

1 APPEARANCES:

2 Mr. Robert Eubanks
3 Assistant Attorney General
4 30 East Broad Street, 26th Floor
5 Columbus, Ohio 43215

6 On behalf of the Staff of the
7 Public Utilities Commission
8 of Ohio.

9
10 Mr. Roberto L. Benitez
11 3622 West 148th Street
12 Cleveland, Ohio 44111

13 Appearing Pro se.

14 ALSO PRESENT:

15 Ms. Maria Isabel Deckard, Interpreter
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1 Wednesday Morning,
2 August 18, 2021.

3 - - -

4 ATTORNEY EXAMINER DAVIS: Good
5 morning, everyone. The Public Utilities
6 Commission of Ohio has called for hearing Case
7 No. 20-1381-TR-CVF which is captioned In the
8 Matter of Roberto Benitez.

9 I am Jessie Davis, I am the Attorney
10 Examiner assigned to hear this case. Let's
11 start with appearances for Staff.

12 MR. EUBANKS: Robert Eubanks,
13 Assistant Attorney General, here representing
14 the Staff. My address is 30 East Broad Street,
15 Columbus, Ohio 43215, 26th Floor.

16 ATTORNEY EXAMINER DAVIS: Thank
17 you, Mr. Eubanks. Can you just state your name,
18 first and last name for the record?

19 MS. DECKARD: My name is Maria
20 Isabel Deckard, Spanish interpreter.

21 ATTORNEY EXAMINER DAVIS: And if you
22 would raise your right hand?

23 (INTERPRETER SWORN)

24 ATTORNEY EXAMINER DAVIS: Thank
25 you. And, Mr. Benitez, could you provide your

1 first and last name?

2 MR. BENITEZ: Roberto Benitez.

3 ATTORNEY EXAMINER DAVIS: Thank you.
4 Mr. Eubanks, you may proceed.

5 MR. EUBANKS: Yes, sir. Your Honor,
6 I would like to call to the stand Rod Moser.

7 (WITNESS SWORN)

8 - - -

9 ROD MOSER

10 called as a witness, being first duly sworn,
11 testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Moser:

14 Q. Could you please state your name
15 and spell it for the record?

16 A. My name is Rod Moser, R-O-D
17 M-O-S-E-R.

18 Q. And what is your current position?

19 A. I am the Chief of Compliance and
20 Registration sections within the Public
21 Utilities Commission Transportation Department.

22 Q. And what are your job duties?

23 A. Related to this, my job is to
24 basically shepherd the PUCO Transportation
25 Department's civil forfeiture process.

1 Q. And what is your training?

2 A. I have approximately 30 years with
3 the Ohio State Highway Patrol prior to my
4 employment with the PUCO. My time was spent in
5 Commercial Enforcement.

6 I am certified to do inspections for
7 the North American Standards Parts A and B,
8 cargo tank, hazmat, bulk and nonbulk.

9 Q. And do you have experience with
10 forfeiture amounts associated with various
11 violations?

12 A. Yes. I have been doing this for
13 approximately four and a half years.

14 Q. And as part of your job, how does
15 your job relate to the Notices of Preliminary
16 Determination?

17 A. The Notice of Preliminary
18 Determination is a letter that my office sends
19 to respondents who have had a telephone
20 conference with a compliance officer and were
21 unable to reach a resolution.

22 Q. What is normally listed on a Notice
23 of Preliminary Determination?

24 A. It normally lists the violations and
25 civil forfeiture amounts. Normally it will list

1 violations and the original civil forfeiture
2 amounts. And then also give the respondent the
3 option to pay the fine or request a formal
4 administrative hearing.

5 Q. Was there a Notice of Preliminary
6 Determination issued in this case?

7 A. Yes, there was.

8 Q. How would you know that?

9 A. I reviewed the case this morning and
10 I reviewed that specific document.

11 MR. EUBANKS: May I approach
12 the witness?

13 ATTORNEY EXAMINER DAVIS: Yes, you
14 may.

15 MR. EUBANKS: Your Honor, I would
16 like to have marked at this time Exhibit 1, the
17 document entitled Notice of Preliminary
18 Determination, issued on June 27th, 2020.

19 ATTORNEY EXAMINER DAVIS: It shall
20 be so marked.

21 (EXHIBIT HEREBY MARKED FOR
22 IDENTIFICATION PURPOSES)

23 Q. Do you have before you what has been
24 marked as State's Exhibit 1?

25 A. Yes, I do.

1 Q. Do you recognize the document?

2 A. Yes, I do.

3 Q. Could you identify it for
4 the record?

5 A. Yes. It's a Notice of Preliminary
6 Determination, issued to Mr. Benitez following
7 his unsuccessful conference with the compliance
8 officer.

9 Q. Is this an accurate copy?

10 A. Yes.

11 Q. Could you indicate what date it was
12 issued?

13 A. June 27th, 2020.

14 Q. The address at the top of the
15 document, would that be where the notice was
16 sent?

17 A. Yes, that's correct.

18 Q. As far as you know Mr. Benitez
19 received the notice?

20 A. As far as I know, in light of the
21 fact that he requested a hearing, I believe he
22 did receive this.

23 Q. Is the forfeiture amount that is
24 listed for the violation of CFR 390.17, Group 4
25 an appropriate forfeiture amount?

1 A. Yes, it is.

2 MR. EUBANKS: With that I have no
3 more questions for Mr. Moser.

4 ATTORNEY EXAMINER DAVIS: Do you
5 have any questions, Mr. Benitez?

6 A. No.

7 EXAMINATION

8 By Attorney Examiner Walstra:

9 Q. How was the forfeiture determined?

10 A. The PUCO has a series of fines, and
11 basically the violations are divided in groups.
12 Groups 0, 1, 2, 3 and 4. All of those are
13 automatically assessed with our software
14 program. So this particular Group 4 violation
15 always has a fine of \$250.

16 ATTORNEY EXAMINER WALSTRA: Thank
17 you.

18 ATTORNEY EXAMINER DAVIS: You can
19 stand down.

20 MR. EUBANKS: Your Honor, I would
21 like to have State's Exhibit 1 moved into
22 evidence. Never mind. I will wait.

23 I would like to call to the stand
24 Inspector Leite.

25 (WITNESS SWORN)

— — —

Called as a witness, being first duly sworn,
testified as follows:

By Mr. Eubanks:

A. Matthew Leite. M-A-T-T-H-E-W
L-E-I-T-E.

A. On the date of the inspection was employed by the Ohio State Highway Patrol as a Motor Carrier Enforcement Inspector.

A. To conduct roadside driver and
e safety inspections in accordance with
rth American Standards Part A and B,
y, bulk and nonbulk and passenger vehicles.

A. I am certified to conduct the inspection types just listed under the North American Standards. And I received all my training from the Ohio State Highway Patrol

1 while employed there.

2 Q. Your training was current as of the
3 stop?

4 A. Yes, it is, or was.

5 Q. What is your current position?

6 A. Currently I am employed by the
7 Public Utilities Commission of Ohio as
8 Transportation Examiner.

9 Q. Did you issue a citation as related
10 to this case?

11 A. During the inspection I did write a
12 violation for using additional equipment and
13 accessories that decreases the safety of
14 operation of the CMV.

15 Q. Would there be an examination report
16 that documents the inspection?

17 A. Yes, there would be.

18 Q. Did you take inspection notes on the
19 date of the inspection?

20 A. Yes, I did take notes, and I think
21 it would have been entered into the Aspen
22 inspection software.

23 Q. Would that appear on the inspection
24 report?

25 A. Yes, they should.

1 MR. EUBANKS: May I approach
2 the witness?

3 ATTORNEY EXAMINER DAVIS: You may.

4 MR. EUBANKS: Your Honor, I would
5 like to have marked as State Exhibit 2 a
6 document that was passed out that is entitled
7 Driver/Vehicle Examination Report.

8 ATTORNEY EXAMINER DAVIS: It shall
9 be so marked.

10 (EXHIBIT HEREBY MARKED FOR
11 IDENTIFICATION PURPOSES)

12 Q. Do you have before you what has been
13 marked State's Exhibit 2?

14 A. I do.

15 Q. Could you identify the document?

16 A. It would be the Roadside Driver and
17 Vehicle Examination report that I conducted on
18 February 17th of 2020.

19 Q. Are you familiar with this
20 examination report?

21 A. I am.

22 Q. How so?

23 A. I was the inspector listed on the
24 lower left-hand corner and my assigned badge
25 number at the time of 3260 is also listed.

