

PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of Gary McCaskey :  
Notice of Apparent Violation : Case No.  
and Intent to Assess : 13-1955-TR-CVF  
Forfeiture. :

- - -

PROCEEDINGS

before Jim Lynn, Attorney Examiner, held at the  
offices of the Public Utilities Commission of  
Ohio, Hearing Room 11-D, 180 East Broad Street,  
Columbus, Ohio, on Thursday, December 5, 2013,  
at 10:00 A.M.

- - -

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1 APPEARANCES:

2 Mr. Ryan P. O'Rourke  
3 Assistant Attorney General  
4 180 East Broad Street, 6th Floor  
5 Columbus, Ohio 43215

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

8 Mr. Gary McCaskey  
9 213 Main Street  
10 New Martinsville, West Virginia 26155

11 Respondent, appearing Pro se.

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Thursday Morning,  
December 5, 2013.

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ATTORNEY EXAMINER: The Public  
Utilities Commission of Ohio has assigned for  
hearing at this time and place Case No.  
13-1955-TR-CVF, in the matter of Gary McCaskey  
notice of apparent violation and intent to  
assess forfeiture.

I am Jim Lynn, the Attorney Examiner  
assigned to hear this case. And at this time I  
will have the appearances of the parties  
beginning with the Ohio Attorney General's  
office.

MR. O'ROURKE: Thank you, Your  
Honor. Ryan O'Rourke, I am representing Staff  
today. As stated I am with the Ohio Attorney  
General's office, Public Utilities Section, and  
my address is 180 East Broad Street, 6th floor,  
Columbus, Ohio 43215.

ATTORNEY EXAMINER: Thank you. Mr.  
McCaskey, your name and address, please.

MR. MCCASKEY: Gary Samuel McCaskey,  
213 Main Street, New Martinsville, West  
Virginia.

1 ATTORNEY EXAMINER: Thank you.

2 MR. MCCASKEY: I am directly across  
3 from the Weitzel County Court House. And it's  
4 been in the family since my great grandfather  
5 had the first Post Office there.

6 ATTORNEY EXAMINER: Congratulations.  
7 Thank you. Right now we will start our  
8 proceedings and we will begin with Mr. O'Rourke  
9 and then we will hear from Mr. McCaskey. So,  
10 Mr. O'Rourke, do you have a witness you want to  
11 call?

12 MR. O'ROURKE; Thank you, Your  
13 Honor, I do. Staff calls Trooper Collins to the  
14 stand.

15 ATTORNEY EXAMINER: Trooper Collins,  
16 you are being called to the witness stand,  
17 please, and let me swear you in and we will get  
18 underway.

19 (WITNESS SWORN)

20 - - -

21 TROOPER KENNETH D. COLLINS  
22 called as a witness on behalf of the State,  
23 being first duly sworn, testified as follows:

24 ATTORNEY EXAMINER: Have a seat.  
25 Mr. O'Rourke, you can continue with your

1 proceedings.

2 MR. O'ROURKE: Thank you, your Honor

3 DIRECT EXAMINATION

4 By Mr. O'Rourke:

5 Q. Trooper Collins, could you please  
6 state you full name and business address for the  
7 record?

8 A. I am Trooper Kenneth D. Collins. I  
9 am out of the Warren Patrol Post. I don't know  
10 the physical address.

11 Q. You are employed by?

12 A. The State of Ohio, Department of  
13 Public Safety.

14 Q. Any particular division?

15 A. State Highway Patrol.

16 Q. For how long have you been with  
17 the Patrol?

18 A. Twenty-one years.

19 Q. What are your job duties and your  
20 responsibilities day-to-day?

21 A. Right now I am a commercial motor  
22 vehicle inspector with the Warren District.  
23 And my duties entail that I inspect commercial  
24 vehicles for safety compliance.

25 Q. Have you been trained to enforce the

1 Federal Motor Carrier Safety regulations?

2 A. Yes, I have.

3 Q. And what kind of training?

4 A. I received the Part A and Part B  
5 training, Hazmat training from the Federal Motor  
6 Carrier Safety Administration.

7 Q. You said Part A and Part B.

8 A. That stands for Part A is -- Part B,  
9 they both cover the driver and the vehicle.  
10 Then Hazmat and on to tank vehicle. But those  
11 are just the parts the statute covers as we were  
12 trained to be able to inspect vehicles properly.

13 Q. The scope of your jurisdiction is?

14 A. The whole State of Ohio.

15 Q. Approximately, you know, best  
16 estimate how many times have you performed a  
17 roadside inspection to cite someone for possible  
18 violation of the Federal Motor Carrier Safety  
19 regulations?

20 A. Right now I am up to 1,300  
21 inspections.

22 Q. Okay. And you were issued a  
23 subpoena in this case. Do you understand the  
24 reason for why you were issued that subpoena?

25 A. Yes.



1 Q. What was that reason?

2 A. It was a gentleman, the driver, is  
3 contesting the safety violation that I wrote him  
4 up for.

5 Q. And when you say the gentleman --

6 A. Mr --

7 MR. MCCASKEY: Sam McCaskey. Sam.

8 Q. Have you identified him as the  
9 gentleman you stopped on the day in question?

10 A. Yes, sir.

11 Q. And did you prepare any reports on  
12 the date of this inspection that we are here to  
13 discuss today?

14 A. Yes, I did.

15 MR. O'ROURKE: Your Honor, may I  
16 approach?

17 ATTORNEY EXAMINER: Yes.

18 MR. O'ROURKE: You Honor, I would  
19 like to have marked the following exhibit that I  
20 am passing out to everyone. I am marking this  
21 as Staff Exhibit 1.

22 (EXHIBIT HEREBY MARKED FOR  
23 IDENTIFICATION PURPOSES)

24 Q. Trooper Collins, do you recognize  
25 this Staff Exhibit 1 that I have just handed to

1       you?

2               A.    Yes.  This is my inspection that I  
3       completed on the date that I stopped the  
4       gentleman for the safety belt violation.

5               Q.    And is this the type of inspection  
6       report that is customarily prepared in the  
7       course of the Patrol's business when they  
8       perform a stop?

9               A.    Yes.  A commercial motor vehicle  
10      inspection.

11              Q.    I would like for you to walk us  
12      through some of the information outlined on this  
13      report.  So let's start with the first block of  
14      information in the upper right-hand -- excuse  
15      me.  The upper right section.  It's got a report  
16      number and inspection date.

17                    So why don't you explain what day  
18      this was and set the stage for how this  
19      inspection came to be.

20              A.    Okay.  The report number is my unit  
21      number with the sequential order of inspections  
22      that I have done to that point.  So 902  
23      inspections at that point when I stopped him.  I  
24      was up to 902 inspections.

