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1 BEFORE

APR 7 1989

2 THE PENNSYLVANIA PUBLIC UTILITY COMMISSION SECRETARYS OFFICE  
3 Public Utility Commission

4  
5 In re: A-00108292 James Danielewicz, t/d/b/a  
6 Limousine for Less For the right to transport, as a  
7 common carrier, persons, in limousine service,  
8 between points in the borough of Stroudsburg,  
9 Monroe County, and within an airline distance of  
10 sixty statute miles of the limits thereof.  
11 Further hearing.

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15 Scranton, Pennsylvania  
16 March 17, 1989

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20 Pages 88 to 147, inclusive

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<u>APPLICANT:</u>				
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1 JUDGE LOVENWIRTH: Good morning. We will now  
2 commence a further hearing concerning the matter of  
3 application of James Danielewicz at A-00108292. I have  
4 before me the appearance sheet, and it indicates that all  
5 the parties have not yet arrived, so I will recess the  
6 hearing for a short period of time pending the arrival of  
7 the other parties.

8 (Whereupon, a brief recess was taken.)

9 JUDGE LOVENWIRTH: We'll return to the record at this  
10 time because all the parties are now present in the hearing  
11 room. And the appearance sheet will indicate that here on  
12 behalf of the applicant is his attorney, Salvatore Vito.

13 Good morning, Mr. Vito.

14 MR. VITO: Good morning, Your Honor.

15 JUDGE LOVENWIRTH: The record will further indicate  
16 that here on behalf of the protestant, Top Hat Chauffeured  
17 Limousine Service is its attorney, Richard T. Mulcahey.

18 Good morning, Mr. Mulcahey.

19 MR. MULCAHEY: Good morning, Your Honor.

20 JUDGE LOVENWIRTH: And finally the record will  
21 reflect that here on behalf of the protestant Pocono  
22 Limousine Service is its attorney, Mark S. Jennings. Good  
23 morning Mr. Jennings.

24 MR. JENNINGS: Good morning, Judge.

25 JUDGE LOVENWIRTH: Mr. Jennings the last time that we

1 were in the hearing room concerning this matter for the  
2 initial hearing back in January Boyd Hughes was the attorney  
3 who represented the protestant Pocono Limousine Service.  
4 Now, are you going to enter your appearance officially and  
5 withdraw his appearance?

6 MR. JENNINGS: Yes, Your Honor.

7 JUDGE LOVENWIRTH: Very good. A very brief history  
8 of this proceeding follows: On January 17th, 1989, an  
9 initial hearing was conducted and was presided over by this  
10 Presiding Judge. And at that time, a complete history of  
11 the proceeding was memorialized on the record and will not  
12 be repeated today.

13 The hearing of January 17th only went one half of a  
14 day because unfortunately the Court Reporter was ill. And  
15 accordingly, we adjourned after the luncheon recess. At the  
16 hearing convened on January 17th two witnesses were  
17 presented by the applicant; namely, the applicant, himself,  
18 James Danielewicz. And, additionally, one Nathan Oliver  
19 testified. Neither of those parties, however, has been  
20 cross examined. I believe both of those parties have been  
21 fully examined as on direct examination?

22 MR. VITO: That's correct, Your Honor.

23 JUDGE LOVENWIRTH: At the said January 17th hearing,  
24 I had -- prior to the said hearing I should say -- I had  
25 received a telephone communication from Mr. Mulcahey, the

1 attorney for Top Hat Chauffeured Limousine Service. And he  
2 explained to me he was on his sickbed, and he couldn't come  
3 to the hearing. And he asked if he could cross examine at a  
4 further hearing.

5 And I discussed that on the record with the attorney  
6 for the applicant, Mr. Vito. And under the circumstances he  
7 thought that would be okay. And Mr. Hughes, who at that  
8 time appeared on behalf of protestant Pocono Limousine, said  
9 that he, too, would like to cross examine at the further  
10 hearing. And there wasn't any objection to that. So that  
11 the two witnesses presented by the applicant on the 17th  
12 will be cross examined by both active protestants this  
13 morning.

14 Is there anything to add to that summary of what  
15 occurred so far, Mr. Vito?

16 MR. VITO: Not to my recollection, Your Honor.

17 JUDGE LOVENWIRTH: Mr. Mulcahey and Mr. Jennings,  
18 neither of you were here the last time, but perhaps I left  
19 something out about each of you.

20 MR. JENNINGS: Not that I'm aware of, Judge.

21 MR. MULCAHEY: None, Your Honor.

22 JUDGE LOVENWIRTH: Very good. Is there anything  
23 preliminarily, gentlemen, before we call a witness?

24 MR. MULCAHEY: Your Honor, there are two preliminary  
25 matters that I would like to bring up. The first thing I

1 would like to make this objection, although it's a little  
2 late, but I would, nevertheless, like to object to the  
3 testimony received indicating that there were requested  
4 evidence or requested testimony by members of the public for  
5 service in the area sought by this application.

6 I specifically requested this information in the  
7 interrogatories that I directed to the applicant. And the  
8 answer to the interrogatories stated that the only  
9 individual or organization supporting this application under  
10 3382 was Pocono Manor. After I received the notes of  
11 testimony --

12 JUDGE LOVENWIRTH: What do you mean under 382?

13 MR. MULCAHEY: 3.382 as to request evidence.

14 JUDGE LOVENWIRTH: Okay.

15 MR. MULCAHEY: I specifically requested that Pocono  
16 Manor was the only answer to that interrogatory. After  
17 reviewing the notes of testimony, a number of other lodges,  
18 resorts were named by this witness. And I would move to  
19 strike that testimony.

20 JUDGE LOVENWIRTH: I don't see how your client is  
21 prejudiced by the failure to complete and fully answer the  
22 interrogatory, Mr. Mulcahey, because, after all, you are  
23 here now. And you've had a chance to review the testimony.  
24 And, therefore, you shouldn't be hampered in the cross  
25 examination by surprise, nor should you be hampered in the

1 presentation of the protestant's case since you haven't got  
2 to that part of the proceeding yet.

3 So unless you can show me where you are prejudiced  
4 and where your client is prejudiced, I'm not going to strike  
5 the testimony.

6 MR. MULCAHEY: Well, Your Honor, considering the  
7 burden that is placed upon the protestant in these  
8 proceedings, I think it's incumbent upon the applicant to  
9 provide this information specifically when it's requested by  
10 one of the parties through interrogatories --

11 JUDGE LOVENWIRTH: I agree.

12 MR. MULCAHEY: -- before the hearing.

13 JUDGE LOVENWIRTH: I agree.

14 MR. MULCAHEY: Usually when I get answers to  
15 interrogatories, I send it to the client so that the client  
16 can look through them, and then I can prepare a meaningful  
17 defense of the case. In this case, I don't believe that Mr.  
18 Hughes received the benefit of the copies of the  
19 interrogatories or answers of the copies -- answers to the  
20 interrogatories and --

21 JUDGE LOVENWIRTH: Mr. Hughes?

22 MR. MULCAHEY: Mr. Hughes. And, therefore, could not  
23 object. Nevertheless, it's my understanding that if this  
24 information isn't provided by the applicant through  
25 discovery, then the protestant can object to the taking of

1 that testimony or the receiving of that testimony under the  
2 sanction provisions of the regulation.

3 JUDGE LOVENWIRTH: I agree with you that the answers  
4 to the interrogatories, according to your description of  
5 them, which I'm not sure is accurate although I haven't  
6 looked at them. I agree with you that that's improper. But  
7 the sanction that your seeking striking that portion of the  
8 testimony I think is very severe, and I would not impose  
9 such a severe sanction on this applicant at this time unless  
10 there is substantial prejudice to the protestant. I see no  
11 substantial prejudice to the protestant. Therefore, I deny  
12 your motion to strike testimony. You have an exception.

