

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Bruce Henry, Notice of       : Case No. 16-1873-TR-CVF  
Apparent Violation and Intent to Assess       : (OH1251004232D)  
Forfeiture.   :

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**MEMORANDUM CONTRA RESPONDENT’S MOTION FOR  
DIRECTED VERDICT IN FAVOR OF DEFENDANT**  
SUBMITTED ON BEHALF OF THE STAFF OF  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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Staff of the Public Utilities Commission of Ohio (Staff) responds to the “Motion for Directed Verdict in Favor of Defendant” filed by Bruce Henry (Respondent) on December 13, 2016. The hearing in this case occurred on December 5, 2016. In his post-hearing motion for Directed Verdict, Respondent argues that Staff did not prove by a preponderance of the evidence the alleged violation that he improperly used a seat belt while operating a commercial motor vehicle as cited by the Inspector under 49 C.F.R. 392.16. Staff satisfied its burden of proof in this case. The evidence shows that Respondent did in fact violate the seat belt regulation as witnessed and cited by the Inspector. The evidence presented by Staff and admitted into the record is sufficient to support Respondent’s violation of the Commission’s rules and Federal Motor Carrier Safety Regulations for improperly using his seat belt under his arm while operating his commercial motor vehicle.

Respondent’s attempt to discredit the Inspector and his report is without support and merit, and should be given no weight. No seat belt harness was visible to the

Inspector when Respondent was operating his commercial motor vehicle and passed him within thirty feet and at a decreasing slow rate of speed as Respondent entered the toll booth. The Inspector was in a stationary position in the medium facing traffic in his vehicle very close to the toll booth and had a clear view of Respondent wearing a light grey sleeveless T-shirt with no seat belt harness being visible to the Inspector.

Respondent did not deny the seat belt violation when the Inspector made contact with him after the stop and they discussed the seat belt harness that Respondent was observed to be wearing under his arm. It is improper for the shoulder harness to be worn under the arm by the driver.

For the foregoing reasons, Respondent's motion for directed verdict should be denied for lacking just cause and having no support or merit.

Respectfully submitted,

**Michael DeWine**  
Ohio Attorney General

**William L. Wright**  
Section Chief

/s/ John H. Jones

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**On behalf of the Staff of  
The Public Utilities Commission of Ohio**

## **PROOF OF SERVICE**

I hereby certify that a true copy of the foregoing **Memorandum Contra Respondent's Motion for Directed Verdict in Favor of Defendant**, submitted on behalf of the Staff of the Public Utilities Commission of Ohio, and was served via regular U.S. mail upon Respondent, Bruce Henry, 9014 Coriander Circle, Manassas, Virginia, 20110, this 27<sup>th</sup> day of December, 2016.

/s/ John H. Jones

**John H. Jones**  
Assistant Attorney General

**This foregoing document was electronically filed with the Public Utilities**

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**in**

**Case No(s). 16-1873-TR-CVF**

Summary: Memorandum Contra Respondent's Motion for Directed Verdict in Favor of Defendant, submitted by Assistant Attorney General John Jones, on behalf of the Staff of the Public Utilities Commission of Ohio. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio