

1                                  BEFORE THE  
2                                  ILLINOIS COMMERCE COMMISSION

3                                  IN THE MATTER OF:

4                                  PROTECTIVE PARKING  
5                                  SERVICE CORPORATION d/b/a  
6                                  LINCOLN TOWING SERVICE,

Docket No.

Respondent.

92 RTV-R Sub 17

7                                  HEARING ON FITNESS TO  
8                                  HOLD A COMMERCIAL VEHICLE  
9                                  RELOCATOR'S LICENSE  
10                                  PURSUANT TO SECTION 401  
11                                  OF THE ILLINOIS  
12                                  COMMERCIAL RELOCATION OF  
13                                  TRESPASSING VEHICLES LAW,  
14                                  625 ILCS 5/18A-401.

Chicago, Illinois

February 14, 2018

Met, pursuant to notice, at 10:30 a.m.

BEFORE:

MS. LATRICE KIRKLAND-MONTAGUE, Administrative  
Law Judge

SULLIVAN REPORTING COMPANY  
REPORTED BY: CHERYL L. SANDECKI, CSR, RPR  
LICENSE NO.: 084-03710

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1 APPEARANCES:

2 ILLINOIS COMMERCE COMMISSION, by  
3 MR. MARTIN BURZAWA  
4 160 North LaSalle  
5 Suite C-800  
6 Chicago, Illinois 60601  
7 (312) 814-1934  
8 martin.burzawa@illinois.gov

9 On behalf of the ICC Staff;

10 PERL & GOODSYNDER, by  
11 MR. ALLEN R. PERL  
12 MR. VLAD CHIRICA  
13 14 North Peoria  
14 Suite 2-C  
15 Chicago, Illinois 60607  
16 (312) 243-4500  
17 aperl@perlandgoodsnyder.com  
18 vchirica@perlandgoodsnyder.com

19 Representing the Respondents.

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21

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1           JUDGE KIRKLAND-MONTAGUE: By the power vested  
2           in me by the State of Illinois and the Illinois  
3           Commerce Commission, I call Docket Number 92  
4           RTV-R Sub 17. This is Protective Parking  
5           Service Corporation, doing business as Lincoln  
6           Towing Service. And this is the hearing on  
7           fitness to hold a commercial vehicle relocater's  
8           license.

9                     May I have appearances, just your name  
10           and who you represent. Please start with  
11           Lincoln.

12           MR. PERL: Thank you, Judge. For the record,  
13           my name is Allen Perl from Perl & Goodsnyder  
14           representing Protective Parking Service  
15           Corporation, doing business as Lincoln Towing  
16           Service, Respondents in this matter.

17           MR. CHIRICA: Good morning, Your Honor. Vlad  
18           Chirica also from Perl & Goodsnyder representing  
19           Protective Parking Service Corporation, doing  
20           business as Lincoln Towing Service.

21           MR. BURZAWA: Good morning, Your Honor.  
22           Martin Burzawa from the Staff of the Illinois

1 Commerce Commission.

2 JUDGE KIRKLAND-MONTAGUE: Okay. Mr. Perl, we  
3 continued to this morning so that you can give  
4 us an outline of how you wish to proceed with  
5 your case.

6 MR. PERL: Thank you, Your Honor. Since last  
7 night, although I have only had something like  
8 less than 12 hours or so to kind of think about  
9 what I wanted to do, I did want to one last time  
10 renew my motion for directed verdict or for time  
11 to file said motion in writing with Your Honor  
12 this morning.

13 I know that Your Honor declined it  
14 yesterday. I just wanted to renew that so I  
15 know what direction to go in. And if Your Honor  
16 is inclined to deny -- continue to deny the  
17 motion for directed verdict and not allow us  
18 time to present that in writing, then I will  
19 proceed this morning.

20 So I would like Your Honor to at least  
21 rule on that first so I can go forward with how  
22 I want to proceed, if Your Honor is okay with

1       that.

2               JUDGE KIRKLAND-MONTAGUE:  Sure.  I'm going to  
3       deny the motion for directed verdict, and I  
4       don't see the need for you to put it in writing.

5               MR. PERL:  Okay.  So moving forward from  
6       there, as I stated yesterday, Your Honor, we  
7       believe that the Commerce Commission has never  
8       given us what their cause of action was in this  
9       case, ever.

10               Finally, yesterday we heard for the  
11       first time in over two years I think what the  
12       cause of action is, this pattern and practice of  
13       unauthorized towing, which is the first time we  
14       have ever heard.  It wasn't in any of the eight  
15       answers to our data request or interrogatories  
16       that were propounded to the Commerce Commission.

17               The last one, the eighth one, which was  
18       tendered to my client on April 25, 2017, at that  
19       point in time, all they stated in the answer to  
20       interrogatory number five, which was, identify  
21       why the ICC is conducting this hearing on  
22       fitness to hold commercial vehicle relocators'

1 license against Lincoln Towing at this time, and  
2 there was just a generic answer given citing the  
3 statute saying that's why we're doing it,  
4 nothing about illegally or improperly towing  
5 vehicles.

6 The reason I think that's important is  
7 because at that point in time they did not have  
8 created Exhibits A through F yet. And they  
9 certainly weren't certified by Scott Morris,  
10 which he didn't certify until May 10, 2017.

11 So when this eighth answer came in,  
12 Lincoln Towing still wasn't aware of what the  
13 cause of action was or why we were at this  
14 fitness hearing.

15 When those documents were presented, A  
16 through F, for the first time ever to us on  
17 April 25th, we made the argument that discovery  
18 was already closed. They were untimely.  
19 Literately the hearing was less than 30 days  
20 away.

21 Your Honor did allow them to present  
22 the documents however said we could depose the

1 individual that they were going to use to  
2 present the documents. They named Sergeant  
3 Sulikowski. On May 3rd we took Sergeant  
4 Sulikowski's deposition. And the dates are very  
5 important.

6           You have April 25th, first time we have  
7 ever seen the documents, of 2017. May 3, 2017,  
8 at Sergeant Sulikowski's deposition wherein he  
9 states clearly that he is not planning on using  
10 A through F at the hearing that we are at  
11 presently, that he doesn't know who created the  
12 documents, when they were created, how they were  
13 created, who created them, whether they are  
14 reliable.

15           And actually in his deposition, he says  
16 that they are not accurate. That's the last  
17 thing he said in his deposition. And it was a  
18 generic question. Not one document. He  
19 literally says -- I said are the documents  
20 presented on the screen accurate. He said no.  
21 That was it.

22           So at the deposition on May 3, 2017, I

1 think I had good reason to believe, one, the  
2 documents weren't going to be used at all. And  
3 this particular witness couldn't possible lay a  
4 foundation for them and they knew that.

5           So subsequent to May 3rd and prior to  
6 this hearing happening, the Commerce Commission  
7 saw fit to go get what they are calling a  
8 certification from Scott Morris. They didn't  
9 even get that until May 10th because that's the  
10 date he signed it. So I couldn't have even  
11 known about Scott Morris prior to May 10th. And  
12 I didn't get it on May 10th; I got it sometime  
13 thereafter. And the hearing started two weeks  
14 after.

15           So as you are aware, we filed various  
16 motions to strike, to continue, not allowing the  
17 documents into evidence, and we lost all of them  
18 basically. We didn't get the continuance  
19 granted. And they were allowed to present the  
20 documents A through F, although they haven't all  
21 been admitted yet, over our strenuous  
22 objections.



1           So many times when counsel will say to  
2     you, well, they should have raised this issue  
3     before, I did about five times at least, two or  
4     three of them in writing, but 30- to 40-page  
5     pleadings. So we raised this issue before.

6           And what the problem was for us was we  
7     were left with literally going into court not  
8     knowing what the Commerce Commission's position  
9     was other than they have a February -- our  
10    Exhibit 3, February of 2016, a memo that says  
11    they are planning on having some fitness  
12    hearing. In that memo, they don't say why.  
13    They cite to the statute, but that's it.

14           They don't say in there because we have  
15    a pattern and practice of unauthorized towing.  
16    They don't say that there is too many citations  
17    based upon their historical citations. Because  
18    we know for a fact that in July of 2015, there  
19    was an order stating that we were fit.

20           July 24, 2015, an order comes out from  
21    the Commerce Commission saying they hold us to  
22    be fit. That's why we are using that date for

1 the relevant time period.

2 So at that point in time and up until  
3 the moment in time that I was going to come to a  
4 hearing here, I didn't think we had any issues  
5 at all, because I didn't know what they were,  
6 and my witnesses were only Bob Munyon and Chris  
7 Dennis, because I had no reason to bring in  
8 other witnesses.

9 Certainly after Sergeant Sulikowski  
10 says in a deposition, and you have that  
11 transcript, at least that portion, where he says  
12 twice, I'm not planning on using these  
13 documents.

14 And forgetting about that, Your Honor,  
15 at that point in time I knew they couldn't get  
16 the documents in because he couldn't possibly  
17 lay a foundation for them because he didn't know  
18 what they were. Some of them he was looking at  
19 for the first time in his deposition. So they  
20 had no way of getting those documents in through  
21 him.

22 Seven days later, and I think at the

1 deposition, they figured it out as well, they  
2 being the Commerce Commission, that they knew  
3 they couldn't get A through F in. They had no  
4 foundation for it. They were hearsay documents.  
5 They weren't, quote/unquote, public records like  
6 they like to say.

7           So they got the certification. And we  
8 didn't know at that point in time, you know,  
9 what Scott Morris was certifying. So we looked  
10 at it. We brought it to you. Up until that  
11 point in time -- strike that.

