

BEFORE

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THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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INDEX TO WITNESSES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

<u>APPLICANT:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
James Danielewicz	15	29	43 48	44 52
Nathan Oliver	56			

1 JUDGE LOVENWIRTH: We will now commence an initial
2 hearing concerning the application filed by Limousine for
3 Less at A-108292. I'm now looking at the appearance sheet,
4 and it indicates that all the parties are not here. It does
5 indicate, however, that here on behalf of the applicant,
6 Limousine for Less, is its attorney, Salvatore Vito. Good
7 morning, Mr. Vito. He's not here, either.

8 MR. DANIELEWICZ: He just went out to use the phone.

9 JUDGE LOVENWIRTH: It doesn't appear that all the
10 parties are here. So we will recess for a few moments.

11 (A brief recess was taken.)

12 JUDGE LOVENWIRTH: The appearance sheet indicates
13 that here on behalf of said applicant is its attorney,
14 Salvatore Vito. Good morning, Mr. Vito.

15 MR. VITO: Good morning, Your Honor.

16 JUDGE LOVENWIRTH: A brief history of these
17 proceedings will now be recited upon the record. On March
18 2nd, 1988, an application was filed by the applicant, whom I
19 previously identified. And that application was then
20 resubmitted on January 29th, 1988, wherein the applicant
21 seeks the right to transport, as a common carrier by motor
22 vehicle, persons, in limousine service between points in the
23 Borough of Stroudsburg, Monroe County, and within an airline
24 distance of 60 statute miles of the limits thereof.

25 The last date for the filing of protests was set by

1 the Commission for September 12th, 1988. Notice of the
2 filing of the application and of the last date to file
3 protests was advertized in the following periodicals: In
4 the Pennsylvania Bulletin on August 28th, 1988; in the
5 Morning Call, a newspaper of general circulation in Lehigh
6 County on August 30th, 1988; and in the Philadelphia
7 Inquirer on August 29th, 1988; and in the Scranton Times on
8 August 29th, 1988; in and the Pocono Record located in
9 Stroudsburg, Pennsylvania on August 29th, 1988; and in the
10 Reading-Eagle Times on August 29th, 1988.

11 Thereafter, protests were filed by the following
12 protestants: On September 2nd, 1988, by the House Scene,
13 Inc.; on September 9th, 1988, by Pocono Limousine Inc.; and
14 on September -- I don't know whether I said September
15 earlier, but the two protests which I previously identified
16 were filed in September; one on the 2nd and one on the 9th.
17 And September 13th, 1988, by James Mitsos, trading and doing
18 business as Elegant Limousine Service. The last mentioned
19 protest was thereafter withdrawn on December 9th, 1988.

20 The appearance sheet before me now indicates the
21 presence on behalf of protestant Pocono Limousine Service,
22 Inc. of its attorney W. Hoyd Hughes, Esquire. Good morning,
23 Mr. Hughes.

24 MR. HUGHES: Good morning, Your Honor.

25 JUDGE LOVENWIRTH: The record will indicate that

1 earlier this morning this Presiding Judge received a
2 telephone call from Richard T. Mulcahey, Jr., Esquire and
3 Mr. Mulcahey indicated that he is the attorney of record for
4 the protestant, the House Scene, Inc.

5 Now, Mr. Mulcahey explained that he was calling from
6 his sickbed. And he had the flu and that the only other
7 person in his firm who practices Public Utility Commission
8 work is also ill, which I know is correct. And that he,
9 therefore, won't be able to attend this morning.

10 Mr. Mulcahey did not request a continuance of the
11 hearing. However, he did make a request. He requested that
12 the hearing proceed without him today, provided, however, he
13 having been advised that the only three witnesses who will
14 appear will testify as to the needs in Monroe County,
15 Pennsylvania.

16 And he having been so advised and because of the fact
17 that his client has no rights in Monroe County,
18 Pennsylvania, he asked that a further hearing be set at
19 which time he could cross examine the applicant. And at
20 which time, he could present witnesses in support of the
21 protestant's case and that another -- that the entrance of
22 another carrier into this district would not be in the
23 public interest.

24 Do you understand his motion, Mr. Vito?

25 MR. VITO: Yes, Your Honor, I do.

1 JUDGE LOVENWIRTH: Do you have any objections?

2 MR. VITO: Well, on behalf of my client, the only
3 objection I would raise is that I don't know what sort of
4 convenience or inconvenience that would raise for the people
5 that I have brought up today. It's essentially a matter of
6 discretion of the Court and a matter of convenience for my
7 people.

8 JUDGE LOVENWIRTH: Well, the people you brought up
9 today, what are they? Are they shipper witnesses, or do
10 they work for the applicant?

11 MR. VITO: One of them, in fact, does work for the
12 applicant, and the others --

13 JUDGE LOVENWIRTH: Yes. And others are what?

14 MR. VITO: Those that have used the service before.
15 They will testify that they would continue to use the
16 service.

17 JUDGE LOVENWIRTH: Mr. Mulcahey does not wish to
18 cross examine the shipper witnesses provided they are the
19 same ones that you have identified in your answer to
20 interrogatories. They won't be inconvenienced. The only
21 other witnesses that would be inconvenienced would be
22 shipper witnesses or -- excuse me, would be witnesses that
23 work for the applicant.

24 MR. VITO: I have no objection to that, Your Honor,
25 to the testimony of the employees of the applicant.

1 JUDGE LOVENWIRTH: Being cross examined at a later
2 time?

3 MR. VITO: Correct, Your Honor.

4 JUDGE LOVENWIRTH: Mr. Hughes, do you have any
5 objection of granting Mr. Mulcahey's motion?

6 MR. HUGHES: No, Your Honor, none at all. I believe
7 we are going to have to have a second hearing anyway. I was
8 going to state that in this case the protestants always
9 usually are granted a second time at which to review the
10 testimony and present their evidence. The principal of
11 Pocono Limousine is hospitalized, Mr. Bob Woods. So I would
12 not be able to present my case today either. So we would
13 need an additional hearing date.

14 JUDGE LOVENWIRTH: Then there being no objection,
15 then Mr. Mulcahey's motion made on the telephone as I have
16 just related to the record, then his motion is granted.
17 There will be another hearing which insofar as Mr. Mulcahey
18 is concerned, will be exclusively for the purpose of cross
19 examining the applicant's witnesses, not their shipper
20 witnesses, but the witnesses who are employed by the
21 applicant. And for the further purpose of the House Scene,
22 Inc., protestant presenting each witnesses in support of its
23 case on that further date.

24 Now, turning our attention to Mr. Boyd's request that
25 he too be granted that day, that was set aside for the House

1 Scene, Inc., that he too be given the opportunity to present
2 witnesses on that date.

3 MR. HUGHES: Of the protestant Pocono Limousine.

4 JUDGE LOVENWIRTH: For the protestant Pocono
5 Limousine, Inc. I agree with Mr. Hughes that long before I
6 ever was the Presiding Judge for this Commission that has
7 been the custom, so to speak. Do you object to that, Mr.
8 Vito?

9 MR. VITO: No, Your Honor, I do not.

10 JUDGE LOVENWIRTH: So a second date will be set aside
11 for the purposes of the two remaining protestants to present
12 their case, and for the purpose of the House Scene, Inc. to
13 cross examine the employees of the applicant who will be
14 testifying here today. All right. We got that tidied up.
15 Do you want to talk to your client? Is that the idea?

16 MR. VITO: Just a second.

17 JUDGE LOVENWIRTH: Now, then Mr. Vito, what is your
18 address, please?

19 MR. VITO: 45 North Seventh Street, Stroudsburg,
20 18360.

21 JUDGE LOVENWIRTH: I have the rest of it. Thank
22 you. All right. Mr. Vito and Mr. Hughes, have I accurately
23 summarized the record in this case?

24 MR. VITO: Yes, Your Honor.

25 MR. HUGHES: Yes, Your Honor.

1 JUDGE LOVENWIRTH: Are there any preliminary matters
2 that you would like to discuss on the record before we open
3 the said record for the reception of evidence?

4 MR. VITO: Your Honor, the only thing I would add is
5 that we intend to call in addition to the stated witnesses a
6 Nathan Oliver who is the employee of my client. The
7 testimony of which I was not aware of at the time I
8 submitted the list of prospective witnesses to this Court.

9 JUDGE LOVENWIRTH: You are saying that neither Mr.
10 Mulcahey or Mr. Hughes received notice that Mr. Oliver will
11 be testifying.

12 MR. VITO: Not of Mr. Oliver's appearance here to
13 testify. No, Your Honor.

14 JUDGE LOVENWIRTH: What will be the nature of his
15 testimony?

16 MR. VITO: He will testify as to the need and as to
17 the --

18 JUDGE LOVENWIRTH: Fitness or what?

19 MR. VITO: Fitness of the existing carriers, need in
20 the community.

21 JUDGE LOVENWIRTH: Will he be testifying as to the
22 financial fitness?

23 MR. VITO: Primarily technical fitness.

24 JUDGE LOVENWIRTH: Of?

25 MR. VITO: Primarily technical fitness of Pocono

1 Limousine.

2 JUDGE LOVENWIRTH: Of Pocono Limousine? You mean he
3 will be testifying as to his opinion as to the lack of
4 technical fitness of Pocono Limousine?

5 MR. VITO: Correct in one respect. In other respects
6 as to the fitness of Limousine for less, the applicant.

7 JUDGE LOVENWIRTH: That will be his testimony? Those
8 two topics?

9 MR. VITO: Yes, Your Honor.

10 JUDGE LOVENWIRTH: Let's talk about it now. Any
11 problems with Mr. Oliver, who has been identified by Mr.
12 Vito as being an employee of the applicant? Any problems
13 with him testifying? Is he testifying, Mr. Vito, instead of
14 somebody else or in addition to somebody else employed by
15 the applicant?

16 MR. VITO: He's testifying in addition to the other
17 people who were named, not necessarily in addition to
18 someone else who was employed by my client but in addition
19 to those other people.

20 JUDGE LOVENWIRTH: How many applicant employees do
21 you propose to call as witnesses?

22 MR. VITO: One.

23 JUDGE LOVENWIRTH: That's Mr. Oliver?

24 MR. VITO: That's correct.

25 JUDGE LOVENWIRTH: Did you name someone else as an

1 employee of the applicant that would give that testimony?

2 MR. VITO: No, I don't believe, Your Honor.

3 JUDGE LOVENWIRTH: You never named in your answer to
4 interrogatories any employee of the applicant?

5 MR. VITO: Correct.

6 JUDGE LOVENWIRTH: All right. Now I understand. All
7 right. Mr. Hughes, do you have any problem?

8 MR. HUGHES: Yes, Your Honor. I object, although I
9 do not find the interrogatories. I did on January 10th
10 request of Attorney Vito a list of witnesses in accordance
11 with Section 333 of the Public Utility Code to be returned
12 by Saturday. I did receive it on Saturday.

13 JUDGE LOVENWIRTH: And Mr. Nathan wasn't mentioned?

14 MR. HUGHES: Mr. Nathan Oliver was not mentioned.

15 JUDGE LOVENWIRTH: Was anybody mentioned as a witness
16 for the applicant?

17 MR. HUGHES: Yes, Hughesal Calvano], Beth Stevens and
18 Walt Stevens, and Christopher Wolfington.

19 JUDGE LOVENWIRTH: Were any of these persons
20 identified as employees of the applicant?

21 MR. HUGHES: No, Your Honor.

22 JUDGE LOVENWIRTH: They were all identified as
23 shipper witnesses?

24 MR. HUGHES: Unfortunately, the witness list does not
25 comport with Section 333C of the Public Utility Code. It

1 does not state -- all it states is the name and the
2 address. It does not state the company they represent and
3 the subject matter of their testimony.

4 JUDGE LOVENWIRTH: That's another problem, but you've
5 answered my question. Well, I'm going to overrule your
6 objection. I think that you knew or should have been known
7 that the applicant was going to call one of its employees as
8 a witness because he has to testify for the burden of
9 proof. Every applicant can call himself or if it is a
10 corporation one of its own witnesses to meet it's burden of
11 proving that it has the requisite of technical and financial
12 fitness.

13 So do you -- I'm sure Mr. Hughes will be the very
14 first one to admit that you know this because you are an
15 attorney with vast experience in application proceedings
16 before the Commission. So I don't think that it's any
17 surprise. Although I do admit technically the Public
18 Utility Code which is a statute -- I don't have any
19 authority to waive a statutory requirement.

20 It does say that you must give the name of each
21 witness even if it is not asked for, and what the witness is
22 going to testify to. I believe that's what it says. But I
23 will overrule your objection for the reason I just
24 mentioned.

25 MR. HUGHES: I have no problem with Mr. Oliver

1 testifying as an employee as to this applicant. However, as
2 to Mr. Oliver testifying regarding certain matters of Pocono
3 Limousine, I object to that on the basis that Pocono
4 Limousine does not have a burden at this juncture of the
5 proceeding. It is not on trial here. It's up to the
6 applicant to show public need, and its fitness and not any
7 alleged unfitness of any of the protestants.

8 And without that notice, I cannot properly prepare
9 any type of cross examination. I do not know Mr. Oliver. I
10 do not know if he is a former employee of Pocono. I don't
11 know all of their employees. As to his stating --

12 JUDGE LOVENWIRTH: Well, I'll take that portion of
13 your objection under advisement and wait to see what his
14 testimony is. I direct your attention, Mr. Vito, to Section
15 333 of Subsection C of the Public Utility Code. This is a
16 statute which specifically states that at the some
17 reasonable time prior to the hearing, each party in the
18 proceeding shall make available to the other parties in the
19 proceeding the names of the witnesses he expects to call and
20 the subject matter of their expected testimony.

21 All right. For the reason I mentioned, I overrule
22 the objection at least at this point. All right. Let's get
23 it all over at once. Any objection to the other witnesses
24 testifying, Mr. Hughes?

25 MR. HUGHES: Yes, Your Honor, on the basis that all I

1 have are names and addresses without any documentary
2 evidence or statement as to whom they represent and what the
3 subject matter of their testimony is going to be. It does
4 not comport with Section 333C of the Public Utility Code.

5 JUDGE LOVENWIRTH: I don't know. Maybe they
6 represent themselves. This is a Limousine service. Maybe
7 they represent themselves. I will take under advisement
8 your objections to their testimony. I'll find out what it's
9 all about. All right. Do you want to call a witness, Mr.
10 Vito?

11 MR. VITO: Yes, Your Honor. I call Jim Danielewicz
12 to the stand.

13 JUDGE LOVENWIRTH: Your name is James Danielewicz,
14 D-a-n-i-e-l-e-w-i-c-z.

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

17 JUDGE LOVENWIRTH: I thought you said that Mr. Oliver
18 was going to appear on behalf of the applicant. You made a
19 mistake.

20 MR. VITO: As far as the financial requirements. I'm
21 going to ask Mr. Danielewicz as far as the technical
22 operational ability of Mr. Oliver.

23 JUDGE LOVENWIRTH: All right.

24 DIRECT EXAMINATION

25 BY MR. VITO:

1 Q. Mr. Danielewicz, can you identify the corporation
2 by name of Limousine for Less -- excuse me, a business by
3 the name of Limousine for Less? What is Limousine for Less?

4 A. It is a luxury car service serving the states of
5 Pennsylvania, New York and New Jersey.

6 JUDGE LOVENWIRTH: What kind of service?

7 THE WITNESS: A luxury car service.

8 BY MR. VITO:

9 Q. Now, does Limousine for Less presently operate
10 under any sort of rights?

11 A. Interstate ICC authority.

12 Q. And how long has Limousine for Less been
13 operating with ICC rights?

14 A. Going on three years.

15 Q. How long have you personally been involved in the
16 limousine business?

17 A. Well, this three years now and for a short period
18 of time that I worked for Pocono Limousine.

19 Q. Would you tell the Court what sort of assets
20 Limousine for Less owns?

21 A. Well, we have stretch limousines.

22 Q. Could you identify them specifically for the
23 record, please.

24 A. Eighty-five Lincoln stretch limousine. We have
25 an '85 Lincoln Town Car, and an '84 Cadillac Sedan DeVille.

1 JUDGE LOVENWIRTH: You have an '85 -- what kind of a
2 limousine?

3 THE WITNESS: Lincoln stretch.

4 JUDGE LOVENWIRTH: What are the other two, please?

5 THE WITNESS: Lincoln Town Car, '85. And an '84
6 Cadillac Sedan DeVille. And I have an '88 Town Car which is
7 out of service now.

8 JUDGE LOVENWIRTH: Very good.

9 BY MR. VITO:

10 Q. Sir, by way of background, were you ever involved
11 in military service?

12 A. Yes, I'm a Korean veteran on honorable discharge.

13 Q. Thereafter, were you involved in any other
14 business enterprises?

15 A. I did have a tire retreading business which I
16 operated for about 12 years.

17 Q. Where was that located?

18 A. In Stroudsburg.

19 Q. What was the name of that business?

20 A. Stroudsburg Tire Service. I also operated --
21 when I sold out, I operated a custom retreading service.

22 JUDGE LOVENWIRTH: Custom what?

23 THE WITNESS: Retread service.

24 BY MR VITO:

25 Q. Sir, when did you become involved in the

1 limousine business?

2 A. Approximately three years ago.

3 Q. And at this point in time, you stated you

4 acquired ICC rights?

5 A. Right.

6 Q. And would you describe to the Court the nature of

7 your present business?

8 A. Well, we service people going to the Newark
9 airport, New York City, Kennedy Airport, Laguardia Airport
10 and Atlantic City.

11 Q. And can you describe for the Court approximately
12 how much business you do per week?

13 A. In trips you mean?

14 Q. Yes.

15 A. It varies. On a real busy day, we can go to
16 Newark as much as as eight or nine times a day.

17 Q. And is that -- what is your experience on a
18 consistent basis on average?

19 A. An average we are in there two or three times a
20 day, I'd say.

21 Q. Now, have you ever been requested to make stops
22 within the State of Pennsylvania, point to point?

23 A. Yes.

24 Q. And from whom -- what sort of clientele makes
25 those requests of you?

1 MR. HUGHES: Objection. Mr. Danielewicz cannot
2 prove, in his portion of his testimony, any public needs and
3 necessity without comporting with 3.382 of the rules and
4 regulations of the Commission. And unless he has complied
5 with those sections, this testimony is heresay.

6 JUDGE LOVENWIRTH: Well, Section 3.382 sets forth
7 that an exception to the hearsay rule will be an applicant's
8 testimony as to requests he has received for service. And
9 the quoted section of the Commission regulations set forth
10 what should be included in such testimony and the quoted
11 section says the weight to be attributed to such testimony
12 will depend upon how many of the ingredients specified are
13 included.

14 So your objection is not meritorous. Although if he
15 does not have as part of his testimony all the elements that
16 happened specified by the Commission's quoted regulation, I
17 will have to give less weight to it. Your objection goes
18 more to the weight than to the admissibility. And I don't
19 know what he's going to testify to. I have to overrule your
20 objection.

21 MR. HUGHES: I would like for the record a continuing
22 objection unless that section is strictly adhered to.

23 JUDGE LOVENWIRTH: You have a continuing objection.

24 BY MR. VITO:

25 Q. Sir, what sort of clientele do you transport?

1 A. Corporate executives, basically, and people going
2 on vacations; families.

3 Q. And during what hours of the day do you operate?

4 A. We will go 24 hours a day. It doesn't matter.

5 Q. If granted PDC rights, would you continue those
6 hours of operation?

7 A. Yes, we would.

8 Q. How long have you maintained those hours of
9 operation?

10 A. Since day one.

11 JUDGE LOVENWIRTH: What are your hours of operation?

12 THE WITNESS: Twenty-four hour service.

13 BY MR. VITO:

14 Q. Have requests been made of you to furnish service
15 within the State of Pennsylvania, point to point?

16 A. Yes.

17 Q. And how frequently have such requests been made
18 of you?

19 A. We'll get as many as 10 or 15 calls a week that
20 we have to turn down.

21 Q. Those calls are, in fact, turned down?

22 A. Yes.

23 Q. Sir, besides the automobiles that you mentioned,
24 does Limousine for Less own any other assets?

25 A. Basically, in the company, just automobiles. I

1 own real estate.

2 JUDGE LOVENWIRTH: I didn't hear you. I think you
3 started to say primarily the assets of the corporation are
4 the automobiles. Then I didn't hear what you said. I don't
5 know if the Court Reporter did or not.

6 THE WITNESS: I own my own property besides that.
7 But it is not tied in with the limousine business.

8 JUDGE LOVENWIRTH: The corporation -- the applicant
9 in this case is Limousine for Less, and you own that. Is
10 that correct?

11 THE WITNESS: I'm the sole proprietor, yes.

12 JUDGE LOVENWIRTH: It is not tied into the business,
13 but you own that business. And you also own the real
14 estate. Is that your testimony?

15 THE WITNESS: Yes.

16 BY MR VITO:

17 Q. Now, Mr. Danielewicz, with respect to requests
18 that were made for point to point stops within the State of
19 Pennsylvania, can you tell me primarily where the requests
20 are made for?

21 A. We get quite a bit of requests to go into
22 Allentown Airport, some to the Scranton Airport; not many.

23 JUDGE LOVENWIRTH: A lot into Allentown and a few
24 into the Scranton Airport?

25 THE WITNESS: And we get some occasional people that

1 want to go out just touring the Poconos with no definite
2 destination in mind.

3 BY MR. VITO:

4 Q. And are there any businesses in the Poconos that
5 cater to recreation that you are aware of?

6 A. No. We recommend that they use the taxi company,
7 the local taxi company.

8 Q. Would you describe to the Court the character of
9 the Poconos with respect to its industry which may require
10 transport by limo?

11 A. Yes. The Poconos is growing very rapidly.
12 There's a lot of people migrating from New York, New Jersey
13 and Connecticut. And we get all the young executive types,
14 and they need a limousine service to --

15 MR. HUGHES: Objection as to what any third party
16 would need that is moving in unless Mr. Danielewicz is
17 qualified to give testimony as an expert in demographics.
18 He cannot testify about any alleged need on behalf of third
19 party persons.

20 JUDGE LOVENWIRTH: Sustained. The portion of the
21 witness' response that says they need limousine service is
22 sustained. The rest of it is fine.

23 BY MR. VITO:

24 Q. Are there any other industries that are in the
25 Poconos that have occasion to use limousine service?

1 MR. HUGHES: Objection. Hearsay.

2 JUDGE LOVENWIRTH: Overruled. The question didn't
3 ask for hearsay. The question asked are there any other
4 industries in the Poconos that have had occasion to use
5 limousine service. That calls for a recitation of fact.
6 Wasn't that your question?

7 MR. VITO: Yes, Your Honor, it was.

8 THE WITNESS: All the resorts in the Poconos, we get
9 a lot of calls from them. They want to use limousine
10 service.

11 BY MR. VITO:

12 Q. Could you name specifically those resorts that
13 have made requests of you?

14 A. The owner of Caesars World. They have four
15 resorts up there. They had called requesting services which
16 we could not provide them because they basically wanted to
17 go into the Allentown area.

18 JUDGE LOVENWIRTH: Go into the Allentown for what
19 purpose?

20 THE WITNESS: To the airport to bring in the
21 honeymooners. And also there are some companies in the area
22 -- there are not many because it is basically a resort
23 area. But they do occasionally call looking for service
24 into the airports.

25 BY MR. VITO:

1 Q. Now, Caesars World you described as having more
2 than one resort. Could you tell me what resorts you know
3 that requested your service?

4 A. Cove Haven, Pocono Palace. There are two more.
5 I can't tell you the other two names offhand.

6 JUDGE LOVENWIRTH: You mentioned two. Where are they
7 located?

8 THE WITNESS: Pocono Palace is up on Route 209. Up
9 around the Bushkill area.

10 JUDGE LOVENWIRTH: Bushkill is in what county?

11 THE WITNESS: In Monroe. Then Cove Haven is in Pike
12 County.

13 JUDGE LOVENWIRTH: What is the name of it?

14 THE WITNESS: Cove Haven. And one of the other ones
15 is Paradise Streams which is located in Monroe County, and
16 the other one is Brookdale located in Monroe County.

17 JUDGE LOVENWIRTH: I'm not sure I understand your
18 testimony. You are saying someone has called you from time
19 to time from Caesars World asking you to supply
20 transportation to or from the airport in Allentown. For
21 which of these four resorts was such request made?

22 THE WITNESS: All of them. That's only Caesars. We
23 get calls from Mount Airy and Striklands and all the rest of
24 them up there.

25 JUDGE LOVENWIRTH: Mount Airy. Is that Mount Airy

1 Lodge?

2 THE WITNESS: Right.

3 BY MR. VITO:

4 Q. Sir, with respect to any other resorts, you
5 mentioned a few. Could you tell us for the record where
6 Mount Airy Lodge is located? Which county?

7 A. Monroe.

8 Q. Striklands Resort?

9 A. Monroe County.

10 Q. Are there any other resorts which have called you
11 and requested you to transport them within point to points
12 within Pennsylvania for the 60 statute mile in the county?

13 A. Well, basically I guess about all of them at one
14 time or another. They are too numerous to mention. I don't
15 know the names of all of them.

16 Q. Of the ones you can remember?

17 A. Pocono Manor, they call us, too.

18 Q. And that is --

19 A. Monroe County. The Fernwood, that is in Monroe
20 County. They call us.

21 JUDGE LOVENWIRTH: Mr. Vito, do you, in your answers
22 to interrogatories, mention to Mr. Mulcahey that you are
23 going to have need testimony for Pike County.

24 MR. VITO: Your Honor, off the top of my head, I
25 don't recall.

1 JUDGE LOVENWIRTH: He may want to look at the
2 transcript. He may want to reserve an objection. He did
3 explain to me the reason he's not asking for a continuance
4 of today's hearing is because after reviewing your answers
5 to interrogatories he concluded that testimony that is going
6 to be presented which was need testimony of that which was
7 contained in Monroe County wherein his client has no
8 rights. Okay. You may proceed.

9 MR. HUGHES: To all that, I still have an objection.

10 JUDGE LOVENWIRTH: You have a continuing objection as
11 to request testimony.

12 MR. HUGHES: Thank you, Your Honor.

13 BY MR. VITO:

14 Q. Mr. Danielewicz, how frequently are you called by
15 area resorts to transport them?

16 A. It varies. Some weeks you don't get any calls.
17 Some weeks you get two or three calls.

18 Q. This would be with respect to transporting people
19 from point to point?

20 A. Right.

21 Q. In the State of Pennsylvania?

22 A. Some people want to go back to the airport, and
23 some people want to get picked up at the airport and taken
24 to a hotel, or some want to go sightseeing in the Poconos.

25 Q. We are talking about within 60 statute miles from

1 Stroudsburg?

2 A. Yes.

3 JUDGE LOVENWIRTH: All resorts are within 60 miles of
4 Stroudsburg?

5 MR. VITO: That's right, Your Honor.

6 THE WITNESS: Probably within 20 miles.

7 JUDGE LOVENWIRTH: But they are all within 60 miles?

8 THE WITNESS: Right.

9 BY MR. VITO:

10 Q. With respect to those customers that you
11 indicated you transport to and from airports, major
12 airports, do you have any repeat business?

13 A. Oh, yeah. All the people that have used us once,
14 they always come back.

15 Q. What sort of accounts are they?

16 A. Basically, all corporate accounts out of New
17 Jersey.

18 Q. Could you name some of them?

19 A. We do work for AT&T. We do work for M&M. We do
20 work for Nabisco, Picketon & Arsenal, and a few other
21 smaller ones.

22 Q. And have any of those requested a need for your
23 services in the Monroe County area?

24 A. Yes.

25 MR. HUGHES: Objection.

1 JUDGE LOVENWIRTH: On what grounds?

2 MR. HUGHES: First hearsay. Secondly, it's --

3 JUDGE LOVENWIRTH: Okay. Overruled on those
4 grounds.

5 MR. HUGHES: And unless it comports with Section
6 3.382 of the Pennsylvania Public Utility Code.

7 JUDGE LOVENWIRTH: You have a continuing objection as
8 to that.

9 THE WITNESS: They request the service over again.
10 They request -- sometimes they request to go to the Pocono
11 area. We just can't do that. We have to refer them to
12 someone else.

13 BY MR. VITO:

14 Q. Approximately how many times do you have requests
15 such as that?

16 A. Not that many from a corporate account. They
17 stay in New Jersey. They like to fly out of Newark. I
18 guess the prices out of Newark are more economical than to
19 come out of Allentown or Scranton or something like that.

20 MR. VITO: Cross.

21 MR. HUGHES: Can I see the application, please, Your
22 Honor. Thank you.

23

24

25

CROSS EXAMINATION

1

2 BY MR. HUGHES:

3

Q. Mr. Danalwicz. Is it Danalwicz?

4

A. Danielewicz.

5

Q. I'm sorry. Mr. Danielewicz, is Limousine for

6

Less a corporation?

7

A. No.

8

Q. So it's you individually trading as Limousine for

9

Less?

10

A. Yes.

11

Q. Is it a registered fictitious name?

12

A. Did we register that, Sal?

13

MR. VITO: I can't answer the questions.

14

THE WITNESS: I don't recall if we did or not. If it

15

isn't, it will be registered.

16

JUDGE LOVENWIRTH: Do you really want to know the

17

answer, Mr. Hughes, or do you want to know what this

18

witness' recollection is?

19

MR. HUGHES: I want to know what this witness'

20

recollection is.

21

THE WITNESS: I don't really remember if we had it

22

registered or not, to be truthful here.

23

BY MR. HUGHES:

24

Q. Are you aware that when you filed your

25

application, you did not attach a copy of your registered

1 fictitious name or state when it was registered?

2 A. No.

3 Q. Do you know your ICC number?

4 A. Yes.

5 Q. What is it, please?

6 A. MC197034.

7 Q. When was that granted by the Commission?

8 A. Over two years ago. Almost three years ago.

9 Q. You stated that you were an employee of Pocono
10 Limousine?

11 A. Yes.

12 Q. When were you employed by Pocono?

13 A. Briefly for about two months in, I believe, the
14 fall of '86.

15 Q. In what capacity?

16 A. Driver.

17 Q. At that time, was limousine for less in business?

18 A. No. That's when I found out there was a need for
19 another service.

20 Q. Then?

21 A. Right.

22 Q. The fall of '86. Would that have been September
23 and October of 1986?

24 A. I don't remember the exact dates.

25 Q. You left their employ, then, in the fall of 1986?

1 A. Yes.

2 Q. Then what did you do?

3 A. I stayed in the same business I was in. I was in
4 the retreading business.

5 Q. What was the name of that business?

6 A. Custom Retreads.

7 Q. Was that a sole proprietorship?

8 A. Yes.

9 Q. Who owned that?

10 A. I did.

11 Q. Is that still in business?

12 A. No.

13 Q. What happened to it?

14 A. I just phased it out. I wasn't making any money.

15 Q. When was that business phased out?

16 A. In, I believe, it was at the beginning of '87.

17 Q. Do you know -- let me withdraw that. When did
18 you file for ICC authority?

19 A. In the beginning of '87.

20 Q. Who filed that application for you?

21 A. Attorney Krawitz.

22 JUDGE LOVENWIRTH: Spell that.

23 MR. VITO: K-r-a-w-i-t-z.

24 BY MR. HUGHES:

25 Q. Do you know when the ICC issued you notice that

1 your application had been approved?

2 A. I don't know the exact date, no.

3 Q. Time period approximately. Fall of '87?

4 A. It was early in '87.

5 Q. You are saying early '87?

6 A. It might have been '86. I didn't come prepared
7 with all these dates about the ICC. I'm not applying for
8 ICC rights right now. I'm applying for PUC rights. I'm
9 applying for a PUC authority. I didn't bring with me the
10 ICC down here.

11 JUDGE LOVENWIRTH: Just say "I don't remember."

12 THE WITNESS: He is insisting. He keeps --

13 JUDGE LOVENWIRTH: You don't argue back and forth.

14 If you don't remember, that's a perfectly fine answer.

15 THE WITNESS: Okay, Your Honor.

16 BY MR. HUGHES:

17 Q. Do you know if your authority was ever issued by
18 the Interstate Commerce Commission?

19 A. Yes, it was issued. That's where I got the
20 docket numbers.

21 Q. Have you complied with all the requirements of
22 the ICC?

23 A. Yes, we did.

24 Q. Regarding your testimony of requests being made
25 upon you to provide intrastate service, did you keep a diary

1 of those calls?

2 A. No. We did for about two months, and that was
3 it.

4 Q. And as those calls would come in, what would you
5 do with them?

6 A. Sometimes I would just tell them that we couldn't
7 do them because we didn't have authority. Sometimes I just
8 said we didn't have a car available.

9 Q. Did you refer them to another carrier?

10 A. A local taxi company.

11 Q. A request for a limousine service you gave to a
12 local taxi company?

13 A. Yes.

14 Q. And who is the local taxi company?

15 A. Tica Taxi.

16 JUDGE LOVENWIRTH: How do you spell that?

17 THE WITNESS: It is either T-i-k-a or T-i-c-a.

18 BY MR. HUGHES:

19 Q. Do they have limousines with which to provide
20 limousine service?

21 A. No, they don't.

22 Q. Is there a reason why you did not -- withdrawn.
23 You did not tender any of those calls to any certificated
24 carrier within the area of limousine service?

25 A. Yes, because with my knowledge of working with --

1 Q. You did not tender it to a licensed limousine
2 service?

3 A. I tendered them to a taxi company.

4 Q. To a taxi company?

5 A. Right.

6 Q. The 1985 Lincoln stretch, is that an informal or
7 formal stretch?

8 A. I guess a formal. It has the bar and television,
9 everything.

10 Q. Is that owned by you?

11 A. It's leased.

12 Q. From whom?

13 A. GMAC has a lease on it.

14 Q. When was that acquired?

15 A. I think six or seven months ago.

16 JUDGE LOVENWIRTH: In other words, you don't own it.
17 You lease it.

18 THE WITNESS: When the lease is expired, it will be
19 bought. It's a buyout.

20 JUDGE LOVENWIRTH: You have an option at the end of
21 the lease period to purchase it?

22 THE WITNESS: Yes, sir.

23 BY MR. HUGHES:

24 Q. Did you buy that -- obviously you bought that
25 used?

1 A. Right. I took over another lease.

2 Q. It's leased through GMAC even though it's a Ford
3 Motor product?

4 A. Right. It's leased to Titus Leasing who puts the
5 paperwork through GMAC.

6 Q. T-i-t-u-s leasing?

7 A. Right.

8 Q. The 1985 Lincoln Town Car, is that owned or
9 leased?

10 A. It's owned.

11 Q. By whom?

12 A. Me.

13 Q. In what name?

14 A. James Danielewicz.

15 Q. Is that your personal vehicle?

16 A. No.

17 Q. When did you buy that vehicle?

18 A. Fourteen months ago.

19 Q. Used?

20 A. Yes.

21 Q. From whom?

22 A. Ray Price Motors.

23 Q. Where is that located?

24 A. Main Street in Stroudsburg.

25 Q. Is that vehicle used exclusively in intrastate

1 commerce?

2 A. Yes.

3 Q. Did you pay sales tax on that vehicle when it was
4 purchased?

5 A. Yes.

6 Q. Is there an encumbrance on that vehicle?

7 A. First Eastern Bank.

8 Q. What is the amount of the encumbrance?

9 A. Probably about \$7,000.00.

10 JUDGE LOVENWIRTH: What did you pay for it?

11 THE WITNESS: \$13,000.00, I believe.

12 BY MR. HUGHES:

13 Q. The 1984 Cadillac Sedan DeVille?

14 A. Yes.

15 Q. Is that owned or leased?

16 A. Owned.

17 JUDGE LOVENWIRTH: That's a 1984? Right?

18 THE WITNESS: Wait a minute. It's an '82. I'm

19 sorry.

20 BY MR. HUGHES:

21 Q. Who is the owner of that?

22 A. I am.

23 Q. When was that purchased?

24 A. That was purchased about four years ago.

25 Q. That was purchased used?

1 A. Yes.

2 Q. Is there an encumbrance on that vehicle?

3 A. No.

4 Q. The 1988 Lincoln Town Car. When was that
5 purchased?

6 A. In the fall of '87 when they first came out.

7 Q. Is that owned or leased?

8 A. That is owned.

9 Q. By whom?

10 A. Me. That was my personal vehicle.

11 JUDGE LOVENWIRTH: It was or it is?

12 THE WITNESS: It was. It is wrecked.

13 BY MR. HUGHES:

14 Q. So that vehicle has never been used to provide
15 any interstate service in accordance with your ICC rights?

16 A. No.

17 Q. Do you know Mr. Jerry Clark of the Pennsylvania
18 Public Utility Commission?

19 A. Not personally.

20 Q. Do you know of him?

21 A. The name is not familiar. I don't know of
22 anybody in the Public Utility Commission.

23 JUDGE LOVENWIRTH: What do you mean you don't know
24 him personally? You mean you don't know him?

25 THE WITNESS: No. Nothing.

1 BY MR. HUGHES:

2 Q. Have you ever provided intrastate service?

3 A. One time.

4 Q. One time?

5 A. Yep.

6 Q. When was that one time?

7 A. Oh, I'd say in the end of '86 or the beginning of
8 '87.

9 Q. Was that the subject matter of a complaint by the
10 Pennsylvania Public Utility Commission?

11 A. I believe it was, yeah.

12 Q. And was that what you first began in business?

13 A. Yes.

14 Q. And did Mr. Clark investigate that complaint?

15 MR. VITO: Objection. He just testified he doesn't
16 know who Mr. Clark is.

17 JUDGE LOVENWIRTH: It's proper cross examination.
18 Overruled.

19 THE WITNESS: I don't know Mr. Clark if he was the
20 officer that investigated it. I guess it was him. It was
21 long ago. I don't remember his name.

22 BY MR. HUGHES:

23 Q. Did a compliance officer from the Pennsylvania
24 Public Utility Commission come and visit you?

25 A. No.

1 Q. They didn't?

2 A. No.

3 Q. Was a formal complaint filed with the Commission?

4 A. I don't know if a formal complaint was filed or
5 what there was. They picked me up for transporting a
6 passenger. I was issued a summons.

7 JUDGE LOVENWIRTH: Did you pay a fine?

8 THE WITNESS: Yes.

9 JUDGE LOVENWIRTH: Who did you pay it to?

10 THE WITNESS: The Public Utility Commission.

11 JUDGE LOVENWIRTH: How much?

12 THE WITNESS: \$250.00.

13 BY MR. HUGHES:

14 Q. And at that time, did anyone inform you of what
15 the consequences would be if you continued to provide --

16 A. Yes.

17 Q. -- service without the authority?

18 A. Right.

19 Q. You were notified of that; correct?

20 A. Yes.

21 Q. And in December of 1988, did you provide any
22 unlawful transportation intrastate?

23 A. No.

24 Q. You didn't?

25 A. No.

1 Q. If I were to tell you that a complaint has been
2 investigated by the Compliance Department of the
3 Pennsylvania Public Utility Commission has been forwarded to
4 Harrisburg for processing, do you know anything about that?

5 A. No.

6 Q. Do you know of you providing any intrastate
7 service at the end of December of -- in the beginning of
8 December of 1988?

9 A. No.

10 Q. You don't?

11 A. No.

12 Q. Who takes all the calls for Limousine for Less?

13 A. I take a lot of them, probably most of them.

14 Q. Probably most of them?

15 A. Yes.

16 Q. Is the phone in your house?

17 A. Yes.

18 Q. You operate out of your house?

19 A. Yes.

20 Q. Today you have no written documentation with you
21 to support any request testimony in this proceeding. Is
22 that correct?

23 A. What do you mean by that?

24 Q. You don't have a diary?

25 A. No, I didn't have one with me, no.

1 Q. On your direct testimony you stated that you have
2 been in business approximately three years?

3 A. Something like that, yeah.

4 Q. If you filed for your ICC authority in the early
5 part of 1987, you could not be in business any more than two
6 years.

7 A. I originally started my business in New Jersey
8 before I came into Pennsylvania to apply for ICC authority.

9 Q. In New Jersey?

10 A. Yes.

11 Q. Is that the ICC number that was issued to you on
12 that proceeding?

13 A. Yes.

14 Q. And what is the scope of that authority?

15 A. I don't know, but we just had an upgraded -- Mr.
16 Krawitz just -- he did it. I don't know. He just recently
17 had it amended to cover everything that we do.

18 Q. Is that because a complaint was filed before the
19 Intrastate Commerce Commission?

20 A. (No audible response.)

21 Q. You don't know the extent of that?

22 A. It is just that we wanted to move into
23 Pennsylvania.

24 JUDGE LOVENWIRTH: Why would you have to go to the
25 ICC in order to transport between points? Do you know?

1 THE WITNESS: That is why we originally didn't have
2 it.

3 BY MR. HUGHES:

4 Q. Do you know what amendment that's filed at to
5 your ICC MC number?

6 A. No.

7 Q. So that your original authority, as filed, was in
8 New Jersey for ICC authority?

9 A. Right. To run in New Jersey, New York, and
10 Pennsylvania.

11 Q. From points in New Jersey to points in New York
12 and Pennsylvania?

13 A. Originally, it was that way. And from points in
14 Pennsylvania to New York and New Jersey and from New York to
15 New Jersey and Pennsylvania, whatever.

16 Q. So for the first -- from your initial grant of
17 ICC authority, you were located in New Jersey to operate out
18 of New Jersey to points in New York and Pennsylvania?

19 A. Yes.

20 Q. And when was the amendment filed?

21 A. About a year ago, I guess, or so.

22 Q. You don't know?

23 A. No.

24 MR. HUGHES: I have no further questions.

25 JUDGE LOVENWIRTH: Do you have redirect?

1 MR. VITO: Just a few questions, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. VITO:

4 Q. Sir, you were asked with respect to the vehicles
5 that you either owned or leased that you operate, can you
6 tell us approximately how much money per month the lease is
7 on the '85 Town Car?

8 A. On the Limousine stretch, the lease is \$1,042.00.

9 Q. And can you tell me on the Town Car approximately
10 how much the monthly payment is?

11 A. \$400.00.

12 Q. And how do you get the moneys to pay your monthly
13 encumbrances?

14 A. Operating as a limousine service in the state.

15 Q. Generating profit from that business?

16 A. Yes.

17 Q. Now, Mr. Hughes asked you why you didn't tender
18 the requests for local transportation to a certificated
19 carrier. Can you tell us why you didn't?

20 JUDGE LOVENWIRTH: You can tell why you didn't tender
21 it to a certificated carrier authorized to transport persons
22 in limousine service.

23 MR. VITO: Excuse me, Your Honor?

24 JUDGE LOVENWIRTH: He asked why he didn't forward
25 persons who requested service intrastate to carriers who

1 were certificated by the Commission to provide limousine
2 service.

3 MR. VITO: Yes.

4 THE WITNESS: Because --

5 MR. HUGHES: Objection. It's his duty under the law
6 and under the rules of the Commission to tender it to
7 certificated carriers in the area.

8 JUDGE LOVENWIRTH: Well, I'm not sure about that. A
9 taxi cab is a certificated carrier.

10 MR. HUGHES: For call and demand, but not for
11 limousine service.

12 JUDGE LOVENWIRTH: Yes. They can both transport
13 passengers to and from airports. So there is an overlapping
14 of authority, providing the geography is right. I overrule
15 the objection.

16 MR. VITO: You can answer the question.

17 THE WITNESS: I recommended a local taxi service
18 because their equipment was the same as the Pocono Limousine
19 at the time. They only had vans and one other car or
20 something like that. And the taxi service was just as
21 reliable. They had the cars, and it wasn't any more
22 expensive than a limousine service. People only want to go
23 to an airport.

24 MR. VITO: That's all I have.

25 RE-CROSS EXAMINATION

1 BY MR. HUGHES:

2 Q. So the requests you had that you tendered to Tica
3 Taxi Company was to go from East Stroudsburg to an airport?

4 MR. VITO: Objection. He never stated where the
5 points were.

6 JUDGE LOVENWIRTH: That's why it's proper cross
7 examination. If that's the grounds for your objection, I
8 overrule.

9 THE WITNESS: They didn't specifically say East
10 Stroudsburg. They called either from the Pocono area, from
11 the Stroudsburg area, probably from the East Stroudsburg,
12 and from Pocono they would call.