25                    The inspection date was the 31st of

1 May, 2013. I began the inspection at 3:12 and I  
2 ended it at 3:33.

3 Q. Just to interrupt, so the time  
4 started at 1512. It looks like it's in military  
5 time.

6 A. Yes.

7 Q. Okay.

8 A. It's in military time. 1512 and  
9 1533. In this type of inspection it's just of  
10 the driver himself. You are looking at his log  
11 book, his is medical card and license.

12 And then down in the next section it  
13 talks about hazmat. It was not a hazmat  
14 inspection. It was a different type of  
15 inspection.

16 Q. And what roadway are we talking  
17 about here where this alleged violation  
18 occurred?

19 A. This occurred on Ohio Turnpike at  
20 Exit 187.

21 Q. Okay. So, where were you stationed  
22 at this mile post?

23 A. Normally I sit stationary in my  
24 vehicle while the trucks go through the booth.  
25 But there are sometimes when I am outside

1 the vehicle and I notice the driver is not  
2 wearing his safety belt, and then I approach him  
3 then and then I pull him over to the side of the  
4 road.

5 Now, I don't particularly remember  
6 which position I was in, but I know I was  
7 stationed in my car and the car was parked  
8 stationary. I don't know if I was outside of  
9 the car or inside of the car at the time when I  
10 did approach him. I believe I did approach him

11 Q. Do you recall if -- and that is hard  
12 for me to do this without a map, but visually  
13 can you explain what your perspective was of the  
14 roadway on that day?

15 A. Well, the turnpike has -- when the  
16 vehicles come through the booths they have to  
17 come to a slow speed of 10 miles an hour to be  
18 able to go through the booth and pick up a  
19 ticket. They have to come to a stop.

20 But with the EZ Pass you can just  
21 creep through the booth without hitting the toll  
22 collectors that walk across the booth, the toll  
23 booth, to get to a building.

24 I could see drivers -- if I am  
25 inside my car I can see them as they come

1 through the booth, I could see their torso,  
2 whether they have their seatbelt on or not. And  
3 if I am outside the vehicle talking to a  
4 collector I try to slow people down because  
5 sometimes request that we are visible to slow  
6 people down because we have had collectors  
7 nearly hit, struck from the trucks.

8 And those trucks move, fly through  
9 those toll booths. So, if I am outside the  
10 vehicle I can see vehicles coming at me and I  
11 can see the driver clearly if he is not wearing  
12 his seatbelt.

13 Q. On the day in question as you are  
14 facing the roadway, on which side of the toll  
15 booth would it have been?

16 A. Well, on the right-hand side. On  
17 the right-hand side.

18 Q. So you are stationed on the side of  
19 the road and the toll booth is on the right-hand  
20 side?

21 A. The building is on the right-hand  
22 side. If you look at it -- should I draw it?

23 Q. Just do the best you can.

24 ATTORNEY EXAMINER: If I could step  
25 in.

1 MR. O'ROURKE: Of course.

2 EXAMINATION

3 By the Attorney Examiner:

4 Q. Officer, first if you could  
5 describe, your perspective apparently is as  
6 vehicles enter the toll both, approach the toll  
7 booth --

8 A. Right.

9 Q. And for my own knowledge I will ask  
10 while it's on my mind, how many lanes of traffic  
11 are there going into the toll booth?

12 A. Possibly three.

13 Q. So possibly three?

14 A. Right.

15 Q. And you are saying that you don't  
16 recall whether you were in your vehicle or  
17 outside of the vehicle?

18 A. No, I do not.

19 Q. There could be three lanes. And Mr.  
20 McCaskey presumably was slowing down as he  
21 approached the toll booth. This is where they  
22 would -- are they paying a toll or picking up a  
23 ticket on the roadway or what?

24 A. They would be either getting a  
25 ticket --

1 Q. To start on their travel?

2 A. Yes. To get onto the turnpike, yes.

3 So they have to slow down.

4 Q. That is probably what he was doing  
5 here?

6 A. Possibly.

7 Q. You are saying possibly because --

8 A. I don't know if he had a  
9 transponder. You don't need to get a ticket.

10 Q. Okay. I see. So you were, bear  
11 with me, Mr. O'Rourke, I am asking these  
12 questions while they are on my mind, so you are  
13 on the side of the road, Mr. McCaskey is  
14 approaching the toll booth. You said there  
15 could be three lanes of traffic going that way.

16 You don't recall if you were in your  
17 vehicle or not. Do you recall what lane Mr.  
18 McCaskey was in? Was he in the lane closest to  
19 you, the one closest to the median, closest to  
20 the side of the road? Because you were on the  
21 side of the road?

22 A. That's correct.

23 Q. Okay. Do you recall which lane he  
24 was in?

25 A. No, I do not.

1           Q.    You don't remember which lane he was  
2    in?

3           A.    No.

4           ATTORNEY EXAMINER:   Okay.   If you  
5    would please continue, Mr. O'Rourke.

6           MR. O'ROURKE:   Okay.

7           CONTINUED DIRECT EXAMINATION

8    By Mr. O'Rourke:

9           Q.    So, when you spotted Mr. McCaskey  
10   were there any obstructions from your  
11   perspective of the traffic as it was entering in  
12   terms of perhaps anything overhanging the  
13   roadway like a sign instructing traffic where to  
14   go in the tolls?

15          A.    No.   There was no obstructions to my  
16   vision or my view of the drivers as they came  
17   through the gate at that particular point.   Now,  
18   I parked at such a perspective where I can see  
19   the vehicles coming and I can see what colors  
20   the drivers' shirts, see what color the shirts  
21   the drivers are wearing, whether or not he is  
22   wearing his safety belt.

23                I am looking for placards, you know,  
24   because they have to slow down to ten miles an  
25   hour.   That is the speed limit for vehicles



1 entering the turnpike to get a ticket.

2 FURTHER EXAMINATION

3 By the Attorney Examiner:

4 Q. And you are observing the traffic?

5 A. Coming in.

6 Q. Right. Coming into the --

7 A. Entering.

8 Q. Okay. I think I am clear on that.

9 And it could be you are actually observing  
10 vehicles as they come down, the vehicles in any  
11 of the three lanes perhaps?

12 A. That's correct.

13 Q. You are looking across from one  
14 or --

15 A. I scan the drivers, the vehicles.

16 Q. Okay. But you don't recall what  
17 lane Mr. McCaskey was in?

18 A. No, sir.

19 ATTORNEY EXAMINER: Please go ahead,  
20 Mr. O'Rourke.

21 FURTHER DIRECT EXAMINATION

22 By Mr. O'Rourke:

23 Q. So when you spotted Mr. McCaskey  
24 driving his vehicle as he was approaching this  
25 toll booth do you recall if it was the driver's

1 side door that was closest to you or  
2 the passenger side door that was closest to you?

