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BEFORE THE

ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)	
)	No. 92 RTV-R
PROTECTIVE PARKING SERVICE)	Sub 17
CORPORATION d/b/a LINCOLN)	
TOWING SERVICE)	
)	
Respondent)	
)	
Hearing on fitness to hold)	
a 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

May 31, 2017

Met, pursuant to adjournment, at

9 o'clock a.m.

BEFORE:

MS. LATRICE KIRKLAND-MONTAQUE,
Administrative Law Judge

APPEARANCES:

MR. BENJAMIN BARR and
MS. GABRIELLE PARKER-OKOJIE
160 North La Salle Street
Chicago, Illinois
appearing for staff of the
Illinois Commerce Commission

1 APPEARANCES (continued):

2 PERL & GOODSNYDER, LTD., by
3 MR. ALAN PERL and
4 MR. VLAD CHIRICA
5 14 North Peoria Street, Suite 2C
6 Chicago, Illinois 60607
7 appearing for Protective Parking
8 Service Corporation
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20 SULLIVAN REPORTING COMPANY, by
21 PATRICIA WESLEY
22 LICENSE NO. 084-002170

1 JUDGE KIRKLAND-MONTAQUE: By the power vested in
2 me by the State of Illinois and the Illinois
3 Commerce Commission, I now call for hearing Docket
4 No. 92 RTV-R Sub 17. This is in the matter of
5 Protective Parking Service Corporation, doing
6 business as Lincoln Towing Service, and this is a
7 hearing on fitness to hold a commercial
8 relocator's license pursuant to Section 401 of the
9 Illinois Commercial Relocation of Trespassing
10 Vehicles Law.

11 May I have appearances, please. Let's
12 start with Lincoln.

13 MR. PERL: Thank you, your Honor. For the
14 record, my name is Alan Perl, P-E-R-L, of Perl &
15 Goodsnyder. I represent the defendant, Protective
16 Parking Service Corporation, doing business as
17 Lincoln Towing. My address is 14 North Peoria
18 Street, Suite 2C, in Chicago, Illinois, 60607. My
19 phone is 312-243-4500.

20 MR. CHIRICA: Good morning, your Honor. My name
21 is Vlad Chirica of Perl & Goodsnyder. We represent
22 Protective Parking Service Corporation, doing

1 business as Lincoln Towing Service. Our address is
2 14 North Peoria Street, Suite 2C, in Chicago,
3 Illinois, 60607. My phone number is 312-243-4500.

4 JUDGE KIRKLAND-MONTAQUE: Thank you.

5 Staff.

6 MR. BARR: Good morning, your Honor. My name is
7 Benjamin Barr. I appear today on behalf of staff of
8 the Illinois Commerce Commission. My office is
9 located at 160 North LaSalle, Suite C-800, Chicago,
10 Illinois, 60601. My telephone number is
11 312-814-2859.

12 MS. PARKER-OKOJIE: Good morning, your Honor.
13 Gabriella Parker-Okojie. I also appear on behalf of
14 the staff of the Illinois Commerce Commission. My
15 office address is 160 North LaSalle Street, Suite
16 C-800, Chicago, Illinois, 60601. Phone number is
17 312-814-1934.

18 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you. All
19 right. As a preliminary matter, Lincoln filed last
20 night a motion in limine to bar exhibits, so what I
21 would like to do is address that first giving staff
22 an opportunity to orally respond. I'll give Lincoln

1 a little time to reply because you have got most of
2 your arguments here in your motion.

3 MR. PERL: Did you not want me to present any
4 argument prior to staff responding, your Honor, or
5 we could stand on our motion.

6 JUDGE KIRKLAND-MONTAQUE: I would rather just go
7 on the motion to seek to expedite things and then
8 what will probably happen we'll take a recess to
9 allow me to digest it and come back with a ruling,
10 so that's the way I would like to handle that.

11 MR. PERL: Okay.

12 JUDGE KIRKLAND-MONTAQUE: Well, you know, just
13 give a brief opening.

14 MR. PERL: Okay. So briefly, your Honor, as to
15 the matter regarding hearings, we could have simply
16 presented our motion in limine this morning, either
17 oral or in writing. We decided to do it last night
18 to at least give opposing counsel a heads-up and
19 your Honor some information regarding why we are
20 doing it. This isn't the first time you are going
21 to see these arguments. You've seen and heard me
22 say this for the last year and a half.

1 What I have continually stated was the
2 Commission wants to do a trial by ambush. They
3 don't show you what they are doing. They don't tell
4 you what they're doing. I still don't really know
5 why we are having a hearing today, which we will
6 address today, but the documentation that they have
7 provided is absolutely beyond the scope of discovery
8 for many reasons.

9 Let's start with Exhibits 2 through 6.
10 Initially they gave us their, I think the eighth
11 amended responses, just a couple weeks ago. That
12 response was way beyond the January 2017 date that
13 you set when you said clearly whatever you have as
14 of today's date, you can use; whatever you don't,
15 you can't, because I kept saying when does it end,
16 Judge? When do they have to stop giving us new
17 documentation that I haven't been able to depose
18 anybody about or seen before. And with them, it
19 doesn't matter.

20 So they gave us Exhibits 2 through 6.
21 You then, through our motion, stated they have to
22 tell us who's going to testify to these documents.

1 They give us one individual, Sergeant Sulikowski. I
2 took his deposition. Here's the summary of it.

3 I didn't create these documents. I
4 don't know who did. I wasn't there when they did
5 it. I don't know if they're accurate or not. In
6 fact, we show that they aren't, but he doesn't know
7 anything about the documents, who created them or
8 what. He only had reviewed one of them before the
9 deposition. He hadn't even seen the other
10 documents.

11 So I don't know how you could possibly
12 lay a foundation for documents that the witness
13 hasn't ever seen before and doesn't know what they
14 are.

15 Worst than that though, when they gave
16 us the documents in discovery, although they were
17 three or four months late, there was no affidavit
18 attached to it. It was just a document, which we
19 brought to show you today. There's no affidavit of
20 an individual by the name of -- I've never heard of
21 it before, and I've been doing this with them for
22 seven years -- Scott Morris. I wasn't there.

1 What they realized in the deposition
2 of Sergeant Sulikowski is they didn't have a
3 foundation for these documents. Instead of going
4 back to the Court and doing something when they did
5 their binders, they added some kind of what they
6 want to call a certificate from an individual named
7 Scott Morris to try to lay a foundation. I'm not
8 sure why.

9 You know, if it's a business record,
10 you need to produce that person, not just give us a
11 certificate, just because he works for the Commerce
12 Commission doesn't put this outside the realm of
13 discovery or something higher.

14 When they say he's a transportation
15 customer service supervisor, I never heard of him
16 before. He's never been in this case before, and
17 there's no way in the world that this document comes
18 in.

19 Admittedly, this document was created
20 May 10, 2017, so they clearly didn't have any of
21 these documents before January of 2017 that we know.
22 I've never seen this document before. I didn't get

1 a chance to depose Scott Morris. Even if you were
2 to believe what he says in here, it's highly
3 unlikely that Scott Morris printed off any of the
4 documents they're trying to use.

5 On this same day every single one of
6 these affidavits say May 10th. There's no way he
7 reviewed on May 10th every single one of these
8 documents at the same time. It's impossible.
9 If you even believe that he did review those, I
10 don't think he reviewed them ever.

11 I think what happened was the Commerce
12 Commission attorneys printed off these documents
13 from somewhere or copied them and gave him
14 affidavits to sign, and he did.

15 So the first matter is it's way beyond
16 discovery. This comes to us May 10th of 2017, days
17 before the hearing, and now I'm suppose to figure
18 out what to do with the certificate, which is the
19 way they're trying to get in all of their new
20 documents, which are too late anyway. Those should
21 be barred because they're late anyway. They're
22 beyond the January 7th date.

1 If you look at the deposition
2 transcript, it should have -- even if you think
3 they're not late, there's no way to a lay foundation
4 for them. It's impossible. Sergeant Sulikowski is
5 the only witness testifying. He has no idea what
6 they are. That's number one.

7 In regard to the other documents in
8 here, at the back of the book -- even more
9 troubling, at the back of book Exhibits R and S --
10 okay -- S, R, P and Q they appear to be some kind of
11 spreadsheet. I don't know who created them. I've
12 never seen them before. You've never seen them
13 before. They weren't produced in discovery ever,
14 so I don't know what these things are, but now
15 they're slipped into their trial exhibit book as if
16 they're going to be using them for something. They
17 never told me about this.

18 Sergeant Sulikowski didn't testify
19 regarding them. I don't know who created them.
20 There are not dates on them. They certainly aren't
21 screen shots and they weren't produced prior to the
22 discovery cutoff date of January 2017, and they

1 weren't produced in discovery at all.

2 That's the troubling part that I have,
3 Judge, is I don't know how to operate in a case when
4 we do eight rounds of discovery with staff and then
5 almost their whole book is new documents that they
6 didn't give us in discovery, and I will go through
7 each one very briefly.

8 Documents A through F are the
9 documents they gave us in May of 2017 that they
10 called 2 through 6 when they gave them to us, their
11 new documents.

12 JUDGE KIRKLAND-MONTAQUE: April 25th? I'm sorry?

13 MR. PERL: April the 25th.

14 JUDGE KIRKLAND-MONTAQUE: No, I'm just saying I
15 didn't hear.

16 MR. PERL: I thought they gave the stuff to us in
17 May, but it might have been April 25th. April 25th
18 is way beyond three months, the date you said if you
19 don't have any documents now, you can't use them.
20 That's clear. We have cited that in our motion.
21 These clearly came after that, because even if you
22 believe that they were printed that date, they're

1 printed April 24, 2017, so that's beyond
2 January 2017 clearly. There's no way to lay a
3 foundation for them and we weren't given them until
4 April at the earliest.

5 If you look at the rest of the
6 documentation, even these tickets going through G,
7 H, I -- G, H and I, none of this was given to us in
8 discovery, not one of these documents. They're all
9 new documents we've never seen in discovery before.

10 Now they can argue, like they always
11 do, "Oh, these are public records. You should have
12 had these anyway." That's not what litigation is
13 about. I have a lot of things in my office right
14 now sitting on my desk that I'm not going to use in
15 the trial today.

16 These documents should have been
17 tendered to us in discovery, so I don't know why
18 they're using them and what they're using them for.
19 I don't know. I haven't deposed anybody on these
20 documents because they weren't given to me. They
21 were in the trial exhibit binder, I agree, but they
22 weren't given to me in discovery.

1 The trial exhibit binder isn't to put
2 new documents in. It's to put the documents that
3 you have given over in discovery, like in almost
4 every case. Now you don't have to put every
5 document in there. I could give you 10,000
6 documents and only use 20 of them for a trial,
7 that's true, but you can't put new documents in.
8 That's not fair.

9 Again, trial by ambush, what they
10 always do. I don't know why they're using them. I
11 don't know what the purpose is, whether they help me
12 or hurt me, because they didn't give them to me
13 before.

14 Our 24-hour tow sheets I can't
15 argument about. We gave them those documents a year
16 ago. We only saw that they're using them recently,
17 but I gave it to them a year ago.

18 The documents after that, again, when
19 you start at L, these are copies of tickets or
20 citations, I think, but they weren't given to us in
21 discovery.

22 I might have these documents along

1 the way from other reasons or purposes but not
2 specifically for the hearing in this case.

3 We've had eight rounds of discovery
4 with them. Give us your documents. They didn't
5 give us any of these documents. They waited until a
6 week before the hearing and they put it in their
7 trial exhibit binder and somehow to them that means
8 that that's good discovery because I had these for
9 some other reason. Even if I did, how could I use
10 them today? How do I do discovery, take
11 depositions, do interrogatories in a case that's
12 going to hearing that they don't show these to me
13 before. Again, trial by ambush is all they ever do.

14 I still don't know, as we sit here
15 today, why I'm at this hearing, because they were
16 saying we do it just because we are allowed to, same
17 thing goes for the settlement. Even the settlement
18 agreement, which we kind of had an agreement that
19 we're doing, I don't even think they were produced
20 to me in discovery.

21 Now I have the documents. There's no
22 question about it. My client signed off on it. No

1 issue there, and we even kind of discussed what we
2 can and can't say about it, but technically I don't
3 think they produced it to me in discovery. I don't
4 think they did.

5 So I think they gave us like one or
6 two things in discovery, and that was it, until they
7 gave us Exhibits 2 through 6 a couple of weeks ago,
8 so there's nothing in their book that should be
9 admissible, except for our 24-hour tow sheets, which
10 we gave to them.

11 They have in here the settlement
12 agreement from February 23, 2017, which I would
13 still argue that they didn't give us in discovery,
14 but we did discuss -- at least we discussed
15 parameters about using it and not using it.

16 There's nothing else in this trial
17 binder that I recall that they actually tendered to
18 me in discovery ever. So I'm troubled by the fact
19 that -- not to mention the difficulty if they don't
20 Bates stamp their documents, so I can't really track
21 them from their trial binder to discovery and back
22 in court.

1 Originally, if you recall, they didn't
2 even give me a trial binder. They gave me a disk
3 with documents on it, which they call a trial
4 binder, which is impossible to figure out.

5 So now I have the trial binder and I
6 know we're trying to put forward today, but by no
7 stretch of the imagination is this allowable
8 pursuant to discovery standards. You just can't
9 just bring in documents and argue things that you
10 didn't bring in through discovery, and I do
11 understand that this is not the circuit court, or
12 appellate court, or federal court, but there still
13 are rules of procedure.

14 I've argued with counsel. You can't
15 just argue things that you didn't present as
16 evidence at a hearing. You can't just present
17 documents that you didn't give in discovery. It's
18 not the way it goes.

19 So I don't think, other than the
20 24-hour tow sheets and maybe the settlement
21 agreement, if anything's admissible today based upon
22 the fact that they didn't give it to us in

1 discovery, it's late, and by their own admission the
2 only witness testifying can't lay a foundation for
3 it. So that's pretty much what I feel about their
4 trial exhibit binder.

5 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

6 Staff response.

7 MR. BARR: Thank you, your Honor. Staff would
8 first off start by saying that we would object to
9 this motion even being under consideration given the
10 timeliness of this document.

11 When counsel says he did staff a favor
12 by filing this last night at 8 p.m., staff did not
13 receive it until this morning. Again, your Honor,
14 counsel had these exhibits given on May 10th.

15 Most, if not all, of the documents
16 were turned over prior to either on April 25th or
17 prior to April 25th of 2017. To bring a motion in
18 limine literally 13 hours before an evidentiary
19 hearing is set to begin is untimely. I think the
20 only --

21 JUDGE KIRKLAND-MONTAQUE: What rule?

22 MR. BARR: I'm sorry?

1 JUDGE KIRKLAND-MONTAQUE: What rule or section
2 says that there's a time by which you have to file a
3 motion in limine?

4 MR. BARR: They're not doing us a favor. They
5 say they're doing us a favor. I mean, under the
6 motion section, your Honor, which is Title 83,
7 Part 2 --

8 MR. PERL: I'm sorry. I missed that cite.

9 MR. BARR: It's titled 83 Part 200, the Rules of
10 Practice.

11 JUDGE KIRKLAND-MONTAQUE: 190? 200, 190?

12 MR. BARR: Yes, your Honor, correct, 190. It does
13 state that staff is entitled to 14 days to respond.
14 Now staff is not asking for 14 days at this time.

15 For counsel to file a motion in this
16 manner to ambush staff and force staff to respond on
17 the spot I think is prejudicial to staff.

18 JUDGE KIRKLAND-MONTAQUE: Well, first of all, you
19 didn't support your point, which was that there was
20 a time by which you have to file the motion in
21 limine, and, secondly, your point only gives you the
22 opportunity to take 14 days to respond, if that's

1 what you requested, but I'm going to allow that.

2 I'm going to give you the opportunity to respond

3 today orally and then I'll make a ruling.

4 So what's your next point?

5 MS. PARKER-OKOJIE: Your Honor, if I may, on the
6 time issue, there is case law, People vs. Owen, and
7 the cite is 299 Ill. App. 3rd, 8818. This case does
8 support a trial court dismissing and striking a
9 motion in limine that's filed on the day of trial,
10 which is essentially what counsel has done here by
11 filing it at 8 p.m. last night.

12 This case also stands for the
13 principle that motions in limine are powerful
14 weapons and the Court is urged to be cautious in the
15 use of those weapons, because they seem to restrict
16 a party's ability to present their case.

17 The trial court also under this case
18 has discretion not to even entertain --

19 JUDGE KIRKLAND-MONTAQUE: Is that in a criminal
20 or civil case, Ms. Parker-Okojie?

21 MS. PARKER-OKOJIE: Your Honor, this particular
22 case is a criminal case.

1 JUDGE KIRKLAND-MONTAQUE: And I'm aware of
2 several criminal cases where they make similar
3 rulings, but, as you know, this is not a criminal
4 procedure.

5 MS. PARKER-OKOJIE: It's not, your Honor. I did
6 want to at least bring that up that it would not be
7 an abuse of discretion to strike this motion as it
8 has been filed essentially on the day of trial and
9 staff's opportunity to respond is limited.

10 JUDGE KIRKLAND-MONTAQUE: I don't see the
11 similarity. Again, I think in a criminal case you
12 may have a stronger argument, but go ahead. What
13 else do you have to say in response to Mr. Perl's
14 argument?

15 MR. BARR: Your Honor, we also suggest in
16 Mr. Perl's argument there's a due process issue must
17 fail. Illinois Supreme Court has held in, your
18 Honor, *Aberson* (phonetic) vs. Illinois Department of
19 Professional Regulation, which is 153 Ill. 2 D 761,
20 that due process is a flexible concept and requires
21 only such procedural protection as fundamental
22 principles of justice and particular situations

1 demand.

2 Your Honor, the First District
3 Appellate Court went on to quote that in their case,
4 which the citation is 2012 Ill. App. 1st 112, 113,
5 that an administrative hearing comports with due
6 process where the parties are given an opportunity
7 to be heard, the right to cross-examine adverse
8 witnesses, and impartiality in ruling upon evidence,
9 all of which have been provided to counsel.

10 Counsel has an opportunity to be heard
11 today, and on every other status hearing counsel has
12 the right to cross-examine through depositions and
13 we'll have a right to cross-examine staff's
14 witnesses today.

15 I assume that counsel's not implying
16 there's some type of impartiality in any type of
17 ruling upon the evidence, and, therefore, counsel
18 argues that there's a due process violation by these
19 exhibits must also fail.

20 Again, your Honor, this January 19th
21 date, I don't know what counsel is getting that date
22 from. There was a discussion back in February about

1 the investigation files, but there was no discussion
2 about close of discovery or that exhibits must --
3 had to be filed back in January of 2017 which would
4 have been basically six months ago, five or six
5 months ago at this point. Everything has been
6 tendered. There has been surprises to counsel.

7 JUDGE KIRKLAND-MONTAQUE: Did you see his
8 citation of the transcript from that hearing?

9 MR. BARR: There's a citation.

10 JUDGE KIRKLAND-MONTAQUE: What I said I believe
11 it was -- was it February?

12 MR. BARR: There's a lot of citations in here,
13 your Honor, that I believe are out of context from
14 the February date.

15 If the Court recalls, we did -- staff
16 did intend to introduce additional investigation
17 files. After discussion and over staff objection,
18 the Court decided to limit the investigation files
19 from I believe July 24th of 2015 through March 22nd
20 of 2016. That's the only addition. It's not that
21 new evidence or the exhibit that we provided to
22 counsel are different investigation files. There's

1 documents that come from the investigation files,
2 the majority of the documents that were produced to
3 counsel that he is objecting to we were only able to
4 ascertain those documents after we had the discovery
5 deposition of Robert Munyon, one of the witnesses on
6 counsel's witness list.

7 JUDGE KIRKLAND-MONTAQUE: So the documentation
8 produced after the January date is there a link?
9 Does it correspond to the information that you
10 provided prior to the hearing -- prior to January?

11 MR. BARR: Well, the information we provided on
12 January would have been the investigation files.

13 If -- staff's under the belief that on
14 that February date -- I believe it's February 2nd,
15 if I recall correctly, for the first week of
16 February, we limited the investigation file. We
17 defined the scope of where the information could
18 come from.

19 We couldn't talk about stuff in
20 June of 2013 just like we can't talk about stuff in
21 April of 2016. There was no limit between those
22 parameters what could be brought in. There wasn't a

1 hard bar that you could not bring in anything else
2 other than what's been produced in February.

3 If that were the case, there would
4 have been no need for a discovery deposition of any
5 witness. We could have had this hearing five months
6 ago.

7 JUDGE KIRKLAND-MONTAQUE: Okay. Hold on. So do
8 you have more in response to Mr. Perl?

9 MR. BARR: I think Ms. Parker-Okojie would also
10 want to follow up at some point.

11 MS. PARKER-OKOJIE: I do, your Honor. I
12 specifically want to address the assertions made
13 about Sergeant Sulikowski and his ability to testify
14 regarding this document. I do think it's necessary
15 to put in context.

16 Again, just having an opportunity to
17 quickly review the motion this morning, I was able
18 to go through, and I can cite for your Honor by the
19 exhibit kind of the spots where I think that you
20 should read Officer Sulikowski's -- I'm sorry --
21 Sergeant Sulikowski's deposition transcript more
22 closely, specifically with respect to Exhibit 2, and

1 just let me know if I'm going too fast.

2 JUDGE KIRKLAND-MONTAQUE: Of Exhibit 2 to the
3 motion?

4 MS. PARKER-OKOJIE: Yes. This is regarding --
5 this is -- this is regarding Staff Exhibit 2 as it
6 was presented at the deposition of Sergeant
7 Sulikowski.

8 JUDGE KIRKLAND-MONTAQUE: When you say -- okay.
9 When you say A, B, C, D, that's alphabetically?

10 MS. PARKER-OKOJIE: Yes, your Honor. We did
11 switch to letters just to distinguish them from
12 counsel's exhibit, so Exhibit A, which are the Clark
13 lot addresses. If you look at page -- and I have
14 quite a few citations, so if you just want me to
15 give them to you and then when you are taking it
16 under advisement, you want to review them, I will
17 just read them off.

18 Page 108, Lines 7 through 13 --

19 JUDGE KIRKLAND-MONTAQUE: Wait a minute. 108.

20 MS. PARKER-OKOJIE: This is Sergeant Sulikowski's
21 deposition transcript that I'm reading from, and I
22 can provide you with a copy.

1 MR. PERL: It's testimony.

2 JUDGE KIRKLAND-MONTAQUE: Pardon me?

3 MR. PERL: It's the testimony.

4 JUDGE KIRKLAND-MONTAQUE: I'm just trying to
5 figure out --

6 MR. PERL: The deposition starts at Page 104 or
7 103.

8 JUDGE KIRKLAND-MONTAQUE: I got it.

9 MS. PARKER-OKOJIE: These are full pages.

10 JUDGE KIRKLAND-MONTAQUE: Thank you. Okay. So I
11 was just trying to follow you.

12 MS. PARKER-OKOJIE: Sure. Starting at Page 108
13 and then looking at Lines 7 through 13, this is the
14 discussion about whether Sergeant Sulikowski had
15 reviewed any documents before today's deposition --
16 subsequent to the prior deposition, and Sergeant
17 Sulikowski says that he reviewed the documents that
18 were going to be discussed today, and then counsel
19 asked, "But you didn't bring those with you today?"
20 And he says "No," and he was -- I mean, Sergeant
21 Sulikowski would not bring documents to a deposition
22 that had already been turned over to counsel. So I

1 just think that needs to be put in context.

2 Also, Page 110, Lines 15 through 24,
3 this is a discussion where Sergeant Sulikowski
4 explains that he reviewed the state-issued laptop to
5 review contracts located on MCIS pursuant to daily
6 log activities that was produced by Lincoln Towing.
7 Those are the tow sheets that counsel earlier
8 discussed.

9 Page 111, Lines 4 through 6, Sergeant
10 Sulikowski says that he did review documents
11 pursuant to the OTC lawyers finding inconsistencies
12 in those documents, and on Line 9 of Page 11 he says
13 that upon review he did also find inconsistencies.

14 Page 112, Line 4, Sergeant Sulikowski
15 says that he's familiar with this report, this
16 report being the Clark lot addresses, which is Staff
17 Exhibit A.

18 On Page 115, Lines 22 through 24,
19 Sergeant Sulikowski was asked, "Have reviewed these
20 documents before today, and he said yes.

21 Page 116, pretty much the entire page
22 talks about the documents that he reviewed at

1 staff's office on April 28th, that he reviewed these
2 documents last Friday on Page 119, and also on Page
3 121, Line 7, he says that he reviewed the documents.

4 With respect to Exhibit 3, the
5 Armitage lot, which is Exhibit B -- so I will refer
6 to it by the trial exhibit, your Honor, just so
7 there's no confusion -- Exhibit B, if you look at
8 Page 130, Lines 12 through 18 --

9 JUDGE KIRKLAND-MONTAQUE: Of your binder?

10 MS. PARKER-OKOJIE: Of Exhibit B. I'm still on
11 the deposition transcript --

12 JUDGE KIRKLAND-MONTAQUE: So you are at --

13 MS. PARKER-OKOJIE: -- talking about Exhibit B,
14 yes.

15 JUDGE KIRKLAND-MONTAQUE: Hold on. Let me get
16 there.

17 MS. PARKER-OKOJIE: And, for your reference, your
18 Honor, Exhibit B is the same similar printout as
19 Exhibit A, except it's regarding the tows done to
20 the 4601 West Armitage facility, so we call that the
21 Armitage lot tow.

22 The reason we made the distinction is

1 because in the documents that staff turned over,
2 they turned over a set of tow sheets that were from
3 the Clark lot instead of tow sheets from the
4 Armitage lot, so we just make that same distinction
5 in bringing them up.

6 JUDGE KIRKLAND-MONTAQUE: Hold on. I'm still not
7 there.

8 MS. PARKER-OKOJIE: Page 130 of Sergeant
9 Sulikowski's --

10 JUDGE KIRKLAND-MONTAQUE: 130?

11 MS. PARKER-OKOJIE: Yes, I'm sorry, Page 130,
12 Lines 12 through 18.

13 JUDGE KIRKLAND-MONTAQUE: Okay. 12 through --

14 MS. PARKER-OKOJIE: 18.

15 And this is a portion of the
16 conversation where in Lines 16 through 18
17 specifically Sergeant Sulikowski says when counsel
18 asked him "Have you seen this," and he says "Well, I
19 have seen this. This is what comes up when I review
20 it on the computer, so I have seen this format"
21 demonstrating that Sergeant Sulikowski is familiar
22 with this document.

1 Moving onto Exhibit C, which is the
2 dispatcher report, Page 161 of Sergeant Sulikowski's
3 transcript, where counsel -- and then basically
4 Lines 2 through 5 counsel asks "And have you seen
5 Exhibit 4 before today?" And he says, "Yes. When
6 did you see it? Friday?" So he established that
7 he's familiar with it.

8 Further down in Lines 16 through 20
9 Sergeant Sulikowski states that he knows that the
10 document information came from MCIS.

11 On Page 168, Lines 17 through 22,
12 Sergeant Sulikowski was asked if reviewing this type
13 of data was within his job duties, and he said that
14 it can be in his job description, because it
15 contains information that's relied on daily by
16 officers, meaning the printout from the MCIS
17 database, and then on Page 171, Lines 23 through 24,
18 he's told that if he's asked to review these
19 documents he will review them.

20 With respect to Exhibit D, which is
21 the screen prints from the Illinois Commerce
22 Commission MCIS database, you look at 180, Lines 10

1 through 11, he's asked again, "Have you seen these
2 documents before today, this exhibit?" And I think
3 here especially you can tell Sergeant Sulikowski's
4 familiar, because he says "something marked Exhibit
5 5, no, but I've seen these documents."

6 So in this, your Honor, Sergeant
7 Sulikowski is familiar with the information. He may
8 not have seen it with an -- you know, exhibit page
9 on the front and presented to him in a stapled
10 format as it was at the deposition, but he's
11 familiar.

12 Moving onto Exhibit 6, which is -- I'm
13 sorry -- Exhibit E, which is a printout of operators
14 from the MCIS database, Page 200, Lines 18 through
15 20, where he was asked to take a look at the
16 document and asked if he's ever seen the document,
17 he says yes that he saw it Friday. That was the
18 first time he saw it and that he had seen the
19 document before.

20 He even says -- on Page 202, Line 12,
21 he asked counsel to -- I'm sorry -- to clarify the
22 exhibit or the information, because, again, this is

1 information that was reviewed by Sergeant
2 Sulikowski's, You know, staff would have told him
3 here is an exhibit. We wanted him to review
4 information, and so he's clarifying this is the
5 information that he reviewed.

6 Further, Sergeant Sulikowski explains
7 how he accessed the information on Page 212, your
8 Honor, Lines 12 through 13, where he says that he
9 used the call sheets, which are the tow -- the
10 sheets -- I'm sorry -- that were produced by Lincoln
11 Towing. He says, "I used the call sheets and I
12 typed it into my MCIS screen."

13 On Page 213 he says that he found
14 violations, and that's on Lines 9 and 10.

15 On Page 214 he specifies the
16 violations that he found, which were no active
17 permits.

18 On Page 223, Lines 14 through 15,
19 Sergeant Sulikowski makes it clear that he used the
20 MCIS computer. He did not use the exhibit. He was
21 verifying this information, but since we cannot
22 produce the computer, your Honor, I have to produce

1 the printout as a result of that.

2 On Page 223, Lines 18 through 19,
3 Sergeant Sulikowski says the same information is on
4 MCIS. This is where it all comes from.

5 On Page 254, Lines 9 and 11 --

6 JUDGE KIRKLAND-MONTAQUE: I'm sorry. On what?

7 MS. PARKER-OKOJIE: I'm sorry. 254, your Honor.

8 JUDGE KIRKLAND-MONTAQUE: Okay.

9 MS. PARKER-OKOJIE: Line 9 and Line 13, Sergeant
10 Sulikowski makes the distinction that he's reviewing
11 data as opposed to conducting an investigation and
12 he essentially talks about the information that was
13 seen on the screen, and that is what he relied upon.

14 On Page 270, Line 22, to Page 271, he
15 says the information that he saw on the screen he
16 believes to be valid, again, referencing the earlier
17 description that this is information that ICC police
18 officers rely upon.

19 So in terms of determining whether
20 Sergeant Sulikowski is familiar with or knows these
21 documents, your Honor, I think again without the
22 benefit of being able to put it in writing, but just

1 pointing to you, there's a fuller picture here than
2 just the snippets that counsel took out of his
3 deposition.

4 He is familiar with this information.

5 He's a police officer or police sergeant
6 actually at the ICC and had an opportunity to review
7 this information, and we don't believe there should
8 be a bar to admissibility just based on a few of the
9 quotes that Sergeant Sulikowski made.

10 Your Honor, I also just wanted to
11 briefly address the certification issue that was
12 raised by counsel in 625 ILCS (sic) 18C 1204B, which
13 is incorporated into 18A.

14 JUDGE KIRKLAND-MONTAQUE: I'm sorry. What was
15 the citation again?

16 MS. PARKER-OKOJIE: I'm sorry, your Honor.
17 625 ILCS 518C 1240B, which was in the text of that
18 cite. It incorporates Chapter 18A. It says "copies
19 of all official documents and orders filed or
20 deposited according to the law in the office of the
21 Commission under this chapter or Chapter 18A
22 certified by the director of processing and

1 docketing program to be true copies of the original
2 under the official seal of the Commission shall be
3 in evidence in like manner as the original."

4 JUDGE KIRKLAND-MONTAQUE: Let me read that real
5 quick.

6 MS. PARKER-OKOJIE: Absolutely.

7 (A brief pause.)

8 JUDGE KIRKLAND-MONTAQUE: All right. I'm sorry.
9 Go ahead.

10 MS. PARKER-OKOJIE: And so, your Honor, the
11 vehicle code has specifically allowed for these
12 types of records to be entered into evidence. We
13 don't need to bring down Scott Morris. That's the
14 whole purpose of the certification, because if you
15 had to bring in someone to testify each time you
16 brought in public records, it would be an undue
17 burden on the government agency, and there is case
18 law to support that, your Honor, where the code
19 specifically references -- the agency code
20 specifically references that certification of
21 records shall be allowed.

22 These documents certainly should be

1 allowed as they have been certified by Scott Morris,
2 who even though counsel may not be familiar with
3 him, holds that role currently with the Illinois
4 Commerce Commission.

5 MS. PARKER-OKOJIE: I think Mr. Barr just had a
6 few more closing points for staff.

7 MR. BARR: Your Honor, I apologize for going back
8 and forth. We, obviously, didn't have a lot of time
9 to look at this this morning. We are kind of
10 arguing on the fly here.

11 Counsel did reference a bunch of
12 summaries that are going to be used -- staff intends
13 to use as an exhibit.

14 I know this isn't an opening
15 statement, but part of our case is going to allege
16 that time and time again Lincoln has a pattern and
17 practice of operating and committing violations
18 whether they are complaints by motorists or not.

