

1 ILLINOIS COMMERCE COMMISSION

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3 IN RE THE MATTER OF:)
) No. 92 RTV-R
 4 PROTECTIVE PARKING SERVICE) sub 17 100139 MC
 CORPORATION, d/ba/a Lincoln Towing)
 5 Service,)
)
 6 Respondent.)
)
 7 Hearing on Fitness to hold a)
 Commercial Vehicle; Relocator's)
 8 License Pursuant to Section 401 of)
 the Illinois Commerce Relocation)
 9 of Trespassing Vehicle Law,)
 625 ILSC/18A-401(a))

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13 Report of Proceedings had at the Hearing on July
 14 2017, at the hour of 1:00 o'clock p.m, pursuant to notice,
 15 in the Office of the Illinois Commerce Commission, 160 North
 16 LaSalle Street, Eight Floor, Chicago, Illinois, before
 17 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE.

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1 APPEARANCES:

2 ADMINISTRATIVE LAW JUDGE KIRKLAND-MONTAQUE

3 THE ILLINOIS COMMERCE COMMISSION

4 BY: MR. BENJAMIN BARR

5 160 North LaSalle Street

6 Suite 800

7 Chicago, Illinois 60601

8 on behalf of the Illinois Commerce Commission;

9 PERL & GOODSNYDER, LTD.

10 BY: MESSRS. ALLEN R. PERL and VLAD V. CHIRICA

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18 on behalf of the Respondent.

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I N D E X

WITNESS:

PAGE

TIMOTHY SULIKOWSKI

Direct Examination (Resumed)- Mr. Barr

816

E X H I B I T S

NO EXHIBITS ARE MARKED

1 ALJ KIRKLAND-MONTAQUE: By the power invested
2 in me by the State of Illinois and the Illinois
3 Commerce Commission, I now call Docket
4 No. 92 RTV-R17 for hearing.

5 We are here on the hearing on fitness to
6 hold a commercial relocation vehicle license for
7 Protective Parking Service Corporation doing
8 business as Lincoln Towing Service.

9 May I have appearances, please? Let's
10 start with staff.

11 MR. BARR: Good afternoon, your Honor. My name
12 is Benjamin Barr, appearing on behalf of the staff
13 of the Illinois Commerce Commission.

14 My office is located 160 North LaSalle
15 Street, Suite 800, Chicago Illinois, 60601, and my
16 office telephone No. is 312-814-2859.

17 ALJ KIRKLAND-MONTAQUE: All right. Mr. Perl?

18 MR. PERL: Good afternoon, your Honor. For the
19 record, my name is Allen Perl, P-e-r-l, from Perl &
20 Goodsnyder, here representing Lincoln Towing,
21 Protective Parking Service Corporation.

22 My address is 14 North Peoria Street,
23 Suite 2C, Chicago Illinois 60607. The phone is
24 312-243-4500.

MARZULLO REPORTING AGENCY (312) 321-9365

1 MR. CHIRICA: Good afternoon, your Honor. My
2 name is Vlad Chirica from Perl & Goodsnyder. I'm
3 also here representing Protective Parking Service
4 Corporation, doing business as Lincoln Towing
5 Service.

6 My address is 14 North Peoria Street,
7 Suite 2-C in Chicago, Illinois, 60607. My telephone
8 number is 312-243-4500. Thank you.

9 ALJ KIRKLAND-MONTAQUE: All right. Mr. Perl,
10 you have something to say?

11 MR. PERL: Thank you, Judge. When we left on
12 Friday, we had a discussion regarding the
13 documentation that is presently being used by the
14 witness for the Commerce Commission.

15 I believe that I had informed your Honor
16 that we felt the documentation came in late, beyond
17 the discovery cutoff in February. It came in -- the
18 first time we ever saw it was, I believe, April 24th
19 of 2017; and, actually, in its current form, we
20 didn't see it again until May of 2017.

21 At that point in time, I don't know if
22 there are any other witnesses that the staff has to
23 testify.

24 ALJ KIRKLAND-MONTAQUE: In the room?

MARZULLO REPORTING AGENCY (312) 321-9365

1 MR. PERL: Yes.

2 MR. BARR: Just Mr. Sulikowski.

3 MR. PERL: Okay. So when we were here on
4 Friday, we discussed the fact that all the testimony
5 of the last three days from Sergeant Sulikowski
6 100 percent of it has to do with documents received
7 FROM staff in late April, mid May, of 2017, within a
8 month of the hearing start.

9 We argued that it was untimely and
10 prejudicial to allow staff to use said information.
11 Initially, your Honor ordered them to file an eighth
12 amended response to interrogatories, and gave us the
13 opportunity to depose Sergeant Sulikowski, as he was
14 the witness staff identified testifying to the new
15 documents.

16 When we had the opportunity to depose
17 Sergeant Sulikowski, I asked him two, three or four
18 times on direct, "Are you planning on using any
19 documents at your testimony in the hearing?" He
20 said, "No" each time.

21 Attending that hearing was staff's
22 attorneys Benjamin Barr and Gabriel was there as
23 well. They both heard him say he wasn't planning on
24 using any of these documents at his hearing.

1 Neither one of them said, "Oh, but we are," or
2 "You're wrong, yes, we are."

3 So either they heard him say it, and they
4 purposely didn't correct him and say, you know -- I
5 don't want to say it's like suborning perjury, but
6 when you hear a witness giving testimony you know to
7 be in correct, you have an obligation to inform the
8 other side as such, and the Tribunal as well.

9 You can't allow your witness to testify
10 false and then let it go. So either they heard him
11 say it and did that, or maybe they didn't hear him
12 say it the fourth time he said it, which I find very
13 difficult because they were both in deposition.

14 And the reason it was so important was
15 because at that point in time, Judge, all I had were
16 these new documents that I was given. I didn't know
17 what they were doing with them, or how they were
18 going to use them.

19 Probably along the way, 10 or 20 times I
20 said to this Court, "It's trial by ambush," because
21 they never wanted to tell me what we're doing here.

22 And all they would he ever say to me on
23 the record was "The statute allows us to do a
24 hearing, and we're doing a hearing. We're not going

1 to tell you why. We're not going to tell you what
2 you did wrong."

3 You might recall we had recently, within
4 four to five months, or six months, we had just
5 gotten our license renewed. So we couldn't figure
6 out why we are now having a hearing when July 24th
7 of 2015, we get renewed.

8 Now February of 2016, they're saying we
9 need to have a fitness hearing. Now, they didn't
10 say specifically that they determined we did
11 anything wrong. That would be a different type of
12 hearing.

13 They just said, "We just want to have a
14 fitness hearing." That's it. That's why they're
15 going first. So at that point in time, we couldn't
16 figure it out, and your Honor did ask him a couple
17 times, point blank, "Why are we doing this?" And
18 they said, even to you, "Because we're allowed to do
19 it."

20 So when they finally were ordered to give
21 us a statement, after giving us their trial binder
22 that didn't have -- they gave us the information.
23 These new six exhibits didn't have Scott Morris'
24 affidavit in them.

1 They were just exhibits we got. When I
2 deposed Sergeant Sulikowski, I never heard of Scott
3 Morris before. He had not had his affidavit
4 attached to the certification. I'm sorry, to any of
5 the documents.

6 So when I deposed Sergeant Sulikowski, I
7 took him at his word that they weren't going to be
8 using these documents at the hearing and I went
9 forward. You'll see in my motion -- not to mention,
10 I've asked them probably a dozen times he didn't
11 create the documents, he didn't print the documents.

12 He actually didn't even finally count the
13 documents. Staff did and they pointed them out to
14 him because there would be no way in one day for
15 Sergeant Sulikowski to look over 1,000 tows. He
16 only went there one afternoon. It's literally
17 impossible.

18 If each one took -- you saw how the
19 tedious testimony was. Five minutes to figure it
20 out. Yeah, I got look at the 24-hour tow sheet, you
21 to reference it back to the screen shot.

22 What's 1,000 times five minutes? 5,000
23 minutes. There is no way he did it that day.
24 Someone else did and gave it to him. That is why at

1 his deposition, he was clear that he wasn't using
2 these documents at the hearing.

3 And all they've done for three days is use
4 these documents. So this morning -- I'm sorry, this
5 afternoon, we have completed an emergency motion to
6 strike the testimony and/or continue the hearing,
7 based upon the fact that everything going on right
8 now is trial by ambush all the way through.

9 I gave staff 20-hour tow sheets one year
10 ago exactly. Actually, more than a year ago now, 13
11 months ago. They have my 24-hour tow sheets. All
12 they ever say to this Court is, "When we deposed
13 Mr. Munyon, we learned new things. Now that's why
14 we're doing it."

15 That's absolutely pure fabrication. If
16 you look at Mr. Munyon's deposition transcript, none
17 of that happened. They never went through any of
18 these tows.

19 All they did was say to him -- they went
20 over the 24-hour tow sheet, which I find incredible.
21 They've never seen one before in their career, but I
22 guess it's possible you could work for the Commerce
23 Commission and not know what a 24-tow sheet is.

24 And all they said to him was, "What is it

1 here when it says 'name?' Well, it's the person's
2 name. What is it here when it says 'operating
3 number'? That's his operating number. "What is it
4 here when it says 'address'? That's the address
5 they towed from."

6 That's all they asked him. And from that,
7 they want you to believe that they then took 24-tow
8 sheets because they didn't know before, and figure
9 all this out about 600 or so different tows where
10 they say that either the operator didn't have a
11 permit, or we didn't have a license for that lot.

12 Here is why it is very important: Had
13 they told me during this past year they were going
14 to make allegations that we didn't have a permit --
15 a license, I would have figured it out.

16 I would have called the lot owners in to
17 testify. I would have gotten all the documentation,
18 everything that I could have done that I didn't do
19 in the time period because I didn't know what they
20 were talking about.

21 All of it has boiled down to: They didn't
22 want to tell us what we were doing here today,
23 because they had the intention of coming here and
24 doing exactly what they are doing.

1 Because, your Honor, without these six
2 exhibits that they have, they don't have a case.
3 They don't have a case with them, because they have
4 the wrong witness testifying. That's a whole
5 separate issue.

6 This witness is not the keeper of records
7 for the Commerce Commission. He testified at his
8 deposition he had no idea whether the records were
9 even accurate. Actually, he said they are not.

10 On direct at his dep, I said to him "Are
11 these records accurate?" He said, "No." So I don't
12 know where they are going with this witness anyway,
13 but it's totally improper.

14 I mean, when you have discovery, the whole
15 purpose is because we don't do things by trial by
16 ambush. You're supposed to tell the other side
17 exactly what you are doing and why.

18 That's the purpose of discovery; otherwise
19 why do it? Interrogatories, request to produce. I
20 know when people watch trials on television, they
21 don't get it. They think you can just surprise the
22 other party. That's what they do at trials.

23 That's not how we litigate. I have almost
24 never been surprised in a trial in 32 years. You're

1 not supposed to be surprised. You're supposed to
2 know what's going to happen and make your argument
3 from there.

4 And that's exactly what they did in this
5 case. I'm totally surprised. The testimony on
6 Friday regarding one of our drivers not being
7 licensed is total surprise. Never even mentioned
8 that in his deposition.

9 I asked Sergeant Sulikowski to death, "Did
10 you bring any documents today responsive to my
11 rider?" We gave them a very extensive rider. He
12 didn't bring one document to his deposition, not
13 one.

14 And I said to him, "If you look just at
15 the exhibits, do you know if Lincoln created any
16 violations? No, I would have no way of knowing
17 that, unless I look at the documents to compare it
18 to. Did you bring those documents? No."

19 Well, why would he? Because if he did, he
20 would actually have to go over this with me, and I
21 would know ahead of time what they were going to do,
22 and he didn't do it.

23 That's why I finally said to him, "Are you
24 planning on using any documents at the hearing?" He

1 said, "Not me, personally, no." Now counsel is
2 going argue to you, which is again incredible, that,
3 "Well, he's not using them, we are."

4 Of course a witness can't present
5 documents into evidence. Everyone knows that. Only
6 the attorneys do that through their witnesses, but
7 this particular witness said he's not going to use
8 any of these documents, and now they are doing just
9 that.

10 So we have this afternoon to file an
11 emergency motion to strike his testimony from the
12 last three days, and/or to continue the hearing.
13 And I would like to tender a copy to counsel, the
14 Court, and if your Honor pleases, give your Honor a
15 copy.

16 MR. BARR: Your Honor, may I respond?

17 ALJ KIRKLAND-MONTAQUE: Are you done, Mr. Perl?

18 MR. PERL: Finally, Judge, I know this is
19 coming to you at a late date. I understand that.

20 I know that counsel argued on Friday that
21 we had ample time, as he said, to look at the
22 documents. Well, ample time being four weeks before
23 the hearing, and taking one deposition where a
24 witness then tells me he's not using the documents.

1 That's my ample time. So I haven't had
2 ample time to do anything. I gave these documents a
3 year ago. They did nothing with them. They waited
4 until April 24th to even tell me -- actually,
5 April 24th is when they gave me their alleged
6 printouts of screen shots from MCIS, which they
7 never authenticated, other than a certification from
8 a Scott Morris that we've never seen or heard from
9 in this case prior to that, and they make it akin to
10 Dorothy Brown certifying legal documents.

11 It's not even close to that. Dorothy
12 Brown certifies documents that were entered in court
13 already as documents. Dorothy Brown doesn't certify
14 screen shots of anything.

15 You couldn't go to the recorder or to
16 Dorothy Brown, the clerk, and say, "I just printed
17 this off the screen. Will you certify it?" If you
18 go to Dorothy Brown, because I've done it many
19 sometimes with a paper court order that you've
20 entered into court, and Dorothy Brown then certifies
21 that's the order from the court. That's what they
22 do.

23 They don't say it's accurate, truthful.
24 All they do is say, "That's the certified copy of

1 what someone did already." In this particular case,
2 all of what they did is they took a screen shot,
3 which is not kept in the ordinary course of business
4 at the Commerce Commission.

5 They are MCIS records, not the Commerce
6 Commission records, and they printed something from
7 there, which then Scott Morris -- I'm not sure what
8 he did. I'm not sure if he's certifying for what
9 purpose that they are.

10 If he's saying that's what the screen shot
11 looks like. I don't even know what he's going to
12 say, because they wouldn't -- when I wanted to
13 depose him, we didn't continue the hearing.

14 That is another thing I'm going to be
15 doing. Either way, I'm going to seek leave to
16 depose Scott Morris, pending the next hearing, if it
17 doesn't get continued, because he's the only one
18 that really knows what he did.

19 It is not like Dorothy Brown -- I don't
20 need to depose Dorothy Brown to certify the court
21 record. I don't need to, because that's a court
22 record.

23 I need to depose Scott Morris, because I
24 don't know what he did, and neither does this Court.

1 If I ask opposing counsel what Scott Morris did, he
2 wouldn't know, because no one does, because he's not
3 here to testify.

4 So I would like the Court to take a moment
5 to review the emergency motion to strike and/or
6 continue the hearing. I think that without striking
7 the testimony, which I think is what should happen,
8 and then barring their using these documents that he
9 said he wasn't going to use, my client is
10 prejudiced.

11 If you are going to allow it, at a
12 minimum, I need time to actually -- we did a FOIA
13 because of this, Judge. Immediately within a week
14 of the May 1st hearing, I did a FOIA to the Commerce
15 Commission.

16 I asked them for the documents I would
17 need to figure out what's going on with the
18 documents they gave me in the screen shot. They
19 won't give them to me. They say it's too
20 voluminous.

21 So we followed the rules. The rules
22 actually state all they can do is tell you it's too
23 voluminous, and you have pay for it.

24 Well, we went to the statute and code, and

1 we offered to pay for it. I think the most they can
2 get from me is \$100. So it was not a big deal.