3 A. It all depends on whether I was  
4 outside the vehicle or inside the vehicle as he  
5 was coming. I could have been outside  
6 the vehicle. And if that is the case it --  
7 well, the passenger side door would be closest  
8 to me.

9 Q. Okay.

10 A. Right. The closest.

11 Q. Okay. So you spotted Mr. McCaskey  
12 in the vehicle approaching the toll booth, and  
13 what prompted you to make this stop?

14 A. Well, I could clearly see that there  
15 was no shoulder harness going across his torso.  
16 I spotted his -- I made note of his shirt that  
17 he was wearing, and then I pulled him over and  
18 parked over to the right in front of my vehicle  
19 and I did the inspection.

20 Q. And do you recall what color of  
21 shirt he was wearing on that day?

22 A. He had a green short sleeve shirt  
23 and a black safety belt that went across his  
24 torso.

25 Q. Okay. So when you approached Mr.

1 McCaskey did you see the safety belt on him at  
2 that time?

3 A. No, I did not.

4 Q. And the notes on this inspection  
5 report, those were made either during the stop  
6 or immediately thereafter?

7 A. Yes.

8 Q. Contemporaneously?

9 A. It was made at the same time of the  
10 inspection. It was completed before I even gave  
11 him his copy, because I try to do things in  
12 order to make sure things are fresh in my mind  
13 and I put them down when the inspection is done.

14 Q. Then you just handed him the  
15 inspection report?

16 A. And he signed it and went on his  
17 way.

18 Q. Then from there how does the  
19 inspection report get -- or are you familiar  
20 with how it gets transmitted to the Staff of  
21 the --

22 A. We upload it at the end of our day  
23 to save it.

24 MR. O'ROURKE: I think that is all I  
25 have for this witness, your Honor.

1 HEARING EXAMINER: I have a few more  
2 questions.

3 FURTHER EXAMINATION

4 By the Attorney Examiner:

5 Q. Trooper Collins, do you remember --  
6 you indicated in response to Mr. O'Rourke, was  
7 there from the toll booth or something that  
8 obstructed your view? I believe the answer to  
9 that was there was no such obstruction object.

10 A. That's correct.

11 Q. Was Mr. McCaskey, do you recall, was  
12 he entering to toll booth and say another  
13 tractor-trailer, you know, pulling in at the  
14 same time on the one side of him, something like  
15 that?

16 A. No. I had a clear view of him as he  
17 approached me. And like I say, I don't know  
18 exactly where I was positioned, if I was inside  
19 the car or outside the car talking to a  
20 collector.

21 But when I did view the violation I  
22 documented what he had on, his shirt and  
23 the belt that was not seen. So, there was no  
24 obstructions at all.

25 Q. And this was 3:33 as well?

1 A. In the afternoon.

2 Q. Approximately 3:00 to 3:30 in the  
3 afternoon. And do you recall what the weather  
4 conditions were like that day?

5 A. May, probably bright and sunny.

6 Q. Not raining or anything like that?

7 A. I don't believe so.

8 Q. You are not certain of that?

9 A. No, I am not certain.

10 ATTORNEY EXAMINER: Okay. Mr.  
11 McCaskey, do you have any questions?

12 MR. MCCASKEY: No, not at all. And  
13 thank you for your service.

14 ATTORNEY EXAMINER: Actually I had a  
15 few other questions just to clarify this thing.  
16 I think you probably already made it clear, but  
17 I will check just to make sure.

18 FURTHER EXAMINATION

19 By the Attorney Examiner:

20 Q. Apparently then so you watched Mr.  
21 McCaskey as he was approaching the toll booth.  
22 So, therefore, he was driving the vehicle?

23 A. He was operating the vehicle.

24 Q. So the engine was on, the vehicle  
25 was moving obviously?

1           A.    Yes, sir.

2           Q.    And he was behind the steering  
3 wheel?

4           A.    Yes.

5           ATTORNEY EXAMINER:  I just want to  
6 make sure because that is what the federal law  
7 requires is whether the driver is -- whether  
8 the operator is driving the vehicle or not.

9           I have no more questions at this  
10 time.  You are still under oath, so I may have  
11 some other questions later.

12          THE WITNESS:  Yes, sir.

13          ATTORNEY EXAMINER:  Thank you.  Mr.  
14 McCaskey, you said you have no questions either.

15          MR. MCCASKEY:  Thank you very much.

16          ATTORNEY EXAMINER:  Okay.  Take your  
17 seat.  And, Mr. McCaskey, if you would like to  
18 come up to the witness stand, or if it's easier  
19 for you to speak from there.

20          MR. O'ROURKE:  Your Honor, I do have  
21 an additional witness.

22          ATTORNEY EXAMINER:  I am sorry.  My  
23 mistake.

24          MR. O'ROURKE:  Staff calls Tom  
25 Persinger.

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(WITNESS SWORN)

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THOMAS PERSINGER

called as a witness on behalf of the State,  
being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. O'Rourke:

Q. Mr. Persinger, can you state your  
full name and business address?

A. My name is Thomas Persinger. My  
business address, PUCO, is 180 East Broad  
Street, Columbus, Ohio 43215.

Q. By whom are you employed?

A. The Public Utilities Commission of  
Ohio.

Q. Any particular division?

A. In the Transportation Department,  
Compliance Division.

Q. How long have you worked there?

A. Approximately two and a half years.

Q. And have you had an opportunity to  
review the inspection report that is at issue  
here today?

A. Somewhat, yes.

Q. Okay. You are generally familiar

1 with why we are here today?

2 A. Correct.

3 Q. And did your office, you or any one  
4 of your colleagues, cause any documents to be  
5 transmitted to Mr. McCaskey putting him on  
6 notice as to any forfeiture that was going --

7 A. Yes.

8 MR. O'ROURKE: May I approach, your  
9 Honor?

10 ATTORNEY EXAMINER: Yes, please.

11 MR. O'ROURKE: Your Honor, I am  
12 handing the witness what has been marked as  
13 Staff Exhibit 2. I have copies for everyone.

14 ATTORNEY EXAMINER: Thank you.

15 (EXHIBIT MARKED FOR THE PURPOSE OF  
16 IDENTIFICATION)

17 Q. Mr. Persinger, have you seen Staff  
18 Exhibit 2 before?

19 A. Yes.

20 Q. And is that a document that is  
21 customarily kept in the Staff's business?

22 A. Yes.

23 Q. I don't want to take up too much  
24 time with this, but I think it would be helpful  
25 for Mr. McCaskey at the very least.



1                   It's a Notice of Preliminary  
2                   Determination. What is the significance of  
3                   this?