12           Since we didn't get the continuance of  
13 the hearing like we wanted, we couldn't do  
14 anything further, we were stuck with what we  
15 were stuck with. But we proceeded because I  
16 knew still at that point in time A through F  
17 really, even if they got admitted, couldn't be  
18 used for anything because I already knew from  
19 Sergeant Sulikowski's testimony that he didn't  
20 know anything about them.

21           Not only did he not know anything about  
22 them, at his deposition he said he doesn't know

1       whether we are fit or not. We are not claiming  
2       we are not fit. And, furthermore, he said that  
3       based upon everything he saw, he doesn't even  
4       know if we are getting too many citations or  
5       not. There is no real testimony to that.

6               So going along up until yesterday, and  
7       as you are aware, Your Honor, at least two or  
8       three times I made the issue of, the Commerce  
9       Commission case is closed or not closed. And  
10      once again yesterday Counsel tried to argue  
11      again that I went beyond cross-examination, the  
12      scope.

13              He argued it again yesterday when we've  
14      talked about this ad nauseam, that I'm not going  
15      to be questioning him two times. We are doing  
16      their case and I'm going to do my cross and  
17      direct at the same time. Because it's very  
18      confusing. I don't know what their case is.

19              Up until yesterday at, whatever it was,  
20      3:30 or so, I didn't know that they were  
21      claiming that we had a pattern and practice of  
22      unauthorized towing because they had never pled

1 that. It's not in any of their pleadings. It's  
2 not in their memo. It's not in any of their  
3 eight responses to our discovery. It's just not  
4 there.

5 And when they created Exhibits A  
6 through F on or about April 25th of 2017, weeks  
7 before the hearing, if that was their position  
8 then, they should have amended their responses  
9 to us and told us. Because you can't bring a  
10 defendant or respondent into court without  
11 notifying them of their due process.

12 It's nothing different than if I  
13 literally sue you tomorrow, Your Honor, and I  
14 served you with a complaint in the law division  
15 saying, I'm suing you because you did something.  
16 And you said, well, what? And I said, well,  
17 don't worry about it. When you show up to the  
18 hearing, I will present what I'm going to  
19 present and then you will present your case and  
20 then you will win or you'll lose.

21 But that's what they did here. They  
22 literally, up until April 25th, they had

1 about -- they had the citations and nothing  
2 else. They gave us -- in all of the discovery,  
3 Judge, they always tell us, it's too voluminous,  
4 we can't give you anything.

5 Literately they objected to all of our  
6 requests, as you know. We had to fight them on  
7 everything and we ended up getting almost  
8 nothing. They gave us, I think, two or three  
9 e-mails and the citations and that was it.  
10 Nothing else.

11 Up until April 25th, that was the  
12 extent of their case. And they claim that they  
13 had to create Exhibits A through F after  
14 Mr. Munyon's deposition because they learned  
15 information at Mr. Munyon's deposition that led  
16 them to make Exhibits A through F.

17 Here is the flaw in that. And I've  
18 argued this before. They had our 24-hour tow  
19 sheets for one year. In June of 2016, we gave  
20 them our 24-hour tow sheets, not to mention that  
21 we send them into the police department every  
22 day because we have to. And they could have

1 FOIA'd them if they wanted to from the police.

2 I'm assuming they had them anyway.

3 But just to argue to the Court that up  
4 until Mr. Munyon's deposition they didn't know  
5 about any of this would be a ridiculous  
6 assertion on their part. Because Mr. Munyon  
7 didn't talk about any specific tows.

8 What he answered questions about was,  
9 literally -- I was kind of dumbfounded -- they  
10 said, well, what does it mean, the name. Well,  
11 he would say, that's the person's name. What  
12 does it mean, address of tow. That means where  
13 the tow is towed from, the address. They  
14 literally asked those questions as if they  
15 didn't know anything about it.

16 But they didn't ask him specific  
17 questions about any lots or any contracts he has  
18 or anything. And the way they got you to allow  
19 it to happen was they said to you, Judge, we  
20 just learned this information just at  
21 Mr. Munyon's deposition so we couldn't have  
22 created Exhibits A through F before that.

1                   And I said to you, let's look at  
2           Mr. Munyon's deposition. Show me in there --  
3           and I know Mr. Burzawa wasn't working for the  
4           Commerce Commission yet -- show me in  
5           Mr. Munyon's deposition where you learned  
6           anything new that formed the basis for creating  
7           Exhibits A through F, because there was nothing.

8                   Okay. I lost that motion anyway and  
9           the documents -- some of them are in evidence  
10          but -- they've testified to all of them, some of  
11          them are admitted to this point.

12                   It's so important, Your Honor, because  
13          I have used the words trial by ambush in this  
14          case where in 32 years I have never used it in  
15          my life. I don't even believe in it. I mean,  
16          you go to court. You have written discovery.  
17          You have oral discovery. You have motions in  
18          limine. You have motions for summary judgment.

19                   By the time a seasoned attorney gets to  
20          a hearing, there should be no surprises at all,  
21          Your Honor. It's not Perry Mason on TV where  
22          you have an ah-ha moment. That's not what we



1 do. I mean, the public thinks that's what we  
2 do, but it isn't. If you have an ah-ha moment  
3 in a trial, you messed up in discovery and you  
4 didn't do your job. You are supposed to know,  
5 clearly know.

6 I don't need to know their theory that  
7 they are going to argue. No, that's up to them.  
8 But I do need to know the cause of action, what  
9 my client is accused of doing, and I've never  
10 known that. And I kind of still don't know it  
11 anyway. Maybe a little bit now because of this  
12 pattern and practice of unauthorized towing.

13 But in this arena, I would defy even  
14 Your Honor to tell anyone what it is the  
15 Commerce Commission is claiming that we did  
16 wrong, the elements for it, like breach of  
17 contract. Offer, acceptance, consideration, as  
18 I said yesterday.

19 You need to know beforehand. I can't  
20 just sue you saying, you didn't do something.  
21 Breach of contract. I have to lay out the  
22 elements for you, don't I? Offer, I offer to

1 paint your house for \$10,000. Acceptance, I  
2 accept for you to paint my house for \$10,000.  
3 Consideration, we have a contract, I give you  
4 \$1,000 down.

5 Now we have got a binding contract on  
6 all parties. The painter never shows up or does  
7 the work improperly. The homeowner sues to  
8 enforce the contract against the painter saying,  
9 offer, acceptance, consideration, and then you  
10 breached. And here are my damages, which are  
11 also elements to the cause of action. And then  
12 you have got to go over what your breach is and  
13 what your damages are.

14 Now I've got an actual complaint for  
15 breach of contract. Then the prima facie case  
16 is made and now the defendant defends himself.  
17 Unbelievable how you do that simply in a  
18 courtroom every day of the week a thousand  
19 times.

20 I say, that's not true. I tried to get  
21 into your house, you locked me out. You were  
22 never home. You changed the color of the paint

1 five times. You made me varnish everything.  
2 You made me strip everything. Whatever it is my  
3 defense is, I present it, and then Your Honor  
4 makes a decision.

5 And you figure out from the facts  
6 presented to you. But that's because the  
7 plaintiff sustained their burden of showing you  
8 a prima facie case with all of the elements met.  
9 In this case I tell you they didn't do that.  
10 They never told us what they were claiming other  
11 than the statute.

12 And by the way, we are not here for a  
13 regular fitness hearing pursuant to the fitness  
14 test in Section 1710.22. We're not. That is  
15 not. They actually have agreed pursuant to  
16 stipulation that Lincoln Towing is in compliance  
17 with every single one of the fitness tests  
18 except now they are having a hearing anyway.

19 So they are not complaining that we  
20 don't have the proper workers' comp insurance.  
21 They are not complaining that we don't have at  
22 least two tow trucks under exclusive lease.

1 They are not complaining that we don't have at  
2 least two individuals who work as relocater  
3 operators. They are not complaining that we  
4 don't have sufficient and full-time employees at  
5 each storage lot to comply with  
6 Section 1710.123. None of those things.

7 They are admitting we have all those  
8 things which you would normally have at a  
9 hearing. So the problem is, when they answer  
10 their number five the way they answer it, you  
11 would think that's what they are complaining  
12 about. But they are not. So there is no  
13 specific cause of action or allegations that my  
14 client could have known up until the hearing.

15 Now the hearing starts. They present  
16 Sergeant Sulikowski who told me under oath in  
17 his dep he is not planning on using Exhibits A  
18 through F. What do they use with Sergeant  
19 Sulikowski? Only A through F. That's all he  
20 testified to, A through F. I made my  
21 objections. I moved to strike. It was denied.  
22 He testifies.

1           But it was not denied -- it was only  
2           denied in part and granted in part. He was only  
3           able to testify that the pieces of paper he was  
4           reading had words on them and he read them to  
5           the Court. He offered no opinion on them. He  
6           offered -- he didn't tell you who created them  
7           or when they created them or even if they are  
8           reliable.

9           In fact, at the final -- although he  
10          tried to fight it, at the final moments of his  
11          deposition -- I'm sorry, of his testimony, he  
12          admitted to this Court that when I showed him  
13          the document, I said, show me one thing on this  
14          exhibit that's accurate. And he said to the  
15          Court, well, I don't know. I don't know of  
16          anything that's accurate.

17          Well, we know that these 16 things are  
18          inaccurate. The year 1899 appears 13, 14, or 15  
19          times. There's one lot that has a contract for  
20          two relocators at the same time, it can't be.  
21          We know that those are inaccurate.

22          So the very documents that I didn't

1 think would ever come near the Court hearing  
2 about them or reviewing them are stated by the  
3 only witness they present saying that they are  
4 not -- now, I guess you could say he never says  
5 the words they are inaccurate at this hearing  
6 except for the certain things.

