those ten months? The Commerce Commission
12 document is limited to February 24, 2016. That is
13 when they decided to open this investigation, and
14 there were only 28 citations written during the
15 relevant time period up until then.

16 JUDGE KIRKLAND-MONTAQUE: But my question
17 specifically is, how do you get to the end date of
18 the period? Now you are saying it's a month --

19 MR. PERL: It's only 30 days later.

20 JUDGE KIRKLAND-MONTAQUE: I got you. I
21 understand. That explains it to me. Thank you.

22 MR. PERL: Let me ask you a question, Judge. I
23 don't need a lunch break, but just to figure out if
24 we are going to take one or not.

1 JUDGE KIRKLAND-MONTAQUE: Off the record for a
2 second.

3 (WHEREUPON, discussion was had
4 off the record.)

5 BY MR. PERL:

6 Q Okay. During the relevant time period, did
7 you ever have any discussions with anybody at Lincoln
8 Towing and tell them that you thought they were
9 getting too many citations?

10 A No.

11 Q During the relevant time period, did you
12 think that Lincoln Towing was getting more citations
13 than they normally got? Do you have a basis for
14 that?

15 A No basis for that.

16 Q Jumping back a little bit to Exhibit 3. Do
17 you know anything about the fact that every two years
18 every relocater has to renew their license? You know
19 that, correct?

20 A I do know that.

21 Q And typically are you aware that it's
22 almost a matter that is done administratively? Like,
23 you just present your insurance and documents and
24 there's no hearing held for that, correct?

1 A That's my understanding.

2 Q Are you aware that in 2016, there was
3 actually a hearing held in front of a judge with the
4 Commerce Commission to determine whether Lincoln
5 Towing was fit to have their license renewed? Were
6 you aware of that?

7 A I was not aware of that.

8 Q So making you aware of that, that there was
9 a hearing that I attended and represented Lincoln
10 Towing on, and there was a hearing and the Commerce
11 Commission then determined that Lincoln Towing was
12 fit, is it your understanding then the Commerce
13 Commission would say, Everything in the past of all
14 that you have done pretty much now is over when
15 determining you're fit as of July 24, 2015, if you
16 know?

17 A I don't know that offhand.

18 Q So in other words, if the Commerce
19 Commission felt that Lincoln Towing on or about
20 July 24, 2015, was not fit, they would not have
21 renewed their license, would they?

22 MR. BURZAWA: Objection, calls for speculation.

23 MR. PERL: If you know.

24

1 BY THE WITNESS:

2 A I don't know.

3 JUDGE KIRKLAND-MONTAQUE: I'm sorry.

4 MR. PERL: This is my only comment, Judge. The
5 only witnesses that they are giving me are the
6 officers, so I don't have anyone else to question.
7 And if they are telling me that these people are not
8 fit to say it, I would like to move for a directed
9 verdict because here's why. No one that they are
10 going to give you is going to have an opinion as to
11 whether Lincoln Towing is fit. So how do you have a
12 hearing -- this is what I still can't understand.

13 How can you have a hearing on fit when
14 not one of these officers is going to tell you that
15 Lincoln Towing is not fit nor that they even have an
16 opinion and I can't even ask them about it because
17 there's no foundation and they are the wrong person?
18 How do I do that, Judge?

19 MR. BURZAWA: Judge, fitness won't be
20 determined by the opinion of the officer. The
21 officers and the staff witnesses are introducing
22 specific information, specific evidence. Based on
23 that evidence, you and the Commission will decide
24 whether or not Lincoln is fit.

1 And I have given Mr. Perl a lot of
2 leeway because I want to get through all of this, but
3 questions concerning the renewal hearing are, one,
4 before the scope of this hearing and so they are
5 irrelevant what happened during that renewal hearing.
6 The Commission will analyze and what is relevant is
7 going forward from July 24, 2015.

8 Now, that is the time period that the
9 commission is viewing and determining whether or not
10 Lincoln is fit.

11 MR. PERL: Well, I object.

12 JUDGE KIRKLAND-MONTAQUE: I think you are
13 asking him to make a legal conclusion.

14 MR. PERL: Here is the problem with that.
15 Let's just say I am asking him that, not to mention
16 he's an attorney. Let just say that I'm asking him
17 to make a legal conclusion. Doesn't somebody have to
18 make a legal conclusion in this case? Don't they
19 have to have a witness -- and I don't agree with
20 Mr. Burzawa. I think it's absolutely relevant as to
21 the fact that unless -- it's not like it's a
22 stipulation anyway because they renewed us on
23 July 24, 2015.