1 Q. Is this a true and accurate copy of
2 the examination report?

3 A. It is.

4 Q. Does this have the date of the stop
5 on it?

6 A. Yes, it does.

7 Q. Where would that be located?

8 A. Near the top right corner underneath
9 the report number line, the inspection date of
10 February 17th, 2020.

11 Q. And you mentioned inspection notes.
12 Where would that be on the examination report?

13 A. Approximately two-thirds of the way
14 down the piece of paper in the section labeled
15 Inspection Notes.

16 Q. And the violation that was cited on
17 that date, where is that listed?

18 A. It is located in a box outlined in
19 black ink.

20 Q. Okay. Could you describe what
21 occurred on the date of the inspection?

22 A. The driver passed me traveling
23 westbound while I was stationary in the first
24 crossover just west of Rye Beach Road. I
25 immediately pulled out when the vehicle passed

1 me and activated my overhead warning lights to
2 initiate a stop for the inspection. The driver
3 continued driving and I activated my siren while
4 staying offset in the left lane so the driver
5 could see me in the left side mirror.

6 I could see the driver's face in the
7 mirror but his head kept turning slightly to the
8 right. After over one-half mile of still not
9 stopping I pulled alongside the cab and observed
10 the driver looking to the right with a cell
11 phone in his right hand and motioning over the
12 screen with his right thumb. After
13 approximately 10 seconds of being alongside the
14 truck with lights and siren still activated
15 driver finally looked over and saw me. He had a
16 very panicked and startled look on his face and
17 I motioned for him to pull over.

18 Once we finally stopped at mile post
19 13.61, per ODOT location GPS app, I made a
20 passenger side approach and observed an Android
21 stile smartphone in a storage compartment on the
22 dash console near where I observed the phone in
23 the driver's hand. I asked the driver what he
24 had been doing on his phone and the driver
25 repeatedly kept saying no. I informed the

1 driver multiple times that I saw the phone in
2 his hand up until the moment he saw me beside
3 him and pulled over.

4 I asked driver to tap the recent app
5 button on the phone and YouTube was the most
6 recently used app with a video currently paused.
7 I asked driver if he was using YouTube or had
8 already closed whatever he was doing on his
9 phone. He again just said no.

10 I returned to my car to retrieve my
11 camera and then again asked driver to open his
12 recent apps. He did so and then hit the X to
13 close YouTube when he saw the camera in my hand.
14 I again questioned driver on why he had phone in
15 his hand while driving, and he again just said
16 no.

17 He then said maybe he had been
18 eating and that is why he did not see me. He
19 pointed to several food items in the truck.
20 I told driver again I saw the cell phone in his
21 hand.

22 At that time I returned to my patrol
23 car and signed the inspection report as
24 presented here today.

25 Q. At the time of the inspection did

1 you take any photos?

2 A. Yes, I did.

3 Q. Could you describe the nature of the
4 photos you took?

5 A. There are three photos taken. One
6 of trailer, and one of the power unit. And the
7 third photo was of the cell phone.

8 MR. EUBANKS: May I approach the
9 witness, Your Honor?

10 ATTORNEY EXAMINER DAVIS: You may.

11 MR. EUBANKS: The copies I am
12 passing out are black and white except the one
13 that I will give to the court reporter. I would
14 like to have the picture that I just passed out
15 listed as State's Exhibit 3.

16 ATTORNEY EXAMINER DAVIS: It shall
17 be so marked as State's Exhibit 3.

18 (EXHIBIT HEREBY MARKED FOR
19 IDENTIFICATION PURPOSES)

20 Q. Do you have before you what has been
21 marked as State's Exhibit 3?

22 A. Yes, I do.

23 Q. Do you recognize this photo?

24 A. Yes. It was the first photo taken
25 during the Driver/Vehicle Examination Report.

1 And it is of the trailer that was listed as unit
2 No. 2 including the license plate and
3 the equipment identification number listed on
4 the report.

5 Q. Who took the photo?

6 A. I did.

7 Q. Is it a true and accurate
8 representation of what you saw that day?

9 A. Yes

10 Q. Is it a true and accurate copy of
11 the photo?

12 A. Yes.

13 Q. So what was the purpose in taking
14 this photo again?

15 A. The purpose was to identify and
16 confirm that the vehicle I have listed on the
17 report matches the vehicle that was stopped
18 during the same time frame.

19 Q. And how can you tell by this photo
20 that it matched?

21 A. The license plate on the rear bottom
22 of the trailer matches what is on the report.
23 And the trailer number that was located on the
24 right door matches the equipment identification.

25 MR. EUBANKS: Your Honor, may I

1 approach the witness?

2 ATTORNEY EXAMINER DAVIS: You may.

3 MR. EUBANKS: Again the copy that is
4 in color I am giving to the court reporter and
5 the rest are black and white. I would like to
6 have this photo marked State's Exhibit 4.

7 ATTORNEY EXAMINER DAVIS: So
8 marked.

9 (EXHIBIT HEREBY MARKED FOR
10 IDENTIFICATION PURPOSES)

11 Q. Did you take this photo as well?

12 A. I did.

13 Q. Is this a true and accurate copy of
14 the photo that you took?

15 A. Yes.

16 Q. And the photo is representative of
17 what you saw on the day of the inspection?

18 A. Yes.

19 Q. What was the purpose of taking this
20 photo?

21 A. Again it was to identify what was
22 listed on the report. And the vehicle number
23 that was shown on the right side of the hood
24 matched what was listed on the report as well.

25 Q. Okay. How does this photo show that

1 it matches what is on the report?

2 A. The equipment ID number listed on
3 the report of 335708 is shown on the right side
4 of the load compartment as well.

5 And the ODOT No. of 80806 is
6 assigned to J.B. Hunt Transport, Inc. and was
7 shown on the side box storage compartment of the
8 truck.

9 MR. EUBANKS: Your Honor, may I
10 approach the witness?

11 ATTORNEY EXAMINER DAVIS: You may.

12 MR. EUBANKS: Once again I have one
13 color copy that I am giving to the court
14 reporter and the rest are black and white. I
15 would like to have this marked as State's
16 Exhibit 5.

17 ATTORNEY EXAMINER DAVIS: So marked.

18 (EXHIBIT HEREBY MARKED FOR
19 IDENTIFICATION PURPOSES)

20 Q. Did you take this photo as well?

21 A. I did.

22 Q. On the date of the inspection?

23 A. Yes.

24 Q. And is it a true and accurate
25 depiction of what you saw on the date of the

1 inspection?

2 A. It is.

3 Q. Is it a true and accurate copy of
4 the photo that you took?

5 A. It is.

6 Q. What was the purpose of taking this
7 photo?

8 A. This was the phone that I observed
9 in the cab of the truck as was shown on the
10 recently used app screen. And this was just
11 after the driver hit the X top right part for
12 the YouTube app.

13 Q. Okay. And this is the phone, this
14 looks like the phone that you believe he was
15 holding at the time of the inspection?

16 A. Yes, it does, and the time on the
17 phone screen was during my report times.

18 Q. Okay. Is there anything else that
19 occurred during the inspection that you would
20 like to mention?

21 A. After the report was typed a copy
22 would have been presented to the driver along
23 with instructions on how to mail or fax the
24 report back to the Public Utilities Commission.
25 And instructions on which lines needed signed by

1 the driver and the company before doing so.

2 Q. There are notes in the top
3 right-hand corner of the inspection report.
4 What is the point of those notes?

5 A. SP1896 was the number of the vehicle
6 that I was signed in to on the day of the
7 inspection, which was a 2014 Chevrolet Tahoe,
8 and PPV, which stands for Police Pursuit
9 Vehicle.

10 Q. The violation that is listed here,
11 390.17, CFR 390.17?

12 A. Yes. That is the violation listed.

13 Q. And you have the violation list
14 here, operating a CMV while using additional
15 equipment and accessories that decreases the
16 safety of operation.

17 A. Yes, I do.

18 Q. The additional equipment was the
19 phone?

20 A. Yes, it was.

21 Q. And accessories were the apps on the
22 phone?

23 A. Whatever the driver was doing while
24 motioning over the screen with his thumb while
25 driving.

1 Q. Okay. And you have here the driver
2 did not stop for over a mile. Was the phone in
3 his hand for that mile?

4 A. While I was behind the vehicle and
5 offset in the left lane I kept observing the
6 driver's head turning slightly to the right
7 while operating. And after failing to stop for
8 approximately have a mile and then pulled
9 alongside the cab and still with lights and
10 sirens activated I observed the driver holding
11 the phone in his right hand.

12 MR. EUBANKS: I have no further
13 questions for the witness.

14 ATTORNEY EXAMINER DAVIS: Mr.
15 Benitez, do you have any questions?

16 A. No.

17 EXAMINATION

18 By Attorney Examiner Walstra:

19 Q. What vehicle were you driving?

20 A. At the time of the inspection?

21 Q. Yes.

22 A. It was a 2014 Chevrolet Tahoe PPV
23 with Patrol insignia. And equipped with a red
24 overhead light bar.

25 Q. Was your view into the cab

1 unobstructed?