7           Because Counsel argued to you, well,  
8 Mr. Perl is misstating what Sergeant Sulikowski  
9 said. Sergeant Sulikowski didn't say the whole  
10 thing is inaccurate. He just said certain parts  
11 are inaccurate. That's assuming that you can't  
12 glean from the comment that I can't point to  
13 anything that's accurate.

14           So if I can't point to anything that's  
15 accurate, then who do you have testifying the  
16 information is accurate? Because Scott Morris  
17 just says, if we believe that he looked at the  
18 documents on the screen, which I don't, but even  
19 if you do, all he is saying is this is what the  
20 screen says.

21           He never said the documents are  
22 accurate, truthful, or reliable. He never tells

1       you that. He just says, I'm looking at a  
2       screen, here is what it says. Clearly we know  
3       if he did look at the screen he would have seen  
4       that it says 1899, 13 or 14 times.

5               Now, I'm not saying it's his duty to  
6       tell someone that, but I would think it would  
7       be. If he literally is who he says he is and he  
8       is going to certify some documents, maybe he  
9       would say to somebody, by the way, guys, I'm  
10      certifying the screen, but you should probably  
11      take a look at it because I know that Lincoln  
12      Towing wasn't in business in 1899.

13              And certainly, even if they were, this  
14      driver couldn't have been towing in 1899. He  
15      would be pretty old. So none of that happens to  
16      you.

17              So, yes, I understand that can go to  
18      the weight of credibility, but it should never  
19      get there. You shouldn't get there because they  
20      haven't ever given you a prima facie case.

21              And I know that Your Honor -- I know  
22      that you have the best intentions when you say,

1 don't worry about it, I'm going to look at  
2 everything and I will judge. And I get that.  
3 And I do think that if they actually got all the  
4 evidence in correctly and properly you would do  
5 just that. You would judge it fairly. Because  
6 I find you to be -- I'm not just saying this --  
7 a fair and impartial Judge.

8 I think that your rulings are good in  
9 that case. But in this particular case, the  
10 times when you have allowed the documents in and  
11 when you have allowed them to move forward in  
12 these things, I think it was improper. I really  
13 don't. I think that A through F never should  
14 have come in.

15 And even if they came in, the directed  
16 verdict should be granted because they didn't  
17 show anything. Because documents don't really  
18 speak for themselves or mean anything unless you  
19 connect the dots to them. And for the first  
20 time ever, yesterday at 3:30 in the afternoon,  
21 or whatever time it was, Counsel in his  
22 frustration, I'd say accidentally blurted out,



1 well, we intend to infer from these documents  
2 that there was a pattern and practice of  
3 unauthorized towing. First time ever.

4 And the reason that's so important is  
5 because he said he was going to argue it at his  
6 closing. So just what I had thought all along,  
7 and I keep saying this ambush thing is, at the  
8 closing, because you are both going to allow in  
9 A through F, they are going to now argue  
10 something because they've got our 24-hour tow  
11 sheets, which, by the way, prove my allegation  
12 that during the relevant time period, it's not  
13 in dispute, we towed 9,470 vehicles during that  
14 relevant time period, which was from July 25,  
15 2015, to March 23rd, 2016.

16 And I hope that everybody in this  
17 courtroom gets that clear. There were 9,470  
18 vehicles towed during that relevant time period.  
19 That's now in the document that they want this  
20 Court to enter into evidence which are our  
21 24-hour tow sheets.

22 Also what's clear, because they have

1 nothing else before you, are a certain number of  
2 citations that were written during the relevant  
3 time period by Officer Strand, Officer Geisbush,  
4 and Investigator Kassal. Sergeant Sulikowski  
5 didn't write any during the relevant time  
6 period.

7 So when you look at the number, and  
8 I've told you what they were, I don't know  
9 whether they were 170 citations that they  
10 actually wrote during the relevant time period,  
11 1.9 percent of the 9,470, but that's not found  
12 guilty or liable. There might be 20 or 25 that  
13 were liable.

14 And by the way, Judge, I will present  
15 evidence to you to rebut the fact that some of  
16 the documentation in their exhibit book is  
17 wrong, is incorrect. On some of them, for some  
18 reason, the Commerce Commission says that we  
19 were found guilty after a hearing and fined \$50.  
20 That's not true.

21 On May 5, 2016, we came to this court  
22 and we agreed to refund and -- for certain

1 fines, but we never had a hearing that day. So  
2 when I said to you yesterday -- and I know it  
3 sounds like bragging, and I don't mean it to be  
4 that way. When I said to you yesterday, in the  
5 seven or eight years I've been doing these  
6 Commerce Commission hearings in front of you, I  
7 think I have only lost three or four times. I  
8 know that to be a fact. And two of them were  
9 recently.

10 So up until a long time ago -- I think  
11 I had one loss and I know -- I remember clearly  
12 what it was. So to say that when someone gets  
13 written a citation it means anything, it doesn't  
14 mean anything. Because when we go to a hearing  
15 and I consistently win like 30 times out of 33,  
16 how can you hold that against somebody?

17 So literally you are at three-tenths of  
18 one percent that -- of the tows that Lincoln  
19 might be found liable. That means 3 per 1,000  
20 potentially. That's the most it could be. It  
21 can't be any more than that.

22 So all along I have said to myself, I

1 don't know what they are saying. I have said to  
2 you probably a dozen times or more along the way  
3 before we got here at our status hearings,  
4 Judge, I don't know what we are doing here.  
5 You've said to them, what are we doing here.  
6 And they just started -- they just cite the  
7 statute to you saying, well, the statute says we  
8 can come here. Okay, great.

9           So when I argue this trial by ambush  
10 thing, it's because it is. So I now am at a  
11 crossroads. I'm finding out what they are going  
12 to do yesterday for the first time. And I'm  
13 also finding out yesterday -- by the way, the  
14 reason that I had said to you two or three times  
15 prior to this in the last month or so, is the  
16 Commerce Commission done, are they resting,  
17 because I knew I couldn't bring my motion for  
18 directed until then.

19           Now, that's my theory. I don't have to  
20 tell them why I'm doing it. And Your Honor even  
21 said to them, well, Mr. Burzawa said I have no  
22 further -- I mean, no other witnesses. We're

1 done. He didn't say the words "We're done." I  
2 apologize. He said "No other witnesses," which  
3 I think you and I took to mean they are  
4 tendering to me, so I did.

5           Until yesterday when we decided we had  
6 these stipulations and Mr. Munyon wouldn't be  
7 testifying in the Commerce Commission's case,  
8 they're done, they are finished. I finished up  
9 with Officer Strand. They have no other  
10 witnesses that they have named. Their case is  
11 over.

12           That's the first time that I could ever  
13 bring a motion for a directed verdict. And I  
14 did immediately. And I actually believed in my  
15 heart of hearts and my mind you were going to  
16 grant it. Because I believe that that's proper.  
17 Because they didn't prove anything.

18           There was no prima facie case that they  
19 ever -- they never even gave you a case that  
20 they can prove the elements for anyways, so how  
21 do you say that you've met the elements of  
22 something when you didn't tell them what the

1 case is, what your cause of action is. You  
2 can't.

3 You can't have a breach of contract  
4 case if you don't say it's a breach of contract,  
5 even if you put the elements in. The person  
6 doesn't know. They didn't do either.

7 So the crossroads that I'm left at now  
8 is, do I proceed -- and then Counsel stated,  
9 well, they only listed two witnesses, they are  
10 stuck with just two witnesses. Yeah, I listed  
11 two witnesses when I thought they didn't have a  
12 case and I didn't know what it was. And I  
13 didn't think A through F were either getting  
14 into evidence or they were going to be able to  
15 be even considered by this Court because the  
16 witness told me he wasn't going to use them.

17 So now here I am two years -- over two  
18 years into this. My client has spent untold  
19 thousands of dollars in this case, the taxpayers  
20 have paid untold thousands of dollars on this  
21 case, and it's a case about nothing. And I  
22 guess it's the Seinfeld show. It's a show about

1 nothing. It's a case about nothing.

2           Until they finally say, oh, we are  
3 going to have you infer things. And Counsel  
4 used the word infer. We are going to have you  
5 infer from the 24-hour tow sheets and A through  
6 F that -- this pattern and practice of  
7 unauthorized towing.

8           Why are you hearing that for the first  
9 time yesterday, Judge? When you yourself asked  
10 him -- and I can get the transcripts, and I will  
11 if I have to -- when you yourself asked them  
12 point blank, what is this about. I know I was  
13 there. I know Mr. Chirica was there at least a  
14 couple, three or four times when you said it,  
15 and they wouldn't -- not that they wouldn't tell  
16 you, they didn't have a theory.

17           They were just filing something because  
18 someone told them to. Somebody along the way  
19 said, let's have this hearing. And then  
20 initially they thought, we have to go first.  
21 Well, we didn't have to go first because Your  
22 Honor was correct; they need to put their case

1 on first so we are aware of it.

2 It's not like -- you know, every two  
3 years when you put it on, the burden is on -- on  
4 the anniversary of your license, the burden is  
5 on the relocater to show that they are fit.  
6 There is no question about that. And I have  
7 done it before.

8 Usually they don't have a hearing.  
9 Usually it's just you submit your documents and  
10 you get granted or not. Typically they are  
11 granted unless there is something really  
12 egregious.

13 It just so happens in 2015 the Commerce  
14 Commission decided to have a full-blown hearing  
15 on our fitness. So I believe it was in May of  
16 2015 I attended a full-blown hearing on fitness  
17 for Lincoln Towing, which was our two-year  
18 period. We presented everything, insurance,  
19 workers comp, financial stability, leases.