24 I might be beating a dead horse here,

1 but I want to be clear. I want there to be someone
2 to testify, and these are the only ones that they
3 have, that as of that date we were fit or they
4 wouldn't have given us the license otherwise. This
5 has gotten into evidence already.

6 So for me to ask Officer Strand that,
7 I just want to know what he's going to say. If he
8 says like he says in his deposition, I have no
9 opinion, I don't know whether they are fit or not, I
10 don't even know what it means to be fit. So all I'm
11 saying to you, Judge, is that I think when this trier
12 of fact judges what happened with Lincoln Towing,
13 it's very important for you to know that on July 24,
14 2015, we were already determined by a judge, an ALJ
15 within the Commerce Commission, that we were fit
16 after a hearing, not just submitting documents. We
17 actually had a full-blown hearing where they
18 determined we are fit.

19 And the reason that is really
20 important is because at that point in time, there's
21 no questioning going backwards. From the time
22 Lincoln Towing started towing vehicles until July 24,
23 2015, we are fit. That is all I'm getting at.

24 JUDGE KIRKLAND-MONTAQUE: Okay. And you wanted

1 us to take administrative notice of that order and
2 things of that nature. That is fine. But the
3 officers, they were not part of that previous fitness
4 proceeding.

5 MR. PERL: And, again, this is the difficulty.
6 I guess things get done differently in different
7 places. Typically when you have a trial and you want
8 to prove something to a judge, you actually want to
9 put forth witnesses that have an opinion based upon
10 that. You are going to find from this witness and
11 every one of them, not one of them has an opinion as
12 to whether they are fit. I understand what
13 Mr. Burzawa said, they are presenting evidence. Not
14 one of them has any documentation that we are not
15 fit, forgetting about all of that.

16 Wouldn't you think they would present
17 somebody from the Commerce Commission to say to you,
18 here is why we actually did this investigation and
19 here is why we think they are not fit? They don't
20 have anybody to say that, so I guess that is my
21 argument for my closing argument, but you are not
22 going to hear anyone tell you that they don't think
23 that Lincoln is fit.

24 JUDGE KIRKLAND-MONTAQUE: Okay. We'll get to

1 that as we go along. So he has an objection pending.

2 MR. PERL: I don't even remember my question.

3 JUDGE KIRKLAND-MONTAQUE: It was about whether
4 it was fit. And your objection was?

5 MR. BURZAWA: Well, I think the question was
6 asking the officer to essentially surmise why the
7 Commission renewed the license. I think that calls
8 for speculation and that is also outside of the
9 capacity of why Officer Strand is testifying here in
10 his capacity as an officer, not as an opinion
11 witness, especially not an opinion about an
12 irrelevant proceeding. We are not here to compare
13 the previous hearing versus this hearing. We are
14 dealing with a discrete window of time going forward
15 from July 24, 2015. We are not looking retroactively
16 whether Lincoln Towing was fit. We are looking at
17 going forward.

18 MR. PERL: So if there's a stipulation that
19 Lincoln was fit before that, which I think this is
20 anyway -- if counsel would just stipulate for me, we
21 could be done with it, but they never do. So
22 stipulate Lincoln was fit before that date and it
23 ends all of the discussion, but, see, he's not going
24 to do it, even though he says to you something. When

1 we actually say, Well, then just do it, they
2 always -- you ask them what day it is, they tell you
3 the temperature. If you ask them if it's night or
4 day, they tell you what day it is.

5 So if there is a stipulation on the
6 record that Lincoln was fit on or before July 24,
7 2015, then we are done with that line of questioning.

8 JUDGE KIRKLAND-MONTAQUE: I can't recall right
9 now. In your binder do you have the order from
10 the -- July 24th from the Commission approving the
11 renewal?

12 MR. PERL: I don't think so. I used this one.
13 It says -- clearly they state in there
14 administratively that we were found to be fit on that
15 day.

16 JUDGE KIRKLAND-MONTAQUE: I was just curious.

17 MR. PERL: No, I don't think that I have that
18 order.

19 JUDGE KIRKLAND-MONTAQUE: Okay.

20 MR. PERL: The one thing I do take exception to
21 is when Mr. Burzawa said that this is an irrelevant
22 document, this is the whole basis for why we are
23 here. How could it be irrelevant? Maybe paragraph 1
24 talks about the other stuff, but everything else is

1 absolutely relevant. It tells you why we are sitting
2 here today.