2 A. When I was alongside the truck I
3 could see the driver holding the phone in his
4 right hand.

5 ATTORNEY EXAMINER WALSTRA: Thank
6 you.

7 MR. EUBANKS: Your Honor, I would
8 like to have State's Exhibits 1,2,3,4 and 5
9 moved into the record.

10 ATTORNEY EXAMINER DAVIS: Do you
11 have any objections?

12 MR. BENITEZ: No.

13 ATTORNEY EXAMINER DAVIS: No
14 objections, they are admitted.

15 (EXHIBITS ADMITTED INTO EVIDENCE)

16 MR. EUBANKS: The State has no
17 further witnesses to present.

18 ATTORNEY EXAMINER DAVIS: Thank you.
19 So the State rests. Mr. Benitez, you may now
20 take the stand and tell your side, make your
21 argument.

22 (WITNESS SWORN)

23 - - -

24 ROBERTO BENITEZ
25 called as a witness, being first duly sworn,

1 testified as follows:

2 ATTORNEY EXAMINER DAVIS: Mr.
3 Benitez, you can proceed.

4 DIRECT TESTIMONY

5 MR. BENITEZ: When the officer told
6 me to stop it took me a little while to park, to
7 find a safe space. What the officer thinks that
8 I got my phone in my hand, I think he got
9 confused because it wasn't. That's it.

10 ATTORNEY EXAMINER DAVIS:
11 Cross-examination of this witness?

12 CROSS-EXAMINATION

13 By Mr. Eubanks:

14 Q. What was so unsafe about the area
15 for a mile where you did not stop?

16 A. First of all, it wasn't a mile. I
17 was just looking for a safe space. A safe place
18 to park.

19 Q. What made the space that you stopped
20 at safer than the areas where you chose not to
21 stop at?

22 A. I put my signal on. I was slowing
23 down gradual.

24 Q. I am not sure you answered my
25 question. When did you see the officer?

1 A. When I looked through the mirror.

2 Q. How long did it take you to stop?

3 A. Maybe seconds.

4 Q. Did you have a phone in your cab at
5 the time of the inspection?

6 A. Yes.

7 Q. Was the photo the officer took a
8 photo of your phone?

9 A. Yes.

10 Q. Was there a YouTube app up at the
11 time of the inspection?

12 A. No.

13 Q. Do you remember hitting an X when
14 the officer took a photo of your phone?

15 A. No.

16 MR. EUBANKS: I have no more
17 questions for the witness. But, I would like to
18 call the officer for rebuttal.

19 ATTORNEY EXAMINER DAVIS: With no
20 further questions, you are excused, Mr. Benitez.
21 You can step down. Thank you.

22 THE WITNESS: Thank you.

23 ATTORNEY EXAMINER DAVIS: You may
24 call your witness.

25 MR. EUBANKS: Your Honor, I would

1 like to call Inspector Leite to the stand for
2 rebuttal.

3 - - -

4 INSPECTOR MATTHEW LEITE
5 recalled as a witness for rebuttal, being
6 previously duly sworn, testified as follows:

7 FURTHER DIRECT EXAMINATION

8 By Mr. Eubanks:

9 Q. Inspector Leite, you just heard
10 the testimony of the Respondent, in which he
11 stated that he pulled over within seconds of you
12 pulling alongside him.

13 A. I did, yes.

14 Q. And that was not a mile that it did
15 take him to pull over.

16 A. I did hear that as well.

17 Q. Do you stay by your testimony that
18 it did take him a mile to pull over?

19 A. I do stand by that, yes. The
20 crossover that I was in just west of Rye Beach
21 Road when I observed the driver and vehicle pass
22 me, is located almost exactly at mile post 15.0.
23 And as indicated earlier, he stopped at mile
24 post -- can I reference my report?

25 ATTORNEY EXAMINER DAVIS: Yes.

1 Q. I would ask you to state for the
2 record what document you are looking at?

3 A. Again, looking at the Driver/Vehicle
4 Examination Report that was entered as --

5 Q. State's Exhibit 2?

6 A. State's Exhibit No. 2. And the
7 driver did not stop until mile post 13.61 as was
8 indicated on the ODOT location app which is
9 maintained by the Ohio Department of
10 Transportation.

11 Q. So how do you know that distance is
12 a mile?

13 A. The different of where I was
14 initially sitting stationary was mile post 15.
15 And the vehicle did not stop until mile post
16 13.61. And while driving westbound on State
17 Route 2 in Erie County, Ohio, the mile posts
18 decrease until reaching the county boundary.