19 MR. PERL: Objection, your Honor. That's outside
20 of the scope of this hearing. This hearing is for
21 one period of time. That's not an argument.

22 There's no proof. There's no evidence of that at

1 all. It's improper from the motion in limine. To
2 argue that is totally improper. I move that it be
3 stricken from the record.

4 JUDGE KIRKLAND-MONTAQUE: What's your --

5 MR. BARR: My point, your Honor, is that these
6 are demonstrative exhibits. They're just a summary
7 of information. There is nothing that is --
8 basically what it does is it prevents staff, this
9 Court, and counsel to have to sit here and go
10 through these tow records page by page by page,
11 thousands of pages which will take hours, if not
12 days.

13 JUDGE KIRKLAND-MONTAQUE: What I don't understand
14 if that's your -- how does -- without going to
15 hearing on any specific violation, can you determine
16 that something is in violation?

17 MR. BARR: It goes to their compliance record,
18 your Honor.

19 JUDGE KIRKLAND-MONTAQUE: Who determines whether
20 or not they're in compliance?

21 MR. BARR: It was reviewed by Sergeant Sulikowski
22 and will match up to Commission records.

1 MR. PERL: So it's going for the truth of the
2 matter asserted, so they can't use that argument
3 later when it's hearsay because it's going to prove
4 the truth of the matter asserted clearly.

5 MS. PARKER-OKOJIE: Your Honor, I don't think we
6 are finished with our --

7 JUDGE KIRKLAND-MONTAQUE: Go ahead. I'm sorry.

8 MS. PARKER-OKOJIE: Your Honor, also we just
9 wanted to raise a final point that you did allow
10 another deposition after we tendered the documents.

11 Your Honor, we believe that cures any
12 issue of delay. Again, counsel had those documents
13 since -- we're now almost a full month later, and
14 the document that counsel is alleging that we added
15 in after that again are largely summary in nature.

16 Certainly the spreadsheet my
17 co-counsel just mentioned are summaries. They're
18 not any substantive evidence in and of themselves,
19 and also, again, the information that we produced on
20 April 25th was only because we had had a deposition
21 of Robert Munyon later in the schedule, and so
22 because of that, again, and we argued this at the

1 hearing where your Honor granted the deposition,
2 that is why those documents were produced not in an
3 effort to surprise counsel, although we certainly
4 had a surprising motion today.

5 Counsel for the Illinois Commerce
6 Commission would stand that all of the documents
7 should be allowed to be offered into evidence and
8 that none of them should be barred on a motion in
9 limine. Your Honor would not be -- your Honor's
10 ruling would not be an abuse of discretion if this
11 motion was stricken, because, again, the evidence
12 still has to be offered, so there would be no
13 prejudice to counsel -- counsel's client.

14 This is a bench trial. There's not
15 the same sensitivity that there would be to a jury,
16 so we believe that we should at least have the
17 opportunity to offer those items into evidence.

18 MR. PERL: In regard to counsel's argument
19 regarding Mr. Munyon's deposition, I have heard five
20 or six times they have learned things in this dep
21 and they have never told you what it is though. Not
22 one time have they said to you here's what I

1 actually learned in Munyon's deposition, because
2 it's not accurate. They didn't learn any of this at
3 his dep.

4 A year ago we gave them the 24-hour
5 tow sheets, not at his deposition. All these quotes
6 -- all these inconsistencies they never asked him
7 once about those in his deposition.

8 You can look at his transcript. It's
9 not even there one time. So he keeps saying to you
10 and he said to you in the hearing before, we learned
11 new evidence in Mr. Munyon's deposition. We are not
12 going to tell you what it is and now it's got to go
13 through a thousand pages because of it, and they led
14 you to believe they just got that document, which
15 they had since last June of 2016, so to say that
16 they learned evidence isn't accurate or true at all,
17 and they know that.

18 In regard to due process, I can't
19 believe that they would admit to you that as
20 attorneys they created spreadsheets and they now
21 have them in evidence. I've never seen that done
22 before in a case where they're saying to you we

1 created these summary spreadsheets just recently and
2 we want to have these in evidence, because someone's
3 reviewed them.

4 I think counsel is mixing up laying a
5 proper foundation with being familiar. I'm familiar
6 with the documents they gave me, but I couldn't lay
7 a proper foundation for them.

8 If you actually read Sergeant
9 Sulikowski's deposition, here's what he said. I
10 didn't create any of these documents. I don't know
11 who created them. I don't even know when they
12 created them and I don't even know if they're
13 accurate, because I showed inconsistencies showing
14 15 times where they've alleged that Lincoln Towing
15 had dispatchers that were hired in 1899 on their
16 documents that he says is accurate, then he says to
17 me I have no idea if these documents are accurate,
18 1899. I'm pretty sure we don't have anyone working
19 there from that 15 times.

20 If you want to inquire as to Sergeant
21 Sulikowski, why didn't you simply ask him did you
22 create these documents? Do you even know who

1 created these documents? Do you know when they were
2 created? I even asked him do you actually know your
3 screen shots are not copies of copies. He says I
4 don't know.

5 He has no idea who created these
6 documents. I don't know who created these3
7 documents. I have a feeling that counsel created it
8 and naturally I'm pretty certain that counsel did
9 it, not Sergeant Sulikowski. He says the first time
10 he ever saw any of them was that Friday,
11 April 24th, the first time, so we know he didn't
12 create them.

13 Second of all, these aren't copies of
14 originals. If you look at 518 C 1204B,
15 certification of the records, here's what it says.
16 "Copies of all official documents and orders filed,
17 documents.

18 These screen shots you are looking at
19 is not a document. Clearly, it's a computer screen
20 shot. This is not a copy of the document. That's
21 for when you don't have the original present. These
22 aren't copies of the originals. These are allegedly

1 copies of screen shots, which aren't documents, so
2 literally taken 1204B does not apply when you are
3 looking at a computer screen shot.

4 But, beyond that, Judge, even if they
5 were accurate, which they aren't, they can't lay a
6 foundation for it and they know it.

7 I don't understand what the word
8 "familiar" means in discovery. When someone says to
9 me over and over again Sergeant Sulikowski saw these
10 and so he's familiar, so what?

11 Judge, you read them. You are
12 familiar with them. I've read them. Anyone here in
13 the audience can read them and be familiar with
14 them, but they couldn't lay a proper foundation for
15 them, and neither can he, and they know that. It's
16 replete. Just read his deposition completely.
17 Don't take my word for it and don't take counsel's
18 word. Read the deposition. It's not that long.
19 It's clear he has no idea what they are. And then
20 what he says is I've seen the information on those
21 documents, not the documents themselves, meaning
22 I've looked at the computer screen, not the

1 documents. That's not the same thing. He has no
2 idea when it was done.

3 This whole Scott Morris thing is
4 ludicrous. They have known for a long time about
5 him being -- I'm not sure if he even was the keeper
6 of records in 2015 in the relevant time period,
7 probably he wasn't.

8 He doesn't say in his affidavit that I
9 created these under certain dates. He doesn't say
10 he printed them or he created them or he says that
11 -- somehow he says that they're a true copy --
12 correct and true copy of the following, a screen
13 print, which is not an original. Clearly, from
14 their own documents, he's saying I didn't look at a
15 document and print it. It's a screen print.

16 You can just use common sense.
17 There's no way he looked at a thousand or 2000
18 screen prints in one day, and even if he did, Judge,
19 in comparison, he's not here to testify. I would
20 need to ask him to cross-examine.

21 Counsel says I can cross-examine
22 witnesses. Where is he? They know they have a

1 hearing today. He could have been here. I can't
2 cross-examine him.

3 If this was actually a public record,
4 which it isn't, because not everyone can access
5 MCIS, so it's not a public record, clearly nobody in
6 here can access that document, none of these people
7 in this crowd. It's not public, so if you say it's
8 a public record, it's not. There's no way he can do
9 that.

10 If you just read his deposition, it
11 was over and over again he had no idea what it is,
12 and clearly, clearly -- and by the way, I was wrong,
13 Judge. February 1st was the closure date that you
14 set, so you had set February 1st was the date. It
15 didn't just say anything. It says everything, and
16 they had -- they actually had my 24-hour tow sheets
17 in June 2016. Why they didn't use them, I don't
18 know, but they chose to wait, and they did.

19 And then when we gave the deposition,
20 we didn't waive the right to move to bar them, and
21 you didn't say they are automatically admitted.
22 You said you could depose the person because there's

1 a chance that he actually could have laid a
2 foundation for this document. It could have
3 happened. It just didn't.

4 Only one of the documents, which is
5 now Exhibit A, which was Exhibit 2, did he actually
6 say clearly he had seen before. The other ones he
7 said he's never seen, but he's never seen
8 information like that, and certainly when we deposed
9 him, we didn't have Scott Morris' certification,
10 that came after, and that's kind of telling you,
11 because when they handed over those documents back
12 in May 24th or 25th, they didn't have Scott Morris'
13 certification. They waited to put it in there until
14 after the dep when that they realized they couldn't
15 get those documents in with Sergeant Sulikowski, and
16 that's pretty telling in this case, and that's what
17 they have done over and over and over in this case,
18 and the rest of the documents -- and then counsel
19 says to you, well, most of these they had before,
20 because they don't want to tell you which ones they
21 didn't, like summary spreadsheets and like all of
22 them, because we didn't have them from them.

1 And in summing up, Judge, some of the
2 -- and, by the way, citing cases at a hearing
3 without handing out the actual case to everybody is
4 improper anyway. You should never cite a case to a
5 court without the full cite in the proceeding.

6 I don't know if they -- what the cases
7 are saying. Probably the cases are saying -- I'm
8 sure aren't what they're saying.

9 Due process means due process.
10 Literally getting me documents after eight rounds of
11 discovery and now giving them to me at a hearing is
12 not due process, and I can't cross-examine people
13 that I don't have in front of me.

14 So I think it's clear, Judge, that
15 literally getting these documents a week or two ago
16 for a hearing that I didn't get, because they
17 couldn't give them to me over a year and half is
18 improper and putting a summary opinion from the
19 attorney as to what they are, there is no way you
20 can cross reference those things. They should have
21 given me those things a year-and-a-half ago and we
22 wouldn't be in this predicament.

1 By the way, Judge, if they were
2 experts potentially, in which they're not, if they
3 had an expert giving the summary and they certified
4 their expert as being an expert, it might be proper,
5 but I guess they're admitting to you that the
6 attorneys created those documents at the end,
7 because I don't know who did, but clearly they're
8 not, maybe I have to cross-examine them.

9 So if they wanted to bring witnesses
10 in this case, then I'd have to cross-examine each of
11 them as to what they did and how they did it,
12 because I have never seen any of those and none of
13 those are subject to any violations for Lincoln
14 Towing, none of them.

15 It's not one of those actually is a
16 citation, and what I also don't know is if they're
17 even in the relevant time period, because they don't
18 put it on there. We only have July 24, 2014 to
19 March 23, 2016. I'm not even sure that they're in
20 there clearly, and most of the other documents they
21 put in here don't have that date either, so I'm kind
22 of running in blind whether they go through the

1 relevant time period anyway, but I don't need to get
2 there because they're not admissible.

3 JUDGE KIRKLAND-MONTAQUE: What we are going to do
4 is take a break.

5 MR. PERL: Could we do one more procedural thing
6 before you take your break.

7 We discussed prior to today what order
8 we go in, and your Honor looked up the case and
9 first you thought that staff has to go first and
10 then you looked up a case and said I think that the
11 respondents go first; however, I think here's the
12 mistake. Section 200-570, Order of Procedure and
13 Receiving Evidence says, "At hearings in tariff
14 investigations and suspension proceedings the
15 respondent shall open and close," and this is
16 200-570.

17 JUDGE KIRKLAND-MONTAQUE: Hold on.

18 MR. PERL: So the argument --

19 JUDGE KIRKLAND-MONTAQUE: Give them the response
20 to that.

21 MR. PERL: I haven't finished.

22 JUDGE KIRKLAND-MONTAQUE: I'm sorry.

1 MR. PERL: So 200 570 says "At hearings and
2 tariff investigations," which this clearly isn't,
3 and suspension proceedings," which this clearly
4 isn't. It's not a suspension or revocation
5 proceeding if you read their own order from February
6 24, 2016, this is not. This is merely a hearing to
7 determine if we are continuing to be fit, able, and
8 willing to hold a license. It's not a suspension or
9 a revocation proceeding, and they -- and actually
10 every time I ask them about this, they said it's not
11 a suspension or a revocation hearing. This is a
12 hearing to determine whether you are fit or not. It
13 says "At hearings and other proceedings the
14 petitioner, applicant or complainant, if any, shall
15 open and close."

16 "Where several proceedings are heard
17 on the consolidated record," which this isn't, "and
18 in all other proceedings not otherwise specified,
19 the hearing examiner should designate who shall open
20 and close."

21 Clearly, Judge, this is not a tariff
22 investigation or a suspension proceeding, because if

1 it was, then here's the difference. If it was a
2 suspension proceeding, I would have a complaint in
3 front of me; I would actually know why they're
4 trying to suspend them. They're not trying to
5 suspend them. They told you on the record we're not
6 looking to suspend them. We just want to see if
7 they're still fit. That's a different story.

8 I don't have a complaint in front of
9 me. I don't have anything in front of me to know
10 exactly why I'm here. This is what I have argued
11 all along. So why is it proper for them to go first
12 is because -- in trying to figure out what I'm going
13 to do in opening statement, I don't know what to do,
14 because I don't know why I'm here. I still don't
15 know exactly why, after being renewed in July of
16 2015 immediately thereafter I'm at another hearing,
17 so I've said all along ad nauseam I don't know what
18 I'm doing here because there's no complaint in front
19 of me.

20 It's incumbent upon them. They must
21 go first so they can tell me why I'm here so that I
22 can respond to it; otherwise, due process is out the

1 window, and they'd like to tell you that we don't
2 really need due process, just read the cases.
3 They're kind of being followed and they're not
4 following due process.

5 My client's livelihood is at stake.
6 He's been in business since 1992. Lincoln Towing's
7 been in business for about 50 years. They're asking
8 you today to take away their license -- strike that.
9 They're asking you to determine they're not fit,
10 which would then result in them losing their
11 license. That is due process in itself. I still
12 don't know, and I would wager that you don't know,
13 why we are here, because at every one of these
14 hearings I said to them why are we here, they would
15 say to me because we are allowed to come. Pursuant
16 to Section 400.10 says that we can do it any time we
17 want to, and I get that.

18 So If that's why we are here, not for
19 a suspension, they must go first, and then I can
20 respond and know what I'm doing, because right now,
21 to be honest with you, based upon the evidence and
22 the witnesses they presented, I don't know why we

1 are here, because not one of them -- and, by the
2 way, just so you know, it's in the deposition. I
3 asked every single one of them if they had an
4 opinion on Lincoln Towing's fitness, and they said
5 they don't have an opinion, so they don't even know
6 whether it's good or not, and not one of them knew
7 what the elements for being fit was at the
8 deposition, so clearly it could be they don't know.
9 If they don't know, how could I know?

10 I think this rule's clear. They must
11 go first. It can't possibly hurt them to go first.
12 I'm not sure I'm going to argue that it prejudices
13 the staff to go first, all that it tells me why they
14 don't respond, so I think 200.570 is clear they must
15 go first.

16 JUDGE KIRKLAND-MONTAQUE: Staff, I'm going to
17 allow you to respond only to the 200.570 issue about
18 who should go first.

19 MS. PARKER-OKOJIE: I'll explain, your Honor.
20 The fitness is outlined in Section 1710.22, and that
21 outlines the test for fitness for a relocater's
22 license. In that same Section, Part D says "Each

1 applicant for a renewal of a relocater's license
2 shall have the burden of proving their fitness by
3 clear and convincing evidence."

4 Your Honor, because there is a burden
5 on Lincoln Towing to prove its fitness, I think it
6 only follows logically that they would begin.

7 JUDGE KIRKLAND-MONTAQUE: How do you reconcile
8 that with this Rule 200.570? Because they did that
9 when their license was -- at the end of their
10 license, they filed their application for renewal.
11 They filed it and the Commission granted it and then
12 we have this notice for this hearing. So how do you
13 reconcile that section with this procedural 200.570?

14 MS. PARKER-OKOJIE: Well, your Honor, I think
15 that it just make sense that the order of proof
16 would be pursuant to the person that had the burden.
17 If they open, they also would have the benefit of
18 closing. I don't know why that would be something
19 that they would not want.

20 If we have the last word, then we
21 would have the last word as to their fitness and
22 also the right to call rebuttal witnesses.

1 outcome it's going to determine whether Lincoln is
2 fit to hold a license, whether Lincoln should keep
3 their license or they shouldn't have their license.
4 It's a similar outcome of what a suspension
5 proceeding should be.

6 JUDGE KIRKLAND-MONTAQUE: Suspension is not a
7 revocation, is it?

8 MR. BARR: Correct, it's not, but it's the same
9 whether you are revoked for perpetuity or whether
10 you are suspended for a definite amount of time, I
11 think has the same effect.

12 MR. PERL: Judge, it might have the same effect
13 but this is not a suspension per se, and they said
14 all along it isn't, and if you look at what they
15 cited, that's for applicant, so the applicant has
16 the burden. We are not an applicant in this case.
17 It's not a new license and it's not a renewal.

18 When I do my renewal hearing, which I
19 did two years ago, I had to go first in turn out of
20 six, because it was a renewal hearing. This is not
21 a renewal hearing. I'm not an applicant. I
22 actually hold a license, so I'm not an applicant.

1 If you look at this, it's each
2 applicant for a relocater's license is stuck with
3 the burden. I don't have the burden, your Honor.
4 I'm not the applicant, and in the cases in a couple
5 of months from now when I go to my renewal, I will
6 be, and here's the confusion. I put in my trial
7 exhibit book my insurances, my titles to the cars.
8 I put in my dispatcher stuff, I put in all my
9 fitness financially, because I don't know what I'm
10 doing, because that's the stuff I normally would put
11 in if I was going through a renewal, but I wasn't
12 sure if I needed it or not, because they never told
13 me why.

14 If they put on their case and they're
15 not arguing about insurance, by the way, I could
16 probably save half the day if we don't have that.

17 If I have to put my case on, I'm going
18 to spend hours proving I have the proper insurance,
19 proofing that I have the license for my vehicles,
20 proving that I have everything in the world I would
21 need at a renewal hearing, which I will have to do
22 this morning, if I have to go first, because if I

1 don't know what they're saying, because I don't do
2 it, then they'll say to you, see, Judge, you don't
3 know if they have insurance. You see, Judge, you
4 don't know if their drivers are employees or not.
5 You don't know if they have the proper funds in
6 their account to be financially stable.

7 I don't know if I'm doing that or not
8 because they haven't put their case on yet, but I
9 know at a renewal I have to do that, because the
10 statute says I have to, so I do it.

11 So I'm -- basically, again, it's a
12 trial by ambush. They get to see me first. I just
13 want to know from them why I'm here first, then I
14 will respond, because I could probably save four or
15 five hours.

16 If they're not complaining in their
17 case -- I would also stipulate if they're not
18 complaining in their case about insurance, I
19 don't think they are, but I don't know about all
20 these other things that I normally have to do for
21 renewal, I could cut this hearing in half, and they
22 keep saying to you they don't want to belabor it,

1 but everything that they do belies that at every
2 hearing we have, so including today.

3 So if they would go first, I would
4 know what I have to respond to, maybe they won't be
5 complaining about my insurances or if I'm
6 financially stable, I don't know, because they
7 haven't presented any documents in their trial book
8 to say that I'm not, so I don't know what that is.

9 This is clearly, clearly a case
10 where 570 applies, and I'm not an applicant and this
11 is not a license renewal or applying for a license.

12 MS. PARKER-OKOJIE: Your Honor, I just thought of
13 something that might shed some light on this,
14 625 ILCS 518A-401, and maybe midway or towards the
15 bottom third of that first paragraph it says, "If
16 the Commission has information of cause not to renew
17 such license, it shall so notify the applicant and
18 shall hold a hearing as provided for in Section
19 18A 400.

20 The Commission may at any time during
21 the term of the license make inquires into the
22 management, conduct of business, or otherwise, to

1 determine that the provisions of this chapter and
2 the regulations of the Commission promulgated
3 thereunder are being observed."

4 So I think in this paragraph it is
5 titled, "Expiration and Renewal," but the bottom of
6 the paragraph specifically draws into account the
7 fitness hearing, and the only reference that was
8 given as to how the hearing shall proceed in
9 Section 18A 400. Section 18A 400 specifically says
10 "Relocators' licenses, applications original
11 determinations."

12 So I think that we -- you know, we do
13 kind of have to follow the process of what an
14 original application would be, which is to have
15 Lincoln, you know, put on their case in terms of
16 showing their fitness and then staff to show reasons
17 why they do not believe they're fit. It only makes
18 sense if they may opportunities to rebut that.

19 Why would they go second? They
20 wouldn't have an opportunity to rebut staff's case
21 if they went second.

22 MR. PERL: That's the only way they could rebut

1 it is if they go first. How can I rebut my own
2 case?

3 JUDGE KIRKLAND-MONTAQUE: I have a question. Do
4 you plan to -- is it possible -- I mean, based on
5 the exhibits that they have provided and based on
6 previously how renewal hearings typically are going,
7 are you willing to stipulate to anything in that
8 exhibit that you have no problem with?

9 MS. PARKER-OKOJIE: No written stipulation has
10 been presented to us, but in terms of some of the
11 documents, one is a summary for some sort of
12 analysis that we again have not seen and can't
13 stipulate that. I don't know the purpose of them
14 using that.

15 In terms of other things, I don't
16 know. We have not been presented with a written
17 stipulation.

18 MR. PERL: Judge, maybe what we could do, when
19 they're going back and you are talking about what
20 you are going to do with the motion in limine and
21 who goes first, maybe we can meet with counsel and
22 talk about the things that could shortcut the

1 hearing today regarding that and then --

2 JUDGE KIRKLAND-MONTAQUE: That's what I'm trying
3 to get at. I'm trying to get at are you trying to
4 present a case against them or are you going to go
5 through every aspect of fitness?

6 MS. PARKER-OKOJIE: I think that's what the code
7 requires in terms of the way that the hearing should
8 be conducted. It says 625 ILCS 518A 400 as a means
9 supporting administrative rules saying the burden is
10 on them.

11 JUDGE KIRKLAND-MONTAQUE: I understand, but, I
12 mean, I don't know what anyone has presented today,
13 but my thought is, in light of what Mr. Perl's
14 saying, if your main issue -- and I assume you have
15 looked at their exhibit, and if you have no issue
16 with anything or I don't know whether you do or not,
17 if you don't have an issue with any of these
18 exhibits, say their financials, I don't know what
19 else you could have and are willing to stipulate
20 that those are fine, we can move onto evidence where
21 you present testimony regarding whatever it is you
22 want.

1 MS. PARKER-OKOJIE: I think that doing that
2 though, your Honor, might be putting the staff in
3 the position of saying we are stipulating that you
4 are fit.

5 JUDGE KIRKLAND-MONTAQUE: No.

6 MS. PARKER-OKOJIE: But we want to show X, Y, Z.

7 JUDGE KIRKLAND-MONTAQUE: Let's say there's a
8 list of ten criteria, so that's the question as to
9 whether any of those -- like, okay, you have
10 insurance, okay, that's whether you have insurance
11 or not, that should be pretty easy to determine, so
12 we don't need to go 30 minutes or whatever. You
13 have insurance.

14 MS. PARKER-OKOJIE: That may be something that
15 staff can discuss amongst ourselves. Also we have
16 the benefit of having staff witnesses here to
17 verify, so we can maybe discuss that amongst
18 ourselves.

19 JUDGE KIRKLAND-MONTAQUE: Yes, why don't you talk
20 to counsel.

21 MR. PERL: Judge, before you go back, take a look
22 at the February 24, 2016 order, which is in staff's

1 packet and ours, where it says clearly this is from
2 the Commission "A fitness hearing should be held to
3 inquire into Lincoln's relocation towing operations
4 to determine whether it's fit, willing and able to
5 properly perform service."

6 It doesn't say anything about
7 suspension or revocation. What they said all along
8 is they're not here to suspend or revoke us. They
9 just want to see if we are fit. So if that is the
10 case, 200.570 applies and they go first.

11 Here's the last comment. Counsel said
12 how am I going to rebut anything. If I go first,
13 not knowing what they're saying I did wrong, is that
14 due process?

15 In the renewal process, I know I have
16 to go first, because I'm not saying I did anything
17 wrong.

18 In this process, if you are telling me
19 I did something wrong, I should know what it is
20 first, because either right now, as you sit here,
21 Judge, if I ask you to rule right now without doing
22 any evidence, I think you would say I don't know

1 what they're claiming you did, because I've never
2 heard it, because they said the same thing every
3 time, we are allowed to go forward.

4 We don't know. No one in this room
5 knows why we are here, but they do. They should be
6 required -- and, by the way, there's no due process
7 problem they can argue to you, like lack of due
8 process on the Commission, if they go first.

9 I can argue due process on my client,
10 but they can't make the same argument. They're a
11 governmental entity. They can't possibly harm them
12 to tell me what I did wrong, and, by the way, that
13 could shortcut this whole proceeding and then I can
14 narrowly taper my response -- what my rebuttal would
15 be.

16 And, by the way, just so we are clear,
17 rebuttal witnesses have to be disclosed prior to
18 hearing as well. You can't just bring people in.
19 They know what we are going to say. We have said it
20 before.

21 So if counsel is alluding to the fact
22 that they are going to bring someone in as a

1 rebuttal witness, look up the rules, which we'll all
2 bring them together. It isn't surprise witnesses.
3 It's people you might call on rebuttal. You can't
4 just bring someone in today.

5 If it's the same information I gave
6 you at the deposition, you can't just bring your own
7 rebuttal witness, so I'm not sure what they are
8 talking about.

9 JUDGE KIRKLAND-MONTAQUE: There's two points
10 here: One is your motion, two, is the order of the
11 proceedings, and so what I would like to do is take
12 a break. I'm going to say 30 minutes, but it may be
13 shorter, so, I mean, just stick around. You don't
14 have to stay in the room. Let's go back on the
15 record. I'm sorry.

16 (Off the record.)

17 On the record. Okay. Back on the
18 record.

19 I have one question before making a
20 ruling. I sorry it's taking me a little longer than
21 anticipated. The question is for the staff
22 regarding the printout.

1 What do you plan to do? What's your
2 purpose? What's the purpose of the printout? What
3 do you plan to do with them today?

4 MS. PARKER-OKOJIE: The printouts provide a
5 capture of MCIS' record as contrasted to Lincoln
6 Towing's record for the relevant time period.

7 JUDGE KIRKLAND-MONTAQUE: And what are you going
8 to do with that?

9 MS. PARKER-OKOJIE: We are going to show that
10 addresses in several -- or more than several of the
11 lots where Lincoln tows from contracts either they
12 were e-filed after Lincoln towed from them, the
13 contracts were cancelled before Lincoln towed from
14 them, or the contracts were assigned to other
15 relocators, or they were lots that were patrolled
16 rather than called.

17 JUDGE KIRKLAND-MONTAQUE: Okay. So you have the
18 tow log back a year ago. Why didn't you go through
19 each one and determine this prior to April?

20 MS. PARKER-OKOJIE: Sure. The tow logs are
21 provided from Lincoln Towing as we've already heard.
22 Those are their business records and we only deposited

1 Robert Munyon in mid-April and so we had to get an
2 understanding of how those logs were used, what they
3 were used for, and how the fields were recorded on
4 them before we could start drawing conclusions, and
5 so because we deposed Robert Munyon in mid-April,
6 then in two weeks we went through those documents
7 again what Mr. Munyon told us in terms of how they
8 were used and we checked them against MCIS records
9 for the same time period.

10 JUDGE KIRKLAND-MONTAQUE: So let's say -- so what
11 you are telling me you looked at these documents
12 based on Mr. Munyon's testimony, and you go to MCIS
13 and you say, "Oh, there's a discrepancy here," and
14 that's your conclusion. Now what?

15 MS. PARKER-OKOJIE: Well, since, obviously,
16 staff, you know, is not -- we are not witnesses in
17 this case, and we also, you know, are using MCIS as
18 members of the Illinois Commerce Commission, but not
19 in the same way that the police does, we ask for
20 Sergeant Sulikowski to go through the records.

21 Obviously, Sergeant Sulikowski uses
22 MCIS, you know, much more frequently than we do and

1 for investigative purposes, as the officers do,
2 because they use MCIS when they're writing tickets.

3 JUDGE KIRKLAND-MONTAQUE: Right. Okay. Just go
4 to the next step. So Officer Sulikowski -- I'm
5 sorry I can't pronounce it --

6 MS. PARKER-OKOJIE: Sulikowski.

7 JUDGE KIRKLAND-MONTAQUE: -- Sulikowski looks at
8 this and determines -- so did he write citations
9 based on this?

10 MS. PARKER-OKOJIE: Your Honor, he did not write
11 citations based on them.

12 JUDGE KIRKLAND-MONTAQUE: Okay. So it's just an
13 opinion based on comparing the two?

14 MS. PARKER-OKOJIE: Well, I couldn't say that
15 it's an opinion, your Honor. The code is very clear
16 in what it requires.

17 JUDGE KIRKLAND-MONTAQUE: I'm sorry. I don't
18 mean to interrupt you.

19 MS. PARKER-OKOJIE: That's okay. You would like
20 to ask --

21 JUDGE KIRKLAND-MONTAQUE: I'm just trying to
22 understand where we are going with these and why we

1 are looking at them because he's going to say they
2 were all inconsistencies. That's a violation. I
3 did my citation. No one has adjudicated whether or
4 not this is a violation.

5 What would be the point of that?

6 MS. PARKER-OKOJIE: Your Honor, I think the point
7 really is, if you want to get to the heart of the
8 matter, that there are times that Lincoln has
9 violated the law even when it's not been cited, and
10 so I think a review of their records show that there
11 are times when they have towed from lots that there
12 have not been contracts or contracts have not been
13 e-filed. It is really just simple as black and
14 white.

15 JUDGE KIRKLAND-MONTAQUE: That sounds like a
16 citation hearing to me.

17 MS. PARKER-OKOJIE: But, your Honor, this is a
18 fitness hearing, and in a fitness hearing we are
19 able to consider other facts that bear on the
20 fitness of the licensee.

21 If Lincoln Towing in this matter is --
22 obviously, the ICC police is limited in their

1 patrol. You know, they don't patrol 24 hours a day,
2 7 days a week. If there are -- from the records
3 that they turn over to us that show that they're not
4 following the law, we believe that is evidence that
5 -- especially in the hearing on their fitness to
6 hold a license -- that you, as the trier of fact,
7 should at least be able to evaluate.

8 JUDGE KIRKLAND-MONTAQUE: But that would require
9 me to evaluate whether or not the proposed
10 violations are actually violations, which is an
11 administrative citation hearing. There's been no
12 administrative citation issues.

13 MS. PARKER-OKOJIE: There's not been your Honor,
14 but I do think as trier of fact you can read the
15 Illinois Vehicle Code, Section 18A and supporting
16 administrative code rules and see that in black and
17 white if Lincoln is saying we towed from 123 Main
18 Street and 123 Main Street was a different relocater
19 in MCIS, while that might be adjudicated, it's
20 certainly a matter of fact these are their own
21 records. We're not bringing in MCIS records' on
22 their own to say look at these addresses and look

1 where Lincoln Towing has violated the law.

2 We have staff and ICC police who will
3 testify has looked at the records, has looked at
4 MCIS, compared them to Lincoln's records, and made
5 conclusions about that.

6 JUDGE KIRKLAND-MONTAQUE: I don't -- I think what
7 you are saying you could only make an allegation
8 that there's a violation.

9 MS. PARKER-OKOJIE: Well, certainly, your Honor,
10 in terms of the ultimate issue of facts, we cannot
11 sit here and say, you know, the ultimate issue of
12 fact is. That is for you to determine, but we can
13 certainly show a pattern and practice on behalf of
14 Lincoln Towing of what they're doing even when they
15 are not being cited. That's for your Honor really
16 to determine if it's a violation, but I think that
17 as the staff of the Commission we have a duty to
18 bring that forward and show both yourself and, you
19 know, what is going on as the trier of fact.

20 JUDGE KIRKLAND-MONTAQUE: All right. Thanks.

21 MR. PERL: Judge, I really can't believe that
22 counsel is saying to you they want to show a pattern

1 and practice of what we are doing. We have been at
2 this case for a year and a half. That's called
3 discovery. This is again trial by ambush.

4 I'll just read you just one thing, the
5 very last thing I asked Sergeant Sulikowski.

6 "So I ask you one more time is the
7 information on this screen that you looked at
8 accurate?"

9 ANSWER: No."

10 He literally says the information he
11 looked at isn't accurate, so everything that you are
12 looking at here -- because 15 times I showed him, it
13 says the year 1899 and other things -- he says he
14 has no idea if it is accurate.

15 So I don't know how counsel could
16 actually sit here and argue to you that this is not
17 prejudicial more than probative. It is prejudicial.