13 MR. MULCAHEY: Your Honor, I would like to make one  
14 more objection. I would object to the testimony received at  
15 the notes of testimony starting on Page 47 through 51. This  
16 section of the notes of testimony is after you cautioned the  
17 applicant that he did not show sufficient financial  
18 fitness. And thereupon, he asked several questions of the  
19 applicant inquiring into certain values of vehicles and  
20 property.

21 I know this objection is going to be denied, because  
22 I know your philosophy, Your Honor, with respect to these  
23 proceedings. But I would like to state for the record  
24 although this is a fact finding proceeding, it is  
25 adversarial in nature because there are separate parties and

1 there are applicants and protestants in this case, and that  
2 fact finding should be gleaned through the adversarial  
3 relationship, and that was not done at notes of testimony 47  
4 through 51, and I would move to strike that testimony.

5 JUDGE LOVENWIRTH: All right. I'm going to deny your  
6 motion to strike the testimony. It is true, so that the  
7 reader of this transcript doesn't have to look at the other  
8 transcript to understand the motion that you are making, Mr.  
9 Mulcahey. It is true that Mr. Danielewicz, the witness who  
10 was also the applicant, had been examined on direct  
11 examination and had been cross examined by protestant Pocono  
12 Limousine Service and had been asked questions on redirect  
13 examination and had been re-cross examined when I mentioned  
14 to the attorney for the applicant that I didn't hear  
15 anything about financial fitness. And I thought that was  
16 part of his burden, and that if he was going to develop the  
17 record as to that point before we excused this witness, he  
18 should do so.

19 And, of course, Mr. Mulcahey's present objection to  
20 that is that I was spoon feeding the applicant so to speak,  
21 and I shouldn't have done that. I understand his objection  
22 very well, but it is my philosophy that I want to ensure  
23 that the record is fully developed. And in my endeavor to  
24 do so, I mentioned to the attorney for the applicant in my  
25 opinion it was not fully developed, and perhaps he should

1 fully develop that area because without any proof of  
2 financial fitness, clearly the burden posed upon the  
3 applicants in motor vehicle application proceedings cannot  
4 be met.

5 So I deny your motion. Okay. Is there anything  
6 else?

7 MR. MULCAHEY: No, Your Honor.

8 JUDGE LOVENWIRTH: All right.

9 MR. MULCAHEY: There is one thing. Excuse me. As I  
10 understand it, there will be only two witnesses presented by  
11 the applicant, Mr. Danielewicz and Mr. Oliver.

12 JUDGE LOVENWIRTH: Well, Mr. Danielewicz has been  
13 cross examined by Pocono Limousine, but he hasn't been cross  
14 examined by Top Hat Chauffeured Limousine. So Mr.  
15 Danielewicz would be one. Mr. Oliver hasn't been crossed by  
16 anybody and neither of the shipper witnesses I think. Am I  
17 correct?

18 MR. VITO: That's correct, Your Honor.

19 MR. MULCAHEY: The witnesses are the ones that are  
20 listed on the sheet that you attached to the  
21 interrogatories. Is that correct? Cavanaugh, Beth Stevens,  
22 and Walt Stevens and Christopher Wolfington?

23 MR. VITO: That's correct. Your Honor, the only  
24 thing I wish to make clear for the purposes of the record  
25 with respect to Mr. Mulcahey's second objection is the fact

1 that the applicant had put on evidence of assets. The issue  
2 that was raised by this Court, and I believe clearly the  
3 ambit of judicial discretion, is the evaluation of those  
4 assets. The existence of the assets by the applicant was  
5 listed on direct examination.

6 JUDGE LOVENWIRTH: Very good. All right. Is there  
7 anything else, Mr. Mulcahey, preliminarily?

8 MR. MULCAHEY: No, Your Honor.

9 JUDGE LOVENWIRTH: How about you, Mr. Jennings?  
10 Anything preliminarily?

11 MR. JENNINGS: No, Your Honor.

12 JUDGE LOVENWIRTH: How about the applicant? Anything  
13 preliminarily?

14 MR. VITO: No, Your Honor.

15 JUDGE LOVENWIRTH: I guess it is time to put our  
16 witnesses to work. Do you want to call a witness, please,  
17 Mr. Vito?

18 MR. VITO: Ms. Cavanaugh.

19 MR. MULCAHEY: Excuse me, Your Honor. I would object  
20 to Ms. Cavanaugh first. Only I would like to know the  
21 extent of the applicant and the application, and I think I  
22 would glean that through cross examination. That would make  
23 a more meaningful proceeding with the --

24 JUDGE LOVENWIRTH: You may present your evidence any  
25 way you want, Mr. Vito. However, normally the applicant's

1 testimony is received first so that we can judge the  
2 relevancy of a shipper witness' testimony because the  
3 shipper might say that she wants a limousine service at the  
4 XYZ airport. And the applicant might say I don't intend to  
5 provide that service, but you do whatever you want. It's  
6 your case.

7 MR. VITO: I will put Mr. Danielewicz on.

8 JUDGE LOVENWIRTH: Very good. It's been a long time  
9 since I gave an oath to you. Mr. Danielewicz, good  
10 morning. It's nice to see you.

11 MR. DANIELEWICZ: It's nice to see you.

12 JAMES DANIELEWICZ, called as a witness, having been  
13 duly sworn, was examined and testified as follows:

14 JUDGE LOVENWIRTH: All right. Mr. Vito, are you  
15 finished with the witness?

16 MR. VITO: Yes.

17 JUDGE LOVENWIRTH: All right. Mr. Mulcahey.

18 MR. MULCAHEY: Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MR. MULCAHEY:

21 Q. Good morning. How do you pronounce your name?

22 A. Danielewicz.

23 Q. I'm going to say sir, from this point on. I'm  
24 having a difficult time pronouncing your name. I  
25 apologize. You operate a business known as Limousines for

1 Less as a sole properitor. Is that correct?

2 A. True.

3 Q. It is not a corporation?

4 A. No.

5 Q. Do you operate your business from your residence?

6 A. Yes.

7 Q. And that is located where, sir, again?

8 A. 315 Clermont Avenue, Stroudsburg.

9 Q. And your wife also operates a business out of  
10 that residence?

11 A. Yes.

12 Q. Do you know if the local municipality or township  
13 permits to operate more than one business out of that  
14 location?

15 A. Yes.

16 Q. How do you know that?

17 A. (No audible response.)

18 Q. What is your property zoned as, sir?

19 A. It's residential. You can operate a one family  
20 member business out of the residence.

21 Q. Isn't your testimony that you have two businesses  
22 out of that location?

23 A. Yeah. We have a phone service for my business  
24 out of there.

25 Q. Where do you maintain the vehicles?

1 A. There are on the street.

2 Q. In front of your residence?

3 A. In front sometimes, yes.

4 Q. So you are maintaining two businesses at that  
5 location. Is that correct?

6 A. Yes.

7 Q. You testified that you were not sure at the last  
8 hearing whether or not you or your attorney registered the  
9 fictitious name Limousines for Less. Do you know now if it  
10 is registered?

11 A. It is not registered.

12 Q. It is not registered. Are you planning to  
13 register that name?

14 A. Yes.

15 Q. Sir, do you know if the Commonwealth requires you  
16 to register a fictitious name prior to advertising that name  
17 or doing business under that name?

18 A. No, I don't.

19 Q. And you do advertise, don't you? Under  
20 Limousines for Less in the newspapers, or in -- I'm sorry --  
21 the Yellow Pages?

22 A. The Yellow Pages, that's all.

23 Q. At the last hearing, you were not sure when your  
24 business received its ICC license. Do you know now, sir,  
25 definitely what date you did receive that certificate?

1 A. No, I didn't bother to look it up.

2 Q. So it's true that you don't know the scope of  
3 that authority either?

4 A. Yes. I know the scope of the authority.

5 Q. As I understand it, you were not sure of the  
6 states that were included in that certificate?

7 A. No. I said Pennsylvania, New Jersey, and New  
8 York.

9 Q. I see. Are you -- do you know if you filed  
10 insurance with the ICC?

11 A. Yes.

12 Q. And what were the limits?

13 A. \$1,500,000 liability.

14 Q. And do you know if you filed tariffs? Do you  
15 know what tariffs are, sir?

16 A. I believe the attorney took care of all that.  
17 That would be attorney Krawitz.

18 Q. Do you know what a tariff is?

19 A. Not particularly, no.

20 Q. So you have no personal knowledge as to whether  
21 or not the tariffs were -- a tariff or a document called a  
22 tariff was filed?