3 JUDGE KIRKLAND-MONTAQUE: All right. So let's
4 not get too deep into this. I'm going to overrule
5 the objection and allow you to continue.

6 BY MR. PERL:

7 Q I'm not going to even go back and figure
8 out what the question was. Let me just go forward.

9 During the relevant time period, did
10 you ever discuss any of the issues regarding this
11 hearing or why we are at this hearing with Lincoln
12 Towing?

13 A During the relevant time period?

14 Q That would be July 24, 2015, through
15 March 23, 2016.

16 A I don't think so.

17 Q You didn't, did you?

18 A No.

19 Q During that relevant time period, you never
20 went to Lincoln Towing or anyone at Lincoln Towing
21 and said, Hey, Guys, you are getting too many
22 citations, did you?

23 A No, I never did.

24 Q And you never went to them and said, You

1 are getting too many of the same type of citations,
2 did you?

3 A No.

4 Q And you never went to Lincoln Towing and
5 said, Hey, Guys, things have changed, what is going
6 on, you are getting more citations than you used to
7 get?

8 A No. I would not have known.

9 Q And you don't know any of that to be true,
10 do you?

11 A No.

12 Q Okay. During the relevant time period, did
13 you ever send Lincoln Towing any notices at all about
14 anything in writing?

15 A I'm sure I sent Bob Munyon e-mails or
16 talked to him on the phone about something, needing
17 information but nothing specifically.

18 Q Also during the relevant time period -- you
19 mentioned Bob Munyon?

20 A Correct.

21 Q And the individual sitting in front of you
22 today?

23 A Correct.

24 Q And Bob is the general manager of Lincoln

1 Towing, correct?

2 A As far as I know, yes.

3 Q And part of your dealing with Lincoln
4 Towing involves you dealing with Mr. Munyon, correct?

5 A Correct.

6 Q I think we covered this in your deposition,
7 but do you have any documentation or proof that
8 Mr. Munyon was not responsive to you when you asked
9 him questions?

10 A I have no documentation on anything.

11 Q And isn't it true that the only e-mail that
12 you produced as evidence in this case shows
13 Mr. Munyon responding to you within 30 minutes?

14 A I don't -- did I give you something?

15 Q Yes. I'll find the e-mail.

16 A All right.

17 Q You don't have any documentation with you
18 and it is not your testimony that he was not
19 responsive to you, was it?

20 A No.

21 Q He was courteous to you, correct?

22 A Oh, yeah, sure.

23 Q And when you had issues or questions, you
24 would come to him with them, correct?

1 A Correct.

2 Q And any reason to believe that had you gone
3 to Mr. Munyon regarding any of the issues today, that
4 he would not have been responsive?

5 A No.

6 Q And nobody at the Commerce Commission
7 during the relevant time period, meaning none of the
8 commissioners, none of your supervisors, nobody ever
9 came to you and said, Hey, Officer Strand, what is
10 going on with Lincoln, they are getting way too many
11 tickets?

12 A No.

13 Q And nobody ever said to you, Go talk to
14 Lincoln Towing, see if we could work it out, what is
15 going on, did they?

16 A No.

17 Q And you, in fact, did not do that?

18 A I did not.

19 Q And you don't have an opinion as to whether
20 or not Lincoln Towing was getting too many citations
21 during the relevant time period, do you?

22 A No.

23 Q Do you know who -- strike that.

24 Is there anybody at Lincoln Towing

1 that you have ever dealt with that was disrespectful
2 to you or did not respond to you promptly in
3 management?

4 A Well, I only know Bob to be in management,
5 so, no, I have never --

6 Q Did you ever express an opinion to anybody
7 in the Commerce Commission that you don't believe
8 that Lincoln Towing was fit to hold a relocater's
9 license?

10 A No.

11 Q Do you have an opinion as to whether or not
12 during the relevant time period Lincoln Towing was
13 fit to hold a license?

14 A I have no opinion.

15 MR. BURZAWA: Objection, irrelevant, Judge.

16 MR. PERL: How could it be irrelevant when they
17 presented this witness to testify in their case in
18 chief and he's their witness? How is it -- and they
19 are trying to claim that based upon his testimony,
20 he's a police officer, he's an attorney, and he's the
21 one that actually has the boots on the ground that
22 writes the citations. How is it possible that anyone
23 else at the Commerce Commission would know more than
24 he does whether Lincoln Towing is fit or not? He's

1 the one that writes the tickets.