19 Q. So based off what you are saying,
20 and correct me if I am wrong, just trying to --
21 are you saying that you take 15 and subtract
22 13.6?

23 A. Correct, which would have been 1.39
24 miles.

25 Q. So closer to a mile and a half than

1 it is to a mile?

2 A. Correct. It was well over a mile.
3 And my lights and siren had been activated for
4 approximately half a mile before I pulled
5 alongside. That is when I observed the phone in
6 the drive's hand.

7 Q. Okay. Just for the record, what
8 made you follow the truck to begin with? Was
9 it the phone?

10 A. One of the options to initiate a
11 stop for a driver and vehicle inspection is to
12 pick random numbers as determined by the
13 standard selection procedure, and observe that
14 truck number when it passes you.

15 Q. So you would have expected him to
16 pull over when he saw your lights? What point
17 should he pull over?

18 A. Oh, the Ohio Code states that a
19 vehicle shall immediately pull to the right berm
20 or shoulder upon flashing overhead red or blue
21 lights.

22 Q. Okay. So what you are saying, he
23 continued for half a mile after you turned on
24 the lights?

25 A. Correct. I activated the lights at

1 mile post 15 when the driver failed to stop and
2 observed his head looking to the right, and
3 activated my siren. Then I pulled alongside the
4 cab and he still failed to stop for
5 approximately 10 seconds before looking over and
6 seeing me.

7 Q. I just want to make sure that the
8 record is clear. Okay? The lights were on at
9 mile marker 15?

10 A. Yes. Pulling out from the
11 crossover, the overhead lights were activated at
12 mile post 15 when I pulled out, and the siren
13 was activated after the driver initially did not
14 stop.

15 Q. So the driver was able to see you
16 when you initially pulled out at the mile marker
17 15?

18 A. Yes. That crossover does not have
19 any obstructions such as a bridge overpass.
20 And my vehicle would have been clear to any
21 passing vehicle where I was located.

22 Q. Okay. You also heard his testimony
23 that the phone was not in his hand when you
24 pulled alongside him.

25 A. I did hear that.

1 Q. And in light of that testimony do
2 you change your position on whether or not he
3 had a phone in his hand?

4 A. I do not change.

5 Q. You also heard the testimony that he
6 was looking for a safe place to pull over.

7 A. I did hear that.

8 Q. In the area where you initially --
9 between mile marker 15 and mile marker 13.61,
10 are there unsafe places to pull over?

11 A. No. I work that area. As a matter
12 of fact, the berm is one of the wider spots in
13 the county during that entire stretch. And I
14 routinely stop commercial vehicles in that
15 location.

16 Q. Does it take semi-trucks a mile to
17 slow down?

18 A. Absolutely not. However, I did not
19 see any indication that the driver intended to
20 stop such as turning his turn signal on, or any
21 brake lights, until he saw me beside him with a
22 startled look on his face. And then I motioned
23 with my right hand for him to pull to the bern.

24 MR. EUBANKS: I have no further
25 questions for the witness.

EXAMINATION

By Attorney Examiner Davis:

Q. To your recollection when you pulled out behind him do you know how fast he was going?

A. I did not have a speed measuring device or laser or radar installed in that vehicle. Speeding was not the reason for the stop. And I did not look at my speedometer while I was behind him. As I was watching the driver's face in the left side rearview mirror.

Q. So just to follow up, assuming you are traveling at the posted speed limit how long does it take to stop for one of these vehicles?

A. A large tractor-trailer obviously takes longer than a passenger vehicle to stop. However, if I had seen an indication the driver intended to stop I would have never even activated the siren after the overhead light bar was turned on.

ATTORNEY EXAMINER DAVIS: Thank you. Anything further from any of the parties?

MR. EUBANKS: No.

ATTORNEY EXAMINER DAVIS: With nothing further this matter shall be submitted

1 to the record. And a decision will issue, an
2 opinion, in this case in due course. We aim for
3 somewhere around three months. Thank you very
4 much. We are adjourned.

5 (At 11:15 the hearing was
6 concluded)

7 - - -

CERTIFICATE

I do hereby certify that the foregoing
is a true and correct transcript of the
proceedings taken by me in this matter on August
18, 2021, and carefully compared with my
original stenographic notes.

Michael O. Spencer,
Registered Professional
Reporter.

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9/2/2021 9:25:05 AM

in

Case No(s). 20-1381-TR-CVF

Summary: Transcript in the matter of the Roberto Benitez hearing held on 08/18/21 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.