3 They sent another response saying, "We are
4 still not giving you the documents." So, now, here
5 is what I got: They won't give me the backup
6 documentation to show me how they made these screen
7 shots, and whether or not my client actually applied
8 for the hearing.

9 There's going to be an issue of whether or
10 not the driver applied timely and the Commerce
11 Commission dropped the ball, which they have done
12 many times.

13 So I can't even get that information, and
14 you'll see in this, as part of our motion this
15 morning, I think it's Count 3, that we outline to
16 the Court what we did to get even a FOIA response
17 they won't give us.

18 So every step of the way, it's been hide
19 the ball. I've never litigated a case in State
20 Court or Federal Court where I didn't know what was
21 going on. My hands are tied behind my back going
22 into the hearing, and I'm only allowed to hear these
23 things the first at the hearing, and that's just not
24 fair.

1 And for that reason, we're asking for this
2 Court to bar all the testimony of Sergeant
3 Sulikowski up until today, not allow him to testify
4 to any of these new documents in their exhibits,
5 only what they provided prior to that date, which
6 was nothing.

7 Because prior to that date, they gave us
8 no documents, and I mean no documents at all. So we
9 were literally coming into this hearing -- when we
10 exchanged trial binders, I didn't get any documents.

11 They never gave me any. Maybe they gave
12 me a couple pieces of paper here and there, but
13 nothing really. It wasn't until the exchange date
14 that we received all of the exhibits the first time
15 ever, and that was literally still within -- what
16 are we at now, July 10th?

17 It's not even two months from then that I
18 got the documents. So how could I have ample time
19 to do discovery on things that I just learned? By
20 the way, it's about 1,000 pieces of paper that they
21 gave us on May 24th.

22 MR. BARR: Your Honor, may I respond now?

23 ALJ KIRKLAND-MONTAQUE: Yes.

24 MR. BARR: Your Honor, this is the same

1 argument that's been heard over and over and over
2 again. It delays the proceeding.

3 We've had this argument before this
4 proceeding started back in the first of June, the
5 first week of June, regarding Exhibits A and B.

6 Counsel's motion was denied. Exhibits A
7 and B -- A was admitted. B was admitted back in
8 June. A was admitted at the end of October. It is
9 just another procedure to delay this hearing.

10 Counsel may not like what the evidence
11 that is being presented, because it harms his
12 client. He doesn't get another crack at the stick
13 to reopen discovery.

14 Your Honor, we provided these documents.
15 We provided thousands of documents to counsel
16 throughout discovery. It is true that after the
17 deposition of Robert Munyon, we did provide
18 additional documents; however, we asked Robert
19 Munyon back in March, we asked to depose him back on
20 March 16th.

21 Counsel could not produce him until late
22 April. That was the first time we got to depose
23 Mr. Munyon. If counsel says these documents are
24 late. They are late because we didn't have access

1 to Mr. Munyon.

2 It's disingenuous to say to characterize
3 Sergeant Sulikowski's testimony, when I can quote
4 counsel for Mr. Munyon's deposition and state --
5 just to make the record, we did discovery in this
6 case. Discovery was closed, and I don't believe
7 that it's proper to attempt to reopen discovery with
8 a deposition rider.

9 So if counsel wants to say Sergeant
10 Sulikowski didn't bring any documents with him that
11 were subject to his deposition rider -- here is
12 counsel's quote. He have can't have it both ways,
13 and that's what he's trying to do.

14 He's trying to elicit the testimony. He
15 doesn't like what he hears, and he wants to keep
16 dragging this case out. So the People of Illinois
17 continue to be harmed by his client's actions.

18 MR. PERL: I will take the last comment first.
19 The only one harming the people of the Illinois is
20 the Commerce Commission. I said this over and over
21 begin.

22 You've got a Commerce Commission that
23 literally says to me they have no money for postage.
24 Can they E-mail me? I say, "No problem."

1 Literally, every time I tried to do anything by
2 agreement with them, they won't do it.

3 Counsel said to you they've given us
4 thousands of documents. Here is what I would like
5 to you ask counsel right now: Show me the 1,000
6 documents he gave me prior to these documents. I
7 would like to see them, because I never got them.

8 They always say these things that just,
9 like, on the border of not truthful. Actually, they
10 are not truthful. I'll just put it that way. They
11 are not a word of anything.

12 They didn't give us these documents. They
13 had them in their possession for one year. What did
14 I do that they wouldn't give me the documents for a
15 year? I gave them 20 bucks.

16 They told you on Friday, this is the best
17 they don't know what a 24-hour sheet is, Judge.
18 They were just asking, "What does it mean when it
19 says: Operator Number?" We don't know what that
20 means. We just learned what that means in the
21 deposition.

22 Ask them to show you from Mr. Munyon's
23 deposition what information they glommed, which is
24 why they created these new documents, and it would

1 almost be impossible for them to have actually done
2 it after Bob Munyon's deposition.

3 Because somebody had to look through --
4 well, you heard, this is three days of testimony, a
5 thousand different towns. You don't do that in a day
6 or two. I know it takes a long time. You know how
7 I know?

8 Every time I asked them for documents,
9 they tell me they can't give them to me because it
10 would take them -- they figure out 10 people, 23
11 days, 572 hours to do something.

12 My FOIA, they won't respond to me because
13 they said it's a thousand E-mails to look at, but
14 this information that they looked at probably took
15 them weeks to do, but because it helps -- they think
16 it helps.

17 By the way, nothing Sergeant Sulikowski
18 testified to helps their case or hurts my client,
19 because none of it is truthful or accurate. Not
20 because he's not truthful, he doesn't know.

21 When I cross examine him, he'll tell you
22 he's never seen them. He actually said to me the
23 documents -- the information of the screen shots
24 aren't accurate.

1 So when he testifies that nothing
2 testified to is accurate, I'm not sure how that
3 hurts my case. But when counsel says stuff to you,
4 like, we're delaying the case, it's always them.

5 Every single time I try to do anything by
6 agreement with them, it's impossible, including
7 saying to them, "Why don't you take Mr. Munyon's
8 deposition?"

9 It's not just me. They have two
10 attorneys. We have two attorneys. We coordinate
11 the dates. It isn't just me delaying the deposition
12 date, it's them as well.

13 And, by the way, why didn't they ask for
14 Mr. Munyon's deposition six months earlier? Why did
15 they he wait until March to ask for the deposition,
16 when I gave them the documents a year ago?

17 So I give them documents back in May of
18 2016. They wait until March to ask for his
19 deposition, and somehow that's my delay. I did
20 something wrong.

21 I think waiting ten months, after getting
22 the documents, is their delay. Everything they've
23 done is to cause the delay in this case, nothing.

24 You can blame me for having to file

1 motions when they do things improperly, that's true.
2 Everything that has been done in this case, to cause
3 delay, has been on them and not me.

4 You've been at every hearing when I've
5 said to them, "Please, give me the information."
6 Tell me, I didn't file eight amended responses, they
7 did. Why do you think they needed eight? Because
8 they never gave me the information the first time.

9 Eight amended responses to discovery, and
10 only after you told them, "You must give the
11 information," they don't want to give it to me.
12 They didn't want to tell me who was going to testify
13 to these documents.

14 You made them do that. They didn't even
15 want to tell me what he was going to testify to.
16 You made them do that. And when they did, I let it
17 go. They really didn't tell me. They said he's
18 going to testify to inconsistencies in the
19 documents. That was it, nothing further.

20 How I could have glommed anything from
21 that, I have no idea. So I took his deposition,
22 because it really isn't an appropriate response; but
23 in the interest of finally going forward, we took
24 his deposition.

1 Had he said he was using the documents, or
2 testifying, here is what I'm going to say, the
3 deposition would have taken a long time, but I would
4 have gone through it line by line, like we did here.

5 I probably would have then moved then for
6 more time, because I needed new discovery. When he
7 told me he wasn't using the documents, I didn't need
8 anything else because that was it.

9 So I think that if your Honor reads this
10 motion to strike, and/or if you continue the
11 hearing, you'll see in here this is not a renewed
12 motion for the one that was denied.

13 Because when you denied our motion, with
14 all due respect, I thought it shouldn't have come in,
15 but it did. I still didn't know what they were
16 going to do with these documents at that point.

17 So when they had the documents that have
18 been sitting on the table, the documents don't speak
19 words. They are just words on a piece of paper.
20 They don't talk. I don't know what they're going to
21 do with them. I have no idea.

22 Until they start testifying, it's apparent
23 now that the whole plan from the beginning was to
24 not show us these documents, surprise us at trial,

1 and then not give me a chance or opportunity to
2 cross examine properly.

3 That's what they've done. That's where we
4 are right now. It's not my fault, it's theirs.
5 Because when you do things right the first time, you
6 don't have to redo them again.

7 That is what I tell our kids over and over
8 again, "Do it right the first time, you don't have
9 to go back and redo it six times." That is why they
10 are on the eighth response in discovery, because
11 they didn't do it right the first time, and they
12 still haven't done it correctly.

13 To make my client go forward would highly
14 prejudice my client. There is zero prejudice on the
15 Commerce Commission. If this information doesn't
16 get in, or it gets continued, none. The only
17 prejudice to my client, if it does get in.

18 ALJ KIRKLAND-MONTAQUE: What's the purpose of
19 the continuance?

20 MR. PERL: So I could then do discovery. The
21 information we heard on Friday, Judge, I never heard
22 before they were going to bring up an allegation
23 that one of the drivers didn't have his license
24 renewed when he did the tows.

1 You've asked them, and I've asked them at
2 six different status hearings, "Why are you going
3 forward?" They never mentioned that to me, did
4 they? I think you would have remembered that. I
5 know I would have.

6 The first I ever heard of that was the
7 other day on Friday. The documents don't say that.
8 All the documents are is screen shots of all the
9 dispatchers and then my 24-hour tow sheet. That's
10 all it is.

11 How do I know what they're going to use
12 that for? I'm allowed to know in discovery. My
13 discovery says clearly, "Give me all the documents,
14 what you're going to use them for, what you're
15 doing."

16 Actually, they didn't ask me in discovery
17 for that. That's their issue. They do discovery
18 differently. They don't do it the way we do it like
19 full-blown Circuit Court discovery. They didn't.
20 We did.

21 We asked for these things. They never
22 gave it to us. Whether it was intentional or not,
23 they just didn't give it to us. I don't why, but
24 they didn't.

1 So if I get a continuance, then I can go
2 back in. I tried to FOIA the information. They
3 wouldn't give it to me. So I am going to be filing
4 an action in Circuit Court, which they told me to
5 do. I'm going to do it probably this week.

6 I'm going to go to Circuit Court to force
7 them to give me the documents. That's the only
8 thing I could do. They won't give them to me.

9 The rules are clear, you have to give them
10 to me. They say, "There is too many documents to
11 look through. You know what, you looked through
12 more than that. To present these documents to this
13 witness, and that was no problem for you. So why
14 can't you just give me copies of the E-mails?"

15 If you recall, Judge, I know I gave up on
16 some of these arguments along the way. I gave up
17 some of these arguments along the way, because I
18 wanted to get to a hearing.

19 My initial discovery, they said, "There's
20 20,000 E-mails. We can't give them to you. It
21 would take forever to give them to you."

22 If they're relevant documents in
23 discovery, I've never heard that before. If I'm
24 litigating the case with opposing counsel, I mean,

1 we litigate cases all time when there's 5,000
2 documents, 10,000 documents.

3 They are trying to take my client's
4 license away. This is not like a citation of not
5 having a sign in one lot. This is a pretty serious
6 thing.

7 Guess what? They never did give me those
8 documents. You know how many E-mails they gave me,
9 Judge? Two of the 20,000. They said it was too
10 voluminous.

11 Two E-mails from an individual who I
12 litigated a case with, you know, a couple years ago
13 on the Lincoln Towing thing. That's it, two
14 E-mails, and I know they have E-mails going back and
15 forth discussing my client. They have to.

16 We're at a hearing. Somebody had to be
17 talking about it. I got not one. Okay, I'll live
18 with it. I'll go forward anyway, because they had
19 nothing. Because prior to these few exhibits, they
20 didn't have anything.

21 So now that I got these things, I had no
22 opportunity, and now that I can't even get it from
23 them, I at least thought that through my FOIA, I
24 would have documents. I don't have that.

1 I need to go figure out who I'm going to
2 depose from the Commerce Commission, if anybody
3 else. I am going to want to depose Scott Morris.
4 I'll do some more written discovery.

5 And here is the thing, as far as I know,
6 discovery is still not closed, because counsel will
7 tell you, "There's no closing discovery." By the
8 way, to say that, I argued that Bob Munyon's dep
9 discovery closed. Fine, I'll live with that.
10 Discovery is closed. None of this gets in.

11 Their documents came a month after that.
12 So discovery was closed at Munyon's dep. I agree
13 with counsel, none of this gets in now.

14 MR. BARR: That mischaracterizes the testimony.

15 MR. PERL: Well, he said I can't have it both
16 ways, and neither can he.

17 MR. BARR: Your Honor, I don't want to continue
18 hashing this out all day. I think what we're doing
19 is rehashing every issue that has been brought up at
20 a status hearing before.

21 It really comes down to this: We provided
22 documents to counsel. He was granted an opportunity
23 by this Court to redepose our witness. He took that
24 opportunity to redepose him.

1 He had seven days -- he had 14 days
2 between when we tendered him the documents to when
3 exhibit were due, and he had seven days after the
4 deposition. Now he's wasted three days now, and he
5 wants to waste this Court's time to bring an
6 emergency motion to try to get these documents out.

7 If he really wanted to continue this
8 matter, because he wanted to do more discovery, and
9 not because he's not liking what he hears, he would
10 have brought this motion back before this hearing
11 started.

12 MR. PERL: I did, if you recall.

13 MR. BARR: You didn't.

14 MR. PERL: I did bring a motion.

15 ALJ KIRKLAND-MONTAQUE: One second. Let me ask
16 you this, Mr. Barr: How do you respond to the
17 statement that -- and I have yet to read this. What
18 we're going to do is I'll probably take a break and
19 go back in my office and take a look at it.

20 How do you respond to the statement that
21 during the deposition, the Sergeant Sulikowski
22 stated he would not be using any documents?

23 MR. BARR: It's a mischaracterization, your
24 Honor.

1 MR. PERL: Look at page 8 of my motion. See if
2 it's mischaracterized.

3 MR. BARR: We tendered to counsel the
4 documents, all these documents. To say we didn't
5 bring anything with us, we didn't need to rebring
6 the documents for the purpose of just handing him
7 the same documents.

8 Sergeant Sulikowski said he reviewed the
9 documents. That's on page 108. He said how he
10 reviewed them.

11 MR. PERL: Page 8 of my -- question on page
12 8 -- this is page 159: "Question: Are you planning
13 on using the documents contained in Exhibit 3 when
14 you testify at the hearing for fitness on Lincoln
15 Towing? Answer: I, personally, am not presenting
16 these as documents."

17 That is just one time. Further he said,
18 page 10, "So the only way you are going to be able
19 to testify that there are any inconsistencies or
20 consistencies," interrogatory No. 20 states is, "if
21 you look at the 24-hours tow sheets, correct? Yes.
22 You didn't bring those here today, did you? No."

23 MR. BARR: We don't need to bring counsel's own
24 documents, the 24-hour tow sheets, back to counsel.

1 We don't need to keep exchanging the same documents
2 back and forth.

3 MR. PERL: Judge, it's not whether or not I
4 gave him the documents. Understand, when people ask
5 me to produce documents in discovery, I can give
6 them 10,000 documents. That doesn't mean you're
7 going to use them at the trial.

8 You've still have to show them what you
9 are going to use at trial. That's what the trial
10 books are for, because they didn't put everything in
11 there.

12 It's not to assume everything I give you
13 you're going to use at trial. That is why we have
14 trial books because we don't want to do that.

15 Furthermore, he says, again -- he says at
16 least one more time to one of my questions that he's
17 not planning on using the documents. You could read
18 that, Judge.

19 So it's clear that he either -- probably
20 didn't intentionally mislead us, because he hasn't
21 testified yet, but he certainly misled us by saying
22 he's not using these documents.

23 He's the only witness they have identified
24 to use them. And they sat there, they were at this

1 deposition, not one attorney, but two, and they
2 listened to what he said, and he never said to me,
3 "By the would, counsel, just so you know, we're
4 actually planning on using these documents with
5 him."

6 Now, theoretically speaking, let's say the
7 documents get into evidence, and he hasn't testified
8 to them. Okay. What does it mean? So there's two
9 ways of looking at this.

10 They are planning on using the documents
11 here to introduce, but not through this witness. Go
12 ahead. I will preclude this witness from
13 testifying. Let them figure out another way to get
14 these documents in.

15 The documents can speak for themselves,
16 because this witness should not be allowed to
17 testify to these documents.

18 ALJ KIRKLAND-MONTAQUE: The witness thus far in
19 the three days we had this hearing, the witness is
20 saying based on this report, he's not giving an
21 actual knowledge-base information. He's limited to
22 what he's looking at.

23 MR. PERL: That is because if you read the
24 entire deposition, which we can, we've attached it,

1 he says so many different times he has no idea.

2 He didn't print these documents. He
3 didn't review them before they were printed. There
4 is no way he reviewed all of them that Friday,
5 anyway, and he thinks they are not even accurate.

6 So how can this witness testify to
7 anything? There's no difference between if I take
8 this nice court reporter, who I'm speaking to
9 quickly, and I said to her, "Madam Court reporter,
10 take a look at this document, and look at the
11 screen, and tell me if they are the same." She can
12 do that.

13 ALJ KIRKLAND-MONTAQUE: But that's what it is.
14 That's my point. That's all we have. That is all
15 you have right now.

16 MR. PERL: So what is the purpose of presenting
17 this witness, unless they are going to stipulate to
18 you he's -- well, they've already did -- he's not
19 rendering any opinions.

20 So what's the purpose of his testimony?
21 It's just to get the testimony out to your Honor to
22 prejudice you to somehow believe the information is
23 accurate, when if you don't have any testimony --
24 let's say we wipe out all and erase all of Sergeant

1 Sulikowski's testimony. All you're left with are
2 some screen shots and 24-hour tow sheets.

3 And as far as I know, and at closing
4 argument, although in past history repeats itself,
5 they think they can argue things at closing, he
6 didn't present things in the cases, which they can't
7 do.

8 They won't be able to present this at
9 closing, because they didn't put in any evidence the
10 documents are truthful or accurate anyway. So they
11 would be stuck with no closing argument for any of
12 it, as opposed to now they're setting this up to
13 have at least some closing argument, even though
14 they can't say that testimony will show Sergeant
15 Sulikowski has an opinion, because he doesn't.

16 When I cross examine him, that will be
17 even clearer. Beyond that, Judge, it's just not
18 fair to do it to anybody. I don't know of any other
19 forum where it would possibly even fly.

20 The documents that have never gotten in
21 because they weren't timely, and Scott Morris
22 certifying -- I don't know what he's certifying. I
23 don't know if he is certifying, like Madam Court
24 Reporter could do.

1 MR. BARR: There is an affidavit. He didn't go
2 in there and say, "Oh, I'm going to look and make
3 sure everything is correct and accurate," as opposed
4 to anyone in this courtroom.

5 MR. PERL: I can show you this document. I can
6 make a copy of it, show another one and say, "Does
7 it say the same thing?" You could say, "Yes." Then
8 I could say to you, "Is it accurate?" You could
9 say, "How would I know?"

10 Just like Sergeant Sulikowski says, he
11 doesn't know if it's accurate.

12 ALJ KIRKLAND-MONTAQUE: The evidence is what it
13 is. If you want to call them weaknesses, or it's
14 the opportunity for it to be challenged. That is
15 what it is.

16 Then you then have the opportunity to make
17 these arguments. I mean, insofar as it being
18 prejudicial, I mean, I'm also the Judge who hears a
19 lot of the citation hearings.

20 I mean, I know how things work. I'm not
21 saying that predisposes me to make any type of
22 decision, but I know that having a screen shot is
23 entirely different from presenting a citation and
24 having a hearing on a citation.

1 And if I recall correctly, we did have a
2 hearing on the citation regarding that operator
3 number.

4 MR. PERL: We prevailed. I think we prevailed.
5 That is besides the point.

6 MR. BARR: Your Honor, if you want to take
7 judicial notice of your order.

8 ALJ KIRKLAND-MONTAQUE: I'm just recalling.

9 MR. PERL: See, this is the problem, five to
10 six hearings we prevailed on. One I think I didn't.

11 And he's got it right there, because this
12 exactly the trial by ambush. He's prepared to
13 ambush us at every step of the way.

14 Because I've never seen that document
15 before. Now he's going to use yet another document
16 for your Honor that I've never seen before, to let
17 you know.

18 It doesn't mean in the world I've never
19 seen it. In this case, I've never seen it. Counsel
20 refuses the fact that if you're familiar with the
21 document, you can somehow lay a foundation for it
22 and use it in the case.

23 But that's just not the law. So whatever
24 document counsel wants to show you, that isn't in

1 evidence, maybe we should say -- I guess, okay,
2 discovery is still open. So now counsel can present
3 another document to you, then so can I.

4 All I'm saying to you, Judge, is I need an
5 opportunity -- I can talk quickly and think quickly,
6 but not that quickly.

7 I need an opportunity to -- actually, if
8 you deny this motion to strike, which I hope you
9 don't, and bar even if you grant it -- well,
10 actually, if you grant it, I don't need an
11 opportunity to do anything else probably, because I
12 will then be able to just have the hearing based on
13 the information I received prior to May 10th, which
14 was, you know, weeks before the hearing.

15 And then I could go forward on what I
16 thought I was going forward on, which is basically
17 nothing that they have, because they have no
18 evidence of anything else, because each one of these
19 officers said they have no opinion as to whether or
20 not they fit or not, to a man they said that.

21 So I don't really have an issue to them
22 testifying to the stuff outside their new exhibits,
23 but when they realize that they created these new
24 exhibits, and then when they realized they weren't

1 correct -- what they did was first they gave you the
2 exhibits without Scott Morris.

3 Then when I showed them at the deposition
4 they couldn't get it through Sergeant Sulikowski,
5 then they created Scott Morris after that. So no
6 matter what I do along the way, they keep doing
7 something else, even though discovery is closed. It
8 never ends.

9 And, right now, they're going to show you
10 another document because discovery still isn't
11 closed, I guess.

12 MR. BARR: Your Honor, I'm not showing
13 anything. I just want to make one quick point. I
14 don't want to waste any more of the Court's time.
15 Counsel knew these documents were going to be
16 testified by Sergeant Sulikowski.

17 We turned these over, I believe, at the
18 final -- no, prior to the final status hearing. It
19 was either the final status hearing or prior to. It
20 was in April.

21 When we turned these documents over, you
22 required, as counsel stated, to say who is going to
23 testify to these documents. "You need to tell them,
24 and you need to amend your discovery and tell them

1 who is going to testify about these documents and
2 what he's going to testify about," which we did.

3 Counsel was granted a time to redepose
4 Sergeant Sulikowski, based upon every one of these
5 documents, and based on the restated the
6 inconsistencies that were found throughout those
7 documents.

8 I don't know why counsel then needs to
9 reopen discovery so that he can redepose Sergeant
10 Sulikowski, redepose Scott Morris. Dorothy Brown's
11 office, and I was over there today, will print out
12 stuff from their database.

13 They certify what the judge said in the
14 record, but they will also print out, as you know,
15 your Honor, the docket sheet. That's not created by
16 a Judge. That's created by the clerk's office.

17 ALJ KIRKLAND-MONTAQUE: Let me ask you this:
18 During the second deposition, why was -- and
19 Sergeant Sulikowski was asked about or testified
20 about -- you know, that he would be testifying about
21 regarding inconsistencies.

22 Why wasn't it raised? Why couldn't you
23 address the specific inconsistencies? Why wasn't it
24 raised at that time?

1 MR. BARR: We didn't take Sergeant Sulikowski's
2 deposition. It was counsel. Counsel did. As you
3 know, your Honor, our exhibits -- some of our
4 exhibits were denied, which were demonstrative
5 exhibits, which literally outlines every single page
6 that Sergeant Sulikowski is going to talk about.

7 And you heard it yourself, your Honor. It
8 is Exhibits P through S, your Honor, and it's
9 literally every single page Bates stamped, and it
10 lists the reason what Sergeant Sulikowski is going
11 to talk about. I don't think it gets any clearer.

12 ALJ KIRKLAND-MONTAQUE: Did you present that
13 prior?

14 MR. PERL: Could you read that? Do me a favor,
15 could you actually read -- I think it's
16 Interrogatory No. 20, if my memory is correct.

17 Why don't you read what they gave me, and
18 you tell me if you think that actually tells us --
19 Interrogatory No. 20, you read that, and you tell me
20 if it says what Mr. Barr says.

21 All it says he's going to testify about
22 inconsistencies, nothing else. How do I know what
23 that means, inconsistencies?

24 ALJ KIRKLAND-MONTAQUE: Apparently that is a
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1 detail -- what I need to do is take a look at your
2 motion. I'm going to take about 30 minutes to do
3 that. In fact, let's reconvene at 2:30. That would
4 be about 40 minutes.

5 MR. PERL: Okay.

6 MR. BARR: Your Honor, can I ask Sergeant
7 Sulikowski to stick around?

8 ALJ KIRKLAND-MONTAQUE: I don't know. I don't
9 know what's going to happen.

10 (Recess taken.)

11 ALJ KIRKLAND-MONTAQUE: I have just one
12 question before I make my ruling. It's only
13 regarding the motion. I don't see in the motion,
14 unless I missed it.

15 You have an Exhibit 5 to the motion. I
16 don't see it cited in the motion.

17 MR. CHIRICA: It wasn't cited?

18 ALJ KIRKLAND-MONTAQUE: I don't see it. I'm
19 asking you to point it out.

20 MR. PERL: Let me take a look, Judge. Clearly,
21 we literally put this thing together since Friday.

22 MR. BARR: Your Honor, if you look at Count 1,
23 it's the same exact motion as the motion in limine,
24 word for word verbatim. I had to actually look up

1 to make sure they handed me the right motion because
2 it is the same motion.

3 ALJ KIRKLAND-MONTAQUE: Okay. Well, I just
4 want to do this point.

5 MR. PERL: The facts are the same, that's true.
6 They can't change. It's not the same motion.

7 MR. BARR: Well, it's word for word.

8 MR. PERL: The facts didn't change. They would
9 have to stay the same. Like the dates and times and
10 places couldn't have changed.

11 ALJ KIRKLAND-MONTAQUE: Exhibit 5, I'm just
12 curious, I was wondering where it was.

13 MR. BARR: Your Honor, may I make a statement
14 about Count 3 about the FOIA?

15 ALJ KIRKLAND-MONTAQUE: Not yet. Let me deal
16 with one issue at a time.

17 MR. PERL: By the way, Judge, I did find the
18 second time when Sergeant Sulikowski said he wasn't
19 going to use documents. That's on page 202.

20 When I said to him line 4, "As far as you
21 know, this document was in existence at the time of
22 your first deposition on March 15th, 2017? Answer:
23 The exhibit or the information? Question: The
24 exhibit, no. Are you planning on using this

1 document when you testify at the hearing for Lincoln
2 Towing relocation fitness?" The answer is "No."
3 That's the second time he said he's not using them.

4 MR. BARR: May I read another part of Sergeant
5 Sulikowski's testimony?

6 Actually, on page 122, counsel asks, "As
7 you sit here today, you're not planning on using
8 these documents during the testimony, are you?"

9 He asked about them. He clearly stated
10 he's going to use the documents if he's asked about
11 them. I think what counsel is confusing is that he
12 wanted Sergeant Sulikowski to testify about the
13 inconsistencies.

14 And you heard throughout the last hearing
15 Sergeant Sulikowski is not testifying based on
16 memory. He's testifying based on what the MCIS
17 report says.

18 ALJ KIRKLAND-MONTAQUE: Let me ask this
19 question about Exhibit 5: When did you give that --
20 when did staff give Exhibit 5 over?

21 MR. BARR: Is this counsel's Exhibit 5?

22 ALJ KIRKLAND-MONTAQUE: It's yours. I believe
23 that's your exhibit.

24 MR. PERL: I could tell you.

1 ALJ KIRKLAND-MONTAQUE: It's from his motion.

2 MR. BARR: This?

3 ALJ KIRKLAND-MONTAQUE: Yes.

4 MR. BARR: That was turned over with all the
5 documents.

6 MR. PERL: After the deposition.

7 MR. BARR: No, it was not, your Honor.

8 MR. PERL: Absolutely 1,000 percent, it came
9 after the deposition, absolutely.

10 ALJ KIRKLAND-MONTAQUE: When did you turn it
11 over?

12 MR. BARR: I thought it was turned over with
13 all the documents. If it wasn't turned over, it was
14 turned over with the binder. It literally outlines
15 every --

16 MR. PERL: A couple days before the hearing,
17 after the deposition, with the binders.

18 MR. BARR: Those have been excluded. It's the
19 same argument as the motion in limine. We're
20 literally rehashing.

21 ALJ KIRKLAND-MONTAQUE: I understand. But all
22 I'm saying is this allows you to kind of piece
23 together what they're going.

24 MR. PERL: On May 3rd, we took the deposition.

1 On May 10th, we got the binder with this document in
2 it.

3 If I had it, I could have questioned him
4 about it at the deposition, but I couldn't because I
5 didn't have it. That's the whole point, and you
6 picked up on is that if I had, on May 3rd -- well, I
7 still don't think it's appropriate, but at least if
8 I had this, I could have asked some questions.

9 I didn't get it until May 10th, seven days
10 after the deposition. That's when we got it. I
11 didn't have a chance to ask him any questions about
12 it, because I didn't have it at the deposition.

13 MR. BARR: Sergeant Sulikowski didn't create
14 this. He wouldn't know anything about this.

15 MR. PERL: Hold on.

16 MR. BARR: It's already been excluded.

17 MR. PERL: You're saying Sergeant Sulikowski
18 wouldn't know anything about this? Is that a
19 stipulation for the record?

20 MR. BARR: Your Honor, my I?

21 MR. PERL: I'm only saying it facetiously
22 because they want you to believe that he does know
23 about these documents, but then they'll tell you he
24 really doesn't know about the documents.

1 MR. BARR: He does know about the documents,
2 your Honor.

3 ALJ KIRKLAND-MONTAQUE: I think the
4 testimony -- and I do think we are rehashing the
5 argument before as in your motion in limine.

6 MR. PERL: Except that in my motion in limine,
7 I was arguing, this is the difference, the documents
8 shouldn't come in at all. Okay?

9 You did strike two, that being one of
10 them, that couldn't come in. The documents didn't
11 come in. I'm arguing now that this witness can't
12 testify to the documents because he said he wasn't
13 going to.

14 MR. BARR: He did not say --

15 MR. PERL: He literally said --

16 ALJ KIRKLAND-MONTAQUE: What's that cite again?

17 MR. BARR: On page 122.

18 ALJ KIRKLAND-MONTAQUE: Of the transcript.

19 MR. PERL: Of course he's going to have to
20 answer if he's asked about it. He's not going to be
21 in contempt of court.

22 He's saying to me basically --

23 MR. BARR: Now he's interpreting it.

24 MR. PERL: Mr. Barr is interrupting me every

1 time I speak now. If you look at the two clear
2 questions, when I ask Sergeant Sulikowski, "Are you
3 using the documents?" He said, "No," unequivocally.