20 We have the two lots, one we own, one  
21 we lease. Everything was fine and guess what.  
22 We were given our license in July of 2015,



1 July 24, 2015. So that I knew how to be  
2 prepared for and I was.

3 That's not this case now, Judge. This  
4 is something totally different because within --  
5 from July 24th, 2015, to February I think it was  
6 23rd, 2016, when that memo comes out was the  
7 first time -- by the way, we didn't get the memo  
8 then. We found out about the memo -- somebody  
9 got the memo and gave it to me. And that's when  
10 we first realized that we are going to have a  
11 hearing, but it didn't tell me why.

12 And I've been saying all along, how is  
13 it possible that we were fit on July 24, 2015,  
14 and we weren't fit in February of 2016. You  
15 asked them and they never responded other than  
16 to say, like their interrogatory says [as read]:  
17 Staff's decision to recommend the matter for  
18 fitness hearing at this time is based upon the  
19 following statutory language.

20 And all they did was quote the language  
21 that says [as read]: All relocators' licenses  
22 shall expire two years from the date of issuance

1 by the Commission.

2 Well, that wasn't this case. Our  
3 license hadn't expired. Our license was  
4 supposed to go through July of 2017. So they  
5 are citing a statute that doesn't really even  
6 apply.

7 But then they go further and they say  
8 [as read]: The Commission may at any time  
9 during the term of the license make inquiry into  
10 the management, conduct of business, or  
11 otherwise to determine that the provisions of  
12 this Chapter 18(A) and the regulations of the  
13 Commission promulgated thereunder are being  
14 observed.

15 Okay. So I'm assuming that's what they  
16 are doing. Well, that's a broad statement.  
17 That doesn't tell us why we're here. And you  
18 asked them a couple times and that's all they  
19 told you.

20 So I'm now at a crossroads where I hear  
21 something yesterday for the first time. Do I  
22 ask this Court to reopen up the case, allow me

1 to file pleadings, do written and oral discovery  
2 based upon on what I guess their stated cause of  
3 action is now? I would need to subpoena  
4 witnesses. I don't have -- these witnesses are  
5 not under my control. And my client would then  
6 spend another 50 or \$100,000 easily in this case  
7 because I would have to issue new discovery to  
8 the Commerce Commission. They wouldn't answer.

9 Counsel said to you yesterday, all  
10 these records in these proceedings are public.  
11 All I have got to do is FOIA them. Well, let's  
12 comment on that. The last FOIA I presented  
13 where I asked for these hearing proceedings, I  
14 was responded from the Commerce Commission that  
15 they are too voluminous and they didn't give me  
16 the documents. And by the way, they still have  
17 them.

18 So if you recall, Judge, I came in here  
19 and I asked you to stay the proceedings because  
20 I filed an action in the Circuit Court in  
21 Chancery forcing them to turn over the FOIA  
22 documents and you didn't stay the proceedings.

1 You did allow me to wait for the  
2 cross-examination, you know, until they  
3 finished.

4 Well, guess what. Guess how many  
5 documents the Commerce Commission has given me  
6 pursuant to that FOIA. Just take a round  
7 number. Because zero is a good round number.  
8 Zero.

9 So Counsel argues to you, Judge, these  
10 are public records, they can just FOIA them.  
11 Well, I did and they didn't give them to me.  
12 Because they want me to go forward, like always,  
13 trial by ambush. Why in the world in the middle  
14 of the hearing when I FOIA the prior hearings  
15 that we had here -- like this one today I am  
16 going to FOIA eventually as well -- and they say  
17 we can't give that to you, it's too voluminous.

18 How could a PDF of a document -- you  
19 press a button on the computer. This fine court  
20 reporter is probably going to finish this  
21 hearing today and she is going to send them over  
22 to the Commerce Commission. Probably via her

1 computer. Maybe even writing as well. But  
2 certainly through a PDF.

3 How can it be voluminous for the ICC to  
4 then turn around and send that to me? Well,  
5 that's what they are claiming. We are literally  
6 going to have a hearing about that. Because  
7 even in the court when I argued to that to Judge  
8 Camry (phonetic), the attorney general still  
9 won't give it up.

10 They still haven't produced one single  
11 document even when they said to me in their  
12 answer -- one of my requests was 37 pages of  
13 documents they said. They actually said, there  
14 is 37 pages of documents. But they didn't give  
15 them to me because it's voluminous. So Judge  
16 Camry looked at them and said, maybe you better  
17 be careful if you claim that's voluminous.

18 That was two weeks ago. I still don't  
19 have any documents. Not even the 37 pages. So  
20 when Counsel says to you, just FOIA them because  
21 they are public record, he doesn't really mean  
22 that. He means other people can do it but we

1 can't.

2           How do I know that? Because someone  
3 else did FOIA the records and they got them.  
4 And they didn't claim they were voluminous.  
5 Someone else that we know FOIA'd these exact  
6 same documents and they were tendered them by  
7 the Commerce Commission.

8           Interesting, isn't it? But I have my  
9 conspiracy theories. I must be crazy. It must  
10 be me. It can't be anything else. It can't be  
11 trial by ambush, except that it is. And they  
12 have down it all the way through and they have  
13 gotten away with it all the way through up until  
14 today and yesterday when they finally kind of  
15 admitted it.

16           So what do I do, Judge? Are you going  
17 to allow me to bar them from doing any further  
18 discovery and entering any documents? Allow me  
19 to file an amended response and discovery first  
20 written to them, then oral, then take  
21 depositions of all the witnesses?

22           Because now, you know, if I need to

1 bring in the lot owners, they aren't my clients.  
2 I can't force them to come here. I don't know  
3 -- I'd have to subpoena them. I would  
4 literally have to subpoena 30, 40 lot owners or  
5 managers because sometimes we only deal with the  
6 managers of the lots as they are allowed to --  
7 managers are allowed to contract as well.

8 So if I ask you to do that, I can't  
9 tell you -- I can't just give you -- you wanted  
10 me to give you dates today. I can't give you  
11 dates if that's the case. How am I going to  
12 give you a date? I have to go back to my  
13 office, figure out who I would need to testify  
14 based upon Sergeant Sulikowski's -- not his  
15 testimony because he didn't testify to anything.  
16 Based upon their theory that they want you to  
17 infer something, which scares me, because they  
18 are claiming they want you to make an inference  
19 on something that they couldn't prove in court.

20 So if I do all that, Judge -- so  
21 Mr. Chirica is telling me he is looking at a  
22 transcript, which is a public record as Counsel

1 always says it is, March 23, 2016. I said, I  
2 think it would be more appropriate for them to  
3 tell us why they believe we are all of a sudden  
4 not fit when less than a year ago they  
5 determined we were fit to hold a license.

6 March 23, 2016, two years ago I asked  
7 them the question for the first time. And I  
8 said it would -- I think it would be in my  
9 client's -- probably due process would be better  
10 served if they told us why they now feel we  
11 aren't so that we can actually address the  
12 issues that they have -- as opposed to just  
13 giving us the information that we gave them in  
14 July.

15 Two years ago I asked them the same  
16 question. That was for the first time. And I  
17 asked it -- this is literally a transcript from  
18 a hearing we had or a status hearing. Or this  
19 hearing two years ago. I got nothing.

20 So I don't know -- and again, sometimes  
21 I say the same things over and over again and I  
22 speak quickly. And I apologize to court



1 reporter mainly. But I have never actually  
2 experienced anything like this in all my years  
3 of litigating. I really haven't.

4 I win cases and I lose cases. It  
5 happens every day. It doesn't matter to me. I  
6 do -- as long as I am doing the best I can for  
7 my client, I leave it in the Court's hands or  
8 the jury's hands. That's all I can do. I want  
9 to win every case. Trust me, I do. And I work  
10 hard to win every case, I do. But once I have  
11 done everything I can...

12 In this particular case, how do I do  
13 everything I can when I don't know what the  
14 other side is actually claiming? I know that  
15 they have some documents up there. I know that  
16 they are saying there's inconsistencies. Well,  
17 the inconsistencies were all due to the Commerce  
18 Commission, not my client.

19 The 1899s and the other stuff was the  
20 Commerce Commission inputting them. And by the  
21 way, you don't even know as the trier of fact  
22 who put that information into the MCIS because

1 no one has testified to it.

2           You really -- as you sit there right  
3 now, when you look at Exhibits A through F, you  
4 have no idea because all you can do, I think, is  
5 as a trier of fact is you have to blank  
6 blackboard when we start. Counsel and I fill it  
7 up for you. And that's all you are allowed to  
8 look at, nothing else. And if it's not on  
9 there, then you can't consider it.

10           But they want you to consider it even  
11 though it's not on the blackboard. You should  
12 consider things because they are arguing it and  
13 they're saying it, and that's been my argument  
14 all the way through. Really what it is is  
15 opposing Counsel for the Commerce Commission,  
16 it's just their argument that you should find us  
17 unfit. They don't have anything to back it up.

18           They can't tell you that we were doing  
19 something different when we got our license in  
20 July of 2015 than we are now because no one  
21 testified to it. They can't even tell you we  
22 were getting more or less tickets because it's

1 not in the record.

2 So right now if we got 2,000 citations  
3 during that time period, which we didn't, how  
4 would you know whether or not that's more or  
5 less than we got in July of 2015 when they  
6 renewed us? Maybe we had 3,000 citations and  
7 they found us to be fit. So how can you be  
8 unfit if you had less citations than the period  
9 before? It's not possible.

10 How can you possibly make a prima facie  
11 case for anything when Your Honor doesn't have  
12 any evidence in front of her for that. Nothing.  
13 All you would be doing is making your ruling  
14 based upon what you have seen here and then  
15 maybe taking a guess at whether or not we have  
16 more or less tickets in the last 50 years we  
17 have been in business. Or 24 years since my  
18 client has owned the company. Or since July of  
19 2015 when we were deemed to be fit. How could  
20 you even figure that out? If I were you sitting  
21 there, I would want to know how many citations  
22 did they have the period before when you

1 actually renewed them.