13 BY MR. HUGHES:

14 Q. Do you know the extent of Tica's authority?

15 A. I have no idea.

16 Q. Do you know if they fulfilled any of these
17 requests?

18 A. I have no idea.

19 Q. You don't know?

20 A. I couldn't even give them their phone number. I
21 didn't know their phone number. I just recommended they
22 call the local taxi service.

23 Q. Is that because they wanted to go to an airport?

24 A. Airport or wherever they wanted to go, yes.

25 Q. Where was that airport?

1 A. Either Allentown or Scranton.

2 Q. So their calls were not for a limousine, but to
3 go to an airport?

4 A. They called me as a limousine service,
5 obviously. They wanted some type of transportation to go to
6 the airport.

7 Q. Do you know if that transportation can be
8 provided in vehicles other than limousines?

9 A. From the taxi company?

10 Q. Yes.

11 A. They only have taxis. They don't have
12 limousines.

13 Q. You do not need a limousine to provide airport
14 transfer service?

15 A. I guess you don't. I don't know.

16 Q. When you say they had the same equipment as
17 Pocono, do you know how many -- when were these requests
18 made?

19 A. Over the past two years.

20 Q. Do you know what type of limousines Pocono
21 Limousine has owned and operated over the last two years?

22 A. I know he had when I worked there.

23 Q. And that was over two years ago?

24 A. Yes.

25 Q. You don't know what he currently has?

1 A. No.

2 Q. Do you know if they are also operational on ICC
3 authority?

4 A. Pocono Limousine?

5 Q. Yes.

6 A. I imagine they are. I don't know.

7 Q. Do you think if they also have airport transfer
8 service in addition to their limousine service?

9 A. I don't know what their rights are. I have no
10 idea.

11 MR. HUGHES: Thank you. I have no further questions.

12 MR. VITO: I have nothing further, Your Honor.

13 JUDGE LOVENWIRTH: Mr. Vito, I have no idea what he
14 owns of if he is financially fit. You haven't met any
15 burden of proof. You explained to me that Mr. Oliver wasn't
16 going to testify as to that. It could be that he is
17 perfectly financially fit.

18 I'm telling you on the record that you haven't made
19 that point. I don't know anything about him. He could have
20 a very net worth of a million dollars or a net worth of a
21 minus something. I don't think so. I just don't know
22 anything about him. Do you want to reopen the record or
23 what?

24 MR. HUGHES: Your Honor, I'm going to object on the
25 basis that I was prepared to move to strike the application.

1 JUDGE LOVENWIRTH: I have a duty to develop the
2 record. I could have done it myself. So your objection is
3 overruled. Do you want to re-address this?

4 MR. VITO: Yes, Your Honor.

5 MR. HUGHES: I would like an exception on the record,
6 please, as to the reopening of the record.

7 JUDGE LOVENWIRTH: You have an exception to the on
8 the record remarks.

9 MR. HUGHES: Thank you.

10 REDIRECT EXAMINATION

11 BY MR. VITO:

12 Q. Sir, with respect to your operation of Limousine
13 for Less, could you tell the Court approximately what your
14 gross income was last year?

15 A. I believe it was about \$70,000.

16 Q. And can you tell the Court approximately what
17 your taxable income was last year?

18 A. I didn't file a tax return yet. I don't know
19 what it is yet.

20 Q. Okay. Do you have any tax information from the
21 year before?

22 A. Well, the year before we paid taxes, something on
23 that. But we did not operate under a loss.

24 Q. Can you tell us prospectively for 1988 how much
25 money was derived from the operation of Limousine for Less?

1 A. Well, we made our lease payments and everything
2 else. Bills that occurred from the limousine business are
3 all paid. Plus we made money to live on.

4 Q. When you say we, who do you mean by we?

5 A. Well, my family.

6 Q. How many people?

7 A. My wife, and one daughter living at home.

8 Q. Can you tell the Court where you live?

9 A. I live in Stroudsburg, 315 Clermont Avenue.

10 JUDGE LOVENWIRTH: C-l-a-i-r-m-o-n-t?

11 THE WITNESS: C-l-e-r-m-o-n-t.

12 BY MR. VITO:

13 Q. Would you describe your house for the Court?

14 A. It's a four -- three bedroom ranch with a
15 finished basement and a beauty shop on the back side of the
16 house, approximately on one acre of land right in the
17 Borough of Stroudsburg.

18 Q. Who owns it?

19 A. I do.

20 JUDGE LOVENWIRTH: And your wife?

21 THE WITNESS: Me and my wife, jointly.

22 BY MR. VITO:

23 Q. Could you tell me approximately what the value of
24 the residence is?

25 A. It's about close to \$200,000.

1 Q. How do you know that?

2 A. It was appraised two years ago for \$170,000.

3 Q. By whom?

4 A. An outfit from Allentown.

5 Q. At whose request?

6 A. At --

7 MR. HUGHES: Objection. This is hearsay as to the
8 appraisal, unless he has the appraisal with him. And we
9 could verify. It's hearsay testimony based on the
10 appraisal.

11 JUDGE LOVENWIRTH: All right. Strike that portion,
12 but so that the record isn't confused, this witness has the
13 capacity to estimate what the value of his property is.

14 MR. HUGHES: I have no problem with that, Your
15 Honor.

16 BY MR. VITO:

17 Q. Sir, with respect to your '85 Town Car, do you
18 have any idea what the value of that is?

19 A. It's probably over \$10,000.00.

20 Q. And you indicated that there was an option to
21 purchase that vehicle?

22 A. That's the stretch limousine which is worth
23 considerably more, probably \$20,000.00, somewhere around
24 that.

25 Q. And what is the amount of the encumbrance on the

1 stretch?

2 A. Well, there's, I think, 12 or 13 payments left or
3 lease payments left with a buyout of \$3,000.00 at the end
4 which I have \$1,000.00 refund coming back after that buyout
5 which will take it down to \$2,000.00.

6 Q. So you have a \$20,000.00 asset and approximately
7 \$13,000.00 of encumbrance?

8 A. Yes, on that car.

9 Q. You said in addition to that, there's a \$3,000.00
10 buyout figure at the end?

11 A. Right.

12 Q. With \$2,000.00 of it actually paid out by you to
13 the company?

14 A. No -- yeah, I would have to pay out \$2,000.00 to
15 actually buy it out.

16 Q. So if my math is correct, you have \$5,000.00
17 equity in that?

18 A. Yes.

19 Q. Of the '85 Town Car?

20 A. That is probably still -- that is the one I was
21 referring to when I said it was probably worth \$10,000.00 or
22 better yet and about \$7,000.00 owed on that, between 7 or 8,
23 somewhere in there.

24 Q. Do you presently maintain insurances on all of
25 these vehicles?

1 A. Yes, I do.

2 Q. And do you know how much you pay approximately
3 per year for insurance?

4 A. Well, I carry a million and a half dollars
5 liability on each car plus the collision. And my premium
6 probably runs in the neighborhood of \$8,000.00.

7 Q. And how is the premium paid? What moneys are
8 used for that purpose?

9 A. What's generated from the limousine business.

10 JUDGE LOVENWIRTH: Do you have collision?

11 THE WITNESS: Yes.

12 JUDGE LOVENWIRTH: Do you have collision on the '88
13 Town Car that was wrecked?

14 THE WITNESS: Yes.

15 MR. VITO: That's all I have.

16 JUDGE LOVENWIRTH: Cross.

17 RE CROSS EXAMINATION

18 BY MR. HUGHES:

19 Q. The property is Stroudsburg or East Stroudsburg?

20 A. Stroudsburg.

21 Q. When did you buy that?

22 A. 1964, somewhere around there.

23 Q. Any mortgages on that property?

24 A. Yes.

25 Q. What's the amount of the mortgage?

1 A. About \$50,000.00.

2 JUDGE LOVENWIRTH: This is on your home?

3 THE WITNESS: Yes.

4 BY MR. HUGHES:

5 Q. It is owned by you and your wife jointly?

6 A. Yes.

7 Q. Does your wife operate the beauty shop?

8 A. Yes.

9 Q. She's a licensed beautician with the Board of
10 Cosmetology?

11 A. Yes.

12 MR. HUGHES: I have no further questions, Your Honor.

13 JUDGE LOVENWIRTH: Who do you owe money to?

14 THE WITNESS: No one.

15 JUDGE LOVENWIRTH: All right. You may step down.

16 Thank you very much, sir. We'll take a recess until 11:30.

17 MR. HUGHES: Your Honor, at this time I would renew
18 my motion to dismiss the application, in that the applicant
19 has failed to meet his burden of proof to show its financial
20 fitness, its technical fitness, its fitness to operate in
21 accordance with the rules and regulations of the
22 Commission.

23 After you permitted the record to be reopened, he did
24 state some assets. We do not have any demonstrative
25 evidence into the record at this point regarding balance

1 sheets, tax returns, ICC income statements, any of those
2 items to show that this applicant has been operating and
3 operating in accordance with regulations of the ICC.

4 The fact that we can't take the face value of the
5 statement as to the value of his house. There is no
6 evidence here to show that he has a line of credit, that he
7 is solvent to operate, and that there is any consent as a
8 home equity line of credit to make this venture profitable
9 or that it can be operated.

10 There is no showing that the vehicles are insured
11 other than his statement. There is no evidence of any
12 insurance policies. There is no statement as to how these
13 vehicles are maintained, what his safety program is, how he
14 hires his drivers, how he complies with the rules and
15 regulations of the Interstate Commerce Commission, that he
16 has paid his yearly assessment to the Interstate Commerce
17 Commission, or that he actually does have a certificate.

18 He could have an ICC number. But for all that we
19 know on the record right now is there is nothing to show
20 that he has then complied with the requirements of the ICC
21 to become operational. Any time an application is filed, it
22 is given an ICC number. The fact that we know that in that
23 proceeding, there is no protest as to the transportation of
24 passengers. It's an open proceeding. It's entirely
25 deregulated.

1 However, an applicant in an ICC proceeding after they
2 are issued a certificate, they then still have to comply
3 with the insurance tariff requirements on all those items in
4 order to obtain their actual certificate. That has to be
5 done within a one year period. He did not even know the
6 extent of his ICC authority, when it was issued, when it was
7 amended, or how it was amended or that he is even operating
8 legally right now in ICC.

9 And as such at this point of the proceeding, the
10 applicant has failed to meet its burden of proof as to
11 financial and technical fitness in accordance with the rules
12 and regulations of the Commission and also as to any
13 testimony regarding need. There is absolutely no weight
14 that can be given to that testimony since it's all hearsay.
15 And there is no attempt even to comply with Section 3.382 of
16 the Commission's rules and regulations. And as such, I ask
17 that the application, as filed, be dismissed.

18 JUDGE LOVENWIRTH: First of all, you said that I let
19 the record be reopened. The applicant hadn't rested. I
20 don't want you to think that he did. In fact, I'm looking
21 around the area, and there are more witnesses here.

22 MR. HUGHES: I understand.

23 JUDGE LOVENWIRTH: All right. I just didn't know
24 that we were using the same terminology. I am overruling
25 your motion. I deny your motion. We will recess until 25

1 minutes of 12.