23 MR. VITO: Objection. We are getting into --

24 MR. MULCAHEY: Your Honor, this is cross examination.

25 MR. VITO: I think the question is somewhat

1 misleading. The man is not obliged with the degree of  
2 certainty that an attorney would have to be able to  
3 distinguish perfunctorily what the tariff means. He said  
4 the matter was handled by his attorney. I think at this  
5 time it's becoming a little misleading.

6 JUDGE LOVENWIRTH: I'm going to overrule that  
7 objection. I think that it -- if he doesn't know what a  
8 tariff is, then that should be pursued. But after all, a  
9 tariff is a document which creates the rules under which the  
10 certificate holder may operate and which sets forth how the  
11 operator -- the certificate holder can charge. And if he  
12 doesn't know that, that goes to fitness, and it's very  
13 important.

14 BY MR. MULCAHEY:

15 Q. Could you answer the question? Would you like me  
16 to repeat it? You have no knowledge as to whether or not a  
17 tariff or a document called a tariff was filed on your  
18 behalf before the Interstate Commerce Commission?

19 A. As far as I know, I would say it was filed.

20 Q. But you have no definite knowledge of whether it  
21 was filed or not?

22 A. No.

23 Q. Sir, do you have agents in New Jersey and New  
24 York?

25 A. What do you mean by agents?

1 Q. Well, if you don't understand the question, then  
2 please understand that way. Do you understand the question?

3 A. No.

4 Q. Do you know if you are required to have agents in  
5 connection with your ICC certificate?

6 A. I don't know. The attorney handled that. I'm  
7 not sure what it is.

8 MR. MULCAHEY: Your Honor, I would request that the  
9 applicant provide as late filed exhibit the certificate, not  
10 the order, but the certificate from the Interstate Commerce  
11 Commission evidencing its -- his authority to operate in  
12 interstate commerce.

13 JUDGE LOVENWIRTH: Well, I can't make the applicant  
14 -- I can't tell the applicant how to present his case, Mr.  
15 Mulcahey. I can't tell the applicant that he has to file  
16 such and such an exhibit in order to present his case. Now,  
17 I deny that request. However, if you want to look at it,  
18 the rules of this Commission permit discovery until the  
19 record is closed. Then if you want me to construe your  
20 request to be one for an on the record data request, then I  
21 will direct the applicant to forward to you for your  
22 inspection a copy of his ICC certificate. Is that what you  
23 want?

24 MR. MULCAHEY: I requested it in the interrogatories,  
25 but I only received a number. So yes, I would request a

1 copy.

2 JUDGE LOVENWIRTH: I'm going to order that. Please  
3 do it.

4 MR. VITO: Yes, Your Honor. We will, in the due  
5 course of next week.

6 JUDGE LOVENWIRTH: That's fine.

7 MR. MULCAHEY: That's the certificate, not the order.

8 JUDGE LOVENWIRTH: That's the certificate of public  
9 convenience or whatever the ICC calls it. All right. Very  
10 good.

11 BY MR. MULCAHEY:

12 Q. Sir, is your business solely to transport persons  
13 to airports such as Newark and to New York, Atlantic City,  
14 Philadelphia?

15 A. Not Philadelphia.

16 Q. The airports in New York and New Jersey?

17 A. Right.

18 Q. And that's the only business that you do  
19 presently?

20 A. Basically, yes.

21 Q. And you don't perform any weddings or proms or  
22 anything like that?

23 A. No. We just rent the car. When we rent the car,  
24 we don't provide the driver.

25 Q. I'll follow up with that in a moment. You stated

1 that you have 10 percent of your trips on an intrastate  
2 basis. Would you -- this was an answer to one of the  
3 interrogatories. I would like you to explain the type of  
4 trips that you perform on an intrastate basis?

5 A. That's not in New Jersey.

6 JUDGE LOVENWIRTH: Mr. Danielewicz, let Mr. Mulcahey  
7 ask his question before you start to answer. The problem we  
8 run into is the Court Reporter only has two ears. She can't  
9 take down your voice and Mr. Mulcahey's voice both at the  
10 same time. And to assure that we get an accurate transcript  
11 and to make her work a little bit easier, please wait until  
12 he is finished asking the questions.

13 THE WITNESS: Sure, Your Honor.

14 BY MR. MULCAHEY:

15 Q. Now, sir, you said that you perform trips within  
16 the state of New Jersey?

17 A. Yes.

18 Q. And from what point to what point?

19 A. From like Columbia into Newark, from Newton down  
20 around Newark, Blairstown area.

21 Q. They are all trips from points in New Jersey to  
22 airports?

23 A. Not particularly to an airport. It can be any  
24 place in the state of New Jersey.

25 Q. Do you have a location in New Jersey?

1 A. It's up in Marksboro.

2 Q. And that's an office of your business?

3 A. Yes.

4 JUDGE LOVENWIRTH: How do you spell Marksboro?

5 THE WITNESS: M-a-r-k-s-b-o-r-o.

6 BY MR. MULCAHEY:

7 Q. And you have a permit from the local government,  
8 whether it's township or municipality, of Marksboro to  
9 operate a limousine business?

10 A. Yes, just a permit from the township. That's all  
11 it is.

12 Q. Now, please describe the types of trips that are  
13 performed on an intrastate basis in Pennsylvania as you  
14 testified earlier to?

15 A. I don't do any intrastate in Pennsylvania.

16 Q. Didn't you just testify that you lease your  
17 vehicles?

18 A. Yes.

19 Q. Well, please describe that activity for me.

20 A. If somebody wants to lease the vehicle, we rent  
21 the vehicle.

22 Q. So if I called this number, 42 -- 6913 and I said  
23 I needed a vehicle for a prom or a wedding?

24 A. Right.

25 Q. You would say fine, give me a date, and you would

1 write me in your book, and what would happen then?

2 A. Well, then you would have to pay for the vehicle  
3 and hire the driver separately.

4 Q. And you would provide me with a driver that I  
5 could hire?

6 A. We would recommend qualified drivers.

7 Q. Are they employees of yours?

8 A. No.

9 Q. They are not. Why not? Aren't your employees  
10 qualified?

11 MR. VITO: Objection. That's a misleading question.

12 MR. MULCAHEY: Your Honor, I'm just following up a  
13 question. This is cross examination.

14 MR. VITO: I understand that, sir. May I explain for  
15 the record why it's misleading. You asked him if he  
16 recommended qualified drivers and then if he recommended his  
17 own. He said no. You said, Aren't your drivers qualified.  
18 That's not at all what he stated.

19 MR. MULCAHEY: He can answer the question. He'd  
20 already answered it.

21 JUDGE LOVENWIRTH: I understand the respective  
22 positions of both parties. The question was why not. And  
23 the next question was before the first one was answered  
24 aren't your drivers qualified. So I think that the first  
25 question why not was a proper question. If you object to

1 that one, I will sustain the objection.

2 Now, the next question I think was premature, so I'll  
3 sustain the objection at this point. Although I think it's  
4 proper on cross examination to ask an applicant if the  
5 drivers are qualified. But in the context it was asked, the  
6 objection is sustained. But answer why don't you recommend  
7 your drivers.

8 THE WITNESS: Because they are not legally to do this  
9 type of business. I provide a driver and a car.

10 BY MR. MULCAHEY:

11 Q. And that's your understanding of the  
12 certification requirements of the Commission here?

13 A. Right. I cannot supply a driver and a car. And  
14 I called Harrisburg to get that information.

15 Q. Thank you. Then whose drivers do you suggest or  
16 refer them to you? Do you refer them to Pocono's drivers?

17 A. No. I don't know.

18 Q. How about the Top Hat's drivers? Do you  
19 recommend those drivers?

20 A. No. I don't know any of those drivers.

21 Q. Who else is in that county or in the county  
22 surrounding Monroe County that provides limousine service  
23 that you know of? What are the names of the drivers that  
24 you recommend?