4                   A.     When a Notice of Preliminary  
5                   Determination is sent that indicates that  
6                   the inspection was done, a notice was sent out  
7                   reflecting the violation and any applicable  
8                   forfeiture, fine attached with it, as well as a  
9                   conference was attempted to resolve the  
10                  violation on the inspection report.

11                  And settlement could not be reached  
12                  between the member of the Compliance Division  
13                  and the Respondent. Therefore, Notice of  
14                  Preliminary Determination was sent out to the  
15                  Respondent with instructions to either pay  
16                  the fine or request an administrative hearing.

17                  Q.     And I see there is a \$100 civil  
18                  forfeiture identified on there. How was that  
19                  calculated?

20                  A.     Based off our fine schedule.

21                  MR. O'ROURKE: May I approach, your  
22                  Honor?

23                  ATTORNEY EXAMINER: Yes.

24                  MR. O'ROURKE: Your Honor, I am  
25                  handing the witness what has been marked as

1 Staff Exhibit 3. And this is the fine schedule  
2 that was just alluded to.

3 (EXHIBIT HEREBY MARKED FOR  
4 IDENTIFICATION PURPOSES)

5 ATTORNEY EXAMINER: Thank you.

6 Q. Mr. Persinger, have you seen Staff  
7 Exhibit 3 before?

8 A. Yes.

9 Q. And what is it?

10 A. It is the fine schedule for  
11 violations of FMCSA regulations.

12 Q. And this is the document that you  
13 alluded to earlier?

14 A. Correct.

15 Q. Who prepared this?

16 A. The Compliance Division in the  
17 Transportation Department.

18 Q. So, explain how the \$100 value is  
19 calculated based upon what is set forth on this  
20 schedule.

21 A. Depending on type of violation that  
22 is found on what are mostly \$300 level  
23 violations, which are mechanical, driver  
24 violations, depending on the type of violation a  
25 particular fine is determined for it.

1           Q.     Okay. And the fine at issue here  
2     was what?

3           A.     The fine at issue here was a seat  
4     belt violation.

5           Q.     And the dollar amount of the  
6     forfeiture that is associated with that?

7           A.     Is a \$100 fine.

8           Q.     How do we know that?

9           A.     Because it is listed on page 2 of  
10    the schedule in the Group 4 violations.

11          Q.     Okay. And that is about how many  
12    columns down in that Group 4?

13          A.     I would say about two-thirds of the  
14    way down.

15          Q.     Okay. And you are referencing not  
16    using seat belt, and then you move from left to  
17    right and it says \$100; is that correct?

18          A.     Correct.

19                 MR. O'ROURKE: Okay. I think that  
20    is all I have.

21                 ATTORNEY EXAMINER: Thank you. I  
22    have no questions. Mr. McCaskey, do you have  
23    any questions for the witness?

24                 MR. MCCASKEY: No, not at all.  
25    Everything is very familiar to me over the past

1 decades.

2 ATTORNEY EXAMINER: Okay. Thank  
3 you. You may take your seat.

4 Mr. McCaskey, actually it's your  
5 opportunity to --

6 MR. MCCASKEY: Where is the \$10,000  
7 fine? There is one here somewhere. I don't see  
8 it, but I have been told about it. It has been  
9 explained to me by a Trooper in detail on  
10 occasions. Because I haul hazardous materials.

11 ATTORNEY EXAMINER: Would you like  
12 to --

13 MR. MCCASKEY: So thank you very  
14 much for this. And it's all very familiar.  
15 May I submit just --

16 ATTORNEY EXAMINER: Mr. McCaskey, I  
17 need to swear you in. And, secondly, if you  
18 would like to take the witness --

19 MR. MCCASKEY: I will take the  
20 witness stand.

21 ATTORNEY EXAMINER: Great. Would  
22 you like to come up, please? And bring your  
23 materials with you.

24 MR. MCCASKEY: I only have one  
25 credential. To whom shall I give it?

1                   ATTORNEY EXAMINER: Why don't you  
2                   come up here first and we will swear you in.

3                   MR. MCCASKEY: Thank you.

4                   ATTORNEY EXAMINER: Thank you.

5                   (WITNESS SWORN)

6                   - - -

7                   GARY S. MCCASKEY  
8                   called as a witness on behalf of the Respondent,  
9                   being first duly sworn, testified as follows:

10                  MR. MCCASKEY: Thank you for the  
11                  opportunity to be here and allow my appeal to  
12                  progress to this point.

13                  EXAMINATION

14                  By the Attorney Examiner:

15                  Q. And if you could describe your  
16                  perspective on the alleged violation. And then  
17                  I may have some questions for you or Mr.  
18                  O'Rourke.

19                  And you say you have a document with  
20                  you that you will enter, possibly introduce into  
21                  evidence as well.

22                  A. Just my credential that I brought.

23                  Q. Well, why don't you state your  
24                  perspective first and then that could be  
25                  introduced later unless you feel it's important

1 to introduce that right now.

2 A. Okay. Okay. That is an open  
3 question. I agree with all of the motor carrier  
4 vehicle enforcement officials whom I have met  
5 and from whom I learned for the past 19 years.

6 And so, this disagreement is minor,  
7 but every allegation is resolved usually on the  
8 scene, on the site, and it can be from formal  
9 paperwork to a Trooper just giving a verbal  
10 warning, which is firm and direct and clear, and  
11 make sure it doesn't happen again, get out of  
12 here.

13 So I have been yelled at, and maybe  
14 yelled at lately for not moving it quickly  
15 enough, can't you see I am directing traffic  
16 here? Yes, sir, thank you, sir.

17 So, thank you for your service and  
18 all that you do, especially around toll plazas  
19 because of the workers who are there, who get  
20 busy counting their change and it's one of the  
21 most hazardous places because of the workers and  
22 the speed limits.

23 And I am in favor of even more  
24 enforcement where it's 10 miles per hour, then I  
25 would like to see some speed cameras there so

1 trucks that go through 25 miles per hour then  
2 they get a speeding ticket through there, plus a  
3 reckless driving. And Ohio drivers nationally  
4 are well mannered, but when you get to north  
5 Jersey and these guys go through there at high  
6 rates of speed I would like to see them get  
7 maximum penalties so that when they get back to  
8 their container shipping point they are given 4  
9 points and the next time you are fired.

10 Q. Mr. McCaskey, thanks for those  
11 comments, but how about giving, we are on a time  
12 line here with paid by the day I guess because  
13 we have a court reporter, and you paid for your  
14 parking by the day.

15 A. Thanks. I agree with everything  
16 here. And this is just a minor disagreement of  
17 perception on how drivers, commercial drivers,  
18 deal with merging traffic. And it's of special  
19 importance when things come together and cars  
20 are merging too quickly or trucks are going  
21 through too fast and everybody needs to be more  
22 careful.