2 (Whereupon, a recess was taken at 11:25 a.m. to
3 reconvene at 11:35 a.m.)

4 JUDGE LOVENWIRTH: You may call a witness, Mr. Vito.

5 MR. VITO: I call Nathan Oliver.

6 JUDGE LOVENWIRTH: Good morning, Mr. Oliver. Please
7 place your right hand on the Bible.

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

10 DIRECT EXAMINATION

11 BY MR. VITO:

12 Q. Mr. Oliver, how old are you?

13 A. Forty-two.

14 Q. And are you employed?

15 A. Currently, yes.

16 Q. With whom?

17 A. Limousine for Less.

18 Q. In what capacity?

19 A. As a chauffeur.

20 Q. How long have you been employed as a
21 chauffeur?

22 A. With Limousine for Less or in general?

23 Q. In general.

24 A. About 20 years.

25 Q. With respect to Limousine for Less, how long have

1 you been employed?

2 A. About eight months, seven or eight months.

3 Q. Prior to that, where were you employed?

4 A. I was a chauffeur for Communi-Car in New York.

5 JUDGE LOVENWIRTH: To make sure the Reporter has it,
6 was it Communi-Car?

7 THE WITNESS: Yes, Communi-Car.

8 BY MR. VITO:

9 Q. Who else?

10 A. I've driven for Frank Sinatra, Kimshar Limousine,
11 K-i-m-s-h-a-r. I have worked in the capacity of a cab
12 driver in the City of New York. All of this has been my
13 experience over the past 20 years in regard to
14 transportation.

15 Q. Did there come a time when you were employed by
16 Pocono Limousine Service?

17 A. Yes, there did.

18 Q. When was that?

19 A. Roughly from March '88 through the end of May.

20 Q. Before we get on to other questions, let me ask
21 this question. Are there any other limousine companies that
22 you worked for?

23 A. I'm trying to recall the name. There is one
24 other that I worked for in New York. I don't recall the
25 name offhand.

1 Q. Now, with respect to Pocono Limousine Service,
2 you say you worked from March until?

3 A. The end of May.

4 Q. 1988?

5 A. Yes.

6 Q. And do you know who the owners of that
7 corporation are?

8 MR. HUGHES: Objection as to relevance.

9 JUDGE LOVENWIRTH: What difference does it make? Why
10 is it germane to these proceedings?

11 MR. VITO: Because there was a transition. Mr.
12 DeJoyce did have it for a good many years, and it had
13 changed hands.

14 JUDGE LOVENWIRTH: Well?

15 MR. VITO: I'll withdraw the question.

16 JUDGE LOVENWIRTH: You can ask him who managed the
17 place, but I don't care who -- you know.

18 BY MR. VITO:

19 Q. Would you state to the Court who operated Pocono
20 Limousine? Who ran it?

21 A. Who managed it, or who ran it?

22 Q. Who managed it?

23 A. A woman named Patty Farazano F-a-r-a-z-a-n-o.

24 Q. Who managed it?

25 A. She.

1 Q. Exclusively?

2 A. She was the managing officer, I would guess you
3 call her.

4 Q. Who are the other principals involved in the day
5 to day operation?

6 A. The other principals, as far as I know, is Bob
7 Woods.

8 Q. Now --

9 JUDGE LOVENWIRTH: When did you work for them?

10 THE WITNESS: From March '88 through the end of May.

11 BY MR. VITO:

12 Q. What was your responsibility? What were your
13 responsibilities as a driver for Pocono Limousine?

14 A. To transport people as the need arose from point
15 to point.

16 Q. And what sort of equipment did you -- were you
17 able to utilize or were you given to utilize?

18 A. The equipment was of a nature that was really not
19 up to par with some equipment.

20 Q. What do you mean by that?

21 A. It was old equipment. It was used equipment. It
22 was run down equipment. I could even go as far as to say it
23 was unsafe equipment.

24 Q. Can you give me a specific example of what you
25 are talking about when you say it was run down equipment or

1 used?

2 MR. HUGHES: I object to this series of questions in
3 this line of questioning. The burden is upon the applicant
4 to prove its technical and legal fitness and that there is a
5 legitimate need. It's my understanding that Mr. Oliver was
6 being called to testify regarding the equipment of the
7 applicant. I did object previously that Mr. Oliver's name
8 was not disclosed nor the substance of his testimony
9 regarding Pocono Limousine. The protestant is not on trial
10 here.

11 JUDGE LOVENWIRTH: I think -- can I interrupt you,
12 then you can finish your motion. I can circumvent that.
13 You do admit, Mr. Hughes, that part of the applicant's
14 burden, if he chooses to assume that burden, is to show the
15 inadequacy of the present service. That doesn't impress
16 me. It's the other part that bothers me a little bit.

17 MR. HUGHES: I mean I'm totally unprepared at this
18 point that Mr. Oliver's name was not disclosed nor the
19 subject of his testimony that he would be presenting certain
20 evidence against Pocono. And as such, I could not prepare
21 cross examination for an employee that allegedly was there
22 for two months.

23 JUDGE LOVENWIRTH: Is your client here in the hearing
24 room?

25 MR. HUGHES: Mr. Woods is hospitalized, Your Honor.

1 I knew that I could not request a continuance under the
2 Commission's rules as a protestant.

3 JUDGE LOVENWIRTH: I'm going to overrule your
4 objection. However, I'm permitting you to cross examine
5 this witness at a further hearing.

6 MR. HUGHES: I will have no questions of this witness
7 today. But at the next hearing --

8 JUDGE LOVENWIRTH: Yes. That sounds fair to me, but
9 there is a statutory requirement that is set forth by the
10 Commission.

11 MR. VITO: Your Honor, I can appreciate that.
12 There's also a continuing obligation to disclose it. I
13 would state for the record that it was a rather late notice
14 even to counsel as far as the extent of Mr. Oliver's
15 knowledge in the area. So it wasn't something that he had
16 to save for the purposes of surprise. And we certainly
17 didn't receive any interrogatories from Mr. Hughes. So
18 there was nothing forthcoming in that regard that could have
19 disclosed it.

20 JUDGE LOVENWIRTH: That's true. The Public Utility
21 Code requires exposure without being requested to disclose
22 it.

23 MR. VITO: Well, Your Honor, if we had due time, we
24 certainly would have disclosed it.

25 JUDGE LOVENWIRTH: So you will be on notice at the

1 next hearing, Mr. Hughes, that you will be given the
2 opportunity to cross examine this witness.

3 MR. HUGHES: I would want a continuing objection
4 regarding his testimony regarding Pocono Limousine.

5 JUDGE LOVENWIRTH: All right. Overruled.

6 BY MR. VITO:

7 Q. Sir, can you give me a specific instance of which
8 you used the word dangerous nature of the equipment? You
9 used nature of the equipment.

10 A. Well, the vehicles --

11 Q. What sort of vehicles are we speaking of, first
12 of all?

13 A. The limousines, the stretch limousines were
14 used. They were not mechanically sound as they could be.
15 They were not maintained as well as they could be.

16 Q. In what respects?

17 A. Mechanical. Okay. In terms of maintainance.

18 Q. Can you give me any specific instances that were
19 brought to your attention?

20 A. One in particular, one limousine that I drove
21 personally myself, okay, from Caesar's Brookdale to Scranton
22 Airport. I had the occasion to lose the tread on a tire
23 which could have caused bodily injury to myself, okay, or to
24 whoever else may have been on the road near me.

25 Q. You lost the tread on the tire?

1 A. The tread on the tire came off.

2 Q. How did the tread come off?

3 A. It just came off. I assume it was a recapped
4 tire, okay, a recapped tire.

5 MR. HUGHES: He is assuming. I object.

6 MR. VITO: I'll withdraw the question.

7 BY MR. VITO:

8 Q. What did you observe of that tire?

9 A. There was no tread on the tire.

10 Q. Where was the tread?

11 A. The tread was laying on the pavement.

12 Q. What was the appearance of the tread that you saw
13 laying on the pavement?

14 A. It was torn.

15 Q. What did it look like? I want you to describe
16 what you saw that made you draw your conclusion.

17 A. Well, what I saw is what I was familiar seeing.
18 I know the difference between a recapped tire.

19 JUDGE LOVENWIRTH: Just tell us what you saw.

20 THE WITNESS: I saw a tire without tread, Your
21 Honor.

22 BY MR. VITO:

23 Q. Where was the tread?

24 A. The tread was laying on the highway.

25 Q. What did it appear -- what did you see? You say

1 the tread was laying on the highway. What physically was
2 there?

3 A. It was nothing left of the tire.

4 Q. What did it look like?

5 A. It looked like a black strip of rubber laying
6 down on the pavement.

7 Q. Any other mechanical deficiencies?

8 A. On another occasion, I was taking -- bringing
9 people back on Route 80, and I was in a 15 passenger Ford
10 van. And the van was veering from lane to lane. After
11 several complaints from the passengers in regard to the
12 safety, okay, we slowed down to a speed less than the
13 limit. And we got to the designation.

14 Afterwards I reported to Mr. Woods what I found to be
15 a problem with the vehicle. And he stated to me that there
16 was nothing wrong with it. Okay. Subsequently after --

17 JUDGE LOVENWIRTH: Just a second, please.

18 THE WITNESS: Subsequently after that, the van was
19 taken because of other complaints from other drivers --

20 MR. HUGHES: Objection as to hearsay.

21 JUDGE LOVENWIRTH: I sustain the objection to what
22 the other drivers claimed.

23 THE WITNESS: Subsequent to that, after my complaint
24 to Mr. Woods, okay, the vehicle was taken to a service
25 station. I assume it was a service station.

1 MR. HUGHES: Objection as to assumption.

2 JUDGE LOVENWIRTH: Well, either --

3 MR. HUGHES: Either he knows or he doesn't know.

4 JUDGE LOVENWIRTH: You don't know where the vehicle
5 was taken. Is that correct?

6 THE WITNESS: No, I don't.

7 JUDGE LOVENWIRTH: Why did you assume? Did somebody
8 tell you?

9 THE WITNESS: Yes.

10 JUDGE LOVENWIRTH: Who told you?

11 THE WITNESS: Mr. Woods.

12 JUDGE LOVENWIRTH: Mr. Woods told him it was taken to
13 a service station. Do you object to that?.

14 MR. HUGHES: No.

15 JUDGE LOVENWIRTH: All right.

16 THE WITNESS: Mr. Woods told me it was taken to a
17 service station and that the problem with the veering or the
18 drifting of the vehicle was caused by over-inflation of the
19 tires on one side tire and an under-inflation of tires on
20 the other.

21 BY MR. VITO:

22 Q. Did he tell you how many pounds per square inch?

23 A. Yes.

24 Q. What he did say?

25 A. One side was 70 pounds, and other side had 26

1 pounds.

2 Q. With respect to any other mechanical
3 deficiencies?

4 A. The vans that they used, the small vans that they
5 use are generally mechanically deficient. Because of the
6 use that they endure in transporting people back and forth,
7 for the distances that they cover, the lack of care that is
8 taken from driver to driver of the vehicles, they are
9 subsequently often down; down meaning in need of repair.