18 Now they want to make their argument
19 to you, which is what I was saying to you, all the
20 things that are showing here, we still do other
21 things wrong, too, but everyday we do all these
22 terrible things which were never raised before we

1 are going raise them now, and I haven't done
2 discovery on, so we've had this conversation five
3 times.

4 By the way, our 24-hour tow sheets
5 might have mistakes in them. He didn't create them.
6 It doesn't mean that the information about 24-hour
7 tow sheets don't line up with what they have is a
8 violation anyway.

9 And I clearly asked him "Did you do
10 any investigation?" He said, "No." There's nothing
11 probative about what he did. They gave him these
12 documents. He looked at them, and to say he looked
13 at the screen for every one of them, there's no way
14 in one day he looked at every single screen.

15 He would have to take them -- he was
16 only there for one day. He would have to have taken
17 all of these 24-hour tow sheets -- there's a
18 thousand of them. There's 9,000 tows on them. He
19 would literally have to look at the screen for every
20 single one of those tows in that one-day period,
21 which is humanly impossible, he did in five hours.
22 It couldn't have happened, and we know it didn't

1 happen, because he testified it didn't happen that
2 way.

3 So I don't understand how counsel says
4 that it would somehow not violate our due process
5 for them to make an argument to you that, you know,
6 Judge, there are other things Lincoln did wrong that
7 they never wrote a citation for.

8 What I have to do now is and, I will
9 do every -- if it gets in -- every single one that
10 they go through, I'll have a hearing on with them in
11 this courtroom, every one to the last one. Why?
12 Well, I had six hearings in the last two weeks and I
13 won five of them.

14 So just because they're citations, it
15 doesn't mean we did anything wrong, and these cases
16 are not even citations.

17 So what they want to say to you is no
18 citations were ever written, but they want you to
19 make an inference that something is wrong with
20 Lincoln even though there's no foundation in
21 support.

22 Again, counsel said about Mr. Munyon's

1 deposition, can you please ask counsel to tell you
2 what it is Mr. Munyon said that led them to believe
3 -- by the way, his deposition would have been ten
4 hours if they went through all these tow sheets.

5 Here's all they did. They asked him
6 what information was contained in the 24-hour tow
7 sheets. If counsel wants to tell you that the
8 Illinois Commerce Commission, after 50 years of
9 Lincoln Towing doing business with them, doesn't
10 know what information is on a 24-hour tow sheet,
11 there is something wrong with the Illinois Commerce
12 Commission. That 24-hour tow sheet we do it with
13 every single tow we've submitted to the police
14 department every day. It has to be done.

15 So counsel is going to say to you
16 we've never seen a 24-hour tow sheet before you,
17 your Honor. We have no idea what's on there.
18 They're literally asking those questions like what
19 does it mean lot number. I mean, it's a lot. They
20 have those 24-hour tow sheets. They've had them
21 before. They have seen them before.

22 Nothing came out of Mr. Munyon's

1 deposition. They had -- here's what happened. They
2 had the 24-hour tow sheets for a year. He just
3 didn't do it. They could have cross-referenced
4 those at any time, and what they could have done in
5 discovery is said to me, Alan, we think these 30, or
6 40, or 50 times they're a problem.

7 You know what I would have done,
8 Judge? I would have had discovery on those issues
9 and I would have resolved something, but they didn't
10 do that.

11 So here we are again. I still don't
12 know what we are doing or what they are going to
13 claim. I am not sure if your Honor knows what they
14 have alleged, something to do with the 24-hour tow
15 sheet and some documents that they can't lay a
16 proper foundation for, that's something on them.
17 It is wholly inappropriate to let those in.

18 They have never told you once what
19 Mr. Munyon said, because he didn't see anything in
20 his deposition. They just forgot to do it or didn't
21 do it and waited until after everything was done and
22 then, on top of it, to make it worse, once they

1 realized Sergeant Sulikowski doesn't know anything
2 about the document, they added Scott Morris'
3 certification after that, and it wasn't even in
4 there when they did the discovery the last time.

5 Now they want to do a ninth round of
6 discovery, and if they want to do that, then I
7 should depose Scott Morris and ask him "Do you know
8 if these are accurate or not? Did you print these
9 out?" They didn't. So there's nothing even close
10 to resembling foundational -- no one is here to lay
11 a foundation for the documents. I don't think they
12 can tell you that. It's not proper discovery. It
13 was actually closed for discovery as of February
14 1st. This absolutely came after that and I have no
15 way -- I had no time or ability to cross-examine
16 anybody.

17 By the way, counsel says, well, they
18 had ten days. I have other things going on, so it
19 doesn't mean we can absolutely stop everything.
20 That's why the motion in limine comes later, because
21 we are trying to figure things out as we go, and it
22 would have helped actually if we had these documents

1 earlier or we even knew why we were here today,
2 which we don't.

3 So all the other arguments that were
4 made, Judge, most of these documents came
5 afterwards, almost all of them. The ones in the
6 book that came during discovery should be allowed.
7 The other ones should not be allowed even if they
8 could lay foundation because they came too late.

9 JUDGE KIRKLAND-MONTAQUE: Okay.

10 MR. BARR: Your Honor, could I make a quick
11 statement in response to counsel? I will keep it
12 short.

13 I think counsel's argument goes maybe
14 to the weight of the evidence that he can explore on
15 cross-examination. I don't think it goes to
16 admissibility of the evidence.

17 I think further that you heard counsel
18 state that the tow sheets might be inaccurate. If
19 the tow sheets might be inaccurate, how is staff
20 suppose to interpret those tow sheets without first
21 deposing where the records came from with
22 Mr. Munyon.

1 Also, as we stated earlier, these
2 documents are certified records and are Commission
3 records. Just as we wouldn't bring in Dorothy Brown
4 to certify a criminal record, we wouldn't bring in
5 someone from Springfield to come in and testify that
6 he actually put a seal on the records.

7 And, lastly, your Honor, I'll state
8 again, counsel has been stating over and over again
9 that February was the close of discovery. I think
10 February was the close of the cutoff date in terms
11 of investigation files, but the whole purpose of a
12 discovery deposition is for it to lead to more
13 relevant evidence, anything that's relevant, so
14 there would be no purpose to cut off discovery back
15 in February and then continue to hold depositions
16 for three more months only so we cannot use anything
17 we found out. It would be a complete waste of time.

18 MR. PERL: Judge, they didn't find anything out
19 in Mr. Munyon's dep. If they're going to tell you
20 that they went through a thousand tows with him,
21 I'll show you the transcript. They went through
22 just in general what a 24-hour tow sheet. They

1 didn't find anything out of the deposition. That's
2 just cover for them.

3 JUDGE KIRKLAND-MONTAQUE: All right. Here's my
4 ruling. Regarding the motion in limine, I am going
5 to deny it with respect to the printout. I'm going
6 to allow the printout as Commission records
7 certified by the processing -- the Department of
8 Processing here at the Commission, and that -- and I
9 think Mr. Barr's point is valid regarding the scope
10 and time.

11 I mean -- and I do recall the day
12 where I said no more investigations. I am going to
13 modify that ruling and allow these records in, the
14 printout.

15 Regarding the order of the proceeding,
16 I'm going to require staff to go first. I don't
17 know if you all have been able to agree on the issue
18 that you can stipulate to and I don't have to
19 address. Is there something?

20 MR. PERL: Judge, what about --

21 JUDGE KIRKLAND-MONTAQUE: The last four?

22 MR. PERL: -- the four, the Armitage screen

1 shots, the documents that the attorneys created?

2 JUDGE KIRKLAND-MONTAQUE: Yes, we really didn't
3 discuss this.

4 MR. PERL: No, we did.

5 JUDGE KIRKLAND-MONTAQUE: You mentioned it, but I
6 don't know if staff responded.

7 MR. PERL: Judge, do I now -- now I can't contest
8 their exhibits as hearsay and make them lay a
9 foundation for them, even that? You're saying that
10 they've laid a proper foundation already for them?
11 Because if you deny our motion in limine, it will
12 still make them prove they can lay a foundation.

13 JUDGE KIRKLAND-MONTAQUE: Right. I mean, we are
14 going through our normal proceedings.

15 MR. PERL: I still want to argue that they don't
16 have a witness here they could actually get this
17 into evidence.

18 JUDGE KIRKLAND-MONTAQUE: Well, we are going to
19 get to that, but right now your motion in limine is
20 just requesting that they're barred. I'm going to
21 deny that.

22 MR. PERL: So I can still argue at the hearing

1 that they're hearsay and not admissible, because
2 they don't have the proper foundation, correct? I
3 could still make that argument?

4 JUDGE KIRKLAND-MONTAQUE: You can make that
5 argument.

6 MR. PERL: And the last documents, the ones that
7 they just put in recently -- by the way, what about
8 the citations and the other stuff that they didn't
9 give in discovery?

10 JUDGE KIRKLAND-MONTAQUE: I think those fall
11 within the administrative notice of the rules of
12 practice.

13 MR. PERL: They do, but don't you have to tell me
14 what you are going to use at trial? There's a
15 difference between -- I agree with you on that, but
16 the reason -- so why -- I'm not sure why we did
17 discovery in this case, because all they're doing is
18 giving me new documents that could have been
19 admitted had they given me in discovery, but they
20 clearly didn't give them to me. We all know they
21 didn't. They never gave me any of these documents
22 before, and just because they could be admissible

1 now, I'm going to ask for continuation of this
2 hearing. I want a continuance for due process. I
3 want to be able now to do discovery on these
4 documents that you are allowing now saying that they
5 can use them and I want discovery done, because I
6 was never told this before.

7 JUDGE KIRKLAND-MONTAQUE: Discovery on the
8 administrative citation notices that I sent out?

9 MR. PERL: No, discovery on the screen shots.
10 The documentation that you are kind of saying you
11 are modifying discovery. Okay. So let's modify.
12 Let's keep it open. Let me now finish up my
13 discovery. Let me finish going through everything
14 they gave me, because I didn't get a chance to do
15 that, and let me see where we go.

16 They waited. They took Bob Munyon's
17 deposition in April, whatever. That's when they
18 took his deposition. That's when they chose to take
19 his deposition. Whether or not they did it timely
20 or not is beyond me why they did that.

21 They found nothing new in there. They
22 haven't told me they found anything new. They

1 haven't shown one, and now they want to present
2 these documents. The documents at the end clearly
3 are just are not screen shots. They're documents
4 that they created in summary form. How could an
5 attorney create a document in summary form and then
6 they're not barred. They can't possibly, unless
7 they're going to testify.

8 JUDGE KIRKLAND-MONTAQUE: What's your plan with
9 those documents, staff?

10 MS. PARKER-OKOJIE: Your Honor, I think, as
11 counsel, Mr. Barr, stated, those are merely summary
12 documents. I think counsel also acknowledged those,
13 and they are going to be used for demonstrative
14 purposes.

15 As all parties have acknowledged in
16 this hearing, there are over a thousand tow sheets
17 and I don't know that it would be a good use of our
18 time to go through each one address individually.
19 This provides a summary not only for staff to
20 reference with the witness, which would make his
21 testimony easier, but for counsel to cross check and
22 ultimately for your Honor to cross check.

1 I don't see how a summary chart is
2 prejudicial in any way. I don't see how a summary
3 chart -- again, there are trial companies that
4 provide demonstrative exhibits for witnesses all the
5 time.

6 JUDGE KIRKLAND-MONTAQUE: Are you planning to
7 admit these into evidence?

8 MS. PARKER-OKOJIE: Yes, to assist the witness
9 with his testimony for demonstrative purposes;
10 otherwise, the other alternative would be to go
11 through each of Lincoln's tow sheets with each page
12 number, each address that was found, the
13 inconsistency that was found, and to ask Sergeant
14 Sulikowski about each entry. That would take hours,
15 so I think that providing these summary documents
16 again --

17 JUDGE KIRKLAND-MONTAQUE: Summary of what, I'm
18 not sure.

19 MS. PARKER-OKOJIE: It's a summary of addresses
20 that were found and exactly what inconsistency was
21 found at that address, because there are
22 multiple --

1 MR. PERL: I'm sorry.

2 MS. PARKER-OKOJIE: As I mentioned, it's not in
3 evidence yet, but if you just want to look at
4 Exhibit Q, these are tows that happened from the
5 4601 Armitage lot.

6 JUDGE KIRKLAND-MONTAQUE: Did these tows occur
7 within the time period specified?

8 MS. PARKER-OKOJIE: They did, and the way that
9 you can verify that is because we did go ahead and
10 actually Bates stamp Lincoln's documents.

11 Lincoln earlier said that we didn't
12 Bates stamp our own, but we Bates stamped their tow
13 logs actually for ease of referring to them in
14 court, the page of the tow, last date of the tow,
15 and it would be easy to see that these tows happened
16 within the time period.

17 So this isn't just an alleged or
18 conglomeration of random things, but we have taken
19 the time to group them by address to say which pages
20 the address appeared on and then to also explain
21 what the alleged, you know, inconsistency or
22 violation is at that address for that date and then

1 the number of instances that it occurred.

2 That isn't something that prejudices
3 anyone in this case. It merely summarizes it and
4 makes it easier to digest rather than going through
5 each one of the thousands of pages.

6 MR. PERL: Judge, I don't even know how to answer
7 that, because I'm still shaking from the last
8 ruling. How do you say there are companies that do
9 discovery. There's no such thing.

10 In 31 years I have never heard a
11 lawyer say to me there's companies we hire. No,
12 they're not. They're called expert witnesses, and
13 you get an expert witness and you certify them as an
14 expert, and they create a document for you, and then
15 guess what they do? They come to court and testify.
16 You don't just get the documents in.

17 The only documents that I've ever seen
18 come in on certification are personal injury cases
19 where you want to prove you paid the bill, not that
20 the injury occurred. The only time I have ever seen
21 a document, even these screen shots come in, they
22 don't come in, because if you are trying to prove

1 the truth of the matter asserted, it's hearsay. You
2 need someone to testify.

3 So if they have an expert, which they
4 don't, who actually went through all these documents
5 and created a spreadsheet, which they didn't, they
6 could bring the expert in and I can cross-examine
7 them.

8 This is just a document created by an
9 attorney, by the way isn't a company that you hire
10 to do discovery as an attorney in the case, and you
11 can't even tell from this document -- I don't even
12 know why I'm arguing about this.

13 The fact that I'm arguing about this
14 scares me, because if this document comes in, then
15 why do we have any discovery in this case ever? Why
16 do we have any cutoff date? Why don't we just come
17 in here like the wild west and say whatever we want
18 to say, because that's what they want to tell you.

19 This document doesn't tell you -- by
20 the way, if you look at the document, it doesn't
21 tell you the date of the tow, so you can't see it
22 from the document. It's not on there. It tells you

1 an address and it says notes. What does "notes"
2 mean?

3 Who am I going to question as to who
4 took these notes, when did they take the notes? Are
5 they accurate? How were the notes taken, total
6 tons, and Bates stamped pages? That's what this
7 document tells you.

8 And I will tell you this, Judge. This
9 document comes in, we are going to be a month here,
10 at least, because I will have a hearing on every
11 single one of these instances, and there's a
12 hundred, 200 of them. We'll have a hearing on every
13 one of them, because this is what we told you was
14 going to happen and they said no.

15 I knew exactly what they were going to
16 do. They're sneaking everything in at the last
17 minute like they always do, and that's how these
18 documents come in.

19 I want a hearing on every one of them
20 then, because they're still telling you there's a
21 violation, but what they told you earlier, we do
22 things wrong all the time. You should just take

1 their word. They don't need evidence here. They
2 just get to say it.

3 They have got to prove to you with
4 evidence today in the courtroom -- and, by the way,
5 if you think they actually -- Sergeant Sulikowski
6 went through a thousand of these, he didn't.
7 There's no way.

8 So what they really want to do,
9 because he didn't do it yet and he really can't
10 testify, and you will see if he gets to it, he will
11 say he doesn't know anything about any of these.

12 They want to get the summary in so
13 they could say these are all the things we did wrong
14 without having a hearing, and wouldn't that be
15 great, a summary from an attorney.

16 So why don't I give you a summary in
17 my handwriting saying we never did everything wrong
18 and we are correct. I'll just give it to you, and
19 I'll say I'm familiar with it and then you will say,
20 okay, I could take that. That's all this is. This
21 is their notes.

22 JUDGE KIRKLAND-MONTAQUE: I'm just concerned

1 about staff presenting or alleging that violations
2 are made without there being any determination that
3 a violation has been made.

4 MS. PARKER-OKOJIE: Your Honor, that would be for
5 you to determine.

6 JUDGE KIRKLAND-MONTAQUE: So are you saying on
7 this Exhibit Q that you plan to go through -- let's
8 see how many. I'm going to guess 30.

9 MR. PERL: It's P, Q, R, and S.

10 JUDGE KIRKLAND-MONTAQUE: When you refer to Bates
11 stamped pages, what's the purpose of that?

12 MS. PARKER-OKOJIE: Those are Exhibits J and K
13 that staff is seeking to enter, your Honor. Those
14 are actually Protective Parking Corporation's
15 24-hour tow logs which they turned over to us both
16 for the Armitage location and the Park location.

17 We went ahead and Bates
18 stamped those, because they were just given to us
19 with dates at the top. To keep them straight, we
20 Bates stamped them. These are their own records,
21 your Honor.

22 JUDGE KIRKLAND-MONTAQUE: But it sounds to me

1 like you -- first of all, it sounds like we are
2 going to have to do a hearing to determine whether
3 there's violations on whatever citation or whatever
4 page is Bates stamped.

5 MS. PARKER-OKOJIE: Your Honor, I don't know that
6 we need to do underlying citation hearings on these.
7 Staff is not alleging that there were citations made
8 here.

9 What staff is saying is these are
10 Lincoln's records. In Lincoln's own records, they
11 have listed addresses that they have towed from that
12 MCIS reflected on the date in question, and the
13 relevant time period they did not have the ability
14 to to tow from.

15 We are not talking about one or two
16 tows, Your Honor. These are multiple tows that
17 occurred. So if there were ten, you know, maybe we
18 would say okay, maybe there is a mistake. There are
19 multiple tows.

20 JUDGE KIRKLAND-MONTAQUE: I'm sorry.

21 MS. PARKER-OKOJIE: Sure.

22 JUDGE KIRKLAND-MONTAQUE: Explain to me who's

1 putting the information in MCIS regarding a tow
2 company. I know there's e-filings. You have to do
3 your summary --

4 MS. PARKER-OKOJIE: Right.

5 JUDGE KIRKLAND-MONTAQUE: -- but --

6 MS. PARKER-OKOJIE: And so the relocater enters
7 their contract through a cite called E-Relocator,
8 your Honor, and that goes into MCIS. I think we
9 went into this a little bit when we had the
10 discussion about the MCIS at the last status date,
11 the April 25th status date. That information is
12 provided by Lincoln Towing. That --

13 JUDGE KIRKLAND-MONTAQUE: Everything in MCIS is
14 provided by Lincoln Towing?

15 MS. PARKER-OKOJIE: Not everything, but in terms
16 of if a contract is e-filed, that would be provided
17 by Lincoln Towing.

18 MR. PERL: Judge, counsel's telling you that.
19 What they really need -- I don't care what counsel
20 said, neither should the Court. Counsel isn't the
21 expert on Lincoln Towing. If they want to tell you
22 how it works, they would bring an expert. None of

1 these witnesses that they have, the four of them,
2 know anything about MCIS, and they could ask them
3 ad nauseam.

4 They could bring to you somebody that
5 maybe could. Counsel can't testify as to how it's
6 done. You need someone to testify to it.

7 I just can't even understand why we
8 are requiring anything of them. The document they
9 created how in the world can an attorney's
10 spreadsheet get into evidence in a case unless
11 they're going to testify. I don't know how you do
12 that. I've never seen it done.

13 They're admitting to you that they
14 created this document. How could you have that in
15 evidence? Who am I going to question as to the
16 spreadsheet? Counsel? Sergeant Sulikowski didn't
17 make this. He can even tell you whether it's
18 accurate or not.

19 I'm going to say Sergeant Sulikowski
20 is any information contained in here accurate. He
21 would say I don't know. Did you create it? No.
22 When did you create it? I don't know. Who created

1 it? I don't know. Is it accurate? I don't know.

2 Is there a typo on it? I don't know.

3 So this document right here I guess
4 anything in the world could happen, but these
5 documents here by an attorney who admits she created
6 them or he created them that they wanted to
7 introduce into evidence as some kind of summary,
8 there's no way that can get into evidence in any
9 court of law, including this court of law. It's not
10 possible.

11 I don't care. We can ask him a
12 thousand questions about it. It's not a screen
13 shot. They have admitted that to you, because it
14 isn't. It's their notes. They compiled it.
15 There's no where you can go on MCIS to find this
16 page right here, and I'll tell you what. Go to MCIS
17 right now on any screen and show me this screen, and
18 then we discuss it. Show me any screen here on
19 anything that they have here on MCIS right now where
20 it really looks like this document. By the way, it
21 doesn't exist, and most of those screen shots don't
22 exist like that either. That's not the way they see

1 them on MCIS. That's why they're not reliable
2 because we don't know if it's accurate or not,
3 including the ones that say 1899 on them.

4 JUDGE KIRKLAND-MONTAQUE: Ms. Parker, what's the
5 alternative to using this?

6 MS. PARKER-OKOJIE: I think the alternative, your
7 Honor, is to go through each tow sheet with the MCIS
8 records and ask Sergeant Sulikowski to explain what
9 is on MCIS for each of those addresses on each
10 record. This is merely a tabulation of what we are
11 going to do. We are using it for demonstrative
12 purposes.

13 If you don't want to consider this in
14 your findings, that's fine, but I think it's easier,
15 because it tabulates everything. Going back through
16 a record and trying to keep track of how many pages
17 were testified to seems laborious.

18 JUDGE KIRKLAND-MONTAQUE: So without this you
19 could question the officer regarding -- you could
20 use it to help it as your tool --

21 MS. PARKER-OKOJIE: It could.

22 JUDGE KIRKLAND-MONTAQUE: -- to get you through

1 testimony?

2 MS. PARKER-OKOJIE: It could be, but I was trying
3 to save all of us, both counsel, and staff, and your
4 Honor, and the witness the time on the stand of
5 doing that. I don't think counsel just agrees that
6 these tows were on these pages of these
7 spreadsheets.

8 I think to really get to the heart of
9 the matter, I don't think counsel is disagreeing
10 that 2000 South State appears on Page 159. I mean,
11 that's not substantive evidence in terms of we need
12 this to prove that.

13 We can put the tow sheets in and ask
14 Sergeant Sulikowski what is on Page 259. Is 2000
15 South State on there? Yes, it is. Did you look
16 2000 South State up in MCIS? Yes, I did. The
17 documents have already been ruled by your Honor to
18 be certified records.

19 If we ask him to refer to those and
20 say, you know, what is MCIS saying about 2000 South
21 State, it says the contract was cancelled, we could
22 do that all day. I just don't know that everyone

1 wants to sit here all day and listen to that.

2 JUDGE KIRKLAND-MONTAQUE: What's the alternative
3 you would say?

4 MS. PARKER-OKOJIE: The alternative is to just go
5 through each address once and then reference how
6 many pages it appears on rather than going
7 through -- because the addresses appear on multiple
8 pages.

9 So for one example, 3100 North Central
10 appears on 36 different pages, and so to go through
11 36 pages, that's just one address. I just think a
12 summary document -- I mean, your Honor, a photograph
13 in an accident reconstruction scene, someone who has
14 not taken the photograph can testify to it if they
15 recognize the photograph and recognize it to be in
16 the same or similar state as when they were there.
17 That's admissible. There's nothing that says that
18 Tim Sulikowski has to get on the stand and say
19 he made a summary chart. It is just that.

20 JUDGE KIRKLAND-MONTAQUE: He has to testify to
21 what he knows.

22 MR. PERL: Judge, I just have to comment on that,

1 because maybe I've been doing it too long, maybe
2 it's time for me to retire.

3 Counsel just said this. Any witness
4 can testify to a photograph that they didn't take
5 and they don't know when it was taken. They just
6 have to say it looks similar.

7 I don't know what world that's from,
8 but in order to lay a proper foundation, and they
9 seem to don't know how to do it, you say who took
10 the picture, when they took the picture, the way it
11 looked at the time, and does it look the same or
12 similar now.

13 You have to have the person who took
14 the picture. No one else can lay a foundation for
15 the picture. It's impossible. I've never seen it
16 done.

17 JUDGE KIRKLAND-MONTAQUE: Okay. Basically what
18 you are saying sounds to me like this is some tool
19 you can use in going through your examination of the
20 officer. I don't see why it has to be admitted into
21 evidence.

22 MS. PARKER-OKOJIE: Okay. I can do that, but it

1 will be -- I think it will take longer and I don't
2 know have a problem with that, but --

3 JUDGE KIRKLAND-MONTAQUE: You want to say -- you
4 want to be able to say how many -- you know, there's
5 30 citations or 30 -- not citations -- 30 tow
6 invoices that have this address on them?

7 MS. PARKER-OKOJIE: Sure.

8 MR. PERL: Judge, what's the difference? See,
9 this is the problem. Once you engage in the
10 conversation, it's over. There's this document --
11 what if they found a piece of paper on the street
12 and it would help them. You can't use the document
13 because it helps you or it streamlines you. This
14 document is hearsay. It is not admissible and they
15 can't lay a foundation for it no matter what use it
16 is. It doesn't matter what the use.

17 JUDGE KIRKLAND-MONTAQUE: No. I'm not suggesting
18 that we let it in. It sounds to me like it's a tool
19 for her to use.

20 MR. PERL: At my desk right now it's called work
21 product. I have things right here I am going to use
22 to help me. I have my notes. I have got all my

1 trial questions right now. I am not going to show
2 them to anybody. It's work product. That's what
3 this is.

4 JUDGE KIRKLAND-MONTAQUE: I'm not suggesting she
5 show them.

6 MR. PERL: She can't give it to him. She can
7 take this out of the book and she can look, and
8 counsel can certainly use it to help say take a look
9 at this document --

10 JUDGE KIRKLAND-MONTAQUE: That's what I'm talking
11 about.

12 MR. PERL: -- but she doesn't need your
13 permission to do that.

14 JUDGE KIRKLAND-MONTAQUE: Okay. That's what I'm
15 saying. I'm leaning towards not letting that in as
16 evidence of any sort.

17 MR. PERL: I don't know how it gets in.

18 JUDGE KIRKLAND-MONTAQUE: I'm not letting it in.
19 She wouldn't be allowed to. I mean, it doesn't
20 refresh her recollection or anything like that.

21 MS. PARKER-OKOJIE: Your Honor, if I may just
22 mention that Supreme Court Rule 1006, "Summaries,"

1 the contents of voluminous writings, recordings, or
2 photographs which cannot immediately be examined in
3 court may be presented in the form of charts,
4 summary, or calculation.

5 The originals or duplicates shall be
6 made available for examination, or copying, or both,
7 by other parties at a reasonable time and place.
8 The court may order that they be produced in court."

9 So in this sense, your Honor, a
10 summary is admissible into evidence, and especially
11 when we have the originals that we're planning to
12 introduce -- not the originals, but copies of the
13 originals that counsel has turned over that we have
14 Bates stamped for the ease of reference.

15 I mean, if counsel -- counsel's not
16 really arguing that these pages -- that these
17 addresses don't occur on these pages. This document
18 only makes it more convenient for everyone,
19 including counsel, to look at the addresses, and if
20 he wants to say, hey, no, that lot wasn't e-filed or
21 that lot was e-filed, he can go right to it, know
22 what pages we are talking about, and refer to it.

1 A summary chart is a neutral in court.
2 This isn't suggesting anything -- and, I mean, it is
3 suggesting what Sergeant Sulikowski will testify to,
4 but, in terms of that, it's not substantive
5 evidence. It's demonstrative in nature in helping
6 him in his testimony.

7 If you would like me to just refer to
8 it while I'm talking to him and not show it to your
9 Honor while he's testifying, that's fine, but I
10 think it only helps everyone.

11 MR. PERL: Judge, what counsel is saying to you
12 about 1006 doesn't even come close to applying.
13 1006 doesn't apply in this case. 1006 is when you
14 would have a volume of documents, you have an expert
15 testify to, they create a summary, experts that come
16 on what's called a witness stand, and you question
17 him about the summary. They don't have anyone here
18 to do that. It's not proper.

19 Actually, I don't agree with counsel.
20 Counsel keeps saying that I -- that I disagree with
21 her completely. I haven't had an opportunity to go
22 through every single one of these to determine

1 whether or not it's on that page or not. I don't
2 know and I don't have to do that. I haven't done
3 that.

4 JUDGE KIRKLAND-MONTAQUE: That's what I'm asking.
5 You can't take it for granted. How do we know it's
6 not accurate?

7 MR. PERL: Judge, here's the point. Every time
8 we have a conversation about it we lose track of the
9 fact that it's not admissible anyway. I don't care
10 what's on here. It's not admissible. The person
11 who created it isn't testifying, and I don't know
12 when it was created. I don't know who created it.
13 I don't know how they created it. I'm not sure if
14 it's accurate or not, because no one is going to
15 testify to that, even Sergeant Sulikowski, to the
16 fact that we are having this conversation that
17 counsel wants to complement that this isn't
18 neutral --

19 JUDGE KIRKLAND-MONTAQUE: I'm not going to allow
20 it, because I don't think it fits within my ruling
21 regarding the screen shots, which is I'm basing that
22 on makes those --

1 MR. PERL: So P, Q, R and S --

2 JUDGE KIRKLAND-MONTAQUE: -- not admissible.

3 MR. PERL: -- are not admissible, but the motion
4 in limine is granted with regard to P, Q, R and S?

5 JUDGE KIRKLAND-MONTAQUE: Right.

6 MS. PARKER-OKOJIE: Even in light of staff's
7 argument under Rule 1006 of the Supreme Court
8 evidentiary rules which allows summaries and
9 contents of voluminous writings which the staff
10 would argue that a thousand pages of tow lots are
11 voluminous writings or recordings.

12 There's nothing in here that says it
13 could only be used by experts, your Honor, nothing.
14 Counsel is making that up out of whole clothe.

15 MR. PERL: Judge, you have got to lay a proper
16 foundation for any document.

17 JUDGE KIRKLAND-MONTAQUE: I understand. I can
18 imagine if you had -- it was all of the same thing,
19 like a -- you know, three years of bank records, you
20 want to summarize something like that, but these are
21 individual tow tickets and I think the information
22 in them -- if you want to establish or try to

1 establish that there's some violation, then you need
2 to go to each one and do that, which sounds to me
3 like citation hearings, even though no citation has
4 been issued.

5 MR. PERL: Could we withdraw P, Q, R, and S from
6 the trial book?

7 JUDGE KIRKLAND-MONTAQUE: Right. They would not
8 be admissible. You can feel free to use it for your
9 examination if you like. Okay. So that gets us to
10 lunch time.

11 MR. PERL: Yes.

12 MS. PARKER-OJOKIE: Your Honor, I'm sorry. Just
13 to clarify, in that we had a ruling on P, Q, R, and
14 S, is there anything outstanding that we have not
15 ruled on?

16 JUDGE KIRKLAND-MONTAQUE: Well, the motion --
17 let's see. What did you respond in the motion?

18 MR. PERL: Judge, maybe I can simplify.

19 JUDGE KIRKLAND-MONTAQUE: Go ahead.

20 MR. PERL: The motion was basically to
21 eliminate -- to bar almost everything in the book.

22 JUDGE KIRKLAND-MONTAQUE: It says A through F.

1 I'm looking at Page 15.

2 MR. PERL: So A through F has been determined
3 that, although the motion in limine isn't granted,
4 we can still argue they're not admissible when they
5 tried to lay a proper foundation for them, correct?

6 JUDGE KIRKLAND-MONTAQUE: Yes.

7 MR. PERL: P, Q, R, and S are barred.

8 JUDGE KIRKLAND-MONTAQUE: Correct.

9 MR. PERL: I'm sorry. P Q, R, and S are barred,
10 and the rest of the documentation they still have to
11 lay a proper foundation for them when they bring
12 them as a witness.

13 Just because it's in the trial exhibit
14 book doesn't mean it's admissible or they laid a
15 proper foundation, just they can try to do that when
16 they call their witnesses.

17 JUDGE KIRKLAND-MONTAQUE: Regarding --

18 MR. PERL: Same as my trial exhibit book. I will
19 have to lay a proper foundation for each one of
20 those documents if and when I use them.

21 JUDGE KIRKLAND-MONTAQUE: All right. But I can
22 tell you looking at some of these I would probably

1 rule that administrative -- what am I referring to
2 -- Administrative Notice Rule 200-640 --

3 MR. PERL: One argument that I do understand then
4 is when we did discovery in the case and you are
5 suppose to give the documents you are going to use,
6 even though that wouldn't normally apply, when you
7 do discovery, discovery trumps that.

8 So if I ask you to give me every
9 document you are going to use at trial and you don't
10 give me something, you don't get to say, well, yes,
11 but it's a public record. You can't do that,
12 because I wouldn't know you were going to do that.