2 JUDGE KIRKLAND-MONTAQUE: What is the basis?

3 MR. BURZAWA: Officer Strand's opinion is
4 irrelevant for the purposes of this hearing. The
5 determination of whether or not Lincoln is unfit will
6 be made by the Commission, based on particular pieces
7 of evidence introduced. However, Officer Strand's
8 opinion is irrelevant, and it's beyond the scope of
9 his duties. It's not his duty or within the scope of
10 his job description to determine whether or not a
11 relocator is fit.

12 His duties are to conduct
13 investigations, issue citations, and premised on the
14 outcome of those citations, this Commission will
15 determine whether or not Lincoln Towing was unfit
16 during the relevant time period.

17 MR. PERL: Based upon the evidence that you
18 hear from the testimony from the witnesses. I guess
19 I would take offense if I was Officer Strand to the
20 comments, but I'm not, saying that he's irrelevant as
21 to whether or not he thinks Lincoln's fit or not. He
22 literally is -- I'm sorry this takes so long.

23 This is what I have been complaining
24 about for two years. They don't have any witnesses

1 to say that we are not fit. They don't have any
2 witnesses to say anything because what they do is,
3 they give you witnesses, then they say that I can't
4 question about whether or not we are fit or not, but
5 it's a fitness hearing. So who am I supposed to ask
6 from the Commerce Commission whether they believe my
7 client is fit or not? Nobody? Can't I ask a lawyer?

8 JUDGE KIRKLAND-MONTAQUE: Well, he does not
9 work -- I mean, I don't mean to disrespect him in any
10 way.

11 MR. PERL: But he is a lawyer.

12 JUDGE KIRKLAND-MONTAQUE: He is, but he does
13 not work at the Commission as a lawyer.

14 MR. PERL: Agreed.

15 JUDGE KIRKLAND-MONTAQUE: The question
16 though -- I see the point. I understand both points,
17 but I think you can get to this another way. And
18 basing it on his experience and maybe comparing it to
19 what he sees with other companies.

20 MR. BURZAWA: Here is why I didn't do that. If
21 I do that, then the relevancy argument objection
22 comes in. It might be a good objection saying, What
23 is the difference what anybody else does because I
24 have made that argument before and I'll make it in my

1 closing argument, that we get a lower percentage of
2 citations than anybody does per tow. That is going
3 to be one of my arguments.

4 But in terms of eliciting the
5 information today, whether or not Rendered gets more
6 citations than we do or A-1 gets more than we do, I
7 have been told before it's not really relevant
8 because we are here for Lincoln Towing's fitness. So
9 I'm trying to stay onboard with that. Could I take
10 20 minutes to do it? Yes.

11 I never thought in my wildest dreams
12 as a litigator that opposing counsel who represents
13 this witness would tell you that he should not be
14 able to give you an opinion regarding my client's
15 fitness when he's trained to determine whether or not
16 they have a violation. He's the one with the boots
17 on the ground. He is the one that writes the
18 citations. He is the one that sees what we are doing
19 more than anybody. More than you, me, Mr. Burzawa,
20 or even the, quote-unquote, Commission, whoever they
21 are because whenever I ask who their client is, I
22 never get a straight answer. Whoever they are, they
23 up there, don't not know more than he does. He
24 knows, Officer Strand knows, Attorney Strand knows

1 more than anybody else in this room whether or not my
2 client is fit or not and what is going on with
3 Lincoln Towing. He does.

4 And the reason they don't want to have
5 this go forward is because they know that they did
6 not present to you and won't present to you even one
7 witness that is going to tell you that Lincoln gets
8 more tickets now than they did before or they are not
9 fit because they don't have a witness to say that
10 because it's not true. Besides the fact that it's
11 not true, they never bring the right witness. It's
12 always someone else.

13 So I only have one witness to question
14 here, and by the way, this is not just
15 cross-examination. This is my case as well, so if
16 the argument is it's beyond the scope, then I'll just
17 recall him in my case. What I was hoping to do is
18 not to do that.

19 JUDGE KIRKLAND-MONTAQUE: Okay. I don't mean
20 to cut you off. I think I'm going to allow you to
21 question based on his experience within the time
22 period, which I think is where you were going.

23 BY MR. PERL:

24 Q Based on your experience within the

1 relevant time period, do you have an opinion as to
2 whether or not Lincoln Towing was fit to hold a
3 license?