23 So, I agree with the law  
24 enforcement, especially at a toll plaza.

25 Q. What about this particular day? The

1 inspector has written that you came through  
2 the toll booth without wearing your shoulder  
3 harness. And what is your response to that?

4 A. My first words were it is  
5 inconceivable. Now, when crossing a narrow  
6 passage, a 70 foot commercial vehicle, special  
7 care must be taken when going through the weigh  
8 stations. A driver needs to impress the weigh  
9 master and his inspector who is with him to show  
10 that everything about your tractor and trailer  
11 is fine, you are paying attention, and if you  
12 don't get all your wheels on his static scale  
13 you are cordially invited to go around and try  
14 it again until your practice is good enough.

15 Then you may talk to the inspector.  
16 Going through a plaza is everything he  
17 described. You have got people working there,  
18 and cars merging haphazardly. And so at that  
19 point the driver needs to broaden his  
20 perspective 360 degrees.

21 Weigh masters have never scolded me  
22 for pulling the seatbelt out and looking around  
23 to make sure that my rearmost wheels cross.  
24 They see it. You are in low gear, you are at 10  
25 miles per hour, you are in the low range. You



1 just want to make sure that you are not  
2 surprised by late arrivals.

3 And so it's loosened and then when  
4 you come back out everything is set. So --

5 Q. So, if I can sort of paraphrase  
6 here, if I understand you correctly, what you  
7 are saying is that as you approached the toll  
8 plaza you had been wearing your safety belt with  
9 the shoulder harness and that you, if I  
10 understand, you pulled the safety harness  
11 forward off of the your chest?

12 A. It's what drivers do.

13 Q. And you did that so that you could  
14 better turn around to observe vehicles say on  
15 the left side of your tractor-trailer; is that  
16 it?

17 A. It's -- or the right, far right  
18 side.

19 Q. And so you are saying on both sides,  
20 but anyway you had your shoulder harness on?

21 A. Right.

22 Q. And then you pulled it away from  
23 your chest because you wanted to turn?

24 A. No, no.

25 Q. Then help me out here.

1           A.    Okay.  When you are coming to a  
2 congested, slow moving area for cars merging  
3 haphazardly it's your range of vision needs to  
4 be narrow.  Now, if that belt won't let you up,  
5 then you work it so a simple safety contraption  
6 does not become a hindrance to safe operation of  
7 the vehicle.

8                       So, if it catches, and I am not  
9 saying that is what happened, I don't care,  
10 because when you go through a weigh station you  
11 roll the window down, talk to the weigh master.  
12 When you go through tight congested areas  
13 the window comes down automatically.  I don't  
14 remember doing it that day.  It always does go  
15 down.

16                      Why?  Because the driving saying is  
17 it's 90 percent visual.  Well, that is not good  
18 enough.  The drivers roll the windows down so  
19 they can hear all the traffic around them, and  
20 give them clues if there is some tiny car with  
21 tiny horn is important.  You want to hear it.  
22 It might be in your blind spot.

23                      So, that is just standard.  I don't  
24 know what happened that day, but my -- what I  
25 was always trained since 1994, when I went back

1 over-the-road, is roll the windows down, pay  
2 attention, be agile, and especially when the  
3 crush of cars come together.

4 So, I am not saying that I know, but  
5 I know the seat belt, sometimes it snags. Just  
6 loosen it. You are down to five to ten miles  
7 per hour.

8 The problem is avoiding merging  
9 cars, do late changes. Trucks can't do late  
10 changes. When you come in you pick your lane,  
11 that is it. It's got to be straight. And as  
12 you go through you are also checking not just  
13 driving straight through, you have got to make  
14 sure that your trailer wheels are not grinding  
15 against the curb because it's so tight.

16 So, don't make mistakes at toll  
17 plazas or weigh stations or anywhere like truck  
18 stops where I saw a crash just the other night  
19 where the guy was driving around and wasn't  
20 looking in his mirror and he took off somebody's  
21 fender.

22 Drivers shouldn't pull through the  
23 fuel island. So, safety is firstmost and seat  
24 belt is very important. I never want to meet an  
25 air bag.

1           Q.    Okay.  So you are indicating you had  
2 moved the shoulder harness?

3           A.    I may have, because it's standard  
4 operating procedure if it's snagged like a good  
5 seat belt does, then you have got to work it,  
6 but you are not going to play with it because  
7 move it, so you can double or triple your  
8 vision.

9                    You don't let it get in your way  
10 when you are down to five to ten miles an hour.  
11 The window is down, you want to hear people.  
12 You want 360 off.  You want to know where people  
13 are coming from, especially from oblique angles.

14          Q.    You are indicating that you moved  
15 it --

16          A.    No.  I am saying that I often do, and  
17 always do when I am in tight, narrow positions  
18 where you have got cars that are merging  
19 underneath your front fender.  You can see maybe  
20 some of it, but they shouldn't have done that  
21 because --

22          Q.    Let's back up, Mr. McCaskey.  So are  
23 you saying, do you recall on this particular  
24 occasion --

25          A.    No.  I wouldn't.  I have done it so

1 many times it's standard procedure. Roll your  
2 windows down, and don't let the seat belt pin  
3 you back when you need to be forward. So, this  
4 is just common.

5 And the weigh masters see me do this  
6 all the time if it doesn't yield when I need it  
7 to yield.

8 Q. Then you are saying so you don't  
9 recall this specific occasion?

10 A. No. I wouldn't.

11 Q. But you are saying what you  
12 typically do is you will, if necessary, work  
13 with the shoulder strap?

14 A. Yes. You work with your truck.

15 Q. And --

16 Q. Just like you would do that to allow  
17 yourself to lean forward more when the windows  
18 are down. You can allow yourself to hear,  
19 observe traffic?

20 A. Yes, yes.

21 Q. Okay.

22 A. And the training is with experience.  
23 This is what one must do to safely navigate  
24 narrow areas with four-wheeled vehicles.

25 Q. Let me ask you this. Do you

1 recall -- so you are saying you don't recall  
2 this specific --

3 A. I couldn't, but let's assume I do it  
4 every time.

5 Q. Okay. So, when you do that kind of  
6 procedure you have adjusted or worked with  
7 the belt to allow yourself to lean forward?

8 A. Right.

9 Q. Is the belt still across your  
10 shoulder, across your chest, across your  
11 abdomen, and so forth?

12 A. It's somewhere in the neighborhood  
13 because your concentration is outside of  
14 the truck. And it's there somewhere. Now, you  
15 don't want to cut -- you can't let it stop you  
16 from doing your job. When you are at that slow  
17 speed, whatever it is, you want to concentrate  
18 on getting, the drivers, all good drivers, want  
19 to get through there without any problems.

20 Q. And --

21 A. Never go more than 10 miles per  
22 hour. That is the maximum speed. And, if they  
23 are more than that it's -- they should do  
24 re-educate. And cars too. That is why -- and  
25 Troopers, sometimes they sit in cars and watch

1 and sometimes, may I stand, Troopers will stand  
2 out there and they look around. And the Trooper  
3 is at the toll plaza, everybody must look at him  
4 to see if he (indicating) does nothing, or if  
5 he -- the Trooper goes you, all commercial  
6 drivers look at that Trooper standing there and  
7 obey his commands. He is making the decisions.

8 And he wants that truck over, that  
9 is what is going to happen. And, yes, sir,  
10 thank you, sir. I do not disagree.

11 Q. Mr. McCaskey, you described what  
12 your typical procedure is?

13 A. Yes.

14 Q. And you are saying that you are not  
15 certain that is what you have done on this  
16 occasion, but that is your typical procedure?

17 A. I would say typical.

18 Q. And so when you adjust the belt like  
19 that, or work with the belt pulling you forward,  
20 you are indicating that again you believe the  
21 belt is still cross your chest, your shoulder,  
22 your abdomen?

23 A. I believe that it's got play in it  
24 that no longer restricts (indicating) what I  
25 need to do at five to ten. That is the maximum

1 speed.

2 Q. And after you have done those  
3 adjustments do you recall, is the belt sitting  
4 underneath your left arm?

5 A. Oh, no, no.

6 Q. And the belt is still buckled?

7 A. Yes. Because when you come out and  
8 you let the racing trucks and cars go by, you go  
9 back, it just assumes its position.

10 Q. So the vehicle, you were still  
11 driving, there was probably as you indicated  
12 perhaps 10 miles per hour, so the vehicle was  
13 still moving when this was done?

14 A. Yes.

15 Q. I am trying --

16 A. Sometimes it snags and does its job,  
17 but it's just is now hindering so --

18 Q. And the inspection report notes, it  
19 says that came through the toll booth without  
20 wearing your safety belt. And you stated that  
21 it was across your torso. Do you want to read  
22 the statement?

23 A. No. Just read it again.

24 Q. Okay. Right here in the inspection  
25 report it notes --



1           A.    Whatever it says, it says.

2           Q.    So you moved it --

3           A.    Loosened it.

4           Q.    You are indicating that you believe  
5 it was -- you loosened it, but do you recall  
6 where it was after you loosened it?

7           A.    No.  But at all times I know what  
8 happens.  I can't say what happened then because  
9 it's just an average, safe pass through.  So,  
10 but it's inconceivable you wouldn't have a  
11 safety belt on because when a driver exits a  
12 truck he's got to take the belt and retract it  
13 all the way and snap it shut.  Otherwise it's a  
14 tripping hazard.

15                   Now, if a commercial driver takes  
16 off, forgets to click it, it's not going to  
17 click.  It's like he can't get the belt loose  
18 because he has retracted it, and now that is a  
19 real problem.

20                   So, before the driver gets in gear  
21 he has got everything in his tractor set, which  
22 means seat belt is properly functional, and  
23 there are -- everything he needs is within  
24 reach, and there are no loose objects which are  
25 around like bottles.

1 I have seen this in school, had  
2 professional drivers don't ever leave the stuff.  
3 Bottles can go underneath the brake peddle and  
4 so guys don't leave all that junk laying around.  
5 That is from early training and never forgot.

6 ATTORNEY EXAMINER: Mr. O'Rourke, do  
7 you have any questions of the witness?

8 MR. O'ROURKE: I guess I just have  
9 one.

10 CROSS-EXAMINATION

11 By Mr. O'Rourke:

12 Q. Mr. McCaskey, you stated that you  
13 don't recall whether the shoulder belt snagged  
14 or caught when you went to move forward; is that  
15 correct?

16 A. That specific instance, no, I do  
17 not. I just know generally that you make sure  
18 that you are not obstructed (indicating).

19 Q. So my question is if your memory is  
20 hazy on whether or not the shoulder belt snagged  
21 when you went to move forward, how could your  
22 memory be so clear as to whether or not the  
23 torso belt was crossing your torso and that your  
24 seat belt was locked in? There seems to be a  
25 disconnect there.

1           A.     There is no disconnect. It happens  
2 all the time for millions of miles. It happens  
3 all the time. You want it there, right where  
4 you need it. You don't put it away somewhere.  
5 You keep it when it locks and snags. I  
6 (indicating) didn't know whether -- it's so  
7 minor, but it's so often that it's just a  
8 standard procedure that you make sure that you  
9 have the flexibility in the belt so you are not  
10 obstructed when you are -- the belt trips from  
11 cars which move from oblique angles, especially  
12 from your blind side.

13           ATTORNEY EXAMINER: For the court  
14 reporter, when Mr. McCaskey said not obstructs  
15 he was leaning forward and was illustrating  
16 what --

17           THE WITNESS: What all experienced  
18 or drivers who hope to have their CDL long  
19 enough to become experienced, should do. And I  
20 can explain my training which caused me to do  
21 that. And I will briefly tell you what that is  
22 when I present my sole credential.

23           ATTORNEY EXAMINER: Okay.

24           THE WITNESS: How many copies?

25           ATTORNEY EXAMINER: Well, a copy to

1 myself, to the reporter and to Mr. O'Rourke.

2 ATTORNEY EXAMINER: Call this  
3 McCaskey Exhibit 1.

4 (EXHIBIT HEREBY MARKED FOR  
5 IDENTIFICATION PURPOSES)

6 ATTORNEY EXAMINER: Thank you.

7 THE WITNESS: The reason I present  
8 this sole credential is that on my 18th  
9 birthday, June of 1969, my father, lately  
10 passed, said you are going to college, you will  
11 pay your own way. So I became a Teamster, Local  
12 697 out of Wheeling.

13 And I went to work every summer as a  
14 Teamster on construction jobs. There they  
15 taught me to drive every commercial construction  
16 vehicle. Speed limit was 15 miles per hour  
17 maximum because Bayer handles very toxic  
18 chemicals. Any mistake kills many people.

19 So did that for a couple years.  
20 Went on to whatever else I did in life through  
21 college and industrial construction and  
22 engineering.

23 In 1994 I went to see the west coast  
24 and so I went coast to coast for five years with  
25 Collective Distribution Services coast to coast

1 and seen every state capital, been everywhere,  
2 done everything.

3 And got my -- that was twice  
4 the mileage of this company, because you are  
5 always going across the Rockies no matter no  
6 what.

7 And then I started this company in  
8 2000 and already had -- but I had been trained  
9 for two years and ran a team because I wanted to  
10 see everywhere. From '94, '95 and '96 I was  
11 two-man teams, so it didn't take but a year  
12 before I got all my 48 states visited.