13 So the fact that we have discovery
14 and I ask you in my interrogatories, I say, give me
15 every piece of paper you are going to use at trial
16 and you don't give me anything, and then when you
17 say I will be using all the invoices because they're
18 public record, and I go "how would I know that till
19 the trial," too bad.

20 Remember in a case where you don't
21 have discovery, maybe that applied, but discovery
22 trumps all those rules and to follow and comport to

1 discovery, otherwise, it doesn't come in, anything,
2 I don't care what it is, it doesn't come in, if I
3 ask you before trial and you give it to me, and
4 that's the rule for discovery, so it trumps that
5 other rule.

6 I'm pretty sure the general rule is
7 trumped by the more specific rule which is if you
8 don't give me in discovery, you don't get to use it.

9 JUDGE KIRKLAND-MONTAQUE: Do you have a reply to
10 that?

11 MS. PARKER-OKOJIE: Your Honor has ruled, so I
12 don't really know why we are back at the argument
13 stage.

14 JUDGE KIRKLAND-MONTAQUE: We are going to get to
15 it in the end.

16 MR. PERL: Because counsel says it.

17 MS. PARKER-OKOJIE: No. My point was just to
18 clarify your ruling.

19 JUDGE KIRKLAND-MONTAQUE: Okay. Go ahead.

20 MS. PARKER-OKOJIE: So I just want to clarify
21 what was barred and where is the motion in limine.

22 JUDGE KIRKLAND-MONTAQUE: P, Q, R, S are barred.

1 MS. PARKER-OKOJIE: Okay. And the motion in
2 limine is denied, A through F.

3 One thing we did want to raise about
4 P, Q, R, and S, your Honor, we know that they're
5 barred in terms of their admissibility, but in terms
6 of a demonstrative exhibit, while it may not reach
7 the ultimate trier of fact, it can be used to help
8 the witness to describe their testimony, so we just
9 wanted to clarify so that we don't have to reargue
10 this point.

11 JUDGE KIRKLAND-MONTAQUE: No, I said you could
12 use it.

13 MR. PERL: Here's the difference. They're
14 barred. They can't show it to their witness. They
15 can't use it as demonstrative evidence. They can
16 only use it -- counsel wants to use it as
17 demonstrative evidence to the Court and for the
18 witness. If they're barred, you can't do that. You
19 can only -- I can't stop counsel from looking at it
20 at her dep, but barred means barred.

21 JUDGE KIRKLAND-MONTAQUE: What are you talking
22 about?

1 MS. PARKER-OKOJIE: Your Honor, we are just
2 trying to clarify, because while it may not reach
3 the ultimate trier of fact in terms of, you know, if
4 a demonstrative exhibit that can't go back with the
5 jury into the jury room, there are times when a
6 witness can be allowed to use demonstrative evidence
7 to aid in their testimony, specifically in this
8 case.

9 JUDGE KIRKLAND-MONTAQUE: How would that aid? I
10 just made the point that you can use it if you like
11 to go through your examination of it of the witness.

12 MR. PERL: Judge, am I missing something? Is
13 there something in the rules that's called
14 demonstrative evidence? I've never heard of a rule
15 saying you can use demonstrative evidence. There's
16 no such thing. It's either admissible or it's not.
17 You can use if it's admissible demonstrative, but it
18 has to be admissible first.

19 JUDGE KIRKLAND-MONTAQUE: I think that clarifies
20 my point.

21 MS. PARKER-OKOJIE: That's fine, your Honor.

22 JUDGE KIRKLAND-MONTAQUE: All right.

1 MR. PERL: One last thing, Judge. So when we
2 proceed I have a motion to exclude witnesses.

3 JUDGE KIRKLAND-MONTAQUE: Pardon me?

4 MR. PERL: Motion to exclude. I'm going to show
5 the Court to where once we start I don't have a
6 problem with all the witnesses being here for this
7 argument, but once the testimony starts, I don't
8 want the witnesses being here. I don't want one
9 officer to hear what the other one's been saying, so
10 I make a motion to exclude witnesses for the hearing
11 for both sides, for both sides.

12 JUDGE KIRKLAND-MONTAQUE: Fair enough.

13 MS. PARKER-OKOJIE: Your Honor, staff has no
14 objection to that.

15 JUDGE KIRKLAND-MONTAQUE: Fair enough. All
16 right. It's 10 to 12. Let's reconvene at 1 o'clock
17 and we'll start and I want staff to go first.

18 MR. PERL: Thank you, Judge.

19 (Whereupon, at 11:50 a.m.,
20 a recess was taken until
21 1:15 p.m., of this same
22 day.)

1 that we have provided in our trial book regarding
2 the financial statement and the fact that Lincoln
3 Towing has two lots, actually three addresses, but
4 one of the lots is the same, which is on the corner,
5 so it goes on Homan and Armitage, and it's our
6 understanding that we do not have to present any
7 evidence or documentation regarding our fitness in
8 relation to our financial ability and also our
9 storage lots.

10 JUDGE KIRKLAND-MONTAQUE: Okay. So noted.

11 MS. PARKER-OKOJIE: Rather than saying that
12 nothing has to be presented, I think it would be a
13 better record to just stipulate to the exhibit if
14 counsel doesn't mind.

15 JUDGE KIRKLAND-MONTAQUE: You want to stipulate
16 to them and admit them?

17 MS. PARKER-OKOJIE: I don't have an objection
18 just so there's a complete record of what was -- I
19 mean, not that our stipulation isn't.

20 MR. PERL: I just want to state that if we
21 stipulate and admit them, does that relieve me from
22 having to go into questioning on them or do I still

1 have to prove -- I think counsel's saying that
2 they're satisfied with our financial statement. I
3 just don't want to have to go into another half an
4 hour.

5 JUDGE KIRKLAND-MONTAQUE: I think that's the
6 purpose, but I think we want that as part of the
7 record.

8 MR. PERL: No, I agree, but I don't want counsel
9 later to argue that the documents that were
10 submitted aren't sufficient.

11 MS. PARKER-OKOJIE: No, I don't think that's the
12 point of our mentioning this, your Honor. I think
13 the point is that we are stipulating that it is
14 sufficient, but we would like the document be a part
15 of the record.

16 MR. PERL: Oh, no, I agree it should be a part of
17 the record, and I move to admit them into evidence,
18 but I want the stipulation to state that they're
19 sufficient to prove that we are financially able to
20 hold a license and we have the required storage lot
21 to do so as well, just those two issues.

22 MS. PARKER-OKOJIE: Sure. And I think if you

1 want, counsel, we can reduce it to writing and that
2 way it will be more clear. At a later time we can
3 submit it as part of the record, so we are clear as
4 to what the documents are proving.

5 JUDGE KIRKLAND-MONTAQUE: That's my
6 understanding, and if you are memorializing it, that
7 will be better.

8 MR. PERL: I just want your Honor --

9 JUDGE KIRKLAND-MONTAQUE: That's my
10 understanding. They're not going to challenge you
11 on those two issues. So I'm sorry. Are you going
12 to wait until the written stipulation to move to
13 admit those?

14 MR. PERL: Oh, I'm sorry. So I apologize, Judge.
15 So we would move -- Lincoln would move to admit
16 Exhibit 12, as well as Exhibits 15 and 16, and 15
17 and 16 are the rental agreements for the two lots
18 that Lincoln Towing has. I think that counsel would
19 agree those are the documents we are talking about.

20 MS. PARKER-OKOJIE: Yes.

21 MR. PERL: There's one other thing we didn't talk
22 about and just briefly we have our certification

1 that the corporation is in good standing from the
2 Secretary of State. I don't know that it's
3 something that was an issue or not, but that's
4 Exhibit 5.

5 MS. PARKER-OKOJIE: The only issue here, your
6 Honor, is the certificate of good standing dated
7 May 10, 2017, I think the time period in question
8 here is July 25th or -- I'm sorry -- July 24, 2015
9 through March 23, 2016, so that particular document
10 we don't find to be relevant just because it's
11 outside the scope of this fitness hearing. So it is
12 not something that we would speculate to, I mean, if
13 counsel wants to offer it into evidence, but that's
14 pretty much our reasoning.

15 MR. PERL: Well, certainly we can't go back in
16 time and recreate the Secretary of State. There's
17 been no allegations that we weren't a valid
18 operating corporation at the time, but I can have my
19 client testify that they were.

20 JUDGE KIRKLAND-MONTAQUE: Okay. So Lincoln
21 Towing Exhibits 12, 15 and 16 are admitted.

22

1 (Whereupon, Lincoln Exhibit
2 Nos. 12, 15 & 16 were
3 previously marked for
4 identification.)

5 (Whereupon, Lincoln Exhibit
6 Nos. 12, 15 & 16 were
7 received in evidence.)

8 Back on the record.

9 MS. PARKER-OKOJIE: Your Honor, there is one
10 preliminary matter that staff needs to address as
11 well. That is the certification in one of the
12 exhibits is a duplicate, and that is marked 12, 15,
13 16 for identification

14 I'm sorry, your Honor. I just want to
15 be sure I have it right. It's Exhibit F. Exhibit F
16 is a screen print of different operators from
17 Protective Parking Service Corporation, and there is
18 a duplicate that was produced for Ernest Munyon and
19 that was provided behind Ronald Phillip's screen
20 shot.

21 We do have the replacement, both the
22 original and copies, for counsel and for your Honor.

1 There was a typographical error, and that's why that
2 was not included, but these are the certifications
3 for Ronald Phillip's screen shots from MCIS.

4 MR. PERL: I cannot find what counsel's talking
5 about.

6 MS. PARKER-OKOJIE: I'm sorry, counsel.

7 MR. PERL: I'm in Exhibit F.

8 MS. PARKER-OKOJIE: Oh, I'm sorry, counsel. If
9 you just flip towards the back, it should be nearly
10 the last. There's two included for Ernest Munyon.

11 MR. PERL: Ernest Munyon I have right in the
12 beginning.

13 MS. PARKER-OKOJIE: Sure.

14 MR. PERL: Michael Perry, Jose Macron (phonetic),
15 Curtis --

16 MS. PARKER-OKOJIE: Right. So one of them that
17 was suppose to be Ronald Phillip's but Ernest Munyon
18 was included twice.

19 JUDGE KIRKLAND-MONTAQUE: Say that again.

20 MS. PARKER-OKOJIE: Sure, your Honor. We
21 included certification of the screen shots for the
22 operators listed in Exhibit F. One of those

1 certifications was a duplicate, meaning two
2 certifications were provided for Ernest Munyon.
3 Ernest Munyon only has one set of screen shots, so
4 the one that was omitted inadvertently was for
5 Ronald Phillips, but we do have the replacement for
6 that.

7 JUDGE KIRKLAND-MONTAQUE: I see.

8 MR. PERL: Well, I guess I could renew my
9 objection in the manner, but now we are receiving
10 another document at the hearing, so I don't think
11 it's proper, because this is a document that wasn't
12 even in this book when they gave it to me ten or so
13 days ago. I'm going to object to it as being put
14 into the book now.

15 JUDGE KIRKLAND-MONTAQUE: Overruled. I'm going
16 to allow it.

17 MS. PARKER-OKOJIE: Thank you, your Honor.

18 You Honor, I don't think staff has any
19 other preliminary issues. We prepared a brief
20 opening statement. If your Honor would like us to
21 make one.

22 JUDGE KIRKLAND-MONTAQUE: All right. You may

1 proceed.

2 OPENING STATEMENT

3 BY

4 MS. PARKER-OKOJIE:

5 Good afternoon, your Honor. As you
6 know, 625 ILCS 518A 200, Section 1, authorizes
7 the Illinois Commerce Commission to regulate
8 commercial vehicle relocators and their employees or
9 agents in accordance with this chapter; further,
10 625 ILCS 518A 200, Section 9, authorizes the
11 Illinois Commerce Commission to establish fitness
12 standards for applicants seeking relocator licenses
13 and holders of relocator licenses.

14 In fact, according to 625 ILCS 518A
15 400D, "The Commission shall issue a relocator's
16 license to any qualified applicant if it is found
17 this applicant is fit, willing, and able to properly
18 perform the services proposed and to conform to
19 provisions of this chapter and the requirements,
20 rules, and regulations of the Commission."

21 625 ILCS 518A 401 allows the
22 Commission to at any time during the term of the

1 license make inquiry into the management, conduct of
2 business or, otherwise, to determine that the
3 provisions of this chapter and the regulations of
4 the Commission promulgated under this chapter are
5 being observed."

6 Specifically, in the administrative
7 rules, your Honor, "The criteria for the Commission
8 to consider with respect to new or renewed licenses
9 are, one, the criminal conviction record of
10 applicants, owners, controllers, directors,
11 officers, members, managers, employees, and agents.

12 Two, the safety record of applicants,
13 owners, controllers, directors, officers, members,
14 managers, and employees, and agents; the compliance
15 record of applicants, owners, controllers,
16 directors, officers, members, managers, and
17 employees, and agents; the equipment, facility and
18 storage lots and also other facts that may bear on
19 anyone's fitness to hold a license."

20 There are further explanations of the
21 fitness test in 1710, 22A2. There are as follows:

22 (1) the re locator must own or lease at least one

1 storage lot meeting the requirement of Subpart M;
2 (2) the re locator must employ full-time employees
3 to comply with 1710 123;

4 (3) the re locator must own or lease
5 at least two tow trucks.

6 (4) the relocater must employ at least
7 two operators; and (5) the relocater must be in
8 compliance with Section 4 of the Illinois Workers
9 Compensation Act. The citation to that act is 820
10 ILCS 3054.

11 Your Honor, staff's position is that
12 for the period from July 24, 2015 to March 23, 2016,
13 the record of compliance that Protective Parking
14 Service Corporation, also known as Lincoln Towing
15 has with ICC regulations demonstrates that Lincoln
16 Towing is a repeat offender of the Illinois
17 Commercial Reallocation Towing -- I'm sorry -- the
18 Illinois Commercial Vehicle Relocation Towing Law,
19 also known as the ICRTVL, which is the Illinois
20 Commercial Relocation of Trespassing Vehicles Law.
21 Sorry about that.

22 There's is a recurring pattern of

1 violations from Lincoln Towing, and also the
2 ownership and maintenance of Lincoln Towing has
3 failed to manage Lincoln Towing in a way to address
4 this pattern, and, finally, the ownership and
5 management of Lincoln Towing did not manage Lincoln
6 Towing in accordance with the ICC rules and
7 regulations.

8 Staff of the Commerce Commission would
9 ask that you find Lincoln Towing unfit to hold a
10 relocater's license based on their behavior and the
11 citations that they have received between
12 July 24, 2015 and March 23, 2016.

13 JUDGE KIRKLAND-MONTAQUE: That is all?

14 MS. PARKER-OKOJIE: That's it.

15 OPENING STATEMENT

16 BY

17 MR. PERL:

18 Thank you, your Honor.

19 First of all, I want to thank your
20 Honor for your time and attention here today, and
21 although this matter has taken up a lot of your
22 time, I appreciate your time and efforts for today

1 in going forward with this hearing. This probably
2 won't be a short one, but it's very important to my
3 client.

4 Typically, in opening statements I
5 like to tell the Court what you are going to hear,
6 not argument, like staff might argue about what you
7 should do at the end, but I will save that for
8 closing argument, but, interestingly enough, in this
9 case I'm going to argue what you won't hear and then
10 what you will hear.

11 What you won't hear I believe is any
12 documentation regarding almost any of the elements
13 counsel's referred to. You won't hear about any of
14 the criminal convictions of applicant, I don't
15 believe, from staff, and I don't believe you will
16 heard about anything -- any evidence regarding the
17 safety record of these persons.

18 I don't believe you will hear any
19 arguments or complaints about the equipment,
20 facilities, and store lots, and I don't believe you
21 will hear much of any evidence that's actually
22 allowed into evidence today that will show that

1 Lincoln Towing is anything but fit, able, and
2 willing to hold a relocater's license.

3 So what you will hear is that on or
4 about July of 2015 this very Illinois Commerce
5 Commission determined that Lincoln Towing was fit,
6 willing, and able to hold a relocater's license that
7 was done, you will hear, after a full hearing, not
8 just a typical renewal, but a full hearing before
9 the Illinois Commerce Commission.

10 What you won't be presented is what
11 documentation, what amount of tows, what Lincoln was
12 doing at that point in time, so we believe that this
13 Court will not hear anything so they can compare
14 between then and what happened six months, eight
15 months later.

16 We don't believe that you'll hear
17 anything that will lead this Court to believe that
18 anything changed regarding Lincoln Towing practices
19 from July 2015, when they were approved and given a
20 license, till February 24, 2016, when the Commerce
21 Commission decided that a fitness hearing should be
22 held to inquire into Lincoln Towing's relocation

1 towing operations to determine whether it's fit,
2 willing, and able to perform the service of a
3 commercial vehicle relocator.

4 You will hear evidence presented to
5 you that Lincoln Towing towed somewhere around 9,000
6 vehicles during the period of time in question.

7 You'll also hear evidence from staff's
8 own documents that only 28 citations were written on
9 the date of February 24, 2016 when this Commerce
10 Commission decided to hold a hearing.

11 Out of those 28 citations, you'll also
12 hear evidence that not one of those Lincoln Towing
13 was found liable during the relevant time period,
14 not one.

15 You will also hear evidence that
16 Lincoln Towing is fit, willing, and able, just like
17 the words she described in 2015 to hold a
18 relocator's license.

19 At the conclusion of that evidence, I
20 will present my closing argument and hope to impress
21 this Court that they should be able to remain and
22 keep their license.

1 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

2 Staff, you will proceed with your
3 witnesses then.

4 MS. PARKER-OKOJIE: Yes, Your Honor, we would
5 need to call Sergeant Timothy Sulikowski.

6 JUDGE KIRKLAND-MONTAQUE: I'll swear you in
7 before you have a seat.

8 (Witness sworn.)

9 Okay. You can be seated

10 JUDGE KIRKLAND-MONTAQUE: Go ahead, Ms. Parker.

11 MS. PARKER-OKOJIE: Thank you.

12 TIMOTHY SULIKOWSKI,
13 called as a witness herein, having been first duly
14 sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY

17 MS. PARKER-OKOJIE:

18 Q. Please state your name for the record and
19 spell your last name for the court reporter.

20 A. Timothy Sulikowski, S - as in Sam - U-L
21 I-K-O-W-S-K-I.

22 Q. What is your occupation?

1 A. I am the acting sergeant with the Illinois
2 Commerce Commission Police Department.

3 Q. Is it okay if I refer to you as Sergeant
4 Sulikowski?

5 A. Yes.

6 Q. Sergeant Sulikowski, what is your
7 educational background?

8 A. I am a high school graduate and I hold an
9 associates of applied science from a community
10 college.

11 Q. Which community college?

12 A. Morraine Valley.

13 Q. What was your associates of applied science
14 in?

15 A. It's generalized. It's actually in criminal
16 justice, but you don't graduate with a criminal
17 justice degree. They call it associates of applied
18 science.

19 Q. Do you have any training associated with
20 your current occupation at the Illinois Commerce
21 Commission as an acting police sergeant?

22 A. I am a certified full-time police officer in

1 the State of Illinois. I am also a certified canine
2 officer.

3 Q. Did you have to take courses to obtain those
4 certifications?

5 A. Yes.

6 Q. What did those courses entail?

7 A. For the police training, it's 480 hours of
8 training, which includes everything from firearms to
9 traffic stops, to building searches, to searching
10 and handcuffing subjects, things of that nature.

11 Q. Did you hold any law enforcement positions
12 before you worked at the Illinois Commerce
13 Commission?

14 A. Yes.

15 Q. Most recently before you were at the
16 Illinois Commerce Commission, where were you
17 employed?

18 A. The Village of Orland Hills.

19 Q. How long did you work there?

20 A. Approximately three years.

21 Q. In what capacity did you work in the Village
22 of Orland Hills?

1 A. As a patrol officer.

2 Q. What were your responsibilities as patrol
3 officer in Orland Hills?

4 A. Patrol the village, enforce the laws of the
5 State of Illinois, make arrests, give courtroom
6 testimony, write reports, write tickets, citations.

7 Q. Prior to your employment as a patrol officer
8 in the Village of Orland Hills, did you have any
9 other law enforcement experience?

10 A. Yes.

11 Q. Where?

12 A. The Village of Crestwood.

13 Q. Approximately how long were you with the
14 Village of Crestwood?

15 A. Approximately nine years.

16 Q. What position or positions did you hold
17 there?

18 A. I started as a part-time police officer,
19 became a full-time police officer, became a
20 sergeant, a deputy chief, and finally the chief of
21 police.

22 Q. And going back to your time with the

1 Illinois Commerce Commission, how long have you been
2 employed by the Illinois Commerce Commission?

3 A. Since July of 2012.

4 Q. When you started in July of 2012, what was
5 your title?

6 A. Patrol officer.

7 Q. What were your responsibilities as a patrol
8 officer with the Illinois Commerce Commission?

9 A. Patrol the streets of the State of Illinois,
10 handle consumer complaints regarding relocation
11 towing, safety towing, household goods movers,
12 collateral recovery. I also did warehouse
13 inspections.

14 Q. How long were you a patrol officer with the
15 Illinois Commerce Commission?

16 A. Approximately 10 months.

17 Q. After that 10 months, what happened?

18 A. I was promoted to the rank of acting
19 sergeant.

20 Q. As acting sergeant, do you have any
21 responsibilities in addition to those of a patrol
22 officer?

1 A. I do.

2 Q. What are those responsibilities?

3 A. I supervise the men, which consists of other
4 officers as well as other civilian employees. I
5 check on their daily activity. I review their
6 reports when they are submitted. I also maintain
7 inventory, handle vehicle maintenance, and things of
8 that nature.

9 Q. Before you mentioned several industries, you
10 mentioned safety towing, household goods. Are those
11 going to be industries that are regulated by the
12 Illinois Commerce Commission?

13 A. They are.

14 Q. And you mentioned relocation towing as one
15 of those industries, correct?

16 A. Yes.

17 Q. Does the Illinois Commerce Commission Police
18 Department have access to the records of the
19 Illinois Commerce Commission?

20 A. Yes.

21 Q. And how are those records accessed?

22 A. They're accessed through a system called

1 MCIS, which stands for Motor Carrier Information
2 System.

3 Q. What kind of record does the ICC
4 police department access in the Motor Carrier
5 Information System or MCIS?

6 A. There are many different things we can
7 access. If we are looking at relocation towing, I
8 can access the what we call motor carrier, their
9 profile, which includes all investigations, tickets
10 written, things of that nature. I can also access
11 their property addresses, if they have contracts
12 with. I can access their operators and their
13 dispatchers. I can access complaint information, if
14 they file a complaint with us.

15 Q. How often would you say ICC police officers
16 utilize MCIS?

17 A. Daily.

18 Q. And what purposes do they use it for?

19 A. It depends. Like I said before, if you are
20 working on a consumer complaint regarding relocation
21 towing, you would utilize it to check different
22 factors, such as the operator's permit, the validity

1 of it, as well as the dispatcher, whether there's a
2 contract that's on file, whether it's a patrol or a
3 call contract, so that's various information
4 regarding relocation towing.

5 Q. I want to go back to some of the areas you
6 were talking about. You said you use it to verify
7 the validity of a operator's permit. How do you do
8 that?

9 A. All operators are identified with a
10 numerical number. On the relocation invoice, that
11 number is placed on the invoice of who towed that
12 vehicle, so I can then take that number, check it
13 through MCIS and it will tell me when that person
14 was issued a permit, when it expires.

15 Q. How do the police use it to check
16 contracts that are on file with the Illinois
17 Commerce Commission?

18 A. We utilize the address that's listed on the
19 invoice from where the vehicle was towed from, and
20 when you open the MCIS system, there's a sub-folder
21 that opens up and then you punch in the city, the
22 county, and the address.

1 Q. And then what did MCIS reveal after you
2 typed in the address?

3 A. If there's a contract that is on file
4 currently or in the past, it will pull that up.

5 MR. PERL: Objection as to foundation.

6 JUDGE KIRKLAND-MONTAQUE: I'm sorry. What was
7 the question?

8 MS. PARKER-OKOJIE: The question was after you
9 typed the address into MCIS, what does that reveal
10 about the contract?

11 JUDGE KIRKLAND-MONTAQUE: What does MCIS reveal?

12 MS. PARKER-OKOJIE: Yes.

13 MR. PERL: I don't think they've laid a
14 foundation that the witness knows that he's not the
15 keeper of records. He doesn't put in the
16 information and he's testified as to what he
17 believes it shows, but there's no foundation that he
18 knows that.

19 MS. PARKER-OKOJIE: Your Honor, I'm asking him a
20 question about how he uses it, and what it should
21 do, and what it shows him. He can only testify to
22 what he sees, and I believe that is what he is

1 testifying to now.

2 MR. PERL: I thought it was more the answer I was
3 objecting to, not the question.

4 JUDGE KIRKLAND-MONTAQUE: I'm going to allow the
5 question. I'm going to have her repeat the
6 question, and I'd like you to answer again. I'm
7 unclear on the question.

8 MS. PARKER-OKOJIE: Sure. If I could just have
9 the court reporter read back, I think I know the
10 wording that I used. I want to be sure it's the
11 same, Judge.

12

13 (Question read by reporter.)

14 JUDGE KIRKLAND-MONTAQUE: Okay.

15 MS. PARKER-OKOJIE: Did you want the answer read,
16 too, your Honor?

17 JUDGE KIRKLAND-MONTAQUE: Yes, please.

18 (Answer read by reporter).

19 MR. PERL: And my objection is he hasn't input
20 the information. He hasn't testified that he does,
21 so to say the contract is filed now or in the past,
22 there's no foundation for him to testify to that,

1 Judge. He doesn't input information in here. All
2 he does is look at the screen. He can testify to
3 what he sees on the screen, but he can't competently
4 testify as to if there's a contract and what it will
5 show.

6 JUDGE KIRKLAND-MONTAQUE: Okay. The answer
7 should be basically what do you see when you pull up
8 this information.

9 THE WITNESS: Okay.

10 JUDGE KIRKLAND-MONTAQUE: Go ahead.

11 THE WITNESS: That is what I see. When I punch
12 in the address into that system, let's say it's
13 123 Main Street, if there's been a contract there
14 currently or in the past, it will list it four times
15 all in front of me and it will show from this date
16 to this date it was under this person, it's been
17 cancelled, you know, so it will show me all the
18 activity for that address.

19 MR. PERL: I guess my objection still is if that
20 is stating what it shows him, he's saying it will
21 show him all the activity, it will show him if there
22 was ever a contract in the past, and I don't think

1 they laid a foundation for him to know that. He
2 might know what he sees on the screen, but --

3 JUDGE KIRKLAND-MONTAQUE: That's what he's
4 testifying to.

5 MR. PERL: If he's saying I see on the screen
6 123, there's a contract, as opposed to if there ever
7 was a contract in the past. How many contracts
8 there were, I don't think that the witness -- and I
9 can cross-examine him on it to show you, but I don't
10 think that the witness has to lay foundation for him
11 to actually know that.

12 JUDGE KIRKLAND-MONTAQUE: Overruled. I think
13 he's testifying what is actually on the screen, and
14 he can take a look at it. Is that correct?

15 THE WITNESS: It is.

16 JUDGE KIRKLAND-MONTAQUE: I'm going to allow it.
17 I am overruling the objection.

18 Continue, Ms. Parker-Okojie.

19 MS. PARKER-OKOJIE: Okay. Thank you, your Honor.

20 MS. PARKER-OKOJIE: Q. Other than the validity
21 of a permit or the existence of a contract, are
22 there any other uses that the Illinois Commerce

1 Commission police have for checking records in MCIS?

2 A. Yes.

3 Q. And what are those?

4 A. I can use it to check officer activity, how
5 many citations they have written, how many traffic
6 stops they have made. I can run different reports
7 for past-due citations. There's many, many uses for
8 that program.

9 Q. Do you personally ever use MCIS?

10 A. Yes.

11 Q. Before I was asking you generally how the
12 ICC police uses MCIS. How do you personally use
13 MCIS?

14 A. I use it to check information.

15 Q. What information do you check in MCIS?

16 A. If the complainant calls and checks on the
17 status of his complaint -- consumer complaint, I can
18 check the system to show that (a) he's filed a
19 complaint with us and who it's been assigned to.

20 Q. Do you ever use MCIS for investigative
21 purposes?

22 A. Yes.

1 Q. And what type of things do you use it for
2 when you are using it for investigative purposes?

3 A. Well, we use it -- I use it when I need to
4 look deeper into a motor carrier. There's a profile
5 page which will tell me when that company applied
6 for whichever licensing he carries with us, when it
7 was granted, or if his application was dismissed.
8 You know it will show me past due or -- I'm sorry --
9 past investigations; it will show me time periods
10 of, if ever, if his license was suspended or revoked
11 and for what reason, whether it was for a lapse of
12 insurance, or with past-due fines and penalties. So
13 it will show me information like that.

14 Q. Would you ever use MCIS in a relocation
15 towing context?

16 A. Yes.

17 Q. And how do you use it in that context?

18 A. Well, I would check the operator through
19 MCIS. I would check the dispatcher. I would also
20 check the property address in MCIS.

21 Q. I want to go through each of those just so
22 we are aware of what you are using it for and how

1 you are using it.

2 When you say you were checking the
3 operator, what kinds of things are you checking?

4 A. I'm checking to see if he has a license
5 issued by the Commerce Commission.

6 Q. And how do you check that?

7 A. Each operator is given a numerical number.
8 I check that number. I punch that number into MCIS
9 in the appropriate screen and it will list me the
10 data for that operator.

11 Q. And what does the data for that operator
12 often include?

13 A. The time frame of when his license was
14 issued, when it expires.

15 Q. Is there any other information that you
16 would find helpful in there?

17 A. That's the most -- why I would use it is to
18 make sure that that operator does have a valid
19 license issued.

20 Q. You mentioned that you would often use it to
21 check a dispatcher. What are you checking for with
22 a dispatcher?

1 A. The same thing. Dispatchers are required to
2 be licensed with the Illinois Commerce Commission,
3 so I check that as well.

4 Q. You also said that you use it -- you use
5 MCIS, I'm sorry, in the relocation towing context to
6 check an address. What do you mean when you say you
7 are "checking an address?"

8 A. When a consumer files a complaint with our
9 office, they include a copy of the relocation
10 invoice. There's a box on the invoice that list the
11 address of where the vehicle was towed from. I take
12 that address, and then I punch that address into
13 MCIS and the information will then come back.

14 Q. So after you type in the address into MCIS,
15 you said the information comes back. What type of
16 information are you talking about?

17 A. Which relocater has the contract, whether
18 it's a call or a patrol lot, the contact information
19 of an authorized person of the property is listed
20 along usually with their phone number and sometimes
21 their e-mail address. It will also list when that
22 contract was, the date it was accepted into MCIS,

1 and if it was cancelled, the date it was cancelled.

2 Q. I want to backup to talk about relocation
3 towing and the ICC police. What types of relocation
4 towing matters do the ICC police staff investigate?

5 A. Most commonly the consumer complaints,
6 though less common are other complaints filed by
7 other relocators against other relocators.

8 Q. Are there any other matters that ICC police
9 investigate when it comes to relocation towing?

10 A. Those are the most common.

11 Q. Okay. How does the ICC police staff become
12 aware of consumer complaints?

13 A. After a consumer gets his or her car out of
14 the impound, they are given a copy of the relocation
15 invoice. On the back of that is a pre-printed
16 complaint form. The consumer fills that portion
17 out and then mails that into the office which is
18 located in Des Plaines.

19 Q. So when it arrives at the Des Plaines
20 office, at that point what happens next?

21 A. At that point it is date stamped, and then
22 one of the office personnel create an investigation

1 case number for it and create a file for it.

2 Q. Do you see them at that point? As acting
3 sergeant, would you see a complaint at that point
4 once the case number is created and a file is
5 created?

6 A. Most commonly not.

7 Q. So after it arrives and is date stamped and
8 the case number is given and is given a file, what
9 happens next?

10 A. Depending upon which relocator the complaint
11 is against, it is given to either a corresponding
12 officer or the investigator.

13 Q. Okay. Is there some distinction in which an
14 officer or investigator would get it if it's a
15 certain relocator?

16 A. Yes.

17 Q. I just want to backup and ask about the
18 officers and investigators that you supervise.

19 How many people do you supervise?

20 A. Seven.

21 Q. How many of those individuals are officers
22 or investigators?

1 A. Three officers and one investigator.

2 Q. Can you name the three officers that you
3 investigate and, if possible, spell their last name
4 for the court reporter. I'm sorry, not investigate,
5 that you supervise. I'm sorry.

6 A. Officer Swanson, S - as in Sam -
7 w-a-n-s-o-n; Officer Strand, S - as in Sam -
8 t-r-a-n-d; Officer Geishbush, G-e-i-s-h-b-u-s-h.