4 A I do not.

5 Q So having said that, you don't have an
6 opinion that Lincoln was not fit during the relevant
7 time period, do you?

8 A No, I do not.

9 Q And this investigation that is going on
10 right now was not as a result of you reporting to
11 anyone at the Commerce Commission that Lincoln Towing
12 was not fit, was it?

13 A No, it was not.

14 Q Based upon the documentation that you have
15 seen so far and it's really just Exhibit 3 -- within
16 Exhibit 3 and based on your experience, and if you
17 don't know, then that is acceptable to me, if you
18 don't have an answer.

19 Just looking at Exhibit 3, where it
20 states that Lincoln Towing was issued the renewal on
21 July 24, 2015, and that on February 24, 2016, they
22 opened this investigation, do you know what happened
23 between July 24, 2015, and February 24, 2016, that
24 caused the Commerce Commission to present its order

1 and open an investigation?

2 A I don't.

3 Q Have you been present in hearings or
4 statuses in this matter whereby you have heard
5 Lincoln Towing's attorneys ask the Illinois Commerce
6 Commission basically what can Lincoln do differently
7 in order to be fit?

8 MR. BURZAWA: Objection, irrelevant question.

9 JUDGE KIRKLAND-MONTAQUE: Where are you going
10 with this?

11 MR. PERL: Here is where I'm going. All along
12 I have said to you that I believe that this whole
13 hearing is improper. There is an improper purpose
14 behind it. I have used the word "conspiracy" before.
15 I am not going that deep with improper. Where I'm
16 going with it is, there's no reason that we are here
17 other than somebody decided to investigate Lincoln
18 Towing maybe in a higher up. I'm trying to figure
19 out, reasonably, from all of the witnesses that we'll
20 ask of, what changed, why are we here, what happened
21 between when we got renewed and when they decided to
22 investigate, how did that all happen? What happened?
23 And, basically, still trying to figure out what are
24 we doing here.

1 JUDGE KIRKLAND-MONTAQUE: I think it's fair
2 based on the order.

3 MR. BURZAWA: Judge, Officer Strand answered
4 that question. He said that he does not know what
5 happened. The question that Mr. Perl asked was
6 concerning statements made at hearings and statuses
7 by staff, so I don't understand what that piece of
8 evidence would prove.

9 JUDGE KIRKLAND-MONTAQUE: By staff or by you?

10 MR. PERL: Here is what it proves, Judge. I'm
11 not going to testify, but he can.

12 I have asked him a dozen times, What
13 did we do wrong? What did we do wrong? And they
14 never want to tell me because they don't want to
15 solve any problems, they just want to have a hearing
16 because there are no problems to solve because we are
17 not doing anything wrong other than people get --
18 one-quarter of 1 percent of your tows, you get a
19 citation on.

20 I think it's relevant. Here is why.
21 I know that you have heard it, but I am not going to
22 ask you to testify. I know that every officer has
23 heard me say it, and I'll say it again today. What
24 are we doing wrong? Hey, Commerce Commission, why

1 don't you have a meeting with me. I have begged them
2 in front of you and the officers, meet with me, tell
3 me what it is that we are doing wrong, we'll solve
4 the problem.

5 The relevancy of that is that because
6 when I argue the conclusion, that is why we are here
7 today. They are not here to solve a problem. They
8 don't want us to be in compliance or not in
9 compliance. They just want to have a hearing because
10 somebody somewhere determined for an improper
11 purpose, is my opinion, that they are going to have a
12 fitness hearing, even though nine months earlier they
13 had a hearing and they deemed us to be fit. That is
14 where I'm going with it.

15 I guess I'm giving you more than I
16 need to give you for what my theory is, but that is
17 why I'm doing it. We have all heard me say it.

18 JUDGE KIRKLAND-MONTAQUE: What was the question
19 again?

20 MR. PERL: The question was, have you been in
21 hearings and statuses wherein attorneys from Lincoln
22 Towing, being myself and/or Mr. Chirica, probably
23 more so me, asked the Commerce Commission attorneys,
24 What are we doing wrong? How can we fix this

1 problem? We want to be in compliance. What are we
2 doing wrong? And they won't answer us.