10 Q. Can you give me any specific examples of those?

11 A. Which vehicle?

12 Q. Of the vans that you speak of? What sort of vans
13 are you speaking of?

14 A. Ford Aerostar mini-vans.

15 Q. What problems have you observed with respect to
16 those --

17 MR. HUGHES: I'm going to object to these questions.
18 We are here on a limousine application. Pocono Limousine
19 has various equipment.

20 JUDGE LOVENWIRTH: I'm going to sustain the objection
21 unless you can convince me otherwise. I do recognize that
22 an applicant may attempt to meet his burden of proof by
23 showing inadequacy of another service -- to certificated
24 service. However, you are talking about mini-vans. That
25 doesn't show the inadequacy of another service. All it

1 shows is that the protestant is not fit. And fitness of the
2 protestant is not an issue.

3 MR. VITO: Well, insofar as the protestant is
4 essentially the only other authorized carrier that I know of
5 that has Monroe County rights, Top Hat apparently does not.
6 To show inadequacy, to show need by an inadequacy of
7 existing services puts us right back to looking at what sort
8 of service is being rendered to the community by the only
9 certificated carrier.

10 JUDGE LOVENWIRTH: But excuse me for interpreting
11 you, please. I follow you, but mini-vans are not authorized
12 vehicles of a limousine service.

13 MR. VITO: Perhaps that may be true. That next
14 point, Your Honor with all due respect, Pocono Limousine is
15 operating mini-vans. And if that's what they are operating
16 under their certification and under their authority, then
17 the manner in which they are running that business and
18 servicing the community needs is certainly relevant.

19 JUDGE LOVENWIRTH: They have other authority beside
20 limousine service. That would authorized them to transport
21 persons in mini-vans.

22 MR. VITO: For the purpose of the record, I think
23 it's incumbent upon me to put that on there.

24 JUDGE LOVENWIRTH: I'll overrule the objection. I
25 don't want to hear anything about them not being able to

1 operate mini-vans similar to their authority from the
2 Commission, then I will consider that they are germane
3 otherwise.

4 MR. HUGHES: Pocono Limousine currently has
5 certificates from this Commission, the first of which is
6 call and demand authority. The second is that specifically
7 follows the circumstances of which is limousine authority.
8 And the third of which is airport transfer authority and
9 they have an approved tariff on file by the Commission to
10 provide airport transfer service in vehicles from one to 47
11 passengers, and that there is indeed attached to this
12 certificate because it was solely on limousine authority.

13 JUDGE LOVENWIRTH: All right. Well, I will -- it is
14 documented proof of that, Mr. Vito.

15 JUDGE LOVENWIRTH: It seems to me that if what Mr.
16 Hughes says is correct and I, too, thought they had more
17 than limousine authority, then the objection should be
18 sustained. But if you want proof of that, I'll overrule the
19 objection and re-rule on it after the protestant presents
20 its case. Which do you want?

21 MR. VITO: I think you can take judicial notice, I
22 believe, of any official document, anyway, in that regard.

23 JUDGE LOVENWIRTH: I don't have the document, but I
24 am sure what Mr. Hughes says is correct. I am sure that Mr.
25 Hughes wouldn't say it if he didn't think it was correct.

1 MR. HUGHES: I don't have that file with me. I
2 wasn't prepared for this type of hearing. It was in my
3 other folder.

4 JUDGE LOVENWIRTH: Why don't you present evidence on
5 it later on, Mr. Hughes. You may continue.

6 BY MR. VITO:

7 Q. Sir, with respect to dispatching people by
8 limousine to and from airports, what experiences have you
9 encountered with respect to Pocono Limousine Service that
10 bear on the fitness or ability as a carrier?

11 A. The system of dispatching is unorganized, at
12 best. Their routing of drivers is inconsiderate, at best.

13 MR. HUGHES: I object to this witness testifying as
14 to giving a general impression. If this is his impression
15 based solely on his two months employment --

16 JUDGE LOVENWIRTH: I sustain the objection. Confine
17 the testimony to how they routed you, not how they routed
18 the other drivers. You don't know that.

19 THE WITNESS: All right, Your Honor. My experience
20 is as I just stated. The routing -- my routing was at best,
21 as I said, unorganized. I found it to be unorganized based
22 on my previous experience as a limousine driver. I found it
23 to be a great deal of favoritism going on within the office
24 surroundings. I did, personally.

25 BY MR. VITO:

1 Q. Can you tell me specifically instances of what
2 you would call improper routing or improper scheduling?

3 A. Improper routing and scheduling -- I had a
4 schedule on one occasion from 10:00 at night, a pickup in
5 Allentown where the flight didn't come in until 11:30. I
6 didn't return to the garage until 1:00, only to have to
7 return back to the garage to pick up another vehicle to
8 catch a flight at 6:00.

9 Now, as far as I'm concerned, and since I'm only
10 speaking about myself, that's improper routing when you have
11 a staff of people. Someone else could overlap this time.
12 That doesn't, you know, make that difficult of a situation
13 for me. It's not very well coordinated.

14 Q. Where were the routes to and from? Do you
15 recall?

16 A. In this particular instance?

17 Q. In that particular instance.

18 A. It was a pickup in Allentown in the evening. And
19 like I said, it was probably 10:30 and invariably as late as
20 it was, it didn't come in until 11:30. By the time the
21 baggage was gotten, it was probably maybe 15 minutes later,
22 20 minutes later. So by the time they were dropped off, I
23 got the vehicle back to the garage, it was 1:00. I go home
24 and I sleep. I don't sleep. I have to pick up another
25 vehicle and go back to Allentown or Scranton -- I don't

1 recall which it was -- for a 6:00 pickup to pick up people
2 from one of the resorts and take them to Allentown or
3 Scranton for a 6:00 flight on a 6:00 pickup.

4 Q. Were there any other occasions where flights
5 were, in fact, missed because of -- would you explain that
6 to the Court?

7 A. Yes. There was a mis-scheduling sometime shortly
8 before I left of a group party going to JFK Airport. They
9 were supposed to have left at 6:00 in the morning. They
10 were scheduled for 6:00 in the evening by the dispatcher at
11 the time. I was called out of my bed frantic by Mr. Woods
12 for a driver to try to correct the error that had been made
13 by the dispatcher.

14 We got the people, and we took them as quickly as
15 possible to Kennedy Airport. However, they missed the
16 flight.

17 Q. Were there ever any instances of lateness or
18 missed flights?

19 A. Well, being that generally I had to confirm my
20 own arrival times of flights, invariably the pickups would
21 be late according to the time that the flight was scheduled
22 to come in and the actual time that it arrived. There were
23 other instances where -- I'm sorry. I've lost my train of
24 thought.

25 JUDGE LOVENWIRTH: Repeat the question for Mr.

1 Oliver.

2 BY MR. VITO:

3 Q. Were there ever any occasions where you were late
4 or detained because of scheduling?

5 A. Well, in regard to that, there have been
6 occasions also where the hours when you did have a full
7 schedule on a given day -- the hours when I did have a full
8 schedule on a given day, the hours were such that you would
9 be given just enough time to get from point A to point B.
10 If there was any discrepancy in the time, such as on
11 occasion, when you had to convey the client to his hotel
12 room and wait for him to check in, you may have been late to
13 go to your next pickup.

14 I found that to be somewhat overburdening. Okay.
15 They put too much pressure on the drivers. The
16 responsibility of the driver is to make sure that he got to
17 his next designation on time without giving enough time for
18 consideration to me, the driver, to get there.

19 Q. Was a request ever made of you to see the people
20 go to their room?

21 A. Yes.

22 Q. You couldn't fulfill?

23 A. Yes.

24 Q. Can you state that specific instance, if you can
25 recall?

1 A. At the -- I believe it was the Summit Resort -- I
2 don't know exactly when. I don't recall when. But I was
3 requested by the manager or the assistant manager as to why
4 I was not transporting the parties to their suite. And I
5 told him that I simply didn't have the time, and I was
6 informed by my employer that if I did not have enough time
7 that I need not fulfill this function.

8 Q. Did you, in fact, have enough time?

9 A. No, I didn't.

10 Q. Why not?

11 A. Because I was overbooked that particular day.

12 Q. How frequently would you find yourself

13 overbooked?

14 A. I'd say approximately 25 percent of the time.

15 Q. By your definition, overbooked means what?

16 A. Overbooked to me means not being given enough
17 time to get from one point to another point and have a safe
18 margin.

19 Q. And what do you feel would be a reasonable safety
20 margin?

21 A. Again, by not knowing what time the flights are
22 coming in, you are going by approximately a line schedule,
23 and they are not correct. I would say you would need at
24 least 15 minutes, at least.

25 Q. And you didn't have 15 minutes?

1 A. In that particular instance, no, I didn't.

2 Q. You are saying then approximately 25 percent of
3 the time you did not have that 15 minute margin?

4 A. That's correct.

5 Q. Could you explain to the Court how payment was
6 made? How would people pay for their trips?

7 A. Some people would pay in cash. Some people would
8 pay by a credit card.

9 JUDGE LOVENWIRTH: This testimony continues to
10 pertain to Pocono Limousine, Inc. Is that correct?

11 MR. VITO: Yes, Your Honor.

12 THE WITNESS: They would pay by cash or credit card.

13 BY MR. VITO:

14 Q. To whom would they make payment?

15 A. To myself.

16 Q. And how were you instructed to charge people?

17 A. I would be given a billing slip, and that was the
18 amount that I would charge, whether it be cash or credit
19 cards.

20 Q. And could you be more specific as to how you
21 billed people, or how you were instructed to bill people?

22 JUDGE LOVENWIRTH: How more specific? They get a
23 billing slip. You look at the billing slip. How much more
24 specific do you want him to be?

25 MR. VITO: Thank you, Your Honor.

1 BY MR. VITO:

2 Q. Was it on a per trip basis?

3 A. If there were more than one party, no.

4 Q. How did that happen?

5 A. If they were more than one party, they would be
6 charged an individual rate.

7 Q. Does that pertain to limousines?

8 A. Yes. The limousines -- if I may add? The
9 limousines were not always used in the fashion that
10 limousines are supposed to be.

11 JUDGE LOVENWIRTH: How do you mean that?

12 THE WITNESS: Well, as I said, Your Honor, to me,
13 from my experience, a limousine is not supposed to be used
14 as a taxi. These limousines were invariably used. They
15 would transfer more than one party at one time to the same
16 place.

17 JUDGE LOVENWIRTH: They were parties that weren't
18 related?

19 THE WITNESS: Yes, sir.

20 JUDGE LOVENWIRTH: That didn't know each other?

21 THE WITNESS: Yes, sir.

22 JUDGE LOVENWIRTH: They were picked up at the same
23 place?

24 THE WITNESS: Sometimes they were, and sometimes they
25 weren't.

1 BY MR. VITO:

2 Q. How were they billed?

3 A. They were billed individually.

4 Q. By party?

5 A. By party.

6 Q. And were they billed the same amount as they

7 would have paid had just one person --

8 MR. HUGHES: Objection. There is no foundation that
9 he is aware of the tariff as the Court is aware. A tariff
10 in airport limousine service is on a per person basis. And
11 unless he is knowledgable and familiar with the tariff and
12 the type of service was being rendered --

13 JUDGE LOVENWIRTH: Can I interrupt? A carrier, an
14 airport limousine service uses a limo?

15 MR. HUGHES: Yes, sir, Your Honor. Pocono Limousine
16 tariff can go from a limousine and all the way up to a
17 coach, 47 passenger, restroom equipped. And each tariff is
18 on an individual basis, not by vehicle. That's on an
19 approved tariff of the Commission which will be produced at
20 the next hearing if it's necessary.