25 A. Joseph Srebro.

1 Q. Spell it.

2 A. S-r-e-b-r-o.

3 Q. Who does he work for? Do you know?

4 A. No.

5 Q. Is he a chauffeur?

6 A. Not professionally, no.

7 Q. Do you know if he has a license?

8 A. Yes.

9 Q. Do you know who he's employed with?

10 A. I believe he installs carpet on a regular basis.

11 Q. Is he a friend of yours?

12 A. Sort of. I know him. I know he is a good

13 driver.

14 Q. And do you pay him?

15 A. No.

16 Q. Who else do you refer business to? Who else do  
17 you recommend as drivers?

18 A. I have another one I use once in a while, John

19 John Luzzi.

20 Q. Would you spell his name.

21 A. L-u-z-z-i.

22 Q. And does he work for any limousine company?

23 A. Not that I know of.

24 Q. Do you know where he's employed?

25 A. He works for one of the printing companies in

1 Stroudsburg.

2 Q. Do you know if he has a license?

3 A. Yes.

4 Q. And he only drives for you?

5 A. He doesn't drive for me.

6 Q. Well, he drives when you recommend people to call  
7 him?

8 A. Right.

9 Q. As almost an independent contractor?

10 A. Right.

11 Q. I see. Anyone else?

12 A. No. That's basically the only ones that -- I  
13 very seldomly use drivers like that.

14 Q. Do you know the address of these two individuals?

15 A. No.

16 Q. Do you know a phone number?

17 A. Not offhand.

18 MR. MULCAHEY: Can this be provided to us, Your  
19 Honor, at a later date by the applicant?

20 JUDGE LOVENWIRTH: I think that's a reasonable  
21 discovery request. So I direct the applicant to get that  
22 one Saturday next week. You get 20 days or 15 days. I  
23 forget what the rulings say. Within a reasonable time  
24 please provide the information to the attorney for Top Hat,  
25 because I think that's proper discovery.

1 BY MR. MULCAHEY:

2 Q. Now, these individuals that are private  
3 contractors, do they pay you any money?

4 A. No.

5 Q. And you pay them no money?

6 A. Right.

7 Q. And you just lease your vehicles to somebody?

8 A. Right.

9 Q. How much do you lease it for? The vehicles?

10 A. Generally based on an hourly rate.

11 Q. How much per hour?

12 A. At least \$35.00 an hour.

13 Q. For weddings and proms?

14 A. Yes.

15 Q. Night out on the town?

16 A. Proms. We haven't had a night out on the town.

17 We just did some weddings. We don't use those drivers that  
18 often.

19 Q. When was the last time that you leased your  
20 vehicle to an individual for a wedding or prom or whatever  
21 within Pennsylvania?

22 A. It's got to be over two months ago, between a  
23 month and two months.

24 Q. You wouldn't recall who?

25 A. No.

1 Q. Did you maintain insurance during this period of  
2 time on the vehicles?

3 A. Our insurance is on the vehicles all the time.

4 JUDGE LOVENWIRTH: So when you lease a vehicle, you  
5 don't provide -- you provide the insurance, so to speak.  
6 You provide the insurance. Is that your answer?

7 THE WITNESS: The liability insurance, yes.

8 BY MR. MULCAHEY:

9 Q. And you maintain the vehicle during that period  
10 to make sure it's in a presentable condition to go out to a  
11 wedding or prom?

12 A. For a wedding -- the car is clean when it goes  
13 out. When they come in, they are cleaned, gassed, and  
14 serviced.

15 Q. And do you instruct these two drivers where to go  
16 and what to do?

17 A. I don't tell them what to do. They just go.

18 Q. Do you give them the address, or just say here  
19 are the keys to my car and bring it back?

20 A. They pick up the keys and make arrangements with  
21 the people.

22 Q. You give them no instructions?

23 A. No. If I know the address, I could give the  
24 address. That's about it.

25 Q. You may give them the address as to where to pick

1 up somebody?

2 A. Right.

3 Q. And you call these people and tell them about  
4 these jobs?

5 A. The drivers, you mean?

6 Q. Yes.

7 A. No. I generally give the numbers to the  
8 customers and let them call.

9 Q. Generally. That means most of the time?

10 A. Right. If they can't get ahold of them, I try to  
11 get ahold of them for them.

12 Q. Does the \$35.00 per hour include payment to the  
13 drivers?

14 A. No.

15 Q. So it's your opinion if an accident occurred  
16 during this trip, let's say a wedding, your business would  
17 be responsible or liable?

18 MR. VITO: Objection.

19 MR. MULCAHEY: I said in his opinion.

20 JUDGE LOVENWIRTH: Sustained. That calls for a legal  
21 opinion. The witness is not an legal expert, so I sustain  
22 the objection.

23 BY MR. MULCAHEY:

24 Q. You stated that your understanding of the rules  
25 of this Commission require you to lease your vehicle in this

1 manner. How did you find that out? Did you call  
2 Harrisburg?

3 A. Right. I called Taxi and Limousine Service or  
4 whatever.

5 Q. You called the Commission, or you called another  
6 carrier?

7 A. The Commission.

8 JUDGE LOVENWIRTH: Public Utility Commission.

9 THE WITNESS: Yes, sir.

10 BY MR. MULCAHEY:

11 Q. Who did you speak with?

12 A. I don't have no idea. That's about like two  
13 years ago.

14 Q. And what did you ask of the Commission?

15 A. Whether it was legal to rent a car, or could I  
16 provide a driver, or could I not provide a driver. And they  
17 told me I could rent a car any time I wanted as long as I  
18 didn't provide -- I cannot provide a chauffeur driven  
19 limousine, which I didn't.

20 Q. Did you collect sales tax on the lease of this  
21 vehicle to individuals needing it for weddings or proms?

22 A. No.

23 Q. Why not?

24 A. I didn't know that you were allowed to collect  
25 sales tax on that.

1 Q. Is it because you are a certified carrier and you  
2 are exempted from that possibly?

3 MR. VITO: Objection. Your Honor, I don't know what  
4 relevance it bears.

5 JUDGE LOVENWIRTH: I overrule the objection. The  
6 question as to why don't you collect tax is proper, no  
7 matter how it's asked. It's a proper question.

8 THE WITNESS: I'm not aware that there is tax on a  
9 rental car.

10 BY MR. MULCAHEY:

11 Q. The question was is it because you are a  
12 certified carrier and you are exempted from collecting  
13 taxes?

14 A. I don't know that, no.

15 Q. You don't know that?

16 A. No.

17 Q. How do you bill your customers that lease this  
18 vehicle? You bill it through Limousines for Less?

19 A. No.

20 Q. You don't?

21 A. The driver?

22 Q. I mean the people that call that want to use it?

23 A. They are billed.

24 Q. They are billed like any other customers of the  
25 company?

1 A. As a car rental.

2 Q. Yeah, of course. Do you have any minimum set of  
3 hours on the rental of the vehicle?

4 A. Yes, it has got to be rented at least for three  
5 hours.

6 Q. Three hour minimum?

7 A. Yes.

8 Q. And \$35.00 an hour thereafter?

9 A. Yes.

10 Q. What's the base price for the three hours?

11 A. \$105.00.

12 Q. And do you also have a rental charge per mile?

13 A. No, we don't. No mileage.

14 Q. Does this correspond with what you charge people  
15 on an interstate basis? I mean if I wanted to secure  
16 transportation from Limousines for Less to Newark, would  
17 there be a three hour minimum?