4 And then he says, "Well, if I'm asked
5 about it." Of course he has to testify about it.
6 He can't say, "I refuse." He would be in contempt
7 of court, but he said --

8 MR. BARR: But --

9 MR. PERL: Here we go again. I'm just trying
10 to get a thought out. He said -- just like anyone
11 else, he can't say, "I'm not going to answer a
12 question," but he said he's not going to as them in
13 his testimony.

14 So if I presented the documents to him,
15 he's got to answer me. He can't say, "Counsel, I
16 refuse to answer you on the Fifth Amendment." Of
17 course he has to. It's clear from these documents,
18 he told me and --

19 ALJ KIRKLAND-MONTAQUE: All right.

20 MR. PERL: -- counsel sat there and never
21 corrected him saying, "Well, we plan on using those.
22 We're going to use those."

23 So I think it is really disingenuous for
24 counsel to sit here and say that "I thought" -- I

1 think if you let the documents in, which I guess you
2 can, and did, then he's going to testify to them.

3 So at the end of the case, what you have
4 to do, then, is somehow you have to go back through
5 the documents and compare it up, if you could, which
6 I don't think the Court could.

7 So that's why they're trying to sneak in
8 through the back door. I agree with you that I
9 didn't ask you in here to bar the documents, did I;
10 or exclude the documents, did I? I didn't.

11 I said, "Strike the testimony," which is
12 entirely different than not using the documents
13 because he can't testify to it.

14 ALJ KIRKLAND-MONTAQUE: I understand your
15 argument. And I think when I allowed the documents
16 in the testimony, the testimony is clear that he is
17 not -- that he is just reading the report.

18 MR. PERL: Okay, Judge, if he's just reading
19 the reports, then I'm going to bring in my daughter
20 next week to testify in this case, and she'll read
21 the reports, too.

22 There is no relevance. He knows as little
23 about those documents as anyone else on the street
24 knows.

1 MR. BARR: Sergeant Sulikowski testified that
2 these were the documents -- he's looking at the same
3 documents he looked at on the screen. We can't
4 bring the screen in.

5 We can't say -- cross examine the computer
6 and the MCIS database. Every answer Sergeant
7 Sulikowski has given is according to the document,
8 according to this printout.

9 Sergeant Sulikowski uses MCIS daily,
10 multiple times a day. It is not a question, it's
11 just a random person is looking at the documents and
12 reading from them.

13 These are documents that Sergeant
14 Sulikowski actually looks at every day. If counsel
15 wants to disagree, I've seen Sergeant Sulikowski do
16 it. I talked to him about it. We've both done the
17 same thing at the same time.

18 We're just literally rehashing the same
19 motion in limine every time we start this hearing
20 and it's delaying the process. And I'm not going to
21 tell the Court what to do, but I am going to request
22 that this motion be denied, and we can get Sergeant
23 Sulikowski's testimony.

24 MR. PERL: Just so we are clear Sergeant

1 Sulikowski testified in his career, he had never
2 looked at -- printed out documents from the MCIS to
3 review. He only reviewed the screen.

4 So counsel is mixing you up by saying, "He
5 reviews these documents every day." No, he doesn't.
6 He looks at the screen.

7 MR. BARR: Which has the same documents. They
8 get printed or don't get printed. It's the same
9 document.

10 MR. PERL: It's not the same document, and you
11 can't prove that because you have no witness to
12 testify that it is.

13 Sergeant Sulikowski has no way of knowing
14 -- here is what they did: They showed Sergeant
15 Sulikowski the document, not the screen. So he's
16 looking at a document. They are telling him, "This
17 is the same thing the screen says."

18 He doesn't know that. He didn't go back
19 and check it over.

20 MR. BARR: If he wants to cross examine him on
21 it, he can.

22 MR. PERL: Judge, can I just -- I know that
23 counsel wants to argue, but can I finish my thought?

24 ALJ KIRKLAND-MONTAQUE: Okay.

1 MR. PERL: Because counsel knows what he's
2 saying isn't accurate. It's not truthful.

3 The deposition is replete with me asking
4 him, "Did you ever use these documents before? No.
5 Did you ever see them before? No."

6 I used the screen. He looked at a screen
7 shot. I even said to him, "Did you bring the screen
8 shot?" Because he said to me, "I looked at the
9 screen shots." I said, "Okay," at his dep.

10 "Did you bring the screen shots with you?
11 No. Well, do you have any memory of what they were?
12 No. Do you know, without looking at these
13 documents, if they had any violations? No?"

14 And then I clearly said to him, "And it's
15 not the same thing." This motion is not the same.
16 I did not ask you to reconsider yet whether or not
17 the documents come in.

18 I just said this witness, like this court
19 reporter, or anyone else, should not be allowed to
20 testify to these documents, because there is no
21 foundation for it and I laid it out.

22 Clearly, there is no foundation for him
23 testifying as to any of this information. He didn't
24 input it. He doesn't even know when the screen

1 shots were printed. He has no idea.

2 It could have been a year ago. It could
3 have been two years ago. He has no clue. How is it
4 relevant?

5 Here is what they want to do, they want to
6 get the information to the Court somehow. Here is
7 how they're doing, the witness has no idea what the
8 documents are. Just so you can hear the testimony,
9 so it sounds like testimony to you.

10 And that's what they're doing. There is
11 where the prejudice goes to my client. If, in fact,
12 the documents get into evidence, and you've already
13 said they come into evidence, you don't get to just
14 have anybody testify.

15 If you look at the deposition, you read
16 the whole thing, you will see Sergeant Sulikowski
17 saying he has no idea who input the information. He
18 knows he didn't input the information, and he
19 doesn't even think it's accurate.

20 So how can the Court allow him to testify
21 to a document just because he knows how to read and
22 write. That's what they are doing. He knows how to
23 read and write, so he gets to testify in a Court of
24 Law on.

1 That's not a foundation. I've never heard
2 that done ever in the history of a courtroom, where
3 you say, "I'm bringing in a witness just to say that
4 This document looks like that document?" It doesn't
5 get done anywhere.

6 And if you don't have him doing that,
7 you're left with nothing on their side, and they
8 know that. So if they don't want to have Scott
9 Morris come, which is at their peril, and this
10 witness doesn't testify to it, then all you have is
11 a bunch of documents.

12 And at the end of the trial, they say,
13 "Here, Judge, here's our documents," with no witness
14 testifying what they say or interpreting them.

15 And, by the way, he's not even
16 interpreting them any way, because clearly his
17 deposition and his testimony is limited to saying
18 just what the screen shots say.

19 I don't even know if it's accurate or not.
20 I haven't gotten to my cross examination. If you
21 read -- I know you didn't have time to read the
22 whole deposition probably, but there is a quote from
23 the deposition where I say to Sergeant Sulikowski, I
24 believe it's at page 209 --

1 MR. BARR: Your Honor, may I make a comment?

2 ALJ KIRKLAND-MONTAQUE: Hold on. Hold that
3 thought.

4 MR. PERL: I asked him if he believed the
5 information in the exhibit is accurate, and he said,
6 "No." So I don't know how, taking into all of that,
7 you can allow a witness to testify, when they have
8 no foundation for it.

9 They didn't create the document. They
10 don't know when it was created. They don't know who
11 created it. They don't even know when it was
12 printed, just so Court can hear the words.

13 That's all they are doing, Judge, they are
14 getting you to hear the words from them, because
15 they want you to hear this so-called evidence, which
16 you wouldn't hear otherwise, if only the documents
17 came in.

18 That's what I'm arguing about. Look at my
19 motion. I'm not asking you to reconsider and to bar
20 the documents from coming into evidence, even though
21 I think they should be.

22 I'm saying even if they come in, he just
23 can't testify to them, and everything gets stricken,
24 and let them figure out a way, without having any

1 witnesses, because they don't have any other
2 witnesses to testify, they can get those documents
3 across to you, because doing it this way is totally
4 improper.

5 ALJ KIRKLAND-MONTAQUE: You have a point.

6 MR. BARR: I was going to say that counsel put
7 these documents in front of Sergeant Sulikowski. He
8 put the 24-hour towing invoices, and he said, "Point
9 out the inconsistencies."

10 This isn't an exam of Sergeant
11 Sulikowski's memory. He doesn't have to say --
12 memorize every lot that's in the contract. Oh, so
13 that's an inconsistency. That's an inconsistency.

14 What Sergeant Sulikowski did, when he was
15 here, he said he sat down with MCIS, sat down with
16 the towing entries, sat down with staff and reviewed
17 the inconsistencies.

18 It is not an attestation. That's what
19 Sergeant Sulikowski's testimony has been the whole
20 time, "According to the MCIS report. According to
21 the MCIS report."

22 If counsel wants to cross examine Sergeant
23 Sulikowski, obviously he has the opportunity to do
24 so. But to say Sergeant Sulikowski's testimony is

1 improper, or should be stricken, is not correct.

2 MR. PERL: Well, when he says two different
3 times to me in the deposition under oath, "I'm not
4 planning on using these documents when I testify,"
5 I'm allowed to take him at his word.

6 So Either he perjured himself, which I
7 don't think he would ever do, because to be honest
8 with you, I have the utmost respect for him as an
9 officer of the law. He has many jobs. This is what
10 he does for a living.

11 I believe he would never do that. I think
12 he truly felt he wasn't using these documents. If
13 counsel thought he was going to, sitting right next
14 him, he could have said to me, or he could have
15 said -- we took at least one or two breaks. He
16 could have said to us, "Hey, listen" -- because he
17 is his attorney.

18 You know, we actually argues about these
19 documents, "You should probably clarify for
20 Mr. Perl, so he actually knows, because that's the
21 whole reason we're here."

22 What I was led to believe was the
23 documents were going to tendered to you -- by the
24 way, at that point, Judge, I didn't know you were

1 going to let them in.

2 All I knew is they had some documents in
3 the book. At that point in time you hadn't ruled
4 they were admissible.

5 So when they told me, "they" being their
6 witness, because he is the only one who testified,
7 they are not using the documents at the hearing, I
8 took them at his word.

9 Am I not supposed to take the witness at
10 his word?

11 MR. BARR: I want to make one quick word. I
12 don't want to belabor this. We told counsel on the
13 record who was going to testify and what he's going
14 to testify about.

15 So for counsel to say he had no clue
16 Sergeant Sulikowski was going to testify, that this
17 is a complete surprise, it's inaccurate. It's
18 disingenuous, and it's wasting the Court's time.

19 ALJ KIRKLAND-MONTAQUE: What were you going to
20 say about the Freedom of Information Act?

21 MR. BARR: The Freedom of Information issue is
22 not before this Court.

23 ALJ KIRKLAND-MONTAQUE: Okay, I agree with you.

24 MR. PERL: It's not before this Court because I

1 don't bring it before this Court.

2 What I'm telling you is that counsel keeps
3 saying I had ample time to do all these things,
4 actually. Well, actually, we don't have ample time.
5 We acted pretty quickly at that point in our firm.

6 Within a week of the hearing, I got a FOIA
7 request, and they won't give it to me because they
8 know I'm in the middle of a hearing; and without
9 those documents, I'm stuck. So I got to get them
10 some other way now. So at the very least, I need to
11 do that.

12 MR. BARR: I'm not a FOIA officer, your Honor.

13 ALJ KIRKLAND-MONTAQUE: That's fine. I don't
14 want to get into the details about that.

15 I'm going to deny the motion to strike the
16 testimony. At this point in time, regarding
17 continuing, I think -- I believe -- I think you are
18 going to have to address this issue on cross
19 examination. You have the opportunity.

20 I will give you a little more time. I
21 know we have another hearing scheduled, and I'm
22 willing to give you another week or so on that so
23 that you can do whatever.

24 MR. PERL: It's not -- well, we're doing that

1 anyway because this witness wasn't available
2 July 26th and 27th. It isn't that I need more time
3 to cross examine him. I can cross examine him.

4 I need documents and other witness
5 testimony. That's the problem. I need to have
6 discovery open to me, which it was never closed
7 anyway. Just like they did, because it wasn't just
8 asking Sergeant Sulikowski questions.

9 I need to go through discovery. I need to
10 go figure out -- I probably have a dozen lot owners
11 to talk to and bring them in to testify now, because
12 where they are trying to claim we didn't have a
13 contract. I'm going to prove we did.

14 MR. BARR: It doesn't matter if he had a
15 contact, an assignee contract. They can't tow from
16 the parking lot. That's going to be our argument.

17 ALJ KIRKLAND-MONTAQUE: Wait a minute. Are you
18 going to make -- we're getting to the crux of the
19 matter. The is the Commission's staff strategy to
20 categorically say all these things that Sergeant
21 Sulikowski testified to were illegal?

22 MR. BARR: They are based on compliance
23 records.

24 MR. PERL: But that's what they are trying to

1 do.

2 ALJ KIRKLAND-MONTAQUE: How can you say they
3 are illegal, if there is no citation, no hearing, no
4 findings?

5 MR. BARR: Because there is findings.

6 ALJ KIRKLAND-MONTAQUE: How do you know it's
7 true? How do you know it's accurate?

8 MR. BARR: Because it's based on the MCIS
9 report. That is what Sergeant Sulikowski testified
10 to. If it's not in their system, the same thing
11 they would do, whether they got a consumer
12 complaint, is they would look up the address, type
13 it in the MCIS. If it's not in there, or if it's up
14 to another relocater --

15 ALJ KIRKLAND-MONTAQUE: But they don't issue a
16 citation.

17 MR. PERL: Who's testified to any of that,
18 counsel? This is the problem I have with this
19 thing, every step of the way. It's literally trial
20 by ambush.

21 They probably should have said what we
22 just said to you, but he didn't. Anyway, what they
23 want to do is even though Sergeant Sulikowski, in
24 his deposition, says the information isn't accurate,

1 and he didn't do any investigation, and he has no
2 idea if there was a violation, that's all in the
3 deposition.

4 Even though they say that, they want you
5 to infer there was a violation somehow, because he's
6 saying some words to you. That's my big problem.

7 I know they always say it's not hearsay
8 because it's not going to prove the truth of the
9 matter asserted, which is a law school proposition,
10 but no one ever actually hardly ever uses it in real
11 life.

12 MR. BARR: Your Honor, this is turning into
13 some personal attack on the Commission.

14 MR. PERL: It is not a personal attack. My
15 client is the one that's being personally attacked,
16 not Mr. Barr. He's just an the attorney in this
17 case.

18 He gets the same pay every week and week
19 out. The personal attack is on my client, because
20 they want to take their license away by doing things
21 like that that are underhanded.

22 Judge, we don't really want to prove the
23 trust of the matter asserted. He just says to you
24 that every one of these things is an actual

1 violation. Even your Honor just said, "How?"

2 Read the deposition. It's not possible.
3 That's why you need to strike his testimony because
4 they are using it to bootstrap everything they just
5 said.

6 They're bootstrapping that into it's a
7 violation, even though we all know in this room no
8 violations were ever written. No citations were
9 ever written.

10 They never even brought it up to us until
11 May, even though it was a year-and-a half ago when
12 it happened. All those things that occurred, so
13 they can ambush us at this hearing, that's exactly
14 what they do every single time, including things
15 like, "I won't show you the invoice. You can't have
16 it."

17 Everything they could possibly put up a
18 roadblock, they do, and you've seen many times.
19 This is probably the most blatant occurrence of it.
20 I really can't believe that a witness can testify in
21 a Court of Law, when they have no foundational
22 purpose, other than he can say, "That looks like the
23 screen shot." So what?

24 You still need to have a witness. There

1 has to be a foundation on it. I said -- this is the
2 last page, 277. That's why I couldn't find. It's
3 actually the last page, "I ask you one more time, is
4 the information on this screen you're looking at
5 accurate? Answer: No."