9 Q. You mentioned that there was one
10 investigator that you supervise. Who is that?

11 A. That's Investigator Kassal, K-a-s-s-a-l.

12 Q. So out of these individuals, Officer
13 Swanson, Officer Strand, Officer Geishbush, and
14 Investigator Kassal, which of these individuals
15 investigate relocation towing complaints, if any?

16 A. All except Officer Swanson.

17 Q. Just to discuss consumer complaints for a
18 minute, what kind of things do consumers complain
19 about in the relocation towing industry?

20 MR. PERL: Objection as to relevance for this
21 hearing. We're talking about July 24, 2015, March
22 23, 2016, I know this all is background, so I

1 haven't been objecting at all, your Honor, but I
2 don't believe it was a relevant question.

3 MS. PARKER-OKOJIE: Your Honor, this is relevancy
4 because he said that the two main areas that the ICC
5 police investigate are consumer complaints and also
6 relocation -- I'm sorry -- consumer complaints and
7 then complaints that relocators make against one
8 another, simple just the background foundational
9 questions for what types of things they are
10 investigating.

11 MR. PERL: I don't think that is relevant for
12 today's hearing. There's nothing that counsel
13 stated that would make it relevant for today's
14 hearing. The hearing is specifically whether or not
15 Lincoln Towing is fit, willing, and able to hold a
16 license based upon the relevant time period July 24,
17 2015 and March 23, 2016.

18 JUDGE KIRKLAND-MONTAQUE: Overruled. It's still
19 general background.

20 MS. PARKER-OKOJIE: Q. Go ahead. Will you
21 answer? Do you want me to re-ask the question?

22 A. Please.

1 Q. I'm sorry. Sergeant Sulikowski, what kind
2 of things do consumers complain about in the
3 relocation towing industry?

4 A. They complain because they feel for one
5 reason or another that their car was improperly
6 towed and that they are ultimately out a monetary
7 figure.

8 Q. How are officers trained or instructed to
9 investigate consumer complaints?

10 MR. PERL: Same objection, your Honor. I do
11 understand a lot of this is background.

12 JUDGE KIRKLAND-MONTAQUE: I think the general
13 analysis is enough within the question so far.

14 Overruled. Go ahead.

15 MS. PARKER-OKOJIE: Q. Officer Sulikowski, how
16 are officers trained or instructed to investigate
17 consumer complaints.

18 A. When officers are hired, there's a five-week
19 block of training that they attend in Springfield.
20 Now it is an all relocation towing. It's all
21 encompassing of what the ICC incorporates and does.
22 So during that period, there is a block of

1 relocation towing that the officers receive.

2 When they get back and go through
3 their FP field training officer period, each
4 complaint is almost individual unto itself. So when
5 they take a complaint, there are certain criteria
6 that they check. Obviously, they read the -- what
7 the consumer wrote. There are consistent
8 information that they always check. They check on
9 the property address for a contract; they check for
10 the operator; they check for the dispatcher; they
11 check to see if the tow is within the air miles,
12 what we call; and then they check to see if the tow
13 itself was reported to police within the one hour
14 allotted time period.

15 Q. Okay. When you say "air miles," what are
16 you referring to?

17 A. When relocators are licensed, they are
18 licensed for an area, and within county areas --
19 incorporated county areas they are allowed to tow
20 within 10 air miles. In unincorporated areas, they
21 are allowed up to 15 air miles, so there is a graph
22 and it's almost like a bullseye. The relocator is

1 listed. You punch in the property where they were
2 towed from and a big blue bullseye comes up. If the
3 tow is within that, then they're legal to do that
4 tow.

5 Q. In the course of an investigation, is it
6 possible that either an officer or investigator
7 could discover something that the consumer did not
8 complain about?

9 A. Yes.

10 Q. Could you give an example of that?

11 A. I can. If a consumer filed a complaint
12 stating that my car was towed and the sign had a
13 posted rate different from what I was charged, that
14 would be his initial complaint that he was
15 overcharged when he went to retrieve his car.

16 When the officer gets that complaint
17 and starts checking out the criteria, he may find an
18 expired operator or a dispatcher, or he may find
19 that the contract was a call versus a patrol or no
20 contract on file at all.

21 So there is other information that can be
22 learned, maybe there's no lease on file, if it's a

1 leased-on truck to the relocater.

2 Q. You mentioned earlier Investigators Kassal,
3 Officer Strand, and Officer Geishbush. Are those
4 members of the ICC police staff responsible for
5 investigating relocation towing matters?

6 A. Yes.

7 Q. Did those individuals work on relocation
8 towing matters between July 24, 2015 and March 23,
9 2016?

10 A. Yes.

11 Q. Did you supervise those individuals during
12 that time period?

13 A. Yes.

14 Q. Do you recall your specific responsibilities
15 in supervising those members of the ICC police staff
16 who were working on the relocation towing
17 investigations during that time?

18 A. I don't recall my specifics.

19 Q. Okay. General then. What were your general
20 responsibilities in that time period?

21 A. Well, as I stated before, when it comes to
22 supervising those members, I review their reports as

1 far as that goes.

2 Q. Are you familiar with a business that goes
3 by the name of Protective Parking Service
4 Corporation, also known as Lincoln Towing?

5 A. Yes.

6 Q. How are you familiar with that business?

7 A. They are a license relocater with the
8 Commerce Commission.

9 Q. Between July 24, 2015 and March 23, 2016,
10 did you supervise any of the ICC police staff who
11 conducted investigations into Lincoln Towing
12 relocation activity?

13 A. Yes.

14 Q. And would that have been Investigator
15 Kassal, Officer Strand, and Officer Geishbush?

16 A. Yes. And I believe Investigator Carlson
17 might be in that time frame as well, but he is off
18 of work right now.

19 Q. Can you just spell his last name for the
20 record, if you know it?

21 A. That's C -- as in Charlie -- a-r-l-s-o-n.

22 Q. Aside from reviewing investigation files for

1 the^ forth police staff that you supervised during
2 that time frame, did you have an opportunity to
3 review any of Lincoln Towing's records from the time
4 period that covered July 24, 2015 to March 23, 2016?

5 A. Yes.

6 Q. Which records of Lincoln Towing did you have
7 an opportunity to review?

8 A. Their 24-hour tow sheets.

9 Q. When you say "24-hour tow sheets," can you
10 explain what that is?

11 A. There is a log of daily tows that Lincoln
12 did that day. They include the address from where
13 it was towed, the nature of why it was towed, why
14 there was a call patrol, the make, the model, the
15 color, the van number of the vehicle.

16 Q. To your knowledge, is it something that
17 Lincoln keeps on file to send to law enforcement?

18 A. Yes.

19 Q. You also referred to this document as a call
20 log?

21 A. Yes.

22 Q. Why would you refer to it as the "call log"?

1 A. That's a term that's used in our code parts.
2 It also calls it a dispatch log.

3 Q. When did you have an opportunity to review
4 Lincoln Towing's 24-hour tow sheets, as you call
5 them, from the time period covering July 24, 2015 to
6 March 23, 2016?

7 A. April 28th of 2017.

8 Q. On that date you said that you reviewed the
9 call logs. Can you explain your process in doing
10 that? What did you do first?

11 A. While the sheets were at my access, certain
12 portions of the sheets were highlighted that there
13 had been inconsistencies with. I checked every
14 sheet for highlighted entries, and then I took those
15 highlighted entries and I ran that address or that
16 operator or dispatcher number through the MCIS
17 system to get a finding.

18 Q. Okay. So let's backup. You said the sheets
19 were given to you to access. Where did you access
20 the sheets?

21 A. Right here in this building.

22 Q. And who gave you those sheets?

1 A. Corporation counsel.

2 Q. Was that the staff of the Illinois Commerce
3 Commission attorneys?

4 A. Correct.

5 Q. Office of the Transportation Counsel?

6 A. Yes.

7 Q. You said that you were given the sheets and
8 portions of them were highlighted.

9 What portions, if you recall, were
10 highlighted?

11 A. Well, they were the 24-hour sheets which
12 contained approximately 20 entries on each page, I
13 guess, and certain lines were highlighted.

14 Q. Do you recall which fields might have been
15 highlighted? I'm not asking you to remember, you
16 know, exactly what line on what page, but do you
17 recall what fields were highlighted for you to
18 check?

19 A. No.

20 Q. And when you reviewed the highlighted field,
21 what did you do?

22 A. I input that data into MCIS.

1 Q. So can you give an example of what data you
2 would be referring to?

3 A. If it was an address, then I entered that
4 address into the MCIS system to get a result back.

5 Q. Is this the same process that you would use
6 to check an address like you explained earlier?

7 A. Yes.

8 Q. And when you say that you "reviewed the
9 highlighted portions," what exactly were you
10 reviewing it for?

11 A. Inconsistencies that staff had located.

12 Q. So you said that you input data into MCIS
13 and you would get information back. Let's take the
14 example of an address. When you type the address
15 that you saw highlighted on the sheet into MCIS,
16 what type of information did you get back?

17 A. As I stated before, it would tell me if more
18 than one relocater held a contract on that property.
19 It would give me information whether it was a call
20 or patrol lot. The property owner or authorized
21 agent and their phone number possibly, and e-mail
22 address and the date that contract was entered

1 and/or cancelled in MCIS.

2 Q. And you said that you were checking for
3 inconsistencies that officer of transportation
4 counsel found.

5 What was your understanding of
6 inconsistencies?

7 A. That I needed to recheck those because
8 something wasn't exactly right. I checked them to
9 make my own determination what I saw with that
10 address.

11 Q. And so just sticking with the addresses for
12 now, you said that you were checking because
13 something -- you were told that something wasn't
14 right.

15 Do you know what that was after you
16 looked at MCIS or could you tell in looking at the
17 tow sheet?

18 A. I could.

19 Q. From looking at the tow sheet and then
20 looking at the information that you saw in MCIS,
21 just using an example of an address, can you give an
22 example of something that you saw that, quote,

1 unquote, "wasn't right?"

2 A. I saw contracts that were cancelled before
3 the date of the tow. I saw contracts belonging to
4 other relocators, and I saw contracts where tows
5 were done prior to the contract being e-filed or
6 filed in the e-relocator. I also found tows that
7 were done based on calls or patrol lot errors as
8 well.

9 Q. In addition to the addresses, did you check
10 any other field on the 24-hour tow log?

11 A. Yes.

12 Q. What field would you have checked?

13 A. I would have checked the operators and/or
14 dispatch numbers.

15 Q. And when you say that you check operators
16 and/or dispatchers, what was the process for that?

17 A. Again, MCIS there is a numerical digit given
18 to these people. I would then punch that in and get
19 a result back of whether or not they held a current
20 license for that time frame of the tow.

21 Q. And when you typed these operators and
22 dispatcher numbers in, and was it also because

1 certain portions were highlighted and you were told
2 there were inconsistencies and after checking the
3 highlighted portions of the sheets, did you make a
4 determination about whether there were
5 inconsistencies?

6 A. Yes.

7 Q. And just in general, no specifics. What
8 inconsistencies did you find with respect to
9 operators and dispatchers?

10 A. I found that operators did not hold a valid
11 license for the time frame of the tow, same with
12 dispatchers.

13 MS. PARKER-OKOJIE: Could I just have one moment,
14 your Honor.

15 JUDGE KIRKLAND-MONTAQUE: Sure.

16 (A brief pause.)

17 MS. PARKER-OKOJIE: I'm showing counsel what's
18 been marked for identification as Staff Exhibit J.

19 (Whereupon, Staff Exhibit J
20 was marked for
21 identification.)

22 So let the record reflect I'm showing

1 the witness what's been marked as Staff Exhibit J,
2 which is a Bates stamped document, Bates stamped
3 with five zeros -- five leading zeros and a 1000276.

4 your Honor, this is marked as
5 Exhibit J.

6 JUDGE KIRKLAND-MONTAQUE: I have it. Thank you.

7 MS. PARKER-OKOJIE: Q. Do you recognize that,
8 Sergeant Sulikowski and you can take a moment and
9 review it?

10 A. Yes.

11 Q. What do you recognize it to be?

12 A. Copies of Lincoln 24-hour tow sheets were
13 given to me to review on April 28 of 2017.

14 Q. What you are looking at that is not a
15 highlighted document, correct?

16 A. Correct.

17 Q. Okay. Is this the same document that you
18 said that you were reviewing on April 28th minus the
19 highlighting when you were performing your review --

20 A. Yes.

21 Q. -- that you described to the court?

22 So when you performed your review,

1 Sergeant Sulikowski, you said that portions of that
2 were highlighted for you, so where the address
3 column is certain addresses were highlighted and
4 where the operator number is certain operator
5 numbers were highlighted.

6 A. Yes.

7 Q. Okay. And these are the sheets that you
8 looked through when you typed the address or the
9 operator number into MCIS?

10 MR. PERL: Objection; leading. I haven't done a
11 lot of it, Judge. I don't want to get too far with
12 it. Most of these questions are leading questions.

13 I object to this as leading. I think
14 counsel is going to have to do a better job of not
15 leading, otherwise, I'm going to have to start
16 objecting to them.

17 JUDGE KIRKLAND-MONTAQUE: Be aware of that.

18 MS. PARKER-OKOJIE: I will, your Honor. I'm not
19 sure what question counsel was referring to. I'm
20 just laying foundation, so usually that -- you know,
21 you are given some latitude with that. Is there a
22 specific question?

1 MR. PERL: The last question was leading I
2 objected to. The commentary about the other one I
3 will get past that. The last question was leading.

4 MS. PARKER-OKOJIE: I just don't recall the
5 question, your Honor.

6 JUDGE KIRKLAND-MONTAQUE: I thought it led to a
7 yes or no. What was the question? Could you read
8 it back.

9 (Question read by reporter.)

10 MR. PERL: That's a leading question.

11 MS. PARKER-OKOJIE: I think I had asked
12 previously, your Honor, are those the sheets, and so
13 in phrasing it I think I asked it a different way
14 previously, so I was just restating what the witness
15 had already said, so I will take note of that and
16 move forward.

17 JUDGE KIRKLAND-MONTAQUE: Thank you.

18 MS. PARKER-OKOJIE: At this time staff would move
19 to enter what's been marked as Staff Exhibit B into
20 evidence. These are the certified documents from
21 the Illinois Commerce Commission Motor Carrier
22 Information System. These are Bates stamped.

1 JUDGE KIRKLAND-MONTAQUE: You say B - as - in
2 boy?

3 MS. PARKER-OKOJIE: Yes, B - as - in boy.

4 MR. PERL: This is Exhibit B, your Honor.

5 JUDGE KIRKLAND-MONTAQUE: Pardon me?

6 MR. PERL: Is this Exhibit B?

7 MS. PARKER-OKOJIE: Exhibit B, Bates stamped with
8 five zeros -- five leading zeros and one through
9 four leading zeros and 43, so Page 1 through 43 and
10 there's an attached certification.

11 MR. PERL: We object to this document being
12 admitted, your Honor. This document is a hearsay
13 document. It was given to us late in the game.
14 This witness cannot possibly lay foundation for this
15 document. This is not a copy of an original
16 document. Allegedly they are screen shots from the
17 computer, so they can't possibly make the argument
18 that this is a copy of an original. It isn't.

19 This witness hasn't testified that --
20 actually, I think he might have. He doesn't input
21 any of this information in here at all. All he does
22 is look at the screen, which anyone in this room can

1 do, and see what's on there.

2 So, basically, I could get up here and
3 testify I looked at the screen saying that's what I
4 looked at, and I relied upon it to do whatever I
5 did. It doesn't make it not hearsay. There's no
6 foundational -- no foundation for it at all.

7 I think prior to submitting these into
8 evidence or admitting something into evidence, you
9 have to have foundation for it. Simply attaching a
10 late-filed certificate from a individual doesn't
11 make it so.

12 This individual isn't here. I can't
13 cross-examine them. This individual doesn't even
14 state that they actually printed this document,
15 doesn't say they're true and accurate at the date
16 and time they're printed. All it says is that
17 they're true, correct, and complete of the
18 following. When? As of what date? What date and
19 time? Who made the copies? Who did this? What
20 information? Nobody is here to testify to it,
21 Judge.

22 Once again, I don't know how many

1 times staff has brought the wrong person here to try
2 to get a piece of evidence in when they easily could
3 have brought somebody else in.

4 I'm not talking about bringing in the
5 recorder of deeds. I'm talking about an individual
6 who works at the Illinois Commerce Commission to
7 come to one hearing right today, Mr. Morris, and
8 testify as to what he did.

9 I don't believe it would be admissible
10 anyway, because there's no filing cabinet that had
11 this document in it, so they can't even say they're
12 kept in the ordinary course of business, because
13 they are not. These are not documents they keep in
14 the ordinary course of business. In fact, they are
15 not even printed except for cases like this. So
16 there's nowhere to look at to find it, other than a
17 computer screen. They don't have a computer screen
18 here obviously, so they're trying to use the
19 document.

20 This witness can't lay a foundation,
21 and until they can lay a foundation for these
22 documents, a proper foundation, they're not

1 admissible.

2 Just because you stick a certificate
3 in -- you actually read the certificate -- even if
4 the certificate is accurate, it's not going to make
5 it admissible for what they're stating; no date, no
6 time, know who did it, nothing, and I can't
7 cross-examine this person either. It's totally
8 inappropriate to allow these documents into
9 evidence, Judge.

10 Certainly from -- so far from the
11 testimony, this witness has not testified at all
12 that he has any idea regarding who entered the
13 information, when it was entered, if it was
14 accurate, if it was accurate the day it was entered,
15 if any alterations were made or even if a copy of an
16 original of something, nothing at all.

17 JUDGE KIRKLAND-MONTAQUE: Response.

18 MS. PARKER-OKOJIE: Your Honor, I do believe that
19 staff laid foundation for the introduction of the
20 exhibit from MCIS. I'm sorry. Sergeant Sulikowski
21 did address that MCIS was used by the Illinois
22 Commerce Commission police officer. These documents

1 are relevant because MCIS was used by officers for
2 checking expired operator permits, the validity of a
3 contract for an address, expired dispatcher permits.

4 Further, to address counsel's hearsay
5 argument, I believe the Illinois Supreme Court
6 Rules of Evidence, 8038 Public Records and Reports,
7 it reads, "Records, reports, statements, or data
8 compilation in any form of public offices and
9 agencies setting forth (A) the activities of the
10 office or agency or (B) matters observed pursuant to
11 duty imposed by law and to which matter there was a
12 duty to report," and that it talks about how it
13 include accident reports and in criminal cases
14 medical records and matters with police officers and
15 law enforcement personnel, "unless the sources of
16 information or other circumstances indicate a lack
17 of trustworthiness," so it addresses the hearsay
18 portion of the argument.

19 I believe that Rule 9024 addresses
20 counsel's concern about the authenticity of these
21 records as they are certified copies of public
22 records, Rule 904 -- I'm sorry -- Rule 9024 reads

1 "Certified copies of public records, a copy of an
2 official record, or report, or entries therein, or a
3 document authorized by law to be recorded or filed
4 and actually recorded or filed in a public office,
5 including data compilation in any form certified as
6 correct by the custodian or other person authorized
7 to make the verification by certificate combined
8 with Paragraphs 1, 2, or 3 of this rule" -- and
9 Paragraphs 1, 2, and 3 indicates that it either
10 should be under seal or if it's a foreign or public
11 document or if it's not under seal that we believe
12 9021 satisfies that, because there is a seal.

13 We actually do have the original seal.
14 What I have tendered to counsel and the court in
15 discovery are copies of that, that there is an
16 embossed seal, so, I'm sorry. Just to go back --
17 "or certificate complying with Paragraphs 1, 2, or 3
18 of this rule in compliance with any facet of the
19 rule prescribed by the Supreme Court."

20 Your Honor, because these are public
21 records at the top, you know, obviously, the
22 Illinois Commerce Commission is not the Motor

1 Carrier Information System, and because the
2 certification is attached that Scott Morris is
3 authorized, as he said, the transportation customer
4 service supervisor in the processing and information
5 system of the Illinois Commerce Commission of the
6 State of Illinois, and the keeper of the records,
7 and deal with the Commission, he certifies that
8 these are true, correct and complete copies of these
9 records.

10 So with the fact that they are public
11 records and they are certified, your Honor, we
12 believe that that meets the foundational
13 requirements for introducing them into evidence.

14 MR. PERL: And, Judge, this is not a certified
15 copy of a public record. First of all, it's not a
16 public record. Nobody else can access it but them,
17 second of all, the public record would be in the
18 computer itself, the screen shot.

19 When you make a copy there, it's not a
20 certified copy of a public record. They don't have
21 these anywhere in there. They're trying to tell you
22 that somewhere they actually keep these documents.

1 They don't. They have a computer. They do have a
2 computer system, MCIS, that might have some records
3 in them, but that's not what they keep in their
4 ordinary course of business, and this witness hasn't
5 testified to it. In fact, you will find out later
6 in this deposition that they never print these
7 things out. They've never done this before, so
8 these are not public records.

9 The information -- and if they say the
10 information is trustworthy -- this is an interesting
11 thing -- they must think Lincoln Towing is
12 trustworthy then because Lincoln Towing put most of
13 the information in here. So what are we doing here?
14 So they now claim that Lincoln Towing must be a
15 trustworthy entity because Lincoln Towing -- I think
16 by the prior testimony -- puts most of this
17 information in here.

18 So if Lincoln Towing puts this in
19 here, they are telling you Lincoln Towing is
20 trustworthy, which they are telling you by having
21 you here, they're not. If they're not trustworthy,
22 it doesn't get in anyway, so there's no --

1 JUDGE KIRKLAND-MONTAQUE: What about the
2 description that includes data compilations?

3 MR. PERL: Data compilations of what? In this
4 docket -- in the computer screen, first of all, the
5 problem for your Honor in determining whether or not
6 the foundation is laid, there's no time -- they
7 don't say when these were printed. This could have
8 been printed at any point in time, a year ago, two
9 years ago, five years ago.

10 How do we know when it was
11 printed? We don't know who printed it. There's a
12 date up there, but that doesn't mean that's when it
13 was printed. I don't know. A document like this
14 could be created by anyone.

15 This is my problem with this. You
16 can change the time on the computer. You can do
17 anything you want. Unless I have an individual in
18 front of me that I can cross-examine to find out
19 whether or not this was the date that they printed
20 it, which is my argument. May 24, 2017 is far
21 beyond the date that we are suppose to have
22 documents in. I don't know when they printed it.

1 By the way, Judge, somebody could have
2 printed it; someone else could have copied it, and
3 someone else could have copied it again. We don't
4 know if this is actually a copy of a public record.
5 It would be so simple, your Honor.

6 I know they want to make these
7 documents seem like they use them everyday. It
8 would be so simple for staff if, just one time out
9 of six years I've been here, they brought the right
10 person to get a document in instead of trying to fit
11 a square hole into a round peg with some exceptions.

12 Bring the darn person in who actually
13 created this document, the one who actually printed
14 the document so we can actually hear about it
15 as opposed to trying to jam all these exceptions
16 that don't always fit just exactly right. Do it the
17 correct way one time. I could save an hour's worth
18 of objections. They could bring a person in. They
19 might even be able to actually do it, but they never
20 do. They always count on this Court saying, "Yes,
21 let it in, because it's just a document."

22 Your Honor, you don't even know as you

1 look at this yourself, what it is. It says -- I
2 could right now go back to my office and make this
3 exact document.

4 How do I know it's accurate or not?
5 It's a piece of white paper with letters on it. It
6 just says Illinois Commerce Commission at the top,
7 MCIS, Motor Carrier Information System. Don't worry
8 about the fact that -- I could show you fifteen
9 mistakes that I know of that they have in here and
10 they're not accurate.

11 Forget about that for the moment.
12 There's no way you could lay -- even forget about
13 hearsay. You can't lay foundation for the document.
14 This witness can't possibly do it, and they know it.
15 That's why they have a certificate from a different
16 party which I wasn't given until eight or nine or
17 ten days ago. The fact that I don't know who he is
18 doesn't really matter. The fact that they never
19 told me about him does.

20 We did discovery in this case
21 ad nauseam, and when they did their eighth amended
22 response, they had these exact documents without the

1 certificate. It's not in there. Maybe if it was in
2 there, I could have then said I want to depose him,
3 and I would have, but the reason I didn't depose
4 Scott Morris is because they told me that Officer
5 Sulikowski was going to lay the foundation for this
6 document, not him.

7 Sergeant Sulikowski's deposition
8 actually said -- if you read the dep that I gave you
9 for the motion, he said he's not going to even use
10 these documents today. His own words were "I don't
11 intend to use these documents." I asked him
12 straight up "Do you intend to use these documents?"
13 He said "no," more than one time for all of these
14 exhibits.

15 So now they want to use these
16 documents with Officer Sulikowski when he told me he
17 wasn't going to use them, and they want to somehow
18 get them in through Scott Morris who should be here
19 for you to cross-examine, because I'm telling you if
20 you read this, Judge, it doesn't say what the rule
21 has to say.

22 There's no way of knowing when he did

1 the work. Actually, he doesn't even say that he did
2 this, so I don't think they've laid a foundation
3 yet. Maybe Sergeant Sulikowski can do it, but they
4 haven't even tried yet.

5 JUDGE KIRKLAND-MONTAQUE: All the officer said,
6 so far as I recall, counsel, that they rely on this.
7 I haven't heard any information about who input this
8 information.

9 Ask more foundational questions,
10 please.

11 MS. PARKER-OKOJIE: I can, your Honor, but also
12 just on the objection, I would just also like to
13 bring up that Rule 902 says, "Extrinsic evidence of
14 authenticity as a condition precedent to
15 admissibility is not required with respect to the
16 following," and certified copies of public records
17 are one of those.

18 Scott Morris does not have to come
19 here to testify. He does not have to be deposed.
20 He gave a certificate, as is required by Rule 9024,
21 with respect to what this is.

22 I can ask Officer Sulikowski more

1 questions about MCIS, but I think in terms of
2 relevance of this information and the authenticity
3 of it, those two cites have been met satisfactorily
4 and this evidence should be admitted for those
5 specific reasons.

6 MR. PERL: Judge, here's one more argument on
7 that, and here's the problem. I've kind of
8 forgotten about this. The relevant time period we
9 are talking about is the only thing we can talk
10 about, correct? Nothing else, only July 24, 2015
11 and March 23rd, 2016, correct? That's it.

12 This document was printed in April
13 2017, if you can believe that. This is not a
14 document printed during the relevant time period.
15 You don't even know -- what if this document was
16 printed three years ago.

17 Let's just say it was printed three
18 years ago, because we don't know when it was
19 printed. Of course, some of the things wouldn't be
20 on there. We couldn't possibly know that. So
21 wouldn't you want to know whoever printed this?
22 Straight up wouldn't you say when did you print this

1 document? Well, actually I printed this three years
2 ago, Judge. Well, Lincoln didn't get the contract
3 at 4882 North Clark until July 24, 2015, so it
4 wouldn't be on there, would it? No, it wouldn't.

5 How am I suppose to cross-examine
6 someone on that and he didn't know about that, and I
7 hadn't thought about that before, but that makes it
8 even worse, because we have a limited time period.
9 It's not that did they have a contract. It's not
10 that they have a contract today.

11 You know, we had a discussion about
12 that today. The relevant time period is all that
13 matters, and this isn't from that time period, so I
14 don't even know whether or not the information
15 contained on here was relevant as of the time period
16 that we are talking about, July 24, 2015 to March
17 23, 2016. We don't even know that.

18 JUDGE KIRKLAND-MONTAQUE: Do you have a response
19 to that, counsel?

20 MS. PARKER-OKOJIE: I do, your Honor.

21 With respect to the relevance of these
22 documents, these documents are relevant because they

1 relate to Lincoln Towing documents, which they have
2 presented, which are shown to opposing counsel and
3 the witness and marked as Exhibit J.

4 Those documents are specifically from
5 the relevant time period. The tow sheets have the
6 date on the top. They're Lincoln records that they
7 turned over to us as counsel has admitted.

8 The reason why these MCIS documents
9 are relevant is because Officer Sulikowski checked
10 MCIS. Just because he checked MCIS outside of the
11 relevant time period does not mean that information
12 within these documents did not reveal that within
13 the relevant time period in the documents that
14 Lincoln turned over to the Illinois Commerce
15 Commission, there were things that they were doing
16 that MCIS revealed that they shouldn't have been
17 doing, they shouldn't have been towing, and I think
18 that that is a fodder for cross-examination for
19 counsel if he wants to go through the addresses and
20 ask, you know, how do you know this or how do you
21 know that and attack maybe the weight of the
22 evidence, but in terms of the admissibility of the

1 evidence, these documents are certified. They're
2 public records. They are from the Illinois Commerce
3 Commission's database and they relate to the
4 addresses on which Lincoln has contracts.

5 Obviously, without -- I can lay
6 foundation and ask, you know, obviously questions
7 about what's on these documents in terms of what are
8 the fields and what do they show, but I believe I
9 already covered that ground with Officer Sulikowski
10 when I asked him what does it mean to check an
11 address, what information are you referring to that
12 comes back to you.

13 He's already mentioned that. We have
14 laid the foundation, so now it's time for the
15 specifics of what did he see, what did he look at.

16 JUDGE KIRKLAND-MONTAQUE: Can you give us more in
17 terms of when this was printed and by whom?

18 MR. PERL: Judge, let me ask you a question. How
19 about before we do that we ask the witness if he
20 knows when it was printed, who printed it, if it's
21 accurate or not. Just ask him. You ask this
22 witness if he knows that this documentation is even

1 accurate.

2 I'll show you in the deposition
3 transcript five times when he says he doesn't even
4 know if it's accurate and doesn't think it's
5 accurate, so forget about all that. He literally in
6 his deposition said these are not accurate
7 documents.

8 I'll give you the quote, the question
9 and the answer where he says they're not accurate.
10 Forget about that for the moment. Foundational
11 questions are what they are. I didn't make them up.
12 They are the following: Did you create this
13 document? When did you create this document? How
14 did you create this document? Were there any
15 changes made to this document? Is the document in
16 the same condition as it was the day you made it?
17 Those are foundational questions that I can't
18 imagine counsel doesn't know. We do this at every
19 trial.

20 So to say that he's familiar with it,
21 so what? I'm familiar with it. You are familiar
22 with it. You couldn't -- I know that you couldn't

1 lay a foundation for this, and this individual if
2 you even asked him if he ever input one thing in his
3 life in MCIS, he'll tell you never. Do you know who
4 does input this stuff? He will tell you I have no
5 idea.

6 We have a witness testify who has no
7 information who inputs information into MCIS,
8 doesn't know when they do it. There's a million in
9 this in this deposition. Really there are mistakes
10 in here and they're not even accurate.

11 So how counsel can tell you she can
12 lay a foundation, I would like potentially, Judge,
13 if you can just ask her to have this witness lay a
14 foundation for the documents, and actually ask him
15 one question is the information in here accurate and
16 see if he says yes or no, just that one question
17 right there alone, and see if that means he can lay
18 a foundation. Ask him if he ever put one sentence,
19 one letter into MCIS himself, ever. Ask him if he
20 knows who does it and lay a foundation for it.
21 That's the way it's done at every single trial.

22 I don't use words like "familiar" or

1 "demonstrative." I don't know what those words are
2 in the law. I know what they are personally outside
3 the law. They don't exist in the law.

4 MS. PARKER-OKOJIE: Your Honor, to be clear, we
5 are not attempting to lay a foundation for this
6 document through this witness. The foundation for
7 this document is a certified copy of the public
8 records that prove its authenticity, and we have
9 already made the argument for its relevance to your
10 Honor. There is nothing else required.

11 Rule 902, "Extrinsic evidence of
12 authenticity as a condition precedent to
13 admissibility is not required with respect to the
14 following."

15 We've had the certification made. The
16 certification is here for your Honor to inspect.
17 Counsel has had this certification since May 10th.
18 That's 21 days ago, so all of this has been
19 available.

20 We don't have to lay a foundation
21 through Sergeant Sulikowski because we are not
22 attempting to introduce this evidence on his

1 testimony, rather on the certificate that was
2 executed by Scott Morris.

3 MR. PERL: And that's a late-filed certificate
4 way beyond any kind of discovery disclosure date
5 which did not allow me to actually check into
6 whether or not the document's accurate, and that's a
7 problem, because this isn't just a regular case
8 whether the document is accurate or not. It has to
9 be relevant to the time period we are talking about,
10 and that's not in the certificate, so his
11 certificate doesn't state this is a true and
12 accurate copy as of July 24, 2015 to March 23, 2016.
13 Maybe if that was in there, it might be okay, but
14 that's not what it says, and the only thing that we
15 can do for relevance -- I would object as to
16 relevance as well -- he has to say in here this is
17 correct.

18 By the way, I believe that there might
19 be people at the Commerce Commission that can
20 possibly testify -- I'm not sure. This witness
21 certainly couldn't -- as to what the MCIS screen
22 showed on July 24, 2015 through March 23, 2016

1 because Mr. Morris doesn't tell you that. It's not
2 in there, so it's not relevant. It's not admissible
3 for that purpose.

4 This whole hearing -- Judge, I don't
5 know. Twenty times we talked about narrowing the
6 scope of what the time period is and we narrowed
7 it down. That's what it is, and you have already
8 said to counsel see if you can lay a foundation.