2 JUDGE KIRKLAND-MONTAGUE: On that note, for  
3 the record, and I didn't think we would -- I  
4 didn't know what we were doing today. But I do  
5 plan to take administrative notice of the  
6 Commission's order entered on July 24, 2015. I  
7 can make -- the order renewing the license back  
8 in 2015. I will take administrative notice so  
9 that will be part of this record.

10 MR. PERL: And Exhibit 3 also as part of the  
11 record because it was admitted already.

12 JUDGE KIRKLAND-MONTAGUE: Right. That's part  
13 of the case. It initiated this whole thing  
14 so...

15 MR. PERL: Right. So I don't think that that  
16 July 24th order tells you any of that. It's  
17 just an order saying that we were deemed to be  
18 fit. And that's a good thing for us and I  
19 appreciate it.

20 But it doesn't give you any insight  
21 into what it is that was determined or not  
22 determined, how many cases were pending at the

1 time they deemed us to be fit, what types of  
2 tickets we had at the time -- I'm sorry,  
3 citations. You don't know any of that because  
4 they didn't present that to you because they  
5 don't want you to know because nothing has  
6 changed. Actually, maybe it got even better.

7           So I am forced with either going  
8 forward with what I have got, which is the  
9 testimony of Mr. Munyon and/or Mr. Dennis and  
10 being done and then doing our closing arguments.  
11 Or asking this Court -- not to give me new  
12 hearing dates, I can't take any right now -- I'm  
13 asking you to reopen this whole case for me  
14 only, for Protective Parking only, not for the  
15 Commerce Commission, because they are done, and  
16 allowing me to file revised answers, responses,  
17 and motions -- and motions especially in light  
18 of the fact that A through F came in through  
19 someone who we have never seen in this courtroom  
20 before, who has never been a part of this case,  
21 Mr. Morris. We don't really know what he did or  
22 didn't do. New testimony, new witnesses.

1           I mean, Judge, it would take me -- and  
2       Counsel is going to tell you I'm threatening,  
3       but this is what I don't get. Why is it a  
4       threat to you if the case takes longer, Judge?  
5       I didn't get that from yesterday. Counsel said,  
6       Mr. Perl is threatening the Court to make the  
7       case go longer. Well, how would that threaten  
8       the Court?

9           Do you have somewhere else to be that  
10      you don't want to be? I don't think that's the  
11      case. You are a judge every day of the week,  
12      this is what you do for a living. How would it  
13      harm you or threaten you if the case went  
14      further? You want to know how? Because they  
15      are presuming, I guess, that you work for the  
16      Commerce Commission. And if they don't want it,  
17      you must not want it. I guess that's their  
18      presumption. Because I don't know how it could  
19      harm you. It can't.

20           So when counsel makes these  
21      off-the-cuff remark comments continuously maybe  
22      just thinking on his feet, never really gets

1 called on them, but how would that hurt you,  
2 Judge? I mean, can you explain to me how I'm  
3 threatening you by saying I need more time?  
4 Because are you -- you're not in a rush to judge  
5 this case. You want due process to be had.  
6 You're the judge. You want there to be due  
7 process, right?

8 JUDGE KIRKLAND-MONTAGUE: Let me ask you a  
9 question. Last week we spoke. We had a  
10 conference call last Thursday, and we were going  
11 over the remaining schedule and what we were  
12 planning to do. And I think you said, well, you  
13 needed to re- -- had additional questions for  
14 Officer Strand and you want to present your  
15 witnesses. And that was -- we were planning to  
16 do that today.

17 MR. PERL: Yes.

18 JUDGE KIRKLAND-MONTAGUE: What has changed  
19 since last Thursday?

20 MR. PERL: I'm going to tell you what changed  
21 since last Thursday. Last Thursday when I told  
22 you that, I intended to present as soon as they

1 finished their case a motion for a directed  
2 finding.

3 Based upon the evidence they presented,  
4 you see, because up until then, I don't know  
5 what they are going to say at trial. It's  
6 possible that Sergeant Sulikowski could have  
7 said something that would damage my client. He  
8 didn't. But it is possible. He could have  
9 said, oh, yeah, I created these documents and --  
10 I don't know what he is going to say. He  
11 didn't.

12 My assumption was that based upon  
13 Sergeant Sulikowski's testimony as of last week,  
14 based upon all the other officers' testimony --  
15 by the way, none of them testified throughout --  
16 I think we can all stipulate and agree to that  
17 neither Officer Strand, Geisbush, or  
18 Investigator Kassal commented at all on Exhibits  
19 A through F. I believe that's correct. Only  
20 Sergeant Sulikowski commented on Exhibits A  
21 through F.

22 Okay. That being the case, I have been



1 doing this for a few years. I said it to  
2 myself, all I need to do now is motion for a  
3 directed finding at least on A through F.

4 Present Mr. Munyon on some minor issues  
5 regarding the officers, because remember, Judge,  
6 none of the officers said we are unfit.

7           They actually said they had no opinion.  
8 Or even better, they said, yeah. When I said on  
9 direct -- I think on all three of them, Officer  
10 Strand for sure, and I think all three of them  
11 admitted to me that based upon 9 or 10,000 tows,  
12 the number of citations we get is very small.  
13 And based upon the number of guilties, it's even  
14 smaller.

15           So at that point in time I'm saying to  
16 myself, all right, there really isn't much left  
17 to do. Maybe I don't have to do anything. I  
18 might not have to present any witnesses because  
19 they haven't met their burden. So I will do a  
20 motion for a directed finding. I get it  
21 granted. And I bring Mr. Munyon on just to kind  
22 of tie up some -- maybe some loose ends from --

1       they put a new computer system in in  
2       October 2016.  Because if you recall from the  
3       testimony, probably 95 percent of our citations  
4       are administrative in nature.  And I beat that  
5       one to death.  You know I did.

6                JUDGE KIRKLAND-MONTAGUE:  There is no  
7       guaranty that I would grant your motion for  
8       directed verdict.

9                MR. PERL:  No, there isn't.

10               JUDGE KIRKLAND-MONTAGUE:  So what was your  
11       plan B?  So you just assumed --

12               MR. PERL:  My plan B --

13               JUDGE KIRKLAND-MONTAGUE:  -- that it would be  
14       granted and then what --

15               MR. PERL:  No.  But I didn't assume that.  My  
16       assumption was that -- well, at that point in  
17       time I didn't know the pattern and practice of  
18       unauthorized tows.  Remember that.

19               JUDGE KIRKLAND-MONTAGUE:  Well, listen to me.

20               MR. PERL:  I didn't know that.

21               JUDGE KIRKLAND-MONTAGUE:  Okay.  You are  
22       saying you didn't know that but --

1 MR. PERL: I didn't.

2 JUDGE KIRKLAND-MONTAGUE: -- this entire time  
3 all he's been -- I mean, Mr. Burzawa just put  
4 into words what the officers have been -- or  
5 Officer -- Sergeant Sulikowski, they are  
6 pointing out or they are showing inconsistencies  
7 based on the MCIS printout. I mean --

8 MR. PERL: Not one of them said we have a  
9 pattern and practice of unauthorized towing.  
10 Not one of them. As a matter of fact, read the  
11 transcript back. This is what you should do.  
12 Why don't you read it back where they actually  
13 said to me that we don't get a lot of citations.  
14 How is that -- how is it a pattern and practice  
15 when your own witnesses say, yeah, you're right,  
16 Lincoln doesn't get a lot of citations?

17 JUDGE KIRKLAND-MONTAGUE: Okay. That being  
18 the case, that's the record. That's what the  
19 record shows that --

20 MR. PERL: So how would I know anything --  
21 but you --

22 JUDGE KIRKLAND-MONTAGUE: I think at this

1 point really we are just talking about  
2 arguments. I mean, the evidence is what it is,  
3 whether you want to label it -- characterize it  
4 as weak or strong. It is what it is. And  
5 Mr. Burzawa is just, I think, stating what --  
6 how he plans to --

7 MR. PERL: To do what? You can't --

8 JUDGE KIRKLAND-MONTAGUE: Well, his argument  
9 -- I have got to imagine that's his argument  
10 that he is planning to make. I mean, that's  
11 just an argument based on the evidence.

12 You have the opportunity to make a  
13 different argument based on the same evidence.  
14 And as you've done throughout this entire  
15 proceeding, you point out various issues with  
16 the evidence presented. I mean, you have that  
17 opportunity to do that in your brief, in your  
18 reply brief.

19 MR. PERL: Well, I do understand that, Judge.  
20 But that ties into the fact that you are  
21 assuming that they actually have a prima facie  
22 case for anything and they actually fought a

1 cause of action which they didn't do.

2 So I understand from a practical  
3 standpoint what you say makes sense. If there  
4 were no rules of evidence or rules for the Court  
5 to follow, what you are saying makes perfect  
6 sense. Everybody just show up. You say your  
7 side. I say my side. The Court is going to be  
8 impartial and they are going to make a ruling.

9 That would be great if there were no  
10 rules to follow. That would be. It's like  
11 saying, here is a basketball. There is the two  
12 nets. Go out there and play. I'll call fouls  
13 when I think something is wrong. I'm a fair  
14 person. I'm a very fair referee. Trust me. I  
15 won't do anything wrong.

16 Now the players are playing. How do I  
17 know what a foul is? How do I know where the  
18 three-point shot is from? How do I know after  
19 five fouls I'm fouled out of the game? You have  
20 got to tell me this ahead of time. But you say,  
21 no, Mr. Perl, you don't need to know. Go out  
22 there and play and I will be fair and impartial.