6 He literally says that --

7 MR. BARR: Your Honor --

8 ALJ KIRKLAND-MONTAQUE: Hold on.

9 MR. PERL: He literally says the information
10 isn't accurate.

11 ALJ KIRKLAND-MONTAQUE: Wait a minute. I'll
12 find it.

13 MR. BARR: He's talking about one exhibit, one
14 line. He's just picking that up. It's amazing.

15 MR. PERL: No, I'm not.

16 ALJ LYONS: Calm down. Hold on.

17 MR. BARR: That is not even the relevant scope.

18 MR. PERL: Really? How did they bring it up if
19 it wasn't in the relevant scope.

20 ALJ KIRKLAND-MONTAQUE: You said page 277?

21 MR. PERL: Page 277, line 24, and it goes on to
22 278.

23 MR. BARR: Judge, you start at 276, though,
24 your Honor. Start at 20.

1 MR. PERL: Start wherever you want.

2 ALJ KIRKLAND-MONTAQUE: Okay. All right. I
3 don't want another heated debate. My ruling is what
4 it is.

5 I'm going to deny the motion to strike.
6 The testimony is what it is.

7 MR. PERL: How am I supposed to prepare cross
8 examination, when I learn for the first time on
9 Friday what they're talking about was our driver on
10 250 different tows?

11 How can I possibly prepare for cross
12 examination, when the first time I heard about it is
13 last Friday. They never gave that to me before, any
14 of this stuff. I'm hearing it for the first time
15 right now. I mean, really, your Honor?

16 Then I want the Court to say I can bring
17 in any witnesses. Anything I want to bring in, I
18 can bring in my case, anything at all. So I can
19 bring in any witnesses. I can bring any documents
20 and show it to them the first time when I present
21 them. Let's just do it that way.

22 So I can bring in anything I want, because
23 discovery is not closed. I can bring in any
24 witnesses I want, and I can give them any documents

1 I want the day of trial, when I present my case.

2 Would that be fair?

3 MR. BARR: Your Honor, Mr. Sulikowski will
4 stand on his testimony.

5 MR. PERL: Counsel Barr doesn't want to hear
6 the answer to that, because he knows that's what
7 he's done to me.

8 MR. BARR: The Court has ruled. I just want to
9 get to an evidentiary hearing.

10 MR. PERL: I don't know how I'm supposed to --
11 I mean, I'm going to finish up this hearing because
12 that is what I do. I'll do the best that I can, but
13 my hands are tied.

14 I've never been in a hearing where I've
15 heard anything for the first time at trial in my
16 life. I know a lot of times in criminal cases they
17 do that, because they don't take depositions. But,
18 in my world, I depose people for a reason, and I
19 take a lot of time doing it. I'm painfully detailed
20 about what I do.

21 Sometimes I have 2, 300 questions. My
22 depositions take a long time. This one I was so
23 clear about it with him. He was so clear with me
24 what he was or wasn't doing, and they intentionally

1 didn't bring the documents with them, so he couldn't
2 tell me what he was going to do.

3 The onus is on me somehow to glom from
4 Sergeant Sulikowski. It wasn't I was testing his
5 memory. He didn't bring the documents with them.

6 MR. BARR: They had the documents. We turned
7 them over in front of you.

8 Why do we need to bring the documents
9 again, the same documents again? I don't understand
10 counsel's argument or anything.

11 MR. PERL: Judge, I didn't have that document
12 that they gave me seven days after the deposition.
13 It could have been an oversight on their part. I
14 don't know. I also didn't have Scott Morris'
15 certification.

16 MR. BARR: It wasn't in evidence. We're not
17 using it.

18 MR. PERL: I also didn't have Scott Morris'
19 certification.

20 ALJ KIRKLAND-MONTAQUE: If you had it before,
21 you could have --

22 MR. BARR: Sergeant Sulikowski said in his
23 deposition that he would talk about not only the
24 inconsistencies, but operators didn't have a permit.

1 ALJ KIRKLAND-MONTAQUE: Which ones? Why do you
2 have to let him figure it out?

3 MR. PERL: Because that's what they do.

4 MR. BARR: But it wasn't a memory test.

5 MR. PERL: As long as he can get away with
6 something, and I don't blame Ben for doing it, as
7 long as can get away with it, why not do it?

8 ALJ KIRKLAND-MONTAQUE: I'm not suggesting it
9 has to be a memory test.

10 MR. BARR: The pieces were never put together.
11 It was, "Tell me about this, and tell me about the
12 MCIS report." It was never, "Can you look at the
13 MCIS report and tell me where this is going to be
14 used?"

15 I can't help it counsel didn't connect the
16 dots. Scott doesn't need to give him a road map to
17 every question.

18 MR. PERL: Judge, when counsel gets into
19 private practice into the rest of the world, I
20 invite him to make that argument to a judge some day
21 that, "I give you nothing until the day of trial."

22 And somehow the burden is on me to guess
23 what they're going to do.

24 MR. BARR: That wasn't my argument.

1 MR. PERL: It absolutely laughable for him to
2 say that. I take offense to it, because counsel is
3 the one that continuously gets away with murder in
4 this courtroom.

5 Your Honor, your rulings are great. I'm
6 not faulting you, but we're working with a limited
7 scope. They're getting away with murder. It
8 doesn't happen anywhere else.

9 I understand we want to the move things
10 along. I get that part, but you shouldn't be
11 rewarded for bad behavior, and they always are.

12 Counsel gets awarded for bad behavior.
13 They do something wrong, I argue about it. They
14 make me look like the bad guy for arguing about it.

15 And they go, "He's always taking up time
16 with these motions." Anywhere in the world, it just
17 doesn't happen anywhere. There are rules for
18 discovery for a reason.

19 You can't give anyone a document on
20 May 3rd, or April 24th, for a hearing a month later
21 and expect to get it into evidence. They did in
22 this court because they did. It wouldn't happen --

23 MR. BARR: They took a discovery deposition
24 that led to more discoverable evidence. That is the

1 whole point of a discovery deposition.

2 MR. PERL: What am I supposed to do at Sergeant
3 Sulikowski's deposition? It was three weeks before
4 the hearing. Do more discovery? Okay, let's do it
5 then.

6 Then I guess we should continue the
7 hearing, because counsel is correct, I got more
8 discoverable information in the deposition, so I
9 should be able to discover it then.

10 MR. BARR: It is a little late in the game now
11 to say you got discoverable information. You could
12 have said that. If you did, which I don't think
13 you're being truthful --

14 ALJ KIRKLAND-MONTAQUE: All right. I already
15 made my ruling.

16 MR. PERL: I'm hoping, Judge -- I'm not sure,
17 are there more documents counsel is planning on
18 bringing in?

19 MR. BARR: We have an exhibit binder. We're
20 going to ask certain exhibits be put into evidence,
21 yes, if that's what you're asking.

22 MR. PERL: Well, again, this will be my last
23 comment. I guess when you ruled that they can't use
24 anything that they had after February 1st, 2017,

1 that's what the discovery cutoff date was. That's
2 not what is being upheld here.

3 MR. BARR: That was the investigation. We
4 talked about this in the motion in limine. That was
5 towards the investigation packet.

6 MR. PERL: This is the investigation. What
7 else is it?

8 ALJ KIRKLAND-MONTAQUE: I think, if I recall
9 correctly from the motion in limine, I said to the
10 extent that those documents -- that I was allowing
11 those documents in as a public record.

12 To the extent they were beyond the date
13 earlier stated, I believe that at a status hearing,
14 I was amending that to allow those documents in.

15 But I think if I recall correctly at that
16 status hearing, I was trying to define the scope so
17 that staff did not continue to give you
18 investigation and citations that were issued.

19 Even if those citations and investigations
20 were cured within the time period, they were no
21 longer able to give you any new investigative or
22 citations that were within that time frame.

23 MR. PERL: Well, then, I am going to bring in
24 another motion, just so the Court is aware this

1 week, to reopen discovery for our part, because --
2 I'm just making a record.

3 I have to make a record, because now even
4 if they give me extra time to do cross examination,
5 so what. I don't need more time for the actual
6 cross examination.

7 I need more documents and more discovery,
8 and I'm getting blocked at every step of the way.
9 I'm going to be filing an action in State Court.
10 Then I am going to file a motion to stay this
11 proceeding, until that action is heard, because it
12 will be in front of you.

13 So we can have delay all we want. It's
14 not on me. It's on staff. They know darn well that
15 I can't proceed without having full compensatory
16 discovery.

17 The FOIA, they won't give to me. I'm
18 going to file a State Court action. We're wasting
19 more time, because I'm going to come back in here
20 and file a motion to stay.

21 Once I do that, I think you almost have to
22 stay at that point in time, because I've got to get
23 resolution of the FOIA so I can do this. And I'm
24 also going to be sending out new dep notices.

1 On of them is certainly to Scott Morris.
2 Not dep, testimony. I want him to come to testify.
3 So I'm going to send a subpoena to Mr. Morris to
4 testify at the hearing, as well as other
5 individuals.

6 And I'm going to have probably 20 or 30
7 rebuttal witnesses, because the information I just
8 learned, now I get to rebut. And I'm going to
9 present rebuttal witnesses, because I never knew
10 about it before.

11 All these things being said, the only
12 thing causing the delay is the fact they've never
13 given me any documents on time. And even when they
14 don't give them to me on time, somehow they get in.

15 So I'm going to have to file more motions
16 now, and spend even more time, when literally this
17 could have been resolved by letting me depose Scott
18 Morris when I asked to, before the hearing started,
19 and figure out -- which you almost did, in figuring
20 out what he actually did, so we actually know what
21 he's certifying to.

22 We still don't really know what he's
23 certified. We know what he's saying. We don't know
24 if he looked at the screens. I guess the last word

1 out of this, you would literally have to believe
2 what counsel is telling you is accurate that on one
3 afternoon, Sergeant Sulikowski took the 24-hour tow
4 sheets that are all tabbed there.

5 They are not even done yet. Look at every
6 single printout and cross-referenced to every one of
7 these, do you know how long it would take for him to
8 do that?

9 It's literally impossible. He didn't do
10 it. So what they're telling you now is he looked at
11 a thousand different tows in one afternoon and
12 cross-referenced them back and forth. It would take
13 him 5,000 minutes. I don't know how many hours it
14 is, 500. That's a lot. It's not one day.

15 ALJ KIRKLAND-MONTAQUE: I thought I read in the
16 transcript where you asked him -- someone said that
17 the team pointed out the inconsistencies. I mean,
18 the team was the attorneys.

19 MR. PERL: But that's not what Mr. Barr just
20 told you. Mr. Barr told you that Sergeant
21 Sulikowski cross-referenced each one and saw the
22 inconsistencies.

23 See, this is what they do. They change up
24 every time they talk. So what is it, sergeant

1 Sulikowski did it or didn't do it? Because I don't
2 know.

3 ALJ KIRKLAND-MONTAQUE: All right. Clear it up
4 for us, Mr. Barr.

5 MR. BARR: The team that Sergeant Sulikowski
6 was referring to, they sat down, we asked Sergeant
7 Sulikowski to look at the inconsistencies.

8 He did the same thing he would do when he
9 did an investigation. He would type it into MCIS
10 and verify the same screen.

11 ALJ KIRKLAND-MONTAQUE: So he didn't identify
12 any inconsistencies, inconsistencies were pointed
13 out?

14 MR. BARR: Correct.

15 MR. PERL: You couldn't type those into MCIS.
16 Now listen to what counsel said, because counsel is
17 going to just make this up as he goes along, which
18 doesn't mean I'm listening.

19 He would have to type in 1,000 things in
20 MCIS in one afternoon. It's not possible. It's not
21 credible. He couldn't have done that. He would
22 have to literally -- there's a thousand towns we're
23 talking about.

24 MR. BARR: He only needs to type the address in
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1 once. It is a lot of tows, I will give you that.

2 MR. PERL: Yeah.

3 MR. BARR: But he doesn't need to type in, say,
4 123 Main Street, if there were 100 tows that were
5 alleged.

6 He needs to type it in once. How many
7 times does he need to type in 123 Main Street? He's
8 going to get the same information each time.

9 MR. PERL: And cross-reference a thousand
10 different things. I mean, just figure it out at one
11 address.

12 MR. BARR: He can ask Sergeant Sulikowski about
13 this on cross examination. He would have an
14 opportunity to do so.

15 ALJ KIRKLAND-MONTAQUE: All right. Then I made
16 a ruling. I would like the sergeant to finish his
17 testimony.

18 Can you do that today, Mr. Barr?

19 MR. BARR: I think so. It should be quick,
20 your Honor.

21 ALJ KIRKLAND-MONTAQUE: Okay. Finish his
22 testimony today, and we'll move forward.

23 MR. BARR: Can we pick new dates for Sergeant
24 Sulikowski? We were talking about at the last

1 hearing setting new dates.

2 Obviously we'll finish today, but then for
3 counsel for cross examination, Sergeant Sulikowski
4 is not available for the next two weeks.

5 MR. PERL: You know, Judge, I don't really want
6 to pick new dates. I'm planning on filing another
7 motion. This is where we get delayed every time.
8 Now the dates that we agreed to, they are not
9 available.

10 MR. BARR: We talked about this before.

11 ALJ KIRKLAND-MONTAQUE: What's the date? Off
12 the record.

13 (Discussion off the record.)

14 ALJ KIRKLAND-MONTAQUE: For the record, while
15 we were off the record, we set additional dates
16 aside September 13th and September 14th at
17 10:00 a.m. here in Chicago.

18 In addition to that, we will still fill
19 our dates of July 26th and July 27th, and we will --
20 is 9:30 okay with those?

21 MR. PERL: Judge, one of them I couldn't do the
22 whole day, if you recall. So we have the 26th is
23 actually at 9:30, and the 27th is at 1:00 o'clock
24 because I had hearing up in the morning.

1 MR. BARR: I have the same thing.

2 ALJ KIRKLAND-MONTAQUE: You do?

3 MR. BARR: Yes.

4 ALJ KIRKLAND-MONTAQUE: Okay. 1:00 o'clock.

5 MR. BARR: 1:00 o'clock on the 27th.

6 MR. PERL: 9:30 on the 26th.

7 ALJ KIRKLAND-MONTAQUE: Okay. So on July 26th,
8 we will meet at 9:30. July 27th, we will meet at
9 1:00 o'clock.

10 MR. PERL: Yes, Judge.

11 ALJ KIRKLAND-MONTAQUE: All right. Let's see
12 if we can get the last of the testimony from
13 Sergeant Sulikowski.

14 (Witness was duly sworn.)

15 SERGEANT TIMOTHY SULIKOWSKI,
16 called as a witness herein, after having been first duly
17 sworn, was examined and testified as follows:

18 DIRECT EXAMINATION (Resumed)

19 BY MR. BARR:

20 Q. Good afternoon, Sergeant Sulikowski.

21 A. Good afternoon.

22 Q. You're aware you are still under oath,
23 correct?

24 A. Yes.

1 Q. Sergeant Sulikowski, I want you to turn in
2 Exhibit F to the page that has RTVO No. 2515.
3 Please let me know when you're there.

4 A. Okay.

5 Q. Sergeant Sulikowski, how many pages have
6 2515 on it as a RTVO number?

7 A. Two.

8 Q. And Sergeant Sulikowski, do you recognize
9 those pages?

10 A. Yes.

11 Q. What do you recognize them to be?

12 A. A print of a screen shot of the MCIS
13 operator's permit.

14 Q. Would those be the same screens you would
15 see if you entered the information in MCIS on your
16 computer?

17 MR. PERL: Objection, foundation. He testified
18 he doesn't input information on the MCIS ever.

19 MR. BARR: I'm not asking whether he inputted
20 it. I'm just asking if that is what he sees.

21 MR. PERL: He says when you input information
22 in the computer, that is what you see. He's already
23 foundationally stated he doesn't enter anything
24 ever.