21 JUDGE LOVENWIRTH: But the witness says this was a
22 limousine service he is providing.

23 MR. HUGHES: They have interchangeable equipment.
24 They can use a limousine if it is so requested in airport
25 limousine service.

1 JUDGE LOVENWIRTH: You can cross examine.

2 MR. HUGHES: Yes.

3 JUDGE LOVENWIRTH: Limousine service is exclusive
4 service. That I do know.

5 MR. HUGHES: That vehicle can be used in airport
6 transfer, also.

7 JUDGE LOVENWIRTH: But he is testifying that he was
8 providing limousine service. I don't know if he's confused
9 or not. You need to cross examine him on that point. But I
10 will overrule the objection.

11 BY MR. VITO:

12 Q. Sir, did the instances that you related to the
13 Court with respect to billing particular individuals, did
14 that occur merely between airports?

15 MR. HUGHES: Objection. It's a leading question.

16 JUDGE LOVENWIRTH: It's leading. All right.
17 Sustained.

18 BY MR. VITO:

19 Q. Describe for the Court what sort of pickups and
20 drop-offs? With respect to location, did you observe that
21 sort of billing procedure?

22 A. Between the resorts and the airports.

23 Q. Was it only the resorts and the airport?

24 A. That's basically where most of the work that I
25 did was.

1 Q. Were there any other places besides that?

2 MR. HUGHES: It's already been answered.

3 JUDGE LOVENWIRTH: Sustained.

4 BY MR. VITO:

5 Q. In what capacity were you employed that day?

6 A. I was a chauffeur.

7 Q. That was for a limousine?

8 A. On which occasion?

9 Q. I'm asking you when people were charged
10 individually.

11 A. I was in a limousine, a stretch limousine. I
12 assume that I was supposed to be a chauffeur. As it turned
13 out, I turned out to be a driver.

14 Q. Were you assuming that to be true because of what
15 you heard here today?

16 MR. HUGHES: Objection. This is repetitive. It's
17 already been answered.

18 JUDGE LOVENWIRTH: One at a time. Question was are
19 you giving that answer because of what you heard today.
20 Then there was an objection. This is repetitive. I forget
21 the rest of the objection because there were two people
22 talking at once. I think he's allowed to reconstruct on his
23 own. It is not redirect. I'll allow it.

24 THE WITNESS: Would you repeat the question?

25 BY MR. VITO:

1 Q. You stated that you thought you were a chauffeur,
2 and you now think you were a driver?

3 A. According to that situation, I was supposed --
4 when I drive a limousine, I assume I'm a chauffeur, when it
5 turns out that I'm a driver. I'm driving. I'm picking up
6 more than one couple or one party, and I'm taking them to
7 one or more different places. That is not, to me, limousine
8 service.

9 Q. My question to you was when you made the
10 statement just now that you found out that you thought you
11 were now a driver, were you making that statement because of
12 what you heard here today?

13 A. No.

14 Q. Can you -- did you have occasion to observe a --
15 strike. Did you have occasion to observe transportation
16 service that was rendered to a Ralph Beckial?

17 A. I did not observe personally, no.

18 JUDGE LOVENWIRTH: By whom?

19 MR. VITO: By Pocono Limousine Service.

20 JUDGE LOVENWIRTH: The answer is no. All right.

21 BY MR. VITO:

22 Q. With respect to the limousines, can you describe
23 whether or not the maintenance provided certain amenities
24 that were apparently in the car such as a TV, et cetera?

25 JUDGE LOVENWIRTH: All those questions are still

1 pertaining to Pocono Limousine?

2 MR. VITO: Pocono Limousine, Your Honor.

3 THE WITNESS: In regards to the vehicle that I drove,
4 the limousine that I drove -- generally the equipment was
5 not operating well, if operating at all. On occasion on
6 more than once, the VCR was not in operation at all. The
7 cassette deck would not be operational. The air
8 conditioning in one particular vehicle is non-existent. It
9 just makes for a very uncomfortable situation between driver
10 and client.

11 BY MR. VITO:

12 Q. Was the fact that the vehicle was not operational
13 in the respects that you just stated brought to the
14 attention of the owners?

15 A. Yes, it was.

16 Q. And how was it brought to their attention?

17 A. By myself.

18 Q. What was done about it?

19 A. Well, as far as I know, nothing.

20 Q. Did the problems continue?

21 MR. HUGHES: Objection. Speculative. How does he
22 know it was continuing? He only worked there two months.

23 JUDGE LOVENWIRTH: Well, he worked there from March
24 and May. So I assume that the question is during the period
25 that you worked there did the defective equipment continue

1 to be defective? Is that what your question is?

2 MR. VITO: That's what the end part of it was going
3 to be. Yes, Your Honor.

4 THE WITNESS: Up until the time that I left, the
5 condition of the equipment remained the same.

6 BY MR. VITO:

7 Q. The same as what?

8 A. It didn't function.

9 Q. Would you describe the vehicles that you've
10 driven for the applicant, Mr. Danielewicz?

11 A. I've driven all of his vehicles, the Lincoln
12 Stretch, the Lincoln Town Car, and the Cadillac Brougham.

13 Q. And how were those? In what condition are those
14 vehicles?

15 A. In my estimation, they are in excellent
16 condition. They are maintained well. Everything works.
17 And whatever doesn't work, when I do tell him it doesn't
18 work, he has it repaired immediately. So we can service our
19 clients and customers in a manner that is becoming to riding
20 in a luxury limousine.

21 Q. Where are most of your stops? When you work for
22 Mr. Danielewicz, where do you drive, mostly?

23 A. Out of state.

24 Q. And what sort of clientele do you furnish service
25 to?

1 A. Mostly corporate.

2 Q. And is it on a continuing basis?

3 A. Yes, it is.

4 Q. With respect to scheduling, how has the
5 scheduling been for Mr. Danielewicz?

6 A. I have no problem with it in regard to it being
7 acceptable to me. Okay. It's done in such a manner where
8 it's arranged not just for me or for Mr. Danielewicz. It's
9 done in such a manner where it's convenient to the employees
10 as well as the client.

11 Q. Did you ever have any problems with missed
12 flights?

13 A. No.

14 Q. And what you termed overbooked?

15 A. It doesn't exist.

16 Q. Now, when you stated that you are able to conduct
17 yourself or business conducted in a manner that it fits the
18 use of a luxury limousine, can you describe to the Court
19 what you mean by that?

20 A. If you are familiar, Your Honor, with limousines,
21 it's not just a vehicle, it's what goes along with it. It's
22 from the driver to the seat that you sit on; that they are
23 clean, that everything works, that service is provided by
24 the driver of the vehicle, that you feel that you are
25 getting your money's worth and not being hustled or shafted.

1 Q. Well, what sort of courtesies would be provided
2 by Limousine for Less as far as you are concerned that were
3 not provided by Pocono Limousine?

4 A. I really can't comment on that because the
5 service that I provided, myself, are the same whether it's
6 for Pocono Limousine or for Limousine for Less. I can't
7 speak for anybody else.

8 Q. Let me ask it to you this way. Had you the time
9 to accommodate people as you said you didn't have when you
10 worked Pocono Limousine, what sort of services would you
11 provide? How would the situation be handled differently?

12 A. If it were Limousine for Less?

13 Q. Yes.

14 A. Well, the first problem that would be corrected
15 would be that there won't be an overscheduling or an
16 overbooking, whereby you would have enough time to give the
17 people what they would be entitled to have as a service for
18 which they were paying.

19 Q. That is what I want to know. What would be those
20 specifics that you alluded to?

21 A. It's door to door. It's the time that you spend
22 with them for the little extra things that they need that
23 they could get. If they want to stop for a pack of
24 cigarettes -- we were dispatched as such where there was no
25 stop along the way. This is with Pocono Limousine. You go

1 from A to B. If they want to stop to buy a six pack of beer
2 or stop and pick up a pack of cigarettes, that wasn't on the
3 schedule. Okay. You just take them to the airport and drop
4 them off and do whatever else you got to do.

5 With regard to Limousine for Less, it is a limousine
6 company. It is not a transportation company. And that is
7 the difference. That's about it. I hope it's clear to you,
8 Your Honor.

9 JUDGE LOVENWIRTH: I understand everything you said.
10 I hope someone is going to ask him about "Old Blue Eyes."

11 THE WITNESS: He's a nice man. I met Count Basie and
12 Ella Fitzgerald.

13 JUDGE LOVENWIRTH: And you actually got paid to do
14 that?

15 THE WITNESS: Sure I did.

16 JUDGE LOVENWIRTH: That's very interesting.

17 MR. VITO: That's all I have for this witness. I
18 understand cross has been reserved.

19 JUDGE LOVENWIRTH: Give me one moment, please. All
20 right. Mr. Hughes, do you want to cross examine Mr.
21 Oliver?

22 MR. HUGHES: I would prefer to do all my cross
23 examination at one time.

24 JUDGE LOVENWIRTH: Very good. That's fine. How long
25 have you worked for Limousine for Less company?

1 THE WITNESS: Since I left Pocono Limousine. That's
2 about seven months now, almost eight months.

3 JUDGE LOVENWIRTH: All right. Thank you very much,
4 Mr. Oliver. You may step down. We'll see you again in a
5 month or so. All right. Do you want to call another
6 witness?

7 MR. VITO: Will we be breaking for lunch?

8 JUDGE LOVENWIRTH: Well, it depends. You've got two
9 shipper witnesses, I can tell. Isn't that correct? Two
10 witnesses who will say they want to use the applicant's
11 services. Is there any reason we can't finish them in an
12 hour? If so, we won't break for lunch. On the other hand
13 --

14 MR. VITO: Well, actually the three witnesses that
15 are listed, since they are essentially going to be shipper
16 witnesses, I don't know that that will make a difference in
17 your determination. I think we are prepared to provide
18 them.

19 JUDGE LOVENWIRTH: All right. We stand in recess
20 until 1:30.

21 (Whereupon, at 12:30, the hearing recessed, to
22 reconvene at 1:30 p.m., the same day.)

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AFTERNOON SESSION

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JUDGE LOVENWIRTH: We will return to the record at this time. Because the Court Reporter, being the soldier that she is, didn't say anything all morning because she is sick, feverish, and achy, we will not continue because Miss Thompson has to travel 125 miles back to Harrisburg, and she's not well. And our adjournment at this time meets the approval of the parties who are present.

Because of the vacation schedules of witnesses and attorneys and what else have you, it appears that we will have to reschedule this matter for something around March 14th or that week. It should be no problem. So we will stand adjourned until that time.

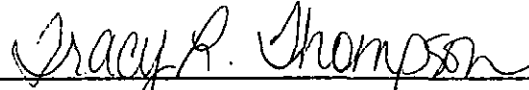
You have a calendar. When is March 14th?

MR HUGHES: It's a Tuesday.

JUDGE LOVENWIRTH: Schedule one day for the 14th to the 17th.

(Whereupon, at 1:45 p.m., the hearing adjourned.)

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.

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