3 BY MR. PERL:

4 Q Have you heard me ask that question at
5 least?

6 MR. BURZAWA: Objection, irrelevant.

7 JUDGE KIRKLAND-MONTAQUE: I think it's
8 relevant. I'm going to overrule the objection.

9 BY THE WITNESS:

10 A Honestly, I'm not sure, but I would not say
11 a flat no. I don't know.

12 JUDGE KIRKLAND-MONTAQUE: Not sure is the
13 answer.

14 MR. PERL: Okay. That is the answer. That is
15 good enough.

16 BY MR. PERL:

17 Q Do you know if they are there any -- during
18 the relevant time period, if there are any particular
19 parking lots that Lincoln Towing received more
20 citations for than others?

21 A Not offhand. I just -- no.

22 Q Okay. You said that you believe that --
23 and we'll get into it after the break, but you
24 believe that somewhere around 50 percent of your

1 citations that you wrote to Lincoln during the
2 relevant time period were for these administrative
3 issues, right?

4 A That sounds --

5 Q I'm not going to hold you to it. Something
6 like that?

7 A Something like that.

8 Q And of those, a great many of them are
9 because invoices either are inaccurate or not filled
10 out completely, correct?

11 A Correct.

12 Q Now, the invoices, would you agree with me,
13 are generated by a computer for the most part
14 initially?

15 A During that time period?

16 Q Yes, during the relevant time period.

17 A A lot of them were still written, but it's
18 hard to remember. I mean, it's a mix, but I think
19 mostly computer.

20 Q I'll show them to you after the break, but
21 they are computer. There's sometimes handwriting on
22 them afterwards but mostly computer, correct?

23 A Yes.

24 Q And you are computer literate, correct?

1 A Barely.

2 Q And you understand that in sometimes
3 imputing -- inputting something into a computer and
4 then having it print, there can be problems with the
5 printing and things could not align properly,
6 correct?

7 A Correct.

8 Q Are you aware that in October of 2016,
9 Lincoln Towing installed a new computer system to
10 address any and all issues they had in the improper
11 invoices?

12 A I think only because you told me that. I
13 did not know that before.

14 Q Are you aware that Lincoln Towing's new
15 computer system helps to ensure that all of the
16 fields are properly filled out on the tow invoice?

17 A I don't know.

18 Q That is okay. That is fine. And we'll get
19 into it later. The tow invoice has 20 or 30 fields
20 to fill out, correct?

21 A Correct.

22 Q And they are little boxes?

23 A That's correct.

24 Q So if something is not lined up exactly

1 correct, it could be off to the left, right, or not
2 on there at all, correct?

3 A Correct.

4 Q I will get into this later, but just
5 preliminarily, was there ever a point in time when
6 before writing Lincoln Towing a citation for
7 improperly filling out an invoice, that you called
8 them to find out what happened?

9 A No, I did not.

10 Q So you never called and said, Hey, guys,
11 there is 30 boxes, 29 are perfect, this one does not
12 have anything in it, what happened?

13 A No, I never called them on anything.

14 Q If you did and Lincoln was able to actually
15 prove to you that they typed in the checkmark but
16 somehow when it printed, it did not get on the
17 invoice, would you still write the citation?

18 A I probably would only because it's supposed
19 to be provided to the person at the time that it's
20 released, and I guess the dispatchers who can go
21 through and make sure that everything is on there, by
22 the time they give it to them. I never called.

23 Q In hindsight, do you think it would have
24 been helpful or even going forward to inquire not

1 just of Lincoln but of a relocater if you find that
2 there's some invoices that are not properly filled
3 out? Do you think it would be helpful to actually
4 call that relocater and say, Hey, guys, what is going
5 on? The invoice -- other than this one box, it is
6 filled out properly, what is going on?

7 A It could be helpful.

8 Q Because your goal is to protect the public?
9 It is, correct?

10 A Correct.

11 Q And then you want to make sure that the
12 invoicing are being filled out completely, correct?

13 A That's correct.

14 Q And you want to make sure it's done before
15 the public gets the invoice, correct?

16 A Correct.

17 Q So wouldn't it be helpful for someone to
18 have done that during the relevant time period and
19 say, Guys, there's a problem with your invoices?

20 A It could have been.

21 MR. PERL: Judge, I think I'm at a good
22 breaking point now.

23 JUDGE KIRKLAND-MONTAQUE: Okay. We'll take a
24 break and reconvene. And are you sure if we get

1 together by 1:30 that we'll be done?

2 MR. PERL: Yeah.

3 JUDGE KIRKLAND-MONTAQUE: Okay. We'll be back
4 at 1:30.

5 (WHEREUPON, the hearing was
6 adjourned until 1:30 p.m.,
7 01/16/18.)

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