18 A. No, there wouldn't.

19 Q. Suppose I wanted to go to New York City? Would  
20 there be a three hour minimum?

21 A. No, there wouldn't.

22 Q. Why not?

23 A. Because I would provide a driver, and he's hired  
24 for a trip.

25 Q. So how do you charge people? Your customers?

1           A. They are basically figured about a dollar per  
2 mile.

3           Q. You do it by mile? You don't do it by hour?

4           A. On a trip to New York, we don't do it by the  
5 mile. We figure the airport is approximately so many  
6 miles. That's how much we charge. It is not -- an odometer  
7 reading isn't taken and charged exactly so much a mile. We  
8 just figure approximately.

9           Q. It's discretionary? Your charges?

10          A. It's based on an approximate mile, a dollar a  
11 mile.

12          Q. Are your charges discretionary?

13          A. What do you mean by discretionary?

14          Q. Well, are the charges according to what you think  
15 should be charged for that trip?

16          A. The charges are based when I operated in New  
17 Jersey as to what the other dealers in New Jersey were  
18 charging.

19          Q. Has that gone up? Has that gone down? Do you  
20 charge differently for different individuals?

21          A. This is basically the same for everybody.

22          Q. My question is how do you base the charge to  
23 customers in your limousine business presently?

24          A. I just told you. It is based on a dollar a  
25 mile. If a trip is 80 miles long, it's figure out at

1 \$80.00, but if it's 82 miles or 79 miles, we still charge  
2 the \$80.00 based on a general average of mileage.

3 Q. It's discretionary. Whatever you think --

4 MR. VITO: Objection, Your Honor. I think it's clear  
5 what his statement is with respect to his charges.

6 MR. MULCAHEY: It's very clear if it is a dollar a  
7 mile. If he decides it's close to 80, he'll charge 80. If  
8 it is 79 miles, he still charges \$80.00.

9 JUDGE LOVENWIRTH: He charges a dollar a mile. And  
10 he rounds it off to the nearest mile or ten miles or say  
11 five or ten miles. He rounds it off. So if it's a 78 or 80  
12 mile trip, he'll charge for 80. If you want to pin it down,  
13 that's fine. I sustain the objection and the question. In  
14 other words at your discretion, you decide what you want to  
15 charge. I sustain that objection.

16 BY MR. MULCAHEY:

17 Q. Is that what you do? You round off the charges?

18 A. Yes, we do.

19 Q. Okay. Now, you testified earlier that you get 10  
20 to 15 calls a week for your service within Pennsylvania. Is  
21 it true that although you get those calls, you don't lease  
22 your vehicle out?

23 A. No.

24 Q. Why?

25 A. It is not practical.

1 Q. Why do you do it for certain weddings?

2 A. Because I can make \$100.00 on three hours leasing  
3 the car out. And if somebody wants to lease the car to run  
4 to Allentown, I can't lease the car out for \$20.00 for the  
5 45 minutes that it is going to take to go to Allentown or  
6 somewhere or just to go local in town.

7 Q. Okay. Those people that call, do you keep a  
8 record of them?

9 A. No.

10 Q. You have no record at all?

11 A. No.

12 Q. When they called, did you get their name, for  
13 instance?

14 A. We were aware that there was a standup down  
15 here. I had to bring in support people.

16 Q. You have no records at all?

17 A. I don't keep no records.

18 Q. No records whatsoever about any requests?

19 A. No.

20 JUDGE LOVENWIRTH: Keep your voice up a little.

21 BY MR. MULCAHEY:

22 Q. It's my understanding that there were two formal  
23 complaints filed against you for illegal transportation  
24 within Pennsylvania. Is that correct?

25 MR. VITO: Objection.

1 MR. MULCAHEY: It's on the record.

2 MR. VITO: Objection. The question for Mr. Hughes, I  
3 believe, was whether he was aware of any filings against  
4 him. And his answer was that he was not.

5 JUDGE LOVENWIRTH: Notwithstanding what Mr. Hughes'  
6 question was and the response thereto, I think that Mr.  
7 Mulcahey's question is proper cross examination.

8 MR. VITO: Your Honor --

9 JUDGE LOVENWIRTH: I understand there were two  
10 complaints filed against you. Is that correct? I'm going  
11 to overrule the objection.

12 THE WITNESS: No. It is not. I am not aware of  
13 them.

14 BY MR. MULCAHEY:

15 Q. You are only aware of the one that you paid the  
16 penalty?

17 A. Right.

18 Q. You are not aware of the second complaint?

19 A. No.

20 Q. Now, the first complaint you -- it was an illegal  
21 transportation within Pennsylvania that was alleged?

22 A. Yes. When I first started operating in  
23 Pennsylvania, I was set up by Pocono Limousine to do this  
24 fair.

25 Q. I just -- okay. And you just paid the fine and

1 admitted to it?

2 A. Right.

3 MR. MULCAHEY: I have no further questions, Your  
4 Honor.

5 JUDGE LOVENWIRTH: Redirect?

6 MR. VITO: Yes, Your Honor. Thank you.

7 REDIRECT EXAMINATION

8 BY MR. VITO:

9 Q. Sir, as a follow up to Mr. Mulcahey's question,  
10 what do mean that you were set up by Pocono Limousine?

11 A. The owner of Pocono Limousine at that time called  
12 the Public Utility Commission and had me do a fair, that I  
13 wasn't aware of, that was illegal to pick up a passenger at  
14 East Stoudsburg Airport and take them to a hotel.

15 They had the Public Utility Commission cops waiting  
16 there to pick me up when I had the people or persons. And  
17 the Public Utility Commission officer told me right off that  
18 I was set up.

19 Q. So, in other words, Pocono Limousine asked you to  
20 do this trip?

21 A. Yes.

22 Q. And you did the trip?

23 A. Yes.

24 Q. And as a result you were doing this trip at Mr.  
25 DeJoyce's request, you were told later, and you did pay the

1 fine?

2 A. Right.

3 Q. And it was at Mr. DeJoyce's request that you  
4 originally took that action to make the trip?

5 MR. MULCAHEY: Objection. This was asked and  
6 answered, and I don't know --

7 JUDGE LOVENWIRTH: All right. Well, I think that  
8 it's leading your witness, too, but rephrase your question.

9 BY MR. VITO:

10 Q. Who, if anyone, made a request of you to perform  
11 the trip initially?

12 A. It was -- I'm not positive. It was Jim DeJoyce.  
13 But they said it was a limousine company at the time. So I  
14 assumed it was DeJoyce.

15 JUDGE LOVENWIRTH: You don't know who called you on  
16 the phone and asked you to make the trip. Is that your  
17 answer?

18 THE WITNESS: I had talked to DeJoyce enough times  
19 before that to recognize his voice.

20 BY MR. VITO:

21 Q. Sir, with respect, to the discussion about your  
22 mileage charges to and from, point to point intrastate, you  
23 stated that you didn't check the odometer on the car. Is  
24 that correct?

25 A. Right.

1 Q. And is that the reason why it's your opinion that  
2 it was an estimate or a rounded off figure?

3 A. Right.

4 Q. The mileage that you base your trip on, is that  
5 obtained from a map?

6 A. No. It was clocked one time to each direction  
7 from one certain point like in downtown Stroudsburg to this  
8 Newark Airport would be so many miles. So that from that  
9 area around Stroudsburg was determined to be approximately  
10 determined at.

11 Q. Sir, do you do your own accounting for your  
12 business?

13 MR. MULCAHEY: Objection. Beyond cross examination.

14 MR. VITO: It goes right to the issue of state income  
15 tax or sales tax. Excuse me.

16 MR. MULCAHEY: I still don't think -- it's beyond  
17 income tax and sales tax are turns of two separate  
18 documents.

19 JUDGE LOVENWIRTH: I understand.

20 MR. MULCAHEY: I would object. He's getting -- I  
21 think he's getting into an issue I wasn't going to touch on  
22 cross examination.

23 JUDGE LOVENWIRTH: He asked him if he does the  
24 accounting. I don't know how that has bearing to any  
25 relationship to the question of do you charge sales tax, so

1 I'm going to sustain the objection.

2 BY MR. VITO:

3 Q. Sir, with respect to the operation of your  
4 business, Limousines for Less, do you perform the daily  
5 bookkeeping work?

6 A. Yes.

7 MR. MULCAHEY: Object to that again, Your Honor.

8 MR. VITO: Withdraw the question. That's all I have.

9 JUDGE LOVENWIRTH: All right. Mr. Danielewicz, thank  
10 you very much, sir. Do you want to call another witness?

11 MR. VITO: Mr. Oliver. He's on cross, Your Honor, I  
12 believe, from the last time.

13 JUDGE LOVENWIRTH: We will administer a new oath  
14 because it's been a long time.

15 NATHAN OLIVER, called as a witness, having been duly  
16 sworn, was examined and testified as follows:

17 JUDGE LOVENWIRTH: This is the gentleman who met  
18 Count Basey and Ella Fitzgerald and used to work for Frank  
19 Sinatra. Nice to see you again, sir.

20 THE WITNESS: Unfortunately, I didn't bring my  
21 mementoes.

22 JUDGE LOVENWIRTH: I was hoping you would. All  
23 right. Next time maybe.

24 THE WITNESS: I'll make a special trip.

25 JUDGE LOVENWIRTH: Are you going to cross examine,

1 Mr. Nathan first?

2 MR. MULCAHEY: Your Honor, I'm not going to cross  
3 examine this witness.

4 MR. JENNINGS: It's Mr. Oliver?

5 JUDGE LOVENWIRTH: All right. For the record, your  
6 name is Nathan Oliver?

7 THE WITNESS: Yes, sir.

8 JUDGE LOVENWIRTH: All right, Mr. Jennings.

9 CROSS EXAMINATION

10 BY MR. JENNINGS:

11 Q. Mr. Oliver, you indicated on direct examination  
12 at the last hearing that you were employed for a period of  
13 time by Pocono Limousine. Is that correct?

14 A. That's correct.

15 Q. How much did you get paid at Pocono Limousine?

16 A. It's on a commission basis.

17 Q. What was your commission?

18 A. Twenty percent.

19 Q. And you are now presently employed by Limousines  
20 for Less. Is that correct?

21 A. That is.

22 Q. Okay. And what's your salary there? How is that  
23 there?

24 A. It's on a commission basis, also.

25 Q. And how much is that?

1 A. It's 25 percent.

2 Q. And Mr. Oliver, do you have any experience as a  
3 mechanic?

4 A. Yes, I do.

5 Q. You do?

6 A. Yes.

7 Q. What experience do you have?

8 A. My background is from New York. I usede to  
9 operate a garage.

10 Q. What kind of garage?

11 A. Mechanical garage.

12 Q. And how long were you in business?

13 A. Five years.

14 Q. And did you own that business?

15 A. No, sir.

16 Q. You were just working there?

17 A. Yes. I did own the business. I owned the  
18 property. That's correct.

19 Q. And one of the things that you had complained  
20 about here was one of the vehicles. A minivan was swerving  
21 from side to side. Do you remember that?

22 A. It was a large Ford van.

23 Q. It was a large Ford van. And in your experience  
24 of five years as a mechanic, would it have been difficult to  
25 take the air pressure on those tires to determine whether

1 they were, in fact, over or underinflated?

2 A. What you are asking me is if it is possible that  
3 I have the experience to do this?

4 Q. Yes.

5 A. Yes.

6 Q. And before in your training -- you have been a  
7 chauffeur and a limousine driver I guess for some time?

8 A. Yes.

9 Q. About how long?

10 A. Okay. It's about 20 years.

11 Q. Generally speaking when you go out on the road  
12 before a trip, would you check things like that? Do you  
13 check the oil and check the air pressure and the tires,  
14 things like that?

15 A. Based on the operating conditions at Pocono  
16 Limousine --

17 Q. I'm just asking you.

18 A. My own vehicle, my vehicle would be checked.

19 Q. You would check it. Would you check it yourself?

20 A. Right.

21 JUDGE LOVENWIRTH: Let's have one voice at a time.

22 BY MR. JENNINGS:

23 Q. Would you also make an inspection of the tires  
24 for a vehicle to see if there was sufficient tread on them?

25 A. My own vehicle, yes.

1 Q. When you are operating for Limousines for Less,  
2 do you do that kind of thing before you take out the  
3 vehicle?

4 A. I don't know. It's done for me.

5 Q. You never look at it yourself?

6 A. Of course, when I am on the road, I will check  
7 the tires or to see if there is a bent fender to make sure  
8 that the owner knows the condition of the car.

9 Q. I'm sorry.

10 A. That's all right.

11 Q. But normally that's not part of your training at  
12 Limousines for Less?

13 A. Not part of my duty.

14 Q. Not part of your duty --

15 A. I'm a chauffeur, not a mechanic.

16 Q. You are not in it to to check the vehicle out to  
17 see if it is roadworthy or not?

18 A. No.

19 Q. How did you terminate your employment at Pocono  
20 Limousine?

21 A. How did you terminate my employment?

22 Q. Yes.

23 A. I didn't return.

24 Q. Would it be fair to say you quit?

25 A. Absolutely.

1 Q. Did you have a good relationship with the  
2 employees and management at Pocono Limousine?

3 A. Relationship -- I think that's probably broad.  
4 It was fair.

5 JUDGE LOVENWIRTH: Keep your voice up. I can hardly  
6 hear you.

7 THE WITNESS: I have a frog in my throat.

8 BY MR. JENNINGS:

9 Q. Did you like working there?

10 A. Not particularly.

11 MR. JENNINGS: I have nothing further, Judge.

12 JUDGE LOVENWIRTH: Any redirect?

13 MR. VITO: Yes.

14 REDIRECT EXAMINATION

15 BY MR. VITO:

16 Q. Mr. Oliver, when you worked at Pocono Limousine,  
17 was there any reason why you didn't check the vehicles, the  
18 tires, et cetera?

19 A. It was supposed to have been done by the mechanic  
20 who was there at the time, and by the owners of the vehicle  
21 that was the proviso, so of the --

22 Q. There were mechanics there?

23 A. That's what they called them.

24 Q. That was not part of your job description?

25 A. No, it wasn't.

1 MR. VITO: Thank you.

2 JUDGE LOVENWIRTH: Anything else? All right. Mr.  
3 Oliver, it's nice to see you again, sir.

4 THE WITNESS: Thank you.

5 JUDGE LOVENWIRTH: Thank you. You want to call  
6 another witness, Mr. Vito?

7 MR. VITO: Mrs. Cavanaugh.

8 JUDGE LOVENWIRTH: Good morning. Mrs. Cavanaugh,  
9 it's nice to see you. Please place your hand on the Bible.

10 HAZEL CAVANAUGH, called as a witness, having been  
11 duly sworn, was examined and testified as follows:

12 JUDGE LOVENWIRTH: Your first name is Hazel, and your  
13 last name is Cavanaugh, C-a-v-a-n-a-u-g-h?

14 THE WITNESS: Correct.

15 MR. VITO: Your Honor, excuse me. Before we start  
16 with this witness, Mr. Oliver has to go on another trip and  
17 --

18 MR. DANIELEWICZ: I just want to have a word with  
19 him.

20 JUDGE LOVENWIRTH: Can Mr. Oliver be excused?

21 MR. JENNINGS: Yes.

22 JUDGE LOVENWIRTH: Very good. All right, Mr. Vito.

23 DIRECT EXAMINATION

24 BY MR. VITO:

25 Q. Mrs. Cavanaugh, where do you reside?

1 A. 300 Clermont Avenue.

2 Q. That's in Stroudsburg?

3 A. Stroudsburg.

4 JUDGE LOVENWIRTH: C-1-a --

5 THE WITNESS: C-1-e-r-m-o-n-t Avenue.

6 BY MR. VITO:

7 Q. And how long have you lived in Stroudsburg?

8 A. For 19 years.

9 Q. And do you have occasion to use limousine  
10 service?

11 A. I have not used it. I would have.

12 Q. What do you mean you would have?

13 A. Well, my husband and I go to -- usually fly out  
14 of Allentown Airport. And we have to try to find somebody  
15 to take us when we go, and we would use the service, yes,  
16 for that purpose.

17 Q. And did you have occasion -- you said you never  
18 used any services before?

19 A. No, I didn't.

20 Q. But you would if Mr. Danielewicz was permitted to  
21 operate?

22 A. Yes.

23 Q. Why wasn't it that you didn't use any services  
24 prior?

25 A. Well, we -- why didn't I use them prior?

1 Q. Yes.

2 A. Because there wasn't any close by.

3 MR. VITO: Thank you.

4 JUDGE LOVENWIRTH: All right. Do you want to cross  
5 examine Mrs. Cavanaugh?

6 CROSS EXAMINATION

7 BY MR. MULCAHEY:

8 Q. Happy St. Patrick's Day. That's a name like my  
9 name. Are you going to be celebrating tonight?

10 A. Yeah.

11 JUDGE LOVENWIRTH: Did anybody take notice that the  
12 Commission's new appearance sheets are green?

13 MR. MULCAHEY: Very attractive, Your Honor.

14 BY MR. MULCAHEY:

15 Q. Mrs. Cavanaugh, as your possible need for  
16 limousine service and a transportation between your home and  
17 to the airport, when you go, let's say, to the islands or  
18 wherever you are traveling. Is that correct?

19 A. Would I what?

20 Q. Your need for transportation is that you need --  
21 your intended need is that you need someone to transport you  
22 from your home to the airport when you are traveling?

23 A. We would use it, yes.

24 Q. And let me just ask, would you use a service that  
25 is known as airport transfer? One of those van shuttles, do

1 you ever see those that pick up a group of people, and then  
2 drop them off at their homes? Do you have them up there?

3 A. I don't really know. I don't really know.

4 Q. Would you be interested in using that service?

5 A. Well, I think not necessarily, because we are  
6 close by with the limousine service.

7 Q. But if there was a service that did provide,  
8 let's say, airport transfer service, would you use them or  
9 call them just to see what their rates were?

10 A. That's possible.

11 JUDGE LOVENWIRTH: Do you say that there is a  
12 possibility that you would?

13 THE WITNESS: I would check into them, not that I  
14 would use them.

15 BY MR. MULCAHEY:

16 Q. But you haven't checked into them?

17 A. No.

18 Q. Do you have any particular desire for a vehicle  
19 -- a certain vehicle when you need transportation to the  
20 airport, or do you just really like some type of  
21 transportation for convenience?

22 A. Not a particular vehicle.

23 Q. But more or less for convenience?

24 A. To get -- well, I know what these vehicles are.

25 Let me put it this way, I have seen them.

1 Q. But your intended use of any service would be for  
2 your convenience more or less?

3 A. Yes.

4 MR. MULCAHEY: Okay. I have no further questions.

5 JUDGE LOVENWIRTH: Mr. Jennings?

6 BY MR. JENNINGS:

7 Q. Ma'am, you indicated that you would using the  
8 service to and from the Allentown Airport?

9 A. Yes. That's where we fly out of.

10 Q. How do you get down there now?

11 A. Well, we had our son take us, but he's so busy  
12 and everything.

13 Q. Does he live in the area?

14 A. He lives in Sciota.

15 Q. Is that in the general area of Stroudsburg?

16 A. It's about 12 miles out of Stroudsburg.

17 Q. And how many times a year would you go down to  
18 the airport?

19 A. We go once or twice a year.

20 Q. And have you gone yet in 1989 to the airport?

21 A. No.

22 Q. Do you know if you are going to be going in 1989?

23 A. No, we are not.

24 Q. You are not going to be going in 1989?

25 A. Yes. We went to Florida, but we drove.

1 JUDGE LOVENWIRTH: Everything time I do that I say  
2 never again.

3 BY MR. JENNINGS:

4 Q. Have you ever been transported in one of the  
5 applicant's vehicles?

6 A. We came up here.

7 Q. For the hearing today?

8 A. Yes.

9 Q. And other than that, have you ever been in the  
10 vehicle?

11 A. Well, no, just to come up here twice.

12 Q. Twice for these particular hearings?

13 A. (No audible response.)

14 Q. You are indicating yes. Is that correct?

15 A. Twice for these hearings.

16 Q. The Court Reporter has to indicate what your  
17 answer is?

18 A. Right.

19 Q. Mr. Cavanaugh, if there was a another carrier out  
20 in the Stroudsburg area who had vehicles comparable to the  
21 one that you drove up in today, would you be opposed to  
22 using them to transport you to the airport once or twice a  
23 year?

24 A. I would say yes.

25 JUDGE LOVENWIRTH: Yes, you would use them?

1 THE WITNESS: Yes, I would be opposed to using them.

2 BY MR. JENNINGS:

3 Q. Why would that be?

4 A. I knew that was coming. Well, because I would  
5 prefer to use Mr. Danielewicz's.

6 Q. Do you know Mr. Danielewicz?

7 A. I know him some, yes. I live in the area.

8 Q. Do you live in the same neighborhood?

9 A. Yes.

10 Q. Do you know him socially?

11 A. No.

12 Q. Mrs. Cavanaugh, do you know in your discussions  
13 with Mr. Danielewicz what rates he would charge you to take  
14 you to the Allentown Airport?

15 A. We never discussed it.

16 Q. If his rates were more than Pocono Limousine,  
17 which as you know, probably from sitting here is already a  
18 certificated carrier, would you still prefer to use Mr.  
19 Danielewicz over Pocono Limousine Service?

20 A. Yes.

21 MR. JENNINGS: Thank you, Mrs. Cavanaugh. I have  
22 nothing further.

23 JUDGE LOVENWIRTH: Any redirect on Mrs. Cavanaugh?

24 REDIRECT EXAMINATION

25 BY MR. VITO:

1 Q. Ma'am, what would your answer be if you thought  
2 there was a need in the Stroudsburg area for an --

3 MR. JENNINGS: Objection, Your Honor.

4 JUDGE LOVENWIRTH: Sustained.

5 MR. MULCAHEY: I object to that, too.

6 JUDGE LOVENWIRTH: Sustained.

7 MR. VITO: Nothing further.

8 JUDGE LOVENWIRTH: All right. Thank you very much,  
9 ma'am. Nice to have you with us.

10 MR. VITO: Mrs. Stevens.

11 JUDGE LOVENWIRTH: Mrs. Stevens, good morning.

12 Please remain standing and place your right hand on the  
13 Bible.

14 BETH STEVENS, called as a witness, having been duly  
15 sworn, was examined and testified as follows:

16 JUDGE LOVENWIRTH: You may be seated. Very good.

17 Mr. Vito?

18 MR. VITO: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. VITO:

21 Q. Mrs. Stevens, are you familiar with a business  
22 operation known as Limousines for Less?

23 A. Yes, I am.

24 Q. Have you ever had occasion to use their services?

25 A. Yes.

1 Q. When was that?

2 A. Last year.

3 Q. And could you describe to the Court the  
4 circumstances under which you used the services?

5 A. We had to take my sister to Florida. We went out  
6 of Newark.

7 Q. Newark Airport?

8 A. Newark airport. And that is when we used Mr.  
9 Danielewicz's service.

10 Q. Do you reside in Stroudsburg?

11 A. What is it?

12 Q. Do you reside in Stroudsburg?

13 A. Yes, I do.

14 Q. Then the trip originated from Stroudsburg and  
15 drove your sister to the Newark Airport?

16 A. That is right.

17 Q. Were you satisfied with the service?

18 A. Very.

19 Q. When you say very, could you describe why you  
20 were very satisfied?

21 A. Well, the courtesy of the driver was important.

22 Q. And how was the driver?

23 A. He was excellent.

24 Q. And what did the driver do that impressed you?

25 A. My sister had been in a bad accident and when she

1 got to the Newark Airport, we had to have a wheelchair and  
2 an assistant there. And he sought to it that she was  
3 delivered right to that, and he assisted.