1 But that's not the way the courts work.

2 You've got to tell me ahead of time --

3 JUDGE KIRKLAND-MONTAGUE: But, Mr. Perl --

4 MR. PERL: Because when you said to me last  
5 week why I didn't raise that issue, had  
6 Mr. Burzawa said to you last week at our phone  
7 conference, I plan on arguing -- not even  
8 arguing because his theory of the case I'm not  
9 entitled to know. I get -- I'm sorry. What he  
10 is going to argue, that's different. But the  
11 theory of the case being, here is what my prima  
12 facie case is, here is my cause of action.

13 I'm supposed to know that. Because  
14 that's what I did in my discovery. Now, I will  
15 give you that. Our discovery that we did they  
16 almost never see because no one does discovery  
17 with them. They just show up and they argue,  
18 and I agree with you. But we actually did.

19 And if you look at the rules, the rules  
20 of discovery are actually applied in these  
21 cases. I don't know, sometimes Counsel tells  
22 you there are different rules, but there aren't.

1 The rules of evidence and the rules of discovery  
2 are applied to these proceedings just like --

3 MR. BURZAWA: Judge, when did I ever contest  
4 that?

5 MR. PERL: Oh --

6 JUDGE KIRKLAND-MONTAGUE: One at a time.

7 MR. BURZAWA: Judge, you know, I've been  
8 giving -- trying not to interrupt Mr. Perl, but  
9 I think your original question was, you know,  
10 how do you want to proceed. And Mr. Perl just  
11 basically reargued a motion for directed  
12 verdict, the same argument that he delivered  
13 yesterday that you denied yesterday and that you  
14 denied again today. But he is just repeating  
15 the same thing over and over. The question was,  
16 how are we going to proceed.

17 MR. PERL: And I appreciate that Mr. Burzawa  
18 says he's trying not to interrupting, but he is  
19 interrupting. So either you do it or you don't.  
20 Because my argument is, and he said this  
21 yesterday, he said yesterday that you can't  
22 bring motions for a directed verdict. That's

1 what he said.

2 MR. BURZAWA: I did not say that. I said the  
3 rules of practice for the Illinois Commerce  
4 Commission do not have a rule on directed  
5 verdicts. And that's true. So by implication  
6 they are not allowed.

7 MR. PERL: Isn't that what I just said? Now  
8 he's saying it a different way.

9 JUDGE KIRKLAND-MONTAGUE: Okay.

10 MR. PERL: But they are allowed. But they  
11 are allowed because the rules apply here. And  
12 they apply just like they do in court. So when  
13 I bring a motion for directed verdict based upon  
14 everything I've stated -- and by the way, Judge,  
15 I don't think it's appropriate for Counsel to  
16 interrupt me and tell you what to do.

17 JUDGE KIRKLAND-MONTAGUE: All right. Listen.  
18 No one is telling me what to do. What I want to  
19 do --

20 MR. PERL: That's what he is trying to do.

21 JUDGE KIRKLAND-MONTAGUE: What I would like  
22 to do is get to the point here. What is -- you



1 say you are at a crossroads, you have got two  
2 options.

3 MR. PERL: I have two options.

4 JUDGE KIRKLAND-MONTAGUE: I'm not going to  
5 reopen discovery. I'm not going to allow a  
6 whole new set of, you know, discovery. I mean,  
7 I don't see the difference. I don't see why we  
8 are at any different position today than we were  
9 at last Thursday, to be honest with you.

10 MR. PERL: Well, I do because the whole  
11 landscape has changed yesterday when you denied  
12 the motion. I didn't know for sure I was going  
13 to win, but certainly I can judge evidence and  
14 testimony and take a look at things and weigh  
15 them just like you can.

16 And when I did all that, up until  
17 yesterday, Mr. Chirica and I, we still couldn't  
18 figure out why we are here, what we're doing  
19 here. I know. They want to take our license  
20 away. I get that. But for what? What did we  
21 do wrong? I still don't get it. Even right now  
22 I don't get it based upon the evidence.

1                   Now, maybe there is some other reasons  
2           that they are -- they have been thinking about  
3           but they haven't presented the evidence.  But  
4           why is it that I always have to guess at what  
5           they are doing?  Why do I have to be to the  
6           point where -- I mean, I think I'm good at what  
7           I do, but do I have to be that good that I have  
8           to guess what they are going to do and guess  
9           what they are going to say?

10                   And then even when they say they are  
11           not going to say it, like Sergeant Sulikowski  
12           said in his deposition, they still try to say it  
13           anyway.  And they still are allowed to try to  
14           say it.  They should have been barred from ever  
15           presenting any evidence because Sergeant  
16           Sulikowski said he wasn't even going to use the  
17           exhibits.  But they did.

18                   So my motion -- and you can deny it and  
19           move forward.  My motion is to enter and  
20           continue the hearing.  I have an oral motion to  
21           reopen discovery just for Protective Parking for  
22           the purposes of doing written and oral.

1           I want to file an amended response to  
2           the pleadings. I want to do written discovery  
3           and oral discovery. I want to discover who the  
4           individuals are that I need to subpoena to bring  
5           to rebut this new allegation from yesterday that  
6           it was a pattern and practice of unauthorized  
7           towing.

8           And pending us reopening discovery and  
9           reopening the case only for Protective Parking,  
10          I'm asking the Court not to reopen it for the  
11          Commerce Commission, they are finished.

12          Pending all that, I'm asking for a stay  
13          of the hearing. Because the witnesses that I am  
14          going to need aren't under my control. I have  
15          to subpoena them. Best-case scenario that would  
16          take months to do. I would have to coordinate  
17          dates and times with people. Probably 30 or 40  
18          people I could bring in.

19          JUDGE KIRKLAND-MONTAGUE: No. I'm not going  
20          to allow that.

21          MR. PERL: Well, I think that's the only way  
22          that due process is served.

1 JUDGE KIRKLAND-MONTAGUE: Well, no, I'm not  
2 going to allow it.

3 MR. PERL: Then I have no choice but to go  
4 forward with what I'm left with.

5 JUDGE KIRKLAND-MONTAGUE: What's that?

6 MR. PERL: I have Bob Munyon and/or Chris  
7 Dennis testifying, that's it.

8 JUDGE KIRKLAND-MONTAGUE: Well, that's what  
9 we are going to go with. That's fine.

10 MR. PERL: Okay. I'm just preserving for the  
11 record everything that I need to do.

12 JUDGE KIRKLAND-MONTAGUE: Understood.

13 MR. PERL: So now --

14 JUDGE KIRKLAND-MONTAGUE: It's on the record.  
15 You have asked for it. I denied it.

16 MR. PERL: Okay.

17 JUDGE KIRKLAND-MONTAGUE: I'm going to bring  
18 in Bob Munyon and Chris Dennis.

19 MR. PERL: I may or may not bring in Chris  
20 Dennis, I'm not sure.

21 JUDGE KIRKLAND-MONTAGUE: Well, either or. Both  
22 or one or neither. It's up to you.

1           MR. PERL:  So what I would like to do now  
2           then is I would like for the State -- I'm sorry,  
3           for the Commerce Commission to officially close  
4           their case, which they still haven't done --

5           MR. BURZAWA:  Well, we just have to move the  
6           remainder of the exhibits into evidence.

7           JUDGE KIRKLAND-MONTAGUE:  Which exhibits are  
8           those again?

9           MR. BURZAWA:  Well, I think A and B have  
10          already been admitted.  So then it would be  
11          Exhibit C, D, E, and F as certified public  
12          records.

13          JUDGE KIRKLAND-MONTAGUE:  Let's take a break.  
14          I need to go get my binder.

15                                 (Whereupon, a recess was had at  
16                                 11:29 a.m., after which the  
17                                 hearing was resumed at  
18                                 11:56 a.m. as follows:)

19          JUDGE KIRKLAND-MONTAGUE:  Mr. Burzawa.

20          MR. BURZAWA:  Thank you, Your Honor.

21                                 The parties have entered into a number  
22          of stipulations that Staff would like to read

1 into the record.

2 Stipulation number one: Parking --  
3 excuse me, Protective Parking Service  
4 Corporation's 24-hour tow sheets, which are  
5 Staff's Exhibits J and K, are admissible as  
6 business records.

7 Stipulation number two: During the  
8 relevant time period and generally, the tow  
9 sheets are filled out at the same time a towed  
10 vehicle comes in.

11 Stipulation three: During the relevant  
12 time period and generally, the information  
13 necessary to fill out the tow sheet is gathered  
14 by the dispatcher either by viewing the vehicle  
15 or communicating with the operator.

16 Stipulation four: During the relevant  
17 time period and generally, the tow sheet is  
18 reviewed by the dispatcher after it is  
19 completed.

20 Stipulation five: During the relevant  
21 time period, this same or similar procedure is  
22 followed at the Clark and Armitage lots.

1                   Stipulation six: During the relevant  
2 time period, the tow sheets are filed with the  
3 respective police departments by Mr. Munyon at  
4 the Clark lot and Pedro at the Armitage lot.

5                   Stipulation number seven: During the  
6 relevant time period and generally, when the tow  
7 sheet is completed, the information is entered  
8 into the computer shortly after.

9                   Stipulation eight: During the relevant  
10 time period and generally, Robert Munyon and  
11 F.O. Loris maintain E relocator accounts on  
12 behalf of Protective Parking Service  
13 Corporation.

14                   Stipulation nine: During the relevant  
15 time period and generally, the information on  
16 the contract summary forms are electronically  
17 submitted to the Illinois Commerce Commission  
18 through E relocator.