9 First, counsel says, sure, I can do
10 it. Now counsel is saying I'm not saying I can do
11 it, because she knows she can't do it. In fact, if
12 she tried, your Honor would probably be appalled to
13 find that he doesn't even believe the documents in
14 here -- the information is accurate in here.

15 So they want to get this in evidence
16 knowing it's not accurate anyway before you see from
17 this witness that it isn't, and I think it's pretty
18 ingenuous for counsel.

19 She was at the deposition. She had
20 the transcript and she knows she can't lay a
21 foundation and she knows the witness doesn't believe
22 the information on here is accurate.

1 So how can their own witness that they
2 told you, they said supplement your discovery to
3 Mr. Perl and Lincoln Towing and tell them who you
4 are going to use to get this document in.

5 Actually, I will show you the
6 interrogatories if you want and you make them
7 answer. Guess what. They answered. Sergeant
8 Sulikowski will be the person testifying.

9 So when I took his deposition and it
10 became apparent that Sergeant Sulikowski -- only one
11 of the exhibits did he actually see before that day.
12 The rest of them what he said -- earlier he said I
13 have seen information like that, but I haven't seen
14 this document.

15 There's no way to lay a foundation for
16 them, and I am put in such a severe disadvantage
17 every time they do this to me where they bait and
18 switch one person for the other or I don't give you
19 the documentation until later of the information.

20 This is why we are where we are. This
21 is why every hearing takes three, four, or five
22 hours, because nothing is ever done easy with them.

1 Everything is hide the ball. Everything is trial by
2 ambush. That's what they do.

3 Clearly that's Morris on the moon. At
4 the worse, he's in Springfield, maybe he's even
5 here. Bring the guy. You know you need him,
6 because you know he's going to tell this Court I
7 didn't create these documents and I don't know when
8 they were created. Somebody just put these
9 affidavits in front of me and I signed them and
10 sealed them, and that's all he did, because there's
11 no way he could have filed these in one day. It's
12 impossible.

13 Just like when Sergeant Sulikowski
14 testified just now what he really looked at, counsel
15 would have you believe he did all 9,000 tows. He
16 really only looked at the highlighted tows. That's
17 why it might not have taken him four or five hours,
18 so a big difference between that, and then Scott
19 Morris saying, you know, somebody put some documents
20 in front of me. I don't know. There's no way that
21 he could have logically done what he said he did
22 here. It's impossible. And even if he did, Judge,

1 it's the wrong time period. So these documents
2 aren't admissible by any stretch of the imagination.

3 Let counsel either bring the right
4 witness next time or ask this witness, maybe he can
5 lay a foundation for them, if possible.

6 JUDGE KIRKLAND-MONTAQUE: Let's take a
7 five-minute break and I'll be back.

8 MS. PARKER-OKOJIE: Thank you.

9 (Off the record.)

10 JUDGE KIRKLAND-MONTAQUE: All right. Let's go
11 back on the record.

12 We are actually back where we started
13 this morning with the admissibility of these screen
14 shots.

15 My ruling is that I'm going to allow
16 them, the certified copies of the public records. I
17 think these are public records from the Commission's
18 system of how they maintain their information.
19 Counsel is certainly able to pick out any weaknesses
20 on cross-examination.

21

22

1 (Whereupon, Staff Exhibit J
2 was received in evidence.)

3 MR. PERL: I just won't be able to determine when
4 they -- I won't be able to determine when they were
5 done, because years ago, years ago I won't be able
6 to determine how they did it. I mean, I could look
7 for glaring inconsistencies like those dates, but I
8 won't be able to say with any certainty, and neither
9 will they, when this was printed and certainly it
10 wasn't printed within the relevant time period.

11 JUDGE KIRKLAND-MONTAQUE: Counsel, don't you know
12 when they were printed?

13 MS. PARKER-OKOJIE: Yes, your Honor. The
14 printout date on the -- on the actual documents was
15 4-24-17. They were certified as accurate on May 10,
16 2017. So if we want to judge the May 10th date, we
17 can use that, or if we want to use the April 24th
18 date, we can use that. I don't think that it
19 matters because Scott Morris' certification is that
20 they were accurate, so if we are saying let's go
21 with the date that he certified them, we can use
22 that date.

1 MR. PERL: Accurate as of May 10th has no bearing
2 on our case today at all, because our case --

3 JUDGE KIRKLAND-MONTAQUE: Your question would be
4 do you know if this was accurate during this time
5 period, right?

6 MR. PERL: No. I mean, I have all those
7 questions. This witness doesn't know anything about
8 these documents. There is no question about it, he
9 doesn't know. I'm not arguing in a bad way. That's
10 not his job. He knows his job, and that's what he
11 knows. He doesn't know this because that's not his
12 job, so that's clear he doesn't know when it was
13 inputted or when it was printed.

14 JUDGE KIRKLAND-MONTAQUE: So I think --

15 MR. PERL: I just -- I'll give you one more
16 minute and then I'm done.

17 I understand, Judge, and I apologize.
18 I know we have taken up a lot of your time, and
19 these are -- it is, just allow them in, because then
20 they can consider the case, but the unfairness to my
21 client is this. There are rules and rules are made
22 to be followed for a reason. There are procedures

1 that we follow as attorneys in court every single
2 day. We don't always like them. They're difficult.
3 Sometimes it would be a lot easier to do things a
4 different way, like why have hearsay or why have
5 foundation, because they are difficult and tedious,
6 but we have them for a reason, and it never appears
7 the Commerce Commission follows them. They always
8 try to find some exception.

9 It's almost as if it doesn't quite
10 fit, and then at the end we just kind of give in
11 because, well, to follow that road we have the
12 witness here and testifies anyway, but, you know,
13 it's what we do every day. It's just not fair to
14 one party when another party gets to present
15 evidence that they never gave you in discovery which
16 they didn't.

17 This certification came out of
18 nowhere, I mean, really truly out of nowhere. It
19 just came the other day, so at least if you are
20 going to say that they can do it, I should be able
21 to at least depose the guy, because -- and in my
22 wildest dreams when I saw this I never imagined you

1 could actually give a trial book with documents
2 that -- these are documents. There's no question
3 that this certification is a document. It's not a
4 piece of paper where you can get a paper cut with
5 it. It's a document I've never seen before.

6 I'm allowed to actually cross-examine
7 a witness. He's a witness now in this case through
8 this certification. He's absolutely a witness
9 because he's giving testimony to this Court based
10 upon this certification.

11 Shouldn't I at least have been able to
12 depose the gentleman and ask him, sir, do you really
13 know if this is truthful and accurate? Do you
14 really -- have you seen these documents? Maybe if I
15 did the same thing with Sergeant Sulikowski, he
16 would have said, you know what, Mr. Perl, you are
17 right, I don't know, or, you know, Mr. Perl, I
18 didn't print these out; staff did, and I would say
19 to him did they print them out the same day, I don't
20 know, or what he might be able to say is -- the part
21 that troubles me is, and maybe we will get to this
22 down the road, if we even get to the circuit court.

1 When I deposed him, I asked him before you certified
2 these, did you actually look at every single screen
3 shot and make sure it was accurate.

4 JUDGE KIRKLAND-MONTAQUE: Let me ask you this,
5 Mr. Perl.

6 MR. PERL: I can't do that.

7 JUDGE KIRKLAND-MONTAQUE: Help me to understand
8 something. It may be related or it may not. Let's
9 say this is where the criminal records section and
10 they're certified by the clerk Dorothy Brown. She
11 doesn't actually sit all day long and go through
12 these types of documents, does she?

13 MR. PERL: Agreed. No, I agree.

14 From my days as a clerk at the State
15 Attorney's Office, we used them all the time,
16 because they are documents you use every day.
17 That's the difference. These aren't. Those
18 documents -- those records are public records and
19 they're kept in drawers and places all the time.

20 When Dorothy Brown certifies that
21 record, it's because they're kept in the ordinary
22 course of business. I agree with you. These

1 aren't. This is my argument. These documents here
2 aren't kept anywhere. You can't go to the Commerce
3 Commission and find these anywhere. They're not on
4 the computer.

5 The reason that they're not, I don't
6 think your Honor should look at them, because if
7 they did this every day, and let's say every day
8 they're printed up, everything on MCIS everyday,
9 which they could do like they do with criminal
10 records, they're printed out and then they certify
11 those, I would agree with you, but that's not what
12 these are though. These are not certified copies of
13 the originals. They aren't. This is someone
14 telling you that they didn't even take it off the
15 computer screen, but they're going to tell you that
16 the information is on here, and, again, I have to
17 see what it says, because he doesn't give you a
18 date.

19 "I further certify the above and
20 foregoing is true, correct, and a complete copy of
21 the following."

22 The information on here is -- he must

1 have looked at a computer screen, not at some other
2 documents and compared them, so it's not the same,
3 and I agree with you. If this was a criminal case,
4 I wouldn't be arguing it. If it was even a civil
5 case where the keeper of records who keeps these
6 documents somewhere, certified it, I would still say
7 it's huge, Judge.

8 You can't present that at trial. You
9 have to give it to me ahead of time, because the
10 reason we have discovery is for me to figure out
11 inconsistencies.

12 I promise you this. Had they given
13 this to me, I would have noticed up his deposition.
14 I promise you. You know I have done a lot of work
15 on this case. I haven't slacked off. I've done a
16 lot of it. I would have absolutely noticed up his
17 deposition and I would have deposed him and asked
18 him specifically what he did and didn't do.

19 I don't know if it was deliberate on
20 staff's part. Did they want me to do that, or when
21 they realized they couldn't get these documents in
22 any other way, they slipped it -- they actually

1 slipped it in, and they did, but at the very least,
2 Judge, if you let it in, I should be able to depose
3 this gentleman, because, as counsel told you, I have
4 to cross-examine people.

5 How can I cross-examine Sergeant
6 Sulikowski on Scott Morris's certificate when
7 Sergeant Sulikowski -- and, again, no disrespect to
8 Sergeant Suilkowski -- he does what he does well.
9 He doesn't do anything to do with the MCIS, and he
10 knows that, so I can't cross-examine him on it.

11 I can't cross-examine counsel on it,
12 can I, unless they want me to and make him a witness
13 in the case, So I'm left with my client not being
14 able to cross-examine a witness who they're using in
15 this.

16 By the way, this -- without this
17 document, they're basically done with this witness.
18 It's over. I mean, they are finished for the day.
19 I don't know if they have any of the other witnesses
20 without this document, to be honest with you, and
21 that's what the problem is for them. They have got
22 this one.

1 I will also tell you this. I'm not
2 sure the document really hurts me, but that's not
3 the point. The point is they have to be admissible
4 first, and it isn't and it never is with them. It's
5 always some other loophole or some other way.

6 How many times have I made this
7 argument to your Honor and they still won't bring
8 that one person, whether it's the lady who inputs
9 all the stuff, Blanche, or this person they never
10 show up.

11 I just think it's kind of interesting
12 because they all work for the Commerce Commission.
13 They're either in this building or in Springfield,
14 and we all knew about the hearing today for a long
15 time and we all worked our tails off to prepare for
16 today.

17 So bringing Scott Morris here doesn't
18 seem to me like it would be like bringing Dorothy
19 Brown, because it's not the same thing. This is an
20 individual who certified these particular documents.

21 Dorothy Brown -- when they certify
22 something, trust me, Dorothy Brown is not reading

1 it. They put a stamp on it and it says her name.
2 She is not reading. If she was, she would have to
3 be sitting there right now 24 hours a day. This
4 certificate says he did do this, and that's what's
5 troubling to me, because I don't think he did, and
6 I'm not going to be able to find out about it
7 because I can't cross-examine him.

8 So I would ask you for a continuance
9 of this hearing right now. If you are going to
10 allow it in, I would ask you to allow me to take one
11 deposition, and it would be of Scott Morris and
12 reconvene.

13 When I have his deposition transcript
14 and then when they re-bring it, I could bring you
15 the transcript, and if you believe then it's
16 admissible, I won't say another word, but I think
17 you should at least know that, because right now
18 none of us know any of that, and at least my
19 client's due process would be served if I'm able to
20 cross-examine a witness that they're bringing in.

21 I understand in other certain
22 situations you don't have to have it, but in a case

1 like this where my client's license hangs in the
2 balance -- it's the very way he makes a living and
3 feeds his family which hangs in the balance.

4 I don't think it's asking too much for
5 me to cross-examine a witness with the only
6 documents that they have to use in their case in
7 chief against my client. I don't think I'm asking
8 too much.

9 Nothing is going to happen in this
10 world horribly if we take a break from this hearing,
11 give me a date certain to depose Mr. Morris, and
12 then reconvene. It's not, because we all know that
13 this hearing isn't going to end any time soon
14 anyway, because if this document comes in and they
15 question Sergeant Sulikowski on 2 or 300 different,
16 which they're about to do -- I don't know how many,
17 a hundred, 200, things from that summary sheet, we
18 are going to be here a long time anyway, so I don't
19 think it's going to hurt anything to allow me to
20 depose this gentleman, at least that way -- and I'm
21 not sure he's located in Chicago or Springfield.
22 I'll go to Springfield to depose him. That's fine

1 for me. I'll drive to Springfield. He can stay
2 there and we'll depose him there.

3 JUDGE KIRKLAND-MONTAQUE: Why isn't it
4 self-authenticating based on Rule 902E?

5 MR. PERL: Okay. Here's why I think it's not
6 self-authenticating. First of all, it could be, but
7 I'm still allowed to get it in discovery, correct?
8 I don't get it. I don't get this. A moment before
9 trial, I get to see this, because I think my
10 experience there's problems with this. I don't
11 think it says what they say it says.

12 This individual I do not believe
13 actually says I did these things. I printed them.
14 He didn't. He didn't print these. Clearly staff
15 printed them, so I think that's one problem, because
16 he's certifying a document that someone else printed
17 and he didn't print, and this is not a business
18 record. This document that I'm holding right here
19 as an exhibit is not a business record, because it's
20 not there.

21 They said Lincoln Towing inputs this
22 into the system, so it can't be a Commerce

1 Commission business record. We know that, right?
2 It's not possible to be a business record that my
3 client input into the system, so it's not. He
4 didn't create this document. All he is doing is
5 saying somebody gave me a document that I'm going to
6 certify, which isn't proper.

7 For authentication for that, Dorothy
8 Brown certifies to you that that's their document,
9 that they input the information, they certify, boom,
10 and the stamp.

11 Again, I think that had I gotten this
12 thing -- remember, if you recall, your Honor, when I
13 argued in their eighth response to discovery that
14 it's too late, and you did agree to tell them who we
15 were going to use. If I actually had Scott Morris'
16 certification that day, I would have taken his
17 deposition, because there's no one telling me I
18 can't depose the guy. He's not a lawyer. He's not
19 somebody that they're saying is a lawyer. He's just
20 a transportation customer service supervisor.
21 That's what he is. Certainly I can depose him if I
22 want to, and if I knew they were going to use this,

1 I would have.

2 This is the real problem that I have
3 with this case is, and I made this argument so many
4 times about trial by ambush, because of what they
5 try to do in every case. They didn't even want to
6 give you the original tow invoice one day for 45
7 minutes because that's not the way they do things.

8 I would like to -- I'm not saying
9 don't let them in, but let me depose him first. Let
10 me show you that this document should get in because
11 this is not a proper certificate. It isn't.

12 JUDGE KIRKLAND-MONTAQUE: What if I would allow
13 you to cross-examine him.

14 MR. PERL: Who?

15 JUDGE KIRKLAND-MONTAQUE: This witness.

16 MR. PERL: Which witness?

17 JUDGE KIRKLAND-MONTAQUE: Not this --

18 MR. PERL: Scott Morris?

19 JUDGE KIRKLAND-MONTAQUE: Yes.

20 MR. PERL: Well, I would like to examine him
21 before you allow it into evidence.

22 MS. PARKER-OKOJIE: We would object to even Scott

1 Morris being brought into this proceeding, your
2 Honor. This is completely against the spirit of
3 Rule 9024, certified copies of public records.
4 These are routinely introduced certified copies of
5 public records, 9024, and, again, the introductory
6 paragraph says, "Extrinsic evidence of
7 authenticities as a condition precedent to
8 admissibility is not required with respect to the
9 following: "The certified copies of public records,
10 a copy of an official record, or report, or entry
11 therein, or of a document authorized by law to be
12 recorded or filed and actually recorded or filed in
13 a public office, including data compilations in any
14 form, certified as correct" which we have here, "by
15 the custodian or other person authorized to make the
16 certification by certificate." That's the
17 touchstone by certificate complying with Paragraphs
18 1, 2 or 3

19 Paragraph 1, Domestic Public Documents
20 Under Seal, this is 9021. "A document bearing a
21 seal purporting to be that of the United States or
22 of any state, district, commonwealth, territory, or

1 insular possession thereof, or the Panama Canal
2 Zone, or the trust territory of the Pacific Islands,
3 or of a political subdivision, department, officer,
4 or agency thereof and a signature purporting to be
5 an attestation or execution."

6 These documents are sealed by the
7 Illinois Commerce Commission. They're signed by
8 Scott Morris who certified that he is the
9 transportation customer service supervisor.

10 I don't really know what else we can
11 do here, because Rule 9024 clearly contemplate
12 exactly this type of situation. There's nothing
13 else to be said. These are public records under
14 9017. "Evidence that a writing authorized by law to
15 be recorded or filed and, in fact, recorded or filed
16 in a public office or a purported public record,
17 report, statement, or data compilation in any form
18 is from the public office where items of this nature
19 are kept."

20 I don't think that counsel in his
21 argument has identified anything within this
22 document, within the certification that suggests

1 that these are not documents from the Motor Carrier
2 Information System of the Commerce Commission, which
3 everyday ICC police rely on to not only write
4 violations but to testify in front of your Honor and
5 other administrative law judges of the Illinois
6 Commerce Commission. Allowing any other
7 examination, deposition, or anything else would be
8 wholly inappropriate here and completely against the
9 spirit of this rule.

10 MR. PERL: So we can clarify, the rule doesn't
11 say you can't go to Dorothy Brown and other
12 individuals to get deposed all the time, and here's
13 why. Just because I get a document certified
14 doesn't mean it's correct. I don't -- I think it
15 can be admissible, but I'm allowed to object to it.
16 I have seen it done before, and I'm thinking counsel
17 might have, too.

18 There's an issue of discovery here
19 that we are all forgetting about. We have discovery
20 in this case for a reason. When discovery closes,
21 the doors close. You can't put any more documents
22 into the room, right? That's what it's suppose to

1 be. That's the way I learned.

2 So discovery is like a box. The day
3 it closes, it's done. The seal is locked. You
4 can't put this certification in there, because we
5 are done. That's what they're doing. Discovery is
6 over. It's done. It's finished.

7 Certainly if it wasn't done February
8 1st, it was done May 10th, which is when he did
9 this. So on May 10th the box is closed, and this
10 isn't in there, and somehow it ends up in a binder
11 anyway. I don't know how that is. So if you can
12 explain to me how in May of this year, certainly in
13 February, you said no more documents. This is a
14 document that they never gave me until then, and I
15 would tell you if counsel could show me one rule
16 where it says I can't depose this person, then I'll
17 stop talking about it, but you have got to show me
18 why I can't depose this person, because I feel like
19 it's not authentic or something is wrong with the
20 document, which, of course, I have the feeling of.

21 So in this particular case I believe
22 as an officer of the court, that this documentation

1 here, this certification here, is not accurate. I
2 don't think it is. I don't think he did what they
3 want you to say he did.

4 I think he looked at something, and
5 maybe not everything, that under oath that he
6 testifies. He may not tell you that, yes, I looked
7 at 1000 documents that day, and then -- by the way,
8 I'll cite the chapter in the case for you. It's a
9 mortgage documentation when in the mortgage industry
10 people went to jail for this. They literally
11 certified documents, fifty or a hundred of them a
12 day. Each document was like a thousand pages. They
13 couldn't have done it, but if they come in here,
14 they would say, well, they must have done it, Judge.
15 The certification -- there are people who went to
16 jail for this, because they couldn't have read it,
17 but they said they did, because what they did was
18 they took a document that you normally see and they
19 kind of looked at it and said looks right. They
20 checked some dates and they put their notary on it
21 and they stamped it certified, I read this, but they
22 didn't.

1 I think in this particular case that's
2 exactly what happened, and for counsel to say to
3 you, oh, it's so objectionable to bring in Scott
4 Morris. Why? I mean, I told you this before. I
5 could have had his deposition done already and this
6 information we need, and in the time we argued about
7 it, which takes all the time off this case every
8 single time, and if for no other reason the fact
9 that they're admitting to you he didn't do this
10 until May 10th of 2017, but the hearing is May 31st.
11 That's 21 days ago.

12 Certainly you can't keep doing
13 discovery till 21 days before the hearing, and
14 clearly on April 25th or 7 or 8, when they gave me
15 this the first time, his certification wasn't there.
16 Why?

17 Why do they constantly get rewarded
18 for bad behavior? Why are they allowed to mess up
19 and then somehow redo it here when -- I wouldn't
20 want to and I wouldn't ask this Court for that
21 behavior. I don't want it from me and I don't
22 expect it from them. They messed this thing up

1 again. They don't have the correct person here, and
2 they know it.

3 So after Sergeant Sulikowski's dep,
4 then they manufactured this certificate out of
5 nowhere that I've never seen before, and clearly
6 before my client this Court rules on whether my
7 client is fit to hold a license, which is due
8 process. I should be able to, as counsel said
9 earlier a couple of hours ago, cross-examine all
10 these people. Well, I should be able to
11 cross-examine Scott Morris before the document's
12 admitted.

13 I mean, Judge, how difficult could
14 that possibly be. I will go to Springfield. I'll
15 go wherever he is. I don't care wherever it is. I
16 think he lives in the State of Illinois, because he
17 works for the Illinois Commerce Commission. I'll go
18 anywhere he is.

19 Give me one hour to depose, not even
20 three hours. Give me one hour to depose him. I'll
21 ask clear, concise questions that are tailor-made
22 just for this issue, and I will be done, and in that

1 way when I come back here, if your Honor still says,
2 you know what, I'm still going to allow it, we'll go
3 forward, and if your Honor says you know what, I
4 don't think this really is what he's saying and I
5 don't think he did what he says he did. Just
6 because he said he did doesn't mean he did.

7 I mean, are you suppose to say every
8 time somebody certifies it has to be true and
9 accurate? It could be. I just cited for you cases
10 where -- and if you want, I can get the case for you
11 where thousands and thousands of times -- one of the
12 reasons there's a mortgage problem in this country,
13 people are rubber stamping things. I think that's
14 what happened here. I do. Why are you so hard
15 against letting me depose him for an hour? Why?

16 JUDGE KIRKLAND-MONTAQUE: Here's the thing. I
17 think that this falls within the self-authentication
18 exception, and I think we have the staff willing to
19 accept that these are printed out in May or whenever
20 they're printed out.

21 I think they speak for themselves. I
22 think you can -- if I allow them in, you are able to

1 address all of these issues on cross-examination.

2 MR. PERL: What about discovery? What about the
3 fact that discovery's done? What about the fact
4 that they gave me a new document on May 10th? What
5 about that fact?

6 Let's assume that's correct. It is.
7 How about the fact that discovery is closed. You
8 can't give me new documents now? This is a new
9 document they are giving me. They can't just do it
10 because it's admissible.

11 I'll ask you this question. Let's say
12 there's other documents they have today that are
13 admitted and they're not hearsay documents. Can
14 they give them to you? Can they put them in here?
15 They never gave them to me in discovery. Can they
16 do that?

17 JUDGE KIRKLAND-MONTAQUE: When did you get this
18 binder? Was this part of the binder?

19 MR. PERL: It was part of the binder. It had to
20 be past May 10th, because he didn't do it until
21 May 10th, so it had to be beyond May 10th. We are
22 only in May 31st, so maybe I got this the 12th, 15th

1 or 17th.

2 MS. PARKER-OKOJIE: May 10th is when we exchanged
3 discovery. That cannot be denied, your Honor.

4 MR. PERL: So it's May 10th. So on May 10th I
5 got new discovery in this case. Let me ask you a
6 question, Judge. Would you allow them to put stuff
7 in here like new information regarding anything on
8 May 10th when the hearing is May 31st and I can't
9 take a deposition, I can't do anything?

10 Forgetting about all that other stuff,
11 self-effectuating. You can't give them to me 21
12 days before trial, that's not fair. This is a new
13 document.

14 JUDGE KIRKLAND-MONTAQUE: What do you have to say
15 about that? What if they gave you a new document.

16 MS. PARKER-OKOJIE: Your Honor, there's several
17 documents actually in counsel's binder that we are
18 waiting to see how they try to introduce them that
19 we have never seen before; namely, some sort of what
20 purports to be an analysis or a FOIA request. We
21 never saw the FOIA request. We need to see things
22 that we plan to address when they come up because we

1 at least want them to try to lay the foundation.

2 This is not that situation, your Honor. This is
3 certification.

4 The substantive documents were had on
5 May 25th when these were faxed before you. Those
6 were turned over. I'm sorry, not May 25th, April
7 25th when we faxed to you in the final status.

8 We turned over the documents and we
9 said these are in response to Question 20, which is
10 what did officers that will testify what did they
11 review or what will the people that you bring to
12 testify what did they review.

13 Sergeant Sulikowski did not review
14 certification. He just didn't review that, but we
15 tried to produce in the form of the substance of the
16 evidence, because really that's what we are getting
17 at here, the substance of the evidence, because
18 really that is what we are getting at here,
19 the substance of the evidence is the addresses that
20 are in MCIS, the operator information that's in
21 MCIS, all that counsel had on May -- I'm sorry -- on
22 April 25th.

1 MR. PERL: He didn't review it because it hadn't
2 been created yet. He couldn't have reviewed it.

3 MS. PARKER-OKOJIE: I don't know why he would
4 have reviewed a certification. That doesn't fall
5 within the scope. The point is the substance of the
6 information and how a law enforcement officer of the
7 Illinois Commerce Commission would interpret that
8 information.

9 MR. PERL: Judge, this is what -- if I could
10 approach, this is what counsel gave to us with their
11 late, late discovery that you allowed them to
12 produce, because you said you can depose them on it.
13 They gave me Exhibit 2 without Scott Morris'
14 certification on it. It's clearly not there from
15 April 25th.

16 MS. PARKER-OKOJIE: We don't deny that.

17 MR. PERL: The reason that Sergeant Sulikowski
18 didn't see this certification is because it wasn't
19 created until May 10th.

20 There's no way that this Court could
21 say that now I'm going to reopen discovery on
22 May 10th and let them put the documents in there.

1 This document was literally put in here on May 10th.
2 The discovery had been closed since at least
3 February 1st.

4 Even if it wasn't February 1st, when
5 you allowed me to depose Sergeant Sulikowski, I
6 didn't think about deposing Mr. Morris, because I
7 didn't know of his existence, and forget about
8 knowing his existence. I didn't know of his
9 existence in this case, because he hadn't been in
10 it.

11 JUDGE KIRKLAND-MONTAQUE: Isn't that the purpose
12 of self-authenticating documents is that you don't
13 have to?

14 MR. PERL: It doesn't preclude, Judge. It
15 doesn't preclude me from deposing him. There's no
16 way you are going to find a statute that it's been
17 done before, and it happens once in awhile, not
18 everyday, but there's nothing precluding me from
19 deposing somebody like Dorothy Brown or whoever
20 else.

21 I will tell you as an officer of the
22 court that had I seen this, I would have deposed

1 him. There's no question. It's not even one
2 moment's hesitation for me, because in looking at
3 these documents, it's clear to me that he didn't do
4 what they're trying to say he did. He didn't do
5 that, and the reason they don't want me to depose
6 him -- again, we will be here how ever long it takes
7 I'm going to depose the guy already, twice probably,
8 because they know what he's going to say and it
9 isn't going to be good for them, just like they know
10 after letting me depose Sergeant Sulikowski that he
11 can't lay a foundation for them, which is why they
12 went and back-doored it on May 10th.

13 To allow them to put documents into a
14 trial binder on May 10th when the trial is 21 days
15 later, I mean, come on. We have been over, and
16 over, and over this so many times about this.

17 JUDGE KIRKLAND-MONTAQUE: Let me ask would you
18 have objected to the deposition had he put that
19 certification in at least back in April?

20 MS. PARKER-OKOJIE: I would have. I would have,
21 your Honor, for the same reason, Rule 9024.

22 JUDGE KIRKLAND-MONTAQUE: Would you have objected

1 to a deposition --

2 MS. PARKER-OKOJIE: Of Scott Morris?

3 JUDGE KIRKLAND-MONTAQUE: Yes, had he had a
4 certification.

5 MS. PARKER-OKOJIE: Yes.

6 MR. PERL: Based on what?

7 MS. PARKER-OKOJIE: I believe it's appropriate.

8 JUDGE KIRKLAND-MONTAQUE: A deposition for
9 discovery. This is for the admissibility of the
10 evidence.

11 MS. PARKER-OKOJIE: I know, and so the
12 admissibility of the evidence is what we are
13 discussing now.

14 In terms of discovery, that is
15 discovery. We are no longer in discovery, your
16 Honor.

17 JUDGE KIRKLAND-MONTAQUE: It's not discoverable?
18 Shouldn't that have been discoverable?

19 MR. PERL: Yes, it was.

20 MS. PARKER-OKOJIE: But, your Honor, then why
21 wasn't there a motion brought before between
22 May 10th and now?

1 MR. PERL: Oh, really. I've got to bring a
2 motion between May 10th and now when --

3 MS. PARKER-OKOJIE: I am just asking, your Honor.
4 This is an issue that counsel really wanted to vet
5 before springing it on your Honor and on counsel --
6 staff for the ICC. If May 10th he had that, then
7 between May 10th -- between May 10th and May, it
8 guess, 20th, or what date are we on -- I'm sorry.

9 MR. PERL: 31st.

10 MS. PARKER-OKOJIE: Which means May 10th and
11 May 31st when, again, the motion in limine was filed
12 last night, which you already ruled on actually.

13 So I'm not saying that counsel doesn't
14 have the ability to object because you ruled on a
15 motion in limine, but those motions are usually to
16 cure any sort of discovery issues or things like
17 that.

18 You ruled that his motion in limine
19 was denied, so now we are at the admissibility of
20 the evidence. We can't go back then and start
21 arguing about whether it was appropriate to disclose
22 this document or when it was disclosed.

1 The point is it's been disclosed since
2 May 10th. That's 21 days to form any type of one
3 sentence motion to say, hey, I need to get to the
4 bottom of this, but counsel is waiting until now to
5 bring it up, and I think that it just completely
6 stymies the hearing process.

7 The substance of the evidence was
8 available to counsel in the original discovery
9 disclosures and now the only thing that he's
10 questioning is the certification, but he hasn't
11 pointed out to you anything that makes it seem like
12 this is not trustworthy. It meets all the tenets as
13 I've described in Rule 9024, and I think we are
14 honestly going around in circles, your Honor.
15 you already ruled on this. This is a
16 self-authenticating document, which is correct and
17 proper, and I think that it should be admitted for
18 that reason.

19 MR. PERL: Judge, I don't -- I'm not sure if
20 counsel was listening to my arguments or not, but
21 maybe she doesn't agree with them.

22 To say that I didn't point anything

1 out, I've said ten times there's no way he could
2 have done what he said. He couldn't possibly have
3 looked at thousands of documents on the same day and
4 authenticate them. It's not possible.

5 That's how the people with the
6 mortgages got in trouble, because, although they
7 said they had read them, they couldn't have read
8 them.

9 So to state that, to state that only
10 you got this on May 10th so long ago -- let me ask
11 you this question. Since they knew they needed a
12 certification since the hearing was scheduled months
13 and months ago, why didn't they get it on April 25th
14 when they tried to use these documents? Why is it
15 my fault that they didn't get Scott Morris'
16 certification on April 25th when they gave the
17 documents originally?

18 By the way, when you ask them at that
19 hearing who are you intending to use to authenticate
20 the documents, they didn't tell you Scott Morris'
21 certification. They told you Sergeant Sulikowski.
22 That's who they told us they're using.

1 So why is it my fault that my schedule
2 doesn't allow me the moment in time? They give it
3 to me on May 10th, four month after discovery
4 closes. Eventually I got around to filing a motion,
5 but a motion in limine is different, because it bars
6 it versus admissibility, which we talked about.
7 It's not admissible, because it's late. It's not
8 liable, and I said ten times that I don't think it's
9 accurate. I've said that I don't think he could
10 have read all those things. I've said I'm calling
11 into question the certificate.

12 How counsel says I'm not is beyond me.
13 I think that's exactly what I'm saying and exactly
14 what we are doing here, and the document that they
15 propose it's just like saying discovery doesn't
16 matter, just do your trial binder, put in whatever
17 you want to put in, you never showed it to them
18 before, and then they have to argue next day about
19 it, because I only had 21 days.

20 Let's see what's in there in 21 days.
21 We have Memorial Day weekend, other trials that I'm
22 doing, so I'll get to this as soon as possible get

1 to it.