4 Q. And how was your luggage or parcels handled?

5 A. Very nicely.

6 Q. Were there any other special accommodations that  
7 were required of that trip?

8 A. No. That was all.

9 Q. Would you use Mr. Danielewicz's services in the  
10 future if he were to gain intrastate rights?

11 A. Certainly. We usually fly -- I mean my husband  
12 and I fly out of Allentown.

13 Q. How frequently does that occur, ma'am?

14 A. Twice a year.

15 Q. And you would use his service?

16 A. We would.

17 MR. VITO: Thank you.

18 JUDGE LOVENWIRTH: All right. Mr. Mulcahey, do you  
19 want to cross examine the witness?

20 MR. MULCAHEY: Yes.

21 CROSS EXAMINATION

22 BY MR. MULCAHEY:

23 Q. Mrs. Stevens, how do you get to the airport in  
24 Allentown presently?

25 A. We usually have to ask someone to drive us. My

1 husband won't leave his car there, so we have to impose on  
2 friends or relatives.

3 Q. And do you know if there's any shuttle service to  
4 the airport?

5 A. I don't know. I never inquired.

6 Q. Would it make a difference to you, if you would  
7 use a limousine, a Town Car, or a van to the airport?

8 A. I wouldn't want a van. I like comfort.

9 Q. I don't blame you. So you would prefer a --

10 A. A limousine or a Town Car.

11 Q. Would you mind other people being shuttled with  
12 you in the vehicle?

13 A. You mean strangers?

14 Q. They may be friendly strangers.

15 A. I would object.

16 Q. You would object to that?

17 A. Yes.

18 MR. MULCAHEY: I have no further questions.

19 JUDGE LOVENWIRTH: Mr. Jennings?

20 CROSS EXAMINATION

21 BY MR. JENNINGS:

22 Q. Mrs. Stevens, what does your husband do for a  
23 living?

24 A. He's retired.

25 Q. Is it your testimony that you essentially have

1 approximately two trips out of the Allentown Airport a year?

2 A. Sometimes one and sometimes two.

3 Q. Have you taken one in 1989?

4 A. Not yet.

5 Q. Do you have one planned for 1989?

6 A. Yes.

7 Q. Where are you going?

8 A. We probably will go to Florida.

9 Q. Incidentally, I have a van myself which I drove up  
10 in. Do you have any idea what Mr. Danielewicz would charge  
11 you to take you to the airport?

12 A. Are you basing this on last's year trip?

13 Q. Has he taken you to the airport before?

14 A. To the airport before.

15 Q. To the Allentown Airport?

16 A. No.

17 Q. Is your home in Stroudsburg?

18 A. In Stroudsburg.

19 Q. Let's say from Stroudsburg to the Allentown  
20 Airport do you know how much he would charge?

21 A. I don't know because I never been able to have  
22 him do it.

23 Q. How far is the airport from your home?

24 A. To Allentown, 30 to 35.

25 Q. In time, would it be less than an hour?

1 A. Oh, yeah.

2 Q. Would it be less than a half hour?

3 A. No.

4 Q. Somewhere between a half hour and an hour?

5 A. I would say offhand. I don't know exactly.

6 Q. And Mrs. Stevens, would it be fair to say that  
7 your needs for limousine service would be to the airport at  
8 Allentown once to twice per year?

9 A. That's right. Or if any other occasion -- the  
10 only other time I asked was to take our grandson to his  
11 prom, and he couldn't to it because it was in the state and  
12 he couldn't do that.

13 Q. Do you know who took your grandson to the prom?

14 A. His father. We didn't want them driving on 209  
15 over Memorial Day weekend.

16 Q. Do you know if -- are you aware, let's say, of  
17 the Pocono Limousine has a limousine business?

18 A. Yes.

19 Q. In Monroe County?

20 A. Yes.

21 Q. And do you know what they would charge to take  
22 you down to the Allentown Airport?

23 A. No. I never asked.

24 MR. JENNINGS: Thank you. I have nothing further.

25 JUDGE LOVENWIRTH: Any redirect of Mrs. Stevens?

1 MR. VITO: No redirect, Your Honor.

2 JUDGE LOVENWIRTH: All right. It's very nice to have  
3 you with us. Thank you very much. Do you have any  
4 additional witnesses?

5 MR. VITO: No, I don't. I have Mr. Wolfington.

6 JUDGE LOVENWIRTH: What time did you ask him to be  
7 here?

8 MR. VITO: He should be here for 1:00.

9 JUDGE LOVENWIRTH: All right. You made a little  
10 miscalculation in time, but those things happen. We'll  
11 adjourn until 1:00.

12 (Whereupon, at 11:30 a.m., the hearing recessed to  
13 reconvene at 1:00 p.m. the same day.)

14 JUDGE LOVENWIRTH: We will return to the record now.  
15 Mr. Vito I have relayed to you the telephone message over  
16 the noontime hour relating to your next witness.

17 MR. VITO: That is correct, Your Honor. The message  
18 stated that the estimated time of my witness' arrival is  
19 going to be 2:00 p.m. It is now 1:00 p.m. What I would  
20 propose is, as matter of convenience to the Court, with the  
21 Court's permission, is if I could leave the record open and  
22 call him at the next hearing and close my side of the case.

23 He would be a shipper witness. And as a matter of  
24 offer of proof, he will testify that he has used my client's  
25 services before and was satisfied with them. And he would

1 use them again in the future he should be relatively short.

2 JUDGE LOVENWIRTH: Okay. And then what? And then  
3 according to your proposal, will we have a fourth hearing  
4 date for the protestant to put on their case?

5 MR. VITO: I was speaking with the gentlemen. I  
6 think we would be in agreement with having the shipper  
7 witness put on the same day and then move to their case.

8 MR. MULCAHEY: I agree with that, and I'm sure Mr.  
9 Jennings would, with the exception that if any testimony  
10 concerning inadequacy of existing carriers comes up, and,  
11 naturally, we would need time to rebut that testimony.

12 But if we are guaranteed that we are not going to be  
13 receiving any of that type of testimony, I would have no  
14 problem going on right after that witness.

15 Mark, do you agree with that?

16 MR. JENNINGS: It's my understanding from the  
17 conversation which we just had with Mr. Vito, that we are  
18 probably looking at an examination of five to ten minutes of  
19 this witness.

20 MR. VITO: As far as the witness is concerned, yes.  
21 I am planning to call no other witnesses on my case. Of  
22 course. If you gentlemen object to testimony --

23 JUDGE LOVENWIRTH: We are not talking about rebuttal.

24 MR. VITO: As far as my case in chief, that is all  
25 that I would have.

1 MR. MULCAHEY: It wouldn't involve inadequacy.

2 MR. VITO: Strictly a shipper witness.

3 MR. JENNINGS: I would have no objection to that.

4 JUDGE LOVENWIRTH: Supposedly on cross examination,  
5 one of you gentleman decide, have you tried my client? Have  
6 you tried Pocono Limousine for example, and the guy says  
7 no. Well, are you aware of the fact that Pocono Limousine  
8 is available to you for purposes of satisfying your  
9 transportation needs, and the guy says I'm aware of it, but  
10 I hear that they do a lousy job or something like that.

11 I mean you are talking about on direct examination no  
12 testimony as to inadequacy.

13 MR. JENNINGS: That's correct.

14 JUDGE LOVENWIRTH: Not on cross examination.

15 MR. JENNINGS: I think you always take your chances  
16 on cross examination.

17 MR. MULCAHEY: Try to limit your chances. Yes.  
18 Correct.

19 JUDGE LOVENWIRTH: All right. Well, that seems all  
20 right to me. So that's what we'll do. And there being  
21 nothing else to do this morning, then we stand adjourned.

22 (Whereupon, at 1:10 p.m., the hearing adjourned.)  
23  
24  
25

1 I hereby certify that the proceedings and evidence  
2 are contained fully and accurately in the notes taken by me  
3 during the hearing of the within cause, and that this is a  
4 true and correct transcript of the same.

5  
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**END**