19                   So at this time, Judge, I would like to  
20 move the remaining exhibits into evidence.

21                   MR. PERL: Judge, can I just respond to the  
22 stipulation first?

1 JUDGE KIRKLAND-MONTAGUE: Okay.

2 MR. PERL: So the Respondent agrees to the  
3 stipulations based upon the Commerce Commission  
4 agreeing that they won't be directing any  
5 examination of Mr. Robert Munyon or anyone else.

6 MR. BURZAWA: You know, I will not be calling  
7 Mr. Munyon as an adverse witness, however I do  
8 reserve the right to cross-examine him if he's  
9 called by Respondent.

10 MR. PERL: Sure. I think I said that I won't  
11 be calling him, which means that they are  
12 closing their case right now, and then we are  
13 going to go into them seeking to have their  
14 exhibits admitted.

15 JUDGE KIRKLAND-MONTAGUE: Okay.

16 MR. PERL: Otherwise we wouldn't be agreeing  
17 to the stipulation.

18 JUDGE KIRKLAND-MONTAGUE: I think we are on  
19 the same page. Right?

20 MR. BURZAWA: Correct. So I would just like  
21 to take the exhibits in groups just for ease.  
22 Exhibit C, D, E, and F are certified public



1 records. The certifications are attached. They  
2 are certified by Scott Morris who is the  
3 director of processing for the Illinois Commerce  
4 Commission.

5 So they come in under Rule 902 of the  
6 Illinois Rules of Evidence and also pursuant to  
7 Section A, 18(C)-1204(B), certification of  
8 records where copies of all official documents  
9 and orders filed or deposited according to the  
10 law in the office of the Commission under this  
11 Chapter or Chapter 18(A) certified by the  
12 director of the processing and docketing program  
13 to be true copies of the originals under the  
14 official seal of the Commission shall be  
15 evidence in like manner as the originals.

16 MR. PERL: So here are -- I will start in  
17 order of Counsel's last comment. That would  
18 hold true if these were documents kept in the  
19 ordinary course of the business of the Commerce  
20 Commission. They have already admitted they  
21 aren't.

22 They are trying to submit to you copies

1 of screenshots. The screenshots aren't kept in  
2 the ordinary course of business. There's no  
3 cabinet and no file. These are not copies of  
4 any documents that they normally file because  
5 they are not filed. These are copies of  
6 screenshots.

7 I think I made this argument before.  
8 The difference is, if you have a document like  
9 the 24-hour tow sheet that's kept in the  
10 ordinary course of business, that is a document.  
11 None of the exhibits or documents in A through F  
12 exist anywhere. They have admitted that  
13 already. They have actually made the claim that  
14 these are screenshots.

15 So they aren't -- they don't get  
16 admitted pursuant to 18(C)-1204, because that's  
17 when you have documents that they've kept  
18 somewhere. These aren't that. And Counsel has  
19 argued to you, well, what did you want me to do,  
20 bring in the computer and show you the screen?  
21 Well, they have done it before at hearings that  
22 we have had on tickets. You put it up on the

1 screen. You show what the MCIS looks like and  
2 you can see it right on your screen.

3 Many times we have actually had  
4 hearings, Judge, and you can take judicial  
5 notice of this, the documents contained in  
6 Exhibit D, E -- D and E for sure, if you take a  
7 look at those, there have been hearings where  
8 the officer has pulled up on his laptop a screen  
9 that looks something like this.

10 This is not a document kept in their  
11 ordinary course of business anywhere at the  
12 Commerce Commission. This is not even MCIS.  
13 This is E relocater. It is not a public record.

14 I would submit to you there is no way  
15 anyone in the public, even in Lincoln, can get  
16 to this E relocater file. And if they wanted  
17 these -- this information to come to the Court,  
18 the best evidence would have been to actually  
19 have someone up there showing you this screen on  
20 a laptop computer. Very simple.

21 Every one of these officers brought a  
22 laptop with them every time they were here.

1 Every time. Not one time did the Commerce  
2 Commission say, go to your laptop, look under  
3 Duane Davenport RTV-D Number 238, show the Court  
4 what the screen says. They didn't do that.

5 They were trying to present to you what  
6 they claimed even in their certification is a  
7 screen-print from the Illinois Commerce  
8 Commission's MCIS system, which by the way this  
9 isn't. It's actually from E relocater. So he's  
10 not even correct about that. If you literally  
11 look at this document, it says E relocater, not  
12 MCIS. And I think we have established that  
13 there was a difference between the two.  
14 Remember?

15 JUDGE KIRKLAND-MONTAGUE: What document are  
16 you looking at?

17 MR. PERL: Exhibit D, unless mine are out of  
18 order.

19 JUDGE KIRKLAND-MONTAGUE: Was it Duane  
20 Davenport, applicant's name?

21 MR. PERL: Yeah, Duane Davenport.

22 JUDGE KIRKLAND-MONTAGUE: How do you know --

1 where does it say E relocater?

2 MR. PERL: Right at the top. Relocator  
3 dispatcher form, which they call -- they call it  
4 E relocater. They even said in our stipulation  
5 that there's an E relocater. This is E  
6 relocater.

7 MR. BURZAWA: This is MCIS.

8 JUDGE KIRKLAND-MONTAGUE: This is MCIS.

9 MR. PERL: Well, it's what they call --

10 MR. BURZAWA: E relocater is what the  
11 relocater has access to, and the E relocater is  
12 linked to MCIS.

13 MR. PERL: Well, this is -- the E relocater  
14 is what my client uses, not MCIS. So even if  
15 you agree with them, let's say this is MCIS, the  
16 best way to get this into evidence was to show  
17 you the screen itself because they exist  
18 somewhere.

19 This is not a document kept in the  
20 ordinary course of business. This is not a  
21 document that is a certified copy of anything.  
22 Because all Scott Morris is telling you is that

1       this is a screen-print from something.  This  
2       is not kept in the ordinary course of business  
3       at the Commerce Commission.  They don't have  
4       that anywhere.  You couldn't go find this  
5       anywhere.

6                JUDGE KIRKLAND-MONTAGUE:  Is that an  
7       objection for all of -- which one?

8                MR. PERL:  That objection would hold true --  
9       well, it holds true for A through F, but A and B  
10       we already made the argument on and you admitted  
11       them.  So if you go to C -- I think Exhibit C is  
12       entitled Dispatcher Listing for MC 100139, Your  
13       Honor, if mine are still in the proper order.  
14       I'm not sure.

15               JUDGE KIRKLAND-MONTAGUE:  Yes.

16               MR. PERL:  So my argument on C would be the  
17       same thing, that this is not a copy of any  
18       documents that exist in the Illinois Commerce  
19       Commission's possession or records.  This is --  
20       even if you believe what Scott Morris says is,  
21       this is a printout of the MCIS electronic  
22       database pertaining to dispatchers sponsored by

1 the Protective Parking Service Corporation with  
2 the Commission.

3 It's not reliable because it doesn't  
4 tell you for what time it is. Print out of a  
5 screen from when? From where? How? From 20  
6 years ago, from ten years ago? From 1899?  
7 Scott Morris doesn't tell you any of that.

8 I mean, at some point in time there has  
9 to be some kind of modicum of reliability or  
10 some kind of modicum that this is what they say  
11 it is, which they don't have, because he doesn't  
12 even tell you when it's from. This is just --  
13 he says it's a printout. From what day?

14 Is this a printout of all of our  
15 dispatchers, all of our relocators, or just the  
16 ones that you decided you were going to input  
17 for certain time periods. I don't know. I  
18 don't think it's for all forever because Lincoln  
19 has been around for 50 years. So I highly  
20 doubt this is for all 50 years. So what time  
21 period is it? Because if you look at this  
22 document, now that I'm thinking about it, it

1       couldn't be.

2               So I don't know how -- when the easiest  
3       way to do it and the most reliable way to do it  
4       would have been to take that laptop that your  
5       witness has, go to a certain page, and show Your  
6       Honor. Because you won't find this page  
7       anywhere. It doesn't exist. You have to create  
8       this document by typing in some parameters,  
9       otherwise it's not there.

10              So they don't have any of that. And,  
11       yes, if, in fact, this were a document, not a  
12       computer screen, kept in the ordinary course of  
13       business at their -- and we have talked about  
14       this before, there was a cabinet somewhere that  
15       they had this document -- okay, certify this as  
16       a document that you took out of the cabinet.  
17       Doesn't mean it's reliable, truthful, or  
18       accurate, because we know it isn't, but still  
19       that's something.

20              In this particular case they are  
21       admitting to you it's not that. They are  
22       admitting to you it's -- somebody created this,



1 we don't know who. I'm assuming the attorneys  
2 for the Commerce Commission created this  
3 document by typing in some parameters. They  
4 have to.

5 So I don't think if you go to MCIS you  
6 could look up Linda Suppos, if you want to, but  
7 there is nowhere you can go on a screen to look  
8 up this document. And they haven't presented  
9 that to you. It's totally inappropriate for  
10 this to be admitted into evidence, not to  
11 mention that it doesn't even comply with  
12 18(C)-1204. And the best way to do it would  
13 have been to actually show you the screen.

14 JUDGE KIRKLAND-MONTAGUE: Okay.

15 MR. PERL: Which they couldn't have done  
16 because it doesn't exist.

17 JUDGE KIRKLAND-MONTAGUE: Okay. I'm going to  
18 overrule your objection -- the objection and  
19 admit it as self-authenticating public records.  
20 That would be for Exhibits C, D, E, and F.