13 And I trained with some of the most  
14 experienced drivers which allowed me to go all  
15 over the country everywhere often and learn  
16 everything I could ever want to know from  
17 the very most experienced drivers who would  
18 scold me, and I was older than they were when I  
19 started at age 42.

20 Read every sign out loud, don't be  
21 embarrassed. No matter what the sign is read it  
22 out loud. And to this day I still read every  
23 warning sign. High merge area, listen to  
24 myself, talk to myself out loud.

25 So I am proud of those who trained

1 me, I am very proud to have worked with this  
2 family owned company, and which has allowed me  
3 to be at home often enough to take care of my  
4 deceased father who taught me well, who was a  
5 law and order Republican.

6 And I am in favor of law and order.  
7 And the Troopers and state police and everybody  
8 on traffic safety, which is why in my document  
9 holder is the book Traffic. And I am reading it  
10 again after five years to refresh myself about  
11 how cars and people interact especially as they  
12 merge.

13 And so thanks to you I have reviewed  
14 my studies of the book Traffic, which was a best  
15 seller five years ago. I am reading it again to  
16 predict how cars behave.

17 And once I have been told something  
18 by someone I thank them very much for telling me  
19 something that I may need to know some day.

20 And there are so many stupid drivers' stunts  
21 that are so predictable that should not surprise  
22 and they are not taught where you are driving  
23 along in the right lane, see a car coming up,  
24 there is an exit, there is nobody behind you.  
25 They should have pulled behind you and then off

1 the exit.

2 No. You can predict. They are  
3 rushing by. They stomp on the brakes right in  
4 front of your truck, and then take the exit.  
5 Stupid drivers' stunts. Believe it, it happens.  
6 You see it. Look for it. Have your foot ready  
7 on the brake.

8 My team training taught me that.  
9 And never trust any vehicle passing you  
10 especially big trucks. They are especially a  
11 problem.

12 So, everybody is a suspect until  
13 proven innocent when they are driving around  
14 your truck. All you want to do is have a long,  
15 safe career. And thanks to the owner-operators,  
16 the senior drivers and all law enforcement  
17 officials for teaching us what we did not know  
18 and do need to know.

19 And every time I go for a full  
20 inspection, level 1, everything, the Troopers  
21 will say would you like to watch me work?  
22 Always say yes. Because when he goes around you  
23 go around and you are checking everything, he  
24 will shout it out, he will point things out and  
25 find things that the driver may not see, or

1 where he did not know to look.

2 And placards, I have been hauling  
3 hazardous materials since 1994, and it's a very  
4 difficult regime, and I have had inspectors show  
5 me some minor details about placarding which I  
6 really did not know. Now I do after it was  
7 pointed out to me. And was not warned, but  
8 told, here on the last page in the footnotes,  
9 placards.

10 So I have always strived to be the  
11 very best at any job I do. Whether I continue  
12 doing this job after the end of this year is an  
13 open question. I made it this far and I am very  
14 pleased. There have been a lot of close calls  
15 and I appreciate all the inspectors who said do  
16 you want to watch me work? Yes, sir, I do.

17 And if you followed him around and  
18 you are going to learn something from those in  
19 the industry. So, all law enforcement, thank  
20 you for this opportunity.

21 FURTHER EXAMINATION

22 By the Attorney Examiner:

23 Q. Thank you for coming. I do have a  
24 question or two that came to my mind as you were  
25 speaking. And just to follow up on Mr.



1 O'Rourke, the term that you used about the seat  
2 belt snagging, are you referring to the fact  
3 that you attempt to lean forward and the belt  
4 will snag and sort of lock?

5 A. Set. They set.

6 Q. It will not allow you to move  
7 forward until --

8 A. It sets. That is now I know it's  
9 working. It sets.

10 Q. So, you used -- you are saying that  
11 you typically will use your hand to --

12 A. Move it (indicating).

13 Q. To allow the belt to start to move  
14 again?

15 A. Right.

16 Q. And that enabled you to be able to  
17 move around and have a better field of vision.

18 A. The only time I really grab it is  
19 when I am going across and I want to make sure,  
20 and the weigh masters grade me on my perfection,  
21 and he has his inspector ready to check  
22 something out. I want to make sure everything  
23 is right.

24 So, yes. But for a simple procedure  
25 it's like (indicating) just loosens and sets and

1 loosens. You may never need it.

2 Q. So your perspective is you did move  
3 the shoulder harness but --

4 A. Typically.

5 Q. You typically do, okay, you don't  
6 always? You don't recall this specific  
7 occasion?

8 A. I wouldn't remember.

9 Q. And that your goal, typically your  
10 goal in doing so is to enable yourself to have  
11 better vision as you are approaching the toll  
12 booth area. But the belt is not underneath your  
13 left arm?

14 A. No. That might be on private  
15 property inside the chemical plant where it's 10  
16 or 15 miles per hour. You just want to make  
17 sure it's available in getting in and out of  
18 the truck. And you are swapping trailers and  
19 this.

20 Q. And --

21 A. On the road everything has got to be  
22 where you want it so that when you resume it's  
23 where you need it to be.

24 Q. And you don't recall on this  
25 particular occasion whether you adjusted you

1 belt. You know you were able to move forward.  
2 Was it still placed against your shoulder, chest  
3 or abdomen?

4 A. It's always somewhere where I need  
5 it. It would never be put away just because --

6 Q. When you say put away you mean on  
7 the side or --

8 A. Hung up.

9 Q. Hung up, or basically in the  
10 retracted position?

11 A. This is going to take a few moments.  
12 This is not going to take a long time to get  
13 through there unless somebody really makes a  
14 mistake. And the people most likely that makes  
15 mistakes are large truck drivers who don't line  
16 up correctly, make sure everything goes  
17 extremely as well as the Trooper wants it to  
18 work.

19 Q. Thank you, Mr. McCaskey.

20 A. I thank you all for this.

21 ATTORNEY EXAMINER: Thank you. And  
22 you can just stay there for a moment. I have a  
23 question for the inspector.

24 - - -

25 TROOPER KENNETH COLLINS

1 recalled as a witness on behalf of the State,  
2 being previously duly sworn, testified further  
3 as follows:

4 FURTHER EXAMINATION

5 By the Attorney Examiner:

6 Q. I had asked you about the weather  
7 conditions. Do you recall, was there anything  
8 such as say clear sun, anything like that?  
9 Tinted windows on the vehicle? Anything like  
10 that?

11 A. No. When I approached the vehicle I  
12 approached the driver side door. I approached  
13 the vehicle itself. That is why I didn't see  
14 the shoulder harness.

15 Q. When you observed the lack of a  
16 shoulder harness, or what you say is a lack of a  
17 shoulder harness, actually you were on the side?