1 MR. BARR: I can ask him.

2 ALJ KIRKLAND-MONTAQUE: I think your wording --
3 you can reword the question to get the answer you
4 want.

5 BY MR. BARR:

6 Q. Sergeant Sulikowski, do you ever enter
7 stuff in the MCIS system?

8 A. Yes.

9 Q. Do you ever enter -- well, strike that.
10 What type of information do you enter into
11 the MCIS?

12 A. The operator's permit number.

13 ALJ KIRKLAND-MONTAQUE: I think you guys mean
14 search.

15 THE WITNESS: Yes, search.

16 MR. PERL: I mean, by entering, I don't think
17 he actually ever enters anything.

18 ALJ KIRKLAND-MONTAQUE: By "enter," you mean
19 search the data?

20 MR. BARR: Correct.

21 ALJ KIRKLAND-MONTAQUE: Let's be clear.

22 BY MR. BARR:

23 Q. When you search for an RTVO number, would
24 these be the same screens you would see when you

1 search?

2 A. Yes.

3 Q. Now, according to the MCIS screen shot in
4 front of you, operating No. 1525, who does that
5 number belong to?

6 A. The printout shows the name of Jose
7 Negron, N-e-g-r-o-n.

8 Q. And according to that printout or screen
9 shot -- I'm sorry, according to the screen shot you
10 have for Mr. Negron, when was his application
11 effective?

12 MR. PERL: I'll make another objection to
13 foundation. This witness -- just, for the record, I
14 won't make it every time. This witness has already
15 testified that he has no idea.

16 He's only reading from the screen shots.
17 So my objection would be foundational as to him
18 testifying to anything contained on this document.

19 ALJ KIRKLAND-MONTAQUE: Overruled. Go ahead.

20 MR. BARR: Thank you, your Honor. I'll reask
21 the question.

22 BY MR. BARR:

23 Q. Sergeant Sulikowski, I'll reask the
24 question. According to the screen shot that you

1 have in front of you, when was Mr. Negrón's
2 operator's permit first effective?

3 A. According to this printout, his operator
4 permit was effective 11-8 of '13.

5 Q. And what was the expiration date,
6 according to the printout of Mr. Negrón's permit?

7 A. 11-8 of '15.

8 Q. Sergeant Sulikowski, can I have you turn
9 to the next page that has the RTVO 2515 on it?

10 A. Okay.

11 Q. Does that also correspond to Mr. Negrón?

12 A. Yes.

13 Q. According to the screen shot that you have
14 in front of you, when was Mr. Negrón's application
15 received?

16 A. The printout shows the date of 6-27-of
17 '16.

18 Q. And what would have been the effective
19 date of Mr. Negrón's application according to the
20 screen printout in front of you?

21 A. The printout shows the effective date of
22 12-6 of '16.

23 Q. Based on your review of the two screens
24 shots that we just discussed, did you reach a

1 conclusion?

2 A. Yes.

3 Q. What is your conclusion?

4 A. There was a lapse in time between when the
5 permit expired on 11-8 of 2015, and when the renewal
6 took effect on 12-6 of 2016.

7 MR. PERL: Objection as to foundation. This
8 witness has already testified he knows nothing other
9 than looking at the screen shot.

10 The only thing he would know that would be
11 relevant, that he could testify competently, is what
12 this document shows. He foundationally cannot
13 testify as to whether there was a lapse or not,
14 unless they could somehow create a foundation for
15 this witness knowing that, outside of looking at
16 this document.

17 He doesn't take in applications. He
18 doesn't see the applications. He has no idea when
19 the application came in.

20 MR. BARR: I think Sergeant Sulikowski is
21 testifying based on this document, not what he
22 personally believes or has knowledge of.

23 MR. PERL: That is not what he said just now.

24 ALJ KIRKLAND-MONTAQUE: Okay. Let's base the

1 answer on the screen on printout. I thought he said
2 that.

3 MR. PERL: No, he said that there was a lapse,
4 as opposed to the printout shows that.

5 ALJ KIRKLAND-MONTAQUE: Okay. Clarify, Mr.
6 Barr, based on the screen shot.

7 THE WITNESS: According to these screen shots,
8 his permit expired 11-8 of '15. The application was
9 received on 6-27 of '16, and his new license took
10 effect 12-6 of 16.

11 BY MR. BARR:

12 Q. Sergeant Sulikowski, what do you mean by
13 "lapse"?

14 A. A period of time in which there was no
15 license in effect.

16 Q. When you say, "license in effect," what do
17 you mean?

18 A. I mean operator permit.

19 Q. Sergeant Sulikowski, I want you to turn
20 your attention to Exhibit -- I believe it's F, and
21 specifically --

22 MR. PERL: Which one?

23 MR. BARR: F.

24 MR. PERL: I think this one is J now.

1 MR. BARR: Yeah, counsel is right, J.

2 MR. PERL: Just for the record.

3 BY MR. BARR:

4 Q. Exhibit J, Sergeant Sulikowski, and
5 specifically page 145.

6 A. Okay.

7 Q. Sergeant Sulikowski, according to page
8 145, what was the date of tow?

9 A. 11-21 of '15.

10 Q. And on page 145, does the RTVO No. 2515
11 appear in the driver column?

12 A. Yes.

13 Q. Sergeant Sulikowski, can you next turn to
14 pages 161?

15 A. Okay.

16 Q. Sergeant Sulikowski, according to page
17 161, what is the date of tow listed?

18 A. 12-5-of '15.

19 Q. And in the driver column, does the number
20 2575 appear?

21 A. Yes.

22 Q. Sergeant Sulikowski, I next want you to
23 turn to pages 266.

24 MR. PERL: Judge, I don't want to do counsel's

1 work for him, but just so we save time on cross
2 examination, counsel stated 2575. I think he meant
3 to say 2515.

4 MR. BARR: I did. Counsel is correct.

5 ALJ KIRKLAND-MONTAQUE: Thank you. Go ahead,
6 Mr. Barr.

7 MR. BARR: You what me to reask, your Honor,
8 just to clarify?

9 ALJ KIRKLAND-MONTAQUE: It's on the record.

10 BY MR. BARR:

11 Q. Sergeant Sulikowski, can you next turn to
12 page 266?

13 MR. PERL: Judge, for the record, I think he
14 should reask the question, because it's unclear as
15 to whether 2515 does appear on page 161.

16 ALJ KIRKLAND-MONTAQUE: What's the page number
17 again?

18 MR. PERL: 161.

19 MR. BARR: 166.

20 MR. PERL: 161.

21 ALJ KIRKLAND-MONTAQUE: Previously the number.

22 MR. BARR: I'm sorry.

23 THE WITNESS: 161?

24 MR. BARR: Correct.

1 ALJ KIRKLAND-MONTAQUE: Can you ask the
2 question, please, Mr. Barr?

3 MR. BARR: Yes, your Honor.

4 BY MR. BARR:

5 Q. Sergeant Sulikowski, does No. 2515 appear
6 in the driver column?

7 A. Yes.

8 Q. Where, specifically?

9 A. The third row from the bottom.

10 Q. Sergeant Sulikowski, can you please turn
11 to page 266?

12 A. Okay.

13 Q. What's the date of tow listing on page
14 266?

15 A. 3-13 of '16.

16 Q. Does the number 2515 appear on that page?

17 A. Yes.

18 Q. Sergeant Sulikowski, based on your review
19 of the 24-hour tow logs, and according to the MCIS
20 screen shots in front of you, did you ever reach a
21 conclusion?

22 A. According to the screen shot, there was
23 not a valid operator permit at the time of these
24 tows.

1 Q. Thank you, Sergeant Sulikowski. Sergeant
2 Sulikowski, can you next turn in Exhibit F to the
3 operator No. 4190?

4 Sergeant Sulikowski, how many pages are
5 associated with the operator No. 4190?

6 A. Two.

7 Q. Do you recognize those pages?

8 A. Yes.

9 Q. What do you recognize them to be?

10 A. Printouts of screen shots of the MCIS
11 operator system, operating permit system.

12 Q. And who does that operator permit
13 correspond to?

14 A. The printout shows the name of Albert
15 Solano, S-o-l-a-n-o.

16 Q. Sergeant Sulikowski, are these the same
17 screens you would see if you searched the
18 information in MCIS on your computer?

19 A. Yes.

20 MR. PERL: Objection, foundation. No date, no
21 time. The question lacks foundation.

22 The witness can't testify competently as
23 to when they would see it, where he would see it. I
24 mean, there's no foundation for that.

1 He's asking him today if he looked at it
2 today, versus a year ago, versus a month ago?

3 ALJ KIRKLAND-MONTAQUE: What do you mean,
4 Mr. Barr?

5 MR. BARR: I just mean, in general, the types
6 of number, this type of information. I'm not asking
7 if he typed in today, this is what he pulls up.

8 I'm just asking, in general, the type of
9 information he receives.

10 MR. PERL: The question isn't the specific
11 information, but is this the type of information he
12 would see?

13 BY MR. BARR:

14 Q. Sergeant Sulikowski, in general, when you
15 type in a RIVO number in MCIS, what type of
16 information would you see?

17 A. When I do a search of an operator number,
18 this is the screen that appears, the same printout
19 of that screen shot.

20 MR. PERL: So my same objection. It's unclear
21 as to whether the witness is saying this information
22 on a particular screen is exactly what he would see
23 or this type of information. That's the foundation.

24 I mean, if you're going to ask the

1 question, you have to lay a foundation for him
2 knowing that -- you would have to then establish
3 when this document was created, on what date and
4 time, which they've never done, even until today,
5 and ask him that question.

6 Because nowhere on this document does it
7 say when it was created.

8 MR. BARR: Again, your Honor, I'm not asking
9 him if this is the exact information he was typing
10 into the MCIS or general information. I can be more
11 broad and ask Sergeant Sulikowski what types of
12 information pops up when he searches this
13 information.

14 ALJ KIRKLAND-MONTAQUE: I think you're
15 presenting a hypothetical what comes up if you put
16 in that number?

17 MR. BARR: Correct.

18 ALJ KIRKLAND-MONTAQUE: And he's saying --

19 MR. PERL: I have no objection to Sergeant
20 Sulikowski saying, "This is the type of information
21 I would see," as supposed to, "This is exactly what
22 I saw or I would see when I pulled it up, this exact
23 information."

24 ALJ KIRKLAND-MONTAQUE: All right. Fair

1 enough. Why don't ask him that -- frame the
2 question the way Mr. Barr said.

3 BY MR. BARR:

4 Q. Sergeant Sulikowski, is this the type, not
5 the specific information, but the type of
6 information you received when you searched the MCIS
7 computer system?

8 A. Yes.

9 Q. Now, Sergeant Sulikowski, according to the
10 MCIS screen shot in front of you, for Albert Solano,
11 what was the effective date for his permit?

12 A. According to this screen shot, the
13 effective date of his permit was 2-14 of '14.

14 Q. What would have been the expiration date,
15 according to this screen shot?

16 A. According to this screen shot, the
17 expiration date is 2-14 of '16.

18 Q. Now, Sergeant Sulikowski, can you next
19 turn the page?

20 According to the MCIS screen shot in front
21 of you, when was Mr. Solano's application next
22 received?

23 A. According to this screen shot, the
24 application was received on 3-7 of '16.

1 Q. And what was the effective date of the
2 application?

3 A. According to this screen shot, the
4 effective date of the application was 4-22 of '16.

5 Q. Sergeant Sulikowski, based on your review
6 of these two screen shots, did you reach a
7 conclusion?

8 A. According to this screen shot,
9 Mr. Solano's permit expired 2-14 of '16, and was
10 reissued on 4-22 of '16.

11 Q. Do those dates have any affect on whether
12 Mr. Solano is allowed to operate?

13 MR. PERL: Objection, foundation. They haven't
14 presented this witness as an expert regarding
15 anything other than he writes citations.

16 ALJ KIRKLAND-MONTAQUE: Go back to your
17 previous format. Do you have dates, specific dates
18 you want him to look at?

19 MR. BARR: Sure, your Honor.

20 BY MR. BARR:

21 Q. Sergeant Sulikowski, can you please turn
22 in Exhibit J to page 240?

23 ALJ KIRKLAND-MONTAQUE: 200 what?

24 MR. BARR: 240.

1 THE WITNESS: Okay.

2 BY MR. BARR:

3 Q. Sergeant Sulikowski, according to page
4 240, what was the date of tow?

5 A. 2-16 of '16.

6 Q. And, Sergeant Sulikowski, do you see the
7 operator No. 4190 in the driver column?

8 A. Yes.

9 Q. Sergeant Sulikowski, can you next turn to
10 page 241?

11 A. Okay.

12 Q. What is the date of tow, according to page
13 241?

14 A. 2-17 of '16.

15 Q. And does the operator No. 4190 appear in
16 the driver column?

17 A. Yes.

18 Q. Sergeant Sulikowski, can you please next
19 turn to page 244?

20 A. Okay.

21 Q. According to page 244, Sergeant
22 Sulikowski, what is the date of tow?

23 A. 2-22 of 16.

24 Q. Does the operator No. 4190 appear in the

1 driver column?

2 A. I did.

3 Q. Does it appear more than once?

4 A. Yes.

5 Q. How many times does it appear?

6 A. Three.

7 Q. Sergeant Sulikowski, can you next turn to
8 page 245, please?

9 A. Okay.

10 Q. Sergeant Sulikowski, according to page
11 245, what is the date of tows?

12 A. 2-23 of '16.

13 Q. And does the operator No. 4190 appear in
14 the driver column?

15 A. Yes.

16 Q. And, Sergeant Sulikowski, can you please
17 turn to page 246?

18 A. Okay.

19 Q. According to page 246, what is the date of
20 tow?

21 A. 2-24 of '16.

22 Q. And does the operator No. 4190 appear in
23 the driver column?

24 A. Yes.

1 Q. Sergeant Sulikowski, can you finally turn
2 to page 248?

3 A. Okay.

4 Q. What is the date of tow, according to page
5 248?

6 A. 2-26 of '16.

7 Q. And does the operator No. 4190 appear in
8 the driver column?

9 A. Yes.

10 Q. Sergeant Sulikowski, based on your review
11 of the 24-hour tow log, and according to the MCIS
12 screen shots in front of you, were you able to reach
13 the conclusion?

14 A. According to these printouts, there was no
15 effective operator permit from 2-15 of '16, until
16 4-22 of 2016.

17 Q. Thank you, Sergeant Sulikowski. Now,
18 sergeant Sulikowski, during this relevant time
19 period, and just sort of to remind you for these
20 purposes, the relevant time period is July 24th,
21 2014, to March 25th, 2016.

22 During that period, who did you supervise?

23 A. Officer Geibush, Officer Strand,
24 Investigator Kassal, Investigator Carlson and, I

1 believe -- I would have to check on that,
2 Investigator Uti.

3 Q. Is that everyone, Sergeant Sulikowski?

4 A. I would have to check. We've had some
5 people come and go. Maybe Officer White would have
6 been during that -- some of that time period as
7 well.

8 Q. Sergeant Sulikowski, during the scope of
9 this time frame, did you notice any affect Lincoln
10 towing had on the Commerce Commission Police
11 Operations?

12 MR. PERL: Objection, foundation. I mean, I
13 guess to the form of the question as well.

14 MR. BARR: I'm just asking what he knows was
15 that in effect or not.

16 MR. PERL: They haven't established him as an
17 expert for anything. All they are putting forth so
18 far is it's a sergeant for the Commerce Commission.

19 They haven't established him as having
20 knowledge of the complete operations of the Commerce
21 Commission, or anything like that. He certainly
22 hasn't been foundationally qualified to testify to
23 something like that, unless they ask the proper
24 questions.

1 ALJ KIRKLAND-MONTAQUE: Maybe you need to be a
2 little more specific.

3 MR. BARR: I will.

4 BY MR. BARR:

5 Q. Sergeant Sulikowski, was there a chief of
6 police at the Commerce Commission at the relevant
7 time period?

8 A. Maybe at some point there were. There
9 were lapses in that job title.

10 Q. As a sergeant, what were your job duties
11 during this time period?

12 A. During the chief or without a chief?

13 Q. Let's start with during a chief.

14 A. During a chief, I would have been, at that
15 point in time, the second in command in the
16 Chicagoland area.

17 My duties include supervising the
18 personnel, reviewing the reports, vehicle
19 maintenance, scheduling.

20 Q. Now, what about when there wasn't a chief,
21 Sergeant Sulikowski?

22 A. I additionally picked up those duties,
23 which included then reviewing permit applications,
24 when the criminal histories came back, operators,

1 dispatchers, and collateral recovery applicants.