21 And as you stated in your stipulation  
22 -- well, Exhibit J was already admitted on --

1 MR. PERL: Hold on. Which one, Judge?

2 JUDGE KIRKLAND-MONTAGUE: J was admitted on  
3 May 31st.

4 MR. PERL: So right now A through F have been  
5 admitted?

6 JUDGE KIRKLAND-MONTAGUE: Yes.

7 MR. PERL: Okay. Are we on G?

8 JUDGE KIRKLAND-MONTAGUE: No, we hadn't  
9 gotten there yet. Okay. I missed G. I don't  
10 think you meant -- J was admitted already.

11 MR. PERL: I think it's actually J and K.

12 JUDGE KIRKLAND-MONTAGUE: J and K were -- and  
13 K was just recently admitted under your  
14 stipulation or at least you all --

15 MR. PERL: J was just recently admitted as  
16 well.

17 JUDGE KIRKLAND-MONTAGUE: No. In the record  
18 I have it was admitted on May 31st.

19 MR. PERL: Well, I don't -- I actually don't  
20 think it could have been because these are our  
21 24-hour tow sheets and we didn't --

22 JUDGE KIRKLAND-MONTAGUE: I know.

1 MR. PERL: They couldn't come in as business  
2 records because they are Lincoln's business  
3 records.

4 JUDGE KIRKLAND-MONTAGUE: I'm sorry. Well,  
5 the -- I was going through the transcript. But  
6 according to the stipulation, you guys are  
7 admitting them as business records.

8 MR. PERL: Today.

9 JUDGE KIRKLAND-MONTAGUE: Today, okay.

10 MR. PERL: So J and K are admitted as of  
11 today.

12 JUDGE KIRKLAND-MONTAGUE: Yes. Now, I'm  
13 sorry, Mr. Burzawa, did you mention G, H, and I  
14 yet?

15 MR. BURZAWA: No, not yet, Judge. I  
16 would just ask that they be admitted pursuant to  
17 administrative notice pursuant to Rule 640.

18 MR. PERL: So I believe that it would be  
19 improper at this time to admit them because only  
20 a relevant document should be admitted into  
21 evidence in a matter. And since we are limited  
22 to the relevant time period July 24, 2015, to

1 March 23, 2016, nowhere on these documents does  
2 it state that these documents are from the  
3 relevant time period. These are just documents.

4 So I think, one, they have to be  
5 relevant in order to be admitted and given any  
6 weight. And number two -- well, they are  
7 clearly -- there is no certification with these.  
8 I believe that it would be inappropriate to --  
9 there is -- no witnesses testified to any of  
10 these documents specifically.

11 So you heard no testimony to it. You  
12 don't even know if it's for the relevant time  
13 period. And I think it would be inappropriate  
14 to have them admitted based upon the limited  
15 scope of the hearing that we have.

16 JUDGE KIRKLAND-MONTAGUE: All right. I will  
17 keep in mind the scope of this proceeding, but I  
18 will take administrative notice of these as  
19 Commission records because they are official  
20 notices. But I will take into account the  
21 relevant time period when reviewing those. And  
22 if they don't fit within the time period, then

1 obviously they won't be considered.

2 MR. PERL: We would also move to strike the  
3 summary pages.

4 JUDGE KIRKLAND-MONTAGUE: And the summary  
5 pages are not included because those are not  
6 official documents from the Commission.

7 MR. PERL: Okay.

8 JUDGE KIRKLAND-MONTAGUE: So Exhibits G, H,  
9 and I are admitted under administrative notice.

10 MR. BURZAWA: I would move to admit Exhibits  
11 L, M, and N also pursuant to administrative  
12 notice and also pursuant to the business records  
13 exception.

14 MR. PERL: So let me just get to L, M, and N,  
15 Judge, for one second.

16 So just preliminarily I would seek to  
17 strike and remove the summary pages for L, M,  
18 and N.

19 JUDGE KIRKLAND-MONTAGUE: Okay.

20 MR. PERL: And then aside from that, Your  
21 Honor, I believe I would seek to strike the  
22 certain citations in here that I think you

1 already struck that were outside the relevant  
2 time period.

3           There were still some -- there were  
4 some that came back in, but there were some that  
5 were stricken and not brought back in because  
6 they were outside the relevant time period.

7           MR. BURZAWA: I think all the ones that were  
8 stricken were readmitted.

9           MR. PERL: No, not all of them.

10           JUDGE KIRKLAND-MONTAGUE: Not all of them. I  
11 think there may have been one or two.

12           MR. PERL: There were a certain number of  
13 them that weren't.

14           JUDGE KIRKLAND-MONTAGUE: There were a couple  
15 based on your memo. Do you recall?

16           MR. BURZAWA: No, I'm sorry, I don't recall.

17 Now, that memo that I sent around, they were  
18 either all from investigations that were  
19 within the relevant time period or they were  
20 included in the September -- excuse me, the  
21 February 23, 2017, settlement agreement which  
22 allowed for reference of those citations at this

1 hearing.

2 MR. PERL: No, I don't think that's the case.

3 I think that there were some of them that were  
4 outside the relevant time period. There were  
5 less than we thought because all of the ones  
6 from those ten investigations did come back in  
7 yesterday. But there were a number of citations  
8 that were outside the relevant time period that  
9 even -- I think even Mr. Burzawa agreed at the  
10 time don't get in.

11 (Whereupon, a recess was had at  
12 12:13 p.m., after which the  
13 hearing was resumed at  
14 12:16 p.m. as follows:)

15 JUDGE KIRKLAND-MONTAGUE: Okay. Back on the  
16 record.

17 MR. PERL: So, again, Judge, for the record,  
18 I would just move that the citations that are  
19 outside the relevant time period that weren't  
20 admitted yesterday be stricken.

21 JUDGE KIRKLAND-MONTAGUE: I am going to admit  
22 Exhibits G, H, and I. Oh, no, we're not -- I'm

1       sorry.  Where are we again?

2               MR. BURZAWA:  We're at L, M, and N.

3               JUDGE KIRKLAND-MONTAGUE:  L, M, and N.  With  
4       a note that if it's outside of the relevant time  
5       period it wouldn't be considered, but Staff's  
6       Exhibits L, M, and N are admitted under  
7       administrative notice.

8                       Anything else, Mr. Burzawa?

9               MR. BURZAWA:  No, that's all the exhibits  
10       that Staff moves into evidence.  Staff rests,  
11       Your Honor.

12               MR. PERL:  So could we have a clear ruling  
13       now on what's in and not in.

14               JUDGE KIRKLAND-MONTAGUE:  Okay.  Staff's  
15       Exhibits A, B, C, D, E, F, G, H, I, J, K, L, M,  
16       N are admitted.

17               MR. PERL:  So I would seek right now then to  
18       remove from your copy of Staff's book O, P, Q,  
19       R, and S so you don't read them or consider  
20       them.

21               JUDGE KIRKLAND-MONTAGUE:  Okay.  I will do  
22       that.  All right.  Those are taken out of my



1 binder.

2 MR. PERL: Thank you, Judge.

3 JUDGE KIRKLAND-MONTAGUE: All right. Okay.

4 What's the next step here?

5 MR. BURZAWA: The Staff has rested, yes,

6 Judge.

7 JUDGE KIRKLAND-MONTAGUE: Okay. Now what

8 about you, Mr. Perl? Are you going to present a

9 witness or no?

10 MR. PERL: I am, Judge.

11 JUDGE KIRKLAND-MONTAGUE: Okay. When?

12 MR. PERL: So let me just briefly cover our

13 stipulation.

14 JUDGE KIRKLAND-MONTAGUE: Okay.

15 MR. PERL: And then what we'll do is we will

16 submit in writing. But basically Staff has

17 agreed with the Respondent, Protective Parking

18 Services Corporation, doing business as Lincoln

19 Towing, that all of the requirements pursuant to

20 17-10.22, that being subsection 2 of the

21 fitness test, Lincoln Towing has complied with

22 all those requirements and Staff is not

1 seeking any adjudication by this Court of those  
2 issues.

3 That being, Staff stipulates that  
4 Lincoln Towing has complied with the following  
5 Section 2(a)(i) being [as read]: Owns or has  
6 exclusive possession of under a written lease  
7 with the term of at least one year at least one  
8 storage lot that meets the requirements of  
9 subpart M.

10 That Lincoln has complied with that.

11 [As read]: Subsection (i)(i), employs  
12 sufficient full-time employees at each storage  
13 lot to comply with Section 17-10.123.

14 Lincoln has complied with that.

15 [As read]: Owns or has under exclusive  
16 lease at least two tow trucks dedicated to use  
17 under the relocater's license.

18 And Lincoln has complied with that.

19 [As read]: Employs at least two  
20 individuals who will work as the relocater's  
21 operators.

22 Lincoln has complied with that.

1                   [As read]: And is in compliance with  
2           Section 4 of the Illinois Workers' Compensation  
3           Act, 820 ILCS 3054/4. Further stipulating that  
4           any and all fitness requirements have been  
5           complied with by Lincoln Towing and are not a  
6           part of this hearing.

7                   And we will be submitting a written  
8           stipulation either later today or later this  
9           week for review and approval by Staff Counsel  
10          and Your Honor.

11                   JUDGE KIRKLAND-MONTAGUE: Okay. All right.  
12          And so then you did say you would like to  
13          present a witness at some point?

14                   MR. PERL: Yes, Judge.

15                   JUDGE KIRKLAND-MONTAGUE: And when would that  
16          be? We can go off the record until we figure  
17          out the date.

18   (Whereupon, a recess was had at  
19   12:22 p.m., after which the  
20   hearing was resumed at  
21   12:28 p.m. as follows:)

22                   JUDGE KIRKLAND-MONTAGUE: Back on the record.

1       So we will continue this matter until Thursday  
2       March 15th at 11:00 a.m., and again on  
3       March 21st at 10:00 a.m.

4                   Thank you. That's it for today.

5                               (The proceedings concluded at  
6                               12:28 p.m.)

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