18 A. Right. And then I walk up to the  
19 vehicle, and then I had a conversation with the  
20 driver and direct him to where I need him to go.  
21 And then he pulled over on the side of the road  
22 and then I finished the inspection.

23 Q. You don't recall anything such as  
24 weather conditions hindering your vision?

25 A. No. There was no hindrance.

1           Q.    Your distance, you know, being too  
2   far away from the vehicle?  Could you estimate  
3   how far you were?  Was it --

4           A.    I want to say 10 feet.  And even  
5   then when I walked up and I approached  
6   the vehicle on the driver side door there was no  
7   harness.  I directed him over towards where I  
8   had him pull over.

9           Q.    And there was no harness?

10          A.    I did not see it at all.

11          Q.    Did not see it?

12          A.    Not at all.  I didn't see it on his  
13   left shoulder, I didn't see it hanging up  
14   anywhere.  It was far behind him.  It wasn't --

15          Q.    It was not across his shoulder?

16          A.    No.  It was not across his torso  
17   when I was at the door, and to reduce  
18   the congestion in the area I let him pull over.

19          Q.    Off to the side of the road?

20          A.    Yes.  He pulled off near my vehicle  
21   that, off the right side of the vehicle, right  
22   side.

23               MR. MCCASKEY:  Because he picked a  
24   nice spot.  A long runway from me to get down.  
25   And I was over far enough and brakes are set,

1 engine may have been off. And I knew you were  
2 back there waiting. And it's the wise path you  
3 took.

4 Did you notice when you were walking  
5 up the same side of the truck, did you look in  
6 the mirror and see my face (indicating)?

7 MR. O'ROURKE: Your Honor, are we going to  
8 permit Mr. McCaskey to ask questions of Trooper  
9 Collins? I am just trying to understand the  
10 procedure here, who is on direct, who is on  
11 cross.

12 ATTORNEY EXAMINER: Good question.  
13 My mistake for not better controlling it.

14 MR. O'ROURKE: That is fine.

15 MR. MCCASKEY: I understand now.

16 Q. Just a minute, please. So, you  
17 observed him coming into the toll area, towards  
18 the toll booth, you observed, Trooper, you  
19 observed the belt from your perspective was not  
20 across his torso, and then you asked him to pull  
21 to the side of the road.

22 A. Yes, sir.

23 Q. Okay. And then you are saying when  
24 you went around to the driver side door  
25 and looked into the cab you still did not see

1 the belt across his torso?

2 A. That's correct.

3 Q. I see.

4 MR. MCCASKEY: The passenger side or  
5 the driver side?

6 ATTORNEY EXAMINER: Okay. No more  
7 comments from you, Mr. McCaskey. Mr. O'Rourke,  
8 do you have any questions of your witness?

9 MR. O'ROURKE: I don't.

10 ATTORNEY EXAMINER: Mr. McCaskey,  
11 were there questions that you wanted to ask from  
12 your perspective to clarify things, or comments  
13 you wanted to make?

14 MR. MCCASKEY: No. I understand now  
15 because, the truck, yes, the man is in total  
16 control of my truck. It's air brakes were  
17 pulled, it's stopped, engine may be off.  
18 Probably had the flashers on. That is standard  
19 procedure.

20 You walked up the safe side, the  
21 passenger side. I am done. I am up, I am  
22 looking around. I looked in the mirror over  
23 here for the Trooper, what does he want me to  
24 do? Why did you stop me? I could not imagine,  
25 but whatever it is is important and you need to

1 be addressed in every detail.

2 And, so, yes. At that point I am  
3 standing up. It's parked, it's whatever you  
4 want done, that is how it's going to be.  
5 Everyone, I appreciate your service.

6 ATTORNEY EXAMINER: Thank you for  
7 your comments.

8 MR. MCCASKEY: There appears to be a  
9 misunderstanding.

10 ATTORNEY EXAMINER: Okay. We have  
11 several exhibits here. Three introduced by  
12 Staff and one introduced by Mr. McCaskey.

13 Mr. McCaskey, do you have any  
14 objections to Staff exhibits being admitted into  
15 evidence?

16 MR. MCCASKEY: Absolutely not. And  
17 I thank you all for the opportunity to be here.

18 ATTORNEY EXAMINER: Thank you.

19 MR. MCCASKEY: Now I understand the  
20 misunderstanding.

21 ATTORNEY EXAMINER: And, Mr.  
22 O'Rourke, do you have any objection to the  
23 document of Mr. McCaskey being entered into  
24 evidence?

25 MR. O'ROURKE: No, I don't.



1                   ATTORNEY EXAMINER: Thank you. Then  
2 both of those -- excuse me. All three of the  
3 Staff exhibits will be admitted into evidence.  
4 The document submitted by Mr. McCaskey will be  
5 admitted into evidence as well.

6                   (EXHIBITS HEREBY ADMITTED INTO  
7 EVIDENCE)

8                   ATTORNEY EXAMINER: Thank you all.  
9 Finally I will ask this question. Does Staff,  
10 do you want to have a brief, an opportunity to  
11 submit a brief? It's not required, but you can  
12 have the opportunity if you wish.

13                   MR. O'ROURKE: Can I have a moment,  
14 your Honor?

15                   ATTORNEY EXAMINER: Sure.

16                   MR. O'ROURKE: We are not inclined  
17 to, but if the Bench thinks it would be helpful  
18 to resolve the case we would be glad to submit  
19 one.

20                   ATTORNEY EXAMINER: I don't believe  
21 that is necessary, no. Mr. McCaskey, did you  
22 want to submit a brief? It's just basically a  
23 summary of your arguments.

24                   MR. MCCASKEY: No. You have given  
25 me every opportunity. I thank you, I understand

1 the misunderstanding that when I am standing,  
2 the truck is parked, it's off to the side and  
3 everything is secured, then, of course, I am not  
4 in the seat so there is no seat belt. That  
5 explains everything.

6 ATTORNEY EXAMINER: Okay. Well,  
7 thank you very much for everyone attending. And  
8 I believe that draws our proceedings to a close.

9 MR. MCCASKEY: Thank you once again.

10 MR. O'ROURKE: Thank you, your  
11 Honor.

12 (At 11:10 A.M. the hearing was  
13 concluded)

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CERTIFICATE

I do hereby certify that the foregoing  
is a true and correct transcript of the  
proceedings taken by me in this matter on  
December 5, 2013, and carefully compared with my  
original stenographic notes.

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Michael O. Spencer,  
Registered Professional  
Reporter.

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**Commission of Ohio Docketing Information System on**

**12/19/2013 1:31:53 PM**

**in**

**Case No(s). 13-1955-TR-CVF**

Summary: Transcript in the matter of Gary McCaskey hearing held on 12/05/13 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.