2 But what if they had given it to me
3 when they were suppose to, either back in February,
4 when I should have gotten it or even in April, and
5 they couldn't have given me enough time to do what I
6 did.

7 So them taking 21 days would have
8 gotten me to a month ago, so this is disingenuous
9 for counsel to put it on me when it's their mistake,
10 not mine.

11 Clearly I would venture to say they
12 never even imagined doing this until Sergeant
13 Sulikowski's dep, because we don't have to think --
14 you know, we are in a courtroom, you know, we can
15 use common sense.

16 His dep was May 3rd. They sat on his
17 deposition. When they realized he couldn't lay a
18 foundation for this, then on May 10th all of a
19 sudden Scott Morris' certification appears out of
20 nowhere. All of a sudden he reviews all these
21 documents in the same day.

22 So, yes, I call into question what he

1 did or didn't do, because I don't think he did it
2 and I think that because what you are doing here
3 today -- if this was a ticket, one citation, forget
4 it. I might argue it is what it is. This is my
5 client's license we are talking about.

6 So to say that they can stick this
7 document in now and then argue to you -- they really
8 haven't made a good argument why I can't depose him
9 because there's nothing in the rules saying I can't
10 depose him. He's not on the jury. He's not a
11 judge. He's not a member of the Commission. He is
12 the information person at the Commerce Commission.

13 Why can't I depose this gentleman if I
14 want to? Is there some kind of rule that says that
15 I can't depose Scott Morris or that if I give you a
16 certificate from him, you can't depose him? Of
17 course, I would depose the gentleman. I'm not going
18 to take for granted that what he's saying is
19 accurate or truthful. I want to depose him for
20 sure. Why wouldn't I? It's my client's license at
21 stake.

22 These are the only documents, this

1 whole book here. You see this big book. This much
2 of it is my client's documents. The only thing they
3 had through the discovery -- Judge, do you know what
4 documents they gave me in discovery? Ten pieces of
5 paper is all discovery, that's it, and maybe they
6 didn't have these in here. This is all new
7 documents after discovery was done, every single one
8 of them, not one of them was given to me in
9 discovery.

10 JUDGE KIRKLAND-MONTAQUE: Okay. I've got it.
11 I've got to cut this off. I'm going to rule that
12 these are self-authenticating public records, a
13 compilation of what we have, and what the Commerce
14 Commission has in its computer system. They stand
15 for what they are. You are able to cross-examine
16 whatever you like.

17 MR. PERL: Thank you, Judge.

18 JUDGE KIRKLAND-MONTAQUE: Let's move on.

19 MS. PARKER-OKOJIE: Thank you, your Honor.

20 Let the record reflect that I'm
21 showing opposing counsel again what's been marked as
22 Staff Exhibit B. These are Bates stamped Pages 1

1 through 43 --

2 MR. PERL: Thank you.

3 MS. PARKER-OKOJIE: -- and with attached
4 certification Pages 1 through 35.

5 Let the record reflect that I am
6 showing what's been marked as Staff Exhibit B to the
7 witness.

8 All right. At this time I move to
9 enter what's been marked as Staff Exhibit B into
10 evidence.

11 MR. PERL: Same objection, your Honor.

12 JUDGE KIRKLAND-MONTAQUE: Overruled; admitted.

13 (Whereupon, Staff Exhibit B
14 was previously marked for
15 identification.)

16 (Whereupon, Staff
17 Exhibit B was received
18 in evidence.)

19 MS. PARKER-OKOJIE: Q. Sergeant Sulikowski,
20 before I showed you what was marked as Staff Exhibit
21 J and you said that those were the 24-hour tow
22 sheets from Lincoln Towing that you reviewed on

1 April 28th, correct?

2 A. Yes.

3 Q. Can you take a moment and look through
4 what's been marked as Exhibit B.

5 Your Honor, if could I have one
6 moment. I need to switch out the copy of the
7 certification with Sergeant Sulikowski right now.
8 You have the original.

9 (A brief pause.)

10 Do you have a copy of the
11 certification with Sergeant Sulikowski right now.
12 You have the original. I just would show it to
13 counsel.

14 MR. PERL: Why not add some new stuff more
15 whatever you added today.

16 MS. PARKER-OKOJIE: It's not new. It's just got
17 the actual embossed stamp. I just want to provide
18 this and retrieve the copy that is just a copy.

19 MS. PARKER-OKOJIE: Q. Sergeant Sulikowski, have
20 you had an opportunity to review what's in front of
21 you as Staff Exhibit B?

22 A. Yes.

1 Q. Do you recognize that document?

2 A. Yes.

3 Q. What do you recognize it to be?

4 A. It is a printout from MCIS of the property
5 address contract listing.

6 MR. PERL: Objection; foundation. How does he
7 know it's a printout from MCIS?

8 MS. PARKER-OKOJIE: Your Honor, I have laid the
9 foundation several times that the ICC police use
10 MCIS and that specifically Sergeant Sulikowski uses
11 MCIS, in general, types in information and retrieve
12 information back when he's checking operators,
13 dispatchers, and addresses, and then I also asked
14 him, specifically in this case in this last line of
15 questioning, with respect to the tow sheets what he
16 did. He testified again that he types in
17 information to MCIS and got back information.

18 The rest of my questioning will show
19 that he understands that this is a representation of
20 the screen that he saw.

21 MR. PERL: Your Honor, he did not type in any
22 information to print these out himself ever.

1 There's no foundation. He doesn't know where these
2 documents came from. Clearly, he doesn't know that
3 this time they do. They need to lay a proper
4 foundation that he even knows where these documents
5 came from.

6 He might say -- what he said was what
7 he typically does. I supply go on MCIS and look up
8 information. He doesn't know what Scott Morris did.
9 He doesn't know that about a certification. This
10 witness hasn't testified to at all that he knows
11 where these documents came from, that they're from
12 MCIS. All they are are leading question saying
13 isn't this the document from MCIS. Yes.

14 How do you know that? There's no
15 foundation for it. She says isn't this from MCIS?
16 How does he lay a foundation for how he knows this
17 it is anything. Ask him if he even knows where it
18 came from.

19 JUDGE KIRKLAND-MONTAQUE: All right.

20 MS. PARKER-OKOJIE: To respond, your Honor, I did
21 ask him a non-leading question, which is what do you
22 recognize this and what do you recognize this to be,

1 and he explained what he recognized it to be.

2 I believe, again, on several occasions
3 he's testified that he gets information from MCIS in
4 a format that comes back to him.

5 JUDGE KIRKLAND-MONTAQUE: I know, but we are
6 talking about this piece of paper. We want to get
7 more information that he recognizes.

8 MS. PARKER-OKOJIE: Sure. I'm laying the
9 foundation now, your Honor, by asking him what is it
10 and does he recognize it, those are just
11 foundational questions.

12 JUDGE KIRKLAND-MONTAQUE: Go ahead with your
13 foundation questions.

14 MS. PARKER-OKOJIE: Okay. Thank you.

15 MS. PARKER-OKOJIE: Q. Again, Sergeant
16 Sulikowski, what do you recognize this to be?

17 A. A printout of MCIS, the contract property
18 page.

19 MR. PERL: Objection; foundation. This witness
20 hasn't testified that he even knows. To say it is
21 one thing, he's got to lay the foundation for how he
22 knows that.

1 JUDGE KIRKLAND-MONTAQUE: Is that the next
2 question?

3 MS. PARKER-OKOJIE: It is, your Honor.

4 MR. PERL: Go ahead.

5 MS. PARKER-OKOJIE: Q. Sergeant Sulikowski, how
6 do you know that this is a printout from MCIS?

7 A. Because it says it is.

8 MR. PERL: There you go, Judge, and it must be,
9 so he just laid the foundation, because it says it
10 is, your Honor. I apologize for being flippant, but
11 that's not foundational, it says it is.

12 JUDGE KIRKLAND-MONTAQUE: Okay. He's right.

13 MS. PARKER-OKOJIE: Your Honor, just to kind of
14 separate the issues, one exhibit is already in
15 evidence.

16 So Sergeant Sulikowski does not need
17 to lay a foundation for what this exhibit is. It's
18 already been admitted as a public record, so if
19 that's the line of counsel's objection, then I just
20 don't know why he's continuing to make that.

21 If he's talking about Sergeant
22 Sulikowski's knowledge about what is, I'm laying the

1 foundation for that. I don't know how I can do that
2 if counsel continues to object to the foundational
3 question.

4 MR. PERL: I have to object, because the
5 document, although it's in evidence, you still have
6 to lay a foundation for this witness' knowledge
7 about it. Just because it's in evidence, you could
8 pull someone off the street and say -- you have to
9 lay a foundation.

10 Why do I have to rewrite the book on
11 trials and evidence here. Just lay a foundation, if
12 you can, which you can't for this witness, but try.

13 MS. PARKER-OKOJIE: Your Honor, as far as
14 Sergeant Sulikowski's knowledge about MCIS, I
15 believe that an adequate foundation has been laid.
16 He said that he has used it, that he's familiar with
17 it, that he uses it in his investigation. The
18 police use it. In terms of does he know what MCIS
19 looks like, I don't think that that's in question
20 right now.

21 JUDGE KIRKLAND-MONTAQUE: The question is whether
22 this paper represents what's on MCIS.

1 MS. PARKER-OKOJIE: Certainly. If I can't even
2 ask him how he knows what it is, then I don't know
3 how I'm suppose to ask him that.

4 JUDGE KIRKLAND-MONTAQUE: Go ahead. I will hold
5 my ruling until I hear more foundation.

6 MR. PERL: Well, she asked him.

7 JUDGE KIRKLAND-MONTAQUE: Let's go to the next
8 question, see if we get any further.

9 MS. PARKER-OKOJIE: Q. Officer -- I'm sorry --
10 Sergeant Sulikowski, when you reviewed MCIS on
11 April 28, 2017, did you type information into MCIS?

12 A. Yes.

13 Q. And did a screen come up?

14 A. Yes.

15 Q. Can you explain what that screen looked
16 like?

17 MR. PERL: Objection; hearsay. He can't describe
18 a screen. It's not in court. It's hearsay. That's
19 hearsay for certain. I can't cross-examine. I
20 can't see the screen. He going to tell you it's an
21 out-of-court statement. It's no different than a
22 statement. He's going to now describe to you what

1 the screen looks like. I can't cross-examine it. I
2 can't verify it. I can't authenticate it. This is
3 getting to the point where --

4 JUDGE KIRKLAND-MONTAQUE: What appears on the
5 screen?

6 MR. PERL: That's hearsay. He's going to tell
7 you what he saw, without having it in court today,
8 without me being able to look at that computer. He
9 could say anything. I mean, it's not the wild west.
10 You have got to have something. I do have to be
11 able to cross-examine and see something.

12 First of all, the witness has heard
13 all of our arguments, so he knows what they think
14 this is, so he clearly has that in his mind, and to
15 say to him did you look at a screen, and the next
16 question is this what was on the screen, oh, yes.

17 First of all, I would like to
18 authenticate to see if it's hearsay. I have got to
19 see the screen. He should show you the screen he
20 looked at so he remembers. It isn't just -- I guess
21 it is what it is, Judge. The documents are already
22 in. They still have to lay a foundation for them

1 with this witness and his knowledge, and I think
2 it's improper for him to testify as to what he saw
3 on a screen that's not here in court today. This
4 document is here. That's different. The screen
5 isn't.

6 JUDGE KIRKLAND-MONTAQUE: Okay.

7 Ms. Parker-Okojie, can you just stick to the
8 evidence that's been admitted.

9 MS. PARKER-OKOJIE: I'll ask him.

10 MR. PERL: I'm sorry. This is not what the
11 screen looks like at all.

12 JUDGE KIRKLAND-MONTAQUE: So go ahead,
13 Ms. Parker-Okojie.

14 MS. PARKER-OKOJIE: All I asked Sergeant
15 Suilkowski was what did the screen show. That was
16 all I asked. There was no statement elicited by
17 that. I just said what did this screen show when
18 you looked at the screen at MCIS.

19 I don't know how asking him what the
20 screen looked like is eliciting hearsay. How a
21 screen appears, I didn't ask him, you know, tell me
22 the statement on the screen. I said what did the

1 screen look like.

2 MR. PERL: Well, if the question is what color
3 was it, what size was it, I don't have an objection.
4 If you want to elicit the information on there, I
5 have an objection, so I have no objection to what
6 color it was, how big it was, and if it was square
7 or circle, that's fine, but if you are asking about
8 like counsel, I'm not asking about statements on
9 there, then don't. Don't ask him what's the screen
10 and I'm okay with that.

11 JUDGE KIRKLAND-MONTAQUE: Ms. Parker-Okojie,
12 where are you trying to go? Help me out. What's
13 your --

14 MS. PARKER-OKOJIE: Sure, your Honor.

15 JUDGE KIRKLAND-MONTAQUE: What's the point you
16 are trying to make?

17 MS. PARKER-OKOJIE: Your Honor, I think what the
18 finder of fact, such as yourself, wants to know is
19 did Sergeant Sulikowski know what's in MCIS, does he
20 recognize MCIS, because he used it, and what did he
21 find and what conclusions did he make when he was
22 reviewing the tow sheet.

1 We don't obviously have the computer
2 here today. That is why we produced these documents
3 to counsel for him to cross-examine Sergeant
4 Sulikowski. These documents are now in evidence.
5 These are representations just as an offer of proof
6 of, your Honor, what Sergeant Sulikowski saw on the
7 screen.

8 MR. PERL: So hold on. Time out as they say.
9 Are they offering these documents for being truthful
10 of what they are or as a representation on the
11 screen or is what his memory was from the screen?
12 Now I'm a little bit confused.

13 Now counsel's saying she really just
14 wants you to go by what his memory was from the
15 screen and not these documents, so am I hearing it
16 correctly that Sergeant Sulikowski is to testify
17 from his memory on a thousand documents of what he
18 saw on the screen?

19 MS. PARKER-OKOJIE: No.

20 JUDGE KIRKLAND-MONTAQUE: Are you trying to
21 establish, okay, that the officer looked at the
22 screen, looked at MCIS based on the 24-hour --

1 24-hour logs, which you had highlighted, and so he
2 would have been looking at highlighted information,
3 input that information into MCIS, and this Exhibit B
4 is what he would see when he input that information?

5 MS. PARKER-OKOJIE: That's correct, your Honor.

6 MR. PERL: Now I guess I'm kind of lost, so is he
7 going to be able to testify in open court as to what
8 he saw on the screen without the screen being
9 present without his introducing it into evidence?
10 And even worse, your Honor, in all my depositions
11 with all the officers, I asked them are you going to
12 use any documentation or evidence at the hearing,
13 and they said no, clearly no. He didn't say, yes,
14 I'm going to testify as to what I saw on the screen.
15 Never.

16 I asked him these questions over and
17 over and over again, and the answer every time
18 overwhelmingly was no, no, no, including these
19 documents, so these are documents and they're in
20 evidence, trying to bootstrap that to his memory of
21 something he saw on the screen, which, by the way,
22 if you look at the screen right now, it doesn't look

1 like this. There's no screen like this on MCIS.

2 They want you to believe there is, but there

3 actually isn't.

4 MS. PARKER-OKOJIE: I don't know if counsel can

5 testify to that.

6 MR. PERL: We have the screen here. Open it up.

7 Let's see if it looks just like this, because it

8 doesn't.

9 When you print information, it comes

10 out differently from the screen. Whether that's

11 relevant or not, I think it's incredible that, you

12 know, we try to figure out what day it is and

13 counsel's already arguing what the weather is.

14 I mean, clearly this witness doesn't

15 have the foundation to testify to anything on these

16 documents, whether they're in evidence or not. You

17 know, you can put a document in evidence but it

18 doesn't talk. Somebody's got to talk about the

19 document.

20 So now they want to use Sergeant

21 Sulikowski to speak to you about this, because these

22 documents in evidence don't help the trier of fact

1 at all. You actually have to have somebody to talk
2 about them and interpret them.

3 JUDGE KIRKLAND-MONTAQUE: I have to get more
4 questions from Ms. Parker to try to put it together.
5 Go ahead.

6 MS. PARKER-OKOJIE: Certainly, your Honor.

7 MS. PARKER-OKOJIE: Q. Sergeant Sulikowski,
8 let's actually backup. If you would take a look at
9 Exhibit J. Can you take a look at that page,
10 please.

11 A. Okay.

12 Q. You said that you recognize that to be the
13 24-hour tow sheets from Lincoln that you reviewed,
14 correct --

15 A. Yes.

16 Q. -- on April 28th?

17 Can you turn to Page 2.

18 A. Okay.

19 Q. On Page 2 do you see the address
20 111 South Halsted?

21 A. Yes.

22 Q. Okay. Now Sergeant Sulikowski, if that were

1 one of the highlighted addresses, what is the next
2 step that you would have taken?

3 MR. PERL: Objection; leading.

4 MS. PARKER-OKOJIE: I asked him what the next
5 step is that he would have taken after seeing the
6 highlighted address.

7 MR. PERL: Assuming that this is the only
8 highlighted address.

9 JUDGE KIRKLAND-MONTAQUE: Assuming what?

10 MR. PERL: And I would say an improbable
11 hypothetical, not relevant.

12 MS. PARKER-OKOJIE: I'm just trying to get at
13 your area that you want us to discuss with Sergeant
14 Sulikowski, which is how did he know or how could he
15 make the connection between information on MCIS and
16 the tow sheets, so I'm asking him about one specific
17 address, and I'm going to follow-up with questions
18 about what he would have done.

19 JUDGE KIRKLAND-MONTAQUE: Why not ask what he
20 did.

21 MS. PARKER-OKOJIE: Okay. I can do that.

22 MS. PARKER-OKOJIE: Q. Sergeant Sulikowski, did

1 you look up 111 South Halsted on April 28, 2017?

2 A. I don't recall.

3 Q. I ask you to look at what's been marked as
4 Exhibit B.

5 JUDGE KIRKLAND-MONTAQUE: What exhibit?

6 MS. PARKER-OKOJIE: Exhibit B.

7 JUDGE KIRKLAND-MONTAQUE: Okay.

8 MS. PARKER-OKOJIE: Q. Do you recognize the
9 format of the information on this page?

10 A. Yes.

11 Q. What do you recognize it to be?

12 A. Information from the MCIS program regarding
13 a property address contract listing.

14 Q. And I'm referring to Exhibit 1 of Exhibit B.
15 How do you recognize this as a printout from MCIS?

16 A. Because I recognize the format.

17 Q. And what type of inquiry into MCIS would
18 result in this format?

19 MR. PERL: Objection. Again, posing a
20 hypothetical. Why can't she just ask this witness
21 what he did. It's an improper hypothetical. Every
22 time it's what would this be, what would it be, what

1 would you do.

2 JUDGE KIRKLAND-MONTAQUE: Just keep it to the
3 actual Exhibit J and you need Exhibit J and B.

4 MS. PARKER-OKOJIE: Sure, your Honor. I was
5 asking about Page 1 of Exhibit B.

6 MS. PARKER-OKOJIE: Q. Sergeant Sulikowski, on
7 this exhibit, Page 1, do you see where it says
8 111 South Halsted Street, Chicago?

9 A. Yes.

10 Q. As a printout from MCIS, what does this tell
11 you about 111 South Halsted Street in Chicago?

12 A. It tells me first off, because it comes up
13 in the system, that a contract by a relocater is
14 entered.

15 MR. PERL: Objection as to foundation. This
16 witness hasn't testified that he knows who entered
17 the documents, when they're entered, how they're
18 entered. All he knows is that he opens up a screen
19 and he sees information on it. He has no foundation
20 at all for the fact he knows how it got there, when
21 it got there, who put it there, period, and that's
22 the problem I have with this document.

1 He can say if he looked at the screen
2 and what it says, but he can't interpret it until
3 they lay a foundation for how he would know that.

4 MS. PARKER-OKOJIE: Your Honor, we believe the
5 foundation has been laid through explaining that in
6 maybe three different circumstances, both general
7 and specific, how Officer Sulikowski and how the ICC
8 believes use MCIS.

9 He is not even allowed to testify as
10 to what is on this document, which is already in
11 evidence. I just don't know what more counsel could
12 be looking for in terms of a foundation.

13 EXAMINATION

14 BY

15 JUDGE KIRKLAND-MONTAQUE:

16 Q. Officer -- I'm sorry -- Sergeant Sulikowski,
17 have you ever printed out yourself a screen shot on
18 MCIS?

19 A. Yes.

20 Q. And did it look -- I mean, does it print out
21 the same type of information that's on this?

22 A. It prints the same information, but there

1 are actually two ways that one can obtain this at
2 MCIS. The way I usually do it and view it or take a
3 screen shot is from a different method. This
4 document was printed from a report version in MCIS.

5 Q. Okay. Have you printed a report from --

6 A. No, ma'am.

7 Q. -- MCIS?

8 All right. Go ahead, please.

9 MS. PARKER-OKOJIE: Thank you, your Honor.

10 MS. PARKER-OKOJIE: Q. Officer Sulikowski, to
11 use the report on MCIS, do you have to print a
12 report out?

13 A. No.

14 Q. What happens when you use the report version
15 in MCIS?

16 A. It actually saves a step when entering large
17 quantities of addresses.

18 Q. How does it save a step?

19 A. When you are in the other version, you have
20 to actually enter the city, the county, the address,
21 the street, and I believe this way it actually saves
22 one less step and not -- it's not requiring you to

1 enter the county.

2 Q. Have you ever generated a report in MCIS
3 without printing it out? I can rephrase that.

4 Have you ever looked at a screen in
5 the report version of MCIS?

6 A. Yes.

7 Q. And does Page 1 of Exhibit B is that what a
8 page in the report version of MCIS looks like?

9 MR. PERL: Objection to the form of the question.
10 Again, counsel still doesn't ask the question is
11 that what this looks like. It's always a report or
12 some hypothetical question I think is improper.

13 Again, we are talking about relevant
14 time periods and specific things here and getting
15 way off track, so I object to the form of the
16 question. I still don't think a proper foundation
17 was laid and the witness already testified he never
18 printed a record like this.

19 MS. PARKER-OKOJIE: I said Page 1, your Honor, so
20 I'm referring to Page 1 of Exhibit B in my question.

21 MR. PERL: The question was anything like this.

22 JUDGE KIRKLAND-MONTAQUE: Okay. Repeat the

1 question, Ms. Reporter.

2 (Question read by reporter.)

3 MR. PERL: My objection is that what a report
4 looks like as opposed to what this looks like.

5 MS. PARKER-OKOJIE: I will rephrase, your Honor.

6 MS. PARKER-OKOJIE: Q. Officer Sulikowski, is
7 Page 1 of Exhibit B a printout of the report version
8 of MCIS for an inquiry about 111 South Halsted
9 Street?

10 A. Yes.

11 Q. And looking at the report view of the
12 printout from MCIS of the report version -- I'm
13 sorry -- the report version of MCIS for inquiry on
14 111 South Halsted Street, does this show you
15 anything as a law enforcement officer for the ICC
16 police?

17 A. Yes.

18 Q. What does it show you?

19 A. It shows me the address. It shows me the
20 type of contract, whether it's patrol or call. It
21 shows me which relocator has this contract. It
22 shows the property owner's name. It shows his phone

1 number. It shows when the contract was received to
2 our system and when it was entered. It also would
3 show if it was cancelled, but this one has not been
4 cancelled.

5 Q. So in this particular page, Page 1 of
6 Exhibit B, with respect to received and entered,
7 when you say it shows when the contract was received
8 and entered, what date does MCIS reflect of the
9 contract on 111 South Halsted when it was received
10 and entered?

11 A. April 3rd of 2016.

12 Q. And who was the relocater that had the
13 contract on this lot?

14 MR. PERL: Objection; foundation. The witness
15 can testify to what it says on here, but there's no
16 foundation stated that he knows who it was based on
17 independent knowledge of his own.

18 MS. PARKER-OKOJIE: Q. According to Page 1 --
19 I'll rephrase.

20 According to Page 1 of Exhibit B,
21 Sergeant Sulikowski, which relocater does MCIS show
22 to hold a contract on the lot at 111 South Halsted?

1 A. Protective Parking Service.

2 Q. And what type of contract does it show that
3 Protective Parking Service holds?

4 A. A patrol.

5 Q. What is the patrol contract?

6 A. A patrol contract means that the relocater
7 can patrol that lot on his own versus a call lot
8 where the property owner or his designee will
9 specifically call to have a vehicle removed.

10 Q. And does anything on Page 1 of Exhibit B
11 show you who the authorized caller or the owner of
12 (that property at 111 South Halsted would be?

13 A. Well, the owner is listed as Teddy Barrick
14 (phonetic), but, you would need to go to the actual
15 contract that was signed between him and Lincoln
16 Towing to see if he had any authorized callers
17 listed on that contract.

18 Q. So then I'll refer to what's been marked as
19 Staff Exhibit J, the 24-hour tow sheet, and if you
20 will turn again to Page 2.

21 A. Okay.

22 Q. On Page 2 is there a reflection of what date

1 the tows on Page 2 took place?

2 A. July 24th of 2015.

3 Q. Now you said that the contract on 111 South
4 Halsted Street was reflected in MCIS as received on
5 April 3rd 2016, correct?

6 A. Yes.

7 Q. So in reviewing this record for 111 South
8 Halsted, both on the 24-hour tow sheet and the MCIS
9 printout, Exhibit B, Page 1, do you make any
10 conclusions based on seeing the address listed on
11 the tow sheet and then the way that the information
12 is reflected in MCIS?

13 A. Yes, that there was not a contract entered
14 on July 24th of 2015 when this tow was conducted.

15 MR. PERL: Objection; foundation. This witness
16 has no foundational -- can't testify as to when the
17 contract was entered. He can testify what the
18 document says, but he has no foundation as to
19 testify when the contract was entered, unless they
20 can show that he somehow knows.

21 JUDGE KIRKLAND-MONTAQUE: What's your answer?

22 I'm sorry. What did you say?

1 THE WITNESS: I'm sorry. Could I have the
2 reporter please read the answer back.

3 (Answer read by reporter.)

4 MR. PERL: I renew my objection; lack of
5 foundation. This witness has not testified that he
6 knows who enters them, how they enter them, when
7 they enter them, only what the document says.

8 JUDGE KIRKLAND-MONTAQUE: Sustained.

9 MS. PARKER-OKOJIE: Thank you, your Honor.

10 MS. PARKER-OKOJIE: Q. Officer -- I'm sorry.
11 Sergeant Sulikowski, looking at Page 1 of Exhibit B,
12 I'm on Page 2 of Exhibit J, you said that MCIS shows
13 that the contract was received and entered into MCIS
14 on April 3rd of 2016, correct?

15 A. Yes.

16 Q. Do you know who enters contracts into MCIS
17 or do you know -- I'll rephrase.

18 Do you know how contracts are entered
19 into MCIS?

20 A. Not specifically.

21 Q. Do you know where the information in MCIS
22 comes from?

1 A. It depends what information I'm looking at.

2 Q. Sure. Does it state that a contract is
3 entered -- do you know where that information comes
4 from?

5 A. Comes from the relocator.

6 Q. And how is the relocator -- do you know if
7 there's a way that they interface with MCIS, how
8 does that happen?

9 MR. PERL: Objection; foundation. Again, the
10 fact that the witness testified where it comes from
11 and hasn't laid a foundation for how he would know
12 that is objectionable.

13 I think my objection leads back to
14 foundation. He doesn't have the supporting
15 documentation to state that he knows what's on this
16 document, that he hasn't testified to anything else
17 that he knows.

18 JUDGE KIRKLAND-MONTAQUE: That's the question.
19 Does you know how this works. That's what we are
20 trying to see if he knows or not.

21 MS. PARKER-OKOJIE: And, your Honor, he did say
22 that the information comes from the relocator. I'm

1 just trying to ascertain how he knows that.

2 JUDGE KIRKLAND-MONTAQUE: Okay. Go ahead. I'm
3 going to allow the question.

4 MS. PARKER-OKOJIE: Q. Sergeant Sulikowski, how
5 do you know the information comes from the relocater
6 in terms of when a contract is received or entered
7 by them -- by the Illinois Commerce Commission?

8 A. Okay. Let me start -- this is not part of
9 my job function, data entry and entering contracts.
10 I believe that all this information comes from the
11 relocater inputting it.

12 Q. What leads you to that belief?

13 A. Talk around the office between the office
14 staff.

15 MR. PERL: Objection; hearsay.

16 JUDGE KIRKLAND-MONTAQUE: What led you to
17 believe?

18 MR. PERL: He's literally saying from talk around
19 the office. I don't know how much hearsay you can
20 get.

21 MS. PARKER-OKOJIE: Just what his belief is
22 formed on, your Honor. We are not offering any talk

1 around the office.

2 MR. PERL: Well, if they're saying it's not for
3 the truth of the matter, that's fine, so that the
4 talk and the testifying doesn't go to the truth of
5 the matter asserted.

6 MS. PARKER-OKOJIE: Your Honor, we are just
7 trying to establish Sergeant Sulikowski's beliefs.

8 MR. PERL: How about doing it without hearsay
9 maybe.

10 JUDGE KIRKLAND-MONTAQUE: We will give that a
11 try. Go ahead, Ms. Parker-Okojie.

12 MS. PARKER-OKOJIE: Q. Sergeant Suilkowski, are
13 you familiar with a program called E-Relocator.

14 A. No.

15 Q. Have you ever heard of it?

16 A. Yes.

17 Q. In what context have you heard of it?

18 A. Other office staff members have referred to
19 it.

20 MR. PERL: Objection. Objection; hearsay. He's
21 still talking about -- I know this is not a big
22 factor issue, but --

1 MS. PARKER-OKOJIE: Your Honor, there's no
2 statement being offered. He just said other office
3 staff --

4 JUDGE KIRKLAND-MONTAQUE: Overruled.

5 MS. PARKER-OKOJIE: -- mentioned.

6 JUDGE KIRKLAND-MONTAQUE: Go ahead.

7 MS. PARKER-OKOJIE: Q. So do you use
8 E-Relocator?

9 A. No.

10 Q. Do you know what E-Relocator does?

11 A. Not specifically.

12 Q. Do you have an idea of what E-Relocator
13 does?

14 MR. PERL: Your Honor, the witness has answered
15 he doesn't know. To ask him --

16 MS. PARKER-OKOJIE: He said not specifically.
17 I'm sorry for interrupting you, Counsel.

18 MR. PERL: And it's leading also. She's trying
19 to lead him to answer the question.

20 JUDGE KIRKLAND-MONTAQUE: He said no.

21 MS. PARKER-OKOJIE: And I apologize for
22 interrupting counsel. The witness' answer was not

1 specifically. He doesn't know specifically what it
2 does, so I'm trying to determine if he knows in
3 general, does he know what it does.

4 JUDGE KIRKLAND-MONTAQUE: Okay.

5 MR. PERL: Maybe ask him that question.

6 MS. PARKER-OKOJIE: That was based on his answer
7 not specifically, your Honor. I'm trying to get
8 there.

9 JUDGE KIRKLAND-MONTAQUE: Okay. Get there,
10 please.

11 MS. PARKER-OKOJIE: Sure.

12 MS. PARKER-OKOJIE: Q. Generally, Sergeant
13 Sulikowski, do you know what E-Relocator is used
14 for.

15 A. Yes.

16 Q. What is it used for generally?

17 A. It's used by the relocator. Somehow it's
18 tied to the postal addresses system, and when a
19 contract is taken between a property owner and the
20 relocater, the relocater then goes into E-Relocator
21 to enter this proper address and it has to be exact
22 as to what the postal address listed as or the

1 system will not take it.

2 MR. PERL: Objection as to foundation.

3 MS. PARKER-OKOJIE: He just said what he knows.

4 MR. PERL: Well, he's testifying almost as an
5 expert regarding what the system shows without
6 laying foundation how he possibly knows that.

7 MS. PARKER-OKOJIE: We take that as a complement,
8 your Honor, to be testifying as an expert.

9 MR. PERL: He's trying to testify as an expert.
10 That's really a complement, but he isn't an expert,
11 because he told you he's never done any of this
12 before, so how can they lay a foundation --

13 JUDGE KIRKLAND-MONTAQUE: What was the question
14 that you asked?

15 MS. PARKER-OKOJIE: I think we can have it read
16 back. I formulated it differently, your Honor.

17 (Question read by reporter.)

18 JUDGE KIRKLAND-MONTAQUE: I am going to overrule
19 the objection. Go ahead.

20 MS. PARKER-OKOJIE: I think he is just testifying
21 to what he knows right now, your Honor, and the
22 depth of that knowledge can be probed on

1 cross-examination.

2 JUDGE KIRKLAND-MONTAQUE: Go ahead.

3 MS. PARKER-OKOJIE: Q. Sergeant Sulikowski, I
4 want to ask you about contracts, contracts that are
5 particularly on properties for relocation towing.