2 Q. As your duty either as -- strike that.

3 Sergeant Sulikowski, is it fair to assume
4 that during the relevant time period, when there
5 wasn't a chief, you were the highest-ranking officer
6 in the Chicagoland area?

7 A. Yes.

8 Q. Sergeant Sulikowski, during the relevant
9 time period, when there either was a chief or wasn't
10 a chief, did you notice any affect that Lincoln
11 Towing might have had on MCIS operations?

12 MR. PERL: I object to the form of the
13 question. If the witness -- I object to the form of
14 the question, using the word "affect."

15 If the witness can understand the
16 question, I guess he can answer.

17 ALJ KIRKLAND-MONTAQUE: I'll allow it. If you
18 can answer. Overruled.

19 THE WITNESS: It affects the time of the
20 officers that are involved with what we do. It's
21 not only relocation towing.

22 We deal with commercial transportation.
23 We deal with household goods. We deal with
24 collateral recovery. We deal with safety towing.

1 We deal with warehousing.

2 So the affect it has upon when we get a
3 number of complaints, these can be time consuming
4 and every complaint is different from one another.
5 It depends what the nature of the complaint is.

6 On the average, it tends to run about four
7 hours to get through a consumer complaint. That
8 includes going to see the actual lot location,
9 interviewing different people and writing the
10 report.

11 All of that could average right around
12 four hours. So when you have a number of
13 complaints, it takes away from our duties.

14 Q. Sergeant Sulikowski, is there ever a case
15 where a relocater might have a contract with a
16 specific property, but still not be allowed to tow
17 from that address?

18 MR. PERL: I'm going to object. Improper
19 hypothetical. I don't know what's the relevance,
20 but certainly improper hypothetical for this man.

21 ALJ KIRKLAND-MONTAQUE: Why?

22 MR. PERL: How would it be relevant that they
23 would have a contract, but not be allowed to tow?

24 MR. BARR: That's why I'm asking Sergeant

1 Sulikowski. He's an officer that writes citations.
2 He's familiar with it.

3 MR. PERL: I don't know how it's relevant to
4 any of the allegations in this complaint, during the
5 relevant time period.

6 There is nothing that I've seen, even in
7 the documents that I argued about, that they've even
8 made any allegations that we didn't have a contract
9 to tow from somewhere.

10 There hasn't been one allegation yet,
11 unless they had more documents.

12 MR. BARR: Sergeant Sulikowski stated every
13 time, you know, we went through a new address, his
14 conclusion is, I guess, based on his knowledge. I
15 think it is relevant.

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1 MR. PERL: What I agreed to a couple hours ago,
2 counsel specifically said, "We're not arguing they
3 didn't have a contract. We're arguing they didn't
4 have a Peapod." There is a big difference.

5 MR. BARR: That's what I'm getting to, your
6 Honor.

7 ALJ KIRKLAND-MONTAQUE: I'm going to overrule.
8 I'm going to let him go.

9 MR. BARR: Do you want me to reask the
10 question, your Honor?

11 ALJ KIRKLAND-MONTAQUE: Do you know the
12 question?

13 THE WITNESS: Yes.

14 ALJ KIRKLAND-MONTAQUE: Okay. Can you answer
15 it?

16 THE WITNESS: Yes. The answer is, yes, they
17 can have a contract, but it's not valid until it's
18 accepted in the E-relocator system.

19 So they could have a contract, but until
20 the Commerce Commission recognizes that contract,
21 they can't tow from that lot.

22 MR. PERL: Objection, foundation. Way beyond
23 the scope of what he does. He doesn't enter the
24 contracts. He doesn't review the contracts.

1 This is the problem that I've had
2 consistently. They bring the wrong witness to
3 testify. This officer writes citations. He never
4 receives the contracts. He doesn't review the
5 contracts to make sure they're okay.

6 He doesn't input anything in E-relocator
7 ever. So they have the wrong witness with no
8 foundation, now testifying to how you actually enter
9 something into E-relocator; or now testifying to
10 E-relocator, when there is no foundation from
11 testimony from anyone, other than anyone else who
12 can read a screen on E-relocator.

13 That's it. It's the wrong witness, Judge,
14 and I object. He doesn't know how that happens. He
15 has no clue how it's happened.

16 MR. BARR: I can ask him.

17 MR. PERL: Ask him.

18 BY MR. BARR:

19 Q. Sergeant Sulikowski, do you know how the
20 information gets into the E-relocator?

21 A. It is entered by the relocator.

22 MR. PERL: Okay.

23 MR. BARR: For the record, your Honor, I was
24 only asking him before whether -- not whether he

1 enters information.

2 I was just asking him based on his law
3 enforcement experience, what he does on a daily
4 basis for the Commission, how the different types of
5 citations get written?

6 MR. PERL: But that's the testimony. It's only
7 entered by the relocator and nothing by the ICC,
8 then that's his testimony.

9 BY MR. BARR:

10 Q. Sergeant Sulikowski, does the ICC ever
11 enter anything into the MCIS? Strike that.

12 Does the MCIS ever enter anything into the
13 relocator?

14 A. Now you're getting beyond my scope. When
15 I view things, I don't input in the E-relocator. I
16 can tell you that if there is a problem, that there
17 is a backup.

18 If things are entered by the relocator and
19 is done off the postal address of an address, and
20 it's done correctly, then there is no involvement by
21 staff with the Commission.

22 MR. PERL: Objection as to foundation. How in
23 the world would this witness know that? That's way
24 beyond the scope of his knowledge, that if things

1 are entered into the E-locator properly.

2 Yes, I can cross examine him on it. He
3 shouldn't be testifying to it. They might as well
4 just put anyone out there who has knowledge about
5 computers and say --

6 ALJ KIRKLAND-MONTAQUE: Well, I think this is
7 based on his understanding of how E-locator works.

8 MR. PERL: What understanding? He doesn't work
9 with E-locator, other than to look and see if the
10 information is there. He never inputs anything in
11 E-relocator himself in history.

12 He can't take it off of E-relocator. He
13 doesn't really know who puts it on there or not. He
14 said it's kind of beyond the scope. This is the
15 problem I have, trying to get evidence in to you
16 through this witness. He's the wrong guy. He
17 doesn't know.

18 If I gave him the computer right now and
19 said, "Is this something in E-locator?" He couldn't
20 do that. I asked him specifically, "Who put this in
21 there?" He wouldn't know. He's the wrong witness.

22 But then, again, they always present the
23 wrong person to get evidence to you. And somehow it
24 goes from counsel to someone who has no idea

1 straight to you. He shouldn't be allowed to
2 question on it.

3 ALJ KIRKLAND-MONTAQUE: What is your point,
4 Mr. Barr?

5 MR. BARR: I would just asking him a question,
6 and counsel was objecting. I wasn't even going to
7 go into it, until counsel's objection.

8 I was still sticking to the question, you
9 know, "Was there ever a case where the relocater
10 might have a contract with a specific property, but
11 still not be allowed to tow?" That is when he says,
12 "Yes." I never got to follow up on it.

13 MR. PERL: Because Sergeant Sulikowski is now
14 going to testify he told you it's beyond the scope
15 of his knowledge.

16 ALJ KIRKLAND-MONTAQUE: Let's stick with that
17 question. He's answered it. What's your next
18 question?

19 MR. BARR: "Sergeant Sulikowski, why would that
20 be the case?"

21 MR. PERL: Objection. It's way beyond the
22 scope of his knowledge.

23 ALJ KIRKLAND-MONTAQUE: Why would that be the
24 case, that the locator could have a contract --

1 MR. BARR: And still not be allowed to tow from
2 it.

3 MR. PERL: Now, Sergeant Sulikowski already
4 told you that it's beyond the scope of his knowledge
5 to know that.

6 What he's really saying is, "If I look on
7 the screen, and I don't see a contract for a lot, I
8 would consider that to be something that could be
9 investigated."

10 Then it takes four hours to investigate
11 it, to see whether or not it's a violation, and then
12 they come to a conclusion. He's not saying to you,
13 "I know how they input the information into the
14 system and if they input it."

15 He now wants to tell you that it has to be
16 the towing company's fault for improperly putting
17 something into it. That's not true at all. We find
18 mistakes in the E-relocator all the time that the
19 ICC makes. Is it has nothing to do with us.

20 ALJ LYONS: Well, I think the question --
21 actually, he answered when he said it's possible
22 that the information -- that there is a contract,
23 and the information, if it's not in E-relocator, it
24 would be another entity.

1 MR. PERL: Here is the problem with that:
2 Again, that's his interpretation. What it means is
3 all he can really testify to is that he could look
4 on E-relocator and see if E-relocator shows the
5 contract of being filed.

6 That's all he knows. He doesn't know that
7 Lincoln didn't properly file the E-relocator, and
8 E-relocator messed it up, or MCIS messed it up, or
9 ICC messed it up. He doesn't know that.

10 MR. BARR: He can answer those questions.

11 ALJ KIRKLAND-MONTAQUE: That can be found on
12 cross examination.

13 MR. PERL: But, foundationally, he shouldn't be
14 allowed to answer the question. That's the problem.
15 I shouldn't have to cross examine him.

16 I mean, if they ask him, "How do you make
17 rain?" Is he supposed to testify that the advent of
18 the clouds?

19 No, he couldn't testify to that. He
20 doesn't have a foundation for it. It's the same
21 thing. He doesn't have a foundational basis for
22 answering that question.

23 ALJ KIRKLAND-MONTAQUE: Ask the question based
24 on his experience, what he does day to day, kind of

1 keep it close to his own experience.

2 MR. PERL: Judge, I don't think he ever even
3 uses relocator. He uses MCIS. I don't think there
4 would ever be a reason in the world for this
5 witness, and maybe counsel can ask him, if he used
6 E-relocator.

7 Because only the ICC and the towing
8 company uses E-relocator. He never looks at it,
9 only MCIS.

10 BY MR. BARR:

11 Q. Sergeant Sulikowski, where does the
12 information from MCIS come from?

13 MR. PERL: Objection, foundation. How would he
14 know?

15 ALJ KIRKLAND-MONTAQUE: According to his
16 experience, you can ask him. I mean, does he know
17 or not?

18 MR. BARR: I don't know.

19 ALJ KIRKLAND-MONTAQUE: Go ahead and ask it.

20 THE WITNESS: The information in MCIS comes
21 from a lot of places, E-relocator being one of those
22 places. There are other things in MCIS, reports,
23 how much money is owed the Commission, citations
24 issued.

1 There are things in MCIS that I don't even
2 use because it doesn't pertain to my job.

3 MR. PERL: But they asked him about
4 E-relocator. So now he's changing over to MCIS,
5 because counsel knows this witness doesn't look at
6 E-relocator.

7 ALJ KIRKLAND-MONTAQUE: What was your question
8 initially?

9 MR. BARR: Initially, it was about, you know,
10 towing from a specific property. Is there ever a
11 case where a relocater might have a contract with a
12 specific property, but still not be allowed to tow
13 from that address.

14 MR. PERL: And then the witness is going to
15 testify about E-relocator. He's saying things like,
16 "Well, you know, the property put it into
17 E-relocator."

18 This witness, if he asked him, I guess,
19 counsel can ask him, "Have you ever looked at
20 E-relocator ever?" It's not something he uses
21 because E-relocator is for MCIS -- I mean, I'm
22 sorry, for ICC and the towing company.

23 The officers look at MCIS. They don't
24 look at the E-relocator. So I'm saying lack of

1 foundation. He can't testify as to what's on
2 E-relocator, unless he can establish that he does.

3 MR. BARR: I didn't ask him what's on
4 E-relocator.

5 MR. PERL: He was testifying to what's on
6 E-relocator. So move to strike.

7 ALJ KIRKLAND-MONTAQUE: Denied. What's your
8 question again? Get back to your question.

9 BY MR. BARR:

10 Q. Sergeant Sulikowski, is it a violation of
11 18A for a relocator to tow from a property without a
12 contract being filed with the Commission?

13 A. Yes.

14 Q. Thank you, Sergeant Sulikowski.

15 MR. BARR: I have no further questions for
16 Sergeant Sulikowski.

17 I move at this time to introduce
18 Exhibit -- parts of Exhibit F, just for the operator
19 No. 4394, 2515 and 4190.

20 These are certified documents from the
21 Illinois Commerce Commission certified by Scott
22 Morris, the customer service supervisor, the keeper
23 of records with the Illinois Commerce Commission.

24 MR. PERL: Same objection, your Honor. I

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1 believe that the documents in front us aren't even
2 dated. There's not even a date on these to say when
3 they were produced, when they were made, who made
4 them.

5 If they're not -- how can a document be
6 relevant if the Court doesn't even know when the
7 document was printed? I mean, this could have been
8 two years ago. It could have been a year ago. It
9 could have been a week before trial.

10 What you don't know is what happened on
11 the date and time in question because there is no
12 date on them.

13 MR. BARR: He's certifying them.

14 MR. PERL: All Mr. Morris certified is that --
15 well, let's take a look.

16 MR. BARR: Sergeant Sulikowski testified the
17 copy is embossed.

18 MR. PERL: He says these are screen prints. He
19 doesn't even give a date in time when they were
20 taken, just these are screen prints.

21 MR. BARR: He's certifying they are true,
22 correct and complete as of the date he's certifying
23 this document.

24 MR. PERL: He says on May 10th. What if this

1 screen shot was taken a year earlier? How about two
2 years earlier? How about in 1899, like some of them
3 say?

4 So this document should never come into
5 evidence. You can't lay a foundation for documents
6 without laying a proper foundation. All Scott
7 Morris says --

8 MR. BARR: It is a self-authenticating
9 document.

10 MR. PERL: It's not. It can't be, because it
11 doesn't exist until you print it. It's impossible.
12 The word self-authenticating leads you to believe
13 this document existed sometime before someone
14 printed it, and it didn't.

15 This is a document that was -- I'm taking
16 it as a screen shot of E-relocator this witness has
17 never seen in his life. He doesn't use E-relocator.

18 I don't even know if he has access to
19 E-relocator. I don't know, because he never
20 testified to it. There are no dates on this
21 document.

22 MR. BARR: This has nothing to do with the
23 E-relocator, your Honor.

24 MR. PERL: Judge, I won't interrupt counsel, if

1 he doesn't interrupt me. I promise you. This has
2 everything to do with proving their case.

3 Not one document is dated. How in the
4 world can the Court allow a document into
5 evidence -- forget about that there's nobody here to
6 testify that it's accurate.

7 All Scott Morris says is he looked at this
8 on May 10th. Here's what he says, "These are -- I
9 further certify these are true and correct copies of
10 the following: Screen prints from the Illinois
11 Commerce Commission's motor carrier MCIS system,"
12 not the date, the time, not that they are accurate,
13 nothing.

14 These are the screen shots from some date
15 we don't know when. And the reason it's really
16 important is we have a limited window here as to
17 when they he can show the violations, July 24th,
18 2015, to March 23rd, 2016, and that is it.

19 So there's been no testimony that during
20 that period of time, this is what the screen shots
21 showed. This is May 10th. Maybe what it showed,
22 but certainly it's not relevant.

23 It would be absolutely prejudicial to
24 allow a document into evidence without a date on it.

1 I've never seen it done, which someone just says,
2 "Take a look at this document. We won't tell you
3 who printed it." Because Scott Morris didn't print
4 this. He couldn't have printed it.

5 Scott Morris doesn't date it, clearly. I
6 don't know what help it could give to you, other
7 than it's prejudicial to my client.

8 ALJ KIRKLAND-MONTAQUE: Here is the problem --
9 not problem. The issue that came up as the officer
10 was testifying and that, to me, is what if there's
11 another -- is there another -- how do we know this
12 is all that there is regarding these?

13 MR. BARR: It's limited to the scope, your
14 Honor.

15 MR. PERL: We don't. We really don't know.

16 ALJ KIRKLAND-MONTAQUE: Well, I'm asking.

17 MR. BARR: It's limited to the scope on the
18 date. You can see for operator number --

19 ALJ KIRKLAND-MONTAQUE: Could there be another
20 printout with another date?

21 MR. PERL: Judge, can I ask you a question?
22 Maybe this witness could be asked, "Do you know if
23 there's any other printouts? Do you know if there's
24 any other sheet or document?"

1 If this witness can say to you, "Oh, no,
2 no. I searched the E-relocator, and I determined
3 that these are the only sheets, and they were the
4 only ones relevant on a certain date and time."

5 But he can't do it, because in his dep, he
6 testified that he doesn't know when these were
7 created. He doesn't know who created them.

8 So there could be four other sheets
9 showing we actually had a license at the time, but
10 they are missing them. There actually could be a
11 sheet in here -- just the other day, perfect
12 example, just the other day, something came up on
13 the screen.

14 They said our license expired on a certain
15 date. They were wrong, and they are now correcting
16 that because it was the wrong the date.

17 So without someone from ICC here
18 testifying, what you have is selective documents
19 that aren't completely accurate that they are
20 showing a witness who doesn't know what they are.

21 And we don't know, there could be -- what
22 if there's a fourth one of these, or a third one, or
23 a 4190 that actually shows, and it's corrected, that
24 actually shows he had a license on that day, but

1 they made a mistake?

2 ALJ KIRKLAND-MONTAQUE: I understand. I'm just
3 suggesting to Mr. Barr, because that's what I was
4 thinking as you were going through these.

5 I mean, the certification doesn't
6 necessarily address that issue of whether this is
7 the complete and total accurate record of RTO
8 numbers.

9 MR. BARR: Yes, your Honor. It does say it's
10 duplicative. I mean, there is Exhibit E, which is
11 another certified document of Scott Morris that
12 lists every operator.

13 I mean, it's obviously some of that
14 information is outside the scope, but it's every
15 operator that has ever had a permit sponsored by
16 Protective Partners Corporation.

17 MR. PERL: That is not accurate, your Honor.
18 See, that's the problem with it. Scott Morris
19 doesn't know that anyway.

20 All Scott Morris is telling you is that
21 someone from the Illinois Commerce Commission
22 printed off the screen, and this is a correct copy
23 of that screen shot.

24 If Scott Morris was here, he would not say

1 to you, "This is true, accurate information," only
2 because we know the information is not correct on
3 there.

4 I know for certain it's not because that
5 is the one that has 15 times it says, "The operator
6 was certified in 1899."

7 MR. BARR: Which is outside the scope and not
8 relevant.

9 MR. PERL: It means the document is not
10 accurate.

11 MR. BARR: It doesn't mean the whole document.

12 MR. PERL: Judge, they tendered the whole
13 document to us, not just part of it. They can't use
14 just part of it.

15 Scott Morris doesn't say that. This is
16 the complete problem of all their documents, but
17 more so with this one, because on this one, it's not
18 complete. And all Scott Morris says is this screen
19 shot is complete, not all of it.

20 It doesn't say anywhere on here that
21 operator 4190 had no other screen shot. It doesn't
22 say that. There is no certification for each one.

23 MR. BARR: There is.

24 MR. PERL: No, it's the certification for all

1 of them.

2 MR. BARR: Your Honor, if you look after each
3 one, there is a certification for every single one.

4 MR. PERL: It doesn't say it's completely
5 accurate for that one. It just says the document he
6 was given is complete for the screen, that's true.

7 MR. BARR: It lists the name. Each one says
8 screen print from Illinois Commerce Commission motor
9 carrier information system, MCIS electronic database
10 pertaining to -- it lists the name of the operator.

11 MR. PERL: But it doesn't say there aren't
12 others. These particular ones, he's saying are the
13 accurate screen shot. There could be others. He
14 doesn't say that.

15 He hasn't said, "I did a search of the
16 record and there are no others," because he didn't.

17 MR. BARR: Your Honor, we moved to introduce
18 Exhibit E, which is a self-authenticating document,
19 since it's certified by Scott Morris, the keeper of
20 records. It lists every permit.

21 MR. PERL: Exhibit E, there's been no testimony
22 to it at all. As far as Exhibit E goes, it's even
23 less reliable because again, here, if you look at
24 the document, itself, on the first page, it's got

1 literally issued license 12-31-1899, one, two --

2 MR. BARR: For a person we haven't discussed at
3 all today, your Honor.

4 MR. PERL: That doesn't matter. The document
5 is not relevant and truthful. It's still got to be
6 accurate and it's not.

7 ALJ KIRKLAND-MONTAQUE: Okay. All right. I
8 think my point --

9 MR. PERL: By the way, Judge, if Scott Morris
10 certified that this document is truthful and
11 accurate, then you can't let it in at all.

12 It can't be truthful and accurate, because
13 no one could have been authorized in 1899 to tow.

14 MR. BARR: He's authenticated these are
15 Commission documents. These are records that are
16 kept.

17 MR. PERL: So not now that they're truthful and
18 accurate? So remember that now. Scott Morris isn't
19 testifying they are truthful and accurate.

20 ALJ KIRKLAND-MONTAQUE: All right. Let's slow
21 down, so the report reporter --

22 MR. PERL: Can I make one point, your Honor?

23 ALJ KIRKLAND-MONTAQUE: Go ahead.

24 MR. BARR: If you go over to the Daley Center

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1 and you ask a clerk at clerk's office, "Can you
2 print out this document for me?"

3 They're not in court. they don't know it's
4 accurate. They just hand you the document. They
5 don't know -- say the motion was granted on May 1st.
6 They just print out what they have in the record.
7 That's what Scott Morris did, as the keeper of
8 record.

9 MR. PERL: So what he said is exactly my point.
10 Scott Morris doesn't know if these are accurate
11 records at all. Clearly, he doesn't know because if
12 he did know, before he would have certified this
13 document as being accurate, he would have said,
14 "Well, it's really not accurate, because I don't
15 think anybody at Lincoln Towing, who was born in
16 1870, is still working there."

17 So, clearly, that is not what they are
18 offering now, when I catch him. Now counsel changes
19 his tune, "Well, we don't mean the documents are
20 accurate and truthful. We just mean that's what the
21 screen shot said."

22 So if that's the case that they're
23 agreeing, well, I don't think in Exhibit E they can
24 disagree because this is what Scott Morris says for

1 Exhibit E, "I further certify that the above and
2 foregoing is a true, correct and complete copy of
3 the following: One, printout from the Illinois
4 Commerce Commission's MCIS electronic database
5 pertaining to operators sponsored by Protective
6 Parking Service Corporation with the Commission."

7 Now, that's from May 10th. Nowhere in
8 there does he say that at least 15 times -- I
9 haven't found the rest of the mistakes. I'll show
10 you later they say the year 1899. So, clearly, he's
11 not saying the document is accurate.

12 MR. BARR: We're only asking to use these
13 documents for the three operators.

14 MR. PERL: Well, it's kind of too late. You
15 kind of just can't do that. You can't pick and
16 choose what's accurate or not.

17 This document isn't accurate. It isn't
18 truthful. That is not what he's certifying. And,
19 again, we don't know who printed it, what the date
20 it was printed. The worst part of the whole thing,
21 Judge --

22 MR. BARR: Scott Morris, he certified the
23 document, your Honor.

24 MR. PERL: No, he did not. Again, he's

1 saying --

2 ALJ KIRKLAND-MONTAQUE: He's saying this is a
3 screen print. That's all.

4 MR. PERL: He's not certifying it's an accurate
5 document, because we know it isn't. It can't be
6 accurate. Also, Judge --

7 MR. BARR: He's certifying this is a printout.

8 MR. PERL: Judge, this document was printed
9 out, if you believe it, on April 24th, 2017, which
10 is one year beyond the date of the relevant time
11 period.

12 ALJ KIRKLAND-MONTAQUE: What?

13 MR. PERL: That's right.

14 ALJ KIRKLAND-MONTAQUE: What are you talking
15 about?

16 MR. PERL: Look at Exhibit E.

17 ALJ KIRKLAND-MONTAQUE: E?

18 MR. PERL: Exhibit E. If you believe the date
19 on the top of this exhibit, it's over a year beyond
20 the time period when they printed it. How could it
21 possibly be relevant?

22 MR. BARR: It's relevant, your Honor, to the
23 specific time frames that are on here.

24 MR. PERL: How do we know that? This witness

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1 hasn't testified to it. Nobody has testified to
2 Exhibit E to say that's relevant. How do you know
3 this doesn't change day to day? He's even testified
4 to it.

5 ALJ KIRKLAND-MONTAQUE: Let's go back. Let's
6 stick with that.

7 MR. PERL: Well, my objection is still as to
8 F --

9 ALJ KIRKLAND-MONTAQUE: F?

10 MR. PERL: Because F clearly doesn't follow the
11 rules or guidelines to any evidence being admitted
12 into evidence.

13 I understand some of the closer calls, I
14 do, but this one doesn't get in anywhere. We don't
15 know who created it. We don't know when it was
16 created. There are no dates or time on any of it.

17 We don't know if it's being accurate and
18 truthful, because we know one thing --

19 MR. BARR: It's certified.

20 MR. PERL: No, no. Counsel said he's only
21 certifying this is a screen shot, not that it's
22 truthful and accurate.

23 So in order for the document to come in to
24 you, it should be reliable and accurate and

1 truthful.

2 MR. BARR: He's saying --

3 MR. PERL: Not just a screen shot of something
4 maybe on May 10th, and he still doesn't even tell
5 you when it's a screen shot from.

6 And the reason it's really important here,
7 if there was no relevant time period, it might be
8 less important, but there is.

9 It's so small of a window we have here,
10 only July 24th, 2015, to March 23rd, 2016, and that
11 is it. Done, period.

12 You even said, "Anything you come up with
13 beyond February 1st," which by the way this came up
14 -- this stuff came up after February 1st, because it
15 may, it did, because we can't get this until April
16 or May.

17 So it can't possibly be relevant, and it's
18 not -- it's highly prejudicial to my client. You
19 have to look at that, Judge. There is no dates
20 here. There is no one here -- again, for the I
21 don't know how many times, bring the person in.

22 Judge, why don't you have in front of you
23 the person who printed this document in front of you
24 right now testifying in this very point case,

1 they've known for a year-and-a-half?

2 Bring the person in, "Did you print this
3 screen? What date did you print it? What time did
4 you print it? Is it in the same condition as it was
5 the day you printed it?"

6 Wow, isn't that novel thing that Allen
7 Perl just made up? No, it's the Rules of Evidence.
8 I just didn't make it up out of nowhere.

9 MR. BARR: According to the Rules of Evidence,
10 it's not even for self-authenticating documents,
11 which would fall under a public record.

12 MR. PERL: This is not a public record. This
13 is printout of a screen shot. Bring in the
14 computer. It's still not a printout. This is the
15 relocator, which no one has access to.

16 MR. BARR: This is MCIS.

17 MR. PERL: No one has access to the MCIS
18 either, except the tows, the officers and Lincoln
19 Towing.

20 Even so, Judge, it's not
21 self-authenticating because you don't know when it
22 was created or who printed it out. It is not
23 self-authenticating.

24 If counsel can even tell you, if this

1 Court can even state who printed it out, when it was
2 printed out, is it in the same condition?

3 By the way, Mr. Morris doesn't say it's in
4 the same condition as it was when it was printed.
5 This document could have been printed, altered.
6 MCIS could have been changed. He doesn't know that.

7 MR. BARR: Also, there's absolutely no evidence
8 of that.

9 ALJ KIRKLAND-MONTAQUE: Okay. My only question
10 is whether this is -- because, you know, it's an
11 MCIS printout, similar to the other MCIS printout.

12 My only question was: Does this reflect
13 the entire record of this relocater, and you don't
14 know that.

15 MR. BARR: For the scope. I mean, are there
16 applications? Some permits could have been issued
17 in 2002. Yeah, there is probably more screen shots
18 back then that is outside the scope.

19 We defined it within the relevant time
20 period. We didn't put in an application for that
21 was maybe filed in 2007.

22 ALJ KIRKLAND-MONTAQUE: Why did you print out
23 two?

24 MR. BARR: Your Honor, based on counsel's

1 testimony, it shows a date range. If you look at --

2 MR. PERL: Sergeant Sulikowski's testimony
3 isn't even relevant. All he's doing is reading the
4 screen shots.

5 I don't know how counsel can say, "Based
6 on his testimony." All he's saying is what the
7 screen shots show.

8 ALJ KIRKLAND-MONTAQUE: How do you know to
9 print out two instead of three or four?

10 MR. BARR: Because if you look here, your
11 Honor, what we're alleging is that the application
12 received it.

13 Albert Solano had an application effective
14 from February 14, 2014, which expired exactly two
15 years later on February 14th, 2016.

16 What Sergeant Sulikowski testified to is
17 that the next application that Mr. Solano filed
18 wasn't received by the Commission until after his
19 expiration date.

20 MR. PERL: He did not testify to that.

21 ALJ KIRKLAND-MONTAQUE: He read the report.

22 MR. PERL: He said that is what the document
23 says. He did not testify to that.

24 ALJ KIRKLAND-MONTAQUE: I get it.

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1 MR. BARR: That's the reason we printed it out
2 to show that gap.

3 MR. PERL: But they still haven't proven to you
4 that there weren't three for the relevant time
5 period, maybe four for the relevant time period.
6 How do you know that?

7 Because counsel can't testify, Judge. He
8 can't. He's not allowed to. So there is no witness
9 here to say to you that there were no other permits
10 issued during the relevant time period, and they
11 haven't told you that, because maybe there were, but
12 they haven't told you that.

13 So these documents are not reliable,
14 Judge. And if they had the proper witness here,
15 they could do it, probably, but they don't.

16 ALJ KIRKLAND-MONTAQUE: All right. I'm going
17 to sit on this. I need to think about it. I'm not
18 going to rule on F.

19 I'll reserve the ruling on F. We'll get
20 back to it at the end of the month.

21 MR. BARR: At the next hearing date?

22 ALJ KIRKLAND-MONTAQUE: At the next hearing
23 date. What was the other, No. 4190, 2515 and --

24 MR. PERL: 4394.

1 ALJ KIRKLAND-MONTAQUE: -- 4394. All right.
2 That's what I'm going to do. I'm going to think it
3 over.

4 Is that it for today, Mr. Barr?

5 MR. BARR: That's it, your Honor.

6 MR. PERL: Is counsel now tendering the
7 witness?

8 ALJ KIRKLAND-MONTAQUE: Are you now tendering
9 the witness for cross?

10 MR. BARR: Yes, your Honor.

11 MR. CHIRICA: Thank you, Judge.

12 MR. PERL: Obviously we're not starting today.

13 ALJ KIRKLAND-MONTAQUE: Obviously not today.
14 We'll see what Mr. Perl is going to file, and we'll
15 move forward.

16 MR. PERL: Thank you, Judge.

17 MR. CHIRICA: Thank you.

18 (WHICH WERE ALL THE PROCEEDINGS HAD.)

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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)

4 PAMELA A. MARZULLO, C.S.R., being first duly sworn,
5 says that she is a court reporter doing business in the city
6 of Chicago; that she reported in shorthand the proceedings
7 had at the Proceedings of said cause; that the foregoing is
8 a true and correct transcript of her shorthand notes, so
9 taken as aforesaid, and contains all the proceedings of said
10 hearing.

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12 PAMELA A. MARZULLO
13 License No. 084-001624
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