6 Does the ICC, to your knowledge,
7 generate contracts for relocators.

8 A. No.

9 Q. How would the Illinois Commerce Commission
10 get information about a relocater's contract on a
11 property?

12 MR. PERL: Objection; foundation. Again, these
13 are hypotheticals. I mean, doesn't a witness have
14 to testify that he would know that other than
15 guessing, like if you have a witness that's going to
16 testify, don't you first lay foundational questions
17 how you know that, is that part of your job
18 description, or do you just get to ask someone and
19 they just give you an answer.

20 I know I can cross-examine him. Still
21 you can lay a foundation for the information you are
22 giving at trial.

1 MS. PARKER-OKOJIE: Your Honor, my specific
2 question was how does he know. I mean, even if we
3 had it read back, counsel --

4 JUDGE KIRKLAND-MONTAQUE: Overrule.

5 MS. PARKER-OKOJIE: I didn't just think this --

6 JUDGE KIRKLAND-MONTAQUE: Go ahead.

7 MS. PARKER-OKOJIE: Q. Officer Sulikowski, how
8 do you know how the information -- how do you know
9 that relocators sends information to the ICC
10 regarding their contracts?

11 A. Can you rephrase your question, please.

12 Q. Sure. You said that -- you earlier said
13 that you know that relocators send information to
14 the ICC regarding their contracts, right?

15 A. Yes.

16 Q. And I'm just asking how you know that?

17 A. Because other office staff members have
18 stated that.

19 MR. PERL: Objection. Objection. Hearsay. This
20 is the problem with this whole line of questioning.
21 He's testifying as to what other people have told
22 him, and that's hearsay. He's not an expert. It's

1 not his area, and they're trying to again a square
2 peg into the round hole. Let me see I can do that
3 twenty different ways with the witness who does not
4 know anything about how it's done. I move to strike
5 it. It's hearsay.

6 MS. PARKER-OKOJIE: He's just saying the basis
7 for his knowledge. Again, your Honor, under
8 administrative rules --

9 MR. PERL: Hearsay.

10 MS. PARKER-OKOJIE: -- something that would
11 automatically be introduced can be introduced if
12 it's something that is reasonably relied upon by a
13 prudent person in the conduct of their business, and
14 I think I can set the rule for you.

15 JUDGE KIRKLAND-MONTAQUE: I know the rule, but
16 that rule I don't think is intended to be a catchall
17 for hearsay.

18 MS. PARKER-OKOJIE: No, your Honor. We are not
19 offering it for the truth of the matter. We are
20 offering it to show how Sergeant Sulikowski knows or
21 doesn't know what he knows about E-Relocator.

22 MR. PERL: So almost every time I argue hearsay,

1 staff says it's not for the truth of the matter
2 asserted, so if that's the case, then they can do
3 whatever they want to do as long as it doesn't go to
4 the truth of the matter asserted what they're doing
5 today.

6 If it's just like general knowledge,
7 great, but it isn't. They want to tie it altogether
8 to prove that my client did or didn't do something,
9 and that's called proving the truth of the matter
10 asserted here; otherwise, why ask the question. It
11 doesn't tie into what they're doing today and it
12 wouldn't be relevant, then I would argue it's not
13 relevant.

14 Judge, this witness doesn't have any
15 specific knowledge of any of these answers, other
16 than what someone else might have told him, and
17 that's clearly hearsay.

18 Every time I'm here for some reason
19 they believe hearsay doesn't exist. They just say,
20 well, there's exceptions because we want to get it
21 into evidence today.

22 It just doesn't make sense. Bring the

1 people in that know. He doesn't know. It's clear
2 he doesn't know. Why are we painfully going through
3 this process.

4 Like in the deposition when Sergeant
5 Sulikowski knows about writing citations and what
6 he does in his job, he doesn't know about MCIS.
7 It's clear.

8 Anything he's going to testify to is
9 going to be hearsay and inadmissible anyway and they
10 don't lay a foundation for it, so the document's in
11 over my objection, but he can't lay a foundation for
12 anything on there, because he doesn't know anything
13 about it, even just because he looks at a screen and
14 is familiar with it doesn't mean he's the person to
15 lay a foundation for any information on the
16 document, and he isn't.

17 MR. PERL: Your Honor, we don't need to lay a
18 foundation. It's in evidence. That's not what I'm
19 doing in this line of questioning. The document is
20 in evidence, so we don't need to prove that the
21 document is not hearsay or anything to that matter.
22 We're asking Sergeant Sulikowski to testify to what

1 he did.

2 In terms of E-Relocator and his
3 knowledge of that, I'm attempting to get there on
4 foundation for the E-Relocator, but in terms of
5 MCIS, I don't think there's a question as to whether
6 he has familiarity with MCIS. He testifies he
7 recognizes this to be a printout of the report
8 version of MCIS.

9 I can move a little more quickly to
10 the heart of the matter --

11 JUDGE KIRKLAND-MONTAQUE: Could you, please.

12 MS. PARKER-OKOJIE: -- in terms of the substance.

13 MR. PERL: If, in fact, he's already said it's
14 what someone else told him, now he can't tell you
15 what he knows because that's hearsay. That clearly
16 is.

17 JUDGE KIRKLAND-MONTAQUE: I agree with you. Go
18 ahead.

19 MS. PARKER-OKOJIE: In term of the E-Relocator,
20 your Honor. But in terms of MCIS, Sergeant
21 Sulikowski has testified that he knows what it is
22 and that he uses it.

1 JUDGE KIRKLAND-MONTAQUE: No, his point was I
2 don't want to hear specifics about what someone told
3 him.

4 MR. PERL: That's hearsay. That's the basis for
5 his knowledge, so now he can't testify to it,
6 because now it hearsay.

7 The next question is what is it, then
8 my response is hearsay because he just told you
9 everything he's going to be testifying to is
10 hearsay.

11 JUDGE KIRKLAND-MONTAQUE: All I'm saying is I
12 don't want to hear any specifics about what anybody
13 told him. Your questioning should avoid that.

14 MS. PARKER-OKOJIE: Yes, your Honor.

15 MR. PERL: Counsel doesn't specifically ask the
16 question. It's still coming from hearsay.

17 If I say to you what was the score of
18 the ballgame last night, and you only know because
19 John told you, and you say, well, I know because
20 John told me, the question is from counsel, well,
21 what's the score of the game, she's not asking you
22 what he told you, but still we all know he just said

1 he only knows because someone told him, and that's
2 hearsay.

3 JUDGE KIRKLAND-MONTAQUE: Just stick to what he
4 knows.

5 MS. PARKER-OKOJIE: I will.

6 MS. PARKER-OKOJIE: Q. Sergeant Sulikowski, turn
7 to Page 47 of Exhibiit J.

8 A. Okay.

9 Q. On Page 4 even over Exhibit J, do you see
10 the address 111 South Halsted Street?

11 A. Yes.

12 Q. And what date is reflected on Page 47 of
13 Exhibit J?

14 A. 8-28 of 15.

15 Q. Sergeant Sulikowski, can you turn to Page
16 135 of Exhibit J.

17 JUDGE KIRKLAND-MONTAQUE: What page?

18 MS. PARKER-OKOJIE: 135, your Honor.

19 THE WITNESS: Okay.

20 MS. PARKER-OKOJIE: Q. And do you see 111 South
21 Halsted Street on Page 135?

22 A. Yes

1 Q. What date is on Page 135 of Exhibit J?

2 A. 11-14-15.

3 Q. Can you turn over to Page 136 of Exhibit J,
4 Sergeant Sulikowski.

5 A. Okay.

6 Q. Do you see the address 111 South Halsted
7 Street on Page 137 of Exhibit J?

8 A. Yes.

9 Q. And what date is on Page 137?

10 A. It appears to be 11-14 of 15.

11 Q. Can you turn to Page 144 of Exhibit J,
12 Sergeant Sulikowski. And when you get there, do you
13 see 111 South Halstead Street on Page 144?

14 A. Yes.

15 Q. And what day is reflect on Page 144 of
16 Exhibit J?

17 A. 11-20 of 15.

18 Q. And how many times does 111 South Halsted
19 Street appear on Page 144 of Exhibit J?

20 A. Twice.

21 Q. Can you turn to Page 145 of Exhibit J,
22 Sergeant Sulikowski.

1 A. Okay.

2 Q. And what date is reflected on Page 145?

3 A. 11-21 of 15.

4 Q. And, finally, Sergeant Sulikowski, I'm going
5 to ask you to turn to Page 146 of Exhibit J.

6 A. Okay.

7 Q. And what date is reflected on Page 146?

8 A. 11-21 of 15.

9 Q. I want to ask you to go back to Page 145 for
10 one second. Do you see 111 South Halsted Street on
11 Page 145?

12 A. Yes.

13 Q. Do you see -- I'm sorry strike that.

14 So based on looking at the tow logs on
15 April 28th, did you see 111 South Halsted Street on
16 the pages in question?

17 A. Yes.

18 Q. Can you then type in 111 South Halsted
19 Street into MCIS report version?

20 A. Yes.

21 Q. Do you recall making a conclusion as to
22 whether -- I'm sorry. Do you recall making a

1 conclusion as to the contract status of 111 South
2 Halsted Street?

3 A. Yes.

4 Q. What conclusion was that?

5 A. That there was not a contract on file until
6 April 3rd of 2016.

7 Q. So were the tows that happened in August and
8 November of 2015, according to MCIS, would those
9 have been tows that occurred when there was a
10 contract on file?

11 A. No, there was not a contract on file.

12 Q. Is that according to MCIS?

13 A. Correct.

14 MR. PERL: Same objection as to foundation, your
15 Honor, that he knows nothing what was on the screen
16 whether or not -- whether or not there was a
17 contract on file with MCIS.

18 This witness has not shown through any
19 foundation that he can tell you what was or wasn't
20 done with MCIS, other than what he saw on the
21 screen.

22 So if the question is was there a

1 contract filed, my objection is foundation. If the
2 question is did you see one on the screen or not, he
3 can answer the question.

4 MS. PARKER-OKOJIE: The final question I asked,
5 your Honor, was according to MCIS, was there a
6 contract on file, and the answer was no.

7 MR. PERL: Same objection. He doesn't know
8 anything. According to MCIS, he knows what he sees
9 on the screen. There's no one from MCIS here to
10 testify. It's just him saying what he saw on the
11 screen, maybe there was a contract filed. How would
12 he know that? He would just know what he saw on the
13 screen.

14 JUDGE KIRKLAND-MONTAQUE: And you are asking
15 according to the report. You are not asking that?

16 MS. PARKER-OKOJIE: No, I am asking that. I said
17 according to MCIS -- according to the MCIS report
18 for now is there -- I can ask him that.

19 MS. PARKER-OKOJIE: Q. According to the MCIS
20 printout, Sergeant Sulikowski, is there a contract
21 on file for the tows that occurred in August and
22 November of 2015?

1 A. No.

2 Q. Sergeant Sulikowski, I ask you to turn to
3 Page 122 of Exhibit J.

4 A. Okay.

5 Q. Sergeant Sulikowski, is this one of the
6 pages again that you reviewed when you reviewed the
7 tow sheets for Lincoln Towing by April 28, 2017?

8 A. Yes.

9 Q. Do you see the address 225 North Columbus on
10 that page?

11 A. Yes.

12 Q. Now, Sergeant Sulikowski, ask you to turn to
13 Page 2 of Exhibit B.

14 A. Okay.

15 Q. Do you recognize this?

16 A. Yes.

17 Q. What do you recognize it to be?

18 A. A printout version of the report screen on
19 MCIS.

20 Q. What address is this printout for?

21 A. 225 North Columbus Drive in Chicago.

22 Q. Do you recall accessing MCIS to check the

1 address at 225 North Columbus on April 28th, 2017?

2 A. Yes.

3 Q. Now just referring back to what's marked
4 here as Page 2 of Exhibit B, can you go through and
5 explain what, if anything, this means to you as a
6 law enforcement officer of the Illinois Commerce
7 Commission?

8 A. It shows that there is a -- there is or has
9 been a contract entered into the MCIS system. This
10 particular address has been entered three individual
11 times -- three separate times. It had two contracts
12 that were entered and then cancelled and it still
13 has one contract that is in open status.

14 Q. Okay. There's three contracts listed. What
15 is the first contract that's listed in MCIS on the
16 report?

17 A. Are you referring to the name of the
18 relocater?

19 Q. Oh, I can narrow my questions down. Sure.
20 Strike that.

21 Sergeant Sulikowski, which relocater
22 has the first contract that's listed on Page 2 of

1 Exhibit B?

2 A. Brian & Michael Towing.

3 Q. And can you -- strike that.

4 On MCIS when was Brian & Michael
5 Towing contracts received by the Illinois Commerce
6 Commission?

7 A. 4-24 of 2007.

8 Q. Now there are some dates that say cancelled
9 and cancelled received. What does that mean? You
10 explained received and entered, but to you when you
11 are using MCIS, what does cancel and cancel received
12 mean?

13 A. A cancel received comes in either through
14 another relocater, who has obtained that contract,
15 then the old relocater has ten days to try to retain
16 that contract or in this case when Brian & Michael
17 went out of business, there wasn't a 10-day waiting
18 period. The contract was cancelled on the same day.

19 MR. PERL: Objection as to foundation. Move to
20 strike. The witness' statement about Brian &
21 Michael, there no evidence in this court when they
22 went out of business, if they went out of business

1 and, again, this witness is testifying. Again,
2 foundational objection because this witness hasn't
3 laid a proper -- they haven't laid a foundation, not
4 that this document is not admissible, it is
5 admissible, because you made it admissible, but this
6 witness is testifying as to what these things mean
7 and how they come in, and he has no foundational
8 basis for telling you that. He doesn't know.

9 JUDGE KIRKLAND-MONTAQUE: What do they mean to
10 him. I think the question is when he read this,
11 what does that mean.

12 MS. PARKER-OKOJIE: It's how I raised the
13 question.

14 MR. PERL: It's only what it means to him. He's
15 not testifying this is actually what the document
16 stands for or what MCIS says, correct?

17 JUDGE KIRKLAND-MONTAQUE: What it means when he
18 reads it. What does it mean.

19 MS. PARKER-OKOJIE: And also I asked what does it
20 mean to him as a law enforcement officer -- that's
21 how I phrased the question -- of the Illinois
22 Commerce Commission.

1 JUDGE KIRKLAND-MONTAQUE: Well, you can leave out
2 the extra about companies going out of business and
3 things of that nature. Go ahead.

4 MS. PARKER-OKOJIE: Yes, your Honor.

5 MS. PARKER-OKOJIE: Q. Sergeant Sulikowski,
6 moving to the second entry on this, on Page 2 of
7 Exhibit B, which relocator held or holds the second
8 contract on Page 2?

9 MR. PERL: Same objection as to foundation. The
10 question isn't which relocator on this document --
11 which relocator holds the license.

12 Again, this witness hasn't laid a
13 foundation that he would know that or how the
14 information comes in. All he knows is what's on
15 this piece of paper. There's no foundation actually
16 to prove which witness actually -- which company
17 holds the license.

18 They haven't laid a foundation for
19 this. All they can testify to so far as I can see
20 is what it says on this piece of paper.

21 MS. PARKER-OKOJIE: And I can rephrase the
22 question.

1 JUDGE KIRKLAND-MONTAQUE: Okay.

2 MS. PARKER-OKOJIE: I'm trying to be consistent
3 in all this. If I misspeak, please just charge it
4 to the late hour, not to my intention here.

5 MS. PARKER-OKOJIE: Q. Officer Sulikowski, who
6 does MCIS show to hold the second contract on Page 2
7 of Exhibit B?

8 A. Protective Parking Service.

9 Q. And what does MCIS reflect is the date that
10 that contract was received by the Illinois Commerce
11 Commission?

12 A. June 8th of 2009.

13 Q. And does this printout of the MCIS report
14 version show, according to MCIS, when that contract
15 was cancelled?

16 A. Well, again, there's a 10-day lag. When we
17 receive the cancellation January 15th of 2016, then
18 the company, in this case Protective Parking, has
19 10 days to try to retain the contract, so he has an
20 extra 10 -- he has 10 days.

21 Q. So your understanding --

22 MR. PERL: Judge, I move to strike. Again, the

1 witness stated when we received the cancellation on
2 January 15th. This witness has no foundation at all
3 to tell you that he knows when a document was
4 received by MCIS. He doesn't know when the
5 documents are sent in, who they are sent to, and
6 when they're received.

7 All you could say is that on this
8 document -- by the way, they abbreviated C-A-N-
9 apostrophy L-D R-E-C apostrophy D -- there's a date
10 on there, but this witness doesn't know that that's
11 actually when any document is received by MCIS for
12 the Illinois Commerce Commission.

13 JUDGE KIRKLAND-MONTAQUE: Limit your testimony to
14 what's on the document, unless you were there to
15 receive the cancellation.

16 MR. PERL: So I move to strike the testimony
17 regarding that MCIS received the cancellation on
18 January 15, 2016.

19 MS. PARKER-OKOJI: Well, it can be extrinsic
20 testimony about what would have happened, but in
21 terms of the date, your Honor, I think the dates
22 speak for themselves in terms of what MCIS reflects.

1 MR. PERL: Actually, no document speaks for
2 itself. You have to actually talk about it with the
3 witness. So if they don't want to ask the witness
4 questions about it, they don't have to, but if
5 they're going to ask the witness questions about it,
6 this witness cannot testify from his knowledge as to
7 when the Illinois Commerce Commission received any
8 documents, and he told you this is what he does.

9 JUDGE KIRKLAND-MONTAQUE: Yes, right, but he
10 testified earlier as to what this document --

11 MR. PERL: What it says.

12 JUDGE KIRKLAND-MONTAQUE: Yes.

13 MR. PERL: But he testified just now that the
14 Commerce Commission received the cancellation on
15 January 15, 2016, and he can't do that.

16 JUDGE KIRKLAND-MONTAQUE: Just stick to what this
17 printout indicates.

18 MS. PARKER-OKOJIE: And, your Honor, I think that
19 he can testify within the scope of what it means for
20 the ICC police.

21 Certainly he's testified and laid
22 plenty of foundation that MCIS -- I'm sorry -- ICC

1 police used MCIS, that he himself has used MCIS, and
2 in terms of that, he can interpret it as from the
3 police standpoint what it means.

4 I mean, I don't think it would make
5 sense to have him just say what does my paper say,
6 because we can all read paper, but in terms of what
7 what it means to the ICC police, I agree that if
8 there's evidence about business closes or things
9 like that happening, but in terms of interpreting
10 what does it mean to see cancel, what does it mean,
11 he can say what that means to him in reviewing this
12 document.

13 MR. PERL: That is exactly why I argued we
14 shouldn't have these documents in the first place,
15 because now what they're doing is they're trying to
16 back door this yet again with a witness, who if they
17 actually asked, and they did, he didn't print this
18 on his job, he doesn't know why he did. He doesn't
19 get the mail of the Commerce commission.

20 Now they want to say to you we just
21 want you to interpret what these documents are.
22 They can't do that, because this witness doesn't

1 have the proper knowledge, so all he really knows is
2 he just ask them.

3 If you ask them straight out do you
4 know when the Commerce Commission received the
5 cancellation, he could say, no, I don't. Well, what
6 are you basing it on? Just what it says on the
7 paper for this, and then counsel said, well, anyone
8 can read it. Of course, I can read it. Your Honor
9 can read it. Anyone can read it, but they wouldn't
10 know when the document came any more than this
11 witness does, and that's the problem with this
12 document. He doesn't know anything about it, other
13 than what he sees on the piece of paper, because he
14 has no knowledge of it. He doesn't really know who
15 inputs it, or how it's input, or when it's input.
16 He just reads a piece of paper, just like we all are
17 doing right now, no more and no less.

18 What it means to him, I don't know how
19 that's relevant, but certainly to prove that a
20 cancellation was or wasn't received, he's the one
21 that knew that.

22 So if you testified to the piece of

1 paper and it says under the word cancel/received
2 1-15-2016, fine. He can't testify that's when the
3 document came in though, because they haven't laid a
4 foundation for that. They could bring someone in
5 from the Commerce Commission to do that, but they
6 never do.

7 JUDGE KIRKLAND-MONTAQUE: Basically, it needs to
8 be according to the MCIS printout.

9 MS. PARKER-OKOJIE: Sure, and I think that's how
10 I have been tailoring the questions, your Honor.

11 JUDGE KIRKLAND-MONTAQUE: Let's keep it along
12 those lines.

13 MR. PERL: Well, the problem is he's not
14 answering it. He's answering it if that's when it
15 came in.

16 JUDGE KIRKLAND-MONTAQUE: He's answering
17 according to the printout.

18 MR. PERL: Again, I move to strike the testimony
19 where he stated that cancellation was received by
20 the Commerce Commission in regard to the lot.

21 JUDGE KIRKLAND-MONTAQUE: Sustained. Let's keep
22 the questions according to what this document

1 says --

2 MS. PARKER-OKOJIE: Yes, your Honor.

3 JUDGE KIRKLAND-MONTAQUE: -- unless you remember
4 something on that yourself.

5 MS. PARKER-OKOJIE: Yes, your Honor.

6 MS. PARKER-OKOJIE: Q. Sergeant Sulikowski,
7 according to MCIS, the second entry on Page 2 of
8 Exhibit B, according to MCIS, which relocator held a
9 contract at 225 North Columbus Drive on the second
10 entry?

11 A. Protective Parking Service.

12 Q. And, according to MCIS, how long did
13 Protective Parking Service retain a contract at
14 225 North Columbus Drive?

15 A. From 6-8-2009 through 1-25 of 2016.

16 Q. Okay. And there's a third entry on Page 2
17 of Exhibit B, Sergeant Sulikowski. According to
18 MCIS which relocator held the contract in the third
19 entry?

20 A. Rendered Services, Incorporated.

21 Q. And, according to MCIS, when was the
22 contract for Rendered Services, Incorporated,

1 received

2 A. 1-26 of 2016.

3 Q. Sergeant Sulikowski, I want to turn your
4 attention to Page 122 of Exhibit J. I'm sorry. Can
5 you please turn to Page 220 of Exhibit J.

6 MR. PERL: I'm sorry, Judge. I missed the page.

7 MS. PARKER-OKOJIE: 220.

8 MR. PERL: Of J?

9 MS. PARKER-OKOJIE: Of J.

10 MS. PARKER-OKOJIE: Q. Sergeant Sulikowski, is
11 Page 220 of Exhibit J one of the pages you reviewed
12 in your review of Lincoln Towing tow records on
13 April 28, 2017?

14 A. Yes.

15 Q. On Page 220, do you see the -- I'm sorry.
16 What was the date of the tow on that tow record?

17 A. 1-29 of 16.

18 Q. And on that date did you see -- I'm sorry.
19 On that date -- please strike that.

20 On Page 220 of Exhibit J, does the
21 address 225 North Columbus appear?

22 A. Yes.

1 Q. Based on MCIS records, Sergeant Sulikowski,
2 and seeing the address 225 North Columbus listed on
3 Lincoln's towing records for 1-29-16, do you come to
4 a conclusion about the status of the contract at 225
5 North Columbus Drive on 1-29-16?

6 MR. PERL: Objection; leading.

7 THE WITNESS: Yes.

8 JUDGE KIRKLAND-MONTAQUE: Overruled.

9 MS. PARKER-OKOJIE: Q. Do you come to a
10 conclusion on the status of the contract at
11 225 North Columbus Drive?

12 A. Yes.

13 Q. And what is that conclusion based on MCIS?

14 A. According to this printout, another
15 relocater held the contract on that date.

16 Q. When you say another re -- when you say
17 "another relocater," do you mean a relocater other
18 than Protective Parking Service Corporation?

19 A. Yes.

20 Q. Sergeant Sulikowski, if you could turn to
21 Page 3 of Exhibit B, do you recognize that?

22 A. Yes.

1 Q. What do you recognize it to be?

2 A. It is a printout version of the report
3 screen of MCIS for contract listed by the property
4 address.

5 Q. Is this a copy of -- I'm sorry. Is this a
6 copy of the MCIS report screen for 344 North Canal
7 Street?

8 A. Yes.

9 MR. PERL: Objection; foundation. He already
10 testified prior to this he never printed out one of
11 these screens in his life. How could he know
12 foundationally that this is a copy of that report?
13 There's no foundation for it. He says he's never
14 done it.

15 MS. PARKER-OKOJIE: If I may respond, your Honor,
16 he did testify while he never printed one out, he
17 has seen one on the screen. We have been through
18 several of these now, and he's verified that this is
19 what the report view looks like.

20 JUDGE KIRKLAND-MONTAQUE: The question is
21 according to the printout what's the address?

22 MS. PARKER-OKOJIE: That's correct, your Honor.

1 JUDGE KIRKLAND-MONTAQUE: I'm not sure what you
2 asked.

3 MR. PERL: That wasn't --

4 MS. PARKER-OKOJIE: Well, I mean --

5 MR. PERL: The question was is this a printout of
6 a report version. This witness already testified
7 he's never printed one out before himself, so if the
8 first time he's ever seen these is April 28th,
9 foundationally how could he possibly testify that
10 this is what they looked like when they printed them
11 out, other than -- this is the problem. He's
12 hearing the witness -- the questions. Many of them
13 are leading, what he's suppose to say, so he's just
14 saying, yeah, yeah, this is a copy of the report
15 even though they haven't laid a foundation for him
16 knowing that.

17 JUDGE KIRKLAND-MONTAQUE: We have been doing this
18 for about 10 minutes now.

19 MR. PERL: They still haven't laid a foundation
20 for ever seeing one of these reports ever before
21 April 28th in his life.

22 MS. PARKER-OKOJIE: Your Honor, he directly

1 testified that he had seen the screen before. He's
2 said there were two ways. We went through it. He
3 says there were two ways you can obtain information.
4 He says here's the report version that saves you a
5 step and he said there's a screen print version. He
6 said this is the report version. This is from his
7 view of this database as an ICC police officer. I
8 believe that we went over that at least a half hour
9 ago.

10 MR. PERL: He actually didn't say that. What he
11 said was there are two ways to do it. He always
12 uses the other way, the printout version never this
13 way, but this is a different way.

14 He didn't say he used paper copies of
15 the report version. He said he would look at
16 sometimes the report version on the screen and that
17 he never printed one out before.

18 So, again, to ask this witness is this
19 a copy of the report version, they have laid no
20 foundation for him to be able to answer that
21 question because he doesn't know.

22 Ask him if he's ever seen one before

1 April 28th a report like this, I don't think he has,
2 so how would he know without having printed this
3 out, who prints it out, when it was printed out,
4 that this is actually an accurate copy or a copy of
5 the report version of the screen that he looked at,
6 unless he's got the most incredible memory in the
7 world, that he remembers on April 28th exactly the
8 information he looked at, he's got a photographic
9 memory, he can tell you, yes, this is what I saw on
10 April 28, maybe he can.

11 JUDGE KIRKLAND-MONTAQUE: I think according to
12 the -- to the report of the printout for MCIS,
13 that's what we have been going with.

14 MR. PERL: Counsel asked him is it a copy of a
15 report version, and I said lack of foundation. He's
16 already told you, your Honor, that this isn't what
17 he does. He never actually printed one of these.

18 Where's the foundation for how he
19 would know what the document is? How do they do
20 that?

21 MS. PARKER-OKOJIE: We already did that.

22 MR. PERL: He didn't. He didn't do it.

1 He told you he had done this. I said do you know.
2 He didn't know if they put some sign in front of him
3 and told him the report version. He's never seen
4 one before. He's not testifying from his own memory
5 and information.

6 JUDGE KIRKLAND-MONTAQUE: We've covered this
7 issue already.

8 MS. PARKER-OKOJIE: We did, your Honor.

9 MR. PERL: I guess maybe then he'll know that --
10 I thought the issue was he didn't. He can testify
11 what's on here.

12 JUDGE KIRKLAND-MONTAQUE: We have already had a
13 thorough discussion about him testifying that this
14 is a printout of the report from MCIS.

15 MS. PARKER-OKOJIE: We did. We did, your Honor.
16 He already testified to that, and while he may not
17 print it out that the screen shows the information
18 in the same format, and that's the only purpose that
19 we are offering it for is to show that he's familiar
20 with the format, and that he is familiar with MCIS,
21 and this is what MCIS says. I think we have been
22 working towards tailoring our questioning to that.

1 MR. PERL: Counsel has this new thing about that
2 he knows the format when you prints it. He doesn't
3 know what it looks like when he prints it. He may
4 know what it looks like when it's on the computer,
5 but he doesn't know what it looks like when printed.
6 How could you know if you have never done it before.

7 And, again, I think if you look at the
8 actual screen, it doesn't look any different. When
9 you actually go onto the computer screen, it doesn't
10 look like this, because it's got a white background
11 with small print like this. There's probably -- I
12 could pull it up. It doesn't look like this.

13 So, again, having this witness testify
14 to these documents, foundationally he can't do it.
15 The fact they're in evidence already, there's
16 nothing I can do about it, but him testifying as to
17 this being a copy of it, he can't do that, because
18 he doesn't know.

19 He knows what's on this document, I
20 agree. He can testify as to -- he can read this
21 just like you or I could read it. The fact that
22 he's reading it doesn't mean anything, whether you

1 or I are reading it.

2 The fact that he's testified that this
3 is what it looks like when printing a copy of the
4 report when he's told you he doesn't know what it
5 looks like, that's the part I object to.

6 JUDGE KIRKLAND-MONTAQUE: I thought we were going
7 along these questions with the understanding that
8 he's reading the report as printed from MCIS.

9 MR. PERL: If all he's doing is saying I'm
10 looking at a piece of paper, I'm reading it, great,
11 but then they ask him the next question was is this
12 a copy of the report from MCIS, he doesn't know.

13 JUDGE KIRKLAND-MONTAQUE: I think, according to
14 the printout from MCIS, did such and such and such
15 and such, and that's the question.

16 MR. PERL: Now that I wouldn't have objected to.

17 JUDGE KIRKLAND-MONTAQUE: I'm a little lost. I
18 mean --

19 MS. PARKER-OKOJIE: Your Honor, I think counsel
20 is just re-raising his objection honestly. This was
21 already discussed, and that is why we moved to more
22 tailored questions about does he recognize it, you

1 know, does he use MCIS; is this, according to MCIS,
2 what it says about this contract.

3 MR. PERL: That wasn't the question. The question
4 was is this is a copy of the report version, and
5 he's answering. I wouldn't object any longer to
6 what does this document say on it. That's okay. We
7 got that.

8 JUDGE KIRKLAND-MONTAQUE: Let's stick to that,
9 according to this printout.

10 MS. PARKER-OKOJIE: Sure. I think it's
11 establishing that it's the report version, your
12 Honor, just because there was a distinction made
13 between there's two ways to obtain information.
14 There's the screen print. There's the report.

15 JUDGE KIRKLAND-MONTAQUE: There's the report --

16 MS. PARKER-OKOJIE: Right, which --

17 JUDGE KIRKLAND-MONTAQUE: -- according to this.

18 Go ahead and ask your question.

19 MS. PARKER-OKOJIE: Sure.

20 MS. PARKER-OKOJIE: Q. According to the report
21 printout of 3 -- I'm sorry -- which is Page 3 of
22 Exhibit B, what does MCIS reflect about the address

1 at 344 North Canal?

2 A. According to this, what did it say?

3 Q. You can say what it is, according to the
4 MCIS printout.

5 A. According to the printout page, there is a
6 contract entered on 344 North Canal. It's held by
7 Rendered Services and it was received on July 21st
8 of 2015.

9 Q. Sergeant Sulikowski, I would like you to
10 turn to Page 142 of Exhibit J.

11 MR. PERL: Judge, it's 4:30.

12 MS. PARKER-OKOJIE: I just have about two
13 questions on this one, your Honor.

14 JUDGE KIRKLAND-MONTAQUE: Okay. Let's just get
15 this page out relating to that page. Go ahead.

16 MS. PARKER-OKOJIE:. Q. Sergeant Sulikowski, do
17 you see the address 344 North Canal on Page 142 of
18 Exhibit J?

19 A. Yes.

20 Q. And, Sergeant Sulikowski, if you could turn
21 to Page 276.

22 A. Okay.

1 Q. Do you see address 344 North Canal on
2 Page 276?

3 A. Yes.

4 Q. Sergeant Sulikowski, if you could just keep
5 your finger on Page 276 and just go back to Page 142
6 of Exhibit J. What date is on the tow sheet?

7 A. On Page 142, 11-18 of 15.

8 Q. And on Page 276 what was the date of tow?

9 A. 3-23 of 16.

10 Q. Sergeant Sulikowski, according to MCIS and
11 the record that you reviewed Page 3 of Exhibit B, do
12 you reach any conclusions about the status of the
13 contract at 344 North Canal Street?

14 A. Yes.

15 Q. And what conclusion is that?

16 A. According to this printout, there is no
17 contract on file for Lincoln Towing.

18 Q. On any date?

19 A. On any date.

20 MS. PARKER-OKOJIE: Your Honor, due to our time
21 constraints, I will stop there.

22 JUDGE KIRKLAND-MONTAQUE: Okay. That's a good

1 time to stop, so we'll reconvene tomorrow at 9 a.m.

2 (Whereupon, the above matter

3 was adjourned to

4 June 1, 2017 at 9 a.m.)

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